UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS

SECOND SESSION

VOLUME 128—PART 22

DEC. 9, 1982 TO DEC. 14, 1982

(PAGES 29545 TO 30905)

GENERAL SERVICES ADMINISTRATION
LAW
LIBRARY
CENTRAL

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1982

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO



For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

SENATE—*Thursday, December 9, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, we commend to Thee one of our Official Reporters of Debates, Bill Mohr, in the sudden and unexpected loss of his wife last night.

Our loving Heavenly Father, we pray for all who are hurting. We commend to Thee those who are ill and ask for their rapid, complete recovery. May they experience the healing touch of the "Great Physician." We remember those who are discouraged and frustrated and ask that they be given relief and hope. We pray for those suffering emotional pain that they may be given Thy peace.

As Christmas approaches and troubles are magnified, we ask for Thy gracious intervention in those having financial difficulty—for the unemployed—for fathers and mothers who face the holidays with no provision for their children. There are homes where the family is at war. We ask for reconciliation and the peace of God.

Father in Heaven, as the Senators struggle with stubborn issues, give them wisdom to distinguish between the substantial and the superficial. Help them to use their time with the greatest profit. Let Thy grace and love fill the hearts and the homes of all who are part of this great family. Through Jesus Christ, our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that, following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business not to exceed 30 minutes, during which Senators may speak therein for not to exceed 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EISENHOWER ANNIVERSARY DINNER

Mr. STEVENS. Mr. President, my service in the Department of Interior under the Eisenhower administration is an experience that will be with me for the rest of my life. The knowledge and friends I gained during those years have been the basis of my experience in public service.

On October 14 of this year, a reunion of the old guard the Eisenhower guard—was held here in Washington, D.C. Over 1,000 of those who served in the Eisenhower administration attended the anniversary dinner. During the course of the dinner, remarks were delivered by an old friend—a person I consider to be a valued colleague—Dr. William Bragg Ewald, Jr. Bill's words brought back memories of the dedication we all shared toward the goal of American peace, prosperity, and independence.

I would like to share with the Senate the words of Dr. Ewald. I ask unanimous consent that his remarks—the remarks of the biographer, incidentally, of Dwight David Eisenhower—be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF DR. WILLIAM BRAGG EWALD, JR.

It is an unutterable pleasure and an unutterable honor to speak to this audience, which includes so many beloved friends of so many years.

As Governor Adams said when I walked into his office up at Loon Mountain after many years in which I hadn't seen him: "OK, let's get to work."

No shooting war.

No lives lost.

No territory surrendered to aggression.

The consumer price index going up at an annual average rate of 1.4 percent.

Real GNP increasing 47 percent over an 8-year span.

I don't have to tell you, of all people, what years I'm talking about.

Because in loyalty and devotion and service, you helped shape them.

As Arthur Burns said the last time we met here, "Those were good years."

Years, in his wonderful metaphor, of "Eisenhower weather."

He never forgot the first time he saw Dwight Eisenhower, as he joined his fellow faculty members for Ike's inauguration as president of Columbia.

The day had been threatening. The procession approached the place where Burns was waiting. The clouds parted, the sun burst out. And Eisenhower turned to Arthur with that great grin and quipped: "Eisenhower weather."

The Supreme Commander had it on D-Day in 1944, when the blinding storms over the English channel subsided for 36 hours to permit the invasion.

He had it at his second inaugural as President in 1956, on that bleak January afternoon when, once again, the clouds divided and the sun came out, and he spoke of the winds of change sweeping the earth.

And he had it at the funeral.

It was not a gloomy funeral, as many of us remember on what was our first reunion after his death.

No sad songs for him: just that magnificent Scottish setting of the 23rd psalm, "Onward Christian Soldiers", and that heroic Bach chorale prelude, "Wir Glauben All'."

It was a happy day. Like St. Paul, he might have said at the end of a long life: "I have fought a good fight. I have finished my course. I have kept the faith."

Sure, he had made some mistakes: the removal of the Marshall paragraph in 1952; the decision in 1956 not to speed up the launching of an earth satellite and thus beat out the Russians' Sputnik; the scheduling of the U-2 flight on the eve of the Paris summit conference in 1960.

He wasn't perfect.

Who is?

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The plain fact is that in the past half century, since October 24, 1929, when the stock market crashed and since September 18, 1931, when the Japanese invaded Manchuria, we've had few years indeed without one of three things: a shooting war; a deep depression; or murderous inflation.

Except the Eisenhower years.

Not bad.

Now, all these things being true, why?

Why have the myths—the myriad myths—persisted? Including that unspeakable myth concocted by the Select Committee on Intelligence chaired by Senator Frank Church that Ike ordered the assassination of Patrice Lumumba in the Congo.

He didn't order Lumumba's assassination.

He didn't order anybody's assassination.

He hated the very thought of assassination.

I've laid out the facts on all this—facts that start where the Church committee left off—and I wish to God people would stop parroting the myth and pay those facts some attention.

The biggest myth—the myth of the golfing president, the do-nothing president, the know-nothing president—that myth is silly on the face of it as every one in this room knows.

But the myth persisted.

Then two things happened: Vietnam and inflation.

In 1963, as we were going to press with "Mandate for Change," Eisenhower did what he usually did with long chapters—chopped and chopped and chopped. He chopped and chopped away at the chapter on the 1954 Indochina war. It was ancient history. Who would want to read about it? So he cut page after page of commentary on the folly of sending unilaterally, without allies, American forces into the jungles of Southeast Asia.

A few years later, when we were unilaterally engaged in the folly of sending American ground forces by the hundreds of thousands into the jungles of Southeast Asia, the wisdom of that 1954 Ike decision struck like lightning and started people thinking.

Next, inflation.

Ike worried when it edged up past two per cent. He gave us three balanced budgets.

And nobody cared. Until inflation skyrocketed into double digits.

And we realized that those three Eisenhower balanced budgets were three of the five we've had in more than thirty years.

Another thing happened: the record started unfolding.

First, the Ann Whitman files, which the President took with him to Gettysburg, and drew on heavily for "Mandate for Change" and "Waging Peace;" and which are now being opened for research.

Then the diaries of Bern Shanley, C. D. Jackson, and Jim Hagerty.

And I can tell you that when the voluminous minutes of the meetings of the National Security Council are opened, they will fill out with overwhelming evidence a portrait of Eisenhower at work, quick of intellect, decisive, wrestling with the most intractable problems in the world.

So here we stand, with this historical legacy.

Is this what brings us together tonight?

Great as it is, I believe the answer is no.

Because every President has two legacies: a historical legacy—what he did; and a biographical legacy—what he himself was.

And the biography determines the history.

Lyndon Johnson wanted history to remember him for the Great Society. He will be remembered for Vietnam.

Richard Nixon wanted history to remember him for reshaping the geopolitical structure of this planet. He will be remembered for Watergate.

And the fault in both instances was not in the stars, but in the men themselves—something down there inside, in the flesh, the bone, the nervous system.

The conduct of the presidency is not a science. The conduct of the presidency is an art—an art that turns on what lies in the mind and heart and soul of the man in the Oval Office.

On February 12, 1959, Carl Sandburg addressed a joint session of Congress on the 150th anniversary of the birth of Abraham Lincoln. And with his first sentence a rare hush fell over the hall. This is what he said: "Not often in the story of mankind does a man arrive on earth who is both steel and velvet, who is as hard as rock and soft as drifting fog, who holds in his heart and mind the paradox of terrible storm and peace unspeakable and perfect."

Nothing about Lincoln's legislation, nothing about the Civil War. Only words about steel and velvet, rock and fog, storm and pure peace; the interior landscape of the soul of the man—an incredible man.

At the center of the wheel there is a point—a theoretical point—that does not turn—what T. S. Eliot called the "still center of the turning world:" a point infinitely small, perpetually still.

This image leaped alive one afternoon several years back when I went to interview Ed McCabe. I'd gone to see Ed about Ike's labor legislation. But then he began to reminisce, to wander into other fields of memory. And he recalled that July afternoon in 1958 in the cabinet room when Eisenhower told the congressional leaders he was sending U.S. Marines into Lebanon.

The congressmen drew in their breath with audible apprehension.

And then Ed, who was sitting behind the President, looked at him, and what he saw was this: one big hand draped over the arm of a chair, a hand relaxed, with no sweating palm, no agitation, no nervousness.

Eisenhower had outsized hands—hands good for kneading pie dough or firing a gun—hands with knuckles broken years earlier in football and boxing (the only hands I've ever seen comparable were those of Gene Tunney), yet hands which could, incredibly, make swift, tiny, impeccably accurate editings in the margins of a typed text.

I never forgot that image. And as I thought about it, a pattern—a pattern of parallels—began to form, from many sources:

Bill Robinson's diary account of his first meeting with Eisenhower during the Battle of the Bulge—a meeting in which everyone at SHAEF headquarters was going crazy, and only Ike was calm;

The picture of Ike out on the White House lawn during the 1956 Suez crisis, with the looming possibility of World War III; banging one golf ball after another, grinding his teeth and cussing to himself about the perfidy of his old friends the British and the French;

The memory of that Gettysburg day in 1962 during the Kennedy Cuban missile crisis when Eisenhower suddenly left our editing session, took a briefing call from the White House, and returned with the buoyant exclamation: "Boy, that was good news," reflecting, "You know, most of the worst things you expect to happen never do happen;"

And that almost unbearable moment in the midst of his final illness at Walter Reed, several months before the end, when, as nationwide TV news reported the physicians' fear that he probably wouldn't live through the night, I spoke with John over the phone and he confirmed that stark prognosis and then added: "The only person who is not gloomy around here is Dad. He's kidding with the nurses and still having a great time."

The pattern formed—formed around that central image of that Lebanon afternoon: the image of wheeling power: of the planet-shaking movement of ships and troops and planes—a thousand SAC aircraft bombed and ready—the greatest emergency deployment of military force in our peacetime history—a supreme demonstration of the Eisenhower principle that he would enunciate again and again, eyes flashing, riveting the listener: "Look, when you appeal to force, there's just one thing you must never do—that's lose. There's no such thing as a little force. When you use it, you use it overwhelmingly."

And at the center of all that wheeling motion—at the still center of this turning world—that single hand: no sweating palm, calm, relaxed: the symbol of a man four-square in heart and hand and mind: A man of command and objectivity and courage and control.

Not often in the story of mankind does a man arrive on earth of steel and velvet and peace unspeakable and perfect.

Something like that resided in the mind and heart and soul of Dwight Eisenhower.

In the midst of many threatening clouds it brought us a beautiful golden season of Eisenhower weather.

For what he did, and above all for what he was, we thank God from the bottom of our hearts tonight.

Mr. STEVENS. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, if any Senator on my side desires time, I am prepared to yield time.

Mr. President, I suggest the absence of a quorum with the time to be charged against my time under the standing order.

The PRESIDING OFFICER (Mr. STEVENS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPECTER). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I understand we are in the minority leader's time. I ask that we move to morning business, which the acting majority leader had requested.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 30

minutes. The time of the majority leader will be reserved.

HATFIELD MASTERFUL PERFORMANCE ON THE NUCLEAR FREEZE

Mr. PROXMIRE. Mr. President, last Sunday our colleague, Senator MARK HATFIELD, appeared on "Meet the Press." His responses were so timely and express so eloquently the views of those who favor a nuclear freeze, that I want to call them to the attention of all Members of the Congress.

Several of Senator HATFIELD's responses should be called to the special attention of all who are concerned about the nuclear arms race. First, in an analogy that should haunt all of us, he called the nuclear arsenals of the United States and the Soviet Union like: "two men standing in a room armpit high in gasoline. One man has seven matches, the other man has eight matches. Someone comes along and says, 'You ought to have 9 and you ought to have 10 matches.' It is just such an overkill today that we have in our arsenal."

Second, Senator HATFIELD provided a thougthful perspective on true national security. He said:

National security of this Nation is composed of more than just hardware. I do not think any President since Dwight Eisenhower has had the full understanding of what constitutes national security. And that is that the health of the people, the housing of the people, the productivity of the people, all of these are important factors in our security. And as long as we pursue the expenditure direction we are moving on to the imbalance of other needs of our national security.

Third, when asked if President Reagan is right in arguing that we have been falling behind the Soviet Union and that we need new nuclear weapons like the MX to catch up, Senator HATFIELD replied:

In some areas they may be a little ahead; in some areas, we may be a little ahead. As compared between the Warsaw Pact countries and the Soviet Union on the one hand and the NATO Allies and the United States on the other hand, in the last decade we have outspent the Soviet Union and the Warsaw Pact countries by $300 billion. Seventy five percent of the Soviet missiles are landbased, fixed target, while about 250 of ours are. We have a more flexible missile system. We have a more accurate missile system. We have more qualitative factors that offset some of the quantitative analysis. All in all I think we would have to admit that we are roughly equivalent. This is a golden moment, therefore, in history to seize an opportunity to get some true arms control. And the bottom line on this again is simply when we ask the Joint Chiefs of Staff, "Would you trade our arsenal for the Soviet arsenal?" We do not get an affirmative answer.

Mr. President, I ask unanimous consent that the entire transcript of the Hatfield appearance on "Meet the Press" be printed in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

MEET THE PRESS

(Produced by Betty Cole Dukert, Live/Washington, D.C., Sunday, Dec. 5, 1982)

Guest: Senator Mark O. Hatfield, Chairman, Appropriations Committee; moderator and executive producer: Bill Monroe, NBC News; panel: John Dancy, NBC News; Michael Getler, Washington Post; Clare Crawford-Mason, People Magazine; Nick Thimmesch, Los Angeles Times Syndicate.[1]

Mr. MONROE. Our guest today on "Meet the Press" is Senator Mark Hatfield, Republican of Oregon. A former Governor of Oregon, Senator Hatfield is Chairman of the powerful Appropriations Committee. He is sponsoring jointly with Senator Kennedy a resolution calling on the United States and the Soviet Union to freeze their development of nuclear weapons.

Our reporters today are Nick Thimmesch, of the Los Angeles Times Syndicate; Clare Crawford-Mason, of People; Michael Getler, of The Washington Post; and to open the questioning , John Dancy, of NBC News.

Mr. DANCY. Senator, unemployment in this country as of the reported figures on Friday was 10.8 percent. That means at least 12 million people in the country out of work. Do you think that Republicans in the Senate should now join with Democrats in sponsoring some sort of jobs bill over and above the highway bill that the President has been talking about?

Senator HATFIELD. I believe there's no question that this is a bipartisan concern and therefore there ought to be a bipartisan effort to address basically the unemployment problem. If the Democrats of the House carry through with their proposal to add another five billion in someway or another, in addition to the gasoline tax, obviously if the Senate Republicans hold to their present situation, we would go to conference with zero from the Senate and five billion from the House. Normally, in conferences, you split the difference. So I think that there's going to be some jobs bill over and above the five billion proposed by the President in the gasoline tax.

Mr. DANCY. So you're talking about in the lame duck session then.

Senator HATFIELD. I'm talking about in the lame duck session because I am convinced that the continuing resolution will become that vehicle.

Mr. DANCY. Let's talk about next year in the regular session. Now do you think it's time for the President to drop his insistence on a third year tax cut in order to put that money into some sort of additional jobs bill?

Senator HATFIELD. I believe that we have to look at the dilemma we're in and that is these rising deficits and their impact upon many facets of the American economy. Just as an example, the government will probably go into the money market and borrow some 200 billion dollars in this coming year. That will now represent about 70 percent of the savings pool as contrasted to the government borrowing about 30 percent of the savings poll in 1981. So we have to stop that trend, not just to get a so-called balanced budget, but to really get the economy turned around.

So it seems to me that when we look at the fact that through the tax bill, reduction bill, we eroded the tax base by some 750 billion dollars in a four-year period, that we have to do something to address that part of the budget problem. Namely, what about revenues? We talk about reducing spending. That's very important. We must continue to try to do that. But that is not going to turn the economy around alone. We've got to address the question of revenues and the loss of revenues.

Now I would like to see the President consider postponing or phasing-in the third year tax reduction in order to preserve that revenues base that has been so deeply eroded. And in addition to that, I'd like to see some of the reforms put into the tax bill and the tax laws to close those loopholes. Because, frankly, if everyone who owed the government taxes paid those taxes, we would have far less of a deficit today. But there are many millionaire individuals and large corporations who are escaping taxes because of the multitudinous loopholes.

Mr. MONROE. Thank you, Senator. We'll be back with more questions for Senator Mark Hatfield.

(Announcements.)

Mr. MONROE. Our guest on Meet the Press, Senator Mark Hatfield. Mr. Getler?

Mr. GETLER. Senator, your Committee last week added about $475 million extra in military and economic aid to Israel beyond the roughly two billion dollars requested. The Administration opposes this, claiming it would appear as a reward for Israeli behavior in Lebanon and jeopardize relations with other countries, and perhaps impede the peace process.

Could you tell us why your Committee added this and what does it say about the supposed reduction of public support in this country for the Begin Government?

Senator HATFIELD. The Committee attempted to re-configure the actual total package to make it more traditional between the forgiveness of loans and the additional money for new military sales.

There's also strong support for Israel in the Senate of the United States, and I think the Committee was responding to that, in part. Mr. Philip Habib had made a telephone call directly to me, as did Mr. Clark, of the White House, urging that we cut those figures back on the very basis that you have outline in your question.

The simple proposition was that there is no House bill for 1983 on foreign operations, in which this is incorporated. And we were trying to complete the appropriations process on the Senate side. We did not have a vote because the votes were simply not there to strike it in conforming with the Administration's request. And so, there will be no bill. This issue may reappear on the continuing resolution. But it was the best judgment on the part of the State Department, myself and others who were concerned about this not to raise it in order to get a recorded vote, because there's not going to be a bill anyway.

Mr. GETLER. If I could turn you to another controversial vote that occurred in the Congress last week. Your counterpart committee in the House voted 26 to 26, and thereby approved the production of the new MX missile and the dense pack deployment plan. As you know, there are powerful opponents to this in the Senate. How do you think that this program is going to fare ultimately on the floor of the Senate?

[1] This is a rush transcript provided for the information and convenience of the press. Accuracy is not guaranteed. In case of doubt, please check with "Meet the Press."

Senator HATFIELD. If I were to put a dollar on the table it would be on the side of defeating the MX missile. I believe there is a likelihood that that will happen in the lame duck session. And I say that because we are so recently removed from the election campaign of 1982. And I think throughout this country not only did the nuclear freeze movement and all the votes that people cast on that issue communicate a message on the nuclear freeze issue. But I think beyond it, people were saying to the Congress and to the Administration we want a better balance between the military and non-military functions or spending of the government. We feel there are a lot of factors here we're neglecting—job development, energy conservation, reconstruction of our infrastructure, all of these factors that really constitute part of our defense anyway. And so I think that message, having come through so recently, there's a lot of likelihood that we'll defeat the MX missile in the Senate, if they don't on the House floor.

Mr. GETLER. On the freeze, President Reagan has claimed—I know you're one of—you and Senator Kennedy, as Mr. Monroe mentioned, are one of the original supporters of the resolution, but President Reagan has claimed that the peace movement and the nuclear weapons free movement are being manipulated by foreign powers, including the Soviet KGB, at least to some extent.

To what, if any, extent do you believe this?

Senator HATFIELD. Well, I think it's an unfortunate comment made by the President because it tends to divert the attention from the substantive question. I can say that as one who has been involved in the leadership of this program or this movement for quite some time—and by the way, we were not initiating an idea when Senator Kennedy and I introduced this. We were responding more to what has already within the public, through town halls or New England and county court commissions and city halls that were discussing this issue. It's a global movement, as well. But I have never found anyone who identified or could be identified in the leadership roles as representing the Soviet cause. These are deeply concerned Americans, deeply concerned about being moved to the edge of the abyss of potential global annihilation. And I think that is a very preeminent concern—survivial Survival. It's not a question of a weapons system versus another weapons systems. It is that we have such an arsenal now. It's equivalent to two men standing in a room armpit high in gasoline. One man has seven matches, the other man has eight matches. Someone comes along and says, you ought to have nine and you ought to have ten matches. It's such an overkill today that we have in our arsenal, that people are deeply concerned that this is causing further unemployment and economic distress by pursuing these weapons systems.

Mr. MONROE. Ms. Crawford-Mason?

Ms. CRAWFORD-MASON. Do you think the nuclear freeze issue is going to be the dominant political issue in America in the next several years?

Senator HATFIELD. I think it was an overriding issue in a number of the elections this year. When you consider that ten out of eleven states had referendums and they voted in support of it, many counties, city councils everywhere from Charlotte, North Carolina to the State of Oregon; from moderate, liberal, conservative, Democrat, Republican, all sections of this country, all persuasions have moved ahead on support of this issue. I think it's going to be with us. It's going to continue and I think you're going to see it even stronger than it was in the 1982 election.

Ms. CRAWFORD-MASON. Now you mentioned in the '82 election some of your Republicans colleagues and the message. A lot of your Republican colleagues had a very close call. There are going to be 19 Republican Senators up for re-election in 1984. How is this going to affect—including yourself. How is this going to affect their relationship with the President? Are they going to try to distance themselves from him? Are they going to be a rubber stamp?

Senator HATFIELD. I have hope that in the period between now and 1984 that the Administration and the Congress will have been able to resolve some of this apparent difference that exists on this issue, because I think we have to look at the total package. We're looking at national security of this nation and it's composed of more than just hardware. Too long a time—in fact, I don't think any President since Dwight Eisenhower has had the full understanding of what constitutes national security. And that is that the health of the people, the housing of the people, the productivity of the people, all of these are important factors in our security. And as long as we pursue the expenditure direction we're moving on to the imbalance of other needs of our national security—these that I've enumerated—I think more and more there's going to be public pressure to—to change this direction, to change these priorities, and I can't help but think the Administration hears those voices as well as the people who are going to be out there running, and especially if the President is a candidate for re-election. He has to face that same constituency, that same electorate on a broader basis. And I think that he has some very politically astute people around him and there will have to be some modifications of that position.

Mr. MONROE. Mr. Thimmesch?

Mr. THIMMESCH. Senator, on the lame duck session, you were originally quoted as saying that no more than four of the ten appropriations bills would be dealt with. Are you still saying that and what's this session going to accomplish before the Christmas holiday break? Just some more continuing resolutions?

Senator HATFIELD. There's no question we're going to have another continuing resolution, probably extending the present deadline of December the 17th to sometime in the Spring, perhaps March. I'm still hopeful that we can pass four to five or six, at the most, and I think it's going to be closer to four appropriation bills. That means we will have to come back in January and re-pass even those that either house had passed in the meantime during this session.

The whole process—this is indicative of the problem we have with the whole appropriations process. Remember, last year it was June before we got a Budget Resolution. Then we had to have a reconciliation. Then we had to have a tax bill. Then we had to have an urgent supplemental. And it was September before we got into the actual appropriating process for 1983. Then we had to stop the last two weeks of September to create a continuing resolution. So the whole process has really tended to bog down, rather to be expedited after we passed the budget act.

Mr. THIMMESCH. Was the President wise to call this special session?

Senator HATFIELD. The President had no choice, because when we put a deadline for the expiration of the continuing resolution on the 17th of December, we couldn't let the government just bog down and stop acting between the 17th of December and when we reconvened in January in the new session.

Mr. THIMMESCH. But do you get really quality legislation out of a session like this?

Senator HATFIELD. Well, I personally have never felt that the overall ranking of an action of a lame duck session deserved more than a C minus, but perhaps we can get up to a c this time.

Mr. MONROE. Senator, how do you answer President Reagan's arguments offered to the American people a week or so ago with charts showing that we're falling way behind the Soviets in defense spending, in intermediate missiles, in long range missiles, in bombers. Aren't those powerful arguments to the effect that we need this new MX, or as he calls it, peacekeeper missile?

Senator HATFIELD. There's no question the President made a very persuasive presentation to the American public and I think you can make an argument. I think the President can make an argument to some degree. But let me say I think there are limitations to his argument.

Number one, there are assymmetries when you compare the Russian system with assymmetries to our systems. In some areas, they may be a little ahead; in some areas, we may be a little ahead. Let us bear in mind that when you begin to compare percentages of GNP, you're into real deep water because are you comparing rubles with rubles or rubles with dollars; are you comparing a conscripted army and the cost of a conscripted army with a volunteer army. There are a lot of differences here that you cannot put out on a straight quantitative analysis. And don't forget the bottom line is, as compared between the Warsaw Pact countries and the Soviet Union on one hand, and the NATO allies and the United States on the other hand, in the last decade we have outspent the Soviet Union and the Warsaw Pact countries by $300 billion. Now that's measuring it by dollars. But don't forget the qualitative factor. Seventy-five percent of the Soviet missiles are landbased, fixed target, while about 25 percent of ours are. We have a more qualitative factors that offset some of the quantitative analysis.

All in all, I think we would have to admit that we are roughly equivalent. This is a golden moment therefore in history to seize an opportunity to get some true arms control. And the bottom line on this again is simply when we ask the Joint Chiefs of Staff would you trade our arsenal for the Soviet arsenal, we do not get an affirmative answer.

Mr. MONROE. Mr. Dancy?

Mr. DANCY. Senator, on the way back from—from Central America last night, the President said that he favored resuming aid, military aid to Guatemala now that the country is—says it's planning to have free elections. How would you feel about that?

Senator HATFIELD. I would oppose it. I think where you introduce instruments of violence, military weaponry in an area that has such overwhelming social problems, where people are hungry, where people are illiterate. Those are the causes of violence. That's the seedbed for war.

Let me give you an example. In El Salvador, 40 percent of the deaths by natural causes happening today in El Salvador in

the rural areas is happening to children five years or under, who are dying from malnutrition and starvation. Now no matter how many arms you introduce into that scene, you're not correcting the real fueling of the fire of the insurgency; namely the kind of maldistribution of resources and the human needs that are not being met. We're the largest arms peddler in the world today. We're sending arms to countries which do not even have a subsistence agriculture base. I think there's really an ethical, moral question here. Are we really using our resources in the best cause of humanity. What kind of an America are we really trying to project? An America of compassion and concern for people or of one so Maginot Line mentality that we think all solutions to all problems are going to be found by the measurement of megatons and more bombs and more killing.

Mr. DANCY. Senator, I talked with one of your colleagues this past week who said flatly that the C.I.A. is running our foreign policy in Honduras. Do you believe that? And if you believe it, how is that going to affect further aid requests for Central America?

Senator HATFIELD. I understand by one of the national press that we have a 150 C.I.A. people today in Honduras. But I have no direct information on that. I'm only saying that there is evidence that we have political involvements there through C.I.A. and through other channels that I think again, to answer your question, is—is the wrong approach. We're not dealing with the causes of the problem. We're only dealing with the manifestations and in time, it'll cause more embarrassment to the United States than influence that we hope to gain.

Mr. MONROE. Mr. Getler?

Mr. GETLER. Senator, is there a feeling amongst you and your colleagues that the—whatever intelligence operations are being supported in Central America are getting out of control, or at least have the possibility of getting out of control?

Senator HATFIELD. I have no—have not had conversation with a collective group of my colleagues on this matter. Individually one-to-one, there are some of us who are deeply concerned about this. We go back and re-read our history and remember our history where we had been deeply embarrassed in Chile and we have been deeply embarrassed at other times by the covert actions that really went beyond oftentimes the—perhaps the instructions or even the intent of the foreign policy.

When we begin to base our foreign policy on covert actions, it seems to me there's a place for intelligence, but not—foreign policy should not be based on that. It should be based in the open arena where we're dealing with the specific issues and the causes of the problem we're trying to solve.

Mr. GETLER. Senator, the President has said that the Russians are negotiating seriously in Geneva on reducing strategic nuclear arms and that he is also serious about wanting such as agreement. Yet, there are probably forces who don't want an agreement. Do you believe that this Administration really does want a strategic arms agreement with the Soviets and is capable of getting one?

Senator HATFIELD. I think there's no question that President Reagan is sincerely and dedicated to the proposition of trying to reduce the causes of war, the potential of war. Now I would perhaps differ in terms of the methods or the mechanics, but not in the objective. I think his objective, and my objective, and those who feel as I do are precisely the same.

I do feel that when we consider that we are oftentimes trying to negotiate theatre weapons, and then in another forum we're trying to negotiate strategic weapons and various other ways of which we approach piecemeal, that we're not really going to get the product that we should be after. And that is looking at the totality of the arsenal, negotiating toward the totality reduction after we get a freeze, and then secondly to parallel those negotiations with the very obvious political questions that are not always as evident in the weapons negotiation.

In other words, we should be carrying on parallel negotiations. And thirdly, we ought to be doing like we did in the case of the hostages, American hostages in Iran. I believe we have never quite caught the significance of world public opinion in bringing it to bear on some of these issues and policies. If we were sending people around to the capitals of the world, if we were holding national conferences on nuclear freeze and arms control, I think we would have there again an opportunity to bring to bear upon this whole effort to—to inspire the Soviet Union, to inspire the United States to really get down to the business of getting something done.

Let us utilize, mobilize all these forces toward this objective.

Mr. MONROE. We have less than three minutes. Ms. Crawford-Mason?

Ms. CRAWFORD-MASON. Yes. You've been a spokesman here today for feeding the hungry and cutting money for arms. Has a balancing act between your commitment to ethics and political compromise gotten more difficult now that you're a member of the Republican majority?

Senator HATFIELD. There's no question that when you become a part of the majority you have to demonstrate the capability to act like a majority and to govern. Naturally, some of my—I suppose some of my views have had to be at least submerged for the purpose of getting the whole job done or getting some part of the job done. That does not mean I have yielded at all on my convictions. I've raised my voice in the councils of the party, in the councils of leadership. I pursue these with all the vigor I can. But when you have the greater responsibilities of chairmanship you have to—your timeframe, if nothing else, is restricted.

But let me point out, because you've raised this question. A lot of these issues that we are dealing with today—namely, economic, political and social—are basically spiritual issues that demand some kind of an ethical response. And I think there again we're neglecting the opportunities to bring to bear another powerful force of this nation, rather than just letting this nation become looked upon as strictly a materialistic, secular-type of nation.

Mr. MONROE. Mr. Thimmesch?

Mr. THIMMESCH. Senator, this election left the Senate with the same balance of Republicans in the majority. But do you see the Senate giving the President the same kind of support he's had in the past two years? Do you see any change in mood up there among, even your own Republicans?

Senator HATFIELD. I think the support's going to be of a different character. I think the first two years everyone's view was let's give the President and his economic gameplan—it's the only one in town—give it a chance. Vote for it, even though some of us held our nose on certain parts of it and voted aye. But at least it was an attempt on the part of the President to bring to bear, focus on issues that had not been really looked upon, and that these issues had been accumulating over the last fifty years. Not to look back to put the blame, but to understand it.

Long before we had President Reagan and David Stockman, we had inflation problems, we had unemployment problems, we had all these economic problems we're dealing with today. President Reagan is the man who put the focus on some of these problems and said I believe this gameplan will work.

Some of us are concerned about how—how successful it has been. And therefore, I think you're going to find more people looking for modifications, and thereby it'll be interpreted perhaps as less support, but really it's an attempt to resolve these differences, not have confrontation, but work with the President to get a better result from the gameplan.

Mr. THIMMESCH. Do you see some presidential vetoes coming up, especially on social legislation?

Senator HATFIELD. Yes. Yes, I do, perhaps, but I hope Mr. Stockman and the rest of us can resolve those before we get to the veto. I don't want to go through the supplemental experience again where we had to override the President's veto.

Mr. MONROE. Thank you, Senator, for being with us today on Meet the Press. I'll be back in a minute with a word about next weeks' guest.

(Announcements.)

Mr. MONROE. Next Sunday on Meet the Press our guest will be President Zia, of Pakistan, who will be visiting this country.

ABUSES IN UGANDA REINFORCE NEED FOR THE CONVENTION

Mr. PROXIMRE. Mr. President, on August 27, 1,200 prisoners from Luzira Upper Prison, near Kampala, were released after some months in the custody of the Ugandan State Police. Among these detainees were many political prisoners, including Ambrose Okullo, a former Deputy Minister for Cooperatives and Marketing, and John Kaliisa, a former Ambassador. These releases were a promising sign from a nation that had precious little, in the area of human rights, to be optimistic about and many hoped that Uganda, terrorized for so long under Gen. Idi Amin, had finally placed itself on the road to recovery. Up to that point, the government of Dr. A. Milton Obote was most notable for the arbitrary arrests, systematic torture of prisoners, and extrajudicial executions that occurred so overtly under its rule. With such a dismal past record on human rights, this sudden act of magnanimity, on the 20th anniversary of their nation's independence, sparked new hope that Uganda's return to normalcy was finally under way.

Regrettably, recent testimony from people with Uganda, compiled by Amnesty International and other human rights groups, indicates that optimism was premature to say the least. Last week I brought to your attention Amnesty International's latest report,

"Human Rights Violations in Uganda: Extrajudicial Executions, Torture, and Political Imprisonment," which documents many of the atrocities that are being carried out by agents of the Ugandan Government. These descriptions of senseless cruelty and inhumanity rival even those of Idi Amin's squads and the hopes that many had for the once idealistic Obote government have largely been deflated.

Most of the systematic torture of prisoners seems to be occurring in the Makindye and Kireka military barracks. While accounts of torture have been reported at most major prisons and interrogation centers, these buildings are arranged into a series of progressively worse stages of internment. As if by assembly line, detainees are brought in and out of torture chambers and brought closer and closer to their individual breaking points.

The Makindye barracks, for instance, are principally divided into three cell blocks: "Quarter-Guard," "Bone," and "Go-down." These three rooms were designed to hold roughly 20 prisoners each, although the Ugandan police can usually pack 600 prisoners, or 10 times the maximum occupancy, into the chambers. At "Quarter-Guard" prisoners are welcomed to Makindye with scenes of dead bodies and sporadic, sometimes lethal, violence by the guards. They are interrogated, usually tortured, and those that survive are deposited in either "Bone" or "Go-down." As one prisoner told the French magazine Le Monde, "The only apparent purpose of 'Bone' and 'Go-down' was to let the detainees die." Tragically, it appears that prisoners left in these two chambers often do just that and one Kampala businessman testified that while he was in "Go-down" as many as 9 people died a day in a cell of 200.

The hellish scenes depicted in these testimonies leave little question as to the true character of the Obote regime. Starvation, mutilation, rape, and sexual torture are all common methods of interrogation and the only limitation placed on the excesses of the secret police is the individual's physical constitution and endurance. At prisons like Makindye, detainees are moved in and out of these scenes of extreme brutality and depravation until they either succumb to the conditions or are fortunate enough to have money to buy their way out. The assembly line nevertheless continues to operate day and night with the same streamline efficiency and lack of utility that characterized the Amin period.

The question that remains is, How long will this machines' appetite for victims be satisfied with just those individuals collected through arbitrary arrests by the police? How long until, like Amin, the Government singles out a particular tribe or people to be processed and consumed? We have seen machines like this before and are painfully familiar with their self-propelling nature. It is because of this nature that the world needs the Genocide Convention so badly, a document still waiting for this body's final advice and approval. The convention is a contemporary approach to an ancient crime and deserves this Nation's participation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

(During the call of the roll Mr. D'AMATO assumed the chair.)

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NICKLES). Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until not past 11:30 a.m. today under the same terms and conditions as previously ordered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The majority leader is recognized.

Mr. BAKER. Mr. President, the reason for extending the time is so that we can obtain the presence of Senators to manage the next measure. We have not yet fully cleared any of the items that were identified yesterday to take up. It looks like the California utilities bill is the most likely prospect. As soon as Senator DOLE, who is chairman of the jurisdictional subcommittee, reaches the floor and we can confer with the minority leader, it would be my intention to ask the Senate to go to that measure.

I might say, President, that the schedule today remains uncertain partly because the highway bill was not reported from the Finance Committee in time to appear on the RECORD today.

I would still like to reach that measure today, but, in all frankness, I have serious doubts that I will be able to do so.

In view of that displacement of the primary business of today, we will have to confer a little further and see what is going to happen next. The next 20 minutes will be used to try to accomplish that, but Senators should be on notice that it is likely that the next order of business will be the California utilities measure.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have a unanimous-consent request to make.

The PRESIDING OFFICER. The Senator will state the request.

RADIO MARTI

Mr. BAKER. Mr. President, I ask unanimous consent that if and when the Senate proceeds to another matter, that the Radio Marti bill be temporarily laid aside and recur as the pending business after the disposition of such matter, that the Senator from Nebraska (Mr. ZORINSKY) be first recognized, and that any interruption in his presentation not be considered as a second speech for the purpose of the two-speech rule.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I am doing this as a convenience to the Senator from Nebraska. The alternative, I might say to my friend from Ohio, is simply to move the consideration of the next item of business. If that motion succeeds, it would displace the motion to waive with regard to Radio Marti. Maybe that is the result that many wish. I was simply trying to accommodate the desires of other Senators and thought I had not prejudiced anybody else.

If the motion succeeds and if we do proceed to the consideration of the California utilities bill, as I hope we will, without this unanimous-consent agreement Radio Marti will be back on the calendar. That does not preclude me from moving to waive the budget act again. If the request is granted, it would provide simply that the Senator from Nebraska would be first recognized and have his right protected when it recurs as the pending business. I am prepared to proceed either way. If the Senator feels that he must object to that, of course, that is another matter.

Mr. METZENBAUM. will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. METZENBAUM. Do I understand correctly that the request refers only to the right of the Senator from Nebraska to be recognized and that the motion does not carry with it the matter of laying aside Radio Marti?

Mr. BAKER. Let me reply in this way, Mr. President. Technically speaking, Radio Marti is not before the Senate. What is before the Senate is my motion to waive the provisions of section 402(a) of the Budget Act coincident to the consideration of Radio Marti.

Mr. President, the only way that we can protect the right of the Senator from Nebraska to be recognized, if and when we return to consideration of the motion to waive the provisions of the Budget Act, would be by unanimous consent. Otherwise, I am perfectly free to make that motion regardless. The measure is not now before the Senate. The motion is before the Senate at this time.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, the motion to waive the provisions of the Budget Act is a privileged matter. That motion would not be displaced by calling up an unprivileged bill, I believe.

Mr. BAKER. I believe that is right.

The motion to proceed to Radio Marti itself is not a privileged matter. But the motion before us now, the motion to waive the provisions of the Budget Act, is privileged, because I understand that the Budget Act is privileged.

Mr. ROBERT C. BYRD. That is my understanding.

Mr. BAKER. Mr. President, may I inquire of the Chair, is that the understanding of the Chair?

Mr. METZENBAUM. If it is the understanding of the Chair, would he be good enough to state what that understanding is so each of us may be fully apprised?

The PRESIDING OFFICER. The motion to proceed to a privileged or nonprivileged matter would displace this motion.

Mr. ROBERT C. BYRD. Would displace a privileged motion to waive?

Mr. BAKER. Mr. President, I think I should perhaps restate the inquiry.

The dialog that the Senator from West Virginia and I had was on the basis of whether or not the motion to waive the provisions of the Budget Act—which is privileged by reason of the privileged status of the budget waiver—would displace a motion to proceed to a nonprivileged matter or whether it would temporarily suspend that. It is my understanding that a motion to proceed to a nonprivileged matter would not displace the present motion, which is to waive the provisions of the Budget Act, rather, it would temporarily lay it aside.

The PRESIDING OFFICER. It is the understanding of the Chair that the motion to proceed to either a privileged or nonprivileged matter would displace the motion to proceed to the budget.

Mr. BAKER. I understand it would displace it if the motion succeeds. The question is, what happens to it? Does it recur then after the disposition of that matter?

Mr. President, it really is an academic issue, because it is a privileged motion. I can make it at any time. None of the rights are prejudiced. Therefore, there is no good purpose that I see in spending the time of the Senate at this time in pursuing the unanimous-consent request.

Let me say instead, on my own responsibility, to the Senator from Nebraska that I shall not try to proceed to the budget waiver or Radio Marti without giving him and the minority leader ample advance notice so he is not taken by surprise.

I say for the benefit of those who may be listening, including Members on both sides who have a strong interest in Radio Marti, that it remains my intention to attempt to proceed to that matter again before we conclude this session of the 97th Congress.

With that, Mr. President, there is no unanimous-consent request. I withdraw such a request.

I am prepared now, Mr. President, to ask the Senate to proceed to the consideration of——

Mr. ZORINSKY. Will the majority leader yield for one moment?

Mr. BAKER. Yes.

Mr. ZORINSKY. I should like to ask unanimous consent that I be rerecognized first to resume when the question of the budget waiver on Radio Marti is again before the Senate.

Mr. METZENBUAM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I have no way to deal with that other than to assure the Senator that when I make that motion, I shall make sure the Senator has ample notice and is on the floor. I rather expect that he would be recognized shortly after the motion is made.

Mr. ZORINSKY. I thank the majority leader.

Mr. BAKER. Mr. President, I ask unanimous consent that I may withdraw—have the yeas and nays been ordered on the motion waive the provisions of the Budget Act?

The PRESIDING OFFICER (Mr. SIMPSON). They have been ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the yeas and nays be vitiated.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORMALIZATION METHOD FOR PUBLIC UTILITY PROPERTY

Mr. BAKER. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 933, H.R. 1524.

Mr. BUMPERS. Mr. President——

The PRESIDING OFFICER. The question is on the motion.

Mr. BUMPERS. Mr. President, I want to address the motion to proceed to take up this bill.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. First of all, Mr. President, this bill deals with some subject matter—incidentally, if the Senators want to go to lunch, by all means they should proceed, because I am going to discuss this for a few moments.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield?

Mr. BUMPERS. Without losing my right to the floor.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I just want the RECORD to be clarified for future understanding.

Now that the motion has been made to proceed to another matter, what happens to the previous motion to waive? We cannot have two motions to proceed pending at the same time.

The PRESIDING OFFICER. The motion to waive will be displaced, if the motion to proceed is agreed to, I advise the minority leader.

Mr. ROBERT C. BYRD. So the majority leader will have to renew that motion at such time as he may want to bring that up.

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. The motion to waive the provisions of the Budget Act was the pending business prior to the motion to take up the so-called California utilities bill. The Chair has just stated that that motion is simply displaced by a subsequent motion. The question is, if we had been on the Radio Marti bill itself, it could not have been set aside until the motion to proceed to this bill had been granted, is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Is that same thing not true of the privileged motion to take up the budget waiver?

The PRESIDING OFFICER. What was pending was not a motion to proceed to the budget waiver. It was a motion to waive that appropriate section of the Congressional Budget Act.

Mr. BUMPERS. In any event, my question is, that cannot be set aside, can it, until the present motion is disposed of?

The PRESIDING OFFICER. It will not be displaced until this motion is agreed to.

Mr. BUMPERS. So at such time as the majority leader may prevail on the existing motion, once the vote is taken on that, say, the motion to take it up is approved by the Senate, do we automatically go back then to the motion to waive the budget or would we proceed then to this bill?

The PRESIDING OFFICER. I will delay that response until the Parliamentarian has made an inquiry.

Mr. BUMPERS. Mr. President, as most Members of this body know, we are going to talk about this bill for a while.

Mr. ROBERT C. BYRD. Mr. President, will the Senator indulge me one further moment? I have no particular interest one way or the other at the moment in the matter in which the Senator is discussing.

Mr. BUMPERS. I am happy to yield.

Mr. ROBERT C. BYRD. I am a little troubled by what is developing on these motions. I am not talking about the subject matter, but I am a little troubled that a motion can be pending before the Senate and another motion can be made without the withdrawal of the previous motion and that the Senate will proceed to act on the second motion. This bothers me. Perhaps this is a legitimate procedure, but I would like to have some clarification of this. We could have any number of motions, before the Senate, if that is the case. I had always thought only one motion could be pending at a given time.

I am not trying to take the side of the majority leader or oppose him or take any side other than I would want a clarification of this. There was a motion before the Senate. It had not been acted upon. The majority leader made a second motion. Does he or does he not have to withdraw the previous motion before making the second motion?

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I thank the minority leader for his statement, and I understand his concern.

Let me express my view of the situation as I perceive it. Perhaps we can make a further parliamentary inquiry.

At the time we attempted to move to the California utilities bill, there was pending before the Senate a motion by me to waive the provisions of the Budget Act.

The PRESIDING OFFICER. The leader is correct.

Mr. BAKER. That motion had not been disposed of. However, had the Senate had before it the bill itself, that is, Radio Marti, it is clear that a motion to proceed to another bill would have been in order; it would have displaced it and taken it back to the calendar, absent unanimous consent. It seems to me only logical then that a motion to proceed to another matter would equally displace a motion that was then pending before the Senate dealing with another piece of legislation. They are both concerned with the same subject matter. A motion to waive the provisions of the Budget Act is a substantial action by the Senate. it is not a procedural motion. It is an action mandated by statute, permitted by statute, created by statute.

It would be my view, Mr. President, that a motion to move to another piece of legislation, then would be in the same category as to attempt to displace a pending piece of legislation which clearly is in order.

So, Mr. President, let me frame the parliamentary inquiry in this way: Is a motion to proceed to an item on the legislation calendar, specifically Calendar Order No. 933, H.R. 1524, in order at a time when a motion to waive a provision of the Budget Act was then pending before the Senate and remained undisposed of?

The PRESIDING OFFICER. It would be in order since the motion to waive is not a motion to proceed.

Mr. BAKER. I thank the Chair.

Mr. President, the motion is debatable, is it not?

The PRESIDING OFFICER. It is debatable.

Mr. BAKER. And the motion before the Senate at this time is my motion to proceed to the consideration of H.R. 1524, the California utilities bill?

The PRESIDING OFFICER. That is the motion. The Senator is correct.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. BUMPERS. Without losing my right to the floor.

Mr. ROBERT C. BYRD. What happens to the motion to waive? Is it just temporarily suspended until action on the pending motion is disposed of?

The PRESIDING OFFICER. The motion to waive is a privileged matter. If the motion to proceed during a privileged or nonprivileged matter is agreed to, then the motion to waive would be displaced. If this motion to proceed should be withdrawn, then the question would recur on the motion to waive.

Mr. ROBERT C. BYRD. In the meantime, if the majority leader should move to adjourn, what happens to the motion to waive?

The PRESIDING OFFICER. The motion to proceed would fall. The motion to waive would not fall.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. And in fact at that point would be the unfinished business.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Arkansas may yield to me without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have in hand an unrelated matter but it appears to be cleared on both sides of the aisle. I inquire of the minority leader if he is prepared for me to put this request to limit time for debate on S. 2411, Calendar No. 857, at this time?

Mr. ROBERT C. BYRD. Yes, with the indulgence of the Senator from Arkansas.

TIME AGREEMENT ON S. 2411

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate turns to the consideration of Calendar Order 857, S. 2411, the bill to amend the Omnibus Crime Control and Safe Streets Act, it be considered under the following time agreement:

One hour on the bill to be equally divided between the chairman of the Judiciary Committee and the ranking minority member or their designees;

Thirty minutes under the control of the Senator from North Carolina (Mr. EAST);

Five minutes on an amendment——

Mr. ROBERT C. BYRD. Excuse me. That 30 minutes under the control of, is that merely for debate?

Mr. BAKER. For debate.

Mr. ROBERT C. BYRD. That is not for amendments or motions?

Mr. BAKER. Debate only.

Mr. ROBERT C. BYRD. All right.

Mr. BAKER. Five minutes on an amendment to be offered by the Senator from Pennsylvania (Mr. SPECTER) dealing with clarifying and technical changes;

Five minutes on an amendment to be offered by the Senator from Pennsylvania (Mr. SPECTER) dealing with overall organizational changes and changing PSOB program;

Five minutes on an amendment to be offered by the Senator from Alabama (Mr. HEFLIN) dealing with the State Justice Institute Act;

Twenty minutes on an amendment to be offered by the Senator from Pennsylvania (Mr. SPECTER) dealing with restructuring the NIJ and BJS;

Ten minutes on an amendment to be offered by the Senator from South Carolina (Mr. THURMOND) dealing with title 18 protection for certain individ-

uals within the intelligence community, identical to S. 2552, passed Senate on October 1, 1982;

Five minutes on an amendment to be offered by the Senator from North Carolina (Mr. EAST) dealing with the Marihuana Cultivation on Federal Lands Crime Act;

Five minutes on an amendment to be offered by the Senator from West Virginia (Mr. ROBERT C. BYRD) dealing with a realinement of the Federal Judicial Districts in West Virginia;

Ten minutes on an amendment to be offered by the Senator from Kansas (Mr. DOLE) dealing with interstate exchange of criminal information;

That no other amendments not already reported as part of this bill be in order;

Five minutes on any debatable motions, appeals, or points of order, if so submitted to the Senate.

And that the agreement be in the usual form.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the last clause would be with regard to the control and division of time inasmuch as the——

Mr. BAKER. Amendments also, since I believe we provided no other amendments would be in order.

Mr. ROBERT C. BYRD. Yes; the Senator is ruling out any second-degree amendments by that portion?

Mr. BAKER. Yes; I think that would be fair.

Mr. ROBERT C. BYRD. The usual form would not necessarily affect germaneness because the Senator has specified all amendments that would be allowed.

Mr. BAKER. Yes, Mr. President.

Mr. ROBERT C. BYRD. It would only have to do with the division and control of the time.

Mr. BAKER. Mr. President, the four corners of the agreement would provide, I believe, that no other amendment would be in order, including second-degree amendments, and the usual form which might carry with it a prohibition against nongermane amendments is by implication included in this since we have identified the only amendments that can be dealt with.

Mr. ROBERT C. BYRD. The reason I asked, there was some question as to the division and control of the time, and I was explaining for the RECORD that that statement takes care of that.

Mr. BAKER. It does include that, yes, I agree with the minority leader, and I thank him for his observation.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair and I thank the Senator from Arkansas for permitting me to put the request at this time.

NORMALIZATION METHOD FOR PUBLIC UTILITY PROPERTY—H.R. 1524

Mr. BUMPERS. Mr. President, the motion now pending is to take up a bill commonly referred to as the California utilities bill. I am not completely familiar with it, but I know that a lot of utilities want it. I am advised that the bill is not particularly offensive to any of my beliefs, but the bill has an amendment attached to it by the Finance Committee which shortens the holding period for capital gains, and I do feel very strongly about that.

Before talking about the capital gains rate or the holding period necessary to qualify for that great tax rate on income, I must say that this is not the kind of substantive legislation that we should be dealing with in a lame-duck session.

The President said he wanted a lameduck session to take up appropriations bills. We will have been here 2 weeks tomorrow and so far we have passed only the District of Columbia appropriations bill.

The House of Representatives is dealing with the defense appropriations bill, but it is very doubtful that bill is going anyplace, and that we are going to wind up with a continuing resolution while we vote on the MX, aircraft carriers, and the B-1 bomber, on the defense appropriations bill. The chances of that bill getting through the Senate to conference and back for final passage is almost zero. So we will have to vote on those issues all over again when the continuing resolution comes through.

If we really believe that we should honor the President's request to pass these appropriation bills—and I am one that does—I cannot understand why we should waste time on measures that are not relevant to the reason we came back and indeed which merely provide a Christmas tree for some bad legislation. I cannot understand why we are dealing with that kind of legislation. It is not what the American people have a right to expect of us.

I am not opposed to the so-called California utilities bill. Based on what people have told me, it grants relief to many people and maybe deservedly so.

However, the amendment that is objectionable grants substantial relief to people by flying in the face of the fairness in our tax system. Also, it certainly is highly questionable in the context of the President's economic philosophy about true investment.

Consider what this amendment will do. First, consider the history of the capital gains tax.

In 1975, if you held an asset for 6 months and sold it for a gain and if you were in a high tax category, the maximum rate you had to pay on that gain was 48 percent. If you sold it in less time than that, however, and recognized a gain, then you had to pay about 70 percent. That assumes you are one of the wealthier people in the country who paid the 70-percent top tax rate which we had for years, and years, and years. Last year, under the Economic Guaranteed Depression Act of 1981, we reduced the maximum income rate to 50 percent, thereby reducing the rate on capital gains to 20 percent.

This 20-percent maximum results from actions in 1978 following the sponsorship and hard work of the then Senator from Wyoming, Clifford Hansen. He shepherded a bill that reduced the old maximum capital gains rate of 48 to 28 percent. In doing so, he also made a commitment to the Senate and to those of you who voted for it. He said:

> If you will vote to reduce the capital gains rate from 48 to 28 percent, I will agree to extend the holding period necessary to get that rate from 6 months to 1 year.

So if you want to go buy some stock or you want to buy a piece of real estate, to qualify for this nearly 50-percent reduction in your capital gains rate in the future, you had to hold an asset for a year instead of 6 months.

I thought that was a fair tradeoff at the time. I thoght 70 percent was too high for ordinary income and I thought 48 percent was pretty high on capital gains, so it seemed to be a suitable tradeoff.

Afterward, President Reagan, campaigned on the proposition, and argued after he was President, that what the country needs is true investment. The whole theory of supply side economics was that we were going to cut people's taxes, so they would save money and create a tremendous pool of capital for investment. There would be so much of it that business could not possibly absorb it all and, therefore, interest rates would fall. Then business would borrow all the more to retool their plants and build new ones, and "There would be jobs, jobs, and more jobs for everybody."

The crux of the tax cut was for people to save their tax cut to create this tremendous pool of money.

In all fairness, the saving rate has gone up very significantly in the last 12 months because people are scared to death. They are not saving their money because they had this big excess to save from the tax cut. They are saving because they are frightened out of their hides.

The other thing the Economic Guaranteed Depression Act of 1981 did was to cut this capital gains rate still further.

When we reduced the rate of income tax to 50 percent, that, in conjunction with the 60-percent exclusion for capital gains, automatically meant that, in the future, if you held an asset for 1 year or more, you no longer were

going to pay the 28 percent that we had just cut it to in 1978. In the future it would be 20 percent.

I have done a lot of things that I am very happy and proud of since I have been in the Senate. I have done a few that I wish I could do over, cast a few votes that I might change. The one vote I cast that I guess I am as proud of as any since I have been here was against that tax bill last summer.

For me to believe that you could cut taxes $750 billion over a 5-year period, spend an additional $1.6 trillion on defense in the same period of time and balance the budget would have made me repudiate everything my dear late estimable second-grade arithmetic teacher taught me. I loved her and I thought I would be betraying her. So I voted against that tax bill.

One of the primary reasons I voted against it was that 35 percent of the benefits went to the wealthiest 4 percent of the people in this country.

You know, one of the most dangerous things this country faces right now is the deepening cynicism of the people toward their Government and their elected officials, and we keep doing things that are unforgiveable. We keep doing things that just exacerbate this cynicism and hasten the day that Thomas Jefferson warned us about, that our democracy could only last with the consent of the governed.

One of the healthy things, incidentally, about the election on November 2, 1982, was that we finally reversed the downward trends in voting participation in this country. In 1978—and you always use off-election years in talking about this issue—only 38 percent of the people eligible to vote in this country chose to do so, and that was a continuation of a trend that began in 1962. Ever since 1962 at every off-election year fewer and fewer people in America were participating in the most important thing in their lives; namely, voting.

Well, 1982, for reasons which are still not clear to me or to political analysts, we upped the percentage of people who are eligible to vote from 38 percent to 41 percent, and I think that is very healthy.

I scarcely make a speech these days without warning people that that was the most dangerous trend in America. When people shun their government and refuse to participate, they are leaving it to fewer and fewer people, and oftentimes they are giving somebody twice the vote.

If you do not vote, that is making somebody else's vote count for twice as much. You might as well give somebody two votes when you stay home.

What people must be made to understand is that when they give somebody else their votes they may be giving it to some zealot with whom they fervently and strongly disagree.

Adolf Hitler was never elected in a popular election. He was never chosen by the people of Germany as their leader, and the only reason he was able to usurp power was because of the lethargy, the indolence, the indifference of some people who thought they had it made or that it really did not matter. They sat by out of both fear and indifference and allowed it to happen.

Thomas Jefferson warned 205 years ago that this was always a danger to our system, and that is the reason we often refer to our system as a participatory democracy. If people do not participate, then it is no longer a participatory democracy, and very shortly it will not even be a democracy.

I think one of the reasons, from my analysis, why more people voted in 1982 is because they were afraid, they were frightened, for the future of the country; and apprehensions in this country right now run almost as deep as they did in 1933 when Franklin Roosevelt soothed the people of this country with statements such as, "We have nothing to fear but fear itself," and he went on to say, "The time has come to speak boldly and frankly." He made people realize those were dark days, but in one sense it was a wonderful time because we could turn to ourselves and, with the kind of leader that Franklin Roosevelt was, solve the problems.

Many nations of the Earth have our problems or even worse, which they cannot solve. The reason they are not solvable is that they do not have the natural resources, they do not have the educational institutions, and they do not have the freedom that we have.

I think a lot of people voted for Ronald Reagan in 1980 believing things could get no worse. They voted for him, and things got worse. I think a lot of people in 1982 had to reconsider, and they decided that we still needed an additional change.

Involved in that decision, and in the greater voter turnout is that they thought that little, simple element of fairness was being trampled on. You can call it demagoguery, you can call it whatever you want to, but I could not agree with them more. I said it in every speech I had an opportunity to say it in, that the basic error of this administration is its indifference to that little, simple quality of fairness which is absolutely essential to our survival.

The tax bill we passed last summer proved to people that we have lost our sense of fairness.

I grew up being poor. It was not so bad to be poor when I was because everybody was. In fact, my father was a local merchant and, comparatively speaking, in the little town of Charleston, Ark., we were infinitely better off than 90 percent of the other people.

As I said, being poor involved no stigma, because everybody was poor.

Incidentally, I never denigrate Franklin Roosevelt and say he is the cause of all of our problems today. Some of my Democratic colleagues are afraid to mention Franklin Roosevelt, but he saved Charleston, Ark. My father was lucky to sell a battery radio or a kerosene refrigerator. As a matter of fact, we sold iceboxes, and, in those days, the iceman came twice a week and left 50 to 75 pounds of ice in your house until Franklin Roosevelt decided to put electrical power all along rural America. We put people to work under WPA, which was the first CETA project in this country. And men stopped men in my city who wanted to vote and wanted to work, and they were allowed to work for $21 a month.

The hair gets a little stiff on the back of my neck when I hear people deplore the jobs bill. The only people who criticize jobs bills have jobs. They are not confronted with a wife and children wondering where the next meal is coming from, the are not wondering how on Earth they are going to educate those children so they will have any kind, any semblance, of a chance in this world.

Well, what can be more demeaning than to be an able-bodied man who wants a job and cannot find one? It is the most degrading thing that can happen to anybody. The President talked about family values during the campaign. What is more devastating to family values that to force a family apart because of money and because they cannot even feed themselves?

Well, people in my State make a median family income of $16,000 to $17,000 a year. That means half the people in my State make over $16,000 a year and half of them make less than that.

And so this tax bill came along last year and they all said, "Isn't this wonderful? This is just great. They are going to cut our taxes." And that family of four got about $150 tax cut the first year, and they got about a $220 tax cut the second year. And over the 3-year period, if we go ahead and implement the third year next July 1, they will have received the magnificent sum of about $280 a year in tax savings.

A person making $100,000 a year, however, saves $6,000—20 times as much as some of the best of people in my State get—$6,000 a year to those who make $100,000 a year and about $280 to the middle class in the State of Arkansas. Why, it is not even enough to pay the increase in their utility bills.

Naturally, people said, "Tax cuts are fine, but I didn't feel mine; could hardly find it." They certainly were not going to save it; there was not anything there to save. There was not

enough to even talk about unless you happen to make over $50,000 a year, in which case it began to make a difference.

I heard one Senator on the floor of the Senate say, "Thank you, President Reagan. That means $80,000 a year to me and about $300 to my constituents." Another Senator said, "I have recomputed my taxes. It means about $40,000 a year to me and about $300 to my constituents. Thank you, President Reagan."

So, in 1982, people were not saying they do not like President Reagan. Most people like him personally. They find him to be an engaging man. They are very terribly troubled, however, by his economic philosophy, which they perceive to be unfair to about 90 to 95 percent of the people in the country. In that context, we have a little old bill that is euphemistically called the California utilities bill. Yet, there is a little old amendment attached to that bill. Now the House last year and this year refused to accept that same amendment. I do not know what Chairman ROSTENKOWSKI's view on the amendment will be this time. Maybe he is prepared to accept it. I do not know, but I am not.

In all probability, if there were an up or down vote here on this bill, it would pass by a big margin. And if I were to just offer an amendment to strike the odious and offensive part of this bill, it would probably be defeated.

I am at a loss to understand how anybody in this body could accept this capital gains amendment, and say at the same time that they thought it would help our problems in trying to balance the budget: even on the Democratic side, how could they go home and tell their constitutents that the problem is fairness? This amendment means another $200 million for the wealthiest people in the country.

You see it is difficult for people like me to talk about the wealthy because it sounds demagogic. I do not have a thing in the world against the wealthy. I have been trying to join them all my life. Most of the sensible and thoughful wealthy people I talk to say that they thought that orgy of tax cutting last summer was devastating.

There are some who like it. If money is your goal in this world, if you think that everything hinges around your own little private nest, and if it does not matter how well the rest of the country fares, then you may think it is fine.

I am one who believes, as Hubert Humphrey believed, that this is not ever going to be a good place for any of us to live until it is a good place for all of us to live. You may be called a liberal for believing that. You get tagged all across this country as a liberal for defending the Constitution of the United States. What kind of nonsense is that?

Incidentally, on some of these so-called social issues some people would just, by whim, amend the Constitution with a simple majority vote of Congress.

I have never thought of myself as being a liberal or a conservative, either one. It always depends on what you are talking about. I believe that Sodom and Gomorrah were not destroyed because of sensuality or sexuality. Sodom and Gomorrah were destroyed because they would not extend a piece of bread in their right hand to starving people.

This amendment is no big deal—$200 million—the way we dole money out around here. What difference does it make? Two-hundred million dollars, just bagatelle, a farthing.

I sometimes ask myself: "Why are you wasting all the Senate's time and why are you so adamant about a little old thing like this?" Well, you know my mother and father taught me that those little old things add up.

Do you know another reason the people of the country do not like their elected officials? And I do not think the American people even know this. I think it is something in their native intelligence that tells them. They do not articulate it, but I think one of the reasons they do not like politicians is they get the feeling like they are bought and sold by special interest groups.

Somebody said to me one time, "Senator BUMPERS, I cannot believe you let that happen." I replied, "I cannot either, except the oil companies just happen to have a little more clout in the U.S. Senate than I have."

I have nothing against oil companies. I just want them to be fair with the American people. I want fair treatment for my people in exchange.

I know that these people who contribute $5,000 to candidates through their PAC's want good government, but I also know what their interpretation of good government is sometimes.

Their interpretation of good government is to pass this little old tax bill.

If you will pardon the digression, when I was Governor of my State and people came to my office and said, "Governor, we have a little old bill up there"—the one you promise you will sign in advance if they put it on your desk—"and that little old bill does not do nothing," that is when I started buttoning my hip pocket because I knew somebody was going to get run off the dome of the capital.

"Here is a little old bill that doesn't do nothing."

The people with these bills are the ones who may have spent over a billion in the last election. An individual can only give $1,000, so they belong to a group that has a PAC, which give them five times as much clout with a candidate than if they gave as an individual. I am sad to say that I voted for the law which permitted the proliferation of these PAC's. The mother's milk of politics has always been money, and it always will be until we address the issue in a much more serious way than we have been willing to do so far.

Still, that is not as insidious as our conduct. What we do is to entertain all these diverse interest groups who want this little tax bill and that little regulatory assistance. We put all those hundreds of diverse interests together, and they sail through here just like the California utilities bill. We go home and pretend to our constituents that all those widely ranging, diverse interest groups somehow represent the collective good of this Nation. They do not.

I know that one man's tax loophole is another man's gain. Who wants this little old bill that the majority leader has moved to take up? A lot of people. I would like to have it myself. I have some stocks that I have not held a year yet. If this bill passes I may sell my stock because I have had it over 6 months. That is going to mean a large tax difference because I have a good gain in this stock. If you will do this for me, I can get a 20-percent rate instead of a 50-percent rate. But after you do that for me, what have you done for the country? What economically redeeming value does the country get by reducing the holding period on a capital asset from 1 year to 6 months?

Cliff Hansen made a solemn promise to this body that when we cut the rate from 48 percent to 28 percent, we were going to make people hold their assets longer because it is a maxim of investment that the longer you are willing to hold the stock, the truer the investment is.

And while this will cost the U.S. Government $200 million annually, it may even cost the New York Stock Exchange more, because there will be so much stock traded they will have to buy another $200 million worth of computers.

They can handle 120 million or maybe 200 million shares a day, they are going to get a chance to prove it if this bill passes.

My question to the sponsors of this amendment, to the sponsors of this bill, is what do we get out of it? What does the country get out of it?

This morning I picked up the Washington Post and I saw where an economist in the Office of Management and Budget says that at the rate we are going our deficits could be $150 billion in 1988 and every year thereafter.

Do you understand, that is considered to be a reduction from what it is likely to be in 1983 and 1984?

I cannot understand our President's seeming indifference to budget deficits. They have been an absolute obsession with him during entire adult Republican life. Suddenly, however, we are planning to increase the national debt from $1 trillion, which took us 205 years to accumulate. We are planning to increase it 100 percent in about 6 years, and the same people who have always told me how destructive this was economically and what it was going to do to our country and our economy seem to be indifferent to it. You have an absolute reversal of roles right here in the Senate. Everybody on that side of the aisle could talk of nothing else but the deficit from the time I came to the Senate in 1975 until 1981, and people on this side would talk about it tongue in cheek. Now the people on this side are serious about it, and I cannot hear anything from the other side, except continuing the same unfair tax policies that have gotten us where we are right now.

The business community in this country used to be great contributors to the revenues. Let me say this: I believe in the business community of this country. They are innovative; they are progressive. Yet, I get exasperated knowing, for example, the business community in Japan contributes a lot more to the budget than business does in this country.

In 1948, corporations in this country contributed 23.2 percent of all the revenues collected by the Treasury. In 1969, that had dropped 3.3 percent, to 21.8 percent. By 1980, it had dropped to 12.4 percent. A study by the Citizens For Tax Justice (March 3, 1982) shows that the corporate tax in this country will produce 7.1 percent of all the revenues collected in 1987.

The truth is we will be lucky to collect 7 percent of all of our revenues in 1982.

We want people to save their money, of course, and that highlights another curious thing about the administration's economic philosophy. If you will recall, when we first started talking about the tax cut, the President said people were going to save their money. By the time the second part of the tax cut got around, this past July, the President and Don Regan said, "They are going to spend it. It is going to be our salvation." That made them pure Keynesians. We were going to spend our way out of the depression.

Even recently the President said, "In order to really get the economy going, I am for moving the tax cut for 1983 up to January 1."

Happily, cooler heads prevailed and those cooler heads were found in the form of HOWARD BAKER in the Senate and BOB MICHEL in the House, who went to see the President and said, "Mr. President, you cannot do this. You cannot move this tax cut up to January 1. All you are going to be doing is exacerbating the deficit which we are trying to cure."

The President, without ever publicly saying so, I assume, has backed off the whole idea. Yet, think about what a 180-degree reversal we have had in the whole economic philosophy of the country—now urging people not to save their tax cut, but spend it and help the economy get going.

Mr. President, who would get this $200 million? It goes to some of the very wealthiest people in the country, and it would even detract from true investment. It would encourage not true investment but speculation.

The computers will be spinning with stock sales between now and December 31, as everybody tries to sell and take advantage of that new gains rate on everything they have held between 6 months and 1 year. It is my personal belief that a lot of the stockbrokers of this country will indeed reap a big windfall but, again, the American people will lose.

So my colleagues will not think I am being dishonest with them about this, I should mention there are 34 million people in the United States who hold stock. That is 13 to 14 percent of all the people in this country. They are not all wealthy. I own stock, too, and I am not wealthy. So there will be relief for some people who are not necessarily rich. Still it will grant relief to many people who do not really need it, whereas there are millions and millions of people—12 million to be precise—who are out of work. Even at that, some people criticize a job bill to help those people get some employment and some dignity that goes with honest work.

Mr. President, I hope that two things will happen. No. 1, I hope that the majority leader will decide to pull down the motion to proceed to the consideration of this bill, or I hope he will at least agree to strip off the offensive part of it, at which time it might be a suitable subject. I still do not understand why bills like this have to wait for the lameduck session. It seems to me that this is not an important matter that really requires immediate attention.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without my losing my right to the floor; that this not be considered the end of a speech for the purposes of the two-speech rule; and that I be rerecognized at the end of the quorum call.

The PRESIDING OFFICER (Mr. DENTON). The Chair, in his capacity as the Senator from Alabama, has to register an objection.

Mr. BUMPERS. Mr. President, since the Chair is obviously enjoying this speech, I hope he will also enjoy a dissertation from the National Tax Journal of 1968 dealing with this subject. This is an article called "The Six-month Holding Period for Capital Gains: An Empirical Analysis of Its Effect on the Timing of Gains." It is by J. Eric Fredland, John A. Gray, and Emil M. Sunley, Jr.

INTRODUCTION

Harley M. Hinrichs in the September 1963 issue of the National Tax Journal measured the responsiveness of investors to differentials in capital gains tax rates. He based his analysis on data in a supplemental report to the Statistics of Income, 1959. Due to the limitations of the data, Hinrichs was forced to make the heroic assumption that short term gains were all or mostly in securities.

Incidentally, I am finding this kind of enjoyable, too. I have not read this before.

The analysis was further limited because the published data did not give a breakdown of the realization of gains and losses by length of period held. This paper extends the empirical analysis of the effect of the six month holding period by analyzing the more comprehensive data in a supplemental report to the Statistics of Income, 1962.

We focus mainly on the capital gains realized on corporate stocks. Table I indicates that corporate stocks are the most important class of capital assets subject to capital gains tax treatment, accounting for $7.1 billion of gross capital gains or 41 per cent of the total gross capital gains of $17.3 billion realized in 1962. This paper also gives brief consideration to the pattern of realizations of "other" securities, real estate, and livestock.

That is how much was realized by capital gains on that class.

TABLE I.—*Capital gains realized by asset class, 1962*

Asset class:	*Millions*
Corporate stocks	$7,138
Other securities	118
Real estate	2,763
Livestock	751
Total, selected asset classes	10,770
Total, all asset classes	17,293

Source: U.S. Treasury Department, Internal Revenue Service, Statistics of Income, 1962, Supplemental Report, Sales of Capital Assets Reported on Individual Income Tax Returns (Washington, 1966).

If there were $17 billion worth of capital assets realized in 1962, I shudder to think what it would be in 1982.

Section I outlines the salient features $10,000 to $50,000; $50,000 to $100,000; of the tax treatment of capital gains in 1962 which relate to the empirical analysis of this paper and demonstrates that there is a considerable incentive to realize long rather than short term gains. Section II presents empirical evidence which confirms that investors do respond to this incentive. An estimate is made of the tax savings achieved in 1962 by postponing the realization of gains on corporate stock. Section III estimates the increased tax revenue which would result if the holding period were lengthened to twelve months. Section IV summarizes the findings and presents the conclusions.

I. SALIENT FEATURES OF THE TAX TREATMENT OF CAPITAL GAINS IN 1962

Gains accruing on capital assets are taxed when they are realized. Gains realized on the sale of capital assets held less than six months are taxed as ordinary income, and

thus, in 1962, at rates between 20 and 91 per cent. Gains on assets held longer than six months, called long term gains, are included in Adjusted Gross Income (AGI) only to the extent of 50 per cent. In turn, these included long term gains are subject to tax rates on ordinary income, up to a maximum of 50 per cent. This preferential treatment results in effective tax rates on long term capital gains of one half the tax rates on ordinary income with a maximum rate of 25 per cent. Table II presents the differential between short and long term marginal tax rates by AGI Class as estimated by Hinrichs. This differential increases markedly as AGI increases.

The differential between short and long term marginal tax rates creates an incentive to achieve significant tax savings by realizing long rather than short term capital gains. Our hypothesis is that investors respond to this incentive by postponing the sale of appreciated capital assets which might otherwise have been sold in the first six months until at least the seventh month.

These investors are said to be locked-in. They are reluctant to sell an appreciated asset because the tax liability can be reduced by waiting until the asset has been held at least seven months. We expect that the locked-in effect will be greater for the investors in the higher AGI classes due to the larger differential between short and long term marginal tax rates.

Mr. President, there is a chart provided here, concerning who in 1962 received the most benefit out of the capital gains rate. Of the total, about $50 billion of capital gains was in incomes of over $10,000.

In 1962, a $10,000 income was about comparable to $30,000 today.

II. AN ANALYSIS OF THE EFFECT OF THE 6-MONTH HOLDING PERIOD ON THE TIMING OF GAINS

To establish the existence of the six month locked-in effect, we have examined the distribution by month of gross capital gains realized during the first year. We have focused on the realizations in the first year because we believe that the six month locked-in effect will mainly manifest itself in the second six months and because we want to abstract from factors affecting the realization of gains in later years.

A. EMPIRICAL EVIDENCE FOR CORPORATE STOCK TRANSACTIONS

The distribution of gross gains from corporate stock transactions realized in the first year of holding is given in Table III. Both the monthly distribution of first year gross gains and the percentage distribution of these gains are given for AGI classes of under $10,000; $10,000 to $50,000; $50,000 to $100,000; $100,000 or more; and nontaxable returns.

The figures in Table III indicate that taxpayers in higher tax brackets postpone their gain beyond the sixth month to a much greater extent than taxpayers in lower brackets. Taxpayers with AGI less than $10,000 realized 54.1 per cent of their first year gains in the first six months, those with AGI between $10,000 and $50,000 realized 45.5 per cent, those with AGI between $50,000 and $100,000 realized 33.4 per cent, while those with AGI above $100,000 realized only 20.4 per cent in the first six months. Those with nontaxable returns realized 57.2 per cent of the first year gains in the first six months.

Mr. President, I think that point deserves a little elaboration, because in those days $10,000 to $50,000 was a lot of money. The people who held stocks, for example, and who were making $10,000, did not have a high tax rate. They had little incentive to hold stocks. They were not going to pay any more tax if they held onto a stock than they were if they sold it. There was then, and there is today, a much faster turnover of stocks among lower income categories.

For example, if you make $30,000 a year in this country right now and you have three or four dependents, your top tax rate is probably not going to be over 25, 30 percent at the most. So you are not fighting to avoid a 50-percent rate in order to get a 20-percent rate. You are usually fighting the difference between a 20-percent rate and the 25-percent rate. To those people, it does not make much difference when they sell; their tax rate is going to be pretty much the same and so there will be a much faster turnover.

The monthly percentage distribution of gross gains over the first year, given in Table III, is more easily seen when plotted by month for each AGI class in Figure 1. Each AGI class shows the same general pattern of distribution of gains Gains are high in the first month, fall steadily until the fifth month, rise slightly in the sixth month, then jump suddenly in the seventh month (the month in which gains become subject to taxation at reduced long term capital gains rates). Gains fall somewhat in the eighth month and then level off in the ninth, tenth, eleventh, and twelfth months at a volume well above that achieved in the months immediately preceding the seventh month.

There are three striking aspects to this distribution of gains. First is the consistent general pattern displayed by all income classes. Second is the marked rise in gains realized in the seventh month and the fact that the proportion realized in the seventh month increases as AGI increases. Third is the consistent downward displacement in the pattern in the first six months and the consistent upward displacement in the second six months in moving from low to high AGI classes.

These aspects of the monthly distribution of gains suggest that investors respond to the differnce in marginal tax rates between short and long term capital gains. We conclude that a six month locked-in effect for corporate stock transactions does exist, and that this lock-in is stronger for higher income taxpayers.

To sustain our conclusion of the existence of a lock-in resulting from investor response to the difference in marginal tax rates it is necessary to explain why the distribution of gains for nontaxable returns follows the same general pattern, with the same sharp jump in gains realized in the seventh month. At first thought, one might expect nontaxable persons not to be subject to a lock-in. Indeed, the nontaxable group includes those who throughout the full year *knew* they would have insufficient income or sufficient exclusions, exemptions or deductions to make them nontaxable (i.e., those who *expected* to be nontaxable). For these people the marginal tax rates on both short and long term gains are zero, there is no difference in marginal tax rates, and therefore no lock-in. However, the nontaxable group also includes those who at least for a part of the year *expected* to be taxable (or were uncertain that they would be nontaxable) but ended up nontaxable at the end of the year. As long as these people expected to be taxable (or were uncertain about being nontaxable) they would make portfolio decisions on the basis of the expected difference in marginal tax rates and, therefore, would respond as if subject to the six month lock-in. These nontaxable investors would postpone realization of gains until the seventh or later month. Even nontaxable individuals who at the time of a portfolio decision *expected* to be nontaxable at the year end may delay realization of gains beyond the sixth month if they are uncertain of their expectation. Finally the category includes those investors who have achieved nontaxable status by posponing the realization of gains until the lonterm. For example, an investor with $25,000 of examptions and deductions and capital gains as his only source of income would end the year with $25,000 of taxable income if he took $50,000 of short terms gains. He would end the year with no taxable income if he delayed realization of these gains until the seventh month.

All these considerations suggest that it is quite reasonable to expect some nontaxable individuals to be subject to the six month lock-in. This explanation is consistent with our empirical findings.

B. EMPIRICAL EVIDENCE FOR OTHER ASSET CLASSES

The distribution of gross gains by month and by *AGI* class was investigated for other asset classes for which data were available; real estate (the second largest source of gross long and short term gains in 1962), securities other than corporate stock (i.e., bonds), and livestock.

Both real estate and securities other than corporate stock show the same pattern of distribution of first year gross gains as corporate stock. All *AGI* classes show gains fairly low in the first six months jumping sharply in the seventh month and then falling off in subsequent months, but to a level above that of the first six months. The proportion of gains realized in the seventh month rises as income rises. As with corporate stock, the downward displacement of the pattern of gains in the first six months and upward displacement of the pattern in the second six months is apparent in moving from low to high income classes. For both asset classes the pattern is not as clear as for corporate stock because of the smaller number of returns reporting gross gains in any particular month, and thus the higher sampling variablity attached to each month's figure. Nevertheless the distribution of gross gains by months and by *AGI* suggests that investors responded to the difference in marginal tax rates between short and long term capital gains by postponing realization, and thus the six month lock-in exists for real estate and for securities other than corporate stock.

No lock-in effect could be demonstrated for livestock. Short term capital gains (within the first 12 months) were very small and subject to large sampling variability so that no significant trend of short term gains to gains in the first two years could be established across *AGI* classes.

C. TAX SAVINGS ACHIEVED ON CORPORATE STOCK TRANSACTIONS

Using the evidence presented above for corporate stock transactions, we have made estimates, based on two crucial assumptions, of the tax savings achieved by postponing the realization of gains. First, the gain realized before taxes is assumed not to be affected by postponing the sale until the holding period exceeds six months. It is possible that the price of the stock would rise or fall during the period between when the investor would have sold after holding it less than six months and when he does sell after more than six months. We are assuming that these two possibilities cancel out in the aggregate data.

Second, in the absence of the differential in marginal tax rates between short and long term capital gains, it is assumed that investors would have realized 57.2 per cent of the gains realized in the first year during the first six months. This figure is the per cent of the first year gains actually realized in the first six months reported on returns with no taxable income. If anything, it is a conservative estimate of behavior in the absence of the differential in marginal tax rates. The income tax returns with no taxable income showed a significant jump in realizations in the seventh month. As was pointed out in Section II, some of these nontaxable individuals achieved tax savings by realizing long rather than short term capital gains. We conclude, therefore, that the 57.2 per cent is a conservative estimate for the proportion of the capital gains realized during the first year which would have been realized during the first six months if there were no differential in marginal tax rates between short and long term gains. An assumption of 60 or 65 per cent may well be justified.

The tax saving achieved by investors in each income class by postponing realizations is now easily calculated. The percentage of the realized gains assumed postponed is the difference between 57.2 per cent and the per cent of the gains actually realized in the first six months. The tax saving is the postponed gains times the differential in marginal tax rates. The tax saving is finally presented as a per cent of the taxes which would have been paid on realizations in the first six months if there had been no postponing of realizations. We conclude from Table IV that investors were able to save almost $36 million by delaying realizations of appreciated corporate stock. This tax saving may seem insignificant when compared to the $48 billion raised by the individual income tax in fiscal 1963. However, the tax saving due to postponing realization beyond the sixth month represents 20.4 per cent of the tax which would have been paid if there had been no postponing of realizations. Also, the per cent saved increases with income class. This is due to two reasons. First, the differential marginal tax rate increases with income class. Second, the high income investor responds to this greater incentive by delaying realization on a larger proportion of the gains that in the absence of the marginal tax rate differential would have been realized in the first six months.

III. INCREASED TAX REVENUE IF THE HOLDING PERIOD FOR CORPORATE STOCK WERE LENGTHENED TO 12 MONTHS

This section presents estimates of the increased tax revenue for 1962 which would have resulted if the holding period had been twelve months instead of six months.

First, what are the justifications for a twelve month holding period? The U.S. Treasury Department recommendation in 1951 and President's 1963 Tax Message proposal for a twelve month holding period were based on the distinction between speculation and investment, and the fact that the individual income tax is levied on an annual basis. Each of these arguments warrants brief examination.

To the extent that the distinction between speculation and investment can be made, the difference between the two is related to the length of time an investor expects to hold an asset. Of course, an investor's expectation of the length of time an asset is going to be held may not be fulfilled. Thus the distinction between the two is not sharp. What was planned to be a long term investment may be liquidated in a very short time if market conditions change. Similarly, an asset might be held much longer than originally expected. Still, a one year holding period would tax some speculative activity more heavily than at present.

It has frequently been argued that in absence of an averaging provision for capital-gains, preferential treatment is needed for capital gains to compensate for the "bunching" of income associated with the realization of capital gains. This bunching argument is not valid for realizations in less than one year. Therefore, the one year holding period would be more consistent with the annual basis of the individual income tax.

Opposed to the twelve month holding period it might be argued that such a change would increase the lock-in effect, seriously reducing capital mobility. However, this argument is not convincing on examination. As Heller has pointed out, lengthening the holding period sets up opposing forces. On the one hand, some investors who, under a six month holding period, would have sold between the seventh and the twelfth months would, under a one year holding period, postpone the realization until after the twelfth month. On the other hand, some investors who would have postponed realizations until after the sixth month would not be willing to risk waiting until after twelve months. Therefore, these investors would increase realizations during the first six months.

We present three estimates of the increased tax revenue which would result from lengthening the holding period for corporate stock to twelve months. Our high estimate assumes that there would be no postponing of sales now made in the seventh to twelfth months until the second year. The increase in tax revenue is simply the differential in marginal tax rates given in Table II times the gains realized between the seventh and the twelfth months. This high estimate implies that tax revenue would increase by $111 million, or 56.0 per cent of the tax revenue now collected on first year realizations. The percentage increase in tax liability increases with *AGI* class from a low of 29.8 for the *AGI* class under $10,000 to a high of 123.6 for the *AGI* class $100,000 and over.

Our low estimate of the increase in tax revenue is based on the assumption that under the twelve month holding period realizations for the first year are determined by the following ratio:

(1) Assumed realizations first year and actual realization first two years equals actual realizations first six months and actual realizations first year.

For example, the AGI class $100,000 and above, which realized 20 percent of first year realizations in the first six months are now assumed to realize 20 percent of their first two years realizations in the first year. Under this behavioral assumption the twelve month holding period leads to considerable postponing of realizations until the second year. Table VI gives the calculation of increased tax revenues. The assumed realization of gains is given by (1) above. The difference between the actual first year gains and the assumed first year gains is the realizations postponed to the second year. The net increase in capital gains subject to ordinary income tax rates is the difference between our assumed first year gains and the actual gains the first six months. The increased tax revenue is the increase in short term gains times the differential marginal tax rates. This estimate leads to the conclusion that tax revenues would increase by $50 million or only 45 percent of our high estimate. Again we can express the increased tax revenue as a percent of the revenue now collected on first year realizations. The percentage increase in tax revenue increases with AGI class from 22.3 for the lowest income class to 33.3 for the highest income class.

Our third estimate is based on assumptions designed to reflect the off-setting effects associated with lengthening the holding periods. First, we assume that once the holding period is lengthened, some realizations now made in the seventh to the twelfth months would be realized in the first six months. In particular we assume that 57.2 percent of first year realizations would be made in the first six months. Second, we assume that a proportion of the realizations which would be made in the second six months are now postposed until the second year. The proportions postponed depend on the observed ratio of realizations the first six months to realizations the first year. In particular it is assumed that:

(2) Assumed realizations seventh to twelfth months and .428 first year realizations plus .500 second year realizations equals actual realizations first six months and actual realizations first year.

Table VII gives the calculation of the increased tax revenues under this third set of assumptions. The assumed realized gains for the seventh to twelfth months is calculated from (2). The realized capital gains postponed until the second year is .428 (1.000-.572) times first year realizations minus the assumed realized gains for the seventh to twelfth months. The net increase in realized gains subject to ordinary income tax rates is the actual gains second six months minus the realized gains postponed to the second year. The increased tax revenue is the differential marginal tax rates times the net increase in realized gains subject to ordinary income tax rates. Under these assumptions of offsetting effects, the tax revenue is increased by $89 million. Finally, the increased tax revenue is expressed in Table VII as a percentage of the revenue now collected on the first year realizations.

IV. CONCLUSIONS

1. The differential between short and long term marginal tax rates creates an incentive, which increases with *AGI*, to achieve significant tax savings by realizing long rather than short term gains. Investors do respond to this incentive. There is a marked rise in realized gains on corporate stock in the seventh month and the differences between realizations in the sixth and seventh months increases with *AGI*. We estimate that in 1962 investors in corporate stock

achieved a tax saving of $36 million or 20.4 per cent of the taxes which would have been paid if there had been no postponing of realizations.

2. We conclude from the empirical evidence presented on the timing of gains that the differential between short and long term marginal tax rates has important effects on the mobility of capital in the short run. The six month lock-in effect could be reduced or eliminated by either reducing the tax rates on short term gains or increasing the tax rates on long term gains. We prefer the latter method of eliminating the differential in marginal tax rates on both equity and efficiency grounds.

3. Lengthening the holding period to twelve months would tax some speculative activity more heavily than at present and would be consistent with the annual basis of the individual income tax. We estimate that if the holding period were lengthened to twelve months, the increased tax revenue from corporate stock transactions in 1962 would be between $50 and $111 million.

Now, Mr. President, since there would be that kind of an increase in revenues in 1962, and since the Federal budget and the amount of taxes collected today are about 10 times that high, I cannot understand how we are only going to lose $200 million now. I would guess we were going to lose, under that assumption, between $500 and $600 million.

Furthermore, if you want people to make investments that are truly investments, why not scale the rate according to the time you held it? Instead of just cutting the time period from 1 year to 6 months, why not say, "You get the advantage of the 20-percent rate if you hold it a full year, but the rate goes up 2 percent for each month under that. If you hold it for 11 months, your rate is 22 percent; 10 months your rate is 24 percent."

Now, there might be an incentive for some people who might get in a bind and have to sell periodically. They would not be devastated.

But it does seem to me strange and irrational to be debating on this floor almost simultaneously another little old bitty tax bill that gives the bulk of $200 million a year to the wealthiest people in the country, and simultaneously asking for a 5-cent-per-gallon gasoline tax on everybody.

I have not decided what I am going to do about the gasoline tax. That is pretty devastating to the people in my State, and yet the people in my State enjoy a fairly good transportation system and we do not want to see it lost. We do not want to see it deteriorate.

You know, the other night the President said this will only mean $30 to the averge family. Well, let me do a little calculation for you on that. If you drive your car 20,000 miles a year and you average 1,000 gallons per car, the tax on you is not $30, it is $50, if you average 20 miles per gallon.

Let us assume the husband and wife are both working and they are both having to take their cars to different jobs. She is also driving her car 20,000 miles a year and it averages 20 miles per gallon. That means she is going buy 1,000 gallons of gasoline, and that is $50 for her. So that is a total of $100 for a two-car family. I am not embellishing anything because the national average, fleet average, of gasoline mileage on all cars in America today is below 20 miles per gallon.

So, using that illustration of 20 miles per gallon is not far off the national average. I do a lot better than that on the car I drive to work. I get about 26 miles to the gallon in town and 38 miles to the gallon on the road, but a lot of people cannot buy a high mileage automobile because they cannot afford it. They cannot afford the interest rates. They cannot afford to trade.

This national illustration is instructive, but the impact is worse in Arkansas. Strangely enough, the State of Arkansas is the second biggest user of gasoline per capita in the United States. There is only one State that uses more gasoline per capita than we do.

The people of my State are just as loyal and concerned about the country and what people call infrastructure—I think that is devastating for any politician to use the word "infrastructure." Infrastructure is like a lot of other words; it can mean about anything you want it to mean. But if the people in my State, for example, 25 percent more than the national average, that means the two-car family in my State is going to be asked to pay an additional $125 a year. And we are a poor State. We are the second or third poorest State in the Nation in per capita income.

Mr. President, it is asking a lot for the people of Arkansas, when you figure that the average family there earns about $16,000 to $17,000 a year and their take-home pay is around $12,000. It is a tremendous burden. That same family gets less than that out of the economic tax recovery bill of last summer. If you put $125 tax on the ordinary family in my State, the third year of the tax cut will mean less than that. Then there is the 26-percent increase in their heating bills to go with that. And here we are debating a bill that gives $200 million, most of which goes to the wealthiest people in the country. Just a little old bill that does not do much. Just another illustration of the insensitivity of the people in Congress that further erodes confidence and deepens cynicism about who we really care about here.

Perhaps we ought to debate how we finance campaigns. Maybe that is the real test of whether we are concerned about the American people. Campaigns have gotten so exorbitantly expensive. One thing that was sort of gratifying to me in this last election was that a lot of people who spent a lot of their own money did not win this time.

You know, I do not know how many millionaires there are in this country. My guess is it is one-hundredth of 1 percent of all the people. Yet I read that there are 25 to 30 millionaires in the Senate. That does not sound like a very representative body of the American people. It is a simple fact, however, that money is necessary for elections, and if you do not have it, you must raise it. That is not always easy to do, unless you let people know that they are going to have access to you. And so the people's interests are not always best served here because of the way we finance campaigns.

I have to ask myself: What is behind the move to continue cutting the capital gains rate for the wealthiest people in the country, after we gave them everything but the dome off the Capitol last year? Who is behind this?

We have cut the capital gains rate from 48 percent in 1975 to 28 percent in 1977, to 20 percent in 1981 and now we are cutting the holding penalty from a year to 6 months. I am ready to eliminate the capital gains. Why do we have to have a capital gains? Let us just say if you buy stock and you sell it for a gain, you just pay your tax at ordinary income rates. We are rapidly reaching the point where we are relieving everybody of any tax burden if they happen to be on the upper side of $50,000 to $100,000. If we ever call this bill up, I will offer an amendment to eliminate the capital gains exclusion.

Now I love it when I file my tax return. I usually have some capital gains there. Happily, I will have some capital losses this year, too, to offset the gains.

Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state his parliamentary inquiry.

Mr. BUMPERS. Do I not have the right to speak twice on this motion today without losing my right to the floor?

The PRESIDING OFFICER. The Senator is correct. He may speak twice on any legislative day on any question.

Mr. BUMPERS. Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this body finds itself in the position that it so often finds itself. We ought to write a book on how to waste time in the U.S. Senate, because that is what this is all about.

We come back here and the President of the United States, contrary to the desires of the leaders of the House and the Senate, asks us to deal with appropriations bills. Do we do that?

No—I guess, so far we dealt with one. I do not think there is any Member of the Senate who is not prepared to deal with the appropriations bills. But instead of that, we have time for everything, every special interest bill that comes down the pike.

Mr. LONG. Will the Senator yield at that point?

Mr. METZENBAUM. Mr. President, I ask unaminous consent, without losing my right to the floor, that I may yield to the Senator from Louisiana.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Alabama, must object.

Mr. LONG. Mr. President, the Senator has a right to yield for a question. Will the Senator yield for a question?

Mr. METZENBAUM. I yield to the Senator for a question.

Mr. LONG. Mr. President, I would simply suggest to the Senator that a lot of us came back here to help deal with the essential national problems. But I would ask the Senator, is he under the impression that anybody on this side of the aisle came back here to take up all the cats and dogs that can be found on the calendar by now?

Mr. METZENBAUM. The Senator is 100-percent correct in his question. Nobody came back for that purpose. We came back because we knew that there were problems in this country.

The President of the United States wanted us to come back to deal with problems, and certainly some of them have to do with the appropriations bills. The President has also indicated since then his concern about the MX matter. The President has indicated his concern about a 5-cent tax for the infrastructure. All of those matters are of significance to this Nation.

I know of no Member on this side of the aisle who is unwilling to deal with those major matters.

As the Senator from Louisiana so correctly points out, we are not dealing with those matters. We are dealing with everything except those matters. It is absolutely the fact that I have not heard one word of protest from this side of the aisle to dealing with matters of moment, matters for which we were called back, matters dealing with the economy of the Nation.

Mr. LONG. Will the Senator yield for a further question?

Mr. METZENBAUM. I certainly will.

Mr. LONG. Might I ask the Senator this, is he aware of a growing feeling of discontent on both sides of the aside and a growing desire of all Senators to vote to adjourn sine die, to simply go out of here until the next Congress begins?

Mr. METZENBAUM. I believe we probably should never have been called back. I think many Members on both sides of the aisle think we should not have been called back. But since we were called back, I think that many Members on both sides of the aisle would like to deal with matters of substance, matters of importance to the Nation.

We spent 3½ days wastefully on a bill having to do with some people who were price fixers, who wanted to get relief. The U.S. Senate spent 3½ days on that measure. Now we have spent a lot of time on Radio Marti.

This has nothing to do with the merits of those matters. I am not trying to suggest that one is bad and the other good, whatever. I think we ought to deal with them. I think that the Senator from Louisiana would totally agree with the Senator from Ohio, as well as every other Member of the minority, and I would suspect those of the majority, to either get on with our business or adjourn sine die and come back in January.

Mr. LONG. Will the Senator yield for a further question?

Mr. METZENBAUM. I yield.

Mr. LONG. Does the Senator know of any reason why the gasoline tax increase, a major piece of tax legislation, should not be called up for consideration at this point?

Mr. METZENBAUM. The Senator from Ohio knows of no reason why it should not be called up for consideration at this moment. As a matter of fact, the chairman of the Finance Committee is standing behind the Senator from Louisiana at the moment. He may have some thoughts about bringing that matter to the floor. I am not opposed to bringing it up. I do not think the Senator from Louisiana is. We are ready to proceed with it, as soon as we find out what is in the bill, and be prepared to deal with it, at least on the minority side.

Mr. LONG. Is the Senator aware of the fact that the clock is going to run out on us, that we are not going to have time to consider all the bills that have been reported by the committees, or that will be reported by the committees between now and January?

Mr. METZENBAUM. The Senator from Ohio is aware of the fact that as is so routinely the case, measures get reported in the closing hours and the unimportant ones get called up and the important ones fall by the wayside. I think the Senator from Louisiana and the Senator from Ohio feel that if there is something pressing that the President of the United States feels has to be called up, if he feels that the appropriations bills should be called up, none of us have any real objection to doing so. But I think the Senator from Arkansas has made a very strong case as to this being just another one of those special bills. There is some merit to some portions of the bill. I will not say that there is not.

I want to make it clear that I do not believe that every one of these bills that somebody wants to call up does not have some merit. Some do and some do not. Most of those that I have a strong opposition to, in my opinion, do not.

I would guess there is some merit to this measure they are trying to call up at the moment, but in my opinion there is no merit in calling up anything other than the matters for which we were called back and other matters of major national concern.

Mr. LONG. Will the Senator yield for another question?

Mr. METZENBAUM. I certainly will.

Mr. LONG. In view of the fact that the clock is going to run out on us, and that we are not going to be able to consider all the legislation some Members would like to consider, or at least that the leadership on the majority side would like to consider, would it not make good sense that the items of highest priority should be called up first and the items of lesser priority should be called up last, rather than doing it the other way around?

Mr. METZENBAUM. I would say that that statement is exactly correct. It is right on target. It puts away all the pins. That is exactly where we ought to be. But, unfortunately, we are just spinning wheels, and in the closing hours we are going to be told, "If you do not get it done now, we are going to stay until the 18th, until the 19th, right up until Christmas and maybe New Year's."

Let us get on with the business of the U.S. Senate and let us not try to legislate in the closing hours and try to do it under the pressure of the moment, with people wanting to get away for the Christmas holidays. If there is something that the leadership wants to bring up, I, for one, am prepared to help in every way possible to bring up the major matters for which we were called back. But I think that this kind of activity is actually an insult to the people of the country very probably and certainly an insult to Members of the U.S. Senate, to call us back for these purposes.

I very much appreciate the questions of the very distinguished Senator from Louisiana. He has been long known for his astuteness and knowledge with respect to this body and the leadership of the Nation as well. I think he has seen exactly what the issues are as he always does, and understands and comprehends them very well. He zeros right in on the problem.

I believe that on this matter before us it is wrong for us to be talking about it and wasting our time.

Maybe this is the time, while an attempt is being made to bring this matter up, for us to take a look at what has been happening to the country in the last 2 years, since this particular session of the Senate has taken place.

I think it is a travesty to see what has happened since 1981. In the closing days of 1982 we are here, having been asked to come back, in a postelection session. For what purpose? To take care of every special interest group's bill, every lobbyist's bill.

Why? Why do we not deal with the problems of this country? Why do we not concern ourselves with what is happening out there in America?

It is understandable why the people of this country have a kind of contempt for their political leadership. Today, 4.1 million more people are out of work than when the Republicans took office. The unemployment rate of 10.8 percent is the highest rate since 1940. Two million more Americans are unemployed today than were in January of 1981.

But we deal with a bill called the California utility bill, a bill to reduce the capital tax gain holding period from 12 months to 6 months. What a magnificent idea that is. That is great.

I remember being in this body when people told us, "If you reduce the capital gains tax from 48 percent maximum to 28 percent it is going to stimulate the economy; it is going to cause more money to be invested; it is going to produce more capital for business. It is going to do all those wonderful things."

I want the Members of this body to know that it did not do any of those things.

Then they said, "OK, we did not go far enough. If we just go a bit farther, we are going to cut it to 20 percent. Wow. We are going to have such a wonderful economy after that that you would not believe it."

Now, 26.5 percent of all the blue-collar workers in this country were unemployed in November, one out of every six. That is the highest rate on record.

Well, they told us when we would reduce the capital gains tax, they were going to go back up on the holding period. Somehow that was going to be an offset.

Now we are going to undo it. Now we are going to cut the period.

It seems to me that, around here, anything that cuts the taxes of the rich is offered as a way to stimulate the economy. I would like you to tell that to the 20.2 percent of blacks in this country who were unemployed in September, October, and November—also the highest rate on record. Go out and tell them. Tell them that we are cutting the capital gains tax and we are shortening the period. Let them tell you how pleased they are. Let them tell you that they know that will get them a job back.

Whom are we kidding? We are not kidding them. They know they do not have a check to take home to their families. They know they do not have food to feed their families with. They know they do not have clothes that they can buy for their kids. They know they do not have a home in which to live and if they have it, they are in danger of losing it.

I remember when several women came down from Ohio and they met with the Vice President of the United States over here in the Vice President's office. He was very courteous and he was very gracious. I remember they said to him:

Mr. Vice President, the American dream used to be that we would be able to buy our own home and buy a car, to own our own home, to own a car. Now, Mr. Vice President, the American dream is to be able to keep the home we own and the car we own, because so many Americans are losing their homes and losing their cars.

So what does the U.S. Senate do in this special session? We say that people can have a shorter period within which to hold their stocks and, somehow, that is going to do something—not really very much, but make it a little bit easier for those who wheel and deal in the stock market to transfer their securities and take a profit and take a 20-percent tax instead of a 50-percent tax.

Mr. LONG. Will the Senator yield for a question?

Mr. METZENBAUM. I certainly do yield.

Mr. LONG. Does it not seem somewhat out of keeping with the times that we would be here considering measures for further tax cuts for the rich at a time when we are also being told by the leadership of our Nation, from the highest authority, that we should not consider a bill to provide jobs for poor people who are out of work and who want nothing more than an opportunity to earn an honest dollar?

Would it not seem more appropriate that before we engage in further activities to cut taxes for the rich, we consider a measure to provide a job opportunity for some father or some mother who seeks nothing more than a chance to provide an honestly earned dollar to feed the family of that hardworking person? Would it not seem that it would be appropriate that those who seek work should be considered ahead of those who have vast wealth and simply seek a further tax cut?

Mr. METZENBAUM. As is so often the case, the Senator from Louisiana is, again, right on target. Absolutely. We have no time, according to the leadership, to take up the jobs bill, to really deal with the jobs problems of this country, but we have time to cut the taxes of the rich. What a sad commentary that is.

As a matter of fact, I point out to my friend from Louisiana that there is even another bill here that almost puts the icing on the cake, a small effort being made to push a bankruptcy bill. This is not going to help the bankrupts, but this is going to keep them from going bankrupt if they get this bill through.

Is this not incredible? No time for a jobs bill; highest unemployment rate in I do not know how many years; a record rate for blacks; record rate for blue-collar workers; record rate for teenage workers. No time for a jobs bill, but time to change the tax bill and push an effort to keep these poor blokes who cannot earn a living because they cannot find a job from going bankrupt. It is almost so unbelievable that if you read it in a novel, you would not believe it. But here we are, in the U.S. Senate, this body that is supposed to be the most deliberative body of all bodies of its kind in the world, and what are we talking about? Keeping the poor from going bankrupt, cutting the taxes of the rich, and we do not have time for a jobs bill.

How can we possibly explain that to any rational person? I think the Senator from Louisiana is so much on the target again.

Mr. LONG. Will the Senator yield for a further question?

Mr. METZENBAUM. I certainly do.

Mr. LONG. The Senator is standing here protesting about tax cuts for the rich at this particular moment. Is he not also concerned about the fact that the last time he held the floor at some length, for more than an hour, he was speaking out against an effort to give retroactive relief to people who had violated the antitrust laws? Mind you, not just to amend the law so that in the future they would get a break, but saying that those who had been caught and prosecuted are to be given relief retroactively for crimes already committed? We found time for that bill, to provide retroactive relief for antitrust law violators.

Mr. METZENBAUM. For the price-fixers, we have time to retroactively change the law, although I am happy to say that we have beaten down that effort. We have time for everything if you have the right lobbyist, apparently. But we do not have time for people-oriented issues like getting people back to work in this country.

I am not sure why we do it.

Mr. LONG. May I ask a further question? Is it not strange that we had to work our way past that matter in order to get to this one?

(Mr. GRASSLEY assumed the chair.)

Mr. METZENBAUM. It is strange to me that we went from that one to Radio Marti and now to the California utility bill and the capital gains change, to change the time of the holding period. We have time for everything except what we are supposed to be doing here.

I am afraid that what will happen is that somebody will stand on the floor within the next several days or the

next week and tell us how it is our responsibility to pass this appropriations bill or to pass the defense appropriations bill or to pass some other particular matter that probably will be a matter of merit. But it is time for us to get to those matters of merit now and quit playing with these cats and dogs, with these special interest bills. The sooner we get the message across to the other side of the aisle, I think the better it will be for the Senate, and I am certain the better it will be for the country.

It is regrettable that only the Senator from Louisiana and the Senator from Ohio, who are members of the minority, are here on the floor—although I do now see two members of the majority in the room and I know that a Senator is sitting in the chair.

I hope that some way the message will get back that the minority members of the Senate are prepared to move forward with dispatch on legislation for which we were called back into session or any other matters of major moment, and that certainly would mean a jobs bill.

Mr. LONG. I thank the Senator.

Mr. METZENBAUM. I very much appreciate the further questions of the Senator from Louisiana.

Almost one out of every four unemployed teenagers are now walking the streets of America looking for a job—the highest rate on record. This administration must be proud; it is setting all kinds of records. Up until it came into office, we never had a deficit budget that came anywhere close to approaching $200 billion. It has broken all records in that respect. The last one under the Carter administration was a $59 billion deficit. And why do we have that kind of a deficit? The President goes on television, the President goes across the country and tells people that we have to cut spending. If I have heard once, I have heard a dozen times that we are going to save $15 or $17 or $20 billion by eliminating waste and fraud and abuse, and then the next day's newspaper reports another example of waste and fraud and abuse. I see no evidence whatsoever of any effort along that line.

This administration has been irresponsible in attempting to convince the American people that somehow by cutting and cutting and cutting expenditures of those programs dealing with people that they are going to balance the budget.

Look at what this administration did. It cut the maximum tax from 70 to 50 percent. It cut the capital gains tax from a maximum of 28 to 20 percent. It cut substantially all sorts of estate taxes, totally eliminating some portions of them. And then the administration and the President say the way to have to balance the budget is by cutting further.

I urge the President of the United States to call in his advisers and have them sit down and explain to him what they have really done to America in the last 2 years. Let them explain to him why the budget has not a chance of being balanced. Because you balance the budget on the basis of what comes in as compared to what goes out. And they have cut so much of what comes in that it is almost impossible to balance the budget.

Now the administration is saying, "Oh, no, we have a way to solve the problems of the economy. We are going to cut taxes 10 percent more in 1983. That is somehow going to balance the budget."

The supply-siders are not talking much about supply-side economics anymore and now they are saying we have to see to it that business gets better. First they told us they were going to get business better with supply-side econimics, now they are saying we have to stimulate the economy but they are not explaining how. Nearly 23,000 businesses have failed so far in 1982—small businesses, big businesses—which compares to 15,000 a year ago. Individual bankruptcies have averaged nearly 25,600 per month in the first 6 months of 1982.

Well, this crowd over there has an answer as to how you cut down the number of bankrupticies—not by making it possible for people not to have to go bankrupt but by denying them the right to go bankrupt. What a magnificent approach that is.

Republicans gave us a tax cut which directs most of the benefits to persons earning more than $80,000, while those earning less than $15,000 receive a pittance. It is incredible how much this administration has done for the rich and how much this administration has not done for the poor.

The combination of tax and spending cuts that this administration put into effect means that a household earning $10,000 or less will actually be $220 poorer by 1984 while a family earning $80,000 or more will be realizing a $19,230 increase in income. Republicans have cut funding for Legal Services by 25 percent.

Sure, cut funding for Legal Services. Why should those people who are in trouble have an opportunity to have a lawyer represent them? By doing that, they deprive hundreds of thousands of indigent Americans access to legal aid.

What is happening in that connection? Well, the Senate Republicans and many of the House Republicans are pushing provisions to exempt the Nation's lawyers from the jurisdiction of the Federal Trade Commission. Reagan Republican cuts in medicare will cost the elderly $1.8 billion in additional out-of-pocket expenses on top of the 40 percent they already pay. Simultaneously, the Republicans are pressing to pass the American Medical Association's pet bill to exempt doctors from Federal antitrust laws.

Let me take a moment to address myself to that subject. The Federal Trade Commission is now the only agency of government that has some semblance of responsibility to protect the consumers of this country. Every few months we get some new group that wants to be exempted from the Federal Trade Commission's jurisdiction. The AMA and the ADA—and I do not mean the Americans for Democratic Action, but I mean the American Dental Association—are pushing with all their might to see to it that they be exempted from the FTC regulations—another special interest, cat and dog, that should never be brought to the floor of this Senate. If someone sees fit to push that measure and bring it to the floor of the Senate, I know that the American people are going to want to know about that subject before the Senate acts on it, and I therefore indicate with no reservations whatsoever that if that measure comes to the floor of the Senate, the American people are going to have a number of days to learn what the provision of that measure are and to be apprised of the impact that it will have upon them. It is another one of those cats and dogs that does not belong in this session.

Nearly three-quarters of a million people have had their welfare benefits cut or eliminated by this administration. What do the Republicans do about that? Oh, they have a great answer. They push corporate welfare bills, not individual welfare bills but corporate welfare bills like tax leasing and the timber bailout bill, a bill that would save the timber industry $2 billion by relieving them of their contracts negotiated in good faith with the Federal Government, another one of the cats and dogs, the special interest bills that are waiting to be brought up on the floor of the Senate.

That, too, is a measure that I hope will never see the light of day in this Senate, but should it be brought to this body, it is a matter that I think the American people should understand and understand well, and if it be necessary, that is another one of those measures that I will be prepared to explain to the American people regardless of how long a period of time that might take.

The Republicans eliminated 500,000 persons from the guaranteed student loan program, forcing many into a hopeless job market, while supporting unproductive multibillion-dollar breaks for oil companies. What a wonderful thing to do. Take care of the oil companies and keep young people from having an opportunity to go to college under the guaranteed student loan program.

This administration has been so heartless, so cruel, so indifferent to the concerns of the many and so specially tuned in to the concerns of the few. It bothers me that I do not think the American people understand really what is going on. They understand the unemployment. They understand when they do not have food for their family. They understand when they are in tent camps even in rich States like Texas because they cannot find a job and do not have a home in which to live.

This administration does not understand. The President even objects when television carries coverage about someone who is unemployed and he finds something is wrong with television because it played up the fact that someone was unemployed in some part of our country. Those who are unemployed did not mind hearing it. They wished they did not have to hear it. The fact is, they are living it so they do not have to hear it on television, but at least they feel better if they know that the country is apprised of their condition.

This administration reduced the number of households receiving Federal housing assistance from 220,000 to 75,000, simultaneously increasing the rent for these low-income tenants. Think of it. They cut back on the number of housing facilities that will be made available and then what they do is, they increase the rents for the low-income tenants.

What kind of fairness is that? What kind of equity is that? Oh, I am sorry I mentioned the word "equity." This administration does not think in terms of fairness and equity. This administration thinks in terms of taking care of the affluent, forgetting about the people of this country.

More Americans are in poverty today than in any time since 1967 and the number of poor persons rose 2.6 million during Reagan's first year in office. Meanwhile, what do the Republicans do? They push bills to relieve corporations of their price-fixing liability.

Mr. President, I say to you that this administration should get down to the business for which we were called back, that this administration should deal with the substance of what these proposals are all about and recognize that they do not belong on the agenda.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO PROCEED WITHDRAWN

Mr. BAKER. Mr. President, I withdraw my motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. BAKER. I thank the Chair.

BUDGET WAIVER FOR RADIO MARTI

Mr. BAKER. Now, Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The motion is to waive section 402(a) of the Budget Act, relating to H.R. 5427, and under the procedure the Senator from Nebraska is to be recognized.

The Senator from Nebraska is recognized.

Mr. ZORINSKY. Mr. President, under the precedents of the Senate, I will be happy to yield to the majority leader provided that I am accorded unanimous consent to be recognized first to resume with this question when it is again before the Senate today, tomorrow, or any other day, and that the continuation of my remarks at that time be viewed as an extension of my remarks today and not as a second speech under the two-speech rule.

The PRESIDING OFFICER (Mr. HAYAKAWA). Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I thank the Senator for yielding.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, the distinguished Senator from North Carolina (Mr. EAST) wants to be on the floor. What I am about to do is to ask unanimous consent that the Senate may proceed to the consideration of Calendar Order No. 857, S. 2411, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968. We have a time agreement on that measure.

I see the distinguished junior Senator from North Carolina is present. If he does not object at this time, I will proceed with that request.

Mr. EAST. I have no objection.

Mr. BAKER. Mr. President, I ask unanimous consent, subject, of course, to the consent granted to the Senator from Nebraska, that the Senate proceed now to the consideration of Calendar Order No. 857, S. 2411.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I will not object. Mr. BIDEN will manage the bill on this side. He has been notified that the bill is coming up. He has conveyed word that the Senate can proceed with the measure and he will be here shortly.

Mr. BAKER. Mr. President, I thank the Senator.

BUDGET ACT WAIVER—S. 2411

Mr. BAKER. Mr. President, before my unanimous-consent request to proceed to S. 2411 is granted, it has been called to my attention that there is a budget waiver to accompany this measure. Let me first ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 962, Senate Resolution 474, a 402(c) budget waiver in respect to this measure.

Mr. ROBERT C. BYRD. Mr. President, the consent being given, or will be given certainly to proceeding with the measure, I am sure there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 474) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2411.

There being no objection, the Senate proceeded to consider the resolution.

The resolution was considered and agreed to as follows:

S. RES. 474

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 2411. Such waiver is necessary because S. 2411, as reported, authorizes the enactment of new budget authority beginning in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

This waiver of section 402(a) is necessary to permit Senate consideration of S. 2411, a bill to reauthorize the Omnibus Crime Control and Safe Streets Act of 1968 to eliminate the existing office of the Office of Justice Assistance, Research and Statistics (OJARS) and the Law Enforcement Assistance Administration (LEAA). In its place is created the Office of Justice Assistance, which would administer a discretionary grant program. Also included is an emergency assistance program for law enforcement purposes.

A companion bill, H.R. 4481, was passed by the House in February 1982, and has been pending before the Senate Judiciary Committee since that time. The bill, H.R. 4481, although not identical to S. 2411, seeks to amend the Omnibus Crime Control and Safe Streets Act of 1968 to create new authority for funding of national criminal justice programs.

S. 2411 authorizes $125 million annually for the programs provided for under the bill. Some of these funds, approximately $45 million, have been included in the President's fiscal year 1983 budget request. Thus, part of the fiscal 1983 budget contains funds authorized under S. 2411. The balance would have to be appropriated by the Senate prior to the end of this fiscal year. Because no appropriation bill has been passed, the committee does not believe this measure will interfere with or delay either the budgetary or appropriation process of the Senate.

JUSTICE ASSISTANCE ACT OF 1982

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the bill S. 2411, Calendar Order No. 857.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, will the majority leader consider, if there are to be votes in connection with this matter, that they be stacked at a time certain?

Mr. BAKER. Mr. President, I do not really know.

I inquire of the distinguished junior Senator from Pennsylvania if he anticipates rollcall votes on this measure.

Mr. SPECTER. Mr. President, I anticipate that there may be a rollcall vote on one of the amendments, perhaps others, and then a rollcall vote on final consideration.

Mr. METZENBAUM. Will the Senator from Pennsylvania object to stacking the votes at this time?

Mr. SPECTER. I will not object.

Mr. BAKER. Until what time?

Mr. METZENBAUM. Until whatever time is convenient for the majority leader and manager of the bill, the minority leader and those concerned.

Mr. BAKER. May I inquire of the Senator from North Carolina if he has any problem with such a request?

Mr. EAST. I have no objection to that, Mr. Leader.

Mr. ROBERT C. BYRD. Mr. President, may I say to my friend from Ohio that it has been cleared on this side for the convenience of Senators also.

Mr. METZENBAUM. Fine. It just occurred to me, because I noticed matters with 5- and 10-minute items. If it is convenient, fine with me, but I wanted to make the suggestion.

Mr. BAKER. Mr. President, let me say to my friend from Ohio that that request would have to be cleared on our side. That will take a little while, so I will pursue that request and have an announcement to make about it a little later in the proceedings.

Mr. METZENBAUM. I thank the majority leader and the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2411) to amend the Omnibus Crime Control and Safe Streets Act of 1968.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consideration of the bill which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 2, strike line 11, through and including line 16;

On page 2, line 21, strike "and delinquency are", and insert "is";

On page 2, line 22, after "essentially", insert "a";

On page 2, line 22, strike "problems", and insert "problem";

On page 3, line 22, strike "the";

On page 4, line 2, strike "and delinquency";

On page 4, line 5, strike "crime and juvenile delinquency", and insert "justice systems";

On page 4, line 25, strike "amended", and insert "amended to read as follows:";

On page 5, strike line 1, through and including line 22, and insert the following:

"ESTABLISHMENT OF OFFICE OF JUSTICE ASSISTANCE

"SEC. 101. (a) There is established within the Department of Justice under the general authority of the Attorney General an Office of Justice Assistance.

"(b) The Office of Justice Assistance shall be under the direction of a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall nominate a Director and transmit the name of that person to the Senate within ninety days after this Act takes effect and within ninety days after any vacancy in the position of Director occurs.

"(c) The Director may appoint Deputy Directors to assist in the direction of the Office of Justice Assistance and select for employment such employees as are necessary to perform the functions of the Office of Justice Assistance. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Office of Justice Assistance.".

On page 7, line 7, strike "establish", and insert "recognize";

On page 7, line 17, strike "and", and insert a semicolon;

On page 7, line 18, strike "paragraph", and insert "paragraphs";

On page 7, after line 19, insert the following:

"(10) exercise final authority over such other administrative functions as may be necessary to carry out the provisions of this part; and

On page 7, line 20, strike out "(10)", and insert "(11)";

On page 8, line 21, strike "Board", and insert "Committee";

On page 8, line 24, strike "criminal and juvenile";

On page 9, line 1, after "prosecutors", insert "public and";

On page 9, line 4, after "organizations", insert "including those which offer programs of assistance to victims of crime";

On page 9, after line 7, strike "A", through and including line 9;

On page 9, after line 24, insert "Members once appointed, may not be removed prior to the expiration of their term";

On page 12, line 17, strike "there", through and including line 19, and insert the following:

up to $500,000 of funds appropriated for the Administration of the Office of Justice Assistance may be used.".

On page 13, line 5, strike "Bureau", and insert "Institute";

On page 13, line 8, strike "Board", and insert the following:

Board. The Director shall have final authority over such other administrative functions as may be necessary to carry out the provisions of this part.",

On page 13, line 15, strike "and";

On page 13, after line 15, insert "(B) by striking out paragraph (9)";

On page 13, line 17, strike "(B)", and insert "(C)";

On page 13, line 19, strike "F", and insert "F; and";

On page 13, line 20, strike "E" and", and insert "E;",";

On page 13, after line 21, insert the following:

(D) by redesignating paragraphs (10) and (11) as paragraphs (9) and (10), respectively,

(E) by striking out the period at the end of paragraph (10) as redesignated and inserting in lieu thereof "; and", and

(F) by adding at the end of such subsection the following new paragraph:

"(12) provide financial assistance to encourage replication, coordination, and sharing among State and local justice agencies and public and private nonprofit organizations regarding successful programs or projects and useful information resulting from multiyear and short-term research and development activities authorized under this part.", and

On page 14, line 17, strike "(a)", and insert "(a)—";

On page 14, after line 17, insert "(A)";

On page 14, after line 20, insert the following:

(B) by adding at the end thereof the following new sentence: "Members, once appointed, may not be removed prior to the expiration of their term.", and

On page 14, strike line 25;

On page 15, insert "(C)" before line 1;

On page 15, line 5, strike "(3)", and insert "(2)";

On page 15, after line 8, insert "justice assistance";

On page 15, line 9, strike "against crime and delinquency";

On page 16, after "(g)", strike line 1, through and including "to", line 3, and insert "To";

On page 16, after line 3, insert the following:

up to $500,000 of the funds appropriated for administration of the Institute may be used.".

On page 16, line 21, strike "Board", and insert the following:

Board. The Director shall have final authority over such other administrative functions as may be necessary to carry out the provisions of this part.",

On page 17, line 11, strike "818", and insert "716";

On page 17, line 15, strike "G", and", and insert the following:

"G" and redesignating paragraph (17) of such subsection as paragraph (18),

(5) in subsection (c) by adding after paragraph (16) the following new paragraph:

"(17) provide assistance to encourage replication, coordination, and sharing among justice agencies regarding information systems, information policy and statistics;", and

On page 17, line 15, strike "G", and", and "(6)";

On page 18, line 14, strike "(a)", and insert "(a)—"

On page 18, after line 14, insert "(A)";

On page 18, after line 19, insert the following:

(B) by adding after the third sentence the following new sentence: "Members, once ap-

pointed, may not be removed prior to the expiration of their term.",

(C) by striking out "The Chairman shall be provided by the Bureau with at least one full-time staff assistant to assist the Board." and inserting in lieu thereof the following: "The Board shall have staff personnel, appointed by the Chair with the approval of the Board, to assist it in carrying out its responsibilities. The head of each Federal agency shall make available to the Board and staff such information and other assistance as the Board may require to carry out its responsibilities. The Board shall not have any authority to procure any temporary or intermittent services of any personnel under section 3109 of title 5 of the United States Code, or under any other provision of law.", and

On page 19, strike line 14;

On page 19, after line 14, insert "(D)";

On page 19, line 19, strike "(3)", and insert "(2)";

On page 19, line 22, strike "efforts against crime and delinquency", and insert "justice assistance efforts";

On page 20, line 17, after "(g)", strike through and including "to", line 19, and insert "To";

On page 20, after line 19, insert the following:

section up to $500,000 of the funds appropriated for administration of the Bureau may be used.".

On page 21, strike line 5, through and including line 11, and insert the following:

"PURPOSE

"SEC. 401. It is the purpose of this part to provide financial assistance to States, units of government, public and private nonprofit organizations, and neighborhood and community-based groups to replicate programs and projects which have been proven successful in addressing national crime priorities and the functioning of justice systems. Financial awards shall be made to encourage local institutionalization of the program or project.

On page 21, line 22, strike "(a)", through and including "(b)" on page 22, line 2, and insert "(a)";

On page 22, line 1, after "awards", insert "under this part";

On page 22, line 1, after "made", insert the following: "for a period of up to four years.";

On page 22, line 2, strike "to", through and including the period on line 3;

On page 22, after line 2, insert the following:

The Federal share of project or program costs for grants of specific duration shall be in accordance with the following formula:

"(1) Four year grants—not to exceed 90 per centum in the first year, 75 per centum in the second year, 50 per centum in the third year, and 25 per centum in the fourth year.

"(2) Three year grants—not to exceed 75 per centum in the first year, 50 per centum in the second year, and 25 per centum in the third year.

"(3) Two year grants—not to exceed 50 per centum in the first year and 25 per centum in the second year.

"(4) One year grant—not to exceed 50 per centum.

On page 22, strike line 18, through and including line 9 on page 23;

On page 23, line 14, strike "crime", and insert "offenses";

On page 23, line 18, after "Assistance.", insert the following: "In making grants under this part, the Director shall consider geographic distribution in order to benefit all sections of the country.";

On page 23, line 21, strike "consider efforts", and insert "give priority to programs and projects that—";

On page 23, line 23, strike "providing", and insert "provide";

On page 24, line 3, strike "disrupting", and insert "disrupt";

On page 24, line 6, strike "investigating", and insert "investigate";

On page 24, line 6, strike "bringing", and insert "bring";

On page 24, line 10, strike "identifying", and insert "identify";

On page 24, line 10, strike "processing", and insert "process";

On page 24, line 11, strike "the criminal";

On page 24, line 11, strike "System", and insert "systems";

On page 24, beginning on line 11, strike "(including juvenile offenders)";

On page 24, line 14, strike "identifying", and insert "identify";

On page 24, line 14, strike "Implementing", and insert "implement";

On page 24, line 18, strike "providing", and insert "provide";

On page 24, line 21, strike "providing", and insert "provide";

On page 24, line 23, strike "providing", and insert "provide";

On page 25, line 1, strike "providing", and insert "provide";

On page 25, strike lines 3 and 4, and insert the following:

"(11) provide assistance for the development and operation of justice information systems, including management information systems;

On page 25, line 8, strike "providing", and insert "provide";

On page 25, line 11, strike "providing", and insert "provide";

On page 25, line 13, strike "coordinating", and insert "coordinate";

On page 25, line 14, strike "system; and", and insert "system";

On page 25, strike lines 16 and 17, and insert the following:

"(15) providing programs to speed the trial of criminal cases, reform sentencing practices and procedures, improve the efficiency of the jury system, and improve the processing of cases involving the mentally incompetent and pleas of mental incapacity.

On page 26, line 1, after "comment.", insert the following:

In establishing such priorities and criteria, the Director shall specify the amount of assistance available for each national priority initiative selected for replication using Federal assistance.

On page 26, line 19, strike "grant.'.", and insert "grant.";

On page 26, after line 19, insert the following:

"(c) At least 30 per centum of the funds reserved and set aside for this part shall be allocated to private nonprofit organizations and neighborhood and community-based groups for the purposes specified in this part.".

On page 27, line 17, strike "criminal and juvenile", and

On page 27, line 17, after "justice", insert "systems";

On page 30, line 1, after "out", insert "'each";

On page 30, line 2, strike "State", and insert the following:

their needs. In making grants under this part, the Director shall consider geographic distribution in order to benefit all sections of the country.".

On page 30, line 9, insert "(1)";

On page 30, line 11, strike "Assistance'.", and insert the following:

Assistance, and

(2) in the last sentence by striking out "602(1)" and inserting in lieu thereof "502".

On page 30, line 23, strike "3701", and insert "3771";

On page 30, after line 25, insert the following:

"(b) Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended by striking out 'Administration' wherever it appears and inserting in lieu thereof 'Office'."

On page 31, line 5, strike "(b)", and insert "(c)";

On page 31, line 25, strike "policy setting, grant making", and insert "policysetting, grantmaking";

On page 33, line 23, after "Assistance,", insert "Office of Juvenile Justice and Delinquency Prevention";

On page 41, beginning on line 5, strike "in violation of section 604 or";

On page 41, line 10, strike "may", and insert "shall";

On page 44, beginning on line 5, strike "for", through and including "$20,000,000" on line 7, and insert the following: "to be appropriated $20,000,000 in part M for emergency assistance";

On page 44, line 8, after "for", insert "each of";

On page 44, line 9, strike "1984", and insert "1983";

On page 44, line 9, strike "1985, and", and insert "1984";

On page 44, line 10, strike "1986", and insert "1985 and September 30, 1986."

On page 48, beginning on line 21, strike "criminal justice".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Justice Assistance Act of 1982".

DECLARATION AND PURPOSE

SEC. 2. The declaration and purpose contained in title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701) is amended to read as follows:

"DECLARATION AND PURPOSE

"The Congress finds and declares that the high incidence of crime in the United States is detrimental to the general welfare of the Nation and its citizens, and that criminal justice efforts must be better coordinated and intensified, and made more effective and equitable at all levels.

"Congress further finds that there is an urgent need to encourage basic and applied research, to gather and disseminate accurate and comprehensive justice statistics, and to evaluate methods of preventing and reducing crime.

"Congress further finds that although crime is essentially a local problem that must be dealt with by State and local government, the financial and technical resources of the Federal Government should be made available to assist in the development of innovative and effective National, State, and local efforts.

"Congress further finds that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require systematic and sus-

tained action by Federal, State, and local governments; and continuing efforts at all levels to streamline programs and upgrade the functioning of agencies responsible for planning, implementing, and evaluating efforts to improve justice systems.

"It is, therefore, the declared policy of the Congress to aid in strengthening and improving justice systems by providing assistance with maximum certainty and effectiveness and minimum delay and waste. It is the purpose of this title to authorize funds and technical assistance (1) to be used to strengthen justice systems; (2) to develop and fund new methods and programs to enhance the effectiveness of justice systems; (3) to support the development of National, State, and local priorities and programs to meet the problems confronting justice systems; (4) to reduce court congestion and trial delay; (5) to support community and neighborhood anticrime efforts; (6) to improve and modernize correctional systems and encourage rehabilitation; (7) to encourage the undertaking of promising, innovative projects and programs to combat crime; (8) to encourage research directed toward the improvement of justice systems and new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals; (9) to encourage the collection and analysis of statistical information concerning justice systems and the development and operation of justice information systems; (10) to develop and implement programs assisting victims, jurors, and witnesses; (11) to support law enforcement-related personnel development and training efforts; and (12) to provide emergency Federal financial assistance when necessary to combat a criminal justice disaster.

"It is further the policy of the Congress that the Federal assistance made available under this title not be utilized to reduce the amount of State and local financial support for justice activities below the level of such support prior to the availability of such assistance.".

OFFICE OF JUSTICE ASSISTANCE

SEC. 3. (a) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3713) is amended in the heading to such part by striking out "LAW ENFORCEMENT ASSISTANCE ADMINISTRATION" and inserting in lieu thereof "OFFICE OF JUSTICE ASSISTANCE".

(b) Section 101 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711) is amended to read as follows:

"ESTABLISHMENT OF OFFICE OF JUSTICE ASSISTANCE

"SEC. 101. (a) There is established within the Department of Justice under the general authority of the Attorney General an Office of Justice Assistance.

"(b) The Office of Justice Assistance shall be under the direction of a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall nominate a Director and transmit the name of that person to the Senate within ninety days after this Act takes effect and within ninety days after any vacancy in the position of Director occurs.

"(c) The Director may appoint Deputy Directors to assist in the direction of the Office of Justice Assistance and select for employment such employees as are necessary to perform the functions of the Office of Justice Assistance. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Office of Justice Assistance.".

(c) Section 102 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended—

(1) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director",

(2) in paragraph (1) by—

(A) striking out "States and units of local government" and inserting in lieu thereof "applicants", and

(B) striking out "D" and inserting in lieu thereof "D and E",

(3) by amending paragraph (2) to read as follows:

"(2) recognize national priorities for programs and award and allocate funds and technical assistance consistent with parts D and E;",

(4) in paragraph (4) by striking out "Administration" and inserting in lieu thereof "Office of Justice Assistance",

(5) in paragraph (8) by striking out "H" and inserting in lieu thereof "G" and by striking out the final "and",

(6) in paragraph (9) by striking out the period and inserting in lieu thereof a semicolon,

(7) by adding the following new paragraphs at the end thereof:

"(10) exercise final authority over such other administrative functions as may be necessary to carry out the provisions of this part; and

"(11) exercise authority under part M to assist in combatting criminal justice disasters.", and

(8) in the heading for such section by striking out "ADMINISTRATOR" and inserting in lieu thereof "DIRECTOR".

(d) Section 103 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3713) is amended to read as follows:

"ESTABLISHMENT OF A JUSTICE ASSISTANCE BOARD

"SEC. 103. (a) There is established a Justice Assistance Board (hereafter referred to as the 'Board'). The Board shall consist of—

"(1) fifteen voting members who shall be appointed by the President;

"(2) the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention, who shall be nonvoting, ex officio members; and

"(3) two nonvoting, coordinating members each from the National Institute of Justice Advisory Board, the Bureau of Justice Statistics Advisory Board, and the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

"(b) Members shall represent the public interest and shall be knowledgeable and experienced in the justice systems; such as law enforcement personnel, prosecutors, public and defense attorneys, judges, court administrators, probation and correctional personnel, researchers and scholars, representatives of public and private nonprofit and voluntary organizations, including those which offer programs of assistance to victims of crime, representatives of neighborhood and community-based groups and representatives of local and State governments.

"(c)(1) Voting members of the Board shall be appointed for three-year terms, except in order to provide for continuity in its operations and to establish staggered groups of vacancies, five members of the initial Board shall be appointed for four-year terms, five members of the initial Board shall be appointed for three-year terms, and five members of the initial Board shall be appointed for two-year terms.

"(2) The initial appointment of members shall be made not later than ninety days after the effective date of this Act. Vacancies among Board members shall be filled within ninety days of the vacancy. Any member appointed to fill a vacancy occurring before the scheduled expiration of a term shall be appointed for the remainder of such term. Members shall be eligible for reappointment, but shall serve consecutively no more than two terms or six years, whichever is less. Members once appointed, may not be removed prior to the expiration of their term.

"(d) The Board shall elect from among its voting members a Chair and Vice Chair. The Board shall select from among its voting members two representatives to serve as nonvoting coordinating members on the National Institute of Justice Advisory Board, two representatives to serve as nonvoting coordinating members on the Bureau of Justice Statistics Advisory Board, and two representatives to serve as nonvoting coordinating members on the National Advisory Committee of Juvenile Justice and Delinquency Prevention.

"(e) The Board shall meet at the call of the Chair, but not less than quarterly. Notice of all Board meetings shall be published. Ten voting members of the Board shall constitute a quorum.

"(f) The Board shall—

"(1) recommend to the Director funding priorities and selection criteria to be used in determining the award and allocation of funds through the Office of Justice Assistance;

"(2) recommend to the Director such policies and program priorities as it deems advisable;

"(3) review and evaluate the activities of the Office of Justice Assistance and make such recommendations to the Director as it considers necessary or appropriate;

"(4) in the event of a vacancy, recommend to the President at least three candidates for the position of Director;

"(5) review and evaluate Federal policies and priorities in justice assistance; and

"(6) coordinate its activities with the National Institute of Justice Advisory Board, the Bureau of Justice Statistics Advisory Board, the National Advisory Committee for Juvenile Justice and Delinquency Prevention, and the Coordinating Council on Juvenile Justice and Delinquency Prevention.

"(g) Beginning January 1, 1983, the Board shall submit an annual report to the President and to the Congress not later than March 31 of each year and may submit such interim reports as it considers advisable to the President and to the Congress. Each annual report shall describe the activities of the Board and shall contain such findings and recommendations as the Board considers necessary or appropriate.

"(h) The Board shall have staff personnel, appointed by the Chair with the approval of the Board, to assist it in carrying out its responsibilities. The head of each Federal agency shall make available to the Board and staff such information and other assistance as it may require to carry out its responsibilities. The Board shall not have any authority to procure any temporary or intermittent services of any personnel under section 3109 of title 5, United States Code, or under any other provision of law.

"(i)(1) Members of the Board shall, while serving on Board business, be entitled to receive compensation at a rate not to exceed the daily rate specified for grade GS-18 of the General Schedule in section 5332 of title 5, United States Code, including traveltime.

"(2) Members of the Board shall be entitled to reimbursement for travel expenses, including per diem in lieu of subsistence, while serving away from their place of residence or regular place of business, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons in the Federal Government service employed intermittently.

"(j) To carry out the provisions of this section up to $500,000 of funds appropriated for the Administration of the Office of Justice Assistance may be used.".

NATIONAL INSTITUTE OF JUSTICE

SEC. 4. (a) Section 202 of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended—

(1) in subsection (b)—

(A) by adding after the third sentence the following: "The Director shall select for employment such employees as are necessary to perform the functions of the Institute.", and

(B) by adding at the end thereof the following: "The Director shall also be a nonvoting member of the Justice Assistance Board. The Director shall have final authority over such other administrative functions as may be necessary to carry out the provisions of this part.",

(2) in subsection (c)—

(A) in paragraph (2)(A) by striking out ", including programs authorized by section 103 of this title",

(B) by striking out paragraph (9),

(C) in paragraph (10) by striking out "as national priority grants under part E and discretionary grants under part F; and", and inserting in lieu thereof "under parts D and E;",

(D) by redesignating paragraphs (10) and (11) as paragraphs (9) and (10), respectively,

(E) by striking out the period at the end of paragraph (10) as redesignated and inserting in lieu thereof "; and", and

(F) by adding at the end of such subsection the following new paragraph:

"(12) provide financial assistance to encourage replication, coordination, and sharing among State and local justice agencies and public and private nonprofit organizations regarding successful programs or projects and useful information resulting from multiyear and short-term research and development activities authorized under this part.", and

(3) in subsection (d)(5) by striking out "part H" and inserting in lieu thereof "part G".

(c) Section 204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3724) is amended—

(1) in subsection (a)—

(A) in the second sentence by striking out "twenty-one" and inserting in lieu thereof "fifteen",

(B) by adding at the end thereof the following new sentence: "Members, once appointed, may not be removed prior to the expiration of their term.", and

(C) by striking out "The Administrator of the Law Enforcement Assistance Administration," and inserting in lieu thereof "The Director of the Office of Justice Assistance,", and

(2) by adding at the end thereof the following new subsections:

"(f) In order better to coordinate the activities of the Institute with other aspects of the Federal Government's justice assistance efforts—

"(1) the Board shall also include two nonvoting, coordinating members each from the Justice Assistance Board, the Bureau of Justice Statistics Advisory Board, and the National Advisory Committee for Juvenile Justice and Delinquency Prevention, which shall each designate from among its members two such representatives, and

"(2) the Board shall select from among its members two representatives to serve as nonvoting, coordinating members on the Justice Assistance Board, two representatives to serve as nonvoting, coordinating members on the Bureau of Justice Statistics Advisory Board, and two representatives to serve as nonvoting, coordinating members on the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

"(g) To carry out the provisions of this section up to $500,000 of the funds appropriated for administration of the Institute may be used.".

BUREAU OF JUSTICE STATISTICS

SEC. 5. (a) Section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731) is amended in the first sentence by adding after "and to support the development" the following: "and operation".

(b) Section 302 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (b)—

(A) by adding after the third sentence the following: "The Director shall select for employment such employees as are necessary to perform the functions of the Bureau.", and

(B) by adding at the end thereof "The Director shall also be a nonvoting member of the Justice Assistance Board. The Director shall have final authority over such other administrative functions as may be necessary to carry out the provisions of this part.",

(2) in subsection (c)(13) by amending such subsection to read as follows:

"(13) provide financial and technical assistance to States and units of local government relating to development, operation, collection, analysis, or dissemination of justice statistics and development and operation of justice information systems;",

(3) in subsection (c)(16) by amending such subsection to read as follows:

"(16) insure conformance with security and privacy regulations issued pursuant to section 716 and assist in the development of guidelines for statistics, privacy and security, and information policy;",

(4) in subsection (c)(17) by striking out "H" and inserting in lieu thereof "G" and redesignating paragraph (17) of such subsection as paragraph (18),

(5) in subsection (c) by adding after paragraph (16) the following new paragraph:

"(17) provide assistance to encourage replication, coordination, and sharing among justice agencies regarding information systems, information policy and statistics;", and

(6) in subsection (d) by—

(A) striking out the "and" at the end of clause (3),

(B) striking out the period at the end of clause (4) and inserting in lieu thereof "; and", and

(C) adding at the end thereof the following:

"(5) provide assistance to encourage replication, coordination, and sharing among criminal justice agencies regarding information systems, information policy, and statistics.".

(c) Section 304 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3734) is amended—

(1) in subsection (a)—

(A) in the second sentence by striking out "twenty-one members who shall be appointed by the Attorney General" and inserting in lieu thereof "fifteen members who shall be appointed by the President",

(B) by adding after the third sentence the following new sentence: "Members, once appointed, may not be removed prior to the expiration of their term.",

(C) by striking out "The Chairman shall be provided by the Bureau with at least one full-time staff assistant to assist the Board." and inserting in lieu thereof the following: "The Board shall have staff personnel, appointed by the Chair with the approval of the Board, to assist it in carrying out its responsibilities. The head of each Federal agency shall make available to the Board and staff such information and other assistance as the Board may require to carry out its responsibilities. The Board shall not have any authority to procure any temporary or intermittent services of any personnel under section 3109 of title 5 of the United States Code, or under any other provision of law.", and

(D) by striking out "The Administrator of the Law Enforcement Assistance Administration," and inserting in lieu thereof "The Director of the Office of Justice Assistance,", and

(2) by adding at the end thereof the following new subsections:

"(f) In order better to coordinate the activities of the Bureau with other aspects of the Federal Government's justice assistance efforts—

"(1) the Board shall also include two nonvoting, coordinating members each from the Justice Assistance Board, the National Institute of Justice Advisory Board, and the National Advisory Committee for Juvenile Justice and Delinquency Prevention, which shall each designate from among its members two such representatives, and

"(2) the Board shall select from among its members two representatives to serve as nonvoting, coordinating members on the Justice Assistance Board, two representatives to serve as nonvoting, coordinating members on the National Institute of Justice Advisory Board, and two representatives to serve as nonvoting, coordinating members on the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

"(g) To carry out the provisions of this section up to $500,000 of the funds appropriated for administration of the Bureau may be used.".

NATIONAL PRIORITY IMPLEMENTATION AND REPLICATION PROGRAMS

SEC. 6. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741-3745) is amended by striking out part D of title I and inserting in lieu thereof the following:

"PART D—NATIONAL PRIORITY IMPLEMENTATION AND REPLICATION PROGRAMS

"PURPOSE

"SEC. 401. It is the purpose of this part to provide financial assistance to States, units of government, public and private nonprofit organizations, and neighborhood and community-based groups to replicate programs

and projects which have been proven successful in addressing national crime priorities and the functioning of justice systems. Financial awards shall be made to encourage local institutionalization of the program or project.

"FEDERAL SHARE

"SEC. 402. (a) Financial awards under this part shall be made for a period of up to four years. The Federal share of project or program costs for grants of specified duration shall be in accordance with the following formula:

"(1) Four year grants—not to exceed 90 per centum in the first year, 75 per centum in the second year, 50 per centum in the third year, and 25 per centum in the fourth year.

"(2) Three year grants—not to exceed 75 per centum in the first year, 50 per centum in the second year, and 25 per centum in the third year.

"(3) Two year grants—not to exceed 50 per centum in the first year and 25 per centum in the second year.

"(4) One year grant—not to exceed 50 per centum.

"USES

"SEC. 403. (a) The Director of the Office of Justice Assistance is authorized to make grants providing assistance to implement programs and projects that address critical problems of violent and serious offenses and which programs are certified by the Director as having proven a success on the basis of objective, empirical, or statistical information or evaluation in accordance with criteria developed by the Office of Justice Assistance. In making grants under this part, the Director shall consider geographic distribution in order to benefit all sections of the country. The Director shall give priority to programs and projects that—

"(1) provide community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

"(2) disrupt illicit commerce in stolen goods and property;

"(3) combat arson;

"(4) effectively investigate and bring to trial white-collar crime, organized crime, public corruption crimes, and fraud against the Government;

"(5) identify and process within justice systems persons with a history of serious criminal conduct;

"(6) develop and implement programs which provide assistance (other than compensation) to jurors, witnesses, and victims of crime;

"(7) provide alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;

"(8) provide programs which identify and meet the needs of drug-dependent offenders;

"(9) provide programs which alleviate prison and jail overcrowding;

"(10) provide training, management, and technical assistance to justice personnel;

"(11) provide assistance for the development and operation of justice information systems, including management information systems;

"(12) provide programs which address the problem of serious and violent offenses committed by juveniles;

"(13) provide programs which address offenses committed against the elderly;

"(14) coordinate the activities of components of the criminal justice system; and

"(15) providing programs to speed the trial of criminal cases, reform sentencing practices and procedures, improve the efficiency of the jury system, and improve the processing of cases involving the mentally incompetent and pleas of mental incapacity.

"(b) The Director of the Office of Justice Assistance shall annually establish funding priorities and selection criteria for assistance after first providing notice and an opportunity for public comment. In establishing such priorities and criteria, the Director shall specify the amount of assistance available for each national priority initiative selected for replication using Federal assistance.

"(c) The National Institute of Justice shall be responsible for objectively evaluating all projects funded under this part.

"APPLICATIONS

"SEC. 404. (a) No grant may be made pursuant to this part unless an application has been submitted to the Director in accordance with criteria established by the Office of Justice Assistance. Awards shall be given to those applicants that most clearly satisfy the funding priorities and selection criteria as established by the Office of Justice Assistance.

"(b) Applications must include a commitment and evidence of ability to fulfill the applicant's share of project or program costs over the term of the grant by cash match and evidence a commitment to continuing the project or program beyond the term of the grant.

"(c) At least 30 per centum of the funds reserved and set aside for this part shall be allocated to private nonprofit organizations and neighborhood and community-based groups for the purposes specified in this part.".

NATIONAL PRIORITY GRANTS

SEC. 7. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended by striking out part E.

DISCRETIONARY GRANTS

SEC. 8. (a) Sections 601, 602, and 603 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751-60) is amended to read as follows:

"PART E—DISCRETIONARY GRANTS

"PURPOSE

"SEC. 501. The purpose of this part is to provide additional Federal assistance to States, units of local government, combinations of such units, public and private nonprofit organizations, and neighborhood and community-based groups for the purposes of—

"(1) undertaking educational and training programs for justice systems personnel;

"(2) providing technical assistance directly to—

"(A) recipients of assistance under part D or to the jurisdictions in which such programs and projects are undertaken; and

"(B) jurisdictions that wish to replicate national priority implementation programs but are not receiving assistance under part D; and

"(3) national demonstration programs which, in view of previous research or experience, are likely to prove successful after testing, evaluation, and refinement and are not likely to be funded from other sources.

"(4) The National Institute of Justice shall be responsible for objectively evaluating all projects funded under this part.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY GRANT PROGRAM

"SEC. 502. Of the total amount appropriated for this part in any fiscal year—

"(1) 50 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office of Justice Assistance in making grants to carry out the purposes specified in paragraphs (1) and (2) of section 501;

"(2) 50 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office of Justice Assistance in making grants to carry out the purpose specified in paragraph (3) of section 501;

"(3) the Federal portion of any grants made under this part may be made in amounts up to 100 per centum of the costs of the program or project; and

"(4) at least 30 per centum of the funds reserved and set aside for this part shall be allocated to private nonprofit organizations and neighborhood and community-based groups for the purposes specified in this part.

"PROCEDURE FOR ESTABLISHING FUNDING AND SELECTION CRITERIA

"SEC. 503. The Director of the Office of Justice Assistance shall annually establish funding priorities and selection criteria for assistance after first providing notice and an opportunity for public comment.".

(b) Section 604 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3764) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance" and by striking out "part" each place it appears and inserting in lieu thereof "title".

(c) Section 605 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765) is amended—

(1) by striking out "Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance",

(2) by striking out the third sentence, and

(3) by striking out "each type of section 402 eligible jurisdiction" and inserting in lieu thereof "their needs. In making grants under this part, the Director shall consider geographic distribution in order to benefit all sections of the country.".

(d) Section 606 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766) is amended—

(1) by striking out "Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance", and

(2) in the last sentence by striking out "602(1)" and inserting in lieu thereof "502".

(e) The heading for part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3766) is amended by striking out "PART F" and inserting in lieu thereof "PART E".

(f) Part E of title I, as so redesignated, is amended by redesignating sections 604, 605, and 606 as sections 504, 505, and 506, respectively.

TRAINING AND MANPOWER DEVELOPMENT

SEC. 9. (a) Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended by redesignating sections 701, 702, 703, 704, and 705 as sections 601, 602, 603, 604, and 605.

(b) Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended by striking out "Administration" wherever it appears and inserting in lieu thereof "Office".

(c) The heading for part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended by striking out "PART G" and inserting in lieu thereof "PART F".

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) Section 801 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended to read as follows:

"ASSISTANT ATTORNEY GENERAL FOR JUSTICE ASSISTANCE

"SEC. 801. (a) There is hereby authorized within the Department of Justice an Assistant Attorney General for Justice Assistance who shall be appointed by the President by and with the advice and consent of the Senate.

"(b) The Assistant Attorney General shall provide staff and services support from the Department of Justice for the Office of Justice Assistance, National Institute of Justice, Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention.

"(c) Nothing in this section shall be construed as limiting the policysetting, grantmaking and management authority of the Director of the Office of Justice Assistance, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics or the Administrator of the Office of Juvenile Justice and Delinquency Prevention.".

(b) Section 802 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782) is amended—

(1) in subsection (a) by striking out "The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," and inserting in lieu thereof "The Office of Justice Assistance, the Office of Juvenile Justice and Delinquency Prevention,", and

(2) in subsection (b)—

(A) by striking out "Law Enforcement Assistance Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance",

(B) by inserting "and the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics,",

(C) by striking out "parts D, E, and F" and inserting in lieu thereof "parts D and E",

(D) by striking out the second sentence,

(E) by amending the third sentence to read as follows: "In conducting evaluations described in this subsection, the Office of Justice Assistance shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants.", and

(F) by striking out "administration" and inserting in lieu thereof "Office of Justice Assistance".

(c) Section 803 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783) is amended—

(1) by striking out "Law Enforcement Assistance Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics," each place it appears,

(3) in subsection (b) by striking out "State" every place it appears, and

(4) in subsection (c) by striking out "such Administration," and inserting in lieu thereof "the Office of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention,".

(d) Section 804 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3784) is amended—

(1) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(2) by inserting after "Bureau of Justice Statistics," the following: "the Office of Juvenile Justice and Delinquency Prevention,".

(e) Section 805 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3785) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," each place it appears and inserting in lieu thereof "Office of Justice Assistance,",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," before "or the National Institute of Justice" each place it appears, and

(3) in subsection (a) by striking out "section 803, 804, or 815(c)(2)(G)" and inserting in lieu thereof "section 703, 704, or 713(c)(2)(G)", and

(4) in subsection (b) by inserting "the Office of Juvenile Justice and Delinquency Prevention" before "or the Bureau of Justice Statistics".

(f) Sections 806 and 807 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3786-3787) are each amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics,", and

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(g) Sections 810 and 811 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3788-3789) are amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," each place it appears,

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(h) Section 812 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789a) is amended by striking out "Director of the Office of Justice Assistance, Research, and Statistics, the Administrator of the Law Enforcement Assistance Administration," and inserting in lieu thereof "Director of the Office of Justice Assistance, the Administrator of the Office of Juvenile Justice and Delinquency Prevention,".

(i) Section 813 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789b) is amended in subsections (a) and (b)—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(j) Section 814 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789c) is amended—

(1) in subsections (a) and (b)—

(A) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention,", and

(B) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(2) in subsection (c) by striking out "Administration" and inserting in lieu thereof "Office of Justice Assistance".

(k) Section 815 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, or the Office of Justice Assistance", and

(2) in subsection (b) by striking out "or the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, or the Office of Justice Assistance".

(l) Section 816 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e) is amended to read as follows:

"REPORT TO PRESIDENT AND CONGRESS

"SEC. 816. Not later than April 1 of each year, the Director of the Office of Justice Assistance, the Director of the Bureau of Justice Statistics, and the Director of the National Institute of Justice shall each submit a report to the President and to the Congress, on their activities under this title during the preceding fiscal year.".

(m) Section 817 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789f) is amended—

(1) by striking out "Office of Justice, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance",

(2) in subsection (d) by striking out "section 815(c)" each place it appears and inserting in lieu thereof "section 713(c)", and

(3) in subsection (f)—

(A) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director".

(n) Section 818 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789g) is amended by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance".

(o) Section 819 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789h) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention,", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(p) Section 820(a) of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789i(a)) is amended by striking out "Administration" and inserting in lieu thereof "Office of Justice Assistance".

(q) Section 823 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789l) is amended by striking out "Administration" and inserting

in lieu thereof "Office of Justice Assistance".

(r) Section 826 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789o) is amended—

(1) by striking out "council" each place it appears,

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(3) by striking out "Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance".

(s) The heading for part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by striking out "PART H" and inserting in lieu thereof "PART G".

(t) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by redesignating sections 801, 802, 803, 804, 805, 806, 807, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, and 826 as sections 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, and 724, respectively.

(u) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by striking out sections 808, 809, and 827.

(v) The following is added to part G as section 725 (as redesignated):

"REPAYMENT

"SEC. 725. (a) If Federal financial assistance provided under this part is used by the recipient of such assistance for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the United States an amount equal to the value of such assistance.

"(b) The Director shall bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).".

DEFINITIONS

SEC. 11. (a) Section 901 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 901(a)(4) of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(4)) is amended—

(1) by inserting "renovation, repairs, remodeling," after "acquisition,", and

(2) by striking out ", but does not include renovation, repairs, or remodeling".

(c) Section 901(a)(20) of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(20)) is amended by striking out "and".

(d) Section 901(a)(21) of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(21)) is amended by striking out the period and inserting in lieu thereof "; and".

(e) Section 901(a) is amended by adding at the end thereof the following new clause:

"(22) 'public and nonprofit organization' includes youth serving agencies.".

(f) The heading for part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "PART I" and inserting in lieu thereof "PART H".

(g) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by redesignating section 901 as section 801.

FUNDING

SEC. 12. Part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended to read as follows:

"PART I—FUNDING

"FUNDING

"SEC. 901. (a) There is authorized to be appropriated to carry out the function of the National Institute of Justice $25,000,000 for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

"(b) There is authorized to be appropriated to carry out the functions of the Bureau of Justice Statistics $25,000,000 for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

"(c) There is authorized to be appropriated for part D $20,000,000 for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

"(d) There is authorized to be appropriated for part E $20,000,000 for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

"(e) There is authorized to be appropriated for part F and the educational and training functions of parts D and E $10,000,000 for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

"(f) There is authorized to be appropriated for purposes of administering parts D, E, F, G, and H $5,000,000 for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.

"(g) There is authorized to be appropriated $20,000,000 in part M for emergency assistance for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986.".

CRIMINAL PENALTIES

SEC. 13. (a) Section 1101 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 1103 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(c) The heading for part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by striking out "PART K" and inserting in lieu thereof "PART J".

(d) Part J, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by redesignating sections 1101, 1102, and 1103 as sections 1001, 1002, and 1003, respectively.

PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SEC. 14. (a) Sections 1201 and 1204 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c) are amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance".

(b) The heading for part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c) is amended by striking out "PART L" and inserting in lieu thereof "PART K".

(c) Part K, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c) is amended by redesignating sections 1201, 1202, 1203, and 1204 as sections 1101, 1102, 1103, and 1104, respectively.

TRANSITION

SEC. 15. (a) Section 1301 of part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799(a)) is amended—

(1) in subsection (a)—

(A) by striking out "the Office of Justice Assistance, Research, and Statistics or",

(B) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(C) by striking out "or the Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Office of Justice Assistance",

(2) by striking out subsection (j), and

(3) by redesignating subsection (k) as subsection (j).

(b) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by striking out "PART M" and inserting in lieu thereof "PART L".

(c) Part L, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by redesignating section 1301 as section 1201.

(d) Part L, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended by adding at the end thereof the following new section:

"TITLE TO PERSONAL PROPERTY

"SEC. 1202. Notwithstanding any other provision of law, title to all expendable and nonexpendable personal property purchased with funds made available under this title shall vest in the criminal justice agency or nonprofit organization that purchased the property if it certifies to the appropriate State criminal justice council, or its successor agency, that it will use the property for criminal justice purposes. If such certification is not made, title to the property shall vest in the State criminal justice council, or its successor agency, which shall seek to have it used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.".

EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

SEC. 16. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended by adding at the end thereof the following new part:

"PART M—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

"APPLICATION

"SEC. 1301. (a) In the event that a crime problem of serious and epidemic proportions exists throughout a State or locality, a State (on behalf of itself or another appropriate unit of government) may submit an application under this section for Federal financial assistance.

"(b) An application for assistance under this section shall be submitted in writing by the chief executive officer of a State to the Director, in a form prescribed by rules issued by the Director. The Director shall, after consultation with the Board of Justice Assistance, and appropriate members of the Federal law enforcement community, approve or disapprove such application. Funds provided under this subsection will be in accordance with selection criteria as established by the Office of Justice Assistance.

"(c) Federal financial assistance may be provided if such assistance is necessary to provide an adequate response to a crime problem described in subsection (a). In determining whether to approve or disapprove an application for assistance under this section, the Director shall consider—

"(1) the nature and extent of the crime problem throughout a State or in any locality,

"(2) the emergency or extraordinary circumstances which produced the problem,

"(3) the availability of State and local resources to resolve the problem,

"(4) the need to avoid unnecessary Federal involvement and intervention in matters primarily of State and local concern, and

"(5) any assistance which the State or other appropriate unit of government has received, or could receive, under any provision of this title.

"DEFINITIONS

"SEC. 1302. For purposes of this part—

"(1) the term 'Federal financial assistance' means funds to provide equipment, training, and personnel,

"(2) the term 'Federal law enforcement community' means the heads of the following departments or agencies:

"(A) the Federal Bureau of Investigation,

"(B) the Drug Enforcement Administration,

"(C) the Criminal Division of the Department of Justice,

"(D) the Internal Revenue Service,

"(E) the Customs Service,

"(F) the Immigration and Naturalization Service,

"(G) the United States Marshals Service,

"(H) the National Park Service,

"(I) the United States Postal Service,

"(J) the Secret Service,

"(K) the Coast Guard,

"(L) the Bureau of Alcohol, Tobacco, and Firearms, and

"(M) other Federal agencies with specific statutory authority to investigate violations of Federal criminal laws, and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

"LIMITATION ON AUTHORITY

"SEC. 1303. (a) Nothing in this part shall be construed to authorize the Director or the Federal law enforcement community to exercise any direction, supervision, or control over any police force or other criminal justice agency of an applicant for Federal financial assistance.

"(b) No funds provided under this part may be used to supplant State or local funds that would otherwise be made available for such purposes.

"(c) Nothing in this part shall be construed to limit any authority to provide emergency assistance otherwise provided by law.

"REPORT TO CONGRESS

"SEC. 1304. Not later than April 1 of each year, the Director shall submit to the President and the Congress a report describing emergency Federal financial assistance provided under this part during the calendar year preceding the date such report is made.

"ISSUANCE OF RULES

"SEC. 1305. The Director, after consultation with the Justice Assistance Board, appropriate members of the Federal law enforcement community, and with State and local officials, shall issue rules to carry out this part.".

TABLE OF CONTENTS

SEC. 17. The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3799) is amended—

(1) by amending the item relating to part A to read as follows:

"PART A—OFFICE OF JUSTICE ASSISTANCE";

(2) by amending the item relating to section 103 to read as follows:

"Sec. 103. Establishment of a Justice Assistance Board.";

and

(3) by amending the items relating to parts D, E, F, G, H, I, J, K, L, and M, to read as follows:

"PART D—NATIONAL PRIORITY IMPLEMENTATION AND REPLICATION PROGRAMS

"Sec. 401. Purpose.
"Sec. 402. Federal share.
"Sec. 403. Uses.
"Sec. 404. Applications.

"PART E—DISCRETIONARY GRANTS

"Sec. 501. Purpose.
"Sec. 502. Percentage of appropriation for discretionary grant program.
"Sec. 503. Procedure for establishing funding and selection criteria.
"Sec. 504. Application requirements.
"Sec. 505. Criteria for award.
"Sec. 506. Period for award.

"PART F—TRAINING AND MANPOWER DEVELOPMENT

"Sec. 601. Federal Bureau of Investigation training of State and local criminal justice personnel.

"PART G—ADMINISTRATIVE PROVISIONS

"Sec. 701. Assistant Attorney General for Justice Assistance.
"Sec. 702. Consultation; establishment of rules and regulations.
"Sec. 703. Notice and hearing on denial or termination of grant.
"Sec. 704. Finality of determinations.
"Sec. 705. Appellate court review.
"Sec. 706. Delegation of functions.
"Sec. 707. Subpena power; authority to hold hearings.
"Sec. 708. Employment of hearing officers.
"Sec. 709. Authority to use available services.
"Sec. 710. Consultation with other Federal, State, and local officials.
"Sec. 711. Reimbursement authority.
"Sec. 712. Services of experts and consultants; advisory committees.
"Sec. 713. Prohibition of Federal control over State and local criminal justice agencies.
"Sec. 714. Report to President and Congress.
"Sec. 715. Recordkeeping requirement.
"Sec. 716. Confidentiality of information.
"Sec. 717. Authority to accept voluntary services.
"Sec. 718. Administration of juvenile delinquency programs.
"Sec. 719. Prohibition on land acquisition.
"Sec. 720. Prohibition on use of CIA services.
"Sec. 721. Indian liability waiver.
"Sec. 722. District of Columbia matching fund source.
"Sec. 723. Limitation on civil justice matters.
"Sec. 724. Reimbursement for unused equipment.
"Sec. 725. Repayment.

"PART H—DEFINITIONS

"Sec. 801. Definitions.

"PART I—FUNDING

"Sec. 901. Funding.

"PART J—CRIMINAL PENALTIES

"Sec. 1001. Misuse of Federal assistance.
"Sec. 1002. Falsification or concealment of facts.
"Sec. 1003. Conspiracy to commit offense against United States.

"PART K—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"Sec. 1101. Payments.
"Sec. 1102. Limitations.
"Sec. 1103. Definitions.
"Sec. 1104. Administrative provisions.

"PART L—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1201. Continuation of rules, authorities, and proceedings.
"Sec. 1202. Title to personal property.

"PART M—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

"Sec. 1301. Application.
"Sec. 1302. Definitions.
"Sec. 1303. Limitation on authority.
"Sec. 1304. Report to Congress.
"Sec. 1305. Issuance of rules.".

REFERENCES IN OTHER LAWS

SEC. 18. (a) Any reference to the Law Enforcement Assistance Administration, or to the Administrator of the Law Enforcement Assistance Administration, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice Assistance shall be deemed to be a reference to the Office of Justice Assistance, or to the Director of the Office of Justice Assistance, as the case may be.

(b) Any reference to the Office of Justice Assistance, Research, and Statistics, or to the Director of the Office of Justice Assistance, Research, and Statistics, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Bureau of Justice Statistics, the National Institute of Justice, or the Office of Juvenile Justice Delinquency Prevention shall be deemed to be a reference to the Bureau of Justice Statistics, National Institute of Justice, or Office of Juvenile Justice Delinquency Prevention, or to the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, or the Administrator of the Office of Juvenile Justice and Delinquency Prevention, as the case may be.

TECHNICAL AMENDMENTS TO OTHER LAWS

SEC. 19. (a) Section 5314 of title 5, United States Code is amended by striking out "Director, Office of Justice Assistance, Research, and Statistics.".

(b) Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator of Law Enforcement Assistance.", and

(2) by adding at the end thereof the following new item:

"Director, Office of Justice Assistance.".

(c) Section 1761(c) of title 18, United States Code, is amended by striking out "Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "Director of the Office of Justice Assistance".

EFFECTIVE DATE

SEC. 20. This Act shall take effect on October 1, 1982.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, as the chairman of the Judiciary Committee, I wish to hereby appoint the distinguished Senator from Pennsylvania (Mr. SPECTER) as the manager of this bill on the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished chairman of the Committee on the Judiciary for appointing me manager. I thank the majority leader for arranging consideration of this bill during a very busy calendar.

This legislative matter, I suggest, is of very substantial importance and worth the time of the Senate during this special session because it will continue a very important aspect of criminal law enforcement in this country developed under the Law Enforcement Assistance Administration.

We have fashioned a more restrictive program which will retain the most important aspects of the former Law Enforcement Assistance Administration under the new Justice Assistance Act. Those include programs dealing with career criminals, with the prosecution management program, with sting operations, and with antiarson proposals among others.

This I suggest, Mr. President, will be a significant step forward toward important legislation to assist State and local law enforcement in our battle against crime. I am particularly gratified to report to my Senate colleagues that a series of meetings and discussions with the administration has culminated in administration support for a comprehensive program of Federal justice assistance, research, and statistics. Through enactment of this measure we will fulfill several recommendations of the Attorney General's Task Force on Violent Crime, including most particularly those calling for Federal assistance to aid in the establishment of programs of proven effectiveness in combating crime in all parts of our country and renewed Federal assistance to develop promising and innovative approaches to fighting crime. These efforts, along with the establishment of a Federal capability to assist States and localities faced with a criminal justice emergency can all be provided for as part of a realistic and comprehensive Federal contribution to stemming the tide of serious and violent crime in this country. Moreover, they will be accomplished without shortchanging the ongoing and equally essential Federal efforts in justice research, statistics, and juvenile justice. Accordingly, we can anticipate without delay a request from the administration for a budget amendment to increase resources within the "justice function" (function 750) by $100 million and a complementary administration request for $100 million in new budget authority to fund these new justice assistance programs in this and subsequent years.

When the Justice Assistance Act of 1982, S. 2411 was introduced on April 21 of this year, along with the distinguished Senator from Delaware (Mr. BIDEN) and the distinguished Senator from Alabama (Mr. HEFLIN), I spoke about the national crime problem and the Federal Government's appropriate role in assisting State and local law enforcement efforts. I am gratified by the prompt and favorable action taken on S. 2411 by the Subcommittees on Criminal Law and Juvenile Justice and by the Committee on the Judiciary.

I thank the distinguished chairman of our committee, Chairman THURMOND, for his assistance in expediting this matter and bringing it to the floor today.

I am also pleased that the distinguished Senator from Maryland (Mr. MATHIAS) and the distinguished Senator from Massachusetts (Mr. KENNEDY) have seen fit to join as cosponsors of this important legislation.

Further, I pay tribute to Congressman WILLIAM HUGHES of New Jersey who has offered similar legislation which has passed the House of Representatives and who has been of enormous assistance, as has the chairman of the House Committee on the Judiciary, Chairman RODINO, in moving forward with the negotiations with the administration which has brought us to the point today where, I think it is safe to say, this legislation can be enacted and will ultimately be signed and be implemented for the important purposes that I have already outlined.

Violent crime is a grave threat to the safety of all Americans. I know that my colleagues in this body share my concern that the Federal Government do all that it can to help combat serious and violent crime in this country and minimize its impact on the law-abiding citizens of our land.

A violent crime—murder, rape, robbery or aggravated assault—was reported in 1981 every 24 seconds. Over the last 5 years, violent crime reports have been rising on an average of 5 percent per year. Since a great deal of crime is never reported, even these startling statistics underestimate the true extent of the crime problem. A 5-percent rate for inflation represents a welcome change for most Americans, a 5-percent interest rate would elicit celebration and stimulation in large segments of our economy, but a 5-percent annual increase in violent crime is intolerable. Violent crime poses a threat to our very way of life.

As we are so often reminded, most crime violates State and local statutes and represents matters for local concern. But while public safety is and must remain primarily the responsibility of local authorities, we can insure that the Federal Government does the most that it can to assist in a coordinated effort against crime at all levels.

The Justice Assistance Act of 1982, S. 2411, gives us the opportunity to increase the Federal Government's contribution to the Nation's law enforcement efforts. Through it we can establish a framework by which the Federal Government will be able to provide the seed money and technical assistance so desperately needed by local authorities to implement anticrime programs that have been proven effective. Career criminal programs, "sting" antifencing operations and arson control programs can effectively combat the threat of crime. The prosecutors' management information system (PROMIS), the integrated criminal apprehension program (ICAP), law enforcement training and court modernization have all been shown to be effective management initiatives that can make a difference to our justice systems. Juvenile restitution and new pride programs and opportunities for the treatment as well as the punishment of drug and alcohol abusers have all been shown to rehabilitate offenders and prevent the destructive cycle of recidivism. Witness assistance and information programs, rape and sexual assault centers and other victim assistance programs lessen the enormous suffering of the innocent victims and bystanders and strengthen their resolve to come forward to join with law enforcement authorities in jailing violent criminals.

These programs work. They and others have been demonstrated to be effective and are now part of arsenals in many localities that were the beneficiaries of early federally subsidized demonstration efforts. Still, upward of 95 percent of localities that could benefit from these programs continue to go without them. The police know about them and the prosecutors understand their worth, but in order to initiate and institutionalize such programs in a local jurisdiction it often

takes a trial period to alert local governmental authorities to their value and create public awareness and demand for continuing local efforts.

The Justice Assistance Act will fulfill the recommendations of the Attorney General's Violent Crime Task Force by providing resources to implement programs of proven effectiveness at the local level and by awarding Federal grants limited to reasonable periods that require both local match and a commitment to continue the program. The national priority implementation and replication program established in a new part D of the act will allow States, units of local government, nonprofit organizations and community-based groups to receive Federal assistance in order to establish programs of proven effectiveness through 1-, 2-, 3-, or 4-year grants. A local match of approximately 50 percent will be required. In the multiyear grants, local institutionalization of the program will be encouraged by increasing the non-Federal contribution to the program over the life of the Federal grant. The programs and projects to be funded are those that address critical problems of violent and serious crime and that are certified by the new Office of Justice Assistance to have been demonstrated effective. In reaching this judgment the office will be aided by the evaluation of the National Institute of Justice and by a citizen advisory board.

In addition, the act fulfills another key task force recommendation by providing special authority to aid State and local governments suffering criminal justice emergencies of overwhelming proportions. The Federal Government must have authority in place and resources at the ready so as not to lose precious time responding in compelling circumstances. The recent wave of child murders in Atlanta; the drug, immigration and crime problems of south Florida are the types of problems that are simply beyond the resources of local and State government. In part M of the act we establish an emergency Federal law enforcement assistance authority to allow the Federal Government to serve as a source of financial assistance of last resort when the Governor of a State requests criminal justice emergency assistance and after consultation with the Federal agencies that make up the Federal law enforcement community. In this, as in all other aspects of the act, we clearly limit the Federal authority in order to prohibit any hint that Federal authorities might gain control over local police forces or other local criminal justice agencies. We all hope that the authority provided by the act for emergency assistance will not be needed, but we cannot afford to await the breakdown of a local criminal justice system following a prison riot or other domestic emergency before we take action.

This act also strengthens our response to several other recommendations of the task force that encouraged Federal training and support programs to be provided to State and local law enforcement agents. Recommendations 10, 11, 44, 45, and 46 were each concerned with providing increased opportunities for Federal training and technical assistance to local law enforcement. This act will provide an additional fund to strengthen our Federal efforts in this regard, both in part F of the act and in the educational and training activities under parts D and E.

Finally, the act will allow the Federal Government to fulfill what is unquestionably its strongest role in assisting local law enforcement by funding the development of new and innovative approaches to fighting crime and providing the research and statistical resources necessary to developing and testing such approaches. The act establishes a new fund and reauthorizes the National Institute of Justice and Bureau of Justice Statistics to undertake these activities. In so doing we fulfill other task force recommendations, which are concerned with these efforts and the collection and analysis of justice information. In light of the inextricable limitations and conflicting demands on State and local resources, we cannot simply rely on them to finance the development, testing and evaluation of new anticrime proposals. Research and development are too costly and too uncertain to be undertaken to any significant extent by a single State or local jurisdiction. On this point the members of the Attorney General's Task Force were in unanimous agreement that:

(T)he Federal Government has a unique responsibility to conduct research on criminal justice issues, to develop creative programs based on research findings, to test and evaluate these programs rigorously, and to demonstrate them in several jurisdictions with varying characteristics to be sure that the programs would be successful if implemented in other jurisdictions.

Having outlined what the act does, let me briefly suggest what it does not do. It does not create a wasteful or bloated bureaucratic structure nor provide enormous funding that can be squandered on fictional hardware, or illusory initiatives. This proposal realizes every economy in our effort to maximize the effectiveness of Federal participation in its proper assistance role.

It does not encroach on the prerogatives of local law enforcement but rather expressly guarantees the sovereignty of State and local law enforcement and explicitly limits the Federal authority involved.

It does not affect the Office of Juvenile Justice and Delinquency Prevention. After careful consideration we have concluded that the special problems of juvenile delinquency are best confronted by a separate and coordinated office. The Juvenile Justice and Delinquency Prevention Act, recently reauthorized through 1984, provides a sound framework for such activities and should be retained. It is my clear understanding from assurances I have received from the administration that the funding of criminal justice assistance activities will not be diverted from the highly successful juvenile justice program. The additional budget authority provided for the Office of Justice Assistance programs—those responding to the task force's recommendations for seed money for programs of proven effectiveness, training, the testing of new crime-fighting initiatives and emergency assistance—will be provided through new budget authority and additional funding in order to increase our efforts in these regards.

In closing I again reiterate my appreciation for the leadership and involvement of the distinguished chairman of the Committee on the Judiciary in this important project. Without his personal attention to this matter and dedication to fighting crime and protecting the public's safety we would not be considering this matter today. I commend him and thank both him and his staff, his Chief Counsel Vinton D. Lide and General Counsel D. Eric Hultman for their fairness and assistance.

Mr. BIDEN. Mr. President, I am very glad to see that the Senate leadership recognizes the need for prompt consideration of the Justice Assistance Act of 1982. It was my feeling when Senator THURMOND and I drafted the major crime legislation for this session, S. 2572, that the Senate passed just before the elections, that a Federal crime package would be incomplete if it ignored the depleted assistance so vitally needed by State and local criminal justice agencies. As I have stated on the Senate floor in the past, the time has come to stop the rhetoric on the crime issue and truly implement a program that will assist criminal justice agencies. With the passage of the major crime package we debated in September and now moving to the consideration of the Justice Assistance Act of 1982, I believe the Senate, for the first time during this Congress, has taken positive action on the crime issue.

Since Senator SPECTER and I first introduced this bill in April 1982, we have worked in a bipartisan manner. It was clear to me in the drafting of this bill that it represented a limited Federal assistance program that would focus on successful concepts and would allow for research and development of new crime-fighting ideas. This was the same concept used in S. 1455,

the National Security and Violent Crime Control Act of 1981 that I offered as chairman of the Democratic Task Force on Crime, and which was endorsed by all the Senators on this side of the aisle. With the passage of this assistance bill and the crime package we acted on in September, all of the major issues endorsed by the Democratic Task Force on Crime will have cleared the Senate in the 97th Congress.

I commend Senator SPECTER for his persistence on moving this legislation forward. There have been very few occasions during this session of Congress when the administration has so dramatically changed from opposition to support of a bill. Clearly, the need to spend money for crime issues should never have been subjected to the whims of the Office of Management and Budget. The dollars included in this authorizing bill are a small token of what actually is needed to do the job. I commend both Senators SPECTER and THURMOND in their apparently successful effort in changing the administration opposition to both this bill and the House bill sponsored by Congressman HUGHES that overwhelmingly passed in the House last February.

NEED FOR THIS PROGRAM

This Nation's crime and drug problem is having a devastating impact on our society and points to a decaying of our social fabric that requires a full commitment by all citizens. Mr. President, just listen to these statistics:

Three in every ten households in America were affected by crimes involving theft or violence last year.

U.S. families are more prone to have a member attacked in a serious violent crime than to have a residential fire or have a family injured in an automobile accident.

Harris and Gallup polls show people believe crime is worse in their neighborhoods with 68 percent saying crime is on the upswing. In 1978, only 48 percent of the people responded in the affirmative to that question.

In another Harris poll, 48 percent of the people feel personally unsafe on the street compared to 40 percent in 1978.

Property lost or damaged annually amounts to more than $8 billion due to burglaries and robberies.

Seventy-five percent of money and property taken by robbers and burglars is never recovered.

Ninety percent of all robberies (548,000 in 1980) result in some form of physical injury.

Burglaries are now occurring at a rate that will affect 1 in 14 homes each year. This results in an invasion of personal privacy that psychologically is often more damaging than the financial loss.

Mr. President, I could go on with these crime statistics but as you know, there is no way to express in words the suffering and fear to victims, family members, and friends, that is represented in each one of those numbers.

We, in this Chamber, have discussed the need for a $253 billion defense authorization budget in fiscal year 1983. The estimated annual expenditure for the entire criminal justice system; Federal, State, and local government only is around $31 billion. That is for everything: Police, judges, probation officer, prosecutors, sheriffs, et cetera. I can certainly support efforts for a strong national defense but what about the domestic threat we all face every day in this country because of crime? We have to make the fight against crime and drugs a higher priority at all levels of government.

Now, this bill, S. 2411, is a good step at the Federal level to again provide Federal assistance to State and local agencies for programs that have proven to be successful.

The Justice Assistance Act of 1982 has been developed with the fullest intention that law enforcement and the operation of criminal justice systems are primarily a State and local responsibility. Ninety-four percent of all violent crimes occur within the local or State criminal law jurisdiction and the Federal Government should avoid possible infringement on the State and local law enforcement responsibilities. Sheer economic limitations preclude the Federal Government from offering assistance funds that would be used to subsidize local or State criminal justice programs.

Too often in the past, under the old LEAA program, assistance money was used to purchase equipment or pay salaries without requiring the States to pay their fair share in matching funds. Also, the former program resembled a scattershot approach with dollars being spread so thin that achievement of success was difficult to measure.

Instead, this bill would take into account the lessons learned from the old LEAA program. Using a modest annual investment of $125 million, this program would enable State and local governments to make criminal justice improvements by implementing effective program approaches in criminal justice operations.

PROGRAMS OF PROVEN EFFECTIVENESS

One of the features of this bill will be funding for programs of proven effectiveness such as: Career criminal prosecution; integrated criminal apprehension program (ICAP); sting; treatment alternatives to street crime (TASC); victim-witness assistance; arson prevention and control; prosecutor's management information system (Promis); violent juvenile offenders program (New Pride); and comprehensive crime prevention, et cetera. We further intend that this program link research and program operation by having the National Institute of Justice be responsible for testing, evaluating, and recommending adjustments in the types of programs to be funded. This will be done with the practitioners' needs in mind. This type of evaluation will be geared to the realities of the day-to-day operations and political constraints that make up the "real world" of police officers and prosecutors. These reports are to be useful documents, not scientific manuscripts which often collect dust on bookshelves. It is our intent that this program be streamlined administratively and avoid a return to previous LEAA mistakes when limited Federal dollars were often spent in an ineffective manner.

TRAINING AND TECHNICAL ASSISTANCE

One provision of this bill calls for the Federal Government to provide grants up to 100 percent of the cost of State and local jurisdiction that request specific training or technical assistance. The intent is to provide the requesting jurisdictions with written material, training workshops, direct onsite technical assistance so that new concepts and programs of proven effectiveness can be started. It will be the responsibility of the requesting jurisdiction to cover the operating and day-to-day costs of the program.

Training and technical assistance will also be available for management problems or specific concerns that may not necessarily entail the development of one of the concepts listed above.

Another program in the bill will be the emergency assistance funding program. When there occurs a crime problem of such a serious or epidemic proportion, such as the Atlanta child murders or the drug-related violence in south Florida, the prompt support by the Federal Government to local and State agencies should be available.

We have carefully written this language to insure that the Federal Government does not needlessly intervene in matters of State and local concern. This program will only be implemented for crime emergencies or extraordinary circumstances and when State and local resources are not geared to expeditiously resolve the problem. In all situations in which these funds are used, primary responsibility for responding to the situation rests with the local or State jurisdiction. These funds are to be used to help coordinate and expedite resolution of crime problems, following the request for assistance by the local jurisdiction.

This proposal represents a very modest authorization of $125 million a year. It is a far cry from the billion-a-year investment that was going into Federal criminal justice assistance only a few years ago. It is important that assistance funds be made available to States and cities, but in a

streamlined and efficient manner. This bill is intended to do just that.

It is clear that those directly involved working in our local and State criminal justice agencies recognize that the Federal Government can play a role in assisting State and local law enforcement. The President's own task force on violent crime recommended in August 1981 that funds be available for implementing demonstration programs of proven effectiveness that require a reasonable match of State and local funds.

Several weeks ago, I spoke to the International Association of Chiefs of Police, and they voiced strong support for this bill. Also, I have received a great deal of mail from many Americans in support of congressional efforts to allocate more money on fighting crime and to block attempts to cut Federal budgets of those agencies most involved in attacking crime and drug problems.

I would hope that my colleagues in Congress and the President have been receiving similar comments from constituents across the country.

Finally, Mr. President, late this summer, Senator THURMOND and I sent out over 12,000 questionnaires to criminal justice professionals across the country asking for their opinions on pending crime legislation. The responses to the questionnaire have been extraordinary with over 4,000 filled-out questionnaires returned so far. Question 3 of the questionnaire read as follows:

> Federal assistance to State and local criminal justice agencies is necessary if we are to find new successful crime-fighting and crime-prevention techniques?

Eight percent responded favorably to this question. This further documents that those patrolling our city streets, prosecuting arrested defendants, and working in our jails and prisons, realize that technical assistance and training is a means to bettering our criminal justice system.

I ask my colleagues to join with Senator SPECTER and myself in passage of the Justice Assistance Act of 1982.

Mr. THURMOND. Mr. President, will the Senator yield me 2½ minutes?

Mr. SPECTER. I am delighted to yield 2½ minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of S. 2411, the Justice Assistance Act of 1982.

This bill, sponsored by the able Senator from Pennsylvania, Mr. SPECTER, is an appropriate and needed response to the crime problem in America. It would authorize $100 million to be used by State and local governments for proven, effective criminal justice programs. It also authorizes $10 million for emergency assistance for such things as the Atlanta child killings, political conventions, and other law enforcement situations where local law enforcement is unable to respond effectively.

This bill is not a revival of the Law Enforcement Assistance Administration as most Senators recall that program. Instead, it is a streamlined, targeted program providing Federal funds for crime-fighting efforts which have in the past proved to be sound, successful, and effective. Administrative assistance is not provided for, thus State and local governments must exhibit a willingness to administer these programs efficiently and effectively.

Mr. President, one of the primary features of the legislation is the organizational restructuring of the present criminal justice assistance components. S. 2411 consolidates the new Office of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention under the general policy, control, and direction of an Assistant Attorney General in the Department of Justice. Although the Juvenile Justice program will remain under its separate authorization statute, it will share the administrative and support services with the other agencies.

Mr. President, this is simply an authorization program. Any funds will have to be appropriated next year by the appropriations committees of the Congress.

The administration has indicated its support for this measure and the funding levels authorized by the bill. It is a 4-year program and will be administered under the direction of an Assistant Attorney General in the Department of Justice.

I urge my colleagues to support it.

Mr. President, I might say that considerable work has been done on this bill. There have been conferences held in the White House by White House officials, the Department of Justice, Senator SPECTER, Congressman HUGHES, myself, and others, and we all feel that this bill has been unanimously agreed to now, and we come forth in the Chamber here hoping that we can get this measure passed by the Senate at this time, send it to the House of Representatives, and we hope the House of Representatives will see fit to act on this measure during their short session.

I wish to thank the Senator from Pennsylvania.

Mr. MATHIAS. Mr. President, the topic of violent crime has been on the agenda of the 97th Congress from the very beginning. Talk about crime has filled the air of this Chamber. It has filled the pages of the CONGRESSIONAL RECORD. Anticrime messages have been transmitted and received. Anticrime packages have been assembled, revamped, and disassembled. Anticrime initiatives have been launched, and have run aground. Amidst all this sound and fury, nothing which the Senate has done during this Congress will make a bigger practical contribution to the fight against crime than what it is about to do. The passage of S. 2411, the Justice Assistance Act of 1982, will be one of the most important events of this Congress for the State and local law enforcement, civic, community, and other organizations which are on the front line in the battle to combat the increase in violent crime in America.

The most recent available evidence of the scope of the problem comes from the Bureau of Justice Statistics. Its criminal victimization survey for 1981 tells us that last year crime touched 25 million American households, nearly one in three. It tells us that more of those households had a member robbed than had a member stricken by heart disease or cancer.

S. 2411 is an important step in the direction of providing our States and local communities with the resources which they most need in confronting these appalling facts. Better law enforcement training, funding for promising pilot projects, assistance in duplicating the success of innovative anticrime initiatives—these will be the primary products of the Office of Justice Assistance created by this legislation. These are the tools which can help build effective anticrime programs in more and more communities across this land.

The progress of this legislation has been fitful. Most knowledgeable people have long agreed that it was needed; but many skeptics doubted that it would make it to the Senate floor during the 97th Congress. These skeptics underestimated the prime movers behind this legislation, particularly the junior Senator from Pennsylvania. The persistence, the energy, the creativity, and the flexibility of Senator SPECTER and his staff are the main reasons why the Senate is today considering S. 2411. I am confident that these same attributes will help bring about a speedy and successful conference with the House and the prompt enactment into law of the Justice Assistance Act of 1982.

Mr. EAST. Mr. President, I wish to speak to this question of S. 2411.

I think the thing that most commends one's attention to this measure is the fact that the distinguished junior Senator from Pennsylvania supports it. Beyond that point my enthusiasm for it wanes.

I have the greatest admiration for him, having come into the Senate at the same time he did and knowing of his great work not only here in the Senate but his very distinguished record, I might note, in the State of Pennsylvania as a leader and fighter against crime.

So one does not casually rise to question the good judgment of a man with

such a distinguished record not only in the Senate but also in the State he represents and one could only commend the good people of Pennsylvania for their wisdom in picking Senators.

My concern focuses upon the substance of this legislation for one thing and, second, upon the process by which it is now before this body.

I suppose all Senators are quick to concede that in the tail end of sessions we are often asked to approve measures that we know little or nothing about except that statements are entered into the record and, we are told, they will serve noble causes and worthy ends and they only cost $100 million here and $100 million there, and so life moves on.

Here today, already in the very brief time we have been speaking to this matter, we have heard this bill will fight crime which, of course, naturally means one would automatically be for it regardless of whether one had examined it or not.

Second, we have heard the adjective "innovative." Well, naturally one would always support innovative ideas to fight crime.

We are told this measure will only cost $100 million and, of course, in this day and age of trillion dollar debts, such an amount is hardly worth quibbling over.

The very distinguished Senator from South Carolina, who is chairman of the Judiciary Committee, reports that he and several Members of the House of Representatives consulted with the White House and the Justice Department about this measure and that they all think it is a good idea.

I suppose one might then ask me, "Why, Senator, what is your concern?"

My concern is the Senate has not had hearings on the measure, and the Senate in terms of the individual Members of this Senate have not the slightest idea what they are doing.

We have not had a hearing on this bill, and we have not had any extended deliberation on it.

In fact during the period just prior to our last recess, a frantic effort was made to press it through in a matter of just minutes at the tail end of the session. I resisted the attempt to pass the bill in this fashion and I thought properly so because at some point, if what is called the greatest deliberative body in the world does not deliberate or know what it is doing, then I think we should take the title from ourselves and give it to someone else.

If there is one fundamental attribute of democratic representative government, it is that supposedly this body and the House of Representatives do deliberate matters and that they have some idea as to what they are doing. On this particular measure, candidly, they do not.

They do not know what they are doing because they have had no hearings on this particular bill. There simply has been no extensive deliberation on it.

Let me proceed, Mr. President. The old LEAA bill of 1968 is generally considered—and I suspect the distinguished Senator from Pennsylvania would so concede—to have been a failure. Here is what the former Attorney General, Griffin Bell of Georgia of the Carter administration, said about the old LEAA program. He said that, "It was essentially unmanageable, inefficient and ineffective," and that "an incredible amount of LEAA money had disappeared into overhead and bureaucratic processing."

That is what the former Attorney General said. The general consensus then was that the old LEAA program that first began all this back in 1968 was a failure. It did great violence to notions of federalism; it was expensive; it was bureaucratic, although of course, as always, it was to do noble things in the name of fighting crime and was only to cost $1 million here and $1 million there. We all know that familiar refrain.

Then what happened? We came along, as we often do in this, with the so-called Justice System Improvement Act of 1979, not too long ago, mind you. Oh, boy. Now this one was designed to try to correct the deficiencies in the old LEAA which, it was generally conceded, was an extensive and massive failure.

I would like to note we have had no opportunity to evaluate the effectiveness of the changes that were made under this reform bill. We had no time to evaluate them. Why? First, the time factor. Then, second, the Carter administration—wisely so, as Griffin Bell has already indicated—did not provide the money to continue funding and implementing programs under the bill. That really is the legislative background and history on this thing.

A few little changes have been made in S. 2411. The distinguished Senator from Pennsylvania might say some very substantive changes have been made. But, candidly, until you really deliberate on the bill itself and examine it thoroughly, you run a high risk, in an age supposedly with a need for budgetary restraint, of simply putting old wine in a new bottle and we come back again to drinking out of the Federal budget and out of a well that is dry, dry, dry.

But again, we hear it is only $100 million and, in the name of fighting crime and being innovative and creative and all the usual adjectives, it is a small price to pay.

I simply ask in the short time I have whether, as a matter of the integrity of the deliberative process, this is our finest hour. Are we taking a piece of legislation which nobody knows much about and whose history is a negative one, and simply breathing new life into it by $100 million of funding?

What is my guess as to what will happen with this bill? My guess is the Senate will pass it and pass it overwhelmingly. The House has touched on it, has passed it. It will probably go to conference and the American people will be sent a bill for $100 million on a program that in the private sector could not pass muster.

There it would be sent back for thorough and exhaustive deliberation and testing to make sure it deserves to be resurrected.

So you have, if I might put it this way, Mr. President, a somewhat typical house of cards. You start with what was generally conceded to be a bad bill, the 1968 version; supposedly you reform it in 1979, yet you do not fund it, and because you do not fund it, you never learn whether it would have worked or not. Then a few years later you simply make additional so-called changes and modifications, pump in another $100 million and say, "Now things are all right. We are back to fighting crime."

One problem we certainly do face in this country today is crime. As a result you can get anything, I suppose, in terms of Federal funding if you do it in the name of fighting crime. But that ought not to be. Probably what we really need to do in the United States today is to continue to put that responsibility upon State and local governments. We ought to direct our energies and our attention there. Let them bear the burden, let them bear the responsibility.

We come to a fundamental question here: Are we not returning to business as usual, passing more Federal law, offering more Federal funding, all of it, of course done in the name of a worthy cause, to wit, fighting crime?

If we had had the opportunity for extensive hearings on this particular measure and to have extensive deliberation we might well decide that it was worth proceeding with. But I do not feel we have done that, and I was deeply concerned that in the last period before our recess when there was an attempt to move this thing through in a matter of just minutes—on the last day and evening in fact; that was just a bit too much. I could not accept that, not because I did not have the greatest admiration for the junior Senator from Pennsylvania. I have already indicated that I do because I have seen too much of his fine labor.

The quarrel is not with the Senator, and it might not even ultimately be with the legislation, although at this point, I have profound reservations about it, but it has to do with the small amount of time devoted to con-

sidering it. Hearings, none; deliberation, none.

I remember that earlier this fall, and again with all due respect to the very distinguished junior Senator from Pennsylvania, the career criminal bill went through. That one sounded good. I was the only one in the Senate to vote against it. The Baltimore paper ran an editorial commending me. Why? Because they went ahead and read the thing and, lo and behold, they did not think it was so good either.

What did the career criminal bill do? The career criminal bill essentially provided that if a person had committed three State crimes the third was automatically a Federal offense as well. I think that such a bill raises serious constitutional questions. Can you create a new Federal crime simply out of the fact that three crimes have been committed? You might increase the penalty for a third Federal offense. But to create a Federal crime out of the commission of State crimes—I think any serious student of the Constitution would question that approach. Though I yield to no one in my opposition to crime, I also think that the career criminal bill did some violence to the notions of federalism; there was to be too much power in Washington, and too little emphasis upon State and local responsibility.

Yes, I will admit I am yielding a little bit to the so-called New Federalism. But there are limits to what, frankly, the Federal Government can do, and at some point we need to take that general premise and make it stick. Let the States take the responsibility. Let local government take the responsibility. Let the family take the responsibility. Yes, even make the individual accept the responsibility.

We are always coming up with some sort of new program, untried, untested, no hearings, no deliberation, heavily funded, and we offer rhetoric to the effect, that the new program is innovative and that under it we will be fighting crime. It is almost impossible to resist that line of argument, I concede. No doubt this bill will go through, and with massive support. We have already had the distinguished Senator in here requesting that we stack votes on it. If not, we might have to sit around and study this measure, we might have to know what the amendments dealt with. Whoever heard of such a thing, particularly late in the session, a lameduck session. But we have a bill fighting crime, and we have not the slightest idea what we are doing.

All I am trying to do—I did not filibuster this bill, I took the hold off it—is just to take a few minutes during this lameduck session, in its waning days and weeks and raise a little bit of a protest about this process of moving through legislation where people have no idea either as to what it will really do, or what its legislative history is.

To me it would not matter if this program would not cost $100 million, but that ups the ante. That is a right expensive bill. So I simply would hope, Mr. President, that now and in the future our colleagues, before they resort to this kind of thing, might spend a bit more time examining what we are doing—whether a measure would be a good law, whether the cost would be reasonable; whether it would be consistent with fundamental principles of American federalism and constitutionalism? I do not think that is asking too much, not in the greatest deliberative body in the world.

So it is in that spirit that I express my concern about this measure, Mr. President. I appreciate not only the cooperative spirit that the very distinguished Senator from Pennsylvania has shown in allowing us to put together a time agreement, but also the cooperation of the majority leader and, of course, of the distinguished minority leader in allowing us to air our concerns.

Allow me, Mr. President, if I might, to stop at this point. I would like to make a parliamentary inquiry. How much time do I have remaining of the 30 minutes, Mr. President?

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. EAST. Thank you, Mr. President. I will cease at this point, reserve the remainder of my time, and allow the distinguished manager of this bill to proceed.

Mr. SPECTER. Mr. President, on a relatively brief basis, I shall respond to the contentions of the distinguished Senator from North Carolina.

When the assertion is made that there have not been hearings on this measure, I would refer the Senator from North Carolina to page 3 of the report which details the hearings both in the Senate and in the House. I would supplement that litany by saying that the Senate Subcommittee on Juvenile Justice, which I chair, held extensive hearings which took up issues raised by the Law Enforcement Assistance Administration and the necessity for aid to State and local governments and similar issues that are related to the specific provisions in the bill.

When the distinguished Senator from North Carolina refers to the procedural steps in challenging the deliberative process, he has raised generalizations which have substantial validity. But he has not dealt at all with any of the substantive programs that are encompassed within this legislation. He has not stated that the prosecutor's management information system, known as Promis, is an ineffectual approach or has been less than highly successful. And it was for that reason it was selected out of the batch of LEAA programs on an authorized activity under this bill.

The distinguished Senator from North Carolina has not questioned the efficacy of the victim-witness assistance program, which is the reason that it has been retained because of its demonstrated success. The distinguished Senator from North Carolina has not questioned the efficiency of the arson control assistance program, which has been used in many parts of the United States and is retained within this bill; nor has he questioned the efficacy of the undercover antifencing program, a sting operation, which has been retained because of its great success.

When the distinguished Senator from North Carolina speaks about this bill not passing muster in the private sector, I would suggest that is only a generalization that does not deal with what this bill seeks to accomplish. I speak not simply based on the experience which I had as an assistant district attorney, as a special assistant attorney general in the Commonwealth of Pennsylvania, and as district attorney of the city of Philadelphia for some 8 years, where we handled more than 30,000 cases a year with 45 criminal courtrooms in operation each day on the court of general criminal jurisdiction and some 2 courts of a municipal court jurisdiction and 8 juvenile courts in operation, where we were able to have detailed experience day in and day out with the assistance of the Federal funding.

My experience is not unique. Testimony has come from prosecuting attorneys from around the country who have been supportive of the carefully selected Federal program which we have put together and are raising today on the floor of the U.S. Senate. Indeed, a companion measure has passed the House overwhelmingly, sponsored by Congressman HUGHES who also has experience as a prosecuting attorney.

When the distinguished Senator from North Carolina refers to the career criminal bill, where he notes his was the sole dissenting vote with some 93 in favor of that bill, and then refers to an editorial in the Baltimore Sun, I must say that I read that editorial somewhat differently from the distinguished Senator from North Carolina if he reads it as a compliment to his position.

I think, on the contrary, the thrust of the Baltimore Sun editorial is in support of the innovative approach—and pardon me if I use that word but I think it is appropriate, because the bill does something which has not been undertaken before and that is it brings the Federal Government in to fight violent street crime in the United States. And it does so in a way which is based on solid jurisdictional prece-

dent, which has been upheld in the Federal courts, that holds under existing statutes that it is a Federal offense for someone to possess a firearm when that individual has been convicted of a State felony.

The career criminal bill uses that underpinning as a jurisdictional base to say that where someone has committed two or more robberies or burglaries and then commits a subsequent robbery or burglary with a firearm, that is a Federal offense. Certainly in the career criminal bill, where you have someone with a firearm having previously committed two or more robberies or burglaries, certainly there is a State felony conviction that comprehends the existing statute. And it is solidly based on court precedent to bring the Federal Government into this very important phase of law enforcement.

It will very much enhance the ability of State prosecutors to move their cases when the career criminals know that if they continue to dodge in the State court and continue to duck and do not enter pleas of guilty where there are solid cases against them that their cases may be taken up in the Federal court where they will face a mandatory minimum of 15 years in jail. That is a very solid program indeed on the merits, which I submit have not been addressed by the distinguished Senator from North Carolina.

When the distinguished Senator from North Carolina raised the objection, as he did, at the end of September that he wanted further time to consider this bill, as was his right, the matter was held over until this special session.

I do commend the distinguished Senator from North Carolina on his diligence and his interest. And I think that it is exemplary and appropriate that all of these matters be subjected to the utmost scrutiny which does make this the deliberative body which it is reputed to be. I think that his comments and his questions have spurred debate here as his comments and questions have spurred analysis overall.

As Chairman THURMOND has pointed out, this matter has been deliberated between Chairman THURMOND and others on the Senate Judiciary Committee and Congressman HUGHES and Counselor to the President, Edwin Meese, and has received very, very careful analysis. I might say, on the career criminal bill, that has been considered by the President himself, because I had occasion to meet at some length in a meeting of some 30 minutes with the President, last year, November of 1981, where he considered the career criminal bill and gave his unqualified endorsement to it.

So that I think that these matters have been subjected to appropriate analysis. I do thank the distinguished Senator from North Carolina for his contribution in bringing up these important considerations and issues.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, before the distinguished Senator from North Carolina came to the U.S. Senate, I should advise him that I was viewed as the strongest critic of LEAA of anyone in the Senate. As a matter of fact, Senator McClellan—a fine, powerful, but, unfortunately, deceased Senator from Arkansas—when he was here, he viewed himself as the father of this legislation and viewed me as an errant stepchild for daring to attack LEAA.

Much of what the Senator from North Carolina said about the particular piece of legislation that Senator SPECTER and I have cosponsored and brought to the floor here would have been extremely applicable 8 years ago to LEAA. It would have made sense. But what this bill is is a distillation of all the legitimate criticism of the LEAA program—the waste and misuse of money and lack of focus. That, in fact, is one of the reasons why the previous attempt to provide State and local government assistance in fighting crime was not as successful as I believe this will be.

This bill, notwithstanding the characterizations of the Senator from North Carolina, is a narrowly focused bill. What we have done is we have taken the best out of the past, those programs which have had and do have a long track record of success, and recognized the needs of State and local governments. State and local governments, unlike other instructions of the Federal Government, not only viewed this as important, but have pled with us for this assistance. They need it very badly.

The Senator from South Carolina, the chairman of the full committee, and I sent out a questionnaire to a number of criminal justice officials—as a matter of fact, 12,000 questionnaires—to criminal justice professionals across the country, asking their opinions about pending crime legislation that the Senator from South Carolina, Senator THURMOND, and I were able to pass through this body prior to our recess.

The response to the questionnaires was extraordinary. There were 4,000 people who have filled in this questionnaire so far. Question 3 of that questionnaire is as follows:

> Federal assistance to State and local criminal justice agencies is necessary if we are to find new successful crime fighting and crime prevention techniques. Do you agree or disagree?

Eighty percent said, "Right on, Senators." They did not quite put it that way. Eighty percent said, "Yes, that help is needed and needed badly." Ninety-four percent of the crime in this country falls within the jurisdiction of State and local law enforcement. They do need help.

An area where the Federal Government can play a stronger role deals with drug enforcement. The fact of the matter is that the drug problem in North Carolina is not a North Carolina drug problem. It is a worldwide drug problem, because most of those drugs came through New York, down across Pennsylvania and Delaware and into North Carolina, or up from Florida. North Carolinian officials have little impact on whether or not it can get through their State or get into their State. Once it is there, it is about five times as difficult to deal with as it is to prevent it from getting there in the first place.

Those so-called career criminals that we are talking about do not know State boundaries, they do not honor State borders. They have become very adept at forum shopping, if you will.

The fact of the matter is that the reason some of those heinous criminals who get arrested in North Carolina may sit at the bottom of the pile and be tried well after the drunk driver in North Carolina and may be out on bail in the meantime is that, prior to Federal help, the prosecutor of North Carolina did not know that that same fellow had raped three women in California, murdered somebody in Pennsylvania, and held up a bank in Delaware. He had no way of knowing that. All the prosecutor of North Carolina knows is he had him on a two-bit charge for larceny of a 1965 Chevy.

One more point. I admire the Senator's defense of the New Federalism and individual responsibility, but I am perplexed at the way he applies it on the floor. He talks about maybe it being about time the family took responsibility, the States took responsibility, and individuals took responsibility. I agree with him. I think it is about time the family would take responsibility for teaching kids how to pray instead of having the Federal Government teach kids how to pray. The Senator does not seem to see anything inconsistent in having the Federal Government pass a constitutional amendment that says, "Pray, brethren, pray, in your public schools." I am not saying that is bad. I am not passing a value judgment. It is a very individual responsibility.

What we are saying here, is, look, if you want to buy into this program we have figured out over the past 10 years the most effective ways to use it, we have identified programs that work, so you can buy in—if, in fact, you want to use it for these programs.

You do not have to. North Carolina does not need to take any of this. Nobody is going to force it down the throat of the Governor of North Caro-

lina or anybody else. The question is whether or not they want to participate in what all their police agencies want, unless I am mistaken. I do not know of any major police agency in North Carolina that does not think this is a good idea. I do not know of any small police agency in North Carolina that does not think this is a good idea.

What we are doing here, unfortunately, is something that is not very significant. Notwithstanding how much Senator SPECTER and I would like to see headlines in tomorrow's papers that say "Specter-Biden bill passes altering criminal justice system for the better," that is not going to happen. What this bill does do is take out what is good about Federal participation, it synthesizes it—to use a shopworn term here in Washington, D.C., it "prioritizes" it. It says, "Let the Federal Government help in a case where, A, there is a proven track record and, B, where the States themselves have a need but not the resources to develop these new programs."

That gets me into the second part and then I shall cease here.

The fact of the matter is that all we are saying in both of those sections in a general sense is why do we not get the best minds of the country working on programmatic approaches that we know deal with problems that every State has—recidivism in the State of North Carolina is just as serious a problem as it is in the State of Delaware. Juvenile delinquency and causes of it, backlog of court cases, how to streamline the system, and all the rest are equally difficult to deal with in one State as another. It seems to me one of the few appropriate roles for the Federal Government in the criminal justice system as it relates to States is dealing with what are acknowledged to be the problems that are the same in every State, from prison overcrowding to recidivism. We need to have a national focus.

It is not unlike the concept of the National Science Foundation. Nobody views that as an intrusion into the State of North Carolina or the State of Delaware. The best minds in the country get together and deal with problems that are national issues that have to be dealt with locally. When they find an answer, it is shared with the State and local governments, industries, et cetera.

It is not unlike the notion that we are trying to see to it that we focus so we do not waste our money on the problems that we know exist. The States have shown us that they exist. They have asked help in a monetary sense for dealing with these.

I remember the first speech I made on assistance to State and local governments. I was able to document the fact that one small town used their LEAA funds to buy riot control gear, the nightsticks and those clear plastic face masks as if they would be in the middle of a riot in downtown Washington, D.C., with a million peace marchers.

There was another town up in the Northeast that bought personnel tank carriers to see to it that they could get back and forth to the scene of the crime without being blown away by, I guss, an F-15 that had been commandeered by the Mafia or somebody.

There was another town where the police officers, in a town with several thousand people, decided they needed those Dick Tracy watches, one of those things they wore on their wrists where they could talk to each other. They thought that was great.

I think this is a fairly streamlined piece of legislation and though I seriously do acknowledge and respect the Senator's right to take issue with this bill, as he did the other bill to which he referred earlier, the career criminal bill—if he will remember, I agreed with him on the career criminal bill until we got some changes to make sure that the State could have the ultimate call on whether or not the Federal Government could decide to get involved in trying a person in Federal court.

I am really not sure he read this as thououghly as he should have, maybe, because there is nothing really wholly new in this. All we do is take the best of what we know has worked.

All we do is take the best of what we know has worked and make it available with, I might add, $100 million. This concerns the Senator; because it is a lot of money. What absolutely appalls me, with the crime rate the way it is, with the crying need of State and local governments and how badly they are strapped, is that we are spending so little money to help our police, we are spending so little money to deal with crime problems. For the entire criminal justice system in the United States of America, including the courts, if I am not mistaken, we expend approximately $32 billion, for it all, and yet we think nothing of authorizing $256 billion for defense. I think our defense is as much at peril from within from the criminal element as it is from the likelihood of us being invaded by the Soviet Union or any other hostile power.

That is not to suggest we should not be spending a lot of money on defense; we should, but I am suggesting that my one lament about this bill is that it is not enough. We should be doing so much more than we are doing now in terms of the overall crime problem. We should be spending so much more of our resources on dealing with the problem than we are now that we should almost in a sense apologize for how insignificant in the total scheme of things this is. What is significant about this is it has eliminated greatly the bad and waste that existed in the former program.

Unfortunately, I suppose anybody can waste money. You could not draw a program so tight that there was no possibility of wasting money. But we see to it under the bill that there are national priorities set out, that there are discretionary programs that certain funding under certain situations where there is a great potential for success—emergency assistance, training and technical assistance for the police operations in States, and an ability for us to put together national statistics and also bring together the best minds to deal with some of the problems that cross State borders.

I hope, when we get the amendments, our colleagues keep that in mind. I sincerely hope that this bill will in fact have the kind of support the Senator from North Carolina predicts it will.

This is not a matter that has been brought up lately. This issue has been debated, the notion has been debated. There have been hearings. When I was ranking member of the criminal law subcommittee, I held a couple days of hearings on this. The Senator from Pennsylvania, who is the prime mover on this matter in this Congress, held hearings. We have had an awful lot said and to say about this legislation.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. DURENBERGER). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at this time I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be treated as original text for purpose of further amendment.

Mr. BIDEN. I do not object.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Mr. President, I am sorry. I wanted to get clarification. On what was the Senator asking unanimous consent?

Mr. SPECTER. I was asking unanimous consent for approval of the committee amendments which have been printed.

Mr. EAST. Yes.

Mr. SPECTER. I do not believe those are controversial.

Mr. EAST. Yes. I have no objection.

The PRESIDING OFFICER. Is there any other objection?

The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1420

(Purpose: To make certain technical amendments)

Mr. SPECTER. Mr. President, I submit an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) proposes an unprinted amendment numbered 1420.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 6, strike out "(12)" and insert in lieu thereof "(11)".

On page 23, strike out beginning with line 23 through line 22 on page 25 and insert in lieu thereof the following:

"(1) identify and process within justice systems persons with a history of serious criminal conduct;

"(2) provide programs which address the problem of serious and violent offenses committed by juveniles;

"(3) combat arson;

"(4) disrupt illicit commerce in stolen goods and property;

"(5) effectively investigate and bring to trial white-collar crime, organized crime, public corruption crimes, and fraud against the Government;

"(6) provide community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

"(7) provide programs to speed the trial of criminal cases, reform sentencing practices and procedures, improve the efficiency of the jury system, and improve the processing of cases involving the mentally incompetent and pleas of mental incapacity;

"(8) provide training, management, and technical assistance to justice personnel;

"(9) provide assistance for the development and operation of justice information systems, including management information systems;

"(10) coordinate the activities of components of the criminal justice system;

"(11) develop and implement programs which provide assistance (other than compensation) to jurors, witnesses, and victims of crime;

"(12) provide programs which address offenses committed against the elderly;

"(13) provide programs which identify and meet the needs of drug-dependent offenders;

"(14) provide alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community; and

"(15) provide programs which alleviate prison and jail overcrowding".

On page 26, line 23, strike out the quotation marks and the second period.

On page 26, after line 23, add the following:

"(d) No more than 5 per centum of the total funds reserved and set aside for this part can be allocated within a State.".

On page 44, line 10, strike out the quotation marks and the second period.

On page 44, between lines 10 and 11, add the following:

"(h) There is authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part K.".

On page 45, line 9, strike out "(42 U.S.C. 3797-3797 (c))" and insert in lieu thereof "(42 U.S.C. 3796-3796 (c))".

On page 45, lines 13 and 14, strike out "(42 U.S.C. 3797-3797 (c))" and insert in lieu thereof "(42 U.S.C. 3796-3796 (c))".

On page 45, lines 17 and 18, strike out "(42 U.S.C. 3797-3797 (c))" and insert in lieu thereof "(42 U.S.C. 3796-3796 (c))".

On page 52, add after the item for section 601 the following:

"602. Training of prosecuting attorneys.
"603. Training State and local criminal justice personnel.
"604. FBI training of State and local criminal justice personnel.
"605. Criminal justice education program.".

Mr. SPECTER. Mr. President, this amendment accomplishes two improvements suggested by the distinguished Senator from Nevada (Mr. LAXALT) at the time the bill was pending before the Committee on the Judiciary. First, it reorders the list of national crime priorities identified in section 6 of the bill without modifying that list substantively.

I agree with the distinguished Senator from Nevada that those who administer this program should understand that it is our desire that they give priority to serious and repeat offenders of violent crime.

Second, the amendment establishes a cap on the amount recipients within any one State may receive annually from the categorical national priority implementation and replication program. It would institute programs of proven effectiveness in the war against crime. By this device we strengthen the assurances already contained in the bill that no one jurisdiction will benefit inequitably at the expense of those in other States and seek to assure the fair distribution of program funds throughout the Nation.

I thank the Senator from Nevada for these worthwhile suggestions. I move that these amendments be agreed to.

The PRESIDING OFFICER. Does the Senator yield back his time on this amendment?

Mr. SPECTER. On this amendment, I do yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1420) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1421

(Purpose: To make certain technical amendments)

Mr. SPECTER. Mr. President, I now send to the desk a set of amendments suggested by the Department of Justice and ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) proposes an unprinted amendment numbered 1421.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 6, line 3, after "general authority" insert "and policy direction".

On Page 6, line 4, after "Assistance" insert "(hereinafter referred to as the 'Office')".

On page 6, line 6, strike out "a Director" and insert in lieu thereof "an Assistant Attorney General for Justice Assistance (hereinafter referred to as the Assistant Attorney General)".

On page 6, line 8, strike out "a Director" and insert in lieu thereof "an Assistant Attorney General".

On page 6, line 11, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 6, line 12, strike out "Director" and insert in lieu thereof "Attorney General" and strike out "Directors" and insert in lieu thereof "Assistant Attorneys General".

On page 6, line 15, strike out "the Office of Justice Assistance" and insert in lieu thereof "this title".

On page 6, line 16, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 6, lines 17 and 18, strike out "by the Office of Justice Assistance" and insert in lieu thereof "under this title".

On page 6, line 23, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 7, line 22, strike out "part" and insert in lieu thereof "title".

On page 7, line 24, strike out "disasters" and insert in lieu thereof "emergencies".

On page 8, lines 2 and 3, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 8, lines 18 through 20, strike out "each from the National Institute of Justice Advisory Board, the Bureau of Justice Statistics Advisory Board, and" and insert in lieu thereof "from".

On page 10, lines 6 through 10, strike out "National Institute of Justice Advisory Board, two representatives to serve as nonvoting coordinating members on the Bureau of Justice Statistics Advisory Board, and two representatives to serve as nonvoting coordinating members on the".

On page 10, beginning at line 17, strike out through line 13 on page 11, and insert in lieu thereof the following:

"(1) recommend to the Assistant Attorney General such policies and program priorities as it deems advisable;

"(2) review and evaluate the activities carried out under this title and make such recommendations to the Assistant Attorney General as it considers necessary or appropriate;

"(3) review and evaluate Federal policies and priorities in justice assistance; and

"(4) coordinate its activities with the National Advisory Committee for Juvenile Justice and Delinquency Prevention, and the Coordinating Council on Juvenile Justice and Delinquency Prevention.".

On page 14, line 16, strike out "amended" and insert in lieu thereof "stricken.".

On page 14, beginning at line 17, strike out all through line 5 on page 16.

On page 18, line 13, strike out "amended" and insert in lieu thereof "stricken.".

On page 18, beginning on line 14, strike out all through line 21 on page 20.

On page 23, line 11, strike out "Director of the Office of Justice Assistance" and insert in lieu thereof "Assistant Attorney General".

On page 23, line 15, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 23, line 19, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 23, line 20, strike out "Director" and insert in lieu thereof "Office".

On page 25, line 23, strike out "Director of the".

On page 26, line 2, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 26, line 10, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 29, lines 8 and 9, strike out "Director of the Office of Justice Assistance" and insert in lieu thereof "Office".

On page 30, lines 3 and 4, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 31, strike out lines 15 through 23 and insert in lieu thereof the following:

"SEC. 801. (a) The Assistant Attorney General shall provide coordination, staff, and services support for the Office of Justice Assistance, National Institute of Justice, and Bureau of Justice Statistics".

On page 31, line 24, strike out "(c)" and insert in lieu thereof "(b)".

On page 32, lines 1 through 3, strike out "the Director of the Office of Justice Assistance, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics or".

On page 32, line 11, insert after "Administration," the following: "the Bureau of Justice Statistics, and the National Institute of Justice are".

On page 32, line 12, strike out the comma and insert in lieu thereof "and".

On page 35, line 24, strike out "Director of the Office of" and insert in lieu thereof "Assistant Attorney General for".

On page 37, line 23, strike out "Director of the Office of" and insert in lieu thereof "Assistant Attorney General for".

On page 38, lines of 20 and 21, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 41, line 10, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 43, line 5, strike out "$25,000,000" and insert in lieu thereof "such sums as are necessary".

On page 43, line 9, strike out "$25,000,000" and insert in lieu thereof "such sums as are necessary".

On page 44, line 7, strike out "$20,000,000" and insert in lieu thereof "such sums as are necessary for the purposes".

On page 45, between lines 20 and 21, add the following:

(d) Section 1102 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797b), as redesignated by this section, is amended—

(1) in clause (2) by striking out "or";

(2) in clause (3) by striking out the period and insert in lieu thereof "; or"; and

(3) by adding at the end thereof the following:

"(4) if the public safety officer was performing his duties in a grossly negligent manner at the time of his death.".

(e) Section 1103 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797b), as redesignated by this section, is amended by striking out clause (4) and inserting in lieu thereof the following:

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol into the body as evidenced by—

"(A) a post-mortem blood alcohol level of .20 percent or greater;

"(B) a post-mortem blood alcohol level of at least .15 percent but less than .20 percent, unless the Office receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death;

or resulting from drugs or other substances in the body.".

(f) Part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c), as redesignated by this section, is further amended by adding at the end thereof the following:

"JURISDICTION

"SEC. 1105. The United States Claims Court shall have exclusive jurisdiction over all actions seeking review of the final decisions of the Office under this part.

"EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

"SEC. 1106. (a) The Attorney General is authorized to receive from the chief executive of any State a request for designation of a State or local jurisdiction as a law enforcement emergency jurisdiction. Such application shall be submitted in such manner and contain or be accompanied by such information as the Attorney General may prescribe. Such application for designation as a law enforcement emergency jurisdiction shall be evaluated by the Attorney General according to such criteria, and on such terms and conditions as he shall establish and shall publish in the Federal Register prior to the beginning of fiscal year 1984 and revise as necessary thereafter at his discretion.

"(b) The Attorney General shall, in accordance with the criteria established, approve or disapprove such application for designation not later than ten days after receiving such application.

"ASSISTANCE PROVIDED

"SEC. 1107. (a) Upon a finding by the Attorney General that a law enforcement emergency exists in accordance with the provisions of section 601, the Federal law enforcement community is authorized to provide Federal law enforcement assistance for the duration of the emergency. The costs of such assistance in excess of those for which funds are separately authorized and appropriated may be paid by the Office of Justice Assistance from funds appropriated under this part, in accordance with procedures established by the Assistant Attorney General and the heads of the participating Federal law enforcement agencies and with the approval of the Attorney General.

"(b) Upon such finding by the Attorney General, the Assistant Attorney General may provide technical assistance, funds for the lease or rental of specialized equipment and other forms of emergency assistance to the jurisdiction, except that no funds may be used to pay the salaries of local criminal justice personnel or otherwise supplant State or local funds that would in the absence of such Federal funds be made available for law enforcement. The costs of assistance provided under this section shall be paid by the Office of Justice Assistance from funds appropriated under this part. The Federal share of such assistance may be up to 100 per centum of project costs.".

On page 46, strike out lines 1 through 14 and insert in lieu thereof the following:

(A) by adding "(1)" immediately after "(a)"; and

(B) by adding at the end of subsection (a) the following:

"(2) All orders, determinations, rules, regulations, and instructions of the Department of Justice issued pursuant to the Justice System Improvement Act of 1979 which are in effect on the date of the enactment of the Justice Assistance Act of 1982 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President or the Attorney General, the Director of the Bureau of Justice Statistics, the National Institute of Justice, or the Administrator of the Office of Juvenile Justice and Deliquency Prevention, or the Director of the Office of Justice Assistance with respect to their functions under this title or by operation of law."; and

(C) by striking out subsection (j) and inserting in lieu thereof the following:

"(j) The Assistant Attorney General may award new grants, enter into new contracts or cooperative agreements and otherwise obligate unused or reversionary funds previously appropriate for the purposes of parts D, E, and F of this title as in effect on the day before the date of enactment of the Justice Assistance Act of 1983, for purposes consistent with this title.".

On page 51, line 4, strike out "Director" and insert in lieu thereof "Assistant Attorney General".

On page 52, at the end of the table of sections for part add the following:

Sec. 1105. Jurisdiction.

Sec. 1106. Emergency Federal Law Enforcement Assistance.

Sec. 1107. Assistance provided.

On page 53, line 10, strike out "Director of the Office of" and insert in lieu thereof "Assistant Attorney General for".

On page 54, line 17, strike out "Director, Office" and insert in lieu thereof "Assistant Attorney General for".

On page 54, after line 21, add the following:

(c)(1) Section 506 of title 28 of the United States Code is amended by striking out "ten Assistant Attorneys General" and inserting in lieu thereof "eleven Assistant Attorneys General".

(2) Section 5315(19) of title 5 of the United States Code is amended by striking out "(10)" and inserting in lieu thereof "(11)".

Mr. SPECTER. Mr. President, these amendments which I have just offered at the request of the Department of Justice serve to bring within the scope of the House-Senate conference, which I hope will be insuring upon final consideration of this matter, an organizational structure strongly favored by the Department. As the committee report suggests in the section on agency views, the Department has been critical of the management structure embodied in the bill. This packet of amendments along with one other I will next submit satisfies the Department of Justice with regard to the organizing of the Office of Justice Assistance, and National Institute of Jus-

tice and the Bureau of Justice Statistics.

In essence, the Department's suggestions provide for an Office of Justice Assistance to be headed by an Assistant Attorney General rather than by a Presidentially appointed Director who would work with an Assistant Attorney General; the elimination of the NIJ and BJS advisory boards and the establishment of a single, 15-person advisory board on criminal justice, assistance and research statistics; and for placing the Federal emergency law enforcement assistance program more directly under the Attorney General.

Finally, I note that this series of amendments also includes the Department's amendment to redefine exceptions to the public safety officer benefit program.

I might add that although there has been some controversy and some discussion of these issues, we have seen fit to accept the requests of the Department of Justice in these respects. I move that the amendments be agreed to.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. SPECTER. Yes; I yield back the remainder of my time applicable to those amendments.

The PRESIDING OFFICER. All time is yielded back on the amendment. The question is on agreeing to the amendment

The amendment (UP No. 1421) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1422

(Purpose: To make certain technical amendments)

Mr. SPECTER. Mr. President, at this time I send to the desk an additional amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) proposes an unprinted amendment numbered 1422.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, is so ordered.

The amendment is as follows:

On page 13, strike out line * * * and insert in lieu thereof the following:

(1) by striking out subsections (a) and (b) and inserting in lieu thereof:

"(a) There is established within the Office of Justice Assistance a National Institute of Justice (hereinafter referred to in this title as the 'Institute').

"(b) The Institute shall be headed by a Director appointed by the Attorney General. The Director shall have had experience in justice research. The Director shall have authority to make grants, cooperative agreements, and contracts awarded by the Institute. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Institute makes any contract or other arrangements under this title.".

On page 16, strike out lines 14 through 24 and insert in lieu thereof the following:

(1) by striking out subsections (a) and (b) and inserting in lieu thereof:

"(a) There is established within the Office of Justice Assistance a Bureau of Justice Statistics (hereinafter referred to in this title as the 'Bureau').

"(b) The Bureau shall be headed by a Director appointed by the Attorney General. The Director shall have had experience in statistical programs. The Director shall have authority to make grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangements under this Act.".

Mr. SPECTER. Mr. President, this final amendment is being proposed also at the request of the Department of Justice. Its adoption will complete the modifications of the bill needed to bring within the scope of the House-Senate conference the management structure the Department strongly supports. In essence, this amendment would place the National Institute of Justice and the Bureau of Justice Statistics within a new Office of Justice Assistance, downgrade the Directors of the Institute and the Bureau from Presidential appointments to those of the Attorney General, and leave final grantmaking authority in the Assistant Attorney General.

I understand that the distinguished Senator from Delaware (Mr. BIDEN) may wish to comment on this amendment at this time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I wish to comment on the amendment and oppose it.

Mr. President, I have great concerns that this amendment which would wipe out completely the independence of the crime research and statistics gathering arm of the Federal Government and is different than what we reported out of committee is about to be adopted.

It seems very important that the entity responsible for conducting research into new crime fighting techniques be separate in terms of funding and grantmaking authority so that objective research and evaluation is carried out on those projects and programs funded by the Federal Government.

It is also very important that accurate and objectively collected crime statistics be made available separate and apart from the potential influence and/or direct control of those responsible for administering programs funded to reduce crime.

If we are to know the actual extent of the national crime problem or what really works in fighting crime, we must insure the independence of the National Institute of Justice and Bureau of Justice Statistics.

This is certainly not a very novel consideration. In fact, it is current law and has served as one of the key issues for the entire restructuring of the former LEAA program. It was clear that this was necessary to Congress when the Justice Department Improvement Act of 1979 became law.

I noted earlier in my opening statement that my major criticism of the former LEAA legislation related not merely to the waste that took place within the program but the lack of focus, and one of the purposes that I and others had in getting this proposal separated out, this function separated out, was in order to see to it that we continue to have focus, and I quote from the report on this act. It said:

It is critical that the statistical function be insulated from undue interference, so that the data collected are reliable and objective.

More recently, I cite from the report on H.R. 4481, the House version on justice assistance that was authored and guided through the House so successfully by Congressman HUGHES.

The 1979 act responded to criticisms of the research and statistics projects by establishing the National Institute of Justice and the Bureau of Justice Statistics as independent units within the Department of Justice.

It is also of interest to note that the Attorney General's task force on violent crime in their final report noted in recommendation 51, the following:

The Attorney General should ensure that adequate resources are available for the collection and analysis of statistics on crime, its victims, its perpetrators and all parts of the justice system at all levels of Government. . . .

Also recommendation 53 stated the following:

Attorney General should ensure that adequate resources are available for the research, development, demonstration, and independent evaluation of methods to prevent and reduce serious crime.

Based on these recommendations by the Attorney General's own task force I, for the life of me, cannot understand why they are proposing in this amendment to reduce the independence and authority currently held by the Federal research and statistics agencies.

It is important that the Bureau of Justice Statistics and the National Institute of Justice coordinate and work more closely with the operational grant program, because the research

and statistics they produce are necessary for policy analysis and program development. I believe that recent changes in policy at these agencies has brought their research more in line with the practical needs of criminal justice personnel.

It is essential that we have a strong research and statistic component that is adequately funded and works in unison with the funding and grant making agency so we can begin to find out what works in fighting crime. Research and evaluation must maintain a degree of automony so as to be in a position to objectively tell us what our course of action should be. We must avoid spending limited Federal dollars on programs that do not work. The only way we will know this is if there is good objective data on the success or failure of these programs.

This goes back to a criticism that I think is a justified criticism by the Senator from North Carolina of this whole approach. It is very, very difficult for the agency that is dispensing the money to the States for programs that are I believe good programs to make as objective an evaluation of whether or not they are working on an ongoing basis as an independent outfit that does not have anything to lose, if you will, by making judgment that the program is not working.

That is one of the reasons we separated it out in the first place. And I see nothing to lead one to believe that moving them back under one umbrella again is a good idea and will result in anything other than the same problem we had before we separated this out.

For these reasons and some others which I will not bore the Senate with at this moment, I do not support this amendment, and I will work very hard in conference with the House of Representatives to see that the criminal justice and research statistics remain an important element of our justice assistance program.

I also will not take the Senate's time at this moment to get into a particularly long debate with the Senator from Pennsylvania, however, I do have several questions. Let me read from two portions of the report on the bill that we are voting on today.

One is:

> Over the past 20 years, there has been general agreement about the need for federal involvement in the development of criminal justice research. The purpose of NIJ is to operate a national independent research effort for the purpcses specified in the Act. Congress has determined that if federal justice research, demonstration and evaluation is to play an important role in setting national policy and direction in anticrime and justice systems improvement, then the National Institute of Justice must have the independence and the autonomy needed to carry out its authority.

Another portion from our committee report reads, and I will cease with this:

> During the 1970's several authoritative reports on the Federal role in criminal justice research stressed two primary themes—the need for a balanced program of basic and applied research and the importance of an independent research program. These objectives were explicitly adopted by Congress with the JSIA. The amendments to section 202(b) of JSIA are intended to emphasize this independence by ensuring that the Director's authority over the program includes necessary control over such administrative matters as personnel and budgeting. These are important to effective management of the program.

I can understand making some revisions in the current administrative structure, but what I am worried about is that in addition to the independence the research and statistic agencies will lose if this is adopted, it could also result in the reduction of funding or even elimination of these agencies because we are talking about limited funds. So I am not sure I am prepared to press this to a vote now, but I wish to make it clear in the record I strenuously object to this amendment.

I sum it up, once again by saying they should be independent, so that we have an independent agency that is outside and is able to objectively look in and evaluate as the program is working. If these functions are not insulated there, jobs will be difficult and, second, we would both acknowledge there will be pressure to move the programmatic way rather than on the research and development side, and I fear they may be wiped out.

So for that reason I strongly oppose this amendment.

Mr. SPECTER. Mr. President, I acknowledge the weight of the arguments which have been made by the distinguished Senator from Delaware (Mr. BIDEN).

The amendments, as earlier stated, have been offered at the request of the Department of Justice in an effort to bring as many parties into harmony as possible.

As manager of this bill, the Senator from Pennsylvania has agreed to these amendments, but I do understand the weight of the argument that the Senator from Delaware has made and this is an appropriate matter for consideration in conference. But, in accordance with the arrangements that I have made with the Department of Justice, I will be urging the retention of these amendments in the conference.

At this time, I move the adoption of the amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. SPECTER. I do.

Mr. BIDEN. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Pennsylvania.

(Putting the question.)

The PRESIDING OFFICER. The Chair is in doubt.

(Putting the question.)

The PRESIDING OFFICER. The ayes appear to have it.

Mr. EAST. Mr. President, I wish to explain for the record that my purpose in voting "aye" is so that the matter could be resolved in conference. I would not wish to have the record suggest that by this vote of "aye" I am thereby indicating my personal support of particular organizational differences here between the distinguished Senators from Delaware and Pennsylvania.

I do think they raised a very valid point and it needs to be examined with some care. I think the conference committee can do that.

I am simply voting with the Senator from Pennsylvania so that this matter could be resolved in conference.

Mr. SPECTER. I thank the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The question will once again occur on the amendment of the Senator from Pennsylvania.

(Putting the question.)

The PRESIDING OFFICER. The ayes appear to have it. The ayes do have it.

The amendment (UP No. 1422) is agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EAST. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1423

(Purpose: To modify the judicial districts of West Virginia, and for other purposes)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk on behalf of myself and Mr. RANDOLPH an amendment and ask it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. ROBERT C. BYRD), for himself and Mr. RANDOLPH, proposes an unprinted amendment numbered 1423.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

SEC. . Section 129 of title 28, United States Code, is amended—

(1) in subsection (a) by—

(A) striking out ", Wirt, and Wood";

(B) inserting "Braxton," after "Berkeley,";

(C) inserting "Pocahontas" after "Pleasants,"; and

(D) inserting "Webster, and" after "Upshur"; and

(2) in subsection (b) by—

(A) striking out "Braxton,", "Pocahontas," and "Webster,"; and

(B) inserting "Wirt, Wood," after "Wayne,".

SEC. . (a) The existing district judgeship for the Southern District of West Virginia, authorized by section 2 of the Act entitled "An Act to provide for the appointment of additional district and circuit judges and for other purposes", approved October 20, 1978, (92 Stat. 1632; 28 U.S.C. 133 note) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28 of the United States Code as a district judgeship for the Northern District of West Virginia, and the incumbent of that office shall henceforth hold office under section 133, as amended by this Act.

(b) The existing district judgeship for the Northern and Southern Districts of West Virginia shall be authorized as the district judgeship for the Southern District.

SEC. . The table in section 133 of title 28, United States Code, is amended by striking out the following:

"West Virginia:
"Northern..... 1
"Southern..... 3
"Northern and Southern..... 1".

and inserting in lieu thereof the following:

"West Virginia:
"Northern..... 2
"Southern..... 4".

Mr. ROBERT C. BYRD. My colleague will be on the floor shortly and he will want to speak on this subject.

Mr. President, I am offering this amendment on behalf of Senator RANDOLPH and myself to improve and facilitate the administration of justice in the Federal judiciary in my home State of West Virginia. In recent years, the judiciary has been increasingly burdened in West Virginia by several problems which need to be corrected. There is a growing disparity of caseloads between the northern and southern districts. The State still has a "swing" judgeship, in which position Judge Haden must serve though he also serves most ably as the chief judge of the southern district. In addition, there are several counties in each of the districts that would be better included, because of the region's geography, in the State's other district.

In brief, the amendment which I am introducing on behalf of my senior colleague Senator RANDOLPH and myself, would transfer Wood and Wirt Counties to the southern district, with Braxton, Webster, and Pocahontas Counties being shifted to the northern district. The "swing" judge's designation would be eliminated, with Chief Judge Haden being permanently located in the south. Judge Kidd would be transferred from the southern to the northern district, and the temporary judgeship would be abolished.

This change will not cost the Federal Government any additional money.

The southern district will be reduced from four and one-half to four judges, and the northern district will be increased from one and one-half to two.

I urge the passage of this amendment, and I yield to my senior colleague, Senator RANDOLPH, for his comments.

I now yield to my distinguished senior colleague, Mr. RANDOLPH.

Mr. RANDOLPH. Mr. President, I happily join with my fellow West Virginian and our able minority leader of the Senate, in supporting this amendment.

I am a cosponsor of S. 3081, known as the West Virginia Federal Judiciary Improvement Act. I recognize the need for the realinement and the adjustments necessary to improve services and facilitate the administration of justice in the Federal judiciary in our home State of West Virginia.

This amendment proposes a shift in certain counties included in the northern and southern districts of West Virginia to better accommodate the increasing litigation and the disparity of the caseloads between the two districts.

It is important to note that this change will not cost the Federal Government, which is our Government and which belongs to the people, a single additional dollar.

It will serve, as I have said, to facilitate the judicial process and provide a more efficient system for the disposition of the caseload.

Mr. President, this amendment will alleviate a difficult situation that exists in our State of West Virginia, and I have joined, of course, with my colleague in hoping that the Senate, our colleagues, will give it their favorable consideration and approval.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I am ready to yield back the remainder of my time.

Mr. RANDOLPH. I yield back my time.

Mr. THURMOND. Mr. President, we yield back the time on our side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1423) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1424

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 1424.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. —. Section 1114 of title 18, United States Code, is amended—

(a) by inserting "or attempts to kill" after "kills";

(b) by striking out "while engaged in the performance of his official duties or on account of the performance of his official duties" and inserting in lieu thereof "or any officer or employee of any department or agency within the Intelligence Community (as defined in section 3.4(F) of Executive Order 12333, December 8, 1981, or successor orders) not already covered under the terms of this section"; and

(c) by inserting before the period at the end thereof a comma and the following: "except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 2. Chapter 51 of title 18, United States Code is amended by adding at the end thereof the following new section:

"§ 1118. Murder, manslaughter, assaults, threats, extortion, or kidnaping of persons given entry into the United States for permanent residence pursuant to section 7 of the Central Intelligence Agency Act of 1949

"(a) Whoever kills or attempts to kill a person given entry into the United States for permanent residence pursuant to the provisions of section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

"(b) Whoever engages in conduct proscribed by section 112, 878, or 1201 of this title against any person described in subsection (a) shall be punished as provided under those sections.".

SEC. 3. Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1119. Murder, manslaughter, assaults, threats, extortion or kidnaping of persons present in the United States under intelligence auspices

"(a) Whoever kills or attempts to kill a person certified by the Director of Central Intelligence or his designee to be present in the United States under the auspices of any department or agency within the Intelligence Community (as defined in section 3.4(F) of Executive Order 12333, December 8, 1981, or successor orders) shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

"(b) Whoever engages in conduct proscribed by section 112, 878, or 1201 of this title against any person described in subsection (a) shall be punished as provided under those sections.".

SEC. 4. The table of sections for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"1118. Murder, manslaughter, assaults, threats, or kidnaping of persons given entry into the United States for permanent residence pursuant to section 7 of the Central Intelligence Agency Act of 1949.

"1119. Murder, manslaughter, assaults, threats, extortion, or kidnaping of persons present in the United States under intelligence auspices.".

Mr. THURMOND. Mr. President, this amendment, which was introduced as an original bill by the able Senator from Delaware (Mr. BIDEN), seeks to close a critical gap in the Federal criminal statutes by making it a Federal crime to murder, manslaughter, or otherwise assault an officer or employee of the intelligence community as well as other specifically mentioned persons of interest to the intelligence community.

It was reported unanimously from the Committee on the Judiciary, and it passed the Senate by a voice vote on October 1, 1982.

The Director of the Central Intelligence Agency, Mr. Casey, has indicated his strong support for this measure.

In order for it to pass this session I am offering it now to this bill, hoping the Senate will see fit to adopt it and that it will go through at this session. I urge my colleagues to adopt this amendment.

Mr. BIDEN. Mr. President, I urge my colleagues to support this amendment. It is identical to a bill which I sponsored together with Senator THURMOND and a number of cosponsors from both sides of the aisle, including the entire membership of the Intelligence Committee.

Essentially, the amendment provides Federal criminal penalties for assaults on intelligence agency employees in the course of their official duties, as well as for assaults on defectors admitted to the United States under CIA auspices and other foreign visitors certified by the Director of Central Intelligence to be present in the United States under CIA auspices.

The amendment has the support of the CIA, the Justice Department, and the administration. It was included in the Intelligence Authorization Act for fiscal year 1982 and the Senate Intelligence Committee reported it as section 510 of S. 1127, the Intelligence Authorization Act for fiscal year 1982, on May 6, 1981. It was then passed by the Senate.

Unfortunately, the House version of the Intelligence Authorization Act for fiscal year 1982 contained no similar provisions: and the conference committee deleted section 510 because the House conferees insisted upon its consideration as separate legislation. Accordingly, this amendment contains the same provisions as section 510 of S. 1127 as passed by the Senate. The intent of these provisions was discussed in the Senate Intelligence Committee report on S. 1127 (S. Rept. No. 97-57, pp. 18-19).

The members of the Intelligence and Judiciary Committees expressed their unanimous view that there is an overriding need to give intelligence personnel the same type of protection against murderous assaults as is afforded by current law to many other types of Government employees. Senior intelligence officials frequently receive threats to their safety, and lower level employees have also been threatened by persons who learn of their intelligence affiliation. However, under present law there is not an adequate basis for Federal criminal investigation or prosecution in cases where there is evidence that an assault will occur in the performance of the employee's official duties.

Congress has an obligation to provide the full protection of Federal law for those who serve our intelligence agencies.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BIDEN. I yield back our time.

Mr. THURMOND. I yield back the time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (UP No. 1424) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1425

(Purpose: To prohibit the growing of marihuana on Federal lands and to establish penalties for the violations of these provisions)

Mr. EAST. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. EAST) proposes an unprinted amendment numbered 1425.

Mr. EAST. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following new section at the end of the bill:

SEC. . (a) This section may be cited as the "Marihuana Cultivation on Federal Lands Crime Act of 1982".

(b) Chapter 91 of title 18 of the United States Code is amended by adding at the end thereof the following:

"§ 1864. Prohibition against growing marihuana on Federal lands; penalties.

"It shall be unlawful for any person knowingly or intentionally to plant, grow or cultivate marihuana on Federal lands unless specifically authorized by another provision of Federal law. Any person who violates this section shall be sentenced to a term of imprisonment of not less than one year and not more than fifteen years, and a fine of not less than $10,000 and not more than $15,000,000. Any person who, having previously been convicted of a violation of this section, again violates this section, shall be sentenced to a term of imprisonment of not less than ten years and not more than thirty years and a fine of not less than $100,000 or not more than $30,000,000."

(c) The section analysis of chapter 91 of title 18 of the United States Code is amended by inserting at the end thereof the following item:

"1864. Prohibition against growing marihuana on Federal lands; penalties.".

Mr. EAST. Mr. President, I have 5 minutes to speak to this amendment which, obviously, means my remarks will be brief.

What this amendment does primarily is to greatly increase the penalty for growing marihuana on Federal land. That is the primary thing it does, and I would like to address my principal remarks to that in a moment.

It also makes it very specific under Federal law, which now is somewhat general on the point, that knowingly or intentionally to cultivate marihuana on Federal land would be a Federal crime.

Although it is true Federal law at this time can be so interpreted, it does not clearly deal with the question of cultivation. It comes under the general rubric of manufacturing and possessing, and so forth.

This amendment, of course, would first make it a crime knowingly or intentionally to cultivate or grow marihuana on Federal lands. Senator HAYAKAWA had some hearings before the Committee on Agriculture not long ago indicating this is a growing national problem of considerable magnitude.

The main thing this amendment of mine does is to greatly increase the penalty for doing that, and I would like to explain why, and the rationale is not to be punitive or to engage in some sort of overkill here on the marihuana problem.

Under the current law, the maximum penalty—there is no minimum—is a 15-year imprisonment; the maximum fine—there is no minimum—is $25,000.

This change would establish a minimum where you are knowingly or intentionally cultivating the growing of marihuana on Federal land, and there would be a minimum prison term of 1 year and a maximum of 15 years; and

a minimum of $10,000 fine and a maximum of $15 million.

Now a $15 million fine may seem at first blush to be a very high penalty. The problem, however, is this: there is a report, for example, indicating that in the Ozark National Park in Arkansas, a marihuana crop with a value of $20 million was being grown. What we need under Federal law is a stronger financial disincentive to growing marihuana on Federal land. If your fine is no greater than $25,000, which it is under current law, frankly that is looked upon by the professional marihuana growers as just the cost of doing business. Federal law does not have sufficient fines really to discourage the utilization of Federal lands.

And, I would like to note, not only is the illegal growing of marihuana increasing generally in the country, but it is increasing, Mr. President, particularly on Federal lands. And I would like to bring to your attention two reasons why that is so.

First of all, under current Federal law, where you have private land, it could be confiscated by the Government as a part of the penalty. Of course, the Government cannot do it when the criminal is growing it on Federal land because the land does not belong to the criminal. It belongs to the Federal Government. So that gives incentive to the criminals because often these areas are remote, like national parks. That gives incentive to grow on Federal land. One, it is remote; two, you cannot confiscate the property, needless to say. Third, another great incentive to grow on Federal land is you cannot trace the identity through ownership of the land. So Federal land is a prime spot for the massive marihuana growing in this country, which is illegal. We need to address this problem by taking the financial reward out of it. You simply do not do it with a maximum fine of $25,000 and no minimum.

That is the sum and substance of what this particular amendment would do. It would put a strong financial sting, in terms of a fine, on the growing of marihuana on Federal lands.

I would like to encourage the acceptance of this amendment. I certainly would hope that the conference committee would accept it. I think it would be vital to an overall acceptance of the total bill, if accepted.

That, Mr. President, is my amendment.

I move the adoption of the amendment.

Mr. HUMPHREY. Mr. President, it has become increasingly apparent that the illicit growing of marihuana on Federal lands is a problem of enormous dimensions. Instances of this illegal activity have been documented involving Federal lands—primarily national parks and forests—in all 50 States. The most heavily impacted regions are the Southwestern and Western States, where growing conditions are most favorable and large expanses of land make detection difficult.

The dangers inherent in this situation are both personal and environmental. The growers have organized themselves into hordes of paramilitary guerrillas, arming themselves with sophisticated arsenals including automatic rifles, pipe bombs, hand grenades, mines, shotguns, and fish hooks suspended from trees at eye level. Innocent visitors of national parks, as well as National Park Service personnel, have been confronted and threatened by these individuals in many reported incidents. The environmental hazard stems from the growers' use of arsenic to control rodent damage, the high concentrations of nitrogen used as fertilizer, and the cutting the timber and building of open fires to clear areas for cultivation.

Public lands are particularly attractive for the growing of marihuana primarily for the following reasons: the lands are remote and removed from the scrutiny of large numbers of people; the ownership of the land provides no link to the identity of the grower; and enormous tracts of public lands are located in climatic zones where growing conditions are excellent.

The Federal Government is involved in a comprehensive effort to curb the illicit flow of marihuana from abroad. Largely in response to this effort, the cultivation of "home grown" products has begun to flourish. In recent testimony before the Subcommittee on Forestry, Water Resources, and Environment, the Assistant Administrator for Operations of the Drug Enforcement Administration, Mr. Frank Montasero, stated that "the United States is on the leading edge of a horticultural revolution as it applies to illicit marihuana cultivation." It has been estimated that the market value of the domestic marihuana harvest now exceeds $10 billion annually, which would cause it to be ranked as our Nation's third or fourth most valuable cash crop. Surely no one in the Chamber will dispute that all available resources must be marshaled to bring this underground economy to its knees.

The increasing gravity of this situation has spurred cooperative efforts between the Federal Government and the States. The Drug Enforcement Administration has entered into cooperative eradication and suppression programs with heavily impacted States: five States were served in 1981 and 25 programs are currently underway. DEA encourages State efforts by contributing training, equipment, funding, investigative, and aircraft resources. In the past year, DEA conducted four schools which trained over 100 State and local law enforcement officials in aerial observation techniques, obtaining search warrants, conducting crop raids, and arresting and prosecuting identified growers. Because cultivation is widespread over forbidding mountainous terrain, DEA is currently exploring with State and local officials the possibility of conducting hard-hitting, high-impact eradication operations during the height of the growing season. Borrowing helicopters from the Department of Defense and using Governors' authority to mobilize the National Guard—an initiative exercised successfully this year in Hawaii and Arkansas—are two options under consideration to assist in this effort. Finally, members of the U.S. Forest Service are increasingly being utilized as support personnel under the direction of appropriate Federal, State, and local authorities.

The distinguished Senator from California, Senator HAYAKAWA, who chaired the subcommittee hearings to which I previously alluded, has recommended in remarks before this body that greater manpower and financial resources be committed to bringing cultivation under control, and that we begin immediately to improve our knowledge of the location and quantity of these illegal plants. As chairman of the Subcommittee on Alcoholism and Drug Abuse, I am grateful to Senator HAYAKAWA for his work in this area, and I thank him for reporting his findings and recommendations for the benefit of the next Congress.

My distinguished colleague from North Carolina has ably recognized that there is another dimension of this problem in need of attention, namely the recognition it receives in existing criminal statutes. Senator EAST's amendment establishes the growing of marihuana on Federal lands as a specific criminal offense, and prescribes specific penalties for those convicted. If this Congress, and through us the American people, wish to send a clear and convincing message that we will not tolerate the abuse of our precious public lands by marihuana growers, our abhorrence of this activity must be specified in the Criminal Code. I commend Senator EAST for his leadership on this initiative, and I gladly offer my support of his amendment.

Mr. SPECTER. Mr. President, I think the amendment offered by the distinguished Senator from North Carolina is a good addition to this bill and, as manager, I am pleased to accept it.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. SPECTER. I yield back the remainder of my time.

Mr. EAST. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina (Mr. EAST).

The amendment (UP No. 1425) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EAST. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1426

(Purpose: To aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute)

Mr. SPECTER. Mr. President, on behalf of the distinguished Senator from Alabama (Mr. HEFLIN), I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER), on behalf of the Senator from Alabama (Mr. HEFLIN) proposes an unprinted amendment numbered 1426.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 55, after line 2, add the following new title:

TITLE II—STATE JUSTICE INSTITUTE

SEC. 201. This title may be cited as the "State Justice Institute Act of 1982".

DEFINITIONS

SEC. 202. As used in this title, the term—

(1) "Institute" means the State Justice Institute;

(2) "Board" means the Board of Directors of the Institute;

(3) "Director" means the Executive Director of the Institute;

(4) "Governor" means the Chief Executive Officer of a State;

(5) "recipient" means any grantee, contractor, or recipient of financial assistance under this title;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this title, a constitutionally or legislatively established judicial council acts in place of that court.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 203. (a) There is established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. The Institute may be incorporated in the District of Columbia or in any other State. To the extent consistent with the provisions of this title, the Institute shall exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall—

(1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—

(A) State courts;

(B) national organizations which support and are supported by State courts; and

(C) any other nonprofit organization that will support and achieve the purposes of this title;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) make recommendations concerning the proper allocation of responsibility between the State and Federal court systems;

(4) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(5) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this title, and it shall publish in the Federal Register, at least thirty days prior to their effective date, all rules, regulations, guidelines, and instructions.

BOARD OF DIRECTORS

SEC. 204. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four public members, no more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted by the Conference of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the conference considers best qualified to serve on the Board. The President may reject such list and request another list of individuals. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this title.

(4) In addition to those members appointed under paragraph (3), the President shall appoint four members from the public sector to serve on the Board.

(5) The President shall appoint the members under this subsection within sixty days from the date of enactment of this title.

(6) The members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve for an unexpired term arising by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or

pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this title, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervison of the activities of the Institute, the Board shall—

(1) establish such policies and develop such programs for the Institute as will further achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities;

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to this title.

OFFICERS AND EMPLOYEES

SEC. 205. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this title.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c)(1) Except as otherwise specifically provided in this title, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This title does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d)(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

SEC. 206. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this title, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

(3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this title;

(4) evaluate, when appropriate, the programs and projects carried out under this title to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this title;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies,

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve their functioning;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with their operation, to devise alternative approaches to better reconcile the requirements of due process with the needs for swift and certain justice, and to test their utility;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public sat-

isfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this title, as may be deemed appropriate by the Institute.

(d) The Institute shall incorporate in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a match, from private or public sources, equal to 25 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this title to insure that the provisions of this title, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this title, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this title.

LIMITATIONS ON GRANTS AND CONTRACTS

SEC. 207. (a) With respect to grants or contracts made under this title, the Institute shall—

(1) insure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this title or the recipient or the Institute;

(2) insure all personnel engaged in grant or contract assistance activities supported in whole or in part by the Institute refrain, while so engaged, from any partisan political activity; and

(3) insure that every grantee, contractor, person, or entity receiving financial assistance under this title which files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approved and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 9 of this title.

(b) No funds made available by the Institute under this title, either by grant or contract, may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authorization to enter into contracts or any other obligation under this title shall be effective only to the extent, and in such amounts, as are provided in appropriation Acts.

(d) To insure that funds made available under this title are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 208. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system nor allow sums to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this title; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) when formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the State judiciary, consistent with the provisions of this title.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum, except those dealing with improvement of the State judiciary, consistent with the purposes of this title.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

SEC. 209. The Institute shall prescribe procedures to insure that—

(1) financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken; and

(2) financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, person, or entity receiving financial assistance under this title has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Institute to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

SEC. 210. The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this title.

RECORDS AND REPORTS

SEC. 211. (a) The Institute is authorized to require such reports as it deems necessary from any grantee, contractor, person, or entity receiving financial assistance under this title regarding activities carried out pursuant to this title.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, person, or entity receiving financial assistance under this title shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

AUDITS

SEC. 212. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accounts who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to

the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the Geneal Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c)(1) The Institute shall conduct, or require each grantee, contractor, person, or entity receiving financial assistance under this title to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds recived from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

AUTHORIZATIONS

SEC. 213. There are authorized to be appropriated to carry out the purposes of this title, $20,000,000 for fiscal year 1984, $25,000,000 for fiscal year 1985, and $25,000,000 for fiscal year 1986.

EFFECTIVE DATE

SEC. 214. The provisions of this title shall take effect upon the date of enactment.

Mr. HEFLIN. Mr. President, I rise in support of the State Justice Institute Act, an amendment to S. 2411. As original sponsor of this bill, I encourage this amendment's incorporation into the Justice Assistance Act of 1982.

This amendment will establish the State Justice Institute as a nonprofit corporation to provide technical and financial assistance to further the development and adoption of improvements in the administration of justice in State and local courts throughout the United States.

This concept has passed the Senate previously in the 96th and 97th Congresses. The purpose and objectives of the State Justice Institute is consistent and complements the goals of S. 2411.

I wish to thank my colleagues, especially Chairman STROM THURMOND, Senator JOSEPH BIDEN, Chairman ROBERT DOLE, and Chairman ARLEN SPECTER, for their continued support and able assistance on this most important legislation.

There are several important reasons for the implementation of the State Justice Institute.

First, the role of the judge is generally accepted to be changing. Earlier in this century there was much debate as to whether a judge's function included an obligation to see that cases in their courts moved toward disposition in a regular and efficient manner. Today, however, problems of administration have taken their place alongside problems of adjudication as primary responsibilities of judges. Nearly everyone has come to acknowledge that today's judges have a duty to insure that their cases do not simply languish on the docket, but instead are moved to a conclusion with as much dispatch and economy of time and effort as possible. This shift, along with a heightened interest in continuing legal education generally, has resulted in thousands of judges attending intensive orientations or refresher courses offered by such organizations as the National Judicial College and the American Academy of Judicial Education.

A second reason for providing financial assistance the State courts is the problem of crime in this country. It has long been my belief that if we are to significantly reduce crime, the Federal Government must share the responsibility of improving the administration of justice with State and local governments. The State Justice Institute would be immensely beneficial to State and local governments in their attempts to control crime and in their efforts to streamline the administration of justice once a criminal has been apprehended.

Third, State courts share with the Federal courts the awesome responsibility of enforcing the rights and duties of the Constitution and laws of the United States. However, in recent years the workload of our State courts has significantly increased due to a number of factors, including decisions of the U.S. Supreme Court, wide-reaching social legislation by Congress, and a diversion of cases from the Federal courts. Testimony before the Subcommittee on Jurisprudence and Governmental Relations of the Senate Judiciary Committee revealed that State courts decide approximately 95 percent of all law suits tried.

It is, therefore, appropriate and necessary that the Federal Government provide financial and technical assistance to State courts to help alleviate many of the administrative problems which these actions at the Federal level have caused and aggravated. This legislation would help insure that our State courts remain strong and effective.

The Institute would provide funds to State courts and national organizations which support or are supported by State courts for research and development programs that would be beyond the resources of any single judicial system.

The Institute would not provide funds for hardware, nor for ongoing State court operations, but would spotlight correcting problems and shortcomings of State judiciaries and provide national resources to assist in correcting them.

The Institute may also provide funds for research, demonstration, education, training, technical assistance, clearinghouse and evaluating programs. The establishment of the State Justice Institute to provide financial assistance to the State courts does not remove primary responsibility for maintenance and improvement of State courts from the States themselves.

The State Justice Institute will be supervised by an independent Board of Directors consisting primarily of representatives of State court judiciaries to insure clear congressional recognition of the separation of powers principle in the function of State governments and the constitutional requirement of an independent judiciary which is essential for any program of Federal assistance.

The concept of a State Justice Institute has been endorsed by such organizations as the Conference of Chief Justices, the Appellate Judges Conference, and the American Bar Association.

Mr. President, as a former State supreme court chief justice, I know full well the importance of an independent judiciary. I could not support legislation which infringes on that independence in any way.

It is quite apparent then that the quality of justice in this country is largely determined by the quality of justice dispensed by State courts. We in the Congress should thus be keenly aware of the substantial Federal interest involved in maintaining the quality

of the administration of justice in State courts. In the last Congress, the State Justice Institute Act passed the Senate without dissent.

Therefore, I urge the swift passage and implementation of this crucial amendment to safeguard our judicial system.

Thank you, Mr. President.

Mr. SPECTER. Mr. President, the bill from which this amendment was derived has been cosponsored by the Senator from Montana (Mr. BAUCUS), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. DECONCINI), the Senator from Nevada (Mr. LAXALT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Mississippi (Mr. COCHRAN), and the Senator from South Carolina (Mr. THURMOND). It is a well-considered piece of legislation. I move the adoption of the amendment.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. SPECTER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from Pennsylvania (Mr. SPECTER) on behalf of the Senator from Alabama (Mr. HEFLIN).

The amendment (UP No. 1426) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, at this time, I ask unanimous consent that letters from various organizations endorsing this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLORADO STATE PATROL,
DEPARTMENT OF HIGHWAYS,
Denver, Colo., November 4, 1982.

Hon. ARLEN SPECTER,
U.S. Senator, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR SPECTER: I wish to offer the support of the Colorado State Patrol and the Colorado State Patrol Academy for your bill, S-2411.

With the demise of LEAA, it is imperative that federal funding be made available for the important job of training law enforcement officers.

I am going to write our State Senators Gary Hart and William Armstrong and urge them also to support this important piece of legislation.

Sincerely,

Col. C. WAYNE KEITH,
Chief.

OFFICE OF PROSECUTION SERVICES,
Montgomery, Ala., November 17, 1982.

Re: S. 2411.

Hon. ARLEN SPECTER,
Russell Senate Office Building, Washington, D.C.

DEAR MR. SPECTER: S. 2411 is important to law enforcement because it would create a new crime control program. Your support is necessary if this critical legislation is to be passed. Alabama District Attorneys respectfully request your support for this bill.

Sincerely,

JOSEPH M. CARLTON, Jr.,
Executive Director.

CALIFORNIA CORRECTIONAL
PEACE OFFICERS ASSOCIATION,
Sacramento, Calif., November 5, 1982.

Hon. JOSEPH BIDEN,
Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR BIDEN: The California Correctional Peace Officers Association requests your strong support for Senate Bill 2411, commonly referred to as the Justice Assistance Act of 1982.

We are sure you are cognizant of the beneficial aspects of this bill relating to law enforcement activities. I have noted that the bill, S. 2411, authorizes grants providing assistance to implement programs and projects that address the critical problems in the war against crime. CCPOA, representing 7,000 peace officers in the California State Prison and Youth Authority system, is particularly concerned about the current inadequacies of training provided officers who are charged with responsibilities of maintaining law and order within a population of one hundred percent court-certified felons. Senate Bill 2411 would provide funds to increase the training received by these peace officers, which is sorely needed to update the current three weeks training that is currently received. This amount is dismally inadequate to prepare anyone for handling the job they are expected to handle. The result of poor training is staff that are unable to respond to emergencies that eventually get out of hand; hence the "Attica's", the "Santa Fe's", and other riots that cost many, many lives and millions of taxpayer dollars.

Proper training is a key to a properly run law enforcement agency. This perception was underscored by an article that appeared in the American Bar Journal, August 1981. Chief Justice Warren Burger admonished prison administrations to begin to solve prison problems by emphasizing the critical areas of better selection criteria, better training, and better benefits, in an effort to properly select, train and maintain good, able peace officers. While S. 2411 would not affect benefits, it very well could provide the means for establishing improved recruitment criteria and more and better training.

On behalf of the CCPOA I respectfully urge your support for this legislation.

Sincerely,

JEFF THOMPSON,
Executive Director.

STATE OF VERMONT,
OFFICE OF THE ATTORNEY GENERAL,
Montpelier, November 9, 1982.

Re: S. 2411

Hon. HOWARD BAKER,
U.S. Senate, Dirksen Building, Washington, D.C.

DEAR SENATOR BAKER: I understand that S. 2411 was approved by the Senate Judiciary Committee on September 14, and further that the House has adopted similar legislation, H.R. 4481, by a rather overwhelming margin.

As you may know, the National Association of Attorneys General voted its approval of the concepts embodied in these two Bills by resolution in June, 1981. As the Attorney General of a small state, I can tell you that Vermont would benefit greatly from the passage of S. 2411. It would allow us to pursue innovative programs, to increase training for criminal justice personnel, and to provide much needed technical assistance to Vermont communities.

I would hope that the Senate will consider S. 2411 when it returns at the end of the month, especially in light of the overwhelming support expressed so far for this legislation.

Sincerely,

JOHN J. EASTON, Jr.,
Attorney General.

MARSHALL COUNTY
JUVENILE ADVISORY BOARD,
Guntersville, Ala., November 9, 1982.

Hon. ARLEN SPECTER,
Russell Senate Office Building, Washington, D.C. 20510

DEAR SENATOR SPECTER: Senate Bill S. 2411 would establish an important new crime control program. As Chairman of the Juvenile Advisory Board of Marshall County, a 10 member board dedicated to supporting the Juvenile Justice System, I strongly recommend and endorse your action in supporting this bill.

Sincerely,

ROBERT T. GIBBS,
Chairman.

FRATERNAL ORDER OF POLICE,
ILLINOIS STATE LODGE,
Forest Part, Ill., November 10, 1982.

Hon. HOWARD BAKER,
U.S. Senator,
Dirksen Building,
Washington, D.C.

DEAR SENATOR BAKER: On behalf of Illinois State Lodge Fraternal Order of Police, representing over 22,000 working police officers in our state, I am asking you to use all of your influence, before this Congress adjourns, to give consideration to a major piece of legislation still on the Senate calendar.

I specifically refer to S.B. 2411, sponsored by Senator Arlen Spector of Pennsylvania, which in essence creates a successor to LEAA which would provide grants to states and municipalities to fund successful criminal justice programs.

We understand that Senate Bill 2411 replaces LEAA with a new section in the Department of Justice called the Office of Justice Assistance (OJA). The Office of Justice Assistance would be authorized to provide $60 million to states and municipalities for three separate grant programs. All three programs, in my estimation, seem to recodify and, for the sake of brevity, take all that has been accomplished in the past under LEAA and bring it down to three workable programs which would help to continue the fight against crime.

I am sending copies of this letter to our two Senators from Illinois, Alan J. Dixon and Charles H. Percy, asking for their help

to assist you in getting this legislation passed.

Fraternally yours,

RICHARD "DICK" LIS,
President, and
National Vice President.

STATE OF ALABAMA,
DEPARTMENT OF YOUTH SERVICES,
Mt. Meigs, Ala., November 9, 1982.

Hon. ARLEN SPECTER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR SPECTER: I am writing in support of S. 2411 which would create an important new crime control program.

Your recent efforts to secure passage of S. 2411 are commendable. We juvenile justice professionals appreciate your efforts on our behalf and strongly hope that we can count on your continued support when the Senate again takes up S. 2411 after the election recess.

Sincerely,

PEGGY E. GOODWYN,
Youth Services Planning
and Program Administrator.

THE DISTRICT OF COLUMBIA,
Washington, D.C., November 15, 1982.

Hon. ARLEN SPECTER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR SPECTER: The District of Columbia, as the rest of the country, is wrestling with a large crime problem. Your active support of S. 2411 to create a new crime control program was greatly appreciated. I am hopeful that with your continued support when Congress reconvenes we shall see that important program enacted. With the problem of crime so pervasive and complex, it must receive national as well as local priority.

Sincerely,

MARION S. BARRY, Jr.,
Mayor.

STATE OF ALABAMA,
DEPARTMENT OF YOUTH SERVICES,
Mt. Meigs, Ala., November 9, 1982.

Hon. ARLEN SPECTER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR SPECTER: I am writing in support of S. 2411 which would create an important new crime control program.

Your recent efforts to secure passage of S. 2411 are commendable. We juvenile justice professionals appreciate your efforts on our behalf and strongly hope that we can count on your continued support when the Senate again takes up S. 2411 after the election recess.

Sincerely,

GEORGE M. PHYFER,
Executive Director.

GUY L. BURNS,
Birmingham, Ala., November 5, 1982.

Hon. ARLEN SPECTER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR SPECTER: Your efforts to pass Senate Bill S. 2411 are commendable and very much appreciated. We hope we can count on your usual conscientious consideration in passing this important legislation when the Senate convenes.

Respectfully yours,

GUY L. BURNS.

STATE OF ALABAMA,
DISTRICT ATTORNEY,
THIRTY-SECOND JUDICIAL CIRCUIT,
Cullman, Ala., November 17, 1982.

Hon. ARLEN SPECTER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR SPECTER: It is my understanding that Senate Bill 2411, establishing a much needed new criminal control program, will be taken up by Congress when it returns from election recess.

Those of us in law enforcement need this crime control program very badly. Your continued support of this bill will be essential in the enhancement of the over all criminal justice system.

As District Attorney of the Thirty-second Judicial Circuit of Alabama I strongly urge you to continue your support of Senate Bill 2411.

Sincerely yours,

JULIAN BLAND,
District Attorney.

THE VIRGIN ISLANDS OF THE UNITED STATES, OFFICE OF THE GOVERNOR,
St. Thomas, October 20, 1982.

Hon. ARLEN SPECTER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR SPECTER: S. 2411 would create an important new crime control program. Your recent efforts to secure passage of S. 2411 are commendable. I strongly urge you to continue your support for S. 2411 when the Senate again takes it up after the election recess.

Sincerely,

JUAN LUIS, *Governor.*

POLICE TRAINING INSTITUTE,
UNIVERSITY OF ILLINOIS,
Champaign, Ill., November 15, 1982.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SPECTER: Through the Illinois Local Government Law Enforcement Officers Training Board and the National Association of State Directors of Law Enforcement Training, I have recently become aware of Senate Bill 2411 which is intended to amend the Omnibus Crime Control and Safe Streets Act of 1968.

In reviewing the information I have available, I am of the opinion that it will have a positive impact on the national effort to reduce crime.

I would urge you to support this legislative action.

Sincerely,

CLIFFORD W. VAN METER,
Director.

CHICAGO PATROLMEN'S ASSOCIATION,
Chicago, Ill., November 11, 1982.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SPECTER: I am writing to you on behalf of the membership of the Chicago Patrolmen's Association, all police officers of the City of Chicago and all law enforcement officers of the State of Illinois, thanking you whole heartedly for your sponsorship of S. 2411, the "Justice Assistance Act of 1982".

The passage of the Omnibus Crime Control and Safe Streets Act of 1968, and subsequent favorable revisions to this Act has greatly benefitted the law enforcement community by providing the necessary funds to implement valuable projects and programs within the administration of criminal justice framework. Great strides and accomplishments have been realized in the areas of juvenile justice, prison overcrowding, crimes against the elderly and most importantly, special and general training for peace officers to ensure competency in administering new programs and projects and to keep abreast of the latest changes in the law and the administration of criminal justice.

I have written to Senators Dixon and Percy of Illinois and Senator Baker of Tennessee fervently urging their support toward the passage of this most important piece of legislation.

Through your sponsorship of S. 2411 you have rendered a great service to all law enforcement officers and to all citizens of the United States.

Very truly yours,

JOSEPH P. PECORARO,
President,
Chicago Patrolmen's Association.

CONFERENCE OF CHIEF JUSTICES,
Monticello, N.Y., October 5, 1982.

Hon. ARLEN SPECTER,
Chairman, Subcommittee on Juvenile Justice, U.S. Senate, Washington, D.C.

DEAR SENATOR SPECTER: I am pleased to forward a resolution by the Conference of Chief Justices in support of S. 2411, the Justices Assistance Act of 1982.

As the resolution indicates, the Conference views S. 2411 as an appropriate and necessary federal response to critical problems facing state and local justice systems.

You also will note that the resolution urges Congress to provide adequate funding in fiscal 1983 and 1984 for the Office of Juvenile Justice and Delinquency Prevention, and for the National Institute of Justice and the Bureau of Justice Statistics.

A similar resolution, adopted by the Conference of State Court Administrators, also is enclosed.

Yours very truly,

HARRY W. SWEGLE,
Washington Liaison.

Enclosure(s).

RESOLUTION ON JUSTICE ASSISTANCE LEGISLATION

Whereas, Juvenile and adult crime continue to pose serious threats to the nation's social, economic, and political well being, and to severely strain the resources of the justice system, and

Whereas, The Conference of Chief Justices, while recognizing that crime is essentially a state and local problem, has supported an appropriate federal role in programs to improve the effectiveness of state and local justice systems, and

Whereas, S. 2411, the Justice Assistance Act of 1982, would continue authority for the National Institute of Justice and the Bureau of Justice Statistics, and establish a limited national discretionary program for training, technical assistance and demostration programs most appropriately funded and administered at the national level, and

Whereas, S. 2411 would assist state court systems individually and nationally in the development and maintenance of information and statistical systems essential to the proper adjudication and administration of their criminal case loads and assist them with other critical problems of the justice system. Now, therefore, be it

Resolved, That the Conference of Chief Justices support the passage of S. 2411, and be it further.

Resolved, That the Conference urges the Congress to provide adequate funding in fiscal 1983 and 1984 for the Office of Juvenile Justice and Delinquency Prevention, and for the National Institute of Justice and the Bureau of Justice Statistics.

Adopted at the 34th Annual Meeting of the Conference of Chief Justices in Jackson Hole, Wyoming on September 18, 1982.

Mr. BAKER. Mr. President, will the Senator from Pennsylvania permit me to interrupt and yield to me for a moment?

Mr. SPECTER. Yes; I yield to the distinguished majority leader.

VISIT TO THE SENATE BY MEMBERS OF THE CANADIAN PARLIAMENT

Mr. BAKER. Mr. President, I am advised by the distinguished senior Senator from New York (Mr. MOYNIHAN) that we have with us a group of Canadian Parliamentarians who are joining us on the floor of the Senate at this time. [Applause.]

RECESS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now stand in recess for 1 minute so that we may greet our visitors from Canada.

There being no objection, the Senate, at 4:43 p.m., recessed until 4:46 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DURENBERGER).

JUSTICE ASSISTANCE ACT OF 1982

The Senate resumed consideration of the bill.

Mr. SPECTER. Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina (Mr. THURMOND) be added as a cosponsor to S. 2411.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

UP AMENDMENT NO. 1427

(Purpose: To provide for the establishment of a Commission on the Bicentennial of the Constitution)

Mr. THURMOND. Mr. President, I ask unanimous consent that I may offer an amendment on behalf of the distinguished Senator from Utah (Mr. HATCH) creating a commission to commemorate the bicentennial of the Constitution. This amendment is the same as S. 2671, a bill which unanimously passed the Senate this past October.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. It was also approved by the Judiciary Committee by a voice vote.

Mr. President, because September 17, 1987, is the 200th anniversary of the Constitutional Convention's approval of the great document, we must move expeditiously to provide some Federal involvement in the commemoration of its birth.

Federal involvement is necessary for several practical reasons. Because no enterprise is likely to reach its own objectives without adequate planning, the essential goals of this commemoration depend on coordination and planning that will probably only be undertaken by a Federal body. Private and State authorities should not be responsible to undertake a project to coordinate the commemoration of the birth of the Federal Government, but will undoubtedly look to the Government itself to undertake the task. With all private and State entities deferring to the Federal Government, advance planning is likely to be postponed until too late. Already we are only 5 years away from the commemorative date for the Constitution and only 3 years away from the anniversary of the Mount Vernon Commercial Conference that was an important step toward the monumental meeting of the Constitutional Convention in Philadelphia, May 25, 1787. If planning and coordination is to be undertaken in a timely fashion, the Federal Government will need to inaugurate the process.

A Federal presence in the commemoration effort is also necessary to attract funding from private corporations and foundations. In the absence of a demonstration of interest by the Federal Government, private sources of funding may not be easily persuaded of the importance of supporting this commemoration as they so generously backed the Bicentennial of the Declaration of Independence.

Perhaps the most important reason for Federal involvement, however, was best stated by Gen. William Westmoreland:

> The Federal Government must be involved so that all the people throughout this Nation—from the people in Lexington and Concord, Mass., where the revolution began to the modernday pioneers on the frontiers of Alaska; from the descendants of the Jamestown settlers to the Vietnamese boat people; from the citizens of northeastern Maine to the residents of Niihua Island in Hawaii—realize the great heritage of democracy and personal freedom formulated by the Constitutional Convention in 1787 and protected and strengthened by following generations.

Only when there is a national focus can there be a genuine general commemoration or rededication at the 200th anniversaries of the fundamental documents which have formed and maintained our democratic Government. Hearing, supra.

If this is to be a successful national celebration of all the people, then the only entity which expresses the will of all the people of the United States must acknowledge the anniversary of the document which has guaranteed the liberties of those people.

Accordingly, after months of contemplating the appropriate degree of Federal commitment to this objective, all Senators on the Subcommittee on the Constitution joined me in the introduction of S. 2671, a bill to establish a commission to coordinate the commemoration of the bicentennial of the Constitution. This bill contemplates a modest role for the Federal Commission of encouraging and coordinating commemoration activities.

S. 2671 further contemplates a commemoration consisting of more enduring activities than a series of pyrotechnic displays and parades. While celebrative activities are important to rekindle our national pride in the Constitution, a national reexamination of our Nation's common principles and their embodiment in the language of the Constitution is perhaps more important.

S. 2671 is true to the Constitution's enlightened principle of federalism by recognizing a pivotal role for the States. The Federal Bicentennial Commission, under the plan envisioned in S. 2671, will play an important role as a coordinator, but will only undertake a limited number of worthy projects. States, on the other hand, should perceive no limits on the activities within the will of their citizens. The Federal Commission should encourage such State activities.

S. 2671 is also true to the Constitution's principle of limited National Government in that it recognizes a leading role for the private sector. Private organizations throughout the Nation and in every community will perhaps carry the greatest weight in making this commemoration significant. The Federal Commission should encourage such private activities to make the Constitution's message meaningful in each of America's communities and homes.

S. 2671 is also true to the Constitution's respect for a diversity of thought and expression. The Federal Commission created by S. 2671 will not espouse any single, narrow view of what is most important about the Constitution or its historical development. The Federal Commission's focus should be the men and events of 1787, not controversial interpretations of 1987; the Federalist Papers and the ratification debates in the States, on the textbooks of modern law schools;

the substantive provisions of our Nation's foundational document, not the proposed legislative agenda of any single party or group.

One final observation argues strongly for creation of a commission to commemorate the bicentennial of the U.S. Constitution. This point calls to mind the Declaration of Independence and the celebration of its Bicentennial 6 years ago. The culminating moment of that celebration came on July 4, 1976, when we as a nation paused to rejoice and reflect upon the document that enunciated the intent of the American people to be free. We are all familiar with the aspirational language of that document:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

With this elevating affirmation of purpose, the former colonies of Britain in the new world embarked on a course that would produce the United States of America. A war, a loosely bound confederation of sovereign States, and 11 difficult years came between the aspirations of the Declaration and the contract between the people and the States to carry out its noble objectives.

These two documents, the Declaration and the Constitution, launched the free peoples of America upon a course of self-government—a course we have learned is fraught with responsibilities and obligations as well as opportunities and liberties. In the words of Abraham Lincoln:

All this is not the result of an accident. It has a philosophical cause. Without the Constitution and the union, he could not have attained the result; but even these, are not the primary cause of our great prosperity. There is something back of these, entwining itself more closely about the human heart. That something, is the principle of "Liberty to All"—the principle that clears the path for all—gives hope to all—and, by consequence, enterprise and industry to all. The expression of that principle, in our Declaration of Independence, was most happy and fortunate. (Fragment on the Constitution", Lincoln, A., quoted in "The Living Constitution," Padover, Saul, p. 65.)

As Lincoln realized, the Declaration expressed the goal, the motivating philosophy; the Constitution created the structure to "attain the result." In one sense, the Declaration was the "end," the Constitution the "means" of the American experiment in self-rule.

This brief discussion of the interrelationship between these two documents is relevant to S. 2671 because the United States has already committed vast resources to commemorating the inauguration of our independence with the signing of the "ends" document. Soon the bicentennial of the signing of the "means" document will be upon us. S. 2671 does not ask for vast resources, but it does ask the Federal Government to recognize what Prime Minister William Gladstone of Britain, on the occasion of the Constitution's centennial, called:

The most remarkable work known to me in modern times to have been produced by the human intellect.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), on behalf of Mr. HATCH, proposes an unprinted amendment numbered 1427.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

TITLE —

SEC. . There is established a Commission on the Bicentennial of the United States Constitution, hereinafter referred to as the "Commission".

FINDINGS

SEC. . The Congress finds that—

(1) the bicentennial of the Constitutional Convention's adoption of the Constitution occurs on September 17, 1987;

(2) the Constitution enunciates the limitations on government, the inalienable rights of man, and the timeless principles of individual liberty and responsibility for the people of the United States of America;

(3) this document has set an enduring example of representative democracy for the world; and

(4) the maintenance of the common principles that animate our Republic depend upon a knowledge and understanding of their roots and origins.

PURPOSE

SEC. . It is the purpose of this title to establish a Commission to promote and coordinate activities to commemorate the bicentennial of the Constitution.

MEMBERSHIP

SEC. . (a) The Commission shall be composed of sixteen members as follows:

(1) thirteen members appointed by the President, three of whom shall be appointed from among the recommendations made by the Speaker of the House of Representatives, three of whom shall be appointed from among the recommendations made by the President pro tempore of the Senate, in consultation with the majority leader and minority leader of the Senate, and three of whom shall be appointed from among the recommendations made by the Chief Justice of the United States;

(2) the chairman of the Committee on the Judiciary of the House of Representatives;

(3) the chairman of the Committee on the Judiciary of the Senate; and

(4) the Chief Justice of the United States.

(b) Such members shall be chosen from among individuals who have demonstrated scholarship, a strong sense of public service, and abilities likely to contribute to the fulfillment of the duties of the Commission.

(c) Members of the Commission shall be appointed for the life of the Commission.

(d) The Commission shall select a chairman from among its members who shall serve as Chairman for the life of the Commission.

(e) Eight members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(f) A vacancy in the Commission resulting from the death or resignation of a member shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

ADMINISTRATIVE PROVISIONS AND POWERS

SEC. . (a) The Commission shall appoint a staff director who shall be paid at a rate not to exceed the rate of basic pay provided for level V of the Executive Schedule pursuant to section 5316 of title 5, United States Code.

(b) The Commission is authorized to appoint and fix the compensation, without regard to the provision of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, of such additional publicly paid personnel up to five persons, as the Chairman finds necessary to carry out the purposes of this title. Such personnel shall be compensated at a rate not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code. The Commission may hire additional personnel out of private donations.

(c) Each member of the Commission shall serve without comnpensation, except that each member shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(d) The Commission may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at a rate of pay not to exceed the rate of basic pay for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(e) The Commission is authorized to procure supplies, services, and property, and make contracts, in any fiscal year, only to such extent or in such amounts as are provided in appropriations Acts.

(f) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

(g) The Commission is authorized to accept, use, solicit, and dispose of donations of money, property, or personal services.

(h) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(i) The Commission shall have the authority to design and use a logo as the official emblem of the bicentennial. The Commission shall issue rules and regulations regarding the use of such logo, as they deem appropriate to carry out the purposes of this title.

DUTIES OF THE COMMISSION

SEC. . (a) The Commission shall—

(1) plan and develop activities appropriate to commemorate the bicentennial of the

Constitution, including limited number of projects to be undertaken by the Federal Government seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) encourage private organizations, and State and local governments to organize and participate in bicentennial activities commemorating or examining the drafting, ratification, and history of the Constitution and the specific features of the document;

(3) coordinate, generally, activities throughout all of the States; and

(4) serve as a clearinghouse for the collection and dissemination of information about bicentennial events and plans.

(b) In planning and implementing appropriate activities to commemorate the bicentennial, the Commission shall give due consideration to—

(1) the historical setting in which the Constitution was developed and ratified, including such antecedents as the Federalist Papers, the Articles of the Confederation, and the ratification debates in the States;

(2) the contribution of diverse ethnic and racial groups;

(3) the relationship and historical development of the three branches of the Government;

(4) the importance of activities concerning the Constitution and citizenship education throughout all of the States regardless of when such State achieved statehood;

(5) the unique achievements and contributions of the participants in the Constitutional Convention of 1787 and the State ratification proceedings;

(6) the diverse legal and philosophical views regarding the Constitution;

(7) the need for reflection upon both academic and scholarly views of the Constitution and the principle that the document must be understood by the general public;

(8) the substantive provisions of the Constitution itself; and

(9) the impact of the Constitution on American life and government.

(c) The Commission shall seek the cooperation, advice, and assistance from both private and governmental agencies and organizations, including the National Endowment for the Arts, the National Endowment for the Humanities, the Library of Congress, the Smithsonian Institution, the National Archives, the Department of the Interior, State and local governments, learned societies, academic institutions, and historical, partriotic, philanthropic, civic, and professional groups, and bar associations.

(d) The Commission may, in carrying out the purposes of this title, delegate authority to State advisory commissions to assist in implementing this title.

(e) Within two years after the date of enactment of this title, the Commission shall submit to the President and each House of the Congress and the Judicial Conference a comprehensive report incorporating specific recommendations of the Commission for commemoration and coordination of the bicentennial and related activities. Such report shall include recommendations for publications, scholarly projects, conferences, programs, films, libraries, exhibits, ceremonies, and other projects, competitions and awards, and a calendar of major activities and events planned to commemorate specific historical dates. Each year after such comprehensive report, the Commission shall submit an annual report to the President and each House of the Congress and the Judicial Conference until such Commission terminates.

TERMINATION

SEC. . The Commission shall terminate on December 31, 1989.

AUTHORIZATION OF APPROPRIATIONS

SEC. . There are authorized to be appropriated for purposes of this title $300,000 for fiscal year 1983 and such sums as may be necessary for the subsequent fiscal years through fiscal year 1989.

Mr. BIDEN. Mr. President, this amendment has been cleared with the leadership on this side, qualifies under the order, and there is no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1427) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, might I inquire of the managers of the bill if there are other amendments which qualify under the order or further debate on the bill?

Mr. SPECTER. If the distinguished Senator from Delaware is prepared to yield back the remainder of his time, I am prepared to yield back the remainder of my time.

Mr. BIDEN. Mr. President, I am prepared to yield back the remainder of my time. I think we are ready to go to final passage.

● Mr. MOYNIHAN. Mr. President, I rise today in support of S. 2411, the Justice Assistance Act of 1982 introduced originally by my distinguished colleague from Pennsylvania (Mr. SPECTER). This measure will renew Federal criminal justice assistance to State and local law enforcement efforts and the bipartisan support shown for this measure is a tribute to the need for fostering better support for law enforcement agencies at the local level.

Although primary responsibility for law enforcement rests with the States and localities, crimes of violence and theft increasingly threaten the safety and security of our Nation's citizens each year. Close to 25 million households—30 percent of all households in America—were victimized by a crime of violence or theft last year alone.

As early as 1965, I remarked that the problem of street crime was one of the oldest and most divisive issues confronting Government officials. Today the problem continues to grow and the urgent need for action persists. The present situation in my own State of New York is dramatized by recent FBI statistics showing a significant increase in the number of violent crimes and thefts between the years 1970 and 1981. The homicide rate increased by 51 percent, forcible rapes by 94 percent, aggravated assaults by 58 percent, burglaries by 36 percent, larcenies by 188 percent, and motor vehicle thefts by 10 percent.

Faced with these rising crime statistics, it is indeed difficult for me to understand the attempts of the present administration to dismantle the research and assistance programs previously established under the Law Enforcement Assistance Administration (LEAA). Earlier this year, the president of the International Association of Chiefs of Police sharply criticized the administration's plan to eliminate the LEAA and warned that unless President Reagan supplies more money and leadership to back up his promise to wage war on crime, "the next step that would occur is vigilante movements."

Now is the time for Members of the Senate, on both sides of the aisle, to join together in order to provide the necessary resources for the development of new and innovative approaches to solving the national problem of violent crime, and to focus those resources where they are needed most. The $125 million authorization for the new Office of Justice Assistance (OJA) and the existing National Justice Institute (NJI) and National Bureau of Statistics (NBS) is a modest investment in the protection and security of our citizens.

The legislation embodied in S. 2411 retains the best features of the LEAA programs while providing a more efficient organizational structure. State and local governmental units will be encouraged to make a commitment to program and projects supported by national priority grants by inclusion of cash matching requirements. The elimination of block grants will allow for better distribution of these funds, used to promote programs with a proven record of success, through a process of direct application. The OJA will also have the authority to make discretionary grants for educational and training programs and technical assistance, as well as the ability to provide aid to State and local governments faced with criminal justice emergencies of overwhelming proportions.

In the past my home State has greatly benefited from the many programs receiving LEAA grant aid. The career criminal program and the prosecutors management information system (PROMIS) have both been utilized extensively. A project worthy of special note was the Bronx County MOB (Major Offense Bureau), nationally recognized as an "Exemplary Project" which has resulted in the sentencing of violent, career criminals to lengthy terms in prison. Other local programs designed to foster better police-community relations and to provide in-service and supervisory train-

ing for police have had very positive effects.

I believe that the purposes of this act are in accord with both the anti-crime program offered to Congress by President Reagan and the findings of the Attorney General's task force on violent crime. A wide spectrum of national criminal justice organizations support the passage of this legislation and I urge my colleagues to vote for passage of S. 2411. The American people should expect nothing less.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SPECTER. Mr. President, on behalf of Chairman THURMOND, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 4481, the Justice Assistance Act of 1981, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4481) to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. SPECTER. Mr. President, I move that all after the enacting clause of H.R. 4481 be stricken and that the text of S. 2411, as amended, be inserted in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Pennsylvania.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass. The yeas and nays have been ordered.

Mr. EAST. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAST. As I recall, I had 13 minutes of time remaining on my side. Is that correct?

The PRESIDING OFFICER. The Senator had 12 minutes of time remaining.

Mr. EAST. May I have one moment, please, Mr. President?

Mr. SPECTER. Mr. President, I ask unanimous consent that the request for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Is there further debate?

Mr. EAST. Mr. President, the yeas and nays have been vitiated?

The PRESIDING OFFICER. Yes.

Mr. EAST. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is, Shall the bill pass?

The bill (H.R. 4481), as amended, was passed.

Mr. THURMOND. I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes of the two Houses thereon and that the Chair be authorized to appoint conferees.

The motion was agreed to and the Presiding Officer appointed Mr. THURMOND, Mr. SPECTER, Mr. MATHIAS, Mr. EAST, Mr. BIDEN, Mr. KENNEDY, and Mr. HELFIN conferees on the part of the Senate.

Mr. SPECTER. Mr. President, I ask unanimous consent that the Senate consideration of S. 2411 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I should like to take this opportunity to commend the able Senator from Pennsylvania on the splendid manner in which he handled this bill.

I also commend the able Senator from Delaware, the ranking member of the Committee on the Judiciary, for the excellent manner in which he cooperated in managing this bill. He has always proven very helpful in matters on the Judiciary Committee and matters on the floor. I especially wish to pay my respects to him and again thank him and the able Senator from Pennsylvania.

Mr. BIDEN. I thank the Senator.

Mr. SPECTER. I thank the chairman.

Mr. President, I thank the distinguished Chairman of the Committee on the Judiciary for assisting in the consideration of this bill at this time and during the course of the hearings.

I thank the majority leader for making time available on what is a very pressing calendar.

ORDER TO RESCIND THE ORDER FOR PRINTING OF THE JUSTICE ASSISTANCE ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the order entered to print in the RECORD the Justice Assistance Act be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that that bill not be engrossed but be held awaiting further action tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET WAIVER FOR RADIO MARTI

Mr. BAKER. Mr. President, what is the business pending before the Senate?

The PRESIDING OFFICER. The pending business is the motion to waive the provisions of the Budget Act for the consideration of H.R. 5427.

Mr. BAKER. Mr. President, there is an order, I believe, for the recognition of the Senator from Nebraska at this point, is there not?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Will the Senator from Nebraska consider the possibility of renewing his unanimous-consent request in preparation for yielding to me?

Mr. ZORINSKY. Mr. President, under the precedents of the Senate, I shall be happy to yield to the majority leader providing that I can be accorded unanimous consent to be recognized first to resume when this question is again brought before the Senate today, tomorrow, or any other day; and that the continuation of my remarks at this time be viewed as an extension of my remarks today and not as a second speech under the two-speech rule.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I wonder if the Senator from Nebraska would make his usual and customary request at this time in respect to the motion to waive section 402(a) of the Budget Act.

Let me say before he does so, that it is my intention after he does that to ask the Senate to create a period for the transaction of routine morning business, and after that period is ended, to go out until tomorrow.

Mr. President, I now yield to the Senator if the Senator wishes me to do so.

Mr. ZORINSKY. I thank the majority leader.

Mr. President, under the precedents of the Senate, I wish to yield to the majority leader (Mr. BAKER), provided that I am accorded unanimous consent to be recognized first.

I ask unanimous consent that I be recognized first to resume when this question is again brought before the Senate today, tomorrow, or any other time, and that the continuation of my remarks at that time will be viewed as an extension of the first speech and not as a second speech under the two speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 6 p.m. in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983—H.R. 7356

EXPLANATORY STATEMENT OF THE COMMITTEE ON APPROPRIATIONS

Mr. McCLURE. Mr. President, the Interior appropriations bill for fiscal year 1983 (H.R. 7356) was reported to the Senate on Wednesday, December 9. Because of the limited time remaining in this postelection session, the committee agreed that it would not be possible to file a written report of its recommendations, await expiration of the required 3 days, and expect full floor debate and consideration of the measure.

While the bill is not accompanied by a written report, the committee has prepared an extensive explanation of the measure and each recommended change (attached). This explanation closely follows the format of a committee report, had one been filed, and in the absence of a written report, represents the intent and views of the committee.

EXPLANATORY STATEMENT OF THE RECOMMENDATIONS OF THE SENATE COMMITTEE ON APPROPRIATIONS ON THE DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1983 (H.R. 7356)

The Committee on Appropriations, to which was referred this bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes, reports the same to the Senate with various amendments and presents herewith information relative to the changes recommended:

FISCAL YEAR 1983

Amount of bill as passed by House	$7,386,522,000
Amount of increase by Senate	5,085,000
Total of bill as reported by Senate	7,391,607,000
Estimates considered by House	6,550,251,000
Estimates considered by Senate	6,550,251,000
The bill as reported to the Senate:	
Over the budget estimate, 1983	841,356,000
Under appropriations, 1982	133,070,000

SUMMARY OF BILL

For this bill, estimates totaling $6,550,251,000 in new obligational authority were considered by the Committee for the programs and activities of the agencies and bureaus of the Department of the Interior, except the Bureau of Reclamation, and the following related agencies:

Department of Agriculture: Forest Service.

Department of Energy: Fossil energy; Naval petroleum and oil shale reserves; Conservation (except energy storage systems); Economic Regulatory Administration; Strategic petroleum reserve; SPR Petroleum Account; Energy Information Administration.

Department of Health and Human Services: Indian Health Service.

Department of Education: Indian Education Act; Institute of Museum Services.

Navajo and Hopi Relocation Commission.

Smithsonian Institution.

National Gallery of Art.

Woodrow Wilson International Center for Scholars.

National Foundation on the Arts and Humanities.

Commission of Fine Arts.

Advisory Council on Historic Preservation.

National Capital Planning Commission.

Pennsylvania Avenue Development Corporation.

Federal Inspector of the Alaska Gas Pipeline.

Holocaust Memorial Council.

Native Hawaiians Study Commission.

The Committee recommends appropriations totaling $7,391,607,000 for the programs and activities in this bill. This is an increase of $841,356,000 in the budget estimates and an increase of $5,085,000 above the House allowance.

REVENUE GENERATED BY AGENCIES IN BILL

Oil and gas leasing and other mineral leasing activities, the timber and range programs, and oil production from the Naval petroleum reserves will generate income to the Government in excess of $20.6 billion in fiscal year 1983. These estimated receipts are tabulated below:

[In thousands of dollars]

	Fiscal year—		
	1981	1982	1983
Department of the Interior	11,592,063	8,956,262	17,463,158
Forest Service	1,091,787	1,139,247	1,424,425
Naval petroleum and oil shale reserves	1,666,400	1,670,200	1,780,900
Total	14,350,250	11,765,709	20,668,483

MAJOR CHANGES RECOMMENDED IN THE BILL

In an effort to honor congressional spending limitations, the Committee has developed substantial revisions in both the budget and House allowance for the 1983 fiscal year.

A comparative summary of funding in the bill by agency is shown by agency or principal program in the following table:

	Committee recommendation	Committee recommendation compared with—	
		Budget estimate	House allowance
Title I—Department of the Interior:			
Bureau of Land Management	$513,271,000	$451,319,000	$489,225,000
Fish and Wildlife Service	265,213,000	233,194,000	307,334,000
National Park Service	853,321,000	743,434,000	942,553,000
Geological Survey	358,765,000	376,820,000	371,925,000
Minerals Management Service	196,506,000	196,506,000	20,778,000
Bureau of Mines	142,162,000	125,676,000	128,629,000
Office of Surface Mining Reclamation and Enforcement	216,468,000	159,822,000	187,922,000
Bureau of Indian Affairs	1,005,424,000	1,022,035,000	1,021,072,000
Territorial Affairs	180,269,000	130,976,000	151,843,000
Office of the Solicitor	19,071,000	19,071,000	17,904,000
Office of the Secretary	73,186,000	65,022,000	70,789,000
Total, Title I—Department of the Interior	3,822,760,000	3,523,875,000	3,709,974,000
Title II—Related Agencies:			
Forest Service	1,522,091,000	1,493,937,000	1,485,317,000
Department of Energy	826,150,000	443,058,000	926,760,000
Indian Health	654,474,000	613,280,000	682,540,000
Indian Education	65,519,000	51,119,000	66,216,000
Navajo and Hopi Indian Relocation Commission	7,665,000	13,403,000	9,359,000
Smithsonian Institution	151,249,000	156,110,000	159,276,000
National Gallery of Art	32,228,000	32,673,000	34,839,000
Woodrow Wilson International Center for Scholars	2,321,000	2,255,000	2,255,000
National Endowment for the Arts	143,875,000	100,875,000	143,875,000
National Endowment for the Humanities	130,060,000	96,000,000	130,560,000
Institute of Museum Services	10,800,000	.....	10,800,000
Commission of Fine Arts	319,000	319,000	319,000
Advisory Council on Historic Preservation	1,000,000	1,000,000	1,600,000
National Capital Planning Commission	2,279,000	2,202,000	2,279,000
Pennsylvania Avenue Development Corporation	11,175,000	12,200,000	12,300,000
Federal Inspector for the Alaska pipeline	6,125,000	7,125,000	6,125,000
Holocaust Memorial Council	820,000	820,000	820,000
Native Hawaiians Study Commission	(190,000)	200,000	(190,000)
Executive Office of the President			2,005,000

	Committee recommendation	Committee recommendation compared with—	
		Budget estimate	House allowance
Total, Title II—Related Agencies	3,568,847,000	3,026,376,000	3,676,548,000
Grand total	7,391,607,000	6,550,251,000	7,386,522,000

REPROGRAMING PROCEDURES

Procedures governing reprograming actions for programs and activities in this bill were last stated in Senate Report 95-1063, and House Report 95-1251. Specific revisions have occurred since that time. In an effort to assure that the guidelines are clearly understood, the Committee wishes to restate those guidelines to include the revisions.

1. Definition.—"Reprograming," as defined in these procedures, includes the reallocation of funds from one budget activity to another. In cases where either Committee report displays an allocation of an appropriation below the activity level, that finer level of detail shall be the basis for reprograming. For construction accounts, a reprograming constitutes the reallocation of funds from one construction project identified in the justifications to another. A reprograming shall also consist of any significant departure from the program described in the agency's budget justifications. This includes proposed reorganizations.

2. Criteria for reprograming.—*(a)* Any project or activity which may be deferred through reprograming shall not later be accomplished by means of further reprograming; but, instead, funds should again be sought for the deferred project or activity through the regular appropriation process.

(b) A reprograming should be made only when an unforeseen situation arises; and then only if postponement of the project or the activity until the next appropriation year would result in actual loss or damage. Mere convenience or desire should not be factors for consideration.

(c) Reprograming should not be employed to initiate new programs or to change allocations specifically denied, limited or increased by the Congress in the act or the report. In cases where unforeseen events or conditions are deemed to require such changes, proposals shall be submitted in advance to the Committee, regardless of amounts involved, and be fully explained and justified.

3. Reporting and approval procedures.—*(a)* Any proposed reprograming must be submitted to the Committee in writing prior to implementation if it exceeds $250,000 annually or results in an increase or decrease of more than 10 percent annually in affected programs, with the following exceptions:

(1) Any land purchase not exceeding $100,000.

(2) Any construction project not exceeding $100,000, or which results in an increase or decrease of not more than 25 percent annually.

(3) Savings from a construction project in one of the Trust Territory governments may be applied to a shortfall on another project in the same area.

Timely reports on these reprogramings shall be forwarded to the Committee by the Department.

(b) All reprogramings shall be reported to the Committee quarterly and shall include cumulative totals.

(c) Any significant shifts of funding among object classifications should also be reported to the Committees in a timely manner.

(d) Reprograming proposals submitted to the Committee for prior approval shall be considered approved after 30 calendar days if the Committee has posed no objection. However, agencies will be expected to extend the approval deadline if specifically requested by either Committee.

4. Administrative overhead accounts.—For all appropriations where costs of overhead administrative expenses are funded in part from "assessments" of various budget activities within an appropriation, the assessments shall be shown in justifications under the discussion of administrative expenses.

5. Contingency accounts.—For all appropriations where assessments are made against various budget activities or allocations for contingencies, the Committee expects a full explanation, separate from the justifications. The explanation shall show the amount of the assessment, the activities assessed, and the purpose of the fund. The Committee expects reports each year detailing the use of these funds. In no case shall such a fund be used to finance projects and activities disapproved or limited by Congress or to finance new permanent positions or to finance programs or activities that could be foreseen and included in the normal budget review process. Contingency funds shall not be used to initiate new programs.

SUMMARY TABLE.—LAND AND WATER CONSERVATION FUND

	Budget	House	Senate
BLM	$468,000	$468,000	$311,000
FWS	1,567,000	33,647,000	19,048,000
NPS:			
State grants		75,000,000	75,000,000
Federal acquisitions	59,650,000	88,648,000	49,400,000
Pinelands	126,000	8,995,000	5,000,000
Subtotal	59,776,000	172,643,000	129,400,000
FS	7,563,000	53,476,000	55,117,000
Total	69,374,000	260,234,000	203,876,000

TITLE I—DEPARTMENT OF THE INTERIOR

LAND AND WATER RESOURCES

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LAND AND RESOURCES

1982 appropriation	$423,638,000
1983 budget estimate	329,577,000
House allowance	322,963,000
Committee recommendation	331,716,000

The Committee recommends an appropriation of $331,716,000, an increase of $2,139,000 over the budget estimate. A comparison of Committee recommendations with the budget estimate is as follows:

	Budget estimate	Committee recommendations	Change
Energy onshore	$44,772,000	$44,312,000	−$460,000
Energy offshore	(43,950,000)		(43,950,000)
Non-energy onshore	10,179,000	10,179,000	
Lands and realty management	35,638,000	35,638,000	
Forest management	6,051,000	6,051,000	
Range management	36,581,000	40,381,000	+3,800,000
Soil, water, and air management	14,772,000	14,772,000	
Wildlife habitat management	13,642,000	14,942,000	+1,300,000
Recreation management	21,975,000	22,175,000	+200,000
Fire management	9,234,000	9,234,000	
Planning and data management	20,041,000	19,859,000	−182,000
Cadastral survey	20,281,000	19,881,000	−400,000
Firefighting and rehabilitation	4,750,000	4,750,000	
Law enforcement	2,004,000	2,004,000	
Maintenance and engineering services	11,014,000	10,804,000	−210,000
General administration	78,643,000	76,734,000	−1,909,000
Total, Management of lands and resources	329,577,000	331,716,000	+2,139,000

Energy onshore.—The Committee recommends $44,312,000, a reduction of $460,000 from the budget estimate.

Coal, geothermal, and oil and gas leasing are funded at the requested level and the Committee directs that these activities continue at the budget level in fiscal year 1983. The Committee recommends reducing funding for oil shale and tar sands leasing by $460,000, and understands that this level will permit continuation of the program in fiscal year 1983.

The House report has a lengthy discussion of mineral leasing activities, criticizing a number of aspects of the Department's programs ar d concluding that the House Committee cannot agree with the scope or magnitude of the changes proposed by the Department with regard to its minerals leasing programs.

The House Committee is concerned that an accelerated leasing program is not economically justifiable, due to the currently depressed minerals markets. The Department's program will generate short-term revenues in the form of bonus bids and long-term revenues in the form of rents and royalties. The major income to the Federal Government is generally reflected in royalty payments which are generated as the minerals are mined. The House is also concerned that the Department is relaxing diligence requirements that will have the effect of encouraging less production. It is the Committee's understanding that no changes have been made in the oil and gas program. The geothermal program has a proposal that will permit the lease holders to substitute other beneficial actions as an expression of diligence in lieu of production. These changes include encouraging additional exploration or a higher per acre rental fee.

Regarding the need for additional competitive bidding, competitive bidding for oil and gas leasing takes place on lands designated as known geologic structures (KGS) and favorable petroleum geologic provinces (FPGP) in Alaska. The designation of KGS or FPGP is made by the Minerals Management Service pursuant to the requirements of the Mineral Leasing Act of 1920, as amended. All Federal coal is offered by means of a competitive lease sale system. The Committee would also point out that the issue of additional competitive leasing has been debated in Congress on numerous occasions and the Committee believes that the current situation best serves the Government's interest and the taxpayer's interest.

The House report recommends a postponement of two coal sales planned and budgeted for late fiscal year 1983, at least until the House Appropriations Committee Investigative Staff concludes a review. The Committee has included language urging the Department to proceed with those sales in fiscal year 1983 and notes that postponement of those sales will result in a loss in bonus bids extimated at $12,200,000 in fiscal year 1983, as well as probably delaying the four coal sales scheduled in fiscal year 1984.

The House Committee report expresses concern about the legal basis for contingent

rights stipulations in leases. While the issue is not without legal doubt, the Committee understands that the only court opinion to date has held that a lease incorporating contingent rights stipulations that has been accepted but the leasee would be enforceable.

Finally, the Committee notes that concern is also expressed in the House report regarding the number of leases currently producing. These leases are available for production quickly in response to national security situations, and without those leases in place, the country would not be able to respond in as timely a manner.

The Committee notes that the budget estimate includes $380,000 for operations in the Steese National Conservation Area and the White Mountain National Recreation Area. The Committee expects the Bureau to continue efforts in fiscal year 1983 at a rate to complete the necessary planning by December 1984.

The Committee also supports administration effors to eliminate leasing backlogs and to increase attention to post-lease activities.

Energy offshore.—The Committee recommends no funding for BLM for this program. Funds are provided to the new Minerals Management Service for offshore activities.

Nonenergy onshore.—The Committee provides $10,179,000, the same as the budget.

Lands and realty management.—The Committee recommends $35,638,000, the same as the budget. The Committee would like BLM to develop a proposal to lower the threshold for rights-of-way cost recovery from the current level of $5,000 and submit such a proposal with the fiscal year 1984 budget, including a full discussion of the impacts. The Committee is interested in recovering costs for rights-of-way Activities to the maximum practicable and legal amount.

The Committee supports full implementation of the Alaska National Interest Lands Conservation Act, including the conveyance of 4,500,000 acres to the Alaska Natives and 13,000,000 acres to the State, as well as 2,500 Native allotment cases. This conveyance schedule will be maintained by the Committee's recommended funding level.

Forest management.—The Committee recommends an appropriation of $6,051,000, the same as the budget estimate.

Range management.—The Committee recommends an appropriation of $40,381,000 for BLM's range management program, an increase of $3,800,000 over the budget.

The budget would have reduced on-the-ground improvements. The Committee has restored these funds to the 1983 base level. The Committee endorses the administration's efforts to move to long-term monitoring of range capacity rather than intensive, one-shot inventories.

The Committee notes with concern the House report language stating that grazing permits and investments in public lands improvements are beneficial only to a small, select group. The permittees are not the only beneficiary of range improvements or of grazing management funding. In fact, the primary benefit is the protection of the vegetative and land and water resource base. The House action will deny needed improvements in grazing management activities to the detriment of the resource base, not just to the detriment of the permittee. This Committee is committed to protecting that resource base.

Additional benefits are in terms of wildlife habitat; soil and water quality; watershed protection; additional forage for nongame species; and the ultimate production of red meat for consumption by the taxpayers of the United States.

The grazing fee formula is not an administratively government process. It was established by the Congress in the Public Rangelands Improvement Act of 197[illegible] (PRIA). To compare only direct receipts from permittees to Federal expenditures and to conclude that receipts are inadequate on that basis alone is to deny all of the other benefits. PRIA calls for a review of the formula after 7 years and a report is expected in 1985. The BLM and the Forest Service and the Economic Research Service are currently conducting a variety of analyses of the grazing fee. To contemplate a return to the prior forage value formula prior to meeting the congressional directives in PRIA would be inappropriate, in the judgment of the Committee.

The Committee recommends striking of House proposed language prohibiting the establishment of any possessory interest in Federal water rights by any permittee. The Committee does not understand the intent or meaning of the House language. In any reasonable application of fact, the Committee concludes that the language is overly broad or vague.

The Committee notes that the House has added $1,000,000 over the budget to increase the number of animals removed from the range and to provide for them until adopted. The BLM advises this Committee that there are currently estimated to be about 57,000 wild horses and burros on the range and that a removal rate of about 9,000 animals per year will maintain zero population growth. There are presently about 1,475 excess animals in corrals and their maintenance (feed) costs are estimated at about $870,000 per year. The budget estimate permits removal of the required 9,000 animals per year. The Committee, however, remains concerned that the long-term solution to the wild horse and burro problem is not to engage in an argument over adoption rates or even necessarily removal rates, but to look for other solutions. Therefore, the Committee does not agree to a rollback in adoption fees to the pre-January 1982 levels.

Wildlife habitat management.—The Committee recommends $14,942,000 for wildllife habitat management, an increase of $1,300,000 over the budget. This will increase the number of habitat management plans and other wildlife supporting activities.

Soil, water, and air management.—The Committee recommends an appropriation of $14,772,000, the same as the budget estimate.

Recreation management.—The Committee recommends an appropriation of $22,175,000, an increase of $200,000 over the budget, for offroad, vehicle use designations to be continued at 1982 levels. The Committee directs BLM to continue funding of the Iditarod National Historic Trail office, at least until the State of Alaska determines whether or not it is in a position to take over the trail operations.

Fire management.—The Committee recommends an appropriation of $9,234,000, the same as the budget estimate.

Planning and data management.—The Committee recommends an appropriation of $19,859,000, a reduction of $182,000 below the budget. This reduction is to be transferred to the new Minerals Management Service (MMS).

Cadastral survey.—The Committee recommends an appropriation of $19,881,000, a reduction of $400,000 from the budget. The reduced level of $9,984,000 for the lower 48 States is an increase of $148,000 over 1982 apropriations, and is the 1983 base estimate.

Firefighting and rehabilitation.—The Committee recommends an appropriation of $4,750,000, the same as the budget estimate.

Law enforcement.—The Committee recommends an appropriation of $2,004,000, the same as the budget estimate.

Maintenance and engineering services.—The Committee recommends an appropriation of $10,804,000, a reduction of $210,000 from the budget. This reduction holds engineering support costs to 1982 levels.

General administration.—The Committee recommends $76,734,000 a reduction of $1,909,000 from the budget. This reduction is $1,909,000 to be transferred to MMS.

CONSTRUCTION AND ACCESS

1982 appropriation	$2,627,000
1983 budget estimate	2,243,000
1984 House allowance	2,243,000
Committee recommendation	2,243,000

The Committee recommends an appropriation of $2,243,000 the same as the budget estimate.

The Committee does not concur with the proposal to combine construction and access activities with the land acquisition program and has established a separate land acquisition appropriation.

The following table provides the line item distribution of Committee recommendations:

	Budget estimates	Committee recommendation	Charge
Construction:			
Buildings	$258,000	$258,000	
Recreation	460,000	460,000	
Transportation			
Subtotal	718,000	718,000	
Access	1,525,000	1,525,000	
Total	2,243,000	2,243,000	

PAYMENTS IN LIEU OF TAXES

1982 appropriation	$95,520,000
1983 budget estimate	45,000,000
House allowance	95,520,000
Committee recommendation	96,320,000

The Committee recommends an appropriation of $96,320,000, an increase of $51,320,000 over the budget estimate.

The administration has again proposed legislation to modify the payment distribution formula. Congress has reviewed the proposal but has not concluded that it is an equitable improvement over the current formula. In the meantime, the Committee strongly recommends that full PILT funding be provided under the existing formula. Local units of government dependent on Federal payments in lieu of taxes are especially hard hit this year. Other payments to local units of government are down this year—timber receipts most notably—and the other tax receipts available to these governmental units are also reduced, but costs of providing essential services are not coming down.

LAND ACQUISITION

1982 appropriation	$3,712,000
1983 budget estimate	468,000
House allowance	468,000
Committee recommendation	311,000

The Committee recommends an appropriation of $311,000 for this appropriation

in 1983, a decrease of $157,000 from the budget estimate. This reduction is to be applied to the lands acquisition administrative functions.

The Committee is especially troubled by the problems BLM is having in determining estimates of value for land acquisition cases and in providing accurate information to the Committee. Further, the BLM appraisals reviewed by the Committee have not been of the same quality as those provided by other land-acquiring agencies. The Committee expects BLM to improve in both areas and directs BLM's management to review these problems and to provide the Committee with a report, including recommendations for improvements, within 90 days of the date of enactment of this act.

The following acquisitions are recommended:

Bureau of Land Management:

	Committee recommendation
Administrative expenses	$150,000
Rogue W&SR, Oreg	161,000
Total	311,000

OREGON AND CALIFORNIA GRANT LANDS

1982 appropriation	$52,788,000
1983 budget estimate	52,883,000
House allowance	46,883,000
Committee recommendation	61,533,000

The Committee recommends an appropriation of $61,533,000, an increase of $8,650,000 over the budget.

The Committee has decided to continue to appropriate directly to BLM an amount equivalent to the estimated revenues it would receive from timber sales on the O. & C. lands. This direct appropriation eliminates the uncertainty of the revenue estimating process, due to the fluctuating timber sales levels and receipts.

Construction and acquisition.—The Committee recommends an appropriation of $1,091,000, the same as the budget estimate.

Maintenance.—The Committee recommends an appropriation of $5,000,000, the same as the budget estimate.

Renewable resources management.—The Committee recommends an appropriation of $54,990,000, an increase of $8,650,000 over the budget.

The Committee agrees with the House proposal to fund all O. & C. activities through BLM, with funds being transferred to the FS as outlined below. However, the Committee does not concur with the reductions being proposed by the House and recommends funding at the budget level, as outlined below:

TIMBER DEVELOPMENT AND MANAGEMENT, INCLUDING ROADS

	Budget	House (estimated) proposal	Senate proposal
FS	[1] $11,300,000	[2] $7,028,000	[3] $9,958,000
BLM	38,490,000	28,112,000	39,832,000
Total	49,790,000	35,140,000	49,790,000

[1] Includes $2,650,000 transferred from BLM and $8,650,000 from direct appropriations to the FS.
[2] Estimated distribution to be provided by BLM at 80/20 percent ratio, BLM to FS.
[3] All to be provided by transfer from BLM. The proposed distribution is in the same approximate ratio as is the responsibility for managing acres.

The proposed funding level includes $1,000,000 for the FIR research program, as budgeted.

The Committee hopes that this funding approach, through BLM, will improve the quality of the justification for O. & C. lands over prior years.

Planning and data management.—The Committee is recommending an appropriation of $452,000, the same as the budget.

RANGE IMPROVEMENTS

1982 appropriation	$13,226,000
1983 budget estimate	11,048,000
House allowance	11,048,000
Committee recommendation	11,048,000

The Committee recommends an appropriation of $11,048,000, the same as the budget estimate. The Committee endorses the proposal to restrict use of range improvement funds for on-the-ground work and to fund related administrative costs from the "Management of Lands and Resources" appropriation. Range improvement funds are primarily derived from grazing fees collected in the previous year. Due to the reduction in the animal unit month (AUM) fee from $2.31 per AUM in 1981 to $1.86 per AUM in 1982, collections have been reduced from $13,226,000 to $11,048,000.

The Committee directs the Department to encourage permittees to make stewardship investments in the rangeland resource, as authorized by the Public Rangelands Improvement Act (43 U.S.C. 1968a) and related administrative provisions.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

1982 appropriation	$9,600,000
1983 budget estimate	10,000,000
House allowance	10.000,000
Committee recommendation	10,000,000

The Committee recommends an appropriation of $10,000,000, the same as the budget estimate.

MISCELLANEOUS TRUST FUNDS

1982 appropriation	$100,000
1983 budget estimate	100,000
House allowance	100,000
Committee recommendation	$100,000

The Committee recommends an appropriation of 100,000, the same as the budget estimate.

FISH AND WILDLIFE AND PARKS

FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

1982 appropriation	$226,722,000
1983 budget estimate	221,876,000
House allowance	242,778,000
Committee recommendation	227,279,000

The Committee recommends an appropriation of $227,279,000, an increase of $5,403,000 over the budget estimate.

The following table compares Committee recommendations with the budget estimates:

	Budget estimate	Committee recommendation	Change
Habitat preservation:			
Environmental containment evaluation	$8,951,000	$9,423,000	+$472,000
Land and water resource development plans	11,802,000	11,802,000	
Biological services	10,394,000	11,377,000	+983,000
Cooperative units		4,500,000	+4,500,000
Subtotal	31,147,000	37,102,000	+5,955,000
Wildlife resources:			
Migratory birds	64,810,000	59,740,000	−5,070,000
Mammals and nonmigratory birds	17,500,000	17,830,000	+330,000
Animal damage control	13,414,000	14,974,000	+1,560,000
Interpretation and recreation	11,742,000	11,742,000	
Fire suppression	2,954,000	3,000,000	+46,000
Subtotal	110,420,000	107,286,000	−3,134,000
Fishery resources:			
Fish hatcheries	20,121,000	23,204,000	+3,083,000
Fishery assistance	2,975,000	2,975,000	
Fishery research	9,531,000	9,531,000	
Fishery law enforcement	225,000	225,000	
Subtotal	32,852,000	35,935,000	+3,083,000
Endangered species	16,550,000	17,753,000	+1,203,000
General administration	30,907,000	30,907,000	
SLUC reduction		−1,704,000	−1,704,000
Total, Resource management	221,876,000	227,279,000	−5,403,000

HABITAT PRESERVATION ACTIVITIES

Environmental contaminant evaluation.—The Committee recommends an appropriation of $9,423,000, an increase of $472,000 over the budget. This restores proposed reductions in mineral and agricultural contaminant activities.

Land and water resources development planning.—The Committee recommends an appropriation of $11,802,000, the same as the budget estimate and a reduction of 15 percent below 1982 funding. The FWS states that it will be able to maintain its 1982 workload at the reduced funding level.

Biological services.—The Committee recommends an appropriation of $11,337,000, an increase of $983,000 in the minerals program. This increase is needed to continue FWS involvement in minimizing the negative impacts of mining activity in oil shale, tar sands, geothermal, and other strategic minerals. The eastern energy and land use team is maintained by this increase. If the Department can show that these activities will be continued in future years by reimbursable arrangements, the Committee will review the situation again. This recommendation includes a budgeted increase of $541,000 for the national wetland inventory.

Cooperative units.—The Committee recommends that the cooperative fish and wildlife research units not be terminated and provides $4,500,000 for their continuation.

WILDLIFE RESOURCES

Migratory birds.—The Committee recommends an appropriation of $59,740,000, a reduction of $5,070,000 from the budget. This allowance restores $930,000 for operation of the National Wildlife Health Laboratory at Madison, Wis. and does not include $6,000,000 that was budgeted for additional refuge maintenance funds. Also included, to be funded from funds available, is $250,000 to be used to purchase grazing improvements at the Kofa NWR, Ariz., in order to terminate grazing on the refuge, and an additional $150,000 to pay equipment and personnel costs to enable adequate management of Bogue Chitto NWR, La. The Committee also supports recreational use of the Ruby Lake NWR, Nev., including the use of powered watercraft, and directs the Department to review such usage and report on its practicality within 30 days.

The Committee has also struck House-proposed bill language prohibiting hunting on the Bosque del Apache NWR when whooping cranes are on the refuge. The

Committee considers the steps taken by the Service to insure the safety of the wintering whooping cranes during the 16 days of snow goose hunting on the refuge to be sufficient to protect the whooping cranes. These precautions have been in place since 1975 and have been developed with the cooperation of the whooping crane recovery team. Permitted hunting of doves, upland game, and big game is not permitted in whooping crane habitat on the refuge.

The Committee has also struck House-proposed bill language naming the Tupelo NFH as the "Private John Allen National Fish Hatchery," in line with the Committee's recommendation that the Tupelo NFH be closed.

Mammals and nonmigratory birds.—The Committee recommends an appropriation of $17,830,000, an increase of $330,000 over the budget. The increase provides an additional $200,000 for facility maintenance needs, to be distributed as follows: $60,000 for the Denver WRC; $100,000 for the Gainesville WRC; and $40,000 for the San Simeon WRC. The allowance also includes $130,000 for operation of the Madison, Wis. National Wildlife Health Laboratory.

Animal damage control.—The Committee recommends $14,974,000, an increase of $1,560,000 over the budget. All operations funds are restored to 1982 levels and increases are proposed in research above the budget for Bend, Oreg. (+$75,000) and Olympia, Wash. (+$148,000). The Committee notes that the Federal share of ADC operations is currently less than 50 percent and the Committee does not agree with proposals to insist on a two-third State/one-third Federal distribution of costs. No reduction is to occur in blackbird/sunflower operations in North Dakota or in blackbird problems in Arkansas or Louisiana.

Interpretation and recreation.—The Committee recommends an appropriation of $11,742,000, the same as the budget estimate.

Fire suppression.—The Committee recommends an appropriation of $3,000,000 for fire suppression activities, an increase of $46,000 over the budget.

FISHERY RESOURCES

Fish hatcheries.—The Committee recommends an appropriation of $23,204,000, an increase of $3,083,000 over the budget. Changes from the budget are an increase of $1,883,000 related to hatchery closures (as explained below) and $1,200,000 to keep the Lower Snake River Compensation Plan (LSRCP) on schedule.

PROPOSED HATCHERY CLOSURES

State and hatchery	Proposed for closure by—			Fiscal year 1983 savings
	Budget	House	Senate	
Alabama: Carbon Hill	X		X	$65,000
Arizona:				
Alchesay				
Willow Beach				
Williams Creek	X	X	X	[1] 101,000
Arkansas:				
Corning	X		X	92,000
Greers Ferry				
Mammoth Springs	X			
Norfolk				
Florida: Welaka				
Georgia:				
Chattahoochee Forest		X		
Cohutta	X	X	X	99,000
Millen	X		X	124,000
Warm Springs	X			
Kansas: Cedar Bluff	X	X	X	129,000
Kentucky:				
Frankfort	X	X		
Wolf Creek	X			
Massachusetts:				
Berkshire	X		X	84,000
North Attleboro				
Minnesota: New London	X	X	X	107,000
Mississippi:				
Meridian	X	X		
Tupelo	X		X	105,000
Missouri: Neosho	X		[2]	
Montana:				
Bozeman Cult. Dev. Cent				
Creston				
Ennis		X		
Miles City	X		X	72,000
Nebraska: Crawford	X		X	84,000
New Hampshire:				
Berlin	X	X	X	176,000
Nashua				
New Mexico:				
Dexter				
Mescalaro		X		
North Carolina:				
Edenton				
McKinney Lake	X		X	90,000
Pisgah		X	X	237,000
Ohio:				
Hebron	X	X	X	104,000
Senacaville	X			
Oklahoma: Tishomingo	X			
Pennsylvania:				
Allegheny				
Lamar	X			
South Carolina:				
Cheraw	X	X	[3]	
Orangeburg				
Walhalla	X			
South Dakota:				
Gavins Point				
Spearfish	X	X	X	36,000
Texas:				
Inks Dam	X			
San Marcos				
Uvalde	X			
Utah: Jones Hole		X		
Virginia:				
Harrison Lake	X		X	112,000
Paint Bank		X		
Wytheville				
West Virginia:				
Bowden	X	X		
White Sulphur Springs				
Wisconsin:				
Genoa		X		
Lake Mills	X		X	122,000
Iron River				
Wyoming:				
Jackson				
Saratoga		X		
Total	31	19	18	−1,939,000
Termination costs				+146,000
Savings				−1,793,000
Budget savings estimated				+3,676,000
Add-on over budget				+1,883,000

PROPOSED HATCHERY CLOSURES—Continued

[1] To be funded by BIA.

[2] The Committee has included funds for the operation of the Neosho NFH in Missouri through September 30, 1983. The Committee directs the FWS to negotiate with the State of Missouri with the intention of entering into a long-term cost-sharing arrangement with the State for the operation of the hatchery after September 30, 1983. The Service shall consider the proportion of fish distributed for Federal purposes on Federal lands versus the proportion of fish distributed for State and private use in determining the cost-sharing arrangement. The Committee urges the parties to seek a mutually acceptable arrangement before September 30, 1983. In the event such an arrangement is not agreed to before September 30, 1983, the Committee will review the funding for Neosho NFH again in fiscal year 1984.

[3] Restores the $76,000 eliminated from the budget due to the proposed closing of the fish hatchery at Cheraw, S.C. The funds are to be made available with the understanding that the State of South Carolina will assume funding for the hatchery on October 1, 1983. The State Department of Natural Resources has indicated that they will ask the South Carolina General Assembly for the necessary funding to operate the hatchery. The Committee expects that this agreement will lead to continued operation of the Cheraw NFH and intends not to provide funds beyond fiscal year 1983 for that purpose.

The Committee recognizes that closing these hatcheries is a controversial matter and has spent a considerable amount of time in an effort to do it in an acceptable manner. The Committee considered a number of criteria in developing this list. Primarily, it considered the reason for the initial establishment of the hatchery; the distribution of the fish produced by these hatcheries into Federal, State, or private waters; the purpose for the Federal usage of fish produced; and the future rehabilitation costs of the hatcheries. It did not put primary emphasis on maximizing current-year savings. In fact, by not agreeing with the administration's proposal to close these hatcheries prior to fiscal year 1983, the Committee is having to add $1,883,000 over the budget in order to keep all hatcheries open until Congress has had an opportunity to review and select the ones it agrees should be closed. By closing the hatcheries on the Committee's list, future-year savings for rehabilitation costs are estimated by the Fish and Wildlife Service at $22,389,000.

The Committee understands that a number of States are actively investigating the possibility that the State could assume control of Federal hatcheries. In fact, two States have already reached agreement to take over hatcheries proposed for closure. The Committee supports that development, feeling that, in many cases, it is more appropriate that the State administer some of these hatcheries rather than the Federal Government. The Committee is also supportive of States proposing cost-sharing arrangements, based on the percentage of fish produced for State versus Federal purposes, for other hatcheries.

The Committee further notes that a number of States will not receive the same amount or number of fish transferred from some of the Federal hatcheries proposed for closure. The Committee understands that the FWS will make every effort to supplement their production from remaining hatcheries so as to offset these losses and the Committee endorses those efforts.

Fishery assistance.—The Committee recommends an appropriation of $2,975,000, the same as the budget estimate.

Fishery research.—The Committee recommends an appropriation of $9,531,000, the same as the budget estimate and the House allowance.

The Committee allowance includes $250,000 within available funds for operation of the Warm Springs, Ga. Southeastern Fish Control Laboratory. The Committee is aware of the availability of facilities at the National Fishery Research Laboratory's Warm Springs, Ga. station. The Committee believes that the Warm Springs station has a number of unique advantages including a temperate year-round climate, a relatively low budget, access to Gulf and Atlantic coastal areas and an unusually pure water supply that would be of continued value in fish research activities.

Fishery law enforcement.—The Committee recommends an appropriation of $225,000, the same as the budget estimate.

Endangered species.—The Committee recommends an appropriation of $17,753,000, an increase of $1,203,000 over the budget. Increases over the budget are included for law enforcement (+$987,000) to maintain at least 200 special agents, and for peregrine falcon recovery efforts (+$216,000). Also, the Committee understands that about $250,000 is included within available funds for the Audubon Society joint FWS California condor recovery program. The Committee supports that program and directs the Service to continue its support.

The Committee is concerned about the draft management plan for the recovery of the Northern Rocky Mountain wolf, in terms of conflicts that may arise between wolf populations and the general public and livestock operators and has proposed bill language that addresses this issue.

The Committee is extremely concerned about the problems it has had in determining the proper costs to support the special agents it has mandated in the report. Staff to subcommittee members have been provid-

ed tables and charts that do not agree with official estimates provided through the departmental budget office and the agency budget office. These various tables have frequently been different from tables provided to subcommittee staff. The Department and the Service is directed to conduct a complete review of costs needed to support special agents, including detailed estimates by type of agent and source of funding provided, and to provided, and to provide that study in conjunction with the fiscal year 1984 budget. The Service is also directed to provide subcommittee staff information relating to funding issues that is also provided to other staff.

General administration.—The Committee recommends an appropriation of $30,907,000, the same as the budget estimate. The Committee does not agree to the proposed reduction of funding for the Office of Legislative Services and recommends that an additional $30,000, from available funds, be provided.

The Committee has included bill language renaming the visitor center at the Merritt Island NWR, Fla.

CONSTRUCTION AND ANADROMOUS FISH

1982 appropriation	$10,683,000
1983 budget estimate	9,751,000
House allowance	23,149,000
Committee recommendation	11,126,000

The Committee recommends an appropriation of $11,126,000, $1,375,000 over the budget estimate and $12,023,000 less than the House allowance.

Changes from the budget include a reduction for the public boat ramps at Brigantine NWR, N.J. (−$125,000), and an increase of $1,500,000 for firefighting equipment purchases.

The following table shows the distribution by activity:

	Budget estimate	Committee recommendation	Change
Construction and rehabilitation:			
Wildlife refuges	$4,228,000	$5,603,000	+$1,375,000
Fish hatcheries	3,838,000	3,838,000	
Research facilities	1,049,000	1,049,000	
Dam safety	636,000	636,000	
Total	9,751,000	11,126,000	+1,375,000

MIGRATORY BIRD CONSERVATION ACCOUNT

(Definite Appropriation, Repayable Advance)

1982 appropriation	$1,200,000
1983 budget estimate	
House allowance	2,000,000
Committee recommendation	2,000,000

The Committee recommends an appropriation of $2,000,000, an increase of $2,000,000 over the budget estimate. These funds are advances, to be used for habitat acquisition to protect internationally protected resources, and will be repaid from Federal migratory bird hunting and conservation stamps ("duck stamps").

NATIONAL WILDLIFE REFUGE FUND

1982 appropriation	$5,760,000
1983 budget estimate	
House allowance	5,760,000
Committee recommendation	5,760,000

The Committee recommends continuation of the 1982 level of $5,760,000 for the national wildlife refuge fund, an increase of $5,760,000 over the budget estimate. These funds are used to make payments to counties in which Service lands are based in order to compensate the local units of government for lost tax revenues. Including funding carried over into fiscal year 1983, there will be $7,860,000 available for these payments.

LAND ACQUISITION

1982 appropriation	$16,491,000
1983 budget estimate	1,567,000
House allowance	33,647,000
Committee recommendation	19,048,000

The Committee recommends $19,048,000 for land acquition, an increase of $17,481,000 over the budget.

The following table shows the Committee's recommendations:

FISH AND WILDLIFE SERVICE

	1982 budget	1983 House	1983 Senate
Acquisitions management	$569,000	$1,147,000	$1,000,000
Acquisitions:			
Bon Secour NWR, Ala		4,500,000	
Alaska Maritime NWR, Alaska		5,500,000	5,500,000
Blunt nose leopard lizard, Calif		300,000	
Crocodile Lake NWR, Fla	948,000	2,766,000	2,766,000
Lower Suwanee NWR, Fla		1,500,000	1,500,000
West Indian manatee, Fla		500,000	500,000
Bogue Chitto NWR, La., Miss		1,000,000	1,000,000
Tensas River NWR, La		5,200,000	5,200,000
Plymouth red-bellied turtle, Mass		275,000	
Kirtlands warbler, Mich	50,000	500,000	500,000
Wertheim NWR, N.Y		1,377,000	
Bandon Marsh NWR, Oreg		270,000	270,000
Bear Valley NWR, Oreg		812,000	812,000
Lower Rio Grande NWR, Tex		1,000,000	
Mason Neck NWR, Va		3,000,000	
Protection Island, Wash		4,000,000	
Subtotal, acquisition	998,000	32,500,000	18,048,000
Total, FWS	1,567,000	33,647,000	19,048,000

NATIONAL PARK SERVICE

OPERATION OF NATIONAL PARK SYSTEM

1982 appropriation	$521,528,000
1983 budget estimate	539,703,000
House allowance	567,730,000
Committee recommendation	537,170,000

The Committee recommends an appropriation of $537,170,000, a decrease of $2,533,000 from the budget estimate. The following table provides a comparison of Committee recommendations to the budget estimate:

	Budget estimate	Committee recommendation	Change
Park management:			
Management of park areas	$54,167,000	$56,854,000	+$2,687,000
Concessions management	2,894,000	2,894,000	
Interpretation and visitor services	59,009,000	56,401,000	−2,608,000
Visitor protection and safety	64,459,000	60,059,000	−4,400,000
Maintenance	217,753,000	218,049,000	+296,000
Resources management	80,635,000	80,635,000	
Informational publications	2,957,000	2,957,000	
International park affairs	384,000	384,000	
Volunteers-in-parks	250,000	500,000	+250,000
Subtotal	482,508,000	478,733,000	−3,775,000
General administration	52,250,000	51,084,000	−1,166,000
Forest fire suppression and rehabilitation	1,200,000	1,200,000	
Park recreation and wilderness planning:			
Water resources	1,518,000	1,518,000	
Rivers and trails			
General management plans	838,000	2,246,000	+1,408,000
Subtotal	2,356,000	3,764,000	+1,408,000
Statutory and contractual aid:			
Roosevelt Campobello International Park Commission	394,000	394,000	
Ice Age National Scientific Reserve	588,000	588,000	
Lowell Historic Preservation Canal Commission	407,000	407,000	
Folger Theater			
Corcoran Gallery			
Falls of Clyde			
Ozette Village archeological site			
Washington Opera matching grant		1,000,000	+1,000,000
Subtotal	1,389,000	2,389,000	+1,000,000
Total, Operation of the National Park System	539,703,000	537,170,000	−2,533,000

Management of park areas.—The Committee recommends an appropriation of $56,254,000, an increase of $2,687,000 over the budget for restoration of staff years for park management, all of which are to be assigned to field locations.

The Committee has not included additional funds for operation of the Martin Luther King, Jr. NHS. The Committee notes that this site currently has an operations budget proposed for fiscal year 1983 of $187,600 and seven full-time equivalent staff. The Committee has proposed an additional $500,000 for necessary land acquisition and an additional $650,000 for visitattor facility construction and other renovation expenses for the NHS.

The Committee has included bill language authorizing the Secretary to expend up to $160,000 for operation, including maintenance and protection, of the former home of President Harry S. Truman.

The Committee has also included, within funds available, $450,000 for operation of the New River Gorge National River, W. Va. The Committee directs the Service to proceed with acquistion of property for which funds have been provided in prior years, and also directs the Service to provide immediately the park management plan for New River Gorge that was promised for delivery by November 10, 1982.

Concessions management.—The Committee recommends an appropriation of $2,894,000, the same as the budget estimate.

Interpretation and visitor services.—The Committee recommends an appropriation of $56,401,000, a decrease of $2,608,000 below the budget. This reduction represents the amount available to the National Park System to operate visitor transportation systems in the following parks:

Cape Cod National Seashore
Carl Sandburg Home National Historic Site
Colonial National Historical Park
Cumberland Island National Seashore
Devils Postpile National Monument
Denali National Park
Dinosaur National Monument
Everglades National Park
Fort Matanzas National Monument
Gateway National Recreation Area
Grand Canyon National Park
Grand Teton National Park
Kennesaw Mountain National Battlefield Park
Lyndon B. Johnson National Historic Site
Mesa Verde National Park
North Cascades National Park
Point Reyes National Seashore
Redwood National Park
Rocky Mountain National Park

Sunset Crater National Monument
Yosemite National Park

The Committee directs that all visitor transportation systems in all units of the National Park System be operated on a cost-recoverable basis, except as specifically exempted by law.

The Committee recognizes the contributions of the National Council for the Traditional Arts in its interpretive programs and directs the Service to continue to take advantage of these contributions in fiscal year 1983. The allowance for fiscal year 1983 includes $50,000 for NCTA in 1983 to be derived by transfer from the Office of the Secretary account. The Committee also directs the Service to reimburse to NCTA, from funds available in fiscal year 1982, the maximum amount legally possible for expenses incurred by NCTA in fiscal year 1982 based on the reasonable expection that funds would be forthcoming.

The Committee has included an additional $150,000, within funds available for parks other than Harpers Ferry, to be used for exhibits and interpretive items for Harpers Ferry National Historic Park, including the production of a film concerning the life of John Brown.

Visitor protection and safety.—The Committee recommends an appropriation of $60,059,000, a reduction of $4,400,000 below the budget. This reduction reflects an increase provided to the Office of the Secretary to be used as reimbursement for security, and reflects a $4,000,000 reduction to return funding to the approximate fiscal year 1982 levels.

The Committee recommends continued assistance to the town of Harpers Ferry, W. Va., to cover the extraordinary law enforcement burden caused by the National Historic Park visition, for fiscal year 1983 at the level of $85,000, to be provided out of funds appropriated for the visitor protection and safety activity. Bill language is also included.

The Committee has not recommended an additional $700,000, as proposed by the House, for replacement of the Bell Jet model 206B helicopter, as the Committee understands that the helicopter has not exceeded its maximum utilization standard. Further, the Committee has not agreed to an additional $500,000 for law enforcement training, which would be an increase of 80 percent over budgeted levels. Finally, the Committee has not agreed to $3,000 in tax free payments to the operator and paramedic staffing the Service helicopter which assisted in disaster relief efforts associated with the Air Florida crash. This in no way is intended to slight the truly heroic and courageous actions of both persons.

Maintenance.—The Committee recommends an appropriation of $218,049,000, an increase of $296,000 over the budget. This increase is to restore 9 staff years proposed to be eliminated by the budget.

The Committee directs the Service to continue its efforts to improve the Mount McKinley Park Road in Alaska.

Resources management.—The Committee recommends an appropriation of $80,635,000, the same as the budget.

The Committee has included within funds available up to $2,500,000 to conduct an assessment of the Kantishna Hill/Dunkle Mine study area of Denali National Park, as directed by section 202(3)(b) of the Alaska National Interest Lands Conservation Act (Public Law 96-487). This study, due to the Congress on December 2, 1983, has not yet been initiated and will, in all probability, be late in its submission. The purpose of the study is to provide a basis for a report to the appropriate committees of the Congress with the results of the study and any recommendations that the Alaska Land Use Council and the Secretary may have for the future management of the area. The Committee understands that this study is to be provided to the Congress for its use in further consideration on the ultimate status of these highly mineralized areas of Denali NP.

The Committee is greatly concerned over the imminent threat of damage to the Anasazi sun dagger in Chaco Canyon National Historic Park. The sun dagger is a national treasure of great native American cultural, artistic, and scientific significance and the Committee is pleased to learn that the NPS has initiated steps to protect it. The Committee recommendation includes $100,000 for the NPS for the exclusive purpose of computer graphics modeling to record and preserve the sun dagger's ancient calendrical precision. An institution should be sought with the requisite technology and skills to begin immediately the necessary tasks. None of this appropriation may be used to purchase equipment. The Committee recommendation also includes an additional $100,000 to support the Chaco Culture Computer Center, which has been established to identify archeological sites in the San Juan basin.

International publications.—The Committee recommends an appropriation of $2,957,000, the same as the budget estimate.

International park affairs.—The Committee recommends an appropriation of $384,000, the same as the budget.

Volunteers-in-parts.—The Committee recommends an appropriation of $500,000, an increase of $250,000 over the budget. The increase will permit the Service to expand its program to include 19,000 volunteers at 258 parks.

Forest fire suppression and rehabilitation.—The Committee recommends an appropriation of $1,200,000, the same as the budget.

Water resources.—The Committee recommends an appropriation of $1,518,000, the same as the budget.

General management plans.—The Committee recommends an appropriation of $2,246,000, an increase of $1,408,000 over the budget. This restores the fiscal year 1982 level.

Statutory and contractual aid.—The Committee recommends an appropriation of $2,389,000, an increase of $1,000,000 over the budget.

The Committee recommends an appropriation of $1,000,000 for the Washington Opera, to be matched from non-Federal sources not previously used or in increased amounts from current supporters.

The Committee has not agreed to the House proposal to add $500,000 for the Garfield gravesite.

General administration.—The Committee recommends an appropriation of $51,084,000, a decrease of $1,166,000 from the budget for space charges.

The NPS has traditionally provided services to facilitate the operation of the White House as a national historical structure. The House proposes to transfer funding to the Executive Office of the President so that those services would be provided on a reimbursable basis. The Committee does not agree that providing funds to another organization will facilitate management of the White House and sees no need to change the current arrangement.

The Committee also recommends that the Service complete its planning and public involvement process regarding Rock Creek Park and decide at that time whether or not to expand its current program.

The Committee has included bill language that provides for the establishment of reasonable entry fees to all units of the national park system where practical and recommends further that the Service expand its program of user fees and provides that receipts, less the cost of collections, be deposited into the Treasury so as to be available for subsequent appropriation to the Service.

The Committee notes that the House has included report language which directs the Secretary to facilitate an easement swap between the National Park Service and the Canal Road vehicle demonstration project. The Committee understands that there is substantial citizen opposition to this project and therefore directs that the Secretary enter into no easement agreement until the District of Columbia Department of Transportation and other interested parties complete the public comment process underway.

The Committee does not agree with the bill language added by the House regarding the usage of National Park Service facilities and the Director's discretionary fund and recommends elimination of the House proposed language.

The Committee is concerned that the House proposed bill language that prohibits processing any applications for operating or developing or for permitting the development of any additional mineral extraction or energy development activities within the established boundaries of any unit of the national park system except those specifically authorized by law, and recommends deletion of that provision.

The Committee notes that the House has added bill language prohibiting the sale or exchange of national park system lands without prior approval of the Congress. This proposal would prohibit necessary and desirable land exchanges that can consolidate park ownership within approved boundaries. For example, the National Park Service, BLM, Rocky Mountain Energy Co., Mr. Laurence Rockefeller, Princeton University, Dartmouth University, the Sloane-Kettering Institute, and the University of Vermont Law School are involved in a complex land exchange. The net effect of this land exchange would be to give title to the National Park Service about 500 acres of land in Grand Teton National Park valued at over $12 million.

The Committee recommends elimination of the House proposed bill language that prohibits anyone owing money to the Government from serving on any Park Service advisory board or commission.

NATIONAL RECREATION AND PRESERVATION

1982 appropriation	$12,607,000
1983 budget estimate	6,987,000
House allowance	10,087,000
Committee recommendation	9,487,000

The Committee recommends an appropriation of $9,487,000, an increase of $2,500,000 over the budget. It is composed of the following activities:

	Budget estimate	Committee recommendation	Change
Recreation programs:			
Planning	$88,000	$88,000	
Federal real property	229,000	229,000	
Park and recreation technical services	692,000	692,000	
Subtotal	1,009,000	1,009,000	
Natural programs:			
Rivers and trails	1,027,000	1,527,000	+$500,000
Natural area programs	146,000	146,000	
Subtotal	1,773,000	1,673,000	+500,000
Cultural programs:			
Maintenance of National Register	1,186,000	1,186,000	
Technical preservation services	1,336,000	1,336,000	
National Architectural and Engineering Record	598,000	598,000	
Interagency Archeological Services	1,275,000	1,275,000	
Subtotal	4,425,000	4,425,000	
Environmental and compliance review	380,000	380,000	
Grant administration		2,000,000	+2,000,000
Total	6,987,000	9,487,000	+2,500,000

The Committee has recommended two increases in this appropriation. An additional $500,000 is recommended for the rivers and trails activity, in order to permit the Service to continue its role in evaluating proposed additions to the national wild and scenic rivers system and the national trails system.

The Committee has also recommended an increase of $2,000,000 for grant administration activities, in conjuction with its proposal for new budget authority for the historic preservation grant program.

URBAN PARK AND RECREATION FUND

1982 appropriation	$7,860,000
1983 budget estimate	
House allowance	
Committee recommendation	

The Committee recommends no appropriation in fiscal year 1983, the same as the budget request.

The Committee is aware that unobligated balances exist from budget authority provided prior to fiscal year 1982. From these unobligated balances, the Committee directs that funds beyond those required to shut down shall be programed to supplement grants awarded since the programs inception on highest priority status.

HISTORIC PRESERVATION FUND

1982 appropriation	$25,440,000
1983 budget estimate	
House allowance	26,000,000
Committee recommendation	26,000,000

The Committee recommends an appropriation of $26,000,000 for the Historic Preservation Fund in fiscal year 1982, an increase of $26,000,000 from the budget estimate.

The Committee recommendation has recommended $4,500,000 for the National Trust for Historic Preservation and $21,500,000 for grants to States. This recommendation will permit continued cooperation between the Federal Government and the States in activities such as nominations for the National Register, tax act certifications, and survey and planning activities. No funds are included for acquisition and development grants.

CONSTRUCTION

1982 appropriation	$95,852,000
1983 budget estimate	132,721,000
House allowance	161,846,000
Committee recommendation	147,017,000

The Committee recommends an appropriation of $147,017,000, an increase of $14,296,000 over the budget.

The Committee intends to continue its strong support of the Secretary's initiatives to increase health and safety related construction projects for the Service.

The following table provides a detailed comparison of the budget estimate with the Committee recommendations:

	Budget estimate	Committee recommendation	Change
Advance planning	$5,000,000	$5,000,000	
Lump sum projects	3,000,000	3,000,000	
Project planning	8,214,000	8,214,000	
Line item construction	116,507,000	130,803,000	+$14,296,000
Total	132,721,000	147,017,000	+14,296,000

Line item construction.—The Committee recommends an increased construction program for fiscal year 1983 and has added $14,296,000 to the budget. The following table reflects Committee recommendations:

National Park Service construction

Reductions from budget:	
Glen Canyon NRA, Utah-Ariz.—marina	−$3,883,000
Chaco Culture NHP, N. Mex.—road	−2,751,000
Gateway NRA, (Sandy Hook) N.Y., N.J.—road	−1,965,000
Guadalupe Mountains NP, Tex.—trails	−1,664,000
Mesa Verde NP, Colo. (savings due to road redesign)	−4,300,000
Voyageurs NP, Minn.—visitor facility developments	−2,690,000
Martin Van Buren NHS, N.Y.—rehabilitation structure	−878,000
Perry's Victory and International Peace Memorial, Ohio—structure rehabilitation	−2,444,000
Total reductions	−20,575,000
Additions to budget:	
Gateway NRA (Sandy Hook—beach replenishment only)	+6,000,000
Natchez Trace Parkway, Miss	+9,000,000
Great Smoky Mountains NP, Tenn. (Foothills Parkway)	+9,400,000
Wolf Trap Farm Park for the Performing Arts, Va	+6,000,000
Interagency Visitor Centers, Alaska	+1,400,000
Jean Lafitte NHP, La	+2,171,000
Resurrection River Bridge-Kenai Fjords NP, Alaska (planning)	+250,000
Martin Luther King, Jr., NHS, Ga	+650,000
Total additions	+34,871,000

The Committee has recommended a number of changes, which is not to be read as a prejudice against projects proposed for reduction. The Committee understands that none of the projects proposed for reduction was justified primarily on the basis of health and safety needs.

The Committee is disturbed that the Service has permitted the lighthouse and related facilities at Cape Hatteras National Seashore, N.C. to deteriorate to such a poor condition. The balcony on the lighthouse has been closed since 1975, following a determination that the iron works were unsafe. The problem has been studied and the Committee understands that new iron will be placed over the old iron in fiscal year 1983 at a cost of $185,000. The Committee urges the Service to pursue a remedy for this problem and have the lighthouse open safely for visitors as soon as possible. Further, the adjacent museum of the sea is also in very poor shape. The Service is directed to initiate efforts to improve that facility in fiscal year 1983 out of funds available, after consulting with the Committee on the proposed remedy.

LAND ACQUISITION AND STATE ASSISTANCE

1982 appropriation	$133,642,000
1983 budget estimate	59,776,000
House allowance	172,643,000
Committee recommendation	129,400,000

The Committee recommends an appropriation of $129,400,000, an increase of $69,624,000 over the budget.

The following table shows the Committee recommendations:

	Budget estimate	Committee recommendation	Change
Assistance to States:			
Matching grants		$70,619,000	+$70,619,000
Administrative expenses		4,381,000	+4,381,000
Subtotal		75,000,000	+75,000,000
Federal programs: National Park Service	$55,400,000	41,900,000	−13,500,000
Administration	4,250,000	7,500,000	+3,250,000
Pinelands National Reserve	126,000	5,000,000	+4,874,000
Total	59,776,000	129,400,000	+69,624,000

The Committee recommends the following projects:

	Budget estimate	House recommendation	1983 Senate
Assistance to States:			
Matching grants		$70,619,000	$70,619,000
Administrative expenses		4,381,000	4,381,000
Total, assistance to States		75,000,000	75,000,000
Pinelands National Reserve	$126,000	8,995,000	5,000,000
National Park Service:			
Acquisition management	4,250,000	8,743,000	7,500,000
Inholdings (emergencies and hardships)	3,800,000	3,800,000	3,000,000
Deficiencies and relocations	2,200,000	2,200,000	1,000,000
Appalachian Trail		10,000,000	10,000,000
Big Cypress NP	14,000,000	500,000	500,000
Big Thicket NP	4,500,000		
Biscayne NP		8,100,000	2,000,000
Buffalo NR, Ark			2,000,000
Cape Cod NS	6,500,000		
Cape Lookout NS	2,000,000	2,000,000	2,000,000
Cumberland Island NS	1,000,000		
Cuyahoga River NRA		6,000,000	
Delaware Water Gap NRA		1,000,000	
Garfield NHS		205,000	
Golden Gate		1,000,000	2,200,000
Great Smoky Mountains		1,500,000	1,500,000
Gulf Island NS	3,700,000	3,700,000	3,700,000
Indiana Dunes		1,400,000	
Jean Lafitte NHP		2,500,000	2,500,000
Lassen Volcanic NP	5,500,000		
Martin Luther King, Jr. NHS		500,000	500,000
Olympic NP		10,700,000	
Point Reyes		2,000,000	
Santa Monica Mountains NRA		15,000,000	
Sleeping Bear Dunes NL	8,400,000		8,400,000
Voyageurs NP	3,800,000	3,800,000	3,800,000
Slippage			−1,200,000
Total, National Park Service	59,660,000	84,648,000	49,400,000

	Budget estimate	House recommendation	1983 Senate
Total, land acquisition and State assistance	39,776,000	168,643,000	129,400,000

The Committee provided $30,000,000 in the fiscal year 1982 supplemental bill in an attempt to meet the Government's obligations to pay landowners for court awards and deficiencies. This allowance for fiscal year 1983 also recognizes a commitment made last year for a 1-year moratorium on the State side of the land acquisition program; the Committee recognizes that $75,000,000, its recommendation, is not as high as some would like and is willing to review the funding needs again in fiscal year 1984. This recommendation, however, does keep the program moving.

The Committee is also distressed at the overall lack of cooperation between the land acquiring agencies and the nonprofit organizations that are capable of performing a valuable service in helping acquire properties as directed by Congress at a reduced cost. The Committee understands that the Federal lands staffs resent having priorities influenced by these organizations. The Committee shares that concern. However, the Congress, not the nonprofit organizations, so that they can direct their efforts at the most valuable and threatened properties. The Committee also wants to keep informed about deficiencies and will try to provide funding to meet those needs.

The Committee is concerned about timely completion of acquisition of properties within the Big Cypress National Preserve—both in terms of condemnation judgments and direct pruchases by the National Park Service.

Condemnation proceedings on some property tracts have been completed, but judgments have not yet been paid. Other cases have been filed by the U.S. Attorney's Office and are pending condemnation proceedings. Still other cases are eligble for court proceedings but, upon instruction from the Department of the Interior, the U.S. attorney has not filed these cases and instead, has returned them to the Department because of unavailability of funds. And finally, there are private properties within the Preserve area which have not even been appraised and purchase prices not even been negotiated with the landowners.

The Committee directs the National Park Service to utilize appropriated funds for the purposes of condemnation judgments and direct purchases.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

1982 appropriation	$4,212,000
1983 budget estimate	4,247,000
House allowance	4,247,000
Committee recommendation	4,247,000

The Committee recommends an appropriation of $4,247,000, the same as the budget estimate.

ENERGY AND MINERALS

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

1982 appropriation	$507,787,000
1983 budget estimate	366,547,000
House allowance	365,525,000
Committee recommendation	352,365,000

The Committee recommends an appropriation of $352,365,000, $14,182,000 below the budget estimate. The following table provides a comparison of the Committee's fiscal year 1983 recommendations and the budget estimates:

	Budget estimate	Committee recommendation	Change
National mapping, geography, and surveys:			
Primary quadrangle mapping	$36,865,000	$38,465,000	+$1,600,000
Digital mapping		3,873,000	+3,873,000
Map revision and orthophotoquads	16,761,000	16,761,000	
Small, intermediate, and special mapping	13,016,000	14,216,000	+1,200,000
Cartographic and geographic information	3,806,000	3,806,000	
Subtotal, National mapping, geography, and surveys	70,448,000	77,121,000	+6,673,000
Geologic and mineral resource surveys and mapping:			
Geologic hazard surveys	43,455,000	46,055,000	+2,600,000
Land resource surveys	16,735,000	16,735,000	
Mineral resource surveys	40,860,000	40,860,000	
Energy geologic surveys	29,982,000	31,982,000	+2,000,000
Offshore geologic surveys	14,759,000	12,143,000	−2,616,000
Subtotal, Geologic and mineral resource surveys and mapping	145,791,000	147,775,000	+1,984,000
Water resources investigations:			
Federal program	53,006,000	53,006,000	
Federal/State program	44,164,000	44,164,000	
Energy hydrology	14,845,000	14,845,000	
Subtotal, Water resources investigations	112,015,000	112,015,000	
Earth sciences applications:			
Earth resources observation system	9,490,000	9,490,000	
Environmental affairs	955,000	955,000	
Land resources data applications	635,000	635,000	
Subtotal, Earth sciences applications	11,080,000	11,080,000	
General administration	14,527,000	14,527,000	
Facilities	12,686,000	12,686,000	
Transfer from NPRA		−16,200,000	−16,200,000
SLUC reduction		−6,639,000	−6,639,000
Total, Surveys, investigations, and research	366,547,000	352,365,000	−14,182,000

Primary quadrangle mapping.—The Committee's recommendation includes an increase of $1,600,000 over the budget request for primary quadrangle mapping. This additional funding will increase the production of new 7.5- and 15-minute topographic quadrangle maps by approximately 3,000 square miles to a total 65,000 square miles. Production of these maps is necessary in the identification and development of coal and energy resources, wetlands inventory, evaluation of the impact of natural disasters, coastal area management, and numerous other studies.

Digital mapping.—Just as for fiscal 1982, funds for digital mapping are included under "Surveys, Investigations, and Research" rather than provide funding in a new, separate appropriation for a digital cartography revolving fund. Although the Committee is not necessarily opposed to a revolving fund for this purpose, it, nevertheless, feels compelled to await enabling authorization before establishing this new account.

Small, intermediate, and special mapping.—The Committee has recommended an additional $1,200,000 for land-use and land-cover mapping, raising the total area mapped from the suggested 200,000 square miles to the fiscal year 1982 level of 270,000 square miles. At this increased level, land-use and land-cover mapping coverage of the 48 contiguous States can be completed by mid-1984 as originally planned.

Volcano hazards.—The Committee has recommended an increase of $2,600,000 over the budget estimate for volcano hazards. This increase provides the fiscal year 1982 funding level for volcano hazards of $9,578,000, but is still over $3,000,000 less than the 1981 level. Recent actions indicate that the Cascade volcanoes are unusually restless and appear to be on the threshold of another period of increased activity, and the Committee firmly believes this activity warrants increased funds for seismic, deformation, and geophysical monitoring, as well as for hydrologic monitoring and hazard assessment.

Energy geologic surveys.—Included in the Committee's recommendation is an additional $2,000,000 for uranium/thorium investigations. The Department is expected to use these additional funds for both applied research and for increased resource assessment.

Offshore geologic surveys.—The Committee has recommended a decrease of $2,616,000 from the budget request for offshore geologic surveys. The Committee is informed that under the proposed 5-year leasing program, most areas will have been opened to leasing using data acquired prior to fiscal year 1983. In addition, industry is currently gathering extensive data for future sales which is required to be provided to the Geological Survey and the Minerals Management Service. In light of these facts, funding for offshore geologic surveys can be reduced without adverse consequences to the Department's aggressive leasing program.

National Petroleum Reserve in Alaska.—The Committee has recommended a transfer of $16,200,000 from the Exploration of National Petroleum Reserve in Alaska to surveys, investigations, and research. This amount had been requested for rescission during fiscal year 1982 and is not necessary for operations in the coming fiscal years.

Conservation of lands and minerals.—For fiscal year 1983, the Committee has provided funds for Outer Contnental Shelf lands, Federal and Indian lands, and royalty management under a new account, Minerals Management Service. The Committee believes that the importance of these programs warrants the creation of such an account. As these programs are combined with programs formerly under the direction of the Bureau of Land Management and the Office of the Secretary, this new, separate account will facilitate better control, coordination, and understanding of the activities of the Minerals Management Service.

BARROW AREA GAS OPERATION, EXPLORATION, AND DEVELOPMENT

1982 appropriation	$2,196,000
1983 budget estimate	6,400,000
House allowance	6,400,000
Committee recommendation	6,400,000

The Committee recommends an appropriation of $6,400,000, the same as the budget estimate.

This level of funding will provide for the continued operation of the two Barrow gas fields which service both Government installations and nearby Native populations. Fiscal year 1983 will be the first year during which the U.S. Geological Survey will be required to fund the full cost of providing a stand-alone base camp for operation and maintenance of the gas fields. In this regard, the Committee is aware of ongoing negotiations which could ultimately transfer responsibility for the gas fields to the North Slope Borough. The Department is

urged to actively pursue these negotiations and is directed to undertake no activities associated with a new drilling program until such negotiations are completed

DIGITAL CARTOGRAPHY

1982 appropriation	.....
1983 budget estimate	$3,873,000
House allowance	.....
Committee recommendation	.....

The Committee recommends no appropriation for digital cartography, $3,873,000 below the budget estimate.

Because the establishment of a revolving fund for the acquisition of digital cartographic data has not yet been authorized, the Committee again this year has not recommended a new, separate appropriation for the digital cartography account. However, the Committee remains receptive to this concept and urges the authorizing Committees to act quickly to review the proposal. $3,873,000 has been provided within USGS's "surveys, investigations, and research" account under the subtitle "digital mapping."

MINERALS MANAGEMENT SERVICE

MINERALS AND ROYALTY MANAGEMENT

1982 appropriation	.....
1983 budget estimate	$196,506,000
House allowance	20,778,000
Committee recommendation	196,506,000

The Committee recommends an appropriation of $196,506,000, the same as the budget estimate. The Committee recommendations compared to the budget estimates are shown in the following table:

	Budget estimate	Committee recommendation	Change
Outer Continental Shelf lands:			
Leasing and environmental program	$45,055,000	$45,055,000	.....
Resource evaluation	36,801,000	36,801,000	.....
Regulatory program	36,913,000	36,913,000	.....
Subtotal, Outer Continental Shelf lands	118,769,000	118,769,000	.....
Federal and Indian lands:			
Oil and gas program	23,594,000	23,594,000	.....
Coal program	9,579,000	9,579,000	.....
Other energy minerals	3,798,000	3,798,000	.....
Non-energy minerals	2,273,000	2,273,000	.....
Waterpower program	680,000	680,000	.....
Subtotal, Federal and Indian lands	39,924,000	39,924,000	.....
Royalty management:			
Royalty collections	13,841,000	13,841,000	.....
Royalty compliance	6,499,000	6,499,000	.....
Systems development and maintenance	10,354,000	10,354,000	.....
Subtotal, royalty management	30,694,000	30,694,000	.....
General administration	7,119,000	7,119,000	.....
Total, Minerals Management Service	196,506,000	196,506,000	.....

The Minerals Management Service was created by Secretarial Order 3071 on January 19, 1982, and transferred from the U.S. Geologic Survey the entire Conservation Division which had previously managed all activities funded by the conservation of lands and minerals budget activity. On May 10, 1982, Secretarial Order 3071 was amended to consolidate in Minerals Management Service all Outer Continental Shelf related programs previously managed within the U.S. Geological Survey, the Bureau of Land Management, and the Office of the Secretary. The Service is thus responsible for the overall management of petroleum, gas, coal, and other energy and nonenergy minerals on Federal and Indian lands, the collection of royalties due the Government from the production of these resources, and the management of all Interior Department functions directly related to the OSC lands leasing and regulatory program.

Like the House, the Committee endorses this consolidation, and not only expects improved accounting and collection of the royalties due the Government, but also expects improved management of and greater management oversight and accountability for the minerals-related activities as well as the OSC leasing and lease management functions. To this end, the Committee expects the Minerals Management Service to utilize, to the greatest extent possible, the scientific expertise of the USGS and other Federal agencies rather than create a large, separate scientific capability within the Service.

For fiscal year 1983, the first full year of operation, the Committee has recommended the budget request of $196,506,000. Of this amount, not more than $2,000,000 can be used to contract with the U.S. Geologic Survey for USGS Outer Continental Shelf research-related programs. Any amount in excess of $2,000,000 would result in the allocation of a disproportionately large share of available MMS resources to activities not directly supporting the OSC leasing program.

The Committee has joined the House in providing a legislative limitation with respect to the royalty management program. The Committee does not, however, see a compelling argument which would justify amending the law with respect to the transfer of mineral receipts to the general fund of the Treasury before being distributed to the Indian tribes, the States, and to the Federal reclamation fund as set forth in 30 U.S.C. 191.

Finally, the Committee remains concerned that the inadequate lease inspection activities of the past not be continued by the MMS. While the Committee is aware of improvements recently proposed by the Service, the Committee expects to be kept informed on a regular basis of all activities in this regard, including, but not limited to, a comparison of planned and executed inspections, numbers of inspection personnel, ongoing training activities, and the methods by which inspections are increased and improved.

BUREAU OF MINES

1982 appropriation	$150,602,000
1983 budget estimate	125,676,000
House allowance	128,629,000
Committee recommendation	142,162,000

The Committee recommends an appropriation of $142,162,000, an increase of $16,486,000 over the budget estimate.

The distribution by activity is as follows:

	Budget estimate	Committee recommendation	Change
Minerals and research:			
Mineral health and safety technology	$37,823,000	$37,823,000	.....
Minerals environmental technology	6,235,000	6,235,000	.....
Minerals resources technology	33,888,000	33,888,000	.....
Mining research and development	1,000,000	6,000,000	+5,000,000
Subtotal	78,946,000	83,946,000	+5,000,000
Minerals information:			
Data collection and analysis	20,408,000	20,408,000	.....
Land assessments	5,427,000	8,981,000	+3,554,000
Subtotal	25,835,000	29,389,000	+3,554,000
Mineral institutes		9,600,000	+9,600,000
General administration	20,895,000	20,895,000	.....
SLUC reduction		−1,668,000	−1,668,000
Total, Bureau of Mines	125,676,000	142,162,000	+16,486,000

Mineral health and safety.—The Bureau shall cooperate with the Pennsylvania State and West Virginia universities in a program to conduct research on black lung disease within the amount made available for health and safety technology. The work should concentrate on control of dust particle generation; dilution, dispersion, and collection in mine airways; characterization of dust particles and interaction of dust and lungs.

Mining research and development.—The Committee has recommended an increase of $5,000,000 over the budget estimate for mining research and development. This program was transferred to the Bureau of Mines from the Department of Energy in the 1982 Supplemental Appropriations Act and should result in management and coordination efficiencies with the Bureau's coal mining productivity and safety research activities. Of the $6,000,000 recommended by the Committee, $3,000,000 is for continued operation of the Bruceton Mine Equipment Test Facility and $3,000,000 is for initial start-up costs associated with multiyear research of this Nation's strategic and critical materials problems, to be conducted at the Idaho National Engineering Laboratory. This research will be focused specifically in the areas of production technologies, materials technologies, and conservation technologies, as well as on other areas where scientific advances are required to reduce this Nation's dependence on foreign suppliers of strategic and critical materials and where contributions can be made to assist the Nation's minerals and materials industries.

Land assessments.—The Committee recommends an increase of $3,554,000 for land assessments, bringing the total program to the fiscal year 1982 level of $8,047,000. This level of funding will make it possible for the Bureau to continue a more aggressive mineral potential assessment program on the Forest Service Wilderness Act and Rare II lands.

Mineral institutes.—Within the $9,600,000 recommended by the Committee for mineral institutes, $4,950,000 is for the generic mineral technology centers which have as their main focus of research the following primary areas: (1) comminution; (2) mine systems design; (3) pyrometallurgy; and (4) mineral industry waste treatment and recovery. Each of these technology centers will, to the extent possible and practicable, utilize the expertise of other mineral institutes in carrying out their research missions as identified by the Department and the Advisory Committee on Mining and Mineral Research.

Of the remaining $4,650,000, $150,000 is for each of the 31 mineral institutes nationwide to assist in university research in mineral engineering and to train qualified mineral scientists and engineers.

OFFICE OF SURFACE MINING, RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

1982 appropriation	$58,515,000

1983 budget estimate	62,173,000
House allowance	61,313,000
Committee recommendation	63,819,000

The Committee recommends an appropriation of $63,819,000, an increase of $1,646,000 above the budget estimate. A comparison of the budget estimates and the Committee recommendation is as follows:

	Budget estimate	Committee recommendation	Change
State regulatory programs grants	$32,150,000	$32,150,000	
Federal regulatory programs:			
Program operations and inspections	9,393,000	9,896,000	+$503,000
Technical support	9,760,000	10,903,000	+1,143,000
Subtotal	19,153,000	20,799,000	+1,646,000
General administration	10,870,000	10,870,000	
Total, regulation and technology	62,173,000	63,819,000	+1,646,000

Program operations and inspections.—The Committee has recommended $503,000 over the budget request for regulation and inspection, bringing the total for regulation and inspection to $6,603,000. The increase over the budget request will allow the Department to perform the necessary inspections in the State of Virginia during fiscal year 1983 until such time as State law is revised to make State inspection possible.

Technical support.—Activities included in the Committee's recommended increase of $1,143,000 for technical support are technical advice and assistance (+$234,000), regulations review and revisions (+$90,000), technical publications (+$95,000), and mine plan review—NEPA compliance (+$714,000).

ABANDONED MINE RECLAMATION FUND—(DEFINITE, TRUST FUND)

1982 appropriation	$115,333,000
1983 budget estimate	97,649,000
House allowance	126,609,000
Committee recommendation	152,649,000

The Committee recomends an appropriation of $152,649,000, an increase of $55,000,000 above the budget estimate. The Committee recommendation is compared to the budget estimate as follows:

	Budget estimate	Committee recommendation	Change
State reclamation programs grants	$78,500,000	$133,500,000	+$55,000,000
Federal reclamation programs:			
Interior reclamation projects	9,377,000	9,377,000	
Rural lands reclamation program	3,650,000	3,650,000	
Technical support	1,221,000	1,221,000	
Subtotal	19,149,000	19,149,000	
Total, abandoned mine reclamation fund	97,649,000	152,649,000	+55,000,000

State reclamation program grants.—Recognizing the depressed state of the economy in the coal fields as well as the availability of previously collected fees from the abandoned mine reclamation fund, the Committee has added $55,000,000 to the budget request for State reclamation grant activities. The Committee expects these funds to be transferred in an expeditious manner so as to accelerate the repair of damages to the lands resulting from abusive surface mining practices prior to the passage of the Surface Mining Reclamation and Control Act, and to provide much needed employment opportunity in the coal mining regions of this country as quickly as possible.

Interior reclamation projects.—The Committee expects the Department to use available funds to address eligible high priority coal and noncoal projects in those States that do not have approved abandoned mine reclamation programs.

Rural lands reclamation program.—For RAMP, the Committee has recommended the budget request of $3,650,000. This amount will provide for the servicing of all 244 existing active contracts by USDA's Soil Conservation Service. While the Committee is committed to completing those RAMP projects currently underway, it notes again the position taken by the committees in the conference report on the 1982 Supplemental Appropriations Act that no new projects will be funded under the RAMP program as they have in the past. Rather, the Committee expects these new projects will be funded through the reclamation grants made available to the individual States. In this regard, the States are encouraged to utilize the expertise of the Soil Conservation Service and State and local conservation districts in planning reclamation projects.

The Committee shares the view of the House that the collection of delinquent reclamation fees is extremely important and has likewise included bill language which permits the Department to contract for the collection of such fees. The Committee's language, however, does not place a restriction of 20 percent of the amount of the collected delinquent fee which can be used to pay for such a contract.

INDIAN AFFAIRS

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

1982 appropriation	$828,572,000
1983 budget estimate	849,250,000
House allowance	850,477,000
Committee recommendation	839,339,000

The Committee recommends an appropriation of $839,339,000, a decrease of $9,911,000 below the budget estimate and $11,138,000 below the House allowance. The Committee recommendations compared with the budget estimate are displayed in the following table:

	Budget estimate	Committee recommendation	Change
Education	$256,672,000	$274,370,000	+$17,698,000
Indian services	245,114,000	234,114,000	−11,000,000
Economic development and employment	66,573,000	58,555,000	−8,018,000
Natural resources	87,203,000	83,521,000	−3,682,000
Trust responsibilities	47,205,000	46,205,000	−1,000,000
General management and facilities operations	162,483,000	152,574,000	−9,909,000
General overhead reduction	−16,000,000	−10,000,000	+6,000,000
Total, operation of Indian programs	849,250,000	839,339,000	−9,911,000

Education.—The Committee recommends $274,370,000 for education programs which includes $176,749,000 for school operations, $26,229,000 for Johnson-O'Malley educational assistance, $52,677,000 for continuing education, and $18,715,000 associated with the future transfer of schools to the State of Alaska.

The sum of $153,228,000 is provided for the equalization formula. The $3,345,000 savings associated with the closure of 17 Alaskan schools combined with the recommended level provide a net increase of $7,052,000 over the fiscal year 1982 allowance. Enrollment has been steadily declining in the BIA schools. The following table illustrates the per student expenditures:

	Estimated 1982	Actual 1982	1983 Committee recommendation [1]
Number of students	44,400	40,556	39,456
Equalization formula	$149,521	$149,521	$153,228
Per student expenditure	$3,367	$3,686	$3,886

[1] Estimate of students subtracts only the 1,100 students in Alaska who have transferred to the State system. Actual enrollment will likely be lower.

The above figures cover only a portion of the actual educational expenditures of the Bureau. When the costs of transportation, operations and maintenance, administration, and funds available through the Department of Education are included, the expenditure per student exceeds $6,000, which is almost three times the national average expenditure of $2,200.

In future justifications, the Bureau should revise the education section so as to accurately reflect the total cost of the Bureau's school system.

Other reductions in school operations include: Transportation, −$166,000; educational technical support, −$865,000; and interim formula implementation funds, −$500,000.

Within the funds available, Concho and Wahpeton boarding schools are to be operated for the 1982–83 school year. Funding shall be based on the established formula.

In the last decade the State of Alaska has assumed responsibility for more than 30 day schools which had been operated by the Bureau of Indian Affairs. Most recently, 17 schools were transferred in August 1982. To date all transfers have been accomplished with the concurrence of the State and consultation with the people involved. The Committee intends that this practice be continued, the Bureau is, therefore, directed to operate all 20 remaining day schools in Alaska during the 1983–84 academic year with the exception of any schools for which a resolution of concurrence has been received and not rescinded and which the State is prepared to operate.

$18,715,000 has been provided to upgrade 17 of the remaining 20 day schools. The other three schools are included in the Bureau's facility improvement and repair program.

The funds are made available without fiscal year limitations. It is the intention of the Committee that as the transfers occur, the Bureau shall make available to the State of Alaska the funds required to upgrade the schools.

Bill language has also been included effecting the closure of two boarding schools: Concho and Mount Edgecumbe. The Bureau is to keep the Committee fully informed of actions taken to insure appropriate placement of the children.

The Committee has not at this time concurred with the proposed closure of the Wahpeton and Intermountain boarding schools. With regard to Wahpeton, the Committee does not feel that elementary school children are best served in a boarding school atmosphere, but the Committee also recognizes the legitimate concerns regarding the proper placement of the students who

come from unstable home environments. The Bureau is to continue consultation with the tribes and enter into discussions with the State of North Dakota regarding the future of the school.

While Intermountain has excess capacity, a large backlog of improvement and repair projects and a very high cost per student (in excess of $10,000), it also offers services, such as the solo parent program, which are unavailable in other Bureau schools. The Bureau is requested to approach the State of Utah to determine if there is interest in the State's assuming operation of the school. Failing such interest, the Bureau should proceed with a plan to phase out the operation of this boarding school. A freshman class is to be admitted for the 1983-84 school year.

If either of the States of North Dakota or Utah are willing to accept the boarding schools into the State school system, the Committee will provide in a supplemental appropriation the funds required to bring the facilities up to life and safety standards.

An additional $275,000 has been provided for Johnson-O'Malley payments so that other States do not have their funding reduced because of the additional 1,000 eligible students in Alaska.

The budget request for continuing education has been increased by $1,800,000. Decreases of $300,000 for Haskell Indian Junior College and $160,000 for the Institute of American Indian Arts have been assessed. Haskell is operating below projected enrollment and there was insufficient justification for the total requested increase for IAIA. The sum of $2,260,000 has been provided for the operation of Southwestern Indian Polytechnic Institute. This slight reduction below the fiscal year 1982 level is based on a decrease in enrollment. The Committee intends the Bureau to operate SIPI only through the 1982-83 academic year. Once the task force report is received, action will be taken regarding transfer or closure.

Once the final count for tribally controlled community colleges is determined, if the funds appropriated for title I are insufficient to provide $2,812 per full-time equivalent (FTE) student, the Bureau shall reprogram administrative funds to this program in an amount sufficient to provide $2,812 per FTE.

Indian Services.—The sum of $234,114,000 is provided for Indian services. The decreases below the budget consist of:
—$2,500,000 for the small tribes initiative;
—$500,000 for newly recognized tribes;
—$3,000,000 for welfare grants; and
—$5,000,000 for self-determination grants.

The Bureau of Indian Affairs is directed to limit general assistance payments to the percentage of the State standard of need paid by the individual States. Recent reports by the Inspector General point out serious problems of overpayments and payments to ineligible recipients in the BIA's general assistance and child welfare programs. Administrative action should be taken immediately to correct these program deficiencies.

As the State of Maine has agreed to pay general assistance for the tribes in that State, no BIA funds shall be used for general assistance in Maine after March 31, 1983.

Within the funds available in this and other accounts, the Bureau is directed to provide adequate services to the Turtle Mountain Indian band, including the Trenton Indian service area.

The request for self-determination grants has been reduced by $5,000,000. These funds are to be used to improve tribal accounting systems and to enhance the ability of the tribes to contract for Federal programs. In practice, however, these funds have been used to support a range of activities having little to do with training tribal personnel to assume Federal contracts. The Committee directs that all contracts under this activity be limited to those objectives outlined in the budget justification.

The amount of $30,338,000 is provided for contract support, an increase of $3,016,000 over the fiscal year 1982 level. Within that amount, $550,000 is to be used to support the tribal education contracts which had, until fiscal year 1982, been supported with education funds.

Beginning with the fiscal year 1984 budget submission, contract support funds should be distributed to the program accounts. Only the estimate for new contracts should be included in the contract support line.

Economic development and employment programs.—The sum of $58,555,000 is provided for economic development and employment programs. Employment development has been reduced by the $896,000 requested to close out the Indian Action Team contracts. The Bureau used $500,000 in fiscal year 1982 for this purpose and it should not take 2 years to close out these contracts. Within the funds available, the Committee directs that support for the United Tribes Educational Technical Center be continued at the fiscal year 1982 level ($1,056,000). It has come to the attention of the Committee that funds specifically intended for UTETC may have been reallocated to other uses by the Aberdeen area office. The Committee is deeply concerned that the Aberdeen area office administer the UTETC funds expeditiously and, in compliance with congressional intent, and directs that no less than 95 percent of the funds intended for UTETC are provided to the Center.

The sum of $5,000,000 is provided for the economic development initiative. The road maintenance program is continued at the fiscal year 1982 level.

Natural resources development.—The forestry program has been reduced by $1,500,000. A $3,300,000 increase over the current level is more than sufficient in the face of declining sales and harvest levels. The budget request for irrigation and power has been decreased by $2,182,000. Receipts in fiscal year 1982 and those estimated for fiscal year 1983 are more than $2,000,000 higher than original projections.

The Committee directs that resources available to the Maine tribes be continued at a minimum of the fiscal year 1982 levels. If additional acreage is added to the Maine reservations during fiscal year 1983, the Bureau is directed to make a proportionate increase of funds available to the tribes.

The Committee has not increased the $500,000 budgeted by the BIA for the Council of Energy Resource Tribes. The current Federal contract with CERT extends through the first half of fiscal year 1983. In addition to the BIA, the CERT contract is funded by the Administration for Native Americans and the Department of Energy, with DOE as the lead agency. The Committee understands that a total of $1,100,000 is available to CERT from the Bureau of Indian Affairs during fiscal year 1982 and has no objection to a similar amount being made available in fiscal year 1983.

Trust responsibilities.—The budget increase for the Alaska Lands Act has been deleted. The Committee has not concurred in the bill language proposed by the House of Representatives which could provide a blanket extension for the statute of limitations. This matter is under active consideration of the authorizing committees and a legislative remedy appears imminent.

General management and facilities operation.—A reduction of $2,194,000 has been applied to executive direction and equal opportunity. Funding for the Assistant Secretary for Indian Affairs is provided through the Office of the Secretary. The requested increase of $2,715,000 for administrative services has not been approved. In view of the fact that the Committee has not approved the total general overhead reduction, there are sufficient resources in these two programs to carry out the BIA responsibilities.

The budget request for facilities management has been reduced by $5,000,000. Fuel cost increases have been substantially less than anticipated when this budget was developed. Further savings are available through the closure of 17 schools in Alaska. The Committee recommendation provides an effective increase of $8,000,000 above the fiscal year 1982 level.

General overhead reduction.—The Committee has approved $10,000,000 of the requested $16,000,000 general overhead reduction. It is anticipated that the Bureau will receive approval to implement at least a portion of the proposed reorganization in fiscal year 1983 in order to achieve the estimated savings. Effective management of the Bureau has been impeded by the policy of not filling vacancies while leaving the overall structure intact. The BIA should identify vacancies in critical areas and proceed to fill those immediately.

OTHER PROVISIONS

The Committee has deleted the following House language: Closing 20 day schools in Alaska; continuing the operation of the Southwestern Indian Polytechnic Institute; prohibiting the transfers of the Santa Fe and Albuquerque Indian schools; prohibiting alteration of artwork at the Santa Fe Indian school; and designating a procedure for school closures.

The Committee has included bill language to terminate maintenance funding for boarding schools closed several years ago.

CONSTRUCTION

1982 appropriation	$93,628,000
1983 budget estimate	76,200,000
House allowance	73,890,000
Committee recommendation	69,500,000

The Committee recommends an appropriation of $69,500,000, a reduction of $6,700,000 below the budget estimate and $4,390,000 below the House allowance.

As redesign has delayed construction of the Hopi High School, only $2,500,000 has been provided. The facility shall be built for 800 students.

The $5,200,000 provided in fiscal year 1982 for construction of the Laguna School is no longer required. The Bureau should, therefore, use $4,985,000 to build the San Simmon School which is at the top of the priority list. The remainder shall be used for advance planning and design.

From the review of the Laguna project it appears that while public secondary school has more than adequate capacity, there is some crowding in the Bureau's elementary schools on the reservation. Facility improvement and repair funds should be used to upgrade those schools.

An increase of $1,600,000 is provided to construct 17 units of staff quarters for the Little Wound School, South Dakota.

An increase of $4,200,000 is provided for continued construction of Navajo Irrigation project. Further, $200,000 of the amount budgeted for the Grass Rope Irrigation project shall be applied toward the Navajo project thus giving a program level of $7,400,000 when combined with the $3,000,000 available in carryover funds. The remaining $1,600,000 available from Grass Rope shall be applied to the Sandia Pueblo irrigation improvement project.

ROAD CONSTRUCTION

1982 appropriation	$47,160,000
1983 budget estimate	43,585,000
House allowance	43,705,000
Committee recommendation	43,585,000

The Committee recommends an appropriation of $43,585,000, the same as the budget estimate and $120,000 below the House allowance.

TRUST FUNDS

1982 appropriation	$53,000,000
1983 budget estimate	53,000,000
House allowance	53,000,000
Committee recommendation	53,000,000

The Committee recommends an appropriation of $53,000,000 in trust funds, the same as the budget estimate and the House allowance.

TERRITORIAL AFFAIRS

In light of the administration's long-stated desire and subsequent action supporting completion of the status negotiations with the governments of the Trust Territory, the Committee cannot understand the reasoning behind the submission by the administration of such an inadequate budget request. Despite the administration's own testimony that the capital improvement program (CIP) was some $32,000,000 short of its original scope, for example, no funds were requested for new construction to meet the CIP commitments made by the United States. In an effort to show good faith on the part of the United States with respect to the signing of the status agreements, the Committee has, therefore, increased the Trust Territory of the Pacific Islands budget to better meet some of these commitments.

Among the most important needs of the territories and Trust Territory is the training of personnel in the many areas of public works in order to properly maintain utilities and equipment. To this end, the Committee has provided increased funds for technical assistance and enhanced operations. In addition, the Committee directs that all construction project contracts contain provisions which provide for adequate training of local personnel in the construction techniques and maintenance requirements of that project.

ADMINISTRATION OF TERRITORIES

1982 appropriation	$92,892,000
1983 budget estimate	55,476,000
House allowance	70,743,000
Committee recommendation	77,342,000

The Committee recommends an appropriation of $77,342,000, $21,866,000 above the budget estimate. The amounts recommended by the Committee compared to the budget estimates are shown in the following table:

	Budget estimate	Committee recommendation	Change
Guam:			
Economic development fund	$500,000	$1,000,000	+$500,000
Construction grants	3,165,000	10,028,000	+6,863,000
Subtotal, Guam	3,665,000	11,028,000	+7,363,000
American Samoa:			
Judiciary	681,000	681,000	
Operations grants	18,222,000	20,882,000	+2,660,000
Construction grants	1,480,000	1,777,000	+297,000
Economic development fund		500,000	+500,000
Special program grants			
Subtotal, American Samoa	20,383,000	23,840,000	+3,457,000
Virgin Islands:			
Construction grant		2,500,000	+2,500,000
Subtotal, Virgin Islands		2,500,000	+2,500,000
Northern Mariana Islands:			
Operations grants	14,228,000	14,228,000	
Construction grants, convenant	6,897,000	6,897,000	
Economic development grant	3,018,000	3,018,000	
Construction grants, other	4,000,000	11,500,000	+7,500,000
Subtotal, Northern Mariana Islands	28,143,000	35,643,000	+7,500,000
Office of Territorial and International Affairs	3,285,000	4,361,000	+1,076,000
Northern Mariana Islands Federal Laws Commission			
SLUC reduction		−30,000	−30,000
Total, administration of territories	55,476,000	77,342,000	+21,866,000

As in fiscal year 1982, the Committee does not share the assumption that the territorial governments can support a 75–25 cost sharing on construction projects. Cost sharing should be based on the ability of the local government to contribute rather than on a set formula. Accordingly, increased funding is provided for those projects which the Committee has considered to be of highest priority.

Guam.—The Committee's recommendation includes construction grants for three water transmission lines ($2,567,000); fishing vessel docking facilities ($1,320,000); Route 11 reconstruction ($1,656,000); Harbor of Refuge ($1,485,000); hospital renovation and upgrade ($2,000,000); and the Northern Area Health Center ($1,000,000). An additional $1,500,000 to construct the Northern Area Health Center is expected to be provided through Hill-Burton funds.

American Samoa.—Included in the Committee's recommendation is an additional $500,000 to meet the increasing cost of off-island medical referrals; an additional $500,000 for the economic development loan fund; and $297,000 to reach a 90/10 Federal-local match for construction grants. The Committee has approved $810,000 for the Federal share of a tugboat (total request this fiscal year; $900,000), but understands this may be only half of the cost of a new tugboat. The Committee, therefore, directs the American Samoa government and the Department to review alternatives to purchase, such as long-term lease. The Committee has also included $2,160,000 for emergency repair and maintenance of power generation and distribution facilities. The Committee remains committed to providing improved facilities to American Samoa, however, and has determined to await final long-term plans for such new facilities to be submitted by the government.

Virgin Islands.—The Committee has recommended $1,500,000 for one juvenile detention center. The Committee shares the belief expressed in recent hearings that this facility will greatly assist the Government to overcome growing crime problems. The Committee has also included $1,000,000 for initial planning and development of much needed water and power facilities.

The Committee has recommended funds for several territories for water and power. These funds have been provided on the basis of information submitted by the territories. The Committee is concerned that the Department has been unable or unwilling to provide the Committee with the basic information on the condition of the water and power systems in the territories to enable it to conduct a reasoned review of these requests. The deteriorating situation in American Samoa has been known by the Department since at least 1974 when the Army generators were procured and yet no comprehensive proposal for the Samoa system has been proposed. The Committee is aware of budget requests from the Virgin Islands for the last several years, yet, again no comprehensive review of the Virgin Islands water and power system has been forthcoming. Accordingly, the Committee directs the Department to include within the justifications submitted with the 1984 budget and each year thereafter a comprehensive statement on the water and power systems in each territory noting the age and condition of the various components of the system including generators, distribution lines, transfer and switching, et cetera. The statement shall also include cost estimates for replacement, repair, or rehabilitation of any components which will be required within that fiscal year and the capability of that territory to assume those costs from available resources and an identification of the source of those funds.

Northern Mariana Islands.—In addition to the budget request, the Committee has recommended $1,500,000 to complete the airport water catchment system and an additional $6,000,000 to begin construction of new health care facilities. The Committee is concerned that the budget request is insufficient to lure adequate construction bids and, moreover, is convinced piecemeal funding will result in increased overall costs and an unnecessary delay in completion of the facilities. The Committee's total recommendation of $10,000,000 will provide 33 percent of the overall cost and will make it possible to complete construction within a 3-year timeframe.

Office of Territorial and International Affairs.—The Committee does not concur with the Department's request to fund the Office of the Assistant Secretary through the administration of territories account. Rather, the Office will be funded the same as the other assistant secretary offices, through the Office of the Secretary account. To further provide much needed technical assistance to the territories and Trust Territory, the Committee has recommended an increase of $1,500,000 over the budget request of $1,450,000. While the Committee expects the Department to work closely with each of the governments to identify and resolve each government's priority technical assistance needs, special attention should continue to be given to financial planning and accounting, communications, and construction and maintenance training. In coordination with recent action by the Department, the functions of the Federal Comptrollers have been transferred to the Office of the Inspector General.

The Committee directs the Secretary to, within available funds not already obligated, make available $150,000 for planning for the Eastern Caribbean Center at the College of the Virgin Islands.

TRUST TERRITORY OF THE PACIFIC ISLANDS

1982 appropriation	$101,114,000
1983 budget estimate	75,500,000
House allowance	81,100,000
Committee recommendation	102,927,000

The Committee recommends an appropriation of $102,927,000, an increase of $27,427,000 above the budget estimate. The Committee recommendations are compared to the budget estimates in the following table:

	Budget estimate	Committee recommendation	Change
Operations:			
TTPI headquarters	$4,630,000	$5,630,000	+$1,000,000
College of Micronesia	1,400,000	1,452,000	+52,000
Federated States of Micronesia	35,137,000	37,842,000	+2,705,000
Republic of the Marshall Islands	10,358,000	10,484,000	+126,000
Republic of Palau	9,575,000	9,654,000	+79,000
Special operations grants	5,300,000	13,400,000	+8,100,000
Total, operations	66,400,000	78,462,000	+12,062,000
Construction:			
New projects		23,665,000	+23,665,000
Capitol relocation	7,800,000		−7,800,000
Total, construction	7,800,000	23,665,000	+15,865,000
Enewetak support	800,000	800,000	
Bikini support	500,000		−500,000
Total, Trust Territory of the Pacific Islands	75,500,000	102,927,000	+27,427,000

TTPI headquarters.—The Committee has recommended an increse of $1,000,000 over the budget estimate to initiate repairs of headquarters buildings and housing facilities on Saipan. While the Committee understands that TTPI is in the process of phasing out, this is nevertheless no excuse to allow office and housing facilities to deteriorate. The Department is, therefore, directed to immediately begin repair and maintenance activities on these facilities and to henceforth maintain them in good condition until title is transferred to the Government of the Northern Mariana Islands.

Federated States of Micronesia.—An increase of $1,106,000 over the budget estimate is recommended for FSM's operations and maintenance budget, and $15,750,000 is recommended for the total construction budget. The construction budget is distributed to the four FSM states in the following manner: Kosrae—airport paving ($3,000,000); airport terminal ($500,000); airport and dock water and power ($2,000,000); dock warehouse ($300,000). Ponape—power transformers ($300,000); airport terminal ($500,000). Truk—water system improvement ($1,650,000); road construction and paving ($1,000,000); sewer hookup ($1,000,000). Yap—road paving ($2,000,000); airport water collection and drainage ($2,000,000); airport terminal ($500,000); sewer hookup ($1,000,000). An additional $1,599,000 has been added to assist the FSM government in fighting the ongoing cholera epidemic. This amount will allow for water purification, laboratory supplies, medical treatment and supplies, nonmedical supplies, transportation, fuel, and necessary construction activities. No funds are available for work on the capitol relocation.

Republic of the Marshall Islands.—The Committee has recommended an increase of $126,000 for operations and maintenance and a total of $2,965,000 for construction of the docks on the outer islands of Jaluit and Mili. No funds are provided for work on the relocation of the capitol.

Republic of Palau.—An increase of $79,000 over the budget estimate is recommended for operations and maintenance, and $4,950,000 is recommended by the Committee for construction. Included in this construction allocation is $500,000 for airport terminal construction; $2,000,000 for water system improvement; $1,800,000 for road construction, paving, and upgrade; and $650,000 for power system improvement. No funds are provided for work on the relocation of the capitol.

Special operations grants.—Included in the Committee's recommendation for special operations grants are $2,400,000 for the fuel contingency reserve; $1,000,000 for leasing costs for seven satellite communication terminals as well as for necessary interface equipment; and $10,000,000 for enhanced operations and maintenance. This amount for enhanced operations and maintenance makes up a portion of the shortfall in this account as testified by the Department and makes it possible to purchase necessary spare parts, equipment, and various utility maintenance supplies, as well as to provide skilled personnel and initiate or enhance training programs to upgrade technical skills in the public works area.

As adequate funds were provided in the fiscal year 1982 Supplemental Appropriations Act, no further funds have been recommended for Bikini support.

The Committee has directed that no construction funds are to be used for work on the relocation of the capitols. This action was taken for this fiscal year because the Committee believes the construction projects listed in the report are of much higher priority. The Committee remains committed to the construction of the new capitols for FSM, the Marshalls and Palau, and expects to approve funds for this construction in future appropriations acts.

Finally, the Committee has provided a new budget structure for TTPI in this report and expects the Department to submit the fiscal year 1984 budget request to the Congress in this same fashion.

SECRETARIAL OFFICES

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

1982 appropriation	$17,750,000
1983 budget estimate	19,071,000
House allowance	17,904,000
Committee recommendation	19,071,000

The Committee recommends an appropriation of $19,071,000, the same as the budget estimate and an increase of $1,167,000 over the House allowance. The Committee has stricken the House provision concerning the Equal Access to Justice Act. Additional resources would be required for the Solicitor to assume those payments.

OFFICE OF THE SECRETARY

DEPARTMENTAL MANAGEMENT

1982 appropriation	$40,988,000
1983 budget estimate	43,522,000
House allowance	40,521,000
Committee recommendation	42,812,000

The Committee recommends an appropriation of $42,812,000, a decrease of $710,000 below the budget estimate.

The Committee recommendations compared to the budget estimates are displayed in the following table:

	Budget estimate	Committee recommendation	Change
Departmental direction:			
Immediate office	$1,215,000	$1,601,000	+$386,000
Executive secretariat	200,000	180,000	−20,000
Congressional and legislative affairs	1,046,000	1,021,000	−25,000
Equal opportunities	1,302,000	1,294,000	−8,000
Field coordination	200,000	175,000	−25,000
Public affairs	700,000	700,000	
Small and disadvantaged business utilization	374,000	374,000	
Subtotal, departmental direction	5,037,000	5,345,000	+308,000
Program direction and coordination:			
A/S energy and minerals	775,000	775,000	
A/S land and water resources	810,000	810,000	
A/S fish and wildlife and parks	769,000	744,000	−25,000
A/S Indian affairs		754,000	+754,000
A/S policy budget and administration		755,000	+755,000
A/S Territorial and International Affairs		424,000	+424,000
Subtotal, program direction and coordination	2,354,000	4,262,000	+1,908,000
Policy, budget, and administration:			
A/S policy, budget, and administration	755,000		−755,000
Environmental project review	1,067,000	1,042,000	−25,000
Acquisition and property management	1,368,000	1,320,000	−48,000
Personnel management	1,565,000	1,490,000	−75,000
Administrative services	3,141,000	3,066,000	−75,000
Information resources management	4,499,000	4,424,000	−75,000
Policy analysis	1,609,000	1,609,000	
Budget office	1,369,000	1,344,000	−25,000
Outer Continental Shelf program			
Financial management	782,000	782,000	
Subtotal, policy, budget, and administration	16,155,000	15,077,000	−1,078,000
Office of Water Policy	1,768,000		−1,768,000
Hearings and appeals	6,146,000	6,146,000	
Endangered Species Committee			
Central services	11,062,000	10,982,000	−80,000
Alaska subsistence grant	1,000,000	1,000,000	
Total, departmental management	43,522,000	42,812,000	−710,000

Departmental direction.—The Committee has recommended an increase of $308,000 for departmental direction, however, has proposed several alterations from the budget request. Specifically, funds have been provided at the fiscal year 1983 base level plus the full cost of the 1981 general schedule and January 1982 executive pay raises for current authorized staff not funded in the base amounts. In addition, $400,000 has been added to the immediate Office of the Secretary to reimburse the Park Police for security protection; and $25,000 each has been transferred from congressional and legislative affairs and from the Assistant Secretary, Fish, Wildlife, and Parks to Interpretive and Visitor Services, Operation of the Park Service, in order to conduct work through the National Council for the Traditional Arts.

Program direction and coordination.—In addition to the budget request, the Committee recommends funding the Offices of the Assistant Secretaries for Indian Affairs, Territorial and International Affairs, and Policy, Budget, and Administration through this account rather than through the operations of each activity. Offsetting adjustments have, therefore, been made in the operations accounts for BIA, TIA, and under Policy, Budget, and Administration in the Office of the Secretary.

Policy budget, and administration.—As in departmental direction, the Committee has recommended adjustments to reflect the fiscal year 1983 base level plus the full cost of the 1981 general schedule and January 1982 executive pay raises for currently authorized staff not funded in the base amounts.

Central services.—The Committee has recommended no increase above the fiscal year 1983 base level. In addition, $100,000 has been transferred to the Minerals Management Service in anticipation of the administration's funding request for that new agency.

OFFICE OF INSPECTOR GENERAL

1982 appropriation	$13,369,000
1983 budget estimate	21,500,000
House allowance	21,500,000
Committee recommendation	21,500,000

The Committee recommends an appropriation of $21,500,000, the same as the budget estimate. The Committee continues to maintain strong support for the work carried out by the Office of Inspector General, as is indicated by a budget which has grown four-fold over the past 4 fiscal years. In addition to an increased budget, the Congress has continued to mandate its own as well as approve executive branch efforts to increase the responsibilities of the Inspector General. It is imperative that with this swift growth the Inspector General not lose sight of his mission to promote economy and efficiency, the prevention and detection of fraud and abuse, and to keep the Secretary and the Congress informed of problems and deficiencies in departmental programs and operations.

With regard to the recent transfers of the Federal Comptrollers from the Office of Territorial and International Affairs to the Office of the Inspector General, the Committee expects the IG to confer and consult with the proper committees of Congress before changes in office structure are made.

The Committee is concerned about the method used to count students in Federal and contract schools funded by the Bureau of Indian Affairs. The IG's office is requested to conduct unannounced spot checks in at least one-third of the schools supported by the Bureau and report the results to the Committee. The Committee also requests checks of enrollment in tribally controlled community colleges.

OFFICE OF CONSTRUCTION MANAGEMENT

1982 appropriation	$3,840,000
1983 budget estimate	.....
House allowance	1,000,000
Committee recommendation	.....

The Committee recommends no appropriation for construction management, the same as the budget estimate.

The Department has unobligated funds totaling $3,613,000. This amount represents enough for the Department to assist the bureaus and offices of the Department in improving their performance in planning, designing, constructing, and operating facilities.

OFFICE OF WATER POLICY

1982 appropriation	.....
1983 budget estimate	.....
House allowance	$7,768,000
Committee recommendation	7,978,000

The Committee recommends an appropriation of $7,978,000, an increase of $7,978,000 over the budget estimate.

A comparison of the Committee recommendation and the budget estimate follows:

	Budget estimate	Committee recommendation	Change
Water policy, planning, and coordination	$1,768,000	$1,768,000	+$1,768,000
State water R. & D. institutes		6,210,000	+6,210,000
Total, Office of Water Policy		7,978,000	+7,978,000

Water policy, planning, and coordination.—The Committee recommends $1,768,000 for water policy, planning, and coordination. The Committee shares the concern expressed by many that the Department of the Interior lacks a focal point for addressing the extremely important issues facing this Nation. To meet this challenge, the Office of Water Policy will function as the focal point for Interior-related water issues, proceeding from the premise that the States have primary rights in water allocation, planning, and management. The States will play the major role in water resources and the Office will respond by identifying the Federal role as it concerns the Department of the Interior.

State water research institutes.—The Committee continues to believe that the research conducted by the State water R&D institutes is a valuable and necessary tool in solving the many short- and long-term water use problems facing this Nation. The Committee, therefore, has funded the institutes, through the Office of Water Policy, at the fiscal year 1982 level.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

The House has included a number of general provisions considered unnecessary by the Senate, including sections 107, 108, 109, 110, 111, and 112. The Senate has included a provision which prohibits funding for the procurement, leasing, bidding, exploration, or development of the Point Arena, Bodega, Santa Cruz, or Eel River basins off the coast of northern California.

The Committee has also included language in section 108 dealing with section 1002 of the Alaska National Interest Lands Conservation Act (ANILCA) which requires the Secretary of the Interior to complete and submit to Congress by August 1986 a study of the resource values, including the oil and gas potential, of the coastal plain of the Arctic National Wildlife Refuge in Alaska. Section 108 provides that the Secretary shall not permit any person who obtains this data and information at less than fair market value to participate in any lease sale ultimately held on the coastal plain. Public access to the data and information by any person not using it for a commercial purpose is retained.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

1982 appropriation	$112,145,000
1983 budget estimate	97,990,000
House allowance	106,352,000
Committee recommendation	104,604,000

The Committee recommends an appropriation of $104,604,000, an increase of $6,614,000 over the budget estimate.

The Committee has proposed significant increases for Forest Service research and intends that the Forest Service be able to establish or modify research studies, as they deem necessary, in order to direct available resources in the most promising way. Committee increases over the budget for specific research locations or specific studies are indentified below. The remaining increases are to be used within the activities so identified but in a manner of Forest Service programing. The Committee's recommendation is still a reduction of about $6,000,000 from 1982 levels and the Forest Service needs this flexibility to weed out the weakest studies and research locations.

Within available funds, the FS shall continue to support the Forestry Intensified Research (FIR) program in southwest Oregon at a $1,200,000 level. Combined with $1,000,000 provided BLM, this will continue the Federal contributions in fiscal year 1983 at the $2,200,000 level.

The following table compares Committee recommendations to the budget estimates:

	Budget estimate	Committee recommendation	Charge
Resource protection research:			
Fire and atmospheric science	$7,217,000	$8,167,000	+$950,000
Forest insect and disease	19,897,000	21,178,000	+1,281,000
Renewable resource evaluation	11,160,000	11,910,000	+750,000
Renewable resource economics	4,345,000	5,091,000	+746,000
Surface environment and mining	1,331,000	1,331,000	.....
Subtotal	43,950,000	47,677,000	+3,727,000
Resource management research:			
Trees and timber management	18,520,000	19,841,000	+1,321,000
Forest watershed management	8,178,000	9,028,000	+850,000
Wildlife, range, and fish habitat	7,957,000	8,510,000	+553,000
Forest recreation	1,920,000	2,083,000	+163,000
Forest products	14,813,000	14,813,000	.....
Forest engineering	2,652,000	2,652,000	.....
Subtotal	54,040,000	56,927,000	+2,887,000
Total, forest research	97,990,000	104,604,000	+6,614,000

RESOURCE PROTECTION RESEARCH

Fire and atmospheric science.—The Committee has provided increases of $950,000, including at least $150,000 for the Bend, Oreg., lab.

Forest insect and disease.—The Committee has provided an increase of $1,281,000; up to $126,000 for the Moscow, Idaho, lab; and $260,000 for additional gypsy moth research at the Morgantown, W. Va., insect lab.

The Committee understands the Department will fund some forest pest management research studies through its extramural programs at a number of other universities. The Committee further understands that Penn State is a likely candidate for those funds and encourages the Department to use Penn State if in its judgment it provides the best opportunity for advances in gypsy moth control.

Renewable resource evaluation.—The Committee recommends an increase of $750,000, primarily to be used to support resource inventory cycle work.

Renewable resource economics.—The Committee recommends an increase of $746,000. The Forest Service is to give consideration to research to help the small woodlot owner with the remaining increase.

RESOURCE MANAGEMENT RESEARCH

Trees and timber management.—The Committee recommends an increase of $1,321,000, including at least $100,000 for the Bend, Oreg., lab; at least $149,000 for the Boise, Idaho, lab; and at least $200,000 for the Sewanee, Tenn., lab.

Forest watershed management research.—The Committee recommends an increase of $850,000, including at least $100,000 for Reno, Nev.

Wildlife, range, and fish habitat research.—The Committee recommends an increase of $553,000, including at least

$353,000 for the Oregon range and related resources evaluation project (EVAL). Other funds needed to continue the EVAL project are included within available funds in state and private forestry ($190,000) and NFS ($11,000).

Forest recreation.—The Committee recommends an increase of $163,000 for recreation-related research.

STATE AND PRIVATE FORESTRY

1982 appropriation	$64,148,000
1983 budget estimate	47,520,000
House allowance	58,770,000
Committee recommendation	61,078,000

The Committee recommends an appropriation of $61,078,000, an increase of $13,558,000 over the budget.

The following table provides a comparison of the budget estimate and the Committee recommendations.

	Budget estimate	Committee recommendation	Change
Resource protection:			
Forest pest management:			
Federal lands pest management:			
Surveys	$9,511,000	$9,511,000	
Suppression	4,150,000	8,000,000	+$3,850,000
Special projects	1,230,000	1,230,000	
Subtotal	14,891,000	18,741,000	+3,850,000
Cooperative pest management:			
Surveys and technical assistance	1,899,000	1,899,000	
Suppression		7,000,000	+7,000,000
Subtotal	1,899,000	8,899,000	+7,000,000
Subtotal, forest pest management	16,790,000	27,640,000	+10,850,000
Rural fire prevention and control	14,380,000	14,380,000	
Total, resource protection	31,170,000	42,020,000	+10,850,000
Resource management:			
Cooperative forestry assistance:			
Forest management	7,654,000	8,654,000	+1,000,000
Utilization	2,544,000	2,544,000	
Seedlings, nursery, and tree improvement	2,177,000	2,177,000	
Subtotal, forestry assistance	12,375,000	13,375,000	+1,000,000
Assistance in management, planning, and technology implementation:			
Management assistance			
Planning assistance	975,000	2,683,000	+1,708,000
Technology implementation			
Subtotal	975,000	2,683,000	+1,708,000
Total, resource management	13,350,000	16,058,000	+2,708,000
General forestry assistance:			
Special projects	3,000,000	3,000,000	
Total, State and private forestry	47,520,000	61,078,000	+13,558,000

Resource protection.—The Committee recommends an appropriation of $42,020,000, an increase of $10,850,000 over the budget.

This increase includes an additional $3,850,000 for insect and disease suppression on Federal lands and an increase of $7,000,000 for cooperative suppression projects on State lands. The Committee does not agree with the manner in which the Forest Service administered the pest control program in 1982, especially gypsy moth and saddled prominents. While the gypsy moth is not as destructive as other insects—when measured in terms of economic damages—it is clear that the Nation's forest resources are still damaged severely by it. The Committee has provided $7,000,000, based on the average funding needs for the past 3 years, for cooperative suppression projects and restates its 1976 appropriations bill direction that the Federal share for cost-sharing arrangements be 25 percent on non-Federal public lands; 33⅓ percent for forest industry lands; and 50 percent for nonindustrial private lands. If the funding provided in this bill is not adequate to cover approved cooperative suppression projects, the Forest Service shall propose a reprograming, propose a supplemental, or reduce funds available to the States proportionately, but shall not reduce the Federal cost-share rate without public involvement and Committee approval. Further, the Forest Service shall announce its proposed cooperative program within 30 days after enactment of this act and work with the States to finalize a program in a timely fashion, so as to provide the States an opportunity to revise its own program if necessary.

The Committee has also provided an increase of $3,850,000 for insect and disease work on Federal lands. In 1982, the Committee understands that the Forest Service only provided 50 percent of the funding needed to satisfy approved requests for suppression projects on Federal lands. The Committee's increase is based on the average approved requests for the past 3 years. The Committee will not condone inadequate protection of the Federal resource from insect and pest damages.

Resource management.—For resource management activities, the Committee recommends an increase of $2,708,000, which includes an increase of $1,000,000 for urban forestry assistance. The Committee also recommends an increase of $1,708,000 to restore the State planning programs to 1982 levels. It seems to the Committee that assistance in developing inventory data and State forestry plans is an appropriate role for the Forest Service.

The Committee also recommends continuation of the $3,000,000 grant in support of the Boundary Waters Canoe Area legislation.

The Committee does not agree with the proposal to transfer $100,000 from the Office of the Assistant Secretary for Natural Resources and Environment for operation of the Gifford Pinchot Institute for Conservation Studies. The Assistant Secretary's Office is responsible for formulation and oversight of implementation of policy on priorities for Forest Service operations and it is not in the public interest to reduce the capability of the Department in executing that responsibility.

NATIONAL FOREST SYSTEM

1982 appropriation	$1,050,504,000
1983 budget estimate	1,036,569,000
House allowance	1,009,093,000
Committee recommendation	1,007,697,000

The Committee recommends an appropriation of $1,007,697,000, a decrease of $28,872,000 from the budget.

The distribution of the Committee's recommendations are as follows:

	Budget estimate	Committee recommendation	Change
Minerals and general land activities:			
Minerals	$24,998,000	$24,898,000	−$100,000
Land management activities	17,903,000	17,903,000	
Land line location	26,080,000	24,680,000	−1,400,000
Maintenance of facilities	13,663,000	13,663,000	
Subtotal	82,644,000	81,144,000	−1,500,000
Resource protection and maintenance:			
Fire protection	150,283,000	150,083,000	−200,000
Fire control	1,000,000	1,000,000	
Cooperative law enforcement	5,150,000	5,150,000	
Road maintenance	61,640,000	58,540,000	−3,100,000
Trail maintenance	7,785,000	7,785,000	
Subtotal	225,858,000	222,558,000	−3,300,000
Timber sales:			
Timber resource planning	10,489,000	10,489,000	
Silvicultural examination	24,095,000	22,995,000	−1,000,000
Sales preparation and harvest administration	153,746,000	131,946,000	−21,800,000
Subtotal	188,330,000	165,430,000	−22,900,000
Reforestation and stand improvement:			
Reforestation	61,894,000	61,894,000	
Stand improvement	23,075,000	29,075,000	+6,000,000
Nurseries	15,156,000	15,156,000	
Subtotal	100,125,000	106,125,000	+6,000,000
Recreation management:			
Recreation use	84,468,000	75,768,000	−8,700,000
Wilderness	6,509,000	6,509,000	
Cultural resources	6,958,000	6,958,000	
Subtotal	97,935,000	89,235,000	−8,700,000
Wildlife and fish habitat management:			
Wildlife and fisheries support	18,027,000	17,727,000	−300,000
Habitat improvement	14,493,000		
Subtotal	32,520,000	32,220,000	−300,000
Range activities:			
Range management	23,191,000	23,191,000	
Range improvements	700,000	3,715,000	+3,015,000
Wild horse and burro management	322,000	322,000	
Noxious farm weed control	400,000	400,000	
Subtotal	24,613,000	27,628,000	+3,015,000
Soil and water management:			
Soil and water support	18,333,000	18,333,000	
Soil and water improvements	305,000	1,846,000	+1,541,000
Soil and water inventories	5,228,000	7,500,000	+2,272,000
Subtotal	23,866,000	27,679,000	+3,813,000
General administration	260,678,000	255,678,000	−5,000,000
Total, national forest system	1,036,569,000	1,007,697,000	−28,872,000

MINERALS AND GENERAL LAND ACTIVITIES

Minerals.—The Committee recommends an appropriation of $24,898,000, a decrease of $100,000 from the budget. The reduction is tied to the reduction in the timber sales supporting program.

Land line location.—The Committee recommends an appropriation of $24,680,000, a reduction of $1,400,000 from the budget. This reduction reflects the scaled back timber sales program proposed by the Committee.

Maintenance of facilities.—The Committee recommends an appropriation of $13,663,000, the same as the budget.

RESOURCE PROTECTION AND MAINTENANCE

Fire protection.—The Committee recommends an appropriation of $150,083,000, a timber program-related decrease of $200,000 from the budget estimate. This is still an in-

crease of $10,585,000 over 1982 appropriations and includes increases for fire attack, aviation, fuels management, and detection. The Committee has reviewed requests by members for an increase in the air tanker program and understands from the FS that the number of air tankers provided for is the maximum they feel is necessary for protection purposes.

Road maintenance.—The Committee recommends an appropriation of $59,440,000, a decrease of $2,200,000 from the budget estimate. This reduction reflects cost savings attributable to reductions in the 1983 timber sales program.

Trail maintenance.—The Committee recommends an appropriation of $7,785,000, the same as the budget estimate.

Timber sales preparation and harvest administration.—The Committee recommends an appropriation of $165,430,000, a reduction of $22,900,000 from the budget estimate. This funding proposal will support a sales preparation level of 11.4 bbf, a sales offering program of 11 bbf, and assumes a 1983 harvest level of 8.5 bbf. It is with great reluctance that this Committee recommends these reductions. However, until further reductions are seen in interest rates, the Committee concludes that the continuation of 1982 levels of effort into 1983, as provided for by this recommendation, is the most defensible course of action. The Committee is strongly committed to increasing timber sales levels from our national forests in an economically justifiable and environmentally sound manner but concludes that current conditions in the timber industry, and related industries such as construction, do not support increased timber sales levels at this time.

In the meantime, the FS is to continue to operate its sales program in a manner responsive to local industry needs to the maximum degree practical. Short-term sales, low-volume sales, et cetera, can be extremely helpful to local economies with high unemployment rates and a large number of small operators.

The FS and the Small Business Administration have developed, tested, and implemented a special sales program for small loggers (less than 25 employees) referred to as the special salvage timber sale program. This program focused on salvaging dead or infested trees. Unfortunately, there are a number of areas, especially the Southwestern States, such as New Mexico, where there are not sufficient volumes of salvageable timber to meet small operator needs. Therefore, the Committee directs the FS to expand the program to include the use of green timber sales where adequate sales of salvage timber are not available.

The Committee continues to be interested in the contributions to be derived from helicopter logging, both in terms of harvesting timber and in terms of firefighting applications and urges the FS to continue to work for a stable and predictable program of helicopter logging and uses.

The Committee has reviewed the House report summary of the House Appropriations Committee Investigative Staff analysis of the FS timber sales program.

This Committee is committed to reponsible oversight of the management of National Forest System lands and to the protection of the public interest represented, in particular, by the timber sales program. The Committee agrees that there are numerous problems with the timber program and agrees with the House language stating that their "major concern with the FS conduct of the timber sales program (is) the lack of timely and accurate information on the most fundamental aspects of the program, including comparisons of value and volume of timber sold with value and volume of timber eventually cut and actually paid for. . . . The unavailability of such basic information on all of its transactions is impossible to understand, when it is considered that the value of timber sold has reached almost $2,000,000,000 annually in recent years. No business of comparable size would long survive without the ability to generate and use such information in a timely and accurate manner." However, to proceed with the major revisions to the FS timber program proposed by the House report without an opportunity for involvement by the affected industry, the academic community, and other members of the affected public, and consideration of the cost, staffing requirements, and net benefit to the public interest is, in the Committee's judgment, irresponsible.

The House report language concludes with four recommendations for FS action. One, discontinue mill-deck-deferred scaling immediately. Two, take immediate steps to implement a management information system that will provide accurate, timely and detailed information on all aspects of its timber sales program. Three, begin immediately to phase in a transaction evidence analysis appraisal system in all timber regions in fiscal year 1983. Four, begin to phase in a tree measurement system in all timber regions in fiscal year 1983.

Regarding mill deck scaling, the Committee understands that this technique is largely localized in California. By abandoning this technique, FS scaling costs would increase an indeterminate amount and the FS would encounter contractual impediments to its implementation. The House report, by directing that this practice be discontinued immediately, has not addressed these problems nor has it made a case for its discontinuance.

Regarding the implementation of a management information system that supports the timber program, the Committee would note that this is not a new issue. The FS has work force and staffing in place and budgeted to implement such a system and, in fact, has been working toward this goal for a number of years. The Committee encourages the FS to continue and accelerate its efforts to implement its timber management information system and its timber sale accounting system, augmented, as needed, to comply with House and Senate Committee directions.

Regarding the immediate initiation of phasing in a transaction evidence analysis (TEA) appraisal system in all regions in fiscal year 1983, the Committee objects to this direction. The TEA approach is, in the Committee's judgment, simply not practical or beneficial to be implemented in all FS regions. TEA requires a data base for comparisons and the development of procedural standards for its use, which would take time to develop. To direct implementation without an opportunity for adequate consideration of real problems in its implementation, does not serve the public interest. The TEA system may be useful in some geographic areas where it is not currently in place. On the other hand, it would clearly not be effective or workable in all areas, such as those sales areas where there is active bidding. The Committee would agree that the data base supporting the analytical method of appraisal—that is, 1960's mills studies—needs updating, as significant technological improvements have been made in timber and plywood recovery rates since then.

Regarding the phasing in of a tree measurement system in all timber regions in fiscal year 1983, the Committee again disagrees with the House report language. There are geographic areas where the tree measurement system is very accurate and provides a public and industry benefit. However, there are also areas where the tree measurement system is not feasible. As a general rule, tall timber, such as old growth, is not susceptible to the tree measurement approach without a loss of accuracy in estimated volume. The opportunity for hidden defects increases the purchaser's uncertainty about usable volume and could have a dampening effect on bids.

The Committee's judgment is that there are a number of known problems, and more unknown potential problems, with the House language. The Committee is concerned that the House recommendations, taken literally, do not adequately recognize that there are sound technical and public policy problems associated with their implementation, nor do they provide adequate opportunity for public involvement. Under the current appraisal and bid systems, the basic fact is that the purchaser pays the Treasury an amount for timber removed from public lands, whether or not that volume is above or below estimated amounts.

Reforestation and stand improvement.—The Committee recommends an appropriation of $106,125,000, an increase of $6,000,000 over the budget. This increase is for additional timber stand improvement work in the highest productivity site classes (over 85 cfy) and is to be targeted to those States with highest levels of unemployment to the maximum degree practical. The Committee does not agree that the average cost per acre of TSI work will increase from $124 in 1982 to $144 in 1983. This would go counter to the Committee's experience in other areas, such as construction contracts, where we are actually seeing a reduction in costs bid for projects from prior estimates. If the 1983 average cost per acre remains relatively constant at the 1982 level, the Committee estimates that this $6,000,000 increase will permit the FS to achieve a TSI program level of about 235,000 acres in 1983.

Recreation management.—The Committee recommends an appropriation of $89,235,000, a reduction of $8,700,000 from the budget. This reduction is a $700,000 reduction tied to the timber program and an additional $8,000,000 to maintain recreation use funding at about the 1982 level.

The Committee noted the FS proposed regulation changes affecting outfitters and guides and is pleased to see that the FS has agreed to abandon that effort.

The Committee agrees with the general thrust of the House report language regarding the fee establishment procedure for recreational residence fees on NFS lands and has added bill language to provide further Committee direction.

The Committee notes that the Greenbrier County, W. Va., Youth Camp has had an annual use permit covering 80 acres near the southern boundary of the Monongahela National Forest each year since 1952. During that time the trustees of the Camp have made numerous improvements to the site including clearing and grading approximately 12 acres and construction of roads, lodges, a swimming pool, and other facilities. During this 30-year period, the annual

use permit fee has increased 36-fold. The trustees operate the camp on a nonprofit basis, hosting numerous youth groups throughout the region. Many of these groups reportedly serve economically or physically disadvantaged youths. For this reason, the Committee encourages the Forest Service to take all reasonable administrative actions to assure that the annual use permit fee charged the Greenbrier County Youth Camp is as low as current law and responsible management permits.

Should the camp trustees choose to reduce the total acreage covered by the annual use permit to less than 80 acres, the Committee understands that the fee would be reduced proportionally and that the area surrounding the youth camp would still be available for its use. If the acreage covered by the special use permit is reduced, the Service is directed to insure, within current law and regulation, that any use of the adjacent lands is compatible with the operation of the Greenbrier County Youth Camp.

Wildlife and fish habitat management.—The Committee recommends an appropriation of $32,220,000, a reduction of $300,000 from the budget, reflecting reduced timber program support costs.

Range activities.—The Committee recommends an appropriation of $27,628,000, an increase of $3,015,000 from the budget. This recommended funding level will maintain the 1982 level for range improvements and essentially maintain the grazing management program at 1982 levels. This increase is necessary in the Committee's view in order to restore funding for these activities. This will help maintain range conditions and the grazing permit program.

Soil and water management.—The Committee recommends an appropriation of $27,679,000, an increase of $3,813,000 from the budget. The Committee has included an increase of $1,541,000 in soil and water improvements needed to maintain the 1982 level of activity into 1983. It has also included an increase of $2,272,000 in soil and water inventories. This is a reduction of $3,017,000 from 1982 levels, reflecting the fact that most areas have been covered by inventories, and an increase of $2,272,000 over the budget will permit continued opening of new areas and reduce future year support costs. Those future costs will increase if inventories are not completed. The Committee's recommendation also effectively provides an additional $500,000 in soil and water support as a result of reductions associated with the timber sales program that have not been agreed to.

General administration.—The Committee recommends an appropriation of $255,678,000, a reduction of $5,000,000 from the budget estimate. This includes, within available funds, an additional $1,000,000 to support research program increases and $500,000 to support State and private forestry program increases.

With respect to current difficulties experienced by the Forest Service in procurement of cost-competitive, high-quality signs in a timely manner from the Federal Prison Industries, the Committee understands that a new memorandum of understanding is being negotiated between the two agencies which will improve timeliness, quality, and cost considerations.

The Committee expects such a memorandum of understanding to be implemented without delay and directs the Forest Service to report to the Committee not later than March 31, 1983, on implementation of the memorandum of understanding and its effectiveness in resolving current problems in procurement.

The Committee does not agree with the House proposal to eliminate the Secretary of Agriculture's authority to transfer limited amounts of funding between appropriation accounts, as provided in 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257). This authority has been used in prior years in a responsible manner to supplement appropriated funds in unforseen emergencies, such as insect infestations and, in fact, was used in fiscal year 1982 to provide additional funding for gypsy moth infestation control activities.

The Committee directs that, within available funds, up to $80,000 be used to control the infestation of dwarf mistletoe in the Sawtooth National Forest in order to preserve forest resources, remove danger of avalanche, and preserve recreational opportunities in the Bald Mountain area.

CONSTRUCTION

1982 appropriation	$261,095,000
1983 budget estimate	297,505,000
House allowance	229,756,000
Committee recommendation	286,805,000

The Committee recommends an appropriation of $286,805,000, a decrease of $10,700,000 from the budget. This is a decrease of $19,700,000 in the FS road construction account, as a result of the reduced FS timber program.

	Budget estimate	Committee recommendation	Change
Facilities	$21,066,000	$21,066,000	
Roads and trails:			
Direct road construction	271,575,000	251,875,000	19,700,000
Trail construction	4,864,000	4,864,000	
Chugach payment		9,000,000	+9,000,000
Total, construction	297,505,000	286,805,000	−10,700,000

Included in the allowance is $50,000 for road work in the Mount Magazine area of the Ozark National Forest, Ark., and $125,000 for use at the Sunny Dene Resort in the Boundary Waters Canoe Area, Minn.

The Committee does not concur with the House report language prohibiting use of funds for design or construction of the Oconee Ranger District in Georgia. There are significant operational savings that can be achieved if this project can proceed. This relocation of administrative facilities is the result of combining two ranger districts in the Oconee National Forest 5 years ago and the resulting lack of need for two ranger offices. The Committee understands that there are no funds proposed for this action in fiscal year 1983.

The Committee is again directing that funds available for road construction through the 10-percent fund be transferred to the general fund of the Treasury to offset that amount of funding included in this direct appropriation account. The resulting road construction program will include $44,900,000 in timber purchaser elective roads to be constructed by the Forest Service. Also, the off-budget timber purchaser credit road construction program is recommended at a level of $236,200,000, a reduction of $32,200,000 from the FS estimate due to reductions in the timber sales program level.

The Committee does not agree with the House proposal to reduce 10-percent fund receipts that are to be transferred to the general fund. The Committee is providing for those transfers on the basis that the FS road program needs stable funding and the 10-percent fund was not providing that stability. The effect of the House reduction will be to limit timber sales to a level of 7.6 bbf or 7.8 bbf. The Committee agreement on the 10-percent fund receipt transfer process is predicated on the assumption that receipts may vary from year to year but that receipts will average out over the long term.

The Committee has also included $9,000,000 for final payment to settle claims by the Chugach Natives, Inc., to be available upon execution of a final agreement. Bill language is included.

TIMBER RECEIPTS TRANSFER

1982 appropriation	
1983 budget estimate	
House allowance	(−$64,514,000)
Committee recommendation	(−64,514,000)

The Committee recommends a transfer of estimated receipts of $64,514,000 from the 10-percent fund to the U.S. Treasury general fund. This activity has been provided for by a direct appropriation in the C. & L.A. account. No offset is assumed in the FS appropriated road construction account, as $64,514,000 was included in the budget estimate, in conjunction with a legislative proposal to abolish the 10-percent fund. Pending legislative action, the Committee again proposes a direct appropriation of these funds.

LAND ACQUISITION

1982 appropriation	$26,262,000
1983 budget estimate	7,563,000
House allowance	54,556,000
Committee recommendation	55,117,000

The Committee recommends an appropriation of $55,117,000 to the FS, an increase of $47,554,000 over the budget.

The Committee recommends the following projects:

FOREST SERVICE

	1982 budget	1983 House	1983 Senate
Acquisitions management	$4,000,000	$4,000,000	$4,000,000
Weeks Act (Wayne NF, Ohio)		1,080,000	
L&WCF acquisitions:			
Deficiencies	1,821,000	1,821,000	722,000
Inholdings and composites	1,742,000	1,742,000	1,742,000
Subtotal	3,563,000	3,563,000	2,464,000
Appalachian Trail		1,360,000	1,360,000
Boundary Waters Canoe Area Wilderness, Minn		3,200,000	3,000,000
Cascade Head SRA, Oreg		707,000	707,000
Alpine Lakes, Wash		26,446,000	26,886,000
Lake Tahoe, Nev., and Calif		10,000,000	10,000,000
Mount Rogers NRA, Va		200,000	
Ausable comp.; Huran NF, Mich		2,000,000	
Three Sisters Wilderness (Rock Mesa), Ore		2,000,000	2,000,000
Sawtooth NRA, Idaho			4,700,000
Subtotal, L&WCF	(3,563,000)	49,476,000	48,653,000
Total	7,563,000	54,576,000	55,117,000

The Three Sisters Wilderness acquisition funding is to be available for patented claims only and the first Sawtooth NRA acquisition priority is the Piva property.

YOUTH CONSERVATION CORPS

1982 appropriation	
1983 budget estimate	
House allowance	$20,000,000
Committee recommendation	

The Committee has not recommended funding for the Youth Conservation Corps

(YCC) as proposed by the House. The YCC is an employment program for youths, 15 to 18 years of age, that provides a combination of field experience and environmental education for participants. The program provides for additional conservation activities to be performed on public lands, both for the Forest Service and lands administered by the Secretary of the Interior.

Funding was not provided in fiscal year 1982. Criticism has been directed at the program in prior years because the program is not targeted to the hard core unemployed nor was the program as beneficial to the public lands as similar employment programs.

ACQUISITION OF LANDS FOR NATIONAL FORESTS, SPECIAL ACTS

1982 appropriation	$724,000
1983 budget estimate	753,000
House allowance	753,000
Committee recommendation	753,000

The Committee recommends an appropriation of $753,000, the same as the budget.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

1982 appropriation	$314,000
1983 budget estimate	147,000
House allowance	147,000
Committee recommendation	147,000

The Committee recommends an appropriation of $147,000, the same as the budget.

RANGELAND IMPROVEMENTS

(Special fund, indefinite)

1982 appropriation	$6,580,000
1983 budget estimate	5,800,000
House allowance	5,800,000
Committee recommendation	5,800,000

The Committee recommends an appropriation of $5,800,000, the same as the budget estimate.

MISCELLANEOUS TRUST FUNDS

1982 appropriation	$84,000
1983 budget estimate	90,000
House allowance	90,000
Committee recommendation	90,000

The Committee recommends an appropriation of $90,000, the same as the budget estimate.

DEPARTMENT OF ENERGY

ENERGY SECURITY RESERVE

The Committee believes that greater progress can be made by the Synthetic Fuels Corporation (SFC) in awarding financial assistance to synthetic fuel project proposals which have been submitted in response to earlier general solicitations. In the Committee's judgment the slow pace of progress by the SFC has been responsible in part for the recent withdrawal by several industrial sponsors from certain of these projects and the withdrawal of other proposals. Unfortunately, while the first solicitation closed belatedly on January 4, 1982, and the second solicitation (which includes proposals submitted under the first solicitation) closed on June 1, 1982, no awards of or commitments to award financial assistance have been made. The Committee believes that this record can, and should, be improved.

In this regard, the Committee notes that over a 9-month period the Department of Energy progressed from the solicitation stage to the granting of financial assistance to three projects under the interim program authorized by the Defense Production Act and the Nonnuclear Energy Research and Development Act of 1974. The Committee wishes to emphasize to the SFC that it must submit its comprehensive strategy to the Congress by June 30, 1984. Therefore, the SFC only has approximately 19 months to complete its initial mission as mandated by the Congress through the Energy Security Act (Public Law 96-294).

Several significant problem areas have been identified by the Committee which the SFC is directed to address as expeditiously as possible. Accordingly, appropriate Committee recommendations are offered, And the SFC is requested to advise the Committee by January 14, 1983, of the steps taken and progress made, to resolve the following problems:

(1) The Committee is disturbed to learn that the SFC, after three general solicitations, is now exploring "targeted" solicitations designed for specific resources bases and potential equity sponsors. The Committee believes that such targeted solicitations should be used only where it is believed they will be timely and effective in achieving the SFC's statutory mandate. Moreover, targeted solicitations must not be allowed to result in delays or, more importantly, be used as a procedural tactic for delay.

(2) The Committee directs that the SFC cease efforts to explore the awarding of financial assistance in support of the demonstration of synthetic fuels from the Naval Oil Shale Reserves. Such efforts by the SFC only serve to divert the resources of the SFC from its statutory mandate. Similar arrangements, suggested by the Department of Energy in 1978, were rejected by the Congress.

(3) The Committee is concerned about the current difficulties that project sponsors are experiencing in arranging equity financing. Overcoming this obstacle is of paramount importance to the Committee. The recent action by the Board of Directors is a positive first step, but in the judgment of the Committee, such action is insufficient to overcome the obstacle.

We therefore recommend that the Board of Directors provide letters of intent or conditional commitments to those projects which may not yet be in a position to enter into final financial assistance agreements with the Corporation, but are sufficiently mature to enter into serious negotiations as to the terms and conditions of financial assistance, with the expectation that full equity formation and final agreement on terms and conditions of financial assistance will proceed simultaneously after issuance of letters of intent or conditional commitments. In the Committee's judgment, more meaningful, near-term commitments are needed from the SFC in order to significantly enhance the ability of project sponsors to achieve necessary levels of equity capital.

In the Committee's judgment, the Energy Security Act allows the SFC to issue letters of intent or conditional commitments, without causing the Department of the Treasury to reduce the Corporation's obligational authority, in the event a financial assistance agreement is never executed or, even if executed, is later canceled before being implemented.

(4) In addition, the SFC should take steps to encourage equity investment in the emerging domestic synsthetic fuels industry. In this regard, the Committee is encouraged by the recent effort by the SFC to reach out to investors and urges the SFC to expand that effort even further.

(5) Further, it is important, in order to attract equity capital to synthetic fuel projects, for the SFC to display a greater public openness with regard to its substantive policies. There is a need for more frequent statements of policy or programmatic objectives, such as that announced by the Board on July 15 regarding resource base diversification which provided greater certainty to the investment community and potential project equity sponsors as to the broader goals and objectives of the Corporation. For example, no similar policy statements have been issued with regard to uniformity of terms and conditions of financial assistance. This has led to significant uncertainty and hesitation by potential equity sponsors.

(6) Further adding to the overall level of uncertainty, no meaningful responses have been provided to a number of project sponsors in the previous solicitations regarding major portions of their applications, including financial and marketing plans. The SFC must recognize that while current project sponsors are seeking to respond to SFC requirements for greater equity participation, they are currently handicapped in their efforts to achieve further private sector participation by the lack of substantive SFC review and specific comment on the status and quality of submitted applications. The Committee views this as a minor problem with major adverse repercussions. Successful early resolution of the problem is requisite and should not require significant SFC time and effort and should be limited to those projects found to be sufficiently strong and mature for preliminary negotiations, as defined by SFC guidelines. For instance, it is our understanding that there exists basic loan guarantee and price guarantee documents which have been drafted by the SFC, yet these have not been made available to those projects currently in negotiation. Sharing of these documents with all parties could easily accelerate the entire negotiation process.

(7) Under section 131(u) of the Energy Security Act certain cost-sharing agreements to refine the design of projects are specifically authorized. Cost-sharing agreements are authorized to allow for detailed design and cost estimates prior to the awarding of loans or loan guarantees. The Committee is encouraged by the recent action by the SFC, but the Committee believes that the SFC has not made maximum use of section 131(u) cost sharing to advance proposed projects to awards. However, the Committee emphasizes that any agreements negotiated in this regard cannot be permitted to further delay the final award process, pending completion of preliminary engineering designs.

(8) The Committee is concerned that inadequate communication is being provided the SFC Board of Directors by the SFC staff on the progress of individual project negotiations. Too often project sponsors are frustrated and valuable time is wasted because the SFC staff either have inadequate decisionmaking capability or have not sought adequate authority. For example, there is evidence that the SFC staff did not present the Board, in a timely manner, with recommendation for the use of conditional commitments and may in fact have withheld such information from the Board, (that is, regarding condition commitments). In this regard, some of the SFC staff seem to be more responsive to pressures from Federal agencies (for example, the White House and the Department of the Treasury) than the needs of the SFC Board for timely information. SFC officers must be prepared to fully support the congressional mandated policies and objectives for the Corporation to provide legally authorized financial assistance,

and the Committee expects that such support will be forthcoming.

Also, the Committee, and indeed the Senate, continues to be concerned as hearings before the Committee and the Committee on Energy and Natural Resources indicate, with the SFC's history of attempts to stretch its statutory mandate so as to engage in activities that were not envisioned, or specifically precluded, by the Congress. Such self-initiated SFC initiatives only further divert the SFC resources from timely achievement of its statutory mandate. What is needed is more constructive progress toward the award of financial assistance.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

1982 appropriation	$413,042,000
1983 budget estimate	106,900,000
House allowance	297,064,000
Committee recommendation	247,514,000

The Committee recommends an appropriation of $247,514,000, $140,614,000 above the budget estimate. The Committee recommendations compared to the budget estimates are shown in the following table:

	Budget estimate	Committee recommendation	Change
Coal mining research and development:			
Underground coal mining	$1,000,000		−$1,000,000
Coal preparation	2,000,000	$3,500,000	+1,500,000
Subtotal, Mining research and development	3,000,000	3,500,000	+500,000
Liquefaction:			
Advanced process development	13,800,000	18,000,000	+4,200,000
Indirect liquefaction	8,400,000	12,600,000	+4,200,000
Support studies and engineering evaluations	4,000,000	5,000,000	+1,000,000
Subtotal, Liquefaction	26,200,000	35,600,000	+9,400,000
Surface coal gasification:			
Advanced process development	4,250,000	4,250,000	
System engineering concepts	3,000,000	13,500,000	+10,500,000
Environmental and engineering analysis	3,250,000	7,500,000	+4,250,000
Subtotal, Surface coal gasification	10,500,000	25,250,000	+14,750,000
In-situ coal gasification	700,000	6,000,000	+5,300,000
Advance research and technology development	19,800,000	28,700,000	+8,900,000
Advanced environmental control technology:			
Flue gas cleanup	3,000,000	6,500,000	+3,500,000
Gas stream cleanup	3,200,000	10,000,000	+6,800,000
Technology support	400,000	2,000,000	+1,600,000
Subtotal, Advanced environmental control technology	6,500,000	18,500,000	+11,900,000
Heat engines and heat recovery:			
Central power systems		3,750,000	+3,750,000
Dispersed power systems		1,250,000	+1,250,000
Subtotal, Heat engines and heat recovery		5,000,000	+5,000,000
Combustion systems:			
Atmospheric fluidized beds		5,000,000	+5,000,000
Pressurized fluidized beds	4,500,000	11,000,000	+6,500,000
Advanced combustion technology			
Alternative fuel utilization	2,000,000	2,000,000	
Subtotal, Combustion systems	6,500,000	18,000,000	11,500,000
Fuel cells	9,500,000	28,000,000	+19,300,000
Magnetohydrodynamics		27,000,000	+27,000,000
Subtotal, Coal	82,800	196,350,000	+113,550,000
Petroleum:			
Enhanced oil recovery	5,300,000	6,500,000	+1,200,000
Oil shale	6,300,000	10,400,000	+4,100,000
Advanced process technology	3,500,000	5,000,000	+1,500,000
Subtotal, Petroleum	15,100,000	21,900,000	+6,800,000
Gas: Enhanced gas recovery		13,900,000	+13,900,000
Subtotal, Gas		13,900,000	+13,900,000
Energy Technology Center program direction		26,500,000	+26,500,000
Headquarters program direction	9,000,000	9,000,000	
General reduction		−20,136,000	−20,136,000
Total, Fossil energy research and development	106,900,000	247,514,000	+140,614,000

Coal mining research and development.—For coal mining R. & D., the Committee has recommended $3,500,000, including the budget request of $2,000,000 for coal preparation and $1,500,000 for support of the Carbondale Mining Technology Center at Carbondale, Ill. The Committee has joined the House in including bill language which requires the Department to recall the Carbondale facility from the General Services Administration for the purpose of leasing the facility to Southern Illinois University for coal and related research. The Committee expects the Department to use the $1,500,000 to support activities associated with the lease of the Center by the University. At the same time, however, the Committee expects the Department to begin negotiations with the university with the goal of transferring possession of the facility to the university in the same manner contemplated for the three western energy technology centers. The Committee expects to take action in a future appropriation measure to effect such a transfer.

As the underground coal mining activities have been transferred to the Bureau of Mines pursuant to Public Law 97-257, funds for this activity have been provided under the appropriation for the Bureau of Mines.

Liquefaction.—The Committee has recommended $35,600,000 for liquefaction, an increase of $9,400,000 over the budget request. Under advanced process development, the Committee recommends an additional $750,000 to already available funds for the continued operation of the Wilsonville, Ala., pilot plant and an additional $3,450,000 for research and development of catalysts in an integrated bench scale unit. Under indirect liquefaction, the Committee has recommended an additional $4,200,000 to continue the liquid phase methanol process development unit; and under support studies and engineering evaluations the Committee has included an additional $1,000,000 to support research on the health effects associated with the toxic characteristics in the process stream of coal liquids.

Surface coal gasification.—The Committee's recommendation includes an additional $10,500,000 over the budget request for system engineering concepts and an additional $4,250,000 for environmental and engineering analysis. Of the $10,500,000, $2,000,000 is for the Beacon gasification concept; $2,250,000 is for the G.E. hot gas cleanup system in Schenectady, N.Y.; $3,000,000 is for the Mountain Fuel entrained bed gasifier; and $2,000,000 has been added for equipment, instrumentation, and alternate concept development. The Committee has also recommended $1,250,000 to support planning and engineering design studies conducted by the Department to determine if the Homer City, Pa., gasification facility is suitable for multiple testing of gasification technologies and to determine whether there is sufficient interest on the part of industry to co-fund such a facility with the Government. The Committee directs the Department to complete such studies in a timely fashion, however, in the meantime, expects the Department to maintain minimum staffing levels until the Congress has acted with respect to use of the Homer City facility.

For environmental and engineering analysis, the Committee has joined the House in recommending an additional $3,000,000 for the Morgantown fixed bed gasifier; $1,000,000 for development of a gas technology base; and $250,000 for technical support to evaluate existing gasification facilities.

In-situ coal gasification.—For in-situ coal gasification, the Committee has recommended $6,000,000, an increase of $5,300,000 over the budget request but a reduction of nearly $2,000,000 from the fiscal year 1982 level. This amount will allow for continued Federal support in the field testing of mine cavity development and analysis and computer modeling related to steeply dipping beds.

Advanced research and technology development.—The Committee has recommended $28,700,000 for advanced research and technology development, an increase of $8,900,000 over the budget estimate. Included in the Committee's recommendation is an additional $3,000,000 for increased materials research in such areas as structural ceramics, fluid corrosion mechanisms, high-temperature corrosion, slag refractory interaction, and new concepts for component design.

In addition to available funds, $4,400,000 is to explore new materials, catalysts, and electrolytes for fuel cell systems; to continue studies of coal-ash behavior and fluidized bed systems; and to investigate improved downstream processing techniques. The sum of $1,500,000 has been added to provide for purchase of necessary capital equipment. Within available funds, the Committee expects the Department to use $3,000,000 to support a peat utilization research program including completion of resource assessments, continuation of work on peat dewatering, harvesting, wet carbonization, and environmental considerations. Also within available funds, the Committee expects the Department to use no less than $1,000,000 to continue compilation and correlation of information for the Coal Conversion Systems Technical Data book which will provide the basic framework for future applications by private industry.

Advanced environmental control technology.—The Committee has recommended $18,500,000 for advanced environmental control technology, an increase of $11,900,000 over the budget request but a decrease of over $3,000,000 from the fiscal year 1982 level. For fuel gas cleanup, $3,500,000 of the increase would be used to expand efforts to evaluate advanced chemical NO_x and SO_x cleanup processes and technology for capture of respirable particles. For gas stream cleanup, and additional $6,800,000 is to continue proof of concept tests on the most promising high-pressure and high-temperature particulate removal concepts and process chemistry of alternate approaches to hot gas desulfurization and dechlorination. Finally, for technology support, the additional $1,600,000 is to expand the waste management program to emphasize characterization of wastes from industrial and emerging technologies, including coal preparation wastes and in waste utilization.

Heat engines and heat recovery.—The Committee has recommended $5,000,000 for the heat engines and heat recovery pro-

gram, including $3,750,000 for central power systems and $1,250,000 for dispersed power systems. Under central power systems, $2,500,000 is to continue the technology base activity and to begin development of low NO_x gas turbine combustors; and $1,250,000 is for the coal-fired, combined-cycle gas turbine cogeneration facility. For dispersed power systems, the Department should concentrate its efforts on the use of new materials and the use of the most promising fuels, particularly a coal-water slurry, to increase combustion efficiencies.

Combustion systems.—The Committee recommends $18,000,000 for combustion systems, including $5,000,000 for atmospheric fluidized beds; $11,000,000 for pressurized fluidized beds; and $2,000,000, the budget request, for alternative fuel utilization. Of the $5,000,000 for atmospheric fluidized beds, the Committee allowance provides $4,200,000 for scale-up of advanced AFB concepts and $800,000 is for technology base development work related to lignite utilization. Of the $11,000,000, $5,500,000 is to complete construction of a pressurized fluidized bed pilot plant in Woodridge, N.J.; $2,500,000 is for the International Energy Agency PFB test facility at Grimethorpe, England; and an additional $1,000,000 is to expand the technology base activities for materials and components.

Fuel cells.—For fuel cells, the Committee has recommended $28,800,000, an increase of $19,300,000 over the budget request but a decrease of $5,664,000 from the fiscal year 1982 level. Included in this recommendation is $6,500,000 to be added to the budget request of $5,000,000 for phosphoric acid programs. Within this $11,500,000, no less than $4,000,000 is for the 40 kW on-site technology development program cofunded with the gas industry. The Committee has also included $4,800,000 for the 4.8 MWe powerplant demonstration in New York City.

Also included in the recommendation is $7,000,000 for molten carbonate fuel cell development, of which $3,000,000 is for fundamental molten carbonate fuel cell technology base research; and $5,500,000 for advanced concepts. Of this later amount, $2,500,000 is for solid oxide development and $3,000,000 is to continue thermionics development.

As the development of fuel cells has many promising military applications, the Committee has not placed any restriction on the use of funds for such military/defense associated applications.

Magnetohydrodynamics.—The Committee has recommended $27,000,000 for MHD to continue development and testing at the two existing DOE test facilities with continuing dirct diagnostic support and necessary component acquisition. Like the House, the Committee is concerned about the future of the MHD program and its ultimate conclusion. Accordingly, the Department is directed to contract with a reputable energy-oriented institution to do a thorough evaluation of the program, what its future prospects are, and what developmental steps, if any, should now be taken.

Petroleum.—The Committee recommendation includes an additional $1,200,000 for enhanced oil recovery to permit studies of rock fluid interaction and for development of a data base for light oil and heavy oil. Work at universities and ongoing cooperative research will also be supported within this amount.

For oil shale, the Committee has recommended $4,100,000 over the budget request. This increase includes $500,000 for investigation of rubble from in-situ retort; $900,000 to sample waste emissions; $1,000,000 for instrumentation of fracturing; and $2,700,000 to complete the geokinetics horizontal modified in-situ project in Utah.

The additional $1,500,000 for advanced process technology will allow the Department to expand studies to offshore and Arctic areas.

Gas.—For enhances gas recovery, the Committee has recommended $13,900,000, an increase of $2,400,000 from the fiscal year 1982 level. Included in this amount is $6,000,000 for drilling of the third well of the multiwell test in the western tight sands; $3,900,000 to continue the tight sands program through the experimental and data collection and analysis phases; $1,000,000 for advanced environmental research on methane and abiogenic gas; and $3,000,000 for eastern gas shales.

Program direction.—The Committee has joined the House in funding Headquarters and Energy Technology Center program direction through separate line items rather than assessing the individual programs as has been done for ETC's in the past. Accordingly, $26,500,000 is recommended for ETC program direction and $9,000,000, the budget request for headquarters program direction. The Committee also expects future budgets to be submitted in this format.

General reduction.—Because of program terminations approved by the Congress during fiscal year 1982, the balance of funds remaining—$20,136,000—is to be used to offset the fiscal year 1983 program.

Energy technology centers transfer.—The Committee has included legislative provisions which transfer the Laramie, Wyo. and Grand Forks, N. Dak. energy technology centers—including all associated land, buildings, equipment, and furnishings—to the control of the Universities of Wyoming and North Dakota, respectively. Language is also included which allows the Secretary of Energy to enter into an agreement which may ultimately result in a similar transfer of the Bartlesville, Okla. Energy Technology Center.

The transfer of these three facilities by the Secretary of Energy and their continued operation for educational and research purposes will preserve an important national resource in the energy field while at the same time easing the impact on the Federal budget. In this regard, the Secretary is expected to impose such terms and conditions necessary to insure that the research areas undertaken by each center, as well as the individual research projects, will continue in a responsible manner after the transfers occur. The Committee likewise expects the Secretary to insure, to the greatest extent possible, that the present staff at each of the centers will be retained to meet the primary staffing requirements of the centers after they are transferred. The proposed language provides that anticipated employment by either university or other organization at the transferred facilities shall not subject present staff at the centers to the restrictions of section 208(a), title 18, United States Code, with respect to their participation, as Government employees, in any contract or other arrangement for work to be performed by the centers and the Department before the transfers are completed. Section 208(a) prohibits a Government employee from participating personally and substantially as a Government employee in any particular matter in which any person or organization with whom the employee is negotiating or has any arrangement concerning prospective employment has a financial interest. To the extent that this provision would prohibit Government employees at the centers from continuing to carry out their functions with respect to contracts or other arrangements, an exemption is necessary to prevent the work from coming to an abrupt stop.

The Committee has included a provision in the bill transferring $2,000,000 from a prior appropriation for feasibility studies under the alternative fuels account to this account. The Secretary is directed to use these funds to enter into an inter-agency agreement with the U.S. trade and development program for the purpose of completing the Federal share of a feasibility study of the Western Hemisphere Alternative Fuels Facility. The Secretary is further directed to work closely with TDP to establish appropriate management controls for this effort, and to provide facilitative and technical support to insure to the maximum extent possible that U.S. developed technology is employed during project implementation.

NAVAL PETROLEUM AND OIL SHALE RESERVES

1982 appropriation	$213,142,000
1983 budget estimate	232,500,000
House allowance	222,000,000
Committee recommendation	226,500,000

The Committee recommends an appropriation of $226,500,000, a decrease of $6,000,000 below the budget estimate. A comparison of the Committee recommendation and the budget estimate is shown in the following table:

	Budget estimate	Committee recommendation	Change
Naval petroleum reserves:			
Naval petroleum reserves Nos. 1 & 2	$207,417,000	$201,417,000	−$6,000,000
Naval petroleum reserve No. 3	19,855,000	19,855,000	
Program direction	5,138,000	5,138,000	
Subtotal, Naval petroleum reserves	232,410,000	226,410,000	−6,000,000
Shale Oil Development Program: Shale reserves development	90,000	90,000	
Total	232,500,000	226,500,000	−6,000,000

The goal of Naval Petroleum and Oil Shale Reserves is to develop the reserves to their full production capacity to achieve the optimum capability for supplying petroleum during a national defense emergency. To this end, the Department is responsible for Petroleum Reserves Nos. 1 and 2 located at Elk Hills, Calif.; Petroleum Reserve No. 3 near Casper, Wyo.; Oil Shale Reserve Nos. 1 and 3 near Rifle, Colo.; and Oil Shale Reserve No. 2 near Vernal, Utah. Producing an estimated 160,000 barrels per day during fiscal year 1983, receipts are estimated to exceed $1,700,000,000.

The Committee's recommendation includes decreases of $4,000,000 for development drilling and $500,000 for exploration drilling at NPR 1. While it appears likely that the 17-percent inflation rate assumed in the budget request will not be realized, the Committee believes a gradual increase in the inflation rate for the remainder of fiscal year 1983 could result in the loss of up to eight development wells if reductions in excess of $4,000,000 are taken. For exploration drilling, the Committee's recommenda-

tion of $9,500,000 represents an increase of $1,381,000 over the fiscal year 1982 level.

The Committee has also joined the House in recommending a reduction of $1,500,000 for environmental compliance. Estimates made when the budget was formulated indicated that $2,000,000 was needed to properly reduce NO_x omissions at the reserve to Environmental Protection Agency standards. In the meantime, however, new analysis has indicated that a solution costing $500,000 will be sufficient to achieve an EPA approval.

ENERGY CONSERVATION

1982 appropriation	$145,400,000
1983 budget estimate	21,802,000
House allowance	317,790,000
Committee recommendation	264,530,000

The Committee recommends an appropriation of $264,530,000, an increase of $242,728,000 above the budget estimate. A comparison of the Committee recommendations and the budget estimates is shown on the following table:

	Budget estimate	Committee recommendation	Change
Building & community systems:			
Building systems		$13,400,000	+$13,400,000
Community systems		1,700,000	+1,700,000
Urban waste		3,000,000	+3,000,000
Technology and consumer products		11,000,000	+11,000,000
Analysis and technology transfer		1,000,000	+1,000,000
Appliance standards			
Federal energy managment program		500,000	+500,000
Residential conservation service		3,400,000	+3,400,000
Capital equipment			
Program direction		2,500,000	+2,500,000
Subtotal, Buildings and community services		36,500,000	+36,500,000
Industrial:			
Waste energy reduction		7,000,000	+7,000,000
Industrial process efficiency		7,700,000	+7,700,000
Industrial cogeneration		5,000,000	+5,000,000
Implementation and commercialization		1,700,000	+1,700,000
Program direction		1,500,000	+1,500,000
Subtotal, Industrial		22,900,000	+22,900,000
Transportation:			
Vehicle propulsion research and development		34,000,000	+34,000,000
Alternative fuels utilization		1,500,000	+1,500,000
Electric/hybrid vehicle program		12,900,000	+12,900,000
Advanced materials development		1,500,000	+1,500,000
Program direction		1,400,000	+1,400,000
Subtotal, Transportation		51,300,000	+15,300,000
State and local programs:			
Energy policy and conservation grants		8,000,000	+8,000,000
(Effect of fiscal year 1982 transfer)		(10,000,000)	(+10,000,000)
Energy extension service		10,000,000	+10,000,000
Schools and hospitals		26,000,000	+26,000,000
(Effect of fiscal year 1982 transfer)		(14,000,000)	(+14,000,000)
Weatherization		85,000,000	+85,000,000
(Effect of fiscal year 1982 transfer)		(29,000,000)	(+29,000,000)
Program direction	$4,260,000	5,600,000	+1,340,000
Subtotal, State and local programs	4,260,000	134,600,000	+130,340,000
(Effect of fiscal year 1982 transfer)		(53,000,000)	(+53,000,000)
Multisector:			
General research	15,812,000		−15,812,000
Energy conversion technology		9,000,000	+9,000,000
Inventors program			
Energy impact assistance		8,500,000	+8,500,000
Appropriate technology		1,500,000	+1,500,000
Program direction	1,730,000	230,000	−1,500,000
Subtotal, Multisector	17,542,000	19,230,000	+1,688,000
Total, Energy conservation	21,802,000	264,530,000	+242,728,000
(Effect of fiscal year 1982 transfer)		(53,000,000)	(+53,000,000)

Buildings and community systems

Building systems: For building systems, the Committee has recommended $13,400,000. With this amount, research will continue on envelope systems and materials ($4,500,000); ventilation, infiltration, and control studies ($3,800,000); and residential field validation and commercial case studies ($800,000). In addition, $1,100,000 is for the dissemination of research results and increasing the utilization of such results; $2,200,000 to develop building energy performance guidelines (BEPS); and $100,000 for research supporting such performance standards. Like the House, the Committee expects this valuable buildings sciences work to continue at Lawrence Berkeley Laboratory and at Princeton, and further expects the Department to contract with and distribute funds to these entities without delay following approval of the fiscal year 1983 appropriations act.

Community systems: For community systems, the Committee has recommended $500,000 for the water-to-water heat pump program in Scranton, Pa., and $1,200,000 to purchase an advanced turbine and complete the total package for the cogeneration facilities at Georgetown University.

Technology and consumer products: Included in the $11,000,000 recommended for technology and consumer products is $2,000,000 to develop the technologies for combustion heating equipment; $3,300,000 for research and development of thermally-activated heat pumps; $3,600,000 for refrigeration and appliance technology development; and $2,100,000 for continued research and development of light technology.

Appliance standards: Although the Committee has provided no funds for appliance standards, the Committee expects the Department to, within available funds, process applications from States for exemptions from any Fededral standards or nonstandards in an expeditious manner.

Residential conservation service: The Committee has included $3,400,000 to continue the residential conservation service program.

Industrial.—The Committee strongly believes that, for the most part, the industrial conservation projects undertaken under Federal leadership have been highly effective and have stimulated the infusion of energy conservation technologies into the industrial marketplace. In particular, ongoing thrusts in advanced heat pumps, cogeneration systems, utilization of waste materials, and heat exchangers have been extremely effective in improving energy conservation as well as productivity. Accordingly, the Committee has recommended an appropriation of $22,900,000 for fiscal year 1983. Of this amount, $7,000,000 is for waste energy reduction: $7,700,000 is for industrial process efficiency; $5,000,000 is for industrial cogeneration; $1,700,000 is for implementation and commercialization activities; and $1,500,000 is for program direction.

While the Department is expected to continue ongoing industrial programs and projects, the Committee also expects the Department to develop new initiatives to complement technology development activities presently underway. Example should include advanced cogeneration prime mover development; advanced concentration and separation techniques; advanced sensors and controls technology; heat transfer augmentation devices; in-process nondestructive test and evaluation techniques; and automation technology.

Transportation.—The Committee has recommended $51,300,000 for transportation conservation activities for fiscal year 1983. Included in this recommendation is $34,000,000 for vehicle propulsion research and development; $1,500,000 for alternative fuels utilization; $12,900,000 for the electric and hybrid vehicle program; $1,500,000 for advanced materials development; and $1,400,000 for program direction. The Committee's recommendation represents a decrease of nearly $7,000,000 from the fiscal year 1982 level.

Vehicle propulsion research and development: Under vehicle propulation R. & D., the Committee has included $18,500,000 for continuation of the two-contractor gas turbine engine developement program; $12,000,000 to continue the proof-of-concept Stirling engine program; and $3,500,000 for continuing the heavy duty transport research and development program, of which $1,200,000 is to complete work on truck bottoming cycles.

The Committee has joined the House in including bill language to transfer the amount appropriated to continue the advanced automobile propulsion systems development program and the heavy duty transport program to the National Aeronautics and Space Administration (NASA). This action is consistent with section 311 of Public Law 95-238, which established the automotive propulsion research program in 1978, and states that NASA's expertise should be directed toward the development of advanced automobile propulsion system. The Committee's action merely acknowledges past contractual arrangements between the Department and NASA with respect to vehicle propulsion systems and legislatively transfers funds to NASA. Responsibility for and control of the program is to remain in the Department of Energy, and the Department is expected to coordinate the activities of the vehicle propulsion program with all other activities of the transportation conservation division.

Electric and hybrid vehicle program.—For the EHV program, the Committee's recommendations includes $3,500,000 for advanced battery research and development; $1,700,000 for electric propulsion systems research and development; $3,000,000 for advanced motors and controllers in-vehicle testing; $900,000 for battery reliability testing; $2,000,000 for hybrid vehicle alternative propulsion systems; and $1,800,000 for advanced electric and hybrid vehicle fuel systems and aluminum-air and lithium-metal sulfide batteries.

State and local programs.—For State and local programs, the Committee recommended $134,600,000 in new budget authority, and has applied $53,000,000 of funds transferred from the energy impact assistance program which was terminated by the Department earlier this year, from unobligated gas rationing planning funds and from remaining SRC-1 funds transferred from the fossil energy construction account. The total program level is thus $187,600,000 for fiscal year 1983. Included in the Committee's recommendation is $18,000,000 for energy policy and conservation grants

($8,000,000 in new budget authority and $10,000,000 in transferred funds); $10,000,000 for the energy extension service; $40,000,000 for the schools and hospital program ($26,000,000 in new budget authority and $14,000,000 in transferred funds); $114,000,000 for the weatherization program ($85,000,000 in new budget authority and $29,000,000 in transferred funds); and $5,600,000 for program direction.

The Committee has joined the House in including bill language to continue the low-income weatherization under the same regulations applicable to the maximum allowable expenditure per dwelling unit and to the regulations pertaining to priority in providing weatherization assistance which were in effect on October 1, 1982. The Committee believes that the flexibility the States now have as far as expenditures per household is concerned should not be made more restrictive. Restricting the amount available per household may have the effect of preventing the most cost-effective conservation measures from being applied to a house as well as increasing the percentage of the program expenses devoted to overhead costs.

Although funds have been recommended for each individual State and local program, the Committee believes energy block grants to the individual States remains an attractive alternative to the current system. The Committee, therefore, strongly urges the authorizing committees to address this issue as early as possible in the upcoming session of Congress.

The Committee has not included a legislative provision like that of the House which requires that States provide a 20-percent match for the Energy Policy and Conservation Act grants. While the Committee shares the belief that the States should share some monetary support of the conservation grant activities within their borders, the States will not have sufficient time to provide such support before this provision would take effect. States should, however, be on notice that future appropriation acts may contain such a matching requirement.

Multisector.—The Committee has recommended $19,230,000 for the multisector program, an increase of $1,688,000 above the budget request. The Department had requested its total conservation research budget of $15,812,000 under the energy conservation technology heading. However, the Committee has chosen to reject this approach and fund energy conservation activities under the headings established over the past several years.

Included in multisector is $9,000,000 for continuation of energy conversion technology activities; $8,500,000 for energy impact assistance; $1,500,000 for appropriate technology; and $230,000 for program direction. For the appropriate technology grants program, the Department is expected to allocate funds to be as productive as possible in the performance of activities such as information dissemination and technical assistance, field office monitoring support, printing, development and maintenance of a management information system, and program evaluation. The Department is further expected to contract with the organization or organizations it feels best able to perform such activities as outlined by the Department within available funds.

The Committee has recommended an appropriation of $8,500,000 for section 601 energy impact assistance. These funds are provided for specific State projects which were allocated moneys, or approved by the State Governor when previous appropriations were withdrawn by the administration in February 1982.

ECONOMIC REGULATION

1982 appropriation	$21,416,000
1983 budget estimate	27,356,000
House allowance	31,106,000
Committee recommendation	35,106,000

The Committee recommends an appropriation of $35,106,000, an increase of $7,750,000 above the budget estimate. This account includes the various functions of the Economic Regulatory Administration as well as those of the Office of Hearings and Appeals.

In addition to the recommended funding levels for fiscal year 1982, the Committee intends that $3,000,000 deferred from fiscal year 1981 be made available to carry out certain activities of the Economic Regulatory Administration. The following table provides a comparison of the fiscal year 1983 budget estimates and the Committee recommendations:

	Budget estimate	Committee recommendation	Change
Fuels conversion		$2,000,000	+$2,000,000
Programs and regulatory intervention: Power supply and reliability			
Compliance	$13,500,000	17,500,000	+4,000,000)
(Effect of fiscal year 1981 deferral in 1983)		(500,000)	(500,000)
Petroleum operations	2,268,000	2,268,000	
Emergency preparedness	5,440,000	5,440,000	
Office of Hearings and Appeals	5,500,000	5,250,000	−250,000
Program administration	648,000	648,000	
(Effect of fiscal year 1981 deferral in 1983)		(2,500,000)	(2,500,000)
Total, Economic Regulation	27,356,000	33,106,000	+5,750,000
(Effect of fiscal year 1981 deferrain in 1983)		(3,000,000)	(3,000,000)

Fuels conversion.—The Committee recommends $2,000,000 for the fuels conversion program, a decrease of $2,800,000 from the fiscal year 1982 level but an increase of $2,000,000 above the budget request. These funds will make it possible to complete the processing of all Fuel Use Act exemption petitions now before ERA, process new exemption petitions that the Department may receive throughout the course of the fiscal year, and complete residual work related to the review and approval of electric utility natural gas conservation plans.

Compliance.—For fiscal year 1983, the Office of Special Counsel, responsible for the 35 major refiners, and the Office of Enforcement, responsible for all other refiners, have been merged together. The Committee agrees that such a restructuring will allow better use and control of funds and commends the Department for taking this action.

The Committee has recommended an increase of $4,000,000 in new budget authority, and has applied an additional $500,000 of deferred fiscal year 1981 funds for compliance activities. This amount will allow for additional audits of crude resellers where necessary as well as for enhanced negotiations and, if required, litigation in timely fashion. Like the House, the Committee expects the Department to make every effort to retain those auditors, investigators, and attorneys with experience in these crude oil reseller cases.

Office of Hearings and Appeals.—Because of anticipated savings throughout the course of fiscal year 1983, the Committee has recommended a decrease of $250,000 from the budget request. The recommended level of $5,250,000, nevertheless, still represents an increase of $450,000 over the fiscal year 1982 level.

The Committee continues to be pleased with the aggressive manner in which the Office of Hearings and Appeals has handled the tremendous caseload of appeals and urges a continuation of this approach so that all compliance and related matters can be resolved within the fiscal year 1985 timeframe anticipated by the Department.

Program administration.—The Committee recommends $648,000 in new budget authority for program administration, the same as the House and the budget estimate. The Committee has also applied an additional $2,500,000 of funds deferred in fiscal year 1981 to program direction, as had been anticipated by the Department.

STRATEGIC PETROLEUM RESERVE

1982 appropriation	$191,432,000
1983 budget estimate	242,118,000
House allowance	(242,118,000)
Committee recommendation	(242,118,000)

The Committee recommends an appropriation of $242,118,000, the same as the budget estimate.

The Committee's recommendations compared to the budget estimates are shown in the following table:

	Budget estimate	Committee recommendation	Change
Planning	$8,000,000	$8,000,000	
Storage facilities development	222,538,000	222,528,000	
Program administration	11,590,000	11,590,000	
Total, Strategic Petroleum Reserve	242,118,000	242,118,000	

In a move to prevent possible disruptions of planning, storage facility development, and program administration of the Strategic Petroleum Reserve, the Congress included a provision in Public Law 97-276 appropriating $242,118,000 for fiscal year 1983 for this purpose. This action, coupled with earlier congressional disapproval of a proposed SPR deferral of phase III development funds, signals strong support by the Congress of an aggressive, well financed Strategic Petroleum Reserve program. In this regard, the Committee joins the House in urging an immediate return by the Department to an SPR completion date of 1989 as assumed in the fiscal year 1982 appropriation, and will look favorably on a supplemental funding request to meet this target. Because the Strategic Petroleum Reserve remains this country's major answer to the threat of future petroleum import interruptions, the Committee will also continue to explore the possibility of and costs associated with increasing petroleum acquisition and the interim storage facilities necessary for such additional petroleum supplies.

SPR PETROLEUM ACCOUNT

1982 appropriation	($3,684,000,000)
1983 budget estimate	(2,074,060,000)
House allowance	(2,074,060,000)
Committee recommendation	(2,074,060,000)

For petroleum acquisition and transportation, the Committee recommends an appropriation of $2,074,060,000, the same as the budget request. As established in Public Law

97-35, the Omnibus Budget Reconciliation Act of 1981, the SPR petroleum account places petroleum acquisition and transportation funds in an off-budget account which is not to be included in the totals of the budget of the U.S. Government and which is exempt from any general limitations imposed by statute on expenditures.

On September 30, 1982, the Strategic Petroleum Reserve held some 278 million barrels of oil, equivalent to approximately 70 days of oil imports. Made possible partly because of the currently soft oil market, the 278 million barrel level is some 11.1 million barrels more than originally planned for the end of fiscal year 1982. At a fill rate of only 220,000 barrels per day, deliveries during fiscal year 1983 should reach 80,300,000 with a cumulative fill total at year's end of some 358,300,000 barrels of oil.

Because permanent storage capacity is projected at only 343 million barrels by the end of the fiscal year 1983, a 358 million fill level will necessitate interim storage of 15 million barrels. In this regard, the Committee understands recent initiatives by the Department to determine additional storage capacity within current permanent facilities may result in finding sufficient, though perhaps short-term space for this additional petroleum. As interim storage in one form or another remains a distinct possibility in this and future years, the Department is expected to continue its effort to determine the most cost-efficient means of providing such storage while at the same time take whatever reasonable steps necessary to expand existing facilities.

The Committee notes the President's notification of December 1, 1982, with respect to his finding that it is inappropriate to fill the SPR at an average 300,000 barrels per day during fiscal year 1983. Public Law 97-229, the Energy Emergency Preparedness Act of 1982, specifies for fiscal year 1983 a minimum SPR fill rate of 300,000 barrels per day, subject to the availability of appropriated funds. The act further specifies that if the President finds that compliance with this rate is not in the national interest, the minimum fill rate becomes 220,000 barrels per day. However, notwithstanding this Presidential finding, the act further provides that the minimum fill rate will, in any event, be "the highest practicable" fill rate achievable with available appropriated funds.

The Committee notes that the Pesident's request for fiscal year 1983, when combined with the substantial carryover of unspent, appropriated funds from fiscal year 1982, would enable the President to achieve a rate of fill for the SPR in fiscal year 1983 that is significantly higher than 220,000 barrels per day. The Emergency Preparedness Act of 1982 establishes this "achievable" fill rate as the required minimum fill rate.

In light of questions of national defense, as well as the currently soft oil market and the requirements of section 160(c)(1)(D) of the Energy Policy and Conservation Act, the Committee cannot be satisfied to maintain the minimum fill of 220,000 barrels per day. Accordingly, the Department is directed to take the steps necessary to purchase additional petroleum in order to take advantage of favorable market conditions and to provide interim storage facilities, if necessary, for such additional purchases.

ENERGY INFORMATION ADMINISTRATION

1982 appropriation	$78,919,000
1983 budget estimate	54,500,000
House allowance	58,800,000
Committee recommendation	54,500,000

The Committee recommends an appropriation of $54,500,000, the same as the budget estimate. The amount recommended by the Committee compared with the budget estimate is shown in the following table:

	Budget estimate	Committee recommendation	Change
Collection, production and analysis	$34,639,000	$34,639,000	
Program services	13,162,000	13,162,000	
Policy and management	6,699,000	6,699,000	
Total, Energy Information Office	54,500,000	54,500,000	

The Committee has recommended $54,500,000, the budget request, for the Energy Information Administration. This amount will make it possible for EIA to continue to provide basic, ongoing statistical, and analytical energy information while at the same time reducing the number and frequency of some data series where data does not change significantly and where long-term projections have been shown inaccurate and, thus, misleading. While savings over previous years are made possible through the elimination of various systems and programs which supported unnecessary detailed Government regulatory planning and allocation of fuels, EIA will continue to gather and disseminate the basic energy statistics in order to provide timely, historically consistent, and relevent information.

The Committee joins the House in requesting that the Department identify in its fiscal year 1984 budget justification the amount of EIA workload which is in direct or partial support of other agencies, with a description of that support. Such a description should include a detailed account of that work which has been performed on a reimbursable basis and that which has not.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

1982 appropriation	$617,805,000
1983 budget estimate	613,280,000
House allowance	645,305,000
Committee recommendation	623,724,000

The Committee recommends an appropriation of $623,724,000, an increase of $10,444,000 above the budget estimate and a decrease of $21,581,000 below the House allowance. Allowances are displayed in the following comparative table:

	Budget estimate	Committee recommendation	Change
Clinical services:			
IHS and tribal health delivery:			
Hospital and health clinic program	$323,120,000	$325,410,000	+$2,290,000
Dental health program	19,880,000	19,880,000	
Mental health program	8,077,000	8,077,000	
Alcoholism program	20,207,000	20,207,000	
Maintenance and repair	8,267,000	8,267,000	
Contract care	130,547,000	130,547,000	
Preventive health:			
Sanitation	15,131,000	15,131,000	
Public Health nursing	8,324,000	8,324,000	
Health education	2,293,000	2,293,000	
Community health representative program		25,000,000	+25,000,000
Immunization		500,000	+500,000
Urban health projects		654,000	+654,000
Indian health manpower	4,044,000	4,044,000	
Tribal management	2,634,000	2,634,000	
Program management	51,264,000	50,264,000	−1,000,000
Equity health care fund	19,492,000	17,492,000	−2,000,000
Reduction offset by medicare/medicaid collections		−15,000,000	−15,000,000

Clinical services.—The Committee has deleted the requested increase of $335,000 for Alaska Native community health aides.

An amount of $2,905,000 has been provided for new positions. No more than half of the 139 positions shall be assigned to the Chinle, Ariz. hospital. In recent years, practically all personnel increases have gone to newly constructed facilities. This policy has substantially contributed to severe understaffing in locations where there has been no new construction. An additional $1,000,000 has been transferred from the area and central office administrative account to support clinical and administrative staff at the service unit level.

IHS is facing recruitment and retention problems in nursing. In an effort to improve this situation an additional $1,125,000 has been provided for an educational program to be offered at Tuba City through which LPN's can obtain their RN's.

The Committee recommendation provides an increase of more than $20,000,000 over the fiscal year 1982 level for hospitals and clinics. Within this amount, $4,000,000 shall be used to fund emergency medical services activities currently supported by the community health representative program.

The amount of $500,000 has been added to cover the increased costs of operating the Mount Edgecumbe hospital. These costs have been borne by the Mount Edgecumbe Boarding School which will close during fiscal year 1983.

The Committee has long been concerned over the incidence of alcoholism among the Indian population. Some promising research, particularly in the area of risk prediction, has been initiated. Within the funds available for the alcoholism program, the Indian Health Service is directed to spend no less than $100,000 and up to $200,000 to support research focusing on alcohol abuse and alcoholism.

Preventive health.—$25,000,000 is provided to continue the community health representative program. With the funds made available the Indian Health Service is to conduct an evaluation of the entire program. It appears that during the rapid expansion of the CHR program between 1968 and 1981 a number of activities were supported which have little relation to the CHR program. Through the evaluation, such activities should be identified along with dollar amounts, and if it is deemed that there are necessary services, the funds should be allocated to the proper accounts as part of the fiscal year 1984 budget submission.

The amount of $500,000 has been provided to begin a screening and immunization program in Alaska where hepatitis B has reached epidemic proportions in the Native population.

Urban health.—The Committee has provided $654,000 for the urban health program which is sufficient to fund the three projects which were ranked the highest by the Bureau of Community Health Service evaluation. As fiscal year 1982 funds were available to support all projects through De-

cember, funds are provided for only three-quarters of the fiscal year.

Indian health manpower.—Within the funds available, the Committee expects the Indian Health Service to provide $200,000 for the Indians into medicine program and $120,000 for the masters in public health program.

Program management.—A General Accounting Office report which is still in progress has developed initial data indicating major problems in the administration of the contract care program. The Committee endorses a proposal under consideration by the Indian Health Service to contract with an intermediary to assure a more complete check on Federal health care payments.

$1,000,000 has been transferred from program management to the hospital and health clinic account.

Equity health care fund.—The Committee has reduced the budget request for the equity health care fund by $2,000,000. The Indian Health Service, however, is directed to provide a total of $19,492,000 to those groups qualifying for assistance under the fund. The additional $2,000,000 is to be derived by reallocation of resources from other programs funded under the Services account.

Medicare/medicaid offset.—The Committee has reduced the appropriations for the Indian Health Service by $15,000,000. This amount is to be derived from the $30,000,000 in anticipated collections from medicare/medicaid and other third-party payments.

In some instances, funds are being spent to remodel and renovate facilities for which funds have been provided for planning, design, or construction of a replacement facility. In the future, all such projects shall first be cleared with the Appropriations Committee of the House and the Senate.

The Indian Health Service has also turned over to tribes some personnel quarters and other facilities which were constructed through a direct appropriation to the Indian Health Service. IHS has then leased back these facilities, increasing the operating costs to the Government. The Committee is strongly opposed to this practice and directs that no further leases of this type be entered into. Further, existing leases should be limited to the amount it would actually cost the Government to operate and maintain the facilities directly (for example, insurance premiums should not be included in the lease costs).

At the request of numerous public witnesses, the Committee has included bill language to terminate services to non-Indian spouses and non-Indian members of the household. Exceptions are provided for pregnant non-Indian women married to Indian men and for actions necessary to control acute infectious disease or public health hazards.

The Committee has reviewed the General Accounting Office Report providing recommendations on the operations of nine small IHS hospitals. As a result of the information provided, the Committee withdraws its objection to the renovation of the Cass Lake and Parker hospitals.

INDIAN HEALTH FACILITIES

1082 appropriation	$58,352,000
1983 budget estimate	
House allowance	37,235,000
Committee recommendation	30,750,000

The Committee recommends an appropriation of $30,750,000, an increase of $30,750,000 above the budget estimate and a decrease of $6,485,000 below the House allowance. The following comparative table summarizes the Committee's recommendations:

	Budget estimate	Committee recommendation	Change
Hospitals: New and replacement	$6,700,000	$6,700,000	+$6,700,000
Personnel quarters	14,000,000	14,000,000	+14,000,000
Sanitation facilities	10,050,000	10,050,000	+10,050,000

Hospitals and clinics.—The Committee has provided $6,700,000 for the first phase of construction for the Blackfeet Hospital in Browning, Mont. An additional $500,000 is provided to complete planning of the Sacaton, Ariz. hospital. The Committee supports inclusion of a dialysis unit in the Sacaton facility. These funds are to be derived from unexpended balances available from completed projects.

Personnel quarters.—$14,000,000 is recommended for construction of 161 units of quarters at the Chinle, Ariz., hospital and for 21 units of quarters at Inscription House, Ariz. Eighteen units of quarters owned by the Bureau of Indian Affairs are currently being renovated for Chinle staff use. Therefore, 18 units have been deleted from the 179 unit proposal.

Prior to construction, the Committee requests that the General Accounting Office review the estimates for construction costs with specific attention given to site preparation estimates and wage rates. Two hundred units of HUD-financed housing for Chinle are in the final design stage. Attention should be given to the possibility of offering the HUD and IHS project for bid at the same time to effect an economy of scale.

The Committee is concerned over the ever-escalating cost of providing housing for Government employees working for the Indian Health Service. While recognizing the unique problems of locating housing on Indian reservation and trust lands, the Committee, nevertheless, directs the IHS to consider the availability of housing in the surrounding communities when determining the location of new or replacement hospitals and clinics.

Sanitation facilities.—$10,050,000 has been provided for the construction of water and sewer facilities for 1,220 units to be built in fiscal year 1983 by the Bureau of Indian Affairs and other tribal programs.

Costs of sanitation services provided in conjunction with the Navajo and Hopi Indian relocation program are to be reimbursed from that account.

Of the amount provided, $900,000 shall be used to complete the Turtle Mountain project.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

1982 appropriation	$77,852,000
1983 budget estimate	51,119,000
House allowance	65,519,000
Committee recommendation	66,216,000

The Committee recommends an appropriation of $66,216,000, an increase of $15,097,000 above the budget estimate and $697,000 over the House allowance.

The following table illustrated the distribution of the funds:

	Budget estimate	Committee recommendation	Change
Part A	$35,465,000	$49,614,000	+$14,149,000
Part B	9,600,000	10,320,000	+720,000
Part C	3,365,000	3,593,000	+228,000
Administration	2,689,000	2,689,000	

The increase for part B is to maintain the pilot planning, and demonstration program (+$280,000) and the fellowship program (+$440,000) at the fiscal year 1982 level.

The additional $228,000 for part C is to maintain the planning, pilot, and demonstration projects at the current level.

NAVAJO AND HOPI RELOCATION COMMISSION

SALARIES AND EXPENSES

1982 appropriation	$10,062,000
1983 budget estimate	13,403,000
House allowance	9,359,000
Committee recommendation	7,665,000

The Committee recommends an appropriation of $7,665,000, a decrease of $5,738,000 below the budget estimate and $1,694,000 below the House allowance.

A reduction of $5,638,000 has been made in the request for relocation payments due to lack of authorization. The request for assistance payments has been reduced by $100,000. It is anticipated that $225,000 in this activity will be available for carryover into fiscal year 1983. That amount, combined with the $500,000 provided in the Committee recommendation will be sufficient to meet the anticipated need.

Under Commission guidelines, a maximum housing benefit is determined on an annual basis. In some on-reservation locations, this amount is effectively being exceeded through the use of Indian Health Service construction funds to provide water and sanitation services to the homes. The Commission is directed to include this cost within the total housing benefit and to reimburse the Indian Health Service for expenses incurred in providing sanitation services to newly constructed homes.

Recent reports indicate that one-third of the relocatees have sold the homes purchased for them by the Government. The Commission is requested to obtain additional data in an effort to determine if the relocatees are moving back to the reservation.

In at least one instance, the Commission has approved the construction of five homes to replace one house which had been located within the joint use area. This type of practice changes the focus from relocation to a housing program and the Committee does not support such a policy.

Bill language has been included to limit benefit payments to those who must actually be relocated. Once the physical relocation has been accomplished, the Committee will consider benefits for those who are not currently physically residing in the joint use area.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

1982 appropriation	$131,170,000
1983 budget estimate	144,110,000
House allowance	147,276,000
Committee recommendation	140,249,000

The Committee recommends an appropriation of $140,249,000, a decrease of $3,861,000 below the budget estimate and $7,027,000 below the House allowance. The following table provides a comparison of the

budget estimates with the Committee recommendation:

	Budget estimate	Committee recommendation	Change
Science	$47,297,000	$46,964,000	−$332,000
History and art	22,019,000	21,909,000	−110,000
Public service	2,805,000	2,805,000	
Museum programs	8,172,000	7,370,000	−802,000
Special programs	10,220,000	9,720,000	−500,000
Administration	10,086,000	10,042,000	−44,000
Support activities	43,511,000	41,439,000	−2,072,000
Total	144,110,000	140,249,000	−3,861,000

Restoration of funding for positions.—The Smithsonian had requested full-year funding of positions provided in fiscal year 1982 which were not filled in that year. In all cases, the Committee recommends only one-half of the annual costs of these positions. Due to the fact that the Smithsonian will operate for several months under a continuing resolution and taking into account the normal lapse rate, these funds should be sufficient.

Other changes from the budget request are detailed below:

Science.—$762,000 requested for the Center for the Study of Man has been deleted as this center no longer exists as a separate entity.

An increase of $425,000 has been provided to improve the multiple mirror telescope at the Whipple Observatory. An additional $200,000 is recommended to partially cover overhead costs of the Smithsonian Astrophysical Observatory. All SAO overhead costs have been charged to contracts. The Smithsonian is to use other available resources in addition to the add-on to fully correct this situation.

Museum programs.—$782,000 requested for the National Museum Act has been deleted as authorization for this program has expired.

Special programs.—The Committee has provided $3,820,000 of the requested $4,220,000 for equipping the Museum Support Center. Savings realized in bids on the wet storage are sufficient to offset this reduction.

The $2,300,000 requested for operations and support of the Museum Support Center has been reduced by $100,000—protection services, −$65,000; Office of Horticulture, −$7,000; and utilities, −$28,000. The increases provided for protection services and plant services in the regular accounts should be sufficient to meet the additional requirements imposed by the opening of the Museum Support Center.

Support activities.—The Smithsonian plans to embark on a program of major improvements in its security system. Of the $3,972,000 requested for contracts and equipment, the Committee has allowed $2,787,000. This represents an increase of 150 percent over the amount available in fiscal year 1982.

The requested increase of $251,000 in postage costs under the Office of Plant Services has been deleted. The Smithsonian has revamped its mailing program which should result in substantial savings. A reduction of $450,000 has been applied to the requested increase for utilities.

MUSEUM PROGRAMS AND RELATED RESEARCH

(Special foreign currency program)

1982 appropriation	$4,320,000
1983 budget estimate	2,000,000
House allowance	2,000,000
Committee recommendation	2,000,000

The Committee recommends an appropriation of $2,000,000, the same as the budget estimate and the House allowance to continue a program of grants for research in several foreign countries.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

1982 appropriation	$1,104,000
1983 budget estimate	1,550,000
House allowance	1,550,000
Committee recommendation	1,550,000

The Committee recommends an appropriation of $1,550,000, the same as the budget estimate and the House allowance. The Committee is concerned that the decision to delay construction of the aquatic habitat until fiscal year 1986 will result in an exhibit smaller than originally planned at twice the original cost. The Smithsonian Institution is urged to move forward with this project in fiscal year 1984.

RESTORATION AND RENOVATION OF BUILDINGS

1982 appropriation	$7,680,000
1983 budget estimate	8,450,000
House allowance	8,450,000
Committee recommendation	7,450,000

The Committee recommends an appropriation of $7,450,000, a decrease of $1,000,000 below the budget estimate and the House allowance.

Revised estimates for repairs to the Arts and Industries Building will allow the Smithsonian Institution to carry out the work as scheduled within the lower amount provided by the Committee.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

1982 appropriation	$29,815,000
1983 budget estimate	32,673,000
House allowance	34,839,000
Committee recommendation	32,228,000

The Committee recommends an appropriation of $32,228,000, a decrease of $445,000 below the budget request and $2,611,000 below the House allowance.

The amount recommended by the Committee for fiscal year 1982 compared with the budget estimates is shown in the following table:

	Budget estimate	Committee recommendation	Change
Care and utilization of art collections	$8,973,000	$8,921,000	−$52,000
Operation and maintenance of buildings and grounds	15,495,000	15,208,000	−287,000
Protection of buildings, grounds, and contents	5,358,000	5,291,000	−67,000
General administration	2,847,000	2,808,000	−39,000
Total, National Gallery of Art	32,673,000	32,228,000	−445,000

The Committee has reduced the budget estimate for utilities by $250,000. The Committee has reduced the requested increase of $1,274,000 for personnel compensation and benefits by $195,000.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

1982 appropriation	$1,897,000
1983 budget estimate	2,255,000
House allowance	2,255,000
Committee recommendation	2,321,000

The Committee recommends an appropriation of $2,321,000, an increase of $66,000 above the budget estimate and the House allowance.

The Committee has provided an additional $91,000 for the fellowship stipends. In the future, the Committee expects this figure to be adjusted annually based on the Federal employees' cost-of-living increase.

A reduction of $25,000 has been made in the Center's request for reimbursement to the Smithsonian Institution. The $50,000 allowance will provide for a small increase over the amount available in fiscal year 1982.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENTS FOR THE ARTS AND THE HUMANITIES

SALARIES AND EXPENSES

1982 appropriation	$216,416,000
1983 budget estimate	153,556,000
House allowance	216,907,000
Committee recommendation	216,407,000

The Committee recommends an appropriation of $216,407,000, an increase of $62,951,000 over the budget estimate and $500,000 below the House allowance.

National Endowment for the Arts.—The following table provides a comparison of the budget estimates and the Committee recommendations:

[In thousands of dollars]

	Budget estimate	Committee recommendation	Change
Artists-in-schools	$3,333	$4,800	+$1,467
Dance	5,299	8,739	+3,440
Design arts	3,132	4,200	+1,068
Expansion arts	5,147	8,000	+2,853
Fellows	100	100	
Folk arts	2,334	2,800	+466
Inter arts	3,134	3,700	+566
International	50	50	
Literature	3,630	4,300	+670
Media arts	5,447	8,300	+2,853
Museums	6,843	9,339	+2,496
Music	5,651	9,439	+3,788
Opera/musical theater	1,764	2,940	+1,176
Special constituencies	50	50	
State programs	14,528	21,039	+6,511
Theater	4,092	7,139	+3,047
Visual arts	5,072	6,000	+928
Research	150	740	+590
Total, regular programs	69,756	101,675	+31,919
Administration	12,600	12,600	
Total, salaries and expenses	82,356	114,275	+31,919

The Committee does not concur with the House limitation regarding funding of the President's Council on the Arts and the Humanities.

National Endowment for the Humanities.—The following table provides a comparison of the budget estimates and the Committee recommendation for NEH:

	Budget estimate	Committee recommendation	Change
State programs	$13,200,000	$20,329,000	+$7,129,000
Education programs	10,700,000	14,301,000	+3,601,000
Fellowships and seminars	9,200,000	13,405,000	+4,205,000
Research grants	13,600,000	16,555,000	+2,955,000
General programs	11,800,000	25,112,000	+12,712,000
Planning and assessment	500,000	730,000	+230,000
Administration	12,200,000	11,700,000	−500,000
Total, humanities	71,200,000	102,132,000	+30,932,000

As requested by the Endowment, the Committee has revised the budget structure to more accurately reflect the current activities of NEH.

A reduction of $500,000 has been applied to the request for administrative expenses. In each of the past 2 fiscal years, NEH has

returned administrative funds to the Treasury. The amount provided should be sufficient to meet the fiscal year 1983 requirements.

MATCHING GRANTS (INDEFINITE)

1982 appropriation	$57,600,000
1983 budget estimate	43,319,000
House allowance	57,528,000
Committee recommendation	57,528,000

The Committee recommends an appropriation of $57,528,000, an increase of $14,209,000 over the budget estimate and the same as the House allowance. The following table provides a comparison of the budget estimate and the Committee recommendation:

	Challenge grants		Treasury grants	
	Estimate	Recommendation	Estimate	Recommendation
NEA	$7,364,000	$18,400,000	$11,155,000	$11,200,000
NEH	15,600,000	16,864,000	9,200,000	11,064,000

INSTITUTE OF MUSEUM SERVICES

1982 appropriation	$11,520,000
1983 budget estimate	
House allowance	10,224,000
Committee recommendation	10,224,000

The Committee recommends an appropriation of $10,224,000, the same as the House allowance. There was no budget request.

The Committee recommendation includes $10,154,000 for operating support grants: $70,000 for the Museum Services Board; and $576,000 for administration. Special projects will be supported through carryover funds available from fiscal year 1982.

Up to $120,000 may be spent for the museum assessment program, provided that the applicants provide one-half of the cost of the assessments.

ADMINISTRATIVE PROVISIONS

The Committee has stricken bill language proposed by the House of Representatives regarding vacancies on the National Museum Services Board and the national councils.

House bill language concerning the establishment of an appeals process for IMS has also been deleted.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

1982 appropriation	$303,000
1983 budget estimate	319,000
House allowance	319,000
Committee recommendation	319,000

The Committee recommends an appropriation of $319,000, the same as the budget estimate and the House allowance for the Commission of Fine Arts.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1982 appropriation	$1,567,000
1983 budget estimate	1,000,000
House allowance	1,600,000
Committee recommendation	1,000,000

The Committee recommends an appropriation of $1,000,000, the same as the budget estimate and a decrease of $600,000 below the House allowance.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

1982 appropriation	$2,373,000
1983 budget estimate	2,202,000
House allowance	2,279,000
Committee recommendation	2,279,000

The Committee recommends an appropriation of $2,279,000, an increase of $77,000 over the budget estimate and the same as the House allowance.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

1982 appropriation	$29,000
1983 budget estimate	
House allowance	
Committee recommendation	

The Committee has provided no new appropriations for operation of the Franklin Delano Roosevelt Memorial Commission. Sufficient funds are available from prior years to meet the anticipated fiscal year 1983 requirements.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

1982 appropriation	$2,294,000
1983 budget estimate	2,250,000
House allowance	2,350,000
Committee recommendation	2,425,000

The Committee recommends an appropriation of $2,425,000, an increase of $175,000 over the budget estimate and $75,000 over the House allowance.

The increase above the budget is for moving costs associated with the relocation of the Corporation to the Old Post Office Building and for increased space costs at that location.

LAND ACQUISITION AND DEVELOPMENT FUND

(Borrowing authority)

1982 appropriation	$2,400,000
1983 budget estimate	1,200,000
House allowance	1,200,000
Committee recommendation	

No funds have been provided for land acquisition and development as the necessary authorizing legislation has not been approved by the House of Representatives.

PUBLIC DEVELOPMENT

1982 appropriation	$13,632,000
1983 budget estimate	8,750,000
House allowance	8,750,000
Committee recommendation	8,750,000

The Committee recommends an appropriation of $8,750,000 for public development activities, the same as the budget estimate and the House allowance.

The recommendation includes $6,800,000 for public improvements and $1,950,000 for program support costs.

FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

1982 appropriation	$19,425,000
1983 budget estimate	7,125,000
House allowance	6,125,000
Committee recommendation	6,125,000

The Committee recommends an appropriation of $6,125,000, $1,000,000 below the budget estimate.

The Committee's recommendation is based on announcements made during the spring of 1982 by the sponsor company that the gas pipeline completion date will be delayed 3 years to the winter of 1989-90. Because the Office of the Federal Inspector's workload, such as design review, permit processing, field survey, and other preconstruction activities, will be stretched out over a longer time frame, significant reductions in personnel levels for fiscal year 1983 have become necessary. However, the Committee concurs in the decision to retain sufficient OFI personnel so as not to jeopardize OFI's ability to remobilize if construction of the Alaskan segment of the pipeline becomes a certainty. In this regard, the Committee expects to be kept informed of any changes in personnel levels made during the fiscal year.

HOLOCAUST MEMORIAL COUNCIL

SALARIES AND EXPENSES

1982 appropriation	$785,000
1983 budget estimate	820,000
House allowance	820,000
Committee recommendation	820,000

The Committee recommends an appropriation of $820,000, the same as the budget estimate and the House allowance. The increase over the fiscal year 1982 level will allow for the Council to expand observance of the days of Remembrance to all the States and to prepare plans for the memorial/museum.

NATIVE HAWAIIANS STUDY COMMISSION

1982 appropriation	
1983 budget estimate	$200,000
House allowance	(190,000)
Committee recommendation	(190,000)

Because the Native Hawaiians Study Commission was funded for all of fiscal year 1983 in Public Law 97-276, the Committee has recommended no further appropriations. As the work of the Commission is scheduled to be completed by the end of fiscal year 1983, no budget request for fiscal year 1984 is anticipated at this time. The Committee recognizes, however, that certain activities of the Commission, including participation in congressional hearings, may take place after the end of fiscal year 1983. Should this be the case, the Committee will consider a further request for funds to provide payment for reasonable expenses incurred by the Commission during fiscal year 1984.

LIMITATIONS AND LEGISLATIVE PROVISIONS

The following limitations and legislative provisions, not heretofore carried in this exact form in connection with any appropriations bill, are recommended:

COMPLIANCE WITH PARAGRAPH 7 OF RULE XVI OF THE STANDING RULES OF THE SENATE

The Committee submits the following statement in compliance with paragraph 7 of Rule XVI of the Standing Rules of the Senate, which requires the Committee to identify "each recommended amendment which proposes an item of appropriation which is not made to carry out the provisions of an existing law, a treaty stipulation, or an act or resolution previously passed by the Senate during that session."

(1) Language is included in the bill under the Fish and Wildlife Service designating the critical habitat for the Northern Rocky Mountain wolf in Idaho.

(2) Language is included in the bill under the Fish and Wildlife Service renaming the administrative/visitor facility at the Merritt Island NWR, Fla.

(3) Language is included in the bill under the National Park Service providing $1,000,000 for the Washington Opera.

(4) Language is included in the bill under the National Park Service to establish entry

and recreation use fees for all units of the national park system.

(5) Language is included in the bill under the National Park Service for the operation, maintenance, and protection of the former home of Harry S. Truman.

(6) Language is included in the bill under the National Park Service to provide the Federal share of funds for the construction of three inter-agency visitors' centers in Alaska.

(7) Language is included in the bill under the National Park Service authorizing availability of lands in the Redwood National Park to the Smith River Fire Protection District.

(8) Language is included in the bill under the Office of Surface Mining Reclamation and Enforcement authorizing contracts with organizations for collection services.

(9) Language is included in the bill under general provisions of title I amending the Alaska National Interest Lands Conservation Act.

(10) Language is included in the bill under the Forest Service establishing a procedure for the adjustment of residence fees paid to the Forest Service.

(11) Language is included in the bill under the Department of Energy to provide for the transfer of the Laramie Energy Technology Center to the University of Wyoming and the Grand Forks Energy Technology Center to the University of North Dakota.

(12) Language is included in the bill under the Indian Health Service restricting eligibility for non-Indians.

(13) Language is included in the bill under general provisions of title III confirming conveyances made pursuant to Public Law 96-487.

(14) Language is included in the bill under general provisions of title III amending titles II and III of Public Law 95-620.

TITLE III—GENERAL PROVISIONS

As in general provisions for the Department of the Interior, the Senate has found unnecessary a number of provisions included in the House bill, including sections 308, 310, 311, 312, and 315. The Senate has, however, included provisions which accomplish the following:

Prohibits assessments against programs unless approved in the budget process;

Prohibits personnel ceilings or other personnel restrictions for permanent or other than permanent employment, except as provided by law; and

Prohibits merger of research and development funds in this apppropriation being made available for merger with other appropriations.

The Committee has included the House provision with respect to restricting the exploration and development in wilderness, RARE II, and designated wilderness areas.

The Committee has included a provision which exempts new power and industrial facilities in Alaska from the natural gas-use constraints of the Powerplant and Industrial Fuel Use Act of 1978 as amended (FUA), Public Law 95-620. When FUA was enacted in 1978 as part of the National Energy Act, Congress recognized the small and unique nature of Alaska's electric utilities and exempted their existing facilities from FUA's gas prohibitions. This provision recognizes the increasing abundance of isolated natural gas in Alaska, and removes an unnecessary and largely unforeseen regulatory barrier to continued local use of a clean and relatively inexpensive fuel in the State. The alternatives to natural gas in Alaska are costly coal an hydroelectirc development, with attendant environmental impacts. The Committee finds this provision will reduce future State and Federal expenditures for Alaska power development.

The Committee has also includes bill language that provides that the titles conveyed by the Secretary of the Interior to Shee Atika, Inc. is confirmed in all respects. By section 506(c) of Public Law 96-487, Congress directed title to certain lands be conveyed to Shee Atika, Inc. Congress intended to settle pending litigation concerning the validity of certain withdrawals pursuant to the Alaska Native Claims Settlement Act. It was noted that Shee Atika received no funds under the Settlement Act, because of the lawsuit had not yet received its land entitlements and without a legislative solution Shee Atika could go bankrupt. (S. Rept. No. 96-413, pp. 214-215). Title was conveyed to Shee Atika on December 9, 1981. A new lawsuit has been filed by one of the parties to the original litigation challenging the conveyance, even though section 506(c) provides that the Secretary "shall convey subject to valid existing rights and any easements designated by the Secretary of Agriculture" the lands involved.

The lawsuit clouds Shee Atika's title. Thus, 2 years after section 506(c) was enacted, Shee Atika still faces bankruptcy because it cannot utilize its title for security. The purpose of this provision is to make it clear that the title conveyed pursuant to section 506(c) is valid, conveyed pursuant to the Settlement Act and that the land is to be developed by Shee Atika for its economic growth and stability.

Shee Atika has approximately 1,900 Native shareholders. The Settlement Act was passed in 1971. Congress stated that the settlement "should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of the Natives, without litigation. . . ." This provision is designed to accomplish that.

Finally, the Committee has included bill language prescribing a procedure to be followed for disposal, except by exchange, of any Federal land tract.

BUDGETARY IMPACT OF BILL

PREPARED BY THE CONGRESSIONAL BUDGET OFFICE PURSUANT TO SEC. 308(a) PUBLIC LAW 93-344

[In millions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
Comparison of amounts in the bill with the Committee allocation to its subcommittees of amounts in the First Concurrent Resolution for 1983: Subcommittee on Interior and Related Agencies	7,800	[1] 7,670	8,400	[1] [2] [3] 8,477
Projections of outlays associated with budget authority recommended in the bill:				
1983				[4] 5,181
1984				1,559
1985				524
1986				103
1987 and future year				50
Financial assistance to State and local governments for 1983 in the bill		622		407

[1] Includes previously enacted amounts.
[2] Includes outlays from prior-year budget authority.
[3] A preliminary estimate of outlays on the basis of subaccount activities indicates a lower outlay total.
[4] Excludes outlays from prior year budget authority.

[The tabular matter intended to follow at this point will appear at the end of today's Senate proceedings.]

MILITARY DOUBTS ABOUT THE MX MISSILE

Mr. BIDEN. Mr. Presient, when the MX missile program began early a decade ago, its purpose was to respond to the anticipated vulnerability of U.S. intercontinental ballistic missiles (ICBM's) with a newer, more powerful, and especially survivable weapon. Indeed, Congress insisted by law that missile development be linked to research on a survivable basing plan.

Now the cart is getting ahead of the horse. The administration wishes to proceed with production of the MX missile, at a cost in 1983 of just under $1 billion, despite considerable doubt as to the military effetiveness of the latest basing plan.

The Air Force has studied some 34 basing schemes. Each previous one has been rejected for one reason or another, thus leaving us with closely spaced basing, more commonly known as Dense Pack.

It may not be surprising that so many former officials have questioned or opposed Dense Pack. But it is truly significant that a majority of the Joint Chiefs of Staff, our senior military leaders and advisers, have also counseled against this latest proposal on grounds of tecnical uncertainties.

Mr. President, it makes little sense to spend tens of billins of dollars on a program that will not close the so-called window of vulnerability.

As the Senate approaches consideration of this program, I think we should give careful attention to the professional judgments of our military commanders. Their doubts and hesitation should give us pause.

I ask unanimous consent that newspaper reports of the views of the Joint Chiefs of Staff on the Dense Pack basing plan be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 8, 1982]

THREE OF FIVE JOINT CHIEFS ASKED DELAY ON MX

(By Richard Halloran)

WASHINGTON.—The chairman of the Joint Chiefs of Staff, Gen. John W. Vessey, Jr., disclosed today that three of the five military chiefs had recommended against proceeding now with the much-disputed plan for closely spaced basing of the MX missile.

General Vessey, in testimony before the Senate Armed Services Committee, said that the nation's top military leaders had found the basing proposal "very difficult to understand and difficult to explain" and that three wanted to wait until "technical uncertainties" were resolved.

DOUBTS ON PRIORITIES

The general, in response to reporters questions later, indicated that the Chief of Staff of the Army, Gen. Edward C. Meyer; the Chief of Naval Operations, Adm. James D. Watkins; and the Commandant of the Marine Corps, Gen. Robert H. Barrow, had voted against going ahead now with the plan, known informally as "dense pack."

Other officers have said that senior officers in those services, especially the Army, felt that the Reagan Administration was putting too much money into nuclear forces at the expense of conventional forces. The MX program, including the basing plan, would cost $26.4 billion as part of a $180 billion plan to modernize the strategic nuclear deterrent.

Voting for the plan to deploy 100 missiles in strengthened silos clustered in a long, narrow array near Cheyenne, Wyo., were Gen. Charles A. Gabriel, the Chief of Staff of the Air Force, the service that would deploy the missiles, and General Vessey himself. General Vessey declined to explain his vote.

General Vessey said that all the chiefs considered the MX missile to be necesary for national security but were divided on the basing question. He said the three who thought the basing plan technically doutful wanted the missiles deployed in current Minuteman silos.

The Chairman of the Joint Chiefs said that they had reviewed the basing plan for only a relatively short time, after it was developed by officials in the Defense Department and the Air Force. He said that their views went to President Reagan just before Nov. 22, when the President announced his decision favoring the "dense pack" plan.

General Vessey added that one service chief, whom he did not identify, had said he would go along with the basing plan if it would help the President's efforts to negotiate an arms reduction with the Soviet Union in Geneva.

General Vessey's testimony seemed certain to provide ammunition to opponents of MX, which stands for missile experimental, in the Senate, where the program was scheduled for debate Thursday. On Wednesday, the House voted, 245 to 176, to delete $98 million from the 1983 budget to produce first five missiles.

The nation's top soldier today appeared alongside Secretary of Defense Caspar W. Weinberger and other senior officials as the Administration began a mission to save the MX nuclear missile program.

Backing up the Secretary was a phalanx of 30 generals, other military officers and civilian advisers who filled a third of the crammed hearing room on Capitol Hill. The Secretary is usually accompanied by four or five other officials.

WEINBERGER MEETS SKEPTICISM

Mr. Weinberger offered no new arguments but ran into barrage of skepticism from members of a committee that is usually sympathetic to military demands. Like the Joint Chiefs, most members of the committee favored producing the MX missile, but were dubious of the basing plan.

Senator Henry M. Jackson, Democrat of Washington, said the MX program had suffered from a series of different proposals for basing, "dense pack" being the latest of nearly three dozen. "The public's got the idea that its a boondoggle, a Rube Goldberg," he said.

Senator William S. Cohen, Republican of Maine, said his doubts had been raised in recent years by the conflicting testimony, especially from military officers, adding, "The difficulty I have now is that we have a lack of credibility on this whole issue."

Senator Sam Nunn, Democrat of Georgia, asserted that the Administration had made "a fundamental error" in asking for funds to produce the missile before finding a base for it. "I don't think you realize the trouble the MX basing mode is in now," he told Mr. Weinberger.

Senator Dan Quayle, Republican of Indiana, said a "tremendous change" in public attitudes on military issues had taken place recently. "There's a definite perception in the public that the Pentagon and military spending are simply out of control," he said.

Mr. Weinberger and his associates did not appear to have helped their cause by inconsistent testimony. On a technical issue of how much pressure the proposed strengthened missile silos could withstand, for instance, Lieut. Gen. Lawrence Skantze of the Air Force said that tests had shown that this was 15,000 to 30,000 pounds a square inch. George A. Keyworth, the President's science adviser, said 45,000 pounds a square inch could be achieved. Mr. Weinberger said that 60,000 to 80,000 pounds a square inch was possible.

[From the Washington Post, Dec. 9, 1982]

JOINT CHIEFS HAD COUNSELED REAGAN AGAINST DENSE PACK

(By George C. Wilson and David Hoffman)

President Reagan's campaign to save the MX missile suffered another serious setback yesterday when it was revealed that a majority of the Joint Chiefs of Staff had advised Reagan against going ahead with his proposed "Dense Pack" deployment scheme for the intercontinental nuclear weapon.

The chairman of the Joint Chiefs, Army Gen. John W. Vessey Jr., disclosed to the Senate Armed Services Committee that the military chiefs had recommended againse Dense Pack by a 3-to-2 majority. The chiefs of the Army, Navy and Marine Corps opposed Dense Pack, while Vessey and the Air Force chief endorsed it.

At the same committee hearing yesterday, Defense Secretary Caspar W. Weinberger was warned by several senators of both parties that changing deployment schemes for the MX had damaged the weapon's credibility.

Later yesterday, the House which had voted 245 to 176 on Tuesday to delete MX production money from this year's defense appropriations bill, also voted to hold back some research money for the weapon while Congress examines Dense Pack.

President Reagan had proposed deploying the weapon by 1986 in so closely spaced a formation outside Warren Air Force Base near Cheyenne, Wyo., that attacking Soviet missiles would destroy each other overhead.

The developments of the past two days put the Reagan administration suddenly on the defensive about its entire effort to modernize the American arsenal of nuclear weapons, of which invulnerable deployment of the MX missile was to be the centerpiece.

The White House, State Department and Pentagon all launched public counterstrikes against MX opponents while privately pondering how to avoid an all-out fight with Congress.

Reagan will "take the message to the American people," according to White House spokesman Larry Speakes, and would "speak out forcefully and often" over the next several days to try to reverse the House vote against MX when the Senate takes up the defense appropriation bill.

One administration aide planning this counter-offensive portrayed Reagan as "ticked off" by the House vote and determined to make the case for the MX before the Senate votes next week.

But Weinberger was warned by several members of the Senate Armed Services Committee that the MX is also in deep trouble in the Senate. "We have a lack of credibility on this whole issue," Sen. William S. Cohen (R-Maine) told the defense secretary.

"The problem we have here, and I speak as a politician," Sen. Henry M. Jackson (D-Wash.) told Weinberger, "is that the MX has suffered a serious debasing by reason of a whole series of basing modes."

"The public has gotten the idea that it's a boon-doggle, a Rube Goldberg," Jackson said of Dense Pack. "You can't explain it."

Sen. Dan Quayle (R-Ind.) said Reagan's entire rearmament blueprint has been called into question. In contrast to the prodefense attitude of last year, he said, "my mail has gone 180 degrees in the other direction. There is a definite perception of the public that the Pentagon and the services are out of control."

While Weinberger was bearing the brunt of this criticism from a panel strongly supportive of the Pentagon in the past, Secretary of State George P. Shultz was hearing more bad news at a NATO meeting in Brussels. The Danish Parliament voted Tuesday to stop contributing money to NATO's deployment of American Pershing and cruise missiles in West Germany.

Washington Post correspondent Michael Getler, who is traveling with Shultz, reported from Brussels that the House vote against the MX would enable European opponents of Pershing and cruise missile deployment to argue that the United States was refusing to put new nuclear weapons on its own soil while pressing NATO partners to do so.

Shultz, trying to minimize the impact of the House MX vote for Europeans, said upon arriving in Brussels yesterday that he wanted to "emphasize" that the United States already has 1,000 nuclear Minuteman missiles deployed on its own soil. What was at issue with the MX, he said, "is a modernization of that weapon and a shift in the basing mode."

Another high State Department official, who declined to be quoted by name, told Washington Post diplomatic correspondent John M. Goshko that the House vote on the MX and the Danish vote on Pershing and cruise missiles were "very serious matters."

Not only would those actions fuel the anti-nuclear movement in Europe, said the official, particularly in the Nordic nations on NATO's vital northern flank, but also "plays into the hands of the NATO reduction types here in Washington," such as the majority of the Senate Appropriations Committee who recently voted to freeze the number of U.S. troops in Europe at the 1981 level. The official also said the setback on the MX undercuts U.S. negotiators at the U.S.-Soviet arms talks at Geneva, who he said have been counting on the missile for leverage in bargaining over both strategic and theater nuclear weapons.

Weinberger, early in his Senate Armed Services Committee testimony yesterday, said that denying production money for the MX would amount to "telling the world we are disarming unilaterally."

In about the only sympathetic remarks Weinberger heard from the committee yesterday, Sen. John C. Stennis of Mississippi,

ranking Democrat, said "if the Congress is not going to back the president in this kind of far-reaching decision, we are in a bad fix."

Late in the hearing, Sen. Sam Nunn (D-Ga.) elicited from Vessey that a majority of the Joint Chiefs, who advise the president on military decisions, had recommended against Dense Pack deployment of MX. "Some of the chiefs were concerned that the president was being pushed into a basing decision before all the technical uncertainties of the basing system were resolved," he said.

Vessey confirmed to reporters after the hearing that he was one of the two military chiefs who nevertheless favored going ahead with Dense Pack. He smiled in apparent confirmation when it was suggested that Air Force Chief of Staff Gen. Charles A. Gabriel also must have supported Dense Pack because his service designed it. "I don't remember him being against it," Vessey replied. Of the three remaining chiefs—Gen. E. C. Meyer of the Army, Adm. James D. Watkins of the Navy, and Commandant Robert H. Barrow of the Marine Corps—one qualified his opposition by saying he could endorse going ahead with Dense Pack if "it would help" the president reach an arms control agreement with the Soviets, according to Vessey, who declined to identify him.

Vessey stressed that all the chiefs, in assessing Dense Pack shortly before the president public recommended it on Nov. 22, agreed that the MX missile itself was needed. He said they split only over the Dense Pack deployment scheme.

It is highly unusual, if not unprecedented, for a president and secretary of defense to recommend to Congress deployment of a major weapon without first winning endorsement from the Joint Chiefs of Staff. Members of Congress historically have been reluctant to reject the advice of the chiefs.

When asked by Nunn why he recommended Dense Pack to Reagan after the majority of the chiefs had opposed going ahead with it, Weinberger said "provisions in the statutes" give Defense Department civilians the responsibility for making such decisions.

SPEAKER TIP O'NEILL AT SEVENTY

Mr. KENNEDY. Mr. President, there is no secret about the genius of Speaker THOMAS P. O'NEILL, JR. of the House of Representatives. On this, his 70th birthday, he has reached the pinnacle of power and affection in the Congress. And he flourishes in that high position because he has never lost his Irish common touch and commonsense, and because he has never turned away from all those who need his hope and help.

I admire TIP O'NEILL as one of my greatest friends and colleagues, and as one of the greatest Democrats in the history of our party. He never even saw the 55 speed limit; he is going strong at 70, and we need him more than ever now.

So I take this happy anniversary occasion today to wish him well and to say how proud I am to stand beside him in the Congress on all the great battles of the day for growth and justice and a brighter future for every American in every city, town, and village of this land.

Mr. President, in today's Boston Globe, the distinguished reporter, David Nyhan, has written a fine tribute to Speaker O'NEILL, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Dec. 9, 1982]

HAPPY 70TH, MR. SPEAKER, YOU'VE ALWAYS BEEN TRUE

(By David Nyhan)

Not the least reason to marvel at Tip O'Neill is the simple fact that he hasn't made much money, when he's had vast opportunity to do so.

In 46 scandal-free years of winning elections, 30 in Congress, six as Speaker of the House, he's proved almost totally inept at padding his own income and salting something away on the side.

Politicians with far less potential for pelf than he have become millionaires on the sly, by O'Neill's net worth is embarrassingly meager. He's got about what a public school teacher would have, if his kids were grown and his wife worked. Not much, but something.

His wealth is in coin of a different realm. He is much loved by those who know him. When he threw a party for his campaign workers, what was astonishing about the crowd in the old Cambridge Hotel was that so many were of his generation. The man, whose highest accolade is "Old Pal," kept the friends he began with.

When Tip got up in front of the band, singled out his Millie, and knocked out a better-than-passable rendition of "Apple Blosson Time," you couldn't picture any New Wave Democrats doing likewise.

O'Neill is a living political monument for a lot of reasons, but some of them are: He's kept the same wife, the same friends, the same lifestyle, the same values and the same philosophy he began with in the Thirties.

His mother died of TB before he was a year old, and he was raised by a father who was a city councilor and superintendent of sewers in Cambridge. "He taught me loyalty," O'Neill said years ago, "to live a good, ethical, honest life; that I'm truly my brother's keeper; and to always remember from whence I came."

In a lifetime of politically horse trading, O'Neill could be accused of many things, but none can say he forgot his roots. The Irish yield to no one when it comes to badmouthing a social climber. Those who moved out of the three-deckers risked being labeled "two-toilet Irish," "lace curtain Irish," and most spiteful of all, "cut-glass Irish."

O'Neill never went high-hat, either in lifestyle or in his politics. The hardest thing he's said of Ronald Reagan was that the President had forgotten where he'd come from, the Depression-era poverty of working-class Illinois, where most people needed a government handout to get by.

When Reagan blew into Washington, scattering demoralized Democrats like fallen leaves, the middle class was beguiled by the sonorous siren-song of tax cuts. O'Neill warned it would be open season on the poor.

"People seem to hate the poor, that's the kind of thing that got us into deep trouble in the 1930s."

The O'Neill losses of 1981 have become the O'Neill victories of 1982, and the incoming Congress will line up much more behind the Speaker than the President, a fact that bodes well for the 12 million unemployed.

The right wing still hates Tip O'Neill and all he stands for. They see him as the symbol of the bloated government that forces some redistribution, of wealth in this country, a process Reagan has managed to reverse.

There is not a man alive today who has done more good for more people, in trying to impose a semblance of fairness and sharing-the-wealth on Congress, than this man who turns 70 today.

A pillar of his party, model to his profession, he's a testament to the best the Irish brought to this country's politics.

James Michael Curley taught him to give the crowd some words to remember. John F. Kennedy taught him that when it comes to raising dough, running for President was no different than running for alderman. And it is an old Irish legend that teaches us the central fact of democratic congressional rule today: "Where the O'Neill sits, that is the head of the table."

EUGENE LANG—A GOOD MAN

Mr. LEVIN. Mr. President, Tuesday night, the American Hungarian Foundation presented its annual George Washington Awards to several notable people at the Plaza Hotel in New York City. One of the recipients is an innovator, a unifier, an internationalist, a man of peace, a humanitarian, a kind of gentle husband, father, brother, and grandfather, Eugene Lang. Following are my remarks introducing Mr. Lang.

Ladies and gentleman, I'm very pleased to be here with you tonight to share in the American-Hungarian Annual George Washington Awards ceremony. Although I'm here tonight to introduce a good friend, I happen to hail from a state with a large American-Hungarian population, with whom I've worked for many years. About ten years ago, when Cardinal Mindszenty was visiting the U.S., I had the pleasure of being acting mayor of Detroit when we welcomed him to the city and heard him preach—making it one of the most memorable days of my life. And we in Michigan have been blessed with a large number of recent immigrants, Hungarian Freedom Fighters, who came to my home town and state and whose special vivid love of freedom reminds us of just how fragile and precious freedom is.

Let me commend the American Hungarian Foundation for its vital role helping us celebrate and preserve Hungarian heritage and reminding us all of the extraordinary contribution of Hungarian Americans to the mosaic of ethnicity we call America.

I am especially pleased to be introducing Eugene Lang tonight. Gene Lang has for years enhanced the American-Hungarian tradition of providing leadership in both public and private affairs. He has a long history of involvement in international business and trade—a history punctuated by awards and public recognition. Gene Lang founded and has been President of REFAC Technology Development Corporation since 1952. In 1963, REFAC became the first service company to receive the American President's "E" Citation for trade expansion ser-

vices to small U.S. manufacturers. As a member of the Senate Committee on Small Business, I can particularly appreciate that.

Gene Lang is an internationally recognized expert in creating industrial projects and new technology ventures. He serves as a project consultant to multi-national companies and has lectured at universities and before business organizations around the world. He has been a prolific writer in leading journals all over the globe.

Since 1956, he has been an advisor to the U.S. Department of Commerce and has served on numerous official U.S. Trade and Investment Missions.

In all his "spare" time, he has managed to participate in the development of the arts and has served on the boards of many professional, civic and educational associations, including the Metropolitan Opera Association, New School for Social Research and Columbia University Graduate School of Business. He is former Chairman of Circle-in-the-Square Theatre Group. And here's something near and dear to me—Eugene Lang is Chairman of the Board of my alma mater, Swarthmore College.

In addition to carrying on the American-Hungarian tradition of service to our country, he has added lustre to his own family's tradition of service. His father, Daniel Lang—who came to our shores from Hungary around the turn of the century—was a great humanitarian and enriched the lives of those he touched.

So the award we present tonight to Eugene Lang for his contributions and achievements as a leader in public and private service also pays tribute to his father, the late Daniel Lang.

Ladies and gentlemen, I now introduce our friend, Eugene Lang.

SOLIDARITY WITH THE POLISH PEOPLE

Mr. LEVIN. Mr. President, I was happy to support Senate Resolution 501 to register my continued support for the people of Poland and to again protest martial law in Poland and the internment of Solidarity leaders.

Mr. President, we have seen the Soviet bear's paw claw Poland—it has come down hard on all movements for a more open political system. Despite this oppressive environment, we saw Poland's love of civil and political freedom come to life in the form of Solidarity. It was an extraordinary and daring political experiment and for awhile it escaped the bear's paw. We marveled at and applauded the Poles' undaunted spirit in their struggle to determing their own political, social, and cultural destinies. We held our breath in anxious anticipation over what the future of the fledgling Solidarity might be.

What recently unfolded is not what we had hoped for—the great bear took a viscious swipe at Solidarity, knocked it from its freedom flight, and now seeks to trap it beneath its paw. One year ago the Communist government declared martial law in Poland. Then about 2 months ago, it decreed the death of Solidarity. They outlawed the 9-million-member independent union federation that had for 16 months raised the hopes of Poles and friends of a free Poland.

The Soviets may have had martial law slapped on the people of Poland, but they do not restrain the Polish longing for freedom. The Soviets may have had Solidarity banned, but they can not banish Polish determination. The Soviets may have had Solidarity's leaders jailed, but they cannot put the Polish spirit behind bars.

That free spirit is what helped give birth to Solidarity and is testimony to the courage and perseverance of the Polish people. And this is only the most recent act inspired by the Poles' love of freedom. For centuries we have seen the Poles join together under the banner of self-determination and political sovereignty. In a major triumph for the cause of freedom, the modern state of Poland was born 64 years ago.

The Polish love of freedom helped us during our own struggle for independence here in the United States when Kosciuszko and Pulaski provided leadership in the struggle to expel the oppressors from our shores 200 years ago.

We see that very same spirit of fighting for political and civil liberties burning today in the hearts of the Polish people. We see it in people like Lech Walesa, a man driven by a desire to see his people free—free of foreign domination, free to form their destiny, free to create their own future. That spirit has endured the test of time and certainly will not be extinguished by the imposition of martial law and the jailing of Solidarity leaders.

I am proud to join in solidarity and prayer with the Polish people on the first anniversary of the imposition of martial law. We must continue to lend unswerving support to the Polish quest for freedom. We must help keep Solidarity's flame aglow. By virtue of its very existence, what it represented, and what it achieved, solidarity has made an indelible impact on the course Poland will follow and on the consciousness of us all.

TRIBUTE TO SENATOR HOWARD CANNON

Mr. BURDICK. Mr. President, I am proud to join my colleagues in saluting HOWARD CANNON, a friend with whom I have been honored to serve in this body for 22 years.

If Senator CANNON has not been called "Mr. Aviation" by some pundit or other, he certainly should be. His honors and recognition from this industry range from the Wright Brothers Memorial Award in 1971 to the Tony James Award for Outstanding Contribution to Scheduled Air Transportation in 1981.

From his heroic days as a decorated fighter pilot shot down behind enemy lines in World War II to his work in the Senate today, HOWARD CANNON has been a champion of aviation. As this mode of transportation has grown from a fledging industry to a major component of our transportation network, it has been guided legislatively in large measure by the hand of HOWARD CANNON. Airline deregulation, a concept he fought for long before it became fashionable, came about largely because of his efforts.

Airlines are not the only mode of transportation affected by HOWARD CANNON's work. As chairman of the Senate Commerce Committee, he was a principal formulator of both the railroad and trucking deregulation bills as well.

Senator CANNON has been a powerful, respected, and effective Member of the Senate for a long time. He has done a good job for his State and for his country. I think we will all miss him, and I join other Senators in wishing him and his wife, Dorothy, every success and happiness in the years ahead.

TRIBUTE TO SENATOR HOWARD CANNON

Mr. CHILES. Mr. President, the end of the 97th Congress marks an end to the distinguished Senate career of Nevada's senior Senator, HOWARD CANNON. After four terms of effective leadership on Capitol Hill, Senator CANNON deserves the praise and thanks of his colleagues.

Over the years, HOWARD CANNON has earned the reputation of a man who gets things done. He has been a voice of moderation and compromise. He knows the value of bipartisan cooperation, and on many occasions he has been able to put together the coalitions to pass needed legislation.

No doubt HOWARD will be remembered best for his work on the Commerce Committee. As the ranking Democrat and former chairman, he has provided leadership on the broad range of issues that committee handles. In particular, he has taken the lead on transportation issues. When I took on the ranking minority position of the Transportation Appropriations Subcommittee, HOWARD and his staff were extremely helpful. I appreciate that.

I suppose it is indicative of Senator CANNON's persistence and ingenuity that, when he was shot down over Holland in World War II, he survived for 6 weeks in enemy territory while working his way back to Allied lines. He left the service as a major general in the Air Force Reserve, and to this day he is vitally interested in aviatic n. He chaired, with distinction, Senate subcommittees on both military and civilian aviation.

HOWARD CANNON has devoted his life to public service. From his time in the Air Force to his work in the Las Vegas

city government to his role here in the Senate, he leaves a proud record. I salute him, I thank him, and I wish him the best of success in the future.

A TRIBUTE TO SENATOR NICK BRADY

Mr. PACKWOOD. Mr. President, in a brief time, NICK BRADY has made an impression on the Senate that most would be lucky to rival in a lifetime. Senator BRADY is clearly a leader—he proved that in a few months. Were he to remain with us in the Senate it would be only a short period of time before that leadership would be recognized by election to a position of formal leadership by his peers.

NICK BRADY brought many facets to this job—wit, humor, sagacity, wisdom, and many other qualities. While I have known him for only these few months that he has served in the Senate, I have learned to appreciate him beyond measure. Hopefully, in the years ahead he will continue to give us the benefit of his judgment and advice. As for me personally, I will always cherish his friendship. He may leave the Senate but he will not leave our hearts.

A TRIBUTE TO SENATOR SAM HAYAKAWA

SAM HAYAKAWA came to the U.S. Senate in 1978, a man known for his brilliance in the academic community, and an individual committed to maintaining individual liberties. Many times, SAM and I have stood side-by-side fighting for what we believed in—guaranteeing a woman's right to maintain control over her own life.

There have been countless battles fought on the floor of the U.S. Senate regarding abortion, and in each case, I knew SAM HAYAKAWA would be at my side. Senator, you and I understand the need to maintain strong individual liberties, where many others have tried to take those liberties away. I salute you for your efforts—and I will miss your help as these battles continue.

And, when it came to educational issues, SAM HAYAKAWA has shared with this body his expertise and wisdom.

Senator, I will miss you as a colleague, but as a friend I will miss your wisdom and expertise even more.

A TRIBUTE TO SENATOR HARRY BYRD

As I stand here today to pay tribute to my friend and distinguished colleague, HARRY BYRD, I think back to when I first came to the U.S. Senate. I thought then, as I do today, that HARRY BYRD possessed the rare qualities that each of us should aspire to.

First, HARRY BYRD was a leader, a man who stood by his beliefs and fought consistently for what he thought was right. I can still remember the first speech I heard HARRY give. It was about why we should not raise the public debt limit, and since then I have listened each year as he has tried to convince this body of the dangers of taking this action.

And each year, HARRY BYRD has been right.

Second, and most important, HARRY BYRD has been a friend and in many cases a mentor. I have watched HARRY BYRD through the years. In some instances he has shared his philosophy with me, and in each case I have learned from him.

Senator, I have been lucky to have known you, to have worked with you, and also to have been your friend.

FINANCE COMMITTEE AMENDMENT TO CAPITAL GAINS HOLDING PERIOD

Mr. DOLE. Mr. President, I would like to explain briefly the Finance Committee's amendment to the capital gains holding period provisions of the Tax Code. This amendment was in the tax bill passed last year in the House, and in the Senate passed version of the recently enacted Tax Equity and Fiscal Responsibility Act of 1982. It was also passed by the Senate in September as an amendment to the debt ceiling bill, by a vote of 77 to 17. But unfortunately that amendment was removed when the debt ceiling bill was recommitted on September 23.

This provision deals with an important tax change—reducing the holding period for long-term capital gains from 12 months to 6 months. Unfortunately when the Senate passed this provision in last summer's tax bill, it was rejected by the House conferees. However, after discussion with House Members and others who have an interest in this matter, I am convinced that it is worth making another try at it at this time.

CAPITAL GAINS HOLDING PERIOD

The 6-month holding period for capital gains was, I believe, one of the more important provisions of the Senate-passed tax bill. There is considerable evidence that the difference in tax treatment of short-term and long-term transactions under present law provides an incentive for investors not to realize short-term gains. Studies of capital asset sales data confirm that investors are "locked in" to investments simply because they do not want to be taxed on short-term gains. As a result, the efficiency of capital markets is reduced because investors hold assets longer than they might otherwise, in the absence of tax considerations. By reducing the capital gains holding period, we expect to reduce the lock-in effect and its adverse impact on capital market efficiency. It should also be noted that, prior to 1976, the holding period was 6 months.

Mr. President, this issue has been carefully considered both this year and last, and there is considerable support for it. It is endorsed by the Reagan administration, and it was passed by the House of Representatives last year in its consideration of ERTA. The provision did not survive conference on ERTA, however, just as it did not survive this year's conference on TEFRA. But surely it is significant that each House now has passed major legislation including a 6-month holding period provision. It was a deep disappointment to me that this provision could not be agreed to by the House in the conference on H.R. 4961. However, I discussed the matter at some length with Chairman ROSTENKOWSKI and others, and I believe that the provision will be carefully considered if it is included in the bill under consideration.

TECHNICAL CORRECTIONS

I should also note that the provisions reported by the Finance Committee contains several technical corrections to the version contained in the Senate passed version of TEFRA. Most importantly, one provision deals with a technical problem that was overlooked in drafting H.R. 4961. When we drop the holding period to 6 months, we change the definition of long-term losses as well as gains. It has come to the committee's attention, however, that some investors may have been counting on a short-term loss on assets held between 6 and 12 months to offset other short-term gains they may have had. Unless we expressly provide for that contingency, those short-term losses attributable to sales or exchanges after June 30 will be converted to long-term losses if the asset was held more than 6 months. Accordingly, the Finance Committee provision contains an appropriate transition rule to allow a grace period for the change regarding the definition of short-term losses, so that taxpayers who relied on prior law will have sufficient time to realize a short-term loss needed to offset a short-term gain.

Mr. President, I believe that summarizes the case for the Finance Committee's capital gains holding period amendment. I hope the entire bill will be adopted by the Senate and enacted into law.

WAR POWERS RESOLUTION—LEBANON OPERATION

Mr. MATHIAS. Mr. President, on November 28 the current Beirut operation became the first case during the 9-year life of the War Powers Resolution that U.S. forces equipped for combat have been introduced into a potentially hostile environment and maintained for more than 60 days. You will recall that on this date, Congress stood adjourned for the election recess, an unfortunate coincidence from the perspective of Congressional oversight of the Lebanon situation.

To his credit, the chairman of the Foreign Relations Committee recognized this and held hearings as soon as the Congress reconvened. During the course of these hearings, a message of utmost importance was conveyed to the President and to the Secretary of State: namely, that this institution will be vigilant in carrying out its constitutional responsibility to oversee the deployment of U.S. Armed Forces abroad.

Today I would like to draw the attention of my colleagues to certain aspects of the Lebanon operation which concern me. The application of the war powers resolution to this mission has been a matter of some debate recently, during which time the discussion has focused upon two related, but distinct questions. Is the operation one of "imminent hostilities" thereby limited to 60 days under the terms of the resolution unless Congress extends the President's authority? And what should Congress do if it and the President disagree on this question?

November 28 marked the limit of the President's authority to keep the Marines in Lebanon without specific congressional authorization, had they been introduced into actual or clearly imminent hostilities. However, the President, in his September 29 letter to Congress, did not specify which section was operative, thereby avoiding the 60-day limit. He did make clear, however, that he did not expect U.S. forces to become engaged in hostilities. In other words, the President sought to preserve his prerogatives by omitting the provision of law under which he was acting.

The War Powers Resolution was drafted to account for such a contingency, as its author, our distinguished former colleague, Senator Jacob Javits, recently explained in a letter to the editor of the New York Times. He wrote that the resolution:

> Specifies in Section 5(b) that "within 60 calendar days after a report is required to be submitted pursuant to Section 4(a)(1) . . . the President shall terminate any use of the United States armed forces with respect to which such report was submitted or was required to be submitted, unless Congress has specifically authorized such use."
>
> I construe the words "required to be submitted" as enabling the Congress, by concurrent resolution to that effect, to start the 60-day clock running as effectively as if the President had filed a Section 4(a)(1) report.

But Congress has not chosen to pass a concurrent resolution to this effect, thereby indicating its tacit agreement with the President, that section 4(a)(1) was not the operative section—at least not as long as the conditions on the ground remain the same as those of September 29.

Having determined that the 60-day clock is not ticking, we are now faced with a more intractable problem. We must decide whether or not to commit U.S. troops in a peacekeeping role abroad for an extended, if not an indefinite, period of time. This is a situation to which the war powers resolution does not speak, its purpose being "to reconfirm and to define with precision the constitutional authority of Congress to exercise its constitutional war power with respect to 'undeclared' wars * * *"

The present dilemma was anticipated as early as 1973 by another distinguished colleague whose presence in the Senate is missed greatly, Senator J. William Fulbright. In a supplement to the Foreign Relations Committee report, which accompanied the bill, he observed:

> A most important problem, closely related to the war powers is the question of authority to deploy the armed forces outside of the United States in the absence of hostilities or the imminent threat of hostilities.
>
> I am reminded of a memorandum written in 1968 by General Wheeler, then Chairman of the Joint Chiefs of Staff, regarding the deployment of American Forces in Spain in the absence of a security treaty: "By the presence of the United States forces in Spain, the United States gives Spain a far more visible and credible security guarantee than any written document." Both experience and logic show that to the extent the President controls deployment do the armed forces, he also has the de facto power of initiating war.

Mr. President, the current debate about the constitutional implications of the Lebanon operation serves a very useful and important function. It focuses, once again, the attention of Members on the difficulties and the implication of a deployment of Armed Forces under ambiguous circumstances. Its logical conclusion should be an affirmation by the Congress of its constitutional responsibility to regulate any deployment of troops, with or without the threat of imminent hostilities. The Constitution, in article 1, section 8, specifies Congress power to "make rules for the government and regulation of the land and naval forces." As the Foreign Relations Committee observed in its report on the bill, nearly a decade ago, "There is no way to legislate national wisdom * * *." We can, however, provide important protection to the people of America by insuring that collective judgment of both the Congress and the President will be brought to bear in decisions involving the use of the Armed Forces.

A DEMOCRATIC ALTERNATIVE FOR CENTRAL AMERICA

Mr. CRANSTON. Mr. President, I recently joined with several Democratic Members of the House of Representatives including Congressmen MICHAEL BARNES, TOM HARKIN, STEPHEN SOLARZ, and GERRY STUDDS, in drafting a statement proposing a Democratic alternative to President Reagan's policies in Central America. I feel it is a well-conceived, articulate, and thoughtful proposal.

We need an alternative because the Reagan administration's policies for this region are not working. In fact President Reagan's program of increased military assistance and disregard for human rights violations is driving us further away from our goal of peace and stability for Central America. President Reagan's policies are polarizing the region, increasing the potential for violence and strife. His policies are making it harder for moderate forces to exert their influence. Continued civil strife guarantees that the economic conditions will remain poor and that the seeds of democracy will not be given a fair chance to develop.

Mr. President, we need to return to a program that encourages adherence to basic human rights, encourages negotiation among the various factions and countries, discourages increased militarization of the area, and recognizes the individual needs and distinctiveness of each country. The problems facing Central America are political, social, and economic, not military, so we should seek political, social, and economic solutions, instead of military ones.

This Democratic proposal provides the basis for members of the Democratic Party to work with Secretary of State Shultz to advance these goals.

I believe that we can achieve them. I urge my colleagues to study this proposal and to join in this effort. I ask unanimous consent that the full text of the proposal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTRAL AMERICAN POLICY: A DEMOCRATIC ALTERNATIVE

We believe that the course of U.S. foreign policy in Central America should be changed. The Reagan Administration's extreme approach is fostering not peace and democracy, but increased polarization and radicalization.

Since January 1981, brutal civil wars have intensified in El Salvador and Guatemala, the threat of war between Nicaragua and Honduras has increased partly because of U.S. actions, and moderate and democratic elements have lost influence in Nicaragua and throughout the region. Neither "quiet diplomacy" with respect to human rights nor massive doses of military aid have accomplished their intended purpose.

The ability to make a free and open choice of political allegiance is the essence of domocracy, but it is becoming less and less possible to make such a choice in Central America. Those seeking to rule by coercion rather than consent reside on both extremes of the region's political spectrum. These extremes are not opponents, but rather allies; they gather strength from each other, and they must equally be opposed.

Unfortunately, the Reagan Administration has chosen a policy which lends confi-

dence to the terrorist right; which motivates and strengthen the terrorist left; which contributes in doing so to further violence; and which has provided nothing but bitter discouragement for those genuinely committed to peace and democracy in the region.

After two years and hundreds of millions of dollars of aid, the United States is further than ever from achieving its goals in El Salvador. Although the elections last March confirmed the deep desire of the Salvadoran people for participatory democracy, the electoral initiative was too narrowly based to move El Salvador toward national reconciliation. Rather, it weakened those advocating a moderate course, and left competition for power in the hands of brutal and historically undemocratic military cliques. The Reagan Administration has failed dismally to demonstrate strength or seriousness of purpose in pushing for economic reforms and respect for human rights in El Salvador, and has explicitly opposed a dialogue without preconditions between the government and opposition groups.

The Administration's support for covert military action against Nicaraqua has produced a propaganda bonanza for the radical left, an excuse for a military build-up by Managua, and a growing threat of regional war. It has also shifted the focus of world attention from Nicaragua's errors in policy to ours, and contributed to a political atmosphere inside that country within which moderate and democratic elements may not long survice.

The Administration has persisted in viewing Honduras as a convenient staging ground for regional military initiatives rather than a fragile democracy needing insulation from the conflicts engulfing its neighbors. The result is an increasingly divided and fearful country, unable to derive internal confidence from its recent transition to civilian democratic rule.

Only the opposition of the American people, and in their behalf, the Congress, has prevented the investment of U.S. arms, aid and prestige on the side of the Guatemalan military's war against the Indian population of that country. In Guatemala, as elsewhere, quiet diplomacy with respect to human rights has failed. The Administration has responded to reports of human rights violations committed by the Guatemalan military, not by condemning the violations, but instead by attacking those issuing the reports.

Finally, the Administration has refused to recognize the nature and source of the tensions which threaten to destroy all of Central America. It has sought to apply a simplistic economic and political world view to a region the majority of whose inhabitants view such a perspective as indifferent to their interests and irrelevant to the modern world. One of the most explosive forces on the globe today is the frustrated desire of impoverished and disenfranchised people to obtain a decent standard of living and to have a voice in determining their own destiny. No policy which fails to address these concerns will, in the long term, adequately protect our interests or preserve our influence in Central America.

In short, because its highly ideological orientation fails to appreciate the realities of the region, the Administration is pursuing policies which increase the legitimacy and strength of armed opposition groups in El Salvador, Guatemala, and possibly in the future—Honduras. Additionally, they encourage the further evolution of Nicaraguan politics in a direction inimical to our interests, further identify the United States with forces tied closely to the discredited Somoza regime and diminish prospects for pluralism and democratic rule.

We believe that the influence and the available resources of the United States can be used to further our interests far more effectively in Central America in the future. Accordingly, we now propose an alternative U.S. foreign policy toward Central America. The goals of that policy are (a) to make a contribution to the peaceful resolution of political and military conflicts both between and within the states of the region; (b) to foster economic progress in the short term and to facilitate long-term improvement in the living conditions of the area's poor, and (c) to support and advance human rights and democratic institutions in the region.

Specifically:

1. We urge the Administration to join with Mexico and Venezuela in encouraging the prompt initiation of discussions between and among our own government and the governments of Honduras, Nicaragua and El Salvador for the purpose of ending all acts of subversion and aggression and achieving a just and lasting peace in the region.

2. We urge the Administration to lend its full support to negotiations without preconditions, aimed at resolving peacefully the internal political disputes presently existing between the populations and the governments of El Salvador and Guatemala. Additionally, we believe that an effort to reconcile Nicaraguan opposition groups, including democratic exile groups, with the government of that country through a negotiating process or other mutually acceptable means should be strongly encouraged. In each of these countries our purpose should be to facilitate the creation of an open democratic electoral process and genuine political pluralism;

3. The U.S. should cease assisting covert military activities directed at Nicaragua. Any accusations concerning Nicaragua's alleged support for subversive activities in El Salvador, Costa Rica, or Honduras, should—if private discussions fail to resolve the matter—be made public and brought promptly to the attention of the United Nations or the Organization of American States.

4. We reiterate our belief that respect for internationally recognized human rights, including the rights of indigenous peoples, should be a cornerstone of American foreign policy, both in Central America and around the globe. The foreign assistance laws of the United States are clear on this point. Security assistance may not be provided to governments—such as that currently in power in Guatemala—which are engaged in a consistent pattern of gross violations of internationally recognized human rights. Nor may military aid to El Salvador continue unless a series of legal conditions are met concerning human rights, economic reforms and investigations into the cases of murdered Americans.

5. We propose a new and expanded inter-American development program, aimed at encouraging multilateral efforts in behalf of economic and agricultural self-sufficiency, and at providing emergency aid to democratic governments such as those of Costa Rica, Honduras, and the Dominican Republic. This program will be designed to build on and improve upon the Caribbean Basin Initiative of 1982, and to strengthen the U.S. commitment to improving the quality of life of the poor majorities throughout the region. In developing this proposal, we will take into account the fact that in countries where serious political and military repression exists, no amount of economic assistance will, in itself, be sufficient to produce meaningful social development or reform.

We believe the time has come to stop the killing and start the talking in Central America. We reject the view that systematic violence is inevitable or endemic to the region's culture. We have witnessed—and place great faith in—the courage, the persistence, and the wisdom of those in each of these countries who have been working for peace, democracy and social justice.

We believe that the present Secretary of State, George Shultz, is well equipped to understand the positive uses of diplomacy. We will be pleased to work with him to develop a policy toward Central America which accurately responds both to the views and the ideals of the American people, to the complexities of the region, and to the true interests of the United States. We pledge, also, our own continued interest and involvement in the debate over this issue, and we express our commitment to pursue these proposals vigorously, and to explore every available legislative and political option to see them prevail.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 4:31 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 2177) to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505).

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6588. An act to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes; and

H.R. 7338. An act to amend the Public Health Service Act to extend through

March 31, 1983, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 6588. An act to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes; to the Select Committee on Indian Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works, with amendments:

S. 3043. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes (Rept. No. 97-676).

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 508. An original resolution relating to the purchase of calendars (Rept. No. 97-678).

S. Res. 512. An original resolution to repeal rule XXXVI of the Standing Rules of the Senate (Rept. No. 97-679).

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 6211. A bill to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

H. Con. Res. 153. A concurrent resolution authorizing a bust or statue of Dr. Martin Luther King, Jr., to be placed in the Capitol. (Rept. No. 97-677).

By Mr. DOLE, from the Committee on Finance, without amendment:

S. Res. 507. An original resolution waiving section 303(a) and section 402(a) of the Congressional Budget Act of 1974 for consideration of H.R. 6211, the Surface Transportation Assistance Act of 1982, and certain amendments thereto.

By Mr. DOMENICI, from the Committee on the Budget, without recommendation without amendment:

S. Res. 507. An original resolution waiving section 303(a) and section 402(a) of the Congressional Budget Act of 1974 for consideration of H.R. 6211, the Surface Transportation Assistance Act of 1982, and certain amendments thereto.

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 509. An original resolution to pay a gratuity to Daphne Chapman and Valerie C. Quick.

S. Res. 510. An original resolution to pay a gratuity to Alpha B. Perry.

S. Res. 511. An original resolution to pay a gratuity to Christine Good.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

William Poole VII, of Rhode Island, to be a Member of the Council of Economic Advisers.

(The above nomination was reported from the Committee on Banking, Housing, and Urban Affairs with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Mr. PACKWOOD. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably a nomination list in the Coast Guard which was printed in the CONGRESSIONAL RECORD of November 29, 1982, and, to save the expense of reprinting on the Executive Calendar, I ask unanimous consent that these nominations lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LONG:

S. 3089. A bill entitled the "Conrail ESOP Vesting Act of 1982"; to the Committee on Commerce, Science, and Transportation.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 3090. A bill to amend the Foreign Trade Zones Act to exempt bicycle component parts which are not re-exported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones; to the Committee on Finance.

By Mr. GRASSLEY:

S. 3091. A bill to amend the Internal Revenue Code of 1954 to encourage contributions of equipment to postsecondary vocational education programs and to allow a credit to employers for vocational education courses taught by an employee without compensation and for temporary employment of full-time vocational educational instructors; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 507. An original resolution waiving section 303(a) and section 402(a) of the Congressional Budget Act of 1974 for consideration of H.R. 6211, the Surface Transportation Assistance Act of 1982, and certain amendments thereto; from the Committee on Finance; to the Committee on the Budget.

By Mr. MATHIAS from the Committee on Rules and Administration:

S. Res. 508. An original resolution relating to the purchase of calendars; placed on the calendar.

S. Res. 509. An original resolution to pay a gratuity to Daphne Chapman and Valerie C. Quick; placed on the calendar.

S. Res. 510. An original resolution to pay a gratuity to Alpha B. Perry; placed on the calendar.

S. Res. 511. An original resolution to pay a gratuity to Christine Good; placed on the calendar.

S. Res. 512. An original resolution to repeal Rule XXXVI of the Standing Rules of the Senate; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LONG:

S. 3089. A bill entitled the "Conrail ESOP Vesting Act of 1982"; to the Committee on Commerce, Science, and Transportation.

ESOP VESTING ACT OF 1982

Mr. LONG. Mr. President, I am proud today to introduce the Conrail ESOP Vesting Act Act of 1982. This is a simple amendment and one which will take only a few moments to explain.

Back in 1973, when the Congress was first approached by a consortium of financially ailing railroads, we agreed that the American taxpayer had a sufficient interest in the continuation of rail service along our eastern seaboard and in the Midwest that the Federal Government should assist in keeping that essential rail service in operation. In order to do that, we established the U.S. Railway Association (USRA) to oversee the operation of what became the Government-owned Consolidated Rail Corporation (Conrail).

In the initial funding of Conrail, I suggested an amendment that was agreed to requiring that employee stock ownership be studied as a means for promoting the long-term viability of Conrail. The Regional Rail Reorganization Act of 1973 contained no requirement that Conrail establish an employee stock ownership plan (ESOP) and no ESOP was, at that time, established.

In 1978, however, Conrail required an additional $1.2 billion in funding in order to continue to maintain and upgrade its railbed and equipment. As a precondition to the USRA investing the final $345 million in Conrail, the Regional Rail Reorganization Act Amendments of 1978 required Conrail to establish an ESOP and transfer to the plan Conrail stock with a value of at least $345 million.

Initially, the employees' interest in their ESOP-held stock was to have been immediately vested. At the insistence of the Treasury Department, however, the stock's immediate vesting was subjected to two conditions which, if not met, would result in termination

of the employee stock ownership plan and defeasance of their ownership interest in Conrail.

Both of these conditions were suggested by the Treasury as a means to influence the laudable long-term purposes of this Government infusion of taxpayer funds; namely, to pursue every possible avenue to bring costs in line with revenues. Because Conrail's labor costs absorb a larger proportion of total revenues than those of other U.S. class I railroads, the Treasury proposed conditions on the vesting of employees' interests in the ESOP that were intended to motivate Conrail's employees to contribute to lower labor costs and long-term Conrail profitability.

With that commendable objective in mind, the Congress provided that the following two "benchmarks" be met before Conrail employees would be entitled to receive Conrail stock from the ESOP:

First, two consecutive quarters of positive net income; and

Second, two consecutive quarters of a freight labor cost to freight revenue ratio equal to the average such ratio for all class I railroads in 1977.

The problem, Mr. President, and the problem that this amendment is meant to address is that the objective of the amendments has been met; the Conrail employee group has made and will continue to make extraordinary efforts to reduce Conrail's labor costs. Indeed, the freight labor cost requirement has been met consistently since 1980.

However, Conrail has not met the first requirement: two consecutive quarters of positive net income. USRA's regulations measure income not on the basis of generally accepted accounting principles (GAAP) but on an Interstate Commerce Commission (ICC) basis, which requires the expensing of railbed maintenance costs. On a GAAP basis, Conrail registered three consecutive quarters of positive net income in 1981—the second, third, and fourth quarters—and two consecutive quarters in 1982—the second and third quarters.

The point, however, Mr. President, is not to belabor the issue of which type of accounting is most appropriate for Conrail's purposes. The point is that Conrail's employees have made labor cost-saving efforts far in excess of those envisioned in the legislation, yet the vesting conditions have not yet been met. There are now 30,000 fewer Conrail employees than when these conditions were established. In 1981, they agreed to wage concessions of 12 percent through 1984, a move estimated at the time to provide $200 million in labor cost savings per year. The fact that the first condition has not been met relates solely to the general economic conditions and to Conrail's revenues, not to the stated objective behind the conditions; that is, that the employees make substantial efforts to reduce labor costs and thereby contribute to putting Conrail on the road to long-term profitability.

Mr. President, the employees have done their part. They have more than kept their part of the bargain. This amendment simply insures that the real intent of the 1978 legislation is carried out by insuring that the employees ESOP interests will vest.

Indeed, Mr. President, the legislative history of the 1978 amendments anticipate that the Conrail ESOP will receive additional contributions of Conrail stock—beyond those required by the 1978 amendments—with increases in productivity. Although I do not propose at this time to offer legislation to carry out this intent—as expressed in the Commerce Committee's report accompanying the 1978 amendments—it is my hope that the employees' wage concessions and other contributions to Conrail's success will be acknowledged by insuring that the employees have an opportunity to gain an expanding ownership stake in that success.

Mr. President, I am also happy to note that on November 9, the Railway Labor Executives' Association announced that Conrail's employees voted overwhelmingly to initiate a transaction that could result in complete or substantial employee ownership of Conrail. The 1981 Northeast Rail Service Act requires the Government to sell its interest in Conrail to private investors and gives preference to sale of the Corporation as a single operating entity.

I wholeheartedly support the efforts of the employees to acquire Conrail. The employees are already essentially equity providers through their wage concessions and deferrals. Further, the employees are in the best position to assure ongoing productivity improvements and operating cost flexibility essential to the company's long-term viability. In addition to providing the continued rail service of Conrail as an operating entity, employee ownership would also help maintain the current level of employment.

It is my hope that this amendment will be agreed to. It is not only fair and equitable, it also provides protection for the employees from defeasance of their interest through no fault of their own; for example, should the entirety of Conrail be sold to outside investors.

Although this amendment is referred to the Commerce Committee, I do not expect, in the short time remaining in this session, for us to hold hearings on this issue. Nevertheless, it is my hope that this beneficial change can be agreed to as a floor amendment to another matter.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IN GENERAL.—Clause (ii) of section 216(f)(2)(A) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(a)) (relating to the employee stock ownership plan) is amended by striking the comma after the word "allocation", inserting a period in its place, and striking the remainder of such clause (ii).

SEC. 2. PLAN TO BE AMENDED.—Within 15 days of enactment, the Secretary shall require the Corporation to amend the employee stock ownership plan established pursuant to section 216(f) of the Regional Rail Reorganization Act of 1973 to reflect the amendment made by section 1 of this amendment.

SEC. 3. EFFECTIVE DATE.—The amendments made by sections 1 and 2 shall be effective upon enactment.

By Mr. HUDDLESTON (for himself and Mr. FORD):

S. 3090. A bill to amend the Foreign Trade Zones Act to exempt bicycle component parts which are not reexported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones; to the Committee on Finance.

EXEMPTION OF CERTAIN BICYCLE PARTS FROM CUSTOMS LAWS

● Mr. HUDDLESTON. Mr. President, today I am introducing with Senator FORD legislation that is a companion bill to H.R. 7350, introduced by my colleague CARL PERKINS in the House.

The purpose of this legislation is to amend the Foreign Trade Zones Act to exempt bicycle component parts which are not reexported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones.

The facts are that Huffy Corp. of Celina, Ohio, has applied for foreign trade subzone status at its Celina bicycle and bicycle parts manufacturing and assembly facility.

If this request is granted, it will cause irreparable damage to several domestic bicycle parts manufacturers, including Wald Manufacturing Company, Inc., in Maysville, Ky.

At a time of very high unemployment—in fact, the highest since the Depression—and at a time when foreign competitors are being subsidized and when many foreign countries are erecting barriers to American imports, the last thing we need to do is export American jobs through the granting of foreign trade subzone status.

Wald Manufacturing has been in busiuld endanger the very existence of Wald Manufacturing. That, if it occurred as a result of Government action, would be an outrage.

I sincerely hope the Commerce Department will reject this request. I

think that action is the only appropriate course of action. I know that in the past such applications have been approved with certain stipulations designed to protect domestic industries. The problem with this approach is that it is dependent on policing by undermanned customs offices—which are even now suffering further personnel reductions.

Thus, the only appropriate action would be rejection of the request.

Failing that, Congressman PERKINS and I will have no choice but to pursue our legislation.

I ask unanimous consent that my letter to Secretary Baldrige on this matter be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 19, 1982.

Hon. MALCOLM BALDRIGE,
Secretary of Commerce,
Washington, D.C.

DEAR MR. SECRETARY: I want to register my strong objections to the pending application to grant foreign trade subzone status to Huffy Corporation at its Celina, Ohio bicycle manufacturing and assembly facility.

To grant such status would place several domestic bicycle manufacturing facilities at a severe disadvantage with foreign manufacturers of bicycle parts. In fact, it would have a tremendously adverse impact on one of my constituents, Wald Manufacturing Company, Inc. of Maysville, Kentucky.

At a time when so many foreign countries are subsidizing their exports, and at a time when so many of them are erecting artificial barriers to the import of American goods, and especially at a time when unemployment in this country is the highest since the Depression, it makes absolutely no sense to grant such an application.

I simply cannot register my objections strongly enough.

If the administration is serious in its statements against growing protectionist sentiments, it will certainly not take actions which will, on the part of this senator, simply further encourage those sentiments.

Sincerely yours,

WALTER D. HUDDLESTON.●

By Mr. GRASSLEY:

S. 3091. A bill to amend the Internal Revenue Code of 1954 to encourage contributions of equipment to postsecondary vocational education programs and to allow a credit to employers for vocational education courses taught by an employee without compensation and for temporary employment of full-time vocational educational instructors; to the Committee on Finance.

TAX CREDIT FOR VOCATIONAL EDUCATION

● Mr. GRASSLEY. Mr. President, today I am introducing legislation which will strengthen the partnership between business and our educational institutions in providing needed job training for our work force. We are well aware our Nation is going through a time of fundamental economic change characterized by the decline of older manufacturing industries and the rapid growth of high technology and service industries. However, in the debate over how to generate economic growth and strengthen the competitiveness of U.S. industry, one critical factor needs to be more fully addressed—improving the American work force. To date, public incentives overwhelmingly favor capital and technology investments over worker training as a route to productivity. In fact, in 1981 the annual expenditure on training by American firms was $300 per worker, versus $3,300 per worker in capital investment. Even as the Nation relies primarily on increased capital investment and technological innovation for achieving productivity gains, advanced technologies and complex machines require highly skilled workers. Indeed, investment in American workers is crucial to our economic renewal. In order to get the 11.6 million currently unemployed Americans back to work, and to provide for a growing and changing work force, the Nation's public and private training programs should be encouraged at the Federal, State, and local levels.

An important key in training and retraining our work force is the community college and technical institute system across the country. Community colleges alone train over 11 million workers annually. These institutions, which offer more than 1,400 different occupational specialty and technician programs, boast a job placement rate of nearly 90 percent. Because these schools have the ability to change their course offerings and alter training programs to meet local labor needs, they have a limitless potential for assistance. They offer low-cost, high-quality training which is easily accessible to local residents. Members of the business community have a direct hand in college policymaking because the schools are intimately tied with local businesses through their administrative structure. Local industry also participates through advisory committees for each occupational program offered by the community college.

The legislation which I am introducing today would further strengthen this partnership and aid our community colleges and technical institutes in becoming even more effective. My bill would encourage the donation of equipment for vocational training and provide incentives for the exchange of knowledge between industry and faculty.

Technical programs often rely on expensive equipment which quickly becomes obsolete in this age of exploding technology. However, the need to train workers on equipment they will operate in the private sector is obvious. Much equipment in our community colleges has fallen far behind the state-of-the-art, particularly in the fields of microprocessing, computer-assisted design and manufacturing and numerical control machining. Many States, mired in budget pressures of their own, have been unable to make the commitment to meet the equipment needs of their community colleges. I know that in the State of Iowa, funds for upgrading equipment were zeroed out in last year's budget. Funding for fiscal year 1983 will not go far among the 20 colleges and technical schools in the State particulary when many individual schools have tremendous needs merely for the repair and maintenance of their old equipment. Furthermore, many colleges have found it impossible to expand into emerging fields of robotics, laser optics and other technologies where jobs exist because of the shortage of funds to initiate such programs. My legislation would offer tax incentives to industry to help underwrite the expense of modernizing training programs by donating technical equipment. Current law provides a tax deduction of the basis and one-half the unrealized appreciation—not to exceed twice basis—of equipment donated to educational institutions if used for research. My bill expands this same deduction for donated equipment used for vocational training. Although it would be a relatively small investment by the Federal Government, benefits to these institutions would be significant.

The second part of my bill encourages the lending of industry employees to educational institutions to teach vocational education courses. Community colleges are finding it increasingly more difficult to compete with private industry in attracting and maintaining qualified technical instructors. Some colleges rely on part-time instructors who are often local practitioners, however, industry needs incentives to make greater use of this tool. My bill allows a $100 corporate tax credit for every vocational training course taught by a qualified employee of that corporation, up to five courses a year per employee. These incentives would encourage industry to contribute needed technical instruction that colleges are currently unable to provide, particularly in highly specialized technologies. In addition, this legislation contains a similar tax credit for industry to create work opportunities for community college faculty members in order to upgrade their skills. A $100 tax credit would be provided for the temporary employment of a qualified vocational education instructor by a corporation, stimulating the sharing of current technology and expertise in the private sector. Although not a comprehensive approach to our national skills shortage, I feel my legislation would offer immediate assistance to one of our best delivery systems for job training. I urge my collegues to join me in cosponsoring this measure.

Mr. President, I ask unanimous consent the bill and section-by-section analysis be printed in the RECORD as follows:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTRIBUTIONS OF PROPERTY USED IN VOCATIONAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Subsection (e) of section 170 of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR CONTRIBUTIONS OF PROPERTY USED IN CERTAIN VOCATIONAL EDUCATION PROGRAMS.—

"(A) LIMIT OR REDUCTION.—In the case of postsecondary vocational education contribution, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

"(B) POSTSECONDARY VOCATIONAL EDUCATION CONTRIBUTION.—For purposes of this paragraph, the term 'postsecondary vocational education contribution' means a charitable contribution of tangible personal property but only if—

"(i) such contribution is to a public community college or public technical institute (within the meaning of section 742(b) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1)) or any other institution of higher education (within the meaning of section 1201(a) of such Act (20 U.S.C. 1141)),

"(ii) substantially all of the use of such property by the donee is for training students enrolled in a postsecondary vocational education program offered by the donee,

"(iii) such property is not transferred by the donee in exchange for money, other property, or services, and

"(iv) the taxpayer receives from the donee a written statement representing that the donee's use and disposition of such property will be in accordance with the provisions of clauses (ii) and (iii).

"(C) POSTSECONDARY VOCATIONAL EDUCATION PROGRAM.—For purposes of this paragraph, the term 'postsecondary vocational education program' means an organized education program which—

"(i) is a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge, or

"(ii) is directly related to the preparation of individuals for paid or unpaid employment or for a career which does not require a baccalaureate or advanced degree.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 1982.

SECTION 2. POSTSECONDARY VOCATIONAL EDUCATION INSTRUCTION CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44G the following new section:

"SEC. 44H. VOCATIONAL EDUCATION INSTRUCTION CREDIT.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the product of—

"(A) $100, multiplied by

"(B) the number of postsecondary vocational education courses taught by qualified teaching employees of the taxpayer during the taxable year, plus

"(2) the product of—

"(A) $100, multiplied by

"(B) the number of qualified vocational education instructors who were employed by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) LIMITATION ON THE NUMBER OF COURSES TAUGHT PER EMPLOYEE.—No more than 5 postsecondary vocational education courses taught by the same qualified teaching employee may be taken into account under subsection (a)(1)(B).

"(2) LIMITATION BASED ON AMOUNT OF TAX.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable for the taxable year under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(B) Special rule for passthrough of credit.—In the case of an individual who—

"(i) owns an interest in an unincorporated trade or business,

"(ii) is a partner in a partnership,

"(iii) is a beneficiary of an estate or trust, or

"(iv) is a shareholder in an electing small business corporation (within the meaning of section 1371(b)),

the credit allowed by subsection (a) for any taxable year shall not exceed the lesser of the amount determined under subparagraph (A) for the taxable year or an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade, business, or entity.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) POSTSECONDARY VOCATIONAL EDUCATION COURSES.—The term 'postsecondary vocational education course' means any course of instruction which—

"(A) is offered by an institution of higher education as part of an organized education program that—

"(i) is a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge, or

"(ii) is directly related to the preparation of individuals for paid or unpaid employment or for a career which does not require a baccalaureate or advanced degree,

"(B) consists of a period of instruction which is at least equivalent to a course of instruction that provides 3 hours of instruction per week during an academic semester, and

"(C) has been completed before the close of the taxable year.

"(2) QUALIFIED VOCATIONAL EDUCATION INSTRUCTOR.—The term 'qualified vocational education instructor' means an individual who—

"(A) was employed by the taxpayer on a full-time basis for at least 3 months but not more than 12 months during the 2-year period ending at the close of the taxable year,

"(B) prior to such employment, taught postsecondary vocational education courses on a full-time basis at an institution of higher education,

"(C) is teaching such courses on a full-time basis at an institution of higher education at the close of such taxable year, and

"(D) is not employed by the taxpayer at the close of the taxable year.

"(3) QUALIFIED TEACHING EMPLOYEE.—The term 'qualified teaching employee' means an individual who—

"(A) taught at least one postsecondary vocational education course on a part-time basis at an institution of higher education during the taxable year,

"(B) is a full-time employee of the taxpayer for the entire taxable year,

"(C) does not receive any compensation from such institution of higher education, and

"(D) was not a qualified vocational education instructor at any time during the taxable year.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965.

"(5) ALLOCATION.—

"(A) CONTROLLED GROUP OF CORPORATIONS.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member with respect to any qualified teaching employee or qualified vocational education instructor shall be in proportion to the member's share of the wages paid for the taxable year to such qualified teaching employee or qualified vocational education instructor.

"(B) COMMON CONTROL.—Under regulations prescribed by the Secretary, in determining the amount of credit under this section—

"(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such trade or business with respect to any qualified teaching employee or qualified vocational education instructor shall be in proportion to such trade or business's share of the wages paid for the taxable year to such qualified teaching employee or qualified vocational education instructor with respect to whom the credit is allowable.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(C) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to

the rules of subsections (d) and (e) of section 52 shall apply.

"(D) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(6) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.".

"(7) DOUBLE BENEFIT.—Any credit allowable under this section for the taxable year with respect to any employee of the taxpayer shall be in addition to any deduction under this chapter which is allowable to the taxpayer for such taxable year with respect to compensation paid to such employee.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44G the following new item:

"Sec. 44H. Vocational education instruction credit.".

(2) Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44G" and inserting in lieu thereof "44G, and 44H".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1982.

SECTION-BY-SECTION ANALYSIS FOR S. 3091

I. Amends Sec. 170(e) of the IRS code to allow a corporation to deduct the basis and one-half unrealized appreciation (not to exceed twice basis) of equipment donated to two and four year colleges, technical institutes and universities to be used for vocational training. Current law permits the same deduction for donated equipment to higher educational institutions if the donated equipment is used only for research or research training purposes. This provision extends this beneficial tax treatment to equipment donated for vocational training as defined by the Higher Education Act of 1965.

Unlike the research equipment donation provision, this amendment eliminates the requirement that the equipment is less than two years old.

Donated property under this provision cannot be transferred in exchange for services.

This provision is effective for all contributions made after December 31, 1982.

II. Amends a subpart of Chapter I of the IRS code to allow a $100 corporate tax credit for each vocational training course taught by a qualified employee of the corporation at a college, technical school or university. A corporation may only claim a credit for 5 courses taught by an eligible employee.

III. Amends a subpart of Chapter I of the IRS code to allow corporations a $100 tax credit for their employment of any vocational education instructor from a college, technical institute or university on a temporary basis. For a corporation to claim the credit, an instructor must be employed for a minimum of three months and a maximum of one year. The corporation could not claim the credit if the instructor did not return to his previous teaching position at the educational institution.●

ADDITIONAL COSPONSORS

S. 2150

At the request of Mr. LEVIN, the name of the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 2150, a bill to amend the Social Security Act to provide that the amount of any unnegotiated social security check shall be returned to the trust fund from which the check was issued.

S. 2411

At the request of Mr. SPECTER, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2411, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968.

S. 2948

At the request of Mr. DOLE, the name of the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 2948, a bill to promote the development of nonanimal methods of research experimentation, and testing, and to insure humane care of animals used in scientific research, experimentation, and testing.

S. 2987

At the request of Mr. ROTH, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2987, a bill entitled "The Bloodmobile Act of 1982."

S. 3048

At the request of Mr. THURMOND, the names of the Senator from North Carolina (Mr. HELMS), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of S. 3048, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

SENATE JOINT RESOLUTION 265

At the request of Mr. DENTON, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of Senate Joint Resolution 265, a joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism."

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. DOLE, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Iowa (Mr. GRASSLEY), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

SENATE RESOLUTION 494

At the request of Mr. MATHIAS, the name of the Senator from Texas (Mr. TOWER) was added as a cosponsor of Senate Resolution 494, a resolution to preserve and restore the first town hall of the city of Washington, District of Columbia—the historic Rhodes Tavern.

SENATE RESOLUTON 507—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. DOLE, from the Committee on Finance, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 507

Resolved, That section 303(a) and section 402(a) of the Congressional Budget Act of 1974 are hereby waived with respect to consideration of H.R. 6211, the Surface Transportation Assistance Act of 1982 and the following amendments thereto:

S. 3043, the Federal-Aid Highway Improvement Act of 1982, as ordered reported by the Senate Committee on Environment and Public Works on December 8, 1982;

S. 3072, a bill to amend the Urban Mass Transportation Act of 1964, as discharged on December 3, 1982, from the Senate Committee on Banking, Housing and Urban Affairs; and

Title IV of S. 3044 with an amendment in the nature of a substitute, as ordered reported by the Senate Committee on Commerce, Science and Transportation on December 6, 1982.

SECTION 1. A waiver of section 303(a) is necessary because the bill and certain amendments thereto contain new spending authority for a fiscal year for which a first concurrent resolution on the budget has not yet been agreed to as required by the Congressional Budget Act.

SEC. 2. A waiver of section 402(a) is necessary because this legislation authorized the enactment of new budget authority which would first become available in fiscal year 1983 and such legislation was not reported before May 28, 1982, as required by the Order of May 12, 1982.

SEC. 3. Waivers of the Budget Act are necessary to permit Congressional consideration of this bill and certain amendments thereto. This legislation contains multi-year spending to provide states and others the ability to plan long-term capital programs. This proposal is being reported in response to the need for immediate rehabilitation and restoration of our nation's highways, bridges, mass transit systems, and other facilities.

SENATE RESOLUTION 508—ORIGINAL RESOLUTION REPORTED RELATING TO THE PURCHASE OF CALENDARS

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 508

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $60,320 for the purchase of one hundred and four thou-

sand calendars. The calenders shall be distributed as prescribed by the committee.

SENATE RESOLUTION 509—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO DAPHNE CHAPMAN AND VALERIE C. QUICK

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 509

Resolved, That the Secretary of the Senate is authorized and directed to pay, from the contingent fund of the Senate, to Daphne Chapman and Valerie C. Quick, daughters of Georgia M. Chapman, an employee of the Senate at the time of her death, a sum to each equal to one-half of one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 510—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO ALPHA B. PERRY

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 510

Resolved, That the Secretary of the Senate is authorized and directed to pay, from the contingent fund of the Senate, to Alpha B. Perry, widow of Leslie S. Perry, an employee of the Architect of the Capitol assigned to duty in the United States Capitol Building (Senate Wing) at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 511—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO CHRISTINE GOOD

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 511

Resolved, That the Secretary of the Senate is authorized and directed to pay, from the contingent fund of the Senate, to Christine Good, daughter of Barbara D. Lewis, an employee of the Senate at the time of her death, a sum equal to one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 512—REPEALING RULE 36 OF THE STANDING RULES OF THE SENATE

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 512

Resolved, That rule XXXVI of the Standing Rules of the Senate is repealed effective January 1, 1983.

AMENDMENTS SUBMITTED FOR PRINTING

HOUSING, COMMUNITY AND NEIGHBORHOOD DEVELOPMENT

AMENDMENT NO. 4979

(Ordered to be printed and to lie on the table.)

Mr. LUGAR (for himself, Mr. GARN, and Mr. SCHMITT) submitted an amendment intended to be proposed by them to the bill (S. 2607) to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Mineral Resources of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, December 10, at 10 a.m., to hold a hearing to consider S. 2503, to authorize the Secretary of the Interior to consider a petition for reinstatement of a certain oil and gas lease; S. 2680, to provide for the reinstatement of U.S. oil and gas lease numbered U-26485, and U-26505; S. 2681, to provide for the reinstatement and validation of U.S. oil and gas lease numbered U-14654; and S. 2824, to provide for the reinstatement of oil and gas lease in Eddy County, N. Mex.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FOREIGN AID FOR ISRAEL

● Mr. GARN. Mr. President, it is not often that I speak on the floor of the Senate with respect to U.S. foreign policy in the Middle East. Nonetheless, as a member of the Appropriations Committee, I do believe that it is important to express my views with respect to the issue of U.S. foreign aid to Israel and recent statements on this matter by the Government of Israel.

Let me first review briefly the broader issue of U.S. Middle East policy. The United States, under both Republican and Democratic administrations, has traditionally supported the political independence and territorial integrity of every state in the Mideast. This commitment has had special significance for Israel because of the enormous security challenges posed to that country by hostile Arab neighbors.

U.S. national security interests in the region have not lessened over the years. The United States and its allies share a common interest in preserving our access to the oil supplies of the Mideast and insuring that the Soviet Union does not establish itself as the prime military power in the region. Above all, however, we share a common interest in promoting the elusive goal of peace.

In our efforts to promote peace in the region, I think it is important for the United States to maintain its strong commitment to the security of Israel. We must not be blinded by individual incidents or personalities to our long-standing interest in the region and our commitment to the freedom of the Israeli people. Those interests and that commitment should, and do, remain. Nonetheless, the United States is not interested in pursuing a one-sided policy in the Middle East that ignores the views of the Arab countries or the aspirations of the Palestinian people. Only a balanced policy which is intended to preserve the independence and territorial integrity of the entire region will be capable of providing a foundation upon which peace can be built.

President Reagan's recent Mideast peace proposal is intended to build upon the work of the Camp David accords and provide a basis for negotiating a peace settlement between the Israelis and their Arab neighbors. The United States does not intend to impose its own vision of a final solution to the Mideast conflict on the parties involved. We recognize the need for compromise by all sides, and we encourage the initiation of negotiations which will secure agreement on these compromises. The President's plan recognizes the legitimate rights of the Palestinian people and the need to implement those rights without infringing upon the security of Israel. I support President Reagan in this difficult undertaking, and I am hopeful that in the long run the nations of the Middle East will act in their common interest to seek a just peace.

Now, with respect to the question of aid to Israel, let me state for the record that I oppose all foreign aid add-ons for Israel recommended by the Foreign Operations Appropriations Subcommittee and endorsed by the full Appropriations Committee. The Reagan administration has proposed a level of foreign aid funding for Israel which, in my opinion, best serves the national interests of the United States and demonstrates our continuing commitment to the security of Israel. The funding for fiscal year 1983, as recommended by the administration, is as follows:

[In millions of dollars]

Economic support fund (ESF)	785
Loans	(260)
Grant	(525)
Foreign military sales (FMS)	1,700
Loans	(1,200)
"Forgiven"	(500)
Totals (ESF and FMS)	2,485
Loans	(1,460)
Grant	1,025)

The Foreign Operations Subcommittee made substantial alterations in these amounts requested by the administration. The subcommittee recommended $910 million in economic assistance, an add-on of $125 million. More importantly, whereas the administration recommended a split of one-third/two-thirds between loans and grants, the position favored by the subcommittee was in support of providing the entire $910 million in the form of a grant, an add-on of $385 million in economic grant aid. With respect to security assistance, while the subcommittee retained the overall funding request of the administration, it again increased those moneys to be provided in grants, rather than loans. The subcommittee recommendation of $850 million in grant military aid represents an add-on of $350 million to the administration's request. Total add-ons by the subcommittee, therefore, equal $125 million in economic aid and $735 million in grant aid.

The following chart highlights the differences between the subcommittee recommendation and the administration's request.

[In millions of dollars]

	Fiscal year 1983 request	Fiscal year 1983, Foreign Operations	Difference
Economic support fund	785	910	125
Loans	260	0	−260
Grants	525	910	+385
Foreign military sales	1,700	1,700	0
Loans	1,200	850	−350
Forgiven	500	850	+350
Total	2,485	2,610	+125
Loans	1,460	850	−610
Grants	1,025	1,760	+735

Mr. President, I want to state for the public record that in anticipation of a vote in the Appropriations Committee concerning aid to Israel, I provided the chairman of that committee, Senator HATFIELD, with my proxy to oppose all add-ons to Israel that were recommended by the subcommittee. I had made that decision independent of any lobbying effort by the administration. As you know, the issue of aid to Israel was not put to a separate vote, thereby removing the opportunity for the committee members to be recorded on this matter.

Had it not been for Saturday's article in the Post in which the Israeli Foreign Minister, Yitzhak Shamir, was reported to have likened the administration's position on this issue to a policy of "appeasement," I might not have been prompted to make this statement today. I should like to know since when does a request of $2.485 billion in aid amount to appeasement? And I should like to know how it is that the Israeli Government feels compelled to speak to the Government of the United States in this manner? Where do Israeli officials derive their judgment in characterizing the administration's actions in opposing these add-ons as "not a legitimate exercise"?

The Government of Israel should be reminded that U.S. aid is not drawn from a bottomless pit of resources, but rather from the pockets of American taxpayers. In this matter, as in all other budget-related questions, the sensibilities of those taxpayers should not be ignored. Add-ons of this magnitude tread heavily on those sensibilities, and the recent statements by Israeli officials trend heavily upon my own.

Mr. President, no one should question the commitment of the United States to the security of Israel. We have been extremely generous in our financial support of this commitment, and I believe we shall continue to be so. President Reagan has made a responsible proposal upon which to seek peace in the Middle East, and I support him in this difficult endeavor. I do not believe, however, that the cause of peace or the future of United States-Israeli ties will be well-served by the kind of Israeli response we have recently witnessed.●

SPEECH AT THE MADRID HUMAN RIGHTS MEETING

● Mr. DOLE. Mr. President, the United States and the Soviet Union are on the brink of a critical juncture in East-West relations. Before us looms the possibility of a ruinous arms buildup or an opportunity for more cooperative relations based on those areas where our two systems—fundamentally opposed—may find room for agreement.

Last month, the Senator from Kansas and others from the Congress made an unofficial trip to Moscow to explore Soviet receptiveness to a less confrontational dialog, while meeting with and addressing the U.S.-U.S.S.R. Trade and Economic Council. Later, on November 23, 1982, in my capacity as Cochairman of the Commission on Security and Cooperation in Europe and Vice Chairman of the U.S. delegation, I spoke at a formal session of the Madrid followup meeting to the 1975 Helsinki Accords on behalf of our country. This speech was a continuation of our effort in Moscow, consonant with the attempt of this administration to reach a new understanding with the Soviet Union, one based on the same ideals of mutual security and cooperation found in the Helsinki Final Act—a pledge that was signed by this Nation, the Soviet Union, and 33 other countries concerned with bettering relations and reducing East-West tensions in Europe.

Before new understandings can be reached, however, we must make certain that provisions of the old agreements are being kept, and that a positive attitude toward correcting past violations is encountered with goodwill for the future. It is in this light, with this approach, that the speech was given, and the Senator from Kansas asks that the text be made a part of the permanent record.

The speech follows:

REMARKS BY SENATOR ROBERT DOLE: PLENARY OF THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (CSCE) NOVEMBER 23, 1982

Mr. Chairman, today we meet in the shadow of a fallen leader; on behalf of my colleagues and the American people we represent, may I extend to the Soviet delegation our condolences on the death of President Brezhnev. To General Secretary Andropov and the Soviet delegation, I would like to convey our hope that together we might transform this moment of international uncertainty into one of opportunity.

But before going further, may I also express our appreciation to the Government of Spain for the outstanding work it has done in playing host to this meeting. I doubt whether any delegation could have anticipated that this second follow-up meeting of the Conference on Security and Cooperation in Europe would last over two years—a period of time eased considerably, I am told, by the generous hospitality and smooth organization of our Spanish hosts. As Vice-Chairman of the United States delegation, I would like to convey my gratitude.

It is both a pleasure and a challenge for me to share my thoughts on the CSCE process, along with those of my colleagues in the United States Senate. A pleasure because the very dialogue that takes place in this hall is one instrument of a peaceful world. Initiated in Helsinki, maintained in Belgrade, and now continued in Madrid, this frank exchange of views may sometimes seem to illuminate our differences more than to resolve them—but how much better it is to throw a light on matters otherwise confined to the dark rooms of suspicion or distrust.

It is a challenge as well for me to address you this afternoon, for there are issues that divide the nations represented here. And in the United States there is substantial interest, both public and congessional, that attaches to these proceedings. This reflects the American desire to enhance East-West security through arms control and to strengthen economic cooperation as much as possible. And it reflects a sentiment noted by President Ford when he signed the Final Act: "The deep devotion of the American people and government to human rights and fundamental freedoms and to the pledge this Conference has made regarding the freer movement of people, ideas and information."

To the American people, such words speak to the heart of those principles written into the charters of their freedom. They suggest a time and world where no one wields a sword and no one drags a chain. And they provide a powerful incentive to follow close-

ly, not only what you and we say here in Madrid, but what you and we do after this conference takes its place in the thick volume of modern diplomatic history.

A NATION OF NATIONS

The United States is a nation of nations, an immigrant crossroads. The ancestors of most Americans have their roots in European nations, East and West. Along with those roots goes a continuing interest in their national heritage, and in the fate of those who continue to live in the lands of their parents and grandparents. But in many of those lands, the aspirations for liberty that served as a midwife to the infant American republic, over 200 years ago, have too often been frustrated. For us to lose our interest in the liberty of others would be to disregard the guiding light of our history and heritage. And while the American people retain an undiminished faith in the Helsinki process itself, they are disaffected, perhaps to the point of disillusionment, with the lack of compliance on the part of some signatories.

Five years ago, on November 25, 1977, I had the privilege of addressing the CSCE Review Meeting in Belgrade. I expressed the opinion at that time that a direct connection existed between public perceptions of the integrity of the commitments made at Helsinki and the ability of Western governments to carry forward the process known as detente. I also stated the conviction that abridgements of human rights, in particular, could have a profound negative impact on pending prospective bilateral and multilateral agreements between East and West. Sadly, many events since then have only increased my concern. Today, in many minds and many countries, people are looking urgently for changes in the actions of many of the signatories. Nowhere is this search keener than in America.

EAST-WEST HARMONY: HOW?

I have just returned from the Soviet Union where the improvement of U.S.-Soviet trade relations was widely discussed. With several of my colleagues from Congress, I took part in the meetings of the U.S.-Soviet Business Council, where scores of international businessmen expressed their interest in renewed and closer East-West economic ties. I also met the Prime Minister Tikhonov, Acting President Kuznetsov, and many other Soviet officials who were clearly eager to find a way for us to improve relations not only in trade but in other areas as well, including arms control.

What I said in Moscow I will say here. The U.S. Congress and the American people seek to develop genuine cooperation with all the European countries, no matter what their social system. East-West harmony is a fundamental objective of American foreign policy. The opportunities to achieve that harmony can be enlarged by what we do here in Madrid, within the framework of the CSCE. Yet, how can we make progress without abiding by the Final Act's provisions? How, ask our scientists, can we engage in cooperative scientific endeavors, while Soviet scientists are prohibited from working in their fields, and while Dr. Andrei Sakharov, the world-famous physicist, remains in exile? How, ask our labor leaders, can we increase industrial cooperation when the Polish government outlaws the free trade union Solidarity? How, ask our religious leaders, can we promote expanded religious contacts when some of their co-religionists languish in labor camps and prisons?

What we have is a crisis of confidence: the American people cannot reconcile these harsh realities with the noble ideals embodied in the Final Act and espoused by its signatories. They expect us to live up to our word.

There have been some bright spots in the last seven years. Important efforts have been made by a number of Eastern signatories to resolve outstanding family reunification cases, indicating some movement to take seriously the Final Act pledge to "deal in a positive and humanitarian spirit with persons who wish to be reunited with members of their family." Similarly, travel restrictions to Eastern Bloc countries by Western citizens for family visits have been eased. In countries such as the German Democratic Republic, Hungary and Poland, steps to explore church-state relations were taken, consistent with the commitment in the Final Act to expand religious freedom. Other positive actions have been taken by Czechoslovakia, Hungary and the German Democratic Republic in the area of religious contacts and the dissemination of religious information. Progress in economic, technical and scientific cooperation has been achieved. In the security area of CSCE, confidence building measures generally have been implemented. Finally, a number of signatories have studied their own implementation records and have analyzed ways in which they can be improved.

Although much more work needs to be done in these areas, at least some concrete progress has been made. As a result, tensions have been eased and potential areas of concern have been at least somewhat lessened. These bright spots, unfortunately, are overshadowed by a dark canopy of regression.

THE PAINFUL IRONY OF POLAND

The evidence of this is both tragic and compelling. The hopeful transformation of political and social life that had begun in Poland, has been all but destroyed with the imposition of martial law, and we know that the Soviet Union has been instrumental in this. Recent actions, such as the banning of Solidarity, have done nothing to restore confidence in Polish and Soviet fidelity to their Final Act obligations. Americans and many others are, of course, most pleased with the recent release of Lech Walesa. We also look forward to a renewal of the precious dialogue that briefly warmed relations between the Government of Poland and the Polish people.

Sadly, not all the prisoners of politics have gone free. In the Soviet Union, members of the Helsinki monitoring groups—who took seriously their own countries' Helsinki pledge and their recognition in the Final Act that "institutions," organizations and individuals have a relevant and positive role" to play in fostering the aims of the accords—have suffered harsh reprisals. Thirty-eight currently imprisoned members of the Moscow, Ukrainian, Lithuanian, Georgian and Armenian groups are serving a combined total of almost 400 years in prison, labor camps, special psychiatric hospitals and internal exile. Indeed, in this very month, Americans are commemorating the sixth anniversary of the establishment of the Ukrainian and Lithuanian Helsinki groups, both of which have been particularly hard hit.

Moreover, emigration from the Soviet Union has reached its lowest point in ten years: Less than 5,000 Soviet Jews, ethnic Germans, Armenians and others are likely to be granted exit permission this year, or roughly one-twelfth of the number that received permission to leave as recently as 1979. There are also tragic cases of separation from loved ones, as illustrated by the divided family hunger strikes that took place this summer in Moscow. Furthermore, jamming of Western radio broadcasts has not ceased. No one would be surprised that these violations have severely damaged the credibility of the Soviet government in the eyes of the American people. And this factor has spilled over into other areas of negotiation including trade and arms control. For us, and for our allies, the quest for disarmament and the search for peace is inextricably interwoven with respect for human rights and fundamental freedoms. The two go hand in hand.

THE ROAD TO CREDIBILITY

Pretending that the problems we have noted do not exist will not make them disappear. On the other hand, genuine moves towards fulfilling the promises of Helsinki would provide a favorable climate for reconciliation of a wide range of differences between us. The acceptance of proposals outlined in the western package of amendments, particularly those dealing with human rights and family reunification, would be a start.

Also, the release of interned trade unionists and other political prisoners in Poland, the lifting of martial law, and the renewal of dialogue between the three major sectors of Polish society—the government, the church and Solidarity—would be highly welcome. The withdrawal of Soviet troops from Afghanistan would help further to rebuild the confidence on which true security and cooperation depends.

The United States, and especially those of us in Congress, would encourage the Soviet Union to take a series of further steps that would be viewed positively throughout the West. Among them are:

1. The easing of impediments to emigration.
2. The resolution of long-term family reunification and binational marriage cases;
3. The release of imprisoned or exiled members of the Helsinki monitoring groups, especially those with severe health problems, and a halt to the harassment of these groups;
4. A cessation of arrests of human rights, national rights and religious rights activists;
5. The restoration of direct dial telephone circuits;
6. An improvement in the availability of economic and commercial information;
7. The improvement in working conditions for journalists;
8. And a halt to jamming of Western radio broadcasts.

A REALISTIC ATTITUDE

We, of the United States, realize that the path towards the ideals of the Helsinki Final Act is strewn with obstacles. We recognize the imperfections of our own country; we acknowledge a need to improve our own behavior. We are not afraid to admit our shortcomings. For that is the catalyst of progress, the first indispensable step on the road to achievement. Various sectors of our government as well as private individuals and organizations are engaged in continuing dialogue on how to move closer to the ideals we have espoused. Like the CSCE process itself, ours is an ongoing and earnest dialogue. Although at times our words both at home and here with you take on a sharp tone, they are far better than silence.

Mr. Chairman, let me assure the delegations here that the United States will continue to work toward the harmony I de-

scribed earlier—a harmony that has proved elusive but remains essential to the interests of us all. I hope those efforts might succeed, and that I might attend the next follow-up meeting of the CSCE in an atmosphere that reflects the achievement of enhanced cooperation and indeed, of lasting security in Europe.

To that end, I challenge all of us gathered here today to seize the opportunity this moment offers for a decisive step toward enduring peace. For five days last week in Moscow, high officials of the Soviet government told me that they strongly desired a new and better relationship with us and our allies. Last night, President Reagan reaffirmed his commitment to far-reaching arms control objectives—a clear signal of our willingness, in turn, to open a new era of mutual confidence and cooperation between East and West. We can demonstrate, by concrete actions, our full good faith and our will to reach toward security and lasting freedom for all mankind.

Thank you, Mr. Chairman.●

● Mr. MURKOWSKI. Mr. President, there is no doubt in my mind that this year's Veterans Day celebration was among the most important observances in the history of the Nation.

The special ceremonies held both in Alaska and in Washington, to celebrate this important event also marked a time of healing seldom expressed by any of us. Veterans organizations in Alaska worked to put together ceremonies throughout the State which were bigger in scale than ever before in honor of the Vietnam veterans. Here in Washington, ceremonies took place throughout most of the week of November 11, including the traditional ceremony at Arlington Memorial Cemetery and the moving dedication of the Vietnam Veterans Memorial on the Mall on November 13. Hundreds of thousands of veterans and their families, including Alaskans, were in Washington for the dedication of this new memorial. Members of my staff took part in the parade and dedication ceremonies and found it to be one of the most memorable experiences of their lives.

The Vietnam veteran has been ignored and mistreated for too long. Vietnam Veterans Week represents a significant turning point in how we treat the men and women who served in the jungles of Southeast Asia. Because of these ceremonies, many Americans are now perceiving the war and those who served there in a different way. This healing process must continue. Obviously many Americans do not fully understand the Vietnam experience; why we were there, why we lost so many lives and for what purpose; and what the war can teach us about conflicts in the future. Vietnam Veterans Week has increased the understanding of the war and has given its veterans the respect and honor they deserve.

Wherever and however Veterans Day was observed, the day's programs had one common theme; they were means of paying homage to the hundreds of thousands of men and women who have sought to defend their country and have devoted their efforts to the preservation of freedom. Alaska alone lost 105 men in World War II, 9 in Korea, and 56 in Vietnam. Our State presently has over 50,000 veterans who gave of themselves so that their fellow countrymen would enjoy the liberties for which our Nation is renown worldwide.

We, as a people, have faced many conflicts since winning the War for American Independence. We have fought others, and we have fought among ourselves. But one fact remains constant: In all of the conflicts, all of the battles, all of the skirmishes in which American men and women have taken up arms, these guardians of our freedom have distinguished themselves through their bravery, conviction, and sacrifice.

It is, of course, fitting that we should honor our veterans with medals, ceremonies, parades, and other recognition, yet the Nation owes so much more to its veterans. That is why Congress, through the years, has provided pensions, medical care, education benefits, and housing assistance to help veterans and their families.

Max Cleland, a Vietnam veteran and former Administrator of the Veterans' Administration, once said that "wars do not end when the shooting stops." I think the citizens of this Nation would strongly agree. Wars live on in the lives of those who fought those wars. They live on in the lives of the survivors and dependents of those who were injured or killed. This Nation must never forget these men because veterans in Alaska and America will never forget.

Our obligation to repay the debt earned by our veterans is not over now—nor will it ever be. Thanks to these brave men and women we are able to enjoy a freedom unequaled in any other Nation in the world. We are at peace today, and our gratitude for that blessing is owed, in part, to the veterans who have made peace accessible.

As a member of the Senate Veterans' Affairs Committee for the past 2 years, I have become increasingly aware of the problems and perspectives of America's veterans, particularly those from the Vietnam era. Many veterans are concerned about Federal funding for valuable Outreach programs, for disability compensation benefits, and other important VA programs. Alaska's large Vietnam veteran population is increasingly worried about delays in research on the effects of agent orange. I recently joined with Senator STEVENS in writing to Secretary Schweiker and Administrator Nimmo about the need to get moving on agent orange research. Availability of low-interest housing loans in another serious problem. All must be addressed in a fair, efficient manner. I want to pledge that I will continue to do all I can in the Senate and the Veterans' Affairs Committee to do just that.●

DELAWAREAN WINS FIRST PLACE

● Mr. ROTH. Mr. President, I am proud to announce that one of my constituents, Benjamin D. Hoffecker of Bear, Del., recently won the milling competition in the U.S. Skill Olympics held in Wilmington, Ohio. Ben is a 1981 graduate of Delcastle Technical High School where his instructor was Sam Pantano. He is currently employed as a machinist and computer programer.

The U.S. Skill Olympics is a national level competition in trade and technical skills sponsored by the Vocational Industrial Clubs of America. The winners of the national competition will form a team representing the United States at the International Skill Olympics next August in Linz, Austria, where they will compete with other craftsmen from 15 countries.

I would like to take this opportunity to recognize Mr. Hoffecker's performance and to congratulate him and his teammates for their demonstration of excellence in the skilled trades. At a time when it is so important for the United States to meet the demands of the future marketplace with a highly skilled basic industry workforce, I commend the example set by these young competitors and wish them succcess in the international competition.●

TABLE GRAPE MARKETING ORDER AMENDMENT

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD.)

● Mr. GOLDWATER. Mr. President, just prior to the congressional recess for the 1982 elections, Congress passed a measure, originally designated as S. 505, which requires imported table grapes to meet the same quality standards as domestic table grapes when a Federal marketing order is in effect for table grapes. The intent of this measure, to help American consumers obtain high quality food, is worthwhile.

It is imortant, however, to review the practical effect the amendment may have once it is operative. I wanted to discuss this aspect of the proposal before we acted on it, not because I oppose the measure, but because I felt it is necessary to develop a legislative history assuring that the program will not be used on a protectionist device or in an arbitrary manner. I had informed the scheduling office of my interest in S. 505 and sought to be in-

formed before it was not directly taken up. Instead, the text of S. 505 was added as an amendment to a different bill, H.R. 2035. I was not aware of this change until after the measure passed.

What I would have pointed out during our consideration of the subject is that the link between the marketing order and imported table grapes has the potential or disrupting or blocking imports of quality grapes from Mexico, injuring the important fruit and vegetable distribution industry located in southern Arizona and raising prices to consumers domestically.

The table grape amendment would put into place import regulations for table grapes from May through November because that is the period when the two Federal marketing orders for domestically grown table grapes are in force. The marketing orders affect only the table grapes from Coachella Valley and San Joaquin County, both in California.

Until now imported table grapes have not been subject by law to Federal quality standards. However, Mexican growers and U.S. importers have voluntarily put table grapes to close quality inspections before the grapes cross the border as a matter of good business practice.

More than half of all imports from Mexico that enter through the port of Nogales, Ariz., are submitted for first-hand scrutiny by U.S. Department of Agriculture inspectors, at the distributors' request at their warehouses. The expenses of these inspectors and the necessary unloading facilities associated with the inspections are borne by importers and distributors, not by the U.S. taxpayer.

In other words, Mexican table grapes are subjected to thorough inspections before being distributed to U.S. consumers. American importers and distributors do this voluntarily in order to develop and keep satisfied customers. The table grape amendment does not change this practice. Quality control inspections already take place. The great majority of inspected grapes meets the U.S. No. 1 standard.

What could be different and potentially harmful is the manner in which the new law is applied. Instead of restrictions that are solely imposed to maintain quality, the possibility exists that future orders could be drawn in a way deliberately calculated to disrupt imports and make them more expensive.

Problems can arise, for example, with the nature of the inspection. Imported grapes are shipped chilled. They should not be inspected in the warm open air because the chilled grapes collect moisture and sweat when truck doors are opened in the warm, outside air.

Also, because imported grapes are shipped from some distance away, the grapes cannot be resorted and repacked if any part of the shipment fails to meet the quality inspection. The shipment must be discarded or returned. On the other hand, domestic grapes are inspected in the field before the grapes are chilled and before they are packed for final shipment.

There is no problem of sweating in the field and shipments that might not meet the quality standard can be resorted and repacked to bring them up to standard. Therefore, I propose that a system be developed for inspecting Mexican grapes at the fields inside Mexico, just as I understand citrus pesticide controls are now checked by U.S. officers at groves within Mexico.

Further, the new measure provides opportunities for manipulating the domestic marketing orders so as to create subtle barriers against imports and free competition. For example, the method of determining the sugar content can be manipulated, or the ratio of sugar content to acidity can be stated in such a way as to disadvantage imports.

Mr. President, if the amendment is only designed to assure reasonable quality controls on an evenhanded basis between California and Mexican table grapes, then I have no problem with the measure and think it will serve a good purpose. However, I am giving notice that I will be closely monitoring the implementation of the new law. There is no record here of any unfair tactics or subsidized practices by Mexican growers. If the new program is used as a weapon to stifle fair and equal competition and to deny American consumers a choice, then I will vigorously protest the new law and seek to repeal or correct it.●

ECONOMIC DISASTER

● Mr. HUDDLESTON. Mr. President, one day the history books of this country may rank the slogan "Stay the Course" right alongside "Prosperity Is Just Around the Corner."

This week I have been talking with some officials of the United Mine Workers about the situation in Letcher County, where several major coal mines have instituted layoffs.

Because the layoffs are continuing almost daily, I do not have the certified unemployment rate—but it is certainly over 40 percent and UMWA officials tell me it has now climbed above 50 percent.

Mr. President, that is not a depression, it is a disaster.

The administration keeps telling Congress and the American people to stay the course and that recovery is coming any day now. Do not tell that to the people in Letcher County.

To quote from the Mountain Eagle:

You would have to go back to June 1932, when the Whitesburg bank closed, to find as dark a week in the economic history of the mountains.

The situtation there has naturally produced much heartache and bitterness, especially when the administration bandies about the notion that the unemployed are not really interested in working, or that their unemployment compensation should be taxed.

Listen to the Mountain Eagle:

We hear those same White House men express their belief that people drawing jobless pay are, in so many words, a bunch of worthless, shiftless bums who had rather be on the draw than working for a living. President Reagan, tell this to the men of Beth-Elkhorn and South East who were laid off from their jobs this week.

We need to be talking about a mid-course correction rather than staying the course.

I ask that two newspaper articles from the Mountain Eagle be printed in the RECORD:

The articles follow:

[From the Mountain Eagle, Dec. 2, 1982]

1,152 MORE MINERS LAID OFF

Letcher County's unemployment rate soared to more than 40 percent this week as the county's two largest mines shut down operations for at least a month, and probably longer.

More than 1,100 hourly employees—miners—were laid off by Beth-Elkhorn at Jenkins and South East at Isom.

Those miners added to the 2,156 Letcher County residents already out of work brought unemployment up to 3,256 from the total workforce of 7,811 covered by unemployment insurance.

South East said it laid off more than 600 miners and shut down operations at its eight mines because it had a stockpile of 250,000 tons of coal "on the ground"—mined but not sold. South East has two mines in Knott County and six in Letcher County. The new layoffs were in addition to 171 miners laid off a few weeks ago.

Thirty-four salaried employees will continue working at South East to keep the mines in condition for reopening when production is resumed.

South East's vice president of operations, Danny Quillen, said he has posted a notice that the miners will return to work January 30, 1983, and added that he has a "better than a 50 percent hope that we'll be back before that."

Quillen termed the present situation "terrible." He said he does not believe the 171 miners laid off earlier will be called back to work but he doesn't know for sure. He said his men are still covered by health insurance and can obtain emergency dental treatment. Many have earned vacation time coming, he added.

Beth-Elkhorn, a subsidiary of Bethlehem Steel Corp., said its layoffs were the result of cutbacks in steel production caused by the lowered demand for steel which in turn were caused by the failing national economy. Steel companies in the United States have been operating at 41 percent of capacity since last August.

The Beth-Elkhorn layoffs affected 550 miners. Beth-Elkhorn shut down operations in the entire Elkhorn division—Mines 21, 25, 26, the Jenkins plant and division shops.

Ernest Bentley, director of industrial relations for Beth-Elkhorn, said he did not know whether any salaried employees will be laid off. Some salaried workers reportedly have returned to the headquarters of the parent firm in Pennsylvania.

Bentley said the mines here are expected to resume operations in "early January" but could not say when "early" meant.

In Pennsylvania, Art Roth of Bethlehem Steel said the shutdowns had affected the company's mines in Kentucky, West Virginia and Pennsylvania. Some mines in the other states were shut down in October. Reopening will depend on the demand for steel, Roth said. Most of the firm's mines produce metallurgical coal used in steel production, although some Bethlehem coal is sold to the steam coal market for production of electricity.

At the local unemployment insurance office, a special day was scheduled for Beth-Elkhorn miners to file unemployment claims. They are to go to the Whitesburg VFW Club between 8:30 a.m. and 3 p.m.

Anita Martin, local office manager, said filing for unemployment claims has been orderly. She said her office had given South East employees a schedule for coming in to sign up for unemployment compensation payments, and some are still coming in each day. She said she hopes to have extra clerical help soon.

At the unemployment office Wednesday afternoon, those in line were mostly young men, with an occasional older worker showing up. The talk was of such things as the difficulty in paying electric bills on unemployment pay; one man remarked that his electric bill had gone from $54 to $115.

Some coal industry observers said they had heard of coal going recently for as little as $10 a ton when operators had to have money to keep their companies afloat. There were reports that some firms were undercutting others in order to sell coal already mined.

And the miners who were laid off were trying to decide what to do. One remarked that if it was spring, he'd start "clearing a new ground"—getting a place ready for a vegetable garden—but in the winter he didn't know what he'd do.

There were reports of imminent layoffs in other parts of Eastern Kentucky. Ashland Oil reportedly plans to shut down its mines in Johnson, Martin, Morgan and Elliott counties for all of January and February.

U.S. Rep. Carl D. Perkins said in Washington that he hopes Congress will begin work on a "real broadened out public works program" which could put some people back to work.

Perkins pointed out that farmers and small businesses in the mountains also are having a hard time and said he gets several letters a day asking for help on interest rates.

"It's the darndest time I've ever seen," he commented, adding that both President Reagan and the Democratic party leadership are "out in the clouds."

He was critical of the role of the country's large banks in maintaining the current high interest rates. "Chase Manhattan (a large New York bank) doesn't care a thing in the world for small people," he said.

STAYING THE COURSE ON THE ROAD TO DISASTER

This week—Nov. 24-Dec. 1, 1982—just may go down as the darkest week in Letcher County history, the week when more than a thousand coalminers lost their jobs.

Coming on top of other layoffs in recent months, this week's toll brought layoffs in this one county alone to well above 3,000 miners, and means that the official December unemployment rate locally may climb above the 50 percent mark.

More than 1,000 miners were laid off this week by just two coal companies—Beth-Elkhorn and South East—and reports indicated other companies were laying off just as many if not more throughout the mountains.

You would have to go back to June, 1982, when the Whitesburg bank closed, to find as dark a week in the economic history of the mountains.

There are about as many rumors bouncing around the hills as there are jobless miners and no one seems to know much for sure except that the mines have closed. The most hopeful reports are that the closings mostly are for a month until some time in January. Other reports are not so optimistic, and speak of a reopening next summer, or next fall.

One thing is obvious. The situation is areawide, affecting both union and non-union operations, and strip mines as well as deep mines. Everyone, union, non-union, deep-mine or strip mine, is in the same boat.

There appear to be two immediate explanations. Much Eastern Kentucky coal is metallurgical, used in the manufacture of steel. When the steel industry has prospered, so have such local coal mines as Bethlehem Steel's Beth-Elkorn operation centered at Jenkins, and the U.S. Steel Company's big operations centered at Lynch. But a dilapidated steel industry has been unable to compete with imports, and steel plant after steel plant has shut, ending their need for our coal.

Other mountain coal has gone to the many utilities which produce the electricity which keeps the nation going. But factory after factory is closed; not much mountain coal is needed to produce Japanese-made products. The utilities companies variously report anything from a three-month to a full year's supply of coal on hand.

The coal industry, by and large, has gone along mining coal on the general assumption that the nation's economic problems are but problems of the moment, and many have continued in operation and have stockpiled their coal. Mine operators have tried to keep their workforces together, their equipment repaired, and the mines in a safe operating condition, expecting that return to prosperity which has not come. Now, many coal companies have tens of thousands of tons of coal on hand with no market for it. Companies which in the not-so-distant past were selling coal for $50 a ton now are hearing offers of $10 a ton, sometimes less.

Coal booms and coal busts are no new thing, of course. This one is different, however, because it has been so sudden, and so totally unexpected. The decline of mountain mining in the 1950's and 1960's was devastating for thousands and thousands of families, and touched off a migration of hundreds of thousands of people from the mountains to Ohio, Michigan, Maryland, Texas, and to some extent all the other 45 states.

But in the 50's and 60's, hard-hit mountain families at least could leave with some expectation of finding work. Today, with the nation in a recession-turning-into-depression, where is there to go? Detroit no longer is a safe haven for mountain people.

It is a sad coincidence that this dark December week for Letcher County coal miners is also when we hear that Sen. Edward F. Kennedy will not run for President. The Kennedys have long been a living symbol of hope in troubled time. Where can the coal miner look now for hope, for leadership, for compassion?

Clearly, it does no good to look to the White House and its present occupant. What can you say about a President whose most trusted advisors recommend that the nation start taxing the unemployment checks of the jobless as a means of curing the country's economic woes? We hear those same White House men express their belief that people drawing jobless pay are, in so many words, a bunch of worthless, shiftless bums who had rather be on the draw than work for a living. President Reagan, tell this to the men of Beth-Elkhorn and South East who were laid off from their jobs this week!

We have been reading the newspapers and watching the TV news shows with some hope of seeing some indication that Washington is awakening to the nation's plight. But Reagan and his crew are hopeless, and the national Democratic party leadership is about as bad.

Unless something is done, quickly and effectively, the whole national economy is coming crashing down. As we "stay the course" with President Reagan, we follow him to disaster.●

THE ROA STORY

● Mr. NUNN. Mr. President, the nonpartisan national defense work of the Congress during all the years since World War I is being told in a dynamic manner by the Reserve Officers Association (ROA) of the United States in a monumental, 622-page book, "The ROA Story."

This four-book volume has been published by the ROA as a significant element in observing its 60th anniversary.

ROA was organized by civilian officers who served in the European war in 1917 and 1918 and held its first national convention in October 1922. The association has carried on a splendidly motivated program for the cause of national security ever since.

General of the Armies John J. Pershing, the commander of the 2-million-man American Expeditionary Force which participated in the Allied victory in World War I, gave great support to the ROA during its formative years.

In 1942, during the first month of World War II, Gen. George Marshall, the Army Chief of Staff, took time out from the burdens of his office to meet with the ROA National Council to thank them for the association's work. General Marshall said:

> I am keenly aware of the fact that without the Reserve Corps, which has had its stimulus in the Reserve Officers Association, we would have been lost in the necessities of today.

The Congress thought so well of the patriotic work of ROA during the postwar years that it granted the association a Federal charter in 1950.

Our colleagues and President pro tem, the distinguished Senator from

South Carolina (Mr. THURMOND), served as national president in 1954-55. In fact, he was ROA president when he first ran successfully for the seat he now holds. Many other Members of both Houses have, like Senator THURMOND, made substantive contributions to the cause ROA has supported.

One of my friends and fellow Georgians, Maj. Gen. Carl T. Sutherland, a postwar commander of the 81st USAR Division, was the only Georgian to be national president of the ROA. As ROA president in 1960, General Sutherland set in motion the campaign which resulted in the creation of the Minute Man Memorial Building.

Another of my fellow Georgians, John T. Carlton, was the senior writer of "The ROA Story," collaborating with John F. Slinkman, former editor of the Navy Times and of the ROA monthly magazine, the Officer.

Colonel Carlton is personally known to many Members of the Congress, whose friendship he earned through 6 years on the Senate staff and 18 years as executive director of ROA.

Colonel Carlton, a graduate of the University of Georgia in the class of 1931, left the Atlanta Journal in 1941 to serve with the U.S. Army during World War II in Alaska and Okinawa, where he was on the staff of Lt. Gen. Simon B. Buckner. General Buckner awarded him the Legion of Merit for his war service.

After the war, Colonel Carlton served 5 years as a Washington correspondent for the Miami Daily News and Atlanta Journal. In 1951 he joined the staff of Senator George Smathers of Florida as administrative assistant, and in 1955-57 he held a similar position with the late Senator Walter F. George of Georgia, who was then chairman of the Foreign Relations Committee. In 1957, he became executive director of the ROA and served with distinction in that post until 1975, longer than any other executive director in ROA's history.

For the past 3 years Colonel Carlton has given full time to research, writing, and publication of "The ROA Story." I wish to commend Colonel Carlton on his career and particularly on this work, which I wish to call to the attention of the Senate.●

THE CONNECTION BETWEEN ILLEGAL ALIENS AND UNEMPLOYMENT

● Mr. EAST. Mr. President, one way to reduce unemployment would be to remove illegal aliens from our work force. Unfortunately, the mass amnesty proposal being considered by Congress would foreclose that option and permanently give millions of jobs to foreigners here in violation of our laws. Mr. PETER RODINO, chairman of the House Committee on the Judiciary, recently said that the number of illegal aliens here may be as high as 12 million.

The American Legion is concerned about unemployment, as are all of the Members of Congress. The Legion's National Legislative News Bulletin of November 30 discusses the connection between illegal aliens and unemployment. Prof. Donald Huddle, an economist at Rice University, recently concluded that every 10 illegal aliens in our work force displace 7 American workers. Based on this information, the answer to our unemployment problem may be right before our eyes. A 5-percent cut in the bloated food stamp program would provide funds to triple the enforcement efforts of the Immigration and Naturalization Service. If Congress had the courage to send illegal aliens home, we could put millions of Americans back to work.

I ask that the American Legion's National Legislative News Bulletin, and a letter dated December 3, 1982, from Mr. E. Philip Riggin, director of the Legion's National Legislative Commission, to Members of the House of Representatives be printed in the RECORD.

The material follows:

[From the National Legislative News Bulletin, Nov. 30, 1982]

LEGION PROPOSAL WOULD PUT AMERICA BACK TO WORK

By the time this publication reaches its subscribers, Congress will already be in Washington for the purpose of completing the 97th Congress in a lame-duck session. With much to be done between November 29 and December 17, the House and Senate have allotted themselves just three weeks to adopt 10 of 13 appropriations measures, some type of new jobs program, a solution to the fiscally strapped Social Security System, an immigration reform package, a Constitutional Amendment to balance the federal budget, a peace-time GI education bill, an enterprise zone initiative, a 5 cent per gallon gasoline tax and a variety of other lesser measures still pending floor action.

Clearly, many of these issues will remain incomplete when Congress adjourns. A few of them, however, appear to be sufficiently appealing politically to ensure positive action either during the lame-duck session or early on next January and February.

Coming on the heels of an election in which unacceptably high unemployment was a major issue, Congress will be forced to consider legislation aimed at putting the nation back to work. Elsewhere in these pages articles will be found discussing the subjects of new national employment programs funded by a 5 cent per gallon gasoline tax and the threat to some selected federal employees whose jobs may be turned over to private contractors.

In the case of a new national employment program, perhaps as many as between 350 thousand and 1 million jobs might be created, depending on which program alternatives are adopted and how many billions are spent. In the case of federal employees whose jobs may be contracted out, an exemption from contracting out might save as many as 13 thousand federal jobs.

In neither case, however, will a significant dent be made in a 10.4 percent unemployment rate in which some 12 million Americans are out to work. Against this background, the projected federal budget deficit for this fiscal year, now approaching $200 billion, continues to balloon out of control.

Moreover, to its credit, the Reagan Administration has delivered on its promises to greatly reduce inflation and bring interest rates down. Unfortunately, further promises to balance the budget in the near future will go unsatisfied unless unemployment drops precipitously bringing badly needed new tax revenues into the federal coffers regardless of how much deeper non-defense programs are cut.

In the present climate, both Congress and the Administration are facing a near insoluble dilemma. There is a solution, however, and The American Legion over the last several months has been the only voice in Washington to offer it.

Recognizing that between 6 and 12 million jobs in this country are currently held by illegal aliens, the best possible short term solution is to move ahead with the politically difficult business of getting tough with both illegals and those who would hire them knowingly. By now it is a well-known fact that only about 15 percent of illegal aliens are engaged in agricultural or other pursuits deemed undesirable by Americans. This means that if the nation took immigration law enforcement seriously and if its leaders disabused themselves of any notion that amnesty for illegals was desirable public policy, jobs for unemployed Americans would open up by the millions throughout the nation.

Regular readers of this publication are well aware that reducing high unemployment and reforming the nation's immigration laws are just two different parts of the same issue. In that regard, regular readers also know that according to the Congressional Budget Office (CBO) a drop in unemployment of just 1 percent will net the Federal Government a savings of between $25-$28 billion in new revenues and unspent relief programs expenditures. This means that if 4 million unemployed Americans—far more than the number of unemployeds who might benefit from new public works employment programs currently being discussed in Congress—were able to secure the jobs held illegally by illegal aliens, the net savings to the Federal Government would range between $100 and $112 billion.

With the subject of unemployment and what to do about it on the lips of virtually every Member of Congress whether retiring in December or returning in January, it is critically important that Legionnaires insist that their respective Senators and Representatives take this matter seriously and soon. When the Administration sends its budget request for Fiscal Year 1984 to Congress in January, the VA will almost certainly be slated for more deep cuts. If these cuts are finally adopted in the absence of immigration control, it will be curious to see how Congress explains a reduction in veterans programs while offering illegals with no stake in the American way of life an economic bonanza.

THE AMERICAN LEGION,
Washington, D.C., December 3, 1982.

DEAR REPRESENTATIVE: The American Legion takes this opportunity to point out the economic and budgetary effects that will result from employment gains for American citizens if Congress strikes amnesty for illegal aliens under the provisions of H.R. 6514, The Immigration Reform and Control Act of 1982.

The Congressional Budget Office in its September 1982 publication, "The Economic and Budget Outlook: An Update," stated that a one percent increase in employment would reduce the budget deficit in fiscal 1983 by $25 billion. If only 2 million of the illegal aliens currently working in this country were replaced by unemployed Americans, the nation's unemployment rate would drop by 2 percent and the budget deficit would narrow by $50 billion. Reducing the deficit to this degree, of course, would moderate U.S. Treasury/private sector competition for lendable funds and would likely produce lower interest rates to stimulate such industries as home construction and automobile production.

Such heightened economic activity would provide at least 700,000 new jobs in construction, auto manufacturing, aircraft, steel, cement, rubber, logging, sawmills, appliances, furniture and farm machinery. Increased employment and lower deficits could be expected to beget more of the same, with interest rates continuing to fall. Falling rate will reduce the cost of carrying the trillion dollar national debt, which will further reduce the deficit and interest rates. The lower interest rates will breathe new life into the farming community and debt laden businesses, as they see their overwhelming debt service costs reduced dramatically.

All of this economic good news will have been set in motion by allowing two million or more Americans to reclaim jobs taken from them by illegal aliens. The United States need not adopt a wide open amnesty to demonstrate that it is a magnanimous and broad-shouldered nation. This country has been, is and will continue to be generous on immigration. However, we must recognize that our economic dynamo is being drained from within by an economic Trojan Horse that we allow to displace taxpaying American workers.

As always, your attention to the views of the American Legion is appreciated.

Sincerely,

E. PHILIP RIGGIN,
Director,
National Legislative Commission.●

CHARLES CARROLL OF CARROLLTON

● Mr. SARBANES. Mr. President, the people of Maryland are very fortunate to call as our own many great Americans who participated in the independence of the country and in the founding of the Republic. Among them, Charles Carroll of Carrollton was an extraordinary leader and a dedicated patriot. His statue is in the Capitol as one of the two submitted by Maryland in recognition of its most eminent citizens.

His strong loyalties to family and to religion and his vigorous scholarship based upon a classical education were qualities which he used brilliantly in support of the American Revolution. He had received a splendid education in Jesuit institutions, had studied law in the universities in France and in England, and was a scholar of some of the world's greatest thinkers—Hume, Locke, Voltaire, and particularly Montesquieu, the father of the separation of powers principle which is so firmly embedded in our Constitution. Above all, Charles Carroll a devout Catholic steadfast in his own religious beliefs, was a strong believer in religious freedom.

Charles Carroll helped to prepare the first draft of the Maryland Declaration of Rights and Constitution, and he was active in preparing a draft of the Maryland Declaration of Independence. The principles outlined there a few years prior to the U.S. Declaration of Independence bear a striking resemblance to what Jefferson later set forth in that document in 1776. Charles Carroll was also an astute businessman and was a member of the Potomac Co., its successor, the Chesapeake & Ohio Canal Co., and was on the first board of directors of the Baltimore & Ohio Railroad, whose cornerstone he helped lay in 1828.

Mr. President, I arranged a ceremony in the Capitol on November 30, to pay tribute to Charles Carroll of Carrollton and to mark the 150th anniversary of the death—November 14, 1832—of this great patriot and the first Federal Senator from Maryland. A meeting was held at which a number of statements about Charles Carroll were made, including the principal address by Father Thomas Hanley, and a wreath was then placed at the Charles Carroll statue. Among the many distinguished persons present were the Most Reverend William Donald Borders, Archbishop of Baltimore; Rev. Thomas O'Brien Hanley, S.J., of Loyola College; Rev. James David Ford, Chaplain of the House of Representatives; Representatives ROY DYSON, MARJORIE HOLT, STENY HOYER, and BEVERLY BYRON of Maryland; Judge Dudley Diggs, chairman, and Mrs. Mary Combs Barber, director, of the Maryland Heritage Committee; representatives of other historical and heritage groups; James Carroll and John Burke of the Embassy of the Republic of Ireland; Father Donahue, chancellor of the Archdiocese of Washington; the Reverend William Byron, president of the Catholic University of America; and members of the Carroll family, including Charles Carroll III, Mrs. Helen Carroll Wright, and Mrs. Mary Lee Carroll Muth. A splendid color guard was provided by the Light Infantry Company, 2d Maryland Regiment.

Mr. President, I ask my colleagues to join me in paying tribute to this great Marylander and great American patriot, Charles Carroll of Carrollton, and I ask that the address by Rev. Thomas O'Brien Hanley be inserted in the RECORD.

Mr. President, it is of special interest to note that Archbishop Borders chose for the benediction a "Prayer for Civil Authority" written by his predecessor John Carroll, the first Catholic archbishop in the United States and a cousin of Charles Carroll. I further ask that this prayer be inserted in the RECORD.

The material follows:

THOUGHTS OF THE SIGNER AND STATESMAN RECALLED: CHARLES CARROLL OF CARROLLTON (1737-1832)

(By Thomas O'Brien Hanley)

(Nov. 30, 1982, United States Capital Ceremony in Honor of the Maryland Patriot)

Charles Carroll of Carrollton is best known as the last surviving and only Catholic signer of the Declaration of Independence and the richest American at the time. I would suggest that something else would also explain the presence of this statue in the Capital: He was a persevering leader of the heoric drama that created our free nation.

At a momentous turning point in our history his public and private writings distill for posterity the spirit that moved his generation to the heights it attained. I would here only provide a taste of the nobility and idealism that sustained Charles Carroll of Carrollton and his fellow patriots.

Personal integrity and authenticity as a topic of public interest has declined, it seems, since Robert Bolt's "Man for All Seasons" but it will return. Ahead of political convictions, the power of the Founding Fathers to perservere in forging a Republic it found here, as Charles Carroll was inclined to enunciate in his old age. As a young man on the eve of his call to leadership, however, he gave a moving articulation to integrity reminiscent of Sir Thomas More, who would be the king's good servant, but God's first. Carroll desired to serve his society in public life, but God first. An unwise royal government created the dilemma.

Sir William Graves, soon to be a member of Parliament and a friend of Carroll from law study years in London, asked the Marylander why he made so much of religion. Why not conform to the Church of England and pass on to a distinguished public career that his Roman Catholicism kept him from? Carroll responded:

"Do you advise me to quit a false religion and to adopt any false belief; and this merely to honor and humor the prejudices of fools or to be on a footing with knaves? I have too much sincerity and too much pride to do either, even if filial love did not restrain me * * * I am a warm friend of toleration; I execrate the intolerating thirst of the Church of Rome, and of other Churches—for she is not singular in that designing. * * * Selfish men invented the religious tests to exclude from posts of profit and trust their weaker or more conscientious fellow subjects; thus to secure to themselves all the emoluments of government: Wharton's saying was a true as well as a witty one—[']The oaths of government were so framed as to damn one part of the nation and shame the other['] * * * If my countrymen judge me incapable of serving them in public station for believing the moon to be made of green cheese, in this respect their conduct (if not wicked) is not less absurd than my belief. * * *"

But Carroll had a vision of a better day, learned from this depressing fact of his social existence: "Were an unlimited toleration allowed and men of all sects were to converse freely with each other, their aversion from a difference of religious principles would soon wear away." A young man's foolish hope, yes, but the American Revolution would embark with a new nation in its pur-

suit. The integrity of a servant of society is a healing balm to its divisions.

On this foundation a public philosophy, which the late Walter Lippmann urged upon those serving in the role of lawmakers, would be molded by the Revolutionary generation. In the form of classical republicanism, developed in his studies at the Jesuit College of Louis the Great in Paris and at the inns of law in London, Carroll moved his fellow citizens by appeal to the most profound principles regarding the nature of the human person. His authorship of the Maryland Declaration of Independence, noted for the first time this year, calls attention to a statement of this kind by Carroll:

"To be exempted from parliamentary taxation, and to regulate their internal government and polity, the people of this colony have ever considered as their inherent and unalienable right, without the former, they can have no property; without the latter, no security for their lives and liberties. * * *

"Compelled by dire necessity, either to surrender our properties, liberties and lives, into the hands of a British king and parliament, or to use such means as will most probably secure to us and our posterity those invaluable blessings.

"We the delegates of Maryland, in Convention assembled, do declare, that the king of Great Britain has violated his compact with this people, and that they owe no allegiance to him; we have therefore thought it just and necessary to empower our deputies in Congress to join with a majority of the united colonies in declaring them free and independent states * * *."

From this statement that civil authority derived from the people Charles Carroll proceeded with a committee to draft a constitution that would serve them. The now classic checks and balance features of the Federal Constitution are foreshadowed here and philosophically justified in Carroll writings.

Charles Carroll's integrity and authenticity immediately underwent a dramatic trial. The final form of the Maryland Constitution lacked provision for religious freedom as broadly as he stated it. The draft of his committee called for the elimination of the slave trade and this was finally rejected by the Convention. His bill a few years hence providing for the manumission of slaves was defeated in the Assembly. In the war years demagogues in the House of Delegates, he believed, endangered the Republic in its infancy. His hard money policy was rejected. His father urged him to withdraw from such a fruitless endeavor. He refused. Indeed he served, fair season or foul, in the Maryland Senate from 1777 to 1800, satisfied that it was the people's decision that he not return that year; and he went to considerable trouble to serve in the First Federal Senate. What Charles Carroll of Carrollton the statesman responded to his father I will now leave with you in conclusion: for it is a message of a great American telling us today to serve our country in all seasons:

"I entirely agree with you as to the injustice of the laws; but I cannot follow your advice to withdraw: where shall I withdraw? The person who now withdraws himself from his country's service will be deemed its enemy. * * * It cannot be expected that such great revolutions should happen without much material injustice and sufferings. I have long foreseen the consequences of this unhappy civil war and therefore have so tempered my mind, that I can bear adversity with firmness; and I have gradually prepared myself against the worst events."

[Sources: Thomas O'Brien Hanley, "Charles Carroll of Carrollton: The Making of a Revolutionary Gentleman" and "Revolutionary Statesman: Charles Carroll and the War" (Loyola University Press, 3441 North Ashland Ave., Chicago, Ill. 60657; vol. 1, 1982, and vol. 2 in press, 1983, spring).]

PRAYER FOR CIVIL AUTHORITY

(Composed by Archbishop John Carroll)

* * * We pray Thee, O god of might, wisdom, and justice, through Whom authority is rightly administered, laws are enacted, and judgment decreed, assist with Thy holy spirit of counsel and fortitude the President of these United States, that his administration may be conducted in righteousness, and be eminently useful to Thy people over whom he presides: by encouraging due respect for virtue and religion; by a faithful execution of the laws in justice and mercy; and by restraining vice and immortality. Let the light of Thy divine wisdom direct the deliberations of Congress, and shine forth in all the proceedings and laws framed for our rule and government, so that they may tend to the preservation of peace, the promotion of national happiness, the increase of industry, sobriety, and useful knowledge; and may perpetuate to us the blessings of equal liberty.

We pray for his excellency, the Governor of this State, for the members of the Assembly, for all judges, magistrates, and other officers who are appointed to guard our political welfare, that they may be enabled, by Thy powerful protection, to discharge the duties of their respective stations with honesty and ability.

We recommend likewise, to Thy unbounded mercy, all our brethren and fellow-citizens throughout the United States, that they may be blessed in the knowledge and sanctified in the observance of Thy most holy law; that they may be preserved in union, and in that peace which the world cannot give; and, after enjoying the blessings of this life, be admitted which are eternal. * * *●

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the Senate completes its business today it stand in recess until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order on tomorrow there be a brief period for the transaction of routine morning business to extend not longer than 10 minutes in length in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MATHIAS ON TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent, when the Senate enters routine morning business tomorrow, that Senator MATHIAS be recognized during that period for 10 minutes, which exceeds the previous limit that the majority leader had requested.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, on tomorrow after the recognition of the two leaders under the standing order and the time for the transaction of routine morning business, the pending business before the Senate I believe will be the motion to waive the provisions of the Budget Act in respect to Radio Marti; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

Under the order previously entered, the Senator from Nebraska will first be recognized to continue his debate under the terms and conditions expressed in the unanimous-consent request just granted.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, on tomorrow it is anticipated that in addition to the resumption of debate on the motion to waive section 402(a) of the Budget Act in respect to Radio Marti it is possible that we will turn to the consideration of the bankruptcy bill and a resumption of debate perhaps on the California utilities bill.

Mr. President, at some time tomorrow it is anticipated that the Senate will be asked to turn to the consideration of the highway bill which has now been reported by the Finance Committee and will appear on tomorrow's calendar.

Tomorrow will be a full day, and in addition to the highway bill, it is entirely possible that we will turn to the consideration of any appropriations bill, but I would especially invite the attention of Senators to the possibility that during at least part of the day tomorrow we may turn to the consideration of the defense appropriations bill, and Senators should be on notice of that possibility.

Mr. President, there may be other routine morning business to transact, and I see the assistant majority leader here. I shall yield the floor to him. But first I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a simple question?

Mr. BAKER. Yes.

Mr. METZENBAUM. Am I correct in my understanding, as we now proceed in morning business, that those of us who have concerns with other possible legislation coming up may leave the floor and need not concern ourselves?

Mr. BAKER. I would not presume to tell the Senator whether he can leave

the floor or not. Who knows what might happen, but if his question is will there be other legislative business to be considered, he can be assured that there will not be.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PRINTING OF H.R. 7355, DEPARTMENT OF DEFENSE APPROPRIATIONS FOR FISCAL YEAR 1983

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate authorize printing of the House-passed Department of Defense appropriations bill for fiscal year 1983, H.R. 7355, in a form that incorporates the amendments of the Senate Committee on Appropriations.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I probably will not object, but I wish to explore the word "incorporating."

Mr. STEVENS. Mr. President, I would say to my good friend that this is the procedure we used last year. The Senate has reported from the Appropriations Committee a Senate bill with provisions and amendments. The form that the bill has come to us from the House is not the same as the form that we were working on in the committee. This is to print the House bill in a form which represents only those amendments that have been recommended by the Senate Appropriations Committee. When the bill is taken up, we intend to ask that this bill be considered original text for the purpose of amendment so as to facilitate the Senate's action on the Senate version of the House bill.

Mr. ROBERT C. BYRD. In other words, do I understand the distinguished Senator to be making a request that will merely facilitate having in one package the House bill and the Senate-passed bill so that the distinction can be made between the House and the Senate version, first; second, that we are not, by using the words "incorporating" or "incorporation," that we are not automatically adopting the Senate amendments; and, third, that if the request is granted, we would pursue the matter in the usual way of calling up the Senate amendments for action by the Senate, unless unanimous consent is given that they would be agreed to en bloc?

In other words, this request is not meant to adopt the Senate amendments as of now by virtue of the request?

Mr. STEVENS. Mr. President, the answers to the Senator's questions are all in the affirmative. It is our intention to put before the Senate an amended version of the House bill showing the Senate Appropriations Committee's recommended amendments to that. The House provisions have been deleted where appropriate and the Senate amendment is printed in the normal practice in italics. The bill will be called up. When the bill is called up, attempts would be made to adopt these amendments en bloc and make them original text for the purpose of further consideration. If there is any reservation to that, of course, it will be dealt with at that time.

It is not our intention in any way to represent to the Senate that any of these amendments are adopted or that we in any fashion have changed the House bill at this time. We want it printed at this time so the Senate can see what the House bill would look like if the Senate Appropriations Committee's recommended bill is incorporated into it in the form we received it from the House and not the form that was worked out in the committee.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for answering my questions to my satisfaction. It is my understanding that the word "incorporating" or "incorporation," whichever was used in the request, does not mean that, ipso facto, by virtue of acceding to this request, the Senate amendments will be considered as having been adopted. I think the Senator has answered that that would not be the case.

Mr. STEVENS. Mr. President, I thank the Senator for his comments. I take it, then, that there is no objection to my request that that bill in this form be printed for the use of the Senate at the appropriate time.

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is there any further business to come before the Senate?

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. STEVENS. Mr. President, I move, in accordance with the order previously entered, that the Senate now stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and the Senate, at 5:43 p.m., recess until Friday, December 10, 1982, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 9, 1982.

INTER-AMERICAN FOUNDATION

R. Richard Rubottom, of Texas, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1988, vice Alberto Ibarguen, term expired.

BOARD FOR INTERNATIONAL BROADCASTING

The following-named persons to be Members of the Board for International Broadcasting for terms expiring April 28, 1985:

Thomas F. Ellis, of North Carolina, vice Charles David Ablard, term expired.

Michael Novak, of the District of Columbia, vice Thomas H. Quinn, term expired.

IN THE AIR FORCE

The following officers for appointment in the U.S. Air Force to the grade of brigadier general, under the provisions of chapter 36, title 10 of the United States Code:

Col. Marcus A. Anderson, [redacted] FR, Regular Air Force.

Col. Charles W. Bartholomew, [redacted] FR, Regular Air Force.

Col. Philippe O. Bouchard, [redacted] FR, Regular Air Force.

Col. Charles P. Cabell, Jr., [redacted] FR, Regular Air Force.

Col. James S. Cassity, Jr., [redacted] FR, Regular Air Force.

Col. Larry D. Church [redacted] FR, Regular Air Force.

Col. Gaylord W. Clark, [redacted] FR, Regular Air Force.

Col. John A. Corder, [redacted] FR, Regular Air Force.

Col. Donald R. Delauter, [redacted] FR, Regular Air Force.

Col. Robert F. Durkin [redacted] FR, Regular Air Force.

Col. Anthony J. Farrington, Jr., [redacted] FR, Regular Air Force.

Col. Edsel R. Field, [redacted] FR, Regular Air Force.

Col. Richard F. Gillis [redacted] FR, Regular Air Force.

Col. David M. Goodrich, [redacted] FR, Regular Air Force.

Col. Samuel J. Greene [redacted] FR, Regular Air Force.

Col. William J. Grove, Jr., [redacted] FR, Regular Air Force.

Col. Michael D. Hall, [redacted] FR, Regular Air Force.

Col. Trevor A. Hammond, [redacted] FR, Regular Air Force.

Col. Paul A. Harvey, [redacted] FR, Regular Air Force.

Col. Richard G. Head [redacted] FR, Regular Air Force.

Col. William K. James, [redacted] FR, Regular Air Force.

Col. James D. Kellim [redacted] FR, Regular Air Force.

Col. Peter T. Kempf, [redacted] FR, Regular Air Force.

Col. Michael C. Kerby, [redacted] FR, Regular Air Force.

Col. Albert L. Logan, [redacted] FR, Regular Air Force.

Col. Donald A. Logeais, [redacted] FR, Regular Air Force.

Col. John M. Loh, [redacted] FR, Regular Air Force.

Col. Alan P. Lurie, [redacted] FR, Regular Air Force.

Col. Donald L. Marks, [redacted] FR, Regular Air Force.

Col. Charles A. May, Jr., [redacted] FR, Regular Air Force.

Col. Robert P. McCoy, [redacted] FR, Regular Air Force.

Col. Charles C. McDonald, xxx-xx-xxxx FR, Regular Air Force.
Col. Willard L. Meader, xxx-xx-xxxx FR, Regular Air Force, Medical.
Col. Charles D. Metcalf, xxx-xx-xxxx FR, Regular Air Force.
Col. Donald C. Metz, xxx-xx-xxxx FR, Regular Air Force.
Col. Fred R. Nelson, xxx-xx-xxxx FR, Regular Air Force.
Col. Thomas R. Olsen, xxx-xx-xxxx FR, Regular Air Force.
Col. Cecil W. Powell, xxx-xx-xxxx FR, Regular Air Force.
Col. Robert R. Rankine, Jr., xxx-xx-xxxx FR, Regular Air Force.
Col. Billy J. Rhoten, xxx-xx-xxxx FR, Regular Air Force.
Col. Horace L. Russell, xxx-xx-xxxx FR, Regular Air Force.
Col. Richard L. Stoner, xxx-xx-xxxx FR, Regular Air Force.
Col. Luther E. Thweatt, xxx-xx-xxxx FR, Regular Air Force.
Col. Norman R. Thorpe, xxx-xx-xxxx FR, Regular Air Force, Judge Advocate.
Col. Richard J. Toner, xxx-xx-xxxx FR, Regular Air Force.
Col. Richard J. Trzaskoma, xxx-xx-xxxx FR, Regular Air Force.
Col. David S. Watrous, xxx-xx-xxxx FR, Regular Air Force.
Col. Charles N. Wood, xxx-xx-xxxx FR, Regular Air Force.
Col. Larry D. Wright, xxx-xx-xxxx FR, Regular Air Force.
Col. Ronald W. Yates, xxx-xx-xxxx FR, Regular Air Force.

DEPARTMENT OF STATE

Richard Fairbanks, of the District of Columbia, for the rank of Ambassador while serving as Special Adviser to the Secretary of State.

TABULAR MATTER INSERTED BY SENATOR McCLURE

The tabular matter referred to earlier follows:

INTERIOR SUPPORT TABLE

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
TITLE I—DEPARTMENT OF THE INTERIOR									
BUREAU OF LAND MANAGEMENT									
Management of Lands and Resources									
Energy and minerals management:									
Energy onshore:									
Coal leasing	22,380	29,300	17,757	15,789	13,659	15,789	−1,968		+2,130
Oil and gas leasing	9,965	16,901	17,553	21,620	17,870	21,620	+4,067		+3,750
Geothermal leasing	1,962	2,561	2,233	2,822	2,272	2,822	+589		+550
Oil shale and tar sands leasing	500	4,523	3,616	4,541	3,641	4,081	+465	−460	+440
Subtotal, energy onshore	34,807	53,285	41,159	44,772	37,442	44,312	+3,153	−460	+6,870
Energy offshore:									
Leasing	13,453	10,521	10,682	(13,683)			−10,682		
Environmental studies	38,200	36,534	29,056	(30,267)			−29,056		
Subtotal, energy offshore	51,653	47,055	39,738				−39,738		
Nonenergy onshore:									
Mineral material sales	2,070	2,357	1,792	2,072	2,072	2,072	+280		
Mining law administration	4,310	5,247	4,457	6,559	6,559	6,559	+2,102		
Mineral leasing	2,050	2,172	1,533	1,548	1,548	1,548	+15		
Subtotal, nonenergy onshore	8,340	9,776	7,782	10,179	10,179	10,179	+2,397		
Subtotal, energy and minerals management	94,890	110,116	88,679	54,951	47,621	54,491	−34,188	−460	+6,870
Lands and realty management:									
Energy-related realty	10,986	9,714	5,514	7,316	7,316	7,316	+1,802		
Nonenergy-related realty	20,266	24,664	22,761	24,574	24,574	24,574	+1,813		
Withdrawal processing and review	3,174	3,931	4,088	3,748	3,748	3,748	−340		
Subtotal, lands and realty management	34,426	38,309	32,363	35,638	35,638	35,638	+3,275		
Renewable resources management:									
Forest management:									
Public domain	7,859	8,375	6,031	5,112	4,112	5,112	−919		+1,000
Western Oregon	1,141	1,189	2,139	939	939	939	−1,200		
Subtotal, forest management	9,000	9,564	8,170	6,051	5,051	6,051	−2,119		+1,000
Range management:									
Wild horses and burros	5,998	6,840	5,366	4,312	5,312	4,312	−1,054		−1,000
Grazing	37,360	44,955	35,620	32,269	32,269	36,069	+449	+3,800	+3,800
Subtotal, range management	43,358	51,795	40,986	36,581	37,581	40,381	−605	+3,800	+2,800
Wildlife habitat management	16,380	20,193	14,778	13,642	13,642	14,942	+164	+1,300	+1,300
Soil, water, and air management	18,189	22,073	16,932	14,772	16,772	14,772	−2,160		−2,000
Recreation management									
Natural and cultural resources	2,880	4,153	4,450	4,498	4,498	4,498	+48		
Wilderness	10,040	12,431	13,862	12,097	12,097	12,097	−1,765		
Recreation resources	7,970	7,946	5,506	5,380	6,380	5,580	+74	+200	−800
Subtotal, recreation management	20,890	24,530	23,818	21,975	22,975	22,175	−1,643	+200	−800
Fire management	8,710	9,414	62,153	9,234	9,234	9,234	−52,919		
Subtotal, renewable resources management	116,527	137,569	166,837	102,255	105,255	107,555	−59,282	+5,300	+2,300
Planning and data management:									
Multiple use planning	13,340	16,000	8,544	7,131	8,631	7,068	−1,476	−63	−1,563
Data management	14,990	18,629	11,900	12,910	12,910	12,791	+891	−119	−119
Subtotal, planning and data management	28,330	34,629	20,444	20,041	21,541	19,859	−585	−182	−1,682
Cadastral survey:									
Alaska surveys	11,320	11,510	9,418	9,897	9,897	9,897	+479		
Lower 48 States surveys	13,040	13,612	9,836	10,384	11,384	9,984	+148	−400	−1,400
Subtotal, cadastral survey	24,360	25,122	19,254	20,281	21,281	19,881	+627	−400	−1,400
Fire control:									
Firefighting	49,150	49,150	3,984	4,150	4,150	4,150	+166		

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Rehabilitation	600	600	576	600	600	600	+24		
Subtotal, firefighting and rehabilitation	49,750	49,750	4,560	4,750	4,750	4,750	+190		
Law Enforcement (resource protection)	923	1,261	1,542	2,004	2,004	2,004	+462		
Maintenance and engineering services:									
Building maintenance	2,596	2,631	2,782	3,265	3,065	3,265	+483		+200
Recreation maintenance	3,341	3,599	3,298	3,613	3,634	3,613	+315		−21
Transportation maintenance	2,337	2,550	2,568	2,990	2,830	2,990	+422		+160
Engineering			936	1,146	1,035	936		−210	−99
Subtotal, maintenance and engineering	8,274	8,780	9,584	11,014	10,564	10,804	+1,220	−210	+240
General administration:									
Executive and managerial direction			5,110	5,482	5,482	5,482	+372		
Equal employment opportunity			2,000	2,000	2,000	2,000			
Administration services support			35,556	34,670	32,711	32,761	−2,795	−1,909	+50
Bureauwide fixed cost			33,981	36,491	34,116	36,491	+2,510		+2,375
Pay supplemental			3,728				−3,728		
Subtotal, general administration			80,375	78,643	74,309	76,734	−3,641	−1,909	+2,425
Total, management of lands and resources	357,480	405,536	423,638	329,577	322,963	331,716	−91,922	+2,139	+8,753
Construction and Access									
Construction:									
Building construction	2,438	1,461	392	258	258	258	−134		
Recreation construction	1,321	684	502	460	460	460	−42		
Transportation construction	2,075	2,041							
Subtotal, construction	5,834	4,186	894	718	718	718	−176		
Access		1,802	1,733	1,525	1,525	1,525	−208		
Total, construction and access	5,834	5,988	2,627	2,243	2,243	2,243	−384		
Land Acquisition									
Acquisition		695	3,417	161	161	161	−3,256		
Acquisition management		307	295	307	307	150	−145	−157	−157
Total, land acquisition		1,002	3,712	468	468	311	−3,401	−157	−157
Payments in Lieu of Taxes									
Payments to local governments	108,000	103,000	95,520	45,000	95,520	96,320	+800	+51,320	+800
Oregon and California Grant Lands									
Construction and acquisition	2,011	7,736	3,921	1,091	1,091	1,091	−2,830		
Maintenance	5,753	4,831	6,221	5,000	5,000	5,000	−1,221		
Renewable resource management	39,700	34,989	42,090	46,340	40,340	54,990	+12,900	+8,650	+14,650
Planning and data management	1,340	922	556	452	452	452	−104		
Total, Oregon and California grant lands	48,804	48,478	52,788	52,883	46,883	61,533	+8,745	+8,650	+14,650
Range Improvement Fund									
Improvement to public lands	9,480	11,874	12,276	10,198	10,198	10,198	−2,078		
Farm Tenant Act Lands	1,140	1,243	950	850	850	850	−100		
Total, range improvements	10,620	13,117	13,226	11,048	11,048	11,048	−2,178		
Service Charges, Deposits, and Forfeitures									
Rights-of-way processing	5,518	7,046	7,920	8,000	8,000	8,000	+80		
Adopt-a-horse program	444	400	864	1,150	1,150	1,150	+286		
Repair of damaged lands	140	850	816	850	850	850	+34		
Total, service charges, deposits, and forfeitures	6,102	8,296	9,600	10,000	10,000	10,000	+400		
Miscellaneous Trust Funds									
Base program	100	100	100	100	100	100			
Total, Bureau of Land Management	536,940	585,517	601,211	451,319	489,225	513,271	−87,940	+61,952	+24,046
Office of Water Research and Technology									
Salaries and expenses			10,636				−10,636		
U.S. FISH AND WILDLIFE SERVICE									
Resource Management									
Habitat preservation:									
Environmental contaminant evaluation	9,902	10,417	9,604	8,951	10,437	9,432	−181	+472	−1,014
Land and water resource development planning	13,396	14,560	12,410	11,802	12,659	11,802	−608		−857
Biological services	12,573	14,540	11,225	10,394	11,877	11,377	+152	+983	−500
Cooperative units	4,216	4,249	4,444		4,444	4,500	+56	+4,500	+56
Subtotal	40,087	43,766	37,683	31,147	39,417	37,102	−581	+5,955	−2,315
Wildlife resources:									
Migratory birds	50,681	54,141	57,583	64,810	65,886	59,740	+2,157	−5,070	−6,146
Mammals and nonmigratory birds	13,097	14,788	16,196	17,500	18,164	17,830	+1,634	+330	−334
Animal disease control	15,516	15,919	15,111	13,414	15,111	14,974	−137	+1,560	−137
Interpretation and recreation	11,632	12,320	10,124	11,742	11,742	11,742	+1,618		
Fire suppression			1,800	2,954	3,000	3,000	+1,200	+46	
Subtotal	90,926	97,168	100,814	110,410	113,903	107,286	+6,472	−3,134	−6,617
Fishery resources:									
Fish hatcheries	18,272	20,152	22,232	20,121	22,471	23,204	+972	+3,083	+733
Fishery assistance	3,626	5,591	3,389	2,975	2,975	2,975	−414		
Fishery research	10,436	10,489	10,684	9,531	9,831	9,531	−1,153		−300

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Fishery law enforcement	54	142	216	225	225	225	+9		
Subtotal	32,388	36,374	36,521	32,852	35,502	35,935	−586	+3,083	+433
Endangered species	20,087	22,782	17,563	16,550	22,053	17,753	+190	+1,203	4,300
General administration	27,861	33,340	29,569	30,907	30,907	30,907	+1,338		
1983 cost of 1982 pay increase					2,700				−2,700
SLUC reduction					−1,704	−1,704	−1,704	−1,704	
1981 pay supplemental			4,572				−4,572		
Total, resource management	211,349	233,430	226,722	221,876	242,778	227,279	+557	+5,403	−15,499
Construction and Anadromous Fish									
Construction and rehabilitation:									
Refuges	43,249	25,248	8,903	4,228	7,982	5,603	−3,300	+1,375	−2,379
Hatcheries	5,078	5,439	503	3,838	3,282	3,838	+3,335		+556
Laboratories	5,178	960	655	1,049	5,049	1,049	+394		−4,000
Dam safety			622	636	636	636	+14		
Wildlife research facility					2,700				−2,700
Subtotal, construction and rehabilitation	54,045	31,647	10,683	9,751	19,649	11,126	+443	+1,375	−8,523
Anadromous fish	4,712	3,500			3,500				−3,500
Total, construction and anadromous fish	58,757	35,147	10,683	9,751	23,149	11,126	+443	+1,375	−12,023
Migratory Bird Conservation Account									
Advance appropriation	15,000	1,250	1,200		2,000	2,000	+880	+2,000	
National Wildlife Refuge Fund									
Payments in lieu of taxes	1,950	8,500	5,760		5,760	5,760		+5,760	
Land Acquisition									
Fish and Wildlife Service:									
Acquisitions		8,164	15,494	998	32,500	18,048	+2,554	+17,050	−14,452
Acquisition management		1,139	997	569	1,147	1,000	+3	+431	−147
Total		9,303	16,491	1,567	33,647	19,048	+2,557	+17,481	−14,599
Total, fish and wildlife service	287,056	287,630	260,856	233,194	307,334	265,213	+4,357	+32,019	−14,121
NATIONAL PARK SERVICE									
Operation of the National Park System									
Park management:									
Management of park areas	61,019	70,615	62,173	54,167	57,494	56,854	−5,319	+2,687	−640
Concessions management	2,093	2,619	2,459	2,894	2,894	2,894	+435		
Interpretation and visitor services	44,334	58,142	58,428	59,009	62,344	56,401	−2,027	−2,608	−5,943
Visitor protection and safety	56,189	61,338	59,839	64,459	65,662	60,059	+220	−4,400	−5,603
Maintenance	159,166	192,078	211,827	217,753	228,328	218,049	+6,222	+296	−10,279
Resources management	48,538	52,729	75,460	80,635	90,635	80,635	+5,175		−10,000
Information publications	2,950	3,155	2,832	2,957	2,957	2,957	+125		
International park affairs		563	477	384	384	384	−93		
Volunteers-in-parks	240	240	250	250	500	500	+250	+250	
Subtotal	374,529	441,479	473,745	482,508	511,198	478,733	+4,988	−3,775	−32,465
Forest fire suppression and rehabilitation	2,288	2,000	3,352	1,200	1,200	1,200	−2,152		
Park recreation and wilderness planning:									
Water resources	624	992	1,451	1,518	1,518	1,518	+67		
Rivers and trails	821	981	967				−967		
General management plans	2,877	3,782	2,213	838	2,246	2,246	+33	+1,408	
Subtotal	4,322	5,755	4,631	2,356	3,764	3,764	−867	+1,408	
Statutory or contractual aid for other activities:									
Roosevelt Campobello International Park Commission	319	341	357	394	394	394	+37		
Ice Age National Scientific Reserve	405	440	564	588	588	588	+24		
Lowell Historic Preservation Canal Commission	399	405	384	407	407	407	+23		
Folger Theater	300	300	288		300		−288		−300
Corcoran Gallery	300	300	288		300		−288		−300
Falls of Clyde		100	48				−48		
Ozette Village Archeological Site		20	19				−19		
Garfield gravesite—Lakeview cemetery					500				−500
Washington Opera—matching grants						1,000	+1,000	+1,000	+1,000
Subtotal	1,723	1,906	1,948	1,389	2,489	2,389	+441	+1,000	−100
General administration:									
Central office	5,459	5,579	4,710	6,398	6,398	6,398	+1,688		
Regional office	13,097	13,444	13,333	15,801	15,801	15,801	+2,468		
Automatic data processing	3,388	3,334	3,296	4,128	4,128	4,128	+832		
Employees compensation payment	1,788	2,195	(2,577)	3,083	3,083	3,083	+3,083		
Servicewide administration support cost	3,857	4,242	4,072	5,530	5,530	5,530	+1,458		
GSA space rental	6,429	7,362	(9,630)	10,899	9,733	9,733	+9,733	−1,166	
Executive direction	6,195	6,245	5,995	6,411	6,411	6,411	+416		
Subtotal, general administration	40,213	42,401	31,406	52,250	51,084	51,084	+19,678	−1,166	
White House Grounds and Warehouse				(2,005)	−2,005				+2,005
1982 pay supplemental			6,446				−6,446		
Total, operation of the National Park System	423,075	493,541	521,528	539,703	567,730	537,730	+15,642	−2,533	−30,560
NATIONAL RECREATION AND PRESERVATION									
Recreation programs:									
Planning			241	88	241	88	−153		−153
Park and recreation technical services			1,891	692	948	692	−1,199		−256
Federal real property			420	229	420	229	−191		−191
Subtotal			2,552	1,009	1,609	1,009	−1,543		−600

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Natural programs:									
Natural areas			268	146	146	146	−122		
Rivers and trails			842	1,027	1,527	1,527	+685	+500	
Subtotal			1,110	1,173	1,673	1,673	+563	+500	
Cultural programs:									
Maintenance of the national register			1,833	1,186	1,186	1,186	−647		
Technical preservation services			1,102	1,366	1,366	1,366	+264		
National architectural and engineering record			925	598	598	598	−327		
Interagency archeological services			1,968	1,275	1,275	1,275	−693		
Subtotal			5,828	4,425	4,425	4,425	−1,403		
Environmental and compliance review			578	380	380	380	−198		
Grant administration			2,304		2,000	2,000	−304	+2,000	
1982 pay supplemental			235				−235		
Total, national recreation and preservation			12,607	6,987	10,087	9,487	−3,120	+2,500	−600
Urban Park and Recreation Fund									
Grants to cities		700	7,680				−7,680		
Administrative expenses		300							
Total, urban park and recreation fund		1,000	7,680				−7,680		
Historic Preservation Fund									
Grants-in-aid		27,800	21,024		21,500	21,500	+476	+21,500	
National trust for historic preservation		4,700	4,416		4,500	4,500	+84	+4,500	
Total, historic preservation fund		32,500	25,440		26,000	26,000	+560	+26,000	
Construction									
Buildings and utilities:									
Advance planning		5,000	4,800	5,000	5,000	5,000	+200		
Lump sum projects		3,000	2,880	3,000	3,000	3,000	+120		
Project planning		6,937	8,666	8,214	8,214	8,214	−452		
Line item construction projects	74,304	28,430	79,506	116,507	145,632	130,803	+51,297	+14,296	−14,829
Total, construction	74,304	43,367	95,852	132,721	161,846	147,017	+51,165	+14,296	−14,829
Land and water conservation funds—Contract authority			−30,000				+30,000		
Land Acquisition and State Assistance									
Assistance to States:									
Hatching grants		173,745			70,619	70,619	+70,619	+70,619	
Administrative expenses		6,566	4,381		4,381	4,381		+4,381	
National Park Services:									
Acquisitions		107,282	115,040	55,400	79,905	41,900	−73,140	−13,500	−38,005
Acquisition management		1,000	8,160	4,250	8,743	7,500	−660	+3,250	−1,243
Pinelands national reserve			5,881	126	8,995	5,000	−881	+4,874	−3,995
Total, land acquisition and State assistance		288,593	133,462	59,776	172,643	129,400	−4,062	+69,624	43,243
John F. Kennedy Center for the Performing Arts									
Base program	4,333	4,752	4,142	4,247	4,247	4,247	+105		
1982 pay supplemental			70				−70		
Total, National Park Service	501,712	863,753	770,781	743,434	942,553	853,321	+82,540	+109,887	−89,232
GEOLOGICAL SURVEY									
Surveys, Investigations, and Research									
National mapping, geography and surveys:									
Primary quadrangle mapping	32,312	34,378	33,512	33,011	33,451	34,611	+1,099	+1,600	+1,160
Modernization of mapping technology	6,029	6,010	3,976	3,854	3,854	3,854	−122		
Digital mapping	2,027	2,010	3,873		3,873	3,873		+3,873	
Revision	9,542	10,107	9,841	10,657	10,657	10,657	+816		
Orthophotoguads	4,746	5,992	6,189	6,104	6,104	6,104	−85		−850
Small intermediate and special mapping	15,053	15,596	15,200	13,016	15,066	14,216	−984	+1,200	
Cartographic and geographic information	3,058	3,356	3,756	3,806	3,806	3,806	+50		
Synthetic apertive radar					3,000				−3,000
Subtotal	72,767	77,449	76,347	70,448	79,811	77,121	+774	+6,673	−2,690
Geologic and mineral resource surveys and mapping:									
Earthquake hazards reduction	32,042	32,934	32,652	30,843	34,843	30,843	−1,809		−4,000
Volcano hazards	4,387	12,656	9,578	6,830	10,830	9,430	−148	+2,600	−1,4000
Ground failure and construction hazards	2,044	1,833	2,741	2,718	2,718	2,718	−23		
Reactor hazards research	3,590	3,122	3,037	3,064	3,064	3,064	+27		
Geologic framework	11,690	12,482	13,086	13,639	13,639	13,639	+553		
Geomagnetism	2,109	2,183	2,114	2,104	2,104	2,104	−10		
Climate change	1,010	1,037	1,004	992	992	992	−12		
Mineral resource surveys	34,347	37,704	38,749	40,860	40,860	40,860	+2,111		
Energy resource surveys	35,689	37,188	37,582	29,982	31,982	31,982	−5,600	+2,000	
Offshore geologic surveys	20,159	21,617	20,953	14,759	16,589	12,143	−8,810	−2,616	−4,446
Subtotal	147,067	162,756	161,496	145,791	157,621	147,775	−13,721	+1,984	−9,846
Water resources investigations:									
Federal program	48,480	50,050	47,298	53,006	54,606	53,006	+5,708		−1,600
Federal-State program	40,604	42,756	44,220	44,164	44,164	44,164	−56		
Energy hydrology	19,658	22,652	15,341	14,845	15,145	14,845	−496		−300
Subtotal	108,742	115,458	106,859	112,015	113,915	112,015	+5,156		−1,900
Conservation of lands and minerals:									
Outer Continental Shelf Fund	64,527	68,958	65,159				−65,159		
Federal and Indian lands	35,255	42,511	41,603				−41,603		

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Royalty management	6,460	14,270	21,723				−21,723		
Subtotal	106,242	125,739	128,485				−128,485		
Earth sciences applications:									
Earth resources observation system	11,775	12,295	11,904	9,490	9,490	9,490	−2,414		
Environmental affairs	4,706	4,004	1,438	955	955	955	−483		
Land resource data applications	2,460	2,550	833	635	635	635	−198		
Subtotal	18,941	18,849	14,175	11,080	11,080	11,080	−3,095		
General Administration	3,776	3,896	3,309	14,527	14,527	14,527	+11,218		
Facilities	12,327	11,909	10,074	12,686	12,686	12,686	+2,612		
Transfer from NPRA					−16,200	−16,200	−16,200	−16,200	
SLUC reduction					−7,915	−6,639	−6,639	−6,639	+1,276
Pay supplemental			7,042				−7,042		
Total, surveys, investigations and research	469,862	516,056	507,787	366,547	365,525	352,365	−155,422	−14,182	−13,160
Exploration of national petroleum reserve in Alaska:									
Exploratory drilling	129,500	94,000							
Geophysical exploration	9,000	10,500							
Geologic investigations and evaluation	3,000	1,000							
Barrow area gas operation, exploration and development operation and maintenance	1,427	1,501	2,196				−2,196		
Exploration and development	29,700								
Environmental restoration	3,000								
Total, Reserve in Alaska	175,627	107,001	2,196				−2,196		
Barrow area gas operation, exploration and development				6,400	6,400	6,400	+6,400		
Digital Cartography									
Digital cartography				3,873				−3,873	
Total, Geological Survey	645,489	623,057	509,983	376,820	371,925	358,765	−151,218	−18,055	−13,160
MINERALS MANAGEMENT SERVICE									
Minerals and Royalty Management									
Outer Continental Shelf lands:									
Leasing and environmental program				45,055	42,216	45,055	+45,055		+2,839
Resource evaluation				36,801	35,971	36,801	+36,801		+830
Regulatory program				36,913	36,913	36,913	+36,913		
Subtotal, Outer Continental Shelf lands				118,769	115,100	118,769	+118,769		+3,669
Federal and Indian lands:									
Oil and gas program				23,594	23,594	23,594	+23,594		
Coal program				9,579	9,579	9,579	−9,579		
Other energy minerals				3,798	3,798	3,798	+3,798		
Non-energy minerals				2,273	2,273	2,273	+2,273		
Waterpower program				680	680	680	+680		
Subtotal, Federal and Indian lands				39,924	39,924	39,924	+39,924		
Royalty management:									
Royalty collections				13,841	13,841	13,841	+13,841		
Royalty compliance				6,499	6,499	6,499	+6,499		
Systems development and maintenance				10,354	10,354	10,354	+10,354		
Subtotal, royalty management				30,694	30,694	30,694	+30,694		
General administration				7,119	6,850	7,119	+7,119		+269
Mineral receipts transfer					−171,790				+171,790
Total, minerals management service				196,506	20,778	196,506	+196,506		+175,728
BUREAU OF MINES									
Mines and Minerals									
Minerals research:									
Mineral health and safety technology	52,858	51,493	46,014	37,823	41,823	37,823	−8,191		−4,000
Minerals environmental technology	18,841	19,762	10,418	6,235	7,135	6,235	−4,183		−900
Minerals resources technology	21,766	23,818	31,261	33,888	33,388	33,888	+2,627		+500
Mining research and development				1,000	6,000	6,000	+6,000	+5,000	
Subtotal	93,465	95,073	87,693	78,946	88,346	83,946	−3,747	+5,000	−4,400
Minerals information:									
Data collection and analysis	15,188	19,172	19,597	20,408	20,408	20,408	+811		
Land assessments	9,698	10,053	9,412	5,427	848	8,981	−431	+3,554	+8,133
Subtotal	24,886	29,225	29,009	25,835	21,256	29,389	+380	+3,554	+8,133
Mineral institutes			9,244			9,600	+356	+9,600	+9,600
General administration	15,682	18,021	20,247	20,895	20,695	20,895	+648		+200
Construction and rehabilitation			336				−336		
SLUC reduction					−1,668	−1,668	−1,668	−1,668	
Bruceton facility			4,073				−4,073		
(By transfer)			(991)				(−991)		
Total, Bureau of Mines	134,033	142,319	150,602	125,676	128,629	142,162	−8,440	+16,486	+13,533
(By transfer)			(991)				(−991)		
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT									
Regulation and Technology									
State regulatory program grants	21,680	35,000	24,432	32,150	33,400	32,150	+7,718		−1,250
Federal regulatory programs:									
State and Federal programs	12,141	17,670	11,335	3,293	3,293	3,293	−8,042		
Federal inspection and enforcement	12,457	11,717	9,323	6,100	7,600	6,603	−2,720	+503	−997

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Technical support	5,685	5,399	4,919	9,760	11,360	10,903	+5,984	+1,143	−457
Subtotal	30,283	34,786	25,577	19,153	22,253	20,799	−4,778	+1,646	−1,454
Program grants	3,500	3,410							
Research and scholarship/fellowship grants	6,100	5,830							
Program direction	304	305							
Congressional and public affairs			(436)				(−436)		
General administration	7,820	10,348	8,506	10,870	5,660	10,870	+2,364		+5,210
Small operator assistance	15,000								
Total, regulation and technology	84,687	89,679	58,515	62,173	61,313	63,819	+5,304	+1,646	+2,506
Abandoned Mine Reclamation Fund									
State reclamation program grants	25,000	29,000	59,136	78,500	93,500	133,500	+74,364	+55,000	+40,000
Federal reclamation programs:									
Fund management	7,768	3,951	4,724	4,901	4,901	4,901	+177		
Interior reclamation projects	35,574	28,770	28,040	9,377	19,377	9,377	−18,633		−10,000
Rural lands reclamation program	10,106	10,280	18,339	3,650	3,650	3,650	−14,689		
Technical support	988	1,247	1,134	1,221	1,221	1,221	+87		
Subtotal	54,436	44,248	52,237	19,149	29,149	19,149	−33,088		−10,000
Small operator assistance	10,000	5,000							
General administration	5,480	4,237	3,960		3,960		−3,960		−3,960
Total, abandoned mine reclamation fund	94,916	82,485	115,333	97,649	126,609	152,649	+37,316	+55,000	+26,040
Total, Office of Surface Mining Reclamation and Enforcement	179,603	172,164	173,848	159,822	187,922	216,468	+42,620	+56,646	+28,546
BUREAU OF INDIAN AFFAIRS									
Operation of Indian Programs									
Education:									
School operations	193,598	189,660	173,436	179,841	181,739	176,749	+3,313	−3,092	−4,990
Johnson O'Malley Educational Assistance	29,388	29,469	25,954	25,954	25,954	26,229	+275	+275	+275
Continuing education	47,074	51,054	52,446	50,877	50,977	52,677	+231	+1,800	+1,700
Alaska schools			11,100			18,715	+7,615	+18,715	+18,715
Subtotal, education	270,060	270,183	262,936	256,672	258,670	274,370	+11,434	+17,698	+15,700
Indian services:									
Tribal government services	16,903	22,067	23,789	26,339	26,139	25,839	+2,050	−500	−300
Social services	87,264	93,951	90,351	98,664	100,164	95,664	+5,313	−3,000	−4,500
Law enforcement	27,577	30,824	32,515	36,041	35,941	36,041	+3,526		+100
Housing	19,380	22,693	29,810	23,289	23,289	23,289	−6,521		
Self-determination services	44,460	52,203	49,222	56,882	55,382	49,382	+160	−7,500	−6,000
Navajo-Hopi settlement program	5,544	5,498	4,178	3,899	3,899	3,899	−279		
Subtotal, Indian services	201,128	227,236	229,865	245,114	244,814	234,114	+4,249	−11,000	−10,700
Economic development and employment programs:									
Employment development	51,638	45,436	27,120	28,410	28,410	27,514	+394	−896	−896
Business enterprise development	8,647	8,456	8,136	14,046	11,046	11,046	+2,910	−5,000	
Road maintenance	17,686	19,485	17,628	22,117	22,117	19,995	+2,367	−2,122	−2,122
Subtotal, economic development and employment programs	77,971	73,377	52,884	66,573	61,573	58,555	+5,671	−8,018	−3,018
Natural resources development:									
Natural resources, general	770	883	891	1,018	1,018	1,018	+127		
Agricultural	22,648	22,170	21,143	22,651	22,651	22,651	+1,508		
Forestry	23,418	24,687	21,805	27,037	25,537	25,537	+3,732	−1,500	
Water resources	3,304	5,100	6,663	6,508	7,008	6,508	−155		−500
Wildlife and parks	3,512	11,667	12,895	12,975	12,975	12,975	+80		
Fire supression	7,800	7,800	768	800	800	800	+32		
Minerals and mining	7,972	8,093	7,570	8,016	8,266	8,016	+446		−250
Irrigation and power	4,813	5,312	6,008	8,198	7,498	6,016	+8	−2,182	−1,482
Subtotal, natural resources development	74,237	85,712	77,743	87,203	85,753	83,521	+5,778	−3,682	−2,232
Trust responsibilities:									
Environmental quality services	412	1,242	1,189	1,165	1,165	1,165	−24		
Rights protection	25,466	16,037	17,327	17,083	18,083	16,083	−1,244	−1,000	−2,000
Real estate and financial trust services	24,920	26,162	27,350	28,957	28,957	28,957	+1,607		
Subtotal, trust responsibilities	50,798	43,441	45,866	47,205	48,205	46,205	+339	−1,000	−2,000
General management and facilities operations:									
Management and administration	50,274	50,248	49,465	56,698	51,698	51,789	+2,324	−4,909	+91
Employee compensation payment	2,940	3,434	4,161	4,582	4,582	4,582	+421		
Program management			7,020	7,822	7,822	7,822	+802		
Facility management	77,076	84,509	83,380	93,381	93,360	88,381	+5,001	−5,000	−4,979
Subtotal, general management and facilities operations	130,290	138,191	144,026	162,483	157,462	152,574	+8,548	−9,909	−4,888
General overhead reduction				−16,000	−6,000	−10,000	−10,000	+6,000	−4,000
Pay supplemental			8,252				−8,252		
Total, operation of Indian programs	804,484	838,140	821,572	849,250	850,477	839,339	+17,767	−9,911	−11,138
Construction									
Buildings and utilities	44,725	73,117	47,436	60,100	44,850	49,200	+1,764	−10,900	+4,350
Irrigation systems	43,449	27,065	46,192	16,100	29,040	20,300	−25,892	+44,200	−8,740
Total, construction	88,174	100,182	93,628	76,200	73,890	69,500	−24,128	−6,700	−4,390
Road Construction									
Base program	66,479	48,625	47,160	43,585	43,705	43,585	−3,575		−120
Alaska Native claims: Base program	30,000	30,000							

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Trust Funds									
Base programs	28,000	28,000	53,000	53,000	53,000	53,000			
Settlement payments		27,000							
Land acquisition	1,200	54,500							
Total, trust funds	29,000	109,500	53,000	53,000	53,000	53,000			
Revolving Fund for Loans									
Limitation on direct loans		(12,680)	(14,770)	(19,970)	(19,970)	(19,970)	(+5,200)		
Indian Loan Guaranty and Insurance Fund									
LImitation of guaranteed loans		(2,250)	(27,630)	(15,800)	(15,800)	(15,800)	(−11,830)		
Total, Bureau of Indian Affairs	1,018,337	1,126,447	1,015,360	1,022,035	1,021,072	1,005,424	−9,936	−16,611	−15,648
TERRITORIAL AFFAIRS									
Administration of Territories									
Guam:									
Economic development fund	500		240	500	500	1,000	+760	+500	+500
Construction grants	9,675	11,970	11,246	3,165	6,388	10,028	−1,218	+6,863	+3,640
Subtotal, Guam	10,175	11,970	11,486	3,665	6,888	11,028	−458	+7,363	+4,140
American Samoa:									
Judiciary	680	681	720	681	681	681	−39		
Operations grants	16,628	16,919	16,944	18,222	18,222	20,882	+3,938	+2,660	+2,660
Construction grants		9,150	7,099	1,480	1,777	1,777	−5,322	+297	
Economic development fund		500	240		500	500	+260	+500	
Special program grants			144				−144		
Subtotal, American Samoa	17,308	27,250	25,147	20,383	21,180	23,840	−1,307	+3,457	+2,660
Northern Marianas:									
Operations grants	13,038	14,390	16,627	14,228	14,228	14,228	−2,399		
EDLF	2,765	3,052	2,805	3,018	3,018	3,018	+213		
Construction grants, covenant	6,321	6,977	6,412	6,897	6,897	6,897	+485		
Construction grants, other	5,000		1,296	4,000	8,900	11,500	+10,204	+7,500	+2,600
Subtotal, Northern Marianas	27,124	24,419	27,140	28,143	33,043	35,643	+8,503	+7,500	+2,600
Federal comptrollers:									
Virgin Islands	1,157	830	836				−836		
Trust Territory and Northern Marianas	653	918	898				+898		
American Samoa	454	576	546				+546		
Guam	788	810	807				+807		
Subtotal, Federal Comptrollers	3,052	3,134	3,087				+3,087		
Virgin Islands hospital grant	21,000	9,800	21,505				+21,505		
Virgin Islands construction grant					3,000	2,500	+2,500	+2,500	−500
Virgin Islands deficit grants	10,000								
Northern Mariana Federal Laws Commission	310	15	192				−192		
Office of Territorial Affairs	1,110	1,400	4,335	3,285	6,661	4,361	+26	+1,076	−2,300
Appropriation transfer to TTPI for pay costs		−73							
SLUC reduction					−29	−30	−30	−30	−1
Total, Administration of Territories	90,079	77,915	92,892	55,476	70,743	77,342	−15,550	+21,866	+6,599
Trust Territory of the Pacific Islands									
Operations grants	64,062	60,528	69,295	66,400	65,500	78,462	+9,167	+12,062	+12,962
Construction grants	51,840	29,694	9,601	7,800	14,300	23,665	+14,064	+15,865	+9,365
Ronselap and Utiril compensation		1,000							
Government transition expenses	4,100	3,300							
Enewtal support			818	800	800	800	−18		
Bikini support			21,400	500	500		−21,400	−500	−500
Total, Trust Territory of the Pacific Islands	120,002	94,522	101,114	75,500	81,100	102,927	+1,813	+27,427	+21,827
Total, Territorial Affairs	210,081	172,437	194,006	130,976	151,843	180,269	−13,737	+49,293	+28,426
OFFICE OF THE SOLICITOR									
Salaries and Expenses									
Legal services	16,466	16,876	17,600	19,071	17,904	19,071	+1,471		+1,167
Pay supplemental		1,032	150				−150		
Total, Office of the Solicitor	16,466	17,908	17,750	19,071	17,904	19,071	+1,321		+1,167
OFFICE OF THE SECRETARY									
Departmental Management									
Departmental direction:									
Immediate office	1,326	1,410	1,142	1,215	1,600	1,601	+459	+386	+1
Executive secretariat	209	226	166	200	180	180	+14	−20	
Congressional legislative affairs	969	1,054	966	1,046	966	1,021	+55	−25	+55
Equal opportunity	1,800	1,700	1,193	1,302	1,302	1,294	+101	−8	−8
Field coordination	460	487	120	200	129	175	+55	−25	+46
Public affairs	838	898	624	700	675	700	+76		+25
Small and disadvantaged business utilization	375	437	427	374	374	374	−53		
Subtotal, departmental direction	5,977	6,212	4,638	5,037	5,226	5,345	+707	+308	+119
Program direction and coordination:									
A/S energy and minerals	892	892	726	775	775	775	+49		
A/S land and water resources	1,008	1,234	759	810	810	810	+51		
A/S fish and wildlife and parks	805	852	715	769	769	744	+29	−25	−25
A/S Indian affairs	1,642	911	697			754	+57	+754	+754
A/S territorial and international affairs			384			424	+40	+424	+424
A/S policy, budget and administration	724	788	691	755	755	755	+64		
Subtotal, program direction and coordination	5,071	4,677	3,972	3,109	3,109	4,262	+290	+1,153	+1,153

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Policy, budget and administration:									
Secretarial operations	1,205	1,361							
Environmental project review	1,083	960	945	1,067	1,467	1,042	+97	−25	−425
Acquisition and property management	9,764	891	1,158	1,368	1,300	1,320	+162	−48	+20
Personnel management	1,217	1,478	1,360	1,565	1,518	1,490	+130	−75	−28
Administrative services	1,356	1,202	2,856	3,141	2,900	3,066	+210	−75	+166
Information resources management	3,340	3,912	4,110	4,499	4,416	4,424	+314	−75	−8
Policy analysis	1,602	1,485	1,440	1,609	1,309	1,609	+169		+300
Budget Office	1,465	1,525	1,192	1,369	1,319	1,344	+152	−25	+25
Outer Continental Shelf program	493	495	483				−483		
Financial management			703	782	770	782	+79		+12
Subtotal, policy, budget and administration	21,525	13,309	14,247	15,400	14,999	15,077	+830	−323	+78
Inspector General	5,063								
Office of Water Policy			1,768	1,768			−1,768	−1,768	
Hearings and appeals	5,129	5,504	5,659	6,146	6,100	6,146	+487		−46
Minerals policy and research analysis	1,413	1,111	644				−644		
Aircraft services	1,324	1,421							
Endangered Species Committee	253	109	96				−96		
Central Services	5,000	6,812	8,969	11,062	10,641	10,982	+2,013	−80	+341
Alaska subsistence grant			960	1,000	1,000	1,000	+40		
SLUC Reduction					−479				+479
Advisory Committee on DC					−75				+75
Total, departmental management	50,755	39,155	40,953	43,522	40,521	42,812	+1,859	−710	+2,291
Office of Construction Management									
Salaries and expenses		8,789	3,840		1,000		−3,840		−1,000
Office of Inspector General									
Salaries and expenses		9,172	10,219	21,500	21,500	21,500	+11,281		
Office of Water Policy									
Salaries and expenses/Base program					7,768	7,978	+7,978	+7,978	+210
Youth Conservation Corps									
Base program		26,000							
Rural Water Treatment and Distribution System									
Planning and Construction		1,900							
Special Foreign Currency Program									
Contract research	1,000								
Total, Office of the Secretary	51,755	85,016	55,012	65,022	70,789	72,290	+17,278	+7,268	+1,501
Grand total, Department of the Interior	3,581,472	4,076,248	3,760,045	3,523,875	3,709,974	3,822,760	+62,715	+298,885	+112,786
TITLE II—RELATED AGENCIES									
DEPARTMENT OF AGRICULTURE									
FOREST SERVICE									
Forest Research									
Resource protection research:									
Fire and atmospheric science	9,764	10,343	8,869	7,217	8,317	8,167	−702	+950	−150
Forest insect and disease	21,780	24,480	20,572	19,897	21,247	21,178	+606	+1,281	−69
Renewable resource evaluation	13,933	15,547	13,208	11,160	12,210	11,910	−1,298	+750	−300
Renewable resource economics	5,167	6,004	4,735	4,345	4,895	5,091	+356	+746	+196
Surface environment and mining	1,659	2,218	1,836	1,331	2,028	1,331	−505		−697
Subtotal	52,303	58,592	49,220	43,950	48,697	47,677	−1,543	+3,727	−1,020
Resource management research:									
Trees and timber management	20,620	24,537	20,201	18,520	19,920	19,841	−360	+1,321	−79
Forest watershed management	9,952	10,461	9,437	8,178	9,428	9,028	−409	+850	−400
Wildlife, range and fish habitat	8,735	9,905	9,214	7,957	8,307	8,510	−704	+553	+203
Forest recreation	2,179	2,556	2,121	1,920	1,920	2,083	−38	+163	+163
Forest products utilization	15,342	18,575	17,288	14,813	15,563	14,813	−2,475		−750
Forest engineering	2,400	3,186	2,911	2,652	2,852	2,652	−259		−200
Subtotal	59,228	69,220	61,172	54,040	57,990	56,927	4,245	+2,887	−1,063
SLUC reduction					−335				+335
1982 Pay supplemental			1,753				−1,753		
Total, Forest research	111,531	127,812	112,145	97,990	106,352	104,604	−7,541	+6,614	−1,748
State and Private Forestry									
Cooperative resource protection:									
Forest pest management	20,778	22,702	22,169	16,790	23,690	27,640	+5,471	+10,850	+3,950
Rural fire control	22,464	19,984	14,076	14,380	14,380	14,380	+304		
Subtotal	43,242	42,686	36,245	31,170	38,070	42,020	+5,775	+10,850	+3,950
Cooperative resource management:									
Rural forestry assistance	13,500	17,773	16,204	12,375	13,375	13,375	−2,829	+1,000	
Urban forestry assistance	3,621	1,800	1,682		2,000	(1,000)	−1,682		−2,000
Assistance in management and technology	3,768	4,930	4,451	975	1,975	2,683	−1,768	+1,708	+708
Subtotal	20,889	24,503	22,337	13,350	17,350	16,058	−6,279	+2,708	−1,292
General forestry assistance:									
Gifford Pinchot Institute	578	580	470		400		−470		−400
Firsecope	2,429	2,000	922				−922		
Special projects	6,416	4,415	3,688	3,000	3,000	3,000	−688		
Subtotal	9,423	6,995	5,080	3,000	3,400	3,000	−2,080		−400

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
SLUC reduction					−50				+50
1982 Pay supplemental			486				−486		
Total, State and private forestry	73,554	74,184	64,148	47,520	58,770	61,078	−3,070	+13,558	+2,308
National Forest System									
Minerals and general land activities:									
Minerals	15,892	19,561	18,481	24,998	19,255	24,898	+6,417	−100	+5,643
Land management activities	23,515	24,536	20,401	17,903	19,903	17,903	−2,498		−2,000
Land line location	22,069	31,129	24,735	26,080	26,080	24,690	−55	−1,400	−1,400
Maintenance of facilities	13,001	14,867	11,717	13,661	13,663	13,663	+1,946		
Total	74,477	90,093	75,334	82,644	78,901	81,144	+5,810	−1,500	+2,243
Resource protection and maintenance:									
Fire protection	160,719	174,321	204,398	150,283	149,983	150,083	−54,315	−200	+100
Fire control	92,275	104,275	4,104	1,000	1,000	1,000	−3,104		
Cooperative law enforcement	4,606	5,184	3,697	5,150	5,150	5,150	+1,453		
Road maintenance	72,705	77,729	63,167	61,640	61,640	58,540	−4,627	−3,100	−3,100
Trail maintenance	11,733	14,452	10,719	7,785	9,785	7,785	−2,934		−2,000
Subtotal	342,038	375,961	286,085	225,858	227,558	222,558	−63,527	−3,300	−5,000
Timber sales:									
Timber resource planning	10,375	11,075	8,870	10,489	10,489	10,489	+1,619		
Silvicultural examination	22,909	25,171	20,160	24,095	24,095	22,995	+2,835	−1,100	−1,100
Sales preparation and harvest administration	145,544	161,591	129,422	153,746	118,248	131,946	+2,524	−21,800	+13,698
Subtotal	178,828	197,837	158,452	188,330	152,832	165,430	+6,978	−22,900	+12,598
Reforestation and stand improvement:									
Reforestation	54,831	58,585	57,730	61,894	61,894	61,894	+4,164		
Stand improvement	37,005	32,735	22,334	23,075	33,075	29,075	+6,741	+6,000	−4,000
Nurseries	9,686	13,538	14,273	15,156	15,156	15,156	+883		
Subtotal	101,522	104,858	94,337	100,125	110,125	106,125	+11,788	+6,000	−4,000
Recreation management:									
Recreation use	95,387	101,714	76,310	84,468	84,118	75,768	−542	−8,700	−8,350
Wilderness	5,526	7,170	5,900	6,509	6,509	6,509	+609		
Cultural resources	5,511	7,747	6,084	6,958	6,958	6,958	+874		
Subtotal	106,424	116,631	88,294	97,935	97,585	89,235	+941	−8,700	−8,350
Wildlife and fish habitat management:									
Wildlife and fisheries support	19,302	19,703	17,852	18,027	18,027	17,727	−125	−300	−300
Habitat improvement	20,471	21,998	14,550	14,493	14,493	14,493	−57		
Subtotal	39,773	41,701	32,402	32,520	32,520	32,220	−182	−300	−300
Range activities:									
Range management	32,159	30,232	22,823	23,191	23,266	23,191	+368		−75
Range improvements	3,528	3,690	2,715	700	700	3,715	+1,000	+3,015	+3,015
Wild horse and burro management	540	400	310	322	822	322	+12		−500
Noxious farm weed control	(1,625)	1,703	740	400	400	400	−340		
Subtotal	36,277	36,025	26,588	24,613	25,188	27,628	+1,040	+3,015	+2,440
Soil and water management:									
Soil and water support	19,264	19,682	19,278	18,333	19,333	18,333	−945		−1,000
Soil and water improvements	10,783	6,372	1,775	305	2,305	1,846	+71	+1,541	−459
Soil and water inventories	18,388	12,736	10,517	5,228	8,228	7,500	−3,017	+2,272	−728
Subtotal	48,435	38,790	31,570	23,866	29,866	27,679	−3,891	+3,813	−2,187
General administration			238,629	260,678	256,378	255,678	+17,049	−5,000	−700
SLUC reduction					−1,860				+1,860
1982 pay supplemental			18,813				−18,813		
Total, National Forest System	927,724	1,001,896	1,050,504	1,036,569	1,009,093	1,007,697	−42,807	−28,872	−1,396
Construction and Land Acquisition									
Facilities	33,765	22,030	17,645	21,066	26,447	21,066	+3,421		−5,381
Roads and trails:									
Direct road construction	163,342	183,441	232,917	271,575	196,575	251,875	+18,958	−19,700	+55,300
Trail construction	8,269	4,068	3,935	4,864	6,864	4,864	+929		−2,000
Subtotal	171,611	187,509	236,852	276,439	203,439	256,739	+19,887	−19,700	+53,300
SLUC reduction					−130				+130
Chugach payment			3,000			9,000	+6,000	+9,000	+9,000
1982 pay supplemental			3,598				−3,598		
Total, construction and land acquisition	205,376	209,539	261,095	297,505	229,756	286,805	+25,710	−10,700	+57,049
Timber Receipts Transfer									
Transfer to general fund			−78,700	(−64,515)	(−64,515)	(−64,515)	+78,700		
Timber Purchase Credits									
Road construction			(242,542)	(268,834)	(268,834)	(236,200)	(−6,342)	(−32,634)	(−32,634)
Youth Conservation Corps					20,000				−20,000
Land Acquisition									
Forest Service:									
Weeks Act					1,080				−1,080
Acquisitions		30,509	22,433	3,563	49,476	51,117	+28,684	+47,554	+1,641
Acquisition management		3,989	3,829	4,000	4,000	4,000	+171		
Total		34,498	26,262	7,563	54,556	55,117	+28,855	+47,554	+561

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Acquisition of Lands for National Forests, Special Acts									
Base program	325	754	724	753	753	753	+29		
Acquisition of Lands to Complete Land Exchanges									
Base program	284	446	314	147	147	147	−167		
Rangeland Improvements									
Base program	5,633	6,940	6,580	5,800	5,800	5,800	−780		
Miscellaneous Trust Fund									
Miscellaneous trust fund			84	90	90	90	+6		
Total, Forest Service	1,324,427	1,456,069	1,443,156	1,493,937	1,485,317	1,522,091	+78,935	+28,154	+36,774
DEPARTMENT OF ENERGY									
Release from energy security reserve	5,518,000	−300,000							
Fossil Energy Research and Development									
Coal:									
Mines R&D:									
Underground coal mining	35,709	28,169	10,512	1,000			−10,512	−1,000	
Surface coal mining	7,527	5,000							
Coal preparation	10,890	7,000	2,880		9,000	3,500	+620	+3,500	−5,500
Surface Mining and Reclamation Act	5,000								
Subtotal	59,126	40,169	13,392	1,000	9,000	3,500	−9,892	+2,500	−5,500
Liquefaction:									
Demonstration plants	36,000	57,000	11,808				−11,808		
Direct hydrogenation	64,500	57,000	22,080				−22,080		
Solvent extraction	30,000	32,000	28,800				−28,800		
Advanced process development	24,300	17,200	15,648	13,800	19,000	18,000	+2,352	+4,200	−1,000
Indirect liquefaction		12,000	11,520	8,400	12,600	12,600	+1,080	+4,200	
Support studies and engineering evaluations	13,806	9,297	8,256	4,000	6,000	5,000	−3,256	+1,000	−1,000
Subtotal	168,606	184,497	98,112	26,200	37,600	35,600	−62,512	+9,400	−2,000
Surface coal gasification:									
High Btu gasification	13,500	10,000	8,640				−8,640		
Low Btu gasification	14,900	19,000	14,592				−14,592		
Gasification demonstration plants	37,000	1,000							
Technical support	8,350	14,814	9,600				−9,600		
Pest gasification	3,000	13,000	3,840				−3,840		
Third generation processes	20,000	1,804	15,888				−15,888		
Special projects and support studies	1,000								
Advance process development				4,250	4,250	4,250	+4,250		
System engineering concepts				3,000	32,250	13,500	+13,500	+10,500	−18,750
Environmental and engineering analysis				3,250	7,500	7,500	+7,500	+4,250	
Subtotal	97,750	69,618	52,560	10,500	44,000	25,250	−27,310	+14,750	−18,750
In-situ coal gasification	9,900	9,960	7,968	700	6,000	6,000	−1,968	+5,300	
Advance research & technology development	42,500	46,483	46,752	17,000	33,900	28,700	−18,052	+11,700	−5,200
Advanced environmental control technology:									
Flue gas cleanup	20,050	15,000	6,240	3,000	7,000	6,500	+260	+3,500	−500
Gas stream cleanup	10,040	11,500	9,984	3,200	10,000	10,000	+16	+6,800	
Technology support	7,000	6,087	5,280	400	2,900	2,000	−3,280	+1,600	−900
Coal preparation and analysis				2,000				−2,000	
Subtotal	37,090	32,587	21,504	8,600	19,900	18,500	−3,004	+9,900	−1,400
Heat engines and heat recovery:									
Central power systems	24,800	22,268	8,736		4,600	3,750	−4,986	+3,750	−850
Dispersed power systems	13,000	6,900	6,240		2,000	1,250	−4,990	+1,250	−750
Heat recovery component technology	12,500	2,300							
Subtotal	50,300	31,468	14,976		6,600	5,000	−9,976	+5,000	−1,600
Combustion systems:									
Atmospheric fluidized beds	25,900	11,418	10,804			5,000	−5,804	+5,000	+5,000
(Effect of transfer of unobligated funds)			(1,100)				(−1,100)		
Pressurized fluidized beds	15,000	21,400	14,460	4,500	13,000	11,000	−3,460	+6,500	−2,000
(Effect of transfer of unobligated funds)			(10,500)				(−10,500)		
Advanced combustion technology	4,950		1,056		3,000		−1,056		−3,000
Alternate fuel utilization	2,500	4,550	4,224	2,000	4,000	2,000	−2,224		−2,000
Demonstration plants	2,500								
Subtotal	50,850	37,368	30,544	6,500	20,000	18,000	−12,544	+11,500	−2,000
Fuel cells	26,000	32,012	34,464	9,500	31,500	28,800	−5,664	+19,300	−2,700
Magnetohydrodynamics	79,000	66,533	21,840		31,000	27,000	+5,160	+27,000	−4,000
(Effect of fiscal year 1981 deferral)			(6,000)				(−6,000)		
Equipment not related to construction	3,000	4,600	3,648				−3,648		
University coal research	5,000	5,000	5,184				−5,184		
Subtotal, coal	629,122	560,295	350,944	80,000	239,500	196,350	−154,594	+116,350	−43,150
Petroleum:									
Enhanced oil recovery	22,600	16,158	15,456	5,300	6,500	6,500	−8,956	+1,200	
Oil shale	27,000	32,151	18,192	6,300	10,900	10,400	−7,792	+4,100	−500
Drilling and offshore technology	3,000	2,009							
Advanced process technology	5,500	3,528	3,552	3,500	5,000	5,000	+1,448	+1,500	
Equipment not related to construction	2,200	2,470	2,160				−2,160		
Subtotal, petroleum	60,300	56,316	39,360	15,100	22,400	21,900	−17,460	+6,800	−500
Gas:									
Enhanced gas recovery	29,910	30,098	8,520		14,900	13,900	+5,380	+13,900	−1,000
(Effect of fiscal year 1981 deferral)			(3,000)				(−3,000)		
Equipment not related to construction	400	500	192				−192		

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Subtotal, gas	30,310	30,598	8,712		14,900	13,900	+5,188	+13,900	−1,000
Headquarters program direction	124,444	12,708	14,016	9,000	9,000	9,000	−5,016		
Energy technology center program direction					31,400	26,500	+26,500	+26,500	−4,900
General reduction					−20,136	−20,136	−20,136	−20,136	
Total, fossil energy research and development	844,176	659,917	413,032	104,100	297,064	247,514	−165,518	+143,414	−49,550
(Effect of fiscal year 1981 deferral)			(9,000)				(−9,000)		
Fossil Energy Construction									
Solvent refined coal I demo plant (78–2–d)	40,000	157,500							
(Effect of fiscal year 1981 deferral)			(129,600)				(−129,600)		
Solvent Refined Coal II demo plant (79–1–r)	40,000	170,000							
High Btu gas demo plant (76–1–b)	27,000								
High Btu gas demo plant (77–1–b)									
High Btu gas demo plant (76–1–c)									
Renovation of South Wing Bartlesville (81–T–401)		1,200							
Surface water containment facility, Pittsburgh ETC			960				−960		
General plant projects	4,800	3,000	2,880				−2,880		
PFB-combined cycle pilot plant (80–FE–11)									
ETC (80–FE–3)		2,200							
Effect of fiscal year 1981 deferral									
Other projects	3,450			2,800				−2,800	
Total, fossil energy construction	115,250	333,900	3,840	2,800			−3,840	−2,800	
(Effect of fiscal year 1981 deferral)			(129,600)				(−129,600)		
(Reduction from prior years)	(12,000)								
Total, fossil energy	959,426	993,817	416,872	106,900	297,064	247,514	−169,358	+140,614	−49,550
Naval Petroleum and Oil Shale Reserves									
Coal	2,250	880							
Naval petroleum reserves Nos. 1 and 2	55,251	183,940	187,773	207,417	200,274	201,417	+13,644	−6,000	+1,143
Naval petroleum reserve No. 3	16,518	13,413	21,954	19,855	20,499	19,855	−2,099		−644
Program direction	741	893	957	5,138	1,137	5,138	+4,181		+4,001
Subtotal	72,510	198,246	210,684	232,410	221,910	226,410	+15,726	−6,000	+4,500
Shale oil development program:									
Shale reserves development	4,000	3,900	2,458	90	90	90	−2,368		
Oil shale commercialization	3,000	2,076							
Oil and gas development projects	9,305	5,467							
Federal buildings solar program	11,750	1,800							
Market analysis	6,000	500							
Program direction	736	795							
Federal leasing	2,150	2,775							
Total, naval petroleum and oil shale reserves	111,701	218,073	213,142	232,500	222,000	226,500	+13,358	−6,000	+4,500
Energy Conservation									
Buildings and community systems:									
Building systems	17,350	22,475	18,622		14,100	13,400	−5,222	+13,400	−700
Community systems	16,550	13,625	3,840		3,700	1,700	−2,140	+1,700	−2,000
Urban waste	13,000	5,590	4,800		3,000	3,000	−1,800	+3,000	
Technology and consumer products	700	20,100			10,600	11,000	+11,000	+11,000	+400
Technology and consumer products (effect of fiscal year 1981 deferral/transfer)			(10,560)				(−10,560)		
Analysis and technology transfer	5,400	3,800	960		1,000	1,000	+40	+1,000	
Appliance standards	6,000	6,000	1,632		1,700		−1,632		−1,700
Small business		100							
Federal energy management program	400	530	480		500	500	+20	+500	
Residential conservation service	4,600	11,200				3,400	+3,400	+3,400	+3,400
Residential conservation service (effect of fiscal year 1981 deferral/transfer)			(3,360)				(−3,360)		
Emergency building temperature restrictions	3,675	500							
Capital equipment	1,000	1,275	435				−435		
Program direction	5,137	6,778	2,976		2,500	2,500	−476	+2,500	
Subtotal, buildings and community systems	73,812	91,973	33,745		37,100	36,500	+2,755	+36,500	−600
(Effect of fiscal year 1981 deferral/transfer)			(13,920)				(−13,920)		
Industrial:									
Waste energy reduction	16,450	24,800	1,904		12,000	7,000	+5,096	+7,000	−5,000
(Effect of fiscal year 1981 deferral/transfer)			(10,000)				(−10,000)		
Industrial process efficiency	20,675	20,750	2,580		9,600	7,700	+5,120	+7,700	−1,900
(Effect of fiscal year 1981 deferral/transfer)			(5,100)				(−5,100)		
Industrial conservation	10,750	16,500			5,000	5,000	+5,000	+5,000	
(Effect of fiscal year 1981 deferral/transfer)			(4,800)				(−4,800)		
Implementation and commercialization	9,800	7,500	2,304		1,700	1,700	−604	+1,700	
Capital equipment	500	232							
Program direction	2,067	2,600	2,160		1,600	1,500	−660	+1,500	−100
Subtotal	60,242	72,382	8,948		29,900	22,900	+13,952	+22,900	−7,000
(Effect of fiscal year 1981 deferral/transfer)			(19,900)				(−19,900)		
Transportation:									
Vehicle propulsion	60,500	55,400	12,504		34,400	34,400	+21,496	+34,400	−400
(Effect of fiscal year 1981 deferral/transfer)			(−21,000)				(−21,000)		
Alternative fuels utilization	5,200	3,875	3,984		1,500	1,500	−2,484	+1,500	
Electric/hybrid vehicle program	37,000	36,820	18,816		13,500	12,900	−5,916	+12,900	−600
Transportation utilization programs	6,700	4,900	960				−960		
Advanced material development					2,000	1,500	+1,500	+1,500	−500
Capital equipment	1,100	1,125	240				−240		
Program direction	2,923	2,930	1,440		1,500	1,400	−40	+1,400	−100
Subtotal	113,423	105,050	37,944		52,900	51,300	+13,356	+51,300	−1,600
(Effect of fiscal year 1981 deferral/transfer)			(21,000)				(−21,000)		
State/local programs:									
Emergency energy conservation program	1,500	2,000	1,920				−1,920		
Energy policy and conservation grants (EPCA)	37,800	37,800	15,900		30,000	8,000	−7,000	+8,000	−22,000
(Effect of fiscal year deferral/transfer)			(9,000)			(10,000)	(+1,000)	(+10,000)	(+10,000)
Energy conservation and production grants (ECPA)	10,000	10,000							

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Energy extension service	25,000	20,000			10,000	10,000	+10,000	+10,000	
(Effect of fiscal year 1981 deferral/transfer)			(9,600)				(−9,600)		
Schools and hospitals	161,450	150,000			60,000	26,000	+26,000	+26,000	−34,000
(Effect of fiscal year deferral/transfer)			(48,000)			(14,000)	(−34,000)	(+14,000)	(+14,000)
Weatherization	198,950	175,000	32,893		83,500	85,000	+53,107	+85,000	+1,500
(Effect of fiscal year deferral/transfer)			111,107		(64,000)	(29,000)	(−84,107)	(+29,000)	(−35,000)
Program direction	6,836	9,862	6,720	4,260	6,660	5,600	−1,120	+1,340	−1,060
Subtotal	441,536	404,662	56,533	4,260	190,160	134,600	+78,067	+130,340	−55,560
(Effect of fiscal year deferral/transfer)			(177,707)		(64,000)	(53,000)	(−124,707)	(+53,000)	(−11,000)
Multi Sector:									
Energy conversion technology		8,000		15,812	9,000	9,000	+9,000	−6,812	
(Effect of fiscal year 1981 deferral/transfer)			(7,843)				(−7,843)		
Inventors program	6,420	5,800	4,784		4,000		−4,784		−4,000
(Effect of fiscal year 1981 deferral/transfer)			(400)				(−400)		
Energy impact assistance	43,000	10,000				8,500	+8,500	+8,500	+8,500
Appropriate technology	12,000	12,000	2,880		1,500	1,500	−1,380	+1,500	
Capital equipment			384				−384		
Program direction	635	700	182	1,730	230	230	+48	−1,500	
Subtotal, multi sector	62,055	36,500	8,230	17,542	14,730	19,230	+11,000	+1,688	4,500
(Effect of fiscal year deferral/transfer)			(8,243)				−8,243		
Feasibility studies		4,590							
General reduction, bu transfer					−7,000				+7,000
Total, energy conservation	751,068	715,157	145,400	21,802	317,790	264,530	+119,130	+242,728	−53,260
Effect of fiscal year 1981 deferrals)			(67,762)				(−67,762)		
(Effect of transfers)			(173,008)		(64,000)	(24,000)	(−149,008)	(+24,000)	(−40,000)
Economic Regulatory Administration									
Fuels conversion	25,938	24,383			2,500	2,000	+2,000	+2,000	−500
Fuels conversion									
(Effect of fiscal year 1981 deferral)			(4,800)				(−4,800)		
Utility programs and regulatory intervention:									
Utility regulatory assistance	29,129	17,844							
Power supply & reliability			4,800				−4,800		
Intervention									
Compliance:									
Major refiners	39,867	39,177	5,200	4,050	5,550	8,050	+2,850	+4,000	+2,500
(Effect of fiscal year 1981 deferral)			(16,400)			(500)	(−15,900)	(+500)	(+500)
All other	30,473	31,742		9,450	9,450	9,450	+9,450		
All other									
(Effect of fiscal year 1981 deferral)			(12,000)				(−12,000)		
Subtotal	70,340	70,919	5,200	13,500	15,000	17,500	+12,300	+4,000	+2,500
(Effect of fiscal year 1981 deferral)			(33,200)			(500)	(−32,700)	(+500)	(+500)
Petroleum operations	13,063	14,017	3,456	2,268	2,268	2,268	−1,188		
Emergency preparedness	3,910	1,159	1,920	5,440	5,440	5,440	−3,520		
Gasoline rationing		25,500							
Office of Hearings and Appeals	5,942	8,267	4,800	5,500	5,250	5,250	+450	−250	
Program administration	2,633	3,623	1,240	618	648	648	−592		
(Effect of fiscal year 1981 deferral)			(5,000)		(3,000)	(2,500)	(−2,500)	(+2,500)	(−500)
Total, ERA	150,955	165,712	21,416	27,356	31,106	33,106	+11,690	+5,750	+2,000
(Effect of fiscal year 1981 deferral)			(38,200)		(3,000)	(3,000)	(−35,200)	(+3,000)	
Strategic Petroleum Reserve									
Petroleum acquisition and transportation		2,688,282							
Planning		8,000	8,640				−8,640		
(Effect of 1983 continuing resolution)				(8,000)	(8,000)	(8,000)	(+8,000)		
Storage facilities development		82,834	171,356				−171,356		
(Effect of 1983 continuing resolution)				(222,528)	(222,528)	(222,528)	(+222,528)		
Program administration	190	11,391	11,436				−11,436		
(Effect of 1983 continuing resolution)				(11,590)	(11,590)	(11,590)	(+11,590)		
Total, strategic petroleum reserve	190	2,790,507	191,432				−191,432		
(Total, effect of 1983 continuing resolution)				(242,118)	(242,118)	(242,118)	(+242,118)		
SPR Petroleum Account									
Petroleum acquisition and transportation			(3,684,000)	(2,074,060)	(2,074,060)	(2,074,060)	(−1,609,940)		
Entitlements, fiscal year 1981									
Entitlements, fiscal year 1982									
Energy Information Administration									
Energy applied analysis	10,328	9,636	7,680				−7,680		
Collection, production, and dissemination	38,346	40,618	38,969				−38,969		
Data validation	13,915	−55	2,880				−2,880		
Data information services	28,184	40,198	29,390				−29,390		
Collection, production, and analysis				34,639	39,033	34,639	+34,639		−4,394
Program services				13,162	13,524	13,162	+13,162		−362
Policy and management				6,699	6,243	6,699	+6,699		+456
Total, Energy Information Administration	90,773	90,417	78,919	54,500	58,800	54,500	−24,419		−4,300
Total, Department of Energy	7,582,113	4,673,683	1,067,181	443,058	926,760	826,150	−241,031	+383,092	−100,610
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
HEALTH SERVICES ADMINISTRATION									
Indian Health Services									
Clinical services:									
IHS and tribal health delivery									
Hospital and health clinic programs	323,475	302,568	305,339	323,120	325,565	325,410	+20,071	+2,290	−155
Dental health program	15,364	16,563	17,884	19,880	20,431	19,880	+1,996		−551
Mental health program	7,598	7,080	7,488	8,077	8,240	8,077	+589		−163
Alcoholism program	11,934	15,237	16,290	20,207	21,907	20,207	+3,917		−1,700
Maintenance and repair	8,732	8,611	8,267	8,267	8,267	8,267			
Contract care	95,418	107,465	110,427	130,547	130,547	130,547	+20,120		
Subtotal, clinical services	462,521	457,524	465,695	510,098	514,957	512,388	+46,693	+2,290	−2,569

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Preventive health:									
Sanitation	14,416	14,340	14,090	15,131	15,566	15,131	+1,041	.....	−435
Public health nursing	7,441	7,592	7,949	8,324	8,480	8,324	+355	.....	−156
Health education	1,938	2,009	2,194	2,293	2,374	2,293	+99	.....	−81
Community health representation program	33,452	36,295	28,800	.....	23,000	25,000	−3,800	+25,000	+2,000
Immunization	.....	.....	.....	.....	.....	500	+500	+500	+500
Subtotal, preventative health	57,247	60,236	53,053	25,748	49,420	51,248	−1,805	+25,500	+1,828
Urban health projects	8,000	8,900	8,160	.....	8,000	654	−7,506	+654	−7,346
Indian health manpower	6,688	5,688	5,760	4,044	6,044	4,044	−1,716	.....	−2,000
Tribal management	2,968	3,029	2,634	2,634	2,634	2,634	.....	.....	.....
Program management	51,274	50,886	48,851	51,264	49,758	50,264	+1,413	−1,000	+506
Equity health care fund	.....	7,856	15,492	19,492	19,492	17,492	+2,000	2,000	−2,000
Pay supplemental	.....	12,556	.....	.....	.....	.....	.....	.....	.....
Reduction offset by medicare/medicaid collections	.....	.....	−4,800	.....	−5,000	−15,000	−10,200	−15,000	−10,000
Medicare/medicaid reimbursements:									
Hospital and clinic accreditation	(20,000)	.....	(25,000)	(30,000)	(25,000)	(15,000)	(−10,000)	(−15,000)	(−10,000)
Indian health services	.....	.....	(5,000)	.....	(5,000)	(15,000)	(+10,000)	(+15,000)	(10,000)
Subtotal	(20,000)	.....	(30,000)	(30,000)	(30,000)	(30,000)	.....	.....	.....
Total: Indian Health Services	588,698	606,675	594,845	613,280	645,305	623,724	+28,879	+10,444	−21,581
Indian Health Facilities									
Hospitals:									
New and replacement	8,000	25,693	9,531	.....	6,424	6,700	−2,831	+6,700	+276
Modernization and repair	1,600	3,300	192	.....	.....	.....	−192	.....	.....
Subtotal, hospitals	9,600	28,993	9,723	.....	6,424	6,700	−3,023	+6,700	+276
Outpatient care facilities	7,595	4,456	9,613	.....	.....	.....	−9,613	.....	.....
Sanitation facilities	50,240	50,240	38,680	.....	15,425	10,050	−28,630	+10,050	−5,375
Hospital and health clinic programs									
Personnel quarters	6,867	780	336	.....	15,386	14,000	+13,664	+14,000	−1,386
Total, Indian health facilities	74,302	84,469	58,352	.....	37,235	30,750	−27,602	+30,750	−6,485
Total, Indian health	663,000	691,144	653,197	613,280	682,540	654,474	+1,277	+41,194	−28,066
DEPARTMENT OF EDUCATION									
Indian Education									
Part A–Payments to school districts	52,000	58,250	54,960	35,465	46,965	49,614	−5,346	+14,149	+2,649
Part B–Special projects for Indian students	15,600	14,500	14,880	9,600	12,600	10,320	−4,560	+720	−2,280
Part C–Special projects for Indian adults	5,830	5,430	5,213	3,365	3,365	3,593	−1,620	+228	+228
Administration	2,470	3,500	2,799	2,689	2,589	2,689	−110	.....	+100
Total, Indian education	75,900	81,680	77,852	51,119	65,519	66,216	−11,636	+15,097	+697
NAVAHO/HOPI INDIAN RELOCATION COMMISSION									
Salaries and Expenses									
Operation of the Commission	985	2,680	10,062	13,403	9,359	7,665	−2,397	−5,738	−1,694
1981 pay supplemental	.....	57	.....	.....	.....	.....	.....	.....	.....
Total, Navaho/Hopi Commission	985	2,737	10,062	13,403	9,359	7,665	−2,397	−5,738	−1,694
SMITHSONIAN INSTITUTION									
Salaries and Expenses									
Science:									
Assistant Secretary for Science	301	328	326	357	357	357	+31	.....	.....
National Museum of Natural History	14,462	15,677	15,738	17,023	17,088	16,962	+1,224	−61	−126
Astrophysical Observatory	5,028	5,370	5,563	6,058	6,058	6,667	+1,104	+609	+609
Tropical Research Institute	2,257	2,773	2,733	3,023	3,023	3,012	+279	−11	−11
Radiation Biology Laboratory	1,837	1,999	1,938	2,090	2,090	2,090	+152	.....	.....
National Air and Space Museum	5,597	6,152	6,514	7,160	7,160	7,098	+584	−62	−62
Chesapeake Bay Center	744	869	906	969	969	969	+63	.....	.....
National Zoological Park	8,521	9,221	9,158	9,855	9,855	9,809	+651	−46	−46
Center for the Study of Man	575	603	713	762	762	.....	−713	−762	−762
Subtotal, science	39,322	42,992	43,589	47,297	47,362	46,964	+3,375	−333	−398
History and art:									
Assistant Secretary for History and Art	317	351	346	369	369	369	+23	.....	.....
National Museum of American History	7,177	8,072	7,977	8,604	8,664	8,568	+591	−36	−96
National Museum of American Art	3,371	3,557	3,805	4,139	4,209	4,122	+317	−17	−87
National Portrait Gallery	2,442	2,613	2,712	2,983	3,033	2,965	+253	−18	−68
Hirshhorn Museum and Sculpture Garden	2,200	2,431	2,421	2,658	2,728	2,653	+232	−5	−75
Freer Gallery of Art	656	723	826	918	918	897	+71	−21	−21
Archives of American Art	521	542	632	675	675	675	+43	.....	.....
Cooper-Hewitt Museum	629	702	738	814	814	814	+76	.....	.....
Museum of African Art	543	621	768	859	859	846	+78	−13	−13
Subtotal, History and Art	17,856	19,616	20,225	22,019	22,269	21,909	+1,684	−110	−360
Public service:									
Assistant Secretary for Public Service	262	259	317	341	341	341	+24	.....	.....
Anacostia Neighborhood Museum	567	529	726	773	773	773	+47	.....	.....
International Exchange Service	323	346	230	245	245	245	+15	.....	.....
Division of Performing Arts	331	387	444	478	478	478	+34	.....	.....
Smithsonian Institution Press	819	847	913	968	968	968	+55	.....	.....
Subtotal, public service	2,302	2,368	2,630	2,805	2,805	2,805	+175	.....	.....
Museum programs:									
Assistant secretary for museum programs	2,316	747	714	765	765	765	+51	.....	.....
Office of the Register	115	126	132	140	140	140	+8	.....	.....

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Conservation-Analytical Laboratory	654	788	826	893	893	893	+67		
Smithsonian Institution libraries	2,730	2,976	3,130	3,400	3,925	3,389	+259	−11	−536
Office of Exhibits Central	1,259	1,312	1,350	1,457	1,457	1,448	+98	−9	−9
Traveling Exhibition Service	161	192	250	271	271	271	+21		
Smitsonian archives	367	430	407	464	464	464	−57		
National Museum Act	794	795	779	782	782		−779	−782	−782
Subtotal, museum programs	8,396	7,366	7,588	8,172	8,697	7,370	−218	−802	−1,327
Special programs:									
American and folklore studies	447	534	567	608	608	608	+41		
International environmental science program	408	468	601	643	643	643	+42		
Academic and educational programs	478	562	599	637	637	637	+38		
Major exhibition program		739	840	840	840	840			
Collections management inventory	543	587	760	785	785	785	+25		
Museum support center equipment	195	2,767	4,496	6,707	7,707	6,207	+1,711	−500	−1,500
JFK Center trustee grant					1,000				−1,000
Subtotal, special programs	2,071	5,657	7,863	10,220	12,220	9,720	−1,857	−500	−2,500
Administration	7,781	8,718	9,123	10,086	10,332	10,042	+919	−44	−290
Support activities:									
Office of Facilities Planning and Engineering Services	948	1,096	1,427	1,557	1,577	1,557	+110	−20	−20
Office of Protection Services	10,471	11,603	11,610	14,242	14,962	12,954	+1,344	−1288	−2,008
Office of Plant Services	18,315	22,813	24,415	27,712	27,212	26,948	+2,533	−764	−264
Subtotal, support activities	29,734	35,512	37,452	43,511	43,731	41,439	+3,987	−2,072	−2,292
1982 pay supplemental			2,700				−2,700		
BLUC reduction					+140				+140
Total, salaries and expenses	107,462	122,229	131,170	144,110	147,276	140,249	+9,079	−3,861	−7,027
Special Foreign Currency Program									
Grant program	4,200	3,650	4,320	2,000	2,000	2,000	−2,320		
Construction and Improvements, National Zoological Park									
Base program	6,250	3,290	1,104	1,550	1,550	1,550	+446		
Restoration and Renovation of Building									
Base program	5,250	7,539	7,680	8,450	8,450	7,450	−230	−1,000	−1,000
Construction									
Museum Support Center	20,600	5,000							
South Quadrangle development			960				−960		
(Effect of 1983 continuing resolution)				(36,500)	(36,500)	(36,500)	(+36,500)		
Total, construction and improvements	32,100	15,829	9,744	10,000	10,000	9,000	−744	−1,000	−1,000
(Total, effect of 1983 continuing resolution)				(36,500)	(36,500)	(36,500)	(+36,500)		
Total, Smithsonian	143,762	141,708	145,234	156,110	159,276	151,249	+6,015	−4,861	−8,027
NATIONAL GALLERY OF ART									
Salaries and Expenses									
Care and utilization of art collections	6,847	7,683	8,428	8,973	8,523	8,921	+493	−52	398
Operation and maintenance of buildings and grounds	8,420	9,825	14,207	15,495	17,578	15,208	+1,001	−287	−2,370
Protection of buildings, grounds, and contents	4,168	4,522	4,539	5,358	5,891	5,291	+752	−67	−600
General administration	2,156	2,284	2,641	2,847	2,847	2,808	+167	−39	−39
1981 pay supplemental		337							
Total, National Gallery of Art	21,591	24,651	29,815	32,673	34,839	32,228	+2,413	−445	−2,611
Woodrow Wilson International Center for Scholars									
Salaries and Expenses									
Fellowship program	875	962	968	1,085	1,085	1,176	+208	+91	+91
Scholar support	150	155	171	217	217	217	+217		
Public services	192	192	218	367	367	367	+149		
General administration	374	396	467	511	511	511	+44		
Building requirements	30	90	48	75	75	50	+2	−25	−25
Pay supplemental		35	25				−25		
Total, Woodrow Wilson Center	1,621	1,830	1,897	2,255	2,255	2,321	+424	+66	+66
Memorial to Hale Boggs		7							
NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES									
National Endowment for the Arts									
Salaries and Expenses									
Artists-in-schools	5,220	5,302	4,872	3,333	4,840	4,840	−32	+1,507	
Dance	7,338	8,309	7,672	5,299	8,670	8,670	+998	+3,371	
Design arts	3,594	5,147	4,595	3,132	4,240	4,240	−355	+1,108	
Expansion arts	7,921	8,297	7,023	5,147	8,060	8,060	+1,037	+2,913	
Fellows	134	175	97	100	100	100	+3		
Folk arts	2,260	3,005	2,716	2,334	2,830	2,830	+114	+496	
Inter arts	3,334	4,781	4,758	3,134	3,730	3,730	−1,028	+596	
International	272	314	121	50	50	50	−71		
Literature	4,727	4,837	4,317	3,630	4,340	4,340	+23	+710	
Media arts	7,207	10,564	9,247	5,447	8,370	8,370	−877	+2,923	
Museums	9,844	11,522	10,371	6,843	9,270	9,270	−1,101	+2,427	
Music	6,572	9,125	9,404	5,651	9,370	9,370	−34	+3,719	
Opera/musical theatre	2,097	2,545	2,913	1,764	2,830	2,830	−83	+1,066	
Special constituencies	219	176	242	50	50	50	−192		
State programs	22,970	23,721	21,285	14,528	21,075	21,075	−210	+6,547	
Theatre	5,264	7,829	6,651	4,092	7,050	7,050	+399	+2,958	
Visual arts	7,143	7,262	6,561	5,072	6,050	6,050	−511	+978	
Research	884	1,049	485	150	750	750	+265	+600	
Total, regular programs	97,000	113,960	103,330	69,756	101,675	101,675	−1,655	+31,919	

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
Administration	12,210	11,900	10,910	12,600	12,600	12,600	+1,690		
Pay supplement		235	170				−170		
Moving expenses			246				−246		
Total, salaries and expenses	109,210	126,095	114,656	82,356	114,275	114,275	−381	+31,919	
Matching Grants									
Matching grants	18,500	19,250	14,400	11,155	11,200	11,200	−3,200	+45	
Challenge grants	26,900	13,450	14,400	7,364	18,400	18,400	+4,000	+11,036	
Total, matching grants	45,400	32,700	28,800	18,519	29,600	29,600	+800	+11,081	
Total, arts	154,610	158,795	143,456	100,875	143,875	143,875	+419	+43,000	
National Endowment for the Humanities									
Salaries and Expenses									
State programs	22,500	23,947	20,329	13,200	20,329	20,329		+7,129	
Public programs:									
Media grants	9,832	9,500	8,447	4,200	8,447		−8,447	−4,200	−8,447
Museums and historical organizations	8,025	8,500	6,912	3,600	6,912		−6,912	−3,600	−6,912
Public libraries	3,443	3,450	1,650	500	2,650		−2,650	−500	−2,650
Subtotal	21,300	21,450	18,009	8,300	18,009		−18,009	−8,300	−18,009
Education programs						14,301	+14,301	+14,301	+14,301
Institutional grants	6,759	7,170	5,795	4,850	5,795		−5,795	−4,850	−5,795
Higher education/regional and national	5,225	5,100	3,802	2,800	3,802		−5,802	−2,800	−3,802
Elementary and secondary	4,499	4,500	4,704	3,050	4,704		−4,704	−3,050	−4,704
Subtotal	16,483	16,770	14,301	10,700	14,301	14,301		+3,601	
Fellowships and seminars						13,405	−13,405	+13,405	+13,405
Endowment fellowships	6,997	7,200	6,029	5,350	6,279		−6,029	−5,350	−6,279
Other study programs	7,803	8,605	7,376	3,850	7,126		−7,376	−3,850	−7,126
Subtotal	14,800	15,805	13,405	9,200	13,405	13,405		+4,205	
Research grants	14,717	18,000	15,705	13,000	15,705	16,555	+850	+3,555	+850
Special programs:									
Special projects	10,025	9,700	7,953	4,100	7,953		−7,953	−4,100	−7,953
Plannings and analysis	475	850	730	500	730		−730	−500	−730
Subtotal	10,500	10,550	8,683	4,600	8,683		−8,683	−4,600	−8,683
General programs						25,112	+25,112	+25,112	+25,112
Planning and assessment						730	+730	+730	+730
Subtotal, program funds	100,300	106,522	90,432	59,000	90,432	90,432		+31,432	
Administration	11,400	11,277	11,328	12,200	12,200	11,700	+372	−500	−500
Total, salaries and expenses	111,700	117,799	101,760	71,200	102,632	102,132	+372	+30,932	−500
Matching Grants									
Matching grants	11,400	9,500	8,064	9,200	8,064	11,064	+3,000	+1,864	+3,000
Challenge grants	27,000	24,000	20,736	15,600	19,864	16,864	−3,872	+1,264	−3,000
Total, matching grants	38,400	33,500	28,800	24,800	27,928	27,928	−872	+3,128	
Total, humanities	150,100	151,299	130,560	96,000	130,560	130,060	−500	+34,060	−500
Total, National Endowment for the Arts	304,710	310,094	274,016	196,875	274,435	273,935	−81	+77,060	−500
Institute of Museum Services									
Grants to museums:									
Operating support grants	9,500	11,300	10,157		10,154	10,154	−3	+10,154	
Special project grants	900	967	720				−720		
Museum services board	16	70	67		70	70	+3	+70	
Subtotal	10,416	12,337	10,944		10,224	10,224	−720	+10,224	
Program Administration	440	520	576		576	576		+576	
Total, Institute of Museum Services	10,856	12,857	11,520		10,800	10,800	−720	+10,800	
Total, National Foundation on the Arts and the Humanities	315,566	322,951	285,536	196,875	285,235	284,735	−801	+87,860	−500
COMMISSION OF FINE ARTS									
Salaries and Expenses									
Base programs	268	285	291	319	319	319	+28		
Pay supplemental		13	12				−12		
Total, Commission of Fine Arts	268	298	303	319	319	319	+16		
ADVISORY COUNCIL ON HISTORIC RESERVATION									
Salaries and Expenses									
Advisory services		1,523	1,567	1,000	1,600	1,000	−567		−600
Pay supplemental		67							
NATIONAL CAPITAL PLANNING COMMISSION									
Salaries and Expenses									
Base program	2,150	2,270	2,267	2,202	2,279	2,279	+12	+77	
Pay supplemental		130							
FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION									
Salaries and Expenses									
Base program	40	30	29				−29		

INTERIOR SUPPORT TABLE—Continued

[In thousands of dollars; by fiscal year]

	New budget authority			President's estimates	New budget authority		Senate compared to		
	Actual 1980	Actual 1981	Enacted 1982	1983	House 1983	Senate 1983	1982	1983	House bill
PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION									
Salaries and Expenses									
Salaries and expenses	1,906	2,443	2,246	2,250	2,350	2,425	+179	+175	+75
Pay supplemental			48				−48		
Total, salaries and expenses	1,906	2,443	2,294	2,250	2,350	2,425	+131	+175	+75
Land Acquisition and Development (Borrowing Authority)									
Property acquisition	8,470	15,000	2,400	1,200	1,200		−2,400	−1,200	−1,200
Public Development									
Relocation assistance	703	800							
Public improvements	11,214	7,900	12,282	6,800	6,800	6,800	−5,482		
Historic preservation	7	2,048							
Program support costs	6,686	3,421	1,350	1,950	1,950	1,950	+600		
Total, public development	18,610	14,169	13,632	8,750	8,750	8,750	−4,882		
Total, Pennsylvania Avenue Development Corporation	28,986	31,612	18,326	12,200	12,300	11,175	−7,151	−1,025	−1,125
FEDERAL INSPECTOR FOR ALASKA GAS PIPELINE									
Permitting and Enforcement									
Base program	7,900	21,483	27,425	7,125	6,125	6,125	−21,300	−1,000	
Holocaust Memorial Council									
Salaries and expenses		722	768	820	820	820	+52		
Pay supplemental			17				−17		
Total Holocaust Memorial Council		722	785	820	820	820	+35		
Native Hawaiian Study Commission									
Salaries and expenses (effect of continuing resolution)				(200)	(190)	(190)	(+190)	(−10)	
EXECUTIVE OFFICE OF THE PRESIDENT									
Maintenance of White House grounds					2,005				−2,005
Total, title II, related agencies	10,168,309	7,454,595	3,764,632	3,026,376	3,676,548	3,568,847	−195,785	+542,471	−107,701
Bill total	13,749,781	11,530,843	7,524,677	6,550,251	7,386,522	7,391,607	−133,070	+841,356	+5,085
TITLE I—DEPARTMENT OF THE INTERIOR									
Bureau of Land Management	536,940	585,517	601,211	451,319	489,225	513,271	−87,940	+61,952	+24,046
Office of Water Research and Technology									
Fish and Wildlife Service	287,056	287,630	260,856	233,194	307,334	265,213	+4,357	+32,019	−42,121
National Park Service	501,712	863,753	770,781	743,434	942,553	853,321	+82,540	+109,887	−89,232
Geological Survey	645,489	623,057	509,983	376,820	371,925	358,765	−151,218	−18,055	−13,160
Mineral Management Service				196,506	20,778	196,506	+196,506		+175,728
Bureau of Mines	134,033	142,319	150,602	125,676	128,629	142,162	−8,440	+16,486	+13,533
Office of Surface Mining Reclamation and Enforcement	179,603	172,164	173,848	159,822	187,922	216,468	+42,620	+56,646	+28,546
Bureau of Indian Affairs	1,018,337	1,126,447	1,015,360	1,022,035	1,021,072	1,005,424	−9,936	−16,611	−15,648
Territorial Affairs	210,081	172,437	194,006	130,976	151,843	180,269	−13,737	+49,293	+28,426
Office of the Solicitor	16,466	17,908	17,750	19,071	17,904	17,071	+1,321		+1,167
Office of the Secretary	51,755	85,016	55,012	65,022	70,789	72,290	+17,278	+7,268	+1,501
Total, Title I—Department of the Interior	3,581,472	4,076,248	3,760,045	3,523,875	3,709,974	3,822,760	+62,715	+298,885	+112,786
TITLE II—RELATED AGENCIES									
Forest Service	1,324,427	1,456,069	1,443,156	1,493,937	1,485,317	1,522,091	+78,935	+28,154	+36,774
Department of Energy	(7,582,113)	(4,673,683)	(1,067,181)	(443,058)	(926,760)	(826,150)	(−241,031)	(+383,092)	(−100,610)
Fossil Energy	959,426	993,817	416,872	106,900	297,064	247,514	−169,358	+140,614	−49,550
Naval Petroleum and Oil Shale Reserve	111,701	218,073	213,142	232,500	222,000	226,500	+13,358	−6,000	+4,500
Energy Conservation	751,068	715,157	145,400	21,802	317,790	264,530	+119,130	+242,728	−53,260
Economic Regulatory Administration	150,955	165,712	21,416	27,356	31,106	33,106	+11,690	+5,750	+2,000
Strategic Petroleum Reserve	190	2,790,507	191,432				−191,432		
(Effect of fiscal year 1983 continuing resolution Public Law 97–276)				(242,118)	(242,118)	(242,118)	(+242,118)		
SPR petroleum account			(3,684,000)	(2,074,060)	(2,074,060)	(2,074,060)	(−1,609,940)		
Energy Information Administration	90,773	90,417	78,919	54,500	58,800	54,500	−24,419		−4,300
Indian Health	663,000	691,144	653,197	613,280	682,540	654,474	+1,277	+41,194	−28,066
Indian Education	75,900	81,680	77,852	51,119	65,519	66,216	−11,636	+15,097	+697
Navajo and Hopi Indian Relocation Commission	985	2,680	10,062	13,403	9,359	7,665	−2,397	−5,738	−1,694
Smithsonian	143,762	141,708	145,234	156,110	159,276	151,249	+6,015	−4,861	−8,027
National Gallery of Art	21,591	24,651	29,815	32,673	34,839	32,228	+2,413	−115	−2,611
Woodrow Wilson International Center for Scholars	1,621	1,830	1,897	2,255	2,255	2,321	+424	+66	+66
Memorial to Hale Boggs		7							
National Endowment for the Arts	154,610	158,795	143,456	100,875	143,875	143,875	+419	+43,000	
National Endowment for the Humanities	150,100	151,299	130,560	96,000	130,560	130,060	−500	+34,060	−500
Institute of Museum Services	10,856	12,857	11,520		10,800	10,800	−720	+10,800	
Commission of Fine Arts	268	298	303	319	319	319	+16		
Advisory Council on Historic Preservation		1,523	1,567	1,000	1,600	1,000	−567		−600
National Capital Planning Commission	2,150	2,270	2,267	2,202	2,279	2,279	+12	+77	
Franklin Delano Roosevelt Memorial Commission	40	30	29				−29		
Pennsylvania Avenue Development Corporation	28,986	31,612	18,326	12,200	12,300	11,175	−7,151	−1,025	−1,125
Federal Inspector for the Alaska Pipeline	7,900	21,483	27,425	7,125	6,125	6,125	−21,300	−1,000	
Holocaust Memorial Council		722	785	820	820	820	+35		
Native Hawaiian Study Commission				(200)	(190)	(190)	(+190)	(−10)	
Executive Office of the President					2,005				−2,005
Total, title II—related agencies	10,168,309	7,454,595	3,764,632	3,026,376	3,676,548	3,568,847	−195,785	+542,471	−107,701
Bill total	13,749,781	11,530,843	7,524,677	6,550,251	7,386,522	7,391,607	−133,070	+841,356	+5,085
Effect of fiscal year 1983 continuing resolution Public Law 97–276				278,818	278,808	278,808	+278,808	−10	
Grand total	13,749,781	11,530,843	7,524,677	6,829,069	7,665,330	7,670,415	+145,738	+841,346	+5,085

HOUSE OF REPRESENTATIVES—*Thursday, December 9, 1982*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We recognize, O God, that the options in life are uncertain, and yet demands for action are made on every side. We admit that while we speak of truth and long for unity, our world offers a setting where ambiguity is the daily path, and even our motivations are blended with good and evil. Keep us, we pray, from a spirit of despair, and arm us with Your vision of a new and brighter world, that with a steadfast faith we will ever go forward to seek a world of justice and peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DANNEMEYER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 340, nays 18, not voting 75 as follows:

[Roll No. 426]

YEAS—340

Addabbo	Bennett	Burton, Phillip
Akaka	Bereuter	Byron
Albosta	Bevill	Campbell
Anderson	Biaggi	Carman
Andrews	Bliley	Carney
Annunzio	Boggs	Chappell
Anthony	Boland	Cheney
Applegate	Boner	Clausen
Archer	Bonior	Clinger
Ashbrook	Bonker	Coats
Aspin	Bouquard	Coelho
AuCoin	Bowen	Coleman
Badham	Breaux	Collins (IL)
Bailey (MO)	Brinkley	Collins (TX)
Bailey (PA)	Brodhead	Conable
Barnard	Brooks	Corcoran
Barnes	Brown (CA)	Coughlin
Bedell	Brown (CO)	Courter
Beilenson	Broyhill	Coyne, James
Benedict	Burgener	Coyne, William
Craig	Hightower	Parris
Crane, Daniel	Hiler	Pashayan
Crane, Philip	Hillis	Patman
Daniel, Dan	Hollenbeck	Patterson
Daniel, R. W.	Hopkins	Paul
Dannemeyer	Horton	Pease
Daschle	Howard	Pepper
Daub	Hoyer	Perkins
Davis	Hubbard	Petri
de la Garza	Huckaby	Peyser
Dellums	Hughes	Pickle
Derrick	Hutto	Porter
Dicks	Hyde	Price
Dixon	Ireland	Pritchard
Donnelly	Jeffords	Pursell
Dorgan	Jenkins	Quillen
Dowdy	Jones (NC)	Rahall
Downey	Jones (OK)	Railsback
Dreier	Jones (TN)	Rangel
Dunn	Kastenmeier	Ratchford
Dwyer	Kazen	Regula
Dyson	Kennelly	Reuss
Early	Kildee	Rhodes
Eckart	Kindness	Rinaldo
Edgar	Kogovsek	Ritter
Edwards (AL)	Kramer	Roberts (KS)
Edwards (CA)	LaFalce	Robinson
Edwards (OK)	Lagomarsino	Rodino
English	Lantos	Roe
Erdahl	Latta	Rogers
Erlenborn	Leach	Rose
Ertel	Leath	Rostenkowski
Evans (DE)	Leland	Roth
Evans (IN)	Lent	Roukema
Fary	Levitas	Rousselot
Fazio	Lewis	Roybal
Fenwick	Livingston	Rudd
Ferraro	Loeffler	Russo
Fiedler	Long (LA)	Santini
Fields	Lott	Sawyer
Findley	Lowery (CA)	Scheuer
Fish	Lujan	Schulze
Flippo	Luken	Schumer
Florio	Lungren	Seiberling
Foglietta	Madigan	Sensenbrenner
Foley	Marlenee	Shamansky
Ford (MI)	Marriott	Shannon
Ford (TN)	Martin (IL)	Sharp
Fountain	Martin (NC)	Shaw
Fowler	Martinez	Shelby
Frank	Matsui	Shumway
Frenzel	Mazzoli	Siljander
Frost	McCollum	Skeen
Fuqua	McCurdy	Smith (AL)
Garcia	McDade	Smith (IA)
Gaydos	McDonald	Smith (NE)
Gephardt	McEwen	Smith (NJ)
Gibbons	McGrath	Smith (OR)
Gilman	McHugh	Snowe
Gingrich	Mica	Snyder
Ginn	Michel	Solarz
Glickman	Mikulski	Spence
Gonzalez	Mineta	St Germain
Gore	Minish	Stangeland
Gradison	Mitchell (NY)	Stark
Gray	Moakley	Staton
Green	Molinari	Stenholm
Gregg	Montgomery	Stokes
Guarini	Moore	Stratton
Gunderson	Moorhead	Studds
Hagedorn	Morrison	Stump
Hall (IN)	Mottl	Swift
Hall (OH)	Murphy	Synar
Hall, Ralph	Murtha	Tauke
Hall, Sam	Myers	Tauzin
Hamilton	Napier	Taylor
Hammerschmidt	Natcher	Thomas
Hance	Nelligan	Traxler
Hansen (UT)	Nelson	Trible
Hartnett	Nowak	Udall
Hatcher	O'Brien	Vander Jagt
Hefner	Oakar	Vento
Heftel	Oberstar	Volkmer
Hendon	Obey	Walgren
Hertel	Panetta	Wampler
Watkins	Whitten	Wyden
Waxman	Williams (OH)	Wylie
Weaver	Wilson	Yatron
Weber (MN)	Winn	Young (AK)
Weber (OH)	Wirth	Young (FL)
Weiss	Wolf	Young (MO)
Whitehurst	Wolpe	Zablocki
Whitley	Wortley	
Whittaker	Wright	

NAYS—18

Dickinson	Holt	Sabo
Emerson	Jacobs	Schroeder
Evans (IA)	Markey	Solomon
Gejdenson	Miller (CA)	Walker
Goodling	Miller (OH)	Washington
Harkin	Roemer	Yates

NOT VOTING—75

Alexander	Duncan	Martin (NY)
Atkinson	Dymally	Mattox
Bafalis	Emery	Mavroules
Beard	Evans (GA)	McClory
Bethune	Fascell	McCloskey
Bingham	Fithian	McKinney
Blanchard	Forsythe	Mitchell (MD)
Bolling	Goldwater	Moffett
Broomfield	Gramm	Mollohan
Brown (OH)	Grisham	Neal
Burton, John	Hansen (ID)	Nichols
Butler	Hawkins	Ottinger
Chappie	Heckler	Oxley
Chisholm	Holland	Roberts (SD)
Clay	Hunter	Rosenthal
Conte	Jeffries	Savage
Conyers	Johnston	Schneider
Crockett	Kemp	Shuster
D'Amours	LeBoutillier	Simon
Deckard	Lee	Skelton
DeNardis	Lehman	Smith (PA)
Derwinski	Long (MD)	Stanton
Dingell	Lowry (WA)	White
Dornan	Lundine	Williams (MT)
Dougherty	Marks	Zeferetti

□ 1415

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 5553. An act to provide for the use and disposition of Miami Indians judgment funds in dockets 124-B and 254 before the U.S. Court of Claims, and for other purposes;

H.R. 5795. An act to provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64-A by the U.S. Court of Claims, and for other purposes;

H.R. 6005. An act to discontinue or amend certain requirements for agency reports to Congress; and

H.R. 6403. An act to provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the U.S. Court of Claims, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1894. An act to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 2177. An act to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505).

The message also announced that the Senate had passed a joint resolution of the following title in which the concurrence of the House is requested:

S.J. Res. 270. Joint resolution to designate 1983 as the "Bicentennial of Air and Space Flight."

The message also announced that the Secretary of the Senate be directed to request the House to return to the Senate the bill (H.R. 6758) entitled "An act to authorize the sale of defense articles, defense services, and unclassified defense service publications to United States companies for incorporation into end items to be sold to friendly foreign countries," including the Senate amendments thereto.

HAPPY BIRTHDAY, MR. SPEAKER

(Mr. BOLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOLAND. Mr. Speaker, December 9, 1912, of course, is an historic day in the history of this Nation, but one event that took place on that date 70 years ago is an event that we can mark today.

As the dean of the Massachusetts delegation, I am obligated to inform the House that this is the birthday of the Speaker of the House of Representatives, the Honorable THOMAS P. "TIP" O'NEILL.

He is 70 years old. Millie his gracious and devoted wife, tells me he acts like a 39-year-old.

Mr. Speaker, if I had the melodious, magnificent voice of the distinguished minority leader, the gentleman from Illinois (Mr. MICHEL), I would sing "Happy Birthday."

Congratulations, Mr. Speaker.

(The Members rose and sang "Happy Birthday, Mr. Speaker.")

The SPEAKER. Despite the fact that it is against the rules of the House, the Chair wants his colleagues to know that he appreciates it. Members will proceed in order.

WHY WEREN'T THE JOINT CHIEFS' VIEWS KNOWN?

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I am distressed that this administration did not disclose that a majority of the members of the Joint Chiefs of Staff recommended against proceeding with the Dense Pack basing mode for the MX missile.

The Congress has a very serious responsibility in providing needed funds for national defense. We in the Congress are not arms experts, and need the advice of military professionals in assessing the difficult options we face. The Joint Chiefs of Staff are, by law, the principal military advisers to the President—and in reality, to the Congress. Yet their corporate and individual assessments of this important issue were, curiously, not disclosed in time for the House debate on the MX missile production funding.

I am convinced that the House took the correct action when it disapproved production funding for the MX, but allowed a continued research and development effort. Chairman Vessey's disclosure only reinforces that conviction. If the Joint Chiefs' position had been known in time for the House vote, there is no doubt the margin in support of the Addabbo amendment would have been even greater than 245 to 176.

We cannot tolerate a situation in which the Joint Chiefs' input is only provided to the Congress when they are in agreement with the administration. Reform of the JCS structure, included in H.R. 6954, will help. But members of the Joint Chiefs of Staff must also face up to their responsibilities, and not wait to be asked for their opinions on critical weapons decisions before the Congress.

While Congress may not always agree with the Joint Chiefs of Staff, we should certainly have the benefit of their advice.

VIOLENCE IN IRELAND

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I would like to take a moment to express my deep personal sorrow that once again an obscene act of violence has taken its grisly toll of human life in Northern Ireland. Like most Americans, I find it difficult to choose words that could adequately convey my outrage that the criminal terrorists who operate under the banner of the Irish National Liberation Army have once again desecrated the life of an island that we hold so dear. What happened in Ballykelly on December 6 was murder pure and simple and I hope with all my heart that the perpetrators of the heinous act will be brought to swift and certain justice.

Indeed the hearts of all Americans go out to the families of all those who were killed and wounded. To realize that this mindless act by murderous criminals who masquerade as nationalists has once again snuffed out the dreams and hopes of young innocent people only compounds the tragedy and makes ever more difficult the search for peace in Northern Ireland. I hope that this episode drives home to all Americans the absolute necessity to avoid the giving of any support to those who would further the deadly illusion that the gun and the bomb can bring about unity.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, I would so much like to associate myself with the remarks of the gentleman in the well. There were never truer words spoken.

Mr. FOLEY. I thank the gentlewoman from New Jersey.

SPECIAL UTILITY FUEL FUNDS AID LOW-INCOME CITIZENS

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, throughout the country, investor-owned utility companies have embarked on an innovative program to assist low-income and elderly citizens with rising utility costs.

These utilities, through voluntary contributions from stockholder, employees, customers, and even the utilities themselves, have established special "fuel funds" which are meant to help hard-pressed citizens with their fuel bills.

These programs, most of which were started just recently, have received widespread public approval. Many other gas and electric companies are ready to begin similar programs—but there is a problem.

Federal regulators have informed the utilities that any fuel assistance given to SSI recipients would be considered income, and therefore their SSI payments would be reduced. Despite a statement from Secretary Schweiker that these programs may be restructured to avoid problems with SSI regulations, the Department of Health and Human Services has offered no suggestions to assist in "restructuring" these programs so elderly, low-income citizens can participate in the fuel assistance programs.

It may be necessary for the Congress to amend Federal law to allow the citizens in need of assistance to receive help. But we all know the time amendment of Federal law takes.

It would be much better for regulatory guidelines be offered so these worthwhile and needed fuel assistance programs could get about the business of helping people.

The spirit of volunteerism and the willingness of the American people to help their neighbors in time of need should meet with success, not bureaucratic redtape and delay.

PERMISSION FOR SUBCOMMITTEE ON ENERGY RESEARCH AND PRODUCTION AND SUBCOMMITTEE ON ENERGY DEVELOPMENT AND APPLICATIONS OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT TODAY DURING 5-MINUTE RULE

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy Research and Production and the Subcommittee on Energy Development and Applications of the Committee on Science and Technology be permitted to sit for the purpose of taking testimony while the House is reading for amendment under the 5-minute rule on Thursday, December 9, 1982.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

LAW ENFORCEMENT OFFICERS COMMENDED ON HANDLING OF WASHINGTON MONUMENT INCIDENT

(Mr. SAM B. HALL, JR., asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM B. HALL, JR. Mr. Speaker, I take this time to thank all of those who were involved in law enforcement yesterday at the Washington Monument. I think everything they did, from start to finish, was in order.

AFTER THE BATTLE

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, could the gentleman from Virginia have the attention of the gentleman from Washington (Mr. DICKS)?

There are those other than the IRS who come out of the woodwork after the battle is over and shoot the wounded.

HAPPY BIRTHDAY, "TIP" O'NEILL

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, everyone here knows that I am not a real sentimental guy, but every once in a while an occasion arises that necessitates a few words of genuine friendship and good will.

Today is one of those days, for today as my friend ED BOLAND already stated marks the 70th anniversary of the birth of our Speaker, TIP O'NEILL. TIP and his lovely wife Millie have been great friends through the years, and I wanted to take this opportunity to thank him for his leadership, and most of all, his friendship.

Like a fine wine, TIP, you get better with age. Happy birthday, and may the roads rise with you, may the wind be always at your back, and may the good Lord hold you in the hollow of His hand.

UNITED NATIONS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, in considering this years' appropriations for the United Nations, I had proposed an amendment to reduce the U.S. financial participation. Because our State Department does not consider this timely, and out of respect to our most capable U.N. Ambassador Jeane Kirkpatrick, I am not proposing it.

However, when you ask people in Texas if we should have more or less of the United Nations, the consensus is that we should have much less.

The total U.N. budget has risen from $1.3 billion in 1971 to where it is $3.2 billion today. The growth in the U.N. budget is astounding. In 1960 the budget was $303 million. Since 1946 our taxpayers have spent $10 billion for the United Nations.

The assessed budget of the United Nations and specialized agencies increased by 273 percent over a 10-year period. In 1972 the assessed budget was $413 million. In 1982, it has zoomed to $1,539 million.

Where is all this money going? A full three-fourths of the entire regular U.N. budget is spent for salaries and related staff costs. One of the reasons for the large growth in the U.N. budget is the escalating personnel costs and liberal fringe benefits. The 50 highest salaried positions in the U.N. system range from a high of $180,520 to a low of $114,024 for grand total compensation. The salary of the Vice President of the United States is $79,125.

Citizens working for the United Nations enjoy such liberal fringe benefits as post adjustment allowances—that can increase a salary by 75 percent and may constitute 35 percent of total compensation—dependency allowances, education grants—for children of professional staff—representation allowances, hospitality payments, contributions to the U.N. joint staff pension fund, contributions to staff insurance, home leave allowances, travel on appointments, installation allowance, removal expenses, terminal payments, and a host of other possible liberal fringe benefits.

One glaring fringe benefit is the tax equalization fund and tax reimbursement agreements. The present system has the effect of exempting American employees of international organizations from paying taxes, while appearing not to. U.S. citizens working for the United Nations are reimbursed their "tax assessment." A recent U.N. audit report estimated that this reimbursement processing costs $1 million per year. In 1981, for the United Nations and affiliated agencies, the United States paid $53 million for tax reimbursements. We are in essence spending millions of dollars a year to give the appearance that we are taxing U.S. employees to the United Nations, when in fact they are reimbursed.

Some 40 percent of the jobs in the U.N. system—17,807 out of 44,261—are in the professional category. About 60 percent of all staff are in the general service category. When you compare salaries of U.N. employees with their civil service counterparts, you find that on the average, U.N. employees' salaries are 20 percent higher. And this does not take into account all the extra fringe benefits.

In Texas we believe that the United Nations is being lavish at the taxpayers' expense. Ironically, U.S. taxpayers are footing the bill for the overly generous employee pay and benefits for a U.N. system which frequently counters U.S. positions on key international issues.

LET'S TONE DOWN THE RHETORIC

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, yesterday's bizzare and ultimately tragic incident at the Washington Monument should remind us how important it is to a moderate tone in the nuclear-freeze debate.

I do not for one moment doubt the sincerity, the patriotism or the motivations of those who support a nuclear freeze.

But we are bombarded with speeches and articles and books depicting in ex-

cruciating detail the horrors of nuclear war.

This sort of rhetoric inflames. It does not inform. It terrifies. It does not clarify. It speaks to fear rather than to reason.

We in the Congress discount such rhetoric. We are used to it. But when such language is employed day after day, it cannot help but inflame those who do not have the benefit of factual information or reasoned analysis on both sides.

Let us tone down the nuclear freeze rhetoric. There is no reason to play upon the emotions of innocent people or work them into such a frenzy that they resort to desperate acts. Such exploitation is inexcusable, regardless of whether the issue is social security or nuclear defenses.

NEW RULES, BIG PROBLEMS

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I have been reading the rules proposed for the 98th Congress, and have decided that it must be time for a new House office building. If that does not seem like a logical conclusion, let me explain.

Those who have had House office buildings named after them have been Speakers whose leadership tenure can best be described as legislative tyranny. The new rules go a long way toward replacing parliamentary democracy with parliamentary dictatorship. Therefore, my conclusion: A new building must be coming and we need a tyrant for whom to name it.

Let us understand how some expensive new ediface could come to be under the new rules. The House could act without a constitutional quorum being established on that legislative day because the present means for assuring that quorum, the Journal vote, will be stripped away.

The House could not refuse to go into committee to consider the measure, because the Speaker will control the process, not the individual Members. We could not undo the damage with an appropriations rider, because that right of individual Members will be gone. And, if someone wanted to propose a resolution of inquiry into the whole matter, that resolution could now be buried.

I hardly have the hart—that is spelled h-a-r-t—to tell the American people about this latest power grab, but facts are facts and rules are rules.

DOMESTIC CONTENT LEGISLATION DEPLORED

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, today the House is scheduled to take up the rule for an historic piece of legislation in the history of this country. It has been over half a century since the Congress has considered legislation designed to protect a domestic industry. This truly is an historic event, because the consideration of the legislation that is scheduled for today—and I hope it does not come up—but if it does, it presents a real demarcation between the two great parties in this country.

Over 50 years ago, when the issue last came up, a Republican President and a Republican Congress were protectionist in their philosophy. Today, the shoe is on the other foot. Today, the Democratic Party is urging a protectionist posture for our country.

Whether that is right or wrong is the function of debate, but we do not have the time in this lameduck session to consider legislation of this magnitude. I hope the leadership will exercise the prerogative of removing it from the agenda for the balance of this week and the next.

In a spirit of charity to my Democratic colleagues, I can only hope that the adoption of the domestic content bill (H.R. 5133) will do for the Democratic Party what the adoption of the Smoot-Hawley Tariff Act did for the Republican Party in 1930.

CONGRESSIONAL ACTION MAY FORCE TRADE WAR

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, today Secretaries Baldrige, Block, Regan, Shultz, and Ambassador Brock initiate critical negotiations with their European counterparts. Our American delegation is going to make an additional, final effort to avert the impending trade war.

Mr. Speaker, I know that you and all of my colleagues feel as I do: From a trade war, we will all lose—and we will have to contend with the possibility of a deep, worldwide recession.

Trade must, however, be a two-way street. We cannot stand by and watch domestic industries suffer because of unfair foreign competition.

Exports will create jobs—and our businessmen are willing to sell overseas. It is our responsibility to assure that they will have access to those markets—and if they are barred, we must be willing to limit the importation of foreign products. We do not want to have to take that step, but we must if our trading partners leave us with no other alternative.

DOMESTIC CONTENT LEGISLATION IS NOT THE ANSWER TO AMERICA'S PROBLEMS

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, our current economic situation has resulted in what I see as an unfortunate and potentially damaging action by this Congress.

I recognize that many Members are rightly concerned about the unfair actions taken by other countries that result in our products being excluded from their markets while they are allowed to prosper in ours. There is no place where this is more clearly the case than with regard to agriculture.

But the domestic content legislation sought to be considered by the House is not the answer to our problems. Secretary Block has made clear that he sees a series of retaliatory actions by other nations forthcoming if this bill becomes law. Actions that could result in serious harm to our $40 billion agricultural export market.

The Congressional Budget Office has estimated that this bill could cost 66,000 American jobs. Secretary Brock has called it the "worst threat to our own prosperity and the international trading system to be put before Congress in a decade." I urge this body to abandon this course and to work instead for fairness that will assist this country in increasing its own exports.

RULE FOR H.R. 5133, DOMESTIC CONTENT LEGISLATION, OPPOSED

(Mr. WEBER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEBER of Ohio. Mr. Speaker, I come from an automotive district, and it is therefore with the greatest reluctance that I rise today to ask my colleagues to join with me in voting "no" on the rule on H.R. 5133, the domestic content bill.

This bill is going to reduce economic growth, increase inflation, and decrease jobs for U.S. workers. This bill raises the white flag of surrender over American industry, an admission of the defeat of our labor and our management by our foreign competition. This bill is job destructive, not job creative. That is not just my opinion, that is the considered judgment of the CBO based on their studies.

In fact, the Washington Post today calls this bill, "the antijobs bill."

This bill is going to raise the price of every new car sold in America by as much as $1,000, according to the Department of Commerce report. It is going to create a worldwide economic

catastrophe by triggering retaliation, leading to an international trade war.

We need to address the problem of unfair foreign competition in the automotive industry, but H.R. 5133 is the wrong way. I urge my colleagues to vote "no" on the rule.

DEMOCRATIC CAUCUS HOUSE RULES CHANGES

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, the Democratic caucus is once again making a mockery of its party label by proposing undemocratic House rules that would undermine majority House rule.

The new restrictions on amendments to appropriations bills would make a sow's ear out of the congressional power of the purse by depriving Members of all political persuasions of what is sometimes the only means for curbing specific Government actions;

The two-thirds signature requirement for discharging a constitutional amendment turns majority rule on its head by permitting a small minority to block consideration of changes in our Government's most basic and vital document;

Postponement of votes on the Journal and elimination of votes on consideration of bills would make it possible to go through a large portion of legislative business with the constitutionally required majority quorum not even in town. This is simply a continuation of the phantom legislating already permitted in committees by the one-third quorum and proxy voting rules;

The automatic removal of Members from committees by caucus action ignores the lessons of history which gave rise to the rule requiring election of committees members by the House rather than their arbitrary appointment and removal at the whim of a party leader or caucus. Election to and removal from a committee by the House safeguards against such abuse.

Mr. Speaker, the proposed undemocratic caucus rules should be overruled.

A TROJAN HORSE?

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, I rise this afternoon to remind my colleagues that we will be called on today to vote on domestic content legislation—a bill which purports to save or create 800,000 new jobs but which will more likely contribute to higher unemployment and an explosion of trading schizophrenia throughout the world.

There can be no question that one of our highest priorities must be the creation of new and expanded job opportunities for every American who is willing to work. Neither can there be any question that our trading partners, especially the Japanese, must recognize that the United States will not continue to tolerate barriers to our exports. International trade must be both free and fair.

Unfortunately, it is not clear that domestic content will accomplish either of these objectives. Why is it that the Congressional Budget Office has concluded that this bill would create 38,000 auto related jobs but eliminate more than 100,000 in other sectors of our economy? And why is it that such organizations as the American Soybean Association, the National Grange, and the League of Women Voters are opposed to this legislation?

What is clear is that the Congress has not taken the time to clearly understand the serious implications of this legislation. If we were to do so, we would find that domestic content is a Trojan horse whose content is good for none of us.

□ 1445

COLORADO RIVER BASIN PROJECT ACT AMENDMENTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2177) to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 95-375 (94 Stat. 1505), with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment numbered 1, insert: *"There*

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. FLIPPO). Is there objection to the request of the gentleman from Arizona?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, I do so for purposes of asking the gentleman from Arizona (Mr. UDALL) to explain what is involved and, more importantly, to go to an issue I am concerned about, and that being, we understand that beyond the House amendment providing for the contribution by local beneficiaries, there is actually only one technical change, and that relates to a date. Can my colleague, the gentleman from Arizona, confirm this?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, let me say that the gentleman is correct.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I am happy to yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for yielding under his reservation.

I would like to ask the gentleman from Arizona (Mr. UDALL) whether the version of S. 2177 that is coming back to us now retains the so-called Ventc amendment providing for 20 percent up-front local cost sharing?

Mr. UDALL. Yes, Mr. Speaker, it does.

Mr. Speaker, if the gentleman from California will yield, I want to thank the gentleman from Pennsylvania (Mr. EDGAR) for working this out with the gentleman from Arizona, Mr. RHODES, and myself. That language that we worked out relating to the Ventc amendment is in the bill. There is no change.

Mr. EDGAR. Mr. Speaker, if the gentleman will yield further, I would like to thank the gentleman from Arizona (Mr. UDALL) and the ranking Republican member for their actions on this particular provision of the bill.

I wanted to point out to the Members that there has been much discussion of the cost-sharing provision added to this bill and whether this sets a precedent for our future actions on water policy. I think it is a very important precedent. I look at the 20 percent figure for the central Arizona project as a reasonable compromise on this issue. Twenty percent may not be a magic number, but it seems workable in this case. The true precedent is that the majority of Members of Congress are now recognizing that we must move forward to create a modern and responsible water policy, and this policy must recognize the advantages of having some form of cost-sharing that we can agree upon.

I want to compliment the gentleman from Arizona for his work on this issue, and I urge enactment of the bill.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Arizona to give us a further explanation.

Mr. UDALL. Mr. Speaker, S. 2177 provides cost indexing of funds authorized for construction of the distribution systems for the central Arizona project. These systems will carry CAP water from the main aqueduct system to the farmers' fields. They are a vital part of the CAP because delivery of CAP water will permit the Arizona irrigators to go off the pumps and allow our ground water aquifers to be recharged.

In the original 1968 authorization, $100 million was authorized for these

systems. Although every other part of the project was cost indexed, there was no indexing of the distribution system funds. Inflation and rising construction costs have made this amount insufficient to build the necessary systems. The cost indexing provided in this legislation will authorize the necessary funds.

The original Senate bill did not provide for any up-front local contributions. The House, pursuant to a compromise reached by Congressman RHODES, Congressman EDGAR, Congressman VENTO and myself, amended the bill to provide that non-Federal parties shall provide at least 20 percent of the total construction costs of the systems. The local farmers are prepared to do this: they have already gone to the private bond markets to obtain private financing.

Yesterday, the Senate concurred in the House amendment with an amendment. The Senate corrected a technical problem with the bill by dropping the words, "Effective October 1, 1983" from the bill. These words created an ambiguity as to the date the cost indexing takes effect. The deletion of these words makes clear that the cost-indexing dates from the date of the original authorization.

The bill before the House today is substantively identical to the bill the House passed 2 months ago. There is no disagreement over this bill and I have informed Messrs. EDGAR and VENTO that this bill contains the provision on local financing that we agreed to earlier.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I rise in support of this bill.

The bill corrects a legislative oversight in authorizing legislation signed into public law in 1968.

Mr. Speaker, I rise in support of the conference report on S. 2177, the Colorado River Basin Act Amendments.

This bill provides reasonable assurance that the completion of the central Arizona project, a water supply project that is vital to the survival of Arizona, will go ahead on near the planned date.

This bill corrects a legislative oversight in the authorizing legislation that was signed into Public Law in 1968. At that time, the Colorado River Basin Act authorized the construction of a canal and water distribution system to bring Colorado River water to the dry land of central and southern Arizona. This was, and is, an awesome construction project and a far-sighted plan for Arizona's future. Unfortunately, the loan program for the distribution systems which would take the water from the main canal after completion to the actual water use sites, was not indexed for inflation. In 1969, the estimated cost to construct all the takeoff lines for this project was $100 million. Now, when the first section of the main canal is scheduled for completion in the near future, it is past time to begin construction of the distribution systems to take the water when it is delivered. The estimated cost of the distribution systems now runs from $350 to $550 million.

This bill indexes the loan program for the distribution systems for inflation, and also includes a reasonable cost-sharing formula for funding by the State and local beneficiaries of this project.

It is imperative that this bill be passed and signed into law now. There is concern that unless construction begins immediately, the first delivery of Colorado River water will come to a dry area that has no means for distributing that water.

I urge my colleagues to vote for this sound, reasonable approach to funding for a badly needed water supply program.

Mr. CLAUSEN. Mr. Speaker, further reserving the right to object, I rise in support of S. 2177, a bill to provide for cost indexing for the non-Indian distribution portion of the central Arizona project. S. 2177 serves to correct a simple oversight on the part of an earlier Congress in the failure to provide for cost indexing for the original $100 million authorization. S. 2177 was brought to the Congress by a bipartisan delegation from the State of Arizona and has the support of the Reagan administration.

When this bill passed the floor of the House in September, it included an amendment with a compromise providing for cost sharing by the local beneficiaries of at least 20 percent of the cost of the non-Indian distribution system. The other body has now concurred in the House amendment and the matter is back before us for final consideration.

We understand beyond the House amendment providing for the contribution by the local beneficiaries that there is only one technical change.

I urge my colleagues to support this bill once again, and suggest that my colleague, the chairman of the Interior Committee, accept my participation in this legislative effort as a token of my appreciation for the cooperation we have enjoyed as we jointly managed the responsibilities of the House Interior Committee and, further, as a Christmas present from old "Santa Clausen."

Mr. RHODES. Will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I thank the gentleman for yielding.

I am very much in favor of this bill. I want to express my appreciation to my good friend and colleague, the gentleman from Arizona (Mr. UDALL,) and my equally good friend and colleague, the gentleman from California (Mr. CLAUSEN.)

This is a most important piece of legislation, and I am glad that it is about to become law.

Mr. UDALL. Mr. Speaker, if the gentleman will yield, I cannot help but note that this is probably the last time the gentleman from California, Mr. DON CLAUSEN, and the gentleman from Arizona, Mr. JOHN RHODES, and myself and others will be involved in working on a good piece of natural resource legislation for the West and for the whole country. We are going to miss both these fine gentlemen around here. I appreciate their help on this and other legislation.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1983

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6957) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Illinois (Mr. O'BRIEN) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6957, and that I may be permitted to include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6957, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Iowa (Mr. SMITH) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. O'BRIEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the total amount of new budget authority in this bill for fiscal year 1983 is $9,069,567,000. The amount recommended in the bill together with fiscal year 1982 reappropriations is $248,000 below the allocation to the Subcommittee on Commerce, Justice, and State under section 302 of the Budget Act. Also, we are $19 million below the allocation on outlays.

A total of $2,657,160,000 is provided in title I of the bill which includes the Department of Commerce and related agencies. This amount is an increase of $564,983,000 above the budget requests, but is a reduction of $26,856,060 from appropriations provided to date for fiscal year 1982. The principal reason that the amount recommended for title I is above the budget request is that the committee restored funding, at least in part, for several programs that Members were interested in, for which there were no budget requests or which were targeted for substantial reductions. These programs include the Economic Development Administration for which the bill includes $193,450,000 in new budget authority and $32,500,000 by transfer, compared with only $15,448,000 requested by the administration, and the trade adjustment assistance program in the International Trade Administration, for which the bill includes $27,500,000. The President's budget did not include any request for this program. In addition, title I of the bill provides $117,563,000 above the budget request for several programs of the National Oceanic and Atmospheric Administration, which are of vital interest to many Members, and which were not included in the President's budget or were targeted for substantial reductions. These include the Fisheries Loan Fund, Sea Grant, the polar orbiting satellite program, fisheries grants to States, and the weather stations. Also, title I of the bill includes $15,000,000 for public telecommunications facilities grants for which there was no budget request.

The bill provides a total of $3,099,523,000 in title II for the Department of Justice and related agencies. The amount recommended for the Department includes funding for several critical programs for which there were either no budget requests or for which significant reductions were proposed. The most significant of these is the juvenile justice and delinquency prevention program for which $70,000,000 is included in the bill. In addition, the bill includes $7,500,000 for the U.S. trustees program under U.S. attorneys and marshals.

The bill also includes $6,000,000 for the State and local drug grants program which was proposed for termination in the President's budget.

Title II includes $241,000,000 for the Legal Services Corporation. It is intended that the funds provided in the accompanying bill be used strictly in accordance with the terms of the authorizing legislation as approved by the House. In order to achieve that objective, the committee inserted language in the bill which would prohibit any of the funds from being spent for any purpose which is prohibited or limited by any of the provisions of H.R. 3480.

Mr. Chairman, this subcommittee was given an allocation of funds by the full Appropriations Committee. We have stayed within that allocation by reducing requests in some cases in order to have the funds we felt were needed in other instances, but we have on an overall basis stayed within our allocation.

Although each member of the subcommittee may have preferred a slightly different mix, I believe the entire subcommittee is in agreement that the proposed bill is as good as can be expected or at least that it should be supported by the House.

Mr. Chairman, further details on each item are included in the report.

In closing, I would like to thank each member of our subcommittee and the staff for their cooperation and hard work in putting this bill and report together. This has been a difficult year and I want to express my personal appreciation to every member of the subcommittee for their dedication and support.

Mr. O'BRIEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I join the subcommittee chairman in requesting the support of the House for this appropriations bill.

We worked extremely hard to provide funding where we believe it will do the most good and to reduce it where the impact would be least damaging, and we are $248,000 below our subcommittee's allocation. We have provided funding for some programs for which there was no budget request, such as the juvenile justice and delinquency program, a typical case where we felt the need was strongly justified.

Some very tough decisions had to be made, and in many cases priorities had to be realined. Our subcommittee worked together with an unusual sense of cohesion and unity, and I commend our subcommittee chairman for his leadership.

Mr. Chairman, I would like to engage in a little exchange with the subcommittee chairman relative to an item in our bill that I think requires some explanation.

Some clarification is in order regarding certain research funds allocated to the National Bureau of Standards (NBS) under the Department of Commerce Appropriations.

In light of justified concern regarding deaths and serious injuries caused by toxic smoke and gas given off by burning building materials, the committee report on the Senate bill proposes to allocate $350,000 for further study of combustion toxicity under Bureau of Standards auspices.

Since the Bureau of Standards only recently completed a study of testing methods on the toxicity of burning building materials, and because the States are already moving ahead with programs to identify and control the most highly toxic materials, it is important that the scope and purpose of this additional Federal research be clarified. Otherwise, this further study could be misinterpreted in a way that would undermine progress already underway at the State and local levels to reduce the known serious health hazards posed by toxic fires.

Therefore, am I correct in my understanding that the position of the committee on this matter is that: First, further research by the Bureau of Standards is in no way intended to delay or discourage States or localities from developing and adopting regulations, based on existing test methods, to reduce the risks of deaths and injuries due to toxic inhalation in fires; second, the proposed research will not be confined to determining the relative role of combustion toxicity among overall fire hazards, but will include refinement of existing tests used to identify and evaluate materials likely to cause toxic fire hazards; and third, there is no intent to direct the selection by NBS of any particular organization to perform the proposed research?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN. I yield to the subcommittee chairman.

Mr. SMITH of Iowa. Mr. Chairman, I want to thank the gentleman for raising this matter, and I concur fully with his comments. That is the committee's intent, and the understanding of the gentleman is correct. I understand there may be some misunderstanding stemming from the committee report in the other body, and as the gentleman well knows, we did not participate in writing that report. I want to assure the gentleman that we intend to clear this up when we reach the conference on this bill.

□ 1500

Mr. O'BRIEN. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. I thank the gentleman for yielding.

Mr. Chairman, I take this opportunity to commend the chairman and the ranking member of the subcommittee for the outstanding job they have done. I have enjoyed being a member of this subcommittee.

I will not be meeting with them again next year but I want to say to the chairman and to the ranking member that my service on the Appropriations Committee and this subcommittee has been one of the most enjoyable times I have had as a Member of Congress because they are some of the finest individuals that I have ever had the opportunity to be with.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I am happy to yield.

Mr. SMITH of Iowa. I want to say that I very much appreciate the gentleman's comments and also appreciate the attitude the minority, including the gentleman from South Carolina, have had in trying to work out in difficult years what could be considered a sort of consensus under the circumstances.

Mr. CAMPBELL. I thank the gentleman.

Mr. O'BRIEN. Will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman.

Mr. O'BRIEN. I would say to the gentleman that the chairman and ranking minority member have believed all along that the gentleman improves the average of the committee, we are delighted to have had him with us and wish him well.

Mr. CAMPBELL. I thank the gentleman.

Mr. O'BRIEN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Chairman, I rise to support this bill. Furthermore, I wish to commend the subcommittee chairman, the gentleman from Iowa (Mr. SMITH), and all the subcommittee members for their responsiveness and for their long forbearance of my crusade to save my weather station in Valentine, Nebr. in the heart of "tornado alley."

With the gentleman from Iowa's unwavering support, the upshot was that all the weather stations were saved. And the 50 Members of the House and the 70 or more Members of the Senate who would have been directly affected by the loss of the 38 weather stations—all should be deeply grateful to the chairman and to the distinguished subcommittee.

This is a key appropriations bill, funding many, many worthwhile programs of our Government. If the subcommittee's attention to my concerns as reflecting those of my district are any indication of its attention to all other aspects of this bill, then I am sure that the subcommittee has done an extraordinary job in allocating and directing expenditures.

I am gratified to learn that the administration no longer opposes this bill. It has been a privilege to work with the subcommittee and its astute and knowledgeable staff. I hope that I may find many opportunities to support and assist them.

Thank you, Chairman SMITH; the people of Valentine will never forget what you and your subcommittee has done for them.

Mr. SMITH of Iowa. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I want to tell the gentlewoman that if she has not done anything else, everybody now knows where Valentine, Nebr., is located.

Mrs. SMITH of Nebraska. I thank the gentleman very much for that comment.

Mr. O'BRIEN. Mr. Chairman, I have no further requests for time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, I rise in support of H.R. 6957, the Commerce-State-Justice appropriation bill for 1983.

Mr. Chairman, as my colleagues know, our economy at the present time is very bleak. Some 10.8 percent of the work force, or 12 million Americans, are unemployed.

The business picture is dismal and growing worse each day. As of November 25, in the first 47 weeks of this year, there were over 23,000 business bankruptcies. This compares with 10,800 bankruptcies in the first 47 weeks of 1980 and 15,800 bankruptcies in the comparable period in 1981. In fact, if the rate continues for the balance of this year, we will see more than 25,000 bankrupt firms which will be the highest number ever recorded since 1932 when almost 32,000 firms declared bankruptcy during the Depression. Even worse, these numbers do not include other tens of thousands of firms which simply cease doing business each year.

Those of us most closely associated with the small business community are aware of the employment opportunities this sector of the economy provides. Even President Reagan has cited this. For example, in an appearance before a joint session on April 28, 1981, he stated:

> Let us not overlook the fact that the small independent business man or woman creates more than 80 percent of all the new jobs and employs more than one-half of our total workforce.

Statistics clearly demonstrate that small business has the ability to get and keep this Nation employed. But to do this, there must be adequate capital available to it. The private sector simply is unwilling or unable to supply all of the necessary capital requirement of the small business community. The only remaining source is the Federal Government.

Due to our unconscionably high unemployment rate and the President's recognition of the role of small business as the Nation's job creator, one would expect the President to propose the stimulus; that is, needed capital, to the small business community. Instead, an examination of the President's budget shows just the opposite.

In 1980, the Small Business Administration provided direct loan assistance of $393 million to more than 6,700 small firms. By 1982, this had been cut to $225 million or a reduction of 43 percent.

For 1983, the administration has requested that it be slashed even further to only $41 million or a reduction of 90 percent in just 3 years.

Not only do these reductions impact broadly on the small business community but they affect the minority small business community even worse. The minority business man or woman always seems to be the last to receive assistance and the first to be cut whenever the total assistance is reduced. Under SBA's loan programs, direct and guaranteed, in fiscal year 1981 some 5,240 minority concerns received financial assistance of approximately $415 million. In fiscal year 1982, however, only 2,521 firms were assisted with financing totaling $216 million. This represents a cut of 48 percent.

Fortunately for the small business community and the Nation, the House Appropriations Committee, and particularly its Subcommittee on Commerce-State-Justice, recognized the folly of slashing assistance to small business as requested by the President. However, due to the budget reso-

lution they were unable to continue even 1982's meager level of $225 million in direct loans, but rather were able to approve only $185 million.

I must say that I never thought that I would stand here and urge support for an appropriations bill containing a level of SBA direct loans which is a reduction of over 50 percent from the level provided only 3 years ago. Decreasing SBA assistance is exactly the opposite of what we ought to be doing.

Nonetheless I do support this bill as reported, as at least it provides some financial assistance, albeit severely curtailed, to small businesses which otherwise would not be assisted at all.

I urge my colleagues to support the measure under consideration.

● Mrs. SNOWE. Mr. Chairman, I rise in strong support of the McDade amendment to the State, Justice, Commerce appropriations bill, H.R. 6957.

Recently, Commerce Department officials have embarked upon a dubious venture designed to close down the loan program of the Economic Development Administration. They have proposed to do this by selling off the EDA loan portfolio which consists of approximately 1,800 loans involving about 1,100 companies throughout the United States. The amount of money involved totals over $1 billion.

I think initiating a practice of this sort at this point in time is very questionable. Nationwide unemployment is over 11 percent. The pursuit of actions which further contribute to this sad state of affairs is, at the least, an error in judgment.

One specific instance which affects my home State of Maine comes immediately to mind. A company in my district has recently been informed that its EDA loan has been purchased by a private investor. It seems apparent that this loan purchaser has only one motive in mind: a quick return on his meager investment at the expense of the small business owner. The loan purchaser's demands for huge sums of cash in a short period of time can only be termed outrageous. If the company does comply with the investor's wishes, it will certainly put the business owner and his 50 employees out of work. If this one instance is any indication of what may occur to the entire EDA loan portfolio, it is a serious warning which we cannot afford to ignore.

The intent of Congress is clear. The Economic Development Administration was established to create jobs, not to destroy them. These loan sales, if allowed to continue, are contrary to the will of Congress. These sales must be halted.●

● Mr. MINETA. Mr. Chairman, I rise to call my colleagues' attention to one portion of H.R. 6957, the Commerce, Justice, State, and related agencies appropriations bill now before us. Included in this measure is an appropriation of $300,000 to enable the Commission on Wartime Relocation and Internment of Civilians to complete its work.

This Commission was created by Congress in 1980 to study the internment of more than 110,000 Americans by military authorities during World War II. Those of us who were interned had committed no crime other than to have Japanese or Aleutian ancestry.

The Commission has made an excellent beginning in its efforts to assist this country in coming to terms with this record of wartime abuse of individual rights. The Commission has held 20 days of hearings, and heard from more than 750 witnesses.

The Commission now faces the enormous task of compiling a comprehensive report on its findings, and making copies of that report available for the general public.

The Commission has said, however, that additional funding is needed to fully complete its task. Without such funding, the Commission will not be able to fully report on the economic losses, and damages to health and well being caused by the internment.

Moreover, the Commission will not have adequate funds to print and distribute copies of their important hearing transcripts for general study and use.

This is an important task. The lessons of the wartime evacuation and internment are not idle historic curiosities. The basic legal and public policy issues are as fundamental to our constitutional principles of civil rights and due process today as they were in 1942.

Mr. Chairman, this House acted with wisdom and strength to create this Commission. Modest funding of $1.5 million was initially authorized, but only $1 million of that was appropriated. The request today is raise the total appropriation to $1.3 million.

I am confident my colleagues recognize the need for this appropriation. I know we are all grateful, as I am, to the Appropriations Committee for providing us this opportunity to allow the Commission to complete its important work.

Thank you very much.●

● Mr. MATSUI. Mr. Chairman, I rise in strong support of maintaining the funding level of the Legal Services Corporation at no less than $241 million for fiscal year 1983. The Legal Services Corporation's budget has sustained a 25-percent reduction since 1981, and any further cuts will jeopardize the ability of the Corporation's lawyers to provide the poor, the elderly, and the disabled with adequate representation in civil legal matters.

In reaction to the budgetary constraints imposed by last year's Omnibus Reconciliation Act, the Legal Services Corporation has made dramatic adjustments in the amount of services it can offer to clients. During 1981, the Corporation shut down 288 of its field offices and let go 4,633 field workers and 1,733 attorneys. In my home State of California, the cuts have had a most disruptive impact as the number of field offices has dropped from 109 in 1981 to 74 in 1982. Over the past year, the number of attorneys representing California's legally indigent dwindled from 509 to 322 resulting in 187 less lawyers.

The loss of such dedicated and skilled people translates into a profound denial of legal services to clients in need. Given that the fiscal year 1982 cuts have prevented the Legal Services Corporation from meeting the goals of its congressionally endorsed minimum access plan, which seeks to provide at least 2 attorneys for every 10,000 poor persons in every geographic area of the Nation, any further budgetary cuts will exclude an unacceptable number of Americans from receiving qualified legal advice. This is especially true today as the demand for the Corporation's services continues to grow while the current recession deepens and the unemployment rate explodes.

By further restricting the Corporation's budget, we turn our backs on the Nation's commitment to provide legal services to the economically disadvantaged of our land. From my personal experience both as a practicing lawyer and a congressional Representative, I know the existence of this federally funded program has had a positive effect on the lives of many of my constituents. Simple equity demands that the Congress preserve this special relationship between the Corporation and its clients.

For these reasons, we must appropriate no less than $241 million for the Corporation's activities. To do otherwise would constitute a congressional betrayal of our judicial system and the principle of equality which serves as its foundation.●

● Mr. FUQUA. Mr. Chairman, I would like to congratulate the gentleman from Mississippi for his expert leadership of the Appropriations Committee in keeping these appropriations below the budget allocation. Also, I recognize the critical involvement of the gentleman from Iowa in the formulation of this bill and would like to express by appreciation to him for his careful attention to the recommendations of the Committee on Science and Technology.

I believe that as a result of the deliberations of the Appropriations Committee, we have before us a bill which reaffirms our country's commitment to maintaining our diplomatic leadership, safeguarding our many freedoms, and encouraging the growth of our industries.

This legislation accomplishes these ends while responding to the tight

budgetary situation by actually remaining under the budget allocation.

In looking at those categories relating to the jurisdiction of the Committee on Science and Technology, I am particularly pleased to note that $2 million has been provided to aid in the implementation of the Stevenson-Wydler Technology Innovation Act. These funds will help to stimulate the economy by bringing the expertise of universities to bear on the problems of industry in Centers for Industrial Technology and by supporting a Center for the Utilization of Federal Technology to transfer new technology from Federal laboratories into use.

I am also heartened by the committee's restoration of funds for NOAA to maintain the two polar-orbiting satellite system. A two-satellite system is vitally important to our weather forecasting capabilities, and I believe the committee has acted with sound judgment and foresight in this area.

I am concerned, however, that this appropriations' legislation includes inadequate funding for our Nation's civilian remote sensing program, Landsat. The bill before us would appropriate only $1.4 million, whereas the President's request was for $14.955 million. The Committee on Science and Technology authorized the full $14.955 million requested because we found that this money was necessary to keep the system operating. It will also be necessary for the Department of Agriculture to get the $7 million it has requested for Landsat. If these funds are not appropriated our Nation's civilian remote sensing program is in danger of "falling through the cracks." Without some resolution to the problem of funding for Landsat in fiscal year 1983 in this bill and in the Agriculture appropriation, it appears that this valuable source of information will no longer be available to its user community.

I urge the gentleman from Iowa and his colleagues on the Appropriations Committee to search for a resolution in order that this valuable program will not be terminated. There can be no doubt that the data provided by the Landsat program on crop yields, range lands and forest, mineral and petroleum exploration and weather and land use is extremely valuable to the Government as well as a host of commercial users.

We have already invested over $700 million in this program and it would be foolish to let this investment go down the drain for lack of operating funds.

Mr. Chairman, I understand that this problem may have been resolved in the continuing resolution we adopted last October 2—Public Law 97-276, making continuing appropriations for fiscal year 1983. If that bill would provide full funding for the NOAA program and if such funding does not expire with the general provisions of the continuing resolution, then my concerns with respect to Landsat would indeed be mitigated.

Finally, the appropriations for the National Bureau of Standards represent a less severe reduction than the President requested. Whereas we supported cutbacks in certain areas, it was clear that more drastic reductions would impair the mission of the Bureau and hinder the Bureau's ability to monitor and assist in developments in technological areas.

I am especially pleased with the support of the robotics R&D initiative, originally developed in the Committee on Science and Technology, and for the Computer Institute, the technical competence program, and the Fire Research Center.

I applaud the efforts of the Appropriations Committee in presenting this bill and I urge my colleagues to join me in voting for its passage.

Thank you, Mr. Chairman.●

● Mr. FISH. Mr. Chairman, in March of this year the Judiciary Committee's Subcommittee on Immigration, Refugees, and International Law held hearings on the fiscal year 1983 authorization for the Immigration and Naturalization Service. The full Judiciary Committee, meeting in May, recommended personnel and funding levels that reflected the unanimous sentiments of the members of the Immigration Subcommittee. The Judiciary Committee's decision to authorize 642 positions not included in the administration's budget request represented a modest response to the burgeoning workload of the Service and the continuing flow of hundreds of thousands of illegal aliens to the United States each year.

The omission from H.R. 6957 of funding for the additional positions recommended by the Committee on the Judiciary is a matter of serious concern to any Member of Congress who believes that the United States must regain some measure of control over the flow of illegal aliens. Resources must be devoted to funding additional positions for the Immigration Service if we hope to make major progress in cutting surreptitious entries, relieve the congestion at our international airports, and locate illegal aliens in the interior of the United States. The Select Commission on Immigration and Refugee Policy, a bipartisan congressional-Presidential commission, recommended after extensive hearings and study that: "Border Patrol funding levels be raised to provide (in part) for a substantial increase in the numbers and training of personnel * * *" and that "port-of-entry inspections be enhanced by increasing the number of primary inspectors * * *."

The Committee on the Judiciary and its Subcommittee on Immigration, Refugees, and International Law—over the course of a number of years—have been instrumental in the authorization of funds for levels of personnel needed to enable the Service to fulfill its mission. Despite action by the Judiciary Committee and the Congress in prior years, many positions remain unfilled. The 10,604 permanent positions requested by the administration for fiscal year 1983 compares with 10,886 actual positions authorized in fiscal year 1981. Although this administration is making an effort to fill positions that have long been authorized, it is insufficient in 1983 to fill positions the Congress recognized we needed 2 years ago. The 1983 budget, on the contrary, must be responsive to 1983 needs. The enactment of a new law dealing with immigration reform and control—a major agenda item for the Congress—by itself will not solve the immigration enforcement problems facing the United States unless we also are prepared to allocate the resources needed by the Immigration Service to fulfill its mission.

In the course of our subcommittee hearings, I attempted to develop a record in some detail comparing personnel levels in 1981 and 1983. This important data documents our failure to make real progress in meeting the needs of the Service.

A comparison of the 1981 actual work year and the 1983 work year base shows only a negligible gain in inspections—from 1,703 to 1,712—and actual reductions in work years for antismuggling activity—from 300 in fiscal year 1981 to 283 in 1983—and in interior enforcement-investigations—from 705 actual work years in 1981 to 596 work years in 1983. The figures for border patrol-immediate border show increases in work years between 1981 and 1983—but the 1983 work year figures still fall below permanent positions authorized back in 1981. At a time when the INS workload is up and public awareness of the problem of illegal entry is heightened, we can and must do more to respond to the Service's lack of essential personnel. Additional INS officers can serve as an important deterrent to violations of our immigration laws. I hope that the Congress, and the administration in considering funding for service in a possible supplemental request for fiscal year 1983 and in appropriations for future fiscal years, will be more responsive to the documented need for more realistic personnel levels.●

● Mr. MOFFETT. Mr. Chairman, I am going to be brief. The Sensenbrenner amendment to reduce Legal Services Corporation funding from $241 million to $100 million is patently mean-spirited and must be rejected.

In Mr. SENSENBRENNER'S earlier "Dear Colleague" describing today's amendment, he states that Legal Serv-

ice lawyers "seem more interested in legislating through the courts than in attending to the real needs of the poor." This is a stale, tired, and simply incorrect statement. As the New York Lawyers' Committee to Preserve Legal Services has stated:

Legal services lawyers are no more litigious than other lawyers—and they may be less so. In 1980, less than 15 percent of the 1.5 million legal matters handled by legal services attorneys actually resulted in litigation. Legal services attorneys are also aware of their obligation to advance their clients' legitimate interests with vigor and imagination but not to pursue meritless claims.

Furthermore, in 1981, nearly a third of all legal service cases were closed after simply giving the client advice. So let us lay to rest the bunk about "legislating through the courts."

It is a fact that the majority of Legal Services cases involve family matters, government benefits and other income maintenance, and housing. It is also a fact that the hardships of our current economic situation require greater recourse to legal services than ever. The cutback in LSC funding this fiscal year has already caused a considerable loss of services to eligible clients. Twenty percent of all field program offices have closed down; 30 percent of field program workers have been forced out of their jobs; and 28 percent of field attorneys have been forced to leave their jobs. Further cutting LSC funds, from $241 million to $100 million, would devastate field operations and deny legal services to poor persons across the Nation.

The Sensenbrenner amendment is unacceptable. It must be rejected. We should be having a discussion about increasing, not reducing, legal services funding. The need for legal representation is great and growing graver every day. In closing, Mr. Chairman, I am submitting to the RECORD two recent testimonials I have received on the fine work Connecticut legal service staffs continue to perform, under financial duress. I sincerely hope that all my colleagues will heed the message and vigorously support full funding for the Legal Services Corporation.

JUNE 18, 1982.

Congressman TOBY MOFFAT
Hartford, Conn.

DEAR SIR: I was a patient at Crestfield Convalescent Home in Manchester from 2-15-80 to 4-15-80 and was denied Medicare Coverage (payment).

I was told that Conn. Legal Aid Services, Inc. of Willimantic, Conn., would act in my behalf in representing my claim and because of their diligent and complete representation, I finally this week received a check to cover medicare payments. This was free legal representation.

I want to let you know what a good job they did and I want especially to mention Susan Johnson and Sheldon Mossberg who have been so concerned and kind in all my conversations etc. with them, and I shall be forever grateful to Legal Aid Services.

One way, additionally to thanking them sincerely is to let Congressmen know what a good job is being done by Legal Aid.

Yours truly,

LUCIE (MRS. HENRY) BENGSTON.
(A widow 81 years old)

[From the Advocate, June 30, 1982]

THE EVICTION OF MRS. CONNER

On May 26 we ran a story on our front page about the Stamford Housing Authority's eviction of Sarah Conner and her six children from her apartment at 190 Ursula Place. A picture showed the family furniture on the sidewalk. The story quoted Mrs. Conner, who had a record of paying her rent late, as saying that she had paid the May rent only seven days late.

It may have occurred to some of our readers that the authority might have done an injustice to the Conner family. The thought occurred to us, and this was one of the reasons we believed the story was newsworthy.

The Stamford area has an agency called Connecticut Legal Services, which has four lawyers whose job is to represent poor people who otherwise might be shut out of the justice system.

Mrs. Conner went to the agency, which receives most of its funding from the federal government and a small part from the city, and told her story.

Subsequently, Diana Johnston, a CLS lawyer, filed suit in Stamford Superior Court against the Stamford Housing Authority because, she claimed, the Conner family had lost its home as a result of "unfair, deceptive and illegal practices."

As a result, Judge Hugh Curran ordered the authority to explain in court on July 23 by what right it had evicted Mrs. Conner. He also granted a temporary injunction forbidding the authority to rent the Ursula Place apartment pending court action.

According to the suit papers, the authority has rent collection and eviction rules providing that tenants behind in their rent may be reinstated if they pay, and the authority agrees to accept, back rent. "In derogation of its own written policies," the suit claimed, Mrs. Conner was required to sign a stipulation in December in order to avoid eviction. At that time she paid the authority $73, of which $68 was for court costs and lawyers' fees. The stipulation said, according to the suit, that if she failed to pay her rent by the 10th of each month, she would be evicted with no right of appeal.

The suit alleged that the stipulation which was used to evict Mrs. Conner and her family was a violation of state law because it was based on a five-month-old decision to evict a family whose monthly tenancy had been reinstated through payment and acceptance of rent.

The suit further alleged that the eviction was "not only a deceptive trade practice, it was also profoundly unfair and irreparably harmed the Conner family."

We are not trying here to prejudge the Conner case. We do not know whether the authority violated Mrs. Conner's rights.

But we are thankful that Connecticut Legal Services exists. If it did not, Mrs. Conner, powerless as the poor usually are, might have had to accept the authority's action.

President Reagan has tried to abolish the federal Legal Services Corp., the principal funding agency of Connecticut Legal Services and the other organizations around the country that provide lawyers for the poor.

Last year, Mr. Reagan succeeded in cutting the corporation's funds substantially. The Stamford branch of Connecticut Legal Services had to dismiss five of its lawyers.

Mr. Reagan, who evidently doesn't think that poor people need access to the justice system, may succeed this year in eliminating the corporation altogether.

The next time a poor person in Stamford needs legal representation there may be no Connecticut Legal Services around to provide it, thanks to Mr. Reagan.●

Mr. SMITH of Iowa. Mr. Chairman, I yield back the balance of my time.

Mr. O'BRIEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of administering the economic development assistance programs as provided for by law, $24,950,000, and in addition, $2,500,000 shall be available by transfer from the unobligated balances in the Economic Development Revolving Fund, notwithstanding section 203 of the Public Works and Economic Development Act of 1965, as amended: *Provided*, That not to exceed $300,000 may be advanced to the Small Business Administration for processing of loan applications: *Provided further*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-seven permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1983, and such positions shall be maintained in the various States within the approved organizational structure in place on June 1, 1981, and where possible, with those employees who filled those positions on that date.

AMENDMENT OFFERED BY MR. CAMPBELL

Mr. CAMPBELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMPBELL: On page 4, after line 14, insert the following new section:

ECONOMIC DEVELOPMENT REVOLVING FUND

(LIMITATION ON LOAN GUARANTEES)

During fiscal year 1983, total commitments to guarantee loans to steel companies shall not exceed $20 million of contingent liability for loan principal.

Mr. CAMPBELL. Mr. Chairman, this amendment would simply insure that business loan funds, which Congress has already appropriated, would remain available after the close of fiscal year 1982. My amendment requires no fiscal year 1983 budget authority and no increase in fiscal year 1983 outlays above the amounts that Congress has already decided to provide and has already anticipated in the first budget resolution for fiscal year 1983.

I can tell you firsthand that at least 1,000 jobs depend upon continuing to make these loan funds available, and I urge my colleagues to join in support of this amendment.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I am happy to yield.

Mr. SMITH of Iowa. As I understand it, this neither increases budget outlays nor budget authority, is that correct?

Mr. CAMPBELL. The gentleman is correct.

Mr. SMITH of Iowa. We have not had time in the subcommittee to examine this matter. I do not really have a position. I am not in any position to accept amendments because I would like to keep the bill as clean as possible. But I am not saying anything against the amendment.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Illinois.

Mr. O'BRIEN. On behalf of the minority, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. CAMPBELL).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, $168,500,000, and in addition, $30,000,000 shall be available by transfer from the unobligated balances in the Economic Development Revolving Fund, notwithstanding section 203 of such Act.

AMENDMENT OFFERED BY MR. MITCHELL OF MARYLAND

Mr. MITCHELL of Maryland. Mr. Chairman, I offer an amendment, and I ask unanimous consent to return to line 5, Economic Development Administration, on page 3 for that purpose.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. MITCHELL of Maryland: On page 3, line 13 insert before the period the following: "*Provided*, That during 1983 total commitment to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further*, That total obligations for new loans under the Economic Development Revolving Fund shall not exceed $30,000,000."

Mr. MITCHELL of Maryland. Mr. Chairman, the purpose of this amendment is to assure that the appropriations and funding for the Economic Development Revolving Fund are available for direct and guaranteed loans.

This amendment will not, I repeat, will not increase new budget authority for EDA over the level set in the bill as reported by the Appropriations Committee.

The background that led me to offer this amendment is that, at the time the bill for appropriations for Commerce, State, Justice, and related agencies was reported to the Appropriations Committee, it was anticipated that a new authorization bill with significant changes in EDA's authority would be enacted by the 97th Congress.

That authorization bill, which was H.R. 6100, would have modified EDA's business loan program by making grants available to State and local entities for the purpose of making loans and by abolishing EDA direct loan and loan guarantee programs.

This was a part of the thrust of the New Federalism.

It now appears the other body will not agree with the House on significant changes proposed in EDA under H.R. 6100 and that this Congress will not enact legislation with sweeping changes in EDA's authorization so that appropriations available to the EDA will be used under EDA's previously existing authority or some slight modification thereof.

That is the only purpose of this amendment. We did not get an agreement on the authorization bill. It does not exceed the budget authority as proposed by the Appropriations Committee, and the amendment will simply assure that the funds for EDA for direct loans and guaranteed loans would be continued until such time as a new authorization bill is passed.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I am delighted to yield.

Mr. SMITH of Iowa. My understanding of the situation is that as far as guarantees are concerned under the gentleman's amendment it increases neither budget authority nor outlays and that the Department has said in the past that they want some signal from Congress or else they will not use guarantee authority at all.

□ 1510

So the loan guarantee portion of the amendment does not violate the rule that we have to remain within our 302 allocation under the budget resolution. However, the direct loan portion of the gentleman's amendment, which transfers money out of the Economic Development Revolving Fund, does put us over our 302 allocation. We have got a lot of budget amendments pending. If there is anything I would like to be for, it is this. But we have got a drug enforcement amendment for $130 million, another for $44 million, for USIA and the Board for International Broadcasting. We are going to be way over our 302 allocation if we accept them.

I am sorry I did not get a chance to talk to the gentleman in advance more thoroughly. I wonder if the gentleman will delete the transfer of money out of the Revolving Fund for direct loans. Then we would not have that problem. Now, maybe the gentleman does not want to do that. I am just pointing out what our problem is.

Mr. MITCHELL of Maryland. I thank the gentleman. It is quite true that the agency does need some sort of signal from us. If the gentleman is satisfied that we can go with the loan guarantee portion——

Mr. SMITH of Iowa. I am not really satisfied that that is enough, but I think under the circumstances that is all we can do. If the gentleman would withdraw the second part, at least we would not be in violation of budget authority or outlays.

Mr. MITCHELL of Maryland. Before I do that, I would ask the distinguished chairman of the committee whether he would work with this gentleman in order to insure an expeditious authorization bill to make sure that we can continue the direct loan program, and that we move quickly on that in the 98th Congress.

Mr. SMITH of Iowa. I certainly will.

Mr. MITCHELL of Maryland. Mr. Chairman, with that assurance, I ask unanimous consent to modify my amendment by deleting that portion of the language that refers to the Economic Development Revolving Fund.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

In the amendment offered by Mr. MITCHELL of Maryland, strike the final proviso of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland (Mr. MITCHELL)?

There was no objection.

Mr. MITCHELL of Maryland. Mr. Chairman, I would hope that, having made that compromise, the amendment could be accepted on both sides.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, we have no objection.

Mr. MITCHELL of Maryland. I thank the gentleman.

Mr. SMITH of Iowa. Mr. Chairman, we have no objection.

Mr. MITCHELL of Maryland. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. MITCHELL), as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $135,200 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad; $164,696,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. During fiscal year 1982 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $12,484,000. During fiscal year 1982, total commitments to guarantee loans shall not exceed $28,250,000 of contingent liability for loan principal.

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that the bill be amended on page 5, lines 13 and 16, by striking "1982" and inserting in lieu thereof "1983."

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $839,233,000, to remain available until expended, of which so much as may become available during the current fiscal year shall be derived from the Pribilof Islands Fund, and, in addition, $21,700,000 shall be transferred to this appropriation from the fund entitled "Promote and develop fishery products and research pertaining to American fisheries", and $9,710,000 from repayments of principal and interest on outstanding loans in the fund entitled "Coastal Energy Impact Fund".

Mr. WIRTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am concerned about the funding status of the Space Environment Laboratory (SEL) located within the National Oceanic and Atmospheric Administration.

Although the SEL's budget is small—last year it spent a total of $4.3 million—its functions are absolutely critical to a variety of users, not the least of whom is the Air Force. SEL provides space environment monitoring, forecasting, alert, and warning services on a continuing 24-hour per day basis, and conducts research in solar-terrestrial physics in support of long-range needs in a variety of areas. To translate its functions into layman's terms, it is our Nation's central facility for monitoring and forecasting changes in activity on the Sun's surface—solar flares and other solar events—which have tremendous impacts on electric power transmission, communications for both aircraft and ships, and on satellite operations and launching.

The SEL has been designated by the Federal Council on Science and Technology as the Nation's center for providing all space environment information required throughout our economy. SEL provides information to more than 1,700 direct users and an estimated 70,000 indirect users, among them:

First, public utilities. Major solar flares seriously disrupt high voltage lines and telephone circuits. Many United States and Canadian utilities rely on SEL for warnings of solar activity.

Second, aircraft and navigation. Solar activity also disrupts communications and aircraft and ship navigation capabilities, particularly in polar regions. SEL is the only source of advance warning for Air Force planes operating in these regions, and for private and Navy ships.

Third, satellite operations and launching. NASA, the Pentagon and private sector satellite owners—mainly in communications—depend on SEL for information on which to base decisions on protection of astronauts and equipment from radiation, to predict orbits of satellites to make launch timing decisions, and to prevent disruption of signals from satellites.

Fourth, research needs. Major space research program make use of SEL information.

Fifth, Department of Defense. Our armed services' worldwide communications network is seriously affected by solar activity, as are surveillance satellites, nuclear event detectors and highly classified satellite systems. DOD depends heavily on SEL information and its timely availability.

I understand that funding at 1982 levels for the Space Environment Laboratory administered by the Department of Commerce was inadvertantly omitted from H.R. 6957, the fiscal year 1983 appropriation bill for the Departments of Commerce, Justice, and State, the judiciary and related agencies.

I also understand that the other body has included funding for this important activity in S. 2956, and that the current continuing resolution was intended to provide for continuation of the full range of work conducted at the Space Environment Laboratory. Is it your committee's intention through conference on this bill or the next continuing resolution to provide for continued funding at the fiscal year 1982 level for this laboratory throughout fiscal year 1983?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. The gentleman is correct. This is one of those programs that still has not been authorized. As I understand it, you are in conference on the authorization. And in these cases we do have some problems in getting our figures together. But I believe I am safe in saying that it is the intention of the committee that this laboratory be funded in 1983 at the level that it was in 1982, somewhere in the progress of this bill. It might be in the conference agreement, or it might be in the next continuing resolution, but we have a number of these kinds of items which we know we are going to have to address in conference.

Mr. WIRTH. I thank the distinguished chairman of the subcommittee.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the distinguished chairman of the Committee on Science and Technology.

Mr. FUQUA. I thank the gentleman for yielding, and I also want to commend the chairman of the subcommittee, the gentleman from Iowa (Mr. SMITH), who has been most cooperative in these matters, for his reassurance of the funding levels for this lab, which is very important, and I commend the gentleman for bringing this to the attention of the committee.

Mr. WIRTH. I thank both chairmen. This is a terribly important laboratory. We had a major discussion on this in the Science Committee. It was part of the legislation that came out of the Science Committee on the House side confirming full support and the continuing activities of the subcommittee, and I am pleased to have the confirmation of the gentleman from Iowa.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SCIENCE AND TECHNICAL RESEARCH

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $119,162,000, to remain available until expended, of which not to exceed $6,286,000, may be transferred to the "Working Capital Fund".

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: Page 9, strike lines 19 through 22 and insert the following:

"For necessary expenses of the National Bureau of Standards, $117,861,000, to remain available until expended. Of the foregoing amount, not to exceed $47,816,000 is for Measurement, Research and Standards (including not to exceed $1,000,000 for 'Measurement Standards for the Handicapped'); not to exceed $21,635,000 is for Engineering Measurements and Standards; not to exceed $10,000,000 is for Computer Science and Technology; not to exceed $13,557,000 is for Core Research Program for Innovation and Productivity; not to exceed $5,491,000 is for the Fire Research Center; not to exceed $6,986,000 is for Technical Competence; not to exceed $12,376,000 is for Central Technical Support; and not to exceed $6,286,000 may be transferred to the 'Working Capital Fund'. No amount is provided for a metal processing program."

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman, this amendment would provide a specific allocation of funds for the National Bureau of Standards in conformance with the allocations contained in the Authorization Act.

The Authorization Act contains seven line items covering the categories of R&D performed at the NBS, and this amendment would indicate the allocation of funds to those categories. The total funds provided, $117,861, is identical to the amount in the Authorization Act signed by the President last October 6.

The amendment has been drafted in close cooperation with the gentleman from Iowa and his able staff, and I want to thank them for their help and support in this matter.

I note in this connection that the figures for each of the line items in this amendment do not correspond exacly to the amounts found in the Authorization Act, Public Law 97-786, even though they add up to the same total of $117.861 million.

Those slight differences are accounted for principally by the reorganization of the budget structure which Senator SCHMITT and Congressman WALGREN, the two chairmen of the Senate and House authorizing subcommittees asked for earlier this year. For example, several of the programs to advance electronic and mechanical technology formerly included in the line items for "Measurement Research and Standards," and "Enginerring Measurement and Standards" are now, and will in future years be included in the line item "Core Research Program for Innovation and Productivity."

The allocation in the revised manner is reflected in the amendment and it is the intent that the funds be expended according with the revised budget categories. I can assure the House that our committee will closely monitor the implementation of the new budget categories. On this matter too, I want to express our appreciation to Chairman SMITH and his staff for their help, suggestions and support.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the amount in our bill would be brought into conformity with the authorizing legislation under this amendment. Actually, it reduces the amount of money in the bill by $1,301,000. This amendment, I believe, is a worthy one. I appreciate the authorizing committee's cooperation in this matter, and I urge the acceptance of the amendment.

Mr. FUQUA. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA).

The amendment was agreed to.

□ 1520

The Clerk will read.

The Clerk read as follows:

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

During the current fiscal year applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act.

During the current fiscal year appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

AMENDMENT OFFERED BY MR. M'DADE

Mr. McDADE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCDADE: Page 10, after line 23, insert the following new paragraph:

No funds in this title shall be used to sell to private interests, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 and any loans made under section 254 of the Trade Act of 1974.

Mr. McDADE. Mr. Chairman, I offer an amendment. This amendment isneeded to prohibit the Economic Development Administration from selling loans to private investors until the recent sale of a number of direct loans made under the Public Works and Economic Development Act and the Trade Act of 1974, has been fully evaluated by the Congress. Any further action to dispose of the loan portfolio should be made after consultation of the appropriate congressional committees.

The economic development loan and the trade adjustment loan program were designed to save or create jobs and promote business expansion in depressed areas. These programs have provided an important source of funding to small businesses which have been denied capital from traditional private lenders. It is essential that the economic development potential of a firm be considered in any decision to sell existing government loans to private investors or to contract out the servicing of loans. Protection of past Federal investments must be carefully balanced with the job creation and economic development potential of an individual borrower.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding and I thank the gentleman for bringing this to our attention.

The gentleman from Iowa (Mr. HARKIN), the gentleman from Minnesota (Mr. OBERSTAR) the gentleman from Pennsylvania, and other Members have brought this to our attention. This is something we did not know about at the time we held our hearings. This amendment does not increase budget authority or outlays in any way. It certainly seems to me to be meritorious. I cannot speak for the subcommittee because we have not talked about it. I think it is worthy of our consideration.

Mr. McDADE. I thank the gentleman.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Illinois.

Mr. O'BRIEN. I thank the gentleman for yielding.

It indeed appears to me as an individual a meritorious amendment. I cannot speak for the minority or even for the other two Members. I have no objection to it.

Mr. McDADE. I thank the gentleman.

● Mr. HARKIN, Mr. Chairman, this amendment blocks the Economic Development Administration from selling off their loan portfolio. In late August they offered 51 loans for bidding and have since sold 10 of those loans. They got 17 cents on the dollar. This was the first time that the agency ever sold its loans in bulk.

Apparently, this sale was the first of many that the agency intends to make. They are under pressure from OMB to sell off the greater portion of their loan portfolio in fiscal years 1983 and 1984. If this were done it would

cause major disruptions for a substantial number of firms whose notes would be sold.

First, the agency is not allowing a business to buy its own loans back at a discount. Since the company is probably the one that would pay the most for the notes, the Government will lose money on the deal. Anyone else who would buy the notes of a firm would do so at a greater discount.

Second, a competitor could buy a firm's notes, and that would give the competitor access to all of the company's lists of customers and other sensitive material.

Third, and this is crucial, if a company is in arrears, and many small businesses are in that position in these difficult times, the buyer of the notes can make a killing by demanding immediate payment. That would have an excellent chance of putting the firm out of business, throwing the employees out of work. However, the buyer of the notes would make an instant profit bonanza.

The mechanism that is being used by EDA to sell the notes promotes this worst case scenario. They are allowing the buying party to take an option on the loan. The option holder then gets an opportunity to shake down the business for an immediate payment.

The Economic Development Administration has been one of the most successful of the Government's programs to create jobs in the private sector. I know some believe that the agency should no longer continue. However, in no case do I believe that any Member of the House wants to see jobs that have been created, destroyed by this shortsighted policy. I urge support for the amendment.●

● Mr. OBERSTAR. Mr. Chairman, I strongly support the amendment of the gentleman from Pennsylvania as a necessary step to give the Public Works and Transportation Subcommittee on Economic Development, which I chair, and other interested congressional committees, an opportunity to continue to review EDA's sale of certian loans within its portfolio.

As long ago as our subcommittee hearings in November 1981, I expressed serious reservations about loans to sell off the loan portfolio. My main concern was, and remains, that private purchasers of these loans would not have the same interest as does EDA in preserving jobs and small businesses, and that the economic development purpose of these loans would be lost by their sale.

Following up on the November hearing, I twice wrote to Carlos C. Campbell, Jr., Assistant Secretary of Commerce for Economic Development, on December 3, 1981, and again on July 29, 1982, urging that the loan portfolio be kept within EDA.

Despite the clear expression of concern by the subcommittee, EDA placed an advertisement in the Wall Street Journal on August 26, of this year requesting bids from private interests for the purchase of EDA loans.

The original bid offering circular contained 51 projects totaling over $48 million in oustanding principal.

To date, 10 loans have been sold to private investors. These 10 loans had an outstanding balance of $11.2 million and were sold for $1.9 million or an average return of 17 cents on the dollar.

Despite the low return on the dollar, businesses are threatened with bankrupty third party speculators become the collection agency for the Government, and the total economic consequences to the borrower and the taxpayer are questionable.

Also of concern is the indication, by EDA, that experience gained in this sale will be applied to possible future sales of loans made by the Small Business Administration and the Farmers Home Administration.

For this reason, as well as for the future of EDA borrowers, I believe it imperative that Congress have an opportunity to thoroughly review the past sale prior to any further such action by EDA.

To date, we have received inadequate responses to our questions from the Agency. Our subcommittee will hold oversight hearings on this administration's conduct of the full range of EDA programs next Tuesday, December 14. We expect to cover the sale of the loan portfolio.

However, this hearing is only the beginning of our inquiry into the sale. We will, I am sure, have much more to learn in followup questioning and review of whatever materials EDA provides us next Tuesday and will expect, from the Agency, a full written report and opportunity to comment on it before the Agency offers any further loan sales.

Our subcommittee has not taken a position against such sales; we simply do not know, and will not know until we have conducted this thorough review, our position on this action. The McDade amendment will give us an opportunity to conduct the careful review this issue requires.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. McDADE).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $63,638,000.

POINT OF ORDER

Mr. FLORIO. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FLORIO. Mr. Chairman, I would raise a point of order on the grounds that there is no authorization for the Federal Trade Commission as required by rule XXI, clause 2 of the rules of the House.

The CHAIRMAN. Does the gentleman from Iowa (Mr. SMITH) wish to be heard in opposition to the point of order?

Mr. SMITH of Iowa. Well, Mr. Chairman, I just say this. Obviously the Federal Trade Commission needs money. There is no waiver from the Rules Committee protecting this. So I have to concede the point of order.

The CHAIRMAN. For the reason stated by the gentleman from New Jersey (Mr. FLORIO), the point of order is sustained. The paragraph is stricken.

The Clerk will read.

□ 1530

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed four hundred one of which four hundred shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; and for expenses necessary under Section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-442) for the processing, care, maintenance, security, transportation, and the initial reception and placement in the United States of Cuban and Haitian entrants; $488,922,000, of which not to exceed $400,000 shall remain available for research until expended: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $20,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement.

AMENDMENT OFFERED BY MR. KAZEN

Mr. KAZEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KAZEN: Page 21, line 12, strike out "$488,922,000" and insert in lieu thereof "$493,922,000".

Mr. KAZEN. Mr. Chairman, this amendment will add $5 million to the figure for the Immigration and Naturalization Service.

The reason that I am doing this is because this amount would employ approximately 100 additional immigration inspectors that we so sorely need along the Mexican border. We have all these ports of entries from Brownsville, Tex., to San Diego, Calif., and all points on the border are in dire need of personnel.

Last week when the Department of the Treasury appropriation bill was before this committee, we added the identical amount of $5 million for additional customs inspectors.

Mr. Chairman, the personnel at the border, the points of entry and exit, need these people. It is only a matter of numbers that we must meet. The traffic has been such between the United States and Mexico that we must have these people in order to continue to man the ports of entry into this country.

Now, I understand that the chairman will tell us—I do not know whether he will object to this or not, but will say that we are right up against our budget ceiling on this bill.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Yes; I yield to the distinguished chairman.

Mr. SMITH of Iowa. Certainly, that is right. We have a number of these items where I cannot speak against the merits at all. In fact, I would like to figure out some way, and I think we will be able to maybe, some way to pick them up at one point or another; but we have, as I mentioned before, a request from the administration for $130 million for additional money for drug law enforcement task forces and we are going to have to figure out some way to pick that up later.

We do not have a request for the additional $5 million proposed by the gentleman from Texas (Mr. KAZEN), but in spite of that I think it is a meritorious request. However, we just do not have the budget authority at this point.

Mr. KAZEN. Well, Mr. Chairman, I can appreciate the position that the gentleman is in. However, I just do not see how in the world we can keep these bottlenecks along the border. There are so many people, so many crossings every day, that we just have to have the additional personnel.

Mr. SMITH of Iowa. I am not arguing about that at all. In fact, I think we will find some way to do whatever needs to be done there; but I just would like not to do it here today on this bill. Some way we will have to revise some other items on this bill, too. We will have to take some money out of some places, probably. Those items with higher priority ought to have higher priority.

Mr. KAZEN. May I ask the chairman, how much money is there in this bill for additional personnel?

Mr. SMITH of Iowa. Well, I do not know what the gentleman calls additional personnel.

Mr. KAZEN. I mean immigration inspectors over and above what we had in the last fiscal year.

Mr. SMITH of Iowa. Well, they did not request additional ones over last year. That is the reason I say, I think there are some places we are going to have to find a way to provide for some increases.

What we have done in many programs in the bill is to hold them to last year's program level.

Now, in this case, we did not give INS an increase because they did not ask for it; but that does not mean that an increase is not justified. The things the gentleman has mentioned really have come up since we finished our hearings on the bill.

Mr. KAZEN. Mr. Chairman, this is the dilemma that not only I, but all of us who represent the border zone all along the Mexican-United States border face. The immigration people up here in Washington have not given us the necessary personnel. They have been, on many occasions, requested by the local district people, but these people up here say, "We just don't have it."

Now, this is the time and the place to do it; otherwise, we will continue to be operating at below what is needed to keep those bridges and ports open. We have spent millions upon millions of dollars in creating these ports of entry in order to accommodate the number of crossings between our two countries and if we cannot service them, that money is going to waste and we just cannot be expected to stop the traffic.

Mr. SMITH of Iowa. Let me just say once more, I am hoping, and I believe we can somehow in conference find the room for this money; but at this point, it puts us in excess of our section 302(b) allocation.

Now, if the majority of the House want to do it, they can add money to the bill which would cause the total amount in the bill to exceed the section 302(b) allocation.

We on the subcommittee are not in a position to approve exceeding our allocation from the full committee. That would not be right. If the Members want to vote for the gentleman's amendment, knowing that in doing so they are exceeding the section 302 allocation, that is up to them. Now I say this again, I think we can find the money at another time without violating the section 302 allocation.

Mr. KAZEN. Well, Mr. Chairman, I understand the gentleman's position and I appreciate the gentleman's position.

Let me just ask the gentleman this question: If in the gentleman's deliberations in the conference when we come to that point, although I do not know whether this is even going to be the subject of the conference or not.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. KAZEN was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Mr. Chairman, I do not know whether this particular section will be a subject of the conference or not. This is what worries me a little bit, because if it is not, you are not going to discuss it; otherwise, I would request the gentleman to indicate by this colloquy that whatever moneys are appropriated to the Service, that they see to it that enough personnel are transferred into the border areas.

I am particularly interested in the crossing points in my district at Laredo, which is the largest inland port in the United States, and at Eagle Pass.

I am sure Congressman DE LA GARZA, Congressman WHITE, Congressman LOEFFLER and the rest of us have the same problem.

Mr. SMITH of Iowa. I take the gentleman's word for it. I certainly will cooperate in every way in trying to find some additional resources out of the allocation that we presently have. I think this is one of the highest priorities, and we ought to be able to find some additional money. I think we can do it, one way or another.

Mr. KAZEN. I appreciate that.

Mr. Chairman, I might ask the distinguished ranking member if he feels the same way as the chairman does.

Mr. O'BRIEN. Mr. Chairman, if the gentleman will yield, I share the chairman's view, and while I think the credibility of the gentleman from Texas' argument is very clear, I think we should make the change at a later stage.

Mr. KAZEN. Well, fine. I would appreciate it if the gentleman would also work toward indicating that this personnel is needed at the Mexican border and for the people downtown to transfer whatever is needed down there in order to take care of the traffic.

Mr. O'BRIEN. Mr. Chairman, if the gentleman will yield further, I can assure the gentleman that we will make a combined effort to reach that desirable end.

Mr. KAZEN. Mr. Chairman, with that understanding, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas (Mr. KAZEN) to withdraw the amendment?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 202. Notwithstanding section 501(e)(2)(B) of Public Law 96-422, funds appropriated to the Department of Justice in

this title may be expended for assistance to Cuban-Haitian entrants as authorized under section 501(c) of said Act.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER:

On page 25, after line 23, add the following new section:

SEC. 203. No funds appropriated under this title shall be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

□ 1540

Mr. WALKER. Mr. Chairman, this is an amendment which this House has previously adopted not only on this legislation but on the education legislation as well.

What it would do is extend the protection from Federal interference with voluntary school prayer and meditation in the schools to the Justice Department. That particular protection now exists from the interference by the Department of Education.

It seems to me that it is a matter that this House has decided previously and said that we would like to extend this protection to the Justice Department. The previous vote on this matter was 333 to 54, so I think the House has made a rather strong indication that it does accept this particular language.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Iowa, the chairman of the subcommittee.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Before I proceed, I guess I should ask the gentleman the same question I asked last year: Is the gentleman afraid the Reagan administration is going to prevent the implementation of these programs?

Mr. WALKER. As I said to the gentleman last year, Mr. Chairman, no, I have no particular fear of that, but I do think it is important at a time when many school districts are considering putting in constitutional programs of a voluntary school prayer, they are concerned about Federal Government interference. This is just one more protection that they think they should have in order to assure them that the Federal Government is not going to get in the way of those programs.

Mr. SMITH of Iowa. I would just say that I think this is one of the things I would rather not have on the bill, but I recognize that if there is a record vote on it, the vote will probably be the same as last year. That is about all I can say.

Mr. WALKER. I thank the gentleman.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield to me?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. O'BRIEN. I thank the gentleman for yielding.

Mr. Chairman, on the minority side, we have no objection.

Mr. WALKER. I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS of Texas: Page 25, after line 23, add the following new section:

SEC. 203. No part of any sum appropriated by this title shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Mr. COLLINS of Texas. Mr. Chairman, today I am pleased to again offer my antibusing amendment to H.R. 6957, the Department of Justice appropriations bill. I am proud that the Reagan administration opposes busing and commend the Department of Justice's position opposing busing in Baton Rouge, La. Since the courts consider many other busing suits, it is important that Congress make our position abundantly clear on the record as opposing forced schoolbusing. For that reason, I offer the amendment.

I introduced my amendment last year to the Department of Justice authorization bill, which passed the House by an overwhelming vote of 265 to 122 on June 9, 1981. I was pleased to see the Senate include the House amendment, along with language added by the distinguished Senator from North Carolina, Mr. HELMS, and the distinguished Senator from Louisiana, Mr. JOHNSTON.

I would like to emphasize some of the reasons why we need an end to forced schoolbusing and a return to the neighborhood school.

A 1982 NBC poll shows that 73 percent of Americans oppose busing. Polls are consistently showing that by margins of 3 to 1 and greater, Americans want to stop forced busing. Majorities of both blacks and whites are now opposed to busing.

Since the 1954 Brown decision, court decrees have mistakenly promoted forced busing. The intent of this landmark decision was to allow children to be treated equally and to attend their neighborhood schools. In that case, a little black girl in Topeka, Kans., wanted to go to a school seven blocks from her home. Yet, she was forced to go on a bus to a school 27 blocks away because of her race. The courts were wise and just in ruling that a child shall be entitled to attend the school nearest home.

This is exactly what Americans want today—the neighborhood school.

The 1964 Civil Rights Act clearly stated that desegregation does not mean the assignment of students from one school to another to achieve racial balance. Yet, this is exactly what proponents of forced schoolbusing are doing. And they are failing miserably.

The experts agree that busing is a failure. Dr. James Coleman, the "father of busing," has reversed his busing theory after a decade of research, stating: "School desegregation in the form of mandatory busing for racial balance has been destructive to its own goals." He said that forced schoolbusing does not generally bring achievement benefits to disadvantaged children and that policies to institute "instant racial balance" simply would not work.

Coleman's findings were supported by extensive studies by David Armour, another leading expert in the desegregation process. Armour's report showed massive white flight occurring because of busing. This left 15 out of 23 cities predominantly minority, clearly defeating the purpose of desegregation. This is true in my Dallas school district where minority enrollment has increased from 38 percent in 1968 to 72 percent today. And what we are seeing now is increasingly segregated schools.

While judges have forced school districts to become preoccupied with busing, not enough attention has been paid to assuring quality education for all students. In the last 17 years scholastic aptitude test scores of high school seniors have dropped over 10 percent—from 973 in 1964 to 890 in 1981. We should be concentrating on improving the quality of education.

It is completely senseless to force young children to sit on buses for up to 1 hour or more riding to and from school. Busing makes it difficult, and often impossible, for parents and children to participate in extracurricular activities. If you bus a child an hour away from home, it also causes problems if a child gets sick in the middle of the day.

Since coming to Congress in 1968, I have actively worked for passage of legislation to end forced schoolbusing. This year I believe we have the momentum.

The American people want an end to forced schoolbusing. We have the administration behind us and both Houses on record in favor of the antibusing provisions. I urge the House to again vote in favor of the Collins amendment.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to point out to the Members what we have here. We do not have just a busing question. The situation is this: The Justice Department has openly taken the opposite position to what the gentleman from Texas apparently is afraid they will do. He says the Department cannot bring any sort of an action to require these things to happen. The Department has taken the opposite position, so it is obviously unnecessary.

This is a bill that lasts for only 1 year. So why prohibit the existing administration, which will be in office for at least one more year, from doing something we know they are not going to do.

Second, the same kind of an amendment was put on the authorizing bill and it is the reason the authorizing bill today has not been enacted into law. We do not have an authorizing bill, so we had to go to the Rules Committee and get a waiver on this bill so that we can even consider any of the money for law enforcement in this bill.

Third, this amendment, I believe, was the same amendment that was put on 2 years ago, but not last year.

I ask the gentleman: Was it put on the last year?

Mr. COLLINS of Texas. If the gentleman will yield to me, Mr. Chairman, it is put on every year.

Mr. SMITH of Iowa. I thought the gentleman was out talking to the newspaper reporters last year.

Mr. COLLINS of Texas. That is right; I did on the authorization, which is the one they are acting on. They are still acting on the authorization amendment from last year.

Mr. SMITH of Iowa. But we are sure if this amendment is adopted, this bill will not become law before we leave here in December. I would certainly like to get this bill through the other body.

I am not speaking to the merits or demerits other than to say it is not necessary anyway because we know the Justice Department is not going to bring actions to require busing.

In view of the fact that what we are really saying if we adopt this, is that we do not want this bill enacted into law, can I prevail on the gentleman, for one last good will gesture toward this House, to withdraw his amendment?

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. I would say, Mr. Chairman, that the reason the authorization bill is not cleared is not the fault of the other body; it is the fault of this body. This bill is sitting today in the Committee on the Judiciary right now. Because the Senate confirmed and expanded on this amendment, they have a much broader amendment than we do.

□ 1550

I think it is necessary for us to continue to send this message to the Justice Department about how we feel. It would seem to me that since both bodies have now passed it, that at this time the other body would join us in passing it also.

Mr. SMITH of Iowa. I just point out again, though, the amendment is not going to pass. We know that. The gentleman has pursued his amendment twice. He has gotten record votes and won overwhelmingly. He has made his point. The administration seems to agree with him wholeheartedly, and takes that position in court.

I just would like to prevail on the gentleman to not press his amendment at this point. I concede that if he does he will probably win, and probably that is the position of the House if we were to vote strictly on whether or not it is busing. But really that is not the question as I see it now. The question is, Do we want a bill enacted for these departments, or do we want to go under a continuing resolution for the rest of the year? I hope we do not have to do that.

Mr. COLLINS of Texas. If the gentleman will yield further, I would say that the reason the bill did not move forward is the gentleman from Connecticut over in the other body, who would like to talk for an unlimited time, but the will of the majority is that they would like it to go forward.

I will also add, in Baton Rouge, La., the gentleman from Louisiana (Mr. MOORE) and Mr. JOHNSTON, the gentleman from the other body, their strong position on encouragement and explaining to the Justice Department the need to move, because if we do not take action we are going to turn every one of the balanced school systems in America into segregated schools, out of balance. I think it is very important that we continue to express ourselves in this House.

Mr. SMITH of Iowa. But we do not have to take action again on this bill. We have already taken action on the authorizing bill, taken action two or three other times. I just hope that we will not adopt this amendment today because what we are really doing is not voting on busing, but saying that we want the Department of State, the Department of Commerce, the Department of Justice, the Judiciary of this country, and all these related agencies, that we do not want them to have money in their own right in an appropriation bill. What we want to do is force them under a continuing resolution. That is not a good way to run the Government.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield.

Mr. KASTENMEIER. Mr. Chairman, I would agree with the gentleman in the well, and furthermore state that I think this House ought to be conscientious about taking a position which is contrary to existing law; that is, to forbid the Justice Department from doing that which it is constrained to do pursuant to other laws of this Congress.

Mr. SMITH of Iowa. I would urge again that the gentleman withdraw his amendment. If he will not, I hope the House will vote this time not on whether one is for or against busing, but on whether or not one wants this bill be hung up and these Departments to have to operate again under a continuing resolution.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I find myself in an unusual position on this amendment because, basically, I am not a supporter of forced busing and I have indicated that in the past. However, as I read this amendment it says that no part of any sum appropriated by this title shall be used by the Department of Justice to bring any sort of action to require, directly or indirectly, the transportation of any student to a school other than to the school which is nearest the student's home.

Now, it seems to me that that says that no matter how flagrant a violation of the rights of an individual might be, how flagrantly they might be violated, that this really prohibits the Justice Department from doing anything. There is no way in this amendment, if it were to be passed, that if a board of education chose to take steps that would really violate everything that most of us believe in, that the Justice Department would be prohibited from taking any action whatsoever. Is that not what the gentleman's amendment would do? I would be glad to yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Chairman, I appreciate the gentleman yielding to me. There are many alternatives they could take instead of busing. For instance, they could have a magnet school. I would recommend that. It is the system used in Richardson, Tex., a community located near me. The system they have there is that they let one school be a voluntary school in a minority neighborhood. Anyone that wants can have their children transferred into that school. They picked the neighborhood, it is a black community, and they said that it must not be over 50 percent either black or white. It is interesting that we have had only one child in 5 years who was black who asked to be transferred out. It is also interesting that the number of white children who want to go to that

school, they have a 3-year waiting list. So, here we have a voluntary school that is most successful, not only in achieving racial balance, but in preventing segregation.

Mr. PEYSER. If that proves to be a very successful thing in that area of Texas, I think that is probably fine, and the people feel good about it, but this really is speaking to the entire United States of America. Every State in the Union is affected, and it may not be that way in every State. What the gentleman is doing by this amendment, is so sweeping that it literally, no matter what an area chooses to do in the schools dealing with this question, the Justice Department cannot get involved.

I would think that even those who are opposed to forced busing could not support this amendment because it is just far too sweeping. It is the equivalent of really trying to bring a constitutional amendment against busing to the floor. I think that those who feel strongly on busing do not have to worry about voting no on this amendment because this amendment goes much further I think than reasonable Members would ever want to go on this issue.

Mr. COLLINS of Texas. Will the gentleman yield further?

Mr. PEYSER. I will be glad to yield.

Mr. COLLINS of Texas. I appreciate what the gentleman is saying because what he is asking for are for other reasonable, practical alternatives. What this amendment does is, it says that we are not going to mandate forced busing, but let children go to neighborhood schools.

Let me give the gentleman another alternative. It is what they call freedom of choice. That means that youngsters should be entitled, where space is available, to go to any school in the school district. Suppose one high school in the city offers German. They can go and take German there or for whatever reason they want, they have the right to transfer. They suggested freedom of choice before, and the courts have said no, but judges want to go busing. What is wrong with this freedom of choice, to let children go where they want to go?

Mr. PEYSER. We are practically talking now about what is known as the voucher system. Years ago, and I served on this Education Committee since 1971, we had what was known as a voucher system that we tested, where a student could go to any school he wanted to and transfer the money that was going into one school and go to another school. What we found was, very quickly we had a difference of levels of schools in a given area. I do not think that is the way this country intended to build our education system, and in spite of criticism, I say to my friend from Texas, our education system is really doing, I believe, an outstanding job.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. PEYSER was allowed to proceed for 3 additional minutes.)

Mr. PEYSER. Mr. Chairman, I think the point I would like to make at this time—and this is to people who are concerned about busing—is that this amendment goes very much too far in handling this issue of busing. They can easily vote against this amendment and still express a concern, and still have legislative action that might be taken dealing with specific forced busing, but we are here eliminating any opportunity for outright injustices that could take place in this country. We are saying to the Justice Department, "You cannot get into it no matter how flagrant it is, no matter even how much in violation of the Constitution it may be. You cannot go into this program."

I urge my colleagues to vote "no" on this measure We cannot let this go through. It will have the impact that the chairman said, of stopping this bill. It will also have the impact of sending a very clear statement to the people of this country that the Justice Department no longer can carry out its functions, that this House of Representatives, the Congress, has really stopped them. I do not think that is what we mean to do.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. COLLINS).

□ 1600

The question was taken; and on a division (demanded by Mr. COLLINS of Texas) there were—ayes 8, noes 14).

Mr. COLLINS of Texas. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Thirty-eight Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1620

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared.

A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Texas (Mr. COLLINS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 243, noes 153, not voting 37, as follows:

[Roll No. 427]

AYES—243

Albosta	Gingrich	Myers
Anderson	Ginn	Napier
Annunzio	Glickman	Natcher
Anthony	Goldwater	Neal
Applegate	Goodling	Nelligan
Archer	Gradison	Nelson
Ashbrook	Gregg	Nichols
Atkinson	Grisham	O'Brien
Badham	Gunderson	Oakar
Bailey (MO)	Hagedorn	Oxley
Barnard	Hall (OH)	Parris
Beard	Hall, Ralph	Pashayan
Bennett	Hall, Sam	Patman
Bevill	Hamilton	Paul
Bliley	Hammerschmidt	Petri
Boggs	Hance	Pickle
Boland	Hansen (ID)	Porter
Boner	Hansen (UT)	Pursell
Bonior	Hartnett	Quillen
Bonker	Hatcher	Regula
Bouquard	Heftel	Rhodes
Bowen	Hendon	Rinaldo
Breaux	Hertel	Ritter
Brinkley	Hightower	Roberts (KS)
Brooks	Hiler	Roberts (SD)
Broomfield	Hillis	Robinson
Brown (CO)	Holland	Roe
Brown (OH)	Holt	Roemer
Broyhill	Hopkins	Rogers
Burgener	Hubbard	Roth
Butler	Hutto	Roukema
Byron	Hyde	Rousselot
Campbell	Ireland	Rudd
Carman	Jeffries	Russo
Carney	Jenkins	Santini
Chappell	Jones (OK)	Sawyer
Cheney	Jones (TN)	Schulze
Clausen	Kazen	Sensenbrenner
Clinger	Kindness	Sharp
Coats	Kramer	Shaw
Coleman	Lagomarsino	Shelby
Collins (TX)	Latta	Shumway
Corcoran	Leach	Siljander
Coughlin	Leath	Skeen
Courter	LeBoutillier	Smith (AL)
Coyne, James	Lee	Smith (NE)
Craig	Lent	Smith (NJ)
Crane, Daniel	Levitas	Smith (OR)
Crane, Philip	Livingston	Snyder
D'Amours	Loeffler	Solomon
Daniel, Dan	Long (LA)	Spence
Daniel, R. W.	Lott	Stangeland
Dannemeyer	Lowery (CA)	Staton
Daub	Lujan	Stenholm
Davis	Luken	Stump
Deckard	Lungren	Tauzin
Dickinson	Madigan	Taylor
Donnelly	Marlenee	Traxler
Dornan	Marriott	Trible
Dowdy	Martin (NC)	Vander Jagt
Dreier	Martin (NY)	Volkmer
Dunn	Martinez	Walgren
Dyson	McCollum	Walker
Early	McCurdy	Wampler
Edwards (AL)	McDade	Watkins
Edwards (OK)	McDonald	Waxman
Emerson	McEwen	Weber (MN)
English	McGrath	Weber (OH)
Evans (DE)	Mica	Whitehurst
Evans (IN)	Michel	Whittaker
Fary	Miller (OH)	Whitten
Ferraro	Mitchell (NY)	Williams (OH)
Fiedler	Moakley	Wilson
Fields	Molinari	Winn
Flippo	Mollohan	Wolf
Forsythe	Montgomery	Wortley
Fountain	Moore	Wylie
Fuqua	Moorhead	Yatron
Gaydos	Morrison	Young (FL)
Gephardt	Mottl	Young (MO)
Gibbons	Murtha	Zablocki

NOES—153

Addabbo	Fowler	Obey
Akaka	Frank	Ottinger
Andrews	Frenzel	Panetta
Aspin	Frost	Patterson
AuCoin	Garcia	Pease
Bailey (PA)	Gejdenson	Pepper
Barnes	Gilman	Perkins
Bedell	Gonzalez	Peyser
Beilenson	Gore	Price
Bereuter	Gray	Pritchard
Brodhead	Green	Rahall
Brown (CA)	Guarini	Railsback
Burton, John	Hall (IN)	Rangel
Burton, Phillip	Harkin	Ratchford
Chisholm	Hawkins	Reuss
Clay	Hefner	Rodino
Coelho	Hollenbeck	Rose
Collins (IL)	Horton	Rosenthal
Conable	Howard	Rostenkowski
Conte	Hoyer	Roybal
Conyers	Hughes	Sabo
Coyne, William	Jacobs	Savage
Crockett	Jeffords	Scheuer
Daschle	Jones (NC)	Schneider
de la Garza	Kastenmeier	Schroeder
Dellums	Kemp	Schumer
DeNardis	Kennelly	Seiberling
Derrick	Kildee	Shamansky
Dicks	Kogovsek	Shannon
Dingell	LaFalce	Smith (IA)
Dixon	Lantos	Smith (PA)
Dorgan	Leland	Solarz
Downey	Lewis	St Germain
Dwyer	Long (MD)	Stark
Dymally	Lowry (WA)	Stokes
Edgar	Lundine	Stratton
Edwards (CA)	Markey	Studds
Emery	Matsui	Swift
Erdahl	Mazzoli	Synar
Erlenborn	McClory	Tauke
Evans (IA)	McCloskey	Udall
Fascell	McHugh	Vento
Fazio	McKinney	Washington
Fenwick	Mikulski	Weaver
Findley	Miller (CA)	Weiss
Fish	Mineta	Whitley
Fithian	Mitchell (MD)	Williams (MT)
Florio	Moffett	Wirth
Foglietta	Murphy	Wolpe
Ford (MI)	Nowak	Wyden
Ford (TN)	Oberstar	Yates

NOT VOTING—37

Alexander	Ertel	Minish
Bafalis	Evans (GA)	Shuster
Benedict	Foley	Simon
Bethune	Gramm	Skelton
Biaggi	Heckler	Snowe
Bingham	Huckaby	Stanton
Blanchard	Hunter	Thomas
Bolling	Johnston	White
Chappie	Lehman	Wright
Derwinski	Marks	Young (AK)
Dougherty	Martin (IL)	Zeferetti
Duncan	Mattox	
Eckart	Mavroules	

□ 1630

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. SMITH of Iowa. Mr. Chairman, a number of Members have asked me how long it is going to take on this bill. I do not know. But while a lot of Members are here, I will make a unanimous-consent request that all debate on the bill end at 6 o'clock.

The CHAIRMAN. The Chair would advise the gentleman from Iowa that his request is not in order until the bill is open for amendment at any point.

□ 1640

Mr. SENSENBRENNER. Mr. Chairman, did the gentleman propound a unanimous-consent request?

The CHAIRMAN. The gentleman withdrew the unanimous-consent request.

The Clerk will read.

The Clerk read as follows:

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $241,000,000: *Provided,* That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of H.R. 3480, as passed the House of Representatives on June 18, 1981.

This title may be cited as the "Department of Justice and Related Agencies Appropriation Act, 1983".

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this legislation.

I would like to commend the committee for its work, particularly regarding the appropriation for the Legal Services Corporation. The Judiciary Committee along with this House last year fashioned 30 amendments designed to meet every serious criticism of the corporation, including cutting its authorization level by 25 percent.

I commend the chairman of the subcommittee, the distinguished gentleman from Iowa, who offered an amendment in committee on this bill which would have the effect of incorporating into this appropriation measure every change this House made last year when it passed the Legal Services Corporation Authorization Act. It is my understanding that funds appropriated in this legislation shall only be expended in accordance with the provisions of that legislation as that measure passed the House of Representatives last year.

Mr. Chairman, the language in question appears on page 26 of the bill at line 22 and reads as follows:

"*Provided,* That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of H.R. 3480, as passed the House of Representatives on June 18, 1981."

H.R. 3480 is the authorization bill.

One of the 30 changes made in that authorization bill was the repeal of the so-called presumptive funding rights, a concept virtually unique to the Legal Services Corporation.

Mr. Chairman, I would view the expenditure of funds for procedures that recognize presumptive funded rights to be contrary to the provisions of H.R. 3480 and, therefore, prohibited by the provisions of the legislation before us.

I would like to ask the distinguished subcommittee chairman, what is the understanding of his amendment as he presented it to the Appropriations Committee?

I yield to the gentleman from Iowa for that purpose.

Mr. SMITH of Iowa. Mr. Chairman, the bill clearly says that whatever is in the authorizing legislation, that is the law. We expect that to be followed precisely. We are not trying to change anything at all in the appropriations bill.

Now, when it came up in the continuing resolution on page 21 of that report, there is a paragraph concerning this particular matter and we further construed it there as it relates to the limitation that was in that conference report and that is on the continuing resolution, which expires December 17.

I want to make clear also that it is my understanding that the gentleman who was the author of the amendment and the committee did not expect this restriction to be used as a way to arbritarily refuse to refund local programs. It was not to be used, and I do not think the gentleman intended it to be used, as a way to eliminate legal services to any area of the country. Is that correct?

Mr. BUTLER. Reclaiming my time, Mr. Chairman, certainly we do not want to abuse the discretion of the Legal Services Corporation, but we do not want them to be in a position to arbitrarily deny refunding.

I hope the gentleman will understand that the presumptive funding rights, as has been previously construed, has been substantially curtailed by this legislation.

Mr. SMITH of Iowa. Well, I think the bill clearly says whatever is in H.R. 3480 is to be the law.

Mr. BUTLER. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SENSENBRENNER: On page 26 line 22 strike $241,000,000 and insert in lieu thereof $100,000,000.

Mr. SENSENBRENNER. Mr. Chairman, my purpose today is to seek to reduce the appropriation for the Legal Service Corporation from its present $241 million to $100 million for fiscal year 1983.

I do not intend to take the time of the committee this afternoon to rehash the debate over the authorization legislation which passed the House in June 1981; however, since that time it has become readily apparent that grantees of the Legal Services Corporation have been overfunded, have been given more money by the Legal Services Corporation board and administration and have salted that money away for a rainy day.

In my opinion, this is an arrogant attitude on the part of those recipients that have been asking the Federal Government to borrow money and to

increase the deficit so that they can put money into certificates of deposit, buy houses or make other investments. Like every other Government agency, the grantees of the Legal Services Corporation should be expected to and required to live on a current budget, rather than acting as somewhat of an investment and brokerage outfit.

The Legal Services Corporation itself this summer estimated that its grantees had an unexpended balance of $41 million. That is $41 million of the taxpayers' money that has been given to them for the purpose of providing legal aid to the poor, but was not expended for that purpose at all.

In the Washington Post of August 24, 1982, an article appeared that indicated that the Legal Services Corporation memo indicated that 26 programs had fund balances exceeding 50 percent of their annual grant and another 64 local programs have failed to expend funds totaling more than 25 percent of their annual grant.

The same day an article appeared in the New York Times that indicated that one grantee in Montgomery County, N.Y., used some of its unexpended funds to buy a house to house the Legal Services Corporation office.

□ 1650

In the State of South Carolina, the Legal Services of the Fourth Judicial Circuit had an unexpended fund balance of 132 percent of its annual grant, or $604,000.

Finally, in testimony before the subcommittee, attorney David Clark of Greensboro, N.C., who has served as a member of the board of Legal Services of North Carolina since 1976, testified that that grantee had an unexpended balance of $1.2 million and that there was investment income of over $300,000 per year.

That is unconscionable. Here is a grantee who has received Federal funds using money that has been used to increase the Federal deficit and which is costing the taxpayers of this country interest money to put in certificates of deposit so that the organization can earn interest.

The gentleman from Texas (Mr. HIGHTOWER) was a bit flabbergasted at this revelation and asked Mr. Clark a question. Mr. Clark answered the question: "In certificates of deposit, that kind of thing. So as a result, you got $386,000 in investment income that we had as of January 1982. We have got to figure out how to spend that. So we spent $222,000 for private bar participation."

Mr. Chairman and my colleagues on the committee, we should not be rehashing whether Legal Services Corporation has merit or not. That has been resolved. The Corporation is going to be around for a while. But what we should be deciding here today is whether they should continue having a $241 million annual appropriation that was given to them last year in light of the uncontroverted testimony that many of the grantees are using this money not for operational expenses but to invest and to live off of the income from those investments.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Texas.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. SENSENBRENNER) has expired.

(On request Mr. SAM B. HALL, JR., and by unanimous consent, Mr. SENSENBRENNER was allowed to proceed for for 2 additional minutes.)

Mr. SAM B. HALL, JR. I thank the gentleman for yielding.

Mr. Chairman, I would like to join with the gentleman in this amendment. I think it is a good amendment. I would like to see the entire amount stricken, as I imagine the gentleman would, but I know that is not possible.

I would say that the Legal Services Corporation in my part of Texas has gone completely beyond the scope of what was intended in its charter. I might add that the President did not ask for any money for Legal Services, I think it is a good amendment and I hope it passes.

Mr. SENSENBRENNER. I thank the gentleman from Texas for his comments.

Mr. Chairman, to sum up, there is uncontroverted testimony that the Legal Services Corporation and its grantees have been overfunded. I regret that the subcommittee ignored that testimony. It is now time for this House to listen to what is going on and to pass this amendment so that the funding for the Corporation can be reduced to a more manageable amount and perhaps some of these grantees can live off the investment income that they have been accumulating over the years.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, first I would like to say that I am going to have to oppose the gentleman's amendment, but one of the Legal Services Corporation areas that does have some excess money at the present time is right in my home area.

Perhaps the gentleman should understand some of the reasons why, because I have gone over it with them. When they originally funded them, there was a delay in the funding and when they were originally funded they were funded for a full year. They actually only operated about 6 months. But instead of just going out and spending the money, they worked very efficiently and they had some money left over.

That money, instead of again going out like some Federal agencies would do, go out and just spend it to get rid of it, they have, again, not used it all. I do not think we should criticize them for being efficient in the use of our Federal taxpayer dollars in not using all of it, but I think we should talk more to the Legal Services Corporation to make sure that they fund these projects in the proper amounts.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. SENSENBRENNER) has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield further to me?

Mr. SENSENBRENNER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, if there are examples where there have been abuses, I do not think we should jeopardize the whole program. In my area it works very well with both the Legal Services Corporation having in-house lawyers in certain areas, and we also have Judicare working right with it, and it has worked very well.

I would hesitate to cut back to the extent that the gentleman wishes to cut back and jeopardize the program.

Mr. SENSENBRENNER. Mr. Chairman, reclaiming my time, if the gentleman's Legal Services grantee has expended its funds wisely, God bless them for that. At least they did not go out and buy a house with the money that they had left over.

Mr. VOLKMER. No.

Mr. SENSENBRENNER. But at the same time, Mr. Chairman, coming in with no reductions, as the subcommittee has suggested, for the Legal Services Corporation, in my opinion ignores what the Legal Services audits have said, and that is that there is at least $41 million worth of unexpended funds lying around in the present grantees of the Legal Services Corporation.

Now, to come back and say they are going to get the same amount of money they got last year, at a time of spiraling budget deficits, in my opinion is irresponsible. That is why this amendment is before the Committee of the Whole House, and that is why the amendment ought to be adopted.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Arkansas.

Mr. ANTHONY. I thank the gentleman for yielding.

Mr. Chairman, because of my past years in the prosecutor's office, I have

been a strong supporter of legal services for the poor, but I must admit that in recent months I have experienced some of the same problems in my State that my colleague, the gentleman from Texas (Mr. SAM B. HALL, JR.) has expressed on the floor of this House; that the lawyers for Legal Services have been going outside their scope.

In fact, I have underway an investigation of certain acts and allegations about Legal Services in my congressional district in Arkansas. I still am a supporter of Legal Services in principle, but I think maybe the gentleman is going at it a little bit in the wrong direction.

I would only offer one example for the gentleman's consideration. We know that we have revenue sharing turnback to the cities and to the States. I know of many times where that money is utilized in the exact way that the gentleman is talking about with Legal Services right now, where that money actually was placed on deposit and does earn interest.

So if we apply the principle here, it appears we would have to apply the same principle not only here but also on revenue turnback.

Let us look at our Defense Department, with all of the unexpended funds that we have there. We certainly have to take a hard look there.

What I would recommend is that, through the framework of the Legal Services Corporation and its Board of Directors, that we, No. 1, get that issue resolved, and then take a hard look at the charter and make sure they provide the needed services.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. Now, there is a legitimate difference of opinion among the Members of the House as to whether or not there ought to be legal services for the poor. There cannot be any difference of opinion as to whether or not there should be a right to legal counsel for defendants in criminal cases because the Constitution says we have to provide them with legal counsel if they cannot afford to have their own.

But for poor people who are trying to provide some legal assistance in complying with the law, our often complicated laws. We are trying to help them get what is coming to them from social security—and 38 percent of these cases are those kinds of cases. They have to rely upon some kind of public funds so that they can get legal talent to help them comply with the law in a country where we have a country of laws and not of men. That is what this is all about.

Now, we can have a difference of opinion, some say if you do not have the money to have a lawyer you do not have the right to have the benefits that are supposedly available to people under the law. I do not agree with that. But on the other hand, let us not fuzz up this issue and claim that Legal Services programs have more money than they can use when, in fact, they have less.

We have looked into this matter of some of them having some money left over. If a corporation hires a lawyer or if an individual hires a lawyer, they do not pay him until he is finished his work. It would not be prudent for them to do so.

□ 1700

They hold back payment and maybe pay him as he goes along. The same reasoning applies to Legal Services programs. They would have been wrong if they had paid all these lawyers in advance. In fact, they could not because they did not know how many hours they were going to work. So, in all these cases where there were unspent balances, except four, on investigation it was found that it was prudent to do what they did, and we would want them to do it again. We do not want them to spend every dime before the end of the fiscal year.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding, and I do so heartily support his words.

I was president of our county legal aid society before we had Legal Services, and I am on the board. If we have, as we have in New Jersey, a public advocate for the criminal, surely we must have proper and adequate legal services for people who are poor.

We have garnishee of wages, landlord-tenant problems, divorce, we have human problems, and they need help and have to go to court for the support of their children. This is absolutely essential.

Mr. SMITH of Iowa. I thank the gentlewoman. Another thing is, this board tried to rely too much on getting local bar associations to do the work, and they made grants in some cases and the local bar did not use the funds. They were trying to avoid the regular Legal Services program. I am for trying anything, but that was part of the reason why there were carryover balances in some programs. So, there were ony four cases where they found there were actually excessive funds left over. That is something the board of the Legal Services Corporation can take care of.

The fact is there is $241 million in this bill for the Legal Services Corporation, which is a 25-percent cut from the fiscal year 1981 level, and the same number they received last year. This means that there will be a program cut because of inflation and other mandatory cost increases that have occurred over the last 2 years.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield.

Mr. SENSENBRENNER. In the course of the subcommittee's investigation, did the subcommittee find out how many of these Legal Services grantees were paid on a fee basis, based upon number of hours of the attorneys, but not on how many of those attorneys were actually salaried employees who drew a regular salary every week or month or how often?

Mr. SMITH of Iowa. I do not know the exact number. There were some of both. As the gentleman knows, the current board wants to rely on local bar associations.

Mr. SENSENBRENNER. If the gentleman will yield further, I seem to recall that the subcommittee reported the present bill sometime in August.

Mr. SMITH of Iowa. Right.

Mr. SENSENBRENNER. And is the gentleman from Iowa aware that the Legal Services Corporation itself issued a memorandum dated August 19 dealing with the overfunding problem, and using some of the figures that I quoted in the course of the argument in favor of my amendment? Did the subcommittee have the benefit of that memorandum at the time it marked up the bill?

Mr. SMITH of Iowa. We have had the benefit of all the investigations that have been made. I am sure they used some of the same figures, but the fact remains that the Legal Services Corporation found it was a prudent thing for most of these programs to do what they did.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, may I just say that when we originally passed the Legal Services legislation with the support, I might add, of President Richard Nixon, then with the very strong support of President Gerald Ford, it was determined by the Corporation, after investigating the situation of the number of poor in the country, that the very least our country could do for people in legal need was to provide two lawyers for every 10,000 poor people—people that have to qualify under the law.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(At the request of Mr. RAILSBACK and by unanimous consent, Mr. SMITH of Iowa was allowed to proceed for 3 additional minutes.)

Mr. RAILSBACK. That is a much lower ratio of legal protection and advice than for people who are able to afford it naturally have. I would say to the gentleman from Wisconsin that right now, if we were to try to ade-

quately fund legal aid for the poor, it would be costing us something like $600 million. That is what we figured, given the very substandard legal rate for the legal aid lawyers, most of whom are young, most of whom are dedicated.

I say that knowing full well that there have been some abuses, we have had some abuses. Let me say there are many, many poor people, and if we cut this back by $141 million, there are going to be many, many people who are going to completely lose their access to any kind of justice at all. We just do not do that in the medical arena. We try to provide medical help for the poor, and at much greater expense.

Mr. SMITH of Iowa. I thank the gentleman. I want to point out one more thing. Since a year ago, when the 25-percent reduction in funding for the Legal Services Corporation was made, there have been a number of new laws enacted. There is a lot more need for legal services to help them comply with these new laws. For some of these people, the need is greater than it was before.

This is the same amendment we had a year ago. I say that anybody who voted against this amendment a year ago certainly ought to vote against it now, and it would be easy to rationalize for those who voted for it a year ago to vote against it now because the needs are greater and the need per poor person is going to be greater.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I will not take the whole 5 minutes, but I did want to say that, in rising in opposition to the amendment of the gentleman from Wisconsin (Mr. SENSENBRENNER), one should understand that last year he did offer, not the same amendment, but one for the total elimination of the funding. I agree with the gentleman from Texas (Mr. SAM B. HALL, JR.) that that represents more clearly his real position. It is not to aid this program.

But, I think we ought to look at the program for its impact. Last year, as a result of the 25-percent trim that the Legal Services Corporation took along with many, many other domestic programs in this country, the local programs were forced to close about 20 percent or 288 of the local offices throughout the country. The local programs lost 28 percent of their field personnel, or 30 percent of its professional personnel in the transition to accommodate our 25-percent reduction in funding.

Last year, on June 18, 1981, we passed the authorizing legislation (H.R. 3480) in this Congress, and not only did we provide for that $241 million level of funding, but we also provided a number of other restrictions. I think, by and large, those Members who have complaints or reservations will not believe that those restrictions are extant today. We have not recently had whatever complaints may have been valid in preceding years.

This is an old and established program. As the gentleman from Illinois (Mr. RAILSBACK) pointed out, it was recommended originally by President Nixon, and has had very strong bipartisan support, and support from this body. I do not think the representations of the gentleman from Wisconsin (Mr. SENSENBRENNER) should lead anyone to feel at this point that we want to scuttle what is left of this very useful program. Furthermore, for those Members who are concerned about the direction of the Corporation, if anything its problems may be very different than 2 years ago or 4 years ago. All 11 of the recess appointments to the Board of this Corporation are presently being filled by President Reagan, not by President Carter or by any other preceding administration.

So, those Members who are concerned that this is somehow a liberal agency ought to know that those in charge of the Corporation represent an entirely different philosophy. While that may in due course pose a problem, it is not a problem which is cured by reducing the funding to $100 million or eliminating it all. No, Mr. Chairman, what we need here is a vote of confidence for the Corporation, hopeful that it can continue its task even at its current reduced level on behalf of those people of this country who are unable to afford legal assistance and in the interest of this country as a whole.

I urge rejection of the amendment.

□ 1710

Mr. SAWYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am opposed to the figures that have been given here, and I am intimately familiar with the West Michigan Legal Services Corp. They have had to close three of their offices in the smaller cities of west Michigan. They no longer have the personnel that they can even handle a divorce for a poor person, absent child abuse or physical spouse abuse. They are rejecting almost everything they can possibly reject because of the inadequacy of their personnel.

All of the lawyers and all of the law firms throughout western Michigan have been asked to and are contributing either pro bono time without charge and/or making equivalent financial contributions to keep afloat what we have.

Now, to tell the poor people in this country that we are maintaining a court system and, therefore, they should stay off the streets and do it in an orderly way when they have a grievance against their neighbor or against the Government and then say, "we won't provide you any access to that system" is just to invite trouble in the streets and what not, besides being totally unfair when we compare the situation with that of indigent criminals.

These are people with nuts-and-bolts problems. They have problems with their landlords, they have problems with evictions, they have problems with their social security, they have all kinds of legal nuts-and-bolts type problems, and to say that the court system is going to sit there and not take care of them because it does not provide access is, I think, a crying shame.

Two years ago we cut 25 percent out of this budget and brought it down to $241 million. Even then they had to greatly increase the pro bono and law firm contributions to it to keep it even surviving at its present level, and the fact that some of these isolated agencies here and there have apparently accrued some surplus waiting to get billed on contract time is, I think, to their credit rather than to their fault.

But whatever it is, I can assure the Members that actually there is no surplus; there is a huge deficit. Here in Washington, D.C., for example, Covington and Burling, one of the large firms here, provides a full-time lawyer and a secretary to the Corporation to help discharge the obligation.

So, if there is a surplus here and there, this is an administrative problem of the Legal Services Corporation which was substantially unable to weather the situation last year becuase of the inability to replace its board members, all of whose terms have terminated, and the resignation of the president and the appointment of an acting president.

But for goodness sake, let us not close down the actual field services of these donee agencies. Let us get the main agency back on its feet and let it scrutinize where the money is going among these donee agencies, because I assure the Members there is not enough money to go around as it stands now, and they are only surviving because of the generosity of the legal profession around the country.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding, and, of course, I wish to be associated with his remarks.

The situation the gentleman has described, is, of course, the situation with the 25-percent reduction from last year's funding. Now, if this amendment is agreed to, there will be

an additional 60 percent reduction in funding, which would virtually eliminate the ability of the Legal Services Corporation to meet any of the needs across the country, causing the closing, I am told, of 540 local offices and the loss of almost 3,000 attorneys, and all the figures we could extrapolate from the extension of 60 percent over a 25-percent reduction are magnified by the fact that one-quarter of the year has already gone. So the rate has got to be reduced even further.

So, Mr. Chairman, it would be catastrophic if this amendment were agreed to.

Mr. SAWYER. Mr. Chairman, I may say that I am on the committee with oversight on this, and we listened to all the horror stories the Howard Philips and everybody else had. We isolated them down to about 7 out of almost 300 donee agencies where apparently there was some lack of good judgment on the part of the director. We looked at every one of those grievances, and we put in specific prohibition preventing that kind of conduct. Some of it was totally legitimate. Sometimes a young, ambitious, fire-eating lawyer out there gets tired of nuts-and-bolts stuff, and it is pretty heady stuff to have a nice big class action suit.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. SAWYER) has expired.

(By unanimous consent, Mr. SAWYER was allowed to proceed for 2 additional minutes.)

Mr. SAWYER. Mr. Chairman, it is true that a lawyer may get into more interesting class actions and that sort of thing, but in many of those areas there are special privately funded agencies that are there that can handle those highly controversial issues without prejudicing the existence of this agency, which is the only one that provides nuts-and-bolts legal services.

Mr. CROCKETT. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Michigan.

Mr. CROCKETT. Mr. Chairman, I want to associate myself with the remarks made by my colleague, the gentleman from Michigan (Mr. SAWYER). He has done an excellent job of telling us what the situation is in the western part of our State.

That same situation prevails in the metropolitan area of the city of Detroit. I suggest that instead of cutting back on the appropriation, we really should increase it. I think we should recognize that the demand for legal services increases in direct proportion to the amount of unemployment.

In my district, the 13th District, I find 1 out of every 4 persons unemployed. They are in no position, Mr. Chairman, to raise the money necessary to protect what few rights they do have. I think the gentleman from Michigan (Mr. SAWYER) is presenting the position with respect to our State, and I compliment him for having the courage to come here and point it out like it really is.

Mr. SAWYER. Mr. Chairman, I thank the gentleman from Michigan (Mr. CROCKETT).

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Chairman, the gentleman and I do not usually disagree, but we are 180 degrees apart on this issue.

Mr. SAWYER. Well, Mr. Chairman, I say to the gentleman, "you can't be right all the time."

Mr. SAM B. HALL, JR. Mr. Chairman, I would just like to ask the gentleman a question and make this observation: the Legal Services Corporation charter stated that it would be for the help of poor people. I applaud that idea.

However, is it not a fact that in the gentleman's area, as it has been in my area, Legal Services has taken it upon itself to file class action suits against hospital districts, against cities, and against all areas of government?

I say to the gentleman that that is not seeking to help the poor; that is seeking to establish some sort of social legislation.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. SAWYER) has again expired.

(By unanimous consent, Mr. SAWYER was allowed to proceed for 2 additional minutes.)

Mr. SAWYER. Mr. Chairman, I will just say this: we have put a prohibition in against the bringing of class actions without getting up through several echelons of approval, because there are some times when class actions make total economic sense.

If somebody is being overcharged for their sewage in a neighborhood or they are not providing sewer services in a city or a neighborhood and they are acting discriminatorily, it is silly to bring one action after another for the people living in that neighborhood to get connected to a sewer system. So that would be a class action, and that would be a justifiable one.

Now, there are other nutty ones, and what they need is better and more mature supervision, as opposed to perhaps some wild-eyed young lawyer without much experience or a project director who is weak. We have done that. We have provided top-level supervision and requirements of approval and the writing of regulations to govern the bringing of these class actions because we recognize that was a sore point.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, in its final form, as I recall, the House passed a restriction in H.R. 3480 which prohibited all class actions involving public entities, that is, units of government like the several units of government the gentleman from Texas (Mr. HALL) has mentioned.

Mr. SAWYER. And the writing of regulations covering any of those that are left that could be brought, in order to assure that we do not have the kind about which we got complaints.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield for one further question?

Mr. SAWYER. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Chairman, I agree with the gentleman from Wisconsin (Mr. KASTENMEIER) about the prohibition against class action suits, but in some areas of the country the Legal Services people are not paying any attention to what we do in this body, and I might say this as a vivid example: there has been a class action suit filed against the county officials in one of the counties in my district since that prohibition was passed in the last Congress. They have absolutely shut down the city of Center, Tex.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mr. FISH and by unanimous consent, Mr. SAWYER was allowed to proceed for 3 additional minutes.)

Mr. SAM B. HALL, JR. Mr. Chairman, if the gentleman will yield further, they have also absolutely more or less shut down the city of Troup, Tex. in a class action suit.

The purpose of my statement here today is to point out that these people are continuing to do what they have been prohibited from doing by this body. Now, I think as long as they do that, as long as they continue to go full speed ahead, they should be tapped on some of the resources that they are spending.

□ 1720

Mr. SAWYER. We addressed that too, and we gave the board the power to defund any agency or withhold their funds while they were in violation of those regulations and rules that we adopted.

If anyone is to blame for that not being done it is perhaps the administration in that they have not installed a board and have just withdrawn their appointees. They are enacting a precedent there. But they do now have that specific power to defund and withhold funding from any agency that is not in compliance with the authorization.

Mr. SHAMANSKY. Mr. Chairman, I move to strike the requisite number of

words, and I rise in opposition to the amendment.

As a young lawyer I participated in the Columbus Bar Association's legal aid committee. As a result of that, the bar and the community itself realized that the services that were needed by the poor of our community were not being made available.

I have to explain in my remarks that I am a business lawyer. My firm operates in Columbus and Cleveland and Miami and represents business and professional people.

The Columbus Bar Association, the American Bar Association, and the Ohio State Bar Association support the Legal Services Corporation, and it is absolutley not for the reason that it is for the relief of lawyers. These clients do not have any money. However, these lawyers could earn—and they are good lawyers—could earn a better living elsewhere.

The point is that we must as a society bring these people into our legal system. It is better to bring them in than to exclude them.

We are not gaining anything as a society by telling them that they must go elsewhere for redress of their grievances.

I am also a landlord, and I will admit sometimes I have a dispute with a tenant. It is conceivable that I am wrong. I know it is difficult to imagine that, but as a theoretical possibility it could be that a landlord is wrong. These are the disadvantaged people that we should, as landlords or business people or as professional people, seek to involve in our legal system.

The danger is that we exclude them. The punitive reproach, the punishment of these people, to say the legal system is available only to those of means does not strengthen our society. I submit to you respectfully that it weakens everybody who is above, economically and socially, these people at the bottom, and they clearly are at the bottom.

We need these services. In fact, I have a client who was sued in another State. I felt the Legal Services Corporation in that case was dead wrong, and I was very indignant about it.

The important point is, though, that the law has been amended as of last year for better supervision. I think it is grossly unfair and improper to kill the whole system in effect by such gross reductions in funds because of a lack of administration.

Now we have a clear line of authority. The President can appoint these officials. They can run a tighter ship.

But do not take it out on the people who should be involved in our system. The worst thing we can do is to tell the poor to go elsewhere, but do not go where you can have your grievances addressed fairly and rationally and impartially. This is the worst possible thing for the stability of our society.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in a moment or two the gentleman from Illinois (Mr. O'BRIEN), ranking member of this subcommittee, will speak for the minority in opposition to the pending amendment. But I would not like to let this moment go without saying something to my colleagues.

I think we have witnessed perhaps the last act of a trio of gentlemen who have been very important to Legal Sevices. You have just seen the trio of the gentleman from Michigan (Mr. SAWYER), the gentlemen from Illinois (Mr. RAILSBACK), and the gentleman from Virginia (Mr. BUTLER) speak in opposition to this amendment and from the depth of their experience in favor of the Legal Services Corporation.

It is these three colleagues of mine in the minority who more than any others have been responsible for identifying the weaknesses in Legal Services, for fashioning the legislation to beat these weaknesses, and to championing the continuation of the Legal Services Corporation.

I was delighted to see the three of them together again this afternoon, which will, unfortunately, not be possible to occur again in the near future.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman from New York (Mr. FISH) for yielding, and very especially appreciate his reference to our colleagues, particulary the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from Virginia (Mr. BUTLER) who are leaving this body. Far more than on this bill they have rendered profound service to this body and to the country.

But on this particular bill it is typical of the constructive and crucial role they have played over the years in making it possible for us to continue the Legal Services Corporation and to have with it a vote of confidence from the Congress. They indeed will be sorely missed and I, like the gentleman from New York (Mr. FISH) and so many other Members of this body, wish them very well.

Mr. FISH. I thank the gentleman and yield back the balance of my time.

Mr. COURTER. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, I was a staff attorney with the Legal Services Corporation for about 2 years. I personally feel that the organization has done a tremendous amount of good for a great many people.

I know we live in a time when budgets are $200 billion in deficit and when we can look back and cite chapter and verse regarding some abuses that attorneys that worked in Legal Services did, that they were more concerned about creating new law than they were about serving the poor, that they were more concerned about initiating class actions than they were about handling landlord and tenant cases and making sure that matrimonial disputes were handled in a proper and civil manner.

I suppose I would be much more pleased with the amendment if it eliminated all of the money from Legal Services because then it would be obvious as to its true intention.

For those of us who felt there was some overreaching, some overbearance by attorneys that work for Legal Services, I believe that through the Legal Services reauthorization bill we close those loopholes and we have made sure that those attorneys that are involved are helping, in fact, those that need it the very most.

I want my colleagues to recognize the impact of this type of a cut of $141 million. In 1975 Federal funding for the Legal Services Corporation was approximately $71 million. In inflation adjusted dollars that comes in 1982 to $130 million. So what the amendment is doing is obviously bringing it back before 1975.

The number of counties served in the United States during the past number of years from 1975 to 1982 increased from 946 to 3,144. I represent four counties that are in that statistic. We would have to close 540 local offices around the country which would reduce the present total of 1,086 down to 646 if this amendment passes.

There would be a loss of approximately 3,000 attorneys from the present total of 4,600 to approximately 1,500, if this amendment passes.

We would lose approximately 4,500 nonattorney paraprofessionals and support staff if this amendment passes.

□ 1730

As I suggested before, there was a number of abuses in the legal services program a few years ago. I think that many Members, including myself, spoke out against those abuses, against those attorneys who are more interested in petitioning and lobbying Members of Congress for social legislation that they were in helping the poor. I think we serve the poor people in this country well by rejecting this amendment, the true intention of which is to eliminate legal services entirely.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The gentleman made reference to the fact that we built protections into the authorization that was passed in 1981. There have been a

number of references on the floor here to those protections.

Can the gentleman tell me whether those protections are in effect right now?

Mr. COURTER. I would imagine that most of those protections are in effect right now, No. 1. No. 2, if they are not, I would say that is a problem regarding enforcement of the law and not the law itself. The law is not the problem. I think we spoke out very clearly about 18 months ago. So if you have a concern with some legal services offices, some board of directors not following the mandates of this Congress, then that is an enforcement problem, it is not a legislative problem.

Mr. WALKER. If the gentlemen will yield further, my understanding of the situation is that we have attempted to build those protections in. The authorization bill was held up in the Senate principally by people in the Legal Services Corporation who were not happy with some of the amendments that were added to that bill when it went through the House, some of the protections that were built in.

The language in the House bill last year and the language in the House bill this year indicates that we are trying to keep those protections from 1981 in place. However, last year that language we struck in conference, and we did not get those protections; so, therefore, they are not in place today. We have no assurances that that language will not be struck this year.

That is one of the concerns we have, that in fact we have no such protections now, and we may not have them in the future.

Mr. COURTER. If I can reclaim my time, that is a problem with ourselves, that is not a problem with the members of the Corporation.

If we as an institution, through the process of negotiating with the other body in the conference, cannot follow through on the mandates of this body, then apparently we did not try hard enough.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. COURTER) has expired.

(By unanimous consent, Mr. COURTER was allowed to proceed for 1 additional minute.)

Mr. COURTER. There are abuses, there were abuses; maybe there will be abuses in the future. Legal services is an imperfect institution, as individuals are imperfect. But the virtual elimination of legal services means that we are going to tell people who cannot afford legal representation that the idea of equal justice under law, the idea that the courts are accessible to everybody in this country is a sham—and I am not going to have any part of it.

Mr. WALKER. If the gentleman will yield further, I just want to make the point that I do not think it serves this particular debate very well to refer to protections built into the law of 1981 if the fact those protections are not applicable.

I think the gentleman makes some fine points, but I do not think that those protections should be used as a case against this amendment, because in fact those protections do not now exist.

I thank the gentleman very much for yielding.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will admit in the beginning that I have not had a great deal of confidence in this organization from the beginning. So I am not here today under the pretense of being a major supporter of the Legal Services Corporation or that I have always felt that this organization has done all of the things that the Congress originally intended, because I do not think that the Corporation has perfomed that way. But I do wish to make the point that I believe that the Sensenbrenner amendment will help force the Legal Services Corporation to do the job that they were originally set up to do, and that is to serve the poor. And I believe that if you really study case by case the work that most of these field lawyers under the Legal Services Corporation have handled, you will find on the record that many of these lawyers have found themselves engaging more in social work than really providing legal services for the poor. That was the real purpose, to begin with. That is to have local legal services for the poor. And I think that was a very noble purpose. But I believe many of these local funded legal services have gone far astray from that original purpose, even with the efforts of many members of the Committee on the Judiciary and others to try to tighten down on those wrong activities.

I would urge my colleagues to support this amendment as a clear signal to the Legal Services Corporation to do their job in trying to follow through on the protections just mentioned by Mr. SENSENBRENNER that were voted on by this House and were struck by the Senate.

The Legal Services Corporation should be forced to police the improper activities of those local lawyers who are carrying on activities that were never intended by Congress.

Let me also review some other reasons why this amendment by Mr. SENSENBRENNER should be supported:

Over the years, the Legal Services Corporation has allocated almost 100 percent of its funds to recipients who employ staff lawyers. These lawyers seem more interested in legislating through the courts than in attending to the real needs of the poor. As long as there are sufficient funds to continue to give to the current grant recipients, the Legal Services Corporation will not consider alternative systems, such as legal judicare, pro-bono, or other programs which would be more responsive to the legal problems of the poor. A reduction in funds will encourage, if not necessitate, a thorough investigation of alternative legal delivery methods.

A reduction in the budget for the Legal Services Corporation is also supported by the fact that present grant recipients are not spending all of the money allocated to them. Instead, in 1982, the grant recipients, according to an audit conducted by the Legal Services Corporation, had an unexpected balance of $41 million. Some of these grant recipients had program balances as high as 80 percent of their allocated funds. These unexpected balances remain despite the hue and cry that there are not enough funds for other programs. The above example is just another illustration of the need to find alternative programs where money is spent, not hoarded.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to the author of this very fine amendment.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. ROUSSELOT. The gentleman is a member of the Committee on the Judiciary, is he not?

Mr. SENSENBRENNER. I am, sir.

Mr. ROUSSELOT. And the gentleman has had a chance to do the oversight work that is necessary, to see that this Legal Services Corporation is performing?

Mr. SENSENBRENNER. I am, sir.

Mr. ROUSSELOT. Well, I am glad to hear that. Then we can be confident that the gentleman's amendment is not to destroy the Corporation but to try to make it operate more efficiently and more correctly; is that not correct?

Mr. SENSENBRENNER. The gentleman from California is absolutely correct. And I think it is unfortunate that much of the debate that has gone on this afternoon on my amendment has been over the merits or lack of merits of the Legal Services Corporation and its grantees, rather than the issue that is posed by this amendment, and that is: What is the proper level of funding that the Legal Services Corporation should have for fiscal year 1983?

Now, with all due respect to my friend from Iowa, Mr. SMITH, and members of his subcommittee, I am afraid that they have completely missed the point on the overfunding issue that I brought out in the course of my remarks in support of the amendment.

This bill was reported from the Appropriations Committee on August 10, 1982. The gentleman from Iowa said that they have gone through this thoroughly and found out that only four of the Legal Services Corporation grantees were overfunded. Well, the Corporation itself, 9 days later, on August 19, 1982, issued a working paper to the Legal Services Corporation Board, proposing changes in regulations and pointing out that there were at least 26——

Mr. ROUSSELOT. How many was that?

Mr. SENSENBRENNER. Twenty-six.

Mr. ROUSSELOT. Twenty-six?

Mr. SENSENBRENNER. That is a lot more than four.

Mr. ROUSSELOT. That certainly is a larger number.

Mr. SENSENBRENNER. That there were 26 grantees that were overfunded.

I think that the Corporation is beginning to get the crux of the problem. Now, the only way we are going to be able to make sure that Corporation grantees are not substantially overfunded so that they can buy houses and invest in certificates of deposit——

Mr. ROUSSELOT. Oh, they would not do that?

Mr. SENSENBRENNER. Well, they did it in North Carolina.

Mr. ROUSSELOT. In North Carolina?

Mr. SENSENBRENNER. Yes.

The only way to prevent this is to simply pass an amendment that reduces the appropriation so they cannot do business as usual with the same $241 million that they had last year.

Mr. ROUSSELOT. Well, that sounds very reasonable, and I am sure our colleague, the gentleman from Iowa (Mr. SMITH), would want to know that, that there were 26 grantees that were overfunded.

The gentleman knew that, did he not?

Mr. SMITH of Iowa. There were 26 grantees that held more money than they were supposed to under the regulations.

Mr. ROUSSELOT. Tish tish.

Mr. SMITH of Iowa. It was found that only 4 of the 26 grantees did not have a good, prudent use for the money. Since then Legal Services Corporation has adopted a rule that grantees cannot keep more than 10 percent of annual funds that are not paid out for legal services. So your concern is all taken care of.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired. (By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Now, this information that was given to us by our colleagues from the Judiciary Committee, who has followed this organization very carefully, did the gentleman really understand that it was 26 that were overfunded? And the 10-percent cap, or whatever you call it, have they complied with that?

Mr. SMITH of Iowa. Well, I assume they are complying.

Mr. ROUSSELOT. The gentleman assumes that? On the basis of the record showing so much noncompliance, I am sure that is a bad assumption.

Mr. SMITH of Iowa. The majority of the board, I am told, are not really for the program, so I do know why they would purposely overfund it now.

Mr. ROUSSELOT. Well, maybe we could help them make sure that they do not exceed that, by just reducing the amount of money on the basis of the logic that has been presented to us by our colleague from Wisconsin, a very active member of the Judiciary Committee. Would that not be a reasonable assumption?

Mr. SMITH of Iowa. No; I think that is exactly the wrong way to go.

Mr. ROUSSELOT. I think it sounded awfully reasonable, to me.

Does my colleague, the gentleman from Wisconsin, wish to comment further? No?

Well, I appreciate the attention of my colleagues, and I hope you will see fit to support what I consider and what many of us consider a very reasonable reduction of unnecessary funding for this agency, when 26 of the grantees have been clearly overfunded.

I urge support of the Sensenbrenner amendment.

Mr. O'BRIEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the arguments have been very effective and very thorough on both sides of the case. I would like to make it clear that from this side of the aisle and our committee, we also oppose the amendment.

A neighboring county to my present district in which I will have a substantial part next term has three offices of legal services and an enormous burden of cases. The major office was programed to be closed by its board. The attorneys who were doing the work went before the board and offered to accept a reduction in pay against the threat of the closing of their office. You cannot ask for more dedication than that.

□ 1740

In our area those young staff people are being paid, $10,000, $12,000, $13,000, $14,000 a year for the work they are doing. That is totally out of line with respect to the pay lawyers elsewhere get in private life. And these people are performing the highly noble work of affording to the poor access to our system and our courts and the protections that the country has designed for them. If they did not do it, it would not get done. Without this type of service, the poor do not make it into those courts.

I think the authorizing committee has done a superior job in tidying up the law. It is immensely important to us in the Middle West. And I hope the whole House will support it.

Mr. SAM B. HALL, JR. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, with reference to this amendment, I do not want to belabor this any great period of time. But some matters have been said here today that I think need to be answered.

It was pointed out by one who is opposed to his amendment that there are many social security problems today that need the work of legal services people.

I have before me an order of dismissal of a social security case filed by Paul Harkey, administrative law judge in Dallas, Tex. In the process of writing that order of dismissal he makes this comment. I am quoting from that order:

> With the proper exercise of judicial reticence, the undersigned makes no comments regarding the quality of representation furnished the claimant in his Social Security claim by the employees of East Texas Legal Services. The undersigned has done his best to patiently educate those employees and has remonstrated with the director covering these derelictions in duty by the service from what was expected by the Congress when it provided federal funds to finance such a fiasco as this.

That order is signed March 27, 1980.

I would like to point out also that in a case styled Simer against Olivarez, which was filed in 1979, which was a class action suit filed by the Legal Services on behalf of eight eligible claimants against the Community Services Administration claiming the agency's failure to distribute fuel assistance funds.

The original decision in the case resulted in an award of $18 million. Of this amount, $250 was distributed to each of the eight named defendants, with the remainder to be distributed to "public interest" groups, including $2.3 million to the National Consumer Law Center. The largest chunk of the money, $4 million, was granted to local groups to fund an antiutility energy advocacy. The legal aid officers, the lawyers, further built in a requirement that at least half of the funds for fighting energy companies must be used to hire legal aid lawyers also funded by the Legal Services Corporation.

Listen to this:

When investigative research by a Colorado professor turned up the collusive nature of the suit, the judge who handed down the decision reversed himself and vacated the original order.

He noted, and I am quoting:

I believe the parties both by what they said and what they did not say, misled me, both as to the facts and the law.

What the Legal Services attorneys with the cooperation of the defendant, the Community Services Administration, had done was to conclude a "sweetheart deal" on the distribution of energy assistance funds intended by Congress to benefit the true needy. The court set that judgment aside because of the practices practiced upon him.

The city of Tenaha, Tex., in a letter to me dated August 26, 1982:

The city of Tenaha is experiencing hinderance in their daily operation as well as city growth from legal services being provided from this organization to one of our citizens. The citizen's claims against the city have all been proven unfounded.

And last, on October 21, 1982, there appear in a Gilmer, Tex., paper, where two jail inmates had filed a class action suit in the U.S. District Court in the Eastern District of Texas, claiming that "the jail was not sufficiently suitable to hold people."

If you go back and look at the charter of Legal Services, it said that it is to be for the purposes of bringing suit for the poor. There is nothing in that charter, it cannot be found in that charter, where it says that class action suits should be brought. And from what we have in the order of Judge Harkey in Dallas, it is indicative of the fact that the type of representation that social security claimants are getting is not worth its salt.

Mr. AuCOIN. Mr. Chairman, I rise in strong opposition to this amendment which drastically reduces the level of funding for the Legal Services Corporation. I urge my colleagues to reject it.

Legal Services cannot withstand any more cuts. The Corporation is already operating on a slim budget; let us not make it any worse. The Corporation has suffered a 25-percent funding reduction since fiscal year 1981. Not only did the Corporation experience a decreased funding level it also lost money from a number of supplemental sources. CETA money is no longer available and gone too is funding under the Older Americans Act.

In case some of my colleagues are wondering what a cut to Legal Services would mean. Let me explain what is happening in my home State of Oregon. With the unemployment rate at 11 percent, the economic situation there is grim. And, when someone looses their job, personal problems add up. Tenants can not pay their rent. Parents abuse their childen. Husbands take their tensions out on their wives. Families must declare personal bankruptcies.

Legal Services can provide these people with much needed legal assistance. But, where will they get help when the Legal Services Corporation has to shut their doors and turn down clients because they do not have the resources to do their job?

Last year, the Oregon Legal Services Corporation closed one of their field offices. Collection agencies began to harass those who owed money on bills; there was no Legal Services to defend these people. Although it is against the State law for landlords to lockout their tenants for nonpayment of rent, clients found themselves locked out of their homes. Senior citizens in nursing homes depend on Legal Services to act as guardians of their bank accounts. Without Legal Services, this responsibility is turned over to nursing home operators who often take advantage of their patients.

The number of incidents such as these goes on and on but I have made my point. Legal Services is desperately needed by Americans all across the Nation. Let us keep it operating.

● Mr. WEISS. Mr. Chairman, I rise in opposition to the amendment offered by Mr. SENSENBRENNER to reduce appropriations for the Legal Services Corporation from $241 to $100 million.

Last year, Congress resoundingly rejected efforts to undermine and destroy the Legal Services Corporation. Now we must demonstrate once more that we believe poor people in this country are entitled to legal services—that we do believe in equal justice for all.

The Legal Services Corporation has absorbed more than its share of budget cuts. The $241 million provided in fiscal year 1982 represented a 25-percent cutback from the fiscal year 1981 funding level of $321 million.

That cut has forced layoffs and shutdowns in legal services programs that translated directly into a profound denial of services to clients. The need for legal services is rising along with the increases in hunger, housing shortages and unemployment. More and more clients are requesting aid. Last year, Legal Services handled over 1.5 million cases but was still unable to keep up with the demand for assistance.

The great majority of services offered involve matters of family law, health care, administrative benefits, housing and consumer problems. They are routine in nature but they often represent survival for citizens who have nowhere else to turn.

The power of Legal Services to respond to the legal needs of poor people has been severely restricted already. There is no fat in its budget to cut. Administrative expenses are below 3 percent of its budget. We are voting today to support only the most minimal funding for the bare essentials of legal services to the poor.

In the spirit of justice, I call on my colleagues to stand firm in their original commitment to preserving legal services and to reject this devastating amendment.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken, and on a division (demanded by Mr. SMITH of Iowa) there were—ayes 30, noes 24.

RECORDED VOTE

Mr. SMITH of Iowa. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 269, not voting 43, as follows:

[Roll No. 428]

AYES—121

Archer	Gregg	Nichols
Ashbrook	Grisham	Oxley
Atkinson	Hall, Ralph	Parris
Badham	Hall, Sam	Patman
Bailey (MO)	Hance	Paul
Barnard	Hansen (ID)	Petri
Beard	Hansen (UT)	Ritter
Bevill	Hartnett	Roberts (KS)
Bliley	Hendon	Roberts (SD)
Breaux	Hightower	Robinson
Broomfield	Hiler	Rogers
Brown (CO)	Hillis	Rousselot
Brown (OH)	Holt	Rudd
Burgener	Hutto	Santini
Byron	Ireland	Sensenbrenner
Campbell	Jeffries	Shaw
Carman	Jenkins	Shelby
Carney	Johnston	Shumway
Cheney	Kramer	Siljander
Coats	Lagomarsino	Smith (AL)
Collins (TX)	Latta	Smith (NE)
Corcoran	Leath	Smith (OR)
Coyne, James	LeBoutillier	Snyder
Crane, Daniel	Lee	Solomon
Daniel, Dan	Livingston	Spence
Daniel, R. W.	Loeffler	Stangeland
Dannemeyer	Lott	Staton
Daub	Lowery (CA)	Stenholm
Derrick	Lungren	Stump
Derwinski	Marlenee	Taylor
Dickinson	Martin (NY)	Walker
Dornan	McCollum	Wampler
Dougherty	McDonald	Weber (MN)
Dreier	McEwen	Whittaker
Edwards (AL)	Michel	Wilson
Edwards (OK)	Miller (OH)	Winn
Emerson	Montgomery	Wolf
Fiedler	Moorhead	Wortley
Fields	Myers	Young (FL)
Gingrich	Napier	
Goldwater	Nelligan	

NOES—269

Addabbo	Bonker	Coyne, William
Akaka	Bouquard	Crockett
Albosta	Bowen	D'Amours
Anderson	Brinkley	Daschle
Andrews	Brodhead	Davis
Annunzio	Brooks	de la Garza
Anthony	Brown (CA)	Deckard
Applegate	Broyhill	Dellums
Aspin	Burton, John	DeNardis
AuCoin	Burton, Phillip	Dicks
Bailey (PA)	Butler	Dingell
Barnes	Chappell	Dixon
Bedell	Chisholm	Donnelly
Beilenson	Clay	Dorgan
Benedict	Clinger	Dowdy
Bennett	Coleman	Downey
Bereuter	Collins (IL)	Dunn
Bethune	Conable	Dwyer
Boggs	Conte	Dymally
Boland	Conyers	Dyson
Boner	Coughlin	Early
Bonior	Courter	Eckart

Edgar	Kemp	Rahall
Edwards (CA)	Kennelly	Railsback
Emery	Kildee	Rangel
English	Kindness	Ratchford
Erdahl	Kogovsek	Regula
Erlenborn	LaFalce	Reuss
Ertel	Lantos	Rinaldo
Evans (DE)	Leach	Rodino
Evans (IA)	Leland	Roe
Evans (IN)	Lent	Roemer
Fary	Levitas	Rose
Fascell	Lewis	Rosenthal
Fazio	Long (LA)	Rostenkowski
Fenwick	Long (MD)	Roth
Ferraro	Lowry (WA)	Roukema
Findley	Lujan	Russo
Fish	Luken	Sabo
Fithian	Lundine	Savage
Flippo	Markey	Sawyer
Florio	Marriott	Scheuer
Foglietta	Martin (NC)	Schneider
Foley	Martinez	Schroeder
Ford (MI)	Matsui	Schulze
Ford (TN)	Mazzoli	Schumer
Forsythe	McClory	Seiberling
Frank	McCloskey	Shamansky
Frenzel	McCurdy	Shannon
Frost	McDade	Sharp
Fuqua	McGrath	Skeen
Gaydos	McHugh	Smith (IA)
Gejdenson	McKinney	Smith (NJ)
Gephardt	Mica	Smith (PA)
Gibbons	Mikulski	Snowe
Gilman	Miller (CA)	Solarz
Ginn	Mineta	St Germain
Glickman	Minish	Stark
Gonzalez	Mitchell (MD)	Stokes
Goodling	Mitchell (NY)	Stratton
Gore	Moakley	Studds
Gradison	Moffett	Swift
Gray	Molinari	Synar
Guarini	Mollohan	Tauke
Gunderson	Moore	Tauzin
Hall (IN)	Morrison	Trible
Hall (OH)	Mottl	Udall
Hamilton	Murphy	Vander Jagt
Hammerschmidt	Murtha	Vento
Harkin	Natcher	Volkmer
Hatcher	Neal	Walgren
Hawkins	Nelson	Washington
Hefner	Nowak	Watkins
Heftel	O'Brien	Waxman
Hertel	Oakar	Weaver
Holland	Oberstar	Weber (OH)
Hopkins	Obey	Whitehurst
Horton	Ottinger	Whitley
Howard	Panetta	Williams (MT)
Hoyer	Pashayan	Wirth
Hubbard	Patterson	Wolpe
Hughes	Pease	Wright
Hyde	Pepper	Wyden
Jacobs	Perkins	Wylie
Jeffords	Peyser	Yates
Jones (NC)	Pickle	Yatron
Jones (OK)	Porter	Young (AK)
Jones (TN)	Price	Young (MO)
Kastenmeier	Pursell	Zablocki
Kazen	Quillen	

NOT VOTING—43

Alexander	Garcia	Rhodes
Bafalis	Gramm	Roybal
Biaggi	Green	Shuster
Bingham	Hagedorn	Simon
Blanchard	Heckler	Skelton
Bolling	Hollenbeck	Stanton
Chappie	Huckaby	Thomas
Clausen	Hunter	Traxler
Coelho	Lehman	Weiss
Craig	Madigan	White
Crane, Philip	Marks	Whitten
Duncan	Martin (IL)	Williams (OH)
Evans (GA)	Mattox	Zeferetti
Fountain	Mavroules	
Fowler	Pritchard	

□ 1800

The Clerk announced the following pairs:

On this vote:

Mr. Gramm for, with Mr. Simon against.

Mr. STRATTON changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there points of order against the remainder of the bill?

POINT OF ORDER

Mr. ZABLOCKI. Mr. Chairman, I have a point of order to the proviso on page 30.

The portion of the bill to which the point of order relates is as follows:

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, including funds for the payment of 1983 assessed contributions to the Inter-American Institute for Co-operation on Agriculture, $449,815,000: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization in excess of the United States share of the organization's assessment budget after deducting from that budget any interest costs for loans incurred on or after October 1, 1982 through external borrowing.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ZABLOCKI. Mr. Chariman, I make the point of order that the proviso beginning at the end of line 2 and ending on line 8 of page 30 of the bill constitutes legislation and is therefore in violation of the second sentence of clause 2 of House rule XXI.

The proviso in question is intended to prohibit the use of funds appropriated for the payment of assessed contributions to international organizations for payment of any interest costs for loans incurred by certain international organizations after October 1, 1982, through external borrowing.

A major test of whether a provision in an appropriations bill constitutes legislation under clause 2 of rule XXI is whether the provision imposes on the Executive a new duty not mandated in existing law.

With respect to the issue addressed in the proviso, it is not the normal practice of these international organizations to engage in external borrowing. Thus, U.S. assessed contributions are not normally used for this purpose.

In the event that such organizations were to engage in external borrowing and to pay off such loans from their assessed budgets, the executive branch would be required to perform a series of actions in order to comply with the proviso in question.

First, because in some cases the United States pays its contribution in installments, the executive branch would be required to ask each organization if it, in fact, intends to engage in any external borrowing, and if so, the amount they intend to borrow and at what interest rate.

Second, prior to final payment of the U.S. assessed contribution, the executive branch is required to again inquire of each of the 44 organizations whether it has, in fact, engaged in any borrowing and the precise amount of interest paid as a result.

Third, the executive branch would be required to verify the response from each organization.

Fourth, the executive branch would be required to calculate the U.S. pro rata share of such interest payments for each organization engaged in such borrowing.

Fifth, the executive branch would be required to subtract the U.S. pro rata share determined in the preceding procedure from its final assessed payment to each affected organization.

None of these actions are required of the executive branch under existing law and none are currently performed by the executive branch as a matter of routine practice.

Therefore, the proviso in question would clearly impose on the executive branch several new duties not now required in existing law.

More fundamentally, under existing law, the United States is obligated to pay the full amount of its assessed contribution to an international organization. This obligation can only be changed by a superseding provision of law. The proviso attempts to be such a law and as such is legislative in nature.

Therefore, the proviso is in violation of the letter and spirit of clause 2 of rule XXI and the point of order should be sustained.

In closing, I would only add that I do not necessarily disagree with the intent of the proviso. This issue here is whether the proviso constitutes legislation in an appropriations bill in violation of the rules of the House.

□ 1810

The CHAIRMAN. Does the gentleman from Iowa desire to be heard on the point of order?

Mr. SMITH of Iowa. Mr. Chairman, I do not think it is subject to a point of order, but at this time of the night we want to save time. So, I am going to concede the point of order.

The CHAIRMAN. The point of order is conceded, and the Chair upholds the point of order.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 30, line 2, after "$449,815,000" insert the following: "*Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for any interest costs for loans incurred on or after October 1, 1982.".

Mr. ZABLOCKI. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. SMITH) for 5 minutes in support of his amendment.

Mr. SMITH of Iowa. Mr. Chairman, this will accomplish essentially the same thing. The amendment makes clear that they do not have any additional duties. The administration came up here the year before last and said that they wanted to stretch out the payments to the United Nations. So, we have been complying with that request. We are now stretching out our payments so that, more like other countries, we are not paying them on the first day that it is possible to do so, but we are paying them within 2 years.

Since that time there has been some indication that some of the international organizations are going to go out and borrow money and then pay interest. Such a practice would require the United States to pay a portion of the interest on these borrowings, which is worse than if we paid the assessment on time, even though others are not paying their assessments. So, all this amendment does is require that our contributions not be used for the purpose of paying interest. It is a thoroughly reasonable thing to do, and I do not think it is subject to a point of order and I ask for an affirmative vote on the amendment.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, I rise in support of the substitute offered by the chairman. We have no objection to it on this side.

POINT OF ORDER

Mr. ZABLOCKI. Mr. Chairman, I make a point of order on the same basis that I have raised the point of order on the proviso that was in the bill originally. This amendment will still require the executive branch to make a determination of what international organizations are paying interest, and to what extent, and that this money would not therefore be available in that portion of our U.S. assessment. So, this goes beyond the present procedure that the executive branch is required to make on our existing law.

Therefore, the amendment of the gentleman from Iowa as substituted for the original language in the bill would clearly impose upon the executive branch the new duties not now required by law; and, I submit, still fundamentally legislation in an appropriation bill and is in violation of the letter and spirit of clause 2, rule XXI. I hope that the point of order will be sustained.

The CHAIRMAN. Does the gentleman from Iowa wish to be heard?

Mr. SMITH of Iowa. Mr. Chairman, I believe this is a simple, straight limitation. If there are any additional duties, and I do not concede that there are, they are strictly incidental. They have to have these kinds of records anyway, so I think the point of order is not good.

Mr. ZABLOCKI. Mr. Chairman, may I be recognized for the purpose of a question to the sponsor of the amendment?

It is the understanding of the gentleman from Iowa that in order to make a determination as to the amount of interest, the executive branch would have to require the organizations to make an investigation to what extent interest payments are included in the U.S. assessment. May I further ask, would the gentleman's amendment also require that conditions be imposed on our contribution requiring an agreement with the United Nations that we now do have as far as our assessment, but not as far as to what the proviso or the amendment of the gentleman from Iowa provides?

□ 1820

Mr. SMITH of Iowa. Mr. Chairman, I do not think we get into what kind of an agreement may be necessary here. We do not even attempt to do that. But they have the records that would be necessary anyway in reviewing their contributions and how much we owed the United Nations. The State Department has those records anyway. They have to have them in order to make the payments. So there is not anything extra here other than some incidental matter of looking at some papers.

The CHAIRMAN (Mr. BROWN of California). Does any Member desire to be heard further on the point of order.

If not, the Chair is prepared to rule.

The gentleman from Wisconsin (Mr. ZABLOCKI) make a point of order with regard to the amendment offered by the gentleman from Iowa (Mr. SMITH) for essentially the same reasons that he used against the original proviso, in that it constitutes legislation on an appropriations bill by virtue of the fact that it imposes additional duties upon the executive branch.

It is the opinion of the Chair that the gentleman from Wisconsin (Mr. ZABLOCKI) is correct, that there are additional duties which are not trivial which are imposed upon the executive branch, to determine interest amounts and, therefore, the Chair sustains the point of order.

Are there any other points of order with regard to the rest of the bill?

If not, are there additional amendments?

Mr. SMITH of Iowa. Mr. Chairman, we are now through the two controversial titles of the bill. We are on State Department. I know that there are several amendments left at the desk, most of which will not, I hope, be offered, and, therefore, I wonder if we could get some kind of agreement on time.

In an effort to do that, Mr. Chairman, I ask unanimous consent that all debate on the remainder of the bill and all amendments thereto close at 7 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. FRENZEL. Reserving the right to object, Mr. Chairman, I am informed at least by rumor that instead of staying after this bill to work on the rule on the well-known domestic content bill, we are to engage in debate also this evening, which is a bit of a surprise to most Members, including myself. I see no reason, as long as we are going to be here a long time anyway, to speed up the process.

Therefore, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SMITH of Iowa. Mr. Chairman, do I understand that the gentleman objects to setting any time? Is that it?

Mr. FRENZEL. I do, Mr. Chairman.

Mr. SMITH of Iowa. Mr. Chairman, I do not like to do this, but I think we are obligated to do something for the number of Members who have asked me about this, and, therefore, in order to facilitate letting the Members work their will, I move that all debate on the remainder of the bill and all amendments thereto close at 8 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and the Chairman announced that they ayes appeared to have it.

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count; 101 Members are present, a quorum.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 132, not voting 96, as follows:

[Roll No. 429]

AYES—205

Akaka	Frank	Murtha
Albosta	Frost	Natcher
Anderson	Fuqua	Nelson
Andrews	Gaydos	Nichols
Annunzio	Gejdenson	Nowak
Anthony	Gephardt	Oakar
AuCoin	Ginn	Oberstar
Bailey (PA)	Glickman	Obey
Barnard	Gonzalez	Ottinger
Barnes	Gore	Panetta
Bedell	Gradison	Patman
Bennett	Guarini	Patterson
Bevill	Hall (IN)	Pease
Boggs	Hall, Ralph	Pepper
Boland	Hall, Sam	Perkins
Boner	Hamilton	Peyser
Bonior	Hance	Price
Bonker	Harkin	Rahall
Bouquard	Hatcher	Ratchford
Bowen	Hefner	Roberts (KS)
Breaux	Heftel	Rodino
Brinkley	Hightower	Roe
Brodhead	Hillis	Rosenthal
Brooks	Horton	Roybal
Brown (CA)	Howard	Sabo
Burton, Phillip	Hoyer	Sawyer
Byron	Hubbard	Scheuer
Chappell	Hughes	Schroeder
Clay	Hutto	Schulze
Coelho	Ireland	Schumer
Collins (IL)	Jacobs	Seiberling
Conte	Jenkins	Shamansky
Courter	Jones (NC)	Sharp
Coyne, William	Jones (OK)	Shelby
Crockett	Jones (TN)	Smith (IA)
D'Amours	Kastenmeier	Smith (NE)
Daniel, Dan	Kazen	Smith (PA)
Daschle	Kennelly	Snyder
Davis	Kildee	Solarz
de la Garza	Kogovsek	St Germain
Derrick	LaFalce	Stenholm
Dicks	Lantos	Stokes
Dingell	Leath	Stratton
Dixon	Lee	Studds
Donnelly	Leland	Synar
Dorgan	Levitas	Taylor
Dougherty	Livingston	Udall
Dowdy	Long (LA)	Vento
Dunn	Long (MD)	Volkmer
Dwyer	Lujan	Walgren
Dyson	Luken	Washington
Early	Lundine	Watkins
Eckart	Markey	Waxman
Edgar	Marlenee	Weaver
English	Martinez	Whitley
Ertel	Matsui	Whitten
Evans (IN)	Mazzoli	Williams (MT)
Fary	McCurdy	Wilson
Fazio	McHugh	Winn
Ferraro	Mica	Wirth
Fiedler	Mikulski	Wolpe
Fish	Mineta	Wright
Fithian	Minish	Wyden
Flippo	Mitchell (MD)	Yates
Florio	Moakley	Yatron
Foglietta	Mollohan	Young (MO)
Foley	Montgomery	Zablocki
Ford (MI)	Mottl	
Ford (TN)	Murphy	

NOES—132

Archer	Coughlin	Gilman
Ashbrook	Coyne, James	Gingrich
Atkinson	Crane, Daniel	Goodling
Bailey (MO)	Daniel, R. W.	Gregg
Benedict	Dannemeyer	Gunderson
Bereuter	Daub	Hammerschmidt
Bethune	Derwinski	Hansen (ID)
Bliley	Dickinson	Hansen (UT)
Brown (CO)	Dornan	Hartnett
Brown (OH)	Dreier	Hiler
Broyhill	Edwards (CA)	Holt
Butler	Edwards (OK)	Hopkins
Campbell	Emerson	Hyde
Carman	Erdahl	Jeffords
Clausen	Evans (DE)	Jeffries
Clinger	Evans (IA)	Kemp
Coats	Fenwick	Kindness
Coleman	Fields	Kramer
Collins (TX)	Findley	Lagomarsino
Conable	Frenzel	Latta
Corcoran	Gibbons	Leach
LeBoutillier	Myers	Shaw
Lent	Napier	Shumway
Lewis	Neal	Skeen
Loeffler	O'Brien	Smith (AL)
Lott	Oxley	Smith (NJ)
Lowery (CA)	Parris	Smith (OR)
Lungren	Pashayan	Snowe
Madigan	Paul	Solomon
Marriott	Petri	Spence
Martin (NC)	Pickle	Staton
Martin (NY)	Porter	Stump
McClory	Regula	Tauke
McCloskey	Rinaldo	Tauzin
McCollum	Ritter	Trible
McDade	Robinson	Walker
McDonald	Roemer	Wampler
McGrath	Rogers	Weber (MN)
Michel	Roth	Weber (OH)
Miller (OH)	Roukema	Whitehurst
Molinari	Rousselot	Wolf
Moore	Rudd	Wortley
Moorhead	Schneider	Wylie
Morrison	Sensenbrenner	Young (FL)

NOT VOTING—96

Addabbo	Fascell	Nelligan
Alexander	Forsythe	Pritchard
Applegate	Fountain	Pursell
Aspin	Fowler	Quillen
Badham	Garcia	Railsback
Bafalis	Goldwater	Rangel
Beard	Gramm	Reuss
Beilenson	Gray	Rhodes
Biaggi	Green	Roberts (SD)
Bingham	Grisham	Rose
Blanchard	Hagedorn	Rostenkowski
Bolling	Hall (OH)	Russo
Broomfield	Hawkins	Santini
Burgener	Heckler	Savage
Burton, John	Hendon	Shannon
Carney	Hertel	Shuster
Chappie	Holland	Siljander
Cheney	Hollenbeck	Simon
Chisholm	Huckaby	Skelton
Conyers	Hunter	Stangeland
Craig	Johnston	Stanton
Crane, Philip	Lehman	Stark
Deckard	Lowry (WA)	Swift
Dellums	Marks	Thomas
DeNardis	Martin (IL)	Traxler
Downey	Mattox	Vander Jagt
Duncan	Mavroules	Weiss
Dymally	McEwen	White
Edwards (AL)	McKinney	Whittaker
Emery	Miller (CA)	Williams (OH)
Erlenborn	Mitchell (NY)	Young (AK)
Evans (GA)	Moffett	Zeferetti

□ 1840

Messrs. EVANS of Iowa, SHAW, and WOLF changed their votes from "aye" to "no."

Mr. SCHUMER changed his vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I understand that the administration is supporting this particular appropriations bill because it is under the 302(b) Appropriations Committee allocations—notwithstanding the fact that it is more than half a billion over the budget resolution in budget authority, and a quarter of a billion over in outlays.

And the administration does so, I am told, because there are some things in this bill which it thinks it must have. But, whether some items are urgently necessary or not, it seems to me that we are letting another flagrant case of overspending escape us if this bill is passed tonight.

I thought the Members might want to know those overbudget figures in case some of them feel, as I do, some minimum commitment to the budget resolution.

It is true that under our budget process the committee sets its 302 allocations. The committee has worked hard to meet those allocations. I salute the committee, its chairman, and all of its members who have worked hard to do that.

Nevertheless, it does seem to me that the original resolution we passed ought to have some more meaning than we have given it.

As soon as we passed that resolution, we laid it to rest, and ever since then no one has worried about it very much even as our deficits have continued to grow.

But notwithstanding the difficult recession which has caused some increases in those deficits, I think we should have paid a little more attention to trying to keep at least the promises we made to the people, the taxpayers, in those difficult budget decisions we agonizingly made early in the year.

For that reason, Mr. Chairman, I intend to vote against the bill.

Further, Mr. Chairman, proceeding out of order, unless there is some objection, I mentioned earlier that I took a strong objection to the fact that we are going to do more than the rule on the domestic content bill this evening. That means, Mr. Chairman, that when we begin the 5-minute rule and debate tomorrow, no Member will have fresh in his or her mind the facts about the bill, and the bill will be moved forward in the same spirit of darkness and gloom in which it has moved today.

It seems to me that we owe the people, and we owe the traditions of this body and its processes, a little more than that. We are all embarrassed when a bill is quickly snatched up and scheduled for debate at a time when it is known no one will be here.

Because of that unusual scheduling, it will be my intention to try to secure recorded votes at such times as it appears there is the possibility to do so.

PREFERENTIAL MOTION OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. FRENZEL moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

Mr. FRENZEL. Mr. Chairman, I already indicated my disapproval of this particular bill. I have also indicated that I was looking for an opportunity to seek recorded vote. And I hope my motion will be passed.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished gentleman from Indiana.

Mr. MYERS. I thank the gentleman for yielding.

I certainly share the concern that our colleague from Minnesota has shown about the schedule for tomorrow. However, I am sorry to see that this particular bill must be held hostage at this time. I think this is a good bill. And it is too bad to relate the two.

Tomorrow we are bringing up a bill that should not come up tomorrow. It is not going to go any place. We all know it is not. And to use the time that is so precious to the country, to this Congress, to bring up a bill tomorrow when we have all the appropriations bills that are not going to see the light of day, it is a shame on scheduling, it is a sad commentary not only on the lameduck session, which no one expected a lot of, but particularly it is bad for the reputation of the Congress, to bring up a bill like that which everyone knows is not going to go any place.

I appreciate the gentleman bringing that to our attention.

Mr. FRENZEL. I thank the gentleman.

I want to assure the gentleman I have no prejudice against this bill, even though I do not intend to vote for it. Nor do I object to the bill being brought up tomorrow.

What I object to is scheduling debate this evening at a time when no Members will be present to hear that debate. Very few Members who intended to take part in that scheduled debate will be able to do so.

Mr. SMITH of Iowa. Mr. Chairman, I would hope that the Members realize what is going on here.

I do not know why it is that our little old bills always get into somebody else's argument. This was the first bill reported out of the committee last summer. It got held up over an argument concerning the FTC. Some people wanted FTC in, some people wanted it out. We could not satisfy them. If we put FTC in some would vote against the rule. If we took FTC out, some would vote against the rule.

Now we were delayed weeks and weeks and weeks. Finally we got a rule. It is now December 9, 41 years plus 2 days since Pearl Harbor. And here we are. Surely we will not vote this bill down now, after we have gotten this far, after we put on a busing amendment which is bad and may sink the bill anyway. At least do not pick on our little old bill all the time. Pick on somebody else's.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken, and the Chairman announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred seven Members are present, a quorum.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 32, noes 299, not voting 102, as follows:

[Roll No. 430]

AYES—32

Archer	Edwards (OK)	Paul
Bailey (MO)	Fields	Pursell
Benedict	Hartnett	Roberts (KS)
Bereuter	Lagomarsino	Schulze
Broomfield	Livingston	Shumway
Cheney	Lungren	Solomon
Clinger	Madigan	Spence
Collins (TX)	Marlenee	Stangeland
Crane, Daniel	McCloskey	Weber (MN)
Dannemeyer	McDonald	Young (FL)
Dreier	Moorhead	

NOES—299

Addabbo	Dicks	Hatcher
Akaka	Dingell	Hefner
Albosta	Donnelly	Heftel
Anderson	Dorgan	Hendon
Andrews	Dornan	Hertel
Annunzio	Dowdy	Hightower
Anthony	Downey	Hiler
Applegate	Dunn	Hillis
Ashbrook	Dwyer	Holt
Aspin	Dymally	Hopkins
Atkinson	Dyson	Horton
AuCoin	Early	Howard
Bailey (PA)	Eckart	Hoyer
Barnard	Edgar	Hubbard
Barnes	Edwards (CA)	Hughes
Bedell	Emerson	Hutto
Beilenson	English	Hyde
Bennett	Erdahl	Ireland
Bethune	Ertel	Jeffords
Bevill	Evans (DE)	Jeffries
Bliley	Evans (IA)	Jones (NC)
Boggs	Fary	Jones (OK)
Boland	Fazio	Jones (TN)
Bonior	Fenwick	Kastenmeier
Bouquard	Ferraro	Kazen
Bowen	Fiedler	Kennelly
Breaux	Fish	Kildee
Brinkley	Fithian	Kindness
Brooks	Flippo	Kogovsek
Brown (CA)	Florio	Kramer
Brown (CO)	Foglietta	Lantos
Brown (OH)	Foley	Latta
Broyhill	Ford (MI)	Leath
Byron	Ford (TN)	LeBoutillier
Campbell	Fountain	Lee
Carman	Frank	Leland
Chappell	Frenzel	Lent
Clausen	Frost	Levitas
Clay	Fuqua	Lewis
Coats	Gejdenson	Loeffler
Coelho	Gephardt	Long (LA)
Coleman	Gilman	Long (MD)
Collins (IL)	Ginn	Lott
Conable	Gonzalez	Lowery (CA)
Conte	Goodling	Luken
Corcoran	Gore	Lundine
Coughlin	Gradison	Marriott
Courter	Gray	Martin (NY)
Coyne, James	Gregg	Martinez
Coyne, William	Guarini	Matsui
Crockett	Gunderson	Mazzoli
D'Amours	Hall (IN)	McClory
Daniel, Dan	Hall (OH)	McCollum
Daniel, R. W.	Hall, Ralph	McCurdy
Daschle	Hall, Sam	McDade
Daub	Hamilton	McEwen
Davis	Hammerschmidt	McGrath
de la Garza	Hance	McHugh
Derrick	Hansen (ID)	Mica
Derwinski	Hansen (UT)	Michel
Dickinson	Harkin	Mikulski
Miller (OH)	Rangel	St Germain
Mineta	Ratchford	Staton
Minish	Regula	Stokes
Mitchell (MD)	Rinaldo	Stratton
Moakley	Ritter	Studds
Molinari	Robinson	Stump
Mollohan	Rodino	Swift
Montgomery	Roe	Synar
Moore	Roemer	Tauke
Morrison	Rogers	Tauzin
Motti	Rose	Taylor
Murphy	Roth	Traxler
Murtha	Roukema	Trible
Myers	Rousselot	Udall
Napier	Roybal	Vento
Natcher	Rudd	Volkmer
Nelson	Sabo	Walgren
Nichols	Santini	Walker
Nowak	Savage	Wampler
O'Brien	Sawyer	Washington
Oakar	Scheuer	Watkins
Oberstar	Schneider	Weaver
Obey	Schroeder	Weber (OH)
Ottinger	Schumer	Whitehurst
Oxley	Seiberling	Whitley
Panetta	Sensenbrenner	Whitten
Parris	Shamansky	Williams (MT)
Pashayan	Shannon	Winn
Patman	Shaw	Wirth
Patterson	Shelby	Wolf
Pease	Siljander	Wolpe
Pepper	Skeen	Wortley
Perkins	Smith (IA)	Wright
Petri	Smith (NE)	Wyden
Pickle	Smith (NJ)	Yates
Porter	Smith (OR)	Yatron
Price	Snowe	Young (MO)
Quillen	Snyder	Zablocki
Rahall	Solarz	

NOT VOTING—102

Alexander	Forsythe	Miller (CA)
Badham	Fowler	Mitchell (NY)
Bafalis	Garcia	Moffett
Beard	Gaydos	Neal
Biaggi	Gibbons	Nelligan
Bingham	Gingrich	Peyser
Blanchard	Glickman	Pritchard
Bolling	Goldwater	Railsback
Boner	Gramm	Reuss
Bonker	Green	Rhodes
Brodhead	Grisham	Roberts (SD)
Burgener	Hagedorn	Rosenthal
Burton, John	Hawkins	Rostenkowski
Burton, Phillip	Heckler	Russo
Butler	Holland	Sharp
Carney	Hollenbeck	Shuster
Chappie	Huckaby	Simon
Chisholm	Hunter	Skelton
Conyers	Jacobs	Smith (AL)
Craig	Jenkins	Smith (PA)
Crane, Philip	Johnston	Stanton
Deckard	Kemp	Stark
Dellums	LaFalce	Stenholm
DeNardis	Leach	Thomas
Dixon	Lehman	Vander Jagt
Dougherty	Lowry (WA)	Waxman
Duncan	Lujan	Weiss
Edwards (AL)	Markey	White
Emery	Marks	Whittaker
Erlenborn	Martin (IL)	Williams (OH)
Evans (GA)	Martin (NC)	Wilson
Evans (IN)	Mattox	Wylie
Fascell	Mavroules	Young (AK)
Findley	McKinney	Zeferetti

□ 1900

Messrs. DUNN, ERDAHL, ST GERMAIN, and RAHALL changed their votes from "aye" to "no."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. SCHEUER. Mr. Chairman, will the gentleman from Iowa yield?

Mr. SMITH of Iowa. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

Mr. Chairman, I would like to raise an issue of great concern, I know, to every single Member of this House and virtually every American.

I wish to ask my colleague, the gentleman from Iowa, some questions about an extraordinary incident in the life of our country that I think will be of concern to every single Member of this House and virtually every American.

On November 4, 1979, 78 Americans in Teheran, Iran, were seized or forced into protective refuge, and 52 of them were held imprisoned in the most degrading, inhuman, uncivilized conditions for 444 long days. We watched, the American public and the Members of this body, traumatized, shocked, in horror and anxiety, day after day during this agonizing period.

Yet throughout this period and at the end of this period, these 52 Americans emerged from this incredibly cruel and unusual punishment with their spirits, their souls, their psyches and their bodies, for the most part, intact; certainly with their dignity and their courage intact.

We were proud of every one of them. They did us proud.

Now it is over 3 years since that incident, that harrowing incident that cut through the heart and spirit of America and, in a sense, unified us as we have rarely been unified.

This Congress has failed to act. We have done little or nothing that I know about to recognize the extraordinary conduct of those 58 outstandingly fine Foreign Service officers. Now, Mr. Chairman, under the War Claims Act of 1948, we are offered a precedent which was utilized for veterans of World War II, Korea, and the Vietnam war for payment of token sums as, and I quote, "a symbolic gesture on the part of the United States expressing recognition of the hardships suffered by the beneficiaries."

□ 1910

It seems to me, Mr. Chairman, that after more than 3 years the time has come for us to act, and to act decisively—decisively and fairly—in this issue and to recognize the extraordinary courage and dedication and character with which this remarkable group of American Foreign Service officers upheld the honor and dignity of our country and our flag.

Can I ask the gentleman from Iowa what prospects there are that the House and the Senate will act now, after 3 years, with reasonable speed and diligence in providing the grateful recognition of a country that admires these men and women?

Mr. SMITH of Iowa. Mr. Chairman, this is a matter of great concern. I assure the gentleman that we have every intention of reviewing the issue at the earliest possible time. However, it was my understanding that there was a commission appointed to study this matter and that they only reported their findings a few weeks ago. In addition, this matter requires authorization before we can appropriate funds for it. I want to assure the gentleman that our subcommittee stands ready to consider the matter just as soon as the authorization is enacted.

Mr. SCHEUER. I appreciate that assurance very much, and I do wish to note for the record the deep concern shown by our colleague, DANTE FASCELL of Florida, who has assured me of his commitment to address this question at the first possible opportunity during the 98th Congress.

I thank the gentleman from Iowa very much.

The CHAIRMAN. Are there additional amendments to the bill?

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, including funds for the payment of 1983 assessed contributions to the Inter-American Institute for Co-operation on Agriculture, $449,815,000: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization in excess of the United States share of the organization's assessment budget after deducting from that budget any interest costs for loans incurred on or after October 1, 1982, through external borrowing.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 30, line 2, after "$449,815,000" insert the following: *"Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for those interest costs made known to the United States Government by such international organizations for loans incurred on or after October 1, 1982.

Mr. SMITH of Iowa. Mr. Chairman, this amendment accomplishes the same purpose as another amendment I offered that was ruled subject to a point of order. This one is not. This is in support of action that the House has taken and the Congress has taken. The administration's program for delaying the payment of some of the dues to the United Nations is consistent with this amendment. It is supported by both the administration and the Congress, and I ask for a favorable vote.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I came in late, and I did not understand the colloquy or the speech that was just made by my good friend from New York (Mr. SCHEUER).

Is there some money here for the Iranian hostages?

Mr. SMITH of Iowa. There is no money in the bill.

Mr. DICKINSON. Is it a part of our deliberations here?

Mr. SMITH of Iowa. It was a colloquy.

Mr. DICKINSON. OK, because I am more interested in the POW's we have had for 7 years.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. SMITH).

The amendment was agreed to.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MILLER of Ohio. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MILLER of Ohio moves to recommit the bill, H.R. 6957, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 125, not voting 74, as follows:

[Roll No. 431]

AYES—234

Addabbo	Fenwick	Mazzoli
Akaka	Ferraro	McClory
Albosta	Fish	McDade
Andrews	Fithian	McHugh
Annunzio	Flippo	McKinney
Aspin	Florio	Mica
AuCoin	Foglietta	Mikulski
Bailey (PA)	Foley	Mineta
Barnard	Ford (MI)	Minish
Barnes	Ford (TN)	Mitchell (MD)
Bedell	Frank	Moakley
Beilenson	Frost	Molinari
Bennett	Fuqua	Mollohan
Bevill	Gaydos	Montgomery
Boggs	Gejdenson	Morrison
Boner	Gephardt	Murphy
Bonior	Gibbons	Murtha
Bonker	Gilman	Myers
Bouquard	Ginn	Napier
Bowen	Glickman	Natcher
Breaux	Gonzalez	Neal
Brinkley	Goodling	Nelson
Brooks	Gore	Nichols
Brown (CA)	Gray	Nowak
Burton, John	Guarini	Oakar
Butler	Hall (IN)	Oberstar
Byron	Hall (OH)	Obey
Campbell	Hamilton	Ottinger
Chappell	Hammerschmidt	Panetta
Clausen	Harkin	Parris
Clay	Hatcher	Patman
Clinger	Hefner	Patterson
Coelho	Heftel	Pease
Coleman	Hertel	Pepper
Collins (IL)	Hightower	Perkins
Conte	Hillis	Peyser
Conyers	Hollenbeck	Pickle
Coughlin	Horton	Porter
Coyne, William	Howard	Price
Crockett	Hoyer	Pritchard
D'Amours	Hughes	Quillen
Daschle	Hutto	Rahall
Davis	Jacobs	Rangel
de la Garza	Jeffords	Ratchford
Dellums	Jenkins	Regula
Derrick	Jones (NC)	Rinaldo
Dicks	Jones (TN)	Rodino
Dingell	Kastenmeier	Roe
Dixon	Kazen	Rogers
Dorgan	Kennelly	Rose
Dougherty	Kildee	Roth
Dowdy	Kogovsek	Roukema
Downey	LaFalce	Roybal
Dunn	Lantos	Sabo
Dwyer	Leach	Santini
Dymally	LeBoutillier	Savage
Dyson	Leland	Sawyer
Early	Lent	Scheuer
Eckart	Levitas	Schneider
Edgar	Lewis	Schumer
Edwards (CA)	Livingston	Seiberling
Evans (DE)	Long (LA)	Shamansky
Evans (GA)	Long (MD)	Shannon
Evans (IN)	Lundine	Sharp
Fary	Martinez	Shaw
Fazio	Matsui	Smith (IA)
Smith (NE)	Synar	Williams (MT)
Smith (NJ)	Tauke	Wirth
Smith (PA)	Traxler	Wolf
Snowe	Udall	Wolpe
Snyder	Vento	Wright
Solarz	Volkmer	Wyden
St Germain	Walgren	Yates
Stark	Wampler	Yatron
Stokes	Washington	Young (AK)
Stratton	Watkins	Young (FL)
Studds	Weber (OH)	Young (MO)
Swift	Whitley	Zablocki

NOES—125

Anderson	Gingrich	McGrath
Applegate	Goldwater	Michel
Archer	Gradison	Miller (OH)
Ashbrook	Gregg	Moore
Atkinson	Grisham	Moorhead
Bailey (MO)	Gunderson	Oxley
Beard	Hall, Ralph	Pashayan
Benedict	Hall, Sam	Paul
Bereuter	Hance	Petri
Bethune	Hansen (ID)	Pursell
Bliley	Hansen (UT)	Ritter
Broomfield	Hartnett	Roberts (KS)
Brown (CO)	Hendon	Roberts (SD)
Brown (OH)	Hiler	Robinson
Broyhill	Holt	Roemer
Carman	Hopkins	Rousselot
Coats	Hubbard	Rudd
Collins (TX)	Hyde	Schroeder
Conable	Jeffries	Schulze
Corcoran	Jones (OK)	Sensenbrenner
Courter	Kemp	Shelby
Coyne, James	Kindness	Shumway
Crane, Daniel	Kramer	Siljander
Daniel, Dan	Lagomarsino	Skeen
Daniel, R. W.	Latta	Smith (AL)
Dannemeyer	Leath	Smith (OR)
Daub	Lee	Solomon
Derwinski	Loeffler	Spence
Dickinson	Lott	Stangeland
Donnelly	Lowery (CA)	Staton
Dornan	Lujan	Stump
Dreier	Lungren	Tauzin
Edwards (AL)	Madigan	Taylor
Edwards (OK)	Marlenee	Trible
Emerson	Marriott	Walker
English	Martin (NC)	Weaver
Erdahl	Martin (NY)	Weber (MN)
Evans (IA)	McCloskey	Whitehurst
Fiedler	McCollum	Whitten
Fields	McCurdy	Winn
Fountain	McDonald	Wortley
Frenzel	McEwen	

NOT VOTING—74

Alexander	Findley	Mottl
Anthony	Forsythe	Nelligan
Badham	Fowler	O'Brien
Bafalis	Garcia	Railsback
Biaggi	Gramm	Reuss
Bingham	Green	Rhodes
Blanchard	Hagedorn	Rosenthal
Boland	Hawkins	Rostenkowski
Bolling	Heckler	Russo
Brodhead	Holland	Shuster
Burgener	Huckaby	Simon
Burton, Phillip	Hunter	Skelton
Carney	Ireland	Stanton
Chappie	Johnston	Stenholm
Cheney	Lehman	Thomas
Chisholm	Lowry (WA)	Vander Jagt
Craig	Luken	Waxman
Crane, Philip	Markey	Weiss
Deckard	Marks	White
DeNardis	Martin (IL)	Whittaker
Duncan	Mattox	Williams (OH)
Emery	Mavroules	Wilson
Erlenborn	Miller (CA)	Wylie
Ertel	Mitchell (NY)	Zeferetti
Fascell	Moffett	

□ 1930

The Clerk announced the following pairs:

On this vote:

Mr. Simon for, with Mr. Gramm against.

Mr. Hawkins for, with Mr. Chappie against.

Mr. Garcia for, with Mr. Hunter against.

Mr. Mattox for, with Mr. Cheney against.

Mr. Craig for, with Mr. Hagedorn against.

Mr. RALPH M. HALL changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I ask to proceed for 1 minute for the purpose of inquiring of the Chair or the majority leader what we might expect for the balance of this evening.

The SPEAKER pro tempore. The Chair will advise the gentleman from Illinois that we will now proceed to take up the rule, House Resolution 622, on the so-called local content or domestic content bill.

Following the conclusion of debate and action on the rule the House will cease any further business tonight. It is my understanding that the leadership on the Democratic side intends to take up at 10 o'clock tomorrow the general debate on the bill and proceed to amendments on the bill until 3 o'clock. If the bill is not completed by 3 o'clock it will be scheduled for completion at a later date next week.

Mr. MICHEL. I thank the Speaker.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW, DECEMBER 10, 1982, H.R. 7019, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, Friday, December 10, to file a conference report on the bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

□ 1940

ESTABLISHING ONE ADDITIONAL POSITION ON CAPITOL POLICE FOR DUTY UNDER HOUSE OF REPRESENTATIVES

Mr. MINISH. Mr. Speaker, by direction of the Committee on House Administration, I send to the desk House Resolution 625 and ask unanimous consent for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 625

Resolved, That (a) there is established one additional position as captain on the Capitol Police for duty under the House of Representatives.

(b) Each appointment to the position under subsection (a) shall be made—

(1) by the Capitol Police Board, with prior approval of the Committee on House Administration; and

(2) without regard to political affiliation and solely on the basis of fitness to perform the duties of the position.

SEC. 2. Until otherwise provided by law, there shall be paid out of the contingent fund of the House of Representatives such sums as may be necessary to carry out this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I do so merely to yield to the distinguished subcommittee chairman, the gentleman from New Jersey, so that he might give a very brief explanation of what he is doing.

Mr. MINISH. Mr. Speaker, if the gentleman will yield, the Committee on House Administration reported the resolution favorably by unanimous voice vote at its meeting today.

The resolution responds to a request by the Sergeant at Arms that appropriate legislation be passed to establish one additional position as captain on the Capitol Police in order to elevate an acting captain to the rank and salary of captain.

This acting captain has been the commanding officer of the Inspections and Internal Affairs Office of the U.S. Capitol Police for approximately 7 months. As an acting captain he continues to receive a lieutenant's salary.

The commanding officer of the Inspections and Internal Affairs Office is directly responsible to the Chief of Police and is an integral part of the Capitol Police's management system. Due to the nature of the assignment and the responsibilities of the commanding officer of this unit, I believe it appropriate to compensate an individual so assigned, the rank and pay of captain.

Mr. FRENZEL. I thank the distinguished subcommittee chairman for the explanation.

The minority agrees with the subcommittee chairman, and I urge its passage.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3963, CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS ACT AMENDMENT OF 1981

Mr. HUGHES. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3963) to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated, with Senate amendment thereto, disagree with the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to get an explanation from the gentleman as to what it is we are doing here and whether or not this has been cleared.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New Jersey.

Mr. HUGHES. Yes; the ranking minority member of my committee, the gentleman from Michigan (Mr. SAWYER), is in accord. We are taking from the Speaker's desk basically the Drug Dependent Offenders Act which passed this body some time ago, which the Senate tacked a number of amendments onto, asking for a conference to resolve the differences.

Mr. WALKER. This is just a process to take it to conference.

I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey? The Chair hears none and, without objection, appoints the following conferees: Messrs. RODINO, HUGHES, KASTENMEIER, CONYERS, GLICKMAN, SAWYER, FISH, and KINDNESS.

There was no objection.

PROVIDING FOR THE CONSIDERATION OF H.R. 5133, FAIR PRACTICES IN AUTOMOTIVE PRODUCTS ACT

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 622 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 622

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee on the Whole House on the State of the Union for the consideration of the bill (H.R. 5133) to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read. At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. BONIOR) is recognized for 1 hour.

Mr. BONIOR of Michigan. For purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 622 provides an open rule for the consideration of H.R. 5133, the Fair Practices in Automotive Products Act.

It provides a total of 2 hours of general debate. One hour is to be equally divided between the chairman and ranking minority member of the Committee on Energy and Commerce and 1 hour equally divided between the chairman and ranking minority member of the Committee on Ways and Means.

Amendments will be considered under the 5-minute rule and House Resolution 622 makes in order an Energy and Commerce Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment. This provision will enable members to offer second degree amendments to the substitute which shall be considered as read and open to amendment at any point.

Finally, the bill makes in order one motion to recommit with or without instructions.

Mr. Speaker, H.R. 5133 establishes domestic content requirements for motor vehicles sold in the United States. It is intended to preserve and create jobs in the American automobile and truck industry by requiring manufacturers, both domestic and foreign, to use specific minimum amount of domestic parts and labor in vehicles sold here.

Those amounts are determined by a formula in the bill that becomes effective after 100,000 vehicles are sold in this country. The maximum content requirement applies to those producers who sell over 900,000 vehicles and increases from 30 percent in 1984 to 90 percent by 1986.

It directs the Secretary of Transportation to limit the number of vehicles entering the country from those manufacturers who fail to meet their content requirements.

It also requires the Comptroller to report to the Congress on the impact of this act upon domestic and foreign automotive industries.

Mr. Speaker, there have been bills in each Congress that I have supported while cursing the necessity for them. We should not have to meet here today for this purpose, but a number of factors both within and without our control have conspired to force the decision upon us.

While sophisticated arguments can be made to rejoin those of the bill's opponents, the essence of the issue is as stark as any we shall face during our service to the country: Do we want an auto industry in this country?

The litany of statistics for that industry is grim.

Compared with the last good year for U.S. auto sales, 1978, sales declined by 32 percent in 1981. Truck sales have decreased by 53 percent. However, between 1978 and 1981, Japanese automobile imports rose 37.1 percent.

Industry capacity utilization stood at 43.6 percent in January of this year, the lowest rate measured for any industry since publication of that statistic began in 1948.

A million automobile and auto-related workers are unemployed at a cost of $25 billion in each of the last 2 years in lost revenues and Government payments.

An industry which paid $2.8 billion in Federal taxes in 1978, obtained refunds totaling $1.8 billion in 1980.

When the devastation is so pervasive to an industry which consumes 21 percent of all the steel used in this country, 50 percent of all malleable iron, and 60 percent of all synthetic rubber, the shock will make its way into all the corners of our economy.

While I admire Japan's creativity, efficiency, and commercial aggressiveness, I have some problems with the way it conducts its business.

It troubles me that 36 years after World War II—and largely because of our encouragement—Japan pays little for its national defense while the United States continues to be primarily responsible for the security of that area. The current figure for Japanese defense expenditures is 1 percent of the gross national product while the United States spends 5.6 percent. This, in turn, means lower taxes must be collected from industry and the Japanese auto industry is thus able to charge lower prices at the same level of profitability.

It troubles me that 2 years ago we negotiated an agreement with Japan by which it would triple its purchases of U.S. auto parts. It has not fulfilled the provisions of that agreement.

It troubles me that we allowed Japan itself to prohibit auto imports until the early seventies and that they still maintain a list of nontariff barriers (such as charges for processing, licensing, approval, and transport) that have the effect of doubling the price of an American car.

It troubles me that Japan steadfastly maintains barriers against U.S. beef and agricultural products, and electronics equipment.

We all realize that in an ideal world, all countries profit from free trade policies. However, even in the swell of hopefulness following World War II, the signatories to the General Agreement on Trade and Tariffs (GATT) recognized that there would be extraordinary relief measures. That flexibility was embodied in article XIX of the GATT. While it may not recognize this specific remedy, it recognizes the right of countries to address, in a sovereign and responsible way, outstanding economic problems.

Most of the auto-producing countries have faced the same problems and dealt with them far more drastically. Italy allows only 2,200 vehicles to be imported from Japan each year. The French have frozen Japanese imports at 3 percent of their market, the Germans and British at slightly over 10 percent. All three nations are GATT signatories and quotas are prohibited under that agreement.

Thirty countries have domestic content requirements and none have been challenged under GATT provisions. Countries like Brazil require that more auto products be exported than imported.

I believe that the bill before us is superior to any of those solutions both in terms of our own interests and those of our trading partners.

First, it would encourage foreign manufacturers to set up operations in the United States. One of the criticisms that we hear about this bill is that it rewards the mistakes in design and management of domestic manufacturers. Not at all. Foreign companies can still enter the American market using American workers. Thus, our workers will not be punished for the mistakes of management and our own companies would have to be competitive in cost and quality. As Business Week stated in its April 13, 1981 issue in support of this measure:

> It would not provide a shelter for incompetent, high-cost operations as a tariff would.

We would also have the benefit of creating and preserving American jobs, estimates of which range up to 900,000. Some have argued that jobs would actually be lost through retaliation but that kind of projection is highly speculative and tenuous at best. Japan has never brought a GATT complaint and, in fact, where their operations have been restricted, they moved to invest in those countries to maintain a market presence. To bring a GATT complaint would subject Japanese trade practices to the same scrutiny.

Further, most countries are far more dependent upon foreign trade than the United States. For many, it constitutes more than 50 percent of their GNP while in the United States it is about 14 percent. They would thus find it more difficult to sustain a trade war. Hopefully, this action will encourage offending nations to return to free trade negotiations.

I would further remind Members that Volkswagen and Honda have already commenced operations here and both have attested to a higher quality product manufactured in the United States than in Europe or Japan.

Second, we would derive the advantage of the transfer of technology and management advances that we so admire in Japan.

Third, a diversity of products would be maintained to provide consumers the widest range of choices possible.

None of these advantages is possible if we simply levy a tariff or quantity restrictions. We have also seen that another alternative, tax relief and Government assistance, does not guarantee that investment will be made to enhance the well-being of our own work force.

It should also be kept in mind that Japan has itself already negotiated content agreements. When making multibillion dollar purchases of military aircraft from McDonnell Douglas and Lockheed it required an average of 40 percent of their total value be produced in Japan. Japanese content would start low but would rise over a period until virtually all of the finished product would be made in Japan.

Again, the question, my friends, is basic and stark: Do we want to maintain an automobile industry? If not, where do we intend to employ those who wish to contribute honorable labor for the dignity of self-sufficiency? Many of you will point to the sectors in which we are strongly competitive: Agriculture, services, and high technology. I have two replies to that.

First, we then must be prepared for the most massive, immediate, and disruptive retooling of our economy ever. Having witnessed the squeaking hinges of the congressional pocketbook of late, I doubt that this body would be willing to provide much help in this endeavor.

Second, in each of the newly competitive areas, we face the same problem: Restricted markets. Mark my words, if you do not fight this battle now, you will have to fight it in any of a number of places in the not-so-distant future.

With employment hurtling toward 11 percent, with Michigan's unemployment at 17 percent, I prefer to fight it now. Shakespeare warns in Henry VI that "delays have dangerous ends." A delay now may forever destroy this industry and who can say, with any assurance, that this will not be the first knell to mark the passing of several of America's hallmark industries. Economic trends being what they are, the cure may be far more radical next year at this time.

The time has long passed when the United States marched in the lead down free trade boulevards while the rest of the world's parade disappeared down protectionist side streets. We must somehow persuade our trade partners to return to that boulevard. Obviously, kind words and cajoling do not work. To persist in them, risks being thought fools—not only by other trading countries, but more unforgivably, by those we serve. I will not place upon my constituents the burden of unilaterally upholding ideals while the rest of the world picks their pockets.

The Budde Co. of Troy, Mich., lost a contract with the New York subway system when the Canadian Government promised to subsidize the financing arrangements of its own firm. (Canada is a signatory to GATT and that agreement discourages subsidies.) I am not about to return to the Budde workers in my district and tell them that while they may not have much to put under the tree or upon the table this Christmas, they will have the satisfaction of knowing that they upheld an ideal which most countries only observe in the breach of it.

The principles of GATT, and indeed international trade, are reciprocity, both in terms of concessions and sanctions. I see nothing inconsistent with that principle in this bill.

The automobile industry has made great efforts at redesigning, retooling, and is newly attentive to quality control. I look forward to a time when the strength of the auto industry and the U.S. economy, and the sense of fairness and sensitivity of our trade partners, are sufficient to eliminate the need for legislation such as this. Until such time, we will "provide for the general welfare" of our people.

Mr. Speaker, I reserve the balance of my time.

□ 2000

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say at the outset that I happen to be a cosponsor of H.R. 5133 and I quite agree with most of the statements made by the gentleman from Michigan who preceded me, but I have to wonder why this legislation has been so long delayed in this Congress.

Here we are in a lameduck session of the Congress and the leadership on the Democratic side finally decides to bring it up now, when everyone who is reasonably acquainted with the legislation situation well knows that it is not going to pass the other body. It is not going to become law and the problem is still going to remain, the problem of the auto workers out of work in the United States. This while an ever-increasing number of imported cars come into the United States and prices continue to increase on American-made cars.

I begin to wonder who the Democrat leadership is trying to fool. If they really meant we were going to pass this legislation, we would have had it on this floor a long time ago.

So let me say to my automobile worker friends in my district and in other districts across this country that they are not going to get a Christmas present by the passage of this legislation in this House, as it is not going to become law this session.

As I remarked when this matter was before the Committee on Rules, perhaps we ought to be directing our efforts in some other direction and get some immediate assistance to an ailing industry.

I do not happen to be a free trader; I happen to be a fair trader. I think the automobile industry is a good example of inequitable trade relations. We had testimony before the Committee on Rules as to how American cars are treated in Japan when they are exported to that country. Maybe we ought to quit playing Uncle Sap and become Uncle Sam once again and become a good Yankee trader again and say if they are going to put all of these restrictions on American-made cars when they are shipped to Japan we will put them on theirs. Should we take such action, I will wager they will change their practices in short order.

You get around the world, how many American-made cars do you see on the streets? How many do you see on the streets of West Germany? England? You can skip around the world and you see very few American-made cars. Why not? Unfair restrictions against American-made autos.

So I think we have a serious problem. We have another serious problem here in the United States with American-made autos. It is the matter of price because the people who are supposed to buy these cars cannot afford them. The other day a friend of mine went into a Chevrolet agency to look at a the price of a new Chevrolet. This is supposed to be the workingman's car. Over $12,000. Could he afford it? No, he could not afford it, so he turned on his heel and walked out.

We have got to meet our problems head on. We have interest rates that are too high. General Motors some months ago reduced their interest rates for a short period of time and they attracted sales. Now we have the other two majors in this country reducing their interest rates and they are attracting buyers.

We must admit we have a lot more problems related to the automobile industry than this particular legislation might help if it could pass. Unfortunately, it is not going to pass in this session of Congress.

So I say to my dear friends who are pleading for the passage of this legislation: Where were their pleas 6 months ago? We could have had the legislation on the floor then at a time when it stood a better chance of passing.

Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I realize the gentleman from Ohio (Mr. LATTA) has a number of Members who have requested time and does not have a great deal of time to yield, but I take this time in order to urge my colleagues to vote against this rule.

We should defeat this rule. This bill should not be on the legislative agenda here at this late hour. It is taking up valuable time in this House. It is not going to take just hours to complete this bill; it is probably going to take days. We should be using this time to consider must legislation so that we can adjourn this body so that we can be home for Christmas Eve.

I understand that even if this bill were to pass the House, it would go no further. I am also told, and I just checked a few minutes ago, that there may be as many as 30, 35 amendments that are accumulating here at the Speaker's desk.

I do not think that the Committee on Rules should have granted a rule at this late hour on such a controversial bill that is going to take, not hours, but days to complete.

This bill is advertised as a bill to promote increased employment. This is not a bill that would increase employment. It is not a jobs-creation bill. It is a jobs-transfer bill. Thousands of Americans are going to lose their jobs, and those jobs will be transferred as a result of the passage of this legislation.

Your agricultural leaders, for example, are saying that this bill would be a disaster for American agriculture. We can be assured that there will be retaliation against other industries here in the United States, industries that depend upon exports. Those workers

will lose their jobs as a result of this trade retaliation. Consumers will also lose as a result of this bill as the prices of automobiles are driven up to new highs.

So again, Mr. Speaker, I urge a no vote on this rule. Next year would be ample time to give careful consideration to a bill of this magnitude, of this controversy. It should not be considered in these late hours.

Tomorrow the House is scheduled to consider H.R. 5133, the Fair Practices in Automotive Products Act of 1982. H.R. 5133, the so-called domestic content bill is a special interest bill deserving of no one's support.

I am submitting for the RECORD, letters from the U.S. Trade Representative, William E. Brock, and the Secretary of Commerce, Malcolm Baldrige, expressing strong opposition to this bill. I concur with their prediction that this bill will have a negative effect on our export industries which will far outweigh any potential benefits to our domestic auto industry. The financial plight of our domestic auto manufacturers will not be cured by this protectionist legislation.

I urge my colleagues to vote against this very bad bill. The letters follow:

U.S. TRADE REPRESENTATVE,
Washington, December 8, 1982.

Hon. JAMES T. BROYHILL,
U.S. House of Representatives,
Washington, D.C.

DEAR JIM: H.R. 5133, the "Fair Practices in Automotive Products Act", is now pending floor action in the House of Representatives. I am writing to express the Administration's strong opposition to this legislation and to ask that you give careful thought to the damage it can do to the American economy.

This bill would establish domestic content requirements for motor vehicles sold in the United States as a means to assist the American automobile industry. The Administration is greatly concerned with the very real problems faced by our automotive industry, its suppliers and its workers during its worst slump in 20 years. In times of economic difficulties it is tempting to turn to the temporary cure of saving jobs at home by keeping out products from aboard.

Imports have not been the root cause of the industry's problems. Recession, high interest rates and a lagging economy have had a disproportionately negative effect upon automobile sales. Although the average import penetration for the first eleven months of 1982 was 27.7 percent, as compared to 27 percent in 1981, in absolute terms, import sales are running only 200,000 more this year than five years ago.

To the extent imports are a problem in the automotive industry, the Administration welcomed the voluntary export restraints extended by the Japanese government. These restraints, now in their second year, have assured that virtually every additional car sold in the United States during this period is manufactured in North America. I believe this Japanese action is effectively meeting the import issue without permanently damaging American exports, jobs, and the international trading system, as would domestic content legislation. These restraints, in my view, should be continued into 1984.

The protectionist approach of H.R. 5133 would have serious international trade consequences. The negative precedent set by the United States in requiring local content as a protection to imports, could lead to the emulation of our actions by other major trading countries. The limited success of the recent General Agreement on Tariffs and Trade (GATT) Ministerial meeting in Geneva proved just how strong worldwide protectionist pressures have grown. The United States, the world's strongest economy, must continue to take the lead in resisting this influence, and we will continue to expect nothing less from our major trading partners.

Such staunch defense of our free trade policy is not based on an idealistic view of world trade. Rather, the pursuit of free trade is a necessity for the preservation and growth of American jobs. Between 1977 and 1980, four out of five new manufacturing jobs were created in export industries.

The impact of foreign trade retaliation far exceeds this bill's potential benefits to the automotive industry. A recent Congressional Budget Office study estimates that although 38,000 auto jobs would be created by 1990, the new jobs are more than offset by 104,000 jobs eliminated in factories that make goods for exports. The burden of such action would fall heavily on the electronics, agricultural and services industries.

Exports and trade mean jobs. Passage of H.R. 5133 would be devastating to U.S. economic health and employment. This Administration opposes it in the strongest possible terms.

I request your full assistance in stopping this self-defeating measure.

Very truly yours,

WILLIAM E. BROCK.

SECRETARY OF COMMERCE,
Washington, D.C., December 1, 1982.

Hon. JAMES T. BROYHILL,
House of Representatives,
Washington, D.C.

DEAR JIM: H.R. 5133, the "Fair Practices in Automotive Products Act", is now awaiting consideration by the House of Representatives. The Reagan Administration strongly opposes this legislation. H.R. 5133 is protectionist and will insulate the U.S. auto industry from foreign competition. The fact that the supporters of H.R. 5133 have tried to improve the bill by tinkering with its requirements and penalties has not and cannot make it acceptable.

Support for local content seems to be based on several fallacies. The first is that it will create hundreds of thousands of jobs in the auto industry. H.R. 5133 will not lead to significant job creation; it could even lead to job destruction. The exclusion of some foreign autos may, if other foreign manufacturers do not "take up the slack," temporarily create some additional U.S. jobs, but the employment gain would be very modest. Since none of these jobs would be available this year or next, it will not help the U.S. auto industry to recover from its current problems.

Any jobs created by the bill would be at least partially offset by job losses that it would produce. We doubt that foreign auto manufacturers with U.S. plants will continue to achieve the same economies of production if they are forced to meet local content requirements. This bill, by jeopardizing these economies, could well result in the closure of assembly facilities already here.

We believe that disruption of the present U.S. distribution system for Japanese cars would further reduce U.S. employment. We see Japanese manufacturers curtailing their overall level of exports here rather than making additional investments to satisfy local content levels. The decline in import volumes would mean that many import dealers would be forced to close or cut back, with resulting job losses, and that U.S. port facilities which handle imported cars would suffer substantial declines in employment.

Even more important than these direct job effects, H.R. 5133 would cause further job losses by igniting retaliation against U.S. exports, a development that could be a severe blow to American farmers and American workers in non-auto industries. We estimate that for every $1 billion of U.S. exports eliminated by retaliation 25,000 jobs could be lost.

The second fallacy is that local content will save the U.S automobile industry. This is not so. Over time, this bill would harm, not help, the auto industry. "Locking in" U.S. manufacturers at a 90 percent level of local content, as H.R. 5133 would do, will prevent them from seeking the lowest cost sources of supply. Thus, while foreign manufacturers would be free to cut by purchasing parts wherever they are best and least expensive, U.S. companies would be hamstrung.

The consumer will also suffer under a local content law, since imports will decline, car prices will go up, and fewer models will be available.

The third fallacy is that local content can strengthen U.S. trade policy. In fact, local content would be a major setback for U.S. trade policy. If H.R. 5133 becomes law, the Japanese and our other trading partners will have no reason to take seriously our efforts to remove trade barriers. America will have repudiated its traditional leadership role for free trade.

The Reagan Administration recognizes that the American auto industry has serious economic problems. Early on, we constructed a program to address those problems. That program combines economic recovery with tax and regulatory relief. We recognize that the industry still needs help, but we believe that the problems of the industry will not be solved by enacting trade barriers. They will be solved by providing an economic environment in which the U.S. auto companies can become more productive and competitive, domestically and worldwide.

In short, H.R. 5133 is the wrong answer to the problems of the United States auto industry.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. OTTINGER), the sponsor of the bill, for purposes of debate only.

Mr. OTTINGER. Mr. Speaker, I rise in strong support of H.R. 5133, the Fair Practices in Automotive Products Act and the rule for its consideration which is before us at the present time.

I have no question in my mind that the bill will meaningfully address the discrimination that presently exists against the U.S. exports of automobiles, that it will help to restore some of the 300,000 jobs of people who pres-

ently are unemployed in the automobile industry directly and some 800,000 jobs that have been lost in related industries.

Mr. Speaker, it has been said that this is a useless exercise; that the bill will not be considered in the Senate. I do not think that is so. First of all, the Senate, under its rules, may attach this bill to any nongermane measure and the bill at the present time has 20 cosponsors in the other body.

Second, if all we do is to pass the bill in this body, in this Congress, it will still send a clear message to those who are discriminating against our exports that at least the U.S. Congress has shown that it means business; that we will no longer play Uncle Sucker.

I am for free trade, I have always been for free trade; but free trade is something that has to be reciprocated by the other major trading nations of the world, and it has not been. Every major country in the world has acted to protect its own auto industry.

□ 2010

France, Germany, and Italy, the Members have heard the specific figures cited by the gentleman from Michigan, have acted specifically to protect their automobile industry, and 31 nations have their own domestic content restrictions on automobiles, many of them much more restrictive than what is provided here.

This bill does not prevent the Japanese and Europeans from selling cars in the United States. It merely says that if they are going to sell cars in the United States, they are going to put a certain percentage of the work in the United States, the manufacture of the automobiles and their parts.

It has been said that it is going to cause massive retaliation. I would point out that with all these restrictive measures by every other major country in the world, there has been no retaliation. In point of fact, whenever those countries have gotten tough with Japan, Japan has accommodated them. Just recently Japan was giving Canada a hard time with vastly increased imports of Japanese cars into Canada, and Canada wanted to limit them. The Japanese said no. Canada said, "We will apply to you the same restrictions you apply to us."

The result was that the Japanese yielded. They did not retaliate against Canada when they entered into an agreement on limiting imports in Canada.

I am sure that if, for once, the U.S. Congress shows its backbone, because we just went through a trade negotiations session in Geneva and came back with nothing, nobody thinks that we are serious about trade negotiations—if Congress goes back to pass legislation, then the process of lowering barriers in Europe and Japan will come very easily. I urge the adoption of this rule and of this bill.

Mr. Speaker, the U.S. auto industry has been sinking into a depression for over 3 years. Over 1 million jobs have been lost in the auto industry and its supplier industries. In 1978, the auto industry employed 1 million workers and its supplier industries another 2.4 million workers, for a total of 3.4 million. Total employment has now fallen to 2.4 million. This has contributed to unemployment rates unheard of since the Great Depression.

A sharp increase in auto imports by foreign companies and American multinationals has contributed significantly to this terrible situation. While the stagnant overall economy has reduced total car sales, import sales have grown rapidly. The import share has risen from 17.9 percent in 1978 to 27.3 percent in 1982. The auto trade deficit with Japan alone was $13 billion, almost 90 percent of the total U.S. deficit with Japan of $16 billion. Meanwhile, the U.S. companies have been making plans for substantially increasing their imports of parts and vehicles. U.S. companies now have annual imports of over 2 million engines and 1.7 million transmissions. They are negotiating to import far more vehicles and major parts in coming years. If this pattern is allowed to continue unchecked, further massive job displacement is in store.

Passage of H.R. 5133 would create or preserve 637,000 jobs by 1986 and 1,386,000 jobs by 1990. Most of these jobs would be at the U.S.-based multinational auto companies whose foreign sourcing would be limited, at foreign auto companies newly operating here, and at their suppliers. There would be a substantial ripple effect that would increase jobs outside of the production of autos.

A healthy auto industry is vitally important to the Nation's economy, not only in terms of employment and trade, but in terms of the linkages it has to other key industries. For example, the auto industry uses 21 percent of the steel produced in this country, 60 percent of the synthetic rubber, and 12 percent of the aluminum. The auto industry also develops and purchases a large percentage of high technology products, like industrial robots, computer-aided design equipment, and electronically controlled machine tools. All these supplier industries would be damaged if their largest single customer, the U.S. auto industry, continues its rapid erosion.

Passage of H.R. 5133 would assure the continued strength of U.S. automotive production, particularly our capacity for producing small cars. Both foreign and domestic auto companies would have to invest here and purchase parts made here.

The provisions of H.R. 5133 are designed to assure a healthy and competitive domestic auto industry. The bill takes into account the fact that a few giant vehicle manufacturers decide where production takes place to supply the U.S. market. Their strategic decisions determine the livelihood of hundreds of thousands of American workers.

My bill imposes obligations only on companies with sales exceeding 100,000. Ten auto companies have that many sales in the United States today: GM, Ford, Chrysler, Nissan, Toyota, Honda, VW, Toyo Kogyo, AMC, and Mitsubishi. The bill provides for a 1-year grace period, after which the requirements are to be phased in by thirds in each of the next 3 years.

A company's local content requirement depends on the level of its sales. A company's content requirement is based on a smooth scale that starts at 100,001, then rises until 900,000, where it levels off. From model year 1986 onward, the content percentage—up to a maximum of 90 percent—is derived by dividing sales by 10,000. Thus, sales of 355,000 entail a 35.5-percent requirement; sales of 500,000 entail 50 percent, and so forth.

The content ratio of a company is based on its sales, exports, and imports of original equipment automotive parts and vehicles. Its imports less its exports equal its net imports. The local content percentage is derived by taking 100 percent and then subtracting a company's net imports as a percentage of its sales. For example, a company would have 90 percent local content in its net imports represent 10 percent of its U.S. sales. It has 40 percent local content when net imports are 60 percent of sales. In addition, no company can have a content ratio lower than 10 percent below the ratio it achieves in model year 1983.

This schedule is achievable. The U.S. "Big Three," VW and AMC-Renault now have enough domestic production and supplies to meet their content ratios for model year 1986 and beyond. With its new U.S. assembly plant fully utilized, Honda can meet its ratio simply by expanding its purchases of domestic parts and materials along the lines that VW has followed. Nissan's truck plant provides them with a good start toward compliance, but they will probably have to do more assembly here as well as purchase more U.S. parts. Toyota, Toyo Kogyo, and Mitsubishi would have to begin to invest here. In many cases, these companies would not have to build completely new facilities. They could instead follow the lead of VW and Renault by acquiring ownership of existing facilities for production of their vehicles.

As all these major foreign companies invested in U.S production, they would maintain much-needed competition in the American marketplace. The consumer would continue to have a wide

choice of vehicles since modern assembly plants allow many different types of models and drive trains to go down the same line.

With major foreign companies producing in the United States, competition to satisfy the American consumer would be based on the best technology, service, quality and price under the same rules. Competition would no longer be based on unfair exchange rates or lopsided tax treatment. The yen today is generally considered to be undervalued by 25 percent or more. That has a devastating effect not only on current car sales, but also on where auto companies choose to build their new products. The gap in the taxes paid on cars shipped between the two countries is just as wide. When Japanese cars leave Japan, most taxes on them are rebated back to the manufacturer and few taxes are added when they enter the United States. Going in the other direction, however, exported U.S. cars bear their full share of taxes when they leave here and get charged heavy Japanese taxes before they can be sold.

Because foreign-based multinational companies would be investing here to compete with the U.S. multinationals, the bill would have little effect on prices. The only study to predict large price increases was financed by the import dealers association.

The world does not have anything like free trade in automobiles today. In fact, every other major auto-producing country has taken stiff measures to defend its domestic production of autos and parts. For example, all of the major countries of Europe have prevented imports from Japan from capturing even half the 23-percent share that Japanese companies have taken in the United States. Italy restricts Japanese imports to 2,200 cars a year—a fraction of 1 percent of that market. France held the Japanese share to just 3 percent from 1978 to 1981, when setbacks in the French auto industry led to a cutback of the Japanese share to 2.5 percent. A gentleman's agreement between the British and Japanese industries keeps the Japanese share to less than 11 percent. Finally, the Japanese share has been held to about 11 percent in Germany. For its part, Japan poses formidable inspection requirements for imported vehicles following a history of prohibitive tariffs. Total imports of cars and trucks represent less than 1 percent of the Japanese market. In addition to these 5 major countries, over 30 other countries impose some form of local content requirements for their domestic auto industries.

Quite frankly, the effect of the bill before you today is quite mild in comparison to other countries' auto import restrictions. No complaint in the GATT has ever been made against any of these other practices. The U.S. administration has nonetheless contended that investment measures such as H.R. 5133 violate the GATT. Events at the recently completed GATT Ministerial in Geneva undermine this view. The U.S. Trade Representative had asked that investment matters be put on the agenda for ongoing GATT negotiations. But other countries contended that GATT was not the proper forum for investment issues and GATT negotiations over investment rules were rejected.

A word about the penalty provisions of my legislation is, I think, in order. A violater of the provisions of the bill is defined as a company that falls short of its assigned domestic content level in any model year. After a violator has been given a hearing, the Department of Transportation is directed to issue an order limiting for 1 year the number of vehicles or value of parts that the manufacturer may import into the United States. This limitation is based on the extent of the violation.

Specifically, the restriction on the number of vehicles that may be imported equals the number imported by the manufacturer in violation during the model year in which the violation occurred, reduced by a percentage equal to the difference between the actual and required domestic content ratios.

For example: A manufacturer sold 450,000 autos, of which 250,000 are imported. The average domestic content of all the cars was 20 percent, but the domestic content required was 30 percent. As a penalty, the manufacturer would be limited to importing 225,000 cars into the United States the following year. This limitation would be arrived at by reducing the previous year's imports—in this case 250,000—by the percentage point difference between the required domestic content and the actual domestic content—in this case 10 percent.

As I said, my legislation permits any person against whom DOT issues an order to seek judicial review within 60 calendar days. It also authorizes the U.S. appeals courts to modify department orders or remand them for further action.

In conclusion, Mr. Chairman, each of us realizes that the auto industry plays a key role in the growth and prosperity of every large industrial country. Because of that, no other major auto-producing nation has ever allowed its own auto production to collapse relative to local sales at the rate we have experienced since 1978. In the past 20 years, many governments have intervened at critical stages to prevent the destruction of their national auto markets—among them as specified above are Japan, Germany, France, Italy, and Britain.

During consideration of H.R. 5133 by the Energy and Commerce Committee, both proponents of this legislation and those who join me in advocating it rattled-off statistic after statistic about how many jobs it will provide or not provide, and what the impact will be on the price of a car. I am sure that my colleagues that oppose this legislation will, in the debate to come, voice those same concerns and statistics. Let me say that I join a majority of the Members of this House, who have cosponsored this legislation, in the conviction that the result of enactment will mean jobs—lots of them. I am convinced that this bill will not result in the undesirable side-effects that opponents claim. The bottom line is that the United States cannot continue to cling to open U.S. auto markets while our competitors close theirs to us and make off with our sales and jobs.

The United States cannot continue to play "Uncle Sucker" in light of the practices of Japan, Europe and others which, either enforce auto domestic content laws themselves or practice inspection procedures and apply tariffs that exclude our autos and other products from their markets. The opponents of this legislation speculate about possible retaliation. Yet 31 countries have domestic content laws for autos already on the books, and Japan has not retaliated against any one of them in any way. All European countries, as I have said, maintain quotas for Japanese imports without objection. We are the largest auto market in the world, and to abandoned it would mean economic collapse for the Japanese.

Mr. Chairman, my colleagues, while all sorts of speculations about my bill have been voiced, we all know that there are some 300,000 autoworkers without a job—and that is a fact.

The time is short. We are talking about the jobs, livelihoods, and the economic survival of an estimated 867,000 Americans and their families. We must act, and we must act now.

I urge you to support H.R. 5133 as written.

I urge adoption of the rule so this vital measure may be considered.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Speaker, I rise in opposition to the rule under consideration and ask my colleagues to vote "No" on the rule.

Floor consideration of the bill at this time is premature.

H.R. 5133 has broad implications for our economy. It will affect a host of American industries in addition to the auto industry. It will negatively affect our rate of employment. While some 38,000 jobs might be created in the auto industry, 104,000 jobs will be lost in other sectors of the economy. It will undermine our position as the world's largest exporter.

In light of these repercussions, I do not believe that committee consideration of this bill to date has been adequate. This bill was referred only to the Energy and Commerce Committee. Issues such as the implications for world trade and unemployment in other sectors were not allowed either adequate consideration or any consideration in other committees.

I must agree with my colleagues from the Ways and Means Committee that the time afforded for their consideration of the bill was not adequate.

I also think that the adverse effects of this legislation on agricultural commodities should be of major interest to the members of the House Agriculture Committee.

For these reasons, I oppose the rule and urge my colleagues to defeat the rule.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, the reason that I oppose the rule is not only that H.R. 5133 is a bad bill for America and will be a good thing if we want to ruin our economy; I vote against the rule also because what the rule is doing is presenting to the House a bill that has not had adequate consideration within our committee system. Due to the Parliamentarian's ruling, which I do not understand, the bill was referred to the Energy and Commerce Committee. It was clutched to the bosom of that committee for nearly a year, and suddenly popped out with only a half a day's hearing.

The bill should have been referred to the Ways and Means Committee, which has trade jurisdiction. It was given to the Ways and Means Committee for 8 legislative days, during which time we heard witnesses from morning until night, and some during the night. In all of those witnesses that we heard, I can only recall two of them who were in favor of the bill. We want to pursue our inquiry. We would like to look into this problem a good deal deeper than it has been looked into. We know already that the bill is totally without merit and would be an economic disaster, but we do not know what would be right, and we need to take more testimony.

Therefore, Mr. Speaker, the bill should be returned to the committees so that the committees can do a better job of holding hearings and making some conclusions that would maybe solve the problem. The bill only exacerbates the obvious problem of unemployment by trading off some employment for some others, and producing a net loss in total employment in the United States.

Mr. Speaker, previous speakers have indicated that other countries are more dependent than the United States on trade. I would simply remind the body that the United States is the world's largest trading nation. Under the GATT system, which we invented and persuaded the world to use after World War II, our country has had its greatest period of prosperity. We are dependent on trade, and jobs in this country are dependent on trade.

Also, I would like to make the point that if we decide to try to save a few jobs of autoworkers while giving up other jobs, the sector that is likely to sustain the most damage during the retaliation which will inevitably follow is agriculture, so if there is any Member of this body who is serving an agricultural district and votes for this bill, I suspect he or she will do so at great peril.

It was also suggested that the bill might be helpful to foreign producers in the United States. All the foreign producers now manufacturing in the United States and all the domestic producers testified before our committee that they were against the bill, that the bill would inhibit their operations. One of them who is still building a plant indicated they might have to turn their backs on nearly 1 million dollars' worth of investment.

The worst thing this bill does, however, is in the dollar-yen relationship. It is thought that the yen is undervalued, and that gives the Japanese an advantage over us in that they are able to sell their cars more cheaply than ours. The passage of H.R. 5133 will, of course, drive the yen down further, putting U.S. goods at a further disadvantage and giving Japanese goods a greater advantage. So, if you want to send a message to Japan, for heaven's sake, do not pass this bill because what you are going to do is give them some greater advantages.

Mr. Speaker, the bill is so bad I am going to wait until tomorrow to describe it when there is a lengthier opportunity to describe the disastrous economic effects of the bill. For the moment, however, let me repeat that this, the rule we are talking about tonight, the rule is bad because it did not allow an adequate amount of time for consideration within the committees of this House, and it specifically denied the committee of principal jurisdiction an opportunity to do a job for you the way that your committees would like to do a job when you get a job referred to them.

□ 2020

Therefore, Mr. Speaker, I urge the defeat of the pending resolution, and if it is not defeated, we will hear more about the bill tomorrow.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. GIBBONS) for purposes of debate only.

Mr. GIBBONS. Mr. Speaker, I am not going to give the Members one of those fire-and-brimstone talks tonight. I just want to try to talk quietly about this matter and say, first of all, that I oppose this rule and this legislation.

I have malice toward none and sympathy for all who are caught in the areas of great unemployment. America is going through a transition. The automobile industry is going through a gigantic transition. Domestic policy has not been adequate. We have failed to fight inflation on the domestic front with budget tools, and the Federal Reserve stepped in and fought inflation with monetary tools. That has exacerbated the problem in the automobile industry, and we are reaping that harvest.

I say it quietly but with a great deal of conviction, Mr. Speaker, and I criticize no one.

Through an historic accident, this bill when introduced, should have gone, under the rules of the House, to the Committee on Ways and Means. It did not. It was only after the accident was discovered that it was sequentially referred to the Committee on Ways and Means. On September 21 of this year, after the bill had been in the Congress almost a year, we finally got out first crack at it. All we could do was wave.

We had no power to even complete our hearings. We had no power to even discuss it, to amend it, to try to change it, or to redirect it, and, frankly, I doubt if there is much that anybody could have done. We have to live with those historic accidents.

This bill will be back next year, and I trust that we will be able to work out these matters in a more satisfactory environment.

The only good reason I have heard for passing this bill—and the Members can judge its quality—is that this is a "happy birthday" going-away present for Doug Fraser. Doug Fraser is probably the most intelligent individual who is involved in the auto industry, and if Members think they should throw away America's future honoring Doug Fraser, then they ought to vote for this bill. But that is the only good excuse for voting for this bill.

In the hearings that the Committee on Ways and Means was able to conduct in only 8 days, 1 of which was a religious holiday—and these were days and nights, I must say—we collected 856 pages of testimony from interested people.

The SPEAKER pro tempore. The time of the gentleman from Florida (Mr. GIBBONS) has expired.

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I thank the gentleman from Ohio (Mr. LATTA).

Mr. Speaker, in this collection of testimony and cross-examination by some of the smartest and most tenacious Members of Congress, we will find all of the answers to all of the assertions

that have been made here. Every disinterested, knowledgeable witness opposes this bill, and they concluded that America would be poorer, that prices would be higher, that inflation would be worse, and that jobs would be destroyed, not created, if this bill were passed.

May I call the attention of the Members to the testimony of the National Automobile Dealers Association where people who sell American-made cars only testified that they unanimously opposed this bill because, they said, it would result in higher prices and lesser consumer choice and would diminish the strength of America. These people know the industry; they live with it; they know both sides of it.

Mr. Speaker, I say to the Members, read the testimony.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, I take pleasure in talking about the Smoot-Hawley Tariff Act of 1982 this evening, and I can just share with my colleagues, on the issue of the rule, the certain experience that this Member from California had serving on the Committee on Energy and Commerce which had the distinction of considering this legislation. It was an interesting experience to say the least.

The Subcommittee on Commerce, Transportation, and Tourism held only one-half day of hearings. The markup vehicle in committee was a substitute amendment that was not available to members until the morning of the first day of markup. At the time, when the patience of some of the members of the committee was exhausted, this member had 20 amendments pending for consideration, and that was at 10 o'clock that particular morning. There was a quorum present and my colleagues who constituted it passed through a resolution cutting off any consideration of any amendment by 4 o'clock that afternoon.

And then what did they do after they passed that stifling resolution cutting off debate? They proceeded to get up and leave the premises, and they came back at 4 o'clock to adopt and implement the limitation on any further consideration, and in the interim, of course, I had no consideration or opportunity to present these amendments. I suppose some other Members in this room have gone through a similar experience.

It is for these reasons that I think it is an absolute mistake for this body to attempt to seriously debate what this legislation entails for the country and indeed the world in this lameduck session.

Mr. Speaker, to my Democratic colleagues, let me leave them with this thought of charity. I can only hope that the Smoot-Hawley Tariff Act of 1982 will do for their party what the Smoot-Hawley Tariff Act did for the Republican Party in 1930.

Mr. BONIOR of Michigan. Mr. Speaker, I yield for debate purposes only, 1 minute to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, this is a jobs bill. It is a jobs bill which should pass this Congress. If we cannot pass it in this Congress, then we should pass it in the next Congress.

It means as many as 700,000 to 900,000 jobs to Americans at a time when unemployment is in excess of 10 percent and better than 12 million Americans are walking the streets. It is a jobs bill which does the same thing that every other industrialized nation does with regard to autos and auto production. It is a jobs bill that sends a message to the Japanese who use the United States as a colony. They take food, fiber, agricultural products, and raw materials from the United States, and they return to us finished products.

We have the same splendid relationship with the Japanese that the British colony of India had with the home island of Britain in the year 1880.

Make no mistake, this is a message. It says that we are going to have our people treated fairly.

I am a free trader. My dad was one of the authors of the reciprocal trade bill, and I have supported reciprocal trade and fair trade for years. It is not practiced by the Japanese against the United States. If Members are worried about penalties and retribution, they have been practicing that against us for years.

Mr. Speaker, I urge the adoption of the rule and of the bill.

Mr. Speaker, I rise in support of this rule for this most important job's protection and enhancement bill, H.R. 5133, the Fair Practices in Automotive Products Act. It will help automobile workers, but it is also a bill that will help many who work for or are looking for jobs with automobile manufacturers, suppliers, and retail dealers located throughout the Nation, as well as others in related industries, such as steel, aluminum, plastics, and the like.

I stress that this is not a trade bill. It is based on impact on interstate commerce and the effect on such commerce.

On September 21 the bill was reported favorably by a wide margin with an amendment in the form of a substitute. The Speaker then referred the bill to the Committee on Ways and Means. That committee was discharged from further consideration of the bill on October 1, 1982, without making any recommendations.

This is important legislation for the working people of America—for those who are a part of the motor vehicle industry and for those who are not. Today, unemployment in the U.S. automotive industry exceeds a quarter million workers, and new layoffs are announced weekly. My State of Michigan, one of the leading automobile and truck producing States, now has an unemployment rate of 17.2 percent.

According to the Labor Department, employment in automobile manufacturing has dropped from 762,400 in December 1978, to just 459,700 in April 1982. In addition, thousands of other workers whose jobs are related to the vehicle manufacturing industry, or who live and work in communities dependent on the vehicle manufacturing industry, have been fired or laid off. Some 800,000 workers in Illinois, Indiana, Michigan and Ohio have exhausted extended unemployment benefits since January 1980. Many of these workers are a part of the record 10.8-percent national unemployment rate reported last week by the Department of Labor, and others are not even counted in the figures.

The national cost of this devastating unemployment in the automobile industry in terms of lost tax revenues and payments to the unemployed has been estimated at $16 billion for each of the last 2 years—the cost for State and local governments has been enormous as well. The cost of the overall rate of unemployment is equally drastic, since it is estimated that each percentage point rise in the unemployment rate results in a loss of roughly $25 to $30 billion to the U.S. Treasury. As we face a potential deficit in fiscal year 1983 of $200 billion, we must consider this bill and all other means of getting Americans back to work. Until we do that, this deficit will never go away.

H.R. 5133 will put thousands of Americans back to work. It is a fair and balanced response to current problems in the world automobile market. There is no such thing as "free trade" today in the automobile industry or, for that matter, in other industries. Germany, France, the United Kingdom, and Italy: All have sharp curbs on Japanese encroachment into their automobile markets. And the Japanese, who flatly prohibited auto imports until the early 1970's rely now on a system of nontariff trade barriers to block foreign entry into their market.

The Deputy U.S. Trade Representative, in a November 10, 1982, report to subcommittee chairman GIBBONS entitled "Japanese Barriers to U.S. Trade and Recent Japanese Government Trade Initiatives," said that the Japanese Ministry of Transportation "has repeatedly turned down a U.S. request to recognize U.S. manufacturers' self-certification of automobiles to Japanese standards." Yet the United States permits, as he points out. "All auto

manufacturers to self-certify compliance with U.S. regulations." He also said that despite "a May 1980 commitment" by the Japanese to accept public affirmations of the "Dates of Manufacture" of U.S. vehicles, which are necessary in Japan to determine which year's regulations tests must be performed on imported cars, the Ministry of Transportation has not yet adopted the necessary implementing procedures.

The only major open market in the world for motor vehicles is the United States, and we have become victims of the Japanese "export economy"—a trade philosophy which provides for worker security in Japan—and unemployment in the United States.

That is why American labor unions are so supportive of the bill, from the United Auto Workers to the AFL-CIO and steelworkers.

H.R. 5133 simply requires that those who want to sell to the U.S. market return something to that market in the form of jobs and investment. It does not distinguish foreign manufacturers from domestic manufacturers—it treats them all equally. It does not exclude foreign companies from selling vehicles in the United States, as a quota would do, but allows all companies to sell in the United States on a fair and equal footing. Nor does the bill automatically raise the cost of foreign vehicles in the U.S. market—as would a tariff.

The bill that was reported to the House by the Committee on Energy and Commerce adopts a carefully considered, administratively workable and an equitable local content requirement. In the 9 days of testimony by over 50 witnesses before the Ways and Means Trade Subcommittee, virtually no criticism was directed at the technical provisions of the bill. It has been carefully crafted, and is much improved over the bill as introduced.

First, the bill has been simplified and is consistent with other legislation relating to the motor vehicle industry. The adoption of the Energy Policy and Conservation Act approach, which is based on U.S. customs data about imports by each manufacturer, means that the bill will be simple to administer and enforce. The bill works model-year by model-year, so that it takes into account the production schedule of the industry. Moreover, the motor vehicle industry is already familiar with the Energy Policy Conservation Act system, so it can readily adapt its practices to the bill's requirements without the need for complicated and costly accounting system.

Second, the bill sets a schedule of domestic requirements which recognize the efficiencies of production in the motor vehicle industry. This bill encourages the production of motor vehicles and parts in the United States—it does not exclude these products from entering the country. In order to achieve this purpose, the bill sets domestic content requirements at a level which can be met by United States and foreign manufacturers alike. The big three U.S. auto companies are today in compliance with the strictest requirement the bill would impose, as are Volkswagen of America, which is producing cars in New Stanton, Pa., and American Motors Corp., with both its domestic nameplate cars and its new jointly produced cars with Renault.

The bill allows the manufacturers to take advantage of the efficiencies which come with large-scale production—and does not require them to make inefficient investments just to sell in the U.S. market. The bill sets no domestic content requirement on manufacturers that sell less than 100,000 vehicles per year—so consumers will continue to have available to them a wide selection of cars available in the world market.

Third, the bill sets fair penalties for violating the law. The penalties provided in the bill "fit the crime." A manufacturer who violates the law is penalized in proportion to the extent of the violation. This provision will also serve to encourage compliance and, unlike the bill as introduced, does not set arbitrary thresholds for dramatic changes in the requirements.

The "local content" requirement which is reflected in H.R. 5133 is a needed and fair response to the invasion of foreign vehicles into the U.S. marketplace. It is a necessary bill for American workers, and it is a fair bill for American consumers. It will bring jobs and investment into the United States, and it will continue to provide the American consumer with a wide selection at the lowest price.

This bill encourages foreign automakers to utilize auto parts built in the United States and to build facilities here just as some have already done, like Volkswagen of America and Honda. It does not establish a quota or a trade barrier. It is a fair bill designed to provide more jobs which have been lost in part due to the deep penetration of foreign automakers into our markets under our free trade policies.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 30 seconds to the genetlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, the best social program is jobs. We have done much in these last few weeks to generate jobs. I believe, though, that the best Federal initiatives are those that generate jobs in the private sector.

This legislation provides that if they sell here and build here, we will generate those jobs in the private sector.

Mr. Speaker, I hope that we have the opportunity to adopt this rule so we can pass the legislation tomorrow.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD. Mr. Speaker, I rise in opposition to the rule under consideration and ask my colleagues to vote no on the previous question to defeat the rule.

If adopted, the rule would make in order consideration of H.R. 5133, the so-called domestic car content bill.

H.R. 5133, the domestic car content bill, is a bad piece of legislation that would set the trade policy of this country back 50 years. Nonetheless, H.R. 5133 was not initially referred to the Ways and Means Committee, the committee having primary jurisdiction over trade issues in the House. Rather the bill was referred to the Ways and Means Committee as an afterthought, and then for a ridiculously limited period of time.

The Ways and Means Subcommittee under the able leadership of its chairman, the gentleman from Florida (Mr. GIBBONS), only had time to hold limited hearings on the bill and had no opportunity to make any substantive changes to the bill before the committee was discharged from further consideration of the bill.

□ 2030

The Washington Post in an editorial this morning calling the bill an anti-jobs bill said:

Hardly anybody but its authors believes that the local content bill would actually save jobs for American workers. The idea is to protect jobs in the auto factories by prohibiting the sale of foreign cars if their local content—that is, American components and labor—is below a certain level. How high a level? It rises with the number of cars that each company sells, the formula having been carefully calculated to force Toyota and Datsun out of the American market. It's doubly bad legislation. Not only is its purpose wrong in principle, but as a practical matter, its effect will be precisely the opposite of its sponsors' intention. It will preserve fewer jobs than it destroys.

It will destroy jobs in several ways. Removing two strong competitors from the market will result in higher prices for cars, and fewer sales. But that's the least of it.

Americans, including those in Congress, keep forgetting that the rules of the game changed in fundamental ways in the early 1970s, when the trading nations began to let their currencies float up and down. If the United States passes a law to cut off a flow of imports, the effect is to raise the exchange rate of the dollar—which is already high. A higher dollar means fewer American exports, and cheaper foreign imports. The drop in sales abroad destroys jobs in American export industries, while the rise in imports destroys jobs in the domestic industries that compete with them here at home.

This misguided legislation is being pushed mainly by the United Auto Workers. As President Reagan's trade representative, William E. Brock, correctly argues in a letter to congressmen, "Imports have not been the root cause of the industry's problems." Most of the unemployment in the automobile industry has been the conse-

quence of a long, severe recession and the general drop in demand for cars. But, as Mr. Brock also points out, new jobs have opened up in American manufacturing in recent years and most of them are in the export industries. Legislation that reduces imports will also, indirectly but inevitably, reduce exports—and the jobs that depend on them.

The local content bill is about to come to the floor of the House of Representatives. A vote for it is a vote for a low-growth economy. It is a vote for an attempt to shore up the less competitive industries at the expense of the most competitive. It's a vote for the kind of industrial policy that gives priority to the status quo with continuing high unemployment, inflation and stagnant incomes. It's an attempt to offer a friendly gesture to those thousands of unemployed auto workers—but it's a gesture that won't do them much good despite the extremely heavy costs to the country.

The bill is not ready for floor consideration and should be sent back for thorough analysis by the Ways and Means Committee.

I urge the House to defeat the rule and let the committee process operate as it should.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Speaker, I rise in support of the rule and in support of the domestic content bill.

Very soon this House is scheduled to consider the much maligned domestic content bill. I am glad we are going to debate and act upon this bill before we adjourn. The sad truth is that many of our basic industries in America like the auto industry have suffered immeasurably in recent years in no small part because of our trade policies.

No longer can we stand idle as thousands of American jobs are sacrificed on an altar of free trade that other countries like Japan do not respect. In a recent exchange with a local reporter in my area, I spelled out my personal answers as to why I believe passage of the domestic content bill by the House will underscore that substantial change must come in world auto trade and elsewhere if the potential of genuine free and open trade is to be realized. The article follows:

Question. You are a major sponsor of the auto-content bill that is expected to be a hot item in the next Congress. Could you briefly explain the bill to the man and woman on the street?

Answer. The domestic content legislation is quite simple. It requires that autos sold in the U.S. have a substantial portion of their value or content made in the U.S. Essentially that means major parts, engines and tires, and the idea is to provide jobs for American workers.

Question. What justification is there for returning to pre-World War II type trade restrictions? Doesn't the U.S. benefit from expanded world trade?

Answer. What we're saying here is that it's okay for the Japanese, the Germans or the French to sell cars and for those cars to be available as a choice to American auto buyers. But if they are to be sold, there ought to be some provision for employing American autoworkers. We have 250,000 autoworkers or more out of work in this country, and we have had thousands unemployed for almost three years. The auto industry in this country is severely crippled and I think something has to be done. Local content laws make more sense than outright tariffs, which are clearly a violation of GATT (General Agreement on Trade and Tariffs) regulations. Of course there are 13 or 14 other countries which already have local content legislation and which have not been challenged in the GATT as a violation of the GATT treaty.

Question. In effect, you're advocating protection of one inefficient segment of U.S. industry. Wouldn't your legislation invite trade retaliation and hurt the overall U.S. economy?

Answer. That is an argument that has been used against the local content legislation. I don't think it is an actual danger. The Japanese have voluntarily entered into agreements which restrict their sales to 10 percent or less of the market in Germany and Britain, 2 or 3 percent in France and less than 1 percent in Italy, and there's been no retaliation there. When people say that adoption of the domestic content legislation by the U.S. will invite retaliation, I believe that is a theoretical threat, not a realistic one.

Question. What about the consumer's interest? Aren't higher retail prices the result of restricting imports?

Answer. The figures that I've seen from the Congressional Budget Office say there would be some increase in the cost in the long run to American auto buyers. They assume there wouldn't be any cars coming in at all from Japanese manufacturers, that the Japanese would simply stay out of our market or would stay below a threshold where they would be subject to this law. I just don't believe that's true. I think this is too big a market. This is the last market in the world where there is any semblance of competition where foreign automakers can come in. I think if we had domestic content legislation, Toyota would do what Honda is already doing. That is set up an assembly plant in the U.S. or start buying parts in the U.S. so they could comply with the law and provide the competition which is healthy for American industry and healthy for prices.

Question. Do you think other nations are "playing fair" in their trading practices with the U.S.?

Answer. All countries in the world have some restrictions on trade and the GATT organization basically is set up to remove those restrictions. There are international quorums every year where the U.S. tries by negotiations to reduce those restrictions. Every country, when it comes down to the bottom line, tries to look after its own interests. France uses financing of major capital equipment as a subsidy for its own capital industries. France has been subsidizing credit for years for their machinery and we're trying to get them to stop that. People make the argument about free trade. Well, free trade is desirable if it's really free all the way around the world. I think we ought to strive for it to be free. But the Japanese manage to keep foreign cars out of Japan and they keep a whole range of other things out of Japan. They keep American beef and citrus out, and they don't apologize for it, either.

Question. Critics say your bill might save auto and steel jobs in the short run, but will cost just as many export-related jobs in the long run. Ohio farming, for example, would be hurt by the protectionist approach.

Answer. You make the assumption that there will be retaliation. I'm saying there is no evidence that there will be.

Question. But doesn't your bill prevent the auto industry from facing up to its fundamental problems?

Answer. I think that could have been said three years ago when the American automobile companies were still building big, gas-guzzling cars and suddenly public taste shifted to smaller cars. I think the American companies needed the competition to convince them that they really had to downsize their cars. But I think in the last three years, Ford, GM and Chrysler have all made major efforts to accommodate themselves to the new desires of American car buyers. It's been very costly for them, and in order to stay in business, they have to have sales. People talk about domestic content legislation being harmful in the long run. My response to that is that if the American auto industry doesn't get some help in the short run, there won't be a long run. My job is to look after the interests of American workers and American companies, and the Japanese government certainly understands that when they look after the interests of Japanese workers and Japanese companies.

Question. Critics say heavy U.S. industries like autos and steel are a thing of the past. To what extent do you see that as true?

Answer. Anybody who represents a district like mine with some 20,000 autoworkers and well over 10,000 steelworkers ought to be hanged from the nearest pole for saying we should give up on the auto and steel industries. I don't think our nation can afford to give up on either one of those industries. They are too essential to the economic well-being of our country and in terms of military preparedness.

Question. What about the argument that the future health of the U.S. economy lies not in protecting old industries but in getting involved in computerization, information processing and other high-tech fields where the U.S. is and can remain a world leader?

Answer. No, I don't buy that. I think there is no guarantee that we can become a leader in the high-tech field, either, and that we can maintain leadership from the same kind of competition that the Japanese are now providing in steel and autos.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. PEASE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I rise in strong support of the rule and in strong support of H.R. 5133. Charity begins at home. The American auto workers are tired of unfair trade practices that have cost them their jobs. They are tired of having foreign products dumped on their doorsteps when they in turn cannot export their products without unbelievable levels of bureaucracy, redtape, unfair tariffs, and restrictions. For the sake of our American workers, I urge passage of this rule and the bill.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. COATS).

Mr. COATS. Mr. Speaker, I rise in opposition to the rule not so much because the rule is a bad rule. It is an

open rule. Amendments are allowed. Debate time is I think fairly allocated.

But I rise in opposition because the bill never should have gotten to the stage where the rule was to ge granted. The Committee on Energy and Commerce was under the press of important legislation in other areas. We did not have adequate time to consider the impact of this bill.

The Ways and Means Committee has not had adequate time to assess the impact of this bill.

Serious questions have been raised by the Congressional Budget Office as to how many jobs will be or will not be created by this bill.

Whether or not this legislation provides for job creation or rather just a job transfer, these are matters of importance to this Nation, matters of importance to people employed in my district in my State. Whether or not this bill stimulates automobile employment at the expense of agriculture is a serious question that must be addressed. Testimony should be heard from experts. Testimony should be heard from those people who have had an opportunity to study this question indepth.

To bring this matter up before the lameduck session, with the press of other business, with the pressure of time to adjourn, is simply not in the best interest of the American people.

The impact of this bill is such that we deserve a full and fair consideration, full and fair hearings of testimony on both sides of this issue before this body can make a decision that affects so many people and affects the future of this country and affects our economy.

I urge my colleagues to vote against the rule not because the rule is bad but because this legislation is of such impact and such importance that it deserves further consideration and deserves consideration before the committees of jurisdiction and the Members of this body.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Speaker, I rise in opposition to the rule and I ask unanimous consent to revise and extend my remarks.

Several of my colleagues have discussed why the proposed domestic content bill is a bad idea on the merits. I agree with their analysis. H.R. 5133 is almost certainly a violation of the General Agreement on Trade and Tariffs, the keystone of our international trading system, which we are even now trying to patch back together. The Congressional Budget Office has estimated that, overall, the measure could cost 168,000 American jobs. It would certainly end up costing American consumers more for their cars both in terms of increased prices and through lost choices.

All of these economic effects are well documented. But I want to discuss another aspect, the political aspect of the proposal. Most of the Members of this House do not seriously believe this bill will pass during this Congress. Even if the Senate were to consider it, we know that the President would almost certainly veto the legislation. So why are we wasting this precious time only 2 weeks before Christmas when we have other important business to finish?

We want to send a message. We want to send a message back home to our constitutents and we want to send a message to the Japanese. There is wide-spread perception in the country that the Japanese are taking advantage of our free trading system by exporting to America and at the same time they restrict our access to their markets. All too often this is true. Quotas, tariffs, and other barriers restrict our ability to sell cigarettes, citrus, beef, and other products in Japan. Its time that came to an end. Free trade has to be a two-way street, their markets have to be open to our products as our markets are to theirs.

Just this afternoon I met with representatives of the major Japanese auto manufacturers to reinforce this message. They understood the problem, and they promised to relay my message to the Japanese Government. There is evidence that the new Prime Minister, Mr. Nakasone, is willing to take substantial steps to remove current Japanese trade barriers. It is because of this promise that I believe passage of H.R. 5133 would be the wrong political signal at this time.

It is evident that the Japanese have received our message. The new government is beginning to work on our complaints. If we pass a domestic content bill now, we will give up our best leverage on the Japanese. We will give up the opportunity to improve our balance of trade by increasing rather than decreasing production. We will give up the opportunity to create thousands of new jobs in agriculture and manufacturing to serve opening Japanese markets. We will trade the promise of an improved economic future with healthy international trade for the certainty of declining international markets and a stagnating world economy.

I agree with my colleagues that we must demand fairness from the Japanese. I have told the Japanese myself that time is growing short, but I believe that the way to deal with the problem is to open Japanese markets rather than to close American markets.

I urge my colleagues to defeat this rule.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I normally would urge that when you vote against a rule you vote against a rule because the rule is bad. This is an open rule. I can see no constraints placed on it. I understand not at all why anyone could possibly vote against this rule.

If you want to vote against the bill, that is a different matter. This is a jobs bill, as the gentleman from Michigan (Mr. DINGELL) has said. There was a full and I think excellent summary made by the gentleman from Michigan (Mr. BONIOR) and I want to associate myself with those remarks.

I want to take the 30 seconds I have left to say that I have not heard in the debate over this over the last 2 or 3 years a single person, not one, who stood forth to say that the Japanese were practicing fair trade practices with the United States.

I have listened to the debate against this rule from the other side and I have not heard a one say that the Japanese were practicing fair trade.

Let us then pass this bill, for nothing will bring the Japanese here to negotiate a better trade arrangement than the passage of this bill in either body of this House.

This may in fact be the most important thing we do rather than pass it in an appropriation bill or have it get rolled into a continuing resolution because the other body will not pass it.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. DAVIS).

Mr. DAVIS. Mr. Speaker, I was not going to speak on this bill but I think it is important that we show that this is a bipartisan issue. I have not heard too many of my colleagues on the Republican side rise to support the rule and the bill itself.

I want to say I am a sponsor of the bill and if we do not pass it this session we will pass it the next or reintroduce it in the next session and I will be a sponsor of it then.

This is an open rule, and this issue, ladies and gentlemen of the House, is an important issue. It should be debated.

If you do not pass this rule, the American public will not have an opportunity to see this Congress vote on this particular bill. I do not think it makes much difference whether the bill is going to be vetoed by the President or whether it will pass the other body. The important point is that we have an opportunity to debate this bill, and I certainly hope that we do it because it will send some kind of a message to our foreign competitors.

I just want to say I strongly support this bill.

□ 2040

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I thank the gentleman from Michigan for yielding time to me.

I want to say there is really only one reason to vote for this bill, and that is an act of symbolism—for the reasons the gentleman from Michigan so ably stated in his opening remarks. Symbols are important, and it is for that reason that I am inclined to support the final passage of this bill.

Certainly, we can all agree that the United States is not the only country with an obligation to engage in fair, open trade practices. The Japanese and others must recognize their responsibility as well. This bill can surely send a message to our trading partners throughout the world that the time has come for them to change, that we are not going to be the only patsies in the world when it comes to fair trade. Clearly, we are capable of enacting protectionist policies of our own.

This bill can also send a second important message—a message to our Nation's millions of unemployed workers, particularly those in the automobile industry. Congress must assure these individuals that we hear their cries for help, that we care about them and their future welfare, that we intend to enact legislation to put them back to work, to get America moving again.

Although I am not convinced that this legislation is the best way to address these problems, there are good, symbolic reasons for passing this bill—reasons that merit my support for final passage.

But do not kid yourselves, the reasons are only symbolic. This bill is not going to pass into law. And I think it is a travesty of the procedures of this House that we are going to waste an entire legislative day in the closing days of this session on a bill that is not going anywhere.

The time has come for us to put our priorities on what is achievable. It seems to me that our attention should be focused on legislation that has already passed the other body and is awaiting action here. I especially refer to the regulatory reform bill, the bankruptcy act, and the immigration reform bill. They say we may not get around to these bills because of scheduling constraints.

This is a travesty of the procedures of this House. And it is because of this perversion of our scheduling priorities that I intend to vote against the rule. Let my vote against the rule also serve as a symbol—a symbol of my disdain for the scheduling priorities of this legislative body.

Someone made a bad political mistake by taking up an entire legislative day in consideration of this legislation. As one Member of this House, I resent that priority assessment.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. SCHUMER. I appreciate the gentleman from Georgia yielding the balance of his time.

I rise in support of the rule. I think the rule is a good rule because it is an open rule. Many of us who have problems with the bill, problems with the terrible situation of unemployed workers, have amendments to offer. I will offer an amendment tomorrow that makes this bill's actions contingent upon a reduction in the balance-of-trade deficit with Japan, therefore making it a real free trade bill as opposed to a measure of protectionism.

I hope that the body will consider that under this open rule.

Mr. LEVITAS. I thank the gentleman for his contribution.

Mr. Speaker, I regret that we have to consider this legislation when there is other legislation which can be enacted into law.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

I think there is one good reason to bring up the legislation, even if the Senate does not pass it, and that is to give the American workers some hope.

Mr. LEVITAS. That is the symbolism I am talking about.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise in strong opposition to H.R. 5133, the Fair Practices in Automotive Products Act. I urge my colleagues to join me in voting "nay" on this dangerous legislation. A vote against the rule is the best place to stop this bill.

My decision to oppose this legislation does not come without the closest personal knowledge and appreciation of the problems facing our domestic automobile industry. My family has sold American-made automobiles in Utica, Nebr., since 1918. It is still trying to do so. For 64 years, either my great-grandfather, my grandfather, or my father have shared with automobile dealers throughout the country the fortunes of the industry. As I speak today, my family business suffers as well through the slump in sales and the competition from foreign suppliers. Although you do not see many Volvos in Utica, Toyotas, Datsuns, and Volkswagens are common sights.

Despite my sympathy for the dealers, the automobile workers, the producers, and distributors of automotive parts, and the hundreds of thousands of other individuals who earn their living as a result of the domestic automobile industry, I cannot support this legislation. The temporary benefit that it might produce will prompt draconian responses from foreign nations and eventually require further retaliation by the United States. No one in this body should doubt for the slightest moment that passage of H.R. 5133 will be a major step in launching a worldwide war of protectionism. The free trading system will further crumble, and with it, many fragile and weakened national economies.

I recently had the opportunity to be appointed as a member of the U.S. congressional delegation at the GATT Conference in Geneva, Switzerland. Representatives from 88 nations came together, with strong encouragement of the United States, to discuss mutual trading problems. Let me assure you, the seeds of a bumper crop of protectionist actions are already planted. Discussions with many individuals left me with no doubt that only the most steadfast resistance to "protectionism" will keep the system alive, a system that has allowed this Nation and the world to make tremendous strides toward individual and global economic progress. One big step toward protectionism by this country like this one, will enable a stampede to begin, a stampede in which many economies will be trampled—perhaps even our own. Start this major snowball downhill and we start an avalanche that will crush all of our national economies.

We need free trade. Moreover, we, of all nations, benefit most from a free and open system. Thirteen percent of the world's exports originate in the United States. Japan, our feared competitor, only accounts for 8.4 percent. West Germany, the world's trade runnerup, contributes only 9.8 percent of the exports. Although we feel under seize in the export of manufactured products, we still lead the industrialized countries with 20.7 percent of the world's manufactured exports coming from our Nation. That represents more than $154 billion to our economy. West Germany and Japan trail with only 18.7 and 14.5 percent shares.

The influence of exports upon the U.S. economy is even more impressive when one learns that 7.8 percent of our gross national product comes from exports.

Some may doubt the ability of H.R. 5133 to touch off an International Trade War, in light of the allegation that H.R. 5133 applies only to imports from Japan and Canada. Yet, even if enactment of H.R. 5133 would only cause an equivalent response, the impact of actions by those two nations alone would seriously disable the U.S. economy. In agricultural exports alone last year, we shipped $6.6 billion of products to Japan, our No. 1 agricultural export market since 1964.

Canada received almost $2 billion of agricultural products in fiscal year 1980. Those two nations account for one-fifth of our Nation's agricultural exports. If we act against the Japanese automobile industry in such blatant fashion, certainly the Japanese will have no objection to buying their agricultural products from Canada, Brazil, Argentina, Australia, and other willing suppliers.

If nothing else, H.R. 5133 would certainly destroy our hopes for increased access to foreign markets. The importance of a recent statement by 16 of the Nation's major farm groups should not be ignored. In speaking against H.R. 5133, they said:

> We don't want to hinder strong negotiating efforts to persuade our international trading partners to change critical trade policies, including export subsidy and restrictive access practices which could open up further markets for U.S. exports.

I understand the desire of many to assist the ailing automobile industry by supporting this legislation. Rather than help the industry, however, I believe that it will instead harm the industry's chances for profitability and stability in the future. Substantial evidence now shows that the American automobile industry, both management and labor, is finally making a long overdue adjustment to competition from Japan and other countries. Passage of H.R. 5133 would send the wrong signal to our domestic manufacturers, a signal that will deter them from taking the additional actions they must take in order to meet foreign competition independently and permanently.

The Atlanta Constitution, in a recent editorial, put it bluntly.

> In effect, U.S. automakers are saying through this bill that they won't ever try to compete. UAW President Douglas Fraser says that what's good for auto jobs is good for America. That's true to a degree, but not if auto jobs are artificially protected from basic economic realities.

Let me assure you, I have absolutely no desire to protect the Japanese. Nor do I have much respect for their trading policies. My congressional district is the No. 1 processor of red meat in the Nation. Flagrant use of low import quotas on foreign meat by the Japanese really hurts the economy of my district and my State. Yet retaliation by us in the form of H.R. 5133 or similar legislation, something less than direct reciprosity legislation, would only compound, rather than solve, the problem.

At times such as these, we must all be statesmen. We must resist the desire to adopt politically popular, quick-fix solutions to problems. Instead, we must consider the consequences of these policies, not only for the short-term benefit to our districts and our country, but for the long-term impact upon our country and other nations as well. If we review this legislation on that basis, one cannot come to any other conclusion: H.R. 5133 must be defeated.

As the Detroit News said, H.R. 5133 is an example of "economic myopia." Yesterday's Washington Post aptly labels it, the "anti-jobs bill." Please join me in voting against the rule for H.R. 5133.

I include an editorial from the Washington Post to supplement my comments:

THE ANTI-JOBS BILL

Hardly anybody but its authors believes that the local content bill would actually save jobs for American workers. The idea is to protect jobs in the auto factories by prohibiting the sale of foreign cars if their local content—that is, American components and labor—is below a certain level. How high a level? It rises with the number of cars that each company sells, the formula having been carefully calculated to force Toyota and Datsun out of the American market. It's doubly bad legislation. Not only is its purpose wrong in principle, but as a practical matter, its effect will be precisely the opposite of its sponsors' intention. It will preserve fewer jobs than it destroys.

It will destroy jobs in several ways. Removing two strong competitors from the market will result in higher prices for cars, and fewer sales. But that's the least of it.

Americans, including those in Congress, keep forgetting that the rules of the game changed in fundamental ways in the early 1970s, when the trading nations began to let their currencies float up and down. If the United States passes a law to cut off a flow of imports, the effect is to raise the exchange rate of the dollar—which is already high. A higher dollar means fewer American exports, and cheaper foreign imports. The drop in sales abroad destroys jobs in American export industries, while the rise in imports destroys jobs in the domestic industries that compete with them here at home.

This misguided legislation is being pushed mainly by the United Auto Workers. As President Reagan's trade representative, William E. Brock, correctly argues in a letter to congressmen, "Imports have not been the root cause of the industry's problems." Most of the unemployment in the automobile industry has been the consequence of a long, severe recession and the general drop in demand for cars. But, as Mr. Brock also points out, new jobs have opened up in American manufacturing in recent years and most of them are in the export industries. Legislation that reduces imports will also, indirectly but inevitably, reduce exports—and the jobs that depend on them.

The local content bill is about to come to the floor of the House of Representatives. A vote for it is a vote for a low-growth economy. It is a vote for an attempt to shore up the less competitive industries at the expense of the most competitive. It's a vote for the kind of industrial policy that gives priority to the status quo with continuing high unemployment, inflation and stagnant incomes. It's an attempt to offer a friendly gesture to those thousands of unemployed auto workers—but it's a gesture that won't do them much good, despite the extremely heavy costs to the country.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY of Pennsylvania. Mr. Speaker, I urge strong support for this rule and the legislation that will follow.

The issue here before us is not the technical perfections or imperfections of this particular legislative vehicle. This Nation has consistently fostered free trade policies down through its history. This Nation now stands as a victim internationally to industrial policies, nations like Japan, the obvious target of this legislation, who have abused free markets here.

There are broader issues at stake in this legislation.

Japan has discouraged investment from abroad. She has foreign cartels to identify and target and dominate markets in high value capital goods in this country and in other countries around the world.

Do them a favor. Do Japan a favor. Assist them in growing up and accepting this responsibility as the great and powerful democracy they are, in a world that needs their leadership and contribution.

An earlier speaker mentioned Doug Fraser. He spoke recently before the National Press Club, had some very cogent things to say. He referred to the dialog that we see in our papers and we here hear about knee-jerk liberals. He made a comment I think that has special value today, and it should have value in the future. That is that we need to avoid the tendencies and practices in politics and philosophy of knee-jerk free traders.

The issue is fair trade, the issue is coincidental and cooperative industrial policies, where cooperation is what is needed. And this bill serves as a political vehicle and an example to a world that must understand that the American people and this congressional role in developing trade policy will no longer accept trade policy as a mere diplomatic and military expediency.

We are too interdependent and too involved. Other nations like Japan and Europe must accept their responsibility in developing policies on currency, on capital formation, on market entry, and on export policy that are consistent with a free world model of free enterprise that we demand of our economic participants in this country. And it is not fair to allow our companies and our labor to be victimized by policies that target them from abroad, albeit from so-called free enterprise nations which exploit and flout a planning philosophy that is inconsistent with our own.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I oppose the rule, because I oppose the bill. I think it ought to be defeated.

□ 2050

This turkey is late for Thanksgiving and unfit for consumption. By the time Christmas comes it is going to be a pretty bad Christmas present to the American consumer. It is going to be a very bad Christmas present for the American working person, too, because between 1977 and 1980, four of five manufacturing jobs were created in export industries in this country. Growth is consistent with our willingness to compete in the world market and we can do it.

Now, Mr. Speaker, no mention has been made as yet of the voluntary agreement that we have with the Japanese to restrain auto imports. That voluntary agreement is now in its second year and that, Mr. Speaker, is the way to handle trade policy, not with the rigidity of a bill which would make us subject to demands for compensation from those countries aggrieved by our violation of solemn treaty obligations.

The voluntary agreement that we have had does not make us subject to such a compensation claim. It is important for those of you who have machinery and agricultural interests in your districts to understand that you are jeopardizing them by taking congressional action imposing this type of rigidity on our already existent trade picture. Because of the voluntary agreements, we can understand that virtually every additional car sold in the United States during this period is going to have to be manufactured in North America. That is the result of our negotiation; but recession, high interest rates and a lagging economy have had a disproportionately negative effect on automobile sales and that is where our difficulty lies.

I hope we will not take a counterproductive action in this House. I hope we will not make a serious mistake that will become an example, I am afraid, to allies of ours who are only waiting to see the strongest economy in the world plunged back into protectionism to follow the same course.

The future is ours if we are willing to compete. It is not ours if we build a wall around America and retreat. I hope we will have the vision to do the right thing. I hope we will oppose the rule. I hope we will oppose the bill and I hope that we can have some confidence that the future of America, therefore, is as bright as its past.

● Mrs. COLLINS of Illinois. Mr. Speaker, I seek recognition to speak in support of H.R. 5133, the Fair Practices in Automotive Products Act. As a cosponsor of this bill, I believe it is crucial for domestic content legislation to be passed to enable the auto industry to return to some sense of normalcy.

I have heard arguments as to why we should not adopt H.R. 5133, I shall attempt to dispell a few of those myths. One of the most common arguments contend that if we adopt local content legislation, America will be in violation of the General Agreement of Tariffs and Trade (GATT). But the GATT provides flexibility within its framework to allow signatory nations to suspend obligations incurred under the agreement.

A second argument tells us that local content legislation may actually provide a disincentive for foreign corporations to produce in the United States. Instead they would only lower the amount of imports they ship to America. If my opponents simply look at the facts, they will discover this is incorrect. There are over 30 countries which have enacted local content requirements. The purpose of much of this legislation was to build up industry in that country rather than continue to import the finished product and run balance of payments deficits. If one considers the auto industry of countries such as Spain, Brazil, or Australia, they will see that the automakers are subsidiaries of United States, European, or Japanese firms. Mexico's local content requirements, for example, caused Chrysler de Mexico to build an engine plant in Mexico rather than import engines from the United States. This, of course, provided many jobs for the people of that country. Today the plant is in fact an exporter of engines. My point is that given local content requirements, producers will construct facilities in the country, not abandon the country because it can no longer import its product.

One more argument I wish to dispell is that under local content requirements, U.S. auto firms would no longer have to be competitive. Nothing is further from the truth. In addition to Honda and Volkswagen, who are already producing in the United States, we would probably see plants opened for manufacturers such as Datsun and Toyota. This most obviously would increase competition within the United States. In addition, as Douglas Fraser stated before the Subcommittee on Commerce, Transportation and Tourism hearings on this subject:

> Competition would be based on such factors as product quality, engineering, and managerial efficiency, and not on the basis of who could pay their workers the least.

There are a few other aspects which Douglas Fraser and the Untied Auto Workers have brought to light that encourage adoption of this bill. First, we have seen over the years that a free-market approach to solving the auto industry slump has not yet worked. Second is as the auto industry output falls, there are shocks which move down the chain of suppliers, thus affecting jobs in support industries. Third, well over 30 other countries have similar content measures. Fourth, in 1981 Japan exported $16 billion more goods to the United States than it imported from this country. They should be encouraged to invest some of this money back into the U.S. market in the form of production facilities on American soil. This would lead to thousands of new jobs for American workers.

UAW estimates that with enactment of this legislation, a total of well over 800,000 jobs would be created from new demand from the auto industry and its support industries. Given the failure of the participants at the recent GATT meeting to obtain support for lowering import barriers and return to genuine free market, a strong signal must go out of all nations that we will not tolerate systematic trade discrimination.

In conclusion, every substantial recovery from a recessionary period since World War II has been spurred by a healthy recovery of the auto industry. This Nation must have a healthy auto industry to have a healthy economy. I believe the Fair Practices in Automotive Products Act will achieve this goal that I urge its passage.●

● Mr. BONKER. Mr. Chairman, as chairman of the House Export Task Force and a member of the President's Export Council, I am convinced that international trade is the key to our Nation's economic recovery in the years ahead. Between 1977 and 1980, for example, four out of five new manufacturing jobs in this country were created in export industries. Increasingly, however, we find ourselves in a fiercely competitive world economy. The U.S. share of global exports has dropped sharply over the last two decades, from 18 percent in 1960 to only 12 percent last year. Foreign goods have successfully penetrated many of our traditional markets, both overseas and right here at home.

In responding to his unfamiliar international situation we, as a nation, can go one of two ways. We either can erect protectionist trade barriers to portect our domestic markets, or we can commit ourselves to enhancing U.S. export competitiveness through various concrete incentives and continued efforts to remove foreign barriers to our products.

The automobile domestic content legislation passed earlier by the House brings this basic policy dilemma into sharp focus. I believe the direction we choose will have a long-lasting impact upon our Nation's economic future, and global economic health for decades to come.

No one can deny that our domestic auto industry currently is in the midst of its deepest slump in 20 years, and no one can ignore the heavy human cost this slump has extracted in terms of unemployment, community dislocations, and sheer strain on individuals and families. Not only the automotive

industry, but a whole host of suppliers and other manufacturers have suffered due to the decline in domestic car sales.

Increased competition from imports have undoubtably contributed to these problems, but other factors including the recession, high interest rates, lagging consumer demand, the strong U.S. dollar, and a deliberately undervalued Japanese yen arguably have played a more important role.

Mr. Chairman, I strongly believe that Congress must take steps to help revitalize our hard-hit auto industry and assist unemployed workers. But I continue to have strong reservations about imposing domestic content requirements on foreign imports.

H.R. 5133 would force foreign and domestic manufacturers of automobiles sold in the United States to build their cars with an increasing percentage of U.S. parts and domestic labor. The actual percentage would be determined by the volume of cars sold in this country. Assuming current sales levels, the largest Japanese manufacturers—Datsun and Toyota—would face a requirement of 70 percent U.S. parts and labor by 1985. Thses automakers now use less than 10 percent local parts and labor.

I fear that this type of protectionist action would only lead to retaliatory measures by other major trading nations, resulting in a serious adverse impact upon our own export industries. The only limited success and testy atmosphere of the recent General Agreement on Tariffs and Trade (GATT) ministerial meeting in Geneva last month clearly demonstrates the strong protectionist pressures throughout the globe as the result of the worldwide recession. Enactment of domestic content legislation by the United States, traditionally a leader in promoting free trade, could be the "first shot" that touches off a general trade war like that of the thirties.

While the estimates vary, it is clear that retalization by other trading nations would have a severe impact on our Nation's economy. A recent Congressional Budget Office study estimates that although 38,000 auto industry jobs would be created through domestic content legislation by 1990, 104,000 jobs would be eliminated in export-oriented industries, particularly electronics, agriculture, and services. Even using a more optimistic set of assumptions, a recent Department of Labor study concluded that the overall impact of the proposed domestic content bill would be a slight loss of U.S. employment. The Labor Department found that about 300,000 jobs would be created in auto manufacturing and related industries, but a roughly equivalent number of jobs would be lost in other industries.

Domestic content legislation would have a disproportionate negative impact certain industries and certain areas of the Nation. The Pacific Northwest would be particularly hard hit, due to our heavy economic dependence upon exports, as well as the numerous jobs connected with imports from Japan and other Pacific rim nations. International trade already is Washington State's largest employer, providing one job out of every five statewide. Jobs related to international trade amount to 60 percent of the agricultural work force, 50 percent of the aerospace work force, and 60 percent of the forest products industry work force.

Ironically, domestic content legislation designed to relieve high unemployment in the Midwest automobile States could have a devasting impact in our area, which is already reeling from consecutive years of double-digit unemployment.

Enactment of H.R. 5133 would place the United States in direct violation of the General Agreement on Tariffs and Trade. Article III, sections 1 and 5 of the GATT prohibit the signatories from adopting laws which require "* * * directly or indirectly, that any specified amount or proportion of any product * * * must be supplied from domestic sources."

At the urging of the United States, the trade ministers of the 88 GATT-member countries met in Geneva 2 weeks ago to review the global trade situation. While less successful than originally hoped, the ministerial meeting resulted in a general declaration by all GATT members "to resist" new protectionist measures. I feel very strongly that the United States should adhere to this commitment, both out of respect for international agreements and out of a recognition that avoiding protectionism and enhancing free trade are vital to our long-term economic interests.

All of this does not mean that we should do nothing to boost the domestic auto industry. As a first step, we should address the highly slanted United States-Japanese exchange rate which has given Japanese imports an unwarranted advantage in penetrating our domestic market. This inequitable rate of exchange is a product of both high U.S. interest rates and a deliberately undervalued Japanese yen.

The most important prescription for our ailing auto industry, however, is renewed consumer demand and sustained economic growth. We must make the hard spending taxation, and monetary policy decisions needed to bring down high deficits and interest rates, restore consumer confidence, and get our economy moving again.●

Mr. BONIOR of Michigan. Mr. Speaker, several Members have risen and taken the well and argued that this is not a bill to be taken up 2 weeks before Christmas in the waning hours of the legislative session, that this is a turkey that is past Thanksgiving.

Well, Mr. Speaker, a whole section of this country has been ravaged with unemployment. A million automobile workers and auto-related jobs have been lost, costing this Government $25 billion—$25 billion in the last 2 years in lost revenues and Government payments.

When will we begin to address this problem? The time is now.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

So the previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 191, nays 120, not voting 122, as follows:

[Roll No. 432]

YEAS—191

Akaka	Dyson	Hightower
Albosta	Early	Hillis
Anthony	Eckart	Hopkins
Aspin	Edgar	Horton
AuCoin	Edwards (CA)	Howard
Bailey (PA)	English	Hoyer
Barnes	Ertel	Hubbard
Bedell	Fary	Hughes
Bellenson	Fazio	Jacobs
Bevill	Ferraro	Jenkins
Boggs	Fish	Jones (TN)
Boland	Fithian	Kastenmeier
Boner	Flippo	Kennelly
Bonior	Florio	Kildee
Bonker	Foglietta	Kogovsek
Breaux	Ford (MI)	Lantos
Brooks	Ford (TN)	Latta
Broomfield	Fountain	Leach
Brown (OH)	Frank	Leland
Burton, John	Frost	Long (LA)
Burton, Phillip	Gaydos	Lowry (WA)
Byron	Gejdenson	Luken
Clay	Gephardt	Martin (NY)
Coelho	Gilman	Martinez
Collins (IL)	Gingrich	Matsui
Conte	Ginn	Mazzoli
Coughlin	Glickman	McCurdy
Courter	Gonzalez	McDade
Crockett	Goodling	McEwen
D'Amours	Gray	McHugh
Davis	Grisham	Mica
Dellums	Guarini	Mikulski
Derrick	Hall (IN)	Miller (CA)
Dicks	Hall (OH)	Miller (OH)
Dingell	Hall, Ralph	Mineta
Dixon	Hall, Sam	Minish
Dorgan	Hamilton	Mitchell (MD)
Dougherty	Hance	Moakley
Dowdy	Harkin	Moffett
Downey	Hatcher	Mollohan
Dwyer	Heftel	Moore
Dymally	Hertel	Murphy

Murtha	Sabo	Studds
Natcher	Santini	Swift
Nowak	Scheuer	Synar
Oakar	Schneider	Tauzin
Oberstar	Schroeder	Traxler
Obey	Schulze	Vento
Ottinger	Schumer	Volkmer
Panetta	Shamansky	Walgren
Pease	Shannon	Watkins
Pepper	Sharp	Weaver
Perkins	Shelby	Whitley
Peyser	Smith (AL)	Whitten
Rahall	Smith (IA)	Williams (MT)
Rangel	Smith (NJ)	Wilson
Ratchford	Snyder	Wirth
Regula	Solarz	Wolpe
Rinaldo	Solomon	Wortley
Ritter	St Germain	Wright
Rodino	Stark	Wyden
Roemer	Staton	Young (MO)
Rogers	Stokes	Zablocki
Roybal	Stratton	

NAYS—120

Anderson	Foley	Molinari
Archer	Frenzel	Moorhead
Ashbrook	Fuqua	Morrison
Atkinson	Gibbons	Myers
Bailey (MO)	Goldwater	Neal
Barnard	Gore	Nelson
Benedict	Gregg	Oxley
Bennett	Gunderson	Pashayan
Bereuter	Hammerschmidt	Patman
Bethune	Hansen (ID)	Paul
Bliley	Hansen (UT)	Petri
Bowen	Hartnett	Pritchard
Brinkley	Hefner	Quillen
Brown (CO)	Hiler	Roberts (KS)
Broyhill	Holland	Robinson
Butler	Hollenbeck	Roukema
Campbell	Holt	Rousselot
Carman	Hyde	Rudd
Clausen	Jeffries	Sawyer
Coats	Jones (OK)	Sensenbrenner
Coleman	Kazen	Shaw
Collins (TX)	Kemp	Shumway
Conable	Lagomarsino	Siljander
Corcoran	Leath	Skeen
Crane, Daniel	LeBoutillier	Smith (NE)
Daniel, Dan	Lent	Smith (OR)
Daniel, R. W.	Levitas	Snowe
Dannemeyer	Lewis	Spence
Daub	Livingston	Stangeland
de la Garza	Loeffler	Stump
Derwinski	Lott	Tauke
Donnelly	Lowery (CA)	Taylor
Dornan	Lujan	Walker
Dreier	Lungren	Wampler
Emerson	Marriott	Weber (OH)
Erdahl	McCloskey	Whitehurst
Evans (IA)	McCollum	Winn
Fenwick	McDonald	Wolf
Fiedler	McGrath	Young (AK)
Fields	Michel	Young (FL)

NOT VOTING—122

Addabbo	DeNardis	Jones (NC)
Alexander	Dickinson	Kindness
Andrews	Duncan	Kramer
Annunzio	Dunn	LaFalce
Applegate	Edwards (AL)	Lee
Badham	Edwards (OK)	Lehman
Bafalis	Emery	Long (MD)
Beard	Erlenborn	Lundine
Biaggi	Evans (DE)	Madigan
Bingham	Evans (GA)	Markey
Blanchard	Evans (IN)	Marks
Bolling	Fascell	Marlenee
Bouquard	Findley	Martin (IL)
Brodhead	Forsythe	Martin (NC)
Brown (CA)	Fowler	Mattox
Burgener	Garcia	Mavroules
Carney	Gradison	McClory
Chappell	Gramm	McKinney
Chappie	Green	Mitchell (NY)
Cheney	Hagedorn	Montgomery
Chisholm	Hawkins	Mottl
Clinger	Heckler	Napier
Conyers	Hendon	Nelligan
Coyne, James	Huckaby	Nichols
Coyne, William	Hunter	O'Brien
Craig	Hutto	Parris
Crane, Philip	Ireland	Patterson
Daschle	Jeffords	Pickle
Deckard	Johnston	Porter
Price	Savage	Washington
Pursell	Seiberling	Waxman
Railsback	Shuster	Weber (MN)
Reuss	Simon	Weiss
Rhodes	Skelton	White
Roberts (SD)	Smith (PA)	Whittaker
Roe	Stanton	Williams (OH)
Rose	Stenholm	Wylie
Rosenthal	Thomas	Yates
Rostenkowski	Trible	Yatron
Roth	Udall	Zeferetti
Russo	Vander Jagt	

□ 2110

The Clerk announced the following pairs:

On this vote:

Mr. LaFalce for, with Mr. Badham against.

Mr. Hawkins for, with Mr. Craig against.

Mr. Montgomery for, with Mr. Thomas against.

Mrs. Chisholm for, with Mr. Hunter against.

Mr. Garcia for, with Mr. Chappie against.

Mr. MARTIN of New York and Mr. FOUNTAIN changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1430

SETTING RECORD STRAIGHT ON INTERCEPTED BRITISH COMMUNICATIONS

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROOKS. Mr. Speaker, a recent news report alleged that the National Security Agency had intercepted official British communications between Washington and London. These allegations were based on a purported "unpublished report" of a subcommittee of the Government Operations Committee.

Understandably, the National Security Agency is concerned about these allegations, and I have exchanged letters with Lt. Gen. Lincoln D. Faurer, Director of NSA, to set the record straight. I would like to include copies of our letters in the RECORD at this point.

NATIONAL SECURITY AGENCY,
CENTRAL SECURITY SERVICE,
Fort George G. Meade, Md., Nov. 8, 1982.

Hon. JACK BROOKS,
Chairman, Committee on Government Operations, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to bring to your attention a matter which is currently of great concern to the National Security Agency.

Recently there have been a number of media reports concerning the activities of this Agency which appear to have been derived in part from documents prepared under the sponsorship of a subcommittee of the Government Operations Committee. An example of these media reports is enclosed. In this particular example—a Reuter's release which has been subsequently picked up by newspapers on a worldwide basis—the author, Christopher Hanson, states that he has used as a source document "an unpublished Congressional report" which he describes as having been ". . . prepared for a House Government Operations subcommittee in late 1977 but was deemed too controversial to be made public." Mr. Hanson indicates in the article that Reuters obtained the report from private sources.

We have reviewed the documents held by Mr. Hanson and they appear to us to be separate working drafts of a report on the National Security Agency which were possibly prepared by the staff of the Subcommittee on Government Information and Individual Rights during an inquiry known to have been conducted with respect to NSA operations during the 1977 timeframe. The documents purport to be unclassified and the footnotes seem to indicate that the information on which they were based was drawn from open sources.

Our concerns stem from the fact that the documents contain assertions and other information which are absolutely untrue but which, nevertheless, assume an unfortunate air of credibility as they are repeated in the press and are described as having been derived from a congressional report—albeit one that is "unpublished" and derived from "private sources."

In this regard, it would be very helpful if the Committee would consider issuing a statement which places these drafts and the unsubstantiated charges they contain in the proper perspective. I would be pleased to discuss this matter with you personally, if you desire, at your earliest convenience.

Because of the connection of this subject to the oversight responsibilities of the House Permanent Select Committee on Intelligence, I am providing a copy of this letter to Chairman Boland.

Sincerely,

LINCOLN D. FAURER,
Lieutenant General, USAF,
Director, NSA/Chief, CSS.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON
GOVERNMENT OPERATIONS,
Washington, D.C., November 30, 1982.

Lt. Gen. LINCOLN D. FAURER, USAF,
Director, National Security Agency, Chief, Central Security Service, Fort George G. Meade, Md.

DEAR GENERAL FAURER: This letter is in response to your November 8, 1982, letter, regarding recent media stories about a Government Operations Committee report on National Security Agency activities. The stories refer to an unpublished report prepared for a Subcommittee of the Committee on Government Operations. You express concern about the credibility that may attach to these stories as a result of the citation of a supposed congressional report.

As you are aware, hearings on the interception of nonverbal communications by federal intelligence agencies were conducted during the 94th Congress by the Subcommittee on Government Information and Individual Rights. The Subcommittee was then chaired by Rep. Bella Abzug. Hearings were held on October 23, 1975, February 25, 1976, March 3, 10, and 11, 1976. The transcript of the hearings was printed. At some point during the 94th Congress, the Subcommittee staff began the preparation of an investigative report on the subject of interception of nonverbal communications.

The normal procedure for the preparation of an investigative report by a Subcommittee of the Government Operations Committee is that a draft report is prepared by the staff under the direction of the Subcommittee chairman. When the draft is satisfactory to the Subcommittee chairman, it is circulated to other members of the Subcommittee and voted on at a meeting of the Subcommittee. If approved, the report is then circulated to members of the Full Committee on Government Operations and voted on at a meeting of the Full Committee.

When reports are circulated to members of a Subcommittee or the Full Committee, each copy is marked "Hold Until Release Date Approved by Full Committee on Government Operations." A report is not released until it has been voted upon by the Full Committee and all members have had an opportunity to file additional, dissenting, minority, separate, or supplemental views. All Members and staff are aware of the release procedures, and the Committee has always made every effort to enforce the procedures.

It is quite common for an initial draft report to undergo substantial change at the time it is considered by a Subcommittee or by the Full Committee. This is one reason why the Committee has always taken great care to prevent the premature release of Committee reports.

All investigative reports approved by the Committee are submitted to the House, placed on the Union Calendar, and printed. Formal procedures for consideration of Committee reports are set out in Rule 4 of the Rules of the Committee on Government Operations.

No draft Committee report based on the hearings on the interception of nonverbal communications by federal intelligence agencies was ever circulated to the members of the Government Information and Individual Rights Subcommittee or to members of the Full Committee during the 94th Congress or during any subsequent Congress. No such draft report was ever considered, voted on, or approved by members of the Subcommittee or Full Committee. The contents of any document represented to be a draft or unpublished Committee report cannot be considered in any way as an official statement of the Subcommittee, the Full Committee, or of any members of the Subcommittee or Full Committee. Until formally approved by the Full Committee, a report has no official status as a Committee product. References to a document as an "unpublished Committee report" are clearly erroneous because the Committee does not produce unpublished reports.

The staff of the Subcommittee on Government Information and Individual Rights did work on a draft on the subject of interception of nonverbal communications. No action on the draft was taken during the 94th Congress, and the issue remained on the Subcommittee agenda into the 95th Congress. Rep. Richardson Preyer assumed chairmanship of the Subcommittee at the beginning of the 95th Congress. Before proceeding further on the matter, Chairman Preyer forwarded a copy of the draft to the House Select Committee on Intelligence for its review. Staff work on the subject was discontinued at that time, and no additional action has been taken by the Subcommittee. Incidentally, it is my understanding that the draft sent to the Select Committee on Intelligence contains no reference to the particular allegations now at issue, i.e., U.S. surveillance of official British Government communications between London and Washington.

I cannot speculate about the contents of what has been circulated to the press as an unpublished Committee report. Since no final draft was prepared at the staff level for submission to the Subcommittee, there is no version of the draft that could even be identified as a final staff product.

I hope that this information clarifies the matter. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

JACK BROOKS,
Chairman.

THE SOVIETS' "HAND" IS IMPROVING IN GENEVA ARMS TALKS

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, this morning's paper carried an article that was very interesting. It is entitled, "Soviets Voice Satisfaction on MX Rejection."

That underscores the many arguments against the amendment which deleted procurement for the MX missile during Congress debate earlier in the events of this week in the House; that vote and the Danish missile rejection received unanimous consent in the Soviet Presidium, you can bet on that.

The Achilles heel that the Soviets go over and the fact that it fosters their own activities in the Western alliance is this: It is disharmony and weakness among the brokers of the free world.

The nuclear freeze movement is no doubt the pride of the Soviet leadership today.

The setback of the MX, the weapon of deterrence and not aggression, and the Danish decision to do nothing to promote arms restraint, will not help us in our views in Geneva. The Soviets' major concern is the strength and will of the Western countries to remain strong, to deter blackmail and aggression. The MX loss is not going to help in that regard.

It should be obvious to more than the commentators of TASS that the loss of the MX and Denmark's participation in NATO's defense of Western Europe would be two more major trump cards for the Soviets in Geneva.

The Soviets can race ahead with SS-20 deployment amid silence while the Western alliance gets criticized even considering measures to balance Soviet threats to Europe.

I insert the following article, "Soviets Voice Satisfaction on MX Rejection," for my colleagues to review.

[From the Washington Post, Dec. 9, 1982]

SOVIETS VOICE SATISFACTION ON MX REJECTION

(By Dusko Doder)

Moscow, December 8.—The Kremlin reacted with obvious satisfaction today to a decision by the U.S. House of Representatives to kill production funds for the controversial MX missile program.

Authoritative commentaries indicated that the House vote and an unexpected decision by the Danish parliament to temporarily suspend Denmark's financial participation in the NATO plan to deploy new American medium-range nuclear weapons in Western Europe have been welcomed here as potentially the most decisive developments since President Reagan came to power nearly two years ago.

The Russians seem particularly gratified by two factors.

One is that Reagan for the first time is seen as being isolated in the American political leadership on such an important issue as the MX program. This in turn is seen as raising possibilities for additional congressional restraints on his rearmament program.

The other is that Denmark's example, as the government news agency Tass put it, "may exert an influence on the governments of Belgium and Holland, which have not yet taken a final decision on the deployment" of 572 new American missiles in Western Europe.

Diplomatic sources here said the House vote as well as the Danish decision are likely to weaken American negotiations at the Geneva talks on strategic arms and on medium-range nuclear arms in the European theater.

Tass quoted a Danish news report about "the existence of differences among NATO countries" on the issue of deployment of new U.S. arms in Western Europe. Moscow has long sought to stimulate such differences in an effort to derail the NATO deployment plan.

Tass described the House vote as a "heavy blow" to Reagan's defense policy that constituted a rejection of his "tall tales about alleged Soviet military superiority."

"If the United States really needed the MX missile to strengthen its security," a commentary issued by the news agency Novosti said, "the House of Representatives would have hardly blocked the president's plan."

Tass said the House vote "is evidence of broad discontent and concern in the country with the dangerous militaristic course" of the Reagan administration.

The commentary described Reagan as reacting with "great irritation" to the vote and said he "even likened the majority" of House members "to lunatics."

The president's statement showed, Tass said, that "he does not want to understand that by voting against the allocations for the MX intercontinental ballistic missile, the House of Representatives had actually expressed its refusal to accept the current administration's thesis about the alleged tilting of the approximate balance of strategic forces in favor of the Soviet Union in recent years."

The commentaries emphasized what is seen here as the growing importance of anti-nuclear forces in the United States and Western Europe. Tass said: "The legislators in Washington" could not ignore the outcome of the Nov. 2 referendums "in which the vast majority of Americans unambiguously" voted against the arms race.

Commenting on the Danish vote yesterday, Tass said that the legislators in Copenhagen "cannot but reckon with the powerful antiwar movement in Western Europe, and in particular in Denmark."

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, my colleagues, I have taken this special order tonight to discuss at not too great length what I think is one of the major domestic problems in the United States of America. It is getting worse, and it is reaching such proportions that I believe it has become, in a sense, a national security issue. That is the $80 billion narcotics industry in the United States.

I would like to discuss cocaine first, because it is the fastest growing drug of abuse; then marihuana, because of its use by—the estimates run as high as 22 million Americans at least once during any given month; and then I would like to discuss heroin.

The cocaine phenomenon, a substance also known as coke, snow, blow, toot, leaf, flake, happy dust, nose candy—that is a Hollywood expression—or the Peruvian lady because of its roots going all the way back to the pre-Conquistador and Colombian era in that part of the world, and is only described now as an American phenomenon.

I have just returned from a trip to five South American countries. I financed it myself, and I visited Peru and tried to take advantage of my 6 years of service on the House Select Committee on Narcotics to refresh my memory on everything I had learned, and to keep a promise that I made to the news media in that city when the stories began circulating that cocaine had penetrated the highest figures of prestigious American society, including even, by rumor, and then finally by Federal indictment, the Congress of the United States.

□ 2120

One of our Members from New York is the first Congressman to ever be sentenced to a Federal penitentiary for marihuana, and in the plea-bargaining process cocaine was mentioned quite often.

Of all the drugs in the United States, cocaine is now the biggest producer of illicit income. Between 40 and 48 metric tons of cocaine were imported in the United States in 1980 alone. That was an increase of 40 percent over 1979, and it has grown in 1981 and 1982. I hope that the Members of this distinguished body will bring those statistics before the public and the news media.

If all the international dealers who supply this drug to the U.S. market were to form a single corporation, it would probably rank seventh on the Fortune 500 list. It would be situated between the Ford Motor Co., which brings in $37 billion in revenue, and the Gulf Oil Co., which brings in $26.5 billion. The 1980 street sales of cocaine, by far the most expensive on the market, have reached an estimated $33 billion in the United States. Sales of marihuana, the runner-up—and that is still the most widely used illicit drug—amount of some $24 billion.

The most conservative research estimates are that 10 million Americans snort coke with some regularity and another 5 million have experimented with it. Many sources say that that estimate falls short by half. They at least double that estimate.

At least 90 percent of all the coca leaf in the world comes from the moist mountainlands of Peru and Bolivia, within a certain range of altitude above sea level, where some governments there have cherished the crop in the past as one of their principal exports.

Shortly before I visited Bolivia last month, seven antinarcotic officers of the Bolivian Federal services had been hacked to death by machetes, and when I arrived in that area 4 weeks later, it was still a no-go area for governmental officials. They were afraid to go in there for fear of their lives.

Raw coca leaves are soaked in various chemicals and oils. They are now doing this on a virtual production line basis. Where they used to use a drum sawed in half, they now put as many as 10 to 15 to 20 drums in a row and go through this process on a mass assembly line basis. The result is a muddy, brown paste which is purified into the so-called coca base.

We used to get only the refined base coming into the country. Now even the coca base is coming in here to be refined in American labs. It is a dirty-white, almost odorless substance, and it is usually shipped to laboratories in Colombia for refining.

In Colombia I heard a story about two of our drug enforcement agency people in the field that I had never read in the American press. It was probably covered in the back pages and as a time-pressed Congressman, I missed it. On February 12 of this year—I believe it was Lincoln's birthday—two of our agents were almost executed in Cartagena, Colombia, one of the export ports on the northern coast of Colombia. They were taken from their hotel room by force after false police IDs were passed under the door. Their names were Charlie Martinez and Kelly McCollum. Thank God, they are both in the Drug Enforcement Service now working in the United States. They were taken to the outskirts of Cartagena, Colombia. On the way out, because Charlie Martinez was not answering the questions properly, a 9-millimeter pistol was shoved up against his thigh and fired at point blank range into his leg.

When the seven men, followed in several cars by at least a dozen, took them into the woods, Martinez was the first one to be "executed." A 9-millimeter was put against his heart and fired. The bullet entered above his heart and lodged in the back side of his body. He fell to the ground.

When he recovered from the shock, he saw his friend, Kelly McCollum running, and an American citizen of Cuban origin fired at Kelly McCollum, striking him in the buttocks. The bullet penetrated his body and blew out the front side of his body to the side of his groin area. They shot him a second time, in between many shots that missed, and hit him in the back of his knee. This was a wound that took him to the ground. A man then approached Kelly McCollum. Charlie Martinez is now raising up on his arms with two bullets in him, and with a .45 pistol, the executioner, the Cuban American, fires point blank into Kelly McCollum's face, and the bullet passes under his chin, goes down into his body, and come out through his armpit, taking most of the flesh of the armpit out.

At this point, Martinez gets up and runs into the woods. They leave McCollum for dead and begin to chase Charlie Martinez into the woods. McCollum, who never lost consciousness, gets up and he runs into the woods, and a hunt begins to finish the execution of these two men that goes on for hours.

McCollum works his way back up to the highway, walks a mile into the closest little village and finds a Catholic priest. The priest gets the one village police officer and they come back to the scene of the attempted executions.

When they arrive on the scene, here are the two principal gunmen standing by the side of the road and one draws his pistol up to the American to fire point blank into Kelly McCollum's face. The policeman pushes the gun down, and as Kelly watches the payoff to the policeman, Kelly runs back into the woods and then walks 12 miles into Cartagena, not willing to trust anybody and, in a state closer to death than life, goes to a hospital, where they reject him because they do not have an emergency room. Then he hails a cab and ends up at another hospital while Martinez lies in the woods with these men hunting him down all night; he comes out in the morning, at 6 a.m. in the dawn, and takes a cab to the Colombian Naval Hospital and calls back to the RDEA chief of staff, an outstanding American public servant, John Phelps, and tells John that he is afraid for Kelly McCollum because he last saw him shot in the face in the woods.

Finally, they find out McCollum is alive, and they bring the two men together, and in the most unbelievable detective story of investigation, our chief of station, John Phelps, manages to apprehend in a morning helicopter

raid the American assassin, and with the help of the Colombian and Venezuelan Governments, they recapture the former Colombian police officer, who is the other assassin, and bring him back across the border into Colombia. They are both in prison now, and hopefully, through the good offices of Colombia and its very fine President, we will have extradited back into the United States to face justice this American who attempted to execute two of our DEA officers.

On my visit to Quito, Ecuador, which is the luckiest of all the countries because of its absence of terrorism—although a bomb went off in front of an Israeli delegation there just within days after I departed the country—for all the quiet of Quito, Ecuador, within the last few months an informer trying to help our American drug enforcement agencies and the narcotics officials of the Government of Ecuador was tortured to death with acid. He was hung from a tree by his genitalia, which was the first part of his body attacked with the acid, and then with the acid was slowly tortured to death. He was found by another government informant. This, of course, put the fear of Satan, let us say, into those who are trying to help rid not only Ecuador but the United States of America of the drug problem, since we are the user country of what passes through the Ecuadorean laboratories where the coca base is refined into the usable so-called recreational drug in this country.

These are just a few samplings of some of the nightmares that have taken place in South America. Our superb Ambassadors, like Frank Ortiz in Bolivia and our Ambassador in Peru, Edwin Corr, have pleaded with me to carry the message back to the Congress that they are doing the best they can, but when a cover story comes out in Newsweek magazine saying that the No. 1 cash crop in one of our major agricultural States, my State of California, is a particularly potent type of marihuana called sinsemilla, then they say that complicates their diplomatic and foreign policy problems exceedingly.

□ 2130

Now with the fields farmed in South America there is an estimation that 125,000 small farmers supply almost all of the cocaine produced in the world and most of those farms are, I repeat, in South America.

In Bolivia officials now estimate that a 2.5 acre crop will be worth around $5,000. It does not mean anything until you start comparing it with $500 for the same area for coffee and $5,000 for cocaine.

We would like to encourage that people get into substitute crops even with American aid as we did in Turkey.

In Colombia, workers who go to the eastern plains to pick coca leaves are paid $20 a day compared to $5 a day elsewhere. This is on the eastern side of the Andes Mountain Range.

Most of the largest organizations for cocaine trafficking are based in Colombia. Between 75 to 90 percent of the cocaine product from Bolivia and Peru is believed to pass through Colombian hands, through Colombian routes.

Coca from Peru provides about half of the cocaine consumed in the United States. Cocaine trafficking provides several hundred million dollars a year to the Peruvian economy, unfortunately making it one of Peru's four major foreign exchange earners.

Since 1981 cocaine is ahead of oil.

In 1981, that made three countries in our hemisphere—Jamaica, Colombia, Bolivia—where even the government had fallen several times because of drug trafficking, and then Peru joined that tragic group of three where their No. 1 product, with most of it trafficked and sold in the United States, is illegal narcotics.

Florida remains the primary transshipment point within the United States for cocaine and routes from South America. Intermediate distribution points are Chicago, Kansas City, Detroit, Atlanta, Denver, Houston, Dallas, Phoenix, New York City, and Baltimore, and, of course, Los Angeles.

The week before I left on this journey a Foreign Service officer, for the first time in the history of the State Department, came on a nonstop flight or direct flight from Lima to Los Angeles and was found with packets of cocaine strapped to his ankles, false cans of talcum powder containing cocaine, and false heels in his shoes. Everything he learned as a consular officer visiting prisoners, American prisoners, about 40,000 in the Lima, Peru central jail, he tried to put into one big package deal to make probably what he thought would be one big deal like this in his life.

That happened just a few days before I went down to Peru. Naturally it had a demoralizing effect not only on our hard-working Foreign Service officers in the Bolivarian countries and the Andes countries but throughout the world. Thank God it is a first, which means that it is less than one-hundredth of 1 percent of the good service of our Service officers around the world.

For the past 5 years Colombia has been one of the major illicit drug producers in the world. It dominates the supply of the three principal illicit routes furnishing at least 50 percent of the cocaine, 75 percent of the marihuana, and about 80 percent of the illicit metahqualon, known by the jet set and younger Americans as Qualludes or "ludes." It is interesting that a book entitled "Ludes" is now one of the bestsellers in Los Angeles.

The profits made in the cocaine trade are so enormous that a 50-percent loss would not provide a financial disincentive to those involved in this illegal, rotten industry.

In Bolivia and Peru the Reagan administration hopes to invest nearly $100 million in a 5-year program to uproot coca fields in selected regions and then persuade the farmers, with credits, training, aids, and stiff enforcement threats to grow something else. I hope the House of Representatives will support the President next year and the following years.

Cocaine interests have won some political support with public relations people across the country, unfortunately, with campaigns arguing that it is a healthy, native tradition down there and that enforcement efforts represent heavyhanded U.S. imperialism and involvement in someone else's lifestyle.

Cocaine is becoming increasingly difficult to deter, particularly the abuse, when there is a widespread belief that it is harmless if only used occasionally, when that use is encouraged as chic by popular entertainers and ridiculed as harmless by Hollywood movie stars.

Thank heavens only a small group again and some ignorant voices in the mass media, communications, and the music industry, will make light of it, and this is a tragedy when we know that the largest abusing group is comprised of young adults out of school, most out of college, with their early spending money to blow.

The task of helping parents and educators to do their job must be supported by a major effort, including the Congress of the United States, to eliminate the glamorization of cocaine by media and entertainment figures.

The importance of the President's involvement and the involvement by the First Lady, Mrs. Reagan's personal leadership in prevention efforts, just cannot be overstated. It should become a staple in the White House for whatever man or woman ever holds that important American post, because this problem is going to be with us for years to come.

This effort by the First Lady and the President has stimulated and will continue to encourage the efforts of the parents to hang on and for others throughout the country who have long sought such support to stay in the fight, turning around entertainers whose smirking references to drug abuse have enraged parents and is an important step in reducing easy acceptance of drug abuse.

I had one person call me on my last trip to Los Angeles, and I think it is fair to describe this person as a star in the entertainment industry, and tell me that they have to stay in the closet

on this issue or they will never work again. They said that the issue is 5 or 10 times worse in the entertainment industry than that even stated by Drug Enforcement Agency reports, and some of the fair and comprehensive reports that have come out in the media.

There is one star that I am not going to get in a skunk-spraying contest with, so I am not even going to mention his name. He has taken his raps this year. But he ridiculed the House Select Committee on Narcotics when it came out to Hollywood. It had a Democratic chairman that was extending a hand of friendship to elicit the hard work of performers along the lines of the excellent anti-PCP or angel dust spots that were done by actor Robert Blake when he made those spots that said, "That stuff will kill, and that's the name of that tune," in the vernacular that he used in his television role in the character he played, Baretta, and that had such a good effect on so many kids to pay attention to the killing danger of PCP.

We expected that the Narcotics Committee would be received well by Hollywood. But when we had actors, and some of them officers in the Screen Actors Guild, saying cocaine was not a killing substance, even though they put it down, it was not an important matter and that it was a farcical attempt by the Narcotics Committee of the House of Representatives to create some sort of McCarthyism, or witch hunt. That person or persons had egg on their face when John Belushi, a comic genius, one of my personal favorites, was found dead at the tender age of 36 last March 6 of this year from abusing both heroin and cocaine in what is called speedballing.

Next I would like to briefly discuss marihuana. Marihuana farming is a multibillion dollar national industry. Today illegally grown pot is the Nation's fourth largest cash crop.

Law enforcement officials insist that it ranks just behind corn, soybeans, and wheat in market value. Corn, soybeans, and wheat and marihuana is fourth.

Last year marihuana harvested an estimated value of $8.5 billion. My State's harvest in California alone is worth nearly $1.5 billion. Authorities in California say marihuana is being grown commercially in 43 of our 58 counties.

Hawaii's $750 million marihuana crop rivaled the sugarcane and the pineapple harvest.

In Oklahoma it is a $350 million harvest, ranking just behind wheat.

In Kentucky and Tennessee, each with a $200 million yield, dope growing has replaced moonshine, white lightning, a rotgut illegal booze, as the favorite illegal enterprise.

According to the National Institute on Drug Abuse, 22 million Americans smoke marihuana at least once a day. It is the most widely used illicit drug in the country.

Instead of cries of legalizing it or decriminalizing it, we should face up to what one more so-called recreational drug can do in this country when 50 percent of the people who die on our highways, and most of them are innocent victims being smashed in the face in a head-on, are the result of drunken drivers on the highways.

Fifteen percent of the fatalities—I learned this sitting over here at the National Transportation Board hearing on a committee that I do not even serve on—15 percent of the fatal deaths, mostly innocent people, are by people stoned on pot.

□ 2140

Because of their spatial orientation they think they are going 30 miles an hour when they are actually going 100 miles an hour, and because of a quirk of fate and their relaxed state they sometimes manage to walk away from their spinning wreckage while a mother and father and their five kids driving home are all smashed to death.

We just cannot afford another recreational chemical legalized and marketed or even controlled by the Government along with the advertising skills which are the greatest in the world of our Madison Avenue people turned loose on marketing marihuana in this country.

The huge upsurge in domestic marihuana production dates from 1978 when it was reported that Mexican marihuana was being dusted with the herbicide paraquat, which it was erroneously reported would cause lung damage.

There were amendments brought forth in this Congress, letters circulated around, "Dear Colleagues," names garnered by people, some who signed innocently, because there was a lot of disinformation going out on paraquat spraying. I went down to Mexico in my second month here 6 years ago as a Congressman, talked to their attorney general, and he said:

> Congressman, we have men in the field dying in helicopters that are being shot down by the Herrara gang here where our young soldiers die, and we don't even have the use problem you do, to stop your young Americans from using this illicit drug and you won't even spray paraquat in your own country.

Six years later I am told in Bolivia, and Peru last month, that they are annoyed at our pressure on them to spray paraquat, and also in Colombia, when we will not spray paraquat in Yellowstone and our national parks where these marihuana crops are being harvested between our great redwoods.

The preferred crop today in California is sinsemilla. That is a seedless marihuana produced through intensive cultivation of only the female plant. It has a very high concentration of the psychoactive ingredient in marihuana, tetrahydrocannabinol or THC.

Sinsemilla produces a very, very heady euphoria, so it sells for around $2,000 per pound. This is roughly the yield from one single plant well grown. The sinsemilla produced by U.S. growers is so prized that the seeds are now being smuggled into Mexico, back down to Colombia to enrich the crops there.

One of the things they kept telling me in South America was that our young Luther Burbanks up in California are growing a marihuana so potent that it makes Colombian pot look worthless by comparison.

I would like to add a footnote here from one of the interns in my office who is a graduate with a Ph. D. in microbiology from a prominent football prestigious Ivy League-type college in southern California, where he said that the graduates from this school and another west Los Angeles school of prestige, who are now the prosecuting attorneys and the defense attorneys, do not see anything wrong with pot because the weak marihuana they smoked all the way through college and law school did not hurt them, that it was no different from the beer blasts. He said that what these young lawyers in their thirties do not understand, either the prosecutors or the defense attorneys, is that this sinsemilla is so potent, it is quoting my intern, "turning some of my friends into space cadets."

And that is the difference between sinsemilla and the milder pot that was used just 5, 6, 7, 8, 10 years ago.

United States and California officials contend that marihuana growers flourish with the connivance of respected local businessmen in some of my counties in California who make money by selling the growers goods and services.

"Marihuana is the difference between a profit and a loss now for many local business people in Ukiah and in other cities, Mendocino County," said Ted Erikson, Agricultural Commissioner of Mendocino County, Calif.

Drug enforcement officials admit they are managing to seize only 5 to 10 percent of the U.S. domestic marihuana crop at best. The DEA contends that enforcement could become more efficient if the newly discovered fields were to be sprayed with paraquat. The Federal strategy for eradicating homegrown marihuana is to pass the buck back to the States. DEA has been able to spare only $1 million to help control this dangerous domestic crop. The lure of easy money or the danger of police busts, the competition, all this has sometimes made marihuana a deadly business. Officers descending by heli-

copter on hidden fields now must face explosive boobie traps, the same kind of killing we saw in Mexico where they won this battle 5 years ago.

To protect their crops, marihuana growers use trip-wires triggering shotgun shells and sharpened pungi sticks like those used by the Communist guerrillas to cripple American soldiers in Vietnam. The growers even tie live rattlesnakes to marihuana stakes in the ground.

Growers have also armed themselves with Israeli Uzi machine guns, Soviet made AK-47 automatic rifles, a submachine gun, and Colt AT-15 rifles. They use dynamite, plastic explosives, to protect their marihuana crops.

That very, very briefly is the marihuana scene in the United States, Colombia, and other countries today.

Heroin. Jaded with pot pills, cocaine and intrigued by a pure and potent new opium strain from Asia—I do not have time tonight to discuss the Golden Triangle where they just had a bumper crop 8 to 10 times bigger than last year with the opium poppies, thousands of middle-class teenagers, and some not teenagers, and listen to your evening news tonight—thousands of middle-class teenagers and young adults with responsible American parents are getting involved in the marihuana trafficking and then they turn to heroin as the deadly new kick.

Experts emphasize that heroin is still mainly a ghetto, a barrio, a poverty area problem. But marihuana and cocaine remain the chief so-called recreational drugs of choice for the middle class.

Dr. Robert Millman, an addiction specialist at New York's famed Whitney Clinic, argues that cocaine opened the door to the harder drug heroin for thousands of Americans, because cocaine produces a swift, surging high and users often need something to come down. Often the initial euphoria wears off quickly. As a result, drug consumers often take cocaine and heroin together, that is the mixture called speed ball which killed the comedic genius John Belushi last March.

Narcotics officials estimate there are now 450,000 heroin addicts in the United States. When I was on television hosting a show in 1968 and 1969, 300,000, two-thirds of that, was called an epidemic. And quietly it has now gotten worse. Like a rocket lifting off the pad at Cape Kennedy, when these things start, it shakes the ground. But it is only going a couple of miles an hour. When it hits 25,000 miles an hour velocity speed it is a speck in the sky and you cannot even hear it anymore, and you walk away.

And that is what happens to these drug problems. There is a cover of the old Life magazine with the Beatles talking about LSD and some movie stars, even one good man I can think of, experimenting with it before it is illegal, and conservative leaders trying pot on a yacht outside the U.S. 12-mile limit and deciding, well, maybe it is no good. And then when it is finally made illegal the evil rocket is launched, we do not see it on the evening news or the magazine covers, and the problem increases by two and three times, and it is not even a hot story anymore, not even in the newspapers at all, except when the drugs are used in a killing and someone blows somebody away and says, "Drugs made me do it," and then we either use the delayed shock syndrome or the fact that, "I was not responsible for what I was doing," the old truck driver cop out.

Four hundred and fifty thousand heroin addicts. Our experts fear still more potent strains of opium, the opium poppy from the original Golden Triangle of Laos, Burma, and Thailand, could more than double the total within the next 2 or 3 years.

The resurgence of heroin is partly a consequence of the recurring boom and bust cycle in the narcotics trade. A combination of diplomatic suasion and cooperative international law enforcement succeeded in staunching the Turkish problem, then the Mexican supplies that fueled the heroin epidemic of the sixties and early seventies.

By 1978, the flow had come down to a relative trickle. But by then, drug enforcement agents found that the drug trafficker had found a promising new source in the Golden Crescent of Iran, Pakistan, and Afghanistan.

□ 2150

Wars in the Middle East—the Iraqi-Iranian violent killing on either side—has helped the drug trafficking because law enforcement has broken down.

The Beirut agony, the Lebanese agony of a hundred thousand people murdered from all sides over the last 7 years, helped the drug trafficking coming through Lebanon.

We have taken testimony, many Congressmen just returned from Lebanon, heard the same thing that I heard over there last August that—listen to this—that in the Bekaa Valley the PLO and the Syrians grow drugs to keep some of their operations as an ongoing proposition. How is that for a Middle Eastern nightmare in the Bekaa Valley?

The news media in this country, small segments of it, want to concentrate on a moral country, Israel, instead of really talking about the problem of the PLO and the Syrians in the Bekaa Valley.

In 1979, the Iranian-Pakistani-Afghanistan crisis began. The Afghan war with the Soviets is not precluding some of the drug growing. The Soviets may be using poison gas on the tribes people, but nobody is paraquat spraying crops growing in the hills of Afghanistan. In that area, again called the Golden Crescent, they have just harvested a bumper crop of more than 1,500 metric tons of opium, around 20 times the size of the 1970 Turkish harvest and that was enough to render 150 tons of heroin.

I do not have time to go into what they told me in Rome, "Don't go to Sicily. They want to capture a Congressman, the Mafia down there."

The whole Palermo area and the whole island is virtually totally corrupted by drug trafficking. They have their own laboratories now since the "French Connection" story of years ago, which is getting to be an ancient story.

In 1980, there was $8 billion in the United States generated by the heroin trade traffic.

I will close on President Reagan's war on drugs. In mid-February of this year the Reagan administration created the Federal South Florida Task Force under the auspices of Vice President GEORGE BUSH. I met with Vice President BUSH about this last week and had a long meeting just a couple weeks ago down in Miami with the DEA people of the task force team down there.

By the way, they told me that the drug traffickers now have so many airplanes, they fly not just close support, but they put out spotter airplanes with more advanced sophisticated electronic equipment communicating with the planes loaded with illegal substances, marihuana and cocaine, and then they will clear an area. Then they will put two high-speed powerboats with what is called a cigarette hull, because it is so long and low and white in its profile. It was nicknamed that by our Coast Guard in the 1920's. Those are more powerful boats than the Coast Guard has. They will station them a mile apart. The planes will come in and drop the big packages of marihuana or smaller ones of cocaine between the two boats. If they lose a few, so what. The boats then pick them up and in opposite directions, to confuse the Coast Guard, then head for the shore at the speeds you see in what are called the Hennessey Cognac Cup Races that you see in Puget Sound and Marina del Ray in my district and up and down the eastern coast of the United States.

They have better electronic and surveillance by the criminals inside the south Florida area. When a DEA car is following a suspected drug car, he will suddenly see that he is being followed by two cars at higher speeds and better quality, more expensive automobiles, than the DEA people are using in the Miami area.

Then we have the Marielitos, the new Cuban gangs that have come up from Castro's ugliest joke of this whole miserable 20 years, giving us

their murderers, their rapists, their drug traffickers, giving all the fantastic Cuban Americans that have come up to this country and been one of the most productive refugee groups we ever had in this Nation, this one-tenth of 1 percent of hardcore Cuban criminals, what Castro himself called scum. They are now creating a crimewave from Boston and Connecticut all the way down to Miami and now we find them turning up in Los Angeles.

So President Reagan has his work cut out for him.

Seventy percent, I said, of the cocaine and marihuana comes through south Florida. Drug smuggling is the region's major industry, worth anywhere from $7 to $12 billion a year, versus $12 billion for real estate—that is a vacation area—$9 billion for tourism, and the drugs may have gone beyond those two industries.

Drug money is called, as we all know, Narco bucks—banks swollen with billions of it until recently when they started running amazingly sophisticated—I do not think I should talk about them—operations where they had to go to the Federal Reserve Bank to get the millions of dollars where the cocaine traffickers, the Colombians, particularly, are so arrogant, they say, "Let's go to the bank and make the trade for the cocaine and the $12 million. Give me $12 million inside the bank vault."

That was a particularly nice bust when the DEA agents pulled out their guns and said, "You're under arrest."

Too bad they could not have closed the bank vaults for about 3 years after they took everything out.

Coast Guard patrols and FBI patrols have been beefed up in south Florida with new money, new manpower. An additional 250 DEA agents and customs officials, 45 new firearms agents have been posted temporarily in south Florida along with more than a dozen extra U.S. attorneys and Federal judges.

I am taking a special order out Monday night on pornography. I am going to a Senate hearing tomorrow night on child pornography.

Let me tell you how I asked the question in the blind of our South Florida Task Force. I said, "Do any of these guys ever traffic in pornography? You know, scum, we will deal in scum, whether it is drugs or child pornography."

They said, "Deal in it? They use it to launder their billions of dollars of drug money. They laugh about the pornography thing and when we think we get a man from a suspicious profile who has a past record of running drugs, sometimes they confuse us by saying, 'Oh, I'm running something all right, pornography. You want to see the latest snuff films, the latest child pornography. Sure, I'm running pornography.' "

They know they can go into most courts and just by abusing the first amendment, lying through their teeth, they do not worry about the pornography bust. That is just a business expense. So now they traffic in pornography to launder money and cover up their illicit running of the other killing material, because I happen to think pornography kills the soul of a 4- or 5- or 6-year-old kid who is going to need psychiatric care for the rest of his life after he has been sold into bondage by a corrupt uncle and in many cases, unbelievably, his own parents.

Remember that organized crime made "Deep Throat" in the Miami area and some of those people were involved in drug running. The unfortunate woman, who since found religion but starred in that film, met her husband or was intimidated into marrying—he married her, Linda Lovelace, because she knew about his picking up marihuana bales dropped by an airplane that had flown in from Colombia and since she witnessed this pick up, he married her so she could not testify against her own husband in a drug bust. He is now married to another pornography queen, Marilyn Chambers, who has yet to seek redemption.

Coast Guard patrols and FBI forces, as I mentioned, were beefed up. Now the Federal task force is using military resources, thanks to this Congress, military intelligence, thanks to this Congress which overturned what was a sensible law in the Civil War period, but no longer sensible here, the posse comitatus, that said that Federal forces could not be used in civil crime enforcement; but this of all the wars, we talk about the war on poverty, war on crime, war on anything—this is the most real war of all right now, taking a much higher toll of life than most things in this country.

Drug smugglers headed for Florida have had to snake their way through a sophisticated network of Navy E-2-C Mini-AWACS, that is the Hawk Eye—ask the Israelis how effective that airplane is, they fly them—radar planes, stationary radar located at Cape Canaveral, Jacksonville, Homestead Air Force Base where I used to fly, and Guantanamo, down in Cuba. Yes, Guantanamo serves this country a good purpose, no matter what Castro thinks.

A balloon shaped NORAD radar, nicknamed Fat Albert, a little semi-rigid blimp, hovers 10,000 feet above Key West to keep an eye on Cuba and now lends its look-down capabilities to the task force, reporting low flying planes that may carry drugs.

Navy destroyers in the Caribbean carry Coast Guard teams that can board and capture suspicious boats.

While I was in South America, one of the largest freighters ever to leave Colombia, escaped the network of surveillance and it was picked up by a Coast Guard cutter off Boston. It was called the *Biscayne Freeze*. It has 90 tons of marihuana on it and at first it tried to defy the Coast Guard. They had to fire across its bow. Why was it in Boston? Because the heat is on in south Florida.

The U.S. Army has loaned the Custom Service two Cobra helicopter gun ships. They are especially helpful in tracking smugglers' planes at night, though they do not fire on the drug planes. They just give the evidence to others who arrest them. They are fast. The Cobras are painted inky black and they can land even in swampy areas, flash on their night sunlights and then continue to chase even if the smugglers try to escape on foot.

Another personal footnote: When I first joined the U.S. Air Force 30 years ago next month, I wanted to be a fighter pilot, but I quit college and took a chance on a 4-year enlisted assignment as a buck private, an airman, taking a chance on getting in fast because the Korean war was still on and I did not know if I was going to make it. I was either going to be a jet fighter pilot or an enlisted man for 4 years.

□ 2200

And during what they call precadet status, after I passed my test, I met two of America's top jet aces, triple jet aces, from the Korean war: Joe McConnell, who died testing an airplane, the F-86H that almost killed me, that I had to bail out of, and Manuel "Pete" Fernandez, a Hispanic hero of unknow proportions in the Miami area, a great guy, a triple jet ace, Manny Fernandez, Pete Fernandez.

Pete went to astronaut school, got assigned to Miami, served out his Air Force career.

Buried back on page 20 of the Los Angeles Times in the election period of 1980, in mid-October, I see a column next to the story of me being torn up by my opponent, and my eye goes to the other page, to show you there are worse things in life than your own election problems, and here "Air Force Col. Manuel 'Pete' Fernandez, World War II veteran and Korean War hero, triple jet ace, who had a ticker tape parade down the main boulevard of Miami Beach when he came from Korea, crashed on a Bahamian island alone and died smuggling a gigantic load of marihuana." What a lonely, ignominious death for the No. 1 military Hispanic hero of my lifetime, with all due respect to some of the great Hispanic honor winners in my State and other States. There are not that many triple jet aces.

Now, the only permanent solution on which the antidrug forces agree is on the supply side, persuading the producing nations to crack down on those

who grow drugs for international sale. Of course, what they tell me down there is, "It is your problem to dry up the desire in the United States," which is the demand side, that that, using supply side market economics theory espoused in this House a lot, particularly on my side of the aisle, the demand sometimes can create the supply side. The other argument is that the supply side creates the demand side.

The truth is, both sides are important in an economic equation.

President Reagan is going to ask this Congress to approve $130 million—that is just one haul of cocaine these days—in funds for his new crackdown on drug trafficking by transferring the money from other programs. In addition, an administration official said that President Reagan will ask for another $25 million for the narcotics task force which has been operating in Florida since March 11 or 12, and the President has dreams that this House will cooperate in starting 12 task forces across the country.

President Reagan announced on October 14 of this year that he planned to deploy 12 regional task forces around the country modeled after the one in Florida; 1,200 new drug enforcement agents and prosecutors to fight organized crime in drug trafficking.

Let me give you the proportions since I discussed the enormity of the problem, of what our EDA is.

It started out as the Federal Bureau of Narcotics, FBN, because J. Edgar Hoover did not want to touch narcotics. He wanted a separate agency. Why? Because he knew the power it had to corrupt even his pristine agents.

Then it turned into the Bureau of Narcotics and Dangerous Drugs, BNDD. That is the name you see down at the bottom of your doctor's prescription pad. Then we find that the largest professional group of people hooked on drugs are doctors, and the largest subgroup of doctors, psychiatrists, who have to go through 3 more years of training after medical school.

The biggest cocaine case going right now is that of the alleged trafficker, the superhandsome, elite jet setter, John Z. DeLorean. Supposedly this is on film, like some Congressmen have been filmed around here dealing in some illegalities. It will be black and white and scratchy, but if it exists it will be on your TV set some night.

Supposedly or allegedly he said, "This stuff is better than gold." Do you know what I learned down in Peru? That the Spanish Conquistadors decided at first, because their priests, the Franciscans, were advising them that this was an illegal thing, to discourage the use of coca leaves and they only chewed it. That is like eight cups of coffee down there because of the high altitude, 14,000 feet.

They started to discourage it. Then they found that they could use these indigenous Inca people and other tribes as almost slave labor in the tin and silver mines. At that time the Potosi was the biggest silver mine on the face of the Earth. They would not only make them take their coca leaves and coca tea or chew it; but they started paying them in coca leaves, those little innocent looking green leaves like our shrubbery in the United States, and they became a form of wampum, barter.

And 350 years later what do we find? Cocaine again is being described by a top industrialist who was going to revolutionize the motor industry, allegedly, as better than gold, better than gold.

I am leaving the Congress this year, not by my own decision necessarily—at least I got to call part of the shots in the Senate primary—but I am going to stay in the Washington, D.C., area, God willing, and I am going to track what this Congress does, and I probably will be sitting up there in the gallery to see if this Congress and you, Mr. Speaker, have the good sense, through your leadership, to recreate again, which we have to do every 2 years—it is not a Permanent Select Committee on Narcotics Abuse and Control—if you will reconstitute the committee.

It is going to be tougher this spring than it was in 1981 or 1979 because the last two chairmen, excellent Members of this House, both of the opposition party, LEO ZEFERETTI of the New York, and LESTER WOLF of New York, have both been defeated. They are the only two men who have ever chaired the narcotics committee and did a superb job and worked hard doing it. You are probably going to have great difficulty, Mr. Speaker, in finding a volunteer on your majority side of the aisle to be the chairman of the House Select Committee on Narcotics and Drug Abuse.

We need that committee in the worst way. We need it more in the 98th Congress than we needed it in the 97th, 96th or 95th Congress. We need a Select Committee on Narcotics and Drug Abuse. It does not have legislative authority or responsibility. Its job is to bring, to use a Hollywood term, a hot, white arc light, to focus on the problem, educate our fellow American citizens, and advise all of the other committees with direct legislative law-writing responsibility, like the Committee on the Judicary, how they can serve.

The other body has no such entity. I would not only hope that this committee will be resurrected in this House after it goes into an immediate terminal state when we adjourn sine die, but I would hope—and I am talking to some of our colleagues in the other body about this—that the U.S. Senate will create for the first time a U.S. Senate Select Committee on Narcotics Drug Abuse and Control.

Mr. Speaker, I will include for the RECORD my special order report and the most recent report on several drug subjects by the Drug Enforcement Agency. They have an excellent magazine that goes to every congressional office and probably goes into the wastebasket, file 13, immediately because we are just overwhelmed with reading material in our offices. It has the simple title, "Drug Enforcement." I would recommend that all Members assign at least one staffer to look at the key articles in this magazine.

The report is as follows:

COUNTERATTACK ON COCAINE—THE STRATEGY OF ENFORCEMENT

(By Ronald J. Caffrey, Chief, Cocaine Investigations Section, Drug Enforcement Administration)

DEA's enforcement priorities in the future will address a broad spectrum of drug abuse and trafficking. Investigative emphasis and programming will be predicated on national abuse patterns counterbalanced by local geographical trafficking conditions in an attempt to strike at those controlled substances which pose the greater number of hazards to the largest segment of the U.S. population. In establishing enforcement plans and resource allocation for fiscal year 1983, DEA management is currently reviewing cocaine abuse and trafficking worldwide in an attempt to realign priorities with existing drug availability and the attendant hazards to public health, social institutions, and public integrity.

As in years past DEA will continue to focus on heroin—a policy developed as a result of the sudden and dramatic proliferation of Southeast and Southwest Asian heroin trafficking. Heroin and certain dangerous drugs unquestionably pose serious hazards to the public at large. Now, however, the dimensions and impact of the traffic in such substances do not approximate the profound change which cocaine availability and usage have had on the United States. Heroin abuse and trafficking are generally limited to traditional domestic geographic areas. The impact, in terms of drug injury incidents and collateral street crime, while significant, is localized within several large urban areas. Unfortunately, the same cannot be said for cocaine, which is being abused throughout the nation on an epidemic scale.

The National Center for Disease Control (CDC) recently issued a statement that ". . . the rate of cocaine-related deaths quadrupled between 1976 and 1981 . . ." while ". . . the rate of cocaine-related hospital treatment showed a sixfold increase from 1975 to 1981." The CDC report continues: "The number of deaths linked to cocaine increased from 4.5 per 10,000 medical examiner reports to 19.1 deaths per 10,000 medical examiner reports between 1976 and 1981." These statistics, while startling to the general public, are no surprise to knowledgeable law enforcement management officials.

Daily newspapers are replete with accounts of notable cocaine abusers and the consequences of cocaine use, but somehow a cynical public, weary of media scare tactics, has grown to accept this drug. In past years cocaine use was restricted to the affluent

and the famous, but in 1982 hard medical evidence confirms the health hazards of this substance and its widespread prevalence among all social and economic groups. Cocaine use and availability are proliferating at an alarming rate among the nation's youth. Their role models, professional athletes and entertainment celebrities, openly advertise if not advocate cocaine use. Unfortunately, American youth have been misled by the myth of "harmlessness" and have been corrupted by an advocacy of the "Great American Heroes." "Coke" is no longer a "jet set high." Between 40 and 48 metric tons of cocaine hydrochloride were imported into the United States in 1980, an increase of more than 40 percent over the previous year. These are conservative National Narcotics Intelligence Consumers Committee estimates which are almost two years old. Clearly cocaine availability and abuse are expanding at a phenomenal rate.

The tragedies suffered by the public because of an annual importation of 48 metric tons of cocaine should be obvious from a medical and sociological viewpoint. The President's Task Force on Crime has established as a national priority a campaign against violent crime. While the connection between heroin trafficking and street violence has been clearly made, statistical evidence shows a higher incidence of violent activity among cocaine traffickers. Intelligence generated through DEA's CENTAC 26—a special probe designed to identify drug-related homicide suspects in Miami, Los Angeles, and New York—clearly establishes the dominance of the "Cocaine Cowboys" in drug-related homicides and assaults throughout the United States. Turf disputes, "ripoffs," business disagreements, internal discipline, and the imposition of silence have all contributed to the escalating violence among cocaine traffickers. DEA intelligence indicates a disproportionate volume of cocaine and an inordinate propensity among organized Colombian cocaine violators to engage in wanton violence against all perceived adversaries, their families, employees, and other "noncombatants." The number of drug-related homicides committed by cocaine traffickers in Miami, Los Angeles, and New York City is a national abberation. In these cities traffickers have shown an affinity for the use of automatic weapons and have routinely engaged in decapitations, mutilations; and infanticide—symbolic displays of "machismo" often conducted in broad daylight in front of witnesses, in public malls, on highways and in night clubs. This escalated exposure extends unprecedented dangers to the public at large.

Assaults and murders of law officers attempting to cope with this crime wave are also on the rise. Underworld "contracts" against undercover agents and sources are at an all-time high. This predilection towards violence extends to both spontaneous and planned acts against law enforcement officers and signals a total disregard for authority from an underworld element whose presence in America is most often gained through illegal entry at our international borders. DEA investigations indicate that a significant proportion of Colombian cocaine traffickers operating in the United States are illegal aliens. What distinguishes this group from past generations of immigrant violators is that these criminals possess immense cash resources, and hence travel unimpeded throughout the country conducting clandestine activities. By virtue of this infiltration, other forms of criminal and potentially subversive activity are exported to the United States and represent a serious threat to our national security.

Beyond the threat to public health and safety, the cocaine traffic in the United States is siphoning off about 30 billions of dollars annually. Nowhere is this more visible than in South Florida where a dangerous U.S. currency drain has been created by the laundering and transfer of traffickers' assets between U.S., Cayman Island, and South American banks and currency exchanges. Cocaine trafficking has been established as the most lucrative enterprise of all underworld ventures. At $60,000 per kilo on the wholesale U.S. market (1982 prices) and with an available supply of from 40 to 48 metric tons, the dimensions of this problem are obvious. Because cocaine, marihuana, and clandestinely manufactured quaaludes share common sources of supply in Colombia and elsewhere in Latin America, trafficker assets from all of these illegal enterprises tend to be intertwined at every level of the smuggling and money-laundering chain. As a consequence these funds further the drug traffic in much the same manner as legitimate businesses further their existence and expansion by mergers, partnership, and the reinvestment of profits. The insidious side effect of these illegal enterprises is that profits from one drug category perpetuate and expand the trafficking in other drugs in a vicious unending cycle.

Another side effect of the "Cocaine Connection" is the endemic corruption created by the almost inexhaustible wealth of the various Colombian trafficking groups. Institutionalized corruption involving banks, businesses, regulatory and law enforcement agencies is escalating both here and abroad. The criminal justice system in the southeastern part of the United States is bursting at the seams. Within current budgets it cannot cope with the resources of Latin American-based traffickers. Corruption is known to exist at the highest levels of some leading coca plant source countries in South America, virtually guaranteeing cocaine lab operators unending supplies of coca paste. In a number of Latin American countries drug-related corruption is undermining the social fabric of society. Greed subsists with national honor and patriotism. Cocaine is establishing a "new politics." Currently, foreign-based cocaine traffickers possess limitless supplies, licenses obtained through corruption, and logistical advantages (aircraft, boats, vehicles, clandestine domestic and foreign properties) which enable them to remain in operation indefinitely. Cocaine trafficking, by virtue of its demonstrably corruptive influence, represents a serious detriment to the morality and leadership of the political, business, and criminal justice communities within the United States.

There is now an enormous resource drain on several elements of local, state and federal government in the southeastern United States—a direct result of Latin American cocaine and other drug trafficking. Millions of dollars are being spent by the U.S. Military, Coast Guard, Customs, DEA and the FBI in the war on drugs in South Florida. These reactionary enforcement efforts are placing a great strain on jailers, judges, and local law enforcement units. The financial and human resource drain is the direct effect of "stop gap" measures for the treatment of a symptom which has unfortunately become a long-term law enforcement problem. This problem will continue until it is ultimately solved on foreign soil through coca eradiction. Clearly, illicit crop eradication is the ultimate prophylaxis—the key to the dissolution of foreign source drug trafficking in the United States.

While the ultimate solution of supply reduction through eradication rests with foreign source nations, the U.S. Government has begun to accelerate this solution and provide more immediate remedies through a variety of interagency initiatives both in the United States and abroad. U.S. State Department eradication initiatives are in various stages of development in Colombia, Bolivia, and Peru, the principal coca source areas in Latin America. DEA special agents assigned to U.S. Embassy Country Teams in these areas are expanding drug intelligence exchange and with their foreign police counterparts are conducting high-level international cocaine investigations. This liaison program is providing DEA with a growing volume of strategic and operational intelligence necessary for complex drug investigations and programs focused at the highest level of the traffic. Resource assistance to foreign police organizations and governments provided by the U.S. State Department and DEA has produced a necessary linkage in our allied efforts against drug abuse. In the United States, the combined efforts of DEA, FBI, Customs, USCG, the Air Force, Navy, FAA, and INS are providing enhanced interdiction and investigative efforts in the Vice President's South Florida Task Group. This special emphasis program has been established at a point through which from 60 to 75 percent of all cocaine enters the United States.

Cocaine investigations and cocaine suppression programs will be among the most important priorities of the Drug Enforcement Administration throughout 1982 and 1983.

In a mounting effort to refine and develop the U.S. drug enforcement program, DEA has recently organized its erstwhile Office of Enforcement into four functional drug desks within the Operations Division (Heroin, Cocaine, Dangerous Drugs, Cannabis). This design is intended to promote an improved managment system consistent with the Department of Justice's earlier decision to eliminate regional DEA offices and institute direct field reporting to Headquarters. On May 17, 1982, the functional drug desk concept was implemented. The Cocaine Investigation Section is composed of three managers and ten special agent coordinators, who share foreign and domestic geographic responsibilities for all cocaine investigative activity and programming in DEA, The Cocaine Section's routine duties encompass case monitoring, coordination, and evaluation. Under the direct reporting concept, the Section controls all resources devoted to the cocaine problem in a manner consistent with agency and divisional office enforcement work plans. The Section is also charged with policy formulation and implementation. To promote enhanced cocaine investigative activity the Section is now responsible for the initiation of Special Enforcement Operations (SEOs), formerly known as Mobile Task Forces and CENTACs. The Cocaine Investigation Section's responsibilities extend to the development of special programs aimed at disrupting and reducing clandestine cocaine manufacturing, importation, and domestic trafficking.

DEA's El Paso Intelligence Center, a multi-agency intelligence cooperative, continues to provide DEA offices and other federal and local signatories with drug-smuggling intelligency data on a routine basis. DEA's eighteen state and local task forces

around the United States address local trafficking problems and provide extended drug investigative programs in areas of minimal DEA presence. This combination of federal and local officers has produced a training mechanism which has resulted in the development of a base-line expertise in drug investigations among local narcotics officers. Further, these units are designed to establish appropriate violator target mechanisms for investigative action.

The implementation of FBI concurrent jurisdiction in federal drug investigations has produced enhanced technical and human investigative resources in the U.S. Government's attack against major trafficking groups. The combined efforts of DEA and the FBI in investigations throughout the country has resulted in more than two hundred joint drug investigations over the past nine months. Approximately 50 percent of these cases involve cocaine traffickers. Further, the FBI's 58 field divisions and sub-offices are providing extended investigative coverage to areas of the country where DEA's presence is minimal or non-existent.

DEA, FBI, and U.S. Treasury Department initiatives focused on the financial assets of cocaine and other drug traffickers have been underway for some time and continue to develop and expand in a host of joint and unilateral operations designed to immobilize drug violators and their resources. Specifically, the objective of these probes is to incarcerate major trafficking targets and to "freeze, seize and forfeit their financial assets," thereby depriving individuals and organizations of essential reinvestment capital. These investigations are being conducted in tandem with drug conspiracy cases and are being vigorously pursued by federal prosecutors who are utilizing and exploiting a variety of federal, criminal and civil statutes. In fiscal year 1981 DEA special agents alone were responsible for the removal of more than $64 million in drug trafficker assets. Current projects predicated an ongoing investigative activity indicate DEA removals of more than $200 million in violator assets by the end of this year.

The Department of Justice has mandated the implementation of Law Enforcement Coordinating Counsels throughout the United States. The Attorney General has tasked U.S. Attorneys to oversee these committees to ensure appropriate utilization of prosecutive resources and, at the same time, coordinate the focus of criminal investigative efforts. The purpose is to ensure appropriate management of law enforcement resources in addressing local as well as national criminal violations. This mechanism provides for ancillary and refined management of prosecutive support and law enforcement emphasis in high drug abuse areas.

The President recently appointed Dr. Carlton Turner as the Director of the Drug Abuse Policy Office and at the time clearly identified public education programs as part of the federal effort to inform the public of the hazards of drug abuse. This is a critical component in a federal strategy to reduce public consumption of controlled substances in the United States.

During the past year, a U.S. district judge in a northeastern city, in pronouncing sentence on a prominent motion picture producer convicted for his complicity in a DEA cocaine case, elected to exact a sentence which mandated that the producer exploit his professional position. The judge ordered the defendant to initiate a media event extolling the virtues of a drug-free life style. Consequently, a number of TV and motion picture celebrities participated in a "Get High On Life" campaign which was promoted over national network TV. This unique sentence is an outstanding example of judicial perceptiveness in that it tailors legal sanctions not only to the violation but to the individual and attempts to create more far-reaching impact by affixing remedial societal responsibilities to drug violators.

For many years, law enforcement officials have contended with the frustrations of inadequate bail-setting practices and anomalies in the imposition of equitable sentences in drug cases. Today, however, a more informed, better administered judiciary has begun to undertake a more practical approach to fit sentences to criminal violations and more prudently measure the impact and remedies for these crimes against available prison space and penal resources. Most assuredly upper-level traffickers can only be immobilized through incarceration and forteiture of their assests. However, this is only a partial cure for a national disease requiring more innovative holistic approaches.

By now it is evident that the battle against cocaine abuse and trafficking must be fought on several fronts Foreign supply reduction, increased drug intelligence exchange, enhanced interdiction and investigative effort, measurable reduction in public consumption through education and meaningful sentencing by the judiciary—all represent initiatives which form the basis of the current federal stategies against drug abuse and trafficking in the United States. These remedies must continue to expand and develop in a coordinated fashion, if the current availability of cocaine and level of cocaine abuse in the United States are to be significantly curtailed.

International Initiatives To Control Coca Production and Cocaine Trafficking

(By Dominick L. DiCarlo, Assistant Secretary of State for International Narcotics Matters)

Cocaine, which has been called the drug of the Eighties, is our most rapidly expanding drug problem. The objective of the Bureau of International Narcotics Matters (INM) is to reduce cocaine imports through control of coca production at its sources in Peru, Bolivia, and Colombia. We believe the policies we are applying in negotiations with these governments are necessary to improve prospects for gaining control. But obstacles are abundant in South America. We caution that control—to the point at which cocaine availability in the United States is substantially and permanently reduced—is a long-term effort.

In one or more of the three cocaine producing countries, we have had to contend with: frequent changes in governments; local populations heavily dependent upon coca sales and cocaine trafficking to their principal income; populations indifferent to U.S. interests, especially where they have been insulated from drug abuse; traditional chewers of coca leaf whose needs must be met by continuing cultivation; a belief that cocaine abuse is a U.S. problem which creates the trafficking issue; demands that the United States virtually reconstruct the economies of large sections of such countries as an inducement to local cooperation on crop control and interdiction; and sometimes even alleged government involvement in the cocaine trade.

However, there are also incentives for these governments to act, including economic problems, domestic drug abuse problems, international pressure, and insurgencies that may be linked to narcotics trafficking. This interplay of incentives and disincentives defines our opportunities for action.

The three producer countries present different problems. Thus, our strategies vary, but our policy on cocaine control and its premises is uniform. Under the Single Convention on Narcotic Drugs, producer and transit nations like Peru, Bolivia, and Colombia have the primary responsibility for controlling coca and its derivatives within their borders. The international community should assist these nations, and the United States provides bilateral assistance, but we expect these governments to demonstrate their responsibilities through effective programs. Our policy is that the priority should be on coca eradication or other forms of crop control, while narcotics-related development assistance in traditional growing areas should be linked to agreements on crop reduction. We encourage other donor nations and development banks to adopt the same policies.

The problems in common to all three countries are the plant itself and its yields, in cocaine and in profits. Coca is a hardy, deep-rooted plant that is quite difficult to eradicate manually and is usually grown in isolated areas. Coca is an attractive crop for farmers because it has a life span of about 30 years; leaves can be harvested three to six times a year; and it can be grown on poor soils unsuitable for other agriculture. Because most holdings are small, and demand until recently was limited, coca production for the illicit market provided an attractive but not spectacular income. However, in response to increased demand, coca prices accelerated in 1980 to twenty times their previous level, and today illicit coca production is the principal and sometimes only income for thousands of farmers—an income that is many times the daily wages these farmers would earn from other crops.

The financial incentives favor coca cultivation, which is increasing in all three countries. A critical decision in negotiations on crop control, in which the political and economic consequences to the farmer are at issue with the government, it the mix of financial incentives or disincentives (or both) that will be needed to induce desired actions.

PERU

Our problems in Peru, whose coca provides about half of the cocaine consumed in the United States, begin with the fact that large numbers of Peruvians have grown and chewed coca for more than 2,000 years—and agreements must consider that the Government permits and licenses a substantial cultivation for traditional domestic as well as pharmaceutical purposes. The objective then is to curb production in excess of this level and control illegal diversions from the licit cultivation—a task compounded by present conditions: (1) Peru has a weak economy; (2) cocaine trafficking provides several hundred million dollars a year to that economy, making it one of Peru's four major foreign exchange earners; and (3) coca cultivation has expanded to an estimated 50,000 metric tons, versus an estimated 12,000–14,000 metric tons needed for licit domestic and international use.

The problem of competing interests is evident: Coca cultivation is the major source of income for more than 7,000 farmers in the Upper Huallaga Valley, where most of the production is sold on the illicit market, generating an estimated 60 percent of the re-

gion's economy as well as 25 percent of the cocaine consumed in the United States.

The government of President Fernando Belaunde Terry, elected in 1980 after 12 years of military rule, has doubled its resource commitment from $1.5 million to $3 million. The Government is concerned about reports from medical clinics pointing to a serious increase in the dangerous practice of smoking coca paste. In this semi-refined state, coca paste contains such harmful impurities as kerosene and cement. Inhaling into the lungs is especially harmful. Reports indicate widespread smoking of coca paste by high school-age youth. Sensitive to its international image, the Government is also concerned about the potential for official corruption that has occurred in other countries. Peru has increased the number of both people and organizations committed to controlling the coca trade.

Our support has shifted from a focus solely on enforcement to a more balanced program of enforcement, education, and income substitution. This shift reflects a change in strategy toward sustained efforts. For example, Operation Green Sea II in 1980 was a cooperative effort with the Peruvian Government which eradicated nearly 1,500 acres of coca and destroyed 12 million plants and 57 laboratories. While some of the coca fields remain abandoned, the long-term impact of this one-time effort was primarily psychological, putting the cocaine trade on notice to the risks faced, and emboldening the government to take more forceful action.

In contrast, a five-year coca eradication and enforcement project was initiated by INM in 1981, concurrent with the Agency for International Development's (AID) five-year rural development program in the Upper Huallaga Valley. The project is the first in which the long-advocated strategy of coordinating INM's support for enforcement with AID's development assistance is being implemented. This project targets 17,000 hectares (out of 40,000-60,000 under cultivation countrywide). The INM goal is to reduce coca cultivation through eradication and control, while the AID goal is to diversify agricultural production, thereby minimizing the social and economic effects of the control program. In addition to supportng the Guardia Civil's Mobile Rural Patrol Detachment (UMOPAR) in the Upper Huallaga, INM's efforts to enhance the operational and intelligence effectiveness of Peruvian narcotics enforcement agencies include support for other Guardia Civil and Peruvian Investigative Police activities.

While actual eradication has not yet begun in the Upper Huallaga, activities we are supporting were showing these results by mid-1982. About five percent of coca cultivation had been abandoned and other cultivations were not being fully harvested; UMOPAR had increased its arrests and seizures; many large-scale traffickers had departed, leaving small dealers smuggling a few kilograms of cocaine paste; and the profitability of cocaine cultivation had declined.

INM plans to support coca control programs in other regions by 1984. The Peruvian Government believes there should be an international emphasis on coca control, and the United Nations Fund for Drug Abuse Control (UNFDAC) is considering a Peruvian request for an Andean office.

BOLIVIA

In Bolivia, where coca cultivation and consumption have also had historic economic and cultural importance, licit demand requires and estimated 12,000 metric tons out of an estimated production of 50,500 metric tons. Not only has chewing of coca leaf been traditional for centuries, but there are today an estimated 23,000 farm families engaged in growing coca, usually on holdings of one hectare or less, which complicates the eradication problem.

Moreover, the United States is faced with the necessity of starting from ground zero—again—in Bolivia.

Narcotics assistance programs began in Bolivia in 1972; a 1977 agreement provided assistance for narcotics control and a study of alternate corps. These activities were halted in 1980, after a coup by General Garica Meza, who allegedly had the support of the "Santa Cruz Mafia," independent organizations in the Santa Cruz area who dominate the cocaine trade.

Narcotics control assistance and other U.S. aid were suspended after the coup to demonstrate our insistence that Bolivia curb coca production and trafficking as well as to satisfy other U.S. concerns.

After a change in government in August 1981 (Bolivia has averaged more than one government per year since the Republic was founded in 1825), discussions on a resumption of coca control assistance were begun with the new Torrelio government. INM is currently discussing an eradication program which, if successfully negotiated and implemented, could reduce Bolivia's enormous coca cultivation to levels needed for legitimate purposes. Under discussion is a program of both voluntary and involuntary crop eradication and controls, focusing first on illicit production in non-licensed areas, and then on controlling excess production in licensed areas (the key Chapare and Yungas regions).

In addition to factors of international image and responsibility, the incentives for action are Bolivia's need for resumption of U.S. economic assistance, and its need to control negative effects of drug trafficking on the Bolivian economy (for example, the disruption of the agricultural labor force, and the flow of inflationary, untaxed dollars into the legitimate economy), while, at the same time, overcoming the competing restraints of self-interest by offsetting the political and financial impacts control programs could have on the economies of the growing and trafficking areas.

COLOMBIA

Colombia, the major exporter of marihuana to the United States and the major refining and transshipment center for Bolivian and Peruvian coca, now processes and distributes up to 70 percent of the cocaine entering the United States. Moreover, Colombian farmers are now cultivating about 7,200 acres of coca (4 tons of cocaine) and this cultivation could yield up to 13 tons of cocaine by 1985.

The value to the Colombian economy of cocaine and marihuana trafficking is estimated at $1 billion to $1.5 billion. Perhaps $500 million remains in the country and there are indications that, as in other countries, this inflationary, untaxed drug money is undermining the legitimate economy. Traffickers launder narco-dollars through the over-invoicing of exports, through front companies, farm and cattle purchases and the conversion of dollars on the black market. Not only does this dollar flow frustrate fiscal and monetary planning, but it has become increasingly difficult to find farm labor for other crops, thus disrupting agricultural production.

Recently, there has been evidence that Colombian guerrilla groups are utilizing drug trafficking as a source of income to pay for arms shipments.

While the government of President Turbay, who has been sensitive to these negative effects on his government and country, has cooperated through narcotics control agreements with the United States, there is not a country consensus on drug control. Many Colombians consider drug trafficking a problem created by and pertaining solely to the United States. The National Association of Financial Institutions has even campaigned for legalizing the cultivation and export of marihuana to increase government tax revenues and to assist the growers.

However, both the government and private sectors have begun to realize the magnitude of the negative effects of the drug problem on Colombia. Corruption among government officials, the growth of an illegal economy the government does not regulate or tax, the influx of uncontrolled sums into the legitimate economy, and threats to political stability have increased Colombian awareness of drug traffic-related problems.

Building on U.S. support, which began in 1973, INM has since 1978 provided technical assistance and training, and financial resources to upgrade Colombian capabilities in drug interdiction and manual eradication, in judicial processing and intelligence collection, as well as in drug abuse prevention to help the Colombians cope with their own drug abuse problems. A manual coca eradication program was begun in 1981. In 1981, Colombian authorities seized 349 kilograms of cocaine and destroyed 237,401 coca plants and 58 cocaine laboratories. With the exception of cocaine seizures, these figures compare favorably with 1980, when the totals were: 1,545 kilograms of cocaine seized, 106,665 coca plants destroyed, and 54 cocaine laboratories destroyed.

INM plans to discuss an intensified coca control program with the new Colombian government which took office in August 1981.

CONCLUSION

The world market for cocaine is presently estimated at less than 60 tons, with 40-48 tons imported into the United States. Current estimated production of coca is sufficient to produce as much as 156 tons of cocaine. This output and stockpiles in Peru and Bolivia are enough to supply the U.S. and world markets for years to come. To reduce cocaine availability substantially and permanently in the United States, we must achieve simultaneous control in Peru and Bolivia, while ensuring that Colombian production is contained and that new cultivation is prevented elsewhere.

While the reports on plant destruction, seizures and arrests show some progress we have not yet achieved the levels of coca control desired in any of these countries.

The farmers' economic and political interests are issues of concern to these governments. But, there are also pressures on these governments to bring the coca problem under control: These governments are aware that the continued supply of cocaine to the United States, Canada, and Western Europe affects their international standing; the willingness of the United States to link development assistance to government actions to control coca production and trafficking has demonstrated to Peru and Bolivia the intensity of the U.S. concern; there are perceptions among government of

actual or potential links between narcotics trafficking and insurgent groups; the undermining of local economies and the impacts of their own emerging drug abuse problems add to these pressures. Buttressing these incentives to act is the U.S. policy that we will help provide the means not only to gain control of coca production and cocaine trafficking but—with other sources of economic assistance—will also consider financial alternatives to the farmers, conditioned upon commitments to crop control and reductions in production.

We are undertaking other initiatives in addition to direct U.S. efforts in the producing countries. We are encouraging European governments impacted by cocaine abuse to participate in coca control programs, and to apply their own international influence on the producer nations. We are cooperating with governments and private institutions to inform the peoples of Peru, Bolivia, and especially Colombia about the major efforts underway to reduce U.S. domestic drug abuse problems. We are supporting interdiction efforts in neighboring countries, like Ecuador and Brazil, as well as in the Caribbean, to interrupt trafficking and to deny processors access to precursor chemicals.

Throughout South America, we work in close cooperation with the Drug Enforcement Administration on these projects to halt the flow of cocaine to the United States. Our agencies have confidence in these policies and programs. But, as stated at the outset, cocaine control is a long-term effort in which we are dependent upon the actions of other governments to meet their agreed responsibilities.

Health Hazards of Cocaine

(By Sidney Cohen, M.D., Department of Psychiatry, U.C.L.A. School of Medicine)

As with all major mood-changing drugs, the cocaine state is not easily reduced to words. But an attempt will be made to describe the changes that take place, recognizing that the actual effects vary with the dose, the manner of usage, the mood, the expectations and personality of the user, and the conditions under which it is employed. Not only the belief system of the individual, but also the social and cultural beliefs will modify the experience.

1. Acute positive effects

The first perceptible alteration is a loosening of restraints over emotions and a feeling of pleasure. Shortly thereafter, the positive mood intensifies into euphoria, elation, and perhaps feelings of ecstasy. Attentional changes occur, including hyperarousal, hypervigilance and hyperexcitability. Feelings of competence and power are noted. Thinking seems accelerated and remains appropriate at low dosage levels. A fine tremor of the outstretched hands might occur. The physical stimulation can give rise to restlessness. Pre-existing shyness, tension, and feelings of inferiority tend to disappear.

2. Acute negative effects

At times the dominant feeling tone is one of anxiety and agitation. Some nausea might be felt and rarely vomiting. The pupils are dilated producing mild degrees of light sensitivity. Sweating and palpitations may be noticed. Inability to sleep is a normal component of this state.

The blood pressure is increased by about 15 percent. The heart rate can be accelerated 50 percent above the resting state. Body temperature may be elevated. The respiratory rate may increase slightly at average dosages.

Paranoid thinking mechanisms may emerge. In bygone days these were called the "bull horrors," a fear of the police. Suspiciousness rather than grandiosity is the usual characteristic of the paranoid process. Apathy and confusion can develop in contrast to the more common clearheadedness and the impression that one is thinking better than ever. "Snowlights" are flashes seen usually at the periphery of the visual field. They are probably the effect of cocaine on the retina and optic nerves.

3. The cocaine psychosis

At high dosages and with frequent consumption a mild or serious break with reality can develop. Tactile hallucinations, the perception of something crawling under the skin, have been called "coke bugs." The belief may be so real that ulcerations of the skin from trying to dig out the parasites are sometimes produced. Other hallucinatory events also occur. These are visual, auditory or gustatory. The visual misperceptions are sometimes of miniaturized objects. The paranoid ideas become very real and urgent. Guns may be carried, and violence has occurred in an effort to deal with imagined persecutors. Violence is less frequent with cocaine than with the amphetamines because of the brevity of the cocaine state. Stereotyped behavior is only infrequently witnessed, that is, repetitious motor behavior such as continuously polishing some object or pacing back and forth as long as the drug is active. Sometimes the psychotic experience has a predominant depressive component accompanied by a melancholy mood or the inability to feel any emotion whatsoever.

The psychotic state may remit after a few days or continue for weeks or months. The prolonged reactions seem to trigger a dormant schizophrenic process, but they also occur in people without a family history or apparent predisposition to schizophrenia.

4. The post-cocaine state

Headache is not uncommon hangover effect. At the end of a cocaine run unhappiness or an inability to feel anything often emerges. Weight loss to the point of emaciation might be obvious, and it is due to lack of food intake along with increased amounts of physical activity. A sense of lethargy may remain for a few days.

Treatment of Toxicity

1. Acute toxicity

The goal of the emergency management of overdose is to keep the patient alive for a short period of time while permitting the liver and blood enzymes to metabolize the cocaine. It is estimated that one lethal dose an hour can be broken down by enzymatic action in the body. An airway should be maintained, and assisted breathing with oxygen initiated. An electrocardiogram should be taken to determine if a heart rhythm disturbance is present. The foot of the bed can be elevated. Cocaine convulsions are refractory to many anticonvulsant drugs. Intravenous diazepam (Valium) is ordinarily used. The respiratory depression that accompanies cocaine poisoning will be made worse with barbiturates. The phenothiazines (like Thorazine) antagonize most symptoms of cocaine toxicity, but they should be used with care in instances of respiratory depression. Inderal (propanolol), a beta adrenergic blocking agent, has not proven to be helpful.

On rare occasions a person may have swallowed a series of finger cots or condoms containing cocaine in order to smuggle the material across a national boundary. Once in a while these burst, releasing large quantities of cocaine into the gastrointestinal tract. Deaths have occurred, but some people have been rescued with immediate cardiorespiratory support.

2. Chronic use

The major problems of chronic use are drug-induced paranoid thinking resulting in inappropriate aggressive behavior, a prolonged psychotic or depressive reaction, or an inability to function due to increased cocaine use.

The guidelines for management might include:

1. Immediate stoppage of the drug. An abstinence period in a hospital is worthwhile. Significant withdrawal symptoms can be treated with sedatives. Long-term removal from the cocaine environment and cocaine-using friends is necessary. Relapse is a possibility after months, perhaps years, of abstinence.

2. Usually, individuals come to treatment after a catastrophe: a psychotic break, serious impairment of health, loss of job or family, or a serious suicide attempt. They may be highly motivated to stop initially, but over time their motivation tends to wane. An important aspect of therapy is to maintain the strong desire to remain abstinent.

3. Sometimes, family or concerned friends see the destructive nature of the cocaine usage before the user acknowledges it. In such instances group confrontation may be persuasive. This is not an accusatory encounter, rather it is a friendly, loving meeting that takes the place of the impending catastrophe. It should be led and monitored by the therapist. The goal is to change the drug-using behavior and to instill a positive attitude toward treatment.

4. Life-style changes have to be made. The person must switch from cocaine to gratifying nondrug activities. These will not match cocaine in providing peaks of pleasure, but they will be more sustaining. A series of alternative involvements should be planned with the active help and consent of the client, and an effort made to see that they are accomplished. Jogging has been claimed to be beneficial as an activity that sometimes provides a "high" for the person who jogs long enough. The counselor-therapist has two tasks, one of which is educational. The client should become aware of the nature of cocaine and the pitfalls associated with its use. This may help bolster the desire to abstain. The second task is to support, explain and encourage until the client appears to have stabilized.

5. The client's physical condition may have deteriorated as a result of extended cocaine use. Any nutritional deficiency ought to be corrected and an optimal physical state achieved.

6. Pharmacotherapy. Treatment of moderate to severe depressions may be required. Tricyclic antidepressants are the drugs of choice. Lithium has been found to block the cocaine reaction, but so far no studies have been reported in which lithium is used to prevent cocaine use. Most cocaine users are also polydrug consumers. Sedatives and other stimulants should be avoided, else they will be overused.

7. Group therapy with other cocaine or polydrug abusers has been helpful, and where such groups of recovered and recovering people are available, they can be a helpful therapeutic device.

DISCUSSION

Cocaine fits well into the spirit of our times. Pleasure now, hedonism and a narcissistic self-indulgence are a way of life for growing numbers of people. Cocaine is the ideal chemical for the hedonist or anyone without particular concern about the future.

Many people use cocaine to improve their ability to work, not only to keep going when exhausted, but also to excel in activities in which they are not confident of their ability. Cocaine generates confidence and alerts the mind, producing a better performance, or the illusion of it. Over time cocaine use becomes a necessary prelude to work because confidence is lost in one's intrinsic ability to accomplish without it.

Another reason for the popularity of cocaine is its unjustified reputation for being harmless. The clinical and forensic data on this point indisputably show that acute and chronic complications are by no means infrequent. Just how its undeserved reputation for being safe arose is obscure. Perhaps it derives from the cocoa leaf chewing experience, and this was thoughtlessly carried over to cocaine.

For any drug to be attractive as an item of abuse, it must alter mood and consciousness. It need not elevate mood or enhance consciousness. "Downers" or hypnosedatives, for example, depress the brain and its ability to be aware, yet this benumbed state is well thought of by manipulators of their minds. But cocaine is a mood elevator and awareness enhancer—the most effective we have. It does not rival the electrical stimulation of the pleasure centers but while some people are willing to tickle their reward centers with a chemical, to date hardly anyone seems desirous of having electrodes implanted into their pleasure centers. So with fair numbers who incorporate a drug like cocaine into their body in one way or other, what can be said of the consequences and the ethical issues involved? The consequences have already been discussed. The ethical questions are not clearly drawn except for the traditional proscriptions against unearned pleasure and the value of delayed gratification. Such interdictions may not hold much weight with present-day liberated Western men and women who live without particular allegiances to traditions or concerns for others.

Even to the most self-centered among us something about the consequential use of cocaine can be said. The neurophysiology of the brain dictates that when a marked deviation of its chemistry occurs, the inevitable effort to reachieve homeostasis results in an overshoot. If the shift was produced by cocaine, the swing back from the "high" goes below the baseline to a variable depth. This is no sermon about the Judeo-Christian ethic, rather it represents a known oscillation in neuronal metabolism in its effort to reachieve a steady state. The price to be paid for the extreme high is simply the down swing of the built-in homeostatic pendulum.

The question becomes: Is the "high" worth the "low" and the possible painful break with reality? Even the most hedonistic must take note of and wonder about such eventualities because of the unpleasure that accompanies these aspects of cocaine use.

There is a phrase used among cocaine users—"a coke whore." This is a person, male or female, who hangs around the coke scené and will do anything, sexual or otherwise, for a snort, shot or drag of cocaine. When this level of human bondage is thoroughly understood, cocaine is understood.

INTELLIGENCE TRENDS—THE GROWTH OF COCAINE ABUSE

(A Report by the Strategic Cocaine Unit of the DEA Office of Intelligence)

Major indicators have reflected a persistent, and at times marked, growth in abuse and availability of cocaine in the United States since 1976. Likewise, cocaine availability is increasing in all source countries in South America, which will ensure a steady supply to the United States and other consumer countries in the near future.

In recent years a considerable number of additional coca bushes have been planted in response to the expanding international cocaine market. These plantings will reach maturity in the next year or two and, if unchecked, will greatly increase the supply of coca leaf available to illicit markets. Local and U.S.-assisted programs to identify and map coca cultivation have confirmed higher estimates of cultivation and yields in Bolivia and Peru. Cultivation of coca for non-traditional uses is expanding in south and southeast Colombia and has also been reported in northwestern Brazil close to the Colombian border.

ESTIMATED COCA PRODUCTION IN METRIC TONS

	1980	1981
Peru	50,000	50,000
Bolivia	52,500	55,000
Colombia	2,000	3,000

Bolivia has increased in importance as a source country for cocaine hydrochloride, accounting for 25 percent of the cocaine seized in the international traffic during 1980. Although the greatest number of seizure incidents are related to Peru, that country accounts for the smallest amount of cocaine among the three primary source countries. Peru has become the most popular source country for Americans, Canadians, and Europeans trafficking in kilogram quantities of cocaine.

Colombia is and will remain in the foreseeable future the principal processor of cocaine hydrochloride in South America. Although Colombia has been a minor source for coca leaf, cultivation has now reached a commerical scale for cocaine trafficking purposes. The increased evidence of coca paste laboratory activity indicates that many plantings are for non-traditional uses. While coca leaf production is increasing in Colombia, the country's principal role will remain as a processing center and staging area. In 1980, Colombia was the source of 70 percent of the cocaine seized in the United States for which the origin could be identified. Colombia processes approximately one half of the world's cocaine hydrochloride, but the country's share of the cocaine market may decrease as production increases elsewhere.

Florida remains the primary transshipment point within the United States for cocaine en route from South America. Moreover, the majority of the cocaine seized in the United States during 1981 entered at some point in Florida. Intermediate distribution points were Chicago, Kansas City, Detroit, Atlanta, Denver, Houston, Dallas, Phoenix, New York City, and Baltimore. Intermediate cocaine distribution networks often overlap and supply the same cities being supplied by other intermediate points or directly by Florida.

Historically, the first use of cocaine was coca leaf chewing among the Indians of the Andes. It was initially used in tribal ceremonies. Later the Spanish conquerors encouraged wider use among the Indians because of its hunger-deadening effect. The alkaloid of the coca leaf, cocaine, was first isolated in the 1850's. During the next 50 to 60 years, the drug was widely utilized as a local anesthetic and in patent medicines and tonics. Currently, the medical use of cocaine is limited to eye disorders and in certain types of surgery.

Cocaine abuse became widespread in the 1890's. At that time the drug was considered "safe" in that it did not present the physical addiction potential of morphine. However, psychological dependence was then poorly understood. Except for a brief resurgent period in the 1920's, epidemic cocaine abuse waned and virtually disappeared until the mid-1960's. Today, growing popularity of the drug is evidenced by recent large seizures that reflect the all-out efforts of smugglers trying to keep pace with the current demand.

Cocaine abusers have in the past ingested cocaine for the most part by inhalation, a process known as "snorting." To experience a more rapid effect, users have recently become more experimental and frequently inject or smoke cocaine, the latter process known as "freebasing." Another ingestion method, which in the past was almost exclusively used by heroin addicts, is the mixing of cocaine with heroin to enhance the effects. This preparation is commonly known as a "speedball" or "hardball" and is administered by injection.

In the last three years there have been an increasing number of heroin treatment admissions in which cocaine has been listed as a secondary drug: 17.3 percent in 1979; 19.6 percent in 1980; 22.6 percent in 1981.

Estimate of illicit cocaine entering the United States in 1981 (in tons)

Estimated maximum illicit cocaine hydrochloride theoretically available for world use	140–172
Less cocaine hydrochloride not converted because of inefficient production methods, crop loss, excessive cultivation, spoilage, loss in transit, pilferage, eradication, and seizure of prime materials	90
Subtotal	50–82
Less amount seized worldwide	8
Subtotal	42–74
Less cocaine hydrochloride exported to third countries (Europe, Canada, and Latin America)	12
Range of cocaine hydrochloride estimated to enter the U.S. market	30–62

Major indicators reflect continued widespread availability and abuse of cocaine in the United States. During the first half of 1981, national cocaine injuries averaged 837 per quarter. This represents a 50 percent increase over the 1979 quarterly average and an increase of more than 110 percent over 1977 figures.

National cocaine injuries (quarterly average)

Year:	*Number*
1977	397
1978	479
1979	557
1980	808
1981	866

Comparative data on cocaine deaths are as follows:

National cocaine deaths

Year:	Number
1979	58
1980	96
1981	[1] 96

[1] Estimated 1981.

Treatment admissions during the same period also show an increase for cocaine admissions as a primary drug of abuse. This figure rose in 1981 to 3,393 per quarter, from 946 per quarter in 1977, an increase of more than 350 percent.

Cocaine federally funded drug treatment admissions (quarterly average)

Year:	Number
1977	946
1978	1,361
1979	1,961
1980	2,620
1981	[1] 3,393

[1] Based on first half of CY 1981.

Despite the virulence of cocaine abuse shown by these indicators, they probably understate the problem because cocaine, unlike other abuse substances, such as heroin and methaqualone, has been demonstrated to be less toxic and therefore generally less debilitating than those drugs. This, in turn, would cause cocaine, more than likely, to have a higher percentage of nonreported abuse cases.

Cocaine has manifested significant long-range increases in abuse and availability in all geographic areas of the country. This phenomenon suggests an appeal to a broader sociological segment of the U.S. population than is the case for most abused substances. The following table indicates how these increases have been consistent throughout most of the nation during the past five years.

REGIONAL COCAINE INJURIES

[Quarterly average]

	1977	1978	1979	1980	1981
Northeast	234	286	277	468	479
Southeast	58	78	108	118	90
North Central	58	60	85	95	103
South Central	8	13	24	24	39
West	41	44	63	105	155

Retail prices and purities showed little long-range change during the last five years. This becomes more apparent when taking into consideration inflation and the rise in the consumer price index during this period.

COCAINE RETAIL PRICE AND PURITY INDEX

[Per gram]

Year	Price	Purity percentage
1977	$570–720	12.2
1978	$590–650	12.5
1979	$570–780	11.1
1980	$630–710	12.5
1981	$630–700	11.8

This price stability demonstrated that traffickers, while making considerable profits, were also able to meet growing demand despite losses resulting from interdiction at the ports and borders.

The ability of traffickers to meet the growing demand may be attributed to a number of strategic factors that, when taken in combination, are characteristic of cocaine:

High profit margin per size of dosage unit;

Consolidated, established and entrenched trafficking networks;

Broad geographic and sociological appeal in the United States;

Sophistication in smuggling techniques.

The coca production and abuse and availability statistics all suggest a continuing increase in cocaine abuse in the United States. Those figures are supported by recent large-scale seizures, data released by the National Institute on Drug Abuse in March, and data recently acquired in Colombia.

The seizure of 3,800 pounds of cocaine in a cargo shipment at Miami on March 9 was followed by seizures of 1,200 pounds in Louisiana in May and over 600 pounds on Long Island in June. These unusually large shipments apparently are in addition to—rather than supplanting—the traditionally smaller shipments, suggesting a considerable increase in the total amount of cocaine shipped to the United States.

Data released by the National Institute on Drug Abuse (NIDA) on March 9 show that the number of reported cocaine users in the United States more than doubled between 1977 and 1979. This coincides with data given above showing that cocaine-related admissions to federally funded drug clinics have tripled since 1977.

Theoretical maximum cocaine available from coca leaf produced in Peru and Bolivia

PERU

1. *Annual production:* 50,000 hectares under cultivation times 1,000 kilos per hectare equals 50,000,000 kilos of leaf.

2. *Accountable stocks:* 12,000,000 kilos for chewing, kilos exported worldwide plus 2,000,000 domestic use accountable equals 14,000,000 kilos accountable.

3. *Potential unaccountable stocks:* 50,000,000 kilos of leaf minus 14,000,000 kilos accountable equals 36,000,000 kilos potentially unaccountable.

BOLIVIA

1. *Annual production:* 35,000 hectares under cultivation times 1,500 kilos per hectare equals 55,000,000 kilos of leaf (rounded).

2. *Accountable stocks:* 15,530,000 kilos for chewing, 2,000,000 kilos exported worldwide plus unknown equals 17,530,000 kilos annually accountable.

3. *Potential unaccountable stocks:* 55,000,000 kilos of leaf minus 16,000,000 kilos accountable equals 39,000,000 kilos potentially unaccountable.

4. *Reduction to cocaine hydrochloride:*

A. Coca leaf to Coca Paste (Reduction Factor equals 200:1).

36,000,000 kilos of leaf equals 180,000 kilos paste.

39,000,000 kilos of leaf equals 195,000 kilos paste.

B. Paste to Cocaine Hydrochloride (Reduction Factor equals 2.5:1).

180,000 kilos paste equals 72,000 kilos of cocaine.

195,000 kilos paste equals 78,000 kilos of cocaine.

72 metric tons plus 78 metric tons equals 150 metric tons of cocaine hydrochloride.

150 metric tons plus 16 metric tons from Colombia leaf equals 156 metric tons of cocaine hydrochloride.

5. Allowing 10 percent margin of error each way, the 156 metric tons theoretical maximum of cocaine hydrochloride available from coca leaf produced in Peru and Bolivia produces a range of 140 to 170 metric tons.

DIFFICULTIES IN COCAINE ESTIMATES

(By John Bacon, Chief, Strategic Cocaine Unit, Office of Intelligence)

Although cocaine is one of the most widely abused drugs in the United States and diverts an enormous amount of money into the underground economy, the exact scope of the problem—or even a reasonable approximation—has so far eluded the collective estimative skills of government analysts.

Lacking a single convincing method of arriving at an estimate, analysts have been forced to fall back on juggling several different methods. These are as follows:

1. Coca leaf production;

2. Cocaine hydrochloride production;

3. Amount of cocaine in international traffic; and

4. Cocaine consumption.

To arrive at the estimate of coca leaf production, analysts use this formula: Area planted times yield per unit of area, minus accountable licit consumption and loss, gives the maximum amount of leaf available for illicit conversion. Unfortunately, none of the elements making up the formula are known with any degree of accuracy. Estimates of the areas planted in Bolivia and Peru—the two main coca producers—vary widely, and in the rare instances where areas have been measured observation and laboratory analysis suggest widely varying yields. Further, lacking any data at all, analysts arbitrarily set loss (damage to crops, spoilage, loss in transit, etc.) at fifty percent of total estimated production.

The estimate of cocaine hydrochloride production has in the past depended on analysis of informant information and of seized cocaine laboratories. This estimate has, if anything, been even shakier than the crop production estimate. In future, however, a refinement may be possible. Data on the availability of cocaine predecessors—chemicals necessary for the production of cocaine—are at least partly available and should be invaluable in determining maximum amounts of cocaine that could be produced.

Once manufactured, the cocaine must be smuggled out of the producing area. Analysis of seizure data, informant debriefings, and captured records supply some data on the amount of cocaine in international traffic, although it is far from conclusive.

Consumption data would seem to provide, at first glance, the most promising method for estimating the extent of the cocaine problem in the United States. The following formula is applicable; Number of users times amount used equals total amount consumed. (Amount used is defined as frequency of use times average purity.) But, once more, data are lacking to provide a trustworthy estimate.

DEA recognizes the weaknesses of its estimative procedures but believes that with the information now available, and given the current state of the estimative art, we have done as well as is possible. Meanwhile, we hope to continue gathering information that will help to sharpen the estimate and to improve estimative techniques to make them more useful and more credible.

COCAINE TRAFFICKING TRENDS IN EUROPE

(Reprinted from Quarterly Intelligence Trends, Summer 1982)

Cocaine trafficking and abuse have become a serious problem for many European countries in recent years. From 1977 through 1981 the amount of cocaine seized

in Europe increased almost four-fold (from 59 kilograms to 232 kilograms). Moreover, the number of seizure incidents more than doubled in 1981 compared to 1978 (98 versus 48).

Cocaine, long popular among the wealthier segments of society in Europe and the Middle East, has become in recent years increasingly available to other segments of society due to cheaper prices for cocaine and easier travel to and from source countries in South America. The region continues to play a dual role in the traffic in cocaine; it is a consumer area, and a transit point for cocaine destined for other parts of the world. Because of the increasing availability of cocaine and recent changes in trafficking patterns in Europe, a review of the more important aspects of the cocaine trafficking situation is given for 1980 and 1981. During these two years most of the seizures took place in two major transit countries, France and the Federal Republic of Germany, and in the four primary recipient countries—Italy, the Netherlands, Spain and the United Kingdom.

France. Seizures in France rose by 150 percent from about 34 kilograms in 1980 to over 85 kilograms in 1981. During this two-year period France has been the primary point of entry to Europe used by traffickers in cocaine arriving via commercial airlines from South America. Almost all of the seizure incidents reported during the last two years were made at international airports servicing Paris. There was one incident at the Nice International Airport. Information resulting from the seizures made at the airports indicates that much of the cocaine was destined for countries other than France, such as Italy, the Netherlands, and the United States. The quarterly seizures peaked during the first quarter of 1981, and declined later in the year following the intense and successful law enforcement activities of the first quarter. France, however, is a convenient point of entry to Europe, and remains popular with cocaine traffickers.

Federal Republic of Germany. This country is used primarily as a transit point for cocaine destined usually for the Netherlands and Italy. Close to 37 kilograms (96 percent) of the more than 38 reported for the two-year period were seized at the international airport servicing Frankfurt in 15 incidents. The remaining seizures occurred in Berlin, Hamburg, Kleve and Munich. In one instance German authorities seized cocaine which had been smuggled into Hamburg by a South American crew member aboard an Ecuadorean vessel. This was the only incident reported involving cocaine known to have been smuggled to Europe by vessel. The incident which occurred at Kleve involved a small amount of cocaine purchased in the Netherlands by two U.S. citizens residing in Germany.

Spain. Ranking second in the amount of cocaine seized during 1980 and 1981 but first in the number of seizures reported, Spain holds a dual position in the cocaine traffic. It is not only a primary recipient country for cocaine but also a transit country. Spain is used by cocaine traffickers who are often destined for the Netherlands and, more recently, for italy. It is interesting to note that while cocaine traffickers destined for such countries as the Netherlands and Italy enter Europe via Spain, during the last two years there have been an increasing number of incidents in France or at the Franco-Spanish border involving traffickers destined for Spain.

Of the 55 seizure incidents, thirty (55 percent) were made at airports servicing Madrid, Barcelona, and Las Palmas in the Canary Islands. They accounted for about 48 kilograms of cocaine, divided fairly evenly (25 and 23 kilograms respectively) between 1980 and 1981. The remaining 25 seizures (45 percent) took place at locations other than airports, and included the only seizure of a clandestine cocaine laboratory in Europe during 1980. The decline in the seizure total for 1981 is related to the decrease in seizures at non-airport locations (which dropped to about eight kilograms from the 33 kilograms reported during 1980) brought on partially by very successful local enforcement efforts of previous years.

Italy. Seizures made at non-airport locations have been the dominant pattern, particularly during 1981 when less than two of the thirty kilograms seized were at an airport. Cocaine reaches Italy via several routes. A popular pattern involved Italian males who arrived in Paris from Lima and were destined for Italy. After successful French enforcement efforts targeted against Italians arriving from Lima, similar seizures began to occur at the airports servicing Frankfurt and Zurich. Recently, an Italian male, who arrived from Lima and was destined for Milan, was arrested at Las Palmas, Canary Islands. A second pattern in the traffic of cocaine to Italy involves Chileans who usually travel via France or Switzerland and are destined for Milan.

United Kingdom. A principal recipient country for cocaine in Europe, the United Kingdom is also to a lesser extent a transit country. Seizures at airports were about 18 kilograms in 1980, while seizures at non-airport locations were just over half that amount. Seizures at airports dropped by 58 percent from 1980 to 1981, compared with a 16 percent decline in seizures at non-airport locations for the two-year period. On at least two occasions, cocaine destined for India and the South Pacific transited the United Kingdom. Seizures of cocaine destined for other European countries have been made in the United Kingdom. The traffic in cocaine in the United Kingdom is apparently dominated by Britons, as opposed to the other recipient countries where other nationality groups have established themselves, e.g. Chileans in Italy and Colombians in Spain and the Netherlands.

The Netherlands. This is one of the four primary recipient countries in Europe. As with the other three, cocaine is intended for local consumption, or for redistribution to local markets elsewhere in Europe. Also, the Netherlands sometimes plays a secondary role as a transit country. Such was the case in 1981 when a group smuggling cocaine concealed in batteries via the Netherlands Antilles and the Netherlands to the United States was uncovered and immobilized. The 42 kilograms seized in the two-year period are divided fairly evenly between seizures at airports (20 kilograms) and at non-airport locations (22 kilograms). All of the seizures at airports, totaling four, took place in 1980. Traffickers in cocaine destined for the Netherlands have tended to avoid direct travel to that country from South America. They prefer circuitous routes which take them through one or more other European countries—often Spain,, The Federal Republic of Germany, Belgium and Denmark. Seizures reported for the Netherlands dropped to four and one-half kilograms for 1981—a decline of 88 percent. This sharp decline in seizures may be the result of the increased law enforcement efforts in European countries used as transit points by cocaine traffickers destined for the Netherlands, and of successes by Dutch authorities who, for example, seized the only clandestine cocaine laboratory in the region during 1981.

Switzerland, Belgium and Denmark are also emerging as important transit countries. The role of Switzerland, in particular, has increased as traffickers have shifted their patterns of travel. In two instances, Zurich was used as a transit point by smuggling groups which had previously used Paris. Switzerland has been used as a transit point mainly by traffickers destined for Italy. Belgium is often on the route of cocaine traffickers destined for the Netherlands. There are, however, no direct flights between countries in South America and Belgium. Traffickers usually arrive in Belgium via France or Germany. Finally, Denmark is gaining in popularity with cocaine traffickers destined for the Netherlands and for Italy.

COLOMBIA: SOUTH AMERICA'S COCAINE CORNUCOPIA

(A Report by the Strategic Cocaine Unit of the DEA Office of Intelligence)

For the past five years, Colombia has been one of the major illicit drug producers in the world. It dominates the supply of three principal illicit drugs, furnishing at least 50 percent of the cocaine, as much as 75 percent of the marihuana, and about 80 percent of the illicit methaqualone. The movement of these drugs to the U.S. market has increased dramatically in recent years, coinciding with an alarming rise in drug abuse and drug-related injuries.

Widespread abuse is only one of the problems. Cocaine and marihuana are the two top money-makers of the illicit drug trade, producing immense power which is used by trafficking groups to corrupt officials and to disrupt social and economic order in both producer and user countries. Violence accompanies the drug traffic in the United States, the Caribbean, and South America.

Colombia's dubious distinction as a principal drug source country may be attributed to its strategic location on the South American continent, its geographic makeup, and the ruthless tactics of an experienced, well-ordered trafficking community.

COCAINE PRODUCTION AND TRAFFICKING

As both a processing center and a staging area for cocaine smuggling, Colombia is the principal source and major producer of cocaine hydrochloride worldwide. In 1980 Colombia may well have processed as much as 35 metric tons of cocaine; of this total, between 20 and 25 metric tons may have been successfully introduced into the United States. An analysis of worldwide seizures in 1980 indicates that Colombia was the source country for half of the cocaine seized and almost 30 percent of the seizure incidents. In cases where source countries have been identified, Colombia accounted for 70 percent of all cocaine seized in the United States.

There is no precise data regarding the extent of coca cultivation in Colombia. An estimated 3,000 hectares are planted in coca bushes which may produce 2,250 metric tons of coca leaf. Until recently Colombian leaf production was believed to have served a small indigenous population and did not enter the international cocaine traffic. A small and growing amount of coca leaf is now being cultivated for cocaine conversion purposes. Coca cultivation is expanding in the areas of Cauca, Putumayo, Narino, Meta, and Vaupes. Evidence of cocaine paste

extraction laboratories at the growing sites further indicates that this expanded cultivation is grown strictly for the international trade. Although there are numerous non-alkaloid species of coca plants, leaf samples show that the alkaloid content of current Colombian cultivation is indeed sufficient to sustain cocaine conversion enterprises.

Colombia has a great potential for expanding its illicit coca production, and traffickers may do so to ensure a steady, economical supply of coca materials. Even if the land currently under cultivation were not expanded, production would still multiply a existing bushes mature.

The Colombian Government only recently began to focus on the problem of domestic coca production. Enforcement agencies have destroyed some individual fields and continue to do so; however, the government has not adopted a policy for dealing with illicit local coca production and is not currently considering an income substitution program for coca-producing areas. The impact of eradication programs could be significant since fields take several years to mature and represent considerable investments in time and labor. It is important for the government to act before coca cultivation and income become ingrained in the rural economy.

Although coca leaf production is increasing in Colombia, Peru and Bolivia continue to provide the bulk of the coca raw materials. Paste and base for processing into cocaine hydrochloride enter southern Colombia by land, air and water routes directly from Peru and Bolivia or through third countries. Coca deriviatives are then shipped to laboratories near the larger cities, principally Bogota, Medellin, and Cali, where chemicals required to process cocaine are readily available.

Acetone and ether, chemicals considered essential to hydrochloride conversion, are in abundant supply in Colombia but are not produced there in quantity. The United States, the Netherlands, and the Federal Republic of Germany are the principal suppliers to Colombia. Importation into Colombia is legal but far exceeds amounts required for legitimate industrial and commercial purposes.

Information had recently been collected on Colombia detailing imports of ether from 1978 through mid-1981. Ether is a necessary chemical in the production of cocaine. Analysis of the information indicates that well over 90 percent of the ether went to known or suspected sources of ether for cocaine traffickers. During that three-and-a-half year period, 4,595 tons of ether were imported into Colombia. Using a conservative ratio of the ether needed to produce cocaine, half of that much ether could have produced 170 tons of cocaine or an annual average of 42.5 tons for the 1978–1981 period. Previously, it had been estimated that Colombia produced 50 percent or more of the world's cocaine.

Aside from their own tormidable production, Colombian violators also purchase and organize the traffic in cocaine from other South American countries to the world market directly or through Colombia.

As the primary production and staging area for worldwide cocaine trafficking, Colombia's actions against the supply and traffic are critical to the reduction of availability worldwide:

It is the most important buyer of illicit coca grown in Peru and Bolivia;

It is the most prolific producer of cocaine hydrochloride;

It has established organizations whose business skills and ruthlessness have monopolized the most advantageous production, transport, and marketing position in this profitable, competitive business.

DRUG ABUSE AND DEMAND REDUCTION

Though drug abuse in Colombia is not perceived as a major problem by the government or the public, it is the consensus that an increased number of Colombian youth are indulging in marihuana, cocaine, and methaqualone abuse. A Justice Ministry-sponsored survey has shown that drug abuse among youth is much higher than was previously believed. The National Council on Dangerous Drugs, which is responsible for the review of all drug-related laws, resumed operation in March 1981 after almost two years of inactivity. It has initiated a program to reduce domestic demand for narcotics. In theory, the Council has responsibility for setting narcotics control policy in Colombia, but it has been reluctant to get involved in any aspect of narcotics control beyond reduction. Colombians are beginning to accept that marihuana is a dangerous drug. The new awareness and official concern over the domestic drug abuse problem is a change of attitude which might spur the government to more intense interdiction and eradication efforts.

OUTLOOK

Cooperation between Colombian and American narcotics agencies continues to improve as well as among Colombian drug control organizations. Efforts to disrupt active trafficking organizations and routes are increasing, and the success of the enforcement agencies over the past year is partly responsible for a newborn awareness of the problem by the populace and government officials. The overall commitment is still influenced heavily by budget restrictions. In the past few years the public has been made aware of Colombia's importance in the international drug trade and has begun to realize that narcotics trafficking has a destabilizing effect on Colombian social and economic order.

After twenty years of relative political calm, Colombia faces several internal political and economic pressures which will influence the importance that a new administration will place on narcotics control: economic difficulties including an inflation rate of about 27 percent, intensified guerrilla and terrorist activities, and a growing rate of violent crime.

When President Julio Cesar Turbay-Ayala took office in August 1978, he pledged the Colombian Government to several multilateral cooperative interdiction and investigative operations aimed at international narcotics trafficking. There is no indication whether the successor government will continue Turbay's "implacable crusade" against narcotics trafficking.

COLOMBIAN GOVERNMENT INITIATIVES IN DRUG CONTROL

The Government of Colombia has taken the following actions to increase its capability to control the production and trafficking in illicit drugs.

A revised U.S.-Colombian Extradition Treaty has been signed and ratified by both countries. For the first time a civilian Colombian government has agreed to extradite its nationals under specific limited circumstances. The treaty was ratified by the U.S. Government in November 1981 and is expected to broaden U.S. and Colombian enforcement capabilities.

The Colombian Government is studying a Mutual Legal Assistance Treaty which provides for the exchange of information and evidence in criminal, civil, and administrative matters with the United States.

In early 1981 the long-awaited Special Anti-Narcotics Units of the National Police became fully operational and were deployed in all active illicit drug regions. The 900-man organization replaced the army as Colombia's primary anti-narcotics agency.

A full commitment to a herbicidal marihuana eradication program is pending, and no decision is likely until the new government takes office in August of 1982. Coca eradication, meanwhile, is gathering momentum and may establish a precendent for marihuana control.

The 1971 Convention on Psychotropic Substances was ratified by the Congress in December 1980 and signed by the President in January 1981. This action strengthens Colombia's position in curtailing methaqualone imports.

THE PUBLIC POLICY RESPONSE TO THE COMPLEX—COCAINE ISSUE

(By Lee I. Dogoloff, Executive Director, The American Council on Marijuana and Other Psychoactive Drugs)

Scientists and clinicians have clearly established that cocaine use is destructive to the health and well-being of individual users. When the drug is relatively easy to get, as it is today, people will both use it and, in many cases, experience problems as a result. There is ample evidence, both objective and anecdotal, to indicate that cocaine has become a serious problem in the United States.

The Federal Government surveys selected hospital emergency rooms to identify which drugs patients mention when they appear with drug-related problems. In 1973, cocaine was not even listed among the top 50 drugs on that survey. By 1978, cocaine ranked 29th, and by 1981 it was the 13th most frequently mentioned drug. The same annual study also contacts medical examiners, who in 1980 ranked cocaine eighth among substances specified as a cause of death. [Drug Abuse Warning Network (DAWN), National Institute on Drug Abuse.] The National Narcotics Intelligence Consumers Committee estimates that in 1980 approximately 44 metric tons of cocaine, with a retail value of $32 billion, were consumed in the United States. This figure nearly doubled the 1978 estimate.

Headlines such as "Cocaine Is Almost A Way Of Life In Hollywood" (*Dallas Times Herald*, March 14, 1982); "Cocaine Spreads Its Deadly Net" (U.S. News and World Report, March 22, 1982); "FBI Agent Seized on Cocaine-Sale Charges" (*The New York Times*, November 25, 1981), and "Cocaine And The Middle Class High" (*Reader's Digest*, October 1981, condensed from *Time*, July 6, 1981), are becoming all too familiar. While headlines do not always accurately depict reality, the fact that over four million people have used cocaine in the past month and that cocaine-related admissions to drug clinics were up 300 percent in the last five years (Kozel et al., 1982) confirm that the drug is not only gaining in popularity but causing serious problems as well. And just to set the record straight, this is not solely a "West Coast phenomenon." The New York State Division of Substance Abuse Services has announced a 122 percent increase in emergency room episodes, a three-fold (197 percent) increase in cocaine-related deaths, and substantial increases in admissions to treatment for cocaine use

from 1979 to 1980. Denver and Washington, D.C., have also experienced substantial increases, and the number of emergencies continues to rise from a historically high level in Miami.

Today, few observers of the drug scene would deny that cocaine has become a significant health and social issue for our society; the dilemma lies in how to solve this problem. Normally, drug policy analysts look to the source of supply for answers. Cocaine originates in the mountainous regions of Peru and Bolivia where nearly all coca bush cultivation occurs. Ninety percent of this coca leaf production is for illicit purposes, with only ten percent used for domestic chewing, flavoring, and the manufacture of licit cocaine for medicinal purposes. Since it takes nearly four years for the coca bush to reach maturity and thereby produce its leaves for harvest, one obvious solution is to eliminate the plants. Although this sounds easy, there are several reasons why it is not likely to happen in the near future. Both Peru and Bolivia are "developing nations." Because they are poor, drug control has a lower budgetary priority than many other problems. Since the coca bush is cultivated in remote areas, many of which are accessible only by air, monitoring and eradication of the coca bush crop are both rather difficult. For these countries, where poverty and illiteracy are widespread, the funding of costly drug supply reduction efforts assumes less importance.

Nevertheless, in Peru the government views the illicit cultivation of coca as a serious threat to national security. There is also concern about the negative health and economic consequences felt by its people as a result of coca paste smoking. The United States is currently supporting the Peruvian Government's strong resolve to control coca production through a series of pilot projects aimed at crop eradication. Geography, terrain, and the absence of modern ground transportation networks, however, hinder these well-intentioned efforts.

Bolivia shares all Peru's problems but is just beginning to recognize the negative impact that illicit coca production is having on its nation's status within the international community. Although the government is making efforts to shut down the illegal cocaine manufacturing laboratories, negotiations are just beginning with the United States to formulate a crop eradication strategy.

However committed Peru and Bolivia are to eliminating illicit coca cultivation, given even the most optimistic scenario, effective control is probably ten years away.

Since control at the source only holds promise for the long term, interrupting the cocaine traffic seems like the next logical step. Once harvested, the coca leaves are made into cocaine through a crude and simple manufacturing process. These laboratories are found not only in the producing countries of Peru and Bolivia but also in Colombia, the major shipment point from which cocaine is sent to the United States and Europe.

Like the distribution system for marihuana, the cocaine network is broad and diverse. Both large and small shipments enter the United States by aircraft, boat, and human courier. Because the Caribbean is vast and the large coastline affords so many opportunities for illegal entry, interrupting the flow of cocaine into our country is extremely difficult. For example, government officials estimate that about ten percent of the total illicit drugs entering the United States are confiscated each year. Even if that figure could be raised to 50 percent, which is highly doubtful given the resources required to patrol our borders, the trafficking in cocaine would continue. The profits made in the cocaine trade are so enormous that a 50 percent loss still would not provide a financial disincentive to those involved in this lucrative "industry." Thus, a long-term strategy that relies on supply reduction through crop eradication or the interception of the drug either before or after it enters the United States cannot respond to our needs for a more immediate approach.

These realities leave us with little choice. Of necessity, the near-term resolution to the cocaine problem lies in somehow influencing the users' behavior, thereby reducing the demand for this most alluring of drugs.

Based on our experience with other drugs, the elements of a strategy to reduce the demand for cocaine seem to be fairly clear. First, as humanitarians, we must ensure that those individuals who are already experiencing problems with cocaine have treatment services available. Fortunately, although growing, this client population is relatively small and, unlike those dependent on heroin, better able to secure treatment without a major new investment of tax dollars.

Second, past experience dictates that research play a key role in this strategy. It is at this point that the issue starts to become cloudy. Research dollars are severely limited and cocaine is the drug of choice for a limited population. How can we justify the expenditures of scarce resources for this purpose?

From my own perspective, I believe that our experience with marihuana demonstates the importance of scientific research into the so-called "pleasure drugs." Marihuana's unfounded reputation for safety led to enormous problems during the 1970's when "limited" research dollars were focused on heroin.

I am not disputing the tremendous value received from that investment, but believe that as policymakers we neglected marihuana far too long. Today, I think, there are some parallels with cocaine. I would urge a policy that endorses continued research into cocaine. However, research, by its very nature, is also a long-term proposition. What then can be done in the immediate future?

Changing attitudes is the one approach then that appears to hold the most promise in the short term. While not wanting to belabor the relationship with marihuana, from a policy perspective it is clear that this kind of prevention has succeeded in reducing a problem that was completely out of control less than five years ago.

To change attitudes about cocaine requires, first, a new message about cocaine's potential health hazards, and second, a commitment to broadcast that information widely. Both tasks are fraught with problems. Many messages already exist that glamorize cocaine. Not only will the prevention messages have to counter those well-established images, but it will have to convince Americans that some sources of pleasure are dangerous.

To communicate that idea may seem a mission impossible, yet in the interests of the public well-being it must be done. Because cocaine is the most reinforcing or pleasurable drug known, the potential for compulsive use exceeds that of virtually any other drug. When monkeys are offered unlimited amounts of cocaine, they will self-administer it to the exclusion of both food and sex, and finally die. When we link this understanding with the fact that the "at risk" population for cocaine is primarily young, adult males, the implications are serious. The notion of having a large segment of our young adult population impaired by cocaine at a time when many are embarking on career and family roles is unacceptable. Moreover, the fact that may habitual cocaine users devote vast sums of money to the pursuit of this drug, despite other responsibilities, is also cause for concern. The vignettes of the physician and the stockbroker in the recent "NBC White Paper on Pleasure Drugs" are illustrative of this point. I am convinced that if cocaine availability is increased and the price decreased, use will skyrocket. The tremendous potential for abuse, coupled with the destructive impact on careers and families, provide the impetus for a cocaine prevention policy.

As a first step toward influencing attitudes, we must encourage an accurate portrayal of cocaine. Our stance with the media should be one that emphasizes responsibility, not censorship. We need to convince the entertainment industry that it is in the public interest to refrain from portraying cocaine as chic and thereby inadvertently encouraging or sanctioning its use. At the same time that we ask the media to become more sensitive to this issue, we must assume responsibility for communicating the health facts about cocaine. I do not want to minimize the difficulties involved in persuading people that cocaine use is undesirable. To accomplish this, we must convince people that there is a relationship between use and abuse. The notion that "I can handle it—I'm going to use it occasionally and will stay in control" has lured many into using cocaine with disastrous results. The challenge to communicate a message that discourages cocaine use will take the creativity and dedication of both media and drug experts.

Preventing Cocaine Abuse

(By John H. Langer, Chief, Preventive Programs Section, Drug Enforcement Administration)

The prevention of drug abuse involves two approaches. The first is a general one. Prevention of abuse of dangerous drugs, those that are prohibited or controlled and either have no legitimate uses or very specific ones, is a long-range task of education and information. It is the responsibility of those who control drugs and supervise young persons. But there is no cut-off point at which one can say, "This is prevention, but these other activities are intervention or deterrence." In addition to a general effort against drug abuse, reducing cocaine abuse requires measures specific to the drug. These include accurate information on the drug itself, how it is abused, symptoms and effects, sources, illicit markets, and the likely target groups. A prognosis is needed for planning prevention strategies, selecting target audiences, and allocating resources. Finally, a general prevention and public education effort is basic to preventing any type of drug abuse.

Cocaine abuse in the United States has been increasing for the past 15 years. Despite the high cost of cocaine, there has been a steady rise in the rate of its consumption over the past five years, primarily among the affluent middle and upper income classes. Cocaine has been promoted by irresponsible "hyping" among media entertainment personalities, by misleading

press reports about the harmlessness of "recreational" use, and by researchers and health professionals who misinterpret research findings and clinical observation. The damaging influence of the press and broadcast media in disseminating such misinformation can hardly be exaggerated. Although some responsible publications provide accurate information, many others treat the topic superficially and sensationally. Cocaine has become a "status" drug.

The National Narcotics Intelligence Consumers Committee report for 1980 verifies the "status drug" classification of cocaine. Although use among youths from 12 to 17 years old did not increase between 1979 and 1980, the 18-to-25 year age group showed an increase in the two preceeding years. That age group accounts for 60 percent of total cocaine used. The ratio of those who had ever used rose from 19.1 percent to 27.5 percent, those using in the past 12 months rose from 10.2 to 19.6 percent, and those using in the previous 30 days rose from 3.7 to 9.3 percent. These youths are either in college or out of school and are beyond the control of parents and other adults. Unless some specific measures aimed at reaching this group can be devised, or unless the supply of cocaine is cut substantially, this group can be expected to continue to abuse it. The prevention and education measures taken over the past decade that have shown their effectiveness in reducing marihuana use by high school seniors over the past three years cannot be used for these young adults. However, those same measures can be used to prevent those who will move into that age group in the next few years from being involved. This, together with the elimination of the present media and peer group pressures to abuse cocaine, can result in abuse reduction.

Cocaine has not yet been subjected to massive educational and prevention measures that have begun to reduce abuse of other drugs by school-age youth. The subheadlines in the Washington Post reporting a recent study by Yale University researchers read: "Recreational Use Found No Riskier than Alcohol or Tobacco: Heavy Use Enslaving." Letters to the editor by Dr. William Pollin, Director of the National Institute on Drug Abuse, and by the authors protesting this characterization were not given similar visibility. The study, of course, implied no such safe pattern of cocaine abuse. Once again, the media misled the reader.

This careless handling of the facts by the media has had a major impact on society's perception of cocaine. Too many believe, wrongly, that the drug is harmless when used recreationally. Recent deaths and injuries to well-known entertainers have also been reported in the press, and to its credit it has reported accurately the effects of cocaine. Yet it is only the sensational stories about the drug, or the spectacular seizures, which receive media attention. And its purpose in printing is not education but sensation. The Yale research pointed out that from 10 to 20 percent of "recreational" users of cocaine do "become enslaved" and that it is impossible to predict who will be affected.

Another unusual aspect of cocaine dealing and abuse is that because it is a drug of the "well-to-do," most of whom are not involved in other street crimes, police cannot easily infiltrate or recruit informers. Dealers keep the same clientele, many refuse new customers, and even keep prices stable despite illicit market fluctuations.

The dilemma is a serious one. It is difficult to deter cocaine abuse when there is widespread belief that it is harmless if used only occasionally; when its use is encouraged as "chic" by popular entertainers and the media; when researchers and clinicians disagree on the effects of occasional use; when the largest abusing group is comprised of young adults out of school with money to spend; when it is easily available, dealing is done in a semi-protected middle-class milieu, and victims of the drug can usually take care of their own dysfunctions or be cared for by others.

On the positive side, cocaine is expensive, and making it even more expensive by reducing the supply is a first, essential step. This means more effective enforcement. It also, equally important, means greater efforts to reduce coca cultivation in South America, interdiction of supplies before they reach the United States, and confiscation of the assets of drug financiers to eliminate their economic power and thus their ability to finance large-scale smuggling operations. This is a function of federal and international agencies. Without this enforcement and deterrence, prevention and education programs will be unlikely to succeed in the foreseeable future.

The major task of helping parents and educators do their jobs must be supported by a major effort to eliminate the "glamorization" of cocaine by media and entertainment figures. The importance of the President and Mrs. Reagan's personal leadership in the prevention effort cannot be overestimated. This has stimulated, and will continue to encourage, the efforts of parents and others throughout the country who have long sought such support. Turning around entertainers whose smirking references to drug abuse have enraged parents is an important step in reducing easy acceptance of drug abuse. Many young persons have been tempted to experiment, ignoring their parents and peers, whose views are too often neutralized by prevailing media-projected attitudes.

A second important step is to continue to increase drug education as part of school health and safety curricula at all levels. Drug education seems, at last, to be showing results. Because it is a long-term process, it must be continued without letup or the opportunity to reach youth is lost forever.

State regulations and local school district policies and procedures need to be updated to deal with today's drug problems. Without a strong, well communicated and enforced policy for dealing with drug abuse in the schools, they will remain vulnerable and potential sanctuaries for drug sellers and users.

Parents' groups throughout the country have at last won the attention of educators and are insisting that drug abuse and related disruptive behavior be dealt with, not ignored, by the schools. Their efforts have shown results in the reduction of marihuana and a leveling-off of other abuse. School administrators and teachers need no longer feel isolated in their concern and can join parents and community groups in a concerted effort.

The third, and no less critical, need in prevention and education is marshaling of those in the community who have responsibility for youth. Parents' groups are making themselves heard, and many schools are cooperating. But these alliances are fragile and need strong support from the police, schools, civic groups, religious organizations and local business communities. Professional counseling and treatment programs will continue to be needed to help drug abusers. However, the strongest deterrent to drug abuse is a united community determined to eliminate drug dealing and drug abuse. Over the years a permissive attitude has evolved that has permitted the involvement of youth in drug abuse and eroded the quality of life in many neighborhoods. The "head shops" for a decade defied community values until public outrage was expressed and a Model State Law drafted by DEA passed constitutional muster and began to force their elimination.

But all the head shops are not gone, their wares are being carried by other stores, youth still gather before and after school to use drugs, the petty dealer still exploits his friends with marihuana, look-alike drugs, PCP, and even cocaine. In the big cities, heroin dealing continues in and around the schools. New York has 177,000 heroin addicts, according to the most recent study. The fight against drug abuse is far from over. Indeed it can never be over as long as drugs are available and the unscrupulous can exploit the naive and adventurous among our youth.

Youth, however, cannot be considered merely helpless victims. They have responsibilities to themselves, to their friends and families, and to the community. Our overprotective society has misled many into believing that they have somehow been immune from personal responsibility for their own mistakes. Too many 18-year-olds, facing adult justice for the first time, have said, "Why didn't someone tell me?"

Parents' organizations, by implication and by specific action, have begun to address that task. Parents, they say, must require of their children responsible decisions, and behavior. In extreme cases organizations such as "Tough Love" have been formed to help parents learn to control their children when they have gone beyond tolerable limits. Young people are learning to accept responsibility for their own actions before the criminal justice system becomes involved. That, in the last analysis, is basic education for adulthood and citizenship.

The grassroots movement against drug abuse, spearheaded by over 3,000 organizations of parents, is the most promising and potentially effective drug abuse prevention effort mounted in the past decade. It has been supported by DEA, by NIDA, by two successive administrations in the White House, and it has grown into an important factor in the national prevention effort. These organizations have concentrated their efforts on marihuana, because that is the major drug of abuse among young children, and one of the "gateway" drugs that involves youth in drug abuse and the drug subculture. However, the increase in cocaine abuse has not escaped notice, and the appearance of another drug among the many already menacing our communities should be sufficient to stimulate action.

Mr. DORNAN of California. Mr. Speaker, this particular series of articles is called Counterattack on Cocaine. It includes, "The Strategy of Enforcement," by Ronald J. Caffrey; "International Initiatives," by Dominick L. DiCarlo, who served almost two decades in the New York State Legislature, a fine Assistant Secretary of State for Narcotics Matters. He is not just one of the finest, he is fantastic.

Another article is entitled "Health Hazards of Cocaine," by Sidney Cohen, M.D.

Another article, "Intellingence Trends, the Growth of Cocaine Abuse, Cocaine Trafficking Trends in Europe."

The jet setters of Europe are doing everything we do because now their gross national products, in aggregate, is more than the United States of America, so they have money to burn in spite of a recession. Unfortunately, it does not go to the poor people of our country. A lot of money is burned up, $80 billion worth.

As the President once said, if we could get income tax cheaters to stop, that is $100 billion; if we could stop the cocaine trafficking, that is a low figure, $80 billion, because who knows how many man hours are lost from death, from drunkenness, broken marriages, divorce, kids screwed up because their parents split up in their tender years when they need role models and guidance.

There is not a person with any econometric study ability that could ever put the ultimate price tag on the results of narcotics in this country. So let us just use the $80 billion. That $80 billion, and the income tax cheaters, that is the whole deficit of this country, and there are the problems of this country solved by just two issues, the cheaters on income tax and the cheaters in illegal narcotics.

□ 2210

Another article is on Colombia: South America's cocaine corruption. It does not mention the attempted murders of our two drug enforcement agents down there, Charlie Martinez and Kelly McCollum. I wish that agency had a Congressional Medal of Honor to give. I have never heard a more heroic story of survival, including some of my friends from Vietnam who crawled on their bellies for 30 days after being torn up, bailing out of airplanes. I do not know how any of them walked 12 miles with three 45-caliber slugs in them, a gun designed in the wars in 1911 to knock human beings down and kill then with one bullet.

"The Public Policy Response" is an article by Lee I. Dogoloff, who has appeared many times before Lester Wolf's committee when our former fine Member, great Member, was chairman of our Narcotics Committee, and has worked very closely with Chairman LEO ZEFERETTI.

The final article is, "Preventing Cocaine Abuse" by John H. Langer.

Mr. Speaker, I have one blind quote. As I said, I do not want to get into a contest with someone who has said some unfortunate things, but here is a quote from one of the more prominent actors on the evening news in politics. He said that in his opinion cocaine was not a life-threatening substance. He said he was against it; he saw that it hurt lives, but it was not like PCP. Well, there are people dying all across this country, not only speed balling like John Belushi, mixing it with heroin, but there are people literally dying from just cocaine use alone. They have become so addicted that the plastic surgeons in the Los Angeles area are having a heyday with people who are rotting out through the cocaine substance, snorting it through their nose, their septums and their nasal passages, and that is why some people are turning to the needle, injecting it directly into their veins.

So, I asked this prominent actor, "Let's he and I debate Nicaragua and poison gas in Afghanistan, and debate some other areas, but let's agree to agree on this issue, and let him be man enough and humble enough to say, 'I was wrong on cocaine and I learned it within the year when a comedic genius who had turned into a fine character actor, John Belushi, died because of cocaine.' "

We also have an Academy Award winning actor, while I was in South America, who was indicted for cocaine. This man was a role model to a lot of young people because he was the youngest man ever to win an Academy Award since Marlon Brando. He is in his twenties. I will not mention his name here in the hopes that, as a role model, he will see the light and begin to make, with his God-given acting talents, commercials, 30-second spots to convince other young people that all of this stuff kills. It kills a lot of innocent people on the highways, and "that's the name of that tune."

TRIBUTE TO KEN HOLLAND AND JOHN LIGHT NAPIER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPENCE) is recogized for 60 minutes.

GENERAL LEAVE

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SPENCE. Mr. Speaker, I welcome now the opportunity to pay tribute to my friend and colleague from South Carolina, the Honorable KEN HOLLAND, and to recognize him upon his retirement after nearly a decade of dedicated service to this House.

His intelligence, competence and insight are unmistakable to all who have known and worked with KEN. Indeed, his exceptional ability to comprehend and master complex issues has won him the enduring respect of his colleagues in the House, and on the Ways and Means Committee, and has earned him some of the toughest tax-writing assignments of this Congress.

KEN has brought to these tasks the same untiring energy, courage and determination with which he has addressed every major goal in life from the establishment of his journalistic and legal careers in South Carolina to his constant and dedicated service to the people of his district and State.

Immediately upon his first election in 1974, KEN began to distinguish himself as a powerful and capable proponent of the American textile industry which is so vital to the economic health and well-being of our State, and of the Nation as a whole.

Under his chairmanship, the fledgling Textile Caucus was molded into a strong cohesive force speaking for the real interests of our region and the industry, and fighting for fair and equitable trade practices in the world marketplace. He has, as many of you know, been the author of major legislation to make such trade practices a working reality.

The attributes of intelligence, energy and honesty are both extraordinary, and yet common, to many of the truly outstanding men and women who have served this body. Certainly, KEN is one of these individuals. But he is unique, beyond this, in the personal style that makes working with KEN HOLLAND a memorable experience and a pleasure.

They say that wit and wisdom are born with the man. And, over the years, I have served with very few who had a greater capacity to make true humor and wit the vehicle for wisdom and perspective.

As a poet and a pundit, KEN has a rare gift for communicating the great seriousness of conducting the people's business while, at the same time and with deep affection, revealing the vanities and visions which make the Members of the House just human and as noble as the citizens they serve.

As many of you may also know, KEN's heroes have always been country music singers and he is a pretty fair one himself, as the members of the Boll Weevil Jug Band can attest. In the words one Nashville great used to describe Jerry Jeff Walker, KEN's a poet and a prophet. He is also a picker—of the guitar, and a pusher—of the causes he believes in for his constituents and his country.

KEN has kept faith with his own principles and, in particular, his own determination that no request of his State, his constituents, or his colleagues be denied. He has been an honorable ally, a worthy opponent, and a most entertaining and talented colleague. He leaves behind a broad circle of friends in both parties and all

of us will be diminished by his departure.

I have no doubt, though, that the qualities which have marked his service here will bring him success and satisfaction in all his future endeavors. To him and to his lovely wife, Dianne, and their family, I wish Godspeed and good fortune in whatever the years may bring.

Mr. STOKES. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Ohio.

Mr. STOKES. Mr. Speaker, I thank my distinguished colleague, the gentleman from South Carolina and the ranking minority member of the House Committee on Standards of Official Conduct, Mr. SPENCE, for reserving this time to honor our friend and colleague—KEN HOLLAND. When KEN HOLLAND completes his career in the House at the end of the 97th Congress, this Congress and the Nation will be losing an exceptionally able and hardworking legislator.

Mr. Speaker, I have had the pleasure of working closely with KEN HOLLAND on the House Committee on Standards of Official Conduct, of which I am the chairman. As all of my colleagues know, this committee has been faced with some difficult questions and investigations over the last few years. The work of the committee has become an awesome and often unpleasant task for the members.

However, in Congressman KEN HOLLAND, I always found a man dedicated to the task of dealing efficiently and effectively with every issue brought to the attention of the House Committee on Standards of Official Conduct. He was always in attendance at every session of the committee. KEN always offered valuable insight into the committee's deliberations. In fact, he made our often difficult investigations easier because of his consistently good preparation, legal expertise, and ability to analyze complex situations. KEN's keen legal mind enables him to pierce the collateral issues and go right to the crux of an issue.

It is for this reason that I appointed KEN to chair a task force on revision of the House rules relating to the committee's rules. He has spent the greater part of this year on these rules and hopefully as a result of his painstaking efforts, our committee will be able to recommend some very important and much needed revisions in our rules to the 98th Congress.

Mr. Speaker, the same kind of attention to fine details and impeccable preparation applies to KEN HOLLAND's approach to his other committee assignment. He is a member of the powerful House Ways and Means Committee and serves on the Subcommittees on Select Revenue Measures and Health.

Through this committee assignment, Congressman HOLLAND has been a valuable asset to the people of not only South Carolina's Fifth Congressional District but also the entire State. Meticulously reviewing every legislative proposal submitted to the committee, KEN has worked vigorously to protect the textile industry in South Carolina from the threat of unfair foreign competition. On numerous occasions, KEN HOLLAND has come to the rescue of the textile industry in his home State.

In fact, Mr. Speaker, KEN is the outgoing chairman of the Congressional Textile Caucus. Members of that caucus can attest to the vigilance with which KEN HOLLAND negotiated special considerations for the domestic textile industry at the time the House considered the bill lowering trade barriers between the United States and other countries. The ability to deliver needed services to the people of his State has been the hallmark of Congressman HOLLAND's career in the House.

It is with those thoughts, Mr. Speaker, that I thank FLOYD SPENCE again for reserving this special order to honor one of the most dedicated men in this body—Congressman KEN HOLLAND. He has indeed distinguished himself in the House during his four terms and has amassed a list of achievements which will stand as a lasting tribute to him for many years to come.

Mr. SPENCE. Mr. Speaker, one of the most talented young Members of this body is JOHN NAPIER of the Sixth District of South Carolina. While I am saddened by this occasion, I count it a great privilege to join my colleagues in honoring this outstanding South Carolinian who will be leaving us at the end of this session.

Although JOHN is completing his first term as a Member of Congress, he has been an unusually skilled and capable freshman, far more knowledgeable than most in the institutions and purposes of Congress, having served on the staff of Senator STROM THURMOND and as minority counsel to the Senate's Special Committee on Official Conduct. In that capacity, he was instrumental in creating the U.S. Senate code of ethics.

JOHN also served as minority counsel to the Senate Veterans' Affairs Committee for nearly 3 years. On coming to the House, he put that experience and his own personal intelligence and diligence to work as a member of the House Veterans' Affairs Committee. He has also served admirably another critical interest of his district and State as a member of the Agriculture Committee.

In a spirit truly characteristic of the thoroughness and dedication with which he approaches every task, JOHN sought and found opportunities to serve his party as an assistant regional whip, and his region as the chairman on a special sunbelt caucus task force on preserving the maintenance and competitive ability of the South and the Nation's small- and medium-sized ports.

During the 97th Congress, JOHN has proved extraordinarily effective in guarding the interests and concerns of the people of the Sixth District of South Carolina. He has worked tirelessly to procure funding of Federal highway and beach erosion studies which will aid his district's important tourism industry. He has played a key role in forging a bipartisan coalition to retain the price support program for tobacco and in expediting funding for needed construction in Myrtle Beach Air Force Base.

While compiling one of the highest voting and attendance records in the delegation, JOHN has also offered thoughtful legislation to improve services for veterans and to aid the Nation's ailing housing industry and hard-pressed home buyers. He has fought, as well, to aid his district's steel industry in the battle against foreign competitiors.

This would be a remarkable list of accomplishments for the most senior Members of this body. It is then all the more to JOHN's credit that he has never swerved from his own natural modesty and unfailing willingness to do whatever is asked of him by his constituents and his colleagues.

His brand of patience, courage, and ability is rare and will be sorely missed by this House. I am gladdened by the certainty, though, that JOHN will continue to use these attributes for the good of our State and Nation wherever he goes and in whatever pursuits he undertakes. And I am confident that his friends and neighbors will recognize, and utilize them throughout his coming career, be it in public or in private service.

It is with genuine fondness and deepest appreciation that I bid him and his delightful wife Pam farewell for a time and pray for them God's greatest blessing for the future.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I yield to Mr. EMERSON.

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding. I want to take this opportunity to express my own gratitude for the service of JOHN NAPIER in this body.

We came to Congress as freshmen 2 years ago. We both fought very diligently to serve on the Agriculture Committee, where it has been my pleasure to be his seat mate. I can testify by working as closely with him as I have on many matters as to his effectiveness, his honest and thorough representation not only of his district, but

for all the people of South Carolina and the country.

It has been a real privilege for me to have been able to work with him as closely as we have on the Agriculture Committee. Moreover, my wife Jo Ann and I have gotten to be very good and close personal friends with JOHN and Pam. We, too, are saddened to see him leaving on this occasion. But, we do look forward to the future and to many close associations with him in the future.

We want to take this opportunity to wish both of them the very best of everything as they return to South Carolina and as JOHN resumes his career as a member of the bar.

Mr. SPENCE. I thank my colleague very much for his comments.

● Mr. FORD of Michigan. Mr. Speaker, I will miss KEN HOLLAND as both a friend and a colleague when he retires at the end of the 97th Congress. A respected Representative in Washington, KEN has ably served the people of both the Fifth District of South Carolina and the United States. Upon his arrival in the 94th Congress, KEN easily gained a grasp of the intricacies of the legislative process and the diversity of issues confront the Congress.

After his election, KEN gained a seat on the all-important Committee on Ways and Means. He is the senior Democrat on the committee from a textile district and has had a seat on the Trade Subcommittee. From this position, KEN became the leading spokesman for protecting the domestic textile market from being undercut by cheap foreign labor. Members on both sides of the aisle will miss the dedication and knowledge of KEN HOLLAND.●

● Mr. RUSSO. Mr. Speaker, you know, where I come from they warn you about country lawyers. It is a good warning because you learn, if you start off a little too smart alecky, big-city cool, you are going to find yourself real tickled over the good price you got on the icebox for your trip to the North Pole. You will be convinced you won.

Now Representative KEN HOLLAND came here with a reputation as a talented attorney and his work in the House proved it was a reputation well-deserved. He has been a most talented legislator as well as one of the people you knew you could count upon, whose word was good. And, as with some of my other Southern colleagues, I learn again that a soft-spoken manner may belie the inner toughness of Palmetto bark and the stick-tuitiveness of 3-day-old grits.

I admire KEN greatly. He is a delight to know as a human being,— charming and gracious and dependable. He has my respect because he is committed to what he underakes; he is a man of integrity and strong character. Certainly the folks of South Carolina can be very proud of him and the Congress can count itself fortunate to have had the use of his talents. He will be greatly missed here and I join with my colleagues in wishing him continued success.●

● Mr. GINN. Mr. Speaker, it is a pleasure to join with the many friends of KEN HOLLAND to wish him well on the occasion of his retirement.

KEN and I have developed a very close friendship during his 8 years in the Congress. Our States are neighbors, and he has been a good neighbor and colleague to me personally.

Our friendship has grown and I know that it will continue to grow in the years ahead. Beyond even that, my personal respect and admiration for KEN is very high.

As you know, Mr. Speaker, I am retiring from the Congress myself this year after 10 years' service. In that time, I have been privileged to make strong friendships among my colleagues.

KEN stands out among those friends. He does so because I have seen him tested under fire.

KEN is not a man who will dodge an issue. We all know that a few times each year, an issue or a vote will come before us for which there is no easy decision. We know that there are times when our abilities to lead are put to the test.

Some Members may take the easy way out. They may test the political winds of the moment and cover their actions in political rhetoric. But others, and KEN HOLLAND is prominently among them, never lose track of the fact that they were elected to make the hard decisions, not dodge them.

KEN stands out among us, Mr. Speaker, because he has the knowledge to find the right path, and the courage to stay on it. He does not run when the political shots are fired. He stands fast for what he believes in, and he is a respected and articulate spokesman for his cause.

KEN's greatest contributions to our membership have been in the complex issues of taxation, finance, and trade. He has applied himself to mastering the public policy issues involved in those areas. He has been generous with his time and talent in helping me and others take advantage of his expertise.

My good friend from South Carolina is a man who I have come to know as someone who I can rely on. I trust his judgment, and I trust his character.

There are Members among us who lead, and Members who follow. KEN HOLLAND is a leader today and he will always be a leader in whatever career and endeavor he may choose to follow in the future.

It is an honor to have served with him, and it will be an honor to continue to rely on his advice and wisdom for years to come.●

● Mr. FOUNTAIN. Mr. Speaker, I would like to take a moment and add a few words of praise in honor of our two distinguished colleagues, KEN HOLLAND and JOHN NAPIER from South Carolina.

Being a resident of South Carolina's neighboring and sister State of North Carolina, I can firmly attest to the fact that we have been fortunate indeed to have had such hard working and dedicated men as KEN and JOHN in this legislative body.

Although they are members of different political parties, KEN HOLLAND and JOHN NAPIER have both served South Carolina and the entire Nation in an exemplary manner.

KEN has been a leading member of the important House Committee on Ways and Means for a number of years, and he is the senior Democrat on the committee from a textile district. KEN has done an outstanding job on that committee's Trade Subcommittee, where his work has been of great vaule.

I come from an area where textile are vitally important, and KEN's help on textile issues has been invaluable. That expertise will be invaluable. KEN has played a vital role on a number of fronts, and I am proud to call him my friend. He is one of the ablest Members of the Congress. Even though I myself am leaving after 30 years here. I hate to see KEN leave. But my guess is that he may one day be back.

JOHN NAPIER has served a shorter time in the Congress, but I cannot recall a time when a freshman representative has had such a positive impact for his State.

JOHN played a difficult and extremely important role in the battle to preserve and strengthen the tobacco program—without his hard work together with a few others of us, we might very well have lost this crucial program.

Mr. Speaker, these two outstanding young men have served their State and Nation with devotion, unselfishness, and with great distinction. The 98th Congress will sorely miss their expertise and congressional abilities.

I hope both KEN and JOHN will continue to serve in other capacities. America needs the type of solid leadership which both men can provide.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to add my own thanks and best wishes to the others being offered to my good friend and colleague, JOHN L. NAPIER.

I have had the pleasure of working on the Veterans' Affairs Committee with JOHN NAPIER during the 97th Congress. This association brought me the good fortune of having the opportunity to work closely with him.

As you know, Mr. Speaker, the Veterans' Affairs is for the most part a bi-

partisan committee, dedicated to the needs of those who have served our great Nation. Early in his tenure, JOHN won respect on both sides of the aisle. As one of the younger members of the committee, JOHN provided me, as well as the other committee members, with priceless and immeasurable knowledge on the many issues that come under the jurisdiction of the committee. He brought with him a voice of experience emanating in part from his tenure with Senator STROM THURMOND, and their work together on the Senate Veterans' Affairs Committee.

As colleagues on the Subcommittee on Compensation, Pension, and Insurance and the Subcommittee on Hospitals and Health Care, I have watched JOHN tirelessly tackle the issues that have meant so much to the well-being of our veterans.

JOHN also maintained a unique relationship of mutual respect with the committee staff members. He was extremely well-liked and known for his kindness. After serving together on two subcommittees, I can say his thoughtful insight and dedication will be sorely missed.

Mr. Speaker, JOHN NAPIER has made valuable contributions to our Congress and to the history of this country. I have great faith that he will proceed to serve his State and Nation with distinction.●

● Mr. ADDABBO. Mr. Speaker, I am pleased to join my colleagues today in honoring our friend and colleague, KEN HOLLAND, who will be leaving us at the end of this Congress.

KEN has served his constituents, the residents of the Fifth Congressional District of South Carolina, with distinction and dedication, and will be missed by them as well as this body. KEN was elected in November 1974, and will be remembered most for his tireless work on the Ways and Means Committee. As a member of this committee, KEN was given the enormous assignment of writing the revisions in the Democratic alternative to the 1981 tax bill, where his expertise in personal taxes proved a vital asset. In addition, KEN has served as chairman of the Textile Caucus, where he has pushed substantive legislation protecting the textile industry from import competition, and as a member of the Steel Caucus.

In a lighter vein, KEN will most certainly be missed for his sense of humor, and his talents as a poet and musician. As anyone who has heard the Boll Weevil Jug Band can attest, KEN's status as a country-musician has been firmly established. I join my colleagues in wishing KEN the best of luck in all his future endeavors.●

● Mr. GUARINI. Mr. Speaker, I rise to join our colleagues in praise of our friend from South Carolina, KEN HOLLAND, with whom I have worked on the Select Revenue Measures Subcommittee of the Ways and Means Committee. In addition to our committee work, I have had the pleasure of working with KEN on several bills which he and I cosponsored.

When I first joined the Ways and Means Committee as a freshman Congressman in 1979, I soon learned that KEN HOLLAND not only had a thorough understanding of the complex world of tax legislation and its ramifications, but that he was also willing to share his knowledge with new committee members. I very much appreciate the insights he gave me when I first came to the committee.

KEN HOLLAND has always been a leader in every sense of the word. The personal abilities which make up leadership were clearly in evidence last year when the Economic Recovery Tax Act of 1981 came to Ways and Means for its first House test. This was a period of diversity and discord, for we all remember the strong opinions registered on either side of this issue. KEN HOLLAND was a calm, reasoned voice during this time of contentious debate. Many members of Ways and Means sought his views. I shall always remember his grace, wisdom, and talent for leading, particularly during that period.

KEN's talent for leadership and knowledgeable discourse is well complemented by the keen sense of South Carolina humor he uses to color his commentary. That humor would cut the seriousness of the moment and was very much appreciated by his colleagues.

I offer KEN my warmest best wishes as he moves from the creation of law to the practice of law. I know we shall all miss him, for we are losing one of our most astute and accessible colleagues, he is a true American.●

● Mr. WHITLEY. Mr. Speaker, I want to join my colleagues in extending to my good friends, KEN HOLLAND and JOHN NAPIER, my very best wishes as they leave the House of Representatives to return to private life.

Both have served in an outstanding fashion and have been a credit to their districts, to their State and to themselves.

KEN brought wisdom, good sense, and a balanced approach to his duties and responsibilities as a member of the House Committee on Ways and Means and as chairman of the informal House Textile Caucus. He will be missed, and the House is a better place for his having served here.

JOHN NAPIER was a truly exceptional first-term Member and did yeoman duty in helping defend the tobacco price support and production control program when it came under extremely heavy attack during his tenure as a member of the Committee on Agriculture and its Subcommittee on Tobacco. It was my pleasure to work closely with him in these activities and also to be personally associated with him as we often flew on the same airplane in traveling back and forth between Washington and our congressional districts.

I wish to both KEN and JOHN Godspeed and fair winds as they change to new fields of endeavor. They will be respectfully and fondly remembered here.●

● Mr. MAZZOLI. Mr. Speaker, Representative HOLLAND from the Fifth District of South Carolina has been a conscientious and able Member of the House. KEN is a man of ability and skill and he has rendered a great service through his efforts. I wish him and his family much success in the future.●

● Mr. ANNUNZIO. I rise to join with my colleagues in paying tribute to the Honorable KEN HOLLAND, who has been a dedicated Member of the House of Representatives for the last 8 years. His tireless efforts on behalf of his constituents in the Fifth District of South Carolina, and on behalf of the citizens of the United States, are both respected and admired, and are most worthy of recognition.

Before coming to Congress, KEN served our country in the Army, and practiced law. He also was a member of the South Carolina Highway Commission from 1972 to 1974.

KEN HOLLAND has served in the Congress since 1975 with diligence and distinction as a member of the Subcommittee on Select Revenue Measures and the Subcommittee on Health of the House Ways and Means Committee, and as a member of the House Standards of Official Conduct Committee. He also has a record of outstanding achievement as the chairman of the Congressional Textile Caucus, and as a member of the Congressional Rural Caucus, a member of the steering committee of the Congressional Travel and Tourism Caucus, and as a member of the Congressional Steel Caucus.

KEN is a fine legislator, and a Congressman of compassion, courage, and patriotism, who has provided exemplary service to his constituents, and to the citizens of our Nation for the past 8 years. He will be missed by those of us in the House of Representatives who have had the pleasure of working with him.

I extend to KEN HOLLAND my best wishes for continued success in devotion to the highest principles.●

● Mr. SAM B. HALL, JR. Mr. Speaker, It has been said again and again that far too many Members of the body are retiring or seeking new horizons at an increasingly younger age. My good friend, KEN HOLLAND, is a case in point. After strong, effective representation for the past 8 years, he has decided to leave the House at an age in which traditionally Members of Con-

gress are being elected for the first time.

I am truly sorry that KEN HOLLAND is leaving. He has been a voice of moderation, a person always willing to listen to both sides of an argument. His service on the Ways and Means Committee has been exemplary, and I have come to rely on his expertise on the tremendously complex issues that come under the committee's jurisdiction.

His work as chairman of the Congressional Textile Caucus has been of great benefit to the millions of people whose livelihood in one way or the other is dependent on this industry. Cheap low-wage foreign imports have put an incredible number of our textile employees out of work, and a major force in stemming the tide of these imports is KEN HOLLAND. Textile employer and employee alike will be losing one of their best friends in Congress now that KEN HOLLAND is leaving.

As all of us know, KEN HOLLAND has a ready and quick wit. He is not a rancorous person. On the contrary, I have not run into anyone who did not have a genuine regard for him. He is a southern gentleman in the truest and finest sense of the word. I only wish that he would have decided to remain in Congress.

In the years ahead I predict we shall continue to hear and see good things from KEN HOLLAND. His personality, charm, good manners, keen perceptions are attributes that KEN HOLLAND will always bring to an association. I wish him well.●

● Mr. SENSENBRENNER. Mr. Speaker, at the end of this Congress, after four terms serving the Fifth Congressional District of South Carolina, Congressman HOLLAND has chosen to retire. I would like to join with my fellow colleagues in expressing my appreciation for having the opportunity to serve with KEN.

His dedication and concern for his district is reflected in his participation on the Congressional Textile Caucus, of which he is chairman. On this caucus, as well as on the Ways and Means Committee, KEN has worked hard to protect the textile industry, which is the bread and butter of the Fifth District. We can all learn how to better represent our constituents by taking note of KEN's activities in Congress.

The people of the Fifth Congressional District of South Carolina have lost an effective spokesman and representative. We honor KEN and wish him only the very best in the future.●

● Mr. RAHALL. Mr. Speaker, I am happy to join my colleague from South Carolina (Mr. SPENCE) in this special order for KEN HOLLAND. KEN, who has served his country, State, and district for 8 years with great dedication, I am sorry to say will be retiring from the Congress at the end of this session.

KEN HOLLAND is a man who speaks his mind, honestly, and frankly. As a member of the Ways and Means Committee, he has pulled no punches in his efforts in support of the industry which is so important to his Fifth District of South Carolina—the textile industry. He has fought unfair competition from foreign producers from his position on the Trade Subcommittee, and has further championed this cause as chairman of the Congressional Textile Caucus.

On an issue that takes even greater courage, KEN HOLLAND has made it a point to explain the financial hardships of being a Member of Congress.

KEN HOLLAND will certainly be missed by his colleagues in this House, and will be missed by the people he has represented since 1974. His career here has been unfortunately short, but it has certainly been one of accomplishment and I wish him the very best in his future endeavors. Our personal friendship shall remain no matter which avenue our careers may follow.●

● Mr. MURTHA. Mr. Speaker, with the retirement of KEN HOLLAND we will be losing one of the true leaders of Congress.

KEN has always been in the forefront of helping to solve the difficult problems facing Congress. During the 1981–82 tax-cut debate, KEN's leadership and skills were essential in finding a reasonable solution that maintained the overall fiscal integrity of the Nation.

KEN has been an eloquent spokesman for South Carolina and a dedicated member of the Ways and Means Committee. He has never avoided the tough issues; he has always been willing to work for what was best for the Nation.

His retirement takes away from Congress one of its outstanding Members. While he will be missed, I know I join with my colleagues in wishing him well, and thanking him for his outstanding service to the House of Representatives and the Nation.●

● Mr. BROYHILL. Mr. Speaker, when the 98th Congress convenes in January, two of our colleagues from South Carolina will not be with us. I am speaking of KEN HOLLAND and JOHN NAPIER.

It is with deep regret that I see these two outstanding Members of the House of Representatives returning to South Carolina.

KEN HOLLAND has been a tireless leader in his important role as the chairman of the Congressional Textile Caucus. It has been my privilege to serve with him as the vice chairman. KEN has always played it down the middle and has been a voice of moderation. He has been most effective and productive in his legislative activities, and his office has provided good constituent service for the people back home.

JOHN NAPIER is one of the brightest and most articulate freshman Congressmen I have known, and I regret very much that he was not reelected. He was running in a very tough district with an overwhelming registratin against him. However, he ran a strong race.

Louise and I will miss JOHN and Pam. They are fine people and we need more of their type in the Nation's Capital. JOHN has been an excellent Representative. Honest, fair, energetic, effective—these are just some of the attributes and adjectives I think of when I think of JOHN. I will miss him, and the Nation will be much poorer for his not being with us next year.●

● Mr. WOLF. Mr. Speaker, I join my colleagues today in paying special tribute to a fellow freshman classmate in the 97th Congress, JOHN L. NAPIER.

I deeply regret that JOHN will not be in the House when the 98th Congress convenes in a few weeks for over the past 2 years, he has distinguished himself as a hardworking, dedicated Member of this institution.

He is a man of intellect, ability, and unlimited potential whose leadership abilities won him a position in his first term as an assistant regional whip. JOHN NAPIER'S road to Congress included years of service with Senator STROM THURMOND and legislative counsel positions with several Senate committees.

He has dedicated most of his working life to serving the public. This Nation needs bright, young leaders such as JOHN NAPIER and I hope his future includes a role in public service.

It has been a privilege to serve with JOHN in the 97th Congress and I wish him success in the years ahead.●

● Mr. SENSENBRENNER. Mr. Speaker, at this time I would like to join with my colleagues in thanking Congressman JOHN NAPIER for his contributions to this institution.

While JOHN only served one term in the House of Representatives, he asserted himself in committee and on the floor to make his presence well known. JOHN was the consummate Congressman, being knowledgeable on all national issues but, at the same time, representing the parochial interests of his Sixth District. JOHN'S assignment to the Agriculture Committee enabled him to better serve the needs of his rural district. I am sure the tobacco and cotton farmers of the Sixth District and the entire State of South Carolina would not have faired so well on the 1981 farm bill had JOHN not fought on their behalf.

JOHN, my appreciation for your service to Congress and your constituents.●

● Mrs. HOLT. Mr. Speaker, our colleague JOHN NAPIER of South Carolina will not be returning for the 98th Congress. We will miss his wit and personable nature, but more importantly, we will miss his expertise and abilities. Serving as a member of the House Agriculture Committee, JOHN grasped the complex issues of regional agriculture and was most able in his efforts to balance the needs of his native South Carolina with the interests of other States. He is also well known for the work he performed in the other body, while on the staff of South Carolina's senior Senator. We will all miss JOHN and I wish him the very best in his future endeavors.●

● Mr. WEBER of Minnesota. Mr. Speaker, this body will lose a great representative of the people when JOHN NAPIER leaves at the end of the session.

JOHN has been a tremendous voice for rural America. I have worked closely with JOHN while he served on the House Agriculture Committee. He fought tirelessly to defend farm interests. And on the Subcommittee on Conservation, Credit, and Rural Development, JOHN was a champion for the rural cooperatives, working for a strong and vibrant REA program.

JOHN NAPIER not only worked for the people of this Nation, but he also took time from his busy schedule to meet constituents from other districts. I can remember that on two occasions JOHN came to meetings I sponsored for Minnesota Rural Electric Cooperative board members and general managers. At both meetings JOHN spoke about his work on the Agriculture Committee and our relationship as colleagues. His comments are still being talked about back in Minnesota. And I will never forget that he took the time to stop by.

JOHN has been more than just a Member of this body. He has given himself to the people of this Nation and has worked for principles and ideas which he believes in. He will be greatly missed.●

● Mr. HEFNER. Mr. Speaker, Congressman KEN HOLLAND of the Fifth District of South Carolina has become a special friend and colleague of mine in the Congress, and I want to take a moment to express my admiration for his efforts as he prepares to retire from the House.

Congressman HOLLAND and I were elected to the House in the so-called Watergate class of 1974, and we have worked together since then for the common goals of the two Carolinas. Both of us have served as members of the Congressional Travel and Tourism Caucus and the Congressional Textile Caucus. We have often worked together on projects for the Textile Caucus, of which he has served as chairman. I am extremely proud of the fact that both our districts have benefited from Congressman HOLLAND's leadership.

On occasions he has visited my district to say good things about me and my own work in the Congress. For those visits and his friendship and counsel, I will always be grateful.

Congressman HOLLAND has been successful at every endeavor he has ever undertaken. I know he will be immensely successful as he returns to his private law practice and private life. I wish him the very best.●

● Mr. BIAGGI. Mr. Speaker, I would like to take this opportunity to pay tribute to one of our colleagues who will be leaving this body next session—KEN HOLLAND. KEN has served the people of the Fifth District of South Carolina for the past four Congresses having been elected in 1974, and has been my neighbor in the Rayburn Building for the past 2 years.

KEN has been a most exemplary Member of the House, having served for 2 years on the House Public Works and Transportation Committee, then being named a member of the all powerful Committee on Ways and Means. KEN had made significant contributions to legislation which has shaped social policy in this Nation; social security, tax reform, medicare, and various other issues of great social and economic impact. KEN has also served well as the ranking South Carolina member of the Committee on Standards of Official Conduct.

KEN, as the representative for the 430,000 voters in his congressional district, has distinguished himself also as Chairman of the Congressional Textile Caucus. The Fifth District is a small, rural area in this country, yet strong and vocal in the textile industry. KEN's leadership in the Textile Caucus has been responsible for much positive legislation and reform in an industry that is vital to everyone of us in this Nation.

Although KEN has chosen to retire from this body, we shall still have the benefit of his Southern charm and hospitality as he begins work with a law firm here in Washington as well as forming one back in South Carolina. I hope KEN will now find more time to spend with his country band, the Boll Weevils, as well.

I know all join me in wishing KEN, his wife, Diane, and his entire family much luck in the future. I know it will be a bright one.●

● Mr. FUQUA. Mr. Speaker, two of our colleagues from South Carolina will be absent from this House at the start of the 98th Congress and I would like to take a moment to say goodbye and wish them well.

KEN HOLLAND and JOHN NAPIER have ably represented their constituents in this House and been strong advocates and defenders of the American way of life.

Each of these South Carolinians has contributed substantially to our deliberations, making our collective wisdom that much greater for their participation.

I wish each of these fine gentlemen great success in their future endeavors.●

● Mr. LEATH of Texas. Mr. Speaker, with the departure of KEN HOLLAND, we are losing a good friend and valued colleague. A few of us have an even greater sense of loss: We are losing a great singing partner. The harmony we have shared with KEN when we were gathered together to make music has been equaled only by the harmony we have known working with KEN as a trusted friend and dedicated American.

He is completely dependable and uncommonly generous with his time, his thoughts, and his efforts in behalf of the Congress and the people of the Fifth District of South Carolina. His contributions to this Nation are well documented and considerable.

KEN HOLLAND has chosen to leave public service. This is our loss and the private sector's gain. We will miss his abundant wit and energy and we wish him the best of all things in his new life. Our lives are richer because he is our friend and the Nation is better served because he came our way.●

□ 2220

TRIBUTES TO THE HONORABLE RON MOTTL AND THE HONORABLE BOB SHAMANSKY UPON THEIR DEPARTURE FROM CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 60 minutes, and without objection, and with the agreement of the two parties, the place of the gentleman from Ohio (Mr. ECKART) is exchanged for that of the gentleman from Ohio (Mr. STOKES).

There was no objection.

Mr. STOKES. Mr. Speaker, I take this special order this evening to provide the Members of the House an opportunity to salute two of our colleagues from Ohio upon their retirement from Congress—RON MOTTL and BOB SHAMANSKY. Both of these men have made invaluable contributions to this House during their time here. Both of them were hard working and dedicated Members of the Ohio delegation and were devoted to the representation of their congressional districts and the State of Ohio. And while we will miss both of them for different reasons, both RON and BOB will be missed. Each of them made many friends here and each leaves his own indelible imprint on this House.

First, I want to direct my remarks to my friend, RON.

RON, before coming to Congress, had served in the Ohio Legislature at the same time my brother, Carl, served in that body so I knew of him by reputation. Carl spoke highly of RON'S legislative skills and of the friendship they had enjoyed during their service together. In fact, RON has quite a distinguished career before ever coming to this body. As a lawyer, he had been an assistant law director for the city of Cleveland. He has been a member of the Parma City Council and had demonstrated his leadership by becoming president of that body. He then served one term in the Ohio Legislature as a State representative before being elected to the Ohio State Senate where he served 5 years. And so, RON had a very distinguished career before ever coming to Congress.

I will miss our early Monday morning flights out of Cleveland together which gave me the opportunity to really get to know RON. I appreciated that opportunity to know him because during his four terms in Congress, he and I have had strong differences on issues which were on the floor of the House. And those issues on occasions engendered heated debate on both sides of the issues. But while we have differed philosophically on issues we were never disagreeable nor did we let our philosophical differences interfere with our personal friendship. RON believed in the positions which he fought for and I respect him for that. I have never doubted his sincerity.

I also appreciate the cooperation and support he always gave me as dean of our delegation. RON believes strongly that regular meetings of our Democratic delegation and of our total delegation would enable us to do a better job of getting more Federal funds for our State. His dedication to delegation unity will in behalf of the State of Ohio will be remembered and appreciated.

Mr. Speaker, shortly after arriving in Washington, RON initiated what has become his hallmark back in the district—outstanding and constant service within the community. RON has been able to deliver the kind of one-on-one services to the people of Parma time and time again. He has maintained close ties with the folks back home and in fact can boast proudly that he never spent a weekend in Washington since he was elected.

Mr. Speaker, I said earlier that RON had made an indelible imprint on this body. As a member of the House Commerce Committee, RON teamed up with labor and consumer groups on many energy issues. He opposed President Carter's decision to remove price controls on crude oil and argued the consumer case against major oil companies before congressional committees.

Furthermore, he has gained a national reputation and national respect for his work on the House Veterans' Affairs Committee where he is the fifth ranking Democrat. On that committee, Mr. Speaker, RON serves as the chairman of the Hospitals and Health Care Subcommittee. When I think of veterans hospitals and legislation affecting them, the first name that comes to my mind is that of RON MOTTL. We need only to look at the list of his achievements on behalf of this Nation's veterans to justify that statement.

First, RON MOTTL was the force behind the investigation which led to the conviction of 33 persons on drug and other charges at the Wade Park and Brecksville Veterans Administration Hospitals in Cleveland. Second, it was RON MOTTL who won authorization for free medical care for veterans who may have been affected by agent orange. Third, VA doctors and nurses have this representative to thank for their upgraded pay scale. Fourth, RON MOTTL has been the guiding force in getting the Defense Department and the VA to agree to share medical facilities during national emergencies. And, the list of achievements, Mr. Speaker, in this area goes on and on.

In other initiatives during his four-term tenure, RON won passage of legislation requiring banks to pay interest on social security and income tax funds held by them. He has introduced H.R. 6427, the Motor Vehicle Title and Inspection Act of 1982 which I have informed RON that I will reintroduce and push in the 98th Congress.

Mr. Speaker, during the 8 years in the Congress, RON maintained a 92 percent voting participation record. When taking into consideration his active role with his constituents and the indelible mark he has made on key legislation, it is evident that RON MOTTL has literally given 110 percent of his energies and expertise to this body and this Nation.

I shall miss his talents, his expertise, and his friendship tremendously in the 98th Congress.

Mr. Speaker, we are also here this evening to salute the gentleman from Ohio's 12th Congressional District. Congressman BOB SHAMANSKY who will not be returning to the 98th Congress. BOB has been one of the most active Members of the 97th Congress. His aggressive action and sometimes witty statements on key legislation have earned him well deserved respect and a reputation as one of the brightest Members of the freshman class of the 97th Congress. As a freshman Congressman, BOB SHAMASKY rolled up his sleeves and went right to work.

He took the lead in opposition to the tobacco allocation and price support program and came close to defeating it. And because of his efforts, changes already have been made in the program.

Further, he took the lead in the House in introducing reforms to the manner in which social security trust fund investments are made. Even the most senior Members in the House have been leery of tackling this complicated and sensitive issue.

Furthermore, Mr. Speaker, BOB SHAMANSKY has been a champion in the area of housing legislation. He acted early upon arriving in the House offering legislation to stimulate the depressed housing industry. His major goal has been adequate and affordable housing for all Americans.

Additionally, BOB has been an activist in almost every piece of progressive legislation considered by the House. He consistently opposed funding for the Clinch River breeder reactor. He vigorously backed the extension of the Voting Rights Act and he is a cosponsor of the ERA amendment. Finally, BOB has stood for consumers in opposing special agricultural marketing orders and in supporting the FTC's disclosure rule on used car sales.

What has impressed me probably the most about BOB is his commitment to the disadvantaged in the Nation. When I looked in the CONGRESSIONAL RECORD to see how members of the Ohio delegation voted on legislation that affected minorities and the poor, every time, BOB SHAMANSKY went on record as voting for measures that would help the downtrodden in this Nation. These were not token efforts but a reflection of his sincere belief about the role of our Government. I thank BOB for that unceasing support.

Finally, as a member of the Foreign Affairs Committee, the Science and Technology Committee, and the House Select Committee on Aging, BOB SHAMANSKY has gained a reputation for his preparation and analytical skills. These skills and the willingness to serve the people of not only Ohio's 12th District but the entire State have earned my colleague, BOB SHAMANSKY, the respect of all of us in the delegation.

As dean of the Ohio Democratic delegation, I want to express to BOB my sincere and personal appreciation for his support in behalf of me and our delegation. Whenever I called a meeting, he was always there and always made a contribution in behalf of his constituency and his State. BOB is a very able and learned man who made a significant contribution to this Nation while serving in Congress. We will sorely miss him in the 98th Congress.

□ 2230

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. STOKES. Mr. Speaker, I now yield to my distinguished colleague from Ohio (Mr. ECKART).

Mr. ECKART. I thank my colleague from Cuyahoga County (Mr. STOKES) for yielding.

I thank the gentleman for his forbearance and I applaud him for his interest and for performing a public service in setting this time aside even at the end of a long day to take a few moments to acknowledge and chronicle for the public record the contributions of our friends and colleagues from Ohio.

I, too, join with my colleague, Mr. STOKES, in rising to pay tribute to the crewcutted, tall, best 14-foot jumpshot, and although his fast ball probably could not break a pane of glass in the last few years, the gentleman from Parma, Mr. MOTTL.

He was first elected to Congress in 1974, a year that was a time of political unrest and turmoil in our country.

With RON'S arrival to the Congress I think many of us acknowledged on the political scene in northeastern Ohio that truly the people of his district, his constituency was going to be heard, heard aggressively, heard vigorously and conscientiously.

Whether you agreed with the views of RON MOTTL or not, you knew precisely where he stood on the issues. There were no ifs, ands, or buts, for Congressman MOTTL was forthright and honest in dealing both with his constituents and his colleagues in the Congress. He represented his constituents to the very best of his ability and his office represented their needs to the best of their ability.

As a graduate of Notre Dame, RON was fond of constantly reminding us of the glories and victories of the Fighting Irish. In many respects RON'S commitment and contributions both on this floor, in his district, and in the extracurricular activities with which all of us as public servants must be involved, he represented those traits and attributes very well.

He was a legislative leader in the State assembly and he was a man whose opinions were respected and sought out by his colleagues in the Congress.

Many consumer groups have been well represented because of Congressman MOTTL'S aggressive advocacy as a member of the Energy and Commerce Committee. But not only must we reflect upon his individual contributions as a legislator but we must also take a moment or two to reflect on his personal commitments, for we are, after all, even as Members of Congress and public servants, still judged by how we commit ourselves to our family and to our friends. That perhaps, Mr. Speaker, best represents RON MOTTL'S commitment to people. His value of teamwork, his value of commitment to his family, was heard and seen every single day.

We will miss RON MOTTL. We will miss RON MOTTL from northeastern Ohio because, as I said to him every time I saw him, it looked like he just needed another haircut. But I am going to miss him as we get ready to face those tough Republicans in that annual baseball game that is coming up in just 6 short months.

As the newest Member of the northeastern Ohio congressional delegation I had a unique opportunity first to serve in the Congress with RON but also to serve as his catcher as we broke a Republican winning streak this past summer with a finely pitched game by my colleague from the city of Parma.

So just having been broken into the major leagues of congressional baseball, now I have to go and break in a new pitcher, RON. So I am going to miss you. But I can say one thing for sure, at least he will be able to see any signals when I am flashing the signs to him as we get ready for the next game.

I also want to take this opportunity, Mr. Speaker, to say a word or two about my friend from the city of Columbus, Ohio, BOB SHAMANSKY.

Teddy Roosevelt once coined an appropriate phrase after having visited the Buckeye State. He said, "There is only one thing I do not understand and that is Ohio politics."

BOB SHAMANSKY perhaps best represents that statement. It has been nearly 100 years since Teddy made that famous remark. But those of us familiar with Ohio politics still share his mystification on the inner workings of Ohio politics.

BOB is truly a case in point. BOB entered the political limelight at a difficult time. In 1980 it was difficult to run and more difficult to win as a Democrat. But we in Ohio remember that year well. We lost to the State senate to conservative Republicans. Ronald Reagan carried the State but BOB SHAMANSKY, armed with an enthusiasm, a wit, strong ideals, upset a long-standing Republican conservative institution in central Ohio.

Espousing progressive Democratic values, he conquered a veritable institution in one of Ohio's most conservative areas.

BOB'S record has been adequately and enthusiastically chronicled by my colleague from Cleveland, Congressman STOKES. BOB SHAMANSKY fought for what he thought was fair and knew what was right irrespective of the political consequences.

BOB SHAMANSKY fought so hard against the tobbaco subsidy that he became a household name in North Carolina.

One of BOB'S special interests was to provide incentives and rewards to help encourage American ingenuity and innovation. In 2 short years he worked hard and accomplished much.

Yet in 1982, as Teddy Roosevelt observed almost 100 years ago, the inexplicable twists and turns of Ohio politics were once again visited upon us and BOB SHAMANSKY was part of that twist and turn. Instead of winning my friend BOB SHAMANSKY lost. But, Mr. Speaker, he was not the only loser, for the people of central Ohio lost as well.

While we fail to understand, we will regret and never forget that BOB SHAMANSKY'S time in Congress, although short, was filled with rewards for him, for the people, and for his colleagues.

The Ohio delegation and all of Congress feel BOB SHAMANSKY'S loss deeply. He provided a fresh, aggressive voice for central Ohio and combined an innovative approach to policymaking with old-fashioned standards of public service.

We are sorry to see you leave this body, BOB, and we all join in wishing you the best.

With that, Mr. Speaker, I thank the gentleman from Cleveland again for yielding and applaud him for taking this time and yield back to the gentleman.

Mr. STOKES. I thank the gentleman from Ohio (Mr. ECKART) for his very eloquent comments on behalf of both of these distinguished legislators and I appreciate the contribution he has made.

Mr. Speaker, in closing I just want to say once again that the State of Ohio has been well served by these two gentlemen and this Nation has indeed been well served by them in this body.

I want to wish both of them the best in their new careers and say to them sincerely that we will miss you in this body and we appreciate the contributions you have made while you were here.

● Ms. OAKAR. Mr. Speaker, one of my colleagues from greater Cleveland will be leaving Congress this term and will be going back to private law practice. For 22 years, Congressman MOTTL has been a conscientious public servant.

Congressman MOTTL'S political career began as a Parma City Councilman, continued as president of the council and into the State legislature as a State representative and a State senator.

In my opinion Congressman MOTTL'S finest achievements have occurred in the very important support of our veterans, particularly the paralyzed and sick.

In addition, his colleagues have noted his great talents as the winning pitcher of the congressional ballgame.

Finally, I would be remiss if I did not mention RON'S devotion to his family. He regularly returned to his district

and was known to publicly show his love and devotion to his children.

All of us wish RON the very best of luck and good health for the future.●

● Mr. FUQUA. Mr. Speaker, two dedicated Congressmen from Ohio will be leaving our ranks when the 97th Congress adjourns and I appreciate the opportunity to honor Congressmen RON MOTTL and BOB SHAMANSKY on this occasion for their fine contributions during their terms in this House.

RON MOTTL joined our ranks from the 23d District of Ohio in 1974 and has distinguished himself in service on both the House Energy and Commerce Committee and the Committee on Veterans' Affairs where he has served as chairman of the Hospitals and Health Care Subcommittee.

BOB SHAMANSKY joined us just in 1980 from the 12th District of Ohio, and has served on the House Foreign Affairs Committee as well as the Committee on Science and Technology, which I have the honor to chair.

Both of these fine legislators have contributed significantly to the deliberations of this House and we will miss their enlightened comments in future Congresses.

I wish both RON MOTTL and BOB SHAMANSKY great success in all their future endeavors.●

● Mr. SAM B. HALL, JR. Mr. Speaker, my good friend, RON MOTTL, has been a dedicated servant of the people of the 23d District of Ohio. He is known far and wide as a constituent's Congressman who insists on taking the door-to-door approach to campaigning. He has enjoyed a very successful and active political career, and on the basis of his past political activity, I have the feeling we will hear more from him. I, for one, certainly hope so.

On the Veterans' Affairs Committee, where I have been privileged to sit with RON MOTTL for the past 6½ years, I can report that America's veterans have no finer friend than him. He has been in the forefront of every major piece of veterans legislation since coming to the committee, and our veterans will sorely miss his counsel and dedication to their well-being.

There have been times when we have disagreed on some of the legislative issues that have come out of the Commerce and Energy Committee, where again he has served with distinction. But, he has been an articulate and dedicated spokesman on this key committee. He tackles the tough issues and is not afraid to stand up and be counted. This is a trait that his constituents have come to expect, and while he did suffer a setback in this year's election, his has certainly enjoyed tremendous voter support in the past.

In addition to our mutual service on the Veterans' Affairs Committee, we have shared the concern of America's embattled steel industry. RON MOTTL has done yoeman service on the Steel Caucus. He understands the plight of our steelworkers. He has stood up for them and has fought to provide legislative solutions to the dual problems of foreign subsidization and foreign dumping of steel on our shores. We are going to miss his leadership and hard work on the Steel Caucus.

RON MOTTL will continue, I am certain, to be active in practical politics. He is a man of the people, and he likes helping people. You will never find RON MOTTL spending weekends in Washington. He spends every possible minute back in the Cleveland area talking to people and trying to help with their problems.

I know that our paths will continue to cross, and I count it a great honor to have served with RON MOTTL.●

● Mr. MICA. Mr. Speaker, I just want to take the opportunity to recognize the service in the 97th Congress of the Honorable BOB SHAMANSKY.

The gentleman from Ohio served with me on both the House Committee on Foreign Affairs and the House Committee on Aging. I always found his contributions to be helpful and sincere. His comments were always listened to with great care by the members of the committee, and his words gave us insight and understanding to some of the more difficult problems facing the Congress at this time in our Nation's history.

Mr. Speaker, the people of the 12th Congressional District of Ohio have been ably represented by BOB SHAMANSKY, and I want to salute his efforts during the 97th Congess.●

● Ms. OAKAR. Mr. Speaker, Congress is losing a brilliant attorney and truly industrious Member of Congress. Despite Columbus' Republican heritage, BOB SHAMANSKY won a striking victory in 1980 despite a Republican sweep across the Nation. I believe BOB has been a truly conscientious Member and has taken on very tough issues. I know he will continue to serve people and his country with great distinction. I wish him much success in the future and every best wish.●

● Mr. WAXMAN. Mr. Speaker, I take this opportunity to pay tribute to one of the hardest working and most dedicated Members of the House. I came to know RON MOTTL's abilities, and his friendship, through our work together on the Energy and Commerce Committee. That committee has more than its share of controversial issues, and the tendency is to ocassionally seek cover from the difficult fights. RON MOTTL never did this, and it was not long before I found he one of the most capable and reliable of allies.

This year I have spent much of my time on the reauthorization of the Clean Air Act. I cannot adequately describe RON'S invaluable contribution to the effort to maintain a strong Clean Air Act. As with all matters before the committee, RON studied and mastered the many issues, and then identified the public's interest. When he made clear his commitment to the act he received tremendous pressure to modify his views. Not only did RON stay firm in his commitment, but his friendship and abilities made my efforts much easier.

Some of RON'S outstanding achievements came in the health field. RON worked on health issues not only on the Energy and Commerce Committee, but through his chairmanship of the Hospitals and Health Care Subcommittee. RON'S tireless efforts on behalf of consumers benefited people around the Nation and will long be remembered.

Although I will miss RON'S friendship, I think it is even a greater loss to lose his legislative skill and dedication. RON came to Congress to represent and protect his constituents, and he has done this in the finest sense. While I will miss working with RON, I know he will meet with continued success in his law practice, and I hope he will be coming back to Washington often.●

● Mr. BROOKS. Mr. Speaker, I am delighted to have this opportunity to join with my colleagues today in underscoring the outstanding record of success that Congressman BOB SHAMANSKY established in the short 2 years he served with us.

I know Congressman SHAMANSKY has enormous ability and energy. He demonstrated the depth and seriousness of his commitment to the people of our country on many occasions. He is a man of action, a creative leader, and a hard worker.

Congressman SHAMANSKY is devoted and responsive to the people of Ohio. He has serve them well as a member of the House Foreign Affairs Committee, the House Science and Technology Committee, and the House Select Committee on Aging.

I appreciate his record of service and I know that I speak for my colleagues when I say that we are honored to have had him among us and we respect his many contributions to all of the people of our country.●

● Mr. MICA. Mr. Speaker, at the end of the 97th Congress, the Honorable RON MOTTL will leave the House of Representatives. The House is going to lose a truly distinguished Member, and a fine gentleman.

I have had the privilege of serving with RON MOTTL on the House Committee on Veterans' Affairs, and I know that we on that committee, as well as our Nation's veterans, will miss his leadership and dedication. Florida veterans, in particular, have had a fine friend in Congressman MOTTL, as he has been most helpful in my efforts to secure additional funds and services to

the veterans in Florida—many, no doubt, retired from his Cleveland, Ohio congressional district.

I know first hand of RON MOTTL's tireless efforts as chairman of the Veterans' Subcommittee on Hospitals and Health Care, and I want to wish him the very best in the full and active life he has yet in front of him.●

● Mr. LUKEN. Mr. Speaker, it gives me great pleasure to join with my colleague to pay tribute to an esteemed legislator, BOB SHAMANSKY. BOB has certainly rendered outstanding service to Ohio and this Nation and I am grateful for this opportunity to show my admiration and appreciation.

During the short time that BOB has served in the House, he has established a record of dedication, integrity, and hard work. As a member of the Science and Technology Committee, BOB played a major role in opposing the President's proposal to drastically reduce Federal funding for the National Science Foundation because of the impact the cuts would have on research institutions such as Ohio State. In addition, BOB was a champion of legislation to remedy the spiraling interest rate problems facing first-time homebuyers.

Time and time again, BOB has demonstrated his strong leadership abilities in the House, as an effective manager of an amendment against price supports for tobacco and as an influential member of the Foreign Affairs Committee.

BOB's achievements reflect his sincere interest in people and his strong concern for the welfare of our Nation. His service to the people of Ohio and the Nation as a whole are a tribute to his sense of duty.

BOB will be sorely missed by all of us who have had the privilege to work with him. I join with my colleagues in wishing him a fruitful and happy life in his future endeavors. If he decides to come back to this body we will be grateful and the Republic will be well served.●

● Mr. CARMAN. Mr. Speaker, I rise today on the occasion of the retirement from the House of Representatives of RON MOTTL and BOB SHAMANSKY.

RON MOTTL was first elected to the Congress in 1974 and has been a Member ever since. BOB SHAMANSKY, like me, was a Member of the class of 1980. I have enjoyed working with both of these gentlemen as fellow Members of the House of Representatives. I extend to RON and to BOB my best wishes for their future endeavors. I am certain they will both be successful in whatever they may do.●

● Mr. HALL of Ohio. Mr. Speaker, I rise to pay tribute to two of my colleagues from Ohio who will be retiring at the close of the 97th Congress, Congressman BOB SHAMANSKY and Congressman RON MOTTL. It has been my privilege to work with these distinguished men who have faithfully served the people of the State of Ohio. Their voices will be sorely missed by the Members of this body.

Congressman SHAMANSKY was an outspoken opponent of wasteful Government subsidies. As a member of the Science and Technology Committee, he has worked to promote energy savings through more fuel efficient automobiles. He was a tireless worker, quick, and witty. The Ohio delegation has lost a potential leader with BOB's departure.

Congressman RON MOTTL will always be known for his independent thinking and close ties to his roots in Parma. As a member of the Commerce Committee, he actively pursued the interest of workers and consumers. I have enjoyed my association with him, which goes back to our days when we served together in the Ohio General Assembly. The annual congressional baseball game will never be the same without RON on the mound.

Good luck to both of you in your future careers.●

● Mr. MAZZOLI. Mr. Speaker, my good friend and colleague RON MOTTL has served in the House with distinction. RON is noted for his work on the House Veterans' Committee, but he will long be remembered for his baseball heroics each summer as the Democrat retreads would take on the Republican retreads.

Another tie bonds RON and me—we are both alumni of the University of Notre Dame. I hate to see the ranks of Notre Dame people on the Hill diminish, but I know RON will come back to visit us often.

I extend to RON, his wife Debra, and his family best wishes for much success.●

● Mr. SENSENBRENNER. Mr. Speaker, I would like to join with my colleagues in recognizing the dedication with which RON MOTTL has served this Congress since first taking office in 1974.

During the course of his tenure in Congress RON MOTTL served with distinction as a member of the House Energy and Commerce Committee and the House Veterans' Affairs Committee, on which he chaired the Hospital and Health Care Subcommittee.

His persistant drive on such issues as antibusing and a national minimum education standard have shown his willingness to tackle issues head on. This straightforward approach, combined with his close constituent rapport, have made RON MOTTL an articulate spokesman for Ohio's 23d Congressional District.

In closing, I know many Members who will breath a sigh of relief in escaping the "unhittable breaking ball" that has tantalized the opposing hitters in the annual congressional hardball games. I join with my fellow colleagues in honoring the distinguished service of RON MOTTL.●

● Mr. RUSSO. Mr. Speaker, I am pleased to join my colleagues in paying tribute to Representative RON MOTTL, but I do not enjoy saying "goodbye" to him. After all, we are going to really miss a man who can play fair and square, pitch fast and hard, or slow and steady depending on what is required—on and off the baseball diamond.

He truly is a most valuable player—a man who has inspired the younger ballpayers. He is personable and independent-minded. I have always admired his tenacity in sticking with a cause and this quality has served his constituency well. His commitment to his work has served the Congress well.

Of course, I am sure RON has learned a great deal from me also—like consistency. As gently and persistently as he might ask that I try to learn to hit the first baseman's glove, I never wavered in my overthrow from third. RON is good at problem solving so there was talk of him serving as the link between first and third, but since I have not learned RON's steady and practical pace yet, I did not give up my consistent pattern. Given RON's patience and, as I said, tenacity, I think he could have eventually trained me. At any rate, I did learn some valuable lessons from him and my special tribute to RON will be to remember them next year.

We are going to miss RON here because he has been a good Congressman and a good friend. But today we are merely giving a big round of applause to a talented player leaving the field, not the arena.●

● Mr. LUKEN. Mr. Speaker, I would like to thank my good friend from Ohio, Mr. STOKES, for taking out this special order today so that we in this body can pay tribute to our distinguished colleague, RON MOTTL.

During his 8 years of service in Congress, RON has provided excellent representation for his constituents in the 23d District of Ohio. He has worked tirelessly on both national and local issues, which has contributed to his expertise in various legislative areas. His knowledge and hard work will be missed in this Chamber and on the Energy and Commerce Committee.

I know we all wish the best for RON in his future endeavors. Whatever he does, he will do with enthusiasm and will distinguish himself as he did here.

RON distinguished himself as a Representative of the individual American, the individual Ohioan. As a lawyer, RON never forgot the rights of the individual. His beacon in this legislative jungle was the rights of the people, the individuals who came into contact with the governmental processes. RON respected the person, the

individual, and that is the essence of constitutional government.

We will miss his energy and his initiative in defending civil liberties. We respect him as do the millions of people he fought for.●

● Mr. MAZZOLI. Mr. Speaker, BOB SHAMANSKY of the 12th District of Ohio has been a dedicated legislator during the 97th Congress. Throughout our brief association I have always recognized BOB to be conscientious, diligent, and one who has served his district well.●

● Mrs. HOLT. Mr. Speaker, at the close of the 97th Congress we will be losing RON MOTTL, a fine gentleman and able legislator who has served in this House with distinction since 1974. While representing Ohio's 23d Congressional District, RON has also served on the House Veterans' Affairs, as chairman of the Hospitals and Health Care Subcommittee, and in that position has been very instrumental in assuring quality facilities and service for the deliverance of health care to our veterans. We will all miss Representative MOTTL, and I am sure we all wish him the best of luck.●

● Mr. ROE. Mr. Speaker, I rise today to salute RON MOTTL and BOB SHAMANSKY, two fine lawmakers from the great State of Ohio who, unfortunately, will not be returning to Congress next year.

RON MOTTL has raised his strong voice on this floor many times in support of key issues vital not only to his congressional district, but to the entire Nation.

He has become known as a true champion of the consumer. RON was a leader in the battle to keep price controls on crude oil and spoke out vehemently at Energy and Commerce Committee meetings against the tax giveaways being granted to the major oil companies.

Though BOB SHAMANSKY has only been with us for one term, he has established a firm reputation as a hard-working Member of Congress, dedicated to the needs of his constituents and his country.

BOB and I serve together on the House Science and Technology Committee. Like myself, most Members of that panel have been highly impressed with BOB's quick grasp of the highly technical matters that body deals with. He has been a widely recognized leader in the fight to save Federal health funds from the administration's cutting board.

RON MOTTL and BOB SHAMANSKY have made their voices count and it would not surprise me if some time in the not very distant future they will once again be serving at our side.●

● Mr. ADDABBO. Mr. Speaker, I am pleased to join my colleagues today in paying tribute to our friend and colleague, RON MOTTL, as he prepares to leave this Congress.

RON has served the residents of the 23d Congressional District of Ohio for 8 years now, and has left a lengthy list of acomplishments of which his constituents can be proud. As chairman of the Subcommittee on Hospitals and Health Care of the Veterans' Affairs Committee, he authorized free medical care for veterans who may been affected by exposure to agent orange defoliant in Vietnam, upgraded the pay of VA doctors and nurses, and added a Regional Medical Education Center to local VA hospitals in Ohio, resulting in many new jobs. RON also prevented the Department of Energy from conducting tests in the salt mines under Lake Erie which would have led to the storage of nuclear wastes, and had the Environmental Protection Agency clean up a hazardous chemical waste dump near downtown Cleveland.

RON has served this Nation with patriotism and loyalty, this House with distinction and fervor, and his constituents with tireless hard work and dedication. He will be missed by all.●

● Mr. DWYER. Mr. Speaker, it is an honor for me to take part in today's tribute to BOB SHAMANSKY, one of my colleagues in the 97th congressional class for whom I hold a deep respect.

In his term as a Member of this body, BOB SHAMANSKY has proven to be a fine Congressman and a dedicated spokesman for the people of Ohio's 12th District.

As a member of the Committees on Foreign Affairs, Science and Technology and Aging, Congressman SHAMANSKY has made a solid contibution to our work in these key areas. His insights will be sorely missed.

It has been my privilege to serve with BOB over these 2 years. I want to thank Congressman ECKART for calling this special order so that we may extend our very best wishes to our esteemed colleague from Ohio.●

● Mr. REGULA. Mr. Speaker, I join my colleagues in honoring Congressman RON MOTTL who will be leaving us this month at the end of the 97th Congress.

I have been privileged to have worked with RON since 1974 as a member of the Ohio delegation to this body and, prior to that, for several years in the Ohio Senate.

RON has brought to his stewardship strong convictions which he sturdily advocated and defended. His independence made him very much his own man.

I can, with conviction and enthusiasm therefore, add my voice to the many paying tribute to this energetic fellow Buckeye who has served the people of his district and his State with distinction.

RON MOTTL has been a dedicated legislator and representative of the people of Ohio's 23d District. These words of recognition being heard today are fitting testimony to his service in the House.●

● Mr. MONTGOMERY. Mr. Speaker, I am honored to be able to take part today in this special order on the distinguished Congressman from Ohio, RON MOTTL.

He was elected to the House after a long and successful career in Ohio State politics. Since coming to Washington, RON has continued to serve his State and especially the people of the 23d District in Cuyahoga County.

I have become good friends with RON and I know he has earned the respect of his peers here in this Chamber. He will certainly be missed for the great contributions he made to the committees on which he served. RON was an active member of the Energy and Commerce Committee. I worked closely with him on the Veterans' Affairs Committee and I can say that his leadership on behalf of the veteran and on veterans issues has been most helpful to me as chairman and to the entire committee. RON was a most capable chairman of the Subcommittee on Hospitals and Health Care, and he served on the Housing and Memorial Affairs Subcommittee as well.

RON has wide-ranging knowledge of the political process after having served as city councilman, State representative, State senator and U.S. Congressman. This great experience will be missed when the 98th Congress convenes.

I know RON will continue to be a strong political voice in the Democratic Party in Ohio and on the national level. I want to wish the very best for RON and his family in the future. He will be missed on Capitol Hill.●

● Mr. RHODES. Mr. Speaker, I am pleased to join in the special order paying tribute to Congressman RON MOTTL.

RON has been a very hard-working Member of the House. He has courageously championed some very controversial causes, not shying away from them simply because they were contentious.

He has been a tireless worker on behalf of his constituents—but was always mindful of the part we all must play in resolving issues affecting the entire country.

Certainly the people of the 23d District of Ohio will miss Congressman MOTTL, as will his many friends who served with him in the House.

I wish RON well in his future endeavors.●

NATURAL GAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 15 minutes.

● Mr. CORCORAN. Mr. Speaker, I am very concerned that in order to do

something about natural gas prices, Congress may do something that will hurt consumers instead of helping them. I am talking about a natural gas wellhead price freeze.

The same Federal regulation that has caused the natural gas market to give us rising prices, even while demand is falling, will make any wellhead natural gas price freeze at best useless and at worst harmful to natural gas consumers.

First, due to the changing mix of pipeline supply, including the gradual depletion of older reservoirs, the average cost of supplies to pipelines will continue to increase significantly, even if individual category prices are frozen. In other words, the relative importance—price effect—of the higher cost gas categories will continue to increase while the lower price categories will continue to decrease; although the price ceiling for each category was unchanged, increasing volumes of gas from the higher priced categories would continue to push burner-tip prices up.

This point is illustrated by determining what the average price would have been had a freeze been imposed, say, 18 months ago. As detailed below, the average price of gas at the wellhead would have continued to increase in real terms by 10 to 12 percent.

Table I of the Department of Energy's "Analysis of Post-NGPA Interstate Pipeline Wellhead Purchases," DOE-EIA-0357, published in September 1982, shows gas purchase volumes and prices as reflected in pipline filings. Over the last 18 to 24 months, the average price of gas purchased by the pipelines rose from $2.01 per mcf in mid-1981 to $2.19 by late 1981 to early 1982, and to $2.35 by mid-1982—all prices in constant January 1982 dollars.

If wellhead prices for each category of gas had been frozen at the mid-1981 levels, the average price of gas would nonetheless have risen significantly. The increase would have been from $2.01 per mcf to $2.10 in the latter half of 1981, amounting to a 9 percent annual rate of increase in real terms, over and above inflation. Over the course of 1 year—from mid-1981 to mid-1982—the price would have increased from $2.01 per mcf to $2.22, resulting in a 10.5-percent increase over inflation. Finally, if wellhead prices had been frozen at early 1981 levels, average gas prices would have risen from $2.19 per mcf to $2.32 by midyear, an annual rate of increase slightly in excess of 12 percent, again in noninflated dollars. Not only do average gas prices go up despite the wellhead freeze, but the rate of increase would have accelerated, due to the changing supply mix.

Finally, a small amount of gas would be deregulated during the period of the freeze. The amount of deregulated gas would increase significantly on January 1, 1985, when currently deregulated gas from pre-December 2, 1982, wells, was again deregulated.

Imported gas would, of course, not be subject to a domestic wellhead price freeze. Indeed, the subsidy available for these imports would be increased, lessening the significant downward pressure which the current market is exerting on those prices.

Any effect the freeze might have, moreover, would be delayed by operation of the purchased gas adjustment (PGA) mechanism. In general, PGA's are filed on a semiannual basis and the bulk of the pipeline companies have already put their winter rates into effect. Consumers served through these companies would not see the impact of the freeze until late spring, when the next PGA becomes effective. At that time, to the extent that the pipeline has overcollected for gas costs during the presently effective PGA, the excess would be credited with interest.

For pipelines which file between January and April, the effects of the freeze will be reflected in the pipeline's rates to its distribution customers in the first bill following that effective date. Finally, there are a few companies who file PGA's on an annual basis: one files in December. The customers of this company will not see the impact of the freeze for at least 12 months.

SUPPLY/DEMAND BALANCE

Natural gas markets could tighten during the second year of the freeze and in the period 1985-86. On the supply side, some prospects that would have been exploited without the price freeze will not be exploited.

On the demand side, the current natural gas surplus is due to the recession as well as to conservation and switching. Demand can be expected to increase during the 1983-86 period. The average regulated price, therefore, might again be substantially below the market-clearing level. If so, the excess demand would be reflected in some combination of: First, curtailments of some kind or another; second, bidding the price of deregulated gas above the market-clearing level; and third, increased imports.

In case you think these three possibilities are "not so bad": First, is the shortage of 1977 that crippled the midwest during a bitterly cold winter; second, describes today's natural gas market in many areas; and third, would promise an increase in some of the highest cost gas we have—Canadian gas at $4.94, Mexican gas at $5.01 and regasified Algerian at $7.18.

Freezing natural gas wellhead prices will freeze our constituents, not their gas bills. Congress can do better, but not if we duck the hard work that lies ahead of us in straightening out an industry distorted beyond all economic sanity by well-intentioned but hopelessly malfunctioning Federal regulation.

TRIBUTE TO THE HONORABLE SHIRLEY CHISHOLM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewomen from New York (Ms. FERRARO) is recognized for 60 minutes.

Ms. FERRARO. Mr. Speaker, the 98th Congress which convenes in January will make history.

This new Congress will contain more women Members and more minority Members than any previous Congress in American history.

SHIRLEY CHISHOLM made history when she arrived in this Chamber in 1969. We are proud to honor her today. But I am sad that she will not be a part of the 98th Congress.

I think it can be truly said that without SHIRLEY CHISHOLM, the next Congress would not be reaching a new pinnacle in the history of civil rights in America.

SHIRLEY CHISHOLM has been a pioneer in every sense of the word.

Starting her career as a schoolteacher, as I did, SHIRLEY CHISHOLM made her mark in the New York State Assembly before her election to Congress in 1968. As we shall hear so often here tonight, she was the first black woman ever elected to this body.

Being a first of anything is not easy. SHIRLEY was swamped with interviews and speaking engagements. She had to overcome the resentment of some of her colleagues over the publicity that just naturally flowed in her direction.

Like any woman, and every black person, she had to prove, over and over again that she was qualified to play her historic role. Every move, every legislative initiative, every speech was analyzed—not just by SHIRLEY's Brooklyn constituents—those people for whom she worked so hard—but by a national audience.

For some people, being a "first" once would be enough. But SHIRLEY CHISHOLM was not content to rest on her laurels.

In 1972, she achieved another important first. She became the first black woman to enter the Presidential primaries of the Democratic Party. She received 152 first ballot votes—finishing ahead of Hubert Humphrey and Edward Muskie.

SHIRLEY CHISHOLM entered the primaries because of her disgust with the war in Vietnam and her opposition to national priorities which, she felt, put weapon development ahead of human needs.

She has never wavered. In her maiden speech in this Congress—a speech which branded SHIRLEY CHISHOLM forever as a "pepperpot"—Congresswoman CHISHOLM said she would

vote for no defense appropriation until such a time "as our values and priorities have been turned right side up again."

True to her word, true to her ideals, SHIRLEY CHISHOLM yesterday cast one of the last votes of her congressional career against the 1983 Defense appropriations bill.

In announcing last summer that she would not seek an eighth term, SHIRLEY CHISHOLM told us that she was only retiring from Congress, not from the causes for which she has fought—causes like child care, legal services for the poor, education for the handicapped, women's rights.

Knowing SHIRLEY CHISHOLM, I know her voice will not be silenced. But I know I will miss, and the American people will miss, hearing that great voice come from here—the Congress of the United States.

● Mr. BOLLING. Mr. Speaker, I take this opportunity to express my deepest admiration for an excellent member of the Rules Committee, SHIRLEY CHISHOLM. I was instrumental in getting her assigned to serve on the committee. Her work on the committee has continued in the same style I had previously observed. SHIRLEY is a fighter who understands and can sustain the battle on all fronts. She is committed to those causes in which she believes and focuses all her energy on continuing when others begin to lag. I have had great personal satisfaction as chairman of the committee working with SHIRLEY. Her district, the many constituencies she represents, and the House will miss her dynamic presence.●

● Mrs. HOLT. Mr. Speaker, SHIRLEY CHISHOLM is retiring at the end of the 97th Congress. SHIRLEY has not only been outspoken in her support of womens' issues, she has been very successful in helping to achieve the progress women have enjoyed in recent years. We will miss her activism and, or course, her legislative abilities. She has served her district and our Nation with distinction. I wish her the best of luck and much happiness.●

● Mr. STOKES. Mr. Speaker, I thank my distinguished colleagues from the great State of New York, Ms. FERRARO and Mr. RANGEL, for reserving this time so Members can honor one of the most outspoken, hard working and courageous Members of this body—SHIRLEY CHISHOLM. As we all know, Mr. Speaker, my colleague and good friend, SHIRLEY CHISHOLM, will be retiring from the House of Representatives at the end of the 97th Congress. I, my colleagues in the Congressional Black Caucus and the politically voiceless will greatly miss "Mrs. C.", as many affectionately call her, for her tireless efforts on behalf of the poor and downtrodden around the world.

Mr. Speaker, my remarks would be incomplete if I did not say that I feel a special loss on the retirement of SHIRLEY CHISHOLM. SHIRLEY, BILL CLAY, and I entered the Congress together in 1969. All three of us came to Capitol Hill with great ambitions of what we wanted to accomplish not only on behalf of our respective constituencies, but also on behalf of minorities and the poor in this Nation. In my mind, Mr. Speaker, SHIRLEY CHISHOLM never lost sight of that ambition during her seven terms in the House of Representatives. Instead, this burning desire to help the helpless of this Nation sparked a flame within SHIRLEY which propelled her into becoming a hard-hitting, efficient, vocal, and effective Members of the House. On this occasion, I applaud SHIRLEY for her tireless efforts over the years.

When I say SHIRLEY CHISHOLM is a woman of many firsts, Members on both sides of the aisles know we need only look at her public service career to substantiate that.

SHIRLEY CHISHOLM is the senior Democratic woman in the House of Representatives. She is the first black woman and an original member of the Congressional Black Caucus. She is the only woman to serve on the House Rules Committee. She was the first black woman in 1972 to campaign actively for the Democratic Party nomination for the Presidency. In other words, Mr. Speaker, SHIRLEY CHISHOLM is politically powerful, a pioneer, and a leader in her own right.

Representing the 12th Congressional District of New York, SHIRLEY CHISHOLM has made an indelible mark on major legislation in the Congress especially in the area of education. From the vantagepoint of her training as an educator and 6 years of service on the House Education and Labor Committee, SHIRLEY CHISHOLM was the primary advocate for education programs on Capitol Hill. On issues from financial aid, to black colleges, to compensatory education programs, to Head Start, SHIRLEY has been at the forefront of the fight to save and strengthen these vital programs.

Mr. Speaker, Haitian refugees, American Indians, migrant farmworkers, minorities and the poor, have found in SHIRLEY CHISHOLM a valuable ally in the Congress. Mr. Speaker, she has been a master at working with Members to garner support for these groups. When that approach was not successful, SHIRLEY has taken case to the American people. In doing so, SHIRLEY's name has become a household word and she has gained the respect of people from every segment of the Nation.

Finally, as a member of the important House Rules Committee, SHIRLEY CHISHOLM has left her own unique mark on key measures on legislation acted on by the House of Representatives. She is the fourth ranking Democrat on the committee and one of the most respected members on this powerful committee.

Talented, intelligent, articulate, charismatic, courageous, and tireless are all words which describe my good friend, SHIRLEY CHISHOLM. As the title of her autobiography suggests, SHIRLEY, during her tenure in Congress, truly has been "unbrought and unbossed." Mr. Speaker, I feel fortunate to have had the opportunity to serve in this Congress with SHIRLEY and to work with her in the Congressional Black Caucus.

Although I will miss her greatly in the 98th Congress, I know that we all will be hearing from her as she takes her crusade on behalf of just causes to the people of this Nation and around the world.●

● Mr. RODINO. Mr. Speaker, it is with great respect and admiration that I join my colleagues in paying tribute to SHIRLEY CHISHOLM as she prepares to leave the House at the end of this term.

She has been a good friend and wise counselor to me ever since she entered Congress in 1969, and her work on the Education and Labor Committee and the Rules Committee have been marked by extraordinary dedication to fighting for the rights of those who have long been denied equal opportunity in employment, education, housing, and other areas of life.

As a congressional leader, a social activist, and outspoken soldier in the battle against racial injustice, SHIRLEY CHISHOLM has symbolized the struggle and achievements of all Americans who have suffered from deprivation and discrimination. She has championed legislation establishing the minimum wage, Federal subsidies for day care, targeted education aid to economically disavantaged youth, and compensatory education. She has been on the front lines of all our civil rights battles.

The American Indians, the Haitians, the poor, the elderly, the blacks, the Hispanics, and all other American minorities look to SHIRLEY CHISHOLM as their voice in Congress. And an eloquent and powerful voice she is. Congresswoman CHISHOLM's courage, determination, and compassion has become legend in these Halls, and I am proud to have served with the gentlelady from New York.

We are not saying goodby to SHIRLEY CHISHOLM, but are anticipating that she will be using her intelligence and vitality to continue her fight for social justice in America.●

● Mr. ERLENBORN. Mr. Speaker, I welcome the opportunity we have today to tell the gentlelady from New York (Mrs. CHISHOLM) how much we think of her.

Mrs. CHISHOLM has often been a worthy opponent, and she has also been an occasional and welcome ally.

She has always been her own person, an independent, free spirit, and for that she certainly has my admiration and respect.

It has been a privilege to know her and to work with her, and I wish her happiness and good health as she takes leave from us.●

● Mr. FUQUA. Mr. Speaker, the protocol of the U.S. House of Representatives has long called for the use of "gentlelady" when addressing a female Member of Congress.

That terminology could not be more appropriate than when used in conjunction with SHIRLEY CHISHOLM, who is indeed gentle and indeed a lady.

But SHIRLEY CHISHOLM has proven to be much, much more than just a gentle lady. She has, during her 14 years of service in the House, been a constant conscience to remind us that there are many Americans who look to their Government for fairness and justice.

The awards and honors SHIRLEY CHISHOLM has earned are too numerous to be listed here. Instead, I would like to share with you a more personal reflection on SHIRLEY CHISHOLM.

SHIRLEY was never one to duck an issue or to dodge a fight even though the odds seemed insurmountable.

I have little doubt that she realized her campaign for the Democratic nomination for the Presidency in 1972 had only a miniscule chance for success.

Undaunted, however, she entered the race, ran an honorable campaign, and use the pulpit of her candidacy to call attention to those issues which she had so long championed; assistance for the working mother through day care centers; equality of opportunity for all American regardless of color, creed, or sex; a society built on the concept of finding, developing, and using the best within us and among us.

SHIRLEY CHISHOLM did not win the nomination. But she did win greater acceptance for her ideas, a greater forum from which to bring attention to our needs, and a special place in the hearts of all who respect those willing to "fight the impossible fight."

SHIRLEY CHISHOLM did not lose the nomination. Rather, she helped shape the agenda for the national debate.

There are many fights that SHIRLEY CHISHOLM did not win.

But she never lost.

The House of Representatives and the Nation will have lost a great and gentle lady, when SHIRLEY CHISHOLM retires at the end of the 97th Congress.

I wish her continued success in all her future endeavors and bid her a very special farewell.●

● Mr. MURTHA. Mr. Speaker, it is a pleasure to join in honoring Congresswoman SHIRLEY CHISHOLM. There can be no doubt that the House of Representatives has been a better legislative body because of her presence, or that the people of the United States have benefited from her service.

Even though I was not yet a Member of Congress, I remember when SHIRLEY CHISHOLM was first elected to Congress and began almost immediately to fight for the people she represented. Throughout her career, she has been a spokesperson for minorities, women, the poor, the less fortunate, the cities, and many other important causes. All of those she has championed have benefited from her leadership and expertise.

SHIRLEY CHISHOLM's service in Congress has been in the highest tradition of the U.S. House of Representatives. I know I join with my colleagues in wishing SHIRLEY CHISHOLM well, and thanking her for the outstanding service she has given to her constituents and her country.●

● Mr. LAFALCE. Mr. Speaker, this Chamber will lose one of its most dynamic Members, and I will lose a trusted and admired colleague when SHIRLEY CHISHOLM retires at the end of the 97th Congress. Today, I would like to pay tribute to SHIRLEY and to the ideals she has personified.

For 14 years, SHIRLEY has served a very special role in this Chamber. Her combination of intellectual powers, oratorical gifts, and strong political and moral commitments have been used to consistently point out the needs of America's poor, its underprivileged, its minorities, its needy. I respect SHIRLEY because she has made certain that her constituency, which she viewed as much more than the residents of Brooklyn, was always heard from, always represented, never ignored. And, the manner in which she made certain her people were represented has always been one filled with dignity and reason.

As a fellow New Yorker, I will miss SHIRLEY's ability to work with the many diverse members of our State's delegation and understand issues of concern to those outside the New York City metropolitan area. Those of us from the Buffalo area have a special affinity for her, perhaps born out of her marital ties to western New York. At the very least, we hope to see her on the Niagara Frontier in the years ahead now that we will miss her in the Halls of Congress.

Because of her special gifts, I am certain that retirement will not mean the end of SHIRLEY's contributions to our Nation. Given her energy, her personal discipline, her breadth of interests, and her popularity, I suspect that her long and illustrious career in Congress may only represent a fraction of her total contributions to all of America's people.

I will keep a special place in my heart for SHIRLEY and wish her and her family my best wishes in the years ahead.●

● Mr. CORRADA. Mr. Speaker, I am pleased to join in paying tribute to a good friend and a leading public servant, Congresswoman SHIRLEY CHISHOLM, on her retirement from the House of Representatives after 14 years of dedicated service to her constituents and her country.

Her achievements have been many and diverse. Her ability to eloquently state her wishes and position have been invaluable in the debate of many of the key issues of our time. One of the accomplishments of which she is most proud is her fluency in Spanish, which has been of great assistance to her constituents, many of whom are originally from Puerto Rico. She was successful in obtaining the inclusion of domestic workers under the provision of the law on minimum wage, thus giving a measure of economic security and dignity to one of the most needed but less paid jobs.

Congresswoman CHISHOLM remains committed to the need to insure that the educational needs of our young people are met. The recognition of the role of education as the key to improved social and economic conditions and to a better future for our children motivated her to devote her considerable talents to be an advocate for education laws.

Her concern over the plights of the poor and unprotected in our society led her to take the cause of the Haitian refugees that have come to our shores in recent years in search of a better life. As an underdog for many years, SHIRLEY could emphathize and feel the suffering and needs of others. Her compassion is strong and deep and her good counsel sought by her colleagues.

It is a measure of the recognition of her efforts and good work that she has accepted the offer to the prestigious position of Purington professor at Mount Holyoke College in Massachusetts. I have a feeling that, through her teaching and lecturing, she will inspire a generation of young women to take on her place as a strong advocate and defender of those less privileged than us.

SHIRLEY, you will be missed by all the friends you leave behind. We wish you good luck and Godspeed.●

● Mr. BOLAND. Mr. Speaker, I want to join with my colleagues in paying tribute to SHIRLEY CHISHOLM.

While I can understand her reasons, I very much regret that SHIRLEY decided not to run for reelection. She has been a valuable Member of the House since she arrived in Washington in 1969. Her legislative skill, her intelligence, and her dedication to the causes in which she believed, are commodities that the Congress can ill afford to lose. Her energy and her unquestioned integrity have made her

one of the most respected Members of the House of Representatives.

SHIRLEY CHISHOLM has never been reticent about speaking out, either in the well of the House or around the country, for those who lack a decent job, a decent home, or the opportunity for a quality education. She has often served as an effective conscience for the House by saying things that needed to be said about the likely consequences of various pieces of legislation. She is a fighter in the best sense of the term, a person who is willing to expend large amounts of her personal time and energy to attempt to right a wrong or prevent a wrong from occurring.

Mr. Speaker, when the people of the 12th District of Brooklyn sent SHIRLEY CHISHOLM to Congress, they sent a person of the highest quality. She has served her district and her country with distinction. We will miss her in the next Congress, but I know that her voice, although absent from the House, will continue to be heard on behalf of justice and equality. I want to wish her continued success as she begins a new phase of her life, and I want her to know how pleased the people of western Massachusetts are that she has accepted a position at Mount Holyoke College. We are delighted to welcome her to our community.●

● Mr. MAZZOLI. Mr. Speaker. I, too, would like to pay tribute to my good friend and colleague, SHIRLEY CHISHOLM. I served with SHIRLEY for 4 years on the House Education and Labor Committee. I have always admired her determined, hard-driving spirit. She is respected by her peers as an articulate spokeswoman, a serious leader, and one who is willing to take a stand and defend her beliefs. SHIRLEY has been an asset not only to her constituents in New York, but to this Nation as well, and her deeds attest to this fact. She has served the House well and we will certainly miss her. Academia's gain is Government's loss.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable SHIRLEY CHISHOLM, who has dedicated her life to civic and community service, and the last 14 years to ably representing the people of the 12th District of New York in the U.S. House of Representatives. SHIRLEY's numerous contributions to our country are an inspiration to her friends and fellow citizens, and her record of excellence and creative accomplishments as a citizen, as a public servant, and as a Member of Congress are most commendable.

Before coming to the House of Representatives, SHIRLEY CHISHOLM worked in several community organizations, and was a skillful educator. She also served as an assemblywoman in the New York State Legislature for 4 years.

Elected to the House of Representatives in 1968, SHIRLEY is an eloquent and respected Member of Congress who has provided exemplary service as a member of the House Rules Committee. She will be missed by those of us in the Congress, who know of her compassion, her courage, and her integrity, and have known the pleasure of her company.

I extend to SHIRLEY CHISHOLM my best wishes for continued success in all of her future endeavors in devotion to highest principles.●

● Mr. CARMAN. Mr. Speaker, I rise on the occasion of SHIRLEY CHISHOLM's retirement from the House of Representatives.

It has been a pleasure for me to work with SHIRLEY not only as a colleague in the House of Representatives, but also as a fellow member of the New York congressional delegation. I want to extend to SHIRLEY my best wishes for her future endeavors which I am most certain will be successful indeed.●

● Mr. MITCHELL of Maryland. Mr. Speaker, I am honored and gratified to join with the Members of this House to honor one of our most dedicated Members. Congresswoman SHIRLEY CHISHOLM has announced her retirement, but only from her current elected office. My emotions are indeed mixed; I hate to envision this House without her continued compassionate plea and substantive work on behalf of our Nation's children, poor, and minorities. However, I am somewhat glad that SHIRLEY has chosen to devote more time to her family while also sharing her well-developed expertise as a legislator and educator with the world of academia.

During her illustrious career, Congresswoman CHISHOLM has symbolized dedication, tenacity, sincerity, integrity, and intellect. These qualities have been reflected in her many works and interwoven in her very being. She is the senior Democratic woman in this House. Additionally, she is the only woman, and the lone black, to serve on the House Rules Committee. Along with these duties, she continues to strive arduously with those of us who serve proudly with her in the Congressional Black Causus.

For black citizens, SHIRLEY CHISHOLM continues to symbolize hope and the true value of holding fast to the fight against racism, oppression throughout the world, and continued exclusion from the economic mainstream due to prejudices. Congresswoman CHISHOLM has stood in the forefront on behalf of civil and constitutional rights, equal employment opportunities, economic parity for blacks and minorities, black colleges, compensatory education, minimum wage for domestics, American Indians, the Haitian refugees, migrant farmworkers, and the poor. It appears that as long as there is injustice against any segment of our society, SHIRLEY just will not keep still.

For many young women, of all races, ages, and backgrounds, SHIRLEY CHISHOLM has represented the positive results of a continued fight against sexism. She has been a leader in insuring that women are represented equitably in such pursuits as education, business, sports, and employment opportunities. She has also stood firmly against initiatives which threaten the well-being of low-income women and their families.

Oftentimes, Mrs. CHISHOLM has been labeled a rebel and a maverick. She wears these labels proudly because they speak positively to her determination, tenacity, individuality, and her prevailing actions and demeanor which confirm that she is truly "unbought and unbossed." I do not know many others in this Nation who deserve the high respect, esteem, and confidence bestowed upon this fine legislator. I do know that for SHIRLEY, no child is to small, no grandparent too old, or no youth too intolerable. She continues to believe in the basic goodness of those groups which are often cast aside. It is often SHIRLEY who reaffirms that we must look to the potential for significant contributions in even those who appear not to merit our faith and blessings.

Needless to say, we will all miss SHIRLEY CHISHOLM. However, I hope we are not fooling ourselves—her work in the vineyards is merely taking added dimensions and she will continue to fight.●

● Mr. EDWARDS of California. Mr. Speaker, I am most grateful to my colleagues, GERALDINE FERRARO, SAMUEL STRATTON, and CHARLES RANGEL for arranging this special order.

SHIRLEY CHISHOLM has made a lasting and significant contribution to the work of this deliberative body. It has been my privilege to serve in Congress with her and I am grateful to have this opportunity to publicly express my appreciation to her. We are all in her debt.

Congresswoman CHISHOLM has consistently chosen a difficult and sometimes lonely road to walk—speaking out against racial injustice and sex discrimination in all its invidious forms. She invited us to walk with her and see, with her heart and mind, the unfortunate circumstances of so many of our citizens and she gave us numerous opportunities to change those circumstances. When this body worked to enact legislation to insure equal opportunity for all Americans, to eliminate discrimination in housing, to secure the right to vote for minority Americans, to provide equal rights for women, and to achieve countless other civil rights' goals, Congresswoman

CHISHOLM was always in the forefront, leading the way.

As chair of the Subcommittee on Civil and Constitutional Rights, I know from firsthand experience what a powerful, determined, and inspirational force she has been for civil rights and justice. I will miss her relentless energy and her keen intellect here in Congress, but I am sure we will continue to hear and benefit from her wisdom. In her book, "The Good Fight," SHIRLEY forcefully describes her hope and vision for our society—

> We Americans have a chance to become someday a nation in which all racial stocks and classes can exist in their own selfhoods, but meet on a basis of respect and equality and live together, socially, economically, and politically. We can become a dynamic equilibrium, a harmony of many different elements, in which the whole will be greater than all its parts and greater than any society the world has ever seen before. It can still happen.

I know Congresswoman CHISHOLM will keep on trying to make it happen. I only hope we in Congress will match her efforts.●

● Mr. BROOKS. Mr. Speaker, let me join my colleagues in wishing well to SHIRLEY CHISHOLM on her retirement from service in the House of Representatives. I have had the good fortune of working with SHIRLEY over the years and have observed the fine representation she has given to her district, her people, her sex, and her country. Believe me, they could not have had a stronger advocate and she has left an indelible mark in the House.

Of all her qualities, I will remember most her spirit. She never approached a problem with a lackadaisical air, but as if this solution must be found before any other. She had the unusual ability of making people listen and commanding their attention. Her arguments were always well reasoned, even though intense. It was a joy to see and hear her in action.

SHIRLEY was a pioneer with many firsts to her credit. She ran for President of the United States when many women would not have dared. Who would have expected a woman to breach the powerful Rules Committee: SHIRLEY, of course.

We will miss her greatly in the Congress. But I am sure that in her new career in education, she will be equally impressive. Can SHIRLEY teach them? You bet she can.●

● Mr. SCHUMER. Mr. Speaker, I wish to take this opportunity to commend one of my Brooklyn colleagues, Congresswoman SHIRLEY CHISHOLM. Congresswoman CHISHOLM has represented the interests of New York's 12th District for the past 14 years with unparalleled devotion, and it has been both an honor and a pleasure for me to work with her.

As the senior Democratic woman in the House of Representatives and the first black woman to seek the Democratic Party nomination for President, Congresswoman CHISHOLM has dedicated her exemplary political career to championing the rights of the poor and the powerless. She has fiercely defended the rights of American Indians, migrant farmworkers, Haitian refugees, and other poverty-striken Americans, and her tireless efforts have resulted in minimum wage laws for domestic workers and compensatory education funding for the disadvantaged. As a three-term member of the House Education and Labor Committee, Congresswoman CHISHOLM promoted educational and employment opportunities for minorities and the poor; she then moved on to the House Rules Committee, where she has consistently upheld the traditions of the Democratic Party.

A true individualist—who has also distinguished herself as a schoolteacher and author—Congresswoman CHISHOLM will be a difficult Member to replace in Congress. Although she will be missed in the House by all—and most by those of us who share her political ideals—she remains a national figure devoted to the principles of peace, justice, and equality for all Americans.●

● Mr. SAM B. HALL, JR. Mr. Speaker, the decision by our dear friend, SHIRLEY CHISHOLM, to retire from the House after seven terms of distinguished service is a severe loss to Congress and the Nation. I have tremendous admiration for her as a person and legislator.

While we have often disagreed on issues, there is no question that she is an effective adversary who does her homework. She is one of the most forthright, yet charming and gracious people it has been my privilege to know since election to this body.

Regardless of the issue being debated on the floor, when SHIRLEY CHISHOLM takes the podium, it is somewhat like the television commercial for one of the major investment firms, "people stop and listen."

She has championed the cause of the little people. She has been a wonderful inspiration to the poor, many of whom feel alienated from the system. She is a fighter, yet she does not allow dogmatism to direct her legislative actions. In short, SHIRLEY CHISHOLM is a champion of democracy in the finest sense of the word.

In an era of conformity, SHIRLEY CHISHOLM fits no mold, no pattern. She has an indominable spirit that has endeared her, not only to her colleagues, but to people all over America.

SHIRLEY CHISHOLM will continue to be active in behalf of humanitarian causes. Her leadership will continue to be felt, not only at home in Brooklyn, but throughout America. I look forward to our association in the future.●

● Mr. RANGEL. Mr. Speaker, I rise today to pay a special tribute to my dear friend and colleague Congresswoman SHIRLEY CHISHOLM. Her retirement at the end of this session will not only be a loss to this body professionally, it will be a loss to each one of us who have had the pleasue of working with her day in and day out for more than a decade. I requested this time today, along with Mr. STRATTON and Ms. FERRARO, to honor and thank the Congresswoman from Brooklyn for her years of service.

All of us will feel the absence of her eloquence and her dedication—her district, our city and State delegation, and the committees upon which she sat. But most of all, the entire body will suffer, for we will, in a very real sense, have lost the conscience of the House of Representatives.

We will have lost a voice that was never afraid to speak out, a legislator never afraid to be on the unpopular side of an issue, a person unafraid to tread where no man or woman had trod before.

She brought to the House a personal strength and a strong commitment to her constituents, a commitment forged in the schoolhouses of Brooklyn, that surprised many of our colleagues with its intensity.

It is that kind of personal commitment, that kind of intensity, which we lack most in this Congress.

In his last public appearance before succumbing to the slow death of cancer, the great Member of the other body Hubert Humphrey, defender of the Nation's weak, set forth a standard for judging our Government. He said:

> The moral test of government is how it treats those in the dawn of life—the children; those in the twilight of life—the old; those in the shadow of life—the sick and handicapped.

By these standards SHIRLEY CHISHOLM stands a head and shoulders above us all. She is a true champion of those least able to care for themselves. She is a strong voice, raised loud and clear, for those unable to speak for themselves.

SHIRLEY CHISHOLM, the first black woman to be elected to Congress, is a pioneer. A pioneer and a fighter. A fighter for women's rights, a fighter for minority rights.

We have not yet won the fights that she has been fighting for the last 12 years, the fights first joined by Susan B. Anthony and Dr. Martin Luther King, Jr. In losing SHIRLEY CHISHOLM, we are losing one of our most effective allies in the Congress in the fight. But though her voice will be gone from the Chamber, it will not be stilled. For knowing SHIRLEY CHISHOLM, what we can all be sure of is that she will never abandon the good fight.

Congresswoman CHISHOLM, thank you for your service to this Congress and to this Nation, and thank you for your friendship.●

● Mr. MONTGOMERY. Mr. Speaker, I am happy to take part in this special order on Representative SHIRLEY CHISHOLM of New York. Few women have had more impact on this Nation's legislative process as has the distinguished Congresswoman from the 12th District of New York. SHIRLEY will be remembered as the first black woman ever to win a seat in the House of Representatives and she has worked hard.

SHIRLEY CHISHOLM came to Congress in 1969 and since that time, she has been a strong and very articulate voice for the people of her district. SHIRLEY brought with her a strong academic background and this has been a great asset. She has authored two books and has been the recipient of countless honors during her years in public service.

Though we have not shared the same philosophical views on many of the issues, I can say that we have had a most cordial relationship over the years and I want to join with my colleagues in wishing for SHIRLEY the very best as she moves on to a teaching position.

She will be leaving a great many friends and admirers here on Capitol Hill and I know the people of the 12th District will especially miss her leadership.●

● Mr. FAUNTROY. Mr. Speaker, I am delighted to join my distinguished colleagues in honoring Congresswoman SHIRLEY CHISHOLM, an excellent legislator and a long-distance runner for social justice, as she retires from this body.

Congresswoman CHISHOLM will be leaving us a legacy of all that is best in the American political tradition. As a champion of the human rights of all people, Congresswoman CHISHOLM has made her mark by seeking due process and humane treatment for Haitian refugees, fair labor practices for migrant workers, fair and humane fiscal policies, improvements in child welfare, and equality for women.

Congresswoman CHISHOLM has often helped this great body by challenging all of us to adhere to the ideals we so often espouse but all too often fail to live up to.

I especially appreciate her support for me in my role in the 97th Congress as chairman of the Congressional Black Caucus.

I am honored to have served in the Congress with Congresswoman SHIRLEY CHISHOLM. We all have been made richer by her presence with us.●

● Mr. HUGHES, Mr. Speaker, I am pleased to have the opportunity to pay tribute to SHIRLEY CHISHOLM for her outstanding service in the House of Representatives.

For 14 years, SHIRLEY has faithfully served her constituency and her Nation, insisting that our Government must take sides on behalf of those who need help, opportunity, or protection. As a member of the Education and Labor Committee, she constantly fought to make higher education more accessible to the poor, and was instrumental in insuring Federal minimum wage coverage for domestic workers. In her present position on the Rules Committee, she has continued to be a strong and effective voice for social justice and human dignity, never wavering from her conviction that all Americans should be treated fairly and decently.

On the House floor, she has been one of our most eloquent and effective speakers, a fact which is clearly evidenced by the uncharacteristic silence that descends upon the floor when she takes the well.

Of all the colleagues we regret losing at the end of this Congress, I believe we will feel SHIRLEY's loss especially, for she has played a special role in the House that few could match. I am truly sorry to see her leave, and wish her much success and happiness in her future endeavors.●

● Mr. FORD of Tennessee. Mr. Speaker, today we have gathered to honor a colleague who has honored our institution for many years. Last year, when SHIRLEY CHISHOLM announced her intention to retire, many of her colleagues, constituents, and followers throughout America voiced the same reaction: What shall we do without her?

When SHIRLEY CHISHOLM came to the 91st Congress, 14 years ago, she quickly established herself as a force to be reckoned with. She was assigned to the House Agriculture Subcommittee on Forestry and Rural Villages, which she felt had no relation to the needs and problems of her district. Admonished by the Speaker of the House to "accept and be a good soldier," she made the unprecedented move of placing an amendment before the House to remove her name from the committee assignment. She prevailed and was then assigned to the Veterans' Affairs Committee, which had some relevancy to her constituency.

Her fierce individualism caused her to become known to her colleagues as a maverick. This was an apt description, for on January 25, 1972, she dared to run for the Presidency of the United States. The first black woman to seek the Nation's highest office.

She has now risen to be the senior Democratic woman in this body. As fifth ranking member of the powerful House Rules Committee, secretary of the Democratic Caucus—as such, the only black woman in the House leadership—SHIRLEY has utilized her seniority and political clout to champion the cause of this Nation's disadvantaged.

More important than being the senior Democratic woman in this body, she has become one of the outstanding legislators, and has earned the respect of all her colleagues, regardless of whether they were Democrat or Republican, male or female.

Her constituency in the 12th Congressional District in the Borough of Brooklyn will lose a dedicated representative and champion of their interests, and my colleagues here in the House will surely lose the benefit of her contributions, insights, and forsight into the issues that we must consider here.

During her 14 years of service to the Congress of the United States, SHIRLEY CHISHOLM has served with outstanding commitment and integrity, and she has earned her colleagues respect as an earnest, knowledgeable, and dedicated Member of Congress.

I have been privileged to work with SHIRLEY CHISHOLM on many occasions. As a fellow member of the Congressional Black Caucus, she has provided us with the type of leadership that we are all proud of. Along with being good-humored, and congenial, she has the power to generate that special energy hidden within us all. She has always provided candid, intelligent, and fair insights into the problems that we are so desperately trying to combat. By being the best person that she can be, she has gained the respect of every member of the caucus.

Along with obtaining the admiration of every man and woman who has had the pleasure of working with her, SHIRLEY CHISHOLM has carried a heavy load. I wish to extend my personal thanks to SHIRLEY CHISHOLM for the time and dedication that she has given me and this Congress. In closing let me say, SHIRLEY, I shall miss you, and I wish to extend to you as you leave, best wishes for long life, good health, and continued success in all your endeavors. I am sure that we and the rest of the country have not heard the last of you, and that we will continue to benefit from your wisdom.●

● Mrs. COLLINS of Illinois. Mr. Speaker, it is with a profound sense of loss that I rise today to pay tribute to a dear colleague of ours who will soon depart from our midst—SHIRLEY CHISHOLM—Congresswoman from the 12th District of New York.

On September 18, 1982, the Congressional Black Caucus (CBC) presented the William L. Dawson Award to Mrs. CHISHOLM for her unique and outstanding leadership in the development of legislation which addresses the needs of minorities in the United States. Upon receipt of her award, SHIRLEY made one of the most eloquent and moving speeches I have ever had the privilege of listening to. As I reflect back on her message to the people, the phrase, "fought the good

fight," remained in my mind. Yes; she has fought a good fight and will be remembered for her achievements in the Congress as one who came, observed, spoke up, and conquered.

For the benefit of those of my colleagues who might not be aware of SHIRLEY's legislative feats, I would like to submit a copy of the CBC 12th Annual Dinner Book detailing measures she has created and helped shape.

1982 WILLIAM L. DAWSON AWARD

SHIRLEY A. CHISHOLM, U.S. HOUSE OF REPRESENTATIVES, BROOKLYN, NEW YORK

For her outstanding legislative achievements, the Congressional Black Caucus Foundation is presenting the 1982 Dawson Award to Congresswoman Shirley A. Chisholm.

Mrs. Chisholm was first elected in 1968 to the 91st Congress of the United States. She brought with her an interest in and a commitment to the provision of a quality education for all Americans. In keeping with this commitment, she worked to amend the Elementary and Secondary Education Act of 1978 to establish the Bio-Medical Services Program. Today, this program supports 12 projects nationally which encourage junior high school students to pursue careers in the medical profession.

In 1980, Congresswoman Chisholm responded to the financial needs of Black Colleges and Universities by introducing her own Higher Education legislation. Unlike the Education and Labor Committee bill. Mrs. Chisholm's bill provided "Challenge Grants" to Black, higher educational institutions to allow the establishment of their own endowment funds. Although her entire bill was not passed by the Congress, the "Challenge Grant" component was adopted and provides an important mechanism for financial assistance to Black institutions.

Mrs. Chisholm has similarly been a major spokesperson and effective legislator in support of: Title IX of the 1982 Education Amendments, which guarantees sex equity in education; juvenile delinquents, by establishing both the Alternative Education and Serious Youth Offenders Special Emphasis Programs within the Office of Juvenile Justice and Delinquent Prevention; and domestic workers by helping to establish a national minimum wage.

Most recently, Congresswoman Chisholm's legislative efforts have also included initiatives in the foreign policy area. As Chair of the Congressional Black Caucus Task Force on Haitian Refugees, Mrs. Chisholm brought national attention to the plight of Haitians seeking political asylum in the United States. The Congresswoman speaking on behalf of the Caucus, testified before the House Judiciary Subcommittee on Immigration, Refugees and International Law on the blatant discriminatory treatment received by Haitian asylum applicants. The Administration, in response to charges of racist refugee policies, finally agreed to change their policy of quick expulsion for Haitians and allow them to remain in this Country as part of the Cuban-Haitian entrant program. Despite this significant change in policy, Mrs. Chisholm continues to press for full recognition of Haitians as political refugees and federal reimbursement to states and localities that have been impacted by the influx of Haitians and Cubans. She has authored legislation, H.R. 3602 which would grant refugee status to Cubans and Haitians and H.R. 6071 which would create an independent asylum review board.

Congresswoman Chisholm's legislative contributions as the Representative of the 12th Congressional District in the State of New York have been an asset to the Congress and the Nation during her years of service. It is in recognition of these and other legislative achievements that we honor her with this award.

In leaving, it is not enough for us to just wish her, good bye and good luck for Congresswoman CHISHOLM has left too great an impression. And, yes, after seven terms in the House one has every right to be angry, frustrated, and misunderstood. On the other hand, SHIRLEY has given voice to the aspirations of millions of people in a system which continues to blatently deny full expression and equal opportunity to those who have little power to make it on their own.

In closing, let it not be said that Congress takes, takes, and takes. In departing, let us extend to the Congresswoman from New York, the gift of friendship and love as she continues in her own way on the path of independence, which is still her political trademark. Let us insure her peace and happiness by striving to attain equality and compansion for all and wiping out all vestiges of racism. Let us continue to give the best we have to give. Congresswoman SHIRLEY CHISHOLM, just wait, there still may be some fireworks out there for you to ignite.●

● Mr. FORD of Michigan. Mr. Speaker, I will miss one of our most respected colleagues, SHIRLEY CHISHOLM, when she retires at the end of the 97th Congress. To a certain extent, the title of her autobiography, "Unbought and Unbossed," says volumes about SHIRLEY. Since her arrival in Congress in 1969, she has never been afraid to speak and vote her conscience, regardless of the pressure placed on her. As one of the more eloquent Members of Congress, her speeches from the well are always impassioned and persuasive.

I had the pleasure of serving with SHIRLEY when she was a member of the Committee on Education and Labor. SHIRLEY was in the forefront of the battle to insure that our Nation's educational system is open to all—regardless of race or income level. Her continued crusade against sexism has resulted in large gains for women in the workplace. SHIRLEY has fought to insure that all workers are included in the Federal minimum wage laws. As a member of the Rules Committee since 1977, SHIRLEY has continued her independent record and commitment to principles. SHIRLEY's strong voice in Congress for women, minorities, and the downtrodden will truly be missed.●

● Mr. COELHO. Mr. Speaker, I am honored by this opportunity to join my colleagues in duly recognizing a colleague who not only has given this Congress 14 years of distinguished service, but with her reputation for integrity, accomplishment and intelligence has transformed herself into a legend that this Congress and this Nation will not forget, SHIRLEY CHISHOLM.

SHIRLEY began establishing herself as a Member of stature and accomplishment when she was elected to Congress in 1968 as the first black woman to serve in this House. Throughout her career, she has been a strong advocate and spokesman for the poor, elderly, and less fortunate in our society. Her work on the Education and Labor Committee as well as the Rules Committee has demonstrated her deep concern for the needs of these people. Her persistent drive in addressing issues, combined with an astute analysis and foresight have made her an invaluable asset to this Congress.

SHIRLEY CHISHOLM's dedication to the elderly, the needy and people from all walks of life throughout America will be greatly missed in the Halls of Congress. I can only hope that we will be able to carry on the tradition SHIRLEY has left with us so that the good of the people will continue to remain a priority. We will miss her in what will surely be an active retirement, continuing as spokesman for the most decent and constructive interests of this country.●

● Mr. DERRICK. Mr. Speaker, I would like to join my colleagues in offering tribute to one of the most respected Members of this body, Congresswoman SHIRLEY CHISHOLM. Mrs. CHISHOLM will be retiring at the end of this year after a long and dedicated career in public service. She was first elected to the New York State Assembly in 1964 and was subsequently elected to the U.S. Congress in 1968. She holds the distinctions of being the first black woman to serve in the Congress and also of being the first black woman to seek the Democratic Party nomination for President of the United States in 1972. While in the Congress, she has served on the Education and Labor Committee, working to expand and improve many of our special education programs. For the past 4 years she has been a member of the Rules Committee, on which I also serve, where her viewpoint and counsel have been greatly respected by the committee and the Congress.

Mrs. CHISHOLM is an articulate, refreshingly candid individual, who has dedicated herself to improving the social and economic conditions of less fortunate Americans. She is indeed a hard worker and a courageous person who has had an unyielding determination to be an effective representative of her constituents and a national spokesperson for the underprivileged

and oppressed. Her ideals and commitment to them have been an inspiration and a challenge to the many of us who have served with her.

Mr. Speaker, as she continues to write and to speak around the country, I know that she will continue to inspire all Americans, and especially those whom she has given so much of her life to help. Her career in Congress has been one of great distinction. I know she will find new frontiers to conquer in her desire to aid her fellow citizens. Good luck, SHIRLEY. I offer you my thanks and best wishes for the future.●

● Mr. HOYER. Mr. Speaker, when the 97th Congress comes to a close, it will lose one of its most admired and able Members. SHIRLEY A. CHISHOLM, the distinguished Congresswoman from New York and ranking member of the Rules Committee, is retiring from this body and her presence as one of the finest proponents of equal rights in this country will be sorely missed.

Throughout her career, Congresswoman CHISHOLM has been at the forefront of the battle against racial injustice. She has fought hard for the rights of all our citizens—black and white, rich and poor, young and old—and has been a stalwart voice for those seeking equality in all aspects of life. To quote her from a news release announcing her retirement, she stated:

I am proud of my role as a leader and a symbol. I am proud of all my friends and supporters. And I am proud of my country, honored to have had the opportunity to serve, and still confident that the bright sun of full equality and justice will someday shine on everyone under our flag.

Last summer I had the honor of attending a luncheon held for Congresswoman CHISHOLM by the Congressional Black Associates. During that luncheon several of my colleagues recounted their own thoughts and impressions of Congresswoman CHISHOLM as a leader, fighter, legislator, and outstanding and effective humanitarian, just as they do here today. Her commitment has no bounds and her grace under pressure has marked the courage that underlies all she does.

Mr. Speaker, I ask my colleagues to join me in expressing the deep sense of appreciation and admiration that we feel for the contribution that SHIRLEY A. CHISHOLM has made to this institution and to this great Nation. She has indeed, "fought the good fight" and I am privileged to have worked with her in the Congress. I wish her and her husband, Arthur, much continued success in the future.●

● Mr. ADDABBO. Mr. Speaker, it is with great pleasure that I join my colleagues today in paying tribute to our good friend and most distinguished colleague, SHIRLEY CHISHOLM, who will be leaving us in just a short time. As a close friend, a fellow New Yorker and a tireless worker, she will be sorely missed.

All of us are familiar, as is America, with SHIRLEY's accomplishments and status as a symbol of progress and hope. But it is her achievements as the Representative of the 12th Congressional District of New York that will guarantee her place in the hearts of her constituents and colleagues. Those of us who have had the privilege of working with SHIRLEY during the past 14 years have admired her dedication, perseverance, and her interminable spirit. SHIRLEY was first elected to this body in 1968, and won assignment to the Education and Labor Committee in 1971. Here, her efforts in the areas of compensatory education, minimum wage laws, and the comprehensive causes of the poor and the minorities won her deserved acclaim and recognition. In addition, her efforts on behalf of the American Indians and the Haitian refugees have firmly established her commitment to those less fortunate.

In February of this year, SHIRLEY announced her intention to retire at the end of this Congress, citing as one of the major reasons the frustration of attempting to effectively serve her constituents while a conservative government is in office. While I can certainly understand and sympathize with those feelings, it is a hard blow. The Nation, the House of Representatives, and especially the residents of the 12th District will suffer a great loss. I join my colleagues in wishing SHIRLEY all the best in her future endeavors, and I look forward to following her future achievements.●

● Mr. WASHINGTON. Mr. Speaker, it is with pride and respect, yet a feeling of sadness that I speak on behalf of my colleague and dear friend, Representative SHIRLEY CHISHOLM, who will leave us at the end of this Congress. Many of my colleagues here in the House of Representatives will miss the dynamism, the wit and intelligence that she brought to the Halls of Congress.

For the many years Mrs. CHISHOLM spent in the legislative arena, she has been a beacon of hope and inspiration to millions of people—black, brown, yellow, white, young and old; ethnicity, sex and age were irrelevant—it was always her message that moved the hearts and spirits of those she encountered.

Mrs. CHISHOLM is a fighter. She has always articulated the needs and aspirations of the poor and disadvantaged in our society, who have been systematically excluded from meaningful participation in our Nation's political process and who have often been at a disadvantage in our economic process.

I can truly say that SHIRLEY CHISHOLM has served as the conscience of the Congress on both domestic and international issues. She has been courageous and passionately outspoken in her defense of the rights of the dispossessed in Vietnam, South Africa, Haiti and other troubled areas throughout the world.

Congresswoman SHIRLEY CHISHOLM as a leader, educator and author, will be missed in the Halls of Congress. Her integrity, her hard work and her concern for humanity will never be forgotten.

While I am saddened by her leaving, I am happy with the knowledge that she will continue to use her considerable energy, talent and fierce dedication to improve the lives of all people.

SHIRLEY CHISHOLM is a guided missile, a free spirit who hears her drum and moves. She inundates you, evaporates you, covers you up but always leaves you a better person for it. We are going to miss her. SHIRLEY, I wish you well in your new venture.●

● Mr. DIXON. Mr. Speaker, as the 97th Congress winds down, I cannot help but feel a deep sense of loss as we must say farewell to our dynamic, unbought and unbossed colleague from the 12th Congressional District of New York, Congresswoman SHIRLEY CHISHOLM.

Unlike many of my senior colleagues, I have only had the privilege of serving with SHIRLEY for 4 years. During this time, I have come to admire her not only for her legislative prowess; her wisdom and, her tenacity but, also for her real compassion and dedication in championing the cause of the disenfranchised and downtrodden.

Although known to some as fighting SHIRLEY CHISHOLM, many of this great woman's efforts on behalf of the less fortunate, have been accomplished quietly behind the scenes. Her tireless 3-year battle on behalf of domestic workers evolved into legislation, subsequently enacted into law, that not only guarantees them a minimum wage, social security and medical benefits, but restored dignity to their ranks.

SHIRLEY's work on behalf of these workers is but one example of the many contributions which she has made during her illustrious 14-year career in the U.S. Congress. Her distinguished service on the House Rules Committee; her effectiveness on the Education and Labor Committee where she fought for equal rights and education for the poor and disenfranchised, is but further testimony of the raw courage which has become SHIRLEY's hallmark throughout her career in public service.

I know that my colleagues will join me in missing her presence and leadership in the Congress. I know too, that they realize as I do that, it is time for SHIRLEY to move on. She leaves behind a legacy that shall continue to serve as an inspiration to all and, as she embarks on the second phase of a distinguished career, I extend to her my

very best wishes for every success that life has to offer.●

● Mr. ROE. Mr. Speaker, it is with much deep regret that I rise in this Chamber today to bid farewell to the first lady of the House of Representatives, SHIRLEY CHISHOLM.

For the past 14 years, SHIRLEY CHISHOLM has served as a steadying force in this body as we sought to find the correct path for our Nation to follow.

When SHIRLEY got up to speak on this floor, we all listened attentively. For her words always cut straight through to the truth. SHIRLEY's mode was "let's get to work and get it done for the people of America." She had no patience for oratorical showboating.

SHIRLEY CHISHOLM's career in Congress can best be summed up by the title of her autobiography, "Unbought and Unbossed." While everyone in this body did not always agree with what SHIRLEY had to say, we respected her bulldog determination in fighting to the end for the causes she believed in.

Members of the Agriculture Committee remember clearly the furor she raised after being named to that panel during her freshman year. The committee members thought they were doing her a favor by placing her on the Agriculture Committee because of its jurisdiction over the food stamp program.

Well, our SHIRLEY, in not very placid tones, let the committee members know that she was not only not pleased with her assignment, but that she was opposed to the food stamp program because poor people were forced to pay too much for them and that she wanted it replaced with a guaranteed minimum income for all Americans.

Needless to say, SHIRLEY's tenure on the Agriculture Committee was one of the shortest in House history.

All kidding aside, SHIRLEY CHISHOLM has served as the voice for the voiceless of this Nation; the poor, the elderly, and our youth. She has utilized her position on the Education and Labor Committee to press for such vital programs as Federal subsidies for day care centers, expanding the coverage available under the minimum wage laws and targeting higher education funds to students from poor families.

SHIRLEY CHISHOLM came to Congress in 1968 as its first black woman Member. The press had a field day playing up that angle. She leaves us as a national leader who unselfishly has utilized the pinnacles of power to benefit the less fortunate. Thank God that when Americans think of SHIRLEY CHISHOLM today, they no longer think of skin color. They think instead of a gracious woman who has made our lives better by knowing her. I am proud to call her my friend.●

● Mr. DELLUMS. Mr. Speaker, this is truly a sad day in the long history of the House of Representatives. How does one even begin to pay adequate tribute to a person who has contributed so much to this institution and to the Nation at large?

How does one try to express how much SHIRLEY CHISHOLM has meant to me as a House colleague—as a cofounder and driving force in the Congressional Black Caucus—as an outspoken champion of social and economic justice here in America and around the world—but, most of all, as a sister and deeply committed, caring, and concerned human being?

When I first ran for the Congress in 1970, SHIRLEY CHISHOLM was already an inspiration to me of what a Member of Congress ought to be—outspoken on the issues of social justice, racial harmony, human rights, and peace—and unyielding in her determination to educate her colleagues and the people of America about the need for immediate and constructive action in these areas.

During my first term in Congress it was SHIRLEY CHISHOLM who carried the crusade against injustice at home and inhumanity abroad into the Presidential election compaign of 1972. It was SHIRLEY CHISHOLM who, alone, was willing to challenge the champion of racism in his home base. It was SHIRLEY CHISHOLM who was in the forefront of the struggle during that presidential compaign to end the illegal, immoral and insane adventurism in Indochina, and to offer amnesty to war resisters as a first step in healing the wounds of a torn and divided nation. It was SHIRLEY CHISHOLM who led the way in pushing for a guaranteed annual income for all willing to work, and for equal rights for all, regardless of race, sex, age, or class.●

For 14 years SHIRLEY CHISHOLM has graced this Congress with her presence, her professionalism, her dedication—and her compassion for all, especially the least fortunate among us. We will not soon see her like again—although we desperately need hundreds more like her in this House. The causes to which she has dedicated so much of her life's effort still remain the uncompleted national agenda for this House—and the country at large.

Her journey is ended in this House, but I pray that she still has many miles to go and many causes to champion in the years ahead. As she moves on to the afternoon of her retirement from this House, let us recall the words of Naomi Long Madgett, whose poem "Midway" applies so well to my dear sister in the struggle:

I've come this far to freedom and I won't turn back.
I'm climbing to the highway from my old dirt track.
I'm coming and I'm going
And I'm stretching and I'm growing
And I'll reap what I've been sowing or my skin's not black.
I've seen the daylight breaking high above the bough.
I've found my destination and I've made my vow;
So whether you abhor me
Or deride me or ignore me,
Mighty mountains loom before me and I won't stop now.

Having said all of these things about SHIRLEY CHISHOLM I will reflect upon the moments and sometimes I will smile and sometimes I will cry and many times I will miss her but above all I will always love her for my sister is my friend.●

● Mr. LELAND. Mr. Speaker, I join my colleagues today in an observance of an occasion we hoped would never come. It is a joyous observance, but it is a sad one as well. For my part, I had hoped that the time would not come during my tenure in this body to confront the retirement from the House of my dear colleague, SHIRLEY CHISHOLM. That hope was born not only of my desire to have her counsel but of a wish that this House would continue to gather strength from her strength, courage from her courage, and profit from her determined example of service to the people of her district, and of America.

SHIRLEY CHISHOLM's entire career in public service, which I pray will not end with her well-deserved respite from the rigors of the Congress, has been focused on the needy, the underprivileged, the young—those of fragile circumstances. From day school teacher to Member of Congress, SHIRLEY CHISHOLM has spoken in a strong, clear voice for those who cannot make themselves, and their needs, heard.

In SHIRLEY CHISHOLM's path, barriers have been forced aside. She was the first black woman to be elected to the Congress. She was the first black woman to run for President. These precedents, on which she has never been tempted to rest, reflect her way of seeing the world. She has looked out on our country and its problems, and on this Chamber, from under, in the words of John Milton, "brows of dauntless courage." She has followed, to the letter, the counsel of Samuel Adams, who said:

The necessity of the times, more than ever, calls for our utmost circumspection, deliberation, fortitude, and perseverance.

The respect in which SHIRLEY CHISHOLM is held in this body represents our highest praise. She entitled her autobiography "Unbought and Unbossed". The gentlewoman from Brooklyn has the gift of understatement. Not only is she now, and ever, "unbought and unbossed", no one would have dared try.

We have seen her determination. It was SHIRLEY CHISHOLM who pushed through the legislation that extended the minimum wage to domestic workers and crusaded for Federal subsidies for day care centers, for the children

she has fought for so magnificently all her life.

We will miss her very much. As we have been enriched and strengthened by her presence in this House, we will be lessened by her departure. But as I am sure she would be the first to tell you, it is a departure that marks the beginning of another effort. Leaving the Congress will in no way lessen her example or impact or ability to speak for those who need her voice.

Her career in Congress is well expressed in the words of the poet Christopher Smart:

> And now the matchless deed's achieved . . . determined, dared, and done.

We thank her here today and wish her Godspeed. We will miss her.●

● Ms. OAKAR. Mr. Speaker, this morning I had the unique pleasure of attending a hearing at which Representative CHISHOLM testified. Seldom have I heard more eloquent testimony—a passionate appeal for peace and equality. Equality—that has become the hallmark of her life. A lifelong fight against the horrible inquities of racism and sexual discrimination . . . and all its mainfestations.

During my time in congress I have benefited from the vitality this woman has injected into our political system. As a black woman she certainly appreciates the struggles that the dispossessed and underpriviledged go through. And as her book states, she is "unbought and unbossed."

Coming to Congress in 1968, she quickly became one of our best figures. When she became the first black woman to run for President in 1972, she brought many important issues to the conscience of America: women as equal political figures, blacks as outstanding contributors to our Nation's history, human priorities over military needs, and other issues. Her service on the Rules Committee is an extension of that belief that democracy exists for all Americans—not in the abstract but in our day-to-day existence. With characteristic courage she pushed through a law which helped domestic workers be covered by Federal minimum wage laws.

I salute a brave woman and wish her well in her up-coming career. SHIRLEY CHISHOLM, you have been an inspiration to us all.●

● Mr. OBERSTAR. Mr. Speaker, It is with deep sadness that I contemplate a Congress without the Honorable SHIRLEY CHISHOLM. She has become a symbol of compassionate, progressive lawmaking. I consider it a great honor to call the gentlewoman my good friend.

During the past several years, I have, on a number of occasions, had the opportunity to appear before the House Rules Committee. In testifying before SHIRLEY CHISHOLM, no apology is needed for espousing progressive or compassionate political beliefs. In September, I appeared before the committee as a principal author of the emergency jobs appropriations bill (H.J. Res. 562). Although that testimony was only 2½ months ago, unemployment has risen 1 percent. In that hearing, the gentlewoman showed her keen understanding of the legislative process and her commitment to responsible economic programs which have characterized her service in the House.

The gentlewoman and I share a great interest in the subject of human rights violations in Haiti. She has been a true friend and a tireless worker on behalf of the unfortunate people of this poorest of nations. All of us in this House concerned about human rights violations will miss her leadership.

This RECORD today will be full of heartfelt tributes to this beloved colleague. Those tributes are well-deserved.

The gentlelady has my best wishes for the future and my deep appreciation of the 8 years in which I was honored to serve with her in the U.S. House of Representatives.●

● Mr. ROSENTHAL. Mr. Speaker, I join my colleagues in paying tribute to my fellow Representative from New York, SHIRLEY CHISHOLM.

Representative CHISHOLM has devoted 25 years of her life to the political arena, the last 14 in the U.S. House of Representatives. She has been widely recognized as a protector of the rights of the disenfranchised—from native Americans, to new immigrants, to women, the poor, and blacks. She has been a leader in politics, establishing herself as the first black woman to be elected to Congress, the first to run for President, the first to sit on the powerful House Rules Committee, and the senior Democratic woman in the House.

By her own account, SHIRLEY CHISHOLM is giving up her House seat, but not her causes or her contituents in Bedford-Stuyvesant—the neighborhood in which she grew up. She has never been one to "go along to get along" and as a result has caused a lot of waves. But she has also forged a lot of new paths and she will be missed.●

● Mr. GILMAN. Mr. Speaker, I rise today to pay tribute to one of our colleagues who will not be with us in the next Congress. I am, of course, referring to the Chairwoman from New York, SHIRLEY CHISHOLM, and I thank my distinguished colleagues, FERRARO, STRATTON, and RANGEL, for providing us this opportunity to say a few words about SHIRLEY.

SHIRLEY CHISHOLM came to Congress in 1968, and she has admirably served the people of the 12th District for these many years. Her involvement in her committee work on the crucial Rules Committee has made her a driving force in setting legislative priorities. Her hardworking, unyielding character has enabled her to be, not only a forger of policy, but also a true renaissance woman. Her versatility is evident in her accomplishments. We lose an accomplished author, a courageous Presidential candidate and a determined legislator.

SHIRLEY has never given up her fight for those who are struggling in our society. She worked diligently and successfully to include domestic workers in the Federal minimum wage law. She knows where true suffering exists and has always taken action to relieve it.

I have had the honor of working with SHIRLEY on New York State issues in the New York State Legislature before she came to the Congress and working with SHIRLEY as part of the New York State congressional delegation. We will miss SHIRLEY's presence in this body, as I am sure we all will miss her fighting spirit and her zeal to protect the rights and equality of all Americans. Onward, SHIRLEY. We wish you joy and good health in the days ahead in all your new endeavors. Your inspirational example will always be with us here, and I am certain your courage and intellect will continue to influence the people of New York and our Nation.●

□ 2040

GENERAL LEAVE

Ms. FERRARO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman?

There was no objection.

UNEMPLOYMENT BENEFITS SHOULD BE EXTENDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE) is recognized for 10 minutes.

● Mr. WILLIAM J. COYNE. Mr. Speaker, for thousands of western Pennsylvanians, unemployment stretches for weeks on end. Fewer places of employment combined with more people seeking work means that many are still jobless as they reach the end of their allotted unemployment compenstion.

Representative FORD, the chairman of the House Ways and Means Subcommittee on Public Assistance and Unemployment Compensation, recognizes the seriousness of this situation. He has introduced a measure, H.R. 7327, which would provide an additional 5 weeks of unemployment benefits to most Pennsylvanians who exhaust their current benefits.

I was pleased to be able to testify yesterday before Chairman FORD's subcommittee in favor of this much needed legislation. He is to be commended for an important initiative in the area of joblessness. While others in this city see unemployment compensation as a source of tax revenue, he correctly views it as necessary assistance to those who now bear the brunt of the recession.

At the Office of Management and Budget, those who have been forced off their jobs are perceived as a convenient source of revenue. The unemployed are seen as a politically weak segment of the population whose interests need not be considered, and whose unemployment benefits should therefore he taxed.

In western Pennsylvania, this segment of the population which some would totally disregard now comprises a large portion of the population. In the four-county Pittsburgh area, unemployment is 14.1 percent.

The overwhelming majority of people now on unemployment assistance are not there because they want to be there. They need no impetus such as increased taxes to leave the unemployment rolls. An available job at decent pay is all the incentive they need.

The economic policies of this administration, policies which are tied to a reliance on high interest rates, make this incentive a remote possibility. High interest rates and inaction at the national and international level have contributed to one of the most shocking statistics of a great industrial power—steelmaking plants operating at roughly a third of capacity. Many of the workers who operate these plants are operating at zero capacity, their ability to contribute to our economy hampered by the mistaken economic policies of this administration.

These workers should not be punished for economic decisions they did not make. But while unemployment is now higher than at any time since 1941, the jobless are receiving less in benefits than at any time in the past decade.

Consider the case in Pennsylvania. In September 1976, unemployment in my state stood at 7 percent, with an insured unemployment rate of 5.02 percent. The 358,000 unemployed Pennsylvanians were then entitled to 65 weeks of unemployment. These benefits were available, I hasten to add, under a Republican administration.

Six years later, with an unemployment rate of 10.9 percent and an insured unemployment rate of 6.48 percent, 601,000 Pennsylvanians were unemployed—nearly twice the number unemployed in 1976. Despite the severity of long-term unemployment in an industrial State, the maximum number of weeks of unemployment compensation is 49.

Pennsylvania is among the more fortunate States. It still qualifies for extended benefits under the crazy-quilt triggering mechanism enacted by Congress as part of the reconciliation tax bill of 1981. Thanks to the calculations of the number-crunchers at the Office of Management and Budget, less than half the States now qualify for the 13 weeks extended benefit. It is my understanding that the State of Louisiana, for example, is not entitled to the extended benefits. It has double the number of jobless it had a year ago.

H.R. 7327 does not address all of these problems. That is a task that should be high on the agenda of the new Congress when it convenes in January. This measure deals with a pressing, very human problem—carrying those nearing the end of their benefits through the holidays, and, in some cases, through the depths of winter.

I strongly support Chairman FORD's bill. It would extend the temporary Federal supplemental compensation (FSC) program enacted by Congress this year by 5 weeks for jobless workers who first received FSC benefits on or before December 1, 1982. In the State of Pennsylvania, this would mean a period of compensation of 54 weeks, a period more reflective of actual economic conditions. For those who first receive FSC benefits after December 1, total benefits could last up to 52 weeks. This bill would not extend the FSC program beyond its expiration date of March 31, 1983. It would increase the cost of the program by $650 million.

This Congress has a responsibility to insure that the victims of this recession are not forced to bear the total cost. The personal loss of a jobless worker—the destruction of self-esteem, the fear of the future, the possibility of economic catastrophe as the result of home mortgage foreclosure—already equals a crisis as serious as most of us will face in our lives. We should not add to that plight by failing to extend unemployment benefits as the winter months approach.

I urge prompt action on H.R. 7327. I look forward to a comprehensive review of our unemployment system. I am confident that review will result in a removal from the law of those provisions which seem at odds with actual economic conditions in severely depressed States.●

THE FOOD AND DRUG TAMPERING ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, today I am introducing legislation to make tampering with food, drug, or cosmetic products which leads to death or personal injury a felony under Federal law. At present, product tampering is a Federal misdemeanor.

The recent rash of incidents involving the contamination of over-the-counter drugs was certainly a very disturbing revelation. In particular, the seven deaths in the Chicago area caused by the contamination of the drug Tylenol is a very sad event. In looking at the Tylenol case as well as the other deliberate acts of tampering which followed, we really have to ask ourselves what kind of person would carry out such an act.

Aside from the deaths which have been caused by such violent acts, the entire population of our Nation which use over-the-counter drugs is questioning the safety of all drugs and has become very reluctant to entertain their use. This is certainly understandable. However, the Federal Government and the drug industry must continue to work very hard to insure the safety of such products and restore and preserve the confidence of the many users.

I think we all are very pleased that the Food and Drug Administration acted promptly to develop regulations to require tamper-resistant protections on all over-the-counter drugs. Moreover, it is highly commendable that many drug companies acted voluntarily in the aftermath of the "Tylenol scare" to take necessary and precautionary actions. Congress and the Food and Drug Administration must continue to monitor very carefully the impact of the new safeguards which have been put in place. If necessary, the Federal Government must be ready to institute stronger measures to protect the safety of the over-the-counter drug market.

Finally, with the extensive involvement of interstate commerce in the distribution of drug products, I think it is necessary that we increase the penalties for violations of product tampering which leads to death or personal injury. The legislation I am introducing today would allow for a person convicted of tampering any food, drug, or cosmetic which leads to death to be sentenced up to life in prison. A conviction of tampering which caused serious injury would carry a sentence of up to 20 years. As we have witnessed with the drug tampering cases of late, these crimes have significant effects in drug markets all around the country. This impact, I believe, warrants the increased Federal penalty which I am proposing for the commission of such an act. I trust my colleagues will support this legislation.

The following is the text of the bill:

H.R. 7398

A bill to amend title 18, United States Code, to make unlawful the adulteration of any food, drug, or cosmetic carried out with knowledge that it is probable that the death or injury of a person will be caused by such adulteration

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Adulteration of food, drugs, and cosmetics

"(a) Whoever adulterates or causes to be adulterated a food, drug, or cosmetic in interstate commerce with knowledge that it is probable that such food, drug, or cosmetic will be inhaled, ingested, or used by any person and will cause the death of such person shall be imprisoned for a term of years or for life.

"(b) Whoever adulterates or causes to be adulterated any food, drug, or cosmetic with knowledge that it is probable that such food, drug, or cosmetic will be inhaled, ingested, or used by any person and will cause a severe and permanent, or life-threatening, physical or mental injury to such person shall be imprisoned for not to exceed 20 years.

"(c) For purposes of this section—

"(1) a food, drug, or cosmetic is adulterated if such food, drug, or cosmetic is deemed to be adulterated under section 402, 501, or 601, respectively, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 351, 361);

"(2) the term 'cosmetic' shall have the meaning given it in section 201(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(i));

"(3) the term 'drug' shall have the meaning given it in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1));

"(4) the term 'food' shall have the meaning given it in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)); and

"(5) the term 'interstate commerce' shall have the meaning given it in section 201(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(b)).".

SEC. 2. The table of sections for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1118. Adulteration of food, drugs, and cosmetics.".●

TRIBUTE TO THE HONORABLE BO GINN

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, this is the second occasion in a week that I have taken to the floor to pay tribute to a departing colleague from the State of Georgia.

The service of Bo GINN, who will end his congressional term shortly, has been distinguished and beneficial to his State, as well as to the entire Nation.

His work as chairman of the Military Construction Subcommittee of the Appropriations Committee has been outstanding, and the Congress and the country will long be in his debt.

I have valued these 10 years of association with him in the House, and just regret that the years have gone by all too swiftly.

I am not much given to prophesy, but I think it is safe to say that the public career of Bo GINN is far from over. The people of Georgia recognize him as a man of great dedication and loyalty, and I have no doubt they will one day soon call upon him again for some position of high honor and trust. He is certainly deserving of it.

All of us wish our colleague well as he leaves us, and confidently look forward to seeing more of him in the future.●

TRIBUTE TO HON. JACK BRINKLEY

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, no one likes to say goodbye to old friends, and I am especially reluctant to see the departure of JACK BRINKLEY of Georgia from this House.

I have admired this fine legislator ever since he joined us in January 1967 and have been pleased to see his steady rise in the respect of the Members.

His fellow Georgians, I know, have been pleased by the quality of his service to them during these 16 years he has been with us.

JACK BRINKLEY follows in the tradition of distinguished service of Representatives from the State of Georgia. He is a hard working, reasonable, fair, and dedicated man.

His distinguished work on the Armed Services Committee and on behalf of our country's veterans on the Veterans' Affairs Committee will long be remembered.

I regret his decision to step down while still a young man and return to private pursuits, but I want him to know that he will be fondly remembered by his colleagues as he takes his leave.●

TRIBUTE TO HON. ROBERT H. MOLLOHAN

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, ROBERT H. MOLLOHAN has been my friend and neighbor for 30 years, and I am reluctant to see him leave this House and return to his native West Virginia.

Because we come from adjoining States in the Appalachian region of the Nation, BOB and I have shared an interest in many subjects that affect our people.

He has always been a cooperative and companionable man, and one who is keenly alert to the needs of his district and of his people.

BOB has had long experience in public service, going all the way back to his days as a deputy collector of internal revenue back in the early 1930's, and with the old Works Progress Administration during New Deal days.

He has had two stints of service here in the House, one from 1953 to 1957 and another from 1969 to the present day. He has certainly served his district and his State well, and has been a credit to this House.

I am delighted to know that he will be succeeded here by his son, who was elected to fill the seat on November 2, and I look forward to working with him just as I have with the father.●

TRIBUTE TO HON. SHIRLEY CHISHOLM

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, I join with my colleagues in saluting the congressional service of our distinguished colleague from Brooklyn, SHIRLEY CHISHOLM, on the occasion of her retirement.

It has now been 14 years since SHIRLEY joined us. During the intervening years, she has been the eloquent spokesman not only for her district, but for the poor and disadvantaged all across this broad land.

For several years she was assigned to the Committee on Education and Labor, and I was able to see at close range the ability of this fine Member, and her capacity to unravel and get to the heart of the most complex issues before us.

Moreover, I have seen at firsthand her dedication to the goal of quality education in this country, not just for the privileged, but for all.

It was with genuine regret that I learned earlier this year that she had decided to retire and devote her time and tremendous energies to other matters.

I suspect that, in private life, her goals will not be much different than those she has had in Congress. I am very much comforted by that thought, for her goals and mine are very much the same, and I know that she will not sit idly by as long as there are hungry children, as long as there are poor schools, as long as there is injustice and the denial of opportunity, as long, in fact, as the great dream of America remains unfulfilled.

She is a born fighter for justice and I know she will have lance in hand, whether it be in public or private life.

Good luck to her as she departs hence.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MAVROULES (at the request of Mr. WRIGHT), for today, on account of a death in the family.

Mr. HUNTER (at the request of Mr. MICHEL), after 3 p.m. today, on account of personal reasons.

Mr. ALEXANDER (at the request of Mr. WRIGHT), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. STOKES, for 60 minutes, today.

Ms. FERRARO, for 60 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. WILLIAM J. COYNE, for 10 minutes, today.

Mr. GONZALEZ, for 30 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. PHILLIP BURTON, for 60 minutes, December 10.

Mr. MILLER, of California, for 60 minutes, December 14.

(The following Members (at the request of Mr. MCGRATH) to revise and extend their remarks and include extraneous material:)

Mr. CORCORAN, for 15 minutes, today.

Mr. DANNEMEYER, for 60 minutes, December 10.

Mr. COURTER, for 60 minutes, December 13.

Mr. COURTER, for 60 minutes, December 14.

Mr. NELLIGAN, for 15 minutes, December 14.

Mr. GINGRICH, for 30 minutes, December 15.

Mrs. HOLT, for 60 minutes, December 15.

Mr. WINN, for 60 minutes, December 15.

Mr. NELLIGAN, for 15 minutes, December 15.

Mr. MCDADE, for 60 minutes, December 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. AUCOIN, prior to the vote on the Sensenbrenner amendment to H.R. 6957 in the Committee of the Whole today.

Mr. HARKIN, immediately after the remarks of Mr. MCDADE on the McDade amendment on the bill H.R. 6957, in the Committee of the Whole today.

(The following Members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. KILDEE.

Mr. TRAXLER.

Mr. MOFFETT.

Mr. MARKEY in 10 instances.

Mr. DINGELL in five instances.

Mr. PEPPER in two instances.

Mr. PANETTA.

Mr. MOTTL in three instances.

Mr. MURTHA.

Mr. STUDDS.

Mr. BARNES.

Mr. ROSTENKOWSKI.

Mr. HUBBARD.

Mr. SCHEUER.

Mrs. COLLINS of Illinois.

Mr. DELLUMS.

Mr. CONYERS.

Mr. LUNDINE.

Mr. DIXON.

Mr. OTTINGER in five instances.

Mr. LONG of Maryland in three instances.

Mr. GORE.

Mr. EDGAR.

Mr. BONKER in two instances.

Mr. HAMILTON.

Mr. WASHINGTON.

Mr. SOLARZ.

(The following Members (at the request of Mr. MCGRATH) and to include extraneous matter:)

Mr. GINGRICH.

Mr. CARMAN in three instances.

Mr. DANNEMEYER.

Mr. KEMP in two instances.

Mr. LUJAN.

Mr. COATS.

Mrs. SNOWE.

Mr. BROYHILL in five instances.

Mr. HANSEN of Idaho in nine instances.

Mr. LAGOMARSINO.

Mr. CORCORAN.

Mr. LENT in two instances.

Mr. CAMPBELL.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 270. Joint resolution to designate 1983 as the "Bicentennial of Air and Space Flight"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Ms. FERRARO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 43 minutes p.m.), the House adjourned until tomorrow, Friday, December 10, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5263. A communication from the President of the United States, transmitting a request for an appropriation amendment for fiscal year 1983 for the Department of Agriculture (H. Doc. No. 97-266); to the Committee on Appropriations and ordered to be printed.

5264. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the Naval Regional Medical Center, Philadelphia, Pa., pursuant to section 502(b) of the Public Law 96-342; to the Committee on Armed Services.

5265. A letter from the Chairman, National Commission on Libraries and Information Science, transmitting legislative proposals to create jobs in the library and information service occupations; to the Committee on Education and Labor.

5266. A letter from the Secretary of Energy, transmitting the quarterly report on the strategic petroleum reserve, covering the last quarter of fiscal year 1982, pursuant to section 165(b) of the Energy Policy and Conservation Act, Public Law 94-163, added by the Strategic Petroleum Reserve Amendments Act contained in the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35; to the Committee on Energy and Commerce.

5267. A letter from the Secretary of Education, transmitting notice of the Department's one-time computer match of its records of defaulted loans made under the guaranteed student loan and national direct student loan programs against records of currently employed and retired Federal personnel, and scheduled for publication in the Federal Register, pursuant to provisions of the Privacy Act of 1974; to the Committee on Government Operations.

5268. A letter from the U.S. Trade Representative, transmitting notice that on November 29, 1982, the President completely removed the moratorium for Canada which prohibits issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country, and scheduled for publication in the Federal Register, pursuant to section 6 of the Bus Regulatory Reform Act of 1982, Public Law 97-261; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2710. An act to establish the Charles C. Dean Wilderness in the Hoosier National Forest, Ind. (Rept. No. 97-948, Pt. I). And ordered to be printed.

Mr. PERKINS: Committee on Education and Labor. H.R. 6820. A bill to provide for the operation of the Helen Keller National Center for Deaf-Blind Youths and Adults, to provide for the operation of the Vinland National Center for Healthsports and Phys-

ical Fitness for Handicapped Individuals and certain other centers which assist handicapped individuals in achieving greater independence, and to assure continued national support for other projects and services for the deaf and other handicapped individuals; with amendments (Rept. No. 97-950). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1965. An act to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System; referred to the Committee on Agriculture for a period ending not later than December 10, 1982, for consideration of such portions of the bill as fall within that committee's jurisdiction pursuant to clause 1(a), rule X (Rept. No. 97-949, Pt. I). And ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7340. A bill to designate certain National Forest System lands in the State of Oregon for inclusion in the National Wilderness Preservation System, and for other purposes; referred to the Committee on Agriculture for a period ending not later than December 10, 1982, for consideration of such portions of the bill as fall within that committee's jurisdiction pursuant to clause 1(a), rule X (Rept. No. 97-951, Pt. I). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GIBBONS (for himself, Mr. ROSTENKOWSKI, Mr. CONABLE, Mr. VANDER JAGT, Mr. FRENZEL, Mr. WRIGHT, Mr. MICHEL, Mr. ZABLOCKI, and Mr. BROOMFIELD):

H.R. 7397. A bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region; to the Committee on Ways and Means.

By Mr. PANETTA:

H.R. 7398. A bill to amend title 18, United States Code, to make unlawful the adulteration of any food, drug, or cosmetic carried out with knowledge that it is probable that the death or injury of a person will be caused by such adulteration; to the Committee on the Judiciary.

By Mr. RINALDO:

H.R. 7399. A bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or harm; to the Committee on the Judiciary.

H.R. 7400. A bill to amend the Internal Revenue Code of 1954 to repeal the treatment of the deduction for circulation expenditures as an item of tax preference; to the Committee on Ways and Means.

By Mr. ROBINSON:

H.R. 7401. A bill to delay until January 1, 1984, the effect of any regulation issued by the Secretary of the Treasury concerning the establishment of a viticultural area if the name provided for such area contains the term "Shenandoah Valley"; to the Committee on Ways and Means.

By Mr. STENHOLM (for himself, Mr. MITCHELL of Maryland, Mr. HIGHTOWER, Mr. STANGELAND, Mr. HANCE, Mr. LEATH of Texas, Mr. ENGLISH, Mr. SKELTON, Mr. COLEMAN, Mr. MAVROULES, Mr. EVANS of Iowa, Mr. SAM B. HALL, JR., Mr. IRELAND, Mr. WAMPLER, Mr. SKEEN, Mr. LOEFFLER, and Mr. GLICKMAN):

H.R. 7402. A bill to clarify the eligibility of small agricultural cooperatives for assistance under section 7(b)(2) of the Small Business Act; to the Committee on Small Business.

By Mr. MINISH (for himself, Mr. ANNUNZIO, and Mr. RATCHFORD):

H. Res. 625. Resolution establishing one additional position on the Capitol Police for duty under the House of Representatives; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

514. By the SPEAKER: Memorial of the General Assembly of the State of Arkansas, relative to the Public Employees Pension Plan Reporting and Accounting Act of 1982; jointly, to the Committees on Education and Labor and Ways and Means.

515. Also, memorial of the voters of the State of Michigan, relative to nuclear weapons freeze; jointly, to the Committees on Armed Services and Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BOLLING introduced a bill (H.R. 7403) for the relief of certain Government physicians who were paid basic pay, performance awards, and physicians comparability allowances in aggregate amounts exceeding the limitation set forth in section 5383(b) of title 5, United States Code; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1768: Mr. GINGRICH.

H.R. 4897: Mr. YATES.

H.R. 6255: Mr. DORGAN of North Dakota.

H.R. 6985: Mr. STOKES, Mr. GINGRICH, and Mr. LELAND.

H.R. 7218: Mr. PARRIS, Mr. MILLER of Ohio, Mr. WALKER, and Mr. JEFFRIES.

H.R. 7317: Mr. LAFALCE and Mr. RANGEL.

H.R. 7320: Mr. MCEWEN, Mr. BROWN of Colorado, Mrs. ROUKEMA, Mr. LAGOMARSINO, Mr. CRAIG, Mrs. MARTIN of Illinois, Mr. FIELDS, Mrs. BOUQUARD, Mr. PAUL, Mr. DANNEMEYER, Mr. FRANK, Mr. HUNTER, Mr. HENDON, Mr. ROTH, Mr. CLINGER, Mr. MCCOLLUM, Mr. MAVROULES, Mr. RINALDO, Mrs. FENWICK, Mr. GINGRICH, and Mr. BEDELL.

H.R. 7322: Mr. EDGAR, Mr. HOYER, and Mr. MINETA.

H.R. 7337: Mr. DIXON, Mr. WEISS, Mr. LOWRY of Washington, Mr. FRANK, Mr. OBERSTAR, Mrs. KENNELLY, Mr. DWYER, Mr. SABO, and Mr. LAFALCE.

H.J. Res. 459: Mr. FOGLIETTA, Mr. SYNAR, Mr. HOWARD, Mr. VENTO, Mr. BEVILL, Mr. CORRADA, Mr. HARTNETT, Mr. ALEXANDER, Mr. FINDLEY, Mr. HANSEN of Idaho, Mr. LATTA, Mr. BROWN of Ohio, Mr. RUDD, Mr. ANTHONY, Mr. DASCHLE, Mr. MOTTL, Mr. MURPHY, Mr. GOODLING, Mr. SCHEUER, Mr. MCEWEN, Mr. ARCHER, Mr. ADDABBO, Mr. ATKINSON, Mr. DICKINSON, Mr. KRAMER, Mr. BARNES, Mr. MARTINEZ, Mr. BLANCHARD, Mr. LEBOUTILLIER, and Mr. ANDERSON.

H.J. Res. 591: Mr. BADHAM, Mr. CHAPPIE, Mr. DERRICK, Mr. EVANS of Delaware, Mr. HUBBARD, Mr. OBERSTAR, and Mr. ROYBAL.

H.J. Res. 620: Mr. WEISS, Mrs. KENNELLY, Mr. LOWRY of Washington, Mr. FORD of Tennessee, Mr. SHAMANSKY, Mr. DELLUMS, Mr. MINISH, Mr. EDGAR, Mr. STUDDS, Mr. BONER of Tennessee, Mr. OTTINGER, Mr. MINETA, Mr. LEHMAN, Mr. PEPPER, Mr. MOFFETT, Mr. FROST, Mr. SIMON, Mr. FRENZEL, Mr. WAXMAN, Mr. VENTO, Mr. LEACH of Iowa, Mrs. ROUKEMA, Mr. WEAVER, and Mr. MAVROULES.

H. Con. Res. 413: Mr. DANIEL B. CRANE, Mrs. FENWICK, Mr. CLINGER, Mr. ROGERS, Mr. HORTON, Mrs. SNOWE, Mr. FORSYTHE, Mr. KRAMER, Mr. GINGRICH, and Mr. DYSON.

H. Res. 624: Mr. SABO, Mr. ERDAHL, Mr. RATCHFORD, Mr. BEREUTER, Mr. RODINO, Mr. WILLIAMS of Montana, Mr. ASPIN, Mr. ZABLOCKI, Mr. VOLKMER, and Mr. SIMON.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5133

By Mr. BEREUTER:

AMENDMENT (1)

—Section 1 of the act is amended to read as follows:

"SECTION 1. SHORT TITLE.—This Act may be cited as the 'Minimum Domestic Content in Motor Vehicles Act.'"

AMENDMENT (2)

—Section 4(a)(2) of the act is amended by deleting the words "Model Year 1984" and substituting therefor the words "Model Year 1986.".

AMENDMENT (3)

—Section 5(c) of the act is amended by the addition of the following sentence: "The Secretary shall invite public comment on such report, and shall take all comments received into consideration in prescribing rules and regulations for subsequent model years.".

By Mr. BETHUNE:

—Page 15, after line 2, insert the following new section:

SEC. 8. LIMITATION ON APPLICABILITY.—Notwithstanding any other provision of this Act, the provisions of this Act shall apply only to any vehicle manufacturer which has received funds pursuant to Public Law 96-185.

Renumber the succeeding sections accordingly.

By Mr. BROYHILL.

—Page 14, redesignate section 7 as section 8, and insert after line 11 the following new section:

SEC. 7. CONDITION TO ENFORCEMENT.

This Act shall not apply with respect to a vehicle manufacturer in a foreign country

unless the President determines that such country has in effect a law which imposes on vehicles sold in that country requirements at least as stringent as the requirements of section 4. The President shall have published in the Federal Register each determination made under this section.

Page 15, redesignate section 8 as section 9.

AMENDMENT (18)

—Page 14, insert after line 11 the following:

—SEC. 7. CONGRESSIONAL VETO.

(a) The Secretary shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any rule promulgated under this Act.

(b) Any rule specified in subsection (a) shall not take effect if—

(1) within the 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows (with the blank spaces appropriately filled): "That the Congress disapproves the rule promulgated by the Secretary of Transportation under the Fair Practices in Automotive Products Act with respect to ——, such rule having been transmitted to the Congress on ——."; or

(2) within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and tansmits such resolution to the other House and such resolution is not disapproved by such other House within the 30 calendar days of continuous session of the Congress which occur after the date of such transmittal.

(c)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) Any concurrent resolution disapproving a rule of the Secretary shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Ways and Means and the Committee on Energy and Commerce of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 30 calendar days of continuous session of the Congress after the referral of such resolution under subparagraph (A), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution (except that it may not be made after the committee has reported a concurrent resolution with respect to the same rule of the Secretary), shall be privileged, and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same rule of the Secretary.

(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same rule). The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged, and debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Nowithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any rule of the Secretary, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same rule.

(d) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the rule involved, and shall not be construed to create any presumption of validity with respect to such rule.

By Mr. COATS:

AMENDMENT (8)

—Page 16, after line 3, insert the following:

SEC. 8. SUNSET DATE.

This Act shall cease to have effect upon the expiration of sixty months after the month in which this Act is enacted.

AMENDMENT (10)

—Page 15, after line 2, insert the following new section:

SEC. 8. SECRETARY OF AGRICULTURE REPORTS.

Within one year after the date of enactment of this Act, the Secretary of Agriculture shall undertake an investigation, and submit to Congress a written report regarding the impacts of this Act upon the exportation of agricultural commodities from the United States.

Renumber the succeeding sections accordingly.

AMENDMENT (13)

—Page 3, line 20, strike "and".

Page 3, after line 20, insert the following:

"(B) the value of labor connected with the unloading, storing, transporting, and handling in the United States of automotive products imported by the vehicle manufacturer into the United States, including the cost of the transportation of such products to the United States if such transportation is carried out on United States flag vessels; and".

Page 3, line 21, strike out "(B)" and insert in lieu thereof "(C)".

By Mr. DANNEMEYER:

AMENDMENT (4)

—Page 3, strike out lines 3 through 5 and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Smoot-Hawley Trade Barriers Act of 1982".

AMENDMENT (5)

—Page 3, strike out lines 6 through 8 and insert in lieu thereof the following:

SEC. 2. PURPOSE.

The purpose of this Act is to reduce competition in the automobile industry, protect jobs in one industry to the detriment of jobs in other industries, irrespective of the effect on the price of automobiles to consumers.

AMENDMENT (7)

—Page 11, after the period on line 3 insert the following: "The Secretary shall invite public comments on each such report and shall take all comments received into consideration in prescribing rules and regulations for subsequent model years."

AMENDMENT (9)

—Page 13, strike out lines 10 through 13 and insert in lieu thereof the following:

(2)(A) An order assessing a civil penalty may only be issued after providing notice and opportunity for an agency hearing in accordance with section 554 of title 5, United States Code.

By Mrs. FENWICK:

AMENDMENT (1)

—Page 14,, after line 11, insert the following new section:

SEC. 7. RELATION TO TREATIES, CONVENTIONS, AND AGREEMENTS.

Notwithstanding any other provision of this Act, nothing in this Act shall be deemed to supersede the terms or conditions of any treaty, international convention, or agreement on tariffs and trade which is in existence on the date of enactment of this Act and to which the United States is a party.

Renumber the succeeding sections accordingly.

By Mr. FRENZEL:

AMENDMENT (2)

—On page 8, strike out lines 5 through 10 and insert in lieu thereof the following: "vehicle-manufacturer shall be the applicable

minimum content ratio specified in the following table".

AMENDMENT (3)

—On page 8, lines 3 and 4 strike "after January 1, 1983" where it appears and insert in lieu thereof "with the model year following a year in which increased imports result in a total market share for imports greater that 25 percent,".

AMENDMENT (4)

—On page 8 lines 3 and 4, strike "after January 1, 1983" where it appears and insert in lieu thereof: "With the model year following a year in which a quantitative restriction, orderly marketing agreement or voluntary restraint arrangement for automobiles ceases to be in effect".

AMENDMENT (5)

—On page 8, strike "100,000" each time it appears and insert in lieu thereof "300,000".

On page 9, line 16, strike "one-hundred thousand" and insert in lieu thereof "300,000".

AMENDMENT (6)

—Page 8, in the heading to the table after line 10 strike out "Number of motor vehicles produced by the manufacturer and sold in the United States during such year" and insert in lieu thereof: "Number of motor vehicles produced by the manufacturer during the model year and sold as new cars during such year in the United States".

AMENDMENT (9)

—Page 13, strike out lines 10 through 13 and insert in lieu thereof the following:

(2)(A) An order assessing a civil penalty may only be issued after providing notice and opportunity for an agency hearing in accordance with section 554 of title 5, United States Code.

AMENDMENT (12)

—Page 15, redesignate section 8 as section 9 and insert after line 2 the following new section:

SEC. 7. EMPLOYMENT WAIVER.

If during any model year the total of—

(1) the number of persons employed by a vehicle manufacturer in the United States, and

(2) the number of persons engaged in the sales in the United States of moter vehicles manufactured by the such manufacturer,

exceeds 1,000, sections 4 and 5 shall not apply to such manufacturer during such year.

AMENDMENT (14)

—Page 8, in the table following line 10, make the following changes:

Strike out "30 percent" and insert in lieu thereof "40 percent".

Strike out "60 percent" and insert in lieu thereof "70 percent".

Strike out "90 percent" and insert in lieu thereof "95 percent".

AMENDMENT (15)

—Page 8, in the table following line 10, make the following changes:

Strike out "900,000" each place it occurs and insert in lieu thereof "600,000".

Strike out "30,000" and insert in lieu thereof "20,000".

Strike out "15,000" and insert in lieu thereof "10,000".

Strike out "10,000" and insert in lieu thereof "6,750".

AMENDMENT (17)

—On page 13 line 8 strike "Each" and all that follows thereafter through line 9 and insert "for each violation.".

AMENDMENT (24)

—On page 8, line 3, redesignate subsection (a) as subsection (b) and insert after line 1 the following new subsection:

(a) Upon receipt of an affirmative finding from the International Trade Commission under section 201(a) of the Trade Act of 1974 that increased imports have been a substantial cause of serious injury to the automotive industry, the President shall provide, for the purpose of facilitating orderly adjustment to import competition,

(A) import relief under section 203(a) of the Trade Act of 1974;

(B) if such import relief taken under subsection (A) does not result in orderly adjustment to import competition, and if the President determines it is in the national economic interest, a minimum domestic content ratio for vehicle manufacturers under subsection (b).

AMENDMENT (1)

—Page 8, line 4, strike out "the minimum content ratio" and insert in lieu thereof "the President may by Executive order require that the minimum domestic content ratio".

(Amendment in the nature of a series of amendments.)

AMENDMENT (S)

—Section 1: Delete the word "Practices" and insert the word "Trade."

Section 2: Delete the word "production" and insert the words "fair trade."

Section 3: Delete subsection (a)(2); redesignate subsection (a)(5) as subsection (a)(2); redesignate subsection (a)(6) as subsection (a)(3); redesignate subsection (a)(7) as subsection (a)(4); redesignate subsection (a)(8) as subsection (a)(5); redesignate subsection (a)(9) as subsection (a)(6); and delete subsection (b).

Section 4: Delete.

Section 5: Redesignate as "Section 4." and delete the words "for purposes of carrying out section 4(a) and the enforcement provisions of section 6" from subsection (a) and insert the words "related to the U.S. content of vehicles which it sells in the United States.".

Section 6: Delete.

Section 7: Redesignate as "Section 5.".

Section 8: Redesignate as "Section 6." Following new "Section 6" insert the following new sections:

SEC. 7. ANALYSIS OF FOREIGN AUTOMOTIVE TRADE BARRIERS.

(a) IN GENERAL.—Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"Chapter 8—BARRIERS TO AUTOMOTIVE MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO AUTOMOTIVE MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962, shall—

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

"(i) United States exports of goods or automotive products services, and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATES.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the Reciprocal Trade and Investment Act of 1982, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) CONFORMING AMENDMENT.—The table of contents for title I is amended by adding at the end thereof the following:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"Sec. 181. Actions concerning barriers to market access.".

SEC. 8. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) PRESIDENTIAL ACTION IN THE CASE OF UNFAIR TRADE PRACTICES.—Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).".

(b) OTHER ACTION BY PRESIDENT.—Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "notwithstanding any other provision of law," before "impose";

(B) by striking out "products" and inserting in lieu thereof "goods"; and

(C) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(3) propose legislation where necessary and appropriate to carry out the objectives of subsection (a).

Any legislation proposed under paragraph (3) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted. The President shall notify Congress, and publish notice in the Federal Register, of his intention to propose legislation under paragraph (3) at least 90 days before the implementing bill is submitted.".

"(c) INITIATION OF INVESTIGATIONS BY OR ON MOTION OF TRADE REPRESENTATIVE.—

(1) IN GENERAL.—Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than 45 days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the 30-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2) CONFORMING AMENDMENTS.—

(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.".

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigation" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of investigations by United States Trade Representative.".

(d) EXTENSION OF TIME FOR REQUESTS FOR CONSULTATIONS.—Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

(2) by adding at the end thereof the following new subsection:

"(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(e) DEFINITIONS.—

(1) COMMERCE DEFINED.—Paragraph (1) of section 301(d) (19 U.S.C. 301(d)) is amended to read as follows:

"(1) DEFINITION OF COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) UNREASONABLE, UNJUSTIFIABLE, AND DISCRIMINATORY DEFINED.—Section 301(d) (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraphs:

"(3) DEFINITION OF UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate protection of intellectual property rights.

"(4) DEFINITION OF UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes where appropriate any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.".

(3) CONFORMING AMENDMENT.—Section 301(d) (19 U.S.C. 2411(d)) is amended by striking out the heading and inserting in lieu thereof:

"(d) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(f) AMENDMENTS TO SECTION 305.—Section 305 of the Trade Act of 1974 (19 U.S.C.

2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

AMENDMENT (3)

(Amendment in the nature of a substitute.)

—Strike all after the enacting clause and insert in lieu thereof:

SECTION 1. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) SHORT TITLE.—This Act may be cited as the "Reciprocal Trade and Investment Act of 1982".

(b) AMENDMENT OF TRADE ACT OF 1974.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

SEC. 2. STATEMENT OF PURPOSES.

The purposes of this Act are—

(1) to foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

(2) to improve the ability of the President—

(A) to identify and to analyze barriers to (and restrictions on) United States trade and investment, and

(B) to achieve the elimination of such barriers and restrictions;

(3) to encourage the expansion of international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services; and

(4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

SEC. 3. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) IN GENERAL.—Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962, shall—(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

"(i) United States exports of goods or services, and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the Reciprocal Trade and Investment Act of 1982, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) CONFORMING AMENDMENT.—The table of contents for title I is amended by adding at the end thereof the following:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"Sec. 181. Actions concerning barriers to market access.".

SEC. 4. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) PRESIDENTIAL ACTION IN THE CASE OF UNFAIR TRADE PRACTICES.—Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).".

(b) OTHER ACTION BY PRESIDENT.—Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "notwithstanding any other provision of law," before "impose";

(B) by striking out "products" and inserting in lieu thereof "goods"; and

(C) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(3) propose legislation where necessary and appropriate to carry out the objectives of subsection (a).

Any legislation proposed under paragraph (3) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be re-

quired and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted. The President shall notify Congress, and publish notice in the Federal Register, of his intention to propose legislation under paragraph (3) at least 90 days before the implementing bill is submitted.".

(c) INITIATION OF INVESTIGATIONS BY OR ON MOTION OF TRADE REPRESENTATIVE.—

(1) IN GENERAL.—Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than 45 days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the 30-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2) CONFORMING AMENDMENTS.—

(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.".

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigation" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of investigations by United States Trade Representative.".

(d) EXTENSION OF TIME FOR REQUESTS FOR CONSULTATIONS.—Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

(2) by adding at the end thereof the following new subsection:

"(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(e) DEFINITIONS.—

(1) COMMERCE DEFINED.—Paragraph (1) of section 301(d) (19 U.S.C. 301(d)) is amended to read as follows:

"(1) DEFINITION OF COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) UNREASONABLE, UNJUSTIFIABLE, AND DISCRIMINATORY DEFINED.—Section 301(d) (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraphs:

"(3) DEFINITION OF UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate protection of intellectual property rights.

"(4) DEFINITION OF UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes where appropriate any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.".

(3) CONFORMING AMENDMENT.—Section 301(d) (19 U.S.C. 2411(d)) is amended by striking out the heading and inserting in lieu thereof:

"(d) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(f) AMENDMENTS TO SECTION 305.—Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

SEC. 5. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a) NEGOTIATING OBJECTIVES.—

(1) IN GENERAL.—Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

"(a) TRADE IN SERVICES.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment

and the rights of establishment and operation in such markets; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) are consistent with the commercial policies of the United States, and

"(B) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

"(b) FOREIGN DIRECT INVESTMENT.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) will help ensure a free flow of foreign direct investment, and

"(B) will reduce or eliminate the trade distortive effects of certain investment related measures.

"(c) HIGH TECHNOLOGY PRODUCTS.—Principal United States negotiating objectives shall be—

"(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

"(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of, foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

"(A) foreign industrial policies which distort international trade or investment;

"(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

"(C) measures which impair access to domestic markets for key commodity products; and

"(D) measures which facilitate or encourage anticompetitive market practices or structures;

"(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

"(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

"(5) to obtain commitments to foster national treatment;

"(6) to obtain commitments to—

"(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

"(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

"(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

"(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term 'barriers to, or other distortions of, international trade in services' includes, but is not limited to—

"(1) barriers to the right of establishment in foreign markets, and

"(2) restrictions on the operation of enterprises in foreign markets, including—

"(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.".

(2) CONFORMING AMENDMENT.—The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.".

SEC. 6. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a) COORDINATION OF UNITED STATES POLICIES.—

(1) IN GENERAL.—The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(2) FEDERAL AGENCIES.—In order to encourage effective development and coordination of United States policies on trade in services, each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(A) the treatment afforded United States service sector interests in foreign markets, or

(B) allegations of unfair practices by foreign governments or companies in a service sector.

(3) NO ALTERATION OF EXISTING AUTHORITY.—Nothing in this section shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(b) SERVICE INDUSTRIES DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Secretary of Commerce is authorized to establish a service industries development program. Such program shall be designed to—

(A) promote the competitiveness of United States service firms and American employees through appropriate economic policies;

(B) promote actively the use and sale of United States services abroad and develop trade opportunities for United States service firms;

(C) develop a data base for policymaking pertaining to services;

(D) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) United States regulation of service industries;

(ii) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(iii) antitrust policies as such policies affect the competitiveness of United States firms;

(iv) treatment of services in international agreements of the United States; and

(v) adequacy of current United States export promotion activities in the service sector;

(E) provide, together with other appropriate agencies, staff support for negotiations on service-related issues by the United States Trade Representative and the domestic implementation of service-related agreements;

(F) collect such statistical information on the domestic service sector as may be necessary for the development of governmental policies toward the service sector;

(G) conduct sectoral studies of domestic service industries;

(H) collect comparative international information on service industries and policies of foreign governments toward services;

(I) develop policies to strengthen the export competitiveness of domestic service industries;

(J) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(K) provide statistical, analytical, and policy information to State and local governments and service industries.

(2) AVAILABILITY OF FUNDS.—The Secretary of Commerce shall carry out the program under this subsection from funds otherwise made available to him which may be used for such purposes.

(c) COORDINATION WITH STATES.—

(1) STATEMENT OF POLICY.—It is the policy of Congress that the President shall, as he deems appropriate—

(A) consult with State governments on issues of trade policy affecting the regulatory authority of non-federal governments, or their procurement of goods and services; and

(B) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in subparagraph (A).

(2) ESTABLISHMENT OF NON-FEDERAL GOVERNMENTAL TRADE ADVISORY COMMITTEES.—Section 135 (19 U.S.C. 2155) is amended—

(A) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(B) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (2) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(C) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(D) by inserting "government," before "labor" in subsection (j); and

(E) by adding at the end thereof the following new subsection:

"(m) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).''; and

(F) by inserting "or Public" after "Private" in the heading thereof.

(3) CONFORMING AMENDMENTS.—

(A) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(B) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(C) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

SEC. 7. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.".

SEC. 8. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) AUTHORIZATION TO ENTER INTO AGREEMENTS.—The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objectives under section 104A(c) of the Trade Act of 1974.

(b) ANALYSIS OF FACTORS WHICH INFLUENCE UNITED STATES COMPETITIVENESS IN HIGH TECHNOLOGY INDUSTRIES.—In order to maintain and enhance the competitiveness of United States high technology industries, the Department of Commerce shall submit a report to Congress within one year of the date of the enactment of this Act analyzing factors not addressed in this Act which significantly affect the competitiveness of United States high technology industries and which have a potential for high sales growth in world markets, including—

(1) United States and foreign economic policies, in particular macroeconomic, regulatory, and sector or factor specific policies; and

(2) the structure of markets which supply production factors to, and distribute the product of, such industries.

(Amendment in the nature of a substitute, or as a series of amendments.)

AMENDMENT (4)

—SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Trade in Automotive Products Act".

SEC. 2. PURPOSE.

The purpose of this Act is to encourage the fair trade of automotive products in the United States.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—As used in this Act—

(1) The term "automotive products" means motor vehicles and parts for use in the production of new motor vehicles.

(2) The term "model year" means a vehicle manufacturer's annual production period (as determined by the Secretary) which includes January 1 of a calendar year, or if a vehicle manufacturer does not have an annual production period, the calendar year. A model year shall be designated by the year in which January 1 occurs.

(3) The term "motor vehicle" means any 3-wheeled or 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on the public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and which is rated at 10,000 pounds gross vehicle weight or less. Such term does not include (A) any motorcycle, or (B) any vehicle determined by the Secretary to be an automobile capable of off-highway operation within the meaining of section 501(3) of the Motor Vehicle Information and Cost Savings Act.

(4) The term "production cost" means, with respect to an automotive product, the wholesale price to dealers in the United States for the product as set forth in the vehicle manufacturer's official dealer price list that is in effect at the time the product is sold as wholesale.

(5) The term "Secretary" means the Secretary of Transportation.

(6) The term "vehicle manufacturer" means any person engaged in the business of producing motor vehicles for ultimate retail sale in the United States and includes as one entity all persons who control, are controlled by, or are in common control with, such person. Such term also includes any predecessor or successor of such a vehicle manufacturer.

SEC. 4. INFORMATION AND REPORTS.

(a) VEHICLE MANUFACTURERS RECORDS AND INFORMATION.—Each vehicle manufacturer that produces more than 100,000 motor vehicles for sale in the United States during any model year after model year 1982 must establish and maintain such records, and provide such information, regarding the production and sale of automotive products by it as the Secretary by rule shall require related to the U.S. content of vehicles which it sells in the United States.

(b) AUTHORITY TO OBTAIN INFORMATION.—

(1) The authority granted to the Secretary under subsection (b)(1) of section 505 of the Motor Vehicle Information and Cost Saving Act (as in effect on the date of the enactment of this Act) to obtain information and data, and access thereto, that is deemed advisable by him for purposes of carrying out part V of that Act may be used by the Secretary for purposes of obtaining the information and data, and access thereto, that is necessary or appropriate to carry out this Act.

(2) The authority granted to the districts courts of the United States under subsection (b)(2) of such section 505 to enforce compliance with action taken by the Secretary under subsection (b)(1) of such section may be used by such courts to enforce actions taken by the Secretary pursuant to paragraph (1) for purposes of carrying out section 4(a) and section 6.

(3) The Secretary shall disclose any information and data obtained under this subsection to the public only in accordance with section 552 of title 5, United States Code; and any matter described in subsection (b)(4) and subsection (a) of such section shall not be disclosed to the public, except that where such matter may be relevant to any administrative or judicial proceeding to enforce this Act, such matter may be disclosed in such proceeding only in a matter which would not result in competitive damage or disadvantage, as determined by the Secretary or a court, because of such disclosure.

(c) ANNUAL REPORTS.—As soon as practicable after the close of each model year after January 1, 1983, the Secretary shall prepare and make available to the public a report setting forth the domestic content ratio achieved by each vehicle manufacturer during such model year.

SEC. 5. STUDY OF DISCRIMINATORY PRACTICES AFFECTING DOMESTIC PRODUCTION OF MOTOR VEHICLE PARTS.

Within one year after the date of the enactment of this Act, the Secretary and the Federal Trade Commission shall jointly undertake an investigation, and submit to Congress a written report, regarding those policies and practices of vehicle manufacturers that are used to persuade United States motor vehicle dealers, in choosing replacement parts for motor vehicles, to favor foreign-made parts rather than domestically produced parts. Such a report shall include, but not be limited to recommended administrative or legislative action that the Secretary and the Federal Trade Commission consider appropriate to assure that domestic producers of replacement parts are accorded fair access to the United States market for such parts.

SEC. 6. GAO REPORT.

Not later than one year after the date of the enactment of this Act and each year thereafter, the Comptroller General of the United States shall transmit to the Congress a report on the impact of this Act on the automotive and related industries in the United States. Each report shall contain an analysis of the impact of this Act during the period for which the report submitted—

(1) on the prices of new, domestic and foreign motor vehicles;

(2) on the employment within the United States in motor vehicle manufacturing and in related industries and on employment in the United States in export industries;

(3) on the productivity and profits of vehicle manufacturers who have sales of their motor vehicles in the United States;

(4) on the productivity and profits of foreign vehicle manufacturers who have production facilities in the United States; and

(5) on the development of motor vehicles suitable for use in more than one country.

Each report shall also contain recommendations for such legislation as the Comptroller General determines is appropriate.

SEC. 7. ANALYSIS OF FOREIGN AUTOMOTIVE TRADE BARRIERS.

(a) IN GENERAL.—Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—BARRIERS TO AUTOMOTIVE MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO AUTOMOTIVE MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962, shall—

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

"(i) United States exports of automotive products

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the Reciprocal Trade and Investment Act of 1982, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) CONFORMING AMENDMENT.—The table of contents for title I is amended by adding at the end thereof the following:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"Sec. 181. Actions concerning barriers to market access.".

SEC. 8. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) PRESIDENTIAL ACTION IN THE CASE OF UNFAIR TRADE PRACTICES.—Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under any trade agreement, or

"(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).".

(b) OTHER ACTION BY PRESIDENT.—Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "notwithstanding any other provision of law," before "impose";

(B) by striking out "products" and inserting in lieu thereof "goods"; and

(C) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(3) propose legislation where necessary and appropriate to carry out the objectives of subsection (a).

Any legislation proposed under paragraph (3) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted. The President shall notify Congress, and publish notice in the Federal Register, of his intention to propose legislation under paragraph (3) at least 90 days before the implementing bill is submitted.".

(c) INITIATION OF INVESTIGATIONS BY OR ON MOTION OF TRADE REPRESENTATIVE.—

(1) IN GENERAL.—Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than 45 days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the 30-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2) CONFORMING AMENDMENTS.—

(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.".

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigation" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of investigations by United States Trade Representative.".

(d) EXTENSION OF TIME FOR REQUESTS FOR CONSULTATIONS.—Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

(2) by adding at the end thereof the following new subsection:

"(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of veriifying or improving the petition to ensure an adequate basis for consultation, and

(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(e) DEFINITIONS.—

(1) COMMERCE DEFINED.—Paragraph (1) of section 301(d) (19 U.S.C. 301(d)) is amended to read as follows:

"(1) DEFINITION OF COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) UNREASONABLE, UNJUSTIFIABLE, AND DISCRIMINATORY DEFINED.—Section 301(d) (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraphs:

"(3) DEFINITION OF UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate protection of intellectual property rights.

"(4) DEFINITION OF UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes where appropriate any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.".

(3) CONFORMING AMENDMENT.—Section 301(d) (19 U.S.C. 2411(d)) is amended by striking out the heading and inserting in lieu thereof:

"(d) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(f) AMENDMENTS TO SECTION 305.—Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

By Mr. GLICKMAN:

—On page 15, before the comma on line 8 insert the following: "and on the overall balance of trade between the United States and nations with manufacturers subjected to content ratios under Section 4."; on line 22, delete the word, "and"; on line 24, delete the period and insert in lieu thereof "; and

(6) on exports of other manufactured and agricultural products from the United States to nations with manufacturers subjected to content ratios under this Act."

By Mr. MICHEL:

—On page 16, after line 3, add the following new section:

"SEC. 9. ACHIEVEMENT OF THE GOALS OF THE "HUMPHREY-HAWKINS" ACT.

The Secretary may waive any of the provisions of this Act if he determines, on the basis of analyses of the impact of this Act by the Congressional Budget Office and the General Accounting Office, that the Act would impede achievement of the objectives and goals of reducing the rate of unemployment, reducing the rate of inflation and increasing exports as set forth in the Full Employment and Balanced Growth Act of 1978 (P.L. 95-523).

By Mr. TAUKE:

AMENDMENT (3)

—Page 8, line 5, strike out "shall" and all that follows down through and including the colon on line 10 and insert in lieu thereof "shall not be less than the applicable minimum content ratio specified in the following table:".

By Mr. TAUKE:

AMENDMENT (11)

—Page 15, after line 2, insert the following new section:

SEC. 8. FUEL ECONOMY STANDARD WAIVER.

Sections 4 and 5 shall not apply to any vehicle manufacturer during any model year in which the average fuel economy for the passenger automobiles manufactured by the manufacturer meet the average fuel economy standard prescribed by section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002).

Renumber the succeeding sections accordingly.

By Mr. TAUKE:

AMENDMENT (6)

—Page 8, in the heading to the table after line 10 strike out "Number of motor vehicles produced by the manufacturer and sold in the United States during such year" and insert in lieu thereof: "Number of motor vehicles produced by the manufacturer during the model year and sold as new cars during such year in the United States".

By Mr. SCHUMER:

—Page 11, line 5, strike out "It" and insert "Except as provided in paragraph (5), it".

Page 13, between lines 2 and 3, insert the following:

(5) Paragraph (1) shall not apply with respect to any vehicle manufacturer of Japan with respect to any model year if the United States deficit in the balance on goods and services with Japan (as calculated on the basis of the Balance on Goods and Services published by the Department of Commerce) for the four consecutive calendar quarters most closely corresponding to such model year does not exceed an amount that bears to the United States deficit in such balance with Japan during calendar year 1982 the percentage specified in the following table:

Percentage of 1982 U.S. deficit with Japan

Model year:	
1984	87.5
1985	75.0
1986	62.5
1987 and each model year thereafter	50.0

H.R. 6296

By Mr. GONZALEZ:

(Amendment in the nature of a substitute to H.R. 6296, as reported.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Housing and Urban-Rural Recovery Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION
Sec. 101. Rehabilitation loans.
TITLE II—ASSISTED HOUSING
Sec. 201. Low income housing authorization.
Sec. 202. Tenant contribution.
Sec. 203. Other amendments to the 1937 Act.
Sec. 204. Operating assistance for troubled multifamily housing projects.
Sec. 205. Housing for the elderly and handicapped.
Sec. 206. Government National Mortgage Association.
Sec. 207. Congregate services.
Sec. 208. Shared housing for the elderly.
Sec. 209. Amounts recovered by public housing agencies.
Sec. 210. Rent supplement amendment.
Sec. 211. Cost limitations.
Sec. 212. Extension of financing adjustment factor.
Sec. 213. Conversion of rent supplements.
Sec. 214. Demonstration project.
TITLE III—HOUSING PRODUCTION PROGRAMS
PART A—MULTIFAMILY HOUSING PRODUCTION PROGRAMS
Sec. 301. Short title.
Sec. 302. Statement of purpose and authority.

Sec. 303. Area eligibilty criteria.
Sec. 304. Project selection criteria.
Sec. 305. Allocation of assistance.
Sec. 306. Amount of assistance.
Sec. 307. Terms and conditions of assistance.
Sec. 308. Financing and other conditions.
Sec. 309. Labor standards.
Sec. 310. Authorization.

PART B—DEMONSTRATION PROGRAM FOR EMERGENCY HOUSING

Sec. 321. Demonstration program for emergency housing.

TITLE IV—RURAL HOUSING

Sec. 401. Authorizations.
Sec. 402. Rural housing fund amendments.
Sec. 403. Tenant contribution.
Sec. 404. Section 502 interest credits.
Sec. 405. Determination of need for housing under sections 514 and 516.
Sec. 406. Processing of applications.
Sec. 407. Shared housing for the elderly.
Sec. 408. Use of fee inspectors and appraisers.
Sec. 409. Definition of rural area.

TITLE V—PROGRAM AMENDMENTS AND EXTENSIONS

Sec. 501. Weatherization program.
Sec. 502. Counseling.
Sec. 503. Manufactured housing.
Sec. 504. Report.
Sec. 505. Mortgage insurance for public hospitals.
Sec. 506. Mortgage insurance for American Samoa.
Sec. 507. Indexed mortgages.
Sec. 508. Department of Housing and Urban Development reorganization procedures.
Sec. 509. Housing insurance mortgage limitations.

TITLE VI—EMERGENCY MORTGAGE RELIEF

Sec. 601. Emergency mortgage relief.

TITLE VII—GENERAL PROVISIONS

Sec. 701. Applicability.

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

REHABILITATION LOANS

SEC. 101. Section 312(d) of the Housing Act of 1964 is amended by adding the following new sentence at the end thereof: "Of the amount available for loans under this section during any fiscal year beginning on or after October 1, 1982, the Secretary shall utilize at least 60 percent of such amount for rehabilitation loans for one- to four-family dwelling units.".

TITLE II—ASSISTED HOUSING

LOW INCOME HOUSING AUTHORIZATION

SEC. 201. (a) Section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" after "1980," in the first sentence of paragraph (1);

(2) by inserting the following before the period at the end of the first sentence of paragraph (1): ", and by $560,000,000 on October 1, 1982";

(3) by striking out "and" after "1980" in the third sentence of paragraph (1);

(4) by inserting the following before the period at the end of the third sentence of paragraph (1): ", and $10,400,000,000 with respect to the additional authority provided on October 1, 1982";

(5) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(6) by striking out subparagraph (C) of paragraph (3); and

(7) by adding the following new paragraph after paragraph (3):

"(4)(A) Of the additional authority approved in appropriation Acts and made available on October 1, 1982, the Secretary shall enter into contracts aggregating at least $75,000,000 for assistance to projects under section 14. Such amount shall not include authority utilized under section 14 as a result of paragraph (8).

"(B) Of the balance of the additional authority referred to in subparagraph (A) that remains after deducting the amount to be provided for assistance to projects under section 14—

"(i) at least $69,074,000 shall be made available for lower income housing projects under this Act (other than under section 8), of which amount at least $18,595,000 shall be made available to Indian public housing agencies;

"(ii) at least $21,094,000 shall be made available for substantially rehabilitated units assisted under section 8 in areas where concentrated housing and community development block grant-assisted physical development and public service activities are conducted under title I of the Housing and Community Development Act of 1974; and

"(iii) not more than $176,215,000 may be utilized to convert assistance under any other provision of law to assistance under section 8 of this Act.".

(b) Section 9(c) of such Act is amended—

(1) by striking out "and" after "1980,"; and

(2) by inserting before the period at the end thereof the following: ", and not to exceed $1,600,000,000 on or after October 1, 1982".

TENANT CONTRIBUTION

SEC. 202. (a) Section 3(a) of the United States Housing Act of 1937 is amended—

(1) by inserting the following new sentence after the first sentence thereof: "Except as otherwise provided in this Act, income limits for occupancy and rent in public housing shall be fixed by the public housing agency and approved by the Secretary."; and

(2) by striking out "30" in paragraph (1) and inserting in lieu thereof "25".

(b) Section 3(b)(4) of such Act is amended by inserting the following before the period at the end thereof: "; except that there shall be excluded from such income the value of any coupon, stamp, or type of certificate issued pursuant to the provisions of the Food Stamp Act of 1977".

(c) Section 3(b)(5) of such Act is amended—

(1) by inserting the following before the period at the end of the first sentence thereof: "; except that there shall be excluded at least the following amounts:

"(A) an amount equal to $400 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is under eighteen years of age or who is eighteen years of age or older and is disabled or handicapped or a full-time student;

"(B) an amount equal to $400 for each member of the household who is elderly;

"(C) any medical expenses to the extent such expenses exceed 3 percent of the income of the family; and

"(D) any child care expenses that are necessary for the employment of other members of the household"; and

(2) by striking out the second sentence thereof.

(d)(1) Section 236(f) of the National Housing Act is amended—

(A) by striking out "30" each time it appears therein and inserting in lieu thereof "25"; and

(B) by striking out "25" in subsection (f)(1)(ii) and inserting in lieu thereof "20".

(2) Section 236(m) of such Act is amended to read as follows:

"(m) For the purpose of this section, the terms 'income' and 'adjusted income' shall have the same meanings given such terms in section 3(b) of the United States Housing Act of 1937.".

(e)(1) Section 101(c) of the Housing and Urban Development Act of 1965 is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) 'income' and 'adjusted income' shall have the same meanings given such terms in section 3(b) of the United States Housing Act of 1937.".

(2) Section 101(d) of such Act is amended by striking out "70" and "30" and inserting in lieu thereof "75" and "25", respectively.

(f) The amendments made by this section shall become effective on August 1, 1982.

OTHER AMENDMENTS TO THE 1937 ACT

SEC. 203. (a) Section 5(c) of the United States Housing Act of 1937 is amended by adding the following new paragraph at the end thereof:

"(8) In the case of any authority that is authorized by this section and has been allocated with respect to any fiscal year prior to fiscal year 1983 under section 213(d) of the Housing and Community Development Act of 1974 to a public housing agency for use with respect to units to be assisted other than under section 8 or section 14, the public housing agency may use part or all of such authority for comprehensive improvement assistance according to the requirements of section 14 if the agency, after consultation with the unit of general local government, determines that such authority or portion thereof will be used more effectively under section 14, except that the Secretary may prohibit the use of such authority under section 14 on the basis that the authority cannot be used more effectively under such section. For the purpose of making this authority available according to the requirements of section 14, this authority shall be considered to be assistance made available under subsection (b) of such section.".

(b) Section 6(b) of such Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the third sentence—

(A) by redesignating clauses (1) through (8) as clauses (A) through (H), respectively; and

(B) by striking out "(1) through (7)" and inserting in lieu thereof "(A) through (G)"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall establish reasonable maximum limitations on total development costs under this Act that take into account local prototype costs and local variations in land, site improvement, and construction costs. The Secretary shall publish such limitations in the Federal Register, and shall revise such limitations not less than once annually. Any project for which a development cost budget has been approved by the Secretary prior to December 6, 1982, shall be subject to the limitations on total development costs established pursuant to regulations in effect on September 7, 1982.".

(c)(1) Section 8(c)(1) of such Act is amended—

(A) by inserting "(A)" after "(c)(1)"; and

(B) by adding the following new subparagraph at the end thereof:

"(B) In the case of existing units—

"(i) the fair market rental for an area shall, taking into consideration the various sizes and types of dwelling units described in the second sentence of subparagraph (A), be the median rent paid by tenants who moved into or within the area during the most recently completed period of not to exceed twenty-four months for which data is available at the time such fair market rental is determined; and

"(ii) the maximum monthly rent shall be reasonable in relation to rents currently being charged for comparable units in the private unassisted market (taking into account the location, size, type, quality, amenities, facilities, and management and maintenance service of such unit) and shall not be in excess of rents currently being charged by the owner for comparable unassisted units.".

(2) The amendment made by paragraph (1) shall apply only with respect to fair market rentals applicable during fiscal year 1983 and thereafter.

(d) Section (8)(c)(1)(A) of such Act, as so redesignated by this section, is amended by inserting after the third sentence the following new sentence: "The Secretary shall revise the fair market rentals established for each area under this section not less than once annually, taking into consideration any changes in the monthly rents charged for rental dwelling units in such area.".

(e)(1) Section 8(b)(1) of such Act is amended by inserting the following new sentence at the end thereof: "In the case of any annual contribution contract entered into by the Secretary with a public housing authority under this subsection for fewer than fifteen years, the Secretary shall offer to renew such contract for a period of five years each time it expires if the authority has carried out the terms of the contract prior to the renewal offer and if the renewal does not extend the period of assistance under the original contract and its renewals beyond fifteen years; in any case in which the total period of assistance that has been made available under the contract and its renewals is more than ten but less than fifteen years, the renewal offer required under this sentence shall be made for the period that would extend such total period of assistance to fifteen years.".

(2) The amendment made by paragraph (1) shall apply to contracts in effect on or after the date of the enactment of this Act.

(f) Section 9(d) of such Act is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding the following new paragraph at the end thereof:

"(2) If, in any fiscal year, the funds that have been appropriated for the fiscal year for use under this section are less than the total amount that the Secretary has determined is necessary to make payments pursuant to the standards or formula established under subsection (a)(1) for such year, payments shall be reduced on a pro rata basis and distributed promptly. The Secretary may develop an alternative distribution method, but the development of such alternative shall be considered a rulemaking activity of the Secretary and thereby subject to subsections (b) through (e) of section 553 of title 5, United States Code, and to section 7(o) of the Department of Housing and Urban Development Act. The pro rata payments provided for herein shall not be delayed by the development or implementation of any alternative distribution formula.".

(g) Section 9 of such Act is amended by adding the following new subsections at the end thereof:

"(e) In carrying out this section, the Secretary shall require that each public housing agency submit a year-end adjustment establishing the difference between—

"(1) actual utility rates and utility consumption during the year; and

"(2) the utility rates and utility consumption previously estimated for the year.

If the agency has incurred increased utility expenses over those that were previously estimated for the year, the Secretary shall, out of funds appropriated for use under this section after the effective date of this subsection, pay—

"(A) 100 percent of such increased expenses to the extent that the increase was caused by increased utility rates; and

"(B) 50 percent of such increased expenses to the extent that the increase was caused by increased utility consumption beyond the control of the agency.

"(f) The Secretary may not apply procedures for the recapture of investment income earned by public housing agencies in excess of amounts projected in calculations for annual contributions for operation of lower income housing projects under this section, except with respect to public housing agency fiscal years ending after the date of the enactment of this Act. In applying any such procedures, the Secretary may not recapture more than 50 percent of such investment income.".

(h)(1) The United States Housing Act of 1937 is amended by striking out section 16.

(2) Section 8(c) of such Act is amended by adding the following new paragraph at the end thereof:

"(9) At least 30 percent of the families assisted under this section with annual allocations of contract authority shall be very low-income families at the time of the initial renting of dwelling units.".

(i) The United States Housing Act of 1937 is amended by adding the following new section at the end thereof:

"ADMINISTRATION OF PUBLIC HOUSING

"SEC. 16. In order to encourage improved management procedures with respect to public housing, the Secretary shall (1) establish standards for sound management of public housing authorities; (2) assure that any regulations promulgated with respect to the public housing program, including regulations promulgated prior to enactment of this section, are designed to promote sound management of all public housing authorities, taking into consideration distinctions arising from features such as, but not limited to, number of projects and tenants, size of operating budget and demonstrated management capability; (3) provide for a more concentrated departmental effort on behalf of agencies with serious management problems so that flexible and appropriate remedies can be designed and implemented to address particular local problems; (4) protect the Federal interest in public housing; and (5) provide an effective and efficient delivery of services to tenants.".

(j) The United States Housing Act of 1937 is amended by adding the following new section at the end thereof:

"CONDITIONS OF DEMOLISHING, SELLING, OR OTHERWISE DISPOSING OF A PUBLIC HOUSING PROJECT

"SEC. 17. (a) Except as provided in subsection (c), no public housing project may be demolished, sold, or otherwise disposed of (including any demolition or disposal conducted pursuant to section 6(f) or otherwise), in whole or in part, unless—

"(1) the public housing authority and the unit of general local government concerned have certified their approval;

"(2) such project is substantially unoccupied;

"(3) the cost of rehabilitating such project would be greater than replacing it;

"(4) the Secretary and the public housing agency have developed the plan for demolition, disposition, and replacement after notification to, and consultation with, the affected tenants and tenant councils;

"(5) the Secretary and such agency have entered into agreements assuring relocation assistance (comparable to the assistance provided under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970) to any tenant who is displaced as a result of the demolition or disposition; and

"(6) the public housing agency has secured funding commitments from the Secretary or other sources and such funding has been committed to replacing the sold, demolished, or otherwise disposed of units with an equal number of newly constructed or substantially or moderately rehabilitated units in the same neighborhood; except that the Secretary may approve, after consultation with the tenants and tenant groups affected, replacement by fewer units in the same neighborhood or in one or more different neighborhoods if the Secretary determines that this action will result in a better living environment for lower income families and that replacement by an equal number of units is not necessary to meet lower income housing needs.

"(b) The requirements stated in paragraphs (2) and (3) of subsection (a) may be waived if—

"(1) there are sound social and economic reasons for the demolition, sale, or other disposition; and

"(2) a majority of the tenants affected consent to such action.

"(c) The provisions of this section shall not apply to demolitions to which section 14(f) apply.".

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 204. (a) Section 201(j) of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out "(B)" in the first sentence;

(2) by striking out "and" in such sentence after "1981,"; and

(3) by inserting the following before the period at the end of such sentence: ", and not to exceed $32,000,000 for the fiscal year 1983".

(b) Section 236(f)(3) of the National Housing Act is amended by striking out "September 30, 1982" in the third sentence and inserting in lieu thereof "September 30, 1983".

HOUSING FOR THE ELDERLY AND HANDICAPPED

SEC. 205. (a)(1) Section 202(a)(3) of the Housing Act of 1959 is amended by inserting the following before the period at the end thereof: ", except that such interest rate plus such allowance shall not exceed 9.25 percent per annum".

(2) The amendment made by paragraph (1) shall apply only with respect to loan agreements entered into after September 30, 1982.

(b) Section 202(a)(4)(B)(i) of such Act is amended—

(1) by striking out "and" after "1980," in the first sentence; and

(2) by inserting ", and to $6,423,900,000 on October 1, 1982," after "1981" in such sentence.

(c) Section 202(a)(4)(C) of such Act is amended by striking out "$850,848,000" and "1982" in the second sentence and inserting in lieu thereof "$843,100,000" and "1983", respectively.

(d) Section 202 of such Act is amended by adding at the end thereof the following new subsections:

"(i)(1) Unless otherwise requested by the sponsor, a maximum of 25 percent of the units in a project financed under this section may be efficiency units, subject to a determination by the Secretary that such units are appropriate for the elderly or handicapped population residing in the vicinity of such project or to be served by such project.

"(2) The Secretary may require a sponsor of a housing project financed with a loan under this section to deposit an amount not to exceed $10,000 in a special escrow account to assure the commitment and long-term management capabilities of such sponsor. Nothing in this section authorizes the Secretary—

"(A) to require an equity participation by a sponsor in any such project;

"(B) to prohibit any sponsor from voluntarily providing funds from other sources for amenities and other features of appropriate design and construction suitable for inclusion in such projects; or

"(C) to prohibit a required meals program as part of a sponsor's total contract offered to residents if such contract was in existence on the date of enactment of this subsection.

"(3) In establishing per unit cost limitations for purposes of this section, the Secretary shall take into account design features necessary to meet the needs of elderly and handicapped residents, and such limitations shall reflect the cost of providing such features. The Secretary shall adjust such limitations not less than once annually to reflect changes in the level of construction costs.

"(j) The Secretary may not approve the prepayment of any loan made under this section, or sell or transfer such loan, unless such prepayment, sale, or transfer is made as part of a transaction that will ensure that the project involved will continue to operate until the original maturity date of such loan in a manner that will provide rental housing for the elderly and handicapped on terms at least as advantageous as the terms required by the original loan agreement entered into under this section and any other loan agreements entered into under other provisions of law.".

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SEC. 206. Section 305(k) of the Federal National Mortgage Association Charter Act is amended to read as follows:

"(k) Notwithstanding any other provision of law and subject only to the absence of qualified requests for purchases and to the authority provided in this section, the Association shall, to the extent approved in appropriation Acts, enter into commitments during fiscal year 1983 to purchase mortgages under this section with an aggregate principal amount of $700,000,000. Of such amount (1) one-half shall be used to enter into commitments to purchase mortgages of multifamily housing projects located in cities or urban counties eligible for assistance under section 119 of the Housing and Community Development Act of 1974; and (2) one-half shall be used to enter into commitments to purchase mortgages of multifamily projects in which not less than 20 percent of the units are assisted under section 8 of the United States Housing Act of 1937.".

CONGREGATE SERVICES

SEC. 207. Section 411(a) of the Congregate Housing Services Act of 1978 is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph at the end thereof:

"(5) for fiscal year 1983, not to exceed $10,000,000.".

SHARED HOUSING FOR THE ELDERLY

SEC. 208. (a) Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end thereof:

"(o) In order to assist elderly families who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their cost of housing, the Secretary shall permit assistance provided under the existing housing and moderate rehabilitation programs to be used by such families in such arrangements. In carrying out this subsection, the Secretary shall issue minimum property standards (or modify existing standards) for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.".

(b) Section 105(a)(15) of the Housing and Community Development Act of 1974 is amended by inserting the following before the semicolon at the end thereof: ", including grants to neighborhood-based nonprofit organizations for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities in which elderly families (as defined in section 3(b) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing".

AMOUNTS RECOVERED BY PUBLIC HOUSING AGENCIES

SEC. 209. Section 326(d)(1) of the Housing and Community Development Amendments of 1981 is amended—

(1) by striking out "the housing assistance program under section 8 of" and inserting in lieu thereof "any program established under"; and

(2) by inserting the following new sentence at the end thereof: "In any case in which the public housing agency recovers such wrongfully paid amounts through actions other than those described in the preceding sentence, the Secretary shall permit such agency to retain an amount equal to 50 percent of the amount actually collected.".

RENT SUPPLEMENT AMENDMENT

SEC. 210. Section 101(l) of the Housing and Urban Development Act of 1965 is amended by adding the following new sentence at the end thereof: "Any amount of assistance for which contracts to make payments under this section were entered into and which is recaptured as a result of the conversion of assistance made available under this section to assistance made available under section 8 of the United States Housing Act of 1937 shall be made available, to the extent approved in appropriation Acts, for use under such section 5(c) in addition to any other funds authorized and approved for use under such section, except that such amount of assistance authorized to be made available under such section 5(c) is limited to the amount of assistance utilized under the preceding sentence.".

COST LIMITATIONS

SEC. 211. (a) Section 8(l) of the United States Housing Act of 1937 is amended—

(1) by inserting in the first sentence after "shall limit" the following: "contract authority reservation,"; and

(2) by inserting the following before the period at the end of the second sentence: ", and the Secretary shall not impose a percentage or other arbitrary limitation on such increases".

(b) The amendment made by this section shall apply to proposals receiving a preliminary reservation of contract authority in any fiscal year, including fiscal years ending before the date of the enactment of this Act.

EXTENSION OF FINANCING ADJUSTMENT FACTOR

SEC. 212. The Secretary may not require that any agreement to enter into a housing assistance payments contract under section 8 of the United States Housing Act of 1937 include a provision requiring construction of the project involved to be in progress before May 31, 1983.

CONVERSION OF RENT SUPPLEMENTS

SEC. 213. Section 101 of the Housing and Urban Development Act of 1965 is amended by adding the following new subsection at the end thereof:

"(m) To the extent authority is available as a result of converting contracts assisted under section 236(f)(2) of the National Housing Act to contracts assisted under section 8 of the United States Housing Act of 1937, the Secretary shall, after utilizing such funds as are necessary to amend existing contracts assisted under such section 236(f)(2) for the purpose of providing rent increases, offer to amend each contract entered into under this section with owners of projects that are also assisted under section 236 of the National Housing Act and that are financed under a State or local program providing assistance through loans, loan insurance, or tax abatements for the purpose of converting the contract under this section to an assistance payment contract under such section 236(f)(2).".

DEMONSTRATION PROJECT

SEC. 214. (a) The Congress finds that—

(1) the United States Department of Health and Human Services spends in excess of $5,000,000,000 annually for housing in the form of allowances for shelter for public assistance recipients;

(2) States administering the Department of Health and Human Services public assistance program often specify shelter allowances that have little relationship to the cost or the quality of the housing in which public assistance recipients live;

(3) at least 30 percent of public assistance recipients live in substandard housing;

(4) the older rental buildings in which many public assistance recipients live are in those neighborhoods that need the assistance of the Department of Housing and Urban Development's programs for preservation and rehabilitation; and

(5) there is the potential for improving housing for many lower income families by coordinating State and local government efforts in order to assure that families receiving public assistance payments from the Department of Health and Human Services are able to live in decent, safe, and sanitary housing.

(b) The purpose of this section, therefore, is to provide assistance to units of general local government and their designated agencies in order to develop a program that will—

(1) encourage the upgrading of housing occupied primarily by lower income families, including families receiving assistance under the aid for families with dependent children program established under title IV of the Social Security Act; and

(2) provide for better coordination at the local level of the efforts to assist families receiving public assistance from the Department of Health and Human Services so that these families will be able to occupy affordable housing that is decent, safe, and sanitary and that, if necessary, is rehabilitated with funds provided by the Department of Housing and Urban Development.

(c) The Secretary of Housing and Urban Development (hereafter referred to in this section as the "Secretary") shall, to the extent approved in appropriation Acts, establish and maintain a demonstration project to carry out the purpose described in subsection (b).

(d) In carrying out such project, the Secretary shall make grants to units of general local government, or designated agencies thereof, to carry out administrative plans approved by the Secretary in accordance with subsection (e), and the Secretary may make grants to States to provide technical assistance for the purpose of assisting such units of general local government to develop and carry out such plans.

(e)(1) Grants may be made to States and units of general local government and agencies thereof that apply for them in a manner and at a time determined by the Secretary and that, in the case of units of general local government and their agencies, are selected on the basis of an administrative plan described in such application.

(2) No such administrative plan shall be selected by the Secretary unless it sets forth a plan for local government activities that are designed to—

(A) require or encourage owners of rental housing occupied by lower income families to bring such housing into compliance with local housing codes;

(B) provide technical assistance, loans, or grants to assist owners described in subparagraph (A) to undertake cost-effective improvements of such housing;

(C) work with the State to establish and implement a schedule of local shelter allowances for recipients of assistance under title IV of the Social Security Act based on building quality that will be applicable to buildings involved in this program; and

(D) coordinate local housing inspection, housing rehabilitation loan or grant assistance, rental assistance, and social service programs for the purpose of improving the quality and affordability of housing for lower income families.

(3) Funds received from any grant made by the Secretary to a unit of general local government shall be made available for use according to the administrative plans and may be used for—

(A) technical assistance or financial assistance to property owners to upgrade housing projects described in paragraph (2)(A) of this subsection;

(B) temporary rental assistance to families who live in buildings assisted under this program and who are eligible for, but are not receiving, assistance under section 8 of the United States Housing Act of 1937; except that such families shall not include families receiving assistance under title IV of the Social Security Act, and the amount of such rental assistance may not exceed 20 percent of each grant received under this section;

(C) housing counseling and referral and other housing related services;

(D) expenses incurred in administering the program carried out with funds received under this section; except that such expenses may not exceed 10 percent of the grant received under this section; and

(E) other appropriate activities that are consistent with the purposes of this section and that are approved by the Secretary.

(f) Any recipient of a grant from the Secretary under this section shall agree to—

(1) contribute to the program an amount equal to 15 percent of the funds received from the Secretary under this section, and the Secretary shall permit the recipient to meet this requirement by the contribution of the value of services carried out specifically in connection with the program assisted under this section;

(2) permit the Secretary and the General Accounting Office to audit its books in order to assure that the funds received under this section are used in accordance with the section; and

(3) other terms and conditions prescribed by the Secretary for the purpose of carrying out this section in an effective and efficient manner.

(g) In making grants available under this section, the Secretary shall select as recipients at least twenty units of general local government (or their designated agencies). The selection of proposals for funding shall be based on criteria that result in a selection of projects that will enable the Secretary to carry out the purpose of this section in an effective and efficient manner and provide a sufficient amount of data necessary to make an evaluation of the demonstration project carried out under this section.

(h) The Secretary shall transmit, not later than March 1, 1984, to both Houses of the Congress a detailed report concerning the findings and conclusions that have been reached by the Secretary as a result of carrying out this section, along with any legislative recommendations that the Secretary determines are necessary.

(i) There is authorized to be appropriated for the purpose of carrying out this section an amount not in excess of $25,000,000 for fiscal year 1983.

TITLE III—HOUSING PRODUCTION PROGRAMS

PART A—MULTIFAMILY HOUSING PRODUCTION PROGRAM

SHORT TITLE

SEC. 301. This part may be cited as the "Rental Housing Production and Rehabilitation Act of 1982".

STATEMENT OF PURPOSE AND AUTHORITY

SEC. 302. (a) The purpose of this part is to increase the Nation's stock of rental and cooperative housing and to reduce the housing costs of the residents of such housing by encouraging the construction and rehabilitation of multifamily rental housing projects and cooperative housing projects for families and individuals without other reasonable and affordable housing alternatives in the private market.

(b) The Secretary of Housing and Urban Development (hereafter referred to in this part as the "Secretary") shall, to the extent approved in appropriation Acts, provide financial assistance to carry out the purpose of this part with respect to multifamily rental housing and multifamily cooperative housing if such cooperative housing has a membership resale structure that enables the cooperative to maintain affordability for lower income families as required under section 307(a)(2).

(c) Such assistance shall be made available by the Secretary to States, units of general local government (including Indian tribes), or designated agencies of States or units of general local government (including an areawide planning organization designated by two or more units of general local government to apply for assistance under this part and established under State law, interstate compacts, or interlocal agreement for the purpose of formulating policies and plans for the orderly development of a substate or interstate region) that apply for such assistance in a form and manner prescribed by the Secretary and that are selected for such assistance on the basis of the eligibility and selection criteria and other conditions set forth in this part.

(d) States, units of general local government, or agencies thereof that receive such assistance shall utilize it to stimulate the construction or rehabilitation of rental or cooperative housing projects described in subsection (b) by providing—

(1) capital grants;

(2) loans;

(3) interest reduction payments;

(4) grants to finance the purchase of land; or

(5) other comparable assistance, which the Secretary deems appropriate to carry out the purpose of this part, designed to reduce project development and operating costs.

(e) The Secretary is authorized to enter into contracts with any State or agency thereof in which contract such State or agency agrees to administer assistance available under this section, subject to all the terms and conditions specified in this part and in rules, regulations, and procedures adopted by the Secretary under this part. In administering assistance under this section, such State or agency thereof will not provide assistance unless the unit of general local government in the area where the project is to be located approves the application for assistance that is submitted for such project. In any case where the State is administering assistance under this subsection, units of general local government or their designated agencies shall not be precluded from applying directly to the Secretary for assistance under subsection (c) with respect to a project where the State or the designated agency of a State is participating by providing assistance for such project other than the assistance specified in this subsection, except that units of general local government (and their designated agencies) may not receive assistance with respect to any project under this part both from the Secretary and from the State housing agency if the assistance from such agency is made available from the assistance described in the first sentence of this subsection.

AREA ELIGIBILITY CRITERIA

SEC. 303. To be eligible for assistance under this part, a project must be located in an area that is experiencing a severe shortage of decent rental housing opportunities for families and individuals without other reasonable and affordable housing alternatives in the private market. The Secretary shall issue regulations, consistent with the preceding sentence, that set forth minimum standards for determining areas eligible for assistance. Such standards shall take into account the extent and change in the level of poverty, housing overcrowding, the amount and duration of rental housing vacancies, the amount of substandard rental housing, the extent of rental housing production lag, and such other objectively measurable conditions specified by the Secretary that are consistent with the first sentence of this section.

PROJECT SELECTION CRITERIA

SEC. 304. In selecting projects for assistance under this part from among the eligible projects, the Secretary shall make such selection on the basis of the extent—

(1) of the severity of the shortage of decent rental housing opportunities in the area, in which the project or projects are to be located, for families and individuals without other reasonable and affordable housing alternatives in the private market;

(2) of non-Federal public and private financial or other contributions that reduce the amount of assistance necessary under this part;

(3) to which the project or projects contribute to neighborhood development and mitigate displacement;

(4) to which the applicant has established a satisfactory performance in meeting assisted housing needs; and

(5) to which the assistance requested from the Secretary under this part will provide the maximum number of units for the least cost, taking into consideration cost differences among different areas, among financing alternatives, and among the types of projects and tenants being served.

ALLOCATION OF ASSISTANCE

SEC. 305. In providing assistance under this part, the Secretary shall seek to assure a reasonable distribution among eligible areas in different geographic regions, between metropolitan and nonmetropolitan areas, and among States and units of general local government or their designated agencies. In addition, the Secretary shall make a reasonable distribution of assistance among newly constructed, substantially rehabilitated, and moderately rehabilitated projects on the basis of local housing needs and prevailing local housing market conditions identified in the application for assistance.

AMOUNT OF ASSISTANCE

SEC. 306. The amount of assistance provided under this part with respect to a project shall be the least amount that the Secretary determines is necessary to provide, through the construction or rehabilitation of such project, decent rental or cooperative housing of modest design that is affordable for families and individuals without other reasonable and affordable housing alternatives in the private market, including an amount necessary to make rents for at least 20 percent of the units, as described in section 307(a)(2), affordable for persons and families whose incomes do not exceed 80 percent of the area median income.

TERMS AND CONDITIONS OF ASSISTANCE

SEC. 307. (a) Assistance under this part may be provided with respect to a project only if—

(1) the owner has entered into such agreements with the Secretary as may be necessary to assure compliance with the requirements of this section, to assure financial feasibility of the project, and to carry out the other provisions of this part;

(2) the owner agrees that, during the twenty-year period beginning on the date on which 50 percent of the units in the project are occupied (or in the case of a moderately rehabilitated project, are completed), at least 20 percent of the units the construction or rehabilitation of which is provided for under the application shall be occupied, or available for occupancy by, persons and families whose incomes do not exceed 80 percent of the area median income;

(3) the owner agrees—

(A) to pass on to the tenants any reduction in the debt service payments resulting from the assistance provided under this part;

(B) not to discriminate against prospective tenants on the basis of their receipt of or eligibility for housing assistance under any Federal, State, or local housing assistance program; and

(C) not to convert the units to condominium ownership (or in the case of a cooperative, to condominium ownership or any form of cooperative ownership not eligible for assistance under this part);

during the twenty-year period beginning on the date on which the units in the project are available for occupancy (or in the case of a moderately rehabilitated project, are completed);

(4) the mortgage secured by the project—

(A) has a principal amount that is not more than the amount that could be insured for the project under section 207 of the National Housing Act; and

(B) bears a rate of interest and contains such other terms and conditions as the Secretary determines are reasonable;

(5) the project is newly constructed or substantially or moderately rehabilitated, contains five or more dwelling units, and is used predominantly for residential purposes; and

(6) the State or unit of general local government that receives the assistance certifies to the satisfaction of the Secretary that the assistance will be made available in conformity with Public Law 88-352 and Public Law 90-284.

(b)(1) The Secretary shall provide that if the owner or his or her successors in interest fail to carry out the agreements described in paragraphs (1), (2), and (3) of subsection (a) during the applicable period, the owner or his or her successors in interest shall make a payment to the Secretary of an amount that equals the total amount of assistance provided under this part with respect to such project, plus interest thereon (without compounding), for each year and any fraction thereof that the assistance was outstanding, at a rate determined by the Secretary taking into account the average yield on outstanding marketable long-term obligations of the United States during the month preceding the date on which the assistance was made available.

(2) Notwithstanding any other provision of law, any assistance provided under this part shall constitute a debt, which is payable in the case of any failure to carry out the agreements described in paragraphs (1), (2), and (3) of subsection (a), and shall be secured by the security instruments provided by the owner to the Secretary.

(c)(1) Rents charged for units occupied or available for occupancy by persons and families whose incomes do not exceed 80 percent of the area median income, as required by subsection (a)(2), in any such project shall be approved by the Secretary. In approving such rents, the Secretary shall provide that tenants of such units are charged not more than 25 percent of their adjusted income for rent, including utilities, and shall require that not less than thirty days prior written notice of any increase in rents be provided to such tenants.

(2) Any schedule of rents submitted by an owner to the Secretary for approval shall be deemed to be approved unless the Secretary informs the owner, within sixty days after receiving such schedule, that such schedule is disapproved.

FINANCING AND OTHER PROVISIONS

SEC. 308. (a) Subject to terms and conditions that are prescribed by the Secretary and are consistent with the purpose and other provisions of this part, any obligation issued by a State or local housing agency for the purpose of financing the development of a project assisted under this part is hereby deemed an obligation that meets the requirements of, and has the benefits (including the benefit of interest earned with respect to the obligation being exempt from Federal taxation) associated with, an obligation described in section 11(b) of the United States Housing Act of 1937.

(b) A mortgage on a project assisted under this part may be insured under title II of the National Housing Act if it meets the standards required for insurance under such title.

(c) Section 817 of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" after "1966,"; and

(2) by inserting after "and 1970" the following: ", and the Rental Housing Production and Rehabilitation Act of 1982".

LABOR STANDARDS

SEC. 309. Any contract for assistance pursuant to this part shall contain (1) a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operation, of the housing project involved; and (2) a provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a et seq.), shall be paid to all laborers and mechanics employed in the development of the project involved, and the Secretary shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

AUTHORIZATION

SEC. 310. There is authorized to be appropriated for assistance under this part not to exceed the sum of $650,000,000 for fiscal year 1983.

PART B—DEMONSTRATION PROGRAM FOR EMERGENCY HOUSING

DEMONSTRATION PROGRAM FOR EMERGENCY HOUSING

SEC. 321. (a) The Secretary of Housing and Urban Development (hereafter referred to in this part as the "Secretary") shall, to the extent provided in subsection (d), carry out a demonstration program for the purpose of assisting communities or nonprofit organizations to provide shelter for people subject to life-threatening situations because of their lack of housing.

(b) Such program shall provide that—

(1) the Secretary shall make grants to communities or nonprofit organizations for the purpose described in subsection (a);

(2) nonprofit organizations may apply for such assistance only on the basis of an application approved by the community in which the project is or is to be located;

(3) the grants are made on a competitive basis, taking into consideration—

(A) the extent of need for emergency housing in the area where the project is or is to be located;

(B) in the case of nonprofit organizations, the extent of need for the funding by the organization;

(C) the extent of non-Federal assistance to be provided with respect to the project, including in-kind contributions by volunteers;

(D) in the case of nonprofit organizations, the demonstrated capacity of the organization to establish and maintain the project; and

(E) other terms and conditions prescribed by the Secretary as necessary to carry out the project in an effective, expeditious, and efficient manner;

(4) the grants may be used for the purpose of rehabilitating existing structures in order to provide basic shelter, maintaining structures providing such shelter, and paying for utilities of such structures, and for other purposes (other than salaries and administrative expenses) prescribed by the Secretary consistent with the purpose of this section; and

(5) in the case of a structure that is rehabilitated with assistance under this section, the assisted structure will be used for emergency housing for at least three years or at least ten years in any case in which the rehabilitation is substantial.

(c) The Secretary shall issue regulations with respect to this program within ninety days from the date of the enactment of this Act, and shall transmit to the Congress an interim report concerning such demonstration project not later than April 1, 1983, and a final report not later than December 1, 1983.

(d) Of the amount appropriated for fiscal year 1983 to carry out part A of this title, the Secretary shall utilize at least $50,000,000 to carry out this section.

TITLE IV—RURAL HOUSING

AUTHORIZATIONS

SEC. 401. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "$3,700,600,000 with respect to the fiscal year ending September 30, 1982;" in subsection (a) and inserting in lieu thereof "$4,200,600,000 with respect to the fiscal year ending September 30, 1983;";

(2) by striking out "$3,170,000,000" in subsection (a)(1) and inserting in lieu thereof "$3,670,000,000";

(3) by striking out "none" in subsection (a)(4) and inserting in lieu thereof: "at least $500,000,000";

(4) by striking out "and" at the end of subsection (a)(3), by striking out the period at the end of subsection (a)(4) and inserting in lieu thereof "; and", and by adding at the end of subsection (a) the following new paragraph:

"(5) not less than $940,000,000 of any amount so approved in an appropriation Act for such year shall be made available for loans under section 515.";

(5) by striking out "September 30, 1982" each place it appears in subsection (b) and inserting in lieu thereof "September 30, 1983";

(6) by striking out subsection (b)(4) and inserting in lieu thereof the following:

"(4) not to exceed $2,000,000 for the fiscal year ending September 30, 1983, for the purposes of section 525(a), and of the amount appropriated for such purposes the Secretary shall make available 50 percent for counseling purchasers and delinquent borrowers and 50 percent to carry out outreach activities for the development of domestic and migrant farm labor projects;"; and

(7) by adding the following new subsections at the end thereof:

"(c) Notwithstanding any other provision of law and subject only to the absence of qualified applicants, to the authority provided in this title, and to any funding limitation approved in appropriation Acts, the Secretary shall, during fiscal year 1983, guarantee loans under this title with an aggregate principal amount of $500,000,000.

"(d) In making available the assistance authorized by this section and section 521(a) with respect to insured and guaranteed loans and interest credits and rental assistance payments, the Secretary shall process and approve requests for such assistance in a manner that provides for a preliminary reservation of assistance at the time of initial approval of the project.".

(b) Section 515(b)(5) of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983".

(d) Section 521(a)(2)(D) of such Act is amended—

(1) by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983"; and

(2) by adding the following new sentence at the end thereof: "Of such rental assistance authority that is approved in appropriation Acts, the Secretary shall utilize at least $173,000,000 to provide assistance on behalf of tenants of newly constructed and substantially rehabilitated housing and related facilities for which assistance is provided with respect to such fiscal year under sections 514 and 515.".

(e) Section 523 of such Act is amended—

(1) by striking out "$5,000,000" and "September 30, 1982" each place such terms appear in subsection (f) and inserting in lieu thereof "$15,000,000" and "September 30, 1983", respectively; and

(2) by striking out "fiscal year 1982" each place it appears in subsection (g) and inserting in lieu thereof "fiscal year 1983".

RURAL HOUSING FUND AMENDMENTS

SEC. 402. Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) to provide assistance authorized by section 521(a)(1);"

(2) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

TENANT CONTRIBUTION

SEC. 403. (a) Section 521(a)(2)(A) of the Housing Act of 1949 is amended by striking out "not exceeding 25 per centum of income" in the first sentence and inserting in lieu thereof "not exceeding the highest of the following amounts, rounded to the nearest dollar: (I) 25 percent of the family's monthly adjusted income; (II) 10 percent of the family's monthly income; or (III) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments that is so designated".

(b) Section 501(b)(5) of such Act is amended to read as follows:

"(5) For purposes of this title, the terms 'income' and 'adjusted income' shall have the same meanings given such terms in section 3(b) of the United States Housing Act of 1937.".

SECTION 502 INTEREST CREDITS

SEC. 404. Section 521(a)(1)(B) of the Housing Act of 1949 is amended by inserting the following before the period at the end thereof: "; except that for persons of low or moderate income who receive assistance under section 502 or 517(a), the amount of assistance in the form of credits may not exceed the lesser of—

"(i) the balance of the monthly payment for principal, interest, taxes, and insurance due under the mortgage remaining unpaid after applying 20 percent of the mortgagor's adjusted income; or

"(ii) the difference between the amount of the monthly payment for principal and interest that the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest that the mortgagor would be obligated to pay if the mortgage were to bear interest at a rate of 1 percent per annum".

DETERMINATION OF NEED FOR HOUSING UNDER SECTIONS 514 AND 516

SEC. 405. Section 514 of the Housing Act of 1949 is amended by adding the following new subsection at the end thereof:

"(h) In making available assistance in any area under this section or section 516, the Secretary shall—

"(1) in determining the need for the assistance, take into consideration the housing needs only of domestic farm labor, including migrant farmworkers, in the area; and

"(2) in determining whether to provide such assistance, make such determination without regard to the extent or nature of other housing needs in the area.".

PROCESSING OF APPLICATIONS

SEC. 406. Title V of the Housing Act of 1949 is amended by adding at the end thereof the following new section:

"PROCESSING OF APPLICATIONS

"SEC. 531. The Secretary shall, in making assistance available under this title, give a priority to applications submitted by—

"(1) persons and families who have the greatest housing assistance needs because of their low income and their residing in inadequate dwellings; and

"(2) applicants applying for assistance for projects that will serve such persons and families.".

SHARED HOUSING FOR THE ELDERLY

SEC. 407. Section 521(a)(2) of the Housing Act of 1949 is amended by adding the following new subparagraph at the end thereof:

"(E) In order to assist elderly persons or families who elect to live in a shared housing arrangement in which they benefit as a result of sharing the facilities of a dwelling with others in a manner that effectively and efficiently meets their housing needs and thereby reduces their cost of housing, the Secretary shall permit rental assistance to be used by such persons or families if the shared housing arrangement is in a single-family dwelling. In carrying out this subparagraph, the Secretary shall issue minimum property standards (or modify existing standards) for the purpose of assuring decent, safe, and sanitary housing for such families while taking into account the special circumstances of shared housing.".

USE OF FEE INSPECTORS AND APPRAISERS

SEC. 408. Section 510 of the Housing Act of 1949 is amended by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following new subsection:

"(j) utilize the services of fee inspectors and fee appraisers to expedite the processing of applications for loans and grants under this title, which services shall be utilized in any case in which a county or district office is unable to expeditiously process such loans and grants, and to include the cost of such services in the amount of such loans and grants; and".

DEFINITION OF RURAL AREA

SEC. 409. Section 520 of the Housing Act of 1949 is amended by adding at the the end thereof the following new sentence: "For purposes of this title, any area classified as "rural" or a "rural area" under paragraph (2) prior to the receipt of data from or after the 1980 decennial census and determined not to be "rural" or a "rural area" as a result of such data shall continue to be so classified through the end of fiscal year 1983, if such area has a population in excess of 10,000 but not in excess of 20,000 and complies with the requirements of paragraph (3)(B).".

TITLE V—PROGRAM AMENDMENTS AND EXTENSIONS

WEATHERIZATION PROGRAM

SEC. 501. Section 422 of the Energy Conservation in Existing Buildings Act of 1976 is amended by adding the following new sentence at the end thereof: "Of the funds authorized by section 1005(1) of the Omnibus Budget Reconciliation Act of 1981 for energy conservation for the fiscal year ending September 30, 1983, not less than $144,000,000 is authorized to be appropriated to carry out the weatherization program under this part.".

COUNSELING

SEC. 502. Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended—

(1) by striking out "1982" and inserting in lieu thereof "1983"; and

(2) by striking out "$4,000,000" and inserting in lieu thereof "$8,000,000".

MANUFACTURED HOUSING

SEC. 503. (a) Section 2(a) of the National Housing Act is amended by inserting the following before the last undesignated paragraph thereof:

"The insurance authority provided under this section may be made available with respect to any existing manufactured home that has not been insured under this section if such home was constructed in accordance with the standards issued under the National Manufactured Housing Construction and Safety Standards Act of 1974 and it meets standards similar to the minimum property standards applicable to existing homes insured under title II.".

(b) Section 203 of such Act is amended by adding the following new subsection at the end thereof:

"(q) With respect to newly constructed manufactured homes and the suitably developed lots on which they are placed, the Secretary may make available insurance in accordance with subsection (b)—

"(1) in the case of such a home that meets the standards applicable to newly constructed houses insured under this section, in the full amount permitted in the area under subsection (b)(2); and

"(2) in the case of other such newly constructed manufactured homes and lots, in an amount equal to 80 percent (or 100 percent in areas where needed to meet higher costs of developed land acquisition) of the principal obligation that may be insured under subsection (b) in the area if the home was constructed in accordance with the standards issued under the National Manufactured Housing Construction and Safety Standards Act of 1974 and if it meets energy conservation standards that are comparable to the standards prescribed by the Secretary for one- to four-family houses and standards prescribed by the Secretary for set-up and attachment to a permanent foundation.".

(c) Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding the following new sentence at the end thereof: "The term 'residential mortgage' is also deemed to include loans or advances of credit secured by mortgages or other liens against manufactured homes.".

REPORT

SEC. 504. The Secretary of Housing and Urban Development shall, not later than June 30, 1983, transmit a report to both Houses of the Congress that describes—

(1) the standards utilized by the Department of Housing and Urban Development to make determinations concerning whether program requirements and changes to those requirements are implemented through the use of regulations, handbooks, memoranda, telegrams, or other forms of formal or informal notices; and

(2) the system currently utilized by the Department to assure that changes in the operation of departmental programs that substantially affect the eligibility, rights, or benefits of persons applying for or receiving assistance under any such programs are subject to requirements of notice and publication, especially those requirements specified in subsections (b) through (e) of section 553 of title V, United States Code.

MORTGAGE INSURANCE FOR PUBLIC HOSPITALS

SEC. 505. Section 242 of the National Housing Act is amended—

(1) by inserting "public facility," in subsection (b)(1)(C) after "which is a"; and

(2) by inserting the following before the period at the end of subsection (f): ", and, in the case of public hospitals, to encourage programs that are undertaken to provide essential health care services to all residents of a community regardless of ability to pay".

MORTGAGE INSURANCE FOR AMERICAN SAMOA

SEC. 506. (a) Section 9 of the National Housing Act is amended by inserting "American Samoa," after "the Trust Territory of the Pacific Islands,".

(b) Section 201(d) of such Act is amended by inserting "American Samoa," after "the Trust Territory of the Pacific Islands,".

(c) Section 207(a)(7) of such Act is amended by inserting "American Samoa," after "the Trust Territory of the Pacific Islands,".

INDEXED MORTGAGES

SEC. 507. (a) Section 245 of the National Housing Act is amended by striking out the section heading and inserting in lieu thereof "graduated payment and indexed mortgages".

(b) Section 245(a) of such Act is amended—

(1) by striking out "of varying rates of amortization corresponding to anticipated variations in family income" in the first sentence and inserting in lieu thereof "of varying rates of amortization corresponding to anticipated variations in family income or with monthly payments and outstanding balances adjusted by a percentage change in a selected price index"; and

(2) by striking out "subsection (b)" in the second sentence and inserting in lieu thereof "subsections (b) and (c)".

(c) Section 245 of such Act is amended by redesignating subsection (c) as subsection (d) and by inserting the following new subsection after subsection (b):

"(c) Notwithstanding the provisions of subsection (a), the Secretary may insure under any provision of this title a mortgage or loan that meets the requirements of the first sentence of subsection (a) and that has provisions permitting adjustment of monthly payments and outstanding principal according to changes or percentages of changes in a selected price index if the Secretary determines—

"(1) the principal obligation of the mortgage or loan initially does not exceed the percentage of the initial appraised value of the property specified in section 203(b) of this title as of the date the mortgage or loan is accepted for insurance; and

"(2) the monthly payments and principal obligation of the mortgage or loan thereafter will not at any time be increased at a rate greater than the percentage change in the price index stipulated in the initial mortgage or loan contract.

In carrying out this subsection, the Secretary shall give a priority to mortgages executed by mortgagors who, as determined by the Secretary, have not owned dwelling units within the preceding three years. The Secretary shall, not later than March 31, 1983, prescribe regulations establishing guidelines governing mortgages and loans described in this subsection and shall, to the extent practicable, conduct a demonstration program to insure mortgages and loans in accordance with this subsection during the fiscal year ending September 30, 1983.".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

REORGANIZATION PROCEDURES

SEC. 508. Section 7(p) of the Department of Housing and Urban Development Act is amended—

(1) in the first sentence, by inserting "the central office or" after "reorganization of"; and

(2) in paragraph (3), by inserting the following before the semicolon at the end

thereof: ", including the direct and indirect impact on unemployment in both the public and private sectors".

HOUSING INSURANCE MORTGAGE LIMITATIONS

SEC. 509. (a) Section 207(c) of the National Housing Act is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(2) in paragraph (2), as so redesignated in this subsection, by striking out "90 per centum" and inserting in lieu thereof "140 percent".

(b) Section 220(d)(3)(B) of such Act is amended—

(1) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(2) in clause (ii), as so redesignated in this subsection, by striking out "90 per centum" and inserting in lieu thereof "140 percent".

(c) Section 221(d)(3) of such Act is amended—

(1) by redesignating clauses (ii) and (iii) as subparagraphs (A) and (B), respectively; and

(2) in subparagraph (A), as so redesignated in this subsection, by striking out "90 per centum" and inserting in lieu thereof "140 percent".

(d) Section 221(d)(4) of such Act is amended—

(1) by redesignating clauses (ii), (iii), and (iv) as subparagraphs (A), (B), and (C), respectively; and

(2) in subparagraph (A), as so redesignated in this subsection, by striking out "90 per centum" and inserting in lieu thereof "140 percent".

TITLE VI—EMERGENCY MORTGAGE RELIEF

EMERGENCY MORTGAGE RELIEF

SEC. 601. (a) This title may be cited as the "Homeowners Emergency Relief Act of 1982".

(b) Title I of the Emergency Housing Act of 1975 is amended to read as follows:

"TITLE I—EMERGENCY MORTGAGE RELIEF

"SHORT TITLE

"SEC. 101. This title may be cited as the 'Homeowners Emergency Relief Act'.

"FINDINGS AND PURPOSE

"SEC. 102. (a) The Congress finds that—

"(1) the Nation is in a severe recession and that the sharp downturn in economic activity has driven large numbers of workers into unemployment and has reduced the incomes of many others;

"(2) as a result of these adverse economic conditions the capacity of many homeowners to continue to make mortgage payments has deteriorated and may further deteriorate in the months ahead, leading to the possibility of widespread mortgage foreclosures and distress sales of homes; and

"(3) many of these homeowners could retain their homes if they received temporary financial assistance until economic conditions improve.

"(b) It is the purpose of this title to establish a program that will, through emergency mortgage relief payments, prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income.

"EFFECTIVE MORTGAGE DELINQUENCY RATE

"SEC. 103. (a)(1) The Secretary of Housing and Urban Development (hereafter referred to in this title as the 'Secretary') shall, to the extent approved in appropriation Acts for fiscal year 1983, carry out the program established by this title.

"(2) For the purpose of carrying out such program, the Secretary shall contract to make, and make, assistance available under this Act when, on an average monthly basis for a period of three consecutive months—

"(A) the amount of funds represented by mortgage loans and contracts that are accounted for in a mortgage delinquency series maintained by the Federal Home Loan Bank Board and for which payments have been delinquent for sixty days or more, exceeds

"(B) 1.3 percent of all funds represented by mortgage loans and contracts accounted for in such series.

"(3) For the purpose of determining when such assistance is to be made available pursuant to paragraph (2), the Secretary shall take into account all months beginning with or after the third month before the month in which the Homeowners Emergency Relief Act of 1982 is enacted.

"(4) With respect to the initial occurrence, after the date of enactment of such Act, of the delinquency rate condition described in paragraph (2), the Secretary shall begin to contract to make, and make, assistance available at the beginning of the first month after the month in which the series indicates that such condition has occurred.

"(5) The mortgage delinquency series referred to in paragraph (2) shall be made available by the Federal Home Loan Bank Board to the Secretary and the Congress on a monthly basis and shall contain data on the previous month's mortgage delinquency rate.

"(b)(1) Once assistance is made available, the Secretary shall continue to contract to make, and make, the assistance available until the date on which the mortgage delinquency series referred to in subsection (a)(2) indicates that the amount of funds represented by sixty-day delinquent mortgage loans and contracts accounted for in such series has declined, on an average monthly basis for a period of three consecutive months, to below 1.2 percent of all funds represented by mortgage loans and contracts accounted for in such series, except that—

"(A) assistance shall continue to be made available pursuant to contracts entered into before such date; and

"(B) the Secretary shall reinstitute the program established by this title whenever the delinquency rate condition described in subsection (a)(2) reoccurs.

"(2) In any case in which the program is reinstituted, the Secretary shall begin to contract to make, and make, such assistance available beginning with the day after the date on which the mortgage delinquency series indicates that the delinquency rate condition described in such subsection has reoccurred.

"ELIGIBILITY FOR ASSISTANCE

"SEC. 104. (a) No assistance may be made with respect to a mortgage under this title unless—

"(1) the property securing the mortgage (or other security interest in the case of units in cooperative or condominium projects) is a one- to four-family residence (including one-family units in a condominium project or a membership interest and occupancy agreement in a cooperative housing project) and is the principal residence of the mortgagor;

"(2)(A) the mortgagee has indicated to the mortgagor its intention to foreclose; or

"(B) payments under the mortgage have been delinquent for at least ninety days;

"(3) the mortgage is not insured under title II of the National Housing Act;

"(4) the mortgagor has incurred a substantial reduction in income as a result of circumstances that are beyond the mortgagor's control and render the mortgagor temporarily unable to correct a mortgage delinquency and to resume full mortgage payments;

"(5) the Secretary has determined that payments under this title are necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able to—

"(A) resume full mortgage payments within thirty-six months after the beginning of the period for which such payments are provided or upon termination of assistance under this title;

"(B) commence repayment to the Secretary of the payments made under this title at a time designated by the Secretary; and

"(C) pay the mortgage in full by its maturity date or by a later date established by the Secretary and agreed to by the mortgagee for completing the mortgage payments; and

"(6) an amount equal to the original principal obligation of the mortgage does not exceed, at the time the mortgagor applies for assistance under this title, the principal amount that could be insured at such time with respect to the mortgagor's property under section 203(b) of the National Housing Act.

"(b) Upon a determination that the conditions of eligibility described in subsection (a) have been met by a mortgagor, the mortgagor shall become eligible for the assistance described in section 105.

"ASSISTANCE PAYMENTS

"SEC. 105. (a) Assistance under this title shall be provided, to the extent approved in appropriation Acts, in the form of emergency mortgage relief payments made by the Secretary to mortgagees on behalf of mortgagors.

"(b) Payments under this title may be in an amount determined by the Secretary up to the amount of the principal, interest, taxes, assessments, ground rents, hazard insurance, mortgagee's expenses in connection with payments or repayments under this title, and mortgage insurance premiums due under the mortgage, and the initial payment may include an amount necessary to make the payments on the mortgage current. Payments may not exceed amounts that the Secretary determines to be necessary to supplement the amounts, if any, that the mortgagor is capable of contributing toward the mortgage payments.

"(c) Payments under this title may be provided for a period of not to exceed eighteen months plus any period of default. Such period may be extended, in the Secretary's discretion, for not to exceed eighteen months where the Secretary has determined that such extension is necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able to make the payments and repayments specified in section 104(a)(5). The Secretary shall establish procedures for periodic review of the mortgagor's financial circumstances for the purpose of determining the necessity for continuation, termination, or adjustment in

the amount of the payments. Payments shall be discontinued at any time when the Secretary determines that, because of changes in the mortgagor's financial circumstances, the payments are no longer necessary to avoid foreclosure or that there is no longer a reasonable prospect that the mortgagor will be able to make the payments and repayments specified in section 104(a)(5).

"(d) All payments shall be secured by a lien on the property and by such other obligation as the Secretary may require. Payments shall be repayable upon terms and conditions prescribed by the Secretary, and such terms and conditions may include requirements for repayment of any amount paid by the Secretary toward a mortgagee's expenses in connection with the payment or repayments made under this title. The Secretary may establish interest charges on payments made under this title; except that such charges shall not exceed a rate that is more than the maximum interest rate applicable with respect to level payment mortgages insured pursuant to section 203(b), other than mortgages subject to section 3(a)(2) of Public Law 90-301, of the National Housing Act at the time assistance under this title is approved by the Secretary for the mortgagor. Such charges shall be payable notwithstanding any provision of any State constitution or law or local law that limits the rate of interest on loans or advances of credit. All receipts from repayments made to the Secretary shall be deposited in the miscellaneous receipts of the Treasury of the United States.

"(e) Payments by the Secretary under this title may be made without regard to whether the Secretary has previously taken action under this title on behalf of the mortgagor, except that payments may be provided on behalf of a mortgagor previously assisted under this title only in cases in which full mortgage payments (and any repayments to the Secretary that may have been requested) have been made by such mortgagor for at least twelve months from the time the previous assistance under this title was terminated.

"(f) The Secretary shall, out of funds approved in appropriation Acts, provide homeownership counseling to persons assisted under this title.

"(g) The Secretary shall process applications for assistance under this title in as expeditious a manner as is practicable. In carrying out this title, the Secretary shall provide that, within not more than forty-five calendar days from the receipt of an application for assistance under this title, the mortgagor and mortgagee will be notified by the Secretary of his determination to approve or disapprove such application for assistance.

"AUTHORITY OF THE SECRETARY

"SEC. 106. (a) The Secretary may make rules and regulations that are consistent with the provisions of this title and are necessary to carry out the provisions of this title.

"(b) In the performance of, and with respect to, the functions, powers, and duties vested in the Secretary by this title, the Secretary shall—

"(1) have the power, notwithstanding any other provision of law, whether before or after default, to provide by contract or otherwise for the extinguishment upon default of any redemption, equitable, legal, or other right, title in any mortgage, deed, trust, or other instrument held by or held on behalf of the Secretary under the provisions of this title; and

"(2) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which assistance has been provided pursuant to this title.

In the event of any such acquisition, the Secretary may (to the extent approved in appropriations Acts and notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States) complete, remodel and convert, dispose of, lease, and otherwise deal with, such property.

"(c) Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this title. Any funds collected by the Secretary under subsections (b) and (c) shall be deposited in the miscellaneous receipts of the Treasury.

"AUTHORIZATION AND EXPIRATION DATE

"SEC. 107. (a) The aggregate amount of assistance made available over the duration of the contracts entered into under this title may not exceed $760,000,000. Subject to subsection (b) and other provisions of this title, any amount approved in appropriation Acts for such purpose shall remain available until expended.

"(b) The Secretary may not enter into contracts to make assistance under this Act after September 30, 1983.

"NOTIFICATION

"SEC. 108. Each Federal supervisory agency, with respect to financial institutions subject to its jurisdiction, and the Secretary, with respect to other approved mortgagees, shall prior to March 1, 1983, take appropriate action, not inconsistent with laws relating to the safety or soundness of such institutions or mortgagees, to waive or relax limitations pertaining to the operations of such institutions or mortgagees with respect to mortgage delinquencies in order to cause or encourage forbearance in residential mortgage loan foreclosures. For purposes of this section, the term 'Federal supervisory agency' means the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration.

"REPORTS

"SEC. 109. (a) Within sixty days after the date of the enactment of the Homeowners Emergency Relief Act of 1982 and within each sixty-day period thereafter prior to October 1, 1983, the Secretary shall make a report to the Congress on—

"(1) the current rate of delinquencies and foreclosures in the housing market areas of the country that should be of immediate concern if the purposes of this title are to be achieved;

"(2) the extent of, and prospect for continuance of, voluntary forbearance by mortgagees in such housing market areas;

"(3) actions being taken by governmental agencies to encourage forbearance by mortgagees in such housing market areas;

"(4) actions taken and actions likely to be taken with respect to making assistance under this title available to alleviate hardships resulting from any serious rates of delinquencies and foreclosures; and

"(5) the current default status and projected default trends with respect to mortgages covering multifamily properties with special attention to mortgages insured under the various provisions of the National Housing Act and with recommendations on how such defaults and prospective defaults may be cured or avoided in a manner that, while giving weight to the financial interests of the United States, takes into full consideration the urgent needs of the many low- and moderate-income families that currently occupy such multifamily properties.

"(b)(1) The Secretary of Housing and Urban Development shall, after consulting with the Federal Home Loan Bank Board, conduct a study to determine if a mortgage delinquency series other than the one described in section 103(a)(2) would be a more effective and efficient series to utilize in carrying out this Act.

"(2) The Secretary shall, by April 1, 1983, transmit to the Congress the findings and conclusions of such study along with any legislative recommendations concerning the program established by this title.".

TITLE VII—GENERAL PROVISIONS

APPLICABILITY

SEC. 701. No provision of this Act, or any amendment made by this Act, may be construed as providing for the expenditure of any amount, except to the extent approved in appropriation Acts.

H.R. 6514

By Mr. ENGLISH:

—Page 42, beginning on line 11, strike out all of subsection (c) through page 43, line 5.

H.R. 7145

By Mr. EDGAR:

—Page 14, line 5, strike out "$1,244,857,000" and insert in lieu thereof "$1,144,857,000".

Page 14, line 6, insert before the semicolon ", of which not to exceed $86,000,000 shall be available for the Tennessee-Tombigbee Waterway project".

By Mr. FRANK:

—Page 14, line 5, strike out "$1,244,857,000" and insert in lieu thereof "$1,228,657,000".

Page 14, line 8, insert ": *Provided*, That none of the funds appropriated by this paragraph shall be available for the Stonewall Jackson Lake Project, located in the State of West Virginia, including the acquisition of land for or the commencement of construction on such project" before the period.

H.R. 7357

By Mr. BINGHAM:

AMENDMENT (1)

—Page 21, line 20, insert " and of his right to representation as set forth in section 292" after "clause (i)".

AMENDMENT (2)

—Page 30, line 18, insert "and" after the semicolon.

Page 30, line 24, insert "and" after the comma.

Page 31, line 3, strike out ", and" and insert in lieu thereof a period.

Page 31, strike out lines 4 through 6.

Page 31, line 16, strike out "(2)" and insert in lieu thereof "(2)(A)".

Page 31, after line 18, insert the following new subparagraph:

"(B) The district courts of the United States shall have original jurisdiction over all causes concerning violations of this title to the extent that the exhaustion of the administrative remedies set forth in this section would not be appropriate in the interest of justice. An action brought under this subparagraph may be brought individually or on a multiple party basis as the interests of justice require.

AMENDMENT (3)

—Page 31, line 18, insert after the period closing quotation marks and another period.

Page 31, strike out line 19 and all that follows through page 32, line 4.

By Mr. BROWN of Colorado:

—Page 3, line 10, strike out "or" the first place it appears and insert in lieu thereof ", for a governmental entity to recruit or refer, or for another person or entity".

By Mrs. CHISHOLM:

—Amend section 121 of H.R. 7357 on page 21, line 12, relating to inspection and exclusion by inserting before the comma at the end of proposed "(b)(1)(B)(II)": "and does not claim to be a citizen of the United States or an alien lawfully admitted for permanent residence who is returning from a temporary visit abroad."

—Amend section 124(c) of H.R. 7357 on page 38, line 12, concerning confidentiality of records relating to asylum, refugee status, and withholding of deportation on persecution grounds, by inserting before the quotation marks at the end of the added new paragraph (2) the following: "The provisions of paragraphs (1) and (2) of this section shall not be applicable to the person who is the subject of such application for asylum, refugee status or withholding of deportation."

By Mr. COELHO:

AMENDMENT (1)

—Page 3, line 10, and page 8, line 20, strike out "for a fee."

AMENDMENT (2)

—Page 3, strike out lines 17 and 18.

AMENDMENT (3)

—Page 7, line 4, strike out "three" and insert in lieu thereof "two".

Page 7, beginning on line 5, strike out "implement such changes in or additions to" and insert in lieu thereof "develop and implement a secure system of identification to determine employment eligibility to be used with respect to all applicants for employment in the United States in lieu of".

Page 7, line 8, strike out "and" and all that follows through "United States" on line 9.

Page 7, line 15, strike out "changes or additions" and insert in lieu thereof "system".

Page 7, line 22, strike out "changes or additions provide" and insert in lieu thereof "system provides".

AMENDMENT (4)

—Page 79, line 14, and page 80, line 25, strike out "1983" and insert in lieu of "the 12-month period described in subsection (g)(2)".

Page 89, after line 7, insert the following new subsection:

"(g)(1) When the President has determined that the enforcement provisions added by the Immigration Reform and Control Act of 1982 have been effective in controlling illegal immigration into the United States, the President shall certify such fact in writing to the Congress.

"(2) the 12-month period referred to in subsections (a)(1) and (b)(1)(A) is the first 12-month period beginning at least 90 days after Congress receives the certification under paragraph (1)."

Page 86, line 4, strike out "January 1, 1983" and insert in lieu thereof "the beginning of the 12-month period described in subsection (g)(2)".

Page 86, line 14, strike out, "before January 1, 1983" and insert in lieu thereof "after the President has made the certification described in subsection (g)(1) and before the end of the period described in subsection (g)(2)".

Page 86, line 17, strike out "may not apply for such adjustment until January 1, 1983" and insert in lieu thereof "has not applied for such adjustment".

AMENDMENT (5)

—Page 62, line 5, strike out "two-year" and insert in lieu thereof, "one-year".

AMENDMENT (6)

—Page 65, line 1, strike out "Secretary of Labor" and insert in lieu thereof "Attorney General".

Page 65, line 2, strike out "Attorney General" and insert in lieu thereof "Secretary of Labor".

AMENDMENT (7)

—Page 59, after line 7, insert the following new section (and corresponding item in the Table of Contents):

INTENT OF CONGRESS

SEC. 210. The intent of the provisions of Section 211 of this part is to grant the Attorney General sufficient authority to admit temporarily certain alien workers for the purpose of alleviating labor shortages as they exist or may develop in certain branches of American productive enterprises.

AMENDMENT (8)

—Page 66, line 2, strike out the closing quotation marks and the period that follows them.

—Page 66, after line 2, insert the following new paragraph:

"(7) The provisions of this section preempt any state or local law on the same subject.".

AMENDMENT (9)

—Page 60, beginning on line 2, strike out "longer than" and all that follows through "Labor" on line 3, and insert in lieu thereof: "of more than eleven months in any calendar year, except in the case of agriculture labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period, which may exceed one year"

AMENDMENT (10)

—Page 60, line 6 strike out "five-year" and insert in lieu thereof "one-year".

AMENDMENT (11)

—Page 61, line 2, strike out "and qualified and who will be available" and insert in lieu thereof "qualified and available".

AMENDMENT (12)

—Page 61, beginning on line 7, strike out "in the United States similarly employed" and insert in lieu thereof "who are similarly employed in the area of intended employment"

AMENDMENT (13)

—Page 61, line 22, insert "reasonable" before "fee".

AMENDMENT (14)

—Page 61, line 24, insert ", after notice and opportunity for a hearing," after "Labor".

AMENDMENT (15)

—Page 64, line 4, before the period, insert the following: ", unless the association is the sole employer of all alien agricultural labor services, in which case only the association shall be liable for representation in such petition or application".

AMENDMENT (16)

—Page 66, line 2, strike at the closing quotation marks and the period that follows them.

Page 66, after line 2, insert the following new paragraph:

"(7) the term 'wages' for purposes of this section, has the meaning given such term in section 3(m) of the Fair Labor Standards Act of 1938 [29 U.S.C. 203(m)].".

AMENDMENT (17)

—Page 63, line 4, strike out "and".

Page 63, line 21, strike out the period and insert in lieu thereof "; and ".

Page 63, after line 21, insert the following new clause:

"(iv) if it becomes a requirement of intended employment of such a nonimmigrant to furnish housing, the employer shall be permitted the alternative of paying a reasonable housing allowance."

AMENDMENT (18)

—Page 64, line 7, insert before the period the following: "or, at the applicant's request, a de novo administrative hearing".

AMENDMENT (19)

—Page 66, strike out line 13 and all that follows through page 67, line five and insert in lieu thereof the following:

"(e) The Attorney General, with the concurrence of the Secretary of Labor and Secretary of Agriculture, shall issue all regulations implementing the provisions of this section within six months of the date of enactment of this Act, and shall report to the Congress, not later than eighteen months after the date of the enactment of this Act and annually thereafter, on recommendations for improvement of such program.".

AMENDMENT (20)

—Page 61, line 24 , insert ", after notice and opportunity for a hearing," after "Labor".

Page 62, amend lines 1 through 3 to read as follows:

(i) if the job opportunity for which the certification is requested is vacant because of a strike or lock-out in the course of a labor dispute, or

AMENDMENT (21)

—Page 61, line 24 , insert ", after notice and opportunity for a hearing," after "Labor".

Page 62, amend lines 1 through 3 to read as follows:

"(i) if the Secretary of Labor certifies that lawful strike by a majority of all employees or lockout involving a work stoppage of workers is in progress in the occupation and at the place the employee is to be employed, or

By Mr. CONYERS:

AMENDMENT (110A)

—Page 7, amend lines 4 through 11 to read as follows:

"(c)(1)(A) Within three years after the date of the enactment of this section, the President shall report to Congress on whether or not the employment eligibility verification system provided under subsec-

tion (b) provides a secure system to determine employment eligibility in the United States. If the President so reports that it does not, the President may, in consultation with the appropriate committees of Congress, implement such changes to the requirements of subsection (b) as are necessary to establish a secure system to determine employment eligibility in the United States, except that any such changes must conform to the requirements of paragraph (2) of this subsection and such changes may not become effective until a period of at least 60 days has elapsed after the date a complete description of such changes has been transmitted to each House of Congress. If such changes are required, the President shall consider a change to use of a telephone verification system.

AMENDMENT (110B)

—Page 7, amend lines 4 through 11 to read as follows:

"(c)(1)(A) Within three years after the date of the enactment of this section, the President shall report to Congress on whether or not the employment eligibility verification system provided under subsection (b) provides a secure system to determine employment eligibility in the United States. If the President so reports that it does not, the President may, in consultation with the appropriate committees of Congress, implement such changes to the requirements of subsection (b) as are necessary to establish a secure system to determine employment eligibility in the United States, except that—

"(i) any such changes must conform to the requirements of paragraph (2) of this subsection,

"(ii) such changes may not become effective until a period of at least 60 days has elapsed after the date a complete description of such changes has been transmitted to each House of Congress, and

"(iii) such changes may not become effective if, within such period, either House of Congress adopts a resolution the substance of which disapproves of the changes proposed by the President.

If such changes are required, the President shall consider a change to use of a telephone verification system.

AMENDEMENT (124)

—At the end of page 20 insert the following new section (and insert a corresponding item in the table of contents):

JUDICIOUS AND NONDISCRIMINATORY ENFORCEMENT OF THE IMMIGRATION LAWS

SEC. 114. It is the sense of Congress that—

(1) the immigration laws not be enforced within the United States on the basis of race, religion, sex, or national origin, and

(2) in the enforcement of immigration laws, the Attorney General should take due and deliberate actions, including the training of Immigration and Naturalization Service officers to familiarize them with the rights and varied cultural backgrounds of aliens and United States citizens, necessary to safeguard the constitutional rights, personal safety, and human dignity of persons within the jurisdiction of the United States.

AMENDMENT (127)

—Page 13, line 10, strike out "The President" and all that follows through "concerning," on line 11 and insert in lieu thereof the following: "The Comptroller General shall prepare and transmit to the Congress, biannually during the first three years following the date of the enactment of this section, a report concerning".

By Mr. CORRADA:

AMENDMENT (1)

—Page 63, line 4, strike out "and".

Page 63, line 21, strike out the period and insert in lieu thereof "; and".

Page 63, after line 21 insert the following new clauses:

"(iv) the Secretary of Labor shall ensure that if the nonimmigrant worker will be paid on a piece rate basis, the piece rate—

"(I) will be designed to produce average hourly earnings at least equal to a wage rate which will not adversely affect the wages and working conditions of similarly employed eligible individuals and

"(II) will be based on a schedule, established and periodically published by the Secretary of Labor, containing the normal hourly piece rate of production of an average United States worker employed in the field of agricultural labor or services concerned.

AMENDEMENT (2)

—Page 64, at the end of line 21, insert the following new sentence: "In determining whether or not an individual referred is qualified, the individual's initial level of proficiency or productivity shall not be a basis for establishing that the individual is not qualified."

By Mr. DAUB:

—On page 49, after line 12, insert the following:

NUMERICAL LIMITATION

SEC. 201. (a) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101 (a)(27), immediate relatives specified in subsection (b) of this section, aliens who are admitted or granted aslyum under section 207 or 208, aliens provided records of permanent residence under section 214(d), and aliens whose status is adjusted to permanent resident status under section 245A, aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence shall not exceed in any fiscal year the number equal to (A) 425,000, minus (B) the number of immediate family relatives specified in subsection (b) of this section who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence and the number of aliens who in the previous fiscal year were provided records of permanent residence under section 214(d)."

(b) Such section is further amended by adding at the end the following new subsections:

"(c) The President shall transmit to the Congress, not later than January 1, 1985 and not later than January 1st of every other year thereafter, a report on the impact on the economy, labor market, housing market, educational system, social services, population, and foreign policy of the United States of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the preceding two-year period. The President shall include in such report any appropriate recommendations on changes in the numerical limitation on admissions, including a level of total admissions for the next two-year period, and other policies of this title bearing on the admission and entry of such aliens to the United States.

"(d) A hearing to review the report and recommendations of the President shall be held by the Committees on the Judiciary of the House of Representatives and the Senate within 90 days after receipt of such report.".

Sections 201, 202, 203 and 204 of this Act are renumbered Sections 202, 203, 204 and 205, respectfully, and the Table of Contents is amended to include "Sec. 201. Numerical Limitation.".

By Mr. DE LA GARZA:

—Page 19, line 3, strike out "Section 274" and insert in lieu thereof "(a) Section 274".

Page 20, after line 8, insert the following new subsection:

(b) The first sentence of subsection (a) of section 271 (8 U.S.C. 1321) is amended by striking out "or international bridges".

—Amend Section 204(c) of H.R. 7357 as follows:

On page 58, lines 7-17, by striking out paragraphs "(1)", "(2)", and "(3)" and inserting in lieu thereof the following:

"(1) who intends to enter or remain in the United States on or before October 1, 1988,

"(2) who, as of such date, has been issued a labor certification under section 212(a)(14) of such Act with respect to employment for an employer,

"(3) who intends to enter or remain in the United States solely for the purpose of performing such employment, and".

On page 58, line 20, by striking out "1984" and inserting in lieu thereof "1989".

On page 58, line 25, by striking out "1984" and inserting in lieu thereof "1989".

By Mr. DE LUGO:

—Page 86, after line 20, insert the following new paragraph:

"(7) The provisions of this section shall not apply to an alien described in section 2(b) of the Public Law 97-271.

By Mr. DIXON:

AMENDMENT (2)

—Page 59, after line 6, interest the following new subsection:

(d) Section 212(a)(4) (8 U.S.C. 1182(a)(4)) is amended by striking ", or sexual deviation,"

By Mr. ERLENBORN:

(Substitute for amendment No. 6 of the Committee on Education and Labor.)

—Page 59, strike out line 8 and all that follows through page 67, line 11, and insert in lieu thereof the following:

H-2 WORKERS

SEC. 211. (a) Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by inserting "(a) in agricultural labor or services included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1954, or (b) in any other labor or services" after "temporary services or labor".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences:

"An alien may not be admitted to the United States as a nonimmigrant—

"(1) under section 101(a)(15)(H)(ii)(a) for an aggregate period longer than nine months in any calendar year, except (A) in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration

Reform and Control Act of 1982, has recognized require a longer period, and (B) that the Secretary of Labor may grant an extension of certification if he determines that extenuating circumstances indicate that such an extension is in the public interest; or

"(2) under section 101 (a)(15)(H)(ii) if the alien was admitted to the United States as such a nonimmigrant within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.",

(2) by inserting "(1)" after "(C)" in subsection (C), and

(3) by adding at the end of subsection (c)(1), as so redesignated, the following:

"For purposes of this paragraph the term 'appropriate agencies of Government' means the Department of Labor.

"(2)(A) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(i) there are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition, and

"(ii) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(B) The Secretary of Labor may not issue a certification under subparagraph (A)—

"(i) if there is a strike or lockout in the course of a labor dispute (as defined by regulations prescribed by the Secretary), or

"(ii) with respect to an employer if the employer during the previous two-year period employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer (I) at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers or (II) if the Secretary has assessed a civil penalty against the employer for failure to comply with such a term or condition, has failed to pay the penalty.

No employer may be denied certification under clause (ii) for more than three years for any violation described in such clause.

"(3)(A) In the case of an application for a labor certification for a nonimmigrant described in section 101(a)(15)(H)(ii)(a)—

"(i) the Secretary of Labor may not require that the application be filed more than 65 days before the first date the employer requires the labor or services of the alien;

"(ii) the Secretary of Labor shall require a 45-day recruitment period as a test of availability of domestic workers;

"(iii) the employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in paragraph (2)(A)(i)) for approval and if it does not, such notice shall include the reasons therefor and (if a sufficient period remains for a 45-day recruitment period) shall permit the employer an opportunity to resubmit promptly a modified application for approval; and

"(iv) the Secretary of Labor shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in paragraph (2)(A) if the employer has complied with the criteria for certification, including criteria for the recruitment of eligible individuals as prescribed by the Secretary, and if the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have agreed to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary, except that the terms of such a labor certification remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply or are referred to the employer.

"(B) A petition to import an alien as a nonimmigrant described in section 101(a)(15)(H)(ii)(a), and an application for a labor certification with respect to such an alien, may be filed by an association representing agricultural producers which use agricultural labor or services. The filing of such a petition or application on a member's or user's behalf does not relieve the member or user of any liability under this section unless the association—

"(i) is the sole employer of all such aliens and all similarly employed United States agricultural labor of all members or users it represents, and

"(ii) the association has demonstrated (through a sufficient liability bond or otherwise) to the Secretary of Labor sufficient financial resources to absorb any liability that might reasonably occur for violation of any conditions required by the certification.

"(C)(i) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2)(A).

"(ii) The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of importing a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not able, willing, available, or qualified, the burden of proof is on the employer to establish that the individuals referred are not actually able, willing, or available or are not qualified because of employment-related reasons as shown by their job performance.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

"(4) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitioring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection.

"(6) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this subsection and under section 212(a)(14).".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(d) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall issue regulations implementing the amendments made by this section. In developing those regulations, the Secretary of Labor shall establish standards for all persons employed under temporary agricultural labor certifications provided by these amendments which assure that wages and working conditions of aliens will not adversely affect similarly employed United States workers. In carrying out this responsibility, the Secretary of Labor shall establish employment standards which are at least comparable to those under the current regulations and which, among others, guarantee the provision of housing, transportation, meals, workers' compensation, and accurate payroll records and written pay-stubs, by employers who are provided certifications to import temporary alien workers for temporary agricultural jobs. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall first be issued, on an interim or other basis, not later than the effective date.

(e) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall report to the Congress not later than 18 months after the effective date on recommendations for improvements in the temporary alien worker program amended by this section, including recommendations—

(1) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(2) removing any current economic disincentives to hiring United States citizens or permanent resident aliens where temporary foreign workers have been requested, and

(3) improving the cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

(f) It is the sense of Congress that the President should establish an advisory commission which shall consult with the Government of Mexico and advise the Attorney General regarding the operation of the alien temporary worker program established under section 214(c) of the Immigration and Nationality Act.

(Amendment to the amendment No. 4 of the Committee on Education and Labor.)

—In subsection (e)(1), after the words "person or entity" the first time they appear insert the words "employing 15 or more employees".

—In subsection (e)(2), after the words "and the employment of the individual" insert before the comma the words "if the individual is qualified for employment".

(Amendment to the amendments No. 1, No. 2, and No. 3 of the Committee on Education and Labor) to H.R. 7357.

—In Education and Labor Committee amendments numbered 1, 2, and 3, after the words "person or entity" in each amendment insert the words "employing 15 or more employees".

By Mr. EVANS of Georgia:

—Page 84, after line 15, insert the following new section (and insert a corresponding item in the table of contents):

TREATMENT OF CERTAIN H-1 WORKERS

SEC. 214. In the case of aliens who—

(1) are employed by an employer which is located in a foreign country and which is engaged in the business of broadcasting to that country sports or similar events occurring in the United States and in which teams located in that foreign country are participating,

(2) are engaged in the production of such broadcasts,

(3) may otherwise be classified as nonimmigrants under section 101(a)(15)(H)(i) of the Immigration and Nationality Act, and

(4) are present intermittently in the United States, for periods not exceeding 5 days at any time, for such purpose,

the Attorney General may, under procedures established by him, permit such aliens to enter the United States for such purpose under terms which permit a single application to be filed on behalf of a group of such employees of an individual employer, except that this section shall not apply to more than (20) aliens employed by a single employer at any time.

By Mr. FISH:

AMENDMENT (1)

—Page 57, after line 18, insert the following new section (and redesignate the succeeding section, and conform the table of contents, accordingly):

TEMPORARY INCREASE IN VISA NUMBERS TO ELIMINATE CERTAIN BACKLOGS IN FOURTH AND FIFTH PREFERENCE PETITIONS

SEC. 204. (a)(1) In the case of aliens subject to the numerical limitations under section 201(a) of the Immigration and Nationality Act, there shall be available for each of fiscal years 1984, 1985, 1986, 1987, and 1988, for certain backlogged family reunification immigrants described in subsection (b), immigrant visas in a number not to exceed 50,000 in any such fiscal year, and not to exceed 13,500 in any of the first three quarters of any such fiscal year.

(2) The numerical limitations in section 202 of such Act shall not apply to aliens otherwise eligible for a visa number under paragraph (1).

(b) Aliens who are not otherwise allotted an immigrant visa under section 203(a) of the Immigration and Nationality Act shall be allotted visas made available under subsection (a)(1) as follows:

(1) Visas shall first be made available to qualified immigrants, in a number not to exceed 10,000, who are the married sons and daughters of citizens of the United States and who, as of the date of the enactment of this section, had a petition filed on their behalf for preference status by reason of the relationship described in section 203(a)(4) of such Act (as such section is in effect on such date).

(2) Visas shall next be made available to qualified immigrants who are the brothers or sisters of United States citizens at least 21 years of age and who, as of the date of the enactment of this section, had a petition filed on their behalf for preference status by reason of the relationship described in section 203(a)(5) of such Act (as such section is in effect on such date).

(c) Sections 203(a)(8), 203(b), 203(c), 203(d), 203(e), and 204(a) of the Immigration and Nationality Act (as in effect on the date of the enactment of this section) shall apply to visas issued under this section in the same manner as they apply to visas issued to sections 203 and 204 of such Act.

—Page 74, line 15, strike out "five" and insert in lieu thereof "eight".

Page 74, line 20, strike out "unless" and all that follows through page 75, line 7, and insert in lieu thereof the following: "unless—

"(i) the average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and

"(ii) the average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

Page 76, beginning on line 2, strike out "unless" and all that follows through line 15, and insert in lieu thereof the following: "unless—

"(I) the average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and

"(ii) the average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

AMENDMENT (3)

—Page 37, line 2, strike out the closing quotation marks and the period that follows them.

Page 37, strike out lines 18 through 20.

Page 37, line 21, strike out "(2)" and insert in lieu thereof "(7)".

Page 37, beginning on line 25, strike out "sections 207, 208, and 243(h) of this Act" and insert in lieu thereof "this section or sections 207 or 243(h)".

Page 38, line 9, insert "to the applicant or" after "available".

Transfer the provision beginning on page 37, line 21, through page 38, line 12, (as amended above) and insert it on page 37, after line 2.

AMENDMENT (4)

—Strike out section 202 and redesignate the succeeding sections (and conform the table of contents) accordingly.

By Mr. FRANK:

AMENDMENT (1)

—Page 12, after line 23, insert the following new paragraph:

"(6) The system will protect the privacy and security of personal information and identifiers utilized in the system. Unauthorized use or disclosure of this information for purpose other than those specified in this act shall be subject to a fine of not less than $3,000, imprisonment for not more than one year, or both, for each violation committed.

AMENDMENT (2)

—Page 4, line 14, strike out "Except as provided in subsection (c), the" and insert in lieu thereof "The".

Page 7, strike out line 4 and all that follows through page 8, line 14, and redesignate succeeding subsections (and cross references thereto).

Page 13, lines 14 and 15, strike out "and the status of the changes and additions described in subsection (c)".

Page 18, before line 6, insert the following new section (and insert a corresponding item in the table of contents):

SELECT COMMISSION ON EMPLOYMENT ELIGIBILITY IDENTIFICATION SYSTEMS

SEC. 103. (a) There is established a Select Commission on Employment Eligibility Identification Systems (hereinafter in this section referred to as the "Commission") which shall be composed of the following members, who shall, if applicable, be appointed within 90 days after the date of enactment of this Act:

(1) Two members appointed by the Speaker of the House of Representatives from the membership of the House Committee on the Judiciary.

(2) Two members appointed by the President pro tempore of the Senate from the membership of the Senate Committee on the Judiciary.

(3) The Attorney General, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of Agriculture.

(4) The chairman of the Civil Rights Commission and the chairman of the Equal Employment Opportunity Commissions.

(5) Six members, two each appointed by the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate, selected in a manner that provides for representation on the Commission of the business, civil rights, civil liberties, and labor communities.

(6) Representatives of immigrant communities affected by this legislation.

(b)(1) The Commission shall elect a Chairman and Vice Chairman from among its members.

(2) A majority of Commission members shall constitute a quorum, but a lesser number may hold hearings.

(3) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(4) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate not to exceed the daily rate prescribed for GS-18 in the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, the member is engaged in the actual performance of duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(c) It shall be the duty of the Commission to study, evaluate, and recommend to Congress whether any changes in or additions to the requirements of section 274A(b) of the Immigration and Nationality Act are necessary to establish a secure system to determine employment eligibility in the United States. Nothing in this decision to establish this Commission shall be construed to authorize, suggest, or recommend, directly or indirectly, the issuance or use of national identification cards.

(d) The Commission shall—

(1) study means by which it can be assured—

(A) that personal information utilized by any employment eligiblity identification system will be available only to employers, recruiters, and referrers for employment and to Government agencies and only to the extent necessary for the purpose of verifying that an individual is not an unauthorized alien;

(B) that verification of an individual's employment eligibility will not be withheld for any reason other than that the individual is an unauthorized alien;

(C) that any employment eligibility identification system to be recommended or used will not be used for law enforcement purposes other than the enforcement of section 274A of the Immigration and Nationality Act and section 1546 of title 18, United States Code, and mechanisms to ensure individual redress in the event of such violation; and

(D) that any document to be presented by an individual as proof of employment and eligibility under section 274A of the Immigration and Nationality Act will not be required to be carried on one's person or presented for any purpose other than to prove employment eligibility under said section of the Immigration and Nationality Act or in the enforcement of section 1546 of title 18, United States Code; and

(2) consult with the President, the Civil Rights Commission, the Equal Employment Opportunity Commission, the Justice Department, the Labor Department, the Agriculture Department, and the General Accounting Office with respect to the findings of these agencies and Departments concerning the enforcement of section 274A of the Immigration and Nationality Act.

(e)(1) The Commission shall make semiannual reports to each House of Congress during the period before publication of its final report (described in paragraph (2)).

(2) The Commission shall make a final report of its findings and recommendations to the President and to each House of Congress, which report shall be published not later than March 1, 1986.

(f)(1) The Commission is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions without regard to the civil service laws, rules, and regulations. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(2) Staff members of the Committee on the Judiciary of the Senate or of the Committee on the Judiciary of the House of Representatives may be detailed to serve on the staff of the Commission by the chairman of the respective committee. Staff members so detailed shall serve on the staff of the Commission without additional compensation except that they may receive such reimbursement of expenses incurred by them as the Commission may authorize.

(3) The Commission may call upon the head of any Federal department or agency to furnish information and assistance which the Commission deems necessary for the performance of its functions, and the heads of such departments and agencies shall furnish such assistance and information, unless prohibited under law, without reimbursement.

(4) The Commission is authorized to make grants and enter into contracts for the conduct of research and studies which will assist it in performing its duties under this section.

(5) The Commission shall cease to exist upon the filing of its final report, except that the Commission may continue to function for up to sixty days thereafter for the purpose of winding up its affairs.

(6) The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate then payable for grade GS-18 in the General Schedule under section 5332 of such title.

(g) There is authorized to be appropriated the sum of $10,000,000, to remain available until expended, to carry out the provisions of this section.

(h) Notwithstanding any other provision of this section, no payment, or authorization to make payments to, to enter into contracts under this section, shall be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts.

AMENDMENT (3)

—Amend Section 212(a)(6) of H.R. 7357 on page 68, line 20,: by adding before the comma at the end of paragraph "(2)(A)(ii)" the following: "or a visa as a nonimmigrant described in section 101(a)(15)(h)(i)" and on page 69, line 5, by inserting before the comma in paragraph "(2)(A)(iv)" the following: ", if required thereby".

AMENDMENT (4)

—Page 6, strike out line 4 and insert in lieu thereof the following new paragraph:

"(3) the person or entity, in the case of the hiring of an individual, must attest, under penalty of perjury and on or appended to such form, to the name and address of each other individual who (A) applied in writing (within 90 days before the hiring of the individual) for the position in which the individual was hired; and (B) was not hired for the position; and

Page 6, line 5, strike out "(3)" and insert in lieu thereof "(4)".

Page 6, line 6, strike out "(1) and (2)" and insert in lieu thereof "(1), (2), and (3)".

By Mr. GARCIA:

AMENDMENT (1)

—Page 21, line 3, insert "(a)" after "121.".

Page 22, after line 25, insert the following new subsection:

(b) Section 287 (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) An officer or employee of the Service shall inform promptly an alien detained under the provisions of this Act of the alien's liabilities and entitlements under this Act and shall allow the alien to consult with counsel of the aliens choice at no expense to the government.".

Page 38, line 19, strike out "121" and insert in lieu thereof "121(a)".

AMENDMENT (2)

—Page 14, line 18, strike out "(3)" and insert in lieu thereof "(3)(A)".

Page 14, line 23, strike out all that follows the first period.

Page 14, after line 23, insert the following new subparagraph:

"(B) There are authorized to be appropriated, in addition to such sums as may otherwise be available for such purpose, $5,000,000 for fiscal year 1983 to the Department of Labor and the Equal Employment Opportunity Commission for coordinating task force activities and conducting investigations of employment discrimination attributable to operation of this section.".

AMENDMENT (3)

—Page 21, line 3, insrt "(a)" after "121.".

Page 22, after line 25, insert the following new subsection:

(b) Section 287(a) (8 U.S.C. 1357(a)) is amended by adding at the end the following new sentence: "Search warrants issued for an officer or employee of the Service to enter a home or place of business seeking an individual or individuals shall describe with particularity the number and identities of the individuals.".

Page 38, line 19, strike out "121" and insert in lieu thereof "121(a)".

AMENDMENT (5)

—Page 21, line 12, insert "and does not claim to be a citizen of the United States or an alien lawfully admitted for permanent residence who is returning from a temporary visit abroad" before the comma.

AMENDMENT (6)

—Page 68, line 20, insert "or a visa as a nonimmigrant described in section 101(a)(15)(H)(i)" after "203(a)".

Page 69, line 5, insert "if such certification is required" after "position".

AMENDMENT (7)

—Strike out part D of title I and the corresponding items in the table of contents.

AMENDMENT (8)

—Page 37, line 20, strike out "paragraph" and insert in lieu thereof "paragraphs".

Page 38, line 12, strike out the closing quotation marks and the period that follows them.

Page 38, after line 12, insert the following new paragraph:

"(3) Paragraphs (1) and (2) shall not apply to a person who is the subject of the application for asylum, refugee status, or withholding of deportation.

AMENDMENT (9)

—Page 33, line 9, insert "which notice shall inform the alien of the right to apply for asylum and the time limits placed thereon by this subparagraph," after "proceedings,".

AMENDMENT (10)

—Page 31, line 18, insert closing quotation marks and a period after the period.

Page 31, strike out line 19 and all that follows through page 32, line 4.

AMENDENT (11)

—Page 29, line 15 and page 32, line 18, strike out "30 days" and insert in lieu thereof "90 days".

AMENDMENT (12)

—Page 26, line 1, strike out "Appeals" and insert in lieu thereof "Notices of appeals".

AMENDMENT (13)

—Page 24, at the end of line 15 insert the following new sentence: "The Board shall exercise supervisory powers over immigration hearings and proceedings under this Act.".

Mr. GLICKMAN:

—Page 7, line 5, insert "and subject to subsection (h)" after "section".

Page 14, line 23, strike out the closing quotation marks and the period that follows them.

Page 14, after line 23, insert the following new subsection:

"(h)(1)(A) The President, before implementing under subsection (c)(1) a change in or addition to the requirments of subsection (b), shall submit such proposed change to the Congress for review in accordance with this subsection. Such proposed change shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session.

"(B) Any such proposed change may not be implemented in accordance with its terms, before the end of the period of 60 calendar days of continuous session after the date such proposed change is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such proposed change.

"(2) If a proposed change of the President is disapproved by the Congress under paragraph (1)(B), then the President may propose another change or addition. The President, after proposing a change or addition under this paragraph, shall submit the proposed change to the Congress in accordance with paragraph (1)(A).

"(3) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this subsection shall not be construed as an expression of approval of the proposed change involved, and shall not be construed to create any presumption of validity with respect to such proposed change.

"(4)(A) For purposes of this subsection—

"(i) continuity of session is broken only by an adjournment sine die; and

"(ii) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in paragraph (1)(B) and paragraph (2).

"(B) If an adjournment sine die of the Congress occurs after the President has submitted a proposed change under paragraph (1)(A), but such adjournment occurs—

"(i) before the end of the period specified in paragraph (1)(B); and

"(ii) before any action necessary to disapprove the proposed change is completed under paragraph (1)(B);

then the President shall be required to resubmit the proposed change involved at the beginning of the next regular session of Congress. The period specified in paragraph (1)(B) shall begin on the date of such resubmission.

"(5) For purposes of this subsection:

"(A) The term 'concurrent resolution' means a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the proposed change of the President under section 274A(c)(1) of the Immigration and Nationality Act, which proposal was submitted to the Congress on .'. (The blank space shall be filled appropriately.)

"(B) The term 'proposed change' means any change in or addition to the requirements of section 274A(b) of the Immigration and Nationality Act proposed by the President under section 274A(c)(1) of such Act.".

By Mr. SAM B. HALL, JR.:

AMENDMENT (1)

—Page 3, line 17, strike out "Subparagraph (B)" and insert in lieu thereof "The previous sentence".

Page 3, line 17, insert "(other than a farm labor contractor, as defined in section 3(b) of the Farm Labor Contractor Registration Act of 1963)" after "person or entity".

AMENDMENT (2)

—Page 4, strike out line 19 and all that follows through page 5, line 21.

Page 5, line 22, and page 6, line 5, strike out "(2)" and "(3)" and insert in lieu thereof "(1)" and "(2)", respectively.

Page 5, line 24, strike out "for purposes of paragraph (1)" and insert in lieu thereof "for this purpose".

Page 6, line 6, strike out "paragraphs (1) and (2)" and insert in lieu thereof "paragraph (1)".

Page 6, strike out line 21 and all that follows through page 8, line 14, and insert in lieu thereof the following:

"(c)(1)(A) The Attorney General, in cooperation with the Secretaries of Labor and Health and Human Services, shall establish a system (hereinafter in this subsection referred to as the 'verification system') to verify the validity of the social security account numbers of individuals applying to be hired, recruited, or referred for employment in the United States.

"(B) The Attorney General shall provide for publication in the Federal Register of notice of the establishment of the verification system, and procedures for its use, not earlier than six months, and not later than two years, after the date of enactment of this section.

"(2) Beginning on an effective date, not earlier than 90 days after the date final regulations are published under paragraph (1)(B), set forth by the Attorney General, in lieu of the requirements specified in subsection (b) and in the case of a person or other entity hiring, or recruiting or referring for a fee, an individual for employment in the United States, the person or other entity must, pursuant to the verification system—

"(A) submit the social security account number of the individual, and

"(B) record a verification code indicating whether the number submitted is valid or invalid.

"(3)(A) A person or entity which submits a social security account number of an individual for verification under the verification system has established a rebuttable presumption that the person or entity has not violated paragraph (1)(A) or (2) of subsection (a) with respect to that individual. Evidence of such submission shall be admissible in any proceeding under subsection (d).

"(B) A person or entity which submits a social security account number of an individual for verification under the verification system and which has recorded a verification code indicating that the number is valid has established a complete defense as to a violation by that person or entity of paragraph (1)(A) or (2) of subsection (a) with respect to that individual. Evidence of such submission and recordation shall be admissible in any proceeding under subsection (d).

AMENDMENT (4)

—Page 18, after line 23, insert the following new subsection:

(c)(1) It is the sense of Congress that the Attorney General should actively seek the assistance of State and local law enforcement agencies—

(A) whenever the Attorney General finds that such agencies can assist the Attorney General in the enforcement of the Immigration and Nationality Act in a prompt, uniform, and consistent manner in accordance with this subsection, or

(B) in the case of a national emergency occasioned by an unauthorized mass movement of aliens toward or into the United States.

(2) Such assistance shall be provided only under the supervision of officers of the Immigration and Naturalization Service, and State and local law enforcement officers would not be authorized to detain or arrest a person merely on the suspicion that the person is an alien not lawfully in the United States unless the person is actually detected entering the United States unlawfully.

(3) It is further the sense of Congress that the Attorney General should (without the expenditure of additional funds) encourage personnel of the Immigration and Naturalization Service, in a manner that does not detract from their other regular operations, to instruct personnel of State and local law enforcement agencies in immigration control operations, the nature and enforcement of immigration laws, classification of aliens and identification of immigration documents, and such other matters (including coordination of enforcement activities) as may promote their providing assistance pursuant to this subsection.

AMENDMENT (5)

—Strike out title III (that is, page 79, line 1, through page 93, line 3), and amend the table of contents accordingly.

AMENDMENT (5A)

—Page 79, strike out line 1 and all that follows through page 89, line 22, and insert in lieu thereof the following:

TITLE III—UPDATING REGISTRY DATE

Page 89, line 24, strike out "302" and insert in lieu thereof "301".

Page 90, strike out line 9 and all that follows through page 93, line 3.

Conform the table of contents accordingly.

By Mr. HANSEN of Idaho:

—Section 274A(g)(2)(A) is amended to read: "No act by any employer done in compliance with the provisions of this section shall be the basis of any proceeding, or civil or criminal charge either by federal or state authorities based upon the rights to employment of any person denied employment by such employer."

—Section 274A(b)(3)(B) is amended by adding the following sentence after the word "subsection": "Such document, or copy thereof may not be used in any proceeding other than an Immigration proceeding for the purpose of establishing any fact or the criminal liability of any person."

—Section 245A(d)(1)(a) is amended to insert after the word "federal" and before the word "law": "state, county or municipal".

—Section 274A(b) is deleted.

By Mr. HIGHTOWER:

AMENDMENT (1)

—Page 3, amend lines 17 and 18 to read as follows: Subparagraph (B) shall not apply in a calendar quarter to a person or entity if the person or entity either employs three or fewer employees in that calendar quarter or has employed individuals for an aggregate of less than 4,000 hours in that calendar quarter.

AMENDMENT (2)

—Page 9, line 9, insert "and" after the semicolon.

Page 9, line 13, strike out the semicolon and insert in lieu thereof a period.

Page 9, strike out lines 14 through 20.

AMENDMENT (3)

—Page 18, after line 23, insert the following new subsection:

(c)(1) It is the sense of Congress that the Attorney General should actively seek the assistance of State and local law enforcement agencies—

(A) whenever the Attorney General finds that such agencies can assist the Attorney General in the enforcement of the Immigration and Nationality Act in a prompt, uniform, and consistent manner in accordance with this subsection, or

(B) in the case of a national emergency occasioned by an unauthorized mass movement of aliens toward or into the United States.

(2) Such assistance shall be provided only under the supervision of officers of the Immigration and Naturalization Service.

(3) It is further the sense of Congress that the Attorney General should (without the expenditure of additional funds) encourage personnel of the Immigration and Naturalization Service, in a manner that does not detract from their other regular operations, to instruct personnel of State and local law enforcement agencies in immigration control operations, the nature and enforcement of immigration laws, classification of aliens and identification of immigration documents, and such other matters (including coordination of enforcement activities) as may promote their providing assistance pursuant to this subsection.

By Mr. HUGHES:

AMENDMENT (1)

—Amend section 301 to read as follows (and conform the table of contents accordingly):

EXTENSION OF REGISTRY AND EMPLOYER SANCTIONS

SEC. 301. (a) Unless there have been appropriated, in addition to the amounts provided for such purposes in the budget base for fiscal year 1983 (as adusted by inflation for subsequent fiscal years)—

(1) for fiscal year 1983, for the Immigration and Naturalization Service, for the border patrol, investigations, inspections, anti-smuggling, and technical support, an amount not less than $35,000,000;

(2) for fiscal year 1984, for the Immigration and Naturalization Service, for the border patrol, investigations, inspections, anti-smuggling, and technical support, an amount not less than $120,000,000; and

(3) for fiscal year 1985, for the Immigration and Naturalization Service, for the border patrol, investigations, inspections, anti-smuggling, and technical support, an amount not less than $205,000,000,

no citation, civil or criminal penalty, or injunction may be issued under section 274A of the Immigration and Nationality Act for the hiring, or recruiting or referring for a fee, for employment of individuals occurring after September 30, 1985.

(b) If the conditions described in paragraphs (1), (2) and (3) of subsection (a) have been met, then, effective October 1, 1985—

(1) section 249 (8 U.S.C. 1259), as amended by section 302(a) of this Act, is amended—

(A) by striking out "January 1, 1973" in the heading and inserting in lieu thereof "January 1, 1980", and

(B) by striking out "January 1, 1973" in paragraph (a) and inserting in lieu thereof "January 1, 1980"; and

(2) the item in the table of contents relating to such section is amended by striking out—

"January 1, 1973",

and inserting in lieu thereof—

"January 1, 1980".

(c) Section 243 (8 U.S.C. 1253) is amended by adding at the end the following new subsection:

"(i) The Attorney General may, in his discretion and during the period ending on October 1, 1985, withhold deportation of an alien who would be eligible for registry under section 249 but for the fact that the alien entered the United States on or after January 1, 1973, but before January 1, 1980, if the Attorney General determines that, considering the equities involved in the alien's individual case, such withholding is in the public interest.".

By Mr. JEFFORDS:

AMENDMENT (1)

—Page 59, after line 6, insert the following new subsection:

(d) Section 101(a)(15)(E) (8 U.S.C. 1101(a)(15)(E)) is amended by inserting "(and the son or daughter of any such alien for so long as the son or daughter is actively working in the enterprise of the alien)" after "following to join him".

AMENDMENT (2)

—Page 59, after line 6, insert the following new subsection:

(d) Section 101(a)(27) (8 U.S.C. 1101(a)(27)), as amended by section 203(a) of this Act, is further amended by striking out "or" at the end of subparagraph (I), by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; or" and by adding at the end the following new subparagraph:

"(K) an immigrant who—

"(i) is at least 21 years of age,

"(ii) has been classified, for at least 5 years before applying for special immigrant status under this subparagraph, as a nonimmigrant under paragraph (15)(E)(ii) as a child of an alien (described in that paragraph) who has an enterprise in the United States at least three-quarters of the income of which is from agricultural activities.

AMENDMENT (3)

—Page 59, after line G, insert the following new subsection: (d) Section 101(a)(27) (8 U.S.C. 1101(a)(27)), as amended by section 203(a) of this Act, is further amended by striking out "or" at the end of subparagraph (I), by striking out the period at the end of subparagraph (J) and inserting in lieu thereof"; or" and by adding at the end the following new subparagraph:

"(K) an immigrant who—

"(i) is at least 21 years of age,

"(ii) has been classified, for at least 5 years before applying for special immigrant status under this subparagraph, as a nonimmigrant under paragraph (15)(E)(ii) as a child of an alien (described in that paragraph) who has an enterprise in the United States.

By Mr. LANTOS:

—Page 59, after line 6, insert the following new subsection:

(d) The numerical limitations in sections 201(a) and 202 of the Immigration and Nationality Act shall not apply to any alien—

(1) who—

(A) is a native of the Philippine Islands, and

(B) has served honorably in an active-duty status in the military, air, or naval forces of the United States during a period beginning September 1, 1939, and ending December 31, 1946, or

(2) who is the spouse or minor child of an alien described in paragraph (1),

and who applies for the benefit of the provisions of this subsection not later than 6 months after the date of the enactment of this Act.

By Mr. KINDNESS:

—On page 49 after line 10, insert a new section:

UPDATING REGISTRY DATE TO JANUARY 1, 1973

SEC. 132. (a) Section 249 (8 U.S.C. 1259) is amended—

(1) by striking out "JUNE 30, 1948" in the heading and inserting in lieu thereof "JANUARY 1, 1973", and

(2) by striking out "June 30, 1948" in paragraph (a) and inserting in lieu thereof "January 1, 1973".

(b) The item in the table of contents relating to section 249 is amended by striking out—

"June 30, 1948",

and inserting in lieu thereof—

"January 1, 1973".

On page 89, strike line 23 and all that follows through page 90, line 8.

—On page 79, line 1, strike out "Legalization" and insert "Registry Date Advance", strike out line 2 and all that follows through page 89, line 22.

On page 90, strike out line 9 and all that follows through page 93, line 3.

Renumber sections and conform the table of contents accordingly.

—On page 85, line 23, insert "(15)," after (10).

—On page 20, line 18, insert after "aliens", "(other than non-immigrants described in section 101(a)(15)(B))".

By Mr. LELAND:

AMENDMENT (1)

—Page 35, after line 23, insert the following new clause:

"(iv) After an alien has filed a nonfrivilous application for asylum and pending a determination on the application, the Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit.

AMENDMENT (2)

—Page 28, before line 16, insert the following new subsection:

(c)(1) Section 236 (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

"(e) The Attorney General shall direct that an alien awaiting exclusion proceedings shall be released on personal recognizance unless the alien is shown to be a security risk or likely to abscond, in which case bond shall be set within 24 hours from time of arrest.".

(2) The second sentence of section 242(a) (8 U.S.C. 1252(a)) is amended to read as follows: "The Attorney General shall direct that an alien awaiting deportation proceedings shall be released on personal recognizance unless the alien is shown to be a security risk or likely to abscond, in which case bond shall be set within 24 hours from time of arrest.".

AMENDMENT (3)

—Page 28, before line 16, insert the following new subsection:

(c)(1) Section 212 (8 U.S.C. 1182), as amended by section 213(a) of this Act, is amended by adding after subsection (m) the following new subsection:

"(n) Before denying a benefit or visa under this Act on the basis of an individual being an alien described in paragraph (27), (28), or (29) of subsection (a), the individual shall be notified of the factual basis for the alien being one described in such paragraph and shall be entitled to a full evidentiary hearing before an immigration judge, subject to direct review by a Court of Appeals.".

(2) Section 241 (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(g) Before denying a benefit under this Act on the basis of an individual being an alien described in paragraph (1) (on the basis of being an alien described in paragraph (26), (28), or (29) of section 212(a)) or paragraph (6) or (7) of subsection (a), the individual shall be notified of the factual basis for the alien being one described in such paragraph and shall be entitled to a full evidentiary hearing before an immigration judge, subject to direct review by a Court of Appeals.".

AMENDMENT (4)

—Page 3, strike lines 17 and 18.

AMENDMENT (5)

—Page 3, on line 24, strike ".", and insert in lieu thereof the following new clause: ", except that union hiring halls shall not be deemed to be persons or other entities for the purposes of this Act."

AMENDMENT (6)

—Page 7, strike lines 4 to 11.

AMENDMENT (7)

—On page 10, line 25, strike the word "less", and insert in lieu thereof "more".

AMENDMENT (8)

—On page 12 delete lines 24 and 25, and on page 13, delete lines 1 through 5.

AMENDMENT (9)

—On page 17, line 10, strike "$5,000" and insert in lieu thereof, "$500.00". Delete line 20, and insert in lieu thereof, "than $500.00."

AMENDMENT (10)

—On page 17, delete lines 21 through 25 and enacting clauses, and insert in lieu thereof, the following new subsection:

(c) "No sanctions shall be issued for a period of one year following the enactment of this Act. During the first six months, any person believed to be in violation will be educated as to the meaning and implications of this section. During the second six months, the Attorney General shall cause to be issued a written warning for any said violations.

On page 17, line 21, rename subsection "(c)" to subsection "(d)".

AMENDMENT (11)

—Page 18, after line 23, insert the following new subsection:

(b) Section 111, as amended by section 111(a) of this Act, is amended by adding after section (a) the following new subsection:

"(c) It is the sense of Congress that the Attorney General, in consultation with nonprofit agencies, certified by the Board of Immigration Appeals, to represent clients before the Immigration and Natualization Service and the Board of Immigration Appeals, shall appoint in each district office of the Immigration and Naturalization Service a review board to consider complaints of misconduct by Immigration and Natualization Service and Border Patrol Officers in the enforcement of immigration laws. Said Board shall be composed of six members, non-affiliated with any office or agency of the U.S. Department of Justice, and at least three of these to be nominated by the nonprofit agencies."

AMENDMENT (12)

—On page 28, line 22, delete Section 123(a)(2) and 123(a)(3).

AMENDMENT (13)

—On page 30, line 7, delete Section 123(a)(9).

AMENDMENT (14)

—On page 31, line 16, delete Section 123(b)(2) and (b)(3).

AMENDMENT (15)

—On page 33, delete lines 8 through 13.

AMENDMENT (16)

—On page 34, line 17, delete "and the applicant," and insert in lieu thereof: ", the applicant, and the attorney for the applicant,"

AMENDMENT (17)

—On page 34, line 23, strike out all that follows the first period, and strike out line 24.

AMENDMENT (18)

—On page 35, strike line 15, and insert in lieu thereof:

"(ii) At the time of detention,"

On line 16, strike: "for asylum,"

By Mr. LUJAN:

AMENDMENT (1)

—Amend section 301 to read as follows:

LEGALIZATION

SEC. 301. (a) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

"ADJUSTMENT OF STATUS OF CERTAIN ALIENS

"SEC. 245A. (a) The Attorney General, after consultation with the Committees of the Judiciary of the House of Representatives and of the Senate, shall, pursuant to prescribed regulations, adjust the status of an undocumented person to that of an alien lawfully admitted for permanent residence if—

"(1) the person files for adjustment of status during the 18-month period beginning on the date of the enactment of this section, and

"(2) the person (other than an alien who entered the United States as a nonimmigrant) establishes that he or she has resided continuously in the United States since prior to the date of the enactment of this section, including a person who (A) is a national of Cuba who arrived in the United States and presented himself or herself for inspection after April 20, 1980, and before January 1, 1981, or (B) a national of Haiti who arrived in the United States and presented himself or herself for inspection after December 1, 1980, and before January 1, 1983, and who is physically present in the United States.

"(b) In the case of an undocumented person during the period that is required to process and verify documents presented by the person under subsection (a), the Attorney General shall, pursuant to prescribed regulations—

"(1) permit the person to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the person to adjust his or her status under this section, and

"(2) grant the person authorization to engage in gainful employment in the United States and provide to that person an 'employment authorized' endorsement or other appropriate work permit.

"(c) The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and the Senate, shall proceed, pursuant to precribed regulations, to rescind the resident status granted an undocumented person under this section if—

"(1) a legal determination is made that the person was in fact not eligible for such change of status, or

"(2) the person commits an act that makes the person inadmissible to the United States as an immigrant or is convicted of any felony committed in the United States.

"(d) The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and the Senate, shall provide, pursuant to prescribed regulations, that applications for adjustment under this section may be made to, and received on behalf of the Attorney General by, voluntary and community agencies designated for such purpose by the Attorney General.

"(e) The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and the Senate, shall provide, pursuant to prescribed regulations, that undocumented persons who can establish a prima facie case of eligibility for adjustment of status under this section shall not be deported or excluded from the United States until the person has had a reasonable opportunity to file an application for such adjustment of status.".

(b) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain aliens.".

AMENDMENT (2)

—Page 79, line 14, and page 80, line 25, strike out "1983" and insert in lieu thereof "the 12-month period described in subsection (g)(2)".

Page 89, after line 7, strike out the closing quotation marks and the period that follows them.

Page 89, after line 7, insert the following new subsection:

"(g) The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and the Senate, shall, pursuant to prescribed regulations, provide for—

"(1) a six-month education period for the public, Service personnel, voluntary agency staff, and community-based organization staff, and

"(2) a 12-month period (after such six month period) during which those eligible for an adjustment of status may apply for adjustment of status under this section.".

By Mr. LUNGREN:

AMENDMENT (1)

—Page 67, after line 11, insert the following new section (and redesignate succeeding sections, and cross-references thereto, and conform the table of contents accordingly):

MEXICAN NONIMMIGRANT WORKERS

SEC. 212. (a) Section 101(a)(15) (89 U.S.C. 1101(a)(15)), as amended by section 203(b) of this Act, is further amended by striking out "or" at the end of subparagraph (M), by striking out the period at the end of subparagaph (N) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(O) an alien having a residence in Mexico which he has no intention of abandoning who is a national of Mexico and is coming to the United States for a period not to exceed 180 days in any calendar year to perform temporary services or labor.".

(b) Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(e)(1)(A) The Attorney General, in consultation with the Secretary of State, shall by regulation establish a program (hereinafter in this subsection referred to as 'the program') for the admission into the United States of nonimmigrants described in section 101(a)(15)(O). The program shall include the imposition of monthly and annual numerical limitations, established under paragraph (2), on the issuance of nonimmigrant visas for such nonimmigrants. These visas shall be made available subject to such limitations to aliens described in section 101(a)(15)(O) in the chronological order in which the aliens submit applications for such visas.

"(B) Except as provided pursuant to paragraph (3)—

"(i) aliens shall not be required to obtain any petition from any prospective employer within the United States in order to obtain a nonimmigrant visa under the program, and

"(ii) such a nonimmigrant visa shall not limit the geographical area within which an alien may be employed or limit the type of employment the alien may perform.

"(2) The Attorney General shall establish monthly and annually numerical limitations on the issuance of nonimmigrant visas to aliens described in section 101(a)(15)(O), based on the number of seasonal or cyclical workers sought by employers in the United States. In establishing such numerical limitations, the Attorney General also shall consider historical employment needs in the United States, the availability of domestic workers, and the projected labor needs of prospective employers. The Attorney General may seek the assistance of the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor in promulgating regulations under paragraph (1) and in establishing numerical limitations under this paragraph.

"(3) The Attorney General, on the request of the Secretary of Labor, shall impose a restriction on the employment of aliens described in section 101(a)(15)(O) who are issued nonimmigrant visas under the program which prohibits the aliens from accepting employment provided by a specific employer or at a specific site if such employer, or employees of such employer or at such site, demonstrate to the Secretary of Labor that the aliens will displace available, qualified, and willing domestic workers. The Secretary of Labor shall establish a procedure for such employer and such employees to request, and the criteria for the imposition of, any restriction under this paragraph.

"(4) Any alien described in section 101(a)(15)(O) who obtains a nonimmigrant visa under the program and who violates—

"(A) any restriction with respect to the period of time for which the alien is allowed to remain in the United States, or

"(B) any restriction imposed under paragraph (3), shall be ineligible to obtain any nonimmigrant visa under the program during the 5-year period beginning on the date such violation occurs. Any alien who enters the United States unlawfully after the date the program becomes effective, is ineligible to obtain a nonimmigrant visa under the program during the 10-year period beginning on the date such entry occurred.

"(5)(A) The Secretary of State is authorized to take such steps as may be necessary in order to expand and establish consulates of the United States in Mexico in order to implement the program.

"(B) The Secretary of State shall cooperate with representatives of the Government of Mexico in order to insure that residents of Mexico are made aware of the nature and operation of the program.

"(C) The Secretary of Labor shall insure, to the extent practicable, that aliens who are nationals of Mexico and who reside in the United States are informed of the nature and operation of the program.

"(6) The Attorney General shall report to Congress semiannually regarding the program. Each such report shall include a statement of the number of nonimmigrant visas issued under the program, an evaluation of the effectiveness of the program, a description of any problems related to the enforcement of the program, and any recommendation for legislation relating to the program.".

(c) Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking out "or" before "(3)", and

(2) by inserting "; or (4) any alien admitted as a nonimmigrant under section 101(a)(15)(O)" before the period at the end.

(d)(1) Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end thereof the following new subsection:

"Lump-Sum Benefits for Certain Nonimmigrant Mexican Workers

"(x)(1) Upon the return to Mexico of an alien described in section 101(a)(15)(O) of the Immigration and Nationality Act after the performance of temporary services or labor in the United States under the program established under section 214(e) of such Act, an amount equal to the sum of—

"(A) the taxes imposed under section 3101 of the Internal Revenue Code of 1954 on the income of such alien consisting of remuneration for the performance of such services or labor, and

"(B) the excise taxes imposed under section 3111 of such Code on the employer or employers of such alien with respect to having such alien in their employ pursuant to such program,

shall be paid in a lump sum to such alien if it is demonstrated to the satisfaction of the Secretary, either in an application for such benefit filed after his return or by certification under paragraph (3), that he has not violated any restriction referred to in section 214(e)(4) of the Immigration and Nationality Act and has no intention of abandoning his residence in Mexico.

"(2) An application by an alien for a benefit under this subsection may be made only at the consulate of the United States in Mexico which is nearest the residence in Mexico of such alien, and payment of such benefit may be made to such alien only at such consulate.

"(3) The Secretary of State and the Secretary of the Treasury shall each, upon written request of the Secretary, make certification to the Secretary with respect to any matter, determinable for the Secretary by the Secretary of State or the Secretary of the Treasury, as the case may be, under this subsection, which the Secretary finds necessary in administering this subsection.".

(2) Section 210(b) of such Act (42 U.S.C. 410(b)) is amended—

(A) in paragraph (19), by striking out "or,";

(B) in paragraph (20), by striking out "individuals." and inserting in lieu thereof "individuals; or"; and

(C) by adding at the end thereof the following new paragraph:

"(21) Temporary service or labor performed by an alien described in section 101(a)(15)(O) of the Immigration and Nationality Act in the United States under the program established under section 214(e) of such Act.".

Page 70, line 5, strike out "is amended" and insert in lieu thereof ", as amended by section 212(c) of this Act, is further amended".

Page 70, line 6, strike out "(3)" and insert in lieu thereof "(4)".

Page 70, line 7, strike out "(4)" and insert in lieu thereof "(5)".

AMENDMENT (1A)

—Page 67, after line 11, insert the following new section (and redesignate succeeding sections, and cross-references thereto, and conform the table of contents accordingly):

MEXICAN NONIMMIGRANT WORKERS

SEC. 212. (a) Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 203(b) of this Act, is further amended by striking out "or" at the end of subparagraph (M), by striking out the period at the end of subparagraph (N) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(O) an alien having a residence in Mexico which he has no intention of abandoning who is a national of Mexico and is coming to the United States for a period not to exceed 180 days in any calendar year to perform temporary services or labor.".

(b) Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(e)(1)(A) The Attorney General, in consultation with the Secretary of State, shall by regulation establish a program (hereinafter in this subsection referred to as 'the program') for the admission into the United States of nonimmigrants described in section 101(a)(15)(O). The program shall include the imposition of monthly and annual numerical limitations, established under paragraph (2), on the issuance of nonimmigrant visas for such nonimmigrants. These visas shall be made available subject to such limitations to aliens described in section 101(a)(15)(O) in the chronological order in which the aliens submit applications for such visas.

"(B) Except as provided pursuant to paragraph (3)—

"(i) aliens shall not be required to obtain any petition from any prospective employer within the United States in order to obtain a nonimmigrant visa under the program, and

"(ii) such a nonimmigrant visa shall not limit the geographical area within which an alien may be employed or limit the type of employment the alien may perform.

"(2) The Attorney General shall establish monthly and annually numerical limitations on the issuance of nonimmigrant visas to aliens described in section 101(a)(15)(O), based on the number of seasonal or cyclical workers sought by employers in the United States. In establishing such numerical limitations, the Attorney General also shall consider historical employment needs in the United States, the availability of domestic workers, and the projected labor needs of prospective employers. The Attorney General may seek the assistance of the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor in promulgating regulations under paragraph (1) and in establishing numerical limitations under this paragraph.

"(3) The Attorney General, on the request of the Secretary of Labor, shall impose a restriction on the employment of aliens described in section 101(a)(15)(O) who are issued nonimmigrant visas under the program which prohibits the aliens from accepting employment provided by a specific employer or at specific site if such employer, or employees of such employer or at such site, demonstrate to the Secretary of Labor that the aliens will displace available, qualified, and willing domestic workers. The Secretary of Labor shall establish a procedure for such employer and such employees to request, and the criteria for the imposition of, any restriction under this paragraph.

"(4) Any alien described in section 101(a)(15)(O) who obtains a nonimmigrant visa under the program and who violates—

"(A) any restriction with respect to the period of time for which the alien is allowed to remain in the United States, or

"(B) any restriction imposed under paragraph (3), shall be ineligible to obtain any nonimmigrant visa under the program during the 5-year period beginning on the date such violation occurs. Any alien who enters the United States unlawfully after the date the program becomes effective, is ineligible to obtain a nonimmigrant visa under the program during the 10-year period beginning on the date such entry occurred.

"(5)(A) The Secretary of State is authorized to take such steps as may be necessary in order to expand and establish consultates of the United States in Mexico in order to implement the program.

"(B) The Secretary of State shall cooperate with representatives of the Government of Mexico in order to insure that residents of Mexico are made aware of the nature and operation of the program.

"(C) The Secretary of Labor shall insure, to the extent practicable, that aliens who are nationals of Mexico and who reside in the United States are informed of the nature and operation of the program.

"(6) The Attorney General shall report to Congress semiannually regarding the program. Each such report shall include a statement of the number of nonimmigrant visas issued under the program, an evaluation of the effectiveness of the program, a description of any problems related to the enforcement of the program, and any recommendations for legislation relating to the program."

"(c) Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking out "or" before "(3)", and

(2) by inserting "; or (4) any alien admitted as a nonimmigrant under section 101(a)(15)(O)" before the period at the end.

Page 70, line 5, strike out "is amended" and insert in lieu thereof "as amended by section 212(c) of this Act, is further amended".

Page 70, line 6, strike out "(3)" and insert in lieu thereof "(4)".

Page 70, line 7, strike out "(4)" and insert in lieu thereof "(5)".

AMENDMENT (1B)

—Page 67, amend lines 6 through 11 to read as follows:

(f) It is the sense of Congress that the President should negotiate with representatives of the Government of Mexico to establish an advisory commission to consult with and advise the Attorney General regarding the regulations to be promulgated, and the monthly and annual numerical limitations to be established, under the program established under section 214(c) of the Immigration and Nationality Act.

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2)

—In lieu of the matter proposed to be inserted by the amendment, after subsection (a) of section 211, insert the following:

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences:

"An alien may not be admitted to the United States as a nonimmigrant—

"(1) under section 101(a)(15)(H)(ii)(a) for an aggregate period longer than the period (or periods) determined by regulations of the Secretary of Labor, or

"(2) under section 101(a)(15)(H)(ii) if the alien was admitted to the United States as such a nonimmigrant within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.",

(2) by inserting "(1)" after "(c)" in subsection (c), and

(3) by adding at the end of subsection (c)(1), as so redesignated, the following:

"For purposes of this paragraph the term 'appropriate agencies of Government' means the Department of Labor and includes, with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the Department of Agriculture.

"(2)(A)(i) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii)(a) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(I) there are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition, and

"(II) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(ii) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii)(b) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(I) there are not sufficient qualified workers available in the United States to perform the labor or services involved in the petition, and

"(II) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(iii) The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(B) The Secretary of Labor may not issue a certification under subparagraph (A)—

"(i) if there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification, or

"(ii) with respect to an employer if the employer during the previous two-year period employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers.

No employer may be denied certification under clause (ii) for more than three years for any violation described in such clause.

"(3)(A) In the case of an application for a labor certification for a nonimmigrant described in section 101(a)(15)(H)(ii)(a)—

"(i) the Secretary of Labor may not require that the application be filed more than 50 days before the first date the employer requires the labor or services of the alien;

"(ii) the employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in paragraph (2)(A)(i)(I)) for approval and if it does not, such notice shall include the reasons there-

fore and permit the employer an opportunity to resubmit promptly a modified application for approval; and

"(iii) the Secretary of Labor shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in paragraph 2(A)(i) if the employer has complied with the criteria for certification, including criteria for the recruitment of eligible individuals as prescribed by the Secretary, and if the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requiremens of the Secretary, except that the terms of such a labor certification remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply or are referred to the employer.

"(B) A petition to import an alien as an nonimmigrant described in section 101(a)(15)(H)(ii)(a), and an application for a labor certification with respect to such an alien, may be filed by an association representing agricultural producers which use agricultural labor or services. The filing of such a petition or application on a member's behalf does not relieve the member of any liability for representations made in such petition or application.

"(C)(i) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (a)(A)(i).

"(ii) The Secretay of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of importing a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not able, willing or qualified, the burden of proof is on the employer to establish that the individuals referred are not able, willing, or qualified because of employment-related reasons as shown by their job performance.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

"(4) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection.

"(6) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this subsection and under section 212(a)(14).".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(d) Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall first be issued, on an interim or other basis, not later than the effective date.

(e) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall report to the Congress not later than 18 months after the effective date on recommendations for improvements in the temporary alien worker program amended by this section, including recommendations—

(1) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(2) removing any current economic disincentives to hiring United States citizens or permanent resident aliens where temporary foreign workers have been requested, and

(3) improving the cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

(f) It is the sense of Congress that the President should establish an advisory commission which shall consult with the Government of Mexico and advise the Attorney General regarding the operation of the alien temporary worker program established under section 214(c) of the Immigration and Nationality Act.

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2B)

—In the matter proposed to be added by subsection (b)(1) (of the section 211 inserted by the amendment), strike out "under section 101(a)(15)(H)(ii)" in paragraph (1) and all that follows through "require a longer period" and insert in lieu thereof "under section 101(a)(15)(H)(ii)(a) for an aggregate period longer than the period (or periods) determined by regulations of the Secretary of Labor".

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2C)

—(1) In the matter proposed to be added by subsection (b)(1) (of the section 211 inserted by the amendment)—

(A) insert "or" at the end of paragraph (1),

(B) strike out paragraph (2), and

(C) redesignate paragraph (3) as paragraph (2).

(2) In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), strike out subparagraph (B) of paragraph (2) and redesignate subparagraph (C) of such paragraph as subparagraph (B).

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2D)

—(1) In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment)—

(A) insert "and includes, with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the Department of Agriculture" after "Department of Labor" in the matter before paragraph (2)(A)(i), and

(B) insert "and the Secretary of Agriculture" after "the Attorney General" in paragraph (4).

(2) In subsection (e) of the section 211 inserted by the amendment, insert "and the Secretary of Agriculture" after "Attorney General".

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2E)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment)—

(1) in paragraph (2)(A)(i)(I), insert after "petition," the following: "or, in the case of nonimmigrants under section 101(a)(15)(H)(ii)(a), that there are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition", and

(2) in paragraph (3)(C)(ii)—

(A) insert "able, willing, and" before "qualified" the first place it appears,

(B) strike out "qualified or available" and insert in lieu thereof "able, willing, or qualified", and

(C) strike out "actually available or are not" and insert in lieu thereof "able, willing, or".

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2F)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), in paragraph (2)(A)(i)—

(1) strike out the comma after "employed" in clause (II) and insert in lieu thereof a period, and

(2) strike out "and such certification has been issued.".

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2G)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), strike out clause (ii) of paragraph (2)(A) and redesignate clause (iii) of such paragraph as clause (ii).

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2H)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), in paragraph (2)(A)(iii)—

(1) strike out "shall" in the first sentence and insert in lieu thereof "may", and

(2) strike out the second sentence.

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2I)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), in paragraph (2)(C)(i) strike out "if a strike" and all that follows through "dispute is in progress" and insert in lieu thereof "if there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification".

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2J)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), in paragraph (2)(C)(ii)—

(1) insert "the employer during the previous two-year period employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and" after "if" the first place it appears, and

(2) strike out "has not complied" and all that follows through "the penalty." and insert in lieu thereof "at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers.".

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2K)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), in paragraph (3)(A)—

(1) strike out "shall require that the application be filed at least 80 days" in clause (i) and insert in lieu thereof "may not require that the application be filed more than 50 days", and

(2) strike out "criteria for certification, including criteria for a recruitment period of at least 60 days for" in clause (iii) and insert in lieu thereof "the criteria for certification, including criteria for the recruitment of".

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2L)

—In the proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), in paragraph (3)(A)—

(1) strike out "promptly after" in clause (ii) and insert in lieu thereof "within seven days of", and

(2) strike out the second sentence.

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2M)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), in paragraph (3)(A)(iii), strike out "50 percent of the period of the work contract for which the certification was issued has elapsed" and insert in lieu thereof "the date the aliens depart for work with the employer".

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2N)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), in paragraph (3)(C)(ii), strike out the last sentence.

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2P)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), strike out paragraph (7).

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (2Q)

—Strike out the first sentence of subsection (d) of the section 211 inserted by the amendment.

AMENDMENT (3A)

—Page 60, beginning on line 2, strike out "longer than the period (or periods) determined by regulations of the Secretary of Labor" and insert in lieu thereof "of more than 11 months in any calendar year, except in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period, which may exceed one year".

AMENDMENT (3B)

—Page 61, beginning on line 7, strike out "in the United States similarly employed" and insert in lieu thereof "who are similarly employed in the area of intended employment".

AMENDMENT (3C)

—Page 62, beginning on line 9, strike out "substantially" and insert in lieu thereof "knowingly".

AMENDMENT (3D)

—Page 66, line 9, insert after "(d)" the following new sentence: "The Attorney General, in consultation with the Secretary of Labor and, in connection with agricultural labor or services, in consultation with the Secretary of Agriculture, shall approve all regulations to be issued implementing the amendments made by this section.".

AMENDMENT (4)

—Page 90, strike out line 9 and all that follows through page 93, line 3, and insert in lieu thereof the following (and conform the table of contents accordingly):

STATE LEGALIZATION IMPACT-ASSISTANCE BLOCK GRANTS

SEC. 303. (a) There are authorized to be appropriated for grants (and related Federal administrative costs) to carry out this section such sums as may be necessary for fiscal year 1983 and for each of the five succeeding fiscal years.

(b)(1) From the sums appropriated under subsection (a) for a fiscal year (less the amount reserved for Federal administrative costs), the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall allot to each State (as defined in subsection (g)(1)) meeting the requirements of subsection (d) an amount determined in accordance with a formula, established by the Secretary, which takes into account—

(A)(i) the number of eligible legalized aliens (as defined in subsection (g)(2)) residing in the State in that fiscal year,

(ii) the ratio of the number of eligible legalized aliens in the State to the total number of residents of that State and to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year, and

(iii) the amount of expenditures the State is likely to incur in providing assistance for eligible legalized aliens under programs of public assistance (as defined in subsection (g)(3)), and

(B) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such sums.

(2) For each fiscal year the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under paragraph (1). Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

(c) A State may use amounts paid to it under subsection (b)(2) for the purpose of providing assistance with respect to elgibile legalized aliens under programs of public assistance, but only to the extent such assistant is otherwise available under such programs to citizens residing in the State.

(d) In order to receive an allotment for a fiscal year under subsection (b), a State must prepare and transmit to the Secretary—

(1) a report describing the intended use of payments the State is to receive under this section for the fiscal year, including (A) a description of those programs of public assistance and localities of the State identified by the State as needing assistance from grants under this section, and (B) criteria for and administrative methods of disbursing funds received under this section, and

(2) a statement of assurances that certifies that (A) funds allotted to the State under this section will only be used to carry out the purposes described in subsection (c), (B) the State will provide a fair method (as determined by the State) for allocating funds allotted to the State under this section among the programs and localities identified under paragraph (1)(A), and (C) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements incorporated by subsection (e).

The State shall promptly revise the report referred to in paragraph (1) to reflect substantial changes in its intended use of the funds allotted the State under this section. Such report (for fiscal years after fiscal year 1983), and any revisions proposed thereto, shall be made public within the State in such manner as to facilitate review of and comments from interested persons and local governments on the intended use and distribution of funds for the fiscal year.

(e) The provisions of sections 506, 507 (other than subsection (b) thereof), 508 of the Social Security Act (relating to reports and audits, criminal penalties, and nondiscrimination, respectively, under the maternal and child health service block grant) shall apply to activities, funds made available, and allotments under this section in the same manner as those provisions apply to activities, funds made available, and allotments under title V of such Act; and for this purpose—

(1) any reference to that title in any of those sections shall be deemed a reference to this section, and

(2) a reference to section 502(a) or 502(b) or to section 505 in any of those sections shall be deemed to be a reference to subsection (b) or to subsection (d), respectively, of this section.

(f) In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(g) For purposes of this section:

(1) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(2) The term "eligible legalized alien" means—

(A) an alien who has been granted permanent resident status under section 245A(a) of the Immigration and Nationality Act, but only until the end of the 36-month period beginning with the first month in which the alien has such status; and

(B) an alien who has been granted temporary resident status under section 245A(b)(1) of such Act, but only until—

(i) such temporary resident status is terminated, or

(ii) if the alien has been subsequently granted permanent resident status under section 245A(b)(3) of such Act, until the end of the 36-month period beginning with the first month in which the alien has such permanent status,

whichever is later.

(3) The term "program of public assistance" means a State or local program which provides for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals or required in the interest of public health.

(Section 301—Legalization)

—Page 79, lines 13 and 14, strike "during 1983" and insert in lieu thereof "between April 1, 1983 and March 31, 1984".

—Page 80, lines 24 and 25, strike "during 1983" and insert in lieu thereof "between April 1, 1983 and March 31, 1984".

—Page 86, lines 11, 14, and 17, strike out "January" and insert in lieu thereof "April".

By Mr. McCLORY:

—Page 79, line 14, and page 80, line 25, strike out "1983" and insert in lieu thereof "the 12-month period beginning April 1, 1983."

—Page 86, lines 11, 14, and 17, strike out "January" and insert in lieu thereof "April".

By Mr. McCOLLUM:

AMENDMENT (1)

—Strike out section 301 and redesignate the succeeding sections (and conform the table of contents) accordingly.

AMENDMENT (2)

—Page 28, line 25, strike out "section 1331" and insert in lieu thereof "sections 1331, 1361, and 2241".

Page 29, line 1, insert "chapter 7 of title 5, United States Code," after "Code,".

Page 29, amend lines 17 through 19 to read as follows:

(4) by striking out "in the judicial circuit" and all that follows through the end of paragraph (2) and inserting in lieu thereof "in the Court of Appeals for the Federal Circuit;".

Page 29, line 20, strike out "(5)" and insert in lieu thereof "(5)(A)".

Page 29, line 21 insert the following new subparagraphs:

(B) by striking out "and upon the official" and all that follows through "court is located" in paragraph (3); and

(C) by striking out "such official of the Service" in paragraph (3) and inserting in lieu thereof "the Attorney General".

Page 31, line 16, strike out "(2)" and insert in lieu thereof "(2)(A)".

Page 31, line 18, insert "the United States Court of Appeals for the Federal Circuit" after "except".

Page 31, after line 18, insert the following new subparagraphs:

"(B) No application for a writ of habeas corpus shall be entertained and no extraordinary writ shall be directed to any government official or employee and no injunctive or declaratory relief shall be granted with respect to an immigration matter (as defined in subparagraph (E)), other than by the United States Court of Appeals for the Federal Circuit in accordance with this section.

"(C) The Court of Appeals for the Federal Circuit shall have exclusive jurisdiction to review all Constitutional issues (including habeas corpus and writs for other extraordinary relief) with respect to immigration matters by petition filed no later than 30 days from the date of the final order of the United States Immigration Board.

"(D) In the case of a petition filed under this section in which the Court finds that a question of fact is presented—

"(i) if a determination with respect to that fact was previously made by the Attorney General or an administrative law judge, such determination shall be conclusive if supported in the administrative record by reasonable, substantial, and probative evidence on the record considered as a whole, and

"(ii) if no such determination was made, the Court may provide, in accordance with rules established by the Court in cooperation with the United States Immigration Board, for a hearing before an administrative law judge to make the appropriate findings of fact.

"(E) As used in this paragraph, the term 'immigration matter' means a determination under this Act respecting deportation, exclusion, or asylum (or the custody or detention of an alien associated therewith) or any matter reviewable by the United States Immigration Board.".

Page 32, after line 21, insert the following new subsection:

(g)(1) Section 1295(a) of title 28, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (9),

(B) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and", and

(C) by adding at the end the following new paragraph:

"(11) of an appeal under section 106 of the Immigration and Nationality Act and to entertain and grant applications for writs of habeas corpus and petitions for relief respecting immigration matters pursuant to section 106 of such Act.".

(2) Section 2241(a) of such title is amended by striking out "Writs" and inserting in lieu thereof "Except as provided in section 1295(a)(11) of this title, writs".

Page 45, beginning on line 6, strike out "sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended" and insert in lieu thereof "Section 236 (8 U.S.C. 1126) is amended".

AMENDMENT (3)

—Page 87, after line 20, insert the following new paragraph:

"(7) Determinations of the Attorney General under this section are committed to agency discretion and shall be subject to judicial review only in the judicial review of deportation proceedings in accordance with section 106.".

By Mr. MORRISON:

AMENDMENT (1)

—Page 4, after line 13, insert the following:

"(5) For purposes of paragraph (1)(B), a person or entity shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of an individual if—

"(A) the individual was referred for employment to the person or entity by a State employment agency (as defined by the Attorney General) which has complied with subsection (b) with respect to the referral of the individual for employment, and

"(B) the person or entity has and retains (for the period and in the manner described in subsection (b)(3)) appropriate documentation of such referral by that agency.".

AMENDMENT (2)

—Page 4, after line 13, insert the following:

"(5)(A) In the case of a person or entity that has complied with the requirements of subsection (b) with respect to the hiring, recruiting, or referring of an individual, that person or entity shall be considered to have complied with such requirements with respect to any subsequent hiring, recruiting, or referring of that individual occurring during the applicable period (as defined in subparagraph (B)) beginning on the date such requirements were most recently previously complied with.

"(B) For purposes of subparagraph (A), the term 'applicable period' means, with respect to the hiring, recruiting, or referring of an individual who at the time of previous compliance with the requirements of subsection (b) was—

"(i) a citizen or national of the United States, a five-year period;

"(ii) an alien lawfully admitted for permanent residence, a three-year period;

"(iii) a nonimmigrant, a period (not to exceed one year) as the Attorney General may establish; or

"(iv) an alien otherwise classified, a period (not to exceed three years) as the Attorney General may establish.".

AMENDMENT (3)

—Page 12, after line 23, insert the following new paragraph:

"(6) The Attorney General shall provide for enforcement of the provisions of this section in a manner that does not unfairly or unreasonably concentrate on any single industry, occupational classification, or geographic area.".

AMENDMENT (4)

—Page 63, line 4, strike out "and".

Page 63, line 21, strike out the period and insert in lieu thereof "; and".

Page 63, after line 21, insert the following new clause:

"(iv) in the employer's complying with terms and conditions of employment respecting the furnishing of housing and meals where the employment of the worker does not exceed 20 days, the employer shall be permitted to substitute payment of a reasonable allowance in lieu of the actual furnishing of housing accommodations and meal preparation facilities.".

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (4A)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), in clause (i) of paragraph (2)(B) inserting before the period at the end the following: "or, in the case of

employing a worker for 20 days or less, will make payment of a reasonable housing allowance in lieu of the actual furnishing of such housing accommodations".

(Offered as an amendment to amendment No. 6 of the Committee on Education and Labor.)

AMENDMENT (4B)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), in clause (iv) of paragraph (2)(B) inserting after the period at the end the following: "Or will make payments for meals in lieu thereof in the case of an employer hiring a worker for 20 days or less".

By Mr. PASHAYAN:

—Page 48, at line 20, insert the following new section and insert a corresponding item in the table of contents:

PREEMPTION OF STATE AND LOCAL LAW

"SEC. 127. The provisions of this act shall preempt any state or local law on the same subject."

—Page 59, line 6, insert the following new section (and insert a corresponding item in the table of contents):

"EMERGENCY ASSISTANCE

"SEC. 205. When the Secretary of Agriculture has determined, in consultation with the Attorney General, that there are not sufficient United States workers who are able, willing, qualified and available at the time and place of need and that the wages and working conditions of United States workers similarly employed will not be adversely affected by the temporary employment of aliens, an alien may apply for certification for the purpose of agricultural work only under regulations promulgated by the Attorney General, in consultation with the Secretary of Agriculture."

—Page 59, line 8, insert the following new section (and insert a corresponding item in the table of contents):

"SEC. 210. The intent of the provisions of this section is to grant the Attorney General sufficient authority to admit temporarily certain alien workers, industrial, commercial, agricultural, or otherwise, for the purpose of alleviating labor shortages as they exist or may develop in certain branches of American productive enterprises."

—Page 59, lines 14 and 15, strike out "by the Secretary of Labor".

Page 60, strike lines 1 through 3 and insert in lieu thereof the following:

"(1) under section 101(a)(15)(H)(ii)(a) for an aggregate period of more than eleven months in any calendar year, except in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period, which may exceed one year."

Page 61, lines 7 and 8, strike out "in the United States similarly employed." and insert in lieu thereof "who are similarly employed in the area of intended employment."

Page 61, strike out lines 13 through 15, and insert in lieu thereof the following:

"(I) there are not sufficient workers who are able, willing, qualified, and available at the time and at the place needed to perform such labor or services."

Page 62, strike out lines 1 through 3, and insert in lieu thereof the following:

"(i) if he certifies that a lawful strike by a majority of all employees or lockout involving a work stoppage of workers is in progress in the occupation and at the place the employee is to be employed, or"

Page 64, strike line 4 and insert in lieu thereof the following:

"Petition or application unless the association is the sole employer of all alien agricultural labor or services, in which case only the association shall be liable for representations in such petition or application."

—Page 64, line 5, strike out "Secretary of Labor" and insert in lieu thereof "Attorney General".

Page 65, line 1, strike out "Secretary of Labor" and insert in lieu thereof "Attorney General".

Page 65, line 2, strike out "Attorney General" and insert in lieu thereof "Secretary of Labor".

Page 65, lines 16 and 17, strike out "Secretary of Labor" and insert in lieu thereof the following:

"Attorney General, upon the advice of the Secretary of Labor," page 66, strike lines 13 and 14 and insert in lieu thereof the following.

"(e) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture,"

—Page 85, after line 7, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

"(4) Notwithstanding any other provision of law, any alien in the United States may, in the discretion of the Attorney General and under such regulations as he may prescribe, be permitted to apply for adjustment of status described in section 101(a)(27)(A) of the Immigration and Nationality Act, if the alien applies for such an adjustment within six months of the effective date of this Act and if such person is not otherwise inadmissable.

By Mr. PATTERSON:

—Page 79, lines 17, 19, 21, 23, and 25, and page 80, line 2, strike out "1977" and insert in lieu thereof "1978".

Page 81, lines 3, 5, 7, 9, 11, and 13, strike out "1980" and insert in lieu thereof "1982".

AMENDMENT (19)

—Page 15, line 5, strike out "During" and insert in lieu thereof "Beginning as soon as possible after the date of the enactment of this Act and during".

AMENDMENT (25)

—Page 15, line 20, insert before the period the following: "as of the first day of the seventh month beginning after the date of the enactment of this Act".

AMENDMENT (50)

—Page 79, lines 19, 23, and 25, and page 80, line 2, strike out "1977" and insert in lieu thereof "1982".

Page 81, lines 5, 9, 11, and 13, strike out "1980" and insert in lieu thereof "1982".

AMENDMENT (51)

—Page 79, beginning on line 9, strike out "may, in his discretion and under such regulations as he shall prescribe" and insert in lieu thereof "shall, pursuant to regulations prescribed by him".

Page 80, beginning on line 20, and page 83, beginning on line 19, strike out ", in his discretion and under such regulations as he shall prescribe, may" and insert in lieu thereof "shall, pursuant to regulations prescribed by him,".

AMENDMENT (53)

—Page 84, line 3, strike out "continuously resided" and insert in lieu thereof "resided continuously".

By Mr. PAUL:

—Page 87, strike out lines 1 through 14 and insert in lieu thereof the following:

"(A) the alien is not eligible for any benefits (as defined in paragraph (4)) wholly funded by the Federal Government, and".

Page 87, beginning on line 17, strike out "the programs of financial or medical assistance" and insert in lieu thereof "benefits".

Page 87, strike out line 20 and all that follows through page 88, line 11, and insert in lieu thereof the following:

"(2) Notwithstanding any provision of law, any program or entity of a public or private nature which receives Federal assistance (including the provision of funds, materials, and services) and uses such assistance to provide benefits (as defined in paragraph (4)) to an alien during the period the alien is in lawful temporary resident status granted under subsection (b)(1) or during the three-year period beginning on the date an alien is granted lawful permanent resident status under subsection (a) or (b)(3), shall thereafter be ineligible for such assistance."

—Page 88, after line 16, insert the following new paragraph:

"(4) For purposes of paragraphs (1) and (2) of this subsection, the term 'benefits' means the provision of services or financial assistance (including health care, employment training, public assistance, food assistance, and loan programs) in the United States for which individuals must meet eligibility requirements to qualify for such services or assistance, but does not include (A) disability, retirement, and survivors' insurance, (B) disability and workers' compensation, and (C) veterans' benefits.

By Mr. ROYBAL:

AMENDMENT (1)

—Stike out part A of title I (viz., page 3, line 3 and all that follows up to page 18, line 18) and redesignate succeedings parts B, C, and D, as parts A, B, and C, respectively, and sections 111, 112, 113, 121, 122, 123, 124, 125, 126, and 131, as sections 101, 102, 103, 111, 112, 113, 114, 115, 116, and 121, respectively, and conform the table of contents and cross-references accordingly.

Page 27, line 21, insert "and" after the comma.

Page 27, strike out lines 22 and 23.

Page 27, line 24, strike out "(F)" and insert in lieu thereof "(E)".

Page 60, line 12, strike out "and to provide notice for purposes of section 274A".

Page 64, amend lines 24 and 25 to read as follows: "who is a national of the United States, an alien lawfully admitted for permanent residence, or an alien authorized to be so employed by this Act or by the Attorney General.".

Strike out section 101 and redesignate section 102 as section 101, and conform the table of contents accordingly.

Page 17, line 14, strike out "sections" and insert in lieu thereof "section".

Page 17, strike out lines 15 through 20.

Page 17, line 21, strike out "(c)" and insert in lieu thereof "(b)".

AMENDMENT (2)

Page 3, amend lines 11 through 14 to read as follows: States an alien knowing the alien is an unauthorized alien (as defined in paragraph (3)) with respect to such employment.

Page 3, strike out lines 15 through 18.

Page 4, strike out lines 1 through 7.

Page 4, line 8, strike out "(4)" and insert in lieu thereof "(3)".

Page 4, strike out line 14 and all that follows through page 8, line 14, and redesignate succeeding subsections (and cross-references thereto) accordingly.

Page 8, line 19, page 9, lines 3 and 24, and page 12, line 12, strike out "(1)(A)" and insert in lieu thereof "(1)".

Page 10, strike out lines 6 though 20 and redesignate the succeeding paragraphs (and cross-references thereto) accordingly.

Page 12, beginning on line 13, strike "and that is applicable under paragraph (3) for violations of subsection (a)(1)(B)".

Page 13, strike out the parenthetical clause beginning on line 12.

Page 13, beginning on line 21, strike out "and beginning development of the changes and additions described in subsection (c)".

Page 15, line 10, strike out "forms and".

Page 17, line 14, strike out "tions" and insert in lieu thereof "tion".

Page 17, strike out lines 15 through 20.

Page 17, line 21, strike out "(c)" and insert in lieu thereof "(b)".

Page 64, line 25, strike out "274A(a)(4)" and insert in lieu thereof "274A(a)(3)".

AMENDMENT (3)

Page 3, beginning on line 9, strike out ", or to recruit or refer for a fee,".

Page 4, line 3, strike out ", recruiting, or referral for employment".

Page 4, beginning on line 6, strike out ", recruiting, or referral".

Page 4, beginning on line 16, strike out ", recruiting, or referring".

Page 4, line 23, strike out "(or recruited or referred for employment)".

Page 6, line 3, strike out ", recruited, or referred".

Page 6, beginning on line 9, strike out ", recruiting" and all that follows through line 20 and insert in lieu thereof "of the individual and ending (A) three years after such date, or (B) one year after the date the individual's employment is terminated, whichever is later.".

Page 7, line 18, strike out ", recruiters, and referrers for employment".

Page 8, beginning on line 10, strike out ", recruitment, or referral".

Page 8, line 20, strike out ", or recruiting or referring for a fee,".

Page 9, line 23, strike out ", recruitment, or referral".

Page 10, beginning on line 10, strike out ", or recruiting or referring for a fee,".

Page 12, beginning on line 19, strike out ", recruiting, or referral".

Page 13, line 8, strike out "for a fee".

Page 15, beginning on line 1, strike out ", or recruiting or referring for a fee,".

AMENDMENT (6)

Page 5, line 2, strike out the first "or" and insert in lieu thereof a comma.

Page 5, line 3, insert after the comma the following: "certificate or other document approved by the Attorney General proving naturalized United States citizenship,".

AMENDMENT (9)

Page 7, line 13, insert "suggest, or recommend," after "authorize,".

AMENDMENT (10A)

Page 7, amend lines 4 through 11 to read as follows:

"(c)(1)(A) Within three years after the date of the enactment of this section, the President shall report to Congress on whether or not the employment eligibility verification system provided under subsection (b) provides a secure system to determine employment eligibility in the United States. If the President so reports that it does not, the President may, in consultation with the approprite committees of Congress, implement such changes to the requirements of subsection (b) as are necessary to establish a secure system to determine employment eligibility in the United States, except that any such changes must conform to the requirements of paragraph (2) of this subsection and such changes may not become effective until a period of at least 60 days has elapsed after the date a complete description of such changes has been transmittted to each House of Congress. If such changes are required, the President shall consider a change to use of a telephone verification system.".

AMENDMENT (10B)

Page 7, amend lines 4 through 11 to read as follows:

"(c)(1)(A) Within three years after the date of the enactment of this section, the President shall report to Congress on whether or not the employment eligibility verification system provided under subsection (b) provides a secure system to determine employment eligibility in the United States. If the President so reports that it does not, the President may, in consultation with the appropriate committees of Congress, implement such changes to the requirements of subsection (b) as are necessary to establish a secure system to determine employment eligibility in the United States, except that—

"(i) any such changes must conform to the requirements of paragraph (2) of this subsection,

"(ii) such changes may not become effective until a period of at least 60 days has elapsed after the date a complete description of such changes has been transmitted to each House of Congress, and

"(iii) such changes may not become effective if, within such period, either House of Congress adopts a resolution the substance of which disapproves of the changes proposed by the President.

If such changes are required, the President shall consider a change to use of a telephone verification system.".

AMENDMENT (14)

Page 12, strike out lines 11 through 16.

Page 12, line 17, strike out "(B)" and insert in lieu thereof "(5)".

AMENDMENT (15)

Page 14, line 8, strike out "18" and insert in lieu thereof "12".

Page 14, line 16, strike out "36 and 54" and insert in lieu thereof "24 and 36".

AMENDMENT (16)

Page 14, line 9, insert "and after consultation with the task force established pursuant to paragraph (3) of this subsection," after "enacted".

AMENDMENT (19)

Page 15, line 5, strike out "During" and insert in lieu thereof "Beginning as soon as possible after the date of the enactment of this Act and during".

AMENDMENT (20A)

Page 16, after line 14, add the following new subsection:

(c)(1) The President, not later than the 90th day before the end of the three-year period beginning on the date of enactment of this Act, shall prepare and transmit to Congress a comprehensive report concerning implementation of the amendments made by this section. In preparing the report the President shall give due consideration to previous reports, required under such amendments, submitted concerning implementation of such amendments. Unless the President's report certifies that the amendments made by this section—

(1) have been carried out satisfactorily and

(2) have not resulted in discrimination in employment other than on the basis of an individual is an alien not authorized to be employed in the United States.

such amendments shall not apply to the hiring, recruiting, or referring of individuals for employment occurring on or after the end of the three-year period beginning on the date of the enactment of this Act.

AMENDMENT (20B)

Page 14, strike out the sentence beginning on line 15.

Page 15, line 4 and page 16, line 14, insert before the period in each instance the following: "or occurring after the end to the three-year period beginning on the date of the enactment of this Act".

AMENDMENT (21)

Page 18, line 8, strike out "(a)" and insert in lieu thereof "(a)(1)".

Page 18, line 15, strike out "(b)" and insert in lieu thereof "(2)".

Page 18, after line 23, insert the following new subsection:

(b)(1) It is also the sense of Congress that a step essential to the program of immigration control and reform established by this act is an increase in activities of the Department of Labor in order to discourage the employment of aliens who are not authorized to be employed in the United States.

(2) In order to do this in the most effective and efficient manner, it is the intent of Congress to provide, through the annual authorization of appropriations process for the Department of Labor, for a controlled and closely monitored increase in the level of activities of the Wage and Hour Division of that Department.

AMENDMENT (22)

Page 20, strike out line 9 and all that follows through the end of the page, and strike out the corresponding item in the table of contents relating to section 113.

AMENDMENT (23A)

Page 20, line 18, insert "and by regulation" after "Secretary of State".

AMENDMENT (23B)

Page 20, lines 19 and 22, insert "voluntary" before "use" each place it appears.

AMENDMENT (23C)

Page 20, line 19, strike out "border".

Page 20, line 19, insert "at the border or other port of their entry into the United States" after "Service".

AMENDMENT (24)

At the end of page 20 insert the following new section (and insert a corresponding item in the table of contents):

JUDICIOUS AND NONDISCRIMINATORY ENFORCEMENT OF THE IMMIGRATION LAWS

SEC. 114. It is the sense of Congress that—

(1) the immigration laws not be enforced within the United States on the basis of race, religion, sex, or national origin, and

(2) in the enforcement of immigration laws, the Attorney General should take due and deliberate actions, including the training of Immigration and Naturalization Service officers to familiarize them with the rights and varied cultural backgrounds of aliens and United States citizens, necessary to safeguard the constitutional rights, personal safety, and human dignity of persons within the jurisdiction of the United States.

AMENDMENT (25)

Page 15, line 20, insert before the period the following: "as of the first day of the seventh month beginning after the date of the enactment of this Act".

AMENDMENT (27)

Page 13, line 10, strike out "The President" and all that follows through "concerning," on line 11 and insert in lieu thereof the following: "The Comptroller General shall prepare and transmit to the Congress, biannually during the first three years following the date of the enactment of this section, a report concerning".

AMENDMENT (28)

Page 12, line 11, strike out "(5)(A)" and insert in lieu thereof "(5)".

Page 12, strike out lines 17 through 23.

AMENDMENT (29)

Page 20, line 13, strike out "alien".

Page 20, lines 18 and 22, strike out "aliens" and "aliens'" and insert in lieu thereof "persons" and "their", respectively.

Page 20, after line 25, strike out "alien".

AMENDMENT (30)

Page 4, line 14, strike out "Except as provided in subsection (c), the" and insert in lieu thereof "The".

Page 7, strike out line 4 and all that follows through page 8, line 14, and insert in lieu thereof the following new subsection:

"(c)(1) There is established a Select Commission on Employment Eligibility Identification Systems (hereinafter in this subsection referred to as the "Commission") which shall be composed of the following members, who shall, if applicable, be appointed within 90 days after the date of enactment of this section:

"(A) Two members appointed by the Speaker of the House of Representatives from the membership of the House Committee on the Judiciary.

"(B) Two members appointed by the President pro tempore of the Senate from the membership of the Senate Committee on the Judiciary.

"(C) The Attorney General, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of Agriculture.

"(D) The Chairmen of the Civil Rights Commission and of the Equal Employment Opportunity Commissions.

"(E) Two members appointed by the President, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President pro tempore of the Senate. Appointments made under this subparagraph shall be coordinated in a manner so as to assure representation on the Commission of the business, civil rights, civil liberties, and labor communities.

"(2)(A) The Commission shall elect a Chairman and Vice Chairman from among its members.

"(B) A majority of Commission members shall constitute a quorum, but a lesser number may hold hearings.

"(C) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

"(D) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, the member is engaged in the actual performance of duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(3) It shall be the duty of the Commission to study, evaluate, and recommend to Congress whether any changes in or additions to the requirements of subsection (b) are necessary to establish a secure system to determine employment eligibility in the United States.

"(4) The Commission shall—

"(A) consider the use of a telephone verification system;

"(B) study means by which it can be assured—

"(i) that personal information utilized by an employment eligibility identification system will be available only to employers, recruiters and referrers for employment and to Government agencies and only to the extent necessary for the purpose of verifying that an individual is not an unauthorized alien;

"(ii) that verification of an individual's employment eligibility will not be withheld for any reason other than that the individual is an unauthorized alien;

"(iii) that any employment eligibility identification system to be recommended or used will not be used for law enforcement purposes other than the enforcement of this section and section 1546 of title 18, United States Code; and

"(iv) that any document to be presented by an individual as proof of employment and eligibility under this section will not be required to be carried on one's person or presented for any purpose other than to prove employment eligibility under this or in the enforcement of section 1546 of title 18, United States Code; and

"(C) consult with the President, the Civil Rights Commission, the Equal Employment Opportunity Commission, the Departments of Justice, Labor, and Agriculture, and the General Accounting Office with respect to the findings of these agencies and Departments concerning the enforcement of this section.

"(5)(A) The Commission shall make semiannual reports to each House of Congress during the period before publication of its final report (described in subparagraph (B)).

"(B) The Commission shall make a final report of its findings and recommendations to the President and to each House of Congress, which report shall be published not later than March 1, 1986.

"(6)(A) The Commission is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions without regard to the civil service laws, rules, and regulations. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(B) Staff members of the Committee on the Judiciary of the Senate or of the Committee on the Judiciary of the House of Representatives may be detailed to serve on the staff of the Commission by the chairman of the respective committee. Staff members so detailed shall serve on the staff of the Commission without additional compensation except that they may receive such reimbursement of expenses incurred by them as the Commission may authorize.

"(C) The Commission may call upon the head of any Federal department or agency to furnish information and assistance which the Commission deems necessary for the performance of its functions, and the heads of such departments and agencies shall furnish such assistance and information, unless prohibited under law, without reimbursement.

"(D) The Commission is authorized to make grants and enter into contracts for the conduct of research and studies which will assist it in performing its duties under this subsection.

"(E) The Commission shall cease to exist upon the filing of its final report, except that the Commission may continue to function for up to sixty days thereafter for the purpose of winding up its affairs.

"(F) The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate then payable for grade GS-18 in the General Schedule under section 5332 of such title.

"(7) There is authorized to be appropriated the sum of $10,000,000, to remain available until expended, to carry out the provisions of this section.

"(8) Notwithstanding any other provision of this subsection, no payment, or authorization to make payments to enter into contracts under this subsection, shall be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts.".

Page 13, lines 14 and 15, strike out "and the status of the changes and additions described in subsection (c)".

Page 13, strike out the sentence beginning on line 20.

AMENDMENT (34A)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first

three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) or (6) section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal year before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, and parents".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out, "except as specifically" and all the follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for the foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualifed immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualifed immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (4), who are at least 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Secton 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragaphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1), (2), or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)",

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), or (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all such fiscal year, and

"(B) independence immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii the number of special immigrants (other than those described in section 101(a)(27(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraph (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, and parents".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specifed in paragraphs (1) through (4), who are at least 60 years of age and who are the parents of aliens lawfully admitted for permanent residents.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualifed immigrants who because of their exceptonal ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, cer-

tificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraph (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraph (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraph (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of an such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year.

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) [OPTION B: or (5)] of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iii) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status de-

scribed in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34C)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (i) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitations for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27)

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens who status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, and parents".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or mar-

ried daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (4), who are at least 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A),(B), (C), (D), or (E) of section 101(b)(101) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(3) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1), (2), or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iii) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out " section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendment made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34D)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issue immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the perior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section as amended is amended by striking out "children spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, and parents".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (4), who are at least 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not requried for classes specified in paragraphs (1) through (3) small next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (a) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEM.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1), (2), or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iii) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2) or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such as investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34E)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) or (6) section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraph (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents" and by inserting "and grandparents" after "of parents".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to re-

ceive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203(, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (4), who are at least 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admit-

ted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1), (2), or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iii) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be:

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34F)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents" and by inserting "and grandparents" after "of parents".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualifed immigrants, a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (4), who are at least 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigration visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in the fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1), (2), or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iii) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantal investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34G)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, acccordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous for-

eign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents" and by inserting "and grandparents" after "of parents".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (4), who are at least 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visas numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independent immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall not be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an

amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1155(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1), (2), or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2), or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in section (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the

nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34H)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents" and by inserting "and grandparents" after "of parents".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 204 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsection (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (4), who are at least 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independent immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective nu-

merical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filling of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out " paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1), (2), or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iii) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The Amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983, When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status de-

scribed in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as much sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34I)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issud under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) of (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700 but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three-quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their acompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245(A.".

(2) Subsection (b) of such section is amended by striking out "children, spouses, and paarents" and all that follows through "years of age" and inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents of a citizen of the United States.".

(3) Section 221 (8 U.S.C. 1201 is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family

reunification immigrants shall be alloted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualifed immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent to such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (4), who are at least 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201 (a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numberical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1), (2), or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34J)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereof, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens both in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States or permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208.

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) Subsection (b) of such section is amended by striking out "children, spouses, and parents" and all that follows through "years of age and inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents of a citizen of the United States".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceeed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraph (1) and (2), who are the married sons or married daughters of citizens of the United States.

(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall not be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the class specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (4), who are the last 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(1)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visas shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEM.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6) " and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34K)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens discribed in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus

the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) Subsection (b) of such section is amended by striking out "children, spouses, and parents" and all that follows through "years of age and inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents of a citizen of the United States".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (4), who are at least 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the processs of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege or status under this Act.

No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2) or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b) visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D) or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1), (2), or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (34L)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under the subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the new sentence), plus (ii) the difference (if any)

between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) Subsection (b) of such section is amended by striking out "children, spouses, and parents" and all that follows through "years of age" and inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents of a citizen of the United States".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 36 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective number limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons of married daughters of citizens of the United States.

"(4) BROTHER AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

"(5) PARENTS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraph (1) through (4), who are least 60 years of age and who are the parents of aliens lawfully admitted for permanent residence.

In allocating visa numbers to aliens under the section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1), (2), or (5) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by section 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date;

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(a)(5) or 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35A)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for

fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, and parents".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a tempory or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2),

but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1152) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1155(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of subsection 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203 (a)(7)

of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35B)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation of any fiscal year 27 percent of the numerical limition for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted to granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, and parents".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons of married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall not be made available to qualified immigrants who are capable of performing

skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that States to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise to issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt or a determination made by the Secretary of Labor pursuant to the provisions of section 212(a) (14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that maximum number of visas will be made available under section 202(a) (2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D) or (E) of section 101(b) (1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date,

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section

203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35C)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27)

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, and parents".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous

foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independent immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visas shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State."

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such

petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35D)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the Unites States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a) (27) (A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purpose of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, and parents".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state or other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.— Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, alien subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1)

through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such percentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other

provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35E)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), and (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2)—

"(A) special immigrants defined n section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents" an by inserting "and grandparents" after "of parents".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independent immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of each section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsec-

tion (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 49, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 202(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date, as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35F)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 210. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents," and by inserting "and grandparents" after "of parents".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition

filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person." and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) By striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not requied for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independent immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit propectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or whose services in the sciences, arts, professions, or businesses are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualifed workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualifed workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawful resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1155(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2) or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35G)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of

paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended by striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents" and by inserting "and grandparents" after "of parents".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragrpah (2) of this subsection and in sections 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end of the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragrpah (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independent immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawful resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of family reunification immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35H)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year

for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) The first sentence of subsection (b) of such section is amended is striking out "children, spouses, and parents" inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents" and by inserting "and grandparents" after "of parents".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(b), no person",

(2) by striking out, ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawful resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrate visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (3), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in Paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in Section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in Paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date such classification shall remain in effect.

AMENDMENT (35I)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) Subsection (b) of such section is amended by striking out "children, spouses, and parents" and all that follows through "years of age" and inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents of a citizen of the United States".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) By striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent resident.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independent immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILILTY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exeptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by section 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall determine under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983, the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status de-

scribed in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35J)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) Subsection (b) of such section is amended by striking out "children, spouses, and parents" and all that follows through "years of age" and inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents of a citizen of the United States".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) (other than paragraph (1) thereof) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other then either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immmigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independent immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens born to the numer-

ical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent areas (defined in section (c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu therof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a)(3), or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983),

the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35K)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 66,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000, minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 13,500, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, plus (iii) for fiscal years before fiscal year 1989, 8,300, but only available to aliens born in that contiguous state with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of a relationship described in paragraph (1), (2), (4), or (5) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (iii) for fiscal years before fiscal year 1989, 1,700, but only available to aliens with a petition filed on their behalf (before the date of the enactment of the Immigration Reform and Control Act of 1982) for preference status by reason of paragraph (3) or (6) of section 203(a) (as such section was in effect on such date), and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 (or, for fiscal years before fiscal year 1989, 50,000) exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) a special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of this section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) Subsection (b) of such section is amended by striking out "children, spouses, and parents" and all that follows through "years of age and inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents of a citizen of the United States".

(3) Section 221 (8 U.S.C. 1201) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in sections 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single foreign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numerical limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject

to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independents immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classes specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principle manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarred child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (35L)

Page 49, after line 12, insert the following new sections (and redesignate the succeeding sections of part A of title II, and the table of contents and cross-references thereto, accordingly):

NUMERICAL LIMITATIONS

SEC. 201. (a)(1) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a)(1) Exclusive of aliens described in paragraph (3), aliens born in a foreign state (other than a contiguous foreign state) or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 320,000, plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 65,000 minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"(2) Exclusive of aliens described in paragraph (3), aliens born in a contiguous foreign state who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(A) family reunification immigrants described in section 203(a), in a number not to exceed in any fiscal year the number equal to (i) 83 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), plus (ii) the difference (if any) between the maximum number of visas which might have been issued under subparagraph (B) during the prior fiscal year for that foreign state and the number of visas issued under that subparagraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year, and

"(B) independent immigrants described in section 203(b), in a number not to exceed in any fiscal year the number equal to (i) 17 percent of the overall numerical limitation for that contiguous foreign state for that fiscal year (described in the next sentence), minus (ii) the number of special immigrants (other than those described in section 101(a)(27)(A)) who were born in that contiguous foreign state and who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, and not to exceed in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for all of such fiscal year.

"For purposes of this paragraph, the overall numerical limitation for a contiguous foreign state for a fiscal year is 40,000, plus the number by which 40,000 exceeds the number of aliens, who are not described in paragraph (3) and were born in the other contiguous foreign state, who were issued immigrant visas or otherwise acquired the status of an alien lawfully admitted for permanent residence in the previous fiscal year.

"(3) The aliens described in this paragraph, who are not subject to the numerical limitations described in paragraphs (1) and (2), are—

"(A) special immigrants defined in section 101(a)(27),

"(B) immigrants born to permanent resident aliens during a temporary visit abroad,

"(C) immediate relatives specified in subsection (b) of his section,

"(D) immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative,

"(E) aliens who are admitted or granted asylum under section 207 or 208,

"(F) aliens provided records of permanent residence under section 214(d), and

"(G) aliens whose status is adjusted to permanent resident status under section 245A.".

(2) Subsection (b) of such section is amended by striking out "children, spouses, and parents" and all that follows through "years of age" and inserting in lieu thereof "children, unmarried sons, unmarried daughters, spouses, parents, and grandparents of a citizen of the United States".

(3) Section 221 (8 U.S.C. 1201) is amended by addding at the end the following new subsection:

"(j) Notwithstanding any other provision of this Act, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence) by virtue of a petition filed under section 204(a) to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(5), filed by an individual who was admitted to the Untied States as an immigrant by virtue of an immediate relative petition filed by the grandson or granddaughter of the individual.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2) The total number of immigrant visas made available to natives of any single for-

eign state under subsections (a) and (b) of section 203 shall not exceed in any fiscal year—

"(A) 20,000, in the case of any foreign state other than either of the two foreign states contiguous to the United States, or

"(B) in the case of either of the foreign states contiguous to the United States, the numercial limitation for that foreign state for that fiscal year described in section 201(a)(2).".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(A) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(A) for family reunification immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in section 201(a)(2)(A) for family reunification immigrants shall be allotted visas as follows:

(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Visas shall first be made available to qualified immigrants, in a number not to exceed 41 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (4), who are the spouses or children of aliens lawfully admitted for permanent residence.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 15 percent of such respective numerical limitation plus any visas not required for the class specified in paragraph (1), who are the spouses or the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence.

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 10 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) and (2), who are the married sons or married daughters of citizens of the United States.

"(4) BROTHERS AND SISTERS OF ADULT CITIZENS.—Visas shall next be made available to qualified immigrants, in a number not to exceed 34 percent of such respective numerical limitation plus any visas not required for the classes specified in paragraphs (1) through (3), who are the brothers or unmarried sisters of United States citizens who are at least 21 years of age.

In allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.

"(b) ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1)(B) for independent immigrants and, separately for aliens born in each of the two contiguous foreign states, aliens subject to the numerical limitation specified in or section 201(a)(2)(B) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS OF EXCEPTIONAL ABILITY.—Visas shall first be made available, in a number not to exceed such respective numerical limitation, to qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States and whose services in the sciences, arts, professions, or business are sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Visas not required for classed specified in paragraph (1) shall next be made available to qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(3) INVESTORS.—Visas not required for classes specified in paragraphs (1) and (2), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available—

"(A) first, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment in a high unemployment area (as defined by the Attorney General, after consultation with the Secretary of Labor, and as determined at the time of the filing of a petition for classification under this paragraph) for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, and

"(B) then, to qualified immigrants who have invested, or are actively in the process of investing, substantial capital (in an amount, not less than $250,000, set by the Attorney General) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant.

"(4) UNSKILLED WORKERS.—Visas not required for classes specified in paragraphs (1) through (3) shall next be made available to qualified immigrants who are capable of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(5) NONPREFERENCE IMMIGRANTS.—(A) Visas not required for the classes specified in paragraphs (1) through (4), but in a number not to exceed 10 percent of such respective numerical limitation, shall be made available to other qualified immigrants who are not entering the country to perform skilled or unskilled labor in the chronological order in which they qualify.

"(B) No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (i) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (ii) the child has been irrevocably released for immigration and adoption. No natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under 16 years of age except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(A) the number of family reunification immigrants described in subsection (a) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(B) the number of independent immigrants described in subsection (b) who are natives of such state or dependent area and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year,

is equal to 3 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) and shall, if not otherwise entitled to an immigrant status and the immediate issuance of visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b)(1) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e).

(2) Section 204 (8 U.S.C. 1154) is amended by striking out subsection (f).

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a)

or pursuant to paragraphs (1) through (5) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (4) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (3) or (4) of section 203(a)",

(ii) by striking out "section 203(a)(2)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(a)",

(iii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)", and

(iv) by striking out "section 203(a)(6)" and inserting in lieu thereof "paragraph (2) or (4) of section 203(b)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following new subparagraph:

"(B) was admitted as (or otherwise acquired the status of) an independent immigrant described in paragraph (3) of section 203(b) and has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry (or of acquiring such status) or after the date such substantial investment was made, whichever date is later;".

Page 49, line 14, strike out "(a)".

Page 50, line 11, strike out "paragraph (3) or (6)" and all that follows through "section 203(a)(7)" on line 13 and insert in lieu thereof "paragraph (1), (2), or (4) of section 203(b)".

Page 50, strike out line 21 and all that follows through page 51, line 2.

Page 59, after line 6, insert the following new section (and insert a corresponding item in the table of contents):

EFFECTIVE DATES AND TRANSITION

SEC. . (a) The amendments made by sections 201, 202 (other than subsection (e)), and 203 shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under section 212(a)(20) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa. The amendments made by the other provisions of this part shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding classification (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding classification" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the status as an immediate relative described in section 201(b) of such Act;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(a) of such Act as in effect after such date, as the case may be;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (1) or (2) of section 203(b) of such Act as in effect after such date, as the case may be;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date; and

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in paragraph (2) or (4) of section 203(b) of such Act (as in effect after such date), as the case may be.

(c) Aliens registered in the nonpreference classification described in section 203(a)(7) of the Immigration and Nationality Act (as in effect on September 30, 1983) shall be transferred, as of October 1, 1983, to the preference status described in section 203(b)(3) of such Act or the nonpreference classification described in section 203(b)(5) of such Act (as such sections are in effect after such date), as the case may be, and the priority date for such classification shall remain in effect.

AMENDMENT (37)

Page 57, after line 18, insert the following new section (and redesignate the succeeding section, and conform the table of contents accordingly):

ELIMINATING PER-COUNTRY QUOTAS FOR WESTERN HEMISPHERE COUNTRIES

SEC. 204. (a) Section 202 (8 U.S.C. 1152) is amended—

(1) by inserting "located in the Eastern Hemisphere" in subsection (a) after "single foreign state";

(2) by inserting "located in the Eastern Hemisphere" in subsection (e) after "single foreign state" and after "any dependent area".

(b) The amendments made by subsection (a) apply to the issuance of immigrant visas to aliens, and the acquisition by such aliens of the status of an alien lawfully admitted to the United States for permanent residence, beginning in fiscal year 1984.

AMENDMENT (38)

Page 57, after line 18, insert the following new section (and redesignate the succeeding section, and conform the table of contents accordingly):

VISAS FOR CONTIGUOUS COUNTRIES

SEC. 204. (a) Section 201(a) (8 U.S.C. 1151(a)) is amended by striking out all that follows "shall not" and inserting in lieu thereof the following: "exceed—

"(1) for aliens born in state or area other than a contiguous foreign state, 240,000 in any fiscal year and 65,000 in any of the first three quarters of any fiscal year, and

"(2) for aliens born in either of the contiguous foreign states, the numerical limitation for that contiguous foreign state specified under section 202(a) for that fiscal year and in any of the first three quarters of any fiscal year 27 percent of the numerical limitation for that fiscal year.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2)(A) The total number of immigrant visas made available in any fiscal year to natives of any single foreign state under—

"(i) section 201(a)(1) shall not exceed, and

"(ii) section 201(a)(2) shall not exceed 40,000 (or the number determined under subparagraph (B).

"(B) If in any fiscal year the number of aliens chargeable to a contiguous foreign state who are issued immigrant visas or otherwise acquire the status of an aliens lawfully admitted to the United States for permanent residence is less than 40,000, then in the following fiscal year the numerical limitation for the other contiguous foreign state shall be 40,000 plus the amount of the difference.".

(c) Section 202(e) (8 U.S.C. 1152(e)) is amended by inserting "(other than a contiguous foreign state)" after "natives of any single foreign state.".

(d) Section 203(a) (8 U.S.C. 1153(a)) is amended—

(1) in the matter before paragraph (1), by inserting "paragraph (1) or (2) of" before "section 201(a)",

(2) by inserting "respective" before "number specified in section 201(a)" each place it appears, and

(3) by adding at the end the following new paragraph:

"(9) For the purpose of allocating visa numbers to aliens under this section, aliens born in noncontiguous foreign states and dependent areas shall be treated as one group and aliens born in each of the contiguous foreign states shall be treated as separate groups.".

(e) The amendments made by this section apply to the issuance of immigrant visas to aliens, and the acquisition by such aliens of the status of an alien lawfully admitted to the United States for permanent residence, beginning in fiscal year 1984.

AMENDMENT (39A)

Page 57, after line 18, insert the following new section (and redesignate the succeeding section, and conform the table of contents accordingly):

ELIMINATING SEPARATE COLONY QUOTA

SEC. 204. (a) Section 202 (8 U.S.C. 1152) is amended—

(1) by inserting "or dependent area" in subsection (a) after "foreign state" each place it appears;

(2) by striking out subsection (c),

(3) by inserting "or dependent area" in subsection (e) after "any single foreign state", and

(4) by striking out "or any dependent area defined in subsection (c) of this section" and "600 in the case of" in subsection (e).

(b) The amendments made by subsection (a) apply to the issuance of immigrant visas to aliens, and the acquisition by such aliens of the status of an alien lawfully admitted to the United States for permanent residence, beginning in fiscal year 1984.

AMENDMENT (39B)

Page 57, after line 18, insert the following new section (and redesignate the succeeding

section, and conform the table of contents accordingly):

INCREASING SEPARATE COLONY QUOTA

SEC. 204. (a) Section 202 (8 U.S.C. 1152) is amended—

(1) by striking out "six hundred" in subsection (c) and inserting in lieu thereof "3,000". and

(2) by striking out "600" in subsection (e) and inserting in lieu thereof "3,000".

(b) The amendments made by subsection (a) apply to the issuance of immigrant visas to aliens, and the acquisition by such aliens of the status of an alien lawfully admitted to the United States for permanent residence, beginning in fiscal year 1984.

AMENDMENT (40)

Page 59, after line 6, insert the following new subsection:

(d)(1) Section 328 (8 U.S.C. 1439) is amended to read as follows:

"NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES

"SEC. 328. (a) A person who has served honorably at any time in the Armed Forces of the United States and who, if separated from such service, was never separated except under Honorable conditions, may be naturalized without having met any of the residency requirements otherwise established for naturalization and without having been physically present in the United States for any specified period.

"(b) A person filing a petition under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that—

"(1) no residence within the jurisdiction of the court shall be required;

"(2) the petitioner shall not be required, under section 312, to pass an examination on the history or government of the United States;

"(3) notwithstanding section 318 insofar as it relates to deportability, such petitioner may be naturalized immediately if, prior to the filing of the petition, the petitioner shall have appeared before and been examined by a representative of the Service; and

"(4) the petitioner shall furnish to the Attorney General, prior to the final hearing upon his petition, a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable. The certificate or certificates herein provided for shall be conclusive evidence of such service and discharge.".

(2) Section 329 (8 U.S.C. 1440), and the item corresponding to that section in the table of contents, is repealed.

(3)(A) Section 318 (8 U.S.C. 1429) is amended by striking out "sections 328 and 329" and inserting in lieu thereof "section 328".

(B) Section 3 of Public Law 90-633 (8 U.S.C. 1440e) is amended by striking out "329" and inserting in lieu thereof "328".

(C) Section 340(f) (8 U.S.C. 1451(f)) is amended by striking out ", or under the provisions of section 329(c) of this title".

AMENDMENT (41)

Page 59, after line 6, insert the following new subsection:

(d)(1) Section 312(1) (8 U.S.C. 1423(1)) is amended by inserting "or other" before "language" each place it appears.

(2) Section 332(a) (8 U.S.C. 1443(a)) is amended by inserting "or other language" after "English".

AMENDMENT (42)

Page 59, after line 6, insert the following new subsection:

(d) Section 312(1) (8 U.S.C. 1423(1)) is amended by striking out "and has been living" and all that follows through "permanent residence" in the first proviso.

AMENDMENT (43)

Page 59, after line 6, insert the following new subsection:

(d) Subsections (a)(1) and (3) of section 316, subsections (a), (c), and (d) of section 328, and section 330(a)(1) (8 U.S.C. 1427, 1439, 1441(a)(1)) are each amended by striking out "five years" each place it appears and inserting in lieu thereof "three years".

AMENDMENT (44)

Page 86, after line 20, insert the following new paragraph:

"(7) An alien's adjustment to permanent resident status under this section shall constitute the lawful admission for permanent residence of the alien, for purposes of section 318.".

AMENDMENT (45)

Page 88, after line 16, insert the following new subsection (and redesignate the succeeding subsections accordingly):

"(e)(1) An alien whose application for adjustment of status under this section is denied and who files a request within a reasonable time (of not less than 30 days, as established by the Attorney General) is entitled to a hearing before an administrative law judge, and appeal of the determination of the judge, in the same manner as such a hearing and appeal may be had under clauses (ii) and (iii) of section 274A(d)(4)(A).

"(2)(A) If such a hearing is timely requested, any further administrative or judicial review (whether in a deportation proceeding or otherwise) of the determination on the application for adjustment shall be based solely upon the administrative record upon which the administrative law judge's order is based and the judge's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(B) If no timely request is made for such a hearing, the determination may only be reviewed within a deportation proceeding under section 242.".

AMENDMENT (46)

Page 79, line 7, strike out "JANUARY 1, 1980" and insert in lieu thereof "DATE OF ENACTMENT".

Page 79, line 8, strike out "TEMPORARY OR".

Page 79, lines 17 and 21, strike out "January 1, 1977" and insert in lieu thereof "the date of the enactment of this section".

Page 79, lines 19, 23, and 25, and page 80, line 2, strike out "Janaury 1, 1977" and insert in lieu thereof "such date".

Page 80, strike out line 20 and all that follows through page 85, line 7 (and redesignate succeeding subsections, and cross-references thereto, accordingly) and insert in lieu thereof the following:

"For purpose of this section, an alien who is in the United States with the status of a Cuban/Haitian entrant (status pending) shall be considered to be in the United States in an unlawful status.".

Page 85, beginning on line 9, strike out "and subsection (b)(1)".

Page 85, beginning on line 19, strike out "subsections (a)(3)(A), (b)(1)(C)(i), (b)(3)(C)(i), and (b)(4)(A)(i)" and insert in lieu thereof "subsection (a)(3)(A)".

Page 86, line 21, strike out "the period" and all that follows through "during" on line 22.

Page 86, line 25, strike out "or (b)(3)".

Page 87, strike out lines 21 through 23 and redesignate succeeding subparagraphs accordingly.

Page 89, before line 11, strike out "January 1, 1980" and insert in lieu thereof "date of enactment" and strike out "temporary or".

Page 91, strike out line 12 and all that follows through page 92, line 3, and insert in lieu thereof the following:

(C) The term "eligible legalized alien" means an alien who has been granted permanent resident status under section 245A of the Immigration and Nationality Act, but only until the end of the three-year period beginning on the date the alien was granted such status.

Page 92, line 23, strike out "either".

Page 92, beginning on line 25, strike out "or has been granted temporary resident status under section 245A(b)(1) of such Act".

AMENDMENT (47)

Page 79, line 7, strike out "JANUARY 1, 1980" and insert in lieu thereof "DATE OF ENACTMENT".

Page 79, lines 17, 19, 21, 23, and 25, and page 80, line 2, strike out "1977" and insert in lieu thereof "1980".

Page 81, line 1, strike out "(B)(i)(I)" and insert in lieu thereof "(B)(i)".

Page 81, lines 3 and 7, strike out "January 1, 1980" and insert in lieu thereof "the date of the enactment of this Act".

Page 81, lines 5, 9, 11, and 13, strike out "January 1, 1980" and insert in lieu thereof "such date".

Page 81, line 6, strike out "(II)" and insert in lieu thereof "(ii)".

Page 81, line 14, strike out "(III)" and insert in lieu thereof "(iii)".

Page 81, line 19, strike out "or" and insert in lieu thereof "and'.

Page 81, strike out line 20 and all that follows through page 82, line 17.

Page 83, after line 4, insert the following new sentence:

"For purposes of this section, an alien who is in the United States with the status of a Cuban/Haitian entrant (status pending) shall be considered to be in the United States in an unlawful status.".

Page 89, before line 11, strike out "January 1, 1980" and insert in lieu thereof "date of enactment" and strike out "temporary or".

AMENDMENT (48)

Page 80, line 2, strike out "and" and insert in lieu thereof "or".

Page 80, after line 2, insert the following new subparagraph:

"(C) is the spouse or child of an alien described in subparagraph (A) or (B) of this paragraph and is present in the United States as of the date of the enactment of this section; and".

Page 80, line 3, strike out "(C)" and insert in lieu thereof "(D)".

Page 81, line 13, strike out "and" and insert in lieu thereof "or".

Page 82, after line 13, insert the following new subparagraph:

"(III) is the spouse or child of an alien described in subclause (I) or (II) of this clause and is present in the United States as of the date of the enactment of this section; and".

Page 81, line 14, strike out "(III)" and insert in lieu thereof "(IV)".

Page 82, line 17, strike out "and" and insert in lieu thereof "or".

Page 82, after line 17, insert the following new subclause:

"(V) is the spouse or child of an alien described in subclause (I), (II), (III), or (IV) of this clause and is present in the United States as of the date of the enactment of this section; and".

AMENDMENT (49)

Page 79, line 14, and page 80, line 25, strike out "1983" and insert in lieu thereof "application period".

Page 80, after line 19, insert the following new sentence: "As used in this section, the term 'application period' means the one-year period beginning on the date (established by the Attorney General and not later than April 1, 1983) on which regulations to carry out this section first take effect.".

Page 86, line 11, strike out "and before January 1, 1983".

Page 86, insert at the end of line 12 the following new sentence: "Such regulations shall be promulgated in a manner so as to take effect no later than April 1, 1983.".

Page 86, line 14 and beginning on line 7, strike out "January 1, 1983" and insert in lieu thereof "the beginning of the application period".

AMENDMENT (50)

Page 79, lines 19, 23, and 25, and page 80, line 2, strike out "1977" and insert in lieu thereof "1982".

Page 81, lines 5, 9, 11, and 13, strike out "1980" and insert in lieu thereof "1982".

AMENDMENT (51)

Page 79, beginning on line 9, strike out "may, in his discretion and under such regulations as he shall prescribe" and insert in lieu thereof "shall, pursuant to regulations prescribed by him,".

Page 80, beginning on line 20, and page 83, beginning on line 19, strike out ", in his discretion and under such regulations as he shall prescribe, may" and insert in lieu thereof "shall, pursuant to regulations prescribed by him,".

AMENDMENT (52)

Page 84, line 5, insert "and" after the semicolon.

Page 84, line 10, strike out the semicolon and insert in lieu thereof a period.

Page 84, strike out lines 11 through 17.

AMENDMENT (53)

Page 84, line 3, strike out "continuously resided" and insert in lieu thereof "resided continuously".

AMENDMENT (57A)

Page 85, line 17, insert "(15)," after "(14),".

AMENDMENT (57B)

Page 85, line 17, insert "(19)," before "(20)".

AMENDMENT (58)

Page 85, line 8, strike out "(c)(1)" and insert in lieu thereof "(c)(1)(A)".

Page 85, after line 13, insert the following new subparagraph:

"(B) There shall be no charge to an applicant for the filing, or adjudication, of an application for adjustment of status under subsection (a) or (b)(1).".

Page 89, line 7, strike out "$10,000,000 for fiscal year 1983" and insert in lieu thereof "such sums as are necessary for fiscal year 1983 and each succeeding fiscal year in which the program established under this section is in operation.".

AMENDMENT (59)

Page 86, lines 14 and beginning on 17, strike out "January 1, 1983" and insert in lieu thereof "the end of the period described in subsection (a)(1)".

Page 86, line 17, strike out "may not apply for such adjustment until January 1, 1983" and insert in lieu thereof "has not applied for such adjustment".

AMENDMENT (62)

Page 85, at the end of line 13, insert the following new sentence: "Such voluntary agencies shall report to the Attorney General monthly on the numbers and status of application for adjustment received under this section and on the cost of processing such applications.".

AMENDMENT (63)

Page 87, line 7, strike out "Attorney General in consultation with other".

Page 88, beginning on line 1 and beginning on line 8, strike out "the Attorney General in consultation with".

AMENDMENT (67)

Page 89, beginning on line 11, strike out ", not later than" and all that follows through "program" on lines 13 and 14, and insert in lieu thereof "quarterly on the status, and impact of, of the legalization program".

Page 89, at the end of line 16 insert the following new sentence: "The President shall transmit to Congress a final report after the completion of the legalization program.".

AMENDMENT (68)

Page 89, line 23, and page 90, lines 2, 5, and before line 9, strike out "1973" and insert in lieu thereof "1982" (and conform the table of contents accordingly).

AMENDMENT (68A)

Page 89, line 23, and page 90, lines 2, 5, and before line 9, strike out "1973" and insert in lieu thereof "1975".

AMENDMENT (68B)

Page 89, line 23, and page 90, lines 2, 5, and before line 9, strike out "1973" and insert in lieu thereof "1978".

AMENDMENT (69)

Page 48, strike out line 21 and all that follows through page 49, line 10 and conform the table of contents accordingly.

AMENDMENT (70)

Page 58, strike out line 6 and all that follows through page 59, line 6.

AMENDMENT (72)

Page 72, beginning on line 16, strike out "and executes a waiver of review and appeal described in paragraph (2)(D)".

Page 74, strike out lines 7 through 13.

AMENDMENT (73)

Page 78, after line 25, insert the following new part (and insert corresponding items into the table of contents):

PART C—GENERAL PROVISIONS

INCREASED SERVICE ACTIVITIES OF IMMIGRATION AND NATURALIZATION SERVICE

SEC. 221. (a) It is the sense of Congress that an essential element of the program of immigration control and reform established by this Act is an increase in adjudications and other service activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to ensure the smooth and prompt processing of immigration and naturalization cases.

(b) In order to do this in the most effective and efficient manner, it is the intent of Congress to provide, through the annual authorization of appropriations process for the Department of Justice and for other appropriate Federal agencies, for a closely monitored increase in the level of adjudications and other service activities of the Immigration and Naturalization Service and of such other Federal agencies to achieve an effective level of service. It is also the sense of Congress that adjudications staff and other resources of the Immigration and Naturalization Service should be assigned to those field offices in accordance both with the amount of, and proportionate increase in, their workload.

AMENDMENT (74A)

Page 59, after line 6, insert the following new subsection:

(d) Section 212(a)(23) (8 U.S.C. 1182(a)(23)) is amended by inserting "(except simple possession of 30 grams or less of marihuana)" after "marihuana" the first place it appears.

AMENDMENT (74B)

Page 59, after line 6, insert the following new subsection:

(d)(1) Section 212(a)(23) (8 U.S.C. 1182(a)(23)) is amended by inserting "(except simple possession of 30 grams or less of marihuana)" after "marihuana" the first place it appears.

(2) Section 241(a)(11) (8 U.S.C. 1251(a)(11)) is amended by inserting "(except simple possession of 30 grams or less of marihuana)" after "marihuana" the first place it appears.

AMENDMENT (75)

Page 47, line 20, strike out "and".

Page 47, line 24, strike out the period and insert in lieu thereof ", and".

Page 47, after line 24, insert the following new paragraph and subsection (and redesignate the succeeding subsections accordingly):

(9) by adding at the end the following new sentence: "Before an alien departs voluntarily under this subsection, (A) the alien shall be provided and shall acknowledge in writing receipt of a notice (in English or in such other of the five major languages identified by the Attorney General and most likely to be understood by the alien) of the alien's rights under this Act, including the right to be represented by counsel at the alien's own expense, the right to a deportation hearing before an administrative law judge to determine whether the alien is illegally in the United States, his right to apply for political asylum and to become eligible for asylum if he qualifies as a refugee, and the effect on such rights on agreeing to depart voluntarily, and (B) the alien shall be orally notified (in English or such other language) of the requirement that the alien must execute an acknowledgment of receipt of such notice in order to be permitted to depart voluntarily and, if unable to read, such notice shall be read to the alien in English or such other language.".

(g) Section 244(e) (8 U.S.C. 1254(e)) is amended by adding at the end the following new sentence:

"Before an alien departs voluntarily under this subsection, (1) the alien shall be provided and shall acknowledge in writing receipt of a notice (in English or in such other of the five major languages identified by the Attorney General and most likely to be understood by the alien) of the alien's rights under this Act, including the right to be represented by counsel at the alien's own expense, the right to a deportation hearing before an administrative law judge to deter-

mine whether the alien is illegally in the United States, his right to apply for political asylum and to become eligible for asylum if he qualifies as a refugee, and the effect on such rights on agreeing to depart voluntarily, and (2) the alien shall be orally notified (in English or such other language) of the requirement that the alien must execute an acknowledgment of receipt of such notice in order to be permitted to depart voluntarily and, if unable to read, such notice shall be read to the alien in English or such other language.".

AMENDMENT (76)

Add at the end of the bill the following new title (and insert corresponding items in the table of contents):

TITLE IV—PRESIDENT'S COMMISSION ON UNITED STATES-MEXICO

IMMIGRATION POLICY COMMISSION

SEC. 401. (a) There is established a Commission to be known as the President's Commission on United States-Mexico Immigration Policy (hereinafter in this section referred to as the "Commission"), the purpose of which is to conduct studies and develop recommendations on immigration between the United States and Mexico and its effects on domestic and international affairs respecting the United States.

(b) The Commission's studies and recommendations shall cover—

(1) prevailing and projected demographic, technological, and economic trends affecting immigration between the United States and Mexico;

(2) the interrelationships between United States-Mexico immigration and existing and contemplated government programs in the United States;

(3) the effects of United States immigration policies and practices on relations with Mexico;

(4) the effectiveness of the operation of the immigration laws of the United States, with emphasis on the adequacy of such laws from the standpoint of fairness to aliens seeking admission into the United States and from the standpoint of the impact of such laws on social and economic conditions in this country;

(5) present and projected unemployment in the United States, by occupations, industries, and geographic areas and how it is affected by immigration; and

(6) any other matters which the Commission believes to be germane to the purposes for which it was established.

(c)(1) The Commission shall be composed of 18 members as follows:

(A) The Secretary of Agriculture.

(B) The Attorney General.

(C) The Secretary of Education.

(D) The Secretary of Health and Human Services.

(E) The Secretary of Labor.

(F) The Secretary of State.

(G) The Commissioner of Immigration and Naturalization.

(H) The Commissioner of Social Security.

(I) Ten members from the private sector appointed by the President, by and with the advice and consent of the Senate, from among distinguished individuals in the fields of immigration, labor, business, international relations, or education and health, of whom no fewer than four members shall be from community-based groups which deal with immigration problems. The President shall appoint the members described in this paragraph within 90 days after the date of the enactment of this section.

(2) The chairman and the vice chairman of the Commission shall be designated by the President. The term of office of the chairman and vice chairman shall be for the life of the Commission.

(3) The chairman shall invite for the purpose of participating in any meeting or hearing held by the Commission, and for the purpose of contributing to the studies to be conducted and the recommendations to be developed by the Commission, such officials of the Government of Mexico as the Commission deems desirable.

(d)(1) Members shall be appointed for the life of the Commission.

(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(4) The Commission shall meet at the call of the chairman or a majority of its members.

(e)(1) Each member of the Commission described in subsection (c)(1)(i) of this section shall, subject to amounts made available in advance in appropriations Acts, receive $150 for each day (including traveltime) during which the member is engaged in the actual performance of duties of the Commission.

(2) Members of the Commission described in subsection (c)(1)(A) through (H) shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(f)(1) The Commission shall have a director who shall be appointed by and whose pay shall be fixed by the chairman.

(2) The chairman may appoint and fix the pay of such additional personnel as the chairman deems desirable.

(3) The director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g)(1) The Commission may for the purpose of carrying out its duties hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable.

(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants at a rate to be fixed by the Commission, but not in excess of $150 per diem (including traveltime). While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses including per diem in lieu of subsistence.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the chairman, the head of such agency or department of the United States shall furnish all information requested by the Commission which is necessary to enable it to carry out its duties.

(h)(1) The Commission shall transmit a report to the President and to each House of Congress within one year after the date of the enactment of this section, and annually thereafter. Such report shall contain the findings and recommendations of the Commission and the progress of the Commission in completing the studies being conducted under subsection (b) of this section.

(2) The final report shall be transmitted to the President and each House of Congress within four years after the date of the enactment of this section.

(3) The Commission shall cease to exist on the thirtieth day beginning after the date of the transmission of the final report under paragraph (2).

(i) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(j) Notwithstanding any other provision of this section, no payment, or authorization to make payments to enter into contracts under this section, shall be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts.

AMENDMENT (77)

Add at the end of the bill the following new title (and insert corresponding items in the table of contents):

TITLE IV—SELECT COMMISSION ON UNITED STATES-MEXICO IMMIGRATION POLICY

COMMISSION

SEC. 401. (a) There is established a Commission to be known as the Select Commission on United States-Mexico Immigration Policy (hereinafter in this section referred to as the "Commission"), the purpose of which is to conduct studies and develop recommendations on immigration between the United States and Mexico and its effects on domestic and international affairs respecting the United States.

(b) The Commission's studies and recommendations shall cover—

(1) prevailing and projected demographic, technological, and economic trends affecting immigration between the United States and Mexico;

(2) the interrelationships between United States-Mexico immigration and existing and contemplated government programs in the United States;

(3) the effects of United States immigration policies and practices on relations with Mexico;

(4) the effectiveness of the operation of the immigration laws of the United States, with emphasis on the adequacy of such laws from the standpoint of fairness to aliens seeking admission into the United States and from the standpoint of the impact of such laws on social and economic conditions in this country;

(5) present and projected unemployment in the United States, by occupations, industries, and geographic areas and how it is affected by immigration; and

(6) any other matters which the Commission believes to be germane to the purposes for which it was established.

(c)(1) The Commission shall be composed of 18 members as follows:

(A) The Secretary of Agriculture.

(B) The Attorney General.

(C) The Secretary of Education.

(D) The Secretary of Health and Human Services.

(E) The Secretary of Labor.

(F) The Secretary of State.

(G) The Commissioner of Immigration and Naturalization.

(H) The Commissioner of Social Security.

(I) Ten members from the private sector, four of whom shall be appointed by the President, three by the Speaker of the House of Representatives, and three by the President pro tempore of the Senate, from among distinguished individuals in the fields of immigration, labor, business, international relations, or education and health, of whom no fewer than four members shall be from community-based groups which deal with immigration problems. Appointments to the Commission shall be made within 90 days after the date of the enactment of this section.

(2) The chairman and the vice chairman of the Commission shall be elected from among the members. The term of office of the chairman and vice chairman shall be for the life of the Commission.

(3) The chairman shall invite for the purpose of participating in any meeting or hearing held by the Commission, and for the purpose of contributing to the studies to be conducted and the recommendations to be developed by the Commission, such officials of the Government of Mexico as the Commission deems desirable.

(d)(1) Members shall be appointed for the life of the Commission.

(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(4) The Commission shall meet at the call of the chairman or a majority of its members.

(e)(1) Each member of the Commission described in subsection (c)(1)(I) of this section shall, subject to such amounts as are provided in advance in appropriations Acts, receive $150 for each day (including traveltime) during which the member is engaged in the actual performance of duties of the Commission.

(2) Members of the Commission described in subsection (c)(1)(A) through (H) shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(f)(1) The Commission shall have a director who shall be appointed by and whose pay shall be fixed by the chairman.

(2) The chairman may appoint and fix the pay of such additional personnel as the chairman deems desirable.

(3) The director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g)(1) The Commission may for the purpose of carrying out its duties hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable.

(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants at a rate to be fixed by the Commission, but not in excess of $150 per diem (including traveltime). While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses including per diem in lieu of subsistence.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the chairman, the head of such agency or department of the United States shall furnish all information requested by the Commission which is necessary to enable it to carry out its duties.

(h)(1) The Commission shall transmit a report to the President and to each House of Congress within one year after the date of the enactment of this section, and annually thereafter. Such report shall contain the findings and recommendations of the Commission and the progress of the Commission in completing the studies being conducted under subsection (b) of this section.

(2) The final report shall be transmitted to the President and each House of Congress within four years after the date of the enactment of this section.

(3) The Commission shall cease to exist on the thirtieth day beginning after the date of the transmission of the final report under paragraph (2).

(i) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(j) Notwithstanding any other provision of this section, no payment, or authorization to make payments to enter into contracts under this section, shall be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts.

AMENDMENT (80)

Page 14, line 23, insert "and make determinations on the merits of such complaints in an expedited manner (no later than 3 months after the date of receipt of the complaint) and provide for appropriate resolution of such complaints" after "section".

AMENDMENT (81)

Page 85, insert at the end of line 13 the following new sentence: "An alien may not be charged, in total for the filing and consideration of an application under subsection (a) or (b)(1), an amount that exceeds the Service's charge in effect at the time of application for the filing and consideration of an application for adjustment of status under section 245.".

AMENDMENT (83)

Page 86, strike out line 21 and all that follows through page 88, line 11.

Page 88, line 12, strike out "(3)" and insert in lieu thereof "(d)".

AMENDMENT (84)

Strike out section 211, and redesignate sections 212 and 213 as sections 211 and 212, respectively, and conform cross-references (and the table of contents) accordingly.

AMENDMENT (85)

Page 93, after line 3, insert the following new section (and conform the table of contents accordingly):

REGIONAL ADVISORY COUNCILS

SEC. 304. (a) The President shall provide, in cooperation with the States and localities, for the establishment of regional advisory councils in each of the five major regions of the United States.

(b) The council for each region shall be composed of State and local officials and community organizations in that region.

(c) Each council shall advise the President and other Federal officials of the impact on the council's region of the various provisions of this Act.

Amend section 201 of H.R. 7357 as follows:

On page 50, line 20, by inserting the following after subsection (a):

(b) Section 212(d) (8 U.S.C. 1181(d)) is amended by adding at the end the following new paragraph:

"(11) The requirement in paragraph (14) of subsection (a) relating to an offer of employment from an employer in the United States may be waived with respect to any alien seeking to enter the United States as an immigrant under section 203(a)(3), if the Attorney General deems it to be in the National interest.".

On page 50, line 21, by striking out "(b) The amendment made by subsection (a)" and inserting in lieu thereof "(c) the amendment made by subsections (a) and (b)".

Amend section 131 of H.R. 7357 on page 48, lines 21-25, and on page 49, lines 1-10, by striking out "Section 131" in its entirety.

Amends section 123 of H.R. 7357 as follows:

On page 29, line 15, by striking out "30 days" and inserting in lieu thereof "90 days".

On page 32, line 18, by striking out "30 days" and inserting in lieu thereof "90 days".

Amend section 123 of H.R. 7357 on page 31, lines 19-25, and on page 32, lines 1-4, by striking out paragraph "(3)" of Subsection "(b)".

Amend section 124 of H.R. 7357 on page 33, line 9 by adding after "proceedings" the following: ", which notice shall inform the alien of the right to apply for asylum and the time limits placed thereon by this subparagraph,".

Amend section 123 of H.R. 7357 on page 31, lines 19-25, and on page 32, lines 1-4, by striking out paragraph "(3)" of Subsection "(b)".

Amend section 122 of H.R. 7357, on page 26 line 1 by striking out "Appeals" and inserting in lieu thereof the following: "Notices of appeal".

Amend section 204(c) of H.R. 7357 as follows:

On page 58, line 8, by striking out "1982" and inserting in lieu thereof "1983".

On page 58, line 20, by striking out "1984" and inserting in lieu thereof "1989".

On page 58, line 25, by striking out "1984" and inserting in lieu thereof "1989".

Amend section 121 of H.R. 7357 on page 21 line 16, by inserting after "hearing" the following: "and shall be provided with written notice of such exclusion and the reasons therefor".

Amend section 121 of H.R. 7357 on page 22, line 1, by inserting within the parentheses after "personally" the following: "with counsel, subject to section 292".

Amend section 212(a)(6) of H.R. 7357 on page 68, line 20 by adding before the comma at the end of paragraph "(2)(A)(ii)" the following: "or a visa as a nonimmigrant described in section 101(a)(15)(h)(i)" and on page 69, line 5, by inserting before the comma in paragraph "(2)(A)(iv)" the following: ", if required thereby".

Amend section 121 of H.R. 7357 on page 21, line 12, by inserting before the comma at the end of "(b)(1)(11)": "and does not claim to be a citizen of the United States or an alien lawfully admitted for permanent residence who is returning from a temporary visit abroad".

Amend section 124(c) of H.R. 7357 on page 38, line 12, by inserting at the end of paragraph (2) the following:

"(3) The provisions of paragraphs (1) and (2) of this section shall not be applicable to the person who is the subject of such application for asylum, refugee status or withholding of deportation."

Page 86, line 13, strike out "(6)" and insert in lieu thereof "(6)(A)".

Page 86, after line 20, insert the following new subparagraph:

"(B) In the case of an alien during the period his application under subsection (a) or (b)(1) of this section is pending—

"(i) the Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent or temporary resident statute under subsection (a) or (b)(1), respectfully, and

"(ii) the attorney general shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit.".

Amend section 131 of H.R. 7357 on page 49, line 4, by inserting after "status" the following: "unless such failure to be in status is caused principally by acts or omissions of officers or agencies of the United States in the course of considering a timely-filed bona fide petition or application with respect to such status".

Amend section 111 of H.R. 7357 as follows:

On page 18, line 10, by inserting a comma "," after "patrol".

On page 18, line 11, by striking out "and other enforcement" and inserting in lieu thereof "processing of applications for benefits, and other enforcement and service".

On page 18, line 13, by inserting after "aliens" the following ", and to provide for the prompt and efficient processing of applications for legal entry,".

On page 18, line 20-21, by striking out "of other appropriate enforcement" and inserting in lieu thereof "of processing of applications for benefits and of other enforcement and service".

On page 18, line 23, by inserting after "illegal" the following "and legal".

Amend section 201 of H.R. 7357 as follows:

On page 49, line 17, by striking out "sufficient qualified workers" and inserting in lieu thereof: "sufficient workers who are able, willing, qualified".

On page 49, line 18 by striking out "workers".

On page 49, lines 23-24, by striking out "available" and all that follows through "employed" and inserting in lieu thereof: ", and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor".

Page 85, line 8, strike out "(c)(1)" and insert in lieu thereof "(c)(1)(A)".

Page 85, line 10, strike out "and received" and insert in lieu thereof ", received, and screened".

Page 85, after line 13, insert the following new subparagraph:

"(B) The voluntary agencies designated under paragraph (1) (and agents and employees thereof) shall, pursuant to regulations prescribed by the Attorney General, be prohibited from providing any person or entity with information contained in any alien's application under this section unless the alien has consented in writing to such disclosure or, after screening, the VOLAG determined that the alien has established through the application prima facie eligibility. Any agent or employee of such an agency who knowingly violates such prohibition shall be fined not more than $3,000.".

By Mrs. SCHROEDER:

AMENDMENT (1)

(Substitute for employer sanctions.)

—Page 3, strike out line 8 and all that follows through page 4, line 23, and insert in lieu thereof the following:

"SEC. 274A. (a)(1)(A) It is unlawful for a person or other entity to hire for employment in the United States an unauthorized alien (as defined in paragraph (3)) and to fail to comply, with respect to that alien's employment, with the terms of the National Labor Relations Act (29 U.S.C. 151 et. seq.), the Fair Labor Standards Act of 1938 (29 U.S.C. 203 et. seq.), and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et. seq.).

"(B) The Secretary of Labor shall notify the Attorney General whenever an employer has been determined by the Secretary to have failed to comply with a term of the Fair Labor Standards Act of 1938 or the Occupational Safety and Health Act of 1970, and the Chairman of the National Labor Relations Board shall notify the Attorney General whenever an employer has been determined by the Board to have failed to comply with a term of the National Labor Relations Act. For purposes of subparagraph (A), a person or other entity is deemed to have failed to comply with a term of the respective Act if the Attorney General is notified under this subparagraph of the person's or entity's failure to comply with that term of that Act.

"(C) Upon notification under subparagraph (B), the Attorney General may initiate an investigation to determine whether a violation of subparagraph (A) has occurred. If the Attorney General determines that such a violation has occurred, the Attorney General shall commence an administrative proceeding under subsection (b) with respect to that violation.

"(2) Whenever the Attorney General has a reasonable cause to believe that a person or entity has engaged in a pattern or practice of hiring, recruiting, or referring for employment in the United States unauthorized aliens after the date of the enactment of this section, the Attorney General may commence a proceeding under subsection (b).

Page 4, line 24, strike out "(6)" and insert in lieu thereof "(3)".

Page 5, after line 4, insert the following:

"(4) Unless otherwise provided by Act of Congress, this subsection shall not apply to the hiring, recruiting, or referring of individuals for employment on or after the end of the three-year period beginning on the date of the enactment of this section.

"(b)(1) The Attorney General shall commence any proceeding under this subsection by filing a notice of proposed violation with an administrative law judge. The person or entity named in such notice of proposed violation shall be provided an opportunity for a hearing before the judge within 30 days after the date of receipt of the notice.

"(2) In a proceeding initiated against a person or entity pursuant to subsection (a)(1), if the judge determines by a preponderance of the evidence that the person or entity has violated that subsection with respect to an unauthorized alien, the judge shall enter an order imposing on the person or entity a civil penalty of $5,000 for each such unauthorized alien.

"(3)(A) In a proceeding initiated against a person or entity pursuant to subsection (a)(2), if the judge determines by a preponderance of the evidence that the person or entity has violated that subsection, the judge shall enter an order—

"(i) requiring the person or entity to cease and desist from hiring, recruiting, or referring for employment in the United States any alien whom the person or entity knows to be an unauthorized alien with respect to that employment, and

"(ii) prohibiting the person or entity from hiring (during a period of three years from the effective date of the order) for employment in the United States any individual without complying with the requirements of subsection (c) with respect to each individual hired or considered for such employment.

"(B) A person or entity that fails to comply the terms of an order issued under subparagraph (A) shall be subject to a civil penalty of $1,000 for each such failure. Such penalty shall be assessed by an administrative law judge after notice and opportunity for a hearing.

"(C) The Attorney General shall review each order issued under subparagraph (A) for its effectiveness two years after the date of its issuance and may terminate such order at such time.

"(4)(A) If a person or entity against whom a civil penalty is assessed under this section fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review an administrative law judge's determination or order under this section, the suit shall be determined solely upon the administative record upon which the determination or order was based and the judge's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.".

Page 5, amend lines 5 through 9 to read as follows:

"(c) The requirements referred to in subsection (b)(3)(A)(ii) are, in the case of a person or other entity hiring an individual for employment in the United States, that—

".

Page 5, line 13, strike out "is eligible" and all that follows through "(a)(1)(A)" on line 15 and insert in lieu thereof "is not an unauthorized alien".

Page 6, beginning on line 19, strike out ", recruited, or referred".

Page 6, beginning on line 25, strike out ", recruiting, or referral".

Page 7, beginning on line 2, strike out "in the case of the hiring of the individual" and insert in lieu thereof "if later".

Page 7, strike out line 8 and all that follows through page 11, line 15.

Page 11, lines 16 and 23, strike out "(e)" and "(f)", respectively, and insert in lieu thereof "(d)" and "(e)", respectively.

Page 12, strike out line 3 and all that follows through page 13, line 22, and insert in lieu thereof the following:

"(f) Within three years after the date of the enactment of this section, the President shall prepare and transmit to Congress a comprehensive report concerning the implementation and enforcement of this section, including the assessment of the President as to whether the implementation of this section has resulted in—

"(1) a decline in the number of employment opportunities for unauthorized aliens,

"(2) a decline in the number of violations of protective labor laws,

"(3) a pattern of unlawful discrimination against United States citizens and aliens, other than unauthorized aliens, or

"(4) has created an unnecessary regulatory burden on employers,

and whether the provisions of this section have otherwise been carried out satisfactorily.".

(2)(A) The amendment made by paragraph (1) shall apply to the hiring, recruiting, and referring of individuals for employment in the United States on and after the date of the enactment of this Act.

Page 13, line 23, strike out "(D)" and insert in lieu thereof "(B)".

Page 14, strike out lines 9 through 13.

Page 15, beginning on line 5, strike out "the first day of the seventh month beginning after".

AMENDMENT (2)

(3-year sunset to employer sanctions.)

—Page 5, after line 4, insert the following:

"(7) Unless otherwise provided by Act of Congress, this subsection shall not apply to the hiring, recruiting, or referring of individuals for employment on or after the end of the three-year period beginning on the date of the enactment of this section.

AMENDMENT (4)

(Modification of employer penalty provision.)

—Page 8, strike out line 15 and all that follows through page 11, line 15, and insert in lieu thereof the following:

"(d)(1) Whenever the Attorney General has reasonable cause to believe that a person or entity has or is engaged in a violation of paragraph (1) or (2) of subsection (a), the Attorney General shall provide such person or entity with notice and the opportunity to request a hearing respecting the violation within 30 days after the date of receipt of such notice. Any hearing so requested shall be conducted before an administrative law judge in accordance with section 554 of title 5, United States Code.

"(2) If the administrative law judge determines by a preponderance of the evidence that the person or entity has violated paragraph (1) or (2) of subsection (a), the Attorney General shall issue and cause to be served on such person or entity an order to cease and desist from such violation. The Attorney General shall review such order for its effectiveness two years after its date of issuance and may terminate such order at such time.

"(3) If a person or entity fails to comply with an order of the Attorney General under paragraph (2), the Attorney General may commence proceedings in any district.".

AMENDMENT (3)

(Change in continuous employment sanction.)

—Page 3, beginning on line 19, strike out "subsequent to the date of the enactment of this Act and in accordance with paragraph (1)".

AMENDMENT (4)

(Deleting H-2 provisions.)

—Strike out section 211 (that is, page 67, line 11, through page 75, line 20), and strike out the corresponding item in the table of contents and redesignate succeeding sections (and cross references thereto) accordingly.

By Mrs. SCHROEDER:

AMENDMENT (1)

(Substitute for employer sanctions.)

—Page 3, strike out line 8 and all that follows through page 4, line 7, and insert in lieu thereof the following:

"SEC. 274A. (a)(1)(A) It is unlawful for a person or other entity to hire for employment in the United States an unauthorized alien (as defined in paragraph (3)) and to fail to comply, with respect to that alien's employment, with the terms of the National Labor Relations Act (29 U.S.C. 151 et seq.), the Fair Labor Standards Act of 1938 (29 U.S.C. 203 et seq.), and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

"(B) The Secretary of Labor shall notify the Attorney General whenever an employer has been determined by the Secretary to have failed to comply with a term of the Fair Labor Standards Act of 1938 or the Occupational Safety and Health Act of 1970, and the Chairman of the National Labor Relations Board shall notify the Attorney General whenever an employer has been determined by the Board to have failed to comply with a term of the National Labor Relations Act. For purposes of subparagraph (A), a person or other entity is deemed to have failed to comply with a term of the respective Act if the Attorney General is notified under this subparagraph of the person's or entity's failure to comply with that term of that Act.

"(C) Upon notification under subparagraph (B), the Attorney General may initiate an investigation to determine whether such a violation of subparagraph (A) has involved an unauthorized alien. If the Attorney General determines that such a violation has occurred, the Attorney General shall commence an administrative proceeding under subsection (b) with respect to that violation.

"(2) Whenever the Attorney General has a reasonable cause to believe that a person or entity has engaged in a pattern or practice of hiring, recruiting, or referring for employment in the United States unauthorized aliens after the date of the enactment of this section, the Attorney General may commence a proceeding under subsection (b).".

Page 4, line 7, strike out "(4)" and insert in lieu thereof "(3)".

Page 4, after line 13, insert the following:

"(4) Unless otherwise provided by Act of Congress, this subsection shall not apply to the hiring, recruiting, or referring of individuals for employment on or after the end of the three-year period beginning on the date of the enactment of this section.

"(b)(1) The Attorney General shall commence any proceeding under this subsection by filing a notice of proposed violation with an administrative law judge. The person or entity named in such notice of proposed violation shall be provided an opportunity for a hearing before the judge within 30 days after the date of receipt of the notice.

"(2) In a proceeding initiated against a person or entity pursuant to subsection (a)(1), if the judge determines by a preponderance of the evidence that the person or entity has violated that subsection with respect to an unauthorized alien, the judge shall enter an order imposing on the person or entity a civil penalty of $5,000 for each such unauthorized alien.

"(3)(A) In a proceeding initiated against a person or entity pursuant to subsection (a)(2), if the judge determines by a preponderance of the evidence that the person or entity has violated that subsection, the judge shall enter an order—

"(i) requiring the person or entity to cease and desist from hiring, recruiting, or referring for employment in the United States any alien whom the person or entity knows to be on unauthorized alien with respect to that employment, and

"(ii) prohibiting the person or entity from hiring (during a period of three years from the effective date of the order) for employment in the United States any individual without complying with the requirements of subsection (c) with respect to each individual hired or considered for such employment.

"(B) A person or entity that fails to comply the terms of an order issued under subparagraph (A) shall be subject to a civil penalty of $1,000 for each such failure. Such penalty shall be assessed by an administrative law judge after notice and opportunity for a hearing.

"(C) The Attorney General shall review each order issued under subparagraph (A) for its effectiveness two years after the date of its issuance and may terminate such order at such time.

"(4)(A) If a person or entity against whom a civil penalty is assessed under this section fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review an administrative law judge's determination or order under this section, the suit shall be determined solely upon the administrative record upon which the determination or order was based and the judge's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.".

Page 4, amend lines 14 through 18 to read as follows:

"(c) The requirements referred to in subsection (b)(3)(A)(ii) are, in the case of a person or other entity hiring an individual for employment in the United States, that—
".

Page 4, line 22, strike out "is eligible" and all that follows through "United States" on line 24 and insert in lieu thereof "is not an unauthorized alien".

Page 6, beginning on line 3, strike out ", recruited, or referred".

Page 6, beginning on line 9, strike out ", recruiting, or referral".

Page 6, beginning on line 11, strike out "in the case of the hiring of the individual" and insert in lieu thereof "if later".

Page 7, strike out line 4 and all that follows through page 12, line 24.

Page 12, line 24 and page 13 line 5 strike out "(e)" and "(f)", respectively, and insert in lieu thereof "(d)" and "(e)", respectively.

Page 13, strike out line 10 and all that follows through page 15, line 5, and insert in lieu thereof the following:

"(f) Within three years after the date of the enactment of this section, the President shall prepare and transmit to Congress a comprehensive report concerning the implementation and enforcement of this section, including the assessment of the President as to whether the implementation of this section has resulted in—

"(1) a decline in the number of employment opportunities for unauthorized aliens,

"(2) a decline in the number of violations of protective labor laws,

"(3) a pattern of unlawful discrimination against United States citizens and aliens, other than authorized aliens or

"(4) has created an unnecessary regulatory burden on employers,

and whether the provisions of this section have otherwise been carried out satisfactorily.".

(2)(A) The amendment made by paragraph (1) shall apply to the hiring, recruiting, and referring of individuals for employment in the United States on and after the date of the enactment of this Act.

Page 15, line 5, strike out "(D)" and insert in lieu thereof "(B)".

Page 15, strike out lines 16 through 20.

Page 16, beginning on line 12, strike out "the first day of the seventh month beginning after".

AMENDMENT (4)

(Deleting H-2 provisions.)

—Strike out section 211 (that is, page 59, line 9, through page 67, line 11), and strike out the corresponding item in the table of contents and redesignate succeeding sections (and cross references thereto) accordingly.

—Page 30, line 17, strike "and" and all that follows through "capricious;", on line 18, and insert in lieu thereof, "or the constitutionality of such laws and regulations as applied (iv) whether treaties binding on the United States have been violated, and (v) whether the decision was arbitrary or capricious;".

—Page 14, line 8, strike out "18" and insert in lieu thereof "12".

Page 14, line 15 strike out "Two more such" and all that follows through "section is enacted.", on line 17, and insert in lieu thereof "Five more such reports shall be prepared and transmitted 24, 36, 48, 60 and 72 months after the month in which this section is enacted.".

—Page 6, line 21, strike out "A person or entity" and all that follows through "to be genuine." on line 23.

By Mr. SCHEUER:

—Page 79, line 14, and page 80, line 25, strike out "1983" and insert in lieu thereof "during the 12-month period beginning on the effective date of the legalization program (as described in subsection (e)(3)(D))".

Page 86, beginning on line 3, strike out "the date of the enactment of this section" and insert in lieu thereof "the effective date of the legalization program (as described in subsection (e)(3)(D))".

Page 86, line 11, strike out "January 1, 1983" and insert in lieu thereof "the effective date of the legalization program".

Page 86, line 14, strike out "before January 1, 1983" and insert in lieu thereof "after the date the Commission submits a report under subsection (e)(3)(A) and before the effective date of the legalization program".

Page 86, Beginning on line 17, strike out "January 1, 1983" and insert in lieu thereof "such effective date".

Page 88, after line 16, insert the following new subsection (and redesignate succeeding subsections, and cross-references thereto, accordingly):

"(e)(1) There is established a Select Commission on Immigration Enforcement and Legalization (hereinafter in this subsection referred to as the 'Commission') which shall be composed of—

"(A) eight members appointed by the Speaker of the House of Representatives, of whom four shall be members of the House Committee on the Judiciary and four shall be individuals not officials or employees of the Federal Government, and

"(B) eight members appointed by the President pro tempore of the Senate, of whom four shall be members of the Senate Committee on the Judiciary and four shall be individuals not officials or employees of the Federal Government.

"(2)(A) A majority of the Commission shall constitute a quorum for the transaction of its business, but the Commission may provide for the taking of testimony and the reception of evidence at meetings at which there are present not less than four members of the Commission.

"(B) Each member of the Commission who is not otherwise in the service of the Government of the United States shall be compensated at a rate not to exceed the daily equivalent of the rate then payable for grade GS-18 in the General Schedule under section 5332 of title 5, United States Code, for each day spent in the work of the Commission, be paid actual travel expenses, and per diem in lieu of subsistence expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code. Each member of the Commission who is otherwise in the service of the Government of the United States shall service without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code.

"(3)(A) The Commission shall determine and report to Congress when effective programs have been established to interdict the illegal entry of aliens into the United States and to eliminate substantially aliens' violations of their conditions of entry.

"(B) Not later than 30 days after the date such a report is submitted, the Attorney General shall promulgate, on an interim or other basis, a proposed plan to implement the legalization program provided by this section.

"(C) The Commission shall review such plan and shall submit to the Attorney General and Congress, not later than 30 days after the date the plan is proposed, a report on the review and on its judgment as to (i) the fairness and efficiency of the plan in providing for processing of aliens' applications for adjustments, and (ii) assurances under that any credentials concerning periods of residence submitted by aliens under the plan will be carefully scrutinized to deter and prevent the use or acceptance of forged or false documentation.

"(D) For purposes of this section, the effective date of the legalization program is the first date of the first month beginning more than 90 days after the date (if any) on which the Commission transmits the report described in subparagraph (A).

"(4)(A) The Commission is authorized to appoint and fix the compensation of such personnel as may be necessary to enable it to carry out its functions without regard to the civil service laws, rules, and regulations. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(B) Staff members of the Committee on the Judiciary of the Senate or of the Committee on the Judiciary of the House of Representatives may be detailed to serve on the staff of the Commission by the chairman of the respective committee. Staff members so detailed shall serve on the staff of the Commission without additional compensation except that they may receive such reimbursement of expenses incurred by them as the Commission may authorize.

"(5) The Commission may call upon the head of any Federal department or agency to furnish information and assistance which the Commission deems necessary for the performance of its functions, and the heads of such departments and agencies shall furnish such assistance and information, unless prohibited under law, without reimbursement.

"(6) The Commission is authorized to make grants and enter into contracts for the conduct of research and studies which will assist it in performing its duties under this section.

"(7) The Commission shall cease to exist upon the effective date of the legalization program, except that the Commission may continue to function for up to 60 days thereafter for the purpose of winding up its affairs.

"(8) The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate then payable for grade GS-18 in the General Schedule under section 5332 of such title.

"(9)(A) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

"(B) Notwithstanding any other provision of this subsection, no payment, or authorization to make payments or to enter into contracts under this subsection, shall be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts.".

Page 89, line 12, strike out "the date of the enactment of this Act" and insert in lieu thereof "the effective date of the legalization program under section 245A of the Immigration and Nationality Act".

Page 89, beginning on line 14, strike out "section 245A of the Immigration and Nationality Act" an insert in lieu thereof "such section".

—Page 88, line 6, insert "which either (i) is" after "medical assistance".

Page 88, line 11, insert before the period the following: ", or (ii) is provided for preventive health care services or family planning services (as established by the Secretary of Health and Human Services)".

—Page 89, line 16, insert "and on the population changes in such regions" after "United States".

AMENDMENT (7)

—Page 85, at the end of line 13, insert the following new sentence: "Such applications shall provide for the reporting by applicants of their addresses as of April 1, 1980 (Census Day), and the Attorney General shall compile data on the number of such applicants residing on that date in each census tract and make such data (on an aggregate basis) available to the Bureau of the Census and the public.".

Page 90, strike out line 3.

Page 90, line 5, strike out the period and insert in lieu thereof "; and".

Page 90, after line 5, insert the following new paragraph:

(3) by adding at the end the following new sentence: "The Attorney General shall require that applications under this section (made after the date of the enactment of this sentence) require the reporting by applicants of their addresses as of April 1, 1980 (Census Day), and the Attorney General shall compile data on the number of such applicants residing on that date in each census tract and make such data (on an aggregate basis) available to the Bureau of the Census and the public.".

By Mr. SAWYER:

—Page 79, strike out line 1 and all that follows through page 89, line 22, and insert in lieu thereof the following:

TITLE III—UPDATING REGISTRY DATE

Page 89, line 24, strike out "302" and insert in lieu thereof "301".

Page 90, strike out line 9 and all that follows through page 93, line 3.

Conform the table of contents accordingly.

By Mr. SEIBERLING:

—On page 49, after line 12, insert the following:

NUMERICAL LIMITATION

SEC. 201. (a) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, aliens who are admitted or granted asylum under section 207 or 208, aliens provided records of permanent residence under section 214(d), and aliens whose status is adjusted to permanent resident status under section 245A, aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence shall not exceed in any fiscal year the number equal to (A) 425,000, minus (B) the number of immediate family relatives specified in subsection (b) of this section who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence and the number of aliens who in the previous fiscal year were provided records of permanent residence under section 214(d).".

(b) Such section is further amended by adding at the end the following new subsections:

"(c) The President shall transmit to the Congress, not later than January 1, 1985 and not later than January 1st of every other year thereafter, a report on the impact on the economy, labor market, housing market, educational system, social services, population, and foreign policy of the United States of admission and other entries of immigrants, refugees, asylees, and parolees into the United States during the preceding two-year period. The President shall include in such report any appropriate recommendations on changes in the numerical limitation on admissions, including a level of total admissions for the next two-year period, and other policies of this title bearing on the admission and entry of such aliens to the United States.

"(d) A hearing to review the report and recommendations of the President shall be held by the Committees on the Judiciary of the House of Representatives and the Senate within 90 days after receipt of such report.".

Sections 201, 202, 203, and 204 of this Act are renumbered Sections 202, 203, 204, and 205, respectively, and the Table of Contents is amended to include "Sec. 201. Numerical Limitation.".

By Mr. SENSENBRENNER:

AMENDMENT (1)

—Page 57, after line 18, insert the following new section (and redesignate the succeeding section, and conform the table of contents, accordingly):

LIMITATION OF FIFTH PREFERENCE STATUS TO UNMARRIED BROTHERS AND SISTERS

SEC. 204. (a)(1) Paragraph (5) of section 202(e) (8 U.S.C. 1152(e)) is amended by striking out "to qualified immigrants" and all that follows through the end and inserting in lieu thereof the following: "to qualified immigrants—

"(A) who are the unmarried brothers or unmarried sisters of citizens of the United States who are 21 years of age, or

"(B) who—

"(i) are the married brothers or married sisters of United States citizens at least 21 years of age and

"(ii) had a petition filed on their behalf for preference status by reason of the relationship described in section 203(a)(5) not later than the priority date (as determined by the Secretary of State to be in effect as of the date of the enactment of the Immigration Reform and control Act of 1982) for petitions filed for such preference status on behalf of natives of foreign states and dependent areas to which this subsection is not being applied.".

(2) Paragraph (5) of section 203(a) (8 U.S.C. 1153(a)) is amended by striking out "to qualified immigrants" and all that follows through the end and inserting in lieu thereof the following: "to qualified immigrants—

"(A) who are the unmarried brothers or unmarried sisters of citizens of the United States who are 21 years of age, or

"(B) who—

"(i) are the married brothers or married sisters of United States citizens at least 21 years of age and

"(ii) had a petition filed on their behalf for preference status by reason of the relationship described in this paragraph not later than the priority date (as determined by the Secretary of State to be in effect as of the date of the enactment of the Immigration Reform and Control Act of 1982) for petitions filed for such preference status on behalf of natives of foreign states and dependent areas to which section 202(e) is not being applied.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1983. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissability under section 212(a)(20) and (21) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

—Page 57, after line 18, insert the following new section (and redesignate the succeeding section, and conform the table of contents, accordingly):

LIMITATION ON NUMBER OF IMMIGRANTS IN FISCAL YEARS

SEC. 204. (a) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immigrants born to permanent resident aliens during a temporary visit abroad, immediate relatives specified in subsection (b) of this section, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens who are admitted or granted asylum under section 207 or 208, and aliens provided records of permanent residence under section 214(d), the number of aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence shall not—

"(1) in any fiscal year exceed the number equal to 425,000, minus—

"(A) the number of immediate relatives and special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence,

"(B) the number of immigrants born in the previous fiscal year to permanent resident aliens during a temporary visit abroad,

"(C) the number of immigrants admitted under section 211(a) in the previous fiscal year on the basis of a prior issuance of a visa to their accompanying parent who is an immediate relative,

"(D) the number of aliens who in the previous fiscal year were provided records of permanent residence under section 214(d), and

"(E) the number of aliens who were admitted or granted asylum under section 207 or 208 in the previous fiscal year, and

"(2) in any of the first three quarters of any fiscal year exceed 27 percent of the numerical limitation computed under paragraph (1) for that fiscal year.".

(b) The amendment made subsection (a) shall take effect on October 1, 1983.

AMENDMENT (1A)

—Page 79, strike out line 1 and all that follows through page 89, line 22, and insert thereof the following:

TITLE III—UPDATING REGISTRY DATE AND REGISTRY ASSISTANCE

Page 89, line 24, strike out "302" and insert in lieu thereof "301".

Page 90, line 9, strike out "LEGALIZATION" and insert in lieu thereof "REGISTRY".

Page 90, line 19, strike out "legalized" and insert in lieu thereof "registered".

Page 91, strike out line 12 and all that follows through page 92, line 3 and insert in lieu thereof the following:

"(C) The term 'eligible registered alien' means an alien who has been provided a record of permanent resident status under section 249 of the Immigration and Nationality Act after the date of the enactment of this Act, but only until the end of the three-year period beginning on the date the alien was granted such status."

Page 92, beginning on line 22, strike out "means" and all that follows through page 93, line 3 and insert in lieu thereof the following: "has the meaning given the term 'eligible registered alien' in subsection (b)(2)(C)".

Conform the table of contents accordingly.

AMENDMENT (1B)

—Page 90, line 9, strike out "LEGALIZATION" and insert in lieu thereof "REGISTRY" (and conform the table of contents accordingly).

Page 90, line 19, strike out "legalized" and insert in lieu thereof "registered".

Page 91, strike out line 12 and all that follows through page 92, line 3 and insert in lieu thereof the following:

"(C) The term 'eligible registered alien' means an alien who has been provided a record of permanent resident status under section 249 of the Immigration and Nationality Act after the date of the enactment of this Act, but only until the end of the three-year period beginning on the date the alien was granted such status.".

Page 92, beginning on line 22, strike out "means" and all that follows through page

93, line 3 and insert in lieu thereof the following: "has the meaning given the term 'eligible registered alien' in subsection (b)(2)(C)".

AMENDMENT (1C)

—At the end of title III, add the following new section:

STATE REGISTRY ASSISTANCE

SEC. 303. (a) There are authorized to be appropriated to carry out subsections (b) and (c) of this section such sums as may be necessary for fiscal year 1983 and for each of the three succeeding fiscal years.

(b)(1) Subject to the amounts provided in advance in appropriation Acts, the Secretary of Health and Human Services shall provide reimbursement to each State (as defined in paragraph (2)(A)) for 100 percent of the costs of programs of public assistance (as defined in paragraph (2)(B)) provided to any eligible registered alien (as defined in paragraph (2)(C)).

(2) For purposes of this subsection:

(A) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(B) The term "programs of public assistance" means programs existing in a State or local jurisdiction which—

(i) provide for cash, medical, or other assistance designed to meet the basic subsistence or health needs of individuals or required in the interest of public health,

(ii) are generally available to needy individuals residing in the State or locality, and

(iii) receive funding from units of State or local government.

(C) The term "eligible registered alien" means an alien who has been provided a record of permanent resident status under section 249 of the Immigration and Nationality Act after the date of the enactment of this Act, but only until the end of the three-year period beginning on the date the alien was granted such status.

(c)(1) Subject to the amounts provided in advance in appropriation Acts and in accordance with this section, the Secretary of Education shall make payments to State educational agencies for the purpose of assisting local educational agencies of that State in providing educational services for eligible legalized aliens (as defined in paragraph (3)(B)).

(2) The definitions and provisions of titles I through IV of the Refugee Education Assistance Act of 1980 shall apply to payments under this subsection in the same manner as they apply to grants and payments under those titles, except that, in applying this paragraph, any reference in such titles to an "eligible participant" shall be deemed to be a reference to an "eligible legalized alien".

(3) For purposes of this subsection, the term "eligible registered alien" has the meaning given such term in subsection (b)(2)(B).

AMENDMENT (1D)

—At the end of title III, add the following new section:

STATE REGISTRY ASSISTANCE

SEC. 303. (a) There are authorized to be appropriated to carry out subsections (b) and (c) of this section such sums as may be necessary for fiscal year 1983 and for each of the three succeeding fiscal years.

(b)(1) The Secretary of Health and Human Services shall provide reimbursement to each State (as defined in paragraph (2)(A)) for 100 percent of the costs of programs of public assistance (as defined in paragraph (2)(B)) provided to any eligible registered alien (as defined in paragraph (2)(C)).

(2) For purposes of this subsection:

(A) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(B) The term "programs of public assistance" means programs existing in a State or local jurisdiction which—

(i) provide for cash, medical, or other assistance designed to meet the basic subsistence or health needs of individuals or required in the interest of public health,

(ii) are generally available to needy individuals residing in the State or locality, and

(iii) receive funding from units of State or local government.

(C) The term 'eligible registered alien' means an alien who has been provided a record of permanent resident status under section 249 of the Immigration and Nationality Act after the date of the enactment of this Act, but only until the end of the three-year period beginning on the date the alien was granted such status.

(c)(1) Subject to the amounts provided in advance in appropriation Acts and in accordance with this section, the Secretary of Education shall make payments to State educational agencies for the purpose of assisting local educational agencies of that State in providing educational services for eligible legalized aliens (as defined in paragraph (3)(B)).

(2) The definitions and provisions of titles I through IV of Refugee Education Assistance Act of 1980 shall apply to payments under this subsection in the same manner as they apply to grants and payments under those titles, except that, in applying this paragraph, any reference in such titles to an "eligible participant" shall be deemed to be a reference to an "eligible legalized alien".

(3) For purposes of this subsection, the term "eligible registered alien" has the meaning given such term in subsection (b)(2)(B).

—On page 1 strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Immigration Improvements Act of 1981".

(b) Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

TABLE OF CONTENTS

Sec. 1. Short title; references in Act; table of contents.

TITLE I—CHANGE IN NUMERICAL LIMITATIONS AND ENTRY OF ALIENS INTO THE UNITED STATES

Sec. 101. Annual immigration plan and change in numerical limitations.
Sec. 102. Restriction on parole authority.
Sec. 103. Limiting fifth preference immigrants to unmarried brothers and sisters.
Sec. 104. Basis for asylum claims.
Sec. 105. Quarterly reports on entry of aliens into the United States.

TITLE II—IMPROVED ENFORCEMENT

PART A—RESPECTING ILLEGAL EMPLOYMENT OF ALIENS

Sec. 201. Disregarding illegal work experience in visa applications.
Sec. 202. Restrictions on improper employment of aliens.
Sec. 203. Eliminating tax credit for earned income for aliens who are not lawful permanent residents of the United States.
Sec. 204. Disallowing deduction for compensation for illegally employed aliens.

PART B—IN GENERAL

Sec. 211. State and local cooperation in apprehension of aliens who have escaped custody.
Sec. 212. Plan for expanded border patrol.
Sec. 213. Deportation for aliens knowingly involved in smuggling of illegal aliens.
Sec. 214. Burden of proof in deportation proceedings.
Sec. 215. Prohibiting counterfeiting of certain immigration documents.

PART C—DISALLOWING CERTAIN BENEFITS FOR ILLEGAL ALIENS

Sec. 221. Limitation on aid to families with dependent children and medicaid benefits to citizens and permanent residents.

PART D—FUNDING

Sec. 231. Fees and charges.

TITLE I—CHANGE IN NUMERICAL LIMITATIONS AND ENTRY OF ALIENS INTO THE UNITED STATES

ANNUAL IMMIGRATION PLAN AND CHANGE IN NUMERICAL LIMITATIONS

SEC. 101. (a)(1) Chapter 1 of title II (8 U.S.C. 1151 et seq.) is amended by inserting before section 201 the following new section:

"ANNUAL IMMIGRATION PLAN

"SEC. 200. (a)(1)(A) The President shall transmit to the Congress, not later than 90 days before the beginning of each fiscal year, a proposed plan for immigration for that fiscal year.

"(B) Any time during the period of 20 calendar days of continuous session of Congress after the date plan under subparagraph (A) (hereinafter in this section referred to as an 'annual immigration plan') is transmitted to it, but before any resolution described in subsection (e)(2) has been ordered reported in either House, the President may make amendments or modifications to the plan, consistent with subsection (b) and (c), which modifications or revisions shall thereafter be treated as a part of the annual immigration plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this section.

"(2)(A) If both Houses of Congress are not in session on the day an annual immigration plan is received by the appropriate officers of each House, for purposes of this section, the plan shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

"(B) An annual immigration plan shall take effect unless, between the date of the transmittal of such plan and the end of the first period of 30 calendar days of continuous session of Congress after such date, each House of Congress passes a resolution stating in substance that the House does not favor the plan.

"(C) For purposes of this subsection and subsection (e)—

"(i) continuity of session is broken only by an adjournment of Congress sine die, and

"(ii) the days on which a House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of a calendar-day period of continuous session with respect to that House.

"(b)(1) Each annual immigration plan for a fiscal year shall contain a specification of—

"(A) an overall numerical limitation (of not less than 300,000 and not more than 420,000) on the number of aliens (other than special immigrants and aliens who are admitted to the United States as emergency situation refugees under section 207(b)) born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence or as refugees in the fiscal year; and

"(B) an allocation within such overall numerical limitation of—

"(i) a numerical limitation for aliens may be admitted (or provided permanent resident status) as immediate relatives (as defined in section 201(b)) in the fiscal year;

"(ii) a numerical limitation, based on humanitarian concerns or other concerns in the national interest, for aliens who may be admitted as refugees under section 207 or granted asylum under section 208 in the fiscal year; and

"(iii) a numerical limitation for all other such aliens who may be admitted (or provided permanent resident status) in the fiscal year.

"(2) In making the allocations under paragraph (1)(B), the President shall provide that—

"(A) the sum of the three numerical limitations described in such paragraph equals the overall numerical limitation specified in paragraph (1)(A), and

"(B)(i) the numerical limitation specified in paragraph (1)(B)(i) is not less than 25 per centum, or more than 45 per centum, of such overall numerical limitation,

"(ii) the numerical limitation specified in paragraph (1)(B)(ii) is not less than 10 per centum, or more than 20 per centum, of such overall numerical limitation, and

"(iii) the numerical limitation specified in paragraph (1)(B)(iii) is not less that 33⅓ per centum, or more than 60 per centum, of such overall numerical limitation.

"(c) Each annual immigration plan shall also include information on the anticipated impact of admission of such aliens on the economy of the United States and, in particular, on the rate of unemployment and conditions of employment in the United States.

"(d) As soon as possible after the President transmits an annual immigration plan to Congress, the chairman of the Committee on the Judiciary of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate shall cause to have printed in the Congressional Record a summary of the plan.

"(e)(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2), and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(2) For purposes of this subsection, the term 'resolution' means only a resolution of either House of Congress the matter after the resolving clause of which is as follows: 'That the disapproved the annual immigration plan for fiscal year transmitted by the President to the Congress, under section 200 of the Immigration and Nationality Act.', the first blank space in each case being filled with the name of the resolving House and the other blank space being filled with the date of the fiscal year involved.

"(3) A resolution once introduced with respect to a determination shall immediately be referred to the Committee on the Judiciary by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(4)(A) If the Committee on the Judiciary has not reported a resolution referred to it at the end of 20 calendar days after its referral, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same determination), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same annual immigration plan.

"(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in ordcr, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(B) Debate on the resolution shall be limited to not more than 4 hours, which debate shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

"(6)(A) Motions to postpone, made with respect to the discharge from a committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.".

(2) The table of contents is amended by inserting immediately before the item relating to section 201 the following new item:

"Sec. 200. Annual immigration plan.".

(b) Subsection (a) of section 201 (8 U.S.C. 1151) is amended—

(1) by striking out "seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand" and inserting in lieu thereof "26 per centum of the numerical limitation specified in section 200(b)(1)(B)(iii) for that fiscal year and shall not in any fiscal year exceed such numerical limitation for that year",

(2) by inserting "(1)" after "(a)", and

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) The number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence as immediate relatives specified in subsection (b), shall not in any of the first three quarters of any fiscal year exceed a total of 26 per centum of the numerical limitation specified in section 200(b)(1)(B)(i) for that fiscal year and shall not in any fiscal year exceed such numerical limitation for that year.".

(c) Section 203(a) (8 U.S.C. 1153(a)) is amended by striking out "section 201(a)" and inserting in lieu thereof "section 201(a)(1)" each place it appears.

(d)(1) Subsection (a) of section (8 U.S.C. 1157) is amended—

(A) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following paragraph:

"(1) Except as provided in subsection (b), the number of refugees who may be admitted under this section in any fiscal year shall be the numerical limitation on refugees specified under section 200(b)(1)(B)(ii) for that year.", and

(B) by redesignating paragraph (3) as paragraph (2).

(2) Subsection (b) of such section is amended to read as follows:

"(b)(1) If the President determines, after appropriate consultation, that—

"(A) an emergency refugee situation exists,

"(B) the admission of a specified number of such refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest, and

"(C) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President shall transmit such determination to Congress and shall include in such determination a recommendation as to the number of refugees who should be admitted, subject to paragraph (2) and without regard to the numerical limitations specified in section 200, to the United States in response to such emergency refugee situation. As soon as possible after the President transmits such a determination to Congress, the Chairman of the Committee on the Judiciary of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate shall cause to have printed in the Congressional Record a summary of such determination and a statement as to whether or not the determination is one respecting a minor refugee crisis or a major refugee crisis (as defined in paragraph (2)(C)(i).

Subject to paragraph (2), such specified number of additional refugees may be admitted to the United States in response to the emergency refugee situation.

"(2)(A) If both Houses of Congress are not in session on the day a determination under paragraph (1) (hereinafter in this paragraph referred to the the 'determination') is received by the appropriate officers of each House, for purposes of this paragraph, the determination shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

"(B)(i) If—

"(I) a determination respecting a minor refugee crisis is transmitted to Congress for a fiscal year, and

"(II) the number of alien refugees covered by such determination and by previous determinations respecting minor refugee crises transmitted and not disapproved under this subsection for such fiscal year is less than 15,000,

the determination and shall take effect unless, between the date of such transmittal and the end of the first period of 45 calendar days of continuous session of Congress after such date, each House of Congress passes a resolution described in subparagraph (D)(ii)(I) disapproving such determination.

"(ii) If—

"(I) a determination respecting a major refugee crisis is transmitted to Congress for a fiscal year, or

"(II) a determination respecting a minor refugee crisis is so transmitted and subclause (II) of clause (i) is not met,

the determination shall not take effect unless, between the date of such transmittal and the end of the first period of 45 calendar days of continuous session of Congress after such date, each House of Congress passes a resolution described in subparagraph (D)(ii)(II) approving such determination.

"(C) For purposes of subparagraph (B)—

"(i)(I) the term 'determination respecting a minor refugee crisis' means a Presidential determination under paragraph (1) which recommends the admission of not more than 5,000 aliens in a fiscal year in response to an emergency refugee situation,

"(II) the term 'determination respecting a major refugee crisis' means a Presidential determination under paragraph (1) which recommends the admission of more than 5,000 aliens in a fiscal year in response to an emergency refugee situation,

"(ii)(I) continuity of session is broken only by an adjournment of Congress sine die, and

"(II) the days on which a House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 45-cadendar-day period with respect to that House.

"(D)(i) This subparagraph is enacted by Congress—

"(I) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by clause (ii), and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(II) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(ii) For purposes of this subparagraph, the term 'resolution' means only a resolution of either House of Congress the matter after the resolving clause of which is either—

"(I) as follows: 'That the disapproves the determination of the President transmitted to the Congress, under section 207(b)(1) of the Immigration and Nationality Act, on , 19 .', or

"(II) as follows: 'That the approves the determination of the President transmitted to the Congress, under section 207(b)(1) of the Immigration and Nationality Act, on , 19 .',

the first blank space in each case being filled with the name of the resolving House and the other blank space being filled with the date of transmittal of the respective determination.

"(iii) A resolution once introduced with respect to a determination shall immediately be referred to the Committee on the Judiciary by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(iv)(I) If the Committee on the Judiciary has not reported a resolution referred to it at the end of 30 calendar days after its referral, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(II) a motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same determination), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(III) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same determination.

"(v)(I) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(II) Debate on the resolution referred to in subclause (I) and described in clause (ii)(I) shall be limited to not more than 2 hours and debate on the resolution referred to in subclause (I) and described in clause (ii)(II) shall be limited to not more than 4 hours, which debate in each case shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

"(vi)(I) Motions to postpone, made with respect to the discharge from a committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

"(II) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

"(4) Admissions under this subsection shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation.".

(e) The amendments made by this section shall first apply to admissions for fiscal year 1983.

RESTRICTION ON PAROLE AUTHORITY

SEC. 102. Section 212(d)(5)(B) (8 U.S.C. 1182(d)(5)(B)) is amended by adding at the end thereof the following new sentence: "The Attorney General shall not exercise his parole authority on behalf of a group or class of aliens, but only in the case of individual aliens.".

LIMITING FIFTH PREFERENCE IMMIGRANTS TO UNMARRIED BROTHERS AND SISTERS

SEC. 103. (a) Section 202(e)(5) (8 U.S.C. 1152(e)(5)) is amended by inserting "unmarried" before "brother or sisters".

(b) Section 203(a)(5) (8 U.S.C. 1153(a)(5)) is amended by inserting "unmarried" before "brothers or sisters".

(c) The amendments made by this section shall apply to petitions filed on or after the date of the enactment of this Act.

BASIS FOR ASYLUM CLAIMS

SEC. 104. Section 208 (8 U.S.C. 1158) is amended—

(1) by adding at the end of subsection (a) the following new sentence: "In making such determination, the Attorney General shall not take into account actions taken by the alien after the alien's departure from his country of nationality or, in the case of an alien without nationality, from a country in which the alien last habitually resided.", and

(2) by adding at the end the following new subsection:

"(d) The Attorney General, with the advice and assistance of the Secretary of State and the Secretary of Health and Human Services, shall prepare contingency plans for the processing of large groups of applicants for asylum who have unlawfully entered the United States, and shall incorporate into such plans the establishment of reception and processing centers outside the United States to which such applicants can be transported and where the asylum applications of such aliens will be processed.".

QUARTERLY REPORTS ON ENTRY OF ALIENS INTO THE UNITED STATES

SEC. 105. (a) Subsection (b) of section 240 (8 U.S.C. 1230) is amended—

(1) by striking out "such record" and inserting in lieu thereof "a record", and

(2) by inserting "in such form and containing such information" before "as the Attorney General".

(b) Such section is further amended by adding at the end the following new subsection:

"(c) The Attorney General shall provide for the reporting to the chairman of the Committee on the Judiciary of the House of Representatives and to the chairman of the Committee on the Judiciary of the Senate, not later than 45 days after the end of each calendar quarter, the number of—

"(1) aliens admitted to the United States during such quarter as immigrants, by classes listed in each of the paragraphs of sec-

tion 203(a) and by immediate relatives (described in section 201(b));

"(2) aliens admitted to the United States during such quarter as refugees under section 207 or granted asylum in the United States under section 208, by their country of origin;

"(3) aliens paroled into the United States during such quarter for or over a period of 6 months or longer, by their country of origin; and

"(4) aliens admitted to the United States during such quarter as nonimmigrants, by classes described in each of the subparagraphs of section 101(a)(15) and by whether or not they are authorized to be employed while in the United States.

Upon receipt of such a report, the chairmen shall cause the report to be printed in its entirety in the Congressional Record.".

(c) The Attorney General shall first provide for reports under section 240(c) of the Immigration and Nationality Act for calendar quarters beginning with the fourth calendar quarter that begins after the date of the enactment of this Act.

TITLE II—IMPROVED ENFORCEMENT

PART A—RESPECTING ILLEGAL EMPLOYMENT OF ALIENS

DISREGARDING ILLEGAL WORK EXPERIENCE IN VISA APPLICATIONS

SEC. 201. (a) Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following sentence: "Work experience gained by an alien in the United States during a period in which the alien's employment was not authorized under this Act or by the Attorney General shall not be considered in determining whether or not the alien is qualified to be accorded status under section 203(a) (3) or (6) or in making a determination and certification under section 212(a)(14).".

(b) The amendment made by subsection (a) applies to aliens seeking to enter the United States, or adjust status, on or after the date of the enactment of this Act.

RESTRICTIONS ON IMPROPER EMPLOYMENT OF ALIENS

SEC. 202. (a) Subsection (a) of section 274 (8 U.S.C. 1324) is amended—

(1) by striking out "subsection" and "section" and inserting in lieu thereof "paragraph" each place it appears;

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by inserting "(1)" after "(a)"; and

(4) by adding at the end the following new paragraph:

"(2)(A) It is unlawful for any employer (or agent thereof) to knowingly recruit, hire, or employ any alien in the United States who has not been lawfully admitted for permanent residence unless the employment of such alien is authorized under this Act or by the Attorney General.

"(B) Any employer or agent thereof which violates paragraph (1) shall be subject to a civil penalty of not more than—

"(i) $500, for the first such violation, and

"(ii) $20,000, if a previous penalty has been assessed under this paragraph with respect to that employer or agent,

for each such alien with respect to whom a violation has occurred.

"(C) The Attorney General may assess a civil penalty under this paragraph only pursuant to an order issued after the person charged with the violation has been given an opportunity for a hearing before an immigration officer in accordance with the procedures of section 554 of title 5, United States Code, and only after the Attorney General has determined that a violation has occurred and that the amount of the penalty is warranted.

"(D) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in the order of assessment, the Attorney General shall file an action to collect the amount in any appropriate district court of the United States. In any such action or in any other action seeking to review the Attorney General's determination under subparagraph (C), the action shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(E)(i) This paragraph shall not be construed as authorizing any employer or agent to discriminate in the recruiting, hiring, or employment of individuals on the basis of race, color, religion, sex, handicap, or national origin.

"(ii) This paragraph shall not be construed as preempting States and localities from the adoption and enforcement of laws prohibiting or restricting the employment of aliens in the United States (who are not lawfuly admitted for permanent residence) who the Attorney General has not authorized to be employed.

"(F) The district courts of the United States shall have jurisdiction to enjoin violations of subparagraph (A). Such actions may be brought by the Attorney General in any United States district court of a district wherein any act, omission, or transaction constituting the violation occurred, or any such court for the district wherein the defendant is found or transacts business.".

(b) Subsection (b) of such section is amended by striking out "subsection (a)" in paragraphs (1) and (3) and inserting in lieu thereof "subsection (a)(1)".

(c)(1) The heading to section 274 is amended by inserting "; IMPROPER EMPLOYMENT OF ALIENS" at the end thereof.

(2) The item in the table of contents relating to section 274 is amended by adding before the period at the end the following: "; improper employment of aliens".

ELIMINATING TAX CREDIT FOR EARNED INCOME FOR ALIENS WHO ARE NOT LAWFUL PERMANENT RESIDENTS OF THE UNITED STATES

SEC. 203. (a) Section 43(c)(1) of the Internal Revenue Code of 1954 (relating to credit for earned income) is amended by adding at the end the following new subparagraph:

"(D) CITIZENSHIP.—The term 'eligible individual' does not include an individual who is not a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.".

(b) The amendment made by subsection (a) applies to taxable years ending on or after January 1, 1982.

DISALLOWING DEDUCTION FOR COMPENSATION FOR ILLEGALLY EMPLOYED ALIENS

SEC. 204. (a)(1) Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items not deductible) is amended by adding at the end the following section:

"SEC. 280E. COMPENSATION OF CERTAIN ALIENS.

"No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred as salary or other compensation with respect to personal services performed by an alien individual in the United States if the taxpayer (at the time such services were performed) knew or had reason to believe that the alien individual was in the United States in violation of the immigration laws or in an immigration status in which the individual's employment was not authorized.".

(2) The table of sections for that part is amended by adding at the end the following new item:

"Sec. 280E. Compensation of certain aliens.".

(b) The amendment made by subsection (a)(1) shall apply to personal services performed on or after January 1, 1982.

PART B—IN GENERAL

STATE AND LOCAL COOPERATION IN APPREHENSION OF ALIENS WHO HAVE ESCAPED CUSTODY

SEC. 211. Section 103(a)(8) U.S.C. 1103(a)) is amended by adding at the end the following new sentence: "He may enter into cooperative agreements with State and local government law enforcement agencies under which such agencies, in the case of an alien who is in the custody of the Service but who escapes from such custody, are authorized to apprehend and detain the alien and return the alien to the custody of the Service.".

PLAN FOR EXPANDING SIZE OF BORDER PATROL

SEC. 212. Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c) The Attorney General shall, not later than one year after the date of the enactment of this subsection, submit to the Congress a plan providing for the establishment of a border patrol force of not less than 6,000 border patrol officers, for the purpose of patrolling the land and sea borders of the United States, and providing such force with such administrative services, equipment (including such appropriate electronic monitoring equipment), and training as may be necessary to enable the force to carry out its duties.".

EXCLUSION AND DEPORTATION FOR ALIENS KNOWINGLY INVOLVED IN SMUGGLING OF ILLEGAL ALIENS

SEC. 213. (a) Section 212(a)(31) (8 U.S.C. 1182(a)(31) is amended by striking out "and for gain, encouraged,".

(b) Secton 241(a)(13) (8 U.S.C.1251(a)(13)) is amended by striking out "and for gain, encouraged,".

BURDEN OF PROOF IN DEPORTATION PROCEEDINGS

SEC. 214. (a) Section 291 (8 U.S.C. 1361) is amended by inserting "(a)" after "291." and by adding at the end the following new subsection:

"(b) Except as otherwise provided in subsection (a), in any deportation proceeding under this Act the burden of proof shall be upon the Attorney General to establish deportability by a preponderance of the evidence.".

(b) The amendment made by subsection (a) shall apply to determinations of deportability made on or after the date of the enactment of this Act with respect to deportation proceedings initiated after the date of the enactment of this Act.

PROHIBITING COUNTERFEITING OF CERTAIN IMMIGRATION DOCUMENTS

SEC. 215. The first paragraph of section 1546 of title 18, United States Code, is amended—

(1) by striking out "or other document for entry into" and inserting in lieu thereof "border-crossing card, alien registration re-

ceipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in", and

(2) by inserting "card," before "or document".

PART C—DISALLOWING CERTAIN BENEFITS FOR ILLEGAL ALIENS

LIMITATION ON AFDC AND MEDICAID BENEFITS TO CITIZENS AND PERMANENT RESIDENTS

SEC. 221. (a)(1) Subsection (a) of section 406 of the Social Security Act (42 U.S.C. 606) is amended—

(A) by striking out "and" before "(2)", and

(B) by inserting before the semicolon at the end the following: "; and (3) who is either a citizen of the United States or an alien lawfully admitted to the United States for permanent residence".

(2) Subsection (c) of such section is amended—

(A) by striking out "and" and inserting in lieu there of a comma, and

(B) by inserting before the period at the end the following: ", and who is either a citizen of the United States or an alien lawfully admitted to the United States for permanent residence".

(3) Section 407(a) of such Act (42 U.S.C. 607(a)) is amended—

(A) by inserting "and (3)" after "section 406(a)(2)", and

(B) by inserting "(and described in section 406(a)(3))" after "any of the relatives specified in section 406(a)(1)".

(b) Section 1902(a)(10) of such Act (8 U.S.C. 1396b(a)(10)) is amended by striking out "and" before "(III)" and by inserting before the semicolon at the end the following: ", and (IV) the plan must not make available medical assistance to, or with respect to services furnished by, any individual who is not a citizen of the United States or an alien lawfully admitted to the United States for permanent residence".

PART D—FUNDING

FEES AND CHARGES

SEC. 231. (a) Section 281 (8 U.S.C. 1351) is amended—

(1) by amending the heading to read as follows:

"FEES AND CHARGES",

(2) by striking out "SEC. 281." and inserting in lieu thereof "(b)", and

(3) by inserting after the heading the following:

"SEC. 281. (a) Except as provided in subsection (b), the Attorney General shall prescribe a uniform schedule of fees and charges for applications, petitions, processing, services, issuance of documents, and proceedings under this Act, including any proceeding with respect to the inspection, admission, investigation, detention, or deportation of an alien.".

(b) The item in the table of contents relating to section 281 is amended to read as follows:

"Sec. 281. Fees and charges.".

By Mr. SHUMWAY:

AMENDMENT (1)

—Page 59, line 15, page 60, lines 3 and 24, page 62, line 19, page 63, line 5, page 64, line 5, strike out "Labor" and insert in lieu thereof "Agriculture".

Page 60, beginning on line 18, strike out "and includes" and insert in lieu thereof "except that it means".

Page 61, line 20, page 65, line 1, and page 66, line 13, strike out "Secretary of Labor" and insert in lieu thereof "Secretaries of Labor and Agriculture".

Page 61, line 24, insert "or the Secretary of Agriculture (as the case may be)" after "Secretary of Labor".

Page 62, line 7, strike out "Secretary of Labor" and insert in lieu thereof "the respective Secretary".

Page 65, line 2, and page 66, line 14, strike out "and the Secretary of Agriculture".

Page 65, beginning on line 16, strike out "Secretary of Labor is authorized" and insert in lieu thereof "Secretaries of Labor and Agriculture are each authorized".

Page 65, beginning on line 24, strike out "Secretary of Labor" and insert in lieu thereof "Secretaries of Labor and Agriculture".

Page 66, line 14, insert "jointly" after "report".

(Substitute to amendment 6 of the Committee on Education and Labor.)

—Page 59, strike out line 8 and all that follows through page 67, line 11, and insert in lieu thereof the following:

H-2 WORKERS

SEC. 211. (a) Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country" in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Agriculture in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture defined in section 3(f) of the Fair Labor Standards Act of 1938, of a temporary or seasonal nature, or (b) to perform other temporary services or labor".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences:

"An alien may not be admitted to the United States as a nonimmigrant—

"(1) under section 101(a)(15)(H)(ii)(a) for an aggregate period longer than the period (or periods) determined by regulations of the Secretary of Agriculture, or

"(2) under section 101(a)(15)(H)(ii) if the alien was admitted to the United States as such a nonimmigrant within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.",

(2) by inserting "(1)" after "(c)" in subsection (c), and

(3) by adding at the end of subsection (c)(1), as so redesignated, the following:

"For purposes of this paragraph the term 'appropriate agencies of Government' means the Department of Labor, except that it means, with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the Department of Agriculture.

"(2)(A)(i) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii)(a) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Agriculture for a certification that—

"(I) there are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition, and

"(II) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(ii) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii)(b) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(I) there are not sufficient qualified workers available in the United States to perform the labor or services involved in the petition, and

"(II) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(iii) The Secretaries of Labor and Agriculture may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(B) The Secretary of Labor or the Secretary of Agriculture (as the case may be) may not issue a certification under subparagraph (A)—

"(i) if there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification, or

"(ii) with respect to an employer if the employer during the previous two-year period employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and the respective Secretary, has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers.

No employer may be denied certification under clause (ii) for more than three years for any violation described in such clause.

"(3)(A) In the case of an application for a labor certification for a nonimmigrant described in section 101(a)(15)(H)(ii)(a)—

"(i) the Secretary of Agriculture may not require that the application be filed more than 50 days before the first date the employer requires the labor or services of the alien;

"(ii) the employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in paragraph (2)(A)(i)(I)) for approval and if it does not, such notice shall include the reasons therefor and permit the employer an opportunity to resubmit promptly a modified application for approval; and

"(iii) the Secretary of Agriculture shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in paragraph (2)(A)(i) if the employer has complied with the criteria for certification, including criteria for the recruitment of eligible individuals as prescribed by the Secretary, and if the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary, except that the terms of such a labor certification remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply or are referred to the employer.

"(B) A petition to import an alien as a nonimmigrant described in section 101(a)(15)(H)(ii)(a), and an application for a labor certification with respect to such an alien, may be filed by an association representing agricultural producers which use agricultural labor or services. The filing of such a petition or application on a member's behalf does not relieve the member of any liability for representations made in such petition or application.

"(C)(i) The Secretary of Agriculture shall provide for an expedited procedure for the review of a denial of certification under paragraph (2)(A)(i).

"(ii) The Secretary of Agriculture shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of importing a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not able, willing or qualified, the burden of proof is on the employer to establish that the individuals referred are not able, willing, or qualified because of employment-related reasons as shown by their job performance.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

"(4) The Secretaries of Labor and Agriculture, in consultation with the Attorney General, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretaries of Labor and Agriculture are each authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection.

"(6) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, such sums as may be necessary for the purpose of enabling the Secretaries of Labor and Agriculture to make determinations and certifications under this subsection and under section 212(a)(14).".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(d) Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall first be issued, on an interim or other basis, not later than the effective date.

(e) The Secretaries of Labor and Agriculture, in consultation with the Attorney General, shall report jointly to the Congress not later than 18 months after the effective date on recommendations for improvements in the temporary alien worker program amended by this section, including recommendations—

(1) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(2) removing any current economic disincentives to hiring United States citizens or permanent resident aliens where temporary foreign workers have been requested, and

(3) improving the cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

(f) It is the sense of Congress that the President should establish an advisory commission which shall consult with the Government of Mexico and advise the Attorney General regarding the operation of the alien temporary worker program established under section 214(c) of the Immigration and Nationality Act.

By Mr. SOLARZ:

AMENDMENT (1)

—Page 38, after line 12, insert the following new subsection:

(d) The Attorney General shall provide for the extension of voluntary departure status for aliens who are natives of Poland and who have extended voluntary departure status as of the date of the enactment of this Act until December 31, 1983, or such date as the Attorney General determines that such aliens will not be subject to persecution if returned to Poland.

AMENDMENT (2)

—Page 38, after line 12, insert the following new subsection:

(d) The Attorney General shall provide for the extension of voluntary departure status for aliens who are natives of Poland and Ethiopia who have extended voluntary departure status as of the date of the enactment of this Act until December 31, 1983, or such date as the Attorney General determines that such aliens will not be subject to persecution if returned to their homeland.

AMENDMENT (3)

—Page 38, after line 12, insert the following new subsection:

(d) It is the sense of the Congress that the Attorney General should provide an extension of voluntary departure status for aliens who are natives of Poland and Ethiopia and who have extended voluntary departure status as of the date of the enactment of this Act until December 31, 1983, or such date as the Attorney General determines that such aliens will not be subject to persecution if returned to their homelands.

AMENDMENT (4)

—Page 38, after line 12, insert the following new subsection:

(d) It is the sense of the Congress that the Attorney General should provide for the extension of voluntary departure status for aliens who are natives of Poland and who have extended voluntary departure status as of the date of the enactment of this Act until December 31, 1983, or such date as the Attorney General determines that such aliens will not be subject to persecution if returned to Poland.

AMENDMENT (5)

—Page 38, after line 12, insert the following new subsection:

(d) It is the sense of the Congress that aliens from countries such as Poland, Ethiopia, and El Salvador who require a safe haven should be aided through the generous use of extended voluntary departure status until conditions in their native countries change so as to enable them to return home safely.

By Mr. WASHINGTON:

AMENDMENT (1)

—Page 9, line 12, strike out "$2,000" and insert in lieu thereof "$5,000".

AMENDMENT (2)

—Page 9, line 17, strike out "$3,000" and insert in lieu thereof "$10,000".

AMENDMENT (3)

—Page 8, strike out lines 15 through 25.

Page 9, amend lines 1 and 2 to read as follows:

"(d)(1) In the case of a person or entity which is determined".

Page 9, lines 5, 10, and 15, strike out "(i)", "(ii)", and "(iii)", and insert in lieu thereof "(A)", "(B)", and "(C)", respectively.

Page 9, lines 6, 11, and 16, strike out "subparagraph" and insert in lieu thereof "paragraph".

AMENDMENT (4)

—Page 86, strike out line 21 and all that follows through page 88, line 11.

Page 88, line 12, strike out "(3)" and insert in lieu thereof "(d)".

AMENDMENT (5)

—Page 86, line 22, strike out "and during" and all that follows through "(b)(3)" on line 25.

By Mr. WHITE:

AMENDMENT (1)

—Page 61, lines 7 and 18, strike out "in the United States" and insert in lieu thereof "in the area of intended employment".

AMENDMENT (2)

(To amendment 6 of the Committee on Education and Labor.)

—In the matter proposed to be added by subsection (b)(3) (of the section 211 inserted by the amendment), strike out "in the United States similarly employed" in paragraph (2)(A)(i)(II) and insert in lieu thereof "in the area of intended employment similarly employed".

EXTENSIONS OF REMARKS

NUCLEAR ARMS VERSUS NUCLEAR FREEZE

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. HUBBARD. Mr. Speaker, I have received an excellent letter from one of my constituents, Ronnie Whitmer, of Hopkinsville, Ky. I believe my colleagues would be interested in Mr. Whitmer's comments concerning the great debate that is continuing in our Nation with regard to nuclear arms versus the nuclear freeze. As the House debates the President's requested budget for the Defense Department, I believe that his concerns are timely and worthy of our consideration and deliberation. The letter follows:

OCTOBER 5, 1982.

DEAR CONGRESSMAN HUBBARD: I am a thirty-three-year old Democrat who has voted in Hopkinsville, Kentucky, in every election since becoming eligible to vote in 1968.

This is my first letter to you or any politician in ten years. But my concern for my family and country has caused me to write. I am against the massive nuclear arms build-up proposed by President Reagan. I consider the nuclear freeze concept to be the best step to peace.

Would you please answer the following questions for me so I will know how you stand on this critical issue?

(1) Did you support the Zablocki resolution in the House?

(2) Do you support the building of President Reagan's proposed new generation of first-strike nukes, qualitatively more dangerous than the overkill stockpile that already exists, before we reduce?

I thank you for your time and hope that you give this "pro-freeze" issue serious thought.

Yours truly,

RONNIE WHITMER.●

TRIBUTE TO THE HONORABLE BO GINN

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. BEVILL. Mr. Speaker, I am especially saddened that my good friend and colleague, Bo GINN, of Georgia, will be leaving the House of Representatives at the end of this term.

It has been my great pleasure to serve on the Appropriations Military Construction Subcommittee, under Bo's able chairmanship. While there, I have developed a deep respect for his abilities and for his concern for the continued military security of America.

In addition to being an effective and concerned representative of his constituents, Bo GINN became one of this body's most respected voices on the military needs of America.

Since I come from Georgia's neighboring State of Alabama, I am very familiar with Bo's extensive efforts to make known the views and desires of the people of Georgia. We have had the opportunity of working together on many issues of mutual concern to the people of our two States, and I have always been impressed with Bo's dedication and sincerity in his work in Congress.

I know that Bo GINN will continue to achieve great success in the future and I share the pride of all our colleagues that Bo GINN served with us in the U.S. House of Representatives.●

REDS AND THE PEACE MOVEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. McDONALD. Mr. Speaker, opponents of the nuclear freeze, who are as sincere about peace as advocates, have suffered numerous slurs with little basis in fact. The attack began with an article in The Nation magazine attacking the concept of Soviet involvement in the peace movement, which has been thoroughly documented in the Western Goals Foundation study "The War Called Peace: The Soviet Peace Offensive." The Nation article was written by Frank Donner, who has a propensity to attack anyone opposing pro-Soviet policies, and was subsequently picked up by several other publications, including the Atlanta Constitution, the Baltimore Sun, the Cox newspaper chain, and, as one would expect, the Daily World, the official paper of the Communist Party, USA.

Despite these numerous smears, the fact of Communist and pro-Soviet involvement remained unchallenged. One journalist has been prominent in investigating and publicizing the nature of Soviet involvement in the American and European peace movements: John Rees. Most recently, Mr. Rees, publisher of the authoritative Information Digest, reviewed the questions raised by Donner & Co., in the weekly news magazine The Review of the News for December 8, 1982. Titled "Reds and the Peace Movement," Mr. Rees' article is another example of the mounting evidence of Soviet involvement in the nuclear freeze movement.

I strongly commend this excellent article to my colleagues. The article follows:

[From the Review of the News, Dec. 8, 1982]

REDS AND THE PEACE MOVEMENT

(By John Rees)

"Oh, those demonstrations; you could have used newsreels from the Sixties in America. These are all sponsored by a thing called the World Peace Council, which is bought and paid for by the Soviet Union," said President Reagan in an interview a year ago. He had been asked about anti-American demonstrations in Europe whose stated goal was to prevent the United States from modernizing the N.A.T.O. deterrent.

Now we know that the World Peace Council was not content to operate only in Europe. By early spring this Moscow front was moving forcefully in the United States of America, through its affiliate U.S. Peace Council and the Communist Party, U.S.A., to promote and manipulate "peace" groups and the "nuclear freeze" campaign.

As the activities of the World Peace Council escalated, the issue was joined by publications ranging from the Wall Street Journal, Barron's, and The American Spectator through Human Events, American Opinion, Commentary, and this magazine, to National Review, Reader's Digest, and scores of other outraged media. The first detailed monograph on the subject was a Western Goals Foundation book, The War Called Peace: The Soviet Peace Offensive, prepared in association with the Information Digest and first distributed in March 1982. As the months passed, others developed more details on the Soviet role in the U.S. "peace" movement; particularly John Barron in his October Reader's Digest article, "The KGB's Magical War For 'Peace.'"

In November, with the respectability of the "nuclear freeze" movement in question, the friends of the Reds fought back with a campaign of calumny, distortion, and slander against the responsible press.

The first salvo was written by Frank J. Donner. This is the same Frank Donner who appeared before the House Committee on Un-American Activities in 1956 and 1959 and was identified in sworn testimony by Mortimer Riemer, Herbert Fuchs, and Harry Cooper as a member of the Communist Party, U.S.A. More recently head of the American Civil Liberties Union Project on Political Surveillance and a constitutional law specialist at Yale, Donner served in the mid-1970s on the advisory board of CounterSpy magazine which sought openly to disrupt U.S. intelligence operations.

Publisher of this opening smear of journalists who have been writing about the Soviet role in the "freeze" campaign was The Nation, a magazine which is a frequent outlet for materials supporting Soviet propaganda and which more than four decades ago was even defending Stalin's Moscow purge trials.

The editorial board of The Nation includes World Peace Council member Archie

W. Singham, who helped found the U.S. Peace Council in 1979. Yet another is Richard Falk, a Princeton professor active in the Soviet-run International Association of Democratic Lawyers. With Roger Wilkins, Alan Wolfe, and Norman Birnbaum, Professor Falk rounds out the Institute for Policy Studies apparant on The Nation's board which takes its direction from I.P.S. cofounder Marcus Raskin. Mr. Raskin earlier this year was in Moscow meeting with officials of the Central Committee of the Communist Party of the Soviet Union at a "think-tank" called the Institute of the U.S.A. and Canada. This Soviet agency plays an important role in the Soviet "peace" campaign and has provided a cover for certain K.G.B. operations and officials.

A LOOK AT TERRY PROVANCE

Typical of Donner's distortions and evasions in The Nation is his defense of Terry Provance, disarmament coordinator of the American Friends Service Committee (A.F.S.C.) Mr. Donner wrote:

"In particular, the authors attack the A.F.S.C.'s disarmament director, Terry Provance, claiming he is a 'sponsor' of the U.S. Peace Council, the Kremlin's arm in America, and, worse, 'is one of 40 official U.S. members of the World Peace Council,' elected 'at the W.P.C.'s 1977 meeting in Warsaw.' These charges . . . are falsehoods. The truth—which the authors could have readily discovered—is that the W.P.C. in 1977 listed Provance as a member without his permission, an error which was remedied after he wrote two letters of protest. Nor was he a U.S. Peace Council sponsor: he attended a founding meeting in Philadelphia and supported the convening of the organizing conference, but then explained that his presence—for all of two hours—should not be construed as either membership or an endorsement."

The facts are quite different. Terry Provance claims that his name appeared by mistake, and says that in 1977 he asked the W.P.C. to remove his name and that they agreed. If so, one wonders, why does the W.P.C.'s current listing of members elected at Sofia, Bulgaria, for the years 1980-1983 still include the name "Terry Provance, Director of Disarmament Programme of American Friends Service Committee." Is the Soviet apparat so incompetent that the name of an unwilling associate who had quit all contact with the W.P.C. in 1977 was listed on the "re-elected" membership roster by mistake? Or did Provance just not expect to be asked about his activities with this international Communist front?

If Terry Provance of the American Friends Service Committee is embarrassed over his listing as a W.P.C. member, he must also be red-faced about the Mobilization for Survival demonstration he led on the steps of the United States Capitol on October 29, 1979, at which his fellow speakers were Dutch Communist Party leader Nico Schouten, head of the W.P.C.-related "Ban the Neutron Bomb" campaign; and a man he introduced as "my friend," Warner Rumpel, general secretary of the East German Peace Council.

Several days later, Provance attended the founding convention of the U.S. Peace Council. The conference call, issued weeks in advance and also distributed at the meeting, listed Provance as a "sponsor." While Donner in The Nation presents Provance's "two hours" at the U.S. Peace Council's founding conference as almost a matter of virtue and not construing "either membership or an endorsement," the fact is that U.S.P.C. documents also list Provance as a panelist in a workshop on "New Weapons" with James Jackson, a Politburo member of the Communist Party, U.S.A., and Provance's fellow member of the World Peace Council; and the Reverend William Hogan, a member of the Chicago Peace Council (C.P.C.), another Communist Party, U.S.A., front.

As co-convenor of the Mobilizaiton for Survival's International Taskforce and a coordinator of the anti-nuclear World Information Service on Energy, Provance was also a featured speaker on April 4, 1981, at an anti-N.A.T.O. protest in Bonn, West Germany. Rally posters showed its sponsors as the German Communist Party (D.K.P.) and the West German affiliates of Soviet-controlled international Communist fronts.

Joining Terry Provance on the speakers' platform in Bonn was Nino Pasti, an Italian Peace Council Leader and member of the Italian Senate elected on the Communist Party coalition ticket. While the Italian Peace Council is probably the least effective European branch of the W.P.C., Pasti is a former general and N.A.T.O. deputy comander. As such he has more than compensated the Comrades by his many pro-Soviet pronouncements and through his work with the pro-Soviet gang known as Generals for Peace and Disarmament.

Given these many and continuing associations with the World Peace Council and the U.S. Peace Council, why would a skilled propagandist like donner work so hard to exonerate Terry Provance? Could it have anything to do with Provance's role as a founder of the "nuclear freeze" campaign, coordinator of the International Taskforce of the National Campaign for a Nuclear Weapons Freeze, and head of the International Taskforce of the febrile Mobilization for Survival? Or could it be that this is an attempt to conceal World Peace Council and other communist influences in the leadership of the "peace" movement?

HOW THE FRONT WORKS

A 1978 Report by the C.I.A. published by the House Select committee on Intelligence termed the W.P.C. "the Soviet Union's single most important international front organization" and "an effective instrument of Kremlin ploicy." It is indeed.

The current (published) roster of World Peace Council members includes Kate Abell, secretary of the Trade Union Committee for Economic Conversion and the Transfer Amendment; Barbara Armentrout of the Women's International League for Peace and Freedom, and editor of its newsletter, *Peace And Freedom;* Dee Bates of the Reverend Jesse Jackson's Operation PUSH, Washington, D.C.; Josephine Butler, head of the D.C. Statehood Party; convicted murderer and armed robber Frank Chapman, St. Louis field secretary of the American Friends Service Committee until his 1980 move to New York to take top posts in two Communist Party, U.S.A., fronts; Venceremos Brigade leader Johnetta Cole, teaching at the University of Massachusetts, Amherst; Carlton Goodlett, the frenetic joiner of Communist fronts who was founder of the National Newspaper Publishers Association; Frank Jackalone, president of the radical U.S. Student Association; SANE national treasurer Joseph Miller; Robert Prince, vice president of Colorado C.C. Federation of Teachers; Edwin Vargas, vice president of the Connecticut Federation of Labor; and Edith Villastrigo, Washington "legislative representative" of Women Strike for Peace.

This list provides an interesting example of how a Soviet front like the World Peace Concil brings other "peace" organizations into its orbit by recruiting thier leaders.

But even more significant is the W.P.C. membership of elected public officials who have been in the lead of the "nuclear weapons freeze" campaign. Among them are Irving Stolberg, Connecticut State legislature; Mel King, Massachusetts State Legislature; Saundra Graham of the Cambridge, Massachusetts, City Council and Massachusetts State Legislature; and New York City Councilman Gilberto Gerena Valentin.

Of course the U.S. membership roster of the W.P.C. also includes names associated with the Communist Party and its youth arm, the Young Workers Liberation League (Y.W.L.L.). Among them are Helen Winter, international affairs secretary, Communist Party, U.S.A.; veteran member of the Communist Party, U.S.A., Pauline Rosen; Sandy Pollock of the Y.W.L.L., solidarity coordinator of the U.S. Peace Council; Carl Bloice, Central Committee member of the Communist Party, U.S.A., and editor of the Party's West Coast newspaper, *People's World;* James E. Jackson, Communist Party, U.S.A., Politburo; Sarah Staggs of the Y.W.L.L., executive director, Chicago Peace Council; and, Jack O'Dell, also known as Hunter Pitts O'Dell, International Affairs director of Operation PUSH and former member of the National Council of the Communist Party, U.S.A.

COMRADES ON THE LOCAL LEVEL

Communist Party members of both the W.P.C. and U.S.P.C. were present at a Communist Party, U.S.A., "Extraordinary Conference," held April 23-25, 1982, in Milwaukee. During these closed and guarded meetings, Communist Party leaders provided frank reports on the Party's participation in local "nuclear freeze" initiatives. Some of these reports have since been published in *Party Organizer,* a "members only" document.

Joelle Fishman, a Communist Party, U.S.A., Central Committee member, reported on C.P.U.S.A. activities in grassroots organizing campaigns. She singled out "the Connecticut Nuclear Freeze Campaign, and similar freeze campaigns through New England." Comrade Fishman explained that the first step was "collecting signatures on petitions asking elected officials to endorse the campaign. Then names from the petitions were divided out by town. Local committees were set up."

Communist official Fishman noted that the "nuclear freeze" campaign was particularly important "because of the thorough way the mass sentiment fearing nuclear holocaust was organized." She then provided her fellow Communists with a concrete example:

"One of the first towns to get started is small and generally conservative, in the shadow of the Trident Submarine Naval Base. The organizers, primarily retirees, arranged for a town meeting to vote on the freeze. In preparation they invited a retired Admiral to speak in favor of the resolution at the high school. All petition signers were called and invited to supper at one of several homes before going to the high school together. The auditorium was packed and at the town meeting a week later the resolution was passed."

Comrade Fishman noted with satisfaction: "This has been duplicated in small town after small town since, as well as the State Legislature."

In February 1982, the Connecticut House of Representatives and Senate passed "nuclear freeze" resolutions. Passage of the "freeze" was organized by State Representative Irving J. Stolberg of New Haven. Stolberg is one of a number of elected U.S. state and local legislators who have been active with the World Peace Council since the mid-1970s. As a member of the W.P.C. he was founder of the U.S. Peace Council.

Naturally the Soviets and their comrades in the local Communist parties who oversee these fronts do not like the light of public attention turned on their behind-the-scenes activities—operations the Soviets call active measures. As "freeze" critic Rael Jean Isaac has said, "They try to fool all of the people all of the time, and those they can't fool, they call 'McCarthyites.'"

Doubtless this is what lies at the heart of attacks on the distinguished author and journalist John Barron. For his excellent article in the October Reader's Digest. Barron had interviewed Stanislav Aleksandrovich Levchenko, who late in 1979 left his post with the K.G.B. and took political asylum in the United States. In the interview, Mr. Levchenko explained such active measures as follows:

"So by Active Measures, the KGB distorts reality. The trick is to make people support Soviet policy unwittingly by convincing them they are supporting something else. Almost everybody wants peace and fears war. Therefore by every conceivable means, the KGB plans and coordinates campaigns to persuade the public that whatever America does endangers peace and that whatever the Soviet Union proposes furthers peace. . . . That's the art of Active Measures, a sort of made-in-Moscow black magic. It is tragic to see how well it works."●

JOYCE HAWS—CONCERNED MOTHER AND ACTIVE LEADER

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. MOTTL. Mr. Speaker, once again I would like to bring your attention to the struggle against judicial tyranny being waged by the National Association of Neighborhood Schools (NANS), and especially to the career of a dedicated leader of that struggle, Mrs. Joyce Haws of the city of Cleveland.

Joyce is a teacher by profession, and as a mother of two daughters, she has always been active in the schools of the communities where her family has lived. Fourteen years ago she returned to Cleveland, and she soon found herself and her family faced with the problems resulting from court decisions ordering busing in the local school districts. Her first efforts to halt this displacement of neighborhood children led Joyce to PTA groups and, in 1976, an organization called Citizens for Neighborhood Schools.

Joyce and CNS were aware that the sole means of removing the cases of court-ordered busing was, and is, congressional action, preferably in the form of an amendment to the Constitution. They were not alone. Citizens across the country who opposed the judicial verdicts were united in the National Association for Neighborhood Schools. They were determined to let it be known that grassroots Americans did not want distant schools and long bus rides for their children, nor higher taxes for themselves.

Becoming more active with NANS as the years passed, Joyce became one of its energetic national directors. She has appeared on TV editorials and shows, organized fundraisers, published articles, spoken to church and social groups, all in a strenuous campaign to encourage those who oppose busing to become active, and make their voices heard in Washington. NANS collected over 1 million signatures for the Mottl amendment to end court-ordered busing of children. Joyce is still working tirelessly to achieve the goal of returning children to their own neighborhoods, and NANS is fortunate to have this committed and concerned parent direct its fight.

Mr. Speaker, my colleagues in the House, please join me in recognizing the hard work of Mrs. Joyce Haws, and the people she represents—NANS and the parents of America.●

THE PEOPLE'S PARADISE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. FIELDS. Mr. Speaker, some form of socialism/communism is dominant in many nations and every continent. The idea of socialism is especially attractive to intellectuals who are able to maintain a comfortable distance from actual socialist practices.

Though socialism is a god that fails continuously, and causes more human suffering and tragedy than any idea or practice in history, there are those who stubbornly cling to its high-minded idealism. They religiously close up their eyes to the reality that the socialist promise of instant utopia brings only the tyranny of a real dystopia.

It is for them that the following glimpse of reality is provided.

[From the Washington Times]

A VISIT TO EAST BERLIN

(By Walter Williams)

The first mistake was made back in 1945. Gen. George S. Patton wanted to take all of Germany, but the White House wouldn't let him. Now we have a divided Germany—East and West. Berlin, the capital of Germany before defeat, is surrounded by Soviet-controlled East Germany. Berlin, in turn, is divided West and East. The allied (France, England and U.S.) sector of Berlin is free. The Eastern sector is dominated by the Soviets. In August, this writer had a chance to visit this part of the world.

West Germany and West Berlin are indistinguishable from the U.S. These citizens enjoy basically the same standard of living as do Americans. The cities are vibrant. And West Germans are free to come and go as they please. Having enjoyed the luxury of West Berlin, my wife and I hired a driver to take us into East Berlin.

Before we got to one of its key entry points—Checkpoint Charlie—we viewed the infamous Berlin Wall. In full view, we saw machinegun towers, barbed wire, minefields, anti-tank traps and fences that automatically fire bullets when touched. Then we proceeded through Checkpoint Charlie. After going through the East Berlin red tape, which is a whole story in itself, we were admitted.

The contrast was incredible. The fancy cars of West Berlin were not to be seen. Absent also were the numerous shops. The colorful dress was gone. And the people weren't smiling. In West Berlin there was little or no readily apparent evidence of World War II's devastation; but in East Berlin you could still see the ruins of bombed-out buildings.

Why this difference? East and West Germans are indistinguishable as people. Both had incredible devastation visited upon them in World War II. A personal observation from looking at the age of buildings was that West berlin was bombed more heavily than East Berlin. Furthermore, there's no great natural resource advantage of one over the other. The difference is freedom. West Germans are much freer to make decisions over their lives than their Eastern brethern. This freedom not only grants them more material goods, it also frees them from arbitrary control by the state.

If only more Americans could visit East Berlin, particularly those who advocate more and more government controls. They would see the requirements for socialism. And the most basic requirement is that people cannot be free, Why? Because if they are free, they can't be trusted to do what the powerful elite thinks they should do. Anyway, before returning to Checkpoint Charlie we had to go through further East German red tape. And now we could view the wall from the communist side. From this vantage point, one could readily see that the anti-tank traps were not installed to protect East Berlin from a Western attack. They were to prevent East Berliners from running the barricades in tanks or trucks. The East Germans searched our car. They didn't bother the glove compartment, visors, door pockets, etc. why? Because people can't hide there. Instead, they lifted the rear seat, opened the trunk, and wheeled a mirror under the car looking for anyone 'crazy' enough to want to leave the communist paradise.

Well, we got back to the other side of the wall. And there I mulled over our country's second mistake: when the communists built it, we should have leveled it with our bulldozers. Isn't it a sad confession of the moral and economic bankruptcy of a system when such elaborate provisions must be made to keep citizens from leaving.●

WHALING WITH THE COLD HARPOON

HON. DON BONKER
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. BONKER. Mr. Speaker, the International Whaling Commission (IWC) has banned the use of the cold (nonexplosive) harpoon for the taking of all whales. Nevertheless, nearly 11,000 minke whales may be killed with the cold harpoon in the coming year. Although the whaling countries have had more than 2 years to develop an alternative to this cruel weapon, they have indicated that they are not only unable but unwilling to comply with the ban. Japan, the Soviet Union, Iceland, Brazil, and Norway each filed objections to the cold harpoon ban, and thereby exempted themselves from this important IWC regulation.

The article I wish to submit for the RECORD, an excerpt from the 1982 Greenpeace publication "Outlaw Whalers," discusses the issue of humane killing of whales and presents an eye-witness account of the cruelty of killing minke whales with the cold harpoon.

COLD HARPOON BAN LONG OVERDUE

The issue of humane killing has always been a difficult one for those who exploit whales. The simple fact is that there is no way to humanely kill any creature as large as a whale and still have the body intact. The best compromise between speed of killing and wastage of the carcass has been the standard 90 mm explosive-tipped harpoon, a weapon that does not always kill cleanly. After reading reports, questioning witnesses and going out on a catcher boat to observe whaling first hand, Sidney Frost, Chairman of the Australian Inquiry into Whales and Whaling came to this conclusion:

"Although death is brought about by a most horrible method, in the cases where it occurs instantaneously, the act of killing may be said to be not inhumane. But if the death is not instantaneous, or does not happen quickly, the animal is required to suffer from these truly terrible injuries for at the least three minutes and more usually up to five or seven minutes until a killer harpoon can be fired. There can be only one conclusion: that in these cases death is caused most inhumanely. The fact that these cases are a significant proportion of the total leads to the inevitable conclusion that the technique for killing whales at present used is not humane."

If the killing of whales by explosive harpoons is cruel, the use of non-explosive ones, particularly those of low caliber, is horrendous. It is very difficult for conversationists to observe the killing of whales by these weapons since the whalers are understandably reluctant to allow them on board their vessels. The following account is by a whale researcher who succeeded in talking his way onto the Brazilian catcher boat, the *Katsu Maru #10.*

"Around 6:30 a.m., a whale was spotted from the crow's nest as we reached our twentieth mile from shore. Minke whales come north from the Antarctic during the spring and summer months of the Southern Hemisphere to breed and sometimes have their calves. As the ship bore down on the whale now losing strength, Sakaguchi made his way to the bow on the elevated walkway. The light-green painted harpoon cannon mounted on the foredeck was the only noticeable aspect of the vessel which wasn't rusty. Frequent clipped reports of the whale's position were relayed to the captain from observers high up on the main mast. Sakaguchi swiveled the gun back and forth and braced himself—waiting for the perfect moment for the exhausted whale to surface for air before firing. The blast of the cannon jolted the entire ship, and a cloud of brownish-pink smoke enveloped the black-capped figure standing along at the bow. A few seconds later the whale lunged up through a wild churn of white water straining on 50 yards of rope attached to the prow of the ship. A chimney of bloody fire erupted from its blow-hole; the 70 mm harpoon had torn veins and arteries deep inside the whale's body.

"Deeply resonant but uneven whale cries vibrated through the water. Tattered roses of scarlet blossomed in the blue, then faded into mottled pools of ruddy brown sinking below the surface. Another harpoon was tightly secured into the cannon and much less ceremoniously fired to try and end the whale's agony a little earlier. A bit of relief set in 20 or 30 minutes later after the giant tail had been lashed further aft to the rail and its erratic thrashing against the side of the steel boat finally ceased.

"Two whales were caught within an hour of each other, and up until that point the captain didn't seem to have shown any emotion to anyone. After the second minke was roped to the starboard side, he picked up a long handled flensing spade and made two deep cuts into their bellies to bleed them so the meat would stay fresher. Sakaguchi returned to the bridge, rinsed his hands in a bucket of water and while coming back to his seat, he caught the eye of another Japanese fellow on the bridge smiling at him. The captain smiled back and flicked some water in the other man's face. He wiped his brow and for the first time took off his sunglasses revealing a light strip of skin sharply contrasting the rest of his deeply-tanned face.

"A school of spinner dolphins came shushing into view. They bow-surfed for a while and did some incredible leaps high into the air. Smiling, Roberto said, "bonita ne" (beautiful eh?), I wondered how they felt about their giant cousins strapped to the side with their intestines hanging out.

"I photographed and photographed. Looking through my lens was the only way I could create a little space between my feelings and the whales' pain. By the fourth whale I had all the shots I needed of harpoons being fired, and all I could do was watch. This time only one harpoon was required. The violent thrashing seemed to last only 10 minutes before the animal was subdued at the waterline of the bow. It took every bit of chutzpah I could muster to produce a smile in recognition of the broad smile and thumbs up Roberto flashed me signalling his approval of the excellent shot.

"The fifth whale was the largest and most lively of the day. The previous quarries had been only 25 feet long—about three-year-old minkes. Early in the pursuit we could see it bobbing its head far out of the water. Even as we came closer, it continued to partially breach and heave down on the water. When the time approached for Sakaguchi to fire, all on the bridge waited tensely. The whale lunged up out of the water 10 feet in front of the bow, and a voice inside me almost emerged involuntarily as a violent scream of STOP! A split second later the ear shattering explosion came, and something very heavy sank back inside of me as this cry for life had been suppressed and extinguished so quickly. Never having felt so helpless before, I curled up on a corner of the bridge, staring out to the ocean with my binoculars, and prayed we would find no more whales that day."

It is not only NGO observers who are concerned about the inhumane killing of whales by the cold harpoon. The following excerpt is taken from a letter sent October 6, 1981 from the Norwegian Department of Agriculture to that country's Department of Fisheries.

"Doubts have been raised as to whether the use of the non-explosive harpoon in small whaling satisfies the requirements for humane killing. In considering this question, the Department of Agriculture must rely on the reports from controllers who have participated aboard whaling vessels. These reports seem to conclude that when the non-explosive harpoon hits vital organs such as the heart, lungs and main arteries (mortal wounds), death occurs quickly. However, such mortal wounds only rarely occur—perhaps, in only 20 percent of the cases. Most hits go through the whale without causing death. In such cases, the whale, while being winched towards the vessel, will undertake a death fight which can vary in time. Under difficult circumstances, it may last up to one hour. All of our experience on the killing of animals indicates that this death battle is very painful. In view thereof, whaling with the non-explosive harpoon can hardly be said to satisfy the requirements for humane killing as prescribed in the Animal Protection Legislation.

"It is the opinion of the Department of Agriculture that active efforts must be made to find alternative methods of killing to replace the non-explosive harpoon. Since the use of anesthesia has been mentioned in this context we would like to draw your attention to the fact that the use of drugs as such would disqualify the meat for purposes of consumption. Based upon what we know today of the available methods of whaling, the explosive harpoon appears to be the method which ensures humane killing."

The concern of the letter was not misplaced. Three observer reports for the 1981 Norwegian minke season were obtained by Outlaw Whalers; all referred to long times to death seen during the voyages covered. Norwegian whaling vessels now carry powerful rifles such as the Mannlicher 9.3 mm to finish off any whale not killed quickly by the harpoon. Despite this, times to death on one boat observed in 1981 were generally around 10 minutes, and two whales took up to 50 minutes to die despite the presence of auxiliary weapons and an expert marksman. The other two vessels had longer times to death.

The presence of auxiliary weapons in no way guarantees even a 10 minute death time. On the *M/S Baragutt,* observed by a Norwegian inspector between June 9 and June 21, the average time to death for nine of the 10 whales harpooned was 27 minutes. The tenth broke the lines and escaped with the harpoon still embedded in it. The captain of the *Baragutt* had the following statement entered into the official report on this voyage.

"Concerning the time of killing of the nine whales witnessed by Mr. Kjesbu, I wish

to state that we were unfortunate with our shooting. The time element in killing is usually considerably shorter."—EILIF HANSEN.

In the killing of minke whales with cold harpoons there must be many such "unfortunate" shots. All of the reports make it clear that Norway's whalers are concerned about the suffering of the whales and do their best to kill them as quickly as possible. After all, it is in their own interest that the whale be landed as quickly as possible so they can resume the hunt. Still, many whales die very slowly. Expert marksmen miss their aiming point as the boat rolls and the wounded whale thrashes in the water. The use of auxiliary weapons fails to pass the test that if a significant minority of the kills cause great pain, then the whole process is inhumane.

Attempts have been made to develop alternative methods of killing, but without much success. In fact, the alternatives have proven even worse than the explosive harpoon. Drugs powerful enough to kill the whale have also killed whalers handling the products. Paralyzing drugs like succinylcholine do not hurt the meat but merely paralyze the whale, leaving it fully conscious and sensitive to pain.

Injection of compressed gases has been considered and this year Norway experimented with a carbon dioxide harpoon, carrying in its tip two liters of liquid carbon dioxide under pressure which is vented into the whale when the harpoon strikes home. This is clearly inhumane, for although it does produce quick cessation of movement and a fairly quick death, it does so by causing massive gas embolisms throughout the body of the unfortunate creature. The gas pressure causes muscles to become rigid; the animal ceases moving but is still conscious and aware of pain. The quick cessation of movement may look good in a report, but the horrendous suffering caused by literally exploding a living body with compressed gas is not acceptable to those who oppose the use of cold harpoons on humane grounds.

There have been experiments with killing by electrocution, but this requires that the whale first be harpooned and dragged by a cable back to the catcher boat so that the electrodes can be implanted, during which time the animal is conscious.

It is clear that the cold harpoon is the most inhumane way of killing and that high technology "humane" killing weapons that have been developed are not reliable. These devices are usually tested under ideal conditions which fail to simulate the worst case conditions.

Cold harpoons should not be used on any species of whale. Given the level of technology possessed by many IWC members, it should not be difficult to develop a humane alternative. The complete ban on this archaic and inhumane hunting weapon should be enforced and nations that have objected to the ban should agree on a date to stop using the cold harpoon and withdraw their objections.●

LEE NAMED INTERIM FAMILY COURT JUDGE

HON. JOHN L. NAPIER

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. NAPIER. Mr. Speaker, I come from the small town of Bennettsville, S.C., in the northeastern part of the State. Bennettsville is located in one of the smaller counties in the State in terms of population.

Until I was elected to Congress, Marlboro County had not been the home of a Congressman in this century. Congressman John L. McLaurin served in the Congress just prior to the turn of the century, and later served in the U.S. Senate.

Likewise, until recently, Marlboro County had not been the residence of a State judicial officer for over 100 years. Last week, however, Bennettsville attorney Jamie Lee was selected to fill the vacancy on the Fourth Circuit Family Court to succeed Judge LeRoy M. Want of Darlington who died in November.

Mr. Speaker, I want to congratulate Jamie Lee on his selection and wish him much success as he approaches his new assignment. His new position is an extremely important one in the South Carolina judicial structure. His court has jurisdiction over domestic matters and include divorces, adoptions, termination of parental rights, juveniles, and support and other such matters—matters which go to the heart of our family institution.

As one who has practiced law on the opposing side from Jamie Lee, I feel extremely comfortable as he assumes this important post. Jamie Lee has the temperament of a judge. He is knowledgeable. He is extremely fair. He is firm. He is compassionate.

Mr. Speaker, the people of Marlboro County are proud of Judge Lee for his accomplishment, and I wish to call to the attention of my colleagues in the House a recent news account and an editorial in the Marlboro-Herald Advocate of December 2, 1982, which detail the announcement of his selection, his background, and his accomplishments.

LEE NAMED INTERIM FAMILY COURT JUDGE

Bennettsville attorney Jamie Lee has been selected to fill the vacancy in the 4th Circuit Family Court. That vacancy occurred when Judge LeRoy M. Want of Darlington died in November.

Lee, 52, learned of his interim appointment on Monday from S.C. Gov. Richard Riley. Lee will still have a couple of obstacles to hurdle as any opposition that would file against him has until Friday to do so. Lee's interim term lasts until the legislature acts in 1985 to fill the unexpired term, which ends March 1, 1984.

"It is a great honor for me. I am very grateful for the appointment and confidence that has been shown in me by the governor and the Chief Justice," Lee said.

"I realize that Judge Want's shoes will not be easy to fill, but I will do the best job that I can," Lee said. Want had served as Family Court Judge since 1977 and died on November 9 after a long illness.

FIRST IN 105 YEARS

Lee will be the first state judge to come from Marlboro County in over 100 years.

Judge Joshua H. Hudson was the last to be named in 1878. "I hope that I can be a credit to the county and to the community. This is my home and it is an honor to have the chance to serve," Lee said.

Coincidentally, Jamie Lee is a great-great nephew of Judge Hudson, as is Fourth Circuit Solicitor DuPre Miller, also of Bennettsville.

Lee has been a practicing attorney here since graduating from the University of South Carolina Law School in 1959. Lee and his wife, the former Mary Breeden, have three childern.

Lee served in the S.C. House of Representatives 1962-1966 and is a veteran of the Korean War. He currently holds the rank of Lieutenant Colonel in the U.S. Air Force Reserve.

Lee has also been an active member of the Marlboro community as a Shriner, Mason, in Boy Scouts and the United Way.

Lee has also served as attorney for the City of Bennettsville and also for the Marlboro County School Board. He has also been chairman of the Marlboro County Board of Elections.

Lee has informed the Herald-Advocate that he will resign from these jobs and also will close his law practice. Work on that had already started on Wednesday morning.

"Whenever you receive a Judgeship you have to close down your practice and also remove yourself from all other duties." Lee said.

His new position would mean, Lee said, that as a Family Court Judge he would have jurisdiction over all domestic claims like divorce, adoption, support and juvenile cases.

"This means anyone under 17 years old and would include anything from not going to school to robbing a store," Lee said.

Lee said that he would be the resident judge in Marlboro County and his work would take him to the four counties in the district (Marlboro, Chesterfield, Darlington, and Dillon) and wherever else he might be assigned by the Chief Justice of the S.C. Supreme Court.

DIFFERENT FEELING

After so many years of being on the other side of the courtroom, how will it feel to be behind the bench?

"It will be a different feeling to be sure, but an awful lot of people have made the adjustment and I am looking forward to it. I would like to say thanks to all the people that helped me and I will try to do my best," Lee said.

A CREDIT TO US ALL

The "Marlboro Herald-Advocate" hails the appointment of Bennettsville attorney Jamie F. Lee to an interim appointment as Family Court Judge for the Fourth Judicial Circuit.

Lee's appointment by Gov. Richard W. Riley this week is a historic one in that it has been more than 105 years since the last Marlboro County attorney was named to a state bench.

In 1878, Joshua Hillary Hudson of Bennettsville was named Fourth Judicial Circuit Judge on Feb. 14, 1878, succeeding another Bennettsville attorney Charles Pinckney Townsend, who sat as circuit judge since 1873.

This is not the first time that Lee's name has surfaced for consideration for such a judgeship. When the family court system was inaugurated in S.C., Lee was then considered a likely candidate for such a seat, but was not then named.

It seems very appropriate to us that he should be named to fill the interim for the

late Judge Leroy Want of Darlington, who died in office last month.

Lee's credentials are many, illuminating his career: State Champion B.H.S. Basketball Team member, honor guard to Gen. Douglas McArthur, University of S.C. and USC Law School graduate, former member of the S.C. House of Representatives, attorney in private practice here as well as serving as attorney for the Marlboro County Board of Education and City of Bennettsville, and election commissioner for Marlboro County.

We congratulate Jamie Lee on this signal selection and express to him our appreciation for bringing this coveted position home to Marlboro County once again.●

PERSONAL EXPLANATION

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. BARNES. Mr. Speaker, I was absent from the House on official business on Monday, December 6, 1982. I am using this opportunity to indicate my positions on some of the votes conducted on that day in relation to H.R. 6211, the Surface Transportation Act.

Rollcall No. 416, "no"; rollcall No. 417, "no"; rollcall No. 418, "no"; rollcall No. 419, "no"; rollcall No. 420, "aye"; rollcall No. 421, "aye."

On rollcall No. 422, on Tuesday, December 7, I would have voted "aye."●

TELECOMMUNICATIONS FOR THE DISABLED

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. WIRTH. Mr. Speaker, the Committee on Energy and Commerce has unanimously reported S. 2355, the Telecommunications for the Disabled Act of 1982. This bill accomplishes two vital purposes. It changes an intrusive and ill considered Federal regulation that would prevent telephone companies from supplying equipment to deaf and other handicapped individuals under the approval of State regulatory commissions. Second, the legislation resolves a longstanding dispute within the telephone industry by directing the Federal Communications Commission to establish a technical standard for the manufacture of telephones that are compatible with hearing aids.

The regulation that S. 2355 modifies is scheduled to become effective on January 1, 1983. Unless Congress acts this session, disabled Americans will be unable to obtain tariffed new terminal equipment after that date. Many disabled persons rely on this equipment to lead productive, self-sufficient, and independent lives. Therefore, I am pleased that the major telephone carriers—and unaffiliated manufacturers of telephone equipment—have joined with the handicapped community and State utility commissions to support this consensus legislation. Mr. Speaker, I ask unanimous consent to insert in the RECORD a selection of their letters, which explain the urgency of this legislation.

DISABLED AMERICAN VETERANS,
Washington, D.C., September 23, 1982.

Hon. TIMOTHY E. WIRTH,
U.S. House of Representatives, Chairman, Subcommittee on Telecommunications, Consumer Protection and Finance, Committee on Energy and Commerce, Washington, D.C.

DEAR CHAIRMAN WIRTH: I am writing to you in response to the legislation you are proposing that would amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and enable telephone companies to accommodate persons with other physical disabilities.

Quite frankly, the Disabled American Veterans has supported efforts to improve the lives of all American citizens with physical and mental disabilities, particularly, those disabled while in the wartime service to the United States.

A review of the legislation which you are proposing reveals that essential and frequently used coin operated telephones will be made compatible for specially equipped hearing aids utilized by the hearing impaired.

As equally important, your bill will finally permit telephone companies to make special telephone communications equipment available to the seriously handicapped at affordable costs.

Chairman Wirth, the DAV believes that your proposal will, if enacted, go a long way towards improving the quality of life for millions of hearing impaired and physically handicapped Americans.

On behalf of the 687,000 members of the Disabled American Veterans, I am pleased to strongly endorse your proposal and thank you for your endeavors to enable handicapped citizens to gain greater freedom and access to the mainstream of American society.

Sincerely yours,

EDWARD G. GALIAN,
National Commander.

PARALYZED VETERANS OF AMERICA,
Bethesda, Md., September 22, 1982.

Hon. TIMOTHY E. WIRTH,
Chairman Subcommittee on Telecommunications, Consumer Protection, and Finance Committee on Energy and Commerce, U.S. House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE WIRTH: On behalf of the 11,000 members of Paralyzed Veterans of America, I want to express appreciation for your efforts to promote access to the telephone comunications system for individuals with physical impairments. Your recognition of the importance of improved and available communications for disabled citizens and the essential role modern communications play in assisting disabled people to achieve maximum independence is gratifying.

Your legislative proposal clearly addresses many problems presently facing disabled citizens regarding the acquisition and payment for specialized communications equipment. The recent Federal Communications Commission decision, Computer II, would preclude many individuals from obtaining this necessary, and often only means of contact with other people including vital medical and emergency personnel. Additionally, this FCC decision serves to retard technological innovations which benefit disabled people by drastically restricting their use and potential market.

Under the Computer II decision telephone companies would be prevented from subsidizing special and unique equipment which meet the needs of handicapped individuals. This not only will sever their primary means of communications but will also, in certain cases, prevent their gainful employment. This decision is unduly harsh and restrictive as it applies to devices for disabled people and presents a great hardship and peril to many of the most catastrophically disabled citizens.

Again, thank you for your recognition of this issue. If I or any member of my staff can further assist you in securing passage of this legislation, please contact us.

Sincerely yours,

R. JACK POWELL,
Executive Director.

NATIONAL EASTER SEAL SOCIETY,
Washington, D.C., September 27, 1982.

Hon. TIMOTHY E. WIRTH,
Chairman, Subcommittee on Telecommunications, Consumer Protection and Finance, Committee on Energy and Commerce, Washington, D.C.

DEAR REPRESENTATIVE WIRTH: I am writing of behalf of the National Easter Seal Society to express support for the "Telecommunications for the Disabled Act of 1982". We believe that this bill, H.R. 7168, amends the Communications Act of 1934 so that the Federal Communications Commission (FCC) will address two issues of critical importance to persons with disabilities. With respect to individuals with hearing impairments, the bill provides for reasonable access to telephone services. Moreover, H.R. 7168 provides states with the flexibility needed to allow telephone companies to continue to meet the unique needs of individuals with disabilities.

The National Society has consistently promoted efforts to provide persons with disabilities every opportunity to achieve fully productive and independent lives. For this reason, efforts by the Bell System and other telephone companies to render the telephone network accessible to persons with disabilities have been viewed very favorably. In the past, these companies have readily developed and distributed special telephone equipment for private and public use. By incorporating the costs associated with special terminal equipment into the regular rate structure, telephone companies have enabled thousands of individuals with hearing, speech, vision or mobility impairments to purchase telephone service at a reasonable cost.

The National Easter Seal Society is concerned, however, that recent action by the FCC to deregulate terminal equipment will jeopardize access to the telephone network for persons with disabilities. The FCC's Computer II decision prohibits state communications commissions from allowing telephone companies to subsidize terminal equipment. We believe that this ruling, although apparently not directed at the equipment used by persons with disabilities, could, nonetheless, have a devastating impact on their access to the telephone system. Unless states are once again allowed to permit telephone companies to recover a

portion of the development and distribution costs of special terminal equipment, individuals with disabilities may soon be confronted with exorbitant telephone equipment costs. Disabled consumers will be forced to either forego the use of the telephone or pay charges considerably higher than those borne by the general public.

The National Society believes that H.R. 7168 provides the necessary statutory flexibility to permit telephone companies to continue to meet the unique needs of persons with disabilities at a reasonable charge to the disabled consumer. Access to the telephone system is crucial to the lives of persons with disabling conditions and should not be threatened.

Furthermore, the National Easter Seal Society is fully supportive of provisions within the "Telecommunications for the Disabled Act of 1982" ensuring reasonable access to telephone services for person with hearing impairments. Telephones provided for emergency use or that are used frequently by persons with hearing impairments should be made compatible for use with a hearing aid as soon as possible. We are also encouraged by those sections of H.R. 7168 regarding rulemaking activity and consumer education. These provisions will further enhance access to telephone services for persons with impaired hearing.

We were pleased that H.R. 7168 received such strong and favorable support from the Committee on Energy and Commerce. We would urge the House to act in an expeditious and equally positive manner.

Sincerely,

JOSEPH D. ROMER,
Director of Governmental Affairs.

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, D.C., September 23, 1982.

Hon. TIMOTHY E. WIRTH,
Chairman, Subcommittee on Telecommunications, Consumer Protection, and Finance, Washington, D.C.

DEAR CONGRESSMAN WIRTH: The American Association of Retired Persons is writing in support of H.R. 7168, the Telecommunications for the Disabled Act of 1982, designed to promote access to the telephone network for persons with physical impairments.

We are pleased that this legislation recognizes and begins to address the problem of telephone receiver incompatibility with hearing aid telephone pickups. The Association is concerned that incompatible telephone equipment is restricting certain individuals' access to the use of the telephone—an integral part of everyday life.

Hearing impairment among the elderly is a widespread disability which threatens the quality of life of our elderly by inhibiting their communication with others. The hearing aid, although not a panacea, is a rehabilitative device which provides assistance to many hearing impaired elderly. Hearing aids should serve the hearing impaired elderly in as many different situations as possible; using the telephone is one method of communication which should not be denied this population.

Nor should access to the telephone be denied to those individuals with other physical impairments who need different types of specialized telephone equipment. Therefore, as contained in section (g) of H.R. 7168, it is important that telephone companies be allowed and encouraged to provide that specialized telephone equipment in a manner which is affordable to those who need access to the telephone most.

The lack of access to telephones has far-reaching implications in such problem areas as freedom from isolation, emergency protection, equal employment opportunities, and freedom of mobility. For example, there are elderly individuals who suffer from severe chronic conditions which restrict their mobility and cause them to be confined to their homes. For them, the telephone is an essential tool for communication. It may be the only or major means for them to have contact with others and thereby provide protection from social isolation. In an emergency situation, the telephone may be their only resource for obtaining assistance.

Again, AARP supports H.R. 7168, the Telecommunications for the Disabled Act of 1982, and urges that this legislation be acted upon favorably during this session of Congress.

Sincerely,

PETER W. HUGHES,
Legislative Counsel.

STATE OF MICHIGAN,
DEPARTMENT OF COMMERCE,
Lansing, Mich., September 24, 1982.

Hon. TIMOTHY WIRTH,
Chairman, U.S. House of Representatives, Subcommittee on Telecommunications, Consumer Protection and Finance, Washington, D.C.

DEAR REPRESENTATIVE WIRTH: I am writing to you today to express my support for H.R. 7168. This bill will provide access to telephone service for persons with impaired hearing and it will also enable telephone companies to provide other specialized terminal equipment needed by persons whose hearing, speech, vision or mobility is impaired. In the latter instance, the bill authorizes State commissions to allow carriers to recover in their regulated service tariffs reasonable costs of this equipment not charged directly to the users of this equipment. I commend you for introducing this legislation and support you in your efforts to enact this bill.

Sincerely,

ERIC J. SCHNEIDEWIND,
Chairman.

CENTEL,
Washington, D.C., September 24, 1982.

Hon. JOHN D. DINGELL,
Chairman, House Energy and Commerce Committee, Washington, D.C.

DEAR MR. DINGELL: We understand that your committee has been very receptive to newly introduced H.R. 7168, the Telecommunications for the Disabled Act of 1982.

H.R. 7168 is a bill designed to achieve a worthwhile objective. Moreover, it involves minimal regulatory involvement and limited cost to telephone manufacturers, telephone companies and ratepayers. A similar bill, S. 2355, was recently passed by the Senate, and we supported that bill.

Central Corporation supports your actions and the efforts of Mr. Wirth and the bill's other cosponsors to move this legislation to the full House. I shall be happy to encourage support for H.R. 7168 as incorporated into S. 2355 among our representatives in the full House.

Very truly yours,

MARTIN T. MCCUE.

AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION,
Rockville, Md., October 13, 1982.

Hon. JAMES T. BROYHILL,
U.S. House of Representatives
Washington, D.C.

DEAR REPRESENTATIVE BROYHILL: The American Speech-Language-Hearing Association (ASHA) supports S. 2355 as amended to incorporate the changes provided by H.R. 7168, the Telecommunications for the Disabled Act of 1982. We agree with the four points discussed under Section 2 of the bill and find that the new section, Telephone Service for the Disabled, appropriately resolves many of the difficulties the speech, language and hearing impaired have had with obtaining and funding the correct telephone.

The telephone is an important part of the lives of most Americans and, therefore, the telephone should be as accessible as possible for those Americans who have communicative disorders. As ASHA testified on May 6, 1982, before the Senate Subcommittee on Communications, there is a rise in incidence of hearing loss in our country. The National Center for Health Statistics reported that in 1971 there were 14.5 million individuals with hearing impairment and that by 1977 the figure rose to well over 16 million. We need to be certain that those who have a hearing loss serious enough to warrant the wearing of a hearing aid find that telephones are compatible with the induction coils of their hearing aids. ASHA would like to see the telephone companies required to insure availability of induction coil telephones in all settings. These induction coil units are readily available at present and all consumers and telephone personnel should be made aware that ordering a more useful telephone for their home or office is possible. The bill calls for the labeling of packaging material and this action should remedy the situation in the homes and workplaces of the hearing impaired. The necessity of compatible essential telephones mandated by the bill would improve ease of telephones by the hearing impaired when outside of their homes and work environments.

It is our hope that you will support the prompt passage of S. 2355 during the post-election session of the 97th Congress.

Sincerely,

STEVEN C. WHITE, Ph. D.,
Director, Reimbursement Policy Division.

AMERICAN COUNCIL FOR THE BLIND,
Washington, D.C., September 27, 1982.

Re Telecommunications for the Disabled Act.

Hon. TIMOTHY WIRTH,
U.S. House of Representatives,
Washington, D.C.
Attention: Scott Rafferty

DEAR REPRESENTATIVE WIRTH: On behalf of the thousands of members of the American Council of the Blind, please let me take this opportunity to express our support for the Telecommunications for the Disabled Act. We believe that this legislation will be of benefit not only to hearing impaired people but also to other handicapped persons such as deaf-blind individual's who need costly, highly specialized telephone equipment.

We believe that the local telephone companies should be permitted to subsidize the cost of special equipment and installation from the general rate base.

We appreciate your efforts in connection with this legislation and hope that this bill will be passed by the House without delay.

Very truly yours,

J. SCOTT MARSHALL,
Director of Governmental Affairs.

Washington, D.C., September 27, 1982.

Hon. TIMOTHY E. WIRTH,
Chairman, Telecommunications and Finance Subcommittee, Washington, D.C.

DEAR CONGRESSMAN WIRTH: The undersigned organizations appreciate your efforts in developing and introducing the Telecommunications for the Disabled Act of 1982. We support the bill in its extension of the compatibility requirements of S. 2355 to emergency phones, hospital phones and similar phones. We are also very supportive of the provisions which enable state utility commissions to allow telephone companies to recover costs of special terminal equipment for the disabled such as those who are deaf, vision-impaired or immobile. Technology has developed at a rapid rate in telecommunications for the disabled. These advances can permit severely disabled people to live independent lives; lives that might otherwise be relegated to institutions. This kind of technological development, together with architectural and design developments and developments in medical technology permit the disabled to lead much more productive lives.

The membership of our organizations provides health care and related services to disabled people. The goal of our services—the rehabilitation of the physically disabled—is dependent on the access of disabled people to communications systems. Your bill is important to us for it makes telecommunications advances financially feasible to the disabled.

Sincerely,

American Congress of Rehabilitation Medicine; American Academy of Physical Medicine & Rehabilitation; and Association of Academic Psychiatrists.

By Their Counsel:

RICHARD E. VERVILLE, Esq.

NORTH AMERICAN
TELEPHONE ASSOCIATION,
Washington, D.C., November 30, 1982.

Hon. TIM WIRTH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WIRTH: Your staff has asked for the views of the North American Telephone Association on H.R. 7168, The Telecommunications for the Disabled Act of 1982. As you perhaps know, we were pleased to have been invited to participate in the development of this important legislation. Upon review of the final provisions of the Bill and its Report issued by Congressman Dingell for the House Committee on Energy and Commerce on September 28, 1982, we wish you to know that we strongly endorse enactment of the legislation in the form it is now submitted.

We have particularly appreciated the cooperation of your staff in working with us to accomplish this task!

Sincerely,

EDWIN B. SPIEVACK,
Executive Director.●

LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. FIELDS. Mr. Speaker, I commend this article from Reason magazine to the attention of my colleagues:

LIFE WITHOUT THE TREATY

What happens if the US government stands firm in its decision not to sign the United Nations law of the Sea treaty? Does it leave the United States in international isolation? Will it be impossible for US firms ever to mine the seabed?

It is true that on April 30 the United States was joined by only three other nations in voting against the Conference treaty. In the aftermath, the words *"isolated"* and *"isolation"* have shown up frequently in news reports and former diplomats' comments on the US vote and on President Reagan's July announcement that the United States would not be signing the agreement.

Yet 17 other nations—*including the Soviet Union, Britain, and West Germany*—failed, by abstaining, to vote for the treaty. Although greatly outnumbered by the 130 nations voting for the agreement, the abstaining and nay-voting countries are the source of 60 percent of world production and of contributions to the United Nations. In fact, the only major industrial nations voting for the treaty were France and Japan—and both pointed out that they were not saying whether they would ultimately ratify the treaty.

Sixty ratifications are needed for the treaty to go into effect, but analysts now speculate that they may be a long time in coming. Moreover, if 60 ratifications do come through, they may well be mainly from small nations. If so, the US government's desire for further negotiations on an alternative "minitreaty" could bear fruit. The now-defunct Reciprocating States Agreement (RSA)—negotiated by France, West Germany, Britain, and the United States within the context of UNCLOS—could be the starting point.

The aim of the RSA was to provide a framework for harmonizing national oceanmining legislation among its signatories and for delineating mine sites. It was to be open to signing by any nation, signatory or nonsignatory to the law of the Sea treaty, industrial or developing. It attempted, not to regulate seabed mining, but to provide an international legal environment in which development of oceanbed resources might proceed.

Critics of the US stance against the UN treaty worry that, without it, US firms will be unable to obtain financing for the huge capital investments needed to explore and mine the ocean floor. The mining industry itself, however, has enthusiastically supported the Reagan administration's refusal to sign the treaty. As pointed out in a Heritage Foundation report ("The Law of the Sea Treaty: Can the US Afford to Sign?"), it seems doubtful that financing would be forthcoming anyway under the restrictive conditions imposed by the treaty; and with or without the Law of the Sea treaty, credit would be extended to ocean-mining firms on the basis of their existing assets and not their ability to produce seabed minerals.

The advantage of a treaty, then, would not be in the area of financing but in providing the climate in which potential seabed developers might risk their capital on such ventures. And the industry seems willing to bet on there being a viable alternative to the Law of the Sea regime.●

HON. HENRY S. REUSS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. LA FALCE. Mr. Speaker, for the past 8 years, I have had the privilege of serving with a truly gifted man, an individual who will leave his mark on this body when he retires at the end of the 97th Congress. Today, Mr. Speaker, I wish to take a few moments to pay tribute to the work and the genius of my dear friend and colleague, HENRY REUSS.

During his 28 years as the U.S. Representative from Wisconsin's fifth Congressional District, HENRY REUSS has employed his intellectual gifts to improve our banking system, to enhance international relations, to speed pollution control efforts and, in his last term, to focus special attention on the chronic needs of our economy. It has been a career marked by brilliant ideas, and this chamber will be at a loss to replace the man and his genius.

Even a cursory review of those 28 years reveals the extent of this brilliance. As a young Congressman from Milwaukee, HENRY developed the idea of the Peace Corps and saw it bloom into one of America's best-known and admired tools of foreign aid. Several years later, as America's attention focused on the problems of pollution, he unearthed the unused Refuse Act of 1899, which prohibited the dumping of pollutants into navigable waters. He used the act to file hundreds of lawsuits and turned over the money won to Wisconsin's Department of Natural Resources to help its antipollution programs.

His leadership as chairman of the House Banking Committee built the groundwork for major changes in Federal regulation of the financial institutions industry. Having worked closely with Chairman REUSS on such matters as the Depository Institutions Deregulation and Monetary Control Act of 1980, I know that his vision for a modernized banking system has been instrumental in the changes now underway in this industry.

I also know that his leadership skills were instrumental in creating and passing the financial package necessary to save New York City from bankruptcy in the mid-1970's. As a young member of the Economic Stabilization Subcommittee, I took a special interest in this legislation because of its potential effects on my home State of New York and other cities across

America. Thinking back to those times, it is difficult to recall a more complex and emotional battle at the subcommittee and committee level. It was a privilege to serve on a committee led by an individual who allowed all parties to be heard and who forced the committee to produce a strong and reasoned bill.

On the Joint Economic Committee, both as chairman during this Congress and as a member during previous sessions, HENRY's strong and forceful voice has been heard often. Over a decade ago, HENRY authored a controversial JEC subcommittee report urging the Nixon administration to close the gold window and move to a system of floating exchange rates. During this Congress, with our economic future uncertain, Chairman REUSS has conducted one of the most aggressive and broadminded hearing schedules in this history of the committee. During the Reuss era, the JEC has held over 170 days of hearings and issued approximately 15 percent of the total number of publications—studies, reports, hearing records—in the 36-year history of the committee. Those hearings have touched virtually every facet of the national and international economic scene. Included among those hearing topics have been agricultural policy, the Nation's economic outlook, deregulation of natural gas, defense spending, the economic status of women, President Reagan's New Federalism proposals, urban policy, international trade, income distribution, and the Federal budget. The committee has published reports on Poland, studies of the economic situation in Cuba, and researched the status of the semiconductor industry in Eastern Europe and its effect on our trade with Soviet bloc nations.

Chairman REUSS's strong and consistent efforts to focus on issues affecting the stability and growth of America's economy are symbolic of his personal commitment to this Chamber. Even as he began the work of packing 28 years of work, he developed and proposed a program of infrastructure investment and job creation that the House will consider during this special session.

Mr. Speaker, in The Other America, author Michael Harrington wrote that—

> The millions who are poor in the United States tend to become increasingly invisible. * * * It takes an effort of the intellect and will even to see them.

For over a quarter of a century, HENRY REUSS has commanded his intellect to see the pressing needs of this Nation. The legacy he leaves behind is one of vigor and brilliance in pursuit of improved economic conditions for all people.●

HENRY S. REUSS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. CONYERS. Mr. Speaker, we have all benefitted enormously from the presence of HENRY REUSS. I hope that we will continue to have his perspectives and ideas on economic policy. Among his many achievements in this body I will always remember an overriding one. The Humphrey-Hawkins Full Employment Act was originally the Reuss-Hawkins-Humphrey bill. He stood as a major force for creative change in economic policy. He formulated the original concepts behind the act. His involvement was absolutely crucial in the passage of the full employment law. I wish him good fortune in his new pursuits, and encourage him to keep his sound and sensible economic views before the public.●

HUMAN RIGHTS POLICY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. BONKER. Mr. Speaker, I would like to commend to the attention of my distinguished Colleagues Mary McGrory's column in yesterday's Washington Post. She provides an excellent overview of the Reagan administration's human rights policy and a good example of what happens when strategic interests and human rights conflict.

In May 1979, Warren Christopher, who was serving as the Deputy Secretary of State during the Carter administration, appeared before the Subcommittee on Human Rights and International Organizations. I asked him to cite a few examples where the administration had decided to reduce or cut aid to any country on the basis of its human rights violations. Among the several countries mentioned by Mr. Christopher was Pakistan, both for its human rights record and violations of our nonproliferation policies. Seven months later the Soviet Union invaded Afghanistan. Whatever restrictions had been imposed on Pakistan were immediately ignored as the Carter administration rushed in with a military assistance program. Human rights considerations were superseded by strategic interests. Subsequently, the Reagan administration has greatly increased that military assistance program, despite documented reports that human rights violations continue on a much larger scale than in previous years.

Surely it is in our strategic interest to nurture democratic institutions in the Third World and to maintain a strong human rights policy which is responsive to the yearnings of human beings for dignity and freedom. How long will it be before administrations learn that our strategic interests will be badly damaged if the victims of repression associate our country with their oppressors.

The column follows:

[From the Washington Post, Dec. 7, 1982]

ZIA NEED NOT WORRY, HE'S THE KIND OF GENERAL REAGAN LIKES

Gen. Mohammed Zia ul-Haq, the president of Pakistan, made a few gestures in advance of his official visit here.

He didn't really have to as far as President Reagan is concerned. Zia was doubtless playing to Congress when, after months of delay, he allowed the widow of Zulfiqar Ali Bhutto—the predecessor he deposed and executed—to seek treatment for cancer in the West.

Nor did he, for Reagan's sake have to release five of the dozen opposition leaders whom he arrested last week for making critical statements about his U.S. trip.

Bhutto knew, from the red-carpet reception accorded President Marcos of the Philippines, who also jails and executes his opponents, that Reagan has an exceptionally high tolerance for human rights violators.

If there had been any doubt in Zia's mind, it should have been resolved by Reagan's weekend performance during which he embraced the murderous leader of Guatemala, Gen. Efrain Rios Montt.

Amnesty International, America Watch and other human rights organizations have attested and documented the slaughter of thousands of peasants and Indians since the general seized power last March.

But Reagan, having looked him in the eye and studied the charts the general brought with him, is convinced that the Great Exterminator is getting "a bum rap." After their meeting, Reagan declared that his visitor is "totally dedicated to democracy in Guatemala" and deserves more U.S. military aid.

Rios Montt expressed his political philosophy in more robust terms: "We have no scorched-earth policy. We have a policy of scorched communists."

Nonetheless, Zia, who makes much of "mutual" U.S.-Pakistan "strategic interests," thought it politic, before setting out, to say that elections, which he has been promising and postponing since he took power 5½ years ago, might not be the worst thing that could happen to his country.

For some members of Congress, who remember that Zia looked on while his countrymen burned down our embassy three years ago, the fact that Pakistan is on the border of Afghanistan is not the beginning and the end of the question. Sen. Mark O. Hatfield (Ore.), for instance, would like Zia to explain his policy of jailing his critics, without charges, and subjecting them to military trials that employ summary judgment procedures for which there is no appeal.

According to Amnesty International, the human rights situation has deteriorated markedly, with political imprisonment and torture on the rise.

Congress would also like to question Zia about his surreptitious development of nuclear weaponry. They are not convinced that the $3.2 billion in military aid Reagan proposes to bestow on him during the next

six years will necessarily be used in the interests of the United States.

India is dubious about the sale of 40 F16s equipped with electronic countermeasure equipment, although Zia recently stopped in for lunch and a little stroking session with Prime Minister Indira Gandhi.

Some senators want to ask him specifically about the case of Irshad Rao, editor of a pro-Bhutto newspaper, who has been in jail and maltreated for almost two years for "printing objectional literature, creating unrest among the masses and disaffection with the armed forces."

Zia's transgressions were overlooked even by the pro-human rights Carter administration when the Soviets marched into Afghanistan two years ago. The visit to the Reagan White House gives him full "allied status"—which to Hatfield shows that "we are prepared to abandon everything to our consuming and myopic anti-Sovietism."

Zia can play the communist card with Reagan. He attended Leonid Brezhnev's funeral and met with Yuri Andropov. Pakistan is a member of a U.N. commission on Afghanistan. Reagan could urge him to help find a solution through a face-saving Soviet exit.

But perhaps the best thing Reagan and Zia could do is to watch the new British film, "Gandhi," together. It is a work of dumbfounding excellence.

Reagan, who consorts with bullies and views military action as the only way to stop "international terrorism," his term for communism, would greatly benefit from watching the uses of non-violence. It would do him good, in the light of his Latin American policies, to hear Gandhi saying that people would rather have a bad government of their own than a good government imposed by an alien power.

As for Gen. Zia, who, like his soul brother, Gen. Rios Montt, believes that political activity is murder, he needs all the instruction he can get in the art of benevolent leadership.

Sir Richard Attenborough, the producer and director, could doubtless arrange a screening of "Gandhi" for the pair. It's the kind of "quiet diplomacy" that might make a difference.●

CAROL ST. CLAIR, HONORED BY THE AMERICAN RED CROSS

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. D'AMOURS. Mr. Speaker, I would like to share with my colleagues the following article reprinted from one of the newspapers in my district, Foster's Daily Democrat, which describes the prompt action of Carol St. Clair, a lifeguard, in saving the life of a 2-year-old child. Ms. St. Clair will be receiving the American Red Cross Certificate of Merit for her heroic actions, which as you may know, is the highest award given out by the American Red Cross.

Not only would I like to add my congratulations to the others she has received but I hope that during this season of the year when we reflect upon our blessings, that we also remember that the techniques used to save this child are easy to learn and can save lives, as Ms. St. Clair's actions testify.

THANKS TO LIFEGUARD, KAREN RETURNS HOME

(By Nora Irvine, Democrat Staff Writer)

Rochester.—A little girl whose seemingly lifeless body was pulled from two and a half feet of water at Milton Town Beach on Tuesday is nearly her normal self today, thanks to the cool head and able ministrations of lifeguard Carol St. Clair.

Ms. St. Clair, 23, was the only guard on duty Tuesday afternoon at the public swimming area at Milton's Three Ponds. The beach and the roped-off swimming area she was supervising from the lifeguard chair were particularly crowded, because a local restaurant was having a picnic for its employees and their families.

Recalled Ms. St. Clair, "I was looking out to the raft, which was filled with people, when two little girls came running up to me and said, 'Lifeguard, lifeguard, there's a dead person in the water!'

"My heart just sank. I looked over to where they were pointing and could just see a skimp of pink, so I dove out of the chair and swam out there."

The child, 2-year-old Karen Lemay of Somersworth, was floating totally submerged just beyond the rope of buoys that divides the shallow area for non-swimmers from the deeper section. Ms. St. Clair grabbed the child, who was clad in a pink bathing suit, out of the water and raced back to shore with her.

"When I took her out of the water, she was blue and she wasn't breathing," said Ms. St. Clair. "I immediately started giving her mouth-to-mouth resuscitation. It was about a minute and a half before she started breathing."

An ambulance called to the scene by an onlooker rushed the child to Frisbie Memorial Hospital, where she was given emergency care and kept overnight for observation. She was discharged from the hospital today. Her parents, Larry and Linda Lemay, said the doctor attending her expects her to recover completely.

Karen was in the care of a relative at the time of the incident Tuesday afternoon, Lemay said.

Today Ms. St. Clair marveled at her calm response to the near-tragedy, the first time she has been called on to apply lifesaving techniques.

"You know, you're trained for just this kind of emergency, but before it happens you don't know how you'll actually handle it," she said. "It was amazing to me that I didn't have to stop and think at all about what I needed to do; I just did everything automatically. I was so happy to be able to save her."

She was concerned, however, that the child was apparently unattended in the water at the time of the mishap.

"Usually with such a young child, the parents are right there in the water with them all the time, but occasionally a mother will come up to me and say, 'I'm leaving my children here for three hours, will you watch them?' Of course I have to say, 'No.' Parents have to understand that a lifeguard can't possibly pay special attention to a few children when there are so many to watch," she said.

Ms. St. Clair, who lives with her mother, Cynthia St. Clair, at 34 Twombly Road in Rochester, has been lifeguarding at Milton Town Beach for about a month. In previous years she worked as a guard at the East Rochester pool.

A 1976 graduate of Spaulding High School, she got a bachelor's degree in education from Keene State College in May and hopes to find a teaching job for this fall.●

LEGISLATION REGARDING THE FEDERAL DESALINIZATION FACILITIES IN WRIGHTSVILLE BEACH, N.C., AND ROSWELL, N. MEX.

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. ROSE. Mr. Speaker, today I have introduced legislation which would transfer two Federal desalinization plants to the respective towns in which they are now located. This transfer would only be authorized on the stipulation that the town's involved continued to use the facilities for desalinization and other related research for a period of at least 5 years.

This transfer would allow this research to be conducted without cost to the Government, while the upkeep, maintenance, and responsibility for the facilities would now be placed upon the local jurisdictions as opposed by the Federal Government.

I feel it is important that the Government should continue to encourage this type of research, in view of the implications such studies could have for this Nation's future. This bill would allow this research to continue, while relieving the Federal Government of the cost for the operation of these plants. These two towns have shown that local jurisdictions are willing to assume some of the burden of certain Federal programs, and I feel that is in the best interest of the Government to allow them to do so.

It is my hope and expectation that this legislation will help to focus the attention of the Congress on the importance of desalinization research. In view of the necessity for alternative water supplies that this country is now experiencing, I feel that it is vital that we continue to encourage desalinization and other related studies.●

THE SUFFERING OF 120,000 JAPANESE-AMERICANS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. DYMALLY. Mr. Speaker, today I plan to focus attention on an injustice that has lasted 40 years too long, and by introducing two bills designed to redress a grievance. The injustice about which I speak was the suffering

of 120,000 Japanese-Americans who were hastily relocated into internment camps following the signing of Executive Order No. 9066, on February 19, 1942.

The losses these Americans incurred were enormous, including jobs, careers, communities, property, freedom, and sometimes life. The passage of these two bills, next year, could begin to restore the actual financial losses, and help redress this grievance.

I am fully aware these bills have no chance of passage in this special session. But by introducing them today, I hope the staffs of the appropriate committees will study the legislation during the recess, and the sponsors will have an opportunity to organize support for passage during the regular session in 1983 when I plan to reintroduce them. In addition, I hope to create public discussion and an awareness of the injustices.

There are two bills: One provides outright cash payments to individuals; and the other provides a community restoration fund. Benefits to individuals would be paid to the actual evacuee, or if deceased, the surviving spouse, or the surviving children in the amount of $25,000. Evacuees who suffered losses in excess of $25,000 could appeal for more and provide documenting evidence of losses.

Compensation could be paid for actions, including: loss of property, and property interests; loss of earnings, earning capacity, and vocational opportunity; loss of education opportunity; loss of life; physical or mental disability; severe emotional distress; deprivation of rights secured by the Constitution of the United States and several States; and all other losses sounding in contract or in tort resulting from the implementation of Executive Order 9066.

The other bill, the Internment Community Redress Act, provides for a community restoration fund for those communities which sustained loss would be established with eight regional boards and one national board. Evacuee communities could apply, under the act's provisions, to one of the regional boards for benefits in the following categories: Education and training; business and agricultural development loans; health care for the elderly; mental health, alcoholism, and drug abuse care and treatment; low-income housing; health care; child day care; cultural maintenance, research and expression; and improvement of communications within the evacuee community.

The appropriation for establishing the community fund and the regional and national boards would be $3 billion.

These bills represent the culmination of years of surveys and research and testimony by citizens of the Japanese-American community. Although about 120,000 Japanese-Americans were relocated from the coastal States of California, Oregon, and Washington, and forced to live in relocation centers, the U.S. Government was never able to substantiate the action as a military necessity, and not one incident of Japanese-American aid to the enemy was ever documented. While scholars, elected officials, and boards of inquiry repeatedly implore the injustice, there has been no formal apology and little action.

It is time for Congress to redress this grievance.●

BETTER WEAPONS IN LESS TIME FOR LESS MONEY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. McDONALD. Mr. Speaker, everyone professes to be concerned about cost overruns in new weapons. One of the major contributions to these extra costs is the multilayered and cumbersome method we have of acquiring weapons. The system, designed by former Secretary of Defense McNamara, insured that nothing took place quickly and that blame was so spread around that no one was responsible. This now results in 6 years to make a decision as to whether or not to produce a weapon and then 12 years to actually get a production line going. Prior to Secretary McNamara, the time periods were 1 year and 6 years respectively. This process is so lengthy that the Soviets now come out with two or three different models of a weapon to our one in such a period and also have adequate time to learn of, and steal the technology for our new weapons and apply it to their own. It is high time the Congress and the Department of Defense pruned this process and its attendant bureaucracy. An analysis of this problem and some suggested solutions appeared in the Washington Report of the American Security Council for November 1982. The author is Brig. Gen. Robert C. Richardson, U.S. Air Force (retired). I commend this item to the attention of my colleagues who are looking for ways to save defense dollars and still insure an adequate defense of this Nation.

[From Washington Report, November 1982]

BETTER WEAPONS IN LESS TIME FOR LESS MONEY

Everyone knows the old proverb: "For want of a nail the shoe was lost, for want of a shoe the horse was lost, for want of a horse the battle was lost." That proverb dealt with the dull and undramatic side of warfare—the getting of weapons, rather the the using of them. That proverb applies today as it did centuries ago. For want of bold, decisive, presidential and congressional policies regarding how we develop and buy new weapons—the so-called defense systems acquisition process—we are in danger of losing the battle for our national survival and the survival of human liberty worldwide.

INSISTING ON IMPROVEMENT

How new weapons are bought and how long on average it takes to develop and build new weapons are still considered tedious and uninviting matters that should best be left to management experts and technocrats. The fact is, however, that the policies and procedures devised by our experts and technocrats during the last 20 years have raised the cost of new weapons several times and stretched the average length for acquiring new weapon systems to twelve years. In the 1950's new weapon systems were brought into the force in an average of six years. If the American people, particularly the movers and shakers, do not seek to learn something about the systems acquisition process and insist on improvements in it, we may be lucky in the future to have a supply of nails for shoes for horses.

A prime result of this doubling of the length of the acquisition cycle is to make it impossible for the President to achieve the "margin of safety" in our national defense structure he promised when elected. It even raises the question whether the United States can ever restore an acceptable military balance vis-a-vis the U.S.S.R. without finding a way back to somewhere near a six-year acquisition cycle, at least for major new systems.

THE TAIL WAGGING THE DOG

It is fair to say that the current systems acquisition process has become the tail that wags the dog in resolving such major national security problems as: how to cope with the growing Soviet threat at a cost the United States can afford; how to achieve party platform and presidential defense goals; how to keep the Soviets from exploiting U.S. technology to our disadvantage; and how to deal with the growing public pressure to change U.S. strategy in order to reduce the likelihood of nuclear war while still retaining a valid defense posture for America.

FROM A SIX-YEAR TO A TWELVE-YEAR CYCLE

A brief examination of the major consequences of today's twelve-year acquisition cycle and why it has doubled in the past two decades will offer some insight into what needs to be done to improve the process—and it will also explain the growing concern among those who are convinced that U.S. defense goals can only be achieved by changing U.S. strategies and by building the new and advanced systems necessary to implement the new strategies.

Within the Department of Defense there is recognition of the need to improve the acquisition process. Numerous studies have been made by defense management experts, and many recommendations have been proposed. Most have been ignored. But so far, none of the recommendations have sought to correct the basic problem of the time it now takes to decide upon, select, develop, procure, and build new, technologically sophisticated, weapon systems. In order to reduce substantively the present twelve-year acquisition time for vital new systems, major policy and management changes must be made. These changes can only come about if the President and Congress address this apparently minor, but in fact major, problem area.

LENGTHY ACQUISITIONS ARE COSTLY

It is difficult to overstate the impact of today's lengthy acquisition process, not only on the prospects for establishing the President's "margin of safety" in national security, but also on the size of the defense budgets. The waste of time and resources resulting from an acquisition cycle of ten years or more can be quantified. Of greater importance, however, are the debilitating and demotivating effects of such a lengthy cycle on the programs. The five most serious consequences of ever-lengthening lead time in the development and procurement of new weapon systems are:

THE DEBILITATING EFFECTS

First, it results in a tremendous increase in the cost of all new systems. Studies of costs versus years in development and production of new systems show that 30 percent can be added to the life cost of a major advanced weapon system for every year added to its acquisition cycle.

This means that a system that could be built for $15 billion, in, say, five years from the authority to go ahead—as was the case with the first ICBM's and Polaris missiles—will cost at least $50 billion if acquired under today's elongated procurement procedures.

Were it possible to return all major defense procurements to an average of six years, as was the case in the 1950's, yearly savings of $6 billion or more could be realized.

Second, such a lengthy acquisition cycle limits any President's ability to meet new threats, changing world conditions, or election commitments.

Lead times that exceed two or more presidential tours obviously make it impossible for any Administration to make changes in U.S. strategy or the U.S. defense posture if new hardware is required to carry out those changes.

The ability of the current Administration to introduce a new strategy to replace the largely discredited Mutual Assured Destruction (MAD) strategy, which it inherited with a preferred strategy of Assured Survival would require new military capabilities in space which cannot be made available during Reagan's term because it will take 12 years or more to build the necessary new offensive and defensive space systems.

Regardless of who is President, there are only two ways to regain or maintain an acceptable military balance. One is to buy roughly equivalent quantities of comparable weapons; the other is to offset Soviet quantitative superiority with more advanced, higher performing, "cutting-edge" technology systems. This first approach requires throwing massive amounts of money at defense, which we can now ill afford the second requires that we quickly build and field advanced new weapons which today's long acquisition cycle makes impossible.

Third, ten or more years of lead time will preclude effectively competing with the Soviets for superior, higher performance weapons in the future.

The combination of lack of security in U.S. research and development activities coupled with excessive studies and prolonged debates on all decisions gives the Soviets ample time to discover what we are doing, to steal our technology, and to produce comparable or offsetting weapons before ours can be built.

For example, the Soviet Backfire bomber, first deployed by the Soviets in the 1970's, was built in response to our B-70 and subsequent B-1 programs. A similar countering effort by the Soviets can be predicted in regard to our promising "Stealth" bomber, if we take ten or more years to build it.

Fourth, public and congressional support, let alone enthusiasm, cannot be sustained for any weapon system over a period of a decade or more.

What appears to be an attractive and essential new development to the majority of the people today—and is therefore approved by Congress—is not likely to be as attractive six to eight years later when the big money for production must be authorized. Classically, at that point, we have a great debate, as in the case of the B-1, with proposals, for cancellation; and we face a Hobson's choice between buying a system most people no longer consider the best or accepting a risky gap in military capability if we opt for a next-generation program with another ten-year acquisition time frame.

Lastly, a ten or more year acquisition cycle all but precludes efficient management, especially in the case of high-technology weapon systems.

The longer the life cycle of a weapons program, the more difficult it is to keep the same people on the job through the critical development and test portions of the program. Any high-technology, multimillion dollar program, especially where the state of the art is being pushed, requires continuity of management if it is to be efficiently pursued. This factor requires that the key managers stay with the program for its duration. The inevitable turnover of people in a ten-to twelve-year program is very costly, wasteful, and inefficient.

WHY IT TAKES SO LONG TODAY

If we are to correct a condition, we first need to understand what caused it.

Given all the disadvantages resulting from today's elongated acquisition cycle, it is fair to ask, why did the cycle go from a six-year average in the late 1950's to a twelve-year average in the 1970's—and what can be done about it? The U.S.-built pioneering, high-technology systems, such as our first ICBM (Atlas), or first nuclear-powered submarine (Polaris), or our first manned satellite (Apollo), in five to six years from a standing start. We flew the first prototype of a high-technology jet bomber, the B-47, 18 months after the start of the program. Why can't we do the same for new systems, such as the Stealth bomber or space-based ABM's, in the 1980's?

There are four basic reasons for the change from a six-year to a twelve-year acquisition cycle—or, to put it another way, there were four time-saving procedures used in the 1950's, that were abandoned during the past two decades, to which we must return.

TIME-SAVING PROCEDURES

First, we must make a total commitment to new programs from the onset and at all levels of government. Once a "go" decision is reached on a major weapons program, it should be named, given sustained priority, authorized multiyear funding, and provided special management to prevent bureaucratic delays and meddling. All required research must be focused toward achieving production on schedule.

Second, we must accept the financial risks that are involved in high-technology programs, rather than follow the procedures of limiting designs to off-the-shelf technology and proving all system characteristics in the prototype before agreeing to production.

These particular procedures were introduced in the 1960's by then Secretary of Defense, Robert McNamara, under the guise of managerial improvement. What they guarantee is obsolete end products.

When we wait until all technology is in hand before committing ourselves to a new system, we not only fail to push and focus R&D, but we preclude concurrency in the development and procurement effort. The result of the McNamara procedures has been to add costly years to the acquisition process and to ensure obsolescence at time of delivery, since no new technology can now be introduced into a new program during engineering, test, and production. The first opportunity for new technology to be added is during subsequent retrofitting.

A return to the admittedly high-risk approach of the Eisenhower years does entail possible overruns and even failures, but the cost of these is far less than the higher costs resulting from added years under the low-risk approach—along with the need for more weapons to offset technological obsolescence.

The Third procedural change is to reduce the time necessary to reach the initial decision to proceed with a new system once a need has been perceived. This time factor has been gone from 12 months or less in the 1950's, to over six years today. This can be attributed largely to overcentralization of the authority to make decisions coupled with the need for all proposals to be subjected to innumerable analyses, studies, and reviews. Untold government agencies, offices, and committees get involved in the process, with the result that all sorts of influences are brought to bear from vested interest groups, who are totally lacking military experience or technical knowledge. They are allowed to delay progress and to ensure that the final decision will be a form of Gallup Poll, in which all participants will have carefully protected themselves from criticism should anything go wrong at a later date.

The Fourth procedural change that must be made is to eliminate the cumulative effect of 20 years of Parkinson's Law.

There are now over 63,000 pages of defense procurement regulations, and the bureaucrats keep writing more.

There is too much for any senior official to read, let alone understand, in a life-time. These regulations generate rigidity, preclude initiative and innovation, and substitute the completing of tons of forms for real work. It is no exaggeration to say that there would be plenty of aerospace engineers today if most of them were not writing tome-length proposals or answering tedious and irrelevant queries from empire-building bureaucrats. Specifications give contractors are far too detailed. They preclude innovation and guarantee higher costs. The "source selection" procedure for choosing the prime contractor has become an "apples to apples" comparison, which simplifies the ultimate selection but does so at the expense of a staggering degradation in weapon system cost effectiveness.

Paul Thayer, Chairman of the Board of LTV Corporation summarized the effect of excessive regulations on cost in an interview with Time of February 1st. He said: "Forty cents out of every dollar we charge for every airplane delivered to the government is attributable to bureaucratic redtape, paperwork, and duplication."

The current Administration has conducted extensive studies into the problem of weapons procurement. Deputy Secretary of Defense, Frank Carlucci, in both April and November of 1981 ordered institutional re-

forms aimed at accelerating the acquisition process. These were commendable efforts; they helped many people to understand the problems; but they produced few results. The only significant step that has been made during the past two years is to arrange with Congress for some multiyear funding.

WHAT TO DO ABOUT THE PROBLEM

At the highest level, some flexibility must be returned to the President in the management of the Defense budget. At a lower level, appropriate management decision-making authority must be returned to the System Program Offices. To make these changes will require decisions and actions by authorities, Executive and Legislative, and well above the Defense Department's management technocrats.

In the more mundane areas the following steps are recommended, all of which have historical precedent:

(1) Eliminate lower-level government agencies and offices with tangential interest from the initial decision to build or not to build a new weapon system.

(2) Reduce regulations and attendant reports related to the full acquisition cycle.

(3) Accept multiyear funding for major weapons system programs.

(4) Permit concurrent R&D and component production, i.e., the high-risk management approach.

(5) Assign a priority to all major weapons programs, to apply through the acquisition cycle.

A TIME OF CHANGE

The time is propitious for such changes. Several "cutting-edge" technologies can and should be applied to new weapons, such as lasers, directed-energy beams, space-based ABM's, and others. Most of these are defensive in nature, and therefore nonprovocative. If the nation could select one or two of these, commit to their production, admitting that all the technology is not in hand (although most of it is), give the systems the necessary priority and funding, and streamline the management procedures, then within a half dozen years, the United States could dramatically improve our chances for national survival—and save billions of dollars of taxpayers money in the process.

Unless these or equivalent measures are soon taken, it is clear that this Administration will not be able to reestablish a "margin of safety" within its tenure. Moreover, the military balance will further deteriorate in favor of the Soviets to the detriment of U.S. security, and a continuing plea for more and more dollars for defense will further divide the country.●

HENRY REUSS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying tribute to a man who has truly been one of the great leaders of the Congress. Over a career spanning nearly three decades, Chairman REUSS has contributed enormously to every major piece of banking and economic legislation considered by the Congress, either through his ideas or through his direct work on the measures. His work as chairman of the Committee on Banking and then as chairman of the Joint Economic Committee has earned him great respect both within and outside of the Congress.

During difficult economic times, it is important for the Nation to have strong leaders to steer us in the direction of rational and compassionate solutions to national problems. Chairman REUSS has served admirably in that role, particularly over the past few years, and we will truly miss him here in the Congress.

Of course, the entire Nation, and particularly his constituents in Wisconsin, will miss HENRY REUSS. I know my colleagues join me in wishing him the very best of luck and good fortune in the years ahead. He should be proud of his long and fruitful career here in the House of Representatives.●

TRIBUTE TO THE MEMBERS OF THE PENNSYLVANIA CONGRESSIONAL DELEGATION WHO ARE CONCLUDING THEIR SERVICE IN THE HOUSE OF REPRESENTATIVES

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 1, 1982

● Mr. MURPHY. Mr. Speaker, I rise today to pay tribute to three of my colleagues in the Pennsylvania Congressional Delegation who will be retiring at the end of the 97th Congress. The citizens of Pennsylvania and I will sorely miss the leadership, the dedication, and the contributions of these men to the Federal legislative process. The colleagues to whom I am referring are DON BAILEY, JOE SMITH, and ALLEN ERTEL.

DON BAILEY, represents the 21st District of Pennsylvania, just to the east of my own district. When he was first elected in 1978, I had the pleasure of serving with DON on the Education and Labor Committee. His dedication and competence were recognized when he was awarded a seat on the prestigious Ways and Means Committee after only one term in Congress. Mr. Speaker, but for the unfortunate necessities of reapportionment, DON BAILEY would be continuing to serve the citizens of Westmoreland County with distinction. DON came to the Congress as the most decorated Vietnam veteran to serve in the House of Representatives, and as a member of the Veterans' Committee, I was always able to count on DON's support for legislation that would benefit all veterans.

Although my good friend, JOE SMITH, has only been here since July 1981, I will miss his friendship and his support on steel and coal issues. It was my pleasure to serve in the Pennsylvania State Senate with JOE from 1971 to 1976. During his tenure in the Pennsylvania State Senate, he served with distinction as the chairman of the Appropriations Committee in the Pennsylvania Senate from 1977 until his election to the House of Representatives.

While in the Congress, he carried out his responsibilities on the Armed Services and Merchant Marine and Fisheries Committees with the same degree of dedication and evenhandedness that characterized his service in State government. I always admired JOE for his concern for people, and his dedication to furthering the interests of all the citizens of Pennslyvania. He is a man of good character whose integrity is beyond reproach. I will always value my friendship with him and wish him well in private life.

ALLEN ERTEL was the first Democrat elected from his congressional district in 35 years, and came very close to being the Governor of Pennsylvania. His decision to leave the House of Representatives in order to accept the challenge of running for Governor is typical of his tenure in the House of Representatives where he never ducked an issue or compromised his principles. Although he will best be remembered for his tenacious pursuit of funds to provide adequate funding for flood control on the Susquehanna River, and a reasonable Federal response to the problems associated with the Three Mile Island incident, his contributions to the Federal legislative process as a dedicated and enlightened member of the Public Works and Transportation and the Science and Technology Committees will be sorely missed by his colleagues. Much of the success of the Democratic congressional candidates in the 1982 general election in Pennsylvania reflects the excellence he brought to the top of the ticket in his race for Governor.

The sadness I feel today that three distinguished Congressmen from Pennsylvania will not return to the 98th Congress is tempered with the knowledge that the same dedication, integrity, and excellence with which they served in the House of Representatives will make it possible for them to make significant and positive contributions to the State of Pennsylvania in private life.

Although these men, DON BAILEY, JOE SMITH, and ALLEN ERTEL, will be missed, their contributions insure that they will not be forgotten.●

THE MAGNIFICENT SEVEN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. LAGOMARSINO. Mr. Speaker, I remember a movie several years back starring, I think, Yul Brenner, called "The Magnificent Seven." In it, a bunch of veteran gunslingers got together to rid a town of a gang of cutthroats, and they did it in magnificent fashion. I do not remember everything about the movie, but I do remember it was a big hit, and it left you with kind of a sad, but warm feeling.

I cannot help but think of that movie today, as we gather to pay tribute to our own "Magnificent Seven," our seven retiring Members from California. CLAIR, DON, BOB, BARRY, WAYNE, PETE, JOHN—you are as unique and magnificent a group of individuals as any I have ever had the pleasure to know. Collectively—if JOHN will pardon the expression—you have done more for our Nation and for California than any dozen lawmakers. Individually, you have provided unique and valuable insights and made us all a little wiser, a little richer, and a lot happier for having known you.

There is a special bond that develops between people who serve in Congress—a little like war buddies. It is an experience you do not forget. And when you are a member of the minority, the parallal to a war are even more vivid. But I cannot think of seven other guys that I would rather have in a foxhole with me, so I hope you will not be leaving the scene entirely. Some of you have served as advisers to me, others as colleagues, but I regard you all as friends.

So the next time I hear that theme music from the White House, calling us to battle on the floor, I will think again of our own "Magnificent Seven"—the guys in the white hats. And I know it will make it a little easier. Thank you all.●

H.R. 7044—THE MAIL FRAUD BILL IS A FRAUD

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. DANNEMEYER. Mr. Speaker, it takes little imagination to conclude that something entitled the "Mail Order Consumer Protection Amendments of 1982" is going to command a largely favorable impression. After all, it is both publicly and politically acceptable to protect the consumers' interest.

Conversely, it is a well-established rule of thumb that opposition to such legislation invites vilification for being against the elderly and the poor, and for catering to unscrupulous trashpeddlers and con artists.

But it is not quite so simple. As is often the case with such legislation, the title sounds a great deal better than the bill actually is.

We are not arguing over intent. I believe we are all aware of the many schemes designed to bamboozle the unsuspecting public, especially our senior citizens with limited resources. The distinguished and respected gentleman from south Florida, Mr. PEPPER, the principal sponsor of H.R. 7044 and its predecessor H.R. 3973, is known to harbor no small affinity for causes benefiting the elderly.

I submit, however, that what the gentleman intended is not what we have ended up with. What we will be voting on here is not a consumer protection bill but rather a postal inspection bill. We are not combating fraud, we are invading privacy.

H.R. 7044 vests with the Postal Service the authority to infringe upon the constitutional rights of all citizens, principally first and fourth amendment guarantees of freedom.

In a letter dated September 16, and signed by John Shattuck, director of the American Civil Liberties Union it states:

> The revised bill does not provide a judicial officer to determine in advance if there is a sufficient evidentiary basis to justify a search and inspection, nor does it limit inspections to circumstances where there is "probable cause" to believe that the materials contain evidence of a violation. Instead, it places a burden of proof upon the person whose documentary materials are to be inspected to seek to have the investigative demand invalidated after it has been served. The result is an almost unbridled discretion for postal service officials, particularly those in the field, to initiate documentary inspections.

Not only is there failure to adhere to the doctrine of showing probable cause prior to initiating action, the fact that the defendant whose records are being expropriated must attempt to prove his innocence of wrongdoing in order to stop the investigative demand runs counter to our prevailing system of justice: That one is innocent until proven guilty. Under H.R. 7044, the reverse is essentially true: One is presumed guilty until proven innocent. This legislation sanctions unreasonable search and seizure.

During hearings on the predecessor bill, H.R. 3973, the ACLU, the National Health Federation and the Association of American Publishers numbered among the witnesses who testified against the bill, essentially on the grounds that the new investigatory authority poses a dual threat to individual liberties. Subsequent opposition—to H.R. 7044—has surfaced from Moral Majority, the Non-Profit Mailers Federation, the "700 Club," and Seventh Day Adventists.

On June 3, Mr. Ian Volner, counsel of the Association of American Publishers stated that "Postal Service records and information available to the AAP indicated that roughly 20 books have been banned from the mails." This revelation certainly contradicts the Postal Service position that they are not interested in pursuing a policy of censorship.

Particularly vulnerable to postal scrutiny are publications and products which can be considered unorthodox or nonestablishment. Many new health regimens, diets, and medical procedures fall into this category.

Now protecting the public from deception and dangerous drugs and methods is one thing. But telling me I cannot send for material describing a new but unaccepted cure for the common cold is an infringement on my rights as a citizen. It may not work. It may not work for all people. But I have the right to send for it. Not under this legislation, however. I would not even have a guarantee against unreasonable search and seizure should I manage to obtain it.

Supporters of the bill are quick to point out that, sure, I have the right to buy it, but what about the poor unwitting consumer who is lured into squandering his life savings on some quack "live to age 150" pill?

There is no guarantee that H.R. 7044 will prevent such scams from occurring. Proponents argue that these new investigatory powers would enable the Postal Service to scrutinize would be mail order defrauders by serving notice on enterprises thought most likely to contain a high incidence of fraud.

This is like saying you are out to eliminate shoddy auto mechanics by shutting down the dealers. Even the fact that a particular dealer's service department may have a 30-percent complaint rate, does not warrant preventing that dealer from conducting any business altogether. It is precisely for this reason that we have entities such as Better Business Bureaus, consumer information services, and guides like the Good Housekeeping Seal of Approval and AAA. What is the saying—an educated consumer is good business?

The key element is, of course, that once a fraud has been perpetrated, you can sue, return the merchandise, complain to relevant authorities—most dealers do not relish their complaint-ridden service departments being rated D-minus by business and consumer groups—or raise a ruckus. And then there are contracts, money back guarantees, and other insurance devices.

But in H.R. 7044 we have a different story. When asked why a particular book was banned, the Postal Service replied:

It was noted in the course of routine monitoring of mail order advertisements by a Postal Inspector. As is typical of false representation cases involving medical regimens allegedly capable of achieving long term medical results, no customer complaints were received. Rather, our belief that the book was falsely advertised derived from expert evaluation that this advertising claim was false.

Expert evaluation. The expert who was called in to verify the legitimacy of this admittedly unorthodox and nonestablishment regimen was a representative of one of our unabashedly orthodox medical establishments.

And no customer complaints were received. The reason for this, according to the Postal Service, is that too many scam artists vanish before Postal authorities can reach them in the first place. Having to wait for complaints enables some of the worst offenders to move on unscathed. This is a very real problem and one which needs to be addressed. But, with this legislation, it would be a little like stopping a skyjacker by shooting down the plane.

Moreover, I hasten to add, the fear among unorthodox practitioners is not limited to what some might refer to as off-the-wall crackpots. One of them is the Gerson Institute of San Diego, which has built a reputation around finding cures for incurable diseases according to a nutrition-based therapy. Dr. Max Gerson in fact—some 36 years ago—was called to appear before then Senator CLAUDE PEPPER'S subcommittee at which he presented five incurable cancer patients who had been cured by the Gerson therapy. Nobel prizewinner Dr. Albert Schweitzer hailed Gerson as "one of the most eminent geniuses in medical history." Well, this is the same Gerson Institute which is opposed to H.R. 7044 because of the threat it poses to their medical practice.

If medical science and informed opinion cannot definitely distinguish among accepted, valid, unproven, or quack practices, how on earth can the Postal Service?

Furthermore, in a Postal Service response to one of my inquiries, it is declared that:

HR 7044 and USC Section 3005 (false representation) are not concerned with "fraud." The objective of the fraud statute (18 USC 1341) is to punish persons who intentionally use the mails to defraud. Section 3005 and HR 7044 are concerned with the avoidance of consumer losses resulting from use of the mails to obtain money through misrepresentation.

Mail fraud legislation is already on the books. If there are shortcomings—and there are, given the original reason for this legislation in the first place—then it is the fraud statute which ought to be strengthened. H.R. 7044, therefore, is not necessary from that standpoint.

But what, then, is the implication of "use of the mails to obtain money through misrepresentation?" If it is not fraud they are after, and if there is no need to prove intent to defraud, the implications are indeed ominous. It need not be medically related. It could be religious. Or political. Can you imagine the consequences if, under this legislation, a campaign mails a fundraising letter which states the candidate's intention to balance the budget but is followed, upon election, by his voting to increase both spending and taxes?

Oh, of course, political expressions, free speech, and religion are all guaranteed by the Constitution. We cannot be denied them. But what about ideas? Are they not an integral part of those expressions? But if I happen to believe that a certain diet and lifestyle will prolong life by improving health, who is the Postal Service to tell me I am misinformed?

Intent to defraud must be a prelude to actions undertaken pursuant to any postal inspection bill. But the Postal Service has denied that fraud is the chief concern. H.R. 7044 never even mentions fraud. Instead, we find terms such as "misleading, not materially false, false representations"—all begging for accurate definitions—and all to be defined by the Postal Service. This is not protecting the consumer. It is a prelude to censorship.

H.R. 7044 would amend 39 USC 3005a to read:

(a) Whenever the Postmaster General or his designee has reason to believe that any person may be in possession, custody, or control of any documentary materials relevant to the investigation of an alleged violation of section 305 of this title, he may issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

Any person. Not just the purveyor of whatever it is the Postal Service wants confiscated, but anybody who has possession of it. And that is unreasonable search and seizure.

As Mr. Shattuck noted in his subcommittee testimony:

The target of a federal administration search is generally entitled to full Fourth Amendment protection. Persons who engage in mail transactions do not relinquish their legitimate expectation of privacy as to the sanctity of their personal and business belongings.

In criminal investigations of fraud, a search warrant must be obtained—unless there is a certified emergency—before records are confiscated. Under this bill, the Postal Service, in a civil, not criminal, investigation without fraud, can confiscate records. This, I believe, is an unconstitutional abuse of authority.

It is not often we find such normally juxtaposed organizations such as the ACLU and Moral Majority espousing the same cause. But they are both alarmed at the implications if H.R. 7044 is passed. Obviously, this is not an ideological battle. And it certainly is not one of indifference to the plight of elderly victims of mail fraud. But, as I stated at the outset, the intent of the bill, and its content are two different things.

Perhaps most ominously, the appended "hit list" of 149 publications contain those which are routinely monitored for false representations by Postal Inspectors at 17 divisional headquarters. The Postal Service is quick to point out that these publications are not themselves scrutinized for attack, but rather their advertisements. I would merely observe that once the advertisers are out of business, the publications are not far behind.

The list is certainly varied if not exclusive. I am confident that there are any number of items which some of us would not mind seeing put out of business. But that is for the public to decide, not the post office.

To qualify for the list, according to the Postal Service, there must be considerable mail-order ad lineage. Many of the publications do, in fact, contain large amounts of advertising, some largely mail-order oriented. But not all. I perused one of these magazines, Paraplegia News, which is published by the Paralyzed Veterans of America. Why on earth, I thought, are they of all people included on a hit list? Advertisements? In the October issue, there were 96 advertisements, only 18 of which solicited any money—18.75 percent. That is supposed to be grounds for monitoring? Now I am sure that the LA Times, the Washington Post, or the New York Times each has a thousand times greater volume of advertising. The December 5, LA Times, in fact, contains 68 full pages of advertisements. Yet they are not on the list. Nor should they be.

When contacted by my office, the question was asked if there was any reason why a magazine published by and for paralyzed veterans could conceivably be on anybody's hit list. There was not the slightest hesitation in responding. Sure there is a reason. The Paraplegic Veterans of America have two lawsuits pending against the Postal Service, charging the USPS with not proceeding on a timely enough basis to install wheelchair ramps at their facilities.

Whatever the merits of other organizations or their publications which are on the list, the inescapable fact is that, under this bill, the Postal Service will have power they ought not to have.

On May 10, 1967, the present chairman, the gentleman from Michigan, Mr. FORD, remarked on a similar bill:

I generally am of the view that any enactment of legislation that restricts the freedom to act on the part of individuals by a grant of power to the Government should only be granted when the end sought to be attained is most justifiable, and then the

power so granted should be carefully circumscribed by legislative controls to assure that abuses in the exercise of that power by Government officials will not occur.

The truth of that statement stands out as clearly and as indisputably now as it did 15 years ago.

In addition, if the Postal Service were truly concerned with preventing ripoff schemes and not with censorship of ideas, one would think they would excuse nonprofit, charitable, religious, and educational organizations which qualify for 501(c) tax-exempt status according to Internal Revenue Service regulations. I even offered such an amendment in committee. I feel that these organizations—the ones most threatened by a postal clampdown on mail delivery—already pass more stringent scrutiny of their operations by virtue of having to pass muster before the IRS. Alas, this did not come to pass.

The evidence is compelling. Despite the need for corrective action to combat mail fraud and despite all protestations to the contrary, H.R. 7044 is an open invitation to a constitutional nightmare. My colleague, Mr. PEPPER, had good intentions when he drafted the bill. The chairman of the Post Office and Civil Service Committee, Mr. FORD, shepherded the bill through committee fairly and honorably. And Postal officials have been more than willing to be helpful and informative. One person in particular, Mr. George C. Davis, Assistant General Counsel, Consumer Protection Division, has consistently and conscientiously responded to my many inquiries. We quite obviously have a difference of opinion on the bill's impact, but Mr. Davis has cooperated in providing information whenever I have requested any. I thank him.

Unfortunately, honorable intentions and sincere cooperation do not necessarily result in good legislation. This bill is bad. It attacks our liberties through blatant and real invasion of privacy and the sinister specter of censorship. I urge its demise. The Postal Service ought to deliver mail, not read it.

POSTAL INSPECTION SERVICE DIVISION HEADQUARTERS OFFICES

Northeast Region

Boston Division, P.O. Box 2217, Boston, MA 02205, 617-233-2223: Connecticut; Maine; Massachusetts; New Hampshire; Rhode Island; and Vermont.

Newark Division, P.O. Box 509, Newark, NJ 07101, 201-596-5400: Northern New Jersey; Puerto Rico; and Virgin Islands.

New York Division, P.O. Box 555, New York, NY 10116, 212-971-7641: Eastern New York.

Eastern Region

Philadelphia Division, P.O. Box 7500, Philadelphia, PA 19101, 215-596-5417: Delaware; Southern New Jersey; and Eastern Pennsylvania.

Pittsburgh Division, 1700 Centre City Towers, Pittsburgh, PA 15222, 412-644-5482: Western New York; Western Pennsylvania; and West Virginia.

Washington Division, P.O. Box 1820, Washington, D.C. 20066, 202-523-2551: District of Columbia; Maryland; and Virginia.

Southern Region

Atlanta Division, P.O. Box 16489, Atlanta, GA 30321, 404-763-7080: North Carolina; South Carolina; Florida; and Georgia.

Memphis Division, P.O. Box 3180, Memphis, TN 38103, 901-521-3486: Alabama; Arkansas; Louisiana; Mississippi; and Tennessee.

Fort Worth Division, P.O. Box 1230, Fort Worth, TX 76101, 817-334-2901: Oklahoma and Texas.

Central Region

Chicago Division, 433 W. Van Buren Street, Chicago, IL 60607, 312-886-2820: Northern Illinois and Northwestern Indiana.

Cincinnati Division, P.O. Box 2057, Cincinnati, OH 45201, 513-684-2404: Kentucky and Ohio.

Detroit Division, P.O. Box 119, Detroit, MI 48232, 313-226-6732: Indiana and Michigan.

St. Louis Division, 200 South Hanley Road, St. Louis, MO 63199, 314-425-3060: Kansas; Southern Illinois; and Missouri.

St. Paul Division, P.O. Box 43558, St. Paul, MN 55165, 612-725-7318: Iowa; Minnesota; Nebraska; North Dakota; South Dakota; and Wisconsin.

Western Region

Los Angeles Division, P.O. Box 30456, Los Angeles, CA 90030, 213-688-2180: Arizona; Southern California; Southern Nevada; and New Mexico.

San Francisco Division, P.O. Box 367, San Francisco, CA 94101, 415-556-2097: Northern California; Colorado; Hawaii; Eastern Idaho; Northern Nevada; Pacific Islands; Utah; and Wyoming.

Seattle Division, P.O. Box 400, Seattle, WA 98111, 206-442-7880: Alaska; Western Idaho; Montana; Oregon; and Washington.

HIT LIST

Northeast Region

Business Week, 1221 Ave. of the Americas, New York, NY 10020.

Club, Fiona Press, Inc., 919 Third Ave., New York, NY 10022.

Commodities, 219 Parkade, Cedar Falls, IA 50613.

Direct Marketing News, 156 E. 52nd Street, New York, NY 10022.

Discover, Time & Live Building, 1271 Ave. of the Americas, New York, NY 10020.

Forum, 909 Third Ave., New York, NY 10022.

Glamour 350 Madison Ave., New York, NY 10017.

Globe, P.O. Box 11, Rouses Point, NY 12979.

Harvey, 450 Seventh Ave., Suite 2305, New York, NY 10001.

High Society, P.O. Box 242, Norwood, NJ 07648.

Horoscope, 245 E. 47th St., New York, NY 10017.

House Beautiful, 717 Fifth Ave., New York, NY 10022.

Jack Becker, Ltd., Box 3856, New York, NY 10017.

Mechanix Illustrated, 1515 Broadway, New York, NY 10036.

Medical Bulletin, P.O. Box 51, Rouses Point, NY 12979.

Modern Health Report, P.O. Box 603, Ridgefield, CT 06877.

Modern Romances, Dell Publishing Co., Inc., 1 Dag Hammarskjold Plaza, New York, NY 10017.

Moneysworth, 251 West 57th St., New York, NY 10019.

National Examiner, P.O. Box 711, Rouses Point, NY 12979.

National Lampoon, 635 Madison Ave., New York, NY 10022.

Penthouse, 909 Third Ave., New York, NY 10022.

Pensions & Investments, 708 3rd Ave., New York, NY 10017.

Screw, Milky Way Productions, P.O. Box 432, Old Chelsea Station, New York, NY 10011.

Seventeen, 850 Third Ave., New York, NY 10022.

The Star, 155 Allen Blvd., Farmingdale, NY 11737.

VFW 406 W. 34th St., Kansas City, MO 64111.

Village Voice, 80 University Place, New York, NY 10003.

Viva, 155 Allen Blvd., Farmingdale, NY 11737.

Wall Street Journal, 22 Cortlandt St., New York, NY 10007.

Eastern Region

American Business, 1775 Broadway, New York, NY 10019.

Antiques; 551 5th Ave., New York, NY 10017.

Contract Magazine, 1515 Broadway, New York, NY 10036.

Eve's Press, RD 4, Box 533, Franklinville, NJ 08322.

Fortune, 541 N. Fairbanks Ct., Chicago, IL 60611.

Genesis Publications Inc., 770 Lexington Ave., New York, NY 10021.

Grit, 208 W. Third St., Williamsport, PA 17701.

Healthview Newsletter, P.O. Box 6670, Charlottesville, VA 22906.

House and Garden, 350 Madison Ave., New York, NY 10017.

Irish Echo, 1860 Broadway, New York, NY 10023.

Ladies Circle, 21 W. 26th St., New York, NY 10010.

Ladies Home Journal, 641 Lexington Ave., New York, NY 10022.

Modern Love, 355 Lexington Ave., New York, NY 10017.

Money Manager, One State St. Plaza, New York, NY 10004.

Official Detective, 235 Park Ave., South, New York, NY 10003.

Prevention, Emmaus, PA 18098.

Redbook, P.O. Box 5242, Des Moines, IA 50340.

Retirement Life, 1533 New Hampshire Ave., NW, Washington, D.C. 20036.

Saga, 333 Johnson Ave., Brooklyn, NY 11206.

Soap Opera Stars, 355 Lexington Ave., New York, NY 10017.

Swingers Life, P.O. Box 2287, York, PA 17405.

The Gay News, Masco Communications, 233 S. 13th St., Philadelphia, PA 19107.

TV Dawn to Dusk, Ideal Publishing Corp., 2 Park Ave., New York, NY 10016.

TV Guide, P.O. Box 600, Radnor, PA 19088.

TV & Movie Gossip, Sterling's Magazines, Inc., 355 Lexington Ave., New York, NY 10017.

TV & Movie Screen, Sterling's Magazines, Inc., 355 Lexington Ave., New York, NY 10017.

Vegetarian Assoc. of America, P.O. Box 547, South Orange, NJ 07079.
Vogue, Box 5266, Boulder, CO 80321.
Yachting, 50 W. 44th St., New York, NY 10036.

Central Region

American Health, P.O. Box 10034, Des Moines, IA 50347.
Better Homes and Gardens, Meredith Corporation, 1716 Locust Street, Meredith Building, Des Moines, IA 50336.
Capper's Weekly, Sixth & Jefferson, Topeka, KS 66607.
Cosmopolitan, P.O. Box 10070, Des Moines, IA 50374.
Ebony, Johnson Publishing Co., Inc., 820 S. Michigan Ave., Chicago, IL 60506.
Energy Age, 10488 W. 6th Place, Denver, CO 80215.
50 Plus, 850 Third Ave., New York, NY 10022.
Gun World, 34249 Camino Capistrano, P.O. Box HH, Capistrano Beech, CA 92624.
Herald of Health, P.O. Box 552, Mount Ayr, IA 50854.
Hustler, 40 East Gay St., Columbus, OH 43215.
Medical Education and Research Foundation, Inc., 1000 Waterway Blvd., Indianapolis, IN 46202.
Modern People, 11058 W. Addison St., Franklin Park, IL 60131.
Money, Time & Life Building, Rockefeller Center, New York, NY 10019.
National Informer, 11058 W. Addison St., Franklin Park, IL 60131.
NRTA/AARP News Bulletins, 420 Lexington Ave., New York, NY 10017.
Outdoor Life, 380 Madison Ave., New York, NY 10017.
Oui, Playboy Publications, Inc., 919 North Michigan Ave., Chicago, IL 60611.
Paraplegia News, 5201 North 19th Ave., Suite 111, Phoenix, AZ 85015.
People, 11058 W. Addison St., Franklin Park, IL 60131.
Personal Romances, Ideal Publishing Corp., 2 Park Ave., New York, NY 10016.
Playboy, Playboy Building, 919 N. Michigan Ave., Chicago, IL 60611.
Psychology Today, One Park Avenue, New York, NY 10016.
Spare Time, 5810 W. Oklahoma Ave., Milwaukee, WI 53219.
Speciality Salesman and Business Opportunities, 307 N. Michigan Ave., Chicago, IL 60601.
Sports Afield, 250 West 55th St., New York, NY 10019.
Success, 401 N. Wabash, Chicago, IL 60611.
True Confessions, Macfadden Group, P.O. Box 5025, Des Moines, IA 50340.
True Love, Macfadden Women's Media, Inc., P.O. Box 10015, Des Moines, IA 50304.
True Story, The Mcfadden Group, P.O. Box 5013 TS, Des Moines, IA 50340.
US, P.O. Box 10192, Des Moines, IA 50349.

Southern Region

Alfred Hitchcock's Mystery Magazine, Davis Publications, Inc., 380 Lexington Ave., New York, NY 10017.
Argosy, Popular Publications, Inc., 420 Lexington Ave., New York, NY 10017.
Bronze Thrills, Good Publishing Co., 1220 Harding St., P.O. Box 2257, Fort Worth, TX 76101.
Cheri, 215 Lexington Ave., New York, NY 10016.
Christian Science Monitor, 220 E. 42nd St., New York, NY 10017.
Craft, Model & Hobby Industry, 225 W. 34th St., New York, NY 10001.
Family Circle, 488 Madison Ave., New York, NY 10022.
Field and Stream, 1515 Broadway, New York, NY 10036.
Flying, One Park Ave., New York, NY 10016.
Forbes, 50 5th Ave., New York, NY 10017.
Gallery, Montcalm Publishing Corp., 99 Park Avenue, New York, NY 10016.
Health, 149 Fifth Ave., New York, NY 10010.
High Times, Box 565, Farmingdale, NY 11735.
Il Progresso, 260 Audobon Ave., New York, NY 10033.
Intimate Story, Ideal Publishing Corp., 2 Park Ave., New York, NY 10016.
Mademoiselle, 350 Madison Ave., New York, NY 10017.
Movie Life, 575 Madison Ave., New York, NY 10022.
Movie Mirror, 355 Lexington Ave., New York, NY 10047.
National Enquirer, 600 S. East Coast Ave., Lantana, FL 33464.
Parade, 733 Third Ave., New York, NY 10011.
Photoplay, 205 East 42nd St., New York, NY 10017.
Popular Electronics, One Park Ave., New York, NY 10016.
Popular Mechanics, 224 W. 57th St., New York, NY 10019.
Popular Science, 380 Madison Ave., New York, NY 10017.
Screen Stories, 575 Madison Ave., New York, NY 10022.
Sepia Publishing Co., P.O. Box 2257, 1220 Harding St., Fort Worth, TX 76101.
Skin, Denmark Publishing Co., P.O. Box 486, New York, NY 10013.
The Mother Earth News, 105 Stoney Mountain Rd., Henderson, NC 28739.
Values by Mail, Samsondale Professional Bldg., Suite 208, W. Haverstraw, NY 10993.
Woman's Day, 1515 Broadway, New York, NY 10036.
World Weekly News, 600 S. East Coast Ave., Lantana, FL 33462.

Western Region

American Legion, 700 N. Pennsylvania St., P.O. Box 1055, Indianapolis, IN 46206.
At Home, P.O. Box 2739, Boulder, CO 80302.
Chic, 2029 Century Park East, Los Angeles, CA 90067.
Cycle News, Box 498, Long Beach, CA 90801.
Dynamic Years, 215 Long Beach Blvd., Long Beach, CA 90801.
Entrepreneur, 2311 Pontius Ave., Los Angeles, CA 90064.
Esquire, P.O. Box 2961, Boulder, CO 80322.
Essence, P.O. Box 2989, Boulder, CO 80321.
Fetish Times, P.O. Box 7109, Van Nuys, CA 91409.
Gentlemen's Quarterly, P.O. Box 2962, Boulder, CO 80321.
Gordon-Star, Box 6993, Burbank, CA 91505.
Impulse, 806 E. Fourth Place, Suite 101, #95, Los Angeles, CA 90013.
Income Opportunities, 380 Lexington Ave., New York, NY 10017.
Lapidary Journal, 3564 Kettner Blvd., San Diego, CA 92138.
McCalls, 230 Park Ave., New York, NY 10017.
Modern Maturity, 215 Long Beach Blvd., Long Beach, CA 90801.
Modern Screen, Dell Publishing Co., Inc., 1 Dag Hammerskjold Plaza, 245 E. 47th St., New York, NY 10017.
Moneymaking Opportunities, 11071 Ventura Blvd., Studio City, CA 91604.
Mothering, P.O. Box 1775, Montrose, CO 81401.
Movie Stars, Ideal Publishing Corp., 2 Park Ave., New York, NY 10016.
Players Magazine, 8060 Melrose Ave., Los Angeles, CA 90046.
Playgirl, P.O. Box 45189, San Diego, CA 92145.
Rolling Stone, 745 Fifth Ave., New York, NY 10151.
San Francisco Ball, Jaundice Press, Inc., P.O. Box 7109, Van Nuys, CA 91409.
Self, P.O. Box 5267, Boulder, CO 80321.
Shape, 21100 Erwin St., Woodland Hills, CA 91367.
Teen, 6725 Sunset Blvd., P.O. Box 3297, Los Angeles, CA 90028.
The Advocate, 1730 S. Amphlett, Suite 225, San Mateo, CA 94402.
The Sun, 806 East Fourth Place, Los Angeles, CA 90013.
Venture, 35 West 45th St., New York, NY 10036.

TRIBUTE TO JAMES M. HAWLEY III

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CARMAN. Mr. Speaker, I wish to give special commendation to Mr. James M. Hawley III, an exceptional member of the American Embassy in New Delhi, India. Mr. Hawley recently assisted me during a special factfinding mission on behalf of the U.S. House of Representatives Banking Committee to promote international trade.

I was very impressed by the organization of the American Embassy in India. Through Mr. Hawley's efforts my meetings with trade officials in the public and private sectors in New Delhi were successful.

Sharing with you a little of Mr. James M. Hawley's history is my pleasure. Mr. Hawley was born in 1937 in Wheeling, W. Va. He holds a degree from Pennsylvania State University and has served in the U.S. Army. Mr. Hawley has been an economic officer in Afghanistan and in Sri Lanka and presently holds the post of First Secretary in the Economic Section of the American Embassy in New Delhi.

Mr. Hawley's exceptional efforts bring credit to himself, the American Embassy in New Delhi, and to the United States. We are truly fortunate to have Mr. James M. Hawley as a member of the U.S. Foreign Service.●

MR. PEPPER LAUDS NCSC

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. PEPPER. Mr. Speaker, I wish to bring to the attention of my colleagues an article from a recent issue of Fortune and—more importantly—a letter to the editor of that magazine from the subject of the article, the National Council of Senior Citizens. I also wish to take this opportunity to commend the council for its vigorous and continuing support of efforts to assist America's elderly, including social security, the senior jobs program, and programs to assure adequate and healthful housing for the aged. All of these programs have considerable bipartisan support in the Congress, and the council merits the gratitude of all of us who are concerned with assuring older Americans a life of dignity and respect.

[From Fortune, Dec. 13, 1982]

KEEPING UP

(By Daniel Seligman)

THE SENIOR CITIZENS SCORE AGAIN, FRASER'S FOLLIES * * * SENIORITY, IT'S WONDERFUL

For quite a few years now, your correspondent has been just barely making it from one payday to the next, and yet he has hardly ever whimpered aloud and never once thought to ask for federal funding. He thereby offers a striking contrast to the National Council of Senior Citizens (NCSC), an organization of professional complainers that gets funded regularly by the U.S. Department of Labor and then uses its pumped-up influence to lobby for budget-busting social programs. Friends, life if not fair.

We must confess to not having known about this deal the NCSC has going with the government until apprised of it by certain reactionary friends over at the Conservative Caucus Inc. On stationery bearing a "Defund the Left" imprint, the reactionaries called our attention to an incredible-seeming fact—that even today, under the Reagan Administration, the federal government continues to provide financial support for some lib-lab advocacy organizations, which then turn around and support causes that are anathema to Ron. To be sure, the various laws authorizing this support have a lot of friends in Congress, so the Reaganites' views about ladling out the loot are not necessarily controlling. In September, the Administration tried to cut the program under which the NCSC is funded, but the cutback efforts were thwarted by a Congress acting scared, as usual, of the old folks. In this case, the relevant legislation is Title V of the Older Americans Act, under which Great Society masterpiece the council is getting about $35 million to run a program providing jobs for the elderly. In principle, none of this money can be used for lobbying or other forms of advocacy, but experience tells us that few things are as fungible as green money.

On a rough estimate, we would say that the National Council of Senior Citizens is responsible for about 42 percent of what's wrong with this country. Pawing over the clips, we could see instantly that the council has been out front on a sizable number of the entitlement programs that every respectable economist now yearns to cut. Here is a 1981 clip reporting on a mass meeting of oldsters in New York City that was addressed by the council's executive director, who was complaining about Ron's wish to cut some $40 billion from 83 major programs. Jacob Clayman, president of the council, had a highly counterfactual letter in the New York Times recently arguing that enormous prospective deficits in the Social Security system are a myth and that there is accordingly no reason to contemplate legislation adjusting anybody's benefit levels. The council has supported subsidized housing for the elderly. Also subsidized heating. It has opposed any efforts to tinker with those ridiculously expensive federal regulations requiring all sorts of special reconstruction of public facilities to make them more accessible to the handicapped. We cannot prove this but nevertheless take it for granted that the legislators who recently gave us tax withholding on interest and dividend payments were being leaned on by the council when they put in the part about an exemption for the elderly. Why shouldn't the elderly suffer like everybody else on the withholding front? You could argue, in fact, that they should have extra withholding because (according to a 1979 report of the General Accounting Office) they are disproportionately represented among Americans who are delinquent in filing tax returns. Why, it's enough to make one whimper.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, D.C., December 6, 1982.

FORTUNE,
Time & Life Building, Rockefeller Center, New York, N.Y.

DEAR EDITOR: Re "The Senior Citizens Score Again. . . ." (December 13) the National Council of Senior Citizens (NCSC) pleads guilty to the charges that we help "old folks" by supporting "subsidized housing" and "subsidized heating," by opposing efforts to tinker with reconstruction of public facilities "to make them more accessible to the handicapped," and by running a program "providing jobs for the elderly." Yes, we do all these things deliberately and will continue to do so at every opportunity.

Writer Daniel Seligman charges that these actions make the National Council of Senior Citizens "responsible for about 42 percent of what's wrong with this country." We strongly disagree with his premise that helping to improve the quality of life for America's elderly is "wrong." If that's a crime, we're guilty!

We can only regret that Mr. Seligman and his Research Associate Andrew Kupfer chose to consult "certain reactionary friends over at the Conservative Caucus Inc." in lieu of doing some real research, particularly with regard to the statements on Title V, the Senior Community Service Employment Program. If they had, they would have learned that NCSC is only one of several national sponsors of this program, which provides 54,200 low-income seniors with part-time jobs.

The article also fails to note that the senior jobs program is one of the most successful of all government programs and enjoys wide-spread bi-partisan support on Capitol Hill. In fact, it was support for the jobs program that brought about the veto override last fall by both the Democratic-controlled House and the Republican-controlled Senate.

We do, however, agree with the assertion that life isn't fair. It certainly isn't fair to the poor, the elderly, or the handicapped. But, the National Council of Senior Citizens is doing everything it can to change the situation.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.●

THE 300TH ANNIVERSARY OF THE ASHBROOK FAMILY

HON. JEAN S. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mrs. ASHBROOK. Mr. Speaker, today December 9, 1982, marks the 300th anniversary of the arrival of the Ashbrook family on the continent of North America.

On December 9, 1682, the family's first American, John Ashbrook, landed in Pennsylvania, having sailed from Belfast, Ireland, on the good ship *Antelope.*

Today the descendents of John Ashbrook are observing the tricentennial of his arrival with solemn thanks for the bounty of the land to which he came and a firm resolve to cherish and defend the freedom they have found here.●

MAYOR JACK EVANS—DALLAS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. COLLINS of Texas. Mr. Speaker, my home city of Dallas has been fortunate over the years to be blessed with exceptionally fine civic leaders. We have relatively low unemployment, a high standard of living, and excellent cultural, sports, education, and business resources.

Mayor Jack Evans, Dallas' leader today, continues a fine tradition of great leadership that continues to make Dallas grow, prosper, and build for the future.

Jack W. Evans began his business career at the age of 14 as a stock clerk and later as a butcher in the meat department in a small grocery store operated by W. R. "Uncle Bob" Evans. He entered business in 1947 after serving 3½ years in the U.S. Air Force as an instrument-flying instructor. With a foundation in food retailing, it was natural for Jack to enter the grocery business. He opened 10 Evans Food Marts, and later merged with Wyatt Food Stores. The Kroger Co. acquired Wyatt in 1958. Jack resigned from Kroger in 1966 to join Cullum Cos., Inc. Evans was elected president and chief operating officer of Cullum Cos.,

Inc., in 1977, the position he currently holds.

Jack Evans is an achiever as mayor of Dallas. Under Evans' stewardship, Dallas voters approved a $247 million bond-financed capitol improvement program last August for Dallas.

Mayor Evans initiated the Dallas 2000 project, a project in which citizens can offer solutions to problems facing the city in the areas of housing, transportation, neighborhood quality, and development.

Jack seeks to serve the needs of all the people from Dallas, including those with handicaps. Under his direction, the mayor's committee on employment of the handicapped was formed in May 1982 to fill the need for a citywide volunteer organization that will increase public awareness of the needs of persons with disabilities.

Toward the goal of increasing the city's stature as a place of learning and the performing arts, Mayor Evans led the fight for approval of $25 million in bond funds in 1978, the procurement of a $5 million Federal grant, and the donation of $12 million in gifts so that the central library could be dedicated in April of this year.

After his successful work on last August's bond package, Mayor Evans announced the donation by Borden, Inc., of 25,000 square feet of land to be used on the site for Dallas Symphony Orchestra's long-awaited concert hall.

In conjunction with the State of Texas Sesquicentennial Commission, the mayor appointed Mr. William Seay to chair the Greater Dallas Sesquicentennial Committee in honor of this 1986 celebration. Plans are underway for the celebration to be at the Dallas Fair Park.

Under Mayor Evans' direction, Billy Prince became the new Dallas police chief and was selected after an extensive nationwide search.

Reacting to the unusually high increase in residential burglary offenses, Mayor Evans took steps in November 1981, in cooperation with the police department, to appoint a burglary task force. Offenses in those selected areas declined 31.7 percent in 14 days after the deployment of the task force.

Jack Evans gives unselfishly of his time and energies to civic and community organizations. He is past president of the Richardson School Board, member and past president of the Salesmanship Club of Dallas, member of the Dallas Citizen's Council, president of United Way of Metropolitan Dallas, and is on the Board of Directors of the Greater Dallas Community Council and Goals for Dallas. He is chairman of the Dallas Better Business Bureau and vice chairman and treasurer of the Dallas Children's Medical Center. Jack is a member of the St. Paul Hospital Advisory Board, the Foundation Board for the SMU School of Business Administration, and the Foundation Board for the Dallas County Community College District.

Jack Evans is a great mayor for Dallas. We can look forward to years of prosperity, development, and cultural advancement under his leadership. I nominate Jack Evans as the best mayor in America.●

AIRCRAFT SALES TO JORDAN

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Ms. MIKULSKI. Mr. Speaker, we are again hearing reports that the Reagan administration intends to sell sophisticated aircraft to Jordan. I am opposed to that sale. Jordan has refused time and again to join the Camp David peace process or to open a dialog with Israel. I will not support arms sales to any country that refuses to talk peace in the Middle East and refuses to recognize Israel's right to exist.

We have a responsibility to insure the existence of our democratic ally in the Middle East. That democracy cannot exist by simply establishing borders—there is no such thing as a defensible border—especially when it touches upon a hostile nation.

We have a responsibility to do all that we can to insure that the process of the Camp David accords goes forward. Jordan has rejected those accords. The sale of fighter planes to such a country makes hollow our commitment to the peace process.

Our role in the Middle East is one of negotiator. But that does not mean that we must abandon our long-standing and true friends, or that we must passively allow barriers to that peace to remain intact. We must continue to supply aid to Israel as evidence of our commitment to our democratic ally, the State of Israel. Years of military expenditures have drained the Israeli economy, expenditures made to protect borders that Jordan freely admits it will not honor.

This is the time to decide as a nation if we are peacemakers or arms merchants. It is time for us to decide if we are a nation of principle, and if we have the strength to live by our principles.

I urge my colleagues to reject immediately and emphatically any attempt to sell weapons to Jordan.●

GOING ON RECORD TO STOP COVERT ACTION AGAINST NICARAGUA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. BARNES. Mr. Speaker, there are many times when I have been proud to be a Member of this body and yesterday was one of them. When the House voted 411 to 0 to prohibit funding of efforts to overthrow the Government of Nicaragua or provoke a military exchange between Nicaragua and Honduras, all Americans had reason to be proud. The House of Representatives made clear that the United States should not be in the business of overthrowing governments or starting wars. I know that all Members recognize that this type of legislative action has been rare. It has been 6 years since the House has acted to specifically prohibit a covert action. In this instance, I am convinced that we needed to act. As chairman of the Subcommittee on Inter-American Affairs, I have watched the conflict along the Nicaraguan-Honduran border escalate. I have become convinced that the United States is acting in a fashion that damages our long-term national interest and expands the conflict, rather than helps to resolve it. In adopting this amendment, the House has spoken in a unified voice that cannot be misinterpreted or taken lightly. Whatever the United States has been doing to destabilize the Government of Nicaragua, it must stop.

I hope that my colleagues will also join me in expressing our appreciation to the gentleman from Massachusetts, Mr. BOLAND, and the gentleman from Iowa, Mr. HARKIN, for their leadership on this issue. We have taken the first step toward correcting the course of American foreign policy in Central America, and hopefully the Senate will join us. If there is any doubt about the danger and urgency of swift action, one has only to read the article on the situation which was published today by the New York Times. It quotes the top commander of the exile forces now attacking Nicaragua as saying that the aims and operations of his troops were not subject to control by the United States. So that my colleagues will not miss this interesting article, I request that it be included in the RECORD.

The article follows:

[From the New York Times, Dec. 9, 1982]

NICARAGUAN EXILE LIMITS ROLE OF UNITED STATES—ANTI-SANDINIST LEADER ASSERTS TROOPS ARE NOT SUBJECT TO WASHINGTON'S CONTROL

(By Philip Taubman)

MIAMI, December 8.—The top commander of exile forces seeking to overthrow the left-

ist Government in Nicaragua said today that the aims and operations of his troops were not subject to control by the United States.

Enrique Bermúdez, a former colonel in the Nicaraguan National Guard who now commands 3,000 to 6,000 irregular troops in Honduras and Nicaragua, said in an interview: "We would never accept the role of American mercenary. It is not acceptable to us to carry out missions to interdict Cuban and Russian supply lines to El Salvador. We are Nicaraguans and our objective is to overthrow the Communists and install a democratic government in our country."

American intelligence officials have said Mr. Bermúdez' forces, operating under the banner of the Nicaraguan Democratic Front, a coalition of anti-Sandinist exile groups, are the main American-supported paramilitary organization in the region.

A year ago, according to national security officials, President Reagan approved plans for covert operations by the Central Intelligence Agency in Central America that called for the financing of paramilitary groups that would interdict the flow of arms to guerrilla forces in El Salvador. Administration officials said at the time that the Soviet Union and Cuba, with help from Nicaragua, were shipping weapons and ammunition to El Salvador.

C.I.A ACTIVITIES STEPPED UP

The covert activities have since become the most ambitious paramilitary and political action operation mounted by the C.I.A. in nearly a decade, according to intelligence officials.

Mr. Bermúdez said he could not discuss the sources of assistance to his forces. When asked whether or not the C.I.A. had provided help, he declined to comment.

"We will accept any help to establish democracy in Nicaragua," he said.

"If we can help our friends interfere with supply lines to El Salvador while we are fighting to overthrow the Sandinists, we will do it," he added. "But we will not accept assistance simply to do somebody else's business and will not permit outsiders to set our goals."

In recent days, leaders of the anti-Sandinist coalition have lifted some of the secrecy surrounding their activities in an effort to broaden their base of support. At a press conference on Tuesday, they said they did not support the policies of Gen. Anastasio Somoza Debayle, the Nicaraguan leader who was ousted in 1979.

SOME REFUSE TO JOIN

Some exile leaders, most prominently Edén Pastora Gómez, a former Sandinist leader who left Nicaragua last year, have refused to join the front because of its identification with the national guard.

Mr. Bermúdez contended today that he was not an ardent Somoza supporter. "I accept responsibility for serving in the national guard," he said. "The only regret I have is that there wasn't enough leadership among the senior officers to prevent the abuses and repression that occurred."

From 1976 to 1979, when the revolution was building in Nicaragua, Mr. Bermúdez served as Nicaragua's defense attaché in Washington. In 1975 he was a student at the Inter-America Defense College in Washington.

After the Sandinists seized power in 1979, Mr. Bermúdez moved to Guatemala where he began organizing paramilitary forces. "There were many young national guard officers who were trapped in the struggle before Somoza fell," he said. "They didn't like Somoza but they hated the Sandinists. I thought they could play a role in the future of Nicaragua if they fought to bring democracy to the country."

Mr. Bermúdez said that if the anti-Sandinist forces were successful, he would not seek a leadership role in a new government. "The military will play a secondary role," he said. Other leaders of the coalition, while saying they take Mr. Bermúdez at his word, acknowledged there was a risk he might one day try to take power.

GUERRILLA TACTICS USED

Mr. Bermúdez, who is 49 years old, joined the national guard in 1952 after graduating from the Nicaraguan Military Academy. He became a colonel in 1977, he said.

He said that the paramilitary troops, which are now based primarily in Honduras and Nicaragua, were using "guerrilla tactics" in their campaign against the Sandinist. "When I studied counterinsurgency strategy in the United States, I also learned about insurgency," he said.

Mr. Bermúdez said that the paramilitary forces were being used in attacks against economic and industrial targets to try to galvanize opposition to the Government.

He described economic and social conditions inside Nicaragua as "ripe" for a popular uprising against the Government. "We cannot win in set battles with Government troops," he said, "so we are counting on a popular uprising."

Mr. Bermúdez, like other coalition leaders, said he was reluctant to talk while in the United States about military operations because American law, specifically the Neutrality Act, prohibits privately organized efforts to overthrow foreign governments.

Coalition leaders, who have used southern Florida as a base of operations, said their lawyers advised them not to discuss military matters.●

DELTA EMPLOYEES: EXAMPLE FOR ALL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. GINGRICH. Mr. Speaker, once again, Delta Air Lines employees have set an example for all of us. They wanted to thank their company for years of consistent good treatment and consideration. They chose a creative way to do it: Buying Delta a Boeing 767.

As Lewis Grizzard describes it in his Atlanta Constitution column, Delta employees have set up project 767. The program allows them to donate a certain percentage of their paycheck toward the purchase of a 767. The plane costs $30 million. That averages out to an $810 donation per employee.

Through smart management, excellent service, and hard work, Delta and its employees are surviving and prospering in these difficult times. Those characteristics alone are a formula for success. But project 767 teaches another important lesson to employers. As Lewis Grizzard puts it, "Treat your employees right and they will ask not what their company can do for them, but what they can do for their company."

The example Delta employees have set is not going unnoticed. Workers at the Ford plant in Hapeville, Ga., have now set up a Delta Committee to see how they can say thanks and help their company at the same time.

In these tough economic times, employees/employer relations are often strained. It is reassuring to see the mutual respect and gratitude Delta and its employees have for each other. I applaud and admire their example, and that is why I am sharing Mr. Grizzard's column with my colleagues:

[From the Atlanta Constitution, Oct. 8, 1982]

ALLOW ME TO TELL YOU A STORY THAT'LL WARM REAGAN'S COCKLES

(By Lewis Grizzard)

The story has been around for a while. It even made the New York Times and the Wall Street Journal. It had reason to.

First, a Delta airlines pilot retires and pays nearly $8,000 to take out an ad in the newspaper thanking the company for allowing him the opportunity to work for it.

A lot of people probably would like to take out an ad and give a message to their companies, but how many of the ads would read, "Take This Job and Shove It?"

Then, a group of Delta flight attendants announce it is their intention to raise $30 million from their fellow employees to buy Delta one of those new fuel-saving 767s. The tab comes to $810 per employee.

In these rotten times for the airline industry, Delta recently surprised its employees with a raise, and it has not furloughed any employees as other airlines have been forced to do.

"We wanted to say thanks," said one of the Delta fund-raisers, "so we decided to buy an airplane."

NOT EVERYBODY'S THRILLED

I don't want this to sound like a commercial for Delta. If I had a choice, I wouldn't fly anybody's airline. I'd take the train.

But I've spent the last couple of weeks flying around the country for one reason or the other and because I live in Atlanta and because Delta airlines employees tend to smile a lot, most of the flights were on Delta.

I talked to a number of their employees about how they feel about the Atlanta-based airline, how they feel about forking over 810 big ones to buy the company a plane.

Not everbody thinks it's such a terrific idea, of course.

"I'd rather use the money to pay off my VISA bill," a flight attendant told me one morning somewhere between Amarillo and Dallas.

"I think it's a big joke," said another attendant.

But then there was the man checking baggage in New Orleans.

"Every time I've asked Delta for something," he said, "they've come through. I don't mind giving them a little something back."

DOING THINGS THE OLD WAY

I sat next to a 25-year Delta mechanic on his way home to West Palm Beach. He was ready to do his part for the new plane, too.

"I still remember Mr. C. E. Woolman, who started this company," he said. "He'd walk out on the flight line in his $200 suit and climb up on the dirty table and ask us how things were going. He called everbody 'son,' and he'd listen to what we had to say.

"That hasn't changed. If something is bothering me now, I just call up Dave Garret, the president, and ask to see him. He says, 'Come on by any time.' That makes you feel good."

Delta flies the same type of airplanes as the other major airlines. It flies over the same routes as many other major airlines. Yet it is healthy and growing when others are sick and, in many cases, dead or dying.

That's because it has discovered a long-forgotten secret: Treat your employees right and they will ask not what their company can do for them, but what they can do for their company.

The great minds of our nation search for ways to cure our economic ills, to lift our failing production, to "get this country working again," in the words of our president.

They need to search no further than Delta.●

TRIBUTE TO JOAN M. PLAISTED

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CARMAN. Mr. Speaker, I wish to give special commendation to Ms. Joan M. Plaisted, an exceptional member of the American Consulate in Hong Kong. Ms. Plaisted recently assisted me during a special factfinding mission on behalf of the U.S. House of Representatives Banking Committee to promote international trade.

I was very impressed by the organization of the American Consulate in Hong Kong. Through Ms. Plaisted's efforts my meetings with trade officials in the public and private sectors in Hong Kong were successful.

Sharing with you a little of Ms. Plaisted's history is my pleasure. Ms. Plaisted was born on August 29, 1945, in Minnesota. She holds a degree from the American University and has studied at the University of Grenoble in France. Ms. Plaisted has served as an international economist for the Organization for Economic Cooperation and Development and at the U.S. Department of Commerce and presently holds the post of Deputy Chief of the Economic Section of the American Consulate in Hong Kong.

Ms. Plaisted's exceptional efforts bring credit to herself, the American Consulate in Hong Kong, and to the United States. We are truly fortunate to have Ms. Joan M. Plaisted as a member of the U.S. Foreign Service.●

JAPANESE TRADE BARRIERS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. DINGELL. Mr. Speaker, the House will shortly consider, H.R. 5133, the Fair Practices in Automotive Products Act. The purpose of that legislation is not protectionism, nor is it intended as a tool to open up other countries' barriers to U.S. products. Rather, its purpose is to encourage foreign automakers to manufacture their vehicles in the United States with American labor and to utilize more American-built parts. It is also aimed at discouraging outsourcing by U.S. domestic automakers. At the same time, I believe that this needed legislation will help to convince other nations that we mean business and that they must open their economy to U.S. goods, services, and investments.

The latter has already begun ever so slowly. I noted, for example, that a December 8, 1982, Washington Post news story (page D-10) indicates that Japan's new Prime Minister, Mr. Yasuhiro Nakasone, has reportedly ordered his Cabinet to work out a new set of steps to reduce Japan's trade barriers and open its markets to American goods before he comes here next month for talks with the President. That is a sign, an important one, but it is only a preliminary one. Moreover, it may be aimed more at trying to discourage passage in Congress of H.R. 5133 than any real effort to remove some formidable trade barrier.

On November 10, 1982, the Deputy U.S. Trade Representative, Mr. David R. MacDonald, submitted a report to the chairman of the Subcommittee on Trade of the Ways and Means Committee entitled, "Japanese Barriers to U.S. Trade and Recent Japanese Trade Initiatives."

The report states:

Although the Japanese market in 1982 is substantially more open to foreign goods, services, and investment than it was only a few years ago, barriers to imported goods, services, and foreign investment still remain. Needless to say, Japan is not unique in maintaining barriers to foreign goods, services, and investment in its economy. All countries, including the United States, maintain certain barriers to trade and investment. Nor are all the barriers maintained by Japan inconsistent with her international obligations. However, a widespread perception persists among Japan's trading partners, including the United States, the European Community, and others, and not incorrectly, that the Japanese market remains relatively less open to foreign suppliers when compared to access for Japanese goods and services in their markets. This perception has resulted in increasing friction between Japan and her trading partners in recent years as the volume of Japanese exports and their percentage of world trade has grown considerably.

The following are some illustrations from this 75-page report and other sources of instances of barriers, both direct and indirect, to U.S. exports to Japan, as well as Japan unfair practices regarding imports into the United States.

TARIFFS

The Japanese still maintain onerous tariffs on U.S. goods imported into Japan. These tariffs make U.S. goods overly expensive and restrict the market even where the U.S. product is much better than the Japanese equivalent.

Even with the administration's much publicized May 28 package of tariff reductions, Ambassador David MacDonald reported to a congressional committee on September 14, 1982, that significant tariff reductions were needed on: Wood and wood products; paper and paper products; unwrought magnesium; refined copper; beef; citrus; egg products; chocolate confectionery; feather and down bedding; harvesting equipment; tobacco product; leather and fur skins; computers and computer parts; cash registers; photographic enlargers; and photograph files.

While there might be some justification for some tariffs on some of these goods, it should not be as high. Also, it is hard to believe that the Japanese cannot fairly compete in photographic goods.

QUOTAS THAT VIOLATE THE GATT

The November 10, 1982, report by the U.S. Trade Representative indicated that Japan currently maintains quotas on 27 items which the United States believes violate the tariff provisions of the GATT. These include:

Leather.—

Beef.—In addition to a 25-percent Japanese tariff on imported beef, the use of a quota has the effect of raising the price of beef to over $12 per pound.

Citrus.—Japan uses general and seasonal quotas to exclude U.S. imports of citrus. Most quota allocations are to about 95 Japanese trading firms. In addition, seasonally adjusted tariffs range from 20 to 40 percent, and the tariff on juices range from 22.5 to 30 percent.

Fruits and Vegetables.—Quotas limit imports of U.S. grape and apple juice; tomato juice, ketchup, and sauce; as well as other products available for U.S. export. These quotas are sometimes announced on an emergency basis, so U.S. exporters cannot predict or plan for them.

The May 28 reductions in quotas on four items (herring, prepared and preserved pork, high-test molasses and canned pineapples) are not of major interest to the United States.

RESTRICTIVE STANDARDS, TESTING, LABELING, AND CERTIFICATION REQUIREMENTS

Japan's restrictive standards and approval procedures exclude foreign products from the market because of the prohibitive cost of establishing at the border that the product meets the requirements or delaying their entry, often long enough to allow Japanese manufacturers to introduce a competitive product.

Foreign companies are excluded from the Japanese voluntary standards-writing process operated through the Japanese Industrial Standards Committee so they often learn about prospective new or revised standards well after their Japanese competitors.

Japanese standards are often written in terms of design criteria rather than performance specifications. As a result an American-made product may not be acceptable because of minor differences in design, even though these variations do not affect the product's compliance with the performance objective of the standards.

Japan refuses to accept test data developed outside Japan for many products, including pharmaceuticals and medical equipment. Testing is very expensive, as complete samples must be provide. Backlogs in Japan for starting testing on electrical and medical products, for example, are up to 5 to 6 months. The testing process itself can take another 3 to 4 months, and delays of 1 to 2 years have been cited in cases of medical equipment products. These difficulties would be resolved if inspectors from Japan visited and inspected the manufacturing site, or accepted U.S. product approval, but they will not do so.

According to the U.S. Trade Representative other standards barriers apply to: Cherries, sake, dried fruit, concentrated fruit juice, processed foods, frozen bull semen, pharmaceuticals, cosmetics, autos, sporting goods, plywood, and other chemical substances.

Examples of specific product standard issues from the November 10 report:

PLYWOOD

The Japanese agricultural standard (JAS) on structural plywood, written for domestic makers that use a hardwood to make plywood, specifies how the plywood should be put together—for example, how the plies should be assembled and bonded—rather than how the plywood should perform in use. The lowest grade plywood most commonly used for construction in the United States does not meet the standard, partly because it is made from softwood and partly because of U.S. production methods. For example, if the knothole in the wooden panels exceeds the limit in the Japanese standard, the panel is rejected despite the fact that U.S. technical data demonstrate that the U.S. product equals or exceeds the performance characteristics of the Japanese-produced product.

The U.S. plywood products industry has pushed for 8 years for a new Japanese standard on structural plywood; 3 years ago Japan agreed with the United States to develop a mutually acceptable performance standard for structural plywood by 1980; 2 years after the deadline has passed, we continue to hear about complex negotiations on knothole size and the white speck problem, but U.S. exports still have not increased.

AUTOMOBILES

The Japanese Ministry of Transportation (MOT) has repeatedly turned down a U.S. request to recognize U.S. manufacturers' self-certification of automobiles to Japanese standards. The United States permits all auto manufacturers to self-certify compliance with U.S. regulations. The MOT still has not adopted administrative procedures to implement a May 1980 commitment to accept U.S. notaries' public affirmations of the dates of manufacture of U.S. automobiles. Dates of manufacture are necessary in Japan to determine which year's regulations tests must be performed on U.S. imported automobiles.

There has been more than a 2-year delay in resolving this standard issue, which is one of many in the automobile area.

TOBACCO PRODUCTS

The Japan Tobacco and Salt Public Corp. (JTS) is a Government monopoly. JTS is obligated to buy all domestically produced tobacco leaf—some 140,000 tons annually—at prices three times the world price. It also purchases some 70,000 tons of imported leaf. In addition, JTS strictly controls sales of imported cigarettes, cigars, and pipe tobacco, permitting them to be distributed at only 20,000 of 250,000 tobacco products shops and selling them at much higher prices than domestic cigarettes. It enforces a ceiling on advertising expenditures that makes it difficult for U.S. brands, new to the Japan market, to gain market share. In addition, Japan imposes 35-percent tariff on imported cigarettes. The effect is that imported cigarettes sell in Japan for 55 percent more than comparable Japanese brands, even though their pretariff price when entering Japan is about the same as the price of Japanese brands.

As a consequence of these tariff and nontariff barriers, the U.S. share of the Japanese cigarette market is still only slightly over 1 percent.

U.S. industry estimates of our potential share of the Japanese market in the absence of any barriers range upward from 25 to 50 percent. Since each percent of market share is roughly equal to $50 million, the potential value of increased U.S. exports in this sector is between $1.2 and $2.5 billion.●

JIM STEFAN—AN EDUCATOR'S EDUCATOR

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. PANETTA. Mr. Speaker, it is a special pleasure for me to pay tribute to the work of a fine educator and public servant who is retiring after 30 years of service in the Monterey County Office of Education. Jim Stefan, superintendent of schools in Monterey County since 1976, will be leaving at the end of 1982, and will no doubt be sorely missed by the students, teachers, and parents of Monterey County.

Jim Stefan is a native of San Francisco. In addition to his impressive academic qualifications, he served in the merchant marine for 9 years and has taught on the elementary, high school, and college levels. He held a variety of administrative positions in the Monterey County Office of Education, including director of special education, before accepting the position of superintendent. Mr. Stefan's credentials range from school administration to psychology and audiometry, and he has served not only in a long list of education and special education groups, but also in such community organizations as the Easter Seal Society, the Salinas Optimists Club, the Monterey County Alcoholism Advisory Board, and the Salinas Chamber of Commerce.

One example may serve to illustrate the imagination and perseverance which Jim Stefan has brought to his job. The Monterey County International Studies Program began operation in September of this year. This program, under which students from five area high schools participate in advanced language and culture courses in three languages at four different sites, epitomizes the kind of innovative programing which is so desperately needed not only in the field of international studies, but in other areas of education as well. Jim Stefan's determination in the face of overwhelming financial and other obstacles serves as an inspiration to those of us in government who are committed to innovation and excellence in education and in all areas of public policy.

Mr. Speaker, it has been a privilege for me to work with Jim, particularly in this time of special challenge to local educators. I commend his competence and dedication, and wish him well in all his future endeavors.●

HAPPY 70TH

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. MURTHA. Mr. Speaker, I submit an article which I cannot embelish with any added comments:

HAPPY 70TH, MR. SPEAKER, YOU'VE ALWAYS BEEN TRUE

(By David Nyhan)

Not the least reason to marvel at Tip O'Neill is the simple fact that he hasn't made much money, when he's had vast opportunity to do so.

In 46 scandal-free years of winning elections, 30 in Congress, 6 as Speaker of the House, he's proved almost totally inept at padding his own income and salting something away on the side.

Politicians with far less potential for pelf than he, have become millionaires on the sly, but O'Neill's net worth is embarrassingly meager. He's got about what a public school teacher would have, if his kids were grown and his wife worked. Not much, but something.

His wealth is in coin of a different realm. He is much loved by those who know him. When he threw a party for his campaign workers, what was astonishing about the crowd in the old Cambridge Hotel was that so many were of his generation. The man, whose highest accolade is "Old Pal," kept the friends he began with.

When Tip got up in front of the band, singled out his Millie, and knocked out a better than passable rendition of "Apple Blossom Time," you couldn't picture any New Wave Democrats doing likewise.

O'Neill is a living political monument for a lot of reasons, but some of them are: He's kept the same wife, the same friends, the same lifestyle, the same values and the same philosophy he began with in the Thirties.

His mother died of TB before he was a year old, and he was raised by a father who was a city councilor and superintendent of sewers in Cambridge. "He taught me loyalty," O'Neill said years ago, "to live a good, ethical, honest life, that I'm truly my brother's keeper; and to always remember from where I came."

In a lifetime of political horse trading, O'Neill could be accused of many things, but none can say he forgot his roots. The Irish yield to no one when it comes to badmouthing a social climber. Those who moved out of the three-deckers risked being labeled "two-toilet Irish," "lace curtain Irish," and most spiteful of all, "cut-glass Irish."

O'Neill never went high-hat, either in lifestyle or in his politics. The hardest thing he's said of Ronald Reagan was that the President had forgotten where he'd come from, the Depression-era poverty of working-class Illinois, where most people needed a government handout to get by.

When Reagan blew into Washington, scattering demoralized Democrats like fallen leaves, the middle class was beguiled by the sonorous siren song of tax cuts. O'Neill warned it would be open season on the poor.

"People seem to hate the poor, that's the kind of thing that got us into deep trouble in the 1930s.

The O'Neill losses of 1981 have become the O'Neill victories of 1982, and the incoming Congress will line up much more behind the Speaker than the President, a fact that bodes well for the 12 million unemployed.

The right wing still hates Tip O'Neill and all he stands for. They see him as the symbol of the bloated government that forces some redistribution of wealth in this country, a process Reagan has managed to reverse.

There is not a man alive today who has done more good for more people, in trying to impose a semblance of fairness and sharing the wealth on Congress, than this man who turns 70 today.

A pillar of his party, a model to his profession, he's a testament to the best the Irish brought to this country's politics.

James Michael Curley taught him to give the crowd some words to remember. John F. Kennedy taught him that when it comes to raising dough, running for President was no different than running for alderman. And it is an old Irish legend that teaches us the central fact of democratic congressional rule today. "Where the O'Neill sits, that is the head of the table."

David Nyhan is a member of The Globe staff.●

CONGRESSMAN ROBERT MOLLOHAN

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. UDALL. Mr. Speaker, I rise today to pay tribute to a fellow Member and friend, BOB MOLLOHAN, with whom I have had the privilege of serving in the Congress during the last two decades.

The job of a Congressman, a Member of the House of Representatives, is multifaceted, and an individual who devotes himself to this body, as BOB MOLLOHAN has done, carves his own special niche.

Some are called to be experts, others leaders, and still others tireless workers. Although BOB MOLLOHAN served in each of these capacities, it was on a few visits to Parkersburg, W. Va., that I came to know and appreciate his special niche—an unflagging interest, sense of duty and service, on a very personal level, to the people he represents. To farmers, coal miners, steel workers, business people, and others, he has demonstrated his personal concern and considerable accomplishment in solving their problems. And his efforts have earned him their respect and affection.

BOB MOLLOHAN's achievements in the Congress are notable. He devoted himself to building a sound and solid national defense, ably serving on the Armed Services Committee throughout his 18 years in the House.

BOB MOLLOHAN was the author of the Emergency Medical Services Systems Act, putting into place a lifesaving plan for improved emergency health care for our Nation's communities.

As a member of the Congressional Steel Caucus and the congressional coal group, BOB MOLLOHAN worked actively to promote American industry, especially the welfare of workers.

He executed skillfully—and often without adequate thanks—his job as chairman of the House Operations Subcommittee on Office Systems, making all our jobs and our lives a little easier and more effective.

When he leaves this body, BOB MOLLOHAN will return to his friends and his family in "wild, wonderful West Virginia." Down the road, we may find him overseeing one of his farms, streamlining his own business offices for a change, and most likely traveling as a private citizen or as a former Member of the House of Representatives. I know that whatever his pursuits, he will continue to serve the democratic process with the same dedication and skill that he has exhibited in his years of service in this body.

BOB can be proud, and we are fortunate, indeed, that his son, Alan Mollohan, won election this year in West Virginia's First Congressional District. I had the pleasure of getting to know the younger Mollohan, and I know that he will carry on his father's record of service and make his own distinguished mark as a Congressman.

BOB MOLLOHAN will be missed—by his constituents and by his colleagues here—whom he has served so well. Most of all, he will be missed as a friend. I hope we will not forget those with whom he has served. We certainly shall not forget him or his accomplished service to the House of Representatives.●

U.S. POLICY TOWARD CENTRAL AMERICA: A DEMOCRATIC ALTERNATIVE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. STUDDS. Mr. Speaker, on behalf of a number of my colleagues who have been actively involved in congressional oversight of our Nation's foreign affairs, I would like to announce today a proposal for a Democratic alternative to U.S. Central American policy. It is our feeling that the Reagan administration's development of U.S. relations with the Central American nations has been seriously flawed, and that the consequences of this policy are dangerous not only to U.S. interests, but to the causes of peace and democracy for which our Nation stands. For these reasons we have formulated an alternative proposal, which is a comprehensive approach to U.S. relations with the region, and which we believe will prove far more effective. In addition to

myself, Senator CRANSTON, Congressmen BARNES, SOLARZ, MCHUGH, OBEY, DIXON, HARKIN, WOLPE, BONKER, GEJDENSON, EDGAR, BONIOR, OBERSTAR, and LELAND, and Congresswoman OAKAR, have endorsed this statement. The statement follows:

CENTRAL AMERICAN POLICY: A DEMOCRATIC ALTERNATIVE

We believe that the course of U.S. foreign policy in Central America should be changed. The Reagan Administration's extreme approach is fostering not peace and democracy, but increased polarization and radicalization.

Since January 1981, brutal civil wars have intensified in El Salvador and Guatemala, the threat of war between Nicaragua and Honduras has increased partly because of U.S. actions, and moderate and democratic elements have lost influence in Nicaragua and throughout the region. Neither "quiet diplomacy" with respect to human rights nor massive doses of military aid have accomplished their intended purpose.

The ability to make a free and open choice of political allegiance is the essence of democracy, but it is becoming less and less possible to make such a choice in Central America. Those seeking to rule by coercion rather than consent reside on both extremes of the region's political spectrum. These extremes are not opponents, but rather allies; they gather strength from each other, and they must equally be opposed.

Unfortunately, the Reagan Administration has chosen a policy which lends confidence to the terrorist right; which motivates and strengthens the terrorist left; which contributes in doing so to further violence; and which has provided nothing but bitter discouragement for those genuinely committed to peace and democracy in the region.

After two years and hundreds of millions of dollars of aid, the United States is further than ever from achieving its goals in El Salvador. Although the elections last March confirmed the deep desire of the Salvadoran people for participatory democracy, the electoral initiative was too narrowly based to move El Salvador toward national reconciliation. Rather, it weakened those advocating a moderate course, and left competition for power in the hands of brutal and historically undemocratic military cliques. The Reagan Administration has failed dismally to demonstrate strength or seriousness of purpose in pushing for economic reforms and respect for human rights in El Salvador, and has explicitly opposed a dialogue without preconditions between the government and opposition groups.

The Administration's support for covert military action against Nicaragua has produced a propaganda bonanza for the radical left, an excuse for a military build-up by Managua, and a growing threat of regional war. It has also shifted the focus of world attention from Nicaragua's errors in policy to ours, and contributed to a political atmosphere inside that country within which moderate and democratic elements may not long survive.

The Administration has persisted in viewing Honduras as a convenient staging ground for regional military initiatives, rather than a fragile democracy needing insulation from the conflicts engulfing its neighbors. The result is an increasingly divided and fearful country, unable to derive internal confidence from its recent transition to civilian democratic rule.

Only the opposition of the American people, and in their behalf, the Congress, prevented the investment of U.S. arms, aid and prestige on the side of the previous Guatemalan government's war against the Indian population of that country. There are some reports of improved human rights conditions under President Rios Montt and, obviously, we hope that these reports are correct. Unfortunately, the Administration has responded to reports that serious human rights violations continue to be committed by the Guatemalan military, not by condemning the violations, but instead by attacking those issuing the reports.

Finally, the Administration, has refused to recognize the nature and source of the tensions which threaten to destroy all of Central America. It has sought to apply a simplistic economic and political world view to a region the majority of whose inhabitants view such a perspective as indifferent to their interests and irrelevant to the modern world. One of the most explosive forces on the globe today is the frustrated desire of impoverished and disenfranchised people to obtain a decent standard of living and to have a voice in determining their own destiny. No policy which fails to address these concerns will, in the long term, adequately, protect our interests or preserve our influence in Central America.

In short, because its highly ideological orientation fails to appreciate the realities of the region, the Administration is pursuing policies which increase the legitimacy and strength of armed opposition groups in El Salvador, Guatemala, and possibly in the future—Honduras. Additionally, they encourage the further evolution of Nicaraguan politics in a direction inimical to our interests, further identify the United States with forces tied closely to the discredited Somoza regime and diminish prospects for pluralism and democratic rule.

We believe that the influence and the available resources of the United States can be used to further our interests far more effectively in Central America in the future. Accordingly, we now propose an alternative U.S. foreign policy toward Central America. The goals of that policy are (a) to make a contribution to the peaceful resolution of political and military conflicts both between and within the states of the region; (b) to foster economic progress in the short term and to facilitate long-term improvement in the living conditions of the area's poor, and (c) to support and advance human rights and democratic institutions in the region.

Specifically:

1. We urge the Administration to join with Mexico and Venezuela in encouraging the prompt initiation of discussions between and among our own government and the governments of Honduras, Nicaragua and El Salvador for the purpose of ending all acts of subversion and aggression and achieving a just and lasting peace in the region.

2. We urge the Administration to lend its full support to negotiations without preconditions, aimed at resolving peacefully the internal political disputes presently existing between the populations and the governments of El Salvador and Guatemala. Additionally, we believe that an effort to reconcile Nicaraguan opposition groups, including democratic exile groups, with the government of that country through a negotiating process or other mutually acceptable means should be strongly encouraged. In each of these countries our purpose should be to facilitate the creation of an open democratic electoral process and genuine political pluralism;

3. The U.S. should cease assisting covert military activities directed at Nicaragua. Any accusations concerning Nicaragua's alleged support for subversive activities in El Salvador, Costa Rica, or Honduras, should—if private discussions fail to resolve the matter—be made public and brought promptly to the attention of the United Nations or the Organization of American States.

4. We reiterate our belief that respect for internationally recognized human rights, including the rights of indigenous peoples, should be a cornerstone of American foreign policy, both in Central America and around the globe. The foreign assistance laws of the United States are clear on this point. Security assistance may not be provided to governments—such as that currently in power in Guatemala—which are engaged in a consistent pattern of gross violations of internationally recognized human rights. Nor may military aid to El Salvador continue unless a series of legal conditions are met concerning human rights, economic reforms and investigations into the cases of murdered Americans.

5. We propose a new and expanded inter-American development program, aimed at encouraging multilateral efforts in behalf of economic and agricultural self-sufficiency, and at providing emergency aid to democratic governments such as those of Costa Rica, Honduras, and the Dominican Republic. This program will be designed to build on and improve upon the Caribbean Basin Initiative of 1982, and to strengthen the U.S. commitment to improving the quality of life of the poor majorities throughout the region. In developing this proposal, we will take into account the fact that in countries where serious political and military repression exists, no amount of economic assistance will, in itself, be sufficient to produce meaningful social development or reform.

We believe the time has come to stop the killing and start the talking in Central America. We reject the view that violence is inevitable or endemic to the region's culture. We have witnessed—and place great faith in—the courage, the persistence, and the wisdom of those in each of these countries who have been working for peace, democracy and social justice.

We believe that the present Secretary of State, George Shultz, is well equipped to understand the positive uses of diplomacy. We will be pleased to work with him to develop a policy toward Central America which accurately responds both to the views and the ideas of the American people, to the complexities of the region, and to the true interests of the United States. We pledge, also, our own continued interest and involvement in the debate over this issue, and we express our commitment to pursue these proposals vigorously, and to explore every available legislative and political option to see them prevail.●

CALIFORNIA DELEGATION

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. FUQUA. Mr. Speaker, seven Members of the delegation from California will be gone from our midst

when the 98th Congress convenes, and I would like to take the opportunity to express my appreciation to them collectively for the honored service they gave in this House.

Congressmen CLAIR W. BURGENER, DON H. CLAUSEN, ROBERT K. DORNAN, BARRY M. GOLDWATER, Jr., WAYNE R. GRISHAM, PAUL N. MCCLOSKEY, and JOHN H. ROUSSELOT, have each given much of themselves to serve their constituents, their State, and their Nation.

Though these men all represented a different party than I do, their sincere interest in their work and the quality of their product made them a significant factor in this body which they served as members of the minority party.

We will miss their active participation in our deliberations and wish each of them success in their future endeavors.●

THE IMPORTANCE OF LOCOMOTIVE ENGINEERS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. HUBBARD. Mr. Speaker, I received an excellent letter from my good friend and constituent, Terry W. Beadles, of Fulton, Ky. Terry is the secretary-treasurer of Division 508 of the Brotherhood of Locomotive Engineers. He has taken the time to personally share his concerns as a locomotive engineer with regard to the critical jobs that are provided to the railroads by the members of his profession. I am certain that my colleagues remember the difficulties that faced the country earlier this year with the railroad strike. I would like to share Terry's letter as I am certain that the Members of Congress will be interested in his comments. The letter follows:

TERRY W. BEADLES,
Fulton, Ky., September 27, 1982.

Congressman CARROLL HUBBARD,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HUBBARD: In these troubled economic times, the decision to call a nation-wide strike by the Brotherhood of Locomotive Engineers was apparently misunderstood by a great majority of the American people, including the members of Congress. The failure of the national news media to make clear and concise statements as to the reasons for striking also contributed to this mis-understanding.

As I am not aware, to date, as to how you voted on the issue of calling an end to the strike, I am going on the assumption that you were one of the 17 Congressman who felt that our Government should not interfere in the freedom of bargaining by labor unions. I hope this letter may clarify some of our reasons for striking over the difference in pay and the no-strike clause.

It's obvious that the decision to strike was a last measure on the part of the Brotherhood of Locomotive Engineers. Our old contract expired as of April, 1981, yet we continued to work while the collective bargaining process took place. Until the strike was called, the great majority of us felt that the contract would be settled.

By tradition, the Engineer has always been the highest paid member of a train crew. But many people, including Congressmen, are simply not aware as to the reasons for this difference in pay, so I will attempt to explain what we do.

Engineers of the Illinois Central Gulf Railroad, of which I am one, are subjected to an intensive training program at Paducah, Ky. Included in this program are classes on proper train handling, air brakes, mechanical, electrical, and our book of operating rules. We are continually tested on all these phases and must pass required tests on each before our promotion to Locomotive Engineer. We are also placed under the auspices of promoted Engineers for a period of 6 to 18 months before our final promotion. On the other hand, a man hired as a trainman will make a few trips as a student brakeman to acquaint himself with a few basics and then is allowed to work as a full-fledged member of a train crew. Tradition aside, is there any wonder as to why we feel, as Engineers, we are entitled to be the highest paid member of a crew?

As Engineers, we are the men instructed to take extraordinary precautions during foggy or stormy weather to insure the safe movement of our train (Operating Rule 815). We are the men empowered to move many thousands of dollars worth of lading across this country, not the brakeman. It is in our hands that the human factor is involved as we move passengers across the country on Amtrak, and not the brakeman's.

Because of all the factors involved in the safe and efficient handling of a train, an Engineer cannot afford one lax moment when on duty. Decisions requiring our instant attention are constantly being made that depend upon our being well trained. As an Engineer, I have yet to see any prestige associated with my job. The word stress might better apply towards explaining my job! Each time I approach a public road crossing, the thought goes through my mind that this might be the time someone attempts to make it over the crossing before I arrive and does not succeed. I seriously doubt that a brakeman entertains such thoughts.

Congressman Hubbard, there are just a few of the reasons that we feel we should continue to be the highest paid crew member. There are many others that can be explained by people more well-versed than I. However, if in any way this letter can help any member of Congress to understand the complexities of our job, please don't hesitate to use it. There is much more involved in being an Engineer than merely blowing a whistle or ringing a bell.

Please remember that we don't want to strike, but if the issue of the difference in pay between Engineers and other crew members cannot be assuaged by 1984, it will again become a factor to be reckoned with. Next time, I hope the venerable members of Congress understand our point of view.

With every good wish for your continued success as our First District Representative, I am,

Most sincerely yours,

TERRY W. BEADLES.●

HON. HENRY REUSS

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. BRINKLEY. Mr. Speaker, I wish to thank the gentleman from Wisconsin, Mr. ZABLOCKI, for arranging this special order on our dear friend and trusted colleague, HENRY REUSS, who is retiring at the end of this term. For 4 years my office was next door to HENRY's and I got to know him well. I soon discovered that he was a graduate of "Upatoi University," as HENRY affectionately referred to the Fort Benning Officers' Candidate School.

In 1980 I asked HENRY REUSS to return to Columbia, Ga., as principal speaker of an appreciation dinner in my behalf and while there to renew his acquaintance with his Fort Benning alma mater. HENRY accepted and the Columbus Iron Works and Convention Center roared its approval when he spoke of labor, management, and government pulling together and working together as entities with common goals and common interests.

This remarkable man from Wisconsin captured this southern stronghold when he spoke in the same breath of the historical structures in Milwaukee and the excellence of the restored iron works in which we met.

Other Members of Congress joined us that evening: BILL NICHOLS, from Alabama; BO GINN, DOUG BARNARD, NEWT GINGRICH, and DAWSON MATHIS, of Georgia. HENRY singled each of them out in his remarks and made the evening very personal and very special.

The next morning we had breakfast together at Fort Benning and the circle was complete.

As chairman of the Banking Committee, HENRY accepted my recommendation to hire an outstanding minority youth from Columbus who had come to me for assistance. As a neighbor, HENRY was a friend and helper. I shall always count it special to have served in Congress, and to have served with men like him.●

RECOMMENDATIONS ON THE AMERICAN DEFENSE EDUCATION ACT

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. KILDEE. Mr. Speaker, the House Education and Labor Subcommittee on Elementary, Secondary, and Vocational Education, of which I am a member, recently held 3 days of hearings to assess the condition of mathe-

matics and science programs in our schools. Testimony at these hearings added to our growing recognition of the fact that these programs are in serious need of attention and improvement. On November 29, the House Education and Labor Committee reported H.R. 7130, the National Engineering and Science Manpower Act, with amendments intended to address this need.

As Congress proceeds with consideration of this bill and other solutions to this problem, the advice and comments of individuals and organizations with expertise in the area of science and mathematics education must be sought. One such organization, the American Personnel and Guidance Association, has prepared an analysis of the role of guidance personnel in any legislative solution. Although directed specifically to H.R. 6674, the American Defense Education Act, it also applies to many measures now being considered in this area. I commend this analysis, which follows, to the attention of my colleagues:

AMERICAN PERSONNEL AND GUIDANCE ASSOCIATION RECOMMENDATIONS ON THE AMERICAN DEFENSE EDUCATION ACT (ADEA)

The American Personnel and Guidance Association (APGA) wishes to go on record in support of, and in recognition of, the importance of current Congressional deliberations on the American Defense Education Act. ADEA and those related bills which emphasize better mathematics and science instruction in the schools, better preparation of teachers for the instruction of mathematics and science and increased emphasis on career development of students by counselors are vital in this technological age for a strong America.

The Association is confident that the Congress will give careful attention to the need for more technicians, mathematicians, scientists and engineers during the waning days of the 97th Congress and on into the 98th Congress. Any legislation dealing with the technology question must address the central role which professional counselors play in advising students in their career development, assisting teachers and administrators in curriculum improvement and creating awareness in parents and youth about the employment needs of the business, industrial and defense establishment which utilize high technology. The counselor and strengthened guidance and counseling programs provide a structure for this to occur.

To this end, the American Personnel and Guidance Association offers the following recommendations in order to enhance the impact of ADEA legislation:

1. IN-SERVICE TRAINING OF EXISTING GUIDANCE PRACTITIONERS, SUPERVISORS AND TRAINERS

In-service training of counselors should emphasize the intermediary role counselors play in bringing together teachers, parents, students and the community. Counselors must be given a variety of opportunities to become familiar with the technological employment opportunities in business and industry and in the military as well as technology needs of these employers so as to better inform and advise students, teachers, administrators and parents. Hands on experiences, summer intitutes, exchange programs and paid internships within industrial and military settings are some possible ways of accomplishing this goal.

The emphasis throughout any in-service program should be the counselor's role in maximizing the mathematics, science, foreign language potential of all youth, especially through early intervention programs in elementary school and continuing on through high school and college. Attention should be paid to the reduction of any job bias in counselors based on personal attitudes. Also, the in-service training should further those counseling skills and techniques which are free of any stereotypes (e.g. race, sex, culture).

In-service and re-training programs for counselors and other guidance specialists should stress skill development in non-school setting work. Examples of in-service programs might include those which develop counselor skills in working with clients, in the community or industry, experiencing job obsolescence or who need re-direction of career development; those who are second careerists or returning to the work force; and those experiencing job dissatisfaction or needing advice on re-training for emerging new job clusters. This area is fertile ground for cooperative efforts between schools and industry and/or assistance from private industrial councils.

2. PRE-SERVICE TRAINING OF COUNSELORS

Encouragement and incentives must be provided to institutions of higher education, by ADEA legislation, which experiment with changes and curricular modification in the counselor education preparation programs. Internships and practicum situations which have component giving experience working in non-traditional settings (e.g., business, industry, military) must be piloted. Course work which emphasizes occupational and educational information, emerging technological and business trends should be integrated into the core curriculum preparing counselors. The creation of counselor sub-specialties for direct employment in industrial and technological settings should be encouraged legislatively. Counselors should be trained to understand emerging technology, equipment and talent/skills necessary so they may counsel, inform, and advise people for a high technology society. Experiences with computer assisted guidance, occupational information and retrieval systems and use of new methods of assessment and evaluation are essential to such training.

In addition, counselor training should have a strong component which focuses on skills, in networking; in coordination of diverse groups; in consultative techniques for working with teachers, parents, administrators; and on skills and techniques for utilization of community resources.

3. ADVISORY COUNCILS

Any federal, state, local advisory or industrial council formed by ADEA legislation should include a professionally trained counselor within its membership. Such participation by professionally trained counselors is critical to the success of a turn around in the technological training and employment shortages in this country. Counselors must be fully informed of industrial needs, employment shortages and policy shifts which address the problems of the workplace. This can occur only through participation with advisory and industrial councils.

4. RESEARCH AND EVALUATION

The American Defense Education Act should further and encourage (through grants, fellowships and special programs), research on new techniques, practices and programs, which increase the counselor's knowledge and skills in unlocking the potential of all youth and adults. These citizens must attain maximum personal and career fulfillment if this nation is to achieve its employment policy goals and insure national security.

More research is needed on effective data gathering, assessment, goal setting and information dissemination techniques. Research is also needed on early intervention counseling strategies with children as these concern career planning and exploration. Pilot projects on innovations in counselor educator preparation and in-service education need to be initiated which emphasize non-traditional programs, internships, practice and placements.

Evaluation devices, both periodic and long range, need to be tested to determine the efficacy of any modifications in training, retraining and practice as such concern improved counselor performance in achieving national priorities brought about by the ADEA legislation.●

HON. WILLIAM BRODHEAD

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. FUQUA. Mr. Speaker, few individuals can cite a climb as rapid as that of WILLIAM BRODHEAD within the U.S. House of Representatives where, in just 8 years, he has distinguished himself as a sound, thoughtful legislator and a leader.

In each of the tasks he has undertaken, WILLIAM BRODHEAD has excelled. And the tasks he undertook were never the easy ones.

As a member of the House Ways and Means Committee, the House Budget Committee, and chairman of the Democratic Study Group, WILLIAM BRODHEAD has served with distinction and credit not only to himself but to this House of Representatives and to the people who elected him from the 17th District of Michigan.

Though we will miss WILLIAM BRODHEAD's legislative initiative and his personal leadership, most of us can certainly understand that at 41 years of age, he must take account of the needs of his growing family and thus his decision to return to the more lucrative practice of law.

I wish him great success in his future endeavors.●

A CASE FOR FAIR TRADE AND H.R. 5133

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. DINGELL. Mr. Speaker, the House is scheduled to consider American jobs producing legislation, H.R.

5133, the Fair Practices in Automotive Products Act. It is a bill designed to protect and increase jobs in U.S. automotive industries. It requires all manufacturers of automobiles to achieve gradually increasing levels in the use of American made automotive parts and use of American labor in the production of automobiles.

In connection with the importance of this legislation, there have been several articles on the subject of the unfair trade restrictions against American products destined for export to foreign countries. One country with severe import limitations is Japan. Good documentation on the seriousness of the problems facing U.S. industries is contained in the presentation by Mr. Richard D. Copaken, Esq., of the firm of Covington & Burling in Washington, D.C. regarding the Houdaille Industries, Inc., petition for relief as filed with the U.S. Trade Representative's office. A portion of that presentation is set forth at the end of my remarks.

The presentation to the International Business Council of the Electronic Industries Association, October 11, 1982, in Los Angeles, discusses the serious trade restrictions confronting U.S. industries which are trying to expand their markets to other countries and at the same time are concerned with the unfair and increasing penetration of the American market by foreign made products.

Both problems, notably in automobile production and the related automotive industries, are major causes of the deplorable loss of jobs in the United States.

The Houdaille petition is a good case in point illustrating the absolute need for U.S. action to correct trade imbalances. H.R. 5133 is a proper approach, carefully crafted, to help American jobs and markets.

I urge our colleagues' review of Mr. Copaken's presentation which follows in part:

HOUDAILLE'S INVESTIGATION OF JAPANESE GOVERNMENTAL POLICIES AND PRACTICES

We undertook this challenging task. With the assistance of Japanese counsel, we carried out a comprehensive investigation in Japan that included meetings with many officials of the Government of Japan and the translation and review of hundreds of pages of Japanese language documents, many of which had never before been translated into English.

We learned that the penetration of the United States market by Japanese machine-tool manufacturers results not from free and fair competition, but from unfair cartel practices sanctioned and encouraged by the Government of Japan.

The Japanese machine-tool cartel was formed in response to the first of a series of three special laws for the promotion of the machinery industry. In enacting these laws the Government of Japan launched an ambitious crusade to seize the higher value-added and most technologically advanced market segment of this fundamental industry. Although these laws were officially characterized as temporary measures, they have remained in effect since 1956—one "temporary" measure following on the heels of another.

The Japanese Ministry of International Trade and Industry ("MITI") used the free hand given to it by these laws to weed out manufacturers with small market shares. Each firm whose production of a particular machine tool was less than 5 percent of the Japanese market in that tool and less than 20 percent of the company's total production was directed to stop manufacturing these tools. The market shares thereby relinquished were turned over to a limited number of more successful producers. Under MITI's guidance these companies then exploited the consequent economies of scale and specialization to penetrate export markets, secure in the knowledge that these advantages would be protected against competitive erosion in the Japanese market.

In taking these actions the Government of Japan catapulted the cartel into the high-technology end of the market. MITI successfully pressed the Japanese machine-tool manufacturers to act jointly to concentrate their efforts in developing and producing NC machine tools. Each company in the cartel was directed by MITI to increase to 50 percent the NC share of its total production of machine tools. In addition, the cartel was directed to expand its collaborative activities to include related industries and customers.

The Government of Japan also aided and abetted the Japanese machine-tool cartel by failing to enforce against it Japan's Law Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade ("the "Anti-Monopoly Law"). Japanese machine-tool manufacturers currently combine with each other and with the Government of Japan to fix prices on exports of NC machine tools to the United States. In addition, through the cartel each Japanese manufacturer regularly notifies all of its fellow members of its intention to produce new machine tools. Many of these notifications in recent years concern NC machining centers and other NC machine tools. All cartel members then have an opportunity to comment on and otherwise influence the production of new machine tools by their Japanese competitors. The price-fixing activity is formally immunized from Japan's Anti-Monopoly Law.

Of potentially even greater consequence, the Government of Japan has covertly accorded the machine-tool cartel informal immunity from Japan's Anti-Monopoly Law for its other equally important joint anti-competitive conduct undertake "voluntarily" in response to MITI guidance and for the purpose of penetrating export markets.

These acts and policies are the most significant, although by no means the only methods by which the Japanese Government has nurtured, supported, and promoted development of the Japanese machine-tool cartel. The Government of Japan has also backed this cartel with tax advantages, concessionary loans, research grants and other direct and indirect subsidies.

With the long-range goal of selectively penetrating and dominating important export markets as its guiding principle, the Government of Japan devised imaginatives strategies for financing that objective. In the mid-50's MITI gave to certain officially favored export industries, including machinery, valuable licenses to import raw sugar. This highly profitable arrangement enabled those industries to purchase sugar at prevailing world prices and sell it in the domestic Japanese market at prices that were artificially inflated ($40–$150 per ton higher) as a consequence of the Government's sugar import quota. As MITI officials explained it to me, by utilizing this price differential the Government could compensate the exporters for their deficits attributable to dumping in foreign countries.

When this mechanism was discovered and protests from abroad mounted, the Government of Japan shifted to other means of achieving the same objective. Hundreds of millions of dollars worth of yen generated by wagering on bicycle and motorcycle races in Japan were funneled into the Japanese machinery industry, including the machine-tool cartel.

MITI officials confirmed the Government's use of this mechanism to support Japan's machinery industry, including specifically the machine-tool segment, but we were assured that the level of subsidy involved was quite small—less than one-half million dollars a year for the entire machinery industry of Japan. In preparing the Houdaille Petition we relied upon these assurances given to us in two Tokyo meetings, separated by several months, in response to quite specific written questions we provided in advance of each meeting.

We remained skeptical, however, because MITI would not provide documentation for the figures it cited and these figures did not square with substantially larger figures in secondary sources which we supplied to MITI along with our written questions. We were also troubled by MITI's refusal to make available to us for questioning officials of Japan's Bicycle Rehabilitation Association.

After our Petition was filed, I returned to Japan, determined this time to approach the Japan Bicycle Rehabilitation Association officials directly, without the benefit of a MITI introduction. What I discovered in documents I obtained and in meetings I openly recorded on video tape shocked me. MITI had misled us. The bicycle- and motorcycle-race-wagering grants to the Japanese machinery industry were far in excess of the one-half million dollars a year admitted by MITI. These grants were well over 100 million dollars a year and are growing.

In 1980, the one year for which we were able to obtain documentary evidence of both bicycle- and motorcycle-race-wagering grants, such subsidies to the Japanese machinery industry totaled more than 104 million dollars. In addition, nearly one-half billion dollars is made available each year to Japanese municipalities that sponsor the bicycle races under a statutory scheme that directs the municipalities to spend these funds on the promotion of the Japanese machinery industry and the export of its products as well as for other public purposes.

Of the more than 104 million dollars lavished on the Japanese machinery industry by the two national racing associations in 1980, bicycle-race-wagering-funds accounted for 85.64 million dollars and motorcycle-race-wagering funds accounted for 18.64 million dollars. We know that the bicycle race wagering fund grants increased to 93.91 million dollars in 1981, but we have not yet been able to obtain documentation on motorcycle-race-wagering grants for this more recent period. Presumably it has also increased.

I also learned in a video-taped interview with officials of the Technical Research Institute of the Japan Society for the Promo-

tion of Machine Industry that this research facility receives annually 2.8 billion yen, or approximately 13 million dollars, in direct grants from the bicycle-race-wagering funds to conduct joint, anti-competitive research. I was told that no foreign machine tool companies could participate, except those owned by Japanese companies. Until recently, the official explained, approximately 40 percent of the total resources of this facility were dedicated to research on numerically-controlled machine-tool technology. Although this research has tapered off some, it still accounts for fully 25 percent of the current effort by this facility.

When we brought these documented facts to the attention of MITI and sought some explanation and more detailed information, our inquiries met with a stone wall of silence. Only after we submitted this Japanese documentary evidence in Comments filed with the United States Trade Representatives on July 31, 1982, did the Government of Japan belatedly and reluctantly concede the 104 million dollar figure for 1980 in a September 16, 1982 diplomatic note to the United States. The Government of Japan still has not been willing to provide any detailed breakdown of this annual, growing subsidy to enable us to get a clear picture of how much of these funds benefit directly or indirectly the machine-tool segment of the Japanese machinery industry.●

BUY AMERICAN

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mrs. COLLINS of Illinois. Mr. Speaker, in February of this year, I introduced H.R. 5511, legislation amending the "Buy American" provision of the Defense Appropriations Act to include the packaging phase of the procurement of food for the Armed Forces. The reason for introducing this measure was to clarify the fact that Congress had intended, and does intend today, to include the packaging of combat rations within the scope of the protection afforded by the act. Such clarification is particularly important because the Department of Defense (DOD) is in the process of replacing the traditional canned food combat rations with a new form of combat food ration contained in a light weight, flexible retort pouch.

The complex process of manufacturing or producing thermostabilized food in retort pouches is only in its infancy in this country. Yet there are already seven or eight companies employing hundreds of people in this aspect of the procurement phase alone. Unfortunately, the DOD, supported by the General Accounting Office (GAO), has not recognized the wisdom of developing and protecting this important defense industry. Indeed, in September, DOD awarded production contracts to a foreign firm.

After submitting testimony urging support of my legislation before the Defense Appropriations Subcommittee in May of this year, my office has been in constant touch with the subcommittee in order to address this whole issue. Chairman ADDABBO has graciously consented to include language in the report of the fiscal year 1983 Defense appropriations legislation requiring DOD to review its procurement practices to insure that American businesses receive as much of the food procurement and packaging business as they can handle and report on the impact foreign companies who are subsidized by their government's competing on U.S. defense contracts for food products and equipment.

While I am clearly appreciative of Chairman ADDABBO's efforts to address my concerns, let the record clearly show that if the "Buy American" provision was clarified to encompass food packaging, none of this would be necessary.●

CORPORATE PAC MAN

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. TRAXLER. Mr. Speaker, much of our business news has been taken up this year with the news of Corporate Pac Man: how many other firms can he gobble up before being eaten himself.

Prof. Walter Adams of Michigan State University, one of my favorite former college professors has written a very lucid article entitled "Mergers Stress Wrong Kind of Risks" which emphasizes the sad fact that much of the imaginative drive of the leaders of our major corporations has been turned toward acquisition and away from methods of improving productivity, risking the future of our Nation's businesses in a doubtful fashion.

I commend this article which appeared in the October 5 edition of the Los Angeles Times to my colleagues who are interested in obtaining a better understanding of one of the major problems plaguing American business, and ask unanimous consent that it be inserted in the RECORD at this point.

The article follows:

[From the Los Angeles Times, Oct. 5, 1982]

MERGERS STRESS WRONG KIND OF RISKS

(By Walter Adams)

The spectacle of the Martin-Marietta/Bendix affair is the latest episode in the megamerger follies. It is the ultimate proof, if such be needed, that American entrepreneurship is afflicted with a case of contagious progressive atrophy, which is undermining our capacity to reindustrialize America and restore American industry to its erstwhile competitiveness in world markets.

To some, megamergers simply reflect management's desire to maximize profits by capturing "undervalued assets" or gaining available tax advantages. To others, they constitute a form of "corpocide"—the elimination of an independent business capable of standing on its own feet—designed merely to satisfy insatiable managerial egos.

Take the oil industry. For years, it argued that decontrol of oil and gas prices was imperative to provide the oil giants with the necessary incentives and resources to search for new oil and gas reserves. Yet these companies have continued to divert much of their massive cash flows into mergers and acquisitions. Mobil spent $1.5 billion to buy Montgomery Ward; Exxon acquired Reliance Electric; ARCO acquired the (London) Observer and Anaconda Copper; Sohio acquired Kennecott Copper; Occidental bought Cities Service and Iowa Beef Processors; Getty flirted with Home Box Office television, and the Hunt brothers, Herbert and Nelson Bunker, used their oil fortune to speculate in silver.

Can anyone seriously claim that these multi-million-dollar combinations contributed a single new barrel of oil, or a single new cubic foot of natural gas, to the nation's energy reserves? Or that promoted the national goal of energy independence?

Steel is another pertinent case study. For more than 20 years, this industry has demanded government protection from foreign competition, which would permit the steel giants to accumulate sufficient investment capital to replace and modernize their antiquated facilities. Modernization, the companies claimed, was indispensable if they were to compete effectively against their more advanced Japanese and European rivals.

Yet U.S. Steel, a notorious laggard in a technologically lethargic industry, somehow found $6.3 billion—not to buy new machinery or new plants, but to buy Marathon, the 17th-largest U.S. oil company. Instead of upgrading efficiency in its own operations and acquiring the capacity to defend the domestic steel market, U.S. Steel chose to bring its monumental inexperience to an industry in which it had neither managerial expertise nor technical competence.

At best, this kind of corporate empire building involves little more than the reshuffling of existing assets into a new controlling hierarchy. It does not create any new capital, new factories, new technologies or new jobs. It provides no new stimulus to an ailing economy, nor does it help regenerate an aging industrial infrastructure in crying need of productive investment.

Most serious, in the long run, is the effect of this merger spree on the quality of American entrepreneurship. Managerial talent and ingenuity are diverted from the basic task of increasing operating efficiency enhancing productivity and promoting technological advancement. Instead, creativity is squandered on a game of financial razzle, dazzle. Managers become wheeler-dealers instead of concentrating on their industrial responsibilities. It is significant, for example that in each of the last three years, U.S. corporations have spent more on mergers and acquisitions than they have on research and development.

It is a supreme irony that most of the megamergers of the past two decades have not produced significant efficiencies indeed, many have been demonstrably unprofitable and counterproductive. This is especially true where a corporation acquires a firm in an unrelated line of business. According to a survey conducted by McKinsey & Company (a leading management consulting firm), the companies that "stick to their own knit-

ting" tend to have particularly effective management, and companies that stray even a little out of their bailiwick tend to have problems. One reason of course, is that the more gigantic a company grows the more layers of bureaucracy it creates. And bureaucracy creates inefficiency in the private as well as the public sector.

The time has come for American industry to recapture its historic preeminence. It must redirect its talent into entrepreneurship and risk-taking—the building of new factories, the development of new technologies and the creation of new jobs.

The time has come to stop playing megamerger games.

(Walter Adams is a distinguished university professor of economics at Michigan State University, of which he is also past president.)●

HON. HENRY REUSS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. MARKEY. Mr. Speaker, I join today with my fellow Representatives to pay tribute to my distinguished colleague from the Fifth District of Wisconsin, Congressman HENRY S. REUSS. The regret I feel about his departure is surpassed only by the amount of respect that I have for him.

Of all the people I have met during my 6 years in Congress, HENRY REUSS is the one man with whom I have instinctively agreed on virtually every issue. His sound judgment on economic and public policy issues is something which I have often sought and which he has never failed to give. HENRY and I often sat together, many times at great length, to discuss in detail issues and problems faced by our Nation. His knowledge and understanding of economics helped me to form coherent public policy arguments. Surely, his leadership on and insightful discussions of the economic issues facing our Nation will be sorely missed.

I urge my colleagues to review the most recent newsletter sent out by our distinguished colleague. A detailed study of Congress—past, present, and future—should stimulate thought and discussion as to the role of government in our society. Long after he has departed from these buildings, HENRY REUSS and his vision of our country will continue to play an important role for all Americans.

There is but one job for which HENRY REUSS is qualified as he leaves Congress. That is the Presidency of the United States. His record would stand head and shoulders over that of the incumbent President. I wish him the very best as he leaves the U.S. House of Representatives.●

THE CIA WAR IN NICARAGUA

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. DELLUMS. Mr. Speaker, I would like to bring to the attention of my colleagues today's lead editorial of the New York Times.

We hear that the President's recent trip has been widely described as an "eye-opener" for Mr. Reagan, and yet his administration continues to pursue a myopic and dawn-patrol-bravado approach to foreign policy in Central and South America.

As the United States decries foreign interventionism, our Central Intelligence Agency continues to wage a secret war in Nicaragua which is in defiance of the Neutrality Act and, as this editorial explains, is very likely to produce results which are counter to America's best interests.

[From the New York Times, Dec. 8, 1982]

THE WORST-KEPT SECRET WAR

When asked the other day if he could confirm a report in The Times that the C.I.A. is mobilizing a secret war against Nicaragua, President Reagan replied: "No, and I don't think The New York Times can." But the growing evidence of American involvement can't be shrugged off so blandly. There's nothing secret any more about the training of exile armies in Florida and the recurrent border raids into Nicaragua by insurgents claiming C.I.A. help; all this has been widely reported for months.

Whatever American agents may be doing to help Honduras prevent the use of its territory for arms smuggling to El Salvador, it seems beyond doubt that they are also engaged in some direct actions in Nicaragua. The manifest purpose is to threaten a frontal assault on the leftist Sandinist regime. Undeniably, some of the leaders of the insurgent force are Nicaraguans associated with the discredited Somoza dictatorship.

These are, to begin with, illegal activities. The Neutrality Act expressly forbids the raising of secret armies to unseat a regime that the United States recognizes as lawful. Flouting that law is no way to rally the hemisphere against meddling by Cuba and Nicaragua in other nations' conflicts.

Even if these secret armies were never meant to be used in a big way, they are a dangerous instrument of diplomacy. Give people with a political grudge a gun and they maneuver to fire it. If they do, they are impossible to disown. Even it they don't, they are extremely difficult to disband.

If the idea here was to use the threat of insurgency to win bargaining concessions from Nicaragua, the idea is bound to misfire. Such threats tend to confirm the darkest fears of suspicious adversaries and make them more truculent, not accommodating.

It is perfectly true that an acceptable doctrine of non-intervention has to be respected by all parties. If it were proven that Nicaragua is indeed violating the territory of Honduras to funnel weapons to El Salvador, some reprisal in kind might be justifiable. But the evidence suggests that it is Nicaraguan territory, not Honduran, that is being systematically violated.

A final justification for covert warfare might be a clear showing that truly vital American interests are at risk, and beyond the reach of diplomacy. No such showing has been made, either to the American people or to our Latin friends. To the contrary, President Betancur of Colombia, an independent-minded conservative, last week risked Mr. Reagan's displeasure by appealing for negotiations with both Nicaragua and Cuba.

That was a foretaste of how Latin America would react to unilateral United States interventions. Mr. Reagan, by way of polite reply, expressed his wish to see "the withdrawal of all—I repeat all—foreign military advisers in Central America."

Nicaragua contends that it is prepared to negotiate. A proper response would find Washington testing that claim, documenting its charges of Nicaragua's interference in other countries and persuading other Latin nations to join in condemning the import of Communist arms. The improper response is to deny the undeniable, in the false hope that the C.I.A. hand can somehow be hidden. That illusion should have died at the Bay of Pigs.●

CIVIC LEADER

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. MOTTL. Mr. Speaker, I would like to salute one of Greater Cleveland's most talented boosters.

William H. Bryant, president of the Greater Cleveland Growth Association, has been at the helm of that metropolitan chamber of commerce since 1980.

He took the job when the city of Cleveland had a very low bond rating because of a default on some loans. The image of the business community was sagging and Cleveland had become the urban scientists' favorite example of a declining central city.

Now Cleveland is back in the bond market, promptly paying its bills and balancing its books. The business community has been active in this ongoing recovery by lending technical and financial support. A number of people are responsible for this comeback and Bill Bryant is certainly one of them.

Bryant has emphasized the importance of business, labor, and government working together. Two recent major programs he was responsible for are the Cuyahoga County management study and the community capital investment strategy. The county study involved a volunteer task force that offered 89 recommendations that could lead to $18 to $20 million in annual savings. The capital investment strategy gives Cleveland a blueprint to present to Federal officials as soon as funds to improve the infrastructure of our Nation's cities are provided.

A native Ohioan, the 49-year-old Bryant came to the growth association after serving as director of the State of Ohio's research and development

department of industrial and economic development. Prior to that he was director of research and planning for the tricounty regional planning commission of Akron.

Bryant and his wife, Nancy, reside in Fairview Park. Those of us interested in Cleveland's continued recovery hope he stays in the best location in the Nation as it faces a new generation of hope, cooperation, and prosperity.●

PRESERVING THE HECTOR LAND USE AREA

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. LUNDINE. Mr. Speaker, during last week's consideration of the Interior appropriations bill (H.R. 7356), I brought to the attention of the House a problem that recently came to my atttention involving a tract of Forest Service land in central New York State.

In a recent news briefing, the Department of Agriculture announced that it is in the process of completing a review of some 140 million acres of Forest Service land for possible identification as surplus property. This review is to be followed by an extensive study of specific tracts of land to determine their suitability for public sale.

Exempted from this process, however, are more than 60,000 acres of public-owned land in New York and California—13,000 acres of which constitute the Hector Land Use Area in the Finger Lakes Region of New York. According to the Forest Service, this land has already been determined to be excess to departmental needs and is subject to sale without specific authorization by Congress. This determination has been made without the thorough review procedures prescribed for all other Forest Service land.

During consideration of the Interior appropriations bill, which includes funding for the Forest Service, I joined with my colleague from New York, Mr. HORTON, in expressing the view that standard review and evaluation procedures should be applied uniformly to all public lands under consideration for disposal and no exception should be made for the 60,000 acres in question. The chairman of the Interior Appropriations Subcommittee (Mr. YATES) and the subcommittee's ranking minority member (Mr. MCDADE) concurred in this view and agreed that no funding provided in the appropriations bill should be used to promote the sale of any Forest Service property that is not subject to the prescribed procedures for all federally owned land.

The Hector Land Use Area is extremely important as a recreation and grazing area, as well as one of the leading agriculture and forest research areas in the Northeast. It would be a mistake to remove this property from public use and is certainly contrary to the public interest to do so without extensive review. It is my firm conviction that careful analysis will clearly show that the benefits of retaining the Hector tract under the Forest Service far exceed any short-term gains that could derive from its sale.

Since the Hector Land Use Area may be one of the first public tracts offered for the sale by the administration, I think it important that the membership understand the nature of the property and its current uses. I insert in the RECORD the following Forest Service report that outlines the history of public ownership of the Hector Land Use Area and its current status and management.

The report follows:

HECTOR LAND USE AREA

AREA DESCRIPTION

The Hector Land Use Area is located in Seneca and Schuyler Counties in the Finger Lakes Region of New York State. The area is generally bounded by four New York Highways: 96, 414, 79, and 224. The area is accessible by one of these four highways; then via a grid of north-south and east-west gravel roads, which cross the unit at one mile intervals.

Land Ownership is somewhat broken with scattered parcels of private land occurring within the unit. Federally owned lands comprise 13,232 acres.

The nearest population center is the City of Ithaca, 15 miles to the southeast. The Administrative Office for the Unit is located in the Town of Montour Falls, 7 miles south of the unit.

Topography is gently rolling as the area occurs on a plateau between Seneca and Cayuga Lakes, the two largest of the Finger Lakes. Elevations range from 1,000 to 1,800 feet, a maximum relief of 800 feet.

The area has been intensely glaciated. Existing landscape is the result of the last glacial advance during the Wisconsin Period, about 10,000-25,000 years ago. Soils are generally acid, fine texture, and in many areas, have a basal till or hardpan layer. Because of the hardpan, water does not quickly penetrate into the soil, resulting in the wet depressions and basins. Droughty conditions exist in the summer in shallow soil along the steeper sideslopes.

A past history of farming is revealed in the vegetation covering the unit. Thirty-three individually fenced pastures encompass 4,990 acres or 37 percent of the area, 2,217 acres, 17.8 percent of the area, are in old fields which vary from grassy openings to thickets of shrubs and scattered small trees. The remaining area is forested. One thousand acres, 7.6 percent, are conifer plantations, the remaining 5,025 acres or 37.9 percent, are hardwood or mixed hardwood and conifer stands.

Climate in the Hector Area is strongly influenced by the prevailing wind from the west. During the summer the wind comes from the southwest, bringing with it warm, humid weather. The weather becomes more pleasant in the fall as the wind direction gradually changes to the northwest, bringing the cold dry air masses common in the winter. The weather is occasionally modified by oceanic storms, causing cool, cloudy, wet weather. During the winter, snow squalls occasionally result from air masses absorbing moisture as they pass over the Great Lakes.

Temperatures average a monthly maximum of 77°F in July and drop to an average monthly minimum of 13°F in January. A 130 day frost-free growing season extends from mid-May to the first of October.

Annual precipitation averages 34". Average annual snowfall is 75". Snow covers the ground from mid-December to mid-March. Due to mild winters, snow depths seldom remain more than 12-15", and during some winters, bare ground may be briefly seen.

Greatest storm hazard present is heavy snowfall, although local areas may be affected by high winds and lightning during summer thunderstorms.

Freezing rain during the winter may damage utility lines and crop trees as well as making highway travel hazardous.

HISTORY AND LAND STATUS

The Hector Land Use Area originated in the 1930's as a sub-marginal land adjustment project purchased primarily under authority of the National Industrial Recovery Act of 1933, the Emergency Relief Act of 1935, and Title III of the Bankhead-Jones Farm Tenant Act of 1937.

It is estimated that more than 100 farms were included in the 13,259 acre purchase. Lands at that time were seriously eroded due to poor farm practices.

From 1938 to 1954, the area was managed by the Soil Conservation Service as a project for public grazing and other land use developments, including reforestation. The Hector Grazing Association was formed in 1946 to facilitate grazing on the public lands. This association is still in existence today.

From 1954-1957, the land was placed under management of the U.S. Forest Service in Upper Darby, Pennsylvania. In 1957, management of the area was assigned to the Green Mountain National Forest, located in Vermont. Grazing and reforestation continued to dominate management activities on the land until 1961.

In 1961, a professional forester was assigned as the unit manager with a title of Forester in Charge. A multiple use program was initiated following an evaluation by the Forester Supervisor, staff, and the Forester in Charge.

In the following 21 years, a wildlife habitat improvement program has taken place in cooperation with the New York State Department of Environmental Conservation; the recreation program and use had steadily increased; timber management activity, although modest in scale, has intensified; and grazing use, through cooperation with the Hector Grazing Association, has been improved. In the past five years, the Hector Land Use Area has proven to be of significant value for environmental education. A large nearby population and the unit's intensive management and physical resources provide a sound base for outdoor education efforts. Current educational programs are designed for school children, college students, and the general public.

In 1978, the Forester in Charge was designated as a District Ranger. For administrative purposes, the Hector Land Use Area is considered similar to a National Forest Ranger District. However, the lands at Hector do not have the same status as National Forest System lands and the U.S.

Forest Service management authority is somewhat limited on these lands.

PRESENT MANAGEMENT SITUATION

Over the years the Hector Land Use Area lands have been restored to productivity as directed and now serve as a visible demonstration of good land management. They are the only federal lands in New York State that are administered for multiple wild land uses. As such they provide not only a unique land use and management demonstration but they provide opportunities for endeavors that help support the local economy plus extensive opportunities for outdoor public recreation. The available resources are already committed to general public use and local residents. Many user groups and individuals have helped in constructing and maintaining the various facilities they now use.

The Area contains nearly 7,000 acres of commercial forest land. These forests are valuable for fuelwood, lumber and other forest products and are also important for wildlife cover and various forms of outdoor recreation including hunting. Some 1,700 acres of wildlife opening are managed within the forested area. Also, 200,000 board feet of timber are harvested annually. The commercial fuelwood market is good. In addition, nearly 200 fuelwood permits were sold to local residents in fiscal year 1982.

Grazing is permitted on 4,648 acres under a Grazing Agreement between the Forest Service and the Hector Cooperative Grazing Association, Inc. Since 1961, the 100 member association has assumed the major responsibility for the maintenance and improvement of the land. Thirty-three pastures are maintained within 76 miles of fence with 30 corrals and 46 stockwater ponds.

The Area is very popular with recreationists. Use during 1981 was 23,200 visitor days, compared to 17,706 in 1978. These activities include camping and picnicking at existing developed sites; hunting, fishing, hiking, horseback riding and cross country skiing. Some hiking is on the Area's 25 mile trail system including the 12 mile Interloken Trail System, (now a National Recreation Trail) and 13 miles of additional trails. These trails are a part of the Finger Lakes Trail System which is popular in the area.

There is also no current mineral activity in the Area, but the entire federal ownership is covered by federal oil and gas leases.

The Area has become a focal point for environmental and conservation education activities and is used regularly by schools and other conservation and educational agencies and groups.

THE RESOURCES

Soil

The soil, more than any other factor, has influenced the development of the physical, economic, and social history of the unit. In the past, limiting soil factors caused the "Hill Farms" to be less and less competitive with farms on better soils. The overall landscape is very gentle, which combined with medium to fine textured soils and the widespread presence of a basal till hardpan layer (from which a fragipan may form), creates land conditions requiring careful management. Several soil characteristics in particular affect management activities. Soils are very wet once frost leaves from March to June. Internal permeability of most of the soils is very slow, primarily due to fine texture, but also because of the presence of basal till, which is essentially impermeable to water. The long, smooth, gentle slopes accumulate a large amount of run-off (especially when the soils are saturated about the basal till) creating an erosion hazard. Nearly all soils are silt-loam soils containing a large content of clay and silt.

Chemical characteristics of the soil also affect their management. Typically the soils are quite acid. Phosphorus is uniformly insufficient. Liming and application of phosphorus fertilizers are needed to produce good crop yields.

Water

The Unit lies astride a plateau known as the "Hector Backbone." About half of the land drains to the east toward Cayuga Lake and half to the west toward Seneca Lake. These are the two largest Finger Lakes (about 40 miles long and two to three miles wide). The 13,232 acres in the Unit are intermingled with an equivalent amount of private land which means that the Forest Service manages only about half of the watershed area. Average annual precipitation is 34 inches. Estimated water yield for the unit is 26,000 acre feet. Most streams are intermittent since the unit is at the top of the watershed and only extends an average of four miles from east to west. There are no natural bodies of water, but 46 livestock ponds have been constructed on the pastures and 27 wildlife ponds built throughtout the remainder of the unit. These ponds average one-half to one acre in size. The wildlife ponds are visited by many recreationists for fishing, nature study, or for strolling and relaxation.

There are public water supplies at Blueberry Patch Campground and Potomac Group Campground in the form of drilled wells with hand pump. Each is about 100 feet deep. One spring located off Picnic Area Road is under special use permit to supply a residence.

Vegetation

The Hector Unit consists of 13,232 acres; 5,025 acres are composed of hardwood timber stands, primarily of red oak, white oak, red maple, white ash, basswood and hickories. The remaining 8,207 acres were in farm lands prior to the 1930's when the land was purchased. Today there are some 4,990 acres in pastures with grass cover, about 1,000 acres of conifer plantations, particularly red pine, Japanese larch, white spruce and jack pine. The balance of 2,200 acres consists of old fields, some of which are primarily goldenrod and low shrubs, such as hawthorn and gray dogwood, with other areas rapidly filling aspen, white pine and other tree species.

There is a great diversity of hardwood and softwood tree species as mentioned above. In addition, among the species are the following: black walnut, hophornbeam, arrowhead, sugar maple, black cherry, black locust, chestnut oak, apple, multi-flora rose, elm, witchhazel, beech, Norway spruce, boneset, wild cranberry, blueberry, raspberry, map apple, lilac, teasel, partridge berry, service berry, pin cherry, healall, maple-leaved viburnum, blackberried elder, chicory, and burdock. Primary species within pastures are birdsfoot trefoil, white clover, red clover, timothy, orchard grass, bluegrass, redtop, and fescue.

Fire

Fire potential is highest in May when the snow has melted and before green-up occurs. Periods of high winds usually occur during this time and areas of dead grass and weeds are available as fuel. Most of the fires at Hector cause little damage due to the lack of heavy fuels. Because of light fuels and rapid spreading nature of the fire, high temperature fires are a rarity and vegetation, especially trees, is not killed.

Prescribed burning was used on the Hector Area in 1982 for blueberry management and wildlife improvement.

Responsibility for fire suppression is assigned to adjacent towns based on a Cooperative Agreement between the Forest Service and the towns involved. This agreement was revised in the summer of 1978. In situations where a fire develops on the Hector Area, the Forest Service would secure help from the town in which the fire occurred and would pay suppression costs.

Minerals

There is no known past history of mineral exploration on the Hector Area including sand or gravel removal. However, each deed to the federal lands includes a statement that all gold and silver is reserved to the State of New York. There has never been any evidence of gold and silver found on the Unit.

In 1971, a representative of the oil and gas industry, obtained BLM oil and gas leases for the entire Hector Unit. However, no activity or exploration has taken place as yet. There are currently no other mineral activities on the area. There is a possibility that gravel deposits are available on the southern end of the area.

There has been some oil and gas drilling within 20 miles of the Hector Area, and it is very possible that similar exploration could take place on the area within the next 10 years.

Recreation

The basic reason people visit the Hector Area is to seek an atmosphere of solitude yet be able to find enough facilities and activities to satisfy their needs. For example, visitors to Blueberry Patch Campground often say that they enjoy both the smallness and simplified development of the site and the large amount of undeveloped land surrounding it. They say it is difficult to find situations similar to this in Central New York. Similarly, families with smaller children who like to catch panfish in the ponds at Hector can not find this pursuit readily available elsewhere since most public fishing is in the large lakes and streams. By the same token, those on horseback are hard pressed to find areas where there are trails, gravel roads, and fields in desirable combinations to satisfy their riding pleasures. State Parks to the west and east of the area are designed for high density use, as are private developments. The Hector program complements rather than competes with these areas, by providing something different.

The majority of visitors to the area come from within 40 miles. However, there are people vacationing in the summer and deer hunters in the fall who live more than 100 miles away.

Blueberry Patch is designed for family camping to accommodate both small camping vehicles and tents. This site is very popular as attested by over 3,300 visitor-days use in 1981. Potomac Group Campground is designed for walk-in tent camping and picnicking and use in 1981 was 3,700 visitor-days. Both sites have tables, vault toilets, fire rings, and drilled wells with hand pumps. The Backbone Trailhead is designed primarily for use by horsemen who camp overnight.

The 25 miles trail system is composed of the main Interloken Trail (12 miles), which joins the Finger Lakes Trail on the south-

ern end of the area. The Finger Lakes Trail crosses New York State and joins the Appalachian Trail in eastern New York. There are six side loop trails connecting with the Interloken Trail so visitors can make short trips of one to three miles.

Fishing is a popular recreational activity at the ponds as attested by the number of people seen fishing and the pathways around ponds having fish in them. Many of those fishing are families with small children.

Timber

Prior to the 1930's, the Hector Unit was comprised of a large number of farms. Many of the farmers had sold a large percentage of the merchantable sawlogs from their woodlots prior to government purchase. These woodlots were cut without regard to good silvicultural practices, leaving stands in poor condition. Even after government purchase, stands were cut with little concern for silviculture until 1961 when a forester was assigned to the Unit. Therefore, these hardwood stands have been under professional management for only about 19 years. Some 1000 acres of conifers were planted under the direction of SCS from 1938 to the early 1940's. From 1961 to 1974 timber harvest was confined to hardwood sawlogs at the rate of approximately 50 thousand board feet per year since no market for other products existed. In 1974, a market developed for red pine poles used in construction of cabins by local individuals. This resulted in the sale of 50 thousand board feet of red pine in 1981 which provided a means of commercial thinning of plantations. Over the last 17 years from 50 to 200 acres have been precommercially thinned in hardwood stands each year.

The major forest type of the Unit is Appalachian mixed hardwoods (see Silvicultural Systems for the major forest types of the United States, Forest Service, U.S.D.A., Ag Handbook 445). Species composition includes a large proportion of northern red oak and white oak, sugar maple and hickories. There is some representation of aspen, white pine, eastern hemlock, American beech and black cherry scattered throughout most stands. A limited amount of black walnut is also found in some stands. The regenerative potential of many of the hardwood species is very high. Most sprout vigorously when small. Species classified as very shade tolerant are American beech, eastern hemlock and sugar maple. Intermediate in shade tolerance are oaks, hickories and white ash. These intermediates will not reproduce and survive under a closed canopy. Intermediates, particularly the mast producing oaks and hickories, are very important to wildlife. Therefore, it is desirable to use silvicultural systems to provide future stands which contain a sizable component of these species.

Wildlife

The Hector Unit was covered with unbroken forest until the late 1700's when settlers cleared the land to raise crops and livestock. 1887 marked the peak of farming in central New York, and by 1925, much of the farmland was being abandoned. As former fields became forested, the resulting vegetation provided a variety of wildlife cover and food. Wildlife species steadily increased as the habitat became suitable for them.

When the Hector Unit was purchased by the government during the 1930's about 9,500 acres, or 75% of the unit, was in open fields. The management decision at that time of purchase was to develop pastures on 5,000 acres, plant 1,000 acres to conifers and allow natural succession to occur on 3,500 acres. Over the past 40 years, these 3,500 acres of open fields have gradually become covered with forbs, shrubs, and trees. Over much of the area, invasion of trees has caused the disappearance of shrubs and forbs, resulting in a decline in the quality and variety of wildlife food and cover. Around 2,200 acres of the original 3,500 acres still have shrubs or forbs on them; the remainder are now mixed hardwood and conifer stands.

Since 1963, debrushing, by hand and by machine, has been used to encourage sprouting of browse plants and to maintain openings on 50-90 acres per year.

Big game species include the white-tailed deer and turkey. The turkey is a relative newcomer to the area, having expanded into the unit 5-6 years ago, presumably from Connecticut Hill to the south. Many of the existing stands are approaching sawtimber size and several of the oak-hickory stands within the Unit are producing mast, which may partially explain why turkey find the area attractive. An estimated 2-5 turkeys are harvested each year within the unit.

Once farmland was abandoned, white-tail deer numbers began to increase as the habitat became suitable. One winter deer yard is known to exist within the southwestern portion of the unit, although most deer winter in areas to the west. These wintering areas are used during periods of deep snows, but generally, winter snow depths within the unit permit free movement by the animals during most winters.

Small game species include ruffed grouse, ring-necked pheasant, woodcock, cottontail rabbit, gray squirrel, woodchuck, Canada goose, and several species of ducks. Snowshoe hare were introduced a few years ago, but did not increase. A few individuals may still be found within the unit.

Waterfowl habitat is extremely limited in Schuyler County and Seneca County. Hector is no exception—a few areas have wood duck production and an occasional mallard may raise a brook within the unit, but otherwise the existing ponds are either too deep and small or too accessible for waterfowl production.

Furbearers include red and gray fox, raccoon, opposum, coyote, and mink. No beaver are known to occur within the Unit. Most of the fur harvest involves fox, muskrat, and raccoon. The area provides some of the better red fox habitat in Schuyler County.

The greatest diversity of vegetation within the Hector Unit has resulted in habitat suitable for a large number of nongame bird species. However, due to the relatively young forest stands, species requiring mature to overmature forests and large snags are not found in large numbers. Species present include: eastern chipmunk, voles, shrews, star-nose moles, bats, flying squirrels, jumping mice, raptors (hawks and owls), warblers, fireos, flycatchers, nuthatches, and sparrows.

The raptor population is high and is quite noticeable around the many open areas.

The New York State Department of Environmental Conservation has constructed 25 ponds through a cooperative wildlife agreement between the State and the U.S. Forest Service. This agreement was signed in 1959. The ponds average 0.5 acres in size and most are less than seven feet deep. Most of the ponds have been stocked with bullheads and sunfish. Three of the ponds are stocked with trout. Many ponds at Hector experience at least partial die-off of fish during most winters.

No wildlife species classified as endangered or threatened under Public Law 93-205, the Endangered Species Act of 1973, are known to occur within this planning unit.●

TRIBUTE TO HENRY REUSS

HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. EVANS of Indiana. Mr. Speaker, I would like to take this moment to share in the tribute to my distinguished colleague from Wisconsin, HENRY REUSS, who will be leaving the House at the end of this term after 28 years of outstanding service.

Through our joint assignment on the Banking Committee, I have gained a tremendous amount of respect for HENRY REUSS, both as a person and as an effective legislator. His foresight and intelligence have been valuable assets to the House during his tenure. He has shown a remarkable ability to transmit his political idealism into public policy. His accomplishments have included such diverse projects as equitable tax reform, water pollution control, and the inception of the Peace Corps. As chairman of the Banking Committee, HENRY REUSS was instrumental in establishing loan guarantees to New York City and the Chrysler Corp. Innovative ideas such as these were characteristic of HENRY REUSS. His ability to mold broad concepts into workable projects became a REUSS trademark.

The absence of HENRY REUSS' wisdom and leadership abilities will be felt throughout the House. I would like to extend my very best wishes to Chairman REUSS in his future endeavors, and add my personal appreciation for his dedicated public service.●

HOUSING: HISPANIC AMERICA'S UNFULFILLED DREAM

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. GARCIA. Mr. Speaker, the present administration's policies, the tremendous cuts in federally assisted housing and the recession have produced the worst housing crisis since the depression. Many Americans, especially low income and minority housing consumers, confront a living environment that is alienating and stifling.

Inadequate housing is a pressing concern to the Hispanic community. The rate of substandard housing for Hispanics is between two and three times higher than that for the rest of the U.S. population. Segregationist and discriminatory practices decrease

housing alternatives while they increase the cost of housing to Hispanic consumers.

There is a need for greater cooperation between major corporations and Hispanic community-based nonprofit organizations. We must take action to create productive economic activity in communities targeted for housing rehabilitation and new construction. It is our responsibility to respond to the needs of the Hispanic community and to insure that it receives equal economic and social opportunities.

For the benefit of my colleagues, I include an article, written by a former president of the National Hispanic Housing Coalition, outlining the inequities of Hispanic housing in America.

HOUSING: HISPANIC AMERICA'S UNFULFILLED DREAM

(By Jose S. Garza)

Housing is an integral part of the total environment that affects the way humans feel and behave. The characteristics of this environment are especially significant because they condition the development of young people and thereby of society. Precisely because it has such profound effects on personal and social life, decent housing is vital to everyone. Current housing policies and trends are not representative of what many people need and want; rather, they reflect the limited choices many people actually have. Many Americans, especially low income and minority housing consumers, do not enjoy a quality living environment. Instead they confront one that is alienating and stifling.

This is illustrated in the deplorable housing conditions that a majority of Hispanic families are forced to live in. Simply stated, next to the American Indian, Hispanics are the worst housed people in this country. It is important to note however, that Puerto Ricans are housed even worse than American Indians.

Contrary to common belief, Hispanics are an extremely urbanized population. Over 84 percent of all Hispanics reside in metropolitan areas, compared to 68 percent of the overall population. Consequently, Hispanic families pay a higher price for their shelter since housing is more expensive in urban areas. In the past, 25 percent of a family's income has been held as the maximum amount that should be spent toward adequate housing. Based on this rule, 80 percent of all Americans obtain adequate housing. However, less than 70 percent of all Hispanics are able to get adequate shelter for a quarter of their income, and only a shocking 48 percent of Puerto Ricans can obtain adequate housing with 25 percent of their income.

Hispanics are less likely to own the housing unit they occupy. Only 43 percent of the housing units occupied by Hispanics were owned by them, as compared to 65 percent for the total population. Because they lack the economic means to purchase housing, Hispanics as a group more frequently rent (58 percent do) than does the overall population (35 percent of whom rent housing). As renters, they are forced to rely upon landlords for improvements and, therefore are more vulnerable to policy and market fluctuations.

Inadequate housing is a pressing, priority concern to the Hispanic community. The rate of substandard housing for Hispanics is between two and three times higher than for the rest of the United States population. More than 20 percent of the housing units occupied by Hispanics have physical inadequacies, including lack of heating, poor plumbing and sewage disposal, and faulty electrical systems. Overcrowding is much more severe for Hispanics than for other Americans. They are more than three times as likely to be overcrowded as is the overall population. Finally, Hispanics continue to suffer from discrimination and segregation which directly affects the cost and quality of housing. These practices decrease housing alternatives while they increase the cost of housing to Hispanic consumers.

The present Administration's policies, the tremendous cuts in federally assisted housing and the recession have produced the worst housing crisis since the Depression. The impact of this crisis on Hispanic housing consumers, community-based non-profit organizations and businesses has been devastating. As Hispanic unemployment continues to rise, nonprofit public-oriented organizations have declined and Hispanic businesses are encountering serious financial problems—thereby exacerbating the Hispanic housing crisis.

HOUSING SOLUTIONS

There is a need for greater cooperation between major corporations and Hispanic community-based nonprofit organizations. What the business sector can provide in such areas as business skills and financial leverage, a nonprofit organization can offer in related areas such as promoting local community development opportunities, political leveraging and expertise in government contract procedures and contacts. A balanced combination of the two can produce affordable housing to Hispanics and profits to the private sector.

The federal government should take action to create productive economic activity in communities targeted for housing rehabilitation and new construction. It must ensure that Community Development Block Grant funds are used by local governments to develop economic and housing revitalization projects in Hispanic communities. The federal government must strengthen fair housing and equal opportunity laws by passing a Fair Housing bill containing strong enforcement mechanisms. In addition, it should stimulate the utilization of pension funds to develop low and moderate income housing in Hispanic communities. The production of "no-frills" housing to meet the basic needs of low income Hispanic families must be initiated by the government. Further, it should use federal credit programs to finance low and moderate income housing. Finally, a performing Minority Business Enterprise Program should be established to ensure Hispanic entrepreneurs are represented in the housing development field.

All the evidence suggests that a disproportionate and large number of Hispanics in the United States remains poorly housed. It is clear that the Hispanic community needs alternatives from which to select a living environment best suited to personal, social and cultural needs, functional capacities and financial resources. Thus, it is our responsibility to ensure that the private sector and government respond to these needs and that the Hispanic community receives its fair share.●

BILL BRODHEAD

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. GEPHARDT. Mr. Speaker, it has been my pleasure to serve with BILL BRODHEAD on the Ways and Means Committee since I came to the Congress and on the Budget Committee during his 2-year tenure there. In our frequent contacts, I have always been impressed by his dedication to principle.

BILL has repeatedly championed the needs of the underprivileged in our country, even though it often meant swimming against the tide and sometimes battling a tidal wage against continued funding of social services. The needy in this country will be forever grateful to him for his willingness to stand his ground for principles he believes are right.

BILL's very decision to leave the Congress is testimony to this dedication to his own beliefs. He has said he would prefer spending his time with his family rather than battling special interests and the perpetual threat of corruption money in politics. Even as he leaves Washington, BILL is clearly demonstrating he is a man who will not compromise himself.

We in the Congress will surely miss BILL BRODHEAD and regret his departure, but he will always have the respect and admiration of his colleagues that he has so conscientiously earned.●

ILLEGAL IMMIGRATION

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. SCHEUER. Mr. Speaker, in view of the fact that the House will shortly take up consideration of the Simpson-Mazzoli immigration bill, I would like to bring to the attention of my colleagues two articles that recently appeared in the New York Times. The focus of these articles is central to my concern with this legislation as presently written.

The enactment of immigration reform that fails to address the extreme vulnerability of our borders is an exercise in futility. The article of October 20 details the extent of the problems caused by just one surge of illegal immigration from Bangladesh. The November 20 article illustrates the ease with which pregnant illegal aliens cross our southern borders so their new born infants will automatically become U.S. citizens. Apart from describing these specific instances, the

following articles are indicative of the porous nature of our borders.

Establishing firm control over our borders will be a matter of the utmost importance in our debate, and for that reason I commend these articles to my colleagues for their consideration.

[From the New York Times, Oct. 20, 1982]

NEW ASIAN ALIENS CONCERN OFFICIALS—BANGLADESH REFUGEES ENTERING U.S. ILLEGALLY, IMMIGRATION AIDES IN FLORIDA ASSERT

MIAMI, Oct. 19.—Refugees from the impoverished South Asian country of Bangladesh have begun making their way illegally into the United States by way of the Bahamas, the immigration authorities here said today.

Officials of the Immigration and Naturalization Service estimate that as many as 400 Bangladesh citizens may have arrived illegally in Florida since June and then fanned out through the country, and they say thousands more may follow.

Dwayne Peterson, the chief of the antismuggling unit of the Border Patrol in Miami, said the Bangladesh aliens who had come here so far were from a community of some 15,000 Bangladeshis who had been living in West Germany. He said they had also entered West Germany illegally, but after years of legal appeals had been told they must leave.

The estimate of 400 illegal aliens from Bangladesh comes from interviews with 57 caught while attempting to enter this country. To immigrate to the United States legally can be a long and complicated process and relatively few who apply are accepted.

As an initial step toward ending the influx in the early stages, Mr. Peterson said, the Federal Government has asked the Bahamian Government to begin requiring visas of the Bangladeshis.

The Bahamas and Bangladesh, formerly known as East Pakistan, are former British colonies, and Bangladesh citizens can travel to the Bahamas without obtaining visas.

The Bahamian island of Bimini, about 50 miles southeast of Florida, has been a "notorious jumping-off point" for many illegal aliens heading for Florida, Mr. Peterson said. It is relatively easy, he said, to hire a small boat or airplane in Bimini that will deliver aliens to Florida.

Mr. Peterson said the Bangladesh refugees have been taking commercial flights from West Germany to the Bahamas, then taking commuter flights to Bimini, where they pay about $950 for a clandestine journey to Florida. A regular one-way seaplane trip from Bimini to Miami costs $45.

In late 1981, Mr. Peterson said, the State Department presented evidence to the Bahamian Government that Colombians were using the islands as a base for illegal immigration to the United States. In response, he said, the Bahamian Government acted within five days to require Colombian tourists to the islands to obtain visas.

That move significantly slowed the smuggling of Colombians, he said.

He said that unlike other refugee groups entering South Florida, the Bangladeshis were generally well educated and "capable of taking technical jobs away from U.S. citizens."

Beverly McFarland, a Miami spokesman for the immigration service, said one group of six Bangladesh men had made their way to Fort Lauderdale, then offered a taxi driver $1,500 to take them to New York.

About half of the 57 Bangladeshis under arrest are in the custody of Federal marshals as material witnesses since they were caught in the company of their smugglers. The rest are being held in the Krome Detention Center in Miami awaiting deportation hearings.

[From the New York Times, Nov. 21, 1982]

MEXICAN WOMEN CROSS BORDER SO BABIES CAN BE U.S. CITIZENS

(By Wayne King)

BROWNSVILLE, TEX., Nov. 17.—Ilda Leal, a small, shy, 27-year-old woman, is fairly typical of the Mexican women, now numbering in the thousands, who are coming across the border every year to have their babies in the United States.

They come, many of them, so the baby will be born an American citizen, with all the advantages that that brings. But the practice also raises thorny problems, ranging from a court case over deportation of parents through fears of unregulated care for the mothers to charges that some of the babies are being sold in a black market.

Mrs. Leal is hesitant at first, but she grows talkative as she looks on her fine boy, Abiel Leal Jr., dozing and gurgling on the bottom bunk of a double-decker bed in the cramped but spotless five-room house of Margarita Garcia. Mrs. Garcia, a stocky, strong woman of 47 whose broad face is usually split by an equally broad smile, is a lay midwife, or a "partera," as she is called in Spanish, the only tongue that she and most of her clients speak.

After Mrs. Leal became pregnant, she began seeing a doctor in Mexico, she said through an interpreter, "but then got the idea to have the baby in the United States, because they have better rights, protect the children more."

Her husband, she said, had reservations at first about having the baby at all, but she insisted, convincing him that if they ever wanted to "fix the papers," to get a visa and perhaps eventually apply for United States citizenship themselves, "it would be better if we have an American baby."

Many women make similar journeys to Mrs. Garcia and about 35 other parteras in Cameron County, just across the narrow Rio Grande River from Matamoros on the Mexican side. The midwives attract pregnant women because, among other reasons, they charge less than hospitals and offer natural childbirth. Last year, the midwives delivered 2,303 babies, almost a third of the 7,082 born in Cameron County. Half or more of those delivered by the parteras, according to county health officials and the midwives, were born to Mexican nationals like Mrs. Leal.

In adjoining Hidalgo County, lay midwives accounted for 1,095 deliveries, or 12.7 percent of the attended births in that county in 1981; in Webb County, which includes Laredo, for 790, or 20.9 percent; in El Paso 1,163, or 9 percent.

In each county, half the mothers whose deliveries were attended by lay midwives were from outside the county. "And most of those, almost all, were folks coming across the border," said Tony Grigsby, administrative assistant to Hector Uribe, a Texas State Senator who has been trying for three years to pass legislation providing for the training and regulation of midwives.

Except in instances in which the mother enters the United States illegally, the practice of crossing the border to have a baby is entirely legal.

"If she has a document for entry and there is no reason to deny that entry, she can come in," said Berl Williams, acting agent in charge of the Immigration and Naturalization Service at Brownsville. "The local crossing card is good for 72 hours. We don't stop pregnant women at the border."

Although the children are citizens by virtue of being born on American soil, their parents are not.

Thus, while new Americans like seven-month-old Abiel Leal have the same rights and entitlements as any other citizen, including free public education, Social Security, Medicare, voting, qualification to hold public office and so forth, his parents have little if any advantage.

"It does not aid the parents in gaining citizenship," said Mr. Williams.

A BUS TRIP TO BROWNSVILLE

Nonetheless, Mrs. Leal thought that the opportunities were great enough on the day when she began to feel the contractions that signaled that the birth was near. She walked out of her house in Matamoros and caught a dusty local bus to the bridge leading to Brownsville and the United States. There she got out and walked across, showing the border guards her 72-hour visitor's pass.

At the end of the bridge, she walked the five blocks to the home of Mrs. Garcia, who had been recommended to her as "the best."

Mrs. Garcia's little house, crammed with knick-knacks, ceramic dolls and pictures of Jesus, is both home and birth clinic, with two tiny rooms with a cot in each for delivering babies.

On the front of the house, which is painted bright yellow and trimmed with blue, is a vivid blue sign decorated with a pair of storks bearing bundles and the words "Se Atendien Partos," meaning "Births attended here."

"I'M NOT THE ONLY ONE"

By the time Mrs. Lea reached the house at 7 A.M., the contractions had quickened, and four hours later, with Mrs. Garcia's help, she gave birth to Abiel.

"I'm not the only one to do this," she said during her postnatal visit to Mrs. Garcia today. "One of my best friends did it last month."

As Mrs. Leal spoke with Mrs. Garcia, another young woman, 18-year-old Alicia Torres, arrived at the door. She, too, had crossed the bridge from Matamoros, heavy with her first child, her dark eyes moist with concern, believing the birth was near.

Placing the young woman on one of the cots, Mrs. Garcia checked her pulse and blood pressure, talked easily with her in rapid Spanish, and held a stethoscope to her stomach, listening to the faint flutter of the heartbeat inside. Smiling, she said, "Eight days."

"HERE, THE CARE IS BETTER"

Reassured, the woman said she had come to the midwife to have her baby because, "over here, the care is better."

Asked if American citzenship for the child was also a factor, she shyly said yes.

No one is quite sure how many women cross the border to have their babies each year, but it is a phenomenon that occurs at major crossing points all along the 1,950-mile border between the United States and Mexico.

Until a change in immigration law in 1977, a child born in the United States could be a sponsoring agent to gain resident status and eventual citzenship for his parents regardless of his age.

Now that cannot be done until the child is 21 years old. As a result, alien parents of

American citizens who have no legal reason for remaining in this country are subject to deportation.

Because of a civil suit brought in Federal District Court in Chicago, a moratorium was declared on such deportations until the question could be resolved legally.

A suggestion by the Reagan Administration that the moratorium might be revoked generated an uproar among Latin Americans. Last Mother's Day, there was a protest march by some 2,000 Mexican-Americans in Dallas.

A class action suit seeking to stop any further deportations is now pending in Federal District Court in Dallas.

MEDICAL QUESTIONS RAISED

There are also serious medical questions as well as instances of selling birth certificates and allegations of a black market in babies born to alien parents.

"It's a humongous problem and it's gotten worse," said Dr. Jesus Caquias, director of the Brownsville Community Health Clinic, whose midwife program, staffed by six trained nurse-midwives and serving only county residents, almost exclusively Mexican-Americans, is booked through March.

Besides the staff midwife program, the clinic provides screening and prenatal and postnatal care to the clients referred by the lay midwives.

Dr. Caquias, who is of Puerto Rican descent and was brought up in the Bedford-Stuyvsant section of New York City, said: "When I first came here, I was appalled by some of the stories I heard about dead babies being carried across the bridge, all sorts of horror stories, the selling of babies. There was no medical support."

"A good portion came from the Mexican side and most presented themselves late in the trimester," he said, speaking of past practices. "Now we do screen them to make sure none with complications go to the lay midwives."

"In my opinion," he said, "the midwives are quite competent. Anyone can deliver a baby. I did it myself in New York as a cabdriver, on the sidewalk. The problem is when they are presented practically in labor, just to have their baby born here."

While Dr. Caquias concedes that his worst fears about the midwife program have not been realized, he remains concerned about the lack of training and regulation of the lay midwives.

For the past five years, through local legislation, Brownsville has had a program for training and certifying the lay midwives. Without the certification, they cannot practice in the city.

However, of 35 lay midwives who enrolled in the program five years ago, only eight remain. The rest simply moved out of the city into the country, where there are no regulations.

"HANG OUT A SHINGLE"

"All you have to do is hang out a shingle and start delivering babies," said John P. Schaaf, executive director of the Brownsville clinic.

Because of what many consider a poorly regulated system of registering births in Texas, there have been some sales of falsified birth certificates, a method of gaining instant citizenship.

In September, three women, including 29-year-old Estelas Guzman Gallegos, one of the city's licensed lay midwives, were sentenced to three years in prison for selling falsified birth certificates to 13 Mexican nationals to make it appear that they were born in Brownsville and were thus American citizens.

The Mexican nationals paid from $300 to $2,400 for the false documentation.

Health officials and others here say that the legal authority of the lay midwives to fill out birth certificates has led to traffic in "black-market babies."

The practice came to light two years ago when it was discovered that a lay midwife had accepted a fee of $250 to falsify the birth certificate of a baby girl born to a 19-year-old woman who was an illegal alien.

The midwife testified in court that she had told the mother that the child had died. Instead, the midwife made out a birth certificate listing another couple, American citizens, as the natural parents, and gave the baby to them. She received a fee of $250, and another $250 was given to the Mexican mother.

In another such case, a mother who had sold her child to an American couple and was receiving a monthly payment decided she wanted the child back and went to the authorities.

"WAY TO MAKE EXTRA INCOME"

No one has determined the extent of the black market in babies born to aliens, many unmarried, but Dr. Caquias at the Brownsville Community Health Clinic said a few unscrupulous midwives apparently saw it as "a good way to make some extra income—an agreement between the mother and the partera."

Despite medical problems and other abuses, Dr. Caquias and other medical people here say the lay midwife system is largely beneficial, if properly regulated, particularly because most midwives charge from $150 to $200, as against about $800 for a hospital birth attended by a physician.

Too, many Hispanic women have far more confidence in the midwives than they do in doctors and hospitals.

Another factor is that many mothers prefer a natural birth. Parteras use no drugs—"no aspirin, no nothing," said Mrs. Garcia, a trained nurse who is regarded as one of the best of the Brownsville midwives.

A half-mile away from Mrs. Garcia's home another midwife, Josefina Salinas, a second-generation partera whose mother delivered babies until she was 79, more than 4,000 of them, had just delivered Mario Alberto Flores, the first child of 19-year-old Rosaura and Alfred Flores.

For Mrs. Flores, an American citizen, the attractions of the midwife were * * * personal preference.

"I wanted to know how it felt," she said, looking at nine and a half pound Mario sleeping contentedly on a cot under the watchful eye of Mrs. Salinas.

"Everybody told me it was going to be hard," she said. "It wasn't. I am happy."●

A TRIBUTE TO JAY C. EHLE

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. MOTTL. Mr. Speaker, I take this opportunity to pay tribute to Mr. Jay C. Ehle, one of the most successful businessmen in the Greater Cleveland area. He is the current president and chairman of the Cleveland Builders Supply Co.

Jay was born in 1917 in Cleveland. He graduated from Kenyon College in 1938. He married Janet Greiner in 1939 and is the proud father of three children. He joined the Cleveland Builders Supply Co. in 1938 and became the vice president of operations in 1953. In 1958, he became the vice president and general manager of the company and then its president in 1963. He also assumed the chairmanship of the company in 1966.

The Cleveland Builders Supply Co. has annual sales of approximately $45 to $50 million. They are the distributors of many building products and have plants throughout northern and central Ohio as well as in the Detroit, Mich., area.

Jay has a long and impressive record of service to the community as well. He is a member of the Masons, Shriners, and Jesters. He has worked on various civic drives including fund raisers for Kenyon College, Case Western Reserve University, and the Boy Scouts of America. He has served on the board of trustees of Lakewood Hospital and the board of the Greater Cleveland Growth Association.

Currently, he is the vice president of the Boy Scouts of America, the director of BancOhio National Bank in Cleveland, the chairman of the Cleveland-Cuyahoga County Port Authority, and the director of the Great Lakes Historical Society. He was the commodore of the Cleveland Yachting Club in 1965 and has done continuing work on recreational boating facilities. He belongs to the following boat clubs: The Cleveland Yacht Club, the Catawba Island Club, and the Old Club. He is also a member of the Union Club and the Hermit Club.

Jay Ehle is truly an inspiration to all who meet and know him. I salute him for a brilliant career and wish him the best of luck in the future. Cleveland is indeed proud of this exceptional man who has lived in and served the area so well.●

DISASTER ASSISTANCE IN TEXAS

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. STENHOLM. Mr. Speaker, In September of this year a 38-county area in west Texas was declared a disaster area for purposes of offering assistance to legitimate small business affected by poor crop performance. Severe hail and rain storms earlier this year preceded the declaration. Because otherwise normal free market conditions were affected due to this natural disaster, economic intervention was necessary. The assistance that was ordered in the area included

economic injury disaster loans also known as EIDL (pronounced "idle"). These EIDL loans are offered to small businesses affected by poor crop performance due to the disaster. Since the Small Business Act is intended for the purposes of aiding small business only, it is legitimate for the Small Business Administration to have a determining procedure. This is known as size standard determination.

In the case of small agriculture cooperatives, size standards are not limited to the size of the operation, but also to the size of each and every member of the cooperative. To those who understand the intention of the Capper-Volstead Act that established the farm cooperative, it is apparent there is no major economic interest in the cooperative that a member would have which should require the member to submit financial disclosure forms. This is not to mention that many of these cooperatives have several hundred members, some of whom are landlords and have no connection with the co-op directly. To require that each member provide SBA with financial statements to substantiate its size is unreasonable, due to the size of the membership and their financial relationship with the co-op.

The Small Business Administration, admittedly, has tried to find a solution to this dilemma. This is not the first year and west Texas is not the only area in which these rules have unjustly disqualified cooperatives from small business assistance. The SBA just last year was communicating with its regional offices in search of an answer to these policy issues. The fact is: The law is not clear on agriculture cooperatives, and the SBA has no intention of reviewing these regulations in light of the conditions that I have presented.

SBA regional offices have waived this paperwork requirement in the past, as one regional counsel stated, "because a pragmatic approach would be in the best interests of the cooperative and the Small Business Administration." It is obvious by the regional applications of these rules that an early review would be warranted. However, SBA insists that its current regulations will stand as is, unless corrective legislation is passed.

For this reason, I am today introducing legislation that finally offers the necessary language to satisfy the SBA regulators. They can proceed with legitimate exemptions of small farm cooperatives that are no larger and sometimes smaller than their competition, yet which would not be assisted in the same way with economic injury loans.

It should be understood that these loans would continue to be made under the premise that participation of small agricultural concerns in the free market process has been hampered by uncontrollable forces, namely a natural disaster. This would not require SBA to waive size standards for the co-op in the event of a disaster. And it would continue to allow SBA to seek size standards of the co-op members when otherwise normal market conditions exist.●

WHALE PROTECTION WILL BE ENHANCED THROUGH THE GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. BONKER. Mr. Speaker, as the House considers H.R. 3942, which contains the new governing international fishery agreement with Japan, I would like to enter into the RECORD two items to amplify and to clarify the legislative history of this GIFA. One is a letter of December 3, from Senator PACKWOOD to the Acting Secretary of State which sets forth concerns that I share about Japan's continuing disrespect for the International Whaling Commission's decisions on commercial whaling. The other is the Acting Secretary of State's response of December 4.

At the 1982 IWC meeting, the United States led the conservationist countries to a major victory in the decade-long struggle for increased whale protection: the IWC voted overwhelmingly to place a moratorium on all commercial whaling in 3 years. However, Japan has filed an objection whose purpose is to exempt Japan from compliance with the commercial whaling moratorium. Japan's decision to file an objection demonstrates once again its intent to ignore important whale conservation measures. Last year, Japan filed objections to two key IWC provisions banning the use of the cold harpoon and sperm whaling. As the leader of the whaling nations and as the country that has most consistently sought to undermine the IWC's regulations, Japan's requests for fisheries allocations in the U.S. 200-mile zone deserve special scrutiny.

I support the GIFA with Japan as providing a sound basis for promoting and enhancing the interests of our domestic fisheries industry. However, I believe that in addition to the needs of our fisheries industry Japan's conduct on whaling should be taken into account when we consider the sharing of our fisheries resources. That is the point of the exchange of letters between Senator PACKWOOD and the State Department. The State Department's letter says, in part: "We are also prepared to use available laws and regulations, beginning this spring, to prevent Japan from thwarting the IWC cessation decision." My understanding of the State Department's letter is that future U.S. Government decisions on fisheries allocations under the GIFA will depend upon whether Japan decides to abide by the IWC's regulations and withdraw the objection it filed to the 3-year deferred cessation of commercial whaling.

Mr. Speaker, the administration's commitment to consider Japan's conduct on whaling when allocating our fisheries resources under the GIFA will strengthen our country's longstanding pledge to support whale protection efforts. The letter follows:

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C., December 3, 1982.

Hon. KENNETH DAM,
Acting Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: In our letter of August 31, 1982, to Secretary of Commerce Malcolm Baldrige, signed by 66 U.S. Senators, we called for the United States to strive vigorously to prevent whaling nations from filing objections against the IWC decision to impose a moratorium on commercial whaling beginning in 1986.

"If we succeed in preventing objections against the IWC cessation decision," the letter concludes, "we will avoid a period of tension and uncertainty with respect to fisheries. This will permit U.S. fishermen and processors to conclude fishing agreements which promote the interests of the majority of citizens, including fishermen from both whaling and non-whaling countries . . ."

Unfortunately, objections have now been filed by several nations. The period of "tension and uncertainty (in) our relations with whaling nations with respect to fisheries," which we had hoped to avoid, is clearly upon us.

However, despite the fact that the largest whaling nations have already filed objections, we do not feel that acceptance by all nations of the cessation decision is necessarily unobtainable.

Paragraph five of our August 31 letter urges that "In addition to a clear statement on the Pelly and Packwood amendments . . . (the U.S.) . . . assure the whaling nations that other means available to us to reinforce the IWC will not be ignored. For example, the allocation process within FCMA provides ample discretion to adjust allocations (either up or down) in response to a wide spectrum of U.S. objectives and concerns. This means of lending substance to U.S. policy on whaling should certainly be considered. GIFA's under FCMA are, of course, another area subject to review by Congress."

In the case of Japan, we note that the decision to object was made during the final weeks of a "lame duck" government, after intense internal debates. The incoming government is committed to improving relations with the United States. The incoming regime may be induced to reconsider the prior government's objection to promote improvement in Japanese-United States relations. The intense nervousness among Japanese officials, the Japanese fishing industry, and the Japanese press over fisheries relations with the United States, makes it inevitable that the new Japanese GIFA, and allo-

cations to be made under the GIFA, will be very much on the minds of Japan's new leaders as they review the whaling policy adopted by the previous regime.

The U.S. Senate and House are currently in the process of reviewing the GIFA within the 60 days provided by FCMA. As you know, the current GIFA will expire before this 60-day period has elapsed which makes action during the "lame duck" session imperative. Given the intense public concern over whaling reflected in the August 31 letter, our conclusions with respect to the GIFA cannot be entirely divorced from the whaling question. It is necessary for us before reaching any final conclusion on the GIFA, to have a clear statement on whether the Administration is willing to use measures such as those mentioned in paragraph 5 of our August 31, letter to Secretary Baldridge (referenced earlier in this letter).

In making this statement we realize that any use of these measures must only be done after full consideration of the likely effect on the United States fishing industry. It is not our intent that this policy result in harm to this very critical sector of the American economy.

Lastly, we must stress the time constraints we face on this issue. Due to the pending expiration of the Japanese GIFA, it is crucial tht this issue be resolved during the "lame duck" session. Therefore, we must ask that your response to this inquiry be received by December 8 at the very latest. Any delay past that point could well threaten our ability to ensure action on the GIFA during the "lame duck" session.

Cordially,

CHARLES H. PERCY.
BOB PACKWOOD.

DEPARTMENT OF STATE,
Washington, December 4, 1982.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate.

DEAR MR. CHAIRMAN: I am writing with regard to the United States-Japan Governing International Fisheries Agreement (GIFA) which is before the current special session of Congress for approval. As you know, we strongly advocate approval of the GIFA at the current session. The Agreement should be approved on its own merits. It will provide substantial and direct benefits to the United States fishing industry.

At the same time, we share your commitment to the full and effective implementation of the International Whaling Commission (IWC) decision providing for a cessation of commercial whaling. It is our intention to use the means at our disposal to secure this objective. In this regard, however, we believe that disapproval of or failure to act upon the new GIFA with Japan will serve neither this objective, nor the range of U.S. interests at stake in this area.

We are encouraged by the seriousness with which the Government of Japan has responded to our interest in timely and constructive consultations on this matter. Further discussions will, however, be necessary over the next several months. Obviously, we are very hopeful that these discussions will be successful. We will review their progress and, if they are not productive, we will undertake every diplomatic means open to us. We are also prepared to use available laws and regulations, beginning this spring, to prevent Japan from thwarting the IWC cessation decision.

Sincerely,

KENNETH W. DAM,
Acting Secretary.●

HON. DON H. CLAUSEN

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. MYERS. Mr. Speaker, I want to join with my colleagues who have already participated in a special order honoring Representative DON H. CLAUSEN of California.

DON was first elected to Congress in 1963 from California's Second Congressional District. The Redwood Empire, as it is sometimes called, stretches from the Marin County line, a few miles north of the Golden Gate, to the Oregon border. His district includes the beautiful California coast as well as the famous Napa Valley known for some of the best wine in the world.

Prior to his election to the House of Representatives, DON served for 7 years at the level of government as a member of the Del Norte County Board of Supervisors. Before his entry into public service, DON was a Navy pilot and actively involved in banking, insurance, and commercial aviation.

During his 20 years in the House DON moved up the ladder to become the ranking Republican member of the Public Works and Transportation Committee and second ranking Republican member on the Interior and Insular Affairs Committee. He has shown great leadership on both of these committees.

In recent years, I have often gone to DON for help and advice about projects and programs from his committee. I have learned that his advice has always been most appropriate and honest. We will all miss his help, his advice, and his counsel.

DON CLAUSEN has been a hard worker, dedicated public servant, and a good friend. I will greatly miss having him as a colleague. My wife Carol and I wish DON and his beautiful wife, Ollie, success and happiness in the future.●

SOUTH BRONX NEIGHBORS HOLD DEVASTATION AT BAY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. GARCIA. Mr. Speaker, the South Bronx is in the early stages of undergoing a dramatic economic revitalization. I would like to address a recent New York Times article that speaks of the potential of resurging urban areas, such as the South Bronx.

The Longwood Community, designated as a historic district, has little in common with what many think of the South Bronx. It is a community born in the 19th century and composed of homeowners who have lived in one house for 30 or 40 years. The neighborhood spirit that has nurtured in Longwood has also served to deter crime because residents protect each other in the fashion of a traditional, small-town, mutual support group.

If one looks at the South Bronx, neighborhood by neighborhood, one can see it beginning to come together, and can get an image of how the South Bronx can be restored. The Longwood area is one of the most visible symbols of that now.

I would like to introduce this article, a tribute to the optimistic spirit of the Longwood Community of the South Bronx, for the benefit of my colleagues.

[From the New York Times]

SOUTH BRONX NEIGHBORS HOLD DEVASTATION AT BAY

(By David W. Dunlap)

There are many times when Beck Street is so quiet you can hear the wind in the maples.

"I was looking for a nice place with a country-like atmosphere," recalled Ann Wiggins, standing before the 82-year-old house on Beck Street that has been her home since 1946. "I found this—with trees along the street. I love this area. There was no reason to run."

Mrs. Wiggins lives in the South Bronx.

But her tiny neighborhood, known as Longwood, has little in common with the prevailing image of the South Bronx. Hers is a community born in the 19th century and composed of homeowners, of acquaintances who know every face on the block, of people who have lived in one house for 30 or 40 years.

DESIGNATED A HISTORIC DISTRICT

It is also a seven-block historic district, so designated by the city's Landmarks Preservation Commission in 1980 because it "contains some of the best of the turn-of-century architecture that transformed the Bronx into an urban extension of Manhattan."

Most all of the two- or three-family houses in Longwood come in pairs—bay-front twins joined by their roofs, many of which are capped by cone-shaped peaks. Different pairs have their own nuances, but the ensemble is unusually and pleasantly harmonious.

Longwood's distinction is much more than architectural. It was one of the South Bronx neighborhoods that survived—scarred at the edges but largely intact.

"When Harlem had its problems in the 1940's, my family came up here and fell in love with this house," said Thomas J. Bess, the co-chairman of the Longwood Historic District Community Association. He lives at 947 East 156th Street.

"We wound up bringing in the whole family from New York," Mr. Bess said. "When the problem period began, a lot of us felt it would never hit us; it would just skirt us. But by the late 60's, I said, 'My God, we'd better get out of here.'"

"I wanted to stay in the Bronx and began to look for other housing," he continued, "but there was nowhere nearly as good as what we had. My aunt and I decided we were going to stay."

Mr. Bess said the neighborhood group's nucleus was the band of homeowners who chose not to leave Longwood.

CHANGE BATTLED BY COMMUNITY

It was four years ago that the association pursued designation and two years ago that the Landmarks Commission bestowed it.

Kent L. Barwick, the commission chairman, said: "The architecture, in effect, became the 'organizing tool,' as social workers call it. It was something to build on."

"We're speaking an entirely new language," said Marilyn Smith, the other co-chairman of the neighborhood association—" 'polygonal roofs,' 'halfmansards,' 'fenestration,' 'lintels,' 'porticoes.'"

One of the most recent community battles was an esthetic one, involving a Dawson Street homeowner who had replaced the lacy iron gate to his driveway with a solid, roll-down one.

"When I see something going wrong, I talk with my neighbor," said Agnes E. McTurner Holloway, who lives a few doors down. But this conflict went all the way to the Landmarks Commission.

Mr. Barwick rather marveled at the circumstance, explaining: "The community came all the way down here and said, 'We're not against our friend, but we're trying to build our neighborhood.' The guy, without waiting for us, agreed to take it down. It's a little instance of neighborliness that wouldn't have gone that way three years ago."

Such a spirit means more than success in esthetic fights. It is also a help against crime. Mr. Bess credited many of the older people with keeping the traditional, small-town vigil.

"My car was burglarized twice," Mrs. Smith said, "but one of those burglaries was aborted because a neighbor called out. You have a community of people who look out for one another. That's a spirit that's been lost in urbanization."

Beyond neighborliness, what also helped keep Longwood together was Prospect Hospital, a 175-bed proprietary institution that grew while the South Bronx declined and now admits some 10,000 patients a year.

Its executive director, Dr. Jacob B. Freedman, was born in the neighborhood. After a number of years away, he returned to Longwood and in 1963 built a modern facility.

"I felt that the future for a new hospital in the community existed," he said.

Dr. Freedman likes the fact that his old neighborhood is a historic district. "It's bringing to our community recognition and growth," he said, "and it's attracting good people to move into our brownstones. The community is only undervalued because it's undiscovered."

One of those who has discovered Longwood is Anita Miller, director of the South Bronx program at the Local Initiatives Support Corporation in Manhattan, which supports community groups, directed by advisors from 10 corporations and four foundations.

COSTS CONSIDERED FOR ELDERLY

"When you look at the South Bronx as a whole, it's mind blowing," she said. "But if you look at it neighborhood by neighborhood, you can see it beginning to come together, you can get an image of how the South Bronx is going to be restored. And I think the Longwood area is the most visible symbol of that now."

The neighborhood association has done well getting money from the city's Facade Improvement Program, the New York State Division of Housing and Community Renewal and the Inner City Ventures Fund operated by the National Trust for Historic Preservation.

But no one is so bold as to call it a happy ending yet, particularly in a community whose aging population is trying to get along, in many cases, on fixed incomes.

Ernestine L. Jackson, the association's project director, said that, of the 127 homes in the district, 97 were owner-occupied and a majority of these owners were old people.

"While the housing stock is beautiful and very attractive," Mrs. Miller said, "unless we get a handle on those houses, it's going to be very hard for the current homeowners to maintain them."

"Our fund-raising is an ongoing effort to help the senior citizens," Mr. Bess said, and Mrs. Smith finished the sentence, to bring down the costs of maintaining property so that the senior citizens won't be displaced."

The association is also negotiating to buy eight abandoned city-owned houses that it will rehabilitate. The problem is that that will probably cost $1 million.

"There is not a market for $80,000-to-$90,000 homes in this area," Mr. Smith said.

"At this time," Mr. Bess added, with something of a smile.

"I hope never," Mrs. Smith concluded. "I hope to pass my home on to my children."●

CLAIR W. BURGENER

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. ZABLOCKI. Mr. Speaker, I welcome this opportunity to join my colleagues in honoring the congressional career of the distinguished gentleman from California (Mr. BURGENER).

As a member of the Committee on Appropriations and as the ranking minority member of the Subcommittee on Legislative Branch, CLAIR BURGENER has played an important role in the legislative process—and he has had an especially important impact on our own congressional operations.

In addition to this record, however, he has been very active in a wide range of important causes and local volunteer efforts in his own community. He has been chairman of the Heart Fund Campaign and United Fund Campaign of San Diego and a leader in the movement to combat mental retardation and to assist handicapped children—both at the local and national levels. This is the kind of personal involvement which has characterized his 10 years of service both to his constituents and to this body.

To CLAIR BURGENER and his family, I extend my warmest best wishes for a successful and rewarding future, and I commend the gentleman for his outstanding service to the Nation.●

RESTRAINING THE NUCLEAR ARMS RACE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CONYERS. Mr. Speaker, when the energy and water development appropriation bill (H.R. 7145) comes to the floor, I shall be offering an amendment to delete $2.233 billion from the national security programs that fund nuclear warhead development, testing, production, and stockpiling. The purpose is to remove only those funds that will be used for the development, testing, and production of new warheads. The amendment leaves ample funds to maintain and upgrade existing plants, reactors, and stockpiles. The deletion amcunts only to 38 percent of the committee's recommendations.

I believe the United States and the U.S.S.R. have a precious opportunity to move significantly forward on nuclear arms control. The Soviet leadership has changed, and I detect a willingness of the new leadership to engage in serious arms control negotiations. The risks of perpetuating and extending the arms race far outweigh the risk of undertaking a nuclear warhead moratorium on our part. The administration has given the go-ahead for producing an additional 37,000 new nuclear warheads during the next decade or so. I daresay the Soviets will match our expansion, just as we have matched theirs. So instead of a superpowers' nuclear stockpile of 50,000 weapons currently, we will find a stockpile of 100,000 or more warheads in the next decade. That does not make any sense.

The news reports from Europe clearly indicate that our allies are disposed to enter upon arms control negotiations with the Soviets. Denmark has decided not to support U.S. plans to deploy Pershing missiles. There are indications that the Netherlands and Belgium will follow suit. European opinion appears to be intensely opposed to further escalation in the nuclear arms race.

In our country, the November election should have dispelled any doubts about American sentiment toward the arms race. The nuclear freeze referenda demonstrated strong sentiment for initiatives and negotiations to halt the arms race. There is also growing awareness of the debilitating economic effects of massive military spending in this country and in the world.

The dangers of nuclear confrontation are even greater than the horrendous numbers of current weapons suggest. Every new nuclear weapons system adds greatly increased accuracy and speed. Under these conditions,

nuclear weapons can easily be launched as the result of miscalculation or error. This year alone, over 100 false alarms of nuclear launches occurred. The Soviet Union recently warned that they will move toward "a launch-on-warning" strategy if we deploy MX missiles. The growing sophistication, accuracy, and speed of weapons are the very incentives for a preemptive first strike.

What is the value inherent in continuing the nuclear arms race under these conditions? Consider the competitive race during the past 30 years. The United States exploded the first atomic weapon in 1945; the Soviets obtained theirs in 1949. The United States built the first hydrogen bomb in 1954; the Soviets followed suit 1 year later. The U.S.S.R. was the first to successfully test an ICBM in 1957; we tested ours in 1958. The United States deployed the first submarine-launched ballistic missile in 1960; 8 years later, the Soviets deployed their own. In 1966 the United States deployed the first multiple warhead, and the Soviets matched that in 1968.

The Soviets deployed the first anti-ballistic missiles in 1968; we matched them in 1972. In 1970 the United States developed the first multiple independently targeted warhead (the MIRV); 5 years later, the Soviets followed suit. The United States built the first long-range cruise missile in the past few years; it is said the Soviets are several years behind. In the same way, the Soviets will match us in our enhanced-radiation tactical nuclear weapons, just as we, no doubt, will match them in developing antisatellite and other space weapons.

What possible value is there is continuing this incalculably wasteful and dangerous competition? I know of none.

The amendment I will be offering would send a reasonable signal to the Soviet Union and the world that we are absolutely serious about curbing the nuclear arms race. I believe it could create or advance the context for an agreement between the United States and the U.S.S.R. to curb this deadly competition by taking a first step in freezing nuclear warheads at existing levels.●

AMNESTY INTERNATIONAL GROUP 154 (MID-WESTCHESTER) MONITORS TURKISH PRISONER OF CONSCIENCE ALI SAHIN

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. OTTINGER. Mr. Speaker, I rise to bring to the attention of my colleagues the plight of Mr. Ali Sahin of Turkey, who has been designated by Amnesty International as a "Prisoner of Conscience." Mr. Sahin's case is being closely monitored by Amnesty International's Group 154 of Mid-Westchester, N.Y.

Ali Sahin is 1 of 52 leading officials of the Turkish Confederation of Progressive Trade Unions (DISK) arrested under article 146 of the Turkish Penal Code which carries the death penalty. According to Amnesty International, Sahin and his colleagues have been accused of "intending to change the order of the State by force." However, the 817-page indictment, read in its entirety in full court, does not contain accusations or evidence of use of force by the defendants. They appear to be prosecuted solely for their trade union activities, in violation of article 11 of the European Convention on Human Rights to which Turkey is committed.

Mr. Sahin has been a distinguished labor leader. He served as a member of the DISK management board; as national board member of the 5th national congress of DISK, and as secretary general and president of the Glass Workers' Union.

In addition to appealing for the release of this 45-year-old man, Amnesty International Group 154 is particularly concerned about his health and is seeking information about his medical condition. The basis for this concern are reports that over 30 of the 52 defendants have claimed that they were tortured during interrogations.

I strongly urge the Reagan administration and the State Department Bureau of Human Rights and Humanitarian Affairs in particular, to speak out against this terrible violation of human rights, and to closely monitor the condition of Ali Sahin and his colleagues. I also commend the tireless efforts of the members of Amnesty International and Group 154 in Mid-Westchester. These people have been vigilant in the defense of human rights throughout the world, and deserve great praise for their work.●

POOR DRAINING CHARITIES

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Ms. MIKULSKI. Mr. Speaker, I am submitting for the RECORD, an article by Larry Carson that appeared in the November 17, 1982, Baltimore Sun newspaper. I would like my colleagues to have the opportunity to read a stark and graphic description of just how desperate our social work agencies and charities are getting. The number of poor in this country is increasing and the resources of the private sector charitable organizations are being stretched to the limit. This cannot go on. We, as leaders of this country, have an obligation to insure that people in this great Nation do not starve to death and do not freeze to death.

POOR ARE DRAINING CHARITY COFFERS HERE

(By Larry Carson)

Increasing numbers of poor people, desperate for emergency food as well as money with which to pay overdue utility and rent bills, are straining the resources of private charities in Baltimore.

The sharp increase in the number of people requesting emergency aid this fall has forced many private agencies to cut back in different ways, either by limiting the help they give or the number of people they see.

Associated Catholic Charities, already forced to cut the amount of help it provides each applicant, expects to turn people away for the first time in December.

The Franciscan Center on Maryland Avenue now refuses to give any money to people with unpaid utility bills of more than $800, believing the $15 or $20 it could give is better spent on those with smaller bills.

The Maryland Children's Society on West Hamburg Street isn't advertising its emergency food services in Steuart Hill and on West Baltimore Street anymore, said Bill Grimes-Wyatt, its director.

"We get five to 10 calls a day for help with gas and electric bills," Grimes-Wyatt said. "We can help maybe one per month."

"We've been cutting back on main dishes too," he added. "We're giving out more starches, soups and vegetables."

David Tabler, chief of the city's emergency services division, said the ranks of those now seeking assistance contain many newly desperate people, people who never needed or asked for such help before.

"It's no longer only the chronic poor, not even the working poor. We're seeing people who had good, steady jobs who just can't pay their bills anymore. The recently laid-off."

Social workers in the city social services department must work longer to help each client seeking emergency help now, according to Alice Brock, resource coordinator for the department.

Workers get less money from each agency so they must find more agencies to provide the same help. "It's time-consuming and frustrating. There's a lot more burnout" among the workers, she said. In addition, the poor people must travel to each of perhaps four or five agencies, for $10 or $15 donations from each to make enough to pay a utility bill that will be overdue again the following month.

Volunteers manning the private agencies are also put under a strain, she said. "How long can you give. . . . It's debilitating."

At the Franciscan Center, Mary Cooney, one of three workers there, said "we were absolutely flabbergasted" at the number of requests for emergency aid in September.

She said the center had $300 set aside for emergency aid for September. It actually gave out $930.42, borrowing against the winter months ahead to come up with the money. In September 1981, emergency utility aid amounted to $76.31, she said.

Now the Franciscans refuse to give toward utility bills in the $800-and-up range. "They just hold the checks for months until they get enough. We can do more by helping the people who owe less than $100."

So far, she added, the center is holding its own with the emergency food program, the bulk of the effort.

James Libertini, director of the St. Vincent De Paul Society, said, "Things look pretty bleak this year." He said his group works through individual church poor box collections and with a small central fund he administers.

Some parishes, he said, spend $200,000 per year on aid to poor families in that parish. The central fund, tapped to supplement parish money when that runs low, now has only $700 left from what was $5,000, he said.

In addition, there is a fuel fund to help the poor buy heating oil during the winter and that now is appealing for contributions. In 1977 the fund served 343 people in need. Last winter it was up to 626 cases costing $32,000. This year is expected to place even heavier demands on the archdiocesan fund.

The Salvation Army also reports much heavier demand this year for emergency services, but a spokesman there pledged to get whatever money is needed so as not to deny anyone in need.

In June, according to Richard O'Brian, the spokesman, 40 families were aided with emergency groceries. In September, 105 people received aid for groceries.

For utility aid, O'Brian said, $1,750 was given out in September 1981, compared to $2,450 in September 1982. He said the Salvation Army would never turn anyone away, and will find whatever money is needed elsewhere in the budget, or raise it if necessary.

He added, however, that the Salvation Army strongly encourages people to work out repayment plans with BG&E before a bill mounts to $800 or more. Many people, he said, don't work out a plan until the amount becomes enormous and then seek emergency help when the utilities are about to be cut off.

Norma Graham, of Catholic Charities, said the maximum cash assistance for people seeking help with utility cutoffs is now $15, down from $25. She said 737 cases of people seeking emergency help occurred between July and October this year, compared to 687 between July and December 1981.

The program's outreach program, four workers at four downtown churches in poor neighborhoods, received another 305 appeals for emergency help from July through October this year, compared to 385 between July and December 1981, she said.

Catholic Charities spent $3,555 on emergency help in September. Graham said the administrative budget has been used to shore up the badly strained emergency aid budget.

At St. Bernadine's Church in the 3800 block of Edmondson Ave., the Rev. Edward Miller said he receives 25 to 30 requests per week for money with which to help pay utility bills.

"Two families came in last week who said they had no electricity since April and owed $800 to $900 and haven't paid anything," he shrugged.

He said his church has about $100 to $150 per week to spend for emergency help. "The bigger parishes are being hit hard," he said.

"We limit ourselves to those living in Edmondson Village and we can help maybe five to seven families per week at most." He said the church Boy Scout troop built a model oil well on the front lawn and put a sign on it reading. "The well is dry but the people are cold."

That raised $300 to $400, he said, as did a penny-per-pin bowling tournament night. The Rev. Marcus Blackwell said things are similar at St. Edwards Emergency Food in the 900 block of Poplar Grove St. His church is sponsoring its annual 10-mile march for the hungry Nov. 21.

"We can't handle our load," Blackwell said. "We try to get DSS [Department of Social Services] to refer people who live in this area. Otherwise we refer people to other agencies."

Blackwell said four people came in Monday needing food, and one needed help with a utility bill. Last year, he said, the church would get requests from perhaps two or three people per week.

Carol Fields, director of the Bethel AME church in the 4300 block of Druid Hill Ave., said she must limit people to once every other month for emergency food aid instead of the previous limit of once per month. Emergency financial help now is limited to twice a year. "We help as many as we can," and the rest are referred elsewhere, she said.●

OLD GLORY

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. GORE. Mr. Speaker, it is with great pride and pleasure that I bring to the attention of my colleagues the unveiling of "Old Glory" today in the National Museum of American History.

Named in 1824 by sea captain William Driver, a long-time resident of Tennessee, "Old Glory" is considered to be one of the most important flags in our Nation's history. For 60 years, this 158-year-old flag has been hidden away in a Smithsonian Institution storeroom because funds were unavailable for its restoration.

But through the tireless efforts of concerned citizens in my district and throughout Tennessee, including members of the American Legion and the Daughters of the American Revolution, nearly $11,000 were raised to undertake the difficult task of carefully preserving the badly deteriorated flag. With these funds and the promise of more, the Smithsonian was able to do the necessary work, so that the flag can now be admired by all Americans.

The restoration of this historic flag could not have come at a better time to remind us of America's uniqueness and the pride we have in our country. I commend those Tennesseans and Smithsonian officials who have worked to preserve the flag, showing the rest of the country what patriotism coupled with enthusiasm can accomplish.●

A SALUTE FOR VIETNAM VETERANS

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. EDGAR. Mr. Speaker, during the week of November 8 the city of Washington and the Nation paused to pay a long-overdue tribute to the men and women who served in our Armed Forces during the Vietnam war. A focal point of this tribute was the dedication of the impressive and moving Vietnam veterans memorial on the Mall. That dedication and the events which took place during that week were also-the-center-piece for the largest gathering of Vietnam veterans since the end of the war. Apart from the ceremonies and parade down Constitution Avenue, the National salute to Vietnam Veterans clearly showed a city and a nation extending an emotional welcome and thanks to many who had not seen but who sincerely deserve our respect.

Many individuals deserve our appreciation for organizing and contribution to this occasion. Foremost among that group are the leadership of the Vietnam Veterans Memorial Fund, Jan Scruggs, Robert Dubek, Jack Wheeler, and their staff. Their insight, patience, and determination in conceptualizing the memorial and the salute have made a memorable contribution to the landscape of this city and the lives of thousands of their fellow veterans.

There are many others who also deserve our thanks. As chairman of the House Veterans' Affairs Subcommittee on Education, Training, and Employment, I believe we can be thankful for the events which took place that one week in November. But we also have a responsibility to maintain a very tangible tribute to the Vietnam veteran and all veterans through programs and services provided by a grateful nation through the Veterans' Administration and other agencies, every week of the year. Part of this responsibility is to work through our committee and the Congress to insure adequate budgets, modern medical facilities, and enlightened readjustment and employment programs for those who have served. At the same time we should also pay tribute to the thousands of men and women who work each day through the Veterans' Administration to provide these services for the veteran.

It was therefore very fitting that employees of the Veterans' Administration played a very important role during the National Salute to Vietnam Veterans last month as well. In particular, I would like to single out the staff of the Vietnam veterans read-

justment counseling program (Operation Outreach).

Enacted in 1979 through Public Law 96-22 the readjustment counseling program provides unique personal counseling and psychological services for Vietnam veterans still experiencing difficulties in readjusting to civilian life. From the beginning of the program, thousands of troubled Vietnam veterans have sought and found assistance provided by a dedicated staff in informal storefront centers in communities across the United States. This highly successful program was extended by the Congress in 1981 for an additional 3 years. As a member of the House Veterans' Affairs Subcommittee on Hospitals and Health Care, I know the program will again be one of our top priorities as we seek to encourage and direct its mission further during the 98th Congress.

Readjustment Counseling personnel brought their very special expertise to Washington during the Salute to provide professional services, personal intervention, counseling, and support for hundreds of veterans and their families. At a time when emotions were high, they established mobile vet centers in hotels, at the Mall, and throughout the city 24 hours a day to help ease the lingering pain of the Vietnam war among the many who came to Washington to pay tribute and remember.

Mr. Speaker, I would like to individually recognize those VA and vet center personnel who contributed so much to assist and honor their fellow veterans during the salute through this very valuable program.

Vet center staff and VA medical center staff providing counseling in Washington, D.C. at the National Salute to Vietnam Veterans, November 10-14, 1982:

Joseph Gelsomino, Regional Coordinator, Southeast Region.

Gary May, Assistant Regional Coordinator, Great Lakes Region.

Shad Meshad, Regional Coordinator, Far West Region.

Jaroslaw Melnyk, Assistant Regional Coordinator, Far West Region.

Sara Haley, VAOPC, Boston, Mass.

Husher Harris, Regional Coordinator, Mid-Atlantic Region.

Thomas Harris, Acting Team Leader, Indianapolis Vet Center.

Arto Woods, Counselor, Pittsburgh, Pa., Vet Center.

Jack McCloskey, Team Leader, San Francisco, Calif., Vet Center.

Harold Bryant, Counselor, Tucson, Ariz., Vet Center.

Thomas Scarano, Team Leader, Denver, Colo., Vet Center.

Stephen Frye, Team Leader, Charlotte, N.C., Vet Center.

Robert Cameau, Counselor, Portland, Maine, Vet Center.

Wayne Smith, Counselor, Providence, R.I., Vet Center.

Thomas McGreevy, Team Leader, Manchester, N.H., Vet Center.

James Lenzer, Counselor, White River Junction, Vt., Vet Center.

Ronald Armstead, Counselor, White River Junction, Vt., Vet Center.

Tom Mirtaugh, Team Leader, Elkton, Md., Vet Center.

Thomas Rascon, Counselor, Huntington, W. Va., Vet Center.

Dwight Edwards, Counselor, Philadelphia, Pa., Vet Center.

John Stuart, Team Leader, Baltimore Vet Center.

Don Saunders, Counselor, Washington, D.C., Vet Center.

Forest Farley, Counselor, Tampa, Fla., Vet Center.

Fred McLaughlin, Counselor, Tampa Vet Center.

Craig Burnette, Team Leader, Knoxville, Tenn., Vet Center.

Ronald Coffin, Counselor, Knoxville, Tenn., Vet Center.

Reggie Lawrence, Counselor, Jacksonville, Fla., Vet Center, Jacksonville, Fla.

John Townsley, Team Leader, Jacksonville, Fla., Vet Center.

Robert White, Counselor, Ft. Lauderdale, Fla., Vet Center.

William Brewie, Counselor, Vet Center, Memphis, Tenn., Vet Center.

George Knight, Counselor, St Louis Mo., Vet Center.

Farry Waginer, Counselor, Indianapolis, Ind., Vet Center.

Chet McClead, Acting Team Leader, Oak Park, Ill., Vet Center.

Stephen Tice, Team Leader, Billings, Mont., Vet Center.

Manuel Casanova, Counselor, Laredo, Texas, Vet Center.

Larry Reid, Counselor, Colorado Springs Vet Center.

Donald Receveur, Counselor, Denver, Colo., Vet Center.

Joseph Kerwin, Team Leader, El Paso, Tex., Vet Center.

Bruce Pentland, Wadsworth VAMC. Brentwood Division.

Dr. Arthur Blank, Director, Readjustment Counseling Services.

Ray Scurfield, Assistant Director for Counseling Services.

Dr. John O. Lipkin, Associate Director for Psychiatry.

Robert Frank, Staff Assistant to the Director, Readjustment Counseling Services.

Larry Turner, Social Work Services.●

THE NUCLEAR FREEZE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Foreign Affairs Newsletter for November 1982 into the CONGRESSIONAL RECORD:

THE NUCLEAR FREEZE

Although Americans have consistently wanted a strong national defense, they have also shown their support for arms control. This support was manifested in the recent election when, despite the oppostion of President Reagan, eight of nine states and dozens of communities voted in favor of a freeze in the nuclear arsenals of the United States and the Soviet Union. It is the job of the federal government to translate these two desires into a balanced policy of national defense.

The present administration came into office with the intention of ranking arms buildup first and arms control second. It declared SALT II to be fatally flawed because of the alleged concession of strategic advantage to the Soviet Union. It waited until November of 1981 before formulating American proposals for arms control in Europe, and another six months before formulating proposals to control strategic arms. It suspended negotiations toward a comprehensive test ban treaty. At the same time, it moved ahead with the largest peacetime defense buildup in our history—$1.6 trillion over five years—as it talked openly about nuclear "demonstration shots", "limited" nuclear war, and "prevailing" in a nuclear exchange with Soviet forces.

The ranking of arms buildup over arms control, together with the tough rhetoric used by some American officials, encouraged the growth of a nuclear freeze movements. The perception now exists among many Americans that the arms race is out of control, that the people and their elected representatives do not control decisions about arms research, procurement, and deployment. They are aware that arms control talks are not making progress and that, even if the Soviet Union were to agree to both American proposals, the United States would be free to continue production of every nuclear weapons system in the budget.

The proposal for a freeze debated in the House of Representatives called for a halt to the testing, production, and deployment of nuclear weapons as an immediate objective. The idea has proven so appealing that the Administration has begun to use the term "freeze" for its own purposes. The proposal President Reagan supported differed from the original in that no mention was made either of freezing testing or production or of preserving present limits and controls. The important difference was in emphasis: The original proposal stressed the urgency of stopping the arms race; the administration's alternative allowed room for a buildup before reductions.

The original proposal should be supported both for what it is and for what it is not. It is not a proposal to disarm unilaterally. The freeze will be mutual if it happens at all. It is not a proposal to trust Moscow to keep its side of the agreement. If the freeze is ever negotiated, it with be verifiable to our satisfaction. It is not a proposal setting forth a detailed negotiating position. It does not say when the freeze should take effect, or at what levels nuclear arsenals should be frozen. It gives flexibility to the negotiators to determine such things.

The positive merits of the proposal are that it would control the arms race and facilitate arms reductions. Reductions cannot happen until an agreed limit has been put in place. This is what a freeze is—an agreed limit.

Second, the proposal reflects the reality that the two superpowers are in a position of rough strategic parity. The Soviets are ahead in land-based missiles and in "throw-weight" (which sets the number of warheads that can be put on each missile). But the United States is ahead in the number of warheads on missiles and bombers together. With respect to submarines, it is ahead in the ability to escape detection, in the accuracy and reliability of missiles, and in anti-submarine warfare capability. The United States is also ahead in the number of bombers and in cruise missile technology. In terms of the tendency of the balance, however, there is cause for alarm. The Soviets' buildup has a relentless consistency, which they can enforce because they do not have to worry very much about public opinion. It is a good time for a negotiated halt.

The situation in Europe is a special case. The balance between American and Soviet forces is heavily against us. The balance between NATO and the Warsaw Pact is also against us, but not by a very big margin. The proposal debated in the House of Representatives contained a provision stating a common position with our NATO allies as an objective. This means that we will not agree to a force weaker than the regional balance requires.

Third, the proposal engages the public. It is a comprehensible statement in an extremely obscure field. It is certainly true that the issue of arms control is enormously complex. but this fact has tended to breed a calique of experts—a nuclear "priesthood", in effect—who have left the general public out of the discussion. This can be harmful. One of the reasons we build nuclear weapons systems in the first place is to oppose a political regime which would stifle the public. The nuclear freeze movement is composed of many different people with many different views, some of them dangerous. But it has seen the central truth that the arms race is out of control.

Finally, if the freeze is negotiated successfully, a huge amount of energy, money, time and natural resources will be released for more constructive purposes. At a time when our nation faces great domestic hardship, it is important that we use our wealth to strengthen the economy and generate jobs as well as to protect ourselves against foreign threats.

I am aware of problems with the proposal. It may be difficult, for example, to detect Soviet cheating in the production of nuclear materials, but without verification, the freeze on production would no longer be feasible step. On the other hand, a special strenght of the freeze is its flexibility. It may be simpler to freeze the number of warheads deployed on both sides, requiring that any warheads added be matched by warheads withdrawn.●

JOHN J. BUSICK

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. LONG of Maryland. Mr. Speaker, on November 11, our Nation celebrated Veterans Day in recognition of the millions of men and women who have served in our Armed Forces to insure the freedom that we enjoy today.

However, I wish to take a moment today to recognize the contributions of one of my constituents, Mr. John J. Busick, a veteran of World War I.

At the age of 25, John J. Busick enlisted in the Army during World War I and fought with American forces in France and Germany. During a battle in Belgium, Private Busick was injured by poison gas. Despite his incapacity, Private Busick continued to fight. In April 1919, he received an honorable discharge and returned to private life in Baltimore.

Mr. Busick is now 90 years old and has participated in Veterans Day celebration ceremonies since his days as a private in World War I.

Mr. Busick represents the millions of men and women who have unselfishly served our Nation. I know that my colleagues in the House join me in praising this fine American.●

NORWAY TO DEFY WHALING BAN ON COLD HARPOON

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. BONKER. Mr. Speaker, after several years of heated debate on the question of humane killing of whales, the International Whaling Commission (IWC) finally agreed by consensus to outlaw the use of the cold—nonexplosive—harpoon. However, Norway and four other whaling countries have used a loophole in the 1946 Whaling Convention to exempt themselves from compliance with the ban. In flagrant violation of the letter and spirit of the 1946 Convention, Norway has indicated it will use the cold harpoon to kill its quota of nearly 1,700 minke whales in the coming year.

I wish to submit for the record a letter from the Norwegian Ministry of Agriculture to the Ministry of Fisheries which concludes that: * * * whaling with the nonexplosive harpoon can hardly be said to satisfy the requirements for humane killing * * *" It is my hope that the Norwegian Government will reconsider its decision, and comply with the IWC's ban on the use of the cold harpoon.

NORWEGIAN DEPARTMENT OF AGRICULTURE, DEPARTMENT OF FISHERIES, P.O. BOX 8118,

Oslo, Dep., October 6, 1981.

KILLING OF WHALES—THE ANIMAL PROTECTION LEGISLATION

In the legislation of June 16, 1939, concerning whaling and in the guidelines for small whaling and whaling for the killer whale, the Department of Fisheries was formally given responsbility for whaling and the regulation of whaling.

The legislation of December 20, 1974, No. 73, concerning animal protection contains no specific regulations on whaling. But the legislation dealing with killing clearly requires that the chase and the whaling must be performed in such a manner that the animal "is not subject to unnecessary suffering." Guidelines on whaling must be consistent with the requirements set forth in the Animal Protection Legislation. In this context, we wish to remind you of the cooperation which has been earlier established with the Department of Fisheries with regard to seals.

Doubts have been raised as to whether the use of the non-explosive harpoon in small whaling satisfies the requirements for humane killing. In considering this question, the Department of Agriculture must rely on the reports from controllers who have participated aboard whaling vessels. These reports seem to conclude that when the non-explosive harpoon hits vital organs such as the heart, lungs and main arteries (mortal wounds), death occurs quickly. However, such mortal wounds only rarely occur—perhaps, in only 20 percent of the cases. Most hits go through the whale without causing death. In such cases, the whale while being winched towards the vessel will undertake a death fight which can vary in time. Under difficult circumstances, it may last up to one hour. All our experience on the killing of animals indicates that this death battle is very painful. In view thereof, whaling with the non-explosive harpoon can hardly be said to satisfy the requirements for humane killing as prescribed in the Animal Protection Legislation.

It is the opinion of the Department of Agriculture that active efforts must be made to find alternative methods of killing to replace the non-explosive harpoon. Since the use of anesthesia has been mentioned in this context, we would like to draw your attention to the fact that the use of drugs as such would disqualify the meat for purposes of consumption. Based upon what we know today of the available methods of whaling, the explosive harpoon appears to be the method which ensures more humane killing.

Continued use of the non-explosive harpoon in whaling for small whales should, in the opinion of the Department of Agriculture, require a restructuring of the practice of granting concessions in certain areas.

REIDAR VOLLAN.

JORGEN ARNESEN.●

GEORGE KISTIAKOWSKY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. FRANK. Mr. Speaker, America suffered a grave loss this week with the death of George Kistiakowsky. He made enormous contributions to our lives. George Kistiakowsky is in the great tradition of immigrants who have enriched our country. From his important work on the development of the atomic bomb, undertaken because of his detestation of nazism; through his pioneering service as Science Adviser to President Eisenhower, through his eloquent and thoughtful work on behalf of arms control, George Kistiakowsky was a mode of informed and forceful leadership in a democracy.

Most recently, as Chairman of the Council for a Livable World, he spoke and worked against the dangerous and expensive arms buildup on which we are now engaged. Drawing on his own extraordinary experience with nuclear weapons, he tried as hard as any human being could to stop the excessive arms race in which we now find ourselves.

Personally, he was a man of good humor, who never let his importance get in the way of his humanity. All of us who knew him will feel his loss deeply; so will the whole country.

This editorial in the Boston Globe gives a sense of his impact and I ask that it be printed here.

GEORGE KISTIAKOWSKY

A man is best measured not in deeds done, words spoken and honors garnered at the pinnacle of his career, but later when the full sweep of his life can be seen.

George Kistiakowsky, who died Tuesday at the age of 82, can be so measured. He was born in Kiev, Russia in 1900, the son and grandson of professors, and he became one too. He taught chemistry to Harvard students for 41 years. In the epigrammatic elegance with which it bestows honorary degrees, Harvard honored him, saying: "Swift and explosive force, your imaginative talents have both widened our knowledge of chemical structures and enriched the life of this university."

Kistiakowsky, indeed, made things explode. He began as a teenager in his parents' apartment, trying to concoct nitroglycerine. He continued as a tankman in the White Russian Army where, he later recalled, he spent most of his time "running away from the Bolsheviks and changing generals." Later in the Harvard chemistry lab he punctuated a celebrated annual lecture by blowing things up "to show the students that's what they shouldn't do."

His greatest explosion caught him off guard. That was Trinity, the codename for the device exploded on a tower in the New Mexico desert in July 1945, the dawn of the nuclear age. As head of the Los Alamos laboratory of the Manhattan project, Kistaikowsky had built the Trinity bomb's trigger.

Expecting a smaller blast than 20,000 tons of TNT, Kistiakowsky was knocked into a trench. He said to a reporter: "I am sure that at the end of the world—in the last millisecond of the Earth's existence—the last human will see what we have seen."

Kistiakowsky's awards and peak of influence came later. He was appointed science adviser to President Dwight Eisenhower during the Cold War, when the US and Soviet nuclear arsenals surged to incredible destructive capacities. For his service during that period he was showered with awards.

Through it all, he was changing, growing. "At first I felt I was working in the national interest," he later said. "After working so long on weapons, I came to the conclusion that the time had come to control them."

Eisenhower, with Kistiakowsky behind him, vastly expanded US nuclear weaponry, but at the same time ignited the countercurrent of arms control. Ike's famous farewell address warned not only of the menace of a "military-industrial complex" but of a related concern he had often discussed with his science adviser, "the danger that public policy could become the captive of a scientific and technological elite." The respect in which Eisenhower is held today stems largely from that speech.

Kistiakowsky served as an adviser to the Pentagon until 1968. By then he was deeply disturbed at the trends he perceived. "I went into war work in 1940," he told an interviewer last year, "because I was violently against Nazism. After World War II I was foolish enough to swallow hook, line and sinker the intense Washington propaganda that the Soviet Union was ready to conquer the world."

Later, he asid, "I began to realize that the policy was being formed in a way that was really questionable. It was being formed by people who didn't know the facts and didn't have time to learn them."

Kistiakowski referred to the current buildup of Pentagon spending as "this militarization of the country." He believed it was a delayed reaction to the loss of the Vietnam war, and he cited an historical pattern he'd seen before: "It happened in France, Czarist Russia, Germany."

In the twilight of his life, Kistiakowsky headed the Council for a Liveable World. Though wracked with cancer, he had a new perception of what was needed to curb the arms race, which he expressed in an editorial in the current issue of the Bulletin of Atomic Scientists:

"As one who has tried to change these trends, working both through official channels and for the last dozen years from the outside. I tell you as my parting words: Forget the channels. There simply is not enough time until the world explodes. Concentrate instead on organizing, with so many others who are of like mind, a mass movement for peace such as there has not been before. . . . Then lead the movement so that, instead of the few now in Washington, many will be elected to Congress who have a true and unbreakable commitment to search for peace."

Kisty, as friends called him, stood six-foot-three when he was younger. Against the back-drop of his life and times he's taller still.●

DON H. CLAUSEN

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. ZABLOCKI. Mr. Speaker, it is a privilege to join my colleagues in honoring the senior Republican member of the California delegation (Mr. CLAUSEN) on the eve of his retirement from this body.

DON CLAUSEN has long established himself as a "long-ball hitter" on the Republican softball team, and that is a good way to describe his legislative record. He has served as a senior minority member of two major committees, Transportation and Public Works and Interior and Insular Affairs, and in the process has found scope for his many interests and legislative activities. These include aviation and aerospace—he is currently president of the Congressional Flying Club—conservation and highway construction. In this last field, I was interested to note that the gentleman served as a congressional adviser to the Pan-American Highway Congresses of 1967 and 1971, in Uruguay and Ecuador.

Above all, however, DON CLAUSEN will be remembered as a man of intelligence, integrity, practical good sense, and reasonableness, who is dedicated to the best interests, not only of the constituents he has served so long and so ably, but also of the Nation. We will miss these qualities, as well as a very congenial colleague, in the years ahead. I am pleased to be associated with his many colleagues and friends in wishing him and his family my warmest best wishes for a successful and rewarding retirement.●

THE FAILURE OF THE GUERRILLAS IN EL SALVADOR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. LAGOMARSINO. Mr. Speaker, one of the peculiarities of the civil war in El Salvador is the failure of guerrilla forces either to gain wide acceptance among the people or to gain appreciable military strength. This failure is peculiar since rarely has any country's history made it more ripe for revolution. While the Government has been making slow and sometimes painful progress in human rights and has been gradually gaining the respect of its people, the guerrilla forces have been stagnant. Some 2 or 3 years ago guerrillas were operating fairly openly in the uninhabited, northernmost provinces of El Salvador and they do the same today in just about the same strength; 2 or 3 years ago in other areas of the country guerrilla tactics included burning buses, exploding bombs in public places, and attempting to destroy the economic infrastructure of the country. These remain the guerrilla tactics at just about the same intensity today and are just as surprising now as they were then. How one wins over people by destroying their daily transport, intimidating them with bombings, and leaving them in the dark—literally—escapes most observers.

It goes without saying that the Government of El Salvador has attracted fierce criticism from a variety of quarters over the past 2 or 3 years. Even the most hostile critics, however, have rather warily avoided extolling the virtues of the guerrilla opposition and for good reason. It was during the Carter administration that a senior U.S. official in El Salvador said that if the Sandinista movement in Nicaragua were equated to the Vietcong, the guerrilla forces in El Salvador would be the equivalent of the Pol Pot regime in Cambodia.

A recent event reported in the December 7 edition of the Washington

Post illustrates vividly, I submit, the increasing desperation of the terrorists. Guerrillas interrupted a soccer game in a small town near San Salvador and kidnaped more than 200 men, women, and children at gunpoint in an effort to recruit some of them for the guerrilla ranks. When a force must kidnap potential enlistees, it is safe to say that it is failing rather substantially in its efforts to win the hearts and the minds of the people of its country.

I should like to have this article included with my remarks.

The article follows:

[From the Washington Post, Dec. 7, 1982]

SALVADORAN GUERRILLAS SAID TO SEIZE 200—REBELS APPARENTLY SOUGHT RECRUITS

SAN SALVADOR, December 6.—Leftist guerrillas interrupted a soccer game in nearby San Sebastian yesterday and kidnapped more than 200 men, women and children at gunpoint in an apparent attempt to press them into the rebel ranks, residents of the town said today.

About 120 parents and relatives of the abducted people visited the El Salvador Human Rights Commission and the International Red Cross offices here, asking the two organizations to intercede with the guerrilla forces to get the people freed.

San Sebastian, a town of 4,000 people, is 30 miles east of San Salvador. Many of the residents are refugees who fled fighting in other parts of the country.

Mayor Jose Ramon Henriquez, who accompanied the relatives, said one guerrilla group attacked a local Army garrison yesterday afternoon. He said another 30 rebels hijacked a bus north of the town and rode to the soccer field, firing automatic weapons.

[United Press International quoted witnesses as saying the guerrillas forced their prisoners to march through the night to a guerrilla camp. Mimsael Ayala, who said he escaped from the guerrillas, said a rebel commander tried to calm the captives, saying, "You're only going to work not to fight."

[Wilfredo Losano, 20 said he escaped from the rebels in the midst of a rain storm that began to fall while the group was walking toward the guerrillas' mountain camp.]

Maria Hilda Barahona de Estupinian, a schoolteacher and one of the group, quoted the rebels as saying they needed the youths "to reinforce their ranks because they have had many casualties." She said her son was among those taken by the rebels.

"I don't think they want to torture or kill them. It's clearly a recruitment drive," she said.

One civil guardsman was killed in the attack on the garrison, Mayor Henriquez said. The garrison included an Army detachment, a 30-man National Guard force and another 30-man Civil Defense squad. The Civil Defense corps consists of retired officers and young men who have completed their military service, and was created by the Defense Ministry to help the Army fight the rebels.

The guerrillas at the soccer field forced players, spectators and even cigarette and candy vendors to line up on the soccer field and marched a total of 200 people at gunpoint in single file into the nearby San Pedro hills northeast of the town, where the guerrillas have a heavily fortified camp, the townspeople said.

About half a dozen kidnaped youths managed to slip away at nightfall as the guerrillas were reaching Amatitan Arriba, a village five miles northeast of San Sebastian, where the guerrillas have a camp, Henriquez said.

Henriquez quoted the youths as saying the guerrillas had organized the captured into three age groups—under 15, between 15 and 22, and older than 22.

A Civil Defense commander in San Sebastian, who asked anonymity for security reasons, said about 140 youths were kidnaped.

This was the first mass kidnaping by the guerrillas reported in their three-year fight for power. Usually they abduct individuals, executing them for "antirevolutionary activities" or holding them for ransom.●

FIORELLO H. LaGUARDIA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. SOLARZ. Mr. Speaker, I rise in honor of the 100th birthday of a great Italian-American, Fiorello H. LaGuardia. One of the great politicians of his, or any generation, and certainly one of the greater leaders of this Nation, Fiorello H. LaGuardia was a Member of this House and a three-term mayor of New York City. He was an outspoken opponent of prohibition and a leading supporter of old age pensions, unemployment insurance, and strict Federal control of water power and other natural resources.

LaGuardia's accomplishments were many, but all of us from New York clearly recognize the significance of his ability to balance the city budget. He was a crusader who eliminate considerable graft and corruption that had existed in the awarding of New York City contracts. He was a master builder who constructed new schools, libraries, and much needed bridges and public facilities like the airport in Queens which bears his name. Even today we cannot forget the role that LaGuardia played in city beautification efforts, and in making New York and attractive place to live and work.

Today we salute the memory of Fiorello and all that he has done for New York City, for New York State, and for the Nation.●

AMBASSADOR BOB STRAUSS ON THE MERCANTILIST THREAT TO WORLD TRADE

HON. JACK KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. KEMP. Mr. Speaker, as we are seeing in the debate over local content legislation, one of the most disturbing economic developments today is the growing trend toward protectionism. Protectionism always destroys more jobs than it saves. Nothing would be more certain to turn the worldwide recession into a worldwide depression than a round of beggar-thy-neighbor trade barriers in the midst of our economic weakness. Congress must, at the very least, refrain from making the situation worse by initiating new trade barriers.

At the same time, we can work to improve the situation, by seeking further multilateral liberalization of trade. Moreover, as we saw in the 1920's and 1930's, international trade barriers almost always result from, or are accompanied by, a derangement of national currencies and the international monetary system, such as we have seen since the breakdown of the Bretton Woods system in 1971. What appears to be "dumping" or predatory competition is sometimes nothing but the result of fluctuating currency values, which create windfall gains and losses in world trade. So I welcome the initiative of Treasury Secretary Donald Regan in calling for an international monetary conference to seek greater stability in the international monetary system.

I am gratified to see that there are Members in both parties who still understand the crucial importance of a liberal international trading order to the American national interest. Bob Strauss and I have found ourselves on opposite sides of the political fence on issues, but I have long admired him for his leadership and his position on international trade, and the great contributions he made as our U.S. Special Trade Representative.

Bob Strauss recently outlined the vital importance of the trade issue in an article published in the Wall Street Journal. I urge my colleagues to read this excellent article.

The article follows:

[From the Wall Street Journal, Wednesday, Nov. 24, 1982]

THE MERCANTILISTIC THREAT TO WORLD TRADE

(By Robert Strauss)

The meeting today of the General Agreement on Tariffs and Trade (GATT) has occasioned a torrent of articles and speeches on the problems plaguing our international trading system. We have heard from the president, as well as congressional and other leaders from both parties. Unhappily, all have tended to divorce our trade problems from our domestic economic and political problems. Trade is a political problem.

The spreading resort to protectionism is the direct result of the inability of Western governments and their leaders to deal in concert with deteriorating world-wide economies. Far too few understand that the luxury of correcting domestic economic ills in a vacuum from trading partners is no longer available. No matter what domestic efforts are adopted to stimulate our economy, if other nations continue austerity policies, we can only marginally improve economic performance and unemployment will remain unacceptably high. We cannot prosper with Europe in recession and a depression in the developing world.

We can no longer call world trade a rising tide lifting all boats, as President Kennedy described it 20 years ago. The postwar growth of trade has stopped in the face of a massive recession among industrialized countries and what might best be termed mini-depressions among the developing nations.

FOCUS OF DEBATE IS CHANGING

Since the 1950s a mutually beneficial relationship has prevailed between economic growth and trade: Increased economic growth stimulates even faster growth of trade, which stimulates more economic expansion in an upward spiral of prosperity. There is a grave risk that the world economy might be beginning not just a temporary downward trend, but a new and dangerous long-term downward spiral. It is in this climate that the debate between protectionism and free trade is reaching a climax.

While talk of the reality and promise of "free and open trade" is still heard at cocktail parties on the East Side of Manhattan and in Washington, D.C., or under the arches of academe, men wearing work shirts and drinking beer in a neighborhood bar in Gary, Ind., have a different view of that reality.

To them it's lost jobs, misery and suffering caused by imports. They say they can compete with foreign workers and companies successfully, but "we can't compete with their governments."

Reconciling these two perspectives is the central task of trade policy and political leadership.

To the growing ranks of disillusioned workers are now added pragmatic and responsible voices that have long advocated liberalized trading rules. They now believe that the fundamental premises of liberal trade policy no longer prevail. Maybe we should call them "neo-protectionists." They say that no one else is playing by the rules, so why should we?

Increasingly it is governments, not market forces, that are determining the direction and content of trade flows. American workers and farmers now compete with 20th century mercantile states—nations where governments have formed alliances with corporations, farmers and workers not to maximize profits, but to maximize exports.

The American farmer is not competing with the European farmer, but with $7 billion of agricultural subsidies of the European Economic Community. The American aerospace worker is not competing with the European aerospace worker, but with France's policy of export credit financing. And American computer technicians are not competing with their Japanese counterparts, but with the predatory pricing policies of the Japanese computer industry working with the Japanese government in targeting high-tech advancement.

Obviously, real economic recovery in America and in other nations would go far to relieve protectionist pressures. And it would provide the resources to permit the long-term and painful structural adjustments that need to be made. But what do we do in the meantime?

This is not the place to unveil a comprehensive trade policy. However, in addition to the change in perspective on trade issues, we should consider among other things the following steps:

We clearly need temporary relief in certain sectors, such as steel and automobiles. However, we can't let poor planning, bad management and nostalgia for the past unduly penalize consumers. Thus, a line needs to be drawn between protecting a limited number of critical sectors of our economy and not permitting stronger, more competitive sectors the indulgence of additional protection. However, such stronger sectors are entitled to more effective and more aggressive application of international trade rules already in place to deal swiftly with dumping and other unfair trade practices. We simply cannot let predatory practices destroy sectors of the U.S. economy where we are clearly competitive and efficient.

We must aggressively pursue negotiations on trade in services that are not now covered by the GATT.

The world trade system we have created relies on the ability of Europe, Japan and the U.S. in concert with the developing world, to work out their problems together. This can be done only in ways that will satisfy no one of them completely, but that make sense to all of them as a compromise. If the GATT ministerial meeting does not produce constructive results, such as a freeze on new trade barriers and a solid work program with a short time fuse, the president should call for a summit meeting, and insist that it be for work, not show. This summit proposal must grapple with Western economic growth and the related problem of trade.

Finally, President Reagan should immediately call together a bipartisan group of political, agricultural, business and labor leaders to set a trade agenda before it becomes to controversial a political issue for anyone to address responsibly. This would be an important first step in defusing pressure for unwise legislative action.

THE STAKES ARE BIG

There is more at stake here than economic stability and prosperity. The survival of freedom and the maintenance of peace are inextricably linked to the economic welfare of all nations. It is no longer possible or appropriate to separate the mechanisms we have created for economic cooperation from those that we have devised to provide for collective security. A NATO alliance among nations waging economic war instead of competing fairly will be virtually worthless.

The task of our political leadership is to understand the gravity of the situation and to begin to shape a trade policy that makes sense for the world of the 1980s and in which the American people can believe. These two goals are not irreconcilable if our leaders from both parties are pragmatic and courageous.●

LEE HANEY: HARD WORK AND SUCCESS

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CAMPBELL. Mr. Speaker, I am pleased to pay tribute to Mr. Lee Haney, the 1982 Mr. World Bodybuilding Champion. A native of Spartanburg, S.C., Lee Haney has captured some of the most prestigious titles in the bodybuilding profession over the past year.

On October 2, Lee Haney won the heavyweight and overall titles to become the 1982 Mr. America Bodybuilding Champion. Several days later, on October 9, he competed in Brussels, Belgium and captured the world bodybuilding title before a large crowd of spectators. Lee Haney won the world championship by defeating representatives from more than 50 nations, who had captured their countries' title to participate for the world championship.

Lee began winning bodybuilding titles in 1978 when he picked up the Mr. South and Mr. Palmetto amateur titles. Since then, he has won numerous awards, including the Mr. Atlantic USA title last February and the Mr. Junior America championship in June.

The drive and determination that Lee possesses is unmatched. He is a model for many young men who desire to follow in his footsteps. Moreover, Lee Haney is still seeking his ultimate goal of winning the Mr. Olympia title. This is the world's biggest professional bodybuilding event and the competition is intense. I am sure that Lee Haney will attain his goal because his desire, motivation, and grueling hard work are even more intense.

Lee has made his family, the citizens of Spartanburg, and all South Carolinians proud, and I am sure that he will continue to do so in the future.●

MARK IMMEL, EAGLE SCOUT

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. LONG of Maryland. Mr. Speaker, on Sunday, December 12, Mr. Mark Immel, a member of Boy Scout Troop 409, will be awarded the rank of Eagle Scout at a court of honor to be held at St. Peter's Evangelical Lutheran Church.

Mark, an 18-year-old senior at Patapsco Senior High School, has been a member of Scout Troop 409 for the past 6 years. His leadership and community service have earned Mark the Order of the Arrow, and he is widely known as a young man his friends and family can count on to get the job done.

Mark will enter the U.S. Air Force following his graduation from high school.

Mark's parents are Mr. and Mrs. Charles Immel of Dundalk.

I am sure that my colleagues join me in commending Mark on his fine achievements.●

ANTICONSUMER LEGISLATION COMES BEFORE THE HOUSE

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. COATS. Mr. Speaker, tomorrow the House is scheduled to consider the H.R. 5133, the Fair Practices in Automotive Products Act of 1982, one of the most blatantly anticonsumer bills to come before the Congess. I am submitting for the benefit of my colleagues letters from Donald Regan, Secretary of the Treasury, and John Block, Secretary of Agriculture, in opposition to this legislation.

If enacted, this bill will shield our automobile manufacturers from competitive forces, hurting rather than aiding, their recovery. Moreover, other industries will suffer. Agricultural exports will be subject to retaliatory action by our trading partners under the terms of the General Agreement on Tariffs and Trade. In the end, U.S. consumers will be the victims of this so-called jobs bill which is really antijobs.

I urge my colleagues to examine the long-term ramifications of this type of special interest protectionist legislation.

THE SECRETARY OF THE TREASURY,
Washington, D.C., December 8, 1982.

DEAR MEMBER: I am writing to stress the Administration's continued strong opposition to local content legislation.

Local content legislation is the most troublesome trade legislation to be introduced in the last quarter century. Its basic principles are unacceptable. A local content requirement creates a select group of suppliers and workers that are protected against import competition. A free people cannot and should not accept such government-imposed restraints on their freedom of choice. The individual consumer should ultimately determine the availability and price of goods.

Local content legislation would have profound negative implications for the U.S. economy. It imposes a hidden inflationary tax transfer from those who purchase automobiles to those protected by the local content requirement. It poses a real threat to U.S. exporters, who are forced to accept a decline in export sales either through potential retaliation or reduced foreign income available to spend on U.S. products. U.S. auto manufacturers will be hurt as their efforts to become more competitive both at home and abroad are hampered by the requirement to use local inputs, no matter how uncompetitive or more expensive.

While I share the widespread concern about high unemployment in the automobile sector and in the economy generally, this legislation is not the way to respond to those problems. Local content legislation is a giant step backward from the goal of healthy U.S. industries, competitive worldwide, which are crucial to U.S. economic well-being. I strongly urge your support in opposing this legislation.

Sincerely,

DONALD T. REGAN.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY,
Washington D.C., December 8, 1982.

In anticipation of consideration of H.R. 5133, as amended, by the House of Representatives, we would like to reaffirm the Department's opposition to this legislation. H.R. 5133, as amended, would establish local content requirements for motor vehicles sold in the United States. As was stated by Deputy Under Secretary Alan Tracy in testimony before the House Ways and Means Trade Subcommittee on September 21, passage of this legislation may have severe consequences for American agriculture. We export two out of every five acres of crops grown and nearly a fourth of farm cash receipts are from export sales. This legislation would endanger these sales.

The limitation of imports required by this legislation would be in direct violation of U.S. obligations under the General Agreement on Tariffs and Trade (GATT) and could result in swift retaliation against United States exports of comparable value. Retaliation could be expected particularly from the European Community and Japan, which together bought $18 billion of United States agricultural exports in 1981, over 42 percent of our total export of agricultural products in that year.

The European Community has for nearly 20 years been seeking an opportunity to overturn its commitments in GATT to import oilseeds, oilcake, and nongrain feed ingredients such as corn gluten meal, free of import duties and restrictions. In 1981, the European Community's imports of these products alone from the United States totalled approximately $4.5 billion.

The United States exports over half of its soybeans and soybean products, and the European Community alone purchases nearly half of these exports.

The Congress recently recognized the danger of action by the European Community to limit U.S. exports of corn gluten meal by passing resolutions calling for U.S. retaliation against any such action by the European Community. Japan is the largest single country market for United States agricultural exports. Japanese purchases from us in 1981 totalled $6.6 billion. Grains, oilseeds and products accounted for nearly two-thirds of the total. Japan buys one-sixth of U.S. exports of soybeans, and only as recently as 1979 agreed to bind its zero import duty on soybeans and soybean meal. The United States exports nearly two-thirds of its production of wheat, and Japan is the largest market after the USSR and China. That is, Japan is our most important reliable customer for wheat. Competition in the international wheat market is keen. Japan could obtain supplies as well from Canada, Australia, and other sources.

In the last few years the United States has put great pressure on Japan to open its import markets, especially for agricultural products, for which Japan maintains a number of import quotas which we believe are in violation of Japan's GATT obligations. Japan has agreed to some expansion of quotas for citrus fruit, and other products. These efforts would be effectively reversed by action against Japanese automobiles.

We believe this legislation will benefit neither the U.S. auto industry nor the national economy, but will be most detrimental to the trade sector. With farmers in their third year of severely depressed prices and income, we must not jeopardize our current agricultural export trade. We must not take actions that lessen the pressure on important trading partners to change trade policies affecting the entire international agricultural trading system. I urge your opposition to this legislation.

Sincerely,

JOHN R. BLOCK, *Secretary.*●

SENATE—*Friday, December 10, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Gracious Father in Heaven, we invoke Thy peace and blessing upon the Senate of the United States. Let Thy love be manifest in our midst. Deliver us from every influence that divides. However much we differ, help us to honor those whose views and commitment conflict with ours. Deepen our appreciation and respect for each other. Make us sensitive to those in need, who are discouraged or depressed. Sweeten our dispositions so that our relationships will be caring and constructive.

In this place where so much position, prestige, and power are concentrated, protect us against their misuse and abuse, their seductive, destructive force. Help us to be invulnerable to the manipulation and finesse which flatters and feeds the ego. Increase our appreciation and gratitude for all the supporting staffs without which the Senate could not function. Bind us together in common purpose and dedication for the people's welfare and Thy glory. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

REALLOCATION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there is already an order for a period for the transaction of routine morning business, after recognition of the two leaders under the standing order, of 10 minutes. I ask unanimous consent that that be changed to 20 minutes and that the distinguished Senator from Rhode Island (Mr. CHAFEE) be allocated 10 minutes of the 20 minutes available under this order.

The PRESIDING OFFICER (Mr. STAFFORD). Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I may have a further statement to make for the moment, but before I do so, I need to confer. I suggest the absence of a quorum.

The PRESIDING OFFICER. Is that on the leader's time?

Mr. BAKER. Yes, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NORMAN'S APPENDIX

Mr. BAKER. Mr. President, you see, there is this page they call "Spanky," and he is most certainly a member of "our gang." "Spanky," AKA Norman Milliard, spends his livelihood dedicating himself to the affairs of the Republic. Of course when you are only 15 years old, serving the Republic means serving as a page, but what a page he is!

Anyway, I wish to inform those of my colleagues who are desperately looking for the young whippersnapper, that he has been given the day off, quite generously I might add, to have his appendix removed.

Yes, it is true that he did not request the day off in advance, and yes, there are some who think that he staged the emergency operation at the Washington Hospital Center last night just so he could take it easy, but I for one, believe the young man.

The latest press conference at the hospital confirms earlier reports that Norman is doing fine, and should be back in shape to join us and his family real soon. That news is good news, and to Spanky we send our best, with just one question—"Where is that delivery?"

Mr. President, I have no further immediate need for my time under the standing order. I believe there are other Senators who do wish to speak, however. I ask unanimous consent that I may reserve my remaining time for utilization during the balance of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, the minority leader has not yet been recognized under the standing order. Before he is, let me say I believe the Senator from Rhode Island wished to speak. Special provision has been made for him to have 10 minutes, of the period for routine morning business, which is to follow Senator ROBERT C. BYRD, the minority leader, under the standing order.

Mr. CHAFEE. Mr. President, of that time I wish to yield 2 minutes to the Senator from Wisconsin.

Mr. BAKER. Mr. President, under the standing order, the minority leader will be recognized, is that correct?

The PRESIDING OFFICER. The Senator is correct.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. PROXMIRE such time as he may require. I understand he wants 2 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the distinguished leader. I will take 2 minutes. I thank my good friend from Rhode Island.

PRAYER IN THE SCHOOLS—WHY HATE IT?

Mr. PROXMIRE. Mr. President, one of the most remarkable and surprising political phenomena I have encountered in recent years is the vehemence and depth of reaction against permitting prayer in our schools. Of course, I am not surprised that many oppose prayer in the schools. What astonishes me is the absolute intolerant, even vengeful, attitude of those who seem to see in prayer the ultimate evil.

During the last campaign, I indicated that I favored voluntary, nondenominational prayer in schools, provided the school board wished to permit it. I can tell you that in nine statewide campaigns in my State over a period of 30 years I have never encountered such an emotional tirade of hate and denunciation.

This past Wednesday a story appeared in the New York Times describing the reaction of a local school board member in Old Bridge, N.J., who proposed that it might be nice to say a little prayer of thanks at the beginning of the school day. What happened to that school board member and his prayer proposal? What happened to his proposal to call on students and teachers to share, to be helpful, to be tolerant, to love and not hate? What happened was a story of the same kind of ferocious intolerance I encountered in my State during the past campaign.

If those who so bitterly oppose prayer in the schools would direct a small part of that rage against marihuana in the schools or crime or cheating or the general lack of discipline and order, we might make some surprising educational progress.

I am sure that prayer in the schools does not have a chance in the world, but I must say I am puzzled and discouraged by the vehemence with which this proposal has been opposed.

Every morning when I hear our Chaplain and other clergymen address this body, I find I am uplifted and reinforced in my determination to try to be a better person. I can certainly understand why many would oppose permitting prayer in the public schools. What I cannot understand is why the proposal has stirred up such a bitter, emotional reaction.

Mr. President, I ask unanimous consent that the article from the December 8, 1982, issue of the New York Times be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE QUESTION OF SILENCE RAISES VOICES

OLD BRIDGE, N.J., December 7—This was not something cooked up by a band of religious zealots or a national organization of Christian fundamentalists. Thomas Cherney, a member of the local school board, just thought "it would be nice to, you know, say a little prayer of thanks at the beginning of the school day."

He thought this out loud at a board meetings, prompting the largest and most vocal crowd in memory to show up at the next meeting—most of them to yell at him.

"You don't reserve the right," said Joseph Tenorio, a local resident who echoed the views of many others, "to tell a child when or where to pray or to whom."

To be sure, there were some who supported Mr. Cherney, citing problems of drugs and alcohol abuse among students and arguing that instituting a school prayer "might help get things back on the right track," as one put it.

And so, in this Middlesex County commuter town, Mr. Cherney set in motion a series of proposals, counterproposals, fights among neighbors and school board votes that ended in a court suit, an injunction and a vote Monday night to forget the whole thing.

SCORN IS HEAPED ON HIM

Some parents who voiced opposition to Mr. Cherney's proposed "nondenominational" prayer in their 17 public schools threatened to bring in the American Civil Liberties Union and to keep their children home. Some teachers and administrators protested that they would be asked to violate the Constitution.

Local children and editorial writers heaped scorn on him, calling him "a right-winger" and "a religious nut." They said that his proposal was politically motivated, and everywhere in town people were asking out loud if the Moral Majority or some such group was not covertly supporting Mr. Cherney.

As for Mr. Cherney, a rug and drapery cleaner by trade, he seemed genuinely shocked at the stir he had created. No, he said, he was not born again—once having been sufficient, thank you—and no, the only support he had received was not from national movements, but from John Damato, the owner of a local gas station, who also serves on the school board.

Faced with fierce opposition, Mr. Cherney amended his idea for a school prayer to "a moment of reverent silence." When this also came under attack, he asked if "a moment of silent meditation" might be all right. But he finally had to settle for "a moment of silence" after the pledge of allegiance, and this proposal was finally approved by the school board by a vote of 5 to 4.

But watering down his proposal did nothing to stem the tide of criticism. A fellow member of the school board, Edna Gordon, was so incensed she sued herself and other members of the board, asking a Federal judge to stop them from implementing the moment of silence.

Mr. Cherney objected that "a moment of silence is nothing, really," but last week the judge granted a restraining order, calling the idea a "subterfuge" for returning prayer to public school classrooms.

Monday night, with Mr. Cherney in a hospital suffering a stomach ailment that a board spokesman said was "stress related," the school board voted to drop the whole idea because it would cost too much to defend in court and because it was dividing the community. From Old Bridge Regional Hospital, Mr. Cherney said today he had thought "a little prayer, it couldn't hurt."

But in the end, the board members felt otherwise.

"TIME TO START HEALING PROCESS"

"Neighbors are fighting neighbors," said one board member, Louis Alfonso, "and Christians fighting Jews, almost all of whom are opposed to this. It's time to start the healing process."

"There is also a feeling on the board," said John Shepard, the school board president, "that we need to move on to more important things."

Mr. Alfonso said that he still supported school prayer but that the school district faced budgetary problems and as a purely practical matter did not have the financial resources to fight a "long and costly" legal battle. The foremost concern of most board members seemed to be financial rather than philosophical.

Even Mrs. Gordon, who brought suit against the board because she did not want her son, a fifth-grader, "to be subjected to any encouragement, motivation, coercion or requirement to engage in prayer," said that she would have gone along with the moment of silence if Governor Kean had made it state law. "Then the state would have been sued and not us," she said.

The Legislature had passed a measure calling for a period of silence in public schools, but Governor Kean vetoed it last week.

Earlier Monday, students at James Madison High School expressed mixed opinions on the school board's proposal.

"I'm all for religion," said Dawn Palmieri. "I go to church and I say grace before meals, but I don't see a point to a moment of silence and I think prayer is a personal thing that you don't do in schools."

Lucy Rizzo expressed the opposing view, "I think adults want to put a little religion into us," she said, "and I think they're right."

The school's principal, Peter M. Delaney, was a teacher in the district before the 1962 Supreme Court decision and remembers reading from the Bible every day.

"This country is founded on religious principles," he said, "and can promote things such as the golden rule, but I do believe prayer violates the Constitution."

Meanwhile, Mr. Cherney rests in his hospital bed, hoping to be back on his feet soon. "It seemed like a small thing," he said, "a little prayer, a little time out to reflect."

THE KU KLUX KLAN: ANOTHER REASON TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, at the end of November, the Ku Klux Klan planned to march down the streets of Washington. The event was intended to commemorate a landmark Klan parade in Washington in 1925, in which 35,000 members participated. The 1982 parade was cancelled at the last moment, because police feared conflict between Klan members and anti-Klan demonstrators.

Since the Klan is still a force in our society, it is worth examining its origins. The planned parade was the most recent incident in the long and chilling history of the Ku Klux Klan. Confederate soldiers founded the Klan in Pulaski, Tenn., in the aftermath of the Civil War. They vowed to uphold "all that is chivalric * * * noble * * * generous * * * and patriotic," a supremely ironic charter for a group that became known for its violent means of enforcing white supremacy.

During the Reconstruction era, the Klan grew to 550,000 members and became a major source of terror throughout the South. They made sinister night raids into black communities which were designed to intimidate the black vote. Sometimes they were satisfied to leave a burning cross in their wake. Other times, their deeds were considerably more violent.

Sadly, Klan terror was effective in keeping blacks away from the polls during Reconstruction. Consequently, white Southerners easily passed into law the "separate but equal" form of segregation, which lasted 80 years.

After World War I, the Klan underwent a great revival under the leadership of Grand Wizard William Simmons, a former preacher. It remained basically racist, but expanded its hate list to include Jews, Catholics, and foreigners.

Two trends added fuel to the Klan's fire: The great waves of European immigration from 1880-1910, and World War I. Together, these trends produced a fierce nationalism among Americans. The national mood in the 1920's was thus more receptive to the Klan, which claimed to be a "pro-American" group, dedicated to preserving racial purity in the nation.

In the civil rights era, the Klan once again swam into the mainstream. Its membership rose to 40,000, and it was suspected of 138 race-related bombings in the South from 1956-63.

The Klan resembles the German Nazi Party all too closely for comfort. Although their actions have not been as excessive, their basic attitudes and intentions are the same.

The promotion of hatred among racial, ethnic, and religious lines creates the kind of political climate in which genocide can occur. That is why it is essential that we maintain vigilance against future genocides by remembering the past and doing everything we can to prevent a dangerous political climate from taking hold in the United States.

The most important step we can take is to make genocide a crime under international law. I urge my colleagues to join with me in supporting the ratification of the Genocide Convention.

SWEDEN, SOVIET SUBS AND THE MX

Mr. PROXMIRE. Mr. President, what does Sweden's unsuccessful hunt for a mysterious submarine in its coastal waters have to do with the MX debate? That is the interesting question posed by Daniel S. Greenberg, formerly the director of the International Institute for Strategic Studies in London and now the political editor of the German weekly Die Zeit.

The heart of the answer rests on the issue of mobility and deception. For a generation Pentagon planners have argued hard to convince the American public and the Congress that the answer to increasing Soviet missile strength was mobility and deception. With mobility the Russians would be unsure of where our missiles were and which silos were occupied. Deception compounded the problem. We were told that the racetrack scheme provided the best long-term alternative.

But then the strategists dramatically switched rationales. Mobility is no longer important they argue. Deception is immaterial. Dismiss all the old arguments. Forget 10 years of Senate and House hearings. Disregard the tens of thousands of pages of briefings, charts, and testimony. Now we are told to put all our eggs in one basket and challenge the opposition to attack these assets all at once. Line up the planes at Pearl Harbor and bring the battleships into port.

Well, Mr. President, perhaps there is a lesson in the recent exercise of Sweden in hunting down the potential Soviet submarine in its waters. And that lesson is that our sea-based resources still provide the greatest measure of security and still combine those assets of mobility and deception that have now been abandoned with regard to our land-based forces.

Mr. Greenberg well argues that our sea-based forces provide us with time to make a careful decision about the basing mode for the MX. The invulnerability of our sea-based forces gives us that extra cushion of security making it possible not to have to rush into a precipitous and unsound decision on the Dense Pack deployment mode.

Mr. President, I ask unanimous consent that the Greenberg article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Dec. 5, 1982]

DENSE PACK—COMPLEX FOOLISHNESS

(By Daniel S. Greenberg)

WASHINGTON.—Sweden's unsuccessful hunt in its coastal waters for a mysterious submarine last September is an unlikely source of insight into our MX basing controversy.

But that humiliation of the Swedish Navy invites skeptical attention to the inflexible determination of the U.S. Air Force to find a land-based scheme (no matter how bizarre) for the powerful new missile. And it provides further reasons to doubt that the costly MX is needed at all.

It is useful to recall that the MX missile was conceived amid fears that a surprise Soviet attack could obliterate the existing land-based deterrent. The antidote for the presumed threat was to be a new missile that would be kept on the move so that the Soviets could never be certain of its location.

When one mobility scheme after another was abandoned, the administration performed a wondrous turnabout and chose the latest scheme: the so-called dense pack, which scraps the original idea of concealment through mobility.

To replace it, the Air Force would now rely on a 20-square-mile field of heavily reinforced silos so close together that (so the theory goes) the first enemy missile would set off blast effects that would disable any following incoming missiles, thus giving our surviving "dense pack" silos a chance to get off retaliatory fire.

Numerous Soviet counters to the dense-pack scheme have been suggested, among them a salvo that could blanket the field, a deep-burrowing missile that could set off disabling underground shock waves, etc.

Nevertheless, the Air Force is determined that, if not dense pack, then some other land-based scheme must be found. And, in the process, it has successfully prevented serious attention from being paid to a simple solution that would be highly effective: submarine basing.

The missile establishment holds to the rule that the American nuclear deterrent must be based on a "triad" of the Air Force bombers and land-based missiles and Navy submarine-borne missiles. Now that the existing land-based missiles are coming under a threat, the missile managers insist it is necessary that they be replaced by yet another force of land-based missiles—hence MX and dense pack.

As for why the submarine isn't the solution to increased vulnerability on land, the answer that is offered is that submarine-launched missiles are not quite as accurate as the land-based versions. Furthermore, there is the triad, which has worked so well for the Navy's missile-age interests that it isn't about to contest the Air Force's determination to guarantee its own future in missilery.

However, the technological realities are that no land-based target, least of all a stationary one, enjoys the protection of a submarine concealed in the vastness of the world's oceans.

In regard to the accuracy argument, the submarine-based Poseidon and Trident missiles are fearsome enough as it is, but they will achieve pinpoint accuracy when rapidly advancing space-based navigation systems are in place to provide launcher submarines with precise data on their distance from targets. In addition, missiles are prime targets—as the eternal quest for secure MX basing shows—and putting them to sea lessen the danger to civilian populations.

Finally, there is the survivability factor. Over a span of serveral weeks, a strong flotilla of modern Swedish vessels, operating unchallenged in its own waters, failed to find its quarry. As evidenced by Sweden's futile search for that intruder in confined waters, the odds are with the sub, and even more so on the high seas, where there is plenty of room to maneuver and hide.

No matter to our policymakers, as far as MX is concerned. The new missile, whose necessity is open to serious doubt if sub-based missiles are secure, has inspired a long succession of Rube Goldberg schemes designed to keep it alive and on land. These range from ever-rolling railroad flat cars to a multibillion-dollar shell game that would conceal 200 missiles among some 4,500 concrete shelters.

MX's advocates insist that it is necessary as insurance against a scientific breakthrough that could find submarines in the ocean depths. Scientists who study the ocean say such a breakthrough is unlikely. But even if one does occur, sub-based missiles would then be no worse off than land-based missiles.

That, too, gets ignored by policymakers of missilery. Dense pack will wither of its own complex foolishness, to be replaced by another scheme.

Land-based, of course.

Mr. PROXMIRE. Mr. President, I thank the distinguished minority leader. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield such remaining time as I have to the majority leader.

Mr. BAKER. Mr. President, I thank the Chair.

Mr. President, might I reserve that time as well for use later in the day?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I believe that there will now be a period for the transaction of routine morning business?

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 20 minutes.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Chair understands the Senator has 10 minutes.

Mr. CHAFEE. I thank the Chair.

THE DANGERS OF DOMESTIC CONTENT LEGISLATION

Mr. CHAFEE. Mr. President, the House of Representatives is today considering the Fair Practices in Automotive Products Act, H.R. 5133. It seems clear that this dangerous bill will pass the House, and that an attempt will be made to obtain its consideration by the Senate.

I wish to serve notice at this time that should an attempt be made in the Senate to pass this legislation this calendar year, I intend to discuss it at great length.

This bill should be correctly labeled the "Unfair Practices Act" because it is extraordinarily unfair—unfair to American consumers, unfair to labor, unfair to auto manufacturers, and unfair to importers. Were it to become law, it would imperil thousands of American workers and farmers whose jobs depend on U.S. exports, because the bill would invite foreign retaliation. For that reason, an impressive group of U.S. business and agricultural interests has coalesced in oppostion to this bill.

What I am discussing, Mr. President, is the so-called domestic content legislation.

One effect of the bill would be to reduce the number of vehicles imported from 2 million to about 500,000, or by 75 percent, according to the Council of Econmic Advisers. It would do so by mandating that imported cars must contain certain percentages of domestic labor and domestically manufactured parts; in other words, that the domestic content of a given auto company's cars must be anywhere from 10 percent to 90 percent, depending on the number of autos that manufacturer sells in this country.

If a manufacturer sells less than 100,000 units, it is not affectd by the domesitc content provision. This means that most European imports would not be affected by the bill. If, however, the manufacturer sold 500,000 units, the domestic content required would be 50 percent; or if it sold 700,000 units, the domestic content would be 70 percent. That would mean that the bill affects mainly the two largest Japanese manufacturers, Toyota and Nissan, whose sales in this market are respectively 714,000 and 584,000 units. Clearly, such high domestic content requirements would force these manufacturers to abandon the major part of their U.S. market.

H.R. 5133 is far worse than a tariff bill. It is simply a new form of quota bill in the demure disguise of a U.S. jobs bill—a wolf in sheep's clothing. It masquerades as a jobs bill, but it really is a job loss bill. Everybody loses by the bill, Sadly, even auto workers would ultimately lose were this bill to become law.

The bill would be devastating. It would affect most sectors of the economy. It would wipe out many of the 7,000 American businesses which sell foreign autos and create substantial unemployment among the 165,000 Americans whose livelihood depends directly on the U.S. import automobile industry.

It would lead to absolutely certain foreign retaliation; there is no quesition about that. It would cause lost jobs in agriculture and industry. American farmers exported about $40 billion of their products in 1981, accounting for about one-fourth of U.S. farm income. Thus, 16 major American farm groups have joined in opposition to the bill.

The Conference Board, a leading economic and respected source of economic information and analyses, has estimate that 70 percent of all new manufacturing jobs in the last 10 years has been generated by the export sector. In other words, job creation in this Nation is coming from exports that we are sending abroad. These are the jobs that are imperiled by this bill.

Partly because of the retaliatory response the bill would evoke, the Congressional Budget Office has estimated that the bill would cause a net loss of 66,000 U.S. jobs by 1990. This simply exposes a selfish attempt to obtain employment in the auto industry at the expense of working men and women in other industries.

The effects on consumers are equally drastic. Because the bill sets standards for domestic content that cannot be met by many foreign exporters, these manufacturers would be effectively barred from the U.S. market. That is what it is designed for.

American consumers would simply not be able to buy the autos of their choice. If they turn from Japanese cars to European cars, the European manufacturers would in turn be blocked from expanding their sales because of the automatic increases in the domestic content that would be required as their sales volume rose under this legislation.

The result would be higher prices. The U.S. auto market would be increasingly isolated. Consumer choice would be limited mainly to domestic cars and the prices of these cars would inevitably rise.

What a bonanza for the U.S. automobile manufacturers and the United Auto Workers. Sure this is designed for them, temporarily at least. They would increase their prices, they would not agree to any freeze on wages, or freeze on cost-of-living adjustments. Up would go the price.

The Council of Economic Advisers has estimated that the price of all cars sold in the United States would increase by $1,000 per vehicle.

Mr. President, this discussion that I have had this morning on the harmful effects of this dangerous bill is at best cursory. This legislation has been the subject of substantial analysis by our own CBO, the executive branch agencies, and business and farm organizations. However, in the Senate we have had no hearings in this domestic content legislation. Certainly it requires extensive study by the Commerce Committee and by the Finance Committee before being considered by this body.

Mr. President, I think this is an extremely serious matter and indeed so does our administration think it is extremely serious.

In absence of study that a bill of this consequence must have I will vigorously oppose its consideration by the Senate during the remainder of this session.

Mr. President, I think that this legislation, as I have said, represents tremendous dangers to the United States and I call all my colleagues' attention to it and urge their careful consideration of this measure and urge that it not be taken up, that it not be considered on the floor here during this truncated session, but that were it to pass the House of Representatives, as most predict it will, it be referred to committee and be carefully considered there and indeed postponed until next year and then we can start all over again.

Thank you, Mr. President.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended to not longer than 11 a.m. in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO DAVE RIMINGTON

Mr. ZORINSKY. Mr. President, I pose a question to my colleagues. What has a 3.54 grade average, twice has been named the Nation's top college interior lineman and is known to put away six steaks in a single sitting?

The answer, for those who do not follow Big 8 football, is a Nebraska phenomenon named Dave Rimington. And, although he is not quite faster than a speeding bullet, he is still Superman to those of us from the Cornhusker State.

At 6 foot 3 and 290 pounds, Dave is one of the biggest things to hit Nebraska football in years. The senior center has won the Outland Trophy, given annually to the Nation's out-

standing interior lineman, the last 2 years. He is the only player to repeat as winner in the trophy's 37-year history.

He also was a top contender for this year's Heisman Trophy, an AP and UPI All-America pick and winner of the Vince Lombardi Award for the Nation's outstanding college lineman.

But Dave is more than just an athletic phenomenon. An economics major, he is a Rhodes Scholar candidate and one of 11 scholar-athletes honored earlier this month at the silver anniversary dinner of the National Football Foundation.

What is more, he rates his scholastic honors right up there with his athletic achievements. "Education kind of gets downplayed on the football field," he says. "Football, however, is only part of your life."

Dave's long-range goal is to enter the corporate business world or perhaps start his own business. His teammates kid him about someday being an economic adviser in the White House.

Mr. President, noted author and broadcaster Heywood Hale Broun has said that "sports don't build character; they reveal it." That certainly is the case with Dave Rimington.

I know I speak for all Nebraskans when I say I am extremely proud of this outstanding 22-year-old native of Omaha. He is a credit to his hometown, the University of Nebraska at Lincoln and the entire Cornhusker State.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STAFFORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAWKINS). Without objection, it is so ordered.

THE INTERPARLIAMENTARY UNION

Mr. STAFFORD. Madam President, I am going to take a minute or two to informally talk about the Interparliamentary Union, and I hope as I do so that some of the Members of this body will be listening to their in-office speakers as they conduct other morning business for their constituencies. I also hope that some of their assistants will be listening so that some of my colleagues in the Senate will be intrigued to know more about the Interparliamentary Union.

What is it? Interparliamentary Union is an international body membership which requires a parliament in the country seeking to join the body.

Currently there are approximately 90 nations which belong to the Interparliamentary Union, including our own United States, and all of the parliamentary democracies this Senator knows of around the globe.

How old is Interparliamentary Union? It has been in existence since the 1890's so that it is the oldest major interparliamentary organization in the world.

Not only do the parliamentary democracies belong to it but also the Communist bloc nations and the Soviet Union, all of whom technically can claim to have a parliament, even though it may meet but once a year for a couple of hours.

I am making these remarks purely informally since at the end of the current Congress the Senator from Vermont will no longer be the President of the United States group that has been attending meetings of Interparliamentary Union. But I am doing it in part because in the view of the Senator from Vermont my colleagues in the Senate have not been showing what I would consider to be an adequate interest in the affairs of Interparliamentary Union.

There is some dissatisfaction, I would have to say to my colleagues, on the part of Members of the other body who have generally producd substantial delegations to attend meetings of Interparliamentary Union.

The meetings do afford members of the U.S. delegation an opportunity to learn at firsthand what delegations from other parts of the world with different philosophical and political outlooks think of us here in the United States and our policies.

There are, in the view of this Senator, constructive discussions and debates over numbers of international issues, including disarmament, international trade, education, communications, what is known as colonialism, and other interesting issues. The U.S. delegation comes eyeball to eyeball with our acquaintances who are in the delegations from the Soviet Union, the Communist bloc nations, the Third World nations, and those representing the parliamentary democracies with whom we are friendly and cooperate in these meetings.

The next meeting of the Interparliamentary Union will be held in the spring, as is customary, and current plans are for that meeting to be held in Helsinki, Finland. The fall meeting is currently scheduled to be held in Seoul, Korea, in September.

I hope that Members who may be intrigued with the opportunity to represent this Nation, either in the spring meeting or the fall meeting or both meetings, might informally contact me and I would be glad to discuss the matter further personally with any Senator who might be interested.

Madam President, I yield the floor.

UNANIMOUS CONSENT AGREEMENT

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982—H.R. 6211

DEFENSE APPROPRIATIONS—H.R. 7355

Mr. BAKER. Madam President, I am about to put a unanimous-consent request that I have discussed with the parties who have indicated an interest in these matters and with the minority leader.

Madam President, there are two items on the calendar that are must items that I have discussed previously. The first is H.R. 6211, Calendar Order No. 987, which is the so-call gas tax or highway or jobs bill, principally depending on who describes it, and the other is H.R. 7355, Calendar Order No. 985, the defense appropriations bill. As I say, both of those are on the calendar, Madam President. But the 1-day rule ordinarily would bar their consideration until after an adjournment of the Senate.

For a variety of reasons that vary from Senator to Senator, it does not appear desirable to adjourn the Senate and thus qualify these matters under the rule, although we could do that. But Senators who have a principal interest in this have kindly indicated they they would agree, I believe, that the 1-day rule might be waived as to these two items.

Therefore, Madam President, I ask unanimous consent that the bills H.R. 7355, which is the defense appropriation bill, and H.R. 6211, the surface transportation bill, be considered as having been on the calendar 1 legislative day for the purpose of the rules of the Senate.

Mr. ROBERT C. BYRD. Madam President, reserving the right to object, and I will not object, but I would like to be recognized immediately after the request is granted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Madam President, the reason there was no objection on this side was that, as the majority leader has stated, the two measures are generally conceded to be must measures, and that was one of the reasons why there was no objection.

Second, as the majority leader pointed out, he could achieve his objective of dealing with the 1-day rule simply by adjourning the Senate, and the 1-day rule would have been wiped out.

Third, by proceeding as he has, the right of those Senators who wish to debate the motion to proceed are preserved, because, if the majority leader had adjourned the Senate, it is conceivable that he could have found a window during the first 2 hours during which to make the motion to proceed, and that motion to proceed would not have been debatable under rule VIII,

and the majority leader did not want to prevent Senators from exercising their rights to debate the motion to proceed. So for those who wish to debate the motion to proceed, their rights are preserved by this method.

For these reasons, there was no objection from this side. I make that statement for the record.

Mr. BAKER. Madam President, I thank the minority leader.

Madam President, when we conclude morning business it is my intention to ask the Senate to proceed to the consideration of another calendar item, Calendar Order No. 995, Senate Resolution 507, which is the budget waiver to accompany the gas tax bill. It is, of course, a privileged matter and there is a statutory time limitation of 1 hour for debate. Time for that measure is allocated to the control of the majority leader and the minority leader or their designees, as I recall. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. While we ascertain that the principals involved with that measure are available to proceed—meaning, primarily, the Budget Committee people—I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, the chairman of the Budget Committee (Mr. DOMENICI) is not here yet. He is on his way to the floor and should be present shortly. I prefer not to attempt to go to the budget waiver until he is present so representatives on both sides are available to manage that resolution. Therefore, I ask unanimous consent that the time for the transaction of routine morning business be extended not past 11:15 under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I ask unanimous consent that the time for the transaction of routine morning business be extended not past the hour of 11:30 a.m.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. GRASSLEY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER FOR SURFACE TRANSPORTATION

Mr. BAKER. Madam President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order No. 995, S. Res. 507, the budget waiver to accompany H.R. 6211, the Surface Transportation Assistance Act of 1982.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Madam President, it is my understanding that there is no objection on this side of the aisle.

The PRESIDING OFFICER. Hearing no objection, the resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 507) waiving section 303(a) and section 402(a) of the Congressional Budget Act of 1974 for consideration of H.R. 6211, the Surface Transportation Act of 1982, and certain amendments thereto.

The Senate proceeded to consider the resolution.

Mr. DOMENICI. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Madam President, is it correct that there is 1 hour of debate on the waiver resolution?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Will the Senator yield?

Mr. DOMENICI. I yield.

Mr. BAKER. Madam President, I believe the act provides that I have control of half of the time; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Madam President, I yield control of that time to the distinguished chairman of the Budget Committee.

Mr. HUMPHREY. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Can time be yielded back?

The PRESIDING OFFICER. Yes; it can be.

Mr. HUMPHREY. I thank the Chair.

Mr. DOMENICI. Madam President, I yield myself 5 minutes.

Today we consider the Budget Act waiver for H.R. 6211, the Surface Transportation Act of 1982, and certain amendments thereto. A waiver of both sections 303 and 402 is necessary because sections of this legislation provide direct spending, in violation of section 303, and other sections contain authorizations reported after the May 28 deadline, in violation of section 402, the latter being merely a timeliness requirement. It is important to note that this debate should be limited to this waiver, not to debate the merits of the Surface Transportation Act.

Senate Resolution 507, the waiver of sections 303 and 402, was reported by the Finance Committee yesterday. The Congressional Budget Act gives the Budget Committee 10 working days to consider a waiver but, due to the urgency of this legislation and the short period of time remaining in this Congress, I felt it was important for the committee to act on this waiver quickly and allow the full Senate to consider this legislation.

We faced a unique situation in considering this waiver. This waiver is rather complicated because the legislation was referred to four committees and each committee acted upon it in a different way. This waiver, S. Res. 507 was reported by the Finance Committee for the bill, H.R. 6211, and for the amendments to the bill that have been reported from the Commerce Committee and the Environment and Public Works Committee and the legislation that was discharged from the Banking Committee. The Budget Act permits that Committee to report this type of omnibus waiver. Budget waivers may cover a bill as well as all matters related thereto. In this case the matters related thereto are the amendments which have been reported by other committees. While most waiver resolutions waive only a single section of the Budget Act—either section 303 or section 402—this waiver covers both sections.

A waiver of section 303 is necessary because sections of this legislation contain new spending authority in the form of contract authority. Section 303 of the Budget Act provides a point of order against any bill or amendment that provides for new spending authority for a fiscal year for which a first concurrent resolution on the budget has not yet been agreed to.

In this case, the multiyear nature of the highway program requires direct spending in fiscal year 1984 which, violates section 303. But, obviously, the waiver provisions are there so that this matter could be handled in this manner.

Multiyear direct spending is necessary in order to allow States to plan large capital improvements projects.

What I am saying, Madam President, is that the nature of the Highway Act is that it contains multiyear spending. We have an outyear expenditure and, therefore, we need the waiver. It is very conventional in a highway bill that we provide section 303 waivers.

The multiyear nature of this has required the section 303 waiver each time such legislation has been considered since enactment of the Budget Act. Each time we have considered a highway bill, this kind of waiver has been necessary.

A waiver of section 402 is necessary because sections of the legislation authorize appropriations for fiscal year 1983 and were reported after the May 28 deadline. So it will be generally understood, this kind of 402 waiver has been granted literally scores of times this year because much legislation was reported long after May 28. However, the waiver provision was included in the Budget Act specifically to deal with legislation such as H.R. 6211. The Budget Act is intentionally flexible in order to allow the Senate to consider emergency legislation that could not have been reported before the deadline for authorization.

I think this particular legislation is a patent example. There was not concurrence in the Congress, nor was there support from the White House for this approach May 28. It came along later in the year. The Budget Act intended to provide flexibility for this type of legislation.

I hope the Senate will agree with me that this waiver should be adopted at this time.

Madam President, I understand that the distinguished Senator from New Hampshire would like to speak. I assume it is in opposition to the waiver.

Is that correct, I ask the Senator?

Mr. HUMPHREY. That is correct, Madam President. I have a question I would like to pose to the distinguished Senator from New Mexico.

Mr. DOMENICI. I shall be glad to answer any questions, but I also want him to know that I have a half hour and I am glad to yield some reasonable portion of that to him or anyone else who wants to speak in opposition.

The PRESIDING OFFICER. The 5 minutes of the Senator from New Mexico has expired.

Mr. DOMENICI. Would the Senator like me to yield any amount of time?

Mr. HUMPHREY. Yes, Madam President.

Mr. DOMENICI. I yield 5 minutes to the distinguished Senator from New Hampshire.

Mr. HUMPHREY. Madam President, I begin by addressing a question to the chairman of the Committee on the Budget. If he cares to follow this, it is on page 423 of the book of Senate Procedures at the bottom.

I refer the Senator's attention to section 303(c), the part that reads.

That committee shall report the resolution to the Senate within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied—

I stress the word "accompanied"—

by that committee's recommendations and reasons for such recommendations with respect to the resolution.

It seems to this Senator that the choice of the word in the Budget Act is quite explicit. The word is "accompanied," not "incorporated." The budget waiver, as it reached the desk, as I understand it, incorporates the committee's recommendations and reasons, but is not accompanied by such. That is, it is not accompanied by a report. My distress with this budget waiver and the associated gas tax-jobs bill, in part, is that the matter is being railroaded through Congress without the usual due process and reasonably careful consideration of various points of view. It seems to me, unless I am mistaken, that here is yet another evidence of the speed with which this matter is being rushed through Congress. There is no report accompanying the budget waiver; rather, it has been incorporated within the waiver itself. I ask the chairman of the Committee on the Budget why his committee has not sent its recommendations and its reasons for those recommendations in a report and instead has incorporated them.

I am not making a point of order here, but I thought it worth discussing, that it appears to me it has incorporated these recommendations within the waiver itself. Is this not another evidence of the speed with which this legislation is being rushed through the Senate?

Mr. DOMENICI. The Senator is absolutely correct that the way we acted is not only evidence of speed, but it is speed. We felt compelled to act in an expeditious manner.

Mr. HUMPHREY. I wonder why that is, if the Senator would care to answer?

Mr. DOMENICI. Because the leadership has expressed itself as desiring that this matter be considered during the lameduck session. We have, I think, a rather appropriate history of cooperating with the leadership of the Senate. Thus, when they asked us to do it, we complied in every respect with the spirit and the letter of the Budget Act. We had 12 Members in attendance. We called the meeting pursuant to the rules, and we reported this resolution in a very typical manner.

If the Senator thinks that by incorporating the recommendation in the resolution, that is evidence of something extraordinary, I assure him that it is not. Everything else about it is evidence that we are in a hurry, but that is not. That is a very typical way—we hardly do it otherwise. We include the favorable, the unfavorable, or "without recommendation" language in the resolution itself. We have done that this time.

I note for the Senate that the Budget Committee is discharged of its procedural responsibility if it reports a waiver with any of the following three recommendations—favorably, unfavorably, or without recommendation. We noted here that the vote yesterday was to report the waiver without recommendation.

Mr. HUMPHREY. So the Senator is saying that the standard procedure is incorporating recommendations and the reasons for such within the waiver as opposed to issuing an accompanying report?

Mr. DOMENICI. I do not understand the question.

Mr. HUMPHREY. This Senator's contention is that there is possibly a violation of the Budget Act inasmuch as the recommendations and the reasons for the same are incorporated in the waiver as opposed to accompanying the waiver. It seems to me the language in the act very strongly implies a report accompanying the waiver, not incorporated within it.

Mr. DOMENICI. No, first of all, a report is not required. I would be delighted to cite the sections with reference to that. We did not file a report. The resolution before us is the resolution prepared by the Committee on Finance that was referred to the Budget Committee and required action by the Budget Committee. When we reported it back, we sent the resolution accompanied by our recommendation. Our recommendation is that it be reported without recommendation. That is precisely the way it is always done. It is not incorporated in the resolution.

The PRESIDING OFFICER. The 5 minutes allotted to the Senator from New Hampshire has expired.

Mr. DOMENICI. Does the Senator desire additional time?

Mr. HUMPHREY. Yes, I wish the Senator would yield additional time.

Mr. DOMENICI. I shall be glad to yield an additional 3 minutes. The only reason I am being a little cautious is that I understand others wish to be heard and I have only a half hour.

Mr. HUMPHREY. I do not wish to take up time if somebody wishes to speak. Obviously, nobody does.

The Senator has stated that the committee forwarded the waiver without recommendation.

Mr. DOMENICI. Would the Senator repeat that, please?

Mr. HUMPHREY. The chairman stated that the Budget Committee forwarded the waiver without recommendation. Is that correct?

Mr. DOMENICI. That is correct.

Mr. HUMPHREY. Where is that language, "without recommendation," contained?

Mr. DOMENICI. A parliamentary inquiry, Madam President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. I ask the Parliamentarian. That is the way it was reported by the committee. I am not in control of what is printed and what is not printed.

The PRESIDING OFFICER. The committees have the right to report either favorably or unfavorably or without recommendation.

Mr. DOMENICI. And the committee has so reported, without recommendation.

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. Parliamentary inquiry. How is that transmitted to the Chair? Is it incorporated within the waiver or is there a separate report?

The PRESIDING OFFICER. It is an endorsement on the printed copy of the resolution.

Mr. HUMPHREY. It is an endorsement. Is it a handwritten endorsement or printed endorsement?

The PRESIDING OFFICER. No, it is the printed endorsement on the resolution.

Mr. HUMPHREY. So it is incorporated within the resolution as opposed to accompanying it?

The PRESIDING OFFICER. The Senator from New Hampshire is correct.

Mr. HUMPHREY. That is all I have to say on the point at this moment, Madam President. I understand, if time might be yielded to him, that the Senator from Oklahoma wishes to speak.

Mr. DOMENICI. Madam President, how much time does the Senator from New Hampshire have remaining on what I yielded to him?

The PRESIDING OFFICER. One more minute.

Mr. DOMENICI. I yield that 1 minute and an additional 5 minutes to the distinguished junior Senator from Oklahoma.

Mr. NICKLES. I thank the Senator from New Mexico. I have a couple of questions for the Senator, if I might.

Mr. DOMENICI. Sure.

Mr. NICKLES. The reason for the Budget Act having both rules—what is it, 303 and 402?—is that if you are going to come up with an authorization bill or a spending bill outside of the budget you would have to have a special waiver, outside of the budget resolution that was adopted by Congress?

Mr. DOMENICI. No, section 402 has nothing to do with whether a piece of legislation is within or exceeds the budget resolution's limitations, but, rather, has to do with filing a bill by May 28 in this particular year. Generally, it is May 15. Because of some delays, it was agreed that the reporting deadline would be May 28. Section 402 relates to timeliness.

As an example, the Senator from Oklahoma sits on the Energy and Natural Resources Committee. In the last month, maybe last 2 months, many bills that relate to various and sundry aspects of public leased land, a special piece of legislation to cure this or that, have been discussed. Any one of these bills reported to the Senate after May 28 of this year would be accompanied by a waiver. The Budget Committee goes through the process of voting and making a recommendation to the full Senate. We report waiver resolutions similar to the one here. It is obviously not complex. As I explained before, the 303 waiver is a waiver that does not relate to breaking budgets but, rather, relates to a very technical thing called direct spending.

Most highway bills provide for direct spending at least 1 year beyond the current fiscal year. This bill is no exception. It provides for direct spending in the year of 1984, and that is because you need leadtime in preparing highway programs. So, technically, 303 direct spending is involved, and this waiver includes a waiver of the prohibition against direct spending.

Mr. NICKLES. If the Senator will help me clarify a little bit further, because there is a direct additional budget authority and spending authority in the out years, whether it be 1983 or 1984 or 1985, that is when 303 would have to be waived?

Mr. DOMENICI. The Senator is correct. I gather from his question, however, that he might conclude by my answer that direct spending is obviously in violation of budget targets. That is not the case. The issue is direct spending itself. Even if it falls within budget targets in the out years, it needs a waiver. It does not have to do with whether it breaches the budget in terms of more expenditures than contemplated or larger deficits than contemplated, simply the fact that it is direct spending.

Mr. NICKLES. Let me try and get a better feel for it, if the Senator will answer this question. How much additional new spending or spending authority are we talking about in the out years based on this budget waiver?

Mr. DOMENICI. I say to the Senator that that is extremely complicated and difficult to analyze. We have a table which, based upon our best estimates, incorporates both the new taxes and the new expenditures contemplated, and the estimated net effect on the deficit. For fiscal year 1983 it is minus $700 million, for 1984 it is minus $500 million, and when you get out to 1985, it adds $100 million. So what I am saying is that if you look at this estimate they will collect more taxes in 1983 than they spend and more in 1984, and then, if everything remains as is, they will spend $100 million more in 1985.

The PRESIDING OFFICER. The Chair advises the Senator from New Mexico that the additional time yielded has expired.

Mr. DOMENICI. I do not want to mislead the Senate in answering that question. This is a very difficult one to estimate, and since we are operating in a rather short timeframe, the numbers that we are using are the numbers that come from the Senate Budget Committee staff, but they have gathered their information from the Joint Committee on Taxation and the Congressional Budget Office.

We certainly do not have a full Congressional Budget Office estimate. These are the best we can come up with. But it is rather obvious that when you are just talking about money going into the trust fund and money going out of the trust fund it is fair to say that the tax portion and the additional spending for the highway program and other programs is certainly not per se a significant contributor to the deficit. It is fair to say that with assurance to the Senate.

Mr. NICKLES. Will the Senator yield further?

Mr. DOMENICI. I am pleased to. Does the Senator desire another 5 minutes?

Mr. NICKLES. I would appreciate it.

Mr. DOMENICI. Madam President, when we have completed this 5 minutes, how much time does the Senator from New Mexico have?

The PRESIDING OFFICER. There will be 10 minutes remaining.

Mr. NICKLES. I thank the Senator. I have a couple more questions. As the Senator from New Mexico probably understands, my dilemma about the bill, as mentioned by the Senator from New Hampshire, is the fact that it has gone so quickly. We do not have a report from the Finance Committee or the Budget Committee to try and grapple with the economic consequence. Everybody talks about whether it is a $5.5 billion tax increase per year, but to date I have not seen a committee report that shows a breakdown of where that is coming from, the gasoline tax or whether it be the excise tax, or the net revenue effect on what it will do for the budget and the deficit. So if the Senator from New Mexico could possibly respond and give me what the estimated receipts and outlays are for 1983, 1984, and 1985, it would be appreciated by this Senator.

Mr. DOMENICI. I say to my good friend from Oklahoma I am certain that the distinguished chairman of the Finance Committee, Senator DOLE, when the bill is before us, will go into it in more detail. He is certainly more

familiar with all of the nuances of the tax.

It is not just a 5-cent tax on gasoline. It has some other taxes, as the Senator knows.

It is not the Budget Committee's prerogative to analyze them from the standpoint of whether we like them or not. That is certainly the prerogative of the Finance Committee.

But I can give the Senator some numbers. I will read them to him and will give him a copy of our estimates. Maybe it will be helpful.

Might we do this: I ask unanimous consent that the preliminary Senate Budget Committee estimates of the budgetary implications be printed in the RECORD.

There being no objection, the estimates were ordered to be printed in the RECORD, as follows:

PRELIMINARY SENATE BUDGET COMMITTEE ESTIMATES OF THE BUDGETARY IMPLICATIONS OF H.R. 6211, THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

[In billions of dollars]

	Fiscal year							
	1983	1984	1985	1986	1987	1988	1989	1990
Additional revenues	1.7	4.1	4.2	4.2	4.3	4.4		
Additional outlays (Direct spending)								
Highways and bridges	0.7	2.9	3.2	4.9	5.7	5.0	1.5	0.5
Highway safety grants	(1)	(1)	(1)	0.1	0.1	0.1		
Airport development aid program (ADAP)	(1)	0.1	0.1	0.1	(1)			
Recreational boating safety	(1)	(1)	(1)	(1)	(1)	(1)		
Reforestation	0.1	(1)	(1)	(1)				
Authorizations [2]								
Urban Mass Transit	0.2	0.5	0.8					
Highway safety research and development		(1)	0.1	0.1	0.1			
Total additional outlays	1.0	3.6	4.3					
Net effect on the deficit (minus means lower deficit)	−0.7	−0.5	+0.1					

[1] Less than $50 million.
[2] Assumes authorizations are fully funded.
Note.—Details may not add to totals due to rounding.

Mr. DOMENICI. Madam President, I say to the distinguished Senator from Oklahoma that he has in his hands what has just been made a part of the RECORD and perhaps it would be better that he ask me questions about it. I think it is rather self-explanatory, but I will be delighted to answer any questions.

Mr. NICKLES. I thank the Senator.

This table does, I think, point out some of the problems that some of us may have.

It says additional revenues in 1983 of $1.7 billion. Is that total additional revenues of $1.7 billion?

Mr. DOMENICI. That is net revenue.

Mr. NICKLES. And then in the further years $4.1 billion, $4.2 billion, $4.2 billion, $4.3 billion, $4.4 billion all the way out to 1988.

I do not see a $5.5 billion bill that we have continually been reading about.

Mr. DOMENICI. Madam President, what we try to do here is to give the Senator from Oklahoma and other Senators an estimate of the net effect. The Senator wants the gross numbers. This estimate deals with net taxes. The Senator can get the specific tax receipts that will result from the bill from the Finance Committee. Net taxes means we impose the tax and businesses and corporations of the United States and individuals get to deduct additional amounts. We have taken the amount of tax reduction that occurs off the trust fund receipts.

I suggest that this method of estimating net taxes is used whenever we change the tax law.

In this case, it is 25-percent reduction, more or less in terms of the total Treasury effect, and there is general agreement with that kind of rough formula.

Mr. NICKLES. I thank the Senator.

If I might just make a couple comments, part of my serious reservations about this bill is the speed and haste that it has been on the railroad in coming through, and these facts have not been known or made to the rest of the Senators. There has not been a report filed on the bill either from the Finance Committee or from the Budget Committee. When we are talking about multibillion-dollar decisions that affect each and every single individual who drives an automobile or a vehicle in this country, I think we should know what we are talking about.

It seems like we are on a very hastened pace to be moving forward which I personally somewhat resent.

I think a lot of times, if we look back on some of the mistakes that have been made legislatively, they have been made because legislation has been made in haste.

The PRESIDING OFFICER. The 5 minutes of the Senator from Oklahoma have expired.

Mr. NICKLES. I have concluded my comments.

I thank the Chair.

Mr. DOMENICI. Madam President, I reserve the remainder of my time.

Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. If we have a quorum call, against whom is it charged?

The PRESIDING OFFICER. Against the time of the Senator who suggests it.

Mr. DOMENICI. Madam President, I ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Parliamentary inquiry, Madam President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. Four minutes.

Mr. DOMENICI. Four.

How much time does the other side have?

The PRESIDING OFFICER. There are 24 minutes remaining.

Mr. DOMENICI. I yield 2 minutes to the distinguished Senator from Oklahoma.

Mr. NICKLES. I thank my friend from New Mexico.

If the Senator will yield to me for just one question, I notice on the calendar I think 17 or 18 waivers are now pending. Is it done automatically? If

you need a waiver from the Budget Committee it is kind of we run right by the budget, whether it is a 303 or 402 waiver?

Mr. DOMENICI. The calendar list includes many waivers that are pending before the Budget Committee. In each instance, we act. I assume most of those are timeliness waivers, Senator. I do not know. Almost all are 402(a) waivers which have to do with, as I explained to the Senator before, the fact that a great deal of legislation has been reported late in the year after the May 28 deadline.

Mr. NICKLES. The 17 other waivers which have been reported from the Budget Committee then I am hoping are 402 waivers and not 303 waivers, is that correct?

Mr. DOMENICI. I could go through them one by one, but I think it is fair to say almost all of them are timeliness waivers.

Mr. NICKLES. I appreciate the comment because I have heard a great deal said about the Budget Act, yet when I see we go around it so quickly in something which is to raise budget authority as we have in this 303 waiver, it concerns me, it concerns me a lot.

We spent a lot of time debating the Budget Act and we are talking about deficits, taxes, and authority to see if we can move something.

I notice this was marked up yesterday, on the calendar today, without report, and it seems to me it was done very, very rapidly, and I would hope that maybe on this bill and on others when we are talking about items that are in the multibillion-dollars-per-year range that both the Committee on Finance and the Budget Committee and the Senate will take more time in their deliberations on such important issues.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator's 2 minutes have expired.

Mr. DOMENICI. We have now checked and all 17 are timeliness waivers.

Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, on the minority's time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, we are discussing now the proposed waiver from the Budget Committee to allow the gas tax now to be taken up. The Budget Committee has voted out, without recommendation, the waiver and that is the matter that we are on at this time.

In our discussions in the Budget Committee in regard to the waiver, we were looking at the factor that, while the gas tax proposes to raise approximately $5.5 billion per year from the nickel tax and the other items in the tax, in effect the net revenue to the Federal Government is going to be less than that if we deduct what will be the loss to general revenue from the business deduction. For the corporate expense or the corporate portion of the tax as a business deduction, we are going to lose approximately $1.5 billion. So rather than have $5.5 billion per year, we are going to have closer to $4 billion a year. Even though the trust fund will receive into that $5.5 billion, there will be a loss to general revenue of this $1.5 billion.

Now the concern I think that was expressed in the Budget Committee—I started the discussion, but all of the members of the Budget Committee then did respond that, if we go forward with the bill now that is going to spend $5.5 billion, we better recognize that what we are doing is we are adding to the deficit then $1.5 billion a year because we are going to be actually spending more than we are taking in.

So the Budget Committee voted out a spearate resolution—we did not try to amend the waiver; we recognized that that was something we could not do—calling this matter to the attention of the Senate and to the Congress, expressing our feelings that we should not be adding to the deficit, by what we would be expending in a program to fix the highways, more than we are actually taking in from the tax and also expressing our strong belief that moneys that are coming out of this should go through the expenditures, should go through the proper authorizing committees and the appropriating committees, and that we were not attempting to create simply another entitlement.

I think the Senate bill purports to do this, although the House bill seems to be on a different track, seems to be creating what is more an entitlement program than a program that is going to go through authorizing an appropriating committees. Our whole direction, as we put in the Budget Act and has been since that time, was that we did not want to create additional programs that are purely entitlement. We are having enough trouble with some of the entitlement programs that we now have. We want to see some of these programs go through the authorizing committee and the appropriating committee.

So the work in reporting out the resolution, reporting out the wiaver without recommendation was, I think, based on the fact that we were sending out a separate resolution calling to the attention of the Senate that we are actually talking about right now spending more money than we are going to be taking in net from the gas tax; that if we in fact do that, that would be adding to our deficit and we in the Budget Committee think that is a mistake and that we ought to watch and see that we are not adding to the current deficit, and that, also, we feel strongly that we should insist on the part of our conferees that we maintain the Senate position that funds expended for the highway repair and the other items under the bill and the moneys expended should go through the appropriate authorizing committees and also be appropriated through the Appropriations Committee.

That, I think, was what we were hoping to call to the attention of the Senate. I hope at the appropriate time that the majority leader would call up our other resolution so that we could bring that also before the Senate, because I think the Senate also should respond to that action.

I yield to the distinguished chairman of the committee.

Mr. DOMENICI. Will the distinguished Senator from Florida yield on his time? I only have 2 minutes, and I want to save that.

Mr. CHILES. I yield to the Senator such time as he needs.

Mr. DOMENICI. I thank my friend.

I say to the Senator that I have talked with the leader about the related freestanding resolution that the Senator refers to, that he offered and which was adopted. Basically, I think we will have to talk with the leader and with the minority leader because it will require unanimous consent to bring it up. Immediately after the adoption of this waiver resolution, the subject matter will be the gasoline tax and related committee amendments on highways and mass transit.

All I can do is suggest to the distinguished Senator from Florida that we meet with the leader when we are finished with this resolution. I understand that no one is going to ask for a rollcall vote on this resolution and we, therefore, will be finished shortly.

Mr. CHILES. I thank the distinguished chairman. I am prepared, if the chairman is, to yield back the remaining time that I have on the resolution.

Mr. HUMPHREY. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. The chairman of the Budgert Committee stated that the next business of the Senate after disposition of the budget waiver will be the gas tax bill. Will it not be the motion to proceed to the gas tax bill?

The PRESIDING OFFICER. It will be the motion to waive section 402(a) of the Budget Act.

Mr. HUMPHREY. Yes; but following that.

The PRESIDING OFFICER. Then there is an order to deal with Radio Marti.

Mr. BAKER. Will the Senator yield for a further parliamentary inquiry?

Mr. HUMPHREY. Yes.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I am sorry. I came in the middle of that conversation and ruling. But do I understand the Chair to state that, after the disposition of this budget waiver resolution, the motion in respect to Radio Marti will recur?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, I might add, in clarification of the situation, that at that moment I intend to seek recognition for the purpose of making a motion to proceed to the consideration of the gas tax bill.

The PRESIDING OFFICER. The order was for recognizing Mr. ZORINSKY at that time.

Mr. BAKER. Mr. President, I intend to see if we can arrange with Senator ZORINSKY to do that.

Mr. DOMENICI. Mr. President, I apologize to the distinguished Senator from New Hampshire, when I stated that the next item of business would be what I said it would be. That clearly was a mistake on my part. I understood the leader was going to move that we take up the bill. It is more correct as stated by the leader than stated by the Senator from New Mexico.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, if someone has 15 seconds, so that I might inquire, I wonder if we have exhausted the need or time for debate on this measure and we can go on with the next step in the procedure.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. BAKER. If the Chair will withhold for just a moment—did I understand the distinguished Senator from Florida to say that they were prepared to yield back their time?

Mr. ZORINSKY. Mr. President, I yield back the remainder of the time allocated to the minority.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. DOMENICI. Mr. President, I yield back the remainder of my time on our side.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 507) was agreed to, as follows:

S. RES. 507

Resolved, That section 303(a) and section 402(a) of the Congressional Budget Act of 1974 are hereby waived with respect to consideration of H.R. 6211, the Surface Transportation Assistance Act of 1982 and the following amendments thereto:

S. 3043, the Federal-Aid Highway Improvement Act of 1982, as ordered reported by the Senate Committee on Environment and Public Works on December 8, 1982;

S. 3072, a bill to amend the Urban Mass Transportation Act of 1964, as discharged on December 3, 1982, from the Senate Committee on Banking, Housing, and Urban Affairs; and

Title IV of S. 3044 with an amendment in the nature of a substitute, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on December 6, 1982.

SECTION 1. A waiver of section 303(a) is necessary because the bill and certain amendments thereto contain new spending authority for a fiscal year for which a first concurrent resolution on the budget has not yet been agreed to as required by the Congressional Budget Act.

SEC. 2. A waiver of section 402(a) is necessary because this legislation authorizes the enactment of new budget authority which would first become available in fiscal year 1983 and such legislation was not reported before May 28, 1982, as required by the order of May 12, 1982.

SEC. 3. Waivers of the Budget Act are necessary to permit congressional consideration of this bill and certain amendments thereto. This legislation contains multiyear spending to provide States and others the ability to plan long-term capital programs. This proposal is being reported in response to the need for immediate rehabilitation and restoration of our Nation's highways, bridges, mass transit systems, and other facilities.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER FOR RADIO MARTI

The PRESIDING OFFICER. The question recurs on agreeing to the motion to waive section 402(a) of the Budget Act with respect to the consideration of H.R. 5427.

Under the previous order, the distinguished Senator from Nebraska is recognized.

Mr. ZORINSKY. Mr. President, I am happy to yield to the majority leader, provided I am accorded unanimous consent to be recognized first to resume when this question is again brought before the Senate today, tomorrow, or any other day, and that the continuation of my remarks at that time will be ruled as an extension of my first speech and not as a second speech under the two-speech rule.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the Senator from Nebraska for permitting me to seek recognition at this point.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Mr. BAKER. Mr. President, as I indicated previously, I will ask the Senate to turn to the consideration of the highway bill, Calendar No. 987, H.R. 6211. I rather expect that I might not be able to do that by unanimous consent, but I never know until I try.

I ask unanimous consent that the Senate turn to the consideration of Calendar No. 987, H.R. 6211.

Mr. NICKLES. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I move that the Senate turn to the consideration of Calendar No. 987, H.R. 6211.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. HUMPHREY. Mr. President, what is the title of the bill?

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

Mr. HUMPHREY. Mr. President, I ask that the bill be read.

The PRESIDING OFFICER. It would take a motion which would have to be agreed to by the Senate.

Mr. BAKER. Mr. President, if the Senator will yield, is it customary that a bill can be reported by title, in response to a motion of this sort?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. The motion itself is debatable, is it not?

The PRESIDING OFFICER. It is.

CLOTURE MOTION

Mr. BAKER. Mr. President, I think no one would be surprised when I say I anticipate there will be an extensive debate on the motion to proceed. No one would be surprised to know that we have consulted on that. No one will be taken by surprise. If the Senator will permit me, I will go ahead at this time and file a cloture motion on the motion to proceed and we will have that out of the way.

Will the Senator yield to me so that I may do that?

The PRESIDING OFFICER. The Senator does not have to yield for a cloture motion.

Mr. BAKER. Very well. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 6211, the Surface Transportation Assistance Act of 1982.

Howard Baker, Jake Garn, Alfonse D'Amato, Nicholas Brady, Bob Dole, Dan Quayle, S. I. Hayakawa, Robert Stafford, Ted Stevens, Mark Andrews, Strom Thurmond, David Durenberger, Warren B. Rudman, John H. Chafee, Pete Domenici, and John Heinz.

Mr. BAKER. Mr. President, the motion is debatable and, as I said earlier, the rapidity with which I have filed this is prompted by two reasons: one, because we have to deal with must legislation; the other, extensive conversations have been carried on for some days now and I believe all parties understand that there will be extensive debate on the motion to proceed, which I acknowledge, and that I would file a cloture motion. That has been done.

If the Senate is in session on tomorrow, under the rule that vote will occur on Monday. If the Senate is not in session on tomorrow, that vote will occur on Tuesday. I intend to consult with the principals involved on both sides of this issue, those who oppose or support the motion to proceed, and, of course, with the minority leader, to arrange the schedule of the Senate so that it will be a convenience to the maximum number of Senators.

Mr. President, at this time I yield the floor.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, speaking for myself, it is not my wish to block further pressing business of the Senate, nor is it my wish to inconvenience Senators in any way, especially with respect to the target date for adjournment.

Some might suggest that I and those who are resorting to extended debate are being unreasonable in this respect. I would suggest that we turn to those who are trying to ramrod through this piece of legislation in the waning days of the 97th Congress as being unreasonable because the highways surely will not critically deteriorate in the next month's time. There is time in the next Congress to consider this with the usual due process and deliberation.

For some reason unfathomable by this Senator, there is a great deal of haste attached to this bill.

Mr. President, during the recess, the leadership of both Houses announced that they were going to produce a jobs bill. As far as I can see, this is it insofar as a bill agreed upon by both Houses, or about to be—proposed to be. I ask the question: If raising gasoline taxes by a nickel is the way to produce jobs, reduce unemployment and bring about prosperity, why stop with a nickel? Why not raise taxes by 40 cents or 50 cents?

Mr. BAKER. Mr. President, will the Senator permit me to interrupt without losing his right to the floor?

Mr. HUMPHREY. I ask unanimous consent, Mr. President, that I may yield to the majority leader without my remarks upon resumption being counted as a second speech and without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have consulted now with Senator NICKLES from Oklahoma and the minority leader. I wonder if we could get on with the business of trying to decide when we are going to have this cloture vote.

As I said, we can come in tomorrow, which I am prepared to do, and have the vote 1 hour after we convene or have the quorum call 1 hour after we convene on Monday. It seems preferable to me that we might enter into a unanimous-consent agreement that we need not be in tomorrow and go ahead and let the vote occur and the quorum call occur on Monday as if the Senate had been in session on Saturday.

May I inquire first of the minority leader if he will object to this procedure?

Mr. ROBERT C. BYRD. No, Mr. President, I agree with that procedure. If the only purpose of coming in tomorrow is to fulfill the requirements under rule XXII, I would recommend that a unanimous-consent request be granted allowing a cloture vote on Monday, because there is no way of keeping the majority leader from coming in tomorrow if he wants to. He can move to adjourn, if he has to. That is nondebatable. He can get a vote on it and he has the votes. Or he can recess over until tomorrow so the Senate would come in and fulfill the requirements under the rule.

Without going through all that, if that is the only purpose of coming in tomorrow, if we can avoid the expense of having the Senate come in tomorrow, I am very willing on my side of the aisle to agree to a vote on cloture on Monday, which would occur otherwise, under the procedures of the rule, if the majority leader brought us in tomorrow.

Mr. BAKER. I thank the Senator very much.

Mr. President, may I inquire of the distinguished Senator from New Hampshire if he would look favorably upon a request of that sort?

Mr. HUMPHREY. He would, yes, Mr. President.

Mr. BAKER. Mr. President, I thank the Senator for that. I think the minority leader has put it very well. We can do this, but we shall have to go through a little ritual to accomplish it. I think it would best serve the interests of the Senate and all Members to go to a vote on this on Monday and not come in on Saturday.

Mr. ROBERT C. BYRD. It would be a saving of the taxpayers' money.

Mr. BAKER. And maybe avert a substantial threat to the Republic if we are not in session any more than we have to be.

Mr. President, I ask unanimous consent that the vote in response to the cloture motion just filed against further debate on the motion to proceed to the debate of Calendar Order No. 987 occur on Monday according to the provisions of rule XXII, notwithstanding that the Senate will not have been in session on the requisite number of days prior thereto.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAKER. I thank the Chair. I thank the minority leader. I especially thank the Senator from New Hampshire and the Senator from Oklahoma.

Mr. HUMPHREY. Mr. President, I was making the point that there are many who support this gasoline tax on the basis of reducing unemployment and producing jobs. I say again, if that is the case, why stop at a nickel? Why not tax gas at a quarter or 50 cents? For that matter, why stop with gasoline? Why not raise taxes across the board? Indeed, why not confiscate everybody's paycheck immediately? Raising taxes, particularly during a recession, does not produce jobs, it destroys them. Those who support this measure on that basis perhaps should give some thought to this fact.

The proposed increase in highway taxes and associated truck taxes has been around for some time and gained very little, if any, ground until just 2 weeks or so ago. So we must ask how, all of a sudden, this measure has caught fire.

The answer to the question, of course, as I have alluded earlier, is that Members of Congress see this as a way of at least appearing to be doing something about unemployment.

True, the measure will create jobs in the construction industry, but it will, at the same time, destroy jobs in other industries in which, today, many companies are on the edge of going under. So, if it creates jobs, it does so only by robbing Peter of his job to create one for Paul for political reasons, to which I have already referred.

The most important aspect of this proposal is economic. We should look at the effect of this bill on the net tax burden borne by our citizens and by the private sector—the net tax burden. Will this measure reduce that tax burden consistent with efforts of this administration or will it increase the tax burden in a way that is inconsistent with the efforts of this administration? The case, of course, is the latter. It will increase the net tax burden on the people of this country.

This fiscal year, 1983, according to the latest figures I have been able to come by, the Federal Government is going to raise close to $670 billion in taxes. That is an enormous tax burden on the backs of the people of our country. I emphasize the word "people," because it is only people who pay taxes. We cannot honestly believe that businesses pay taxes. They collect them, but, of course, they pass along the burden to people in the form of higher prices. So people pay taxes. The people of this country are already, this year, bearing a tax burden of $670 billion, approximately.

Now Congress is coming along, apparently, and saying to these heavily-burdened people, "this is not quite enough, friends. If you want your highways repaired, you are going to have to submit to an extra 5 cents per gallon for gas and highway taxes."

This Senator is not opposed to keeping our capital assets in good repair. That is only prudent. The point is if that highway and bridge repair suddenly is so critical, then we should fund repairs within the context of existing revenues.

How would we do that, since those revenues are already thinly stretched? Well, it is very simple. We shall have to move highway repair up in our order of priorities and something else down. My point is we ought to do it within the context of our existing revenue structure and not add a new tax.

We simply cannot levy a new tax every time we perceive some new unfilled need. At some point, we have to learn to live within the means of the American people to bear taxes.

Of course, we are far from that today. Beyond the $670 billion in tax revenues, we are going to be borrowing some as yet uncertain figure, but it will evidently be well over $100 billion.

If this proposal pending before us for consideration had in it some offsetting provision, some provision that would offset a like amount, dollar for dollar, of the tax burden, the Senator from New Hampshire would support it.

The basis of my objection is that it is a net increase in the tax burden at a time when we are supposed to be trying to reduce that net tax burden as a means of restoring health to the economy and creating jobs and opportunity and security for our people. This tax, absent some offsetting reduction elsewhere in taxes, is an added burden that will prolong the recession; it will work against jobs creation; it will attack the future and the opportunity and the security of our people.

If the merits of the bill are questionable—and in my view demerits—what makes it even worse is the way in which this measure is being considered by the Congress and by the Senate. It is on the fast track, being railroaded through without the usual due process, without the usual hearings, without committee reports, without time for Members to consider those reports, and without time for a national debate and a national consensus to develop. It is being railroaded through, and we always regret it later on when we do this because we inevitably make mistakes. Even when we have time to consider legislation carefully we make mistakes. We make even more mistakes when we consider it hastily. There is no pressing need that this measure be disposed of in this Congress. There is no pressing need that it be railroaded through the Congress. There are many reasons why we ought to wait just a few more weeks and let the next Congress, the 98th Congress, take up this important measure. I believe it could be improved. I believe those of us who oppose it, speaking for myself at least, could support it if it were properly improved, but not under these circumstances.

The matter is fairly simple. Being a New Englander and conservative with words, I am not going to repeat the same argument over and over again in different ways, but I obviously have an obligation to keep the floor for a while.

Nevertheless, I have been asked as a favor to the Senator from Missouri to yield to him so he might conduct some business.

I ask unanimous consent, Mr. President, that I might yield to the Senator from Missouri without losing my right to the floor; that I might be recognized upon his yielding of the floor, and that upon resuming my remarks not be counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

(Mr. EAGLETON'S remarks are printed later in today's RECORD.)

Mr. EAGLETON. Mr. President, I again thank my colleague from New Hampshire for yielding the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, there is one element of this matter on which I have not yet touched. It seems obvious that while considering ways to raise money to repair highways we ought to also be looking at the other side of the equation, and that is how to save money in the repair of highways or how to get more value for each dollar spent, more miles built, more repairs accomplished, and how to save money.

We have not heard much discussion about that in this debate that has been under way now these last 10 or 12 days on the gasoline tax. Surely, as eager as Congress appears to be to fix highways all of a sudden, Congress ought to be sincerely interested in ways to save money on highway repairs and construction and ways to stretch to the maximum each dollar spent.

One very simple way in which Congress could address this matter is to repeal the Davis-Bacon Act. Davis-Bacon was passed, I believe, in 1931 or thereabouts. In any case, it is New Deal legislation. It has been recommended for repeal by many studies including one by either the CBO or the GAO. This study also found that Davis-Bacon cost taxpayers $1 billion a year in unnecessary expense.

Labor expenses on federally assisted construction projects run on average 36 percent higher than on those construction projects where Davis-Bacon does not apply, which is to say they are 36 percent higher for federally assisted construction projects as opposed to those construction projects where there is no Federal assistance.

So the taxpayers bear that extra premium.

Davis-Bacon is nothing more or less than a sweetheart deal with construction unions. It should have been repealed long ago in the interest of taxpayers but remains on the books today despite the many recommendations for its repeal by responsible studies. Despite many, many efforts in Congress to repeal it, it remains on the books, I suppose, as testimony to the political power of organized labor and the financial contributions organized labor can make to political campaigns by means of dues involuntarily collected from members, involuntarily collected in the sense that members have no practical say in how those funds will be disbursed among candidates. Davis-Bacon is a testimony to the power of organized labor not only to make cash contributions to selected candidates, those presumably who toe the line on a legislative agenda, but also contributions of in-kind services and materials such as professionally operated phone banks and highly trained and experienced political consultants.

But in any case the point is that if Congress were truly sincere about the highways it would move with speed, even greater speed than with which this gas tax is being considered, to repeal Davis-Bacon and to save in one bold stroke $1 billion a year in unnecessary construction costs on federally assisted construction projects; $1 billion a year is very nearly 20 percent of

all the proceeds. In fact, it is more than 20 percent of the net proceeds to be raised by this tax.

Yet, we do not hear too much about such a proposal in fact, and this is one of the multitude of provisions, many of which Members are not aware of because this is a complex piece of legislation. In fact, both the Senate and the House versions now contain language which extends the coverage, not cuts it back or repeals it, but extends the coverage of the Davis-Bacon Act from new construction to which it formerly applied to repairs as well.

So obviously since this gas tax is aimed principally at repairs, Davis-Bacon is now going to cover those kind of projects and the taxpayers are going to get 36 percent less value for their money than they might otherwise.

So I urge my colleagues, Mr. President, to look at the other side of the picture and look to where we can save money in the interests of the taxpayers. Here is the way, very simply. It can be done speedily. It would have an almost immediate effect and a very, very large effect indeed.

Mr. President, I ask unanimous consent that I might yield to my colleague from North Carolina without losing my right to the floor and upon my resuming my remarks without having them counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. HELMS. I thank the Chair, and I thank the Senator from New Hampshire.

Mr. President, first of all I wish to thank the able Senator from New Hampshire and the able Senator from Oklahoma for stepping into the breech this morning and taking on this issue.

I just returned from North Carolina, where I spoke to the North Carolina Corn Growers Association.

I say to my friend from New Hampshire that in my judgment probably the most dangerous animal in terms of the health of the Republic in America today is a duck, a lameduck. Moreover, this may be the first time in history that a lameduck is trying to give birth to a turkey, which this gas tax bill is, for all of the reasons that the distinguished Senator from New Hampshire has mentioned.

Mr. President, the purpose of the so-called lameduck session of Congress supposedly was for the House of Representatives and Senate to come back and act on some appropriations bills that Congress did not consider before the election.

When we left here in early October there was some mention of addressing the social security issue. But this Senator never heard any mention of a serious intention to take up any significant legislative initiatives beyond those.

Yet, here we are about to consider a gas tax increase and highway authorization all rolled up into one little piece of legislation, which I daresay not over five Senators understand or can even begin to describe the contents of.

This is a bad way to operate, if you pardon the expression, a railroad.

It will be a serious mistake for Congress to pass this package in the waning moments of this year.

There is no reason to act on the legislation now without the scrutiny it deserves and the hearings that should be mandatory on such an issue, Mr. President. Let us be sure of one thing: If this 5-cent increase, plus all of the other aspects of this bill, which have not been discussed by the media, if this bill or anything remotely similar to it becomes law, these taxes will never come off. Call it a temporary tax all we wish. But it is the same old story. There is nothing so permanent as a temporary tax.

So that is why I have felt obliged from the very beginning to advise the distinguished majority leader that it is my intent to slow down the pace a little bit so Congress can give the consideration to this proposal that it is due.

Mr. President, it would be interesting to know how many Senators have even picked up the bill, let alone studied its provisions and contemplated its implications.

Unfortunately, that is the way the system works around here all too often. The steamroller is cranked up, the campaign is orchestrated, and the American people are persuaded that a good thing is about to happen, and too late, too late they learn that the temporary tax is permanent and that the bill that had been proposed was not the panacea that it was advertised to be.

For my part, Mr. President, I have a variety of problems with the general proposition. The biggest problem I have with it is that the little guy is going to get it in the neck again.

I had a very wealthy gentleman from Montana occupying the seat next to me on the airplane this morning, and he thought the gasoline tax was just fine. He said, "It is not going to cost me but $30 a year. I heard the President say that."

Well, he could afford even $30 a day, but how about the textile mill worker who has no transportation to his factory or plant except an aging automobile? How about the farmer who has to drive around his farm and to get into town? Thirty dollars, if that is all it will amount to—and it will amount to more than that by far—but even $30 is a pretty big deal to him. The last thing the American people need now is another tax increase. No tax increase is ever welcome, but this one is particularly unwelcome because of the obvious fact that it will take billions of dollars out of the private sector and it will impose a burden on that workingman or workingwoman who can least afford it.

(Mr. EAST assumed the chair.)

Mr. HELMS. Around this place over the years I have heard many, many eloquent speeches about regressive taxation. There may be somewhere in the myriad of legislation that has flowed through the Senate since I have been here a more regressive piece of legislation than this, but it does not come to mind.

Then there is the complexity of this proposal. It does not, as much of the media has reported, simply add a nickel per gallon tax on gasoline. It raises other taxes as well, and it sets wide-ranging, far-reaching policies that will have all sorts of ramifications in the future, some predictable, some unpredictable. But one thing is certain: This package has zipped through the House of Representatives like Blalock's bull, with scarcely any scrutiny, consistent with the syndrome around this place—this place being the Congress of the United States—that we tax and tax and spend and spend.

So we have a proposition to impose additional taxes on the American taxpayer saying, "Oh, this won't hurt you too much." The campaign has been well orchestrated. But in fact Congress is about to adopt policy decisions with little or no idea of what the long-range effects will be, all of which leads me to the most fundamental point of all—and Senator HUMPHREY stated it a couple of times in his remarks—why the haste? Why is this proposition so sacrosanct that we must disregard the normal processes of the Senate? Why must we give it no hearings, and push it through before the people have any chance to find out really what is involved and, therefore, no chance to make their feelings known?

Somebody said one time that if you like sausage and if you love the law you do not ever watch either one of them being made. That statement is particularly relevant to our situation here today.

Now, Mr. President, having said all of that, every Senator is for motherhood, he is against sin, and he is for good roads. But if Congress passes this package, a unique opportunity to put into practice the principles of New Federalism will have been lost.

It was in 1956 that Congress created the highway trust fund in order to build a National Interstate Highway System for defense and commercial purposes. But Congress never intended the Federal Government to play a major role in repairing and maintaining such a system. This was to be the responsibility of the States.

In that perspective what do we see with the enactment of this proposal? We will see State prerogatives preempted in bridge and highway construction and repair, and we will see the Federal Government put substantially into the business of highway and bridge maintenance and repair.

I recognize there are a lot of Governors and, perhaps, a lot of State legislatures who will say, "Glory be, let us get this off our backs and dump it on Uncle Sam's back." Surely the past 35 years will be instructive as to the folly of that attitude.

I recognize that State governments are having their fiscal problems now that the flow of so-called free money from Washington is being slowed down, toned down, and cut down; and the wisest politics probably is to abdicate responsibility and shift the responsibility up here to Washington, D.C., in the hope that some of that free money from Washington can bail out the States from their responsibilities.

Today's $1 trillion plus Federal debt is proof enough that this is folly. The Federal Government has assumed the role of be-all and end-all, and in 35 or 40 years has been shoving out money like there is no tomorrow. We therefore have in place all sorts of welfare programs that have taken on a life of their own, which have just mushroomed in terms of their responsibility, cost, and sadly enough, fraud.

But it got it off the backs of the States. States abdicated their responsibility, and they were all too delighted to see the Federal Government step in and take over. So where has it brought us?

Mr. President, each year the interest on our more than $1 trillion Federal debt costs the taxpayers of this country substantially more than the cost to operate the entire Federal Government along about 1960. That is for interest alone. Meanwhile, we have built-in mechanisms to increase the cost and the scope and the size of programs. And I daresay that there was not a time when these programs were advanced and enacted into law that Senators did not get up here and say, "Oh, this is just the thing to do. It won't cost but this, it won't hurt the average taxpayer. In fact it will help him." Too late, the taxpayer learned about these programs; and too late the taxpayer will learn about this gas tax bill.

As Senator HUMPHREY has said—and he is absolutely correct—this proposal is likely to cost more jobs than it will create. And, in any case, most of the jobs created by this proposal will not be created for months, perhaps even years. You do not put together a program of this type and this size simply by pushing a button. There will come an enormous bureaucracy with all the rules and regulations and all the fusses and fights. Somewhere down the line, maybe some guy who does not have a job will be able to get a job. Well, in the meantime, others will be put out of business. And this is not hollering, as Henny Penny did, that the sky was going to fall. What will happen is perfectly predictable.

Let us just examine this proposal, just in a cursory fashion, and look at a few of the flaws. Now I do not intend to go into great details now. I will save that for later when the extended debate really becomes serious. It is not serious today in terms of how long Senators in opposition to this bill will speak. But, come Monday, if cloture is voted, there are all sorts of ways that a Senator, under the rules, can exercise his rights to put the Senator on record time and time again about various aspects of this legislation.

I would suggest to my colleagues that this will happen. The farmers are going to know, small businessmen are going to know, textile workers are going to know, everybody is going to know how every Senator voted on every aspect of this piece of legislation, because I am sure there will be an adequate number of amendments on which Senators will be able to take a position.

Now the 5-cent-per-gallon increase in the price of gasoline is, of course, the most advertised feature of the bill. You might say it is the major feature.

Now, what is this? It is an excise tax. I have heard my good friend, the distinguished chairman of the Finance Committee, remark on a number of occasions that excise taxes are bad tax policy. He is right. I could not agree with him more. Senators who profess to be worried or concerned about regressive taxes had better take a look at the small print in this piece of legislation.

As I said earlier, this tax increase will fall primarily on the shoulders of working men and women who have to drive to work every day.

The Tax Foundation recently reported that Americans now pay about a third of their incomes in local, State, and Federal taxes. I do not contest that, except in the sense that I do not believe they cover the hidden taxes. But let us say it is at least one-third.

There are other excise tax increases in this proposal, Mr. President, including an increase on the trucking industry. Hundreds of truckers and trucking executives have been calling and writing my office in opposition to this tax increase. Of course, it will affect the small- and medium-sized companies—it will put them out of business. But it will even hurt the larger trucking companies as well.

So I say again, Mr. President, that the result of this proposal, no matter how well intended, is almost certain to be a loss of jobs—and let me say it again for emphasis—a loss of jobs, rather than an increase in the number of jobs available.

Mr. Martin Feldstein, in whom President Reagan has obviously sufficient confidence to have selected to be the Chairman of the Council of Economic Advisers, says that this proposal will cost another 20,000 Americans their jobs. So it is not a jobs bill. It will destroy jobs, Mr. President.

I have other objections to the proposal that I will discuss in some detail later. But let me reiterate this point: There is nothing in this proposal that must be passed in this lameduck session of Congress. We will be back here in January. We can conduct hearings. We can let all Americans concerned come and state their views. We can operate in an orderly manner, and, at most, 1 month or 5 weeks will be lost.

Surely, that is a small price to pay for making certain we are doing the right thing.

I would like to have the time, Mr. President, in my capacity as chairman of the Senate Agriculture Committee, to have farmers and their representatives come in and discuss this proposal. They have not had a chance.

I think the small truckers ought to have a chance to be heard. Otherwise, haste will make waste. What will be wasted are funds that we do not want to waste and should not waste.

Mr. President, as I said at the outset, on yesterday I called the Senator from Oklahoma (Mr. NICKLES) and the Senator from New Hampshire (Mr. HUMPHREY), and they agreed to take the lead in this discussion this morning until I could get back at noontime. I am grateful for their having done that.

I will say to Senator HUMPHREY that I heard a portion of his remarks over the loudspeaker in my office. He is right on target.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I thank the Senator from North Carolina for his assistance in shedding some further light on this matter.

Mr. President, I want to read into the RECORD an article by M. Stanton Evans, published in Human Events, the issue of December 4, 1982, entitled, "Why the Gas Tax Hike is Wrong."

A RADICAL DEPARTURE—WHY THE GAS TAX HIKE IS WRONG

(By M. Stanton Evans)

Having recently been handed a sizable tax hike by the Congress, the public may be less than totally enchanted with a concept currently percolating through the government: An extra five cents a gallon federal tax on gasoline.

As it has evolved inside the Department of Transportation, and drawn support within the Congress, the new gas tax would add about $4 billion a year to the federal highway fund, with another $1 billion allocated to capital outlays for mass transit. The pro-

posal is being sold as a needed step toward improving the Nation's "infrastructure," as well as a method of providing jobs.

Considering recent wailings about the price of gasoline and tortured regulatory efforts supposedly aimed at holding it down, this will strike many as a peculiar turn of policy for the Reagan government. If nothing else, it will serve to increase the reigning confusion as to whether the Administration is trying to cut our taxes or increase them.

If the proponents had stuck to the "infrastructure" line, they might have had a plausible case. On their figures, highway funding has not kept pace with the expansion of the system. Deterioration of roadways and bridges has ensued, and the highway fund as presently constituted is unable to meet the resulting burdens (which would be increased under the Administration plan). Considered in a vacuum, the infrastructure appeal makes a fair amount of sense.

There are no vacuums in nature, however, and none in politics. The gas tax proposal will inescapably be weighed in the context of tax and budget battles generally, and in that context comes over as another tax hike. The dent put in the Administration's tax-cutting credibility by this summer's tax hike will get still bigger. Add in other tax hike proposal reportedly favored by Sen. Robert Dole (R.-Kan.), chairman of the Senate Finance Committee, and the problem is apparent.

Helping spread the confusion is the effort to sell the project as a "jobs" proposal. This smacks of the New Deal WPA-approach, and ignores the fact that dollars taken away from motorists to create jobs in highway building obviously can't be spent on something else, thereby un-creating other jobs. The folks who argue this way should read Henry Hazlitt's Economics in one Lesson, where such fallacies are readily demolished.

Also clouding the issue is the $1 billion from the gas tax that would be forked over for mass transit. This method of cracking into highway funds for one of their favorite boondoggles is a long-time goal of many liberals. It is ironic, to say the least, to see it advanced by a Republican administration; even more so to see it advanced under the hallowed rubric of "user fees."

The concept behind the highway fund is a good one: The people who use the highways should pay for them. Gas tax moneys are therefore put into a special account where they are dedicated to highway construction and repair. The motorists for whom the highways exist pay the bills for them when they buy gasoline.

A lot of liberals don't like this. They usually prefer cross-subsidies to user fees, and are always on the lookout for new sources of revenue that can be funneled into social welfare planning schemes. Also, many liberals don't like the private automobile, preferring to herd us all into mass transit. The idea of cracking into the highway fund for mass transit, and a lot of other things besides, is one that occurs quite naturally to the liberal intellect.

Consider in this respect a recent article in The Washington Monthly, concerning the fate of highway funds here in the Nation's Capital. For several years we had a transit chieftain here who held the opinion that "it's immoral for somebody to drive a car downtown." This individual managed to divert our gas tax money from street maintenance to the insatiable city subway system. By breaking into the highway fund, the authors note, "money once dedicated for road re-surfacing and pothole repair could be fed to the Metro, which eagerly gobbled it down."

There is little doubt that liberal forces would like to do the same thing on the national level—though efforts of this type to date have largely been repelled. While the federal highway fund has been subject to nibbling around the edges, the user fee notion has remained essentially intact. A limited portion of the money has been siphoned off for mass transit, and some projects only marginally related to the purpose have been funded by it. But, on the whole, the dedicated nature of the fund has been respected.

The proposal now being advanced by the Administration and the Congress would be a radical break with this tradition—and with the very concept of user fees that it invokes. Whatever its merits otherwise, it is this aspect of the plan that ought to draw the strongest opposition.

Editorial criticism of the gas tax abounds, Mr. President, as in a brief part of another editorial, this one from the Wall Street Journal of December 2, 1982, entitled, "The Gas Tax, Fiscal Speeding."

THE GAS TAX: FISCAL SPEEDING

Everyone, including us, agrees that it's a good idea to fill the nation's potholes, shore up its bridges and spread new asphalt over its crumbling but vast network of roads. Seizing on this consensus, the Reagan administration has endorsed a five-cent increase in the federal tax on gasoline, putting it forward as a remedy for lagging highway maintenance and for unemployment. And everyone thinks the bill will pass Congress during the current lame-duck session with heavy support from both parties.

One trouble with all this reflexive agreement is that no one is taking the time to look carefully at what the gas tax will actually accomplish. Even a cursory glance at the administration proposal should give most lawmakers pause. A nickel by itself isn't much, but as a levy against every gallon of motor fuel sold in the nation, it will multiply into $5.5 billion in a year. This is a large sum to extract from already strapped taxpayers. It is also a 125 percent increase over the old federal gas tax. And for what?

Not jobs. Informed opinion and common sense make us doubt altogether the president's claim that revenues from the hike will pay for 320,000 new hires in a maintenance work force. In fact, the net effect of the $5.5 billion bite out of consumers' wallets will probably reduce overall employment in the economy at large. Even administration stalwarts are no longer coming on strong about the gas tax as a boon to the labor market.

Worst of all, the tax carries with it absolutely no guarantee of any kind that most of the total nine-cent-a-gallon levy will go to fill potholes. Secretary of Transportation Drew Lewis confirmed this in testimony before the Senate Finance Committee this week. The administration bill nowhere stipulates anything about repair or maintenance. It merely increases funding levels for the same highway construction budget categories that have existed for years. The only difference now is that highway departments will have more than twice as much money available to them as ever before.

There are no new controls and therefore no way of compelling states and cities to stop deferring maintenance, in favor of new highway construction. Highway contractors will have twice as good an incentive to pressure governors and mayors to approve boondoggle road projects like New York's Westway or the second Baltimore harbor tunnel. Some new construction may be necessary, but the Congressional Budget Office report of last June concluded that all new routes required for a national interconnected system of highways could be built for a yearly expenditure of only $1 billion. Congress ought to read the report it paid for and act on it. If there's going to be a gasoline tax hike aimed at potholes and other repairs, the new bill should say so in language that will prevent the usual alchemy and keep nickels from turning into pork.

Mr. SYMMS. Will my good friend yield on that point?

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I may yield without losing my right to the floor and that upon resuming my remarks, it not be counted as a second speech.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SYMMS. I thank my spirited and capable Senator friend from New Hampshire for the philosophical aspects of his discussion here. I was listening when my other friend from North Carolina was speaking on the floor.

I think that, as the chairman of the surface Transportation Subcommittee, I agree with the Senators philosophically that this is not a jobs bill, but the perception oftentimes in politics becomes what is the truth. There is a perception in the country that it is a jobs bill. Even with the best efforts that some of us have made who have been behind having an improved Federal-aid highway program this year, it has been impossible to keep the news media from calling it a jobs bill, and our colleagues. So it is called a jobs bill. What it will do is create more jobs in construction and may have an impact on other jobs and may not, as the Senator is saying.

I think we should say that the highway bill that has passed the Senate in the Public Works and Environment Committee is definitely tilted in the direction of reconstruction, resurfacing, and rehabilitation of old roads as opposed to construction of new roads. We should not leave the record in error on what is actually taking place in the bill.

It is true, we have to deal with our colleagues in the other body and in the conference. But there has been a concerted effort by the Democrats and Republicans alike in the Public Works Committee in the last 2 years to change the scope of where our highway programs are going. The fact is that when I took over the chairmanship of that subcommittee, we had $55 billion dollars worth of unfinished highway in the Interstate System in the United States to complete. Through the efforts of Senator STAF-

FORD and myself and others and Ray Barnhart, Drew Lewis, and others in the administration, we have demapped enough miles of interstate in the country to change that number down now to $38 billion that will complete the construction of the interstate. We are constantly going through the process of taking sections off the map that we think are inefficient for the taxpayers to pay for so the moneys can go back and actually be spent on new construction.

Another thing to think about with this nickel a gallon is that average taxpayers will use about $30 a year to pay their share of this. One front-end alinement will offset several years' worth of a nickel a gallon gas tax. It has been estimated by many of the automobile associations and studies that have been done that the costs that people pay in maintenance on their automobiles far exceed what the costs would be of financing the potholes on the roads. So I think there are some tradeoffs here.

I have often said, viewing this, that this is one issue from a philosophical standpoint on which I am very sympathetic to my good colleague from New Hampshire, and Senator NICKLES, Senator HELMS and others. I think it is always good for this body to consider the philosophical aspects of what we are doing here. To one who is a conservative, the Federal highway program is so much a part of the basic transportation system in the United States. I believe it has maximized personal freedom for most Americans in much more of a sense than we have had in the past.

After all, in what other country in the world can a person get in an automobile and have access to fuels, supplies, maintenance, and good roads, and travel, as we can here from Maine to California, and not be stopped by law enforcement people, harassed and checked, as long as they do not exceed what is considered to be a safe speed limit, in the country? I would say that we have more freedom in America to drive on the Nation's highways and have more access than any other country in the world.

I would have to say that George Will is not regarded as one of the more liberal journalists in America, but has more of a classical conservative philosophical approach. He wrote an excellent article on this subject in April in the Washington Post, and he called it "What the Potholes Say About Us."

We have held several days of hearings in this subcommittee on this very subject. I am convinced that beyond question of a doubt, we are wearing out the highways and the bridges in America faster than we are repairing them. This 5 cents a gallon will make a big improvement in the commitment we are making, even though it will not get us back up to where we are holding our own on wearing out the roads.

That has happened for several reasons. One is that we get more fuel efficiency out of our automobiles today. No. 2 is we have already built a massive infrastructure of highways, many of which are coming to the end of their design life.

I commend my colleagues for bringing this philosophical point to this Chamber. If I had been running the show, we would have done this last summer, but I was only one Senator, so we had only one tax increase for the American people to swallow. They would have been behind us. I do think that President Reagan is correct in giving his support to this. I think Republicans, Democrats, liberals, conservatives, blacks, whites, Jews, Catholics, Christians, and other denominations all drive on the same highways and the long-term benefits for America will certainly be well served if we take care of the potholes.

I think, as George Will said, what the potholes say about us is like a person whose house you walk in and find they do not vacuum the carpet.

It becomes much more expensive if you drive to work in the morning and knock the front end out of line or blow a tire or lose a hub cap or, the worst case, where you would have an accident and you lose your life or maim somebody or what have you.

I do believe there is a lot of merit in this proposition. It is unfortunate that there is no easy way to have a proposition like this pass in Congress without taking some heat from some constituents. I have never run into a constituent of mine who wants to raise taxes on himself. If you can tax somebody else, that is OK. If you want to tax them, that is not a good idea.

There is probably not a more equitable tax than we have in the country than taxing the people who use the highways. That is those of us who drive on them. So we put a tax on fuel. It is probably the single most equitable tax we have.

All taxes are unpleasant but I do think if you look at the numbers of dollars that are actually spent on construction vis-a-vis the number of dollars spent on administration, we do much better with our highway dollar than we do with most of the rest of the money the Federal Government spends, or at least a good share of it.

I say to my colleagues who are having concerns about this, take a very careful look at what the committee has done. This program we are passing through this body does emphasize resurfacing, rehabilitation, and reconstruction of our already built highways and bridges.

I thank my good friend for yielding.

Mr. HUMPHREY. Mr. President, I thank the Senator from Idaho for his clarification. It is quite true that we have a philosophical difference, but it is more than just philosophy. It is very real and concrete in that it will affect the pocketbooks of our people.

I do not object to user fees. I certainly do not object to repairing our highways and keeping them in good repair. That is only sensible. What I object to is the net increase in the tax burden to be borne by the American people.

As I said earlier, if this provision had some offsetting reduction in the tax burden so that there were no net change, I would gladly support it. But it is distinctly wrong to raise taxes, to increase the net tax burden during a recession, and it is especially wrong to argue for that on the basis that it will create jobs. It will not. It will destroy jobs. No matter how much the proponents may now deny it, after having originally proclaimed that this is a jobs bill, it is still succeeding in this Congress on that basis. There is no logical explanation I know of for the way in which this highway proposal has suddenly caught fire within the space of 2 weeks, when it had languished for months and months on end, for a year really, other than to explain it by saying that Members of Congress want to give the appearance of doing something about unemployment. That is the way it has succeeded, in my view at least.

We must concern ourselves, if we are truly interested in creating employment and restoring prosperity, with the net burden of the Federal Government upon the private sector. That means taxation. That means regulatory burdens.

This bill, if passed, will clearly increase, no one can argue against it, the net tax burden upon our people at the very time when we should be holding it steady or reducing it.

I think it is absurd to suggest that on top of $670 billion of taxation which the American people will bear in this fiscal year they must also pay an additional 5 cents of gallon or $5.5 billion across the economy for the privilege of having their roads kept in good repair. We cannot enact a new tax every time we discover some unfilled need. We must learn to rank our priorities and to live within the ability of the American people to bear the tax burden. A heavier burden will destroy the economy and ultimately destroy our society and our country as we know it today.

Mr. President, I want to read into the RECORD an editorial—I guess I could call it an op-ed piece—by Carolyn Atkinson, Washington Post staff writer, entitled "Gasoline Tax Boost Won't Add Jobs."

Q: When is a jobs program not a jobs program?

A: When it is a tax increase.

Congress, desperately anxious to appear to be doing something about today's high unemployment, is pressing ahead in the

lame duck session with what many label a "jobs program." President Reagan has backed it.

But the plan to add 5 cents a gallon to the gasoline tax and spend the proceeds on repairing roads and bridges is far from a jobs program, even according to Reagan's own chief economist. Indeed, it "may actually increase unemployment during the first year or two," Council of Economic Advisers Chairman Martin Feldstein wrote in a memo to the president last month.

Although the extra public spending on roads and bridges envisaged under the plan will provide jobs for some, the gasoline tax increase that pays for the program will take work away from others.

Feldstein explained that the new jobs for construction and maintenance workers created by the program probably will not be enough to offset the job losses "in those industries that produce the goods and services consumers would otherwise buy with the extra $5 billion that they would pay on gasoline taxes."

Consider what will happen if the gas tax goes into effect next April as now seems likely. Motorists will have to pay more—albeit only a dollar or so a week to buy the same amount of gasoline. Some may decide to cut back a little on driving. Others simply may spend less on other things. Someone getting $4.50 change out of a $20 bill after filling the tank, rather than $5 as before, may then spend 50 cents less on lunch that day, for example, or decide against buying a candy bar or—over a period of time—go to the movies less often.

In other words, the $5.5 billion or so of extra government revenue from gas taxes means $5.5 billion less spending power in the hands of consumers. Small individual cutbacks in spending will add up across the economy, reducing jobs here and there in a variety of industries. Moreover, because "consumers spend a substantial part of their money on various kinds of personal services that are much more labor intensive than road building," the jobs lost from the reduction in consumer spending after the tax increase will likely outnumber those gained initially by road builders and bridge repairers, Feldstein told the president.

How has Congress gotten so muddled?

The coexistence of large budget deficits—which experts keep saying are bad for the economy—and the worst recession since World War II has confused many people. Traditional antirecession medicine aims to boost the total amount of spending in the economy, whether by raising federal spending on jobs programs or encouraging consumer spending through tax cuts. But this extra spending is financed by government borrowing. It raises the budget deficit, which members of Congress already fear is too large.

Unfortunately, they are attempting to have it both ways, fighting unemployment through a highways spending program while holding the deficit down through a gas tax increase, and it will not work. It will shift around the available jobs in the economy, but not increase the number. If politicians want to use fiscal policy to create more employment, then they have to accept that this means larger budget deficits, at least for the time being.

Many have been frightened away from such a course by the critics of big deficits and the projections of ever-widening budget gaps in the future.

Feldstein, for example, has argued recently:

* * * to a number of different audiences that large deficits are harming the economy. They raise interest rates and thus hurt business investment and other interest-sensitive sectors of the economy, he says. High interest rates, in turn, have driven up the value of the dollar on foreign exchanges and made it harder for American exporters to sell their goods overseas and harder for domestic manufacturers to compete with cheap imports, he argues.

However, even Feldstein acknowledged to a group of reporters recently that budget deficits do not, in fact, depress the economy overall, even if they may raise interest rates. The depressing effect of higher interest rates in some sectors of the economy is more than offset by the higher spending—whether public or private—that budget deficits support, most economists agree. Budget deficits worry economists for two main reasons. One is that they encourage consumption at the expense of investment. The other is that they may worsen inflation and inflationary expectations.

Both of these arguments make sense if the economy is strong, unemployment low and business operating at close to full capacity. The large deficits now projected for the latter years of the decade, when the economy is expected to have recovered from recession, are thus a major problem. But in today's depressed economy—when business does not want to invest because it cannot use all its existing plant and equipment, inflation is declining and unemployment is widely perceived as the nation's major problem—the deficit is helping and not hurting the economy.

It seems to this Senator, Mr. President, that the writer, Caroline Atkinson, has made a number of good points but the central point to me is that Government in these makework projects, and perhaps that is not the best way to phrase it, but in any case the Government in getting involved in allocation of resources might be fooling the people temporarily but in truth it is only shifting jobs from one sector to another, as I said earlier, taking Peter's job to create one that is policially useful for Paul.

How much better it would be if we focused instead on ways of saving money instead of raising taxes. Ways of cutting spending is the only option open to us who truly seek to restore employment and prosperity.

Mr. President, earlier I spoke about one such way of saving money, namely, repeal of the Davis-Bacon Act which costs taxpayers $1 billion in extra expense on federally assisted construction projects and which could be easily repealed and could almost immediatley realize savings on that scale.

Over the years, the General Accounting Office has conducted numerous studies of Davis-Bacon and each study documents the enormous additional costs superimposed upon basic building costs by the Davis-Bacon Act.

Consider these facts from the 1979 GAO study aptly entitled, "The Davis-Bacon Act Should Be Repealed."

In 30 randomly selected Federal or federally assisted projects GAO found that higher wage costs, due to Davis-Bacon inflated construction costs ranging from 1 to nearly 9 percent, inflated construction costs. That is, overall costs.

GAO concluded because of these excessive wage costs the unnecessary construction costs due to Davis-Bacon amounted to several hundred million dollars annually.

Further, the GAO estimated unnecessary contractor costs related to the payroll reporting requirement at $189 million and unnecessary costs of administration and enforcement by Federal agencies of $12.4 million in 1977, for a total of $201 million.

In the 1979 report GAO also concluded that the passage of more recent wage legislation makes Davis-Bacon unnecessary today and points out that in nearly 50 years of administering the act the Department of Labor has yet to develop an effective system for wage determination activity.

A 1980 GAO report looking at Davis-Bacon and Metro construction estimated that Davis-Bacon may increase construction costs by about 6.8 percent or $149 million on that project.

The most recent study of Davis-Bacon by the American Farm Bureau released just this year supported the GAO studies by finding that Davis-Bacon increases the cost on nonresidential buildings in rural areas of this country and that the total impact of the act ranged from 26 to 38 percent.

In spite of all of this evidence Davis-Bacon remains on the books.

Mr. President, the distinguished columnists Rowland Evans and Robert Novak published a story last month on the gas tax, and I shall read that into the RECORD.

The article follows:

NO, HE'S JUST BEING MISADVISED

(By Rowland Evans and Robert Novak)

Moments after President Reagan told his press conference Thursday that it would not take a palace coup after all for him to support higher gas taxes, one of his anti-tax economic advisers voiced his own disapproval of the scheme, but added: "If we get away with just that, we'll be well ahead of the game."

The nickel-a-gallon tax to finance public works spending is, therefore, a ploy to appease growing bipartisan hunger on Capitol Hill for old-fashioned pump-priming in the New Deal tradition. It is supposed to preempt ambitious schemes for far more spending and far higher taxes.

However improbable that goal, the gas tax ploy marks another benchmark in the administration's departure from basic principles. It undercuts both the "new federalism" and free-market economics; it signals that the White House is moving toward accommodation, not confrontation, with the expanded Democratic majority in the House and increasingly fractious Republicans in the Senate.

It also provides fresh evidence that Reagan is no match for the concentrated barrage from his advisers. Indeed, his turnaround on the gas tax raises this question:

can he withstand the renewed spend-and-tax syndrome no matter how much he protests?

Consider the private White House briefing of Sept. 28 in preparation for the night's press conference. In the critique of Reagan's answers during a question-and-answer prep session, budget director David Stockman cautioned him about promising a balanced budget in the years ahead.

But Reagan asked, wouldn't the $100 billion tax increase he reluctantly swallowed last summer at least trim the projected future deficit? No, Stockman replied, the deficits will get *bigger*. Stunned, the president said: "If I had known that, I never would have backed the tax increase." For the next 10 minutes of the briefing, Reagan's eyes glazed over and his mind seemed detached.

Accordingly, at that night's press conference, when he was asked about new tax hikes and "specifically, an increase in the gasoline tax," he replied:

"Unless there's a palace coup and I'm overtaken [laughter] or overthrown, no." Hearing that, and coupling it with his shock during the afternoon briefing session, White House insiders assumed the president had drawn the line.

What's more, there were plenty of arguments inside the administration to bolster the president's instincts against the gas tax, plugged relentlessly for two years by Transportation Secretary Drew Lewis. Stockman, for once opposing higher taxes, has argued that the non-interstate highways most in need of repair are the responsibility of the states. Reagan's "new federalism" would dictate that if states want to repair their roads, they should raise their own gasoline taxes.

The more sophisticated argument at the Treasury discounts the notion that the gas tax actually creates jobs. The increase in the price of gasoline could cost as many jobs in the energy industry as it creates building highways.

But even the Treasury is split. At last week's Cabinet council meeting the day before Reagan's press conference, Stockman was the only solid voice against the tax. Even White House aide Rich Williamson, usually strong against higher taxes, was benevolently neutral in his role as the presidential liaison with hard-pressed state governments.

At last week's press conference (his first since Sept. 28), the president apparently had forgotten that his "palace coup" crack answered a specific gasoline-tax question, claiming he was referring only to "general" tax increases. More remarkably, Reagan had swallowed whole Lewis' contention that the tax is a "user fee" (Treasury experts consider it, plain and simple, an excise tax). Reagan also reverted to New Deal logic in declaring "There would be jobs created" by the tax.

The hope of conservatives inside the administration that this at least would forestall worse retreats is dimmed by decisions facing the president this week. He will be asked by his budget-makers whether he wants to slash defense spending, raise taxes or abandon the balanced-budget goal.

Ronald Reagan, still ignoring the monetary policy that has created this deep recession, is entrapped in the budget process that led to the huge tax increase (and no relief in budget deficits). The immemorial pressures to spend and tax are not going to be assuaged by the ploy of a 5-cent gas tax.

Mr. President, I emphasize those were not my words. I certainly would not speak of the President in those tones because I admire and like him very much and continue to support him, and hope very much he will be a candidate for reelection, and I hope very much he will be a little more cautious in accepting the advice of certain of those around him and, perhaps, even make some changes for, I believe, he is very badly advised at times, as in the case of this gasoline tax, as a specific example.

(Mr. KASTEN assumed the chair.)

Mr. HUMPHREY. Mr. President, at the risk of annoying our majority leader, I am going to read a press account of a press conference held by the Senator from Tennessee and the Speaker of the House of Representatives. I read this only as a way of citing, perhaps underscoring, my point that the impetus given this gasoline tax comes from its attractiveness as a way for Members of Congress to be perceived as doing something for unemployment.

Our majority leader does an outstanding job. His labors are heroic. He has been unanimously elected to the post once again to serve as majority leader of the 98th Congress, and well deserves that honor and responsibility. But I think it is useful to focus on the origin of this bill and the history of its remarkable progress in the last several weeks. This article is from the Washington Post of November 23:

House Speaker Thomas P. (Tip) O'Neill Jr. and Senate Majority Leader Howard H. Baker Jr., agreed yesterday to seek approval in the lame-duck session of Congress beginning next week of a gasoline tax increase to finance a multibillion-dollar highway-repair and jobs program.

At the same time they cold-shouldered a proposal, under study by President Reagan, to advance next July's scheduled income tax cut to January in hopes of stimulating the economy.

While details of the jobs initiative have yet to be worked out, Baker told reporters after meeting with O'Neill that they will push jointly in the lame-duck session for a program "similar" to one advocated by Transportation Secretary Drew Lewis.

The Lewis plan calls for a 5-cent-per-gallon increase in the federal gasoline tax to finance $5.5 billion in highway, bridge and mass transit construction projects, creating an estimated 320,000 jobs. The federal tax is currently 4 cents a gallon.

The rare joint initiative by O'Neill and Baker

And I say parenthetically I hope, this Senator hopes, they will become even rarer—

enhances chances that Congress, under pressure from a 10.4 percent unemployment rate, will pass a quickie job-creating bill before the end of the year. It also puts heavy pressure on Reagan to climb on the jobs bandwagon.

Indeed, I will depart from the news article here, Mr. President, and state that I certainly do not hold President Reagan responsible for this jobs program. It was presented by the leadership of Congress, to my way of thinking, as a fait accompli, and he chose to swim with the tidal wave instead of against it, and inasmuch as he has a great deal of work to do, that decision can be understood.

Returning to the article:

"I think we can work something out, and I think the odds are good the president will support it," said Baker, implying that he intends to push the legislation even if Reagan doesn't endorse it in advance. Reagan has shown interest in the Lewis plan but has not taken a firm position.

In what amounted to a limited agenda for the three-week, post-election session, the two leaders also agreed to act on as many appropriations bills as possible and on trade liberalization provisions of the administration's Caribbean Basin Initiative.

Skipping over unrelated parts of the article and resuming with the next to the last paragraph:

On the highway jobs bill, however, the skids were being greased. Apparently under pressure from O'Neill, Ways and Means Committee Chairman Dan Rostenkowski and Public Works Committee Chairman James J. Howard planned to meet to resolve a jurisdictional dispute that has been holding the bill up for weeks.

There is yet another element, Mr. President, in this recent history of the gas tax bill which is disturbing to the Senator from New Hampshire, and that is—and I say this with all due respect to the leadership—that during the recess, congressional leadership chose to take positions on controversial issues apparently without any thorough canvassing of Members, as far as this Senator knows. And perhaps that was inadvertent. I know it was done with goodwill, for these gentlemen simply wish to solve our Nation's problems, whether we disagree or agree with their remedies.

But the effect of their taking a position during the recess period was to represent and to take a position on behalf of their respective majorities. It seems to this Senator, at least, that, on controversial matter, the congressional leadership should not take positions that might be construed as being on behalf of Members during recess periods when Members are scattered far and wide and can hardly be adequately consulted.

I can only say for myself that I was in no way consulted on the gas tax or on the proposal to advance the third increment of the income tax. It happens that this Senator's positions on those issues were the opposite of those taken by the majority leader. I say that with all good will toward him. but nevertheless feel it unfortunate and hope that in the future congressional leadership will not take positions during the recess periods which might be construed as representing a policy position of their party or of the Members of Congress of their party, because to do that misleads the press,

misleads the people of our country, and, I believe, in this case, misleads the President of the United States.

He was advised, for instance, if press accounts are correct, that it would be impossible to obtain enough votes in Congress to advance the third increment of the tax cut. I do not know if that is so or not. I do not know how such an opinion could have been reached during a recess period when it is presumably impossible to adequately canvass Members. Likewise, I believe the President might have misconstrued the leadership position on the gasoline tax as well and, based his decision to go along with it, on possibly faulty information.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order.

The Senator from New Hampshire.

Mr. HUMPHREY. I thank the Chair.

Mr. Chairman, I will share with my colleagues an article appearing in the November 27 issue of Human Events, entitled "Gas Tax Hike Seen as Major Blunder."

GAS TAX HIKE SEEN AS MAJOR BLUNDER

Less than a day after the President indicated at a nationally televised press conference that he was leaning toward support of a five-cent-a-gallon hike in the gasoline tax, gas tax foes within the Administration began circulating at high levels of the White House a memorandum listing chapter and verse about why the President should do no such thing.

While the President had referred to the plan—which Transportation Secretary Drew Lewis has been pushing for the last two years—as calling for a higher "user fee," the memo, a copy of which has been obtained by Human Events, argues that no one will be fooled by such a lable. The document boldly states that "The proposed 'user fee' is actually a tax increase,'" adding: "The 'user fee' revenue will be raised through the tax system, added to the receipts side of the budget, and burden the economy just as any excise tax hike would. Whatever we label it, It is a tax increase."

In an obvious attempt to head off the Lewis proposal, the memo went on to note that such a tax increase "would violate a specific presidential pledge." The memo pointed out that the President, when asked at his September 28 news conference if he would "flatly rule out any tax increases, revenue enhancers, or specifically an increase in the gasoline tax," had answered: "Unless there's a palace coup and I'm overtaken or overthrown, no, I don't see the necessity for that."

Commented the memo: "Even if the 'gas tax increase' clause had not been included in the question, the President would still be reversing his position against tax increases if he endorsed the gas tax increases. Indeed, he would open the door to additional taxes—disguised as 'user fees' or otherwise—in 1983."

The internal memorandum was particularly stinging in its criticism of the assertion by Lewis and others that, by spending the added revenue to rebuild roads and bridges, the tax hike would create jobs. The document flatly stated:

"The jobs creation argument (320,000 new jobs) is totally false. The money to pay for the road building has to come from somewhere. We will tax if from the private economy, and reduce private-sector job creation accordingly. . . .

"The same analysis applies regardless of what the federal government is spending the money on—whether make-work jobs, roads or other public works. A public job is a public job, and has the same economic effect."

In addition, said the memo, by increasing federal spending by up to $27.5 billion over five years, the Lewis scheme "would seriously worsen the budget problem. . . . In fact, this proposal alone could cancel out 55 percent of the budget savings we secured all of this year."

While the author of the Administration memo was not identified, one high-level official who was known to be counseling against the tax hike was Budget Director David Stockman. According to a source familiar with Stockman's thinking, he is concerned that the Lewis proposal would dramatically increase the federal responsibility for road maintenance—just the opposite of the President's earlier plan to return such programs to the states.

Under present law, the federal Highway Trust fund will spend $46.8 billion for the period 1984-88, of which $21.5 billion will go for interstate highways, which is the one system almost completely funded by the federal government. But though the Lewis proposal would greatly expand federal highway expenditures over the 1984-88 period from $46.8 to $71.5 billion, None of this additional spending would go to the overwhelmingly federal interstate system.

The only other roads currently receiving significant federal funding are the so-called primary roads, which on average receive 43 per cent of their funding from Washington, with the state and local governments paying for more then 50 per cent of their upkeep. Under the Lewis formula, however, the federal share of primary-road maintenance would soar to well over 50 per cent. In addition, some $6 billion would go to secondary roads and urban transit, which currently receive little if any federal support.

Conservatives outside the Administration were also hoping the President would reject the Lewis plan. Rep. Phil Gramm (D.-Tex.), a former economist at Texas A&M University, told Human Events:

"If we were going to build new bridges, it ought to be done on an economic basis. It ought not to be done with the idea that it is going to create new jobs because clearly it is not. Because if we raise taxes to pay for it, we're taking income away from people—income that they would have saved, income that they would have spent."

Thus, said Gramm, "the question really boils down to: Can the government create more jobs by spending money than the private sector can and will create by spending the same money through the private capital market? My answer is that it cannot, especially when we're beginning to see signs of an economic recovery."

While the President said at his press conference that he didn't think such a gasoline tax increase "would in any way reduce the incentive features" of his income-tax rate reductions, many believe the President may be underestimating the danger. As bad as the gas tax boost is when viewed in isolation, they note, it is even worse when considered in combination with other scheduled tax hikes.

As council of Economic Advisers Chairman Martin Feldstein recently pointed out, while taxes are lower than they would have been without the President's cuts, they are still taking a 20.3 per cent share of the GNP. That is significantly higher than the 18.7 per cent of GNP going to taxes in the 1960s and the 19.7 per cent share in the 1970s. Yet Feldstein's figures don't even include the effect of the 1982 tax hike measure, which won't be felt until next year. Nor do they include the scheduled increase in Social Security taxes, and likely pressures for additional new increases in that tax. When considered in this overall context, the added effect of more than doubling the federal levy on gasoline could destroy any change of a quick economic recovery.

Interestingly, the President himself remains fully conscious of the drag on the economy caused by the continued high tax burden. For that reason, he was giving serious consideration at press time to asking Congress to advance the 10 per cent third stage of the tax cut scheduled for July 1983 to January 1983. But boosting the gasoline tax would tend to offset much of the economic stimulus to be expected from moving up the reduction in the income tax.

Already, for example, the oil companies and gasoline stations are fighting desperately to maintain sales in the face of a seriously declining demand for fuel brought on by the big jumps in energy costs over recent years. By suddenly boosting the price of gasoline, the gasoline tax hike can only make this problem worse, thereby leading to increased joblessness in the energy industry.

But the negative effect on business would extend far beyond the confines of the oil firms alone. Mike McKevitt of the National Federation of Independent Business, which represents over half-a-million small businesses across the United States, called the potential effects of such a tax hike "devastating" for the firms his organization represents:

Mr. President, I would repeat that and emphasize it for my colleagues who are listening in their offices. This tax proposal is opposed by the National Federation of Independent Businesses, generally thought to represent the small business point of view in this Nation.

We all know how piously Congress worships at the shrine of small business, and with good reason. I am not trying to be sarcastic about small business but, rather, sarcastic about Congress and its lack of sincerity, sometimes.

Continuing with the article:

"What effect would the gasoline tax have? It would be devastating. . . . Our 504,000 members between them own 19 million vehicles. . . . It's a big cost of doing business. Traveling salesmen are very upset by it.

"Last year," said McKevitt, "we polled our members on the issue. About eight or nine to one were against a gasoline tax increase. We opposed this under Carter. Why should we change under Reagan?"

Such a tax hike would also inflict a severe blow on the trucking industry, while leading to an increase in prices for virtually everything shipped by truck. According to Edward Kiley of the American Trucking Associations, an increase of one or two cents per gallon might be reasonable, but five cents is completely out of line.

Clearly, then, such a tax hike presents a serious threat to present hopes for a business upturn in the near future. Yet despite this threat, there might still be some argument in favor of such a tax jump if (1) it could be shown that it was needed to fund federal responsibilities for road construction and maintenance; or (2) that the added spending would create more jobs during the current recession. In fact, neither is true.

With regard to the condition of the highways, for example, the Urban Institute testified August 18 before the Senate Public Works Committee:

"Recent popular press reports and statements by highway officials have suggested that the nation's entire federal-aid highway system has deteriorated to an alarmingly poor state. These accounts are largely anecdotal, however, and are often based solely on subjective assessments. . . .

"We believe the evidence suggests that severe problems of deterioration are confined to particular locations and types of roads. In fact, the problems appear to be most serious for the secondary and non-federally aided road systems."

A spokesman for the Federal Highway Administration confirmed to Human Events that none of the revenues from the tax hike would go to the interstate highways, which is the one system for which the federal government now has primary responsibility. Instead, the additional revenues would go to roads that are primarily—or, in many instances, entirely—the responsibility of state and local governments. But if there roads need additional attention, why not let the states raise their gasoline taxes?

As for the argument that the public-works projects funded by the tax will generate jobs, the Heritage Foundation reported last week:

"Historically, these programs have provided few jobs per dollar invested. A recent New York Times article pointed out that each job created through public works spending on highways, bridges and sewage treatment plants costs the taxpayer from $28,000 to $40,000. Not only are these jobs expensive, but they may well appear months after economic recovery begins."

In short, such government programs are both wasteful and ill-timed. But with not only Secretary Lewis but also such key GOP senators as Paul Laxalt (Nev.) and Howard Baker (Tenn.) pushing hard for the new tax-funded job scheme, the President may be tempted to go along anyway.

Mr. President, inasmuch as it is not our wish to impede other important business, I shall be happy to yield to the leadership at this point, who have expressed a wish to move other business. So I shall yield at this point, asking unanimous consent that I not lose my right to the floor and that, upon resuming my remarks; it not be counted as a second speech.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The majority leader is recognized.

Mr. BAKER. Mr. President, I am most grateful to my friend from New Hampshire. I appreciate his permitting me to be recognized at this time under the conditions just granted by the Chair so we may undertake some routine matters that require the attention of the Senate, I believe.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have a number of matters in my folder that appear to be cleared for action by unanimous consent. In a moment, I shall inquire of the minority leader if he is in a position similarly to clear all or most of these items, then proceed on that basis. No item will be taken up which is not cleared on both sides of the aisle through the usual clearance process.

The first item I would like to deal with is a message from the House on S. 2336. If the minority leader is prepared to do so, I shall ask the Chair to lay that message before the Senate.

Mr. ROBERT C. BYRD. Mr. President before the Chair proceeds with that, may I ask the majority leader if he anticipates any other rollcalls today.

Mr. BAKER. Mr. President, I am advised that there will be a motion this afternoon. I believe it will be a motion to postpone indefinitely my motion to proceed. I am also advised that there will be a request for the yeas and nays. The best estimate I can get on that is it will occur around 3 p.m. I am advised by the Senator from New Hampshire that we can do that now or after the calendar call or whenever it seems most convenient to most Senators.

Mr. ROBERT C. BYRD. I wonder if the majority leader or the Senator from New Hampshire or any other Senators anticipate further rollcalls this afternoon.

Mr. BAKER. I inquire of the Senator from New Hampshire and the Senator from Oklahoma, who are principally involved, whether they anticipate any other rollcalls?

Mr. NICKLES. It is this Senator's intention that it be only that motion to postpone as far as I know. I would like to make a few comments on it. I believe the Senator from Michigan (Mr. LEVIN) may wish to make a few comments on it, also.

Mr. BAKER. I thank the Senator. Does the Senator from New Hampshire anticipate any other rollcalls this afternoon?

Mr. HUMPHREY. Not for my part, Mr. President; just the one described.

Mr. BAKER. I thank the Senator. In view of that and in view of the fact that the Senator does not wish to ask the Senate to undertake any other matters I am prepared to announce that, after the disposition of a motion which may be made by the Senator from Oklahoma or the Senator from New Hampshire to postpone any disposition, either on the bill itself or some other procedural device in respect to that motion, including a tabling motion, after that issue is disposed of, there will be no further record vote today.

Mr. ROBERT C. BYRD. The leader is saying there could be three or four other record votes on that issue.

Mr. BAKER. Yes, as far as I know, there could be one, and could be more than one.

Mr. ROBERT C. BYRD. I am prepared to proceed.

Mr. BAKER. I thank my colleagues from New Hampshire and Oklahoma. As soon as it is convenient to them, I urge them to go forward with their motion if they wish.

Mr. President, I have a House message on S. 2336. Is the minority leader prepared to proceed with that?

Mr. ROBERT C. BYRD. Yes.

MARITIME PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2336.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 2336) entitled "An Act to authorize appropriations for fiscal year 1983 for certain maritime programs of the Department of Transportation, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Jones of North Carolina, Mr. Biaggi, Mr. Breaux, Mr. Donnelly, Mr. Snyder, Mr. McCloskey, and Mr. Young of Alaska be the managers of the conference on the part of the House.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments and agree to the request of the House for a conference, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. PACKWOOD, Mr. GORTON, Mr. STEVENS, Mr. LONG, and Mr. INOUYE conferees on the part of the Senate.

COMMERCIAL FISHERIES AND MARINE DEVELOPMENT ACT AMENDMENTS OF 1982

Mr. BAKER. Mr. President, the next item in my folder is a request to discharge the Commerce Committee from further consideration of H.R. 3942 and proceed to its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

Mr. BAKER. I thank the minority leader.

I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 3942, the Commercial Fisheries Research and Development Act and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 3942) to amend the Commercial Fisheries Research and Development Act of 1964.

UP AMENDMENT NO. 1428

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the distinguished chairman of the Committee on Commerce (Mr. PACKWOOD) and ask that it be stated.

I might say, in explanation, Mr. President, that this is a substitute and it has been supplied to all parties and I believe has been cleared all around.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. PACKWOOD, proposes an unprinted amendment numbered 1428.

Strike all after the enacting clause and insert the following: That this Act may be cited as the "Fisheries Amendments of 1982".

TITLE I—COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT

SEC. 101. (a) Section 4(a) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779(a)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting in lieu thereof "and"; and

(2) by adding at the end thereof the following new paragraph:

"(3) $5,000,000 for each of the fiscal years ending September 30, 1984 and September 30, 1985.".

(b) Section 4(b) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779(b)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by inserting "and" at the end of paragraph (3); and

(3) by adding at the end thereof the following new paragraph:

"(4) $2,500,000 for each of the fiscal years ending September 30, 1984 and September 30, 1985".

(c) Section 4(c) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779b(c)) is repealed.

TITLE II—MARINE MAMMAL PROTECTION

SEC. 201. Section 14 of the North Pacific Fisheries Act of 1954 (16 U.S.C. 1034) is amended to read as follows:

"SEC. 14. (a)(1) The Secretary of Commerce is directed to take such actions as are necessary and appropriate to determine the effect of the Japanese salmon drift gillnet fishery on marine mammal populations, and to reduce or eliminate the incidental taking of marine mammals, particularly Dall's porpoise, by this fishery. Such actions shall include, but not be limited to:

"(A) the placement of duly authorized observers of the United States onboard Japanese salmon fishing and research vessels while within the Fishery Conservation Zone, for the purpose of making scientific observations and studies relating to the biology of the Dall's porpoise and the incidental taking of marine mammals, seabirds and king salmon of North American origin;

"(B) the collection of a representative sample of biological material and data on all marine mammals incidentally taken in the fishery; and

"(C) the adoption of requirements, by permit conditions or agreement, governing the incidental taking of marine mammals by Japanese salmon fishing vessels within the fishery conservation zone, which will insure that new fishing gear or techniques, or both, are implemented in the North Pacific salmon fishery which will reduce porpoise mortality to the greatest extent practicable.

"(2) The introduction of new fishing gear or techniques, or both, of the fishery under paragraph (1) of this subsection shall be accomplished no later than is specified in the following timetable:

"(A) 25 per centum of the fleet by the commencement of the 1984 season;

"(B) 50 per centum of the fleet by the commencement of the 1985 season;

"(C) 75 per centum of the fleet by the commencement of the 1986 season; and

"(D) 100 per centum of the fleet in order to be eligible for a new permit for the period after June 9, 1987.

The Secretary shall have the authority to decide, based upon available fishery research, which types of fishing gear or techniques offer the most tactical and effective opportunity for reducing porpoise mortality, and to specify which of these fishing gear or techniques, or both, must be implemented during the time periods specified in subparagraphs (A) through (D) of this paragraph. In addition, the National Marine Fisheries Service may require the implementation of new gear types or fishing techniques, or both, on a faster schedule if the Service determines that faster implementation is technically and economically feasible.

"(b) The General Permit issued under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) to the Federation of Japan Salmon Fisheries Cooperative Association on May 7, 1981 (hereinafter referred to as the "General Permit") is extended through June 9, 1987, unless earlier terminated by the Secretary pursuant to applicable law: *Provided*, That:

"(1) all other provisions of the General Permit and applicable law shall remain in effect during that period;

"(2) the Secretary shall by January 1 of each year during that period prepare and make available a report covering the results of the annual review required by condition B-2 of the General Permit and a proposed action plan for the forthcoming fishing season setting forth monitoring, research and development, and any other necessary actions to assure compliance with the General Permit, resolve questions about the status and trends of marine mammals affected by the Japanese high seas and land-based salmon gillnet fisheries, and reduce the annual incidental take of marine mammals in the fishery conservation zone, and shall publish a notice of availability of the report in the Federal Register. The Secretary shall, by April 30 of each year during this period, prepare and make available a report covering a final action plan and shall publish a notice of availability of the report in the Federal Register; and

"(3) the Memorandum of Understanding between the Government of the United States of America and the Government of Japan dated June 3, 1981 relating to such incidental taking shall be modified or renegotiated by June 9, 1984 so as to apply to this extended period and to ensure the conduct of necessary monitoring and research and development efforts to implement the action plans described in paragraph (2) of this subsection.

"(c) The taking of marine mammals incidental to fishing operations by Japanese salmon fishing vessels within the fishery conservation zone shall be regulated in accordance with the General Permit, except that the Secretary shall take appropriate steps, including the suspension or modification of the General Permit, if the Secretary determines that the General Permit holder or certificate holders are not adhering to the conditions of the General Permit or to the conditions specified in paragraphs (a)(1)(C) and (a)(2) of this section and publishes such determination and its basis in the Federal Register.

"(d) The terms and conditions under which the General Permit is issued may be modified by the Secretary in such manner as the Secretary determines to be consistent with and necessary to carry out the purposes of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) and this Act.

"(e) The Secretary shall ensure that any Memorandum of Understanding between the Government of Japan and the Government of the United States of America shall require no less of a commitment to marine mammal research and seabird research than that required by this section and the Memorandum of Understanding in effect on the date of enactment of the Fisheries Amendments Act of 1982.

"(f)(1) In order to assure full implementation of the provisions of this section, the Secretary shall include as a condition of such General Permit and any Memorandum of Understanding that the Government of Japan or the permit holder, shall provide:

"(A) appropriate funding each year to carry out fully a joint research program on Dall's porpoise and other marine mammals incidentally taken in the Japanese fishery; and

"(B) a full report each year on the activities undertaken by the Government of Japan and the General Permit holder relating to marine mammal research and the progress toward the elimination of the incidental taking of marine mammals in the fishery.

"(2) If the Secretary finds that such research cannot be successfully conducted because of a lack of adequate funding by the Government of Japan or the General Permit holder, the Secretary shall immediately suspend the General Permit until such time as adequate funding is provided.".

SEC. 202. The first sentence of section 201(b)(1) of the Act of October 21, 1972 (16 U.S.C. 1401(b)(1)), is amended to read as follows: "Effective September 1, 1982, the Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate.".

TITLE III—NORTH ATLANTIC SALMON TREATY

SEC. 301. This title may be cited as the "Atlantic Salmon Convention Act of 1982".

SEC. 302. As used in this title, the term—

(1) "Act of 1976" means the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (16 U.S.C. 1801 et seq.);

(2) "Commission" means any of the Commissions of the Organization that are established by the Convention;

(3) "Commissioner" means a United States Commissioner appointed under section 403 of this title;

(4) "Convention" means the Convention for the Conservation of Salmon in the

North Atlantic Ocean, signed at Reykjavik, Iceland, on March 2, 1982;

(5) "Council" means the Council established by the Convention;

(6) "Fishing" has the same meaning as such term has in section 3(10) of the Act of 1976 (16 U.S.C. 1802(10));

(7) "Organization" means the North Atlantic Salmon Conservation Organization established under the Convention;

(8) "Person" has the same meaning as such term has in section 3(19) of the Act of 1976 (16 U.S.C. 1802(19)); and

(9) "Salmon" means all species of salmon which migrate in or into the waters of the Atlantic Ocean north of 36 degrees North Latitude.

SEC. 303. (a) The United States shall be represented on the Council and Commissions by three United States Commissioners to be appointed by the President to serve at his pleasure. Of such Commissioners, one shall be an official of the United States Government, and two shall be individuals (not officials of the United States Government) who are knowledgeable or experienced concerning the conservation and management of salmon of United States origin.

(b) The Secretary of State, in consultation with the Secretary of Commerce and the Secretary of the Interior, may designate alternate United States Commissioners. In the absence of a Commissioner appointed under subsection (a) of this section, an alternate Commissioner may exercise at any meeting of the Organization, the Council, or any Commission all functions of such Commissioner.

(c) Individuals who serve as Commissioners and alternate Commissioners shall not receive any compensation for such service. Such individuals shall be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(d) In carrying out their functions under the Convention, the Commissioners may consult with the appropriate Regional Fishery Management Councils established by section 302 of the Act of 1976 (16 U.S.C. 1852), and may consult with such other interested parties as they consider appropriate. The Federal Advisory Committee Act (5 U.S.C. Appx. 1 et seq.) shall not apply to consultations described in this subsection.

SEC. 304. (a) The Secretary of State may—

(1) receive, on behalf of the United States, reports, requests, recommendations, proposals, and other communications of the Organization and its subsidiary organs;

(2) with the concurrence of the Secretary of Commerce and the Secretary of the Interior, approve, object to, or withdraw objections to regulatory measures proposed in accordance with the Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1) of this subsection other than a proposed regulatory measure.

(b) If the concurrence required under subsection (a)(2) of this section has not been obtained by the Secretary of State—

(1) regarding the approval of, or the objection to, a proposed regulatory measure within 45 days after the measure was received on behalf of the United States; or

(2) regarding the withdrawal of an objection of the United States to a proposed regulatory measure within 45 days after such withdrawal is proposed by the Secretary of State;

the Secretary of State shall submit the matter in disagreement, together with a statement of the opposing positions, to the President for timely disposition.

SEC. 305. (a) The Secretary of Commerce, in cooperation with the Secretary of the Interior and the Secretary of the Department in which the Coast Guard is operating, shall promulgate such regulations pursuant to section 553 of title 5, United States Code, as may be necessary to carry out the purposes and objectives of the Convention and this title, and to implement regulatory measures that are binding on the United States under the Convention. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

(b) The Secretary of Commerce, in cooperation with the Secretary of the Interior, shall prepare all statements, reports, and notifications required by Articles 14 and 15 of the Convention and submit such documents to the Secretary of State for transmission to the Organization.

SEC. 306. (a) In carrying out the provisions of the Convention, the Secretary of Commerce, in consultation with the Secretary of the Interior, may arrange for the cooperation of agencies of the United States and the States, and of private institutions and organizations.

(b) Appropiate agencies of the United States may cooperate in the conduct of scientific and other programs, and may furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention. Such agencies may accept reimbursement from the Organization for providing such services, facilities and personnel.

SEC. 307. (a) It is unlawful for any person, or any vessel, subject to the jurisdiction of the United States—

(1) to conduct directed fishing for salmon in waters seaward of twelve miles from the baselines from which the breadths of territorial seas are measured, in waters of the Atlantic Ocean north of 36 degrees North Latitude; or

(2) to violate any provision of the Convention or this title, or of any regulation promulgated under this title.

(b) Any person who commits any act that is unlawful under subsection (a) of this section shall—

(1) be liable to the United States for a civil penalty under section 308 of the Act of 1976 (16 U.S.C. 1858) to the same extent as if such act were an act prohibited under section 307 of the Act of 1976 (16 U.S.C. 1857); and

(2) be guilty of an offense under section 309 of the Act of 1976 (16 U.S.C. 1859) to the same extent as if such act were an act prohibited by section 307(1) (D), (E), (F), or (H) of the Act of 1976 (16 U.S.C. 1857(1) (D), (E), (F), or (H)).

Any vessel used in the commission of an act which is unlawful under subsection (a) of this section shall be subject to civil forfeiture under section 310 of the Act of 1976 (16 U.S.C. 1860) to the same extent as if such vessel was used in the commission of an act prohibited by section 307 of the Act of 1976 (16 U.S.C. 1857).

SEC. 308. The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and any regulation issued under this title. For purposes of such enforcement, such provisions and regulations shall be considered to be provisions of the Act of 1976 to which section 311(a), (b), (c) and (d) of the Act of 1976 (16 U.S.C. 1861(a), (b), (c) and (d), respectively) apply.

SEC. 309. There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the Commissioners and alternate Commissioners in accordance with the Federal Travel Regulation and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code; and

(2) the United States contribution to the Organization as provided in Article 16 of the Convention, not to exceed $50,000 for fiscal year 1983, and not to exceed, for each succeeding fiscal year, the amount assessed by the Organization for the United States for such year.

TITLE IV—GOVERNING INTERNATIONAL FISHERY AGREEMENTS

SEC. 401. Notwithstanding any other provision of law, the governing international fishery agreement entered into between the Government of the United States and the Government of Japan pursuant to the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) signed at Washington on September 10, 1982 is approved, and shall become effective on January 1, 1983.

SEC. 402. Notwithstanding any other provision of law, the governing international fishery agreement entered into between the Government of the United States and the Government of Spain pursuant to the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) signed on July 29, 1982 is approved.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. Notwithstanding the failure of the vessels named below to meet the requirements contained in sections 111 and 112 of the Vessel Documentation Act, as amended (46 U.S.C. 65 (i) and (j)), and section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), on the date of this Act, the Secretary of the Department in which the Coast Guard is operating shall cause the vessel Centurion (officially numbered 236815), owned by Joseph B. Simoncelli, of Scranton, Pennsylvania, and the vessel Ellen Ruth (officially numbered 282354) owned by Jefferson B. Bruton, of Isle of Palms, South Carolina, to be documented as vessels of the United States upon compliance with all other requirements of law, with the privilege of engaging in the coastwise trade.

SEC. 502. The Merchant Marine Act, 1920 (41 Stat. 988), as amended (46 U.S.C. 861 et seq.), is amended by adding at the end of section 27: "For the purposes of this section, after December 31, 1983, or after such time as an appropriate vessel has been constructed and documented as a vessel of the United States, the transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandise between points in the United States; Provided, however, that the provisions of this sentence shall not apply to this transportation when performed by a foreign-flag ocean incineration vessel, owned by or under construction on May 1, 1982 for a corporation wholly owned by a citizen of the United States; the term citizen of the

United States, as used in this proviso, means a corporation as defined in section 2(a) and 2(b) of the Shipping Act, 1916 (46 U.S.C. 802(a) and (b)). The incineration equipment on these vessels shall meet all current United States Coast Guard and Environmental Protection Agency standards. These vessels shall, in addition to any other inspections by the flag state, be inspected by the United States Coast Guard, including drydock inspections and internal examinations of tanks and void spaces, as would be required of a vessel of the United States. Satisfactory inspection shall be certified in writing by the Secretary of Transportation. Such inspections may occur concurrently with any inspections required by the flag state or subsequent to but no more than one year after the initial issuance or the next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making such inspections, the Coast Guard shall refer to the conditions established by the initial flag state certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of an equivalent fitting, material, appliance, apparatus, or equipment other than that required for vessels of the United States if the Coast Guard has been satisfied that fitting, material, appliance, apparatus, or equipment is at least as effective as that required for vessels of the United States."

SEC. 503. (a) Section 20 of the Act of March 4, 1915 (38 Stat. 1185), as amended (46 U.S.C. 688) is amended—

(1) by redesignating that section as section 20(a); and

(2) by adding at the end thereof the following new subsection:

"(b)(1) No action may be maintained under subsection (a) or under any other maritime law of the United States for maintenance and cure or for damages for the injury or death of a person who was not a citizen or permanent resident alien of the United States at the time of the incident giving rise to the action, if the incident occurred—

"(A) while that person was in the employ of an enterprise engaged in the exploration, development, or production of offshore mineral or energy resources—including but not limited to drilling, mapping, surveying, diving, pipelaying, maintaining, repairing, constructing, or transporting supplies, equipment or personnel, but not including transporting those resources by (a) vessel constructed or adapted primarily to carry oil in the cargo spaces; and

"(B) in the territorial waters or waters overlaying the continental shelf of a nation other than the United States, its territories, or possessions. As used in this paragraph, the term "continental shelf" has the meaning stated in article I of the 1958 Convention on the Continental Shelf.

"(2) The provisions of paragraph (1) of this subsection shall not be applicable if the person bringing the action establishes that no remedy was available to that person—

"(A) under the laws of the nation asserting jurisdiction over the area in which the incident occurred; or

"(B) under the laws of the nation in which, at the time of the incident, the person for whose injury or death a remedy is sought maintained citizenship or residency."

(b) The amendment made by this section does not apply to any action arising out of an incident that occurred before the date of enactment of this section.

SEC. 504. Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) is amended by inserting the following immediately before the period at the end thereof: *"Provided further,* That for the purposes of this section, supplies aboard United States documented fish processing vessels, which are necessary and used for the processing or assembling of fishery products aboard such vessels, shall be considered ship's equipment and not merchandise.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1428) was agreed to.

● Mr. PACKWOOD. Mr. President, the bill the Senate is acting upon today is a collection of several pieces of fisheries legislation. I would like to take a moment to clarify and highlight some of the provisions contained in this measure.

First, the bill provides a formal, legislative approval of the Governing International Fishery Agreement between the Government of Japan and the Government of the United States. This agreement is the result of long, tough negotiations, and I am pleased to say that it provides a number of benefits for our domestic fishing industry. We have already seen an increase in cooperation between the Japanese fishing industry and our own. Joint ventures have increased, technical assistance has increased, and we are hoping that Japanese markets for American fishery exports will also increase in size and accessibility.

The American Government has shown a greater willingness over the past several years to stand up for its rights as regards the marine resources of our Fishery Conservation Zone. This is a trend which I support, and which I believe is reflected in this agreement.

However, I do not want to leave this issue without first mentioning another subject I have long been interested in. That issue is commercial whaling.

As many of my colleagues are aware, this past July the International Whaling Commission (IWC) approved a moratorium on commercial whaling set to begin in 3 years. This is a goal I have long worked for and so I was very pleased with this decision.

However, I am sorry to have to also report that several whaling nations have since filed objections to the IWC decision. This means that they are leaving open for themselves the possibility of continuing commercial whaling activities after the date set for commencement of the IWC moratorium. Japan, the most active of the whaling nations and the largest market for whale products, was one of the nations to file an objection. I want to stress in the strongest terms that today's approval of the new Governing International Fishery Agreement with Japan should not be taken by the Japanese as a sign that their objection to the moratorium is being ignored. The situation is very much to the contrary.

The reason the new Governing International Fishery Agreement is being approved is simply that it is more beneficial to the U.S. fishing industry. Congressional displeasure with the Japanese objection to the IWC moratorium is very real and very strong. In my opinion, the newly elected Government of Japan would be well advised to give serious consideration to the possibility of withdrawing the objection filed by the previous government.

If this is not done, there will surely be negative consequences along the entire range of United States-Japanese relations. This is especially true in the fisheries area, however, where we see that Japan is currently taking almost 1.5 million tons of fish from the U.S. Fishery Conservation Zone annually. The continuation of this relationship on a "business as usual" basis will certainly be threatened if the Government of Japan persists with its objection to the IWC decision. In fact, I have recently been assured by the Department of State, in a letter from Acting Secretary Kenneth Dam, that our Government will use all diplomatic means as well as available laws and regulations in an effort to persuade the Japanese to rescind their objection. Existing U.S. law, for instance, gives the Secretaries of State and Commerce wide latitude in their ability to adjust—either up or down—the level of fishery allocations to foreign nations. This option will certainly not be overlooked as we enter 1983 and decisions are made on fishery allocations.

In saying this, however, let me also point out to my friends in the U.S. fishing industry that I will not endorse any actions which could end up doing harm to the development efforts of the domestic fishing industry. We are finally making progress toward Americanizing the utilization of the resources in the Fishery Conservation Zone, and I am committed to this course.

Another important item included in the Fisheries Amendments Act of 1982 is the implementing legislation for the Convention for the Conservation of Salmon in the North Atlantic Ocean. This international agreement is also of great potential benefit to American fishermen, particularly sport fishermen in the Northeast. The agreement is also particularly noteworthy from a conservation point of view in that we expect to see a considerable expansion of the North Atlantic salmon resource under the management framework set out in the Convention.

I commend the Department of State and its negotiators for their perseverance, and for the obvious dedication to the goal of protecting and promoting

American fisheries interests which is reflected in both the international agreements I have discussed so far. They are to be congratulated.

Another segment of this bill which I want to mention deals with the operation of the Japanese salmon drift gillnet fishery in the North Pacific Ocean and its effect on marine mammals in the area, particularly Dall's porpoise. The legislation before us today extends the existing marine mammal permit for this fishery for an additional 3 years. However, at the same time, it requires the Japanese to implement new fishing gear and techniques which will result in a significantly lower incidental catch of Dall's porpoise in the fishery. The Japanese have been testing a variety of methods for reducing the porpoise kill associated with the fishery, and some of the tests have shown great promise. In my view, it is time for the fruits of this testing to be implemented and for the kill rate to be reduced. Testing to date indicates that the incidental catch rate could be reduced by close to 50 percent with a relatively modest financial investment. Future testing will surely uncover even more effective ways of insuring that fewer porpoise become entangled in the gillnets.

Just as the domestic tuna fishing industry has made remarkable accomplishments in reducing its incidental take of porpoise to a fraction of what it once was, I am sure that the Japanese will be able to do the same. Encouraging them to do so is the goal of this particular section of the Fisheries Amendments Act of 1982.

These are the primary items contained in the measure. All are necessary and progressive steps, in my opinion, and I hope my colleagues will support the bill's passage.●

Mr. LONG. Mr. President, American offshore service companies and their foreign subsidiaries are being severely impacted by a multitude of lawsuits, aggregating claims over a billion dollars, brought by foreign offshore oil and gasfield workers. These lawsuits for damages arising from foreign offshore personal injury claims are based upon U.S. maritime tort laws enacted 40 to 50 years before worldwide offshore mineral extraction activities began. Such laws were never intended to apply to foreign workers engaged in offshore operations abroad.

The United States should not continue to export its remedies for foreign workers' work-related injury claims which arose in foreign waters. Since no other country allows its judicial system to be used by foreign citizens for incidents occurring within the jurisdiction of foreign nations, U.S. offshore service companies and their foreign subsidiaries are at a competitive disadvantage with their many foreign competitors.

A reasonable solution is to clarify U.S. maritime tort laws to provide that a foreign worker engaged in mineral extraction activities in waters over the continental shelf of a foreign nation may not seek a remedy for his work-related injury in U.S. courts if he has a remedy in his home country, or in the country with jurisdiction over the accident site, if different. Should there be no remedy overseas, the foreign worker would then, and only then, be able to adjudicate his claim in U.S. courts.

Such a clarification would not affect U.S. workers no matter where in the world they work, or seamen on blue-water vessels, or anyone working in waters over the U.S. Continental Shelf.

This statutory clarification is needed in order to insure that U.S. offshore service companies remain competitive enough to continue to provide U.S. citizens jobs both at home and abroad.

● Mr. MITCHELL. Mr. President, I support this legislation which permits the United States to fulfill the obligations it assumed when it agreed to abide by the provisions of the Atlantic Salmon Convention. However, I wish, for the record, to ask of the floor manager a question which relates to the effect which the Convention and this implementing legislation will have on the Magnuson Fishery Management Conservation Act (MFCMA) and the operations of the regional management councils established pursuant to that act.

I ask the following question because several of my constitutents in Maine have expressed to me their concern that the Atlantic Salmon Treaty and its implementing legislation might undercut the authority of the regional management councils. My question is: Does any provision of the Convention, or the legislation which will implement it, give authority to the U.S. commissioners to agree to management or conservation measures which will affect the management of nonsalmon stocks harvested in the fisheries conservation zone (FCZ) and overseen by the regional management councils?

Mr. PACKWOOD. The Convention and the Convention implementing legislation would not preempt the role of the regional management councils in regulating the nonsalmon fisheries within the fisheries conservation zone whether or not those fisheries take a bycatch of salmon.

Article 7, paragraph 2 of the Convention does obligate the United States and Canada to minimize the bycatches of salmon originating in each others rivers. However, the Commission has no regulatory authority to do this. The obligation will be implemented by domestic law. Thus, of course, the councils would be involved as usual. I would point out that this is very much a theoretical problem as U.S. fisheries catch almost no salmon of foreign origin.

Mr. MITCHELL. I thank the Senator for such a complete answer to my question.●

● Mr. GORTON. Mr. President, I am pleased to speak in support of H.R. 3942. While this legislation includes a variety of measures affecting the U.S. fisheries industry, I would like to highlight two aspects of the bill which are of special significance to the northwest fisheries industry.

Under the Magnuson Fishery Conservation and Management Act, foreign nations cannot fish in our fishery conservation zone unless they meet certain conditions, including the existence of a governing international fishery agreement with the United States. The conclusion of a GIFA does not guarantee allocations to a foreign nation, but it does mean that fishermen of that nation are eligible for allocations of surplus fish stocks. Since the passage of the Magunson Fishery Conservation and Management Act, the United States has entered into GIFA's with many nations, and has, over time, developed a greater sense of the provisions of a GIFA which would be most advantageous to the interests of our domestic industry.

The Japanese GIFA contained in today's fisheries package represents the culmination of that thought and effort. This 5-year GIFA with Japan incorporates the legislatively mandated criteria for foreign allocations, including whether the nation in question cooperates with the United States in the advancement of fisheries trade; whether the nation in question cooperates with the United States in the enforcement of domestic law and regulation relating to fisheries; whether the nation in question imposes tariff or nontariff barriers on the importation of U.S. fisheries products; and whether the nation in question cooperates with the United States, and aids in fisheries research. In addition, the Japanese GIFA contains a commitment by the Government of Japan to cooperate in the development of the U.S. industry by taking measures to reduce or remove impediments to the development of our industry, including increased imports and increased joint ventures.

These provisions of the GIFA are of critical importance to the northwest fishing industry. Joint venture participation by the Japanese is scheduled to increase significantly in the next year, offering the prospect of continued fishing opportunities for the northwest fleet. Northwest fishermen are ready and eager to participate in joint ventures with the Japanese, and have demonstrated their ability to harvest a previously untapped resource in the underutilized groundfish. It is the intention and expectation of the U.S.

fishing industry ultimately to utilize fully the resources of our fishery conservation zone. But to achieve this goal, both processors and fishermen will have to improve their competitive position, and gain greater access to domestic and foreign markets. Joint ventures, in the short term, offer the prospect of bringing U.S. processors and fishermen closer to that goal.

In addition to the Japanese GIFA, another provision of this bill is of special interest to the northwest. U.S. processors have been hampered by an interpretation of the U.S. Customs Service which held that supplies which a processing vessel uses are "merchandise", thereby triggering the provisions of the Jones Act which prohibited the carrying of such processing supplies between two U.S. ports. With the amendment contained in today's bill, which is a narrow and carefully drafted change, U.S.-flag, U.S.-documented fish processing vessel will be able to carry between U.S. ports processing supplies which are necessary and used for processing or assembling of fishery products aboard such vessel. This change will correct an interpretation which has created an unworkable situation for the fish processing industry.

Mr. President, I am pleased that the Senate today is demonstrating its commitment to the continued health and growth of the U.S. fisheries industry. I share that commitment, and I look forward, with congressional approval of the provisions of H.R. 3942, to a new era of recognition of the importance of our domestic fisheries industry.●

● Mr. LEVIN. Mr. President, few conservation issues have evoked as much intense public concern as the destruction of the great whales. The decision of the International Whaling Commission this July to impose a cessation of commercial whaling beginning in 1986 shows that this concern is shared by many nations throughout the world.

However, several member nations of the IWC, which participated in the decisionmaking process this July but opposed the outcome, have now lodged objections to the IWC's historic decison. Those nations are: Japan, Norway, the Soviet Union, and Peru. The legal effect of an objection is to release these nations from compliance with the IWC decision.

It is my view that a firm response should be made. But such a response will be taken seriously only if it is translated into economic terms.

This view led me to join with 65 other Senators in urging Secretary of Commerce Baldrige and the administration to use the fishery allocation process under the fisheries Conservation and Management Act to encourage whaling nations which fish in the U.S. 200-mile zone, particularly Japan and Korea, to adhere to the IWC cessation decsion.

It is my understanding that the State Department has recently addressed this matter in a letter to Senators PACKWOOD and PERCY, dated December 4, 1982. The letter, from Mr. Kenneth Dam, Acting Secretary of State, indicated that the Department is "prepared to use available laws and regulations, beginning this spring, to prevent Japan from thwarting the IWC cessation decision."

Based upon this letter it is my opinion that his statement does in fact constitute a promise by the adminstration to take the actions requested in our letter to Secretary Baldrige, and that the administration is hereby affirming that it will use the allocation process to bring about a retraction of the Japanese objection, and to prevent the Republic of Korea from filing one.

I believe U.S. fisheries policy can be made effective as a means of protecting the whales, without harming the U.S. fishing industry.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

So the bill (H.R. 3942) was passed.

Mr. BAKER. I move to reconsider the vote by which the bill passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL HELD AT DESK—H.R. 7338

Mr. BAKER. Mr. President next on my list is a request to hold H.R. 7338 at the desk if the distinguished minority leader is prepared to agree with that request.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House of Representatives H.R. 7338, which is a bill to amend the Public Health Service Act, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 7377

Mr. BAKER. Mr. President, I have a similar request in respect to H.R. 7377.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I ask unanimous consent that H.R. 7377, a bill to designate Lakeview Lake project in Mountain Creek, Tex., the "Joe Poole Lake," be held at the desk being further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROCLAMATION OF MARCH 13, 1983, AS "NATIONAL SURVEYORS WEEK"

Mr. BAKER. Mr. President, next is a request to discharge the Judiciary Committee from further consideration of Senate Joint Resolution 263 and ask for its immediate consideration if the minority leader is prepared to approve that.

Mr. ROBERT C. BYRD. No objection.

Mr. BAKER. Mr. President, I ask unanimous consent that the Judicary Committee be discharged from further consideration of Senate Joint Resolution 263 and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the joint resolution by title.

The assistent legislative clerk read as follows:

A joint resolution (S.J. Res. 263) to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week".

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The joint resolution (S.J. Res. 263) was considered, ordered to a third reading, read the third time, and passed. The preamble was agreed to.

The resolution with its preamble, is as follows :

S.J. RES. 263

Whereas the Congress of the United States recognizes the valuable contributions of the surveying profession to history, development and quality of life in the United States of America;

Whereas the surveying profession requires special education, training, experience, and knowledge of the principles of mathematics, the related physical and applied sciences, and requirements of law for adequate evidence; and

Whereas since the early days of our Nation when many of our forefathers, including our first and third Presidents, were surveyors, the profession of surveying has continued to be uniquely qualified to determine and describe land and water boundaries for the management of our natural resources and the protection of private property rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week" and to urge the people of the United States to observe such week with appropriate ceremonies and activities paying tribute to professional surveyors and their contribution to society.

Mr. BAKER. I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR HOUSE JOINT RESOLUTION 460 TO BE HELD AT THE DESK

Mr. BAKER. Mr. President, another request to hold at the desk, House Joint Resolution 460, if that can be approved by the minority.

Mr. ROBERT C. BYRD. No objection.

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives House Joint Resolution 460, Women's History Week, from the House of Representatives, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SENATE JOINT RESOLUTION 254 TO BE HELD AT THE DESK

Mr. BAKER. Mr. President, I have a similar request in respect to Senate Joint Resolution 254, American Businesswomen's Day.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Then I put that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN BUSINESSWOMEN'S DAY

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair lay before the Senate, Senate Joint Resolution 254.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S.J. Res. 254) designating September 22, 1983, as "American Businesswomen's Day."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

● Mr. BOSCHWITZ. Mr. President, today I rise as a cosponsor of Senate Joint Resolution 254, designating September 22, 1983, as "American Businesswomen's Day."

Mr. President, women have always made a substantial contribution to our economy, now constituting about half of our work force. I think some brief history is appropriate.

At the beginning of this century, approximately 1 out of every 5 women was in the labor force. By 1940, this ratio had increased to 1 in 4. But then, significant changes began to occur in the work force.

By the end of World War II, 35 percent of the working population of America was female. Many women, once in the work force, found that they enjoyed it and decided to stay. In many ways, the business world was unprepared for this change. During this period, there were a number of viable business organizations, but very few dedicated to preparing and promoting women for business. But, Mr. President, ingenuity and perserverance prevailed, and new groups began to spring up. One group, the American Business Women's Association (ABWA) stands out in my mind.

The ABWA began as the dream of some businessmen and businesswomen working in the Kansas City area. Through the efforts of a small group of people, the American Business Women's Association took shape and became a reality. From its original 50 charter members, the association has grown to the point where it now boasts a membership of over 100,000 in its 2,000 chapters located in all 50 States, the District of Columbia, and Puerto Rico.

Through its scholarship program, business seminars, and member workshops, the ABWA has exhibited an unrelenting commitment to the future of American business and women. We in Congress should mirror that commitment.

Mr. President, American businesswomen are a national resource that will continue to enhance the economic vitality of our Nation. This resolution is an appropriate means of recognizing their past and future contributions. I commend it to my colleagues and urge its adoption.●

The joint resolution (S.J. Res. 254) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 254

Whereas there are forty-three million working women integrally involved in determining the direction of both the private and public sectors of our Nation;

Whereas American businesswomen hold active, responsible, decisionmaking roles at all levels of business, and thus influence the direction of our Nation; and

Whereas the Congress recognizes the important contributions of American businesswomen to our Nation's continuing vitality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 22, 1983, is designated "American Business Women's Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER—SENATE RESOLUTION 470

Mr. BAKER. Mr. President, I next have in my folder two items. One is a budget waiver to accompany the underlying measure, Calendar Order No. 919, which is the budget waiver to accompany Calendar Order No. 818, Senate Resolution 2279.

I inquire of the minority leader if he is prepared for us to consider that measure at this time, including the budget waiver.

Mr. ROBERT C. BYRD. There is no objection to considering both the budget waiver and the measure itself.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Chair lay before the Senate Calendar Order No. 919, Senate Resolution 470, a budget waiver to accompany S. 2279.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 470) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2279.

There being no objection, the Senate proceeded to consider the resolution.

The resolution (S. Res. 470) was considered and agreed to as follows:

S. RES. 470

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2279, a bill to designate Alben Barkley National Historic Site. S. 2279, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983.

The waiver of section 402(a) of such Act is necessary to permit congressional consideration of S. 2279. Such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

ALBEN BARKLEY NATIONAL HISTORIC SITE

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair lay before the Senate a measure to which the budget waiver referred, and that is S. 2279, Calendar No. 818.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2279) to designate the Alben Barkley National Historic Site.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the

bill which had been reported from the Committee on Energy and Natural Resources with an amendment, as follows:

On page 2, line 3, strike "Mayfield,", and insert "Paducah,".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) That in order to preserve for the benefit, education, and inspiration of present and future generations certain historically significant properties associated with the life of Alben Barkley, the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, the lands and buildings thereon known as "Angles," comprising approximately thirteen acres located near Paducah, Kentucky.

(b) It is the express intent of the Congress that the Secretary should substantially complete the acquisition program authorized by this Act within one year after the date of enactment of this Act.

(c) Upon the acquisition of the aforesaid property, the Secretary shall establish the same as the Alben Barkley National Historic Site by publication of a notice and boundary map in the Federal Register. The Secretary shall administer the site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

SEC. 2. Effective October 1, 1982, there are authorized to be appropriated from the Land and Water Conservation Fund not to exceed $700,000 for the acquisition of lands and interests therein.

The amendment was agreed to.

Mr. FORD. Mr. President, I rise to express my sincere interest in, and support for, having the Alben Barkley Home, known as Angles, designated as a National Historic Site.

The Angles, constructed in 1853, is the home of one of Kentucky's best known and best loved politicians, Alben W. Barkley (1877-1956). Alben Barkley served as U.S. Senator, Senate majority leader, and Vice President under Harry S Truman (1949-52). Later he was reelected to the Senate and died in office in 1956.

Barkley's political career began in 1905 when he was elected prosecuting attorney for McCracken County, an office he held until 1908 when he was elected McCracken County judge. Continuing his rise on the political ladder, Barkley was elected to the U.S. House of Representatives in 1913, where he remained until 1927, at which time he was elected to the U.S. Senate. While in the Upper House he served as majority leader from 1936 to 1947 and minority leader from 1947 to 1949. During his congressional career, he became closely identified with the policies of President Franklin D. Roosevelt and as majority leader, was responsible for their successful passage. Barkley had a long and glorious career as one of the most powerful men in politics and is one of Kentucky's best known national statesmen and orators.

He went to great lengths to preserve the original flavor of Angles while contributing several interesting features of his own.

The Angles, besides being architecturally beautiful, contains antiques and mementos which are of great value and interest to every historian.

Included in these items is a handcarved teakwood desk and chair used by Barkley while serving as Vice President. The other furniture is originally from the Philippines. Some of the other items of value include a library containing many books from Presidents Franklin Roosevelt and Truman, many portraits of Barkley and his wife, his top hat and suit worn during the Truman Inauguration, and a bust of F. D. R. presented to him by the President. There is also a 1930 brass tea set from Russia, and a collection of over 150 canes collected by Alben Barkley during his years in public office.

A wealth of history is contained in this house which has not changed since the Vice President died in 1956. Alben Barkley has made a tremendous contribution to this country, and I believe making his home a national historic site is a memorial fitting the accomplishments of this great statesman. I urge that this opportunity to preserve part of America's history not be overlooked and that this landmark be protected for the education and inspiration of present and future generations.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SETTLEMENT OF CERTAIN CLAIMS INVOLVING MEMBERS AND EMPLOYEES OF THE SENATE

Mr. BAKER. Mr. President, the next item on my list is Senate Resolution 492, Calendar Order No. 937, which I would propose to ask the Senate to consider if the minority leader is agreeable.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 937, Senate Resolution 492.

The PRESIDING OFFICER. Without objection, it is so ordered. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 492) authorizing the Sergeant at Arms of the Senate, with the approval of the Committee on Rules and Administration, to settle certain claims involving Members, officers, and employees of the United States Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 492) was agreed to as follows:

S. RES. 492

Resolved, That the Sergeant at Arms of the Senate, in accordance with regulations prescribed by the Attorney General and such regulations as the Committee on Rules and Administration may prescribe, may consider and ascertain and, with the approval of the Committee on Rules and Administration, determine, compromise, adjust, and settle, in accordance with the provisions of chapter 171 of title 28, United States Code, any claim for money damages against the United States for injury of loss of property or personal injury or death caused by the negligent or wrongful act or omission of any Member, officer, or employee of the Senate while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. The Committee or Rules and Administration may, from time to time, delegate any or all of its authority under this resolution to the chairman. Any compromise, adjustment, or settlement of any such claim not exceeding $2,500 shall be paid from the contingent fund of the Senate on a voucher approved by the chairman of the Committee on Rules and Administration.

SEC. 2. The Committee on Rules and Administration is authorized to issue such regulations as it may determine necessary to carry out the provisions of this resolution.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF THE PRAYERS OF THE SENATE CHAPLAIN

Mr. BAKER. Mr. President, next is Senate Resolution 493. Has that been dealt with?

The PRESIDING OFFICER. No, it has not been dealt with.

Mr. BAKER. Then, Mr. President, if the minority leader has no objection, I should like to proceed to that at this time.

Mr. ROBERT C. BYRD. I have no objection, Mr. President.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask that Senate Resolution 493 be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

89-059 O-86-13 (Pt. 22)

A resolution (S. Res. 493) authorizing the printing of the prayers by the Reverend Edward L. R. Elson, S.T.D., as Chaplain of the Senate during the 96th and 97th Congresses.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 493) was agreed to as follows:

S. RES. 493

Resolved, That there be printed with an appropriate illustration as a Senate document, the prayers by the Reverend Edward L. R. Elson, S.T.D., the Chaplain of the Senate, at the opening of the daily sessions of the Senate during the Ninety-sixth and Ninety-seventh Congresses, together with any other prayers offered by him during that period in his official capacity as Chaplain of the Senate; and that there be printed and bound four hundred additional copies of such document for the use of the Joint Committee on Printing.

SEC. 2. The copy for the document authorized in section 1 shall be prepared under the direction of the Joint Committee on Printing.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEFINITION OF CAPITOL GROUNDS

Mr. BAKER. Mr. President, I should like to proceed to the consideration of H.R. 6417, if that can be cleared on the other side.

Mr. ROBERT C. BYRD. Mr. President, that matter has been cleared on this side.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate H.R. 6417.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6417) to amend Public Law 96-423 relating to the United States Capitol Grounds.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6417) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 7143 PLACED ON CALENDAR

Mr. BAKER. Mr. President, next on my list, I must say for the benefit of the minority leader and other Senators, is a request to discharge the Foreign Relations Committee from further consideration of H.R. 7143, and to place that measure on the calendar, if there is no objection.

Mr. ROBERT C. BYRD. Mr. President, there is no objection on this side.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of H.R. 7143, a bill to extend for 1 year the agricultural and productive credit and self-help community development programs, and I ask that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PARKINSON'S DISEASE WEEK

Mr. BAKER. Mr. President, I would like to discharge the Judiciary Committee now from further consideration of House Joint Resolution 531 so that that measure may be considered by the Senate at this time.

I inquire of the minority leader if he is prepared to do so.

Mr. ROBERT C. BYRD. That matter has been cleared on this side for action.

Mr. BAKER. I thank the minority leader.

Mr. President, I then ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 531, a bill to designate the week of May 15, 1983, "National Parkinson's Disease Week," and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 531) to designate the week of May 15, 1983, "National Parkinson's Disease Week."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

Mr. BAKER. If the Chair will withhold, I was slow on the uptake. I apologize.

UP AMENDMENT NO. 1929

(Purpose: To modify the week to be designated as "National Parkinson's Disease Week")

Mr. BAKER. Mr. President, I have an amendment that I send to the desk on behalf of the distinguished Senator from Maryland (Mr. MATHIAS), the chairman of the Rules Committee, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. MATHIAS, proposes an unprinted amendment numbered 1929.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

"That the week of May 15, 1983, is designated as "National Parkinson's Disease Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities and programs.".

Strike out the preamble and insert in lieu thereof the following:

"Whereas Parkinson's disease is one of the most devastating illnesses threatening the citizens of the United States;

"Whereas Parkinson's disease afflicts one out of every one hundred persons over the age of sixty;

"Whereas Parkinson's disease is one of the most severely crippling disorders of the nervous system;

"Whereas the American Parkinson Disease Association, the National Parkinson Foundation, the Parkinson's Disease Foundation, and the United Parkinson Foundation are major contributors to research on Parkinson's disease and to treatment and rehabilitation programs for the victims of such disease;

"Whereas the Parkinson Education Program/USA and the all-volunteer Parkinson Support Groups of America are devoted to helping Parkinson patients and their families cope with their ailment; and

"Whereas research on the causes of and the search for a cure for Parkinson's disease are continuing to be conducted and patient support groups continue to grow and bring new hope to those who bear the burden of this affliction; Now, therefore, be it

Amend the title so as to read: "Joint Resolution to designate the week of May 15, 1983, through May 21, 1983, as 'National Parkinson's Disease Week'.".

Mr. MATHIAS. Mr. President, I am pleased to speak in support of Senate passage of House Joint Resolution 531, a bill to designate the week of May 15, 1983 "National Parkinson's Disease Week."

Parkinson's disease strikes 1 percent of all Americans over 60 and affects 1 person in 1,000 in the general population. Although the disorder was first identified in 1817, scientists have yet to discover a cure for or even the cause of Parkinson's disease. Researchers are looking at viral infection, exposure to environmental toxins, and abnormal acceleration of the aging process as possible explanations. We do know that Parkinson's is connected with a serious deficiency of dopamine, a chemical substance necessary for the transmission of nerve impulses. This deficiency must be addressed to give the patient any relief from the debilitating symptoms of Parkinson's disease: uncontrollable tremors, muscular

rigidity and difficulty in initiating movement.

Fifteen years ago, the new drug levodopa brought hope to many Parkinson's sufferers. A metabolic precursor of dopamine, it promotes dopamine production. Initially hailing it as a wonder drug, users found that after 3 or 4 years of levadopa treatment, the drug started to work less effectively and, for some, produced unwanted side effects, such as hallucinations and the so-called "on-off syndrome"—the complete cessation or involuntary initiation of movement.

Although levodopa compounds are still considered the most effective treatment for Parkinson's, the problems surrounding the drug have stimulated research into possible supplementary or substitute treatments. Doctors and scientists, with the help of the National Institute of Neurological and Communicative Disorders and Stroke, are experimenting with bromocriptine and lisuride, two drugs that mimic the action of dopamine. Researchers at the National Institute of Mental Health, working on the grounds of St. Elizabeths Hospital, have transplanted healthy brain tissue into the dopamine-deficient brains of laboratory rats and monkeys. And, last July, surgeons in Sweden transplanted healthy dopamine-producing tissue from a patient's adrenal gland onto his brain, the first and only time such surgery has been performed on humans.

It is clear that much more remains to be done if doctors are to find a cure, or even relief, for victims of Parkinson's disease. I am confident that the biomedical community will continue to work toward these goals. House Joint Resolution 531 recognizes the contributions made in research, treatment, and rehabilitation by the American Parkinson Disease Association, the National Parkinson Foundation, the Parkinson's Disease Foundation, and the United Parkinson Foundation.

Equally important are the contributions made by the more than 100 Parkinson's self-help groups in this Nation. The recent growth of this movement has given hope and encouragement to Parkinson's victims and their families who must live with this illness every day. The Parkinson Education Program/USA, and the Parkinson's Support Groups of America, an all-volunteer, nonprofit, independent organization, have organized Parkinson's support groups nationwide.

The work being done both by the research and the support groups is making life better for Parkinson's sufferers everywhere. "National Parkinson's Disease Week" will be a time to recognize the contributions these organizations have made, and to encourage their continued commitment.

PARKINSON'S DISEASE

Mr. CRANSTON. Mr. President, I rise in support of House Joint Resolution 531, as reported by the Judiciary Committee to designate the week beginning on May 15, 1983, as "National Parkinson's Disease Week." I am pleased to add my support to this effort to increase the public's awareness and understanding of Parkinson's disease and help in the fight to overcome this devastating disease.

Mr. President, Parkinson's disease is a nervous system disorder that can be severely crippling. It is a progressively degenerative disease marked by impaired muscular control and gradual deterioration of the body. Fortunately, we have learned a great deal about this disease since it was first described in medical literature in 1817 by Dr. James Parkinson. Research into the causes of Parkinson's disease have helped unravel some of the brain's mysteries. We have found that several neurological and neuropsychiatric diseases result either from the loss of one of the neurotransmitters—chemical substances essential for the functioning of brain cells—or from an imbalance in the release of several neurotransmitters. Approximately half a dozen major neurotransmitters in the brain have now been identified, isolated, and described in great detail, enabling drugs to be developed that can mimic their functions.

This research, supported largely by the National Institute of Neurological and Communicative Disorders and Stroke, led to the discovery that Parkinson's disease results from the degeneration of a specific group of nerve cells in the brain which leads to a deficiency in the brain's supply of the neurotransmitter dopamine. The deficiency or blockage of this neurotransmitter produces the symptoms of Parkinson's disease. A major breakthrough in the treatment of Parkinson's disease soon followed with the development of the drug levodopa—L-dopa—to replace the brain's supply of dopamine in Parkinson's patients. L-dopa is the first effective drug for controlling the most debilitating symptoms of the disease—the tremors, spasms, and paralysis of the muscles.

But L-dopa is not a cure, and it provides only temporary relief. After several years of treatment, the patient develops a tolerance to the drug and it no longer works as effectively.

Other developments also show promise. Recently, the Food and Drug Administration approved the drug bromocryptine to be taken in conjunction with L-dopa as a way to extend its effective use. Recent experiments in Sweden have raised the possibility that some day brain tissue can be transplanted from one person to another to reestablish the functions that become lost as the disease progresses. But we must push forward to find better answers.

Over half a million Americans are afflicted with Parkinson's disease. Yet, it is primarily a disease associated with older people; 1 out of every 100 persons over the age of 60 suffers from Parkinson's disease. As is the case with so many disorders associated with the process of aging, we have yet to understand the cause of Parkinson's disease or fully understand its mechanisms. Greater research efforts, particularly in the area of basic research, which often leads to the most effective methods of prevention, are needed to gain that understanding. With our capabilities and leadership in science, no serious disease or disability—including Parkinson's disease—should be considered beyond our ability to find the answers to prevention and ultimate cure.

Mr. President, while research holds the greatest promise for Parkinson patients, we can also offer them more immediate help by educating ourselves about the disease. Increased public awareness of Parkinson's disease can help eliminate the stigma that too often is attached to people with the disease. Many are more than capable of continuing to work and of maintaining productive activity for the full span of their lives. But because the symptoms of Parkinson's disease are so visible, people afflicted with this disease are often discriminated against in job opportunity and advancement or insensitively regarded as drunk or deranged.

Mr. President, I have a deep personal interest in combating this affliction. My wife, Norma, has been diagnosed as having Parkinson's disease. It is a challenge for her, but her outlook is wonderful and she continues her activities the same as always. She serves on the board of the Parkinson's Disease Foundation which is headquartered in New York. This is one of four national organizations which, through endowments and donations, provide funding for research, support training programs, provide referral and information services, and, in some cases, provide treatment to people with Parkinson's disease. Affiliated with these organizations are over 100 local groups which provide counseling to Parkinson patients and their families and friends, helping them to cope with the emotional and physical stress of the disease. These organizations and groups provide a tremendously valuable service of public education and personal support.

By designating a week in May as "National Parkinson's Disease Week," and educating ourselves and others about this disease, perhaps we will have a better understanding of the need to find a cure for it and be more supportive of those who are afflicted by it.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment, the joint resolution will be read a third time.

The joint resolution (H.J. Res. 531) was ordered to a third reading, read the third time, and passed.

The preamble, as amended, was agreed to.

The title, as amended, was agreed to as follows:

Joint resolution to designate the week of May 15, 1983, through May 21, 1983, as "National Parkinson's Disease Week.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FIORELLO H. LA GUARDIA MEMORIAL DAY

Mr. BAKER. Mr. President, I propose to discharge the Judiciary Committee from further consideration of House Joint Resolution 595 and ask for its immediate consideration if the minority leader is agreeable.

Mr. ROBERT C. BYRD. Mr. President, that has been cleared on this side of the aisle.

Mr. BAKER. I thank the minority leader.

I ask unanimous consent, then, that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 595, designating December 11, 1982, as "Fiorello H. La Guardia Memorial Day," and ask for the immediate consideration of that measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution H.J. 595 will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution designating December 11, 1982, as "Fiorello H. La Guardia Memorial Day."

The joint resolution (H.J. Res. 595) was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARCTIC RESEARCH AND POLICY ACT

Mr. BAKER. Mr. President, I have next in my folder S. 1562, which I wish to ask unanimous consent to consider at this time if the minority leader can clear that.

Mr. METZENBAUM. Mr. President, I rise not to object but to be certain that this measure will not have any amendment added to it on the floor of the Senate and should any amendments be added when it comes back from the House of Representatives that the author of the legislation, the distinguished Senator from Alaska, will not attempt to bring the bill as amended back to the floor of the Senate for concurrence unless the amendments as added by the House of Representatives are found not objectionable by any Member of this body.

It is my understanding that is agreeable to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I am happy to respond to the Senator from Ohio and give him that assurance.

Mr. METZENBAUM. I thank the Senator from Alaska.

I have no objection.

Mr. MURKOWSKI. I thank the Senator from Ohio and I thank the majority leader.

Mr. BAKER. Mr. President, I understand the minority leader has given his consent to this measure.

Mr. ROBERT C. BYRD. Yes; we are prepared to move to the consideration of the measure.

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate S. 1562, Calendar Order No. 931.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1562) to provide comprehensive national policy dealing with national needs and objectives in the Arctic.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Arctic Research and Policy Act of 1982".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the Arctic, onshore and offshore, contains vital energy resources that can reduce our dependence on foreign oil and improve the national balance of payments;

(2) as our only common border with the Soviet Union, the Arctic is critical to national defense;

(3) the renewable resources of the Arctic, specifically fish and other seafood, represent one of the Nation's greatest commercial assets;

(4) Arctic conditions directly affect global weather patterns and must be understood in order to promote better agricultural management throughout the United States;

(5) industrial pollution not originating in the Arctic region collects in the polar air mass, has the potential to disrupt global weather patterns, and must be controlled through international cooperation and consultation;

(6) the Arctic is the only natural laboratory for research into human adaptation physical and psychological to climates of extreme cold and isolation and may provide information crucial for future defense needs;

(7) atmospheric conditions peculiar to the Arctic provide a unique testing ground for research into high-latitude communications, which is likely to be crucial for future defense needs;

(8) Arctic marine technology is critical to cost-effective recovery and transportation of energy resources and to the national defense;

(9) most Arctic-rim countries, particularly the Soviet Union, possess Arctic technologies far more advanced than those currently available in the United States;

(10) Federal Arctic research is fragmented, uncoordinated and undercapitalized at the present time;

(11) such fragmentation has led to the neglect of certain areas of research and to unnecessary duplication of effort in other areas of research;

(12) there is an immediate need to formulate a comprehensive national policy to organize and fund currently neglected scientific research with respect to the Arctic;

(13) the Federal Government, in cooperation with State governments, should focus its efforts on the collection and characterization of basic data related to biological and geophysical phenomena in the Arctic, directing special attention to the broad accumulation of data related to sea-ice dynamics; and

(14) research into the long-range environmental and social effects of development in the Arctic is necessary to mitigate the adverse consequences of such development to the land and its residents.

(b) The purposes of this Act are—

(1) to establish an Arctic Science Policy Council and an Arctic Research Commission to promote Arctic research;

(2) to establish a centralized system for the collection and retrieval of scientific data with respect to the Arctic; and

(3) to establish priorities and provide financial support for basic and applied scientific research with respect to the Arctic that is currently being neglected and is essential to our Nation's needs.

ARCTIC SCIENCE POLICY COUNCIL

SEC. 3. (a) There is established a council to be known as the Arctic Science Policy Council (hereafter in this Act referred to as the "Council").

(b) The Council shall be composed of the following members:

(1) A chairperson appointed by the President, with the advice and consent of the Senate.

(2) Two individuals from the State of Alaska who have demonstrated a knowledge and interest in the field of Arctic Research, appointed by the President from a list of individuals submitted by the Governor of the State of Alaska. The President in his or her discretion may request additional names to be submitted.

(3) Two individuals who have demonstrated a knowledge and interest in the field of Arctic Research, appointed by the President from lists submitted by the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, the Secretary of the Department of Energy, the Secretary of State, the Secretary of Transportation (on behalf of the Coast Guard) and the Director of the National Science Foundation. The President in his or her discretion may request additional names to be submitted.

(c) Each member shall have an equal vote on matters decided by the Council.

(d)(1) Except as provided in paragraph 2, the term of office for a member of the Council shall be two years.

(2)(A) Of the members of the Council originally appointed under paragraphs (2) and (3) of subsection (b), one member appointed under paragraph (2) of such subsection, and one member appointed under paragraph (3) of such subsection shall be appointed for a term of one year.

(B) A member may serve after the expiration of his term of office until the President appoints a successor.

(e)(1) A member of the Council not otherwise employed by the United States shall be compensated at a rate equal to the daily equivalent of the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day such member is engaged in the actual performance of his duties as a member of the Council.

(2) A member of the Council who is an officer or employee of the United States or of the State of Alaska shall serve without additional compensation.

(3) All members of the Council shall be reimbursed for travel (in accordance with 5 U.S.C. 5701) and other necessary expenses incurred by them in the performance of their duties as members of the Council.

(4) No member may be compensated for more than ninety days of service each year in performance of his or her duties as a member of the Council.

DUTIES OF COUNCIL

SEC. 4. (a) The Council shall—

(1) facilitate cooperation between the Federal Government and State governments with respect to Arctic research;

(2) coordinate and promote cooperative Arctic scientific research programs with other nations (in consultation with the Secretary of State);

(3) develop and supervise an integrated national Arctic science policy (except with respect to the areas of authority specifically reserved to the Arctic Research Commission under section 7 of this Act);

(4) appoint the members of the Arctic Research Commission; and

(5) cooperate with the Governor of the State of Alaska and with such agencies and organizations of the State as the Governor may designate (including but not limited to the Alaska Council on Science and Technology) with respect to the formulation of Arctic science policy.

(b) Not later than January 31 of each year, the Council shall—

(1) publish a statement of goals and objectives with respect to Arctic research to guide the Arctic Research Commission in the performance of its duties; and

(2) submit to Congress a report describing the activities and accomplishments of the Council during the immediately preceding calendar year.

COOPERATION WITH THE COUNCIL

SEC. 5. (a)(1) The Council may acquire from the head of any Federal agency unclassified data, reports, and other nonproprietary information with respect to Arctic research which the Council considers useful in the discharge of its duties.

(2) Each such agency shall cooperate with the Council and furnish all data, reports, and other information requested by the Council to the extent permitted by law.

(b) The Council may utilize the facilities and services of any Federal agency (with the consent of the appropriate agency head, with or without reimbursement), taking every feasible step to avoid duplication of research and effort.

ARCTIC RESEARCH COMMISSION

SEC. 6. (a) There is established a commission to be known as the Arctic Research Commission (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be appointed by the Arctic Science Policy Council and shall be composed of the following members:

(A) Four members shall be appointed from among individuals with expertise in representative areas of research relating to the Arctic (including, but not limited to, the physical, biological, and social sciences), at least one of whom shall be employed by the University of Alaska.

(B) Two members shall be appointed from among residents of the Arctic who are representative of the needs and interests of Arctic residents and live in areas directly affected by Arctic resource development.

(C) Two members shall be appointed from among individuals familiar with the Arctic and representative of the needs and interests of private industry undertaking resource development in the Arctic.

(D) One member shall be appointed from among individuals familiar with the Arctic and employed by the United States Coast Guard.

(2) Upon the appointment of the members of the Commission pursuant to paragraph (1), the Council shall designate a member of the Commission to be chairperson of the Commission.

(c)(1) Except as provided in paragraph (2), the term of office for a member of the Commission shall be four years.

(2) Of the members of the Commission originally appointed under paragraph (1) of subsection (b)—

(i) two shall be appointed for a term of one year;

(ii) two shall be appointed for a term of two years;

(iii) two shall be appointed for a term of three years; and

(iv) three shall be appointed for a term of four years.

(3) A member may serve after the expiration of his term of office until the Council appoints a successor.

(d)(1) A member of the Commission not otherwise employed by the United States shall be compensated at a rate equal to the daily equivalent of the rate for GS-16 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of his duties as a member of the Commission.

(2) A member of the Commission who is an officer or employee of the United States or the State of Alaska shall serve without additional compensation.

(3) All members of the Commission shall be reimbursed for travel (in accordance with section 5701 of title 5, United States Code) and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(4) No member may be compensated for more than one hundred and eighty days of service each year in performance of his or her duties as a member of the Commission.

DUTIES OF COMMISSION

SEC. 7.(a) The Commission shall—

(1) survey Arctic research conducted by Federal and State agencies, the University of Alaska and other universities, and other private and public institutions to determine priorities for future Arctic research, and make recommendations thereon to the Council and other interested parties;

(2) establish a data collection and retrieval center for Arctic research (which shall be located in the State of Alaska) and promulgate guidelines for the use and dissemination of Arctic research information;

(3) make grants for such Arctic research as the Commission deems necessary and desirable to further the goals and objectives published annually by the Council pursuant to section 4(b)(1), with special consideration being given to studies in neglected areas of Arctic research; and

(4) consult the Council with respect to—

(A) all proposed, ongoing, and completed research programs and studies funded by the Commission,

(B) recommendations proposed by the Commission with respect to future Arctic research, and

(C) guidelines for awarding and administering Arctic research grants.

(b)(1)(A) Not later than December 31 of each year, the Commission shall transmit to the Council a report describing the activities and accomplishments of the Commission during the immediately preceding calendar year and making recommendations with respect to future Arctic research policy.

(B) Such report shall be available for public inspection at reasonable times.

(2) Not later than March 31, 1983, the Commission shall submit to Congress and to the Legislature of the State of Alaska a report making recommendations with respect to the continued operation of Government-operated laboratory facilities conducting Arctic research, taking into account the efficiency and effectiveness of such facilities and the degree to which the operation of such facilities would result in the duplication of research and effort.

(c) The Commission shall cooperate with the Governor of the State of Alaska, and with such agencies as the Governor may designate (including but not limited to the Alaska Council on Science and Technology) with respect to—

(1) the recommendations proposed by the Commission pursuant to section 7(a)(4)(B);

(2) the planning, funding, and logistical support of Arctic research; and

(3) the storage, transfer, and dissemination of Arctic scientific and technological knowledge and data.

ADMINISTRATION OF THE COMMISSION

SEC. 8. The Commission may—

(1) in accordance with civil service laws and subchapter III of chapter 53 of title 5, United States Code appoint and fix the compensation of an Executive Director and such additional staff personnel as may be necessary;

(2) procure temporary and intermittent services as authorized by section 3109 of title 5, United States Code;

(3) enter into contracts and procure supplies, services, and property; and

(4) enter into agreements wth the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Commission and the Administrator of the General Services Administration.

STATE ELECTION

SEC. 9. (a) The State of Alaska may elect to participate or not to participate in the activities of the Council and the Commission.

(b) Failure of the State of Alaska to contribute to the Arctic Research Fund (established by section 10 of this Act) for a fiscal year an amount equal to one-quarter of the

amount appropriated to such Fund by the United States for the previous fiscal year shall constitute an election by such State not to participate in the Council and the Commission.

(c) Upon an election by the State of Alaska not to participate in the Council and the Commission pursuant to subsection (b)—

(1) appointments to such Council or Commission which are required to be made from among individuals—

(i) employed by the State of Alaska, or

(ii) nominated by the Governor of the State of Alaska

shall be vacated; and

(2) an appointment to fill a vacancy created by such election shall be made in such manner and from among such individuals as other appointments to such Council or Commission are required to be made (as determined by the chairperson of the Council or Commission).

(d) An election by the State of Alaska not to participate in the Council and the Commission pursuant to subsection (b) shall not affect the powers or duties of those bodies.

(e) Should the State of Alaska wish to reinstate its participation following an election not to participate, it may do so by meeting the funding requirement for the year in which reinstatement is sought.

ARCTIC RESEARCH FUND

SEC. 10. (a) There is hereby created a trust fund to be known as the Arctic Research Fund (hereafter in this Act referred to as the "Fund"), to be available for the support of the activities of the Arctic Science Policy Council and the Arctic Research Commission.

(b) Such Fund shall consist of—

(1) amounts appropriated to such Fund;

(2) amounts contributed to such Fund by the State of Alaska;

(3) amounts contributed by private individuals and organizations.

(c) Amounts in the Fund shall be available, until expended, for the purposes of this Act, to the extent and in such amounts as are provided for in advance in appropriation Acts.

(d)(1) There is authorized to be appropriated for the Arctic Research Fund for the fiscal year beginning October 1, 1983, and for each succeeding year thereafter, $25,000,000.

(2) In determining the amount contributed to such Fund by the State of Alaska for a fiscal year—

(A) the fair market value (as determined by the Council in good faith) of all facilities, services, materials, and other support contributed to the Fund by the State of Alaska during such fiscal year, and

(B) all amounts contributed by private individuals and organizations,

shall be taken into account,

DEFINITION

SEC. 11. The term "Arctic" shall mean all United States and foreign territory north of the Arctic Circle and all United States territory north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim Rivers; all contiguous seas, including the Arctic Ocean and the Beaufort, Bering, and Chukchi Seas; and the Aleutian chain.

NONAPPLICABILITY OF NEPA

SEC. 12. The National Environmental Policy Act of 1969 shall not be construed to require the submission of environmental impact statements for any activities conducted pursuant to this Act.

Mr. BAKER. Mr. President, I have an amendment in my hand which I will deliver to the distinguished Senator from Alaska (Mr. MURKOWSKI) so that he may offer it at this time if he wishes.

AMENDMENT NO. 3638

(Purpose: To amend the committee amendment to S. 1562, the Arctic Research and Policy Act)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. MURKOWSKI) proposes a printed amendment numbered 3638.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Under section 2(a), on page 13, line 15, strike the word "and" after the semicolon. On page 13, line 19, strike the period and insert a semicolon. On page 13, after line 19, insert the following:

"(15) Arctic research has singificant value for expanding knowledge of the Arctic which can enhance the lives of Arctic residents, increase opportunites for international cooperation among Arctic-rim countries and foster a national policy for the Arctic; and

"(16) The Alaskan Arctic provides essential habitat for marine mammals, migratory waterfowl, and other forms of wildlife which are important to the Nation and which are essential to Arctic residents.".

On page 26, strike section 12.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that amendment No. 3638, an amendment to the committee amendment to S. 1562, be approved.

Mr. METZENBAUM. Mr. President, will the Senator from Alaska yield for a question?

Mr. MURKOWSKI. I am happy to yield.

Mr. METZENBAUM. Will the Senator from Alaska be good enough to advise what that amendment entails very briefly?

Mr. MURKOWSKI. Yes, I shall be happy to.

In response to the Senator from Ohio, it is basically an amendment concerning—it is called the native amendment and it strikes section 12 of NEPA from the bill because the Arctic research policy will not be involved in any conflicts with NEPA, will not be doing any of those things. It also adds language citing the importance of the wildlife habitat to the native Alaska residents.

Mr. METZENBAUM. I thank the Senator from Alaska.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 3638) was agreed to.

Mr. BAKER. Mr. President, is there a committee substitute amendment at the desk?

The PRESIDING OFFICER. The Chair understands there is a committee substitute amendment pending.

Mr. BAKER. All right. Are there any further amendments?

Mr. MURKOWSKI. Mr. President, there are no further amendments.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1562) was passed, as follows:

S. 1562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arctic Research and Policy Act of 1982".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the Arctic, onshore and offshore, contains vital energy resources that can reduce our dependence on foreign oil and improve the national balance of payments;

(2) as our only common border with the Soviet Union, the Arctic is critical to national defense;

(3) the renewable resources of the Arctic, specifically fish and other seafood, represent one of the Nation's greatest commercial assets;

(4) Arctic conditions directly affect global weather patterns and must be understood in order to promote better agricultural management throughout the United States;

(5) industrial pollution not originating in the Arctic region collects in the polar air mass, has the potential to disrupt global weather patterns, and must be controlled through international cooperation and consultation;

(6) the Arctic is the only natural laboratory for research into human adaptation, physical and psychological, to climates of extreme cold and isolation and may provide information crucial for future defense needs;

(7) atmospheric conditions peculiar to the Arctic provide a unique testing ground for research into high-latitude communications, which is likely to be crucial for future defense needs;

(8) Arctic marine technology is critical to cost-effective recovery and transportation of energy resources and to the national defense;

(9) most Arctic-rim countries, particularly the Soviet Union, possess Arctic technologies far more advanced than those currently available in the United States;

(10) Federal Arctic research is fragmented, uncoordinated and undercapitalized at the present time;

(11) such fragmentation has led to the neglect of certain areas of research and to unnecessary duplication of effort in other areas of research;

(12) there is an immediate need to formulate a comprehensive national policy to organize and fund currently neglected scientific research with respect to the Arctic;

(13) the Federal Government, in cooperation with State governments, should focus its efforts on the collection and characterization of basic data related to biological and geophysical phenomena in the Arctic, directing special attention to the broad accumulation of data related to sea-ice dynamics; and

(14) research into the long-range environmental and social effects of development in the Arctic is necessary to mitigate the adverse consequences of such development to the land and its residents;

(15) Arctic research has significant value for expanding knowledge of the Arctic which can enhance the lives of Arctic residents, increase opportunities for international cooperation among Arctic-rim countries and foster a national policy for the Arctic; and

(16) the Alaskan Arctic provides essential habitat for marine mammals, migratory waterfowl, and other forms of wildlife which are important to the Nation and which are essential to Arctic residents.

(b) The purposes of this Act are—

(1) to establish an Arctic Science Policy Council and an Arctic Research Commission to promote Arctic research;

(2) to establish a centralized system for the collection and retrieval of scientific data with respect to the Arctic; and

(3) to establish priorities and provide financial support for basic and applied scientific research with respect to the Arctic that is currently being neglected and is essential to our Nation's needs.

ARCTIC SCIENCE POLICY COUNCIL

SEC. 3. (a) There is established a council to be known as the Arctic Science Policy Council (hereafter in this Act referred to as the "Council").

(b) The Council shall be composed of the following members:

(1) A chairperson appointed by the President, with the advice and consent of the Senate.

(2) Two individuals from the State of Alaska who have demonstrated a knowledge and interest in the field of Arctic Research, appointed by the President from a list of individuals submitted by the Governor of the State of Alaska. The President in his or her discretion may request additional names to be submitted.

(3) Two individuals who have demonstrated a knowledge and interest in the field of Arctic Research, appointed by the President from lists submitted by the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, the Secretary of the Department of Energy, the Secretary of State, the Secretary of Transportation (on behalf of the Coast Guard) and the Director of the National Science Foundation. The President in his or her discretion may request additional names to be submitted.

(c) Each member shall have an equal vote on matters decided by the Council.

(d)(1) Except as provided in paragraph 2, the term of office for a member of the Council shall be two years.

(2)(A) Of the members of the Council originally appointed under paragraphs (2) and (3) of subsection (b), one member appointed under paragraph (2) of such subsection, and one member appointed under paragraph (3) of such subsection shall be appointed for a term of one year.

(B) A member may serve after the expiration of his term of office until the President appoints a successor.

(e)(1) A member of the Council not otherwise employed by the United States shall be compensated at a rate equal to the daily equivalent of the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day such member is engaged in the actual performance of his duties as a member of the Council.

(2) A member of the Council who is an officer or employee of the United States or of the State of Alaska shall serve without additional compensation.

(3) All members of the Council shall be reimbursed for travel (in accordance with 5 U.S.C. 5701) and other necessary expenses incurred by them in the performance of their duties as members of the Council.

(4) No member may be compensated for more than ninety days of service each year in performance of his or her duties as a member of the Council.

DUTIES OF COUNCIL

SEC. 4. (a) The Council shall—

(1) facilitate cooperation between the Federal Government and State governments with respect to Arctic research;

(2) coordinate and promote cooperative Arctic scientific research programs with other nations (in consultation with the Secretary of State);

(3) develop and supervise an integrated national Arctic science policy (except with respect to the areas of authority specifically reserved to the Arctic Research Commission under section 7 of this Act);

(4) appoint the members of the Arctic Research Commission; and

(5) cooperate with the Governor of the State of Alaska and with such agencies and organizations of the State as the Governor may designate (including but not limited to the Alaska Council on Science and Technology) with respect to the formulation of Arctic science policy.

(b) Not later than January 31 of each year, the Council shall—

(1) publish a statement of goals and objectives with respect to Arctic research to guide the Arctic Research Commission in the performance of its duties; and

(2) submit to Congress a report describing the activities and accomplishments of the Council during the immediately preceding calendar year.

COOPERATION WITH THE COUNCIL

SEC. 5. (a)(1) The Council may acquire from the head of any Federal agency unclassified data, reports, and other nonproprietary information with respect to Arctic research which the Council considers useful in the discharge of its duties.

(2) Each such agency shall cooperate with the Council and furnish all data, reports, and other information requested by the Council to the extent permitted by law.

(b) The Council may utilize the facilities and services of any Federal agency (with the consent of the appropriate agency head, with or without reimbursement), taking every feasible step to avoid duplication of research and effort.

ARCTIC RESEARCH COMMISSION

SEC. 6. (a) There is established a commission to be known as the Arctic Research Commission (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be appointed by the Arctic Science Policy Council and shall be composed of the following members:

(A) Four members shall be appointed from among individuals with expertise in representative areas of research relating to the Arctic (including, but not limited to, the physical, biological, and social sciences), at least one of whom shall be employed by the University of Alaska.

(B) Two members shall be appointed from among residents of the Arctic who are representative of the needs and interests of Arctic residents and live in areas directly affected by Arctic resource development.

(C) Two members shall be appointed from among individuals familiar with the Arctic and representative of the needs and interests of private industry undertaking resource development in the Arctic.

(D) One member shall be appointed from among individuals familiar with the Arctic and employed by the United States Coast Guard.

(2) Upon the appointment of the members of the Commission pursuant to paragraph (1), the Council shall designate a member of the Commission to be chairperson of the Commission.

(c)(1) Except as provided in paragraph (2), the term of office for a member of the Commission shall be four years.

(2) Of the members of the Commission originally appointed under paragraph (1) of subsection (b)—

(i) two shall be appointed for a term of one year;

(ii) two shall be appointed for a term of two years;

(iii) two shall be appointed for a term of three years; and

(iv) three shall be appointed for a term of four years.

(3) A member may serve after the expiration of his term of office until the Council appoints a successor.

(d)(1) A member of the Commission not otherwise employed by the United States shall be compensated at a rate equal to the daily equivalent of the rate for GS-16 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of his duties as a member of the Commission.

(2) A member of the Commission who is an officer or employee of the United States or the State of Alaska shall serve without additional compensation.

(3) All members of the Commission shall be reimbursed for travel (in accordance with section 5701 of title 5, United States Code) and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(4) No member may be compensated for more than one hundred and eighty days of service each year in performance of his or her duties as a member of the Commission.

DUTIES OF COMMISSION

SEC. 7. (a) The Commission shall—

(1) survey Arctic research conducted by Federal and State agencies, the University of Alaska and other universities, and other private and public institutions to determine priorities for future Arctic research, and make recommendations thereon to the Council and other interested parties;

(2) establish a data collection and retrieval center for Arctic research (which shall be

located in the State of Alaska) and promulgate guidelines for the use and dissemination of Arctic research information;

(3) make grants for such Arctic research as the Commission deems necessary and desirable to further the goals and objectives published annually by the Council pursuant to section 4(b)(1), with special consideration being given to studies in neglected areas of Arctic research; and

(4) consult the Council with respect to—

(A) all proposed, ongoing, and completed research programs and studies funded by the Commission,

(B) recommendations proposed by the Commission with respect to future Arctic research, and

(C) guidelines for awarding and administering Arctic research grants.

(b)(1)(A) Not later than December 31 of each year, the Commission shall transmit to the Council a report describing the activities and accomplishments of the Commission during the immediately preceding calendar year and making recommendations with respect to future Arctic research policy.

(B) Such report shall be available for public inspection at reasonable times.

(2) Not later than March 31, 1983, the Commission shall submit to Congress and to the Legislature of the State of Alaska a report making recommendations with respect to the continued operation of Government-operated laboratory facilities conducting Arctic research, taking into account the efficiency and effectiveness of such facilities and the degree to which the operation of such facilities would result in the duplication of research and effort.

(c) The Commission shall cooperate with the Governor of the State of Alaska, and with such agencies as the Governor may designate (including but not limited to the Alaska Council on Science and Technology) with respect to—

(1) the recommendations proposed by the Commission pursuant to section 7(a)(4)(B);

(2) the planning, funding, and logistical support of Arctic research; and

(3) the storage, transfer, and dissemination of Arctic scientific and technological knowledge and data.

ADMINISTRATION OF THE COMMISSION

SEC. 8. The Commission may—

(1) in accordance with civil service laws and subchapter III of chapter 53 of title 5, United States Code appoint and fix the compensation of an Executive Director and such additional staff personnel as may be necessary;

(2) procure temporary and intermittent services as authorized by section 3109 of title 5, United States Code;

(3) enter into contracts and procure supplies, services, and property; and

(4) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Commission and the Administrator of the General Services Administration.

STATE ELECTION

SEC. 9. (a) The State of Alaska may elect to participate or not to participate in the activities of the Council and the Commission.

(b) Failure of the State of Alaska to contribute to the Arctic Research Fund (established by section 10 of this Act) for a fiscal year an amount equal to one-quarter of the amount appropriated to such Fund by the United States for the previous fiscal year shall constitute an election by such State not to participate in the Council and the Commission.

(c) Upon an election by the State of Alaska not to participate in the Council and the Commission pursuant to subsection (b)—

(1) appointments to such Council or Commission which are required to be made from among individuals—

(i) employed by the State of Alaska, or

(ii) nominated by the Governor of the State of Alaska

shall be vacated; and

(2) an appointment to fill a vacancy created by such election shall be made in such manner and from among such individuals as other appointments to such Council or Commission are required to be made (as determined by the chairperson of the Council or Commission).

(d) An election by the State of Alaska not to participate in the Council and the Commission pursuant to subsection (b) shall not affect the powers or duties of those bodies.

(e) Should the State of Alaska wish to reinstate its participation following an election not to participate, it may do so by meeting the funding requirement for the year in which reinstatement is sought.

ARCTIC RESEARCH FUND

SEC. 10. (a) There is hereby created a trust fund to be known as the Arctic Research Fund (hereafter in this Act referred to as the "Fund"), to be available for the support of the activities of the Arctic Science Policy Council and the Arctic Research Commission.

(b) Such Fund shall consist of—

(1) amounts appropriated to such Fund;

(2) amounts contributed to such Fund by the State of Alaska;

(3) amounts contributed by private individuals and organizations.

(c) Amounts in the Fund shall be available, until expended, for the purposes of this Act, to the extent and in such amounts as are provided for in advance in appropriation Acts.

(d)(1) There is authorized to be appropriated for the Arctic Research Fund for the fiscal year beginning October 1, 1983, and for each succeeding year thereafter, $25,000,000.

(2) In determining the amount contributed to such Fund by the State of Alaska for a fiscal year—

(A) the fair market value (as determined by the Council in good faith) of all facilities, services, materials, and other support contributed to the Fund by the State of Alaska during such fiscal year, and

(B) all amounts contributed by private individuals and organizations,

shall be taken into account.

DEFINITION

SEC. 11. The term "Arctic" shall mean all United States and foreign territory north of the Arctic Circle and all United States territory north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim Rivers; all contiguous seas, including the Arctic Ocean and the Beaufort, Bering, and Chukchi Seas; and the Aleutian chain.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I thank the majority leader and I thank the Senator from Ohio.

Mr. BAKER. I thank the Senator from Alaska and the Senator from Ohio for their cooperation.

JUDICIAL DISTRICT MODIFICATION

Mr. BAKER. Mr. President, next on my list is a proposal to discharge the Judiciary Committee from further consideration of S. 3081 and to proceed to its immediate consideration, if the minority leader is agreeable.

Mr. ROBERT C. BYRD. Yes.

Mr. President, on yesterday the Senate—in acting on H.R. 4481, which was discharged from further consideration of the Judiciary—adopted an amendment which was offered by me and Mr. RANDOLPH modifying the judicial districts of West Virginia.

That action was approved, as I stated.

The bill to which the distinguished majority leader has just referred was introduced by me on behalf of myself and Mr. RANDOLPH on December 7, and referred to the Committee on the Judiciary.

The bill does precisely what the amendment on yesterday did, namely, it transferred certain counties to the southern district and certain counties of West Virginia were shifted to the northern district.

The "swing" judges designation will be eliminated and the change would not cost the Federal Government any additonal money.

The southern district would be reduced from 4½ to 4 judges and the northern district increased from 1½ to 2 judges.

The bill that I introduced, as well as the amendment which I introduced yesterday, both of which were on behalf of myself and my senior colleague, Mr. RANDOLPH, is supported by the Federal district court judges in the State, supported by the circuit counsel for the fourth Judicial Circuit, and was initiated by Chief Judge Charles A. Moye, Jr., chairman of the Subcommittee on Judicial Statistics of the Committee on Court Administration of the Judicial Conference.

The bill will alleviate the difficult situation that exists in my State.

We are calling up the bill at this time so that we will have a double shot at this matter. It is important to the State of West Virginia. As I say it does not affect any other State.

But the amendment of yesterday and the bill that we are now about to call up would accomplish the same purposes, and we just elected to go two different routes to achieve the same objective.

So there is no objection on this side, and I appreciate the majority leader's

courtesy and kindness in calling up this bill at this time.

Mr. BAKER. Mr. President, I thank the minority leader, and I can assure him I share with him his objectives and I am pleased then to ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 3081, the West Virginia Federal Judiciary Improvement Act, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3081) to modify the judicial districts of West Virginia, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I call attention to the fact that my senior colleague is here in the Chamber with me, and he, of course, can very ably speak for himself, but we join in urging the Senate to adopt this measure.

Mr. RANDOLPH. Mr. President, I fully concur in what the able Senator, the minority leader of the Senate, Mr. ROBERT C. BYRD, has said in reference to the action taken yesterday and now almost a reaffirmation in another degree with the bill pending for the shifting of counties, the better administration of justice in the State of West Virginia. I am also very appreciative to the majority leader, Mr. Baker, for cooperating promptly with the minority leader, Mr. BYRD, and myself, and I wish to restate that this legislation costing no funds of the Federal Government will bring to the State of West Virginia in the northern and southern districts better process of litigation and service to the public in matters that come before the courts.

I thank Senator BAKER and, of course, Senator ROBERT C. BYRD.

Mr. BAKER. Mr. President, I thank the distinguished senior Senator from West Virginia.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 129 of title 28, United States Code, is amended—

(1) in subsection (a) by—

(A) striking out ", Wirt, and Wood";

(B) inserting "Braxton," after "Berkeley,";

(C) inserting "Pocahontas" after "Pleasants,"; and

(D) inserting "Webster, and" after "Upshur"; and

(2) in subsection (b) by—

(A) striking out "Braxton,", "Pocahontas," and "Webster,"; and

(B) inserting "Wirt, Wood," after "Wayne,".

SEC. 2. (a) The existing district judgeship for the Southern District of West Virginia, authorized by section 2 of the Act entitled "An Act to provide for the appointment of additional district and circuit judges and for other purposes", approved October 29, 1978, (92 Stat. 1632; 28 U.S.C. 133 note) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28 of the United States Code as a district judgeship for the Northern District of West Virginia, and the incumbent of that office shall henceforth hold office under section 133, as amended by this Act.

(b) The existing district judgeship for the Northern and Southern Districts of West Virginia shall be authorized as the district judgeship for the Southern District.

SEC. 3. The table in section 133 of title 28, United States Code, is amended by striking out the following:

"West Virginia:
"Northern 1
"Southern 3
"Northern and Southern ..... 1",

and inserting in lieu thereof the following:

"West Virginia:
"Northern 2
"Southern ..... 4".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, on my calendar is another item that is cleared for consideration at this time. I refer to H.R. 2329, Calendar Order 980, and I will inquire of the minority leader whether he is prepared to proceed to that.

Mr. ROBERT C. BYRD. Mr. President, this side is prepared to proceed.

Mr. BAKER. I thank the Senator.

GRANTING CERTAIN COURTS JURISDICTION IN INDIAN CLAIMS CASES

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate H.R. 2329, a bill conferring jurisdiction on certain courts of the United States.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2329) conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma.

The Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, do I understand the Senator from Oklahoma wishes to be heard on this subject?

Mr. NICKLES. Mr. President, I wish to thank the majority leader and also Senator THURMOND for the expeditious way in moving this bill, which we think is important and has been long introduced. So we thank the Senator for his assistance.

Mr. President, I am very pleased that this bill is before the Senate for consideration today. This legislation should bring about a solution to a longstanding impasse by allowing the Cherokee, Choctaw, and Chickasaw Nations to bring claims against the U.S. Government in two specific cases.

In 1969, the U.S. Supreme Court held that these three tribes owned certain portions of the Arkansas Riverbed. Beginning in 1973, Congress appropriated funds for 3 years to determine the value of the mineral reserves in the Arkansas River. After many years of attempts to reach a decision concerning certain claims, it became obvious that legislation to waive the statute of limitations was the only way to reach a settlement. My fellow Oklahoman, Mr. BOREN, and I introduced legislation to accomplish these objectives last year.

Mr. President, the reason this legislation has reached the floor of the Senate during the 97th Congress is the diligent effort on the part of the Judiciary Committee, both members and staff. I particularly want to express my appreciation to the chairman, Mr. THURMOND, and the subcommittee chairman, Mr. GRASSLEY.

Mr. BOREN. Mr. President, I am very pleased with the action by the Senate today in approving H.R. 2329. I especially want to recognize the contribution of Mr. Ross Swimmer, chief of the Cherokee Nation of Oklahoma, in bringing about passage of this important legislation. Through his dedicated efforts, the Cherokee Nation will now have the opportunity to adjudicate a longstanding claim in a court of law.

I also want to express my appreciation to the distinguished chairman of the Judiciary Committee, Senator THURMOND, for his cooperation and assistance in expediting committee consideration on this legislation. He has been extremely helpful in bringing about prompt Senate action on the bill.

Mr. President, I am pleased to have played a part in providing the Cherokee Nation the opportunity to gain access to the courts in order to have these claims adjudicated.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill (H.R. 2329) was ordered to be read a third time, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, the only remaining items have in my folder, I will say to the minority leader, are certain nominations, and I would especially invite his attention to those nominees appearing on page 3 beginning with the Judiciary and continuing through page 4, with the exception of one nominee, which is Calendar Order No. 1071 on page 4, all of the nominations on page 5, page 6, page 7, page 8, page 9, page 10 which are nominations placed on the Secretary's desk in the Coast Guard.

Could I inquire of the minority leader if he is prepared to proceed to the consideration of all or any of those nominations?

Mr. ROBERT C. BYRD. This side of the aisle is prepared to proceed to the nominations beginning on page 3, continuing through page 4 and the Department of Justice on page 4; Department of Justice on page 5; Copyright Royalty Tribunal, Department of Education, Public Health Service, and Department of State on page 6 and Department of State on page 7, excepting Calendar Order No. 1089; the minority is prepared to proceed with the Inter-American Foundation on page 7; International Banks, U.S. Advisory Commission on Public Diplomacy, U.S. International Development Cooperation Agency, U.S. Information Agency; page 9 Department of the Treasury, excepting Calendar Order 1096 on page 9; and prepared to proceed with the balance of page 9, and page 10, nominations placed on the Secretary's desk in the Coast Guard.

EXECUTIVE SESSION

Mr. BAKER. Very well, Mr. President. I am grateful to the minority leader. Let me put this request: Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the following nominations: All of the nominations under the judiciary on page 3 of today's calendar being orders No. 1060, 1061, 1062, 1063; continuing under the judiciary on page 4 Nos. 1064, 1065, 1066, 1067; those under Department of Justice, being 1068, 1069, 1070; those under Department of Justice on page 5, being 1072 through 1079; those on page 6 under Copyright Royalty Tribunal 1080; Department of Education being 1081 and 1082; Public Health Service 1083; Department of State 1084; all of the nominations on page 7, with the exception of Calendar Order 1089; all of the nominations on page 8, being orders 1091 through 1094; the nominations on page 9, with the exception of order 1096; and all of the nominations placed on the Secretary's desk in the Coast Guard.

Before the Chair rules, may I inquire of the minority leader if that accords with the comparison of my list with his list?

Mr. ROBERT C. BYRD. The majority leader's statement is in conformity with the list I have.

Mr. BAKER. I thank the minority leader. The request is put that we go into executive session for the purpose of considering those nominations.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations just identified be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none and, without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Paul E. Plunkett, of Illinois, to the U.S. district judge for the northern district of Illinois vice James B. Parsons, retired.

John W. Bissell, of New Jersey, to be U.S. district judge for the district of New Jersey vice Vincent P. Biunno, retired.

Frank X. Altimari, of New York, to be U.S. district judge for the eastern district of New York vice Edward R. Neaher, retired.

Frank W. Bullock, Jr., of North Carolina, to be U.S. district judge for the middle district of North Carolina vice Eugene A. Gordon, retired.

Lawrence S. Margolis, of Maryland, to be a judge of the U.S. Claims Court for a term of 15 years vice a new position created by Public Law 97-164.

Haldane Robert Mayer, of Virginia, to be a judge of the U.S. Claims Court for a term of 15 years vice a new position created by Public Law 97-164.

Reginald W. Gibson, of Illinois, to be a judge of the U.S. Claims Court for a term of 15 years vice a new position created by Public Law 97-164.

Christine Cook Nettesheim, of the District of Columbia, to be a judge of the U.S. Claims Court for a term of 15 years vice David Schwartz, retired.

DEPARTMENT OF JUSTICE

Anthony Bertoni, of Michigan to be U.S. Marshal for the eastern district of Michigan for the term of 4 years (reappointment).

Edward M. Camacho, of Guam, presently U.S. Marshal for the district of Guam to be also U.S. Marshal for the district of the Northern Mariana Islands for a term expiring September 14, 1986, vice Juan G. Blas.

Romolo J. Imundi, of New York, to be U.S. Marshal for the southern district of New York for the term of 4 years vice George V. Grant, term expired.

Matthew Chabal, Jr., of Pennsylvania, to be U.S. Marshal for the middle district of Pennsylvania for the term of 4 years, vice John L. Buck, term expired.

Peter K. Nunez, of California, to be U.S. attorney for the southern district of California vice William H. Kennedy.

Dwight G. Williams, of Mississippi, to be U.S. Marshal for the northern district of Mississippi for the term of 4 years vice H. Brooks Phillips, term expired.

Charles E. Healey, of New York, to be U.S. Marshal for the eastern district of New York for the term of 4 years vice Louis J. Soscia, term expired.

Daniel B. Wright, of New York, to be U.S. Marshal for the western district of New York for the term of 4 years vice Joseph I. St. George, term expired.

James K. Stewart, of California, to be Director of the National Institute of Justice (new position).

Victor M. F. Reyes, of Texas, to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice Richard T. Mulcrone, resigned.

J. Raymond Bell, of the District of Columbia, to be Chairman of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1985 (reappointment).

COPYRIGHT ROYALTY TRIBUNAL

Katherine D. Ortega, of New Mexico, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1982, vice Francis Garcia, term expired.

DEPARTMENT OF EDUCATION

Caroline H. Hume, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 1985, vice Dorothy Graham-Wheeler, to which position she was appointed during the last recess of the Senate.

Liles B. Williams, of Mississippi, to be a Member of the National Museum Services Board for a term expiring December 6, 1985, vice John Connell.

PUBLIC HEALTH SERVICE

The following candidate for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

For appointment:

To be Senior Surgeon:

William E. Mayer.

DEPARTMENT OF STATE

Edward Lionel Peck, of California, a Career Member of the Senior Foreign Service, class of Minister—Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Lev E. Dobriansky, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to The Commonwealth of The Bahamas.

Samuel Friedlander Hart, of Virginia, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ecuador.

Jerome W. Van Gorkom, of Illinois, to be Under Secretary of State for Management, vice Richard T. Kennedy.

John Herbert Holdridge, of Maryland, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

INTER-AMERICAN FOUNDATION

Victor Blanco, of California, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1988, vice Peter Taylor Jones, term expired.

INTERNATIONAL BANKS

W. Allen Wallis, of New York, to be U.S. Alternate Governor of the International

Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years; U.S. Alternate Governor of the Asian Development Bank; and U.S. Alternate Governor of the African Development Fund, vice Myer Rashish, resigned.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

E. Robert Wallach, of California, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1985, vice Lewis Manilow, term expired.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

William G. Simpson, of Illinois, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1984, vice William M. Landau, term expired.

U.S. INFORMATION AGENCY

Kenneth Y. Tomlinson, of New York, to be an Associate Director of the U.S. Information Agency, vice Robert John Hughes.

DEPARTMENT OF THE TREASURY

Manuel H. Johnson, Jr., of Virginia, to be an Assistant Secretary of the Treasury, vice Paul Craig Roberts, resigned, to which position he was appointed during the last recess of the Senate.

EXECUTIVE OFFICE OF THE PRESIDENT

William Poole VII, of Rhode Island, to be a Member of the Council of Economic Advisers, vice Jerry L. Jordan, resigned.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning Philip M. Lebet, and ending Kent D. Morris, which nominations were received by the Senate on October 20, 1982, and appeared in the CONGRESSIONAL RECORD of November 29, 1982.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF MANUEL H. JOHNSON TO BE ASSISTANT SECRETARY OF THE TREASURY FOR ECONOMIC POLICY

Mr. DOLE. Mr. President, the Finance Committee today voted unanimously to report favorably the nomination of Manuel H. Johnson to be Assistant Secretary of the Treasury for Economic Policy. Dr. Johnson is extremely well qualified for this position, having served for the past year as Acting Assistant Secretary for Economic Policy and, prior to that, as Deputy Assistant Secretary. Thus he brings considerable experience to the position, having participated in the development of the administration's economic program since early 1981.

As Assistant Secretary for Economic Policy, Dr. Johnson's primary duty is to provide economic counsel to the Treasury Secretary and other administration officials, and to assist the Secretary in formulating appropriate economic policies. He certainly is qualified to do this. Dr. Johnson received the Ph. D. in economics from Florida State University in 1977. Prior to coming to the Treasury Department, he was a professor of economics at George Mason University. While there, he authorized some 5 books and over 30 articles in professional journals. He also was cofounder of the Journal of Labor Research. He is not an ivory-tower theorist; however, most of his research is very pragmatic and policy oriented. He also consulted for such policy think-tanks as the American Enterprise Institute and the Heritage Foundation. In addition, he appeared often before congressional committees, presenting testimony on small business problems. Dr. Johnson's prolific output has earned him the respect of his economist colleagues as one of the most prominent young economists in the Nation.

Mr. President, these are challenging economic times. It is vital that the administration attract the best talent from the economics profession. Dr. Johnson is a respected scholar, and an experienced member of the administration. The Finance Committee recommends that the full Senate approve the nomination of Manuel H. Johnson to be Assistant Secretary for Economic Policy.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I wish to express my gratitude to the minority leader in particular and to all Senators for permitting us to transact this considerable amount of business before the Senate. I wish to express my gratitude particularly to the Senator from New Hampshire and the Senator from Oklahoma for permitting us to interrupt the debate in order to accomplish this purpose.

Mr. President, I yield the floor.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Mr. HUMPHREY. Mr. President, I wish to announce while there are a number of Senators on the floor, I think it is time we put this motion so that we can obtain a sufficient second. My colleague from Oklahoma is prepared to make the motion, and I ask unanimous consent to do that.

Mr. BAKER. What was the request?

Mr. HUMPHREY. I was suggesting that now might be a good time to put the motion which we have already discussed so as to obtain a sufficient second.

Mr. BAKER. Mr. President, if the Senator will permit me, it is a little after 3 o'clock and I think all Senators are on notice that there is going to be a rollcall vote at about this time, and I agree with the Senator it would be a good time.

The Senator from New Hampshire and the Senator from Oklahoma have been very thoughtful in giving us notice of the time they intend to make that motion.

Mr. HUMPHREY. I yield the floor at this point.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to my senior colleague from West Virginia so that he may make a request?

Mr. RANDOLPH. Mr. President, will the Senator from New Hampshire yield to me for approximately, say, 2 minutes?

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I may yield to the Senator from West Virginia without losing my right to the floor and without having my speech counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL-AID HIGHWAY LEGISLATION

Mr. RANDOLPH. Mr. President, the Federal-Aid Highway Improvement Act of 1982 is legislation which is very important to the future of this Nation. Over the past decade, the highway network of this country, which has been constructed under the format of the Federal-aid highway program since 1956, has begun to deteriorate badly. Many segments of our primary and secondary roads are in terrible shape, and portions of the Interstate System which were constructed in the early days of the Federal-aid program following its enactment in 1956 are in such poor condition that they do not meet the serviceability requirements for which they were designed.

The legislation on which we are debating the motion to proceed today makes a serious effort to begin to rectify these important problems. The 5-cent increase in the Federal gasoline tax, the first since 1959, will provide an additional $4.4 billion in revenue to the highway trust fund. This substantial increase in funding will give us a highway program which can target its resources to meet the decay in our highway transportation network.

The bill, S. 3043, which was reported by the Committee on Environment and Public Works on December 8, authorizes $12.2 billion for fiscal year 1983 and nearly $70 billion over the 5 years of the legislation for completion of our Interstate System, rehabilitation and reconstruction of those interstate segments which have deteriorat-

ed, and substantial moneys for the primary, secondary, and urban systems to bring them back up to standard. No highway bill would be complete without a discussion of our growing bridge problem in this country. This legislation nearly doubles the authorization in the first year for the bridge rehabilitation and replacement program. These funds will be spent on projects to replace or rehabilitate structurally obsolete bridges. Mr. President, there are many other important changes made to the highway program in title 1: Highway Authorization Provision, and I commend them to my colleagues in the Senate.

This legislation is extremely important, and I would hope that the Senate can act in an expeditious manner to bring forth these important changes to allow the States to fund highway projects in fiscal year 1983. Another important aspect of this legislation is the jobs creation potential, with unemployment at its extremely high levels of today. Over 320,000 direct and indirect jobs can be created early next year if this legislation is adopted expeditiously. Mr. President, I urge those who are debating this motion to proceed to weigh carefully their actions. This legislation, including the gas tax increase, is highly important to the economic well-being of this Nation.

CLOTURE MOTION

Mr. President, I ask unanimous consent that my name be included as one of the signatories to the cloture motion filed at the desk on the motion to proceed to the consideration of H.R. 6211, the Federal Highway Improvement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cloture motion is as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 6211, the Surface Transportation Assistance Act of 1982.

Howard Baker, Jake Garn, Alphonse D'Amato, Nicholas Brady, Bob Dole, Dan Quayle, S. I. Hayakawa, Robert Stafford, Ted Stevens, Mark Andrews, Strom Thurmond, David Durenberger, Warren B. Rudman, John H. Chafee, Pete Domenici, John Heinz, and Jennings Randolph.

Mr. RANDOLPH. Mr. President, again, I thank my friend from New Hampshire.

Mr. HUMPHREY. Mr. President, the Senator from West Virginia is more than welcome.

At this point, Mr. President, I relinquish the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I move to postpone consideration of the pending motion until January 2, 1983, and ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I move to table the motion of the distinguished junior Senator from Oklahoma and I ask the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER) to table the motion of the Senator from Oklahoma (Mr. NICKLES) to postpone consideration of the pending motion until January 2, 1983. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mrs. HAWKINS), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arizona (Mr. DECONCINI), the Senator from Ohio (Mr. GLENN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 79, nays 10, as follows:

[Rollcall Vote No. 400 Leg.]

YEAS—79

Abdnor	Ford	Moynihan
Andrews	Garn	Murkowski
Armstrong	Gorton	Nunn
Baker	Grassley	Packwood
Baucus	Hart	Pell
Boschwitz	Hatfield	Percy
Bradley	Hayakawa	Pressler
Brady	Heflin	Pryor
Bumpers	Heinz	Quayle
Burdick	Hollings	Randolph
Byrd, Harry F., Jr.	Huddleston	Riegle
Byrd, Robert C.	Inouye	Roth
Cannon	Jackson	Rudman
Chafee	Jepsen	Sarbanes
Chiles	Kassebaum	Sasser
Cochran	Kasten	Schmitt
Cohen	Kennedy	Simpson
Cranston	Laxalt	Specter
D'Amato	Leahy	Stafford
Denton	Long	Stennis
Dixon	Lugar	Stevens
Dodd	Mathias	Symms
Dole	Mattingly	Thurmond
Domenici	McClure	Tower
Durenberger	Melcher	Warner
Eagleton	Metzenbaum	Weicker
	Mitchell	

NAYS—10

Boren	Helms	Proxmire
East	Humphrey	Zorinsky
Exon	Levin	
Hatch	Nickles	

NOT VOTING—11

Bentsen	Glenn	Matsunaga
Biden	Goldwater	Tsongas
Danforth	Hawkins	Wallop
DeConcini	Johnston	

So the motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which motion to table was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past 4 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGHWAY REVENUE ACT OF 1982—H.R. 6211

Mr. DOLE. Mr. President, this is an explanation of the Highway Revenue Act of 1982, the committee amendment approved by the Senate Committee on Finance that it intends to offer as a substitute for H.R. 6211, the Surface Transportation Assistance Act of 1982, as passed by the House of Representatives on December 6, 1982. The Finance Committee considered and approved the committee amendment on December 8, 1982.

The first part of the statement is a summary of the committee amendment. The second part discusses the general reasons for the committee amendment. This is followed in the third part by a detailed explanation of the committee amendment, including present law, reasons for change, explanation of the provisions, effective dates, and the estimated revenue effect of the provisions. Finally part 4 presents tables showing the estimated revenue effects of the committee amendment for fiscal years 1983-88.

The statement follows:

H.R. 6211

I. SUMMARY OF THE COMMITTEE AMENDMENT

Under present law, the Highway Trust Fund generally will expire after September 30, 1984. The Finance Committee amendment, the Highway Revenue Act of 1982, extends the Highway Trust Fund through September 30, 1989, provides revenue sources for it, and establishes a new transit account in the Trust Fund.

Under present law, the highway excise taxes that provide the revenues for the trust fund generally expire or revert to lower rates after September 30, 1984. The committee amendment increases the annual revenues into the trust fund by extending

some of the taxes at higher levels through September 30, 1989, and repeals or modifies other provisions. In providing these tax changes and extensions for the Highway Trust Fund, the committee changed the distribution of the tax burden of highway users by shifting a larger share to the heaviest trucks on the highways and reducing the share paid by lighter trucks. These shifts of burden are generally consistent with the highway cost allocation study submitted to Congress by the Department of Transportation in May 1982.

The increases in estimated Highway Trust Fund receipts over present law are $2.2 billion in fiscal year 1983, $5.3 billion in 1984, $9.6 billion in 1985, $9.9 billion in 1986, $10.1 billion in 1987, and $10.4 billion in 1988.

In addition, trust fund receipts will be increased above the levels of a simple continuation of the present law taxes by $2.2 billion in fiscal year 1983, $5.3 billion in 1984, $5.4 billion in 1985, $5.5 billion in 1986, $5.6 billion in 1987, and $5.7 billion in 1988.

Total Highway Trust Fund tax revenues are estimated at $8.6 billion in fiscal year 1983, $12.2 billion in 1984, $12.6 billion in 1985, $13.0 billion in 1986, $13.4 billion in 1987, and $13.8 billion in 1988.

Tables 2, 3 and 4 in section IV, below, show revenue estimates of the taxes affected by the committee amendment for fiscal years 1983-1988.

The specific tax and trust fund changes contained in the Finance Committee amendment are summarized below. Table 1 contains a summary comparison of the tax provisions in present law and in the committee amendment.

TAX PROVISIONS

Motor fuels taxes.—The excise taxes on gasoline, diesel and special motor fuels used in highway vehicles currently are 4 cents a gallon; fuel used in recreational motorboats also is taxed at 4 cents a gallon. These taxes are scheduled to decline to 1½ cents a gallon after September 30, 1984.

The committee amendment increases the motorfuels excise tax rates to 9 cents a gallon, beginning on April 1, 1983, through September 30, 1989. Complete exemptions from the 9 cents a gallon tax are provided for State and local governments, nonprofit educational institutions, farm use, school buses, local transit buses, intercity buses, off-highway business use, gasohol and 85 percent or more alcohol fuels (other than those derived from petroleum and natural gas). Exemption from the present law 4 cents a gallon excise tax is continued for qualified taxicab (through fiscal year 1984). The definition of qualified taxicab is expanded to permit certain taxicabs which can offer ride sharing under company policy, but are barred from such action by local law, to claim the fuels tax exemptions for one year, January 1 through December 31, 1983. An additional exemption, at the 9 cents rate, is created for certain vanpool vehicles. Ground applicators of fertilizers and other substances are made eligible for refunds of fuels taxes, under the farm use exemption, under the same terms as are aerial applicators. The time for payment of the gasoline tax is extended by 6 days for certain oil jobbers, if payment is made by electronic wire transfer to an authorized government depository.

All the motor fuels taxes and the exemptions from these taxes will terminate after September 30, 1989. Revenue from the 9 cents a gallon tax on recreational motorboat fuel is transferred to the Land and Water Conservation Fund, and $45 million per year up to an accumulated balance of $45 million (instead of $20 million as in present law) is the maximum amount that may be transferred to the National Recreational Boating Safety and Facilities Improvement Fund, which is extended through fiscal year 1989.

Tires, tubes and tread rubber.—These items presently are subject to a manufacturers excise tax that is levied on a per pound basis: highway tires at 9.75 cents, other tires at 4.875 cents, laminated tires at 1 cent, inner tubes at 10 cents, and tread rubber at 5 cents. After September 30, 1984, the tax on highway tires is scheduled to fall to the same 4.875 cents rate applied to other tires. The tax on inner tubes is scheduled to decline to 9 cents, and the tax on tread rubber is scheduled to expire.

Under the committee amendment, the taxes on laminated tires and all nonhighway tires are repealed. The tax on highway tires is imposed at a graduated scale depending on tire weight: 9.75 cents per pound for the first 50 pounds; 15 cents per pound for the next 50 pounds; and 25 cents per pound for each pound in excess of 100. Tread rubber is taxed as follows: 5 cents per pound for tires under 50 pounds; 8 cents per pound for tires between 50 and 100 pounds; and 16 cents per pound for tires over 100 pounds. The present tax on inner tubes is retained.

The changes in these excise taxes are effective on April 1, 1983, and the taxes will expire on October 1, 1989.

Lubricating oil.—Lubricating oil presently is taxed at 6 cents a gallon. The committee amendment retains this tax and expands it to synthetic lubricating oils, effective April 1, 1983.

Trucks and truck parts.—Truck parts and accessories are taxed at 8 percent of the manufacturers sale price under present law. Trucks and truck trailers weighing more than 10,000 pounds are taxed at 10 percent of the manufacturer's sale price. These taxes are scheduled to decline to 5 percent after September 30, 1984.

Under the committee amendment, the tax on new trucks and trailers is increased to 12 percent. In addition, this tax will be imposed at the retail level on the retail price, rather than at the manufacturers level. The weight threshold for this tax is increased from 10,000 pounds to 33,000 pounds for trucks and to 26,000 pounds for trailers. Rail trailers and vans are exempted from the tax. In addition, the tax on truck parts and accessories is increased to 12 percent and is retained at the manufacturers level, but only for parts for trucks and trailers over 33,000 pounds.

The increase in the weight thresholds for the exemptions from the taxes on trucks and truck parts are effective on the day after the date of enactment. The shift of the truck tax to the retail level and the rate increase from 10 percent to 12 percent are effective April 1, 1983, as is the increase in the tax on parts from 8 percent to 12 percent.

Heavy vehicle use tax.—The tax on heavy vehicles in present law is $3 per thousand pounds for trucks weighing more than 26,000 pounds. In its place, the committee amendment provides a graduated tax that begins at 33,000 pounds. Trucks below that weight level will pay no tax. At 33,000 pounds, trucks will pay $80, and heavier trucks will pay an additional $10 for each added 1,000 pounds up to 55,000 pounds. Trucks weighing between 55,000 pounds and 80,000 pounds will pay $300 plus $52 for each 1,000 pounds over 55,000 pounds up to $1,600, which is the maximum annual use tax on heavy trucks. The new schedule is phased-in, with one-third of the tax change effective on January 1, 1984, two-thirds on July 1, 1984, and the permanent rate schedule effective on July 1, 1985.

In addition, an exemption (or refund) will be provided for trucks that travel on highways 5,000 miles or less in a taxable period, effective on January 1, 1984.

Sunset of taxes.—All the highway user excise taxes, as well as most exemptions from the taxes, expire after September 30, 1989.

Motor carrier operating rights.—The committee amendment provides that the basis adjustments applicable under the Economic Recovery Tax Act of 1981 to corporate taxpayers acquiring certain motor carrier operating authorities shall also apply to noncorporate taxpayers acquiring such rights.

Trust fund and transit account

Highway Trust Fund.—Under the committee amendment, the Highway Trust Fund is extended through September 30, 1989. The taxes that will be deposited into the Trust Fund, and the authority to spend from the Trust Fund, will expire after September 30, 1989, except for certain statutory transfers allowed through June 30, 1990.

Mass Transit Account.—One cent a gallon of the fuels taxes is to be deposited in a new separate Mass Transit Account in the Highway Trust Fund. These deposits may be used only for mass transit capital programs, including new projects, that are authorized in section 22 of the Urban Mass Transportation Act.

TABLE 1.—COMPARISON OF CURRENT HIGHWAY USER EXCISE TAXES AND THOSE APPROVED BY THE COMMITTEE ON FINANCE

Tax	Present law (before Oct. 1, 1984)	Finance Committee approved rates
A. Fuels:		Effective Apr. 1, 1983:
Gasoline	4 cents per gallon	9 cents per gallon.
Diesel fuel	do	Do.
Special motor fuels	do	Do.
B. Lubricating oil	6 cents per gallon	6 cents per gallon.
C. Truck and truck parts:		
Trucks and trailers.	10 percent of manufacturers sale price for trucks and trailers over 10,000 lb.	12 percent of retail sales price for trucks over 33,000 lb and trailers over 26,000 lb.[1]
Parts and accessories.	8 percent of manufacturers sale price for trucks and trailers over 10,000 lb.	12 percent of manufacturers sale price of trucks and trailers over 33,000 lb.[1]
D. Tires, tubes, and tread rubber:		Effective Apr. 1, 1984:
Tires for highway vehicles.	9.75 cents per pound on all highway tires.	9.75 cents per pound for first 50 lb, 15 cents per pound for next 50 lb, 25 cents for each pound over 100 lb.
Laminated tires	1 cent per pound	Repeal.
Other tires	4.875 cents per pound	Do.
Inner tubes	10 cents per pound	10 cents per pound.
Tread rubber	5 cents per pound for tires of all weights.	5 cents per pound for use on tires below 50 lb, 8 cents per pound for tires between 50 and 100 lb, 16 cents per pound for tires over 100 lb.
E. Use tax on heavy vehicles.	$3 per 1,000 lb per year, if more than 26,000 lb.	0 to 33,000 lb: no tax. 33,000 to 55,000 lb: $80 plus $10 per 1,000 lb in excess of 33,000 lb. 55,000 to 80,000 lb: $300 plus $52 per 1,000 lb in excess of 55,000 lb.[2] Over 80,000 lb: $1,600.

[1] The increase in the weight thresholds for the exemptions for trucks and trailers is effective on the day after the date of enactment. The increase in the rate to 12 percent and the shift to the retail level for collection of the truck tax are effective Apr. 1, 1983.

[2] Phased in between Jan. 1, 1984, and July 1, 1985.

II. General Reasons for the Committee Amendment

The committee believes that extensive improvements are required in the nation's highways, bridges and mass transit systems, and that Highway Trust Fund revenues under the current tax structure are inadequate to finance them. This inadequacy is due in part to the fact that the purchasing power of trust fund revenues has been reduced by inflation, because many highway user taxes do not automatically rise with prices and the tax rates have not been adjusted for several years. The motor fuels tax, which has been fixed at 4 cents per gallon since 1959, is an example. The committee has determined that the highway user taxes should be raised sufficiently to pay for the additional expenditures that are so much needed. In addition, it believes that the Highway Trust Fund should be extended for five additional years.

Allocating highway costs to users

The committee agrees with the general principle that highway users should pay highway user taxes in proportion to the costs that result from their use. On this point, the committee recognizes the broad conclusions of the cost allocation study undertaken by the Department of Transportation and transmitted to Congress in May 1982. This study indicated that, under the current excise tax structure, users of the heaviest trucks are paying much less than their proportionate share of highway costs and users of lighter trucks are paying much more. Aware that an increase in motor fuels taxes alone would aggravate the existing problem of disproportionate tax payments, the committee modified virtually the entire highway user excise tax structure so that users of the heaviest trucks will pay a greater share of the cost. Nevertheless, the committee believes it would not be wise policy to adhere strictly to the cost allocation study in designing the highway excise taxes: first, because it would be difficult even for a healthy industry to absorb a tax increase of that magnitude, and second, because the affected industry is currently experiencing significant economic problems. Thus, the tax increase on heavy trucks is lower than implied by the cost allocation study, and that increase is phased in over a 2½-year period.

Simplification of highway excise taxes

Another goal of the committee is to simplify the highway user excise tax system. The committee, therefore, modified several of these taxes such that the number of taxpayers or the number of taxable transactions will be reduced. In addition, the committee decided to repeal certain minor taxes, because the revenue from them is too small relative to the government's administrative costs and the taxpayer's compliance costs.

III. Explanation of the Committee Amendment

A. Motor Fuels Taxes

(Secs. 511 and 518 of the committee amendment and secs. 44E, 4041, 4081-4083, 6416, 6420, 6421, and 6427 of the Code)

Present law—Gasoline tax

A manufacturers excise tax is imposed on the sale by a producer or importer of gasoline. The present gasoline tax is 4 cents per gallon. The tax is scheduled to decline to 1½ cents per gallon on October 1, 1984 (Code sec. 4081 (a) and (b)).

The 4-cents-per-gallon tax on gasoline applies for highway, noncommercial aviation,[1] and motorboat use (other than commercial fisheries or whaling use), except that the tax is 2 cents per gallon for other nonhighway, nonaviation qualified business use.[2] Revenues from the gasoline tax generally are deposited in the Highway Trust Fund. Revenues from the tax on noncommercial aviation are deposited in the Airport and Airway Trust Fund. An amount equivalent to the revenues from the tax on motorboat gasoline is transferred to the National Recreational Boating Safety and Facilities Improvement Fund and the Land and Water Conservation Fund (discussed below).

Diesel and special motor fuels taxes

A tax is imposed on the sale or use of diesel fuel for use in motor vehicles on highways (sec. 4041(a)). The tax on diesel fuel is imposed at the retail level and is presently imposed at 4 cents per gallon. The tax is scheduled to decrease to 1½ cents per gallon on October 1, 1984 (sec. 4041(a)).

A similar retailers excise tax is imposed on the sale of special motor fuels for use in a motor vehicle or motorboat.[3] The tax on special motor fuels is presently 4 cents per gallon and is scheduled to decrease to 1½ cents per gallon on October 1, 1984 (sec. 4041(b)). The tax on special motor fuels applies both for highway and off-highway use. However, the tax is 2 cents per gallon for off-highway, qualified business use.

Motorboat fuels

As noted above, the gasoline tax and the special motor fuels tax are imposed on such fuels used by motorboats. An amount equivalent to the revenues derived from these taxes is transferred from the Highway Trust Fund to two other special funds. Amounts not exceeding $20 million per year of these revenues for fiscal years 1981-1983 are to be transferred to the National Recreational Boating Safety and Facilities Improvement Fund. However, that fund is not permitted to have a balance in excess of $20 million at any one time. The balance of the revenues from these taxes is transferred to the Land and Water Conservation Fund.

Exemptions from motor fuels taxes

Present law provides a number of exemptions from the three motor fuel taxes. Off-highway use exemptions apply to farm use (sec. 6420) and use as supplies for certain vessels or aircraft (secs. 4041(g) and 6416(b)(2)(B)).[4]

Sales for the exclusive use of State and local governments, sales for export, and sales for use by nonprofit educational institutions and certain aircraft museums are also exempt (secs. 4041(f) and 6416(b)(2)(C)-(D)).

Exemptions from the taxes are also provided for use by school buses and certain other buses providing public passenger transportation for hire (sec. 6421(b) and sec. 6427(b))[5] and for certain qualified taxicab use through 1982 (sec. 6427(e)).[6]

An additional exemption from the taxes applies through 1992 to a fuels mixture (gasohol) which contains at least 10 percent alcohol of 190 proof (secs. 4041(k), 4081(c), and 6427(f)). To qualify, the alcohol must be produced from sources other than petroleum, gas, or coal. Producers of alcohol fuels may claim a 40-cents-per-gallon income tax credit, which is reduced to the extent that the alcohol is used in gasohol for which there is an excise tax exemption is claimed (sec. 44E).[7]

The exemptions from the motor fuels taxes are accomplished by tax-free sale or allowance of a refund (or credit) for tax paid when the fuels are purchased. The exemption is usually made available only to the party using the fuel. In the case of the farm use exemption, the exemption is accomplished by means of a credit and is available only to the farm operator, tenant, or owner except in the case of aerial applicators. Aerial applicators that receive written consent of the farm owner, tenant, or operator may claim the exemption for fuels they use for farming purposes.

Time for payment of tax

Under present law, the motor fuels taxes generally are paid based upon a semimonthly period, with the tax due 9 days after the close of the period.

Reasons for change

The present excise taxes funding the Highway Trust Fund are scheduled to expire or to be reduced on October 1, 1984. Extension of the Trust Fund and modifications in these excise taxes are needed to finance the increased highway construction and maintenance programs anticipated as necessary to rebuild the nation's transportation system.

The committee determined that an increase in the present taxes on gasoline, diesel, and special motor fuels to 9 cents per gallon is necessary to achieve the required funding levels for anticipated highway and transit expenditures. These increases, when combined with the modification of the other highway-related excise taxes contained in the committee amendment, make the highway excise tax structure more consistent with the findings of the 1982 cost allocation study submitted to Congress by the Department of Transportation than is the case under present law.

---

[1] Section 4041(c) imposes a retail excise tax on noncommercial aviation gasoline of 8 cents per gallon, for a total tax on noncommercial aviation gasoline of 12 cents per gallon. This rate of tax applies through 1987.

[2] In general, a qualified business use is a use in an off-highway vehicle that is used in a trade or business or for the production of income.

[3] Special motor fuels are benzol, benzene, naptha, liquefied petroleum gas, casinghead and natural gasoline, or any other liquid (other than kerosene, gas oil, fuel oil, gasoline taxed under the general gasoline tax, or diesel fuel taxed under the general diesel fuel tax). Methanol and ethanol fuels are taxed as special fuels under present law. Further, section 4041(c) imposes a retail tax of 14 cents per gallon on nongasoline fuels used in noncommercial aviation. This rate of tax applies through 1987.

[4] The term "supplies for vessels or aircraft" means fuel supplies, ships stores, sea stores, or legitimate equipment for vessels of war, vessels employed in fisheries or in the whaling business, or vessels engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions. The term "vessels" also includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions (sec. 4221(d)(3)).

[5] The exemption does not apply for fuel used in such buses where the transportation is not scheduled and not along regular routes unless the seating capacity of the bus is at least 20 adults (not including the driver).

[6] Qualified taxicab use means furnishing of nonscheduled land transportation for a fixed fare by a licensed operator who is not prohibited by law or company policy from furnishing shared transportation (with consent of the passengers). Model year 1978 and later taxicabs must have a fuel economy rating in excess of the average EPA rating for the type of vehicle involved to qualify for this exemption.

[7] A tariff of 40 cents per gallon is imposed on ethanol imported for use in fuels.

The committee also examined the various exemptions from the motor fuels taxes. In general, the committee believes that these exemptions should be continued at their present levels, i.e., an amount equal to the full tax imposed on the motor fuels. In three instances, however, the committee determined that modification of the exemptions is appropriate. First, the committee amendment provides a new exemption from the special motor fuels tax, at the 9-cents-per-gallon rate, for alcohol fuels consisting of at least 85 percent ethanol, methanol, or other alcohols. The exemption is available only for alcohol fuels derived from sources other than petroleum and natural gas. The committee believes this new exemption is consistent with the policy of decreasing reliance on petroleum fuels.

Second, the committee amendment limits the present exemptions for fuels used in providing qualified taxicab services to 4 cents per gallon. The committee believes this level promotes the goal of assigning the costs of constructing and maintaining the highway system to the users of that system in proportion to the burden they place upon it. The committee amendment generally terminates the present law exemptions for fuels used in providing qualified taxicab services on September 30, 1984. The amendment expands the exemption to include taxicabs permitted to offer ride sharing by company policy in areas where local law prohibits ridesharing in certain circumstances. The expansion is effective only through December 31, 1983. These termination dates are intended to permit a more thorough examination of that exemption during the next Congress.

Third, the committee amendment adds a new exemption for vanpooling because vanpooling promotes energy conservation.

Finally, the committee determined that the present exemptions for certain off-highway uses should be increased from one-half of the otherwise applicable tax to the entire amount of the tax. The committee believes this action is appropriate because these uses of motor fuels place no burden on the highway system.

Explanation of provisions

1. Increase in motor fuels taxes: The excise taxes on gasoline, diesel, and special motor fuels are increased from their present 4-cents-per-gallon rate to a rate of 9 cents per gallon.[8]

2. Taxes on motorboat fuels: The committee amendment increases the tax rates for gasoline and special fuels used in motorboats to 9 cents per gallon to conform those rates to those for other taxable uses of the fuels. The committee amendment also increases the maximum amount that can be transferred to the National Recreational Boating Safety and Facilities Improvement Fund from $20 million to $45 million per year and extends the period for those transfers through September 30, 1989. A corresponding committee amendment is made permitting the balance of the Boating Fund to reach $45 million. (For more information on the Boating Fund, see the discussion of the Highway Trust Fund, below in H.)

3. Modification of exemptions from fuels taxes:

Gasohol.—The committee amendment retains the present exemptions from the motor fuels taxes for gasohol to exempt each gallon of gasohol from the full 9 cents of tax. These exemptions will terminate after the previously scheduled 1992 termination date.

A corresponding amendment is made to increase the 40-cent-per-gallon tariff on ethanol imported for use in fuels to 90 cents.

Alcohol fuels.—The committee amendment provides a new exemption from the special motor fuels tax, at the new 9-cent-per-gallon rate, for certain alcohol fuels. Fuels qualifying for the new exemption must consist of at least 85 percent methanol, ethanol, or other alcohols. Additionally, the fuels cannot be derived from petroleum or natural gas. Such alcohol fuels derived from coal, bagasse, or waste or other refuse will qualify for the 9-cent exemption.

The 40-cents-per-gallon income tax credit for alcohol fuel derived from sources other than oil, gas, or coal is increased to 90 cents per gallon to conform to the increase in the gasohol exemption and the new alcohol fuels exemption, and the 1992 termination date for this credit is retained. The credit for alcohol fuels is reduced to take account of any benefit provided by the new alcohol fuel exemption in the same manner as with the present gasohol exemption.

Certain buses.—The committee amendment retains the provisions of present law that provide exemption from the motor fuels taxes for certain buses. Thus, fuels used in these vehicles are entitled to a 9-cent-per-gallon exemption from any applicable motor fuels taxes.

Qualified taxicabs.—The committee amendment retains the present exemptions for motor fuels used in providing qualified taxicab services. Under the committee amendment, fuels used in providing qualified taxicab services will maintain their present 4-cents-per-gallon exemption. Thus, these fuels are subject to tax at a 5-cents-per-gallon rate. In addition, the committee amendment expands the exemption, through 1983, to fuels used in otherwise qualified taxicabs even though their offering ridesharing is prohibited in certain circumstances by local law.

Further, the committee amendment directs the Secretary of the Treasury to conduct a study of the effectiveness of this exemption in promoting energy conservation and the relationship of this exemption, if any, to the cost allocation goals relating to financing of the highway system. The results of this study, along with any recommendations of the Secretary, are to be submitted to the Congress not later than January 1, 1984.

Certain vehicles used for vanpooling.—The committee amendment includes a new exemption for vehicles used in vanpooling if certain requirements are satisfied. First, the vehicle must seat at least 8 adults (not including the driver) and at least 80 percent of its mileage must be commuting to and from work. Under the amendment, such vehicles will be exempt from the full 9 cents per gallon fuels taxes whether owned by the employer, by an owner-operator, or by a third party and leased by the employer or operator. Only fuels used in commuting are exempt from tax.

Farm use.—The committee amendment continues the provisions of present law that provide for full exemption from the motor fuels excise taxes for fuels used on farms for farming purposes.

Off-highway business use.—The committee amendment increases the present exemption for fuels used in an off highway business use from one-half of the tax imposed to the full 9-cent-per-gallon rate.

Other exemptions.—The committee amendment continues, at the new 9-cent-per-gallon tax rates, the other exemptions from tax provided in present law. Among such exemptions are those for fuels sold for the exclusive use of State and local governments, for export, for use by nonprofit educational institutions, for use as supplies for vessels or certain aircraft, and for use by certain aircraft museums.

Method of claiming exemptions.—The committee amendment does not change the method by which exemptions from the motor fuels taxes are claimed. The committee amendment does make one change, however, in the person who is entitled to the exemption on fuels used on farms for farming purposes. Under the committee amendment, certain ground applicators or pesticides, herbicides, and other farm processes are to be treated the same as aerial applicators are treated under present law. Therefore, if the owner, tenant, or operator of a farm served by these applicators consents in writing, the applicator, rather than the owner or operator of the farm, is entitled to the credit for tax paid on fuels used on the farm for farming purposes. This provision does not expand the present law circumstances in which gasoline and other motor fuels are exempt from tax.

4. Time for payment of taxes: The committee amendment permits an additional 6 days for payment of the gasoline excise tax, for a total of 15 days after the date of the semimonthly payment period. The additional period is available only to certain oil jobbers who elect, pursuant to Treasury Department regulations, to pay tax by electronic wire transfer. A qualified oil jobber is a jobber who sells 2 million or fewer gallons of gasoline during the semi-monthly period for which the additional time is granted.

Effective dates

The increases in the motor fuels tax rates are effective for fuels sold after March 31, 1983, and before October 1, 1989.

The provisions exempting certain sales of motor fuels from tax are generally effective with the changes in the rates of the taxes, and generally terminate after September 30, 1989. The exemption for fuels used in providing qualified taxicab services is effective on January 1, 1983; that exemption will expire after September 30, 1984, or December 31, 1983, in the case of taxicabs qualifying under the expansion of that provision. The provision affecting certain ground applicators is effective on April 1, 1983.

The increase in the tariff on certain imported ethanol is effective for imports after March 31, 1983.

The extension in the time for payment of tax is effective on April 1, 1983.

Revenue effect

It is estimated that the changes relating to the tax on gasoline will increase fiscal year trust fund receipts by $2,211 million in 1983, $4,442 million in 1984, $6,589 million in 1985, $6,461 million in 1986, $6,432 million in 1987, and $6,459 million in 1988.

The changes relating to diesel and special motor fuels will increase trust fund receipts by $341, million in 1983, $803 million in 1984, $1,303 million in 1985, $1,394 million in 1986, $1,496 million in 1987, and $1,607 million in 1988.

[8]The excise taxes on fuels used in noncommercial aviation are not changed by the committee amendment. Those taxes remain 12 cents per gallon for gasoline and 14 cents per gallon for other aviation fuels through 1987.

B. EXCISE TAXES ON SALE OF TRUCKS AND TRUCK PARTS

(Sec. 512 of the committee amendment and new sections 4051-4053 and sec. 4061 of the Code

Present law—Trucks and truck trailers

A manufacturers excise tax is imposed on the sale of truck chassis and bodies, truck trailer and semitrailer chassis and bodies, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer (including related parts or accessories). The tax imposed is 10 percent of the selling price of the manufacturer, producer or importer. However, the tax does not apply to the sale of truck chassis and bodies suitable for use with a vehicle which has a gross vehicle weight of 10,000 pounds or less (as determined under regulations prescribed by the Secretary). Also, the tax does not apply to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer which has a gross vehicle weight of 10,000 pounds or less (as so determined). Additional exemptions apply to specified articles including ambulances, trash containers, house trailers and certain other articles. However, rail trailers and rail vans are not currently exempted. This manufacturers excise tax on trucks is scheduled to fall to 5 percent on October 1, 1984.

Truck parts and accessories

A manufacturers excise tax is imposed on the sale of parts or accessories (other than tires or innter tubes) for articles taxed under the manufacturers excise tax on trucks. The tax imposed is 8 percent of the selling price of the manufacturer, producer or importer. This tax on parts and accessories is scheduled to fall to 5 percent on October 1, 1984.

Reasons for change

The committee believes that a more equitable distribution of highway costs would result if both the excise tax on trucks and the excise tax on truck parts are modified to impose smaller taxes on lighter trucks and higher taxes on heavier trucks. In addition, the committee is concerned that the manufacturers excise tax on trucks, because of the amount of tax per article, is likely to create a financial hardship for retail dealers who carry inventories of tax-paid trucks for long periods before those trucks are sold at retail. Therefore, the committee believes that this tax should be imposed at the retail level, but that the tax on truck parts should continue to be imposed at the manufacturing level.

Explanation of provision

1. Trucks and truck trailers:

The committee amendment modifies the excise tax on trucks and truck trailers in several respects.

First, the exclusion from tax is extended to truck chassis and truck bodies suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less. The exclusion from tax also is extended to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less. The committee intends that the same concept of gross vehicle weight will apply as it does under present law. In addition, the committee amendment exempts from this tax rail trailers and rail vans, the chassis or body of which is designed for use both as a highway vehicle and a railroad car. For purposes of this exemption, a piggy-back trailer or semitrailer is not treated as designed for use as a railroad car.

Second, the current manufacturers excise tax will be converted to a retail excise tax and the rate of tax will be increased from 10 percent to 12 percent of the price for which an article is sold, beginning on April 1, 1983. In the case where a 10-percent manufacturers excise tax has been paid on an article taxable under the retail excise tax, the tax rate applicable to the retail sale of the article will be 2 percent. The tax will be imposed on the first retail sale of an article, which means the first sale after manufacturing, production, or importation for a purpose other than for resale. As under present law, the rebuilding of a truck will be treated as a manufacture. A person will not be treated as engaged in manufacture merely because an article is combined with an item described in Code section 4063(d). A lease will be considered a sale under rules similar to the present rules of Code section 4217. Use prior to the first retail sale (other than use in the further manufacture of a taxable article) will be treated as a taxable sale. Articles currently exempted from the manufacturers excise tax under Code section 4063(a), plus rail trailers and rail vans, will be exempt from the retail excise tax. Similarly, exemptions currently provided by Code section 4221(a) (relating to sales for further manufacture, for export, for use as supplies for vessels or aircraft, to a State or local government, or to a nonprofit educational organization) will apply under the retail excise tax.

For purposes of this tax, the retail price will include any charge incident to placing the article in condition ready for use, but will exclude (i) the amount of this tax, (ii) the retail price of tires (inclusive of any federal excise tax thereon), and (iii) the amount of any retail sales tax (if stated as a separate charge) imposed by any State, political subdivision thereof, or the District of Columbia. Retail price includes the value of any trade-in. If an article is sold otherwise than through an arm's-length transaction at less than the fair market price, the tax will be computed on the price for which similar articles are sold at retail in the ordinary course of business.

Third, the retail excise tax on trucks will expire on October 1, 1989.

2. Truck parts and accessories:

The committee amendment increases the manufacturers excise tax on truck parts and accessories from 10 percent to 12 percent. In addition, the exclusion threshold is raised to 33,000 pounds. Thus, the tax will not apply to parts or accessories suitable for use with trucks or truck trailers and semitrailers which have a gross vehicle weight of 33,000 pounds or less. Also, parts sold for resale in connection with the first retail sale of a vehicle taxable under the retail tax on trucks and trailers are exempt.

Under the committee amendment, this tax will expire on October 1, 1989.

Effective dates

The increase in the threshold weights for exclusion from the excise taxes on trucks and truck parts and the exemption of rail trailers and rail vans are effective on the day after the date of enactment. To account for the fact that these higher threshold weights will exclude certain vehicles that are currently taxable and on which the manufacturers truck tax has been paid, a credit or refund (without interest) for the tax paid will be allowed if the article has been sold to an ultimate consumer after November 28, 1982, and before the day after the date of enactment.

The replacement of the manufacturers excise tax on trucks by the retail excise tax on trucks and the increase in the tax rate to 12 percent are effective on April 1, 1983. The 12 percent tax rate for truck parts also takes effect on April 1, 1983.

Revenue effect

The provision relating to the excise tax on the sale of trucks and trailers is estimated to reduce receipts of the Highway Trust Fund by $158 million in fiscal year 1983, have no revenue effect in fiscal year 1984, and to increase receipts by $716 million in fiscal year 1985, $819 million in fiscal year 1986, $888 million in fiscal year 1987, and $965 million in fiscal year 1988.

The provision relating to the manufacturers excise tax on truck parts and accessories is estimated to decrease receipts of the Highway Trust Fund by $94 million in fiscal year 1983, $140 million in fiscal year 1984, $37 million in fiscal year 1985, $41 million in fiscal year 1986, $45 million in fiscal year 1987 and $48 million in fiscal year 1988.

C. HEAVY VEHICLE USE TAX

(Sec. 513 of the committee amendment and secs. 4481-4483 of the Code)

Present law

An excise tax is imposed on the use on the public highways of any highway motor vehicle which (together with semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as the vehicle) has a taxable gross weight of more than 26,000 pounds. The rate of tax is $3 a year for each 1,000 pounds of taxable gross weight or fraction thereof. The term "taxable gross weight" means the sum of (i) the unloaded weight of the vehicle fully equipped for service, (ii) the unloaded weight of semitrailers and trailers (fully equipped for service) which are customarily used in connection with vehicles of the same type, and (iii) the weight of the maximum load customarily carried on vehicles, semitrailers and trailers of the same type.

The taxable period for the highway use tax is generally the one-year period beginning on July 1. Payment in quarterly installments is permitted. The amount of tax is prorated only when the first use of the vehicle occurs later than the first month of the taxable period. No de minimus exemption is provided under persent law for vehicles used on the public highways for only a limited number of miles during a taxable period.

The highway use tax is scheduled to expire on October 1, 1984.

Reasons for change

The committee believes that the current structure of the highway use tax should be changed in order to achieve a more equitable distribution of future costs of highway construction and maintenance. As discussed in the General Reasons (above), the committee believes that the use tax should be lowered for lighter vehicles and raised for heavier vehicle, so that highway user taxes for different types of trucks will be more nearly proportionate to the costs properly allocable to their respective use of the highway system. In addition, the committee believes that an exemption should be provided to prevent the overpayment of tax in cases where the use of public highways is limited. The committee decided upon a 2½-year phase-in of the increase in this tax because the current depressed state of the trucking industry makes that industry unable to bear

a sudden increase in the tax to the permanent levels provided in the amendment.

Explanation of provisions

The committee amendment modifies the use tax in four respects.

First, the highest taxable gross weight of a vehicle not subject to the tax will be raised from 26,000 pounds to 33,000 pounds. The committee amendment does not modify the definition of taxable gross weight. However, the committee amendment makes it clear that a semitrailer or trailer is to be treated as customarily used in connection with a highway motor vehicle if the vehicle is equipped to tow the semitrailer or trailer.

Second, the rate of tax will be changed from a flat amount per 1,000 pounds to a graduated amount determined by a 3-bracket structure, as follows:

If the taxable gross weight is—		The rate of tax is—
At least	But less than	
33,000 pounds	55,000 pounds	$80 per year, plus $10 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds	80,000 pounds	$300 per year, plus $52 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds		$1,600 a year.

This schedule is phased in, so that it is first fully effective for the taxable period which begins on July 1, 1985.

Third, a new de minimus exemption from the tax will apply if a vehicle is used 5,000 miles or less on the public highways during a taxable period. Provided that the owner of the vehicle furnishes such information as the Secretary may require, collection of the tax will be suspended where it is reasonable to expect that use will not exceed 5,000 miles, and no tax will be imposed if use does not in fact exceed that amount. Where the tax is paid and the vehicle is not used for more than 5,000 miles, the amount of tax will be credited or refunded (without interest) to the owner.

Fourth, the highway use tax will expire on October 1, 1989.

In addition, the committee amendment directs the Secretary of Transportation (in consultation with the Secretary of the Treasury, State officials, motor carriers and other affected parties) to study alternative forms of the highway use tax, study plans for the better administration of the tax, and report findings and recommendations to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate before January 2, 1985. Beginning January 1, 1985, a State must require proof of payment of the highway use tax before registering trucks in the State.

Effective date

In general, the provision will be effective on January 1, 1984.

However, the new schedule of use tax rates provided by the committee amendment is phased in and is first fully effective for the taxable period which begins on July 1, 1985. The phase-in is structured so that one-third of the use tax change is introduced in the short taxable period which begins on January 1, 1984, and ends on June 30, 1984, and an additional one-third is introduced in the (regular) taxable period which begins on July 1, 1984. Thus, for a vehicle having a taxable gross weight of at least 33,000 pounds, the use tax rate for this short taxable period will be the sum of (i) one-sixth the amount determined under the new schedule and (ii) $1 per 1000 pounds (or fraction thereof) of taxable gross weight. Vehicles having a taxable gross weight under 33,000 pounds will be exempt from the use tax beginning on January 1, 1984. Also, the new de minimus exemption for this short taxable year will be for uses of 2,500 miles or less. For the taxable period beginning on July 1, 1984, the tax rate will be the sum of (ii) two-thirds the amount determined under the new schedule and (ii) $1 per 1000 pounds (or fraction thereof) of taxable gross weight.

Present law will apply to the short taxable period which begins on July 1, 1983, and ends on December 31, 1983. The tax rate for this period will be one-half the current annual rate. The Secretary shall by forms or regulation provide for appropriate installment payments with respect to the two short taxable periods provided by the committee amendment such that no more than two installment payments may be made for a taxable period.

Revenue effect

The provision is estimated to decrease receipts of the Highway Trust Fund by $82 million in fiscal year 1983, and to increase receipts by $212 million in fiscal year 1984, $694 million in fiscal year 1985, $863 million in fiscal year 1986, $925 million in fiscal year 1987 and $964 million in fiscal year 1988.

D. TAXES ON TIRES, TUBES, AND TREAD RUBBER

(Sec. 514 of the committee amendment and secs. 4071–4073 of the Code)

Present law

Excise taxes are imposed on the sale by a manufacturer, producer or importer of tires, inner tubes and tread rubber. The taxes are based on weight: tires for use on highway vehicles are taxed at 9.75 cents per pound; inner tubes for tires are taxed at 10 cents per pound; and tread rubber for use in recapping or retreading highway type tires is taxed at 5 cents per pound. On and after October 1, 1984, these taxes will decrease to the non-highway rate of 4.875 cents per pound for tires and 9 cents per pound for inner tubes; and the tax on tread rubber will expire. Tires, other than laminated tires, that are not intended for highway use are taxed at 4.875 cents per pound. (Examples of such nonhighway tires are those for aircraft, earth movers, and other nonhighway vehicles.) Laminated tires, which are tires not designed for highway use, are taxed at 1 cent per pound.

Reasons for change

The committee believes that the present highway excise taxes should be restructured, simplified, and that nuisance taxes should be repealed. As part of the restructuring of the highway excise taxes, the committee concluded that the tire and tread rubber taxes should apply on a graduated basis so that a higher rate of tax applies to the highway tires generally used by heavier trucks, and that the taxes on nonhighway-type tires should be repealed. This is generally consistent with the highway cost allocation study recommendations of the Department of Transportation and the Administration proposal. Also, the committee concluded that the tax on laminated tires should be repealed as a means of simplifying the highway excise taxes. Finally, the committee determined that the tax on inner tubes should be retained, as most inner tubes are utilized by the heavier highway tires.

Explanation of provisions

Under the committee amendment, there will be a graduated tax on highway tires with the following tax rates and brackets: 9.75 cents per pound for the first 50 pounds, 15 cents per pound for the next 50 pounds, and 25 cents per pound for each pound in excess of 100. Tread rubber will be subject to a tax of 5 cents per pound when used on tires under 50 pounds. The tax rate increases to 8 cents per pound for pounds between 50 and 101 pounds and 16 cents per pound for pounds over 100. The tax on inner tubes is retained at the present rate of 10 cents per pound. In addition, the committee amendment repeals the taxes on laminated tires and all other nonhighway tires.

Effective date

The change in the application of the excise taxes on tires, tubes, and tread rubber will be effective on April 1, 1981. The taxes will expire on October 1, 1989.

Revenue effect

The change in the tax in tires will decrease highway excise tax revenues by $6 million in fiscal year 1983 and $16 million in fiscal year 1984, and increase revenues by $381 million in fiscal year 1985, $337 million in fiscal year 1986, $350 million in fiscal year 1987, and $364 million in fiscal year 1988.

The change in the tax on tread rubber will increase highway excise tax revenues by $7 million in fiscal year 1983, $17 million in fiscal year 1984, and by $39 million per year in fiscal years 1985–1988.

The extension of the tax on inner tubes will increase highway excise tax revenues by $2 million per year in fiscal years 1985–1988.

E. TAX ON LUBRICATING OIL

(Sec. 515 of the committee amendment and secs. 4091–4093 of the Code)

Present law

The sale of lubricating oil is subject to a 6-cents per-gallon tax that is levied on the manufacturer or producer. (This tax is not scheduled to be reduced on October 1, 1984.) Exemptions are provided for oil sold for use in cutting or machining operations on metals. An exemption also applies to sales of rerefined oil. Rerefined oil must be composed of at least 25 percent used or waste lubricating oil that has been cleaned and no more than 55 percent previously unused lubricating oil.

Reasons for change

Since synthetic lubricating oil is used in motor vehicles as is regular lubricating oil, the committee concluded that the tax should be extended to synthetic lubricating oil.

Explanation of provision

The committee amendment retains the present tax on lubricating oil, and extends the tax to synthetic lubricating oil.

Effective date

The extension of the tax on lubricating oil to synthetic lubricating oil is effective for sales after March 31, 1983.

Revenue effect

This provision will increase highway excise tax revenues by less than $1 million per year for fiscal years 1983–1988.

F. FLOOR STOCKS PROVISIONS

(Secs. 521 and 522 of the committee amendment)

Present law

Floor stocks taxes are imposed on inventories of articles with respect to which a tax rate is increased. Present law includes no floor stocks taxes with respect to articles subject to the highway excise taxes. Floor

stocks taxes have been imposed with respect to these articles and other articles in the past when tax rates have been increased.

Floor stocks refunds are refunds of taxes paid on inventories of articles with respect to which a tax rate is decreased. Present law includes provisions for floor stocks refunds of the highway excise taxes on trucks, tires, tread rubber and gasoline when those taxes are scheduled to be reduced, effective October 1, 1984 (Code sec. 6412(a)).

Floor stocks provisions tax or permit refunds with respect to manufacturers excise taxes because those taxes are included in the cost of inventories. On the other hand, retailers excise taxes, such as the excise taxes on diesel and special motor fuels, are not paid before sale to an ultimate purchaser, and are not, therefore, reflected in inventory costs. Accordingly, floor stocks provisions do not apply to retailers taxes.

Reasons for change

Floor stocks taxes and refunds are designed to prevent distortion of markets upon the occasion of a manufacturers excise tax increase or decrease. This distortion could result if dealers artificially increased inventories immediately before a tax increase, or in the case of a declining tax rate, if dealers chose to delay purchases until the tax rate declined. The committee believes that decisions such as when and how much inventory to maintain should not be influenced the impending changes in the rate of tax imposed on such articles.

Explanation of provisions

1. Floor stocks taxes:

The committee amendment imposes a floor stocks tax on gasoline held for sale by a dealer on April 1, 1983, if the gasoline would otherwise be subject to tax under section 4081 if held by a producer on that date. For purposes of this tax, a dealer is defined to include a wholesaler, jobber, distributor, or retailer. An article is considered to be held by a dealer if title has passed to the dealer, whether or not the dealer has actual possession of the article.

The committee amendment also imposes floor stocks taxes on tires, tread rubber, truck parts and accessories, and synthetic lubricating oil, held for sale by a dealer on April 1, 1983, which would be subject to the excise taxes imposed under section 4071, or 4091, as amended, if held by a manufacturer on that date. For purposes of the floor stocks taxes on tires and tread rubber, the term dealer and the circumstances when a dealer is considered to hold tires and tread rubber for sale on April 1, 1983, are defined in the same manner as for the floor stocks tax on gasoline.

The floor stocks taxes are due and payable, by return, on May 15, 1983. Generally, this provides additional time for payment of this tax beyond that allowed for payment of the regular tax on gasoline.

The amount of these floor stocks taxes is equal to the excess of the new tax rates over that previously paid with respect to the articles.

Revenues from the floor stocks taxes will be transferred to the Highway Trust Fund.

2. Floor stocks refunds:

The committee amendment provides for floor stocks refunds of tax paid on articles on which the manufacturers excise taxes are repealed if certain conditions are satisfied. First, the tax-repealed articles must be held for sale by a dealer on the date the tax is repealed. Second, the manufacturer must have records to substantiate his claim that he or she paid the repealed tax on the article. Third, the manufacturer must file a claim with the Internal Revenue Service within ten months after the date on which the excise tax is repealed.

The manufacturer must also reimburse the dealer in an amount equal to the tax or must obtain the written consent of the dealer to the manufacturer's receiving the floor stocks refund. The committee intends that the manufacturer receive the written consent or possess evidence of reimbursement of the dealer before (or simultaneous with) the time any payment is made or credit granted by the Internal Revenue Service.

Tax-repealed articles include trucks with a taxable gross weight of 33,000 pounds or less, trailers with a like weight of 26,000 pounds or less, laminated tires and nonhighway tires, and parts and accessories for trucks and trailers below 33,000 pounds.

The committee amendment also provides for refunds or credits to manufacturers for tax paid with respect to certain trucks and truck trailers that are sold to ultimate purchasers between November 28, 1982, and the date of enactment. To receive these refunds or credits, manufacturers must file a claim with the Internal Revenue Service. This claim must include information similar to that required for refunds with respect to trucks held by dealers on the date of enactment, except the ultimate purchaser, rather than the dealer, must have been reimbursed for the amount of tax previously paid by the manufacturer.

Amounts equivalent to the amount of the floor stocks refunds will be transferred from the Highway Trust Fund to the general fund of the Treasury so the Trust Fund will bear the cost of these refunds.

Effective dates

The floor stocks provisions are effective on the date of the increase or repeal of the manufacturers excise taxes to which they relate.

Revenue effect

The revenue effect of the floor stocks provisions is included in the revenue changes for taxes to which they relate.

G. TERMINATION OF HIGHWAY EXCISE TAXES AND EXEMPTIONS

Present law

Some of the present Highway Trust Fund excise taxes were imposed before enactment of the Highway Trust Fund in 1956. At the time of the Trust Fund's enactment, those existing taxes were increased and new taxes imposed. Because of the special purpose for which the taxes are imposed, they have been scheduled to expire (or be reduced to their pre-trust fund levels) upon the scheduled termination of the Trust Fund.

The present motor fuels taxes (gasoline, diesel, and special fuels) are scheduled to decline from 4 cents per gallon to 1½ cents per gallon on October 1, 1984. The present manufacturers excise tax on trucks and trailers is scheduled to decline from 10 percent to 5 percent on that date, and the 8 percent tax on truck parts and accessories is scheduled to decline to 5 percent.

The tax on highway tires is scheduled to decline to 4.875 cents per pound on October 1, 1984, and the tax on tread rubber is scheduled to expire on that date. The tax on highway use of certain trucks is also scheduled to expire after September 30, 1984.

Present law also provides exemptions from these taxes for differing periods of time. (A full explanation of the scope of these exemptions can be found in the discussion of the particular tax concerned.) Some of the exemptions are of unlimited duration (e.g., the exemptions for State and local governmental and farming uses) and others are granted for only limited periods of time (e.g., the exemptions for gasohol which are scheduled to terminate after December 31, 1992).

Reasons for change

The committee believes that the highway excise taxes should terminate at the same time that the Trust Fund terminates under the committee amendment, September 30, 1989. If Congress determines that it is not appropriate to extend the Trust Fund after September 30, 1989, termination of the highway excise taxes will facilitate its consideration of which highway excise taxes, if any it is appropriate to levy without their dedication to highway and mass transit purposes.

Explanation of provisions

All of the Highway Trust Fund excise taxes continued under the committee amendment terminate, effective on October 1, 1989. The exemptions from these taxes generally are also terminated on this date. However, the exemptions for fuels used in providing qualified taxicab services (as defined under present law) terminate after September 30, 1984. Taxicabs qualifying under the amendment's expansion of the definition of qualified taxicab services are exempt only through December 31, 1983.

Certain excise taxes are repealed by the committee amendment, either in whole or in part. The taxes on laminated tires, and all nonhighway tires are repealed, effective April 1, 1983. The highway use tax on trucks with a taxable gross weight under 33,000 pounds is repealed, effective after December 31, 1983.

H. HIGHWAY TRUST FUND PROVISIONS

(Sec. 531 of the committee amendment and secs. 209(c) and (f) of the Highway Revenue Act of 1956)

Present law

Original enactment of the Highway Trust Fund.

The Highway Trust Fund was established in 1956 (P.L. 84-627) for a 16-year period to provide a specific source of financing for the new Interstate Highway System and continuation of other Federal-aid highway programs. The other highway-aid programs previously had been financed through the general fund.

The Highway Revenue Act of 1956 included a declaration of congressioal policy that (1) if it appears that the total receipts of the trust fund will be less than the total expenditures from the trust fund, or (2) if it appears that the distribution of the tax burden among the various classes of highway users or other beneficiaries of the highways is not equitable, then Congress is to enact legislation to bring about a balance of total trust fund receipts and expenditures or to make an equitable distribution of the tax burden. In addition, the 1956 Act provided for a 3-year highway cost allocation study (later extended for 2 additional years) to determine the fair distribution of highway-related user taxes among the various users.

The 1956 Act also contained a provision—the "Byrd amendment"—to prevent the Trust Fund from reaching a deficit position. In general, this provision originally required that if trust fund balances and estimated future receipts will be inadequate to cover obligations as they become due, a reduction

of the Interstate Highway System apportionment in an amount sufficient to eliminate the difference would be required.

There were increases in 1959 and 1961 in certain of the highway excise taxes to increase the financing of the trust fund.

Subsequent extensions of the Highway Trust Fund:

The Highway Trust Fund and the related highway excise taxes transferred to the trust fund have been extended three times since 1961: a 5-year extension in the Federal-Aid Highway Act of 1970 (from September 30, 1972, through September 30, 1977), a 2-year extension in the Federal-Aid Highway Act of 1976 (through September 30, 1979), and a 5-year extension in the Surface Transportation Assistance Act of 1978 (through September 30, 1984). These trust fund extensions were added by the tax writing committees as a separate title to a highway authorization bill and involved only the extensions of existing highway excise taxes and tax rates.

In the 1978 Act, the operation of the "Byrd amendment" was modified to require that when anticipated revenues are insufficient to cover expenditures, reductions will be made on a pro rata basis to all apportioned highway funds, rather than to interstate apportionments only. Finally, two studies were required: a cost allocation study to be conducted by the Department of Transportation, with a final report to Congress by January 15, 1982; and a study of the highway excise tax structure to be conducted by the Department of Treasury, with a final report to Congress by April 15, 1982. (The highway cost allocation study was submitted to Congress on May 13, 1982. A second progress report on the excise tax study was submitted on October 1, 1981, but a final report has not been submitted.)

Highway Trust Fund expenditure purposes:

Since its enactment in 1956 and through legislation since then, the Highway Trust Fund has been used to finance construction of the Interstate Highway System, other Federal-aid highways, and for other Federal highway-aid programs. The highway programs currently supported by expenditures from the trust fund are listed below:

(1) *Interstate highway system*—(a) Construction to close gaps in the nearly completed basic Interstate system; (b) resurfacing, restoring, rehabilitating and reconstructing ("4Rs") previously completed sections.

(2) *Primary highway system*—(a) Construction and reconstruction and related planning; (b) resurfacing, restoring, rehabilitating these highways.

(3) *Urban and rural area transportation program*—Assistance in urban and rural areas in construction, rehabilitation and reconstruction of local roads, and related planning and research; public transportation capital expenditures; safety improvements and traffic system management. (Urban areas have more than 50,000 persons; rural areas less than that population.)

(4) *Bridge program*—Rehabilitating or replacing structurally deficient bridges.

(5) *Construction and other highway-related safety programs*—Establishment of safety programs and to build safety into highways during their construction, including such things as pavement marking, and elimination of roadside hazards and highway rail crossings.

(6) *Emergency highway relief programs*—Highway funds relating to disaster relief.

(7) *Administration and research through the federal highway administration*—Involving (a) coordination and direction of various public programs and requirements, (b) general program support affecting policy plans and projections and adminstrative support, and (c) engineering and financial assistance.

(8) *Addditional programs*—The Highway Trust Fund contributes a share of costs of certain other programs, including the following:

Forest and public lands highways;

Economic growth center highways;

National scenic and recreational highways;

Railroad-highway crossing demonstration projects;

Rural highway public transportation demonstration projects;

Bicycle pathway programs;

Highway safety research and development;

Car and van pool projects;

Right-of-way revolving fund.

Reasons for change

The 5 year federal highway program authorizations (fiscal years 1983-1987) in the titles of H.R. 6211, as approved by the Committee on Environment and Public Works, and the Administration's recommendations for the same purposes, are directed at completing the Federal Interstate Highway System and maintaining that system and other parts of the Federal-Aid highway system in usable and safe condition. These continuing highway responsibilities involve completing the interstate highway system, expanding a program of resurfacing, restoring, rehabilitating and reconstructing parts of the system as conditions require, and extending the same restoration program to deteriorating portions of the Federal-Aid highway system and highway bridges.

In order that the federal highway programs may continue to be financed by the users of the highways at a rate commensurate with their use of the system, the Highway Trust Fund is extended for a period long enough to pay the financial obligations that will result from the increased spending planned for the revised highway program. The basic character of the Highway Trust Fund statute is extended without essential change, although the trust fund statute is updated to refer to the current executive agencies administering the Federal-Aid Highway Programs. However, as indicated in the next section discussing the new Mass Transit Account, the Highway Trust Fund's general purpose is expanded to include a separate account to receive a specified portion (1 cent per gallon) of the motor fuels tax revenues for mass transit capital expenditures.

Explanation of provisions

1. Extention of the Trust Fund:

The Highway Trust Fund is extended by the committee amendment for an additional 5 years, from September 30, 1984, through September 30, 1989. This is intended to correlate with the anticipated 5-year extension of Highway Trust Fund authorizations.

2. Revenues appropriated to the trust fund:

Under the amendment, amount equivalent to the taxes received in the Treasury under the provisions relating to the highway excise taxes will continue to be appropriated to the Highway Trust Fund for five more years, through September 30, 1989. These are taxes on: (a) diesel and special motor fuels (sec. 4041(a) and (b)),[9] (b) heavy trucks and trailers (sec. 4051(a) and 4061(a)), (c) trucks and truck parts (sec. 4061(b)), (d) tires, tubes, and tread rubber (sec. 4071), (e) gasoline (sec. 4081), (f) lubricating oil (sec. 4091), and (g) use of certain vehicles (sec. 4481). Taxes received after September 30, 1989, and before July 1, 1990, that are attributable to liabilities incurred before October 1, 1989, also are appropriated to the Trust Fund.

3. Expenditures and transfers from the trust fund:

Expenditures may be made from the Trust Fund before October 1, 1989, as provided by appropriation Acts, to meet obligations which have been incurred after authorization by law to be paid out of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956. Eligible obligations are those incurred under the Federal-Aid Road Act of July 11, 1916, as amended and supplemented, including administrative expenses of the Federal Highway Administration.

Expenditures from the Highway Trust Fund for highway purposes, however, may not be made from the Mass Transit Account, which is described in section I, below.

Transfers of funds may be made from the trust fund to the general fund for amounts paid before July 1, 1990, that are for tax credits or other payments attributable to non-highway uses of motor fuels and lubricating oil and for floor stock refunds on the basis of claims filed for periods ending before October 1, 1989.

Revenues from the 9-cents-per-gallon taxes on motorboat fuels are to be transferred to the National Recreational Boating Safety and Facilities Improvement Fund through September 30, 1989. The aggregate amount transferred in any fiscal year, however, may not exceed $45 million and no transfers of these amounts may be made if they will increase the accumulated balance in the Boating Safety Fund above $45 million. Any other amounts of motorboat fuels taxes will continue to be transferred to the Land and Water Conservation Fund. Motorboat fuels taxes are defined as the taxes received from gasoline and special fuels used in motorboats.

Anti-deficit provision ("Byrd amendment")

The provision (the "Byrd amendment") that assures the Highway Trust Fund is maintained as a self financing entity is retained without change, including retention of the authority for repayable advances.

Effective date

The increase in the amount of revenues to be transferred to the National Recreational Boating Safety and Facilities Improvement Fund is effective on October 1, 1983 (for fiscal years 1984-1989). The extension of the Highway Trust Fund provisions generally is effective for October 1, 1985-September 30, 1989, except for the 9-month period (through June 30, 1990) for receipt of pre-October 1, 1989 highway excise tax liabilities and certain transfers from the trust fund.

---

[9] Revenues attributable to the fuels taxes on noncommercial aviation gasoline and other fuels (under sec. 4041(c)) continue to be transferred to Airport and Airway Trust Fund, through September 30, 1987. Amounts appropriated to the Airport and Airway Trust Fund from the tax on aviation fuels are deducted beforehand from the amounts deposited in the Highway Trust Fund.

I. MASS TRANSIT ACCOUNT

(Sec. 532 of the committee amendment and sec. 209(h) of the Highway Revenue Act of 1956)

Present Law

There is no transit account in the Highway Trust fund and no transit trust fund that receives tax receipts designated for deposit in such an account or fund.

Reasons for Change

Rail and bus transit systems move millions of people daily. They complement and are interdependent with highways in moving people and goods efficiently and economically in and around urban areas. Capital investment in these systems has not kept pace in recent decades with growth requirements or the deterioration of the existing capital structure. The Administration has estimated that capital investment needs for urban rail and bus transit could total almost $50 billion over the next decade.

In order to address transit needs, the committee amendment provides that the equivalent of one cent of the 9 cents a gallon fuels taxes in the committee amendment be available for capital improvement to mass transit through fiscal year 1989. The provision will provide about $1.1 billion each full fiscal year, and these funds will be in addition to the amounts appropriated from the general funds of the Treasury for mass transit.

Explanation of Provision

Under the committee amendment, a separate Mass Transit Account is established in the Highway Trust Fund. It consists of the revenue equivalent to the amount raised by 1 cent a gallon of the 9 cents a gallon excise taxes imposed on gasoline and diesel and special motor fuels (secs. 4041(a) and (b) and 4081). These amounts are to be transferred to the Mass Transit Account with the same regularity and under the same conditions as amounts from these taxes are transferred to the Highway Trust Fund. Interest earned as a result of investment in United States securities on the portion of amounts in the Highway Trust Fund that are attributable to the Mass Transit Account shall be credited to the Mass Transit Account.

Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital expenditures (including capital expenditures for new projects) before October 1, 1989, under section 22 of the Urban Mass Transportation Act of 1964. Expenditures from the Mass Transit Account may be made only for mass transit capital purposes, and no expenditures may be made from this account for highway purposes. These also will be authority, as there is under the Highway Trust Fund generally, for repayable advances for the Mass Transit Account.

In approving capital expenditures for new transit systems, it is the committee's belief that preference should be given to projects which maximize the cost-effectiveness of the federal contribution, including use of existing infrastructure, like existing track, or substantial non-federal capital contributions.

Effective date

The provision establishing the Mass Transit Account shall take effect on April 1, 1983 (the effective date of the increased fuels taxes).

J. TREATMENT OF MOTOR CARRIER OPERATING AUTHORITIES HELD BY CORPORATIONS ACQUIRED BY NONCORPORATE TAXPAYERS

(Sec. 517 of the committee amendment and sec. 266(c)(2) of the Economic Recovery Tax Act of 1981)

Present law

The Economic Recovery Tax Act of 1981 provided that an ordinary deduction is allowed ratably over a 60-month period for taxpayers who held one or more motor carrier operating authorities on July 1, 1980. The amount of the deduction is the total adjusted bases of all motor carrier operating authorities either held by the taxpayer on July 1, 1980, or acquired after that date under a binding contract in effect on July 1, 1980. The 60-month period begins July 1, 1980 (or, at the taxpayer's election, with the first month of the taxpayer's first taxable year beginning after July 1, 1980).

Under the Act, adjustments are to be made to the bases of operating authorities held on July 1, 1980 (or acquired thereafter under a binding contract in effect on July 1, 1980) to reflect amounts allowable as deductions.

Under regulations to be prescribed by the Treasury Department, an election may be made by the taxpayer holding an operating authority on July 1, 1980, to allocate to the operating authority a portion of the cost basis to the acquiring corporation of stock in an acquired corporation. The election is available only if the operating authority was held directly by the acquired corporation at the time its stock was acquired or was held indirectly through one or more other corporations. In either case, a portion of the stock basis may be allocated to the operating authority only if the acquiring corporation would have been able, if it had received the operating authority in one or more corporate liquidations immediately following the stock acquisition, to allocate such portion to the operating authority under section 334(b)(2). The election applies only if the stock was acquired on or before July 1, 1980 (or pursuant to a binding contract in effect on such date) and only if, on the date the stock was acquired, the acquired corporation held, directly or indirectly, the operating authority.

In all cases, adjustments are also to be made to the basis of the acquiring corporation in the stock of the acquired corporation to take into account any allocation of the basis in the stock to an operating authority. In addition, the Treasury regulations are in all cases to provide for an appropriate adjustment to the basis of other assets.

Reasons for change

It has come to the attention of the committee that certain corporations holding motor carrier operating authorities were acquired by noncorporate taxpayers in situations where, had the purchaser been a corporation, the basis of the authority would have been increased. The committee believes that similar treatment should be afforded corporations holding authorities regardless of whether or not the purchaser of the corporation's stock was another corporation.

Explanation of provision

Under the committee amendment, if one or more noncorporate taxpayers on or before July 1, 1980, acquired in one stock purchase the stock of a corporation which, at the time of acquisition, held directly or indirectly any motor carrier operating authority, the acquisition shall be treated, for purposes of the provisions of section 266(c)(2) of ERTA (relating to certain stock acquired), as having been acquired by a single corporation. Thus, the basis of the operating authority may be adjusted to reflect the stock acquisition price. In order to qualify for these adjustments, the purchasers must have held at least 80 percent of the corporate stock on July 1, 1980.

Rules similar to the rules applicable to authorities held by corporations acquired by a corporate purchaser are to apply to authorities of corporations acquired by noncorporate purchasers.

Effective date

The provision is effective for taxable years ending after June 30, 1980.

Revenue effect

This provision is estimated to reduce fiscal year budget receipts by less than $5 million.

IV. REVENUE EFFECTS OF THE COMMITTEE AMENDMENT

The revenue effects of the committee amendment as approved by the committee are summarized in three tables.

Table 2 presents the estimated changes in Highway Trust Fund tax revenues by major component compared to receipts under current tax rates extended through 1988. Total Highway Trust Fund revenues are projected to increase by $2.2 billion in fiscal year 1983, $5.3 billion in 1984, $5.4 billion in 1985, $5.5 billion in 1986, $5.6 billion in 1987, and $5.7 billion in 1988. The table also shows the net revenue effects of the committee amendment, which take into account the decreases in income taxes resulting from higher excise taxes. The net revenue effects on budget receipts are estimated at $1.7 billion in fiscal year 1983, $4.0 billion in 1984, $4.1 billion in 1985, $4.2 billion in 1986, $4.2 billion in 1987, and $4.3 billion in 1988.

Table 3 provides comparable data but the revenue changes have been calculated from receipts that would have been collected under rate reductions or expirations scheduled for 1984. Consequently, the revenue gains shown in this table are substantially higher than those in Table 2 for fiscal years beginning with 1985: $9.6 billion in 1985, $9.9 billion in 1986, $10.1 billion in 1987, and $10.4 billion in 1988.

Finally, table 4 shows total estimated Highway Trust Fund tax revenues under the committee amendment for fiscal years 1983–1988. Total Trust Fund tax revenues will increase from $6.7 billion actual in fiscal year 1982 to $8.6 billion in fiscal year 1983, $12.2 billion in fiscal year 1984, and $13.8 billion in fiscal year 1988.

TABLE 2.—ESTIMATED CHANGES IN HIGHWAY TRUST FUND TAX REVENUES UNDER SENATE FINANCE COMMITTEE AMENDMENT COMPARED TO RECEIPTS AT CURRENT TAX RATES EXTENDED THROUGH 1988

Tax	Fiscal years—					
	1983	1984	1985	1986	1987	1988
Gasoline	2,211	4,442	4,292	4,151	4,100	4,132
Diesel	341	803	861	919	984	1,057
Trucks and trailers	−158	0	35	61	74	79
Truck parts	−94	−140	−153	−167	−181	−196
Tires	−6	−16	−17	−18	−18	−19
Tubes	0	0	0	0	0	0
Tread rubber	7	17	17	17	17	17
Lubricating oil	(1)	1	1	1	1	1
Use tax	−82	212	407	564	613	639
Total tax revenues	2,219	5,319	5,443	5,528	5,590	5,710
Net revenue effect on budget receipts after income offsets	1,677	4,014	4,106	4,170	4,218	4,308

[1] Negligible.

Note.—Revenues are net of refunds and transfers.

TABLE 3.—ESTIMATED CHANGES IN HIGHWAY TRUST FUND TAX REVENUES UNDER SENATE FINANCE COMMITTEE AMENDMENT COMPARED TO RECEIPTS AT PRESENT LAW

Tax	Fiscal years—					
	1983	1984	1985	1986	1987	1988
Gasoline	2,211	4,442	6,589	6,461	6,423	6,459
Diesel	341	803	1,303	1,394	1,496	1,607
Trucks and trailers	−158	0	716	819	888	965
Truck parts	−94	−140	−37	−41	−45	−48
Tires	−6	−16	318	337	350	364
Tubes	0	0	2	2	2	2
Tread rubber	7	17	39	39	39	39
Lubricating oil	(1)	1	1	1	1	1
Use tax	−82	212	694	863	925	964
Total tax revenues	2,219	5,319	9,625	9,875	10,079	10,353
Net revenue effect on budget receipts after income offsets	1,677	4,014	7,254	7,444	7,597	7,803

[1] Negligible.

Note.—Revenues are net of refunds and transfers.

TABLE 4.—ESTIMATED HIGHWAY TRUST FUND TAX REVENUES UNDER SENATE FINANCE COMMITTEE AMENDMENT

Tax	Fiscal year—					
	1983	1984	1985	1986	1987	1988
Gasoline	6,122	8,200	8,039	7,908	7,878	7,917
Diesel	968	1,457	1,567	1,680	1,802	1,935
Trucks and trailers	610	1,102	1,397	1,578	1,702	1,850
Truck parts	148	142	155	169	183	199
Tires	524	619	655	695	722	751
Tubes	20	22	22	22	22	22
Tread rubber	28	39	39	39	39	39
Lubricating oil	49	87	81	81	81	81
Use tax	146	487	694	863	925	964
Total tax revenues	8,615	12,155	12,649	13,035	13,354	13,758

Notes.—Revenues are net of refunds and transfers.

GEORGE KISTIAKOWSKY

Mr. KENNEDY. Mr. President, on December 7, 1982, one of our Nation's greatest scientific leaders, George B. Kistiakowsky, died of cancer at the age of 82.

George Kistiakowsky's life spanned decades of rapid and dramatic developments in our modern history, and he himself was a pioneer at the frontier of some of the most important of those developments. As one of America's foremost scientists, he participated in the development of the first atomic bomb during World War II—and later he became a leader in the effort to control those weapons. He also served with great distinction as adviser to President Eisenhower and to President Kennedy. More recently, he has been familiar to all of us in Congress as president of the Council for a Liveable World.

Professor Kistiakowsky's dual experience as an accomplished scientist and active policymaker was daily proof of his long-held conviction that scientists should not confine themselves to ivory towers, but should be actively concerned with the application of their knowledge to social and political issues. I know that President Kennedy greatly valued his counsel, not only because of Dr. Kistiakowsky's extraordinary intellectual insight, but also because of his warmth and compassion, and his commitment to a better world.

His overriding concern in the last years of his life was with the prevention of nuclear war. He worked with extraordinary dedication to awaken the public about the dangers of the continuing arms buildup. As he once said:

The political leaders of powerful nations continue uttering pious words about their love of peace, but the arsenals keep growing, the stability of nuclear peace is being undermined, and the proposals for arms control negotiations on both sides are so unbalanced as to be obviously non-negotiable.

And in the December issue of the Bulletin of the Atomic Scientist, commemorating the 40th anniversary of the first nuclear explosion, Dr. Kistiakowky wrote:

As one who has tried to change these trends, working both through official channels and, for the last dozen years, from outside, I tell you as my parting words: Forget the channels. There simply is not enough time left before the world explodes. Concentrate instead on organizing, with so many others who are of like mind, a mass movement for peace such as there has not been before. But the threat of annihilation is also unprecedented. Then lead the movement so that, instead of the few now in Washington, many will be elected to Congress who have a true and unbreakable commitment to search for peace.

Mr. President, I ask unanimous consent that the eloquent editorial on Dr. Kistiakowsky in the Boston Globe on December 9 may be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Dec. 9, 1982]

GEORGE KISTIAKOWSKY

A man is best measured not in deeds done, words spoken and honors garnered at the pinnacle of his career, but later when the full sweep of his life can be seen.

George Kistiakowsky, who died Tuesday at the age of 82, can be so measured. He was born in Kiev, Russia in 1900, the son and grandson of professors, and he became one too. He taught chemistry to Harvard students for 41 years. In the epigrammatic elegance with which it bestows honorary degrees, Harvard honored him, saying: "Swift and explosive force, your imaginative talents have both widened our knowledge of chemical structures and enriched the life of this university."

Kistiakowsky, indeed, made things explode. He began as a teenager in his parents' apartment, trying to concoct nitroglycerin. He continued as a tankman in the White Russian Army where, he later recalled, he spent most of his time "running away from the Bolsheviks and changing generals." Later in the Harvard chemistry lab he punctuated a celebrated annual lecture by blowing things up "to show the students that's what they shouldn't do."

His greatest explosion caught him off guard. That was Trinity, the codename for the device exploded on a tower in the New Mexico desert in July 1945, the dawn of the nuclear age. As head of the Los Alamos laboratory of the Manhattan project, Kistiakowsky had built the Trinity bomb's trigger.

Expecting a smaller blast than 20,000 tons of TNT, Kistiakowsky was knocked into a trench. He said to a reporter: "I am sure that at the end of the world—in the last millisecond of the Earth's existence—the last human will see what we have seen."

Kistiakowsky's awards and peak of influence came later. He was appointed science adviser to President Dwight Eisenhower during the Cold War, when the US and Soviet nuclear arsenals surged to incredible destructive capacities. For his service during that period he was showered with awards.

Through it all, he was changing, growing. "At first I felt I was working in the national interest," he later said. "After working so long on weapons, I came to the conclusion that the time had come to control them."

Eisenhower, with Kistiakowsky behind him, vastly expanded US nuclear weaponry, but at the same time ignited the countercurrent of arms control. Ike's famous farewell address warned not only of the menace of a "military-industrial complex" but of a related concern he had often discussed with his science adviser, "the danger that public policy could become the captive of a scientific and technological elite." The respect in which Eisenhower is held today stems largely from that speech.

Kistiakowsky served as an adviser to the Pentagon until 1968. By then he was deeply disturbed at the trends he perceived. "I went into war work in 1940," he told an interviewer last year, "because I was violently against Nazism. After World War II I was foolish enough to swallow hook, line and sinker the intense Washington propaganda that the Soviet Union was ready to conquer the world."

Later, he said, "I began to realize that the policy was being formed in a way that was really questionable. It was being formed by people who didn't know the facts and didn't have time to learn them."

Kistiakowski referred to the current buildup of Pentagon spending as "this militarization of the country." He believed it was a delayed reaction to the loss of the Vietnam war, and he cited an historical pattern he'd seen before: "It happened in France, Czarist Russian, and Germany."

In the twilight of his life, Kistiakowsky headed the Council for a Liveable World. Though wracked with cancer, he had a new perception of what was needed to curb the arms race, which he expressed in an editorial in the current issue of the Bulletin of Atomic Scientists:

"As one who has tried to change these trends, working both through official channels and for the last dozen years from the outside, I tell you as my parting words: Forget the channels. There simply is not enough time until the world explodes. Concentrate instead on organizing, with so many others who are of like mind, a mass movement for peace such as there has not been before. . . . Then lead the movement so that, instead of the few now in Washington, many will be elected to Congress who have a true and unbreakable commitment to search for peace."

Kisty, as friends called him, stood six foot three when he was younger. Against the back drop of his life and times he's taller still.

FUNDING OF FEDERAL DRUNK DRIVING INITIATIVES, EXCISE TAX ON ALCOHOL

Mr. DOLE. Mr. President, on October 25 of this year, the President signed a new 3-year Federal antidrunk driver initiative into law. The major thrust of that law is to provide incentive grants to States which have enacted specified laws and adopted certain procedures in support of a comprehensive program of drunk driving countermeasures. The funding authorization for the new law shifted $125 million of highway trust fund revenues to the new program. Although these funds represent only a small segment of highway trust fund revenues, those revenues have not been keeping up with demands on the fund. With the new demands on highway trust fund dollars now being discussed that will require additional gasoline tax revenues, I believe that we ought to also look closely at other possible revenue sources to help support Federal drunk driving programs, since gasoline taxes are now funding the bulk of our Federal drunk driving initiatives.

This Senator believes that Congress ought to look to the drinker who pays the alcohol excise tax as well as the driver who pays the gasoline tax to share the cost of Federal programs aiding the States in their battle against the drunk driver. It is reasonable that at least some of the costs of drunk driving countermeasure programs at the Federal and State level should be born by alcohol rather than by gasoline users. The alcohol tax, which has not been increased for over 30 years, may be a logical revenue source to help remove from our roads the most common violent killer in the Nation, the drunk driver.

NATIONAL DRUNK AND DRUGGED DRIVER AWARENESS WEEK

Mr. DOLE. Mr. President, the week of December 12 through 19 has been designated by Congress and proclaimed by President Reagan as "National Drunk and Drugged Driving Awareness Week." The observance of this life-saving week at this time of year is particularly appropriate, with so many Americans on the roads for the holidays visiting family and friends.

Tragically, we will all be sharing the highways with drunk drivers who will bring death to hundreds of families during this joyous holiday season. As a congressional representative on the President's Commission on Drunk Driving, I call on my colleagues in the Congress and on every citizen in the Nation to support and observe this week by taking three specific, personal steps to combat drunk drivers. First, be a friend and do not let a friend drive drunk. Second, before drinking and socializing, agree to designate a sober driver, and third, buckle up—it could help you survive a deadly encounter with a drunk driver.

Drunk drivers are the No. 1 violent criminal killer in the land, according to National Highway Traffic Safety Administration figures. Last year, over 26,000 Americans were killed by drunk or drugged drivers, and three-quarters of a million Americans suffered crippling or other serious injuries at their hands. Our Nation's experience also shows that half of the Nation's drivers can someday expect to be involved in a crash with a drunk driver. The problem with drunk drivers is particularly a problem of attitudes. Everyone favors cracking down on drunk drivers unless they happen to be a friend, family member, associate, or ourselves.

Drunk drivers have found a sanctuary in the social acceptability of their conduct that comes when too few of us dare to speak up to stop a friend or associate from driving drunk. Those who want to take truely effective action to challenge that social acceptability can begin during Drunk and Drugged Driving Awareness Week. As a demonstration of support during the week, drivers are being encouraged to turn their headlights on during the day and to display a light in their windows at home.

During the last 2 years, citizens groups across the Nation, such as Mothers Against Drunk Drivers (MADD) and Remove Intoxicated Drivers (RID), have catalyzed legislative action in Congress and in many States reforming drunk driving laws. Our Presidential Drunk Driving Commission hearings have focused on studies of tough Scandanavian-type drunk driving laws, showing that their potency evaporates with time when they are not regularly enforced in a high visibility environment. Such high visibility enforcement of drunk driving laws only comes when private attitudes support tough public policy. Some of the most effective enforcement of our drunk driving laws takes place in our homes and at social gatherings before a drinker even becomes a drunk driver—thanks to peer pressure.

This week presents all of us in this Nation with a critical opportunity to close ranks against the No. 1 violent killer in America—the drunk driver. What we do this week can and will save lives. Let us resolve for the new year to keep the drunk driver off our highways.

A TRIBUTE TO SENATOR HARRY F. BYRD JR.

Mr. GRASSLEY. Mr. President, I note with a tinge of sadness that we are about to lose a colleague whose bearing of dignified gentility exemplifies the qualities most highly treasured in this, the world's greatest deliberative body.

I am referring to our distinguished colleague, HARRY F. BYRD, JR., a fine Virginia gentleman if ever one existed, who for 17 years has carried on a family tradition of faithfully serving the people of his Commonwealth, a tradition that has continued through most of this century.

Beyond the fondness which will remain in our hearts for the Senator from Virginia after he retires in January, he has made his mark through his devotion to the principle of fiscal integrity.

From the beginning, the Senator was a lonely voice in the wilderness calling for simple commonsense in our spending practices—long before the advent of the born-again budget balancers, who now so fashionably preach the doctrine of fiscal conservatism, while continuing to seek big government solutions to our problems.

Indeed, I hope my colleagues will excuse me for reminding them with some pride that I was associated with the Senator from Virginia in one of the greatest legacies he has left Congress and the people of this Nation, having been House sponsor of the Byrd-Grassley balanced budget amendment in 1978.

This body will never again vote on a spending bill that unbalances the budget without a reminder from the Senator from Virginia that we are violating not only our fiduciary obligation to the American people, but also the law of the land.

Mr. President, I am grateful for the opportunity to have served in this body with the Senator from Virginia, if only for a short 2 years, just as the Nation is grateful for his 17 years of devoted public service as a U.S. Senator. May God bless him and his family as he returns to private life.

A TRIBUTE TO SENATOR HARRISON "JACK" SCHMITT

Mr. President, it is rare in these days of increasing specialization that an individual shows the versatility to pursue successful careers in more than one area of public service. But our colleague from New Mexico, JACK SCHMITT, followed up a glowing career as an astronaut by shooting for the stars here in the U.S. Senate.

The Senator has made a name for himself here in the service of the people of New Mexico, just as he did in his earlier public service. I can testify to that, having joined JACK as cosponsor of the Schmitt-Grassley legislative veto amendment. It is further testimony to his leadership that the legislative veto passed by a wide margin in the Senate.

It would be a fitting tribute to our colleague from New Mexico if the House of Representatives, which has sat on the regulatory reform bill that

passed the Senate 94-0, would allow the bill to go through before this "lameduck" session comes to an end.

In that way, Senator SCHMITT would be able to add a new line to his entry in the history books: the man who returned representative government to the United States.

A TRIBUTE TO SENATOR S. I. "SAM" HAYAKAWA

Mr. President, our colleague from California, Senator SAM HAYAKAWA, first burst onto the national scene in the late 1960's, when as president of San Francisco State College, his keen repartee proved a perfect foil to the ravings of those who threatened to disrupt the California college system.

It was the same kind of razor-sharp wit that characterized the Senator from California's contribution to the debate in this body. A noted semanticist, the Senator distinguished himself by lending support to conservative causes with incisive comments that often hit the nail right on the head, the kind of comments that endear politicians to the press.

Mr. President, I for one will miss the opportunity to witness the Senator's rapier thrusts at the opponents of commonsense. I wish him God's blessings and good luck as he retires this January.

A TRIBUTE TO SENATOR NICHOLAS BRADY

Mr. President, the dictionary defines "public-spirited" as "having or showing an unselfish interest in the public welfare."

I do not believe that any public servant I have known has fit this description better than the Senator from New Jersey, NICHOLAS BRADY, who will be leaving this body next month.

Senator BRADY accepted the call to public service from Governor Kean at considerable personal sacrifice, under the difficult circumstances of succeeding a Senator who retired in the shadow of scandal, and with the understanding that Senator BRADY would not advance his own career by seeking election.

Since his arrival here, the Senator has wasted no time in participating both in the business of the Senate and in the public debate on the difficult issues of the day. In this he has drawn upon the considerable reservoir of skills afforded him by his business experience—industriousness, commonsense, tact, and sensitivity to the problems faced by the people of New Jersey and of the Nation.

Senator BRADY'S tenure here has been brief but brilliant; his service to the people of New Jersey sterling. I wish the Senator from New Jersey Godspeed and good luck as he returns to the business world, and hope he returns frequently to his friends here to give us the further benefit of his counsel.

TRIBUTE TO SENATOR HARRY F. BYRD, JR.

Mr. INOUYE. Mr. President, I rise today to pay tribute to the senior Senator from the State of Virginia, my good friend HARRY F. BYRD, JR. After a long and distinguished career spanning 17 years, Senator BYRD has chosen to retire from the U.S. Senate. In so doing, this body will lose one of its most respected Members.

Senator BYRD is a man of high principle and great integrity. He brings to his work a spirit of independent-mindedness and forthrightness that has contributed immeasureably to the business of his respective committees and the Senate as a whole. As a member of the Armed Services Committee and the Finance Committee, he has consistently spoken out on behalf of fiscal restraint. In our discussions on the Senate floor, he has always contributed to maintaining the highest levels of debate, invoking clear and constant principles of responsibility and accountability in Government. Senator BYRD has served the people of Virginia well and brings credit to this institution.

It has been a great pleasure working with HARRY BYRD, and I will miss him when he retires from the Senate. I want to join my colleagues in wishing him every success and much happiness in the years ahead.

TRIBUTE TO SENATOR NICHOLAS BRADY

Mr. President, since he took office in the U.S. Senate in April, NICHOLAS F. BRADY has served the State of New Jersey and our Nation with honor and distinction.

In his several months in the Senate, Senator BRADY has impressed us with his sense of leadership and extensive expertise in the business world. His membership on the Armed Services Committee and the Banking, Housing and Urban Affairs Committee has enabled his contributions to the formulation of legislation that will affect our Nation's domestic economy and military readiness for many years to come.

It is with much gratitude that I extend my best wishes to Senator BRADY on his return to private life. In a time of difficulty, he has performed with confidence and skill. I hope that he has found his experience in the Senate as fulfilling and rewarding as he had hoped.

I wish to join my colleagues in expressing my hopes for his continued success.

TRIBUTE TO SENATOR HARRISON SCHMITT

Mr. President, 10 years ago this week, JACK SCHMITT was on his way to the Moon as a member of the Apollo 17 mission. Our colleague has already made a name for himself in history through his exploits as an astronaut and I am confident that we will continue to sing his praises in his new endeavors. Yet, in my judgement, Senator SCHMITT'S most important contribution to our society and our Nation will probably be appreciated by only a very few.

For the past 2 years, I have had the honor of working closely with Senator SCHMITT in his role as chairman of the Senate Appropriations Subcommittee on Labor-HHS-Education. This is one of the most important, if not the most important, subcommittee in the Senate and its activities touch on the lives of every one of our citizens. During his tenure, Senator SCHMITT had to make a number of very difficult decisions and, in my judgment, did an admirable job. It was quite evident to me that he is a man who really cares about our Nation's minorities, children, handicapped, and those who really need support from the Federal Government.

For a number of years, we have, unfortunately, allowed our various programs to expand without ever requiring them to be accountable and to demonstrate that they were in fact effective. Every one of us in this Chamber has often wished that we could take the easy route and vote for bigger and more expensive programs, yet JACK SCHMITT for the past 2 years, has had the responsibility of bringing us back to reality.

I am most pleased to have been able to work closely with him during these past 2 years and was most impressed by his compassion, dedication, and willingness to ask the hard questions. It would be a tremendous understatement to say that he has been more than fair to our Nation's professional nurses and especially to those, such as the mentally ill, or the residents of the Pacific Basin or our Nation's Hispanic citizens, who have not traditionally had a vocal lobby arguing on their behalf.

Senator SCHMITT brought the highest level of integrity to our deliberations and I personally felt extraordinarily confident that his recommendations would be equitable and just and, above all else, be the result of having weighed all the factors involved.

I will miss working with Senator SCHMITT in the years to come; however, I am confident that a number of the trends that he has started, such as stressing the importance of preventive health care/behavioral medicine, evaluating the efficacy of the various psychotherapeutic techniques, and insuring that the National Institutes of Health will be vigorous, but yet accountable, will continue.

JACK SCHMITT is a most farsighted man and I have learned a lot working with him.

A TRIBUTE TO HOWARD W. CANNON

Mr. President, it is with mixed emotions that I rise to pay my heartfelt tribute to my friend and colleague HOWARD CANNON.

I deeply regret that I shall not be able to continue serving with him. He has been a conscientious, influential, and extraordinarily able representative of the people of Nevada. At the same time, I welcome this opportunity to honor his many accomplishments and salute his valuable contributions to the American people.

I feel a special affinity for HOWARD CANNON because I had the pleasure of working closely with him in the Senate Commerce Committee, of which he was chairman between 1978 and 1980. During his tenure, he put his stamp permanently on domestic economic policy as he chaired the committee during the deregulation of the airline, trucking, and rail industries. The adoption of these deregulatory policies has resulted in profound changes in the structure of the American economy and has irrevocably altered the transportation sector.

He has had a special interest in and knowledge of the airline industry. He is generally acknowledged to be one of the Congress leading experts on aviation, both commercial and military. His experience has been gained through his service as chairman of the Aviation Subcommittee of the Commerce Committee and the Military Aviation Subcommittee of the Armed Services Committee and as a pilot who rose to the rank of general in the Air Force.

HOWARD CANNON gained the respect of his colleagues not through appealing to the media but rather by doing his homework and consulting with his colleagues. He has learned how to be quietly effective in the Senate and to achieve his goals through hard work, persistence, intelligence, and compromise. These qualities are the hallmark of a political statesman and a leader.

I shall cherish the many years that I have known HOWARD. I extend my fondest regards to him and his lovely wife and my hope that they will carry with them the knowledge that he has carved out a memorable career in this body and enjoys the admiration and friendship of his colleagues.

U.S. NUCLEAR WEAPONS STRATEGY

Mr. DANFORTH. Mr. President, it is high time that we had a major national debate on U.S. nuclear weapons strategy. We currently do not have a clear or coherent policy. Instead, we are besieged with conflicting claims and technical arguments. A resolution of these conflicts should be our first priority. Consider what will confront the new Congress when it convenes.

The United States has signed three arms control agreements which remain unratified—SALT II, the Threshold Test Ban Treaty and the Peaceful Nuclear Explosion Treaty. After years of effort, the American initiative toward a comprehensive test ban treaty apparently has wound up on the trash heap. Our continued informal compliance with SALT I and SALT II is clouded. Some in this administration have suggested that the SALT agreements are fundamentally flawed. Others have recommended deployment of antiballistic missiles in violation of the ABM Treaty. A defense guidance paper has been formulated which raises more questions than it answers about U.S. attitudes toward limited or protracted nuclear war and the first use of nuclear weapons.

U.S. nuclear nonproliferation policy also is in a state of confusion. Export restrictions affecting nuclear fuel cycle and reprocessing technology have been relaxed. Exemptions for highly developed countries from U.S. inspection standards under the 1976 Nuclear Nonproliferation Act are being contemplated. Our previously firm commitment to full international inspection safeguards may be loosened. If the administration believes that these actions enhance nonproliferation then it must make its case—forthwith. Otherwise our credibility as the world leader in containing the spread of fissionable materials is seriously jeopardized.

Four months ago I introduced a resolution in the Senate requesting the President to reimpose some semblance of order on the entire process of nuclear strategy including arms control and specific weapons policy by making a report on these matters to Congress. It posed the questions of where we stand, where we intend to go, and how we intend to treat all existing agreements including those that have been signed but not ratified. The resolution received strong bipartisan support and passed the Senate unanimously in late September. The administration has chosen to ignore the December 1 deadline of the request. This is regrettable because the administration's continued silence encourages complete disarray in the debate and insures that it will be dominated by forces outside of the executive branch. Moreover, the President's steadfast distance has left our Government's stewardship of the most important moral issue in the history of humankind—how to reduce the risk of nuclear war—in the hands of technicians. The result has been a piecemeal discordant effort, a woeful lack of progress in our negotiations, and a preoccupation with detail instead of fundamental principles.

In this light, it is deplorable that a lameduck session of the Congress might actually deal with such critical matters as appropriations for the Pershing and MX missiles and legislated reductions in U.S. conventional force levels in NATO. It is almost impossible to sort out the array of technical arguments over nuclear weapons. Therefore, most of us must make decisions on the basis of broader national security grounds. Eleventh hour maneuvering in a lameduck session would be a disaster no matter what the outcome.

The details of our strategic weapons development and our long-term commitment to the maintenance of conventional forces in NATO should be settled only after a comprehensive framework has been put forward by the President and its content has been debated thoroughly. For example, does the maintenance of mutual deterrence and crisis stability still constitute the foundation of our strategic planning? Is the achievement of arms limitation seen as an essential part of our national security posture? Can our reliance on strategic weapons be reduced without paying the price of increased conventional preparedness? And finally, can we implement a successful strategic policy without public support and the strong support of our allies on all aspects of East-West relations?

The President must assert his leadership over the arms control process. Not to do so will depreciate the institution of the Presidency and the future success of our negotiations. In the final analysis the complex puzzle of how to reduce the risk of nuclear war can only be fit together from the very top. Those of us who want a strong national defense are prepared to offer our support, but we need a clearer sense of purpose.

SENATOR HARRY F. BYRD, JR.

Mr. SIMPSON. I want to share with you some of my feelings as we observe the retirement of that extraordinary gentleman and statesman, HARRY F. BYRD, JR. I think of his courageous act in indicating late last year to the people of his beloved State of Virginia that he would not seek a fourth term in the U.S. Senate. I think many of us shared with him our feelings about his decision at that particular time.

My father, Milward L. Simpson, and HARRY's father, Harry F. Byrd, were very fine and close friends serving together in this U.S. Senate. In fact, my father often indicated that this was one of the men he most enjoyed working with.

It is my regret that I did not come to know HARRY better. But with the extraordinary array of hurried conferences, cursory greetings, floor debate, three or four overlapping committee or subcommittee meetings scheduled at the very same moment in time, constituents waiting in the office—one does not always get to come to know one's colleagues well. There is then the additional limitation of not having served together on committees or subcommittees, which further limits that

opportunity to bring an acquaintance into the fruition of full friendship. It is just not often possible in this extraordinary arena.

But in my times with HARRY—in either political endeavors or social activities—I can only say that he has generated in me a great feeling of respect and admiration.

Additionally, my wife Ann and I have deeply appreciated the many kindnesses that he has extended to us during our time here. He and Gretchen were always most thoughtful and gracious to us.

Ann joins me in extending our warmest personal regards to the Byrds together with all of the blessings of this holiday season and with the hope that the two of them will have many productive and beautiful years to enjoy in their magnificent State of Virginia. Indeed, the people of that State must be very proud of him. I know that they are. All of us here are too.

My remarkable parents would join in conveying love and respect to you for what you have done for your country, for your State and for the U.S. Senate. It is a better place because you served here. God bless you, HARRY.

THE RETIREMENT OF SENATOR HOWARD W. CANNON

I extend my best wishes to HOWARD CANNON as he enters into new pursuits in life. I did not have the opportunity to serve on committee assignments with HOWARD but his span of service to his country is remarkable indeed. He served in the Senate when my father was present here as a Member. Dad always enjoyed his service with HOWARD. I wish him every success in his new ventures in life and am pleased that I had the opportunity to serve in this body with him.

I commend him for his fine service to his country, his State, and to this body.

THE RETIREMENT OF SENATOR S. I. HAYAKAWA

One of the first persons I met when coming to the U.S. Senate was SAM HAYAKAWA. I recall that first visit with great vividness. It was a pleasant conversation and he offered me assistance and support as I embarked upon my new duties in the Senate. I have not had the pleasure of serving with him on committees in this body, nor have our interests drawn us into close contact. However, I worked with him in regard to the discussion, deliberation and debate on the Immigration Reform and Control Act of 1982. He followed the issue with great persistence and awareness.

SAM HAYAKAWA has brought to this body a freshness in language and communication that we have all deeply appreciated. He is an extraordinary person of multifaceted talents.

It has been my privilege to come to know him and to find the essence of that fine sense of humor and courteous demeanor and this persistence of attitude that is to be envied in this Chamber.

I wish him well as he goes on to new challenge in his life—just as he has done for all of his 76 years. He has given much to his country, to his State, and to this Senate. He has much more to render. I have greatly enjoyed my service with him in the Senate.

GAS PRICES SOAR

Mr. EAGLETON. Mr. President, the Bureau of Labor Statistics this morning announced that the Producer Price Index for November had increased by 0.6 percent. The leading component in that index was the price of natural gas which was up a full 5 percent. Between November 1981 and November 1982, the price of natural gas at the producer level has gone up 25.7 percent.

Mr. President, this report may shock some Members of this body, but it is no surprise to me. Natural gas prices in the Kansas City area this winter are expected to increase by 37 percent and in the St. Louis area by 20 to 25 percent. In many cities around the country price increases in excess of 60 percent are possible unless this Congress acts to halt these runaway prices.

Mr. President, all this week the corridors have been jammed by representatives of the gas producers who have heard there might be some of us in the Senate planning to stand up for the consumers interests at the expense of their very sizable profits. They are right. I am one of those Senators who does not believe we can wait until next summer to deal with the problem. Senators KASSEBAUM, DANFORTH, and I will press for action now—in this lameduck session—to put a stop to these unjustified, horrendous price increases.

One of the measures we will be supporting is abrogation of the anticompetitive "take-or-pay" clauses which force some pipelines to accept delivery of $6 to $9 gas while gas costing as little as 85 cents per mcf is kept in the ground. We have glut of gas supply in this country but the laws of supply and demand are not allowed to work by virtue of these "take-or-pay" contracts and the consumer is the loser. The situation makes a mockery of the arguments we heard during the deregulation debate that the free market should be allowed to set the price of natural gas. There is no free market under these contracts. We have merely traded Government regulation of prices for producer regulation. For Congress to end this lameduck session without acting to put an end of this ripoff would be unconscionable. There may be enough Members who will be persuaded that the matter is just too complex to deal with until next year, and they may vote down the reasonable measures we are offering. But, we are determined to bring this matter to a vote. If Members want to tell the folks back home they cannot do anything about today's heating bills until next summer, that will have to be their choice. But, we are determined those folks back home know what their position is.

Mr. President, a full explanation of what has been going on in the natural gas industry since the deregulation act of 1978 is provided by a General Accounting Office report made available yesterday. So that all Members will have the benefit of these facts, I ask that the report be printed in full at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., December 9, 1982.

Hon. THOMAS F. EAGLETON,
U.S. Senate.
Hon. MICHAEL D. BARNES,
House of Representatives.
Hon. GEORGE MILLER, ET AL.,
House of Representatives.

This report is in response to your separate, but similar, requests for information explaining recent natural gas price increases and simultaneous reports of "excess" natural gas supplies. This report is not an evaluation of any agency's performance and contains no recommendations.

This is a preliminary report, and we are continuing our efforts in this area. We did not obtain agency comments on the matters discussed.

We are sending copies of this report to the Secretary of Energy and the Chairman, Federal Energy Regulatory Commission.

J. DEXTER PEACH,
Director.

COSIGNERS OF REQUEST LETTER FROM REPRESENTATIVE GEORGE MILLER

Representative Anthony Beilenson.
Representative George E. Brown, Jr.
Representative Phillip Burton.
Representative Ronald V. Dellums.
Representative Mervyn Dymally.
Representative Don Edwards
Representative Augustus Hawkins.
Representative Edward J. Markey.
Representative Matthew Martinez.
Representative Robert T. Matsui.
Representative Norman Mineta.
Representative Toby Moffett.
Representative John Seiberling.
Representative Pete Stark.

[Preliminary Analysis of Natural Gas Price Increases]

DIGEST

Reports that the price of natural gas will increase substantially this winter have received widespread attention. In response to congressional requests, GAO has prepared a preliminary analysis, which covers:

How fast prices have increased;
Why prices have increased; and
Whether there is an "excess supply," and if so, how it developed.

STRUCTURE AND REGULATION OF THE NATURAL GAS INDUSTRY

Natural gas—about 95 percent of it produced domestically—accounts for over 25 percent of the energy consumed in the

United States. Industrial use accounts for 41 percent of all gas; residential, for 24 percent; electric generation, for 19 percent; commercial for 13 percent; and other uses, for 3 percent.

The natural gas industry is comprised of three sectors—production, transmission, and distribution—which are physically interconnected by a network of pipeline and main throughout the United States. At one end of the network are thousands of companies which explore for, drill for, and produce gas. Since enactment of the Natural Gas Policy Act of 1978, all production has been subject to Federal price regulation. The act established various pricing categories based on such factors as where and when a well is drilled.

At the other end of the network are almost 1,600 distribution companies, usually local public utilities, serving their own market areas and under the jurisdiction of State or local regulatory bodies. The connecting transmission network includes 129 interstate pipeline companies operating under Federal jurisdiction, plus many intrastate pipelines which are generally regulated under State laws.

HOW MUCH HAVE GAS PRICES INCREASED?

Prices to all types of users increased at an annual average rate of 18 percent between 1970 and 1981 (not adjusted for inflation), according to data from the Energy Information Administration. Residential prices increased less (13 percent) than industrial prices (21 percent).

Nevertheless, residential prices today are higher than other prices. Residential users paid an average of $4.29 per thousand cubic feet in 1981; commercial users, $4.02; industrial users, $3.14; and electric utility users, $2.89.

The average residential price in October 1982 was $6.08 per thousand cubic feet, compared to $2.83 in October 1978 and $0.91 in October 1970 (not adjusted for inflation), according to Bureau of Labor Statistics data for U.S. cities. The average price in selected major cities in October 1982 was as low as $4.94 and as high as $8.20.

Prices paid by end-users flow back to the three industry segments as gross revenues. According to data from the American Gas Association, producers, pipelines, and distributors all received more revenue per thousand cubic feet in 1981 than in 1970. The producers' share of the total increased from 26 to 53 percent; the pipelines' share decreased from 29 to 25 percent; and the distributors' share decreased from 45 percent to 21 percent.

The Energy Information Administration projects that the average residential price in the first quarter of 1983 will be about 20 percent higher than the year-earlier price. However, some cities are reportedly expecting increases of 40 percent or more.

WHY HAVE NATURAL GAS PRICES INCREASED?

End-user prices for natural gas depend on the diverse factors affecting how gas is priced to pipelines, to distributors, and to end-users. Prices paid by pipelines depend on both the quantity of domestic gas in each category under the Natural Gas Policy Act and the price of gas in each category, as well as imported gas.

Several factors have affected the quantities and prices. One factor has been the regular increases in ceiling prices for various categories under the act. For example, the ceiling for new natural gas increased from $2.08 per million British thermal units (Btu's) in December 1978 to $3.27 in December 1982. (A million Btu's are approximately equal to a thousand cubic feet.)

Another factor has been the creation of incentive prices for high-cost gas, as provided by the act. According to Energy Information Administration data for major pipelines' projected purchases, the average price of high-cost gas was $6.12 per million Btu's in mid-1981 and $7.24 in mid-1982.

In addition, certain clauses in producer-pipeline contracts can cause average gas prices to increase. Many contracts obligate the pipeline to purchase a set amount of gas even if the pipeline does not have a ready market (called a "take-or-pay" clause). Such clauses were, in part, a reaction to the existence of Federal price ceilings in the interstate market, but not in the intrastate market, until 1978.

Other factors include the depletion of old gas reservoirs and imported natural gas.

Prices paid by distributors depend on the prices paid by the pipeline suppliers, plus pipeline operating expenses and rates of return.

Prices paid by end-users depend on the prices paid by their distributors and the way these costs are allocated to residential, industrial, and other classes of users. For example, because of concern about industrial users switching to an alternative fuel, a California distributor has proposed a new rate schedule which would raise the average residential price by about 70 percent and the price to industrial users which can switch to residual fuel oil by about 31 percent.

IS THERE AN IMBALANCE BETWEEN GAS PRODUCTION AND CONSUMPTION?

Reports of a current "excess supply" of natural gas are consistent with major interstate pipeline estimates of supplies which will be available this winter. The duration of this imbalance is uncertain.

This situation reflects the many factors which determine gas production and consumption. Pipelines eagerly sought new supplies during the 1970s when they could not provide as much gas as their customers desired. There is now an imbalance because pipelines are able to supply more gas than end-users want at current prices.

Consumption has fallen due to more efficient use of gas, switching to alternative fuels, and economic conditions. Distribution company sales in the first 8 months of 1982 were 4 percent below year-earlier levels, according to the American Gas Association.

Some companies are adjusting to the current situation by renegotiating contracts and other means.

GAO initiated its analysis in response to requests from Senator Thomas F. Eagleton, Congressman Michael D. Barnes, and Congressman George Miller and 14 others.

As agreed with the requesters' offices, this is a preliminary report. GAO is continuing its analysis of natural gas price increases. GAO did not seek agency comments on this report.

CHAPTER 1: INTRODUCTION

Reports of substantial increases in retail natural gas prices—both recent and expected—have attracted widespread congressional and public attention. These increases may seem particularly puzzling because of concurrent reports that there is a "glut" of natural gas, meaning that more gas could be produced and delivered than is being consumed. Ordinarily, such an imbalance between potential production and consumption would be expected to lead to declining, rather than increasing, prices to consumers.

Natural gas accounts for over 25 percent of the energy consumed in the United States. In 1981, natural gas use totaled 19.3 trillion cubic feet (Tcf),[1] nearly all of it produced domestically. It is used in about 55 percent of all residential and commercial establishments and provides 40 percent of the energy consumed by industry and agriculture. Overall, industrial use accounts for 41 percent of all gas use; residential, for 24 percent; commercial, for 13 percent; electric generation, for 19 percent; and other uses, for 3 percent.

Structure and regulation of the natural gas industry

Most natural gas passes through three sectors of the industry before it is consumed. These sectors are regulated variously by units of Federal, State, and local government.

The industry is comprised of three sectors—production, transmission, and distribution—which are physically interconnected by a network of over 1 million miles of pipeline and main throughout the United States. At one end of the network are thousands of large, medium, and small companies which explore for, drill for, and produce gas. Approximately two-thirds of their gas production is sold in interstate commerce and has been subject to Federal price regulation since 1954, now administered by the Federal Energy Regulatory Commission (FERC).[2] The remaining production is sold in intrastate commerce and has been subject to Federal price regulation only since the enactment of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301) (NGPA).[3]

At the other end of the network are almost 1,600 distribution companies, usually local public utilities, serving their own market areas and under the jurisdiction of State or local regulatory bodies. The connecting transmission network includes 129 interstate pipeline companies operating under the jurisdiction of FERC, plus many intrastate pipelines which are generally regulated under State laws.

Producers explore for new reserves of natural gas, develop them to determine their size, and extract the gas from the reserves. Having determined that a reserve is large enough to warrant marketing, the producer will usually negotiate to sell the gas to a pipeline company. Pipeline companies generally purchase this gas—under negotiated contracts—from producers in the field, transport it to market, and sell it either to distribution companies or directly to large industrial and electric utility end-users.[4]

---

[1] Quantities of natural gas are often measured on the basis of volume. Frequently used measures include thousand cubic feet (Mcf), billion cubic feet (Bcf), and trillion cubic feet (Tcf). Alternatively, gas may be measured on the basis of heat content, in terms of British thermal units (Btu's). A million Btu's are approximately equivalent to an Mcf.

[2] Successor to the Federal Power Commission. Established by the Department of Energy Organization Act of 1977, 42 U.S.C. 7107.

[3] Production may also be subject to regulation at the State level, with respect to prices and levels of production.

[4] Pipeline companies may produce some gas themselves and purchase gas from and resell to other pipelines. Some pipelines also transport gas for customers which have their own gas supply.

Distributors purchases gas from pipeline companies and resell it to residential, commercial, or industrial customers. Prices paid by a distributor to a pipeline (known as wholesale or "city-gate" prices) depend on (1) field prices which are negotiated by the pipeline within regulatory limits and passed through to the customer and (2) delivery charges for transportation of the gas from the wellhead to the distributor.[5] Distributors then deliver gas to the final consumer and charge a mark-up over their wholesale purchase price for their delivery services.[6]

Different end-users may pay a distribution company various prices for natural gas, depending on the type of end-use (for example, residential, commercial, industrial, or electric utility) and on the type of service (for example, firm or interruptible supply).

In addition to the physical links between the three sectors of the natural gas industry, companies within these sectors can also be connected through common corporate structures. For example, some companies engage in production, transmission, and distribution activities and many of the largest interstate natural gas pipeline companies are involved in natural gas production either directly or through corporate affiliates. Some distribution companies are also involved in the gas producing business, while others are integrated with pipeline companies.

Objectives, scope, and methodology

This report was prepared in response to separate, but similar, requests from Senator Thomas F. Eagleton, Congressman Michael D. Barnes, and Congressman George Miller and 14 cosigners. As agreed with the requesters' offices, we concentrated on three questions:

How much have natural gas prices increased in recent years?

What factors account for these price increases?

Is there an excess supply of natural gas and, if so, why?

In this report, we present information in answer to these questions. With respect to the factors which account for price increases, we identified a number of such factors which could contribute, in some measure, to increases in various localities, but we did not attempt to determine which factors are most important in any specific locality. We are continuing our review of natural gas price increases.

In preparing this report, due to time constraints, we relied largely on available data and reports by FERC, the Energy Information Administration, the Bureau of Labor Statistics, and the American Gas Association. We did not independently verify the accuracy of any of these data. Some of the price data on which we relied are adjusted for inflation; others are not adjusted. In each case we identify whether the data were adjusted.

We also relied on our report on "Pipeline Purchases of High-Cost Natural Gas: Extent and Contested Issues" (EMD-82-53, Apr. 6, 1982) and on information gathered in connection with current natural gas reviews. We also discussed the matters covered in this report with representatives of production, pipeline, and distribution companies; Federal and State-regulatory agencies; and consumer advocates. Information gained from these sources is cited below in many instances.

Additional details on our methods are included in the subsequent chapters.

This report was prepared in accordance with generally accepted government audit standards.

CHAPTER 2: HOW MUCH HAVE PRICES INCREASED?

Although the magnitude of recent and expected price increases has attracted widespread attention, natural gas prices have been rising for many years. At the time of the landmark Supreme Court decision in *Phillips Petroleum Co.* v. *Wisconsin*, 347 U.S. 672 (1954)—which formed the basis for Federal regulation of producer prices—the average wellhead price was $.10 per Mcf. In contrast, the price in 1981 was $2.06.[7]

This chapter treats price increases since 1970 from three perspectives: (1) nationwide average prices charged to various classes of end-users, (2) prices charged to residential customers in selected cities, and (3) the breakdown of end-user prices by sector of the natural gas industry.

Prices paid by classes of end-users

First, we compiled Department of Energy data on prices paid by various classes of end-users between 1970 and 1981. There were differences in 1981 prices to various end-user classes and in the rates of increase between 1970 and 1981. (See table 1.)

Residential and commercial users paid the highest average prices in 1981—$4.29 and $4.02 an Mcf, respectively. Electric utility and industrial users paid the lowest average prices—$2.89 and $3.14 an Mcf, respectively.

Rates of increase also varied. Compounded annual average rates (not adjusted for inflation) increased 11 percent a year between 1970 and 1973 and 22 percent a year between 1974 and 1981. However, in each of the 4-year periods for which we computed average annual increases, residential prices increased by the smallest proportion, followed by commercial prices. Industrial and electric utility prices increased by larger proportions in each 4-year period.

Residential rates paid in selected cities

Next, we compiled Bureau of Labor Statistics data on residential prices between 1970 and 1982 for the Nation and for ten cities. These cities represent various regions of the country but do not necessarily reflect the full range of residential prices. (See table 2.) Furthermore, the data shown reflect average prices per Mcf of gas, not the quantity of gas used nor average customer bills.

TABLE 1.—PRICES PAID BY END-USER CLASSES, SELECTED YEARS, 1970–81, AND RATES OF INCREASE

	Residential	Commercial	Industrial	Electric utility	Overall average
Average price (price per Mcf):					
Year:					
1970	$1.09	$0.77	$0.37	$0.29	$0.55
1974	1.43	1.07	0.67	0.51	0.84
1978	2.56	2.23	1.70	1.48	1.85
1981	4.29	4.02	3.14	2.89	3.39
Compounded annual average rates of increase (percent)					
Period:					
1970–74	7	9	16	15	11
1974–78	16	20	26	31	22
1978–81	19	22	23	25	22
1970–81	13	16	21	23	18

Source: Energy Information Administration, "1981 Annual Report to Congress," Vol. 2: Energy Statistics, May 1982 DOE/EIA-0173(81)/2, p. 117, and Natural Gas Annual, 1981, DOE/EIA-0131(81), Sept. 1982, table 16.

These data reveal three trends. First, average prices for cities and prices for the ten cities all increased considerably over this period. Average national prices (not adjusted for inflation) increased by more than six-fold between 1970 and 1982. Prices for all but one of the cities increased between five-fold and seven-fold; San Francisco's prices increased almost nine-fold. Thus, the rates of increase were roughly comparable during the period.

Secondly, there were substantial differences between the lowest and highest prices. In 1970, the prices for San Francisco ($0.71 per Mcf), Atlanta ($0.84), Dallas ($0.86), and Cleveland ($0.87) were considerably lower than the prices for Boston ($1.53), Philadelphia ($1.43), and Seattle ($1.18). In 1982 the prices for Chicago ($4.94), Cleveland ($5.11), and Atlanta ($5.29) continued to be much less than for Boston ($8.20), Philadelphia ($7.54), and Seattle ($6.99).

However, there was some shifting in the cities' relative ranking between 1970 and 1982. For example, San Francisco and Dallas had the lowest prices in 1970 but some of the higher prices in 1982. Boston and Philadelphia had the highest prices in both 1970 and 1982.

The absolute difference between the lowest and highest prices increased from $0.82 per Mcf in 1970 to $3.26 per Mcf in 1982. The lowest price was 46 percent of the highest rate rate in 1970 and 60 percent in 1982.

Components of end-user prices by industry sector

Finally, we compiled data from the American Gas Association on the components of end-user prices by industry sector for 1970 and 1980. (See table 3.) Prices paid by end-users flow back to the three industry sectors as gross revenues. The data show that revenues to each sector—producers, pipelines, and distributors—increased between 1970 and 1981 (not adjusted for inflation). However, revenues to producers increased by the largest proportion and increased the producers' share of total revenues to from 26 percent in 1970 to 53 percent in 1981. Conversely, revenues to pipelines and distributors increased at a slower rate, leading to a decline in the pipelines' share from 29 to 25 percent and a decline in the distributors' share from 45 to 21 percent.

TABLE 2.—RESIDENTIAL PRICES IN SELECTED CITIES, SELECTED YEARS, 1970–82

[Price per Mcf in October of Year [a]]

Location	1970	1974	1978 [a]	1982
U.S. average	$0.91	$1.28	$2.83	$6.08
Atlanta	0.84	1.24	2.71	5.29
Boston	1.53	2.23	3.32	8.20
Chicago	1.00	1.31	2.78	4.94
Cleveland	0.87	1.21	2.18	5.11

[5] Mark-up prices for interstate pipelines are generally determined by the historical average cost of transmission and by the transportation profit margin allowed under FERC regulation.

[6] Neither pipelines nor distributors make a profit on the purchase and resale of gas. Mark-ups for both pipelines and distributors include operating and maintenance expenses, depreciation, interest, taxes, and net income. Thus, pipelines' and distributors' profits derive only from their investment in the transportation and delivery systems and not in the gas itself.

[7] Energy Information Administration, 1981 Annual Report to the Congress, vol. 2: Energy Statistics, DOE/EIA—0173(81)/2, May 1982, table 51.

TABLE 2.—RESIDENTIAL PRICES IN SELECTED CITIES, SELECTED YEARS, 1970–82—Continued

[Price per Mcf in October of Year [4]]

Location	1970	1974	1978 [3]	1982
Dallas	0.86	0.92	2.50	6.23
Los Angeles	(1)	(1)	(2)	5.71
Philadelphia	1.43	1.88	3.88	7.54
St. Louis	0.95	1.35	2.34	6.15
San Francisco	0.71	1.12	2.14	6.26
Seattle	1.18	1.62	3.74	6.99

[1] Not available.
[2] Earliest available data for Los Angeles are for November 1978.
[3] Consumer prices were not collected from July through October 1978, due to revision of the BLS Consumer Price Index. Data shown were interpolated from June and November 1978 figures.
[4] Based on prices for 100 therms of gas in each city, converted to cubic feet at a rate of 1,021 Btu's per cubic foot.

Source: Bureau of Labor Statistics, "Retail Prices and Indexes of Fuels and Electricity," November 1970, table 6; November 1974, table 7; and June 1978, table 7; and "Energy and Food—October 1982," Nov. 22, 1982, table 1; and unpublished data.

Table 3.—COMPONENTS OF END-USER PRICES, BY SECTOR, FOR 1970 AND 1981

Sector	1970		1981	
	Price per Mcf	Percent of total	Price per Mcf	Percent of total
Producer	$0.17	26	$2.00	53
Pipeline	0.19	29	0.94	25
Distributor	0.29	45	0.80	21
Total	0.65	100	3.74	100

Source: American Gas Association, Gas Facts, 1980, p. 122, and unpublished data.

Expected price increases to residential users

Expected price increases in cities around the country have received widespread media coverage. Such estimates are usually based on pipeline filings at FERC and on other factors; actual increases may ultimately be different.

The Energy Information Administration projects that the average price for residential users will be $5.97 per Mcf in the first quarter of 1983, about 20 percent higher than the year-earlier price of $4.99.[8] Projected increases in individual cities, however, are expected to vary considerably. Distribution company representatives told us that some cities are expecting increases of 40 percent or more.

Conclusions

Prices paid by natural gas end-users vary considerably. Residential and commercial users (both over $4.00 per Mcf) paid higher prices than industrial ($3.14) and electric utility ($2.89) users in 1981. However, industrial and electric utility prices increased faster between 1970 and 1981.

Prices paid by residential customers increased overall between 1970 and 1982, but at somewhat different rates. Current prices vary considerably from city to city—from less than $5.00 per Mcf to more than $8.00.

Natural gas producers' proportion of revenues from end-user sales increased from 1970 to 1981 (from 26 percent to 53 percent). The pipelines' share declined (from 29 percent to 25 percent), and the distributors' share declined (from 45 percent to 21 percent).

The Energy Information Administration projects that average residential rates will increase 20 percent from the first quarter of 1982 to the first quarter of 1983. Increases in individual cities will reportedly vary considerably.

CHAPTER 3: WHY HAVE PRICES INCREASED?

Although natural gas end-user price increases are not a new phenomenon, the reported magnitude of expected increased in some cities is unusual. This chapter examines various reasons which could account for some portions of the increases. It addresses the factors which affect: (a) prices charged to pipelines, (b) prices charged to distributors, and (c) prices charged to end-users.

In this preliminary analysis, we did not attempt to determine the contribution of each factor nor to determine which factors are most important in various localities.

Prices charged to pipelines

Pipeline purchases from producers are governed by the Natural Gas Policy Act of 1978. The act established eight major price categories, covered by Sections 102 through 109,[9] and additional sub-categories depending on when a well is drilled, how deep the well is, when and where the gas was contracted for, and other criteria. Allowable prices for these categories vary widely. This section discusses factors which affect prices charged to pipelines, including prices and quantities of domestic purchases from producers and of purchases of imported gas.

Domestic purchases

Piplines purchase gas from various NGPA categories and at various prices. The pipelines' average cost of gas in a time period depends on both prices and quantities. Both the quantity of gas in each catagory and the average price paid vary, as shown in table 4 for major pipelines' projected purchases for 2 successive years. (These data were compiled by the Energy Information Administration from pipeline filings at FERC, based on pipelines' projections of gas purchases in future periods.)

The total quantity increased by 2 percent. But the quantity of old (sections 104 and 106) gas contracted for in 1972 or earlier declined 15 percent, while the quantity of section 102 gas increased 18 percent and the quantity of high-cost (section 107) gas increased 70 percent.

The average price increased 17 percent (adjusted for inflation). The average price of old gas contracted for in 1973 and later declined 1 percent, old gas contracted for in 1972 or earlier increased 2 percent, and high-cost gas increased 18 percent.

The increase in the average price, from $2.01 to $2.35 (adjusted for inflation), reflects both changes in proportionate quantities and changes in prices. To provide some perspective on the relative importance of price and proportions, we compared the actual prices and quantities for 1981 with two alternatives. First, we calculated the average price of buying the 1981 volumes at the 1982 prices, to illustrate the importance of changes in price; the average price went from $2.01 to $2.10. Secondly, we calculated the average price of buying the 1982 volumes at the 1981 prices, to illustrate the importance of changes in proportions; the average price went from $2.01 to $2.22.

The overall increase of $0.34 per Mcf may be compared with the 1981 quantities/1982 prices increase of $0.09 and the 1982 quantities/1981 prices increase of $0.21. The changes in proportionate quantities appear to account for about twice as much of the overall change as the price changes. Even after the 7-percent inflation rate between the two periods is considered, the changes in proportionate quantities appear to account for at least half the overall change. (These results relate only to the two periods. cited above and would not necessarily hold true for other periods.)

The overall changes in quantities and prices reflect many factors, including increases in maximum lawful prices under the Natural Gas Policy Act, the establishment of incentive prices under section 107, the natural decline of gas reservoirs, recategorization of gas from one sub-category to another, the operation of certain clauses in producer-pipeline contracts, and the effectiveness of Federal regulation.

TABLE 4.—PROJECTED NATURAL GAS WELLHEAD PURCHASE VOLUMES AND PRICES FOR MAJOR INTERSTATE PIPELINE COMPANIES, 1981 AND 1982

Category of gas	Mid-1981 [1]		Mid-1982 [1]	
	Volume in Bcf [2]	Price per Mcf [3]	Volume in Bcf [2]	Price per Mcf [3]
Old gas [4] (sections 104 and 106):				
Contract date 1972 or earlier	3,665	$0.89	3,129	$0.91
Contract date 1973 or later	2,683	1.73	2,674	1.71
New gas:				
Section 102	1,992	3.04	2,342	3.20
Section 103	1,060	2.79	1,184	2.86
Section 108 and 109	296	3.04	300	3.21
High-cost gas (Section 107)	390	6.12	664	7.24
Other	85	2.60	60	2.87
Total [5]	10,170	2.01	10,352	2.35

[1] For definition of periods covered, see source report.
[2] Volumes are given at an annual rate.
[3] Prices are given in constant January 1982 dollars.
[4] Contract date was unknown for 226 Bcf in 1981 and 139 Bcf in 1982. To facilitate comparisons, these quantities were added—on a pro rata basis—to the quantities whose contract date was known. Prices for gas with a known contract date only were used.
[5] Detail may not add to total due to rounding.

Source: EIA, "An Analysis of Post-NGPA Interstate Pipeline Wellhead Purchases," DOE/EIA–0357, September 1982, p. vi.

Increased ceiling prices

The Natural Gas Policy Act of 1978 provided for regular increases in the maximum lawful price for most gas. In many categories the increase was tied to the rate of inflation. But for section 102 (new natural gas) it was allowed to increase at an annual rate of 3.5 percent faster than inflation through April 20, 1981, and at an annual rate of 4.0 percent faster than inflation through December 31, 1984; on that date section 102 and certain other gas will be freed of Federal price controls.

Based on these factors, ceiling prices increased between December 1978 and Decem-

[8] Energy Information Administration, "Short-Term Energy Outlook," DOE/EIA-0202 (82/3Q), Aug. 1982, p.4. This estimate represents the middle of three cases projected by EIA, based on different assumptions of future world oil prices. Prices are shown in current dollars.

[9] The NGPA's definitions of the major price categories are complicated. The following definitions are general descriptions only. Section 102 covers gas from new onshore reservoirs, new wells at a minimum distance or depth from an existing well, and certain Outer Continental Shelf reservoirs. Section 103 covers gas from new wells less than a minimum distance or depth from an existing well. Section 104 covers gas from wells dedicated to interstate commerce as of the date of enactment of NGPA. Section 105 covers gas under existing intrastate contracts as of the date of enactment. Section 106 covers gas under "rollover contracts," both inter and intrastate; such a contract is entered into on or after the date of enactment for gas that was subject to an earlier contract that expired at the end of a fixed term. Section 107 covers high-cost natural gas, from wells at a depth of 15,000 or more feet and three other sources specified in the act or from other sources determined by FERC to present extraordinary costs or risks. Section 108 covers gas from "stripper" wells producing less than 60 Mcf per day under normal conditions or more than 60 Mcf per day due to enhanced recovery techniques. Section 109 covers gas not covered by any other price provision.

ber 1982 by 38 percent for most categories and by 58 percent for section 102. (See table 5.) These ceiling price increases promptly result in increased prices to pipelines, in many cases, because many producer-pipeline contracts obligate the purchaser to pay the "highest regulated rate."

TABLE 5.—MAXIMUM LAWFUL PRICES FOR SELECTED CATEGORIES OF NATURAL GAS, DECEMBER 1978 AND 1982

Section and category of gas	Maximum lawful price per million Btu's	
	December 1978	December 1982
102: New natural gas, certain Outer Continental Shelf gas	$2.08	$3.27
103: New onshore production wells	1.97	2.71
104 and 106(a): Existing interstate and intrastate contracts:		
Post-1974 gas	1.63	2.24
1973–74 biennium gas (large producers)	1.06	1.45
Interstate rollover gas	0.60	0.83
Minimum rate gas [1]	0.20	0.28
107(c)(5): Gas produced from tight formations	([2])	5.42
108: Stripper gas	2.22	3.51

[1] Price expressed in terms of Mcf.
[2] FERC, by Order 99, Aug. 15, 1980, set the maximum lawful price for gas produced from tight formations at the lesser of the negotiated contract price or 200 percent of the Section 103 maximum price. The maximum price generally applies on or after July 16, 1979.
Source: FERC

Incentive prices for high-cost gas

Among the major pricing categories established by the 1978 act is section 107, High-Cost Gas. The act defined high-cost gas to include: gas produced from a well deeper than 15,000 feet (if drilling began on/or after Feb. 19, 1977); gas produced from geopressured brine, released naturally from coal seams, and produced from Devonian shale; and other gas "produced under such other conditions as the Commission determines to present extraordinary risks or costs."

The act provides that the price for deep gas be limited to the section 102 ceiling price ($3.27 per MmBtu in Dec. 1982), and authorized the Commission to prescribe higher prices for any high-cost gas "to the extent that such special price is necessary to provide reasonable incentives for the production of such high-cost natural gas."

The Commission issued a regulation in November 1979, pursuant to the NGPA, which removed Federal price ceilings for deep gas and gas from the other three sources cited in the act. It issued another regulation in August 1980 which established an incentive price for gas produced from tight formations (geological structures which allow gas to seep out slowly, under normal conditions). It set a maximum price for such gas at twice the ceiling price for section 103 gas equal to $2 \times \$2.71 = \$5.42$ in December 1982).[10]

According to EIA's analysis of pipelines' projected purchases by volume, high-cost gas constituted 4 percent in mid-1981 and 6 percent in mid-1982. For five pipelines, however, high-cost gas constituted 10 to 15 percent of all projected purchases. Pipelines expected to an average of $6.12 per MmBtu for all high-cost gas in mid-1981 and $7.24 in mid-1982 (both in January 1982 dollars). These prices are considerably higher than the average prices for all wellhead purchases ($2.01 in mid-1981 and $2.35 in mid-1982).[11] Therefore, high-cost gas constitutes a relatively large proportion of total gas costs for some pipelines.

In an earlier study, we found that high cost gas constituted from none to 40 percent of all projected wellhead purchase costs for 20 pipelines. This gas accounted for 5 percent or less for six companies, 6 to 25 percent for eight companies, and 26 percent or more for six companies.[12]

Depletion of old fields

A reservoir contains a given quantity of natural gas. The amount of gas that can be produced economically from a reservoir generally declines each year. The productive life of a reservior varies, depending on geology and other factors; an individual well may produce economically for a few years or for 20 years or more. Thus, to maintain a stable gas supply, the continuing depletion of existing reservoirs is balanced by the addition of new reservoirs.

This turnover can lead to higher prices because production from the older reservoirs generally commands a lower price than production from the newer reservoirs. As previously noted in table 4 (page 12), expected prices in mid-1982 were $0.91 per Mcf for gas contracted for in 1972 or earlier, $1.71 for gas contracted for between 1973 and 1977, $3.20 for new gas (section 102), and $7.24 for high-cost gas.

Recategorization of gas

Because of the numerous pricing categories under the Natural Gas Policy Act, and the differences in maximum lawful prices, a producer has an incentive to try to get each well qualified to receive the highest possible price. The act—in section 101(b)(5)—provides that gas qualifying for more than one price category may be priced according to the highest applicable price category.

Moreover, the act and FERC regulations provide that gas produced from a well may qualify for an increased price under specified circumstances. For example, application of production enhancement techniques to a well may permit a producer to charge a higher price than would otherwise be permitted. As of August 1, 1982, according to FERC data, FERC had been notified that enhanced recovery techniques have been applied to 432 wells, thus permitting gas from these wells to receive a higher price than they would otherwise qualify for.

There have been conflicting reports about the extent to which gas has been recategorized from a lower to a higher price. This phenomenon has been called "category creep." Based on these reports, it is not clear to what extent recategorization has increased prices.

A June 1981 study of wellhead price increases concluded that an "unexpectedly high" price for gas contracted for before enactment of NGPA appeared to be due, in part, "to a change in the mix of gas within the price subcategories * * *. The lower priced ones disappear more quickly than the higher priced ones, and, in fact, there may be some shifting of volumes into the higher priced groups."[13]

In its November 1982 report, EIA stated: "To the extent that such an effect can be estimated, the data examined and presented in this report provide no evidence that there has been any substantial degree of gas reclassification in the period studied."[14] However, it should be noted that EIA's definition of "category creep" is more limited than that used elsewhere. EIA notes that it has been "hypothesized that some natural gas producers have been able to reclassify old gas volumes as new gas by drilling new development wells in old fields—often referred to as 'category creep.'" This definition does not include recategorization of flowing gas.

Clauses in producer-pipeline contracts

Contracts for the purchase of gas at the wellhead define the long-term relationship between the producers of gas and the purchasers—primarily pipeline companies—and in large part determine the cost of gas to distributors and end-users. The producer-pipeline contract specifies the terms and conditions of the gas sale. Among other things, the contract generally stipulates (1) the duration of the purchase agreement; (2) the price, including initial rate and price escalation provisions, the treatment of taxes, royalty payments, and deregulation clauses, if any; (3) the delivery rate—daily, monthly, and annual purchase (or "take") obligations and any makeup provisions; (4) the quantity of gas or acreage committed; (5) the gathering, processing, and delivery of the gas; and (6) the quality and measurement of the gas.

Contracts reflect the relative bargaining leverage of producers and pipeline companies at a given time. This bargaining relationship has shifted over the years to adjust to changes in the overall supply and demand for gas both nationally and in specific regional markets, the regulatory environment, and internal producer and pipeline corporate policies. Because pipelines may have more than one contract with a producer, a specific producer-pipeline contractual relationship can be viewed in the context of a web of existing and prospective contracts.

Natural gas contracts—like other contracts—represent a compromise between the conflicting bargaining positions of the seller (the producer) and the buyer (the pipeline). The producer has certain objectives in negotiating a contract, as does the pipeline company. The producer tries to obtain, among other things, the highest possible contract price and large daily pipeline gas purchase obligations (a high contract price provides little revenue if the pipeline purchases only a small daily volume). In contrast, the pipeline desires large gas reserves under long-term contracts at a lower price and minimum daily purchase obligations. This allows the pipeline to provide its customers a secure, stable supply of gas.

Contracting practices appear to respond to changes in the overall market for gas. For example, in the early years of the industry when gas supplies were abundant, the demand for gas was limited because there was not yet a well developed pipeline system to bring the gas from the field to urban markets. As a result, contracts generally reflected the strong bargaining position of the pipeline. They were often long-term contracts, with low prices and low daily purchase obligations.

[10] See 44 Fed. Reg. 61,950 (1979) and 44 Fed. Reg. 56,034 (1980).
[11] Energy Information Administration, "An Analysis of Post-NGPA Interstate Pipeline Wellhead Purchases," DOE/EIA-0357, Sept. 1982, pp. 6 and 28.
[12] "Pipeline Purchases of High-Cost Natural Gas: Extent and Contested Issues," EMD-82-53, Apr. 6, 1982, pp. 10 and 11.
[13] Edmond R. DuPont & Associates, "Preliminary Assessment of Gas Rate Changes under NGPA," June 26, 1981, pp. 7 and 9. This study was prepared under contract for the American Gas Association.
[14] EIA "An Analysis of Post-NGPA Interstate Pipeline Wellhead Purchases," DOE/EIA-0357, September 982, p. x.

However, in later years, especially in the early 1970s, with the increase demand for gas and a limited supply of new reserves, the relative bargaining strength shifted to producers. Producers were able to incorporate into their contracts higher purchase obligations, prices at maximum allowed levels, and more frequent price redeterminations. More recently the pendulum has swung again, and pipelines have now been able to incorporate lower purchase obligations, provisions allowing purchasers to lower contract prices, and more favorable price escalation terms into contracts.

Other factors that affect the bargaining relationship are (1) the number of pipelines competing for gas in a specific producing area, (2) the size of the reserves, and (3) differing corporate perceptions of the future gas market and regulatory environment.

The universe of contracts is quite large. An estimated 20,000 mostly pre-NGPA interstate contracts are on file at FERC.[15] Although most producers are no longer required to file contracts, FERC's Chairman estimated a year ago that between 9,000 and 10,000 contracts had been executed since the enactment of NGPA, covering new gas sales.[16] At any time, a pipeline may have hundreds or thousands of contracts with gas producers. Further complicating this situation is the fact that a pipeline will often have several different gas contracts with an individual producer.

As noted above, many contracts obligate the pipeline to pay the "highest regulated rate." Two other types of clauses which have received considerable attention recently are "take-or-pay" clauses and "market-out" clauses. The former require the purchaser to pay the producer an amount based on a stated proportion of a well's potential or actual output—even if the purchaser chooses not to accept the entire quantity; however, such clauses often allow the purchaser to accept the paid-for gas in subsequent years. The latter allow the purchaser to offer the producer a lower price, if the existing price has made the gas unmarketable; however, such clauses often allow the producer to try to find another purchaser.

During the early and mid-1970s interstate pipelines could not always supply as much gas as their customers wanted. As will be explained more fully in the following chapter, they were subject to Federal price ceilings, which kept their prices lower than the levels which could be paid by intrastate pipelines. One way of redressing this imbalance was for the interstate pipelines to bargain on the basis of "non-price" contract terms, for example, take-or-pay clauses.[17]

"Take" obligations became increasingly strict during the 1970's. In some cases the purchasers were obligated to pay for 80 or 90 percent of the output of a well. Only in the last couple of years have "take" obligations become less strict or tempered by the presence of "market-out" clauses.[18] However, the high "take" obligations in contracts signed throughout the last decade or more remain in effect unless renegotiated.

The effects of high "take" obligations have received considerable attention. Examples of the operation of such clauses have been noted in two regions.

In the Hugoton field (in southwest Kansas, Oklahoma, and Texas), several pipelines have reduced their purchases of gas—much of which sells for as little as $0.50 per Mcf and are instead purchasing domestic and imported gas at $5.00 or more per Mcf, according to Kansas State and pipeline company representatives.

In Appalachia, Columbia Pipeline has stopped accepting gas from 21,000 small wells, whose prices are as low as $0.45 per Mcf, while continuing to buy gas from southwestern producers for up to $8.30 per Mcf, according to a company official. He stated that the wells were "shut-in" for between 90 and 150 days and that the company also shut-in its own wells in Appalachia during the period.

There are several possible reasons why pipelines—when they expect to need less gas than they could purchase under existing contracts—may choose to forego relatively inexpensive gas and, instead, purchase relatively expensive gas. First, as a general rule, the more expensive gas is likely to be covered by contracts with higher "take" obligations. This occurs because take-or-pay clauses became more prevalent during the last decade or so, at the same time that maximum lawful prices were being increased.

Second, pipelines may prefer to buy gas from their own affiliated producers or production subsidiaries, rather than from unaffiliated producers. This could cause pipelines to buy relatively expensive gas because pipeline involvement in gas production has increased in recent years, at the same time that maximum lawful prices were being increased. Third, pipelines may be willing to pay higher prices to develop or retain the good will of producers on whom they may depend in various producing regions.

Finally, pipelines' purchases may be influenced by the nature of Federal regulation. Pipeline tariff rates are established at least every 3 years based on a cost-of-service review. One aspect of such a review is a determination of the cost of gas purchased by the pipeline for resale. Recognizing that purchased gas costs would likely change more frequently than every 3 years, pipelines were allowed, starting in 1972, to adjust their rates in the intervening period. A pipeline's request to change its base tariff rates to reflect purchased gas costs is known as a purchased gas adjustment filing. Most interstate pipelines file an application every 6 months, while the remainder file annually. These filings are subject to FERC review and approval.

In the situation where a pipeline is contractually obligated to pay for more gas than it needs, if the pipeline pays for and receives gas from a producer, it can generally recover its costs through a purchased-gas adjustment filing every 6 months according to FERC officials. However, if a pipeline pays for but does not receive the gas, it cannot promptly recover such "pre-payments". Only after it receives the gas can it recover these "pre-payments" through a purchased-gas adjustment filing.

In the meantime, the pipeline can add the "pre-payments" to a specified account in its rate base and earn a rate of return on them. Therefore, to maintain cash flow, a pipeline may prefer to buy more expensive gas and recover its costs semi-annually, but incur any "pre-payments" on less expensive gas and recover these costs later. To the extent that "take-or-pay" and other contract clauses influence a pipeline to buy more expensive gas and forego less expensive gas, such clauses will contribute to an increase in the pipeline's average gas costs.

Federal regulation

Violation of Federal or State laws relating to prices received by producers or prices paid by pipelines could also result in price increases. NGPA specifies maximum lawful prices to be received by producers. It also specifies certain standards to govern pipeline purchases, including purchases from entities affiliated with a pipeline. FERC is responsible for compliance and enforcement with both types of regulation. If there were violations of either type of regulation, end-user prices would presumably be increased.

According to FERC data, it was found that too high a price had been charged at about 1,300 wells as of October 31, 1982, and about $39 million had been refunded since NGPA's enactment. (This amount may be compared to total producer revenues in 1981 of about $42 billion—20.4 Tcf of marketed production x $2.06 per Mcf average wellhead price.)

In addition, FERC regulates prices paid by pipelines. Section 601(b) of NGPA generally provides that producer-pipeline wellhead transactions are considered to be just and reasonable if the price does not exceed the maximum price authorized by Title I or if there is no ceiling for that category. Under section 601(c) interstate pipelines may pass through costs of natural gas purchased if the price, deemed "just and reasonable" under section 601(b), is not excessive due to "fraud, abuse, or similar grounds." The meaning of this "fraud standard" is highly controversial and affects pipelines' authority to pass through hundreds of millions or even billions of dollars.

As we reported in April 1982, six pipeline company purchased-gas adjustment filings were protested in 1981 because of issues relating to the purchase of deregulated gas.[19] Protesters contended, in part, that (1) prices paid for deregulated gas were too high in relation to prices for competing fuels; (2) prices paid to pipeline affiliates were too high; and (3) pipelines bought more deregulated gas than they needed.

The pipeline companies involved in the six cases responded, in part, that (1) the deregulated gas was purchased to obtain adequate reserves for their customers; (2) the protesters did not show that the purchases were unwarranted; and (3) the protesters

---

[15] In general, small producer contracts, intrastate contracts, and contracts for onshore gas executed after the enactment of the NGPA are not on file at FERC. Some post-NGPA contracts for new offshore gas are on file at FERC. See Decision Analysis Corportion, "Analysis of Natural Gas Producer/Interstate Pipeline Contracts," July 1, 1981, p. 2.

[16] Based on well determinations filed with FERC since Dec. 1, 1978. This estimate appears in a Nov. 20, 1981, letter to Philip R. Sharp, Chairman, Subcommittee on Fossil and Synthetic Fuels, House Committee on Energy and Commerce, from C.M. Butler III, Chairman, Federal Energy Regulatory Commission.

[17] "Non-price" is technically a misnomer. Such clauses do not relate to current prices, but they do relate to future prices, current and future quantities, and other conditions.

[18] Energy Information Administration, "Natural Gas Pipeline/Producer Contracts: A Preliminary Analysis," December 1981, DOE/EIA-0312, and "Natural Gas Producer/Pipeline Contracts and Their Potential Impacts on the Natural Gas Market: An Analysis of the Natural Gas Policy Act and Several Alternatives," Part 2, June 1982, DOE/EIA-0300.

[19] "Pipeline Purchases of High-Cost Natural Gas: Extent and Contested Issues," EMD-82-53, Apr. 6, 1982.

were attempting to reimpose price ceilings on deregulated gas.

In February 1982, FERC issued a policy statement on its interpretation of the NGPA's provisions relating to pipeline pass-through of purchase gas costs as guidance for the disposition of proceedings where the fraud standard is an issue.[20] The Commission stated that the general policy statement does not have the force of law, but "is an articulation of the Commission's tentative intention which will be followed unless circumstances demonstrate the policy to be inappropriate."

FERC said that it intended to limit the fraud standard to consideration of whether the price paid by an interstate pipeline was excessive due to misrepresentation, including a positive statement of fact or an omission of a material fact. It stated that the fraud standard is not a market-ordering device and that there is nothing within the 1978 act nor its legislative history enabling it to disallow pass-through of prices due to imprudence. FERC concluded that the fraud standard does not include imprudent business judgment about how much a pipeline should pay for gas. More recently, however, FERC indicated that it may consider questions of prudence of pipeline purchases.[21]

Other factors

FERC has been criticized for its part in several decisions which have allowed gas price increases to pipelines.[22]

In March 1979 FERC reversed its month-earlier proposal and allowed the 1978 act to trigger "area rate clauses." These clauses may allow producers to charge as much as other producers in an area. (44 Fed. Reg. 16,895 (1979).)

In July 1980, FERC permitted producers to obtain a higher wellhead price retroactive to December 1, 1978, based on a change in measuring the heat content of gas. (45 Fed. Reg. 49,077 (1980).)

In August 1980, FERC decided to allow pipelines to collect NGPA rates for gas produced by pipeline affiliates. (45 Fed. Reg. 53,091 (1980).)

Imported gas purchases

Natural gas has been imported, primarily from Canada, for many years. In the last few years, imports have constituted about 5 percent of total national supplies, but much higher proportions for some pipelines and distributors.

Quantities of imported gas—from Algeria, Canada, and Mexico—changed little between 1978 and 1981. (See table 6.) However, prices increased significantly between 1978 and 1981.

TABLE 6.—Natural Gas Imports, 1978–81

Year and source	Quantity (in Tcf)	Price per Mcf
1978:		
Canada	0.88	$2.19
Mexico		
Algeria	0.08	1.53
1979:		
Canada	1.00	2.61
Mexico		
Algeria	0.25	2.03
1980:		
Canada	0.80	4.32
Mexico	0.10	4.41
Algeria	0.09	3.77
1981:		
Canada	0.76	4.83
Mexico	0.11	5.01
Algeria	0.04	5.54

Source: Energy Information Administration, "U.S. Imports and Exports of Natural Gas, 1981", DOE/EIA-0188(81), June 1982.

The price of imports was above the average well-head price of domestic gas during these years. Domestic gas, on the average, cost $0.90 per Mcf in 1978, $1.18 in 1979, $1.60 in 1980, and $2.06 in 1981.[23]

A notable development relating to gas imports is the proposal by Panhandle Eastern Pipeline to import liquefied natural gas from Algeria. This gas would cost more than $7.00 per MmBtu when landed in Louisiana and more than $8.50 per MmBtu when delivered to distribution companies in the midwest, according to the representative of one such company.

Based in part on Panhandle's stated plans to import this gas, some distributors have projected substantial price increases. However, the imports are being contested and it is not clear how much of the gas will be sold to distributors and at what price.

Prices charged to distributors

Distributors generally buy their supplies from the one, or at most the few, pipelines that serve their area. Terms of trade between pipelines and distributors are not established by direct negotiation between the parties. Instead, interstate pipeline sales to distributors are governed by tariffs approved by FERC; distributors can be involved in FERC's process for setting such tariffs.

These tariffs establish such conditions as prices, quantities to be supplied, and minimum purchase (or "minimum bill") obligations. The price charged is typically the average price of gas paid by the pipeline plus an amount to cover the pipelines' operating expenses and provide a return on the pipelines' capital investments.

One possible source of increases in prices charged to distributors is the triggering of "minimum bill" provisions. However, representatives of two trade associations representing distributors told us that they were aware of few significant examples of "minimum bill" provisions being triggered.

Other provisions of pipeline distributor tariffs may also restrict the distributors' flexibility in gas supply. For example, an Illinois distributor, Central Illinois Light Company, has complained to FERC about its rate classification with Panhandle Eastern Pipeline. According to a company representative, the distributor stated that its current rate schedule prevents it from buying gas from another pipeline at a lower price and, thus, inhibits the distributor from trying to reduce its gas supply costs.

A second possible source is an increase in pipeline operating expenses and rates of return. According to American Gas Association statistics, the average pipeline share of revenue per Mcf increased at an average rate of 15 percent between 1970 and 1978 and 17 percent between 1978 and 1981. In contrast, during these same two periods the average distributor share of revenue per Mcf increased at average rates of 12 percent and 3 percent, respectively. (See table 3, on p. 8.)

Finally, pipelines' sales to distributors may be affected by declines in pipelines' direct sales to industrial and electric utility customers. According to an investment firm's analysis, such sales are important to pipelines for two reasons.

Industrial comsumption tends to be less weather-sensitive than residential consumption. This "demand constancy not only allows the pipeline to operate more efficiently, but also to amortize its operating costs over a larger number of units," spread fairly evenly over the year. "Loss of industrial load disrupts this balance, increases a system's weather sensitivity, and forces operating cost recovery onto fewer units," resulting in an increase in the delivered price of gas.

Moreover, "large volume sales for industrial consumption or for electric generation include the highest margin transactions among pipeline deliveries * * *.[24]

The decline in industrial and electric utility sales between 1981 and 1982 may, therefore, be working to increase prices on pipelines sales to distributors.

Prices charged to end-users

Although prices charged by producers and interstate pipelines are regulated by the federal Government, rates charged by distributors are usually subject to State or local regulation. Accordingly, developments in this area are very diverse.

A significant development in at least some areas of the country is the loss of industrial sales, not only losses already experienced but also anticipated losses, which are due largely to switching from gas to another fuel—often residual (or No. 6) fuel oil. The loss of industrial customers can affect distributors in some of the same ways that it affects pipelines—by reducing the number of units which contribute to paying operating costs and reducing the company's operating efficiency by increasing the company's weather sensitivity.

In an attempt to discourage industrial users from switching to an alternative fuel, distribution companies and State regulators in some areas of the country are considering or have approved rate schedules that would raise rates to residential users by a larger proportion than rates to industrial users. For example, consistent with the State of California's statutes and guidance from the California Public Utility Commission, the distributor serving Los Angeles has had higher average rates for industrial users than for residential users. But, because of concern about users switching from gas, the company has proposed a new rate structure which would place more of the cost burden on residential customers. Rates for industrial users which could switch to residual fuel oil would increase from $4.16 per MmBtu in January 1982 to $5.47 in January 1983, a 31-percent increase. While residential users

[20] 47 Fed. Reg. 6,253 (1982).

[21] In connection with a purchased-gas adjustment filing of Tennessee Gas Pipeline (TA82-2-9), the Commission stated that it may consider questions of prudence as part of a pipeline's cost-of-service review.

[22] A critical assessment of FERC's role in these and other actions is contained in "Comments of the Citizen/Labor Energy Coalition Regarding Notice of Inquiry," Docket No. RM82-26-000, Impact of the NGPA on Current and Projected Natural Gas Markets, Aug. 26, 1982, pp. 5 and 6 and App. A.

[23] Energy Information Administration, "Annual Report to Congress," Vol. 2: Energy Statistics, May 1982, DOE/EIA-0173(81)/2, table 53.

[24] R. Gamble Baldwin and Robert L. Christensen, Jr., "Large Volume Sales of Natural Gas: Their Importance and Vulnerability, First Boston Corporation, Special Report GT 1398.82, Aug. 1982, pp. 10 and 11.

face an average rate increase of about 70 percent, according to company officials.[25]

Conclusions

Numerous factors have contributed to natural gas price increases before and since enactment of NGPA. End-user rates for natural gas depend on the diverse factors affecting how gas is priced to pipelines, to distributors, and to end-users.

Prices paid by pipelines are based on purchases of both domestic and imported gas. Prices for domestic gas depend on both the quantity of gas in each category and the price for each category; these quantities and prices, in turn, are influenced by many factors, including (1) the NGPA's escalation provisions, (2) incentive prices for high-cost gas, (3) depletion of old fields, (4) recategorization of gas, (5) "take-or-pay" and other clauses in producer-pipeline contracts, (6) Federal regulations, and (7) other factors.

Prices paid by distributors depend, in part, on increases in pipeline operating expenses and rates of return and the loss of direct sales to industrial and electric utility customers. Prices paid by end-users depend, in part, on the allocation of cost increases between residential, industrial, and other users.

CHAPTER 4: CURRENT MARKET CONDITIONS

Reports of increases in retail natural gas prices may seem incompatible with other reports of an "excess supply" of natural gas. This chapter first examines whether such an "excess supply" exists, then discusses reasons which may account for it, and finally considers evidence that the industry is adjusting to current market conditions.

Is there an imbalance between gas production and consumption?

The expected balance between natural gas production and consumption in any time period depends on current production, net withdrawals from or additions to storage, and current consumption. Even if these amounts are known, or can reasonably be predicted, for a given time period on a national basis, conditions facing an end-user will depend largely on the situation of one or more pipelines serving a specific location.

FERC staff have collected information from major interstate pipelines about their expected supply availability for the forthcoming winter heating season (November through March) and actual supplies used during the previous season. (Estimates are prepared for a normal winter and for somewhat colder winters.) These data provide one measure of the balance between production and use.

Data submitted by the companies show that company estimates of available supplies for a normal winter were somewhat higher than actual supplies used in the winter of 1980-81 and very close to equal in the winter of 1981-82. (See table 7.)

Estimates of available interstate supplies for the current heating season total 6,653 Bcf. This level is higher than both estimated supplies available (6,053 Bcf) and actual supplies used (6,037 Bcf) for last winter. Moreover, based on American Gas Association data for gas utility sales during the first 8 months of 1982, it appears likely that this winter's sales will be below last winter's sales. Using the 4.3 percent decline for the first 8 months as a basis of comparison, it is plausible to expect that this winter's sales may total about 5,777 Bcf.

Thus, estimated interstate supplies available for a "normal" winter in 1982-83 are about 10 percent higher than actual supplies used in 1981-82, and about 15 percent higher than a plausible projection of actual supplies to be used in 1982-83. Such differences could be characterized as an "excess supply."

How did the current situation develop?

The current "excess supply" of gas connotes an imbalance between production and consumption. This imbalance may be traced to the various factors which effect both production and consumption.

Table 7.—MAJOR PIPELINE COMPANIES ESTIMATED AND ACTUAL SUPPLIES FOR WINTERS OF 1980-81, 1981-82, AND 1982-83

	Winter heating season		
	1980-81 (note [1])	1981-82 (note [2])	1982-83 (note [3])
Estimated supplies available (normal winter)	6,286	6,053	6,653
Actual supplies used	6,038	6,037	[3] 5,777

[1] Based on data for 28 companies.
[2] Based on data for 24 companies.
[3] GAO estimate based on actual supplies used in 1981-82 and declines in gas utility sales reported by the American Gas Association, "Monthly Gas Utility Statistical Report—August 1982." The Association reported that sales during the first 8 months of calendar 1982 were 4.3 percent below previous year levels. Residential sales (3,498 Bcf) were up 6.7 percent; commercial sales (1,728 Bcf) were up 5.6 percent; industrial and electic utility sales (4,780 Bcf) were down 13.9 percent; and other sales (192 Bcf) were unchanged. We assumed that sales during the 5-month winter heating season of 1982-83 would likewise be 4.3 percent below 1981-82 levels.

Source: FERC, "Commission Staff Reports: Impact of 1981-82 Winter Gas Supply for Twenty-Eight Pipeline Companies," Docket Nos. TC81-23, et al., October 1981, p. 5, and "Commission Staff Report on 1982-83 Winter Gas Supply for Twenty-Four Pipeline Companies," Docket Nos. TC82-12, et al., September 1982, p. 5.

Following the 1954 Supreme Court decision, gas sold in interstate commerce was subject to Federal price controls, although gas sold in intrastate commerce was not subject to these controls. In the early and mid-1970s, competition for new gas supplies pushed intrastate prices well above interstate prices.[26]

This imbalance led to a prolonged decline in the amount of gas reserves under the control of interstate pipelines. During the 11-year period ending in 1977, these pipelines experienced a fall in their inventory of dedicated reserves, from about 198 Tcf in 1967 to about 93 Tcf in 1977. (See table 8). The pipelines' inventory of reserves dropped from 17 times current production levels in 1967 to 9 times current production levels in 1977. During this period gross changes in reserves (reflecting new reserves plus the net change in assessment of already discovered reserves) were low or negative. In each year gross changes in reserves were less than production. Therefore, the net changes in reserves was negative during every year between 1968 and 1977.

Not only was the interstate pipelines' inventory apparently being depleted, but there were many instances in the early and mid-1970s when the pipelines could not deliver as much gas as their customers wanted and therefore had to "curtail," or restrict, purchases by some customers. These curtailments led to the shutting down of factories and schools, especially during the unusually cold winter of 1976-77.

Because of their experience with shortages, interstate pipelines were eager to purchase new supplies throughout the 1970s. Before enactment of the Natural Gas Policy Act in 1978, interstate pipelines faced restrictions in competing against intrastate pipelines and against each other on the basis of current price, so they resorted to competing on other terms. These so-called "non-price" terms included provisions governing: (1) how prices would be set if Federal price regulations ended and (2) how much of the production covered by a given contract would be purchased regularly.

After NGPA, interstate and intrastate pipelines were on a more equal footing with respect to allowable prices, but they still competed aggressively for new supplies. This aggressive competition apparently continued through 1980 and perhaps 1981, even though exploration efforts were considerably higher in those years and the interstate pipelines' reserves were again improving. (See Table 8.)

Table 8.—INTERSTATE PIPELINE COMPANIES' DEDICATED RESERVES, CHANGES IN RESERVES, PRODUCTION, AND RESERVES-TO-PRODUCTION RATIOS, ALTERNATE YEARS, 1965-81

Year	Dedicated reserves as of Dec. 31 [1]	Changes in reserves from previous years		Production [1]	Reserves-to-production ratio [2]
		Net [1]	Gross [1]		
1965	192	3	13	10	19
1967	198	3	15	12	17
1969	188	−7	6	13	14
1971	161	−12	2	14	11
1973	134	−13	1	14	10
1975	107	−14	−2	12	9
1977	93	−5	6	11	9
1979	97	3	15	12	8
1981 [3]	98	1	13	12	8

[1] In TCF.
[2] Ratios computed from unrounded data.
[3] Preliminary.

Source: EIA, "Domestic Natural Gas Reserves and Production Dedicated to Interstate Pipeline Companies, 1981, (Preliminary Report)" DOE/EIA-0167(81)P, June 1982, table 3; and "Gas Supplies of Interstate Natural Gas Pipeline Companies—1980," DOE/EIA-0167(80), Dec. 1981, table 3.

The results of this competition included:

Some contracts which obligated the purchaser to pay the "highest regulated rate" for gas;

Some contracts which obligated the purchaser to purchase 80 or 90 percent of the gas which could be delivered from a given field, which severely limited the purchaser's flexibility;

Some contracts which, unitl the last year or two, often gave the purchaser little, if any, latitude to initiate renegotiation if the price was too high;

Some contracts to pay $9.00 or more per MmBtu for deep gas;

Some contracts with Canadian and Mexican producers to pay nearly $5.00 per MmBtu at the border; and

Considerable investments in facilities for receiving and handling imports of liquefied natural gas.

Until recently, interstate pipelines could generally sell as much gas as they could provide. In fact, there was assumed to be an unfulfilled demand for gas at existing prices. A report prepared for the Department of Energy estimated that there was "frustrated" or unfulfilled, demand for gas in the industrial sector of almost 2 Tcf in 1979.[27]

[25] Residential rates in January 1982 were $2.83, $3.81, and $5.67 per MmBtu, with higher rates for those who consume more. As of November 30, the California Commission has not acted on the company's proposal.

[26] According to the April 1977 National Energy Plan, "Recent contract prices for new gas in the intrastate market range from $1.60 per Mcf to $2.25, while the highest price ever allowed for long-term interstate gas purchases is $1.45." See Executive Office of the President, Energy Policy and Planning, "National Energy Plan," Apr. 29, 1977, p. 18.

[27] Energy and Environmental Analaysis, Inc. "Industrial Gas Demand," Appendix B to "A Study of

However, this supposed unfulfilled demand seems to have disappeared, and 1982 consumption is less than 1981 consumption. Recent consumption of gas has been significantly affected by reactions to higher gas prices and by general economic conditions. In response to sharply higher gas prices, consumers have made more efficient use of their gas and have substituted other fuels for gas. In response to general economic conditions, consumers have cut back on purchases of gas used in producing various goods and services.

The overall effect was the potential to produce large quantities of gas—at high prices. These high prices coincided with, and in some measure led to, declines in consumption. Thus developed the current "excess supply" of natural gas. However, this situation is not necessarily a permanent phenomenon.

How is the market adjusting?

In the theoretical model of a market described in a basic economics text, an imbalance between supply and demand quickly leads to adjustments which equilibrate supply and demand via the price mechanism. An excess of supply over demand, for example, would be expected to lead to a lower price. The recent behavior of the natural gas market appears to diverge from the behavior predicted by the theoretical model because prices have been rising, even though there is "excess supply" of gas.

Current market conditions reflect the cumulative effects of years of developments in the natural gas industry and regulation. Accordingly, it is not certain how quickly and completely the industry can and will adjust to the current "excess supply."

Natural gas markets have several characteristics which do not conform to the textbook model and which may tend to impede adjustments. These include features of both industry structure and government regulation—which in turn are interrelated. In the former category are long-term arrangements between producers and pipelines and between pipelines and distributors; multiple ownership interests in producing properties, which may make it more difficult to get agreement on renegotiating prices; and limited knowledge of industry developments.

In the latter category are Federal and State ceilings on wellhead prices; Federal regulations which require that a gas reservoir—once "dedicated" to interstate commerce—remains dedicated, unless FERC approves otherwise; and a pipeline's need to obtain FERC approval to increase an existing customer's level of "entitlements" or sell gas to a customer which it is not required to serve.

Nonetheless, there is some evidence that the market is responding. Examples can be found in producer-pipeline relations, pipeline-pipeline relations, and pipeline-distributor relations. This evidence is anecdotal—rather than comprehensive—because companies typically are reluctant to divulge their competitive strategy. Much of the available information has come to public attention through FERC proceedings.

In pipeline dealings with producers, perhaps the most dramatic evidence of industry adjustment to changed conditions relates to purchases of high-cost (section 107) gas. This category consists mostly of deep gas (whose price is unregulated) and tight-sands gas (whose price is regulated at a relatively high rate). According to the September 1982 EIA study,[28] the average price paid by major interstate pipelines for section 107 gas increased from $6.12 an Mcf for mid-1981 filings to $7.33 an Mcf for late 1981 to early 1982 filings, but declined to $7.24 an Mcf for mid-1982 filings (all prices in constant January 1982 dollars).

Moreover, some pipelines have exercised "market-out" clauses in contracts for the purchase of deep gas. Transcontinental Pipeline exercised its "market-out" clauses in May 1982; it offered to pay $5.00 per MmBtu, according to a company representative. Three other pipeline companies (United, Michigan-Wisconsin, and Tennessee) have exercised their "market-out" clauses since then, according to their representatives.

In addition, Southern Natural asked its suppliers this past summer to voluntarily reduce their deliveries because its pipelines and storage fields were full and its customers were using less gas than expected, according to a company representative. Columbia is renegotiating contracts with its suppliers to provide for lower prices and lower purchase obligations, according to a company representative.

In terms of pipeline dealings with other pipelines, it should be noted that many pipelines purchase gas from other pipelines. According to the September 1982 EIA report, 9 of 20 major interstate pipelines bought at least 2 percent of their supplies from other pipelines. Columbia Gas Transmission notified five pipeline suppliers in August 1982 that it would neither take nor pay for volumes required by its arrangements with those other pipelines, according to a company representative. Columbia cited a precipitous and continuing deterioration of the markets it serves.

Finally, pipelines' dealings with distributors are also evolving. Some pipelines (including Columbia and Michigan-Wisconsin) have applied to FERC for approval of a temporary discount rate for industrial customers. These rates are available for pipeline sales to distributors, for resale to qualified industrial customers. Such lower rates are designed to discourage major industrial users from switching from gas to another fuel, such as residual fuel oil.

In summary, although most of the information is anecdotal, there is a growing body of evidence that the natural gas market is acting to reduce prices and otherwise adjust to the current "excess supply."

Conclusions

Reports of an "excess supply" of natural gas are consistent with major pipeline estimates of supplies which will be available this winter. This situation reflects the many factors which determine gas production and consumption. Until recently, pipelines could generally sell as much gas as they could provide and eagerly sought new supplies.

However, there no longer seems to be any unfulfilled demand at current prices, and consumption through the first 8 months of 1982 was below the comparable 1981 level. The current situation thus resulted from pipelines' potential to supply large quantities of gas and a coincident decline in gas consumption.

Some companies are adjusting to the current situation, by exercising "market-out" clauses, renegotiating contracts, and other means, according to their representatives. However, various industry and regulatory characteristics may act to impede the pace of adjustment.

Alternatives to the Natural Gas Policy Act of 1978," DOE/PE-0034, November 1981, page 7.

[28] Energy Information Administration, "An Analysis of Post-NGPA Interstate Pipeline Wellhead Purchases," DOE/EIA-0357, Sept. 1982, p. 28.

HUMAN RIGHTS DAY

Mr. DOLE. Mr. President, December 10, marks the 34th anniversary of the passage of the U.N. Delegation on Human Rights, adopted by the General Assembly of the United Nations in 1948. As we commemorate this day, let us take the time to remember those whose human rights are yet to be honored, even though their governments have pledged to respect the provisions of the Declaration. Perhaps the time will come when we will be able to not only mark the anniversary, but actually to celebrate the momentous occasion of this historic document's adoption. Unfortunately, it is difficult to celebrate when so many are denied the right to exercise their basic human rights and fundamental freedoms.

As cochairman of the Commission on Security and Cooperation in Europe, which monitors compliance by the 35 signatory states with the Helsinki Final Act. I see human rights systematically violated by the countries of Eastern Europe, and particularly by the Soviet Union. In the Soviet Union today, there are millions for whom there cannot be a celebration in honor of the formal acknowledgement of human rights. Specifically, for the 51 currently imprisoned members of the Moscow, Ukrainian, Lithuanian, Georgian, and Armenian Helsinki Act monitoring groups, as well as the members of the five affiliated groups formed to deal with more specific issues; for hundreds of imprisoned Christian activists, jailed for their religious beliefs for those seeking to join their families outside the Soviet Union; for those denied their political, social, national, cultural, religious, and economic rights, this day gives no cause for celebration but is testimony of their government's relentless oppression and failure to live up to its international commitments.

Mr. President, the Commission on Security and Cooperation in Europe is taking this opportunity to mark this date by issuing its latest report entitled, "Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Findings and Recommendations Seven Years After Helsinki." The report is the result of the Commission's continuing efforts to monitor international compliance with the provisions of the Helsinki Final Act. I believe, Mr. President, that it is entirely appropriate that we issue the report on this particular day. The findings of the report clearly indicate that the Soviet Union and the Warsaw Pact countries continue to violate the rights of their respective peoples, in

clear contravention to their international commitments. The Soviet Government and its satellites, through their deeds, continue to hold in contempt both the U.N. Declaration on Human Rights and the Helsinki Final Act.

The struggle for the ideals embodied by the U.N. declaration goes on today. Courageous and highly principled individuals in the Soviet Union and Eastern Europe serve as a constant reminder of the significance and the need for this and other declarations such as the Helsinki Final Act. It is a reminder to which we, as Americans, have always responded, because of our heritage as a nation of many immigrant peoples, and our own great struggle against tyranny and oppression.

Twenty-eight years ago, a very wise man, who was also a refugee from persecution, said that, "a large part of history is replete with the struggle for human rights, and eternal struggle in which a final victory can never be won. But to tire in that struggle would mean the ruin of society."

The man was Albert Einstein. This anniversary of the U.N. Declaration on Human Rights stands as a marker on the long and continuing path toward achieving basic human liberties for all mankind.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 513. An original resolution reaffirming Congress commitment to reduce the Federal budget.

RESOLUTION DISCHARGED AND PLACED ON THE CALENDAR

Pursuant to the provisions of section 402(c)(1) of the Congressional Budget Act of 1974, the Committee on the Budget was discharged from the further consideration of the resolution (S. Res. 495) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3041, and the resolution was placed on the calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HAWKINS:

S. 3092. A bill to amend the Social Security Act to provide for temporary borrowing authority for the Federal old-age and survivors insurance and disability insurance trust funds; to the Committee on Finance.

By Mr. EAGLETON:

S. 3093. A bill to allow the adjudication for claims against the United States for damages arising from the activities of the Army Corps of Engineers at the Clarence Cannon Dam project on the Salt River in the State of Missouri; to the Committee on the Judiciary.

By Mr. BAUCUS:

S. 3094. A bill to provide for annual budget review of the Bonneville Power Administration by the Pacific Northwest Electric Power and Conservation Planning Council; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI:

S. Res. 513. A resolution reaffirming Congress commitment to reduce the Federal budget; from the Committee on the Budget; placed on the calendar.

By Mr. LAXALT (for himself, Mr. TOWER, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. CANNON, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DOLE, Mr. DOMENICI, Mr. EAST, Mr. GARN, Mr. GOLDWATER, Mr. GRASSLEY, Mrs. HAWKINS, Mr. HATCH, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, Mr. LONG, Mr. LUGAR, Mr. MCCLURE, Mr. MATTINGLY, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. QUAYLE, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. ROTH, Mr. RUDMAN, Mr. SASSER, Mr. SCHMITT, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, and Mr. ZORINSKY):

S. Con. Res. 133. A concurrent resolution to express the sense of the Congress that the national security policy of the United States should reflect a national strategy of peace through strength; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTON

By Mr. BAUCUS:

S. 3094. A bill to provide for annual budget review of the Bonneville Power Administration by the Pacific Northwest Electric Power and Conservation Planning Council; to the Committee on Energy and Natural Resources.

BONNEVILLE POWER ADMINISTRATION REGIONAL ACCOUNTABILITY ACT OF 1982

Mr. BAUCUS. Mr. President, I am pleased to introduce today the Bonneville Power Administration Regional Accountability Act of 1982. This legislation is designed to enhance the responsiveness of the Bonneville Power Administration in its dealings with the citizens and States of the Pacific Northwest. I am introducing it now for discussion purposes in the hope that we can move expeditiously to adopt it in the next Congress.

Mr. President, the Bonneville Power Administration is a Federal power marketing agency with substantial influence in the Pacific Northwest. Congress has granted BPA considerable freedom from the strictures of the authorization and budget processes. As a result, I am convinced that we do not obtain sufficient, independent information about BPA's allocation of the funds it collects from the ratepayers of Montana, Idaho, Oregon, and Washington.

Recently, I conducted a hearing of the Senate Judiciary Committee's Subcommittee on Separation of Powers concerning BPA's relationship with the States of the Northwest. Witness after witness expressed concern about BPA and its failure to be responsive to citizens and State and local governments in the region.

Indicative of those testifying are the remarks of Mr. Leo Berry, director of the Montana Department of Natural Resources and Conservation; Mr. Mike Lindberg, Portland city commissioner; Mr. Robert L. Deschamps III, Missoula County attorney; Mark Reis, director of the Northwest Conservation Act Coalition; and William Edelman, board member of the Northwest Small Hydroelectric Association.

Mr. Berry noted that, although the State had made some recent progress in its working relationship with BPA, the State has had "little or no substantive involvement" in the recent BPA transmission line construction decision in Montana. Mr. Lindberg testified that "Bonneville does not take local governments seriously * * *" and that "instead of viewing the (regional power) act as an opportunity to broaden its audience and assume new regional responsibilities, BPA has kept its perspectives narrow and taken the slowest, most cautious route possible toward conservation in general and local governments in particular."

Mr. Deschamps testified that BPA "* * * continues to manipulate the law to accomplish its own objectives * * *" and has refused to comply with Montana's transmission line siting laws—even though the agency could have complied voluntarily. Mr. Reis assert-

ed that BPA will comply with the intent of applicable law only when it suits the agency's self interest. And Mr. Edelman accused BPA of "ineptitude," suggesting that the agency is "most of the problem" in planning the region's long-term energy needs.

I have repeatedly called the Senate's attention to specific problems concerning BPA transmission line siting over the past 2 years, and I have inserted in the RECORD a series of correspondence with BPA as I have tried to make BPA more responsive to individuals and communities along the routes of its proposed transmission lines. This continues to be an uphill struggle for me and for the people of my State.

I mention these matters to indicate the depth and breadth of regional disappointment with the agency. I am aware that BPA has made an effort to improve its image and its program, but I believe firmly that Congress must take steps to encourage additional BPA responsiveness. This can best be accomplished in the context of the 1980 regional power legislation and our previous enactment giving BPA considerable freedom from normal congressional processes.

My bill will require BPA to submit its draft budget for review by the Northwest Power Planning Council that was created by Congress in the 1980 Regional Power Act. The council—composed of members appointed by the Governors of the four Pacific Northwest States—would receive an early draft of BPA's budget. The council would conduct regional hearings on the draft, thus giving citizens of the Pacific Northwest their first genuine opportunity to review BPA's expenditure plans and make constructive suggestions on them.

Thereafter, the council could evaluate the public comments and develop alternative expenditure levels or, if necessary or appropriate to achieve the purposes of the regional act, the council could recommend an alternative budget. These proposals would be sent to Congress along with BPA's final budget and a BPA response on points of disagreement.

In this way, Congress would be given valuable additional perspectives and information on BPA's budget.

The results should be a more open and responsive agency—a situation that would benefit all States of the region.

Mr. President, I ask unanimous consent that the text of the Bonneville Power Administration Regional Accountability Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bonneville Power Administration Regional Accountability Act of 1982.

SEC. 2. The Act entitled "An Act to authorize the completion, maintenance, and operation of the Bonneville project for navigation, and for other purposes", approved August 20, 1937 (16 U.S.C. 832 et seq.) is amended by redesignating section 13 as section 14 and inserting immediately after section 12 the following new section:

"SEC. 13. Beginning with the calendar year 1983 and each calendar year thereafter, the Administrator shall submit, no later than July 15, a copy of its annual draft budget for the fiscal year commencing October 1 of the following calendar year for all operations, acquisitions, and activities of the Bonneville Power Administration to the Pacific Northwest Electric Power and Conservation Planning Council for review. Thereafter, the administrator shall expeditiously inform the Council of budget modifications proposed by the Administrator, the Secretary of Energy, or the Director of the Office of Management and Budget. In the event that the Council submits an alternative budget, or alternative figures for individual portions of such budget, to Congress pursuant to section 4(j) of the Pacific Northwest Electric Power Planning and Conservation Act, the Administrator, if he determines such alternative budget to be unacceptable, in whole or in part, shall submit no later than thirty days after receipt of the Council's proposed modifications, a report to the Council and the Congress, in detail, stating the reasons why such alternative budget proposal of the Council, or part thereof, is unacceptable to the Administrator. The Administrator shall provide to the Council such cooperation and assistance as may be necessary to facilitate Council review of the draft budget and modifications. In preparing budget figures, the Administrator shall conform the budget to the policies, purposes, and requirements of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.) and the regional electric power and conservation plan and the fish and wildlife program adopted pursuant thereto.".

SEC. 3. The Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.) is amended by redesignating section 4(j) as section 4(k) and inserting immediately before it the following new subsection:

"(j) Pursuant to the annual budget proposal submitted by the Administrator under section 13 of the Act entitled 'An Act to authorize the completion, maintenance, and operation of the Bonneville project for navigation, and for other purposes', approved August 20, 1937 (16 U.S.C. 832 et seq.), the Council shall—

"(1) review and analyze the initial budget proposal and all subsequent budget modifications proposed by the Administrator, the Secretary of Energy, or the Director of the Office of Management and Budget;

"(2) have the authority to hold hearings on the proposed budget and its modifications;

"(3) submit to Congress an analysis of the budget proposal and modifications submitted by the Administrator to the Council; and

"(4) submit to Congress an alternative budget, or alternative figures for individual portions of such budget, if considered necessary or appropriate by the Council in order to facilitate attainment of the purposes of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.).".

ADDITIONAL COSPONSORS

S. 2702

At the request of Mr. ANDREWS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 2702, a bill to amend section 8(a) of the Small Business Act to treat businesses owned by Indian tribes as socially and economically disadvantaged small business concerns.

S. 2927

At the request of Mr. NICKLES, the name of the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 2927, a bill to provide for the disposition of certain undistributed judgment funds awarded the Creek Nation.

S. 3047

At the request of Mr. KASTEN, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 3047, a bill to repeal the withholding of tax from interest and dividends and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends.

S. 3048

At the request of Mr. THURMOND, the names of the Senator from Illinois (Mr. DIXON), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Arkansas (Mr. PRYOR), the Senator from Iowa (Mr. JEPSEN), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Mr. GORTON), the Senator from New York (Mr. D'AMATO), the Senator from New Hampshire (Mr. RUDMAN), the Senator from Tennessee (Mr. SASSER), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. 3048, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

S. 3060

At the request of Mr. HATFIELD, the name of the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 3060, a bill to amend section 7(b) of the Wild and Scenic Rivers Act.

S. 3076

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 3076, a bill to provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users.

SENATE JOINT RESOLUTION 263

At the request of Mr. THURMOND, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of Senate Joint Resolution

263, a joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week."

SENATE JOINT RESOLUTION 265

At the request of Mr. DENTON, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of Senate Joint Resolution 265, a joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism."

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. DOLE, the name of the Senator from Pennsylania (Mr. SPECTER) was added as a cosponsor of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

SENATE RESOLUTION 478

At the request of Mr. DODD, the names of the Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Maryland (Mr. SARBANES), the Senator from Kansas (Mr. DOLE), and the Senator from Maine (Mr. MITCHELL) were added as cosponsors of Senate Resolution 478, a resolution expressing the sense of the Senate with respect to the need to maintain guidelines which insure equal rights with regard to education opportunity.

AMENDMENT NO. 1906

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of amendment No. 1906 intended to be proposed to S. 2607, an original bill to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes.

SENATE CONCURRENT RESOLUTION 133—CONCURRENT RESOLUTION RELATING TO PEACE THROUGH STRENGTH

Mr. LAXALT (for himself, Mr. TOWER, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. CANNON, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DOLE, Mr. DOMENICI, Mr. EAST, Mr. GARN, Mr. GOLDWATER, Mr. GRASSLEY, Mr. HATCH, Mrs. HAWKINS, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, Mr. LONG, Mr. LUGAR, Mr. MCCLURE, Mr. MATTINGLY, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. QUAYLE, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. ROTH, Mr. RUDMAN, Mr. SASSER, Mr. SCHMITT, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, and Mr. ZORINSKY), submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 133

Whereas the Soviet Union has exploited United States peace initiatives in order to build up Soviet strategic and conventional warfare capabilities;

Whereas these capabilities have given the Soviet Union the means to support worldwide aggression of an increasingly bold nature;

Whereas there is a basis for concern that the Soviets may use these capabilities in armed aggression in Pakistan, Iran, and Yugoslavia;

Whereas the Soviet Union has demonstrated an unwillingness to live by the principles of international law;

Whereas the United States is the one world power that can stop Soviet expansionism: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the national security policy of the United States should reflect a national strategy of peace through strength, the general principles and goals of which would be—

(1) to inspire, focus, and unite the national will and determination to achieve peace and freedom,

(2) to achieve overall military and technological superiority over the Soviet Union,

(3) to to create a strategic and civil defense which would protect the American people against nuclear war at least as well as the Soviet population is protected,

(4) to accept no arms control agreement which in any way jeopardizes the security of the United States or its allies, or which locks the United States into a position of military inferiority,

(5) to reestablish effective security and intelligence capabilities,

(6) to pursue positive nonmilitary means to roll back the growth of communism,

(7) to help our allies and other non-Communist countries defend themselves against Communist aggression, and

(8) to maintain a strong economy and protect our overseas sources of energy and other vital raw materials.

Mr. LAXALT. Mr. President, the greatest problem we have as a nation is how to deal with the growing Soviet politico-military threat to us and the rest of the free world.

The invasion of Afghanistan and the repression of Poland are reminders that the Soviets are as ruthless as were the Nazis in expanding and consolidating their totalitarian empire.

Soviet expansionism has been driven by the goal of world domination and guided by a grand strategy to achieve that goal.

Soviet successes have been possible only because the United States has had neither a goal or a strategy in this conflict. U.S. policy has been essentially that of reacting to Soviet initiatives in defense of the status quo.

Now, the Soviets have gained a significant nuclear and conventional military superiority over the United States. This, together with the powerful Soviet worldwide propaganda and disinformation network promoting disarmament in the West, makes rebuilding our defenses an urgent necessity.

First, though, we should adopt a national goal in this conflict and a grand strategy based on all elements of our national power—economic, political and military—to achieve that goal.

On June 8, 1982, before the British Parliment, President Ronald Reagan proposed that this goal should be "a world in which all people are at least free to determine their destiny."

To achieve that goal, President Reagan called for a "crusade for freedom" designed to "leave Marxism-Leninism on the ash heap of history" through a "global campaign for democracy."

In this connection, President Reagan declared that "it is time that we commited ourselves as a Nation—in both the public and private sectors—to assist democratic development."

I believe that most Americans agree with the goal so elequently expressed by President Reagan and will support the adoption of a national strategy of peace through strength to achieve that goal.

That is why I and 54 other Members of this body are cosponsoring a concurrent resolution calling for the adoption of a national strategy of peace through strength.

There are eight basic principles inherent in a national strategy of peace through strength. These principles will serve to clarify the direction of the strategy and the basis of some of its details, and they will serve as a yardstick to evaluate competing programs and initiatives. Unless the United States speedily adopts such a strategy to coordinate its national security efforts, it is doomed to ineffectual policies, uncoordinated responses to Soviet aggression, and ultimately, a great growth in the power and influence of the Soviet Union.

President Reagan was an early endorser of this resolution and it appeared as the defense strategy plank of the 1980 Republican Convention platform.

The President has said that he will sign this resolution, when it is passed by both Houses of Congress.

In this connection, it is important to note that this resolution, as House Concurrent Resolution No. 163, has been cosponsored by 238 Members of the House of Representatives and has been referred to the House Foreign Affairs Committee.

This resolution has been endorsed by Caspar Weinberger, Secretary of Defense; Gen. John Vessey, Chairman of the Joint Chiefs of Staff; Powell Moore, Deputy Secretary of State for Congressional Relations; and Judge

William Clark, National Security Assistant to the President. I ask unanimous consent that the letters be printed in the RECORD at the end of this statement.

This resolution has already been passed by 13 State legislatures; Arizona, Alabama, California, Colorado, Delaware, Florida, Indiana, Kansas, Louisiana, Mississippi, Nebraska, Tennessee, Texas, and the Territory of Guam.

In addition, 127 national organizations have endorsed the resolution. I request that the organizations be listed at the end of this statement.

Whatever the outcome of the outcome of the conflict between Soviet totalitarianism and democracy, the result is sure to be "peace through strength." What is being decided now is whose strength and whose peace.

So I urge that we all make this commitment to peace because, as President Reagan told the British Parliament, the struggle is "a trial of spiritual resolve" and at stake are "the values we hold, the beliefs we cherish, the ideals to which we are dedicated."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., September 16, 1982.

Hon. STEVEN D. SYMMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I understand that you, together with a large number of co-sponsors, are preparing to introduce the Peace Through Strength Resolution in the Senate. The passage of this Resolution will again demonstrate the strength of bipartisan support for the President's national security programs, which are designed to restore the margin of safety to U.S. military power. The Department of Defense strongly supports the intent and purpose of this initiative. We appreciate the effort you and your colleagues are making to express so effectively the support of the Senate for a strong defense program.

CAP WEINBERGER.

JOINT CHIEFS OF STAFF,
September 27, 1982.

Hon. STEVEN D. SYMMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMMS: The Joint Chiefs of Staff have consistently maintained the view that the security of our country and peace in the world can only be preserved if the defenses of the U.S. are strong. Bipartisan support for the passage of a Peace Through Strength resolution will send a clear signal of this Nation's commitment and resolve to continue to provide for the common defense. We appreciate and support your initiative.

Sincerely,

JOHN W. VESSEY, JR.,
Chairman.

U.S. DEPARTMENT OF STATE,
Washington, D.C., September 22, 1982.

Hon. STEVEN D. SYMMS,
U.S. Senate.

DEAR SENATOR SYMMS: Thank you for your letter of September 20 concerning the Peace Through Strength Resolution.

From the outset, this Administration established as a national priority the correction of important shortcomings in our defense posture. As the President's very difficult budget decisions reflect, we are committed to strengthening our defenses. This Administration will never accept an inferior position, recognizing that our national security and that of our Allies is at stake. A strengthened defense posture is essential to the successful conduct of our foreign policy, and is thus a critical ingredient in maintaining peace and stability in today's troubled world. It is also essential to the achievement of the balanced, verifiable and effective arms control agreements the President has proposed—agreements which would substantially reduce strategic and intermediate-range nuclear forces, and conventional forces in Europe to equal levels on both sides.

Passage of the Peace Through Strength Resolution would provide a strong measure of support for our military programs, and our arms control objectives, which are so important to the cause of peace.

With cordial regards,

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

THE WHITE HOUSE,
Washington, September 16, 1982.

Hon. STEVEN D. SYMMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMMS: I understand that you and many of your colleagues intend to offer a resolution at this time reaffirming the "Peace through Strength" language, which was incorporated into the 1980 Republican Party Platform.

As the President said when the Resolution was considered last year, "Passage of the Resolution by both Houses will be a powerful symbol of bipartisan support for our national security programs, which are designed to restore the margin of safety to our military power."

Sincerely,

WILLIAM P. CLARK.

COALITION FOR PEACE THROUGH STRENGTH—NATIONAL ORGANIZATIONS ENDORSING RESOLUTION FOR PEACE THROUGH STRENGTH

Air Force Sergeants Association
America's Future
American Cause
American Civil Defense Association
American Coalition of Patriotic Societies
American Conservative Union
American Council for a Free Asia
American Council for World Freedom
American Czech Republican Clubs
American Federation of Small Business
American Foreign Policy Institute
American Freedom Network
American Hungarian Federation
American Legion
American Legion Auxiliary
American Legislative Exchange Council
American Military Retirees Associations, Inc.
American Notary Association
American Research Foundation
American Rhodesia Association
American Security Council
American Security Council Foundation
American Security Council Political Action Committee
Americans to Free Captive Nations, Inc.
Armed Forces League
Armenian American Republican Clubs
Assembly of Captive European Nations
Association of Americans to Save Africa
Association of Byelorussian-American Veterans in America
Association of Former Intelligence Officers
Association of Former POW's
Black Silent Majority Committee
Bulgarian National Front, Inc.
Byelorussian American Association
Cardinal Mindszenty Foundation
Catholics for Christian Political Action
The Center for Financial Freedom and Accuracy in Financial Reporting
Center for International Security
Chinese Academic & Professional Association
Chinese American Republican National Federation
The Church League of America
Citizens Committee for the Right to Keep and Bear Arms
Citizens for Freedom, Inc.
Citizens for Seafarer
Coalition for a Democratic Majority
College Republican National Committee
Committee for a Free Afghanistan
Committee for the Survival of a Free Congress, Inc.
The Committee to Unite America, Inc.
Concerned Citizens for an Effective Strategic Policy
Confederate Air Force
Congress of Russian-Americans, Inc.
Congressional Majority Committee
The Conservative Caucus, Inc.
Cossack American Nationalist in U.S.
Council Against Communist Aggression
Council on American Affairs
Council for Inter-American Security
Croatian-American Committee for Human Rights
Czechoslovakian-American Association
Czechoslovak American National Republican Federation
Federation of Cuban Masonic Lodges in Exile
Filipino American Republican Association
Foundation for Foreign Affairs, Inc.
German-American National Congress
Gospel Advance Mission, Inc.
Greater Overseas Alliance for the National Restoration of Viet Nam
Heritage Groups Council for Citizenship Education
Hungarian Organization, Magyar Szervezet, Inc.
Hungarian Unity Association, Inc.
The Information Council of the Americas
Institute of American Relations
Institute on Strategic Trade
The John Paul Jones Foundation
Labor United for a Strong America
Leadership Foundation, Inc.
The Lincoln Institute
Lithuanian American Council
Marine Corps League
Marine Corps Reserve Officers Association
Military Order of the World Wars
Moral Majority
National Alliance of Senior Citizens
National Association of Uniformed Services
National Captive Nations Committee
National Committee for Responsible Patriotism
National Confederation of American Ethnic Groups
National Conference on Asians in America and Asian Americans
National Conservative Public Affairs Council
National Defense Council
National Filipino American Republican Association
National Republicans of Italian Descent

National Republican Heritage Groups Council
National Screw Machine Products Association
National Society of the Sons of the American Revolution
National Sojourners, Inc.
National Traditionalist Caucus
Naval Enlisted Reserve Association
Naval Order of the United States
Naval Reserve Association
Non-Commissioned Officers Association
NORSE (Scandinavian American Republican Federation)
Order of the Saint John of Jerusalem
The Paul Revere Foundation
Polish American Congress
Polish American Republican Federation
Polish Legion of American Veterans, USA
Reserve Enlisted Association
Reserve Officers Association
Romanian American Republican Clubs
The Second Amendment Foundation
Security and Intelligence Fund
Slovak American Republican Federation
Slovak World Congress
Slozhenitsyn Society
Stockholders for World Freedom
Truth About Rumania Committee
Ukrainian Congress Committee of America
Veterans of Foreign Wars
Veterans of Foreign Wars, Ladies Auxiliary
Veterans of Pearl Harbor, Inc.
We the People
World Federation of Cossack National Liberation Movement of Cossackia
World Federation of Free Latvians
Young Americans for Freedom
Young Republican National Federation
Total: 125; 2/5/82.

Mr. ZORINSKY. Mr. President, the principal goal of the United States has been the preservation of peace and freedom. No responsible American disputes this goal, but differences on how best to achieve it have badly divided our Nation and led to disastrous reverses in foreign policy. Because of these differences, it has proved impossible to adopt or adhere to a national strategy. Without a national strategy to give it direction and coherence, our foreign policy has been reactive, inconsistent, and far weaker than it need be.

On no issue has there been greater division than on the nature of the threat from the Soviet Union. Although Soviet strength and destabilizing behavior were recognized as potential dangers, for the past two decades, American policy responding to them was based on accommodation and unilateral gestures of restraint. The Soviet Union, it was argued, had such a dismal history of war and invasion that a strong American policy would immediately trigger suspicion and hostility. But if the United States avoided provoking this reaction, increased contact through trade, arms control negotiations, and growing cultural ties would convince the Soviet leadership of American good faith.

This argument formed the basis for the American policy of détente. During this period the United States drastically cut defense spending, froze its strategic nuclear forces, halved the size of its Navy, and allowed its conventional land and air forces to undergo a significant decline. At the same time, it dramatically reduced its international presence, dismantled much of its intelligence services, and let most of its defense alliances deteriorate.

Soviet détente behavior was diametrically different. It not only enormously increased the quantity of its nuclear forces, but went for a qualitative change as well, achieving a large force with the explosive yield and accuracy to destroy the U.S. strategic force on the ground. It increased its overall defense spending by as much as 7 percent annually each year of this period, not only greatly increasing its ground forces but also creating for the first time in Soviet history a blue water navy. The Soviet Union greatly increased the size and scope of the KGB First Directorate, responsible for foreign operations, especially subversion and disinformation. It invaded, directly or through proxies, a half dozen Third-World nations; has proved a major impediment to a negotiated Middle East settlement; and has promoted instability by training and arming terrorist worldwide.

In view of this, it is no surprise that the Soviet Union defines détente as "an intensification of the ideological struggle in the absence of nuclear war."

The United States has at last recognized that détente cannot help to achieve the national goal of peace and freedom and has begun the first steps toward strengthening its defenses and foreign policy. However, because these steps have not been explained to the American people in the context of a well-articulated national strategy, the political consensus for making them has been eroding. Such a strategy has been worked out—the national strategy for peace through strength.

The national strategy for peace through strength is based upon the realization, backed by over 20 years of experience, that the Soviet Union cannot be cajoled into good behavior by weakness or unilateral restraint. At the same time, it is neither possible nor desirable to coerce the Soviet Union by the direct use of military force. Instead, the national strategy of peace through strength, while providing for the military and strategic forces necessary to establish a margin of safety, will arrest and counteract the spread of Soviet influence by nonmilitary means.

The national strategy for peace through strength is embodied by eight principles, which will serve as a yardstick by which future U.S. defense and foreign policy initiatives can be evaluated. These principles outline the steps necessary to preserve the safety of the United States and its allies, while at the same time promoting greater understanding of and respect for democratic principles.

I urge that the U.S. Senate resolve that the national strategy of peace through strength be adopted as the national strategy for the United States. By doing so, we will not only greatly strengthen the national security policy of this country, but will also be reaffirming our support for the principle goal of the United States—peace and freedom.

Mr. DECONCINI. Mr. President, I am a cosponsor of the peace through strength resolution because it provides a Reagan-approved strategy for carrying out President Reagan's crusade for freedom.

In his speech to the British Parliament on June 8, President Reagan offered "a plan and a hope for the long term." He called for—

—the march of freedom and democracy which will leave Marxism-Leninism on the ash heap of history, as it has left other tyrannies which stifle the freedom and muzzle the self-expression of the people.

In the closing paragraph the President said:

Let us now begin a major effort to secure the best—a crusade for freedom that will engage the faith and fortitude of the next generation. For the sake of peace and justice, let us move toward a world in which all people are at last free to determine their own destiny.

It is the positive note which is so vital in that statement. A successful strategy cannot be static. Our society, values, and way of life have been targeted for extinction by the force of Soviet communism, and cannot be preserved merely by attempting to maintain the status quo.

Under our value system, military forces can only be used to defend the status quo when it is militarily threatened.

Communism is an ideology that has achieved its greatest successes by playing on mankind's best aspirations. It must be fought—and ultimately defeated—by having its abuses and brutal nature exposed, and by being countered by better and more honest ideas. In the end its own victims will eliminate it, a day which will come more quickly if enough American strength is available to blunt or prevent Soviet employment of naked force.

Once again, a focusing of the national will is a crucial precondition to forging effective policies in this area. The United States cannot convince a skeptical world of its good intentions and probability of survival if its own people are not united behind a goal and a strategy to achieve that goal.

Nor is it possible for the United States to lower its voice about the dangers posed by the Soviet system without losing much ground. In the past, U.S. policies, whether containment or détente, were based upon the hope that the Soviet Union would eventually moderate its ideology as it experi-

enced American good will. Instead, the Soviet Union has grown more assertive and more imperialistic as its military strength and aggressive momentum have increased.

A key tool available to the United States in rolling back this Soviet momentum is communications. Chief among them are the radios—Voice of America and Radio Liberty/Radio Free Europe—and satellite television, which can reach into areas barred to other forms of American influence.

Other forms of communications should not be overlooked, including overseas libraries, language and cultural instruction in American schools, exchanges, art, and entertainment.

To date our communications have been among the most effective means of spreading the Western values of freedom and democracy, even with the minimal official encouragement they have received. This should be greatly expanded and focused.

A second means of rolling back the influence of communism is to describe the shambles its "scientifically planned" economy makes of the lives of its citizens. Merely the existence of well-made Western merchandise is a destabilizing influence in Communist systems, which are forced to explain away their own shoddy products. Of more importance is the disruption "centralized planning" causes in the Soviet Union, where meat is rationed; or Poland, where food is rationed; or Cuba, where everything is rationed.

The greatest weakness of all in the Communist system should be exploited—its total denial of freedom to its citizens. Walls have to be built to contain people within the Soviet system. This fact should be more than enough to totally alienate all nations of the world except for those that have adopted their own form of repression.

But our lack of a strategy and our inability to explain our motive for foreign policy initiatives have in many cases opened the United States to charges of hypocrisy. Few nations are willing to believe the lack of coordination in U.S. policy is due to ineptness.

In short, the national strategy of peace through strength is built upon the understanding that military force is simply not appropriate for actions beyond deterring attack or containing aggression. The offensive role in a U.S. national strategy must be carried out by nonmilitary means which will take many years to bear fruit.

That is why one of the principles of a national strategy of peace through strength is to pursue positive, nonmilitary means to roll back the growth of communism.

And, that is why another principle is to help our allies and other non-Communist countries defend themselves against Communist aggression.

The emphasis on consensus and coordination that a national strategy of peace through strength places on the formulation of American foreign policy also holds true in relations with our allies. The struggle with the Soviet Union is by no means bilateral—every nation not already in the Soviet orbit is ultimately threatened by its expansionism. Therefore, it is clearly in the U.S. national interest to provide appropriate assistance to other nations whose independence or security is threatened.

By strengthening alliances and supplying aid to other nations sharing the U.S. strategic predicament, the national strategy of peace through strength not only addresses problems of U.S. security, but also demonstrates that the United States is a faithful partner whose political system deserves emulation.

Mr. TOWER. Mr. President, I have cosponsored the resolution for peace through strength because a "global campaign for democracy" must be based on the principles of strategy which utilize all elements of national strength—political, military, and economic—in achieving national goals.

Democracy does not need military power to win the fight for the minds of men. Democracy needs nothing more than energetic advocates and a world political environment in which it can demonstrate its superiority.

The key to a peace through strength strategy is to achieve our goals without armed conflict. To do this, we must deter the Soviets from starting a war.

History shows that only superior war fighting capability can deter an aggressor. Forces that cannot win cannot deter.

The United States can have a superior war fighting capability without the cost of across-the-board numerical superiority if it exploits advanced technology such as the cruise missile and space-based laser.

In a recent speech at the Army War College, Secretary of Defense Weinberger summarized the need for strengthening United States military power. He said "* * * in dealing with the Soviets, peace must be purchased with strength." That is why one of the eight principles of a national strategy of peace through strength is to: achieve overall military and technological superiority over the Soviet Union.

Mr. DENTON. Mr. President, I am proud to cosponsor the resolution for peace through strength because the United States must finally adopt a strong and coherent strategy. Perhaps the most important principle of a national strategy of peace through strength is inspire, focus, and unite the national determination to achieve peace and freedom.

Public support is necessary if the United States is to implement a national strategy of peace through strength. We are a democracy, and no major policy can long be followed in the face of strong popular opposition.

But adopting a national strategy that will influence the entire range of U.S. defense and foreign policy, including issues of such public concern as trade and military acquisition, will require far more than simple public acceptance. It must be vigorously promoted and explained.

As far as possible, all U.S. initiatives should be justified publicly in terms of their relation to the national strategy. This implies that not only will the U.S. Government have to involve the isolated and compartmentalized foreign policy community with the public, but also that we must make an extra effort to share with the public more facts about the Soviet threat.

The advantages of informing the public will be enormous. Public support for U.S. defense and foreign policy has often weakened because the people simply did not understand the realities it was based on. This lack of understanding not only has given rise to opposition to particular policies, but also has weakened public support for defense and foreign policy as a whole.

Better justification of defense and foreign policy initiatives to the public in terms of how they further the national interest would also improve policymaking.

In short, including a central element a better identification and expression by the defense and foreign policy community of U.S. national priorities and goals, implementation of a national strategy of peace through strength would not only rally the American people behind the Government, but would also prove a powerful incentive to improve the quality and coherence of national policy initiatives.

Mr. GARN. Mr. President, I am a cosponsor of the peace through strength resolution because it is vital that we have a coherent, balanced overall national security strategy. Otherwise individual actions tend to be taken without regard to their impact on other policy objectives.

In few areas has the lack of a national strategy had more disastrous results than in arms control. Beginning with the SALT I treaty of 1972, the United States has entered into numerous agreements with the Soviet Union that are unbalanced, self-ensnaring, unverifiable, or not enforceable. Because there is no overall standard by which treaties can be evaluated in the context of a total strategy, political leaders have found it easier to heed those advisers who counsel accommodation, appeasement, and unilateral disarmament.

But arms control is important—too important to be negotiated without reference to a clear overall strategy.

For example, it makes no strategic sense to bargain away the right and

responsibility of the United States to defend its citizens from Soviet nuclear missiles.

Arms control can only be one of many means to reach the goal of establishing peace and freedom. It is not a goal in itself. Arms control on its own cannot create stability, but it can help to maintain stability already established, while reducing the probability of war, the costs of maintaining deterrence, and the levels of damage should deterrence fail.

That is why one of the principles of a national strategy of peace through strength is: Accept no arms control agreement which in any way jeopardizes the security of the United States and its allies, or which locks the United States into a position of military inferiority.

Mr. JOHNSTON. Mr. President, as a cosponsor of the peace through strength resolution, I am particularly interested in the principle dealing with the economic component of strategy.

A key element of the Soviet Union's strategy is to gain control over overseas sources of raw materials and the routes for transporting them to the industrialized heartland of the West.

Yet, in few areas is the division between the United States and its allies so acrimoniously displayed as in that of economic policy.

It is difficult for some Western leaders to understand why the establishment of Soviet political control over a region should be of concern, for this seldom results in access to markets being cut off. For example, Angola sells most of its oil to the United States, and Cuba its agricultural products to Europe.

It is an important premise of the national strategy of peace through strength that these differences must be resolved by explaining and publicizing the long-term consequences of a failure to secure access to vital sources of raw material. Unless this is done, the short-term self-interest of the corporations and governments concerned will continue to undermine the enormous leverage and power which could be applied by the economic system of the West.

The most effective area of competition with the Soviet Union should be in the economic field.

However, the United States and Western Europe have helped the Soviet bloc avoid the impact of its own inefficiency by extending massive credits and loans.

The best way to accelerate the process of Communist decline, as described by President Reagan, is to let the Soviet system fall of its own weight by sharply reducing this subsidization.

That is why one of the principles of a national strategy of peace through strength is to: Maintain a strong economy and protect our overseas sources of energy and other vital raw materials.

Mr. SYMMS. Mr. President, I support Senator LAXALT's introduction of the peace through strenth resolution. All Americans yearn for peace. All Americans are strongly in favor of preventing nuclear war. I, myself, have always been a proponent of preserving world peace and preventing nuclear war. It is for this reason that I favor a strong national defense, because a strong national defense is the best guarantor of world peace. The peace through strength resolution embodies my views on how the United States can most effectively safeguard world peace and our national security.

On June 8, 1982, President Reagan in his speech to the British Parliament called for "a global campaign for democracy." This establishes a goal for the United States and the free world which can be achieved by a national strategy of peace through stength.

President Reagan endorsed a national strategy of peace through strength and has committed to sign legislation for its adoption. And, this strategy has been endorsed by 238 Representatives and 53 Senators.

The Department of Defense has long needed an agreed upon grand strategy so that it might plan a force structure to carry out that strategy. While the principles of an overall strategy go beyond purely military considerations, there is no way the Department of Defense can properly plan without knowing the overall strategy.

There is no way DOD can fully justify its major weapons programs without placing them in the context of an overall strategy. That is why it is necessary to now give our defense leaders the guidance embodied in the eight principles of a national strategy of peace through strength.

THE NEED FOR A NATIONAL STRATEGY OF PEACE THROUGH STRENGTH

The most common complaint about U.S. defense and foreign policy over the past 35 postwar years has been that it is reactive and only in defense of the status quo. We have had no unifying goal and thus no strategy.

On the other hand, the Soviet Union and its Communist bloc allies have the goal of a world socialist state, and they have an overall strategy for achieving it.

U.S. GOAL ESTABLISHED

President Reagan, in his historic speech to the British Parliament on June 8, established the long needed unifying goal for the United States. He began his speech by reviewing the failure of the Communist economic and political system everywhere in the world. He noted, for example, that 20 percent of the work force in the U.S.S.R. is engaged in agriculture; yet Soviet agriculture cannot feed the people in the U.S.S.R.

He stressed that the Communist regimes in Eastern Europe, despite 30 years of control, have not yet been able to risk elections. In a memorable phrase, he declared: "Regimes planted by bayonets do not take roots." The President, pointing toward a new political order, declared that the world was at a turning point, that the tide had turned against communism, and that a "democratic revolution is now gathering new strength." At a later point, he spoke of a "global campaign for democracy now gathering force."

He called on open and free societies to "take actions to assist the campaign for democracy." The President made it plain that communism cannot be overcome without effort, risk and an organized strategy for the free world.

He said:

* * * we must not hesitate to make clear out ultimate objectives and to take concrete actions to move towards them." He added, "The objective I propose is quite simple to state: To foster the infrastructure of democracy * * *.

Speaking for the United States, he said:

It is time that we committed ourselves as a nation—in both the public and private sectors—to assisting democractic development."

In regard to the role of American military power in this process, he said, "Our military strength is a prerequisite to peace, but let it be clear we maintain this strength in the hope it will never be used." In the contest between democracy and Communist totalitarianism, the "ultimate determinant," he said, will not be bombs and rockets but wills and ideas. He described the struggle as "a trial of spiritual resolve," and at stake were "the values we hold, the beliefs we cherish, the ideals to which we are dedicated."

President Reagan has long endorsed the adoption of a national strategy of peace through strength.

A NATIONAL STRATEGY OF PEACE THROUGH STRENGTH

There are eight basic principles inherent in a national strategy of peace through strength. These principles will serve to clarify the direction in which the details of the strategy are formulated, and serve as a yardstick to evaluate competing programs and initiatives. Unless the United States speedily adopts such a strategy to coordinate its national security efforts, it is doomed to ineffectual policies, uncoordinated responses to Soviet aggression, and ultimately, a great growth in the power and influence of the Soviet Union.

These eight principles are:

FIRST PRINCIPLE: INSPIRE, FOCUS AND UNITE THE NATIONAL DETERMINATION TO ACHIEVE PEACE AND FREEDOM

Public support is necessary if the United States is to implement a national strategy of peace through strength. It is a democracy,

and no major policy can long be followed in the face of strong popular opposition.

But, adopting a national strategy that will influence the entire range of U.S. defense and foreign policy, including issues of such public concern as trade and military acquisition, will require far more than simple public acceptance. It must be vigorously promoted and explained.

As far as is possible, all U.S. initiatives should be justified publicly in terms of their relation to the national strategy. This implies that not only will the U.S. government have to involve the isolated and compartmentalized foreign policy community with the public, but also that the entire basis for the current system of classifying government secrets will have to be reworked to share with the public more facts about the Soviet threat.

The advantages of informing the public will be enormous. Public support for U.S. defense and foreign policy has often weakened, because the people simply did not understand the realities it was based on.

This lack of understanding not only has given rise to opposition to a particular policy, but also has weakened public support of defense and foreign policy as a whole.

The need to justify defense and foreign policy initiatives to the public in terms of how they further the national interest would also improve policy making.

In short, by forcing the defense and foreign policy community to clearly identify and express U.S. national priorities and goals, a national strategy of peace through strength would not only rally the American people behind the government, but would also prove a powerful incentive to improve the quality and coherence of national policy initiatives.

SECOND PRINCIPLE: TO ACHIEVE OVERALL MILITARY AND TECHNOLOGICAL SUPERIORITY OVER THE SOVIET UNION

A "global campaign for democracy" must be based on the principles of strategy which utilize all elements of national strength—political, military and economic—in achieving national goals.

Democracy does not need military power to win the fight for the minds of men. Democracy needs nothing more than energetic advocates and a world political environment in which it can demonstrate its superiority.

The key to a peace through strength strategy is to achieve our goals without armed conflict. To do this, we must deter the Soviets from starting a war.

History shows that only superior war fighting capabiity can deter an aggressor. Forces that cannot win cannot deter.

The United States can have superior force and a superior war fighting capability. We also need to exploit advanced technology, such as the cruise missile and space based anti missile defense.

In a recent speech at the Army War College, Secretary of Defense Weinberger summarized the need for strengthening United States military power. He said. ". . . in dealing with the Soviets, peace must be purchased with strength."

THIRD PRINCIPLE: TO CREATE A STRATEGIC DEFENSE AND A CIVIL DEFENSE WHICH WOULD PROTECT U.S. CITIZENS AGAINST NUCLEAR WAR AT LEAST AS WELL AS THE SOVIETS DEFEND THEIR CITIZENS

Since the early 1960's, the United States has structured its military forces and designed its strategies in keeping with a concept called Mutual Assured Destruction (MAD).

According to the MAD principle, the U.S. and the Soviet Union will be equally deterred, and therefore secure, if the population and industrial centers of both nations are defenseless and can be easily destroyed by either a nuclear first strike or a retaliation. According to MAD, the absence of defensive weapons enhances deterrence.

As a matter of policy, therefore, the United States has scrapped nearly all it defenses. We have no defenses against Soviet ballistic missiles and only a few aged fighter interceptors to defend against Soviet bombers.

This MAD concept was never accepted in the Soviet Union.

The Soviets have built a modern, nationwide anti-aircraft defense system with a small Ballistic Missile Defense force around Moscow, backed by the missile defense capabilities of its anti-aircraft missiles (SAMs).

Over and above these active defenses, the Soviets have a very large civil defense or passive defense system. The Soviets have spent billions of dollars to build blast and fall-out shelters for political and industrial leaders and key workers in and around major Soviet cities. And, they have detailed plans for the evacuation of cities in the event of a nuclear war.

It is intolerable that the Soviet government should conscientiously provide for the survival of its people, while the U.S. government makes no effort at all to defend its people.

Using advanced technology, the United States can and must defend its citizens against the horror of nuclear war. For example, the Government Accounting Office has strongly advocated a satellite based defense.

FOURTH PRINCIPLE: ACCEPT NO ARMS CONTROL AGREEMENT WHICH IN ANY WAY JEOPARDIZES THE SECURITY OF THE UNITED STATES AND ITS ALLIES, OR WHICH LOCKS THE UNITED STATES INTO A POSITION OF MILITARY INFERIORITY

In few areas has the lack of a national strategy had more disastrous results than in arms control. Beginning with the SALT I treaty of 1972, the United States has entered into numerous agreements with the Soviet Union that are unbalanced, unequal, self-ensnaring, unverifiable, or not enforceable. Because there is no overall standard by which treaties can be evaluated in the context of a total strategy, political leaders have found it easier to heed those advisors who counsel accommodation, appeasement, and unilateral disarmament.

But arms control is important—too important to be negotiated without reference to a clear overall strategy.

For example, it makes no strategic sense to bargain away the right (and responsibility) of the United States to defend its citizens from Soviet nuclear missiles.

Arms control can only be one of many means to reach the goal of establishing peace and freedom. It is not a goal in itself. Arms control on its own cannot create stability, but it can help to maintain stability already established, while reducing the probability of war occurring, the costs of maintaining deterrence, and the levels of damage should deterrence fail.

FIFTH PRINCIPLE: REESTABLISH EFFECTIVE SECURITY AND INTELLIGENCE CAPABILITIES

Good intelligence is central to any nation's security, yet over the past ten years ferocious and disabling assaults have been made on the capabilities of the U.S. intelligence services to carry out clandestine data collection, engage in covert operations, or coordinate counterintelligence.

A national strategy of peace through strength requires the most accurate information possible, not merely for foreknowledge to forestall moves by the Soviet Union and other adversaries, but also to defend against terrorism and other internal security threats.

The United States should therefore rebuild its intelligence and internal security capabilities.

SIXTH PRINCIPLE: PURSUE POSITIVE NONMILITARY MEANS TO ROLL BACK THE GROWTH OF COMMUNISM

A successful strategy cannot be static. Our society, values, and way of life have been targeted for extinction by the forces of Soviet Communism, and cannot be preserved merely by attempting to maintain the status quo.

Under our value system, military force can only be used to defend the status quo when it is militarily threatened.

Communism is an ideology that has achieved its greatest successes by playing on mankind's best aspirations. It must be fought—and ultimately defeated—by having its abuses and brutal nature exposed, and by being countered by better and more honest ideas. In the end, its own victims will eliminate it, a day which will come more quickly if American strength is available to blunt or prevent Soviet employment of naked force.

Once again, a focusing of the national will is a crucial precondition to forging effective policies in this area. The United States cannot convince a skeptical world of its good intentions and probability of survival if its own people are not united behind a goal and a strategy to achieve that goal.

Nor is it possible for the United States to lower its voice about the dangers posed by the Soviet system without losing much ground. In the past, U.S. policies, whether containment or detente, were based upon the hope that the Soviet Union would eventually moderate its ideology as it experienced American good will. Instead, the Soviet Union has grown more assertive and more imperialistic as its military strength and aggressive momentum have increased.

A key tool available to the United States in rolling back this Soviet momentum is communications. Chief among them are the radios—Voice of America and Radio Liberty/Radio Free Europe and satellite television, which can reach into areas barred to other forms of American influence.

Other forms of communications should not be overlooked, including overseas libraries, language and cultural instruction in American schools, exchanges, art, and entertainment.

To date our communications have been among the most effective means of spreading the Western values of freedom and democracy, even with the minimal official encouragement they have received. This should be greatly expanded and focused.

A second means of rolling back the influence of Communism is the shambles its "scientifically planned" economy makes of the lives of its citizens. Merely the existence of well-made Western merchandise is a destabilizing influence in Communist systems, which are forced to explain away their own shoddy products. Of more importance is the disruption "centralized planning" causes in the Soviet Union, where meat is rationed; or Poland, where food is rationed; or Cuba, where everything is rationed.

The greatest weakness of all in the Communist system should be exploited—its total denial of fredom to its citizens. Walls have

to be built to contain people within the Soviet system. This fact should be more than enough to totally alienate all nations of the world except for those that have adopted their own form of repression.

But our lack of a strategy and our inability to explain our motive for foreign policy initiatives have in many cases opend the United States to charges of hypocrisy. Few nations are willing to believe the lack of coordination in U.S. policy is due to ineptness.

In short, the national strategy of peace through strength is built upon the understanding that military force is simply not appropriate for actions beyond deterring attack or containing aggression. The offensive role in a U.S. national strategy must be carried out by non-military means, which will take many years to bear fruit.

SEVENTH PRINCIPLE: HELP OUR ALLIES AND OTHER NON-COMMUNIST COUNTRIES DEFEND THEMSELVES AGAINST COMMUNIST AGGRESSION

The emphasis on consensus and coordination that a national strategy of peace through strength places on the formulation of American foreign policy also hold true in relations with our allies. The struggle with the Soviet Union is by no means bilateral—every nation not already in the Soviet orbit is ultimately threatened by its expansionism. Therefore it is clearly in the U.S. national interest to provide approrpiate assistance to other nations whose independence or security is threatened.

By strengthening alliances and supplying aid to other nations sharing the U.S. strategic predicament, the national strategy of peace through strength not only addresses problems of U.S. security, but also demonstrates that the United States is a faithful partner whose political system deserves emulation.

EIGHTH PRINCIPLE: MAINTAIN A STRONG ECONOMY AND PROTECT OUR OVERSEAS SOURCES OF ENERGY AND OTHER VITAL RAW MATERIALS

A key element of the Soviet Union's strategy is to gain control over oveseas sources of raw materials and the routes for transporting them to the industrialized heartland of the West.

Yet, in few areas are the division between the United States and its allies so acrimoniously displayed as in that of economic policy.

It is difficult for some Western leaders to understand why the establishment of Soviet political control over a region should be of concern, for this seldom results in access to markets being cut off. For example, Angola sells most of its oil to the United States, and Cuba its agricultural products to Europe.

It is an important premise of the national strategy of peace through strength that these differences must be resolved by explaining and publicizing the long term consequences of a failure to secure access to vital sources of raw material. Unless this is done, the short term self interest of the corporations and governments concerned will continue to undermine the enormous leverage and power which could be applied by the economic system of the West.

In conclusion, I would like to repeat that the peace through strength resolution is an excellent expression of American's deep desire for a stable and lasting world peace. It is our most fundamental hope as Americans that we can live in peace with our neighbors and preserve our freedoms, liberties, and way of life. A strong national defense is the best and time-tested guarantor of world peace.

SENATE RESOLUTION 513—ORIGINAL RESOLUTION REPORTED RELATING TO REDUCING THE FEDERAL BUDGET

Mr. DOMENICI, from the Committee on the Budget, reported the following original resolution; which was placed on the calendar:

S. RES. 513

Resolved, That the Congress reaffirms its commitment to reduce the Federal deficit. This will require gaining control of entitlement spending as well as raising sufficient revenues to pay for what we spend. Congress therefore expects the Appropriations Committee and the appropriate authorizing committees to take whatever actions are necessary to limit the increased expenditures under the legislation described in Senate Resolution 507 to the net increase in the amount of revenues received by the Treasury as a result of that legislation. In order to achieve this goal of not adding to the deficit for the life of those authorizations, the Senate urges its conferees to maintain the provisions in its bills which make new spending subject to annual appropriations.

AMENDMENTS SUBMITTED FOR PRINTING

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

AMENDMENT NO. 4980

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

DRUG TAMPERING

AMENDMENT NO. 4981

(Ordered to be printed and to lie on the table.)

Mr. JEPSEN submitted an amendment intended to be proposed by him to the bill (S. 3048) to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, December 13, at 2 p.m., to hold a top-secret consultation on intermediate nuclear forces negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, December 13, at 3 p.m., to hold a top-secret consultation on strategic arms reduction talks.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

AMERICANS MISSING IN SOUTHEAST ASIA

● Mr. PELL. Mr. President, on Friday, December 3, my distinguished colleague, Senator HAYAKAWA, introduced Senate Concurrent Resolution 131. I am pleased and proud to cosponsor this resolution which reaffirms our commitment to locate and bring home Americans missing and unaccounted for in Southeast Asia, expresses our sincere appreciation to the Laotian Government for recent indications of its willingness to assist the United States in this regard, and urges the Governments of the United States and Laos to move "with all dispatch to cooperate in this humanitarian effort".

Last month, on Veterans' Day, the Nation dedicated the first national memorial to those courageous Americans who fought and died in the Vietnam war. This memorial—a sleek, smooth black granite monument—bears the names of some 57,939 Americans who did not return from this tragic war. Of these, approximately 2,500 are unaccounted for in Southeast Asia. For the families and friends of these 2,500 Americans, the agony of the Vietnam war has yet to end. The passage of time has not healed their wounds or soothed their heartache because questions remain about the fate of their loved ones. Until these questions are answered, until the truth is learned and the Americans are returned home, the fear, the emptiness, and the pain of their families will continue; and the last dark chapter of the American involvement in Southeast Asia will not be finished.

The Governments of Vietnam and Laos have a humanitarian obligation to provide the fullest possible accounting of Americans missing in their countries and to return the remains of Americans killed in action. Regrettably, neither of these governments has moved rapidly to fulfill this obligation. As of April 1982, the Vietnamese Government returned only 75 sets of remains, and the Laotian Government

returned 4 sets, only 2 of which belonged to Americans. Together, these represent less than 10 percent of the 1,150 Americans who are known to have been killed in action and whose remains have not been recovered. While both governments have continually asserted that no Americans are being held captive within their territories, they have failed to substantiate this assertion by providing information on missing Americans, including a number who are known to have been captured alive.

Despite this poor record, recent developments suggest that more cooperation on this important issue may be forthcoming from the Governments of Vietnam and Laos. In September, a delegation from the National League of Families of American Prisoners and Missing in Southeast Asia was allowed to visit both Vietnam and Laos. In October, the Government of Vietnam fulfilled a pledge given to the delegation to return five sets of remains and provide material evidence about three other Americans who are not accounted for.

The delegation received an unprecedented amount of cooperation from the Government of Laos. Laotian officials scheduled meetings, made travel arrangements, and, for the first time, allowed Americans to visit two sites where U.S. military planes had crashed and collect the human remains for identification. I am encouraged by the treatment that this delegation received because it appears to reflect a new willingness on the part of the Laotian Government to fulfill its humanitarian obligation to assist the United States in locating and returning the estimated 558 Americans who are unaccounted for in Laos. I appreciate this new spirit of cooperation on the part of the Laotian Government, and I hope it will continue.

Since 1975 there have been 700 reports of sightings of live Americans in Southeast Asia. Despite persistent efforts and careful research, the U.S. Government has, as yet, been unable to prove any reports that Americans are being held against their will in Vietnam and Laos. Although I, myself, am skeptical that there are any Americans still alive in Southeast Asia, I firmly believe that we must continue to investigate these reports and to make every effort to verify them.

Senate Concurrent Resolution 131 was unanimously approved by the Foreign Relations Committee and is now before us for consideration. I urge my colleagues to vote for this resolution. It is our duty, as well as our moral responsibility, to do all that we can to recover the remains of those Americans who died in Southeast Asia and to learn the truth about those who remain missing and unaccounted for. By so doing, we not only close the book on this tragic war but also pay tribute to the many brave American men and women who served the United States in Southeast Asia.●

NORTH CAROLINA BAPTISTS ENDORSE VOLUNTARY SCHOOL PRAYER

● Mr. HELMS. Mr. President, this past month, the Baptist State Convention of North Carolina affirmed its support for the restoration of the right to voluntary prayer in our schools and other public institutions. Last June, the Southern Baptist National Convention adopted a similar resolution.

I am intrigued, though not surprised, at the confusion being orchestrated by opponents of voluntary school prayer. A typical distortion is the myth that voluntary prayer has not been curtailed by the Supreme Court. As Dr. Tom Freeman, a past president of the North Carolina State Baptist Convention has pointed out, "the contrary is true."

I commend the Reverend Doctor Freeman for setting the record straight on the positive resolution adopted by North Carolina Baptists. For the edification of all concerned with the fundamental right of our schoolchildren to participate in voluntary prayer I ask that his perceptive comments as reported in the Daily Record, of Dunn, N.C., be printed in the RECORD.

The article follows:

FREEMAN HAILS PRAYER VOTE

Dr. Tom Freeman, two-time president of the State Baptist Convention and pastor of Dunn's First Baptist Church, today hailed the action of the convention in approving voluntary prayer in the schools.

He said that if the vote had been taken when the entire convention messengers were still present, the vote would have been the same and the margin in favor possibly larger.

Dr. Freeman is one of the top Baptist leaders in the state.

"The important issue," said Dr. Freeman, "is that we voted for the freedom of those who wish to pray to do so anywhere in all public institutions, not just the schools."

He said he was referring to Congress, the Supreme Court, legislatures and wherever prayers are not taking place.

"You can usually count on the Raleigh News and Observer to get the facts wrong or to give a biased slant. Even when they get it right, they slant it," he told his congregation here Sunday.

The action of the Baptist State Convention in voting in favor of a resolution approving a proposed constitutional amendment on prayer in the public schools was incorrectly reported in the Raleigh newspapers, he said.

"The Raleigh Times editorial stated that we voted to once again let 'prescribed forms of prayer be sponsored in public schools.' That was not what we voted. The term 'prescribed prayer' was used twice in the editorial. The resolution that was approved stated:

"'That we declare our support of the proposed constitutional amendment, which states. 'Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any state to participate in prayer.'"

In 1962 and 1963 the Supreme Court outlawed "prescribed prayers" in the public schools and many persons still assume that voluntary prayer is permissible, he said, adding "The contrary is true. The Supreme Court has denied the right of voluntary prayer, and has, in fact, declared that a minute of silence is also unconstitutional."

"Baptists, and others, are upset about this, and justly so," he continued. "The Supreme Court begins its sessions with 'God save this honorable court.' The President of our nation and the other elected persons, including the judges, all swear upon a Bible to uphold the Constitution. The Congress and other states, or many of them, have chaplains who pray before each daily session.

"The American people find it hard to see the logic or fairness in this. North Carolina Baptists did not vote for prescribed prayers' in the schools, but for the right to voluntary prayers in the schools and all other public institutions. This reflected the vote on the same issue in the recent Southern Baptist Convention in New Orleans, last June," he said.

Dr. Freeman said the Supreme Court originally held that a prescribed prayer mandated by New York State was unconstitutional. "I agree with that," said Dr. Freeman. "No state or other government body should tell anyone what to pray."

Dr. Freeman said the court had gone even farther just recently in outlawing a moment of silent prayer. "I thought that was ridiculous. To say that it's unconstitutional is pretty farfetched. The constitution says nothing about silence."

The popular Dunn minister said he didn't understand how any religious body, any religious leader or any individual who professes to be a Christian could be against prayer anywhere, anytime under any circumstances as long as the individual is following his God-given right to commune with the Almighty."

The Raleigh newspaper had made a great issue over the fact that some messengers had left before the vote. Dr. Freeman emphasized that was irrelevant and said the margin in favor would have been greater had all messengers been present.●

HUMAN RIGHTS DAY

● Mr. KENNEDY. Mr. President, today marks the 34th anniversary of the adoption of the Universal Declaration of Human Rights by the United Nations. That document served notice that concern for human rights transcends national boundaries. It committed the world community to speak out against human rights abuses wherever they occur, and challenged international leaders to take action to deter continuing violations. The declaration symbolized the entitlement of all peoples in all parts of the world to observance of uniform standards of human rights.

The intervening generation has seen important progress in the realization of individual rights around the world. Most of Africa, Asia, and the Caribbean, then living under colonial domina-

tion, has achieved independence. There are increasing numbers of international groups dedicated to advancing the human rights cause—including Amnesty International, the International League for Human Rights, the International Human Rights Law Group, and the International Commission of Jurists. International human rights convenants and organizations have established an extensive framework for protecting human rights monitoring violations and pressing for improvement.

In the United States, our foreign assistance laws now clearly establish that security assistance may not be provided to governments which are engaged in a consistent pattern of gross violations of internationally recognized human rights. Congress has enacted specific legislation which bars assistance to Argentina and Chile until the administration can certify that there has been significant human rights progress in those countries. Continued assistance to El Salvador is conditioned upon similar human rights certifications at 6-month intervals.

Such legislative restrictions are no substitute for an administration foreign policy giving human rights considerations the prominence they should have; but they do oblige our Government to respond to the deep concern for human rights within the U.S. Congress and across this country.

Unfortunately, as the need for legislation of this kind makes clear, gross human rights abuses do continue in all parts of the world. Labor unions have been ruthlessly suppressed in Poland; human rights advocates in the Soviet Union are brutally persecuted; the crime of apartheid continues in South Africa; repression persists in South Korea and the Philippines. The list of countries where the cause of human dignity remains at risk is formidable.

Indeed, December 10 has assumed a double significance for the cause of human rights. On this date in 1979, the authorities cracked down on a human rights rally in Taiwan's second largest city, Kaohsiung. Eight opposition leaders were arrested, convicted for sedition, and received prison sentences ranging from 12 years to life. There was no evidence that their testimony about torture was ever seriously investigated.

Subsequently, the general secretary of the Presbyterian Church of Taiwan, Rev. C. M. Kao, and nine other church leaders, were arrested for working with the opposition. These political and religious leaders remain imprisoned today, and the martial law provisions under which these punishments were imposed remain in effect. In fact, martial law has been in force on Taiwan for 33 years.

This morning I took part in a Washington press conference held to renew the appeal for the release of political and religious prisoners, and for full democracy and respect for human rights in Taiwan. I was joined by three speakers who are uniquely qualified to testify to the current human rights situation in Taiwan: Mr. William P. Thompson, Thompson is the stated clerk of the United Presbyterian Church in the U.S.A., whose counterparts in Taiwan have worked long and hard to advance democracy and respect for human rights. Reverend Kao, the Presbyterian Church's general secretary, has been imprisoned along with nine other Presbyterian leaders in Taiwan.

Professor Seymour is an expert member of Amnesty International U.S.A.'s National Advisory Committee. He has visited Taiwan on two Amnesty International missions and is also the author of "The Fifth Modernization," a book examining human rights in the People's Republic of China. Amnesty International sent observers to the trial of the Kaoshiung eight, and has pressed appeals for the release of 120 prisoners of conscience.

Finally, Dr. Chai is professor of political science at the City University of New York and president of the Formosan Association for Public Affairs—a group dedicated to informing the public about the denial of human rights, freedom and democracy in Taiwan.

I have had a longstanding interest in the relationship between the United States and those who live on Taiwan. I am proud of my role in the Senate as a principal sponsor of the Taiwan Security Resolution in 1979, now a part of the law of our land. In that resolution, Congress reassured the people of Taiwan about our concern for their security and prosperity and for lasting peace in the area.

But political repression on Taiwan blights our mutual interests and undermines ties between our two peoples. I have spoken out against serious human rights abuses in the People's Republic of China, with which we are building an important new relationship, and I believe that the American people cannot stand aloof from capricious imprisonment and persecution in Taiwan.

Last May, Senator PELL, Speaker O'NEILL and Congressmen SOLARZ and LEACH joined me in calling for an end to martial law and for progress toward restoring individual freedoms and human rights for all the people of Taiwan. We called then, and I reaffirm this call today, on the authorities in Taiwan to release the political and religious leaders imprisoned after the Kaohsiung incident. I have sought improvements in the prison conditions endured by Reverend Kao and Lin Yi-Hsiung, the brave assemblyman whose mother and two daughters were murdered after his arrest, and I am pleased to hear that conditions have improved to some extent.

Last August, the Taiwan Provincial Assembly called for the release of Assemblyman Lin, and just last month the Governor of Taiwan agreed to transmit the assembly's request to Government and party officials who share responsibility for this decision. I hope that the authorities will respond favorably to this and other pleas for the release of Reverend Kao and too many other citizens who are still jailed in Taiwan. Their only crime has been to express their political beliefs and defend their human rights.

I am therefore renewing my call for the leaders of Taiwan to release all political and religious prisoners, to end the repressive reign of martial law, to guarantee basic rights for all, and to permit increased participation in government by the island's people.

I welcome the fact that the proportion of native Taiwanese serving as local officials has increased, that fair local elections have taken place, and that restrictions have been reduced on freedom of speech and association. However, a small minority of mainland Chinese living on Taiwan still retain virtually full control of national affairs; genuine opposition political parties are outlawed, and press censorship and other political controls persist on the island. I believe a more broadly based government, with greater support for democracy and respect for human rights, offers the best hope of Taiwan's continued peace, stability, and well-being.

In an eloquent appeal last September, four of the leading political and religious prisoners called democracy "the most effective way to counter the threat of communism." They argued that "the strongest force in modern society is freedom of choice expressed by the people through voting." They petitioned the authorities "to end repressive rule and quickly return political power to the people." Immediately after this statement was made public, it was banned by an official order prohibiting any person or organization from reproducing it.

On this 34th anniversary of the Universal Declaration of Human Rights, let us recommit ourselves to the cause of human dignity—in Taiwan as well as in other parts of the world and in the United States itself—and above all, let us recommit ourselves to upholding the cause of human rights in this country's foreign policy. Let us show that the American heritage of concern for human rights remains as vigorous as ever, and that the cause of full human rights for all peoples on this Earth shall never die.●

HUMAN RIGHTS DAY

● Mr. TSONGAS. Mr. President, 34 years ago today, the United Nations General Assembly adopted the world's first Universal Declaration of Human Rights. In so doing, the United Nations created a common standard of human rights achievement for all nations. In 30 articles, the declaration recognizes basic political, civil, economic, cultural, and social rights of all individuals. These rights represent the greatest accomplishments of our civilization. The Universal Declaration of Human Rights embodies a synthesis of the tradition of the Greek sophists, the great Christian thinkers, the enlightenment philosophers, and America's Founding Fathers.

Unfortunately, despite the existence of this important document, human rights violations remain one of the most serious and insidious problems facing us on this, the 34th anniversary of the declaration's adoption. Mr. President, I feel that it is altogether fitting and proper that on this day we call special attention to the entire issue of human rights, reaffirming our unwavering dedication to the spirit and the letter of the Universal Declaration of Human Rights, and call upon those who are now violating the rights of innocent people around the globe to cease these abuses.

In the Soviet Union, the persecution of religious and ethnic minorities remains an institutional function of the State. Jewish emigration has fallen to the lowest level since that exodus began over a decade ago, while Soviet authorities have heightened their persecution of those unfortunate refusniks still in the Soviet Union. While the dissident movement has not been broken, the brave men and women who dare to speak out for religious and political freedom bear terrible risks. The cases of Alexander Paritsky and Anatoly Shcharansky clearly attest to this fact.

Shcharansky, an imprisoned refusnik and dissident, has been severely persecuted by Soviet authorities. His wife, Avital, was literally forced to leave the Soviet Union on the day after their wedding in 1974, and has not seen Anatoly in the last 9 years. He has been constantly mistreated by his Soviet captors, denied proper food and clothing, placed in solitary confinement, and denied contact with his family. He has been on a hunger strike for over 2½ months, Mr. President, and I fear that he will not survive in his weakened condition.

Dr. Alexander Paritsky, a leader of the Kharkhov Jewish community and a leading dissident, has been languishing in a labor camp since 1981. He was convicted of anti-Soviet slander in a trial that was extraordinarily lacking in substance and justice. Paritsky is currently in failing health, suffering from a serious heart condition. Despite cries for justice which have emanated from around the globe, including a concurrent resolution from this Chamber, Paritsky has not been released and is in fact now being threatened with a new trial. Mr. President, I feel that we must make it very clear to the leadership of the Soviet Union that such terrible violations of recognized human rights are unacceptable to the Congress, to the American public, and all freedom-loving people of the world.

Furthermore, Mr. President, on this day, we must not forget the people of Afghanistan, nor the people of Poland. Nearly a year ago, the government of General Jaruzelsky declared martial law in Poland, brutally repressing the Solidarity movement. As for Afghanistan, we all have been witness to the proud struggle of the Afghanistan freedom fighters, the Mujahideen, to preserve their independence and freedom. Again, we must not let this day pass without pledging to them our unwavering support and admiration for a noble struggle against overwhelming odds.

In the Republic of South Africa, Mr. President, the government perpetuates its cruel and unjust system of apartheid. Although the millions of nonwhite citizens of South Africa constitute a numerical majority, they are denied dignity, political, civil, and economic equality from birth through a set of laws and customs which makeup the system of apartheid. The continued presence of apartheid stands as one of the most odious and reprehensible examples that we still must eliminate before the Universal Declaration of Human Rights becomes more than just a standard to which nations can aspire.

There has been growing interest in this country over the case of the tiny Pacific Island of East Timor. This island, which until 1975 was a Portuguese Colony, is the location of a very serious abuse of human rights. On the 7th of December 1975, East Timor was invaded by Indonesia. Starvation, disease, and warfare have claimed perhaps over 100,000 lives in East Timor. The Indonesians have placed many of the Timorese into resettlement camps, and Amnesty International has reported that repression and torture have accompanied the Indonesian invasion. Several of my colleagues and I sent a letter to President Reagan on the occasion of Indonesian President Suharto's visit to the United States expressing our interest that the administration raise the question of East Timor with the Indonesian leader. Again, Mr. President, we as a nation cannot let such violations of human rights as these pass without comment if we are to retain our moral positional internationally.

Many Members of Congress are greatly troubled over the violations of the human rights of the minority in Northern Ireland. The tragic situation there is made more difficult for the United States because it involves two countries with whom we share longstanding traditions of history, culture, and values. Yet even here we must not shrink from raising the issue of human rights and reaffirming the indivisible nature of those rights.

Lastly, Mr. President, I shall comment on the human rights picture in this hemisphere. President Reagan recently returned from a visit to Central America. That region, so important to U.S. interests, has been the site of brutal repression. It is very distressing to me that the perpetrators of much of this violence are governments which the President would have as our allies.

For example, after meeting with the leader of Guatemala, Gen. Rios Montt, the President reported that the Guatemalan leader is getting "a bum rap," and is "totally committed to democracy." General Montt took power in a coup last March and has since then completely suspended political activity. His security forces have launched a counterinsurgency campaign in the highlands which, according to Amnesty International, has already claimed thousands of lives among Guatemala's Indian and peasant populations. General Montt does not even attempt to deny these terrible abuses. On the same day President Reagan claimed that the Guatemalan leader was receiving "a bum rap," Rios Montt said: "We have no scorched earth policy, we have a policy of scorched Communists."

Mr. President, on this Human Rights Day, the anniversary of the adoption of the Universal Declaration of Human Rights, let this body, and this Nation reaffirm our dedication to the noble principles which the United Nations embraced 34 years ago today. We can do no less.

MILTON MUNGER

● Mr. LUGAR. Mr. President, I ask the Senate to take note of the recent passing of a remarkable man and public servant. Mr. Milton Munger of Elwood, Ind., served this country for many years as a management analyst for the Department of Defense. His contributions often required great sacrifice and the forgoing of personal gain. His outstanding work and civic record typified the selfless spirit of public employees who serve our country in so many diverse ways.

Milton Munger leaves behind a wonderful family. I hope that the patriotism and dedication which he brought to his duties will always characterize our great civil service system.●

ECONOMIC PROBLEMS FACING SMALL BUSINESSES IN THE FOREST PRODUCTS INDUSTRY

● Mr. BAUCUS. Mr. President, yesterday I had the opportunity to co-chair a hearing of the Senate Small Business Committee's Subcommittee on Productivity and Competition with our distinguished colleague from Washington, Senator GORTON. The story told by small businessmen in the forest products industry was not encouraging. Indeed, the gloom that overshadows the entire industry is darker than an Arctic storm coming down the Rocky Mountain front this time of year.

I remain hopeful that these difficulties can be overcome. America has a vast timber resource, both private and Federal. The industry's plants are in better shape than virtually any other segment of the economy. While work is needed, our infrastructure is basically sound and ready to move raw materials and manufactured goods. Labor is highly motivated, well-trained, and available.

Furthermore, no industry better typifies the kind of know-how characteristic of small businesses than the forest products industry. Today, 60 percent of the forest land in the United States is still held by some 7.5 million landowners. Giant corporations own only 14 percent. Thus, from the growing of the wood to cutting and hauling by gyppo loggers to manufacturing by family-owned sawmills, the industry benefits from small business involvement.

I am, nonetheless, concerned that the current economic slump is disproportionately affecting small business. In an article which recently appeared in Business Week, the chairman of Boise Cascade summed the situation up. He said that many companies that do not have solid cash reserves, as well as timber holdings, will have to "go out of business or combine with others."

Whether engaged in making traditional products such as lumber, or products that require massive capital investments such as paper, plywood and composite wood products, we have all seen the trend toward multi-national, horizontally, and vertically integrated companies. In plywood production, for example, the two largest firms have increased their share of the market from 8.4 percent in 1960 to 28.8 percent in 1982. My concerns is that without immediate attention, this process will be needlessly accelerated.

The purpose of the hearing held by the Subcommittee on Productivity and Competition was to get an overview of the situation facing small businesses in the timber industry. Witnesses included Mr. Robert McDermott, the associate administrator of the Small Business Administration and lumbermen from Alaska, Washington, Oregon, California, Idaho, and Montana. The witnesses underscored several "survival" issues for small businesses during this unprecedented economic recession.

Chief among their concerns was the presentation of the small business timber set-aside program. In addition, however, many small businesses feel that legislation is needed which will allow for termination, adjustment and/or extension of contracts with the USDA Forest Service to reflect the reality of today's economy. Furthermore, for the Rocky Mountain States, a provision to make purchaser credits "effective" is widely supported. Without help, the message was clear. Many small businesses face closure.

Principal among proposals for relief being considered is S. 2805. I am very concerned that the particularly pressing needs of small businesses will get lost in the legislative shuffle. We cannot allow this to happen. Without immediate constructive and innovative action, many small businesses in the timber products industry will not be around to enjoy the benefits of an improved economy.

I look forward to working with my colleagues on this matter and ask that the statement of Mr. Gary Jones of Darrington, Wash., be included in the RECORD at the conclusion of remarks to further expand on the needs of the industry.

STATEMENT OF GARY E. JONES

Mr. Chairman, my name is Gary E. Jones. I am Vice President of Summit Timber Company in Darrington, Washington. Darrington is a small community of 1,000 people nestled in the Cascade Mountains 80 miles northeast of Seattle. Summit is a family-owned corporation founded 40 years ago.

I am here today not only representing Summit Timber management, but also our employees and the town of Darrington. Summit is not a large company, but we are the major employer in the Darrington area. We do not have any asset in our family that is not tied to the timber industry. To survive the past few years, we have exhausted all of our own cash and some of the bank's. Our concern here is the same as other mills in the northwest—Survival!

We favor the Hatfield-Jackson-McClure timber contract proposal. Summit is 95 percent dependent on National Forest timber. We must buy federal timber to operate. During the decade of the 1970s, we were forced to bid high timber prices because of two major factors: declining supply and inflation.

Supply became a factor because of uncertainty caused by wilderness additions, land use strictures and Forest Service budget problems. The second factor, inflation, became a problem because we were bidding on timber to be removed two to seven years in the future. When bidding against the competition one had to use an inflation factor of from 8 to 12 percent to have a chance to buy the sale. This was realistic at the time because we had seen our product increase at or above the inflation rate during the 70s.

Some may say we took a gamble and lost, so why should we receive relief? My answer is: when we bid we were bidding under fiscal policy established by the past Administrations, but we now are forced to harvest these sales under fiscal policies set by a new Administration. We agree with what the President is doing and my hope is that we, as an industry, and especially the small independent business, can survive to help strengthen our nation. We need a chance, however, to harvest timber sales that can be purchased under the conditions of this new fiscal policy. We feel that passing our industry bill will give us that chance. It will keep our timber supply from being tied up in the courts as a result of defaults and bankruptcies resulting from default damages.

We have 185 million board feet of Forest Service timber under contract at a delivered log cost of $360 per thousand board feet. On today's log market, that same quality timber can be delivered at $250 per thousand board feet. The $110 difference would create a loss of over $20 million for Summit Timber Company. That, added to losses of more than $10 million in 1981 and 1982 would nearly equal Summit Timber Company's total net worth.

Our 450 union and salaried employees have done their part by taking a 25 percent cut in pay. With this help, cash flow has stayed fairly stable and we have kept our employees working. But if we are forced to operate these contracts, we have no choice but to default and close our doors, leaving the town of Darrington with 50 percent unemployment.

We think it is to our country's benefit to keep the independent sawmill operator in business so we can continue to supply the jobs necessary to keep local communities strong.

Thank you for your time. I will try to answer any questions you may have.●

COAL TRANSPORTATION

● Mr. HEINZ. Mr. President, despite conservation and energy efficiency, the world's free nations will continue to depend on an ample supply of reasonably priced energy to fuel economic growth and development.

Today, America stands in a premier energy supply position. This Nation has enough coal to fuel the energy needs of our society for several lifetimes, and still have the reserves to share increasing amounts of coal with our allies abroad.

In just 10 years, coal's share of the crucially important electric utility market has increased from 43 percent to more than 52 percent. By 1990, coal's share is expected to rise to 60 percent.

Over the past 3 years, as oil prices worldwide have skyrocketed, American coal exports have reached record levels. Last year, America sent 110 million tons of coal abroad—including 33 million tons of steam coal overseas—to help the world's free nations fuel economic growth.

Mr. President, these exports added nearly $6 billion to America's balance of trade and created or maintained 65,000 American jobs. By the end of this century, coal exports could swell to as much as 200 million tons each

year, accounting for a $15 billion contribution to our balance of trade, and making coal America's leading export commodity.

What is more, the increasing use of coal—our most abundant and lowest cost energy resource—is crucial to keeping energy prices at home stable. Expanding coal exports also have strategic, diplomatic, and political international significance. American coal exports in Europe and among the Pacific rim nations already are responsible for OPEC's declining share of the world oil market in recent years.

And, American coal in Europe can be one of the answers to preventing European dependence on Soviet energy supplies.

Yet, Mr. President, coal can continue to serve the United States and our allies only so long as its price remains competitive.

The coal industry is doing its part. In recent years, because of huge investments in new mines, improved technology, mine worker training, and programs between labor and management to promote labor peace, impressive gains in productivity have been the result.

Since 1978, productivity in underground mines has increased an average of 8 percent per year, and 4 percent each year in surface mines. More important, the real price of coal at the mine has remained stable, even as oil and natural gas prices continued to go up.

Yet, Mr. President, America's competitive price is being eroded by increasing transportation costs. Even a slight increase in transportation costs for coal exported to foreign markets could jeopardize those markets. The coal industry could stand to lose, but so could our country.

That is why it is so crucial that the transportation system in this country is as competitive and efficient as possible.

Mr. President, one of the vehicles to achieving a fully competitive transportation system is more competition between the railroads and other transportation modes, and among themselves.

Congress took a long step to this goal 2 years ago when it passed the Staggers Rail Act. The act ushered in a new era of regulatory freedom for the railroads, and it allowed them to enter into contracts with shippers—both needed to preserve the railroads' financial strength and to assure shippers reasonable rates and good service.

Because the railroads are dominant in coal transportation, carrying 65 percent of all the coal hauled in the United States, Congress gave specific protections to captive shippers. The law says that where captive shippers are present, shippers have the right to petition the ICC for recourse where rates are unreasonable or service is poor.

Unfortunately, Mr. Chairman, rulings by the ICC on market dominance threatened to erase the captive shipper protections mandated by law. This matter was taken to the Fifth Circuit Court of Appeals, which I am pleased to say has held in favor of the shipper protections, and remanded the case to the ICC.

Yet, Mr. Chairman, there are two other proposals facing the Commission, which could result in driving up the delivered price of coal to domestic and foreign markets.

Mr. President, On December 10 Mr. Carl Bagge, president of the National Coal Association, delivered a speech about the Staggers Rail Act and competition to the Association of Interstate Commerce Commission Practitioners in Chicago.

Among other things, Mr. Bagge calls attention to the failure of the ICC to carry out the mandate of Congress to inject the fullest possible competition in transportation markets—particularly to stimulate more competition among the railroads themselves.

I commend this excellent address to my colleagues in the Senate, and request that it be printed in the RECORD.

The address follows:

ADDRESS OF MR. CARL BAGGE

It's a high privilege to break bread and to share some thoughts with this distinguished audience about the Staggers Rail Act and competition.

There are many perspectives of this law and its effects, but I come today with only one: That of a lobbyist who is paid to pray over the interests of America's coal producers.

Let me be clear from the outset: I'm not here to call for a repeal of the Staggers Rail Act. I didn't come to Chicago to lament the coal industry's support of the law.

My purpose brings to mind the time when someone asked George Bernard Shaw if Christianity was working.

He said: "Christianity would be a good thing if anybody ever tried it."

That's the problem with Staggers.

The law hasn't been tried.

The Interstate Commerce Commission is failing to carry out the law the way Congress intended or as the coal industry expected.

For the next few minutes, I want to tell you why and to suggest some ways to make a difference.

By the way of history, this law never would have been passed unless the coal industry had thrown a lobbying lifeline to the railroads.

And we did for good reasons.

For more than a century, the coal industry and the railroads have shared a strong, mutual economic interest.

The rails carry the lion's share of coal to the coal industry's largest customer, the electric utility industry.

For this reason alone, it's in the coal industry's interest to see the railroads financially-healthy and able to carry an increasing amount of coal in the coming years.

And it's the reason the coal industry was among the first to recognize that the railroads were dying a slow death from regulatory suffocation.

Financial strength, however, wasn't possible unless the railroads were allowed greater rate-making flexibility, the chance to streamline operations, and to enter into contracts with shippers.

Staggers is the mechanism to achieve these ends.

It got the rails out from under the ICC's oppressive thumb.

It ushered in a new era of regulatory freedom, and it made contracts with shippers legal.

Yet, given the railroads dominance in coal-hauling markets, these revolutionary changes were't made without some protections.

Congress fully appreciate the implications of cutting the regulatory ties from the railroads, so the law balanced a measure of deregulation with legal protections for captive shippers.

Staggers says that when captive shippers are present, the shippers have recourse to the ICC when rates are unreasonable and service is poor.

There was another Sine Qua Nou involved, which is even more fundamental to a workable law. Even from a cursory reading of the Act's preamable and the Committee Conference Report, it's clear that Congress expected the railroads to respond to deregulation by competing vigorously in the marketplace—with other modes of transportation and among themselves.

In this vein, Staggers isn't simply a vehicle of mindless deregulation.

It's a blueprint for the widest-possible competition in transportation markets.

That was two years ago.

It's time to assess how the law is working and if it's successful.

In this, recall the airline pilot who once radioed: "I have some good news and some bad news.

"The good news is I'm making excellent time.

"The bad news is I'm totally lost."

The railroads are making excellent time toward financial health.

Just pick up the financial press or one of their annual reports.

The contractual sanctions seem to be bearing fruit.

To date, 2,000 contracts have been approved by the Commission.

But like that pilot, the ICC has lost its way.

There is no sense of direction.

What's more, the railroads are taking advantage of the ICC's lack of vision in implementing the law—creating a "never-never land" of deregulation without adequate protection for captive shippers.

Such a course is leading to more inefficiencies in the system at the expense of competition.

To be more specific, let me turn to three ICC decisions, and comment on each one.

One is the ICC's decision to ignore the law, and to set up "guidelines" to determine market dominance.

For the ICC to review a rail rate alleged to be unlawfully high, the shipper has to prove market dominance over the involved transportation.

When the Act was passed, the Commission had precise standards for such a decision.

One was a revenue-to-cost ratio of 160 percent.

This was changed by Staggers.

In its place, the law says that during the first year, rates are no longer subject to ICC

review if they yielded less than 160 percent of the variable costs of transportation.

Instead, in succeeding years, this ratio increased in increments of five percentage points.

It now stands at 170 percent.

Briefly, there were two other tests when Staggers was passed.

The most important was a presumption of market dominance if 70 percent or more of a shipper's output from a single source was carried by a single shipper.

The other was whether a shipper had made substantial investments in rail transportation facilities.

The law didn't make any changes in these tests.

To the contrary, the legislative history is clear that they were to be kept in force.

No matter.

In July 1981, the Commission swept aside these presumptions.

In their place, the ICC set up guidelines on the kinds of evidence that shippers and railroads could introduce on the issue, including product competition and geographic competition.

With one sweep of the regulatory pen, the ICC turned the table on shippers.

In effect, the Commission erased captive shippers, not through competition, but by regulation.

It's not difficult, if not impossible, for a shipper to demonstrate that there is no reasonable alternative to rail.

Today the shipper is no less captive than before the law was enacted, and as vulnerable to escalating rail rates.

As expected, NCA and other parties took this matter to the Fifth Circuit Court of Appeals, where hearings were held last May.

On Wednesday of this week, the Court issued a decision, striking down the standards set by the ICC and remanding the issue to the Commission.

We are obviously delighted with this turn of events.

Meanwhile, the coal industry was jolted by another assault on Staggers' protections.

The railroads have petitioned to put into effect a rate-setting scheme called, "Ramsey Pricing."

Any rail carrier—deemed revenue inadequate—could charge what the market will bear until financial adequacy was reached.

The current standard is a 16.5 percent return on their total cost of capital.

Needless to say, not a single major rail carrier has reached this financial promised land.

We are talking about rates set on the level of demand—not the cost of service.

The higher the demand, the higher the rate.

The rails would have a free hand to exact rents on coal traffic, so they could cut rates where they are competing with inland waterways and trucks.

Simply put, coal would be subsidizing other products by paying a larger share of the railroads' fixed costs.

This petition and the coal industry's rebuttal are also under review.

But now comes the N&W, supported by Family Lines and CSX with a proposal to exempt from all ICC regulations export coal going by rail to east and gulf ports.

The coal industry expected the Commission to dismiss this proposal out-of-hand.

Instead, the Commission not only agreed to consider it, the ICC also announced its decision would apply to all export coal in the United States.

The railroads' rationale is that worldwide coal competition is sufficient to keep the railroads from charging unreasonable rates.

Yet, even a rudimentary understanding of world coal markets reveals, that even a small increase in the cost of coal delivered abroad, would lead to a substantial loss of America's share of these markets.

What's more, the coal industry has good reason to look at the railroads' promise of restraint with a jaundiced eye.

For over the past three years, coal rail rates have gone up an average of 50 percent, more than for any other commodity.

The Coal Exporters Association, and the NCA have opposed export coal exemption vigorously.

And we've been joined by other shipping entities, water carriers, and the majority of interested Federal parties, including State and Commerce.

As well, Nippon Steel, in behalf of Japanese buyers, and virtually all interested European coal buyers have filed comments in support of the coal industry's position.

There is no mystery why all these parties are resolute in opposing export coal regulation exemption.

Coal exports are an increasingly growing market for the American coal industry.

Last year, we shipped abroad 110 million tons of coal—a record—and nearly one-third of the total was steam coal overseas.

Three years ago, the steam coal market didn't exist.

By the end of the century, total coal exports could swell to as much as 200 million tons, making coal America's largest export commodity.

The Department of Commerce is on coal's side, because those 110 million tons of coal added nearly $6 billion to America's balance-of-trade.

And they created or maintained 65,000 American jobs as 11 million workers were looking for a job.

State is interested, because export coal is of strategic, diplomatic and international political importance.

Coal is the centerpiece of international energy policy.

Coal conversions and new coal plants around the world are the surest way to keep the heat on OPEC, to reduce or eliminate European dependence on Soviet energy supplies, and to help the world's free nations to build energy sufficiency.

Our allies have rushed to coal's position, because they depend on an ample supply of reasonably-priced coal to fire economic growth and development, and the United States can deliver.

As a matter of fact, our principal coal buyers abroad see the potential consequences of rising coal prices better than anyone.

The Japanese already have served notice that rising coal rail rates no longer can be tolerated. At the United States-Japanese Coal Conference in Kyoto in October, they warned that unless these trends change by next year, there would be no other choice than for Japan to turn to other world coal-producing nations for supplies.

In summary, there's a broad consensus that the coal industry must take every possible step to improve the efficiency and effectiveness of the mine-to-market chain.

We've responded with huge investments in new mines, and with management-labor programs to ensure labor peace.

Both have resulted in productivity gains of eight-percent per year in underground mines and four percent in surface mines.

The overall result is that the real price of coal at the mine has remained stable over the past several years, even as oil and gas prices continued to go up.

The point is this: Rising transportation costs are eroding all these gains.

They are eating away at coal's marketing advantage by raising the delivered price of coal at home and overseas.

The losers are the coal industry, the railroads and consumers.

More importantly, the ultimate loser is America's economic strength.

Now, what can we do about it?

For years, the coal industry has been preaching the gospel of competition in coal transportation markets.

We have raised our voices in support of rehabilitating the aging, inland waterway system, which is critical to move far more coal in competition with the railroads.

What's forgotten—particularly as Congress rushed to tax gasoline to repair roads and bridges—is that the inland waterways are no less important than filling potholes.

What's more, the money to start the key projects and to put thousands of men and women back to work is sitting at the ready Inland Waterway Trust Fund.

This year $65 million have been collected, and the fund will grow at a rate of $100 million each year after 1985.

I repeat, not a dime's worth of taxes are needed for Congress to do something good for its country.

What we need is for Congress to get off the dime and act.

Congress also can strike a chord for competition and the consumer by granting eminent domain rights for coal pipelines.

I know this issue gives the railroads an advanced case of apoplexy, and they sit up nights thinking up ways why they don't need competition.

Yet the rails need not fear pipelines.

Instead of pressing their case against coal pipelines, the railroads would be far better off taking advantage of their financial strength and to compete for more coal-hauling traffic.

Remember, that by the mid-1990s, the rails will be carrying as much coal as produced today, creating a windfall of 40,000 new jobs.

The railroads newly-enhanced rate flexibility surely will be less subject to political attack to the degree that the marketplace offers alternate methods of transportation.

Having said this, let me get back to the issue at hand—the role of the ICC in spurring competition in transportation markets.

It's obvious that the Commission plays no role in inland waterway improvements and coal pipelines futures.

Yet, the Commission can, and it should—with a spark of regulatory wisdom and initiative—create incentives for more competition.

And a case in point is one which too often is ignored.

There always will be locations where inland waterways and pipelines cannot compete with the railroads.

To fill this void, the Staggers Rail Act mandated the ICC to promote the fullest possible degree of competition among the railroads themselves.

Here, there are some budding competition opportunities, but also no discouraging signs.

The rich, Powder River Basin coal markets are ripe for competition.

The growth of western coal in recent years has been remarkable, and there's every expectation that these markets can increasingly serve the Pacific Rim nations.

But recently, we have witnessed the Chicago and Northwestern in a public debate with the Burlington Northern.

At issue is payment by the B&N for a spur built into the Powder River Basin by the C&N.

I don't want to inject myself or the coal industry into this aspect of the issue.

What's caught our attention is the persistent haggling, but more important the delays, which are preventing the opening up of competition in the Powder River Basin markets.

When I speak to foreign coal buyers, I often point to the excellent transportation system in the United States, despite its shortcomings.

One of the advantages is the ability of the railroads to transfer coal to the waterways for lower-cost transshipment for domestic and export markets.

But until very recently, we've seen some railroads actually charging higher rates for export coal than for domestic coal over the same routes into the Ohio River Basin.

The clear objective was to force shippers away from transshipment, and to use the rails to move coal for export at Hampton Roads.

This particular disparity was eliminated in an out-of-court settlement of a lawsuit.

But it was obvious, that the railroads wanted to divert coal traffic from water transport, hurting shippers and dealing a blow to competition.

Why, I ask this audience, must we continually make lawyers rich to inject more competition into the transportation marketplace?

The coal industry also took heart in Conrail's decision to cut rates seven percent for coal moving to it's new pier in Philadelphia.

While a seven percent rate adjustment isn't high, we would like to believe that the cut is a signal that one railroad is attempting to compete with others.

But our hopes for more intra-modal competition were dashed when CSX refused to enter into joint rates with Conrail, and indeed, cancelled those which existed.

This clearly prevents any coal lying in the Chessie System from moving to Philadelphia to take advantage of lower rates.

It's an obvious attempt to keep shippers from having a choice, and what's more to limit the extent to which lower rates can effect larger markets.

It's easy to see the vast potential that could be gained from increased competition between these two stellar rail carriers.

But the examples that I've just given point out the kind of inward-looking marketing approach that is frustrating competition.

It might be understandable why a railroad would be less than enthusiastic about more competitors.

But why isn't the ICC moving aggressively to create the competition which would permit deregulation and increasing rail traffic?

Instead the Commission is allowing the railroads to erect these marketing fiefdom, and to build walls of protection around them.

We intend to pursue actions in court and before the commission as far as possible.

This may take months or years, but we will stick to this course.

The coal industry also will continue to put inter-modal competition at the pinnacle of legislative priority.

Win or lose on pipelines and inland waterways in this session, we will be back pressing the issue.

And the decision already has been made to go back to Congress next year for changes in the Staggers Rail Act—to close the loopholes with amending language to make sure captive shippers get the protection they require and Congress intended.

We must take this step, because it's obvious that the ICC isn't preserving the balance set out in the law.

It isn't taking steps to foster competition among the railroads—the only path toward achieving full deregulation.

Today, we see the Commission embarked on an ideological tangent of mindless deregulation—blindly hacking away at regulations in this philosophical stratosphere, while ignoring the real-life, practical problems of monopolies and captive shippers.

This Commission has a chance to set aside a special place for itself in regualtory history.

And I challenge the Commissioners and their staffs to use some vision—to find ways to create the fullest-possible competition in transportation markets.

It can start with rulings, which give the railroads even more incentive to compete among themselves—to prevent the building of walls of protection around their markets.

We will not have achieved this goal—or the goal of full competition—until the term "captive shipper" is wiped from the transportation lexicon.

But the elimination of captive shippers must come—not by the stroke of the pen as the ICC has thus far unsuccessfully tried to do—but through a structual market change by injecting competition.

In this vein, the Staggers Rail Act must not become another version of the Natural Gas Policy Act or other legislative monstrosities which require an army of lawyers and bureaucrats to figure out and to administer.

We don't need that kind of stifling, oppressive, counter-productive regulatory climate.

If the Commission will seize the opportunity to carry out the Act properly, it can be a vehicle to cut regulatory overload, and to promote more intra-model competition in transportation markets.

In this sense, the Act can be a kind of "Bill of Rights" for shippers, for consumers and industries—a document to achieve the lofty, yet achievable goals, of full competition, reasonable rates and excellent service.

In closing, let us recall the thoughts of one of Illinois greatest citizens and of these United States—words which the ICC would do well to pay heed.

Abraham Lincoln said: "The dogmas of the quiet past are inadequate for the present.

The occasion is piled high with difficulty, and we must rise to the occasion.

As our case is new, so we must think and act anew."

I pray God that the Commission and all of us never forget it.●

CHECKING TOXIN WARFARE

● Mr. BOREN. Mr. President, last week, I submitted for the RECORD a news report detailing fresh evidence of Soviet complicity in chemical warfare in Afghanistan and by Soviet agents in Kampuchea. At that time, I touched on the questions this raises regarding the validity of Soviet signatures on international agreements, in particular, the 1925 Geneva Protocol banning the use of chemical and biological weapons in war, and the 1972 convention prohibiting even the possession of toxin weapons. On the first of December, the Christian Science Monitor printed an editorial which expands on this subject. It makes the point that even the Soviet leadership should see that violations of this type raise serious questions about the validity of the whole arms control process. If the Soviets cannot be relied upon to adhere to signed agreements, what confidence can we have in the pursuit of such agreements?

I ask that the text of the Christian Science Monitor editorial be printed at this point in the RECORD.

The editorial referred to follows:

CHECKING TOXIN WARFARE

New reports out of Washington that the Soviet Union and its allies are using chemical and toxin weapons in Afghanistan and Southeast Asia should elicit the deepest concern in the international community. These regions may seem far from the worries of most nations. But, as U.S. Secretary of State George Shultz remarked in presenting a report to the Congress and the United Nations, any Soviet violation of treaties banning the use of such weapons has serious implications for the security of the whole world.

This is one arms race that mankind had thought had already been brought under control. The 1925 Geneva Protocol bans the use of chemical and biological weapons in war and the 1972 convention prohibits even possession of toxin weapons. Then why is the world not speaking out? So far only Canada, Thailand, and Britain have done so. If the public can be so preoccupied with the dangers of a nuclear war that has not happened, surely it should be no less concerned about the hazards of weapons being used right now.

The relative silence may be due to disbelief of what in the past has seemed meager evidence, or perhaps to a lurking suspicion that the Reagan administration is vigorously pursuing such charges against Moscow in order to help justify its own development of chemical weapons and its military buildup generally. Yet all the evidence now accumulated—blood samples, gas masks, testimony from a Soviet defector, a Laotian pilot, and Afghan refugees—indicates that something is definitely going on, Soviet denials to the contrary. The Canadians, among others, have also unearthed evidence of the use of banned chemicals and toxins.

To resolve this problem, the U.S. seeks two things. One is the naming of a permanent panel of scientific experts to be available to the U.N. secretary general which could investigate future charges. The other is a reconvening of the Biological Convention to toughen the provisions dealing with verification and compliance. Both deserve strong international support. The U.N. itself has a group investigating the issue but it has been hampered in its work largely because of lack of access to the sites.

Washington might also consider appointing a high-level panel of scientists to study and assess all the material gathered to date. It should concern the administration that academic scholars raise questions about the evidence and its presentation—for instance, the lack of adequate controls on experimental samplings. Also, the US should press the

Russians harder on the issue of on-site inspection for possession or destruction of chemical weapons. Resumption of bilateral US-Soviet talks would be helpful in nudging further progress on this issue in the UN Disarmament Committee.

World apathy now would be unfortunate. The point is, if the Russians and their Southeast Asian clients are widely employing the poisons in violation of international agreements, there can be little confidence in the whole arms control process and in signing new agreements. Surely even the Soviet leadership must see that violations in the biological and chemical area merely strengthen the hand of hawkish elements in the US government who oppose serious nuclear arms talks. It is hard to refute the argument that, if the Russians cannot be trusted on agreements already signed, pursuing further accords is a futile exercise.

Here is an early opportunity for the new crew in the Politburo to demonstrate their trustworthiness. Yuri Andropov can either let the Soviet Union remain under a cloud for breaking existing pacts—thereby poisoning the disarmament climate as well as men—or he can join in a good faith effort to strengthen safeguards and make progress toward the control of this lethal weaponry.

Needed ultimately is an international agreement banning the development and production as well as the use of chemical weapons. That objective seems as distant as ever, however—unless the nations of the world fine their voice on the subject and call Moscow on the carpet.●

NURSES WHO CAN BE DOCTORS

● Mr. INOUYE. Mr. President, a recent edition of the Honolulu Star-Bulletin featured an article by Ms. Jane See White of the Associated Press, highlighting a revolution that has been occurring within our Nation's health care system in which our Nation's professional nurses are being allowed to function to the fullest extent of their professional capacity.

Ms. White's article, entitled "Nurses Who Can Be Doctors," highlights the extent to which our Nation's professional nurses are able to make complicated clinical decisions in a highly cost-effective manner at the York Hospital in York, Maine.

In my judgment, those of us in the Congress who are serious about curtailing our ever-escalating health care costs should give serious attention to utilizing these competent professionals in every way possible.

Mr. President, I ask that Ms. White's article be printed in the RECORD.

The article follows:

[From the Honolulu Star-Bulletin, Sept. 13, 1982]

NURSES WHO CAN BE DOCTORS

(By Jane See White, Associated Press)

YORK, MAINE.—When he describes what York Hospital's pioneering new nursing system means to patients, Dr. Barry Salter likes to relate his wife's recent experience at another hospital.

"There was a rule on the surgery floor that patients couldn't shower without their surgeon's permission," he says. "Clearly, this rule was aimed at preventing wound problems after surgery. But my wife wanted to take a shower on the night before her operation.

"When the nurse tried to reach the surgeon, she couldn't get him. Finally, she told my wife to go ahead and shower, and she'd just pretend she didn't know."

At York Hospital, patients no longer must endure such "absurd evasions," as Salter, an internist, calls them.

Neither must they endure headaches while nurses try to locate a doctor to order medication; nor must they blink at the ceiling through a sleepless night because their doctor is not available to authorize a sleeping pill.

Nurses at York Hospital now can make these medical decisions themselves. Under "joint practice"—or "collaborative practice"—York's nurses are not longer foot soldiers, but officers who can give orders traditionally issued only by doctors—about a patient's diet, his activities, and some medications, diagnostic tests and treatments.

"Forty years or so ago, nurses weren't allowed to take blood pressure. When physicians discovered they could do it, they were delighted to delegate that job," says Salter, who chairs York's joint practice committee. "Nurses are capable of performing a lot of the functions that doctors perform, so now we are simply extending that process."

York is a tiny hospital in a small, white-clapboard town on the southern coast of Maine. Joint practice arrived there in 1978 as a pilot project run by the National Joint Practice Commission, a creation of the American Medical Association and the American Nurses' Association. Both groups were casting about for solutions to a critical national shortage of registered nurses that was linked to low job satisfaction.

The commission tested joint practice on a 22-bed medical-surgical unit at York, and on units at three other hospitals. When the tests ended, the nurses said it made their work more challenging and satisfying. Physicians endorsed it, and patients did, too. But, so far, only York Hospital had tossed out the traditional team nursing approach in favor of joint practice.

Although York's pilot unit began using joint practice in 1978, it wasn't until last year that the entire 86-bed hospital made the switch. Some of the 30 physicians who practice at York resisted out of concern that nurses weren't competent to handle graver medical decisions alone. Some of the nurses also had reservations, among them, Madelin Bezgumbluk.

"Now that I'm used to it, I think it's great," she says. "But I had some adjusting to do. I graduated from nursing school 38 years ago, and this was a big change."

The idea behind joint practice is to encourage RNs and MDs to collaborate on a patient's care. Its flip side is the traditional nursing system, in which RNs have authority to do very little without a doctor's instructions, in which they are handmaidens to physicians.

To encourage collaboration, joint practice mixes these elements:

Primary nursing. Each patient is assigned an RN who is responsible for nursing care, for everything from dispensing medication to giving backrubs.

Integrated patient records. Instead of separate nurses' and doctors' charts, all notes about a patient are written in a single record. This forces doctors to review nurses' observations, and vice versa.

A joint practice committee, composed of an equal number of physicians and registered nurses, arbitrates disagreements and irons out bugs in the system.

Expanded RN decision-making authority. York's joint practice committee produced a document that spells out what RNs can do unilaterally, including ordering X-rays, dispensing sleeping pills, sedatives and painkillers, and taking or ordering tests. The document was approved by the hospital's medical staff.

In theory, the result is a hospital where RNs and MDs are partners, a team that compares notes on patients, discusses treatment options, debates, argues and consults. In fact, despite some resistance from both the medical and nursing staffs, it's worked out pretty much that way at York.

What does all this mean to patients? The phrase York staffers use most often to answer that question is "continuity of care."

"The patient is the one who really sees the difference best," says Salter. "Instead of having 12 different nurses in and out of his room, he has one on each shift he can identify with, talk with, confide in."

Before joint practice, York used a "team nursing" system, in which nurses were assigned specialized duties. One day RNs would be medication nurses, dispensing pills to all the patients on their unit. The next day, they might have another duty.

"Under team nursing, two or three people would be going in and out of a patient's room," says Gail Browning, York's director of nursing. "The next day, it could be two or three different people."

Nurse Bezgumbluk describes the difference this way: "Now, when I'm off for a day, my patients miss me. They say, 'Where were you yesterday?' "

This new intimacy between nurse and patient pays off in other ways, according to James Stuart, a York general surgeon.

"We had a urology patient, for example, whose appetite fell off. The nurse noticed, and pointed it out to his doctor. The physician hadn't noticed anything, since he was focusing on the patient's urologic problem. But he did some tests, and found that the patient also had an acute gall bladder problem," he says.

Often, says Stuart, patients choose not to "bother the doctor" with their worries. Joint practice gives them an outlet—their nurse.

"The nurse will know if the patient is troubled," says Stuart. "Often she'll tell me he's worried, for example, about how to manage his colostomy at home. Once I know that, I can talk with him in a meaningful way."

Cardiologist Lawrence Petrovich isn't enthusiastic about joint practice, but he does believe it's a good system for heart attack patients.

"I think cardiac rehabilitation benefits from the nurse making the judgments, in consultation with me," he says. "She's in a better position to know when a patient is ready to sit up or walk, because she's with him all day."

A key element in joint practice—and the most controversial—is the broad scope of nurses' authority. York internist Thomas Chayka boycotted the 22-bed pilot unit for a time because, he says, "I'm uncomfortable with losing control over some of the routine orders. I just like to know what's happening, and I think there's potential for a communications breakdown."

Though Chayka isn't impressed with joint practice, he's come to accept it. Says Chayka, "I've had no problems with nurses writing orders in error. In the past, many old-timers did this anyway without legal backing."

Though no one's studied how York's patients feel about the new system, most hospital staffers believe they prefer it. Administrator Susan Garrett says some patients now request admission to the former pilot unit because they liked it during an earlier hospital stay.

As for the nurses, they appear to be unanimous about joint practice.

Says RN Pam Todd: "It makes the job much more satisfying. You'd earn more money at a major medical center than you do here, but you'd probably leave because you wouldn't be as happy there."●

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

Mr. BAKER. Mr. President, if Senators will listen to me just for a moment, I will make an announcement that they may find gratifying.

Mr. President, may we have order in the Senate?

Mr. President, there will be no more rollcall votes today.

ORDER FOR RECESS UNTIL MONDAY, DECEMBER 13, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader state for the information of the Senate the program for the rest of the day and for Monday, insofar as he can, and for Tuesday as well?

Mr. BAKER. Yes. Mr. President, let me say that today the only thing remaining will be business that can be transacted in routine morning business.

CLOTURE VOTE ON MONDAY

On Monday, as Members know, of course, under the provisions of rule XXII, 1 hour after we convene, a quorum call will commence to establish the presence of a quorum in preparation for a vote on cloture against further debate on the motion to proceed to the consideration of the Highway Act.

Mr. President, if cloture is invoked, we will proceed to debate that for not more than the time permitted under the act post cloture. It is my hope, Mr. President, that we can indeed obtain cloture Monday and perhaps even, I hope, get to the bill itself. I expect that there will be other matters that we can take care of on Monday that are on the list that we have been trying to deal with so far. Some of them that come to mind are perhaps the bankruptcy bill, the California utilities bill, and others.

I do not anticipate, Mr. President, that I will attempt on Monday or Tuesday to take up the TV in the Senate resolution.

Mr. President, any appropriations bill that can be reached should be reached in my opinion.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. WARNER). The leadership is correct. Senators are requested by the Chair to take their seats and refrain from conversation in the aisles.

Mr. BAKER. Mr. President, any appropriations bill that we can reach in my opinion we should reach. The principal matters that must be dealt with at this time, of course, are the defense appropriation bill and the continuing resolution. There are other appropriations bills that may be available, and I will try to have further announcements on that.

So the summation of this announcement is that we will continue to try to deal with the highway bill, with the defense appropriation bill, with the continuing resolution, maybe even two continuing resolutions, and other matters that we have discussed from time to time including things such as the bankruptcy bill, California utilities, a shipping bill, and a number of others, together with any appropriation bills and any bill that we can reach on the calendar that has been reported from a committee that qualifies.

Mr. ROBERT C. BYRD. Mr. President, is it still the intention of the majority leader and his expectation and hope that the Senate will complete action and adjourn sine die no later than Friday, the 17th?

Mr. BAKER. Mr. President, it is certainly my hope that we can adjourn sine die on the 17th of December. Senators should know that I have discussed this matter with the Speaker of the House of Representatives today and indicated to him that I had concern about our ability to do all that I have just named and finish it by the time the continuing resolution expires by its terms on December 17. I inquired of the Speaker if the House might be willing to send us a small continuing resolution, meaning one that extended for a few days while we tried to complete the work of the Senate. That issue has not yet been resolved. The Speaker indicated his strong disappointment at that prospect, but I think he perhaps understands and acknowledges that it is real prospect.

There is some chance that we will have to pass two continuing resolutions, but I am not sure of that by any means. If the minority leader will permit, I will try to have a more firm announcement to make and something further to say on that shortly after we convene on Monday.

Mr. BUMPERS. Will the Senator yield?

Mr. BAKER. Yes, I yield.

Mr. BUMPERS. Is it anticipated that the quorum call and the cloture vote on Monday will begin at 1 p.m.?

Mr. BAKER. Yes; that would be so under the rule, and no unanimous request has been made to change the rule.

Mr. METZENBAUM. Will you yield for another question?

Mr. BAKER. Yes.

Mr. METZENBAUM. Is it understood that there will be no other legislative matters to come before the body before the cloture vote?

Mr. BAKER. No, Mr. President, I cannot say that. I do not know what that would be since we are coming in at 12 o'clock and 1 hour later you have to get onto the bill at hand, so it is not likely to be very much. I certainly cannot give that assurance at this time.

Mr. METZENBAUM. I thank the leader.

Mr. BAKER. Mr. President, let me make it clear that in listing the items that we may take up next year I am not giving an exclusive list.

Mr. METZENBAUM. Next week.

Mr. BAKER. Did I say next year? It sounded better the other way, next year.

Mr. METZENBAUM. Very good, indeed.

Mr. BAKER. It is by no means an exclusive list. There may be other matters that the leadership will wish to take up on the other side, but I assure Senators I will give notice as soon as possible and there is no desire to take any Member by surprise on any issue, so we will proceed very slowly and very cautiously and make sure that people who have indicated an interest in particular legislation are fully apprised of any scheduling decisions that are made on this side.

Mr. President, I did not include on the list a nuclear waste bill which is coming over from the House of Representatives and should be added to the list of things that we would like to take up.

Mr. ROBERT C. BYRD. Mr. President, as I recall, the President asked the Congress to reconvene after the election to dispose of certain appropriation and budgetary matters. I would hope, with the exception of possibly one, or two, or three other measures which may have compelling reasons supporting them, to stick to this. I want to help the majority leader as best I can to get on with the business of taking up the appropriations measures, the continuing resolution, and the jobs measure, and I would hope that we would not be around here Christmas week.

It seems to me that if we all put our shoulders to the wheel we can dispose

of these measures by the 17th. I hope so. I would certainly hate to see the other body send over a continuing resolution that will have us back 3 or 4 days into the Christmas week or following Christmas week. I just want to say that for the RECORD, and say to the majority leader that I want to assist in any way I can to expedite these measures that have to be done. He is enumerating some measures that perhaps do not have to be done but he has certainly named some that have to be done before we go out.

Mr. BAKER. I thank the minority leader, and I especially thank him for this offer in passing a must list as we will agree on it.

I will say in all candor that there has always been a must list consisting of appropriation bills and a continuing resolution, and the highway bill which came along after we reconvened.

I also believe that we can get out on December 17 if we put our shoulder to the wheel. It may help to put it in perspective to say as far as I am concerned I am planning to be out on December 17, but Senators should be on notice that it may be difficult to do that, and it seems the better part of wisdom to at least discuss with the Speaker of the House of Representatives the possibility of a short continuing resolution.

Mr. ROBERT C. BYRD. Mr. President, I cannot presume to speak for other Members but I assume that most of them would prefer to stay in late on days next week and get out on December 17 rather than come back Christmas week or post-Christmas week, if that will help the majority leader.

Mr. BAKER. Yes.

Mr. President, I thank the Senator once more.

I said earlier and I say now Senators should be on notice of the possibility of late evening s every day next week in order to try to reach our adjournment date of December 17.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there appears to be one item on the Executive Calendar that may be cleared on both sides. Could I inquire of the minority leader if he is in a position now to consider by unanimous consent the nomination of Richard T. Kennedy to be an Ambassador at Large?

Mr. ROBERT C. BYRD. Mr. President, that nomination has now been cleared on this side.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering Calendar Order No. 1421, the nomination of Richard T. Kennedy, of the District of Columbia, to be Ambassador at Large.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Richard T. Kennedy, of the District of Columbia, to be Ambassador at Large.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended to 4:15 under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR LEVIN ON MONDAY NEXT

Mr. BAKER. Mr. President, I ask unanimous consent that on Monday next, after the recognition of the two leaders under the standing order, the distinguished Senator from Michigan (Mr. LEVIN) be recognized on special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, DECEMBER 13, 1982

Mr. BAKER. Mr. President, I am advised that the minority leader does not require to be present on the floor when I make the motion I am about to make. There is no further business to transact that I am aware of, and I see no Senator seeking recognition.

I move, in accordance with the order previously entered that the Senate stand in recess until the hour of 12 noon Monday next.

The motion was agreed to; and the Senate, at 4:08 p.m. recessed until Monday, December 13, 1982, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate December 10, 1982:

DEPARTMENT OF STATE

Lewis Arthur Tambs, of Arizona, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

CORPORATION FOR PUBLIC BROADCASTING

Richard Brookhiser, of New York, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1988, vice Michael R. Kelley, term expired.

Karl Eller, of Arizona, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1988, vice Clyde M. Reed, term expired.

Helen Marie Taylor, of Virginia, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1988, vice Gilliam Martin Sorensen, term expired.

Sharon P. Rockefeller, of West Virginia, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1988 (reappointment).

DEPARTMENT OF JUSTICE

Carol McGrew Pavilack, of Arizona, to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice Dorothy Parker, resigned.

INTERSTATE COMMERCE COMMISSION

Paul H. Lamboley, of Nevada, to be a Member of the Interstate Commerce Commission for the remainder of the term expiring December 31, 1984, vice Darius W. Gaskins, Jr., resigned.

DEPARTMENT OF TRANSPORTATION

Conrad M. Fredin, of Minnesota, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation, vice William W. Knight, Jr., resigned.

L. Steven Reimers, of North Dakota, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation, vice Miles F. McKee, resigned.

IN THE MARINE CORPS

The following-named officer of the Marine Corps for permanent appointment to the grade of lieutenant colonel under the provisions of title 10, United States Code, section 628, subject to qualification therefor as provided by law:

Stephen, P. Freiherr

The following-named officer of the Marine Corps for permanent appointment to the grade of major under the provisions of title 10, United States Code, section 628, subject to qualification therefor as provided by law:

Donald, L. Hairston

CONFIRMATIONS

Executive nominations confirmed by the Senate December 10, 1982:

DEPARTMENT OF EDUCATION

Caroline H. Hume, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 1985.

Liles B. Williams, of Mississippi, to be a Member of the National Museum Services Board for a term expiring Decemer 6, 1985.

PUBLIC HEALTH SERVICE

The following candidate for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

For appointment:

To be Senior Surgeon:

William E. Mayer.

DEPARTMENT OF STATE

Edward Lionel Peck, of California, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Lev E. Dobriansky, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to The Commonwealth of The Bahamas.

Samuel Friedlander Hart, of Virginia, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ecuador.

Jerome W. Van Gorkom, of Illinois, to be Under Secretary of State for Management.

John Herbert Holdridge, of Maryland, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

INTER-AMERICAN FOUNDATION

Victor Blanco, of California, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1988.

INTERNATIONAL BANKS

W. Allen Wallis, of New York, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years; U.S. Alternate Governor of the Asian Development Bank; and U.S. Alternate Governor of African Development Fund.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

E. Robert Wallach, of California, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1985.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

William G. Simpson, of Illinois, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1984.

U.S. INFORMATION AGENCY

Kenneth Y. Tomlinson, of New York, to be an Associate Director of the U.S. Information Agency.

DEPARTMENT OF STATE

EXECUTIVE OFFICE OF THE PRESIDENT

William Poole VII, of Rhode Island, to be a Member of the Council of Economic Advisers.

DEPARTMENT OF STATE

Richard T. Kennedy, of the District of Columbia, to be Ambassador at Large.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Paul E. Plunkett, of Illinois, to be U.S. district judge for the northern district of Illinois.

John W. Bissell, of New Jersey, to be U.S. district judge for the district of New Jersey.

Frank X. Altimari, of New York, to be U.S. district judge for the eastern district of New York.

Frank W. Bullock, Jr., of North Carolina, to be U.S. district judge for the middle district of North Carolina.

Lawrence S. Margolis, of Maryland, to be a judge of the U.S. Claims Court for a term of 15 years.

Haldane Robert Mayer, of Virginia, to be a judge of the U.S. Claims Court for a term of 15 years.

Reginald W. Gibson, of Illinois, to be a judge of the U.S. Claims Court for a term of 15 years.

Christine Cook Nettesheim, of the District of Columbia, to be a judge of the U.S. Claims Court for a term of 15 years.

DEPARTMENT OF JUSTICE

Anthony Bertoni, of Michigan, to be U.S. Marshal for the eastern district of Michigan for the term of 4 years.

Edward M. Camacho, of Guam, presently U.S. Marshal for the district of Guam, to be also U.S. Marshal for the district of the Northern Mariana Islands for a term expiring September 14, 1986.

Romolo J. Imundi, of New York, to be U.S. Marshal for the southern district of New York for the term of 4 years.

Matthew Chabal, Jr., of Pennsylvania, to be U.S. Marshal for the middle district of Pennsylvania for the term of 4 years.

Peter K. Nuez, of California, to be U.S. attorney for the southern district of California.

Dwight G. Williams, of Mississippi, to be U.S. Marshal for the northern district of Mississippi for the term of 4 years.

Charles E. Healey, of New York, to be U.S. Marshal for the eastern district of New York for the term of 4 years.

Daniel B. Wright, of New York, to be U.S. Marshal for the western district of New York for the term of 4 years.

James K. Stewart, of California, to be Director of the National Institute of Justice.

Victor M. F. Reyes, of Texas, to be a Commissioner of the U.S. Parole Commission for a term of 6 years.

J. Raymond Bell, of the District of Columbia, to be Chairman of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1985 (reappointment).

COPYRIGHT ROYALTY TRIBUNAL

Katherine D. Ortega, of New Mexico, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1982.

DEPARTMENT OF THE TREASURY

Manuel H. Johnson, Jr., of Virginia, to be an Assistant Secretary of the Treasury.

IN THE COAST GUARD

Coast Guard nominations beginning Philip M. Lebet, and ending Kent D. Morris, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 29, 1982.

HOUSE OF REPRESENTATIVES—*Friday, December 10, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We give thanks, O God, for the opportunities we have to be of service to others. Grant us the awareness of the beauty of Your world, the majesty of Your creation, and the power of Your word. Enable us to listen to Your message of faith, that we will become filled with that spirit that brings light to darkness, hope to every troubled soul, and strength to the weary. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. OXLEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. OXLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 282, nays 26, answered "present" 3, not voting 122, as follows:

[Roll No. 433]

YEAS—282

Addabbo	Bliley	Clausen
Akaka	Boggs	Clinger
Albosta	Boland	Coats
Anderson	Boner	Collins (IL)
Andrews	Bonior	Collins (TX)
Annunzio	Bouquard	Conable
Anthony	Bowen	Conte
Archer	Breaux	Courter
Ashbrook	Brinkley	Coyne, James
Aspin	Brodhead	Coyne, William
Atkinson	Brooks	Crane, Daniel
Badham	Broomfield	D'Amours
Bailey (PA)	Brown (CA)	Daniel, Dan
Barnard	Brown (CO)	Daniel, R. W.
Barnes	Brown (OH)	Daub
Bedell	Broyhill	Davis
Bennett	Burgener	de la Garza
Bereuter	Campbell	Dicks
Bethune	Carman	Dingell
Bevill	Cheney	Donnelly
Dorgan	Jenkins	Price
Dornan	Jones (NC)	Pritchard
Dowdy	Jones (OK)	Quillen
Downey	Jones (TN)	Railsback
Dunn	Kastenmeier	Rangel
Dwyer	Kazen	Ratchford
Dymally	Kennelly	Regula
Early	Kildee	Ritter
Eckart	Kindness	Robinson
Edwards (CA)	Kogovsek	Rodino
Edwards (OK)	Kramer	Rogers
Emery	Lagomarsino	Rosenthal
English	Lantos	Roth
Erdahl	Latta	Rousselot
Erlenborn	Leach	Roybal
Ertel	Leath	Russo
Fary	LeBoutillier	Sawyer
Fazio	Leland	Scheuer
Fenwick	Levitas	Schneider
Ferraro	Loeffler	Schulze
Fiedler	Long (LA)	Schumer
Fields	Lowry (WA)	Sensenbrenner
Findley	Lujan	Shamansky
Fish	Lundine	Shannon
Fithian	Lungren	Sharp
Flippo	Marlenee	Shaw
Florio	Marriott	Shumway
Foglietta	Martin (IL)	Siljander
Foley	Martin (NC)	Simon
Ford (MI)	Martin (NY)	Skeen
Ford (TN)	Martinez	Skelton
Fountain	Matsui	Smith (IA)
Frank	Mazzoli	Smith (NE)
Frenzel	McCloskey	Smith (NJ)
Frost	McCurdy	Smith (OR)
Fuqua	McDade	Snowe
Gephardt	McDonald	Snyder
Gilman	McEwen	Solarz
Gingrich	McGrath	Spence
Ginn	McHugh	Staton
Glickman	Mica	Stokes
Gonzalez	Michel	Stratton
Gore	Mikulski	Studds
Gradison	Miller (CA)	Stump
Gray	Mineta	Swift
Green	Minish	Synar
Grisham	Moakley	Tauke
Guarini	Molinari	Tauzin
Gunderson	Montgomery	Taylor
Hagedorn	Moore	Thomas
Hall (IN)	Moorhead	Vento
Hall (OH)	Morrison	Volkmer
Hall, Ralph	Murphy	Wampler
Hall, Sam	Murtha	Watkins
Hamilton	Myers	Waxman
Hammerschmidt	Natcher	Weaver
Hance	Nichols	Weber (MN)
Hartnett	Nowak	Weber (OH)
Hatcher	O'Brien	Whitehurst
Hefner	Oakar	Whitley
Hendon	Oberstar	Whittaker
Hightower	Obey	Whitten
Hiler	Panetta	Wilson
Hillis	Parris	Winn
Holland	Pashayan	Wirth
Holt	Patman	Wolf
Hopkins	Patterson	Wolpe
Horton	Paul	Wortley
Howard	Pease	Wright
Hoyer	Perkins	Wyden
Hubbard	Petri	Yates
Hughes	Peyser	Yatron
Hutto	Pickle	Young (MO)
Hyde	Porter	Zablocki

NAYS—26

Bailey (MO)	Forsythe	Oxley
Butler	Gejdenson	Roberts (KS)
Clay	Goodling	Roemer
Coughlin	Gregg	Sabo
Dannemeyer	Hansen (UT)	Schroeder
Derwinski	Hawkins	Solomon
Dickinson	Jacobs	Walker
Dreier	Luken	Young (AK)
Evans (IA)	Miller (OH)	

ANSWERED "PRESENT"—3

Bonker	Ottinger	St Germain

NOT VOTING—122

Alexander	Fowler	Napier
Applegate	Garcia	Neal
AuCoin	Gaydos	Nelligan
Bafalis	Gibbons	Nelson
Beard	Goldwater	Pepper
Beilenson	Gramm	Pursell
Benedict	Hansen (ID)	Rahall
Biaggi	Harkin	Reuss
Bingham	Heckler	Rhodes
Blanchard	Heftel	Rinaldo
Bolling	Hertel	Roberts (SD)
Burton, John	Hollenbeck	Roe
Burton, Phillip	Huckaby	Rose
Byron	Hunter	Rostenkowski
Carney	Ireland	Roukema
Chappell	Jeffords	Rudd
Chappie	Jeffries	Santini
Chisholm	Johnston	Savage
Coelho	Kemp	Seiberling
Coleman	LaFalce	Shelby
Conyers	Lee	Shuster
Corcoran	Lehman	Smith (AL)
Craig	Lent	Smith (PA)
Crane, Philip	Lewis	Stangeland
Crockett	Livingston	Stanton
Daschle	Long (MD)	Stark
Deckard	Lott	Stenholm
Dellums	Lowery (CA)	Traxler
DeNardis	Madigan	Trible
Derrick	Markey	Udall
Dixon	Marks	Vander Jagt
Dougherty	Mattox	Walgren
Duncan	Mavroules	Washington
Dyson	McClory	Weiss
Edgar	McCollum	White
Edwards (AL)	McKinney	Williams (MT)
Emerson	Mitchell (MD)	Williams (OH)
Evans (DE)	Mitchell (NY)	Wylie
Evans (GA)	Moffett	Young (FL)
Evans (IN)	Mollohan	Zeferetti
Fascell	Mottl	

□ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 240. Joint Resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week."

PERMISSION TO FILE REPORT ON HOUSE JOINT RESOLUTION MAKING FURTHER CONTINUING APPROPRIATIONS

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on a House joint resolution making further continuing appropriations and providing for productive employment for the

fiscal year 1983, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. FRENZEL. Mr. Speaker, reserving the right to object; this is a continuing resolution that will be filed if the gentleman's request is granted.

May I ask the distinguished chairman whether the continuing resolution is available to the Members of the Congress, or whether we will see it for the first time when it comes to the floor?

Mr. WHITTEN. May I say that the committee has not yet met and reported any bill. We have a meeting scheduled to begin at 10:30 this morning, and we will meet as soon as we can get down there. After we act on it, then, it will be available.

Mr. FRENZEL. Can the distinguished chairman tell me when it might be in the hands of the Members?

Mr. WHITTEN. I would hope that we would get through in about an hour and a half down there, which means that we will be acting on it and make it available as shortly thereafter as possible.

Mr. FRENZEL. Can the distinguished chairman further enlighten me as to when the House might take it up?

Mr. WHITTEN. That is beyond my knowledge, but I understand it will be up Tuesday if we can get the consent. We are faced with the situation that we must have a bill signed by December 17, so we are really in a straitjacket, keeping in mind that the President has 10 days in which to sign or veto a bill. We may have that 10 days facing us, and so we are in a real straitjacket timewise, not through any fault of our own, in my opinion, but we not only have to get this through, but get it through the Senate, through conference, and signed by the President by the 17th. So, we are really up against the time problem.

Mr. FRENZEL. I thank the gentleman. I hope you will bring copies to the continuing resolution to the Members of this body in time for them to have the opportunity to review it.

Mr. WHITTEN. As I say, we are meeting immediately and we hope the committee can agree.

Mr. FRENZEL. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to ask the gentleman from Mississippi, given his statement about the need to move this legislation quickly, can we not assume that we are not going to see the $5.5 billion Jobs Act, which is unauthorized, put onto the continuing resolution?

Mr. WHITTEN. Well, it is being considered in connection with the continuing resolution. The action of the committee will determine whether or not it is added, but all we have now is various proposals, there is no bill. A bill will be introduced, but it first will be considered in the committee meeting and I will have to wait until the meeting is over, but it will be considered in connection with it.

Mr. WALKER. Further reserving the right to object, can we receive further assurance that what the gentleman from Mississippi said about the need to move this legislation quickly, that he will not seek before the Rules Committee to have points of order waived against that kind of unauthorized expenditure?

Mr. WHITTEN. May I say that I will ask for an appropriate rule, but may I also say that we still face this situation of having to get through with this within the week, and I will ask the Rules Committee for such a rule as will enable us to finish our job.

Mr. WALKER. I hope the gentleman can understand that some of us would find it hard to agree that the gentleman is serious about the time pressure if we are adding major new expenditures which are not in the budget, not authorized; have a hard time understanding why that kind of controversial amendment would be attached to the continuing resolution if we are faced with this kind of time pressure.

Mr. WHITTEN. I can realize that, but may I say also that I am chariman of a 55-man committee, and the committee often has a mind of its own. I try to lead, but I also have a responsibility to try to find out what the committee wishes to do. If the majority wants it in there, it will be. Otherwise, it will not.

Mr. WALKER. I understand.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. GIBBONS. Mr. Speaker, reserving the right to object, I do so only for the purpose of trying to have a dialog with the gentleman from Mississippi, and of course his committee members, and I respect the time pressure the gentleman is under and the problems that he has with authorization bills. My remarks are not directed toward that.

My remarks are directed toward the fact that I hope that the gentleman's committee and his subcommittees will resist the Senate legislating on an appropriation bill. I know that has been the gentleman's policy, but I want him to know that the Senate has had bills from the Ways and Means Committee for over a year and a half that they have not even had hearings on and have not even attempted to move. We are ready to go to conference with them now, but they have found a way to go to conference without going to the Ways and Means Committee. They go to the gentleman's committee.

Mr. WHITTEN. May I say that they should go to their committee. Our committee has consistently taken the view the gentleman espouses. We feel that way now. In conference over the agriculture appropriation bill, we resisted all changes to put Senate legislation on our bill. If there have been exceptions, there have been very few. I have no intention personally, and I do not believe our conferees will, of accepting any kind of legislation. We are doing our best to avoid in the resolution getting into any of these differences of opinion that the gentleman mentions. We are trying not to take any part in it or address ourselves in any ways that will lend weight to one side or the other, so we are trying to avoid all of that.

Mr. GIBBONS. On our bills they put all kinds of amendments on them over there. We are ready to go to conference with them on whatever they send over, but they just have not sent anything over.

Mr. WHITTEN. I am glad to see my colleague supports our position.

Mr. GIBBONS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7072, AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATION, 1983

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to have until midnight tonight to file a conference report on the bill (H.R. 7072) making appropriations for Agriculture, Rural Development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

□ 1030

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT ON H.R. 7397, CARIBBEAN BASIN INITIATIVE ACT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight tonight, Friday, December 10, 1982, to file its report on the bill, H.R. 7397.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman tell us, is that the Caribbean Initiative, or what are we talking about?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, yes, he is exactly right. This is the bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin.

Mr. ROUSSELOT. Mr. Speaker, that is a tremendous bill, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FAIR PRACTICES IN AUTOMOTIVE PRODUCTS ACT

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5133) to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5133, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. FLORIO) will be recognized for 30 minutes, the gentleman from North Carolina (Mr. BROYHILL) will be recognized for 30 minutes, the gentleman from Florida (Mr. GIBBONS) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. BROYHILL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROYHILL. Mr. Chairman, I wish to inquire as to whether the time will run concurrently or whether one committee goes first and the second committee follows.

The CHAIRMAN. The Chair would interpret the rule to allow each of the respective Members to allot their time respectively without any kind of a pattern, so it could be done interchangeably.

Mr. BROYHILL. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York (Mr. OTTINGER), the sponsor of the legislation.

Mr. OTTINGER. Mr. Chairman, this is an important piece of legislation. I am joined as an original sponsor by the gentleman from Ohio (Mr. PEASE), the gentleman from Michigan (Mr. BRODHEAD), and the gentlewoman from Maryland (Ms. MIKULSKI). There are now 224 House cosponsors and 20 in the other body.

What the bill does is to say to our trading partners "Yes, you can continue to have access to the enormous United States market in automobiles, but if you take advantage of that market, you have to make a certain percentage of your product in the United States."

It provides a schedule of penalties for any company that fails to meet those standards that are geared precisely to the domestic content requirement, so that to the degree by which they fail to meet the domestic content requirements, they will have a penalty against their permissible imports.

I think that this is modest and totally justified legislation. What we have seen in the United States for some time is our trading partners taking unconscionable advantage of us. We have seen that, particularly with respect to Japan, taking over our electronics industry, which we developed; taking over our markets in televisions, steel, radios, recorders, and photographic equipment and many other products.

Now, in automobiles the Japanese have more than 23 percent of our market. Total imports are better than 30 percent of our market. With all the best of intentions, our trade negotiators, not only under this administration but under previous administrations, have failed to stem this flow, and our efforts in Congress to try to stem this flow have been of no avail.

This came about historically in a very understandable way. After World War II, we wanted to help build up Europe and Japan, so in addition to helping them with the Marshall plan, we were very lenient with respect to our trade relations with them, and we lowered our barriers far below the point at which they have lowered their barriers. Today, Japan and the Common Market have achieved economic parity with us, but our trade imbalances have not been rectified.

As we have now entered into hard times, we find both Europe and Japan actually increasing their barriers against the United States, and the answer that we hear from the opponents of this bill is that we ought to be the champions of free trade and we ought not to take any meaningful action.

So in effect we have been acting like "Uncle Sucker." We have seen our entire industrial base eroded, and we have done nothing to counter it.

This bill attempts to address this situation that is really grievous in the automobile industry. We have 300,000 automobile workers unemployed at the present time. There are 600,000 or more unemployed people in related industries because the auto industry is the one that affects the economy the most. It affects rubber, glass, and textiles, and a huge number of jobs in other related industries.

If we succeed in this legislation, there will not be retaliation. When Canada acted against Japan, there was no retaliation; Japan accommodated itself to the situation and entered a trade agreement.

Our so-called trading partners are not going to feel that we are really serious about trying to get equity in our international trade relations unless we are prepared to be as tough as they are. This legislation does not restrict them from our markets. It merely says, "Look, if you guys are going to take advantage of our markets, you are going to have to help preserve our jobs and create some of the goods which you sell in our markets here in the United States." I think this is a reasonable measure. I think it is a measure which is very much needed.

It is estimated that this will create and preserve some 800,000 jobs in the United States. Those people in turn will be able to buy again, and this will create a ripple effect at least three times that number of jobs. If we want to put our economy back on its feet, if we want a strong defense, we need this industrial base and we need this kind of legislation.

I would like to take a few moments to offer some facts to address the inaccurate allegations that have been advanced by opponents of the bill.

GATT RETALIATION AND U.S. EXPORTS

Critics of H.R. 5133 argue that retaliation against U.S. exports would nullify the gains to the auto industry by enacting it. The assumption that massive retaliation from our trading partners, particularly Japan, is likely cannot be supported by a careful analysis of auto policies around the world, the political context of the GATT, and Japan's trade patterns.

Japan has never brought a GATT complaint, much less retaliated, against the dozens of countries which restrict Japanese auto exports much more stringently than H.R. 5133. Indeed, to achieve or maintain their market presence, Japanese auto companies have invested in many of those countries.

GATT procedures require that Japan first meet with the United States to try to iron out difficulties before a formal complaint is filed. If

Japan were to file a formal complaint, the United States could file countercharges against the auto policies of Japan and many other GATT members in Europe, Australia, Latin America, and Indonesia.

THE PRICE OF CARS

The domestic content law would not drive up the prices of U.S. cars because it does not reduce competition in the U.S. market.

Based on extreme assumptions, the CBO predicted that the original H.R. 5133 would boost car prices 6 percent. They assumed that H.R. 5133 will result in no foreign compliance, which would cause foreign car companies to put plants here in order to maintain access to the U.S. market. Clearly, Japan will not abandon the biggest auto market in the world. With compliance, competition in the United States wili be stiffer, and no increase in U.S. car prices would result.

A widely publicized study by Harbridge House has predicted very large price increases. That study, financed by the Import Dealer's Association, combines a distortion of the experience of the last year with unfounded projections about the future. Since restraints on Japanese car exports to the United States began in early 1981, list prices of U.S. cars have risen at a 5 to 6 percent rate—less than the Nation's inflation average. Recently, prices have begin declining, as large and expended rebate programs have been put in effect.

PRODUCTION QUALITY

Alleged deficiencies in U.S. production quality has often been cited as a reason for increased auto imports, and it does not hold water. I can only quote to you from a speech given by Hideo Sugiura, executive vice president of Honda Motor Co.: "The quality of motorcycles that we now make in the United States is equal to, or better than, the quality of those manufactured in Japan to the complete satisfaction of our dealers and customers. Through this experience, we are convinced that the automobiles which they are about to start manufacturing in the United States will fully achieve satisfactory quality standards. The work force at the plant has proven itself to be as diligent and as hard working as one could expect anywhere in the world, and I, as a member of Honda's management, am totally satisfied with them."

JOB CREATION

Opponents assert this bill will not create jobs. I strongly disagree. The United Auto Workers projected that H.R. 5133 would result in more than 800,000 jobs created or preserved in the auto and related industries, with the ripple effect in the economy bringing the total impact to over 1 million jobs. It is important to take into account that none of the studies done that indicate a net jobs loss take into account jobs preserved in the auto industry as well as the jobs created. In the absence of retaliation, even CBO projects a net increase of about 250,000 jobs, and I believe that the no-retaliation estimate is the right one.

We need to revitalize our auto industry. This bill will assure that cars sold in the United States are substantially built here.

We need to achieve equity in our international trade. Congress and the Executive have sat idly by while our industrial base has been transferred to our so-called trading partners. We have merely protested while they have acted. We need this bill to let them know we will act to insist on equity.

I strongly urge adoption of this legislation.

Mr. BROYHILL. Mr. Chairman, I yield myself 5 minutes.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. BROYHILL. Mr. Chairman, I rise in opposition to H.R. 5133, the Fair Practices in Automobile Products Act.

I consider it most unfortunate that H.R. 5133 is before the House today. I recognize that many Members of the House believe that this bill is an appropriate vehicle to address the very serious unemployment problems in the U.S. auto industry. In addition, some believe this bill will send a long overdue signal to Japan and our other foreign trading partners of problems created by tariff and nontariff barriers which must be resolved by this country.

I strongly believe that both of these problems are real and need to be addressed. However, I just as strongly believe that H.R. 5133 is not the answer to either of these problems. Let me explain.

The negative effects of this bill far outweigh any benefits which might flow from its enactment.

Although proponents of the bill argue that the bill would result in over 800,000 new jobs in the auto industry, information provided by the Commerce Department and by the Congressional Budget Office indicates that this bill will result in a net loss of jobs. This will occur if one takes into account its negative impact on jobs at U.S. assembly plants of foreign auto manufacturers, at U.S. port facilities, and the repercussions throughout other American industries as our trading partners retaliate. We can safely assume that such retaliation will result in the substantial loss of American jobs in our export industries.

According to the Congressional Budget Office, this bill will undoubtedly increase car prices in this country. It will also push up the overall rate of inflation by increasing the Consumer Price Index by an estimated 0.1 percentage points.

In addition, H.R. 5133 will make the U.S. auto industry less competitive just at a time when the industry is making strides to become more competitive in the world market. Based on these facts, both the Department of Commerce and the Federal Trade Commission have indicated that this bill is both anticonsumer and anticompetitive. As the Federal Trade Commission stated in their comments, this bill would result in "less competition, higher production costs, and higher automobile prices to consumers." The U.S. Trade Representative and the Departments of Treasury, Transportation, and Agriculture also oppose the bill.

Even the bill's purported benefits have been called into question. Several recent studies do not corroborate the UAW's estimate of jobs which would be created by this bill.

Since the committee reported this bill, at least 50 associations and organizations representing a cross spectrum of American industry have taken a position opposing this bill. These organizations include the U.S. Chamber of Commerce, the National Association of Manufacturers, the American Farm Bureau Federation, and the American Association of Port Authorities. We should not vote for a bill which is opposed by so much of American industry.

In just 10 pages, this bill totally reverses over 30 years of American trade policy. H.R. 5133 clearly is violative of the General Agreement on Tariffs and Trade (GATT). Should this bill be enacted, GATT signatories can be expected to seek compensation for lost exports to the United States. The Department also points out that, if we do not approve tariff reductions to meet these claims, our trading partners will most likely retaliate against our exports. Exports which are especially vulnerable include aircraft, office equipment, electrical and electronic components, corn, wheat, and soybeans.

This bill would also, I believe, destroy any hope that we have of opening up trade in services—a frontier of critical importance to the future of the U.S. economy. By enacting a content law, we would suddently drop from the ranks of the major trading powers to join with the lesser developed countries.

This is not an investment bill, as the proponents of the legislation would have us believe. In fact, it is opposed by General Motors and Ford Motor Co. It is also opposed by all of the auto manufacturers who have invested in this country—that is, Volkswagen of America, American Honda Motor Co.,

and Nissan Motor Manufacturing Corp., U.S.A.

In summary, I strongly urge my colleagues to seriously consider all the negative effects that this bill would have upon the economy of this country. I must oppose H.R. 5133 and I urge all my colleagues to do the same.

□ 1040

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would advise the Members that although the time could be used interchangeably that it is the will of those controlling the time that the gentleman from New Jersey (Mr. FLORIO) and the gentleman from North Carolina (Mr. BROYHILL) use their time first and then the gentleman from Florida (Mr. GIBBONS) and the gentleman from Minnesota (Mr. FRENZEL).

Mr. FLORIO. On that point, Mr. Chairman, it would be my hope to reserve some time to be in a position to take part in the concluding portion of the 2 hours' debate.

The CHAIRMAN. The gentleman is free to do that.

Mr. FLORIO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I rise in support of H.R. 5133, the Fair Practices in Automotive Products Act.

Mr. Chairman, we in this country are fighting for our economic survival. We have to decide if we will be victims in the name of free trade and lose thousands of jobs and our industrial base to Japan and other countries that do not play fair in the trade game or become competitors and victors. We have to decide if it is in America's best interest to continue to be economic pacifists.

We have got to get tough or we are going to lose millions of jobs in this decade, including the best-paying factory jobs that have helped so many people attain economic security.

The auto industry is into its fourth year of depression. Thirty major plants from New Jersey to California are closed. Approximately 250,000 auto workers have been laid off, and supplier firms, material industries, and dealerships have let go twice that number.

Our economy cannot sustain this level of joblessness much longer. The problem needs correction. I believe that H.R. 5133 can be the primary weapon to place our domestic auto industry back on its feet.

The cry for free trade must be set aside to reveal how the world really works. And we must defend our economic interests in this world. This bill is a step toward our economic self-defense.

We must also think of our national defense. What will happen to our military preparedness if we lose our industrial base? If we have to rely on imports of industrial and technological goods? This country will not have the capability to make uniforms, let alone steel, ships, trucks, weaponry, or computers.

This bill for domestic content in automobiles sold in this country, is one of simple justice. It requires that cars sold here meet a gradually increasing standard for American content in them—including parts, labor, and advertising. And when I speak of American content, I am firm in my commitment that American labor be an indispensible part of domestic content.

This legislation will stimulate our economy and industrial base to create and preserve jobs in the auto and related industries. It is an investment bill, to establish a sound, jobs-oriented auto policy. Its enactment would represent an effective action to alleviate our high rates of unemployment and beef up our industrial base.

I feel this bill is superior to import quotas because:

First, it does not block imports, not only will cars that are made in other countries still be imported, but more parts for car production will come through our ports.

Second, this bill fosters competition, because it encourages foreign companies to transfer some of their auto production to the United States. Everyone in the auto market will compete on equal basis.

Third, the domestic content bill does not hurt car dealers, they will still be selling the cars consumers desire, only those cars will have local content.

In closing, I want my colleagues to know that I recognize the fact that there is a world market for automobiles, but my message to foreign car manufacturers is this—if you expect to sell in America, then you are going to have to build in America.

Let's keep American production in America. I urge my colleagues to vote in the affirmative on this legislation.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. PASHAYAN).

Mr. PASHAYAN. Mr. Chairman, I rise in opposition to H.R. 5133, the so-called Fair Practices in Automotive Products Act.

This bill is a threat to the prosperity of the United States under its open market trading system established by the General Agreement on Tariffs and Trade.

Yes, there are countries that do not open their markets to the United States such as we should like and I am personally familiar with that because in my district there is a lot of citrus fruit grown. My citrus farmers are most aware that the Japanese Government has all but closed the doors to the sale of oranges and other citrus fruits that the Japanese people need. So I am aware of this situation.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. The area the gentleman represents is selling a small amount of citrus fruit to the Japanese. We are trying to expand that market. If we close our markets to Japanese automobiles, what does the gentleman think happen to the small amounts of citrus that are now being sold to Japan from his area?

Mr. PASHAYAN. I should have to say in answer to the gentleman's question that that would be one of the first doors, which door is now only slightly opened, that would be absolutely slammed shut.

Mr. FRENZEL. I am sure the proponents of the bill will send all of your constituents black arm bands.

Mr. PASHAYAN. I thank the gentleman.

I realize the economy is in terrible shape. I take as much concern at unemployment as anyone in this House. Interest rates are too high and so is unemployment.

But this particular bill is so narrow in what it targets that it is more of a cutting edge and it is a bullet being fired that would start a trade war and would make the unemployment situation worse.

Let us think of all the people who would go out of work who are in the importation business in this country. There are some figures which were done by the CBO and others that indicate clearly that more people would lose their jobs if this bill should become law than would maintain or gain them.

I do not think that is improving the unemployment situation at all.

I stand before this House as one who voted not with my own party on a particular issue, the Chrysler bill. I am one who voted in favor of the Chrysler bill. I am perfectly in favor of the idea of Government selectively assisting major industries when it has a beneficial effect. I personally think the Chrysler bill did.

But this has so many negative potential effects, that is to say the retaliation that this bill would invite and engender, they have made me conclude that this is not the way to help the automobile industry.

□ 1050

It does not do the unemployment situation in this country one whit of good when it has the dire effects on general unemployment that this bill must necessarily have because of what it does.

Mr. FRENZEL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I note from the number of amendments that are at the desk that it would be extremely

unlikely that we could finish this bill today unless there are restrictions on time.

As the maker of a number of those amendments which have been filed in the RECORD, on which I probably do not intend to ask for recorded votes, I simply serve notice at this time that if there are restrictions on time, I will begin to ask for recorded votes.

I think it is very important for this body to review this bill very carefully because once you read it and get beyond the symbolism into the substance, you can begin to see immediately what a terrible thing it is for America and for the world.

Mr. Chairman, last night we heard repeated entreaties that we must send a message to Japan. All of our friends whose constituents are suffering because of unemployment in automobiles and steel say over and over again, "Send a message to Japan."

May I suggest to them that they use their local Bell System and its transoceanic lines to send their messages, or perhaps go to Western Union, or even the U.S. Post Office.

We seem to be the only country in the world that has to send messages to people by shooting ourselves in the foot, or other vital organs. Why should we inform others of our distress by committing, if you will pardon the expression, hara-kiri.

It is quite obvious that this bill will cost more jobs than it will produce. It seems to me to be the essence of insanity, or perhaps the essence of greed, to demand that one of your constituents be given a job and that two other people who are constituents of others must be denied jobs. It is the essence of greed to demand that constituents and consumers must pay an extra $300 to $500 for every new automobile that they buy.

So as this debate progresses, Members of this body are going to find out about this bill. I have been told by a number of its proponents that if we had a secret ballot, it would be defeated 10 to 1.

Every independent analysis shows, in clear terms, that passage of this bill will have serious adverse effects on our Nation's economy and on its workers. In addition, it would signal a reversal of this country's progressive foreign trade policy and would establish a trend of protectionism worldwide. At home, this bill will send a message to our industries that they no longer have to be efficient and competitive, but can rely on the Congress to protect them from market forces and to insulate them at considerable expense to the economy as a whole—from the evils of competition. Last night, I explained that the Ways and Means Committee was denied enough time to find out how awful the bill really is. We discovered enough to know it is a disaster, but we have much more to learn.

What we have learned is now available. The Trade Subcommittee has now published the testimony it received on this bill. It amounts to 856 pages; more than 125 witnesses appeared before the subcommittee or submitted their testimony for the record.

Of all these witnesses, I am aware of only two organizations who supported this legislation—the AFL-CIO and the UAW. Witness after witness spoke of the adverse effects they would experience should H.R. 5133 become law. These witnesses represent a broad cross-section of concerned Americans who know that this bill asks them to make considerable sacrifices in order to create more jobs in the automotive sector. Farm groups, consumer groups, economists, manufacturers who export even part of their production, automobile dealers, and the automobile manufacturers themselves—Ford Motor Co., American Motors, General Motors, Volkswagen, and Honda—all oppose this legislation as harmful to their interests, their jobs, and their position in the U.S. economy.

PARLIAMENTARY INQUIRY

Mr. MADIGAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MADIGAN. Mr. Chairman, is the gentleman from Minnesota using the time of the gentleman from North Carolina? Or is the time expiring simultaneously?

The CHAIRMAN. The gentleman is using the time that is assigned to the gentleman from Minnesota.

Mr. MADIGAN. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I do not care to use any of my time until after the other committee has used its time. I reserve all my time.

The CHAIRMAN. It is my understanding that the time can be assigned interchangeably. Initially, it was thought that an agreement had been worked out that the time would be used consecutively.

Mr. GIBBONS. Mr. Chairman, I am reserving my time until the Energy and Commerce Committee has used its time.

The CHAIRMAN. Is there any further debate?

PARLIAMENTARY INQUIRIES

Mr. OTTINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OTTINGER. Mr. Chairman, under the procedure as announced by the Chair, it seems to me that that is not an equitable division. My understanding was that both committees were to proceed simultaneously. We can all sit here and all reserve our time, but it just does not seem to me that that is proper. We ought to allocate this fairly as we go along.

Mr. GIBBONS. If the gentleman will yield, I want to say that I had no understanding. Nobody even consulted me about it, and I am controlling the time for the Ways and Means Committee. The Ways and Means Committee chooses to use its time when the Energy and Commerce Committee has used its time.

You all sat on this bill for 9 months and gave us 8 days. And I insist on my rights.

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Mr. Chairman, am I correct in my understanding that the rule provides that the time may be used alternatively by the several persons who control this time?

The CHAIRMAN. The rule does permit that, the Chair would advise the gentleman, but it does not provide for any necessary order.

Mr. DINGELL. And as the Chair advises, there is no necessary order. It can be used interchangeably, and so forth.

The CHAIRMAN. That is correct.

Mr. DINGELL. Mr. Chairman, I would observe to the Chair that we who support the bill, and who have so far the support as manifested by the membership in the adoption of the rule, have one-fourth of the time under our control.

The gentleman from Florida, who has most diligently sat upon all trade legislation and who wholly opposes any efforts to protect American industry and jobs, controls one-quarter of the time and proposes to conclude debate. I do not find that fair.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I resent the gentleman from Michigan trying to slur my good name. If the gentleman wants to keep this debate on a high level and stick to the merits of the bill, we can. But if the gentleman insists on getting in the gutter, I can sling mud just as well as the gentleman.

Now, the gentleman sat on this bill for 9 months, knowing that it belonged in the jurisdiction of the Ways and Means Committee. The gentleman sat on it and gave us 8 days to consider it, one of which was a religious holiday. Now the gentleman has the gall to come in here and protest about his rights.

I reserve my right to control the time for the Ways and Means Committee, and the Ways and Means Committee chooses to take its time when the gentleman's time has expired.

Mr. DINGELL. Mr. Chairman, if I have slurred the gentleman, I apologize.

The CHAIRMAN. The Chair will ask if there is any Member who wishes to yield time.

Mr. MADIGAN. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Chairman, the bill which we are asked to consider is labeled the Fair Practices in Automotive Products Act. It may be illuminating to inquire as to whom it is fair and what unfair practices it is intended to correct.

The apparent "unfair practice" addressed is the successful competition by our Japanese and European trading partners in our domestic automobile market. But foreign automakers are not dumping their automobiles in the United States. They are making a profit on their U.S. sales by providing a product in demand in our market. Nor are their sales the result of their government's providing subsidies to them. Their advantage over U.S. automakers stems instead from their greater efficiency, productivity, and sensitivity to the needs and tastes of the American consumer.

The proponents of this bill have defined a new obligation to be imposed on all foreign firms who would successfully compete in our market. It is not enough that they supply our consumers with quality, reasonably priced products and through competition stimulate our domestic producers to better performance. They would now be required to provide manufacturing jobs to domestic workers in proportion to their success in our market. But I doubt that we would like our firms held to a similar standard. Could we seriously entertain such a proposal with respect to our own industries which compete successfully in the export market? Would we vote to ship American manufacturing jobs overseas?

We are aware that our Japanese trading partners unfairly place nontariff barriers in the way of American automobile sales and sales of other American products in Japan. But this bill is not an appropriate vehicle for addressing such problems. We should not instigate trade warfare. We do indeed have significant exports to Japan where our products are competitive.

German and Japanese automakers have indeed placed facilities in the United States employing significant numbers of American workers. But they have chosen to do so on the basis of sound economic decisionmaking and not because of market-frustrating restrictions such as this bill would impose. This bill before us would in fact jeopardize the continued operation of these facilities.

Is the bill fair to our European and Japanese trading partners? Clearly it is not and they may be expected to retaliate with economic barriers against imports from the United States.

Is the bill fair to American consumers? If we hinder foreign competition with quotas and uneconomic supply source restrictions, the production costs of foreign cars will increase and their availability will be significantly reduced. The resultant excess of demand over supply will raise prices in the American market by as much as $3,000 per car according to some estimates. United States automakers will also face higher component source costs because of their own loss of foreign sourcing. It is estimated that United States car prices would increase by 10 percent. Who pays? The beleagured consumer. We ought also to note the extensive bookkeeping and bureaucracy necessary to implement this bill should it become law. That too must be paid for by the consumer.

Is the bill fair to U.S. automobile manufacturers? Their own import policies would be affected as would be their component sourcing. Their market is not elastic. Consumer demand for U.S. cars cannot be expected to grow by the amount of lost foreign car sales. Perhaps of even more importance, their increased production costs would be a threat to their potential success in foreign markets. The U.S. market is a mature one and significant growth can only be expected in the foreign markets. Significantly, we are not hearing the voices of U.S. firms raised in strong support of this bill as one might expect if it were good for the auto industry.

Is the bill fair to U.S. autoworkers? The estimates of jobs restored in the U.S. auto industry are grossly overestimated by the bill's proponents. CRS and CBO estimates are slightly in excess of 100,000. Some may argue that even this number is significant. Certainly any rehired autoworkers benefit. But even more jobs would be jeopardized in the auto importing sector. UAW workers in the agricultural and construction equipment industries would be jeopardized by the loss of exports through retaliation. In short potential gains for autoworkers are questionable and can only be achieved through this bill at the expense of consumers and workers in other industries. We would all like to see the recovery of the auto industry. But its primary problems are structural and cannot be solved by suppressing competition. It is cruelly misleading to autoworkers to suggest that they will receive long-time benefits if the United States fires this major shot in an incipient trade war.

Is the bill fair to producers of nonautomotive products for export? Here the answer in all cases is decidedly no. Local content restrictions are a clear violation of our international obligations under the General Agreement on Tariffs and Trade [GATT]. Our blocking the primary export of our trading partners could only be interpreted as total abandonment of the concept of free trade. We may expect with certainty similar restraints on our own exports. But it is not the U.S. auto industry whose exports will be curtailed. Rather those of our industries which are competing successfully on their merits in world markets will suffer the consequences of foreign protectionism. Their workers too have jobs which deserve our consideration.

Is the bill fair to the citizens of my district? Iowa's extensive exports of agricultural products and manufactured goods to Japan and the European Economic Community would be at risk. Over $1.8 billion of Iowa's $3.7 billion agricultural exports go to Japan and the EEC. More than $1.7 billion of our $2.8 billion exports of manufactured goods go to these trading partners. Iowa's exports to these countries account for approximately 87,000 jobs. Hundreds of more jobs in Iowa would be eliminated in the sales and distribution of foreign automobiles. The losses we would incur are not fair to the citizens of my district.

I urge you to consider the total impact of this bill on your districts. I think you too will conclude that this is the Unfair Practices in Automotive Products Act.

□ 1100

The CHAIRMAN. The Chair would advise the gentleman from New Jersey (Mr. FLORIO) that he has 23 minutes remaining; the gentleman from North Carolina (Mr. BROYHILL) has 17 minutes remaining; the gentleman from Florida (Mr. GIBBONS) has 30 minutes remaining and the gentleman from Minnesota (Mr. FRENZEL) has 28 minutes remaining.

Mr. FRENZEL. Mr. Chairman, in the interest of preserving the much abused rights of the great Committee on Energy and Commerce, I will yield 2 minutes to the distinguished gentleman from Indiana (Mr. COATS).

Mr. COATS. Mr. Chairman, as a member of the Committee on Energy and Commerce who supported this legislation and voted for it in committee, I rise in opposition to the bill.

I continue to agree that we desperately need to send a signal to our trading partners in Japan, that we cannot continue this imbalance of exports and imports, that we cannot continue trade on a policy that does not allow our products into their country, where we so freely allow their products into our country. But on analysis of H.R. 5133, having taken the time to go back to my district and talk to manufacturers, and talk to farmers, and talk to exporters and talk to our people, I

have come to the conclusion, the inescapable conclusion, that H.R. 5133, the local content bill, would be detrimental to the people of my district and my State and detrimental to the people of this country.

It is unfortunate that we have to debate this bill in the limited timeframe of the lameduck session. Many Members of this body had determined that this bill would not come up and so have not been able to spend the necessary time investigating the pros and cons of this bill and the impact that it would have on the people who they represent and on this country.

Had they had the opportunity to do so, they would have come to the same conclusion that I have come to.

If a Member represents farmers, he cannot help but agree that this bill is going to have an adverse impact on our farmers who so desperately need to export their products in order to achieve a reasonable price.

If they would talk to their manufacturers of electrical components, they would realize that the future for this country lies in our ability to produce electrical components, computer components, and other high technology types of products.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. COATS) has expired.

Mr. FRENZEL. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana.

Mr. COATS. The point I am trying to make is that it is incumbent upon each Member of this body to learn from their district what the impact of this bill would be. Take the time to read the first 12 pages of the report prepared by the Congressional Budget Office, CBO, that details what the overall economic impact of this legislation would be.

You cannot help but come to the conclusion that this bill would adversely impact employment, increase prices, and have a devastating impact on our economy.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. COATS) has again expired.

Mr. MADIGAN. Mr. Chairman, I yield 1 minute from the Committee on Energy on Commerce to the gentleman from Indiana.

Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I yield this time for the purpose of engaging in a brief colloquy with the gentleman about the importance of this bill to agriculture, and the importance of the Japanese market to American agriculture, points being stressed by the gentleman in the well.

And what I am curious about is why we should be so defensive about that when we know that a pound of American beef in San Francisco costs roughly one-sixth what it costs in Japan.

In other words, when you try to buy that pound of beef in Japan, it costs six times as much as it would cost you in San Francisco. And here we are talking about free trade, and talking about not doing anything that would put up artificial barriers to our agricultural exports, when they obviously already exist. And we have been very, very unsuccessful about doing anything to tear them down.

I wonder why the gentleman is so defensive about this bill when the Japanese are doing to us in agriculture the very thing that the gentleman says he does not want to happen.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Indiana.

Mr. SHARP. I appreciate the gentleman yielding.

The gentleman makes an important point regarding the risk of retaliation.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. COATS) has again expired.

Mr. MADIGAN. Mr. Chairman, I yield one additional minute to the gentleman from Indiana.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Indiana.

Mr. SHARP. I appreciate the gentleman yielding.

I would suggest today with passage of this bill, agricultural interests in this country could be very well served. They are getting shortchanged in Japan, they are getting shortchanged in the Common Market. We have been unable to get the attention of the governments in Europe and the Government of Japan to this serious question.

I suggest to the gentleman that passage of this bill will get the attention of those governments, and they will begin, to open up their markets more to our agricultural commodities.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, those countries are interested in this. They are dreaming up laws just like it which they can hardly wait to enact if we enact this bill.

Mr. COATS. If I could reclaim the balance of my time that the gentleman so graciously allotted me, I would just make the point that the gentleman from Iowa who preceded me indicated the high level of Iowa agricultural exports. We have an equal level in Indiana. We do now want to jeopardize that. We want to expand that. We have an opportunity to expand that. And I think raising trade barriers in automobiles or agriculture is going to prevent us from doing that.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. COATS) has expired.

Mr. BROYHILL. Mr. Chairman, I yield 2 additional minutes to the gentleman from Indiana and ask him if he would yield.

Mr. COATS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I can very well understand the concerns that people are expressing here. Of course they are stating their support for this bill, saying that in some way this bill is going to open up trade opportunities for our American-made products or agricultural products in other countries.

The gentleman has studied this bill. Can he point to any particular part of this bill that would accomplish that purpose? I have looked through here. I cannot find that. This bill is a "slam the door on importation of certain products" kind of bill. It has nothing to do, as I see it, with opening up trading opportunities in other countries. I see no incentives here. There is no authority to the President for negotiating, or there is nothing in here that says that the provisions of this bill will be canceled out if some other country does something in return.

Mr. COATS. I can only respond by pointing out that the Detroit News concluded that this bill is nothing more than protectionism with a capital "P." And it is bad economic policy for the United States. Protectionism never breeds opening up new markets; it closes markets. The study of history shows that protectionism, tariffs, and trade barriers almost always result in retaliation.

The CBO study pointed out that very fact. It is very clearly pointed out in the study that retaliation would occur. And the end result would be a devastating impact, not only on the macroeconomic effect, but on the microeconomic effect of our own particular districts, on industries in our districts, not just agriculture, but electrical components manufacturers, many other types of industries that are dependent on world trade for profits and for jobs at home.

□ 1110

Mr. FLORIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Chairman, I have listened intently to the enlightened debate today. Those for and those against this legislation have articulated their positions in very scholarly fashions. When I arrived on the floor this morning, I was reasonably certain that the passage of this bill would be in the best interest of the Nation. Now, Mr. Chairman, I am convinced beyond a shadow of a doubt that the enactment of the domestic content bill

is not only desirable but also mandatory.

Fourteen years ago, I came to Congress committed to the principles of international free trade. I am still of that philosophical persuasion and am prepared to match my free trade credentials with anybody in this House. But Mr. Speaker, my version of free trade embodies, encompasses, embraces the fundamental concept of fair trade. Free trade cannot totally, exclusively, preemptively, disregard a sense of equity. Unless and until our trade partners recognize this basic fact, the term free trade becomes rhetorical nonsense and the advocates of it become pawns in a one-sided economic world chess game that inflicts injury and suffering on many of our citizens.

Mr. Chairman, opponents of this legislation have likened the content bill to the Smoot-Hawley Tariff Act of 1930 which precipitated worldwide economic disaster. They have cited one horror story after another in an effort to persuade Members of this body to defeat the bill. Speaker after speaker has predicted grave consequences if it passes. But let me speak of the unmentioned horror stories and the ignored grave consequences if it does not pass. Why are the opponents conveniently disregarding the horror of some 200,000 unemployed American autoworkers, and the pain and anguish they and their families are enduring as a result? Why are the opponents not talking about the grave consequences of rejecting this bill?

This legislation is designed to assure a healthy and competitive domestic auto industry. This bill would create or preserve over 1,000,000 jobs and would not trigger significant car price increases. Instead, it is designed to stabilize the future ratio of U.S. auto production to sales. In the absence of a domestic content law, the U.S. automobile production is predicted to fall to about one-half of the automobile market by the end of this decade. If the U.S. automobile production falls from three-quarters of the market to one-half of the market, another 200,000 autoworkers will lose their jobs and this situation will trigger the loss of other jobs outside the auto industry.

Mr. Chairman, no nation has the moral right and certainly should not have the legal right to saturate the markets of another nation with cheap, sometimes government subsidized products while in the process destroying the livelihoods, the earning capacities, the economic viabilities of hundreds of thousands of citizens.

Contrary to the scarce tactics, this bill in no way takes on the dimensions of a Smoot-Hawley Tariff Act. Its passage will not generate a worldwide series of counteractions because it is a very limited, very justifiable response to a very serious problem. This act provides for a sliding scale to determine the ratio of domestic content required for automobiles. Any company selling 900,000 units would be required to produce 90 percent of the parts here in America. A company with 200,000 units would only be required to produce 20 percent. And what is wrong with that. Japan already has an auto content law, as do 31 other countries. In Japan the auto content understanding is 100 percent.

The threat of worldwide tariff war is only that, a threat. Our trading partners know that this lagislation is amied at only one country which has abused the policies of free trade. While dumping millions of autos on the American market, Japan has steadfastly refused to permit American products including autos to freely flow into their market. They proclaim that tariffs are not imposed by them and in a sense that is correct. But the forms and papers and regulations and impediments required constitute not a tariff but a total embargo. After successfully meeting all of the Japanese requirements, American businessmen often find that there is no agency of Government authorized to approve entry of products into the country.

The list of American products which cannot get approval to enter the Japanese marketplace would stretch from this podium to the Members' cloak room. It includes everything from oranges to meats. A pound of ground sirloin beef sells for $4.25 a pound in the United States. That same pound sells for $14 a pound in Tokyo. But our cattlemen and meat processors are prohibited from selling in Japan. Numerous agricultural products are not allowed to enter the Japanese market because elected officials point to the political dangers of displacing, dislocating politically potent farmers. It is then fair for this country to displace, dislocate, upheave thousands of politically potent autoworkers?

Almost 2½ million jobs in this country are directly or indirectly related to the production of automobiles. The problem would not be as acute if Japanese automakers produced their cars in this country or purchased parts for the cars here. But they refuse to do either. In Germany the No. 1 selling auto is not Volkswagen, it is Ford. And the No. 2 selling auto is Opel made by General Motors. But they are all made in Germany.

We cannot in the name of free trade willingly surrender a critical, crucial internal market to insensitive, uncaring trading partners. If this bill is not enacted, imports will account for 40 percent of the U.S. market in cars and light trucks by 1990. The United States-Japan trade deficit has grown to $47 billion in the last 5 years. It was $13 billion alone last year. The potential loss of more than 1.3 million jobs will cost the Federal Treasury an estimated $25 billion a year loss in terms of transfer payments and tax revenues.

Mr. Chairman, I urge support of this legislation.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Chairman, I rise in support of this legislation.

I think it was Winston Churchill who said that democracy was the worst form of government, except for all the others. I am inclined to think that this is the worst kind of a trade bill, and I acknowledge that it is a trade bill, except for all the others.

I think that automobiles are a critical linkage industry and if that industry in America is destroyed, our economy will suffer.

I am convinced that we cannot afford to sit idly by any longer while a critical linkage industry in our economy is destroyed. A strong, vibrant domestic automobile industry is of basic importance to maintenance of a manufacturing base in our economy. The production of automobiles are linked, among other things, directly to steel, glass, and rubber production in our economy.

Without a strong manufacturing base in our economy, we cannot hope to maintain international economic leadership or to preserve a strong national defense. While it is true that our service sector has been growing rapidly over recent years, it is also true that even that service industry is dependent on an efficient, healthy manufacturing base to grow and prosper over the long term.

The history of agricultural production in this country illustrates this point. Even though the number of people employed in agricultural production has been drastically reduced during this century and mechanization of agricultural production has become standard, agricultural production still provides a basic component to a strong American economy here at home and through international trade.

This bill represents an important step forward in creation of a national policy to assist our troubled auto industry. Foreign industrial policies and trade practices are having a serious impact on our economy and standard of living.

There is no such thing as free trade in today's world. Acceptance of this fact is the fundamental tenet which must underlie a whole new debate which must occur if we are to solve our economic problems.

This bill says to our trading "partners"—a euphemism for competition—that we will take strong and aggressive action to preserve industries critical to our industrial base. These trading partners do not hesitate to take actions which they are convinced they

need to for their economic survival. Their lexicons contain such phrases as local content, nontariff barriers, subsidized financing, and they have learned how to use them expertly.

Yet, I must admit to you that there are aspects of this legislation which trouble me deeply as I stand before you today. I am troubled that this Congress has not carefully examined all the options available to revitalize our auto industry, and has instead settled for acceptance of the first proposal that came along.

When the local content bill first was proposed, I contacted colleagues and advisers inside and outside Congress issuing a challenge to work together to come up with a better solution than the proposal before us today. That challenge went unanswered. As a result, we are left today with a blunt policy instrument to address a subject which I am convinced requires specific surgery. We are left reacting to a crisis situation instead of asserting a well-coordinated, positive policy.

These results are largely a failure on all our parts to recognize that this country needs an industrial strategy carefully co-ordinated with macroeconomic policies, to address the needs of both our emerging industries and our troubled industries that comprise our basic manufacturing sector. Without the development of such a policy, I predict we will be back here on the floor time and time again next year with Band-Aid approaches to our economic problems and emergency legislative measures that will make piecemeal contributions to an industrial strategy of the worst kind—an ad hoc one.

All this notwithstanding, I believe that a vote in support of this measure is warranted on the merits of the bill. In addition to sending a strong and long overdue signal to our trading partners, this bill, if implemented, can contribute to the preservation of the higher skilled, quality jobs in the auto and supplier industries in the United States where these skills are going to be needed. Also, this bill can help insure that America will continue to remain a central focus of automobile production, instead of just becoming the home for automobile corporate headquarters.

In summary, our auto industry is in serious trouble. It is going to take time to make the necessary structural adjustments to address these troubles. This bill is not a panacea, but it is an important first step in realizing that we must develop an industrial strategy for preservation of our industrial base and for stimulation of emerging industries.

We must understand that passage of this bill is a panacea, but neither can we afford to ignore this problem any longer. Time is short, and action is needed now. I urge support for this bill.

Mr. BROYHILL. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I thank the gentleman from North Carolina for yielding me this time.

As has been pointed out previously by other speakers, it is a mistake to bring this bill up at this time, to give the impression that something can be done in these waning days of this Congress, when in reality everyone knows that nothing can be done.

Most of the major newspapers in this country have condemned this legislation for what it is, as protectionism, including, as has been pointed out by the gentleman from Indiana, the Detroit Free Press.

What it will do in addition to many other things, it will cause the price of already too expensive automobiles to go higher.

The first thing that happened when the Japanese established a voluntary quota was that almost within the week the Big Three announced price increases when that occurred; so it is no boon for consumers.

There has been talk about it creating jobs, but as has been ably pointed out by the CBO, the agricultural interests of this country, the U.S. Chamber of Commerce, that it will have a net effect of costing jobs, somewhere between 100,000 and 200,000.

Now, we also live in a world that is a real world and it is not a vacuum. Isaac Newton said that for every action there is a reaction, and just as surely as we think we are only dealing with one thing and with one nation, whatever we do as one of the major consuming nations of this world will be equally watched by other nations.

We currently have a trade surplus with Europe. They have many industries and activities they would like to protect. They have not done so in all of these, but just as surely as we adopt legislation such as this, the interests in their countries who want protectionism will become overwhelming and we will find barriers.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. BEARD).

Mr. BEARD. Mr. Chairman, well, here we go again, the Congress in its wisdom trying to deal with a very delicate balance of trade with a sledge hammer.

The thing that amazes me and the thing that disgusts me is the fact that this bill was brought up in this means in a lameduck session. The thing that somewhat concerns me is the fact that people pushing this piece of legislation really do not have any real meaningful studies supporting their contentions.

Now, for people to talk about the agricultural community and say, "Well, look what is not going to happen to the agricultural community," is somewhat irresponsible because every farming organization in this country has come out in violent opposition—violent opposition to this piece of legislation, all of whom have said it would definitely hurt exports, and the one thing that our farmers who are fighting for their very survival today do not need is a diminished export market.

I think it is only important to remind people who are thinking about voting for this piece of legislation that we have tried this once before. We tried it with the Smoot-Hawley Tariff Act back in the 1930's. What did we get in return? We got one of the most devastating trade wars the world has ever seen. We saw a loss of jobs, thousands of jobs.

They have taken the UAW study that has said, "Look at the wonderful hundreds of thousands of jobs that this piece of legislation will create," and all the different agencies, the CBO, the CRS study here by the associates of the Harbridge House, Inc., did a study saying it would raise the cost of automobile units by up to $800 to $1,200.

The coal people have come out saying it could hurt their exports.

I have a plant in Tennessee, Nisson, where we are looking at a $1 billion investment creating thousands of jobs and the Nisson people have stated they would lock the door, even though they were in production, they would lock the door, turn around and walk away, meaning the loss of thousands of jobs and hundreds of millions of dollars in revenue for supporting city, local, and State government, and yet now we are in the lameduck session trying to push this piece of irresponsible legislation.

I ask Members to please consider the overall effect, the studies which show there would be a net loss in jobs and there would be an increase in automotive costs and that is what we do not need at this time.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I am one of the original charter cosponsors of this legislation and also, I think, one of the strongest friends of Japan in the House of Representatives. Next to the gentleman from California (Mr. SHUMWAY), I may have the best speaking ability of Japanese of those Members not of Japanese ancestry.

My understanding of this legislation is that it was not designed primarily to restrict imports. It was also designed to encourage foreign manufacturers to follow the lead of Volkswagen; if they wanted to enter the American market and sell in the American market, they

should at least build plants in our country.

In my former district in Auburn, N.Y., the Nippon Steel Co. several years ago established a steel manufacturing plant, the first Japanese plant in the United States which hires today 250 Auburnians in an area where there had been a lot of unemployment.

□ 1120

It has just a few Japanese managers. But this company is one of the major economic and industrial citizens of that community.

I got on this particular bill after they closed down the Ford plant in Mahwah, N.J., and threw thousands of New York State employees out of work. I think this bill is designed to try to encourage plants to be built in the United States.

The one thing that bothers me, however, is that I do not have any particular feel for the exact content ratios that are in the bill, or the numbers of vehicles that ought to be allowed under any particular model year. But I hope to be able to offer at the proper time an amendment that would allow the Secretary to review these figures to determine whether we are actually getting foreign car manufacturers moving into plants in the United States.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

Mr. FLORIO. Mr. Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding further.

Mr. Chairman, it was my understanding that some Japanese auto manufacturers have said that there should be some adjustment in these various ratios so that they could profitably move into the Mahwah plant, or some other empty plant and I think we ought to have some such feature in the legislation.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, I know the gentleman is one of the staunchest supporters of our defense in this body, and the automobile industry is also a major manufacturer of tanks and other military equipment, and I assume that the gentleman shares our concern that if this industrial base were to erode seriously our defense capability would be hurt.

Mr. STRATTON. There is no question about it, Mr. Chairman. That is one of the reasons why I think if we were to encourage new autoplants in the United States, they might contribute to that base.

The CHAIRMAN. The Chair would advise the gentlemen that the gentleman from New Jersey (Mr. FLORIO) has 18 minutes remaining, the gentleman from North Carolina (Mr. BROYHILL) has 11 minutes remaining, the gentleman from Florida (Mr. GIBBONS) has 30 minutes, and the gentleman from Minnesota (Mr. FRENZEL) has 23½ minutes remaining.

PARLIAMENTARY INQUIRY

Mr. OTTINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OTTINGER. Mr. Chairman, the time was to be divided between the two committees and between the majority and minority. I wonder if the Chair could not prevail to see to it that this was equitably used.

In our committee, in fact, we were seriously delayed because the opponents of this legislation used every delaying tactic they could. It was not our committee's decision to assign such a short period of time to the Ways and Means Committee. The Ways and Means Committee could well have held hearings before they decided to take up the matter.

But whatever those disputes may be, it seems to me in dealing with this legislation we ought to have an equitable apportionment of the time and hope that the Chair would help us in that respect.

The CHAIRMAN (Mr. PANETTA). As the Chair has stated, the rule permits the time to be used interchangeably. The Chair would prefer that the Members exercise that ability under the rule at this point. However, if no Members seek additional time, the Chair is prepared to move into the reading of the bill.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I rise in strong opposition to this bill.

I urge all Members, particularly those from farm States, to look closely at the bill and realize its disastrous implications for the international trading system.

I made many general remarks about the bill last night in the debate on the rule, so I would like to focus my comments today on its impact on the American agricultural sector.

Members know, of course, that American agriculture is the leading export sector of the Nation. I would like to point out that, as the following chart shows, today Illinois provides 9 percent of our agricultural exports, California 8 percent, Indiana 4 percent, Missouri 4 percent, just to pick out a few States.

THE NATION'S 10 LEADING AGRICULTURAL EXPORT STATES [1]

[Dollars in millions]

State	Value of exports	Share of U.S. total (percent)
Illinois	3,644	9
Iowa	3,270	8
California	3,168	8
Texas	3,086	8
Kansas	2,215	5
Minnesota	2,004	5
Nebraska	1,932	5
Indiana	1,705	4
North Dakota	1,457	4
Missouri	1,440	4
Ten-State total	23,921	59

[1] Fiscal year 1980: Source: Economic Research Service, USDA.

I say to the Members from those States, some of whom have spoken in support of this legislation, if they want to throw their share of the agricultural exports up into the air for possible loss after this bill is passed, then they are indeed riverboat gamblers or Barbary Coast gamblers.

Ed Andersen, master of the National Grange recently warned, "passage of this legislation would be disaster for American farmers." With one-fourth of U.S. farm income derived from export sales, Andersen noted, any type of protectionism raises the potential for harmful retaliation. Andersen added further:

> We are increasingly concerned at growing use of trade-distorting practices such as export subsidies, and at the threat of major new import-restricting measures which could seriously disrupt the world trading system, for our perspective, it (H.R. 5133) would be a devastating blow to American farmers who have a desperate need for exports to ease the critical income problems which they are now facing.

Some may doubt the ability of this bill to touch off an international trade war, in light of the allegation that the bill really only applies to imports from Canada and Japan. Yet even if the enactment of this bill would only cause an equivalent response from Canada and Japan, the impact of the actions by these two nations alone would seriously disable the U.S. economy.

In agricultural exports alone, we shipped $6.6 billion of products to Japan last year, our No. 1 agricultural export market, since 1964.

Canada received almost $2 billion of agricultural exports last fiscal year. Those two nations account for one-fifth of our total agricultural exports.

If we act against the Japanese automobile industry in such a blatant fashion, certainly the Japanese will have no objection to buying their agricultural products from Canada, Brazil, Argentina, Australia, France, and other willing suppliers.

In the last few years, the United States has put great pressure on Japan to open its import markets, especially for agricultural products, for which Japan maintains a number of import quotas which I believe are in

violation of Japan's GATT obligations. Japan has agreed to some expansion of quotas for beef, citrus fruit, and other products. More progress is needed and is coming. These efforts would be effectively reversed by action now against Japanese automobiles. The importance of a recent statement by 16 of the nation's major farm groups should not be ignored. In speaking against H.R. 5133, they said:

We don't want to hinder strong negotiating efforts to persuade our international trading partners to change critical trade policies, including export subsidy and restrictive access practices which could open up further markets for U.S. exports.

Having just returned from the Soviet Union last month, we saw very well that as a result of our grain embargo of the Soviet Union we have become the residual supplier.

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

Mr. FRENZEL. Mr. Chairman, I yield 30 seconds to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding further.

Mr. Chairman, it is very clear we are the residual supplier today for grain and other agricultural products to the Soviet Union. This bill may well be labeled the Soviet grain embargo No. II because the impact would be at least as deleterious for American agriculture and the country as the original Carter grain embargo.

I ask my colleaguess here to remember that farmers are in their third year of depressed prices and income. We must not take actions that lessen the pressure on important trading partners to change trade policies affecting the entire international agricultural trading system. I ask not to jeopardize our current agricultural export trade by voting for H.R. 5133. That is exactly what we would do if we pass this legislation.

Mr. COATS. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. I thank the gentleman from Indiana for yielding this time to me.

Mr. Chairman, I was particularly interested, having listened a little while ago to some comments that the gentleman was making, so if I could get his attention, I would like him to share, because I have not read it, a CBO report which was prepared at the request of the Committee on Ways and Means.

I think the Members need a little bit more information about some of the very revealing data that was determined by them as they took a look at the proposed legislation of the day.

Mr. COATS. If the gentleman would yield to me, that report was prepared at the request of the Committee on Ways and Means, their Subcommittee on Trade, by Alice Rivilin of the CBO. That report indicates on page 3 that there will be both primary and secondary economic benefits and detriments as a result of the passage of this bill.

I think it is important to note in quoting from that report:

Assuming equivalent retaliatory trade restrictions on the part of our trading partners, a highly probable outcome, CBO results show that by 1990 United States price levels will be higher, real Gross National Product will be lower, unemployment—

Yes, unemployment—

will be higher than otherwise.

The report goes on to say:

But even without retaliation, the net effect of H.R. 5133, the content bill, the net effect on the United States economy will be negative.

These are primary effects. Secondary effects are listed as a slowdown in American economic activity, a slowdown in demand for U.S. exports, the appreciation of the dollar in the world's currency exchanges, hurting the relative competitive position of both our export and import competing industry, losses in U.S. auto production efficiency, and larger auto industry wage rate increases than otherwise would be induced as a result of foreign competition.

All of these negative impacts are reported by CBO, a report that is generally accepted by our colleagues on the other side of the aisle as being the bible of economic projections.

Mr. DAUB. Mr. Chairman, I want to thank the gentleman for bringing these facts more particularly to our colleagues' attention. I think it is incumbent upon every Member of the House to at least pick up that report from Ways and Means and read the summaries contained in the first 15 pages before considering this bill.

The CHAIRMAN. The time of the gentleman from Nebraska (Mr. DAUB) has expired.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

Mr. Chairman, I really urge my colleagues to consider this from the standpoint that if this bill should pass, what we have done, in effect, is legislate a quota. I think that it would be a big mistake for this country to commence, much in the fashion or tradition of Smoot-Hawley, to get into the business of legislating tariffs, barriers, quotas, or ad valorems, to engage in the very practices that we have condemned for so many years, and instead commence to engage in the process of encouraging voluntary restraint.

I have a thought. My thought would be simply this: Indeed, what we ought to be doing perhaps to our trading partners around the world is to say, "We are just not going to subsidize your defense to the extent we have so that indeed you cannot devote your GNP resources to subsidizing your competitive private products into the American marketplace."

That, I think, is a much better way to resolve a message being sent to Japan or Germany or the European Common Market.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding. This comes as an unexpected pleasure, and I am very grateful to the gentleman from Florida.

Mr. Chairman, a number of things have been mentioned here on the floor that relate to Japanese trade practices. I would like to cite two examples for the Members' benefit.

Cigarettes and we have heard about agricultural products. Let us talk about beef. Beef is $19 a pound in Japan today; beef, which Japanese consumers want very badly.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BAILEY of Pennslyvania. I yield.

Mr. FLORIO. Mr. Chairman, just to make an observation, I was in Japan in August and inquired about the unquestioned existence of nontariff barriers. The response was that they had to have those barriers to protect their admittedly inefficient Japanese farming community from the very great efficiency of American farmers.

Mr. BAILEY of Pennslyvania. I thank the gentleman for his comment. To give the Members an example; there are Members here, and I would like to invite them to comment if they wish—on this matter.

Roughly 5 years ago, because Japanese consumers very much want to buy American-made brand cigarettes, the Japanese were asked to have their licensees, who are controlled by the Government, to make available, advertise, put out on the counter, and so forth, American cigarettes. Not much to ask, is it? Not very much. Just recently, we uncovered a memo going from Japanese Government officials to licensees, threatening to harrass them, shout them down, control the advertising, control the sale of American cigarettes. We elicited testimony before the Trade Subcommittee of the House Ways and Means Committee on the matter—the Department of State was there. They were asked whether or not it was possible that these very broad Government prohibitions and practices on behalf of the Japanese Government would have been possible without the direct authorization, control and instigation of Japan's top political leaders. The answer was—listen to this: The answer was unequivocably, no.

This was a contrived Government policy in direct violation of an agreement with the U.S. Government, and every member of the subcommittee sitting there, including individuals who had had experience on this issue acknowledged that this was dishonest and unfair.

One more example, and that is the real reason for this legislation, ladies and gentleman. Japan has got to enter the modern world and understand that she has got to accept her responsibility. God bless the great democracy that she is.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. BAILEY of Pennsylvania. I yield.

Mr. FRENZEL. Mr. Chairman, I do not want to use the gentleman's time. Essentially, the cigarette matter, as I understand it, is as outlined by the gentleman from Pennsylvania. We made a unusual deal on cigarettes with Japan in the first place. Then we have found that Japan apparently has no intention of living up to the agreement it signed. I think the gentleman is correct in pointing out how serious this matter is.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. FLORIO. Mr. Chairman, I yield 1 additional minute to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. The difficulty with that agreement was the very poor intentions, the bad faith and dishonesty of top leaders in Japan. If we are ever going to achieve something in terms of decent trade balances that we can go to the American people with and say, "This is something we justifiably have to do because it helps in the international arena, we need help and cooperation from them."

I would like to give one more example. Canada, when the voluntary restraint agreement was negotiated with the United States, was very concerned that they have a parallel agreement with Japan. Japan resisted, they did not want to do it. Canada at that point, through her customs officials, all of a sudden dropped the curtain and said, "You are not going to be delivering any more cars."

Within 2 days, with no jawboning, a voluntary trade agreement was negotiated with the Canadian Government parallel with the agreement reached with the United States.

This piece of legislation is not the best thing to do in an ideal sense. It is a necessary political vehicle to teach some lessons.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, it has been interesting to watch and listen to the debate today. One of the things that occurred to me involving the sales of agricultural States is the effect that this type of legislation would have on my home State of Ohio. It currently ranks 11th in the Nation in wheat production, 67 million bushels annually. Sixty percent of Ohio's wheat crop is exported; 50 percent of our soybeans are exported; one-third of the corn crop is exported.

So, I do not think that there is any question, with the farms groups coming out in strong opposition to this legislation, of the effect it would have on the farmers. What effect would it have on the consumer? Some Members might have farmers, but all Members have consumers. It was interesting to look at the testimony that took place in the committee when Catherine England, from the Heritage Foundation, indicated what the cost would be to the consumer. She said:

> These higher price tags mean that consumers will be paying a great deal to generate jobs for autoworkers. One study concluded that, for every job generated in the automobile industry at $20,000 per year, consumers would pay $80,000 to $90,000 in higher prices.[50] Other estimates are higher. Administration estimates predict that every job gained in the auto industry would cost the American economy $100,000.[51] Other studies claim that the cost to the economy of reemploying an autoworker under the current voluntary import restrictions ranges from $245,000 to $1,125,000. The proposed domestic content law could cost more.[52]
>
> Ironically, autoworkers are among the highest paid American workers. Their wages are currently 28 percent above the average for all manufacturers.[53] With domestic content laws in effect, the average manufacturing employee earning $7 per hour would be required to subsidize autoworkers earning a $9.50 hourly wage.

That tells what it is all about. We are talking of anywhere from $400 to $1,000 for each new automobile sold in this country to the consumer.

The CHAIRMAN. The gentleman from New Jersey (Mr. FLORIO) has 17 minutes remaining; the gentleman from North Carolina (Mr. BROYHILL) has 9 minutes remaining; the gentleman from Florida (Mr. GIBBONS) has 27 minutes remaining, and the gentleman from Minnesota (Mr. FRENZEL) has 18 minutes remaining.

Mr. FLORIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, I strongly support this legislation.

Mr. Chairman, the measure before you today represents a significant step toward addressing the problems of national unemployment as well as the troubled automobile industry. The bill, sponsored by Congressman OTTINGER and supported by our United Auto Workers, requires automobile manufacturers to meet minimum levels of "domestic content" or to reduce their automobile sales to the United States.

I would suggest to my colleagues that we are moving in the right direction with this bill. Quite simply, we are attempting to assure that new automobiles or parts for new cars sold in the United States be made, for the most part, in our own country. The bill also provides that, as a manufacturer sells more cars in this country, a higher percentage of its vehicles' value must be American made; a maximum requirement of 90 percent for model year 1986 is stipulated.

I certainly cannot understand how we could impede the progress of any effort which would strengthen the auto industry, a part of the backbone of this Nation; provide significant employment opportunity potentials; and aid in the stabilization of our overall domestic economy. If we do not endorse H.R. 5133, then we can blame ourselves for ignoring the critical need to address these problems.

I certainly do not need to rehearse the fact that major automobile plants around the Nation continue to implement massive layoffs, and simultaneously struggle with international competition and adverse domestic economic conditions. Ironically we look to this particular industry to remain a stalwart as a major employer, yet we continuously fail to provide the protection the industry needs to maintain its stability in the long run.

We cannot look to the auto industry to prosper and aid in economic stabilization when it is a main victim of increased imports, recessionary impacts, decreased consumer purchasing power, and spiraling energy costs. Unfortunately, these problems merely aggravate each other and tie the auto industry, its employees, and its market in a vicious cycle of plummeting production and sales, resultant unemployment, and other residual effects which cripple the industry.

Mr. Chairman, many of us are grappling with the question of the day—what role should the Government play in insuring the well-being of its citizens? I submit that, along with other priorities, our Government is obligated to intervene and aid in the stabilization of the auto industry. Such intervention is a sound investment—our returns will benefit the economy as a whole and severely depressed areas in particular.

Initiatives to aid the auto industry are also initiatives which aid in job creation, the consumption of such products as steel, iron, synthetic rubber, the development of new manufacturing technologies, and the encouragement of overall productivity which serves as a foundation for our economy. So, indeed, aid to the auto industry does not only represent help for a single entity. It is a significant step to national economic stabilization. I urge the expeditious consider-

ation and passage of the domestic content bill.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I rise in strong support of this bill. It is a reasonable measure which addresses a serious economic problem.

As is the case with many Members, I believe in unencumbered commerce among the many nations of the world. In an ideal world where each country pursues the same goals, free trade would be a policy worth striving for. I do not feel, however, that we should take actions detrimental to our economy if virtually every other country in the world chooses not to observe such a principle. We do not live in an ideal world. We only need observe the recent GATT meeting to see how far we are from the ideals which all seem to espouse. To my mind it is naive to conduct a foreign economic policy on principles which no one else chooses to observe.

Opponents of the measure say it would violate GATT. The original purpose of GATT was to introduce a degree of equity and fairness into international trade. The process must be a two-way street. I would ask how well other auto-producing countries measure up to the principles of GATT. If we pass this bill, why is it said we violate the agreement if Italy does not when it limits Japanese imports to 2,200 units? Why is it not a violation when Great Britain, France, and now even West Germany limit imports? Why is it not a violation when Japan places barriers against virtually any imports which may compete with their own products? Why are domestic content requirements permissible in Brazil or Mexico but not here? Why can the Japanese impose domestic content requirements on aircraft purchases?

We seem to be observing a different set of rules than the rest of the world, and it has affected many of our basic industries. These industries are the very sinews of our strength as a nation. Nations which rely on that strength are steadily sapping it.

I have reviewed the automotive import restrictions of every country in the world which produces its own autos, and without exception our market is the most open in the world. Imports now constitute about 30 percent of the sales in the United States. No other nation in the developed world would permit or has permitted such deep market penetration at the expense of its own workers and industry. Every other country has erected barriers. In some instances these are tariff barriers. In other instances they are nontariff barriers such as quotas, domestic content requirements, or homoglogation requirements. Because our markets are so open, we have been targeted by other countries in order to help their balance of payments, develop their own industries, and create their own jobs.

The auto industry is such a vital element in our economy that we cannot stand idly by and let it be devastated. The health of the auto industry has an impact on many other industries. Those of us who represent districts where steel or rubber is produced are painfully aware of their interdependence with the auto industry. Conditions in the steel mills and rubber plants of our country are just as dire as in the auto plants. Other industries are also affected. Such products as plastics, aluminum, electronics, and fabrics are components of American cars. One job in six in our country is dependent on automotive manufacturing, and conditions in many other areas reflect those in my own district. For every unemployed auto worker, two other workers have been laid off in support industries.

Almost 2 years ago, the outgoing Secretary of Transportation issued a report which examined conditions in the auto industry. He warned of dire consequences if the industry failed to recover. He spoke of "a permanently diminished industrial and employment base" in our country. I am sure that such a condition is not acceptable to those of us charged with guiding the course of our Nation. Despite that dire prediction, the current administration has done nothing to address the problem. They say that as general economic conditions improve, the industry will recover. Even in the context of a general economic program, the Government has a responsibility to address specific problems. Their failure to address the specific problem necessitates this piece of legislation. Even if they choose not to act, we must.

The current administration has struggled with a sick economy, and their failure to treat more than the symptoms is baffling. The cost to the Federal Government is high. Two years ago, it was estimated that each imported car cost more than $1,000 because of the services which unemployed auto workers received and the taxes which they did not pay. That figure may have gone down in the interim, but it is not something to take heart in. The reason for the reduction is that thousands of workers have totally exhausted unemployment benefits. It is very hard for me to explain to such people why our Government chooses to indirectly subsidize imported cars at $1,000 per unit.

In the past, the auto industry has helped to lead us out of recession. I know it would like to do so again. Instead, the auto industry faces disaster. Over 20 percent of the workers in my home town of Flint, Mich., are unemployed. The time has come when we must examine the Federal policies which have contributed to their plight and take corrective action. I ask my colleagues to support this legislation. It is time for a degree of equity to be added to our trade policies.

□ 1140

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Chairman, I rise in support of H.R. 5133.

In the short time available to me I would like to make one point and ask the question: Can Members of this House vote for this bill without feeling guilty?

Opponents will try to lay a guilt complex on Members and try to make them feel a little unclean and make them feel like they ought to slink out of the Chamber after voting for H.R. 5133.

The answer to the question is, yes, Members can vote for this bill without feeling guilty. If this is a form of protectionism, so be it. Every nation protects the basic economic interests of its people. That means that every nation protects its basic industries. That is especially true in a democracy, and it cannot be any other way. A representative body must represent the economic interests of ordinary citizens or they will not stay in their jobs.

Erudite economists can construct sophisticated theories about how free trade benefits everybody in the long run, but the ordinary working man or woman in any nation in the world views it more narrowly. He views it in terms of asking himself, "do I have a job or don't I have a job?"

So the elected representatives in a democracy must fashion public policy with that inescapable fact in mind. Thus, every nation protects its agricultural industry. Certainly Japan does; we have heard that. Certainly the European community does; we have heard that.

Every auto manufacturing nation tries to protect its own auto industry. The United Kingdom and Germany restrict Japanese imports to less than 10 percent of their market. France restricts Japanese imports to less than 3 percent, and Italy to less than 1 percent. Brazil has a domestic content requirement.

And what about Japan? Until a few years ago it was impossible for foreign cars to enter the Japanese market. Now it is merely next to impossible.

Never fear, what we do here today at the bottom line is no different from what every other industrial nation does for its auto industry.

Yes, Mr. Chairman, Members can vote for H.R. 5133 without feeling guilty. No industry is as crucial to the economic health of this country as the auto industry.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, we have been spending a good deal of time here today, as well as yesterday, discussing the pros and cons of protectionism. I happen to think that we are talking mainly about the symptoms and we have not once mentioned the basic cause; the root cause of the problems that we face.

The problems we have today are nothing new. We have had these problems off and on for centuries. As a matter of fact, our Nation was born with problems very similar to the problems we face today. After the Revolution, between 1781 and 1787, we followed policies whereby the economy was a closed economy. Each State had a different currency, each State inflated at different rates, and because of the inflation each State tried to compensate by putting on wage and price controls, and it did exactly what one would expect. It caused a depression. There were strong prohibitions against free trade among the States, and as one would expect, this caused nothing but economic chaos. It was out of these problems that the Constitutional Convention was convened, and the Founding Fathers in their wisdom decided that there was something wrong, and they did two things.

They instituted free trade. That is, they put into the Constitution the commerce clause. Even though today, in the 20th century, we use the commerce clause in the Constitution as a justification for the Congress and the courts to regulate commerce, the commerce clause, at the time it was written into the Constitution, was intended to break down all barriers so we would not prohibit free trade among the States. In the 20th century the courts and the Congress have changed their attitude about this. The Founding Fathers broke down the trade barriers between the States and they instituted, more importantly, sound money. This brought on a tremendous revitalization in the economy in the 1790's after the Constitution was ratified.

Mr. Chairman, that is what we need today, sound money as well as free trade. We cannot solve the problems of a sick economy brought on by a sick currency by protectionist legislation. It never would before and will not work now.

The world today is like the States were between 1781-87. Only with the acceptance of a stable currency and the institution of free trade can we expect to recover from the worldwide depression that we are suffering from today.

The argument for "domestic content" legislation is analagous to the Michigan delegation saying that no parts of any automobile can be manufactured in Ohio and that no energy source can come from out of State. The argument falls flat and its obvious absurdity makes it imperative we regret this legislation. You cannot solve the problems brought on by monetary destruction with protectionist legislation designed to help the few at the expense of the many.

Mr. BROYHILL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, we always get a little bit of trouble going when we get into lameduck sessions, and I think we have that here. I do not want to tell any secrets out of school, so if the people on C-Span will turn down the volume, I would like to suggest to my colleagues, as all of us are aware, that this bill is not going to become law in this session. We are doing some cosmetic work here. But I want to be sure that we do it as close to right as possible and not set any really bad precedents for ourselves.

In this discussion there is a good deal of rectitude and truth on both sides. We do have problems with imports coming in from abroad that are taking our markets and, therefore, our jobs. Nobody argues that. I have been discussing this problem from my vantage point on the Joint Economic Committee for some time. We need to do something about that, and perhaps we need to limit imports in order to give us time to become more effective competitors.

One of the objectives of this legislation is to encourage jobs in this country, and in doing so, the restrictions are set in the hope that some of those foreign producers will be encouraged to put their plants in the United States so that our citizens in this country can have jobs producing those foreign products. That is a laudable objective, and we ought to be encouraging its accomplishment.

It has been encouraged already by Douglas Fraser, the head of the UAW, who came to the Joint Economic Committee in March of 1980 and said that what he wanted were three things: He wanted those plants from foreign producers put into the United States; he wanted voluntary restrictions on the volume of products they send into the United States from abroad, and he wanted an increased domestic content—that is what we are talking about today—in the products that they sell here.

This legislation addresses the whole range of products produced by an individual company or producer, and so if a foreign producer puts a plant in the United States to produce one of its models only a portion of the content that is in their whole range of products would qualify as domestic content.

In my district the Honda Corp. has made an investment of $250 million. That is more than Honda has invested in aggregate outside of Japan in the last 20 years. That $250 million is a major investment here.

□ 1150

The plant has recently begun production. The first Honda Accords, the highest quality car of their line, are now coming off that assembly line produced by 2,000 American employees, autoworkers.

I am going to introduce an amendment to this legislation that will correct content quotas that would close that Honda plant because the schedule of percentages are too high for them to comply because those percentages apply to all their sales—not just the Accords built in the United States with 50 to 65 percent domestic content with the next few years. So the schedule of content percentages in section 4 would require Honda to close its U.S. plant and lose those 2,000 jobs of U.S. citizens.

I hope my colleagues will be attentive to that time.

Mr. GIBBONS. Mr. Chairman, I yield 6 minutes to the chairman of the Budget Committee, the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, it is with sincere regret that I find myself opposing the views of Douglas Fraser and the United Auto Workers. I consider Doug Fraser to be truly one of the most outstanding labor leaders in our Nation's history. In the case of this domestic content legislation, I recognize the frustration which fosters this protectionist approach—but I plead with my colleagues to take this debate seriously and consider our lessons from history before casting your vote.

Chiseled in stone in front of the Archives Building just down from this Capitol are the words, "what is past is prologue * * * study the past." Perhaps no other proposed legislation at no other time in the last half century commands us to follow those precepts more than this domestic content bill. It is protectionist pure and simple—53 years ago the United States and the world trading nations found themselves in economic circumstances very similar to what we experience today. President Hoover called Congress into special session in 1929 to consider tariff protection only for American farmers. By 1930 when the Smoot-Hawley bill was signed into law, nearly every section of the American economy had joined the logroll of protectionist tariffs. That triggered protectionist retaliation from our trading partners—international commerce

came to a screeching halt and that legislation, Smoot-Hawley, perhaps more than anything else, was the spark that ignited a worldwide depression lasting for a decade.

Those same conditions exist today. We saw recently at the GATT ministerial meeting in Geneva that our trading partners are primed and cocked to protect their markets and will do so especially if the United States as leader of the free world sets the example. If that happens, it is just as much a no-win situation for us as is nuclear war in a much graver sense.

Specifically on this legislation let us ask: Will it do what its proponents claim? Will it create more jobs in America and not increase inflation?

Very clearly, from any objective study, the answer is a firm "No."

Let me underscore what the Congressional Budget Office study of the domestic content legislation reveals. The CBO does acknowledge that 38,000 jobs will be reborn or created in the automobile industry. However, when the overall effects of protectionism are factored in there will be, the CBO notes, a net loss of American jobs. Unemployment in the nonautomobile sector will actually be increased by more than 100,000. For the American consumer, according to the CBO study, it will mean higher prices not only in automobiles but in other products as well.

Let us dwell especially on where that net loss of jobs will occur. There you find that the increased unemployment will hit in the very areas on which we must rely for economic growth for the rest of this century.

For example, four out of every five new industrial jobs created in the past 4 years have been in the export sector. More than one out of every six American jobs is totally dependent on exports. One out of every three agricultural acres goes into export. Those will be the first wave of new unemployment if we start down this dangerous road of protectionism.

One of the problems with this bill is that it aims at the wrong target. It aims at Japanese imports, and the facts are that Japanese imports on a per unit basis are at the same level as they were 4 years ago.

The real target should be the American economy which has depressed all auto sales and that is not the target that is aimed at in this legislation.

This bill clearly violates the rules of international trade called GATT. That is not to say that other countries including the principal one at whom this bill is aimed do not also violate the rules of free trade. What I am suggesting is that there is another course to deal with this problem. We can pass legislation that provides for reciprocity similar to the Frenzel bill. That provides for fair trade, that puts American products on an even playing field with other nations, and it is legislation that strengthens our hand to enforce on a continuing basis, and within the rules of international trade, free and open and fair trade.

The problem is that the reciprocity legislation is not before us today; it has not completed its markup in the Ways and Means Committee and that means we do not have the opportunity to vote on it today. Therefore, I urge my colleagues to wait until the start of the 98th Congress to deal with this problem in a more thoughtful, calm and deliberate manner. I agree that we should send a message to Japan. But let that message be a legal one. Let not this great lawmaking body, the greatest in the world, send a message which in itself violates the code of international trade law.

The philosopher, Santayana, said, "Those who cannot remember the past are condemned to repeat it." Let us not forget Smoot-Hawley. Let us not forget the last worldwide depression which it sparked. Let us not repeat that mistake again today by passing this legislation.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Chairman, I rise in opposition to H.R. 5133. I am a cosponsor of this legislation, a cosponsorship which I now regret. I was not fully aware of the implications, rather drastic implications, of what this legislation would do at the time I agreed to cosponsor this bill some months ago. I have since had time to consider those implications which are serious and dangerous.

Only a few months ago, this Chamber passed, with great fanfare, an export bill to promote entrepreneur's in overseas markets. Today, we are debating the merits of adopting protectionist legislation for the domestic auto industry. And this to me is practically an overnight change in the course of our international trading policy.

In effect, the House is sending the following message to our international partners: "We want to have our cake and eat it too." Our domestic car industry is in trouble from the recession and its inability to compete in the marketplace against foreign imports, particularly from Japan. Any car manufacturer who wants to sell their products here, must build their products here.

Mr. Chairman, the distinguished chairman of the Budget Committee clearly indicated the impact this would have on jobs in this country. Underscoring this point the Washington Post said, "Legislation that reduces imports will also, indirectly but inevitably, reduce exports—and the jobs that depend on them."

Just imagine the chilling effect on the number of industries with great export potential in world markets. Our domestic coal reserves are in tremendous demand in order to replace imported oil and natural gas. Innovative industries in wind and solar energy have universal worldwide applications. Surplus farm products have nowhere else to go but into overseas countries.

My point is that with domestic content legislation, we will be deterring the growth of other promising economic sectors in the future.

It is unconscionable for this body to shore up the less competitive industries at the expense of the most competitive. In addition, this bill, if fully enforced, will add $333 to the costs of new cars and two-tenths of 1 percent to the inflation rate.

I regret that I did not recognize the overall impact of H.R. 5133 when I first decided to cosponsor this legislation. However, after weighing the overwhelming cost of enacting this measure against the minimal benefits, I hope that more Members of this body will join me in voting for the defeat of H.R. 5133.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I am happy to yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I would like to associate myself with the remarks of my colleague from Pennsylvania.

Mr. Chairman, I am opposing this bill, but my opposition comes with a significant qualification.

The trade policies of the world community cannot continue to be set with one set of rules for the United States and one set of rules for our trade partners.

We have rightly advocated free and fair trade. We have done so because we believe that all nations benefit from such a marketplace. However, too many other nations are finding that it works quite well to impose protective tariffs, quotas and to use content laws to promote and protect their home-based industries while giving minimal lip service to the trade policies they find so profitable for the United States to pursue. One fact is quite clear, unless foreign countries take steps to lower trade barriers, the United States will have no other choice ultimately but to retaliate with measures of our own. We will not stand idly by and watch our industries suffer while our foreign competitors prosper as a result of restrictive trade policy.

However, the Fair Practices in Automotive Products Act does not address the heart of the trade problem and could seriously weaken our own domestic economy. This bill has been promoted as a jobs bill. It is in fact, an

antijobs bill. It is not in our own self-interest.

While CBO estimates 38,000 auto jobs as a result of this legislation, it also says that 104,000 other jobs would be eliminated in factories that make goods for exports, especially in the electronics, agriculture, and services industries. Furthermore, its promise is pernicious. Those expecting rapid relief from high unemployment in the auto industry would be disappointed because the bill would not have full impact until 1990.

The White House Council of Economic Advisers study places a $100,000 price tag on each auto worker job protected by the bill and predicts an increase in the average price of all cars sold in the United States of up to $1,000. Experience has shown that when prices go up, sales go down and jobs are lost.

Finally, this bill does not provide any leverage for our trade negotiators to negotiate on international trade agreements and includes no incentives for other countries to open up their markets to U.S. products. On the contrary, it encourages retaliation in those areas such as agriculture where we are achieving some success in expanding markets.

Let us take this opportunity to put our trade partners on notice. Today we will continue to support a policy of free trade and defeat this bill. But our message must be clearly understood by the international community—time is running out and tomorrow is another day.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GIBBONS. Mr. Chairman, I also yield the gentleman from Pennsylvania (Mr. GAYDOS) 2 minutes.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 4 minutes.

□ 1200

Mr. GAYDOS. Mr. Chairman, if this bill were before the Diet in Tokyo today—if its provisions were to be the law of Japan tomorrow—it would be heralded here by headlines in a type-size reserved otherwise for the victorious end of wars and Moon landings,

Our Japan lobby and our editorialists and our handwringing anchormen would sing praise and high hosannas to the far-seeing Japanese statesmen who were willing to do so much to further the concept of open trade.

In Tokyo, the newspapers might grumble bitterly about the government caving in to the Americans. The grumbling might even overturn the government.

And there would be a foundation for their criticism.

Everyone should realize that a Japanese companion to this bill would give American workers and manufacturers far more right to sell in Japan than ever have had before.

If only we could get them to open all their markets—whether now closed by law or custom or cultural preference—to other of our industrial and agricultural products in this degree, we would at last be making progress.

Foremost, a law such as this in Japan would assume U.S. products have a right in Japan.

Under it, American-make automobiles could be sold freely and virtually untaxed in Japan in numbers of up to 100,000 per make without the need to have any Japanese content.

This 100,000 American-make cars would represent a 150-percent increase in imports into Japan—not just an increase of American makes, but a 150-percent increase of all imports in total.

According to testimony taken from the chairman of Ford Motor Co., by our Trade Subcommittee, only 40,000 cars of any kind are imported into Japan in most years.

Although the Japanese Government and our Japan lobby swear there is no official policy of exclusion—it is a matter of consumer preference and custom, you know—imports have inexplicably hovered at 40,000 a year for several years.

If, under a Japanese copy of our law, some U.S. maker got hot and sold 150,000, it would then have to have some domestic content.

Let us say Buick could get hot because I have read Buicks are a $30,000 status item there. The price is pushed up in part by a 22.5-percent commodity tax they levy on entry, but status is status. Incidentally, they forgive this tax on cars they export. It is a form of subsidy that does not offend GATT. It is a large part of their much discussed $1,500 price advantage over U.S. makers in this market. It is not a labor advantage, it is a tax advantage.

Nevertheless, Buick would need domestic content in Japan if it sold 150,000, and if they copied our law faithfully. By the way, these Buicks would constitute 3 percent of their 5 million car market. Imports, mostly Japanese, were running 28 percent of the U.S. market in September when Ford's chief testified.

But Buick could get its domestic content by paying to advertise on Japanese television and doing a few other things, probably.

And this unrestrained access to Japanese television could be a real breakthrough. Right now, as I understand it, a criteria for being allowed to advertise on Japanese television is consideration by the Ministry of International Trade and Industry of the competitive effect on Japanese producers—on Japanese producers of anything. How is this—"for freedom of the press."

Now if Buick's advertising was good, and Buick got really successful, it might have to build its own plant in Japan.

Under this bill, a Japanese company is free to make such an investment here—is invited to make it, to hire Americans who have been put out of work. The bill will do this.

Since this is the invitation, it is fair to look at how they have handled such investment.

According to the book, "Miti and the Japanese Miracle," they do not like the thought of what they call the invasion of American capital. They looked on their most aggressive and nationalistic vice minister as a Samurai among Samurai at Miti, and they perfected Samurai economics—block and slash, parry and hack.

When IBM first went to Japan, Miti said, we will hamper your business unless you license IBM patents to Japanese firms at no more than 5 percent royalty. The book says IBM sold its patents and accepted limits on the number of computers it could sell as a condition for getting into Japan.

When Texas Instruments wanted to open a wholly owned subsidiary, Miti decided it had to have a Japanese partner and could own no more than 50 percent; that its technology would have to be licensed to Japanese competitors; that its output would be limited until Japanese companies could compete.

But this is the House of Representatives in Washington.

And our Japan lobby and our editorialists and our hand wringers attempt to discredit as protectionist any attempt to address the daily devastation of America's industrial base or the future of her workers.

They are worried about starting a trade war.

We have an administration that with one tongue says it is talking tough to the Japanese and with the other says it is making heroic efforts to hold off this nasty old protectionist Congress, and to kill this bill as well.

And they worry about starting a trade war and possible retaliation.

I sincerely wish the Japanese would retaliate against us with an exact duplicate of this bill—it would be a model of liberality compared to what is in place.

Meanwhile, the trade war continues as it has for years.

Developed and developing and undeveloped nations flood this market with whatever they can send—subsidized and dumped, when necessary—to settle their own economies and solve their own unemployment. Then they close their doors to our goods.

Furthermore, our unemployment is 12 million. Even the Japan lobby recently acknowledged that at least 2 million jobs—the equivalent of 17 percent of our unemployment—can be attributed to imports.

The trade deficit will pass $44 billion this year, and I do not think unemployment will drop a lot until the deficit does. The deficit with Japan may be $20 billion or more. I do not know how much of it is in autos this year, but it was $13 billion last year.

The question is whether we will maintain the base we need to support our people and meet out world responsibilities.

By passing this bill we will show we realize there is a "trade war already" and that all the Samurai economies of the world should recognize that our indulgence is at an end. Than we can go on and get the answer to the question.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GAYDOS) has expired.

Mr. BROYHILL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania.

Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I would like to ask the gentleman if he would show me the section in this bill that empowers our trade negotiators to work with the Japanese to do something about the trade barriers that he talks about. I have been looking at this bill while the gentleman has been talking here, and I see nothing in here that would accomplish the purpose of what the gentleman is talking about.

Mr. GAYDOS. That is not the purpose of the bill, to address those points. Those points I raise in substantiation of my overall position that I take. That is the reason that I cite those items. I think it is part of the trade picture. I do not think that it is incongruous with the arguement that we are making. No, it is not in the bill. I admit that.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman form Minnesota (Mr. ERDAHL).

Mr. ERDAHL. Mr. Chairman, we are all concerned with our current unemployment situation and the plight of our domestic automobile industry. We must be careful, however, when designing policies to remedy these problems that we take all of the issues into account.

None of the studies done have been able to prove that this is actually a jobs bill. According to the CBO, net employment effects of this bill throughout the economy would be negative. While 38,000 auto jobs would be created by 1990, approximately 104,000 jobs would be eliminated in other sectors of our economy as a result of the bill. The net impact of H.R. 5133 would produce fewer jobs, not more, and the impact would be felt by Americans who earn a living in import markets, primarily in transportation and retail sales. We have been told that we can expect retaliation by our trading partners if this bill goes through. Domestic content requirement are specifically prohibited by the General Agreement on Tariffs and Trade and their adoption would entitle others to take reciprocal action against U.S. exports, a development that could cause severe damage to our export related industries such as agriculture, timber, electronics and other manufacturing industries. Between 1977 and 1980, four out of five new manufacturing jobs were created in export industries. It is clear that the United States has a great deal to lose from this protectionist legislation.

In short, this is too controversial and complex a bill to be considered hastily during this lameduck session. Instead of creating jobs, this bill would cut jobs, discourage foreign investment and invite foreign trade barriers. It has not been given sufficient consideration in this Congress and considering the enormous negative consequences, it should be rejected.

Mr. FRENZEL. Mr. Chairman, could we have the time remaining, please?

The CHAIRMAN. The gentleman from Minnesota (Mr. FRENZEL) has 13 minutes remaining; the gentleman from North Carolina (Mr. BROYHILL) has 5 minutes remaining; the gentleman from Florida (Mr. GIBBONS) has 16 minutes remaining; and the gentleman from New Jersey (Mr. FLORIO) has 13 minutes remaining.

Mr. FLORIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Chairman, as a cosponsor of H.R. 5133, the Fair Practices in Automotive Products Act, I rise today to urge my colleagues to support this important legislation, and take a positive step toward reversing the serious decline in the largest manufacturing industry in America.

Since 1978, sales of cars produced in this country have dropped by 33 percent, and production in the domestic automobile industry is at its lowest level since 1958. This recession has eliminated more than 850,000 jobs in the auto industry, and in auto-related industries, including the steel, textile, glass, rubber, plastics, and electronics industries. We need a rebuilding effort to revitalize the automobile industry, an industry whose vitality is crucial to turning around the American economy, and this bill is a strong step in that direction.

This legislation simply encourages the production of automotive products in the United States by requiring manufacturers to use specific levels of American-produced labor and parts based on the company's total sales. Utilities, taxes, insurance, advertising, and all other U.S. based expenses are included in determining a vehicle's total domestic content. Such requirements will enable consumers to buy American and support and invest in the American economy, regardless of the car they choose to purchase, and this buy American purchasing power will strengthen our automobile industry and our country.

In the past, we have allowed open access to our markets, while tolerating tariff barriers, and other unfair trading practices when we try to sell American goods abroad. This bill sends a strong message to foreign governments that our country will no longer tolerate these barriers, which have hurt American automakers trying to sell abroad, and no longer permit open access to our own market, which has hurt American automakers selling at home.

Mr. Chairman, I believe that this legislation will go a long way in helping the American auto industry get back on its feet, which in turn will stimulate our economy and reverse the high unemployment rate by providing additional jobs in the steel, textile, glass, rubber, plastics, and electronics industries. Therefore, I urge my colleagues in the Congress to support this most needed legislation.

Mr. FLORIO. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. I thank the chairman for yielding.

Mr. Chairman, we have heard a lot of talk about the trade deficit. We know in durable goods we have a trade deficit of $30 billion. We also know the statistics in the countries who have the local content requirements. I do not think that this would hurt our farming community. If it did, I would not support the bill. But I do support the bill.

I want to bring to the Members' attention the human side of what we are talking about, and I would like to talk specifically about my State of Ohio, but this is certainly true of Pennsylvania, Michigan, Illinois, and some of the Northeastern States, and certainly in pockets all over our entire country.

Since 1980, our State has lost 283,000 workers who are in the manufacturing area. Forty percent more small businesses who manufacture small parts are bankrupt than last year. We have 160,000 steelworkers, who do not have a job today and who had one in 1980; 36,000 who manufacture cars; 28,100, who manufacture rubber and deal with plastics. Our dealerships are closing every day across this country. In Ohio alone 16,800 of these have closed.

Now, who are these people, and what is happening to them, and who will address them?

We are talking about people, not statistics and numbers. I would request that the Members on the other side of

the aisle who are opposed to this bill listen to what I have to say. Obviously they have not heard the human side or they would not oppose this bill.

□ 1210

I am asking the people who oppose this bill to look at who the unemployed are who have been affected by the unfair practices of other countries in trade and the fact that it is so difficult to compete, because of the unfair restrictions. The unemployed in deep depression and pain. These are the 50-year-old men who have been laid off and have been looking for a job for 2 years or more, and cannot find a job. These are minorities, and the women, who are laid off. These are the people who are losing their homes, who are homeless.

We are going to have a hearing next week, our Housing Committee, on the homeless, and they are not just the poor people. They are the former middle-class people who do not now have a job. We are seeing more divorce, more suicide, more family abuse, than at any time in our country's history. It is time to consider our unemployed and signal to them that we care and want to do something constructive for the unemployed.

The CHAIRMAN. The time of the gentlewoman from Ohio (Ms. OAKAR), has expired.

Ms. OAKAR. Mr. Chairman, I want to say, I think some of my time was used up by the fact that I had to be interrupted by Members who do not care about listening.

The CHAIRMAN. The time of the gentlewoman from Ohio has expired. The Chair will state that the Chair did allow for the calling to order of the committee. It was not taken out of the gentlewoman's time.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong opposition to H.R. 5133, the Fair Practices in Automotive Products Act.

Supporters of H.R. 5133 call this measure a jobs bill. It may be a jobs bill, but if it is, it is a bill that exports jobs, not saves them for Americans.

The Congressional Budget Office, the Department of Commerce, and MIT have all produced studies showing the devastating effect this legislation would have on the U.S. economy. By trying to protect employment in one sector of the American economy, the rest of our country would be severely affected by the loss of jobs resulting from lost exports. An estimated 66,000 jobs would be lost in the next 7 years if this legislation were approved, some say 100,000.

Establishing an arbitrary formula for domestic content in automobiles is contrary to U.S. commitments on the General Agreement on Tariffs and Trade. If we approve this violation of the GATT, we open up the opportunity for all of our foreign competitors to do the same against our major exports. U.S. production of electrical components, computers, in aerospace and in agriculture would all be direct victims of foreign retaliation for this protective trade proposal.

The effect of this legislation would be felt not only on our export producing sectors of the economy, but also on the automobile industry itself. The increased cost for an automobile is estimated to be as high as 10 percent if this bill passes. The economic laws of supply and demand make it clear that when the price rises that dramatically, the demand will drop significantly. The demand for automobiles is already down; we need some type of program that will increase demand, not reduce it. Even the major auto manufacturers recognize that fact: Witness their rebate programs.

Business, farm, and consumer groups and companies from all over the United States have expressed their opposition to this legislation. Perhaps more than any other sector of our economy, agricultural exports have been the most significant positive factor in our trade balance in recent years. Since one out of every $3 of farm income results from exports, retaliation against U.S. farm exports would be disastrous. I have attached a mailgram that includes a list of opponents.

I urge my colleagues to resist the temptation to seek a false solution to our unemployment problems and ask them to vote against this bill.

[Mailgram]

Mr. CHAIRMAN: The broad range of 50 business, farm, and consumer groups and companies listed below strongly oppose H.R. 5133—domestic content legislation—and urge you to vote against it in the special session.

H.R. 5133 would impose domestic content requirements on automobiles that "are virtually unattainable without nearly eliminating imports," according to the congressional research service. American consumers will face increased prices for automobiles as a result of such quotas.

H.R. 5133 will damage other sectors of the economy. Domestic content requirements specifically are prohibited by the General Agreement on Tariffs and Trade; their adoption by the U.S. would entitle others to take reciprocal action against U.S. exports—threatening tens of thousands of U.S. jobs in export-related industries. As the world's largest trader, the U.S. has an enormous amount to lose from a new spiral of protectionist action and reaction.

Finally, H.R. 5133 is not a "jobs" bill. The Congressional Budget Office has concluded that H.R. 5133, in its present form, would create only 38,000 auto jobs by 1990, while it would eliminate some 104,000 U.S. jobs because of restrictions that would be placed on non-auto exports.

H.R. 5133 is a dangerous step which should be rejected during the special session.

Aerospace Industries of America, American Association of Exporters & Importers, American Association of Port Authorities, American Electronics Association, American International Automobile Dealers Association, American Retail Federation, American Soybean Association, Auto Importers of America, Caterpillar Tractor Co., Certainteed Corporation, Colonial Sugar Company.

Computer & Business Equipment Manufacturers Association, Consumers for World Trade, Continental Grain Co., Council for a Competitive Economy, Delaware River Port Authority, Imperial Sugar Company, International Apple Institute, International Association of Ice Cream Manufacturers, International Hardwood Products Association, League of Women Voters of the United States.

Lockheed Corporation, Massachusetts Port Authority, Milk Industry Foundation, Millers National Federation, National Association of Stevedores, National Association of Wheat Growers, National Automobile Dealers Association, National Broiler Council, National Corn Growers Association, National Council of Farmer Cooperatives.

National Customs Brokers & Forwarders Association, National Foreign Trade Council, National Grain Trade Council, National Grange, National Retail Merchants Association, National Soybean Processors Association, Philadelphia Port Corporation, Port of Baltimore, Port of Portland.

Poultry and Egg Institute of America, Scientific Apparatus Makers Association, Semiconductor Industry Association, The Boeing Company, The Rice Millers' Association, U.S. Cane Sugar Refiners Association, U.S. Chamber of Commerce, U.S. Council for International Business, Volume Footwear Retailers of America, Xerox Corporation.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I am opposed to this bill. It is obvious that there are many Members here today who would like to support this bill, and argue that this is really a jobs bill, and that with passage we would save many thousands of jobs. That is an appealing argument, Mr. Speaker, one which deserves close scrutiny. The points Congresswoman OAKAR is making are valid considerations.

It is true that our economy is depressed right now—we are all painfully aware of that. Every dollar lost to foreign imports hurts right now; we have too many Americans out of work. It is true that one of our industries hardest hit by the recession, by high interest rates and by vigorous foreign competition has been the auto industy. It might even be true that this bill would supply some relief for auto manufacturers.

But it is not true that this bill would help our Nation, or our economy, as a whole. On the other side of the coin is the terribly adverse effect that this

bill would have on our foreign trade and on many sectors of our economy outside of auto making.

If we pass this legislation, we will be inviting the other nations of the world to retaliate against our exports. At the very time when we are negotiating with our foreign trading partners to open up their markets to more American products, we would, in one great sweep, wipe away all our progress to date, providing other nations with incentive to impose harsh tariffs and harsh quotas on Amercian goods, thus hurting those American industries that are strong overseas, and crippling those already hurting.

There are several likely targets: American agriculture which accounts for 42 percent of our exports; the American electronics and aerospace industry, where we have gambled on our future; and American service-oriented industries such as banking and insurance.

The bottom line is that the benefits of this legislation to the domestic auto industry can not match the tremendous costs of this legislation to other sectors of the economy. In the end, this legislation might very well cost us net jobs, exacerbating rather than easing the unemployment problem.

We can best help our ailing auto industry by putting our own economic house in order—reducing the deficit and interest rates and encouraging a strong, well-grounded domestic recovery.

So I am in opposition to this bill, Mr. Chairman, and urge my colleagues to consider the repercussions of this bill, repercussions that would be felt throughout our economy, and in our trading markets around the world. admittedly, you might be having opposition from some automobile dealers but, Mr. Chairman, nearly every local automobile dealer in my district also is a dealer for some foreign made car. If you think you hear protests now—wait until you pass this bill—stand by. The protest will be deafening.

Mr. DANNEMEYER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Chairman, it is very difficult to imagine a more blatantly anticonsumer measure than this so-called domestic content bill. This morning we got the very positive news that the inflation rate at the wholesale level is 3.7 percent.

In the past 23 months we have started to turn the corner on the burden of regulation which has been imposed on the private sector in this country. Now we are looking at something that is going to blatantly create problems for the consumer and fuel inflation once again.

Mr. Chairman, if we adopt sweeping domestic content requirements, we can be sure that other nations will quickly retaliate. If the United States, as the leading economic force in the free world, erects such a blatantly protectionist trade law, other nations will be quick to follow our lead. This can only mean certain hardship for every sector of our economy. Secretary Baldrige has warned that $15 billion worth of major American exports—including aircraft, office equipment, electrical components, and agricultural products—could be subject to prompt retaliatory restrictions abroad. For every billion dollars in lost exports, 25,000 jobs would be lost.

If we pass this bill, any hope of restoring stability to both our domestic economy and the ailing world economy might be lost.

I strongly urge my colleagues to oppose this foolhardy and dangerous bill.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished ranking minority member of the Committee on Ways and Means, the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, it has been alleged here that those who oppose this legislation do not care about the plight of the autoworkers. The plight of the autoworkers is real. But you do not serve the autoworkers by throwing people out of work in other sectors.

Our country is in serious difficulty generally, because of high interest rates and because of the recession that has resulted from our inability to get the money to create the longstanding jobs that any growing economy is going to need.

Now, high interest rates have contributed materially to the difficulty in the auto industry also. There is a voluntary restraint now in the second year accepted by the Japanese on the importation of cars into this country. Because it is voluntary, there is no basis for the Japanese to demand compensation from other American trading sectors as a result of this restraint on their freedom of trade. And in fact, imports have not been the root cause of the industries' problems to the degree that this debate so far would seem to indicate.

Although the average import penetration for the first 11 months of 1982 was 27.7 percent, as compared with 27 percent in 1981, in absolute terms import sales are running only 200,000 more this year than 5 years ago. But of course total auto sales are down very substantially.

Now, I want to repeat. The auto industry will benefit substantially if we can get the economy recovering. It is not going to recover if we are going to follow a course which will cut us out of a world market expanding much faster than our domestic market.

□ 1220

In fact, if by foolish legislation we contribute to a continuing general recession, the auto industry is going to suffer as one of our central industries.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FRENZEL. Mr. Chairman, I yield 1 additional minute to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. I hope, Mr. Chairman, the point is understood that we cannot save the auto industry by taking counterproductive steps for the economy as a whole. That is the greatest fear I have about this bill. This bill would be economically destructive. Inevitably, it will be emulated abroad by economies that are less strong than ours, and inevitably the result would contribute to a general miring down in a world economic swamp, rather than an effort to pull ourselves out by mutual support and by a trade outreach reflecting the opportunities that lie abroad. Let us not move backward, Mr. Chairman. We cannot retreat into growth, or recovery either.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. HANCE).

Mr. HANCE. Mr. Chairman, some of our colleagues who have addressed the House today want to suggest that we who oppose H.R. 5133 are insensitive to the plight of workers in the American automobile industry. Nothing could be further from the truth.

The fact is that H.R. 5133 would not put automobile workers back to work. What it would do is to increase unemployment dramatically in the short run, by destroying jobs in the many industrial sectors connected with automobile imports. I think, for example, of the many Americans connected with the importation, distribution, and retailing of imported cars. In the long run, considering the near certainty of extensive retaliation by our trading partners against American goods, H.R. 5133 would be responsible for widespread unemployment in manufacturing, in services, and perhaps most importantly, in agriculture. For H.R. 5133 is an invitation to restrict imports of American products, and especially of those products that can be provided by other suppliers.

Retaliation could be expected particularly from the European Community and Japan, who together imported $18 billion, or 42 percent of our total agricultural exports in 1981.

Two out of every five acres of crops grown in the United States and nearly a fourth of all farm cash receipts are from export sales. It is easy to imagine the damage that could occur to an already depressed sector of the economy.

Retaliation or any action against U.S. exports would severely jeopardize our $40 billion agricultural export market. Further, American farmers, like all consumers in the United States, will beat the inflationary brunt

of this protectionist legislation. In short, Mr. Chairman, this bill is a disaster for the American farmer. It has been opposed by numerous farm organization—the National Grange, the National Council of Farmer Cooperatives, the National Association of Wheat Growers, the National Association of Corn Growers, and the American Soybean Association—to name just a few.

Mr. Chairman, minimum domestic content ratios are nothing more than a gimmick, and they are a gimmick that will not work. The problems of the American automobile industry will not be solved by requiring Toyota or Fiat to build production facilities in this country. As the International Trade Commission determined in the course of its section 201 proceedings, imports are not themselves cause of the plight of the American industry. Rather, the rise in imports derives from the failure of U.S. manufacturers to react promptly and properly to the fuel crisis, and also, in part, it reflects the slowdown in our domestic economy.

We must not run to the protectionist barricades, for history has taught that protectionism breeds not prosperity, but only more protectionism.

Mr. Chairman, prosperity can be achieved only through increased trade, increased productivity, and increased dedication to offer products that consumers want at prices that they are able and willing to pay. It is to these goals that American industry—and the American automobile industry in particular—should be directing its attention.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, here we are again. The last time we were here on behalf of the auto industry it was to save the Chrysler Corp. against the wishes of the rest of its industry.

Now we have the labor movement, thank God, pressing legislation that some Members find so erudite that they are saying it will not put workers back to work.

So I come to the floor as a free trader, antiprotectionist, but will explain, if I can, just a couple points about this legislation that make it important.

First of all, the question is not, is it good for the carmakers or for Detroit, but is it what this economy requires? I think that the answer can be definitely in the affirmative.

I think that the question of the consumers and the workers who have paid the price for the negligence and the dawdling that have brought us to this point can no longer be deferred.

Mr. Chairman, we are living in an economic world in which all the U.S. automakers are now joining with all the other automakers abroad. This is a psychological step. God knows I wish it would have some effect, but it is at least a beginning step for the working people in industry, and for the consumer who has paid for the mistakes of Detroit through the nose, and we gather today on a principle—protecting jobs—that is employed by the Japanese and all other industrial countries in the world.

The Fair Practices in Automotive Products Act (H.R. 5133) has generated intense views on both sides of the issues, although the issues are not always clear.

I consider myself a free trader, and have always supported free-trade policies against protectionism. Yet "free trade," like the idea of "free enterprise," is a theoretical one when it is not examined in the light of past and present circumstances. During much of our history, free trade meant the purchase of cheap raw materials overseas and the export of our expensive manufactured goods to the world. The diffusion of industrial and technological resources has turned this situation around, much to our present distress.

The United States has promoted free trade for the sake of reciprocity in order to protect overseas markets for American multinational corporations and to safeguard American influence, defense treaties, and military installations abroad. The problem is that these historical developments in the name of free trade and international markets ended up hurting American workers and crippling domestic industries and the communities that depend on them. For years every economic concept imaginable was defended except the concept of protecting our own workers, industries, and communities. American working men and women have shouldered the biggest burden of the flight of American multinational capital, poor management decisions, the flood of overseas products of multinational companies, American and foreign, and of our longstanding dispositon to project our power overseas, whatever the cost, at the expense of handling the problems we face at home.

The so-called free trade opponents of the domestic content bill argue that the answer to the auto industry's problems is additional tax and regulatory relief. We have done that. Yet to expect a magical economic recovery under present circumstances would require too long a wait for a recovery that would be anemic at best.

The domestic content bill is a good bill at the right time. It sends a necessary signal to our trading partners, especially the Japanese, that fairer, two-way trade had better commence soon. It is a corrective to the past attitude and practice of placing the interests of American workers and consumers last on the list of priorities. It is an honest statement of the magnitude of the problem and the means to solve it now. In truth, it is a modest beginning to a complicated issue.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wyoming (Mr. CHENEY), pending which I yield such time as he may consume to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Chairman, I rise in strenuous opposition to the legislation before us. H.R. 5133, the so-called Fair Practices in Automotive Products Act, may well be the most ill-advised, irresponsible, and untimely bill brought to the House floor in my 4 years in Congress.

The problems with this legislation and, indeed, with the entire sentiment resulting in the domestic content approach are far too numerous for me to discuss in detail; I will, Mr. Chairman, be brief.

There can be no doubt that the problems of the domestic auto industry are extremely serious. The historic importance of the auto industry to the health of our entire economy cannot be overstated. The human, social, and economic costs of thousands of unemployed autoworkers and auto industry supply workers are tragically high. It is, therefore, not difficult to understand and sympathize with the motives of the proponents of the bill. Unfortunately, in attempting to solve some of the problems of the auto industry, domestic content advocates, if successful, will have created problems, both domestic and international, of such magnitude that those of the auto industry will be dwarfed.

By restricting Japanese imports, beginning in 1984, this legislation is intended to create as many as 100,000 new jobs in auto and auto-related industries by 1990. The Congressional Budget Office, however, estimates that any jobs created would be offset by the elimination of nearly twice as many jobs in other industries; real GNP would be 0.1 percent lower by 1990; and inflation would be 0.2 percent higher than now projected.

International trade, Mr. Chairman, is not a one-way street. As many as one U.S. job in every five is linked directly or indirectly to U.S. exports. Protectionist legislation of this sort—legislation which violates in spirit and practice the international trading rules developed largely by the U.S. since World War II—can only result in retaliatory actions by our trading partners. Although it is true that, in some areas, U.S. access to important foreign markets is now restricted, it is extremely shortsighted to move further away from the free trade philosophy that has so contributed to the economic success of the United States and our trading partners over the past 30 years. If domestic content legislation is enacted for cars, other distressed in-

dustries, such as textiles and steel—where limited import restrictions already exist—will not be far behind. The danger is clear: In attempting to preserve jobs in Detroit, we are risking a global decline in trade, employment, and economic well-being.

The Japanese are not responsible for Detroit's problems. In fact, the Japanese should perhaps be commended for manufacturing and making available to American consumers quality automobiles that are greatly desired because of price and performance. If this legislation passes, those Japanese cars that remain available will be much more expensive; without the price competition of imports, U.S. cars will increase in cost as well. The ultimate result? American consumers will pay more for a reduced variety of auto models.

Again, Mr. Chairman, Japanese imports are not responsible for the problems of our domestic auto industry; to restrict such imports would be to increase costs for U.S. consumers, to increase unemployment in other U.S. industries, and to reduce global economic activity. Why, then, is this legislation even being seriously considered? The answer, I think, can only be that the UAW has used its considerable political clout, at a time when protectionist sentiment, though misguided, is understandably rising, to prevail upon some Members of this body to do something. And, in this instance, it is certainly easier to blame the Japanese than to address the real causes of our auto industry problems.

Japanese imports have achieved success in the U.S. market because they meet consumer demand. The domestic industry has frankly not been as creative, has not done as good a job in anticipating changes in the market, and has not proven as successful in maintaining quality and limiting cost. Labor, management, and the Federal Government all bear part of the blame; all will have to work together to improve the situation. Recent signs are encouraging; U.S. cars have improved in quality and design, and sales are up. Labor costs are growing less rapidly. The Federal Government is showing more flexibility in the regulatory area. As our entire economy moves out of recession, the pent-up demand for new cars may result in extremely high sales; the recent performance of U.S. auto company stocks is indicative of Wall Street's expectation of a profitable recovery.

We must, therefore, continue to work for economic recovery. We must focus on Detroit's internal problems. We must recognize that the fundamental nature of our economy is changing; that the so-called smokestack industries will play a relatively less prominent role in the future.

We must not, however, enact legislation which will increase unemployment, increase inflation, limit consumer choice and, indeed, threaten the entire international economy. We must not succumb to political pressure for an auto industry bailout. I urge, in the strongest terms possible, that H.R. 5133 be soundly defeated.

Mr. CHENEY. Mr. Chairman, I rise in opposition to H.R. 5133, the domestic content bill, because it will not, I am convinced, provide a solution to the problems faced by our automobile industry. It would, instead, take away the competitive stimulus needed to encourage the automobile industry to continue to improve its production techniques and to introduce the new technology required to regain its competitive edge on the basis of product quality and price rather than by hiding behind protective screens erected by the Federal Government.

Since the mid-1970's, U.S. industries, along with those of every other major industrial nation in the world, have experienced the pressures and pain brought on by the world economic crisis. Rising inflation and stagnating markets have taken their toll. Faced with shrinking markets it is tempting to look outside our own national borders to find excuses to explain our difficulties. It is equally tempting to seek to retreat within our own frontiers, shielding ourselves with protectionist barriers of one type or another instead of coming to grips with the crux of the real problem facing us.

Supporters of the domestic content bill argue that it is not a protectionist measure. In the classic sense of Smoot-Hawley it is not. It is far more subtle in it structure, but the net effect is the same. It closes our markets to foreign competition and will result in foreign governments seeking to take countermeasures against our exports. This will take us one step further down the road toward an all out trade war, which history has repeatedly shown harms everyone concerned.

We have been told that H.R. 5133 will stimulate the job market. That is true for one sector of the economy. Analysis by the Congressional Budget Office indicates, however, that the domestic content bill would result in the loss of nearly three times as many jobs in other sectors as it creates for the auto industry.

This is not the only way the consumer would be harmed by this bill. Analysts report that the domestic content bill would result in an average new car price increase of over $300 each.

The key to economic recovery in the auto industry, as elsewhere, is to face the fact that for the time being at least, we are being outdone by the better application of technology, and in some instances by the production of a better, more competitive product. The situation is improving in that regard as anyone who has watched the American automobile industry over the past couple of years can tell. I have no doubts that American management and American labor can produce a better product than their competition anywhere in the world. To compete, however, the automobile industry must continue to make the hard decisions and necessary adjustments in its production methods. The incentive to make these changes, however, will be lacking if the automobile industry is able to hide behind the type of Government protection which the domestic content bill would erect.

Mr. Chairman, this bill is a turkey, and I urge its defeat.

□ 1230

Mr. DANNEMEYER. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. LENT) a member of the Committee on Energy and Commerce.

Mr. LENT. Mr. Chairman, there is no doubt that the unemployment of so many of our auto workers is tragic. The figures are indeed grim. Many thought this lameduck session might produce some sort of a jobs bill. We have not and we will not. And this is a disappointment to our unemployed.

It is ironic that, instead, we are taking up this bill which is the very antithesis of a jobs bill. This bill, according to almost all of the disinterested experts and economists who testified at the hearings before the Ways and Means Committee, will actually increase the ranks of Americas' unemployed rather than decrease them.

While 38,000 auto jobs would be created by 1990, according to the Congressional Budget Office, 104,000 would be lost in other sectors of our economy as a result of this bill. In other words, auto jobs would be created at the expense of workers in other American industries. This is an unacceptable tradeoff. It is also unwise. Statistics indicate that a majority of all new jobs created in this Nation during the past 5 years are export related. This is the area of the American economy's greatest growth potential—exports. So this bill will impact most adversely on that part of our economy we should be fostering and encouraging.

Even in the auto industry, there is sharp disagreement as to whether this bill will help. General Motors and Ford—the two companies which should be the bill's biggest boosters—are on record opposed to it. So is the Motor Vehicle Manufacturer's Association.

The foreign auto companies like Volkswagen, Honda, and Nissan, which the proponents of the bill contend will be caused to invest in setting up plants in America, testify exactly the opposite. The President of Nissan testified that if this bill were enacted, his com-

pany might halt construction of its $660 million Tennessee plant which employs thousands of construction workers and will employ a permanent work force of 2,650 autoworkers. Why? What is wrong with this legislation that the American auto industry opposed? Why is the LEWV opposed? Why are the editionials almost unanimously opposed?

By reducing imports, this bill can be expected to raise prices of both foreign and domestic automobiles in the United States by somewhere between 4 and 10 percent. That would translate into $100,000 in higher prices per year for each additional job created in the auto industry. As a result, the experts forecast between 500,000 and 800,000 fewer auto units will be sold if the bill becomes law.

The bill is skewed to advantage small foreign manufacturers at the expense of larger American companies. Any foreign company that sells less than 250,000 vehicles annually need only meet a domestic content figure of 25 percent. These smaller companies can easily to do this without investing a dollar in the United States.

Volkswagen says it cannot expand U.S. production capacity unless it can first build up U.S. demand through importing. The bill would make that impossible.

Honda tells us the bill would limit the company's ability to attain optimum efficiency and competitiveness. It cannot meet the domestic content level for at least 3 years.

The administrative burdens of local content schemes are staggering. The workload of Government and industry in computing and verifying domestic content ratios for the manufacturers would be extremely burdensome. The 40,000 or more firms that supply parts often deal with more than one manufacturer and use imported parts and materials. The paperwork, data collection, and recordkeeping required to make this system work would be enormous and would be a complete reversal of our efforts in other industries to deregulate.

The bill is not going to go anywhere.

Even in the unlikely event it were to pass in the Senate, it is doomed to be vetoed.

The days left to this session are numbered.

There is much important business to be attended to. The people are watching.

This bill would not even begin to take effect until 1984, it would not be fully implemented until 1986, and would not have full impact on the industry until about 1990.

I urge my colleagues to vote "no" on H.R. 5133.

Mr. FLORIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Chairman, I rise in strong support of the legislation, and I urge my colleagues to support H.R. 5133.

The auto content bill is, unfortunately, the result of years of frustration and failed negotiations to resolve international trade problems. It is a clear and unmistakable signal to our trading partners, to the administration and to American workers that we are serious in our determination to develop a better deal in foreign trade.

I hope that we will hear a great deal of debate and discussion today on ways to resolve our trade problems. Indeed, Congress has already waited too long for such debate. The message expressed by the voters last month was that we need jobs. The latest Indiana unemployment statistics show a 13 percent unemployment rate. Nearly 13,000 more people lost their jobs that month and 310,000 people are out of work statewide. These are the worst unemployment statistics since the Indiana Employment Security Division began the current labor reporting series. The highest rates are in those cities, towns, and counties dependent on steel, automobile, and related production.

Basic U.S. industries are in deep trouble for many reasons, and only partially because of international trade policies. The domestic steel, rubber, and glass industries remain depressed. As in the auto industry, massive investment and modernization is needed. Management and labor must develop better relations. None of the problems is caused by a single factor; nor can solutions addressing only one element expect to succeed. We are today debating only one—but a key—aspect of the problem: international trade.

The U.S. auto industry is in a painful transition period, and no one should be fooled into thinking that H.R. 5133 will reemploy all of our auto industry workers. We are seeing the beginning of a closer cooperation between labor and management, and clearly they must shoulder the major responsibility of resolving the industry's problems. The Government for its part must make sure that the rules by which they compete in the world markets are fair ones.

When I came to the Congress in 1975, I subscribed to the arguments presented by the opponents of this legislation. Little has changed in our international trade policy in the last 8 years. That is the crux of the problem. Conditions have changed, both in our own industries and economy and in world markets. We are simply no longer in a position to ignore restrictions put on our exports while allowing virtually unrestricted imports into our country in the name of free trade. A lesson our foreign trade partners must learn is that free trade must also be fair trade.

H.R. 5133 is not intended to penalize efficient production and aggressive marketing. It is, however, a policy that requires those profiting from our markets to share in the responsibility of maintaining the health of our economy. Indeed, some companies, such as Honda and Volkswagen, have recognized and are fulfilling this duty. They are to be commended. Others, however, have ignored this obligation and have made this legislation necessary.

It is ironical, and more than a little perplexing, that this administration demands a massive military buildup so that we can deal effectively with friend and foe alike from a position of strength while refusing to take this same course in international trade policy.

Only recently have the Japanese, for example, appeared to soften an otherwise intransigent trade policy. I have stood here on the House floor in the past with some of my colleagues urging the Japanese to assume more of the burden of resolving our trade difficulties. Those urgings fell on deaf ears. Progress has only recently been made—and it remains to be seen how serious the Japanese are—when it became clear that legislation forcing change could be enacted by the Congress.

Few proponents of H.R. 5133 would advocate an isolationist trade policy. The national economies of the world are now too sophisticated, interlocked, and mutually dependent. That fact makes more imperative the solution to our trade problems with Japan, the Common Market countries, the Soviet bloc, and developing Third World nations. Trade tensions not resolved may force more drastic changes in all foreign trade laws throughout the world. Fair trade, however, will benefit all—ourselves in the short run and the rest of the world economy in the long term.

Not only are national economies of the world interlocked through international trade, but diverse sectors of our domestic economy are linked through trade policies. All will benefit from our efforts today to resolve auto industry trade issues. An important element in resolving the dire condition of the farm economy in this country is development of a better agriculture export policy. Massive commodity surpluses have depressed farm income to the lowest level in decades. The President must look on our action today not only as a demand for resolving auto industry problems, but also as dissatisfaction with current trade policies affecting other industries, such as farming.

Mr. Chairman, a clear and compelling case has been made that an auto content requirement bill is a fair and

overdue response to the barriers that have been erected against U.S. autos abroad. We must fight fire with fire.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. I thank the gentleman for yielding this time to me.

Mr. Chairman, a major part of the objection to this legislation comes from those who feel that there will be some retaliation from our trading partners and that that retaliation will result in a loss of American jobs.

I think if we analyze just what this bill will accomplish, we can see that there is really only one country that might be likely to retaliate, would have any reason to retaliate, and that would be the country of Japan.

This bill is not going to limit or harm any other country in the world.

If we start talking about Japan, their balance of trade with the United States is so extremely favorable they are not about to start a trade war with us. That is ridiculous. That is the last country in the world that is going to start a trade war with us. Furthermore, they have very, very extensive restrictions, far beyond anything in this bill, on American products coming into Japan.

The documentation is voluminous. Over there there are limitations on the importation of agricultural products, limitations on American electronic equipment and many other products. Their limitations on the American auto industry, the hoops you have to go through to sell an American car in Japan are simply unbelievable, far beyond anything in this legislation.

This is purely and simply a projobs, procompetition bill. We are not saying that we want to keep Japanese cars out of the United States. We are saying to the Japanese manufacturers: You ought to do what the American manufacturers have done, Ford, General Motors, and Chrysler. When they want to sell overseas they have located plants overseas, bought domestically and hired domestic workers in those countries.

All we are saying to the Japanese auto industry is: If you want to sell in this country, begin to source a greater share of your parts, begin to hire American labor.

We welcome the competition from the Japanese, but it is devastating in the way that it is being done now because they have not done so responsibly, as the American manufacturers have done. They have not followed our lead, and it has had a devastating impact on our economy.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield to me?

Mr. BRODHEAD. I am happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, the trouble is that one of the principal Japanese automakers, Nissan, is trying to build a plant here.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BRODHEAD) has expired.

Mr. FRENZEL. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan.

Mr. Chairman, will the gentleman yield to me further?

Mr. BRODHEAD. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, Nissan is trying to build a plant in Tennessee. I guess it is about half done, a $1 billion plant. Nissan says if this bill is passed, they will have to lock the door and let her go.

What incentive is there in this bill for the Japanese to invest in production in this country?

Mr. BRODHEAD. I think there is every incentive in the world. The laws of economics are the same all over the world.

General Motors, Ford, and Chrysler have found very, very substantial incentives to locate here. Renault is locating here. Volkswagen is locating here. There are all kinds of incentives to do that. I do not believe their statement that they are going to close that plant. That is just scare tactics, utter and complete nonsense.

The net effect of this piece of legislation is going to be that there are going to be more locating here, not less. To say that they are going to locate less here is absolute and complete nonsense.

This is a big and powerful and important and rich market, so to say that these very skillful and talented business people are going to walk away from this market is absolute and complete nonsense.

Mr. FRENZEL. If the gentleman will yield about 10 seconds of my time to me, may I inquire of him when was the last time General Motors or Ford built a $1 billion auto plant in the United States?

Mr. BRODHEAD. There is one under construction at the moment in the city of Detroit. In fact, the Big 3 auto makers will be spending $80 billion on new plant and equipment in the United States in this decade.

The CHAIRMAN. The Chair will advise the gentleman that the gentleman from New Jersey (Mr. FLORIO) has 7 minutes remaining; the gentleman from North Carolina (Mr. BROYHILL) has 1 minute remaining; the gentleman from Florida (Mr. GIBBONS) has 10 minutes remaining; and the gentleman from Minnesota (Mr. FRENZEL) has 5 minutes remaining.

Mr. DANNEMEYER. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, quoting from the DSG, the domestic content bill:

> . . . requires all auto manufacturers selling over 100,000 vehicles in the U.S. to include in their cars specific levels of American-generated content for each model year. The content requirements are calculated on a company's total U.S. sales. The more cars a manufacturer sells in the U.S., the greater the amount of American-generated content or costs incurred in the U.S. that manufacturer must achieve. The domestic content ratio is a combination of the manufacturer's credits and debits: under the bill, all U.S.-based production expenses and U.S. costs of doing business are a credit and all costs incurred outside of the U.S. are a debit. The exact percentage of domestic content required of a manufacturer is determined from a scale of U.S. sales that starts at 100,001 cars and increases to 900,000 cars, after which the requirements level off.

Mr. Chairman, anytime that legislation is advanced with a stated goal of one thing and a real goal of something else, it presumes a case where the merit is lacking on the real issue.

In the case at point, the legislation purports to increase the active involvement by American producers and workers. In fact, the ultimate of the bill is chillingly protective in nature. It says, between the lines, that other countries are doing and can always do, a better job in the production of automobiles than we can, and that they can sell them cheaper even after transporting them across the ocean.

I do not subscribe to that and neither should the auto makers. This competitive edge presently enjoyed by foreign imports should be treated as a temporary condition, with the future edge going to whoever outcompetes. With free and unrestricted competition, the American consuming public will most assuredly benefit and other American industries, innocent bystanders, would not be the object of retaliation.

I am reminded of a chemistry story which went like this: Johnny was a scientist, but Johnny is no more; for what he thought was H_2O was H_2SO_4. The prescription of H.R. 5133 is also a prescription for something different than we think.

A trade and export formula of 3 plus 7 plus 1 is not changed by rearranging the figures to 7 plus 1 plus 3. It is a cosmetic shuffling of figures and, if this bill is enacted, labor markets not now being displaced would be substituted for the presently displaced workforce, whether in agriculture or otherwise. This being the case, the bill is illusory and should be rejected.

You really do not make the room larger by rearranging the furniture.

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the very distinguished member of our committee, the gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. I thank the gentleman for yielding, and I thank the chairman.

Mr. Chairman, like many of my colleagues in this Congress, I, too, have come to the conclusion that it is a time for us to take strong action to restore work opportunities for hundreds of thousands of auto workers who have been losing their jobs.

The problems facing the auto industry are clear: 275,000 auto workers have been laid off. When we include related industries such as parts and suppliers, the number of people who have lost their jobs is more than 1 million.

In 1981, domestic auto sales were at their lowest level in 20 years. The situation will be worse this year. Meanwhile, foreign auto imports have increased from 18 percent of the domestic market in 1978 to 27 percent last year.

As if these figures were not enough, we are also finding that the U.S. auto makers are using more and more foreign-made parts in their cars.

□ 1240

The manufacturers are increasingly contracting with foreign auto makers to produce whole vehicles or parts of vehicles. Those vehicles end up getting an American label, but what they actually represent is a loss of American jobs.

These are some of the factors that are prompting me and many of my colleagues of the House and Senate to take a second look at the auto industry and its needs. But beyond these specific problems, I think the crisis in autos raises a larger question, one that goes right to the heart of America's long-held allegiance to the principles of free trade. What we are finding is that ever so slowly America has become a kind of lonely crusader extolling the virtues of free trade to a world that seems unwilling to listen.

We have kept our own markets open and have asked for open markets in return. But, where are they?

I do not mean to suggest that all the problems of the auto industry can be laid at the doorstep of foreign trade policy, but who can deny that our competitors have been saying to us, "Sure we will compete—on your soil, and in your auto showrooms."

I want to say also that I have heard suggestions that this legislation is a bad idea because what we really should be doing in the Congress is saying, first, that the American economy must make transitions to newer industries, create new jobs, to replace its old auto jobs. I think I can view these suggestions from a unique perspective because I do have an area of the country which has the largest concentration of high technology industry, but I have also got and automobile plant in my district. I have always believed that the strength of the American economy comes from its diversity. I was afraid, when this legislation was first proposed, that perhaps it would be setting up a trade war and hurt the economy. Then I started hearing from some of those high-technology executives who were coming to me with the same kind of complaints about the Japanese that the auto industry has been talking about and saying, "Unless we do something now we are going to be in the same position the auto industry is in, and in just a few years."

They are saying, "Let us anticipate this problem."

I say to you, my colleagues, that unless we act now we are going to be saying to the Japanese and the world that Americans are willing to sacrifice basic industry for some abstract foreign policy goal. We cannot do that. Our future depends upon it.

Mr. FRENZEL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, a couple of weeks ago, when we had a bill dealing with the FTC before this body, there was a great clamor raised by a group called Common Cause, which calls itself a public-interest group. Common Cause complained that some of our Members had received campaign contributions from a group that had an interest in that bill and wanted to spread that information on the record.

I think that is a good thing. I think that the broader and more prominent disclsoure of campaign contributions we have, the better it is for our democracy. So, I endorse that sort of disclosure, even through I do not happen to endorse Common Cause's conclusion.

That group has a sort of devil theory of history. It believes that there is a corrupting relationship between contributions and votes.

But, in the interest of complete disclosure, and because Common Cause indulges in selective disclosure, I would like to read some totals from the Federal Election Commission report dated December 9, 1982, showing that the United Auto Workers voluntary community action program contributed in 1981 and 1982 to 327 Democrat candidates for Congress $1,266,502; and to 5 Republican candidates $8,450.

Their report is available to our Members, and they can find out who is who, and on which committees serve the people to whom those contributions were given. It ought to be at least as illuminating and instructive as Common Cause's press releases on the FTC vote.

I would like to state further, Mr. Chairman, that I believe very strongly in political action committees' activities. Right now I am wearing a tie that says, "Democracy is not a spectator sport."

Indeed, it should not be, and therefore, I endorse both the UAW committee PAC and the AMA PAC, which was the one Common Cause identified. I simply raise this subject as a matter of disclosure that I think might be helpful to some of the Members and others who may be following this debate.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. FRENZEL. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, it has been repeatedly stated in this body and in the press, notably over the radio, by people who have not been following the issue very closely, that this is a bill the industry wants. I want to restate and restate and reiterate and say again that every automobile manufacturer in the United States, whether it is domestically or foreign owned, from General Motors to Volkswagen to Honda, said in its House testimony that this is a bad bill and it should not be passed.

There is one group, or maybe two, that want this bill passed. They are the United Auto Workers and the AFL–CIO. Of course there are other union workers such as the stevedores who understand the needs of trade, who oppose the bill. This is not an auto industry bill. It is a particular special interest bill promoted mostly by one union.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, just to restate the gentleman's proposition in different words, its principal effect is really to transfer jobs within this country from one group to another.

Mr. FRENZEL. I thank the gentleman for his contribution. He is correct. It simply represents a jobs transfer; one job created for each two jobs that are lost as a result of this bill.

The real intent of the bill, of course, is to limit the U.S. companies.

We have heard much complaint about Japan, and indeed, Members have never heard me say that Japan is an open market. I have been a vigorous critic, and will continue to be, of Japanese market restrictions. I think Japan is a restricted market. They have not begun to open markets, and I will continue to work for that.

On the other hand, the real intent of this bill is to restrict U.S. companies so that they do not use parts from outside the United States. They will have to use the controlled higher priced parts from the United States. As Secretary Baldrige has said, the United States will be taken out of world competition and lose our chance to make a world car that we can sell around the world competitively in foreign markets.

That is really the bottom line of this bill. Forget about Japan. Forget about jobs. We acknowledge the Japanese closed market problem, and we know that jobs are going to be lost on a net basis. Instead, concentrate on the parts situation. That is the heart of the bill. It will take America out of world markets.

The CHAIRMAN. The Chair would advise that the gentleman from New Jersey (Mr. FLORIO) has 7 minutes remaining; the gentleman from Florida (Mr. GIBBONS) has 7 minutes remaining; and the gentleman from Minnesota (Mr. FRENZEL) has 1 minute remaining.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding. In the course of debate on this bill, I have heard a great deal of discussion about fair trade and free trade and the question of who is going to benefit and who is going to be hurt by this legislation; indeed, there has been further speculation about whether it even can be enacted and whether the expected President's veto can be overridden. What we are losing sight of is the fact that for several years now America's preeminent position in trade in the world marketplace has been eroded by blatantly unfair practices engaged in by our foreign competitors.

Every working man and woman in America understands that. I can go to any meeting of steelworkers or dairy farmers or dockworkers in my district, and every one of them understands what the problem is—it is unfair foreign competition. They have no illusions about buy-America legislation or about domestic content legislation, they do not harbor false hopes that it is going to solve their problems overnight. They fully realize that American industry has to respond to the efforts that workers have made; that domestic industry has to modernize; that our Government has to be tougher in its trade negotiations with our foreign competition. But, they do recognize that there has to be a starting place and that if America would but take a hard line, and when the Japanese say, "Yes, we will buy aerospace from the United States, that 40 percent of it has to be built in Japan," then we are going to say the same thing to the Japanese.

□ 1250

When we draw that line tough enough, they are going to break down their barriers and they are going to deal with us on a fair and square basis.

I learned my lesson firsthand. I did my graduate work in Europe, at the College of Europe in Bruges, Belgium, right at the time of the formation of the European Common Market, shortly after the coal and steel community was well under way. We studied and we saw firsthand how the Europeans protected their domestic markets and built up their industry and agriculture with government subsidies in order to compete with the United States.

Mr. Chairman, this is an opportunity for us to fire a warning shot across the bow and tell them to eliminate unfairness and protectionism from their trade practices in the international marketplace.

The domestic content bill, H.R. 5133 is needed to arrest the U.S. auto industry's 3½-year crisis, which has resulted in the closings of 30 major plants, the indefinite layoff of about 285,000 autoworkers, and the loss of another 670,000 jobs in firms supplying auto manufacturers, including the steel industry, which affects my iron-ore producing district. The auto industry alone cannot counter the conditions that have caused car production in the first 8 months of 1982 to drop 26 percent below the same period in 1981, and that may reduce 1982 car sales to the lowest level since 1961.

For the last 20 years, the United States and other industrial countries have prevented textile and apparel imports from increasing their share of domestic markets. Separate agreements have been reached between each importing and each exporting country. That industry has tens of thousands of different companies that can readily pickup and move their operations. In the auto industry, however, only a few multinational companies control most of the world's production. Thus, it makes more sense to impose import restrictions on the multinational companies than on countries.

Substantial local content cannot be implemented overnight. But the timetable carried out by Volkswagen over the last few years can serve as a clear example for others. VW began U.S. production in 1978. Now, in addition to its assembly plant in Pennsylvania, it has a stamping plant in West Virginia and a new multiplant complex in Texas. Currently, the North American content of VW Rabbits is 70 percent.

Japan has imposed local content requirements for its aerospace purchases. As a condition of its purchases of billions of dollars' worth of fighters and patrol planes for Lockheed and McDonnell Douglas, Japan will produce at least 40 percent of their value.

The domestic content bill requires that for every 10,000 vehicles sold, 1 percent of the content of the vehicles must be made by or involve American workers. A company selling 100,001 vehicles would have to have 10 percent domestic content, and one selling 900,000 (the ceiling), 90 percent. Renault and Volkswagen already meet the requirements of the bill; Honda could, on current projections, easily do so by 1986; Datsun is far under the content standard but making modest progress toward it. Toyota is the most distant from the requirement.

In short, the bill mandates a modicum of social responsibility for multinational investments but does not deny access to the American market if corporations meet that responsibility. It also focuses, by implication, on some basic issues: who is going to pay for the restructuring of the world economy—workers and their communities? the poorest countries?

The free trade answer, of course, is that multinationals must be allowed the unrestricted right to manipulate the world market and to avoid the resulting social costs.

The domestic content bill is a step—but only a first step—in gaining some measure of democratic control over such corporate decisions. It also points toward the need for international controls over multinational decisions.

In this global setting, the domestic content bill is a modest effort in the direction of seeing to it that the most vulnerable people in the world should not be forced to pay the costs of the most wrenching economic transition in a century—from smokestack capitalism to computerized capitalism. The alternative is not a 19th-century idyll of free-trade markets; it is a world run from the boardrooms of multinational corporations.

Mr. FRENZEL. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Chairman, I rise in support of H.R. 5133, the Fair Practice in Automotive Products Act. However, as a supporter of free trade principles, I carefully and thoroughly assessed the ramifications of the "domestic content" legislation and welcome the opportunity to explain my decision to send a strong signal to countries which do not share our principles.

An objective assessment of U.S. trade policy clearly indicates in case after case, country after country, that the U.S. exports face governmental subsidies, high tariffs, credit financing and in many instances, illegal quotas under the General Agreement on Tariffs and Trade (GATT). And while Europe engaged in government subsidized export financing, our Japanese trading partners maintain beyond any doubt, the tightest of all markets—bar none. Whereas Japan enjoys 75 percent of our electronics sales, 25 percent of our auto business and an increasingly high percentage of consumer goods, the United States is slapped with stiff quotas on beef, citrus, and other commodities as to effectively be priced out of the market. Chicken, for instance, that sells in

New York for $2.19 per pound is sold for $5.35 per pound in Japan.

I believe it is essential that the United States send a message to Japan and other trading partners that until they adhere to a policy that guarantees our ability to compete equitably we will be willing to take another look at our relatively free import policy. Fairness and balance in trade, after all, must be reciprocal. Presently, 31 nations, including England, France, Italy, West Germany, and Australia all have placed restrictions on the import of foreign made cars. Here in the United States, since 1978, Japanese imports have risen from 12.1 percent of the U.S. automobile market. Estimates from Merrill Lynch Economics and the National Academy of Engineers show that by 1990, Japanese imports could rise anywhere from 40 to 60 percent.

By implementing domestic content legislation, we are not seeking to limit Japan's ability to compete. We are simply alerting them to the fact that the United States can no longer afford to engage in a policy in which American auto companies in Japan assume 0.9 percent of the market and the Japanese assume 30 percent of ours. We need to address the question of balance of trade and make the Japanese aware of our discontent with present circumstances. We can not idly sit by while the United States-Japan trade deficit in automobiles climbs yearly to the present $47 billion. Japanese exports are soaring due to the undervalue of the yen and the marked increase in the dollar's value.

Of course, our own automobile industry and the Federal Government must simultaneously work toward more permanent, positive, long-term solutions—industrial innovation, downsizing and professional pride to name just a few. My visit to Japan last year taught me that technological innovation, retooling and viable labor policies can and do make for higher production innovation. In addition, my support for my colleague Representative SHAMANSKY'S "perfect car" initiative lends further credence to my argument that the United States has the capacity to build a fuel efficient, environmentally safe and reasonably priced vehicle using existing technology.

Let us not be antagonistic with our trading partners, but rather, work willingly and fairly. Domestic content should not be viewed as the antagonists approach but should instead be recognized as an effective means by which to convey American sentiment that we are indeed serious about fair trade. The Japanese can no longer be allowed to continue on a course in which more than 20 GATT illegal quotas are imposed on American products.

I urge my colleagues to recognize the importance of such a signal and thereby support the intent of this "domestic content" legislation.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first, as I start, there are a few things that I would like to stipulate: First, the Europeans are not following the international trade agreements; second, the Japanese are not following the international trade agreements; and third, the Americans are not following the international trade agreements.

We do have a choice. We can live in a jungle or we can live under our agreements. All of us must keep them. That is my position.

My second position is that we do not live to trade; we trade to live. We should trade nothing that we cannot grow better here or manufacture better here, and I do not think anybody else should dump any goods into our market, perform any predatory practices in our market, or subsidize their goods into our market.

I think that all within this room can agree with what I have said up to this point. It is perhaps at this point that we begin to follow divergent lines. But I want to assure everyone within this room and every Member of Congress and every American that as the chairman of the Trade Subcommittee of the Committee on Ways and Means, I feel that I am following that course of action, and I shall continue to follow it as long as I am allowed to be that chairman.

I want laws that are fair and international agreements that are fair to the rich, to the poor, to the large, to the small, to the developing, and to the undeveloped.

In truth, and in fact, Mr. Chairman, I believe in the rule of law, just law.

Mr. Chairman, I will also stipulate that there are enough votes in this House to pass this bill. With some clever maneuvering it could probably be added on to something in the Senate and go to the President. We would then have a veto situation on our hands. I do not know what would happen then. But, truthfully, I do not worry about that happening to this bill because this bill is such a ridiculous piece of legislation that I do not believe the proponents of it, when taken away from the charged atmosphere of this Chamber, would say that we ought to go that far.

To use a terrible cliche, this bill shoots us in the foot. This bill in its present form—perhaps it can be changed, but I know not how—will have the ultimate impact of increasing prices and inflation in America, making America less competitive in the world, destroying jobs in America, and transferring some jobs from competitive industries to the less competitive automobile sector at an atrocious cost. The best estimate is that it would cost for each job saved and transferred in the automobile industry about $100,000 per worker per year.

In the automobile industry—and I have the greatest sympathy for all those people who have made their living and cast their lives with the automobile industry—unemployment is a personal disaster. It wrecks homes and families. We have an industry that is in transition. We have an industry that at one time was the technological leader of the world. It was the most productive industry in America. Somewhere, sometime, it began to slip. It is now an industry in transition. It is an industry that has been characterized as being labor-intensive with low-skilled workers. Those kinds of industries just cannot survive in America. The leaders, labor leaders and management leaders, recognize that.

This is an industry in transition, and we should have some kind of humanitarian program to help those people who cannot help themselves because they are caught in this transition. We had a program known as trade adjustment assistance. It was ill-designed, it did not work, and it has been abandoned. But that does not mean that we should not have a program.

We should help this industry make the transition, and this Government has attempted to do that. We have the highest tariff on light trucks of any country in the world. Perhaps that will at some time be of some advantage. The light truck tariff in the United States is 25 percent ad valorem. If we want to help the U.S. Treasury, we should buy a Japanese truck. That is a ridiculous thing, but 25 percent of the value of that truck or a German truck or a truck from anybody else goes into the U.S. Treasury. No other industrialized nation in the free world has as high a tariff as we do.

There are no more Japanese cars coming into this market now than there were 4 years ago. We pressured them and probably stretched our antitrust laws to the limit. The Japanese voluntarily restrained the exportation of their cars to our country. But what did they do? They are not stupid. They did what any intelligent person would do, and, I think, what any American would do certainly. They just boosted the price of all the cars they send to this country.

The CHAIRMAN. The time of the gentleman from Florida (Mr. GIBBONS) has expired.

Mr. GIBBONS. Mr. Chairman, may I inquire, has all the time available to me now expired?

The CHAIRMAN. The gentleman is correct.

Mr. FRENZEL. Mr. Chairman, I yield my last remaining 1 minute to

the gentleman from Florida, and extend to him my good wishes.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman from Minnesota (Mr. FRENZEL).

Mr. Chairman, I have nothing but good wishes toward every Member in this debate, no matter what side he is on. It is a serious matter.

I hope that we can fashion a solution to this problem that is uniquely American. No one who understands the Japanese would want to trade places with them. Their Government has imposed upon them a condition that would in this country cause a reenactment of the Boston Tea Party. We should not attempt to emulate them.

Their Government tells them what they can buy and how much they have to pay for it. Their Government restricts them from the opportunity to get the benefit of their work. That is almost slavery. They live in substandard homes, in a polluted environment that no American would put up with, all for the purpose of perpetuating the type of economy that they have there.

The CHAIRMAN. The time of the gentleman from Florida (Mr. GIBBONS) has expired.

□ 1300

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Fair Practices in Automotive Products Act has attracted a tremendous amount of attention both in and out of Congress. When my subcommittee heard testimony on the legislation this spring, 124 Members of the House had already cosponsored it. The number has now grown to 223.

With car sales falling far below even last year's record low level, the demand for relief for the auto industry is growing stronger every day. Even as car levels have declined, foreign car manufacturers have steadily increased their penetration of the U.S. market. As a result, many have called for restrictions on foreign car imports as a way of bringing about the recovery of the U.S. automobile industry.

Mr. Chairman, I would like to comment for a moment on the criticism this bill has received from those who claim it threatens to undermine our international free-trade system. I reject this notion for the simple reason that, except for isolated cases, there is very little "free trade" left in the commercial relationships between our country and many of our trading partners.

Mr. Chairman, at the heart of our free trade system is the concept of balance of concessions. Under this principle, each country extends to its partners trade concessions which approximate the trade concessions or benefits which it enjoys. In this way, the nations of the world have assurances of equal trade opportunities and no country is victimized.

In exchange for the claim foreign auto makers have on the U.S. market, this principle would dictate that foreign auto producing nations should extend to the U.S. trade opportunities which approximate those they have in the American market.

For example, the United States has been talking with Japan about buying more American-made auto parts for many years. Annually, U.S. companies buy $2 billion worth of Japanese parts whereas Japan purchased last year only about $100 million worth of U.S.-made parts.

These efforts, which have been a high negotiating priority of the United States for some time, have failed terribly. An agreement was reached 2 years ago under which Japan was to triple its annual purchase of U.S. auto parts, but that objective has never been achieved.

In other areas like beef, citrus, tobacco, insurance, aluminum smelting, petrochemicals, telecommunications, pharmaceuticals, medical and dental equpment, and reactors, Japan also treats American business unfairly. These are all industries in which the United States has achieved greater productivity and efficiency than Japan and which, under a real system of free trade, the United States should be able to capture substantial shares of the Japanese market. To date, very little progress has been made in removing these and other barriers which prevent U.S. products from competing fairly in many foreign countries.

The United States and many auto producing nations simply do not enjoy reciprocal trade benefits, thus creating a distinct imbalance in the trade concessions or benefits which each enjoys. Our trading relationship with these countries does not, therefore, offer any remedy to that part of the U.S. unemployment problem that is caused by this imbalance.

For these reasons, I reject the charge some have made that this legislation will set off a new wave of international trade protectionism. Instead, I believe our Government not only is justified but has an obligation to take direct steps now to restore fairness and equity to our trade relations with many of our trading partners. I believe this bill is a positive step in that direction.

Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. DINGELL).

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) will be recognized for 5 minutes.

Mr. DINGELL. Mr. Chairman, I thank my good friend and colleague, the distinguished subcommittee chairman, for yielding me this time.

There have been some comments made during the course of the debate here about how Members have received campaign contributions from this sort of giver or that. That denigrates the House and it also denigrates the maker of that statement because I am disposed to believe that the Members here are honorable men and that we are going to discuss this issue on its merits.

The issue here before us is jobs. The issue here before us is not free trade, it is fair trade.

Every industrial nation in the world that produces automobiles discriminates against American auto producers. Every nation in the world that sells to Japan finds itself discriminated against by the Japanese on autos and everything else.

The United States is the only Nation in the world which practices free trade and fair trade. It is the only Nation in the world which has other nations dumping every kind of commodity in this country below cost and subsidizing their industry, from agriculture, to steel, to automobiles, to leather, to food products, to everything else.

To my good friend from Florida (Mr. GIBBONS), and he is my good friend, I say, we have been fond of each other for a long time. I respect and admire him. I enjoy needling him about the way he has handled this matter, as he enjoys needling me, too. He tells how he held days of hearings on the bill, and he did. They were excellent hearings but they do not deal with the basic point that his committee could deal with.

These hearings could have dealt with what the Japanese are doing to the United States and how we could get a decent reciprocal, trade relationship with the Japanese which would be truly one that would work for the benefit not just of the automobile workers, but for the benefit of everybody else and for every other industry in the country.

The reason why this kind of legislation is coming to the floor from the Committee on Energy and Commerce is that the Ways and Means Committee has not done its job and has not taken the steps that are necessary to protect basic American industries and to see to it that we are treated fairly.

American plays by the Marquis of Queensbury's rules and the others have their knee in our groin. That is not fair trade. That is not free trade. It is practice which sanctifies the most vicious kind of discriminatory practice to the great hurt of our people.

The gentleman would have us believe that autos are the only instance where there has been a trade problem. That is not true. In the case of steel, there have been well-documented cases of dumping, subsidizing of exports in our U.S. market, and closure of foreign markets to our exports.

Let me read my colleagues something from Ambassador Macdonald, our trade representative, describing some of the American industries that are afflicted by restrictive practices by the Japanese on U.S. exports to Japan, leather, beef, beef products and citrus; fruit and vegetable quotas, and inter alia, some 28 quotas on other things such as high test molasses and canned pineapples.

I could tell my friends from the Pacific Northwest of Japanese discrimintions which he cites about lumber and lumber products and plywood.

I will put in the RECORD at the appropriate time a letter to my good friend from Florida from Ambassador Macdonald. I would commend to him that he should read that letter because it tells what the Japanese do to discriminate against Americans and American products and American goods.

We give them free access. They deny us. They do not even permit American firms to participate in the standard making which goes into market acceptability and compliance with Japanese law and voluntary standards.

They have all manner of provisions for sustaining and supporting industries in their developmental stages and the minute a Japanese industry begins to hurt they have other restictive devices to prevent Americans from achieving any advantage in the Japanese markets.

It takes months before Americans are able to get clearance through all manner of governmental devices by the Japanese. But that is only part of the issue.

We are sending a message to the Japanese with this bill, and it is good that we should. But it is also good that we should recognize that the sinews of America are America's heavy industry, steel, and autos and the workers that work in those industries and the supplier industries to those industries.

Without those industries there will not be any national defense and there will be not much here to defend because Americans will not have industry, they will not have jobs, and we will not have a standard of living worthy of the name.

The Japanese denied admission of the United States automobiles totally to Japan until a few years ago. The Japanese until just recently required that tobacco products had to be advertised in English in Japan and they limited the number of outlets to a very few. The Japanese increase the cost of American food products manyfold before they can be sold in Japan.

We are simply trying to keep in place a basic American industry essential to the well-being of American workers and essential to the national defense. That is what is at issue here.

Mr. Chairman, this is important legislation for the working people of America—for those who are a part of the motor vehicle industry and for those who are not. Today, unemployment in the U.S. automotive industry exceeds a quarter million workers, and new layoffs are announced weekly. My State of Michigan, one of the leading automobile and truck producing States, now has an unemployment rate of 17.2 percent

According to the Labor Department, employment in automobile manufacturing has dropped from 762,400 in December 1978, to just 459,700 in April 1982. In addition, thousands of other workers whose jobs are related to the vehicle manufacturing industry, or who live and work in communities dependent on the vehicle manufacturing industry, have been fired or laid off. Some 800,000 workers in Illinois, Indiana, Michigan, and Ohio have exhausted extended unemployment benefits since January 1980. Many of these workers are a part of the record 10.8-percent national unemployment rate reported last week by the Department of Labor, and others are not even counted in the figures.

The cost to the Federal Government of this devastating unemployment in the automobile industry in terms of lost tax revenues and payments to the unemployed has run into the billions of dollars for each of the last 2 years—the cost for State and local governments has been enormous as well. Some estimates are that 1 million jobs have been lost due to the auto crisis—a full percentage point in our national unemployment rate. Since it is estimated that each percentage point rise in the unemployment rate results in a loss of roughly $25 to $30 billion to the U.S. Treasury, it is clear why we must take action now. As we face a potential deficit in fiscal year 1983 of $200 billion, we must consider this bill and all other means of getting Americans back to work. Until we do that, this deficit well never go away.

H.R. 5133 will put thousands of Americans back to work. It is a fair and balanced response to current problems in the world automobile market. There is no such thing as "free trade" today in the automobile industry or, for that matter, in other industries. Germany, France, the United Kingdom, and Italy: All have sharp curbs on Japanese encroachment into their automobile markets. And the Japanese, who flatly prohibited auto imports until the early 1970's, rely now on a system of nontariff trade barriers to block foreign entry into their market.

The deputy U.S. Trade Representative, in a November 10, 1982, report to subcommittee Chairman GIBBONS entitled "Japanese Barriers to U.S. Trade and Recent Japanese Government Trade Initiatives," said that the Japanese Ministry of Transportation "has repeatedly turned down a U.S. request to recognize U.S. manufacturers' self-certification of automobiles to Japanese standards." Yet the U.S. permits, as he points out, "all auto manufacturers to self-certify compliance with U.S. regulations." He also said that despite "a May 1980 commitment" by the Japanese to accept public affirmations of the "dates of manufacture" of U.S. vehicles, which are necessary in Japan to determine which year's regulations tests must be performed on imported cars, the ministry of transportation has not yet adopted the necessary implementing procedures.

The only major open market in the world for motor vehicles is the United States, and we have become victims of the Japanese export economy—a trade philosophy which provides for worker security in Japan and unemployment in the United States.

That is why American labor unions are so supportive of the bill, from the United Auto Workers to the AFL-CIO and steelworkers. Others supporting the bill include the NAACP, consumer groups, women's groups, senior citizens, the National Urban League and many other organizations.

H.R. 5133 simply requires that those who want to sell to the U.S. market return something to that market in the form of jobs and investment. It does not distinguish foreign manufacturers from domestic manufacturers—it treats them all equally. It does not exclude foreign companies from selling vehicles in the United States, as a quota would do, but allows all companies to sell in the United States on a fair and equal footing. Nor does the bill automatically raise the cost of foreign vehicles in the U.S. market—as would a tariff.

The bill that was reported to the House by the Committee on Energy and Commerce adopts a carefully considered, administratively workable and a equitable local content requirement. In the 9 days of testimony by over 50 witnesses before the Ways and Means Trade Subcommittee, virtually no criticism was directed at the technical provisions of the bill. It has been carefully crafted, and is much improved over the bill as introduced.

First, the bill has been simplified and is consistent with other legislation relating to the motor vehicle industry. The adoption of the energy policy and conservation act approach, which is based on U.S. customs data about imports by each manufacturer, means that the bill will be simple to administer and enforce. The bill works model year by model year, so that it takes into account the production schedule of the industry. Moreover, the motor vehicle industry is already familiar with the energy policy conservation act system, so it can readily adapt its practices to the bill's requirements

without the need for complicated and costly accounting systems.

Second, the bill sets a schedule of domestic content requirements which recognize the efficiencies of production in the motor vehicle industry. This bill encourages the production of motor vehicles and parts in the United States—it does not exclude these products from entering the country. In order to achieve this purpose, the bill sets domestic content requirements at a level which can be met by U.S. and foreign manufacturers alike. The "Big Three" U.S. auto companies are today in compliance with the strictest requirement the bill would impose, as are Volkswagen of America, which is producing cars in New Stanton, Pa., and American Motors Corp., with both its domestic nameplate cars and its new jointly produced cars with Renault.

Those who argue that H.R. 5133 prevents auto companies from making efficient investment decisions, and that this will drive up the price of cars, do not understand how this bill works. The bill leaves manufacturers free to organize production in anyway they deem appropriate in order to take advantage of economies of scale, specialization, diversification of supply networks, and worldwide markets.

Under this bill, companies would be free to market cars in the United States whose engines are made in Japan, transmissions in Brazil, bumpers in Mexico, bodies and differentials and wheels made in various parts of the United States—or any other production and supply configuration they consider to be efficient. What the bill says to the auto industry is "organize production anyway you want, but if you are going to sell a large number of cars in the United States, then you must also see that we get a fair share of the jobs and investment generated by your U.S. sales."

Third, the bill sets fair penalties for violating the law. The penalties provided in the bill "fit the crime." A manufacturer who violates the law is penalized in proportion to the extent of the violation. This provision will also serve to encourage compliance and, unlike the bill as introduced, does not set arbitrary thresholds for dramatic changes in the requirements. Thus, H.R. 5133 is carefully designed not to throw the baby out with the bath water—it focuses exclusively on the real goal: To protect U.S. jobs while leaving the maximum room for management flexibility, efficiency, and competition.

The Congressional Budget Office and Congressional Research Service did studies which claimed that H.R. 5133 would dramatically increase car prices and would actually reduce U.S. jobs. Some of the Members may have seen these studies referred to in advertisements which have been run in newspapers over the last couple of days by an organization of foreign car importers and dealers, and we will hear about these studies in our debate on this bill. In fact, these studies are based on two completely unrealistic assumptions: First, that Toyota, Nissan, and Honda would effectively abandon the U.S. market by reducing sales to between 100,000 and 250,000 vehicles rather than complying with the law, and second, that there should be massive retaliation by many other countries against U.S. exports. Both of these assumptions are absurd.

First, Toyota sold 719,000 cars and light trucks in the United States in 1981. Nissan sold 736,000 and Honda 371,000. These account for 20 percent, 25 percent, and 35 percent respectively of all the cars these companies made in that year. These companies simply cannot afford to abandon the U.S. market. Reducing U.S. sales to 100,000 would reduce Toyota worldwide sales by 620,000—or 17 percent—Nissan by 637,000—or 21.6 percent—and Honda by 272,000—or 25.5 percent. None of these companies can possibly afford such declines: There is nowhere else to sell such a huge number of cars—every other major market for Japanese cars already has restraints. In fact, despite their protestations to the contrary, if we stand firm and pass this bill there is no doubt that the major Japanese companies will adjust to reality and start buying U.S. manufacturing capacity.

Second, retaliation: The CBO and CRS studies assumed massive retaliation by all or most of our trading partners sufficient to reduce all our exports by the same proportion as we reduce automotive imports. This too is absurd.

First, no other country except Japan is affected because all other companies either sell too few cars in the United States or have already built sufficient U.S. capacity to bring them into compliance. Further many of these same countries; for example, France, Italy, Great Britain, themselves have very tough restrictions on imports of Japanese cars—why should they object if we impose much less restrictive requirements than they have themselves?

Second, the Japanese are not going to retaliate either. They have never retaliated against any of the other countries which have import restrictions; the Japanese sell far more to us then we do to them; and they are far more dependent on foreign trade than we are. Any restrictive trade practice would damage their economy far more than ours. They know this and they know that they cannot tolerate such a battle. So far they have been able to exploit our naive, fuzzy ideal commitment to textbook free trade by pursuing ruthless mercantilist policies. But that approach only succeeds so long as we acquiesce in our own exploitation.

Obviously the Japanese would like to continue to benefit from this situation for as long as possible. And so they and their companies claim that they will abandon the U.S. market rather than comply with local content requirements—even ones which are shown to be practical. But I am totally convinced that if we stand firm the Japanese will have no choice but to relent and begin playing by less selfish rules. They have shown a remarkable capacity to adjust to hard reality—and to prosper—in other situations. I am sure they will display the same qualities again.

In sum, I am fully convinced that should H.R. 5133 become law there will be no retaliation at all—not by Japan and not by our other trading partners. The CBO study concluded that should there be no trade retaliation, H.R. 5133 would stimulate economic activity, increase GNP and create about 250,000 new jobs—to say nothing of the existing jobs which would be protected from further erosion. This is what I firmly believe will really happen if we make the bill law.

In conclusion, the "local content" requirement which is reflected in H.R. 5133 is a needed and fair response to the invasion of foreign vehicles into the U.S. marketplace. It is a necessary bill for American workers, and it is a fair bill for American consumers. It will bring jobs and investment into the United States, and it will continue to provide the American consumer with a wide selection at the lowest price.

This bill encourages foreign automakers to utilize auto parts built in the United States and to build facilities here just as some have already done, like Volkswagen of America and Honda. It does not establish a quota or a trade barrier. It is a fair bill designed to provide more jobs which have been lost on part due to the deep penetration of foreign automakers into our markets under our free trade policies.

To illustrate some of the concerns, I want to point out that the Japanese still maintain onerous tariffs on U.S. goods imported into Japan. These tariffs make U.S. goods overly expensive and restrict the market even where the U.S. product is much better than the Japanese equivalent.

Even with the administration's much publicized May 28 package of tariff reductions, Ambassador David MacDonald reported to a congressional committee on September 14, 1982, that significant tariff reductions were needed on Wood and wood products; paper and paper products; unwrought magnesium; refined copper; chocolate confectionery; feather and down bedding; harvesting equipment; tobacco product; leather; computers and computer parts; cash registers; photo-

graphic enlargers; and photograph files.

While there might be some justification for a tariff on some of these goods, it is hard to believe that the Japanese cannot fairly compete in photographic goods.

The November 10, 1982, report by the U.S. Trade Representative indicated that Japan currently maintains quotas on 27 items which the United States believes violate the tariff provisions of the GATT. These include:

Leather.

Beef: In addition to a 25-percent tariff on imported beef, the use of a quota has the effect of raising the price of beef to over $12 a pound.

Citrus: Japan uses "general" and "seasonal" quotas to exclude United States imports of citrus. In addition, seasonally adjusted tariffs range from 20 to 40 percent, and the tariffs on juices range from 22.5 to 30 percent.

Fruit and vegetable quotas limit imports of United States: grape and apple juice; tomato juice, ketchup and sauce; as well as other products available for U.S. export. These quotas are sometimes announced on an emergency basis, so U.S. exporters cannot predict or plan for them.

The May 28 reductions in quotas on four items (herring, prepared and preserved pork, high-test molasses, and canned pineapples) are not of major interest to the United States.

The Japanese agricultural standard (JAS) on structural plywood, written for domestic makers that use a hardwood to make plywood, specifies how the plywood should be put together—for example, how the plies should be assembled and bonded—rather than how the plywood should perform in use. The lowest grade plywood most commonly used for construction in the United States does not meet the standard, partly because it is made from softwood and partly because of U.S. production methods. For example, if the knothole in the wooden panels exceeds the limit in the Japanese standard, the panel is rejected despite the fact that U.S. technical data demonstrate that the U.S. product equals or exceeds the performance characteristics of the Japanese produced product.

The U.S. plywood products industry has pushed for 8 years for a new Japanese standard on structural plywood. Three years ago Japan with the United States developed a mutually acceptable performance standard for structural plywood by 1980. Two years after the deadline has passed, we continue to hear about complex negotiations on "knothole" size and the "white speck" problem, but U.S. exports still have not increased.

The Japanese Ministry of Transportation (MOT) has repeatedly turned down a U.S. request to recognize U.S. manufacturers' self-certification of automobiles to Japanese standards. The U.S. permits all auto manufacturers to self-certify compliance with U.S. regulations. The MOT still has not adopted administrative procedures to implement a May 1980 commitment to accept U.S. notaries public affirmations of the "dates of manufacture" of U.S. automobiles. "Dates of manufacture" are necessary in Japan to determine which year's regulations tests must be performed on U.S. imported automobiles.

There has been more than a 2-year delay in resolving this standard issue, which is one of many in the automobile area.

Japan's restrictive standards and approval procedures exclude foreign products from the market because of the prohibitive cost of establishing at the border that the product meets the requirements or delaying their entry, often long enough to allow Japanese manufacturers to introduce a competitive product.

Foreign companies are excluded from the Japanese standards-writing process so they often learn about prospective new or revised standards well after their Japanese competitors.

Japanese standards are often written in terms of design criteria rather than performance specifications. As a result, an American-made product may not be acceptable because of minor differences in design. Even though these variations do not affect the product's compliance with the performance objective of the standards.

Japan refuses to accept test data developed outside Japan for many products, including pharmaceuticals and medical equipment. Testing is very expensive, as complete samples must be provided. Backlogs in Japan for starting tests on electrical and medical products, for example, are up to 5 or 6 months. The testing process itself can take another 3 to 4 months, and delays of 1 to 2 years have been cited in cases of medical equipment products.

Product standard problems could be resolved if inspectors from Japan visited and inspected the manufacturing site, or accepted U.S. product approval. But they will not do so.

According to the U.S. Trade Representative other standards barriers apply to: Cherries, sake, dried fruit, concentrated fruit juice, processed foods, frozen bull semen, pharmaceuticals, cosmetics, autos, sporting goods, plywood, and other chemical substances.

The Japan tobacco and salt public corporation (JTS) is a government monoply. JTS is obligated to buy all domestically produced tobacco leaf (some 140,000 tons annually) at prices three times the world price.

JTS strictly controls sales of imported cigarettes, cigars, and pipe tobacco, permitting them to be distributed at only 20,000 of 250,000 tobacco products shops and selling them at much higher prices than domestic cigarettes.

Japan imposes 35-percent tariff on imported cigarettes. The effect is that imported cigarettes sell in Japan for 55 percent more than comparable Japanese brands. Even though their pretariff price when entering Japan is about the same as the price of Japanese brands.

As a consequence of tariff and nontariff barriers, the U.S. share of the Japanese cigarette market is still only slightly over 1 percent. U.S. industry estimates our potential share of the Japanese market in the absence of any barriers range upward from 25 to 50 percent. Since each percent of market share is roughly equal to $50 million, the potential value of increased U.S. exports in this sector is between $1.2 and $2.5 billion.

At this juncture, I insert the full text of the November 10, 1982, report:

DEPUTY U.S. TRADE REPRESENTATIVE,
Washington, D.C., November 10, 1982.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It gives me great pleasure to be able to transmit the enclosed document entitled Japanese Barriers to U.S. Trade and Recent Japanese Government Trade Initiatives. The document represents the collective efforts of the member agencies of the Trade Policy Committee (TPC). It is an attempt to identify and catalogue the barriers, both direct and indirect, to imported goods, services, and foreign investment currently in effect in Japan, and the actions and commitments on the part of the Japanese Government, if any, to reduce or eliminate them. We plan to update this catalogue on a periodic basis as developments merit.

The range of particular Japanese Government and private sector policies and practices addressed in the paper are not the only factors that affect the flow of imported goods, services, and investment into Japan. That flow also is influenced by macro-economic factors which are not specifically addressed in the paper. Of particular importance in this regard is the relationship of the value of the yen to that of the dollar.

In recent months the yen has depreciated considerably against the dollar, as have all major currencies, and this depreciation has enhanced the price competitiveness of Japanese exports to the United States, while decreasing the competitiveness of U.S. exports to Japan. The reduced competitiveness of U.S. exports, coming at a time of increasing penetration of the U.S. market by Japanese products, has contributed to the frustrations experienced by U.S. businessmen attempting to compete in the Japanese market, and has further exacerbated U.S.-Japan trade frictions. As a result, criticisms have been raised that the Japanese yen is artifically undervalued vis-a-vis the dollar. It is a particularly complex issue and has been and will continue to be the subject of considerable study within the government and the private sector.

Mr. Chairman, I appreciate the Committee's considerable patience with this exercise. I am confident that the Committee will find the document informative and useful

and that it will contribute to its understanding of the Japanese trading system. In that regard, I believe the Committee will find the wait worthwhile.

Sincerely,

DAVID R. MACDONALD.

JAPANESE BARRIERS TO U.S. TRADE AND RECENT JAPANESE GOVERNMENT TRADE INITIATIVES, NOVEMBER 1982

OVERVIEW

This paper is an attempt to identify and catalogue the barriers, both direct and indirect, to imported goods, services, and foreign investment currently in effect in Japan. The paper also details recent actions or commitments, if any, by the Japanese Government to reduce or eliminate such barriers. Every effort has been made to make the list as up to date and complete as possible. Nevertheless, the list is necessarily a provisional one and is subject to revision, addition, or deletion, as new barriers are identified and existing barriers are reduced or eliminated.

For the past decade and a half, the United States has made a concerted effort to persuade Japan to open the Japanese economy to foreign goods, services, and investment. Over the course of that time, Japan has moved slowly, but steadily, towards a more open economy. Although the Japanese market in 1982 is substantially more open to foreign goods, services, and investment than it was only a few years ago, barriers to imported goods, services, and foreign investment still remain. Needless to say, Japan is not unique in maintaining barriers to foreign goods, services, and investment in its economy. All countries, including the United States, maintain certain barriers to trade and investment. Nor are all the barriers maintained by Japan inconsistent with her international obligations. However, a widespread perception persists among Japan's trading partners, including the United States, the European Community, and others, and not incorrectly, that the Japanese market remains relatively less open to foreign suppliers when compared to access for Japanese goods and services in their markets. This perception has resulted in increasing friction between Japan and her trading partners in recent years as the volume of Japanese exports and their percentage of world trade has grown considerably.

Over the past year, our two countries have developed, largely at U.S. initiative, the elements of a new institutional framework for bilateral trade consultations and negotiations. The oldest of these, the Trade Facilitation Committee, was established in 1977 with the objective of resolving specific cases involving individual firms where Japanese Government policies or private sector practices constitute barriers to U.S. access. In 1979 the U.S.-Japan Bilateral Forest Products Committee was established to consult on problems involving trade in logs and wood products. More recently, this past year has seen a number of new bilateral institutions created, in some instances with broader purposes than the TFC, and in others with specific industry sector-related objectives. These include: first, the U.S.-Japan Trade Subcommittee in which broad-ranging trade policy issues are reviewed and negotiated; second, the U.S.-Japan Ad Hoc Study Group on Petrochemicals set up to examine the factors affecting chemical production and trade; and third, the U.S.-Japan Work on High Technology, where objectives include reducing or eliminating distortions to trade in these important industries. Two other groups, one addressing issues concerning manufactured tobacco products and the other beef and citrus, will begin meeting in October 1982.

As a result of these efforts, particularly over the past several months, the Japanese Government has announced a number of initiatives to liberalize access to Japanese markets. In November 1981, Japan agreed to make effective on April 1, 1982, many of the tariff cuts which it had scheduled for implementation under the Multilateral Trade Negotiations for fiscal years 1983 and 1984. On January 30, the Japanese Government announced the creation of an Office of Trade Ombudsman (OTO) to handle complaints about import practices. It also announced its commitment to implement some 67 actions to alleviate non-tariff barriers, primarily in the customs and standards areas. Most recently, on May 28, the GOJ announced a second, broader set of initiatives addressing both tariff and non-tariff barriers. In addition, Prime Minister Suzuki made a concurrent statement appealing to both Japanese officials and the public to welcome foreign imports.

The list of barriers that follows incorporates whatever action or commitment that has been undertaken by the Japanese Government in each case, if any, in the recent initiatives. In view of the very recent announcement of the last set of initiatives, and since the positive value of the recently made commitments will depend on the spirit in which the measures are implemented, assessment of their effectiveness in lowering the barriers to U.S. imports will be reserved until a detailed analysis, now underway, has been completed. Efforts to clarify the implementation of these measures by the Japanese Government also are underway. Such efforts began with a visit to Japan by an interagency USG delegation, within the framework of the U.S.-Japan Trade Subcommittee, during August 1982. There will be frequent subsequent visits for the purpose of working with the Government of Japan to ensure full implementation of the package and in pursuit of our overall goal of opening the Japanese economy to U.S. goods, services, and investment.

We view the latest package as part of a continuing process of opening the Japanese market, primarily, but not exclusively, through such bilateral negotiations. Needless to say, when bilateral negotiations fail to achieve satisfactory resolution of outstanding problems of access, U.S. policy is to act to promote such access using, as appropriate, either the authority contained in various sections of existing U.S. trade law or, in those instances in which Japanese trade barriers are inconsistent with Japan's international obligations, the appropriate dispute settlement mechanisms contained in the General Agreement on Tariffs and Trade (GATT) and the various codes negotiated during the Tokyo Round of the Multilateral Trade Negotiations (MTN). In pursuance of this policy, the U.S. Government has begun formal consultations in Geneva on our complaint against Japan for failure to conform to its obligation to provide equal treatment under the Standards Code in the case of aluminum softball bats. The complaint has wide ranging implications since it involves a dispute about equal access to Japan's national certification systems. In addition, the U.S. Government has informed Japan of its decision to reopen formal consultations under Article XXIII of the GATT on the issue of Japan's system of quotas on imported leather goods. In both of these disputes, lengthy bilateral negotiations failed to resolve the differences between the U.S. and Japanese positions and to promote increased U.S. access to the Japanese market. Preparations are underway to take similar action in the case of other issues which have been the subject of lengthy and unproductive bilateral negotiations.

The discussion of the barriers in the following list is organized into those deriving from government policy, of which three broadtypes are covered—import policy, regulatory policy, and industrial policy—and those deriving from private sector factors—including Japan's industrial structure, distribution system, and buy-national attitudes. Many of these policies and factors were not designed primarily to discriminate against, or exclude from the Japanese market, foreign goods and services. But that has often been their practical effect. We have treated these obstacles separately and independently, for analytic purposes, in this paper. In fact, however, the interrelationships among the obstacles which U.S. exporters confront, and their complexity, greatly complicate the process of identifying and negotiating their removal.

IMPORT POLICY

A. Tariffs

Discussion

In the 1973-1979 Tokyo Round of Multilateral Trade Negotiations (MTN) the Government of Japan (GOJ) agreed to a final tariff level that, on average, would be about equivalent to that of the U.S. or the EC. Recent Japanese actions have accelerated the implementation of their MTN reductions and, in some cases, have gone further than those levels. Tariffs will be eliminated on 96 products. Despite these actions, high tariffs remain on a number of products in which the U.S. has a significant interest, and for which we have requested tariff elimination or reductions; for example: wood and wood products, manufactured tobacco products, chocolate confectionery, beef, citrus, egg products, leather and furskins, refined copper, and kraft paper.

GOJ Action

On April 1, 1982, Japan implemented MTN tariff cuts scheduled for 1983 and 1984. This action affected 1,635 items, or about 60 percent of all dutiable products.

In its May 28 package of trade measures, Japan eliminated duties on 96 items, including digital calculating machines, cut diamonds, medical equipment, and certain machine tools, as well as reducing tariffs on 102 items, including such economically important items as photographic film, and selected agricultural products.

B. Quotas and quota administration

Discussion

Since 1963, Japan has eliminated the majority of its quotas; however, 22 agricultural and marine product quotas, 4 quotas on leather and leather products, and a quota on coal briquettes (see Attachment A) remain, which significantly inhibit U.S. exports. It is the U.S. view that most of these quotas are in violation of Japan's obligations under the General Agreement on Tariffs and Trade (GATT), and the U.S. Government has repeatedly requested the elimination of the quotas. Recent Japanese actions have slightly expanded the size of some of the quotas.

In addition to the quotas themselves, the lack of transparency in their establishment

and maintenance adversely affects U.S. exports. Problems include arbitrary changes in quota size and late announcement of, or failure to announce, quota levels. The involvement of domestic competitors in administering quotas severely restricts even the limited access to the Japanese market granted under the quotas.

Examples of specific problems encountered in the administration of the quotas include:

Leather: The amount of the global quota has never been made public (which is also the case for some fruit product quota).

The quota is allocated only to tanners or to importers/wholesalers who are members of specific organizations. There are no quota allocations to end users.

Beef: Each year in March, prior to the start of the Japanese fiscal year (JFY) on April 1, the Ministry of Agriculture, Forestry, and Fisheries (MAFF), through an advisory council, establishes the upper and lower stabilization prices for that year for the wholesale price of beef carcasses. When wholesale beef carcass prices drop below the lower stabilization price, the Livestock Industry Promotion Corporation (LIPC), a quasi-governmental corporation, buys and stores beef. When wholesale beef carcass prices exceed the upper stabilization price, the LIPC releases beef bought up at support prices plus imported beef held in its custody. The GOJ levies a 25 percent *ad valorem* tariff on imported beef. As this usually leaves the cost of imported beef far below prices for domestic beef, import surcharges of various amounts are also assessed on certain imports under the Hotel, Okinawa, and General quotas. The LIPC also establishes minimal "floor release prices," below which certain of its purchases of imported beef cannot be sold. The LIPC is a profitmaking entity, and by law its profits are used for promotion of the livestock industry, rationalization of beef production, and improvement of the distribution system. Cattle imports (for feed or slaughter) are severely restricted by the size of the animal quarantine facilities as well as by a quota on feeder calves. These measures make the price of U.S. beef to Japanese consumers significantly higher than the price at which it enters Japan.

Citrus: The fresh orange quota is divided between "general" and "seasonal." The "seasonal," June-August, quota corresponds to the period of low availability not only of Japanese citrus, but also of U.S. oranges. So during the period when the U.S. has more oranges available, the Japanese quota size is not correspondingly larger. Moreover, the juice quota levels are announced late, making planning more difficult for U.S. shippers.

In addition to the quotas on oranges, orange juice, and grapefruit juice, an array of tariff and non-tariff barriers impede U.S. exports. Oranges face high and seasonally adjusted tariffs (20 percent June-November, 40 percent December-May) which are aimed at protecting the Japanese growers. The juices are subject to tariffs of over 20 percent (ranging from 22.5 percent to 30 percent depending on sucrose content). In addition, a Japanese Government program to promote the sale of domestically produced satsuma (a tangerine type citrus fruit) juice, requires that all imported orange juice be blended with at least 40 percent satsuma juice.

The trade in these citrus products is concentrated among a relatively small number of Japanese firms. The fresh orange quotas are allocated to about 95 Japanese trading firms. However, since eligibility is based on a "record of imports," the top ten companies are estimated to import close to 50 percent of the total. Juice quotas are allocated to only four associations of domestic juice manufacturers who in turn designate Japanese trading companies for the actual transactions.

Fruits and Vegetables: The main problem associated with the grape and apple juice quotas is that they are only announced on an as needed or emergency basis. In the case of grape juice, the quota size increased from 1,500 metric tons in JFY 1979 to 1,800–2,400 metric tons in JFY 1980, and again to 3,600 metric tons in JFY 1981. These changes were not announced until after the beginning of the quota year, thus preventing U.S. exporters from predicting or planning for them. The same problem occurs with respect to apple juice quotas, where the quotas (in metric tons) varied from 1,100 in JFY 1976 to zero in JFY 1977, up again to 2,000 in JFY 1978, down to 1,200 in JFY 1979, and up to 4,000 in JFY 1980.

In the case of fruit purees, pastes, and pulp, and tomato products (tomato juice, ketchup, and sauce), the size of the quota is not announced by the GOJ. Individual companies are informed of their allotments, usually twice per year, and allotments are based on the company's record of imports.

GOJ Action

In its May 28 package, the Government of Japan (GOJ) committed itself to improve market access for four quota items: herring, prepared and preserved pork, hi-test molasses, and canned pineapples. No other quota items were addressed. Beef and citrus negotiations are scheduled for October 1982. Quotas on beef and citrus as well as leather are of major trade interest to the United States.

ATTACHMENT A—JAPANESE QUOTA ITEMS

	BTN number
Livestock:	
Meat of bovine animals	02.01
Milk and cream (fresh)	04.01
Milk and cream (processed)	04.02
Processed cheese	04.04
Meat of bovine animals or pigs prepared or preserved in air tight containers	16.02
Marine products:	
Inshore fish and cod roe (fresh)	03.01
Inshore fish and cod roe (salted, etc.)	03.02
Scallops, shellfish, and cuttlefish (fresh, salted)	03.03
Edible sea weed	[1] 12.08
Fruits and vegetables:	
Oranges and tangerines (fresh)	08.02
Oranges and tangerines (temporarily preserved)	08.11
Fruit puree and fruit pastes	20.05
Pineapples and fruit pulp, canned	20.06
Fruit juices and tomato juice	20.07
Tomato ketchup, tomato sauce, and mixed seasonings	21.04
Sugars and starches:	
Starches and insulin	11.00
Grape sugar, etc.	17.00
Grain:	
Wheat and rice flour, etc	11.00
Wheat and rice groats and meal	11.00
Other agricultural and related foods:	
Small red beans, broad beans, and peas	07.05
Ground nuts (except those for vegetable oil)	12.01
Tubers of Konnyaku (Amorphophallus)	[1] 12.08
Food preparations containing added sugar, milk, sea weed, wheat, etc	21.07
Leather and footwear:	
Bovine cattle leather	41.02
Sheep and lamb skin leather	41.03
Goat and kid skin leather	41.04
Leather footwear, except sportswear	64.02
Coal: Coal briquettes	27.01

[1] Edible sea weed and tubers of Konnyaku have the same tariff item number (12.08). This accounts for the fact that the agricultural and marine products items under quota total 23 rather than 22 as shown on this list.

C. Informal quantitative restrictions

Discussion

In addition to the formal quotas, certain GOJ policies have the effect of creating informal quantitative restrictions on other imports.

The following are examples of such restrictions:

Petroleum Products: Although there are no formal import quotas on any petroleum products, the Petroleum Industry Law requires all prospective importers or dealers of petroleum products to register with the Ministry of International Trade and Industry (MITI). MITI must be notified of any import plans for petroleum products (or changes in plans) and may issue formal administrative guidance to importers to alter their plans. U.S. industry complains that the regulatory framework for petroleum and petroleum products in Japan facilitates informal industry arrangements restricting imports of naphtha, petrochemicals, and fertilizers.

Naphtha: Each year Japanese oil refineries are required to submit to MITI their estimates of naphtha production for the coming year. MITI limits naphtha imports to the amount by which MITI estimates of naphtha demand exceed domestic production. Only Japanese oil refineries are permitted to import naphtha.

Feed Grains: The system affecting the importation of grains for feed also limits imports. The GOJ only allows duty free entry of corn for feed if purchased by one of 215 bonded feed mills or 46 flaking mills. Otherwise, imports are subject to a 15,000 yen/ton specific duty (approximately 36 percent in the fall of 1981). The same is true for sorghum, which enters at a duty of 5 percent if imported outside of the bonded mill channels. Furthermore, imports of mixed feed are limited by a 15 percent duty. So while the GOJ does not directly control the importation of grains for livestock feeding (except barley and feed wheat, which are imported by the Food Agency, and oats which are restricted by a tariff quota), indirectly, imports are controlled and on-farm feed mixing is discouraged.

GOJ Action

No reference is made in recent initiatives by the GOJ to the restrictions on petroleum, naphtha, or feed grains.

D. Customs

Discussion

A recent review of Japanese customs procedures, including a six-week study trip to Japan by U.S. Customs experts, shows that the major current problem is the need to obtain import approval of other GOJ agencies before Customs can initiate its clearance process. Such requirements, chiefly those of the Ministry of Health and Welfare (MHW), cover approximately 40 percent of

Japanese imports and are broadly related to enforcement of Japanese standards.

In the past, Japanese Customs' practices gave added weight to the perception of Japan as a closed market. Key problems were: price "uplifts" for calculations of tariffs, overzealous concern for accuracy of documentation, lengthy delays, and absence of an appeals mechanism.

Japanese Customs has undertaken improvements. American exporters indicate that the GATT Code on Customs Valuation has helped to reduce valuation problems and the time needed to obtain customs clearance. Recent GATT data shows that Japanese Customs now uses the internationally favored method of valuation in nearly 95 percent of all import transactions. (The U.S. figure is the same.) Measures to further speed Customs' clearance were included in the January measures. Early reports indicate that these measures facilitate entry for repeat shipments of identical goods and allow release of goods from Customs' custody before completion of entry.

To speed import procedures of other GOJ agencies, the USG has asked the Japanese Government to:

1. narrow the range of products covered by import approval requirements;
2. allow blanket import approval, instead of requiring shipment-by-shipment approval; and
3. delegate import approval authority to Japanese Customs officials at ports of entry.

One problem area in Japanese customs encountered by U.S. exporters is difficulty in shipping demonstration equipment into Japan. Although Japanese Customs law permits duty-free importation of commercial samples if the samples are re-exported within one year, it has sometimes been impossible for U.S. exporters of high technology equipment to actually receive the duty-free treatment for demonstrator units. Such difficulties impose additional costs of U.S. and other foreign firms introducing innovative products that their potential clients will want to examine before making a decision to buy.

GOJ Action

Recent Japanese measures have removed the most serious problems in this area. Five items in the January 30 package deal with various aspects of Japanese customs procedures. These represent the most far-reaching changes in attitude and actions in that package.

On April 1, 1982, Japanese Customs adopted an after-permit examination system whereby it defers examination of import declarations and supporting documents until after goods are released from Customs' custody. In addition, under simplified examination and inspection procedures, Customs clears repeat shipments without physical inspection or the normal document review. A further significant measure is the establishment of a classification center in Tokyo Customs, which operates like the U.S. national import specialist system. This center will issue advance classifications binding on all ports. If properly implemented, these measures should be of considerable benefit to U.S. exporters. In addition, the GOJ announced the Office of Trade Ombudsman (OTO) as a contact point for bringing complaints. Any difficulties with Customs in the future should be easier to resolve through such a mechanism.

The May 28 package promises further actions in the customs area including amending the Pharmaceutical Affairs Law, the Poisonous and Deleterious Substance Control Law, and the Food Sanitation Law, in order to streamline the customs procedures for the importation of pharmaceuticals, cosmetics, medical equipment, and fresh food.

E. Other restrictions

Discussion

Other restrictions placed on imports which do not fall under the policies discussed earlier include tariff quotas and the variable levy on pork. Under the system of tariff quotas, a quota is established by the GOJ for each fiscal year based on domestic supply and total demand. Imports above the quota are subject to higher tariffs. For example, all corn for industrial use above 2.4 million metric tons entering in JFY 1981 was subject to a 15,000 yen per metric ton duty, while below the quota, the corn entered duty free. Several agricultural products including feeder cattle, natural cheeses, oats, corn for industrial uses, corn for corn starch production, and malt are subject to tariff quotas (tariff quotas on non-agricultural categories cover fishmeal and molybdenum.

In October 1971, Japan replaced its pork import quota system with a program that applies the higher of either a variable levy or a ad valorem duty on the price of imported pork. The domestic support program for pork establishes a floor and ceiling price level at wholesale level. The variable levy system guarantees that import pork will sell in Japan for at least the mid-point price. The variable levy is then equal to the difference between the mid-pork price and the price of pork delivered to the importer.

GOJ Action

None.

REGULATORY POLICY

A. Standards, testing, labeling, and certification

Discussion

These have been areas that have spurred a particularly large number of complaints from American exporters. The complaints span many specific problem areas, but common threads run through them. First is the lack of transparency in standards setting and compliance. Second is that Japan's restrictive standards and approval procedures have the effect of either excluding foreign products from the market because of the prohibitive cost of establishing that the product meets the requirements (inspection at the border rather than at the factor, for example), or delaying their entry, often long enough to allow Japanese manufacturers to introduce a competitive product.

One problem that affects American exporters is that foreign companies enjoy only limited access to the Japanese standards-writing process or are excluded from participation altogether, a problem only recently acknowledged by the GOJ. In the United States, foreign firms generally have this opportunity. In drafting standards or technical regulations, Japanese ministries either run on recommendations from the standards-writing committees of various industrial associations or establish ad hoc groups to frame a specific standard or regulation. These associations are generally closed to foreigners. For example, American companies are excluded from the Government's voluntary standards-writing process operated through the Japanese Industrial Standards Committee (JISC).

Because American firms have little if any access to Japan's standards-drafting process, they often learn about prospective new or revised standards too late for their input to be of value, and well after their Japanese competitors. Although Japan is a signatory to the Standards Code and as such provides U.S. interests an opportunity to comment formally this opportunity is often too late in the process to be meaningful.

Another difficulty U.S. firms have with Japanese standards is that they are often written in terms of design criteria rather than performance specifications. As a result, an American-made product may not be acceptable because of minor differences in design, even though these variations do not affect the product's compliance with the performance objective of the standards.

Japan, like the United States, has a "positive list" for approved ingredients in processed foods and cosmetics. Unlike most countries including the United States, which use a positive list for food additives generally recognized as safe for human consumption and negative list for substances banned from use in human food, Japan has only a list of approved food additives. What makes this situation so trade-restrictive is not the positive list per se, but the fact that the Ministry of Health and Welfare has been extremely reluctant to expand the list to include new uses for approved additives and almost never approves new additives, even though the development of new food products and related additives has been rapid in recent years.

With regard to testing procedures, there are general complaints about the lack of transparency in requirements and the timetable which can be expected for obtaining product approval.

Japan's commitment to accepting test data developed outside Japan for many products, including pharmaceuticals and medical equipment, has not been fully realized among administrative officials. Testing is very expensive, as complete samples must be provided. Backlogs in Japan for starting testing on electrical and medical products, for example, are up to five or six months. The testing process itself can take another three to four months, and delays of one to two years have been cited in cases of medical equipment products. Certain products, such as automobiles, are subject to individual or lot inspection as opposed to type testing when imported into Japan under the type approval system. The GOJ has argued legal grounds against conducting on-site inspection for most products. These difficulties would be resolved if inspectors from Japan visited and inspected the manufacturing site, or accepted U.S. product approval.

Another source of difficulty for U.S. exporters in the testing field is that American manufacturers cannot apply directly to Japanese testing organizations for product approval. Instead, due to Japanese product liability laws, they must submit an application through a Japan-based importer or agent who, in turn, holds the approval rights once they are granted. One peculiar effect of this requirement is that a U.S. firm cannot change importers in Japan without reapplying for product approval, unless the original importer is willing to transfer the approval to the new importer.

Another testing problem concerns medical electronics. Before a new medical electronic product is introduced into the Japanese market, the importer must furnish three samples for testing. Only after they pass the tests can the importer request authorization to sell the equipment, which, with the current backlog, takes eight to nine months.

Examples of specific product standards issues:

Plywood: The Japanese Agricultural Standard (JAS) on structural plywood, written for domestic makers that use a hardwood to make plywood, specifies how the plywood should be put together (for example, how the plies should be assembled and bonded), rather than how the plywood should perform in use. The lowest grade plywood most commonly used for construction in the United States does not meet the standard, partly because it is made from softwood and partly because of U.S. production methods. For example, if the aggregate width of growth characteristics (knot hole) exceeds the limit in the Japanese standard, the panel is rejected despite the fact that U.S. technical data demonstrate that the U.S. product equals or exceeds the performance characteristics of the Japanese produced product.

The U.S. plywood products industry, anxious to increase the volume of its exports to Japan, has pushed for eight years for a new Japanese standard on structural plywood. In fact, as part of the MTN, Japan and the United States agreed in mid-1979 to develop a mutually acceptable performance standard for structural plywood by 1980. Recently there has been some progress toward changes in the Japanese standards which would, with the resolution of two key issues (knot hole size and white speck) make increased trade in U.S. plywood possible.

Softball Bats: After a year of discussions, U.S. bat suppliers were finally allowed access to the Japan Softball League (JSBB) certification system. The JSBB, however, failed to change their standard for aluminum softball bats. The JSBB standard requires the use of an aluminum alloy NOT used for U.S. bats, and is based on "design criteria" rather than "performance criteria" as encouraged by the Standards Code. That is, instead of describing the performance of the bat's base, the Japanese standard requires a certain design, in this case a rubber or plastic plug in the base. U.S. bats have solid bases without rubber or plastic plugs. Only recently has the JSBB agreed to approve U.S. bats that meet the requirements of the Ministry of International Trade and Industry (MITI) for obtaining the "s" mark that signifies a safe product.

One of the criteria for receiving the "s" mark covers inspection of goods, either during the manufacturing process (factory inspection) or, for imported goods, at the dock at the time of importation. Dock inspection is tedious, slow, and sometimes arbitrary and, therefore, not favored by U.S. producers of bats. However, MITI interprets Japanese law as prohibiting the inspection of foreign factories. Thus, unless U.S. producers opt for the burdensome dock inspection procedure, they cannot obtain the "s" mark. Without the "s" mark they cannot obtain the JSBB mark. Without the JSBB mark U.S. bats cannot be used in official games and are not afforded the commercial advantage that goes along with carrying the JSBB mark.

Automobiles: The Ministry of Transportation (MOT) has repeatedly turned down a U.S. request to recognize U.S. manufacturers' self-certification of automobiles to Japanese standards. The U.S. permits all auto manufacturers to self-certify compliance with U.S. regulations. The MOT still has not adopted administrative procedures to implement a May 1980 commitment to accept U.S. notaries public affirmations of the "dates of manufacture" of U.S. automobiles. "Dates of manufacture" are necessary in Japan to determine which year's regulations tests must be performed on U.S. imported automobiles.

There has been more than a two-year delay in resolving this standards issue, which is one of many in the automobile area.

An illustrative list of standards problems U.S. exporters face is at Attachment B.

GOJ Action

The January 30, 1982 package developed to reduce Japanese non-tariff barriers dealt principally with problems in the areas of standards, testing, and certification procedures. The package did little to provide substantial relief for problems in these areas. The May 28 package says that the Japanese Government will implement measures to allow foreign entities and individuals concerned to participate in the standards formulation process. While this is a step in the right direction, the effectiveness of the measures in the May 28 package will depend on their implementation.

A companion document to the package details specific measures that the GOJ has promised to implement.

With regard to the official approval system for sporting goods used by sports organizations, official guidance has been given to:

Give national treatment to foreign goods;

Conform to international standards;

Simplify and expedite inspection procedures; and

Make public the standards and procedures of the official approval system.

With regard to softball bats, the Japanese Rubberized Baseball League will improve their standards.

With regard to plywood, Japan has decided to revise it plywood standards.

With regard to cosmetics, the GOJ has taken steps to publish lists of permissible ingredients, simplify registration for minor formula changes, and accept relevant animal test data generated abroad.

With regard to pharmaceuticals, steps have been taken to clarify test standards and accept relevant animal test data generated abroad.

ATTACHMENT B.—EXAMPLES OF STANDARDS BARRIERS

Product	*NTB*
Papayas and cherries.	Product inspection difficulties.
Sake	Lack of testing procedures for imported sake.
Dried fruit	Inconsistencies in product additive regulations.
Fresh fruits and vegetables.	Instances of excessively strict plant quarantine regulations, nonacceptance of U.S. test data.
Concentrated fruit juice.	Excessively strict requirements concerning product packaging.
Processed foods.	Excessive ingredient and product formula disclosure requirements. Lack of transparency in new food additive evaluation procedures.
Frozen bull semen.	Commercial imports prohibited based on unjustified concern about animal health standards/ domestic industry protection.

ATTACHMENT B.—EXAMPLES OF STANDARDS BARRIERS—CONTINUED

Product	*NTB*
Medical and scientific instruments.	Excessively strict product testing and certification procedures.
Pharmaceuticals.	Nonacceptance of accelerated stability test data for market approval. Nontransferability of approvals for manufacture and import. Nonacceptance of results of preclinical tests conducted outside of Japan.
Cosmetics	Nonacceptance of U.S. test data. Lack of a complete list of approved ingredients. Prohibitions on conducting • • • preference testing. Delays in product registration.
Automobiles	Refusal to allow self-certification of compliance with Japanese standards; failure to implement commitment to accept affirmations by U.S. notaries public of "dates of manufacture."
Softball bats, tennis balls, inflatable athletic balls.	Lack of access to Japanese sporting associations' certification marks (changes are being implemented).
Plywood	Design as opposed to performance requirements.
Chemical substances.	Nonacceptance of U.S. testing data.

B. Licensing

1. Insurance

Discussion

Licensing of U.S. insurance firms to do business in Japan is an unnecessarily lengthy and complex process. This is true both for new firms entering the market and for established firms that want to expand their product lines.

The Ministry of Finance strictly controls access to and limits competition in the Japanese insurance market. As a consequence, U.S. and other foreign firms represent only a small percentage of the insurance business in Japan.

GOJ Action

Earlier this year the Ministry of Finance, following U.S. request in December and March, acted on a backlog of applications by U.S. firms for insurance licenses. This action was not accompanied by any announcement of a change in fundamental policy.

In the May 28 package the Japanese Government committed itself to the maintenance of a national treatment policy in insurance. It is not yet clear, however, how this will ensure that future license requests will be given punctual consideration. The GOJ also requests the relevant business associations to open "information windows" to provide information concerning market entry and operation in Japan.

2. Medical and Dental Equipment

Discussion

To import medical and dental equipment into Japan, an importer must receive a license from the Japanese Ministry of Health, which usually takes six months. In addition to the regular duty, the importer must pay approximately $100 per item.

GOJ Action

None.

C. Antitrust

Discussion

The Antimonopoly Law of Japan makes entrepreneurs liable if they have engaged in private monopolization, unreasonable restraints of trade, which includes unauthorized cartel behavior, or unfair business practices. In the past, the Japanese Fair Trade Commission (JFTC), which is charged with enforcing Japan's antitrust laws, limited its activities. Since the mid-1970s, however, the number of matters investigated and the number of actions taken by the JFTC have increased. More aggressive enforcement of the Antimonopoly Law by the JFTC serves to discourage unfair trading practices which may affect the distribution of imported goods.

Despite these positive signs, certain problems still remain in the antitrust area. Of concern are: (1) the general exemptions provided for in the Antimonopoly Law which permit the creation of cartels in certain specific instances; (2) similar special exemptions provided for in other laws; and (3) the use of administrative guidance by various parts of the GOJ to attempt to achieve actions which are prohibited by the antitrust laws, such as the informal, unauthorized cartels which are addressed later in this paper. Based on the Japanese Fair Trade Commission report to the OECD, as of March 31, 1980, there were over 400 authorized cartels, including one depression cartel, one rationalization cartel, 267 small and medium enterprise cartels, and assorted others. Clearly many of these cartels do not have an impact on the ability of the United States to export to Japan. Moreover, some of the small and medium enterprise cartels may have little, if any, economic significance for the Japanese domestic market and consequently for imports.

The Antimonopoly Law of Japan provides specific exemptions for the creation of depression and rationalization cartels. Under Article 24-3, producers or their trade associations are permitted to form a depression cartel when there is an extreme disequilibrium of supply and demand for a particular commodity. In these circumstances, producers may impose restrictions on output or sales or may engage in price fixing arrangements after they obtain prior approval from the JFTC, which continues to monitor the cartel throughout its existence. Although there have been as many as 13 depression cartels in existence at once, as of 1981, there were only two, one each in the shipbuilding and pulp and paper manufacturing industries.

Rationalization cartels, which are provided for in Article 24-4, involve concerted activities of producers when they are found necessary for effecting the advancement of technology, an improvement in the quality of goods, a reduction of costs, an increase efficiency, and any other rationalization of enterprises. As with depression cartels, rationalization cartels must be enacted in accordance with the rules of, and with prior approval from the JFTC. According to the statute, the JFTC will not permit rationalization cartels where there is fear of injury to the interests of customers or other entrepreneurs, where the cartel is unjustly discriminatory, and where there are unreasonable restrictions on participation in or withdrawal from the cartel. According to recent OECD reports, a one-year rationalization cartel for the synthetic textile dyestuff industry, which was first approved on January 10, 1980, and subsequently renewed on April 1, 1981, was the only rationalization cartel in existence as of April 1981.

In addition to explicit exemptions from the Antimonopoly Law's prohibition on cartels, specific laws have been passed which permit cartel behavior. Among these laws are the Law Concerning the Organization Structure of Small and Medium Enterprises, the Environmental Hygiene Law, and the Provisional Law on Measures for the Stabilization of designated Depressed Industries, which was enacted in 1978, for a period of five years, to facilitate adjustment in designated structurally depressed industries. The law identified several sectors—including aluminum smelting, synthetic fiber manufacturing, shipbuilding, open hearth steelmaking, and electric furnace and ferrosilicon manufacturing—as candidates for support, and allowed for the designation of additional industries by MITI (upon application by two-thirds of an industry by May 15, 1979. In October 1982, such a depressed industry cartel was authorized by MITI to reduce production of ethylene, a petrochemical product.

Once an industry has been designated, the particular Ministry with jurisdiction over its activities drafts a basic stabilization plan for the reduction of surplus capacity, outlining possible plant reductions, employment measures, and other conversion measures. Participation by firms in the industry's capacity reduction cartel is voluntary. For those firms which participate the law provides a specific exemption from the antitrust laws. The JFTC, however, reviews all joint action plans and must consent to the creation of these stabilization cartels. Latest data indicates that there were depressed industry stabilization cartels in eight different industries as of April 1981.

Depression cartels are distinct from depressed industry stabilization cartels in that their purpose is primarily temporary relief during a counter-cyclical downturn in an industry, while depressed industry stabilization cartels provide for permanent disinvestment of facilities. The former nurse along an entire industry, including its less-competitive producers, whereas the latter simply seek to eliminate uncompetitive capacity.

In addition to these formal exemptions from the Antimonopoly Law, MITI and other Ministries employ "administrative guidance" to create informal, unauthorized cartels. Such guidance does not create an antitrust exemption under Japanese law. In fact, the 1977 amendments to the Antimonopoly Law permit the JFTC to collect surcharges from participants in illegal cartels. In fiscal year 1980, 203 companies were levied surcharges totaling 1,331 million yen (approximately $53 million). Both the JFTC and those courts that have considered the issue have indicated that administrative guidance is not a defense to liability under the antitrust laws of Japan.

The number of cartels that have a limiting effect on imports is unknown. The few import cartels that are known would, of course, have such an effect. Conceptually, a domestic cartel that limits output or raises price would be expected to enhance the competitive position of imported goods. There may, nevertheless, be situations where cartels act in conjunction with import restraints, subsidies, or restrictive distribution linkages. In fact, some Japanese cartels do benefit from or include such ancillary measures. The attendant advantages to member firms derived from such ancillary measures may insulate weak firms from the effects of their own inefficiency and allow them to continue to compete with other domestic and foreign producers. To the extent that Japanese cartels assist uncompetitive Japanese firms to cope with more competitive foreign producers, their effect is to distort competition and improve the free flow of trade and investment.

GOJ Action

In the May 28 package, the GOJ communicated its decision to monitor intensely the distribution of imported goods and to strictly enforce Japanese antitrust laws against any practices which restrict competition.

D. Investment

Discussion

In December 1980, the Government of Japan implemented a new Foreign Exchange and Foreign Trade Control Law (FOREX). This new law represents a basic liberalization of the laws affecting foreign investment in Japan. However, foreign investment in certain sectors (mining, petroleum, leather and leather products, agriculture, forestry, and fishery) and in 11 designated firms its still restricted. Japan retains wide latitude in is authority to modify and/or block foreign investment which imperils national security, competing domestic enterprises, or the domestic economy.

The FOREX requires prospective direct investors to file a detailed notification with the Ministry of Finance describing the scope of the planned investment. The Ministry of Finance, in cooperation with other Ministries directly concerned, reviews each investment notification. The investment may proceed if the Government takes no action within the prescribed period (normally 30 days). The Bank of Japan also reviews all capital flows associated with direct investment. There is very little transparency to the investment screening process. However, the USG has received no report of the GOJ rejecting a notified investment subsequent to enactment of FOREX.

In the case of investments in the manufacturing sector, important delays may be encountered at the local government level in connection with obtaining essential start-up permits such as authorization to acquire land and build manufacturing facilities.

GOJ Action

The Government of Japan in its May 28 package announced that it welcomes direct investment in Japan by foreign entities and individuals. No reference was made to the investment screening process or to the critieria the GOJ will use in administering the new 1980 law.

E. Financial Market

Discussion

In recent years, the Japanese financial market has experienced substantial liberalization. Foreign access to the Japanese financial market has also been greatly increased. Nonethelss, the ability of foreign borrowers to obtain yen financing in the Japanese market, both through the commercial banking system and through the

Japanese bond market, has been limited through administrative guidance.

During the 1970s, the Japanese Ministry of Finance and the Bank of Japan encouraged evolution toward a market-oriented financial system and liberalized controls on capital flows largely in response both to foreign pressures and to the emergence of large current account and budgetary imbalances and concomitant financing needs.

In recent years, administered interest rates have been replaced by market-oriented rates for most key short-term instruments. Moreover, the Japanese have taken numerous actions to internationalize their financial system by revoking many prohibitions of inward and outward capital flows.

These actions to liberalize external flows were codified in the "Amended Foreign Exchange and Foreign Trade Control Law," implemented in December 1980, which embodied the principle that all transactions were free unless specifically prohibited.

Also, part of the explanation for the large capital outflow from Japan is the wide differential between nominal interest rates in Japan and most overseas financial centers. The low Japanese nominal interest rate structure is fundamentally associated with relatively low Japanese inflation; Japanese real interest rates have risen sharply over the past year.

Nevertheless, Japan has maintained controls on capital flows (mainly on capital outflows) through administrative guidance, largely in view of balance of payments, exchange market, and domestic monetary policy considerations. These controls have related primarily to limitations on banks' yen lending and to ceilings on yen bond issues by foreigners in the Japanese market. In 1981, overseas yen lending and yen bond issues by foreigners were 925 billion yen (around $4 billion). Domestically, certain deposit and lending rates and primary market issues of government bonds are also still subject to administrative control, though the extent of control in these areas is undergoing significant erosion.

Because these overall ceilings on foreign access to yen financing were less than foreign demand, Japanese financial institutions, influenced by the Ministry of Finance, allocated available funds through a queue. Additionally, foreign firms have experienced difficulties in their efforts to float bonds in the Japanese market because of the Japanese practice of permitting the flotation of only secured debt; exceptions have been made for a few foreign firms.

GOJ Action

In recent months, Japanese officials have stated that official guidance limiting foreign access to raising yen financing in the Japanese financial market is no longer in force and that such limitations on foreign access as presently exist are imposed by the market itself. In its May 28 package, the GOJ states: "* * * the GOJ will also pay due consideration to further facilitating foreign borrowers' financing in the Japanese financial market." Naturally, the true value of the measure regarding financial market liberalization will depend on its implementation.

G. Securities

Discussion

Foreign securities firms in Japan have faced a number of restrictions. However, as the result of a process of liberalization over past months, a number of these restrictions have been significantly eased. Japanese regulations are being changed to grant national treatment by autumn of 1982.

In the past there were complaints that:

Foreign securities firms could not manage or underwrite issues in Japan. However, a U.S. securities firm recently co-managed a public issue.

Foreign securities firms could not arrange private placements in Japan. However, two U.S. securities firms recently participated in two major transactions.

Foreign securities firms could not buy seats on Japanese stock exchanges. However, the Tokyo Stock Exchange has recently changed its rules to permit membership by foreign firms.

When foreign securities firms go through a Japanese member of a stock exchange, they could keep only 50 percent of the commission, the balance going to the Japanese member firm. However, under new commission-sharing arrangements, effective in 1982, foreign firms can retain 73 percent, the same amount as Japanese non-members.

Foreign securities firms are able to establish representative offices, and—subject to the same lengthy licensing procedures applicable to Japanese firms—full-service branches, which can engage in essentially the same activities as Japanese firms. There are no restrictions on the underwriting activities of foreign firms as long as they are properly licensed and comply with local regulations.

At present, four U.S. securities firms have branches in Japan, and five more have representative offices. The Ministry of Finance recently approved an application for branch status by a U.S. securities firm.

GOJ Action

In its May 28 package, the GOJ reaffirmed its intention to adhere to a policy of national treatment, and requested relevant business associations in the banking, insurance, and securities fields open "information windows" to provide information, etc., concerning market entry and operation in Japan.

Japan has almost completed implementing a series of measures designed to attain national treatment. The last area of discrimination, the share of commissions retained by foreign firms, is being eliminated in stages, the last stage scheduled to be implemented during the third quarter.

G. Commercial banking

Discussion

As the result of a process of liberalization begun several years ago, restrictions on the activities of foreign commercial banks in Japan have been almost completely removed. The new Bank Law, which came into effect on April 1, 1982, provides for equal treatment for all banks, domestic and foreign. As in all countries banking in Japan is subject to extensive government regulation. The financial system has been going through a process of gradual liberalization, and like their U.S. counterparts, the Japanese authorities are grappling with the issues of deregulation.

In the past there have been complaints that:

U.S. banks could not solicit deposits, but this is no longer true.

U.S. banks could not issue CDs, but they now can, receiving treatment comparable to that afforded Japanese banks.

U.S. banks could not establish additional branches, but several have recently been authorized.

U.S. banks could not participate in official export/import programs, but this is no longer the case.

U.S. banks could not buy Japanese banks, but U.S. banks can now acquire Japanese institutions as long as there is mutual consent.

U.S. banks in Japan currently receive national treatment in virtually all areas, and thus are subject to the regulations imposed on all institutions operating in Japan. (These may in some cases prevent financial institutions in Japan from providing their customers with services that may be common elsewhere.) There are no restrictions on their obtaining licenses for representative offices, and full service branches can be established subject to Japanese laws. American banks can establish banking and non-banking subsidiaries in Japan and, under the new Bank Law, enjoy full legal status and can merge with Japanese banks.

At present there are 21 U.S. banks with branches in Japan. The total number of branches is greater because banks are permitted to set up more than one branch.

GOJ Action

In its May 28 package, the GOJ reaffirmed its intention to adhere to a policy of national treatment.

INDUSTRIAL POLICY

Japan's emergence as the world's second largest industrial power is the product of a complex set of factors. In part, the credit must be given to the work ethic of an educated, highly motivated and disciplined work force, and the long-range perspective of corporate managers. But a major share of Japan's success has been due to a sustained national policy of allocating scarce resources to strategically important industries and coordinating the implementation of that policy in concert with private industry. The effectiveness of those policies is in no small measure due to the ability of government, business, and labor to reach consensus on national goals as well as on policies to be implemented. The Japanese are the world's premier practitioners of such a coordinator strategic industrial policy.

To facilitate the implementation of the policies, the government has created a range of domestic policy instruments and processes which are often coordinated with broader measures and other traditional trade measures to shape the content and direction of Japanese industrial activity and to manage the problems arising from competition and sectoral growth or decline. In general, these policy tools are not devised to restrict or exclude foreign participation from the Japanese market. However, that has often been the effect. Major policy tools discussed below, include:

A. Industry targeting

Discussion

One distinguishing feature of the Japanese economy has been the extremely close interaction among government, business, and academia. These groups cooperate in the formulation of the National Economic Plan and seek to achieve a national consensus on long-range goals. The National Economic Plan attempts to harmonize the individual actions of all economic players and to ratify these long-range goals in government policy and business decisions so as to guide the allocation of resources towards the most productive sectors of the economy. This close cooperation among the various economic actors is often perceived as a type of collusion which discriminates against foreigners.

However, Japan is not a command economy. The plans are only indicative of Japan's economic goals, despite the fact that they are backed by government policy (e.g.,

market regulation, bank loan guidance, tariffs, tax benefits). These plans, established by the Economic Planning Agency, consist of projections for growth in trade, GNP, production, prices, consumption, government income and expenditures, etc., and are not economic blueprints.

On the sectoral level, industrial policies are formulated in support of a national strategy of designating particular industries as essential for the development of the Japanese economy. Industrial activities and capital investments are then planned and regulated for selected firms either in or relevant to those industries. This is carried out mainly by the Ministry of International Trade and Industry (MITI), which has lead responsibility within the Government of Japan for industrial policy and planning. MITI's authority is not exclusive, however. Other Ministries such as Finance, Transportation, Posts and Telecommunication, and Construction, etc., are also involved when industrial policy intersects activities under their jurisdiction. But it is MITI that has the overarching mission of setting Japan's overall industrial targets and seeing to their achievement.

Industry targeting, as practiced, gives selected firms in the targeted industry a privileged position in the home market. Once a firm is so identified, it benefits from specific government programs. Perhaps more important, the firm's welfare becomes a national goal, leading to less explicit benefits, such as preferential status with creditors and buyer preferences. The total effect can be to give the chosen firm in the identified sector protection from foreign competition (in the past explicit through quotas; now less transparent). To the extent that Japanese industrial policy might work to restrain imports, it can do so either indirectly, as exemplified by the potentially disadvantageous measures described in the text, or directly, through such concrete measures as tariffs, quotas, voluntary restraint agreements with affected exporters, boycott arrangements among importers or major industrial consumers, or other measures described elsewhere herein. Industrial policy as such, whether in Japan or elsewhere, does not immediately impact on import trade and can only seriously affect such trade when combined with actual measures of restraint or disincentive.

Within a target industry, there may be vigorous competition between the chosen firms, as in steel and computers, or the competition may in some cases be closely regulated, as in telecommunications. For firms that become efficient, the protected home base can allow them to benefit from economies of scale and the "learning curve." Some target industries and firms have become world class exporters (steel, telecommunications); others have been less successful (aluminum, petrochemicals). Other important sectors of the Japanese economy, particularly agricluture and distribution, have been notably inefficient.

It is important to note that industrial targeting is probably not the most efficient way of allocating reasources. While some Japanese sectors arguably have been aided by Japanese Government, targeting programs, others have been hindered. The net effect on Japanese economic welfare of Japanese Government restrictions could well be negative, not positive.

The policy tools used by the Japanese Government to foster development of its target industries may effectively limit foreign access to the fastest growing segments of the Japanese market, as well as influence competition in the U.S. and other export markets, either directly or indirectly, by affording the selected domestic firms significant competitive advantages in the form of cost and risk subsidization. Government supports include: financial and other assistance for R&D; accelerated depreciation; government-backed leasing corporations; government licensing of patents; and a near monopoly on government procurement. Foreign companies have been virtually excluded from these projects and special grants, even if they have Japanese subsidiaries. Protective elements of these programs make it difficult for foreign firms to compete; public knowledge of the industry's "target" status reinforces a bias against foreign competitors; and government control of resultant patents may restrict foreign access to Japanese technology.

Targeting also has costs—MITI can pick losers and successful targeted industries can invest in overcapacity (steel, for example). Overcapacity represents an inefficient use of resources and can produce further inefficiencies so the GOJ must use other measures to sustain the targeted industry during downturns (recession cartels).

The most egregious discriminatory government practices gradually were abandoned by Japan beginning in the late sixties. Formerly, foreign firms with a significant lead in product or process technology were in many instances either denied permission to manufacture in Japan, as was the case in the automobile industry, or were required as a condition for access to transfer their technology, as in the computer industry, or to accept Japanese joint venture partners, as in the semiconductor industry. The effect, in each case, was that the foreing firms were unable to achieve a significant share of the market at its inception and hence were denied the competitive advantage that accrues to the early market leader. Such out and out discriminatory government policies are now barred in Japan. But the recent targeting by MITI of a number of industries as vital to Japan's industrial structure in the 1980s and 1990s, and government programs instituted to spur the technological and productive capacities of those industries, raises concern that foreign firms in those industries could be denied fair and full access to the Japanese marketplace for their products.

GOJ Action

No actions have been announced with specific reference to industry targeting. However, note the commitments regarding high technology trade and access to research and development projects under the next heading.

B. Government sponsored cooperative research and development programs

Discussion

A major component of the industry targeting strategy is the Japanese Government's wide-ranging sponsorship and partial or complete subsidization of cooperative research and development projects involving both government and private corporate participation. Currently, these projects number several dozen, and range widely over the entire spectrum of what the Japanese call the "knowledge intensive" sectors: information processing, semiconductors, optoelectronics, fourth and fifth generation computers, new electronic component elements, new synthetic materials, biotechnology, and others.

The trade implications for American and other foreign imports of these cooperative R&D projects are significant, because the explicit reason for their existence is to permit Japan to "catch up" with the U.S. and Western Europe in technologies where MITI has determined that Japan is lagging. These projects sometimes involve basic scientific inquiry, but the objective is always the development of commercially applicable technology. Thus, they represent one of MITI's instruments for advancing Japanese competitiveness in specific advanced industrial technologies.[1] For instance, in 1981, MITI identified twelve key future technology projects, and plans to expend over $400 million for research in these areas. Since these projects are organized into research associations, U.S. firms may be excluded from access to such technology. These cooperatives are codified in Japanese law and are the focus of a number of activities, some for technology sharing among Japanese firms, others designed to facilitate spreading risks U.S. companies, including their affiliates in Japan, have not been able to participate in these research cooperatives, nor to gain access to know-how produced by them, nor to gain equitable access to patent rights.[2] Specifically, all patents generated by Government-sponsored research in these cooperatives are effectively controlled by the GOJ. All parties to a cooperative research effort must agree before resulting technology can be licensed, and MITI exercises tacit controls which effectively preclude foreign access to United States research, conducted in large part through universities, is freely available to Japanese companies.

GOJ Action

In the May 28 package the GOJ made several commitments pertaining to research and development and high technology that address directly or indirectly the issue of foreign access. The statement committed Japan to:

(1) free trade principles in trade in high technology and high technology products:

(2) actively promote research and development suitable for international cooperation; and

(3) maintain a non-discriminatory policy with regard to participation by partially or wholly foreign-owned Japanese firms with substantial research capabilities in projects supported by the government.

Moreover, the statement also included two other relevant items:

Moreover, the statement also included two other relevant items:

U.S.-Japan Work Group on High Technology will be established to foster high technology industries and to expand trade in high technology products between these two countries.

In the area of advanced science and technology, the GOJ will actively study the possibility of joint research and joint development of technology between Japan and the U.S., and Japan and Europe, as well as in other multilateral contexts.

---

[1] While the Japanese appear to have made use of cooperative R&D activity, it is not clear that government-directed or industry with joint R&D yields more technological progress than does R&D procedures based on the principles of competition.

[2] It should be noted, however, that U.S. companies have reportedly been able to establish joint research projects both directly with the GOJ and with private Japanese firms. Moreover, we do not know to what extent U.S.-owned firms have actually requested entry into GOJ-sponsored R&D cooperatives.

C. Administrative guidance

Discussion

In the first half of the post-war period, the Japanese Government's power to implement and enforce its industrial policies derived mainly from MITI's "license and approval authority." MITI's own establishing law gives it the power to plan "fundamental policies for production, distribution, consumption, and foreign trading of commodities under its jurisdiction," and to "regulate the production and circulation of mining and manufacturing products." Under two other laws MITI also had the power to approve how virtually all long- and short-term capital funds were to be spent in Japan. This included control over how foreign exchange would be permitted to be spent, and control over the introduction of foreign capital and foreign technology. After 1964, as Japan began to liberalize its international trade in response to pressure from its trading partners, the latter two laws fell into disuse. Since then, MITI has increasingly come to rely on the practice or "administrative guidance" in its implementation of policy, include those policies affecting both exported and imported goods and capital.

Administrative guidance is a process that consists of a government ministry's giving suggestions or advice to private business or public organizations over which the ministry has regulatory jurisdiction. (Ministries other than MITI, including the Ministry of Finance (MOF), and the Ministry of Agriculture, Forestry, and Fisheries (MAFF), thus also exercise administrative guidance. For example, MAFF has exercised administrative guidance to limit imports of pork, depending on their perception of market conditions. Occasionally, guidance is set out in a written memo, but typically it is oral. For instance, a manufacturer may be called in to MITI and verbally instructed to install pollution control equipment. The vast majority of actual administrative guidance takes place at the lowest levels of the ministries, implementing ministry policy made at higher levels. It is important to note, however, that since acceptance of administrative guidance is discretionary rather than mandatory, it may not always be followed.

Compliance is usually a matter of individual cooperation, in form even when compliance is in fact coerced. Except where a law covering a particular industry delegates specific authority, guidance is based on the general grant of jurisdiction in an agency's establishment law, and there are no legal sanctions for disobedience (although the agency is free to withhold benefits, such as licenses, within its control). But because the guidance process is a dialogue between agency and industry, the industry has usually been alerted about the content of the guidance via the trade press, conferences, or industry advisory committees to the ministry. In the process, the agency gets feedback from the industry and revises its guidance to the point that voluntary compliance can be expected. Often, the agency instructs the industry to do what it (or its most powerful firms) would like to do anyway.

Administrative guidance may be a potent trade-restrictive force. The guidance is given by government officials who may have the power to provide—or withhold—loans, grants, subsidies, licenses, tax concessions, government contracts, permission to import, approval of cartel arrangements, and other benefits to the company. In addition to this potential for direct reward or punishment, there is also a tradition of business reliance on government leadership for informal solutions to market problems. Foreign firms selling in Japan may find that access in certain market sectors is limited by administrative guidance that favors domestic over foreign sources or that pressures importers to limit imports to a certain level. The government may use administrative guidance as a valve to slow down importation of a specific product, to protect local producers. This is particularly true in the case of targeted industries, where the MITI policy objective is to provide maximum volume advantages in the domestic market; in declining industries and in basic industries where the objective is to preserve employment and desired levels of domestic production.

GOJ Action

The recent trade initiatives do not contain any specific, concrete measures regarding administrative guidance. * * * The Prime Minister identified as a misunderstanding or mistaken image the argument that Japan still uses administrative guidance to protect its domestic products. The statement also went on to ask "those in public administration" as well as private firms to "be even more clear and forthcoming in taking the attitude of extending a welcoming hand to foreign products and not discriminating against them."

D. Government procurement

Discussion

In Japan, as in many countries including the United States, some of the most significant barriers to trade have been the procurement policies of government agencies as well as government-owned public corporations. In Japan, public corporations have taken on a particularly important role. There are approximately 115 of these agencies—with separate budgets estimated to comprise about half of Japan's annual government expenditures—including such entities as the Nippon Telegraph and Telephone Corporation (NTT), Japan National Railways, Japan Electric Power Development Corporation, and the Japan Tobacco and Salt Public Corporation (JTS). Several aspects of government procurement practices in Japan have coincided to restrict imports into Japan. First, many of the public corporations have followed explicit or tacit "Buy Japan" procurement policies. Second, the research and development programs of the public corporations, notably that of NTT, have involved joint R&D of the products purchased by the public corporations. Hence, both R&D and procurement had become a close loop, reinforcing their import restrictive effects by impinging on foreign firms' access to both Japanese markets and Japanese technology.

GOJ Action

With Japan's accession to the MTN Government Procurement Code, and the inclusion of Nippon Telegraph and Telephone Public Corporation under Code procedures, substantial progress has been made in widening U.S. access to Japanese Government procurement. In fact, the scope of coverage of Japanese entities under the Code is substantially broader than that of most other Code signatories. However, some of Japan's state corporations (including New Tokyo International Airport Corporation, Electric Energy Company, Okinawa Electric Company, Japan Broadcasting Company, Japan Atomic Energy Research Institute, and all the national universities) are not included under Japan's entity coverage, allowing them to continue "Buy Japanese" policies for procurement. Not all U.S. entities are included either, however.

Japan has met all of its technical obligations under the U.S.-Japan Agreement on NTT. However, U.S. sales to NTT are still quite small. In addition, to date there have been no sales of high technology products, e.g., central office switching equipment. NTT has undertaken to encourage greater participation by U.S. firms in its purchases and there have been some positive indications. However it is still uncertain whether the agreement will actually produce significantly increased sales of U.S. telecommunications equipment.

* * * * *

E. Government monopolies and state trading

Discussion

A barrier related to those encountered in government procurement is that found in those government-owned monopoly corporations, which control the sale of imported goods or services to the Japanese public.

1. *Tobacco Products.*—One such government monopoly with import restrictive effects is the Japan Tobacco and Salt Public Corporation (JTS). JTS is obligated to buy all domestically produced tobacco leaf (some 140,000 tons annually) at prices three times the world price. (It also purchases some 70,000 tons of imported leaf). In addition, JTS strictly controls sales of imported cigarettes, cigars, and pipe tobacco, permitting them to be distributed at only 20,000 of 250,000 tobacco products shops and selling them at much higher prices than domestic cigarettes. And it enforces a ceiling on advertising expenditures that U.S. producers feel makes it difficult for their brands, new to the Japanese market, to gain market share. In addition, Japan imposes a 35 percent tariff on imported cigarettes. The effect is that imported cigarettes sell in Japan for 55 percent more than comparable Japanese brands, even though their pretariff price when entering Japan is about the same as the price of Japanese brands.

As a consequence of these tariff and nontariff barriers, the U.S. share of the Japanese cigarette market is still only slightly over 1 percent.

GOJ Action

In the May 28 package, the Japanese Government committed itself to allow all tobacco retailers to handle imported products. The announcement stated that this measure will be implemented in stages until fiscal year 1985, and that in fiscal years 1982 and 1983, the number of retailers handling imported products will be increased from the present 20,000 to 70,000. It also stipulated that limitations on advertising expenditures will be increased to meet market situations. It further stated that the GOJ will study accelerating the establishment of a study group to assess the market situtation of manufactured tobacco products in Japan and related problems. However, no reductions were made in the tariff, which the U.S. industry considers the most important barrier.

A study presently being conducted by the GOJ as to administration reform measures may make substantial changes in the structure and relationship to the GOJ of a number of public corporations, including both the JTS and NTT.

2. *State Trade in Food Grains*—Apart from rice, production of other food grains such as wheat is limited, and the GOJ permits imports to satisfy domestic demand. So under the Food Control Law, the Food Agency of the MAFF administers the pur-

chase of wheat imports. The internal resale price of wheat to millers is set so as to discourage the consumption of wheat vis-a-vis rice, which restrains the level and growth of wheat imports. Under the Food Control Law, rice and barley are also state traded.

GOJ Action

None.

3. *Data Processing and Telecommunciations Services*—Private data processing services over the telecommunications network are a monopoly of Nippon Telegraph and Telephone Public Corporation.

Japan's telecommunication public companies (NTT and KDD) use their monopoly over telecommunications services to restrict the kinds of services that private data processing companies can provide using the telecommunications network. In addition, they have delayed or denied approval for use of their network to American firms pending their own development of such services.

Present legislation governing such services restricts the kinds of service that American data processing companies can offer, and in particular, prohibits joint use and third party use of the communications lines and switching data between computer centers in the U.S.

GOJ Action

The May 28 package states that the GOJ will relax restrictions, including those on joint use and third party use.

PRIVATE SECTOR BARRIERS

1. Industrial structure: the Keiretsu

Discussion

A very large share of Japan's production and sales is controlled by sixteen business groups, known as *Keiretsu*, each of which has an interlocking, interdependent relationship among banks, manufacturers, and trading companies. This structural aspect of the Japanese economy effectively acts as an import barrier to American and other foreign goods and services.

Each Keiretsu is composed of a variety of firms in all or most of the major sectors of the Japanese economy. These firms are bound together by both equity interownership and debtor-creditor ties. All of the Keiretsu are organized around large comercial banks which use their financing functions to coordinate the business activities of group members.

The Keiretsu structure affects imports into Japan in a number of ways. First, business connections between Keiretsu members produce interdependent business strategies that tend to exclude non-group, not to mention non-Japanese, business. Within any particular Keiretsu, members generally have strong supplier-consumer relations, facilitated by the Keiretsu's commercial backing.

Hence Keiretsu members tend to purchase from other members of the group. Since the Keiretsu account for such a large part of the Japanese economy, foreign suppliers find their ability to compete limited in a considerable segment of the Japanese market.

Second, in those market segments dominated by a few producers, the structure of the Japanese economy facilitates horizontal agreements and cartel-like behavior among Japanese firms, the effect of which is often to hinder imports of foreign products.

Japanese importers have upon occasion boycotted foreign products or agreed to restrict imports to a certain level or to limit the price offered for imported products. The effectiveness of these agreements has been enhanced because Japan's major importers for many products are trading companies that belong to the Keiretsu and thus tend to import only where imports do not displace business opportunities of other Keiretsu firms.

The GOJ itself sometimes fosters this interdependent structure, particularly in "target" industries. The result may be an import-restricting business environment.

* * * * *

2. Distribution system

Discussion

High costs and inefficiencies in the Japanese distribution system fall more heavily on imports than on domestic products. Wholesalers and retailers are governed by long-standing supplier relationships and rarely promote sales of foreign products. Cartel-like activities among Japanese firms, in some cases, make it difficult to obtain access to distribution systems for U.S. firms, or for new Japanese market entrants. However, the Japanese distribution system is not static. New, more direct channels of distribution are developing, particularly in the case of chain discount department stores.

Japan's distribution system is considered by many to be a non-tariff barrier to imports. The difficulties may sometimes result from government policy, (such as the Small Stores Law), but more often from a complex, somewhat archaic system that, particularly with regard to consumer goods, evolved over time to meet the particular needs of the domestic market. Criticism of the Japan distribution system often focuses on the very high retail prices of imported goods. This reflects Japan's traditional multilayer distribution system that for some products involves primary, secondary, and tertiary distributors.

Japanese wholesalers play a more dominant role in the distribution of goods than their counterparts in the United States or Europe. In Japan, with a population about half that of the United States, there were 340,000 wholesalers in 1976 compared with 370,000 in the United States in 1972. Further, there are more retail establishments in Japan than in the United States (1.61 million as opposed to 1.55 million).

Breaking into this vast distribution network, with more wholesalers and retailers per capita than any of the other advanced industrial nations, is a difficult as it is important. The multilayered network fosters close buyer/supplier relations, based not only on financial considerations but on ties of obligation and loyalty and on a strong premium placed on secure supply. These factors put foreign suppliers, particularly those whose product is imported rather than manufactured in Japan, at a disadvantage.

The Japanese trading companies are cited by exporters as contributing to the difficulties importers confront in distribution, since they typically operate on very narrow profit margins and are thus reluctant to take on imported products whose marketability in Japan is still unproven or to distribute foreign products that require an extensive network of after-sale service and maintenance facilities. In addition, the trading companies frequently have links to domestic manufacturers that may blunt their interest in handling competing foreign product lines or Cartel-like activity among Japanese firms can limit access to distribution channels in Japan. For example, U.S. soda ash can be delivered in Japan at a price significantly under that of local Japanese producers. However, imports are made only by trading companies designated by the Japan Soda Ash Industry Association—which in turn is controlled by the major soda ash producers. In fact, specific trading companies are assigned to specific U.S. exporters. When the U.S. companies have tried to sell more by going directly to the users, they have been told this will be impossible because of the "delicate relationships" these companies have with the trading companies and the Japanese producers.

This type of situation is repeated in many industries, such as paper and petrochemicals. This is one result of the Keiretsu system in which importers, producers, and distributors are all financially linked through a bank or trading company. Management linkage is also possible. The system acts to restrain imports. The trading companies tend to dominate warehousing, tank farms, and bulk transport. It is difficult for the end-user to bypass this traditional distribution system without great expense. Moreover, the banks, which finance the distributors, also own equity in the producers. Consequently, great pressure can be placed on anyone who upsets the system with excessive imports.

GOJ Action

The May 28 package incorporated several initiatives to improve foreign access to, and fair treatment in the distribution process. Specifically, the announcement stated that the GOJ:

Invited foreign entities and individuals concerned to present their views to a GOJ advisory council on ways to facilitate imports, the Committee for Manufactured Goods Import Measures of the Trade Conference. The Committee will investigate ways to eliminate import problems caused by particular distribution channels and business practices.

Would establish, in cooperation with JETRO and the Japan Trade Association, a system to use business consultants to help foreign firms gain access to, or expand their operations in, the Japanese market.

Decided to intensely monitor distribution of imported goods. Practices that restrict competition, should such be found, will be countered where applicable, by fair and strict application of the Antitrust Law.

3. Buy national attitudes

Discussion

Japanese companies, but not Japanese consumers, show a deep-seated preference for domestic products, even where imported goods may excel in price and quality.

In the view of many American companies, Japanese companies are only interested in purchasing raw materials, or foodstuffs, etc. from the United States. They will buy U.S. manufactured goods only if they incorporate technology unavailable to domestic manufacturers; lower prices, novel design features, or better quality are immaterial factors in these buying decisions. The deep-seated preference for Japanese products is sometimes masked by charges of poor quality or reliability of American-manufactured goods.

This inclination of Japanese companies to buy from Japanese suppliers is a powerful attitudinal impediment to trade. It is paralleled and reinforced by the perceived need among mid-level government officials to protect Japanese companies from foreign competition.

In contrast, in consumer preference polls, Japanese consumers like their American

counterparts, express a desire to buy the origin. But they do not have an equivalent opportunity to do so. A smaller range and volume of foreign consumer products are imported, and those which are imported are typically sold at prices above comparable Japanese rival products. It is not surprising then to note that nationwide surveys conducted in April 1982 found that while two-thirds of the American adults sampled stated that they had recently purchased a Japanese product, 60 percent of the Japanese adults stated that they had *not* recently purchased an American one.

GOJ Actions

As noted earlier, Prime Minister Suzuki's May 28 statement made a direct appeal to the Japanese in both public administration and private firms to be even more welcoming to foreign products and not discriminate against them. The Prime Minister's statement also noted that "Japan already abolished the "Buy Japanese Policy" about 10 years ago; and that what is necessary for the measures in the Japanese initiatives to bring about concrete results," is the attitude to welcome foreign products or foreign investment in actual administrative management and economic activities.

● Mr. O'NEILL. Mr. Chairman, I rise in support of this bill. I do so not because I am against free trade but rather because I am for fair trade. I do so not because I am against cars made overseas but rather because I want cars made in America. I do so not because I want to disrupt trade with Japan but rather because I want to balance trade with Japan.

At the moment imports have 28 percent of a depressed American auto market. Since 1978 over a million workers have lost their jobs in auto-related industries. If the current trend continues a million more will lose their jobs by 1990 because imports will have half of the domestic market.

It is sheer folly to permit this to happen. Auto manufacturing is a crucial sector of the U.S. economy. If it is not healthy our economy will not be healthy. It is a critical part of our industrial sector. We cannot be a first-rate power if we scrap our industrial might. We must save it.

And we can do it—not by voting subsidies—but rather by encouraging investment. This bill is an incentive for foreign auto makers to invest in the United States. It is an incentive for American corporations to invest here. American workers are among the best in the world. Volkswagen and Sony can attest to that. It is about time that Toyota and Nissan found it out as well.

In these days of modern technology, modern communications, and multinational corporations there is simply no excuse for not encouraging those who seek to gain a substantial share of the domestic auto market to be encouraged to build their cars here. We would welcome that investment. In fact we have a right to expect it.

Following World War II our Government encouraged international economic recovery by generous trade and foreign investment policies. We were remarkably successful in promoting economic growth among countries devastated by war. We also made a huge investment in defense expenditures to protect democracy and free trade in the world. We are still doing this. In fact we are increasing spending on defense.

This Nation is now spending $1.6 trillion over a 5-year period to protect the security of the free world. Without that protection free trade would end and capitalism would be dead. We have provided that security for over 30 years. It has cost us almost 3 trillion in 1972 dollars during the period. We have done our share and we will continue to do it.

But how can we expect our citizens to pay the high price for the security of the free world and not have economic security here at home. The answer is we cannot.

There are 13 million Americans out of work. Our industrial heartland is in a depression. Franklin Roosevelt said every American has a right to earn a decent living yet we are reluctant to protect that right for millions in the auto industry.

At the moment American automakers are trying to make a comeback. They have made significant increases in capital investment and taken necessary steps to improve the quality of their products.

However, a misguided and disastrous tight money policy has crippled the industry. High interest rates and an overvalued dollar have reduced the price of imports and at the same time discouraged the sale of domestic automobiles.

This bill is necessary to make that comeback a success. Without it, our basic industries may not recover. And if they do not this country and millions of its citizens will suffer the consequences. Consequences that the Nation cannot afford—not to mention millions of its citizens.●

Mr. REGULA. Mr. Chairman, I rise today in support of H.R. 5133 recognizing full well the arguments that have been raised against this legislation, but also realizing the necessity of sending our trading partners a clear message relative to our concerns at this time. That message is that the United States has had enough of other nations merely paying lipservice to the concept of free and fair trade and has finally decided to force the issue.

No one here needs to be educated relative to the positive aspects of free and fair trade and an open market system. However, while the United States has practiced what it has preached in this area, our trading partners have responded by imposing barriers against our exports of goods to their countries and at the same time taken advantage of our relatively open market by flooding it with their own subsidized products.

Other nations have also benefited from our disproportionate shouldering of the international defense burden, which has enabled them to redirect the funds they save on defense back into their capital jobs base. Japan, in particular, has reaped the fruits of this situation and their capital intensive automotive industry is a direct reflection of their minimal defense costs.

We cannot continue to ignore the impact imports have had on our economy and the employment situation. It is merely wishful thinking that this situation will be corrected voluntarily by our trading partners. Without a strong signal from this Government that we are prepared to fight fire with fire, there is no hope that negotiations to open foreign markets to our goods will be successful. Passage of H.R. 5133 will make our allies take notice that the United States finally is ready to be serious in the international marketplace, in seeking fair trade.

● Mr. HARKIN. Mr. Chairman, some have suggested this bill would start a trade war with the Japanese in which the United States would be the loser.

While I have no desire to see a trade war, I do think it is time to fire a warning shot. Passage of this bill by the House would serve that purpose.

Our lopsided trade balance with the Japanese is disgraceful. It is the result of protectionist quotas and other trade barriers imposed by the Japanese on a wide range of commodities such as American beef, pork, poultry, and many others.

Recent attempts by the administration to liberalize this trade has proved futile. As recently as October 20, 1982, our negotiators met in Honolulu to discuss beef and citrus restraints with the Japanese. The Japanese quickly made it clear they had nothing to offer and the United States broke off negotiations. No further negotiations have been scheduled.

The case for beef is particularly instructive. Despite the strong demand for American grain-fed beef in Japan, only 30,800 metric tons are permitted to be imported annually from all sources. To obtain this quality beef, for which the American consumer pays about $3.50 per pound, the Japanese consumer must pay over $13 per pound.

With that price, it is not surprising that the per capita beef consumption in Japan is only 11 pounds per year. Japan could be a major user of our beef. But under their present import policies only 7 percent of the meat consumed in Japan comes from the United States. Japan could use a lot of our products if it were not for their protectionist philosophy. While they may talk about the need for open markets, they do not practice it.

Yes; the time has come to send a strong signal to the Japanese that the United States will no longer tolerate such restrictive trade practices. Passage of this bill in the House this session will, I predict, find the Japanese returning to the negotiating table ready to seriously negotiate on such key issues as meat imports.●

● Mr. HERTEL. Mr. Chairman, this bill encourages the production of automotive products in the United States by requiring manufacturers to use specific levels of American-generated materials in vehicles sold in the United States. Content requirements vary according to the companies' total U.S. sales. Those manufacturers selling fewer than a 100,000 automobiles in this country are exempt from these requirements.

Manufacturers receive credit for the value of all production-related activities and all costs incurred in the United States. Two or more manufacturers are prevented from double counting the value of the same automotive product in figuring their respective domestic content. Finally, it requires large scale manufacturers to maintain certain records and directs Federal agencies to report to this body on the bill's impact on manufacturers and the auto industry in general 1 year after the bill has been in effect.

This bill results from the loss of almost 1 million jobs in auto and related industries since 1978. There can be no doubt that the auto industry comprises a substantial component of our Nation's industrial base. That industrial base has been seriously eroded by foreign-manufactured automobiles. The foreign share of the American car market is now nearly 30 percent. Of that share, Japanese imports represent 80 percent of all foreign cars sold in this country for an astonishing 22 percent of the entire U.S. car market.

There are numerous myths which surround the causes for the deteriorating state of the auto industry in this country. There has been much criticism of the American labor force in this debate; accusations of high costs and low productivity. I think that it is vitally important that this body listen to some figures from the 1982 "Japan and International Comparison Study" by the Keizai Koho Center, the Japan Institute for Social and Economic Affairs.

The annual earning and tax benefit position of a typical worker in a major company, calculated according to the average annual exchange rate of the International Monetary Fund, shows the gross annual earnings of a typical worker in the United States to be $14,949. The typical Japanese worker's annual gross earnings are $16,960. Of the 11 major U.S. trading partners, the typical American worker ranks eighth.

ANNUAL EARNINGS AND THE TAX/BENEFIT POSITION OF A TYPICAL WORKER IN MAJOR COUNTRIES (1980) [1]

	Annual gross earnings [2]	Payments to Government				Cash transfers from the Government	Disposable income	Disposable income ratio (percent)	Rate of income tax paid (percent)	Rate of social security paid (percent)
		Total	Income tax	Additional income tax	Social security					
	(A)	(B=C+D+E)	(C)	(D)	(E)	(F)	(G=A−B+F)	(G/A)	[(C+D)/A]	(E/A)
Switzerland	$22,210	$4,105	$196	$1,582	$2,327	$1,003	$19,108	86.03	8.01	10.48
Germany, F.R.	18,489	4,756	1,851	.....	2,905	990	14,723	79.63	10.01	15.71
Netherlands	18,057	5,956	2,288	.....	3,668	1,374	13,475	74.63	12.67	20.31
Japan [3]	16,960	1,735	650	393	692	.....	15,225	89.77	6.15	4.08
Belgium	16,022	3,478	1,670	100	1,708	1,944	14,488	90.42	11.05	10.66
Australia	15,689	2,636	2,636	.....	.....	505	13,558	86.42	16.80	.....
Canada	15,210	2,105	1,039	710	356	447	13,552	89.10	11.50	2.34
U.S.A.	14,949	2,782	1,233	633	916	.....	12,167	81.39	12.48	6.13
U.K.	14,866	3,966	2,963	.....	1,003	1,033	11,933	80.27	19.93	6.74
France	12,106	1,549	.....	.....	1,549	1,062	11,619	94.98	.....	12.80
Italy	10,284	1,859	1,057	.....	802	818	9,243	89.88	10.28	7.80

[1] Male, manufacturing sector worker with a two-child family where the wife is not working.
[2] U.S. dollar figures are calculated according to the annual average exchange rates of the IMF, International Financial Statistics.
[3] US$1.00 = ¥226.75
Source: OECD "The 1980 Tax/Benefit Position of a Typical Worker in OECD Member Countries."

Furthermore, in comparative levels of labor productivity, the typical American worker out-produces every other worker in major countries.

COMPARATIVE LEVELS OF LABOR PRODUCTIVITY (1978)

(Japan, each sector = 100)

	Agriculture	Manufacturing	Construction	Transport and communications	Services	Total
U.S.A.	414.5	115.9	139.0	217.3	158.5	164.1
France	217.5	100.9	118.9	137.9	136.6	142.3
Germany, F.R.	162.5	99.0	163.1	156.0	143.7	139.4
Japan	100.0	100.0	100.0	100.0	100.0	100.0
U.K.	249.4	53.4	107.0	119.7	87.0	95.1

I think we do our workers a grave disservice by underestimating the skills and ability of our people.

The Japanese do deserve a great deal of credit. While their productivity is yet to equal the United States, they have made enormous strides in increases in productivity based upon the cooperative governmental, industrial, and labor cooperation to make state of the art investments in targeted areas such as automobiles.

Unfortunately, the burden which our Government places by taxing our workers is more than $1,000 in excess of the comparable tax burden placed on Japanese workers, which allows Japanese workers to have the second highest disposable income of any worker in major free world countries. This reduced tax burden is a direct result of the defense subsidy the United State insures Japan. It has allowed this nation to channel its resources into productive sectors of the economy to the detriment of our labor. An examination of the August 1982 U.S. Department of Commerce International Trade Administration compilation of "Current International Trade Position of the United States" shows that in the first two quarters of 1982, Japan enjoyed a $35 billion trade surplus with the United States. No other single nation approaches this condition. It disturbs me that the administration is not concerned about a situation which is tantamount to economic colonialism. I can think of no other nation in the world which would allow more than one-quarter of its basic industry to be exported to another country, while simultaneously subsidizing the domestic security of that country.

Those who oppose the domestic content bill raise red flags of possible trade wars. I must respectfully disagree with these Members of Congress because there are already trade wars, and our Nation has suffered far more serious losses than any sneak attack in any conventional war. It is burying our heads in the sand to believe that worldwide eonomic upturn will improve the economic conditions in the auto industry. To do nothing about the tragic condition of one of our most fundamental industries is to raise a white flag of surrender. We soon will be economically conquered and our people will be paying their tax dollars in tribute for the defense of foreign markets which are now exploiting them.●

● Mr. MURTHA. Mr. Chairman, this week I received the most recent unemployment statistics for my district in western Pennsylvania. I am very disheartened by the large jump in laid-

off workers over the last several months. For example, more than 5½ percent of all persons employed last May in Cambria County, which relies chiefly on heavy industry for a strong economic base, are now without jobs. As of October, unemployment reached 19.5 percent, an increase of 2½ percent over September's figure. In Westmoreland County, another highly industrialized section of the district, the increase is 4 percent since May.

These figures come to me after months of anticipation of the economic recovery that the American people have been promised. I am still looking for the upward break in the statistics charts that indicates recovery is assured. So are the many thousands of newly laid-off workers standing in food lines and collecting unemployment checks.

The economy of Westmoreland County is particularly affected by the auto industry. It is the home of the New Stanton Volkswagen plant, which is suffering from dangerously low production rates and dangerously high layoff rates. Westmoreland County is also home for a number of specialty steel companies, which manufacture all automobile parts requiring high stress, and high heat, and corrosion-resistance parts.

In Cambria County, the leading employer in the steel industry is Bethlehem Steel Corp. Twenty-five percent of all of Bethlehem's final steel products are shipped to Detroit for automaking. The slump in car sales in Michigan has had a heavy impact on steel production and employment in Cambria County. The results of steel and auto layoffs, combined with the general economic recession, have made western Pennsylvania one of the hardest hit areas in the entire United States. Newscasts regularly feature stories on new layoffs. Special efforts to provide food and other essentials by community groups for unemployed families are underway throughout both Westmoreland and Cambria Counties. In the meantime, pessimistic predictions on the ripple effect abound, and the result is unemployment in such areas as food sales and Christmas retail sales.

There is no doubt that many factors have had a cumulative effect on the problems of western Pennsylvania and the entire United States. But there can also be no doubt that the American people have identified foreign imports as one of the key reasons for America's economic recession. I could not agree more.

Just yesterday, in neighboring Armstrong County, a businessman took out a one-half-page newspaper advertisement concerning foreign imports and has reproduced it to affix to all the packages he ships across the United States. That ad shows an old biplane piloted by a Japanese person dropping bombs on the United States. The bombs are in the shape of Japanese-produced automobiles. That shows the emotional depth of the feeling against foreign imports.

It is against this backdrop that the United Auto Workers have prepared and developed this content law legislation we are debating today. I would like to congratulate the United Auto Workers on the outstanding lobbying effort they have done throughout 1982. I have had several meetings with them on difficult points in this legislation and they have done a magnificent job of developing creative, productive solutions to parts that needed ironed out, thus creating the strong legislation we have before us.

My strongest concern is for the Volkswagen plant in Westmoreland County. There is no doubt that this Congress must give attention to the entire American auto industry. One fact is very clear: The U.S. economy will not be back on track until the American auto industry is back on track. Behind all the production and unemployment figures in the auto industry, one fact stands clear: 1 out of every 5 jobs in the United States is tied to the production of automobiles. When auto production is down, it affects rubbermaking, spare parts production, steel production, and a host of other items, all the way down to the local community, where in western Pennsylvania we have seen a score of local auto dealers close their doors in the last year. Each one of those closings, too, adds another 15 to 20 people to the unemployment rolls and robs the community of jobs for teenagers and individuals who offer new skills.

Many of our trading partners have domestic content laws of their own, or maintain restrictive tariff policies that virtually eliminate the threat of foreign competition in automobiles and other domestic businesses. Other countries maintain policies that are designed to prevent the threat of extinction of their businesses. The United States so far has resisted any such action. Perhaps our most surprising trading partner is Japan, which actively opposes restraints by the United States to imported automobiles. Yet Japan maintains an excessive tariff and time-consuming inspection policy on incoming cars that virtually price foreign models out of its local market.

One of the chief arguments against H.R. 5133 is the worry of retaliation by trading partners in other export fields. The fact of the matter is that our competitive trading partners condone protectionist policies and have not suffered considerably from the onslaught of trade wars. In spite of skeptics that insist the United States will suffer irreparable damage from passage of the content law legislation, this proposal will demonstrate to our competitors that the United States will not stand idly by as our domestic auto industry continues to severely slump, and that our Government is not afraid to take a stand against the unfair trade practices of foreign countries.

Again, an important point to bear in mind is that this content law, if passed, would help boost auto production here in the United States and ripple through the entire economy. Jobs for auto workers means jobs for steelworkers, rubber workers, glassworkers, vocational training institutions, and all the way down through all segments of the community.

Lastly, I have seen firsthand the hard times that our unemployed endure. I regularly schedule workshops in my district and meet with unemployed families. Believe me, the time is ripe to show these people that our Government cares.●

● Mr. MURPHY. Mr. Chairman, like the great majority of my colleagues—and I am sure the majority of Americans—I have long believed that our economy benefits most when economic competition remains free of Government interference. The principles of laissez-faire created an atmosphere in which American hard work and ingenuity propelled us to the forefront of the industrial world. Unfortunately, conditions no longer allow us to continue to sit on the sidelines while our basic industries crumble around us and our neighbors join the long lines of the unemployed.

Fair trade benefits everyone, and I know that we would be better off if we were permitted to compete in free markets. However, the world markets are no longer free. Competition is no longer fair, and our Nation can no longer operate under the illusion that it is fair. Many of the industrial countries around the world are unfairly subsidizing their own companies and helping them sell their products in the United States far below the actual costs of prouction. We can no longer afford to let this happen. The 12 million unemployed Americans cannot afford to wait for the administration to seek legal remedies. Our existing trade laws have not worked. We must make changes.

Mr. Chairman, more than 15,000 Americans, formerly employed in the steel industry, became unemployed last month. There were 162,228 people on layoff in our steel industry as of November 27, 1982, and another 13,426 working short weeks. However, we continue to import. Imports for the month of October equaled 1,145,847 tons, and we have imported 14,313,615 tons of steel so far this year. The American Iron and Steel Institute has estimated that each 1 million tons of steel imported into this country results in the layoff of 5,000 Americans. We cannot allow this to continue. We

cannot afford for this to continue. While foreign producers have increased their share of our market to over 22 percent this year, our domestic producers' rate of production utilization has dropped to 48.1 percent. Last year at this time, the domestic steel industry was working at 78.9 percent of capacity. That is a drop of 39 percent.

I rise today to introduce the Fair Trade Act of 1982, which has two basic goals. First of all, the Fair Trade Act establishes a schedule which limits penetration of foreign steel to a level dependent upon the rate of production utilization in the domestic steel industry. This legislation limits imports to 2 percent of the market when the domestic steel industry is operating at less than 60 percent of capacity. When the domestic steel industry is working at 60 percent to 85 percent of capacity, the quota on imports would be increased to 10 percent. There would be no limit on imports when the domestic steel industry is operating at greater than 85 percent.

Second, the Fair Trade Act would also establish the President's Commission on Basic Metals, which would bring together spokesmen from labor and industry, members of the Cabinet and the administration, as well as noted experts in fields such as economics, trade, industrial analysis and planning, and defense, who would analyze and determine the needs of the basic metals industries. The function of the Commission is to monitor the progress of the industry under the act.

I do not profess to have all of the answers. If the industry is not improving under this legislation, then it would be one of the duties of the Commission to recommend changes that should be made to the President and to Congress. The Commission would also be asked to propose other actions that could be taken to revitalize all of our basic metals industries. As a nation, we have the intellectual and physical abilities to turn our economy around. It is essential that we begin to make use of that ability.●

● Mr. WALGREN. Mr. Chairman, every day the unemployment pictures gets grimmer and dimmer. With 12 million people out of work, unemployment is now at 10.8 percent, the highest since 1942. The steel industry is operating at 31.6 percent of capacity, with unemployment in that industry at an astounding 38 percent. In my home area of Pittsburgh, unemployment in the steel industry has reached 50 percent. In the automobile industry, 275,000 people are on indefinite layoff, putting the level at 35 percent in that industry.

As a cosponsor of H.R. 5133 and one who worked in the Energy and Commerce Committee for its enactment, I am pleased to support the domestic content legislation that I hope will put Americans back to work. This bill would require any car manufacturer who sells more than 100,000 cars a year in the United States to use a substantial amount of American parts and be assembled largely by American workers.

The auto industry has been in a crisis for almost 4 years, which has resulted in the closing of 30 major plants, the indefinite layoff of 285,000 auto workers and the loss of another 670,000 jobs in industries supplying car manufacturers, such as steel.

Our committee developed this bill because we believe that unfair commercial relationships between United States and certain foreign auto-producing nations are a principal cause of our high levels of unemployment in the auto industry. Most auto-producing nations have established trade restrictions which limit automobile imports to a very small share of domestic markets. The United States, however, has placed virtually no restrictions on foreign auto makers' access to our market. As a result, imported car sales, which were around 15 percent in 1970, were at 27 percent in 1981. Thus, this bill is a step that would adjust American automobile trade and industrial policy to the realities of other nations' promotional and protectionist measures. It would help to rectify a trade inequity that has gone on for too long and has cost too many jobs.

It is our hope that this bill can help alleviate our serious unemployment situation. It can do so by encouraging foreign auto manufacturers that have captured large shares of our market to locate facilities here in our country. This is not so far-fetched. In Westmoreland County, Pa., which borders my district, Volkswagen of America has been making Rabbits and light trucks since 1978. Today, all Rabbits sold in the United States are made in this U.S. facility. These cars have 70 percent U.S. content of parts and labor. Nissan is currently constructing a $500 million plant in Tennessee which will employ 2,900 people. And Honda will open a plant in Marysville, Ohio.

Last year, Toyota, Nissan, and Volkswagen, sold about $15 billion in parts and vehicles in the United States. I believe it's only fair to expect companies to contribute to an economy from which they derive great benefit. If this bill becomes law, we can expect that by 1986 foreign auto companies will spend about 50 percent of their U.S. sales volume in the United States, rather than at the current level of 15 percent.

One study has shown that this bill could result in over a million domestic jobs by 1986 in the auto industry and its suppliers. We must have a healthy auto industry to have a healthy economy. The auto industry consumes 29 percent of all the steel used in this country, 50 percent of the malleable iron, 34 percent of the zinc, 12 percent of the primary aluminum, 13 percent of the copper, and 60 percent of the synthetic rubber. A bill that can mean over a million jobs is a must bill during a time when employment is approaching 11 percent. Unemployment has huge emotional, disrupitve costs to individuals. It has costs to society as well. Losing these jobs could cost the U.S. treasury $25 billion a year in increased welfare and unemployment payments, lost tax revenues, and a bigger Federal deficit.

There are those who will say that this is protectionist legislation, that it will invite retaliation by Japan and other countries. In my view, this bill will invite Japan and others to remove trade barriers that have blocked U.S. goods from entering their markets. Thirty-one countries now have auto domestic content laws in force. Japan's restrictive policies have meant that U.S. auto companies have a total of 0.9 percent of the Japanese market. Japan has a 30-percent share of ours. This bill is but a modest response to a long history of systematic trade discrimination.

I hope my colleagues will join me in approving it.●

● Mrs. HOLT. Mr. Chairman, this is truly beggar-thy-neighbor legislation.

It is designed to provide one part of the American economy with a captive market for its products by eliminating its major foreign competition.

It would reduce the pressure on the American auto industry to improve its products, increase productivity, and restrain prices. It is the most anticonsumer piece of legislation I have seen since coming to Congress 10 years ago.

Worse yet, there is a clear danger that the enactment of this legislation could ignite a chain reaction toward protectionism. It would be a violation of the international General Agreement on Tariffs and Trade.

The United States has been a leading advocate of free trade because exports are extremely important to our economy. If we take this major plunge into protectionism, we would be inviting retaliation against our own products in international markets.

I would remind my colleagues from Maryland that our State has a great stake in free trade because of the preeminent role of the Port of Baltimore in the Maryland economy. Maryland would lose jobs in a world absorbed in protectionsim.

In fact, every economic report I have seen on the impact of this legislation predicts that it would cause the American economy to lose many more jobs than it would maintain in the auto industry.

The Commerce Department estimates that $15 billion of U.S. exports would be vulnerable to retaliation, especially aircraft, office equipment,

electrical components, and farm commodities.

Mr. Chairman, I have been very impressed with the vigorous efforts of the American auto industry to improve its competitive position in terms of quality, productivity, and restraint on prices. The competitive forces in the market are producing these results.

I have been very concerned at the tragic loss of jobs in the auto industry because of the recession, foreign competition, and the technological revolution.

But if we want economic growth and more jobs for the American people, we will not lunge into protectionism that would create havoc in world markets that would damage other American industries.

If we want to avoid turning a world recession into a global depression, we will not enact legislation that would make us the leaders in protectionism.

If we want American consumers to continue having the widest choices of products to meets their needs, we will not make them a captive market for a few manufacturers.●

● Mr. TRAXLER. Mr. Chairman, the issue is jobs—jobs for Americans, the people we represent. For too long now our Government has taken the attitude that any effort to preserve American jobs would result in retaliation from our trading partners. But nowhere in this discussion do the opponents of this type of legislation remind themselves of the fact that every other major trading nation in the world has trade policies far more restrictive than any we are proposing.

Unemployment in my State of Michigan is 17.2 percent, far more than the national rate of 10.8 percent. If we had only the national unemployment rate in Michigan, many people would think that our economic problems are ending.

But when the people I represent fear every day that they may be losing their job, when they see that their neighbors are being forced to move to find gainful employment, when they find banks and Government agencies threatening foreclosures on their homes for delinquent mortgages, my constituents know what it is like to live in a depression.

Some will claim that the auto industry should blame only itself for its problems. They should have been prepared to meet the competition from the Japanese. Workers should have scaled back their wages. These people who will claim to know better than those who have to work on these problems every day ignore the fact that autoworkers have scaled back on wage demands and have put off pay raises. They ignore that the quality of the American automobile is significantly higher than it was in the past, including the fact that American-made car are far safer than most imports.

Today, Mr. Chairman, those of us who have sponsored domestic content legislation from the start come before our colleagues to say enough is enough. We want to preserve jobs for the people we represent, and we want those companies that are taking so many dollars out of the American economy to start contributing to its well-being. One out of every five Americans have jobs that are linked in some way to the auto industry. Auto part suppliers are feeling the difficulties. Support industries are feeling the difficulties. Most importantly, our Federal budget is feeling the difficulties. Every 1 percent unemployment adds $25 billion to our deficit in the form of demands for governmental assistance and lost tax revenue. If we want to get our budget deficit under control, put Americans back to work.

Over 30 countries impose domestic content requirements, including Italy, France, Germany, and Great Britain. France limits Japanese imports to 3 percent of its domestic market, while Italy limits imports to only 2,000 units annually.

Japan itself has some of the most restrictive trade policies in the world. While it has committed itself as a nation to rebuilding its industry and in particular its auto industry, it has some of the highest tariffs in the world as so many of our farmers who are trying to sell grain and beef to Japan know so well. Let the Japanese open up discussion about buying American agricultural goods if they want to maintain their access to the American auto market. You and I both know that they are unwilling to do this. The reason? They want to protect their domestic economy.

There has never been a substantial recovery from a recession without a recovery in the auto industry. If we want to see our economy get better, then we must act to help our auto industry improve. It is not to help GM or Ford or Chrysler or AMC. It is to help States like Michigan, Ohio, Illinois, and Indiana that are having very difficult times in the face of massive unemployment and demand for Government services to the needy. It is for the quarter of a million people who have been indefinitely laid off, and the additional half million people who have been laid off from auto support industries. It is for the nearly 1 million families that are trying to live through the strain of unemployment, and the millions more who live with the fear of unemployment.

While Japan's share of our auto sales jumped from 12.1 percent to 21.8 percent between 1978 and 1981, our unemployed autoworkers have exhausted their extended unemployment benefits. The cruel hoax of the benefit extension in President Reagan's last tax increase bill did not provide any help to the people in Michigan who could not meet the requirements of the bill. The industry's capacity utilization is at the lowest rate in 30 years, while the President goes sleepwalking into the future every time that he says "Don't worry, my program will work."

Mr. Chairman, the chief form of Federal assistance to the State of Michigan may be the food stamp program, which is providing in excess of $35 million to Michigan each and every month. This is not a fact of which we are proud, it is a fact which shows how serious our problems are.

There comes a time when we must stand up and defend the interest of the people we represent. My constituents want work. They want to be able to buy new furniture, new cars, and new homes so that others may return to work. They want to see America moving again, but if they see America moving in a Toyota while we sit here with good wishes for the future, they have every right to ask whether or not Congress cares about the problems of the American people.

I urge the adoption of H.R. 5133, the Fair Practices in Automotive Products Act.●

● Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 5133, the Fair Practices in Automotive Products Act. While I recognize the adverse effects of protectionist policies and realizing the repercussions that this kind of legislation could have on our exports, I say also cognizant that this bill is highly supportive of American jobs and the value and integrity of the American autoworker and all workers whose jobs are closely connected to them including parts suppliers, steel companies, tire manufacturers, and textile firms. With unemployment approaching 11 percent and our economy struggling to make a comeback, this is an appropriate time to take a firm stand for the automobile industry and for the workers of America. The Bureau of Labor Statistics estimates that every direct auto manufacturing job creates 2.35 additional positions in steel, rubber, glass, textiles, and other industries. Approximately 5 million jobs are involved in producing, selling, and servicing automobiles.

The objective of this bill is salutary in serving to remedy the unfair commercial relationships between the United States and certain foreign auto-producing nations by requiring certain manufacturers to produce vehicles for sale in the U.S. market that contain specific levels of U.S. labor and parts.

I know firsthand the agonies experienced by autoworkers when a plant closes.

Recently a Ford assembly plant closed in my region in New York State with the loss of 5,000 jobs. Another

8,000 jobs are threatened in the General Motors plant in North Tarrytown, N.Y. We cannot deny that foreign imports have put pressure on American jobs and the automobile industry. Our Nation has been open to all foreign trade and we have welcomed products from countries with different living standards and government policies of industrial support, which have impacted severely on product price and quality. These same nations have considerable import restrictions and often domestic content laws, keeping out U.S. automobiles. We do not want this legislation to stand for a retaliation against their policies, but rather to stand for our support for fair trade and our belief that American products have the ability to compete fairly with any on the market because they are produced by the finest workers in the world with the greatest imaginations and perseverance. Yet when it comes time to judge why we are losing ground against an influx of imports, the argument of high American wages is inevitably put forth by opponents of this kind of legislation.

Certainly the American industry must become competitive with foreign imports in the automobile industry—that is the basis of our free enterprise system. Auto workers have made concessions on wages and benefits already this year to hold onto their jobs and to keep their plants in operation. I am proud to live in a nation that places the worker first and the quality of life to which he and she are entitled. Yet we are asking the automobile worker and the auto industry to take it on the chin from competition that has considerable Government protection in the countries from which they come.

I urge my collegues to support this measure because I believe its passage will send a signal to other nations and to our own workers that we stand firmly behind American products and are committed to fair trade.●

● Mr. COURTER. Mr. Chairman, I rise in opposition to H.R. 5133, the Fair Practices in Automotive Products Act. I do so for several reasons.

First, one erroneous assumption this legislation is predicated upon is that it will create new jobs. A recent Congressional Budget Office study estimates that possibly between 38,000 and 100,000 auto jobs could be created by the 1990's, the new jobs are more than offset by the possible loss of up to 104,000 in factories that make goods for American exports. The burden of these losses would be in the electronics, agricultural and service industries. What I am saying is that if we erect trade barriers to protect our automobile industry, our Western trading partners in Europe and the Far East will retaliate in kind.

Second, I oppose this legislation because it places the blame for the condition of our automobile industry almost exclusively on imports. This is not true. Surely, high interest rates and a lagging economy have hurt American industries across the board, especially automobiles and automotive supplies. But the point remains that the foreign import market has grown by only 200,000 more sales than 5 years ago, accounting for 27.7 percent of the total auto sales market in the United States. Our U.S. Trade Representative, Bill Brock, has succeeded in communicating to the Japanese Government and industrial leaders that voluntary export restraints by Japan can help in alleviating the loss of American jobs in our automobile industry. It is my understanding that the Japanese Government is now showing some willingness to cooperate with the United States in order to help preserve our trade relations.

Third, domestic content legislation, which is on the books in 30 foreign nations, does not work. Only 3 out of the 30 countries, Spain, Greece and Australia, are considered industrialized, but none of those 3 nations is competitive in any way in this industry.

Fourth, I am concerned about the cost effect this legislation would have on new car and trucks sales here, if enacted. The Congressional Budget Office estimates an average increase of $333 per vehicle due to curtailed imports on parts and equipment. Of course, higher sticker prices will reduce domestic sales, and thereby reduce jobs.

Equally important, this legislation prohibits American automobile manufacturers from seeking out less expensive parts and equipment from abroad, which could reduce or at least hold the line on domestic car/truck costs. The car of today's automobile industry is made up of components from around the globe. American manufacturers must procure quality parts and equipment from wherever they can find the best price to keep the cost to the American consumer down.

In conclusion, I would like to state there is no Member of the House who wants to see our automotive industry disappear. That would be terrible, not only to this industry but to our entire economic well-being. The problem with this legislation is that it really does not do anything concrete to assist our automotive industry or the American economy. I originally cosponsored this legislation to give our Special Trade Representative the leverage he needed with Japan to secure their cooperation in removing tariff and nontariff trade barriers.

While I can understand, and in fact, share the sentiments of those who want to preserve American jobs against unfair foreign competition, I believe restrictive trade policies can cause greater harm to our overall economic situation. The export-import industry plays an important role in providing greater employment opportunity for all American workers. Instead of adopting protectionist policies which, in the long run, will reduce the potential for economic growth and jobs, I believe we must firmly challenge those specific policies adopted by foreign nations, and seek to reduce those tariff and nontariff trade barriers raised by Japan and other nations. We cannot base our international trade on tariffs, barriers, or even indefinite voluntary restrictions by our partners. We must permit our companies to obtain the parts and equipment they need from wherever to produce competitively priced products.

H.R. 5133 is not the answer and I ask my colleagues to join me in opposing this bill.●

● Mr. HAMMERSCHMIDT. Mr. Chairman, the bill before us, H.R. 5133 amounts to a well intentioned but misguided effort to compete with foreign auto markets through import controls. While I share my colleagues concern about high unemployment rates in the auto industry, this legislation is not the answer to the auto industry's ills. Although the original bill had strong support, many Members have now revealed their second thoughts about the wisdom of this bill.

Clearly, the U.S. automotive industry is facing severe difficulties that must be solved. However, the industry's problems are complex and will require considerable ingenuity through our trade and tax laws and through a new alliance by Government, labor, and managment to be resolved. The recession and high interest rates have contributed to the drastic reduction in domestic auto sales.

To the extent imports are contributory to the industry's ills, the administration has supported voluntary export restraints extended by the Japanese Government. These Japanese voluntary restraints are effectively meeting the import problems without jeopardizing American exports, jobs, and trade.

As stated earlier, high interest rates are widely blamed for the problems facing the domestic auto industry. Recent reports released in mid-November reveal that car sales, due to special low interest offers and rebates, have increased sales on domestic cars an average of 42 percent in recent months. That major issue to be addressed today, is whether or not the domestic auto industry can recover without the passage of H.R. 5133. I think the answer is yes.

As long as foreign cars are produced for substantially lower prices they will beat out domestic lines. Americans vehicles will cost more as long as hourly wages and benefits remain over 70 percent higher than foreign markets. Moreover, we should not underestimate the rising billion dollar cost of

Federal regulation. The central problem in the auto industry has been its failure to recognize the threat and quality posed by its competitors abroad. Detroit designed vehicles were not made for the swiftly developing energy efficient needs of today's marketplace.

Although advertised or billed as a jobs savings bill, the domestic content bill will actually cost jobs in the United States. The Congressional Budget Office (CBO) has predicted a maximum of 100,000 jobs might be generated because the bill restricts foreign imports; however, other sectors of the economy will be directly and negatively affected. Basically, what this means, is that although some gains will be made in auto industry jobs, they will be more than offset by positions lost by longshoremen, automobile importers, foreign car dealers, and a multitude of other ripple industries. In fact, it is estimated that H.R. 5133 will eliminate some 104,000 U.S. jobs because of retaliatory restrictions that would most certainly be adopted on nonauto exports.

The bill would hurt domestic auto companies rather than help them since it would severely restrict their ability to trade internationally and obtain lower cost components. The result in the end would be increased costs to both dealers and consumers. CBO stated that U.S. auto prices would increase 10 percent, an average of $333 per car. Each job created would cost consumers almost $100,000 in higher prices. The consumer's choice of models, prices, and performance will be more limited.

U.S. Trade Representative William Brock has properly labeled this proposal "the worst threat to the international trading system and our own prosperity to be put before Congress in the last decade." By approving this measure, any further efforts to open foreign markets will be hampered. This bill is tantamount to a protectionist policy that is against the best interest of our national trading policy.

Passage of this bill would be a clear violation of our international obligations under the General Agreement on Tariffs and Trade (GATT). We have just returned from the Geneva GATT ministerial meeting during which time member nations led by the United States agreed to attempt to eliminate trade restrictions. Therefore, approval of a domestic content bill would surely place the United States in a hypocritical position. This protectionist approach advocated by the supporters of H.R. 5133 would have serious international trade reprecussions. It would assuredly establish a dangerous precedent which could lead to retaliatory gestures by our major trading partners. The United States must continue to take the lead in the free world in resisting protectionist postures.

The farm community in my home State of Arkansas has consistently petitioned the congressional delegation to reduce agriculture trade barriers. I have traditionally proposed efforts under GATT to resist protectionist tactics at all costs which could bring forth serious reprecussions in world trading.

Approval of this bill would pose a real threat to farmers since one-fourth of the U.S. farm income revolves around export markets. It is difficult to predict how these countries might react and assess the damage back home. Their reaction could possibly include limitations on our $40 billion agricultural exports market.

Since we export 2 out of every 5 acres of crops grown and nearly a fourth of farm cash receipts are from export sales, this bill would endanger these sales. For the past 2 decades the Eurpoean Community has been seeking a chance to overturn its commitment in GATT to import oilseeds and nongrain feed ingredients free of import duties and restrictions. The United States exports over half of its soybeans and the European Community purchases nearly half of these exports.

The bottom line is that this bill will harm our national economy which in turn will further destabilize the auto industry. With farmers facing their third consecutive year of depressed prices and still suffering the gross effects of previous embargoes of their products, this is not the time to jeopardize our present agricultural trade market.

Considering the enormous and dangerous consequences of the bill, the House of Representatives should properly reject this ill-advised measure. A free society should not except such Socialist inspired restraints on trade and consumer freedom of choice. The consumer should always set the flow and price of goods sold in a free enterprise system.

Mr. Chairman, I, too, am concerned about our auto industry. But is protectionism on a scale unequaled since the Great Depression, protectionism that by its very nature invites similar reactions from other nations, the right answer? I submit that it is not.●

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the reported bill is considered as an original bill for the purpose of amendment and said committee amendment in the nature of a substitute is considered as having been read.

The text of the bill is as follows:

H.R. 5133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Practices in Automotive Products Act".

SEC. 2. PURPOSE.

The purpose of this Act is to encourage the production of automotive products in the United States.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—As used in this Act—

(1) The term "automotive products" means motor vehicles and parts for use in the production of new motor vehicles.

(2) The term "added domestic value", when used with respect to a vehicle manufacturer for any model year, means the aggregate of—

(A) the production costs of all automotive products sold by the vehicle manufacturer in the United States, other than for export, during that model year, and

(B) the export value of all automotive products that were either—

(i) manufactured by the vehicle manufacturer in the United States and exported from the United States by, or on behalf of, such manufacturer during that model year, or

(ii) manufactured in the United States by any other person and purchased by the vehicle manufacturer and exported from the United States by, or on behalf of, such manufacturer during that model year, but only to the extent that the export value of such automotive products is not included in automotive products to which clause (i) applies;

reduced by the aggregate appraised value, as determined for purposes of the customs laws, of all automotive products that were entered by, or on behalf of, the vehicle manufacturer during that model year.

(3) The term "domestic content ratio" means, with respect to a vehicle manufacturer for any model year, the percentage determined by multiplying by one hundred the factor obtained by dividing—

(A) the added domestic value determined for that manufacturer for that model year under paragraph (2); by

(B) the production costs determined, for purposes of paragraph (2)(A), for that manufacturer for that model year.

(4) The term "entered" means entered, or withdrawn from warehouse for consumption, within the customs territory of the United States.

(5) The term "model year" means a vehicle manufacturer's annual production period (as determined by the Secretary) which includes January 1 of a calendar year, or if a vehicle manufacturer does not have an annual production period, the calendar year. A model year shall be designated by the year in which January 1 occurs.

(6) The term "motor vehicle" means any three-wheeled or four-wheeled vehicle propelled by fuel which is manufactured primarily for use on the public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and which is rated at ten thousand pounds gross vehicle weight or less. Such term does not include (A) any motorcyle, or (B) any vehicle determined by the Secretary to be an automobile capable of off-highway operation within the meaning of section 501(3) of the Motor Vehicle Information and Cost Savings Act.

(7) The term "production cost" means, with respect to an automotive product, the wholesale price to dealers in the United States for that product as set forth in the vehicle manufacturer's official dealer price list that is in effect at the time the product is sold at wholesale.

(8) The term "Secretary" means the Secretary of Transportation.

(9) The term "vehicle manufacturer" means any person engaged in the business of producing motor vehicles for ultimate retail sale in the United States and includes as one entity all persons who control, are controlled by, or are in common control with, such person. Such term also includes any predecessor or successor of such a vehicle manufacturer.

(b) DETERMINATION OF ADDED DOMESTIC VALUE.—For purposes of applying paragraph (2) of subsection (a)—

(1) Two or more vehicle manufacturers may not include, for purposes of determining their respective added domestic values, the value of the same automotive product; but such manufacturers may, under rules prescribed under section 4(b), apportion the value of that automotive product among them.

(2) The term "export value" means, with respect to an automotive product—

(A) the free-on-board price for which the vehicle manufacturer sells the product for exportation from the United States; or

(B) if the vehicle manufacturer sells the product for such exportation to a buyer that controls, is controlled by, or is under common control with, such manufacturer, the price at which such or similar products are freely offered for free-on-board sale to all purchasers in the principal markets of the United States in the usual wholesale quantities and in the ordinary course of trade for such exportation.

(3) Any automotive product that is entered by a person other than a vehicle manufacturer shall, if such product is purchased or otherwise acquired by the manufacturer (and whether or not used in the fabrication of another automotive product which is acquired by that manufacturer), be treated as having been entered by that manufacturer.

SEC. 4. CONTENT RATIOS FOR MODEL YEAR 1984 AND THEREAFTER.

(a) RATIOS.—For each model year beginning after January 1, 1983, the minimum domestic content ratio for a vehicle manufacturer shall not be less than the higher of—

(1) the domestic content ratio achieved by the vehicle manufacturer in model year 1983 reduced by 10 per centum; or

(2) the applicable minimum content ratio specified in the following table:

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Model Year 1984	
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 30,000.
Over 900,000	30 percent.
Model Year 1985	
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 15,000.
Over 900,000	60 percent.
Each Model Year After Model Year 1985	
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 10,000.
Over 900,000	90 percent.

(b) ALLOCATION OF AUTOMOTIVE PRODUCTS AMONG MANUFACTURERS.—In order to carry out the purpose of this Act, the Secretary shall prescribe rules for allocating automotive products among vehicle manufacturers in appropriate cases such as where—

(1) a vehicle manufacturer sells automotive products manufactured by it in the United States to another vehicle manufacturer;

(2) two or more vehicle manufacturers in joint venture produce automotive products in the United States; and

(3) a vehicle manufacturer produces motor vehicles for ultimate retail sale in the United States, some of which will be sold by that manufacturer and some by another vehicle manufacturer.

SEC. 5. INFORMATION AND REPORTS.

(a) VEHICLE MANUFACTURERS RECORDS AND INFORMATION.—Each vehicle manufacturer that produces more than one hundred thousand motor vehicles for sale in the United States during any model year after model year 1982 must establish and maintain such records, and provide such information, regarding the production and sale of automotive products by it as the Secretary by rule shall require for purposes of carrying out section 4(a) and the enforcement provisions of section 6.

(b) AUTHORITY TO OBTAIN INFORMATION.—(1) The authority granted to the Secretary under subsection (b)(1) of section 505 of the Motor Vehicle Information and Cost Saving Act (as in effect on the date of the enactment of this Act) to obtain information and data, and access thereto, that is deemed advisable by him for purposes of carrying out part V of that Act may be used by the Secretary for purposes of obtaining the information and data, and access thereto, that is necessary or appropriate to carry out section 4 (a) and section 6.

(2) The authority granted to the districts courts of the United States under subsection (b)(2) of such section 505 to enforce compliance with action taken by the Secretary under subsection (b)(1) of such section may be used by such courts to enforce actions taken by the Secretary pursuant to paragraph (1) for purposes of carrying out this Act.

(3) The Secretary shall disclose any information and data obtained under this subsection and subsection (a) to the public only in accordance with seciton 552 of title 5, United States code; and any matter described in subsection (b)(4) of such section shall not be disclosed to the public, except that where such matter may be relevant to any administrative or judicial proceeding to enforce this Act, such matter may be disclosed in such proceeding only in a manner which would not result in competitive damage or disadvantage, as determined by the Secretary or a court, because of such disclosure.

(c) ANNUAL REPORTS.—As soon as practicable after the close of each model year after January 1, 1983, the Secretary shall prepare and make available to the public a report setting forth the domestic content ratio achieved by each vehicle manufacturer during such model year.

SEC. 6. ENFORCEMENT.

(a) FAILURE TO MEET CONTENT RATIOS.—(1) It is unlawful for a vehicle manufacturer to fail to meet for any model year the applicable minimum domestic content ratio required under section 4(a).

(2) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that a vehicle manufacturer has violated paragraph (1), the Secretary shall issue an order prohibiting the vehicle manufacturer from entering, or having entered on its behalf, during the twelve-month period beginning on the date on which the finding becomes final—

(A) a quantity of motor vehicles that exceeds the total quantity of motor vehicles that was entered by, or on behalf of, that manufacturer during the model year in which such violation occurred reduced by the number of motor vehicles that bears to such total quantity the same percentage by which the vehicle manufacturer failed to meet the domestic content ratio for that model year; and

(B) parts for motor vehicles in an aggregate value (as appraised for purposes of the customs laws) that exceeds the total aggregate appraised value of parts for motor vehicles that were entered by, or on behalf of, that manufacturer during the model year in which such violation occurred reduced by parts of an aggregate value that bears to such total aggregate value the same percentage by which the vehicle manufacturer failed to meet the domestic content ratio for that model year.

(3) An order issued pursuant to paragraph (2) shall specify the total number of motor vehicles and the aggregate appraised value of parts for motor vehicles that may be entered during the applicable twelve-month period by, or on behalf of, the vehicle manufacturer. The Commissioner of Customs shall take such action as may be necessary to ensure that the entries made by, or on behalf of, the vehicle manufacturer during such twelve-month period do not exceed the limits specified in the order.

(4) Any person against whom an order is issued under paragraph (2) may, within sixty calendar days after the date of the order, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(b) OTHER VIOLATIONS.—(1) Any person who knowingly violates any provision of this Act (other than failure to meet the applicable domestic content ratio for any model year) or any rule or regulation issued under

this Act shall be liable to the United States for a civil penalty of not more than $10,000. Each day of a continuing violation under this subsection shall constitute a separate offense.

(2)(A) Before issuing an order assessing a civil penalty against any person for violation of paragraph (1), the Secretary shall provide to such person written notice of the proposed penalty.

(B) The Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under subparagraph (A) of the proposed penalty.

(C) If the penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (B), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(D) If any person fails to pay an assessment of a civil penalty after the appropriate district court has entered final judgment in favor of the Secretary under subparagraph (C), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

(3) The Secretary may compromise, modify, or remit, with or without conditions, any penalty that is subject to imposition or that has been imposed under this subsection.

SEC. 7. STUDY OF DISCRIMINATORY PRACTICES AFFECTING DOMESTIC PRODUCTION OF MOTOR VEHICLE PARTS.

Within one year after the date of the enactment of this Act, the Secretary and the Federal Trade Commission shall jointly undertake an investigation, and submit to Congress a written report, regarding those policies and practices of vehicle manufacturers that are used to persuade United States motor vehicle dealers, in chosing replacement parts for motor vehicles, to favor foreign-made parts rather than domestically produced parts. Such report shall include, but not be limited to, recommended administrative or legislative action that the Secretary and the Federal Trade Commission consider appropriate to assure that domestic producers of replacement parts are accorded fair access to the United States market for such parts.

SEC. 8. GAO REPORT

Not late than one year after the date of the enactment of this Act and each year thereafter, the Comptroller General of the United States shall transmit to the Congress a report on the impact of this Act on the automotive and related industries in the United States. Each report shall contain an analysis of the impact of this Act during the period for which the report is submitted—

(1) on the prices of new, domestic and foreign motor vehicles;

(2) on the employment within the United States in motor vehicle manufacturing and in related industries and on employment in the United States in export industries;

(3) on the productivity and profits of vehicle manufacturers who have sales of their motor vehicles in the United States;

(4) on the productivity and profits of foreign vehicle manufacturers who have production facilities in the United States; and

(5) on the development of motor vehicles suitable for use in more than one country.

Each report shall also contain recommendations for such legislation as the Comptroller General determines is appropriate.

The CHAIRMAN. Are there amendments to the bill?

Mr. GIBBONS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I regret every time we get into this subject the gentleman from Michigan (Mr. DINGELL) has to get into personal remarks. I do not believe I ever recall hearing from him on trade issues until this bill was introduced. I could be wrong.

He has said nothing that I agree with that I have not heard before. Some of the things he says I disagree with.

I take no umbrage with anybody about jurisdiction. If the Ways and Means Committee had any time to consider this bill we would have given it serious consideration. Because of a historic accident we were deprived of ever even getting our hands on it or holding a hearing until the 21st of September of this year. In fact, I had to begin the hearings before the bill was even being referred to the Committee on Ways and Means. That is the history of my relationship with the gentleman from Michigan on this bill.

I have no monopoly on trade. I have no monopoly on my love for my country or my belief in my country. But I want to set the record straight as to where we are on this.

When the hearings began I gave notice to everyone that wanted to appear within the limited amount of time that we had, and we had hearings on religious holidays in order to make the fastest progress we could.

I was even-handed with the hearings. I tried not to stack them. I purposefully scheduled everybody that I thought would be in favor of the bill, and they are all in the hearing record.

When the hearings were cut off because the bill was jerked out of the Ways and Means Committee with no consideration by my subcommittee, or anybody else, I still had literally more than 100 interested people that wanted to appear opposing this bill. Their chance in the American Congress to testify about this bill was cut off. I contrast that with the roughly 2 or 3 hours of hearings that were given in the other committee on this bill.

Every charge that has been made on this floor here today by the proponents of this bill is fully answered in 856 pages of testimony by American witnesses that have their life at stake in this legislation.

□ 1310

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I do want to say that the gentleman from Florida is correct. The hearings were exhaustive, they ran all day, for countless hours. Both sides were presented. I sat through those hearings with the gentleman from Florida. He was completely and totally fair to me at all times. We do disagree on policies at times, but I hope there is no question as to whether a complete and total hearing was fairly given to everyone to present views from all sides of this issue. Given the time alloted, I want to compliment the gentleman from Florida. He did a fantastic job of providing a fair hearing forum for everyone.

Mr. GIBBONS. I thank the gentleman from Pennsylvania. While the gentleman and I at times disagree on the merits of legislation, I have never disagreed with the gentleman's motives and with his sincerity and with his diligence and with his skill. He is a very fine gentleman, and I for one will certainly miss him when he has to leave this Congress.

Of course, hearings are no excuse for action. I do not say that they are. We have had other proposals in our committee. We are working on reciprocity legislation. We hope to go to conference with the Senate on that kind of legislation if they will ever move over there—and I have almost given up on that body.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I testified at the hearings of the gentleman from Florida. I will agree that they were fair. The gentleman sought to be exhaustive. I would like to say to him, though, there was no reason to start those hearings at the late date that he did. He already did precede the time the bill was referred to him—again, which we had no control over. But the bill was before the House a whole year prior to that, and if the gentleman had wanted to have more extensive hearings, it certainly was within his prerogative to have done so during the preceding year.

Our international trade situation today is deplorable. The American industrial base has been disappearing, in an important measure, because of predatory practices that have been exercised by our trading competitors, which the gentleman from Florida acknowledged. Now, he says the automobile industry has become noncompetitive and that our solution, therefore, ought to be to give some charity to the workers who have been displaced and watch the automobile industry disappear from America. I think that is not an answer that America can accept.

The automobile industry is central to our industrialized capacity. It is needed for defense; the automobile industry makes tanks and many other

items of military equipment. The automobile industry is probably the most employment intensive and central industry in our entire economy, because on the automobile industry rides a lot of the steel industry, a lot of the rubber industry, the tire industry, the glass industry, and the textile industry. We just cannot sit by and say, "Well, the automobile industry got out of date, so we are going to let it disappear."

The automobile industry today is making a tremendous effort to modernize. I have seen that in my own district, where we have a major automobile facility. We are becoming competitive and indeed the foreign manufacturers who operate in the United States, like Honda and Volkswagen, have testified that their production here is as efficient or more efficient than it is in their own countries. There is no question that we can manufacture competitively here. We need to overcome some of the predatory practices that have been exercised against us, and we need to give a chance to our own automobile industry to revive and to recapture a rightful share of our market. To say that we should just sit by and let it disappear, to me is very disturbing.

Last year the U.S. primary exports were of raw materials, and our primary imports were of manufactured goods. That is the trend we are seeing in this country, and it is a trend that we cannot afford to allow to happen.

There is a great deal of talk on the floor today and the principal argument this bill seems to be on the basis of supposed retaliation. I think that that just plain is not true. First of all, every major industrial country that produces automobiles at the present time has restrictions on imports of foreign automobiles, and there has been no retaliation.

Second, 31 countries have automobile domestic content provisions, many of which are far more restrictive than we have in this legislation, and there has been no retaliation.

Take a look at the horror list that the gentleman from Michigan recited with respect to Japanese restrictions on our trade: agricultural goods, leather, wood products, and all kinds of U.S. manufactures. We have sat idly by and watched that happen and we have taken no measures to assure our products are treated equitably.

Just recently our trade negotiator, Ambassador Brock, went to Geneva, and he tried to get the other major trading countries of the world to take a look into their investment practices and their subsidy practices, and they said they wanted no part of it. Mr. Brock came home empty handed.

I would submit to you that he came home empty handed because they know, when they hear from the President of the United States that we are unalterably committed to free trade, "whether you retaliate against us or not," that we are going to pursue free trade high principles, even if no other country follows suit.

I am for those high free trade principles, but I am for those high principles only if they are exercised universally. When we have the kind of discrimination against the United States and the kind of erosion of our basic industrial job structure that exists today, then I say we have to take action.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

(By unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. I think if we pass this bill, then the other trading countries of the world are going to say, "Look, if we keep up this kind of restriction, the United States is going to take action, at least the U.S. Congress is going to take action," and we will be able to negotiate some meaningful trade agreements to achieve equity in the international markets and acceptable and universal free trade.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Indiana.

Mr. SHARP. I want to compliment my colleague on the work he has done on this legislation and the statement that he has just made. I think he is right on target. It is important for people to recognize that if we are going to be successful in these negotiations, we are going to have to back it up with strength. And if we will pass this bill today, we will send a very strong message that, while this administration opposes this legislation, I dare say we will improve their ability to get agreements with the Europeans and to get agreements with the Japanese, that we are simply not going to sit by in this country any longer.

Mr. OTTINGER. I cannot understand this administration. It would seem to me that they would support this legislation as the best tool that they possibly have to tell the other countries of the world, "Look, we have got this Congress of the United States, they are bent on achieving equity; if you do not do something to relax your trade barriers, then you are going to be faced with very restrictive trade legislation." I think that is the only way we are going to get a meaningful response to our full trade entreaties.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this legislation is very popular, of course, in one major industry, and that is the automobile industry. But I think, when we pass legislation like this, we should look at some of the causes, the causes of the automobile industry and the collapse of that industry, and I would like to submit to you that, without looking at all of those causes, we are doing a disservice to the people of America and to those people we are trying to help out.

The gentleman who just spoke in the well said that we are exporting resources, natural raw resources, very few finished products, and importing much of our consumptive goods today.

I would submit at this time that one of the biggest exports we are involved in is 110 billion for fossil fuels and minerals.

I would submit to the Members that the auto industry which we are trying to help here today has been led by a union that has not recognized, by action of their support of taking land out of production, of opposing every major piece of energy legislation, including the gas line that we just tried to have built that would have delivered approximately 400,000 barrels of oil Btu equivalency to the United States, opposed the Alaskan oil line itself that delivers now one-fifth of our domestic consumption each day, 1,600,000 barrels a day, and, in fact, has backed up every environmental issue that comes before this floor, including the same groups that said their goal is to ban all combustion engines by 1990.

□ 1320

They are led by a union that does not understand they are being cut by the same people that they back up.

We hear of the great unfairness of the Japanese automobile industry. To my knowledge, the Japanese automobile industry has never been on strike since 1945. To my knowledge today I believe the United Auto Workers today make more money than any other industry in the automobile field around the world. Now, I do not object to that. I think all Americans should have their just due. What I do object to is the union's inability to police its own ranks about the product which they are putting into the American market.

I have a little story I want to tell to this group today, and to the listening audience, that is a true story.

I have been driving American-made cars. That is more than I can say about some of the Members on this floor, including some of those who are promoting this bill. They are not new, they are older cars, and I have worked on them and rebuilt them, because they were built in an era and time of pride in workmanship—the 1966's, 1967's, and 1968's.

Because I have got up to an older age now I like to have a new car. I have tried to buy one.

I ordered a brandnew Z-28 Camaro Indy pace car with all the goodies you could imagine, a $16,000 car. I waited 3 months for it. And I was excited.

When it was finally delivered to me, when I got it home, I was very impressed with the engineering of that car, finest engineered car in the world today. I lifted the hood to look at that magnificent fuel-saving engine that took time to develop, and I could not put the hood down, could not figure it out. Finally I got my wife and daughter and we eased it down.

I took it back to the dealer. I had driven this car 2 miles. I got to the dealer and the dealer is a great dealer. And I said, "Sir, there is something wrong with the hood of this automobile. And there are also 14 finishing errors—paint runs, screw holes not filled, nuts not tight, rubber not meeting in the right spots."

He called his mechanic up and said, "It has to be out of adjustment" Raised the hood up, could not get it down. The mechanic tried to put it down. He said, "It is not out of adjustment, it is cracked," because it was a glass hood and painted across. A $16,000 automobile.

I asked the dealer why. He said because there is no policing of the union of its own workers. They knew each worker that worked on that car that day. Each worker they knew, because of the serial number. Now, management cannot go in and fire those people because they are protected by the shop steward. This is the strength of the union. But when will management and labor work together so they can provide to the American public an automobile that they rush to buy?

The CHAIRMAN. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. YOUNG of Alaska. Until we address this, you can pass all the protection legislation in the world, all the protection legislation in the world, and it cannot achieve what we are seeking here.

I say this hopefully, and not just outright criticism. We must work together. But I read in the paper each day about it. The football strike—$90,000 a year guaranteed minimum income. Really, I cannot figure that one out.

Now I am looking at the automobile industry, the steel industry. I believe those workers deserve everything they can get, if they are producing the product that is compatible and comparable with the competition. That is what I am asking people to do.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Indiana, my good friend, an excellent and fine member of all the committees he serves on.

Mr. SHARP. I thank the gentleman for yielding.

The gentleman raises a very important point about the quality of the American products. This industry and labor union and others involved in industry understand that and are moving rapidly to try to upgrade the quality of what the gentleman and the industry described as the so-called fits and finishes which are important to all of us as consumers.

But on the whole everyone agrees as to durability and basic operation of American cars, they are superior on the whole to foreign-made cars. They have had a problem of fits and finishes. They are addressing that.

I might tell the gentleman, workers in this industry in my area and management in my area are moving rapidly to change work rules, patterns of management, to change so they are in fact producing a quality car that the gentleman can be proud of and will buy, and I hope the gentleman will.

Mr. YOUNG of Alaska. I agree. I think that progress is being made. But it is time that the union directly involved and management work as a team and not in confrontation. Right now we just finished the Chrysler strike. It has caused tremendous hardship on the Chrysler industry itself. That is the wrong way to approach it.

There is no nation more unionized than Japan. No nation. But they do not go on strike. And it is both sides of the street, management and labor.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. Chairman, during the very extensive and exhaustive hearings that the Trade Subcommittee held on this bill, one of the issues that I consistently addressed for clarification were accusations that have been made time and time again about the productivity and the relative cost of American wages in the automobile and other capital intensive industries when compared with those industries abroad.

I say this to the gentleman from Alaska. Consistently it was agreed to, unquestioned by Government witnesses, and cited by union members that we had testimony before us, and also by company leaders by that wage rates, and I want the record to show this—the wage rates of American workers in the automobile industry, contrary to what you have heard, been told or read, are comparable to automobile wage rates in Japan, and, as a matter of fact, when you look at comparable rates in Europe, the European rates in some cases are in fact higher.

Let the record show that, lest anyone think that these spurious arguments about the disadvantages of American labor costs or labor packages are somehow a root cause of this problem.

As to the right to strike—I hope that in this modern Nation we can put behind us questions concerning labor's right to strike. We have benefited greatly from these industrial relations and those rights that labor now enjoys, and wage rates are not the cause, not the reason why we have the difficulties that we do.

Let me also say something in defense of American management.

It is wrong to come here to the House of Representatives and criticize American management and American management decisions when they have only responded the best way that they can and know how to a legal environment, to a regulatory environment, to a tax environment that we have created for them.

American automobile companies and American workers did not decide or control the preferences of American consumers that led to the debacle caused by OPEC price increases with oil, the thing that the gentleman from Florida really means, I think, when he is talking about an industry in transition.

It is wrong to criticize American management and American labor who are doing a fantastic job of retooling an industry in response to billion dollar needs for changeovers required by consumer preference changes.

I see the gentleman from Minnesota. The gentleman from Minnesota is on the floor. I wonder if we might engage in a little colloquy that we had discussed earlier concerning the Japanese decision to restrict their markets to our cigarettes. The gentleman had come to me and wanted to perhaps put a little on the record. We discussed this issue during the Trade Subcommittee hearings. On page 657 of the committees' testimony, is a copy of the article that appeared in the Washington Post. The gentleman wanted to make some remarks and I yield for that purpose.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from Minnesota.

□ 1330

Mr. FRENZEL. Mr. Chairman, I thank the gentleman and I also thank him for being sharp enough to pick this thing up. It has required the ability to read the Wall Street Journal and understand it. I had missed it that day.

It was as the gentleman had stated. We had negotiated a new cigarette agreement and one has to go into the history of the United States-Japanese cigarette agreements, because there are tens of thousands of cigarette outlets in Japan, but only a few thousand are allowed to sell American cigarettes and they normally sell at 150 to 200 yen more than the Japanese cigarettes.

This is a country monopoly. We had made a deal to get in to a few thou-

sand more outlets and get the price differential down a little.

Trade representative Ruben Askew accepted that deal, although the Trade Subcommittee said, "Don't do it." But he accepted it. "It's not good enough. The Japanese have got to give more," but he accepted it, and when we accepted it, later we found, thanks to the Wall Street Journal and to our comrade, Congressman BAILEY, that apparently the Japanese had a pretty deep-seated bureaucratic plot to prevent the implementation of the agreement which they had signed. It is something that we have to get into more deeply with the Japanese, but if so, it is a terrible indictment of the people who signed that agreement and those people within the Japanese cigarette monopoly who refused to live up to the agreement which their country signed.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(At the request of Mr. FRENZEL, and by unanimous consent, Mr. BAILEY of Pennsylvania was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, will the gentleman continue to yield?

Mr. BAILEY of Pennsylvania. I will continue to yield.

Mr. FRENZEL. Mr. Chairman, I just want to say, I think the gentleman has done an awfully good job and in his absence we are going to continue to pound on that thing.

I appreciate the gentleman bringing it up.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I thank the gentleman.

I would just like to finish with this comment. When the German Volkswagen firm made a decision to locate a factory in the United States, one major reason they chose to come to the United States, and this is documented and the company will confirm this as they did in testimony before our subcommittee, was because of the productivity of American workers; skill levels above those anywhere else in the world.

I hope that inaccurate criticisms of poor American worker productivity will stay completely out of this debate. It is not a fair criticism. It is not an accurate criticism. The record clearly shows that it could not be an honest criticism.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

Mr. GIBBONS. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania may proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida (Mr. GIBBONS)?

Mr. OTTINGER. Reserving the right to object, Mr. Chairman, I will not object, but I would like to say that we are anxious not to have a filibuster on this and to get into the amending process.

I will, therefore, have to object in the future and insist on the regular order, but I will not object at this time.

Mr. GIBBONS. Well, if the gentleman will yield, all I have got to say, it sure takes a lot of courage after you have sat on a bill for 1½ years not to let me have 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida (Mr. GIBBONS) that the gentleman from Pennsylvania (Mr. BAILEY) be permitted to proceed for 2 additional minutes?

There was no objection.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. BAILEY of Pennsylvania. I yield to the distinguished gentleman.

Mr. GIBBONS. Mr. Chairman, we talk about wage rates and I know perhaps the gentleman was referring to some of my remarks about wage rates. There is no reason why the American worker cannot be just as productive as the Japanese worker, and perhaps he is. There is a problem, though, that American ownership and management has not given the American worker the proper tools to work with and the proper design layout.

I have gone through American automobile manufacturing plants and Japanese automobile manufacturing plants. When you see the Japanese plants, you see gentlemen standing around in white gloves, workers standing around in white gloves watching American-designed machines make cars.

When you go through our plants, and some of our plants are modernizing, you see American workers, hard-working American workers, swinging rubber mallets at the cars they are trying to get into shape so that they can sell them to the gentleman from Alaska.

Now, I promised the gentleman from Pennsylvania (Mr. BAILEY) that I would not tell him all the horror stories I know about some of our fine american products. I will not even tell the gentleman the ones that other Members of Congress have told me about the fine American products that they have bought; but we do have a problem on quality, or at least a perception on quality.

Mr. BAILEY of Pennsylvania. I thank the gentleman for his comments.

I will only say that those companies and our workers exist in the kind of tax environments and regulatory environments that we give them.

I do not like the relationship between Japanese industry and its government any more than the gentleman from Florida does and I would not recommend it to anyone; but it must not be used as an excuse to destroy markets in this country or to attack markets around the world, first of all.

Second, the Japanese system is not an ideal free enterprise, nor does it represent an efficient allocation of resources kind of system that we should recommend.

Third, when we write law here, either tax law or trade law, we must not be blind or naive about the implications of those industrial policies and their impact on our system. The problem is here not in our board rooms or on our production lines.

I would like to conclude by entering the contents of the Wall Street Journal article:

[From the Wall Street Journal, Thursday, Sept. 30, 1982]

HOW JAPAN TRIES TO SHUT OUT FOREIGN GOODS

(By Urban C. Lehner)

A document from a Japanese government-owned corporation has surfaced in business circles here that provides rare, firsthand evidence in writing of Japanese attempts to shut out foreign businessmen and officials have long alleged but have rarely been able to prove. Indeed a broader look at the controversy underlying the document provides a case study of the kind of elaborate web of restrictions the Japanese can weave when they're determined to have their domestic market to themselves.

The document came out of the Japan Tobacco & Salt Corporation (JTS), a government-owned monopoly that exercises exclusive control over all tobacco-products distribution in Japan. U.S. officials and the three American tobacco makers who sell here through the JTS have long believed and have at times formally complained to the Japanese government that the monopoly tries to obstruct foreign cigarette sales.

The document could well become a *cause celebre* in the ongoing efforts of the U.S. and Europe to persuade Japan to open its market to foreign products. The Japanese government has been trumpeting the claim that it's doing everything possible in that respect. But the document, a six-page battle plan detailing how one of JTS's local offices in Tokyo was to carry out its sales and promotion activities last July, specifically orders steps to squelch foreign cigarette sales.

"Curb stocking of imported cigarettes in vending machines," the document says at one point, indicating further that no foreign brands should appear in small machines containing fewer than 10 columns of cigarettes.

RETAILERS WON'T TESTIFY

"Remove displayed POP (point-of-purchase promotion) items for imported cigarettes in prominent locations," it says. (The American makers say many Japanese retailers have told them that JTS salesmen tear down posters and other promotional materials for foreign cigarettes. But they say the retailers won't testify to that because they depend on the JTS for licenses to do business and for a continuing supply of tobacco products.)

A JTS official involved in drawing up the battle plan confirmed that the document is authentic. A JTS spokesman declined direct comment because he hadn't seen the document. But he said "it's unlikely" that JTS

would tear down promotional material or change the brands in vending machines "without the retailers' consent."

The document emerges at a time when officials in Washington are showing increasing displeasure at what they regard as Japanese foot dragging in carrying out earlier promises to open their market. The Japanese government earlier this year announced two packages of measures aimed at removing obstacles to foreign products, and missions of Japanese Dietmen have come to the U.S. to tout the measures. But U.S. officials say most of the measures that Japan announced with such fanfare have yet to be carried out. And a reading of the JTS document and talks with the American tobacco companies suggest that in the case of the JTS at least, new "impediments" are being thrown in the path of imported tobacco products every day.

Promoting the success of cigarette sales here is especially important to Washington, because cigarettes are one product that U.S. officials believe could easily make a significant dent in Uncle Sam's enormous ($18 billion last year) trade deficit with Japan. Cigarette sales come to a staggering $5 billion a year here, and U.S. cigarettes have proved very competitive in other foreign markets. Moreover the JTS, sole manufacturer of Japanese domestic cigarettes, is hardly a tower of business strength; there are moves afoot in the Japanese government to dismatle the monopoly because of its inefficiency.

"If American made cigarettes were allowed to gain just 10 percent of the Japanese market," argues Philip Morris International, one of the American makers, in a position paper, "the imbalance in trade would be reduced by half a billion dollars."

But as it stands, foreign cigarettes claim only 1.4 percent of the Japanese market. They're hindered in getting a bigger share by innumerable legal restrictions—even forgetting about such underhanded measures as those outlined in the JTS document. For example, under Japanese law and JTS regulation, foreign cigarette makers:

May sell their products through only 20,035 of the 247,801 Japanese retailers licensed to sell tobacco products. (As one of the measures announced earlier this year, that number is scheduled to rise to 40,041 by next March 31 and to all of the retailers by March 31, 1986. But the American makers say JTS is carrying out the measure in a way designed to minimize foreign sales as long as possible.)

Sell their products subject to a 35 percent tariff and to a tax and pricing formula, which combined with the tariff causes foreign cigarettes to sell at a retail price 60 percent above domestic Japanese brands. That's true even though the price of American cigarettes when they land in Japan is about the same as the factory price of the Japanese cigarettes.

Are sharply limited in their ability to advertise and test-market their products.

Must distribute their products solely through their chief competitor—the monopoly JTS. "There's no way your principal competitor is going to help you," says Joel Silverstein, Japan representative for Brown & Williamson Tobacco Corp., another of the American makers.

John Sandor, who runs Philip Morris's operations locally, complains that JTS never seems to have enough of Philip Morris's products in stock to meet orders from retailers. For example, he says, when retailers order Lark, Japan's best-selling foreign brand (Japanese smokers favor "charcoal filters" like the one Lark features). "The monopoly will normally indicate that a sufficient number aren't in the warehouse and a competing domestic product—in the case of Lark, Cabin—will be partially substituted."

The JTS internal document suggests that the monopoly uses a variety of subtle tricks to hold down foreign sales. For July in Tokyo's Sumida ward, the document ordered special emphasis on sales of five domestic brands. One of them was Marlboro (though a Philip Morris brand, it has been produced by JTS under license here for over 10 years). According to Tsuyoyuki Asaka, one the JTS officials who helped draw up the document, Marlboro was chosen because it's considered an effective domestic "rival brand to counter imported brands."

Then there are the not-so-subtle tricks, like tearing down or stopping the posting of foreign posters, advertising displays or the electrically lit "light boxes" placed on top of a vending machine displaying the name and logo of a brand. R.J. Reynolds Tobacco International, a subsidiary of R.J. Reynolds Industries Inc., complained several months ago to the new ombudsmen's office that JTS salesmen were telling retailers they weren't legally allowed to display promotional material for foreign brands. The case was settled when JTS agreed to inform retailers in writing that such materials could be displayed.

Then in early August a retailer in Tokyo's Shibuya section informed an American maker that a JTS salesman appeared to have taken away the retailer's "light box" atop the vending machine. But when Japanese government investigators acting on a complaint from the maker that didn't name the retailer, blanketed the area to interview retailers, no one mentioned the JTS. Missing light boxes were blamed on other causes—one was said to have blown away in a typhoon. The moral the investigators drew was that Americans make reckless allegations without proof.

U.S. officials and cigarette makers drew a different conclusion: Retailers are so vulnerable to the JTS pressure, explicit or implicit, that they can't afford to testify against the monopoly. There is at least some evidence that JTS doesn't shrink fro using pressure to get its way with retailers.

Some retailers themselves make the same point. "Sure there's pressure (not to use foreign cigarette posters)," says Hinako Nakajima, a tobacco-shop owner in Nagoya. "The government hasn't abolished the monopoly system." Asked if JTS salesmen have ever forcibly removed posters from her shop, she will say only "please don't make me answer that question."

BLITHELY UNCONCERNED OFFICIALS

David Guilfoile, R.J. Reynolds Japan country manager, says, Reynolds agents talk at least once a month to a large percentage of the 4,300 retailers in Tokyo licensed to sell foreign brands, "and the most common problem is the retailer will say, I can't allow you to put up that (poster or light box) because the JTS will get upset." Mr. Guilfoile says Reynolds hesitates even to complain about such abuses to the government because "we end up getting the retailers we're trying to develop as customers into trouble."

Japanese officials, for their part, seem blithely unconcerned with the tobacco question. Before one of the Dietmen's missions went to the U.S. a few months ago, one of the Dietmen was asked about tobacco at a special press conference for foreign correspondents. He replied that Japan's cigarette maker was "completely free" and thus there was nothing to discuss with the U.S. government.

Nonetheless, in the second package of measures the Japanese did come up with some tobacco concessions. They agreed that the U.S.-Japan "study group," which had been scheduled under the November 1980 Japan-U.S. tobacco agreement to be formed by March 31, 1983, will convene instead next month, an acceleration of six months. It isn't clear what scope the study group will have, however. U.S officials say the Japanese have agreed to put the tariff question "on the agenda" but haven't agreed to negotiate a lower tariff.

It also isn't clear how meaningful the other concession in the second package—the increase in the number of retail outlets—will prove in the short run. U.S. officials and makers complain, for example, that all the outlets the Japanese have unilaterally selected to be included in the increase to take effect next March are outside the two regions of Japan where 60 percent of the foreign cigarettes are currently sold. That means the foreign makers won't be able to get more bang out of the sharply limited television advertising dollars they're allowed to spend, which by necessity are concentrated in those two regions.

"That isn't the way you'd do it if you were operating in the spirit" of opening the market. Mr. Silverstein contends.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and my colleagues, we have heard our colleague, the gentleman from Florida, speaking in all humility, saying that he does not know everything about this issue. How much more is humility the portion of one like myself, and I acknowledge it freely; but I am concerned with our position in the world and with the direction that this country is taking. Are we or are we not going to move toward an orderly world in which every country and every man's word is good, in which we have agreements which we try to live up to, insisting that others try to live up to them also; when they fail to do so we must put teeth in the agreements so that they will be lived up to. We must have orderly procedures, as we have in many of our commissions, even with the other department, arrangements whereby we can consult when there is a misinterpretation either on our part or on the part of the other party.

We ought to live that way. There is no other way. Dog eat dog and beggar your neighbor, take what you can if you are powerful, is not a system this world can afford any more. We must come to grips with something reasonable; justice under law, as my colleague, the gentleman from Florida said, and as a President of the United States said long ago, "the business of government is justice." We must proceed in this spirit or we will not have peace.

I would say also, with all humility, that I cannot take the same light view of the special interest group contribu-

tions that come here, not because I am inpugning or in any way denigrating my colleagues. God knows some of the finest people I have ever known are in this House.

But what does the public think? What does the public say? I read my mail. It is turning from disappointment and worry to contempt. They do not know what the effect of these tremendous contributions might be, a million, $200,000-and-some from only three groups? What are the rest doing?

I do not know how your constituency stands it. I know why I never took these contributions, not because anybody ever pressured me, but because I did not think my people would like it. I thought they would be ashamed if they saw their representative speaking for something desired by those who had contributed. Now, that is not quite the way it works and there are fine people down here who have a certain point of view which is rewarded by those who share that point of view, and that is the way it is looked at here. But it is not looked at that way by the public. We must pay attention to what is written in the newspapers and magazines, in the letters to the editor and letters to their Representatives. This morning I got one again. But I turn again to the consideration of the bill before us.

I do not know, my colleagues; I suppose there is no use getting so heated up over all this; but I tell you in all candor, we can do better than this. What we do demand in this country, and I think we have a right to, is a more orderly world. The question is, How are we going to reach toward it? There is the question, and when I see the responding faces in this House, I am encouraged. That is where we must lead the world.

Yes, we may have to pay for it here and there; we must be tough, as well as fine and strong in principle; we ought to be able to show others that we know how to be strong, honest, just, and searching for peace.

Mr. HAGEDORN. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to my colleague.

Mr. HAGEDORN. Mr. Chairman, I want to compliment the gentlewoman from New Jersey on her statement.

I, too, rise in opposition to H.R. 5133. While this legislation identifies one specific industry in our Nation, it jeopardizes many others. In the area of agriculture and in many areas of other jobs that will be threatened and many of those people put on unemployment rolls, this is not the solution to our trade problems.

This legislation is the product of a deepening protectionist sentiment in the Congress and across this country. I, too, share the concerns of our growing trade problems. Earlier this year, I introduced legislation that established the concept of reciprocity of market access as a key principle of U.S. agricultural trade policy and trade law. The bill required the identification and elimination of barriers maintained by our major trading partners and strengthened the provisions of the Trade Act of 1974 that provide remedies against foreign unfair agricultural trade practices.

However, the domestic content legislation will violate the General Agreement on Tariffs and Trade and only provoke an international trade war. Retaliation by our trading partners, particularly Japan and the European Community, will devastate U.S. farm and high technology exports. Agriculture is one of the few sectors where we are clearly more competitive and efficient than our partners. It is unconscionable to attempt to achieve temporary relief in one sector at the expense of other more efficient sectors.

At a time when the United States has an enormous capacity to produce agricultural commodities, and do so very efficiently, it is imperative that we seek new markets and continue to be a reliable supplier to our existing ones. Agriculture is the only major U.S. economic sector that continually has a trade surplus. This legislation will only serve to nullify those efforts and jeopardize the livelihood of U.S. farmers.

In addition, this legislation will not provide the desired results. The Department of Commerce estimates this bill will increase U.S. car prices by 10 percent and will place an additional cost of $3 to $5 billion on our economy. The Japanese already enjoy lower cost advantages in the production of automobiles and will certainly not give them up by moving their production facilities to the United States.

The current Japanese export quota limit of 1.68 million cars has already put many U.S. dealers in financial difficulties. Toyota Motor Co., the largest exporter of cars to the United States, estimates that one-fourth of their U.S. dealers are operating in the red. The American International Automobile Dealers Association has reported that since the quotas were imposed nine Toyota dealers and 19 dealers of Nissan Motor Co., the second largest exporter, have gone out of business.

We have to realize that the major reasons for our increasing trade deficit are the result of a slow recovering domestic economy, a recession in Europe and a depression in most developing countries, and most importantly, a strong dollar which decreases the price competitiveness of U.S. exports.

Rather than provide a quick-fix protectionist solution, the United States should concentrate on reducing its own debt and work with the Japanese to restore the proper relationship between the dollar and the yen. A credible U.S. fiscal program would go a long way in negotiating trade policy with Japan as well as other major trading partners.

In the interim, we should develop legislation, such as I introduced, to provide the President more authority to enforce U.S. rights under trade agreements and to repond in an expeditious manner to certain foreign trade practices, particularly agricultural subsidies. The results of the recent GATT ministerial meeting indicate that no substantial progress was made to seek redress to our trade problems. The dispute settlement procedures provided in the GATT and the accompanying subsidies code have not been effective in resolving our trade disputes. In that regard, I believe the Congress needs to focus its attention through the concept of equivalent market access, where we seek to reduce trade barriers rather than raise them. The legislation before us will simply unravel our past and future progress toward open and freer trade. Thank you, Mr. Speaker.

□ 1340

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: On page 9, after line 12, insert a new subsection (c) as follows:

(c) ADJUSTMENTS IN CONTENT RATIOS, NUMBER OF VEHICLES, AND MODEL YEAR SCHEDULES.—Not less than 6 months following the enactment of this Act, the Secretary shall determine:

(1) the extent to which foreign automobile manufacturers, as a result of this legislation, have decided to construct plants in the United States;

(2) the extent to which the specific ratios and schedules set forth in subsection (a) above may have made it economically impossible for foreign auto manufacturers to establish or to retain existing plants in the United States.

If the Secretary determines that certain changes in the ratios and schedules contained in subsection (a) would (1) prevent the closing of existing foreign automobile manufacturing plants in the United States; or (2) increase investment in existing foreign automobile plants in the United States, or (3) encourage the construction of foreign automobile plants in the United States, he shall report forthwith to the Congress the specific changes and adjustments in ratios schedules which, in his opinion, would best serve those purposes.

Such changes and adjustments shall become effective thrity days after they have been submitted to the Congress.

Renumber the remaining sections accordingly.

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order on the amendment.

Mr. STRATTON. Mr. Chairman, I said earlier in general debate that I supported this legislation but I did not support it primarily as a means of reducing Japanese imports of automobiles into the United States. I supported it because I regarded it, and I believe that is what the United Automobile Workers also regard it, as a device for encouraging the Japanese automotive manufacturers to construct manufacturing plants here in the United States, that move is already underway: A Datsun plant in Tennessee, in the district of the gentleman from Tennessee (Mr. GORE).

We have a Honda plant in Ohio, as the gentleman from Ohio, Mr. BROWN, was mentioning earlier in general debate.

And if the newspapers are to be believed, Toyota and General Motors are negotiating an agreement for construction of either a joint automobile or at least a Toyota plant combined with a General Motors plant.

I think this is the kind of development we want to encourage. And it is the kind of thing that this bill is designed to do. We do seem to be moving gradually in that direction, but it is my understanding from what I have heard, and I think that the gentleman from Ohio, who is not here unfortunately, referred to the schedules of ratios in section 4 and the number of cars that have to have such-and-such a ratio of domestic content, and the dates on which they have to have that particular ratio of content. I do not know where those figures have come from; not from Mount Sinai, I assume. Somebody has perhaps pulled them out of the air, and suggested that this constitutes a reasonable schedule.

I think the basic thrust of these schedules is OK. There should be an increase in domestic content from year to year; but my understanding is that some manufacturers who are already in the United States or who are contemplating building auto plants in the United States have said, that this schedule of increased domestic content is really going to make it impossible for them to operate economically.

I understand in the case of the Honda plant as Mr. BROWN of Ohio mentioned, that has now turned out the first U.S.-made Honda in Ohio, they indicate that these schedules in section 4 would require them to close down. Obviously, we do not want to do that.

So my amendment simply suggests this: That the Secretary of Transportation, who is already given authority to administer this legislation if it passes, would 6 months following the enactment of the act, examine the extent to which foreign automobile manufacturers, as a result of this legislation, have actually decided to construct automobile plants in the United States.

Second, he should also examine the extent to which the specific ratios and schedules that are set forth in the bill might have made it economically impossible for companies to establish or retain existing automobile plants in the United States.

If the Secretary does determine that certain changes in these schedules, for example, from 30 percent to 25 percent, or something like that, would prevent the closing of all existing foreign automobile manufacturing plants in the United States, or would increase foreign investment in existing foreign automobile plants in the United States—for example, Datsun might not only manufacture trucks in Tennessee, but perhaps might even consider making the Sentra or some of those other romantic cars that they make; or would encourage the construction of another foreign automobile plant in the United States; a new Toyota plant, for example.

In that case the Secretary would report the specific changes which, in his opinion, would serve these purposes, and those changes could become effective 30 days after they have been submitted to the Congress.

I think this is the kind of thing that we ought to have. There should be some flexibility so that we do not discourage the one hopeful aspect of this particular legislation.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from New York (Mr. OTTINGER) insist on his point of order?

Mr. OTTINGER. Mr. Chairman, I do not assert the point of order, but I seek recognition in opposition to the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I understand the good intentions of my colleague from New York. I would submit, however, that the amendment that he offers would, in effect, gut the bill. It would allow this adminsitration, which has declared its unalterable opposition to the legislation, to have untrammeled, without any standards or criteria whatsoever, discretion to be able to relative any of the companies to which this bill applies from its applicability.

Further, there is the possibility of enormous mischief, because we are giving the Secretary the power to discriminate in favor of one company against another. There are just billions of dollars that are at stake in making those determinations, so if we do not have an objective standard and we give the Secretary the untrammeled authority to be able to adjust the standards, he could use that as the most loudly ringing bell ringer we ever saw and then some company, unless they kick in to the coffers of the Republican committee, or do whatever else we want to do, he will change the standards on them.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I will yield in 1 minute.

Mr. Chairman, there is no administrative review that is provided in this legislation. Therefore, I think it would be highly mischievous.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. OTTINGER. I will yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, the gentleman is accusing me of being mischievous. I want to point out that I am not mischievous.

Mr. OTTINGER. No; I am saying that is the effect of the amendment.

Mr. STRATTON. Mr. Chairman, I would like to have a colloquy with the gentleman.

Mr. OTTINGER. Let me yield to the gentleman at this time, then.

Mr. STRATTON. The gentleman just complained a moment ago that we had not begun the amending process, and he asked me if I would get it started, and I think we have gotten it started and we are not now just talking about whether the Japanese are bad guys or whether the American workers are all poor, or what have you. We are getting down to the specifics of this legislation.

I drafted this amendment while we were sitting here this morning, and I do not think it is probably the be-all and the end-all.

But does the gentleman not recognize that these quotas might have effect, as in Ohio, of actually shutting down an existing foreign auto plant, which certainly we do not want? Does the gentleman not feel that there ought to be some way—we certainly do not have to give the Secretary the total power—but somebody or some procedure should be in this legislation to make these adjustments if, in fact, the legislation proves at times to be counterproductive.

That is all I am trying to do. If there is a better way of doing it with administrative review or anything else, I certainly would have no objection. This is just something that desperately needs to be done so that these numerical standards are not written totally in concrete.

Mr. OTTINGER. I appreciate the gentleman's good intent.

Mr. Chairman, I will tell the gentleman that the bill was crafted very carefully, and after a lot of study by both outside groups and inside groups. It is crafted so that the standards that are established are met by every

American company at the present time. They are met by Volkswagen at the present time.

The only other foreign manufacturer that has substantial manufacturing facilities in the United States is Honda. Honda, operating this plant on a full three-shift basis, without it building anything else, would be able to meet the standard.

I think in this kind of a situation we have to have an objective standard. We cannot have a discretionary determination by the Secretary because the amount of money and the amount of power that is represented there is just too great.

□ 1350

So, while I indicated that I did not think the gentleman was intending to be mischievous by any means, I understand his concern, I think the standards do have to be objective. I do not think that the standards as applied would cause harm to anybody.

Mr. STRATTON. But if it discourages somebody like Toyota coming in or should be burdensome to a plant that is already there, does not the gentleman feel that there ought to be some machinery? The gentleman can perfect my amendment. I am sure it can be perfected so that we would adjust those things in a rational way.

Mr. OTTINGER. I would not want to put it in the hands of any administration, this administration or any other, the kind of power that the gentleman is suggesting. I think we ought to make sure that the standards that we put in are fair, and indeed if they are arbitrary or capricious there is access to the courts. But, I think giving any administrative official the power to waive or the power to adjust the standards gives him so much power to make mischief that it would not be well advised.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment should be entitled, "I Know the Bill Is Rotten, and So If We Pass This Amendment We Will Prove We Didn't Mean It."

What it does is this: It gives the Secretary the authority to throw out the bill. Normally, I would like to support anything which gives anybody the authority to touch a match to this awful mess, but I must admit that the gentleman from New Jersey (Mr. FLORIO) is dead right.

The amendment gives a huge, unprecedented grant of authority to a Cabinet official. We almost never give the executive department this kind of unrestricted authority to legislate. It is the Congress responsibility to legislate. We cannot give up that authority.

I say to the gentleman from New York (Mr. STRATTON): If he is nervous that this bill will louse up the economy, he is dead right. It is going to louse up the economy. It cannot be cured by amendment, even when we amend it to say, "I really didn't mean it when I passed the bill."

Vote down the bill. That is the only possible remedy.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

Mr. Chairman, one of the advantages of having hearings on a bill is that you do learn a lot. From the hearings that we held I learned that the bill was a disaster, and of course the Stratton amendment is just a tornado on top of a hurricane; something you really ought to experience to really appreciate.

On page 118 of the hearings, that Secretary of Transportation representative was testifying, and I want to give the Members some excerpts of his testimony. Then they can judge the validity of Mr. STRATTON's amendment.

He says:

Verifying the domestic content, on the other hand, would require tracing the source of all the materials and all the components in a vehicle, where there are literally thousands of suppliers involved, and where sourcing may change from day to day.

If we are to do a thorough job of determining domestic content, we will be dealing not only with the dozen or so manufacturers who sell more than 100,000 vehicles a year in the United States, but with the 40,000—

I repeat for emphasis—

40,000 or more large and small firms in the supply network.

Many of these firms supply more than one manufacturer, and many use materials or parts which, themselves, are imported.

I quote further:

The bill asks the Department—

This is talking not about the Stratton amendment now, but the bill itself—

The bill asks the Department to rule on how to allocate these foreign and domestic components of each supplier among manufacturers for purposes of determining final domestic content.

I do not know precisely how we would rule, but I do know that it would not be simple or easy and that we would inevitably add to the bureaucratic burden on Government and the industry.

I interrupt here to say that this is a bureaucrat testifying. He goes on to say:

Every manufacturer and every supplier firm would have to keep track of the domestic content of all the parts and material it uses and of all the products it delivers.

To verify the reported domestic content, the Department would have to pry into proprietary purchase, production, and sale records of at least a significant fraction of those firms.

The firms and the Department would have to do this on a real time basis because the bill provides that each year's compliance with the domestic content requirement determines the next year's allowable imports.

In short, recordkeeping, data collection, and paperwork burdens on industry and the Government would be increased, and the Government would need to be a more intrusive presence in the automobile industry and its supply chain.

Mr. Chairman, the Stratton amendment does not help this bill. The Stratton amendment means that it would be even more impossible to administer this already impossible bill. The agency that would have to administer it says that it is unadministratable.

In addition to that, in the verifying process not only would they have to go to 40,000 firms and all their suppliers and try to trace who they sold to, but price on a fluctuating yen that varies from day-to-day, from hour-to-hour, from minute-to-minute. They would have to find out when the product was bought, not just in the United States, but in all the 150 countries of the world.

Gentleman, this proposal is so ridiculous—not just the Stratton proposal, but the proposal of the domestic content and tracing it. Setting quotas, trade restrictions on the basis of it, is an impossible task to carry out in any kind of manner that would meet any test of law.

IBM would perhaps be the biggest beneficiary of all of them, because every factory would have to set up an IBM system just to monitor where they bought their materials, what the exchange rate was at that time, who they sold it to. Nobody could ever trace it all.

America would become more inefficient. America would become uncompetitive. America would lose jobs. Prices would go up, and we have shot our own people in the back.

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I commend the words of the gentleman from Florida and the gentleman from Minnesota. This is a bad amendment on a very, very bad bill.

The way that we should be proceeding is to create jobs, not remove them. Every unbiased person that has looked at this bill has said that the net effect would be a loss somewhere between 100,000 to 200,000 jobs. What we need to do is to open Japanese markets to our goods and not close our markets to Japanese goods.

I met yesterday with representatives of the Japanese auto industry in my office, and urged them to take a message to the manufacturers that they represent, for these manufacturers to contact the Government, to get the Government to change its policy that

discriminates against American citrus and American beef, and in particular against American tobacco.

The Japanese people are the fourth largest consumers of cigarettes in the world. If they were to open their markets to American cigarettes they could reduce the balance of trade deficit by 10 percent. The colloquy between the gentleman from Minnesota and the gentleman from Pennsylvania earlier alluded to this. The Nakasone government is taking steps to try to change things. I appreciate the problem that the Prime Minister has in that he represents, the basis of most of his support is from the farmers, but he could open his tobacco market to U.S. cigarettes and not affect that.

□ 1400

Mr. Chairman, it would be a big help toward creating greater understanding between the countries.

Mr. ALBOSTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am from Michigan, a State that has over 17 percent unemployment. I am from a State that is adding to the Federal budget at the cost of $30 billion to the Federal Government for every 1 percent of unemployment in this country.

I am from a State that, if we would separate from the union and apply for a "Great Lakes basin initiative"—like we are proposing for the Caribbean Basin for economic development—we would qualify and we would probably be better off.

I have to ask this body, when we are considering legislation that is going to affect all these jobs in the automobile industry, whether we should not be sending out of this body strong signals to competitors that are not really competitive and do not really believe in fair trade. They believe in free trade all right, but they do not believe in fair trade. When I go back to my district and talk to my people, where I have some counties that have nearly 30-percent unemployment, there is not any question where those constituents stand. They think we ought to be doing something down here to solve their problems, and they do not want any more welfare nor do they want unemployment. They want to go back to work, I say to my friends, that it is important that we do something here to get them back to work. Let us not create make work jobs, let us not create jobs that are not constructive, but let us do something now to create those constructive jobs that will actually bring about some dignity to families that are desperate. Let us get Michigan and this country moving again.

Let me give the Members a couple of examples of the kind of free trade we now have with the Japanese in terms of agricultural commodities. Wheat exported to Japan is bought in our country right now for a little over $4 a bushel. It can be exported there, and it is going to cost the miller in Japan about $9.40. It costs roughly 50 cents to export it, for the shipping of it, but yet it is going to cost the miller in Japan about $9.40.

Is that free trade? Is that moving our commodities into their markets freely? The answer has to be, no, it is not.

Another clear example involves beef exports to Japan. Beef sells for about $20 a pound in Japan. That is what the Japanese farmer who produces beef is guaranteed. They can buy the same beef in the United States for about $4 a pound but the Japanese consumer is going to have to pay the equivalent of whatever the retail market is after Japanese farmers are first guaranteed $20 a pound.

Mr. Chairman, I say to my friends it does not make any sense to sit here any longer with the problems that we have created from high unemployment and not do anything about it, at least in the context of sending over there a good, strong signal that we have had it and we are going to do something about that problem if they do not sit down immediately and seriously negotiate with us. I am concerned and I am shaken by the fact that some Members believe that we do not have to do anything, that we can sit here continually and let our neighbor and good friend—I am not saying they are not a good friend—let our neighbor outsmart us in almost every category I can think of. It will no longer be just automobiles; it is going to be computers and it is going to be every other technical item we can buy in this country or can sell or manufacture.

The local content law will promote fair trade by setting minimum domestic content requirements for manufacturers who sell more than 100,000 cars per year in the United States. This will certainly promote fair trade. And without fair trade among the nations, there cannot be free trade.

Second, we cannot overlook the importance of the local content law giving thousands of American workers something they have not had for years—a chance for a job. With the unemployment rate at 10.8 percent nationwide and over 17.2 percent in my home State of Michigan, we need the jobs that would be recreated by this bill.

We in Congress have a responsibility to help put our people back to work and stimulate this Nation's economy. By supporting this legislation, we could make available over 87,000 jobs in the auto industry and another 188,000 jobs in supplier industries across the country. These are job opportunities we cannot afford to give up.

So, Mr. Chairman, we have to be concerned about our people first, and we ought to send from this body today a clear signal to our friends across the ocean that we mean business. I urge my colleagues to join me in support of the local content bill.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, back in 1938 an American airplane pilot named Douglas Corrigan took off from New York supposedly to fly to California. He eventually landed not in California but in Ireland, and for this escapade he has ever been immortalized as Wrong Way Corrigan.

This measure is the Wrong Way Corrigan of job creation and economic growth. It aims at protecting and even creating jobs and at sending a warning to trading partners who, it is felt, are treating the United States unfairly.

These are admirable goals. We all share them. But if we use this piece of legislation as the vehicle——

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, is the gentleman saying I am going the wrong way?

Mr. MICHEL. Excuse me? I did not hear the gentleman.

Mr. STRATTON. Is the gentleman addressing the amendment, or is the gentleman saying I am going the wrong way?

Mr. MICHEL. No, my friend, the gentleman from New York goes the right way most of the time. It is just that I had, under the circumstances, to rise in opposition to the amendment because there was so little time in general debate to make the kind of comments I wanted to make.

Mr. STRATTON. Mr. Chairman, I wish the gentleman would address the amendment instead of going back on the same old business. I think this is a constructive amendment, and I am surprised that my friend, whom I supported fully when we fought together to lift the unwise sanctions on the Soviet gas pipeline, should now be opposing my simple amendment.

Mr. MICHEL. Mr. Chairman, I will not yield further to the gentleman because I want to complete this. There was not time enough to address this issue in general debate.

Mr. STRATTON. Mr. Chairman, let me——

The CHAIRMAN. The gentleman from Illinois (Mr. MICHEL) does not yield further. The gentleman has the time, and he does not choose to yield.

Mr. MICHEL. Mr. Chairman, if there had been enough time for consideration of this measure, we might have known exactly what the impact of this amendment might be. Then we might very well know that we could rise either for or against it, but under the circumstances, we have got to use

the alternative of simply striking the last word, which the gentleman from Illinois has resorted to.

Now, Mr. Chairman, I again say that what is intended here is an admirable goal. We all share these goals. But if we use this piece of legislation to get to these goals, we will find ourselves in the position of "Wrong Way Corrigan" and we will have arrived at precisely the opposite destination that we originally sought.

As many of the Members know, my hometown is Peoria. It happens to be the worldwide headquarters of Caterpillar Tractor Co., the largest employer in my congressional district. It exports, as it did in 1981, a total of $3.5 billion of exports and provides jobs for 31,000 U.S. employees. Half of those employees owe their jobs to an export market. They depend on our ability to export and sell abroad.

What would this piece of legislation do for Caterpillar employees and their families? Well, it would make them the first, but not the last, victims of a trade war. There is another argument that has to be considered. Industries upon which the American automobile industry depends, rubber and steel, will have a captive market all to themselves if this legislation passes. Caterpillar, among others, would also find itself paying more for materials, thereby making its products less competitive.

Where will the demand for protectionist legislation end? How will we compete as an exporting nation if walls of retaliation are erected around the world? What do we say to the children and families of the 100,000 workers who are going to be thrown out of work by this well-intentioned but disastrous bill?

No nation in the world ever prospered by closing in upon itself. Greatness and strength in nations, as well as in human beings, depend on the willingness of human beings to go beyond their present limitations, to reach out, to expand and build bridges, not to turn inward and build walls.

The instinct to huddle together in the comparative safety and temporary warmth of the tribal cave is as old as the human race. But if you stay where you are, if you do not compete in the world, you die. That is true for nations as well as for human beings.

This country grew strong on its ability to export. Its future and its very freedom depend on export growth. But this measure asks us to turn our backs on what we do best. It almost demands of the rest of the world that trade barriers be erected to our products.

We have heard quite a bit about so-called buy American legislation. This piece of legislation ought to be called bye-bye American legislation. If it ever became law, this country could wave bye-bye to any hope for economic growth and expansion over the next decade. This is a job-losing, export-reducing, inflation-causing piece of politically motivated, economically unsound, special-interest legislation, and it really ought to be soundly defeated in the names of millions of American workers and their families.

□ 1410

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the bill before us today is presented to us by many of my colleagues who have always been advocates of free trade in the past. Through the years I have been impressed with the sincerity and logic of their dedicated convictions that America should build up and encourage fair and balanced trades.

Let us take the past decade here in Congress and review the foreign trade affecting oil. Oil is absolutely essential to our Nation's economy. Back in the seventies our country imported $3 billion a year in oil. This year our country is importing $80 billion in oil. Imported oil has increased from $3 billion to $80 billion a year. Yet, there is no tax on imported oil. There are no limitations on imported oil. No tax—no limitations on $80 billion of imported oil. So many who spoke today recommended this $80 billion imported oil. Our country produced and is capable of producing much more oil through its own natural resources. America is importing $80 billion this year in oil with no tax, no restrictions.

What is interesting is the fact that Congress recently passed a tax called the windfall profit tax and this tax applies to all of the oil produced in the United States. The tax is 70 percent on American oil, but the interesting part is there is no tax on this foreign oil.

I have listened to the Members speak and I have heard so many who favored the idea of a 0-percent tax on foreign oil and a 70-percent tax on American oil. These 0 percent taxers on foreign oil said they were strong, dedicated, firm believers in an open door policy on foreign imports. Why do these same Members come before us today and say $80 billion in oil imports is excellent, but $3 billion of auto imports is a disaster.

In Texas they tell me that over 40 percent of the oil rigs in this country are idle. We could double our domestic exploration of finding more oil.

The bill before us requires that auto corporations in the United States meet certain U.S. value added ratios. They take the number of cars and if over 100,000 they divide by 10,000 which equals what must be made in the United States, with anything above getting a penalty. For example, if you sold 500,000 cars in the United States divided by 10,000 equals 50. That means 50 percent of the value of those 500,000 cars must be made in the United States.

Here we are talking about a bill which will bring on a cost to consumers of around $3 billion a year for their new automobiles. You worry about a $3 billion cost for automobiles and yet you have no concern about $80 billion for gasoline that you would use for the cars to run on. Where is your consistency?

The experts agree that this bill would also violate our international obligations under the General Agreement on Tariffs and Trade. This would also give our trading partners a legal right to retaliate against U.S. imports. This would clearly have a negative affect on U.S. exports and industries.

I would like to quote a portion from the minority dissenting views on H.R. 5133: "The Congressional Budget Office estimated that by 1990, some 70,000 auto jobs would be created as a result of the quota-induced U.S. domestic auto production increase, while some 220,000 nonauto jobs are eliminated because of the restrictions imposed on nonauto exports." According to CBO's projections, under this bill the United States would actually be losing 150,000 jobs by 1990.

The facts clearly show that this bill is inflationary, unnecessary, in direct opposition to our international trade agreements, and actually detrimental to jobs in our country.

How are you consistent when you voted for a 0-percent tax of foreign tax and 70-percent tax on American oil? If we support this protectionist legislation that will insulate the U.S. auto industry from foreign competition, what will the foreign countries pass in the way of retaliation.

Let us have fair trade but let us have balanced trade.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have to rise and speak on the amendment because the amendment simply points out the unworkability of the bill.

I do not think the amendment is really going to help the bill to become that much more administerable.

In sitting here today and listening to the debate, as well as yesterday on the rule, I have come to the conclusion that this bill is a ruptured duck bill in a lameduck session, cannot possibly fly on its own merits and it should not fly politically. We ought to dispose of this bill today, begone with it, finished with it today, and never bring it up again.

If we take a look at the bill we know that we are trying to help autoworkers. That is abundantly clear and I do not question anybody's motives in trying to help those people who are out of work.

But there are two groups that I would like to call some attention to who we are not helping but are hurting. Just consider for a moment what you are doing to other people in the name of trying to help autoworkers.

The first group is the one probably that is the broadest possible category, the one that we are all a member of, the consumers of America. You have heard that automobiles will go up an average of 10 percent or some $333 per unit.

The Congressional Budget Office goes on to say that inflation will go up by 0.2 of 1 percent when we have just gone through 2 tough years of voting to cut back domestic spending trying to get a cap on inflation and that is beginning to work.

Third, the GNP would go down 0.1 of 1 percent. We are trying to get the GNP generated again. We voted on hard questions this year and last year to do that, to put people back to work, and this goes in the opposite direction.

Fourth, they compute that there will be a net loss, not gain, net loss of jobs across the country of 66,000, a sizable figure, again going the wrong way when we have high unemployment.

I would put on top of that the fact that nobody seems to have mentioned the fact that you are probably going to increase gas consumption in the country and force energy prices back up again by this kind of legislation, by forcing off the market some very, very desirable automobiles in terms of energy efficiency.

Let me address that for just a minute.

I think it is erroneous to say that in 1984 we are going to find foreign automobiles meeting the component part requirement of this bill. That is a joke and we know it. We might as well be honest.

What this is is a very cleverly designed way to get those automobiles off the market entirely for the years 1984 and 1985, and we do not know about the out years. That is for the simple reason that there is no way that they can buy the component parts at this late date in producing the 1984 models to have them on the market to meet the requirements of the bill.

No. 2, we know that they are not going to build plants in this country at a time when interest rates are high and demand for the product soft.

So what you are doing is going to tell the consumers of America that you may have liked a Datsun or you may have liked a Toyota, but Congress in its infinite wisdom is once again going to try to repeal the law of supply and demand or the law of a free market and we are going to tell you you do not know what is good for yourself; you cannot buy that automobile anymore and we are going to take it off the market. You will be able to buy the 100,000 limit, all right, but boy, wait until you see what you are going to have to pay for that if you can find it.

So here we are in Congress at this late hour trying to tell the American people what they should and should not buy, the consumers, something I think that is just about as violently anticonsumer as anything we have seen come to the Congress in many, many years. Let us realize that. We are just taking these products off the market.

Our second group of people that ought to be addressed that are being hurt, and they have been addressed in the debate so far to some extent, is those groups of people involved in agriculture.

Japan is the single largest foreign buyer of our agricultural products, $6.6 billion a year. We know that 2 acres in every 5 all across our farm production across the country is going into exports, some 42 percent of our total crops are going into exports, and here we are doing something that Presidents have done and we criticized them for, we are going to eliminate that market.

Let me take you back to 1973 when President Nixon inadvisedly issued the boycott on the export of foreign products. Do you remember that?

What that did is put the American farmer in a hole that they have never gotten out of ever since, and several additional Presidents after that time made the same mistake, boycotts.

What those boycotts did in particular in 1973 was convince the Japanese that we were no longer stable sources of supply for soybeans. So they went someplace else. They went to South America.

They raised the money to put Brazil and Argentina into the soybean business and they are now our biggest competitors because of the stupidity of the thinking back in 1973.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. MOORE) has expired.

(By unanimous consent Mr. MOORE was allowed to proceed for 2 additional minutes.)

Mr. MOORE. As a result of that action in 1973 Brazil in the last 9 years has tripled their soybean production and Argentina has increased theirs eighteenfold. Today we find the Japanese buying a very significant amount of their soybeans from those two countries.

Japan still buys one-sixth of their soybean needs from this country. But what do you think they are going to do after we pass this bill? They are going to say the United States is coming through again, this time the Congress is getting into the act and trying to one-upmanship Presidents who have made mistakes in the past with boycotts. Now we have a congressional boycott. That is what this is, a boycott on their products coming in here so that they simply boycott ours going there and tell the Brazilians and the Argentines to go ahead and plant a few more rows of soybeans. Then you are going to find us out of business.

□ 1420

What are you going to do with the thousands of farm families, the thousands of teamsters who drive those trucks, delivering those products to ports, the thousands of longshoremen who load them and the thousands of seamen who carry them? What are you going to tell them when you put them out of business?

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Florida.

Mr. GIBBONS. In addition to that, the thousands of Americans who are UAW members, who labor in plants making those machines that harvest those crops, that plant those crops, and all of those.

I think the gentleman is making an excellent point.

Mr. MOORE. I thank my chairman.

I would point out that a moment ago one of the gentlemen mentioned that the price of American wheat in Japan is high. But did you know that they are still buying our wheat? Japan is the third biggest buyer of American wheat behind only the U.S.S.R. and China. Two-thirds of our wheat production goes overseas, and Japan is a big buyer.

My colleagues, this is a ruptured duck in a lameduck session. It cannot fly, and it should not. I hope you will defeat the amendment and the bill.

Mr. CROCKETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in a rather unique position. I represent the motor capital of the world, the city of Detroit. The 13th Congressional District probably contains more automobile workers than any other single district in the country. Additionally, there is located in my district the headquarters for the International Automobile Workers Union. Obviously, I am concerned about their welfare. There also is located in my district the world headquarters for General Motors Corp., and I am concerned about the progress of that institution. Most of its executives live in the Grosse Point area, which likewise is in the 13th Congressional District.

And so you see, I have a problem on which side do I come down with respect to this legislation that is sponsored by the automobile workers and opposed by the automobile makers.

There has been a lot of talk here about sending a message to the Japa-

nese. I would invite you to send a message to the automobile workers. I can tell you now that the length of the unemployment lines, the length of the lines in the soup kitchens in Detroit should be sending you a message, and that message is that their hope has been exhausted. And the question now is: How long will their patience last?

I served as a judge of the criminal court in Detroit in 1967 when the first of our great national riots broke out. It was not one single incident that brought on that manifestation of despair. Instead, it was the accumulation of events, such as the accumulation that is taking place now and that has caused my district to have an unemployment rate the highest in the Nation, 24.9 percent. And many of you are expressing concern about an unemployment rate of 10.9 percent.

I do not know what wisdom requires in this situation. But I am willing to trust the judgment of a million auto workers who feel that this is at least one thing that this Congress can do that will give them some hope, that will perhaps prevent the explosion that I am convinced and that many of the leaders in Detroit are convinced is going to take place unless this Congress does something to alleviate that condition.

For more than 2 years now I have sat here in this body; I have listened to all of the talk about jobs, I have listened to all of the talk about unemployment. Nothing whatever has been done.

I would implore my colleagues to send a message. But this time, send a message of hope, that maybe we do not have even here the best answer, but we are willing to trust the judgment of the automobile workers who believe that with the passage of this bill there is at least the possibility that something can be done to reduce the unemployment lines and the bread lines, particularly in the Detroit area.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STRATTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 11, noes 331, not voting 91, as follows:

[Roll No. 434]

AYES—11

Brown (CO)	McCloskey	Ritter
Derwinski	Napier	Stratton
Evans (IA)	Nichols	Wortley
Johnston	Pepper	

NOES—331

Akaka	Annunzio	Ashbrook
Albosta	Anthony	Aspin
Anderson	Applegate	AuCoin
Andrews	Archer	Badham
Bailey (MO)	Ford (TN)	McGrath
Bailey (PA)	Fountain	McHugh
Barnard	Frank	Mica
Barnes	Frenzel	Michel
Beard	Frost	Mikulski
Bedell	Fuqua	Miller (CA)
Beilenson	Gejdenson	Miller (OH)
Benedict	Gephardt	Mineta
Bennett	Gibbons	Minish
Bereuter	Gilman	Mitchell (MD)
Bethune	Gingrich	Moakley
Bevill	Ginn	Moffett
Bliley	Glickman	Molinari
Boggs	Gonzalez	Mollohan
Boner	Goodling	Montgomery
Bonior	Gore	Moore
Bonker	Gradison	Moorhead
Bouquard	Gray	Morrison
Bowen	Green	Murphy
Breaux	Gregg	Murtha
Brinkley	Guarini	Myers
Brodhead	Gunderson	Natcher
Brooks	Hagedorn	Neal
Broomfield	Hall (IN)	Nelson
Brown (CA)	Hall (OH)	Nowak
Brown (OH)	Hall, Ralph	O'Brien
Broyhill	Hall, Sam	Oakar
Burton, Phillip	Hammerschmidt	Oberstar
Butler	Hance	Obey
Byron	Hansen (ID)	Ottinger
Campbell	Hansen (UT)	Oxley
Cheney	Hartnett	Panetta
Clausen	Hawkins	Parris
Clay	Hefner	Pashayan
Clinger	Heftel	Patman
Coats	Hendon	Patterson
Coelho	Hertel	Paul
Coleman	Hiler	Pease
Collins (IL)	Hillis	Perkins
Collins (TX)	Hollenbeck	Petri
Conable	Holt	Peyser
Conte	Hopkins	Pickle
Conyers	Horton	Porter
Coughlin	Howard	Price
Courter	Hoyer	Pritchard
Coyne, James	Hubbard	Rahall
Coyne, William	Huckaby	Rangel
Crockett	Hughes	Ratchford
D'Amours	Hutto	Regula
Daniel, Dan	Hyde	Rinaldo
Daniel, R. W.	Jacobs	Roberts (KS)
Dannemeyer	Jeffries	Robinson
Daschle	Jones (OK)	Rodino
Daub	Jones (TN)	Roe
Davis	Kastenmeier	Roemer
de la Garza	Kazen	Rogers
Dellums	Kennelly	Rosenthal
Derrick	Kildee	Roth
Dickinson	Kindness	Roukema
Dicks	Kogovsek	Rousselot
Dingell	Kramer	Roybal
Dixon	LaFalce	Russo
Donnelly	Lagomarsino	Sabo
Dorgan	Lantos	Santini
Dornan	Latta	Sawyer
Dowdy	Leach	Scheuer
Downey	Leath	Schneider
Dreier	LeBoutillier	Schroeder
Dunn	Leland	Schumer
Dwyer	Lent	Seiberling
Dymally	Levitas	Sensenbrenner
Dyson	Lewis	Shamansky
Eckart	Livingston	Shannon
Edgar	Loeffler	Sharp
Edwards (CA)	Long (LA)	Shaw
Edwards (OK)	Long (MD)	Shelby
Emerson	Lott	Shumway
Emery	Lowery (CA)	Skeen
English	Lowry (WA)	Skelton
Erdahl	Lujan	Smith (AL)
Erlenborn	Luken	Smith (IA)
Ertel	Lundine	Smith (NE)
Fary	Madigan	Smith (NJ)
Fascell	Markey	Smith (OR)
Fazio	Marks	Snowe
Fenwick	Marlenee	Snyder
Ferraro	Marriott	Solarz
Fiedler	Martin (IL)	Spence
Fields	Martin (NC)	Stangeland
Findley	Martinez	Stark
Fish	Matsui	Staton
Fithian	Mazzoli	Stokes
Florio	McCurdy	Studds
Foglietta	McDade	Stump
Foley	McDonald	Swift
Ford (MI)	McEwen	Synar
Tauke	Weaver	Wolpe
Tauzin	Weber (MN)	Wright
Taylor	Weber (OH)	Wyden
Traxler	Whittaker	Yates
Trible	Whitten	Yatron
Udall	Williams (MT)	Young (AK)
Vento	Williams (OH)	Young (FL)
Volkmer	Wilson	Young (MO)
Walgren	Winn	Zablocki
Wampler	Wirth	
Watkins	Wolf	

NOT VOTING—91

Addabbo	Fowler	Quillen
Alexander	Garcia	Railsback
Atkinson	Gaydos	Reuss
Bafalis	Goldwater	Rhodes
Biaggi	Gramm	Roberts (SD)
Bingham	Grisham	Rose
Blanchard	Hamilton	Rostenkowski
Boland	Harkin	Rudd
Bolling	Hatcher	Savage
Burgener	Heckler	Schulze
Burton, John	Hightower	Shuster
Carman	Holland	Siljander
Carney	Hunter	Simon
Chappell	Ireland	Smith (PA)
Chappie	Jeffords	Solomon
Chisholm	Jenkins	St Germain
Corcoran	Jones (NC)	Stanton
Craig	Kemp	Stenholm
Crane, Daniel	Lee	Thomas
Crane, Philip	Lehman	Vander Jagt
Deckard	Lungren	Walker
DeNardis	Martin (NY)	Washington
Dougherty	Mattox	Waxman
Duncan	Mavroules	Weiss
Early	McClory	White
Edwards (AL)	McCollum	Whitehurst
Evans (DE)	McKinney	Whitley
Evans (GA)	Mitchell (NY)	Wylie
Evans (IN)	Mottl	Zeferetti
Flippo	Nelligan	
Forsythe	Pursell	

□ 1440

Mrs. SMITH of Nebraska, Mr. MICA, and Mr. COLEMAN changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. OTTINGER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5133) to establish domestic content requirements for motor vehicles sold in the United States, and or other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill we have just had under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to proceed for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader the program for next week.

Mr. WRIGHT. Mr. Speaker, will the distinquished minority leader yield?

Mr. MICHEL. I am happy to yield to my friend, the gentleman from Texas.

Mr. WRIGHT. The distinguished minority leader asks about the program for the remainder of the week and for next week.

This concludes the legislative program for this week.

When we adjourn today I am going to ask unanimous consent that we adjourn to meet at noon on Monday. We will plan to meet at noon on Monday, and on Tuesday, and then 10 o'clock on Wednesday, and the balance of the week.

On Monday, we will consider certain bills that are eligible for consideration under suspension of the rules. I have listed on the whip notice some 24 of them. There conceivably might be others. If we cannot finish them Monday, we can use them throughout the week as fillers if it is acceptable to the distinguished gentleman from Illinois and other Members of the House.

Mr. MICHEL. Well, if I might respond at the moment, let me say that if I recall, Monday night is the evening for the traditional invitation on the part of the President for Members of the Congress to come down to the White House.

Now, I think it is a time-honored practice around here that when that invitation is issued and enough warning is given, that we be able to come to a firm decision on when we are going to wrap-up, rather than leaving the White House hanging as to whether we are going to be or not going to be there. There are some preparations that have to be made.

I would like to have some firm declaration here that we be out by such and such a time. As I recall, I think upon being reminded, the party is scheduled for 8 o'clock. Obviously it takes some time for Members to get organized and get down there; but if we could come to some agreement as to when we are going to wrap-up for sure on Monday, that would be helpful, I think, for all the Members.

Mr. WRIGHT. Well, I agree with the gentleman. Of course, when the President of the United States invites Members of Congress and their families to come to the White House on an annual Christmas celebration it would be a virtual sacrilege for us to put ourselves in a position where we could not accept that gracious invitation.

Therefore, let us just resolve between ourselves and among ourselves that whatever happens, we will be finished with our business on Monday by not later than 7:30 and we will try to do it by 7.

Is that satisfactory to the gentleman?

Mr. MICHEL. That is agreeable.

Now, may I inquire of the gentleman what this housing bill is? Is that that $20 billion proposition or just what are we going to be debating on Monday?

Mr. WRIGHT. No. The bill will probably come to the floor around Thursday or so. It is a little mom and pop housing bill that permits moms and pops and prospective moms and pops, newly created family units who heretofore have not been able to purchase homes in which to rear their little families to be allowed to do so in fulfillment of the great American dream, as I am sure the gentleman from Illinois would agree.

Mr. MICHEL. Does the gentleman intend that we get out of here by Christmas? Are we really going to get this thing enacted by both Houses of Congress?

Mr. WRIGHT. Oh, it is my earnest hope, my definite expectation and my dogged determination to see if at all humanly possible that we shall have concluded our business by the end of next week and I hope that when we adjourn at that time we shall adjourn sine die to come here again on the 3d of January. That is what I hope.

Mr. MICHEL. Now, the gentleman had not concluded his long list of suspensions that he had cataloged for next week.

Mr. WRIGHT. No. May I read them scientifically, as they say?

Mr. MICHEL. If the gentleman has the same list as I have got, I would maintain a unanimous-consent request that they be considered as having been read and printed in the RECORD.

Mr. WRIGHT. I shall show them to the membership herewith.

It reminds me of the Chair's having examined the Journal of the last day's proceedings and announcing his approval.

Members have examined the list of suspensions.

The list of suspensions is as follows:

H.R. 3191, modification of North American Convention tax rules.

H.J. Res. 429, State Commissions on Teacher Excellence.

S. 2355, Communications Act amendments.

H. Con. Res. 204, Science Center for Communications and Electronic Education Programs.

H.R. 4281, Critical Materials Act 1982.

H.R. 1856, authorize GSA to donate certain property to State and local governments.

H.R. 7044, mail order consumer fraud protection.

H.R. 6519, student interns at the Internal Revenue Service.

S. 816, Clayton Antitrust Act amendments.

S. 2059, special prosecutor appointments amendments.

H.R. 4491, Capitol Historical Society.

S. 823, payment of losses incurred in tris-treated fabrics.

H.R. 7378, miscellaneous law revisions (codification changes only).

H.R. 6993, miscellaneous law revisions (codification changes only).

H.R. 6120, deep seabed hard minerals.

H.R. 5906, OCS (Outer Continental Shelf) amendments to title II.

S. 1621, authorize replacement of existing pump casings in southern Nevada Water Projects.

H.J. Res. 553, authorize Indian tribes to bring actions with repect to certain legal claims.

S. 2710, Indiana Wilderness.

S. 1965, Paddy Creek Wilderness, Missouri.

H.R. 7340, Oregon Wilderness.

S. 1501, Educational Mining Act.

S. 1661, Effigy Mounds Site, including Truman Historic Site.

S. 625, Voyageurs National Park.

Mr. MICHEL. Now, let me make it clear that these bills would be eligible for consideration, however, only on Monday and Tuesday.

□ 1450

Mr. WRIGHT. We will, unless the gentleman would agree, and I hope he might, that considering the need to get out of here, and sometimes the possibility of sitting around waiting for a continuing appropriation to come back from conference or something like that, we might find it expedient and useful to some of the Members who have an interest in some of these bills to consider them later.

I would like to ask unanimous consent that it might be in order to consider suspensions any day next week.

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I think maybe I might very well have to object because the very reason I asked the question was to make absolutely sure that we were not obligating ourselves here now to something beyond what I see coming up for Monday and Tuesday, I would like to hold in reserve that aproval until we have had a thorough opportunity to examine just how this list might very well be adjusted.

Would the gentleman want to withdraw that unanimous-consent request?

Mr. WRIGHT. I do withdraw it, because under no circumstances would I want to press a unanimous-consent request that was not unanimously agreed to.

Therefore, with the gentleman's kind permission, I might like to revive the question next week, but I promise not to do it without the gentleman's prior knowledge.

Mr. MICHEL. Would the gentleman now like to proceed with the balance

of what he has in store for that week in response to my request?

Mr. WRIGHT. I am afraid it is time to do that.

Let us next focus on the probability that the continuing appropriations bill would be ready for our consideration on Tuesday. That bill will have the right of way over every other matter next week. Whenever it is ready, we expect to bring it. That will probably be on Tuesday.

Then on Wednesday and the balance of the week, meeting at 10 o'clock, we expect to take up and consider in roughly the following order such bills as I shall hereinafter enumerate:

H.R. 5133, the Fair Practices in Automotive Products Act, which has been under consideration. We would like to complete that.

H.R. 7357, the Immigration Reform Act, under a modified open rule with 5 hours of general debate and several amendments.

Mr. KAZEN. Several amendments?

Mr. WRIGHT. Would the distinguished minority leader yield to the gentleman from Texas (Mr. KAZEN)? The gentleman from Illinois (Mr. MICHEL) has the time.

This bill has several amendments pending, but we expect to bring it up on Wedensday or thereafter.

Then, we have scheduled the housing authorization bill, H.R. 6296, the bill we discussed a moment ago.

There may be some other things that I cannot anticipate. Obviously, conference reports are expected at any time, but once we finish the continuing appropriations and the President of the United States signs it, as I have every reason to expect that he surely will in the spirit of the Christmas season, then we will entertain a motion to adjourn sine die.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

Does the gentleman know of any other extraordinary unanimous-consent requests that might be made the balance of this day?

Mr. WRIGHT. Yes. There may be two from the Interior Committee, and there may be others with which I am not familiar.

Mr. MICHEL. I just want to be sure that the appropriate Members are here to either respond or handle those requests.

Mr. WRIGHT. There is one from Foreign Affairs as well, I am advised; not controversial.

Mr. GLICKMAN. Mr. Speaker, would my colleague yield to me?

Mr. MICHEL. I would be happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Speaker, may I ask the distinguished majority leader if there is any chance that the continuing appropriations bill will be up for consideration on Monday, or is it in all likelihood that it will be Tuesday for that bill?

Mr. WRIGHT. If the gentleman will yield further to me, the answer is that it seems much more likely that it will be Tuesday. If it were ready for consideration on Monday, I should not want to foreclose that possibility. However, I think it is very unlikely that we could get to it on Monday. I believe it is much more likely that it will be brought up on Tuesday.

Mr. GLICKMAN. I thank my colleague.

Mr. WRIGHT. It needs a rule, I say to the gentleman from Kansas. That is why we do not expect to be able to bring it on Monday.

Mr. MICHEL. I thank the gentleman.

Mr. WRIGHT. Mr. Speaker, I have two unanimous-consent requests if the gentleman is ready to entertain them.

Mr. MICHEL. Mr. Speaker, I have no more questions.

ADJOURNMENT TO MONDAY, DECEMBER 13, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the majority leader, the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the majority leader, the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO FILE AN INVESTIGATIVE REPORT

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent that the Committee on Small Business have until midnight tonight to file an investigative report with the Clerk of the House.

The SPEAKER pro tempore. (Mr. WOLPE). Is there objection to the request of the gentleman from Maryland?

There was no objection.

PERMITTING TRIBAL AGREEMENTS TO DISPOSE OF MINERAL RESOURCES

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1894) to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment, as follows:

Page 1, line 5, after "land" the second time it appears, insert "the".

Page 2, line 11, strike out "trust" and insert "beneficial".

Page 2, line 14, strike out "trust" and insert "beneficial".

Page 2, line 24, after "of" inisert "Federal".

Page 3, after line 2, insert:

(b) In approving or disapproving a minerals Agreement, the Secretary shall determine if it is in the best interest of the Indian tribe or of any Individual Indian who may be party to such agreement and shall consider, among other things, the potential economic return to the tribe; the potential environmental, social and cultural effects on the tribe; and provisions for resolving disputes that may arise between the parties to the agreement: *Provided*, That the Secretary shall not be required to prepare any study regarding envoronmental, socioeconomic, or cultural effects of the implementation of a Minerals Agreement apart from that which may be required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Page 3, line 3, strike out "(b)" and insert "(c)".

Page 3, line 16, strike out "(c)" and insert "(d)".

Page 3, line 20, strike out "Affairs" and insert "Affairs,".

Page 3, line 21, after "action." insert: The district courts of the United States shall have jurisdiction to review the Secretary's disapproval action and shall determine the matter de novo. The burden is on the Secretary to sustain his action.

(e) Where the Secretary has approved a Minerals Agreement in compliance with the provisions of this Act and any other applicable provision of law, the United States shall not be liable for losses sustained by a tribe or individual Indian under such agreement: *Provided*, That the Secretary shall continue to have a trust obligation to ensure that the rights of a tribe or individual Indian are protected in the event of a violation of the terms of any Minerals Agreement by any other party to such agreement: *Provided further*, That nothing in this Act shall absolve the United States from any responsibility to Indians, including those which derive from the trust relationship and from any treaties, Executive orders, or agreement between the United States and any Indian tribe.

Page 3, strike out all after line 21 over to and including line 24 on page 5.

Page 5, after line 24, insert:

SEC. 5. (a) The Secretary shall review, within ninety days of enactment of this Act, any existing Minerals Agreement, which does not purport to be a lease, entered into by any Indian tribe and approved by the Secretary after January 1, 1975, but prior to enactment of this Act, to determine if such agreement complies with the purposes of this Act. Such review shall be limited to the

terms of the agreement and shall not address questions of the parties' compliance therewith. The Secretary shall notify the affected tribe and other parties to the agreement of any modifications necessary to bring an agreement into compliance with the purposes of this Act. The tribe and other parties to such agreement shall within ninety days after notice make such modifications. If such modifications are not made within ninety days, the provisions of this Act may not be used as a defense in any proceeding challenging the validity of the agreement.

(b) The review required by subsection (a) of this section may be performed prior to the promulgation of regulations required under section 8 of this Act and shall not be considered a Federal action within the meaning of that term in section 102(2)(C) of the National Environmental Protection Act of 1969 (42 U.S.C. 4332(2)(C)).

Page 6, line 1, strike out "." and insert "6.".

Page 6, strike out lines 7 to 18, inclusive.

Page 6, line 19, strike out "9." and insert "7.".

Page 6, line 21, after "tribe" insert "or individual Indian".

Page 6, line 22, after "tribe" insert "or individual Indian".

Page 7, line 1, after "tribe" insert; or individual Indian".

Page 7, line 3, strike out "SEC. 10. (a)" and insert "SEC. 8.".

Page 7, line 15, strike out "section 4(b) and section 5" and insert "section 4".

Page 7, strike out all after line 18 over to and including line 10 on page 8.

Page 8, line 11, strike out "11." and insert "9.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona (Mr. UDALL)?

Mr. BEREUTER. Mr. Speaker, reserving the right to object and I will not object, on behalf of the minority on the Committee on Interior and Insular Affairs, I rise to support the request of the gentleman from Arizona that the House concur in the Senate amendments to the House revision of S. 1894. As one Member who was much involved in the consideration of this legislation in the Interior Committee, I find the changes made by the Senate acceptable and I join the chairman in urging the House to concur in those changes.

This legislation is of great importance to those American Indian tribes which have mineral resources and the desire to develop them to the maximum benefit of their members and to the Nation. S. 1894 authorizes tribes to enter into any of the wide range of development agreements which are common to the minerals industry but which are precluded in Indian country by a 44-year-old statute that limits the method of development of Indian minerals to leasing only.

This bill will not cost the taxpayers any money.

S. 1894 is strongly supported by Indian tribes, the administration, and by companies interested in working with tribes to develop reservation mineral resources. It represents a large and positive step toward the future economic well-being of a large segment of this Nation's Indian population. I urge its speedy approval by the House.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I rise in support of S. 1894.

Mr. Speaker, I join the Chairman of the Interior Committee in urging the House to concur in the Senate amendments to the House amendment to S. 1894.

This is meritorious legislation much desired by Indian tribes by the administration, and by companies willing to be partners with tribes in developing reservation resources.

This bill will provide tribes greater flexibility in their approach to development of their energy and nonenergy mineral resources.

It will clarify the authority of the Secretary of the Interior to approve a variety of minerals agreements that will enable tribes to realize greater profits from their resources as well as greater involvement in the management of their reservation resource development.

The bill provides guidelines for the Secretary to evaluate proposed agreements in his role as trustee for Indian lands and resources to insure that such agreements are in a tribe's best interest.

Mr. Speaker, this legislation will provide Indian tribes with greater opportunity to swim in the economic mainstream of American society. It will do so at no cost to the Treasury and with great potential benefit not only for Indians but also for the Nation as a whole. I urge approval of the Senate amendments.

Mr. BEREUTER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, I associate myself with the remarks of the gentleman from Nebraska, join in the description of the legislation as put forth by the gentleman. This important legislation passed almost unanimously, or unanimously.

This bill provides authority for Indian tribes to enter into various business venture agreements for the development of their interests in oil, gas, coal, and other minerals. Under existing law, they are limited, for all practical purposes, to the use of lease for such development. This bill would permit them to take greater business risks with the opportunity for greater return on their resources.

The House passed this bill on August 17 of this year with an amendment in the nature of a substitute making extensive changes in the Senate-passed bill. The differences between the two versions were worked out over the election recess with the Senate Committee on Indian Affairs and representatives of the Department of the Interior. While I would have preferred to have retained all or most of the House language, there is some urgency about getting this bill passed in this Congress. Therefore, I support concurring in the further Senate amendments to the House amendment.

Mr. BEREUTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona (Mr. UDALL)?

Mr. MARLENEE. Mr. Speaker, reserving the right to object, may I ask the status of the bill? Have we had hearings? What has been the status of the bill in the Interior Committee?

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, this was passed by the Senate. We held hearings and markup in the House. It went over to the Senate, which made some changes that are perfectly acceptable to the gentleman from Nebraska (Mr. BEREUTER) and to me, and we are asking that we now concur in those Senate changes and send it to the White House.

Mr. MARLENEE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona (Mr. UDALL)?

There was no objection.

A motion to reconsider was laid on the table.

□ 1500

DECLARING THAT UNITED STATES HOLDS IN TRUST CERTAIN LAND IN PIMA COUNTY, ARIZ., FOR PASCUA YAQUI TRIBE IN ARIZONA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4364) to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Ariz., with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, strike out lines 1 to 13, inclusive, and insert:

(1) the east half of the southeast quarter of section 22;

(2) the northeast quarter of northeast quarter, south half of northeast quarter, north half of southeast quarter, south half of northwest quarter, southwest quarter of section 23;

(3) the southwest quarter of the northwest quarter of section 24; and

(4) the southeast quarter of northeast quarter of northwest quarter of section 24.

Page 2, after line 13, insert:

SEC. 2. Nothing in this Act shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right, or other legal right or legal interest which such person or entity may have in land described in section 1.

Page 2, line 14, strike out "SEC. 2" and insert "SEC. 3.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. WOLPE). Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

Mr. BEREUTER. Mr. Speaker, reserving the right to object, I do so only to explain that this bill provides that approximately 560 acres of lands administered by the Bureau of Land Management will be held in trust by the United States for the benefit of the Pascua Yaqui Tribe of Indians in Arizona. The bill passed the House a year ago by unanimous consent. The Senate amendments make technical changes in the land descriptions and adds boilerplate language preserving all existing valid rights with respect to these lands. The committee has no objection to these amendments.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield.

Mr. UDALL. Mr. Speaker, I rise in the support of the bill.

Mr. BEREUTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

NATIONAL PARK VISITOR FACILITIES FUND ACT

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the speaker's table the bill (H.R. 7316) to establish the National Park System Visitor Facilities Fund, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so simply to ask the gentleman from Ohio if he would explain just what this legislation does.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, H.R., 7316, a bill to establish the National Park System Visitor Facilities Fund, was introduced by the distinguished ranking member of the Committee on Interior and Insular Affairs, MANUEL LUJAN. The bill is noncontroversial and would establish the National Park System Visitor Facilities Fund for reconstruction, rehabilitation, replacement, improvement, relocation, or removal of federally owned visitor facilities within units of the National Park System. The fund would be administered by the Secretary of the Interior through grants to the National Park Foundation to accomplish authorized projects. H.R. 7316 is identical to the bill S. 2715 reported from the Energy and Natural Resources Committee on December 3, 1982.

Numerous structures located within the 333 units of the National Park System were constructed many years ago and are now in serious need of major maintenance and rehabilitation. The Department of the Interior and the Congress have recognized that need and have appropriated increased funds in the last several years in an attempt to remedy the problem. However, such funds have primarily been directed to work on major park structures. There are over 1,000 small buildings in the park system—mostly cabins and small motels, including associated support facilities—which are owned by the U.S. Government, which is responsible for nonroutine maintenance, and which are used for overnight visitor accommodations or for providing support services for visitors. These buildings have been consistently placed at the bottom of the priority list for maintenance funding and most are now in critical need of major rehabilitation. It has become apparent that the nature of these small scattered structures have not, for various reasons, been accorded priority for maintenance funding and that special efforts must be made to assure maintenance before the structures deteriorate to the point where rehabilitation is economically infeasible.

The National Park Foundation was established in 1967 by Public Law 90-209 to assist the National Park Service by undertaking functions that are most appropriately accomplished by a quasi-private tax-exempt organization, which as such, is in a unique position to provide for small scale operations and to integrate private and public expertise to accomplish the needed work. The National Park Foundation is also able to serve as a conduit for the merger of public and private finances to meet the objectives of this legislation.

Mr. Speaker, our colleague, MANNY LUJAN, has artfully crafted H.R. 7316 to solve this problem in an innovative way and I urge all of the Members of the House to support this bill.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Park Visitor Facilities Fund Act".

SEC. 2. DEFINITION.—For purposes of this Act—

(1) "Foundation" means the National Park Foundation established under the Act of December 18, 1967 (81 Stat. 656);

(2) "Fund" means the National Park Visitor Facilities Fund established under section 3 of this Act;

(3) "Secretary" means the Secretary of the Interior; and

(4) "visitor facilities" means improvements in which no possessory interest is outstanding to real property within the areas of the National Park System used to provide food, lodging, or other services to visitors, including concessioners' employee dormitories.

SEC. 3. ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States the National Park Visitor Facilities Fund. Notwithstanding any other provision of law to the contrary, beginning October 1, 1983, there shall be covered into the Fund, National Park System franchise fees, including building user fees and other remuneration due and owing the United States for the privilege of providing visitory accommodations and services in areas of the National Park System.

SEC. 4. APPROPRIATIONS.—Beginning in fiscal year 1984, moneys covered into the Fund pursuant to this Act are hereby authorized to be appropriated to the National Park Service, to be made available for expenditure by the Foundation to carry out its functions under this Act: *Provided,* That in fiscal year 1984 there is authorized to be appropriated from miscellaneous receipts of the Treasury a sum equal to the amount collected by the United States in the previous fiscal year from franchise fees, including building user fees and other remuneration due and owing the United States for the privilege of providing visitor accommodations and services in areas of the national park system, as referred to in section 3. In addition to the amount authorized to be appropriated pursuant to this section, such sums not to exceed $1,000,000 may be appropriated and made available to be matched on a dollar-for-dollar basis by cash or in-kind contributions made to the Foundation for the purposes of this Act. Except as provided in section 8 of this Act, sums appropriated under this section shall remain available until expended.

SEC. 5. ADMINISTRATION OF FUND PROJECTS.—(a) The Secretary shall, as soon as practicable after the date of enactment of this Act, appoint the Executive Committee of the National Park Foundation, who shall act as a committee of the Board to consider and recommend Fund projects to the Foundation. If a vacancy occurs on the

committee, the Secretary shall appoint a nongovernmental member of the Board to serve the remainder of the unexpired term.

(b) Prior to the beginning of each fiscal year, the National Park Service shall submit to the committee detailed recommendations for the construction, rehabilitation, other improvements, relocation, or removal of those visitor facilities qualifying for moneys from the Fund during the forthcoming year.

Following the committee's review, those recommendations having the concurrence of the National Park Service, the Secretary, and the committee, shall be submitted to the Board of the Foundation for its approval.

Any project undertaken by the Foundation shall be consistent with the purposes for which the park where the project is sited was established and/or any final general management plan which has been prepared for the park.

(c) Upon arrival by the Board, the Secretary shall make grants to the Foundation for the purpose of carrying out projects so approved. Such grants shall be derived from sums appropriated from the Fund pursuant to section 4. The Foundation shall administer such projects and expend Federal funds from such grants in accordance with applicable law and regulation. By undertaking to administer any project under this Act, the Foundation shall be deemed to have agreed that all right, title, and interest in any visitory facility with respect to which such project is carried out shall vest in the United States. The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation in connection with its activities under this Act.

(d) The Foundation shall include in its annual report to the Congress a description of Fund projects and the Foundation's accomplishments under this Act.

SEC. 6. AUTHORITY OF THE NATIONAL PARK FOUNDATION.—For the purposes of this Act, the Foundation, in addition to any other authorities it may have—

(1) shall have all necessary and proper powers for exercise of the authorities vested in it by this Act;

(2) may execute all instruments deemed necessary or appropriate in the exercise of any of its functions under this Act; and

(3) may expend a portion of moneys received under this Act for such reasonable personnel and incidental expenses as are necessary to carry out its functions under this Act.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall continue to exercise all the authorities and responsibilities vested in him by the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of October 9, 1965 (79 Stat. 969).

SEC. 8. EXPIRATION OF AUTHORITY.—The authorities contained in this Act shall expire on September 30, 1989. After that date, any moneys previously covered into the Fund under this Act which have not been appropriated, or if appropriated, which have not been obligated, shall be transferred to miscellaneous receipts of the Treasury.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert: That this Act may be cited as the "National Park System Visitor Facilities Fund Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) "Foundation" means the National Park Foundation established under the Act of December 18, 1967 (81 Stat. 656; 16 U.S.C. 19e and following).

(2) "Fund" means the National Park System Visitor Facilities Fund established under section 3 of this Act;

(3) "Secretary" means the Secretary of the Interior; and

(4) "visitor facility" means any structure, fixture, or improvement—

(A) which is located within a unit of the National Park System upon land owned by the United States;

(B) in which no concessioner has a possessory interest (within the meaning of section 6 of the National Park Service Concessions Policy Act (16 U.S.C. 20-20g)); and

(C) which is used to provide food, lodging, or other services to visitors.

Such term also includes concessioners' employee dormitories which meet the requirements of subparagraphs (A) and (B).

ESTABLISHMENT OF FUND

SEC. 3. There is hereby established in the Treasury of the United States the National Park System Visitor Facilities Fund. There shall be credited to the Fund an amount equal to all National Park System concession fees, including franchise fees and building user fees, paid to or due and owing to the United States after October 1, 1982 for the privilege of providing visitor accommodations and services in units of the National Park System (other than revenues obtained under the provisions of section 111 of the National Historic Preservation Act of 1966) (16 U.S.C. 470-470t).

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) Beginning in fiscal year 1984, amounts credited to the Fund pursuant to this Act are authorized to be appropriated to the National Park Service, to be made available for expenditure by the Foundation to carry out its functions under this Act.

(b) In addition to the amount authorized to be appropriated pursuant to subsection (a) of this section, there is authorized to be appropriated, not to exceed $1,000,000 to the National Park Service, to be made available for expenditure by the Foundation to carry out its functions under this Act. Such sums shall be available for expenditure by the Foundation only to the extent such sums are matched on a dollar-for-dollar basis by cash or in-kind contributions made to the Foundation for the purposes of this Act.

(c) Except as provided in section 8 of this Act, sums appropriated under this section shall remain available until expended.

ADMINISTRATION OF FUND PROJECTS

SEC. 5. (a) In a timely fashion, the Director of the National Park Service, with the concurrence of the Secretary, shall submit to the Executive Committee of the National Park Foundation detailed recommendations for the reconstruction, rehabilitation, replacement, improvement, relocation, or removal of visitor facilities. The Director shall specify those projects which he deems to have the highest priority for funding under this Act. The Executive Committee shall consider such recommendations and, with the concurrence of the Director of the National Park Service, recommend projects to the Board of the Foundation for its approval.

(b) The Secretary shall make grants to the Foundation from amounts available in the Fund for the purpose of carrying out projects approved under this section.

(c)(1) Any project approved and carried out under this section shall be consistent with the purposes for which the park system unit involved was established and with any approved general management plan applicable to that unit. Any plans for, and location and design of, any specific project shall be reviewed by and concurred in by the Director of the National Park Service.

(2) In recommending any project under this Act with respect to any property listed on, or eligible for listing on the National Register of Historic Properties, the National Park Service shall take into account the recommendations of the Advisory Council on Historic Preservation and any project affecting any such property shall be carried out in a manner consistent with the requirements of the National Historic Preservation Act (16 U.S.C. 470-470t).

(d) The Foundation shall carry out projects under this Act, and expend grants made available under this Act, in accordance with applicable provisions of law and regulations. All grants for any projects to be carried out under this Act shall be in accordance with Circular A-110 published by the Office of Management and Budget applicable to Federal grants. The Foundation shall be responsible for managing the construction activities, including the selection of persons to perform architectural, engineering, construction, and related services.

(e) By undertaking to administer any project under this Act, the Foundation shall be deemed to have agreed that all right, title, and interest in any visitor facility with respect to which such project is carried out shall be be vested in the United States. The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation in connection with its activities under this Act.

(f) The Foundation shall include in its annual report to the Congress a description of projects undertaken under this Act and the Foundation's accomplishments under this Act.

SEC. 6. AUTHORITY OF THE NATIONAL PARK FOUNDATION.—For the purposes of this Act, the Foundation, in addition to any other authorities it may have—

(1) shall have all necessary and proper powers for exercise of the authorities vested in it by this Act;

(2) may execute all instruments deemed necessary or appropriate in the exercise of any of its functions under this Act; and

(3) may expend a portion of moneys received under this Act for such reasonable personnel and incidental expenses as are necessary to carry out its functions under this Act.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.—Nothing in this Act shall affect the authorities or responsibilities of the Secretary under other provisions of law, including the authorities and responsibilities vested in him under the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and under the National Park System Concessions Policy Act (79 Stat. 969; 16 U.S.C. 20-20g).

SEC. 8. EXPIRATION OF AUTHORITY.—The authorities contained in this Act shall expire on September 30, 1989. After that

date, any moneys previously credited to the Fund under this Act which have not been appropriated, or if appropriated, which have not been obligated or expended, shall be transferred to miscellaneous receipts of the Treasury.

Amend the title to read: "An Act to establish the National Park System Visitor Facilities Fund and for other purposes."

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I assume that this is the amendment that was passed in committee?

Mr. SEIBERLING. It is the committee amendment, and it is agreed to by all concerned.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

JERRY L. CROW

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 835) for the relief of Jerry L. Crow, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, and I shall not object, I would like the gentleman from Ohio to explain the bill.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, as reported, S. 835 would provide one individual in Alaska and two people in Colorado the right to buy certain public lands at rates other than current fair market value.

BACKGROUND

This bill passed the Senate on May 10, 1982, as private relief legislation for a named individual (Jerry L. Crow).

Mr. Crow since 1967 has been attempting to obtain title to a tract of BLM land adjoining the Denali Highway in Alaska. He applied for the lands under the act of May 14, 1898, which provides for transfers to U.S. citizens of "trade and manufacturing sites" in Alaska. Such transfers are to be for lands which the applicant will use for business purposes. The lands covered by Mr. Crow's application were intended to be used for a commercial campground.

BLM denied Mr. Crow's application, on grounds that he had failed to meet the requirements established by applicable law and regulations. This denial was upheld subsequently by the Department of the Interior's Board of Land Appeals and by the U.S. District Court for the District of Alaska.

As passed by the Senate, S. 835 permitted Mr. Crow to obtain not more than 10 acres of the lands covered by his application, at current fair market value, excluding any value added to the lands by Mr. Crow. With respect to the rest of the lands covered by the 1967 application, that is, about 70 acres, the bill directed the Secretary to offer to lease all or part of them to Mr. Crow for 30 years, with an option for him to purchase them for fair market value at the time the option is exercised.

THE COMMITTEE AMENDMENT

The committee adopted an amendment—offered by Representative BROWN of Colorado—which added a new section—section 4—to the bill. The amendment is identical in effect to the provisions of H.R. 5171. It would authorize and direct the Secretary of the Interior to convey to a named couple—Ralph D. and Connie V. Hubbell—all right, title, and interest of the United States to about 1.25-acres of public lands which they are currently occupying.

The background to the amendment—according to the report of the Department of the Interior—is as follows:

In 1964, the Hubbells purchased from C. J. and Naomi M. Jackson 3.10 acres of land, which included the 1.25-acre parcel in question, for the construction of a home. Documentary stamps on the warranty deed indicate a purchase price of $5,000 or about $1,600 per acre. The description of the parcel conveyed appears to be based on an updated sketch plat signed by Robert D. Scarrow, registered land surveyor No. 3317, State of Colorado, showing a computer tie to an existing corner of the U.S. rectangular survey system. This did not conform to land survey requirements of Colorado State law and resulted in an inaccurate survey.

The Colorado Division of Highways suggested that there was unauthorized use when its field surveyors were surveying to realine Colorado State Highway 82 to its present location. The Bureau of Land Management (BLM) performed an independent resurvey in 1972 which was approved on October 14, 1975. That survey definitely established the occupancy trespass. It is not known what caused the differences between where the private surveyor surveyed the 3.10-acre parcel and where the Bureau's resurvey eventually determined the property boundary to be, but the difference does exist. The BLM survey is the official survey of the tract.

The Hubbells filed an application under the Color-of-Title Act but it was rejected because they did not meet the requirements of that act. The BLM reviewed all its disposal authority to determine whether any other law could be used to convey the land to the Hubbells. It was determined that the only available authority under which the Hubbells could qualify is under section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA). Accordingly, the Bureau prepared required reports including a mineral report dated June 8, 1981, that classified the tract as nonmineral in character for locatable, leasable, and salable minerals. The parcel was offered for direct sale so the Hubbells could acquire the property without competition and end the unauthorized use situation. Conveyance would, or course, be made at fair market value.

A notice of realty action was mailed to the Hubbells on June 19, 1981, with the sale set originally for September 15, but later changed to October 20. Mr. Hubbell protested the appraised fair market value of $20,000, and the sale was postponed. The basis for protest and the facts in the case were thoroughly reviewed. The appraisal was found to have been based on proper consideration of all the factors affecting the fair market value of the land. No change was indicated.

Thereafter, on November 27, 1981, a notice of final determination was issued allowing the Hubbells until December 15, 1981, to file a written offer to purchase the land at the $20,000 appraised value. That notice was amended to postpone the proposed sale until March 15, 1982, to comply with a request to hold in abeyance any actions concerning the property until the Subcommittee on Public Lands and National Parks had an opportunity to consider the bill. On December 10, 1981, Mr. Hubbell requested BLM to postpone final action on the property until December 15, 1982, to allow a full legislative year for consideration of special legislation in his behalf and to allow time for his review of the BLM appraisal.

SECTION-BY-SECTION ANALYSIS

As reported, the bill is in four sections:

Section 1 permits Jerry L. Crow, within 1 year after enactment, to select no more than 10 acres of public lands covered by his original application to purchase a trade and manufacturing site and to notify the Secretary of the Interior of his intention to purchase the selected lands under the provisions of his bill.

Section 2 directs the Secretary to sell to Mr. Crow the lands selected under section 1 at a price based on their fair market value as of the date of enactment of the bill, excluding any value added to the lands by Mr. Crow.

Section 3 requires the Secretary to offer to lease to Mr. Crow all or part of the rest of the public lands included in Mr. Crow's original application for a trade and manufacturing site. The lease is to be for 30 years, with an option to purchase, and rental is to be based on the land's fair market value. If Mr. Crow exercises the option to purchase, the purchase price shall be the fair market value at the time of purchase. Fair market value is to be determined by the Secretary or his designee.

Section 4 authorizes and directs the Secretary to convey to Ralph D. and Connie V. Hubbell all Federal interests in certain described public lands, aggregating about 1.25 acres, upon payment of the 1964 fair market value of the lands.

INFLATIONARY IMPACT

Pursuant to rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the committee believes that enactment of S. 835, as amended, will have no inflationary impact on the national economy.

COST AND BUDGET ACT COMPLIANCE

The committee is unable to accurately estimate the administrative costs which will result from implementation of this bill if enacted. The committee notes that the United States would be compensated for the lands to be conveyed under the bill. It is true that with respect to the Colorado property the compensation would be less than would be received if the sale were made under applicable provisions of existing law, but the committee believes that both the Colorado and Alaska cases are sufficiently unusual as to justify a departure from the normal requirements. At the same time, the committee underscores that it does not view with favor any departures from the requirements of the Federal Land Policy and Management Act of 1976 or the act of May 14, 1898, or other applicable law, and does not view its approval of this bill as establishing a precedent applicable to any other particular case or type of cases, in Alaska, Colorado, or elsewhere. In particular, the committee's action with respect to this bill should not be construed as reflecting any disagreement with the Department's interpretation of the requirements of the act of May 14, 1898.

The analysis of the Congressional Budget Office follows:

OVERSIGHT STATEMENT AND LEGISLATIVE HISTORY

The Committee on Interior and Insular Affairs will have continuing responsibility for oversight of the implementation of this bill if enacted. No reports were received pursuant to Rule X clause 2(b)(1) of the Rules of the House of Representatives.

S. 835 passed the Senate on May 10, 1982. The Subcommittee on Public Lands and National Parks held a hearing on the bill on December 2, 1982. The Subcommittee had held a hearing on H.R. 5171 (which now is included as section four of the bill as reported) on August 9, 1982. On December 8, 1982, the bill was recalled to the full Committee on Interior and Insular Affairs by unanimous consent, was amended, and, as amended, was ordered reported by a voice vote.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Jerry L. Crow may, within one year of the date of enactment of this Act, select not more than ten acres of land from the public lands included in his original application to purchase a trade and manufacturing site located at mile numbered 68 on the Denali Highway in the State of Alaska and shall notify the Secretary of the Interior of his intention to purchase the selected land under the provisions of this Act.

SEC. 2. Notwithstanding the provisions of section 203 of the Federal Land Policy and Management Act (90 Stat. 2743) and as soon as practicable upon receipt of a notification under section 1 of this Act, the Secretary is directed to sell the selected land to Mr. Crow at a price based upon their fair market value as of the date of enactment, of this Act excluding any value added to the lands by Mr. crow.

SEC. 3. The Secretary shall offer to lease to Mr. Crow for thirty years, with an option to purchase, for use as a trade and manufacturing site, all or a portion of the lands included in his original application, with rental based on the land's fair market value. If the option to purchase is exercised by Mr. Crow, the purchase price shall be the fair market value at the time of purchase. Fair market value shall be determined by the Secretary or his designee.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: Add a new section 4 as follows:

"SEC. 4. That the Secretary is hereby authorized and directed to convey to Ralph D. and Connie V. Hubbell, Carbondale, Colorado, all right, title, and interest to the United States in and to a tract of land situated in lot 19 of section 27, township 7 south, range 88 west of the sixth principal meridian, Garfield County, Colorado, consisting of one and twenty-five one hundredths acres, more or less. Notwithstanding any other provision of law, such conveyance shall be made upon prompt payment of the 1964 fair market value, as determined by the Secretary. For purposes of this Act, prompt payment shall be no more than thirty days after notification by the Secretary of such value."

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act for the relief of Jerry L. Crow and Ralph D. and Connie V. Hubbell."

A motion to reconsider was laid on the table.

PROVIDING PROTECTION OF JOHN SACK CABIN IN TARGHEE NATIONAL FOREST

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S.764) to provide for protection of the John Sack cabin, Targhee National Forest in the State of Idaho, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, can I ask the gentleman to explain the bill?

Mr. SEIBERLING. Will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, earlier this week the Committee on Interior and Insular Affairs ordered reported the Senate-passed bill (S. 764) to provide for the protection of the John Sack Cabin. For the benefit of our colleagues, I am including at this point in the RECORD excerpts from the committee's report on that bill.

PURPOSE

S. 764 would authorize the Secretary of Agriculture, in consultation with the Island Park Interpretive Association and other interested organizations, to take such action as may be necessary to provide protection and maintenance of the John Sack Cabin and associated structures.

BACKGROUND

The John Sack Cabin is an unusual structure located at Big Springs near Island Park, Idaho, on lands within the Targhee National Forest. Constructed by Mr. Sack in 1932, the picturesque cabin and surrounding smaller structures, set near a hot springs and water wheel, have become a local landmark and attraction for visitors, artists, and photographers. The cabin was identified for inclusion on the National Register of Historic Places as of April 19, 1979.

The cabin is reportedly remarkable for its interior woodwork, which is of high quality characterized by an interesting and attractive planed-bark finish. Many of the original furnishings were also built by Sack, utilizing the same bark finishing technique. The workmanship apparently exhibits considerable skill, imagination, and attention to detail.

The special-use occupancy permit for use of the cabin expired December 31, 1979. The private-use cabins in the area are scheduled for eventual removal. The permittees, Mr. and Mrs. Rudy Kipp, transferred the title of John Sack Cabin to the Island Park Interpretive Association on December 15, 1979. The Forest Service issued a 5-year term special-use permit to the association on July 17, 1980, with renewable provisions. The cabin is now being operated, protected, and maintained under those circumstances.

SECTION-BY-SECTION ANALYSIS

The bill is in a single section, which is self-explanatory.

INFLATIONARY IMPACT

Pursuant to rule XI, Clause 2(1)(4) of the Rules of the House of Representatives, the committee believes that enactment of S. 764 would have no inflationary impact on the national economy.

COST AND BUDGET ACT COMPLIANCE

S. 764 authorizes no appropriations, and should not involve significant costs to the Federal Government.

LEGISLATIVE HISTORY AND COMMITTEE RECOMMENDATION

S. 764 passed the Senate on May 10, 1982. On December 2, 1982, the Subcommittee on Public Lands and National Parks held a hearing on the bill. On December 8, 1982, the full Committee on Interior and Insular Affairs recalled the bill from subcommittee by unanimous consent, and ordered it favorably reported to the House by a voice vote.

DEPARTMENTAL REPORT

The views of the Department of Agriculture concerning S. 764 were reported to the committee in the testimony of the Department's witness at the subcommittee hearing. The gist of the prepared statement of the witness is as follows:

STATEMENT OF J. LAMAR BEASLEY, DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND NATIONAL PARKS, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, CONCERNING S. 2710, S. 764 AND S. 705 DECEMBER 2, 1982

Mr. Chairman and members of the subcommittee: thank you for the opportunity to appear here today to present the Department of Agriculture's views on S. 2710, S. 764 and S. 705. I would like to discuss each bill separately.

S. 764—Protection for the John Sack Cabin, Targhee National Forest, Idaho.—This legislation provides for the protection of the John Sack Cabin on the Targhee National Forest in Idaho. We regard existing authorities as adequate to protect the cabin and we would prefer that special legislation not be enacted. However, we do not strongly object to the legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of providing for the public use and enjoyment of the John Sack cabin, Targhee National Forest, State of Idaho, and to protect and preserve such cabin as a unique example of craftsmanship, the Secretary of Agriculture, in consultation with the Island Park Interpretive Association and other interested organizations, shall take such action as may be necessary in order to provide for the protection and maintenance of the John Sack cabin and associated structures. In carrying out the requirements of this Act, the Secretary is authorized, in accordance with existing law, to enter into a cooperative agreement with, or to issue a special use permit to, an appropriate person or organization pursuant to which such person or organization shall provide such protection and maintenance.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the two bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMUNICATION FROM THE SENATE OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the Senate of the United States:

Ordered, That the Secretary of the Senate be directed to request the House of Representatives to return to the Senate the bill (H.R. 6758) entitled "An Act to authorize the sale of defense articles, defense services, and unclassified defense service publications to United States companies for incorporation into end items to be sold to friendly foreign countries", including the Senate amendments thereto.

EXPRESSING THE SENSE OF CONGRESS ON SITUATION IN POLAND

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from the further consideration of the concurrent resolution (H. Con. Res. 432) expressing the sense of the Congress on the situation in Poland and calling for a determined policy aimed at ending the repressing of the Polish people, and ask for its immediate consideration in the House.

□ 1510

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I first wish to give the gentleman from Indiana (Mr. HAMILTON) an opportunity to explain the purpose of this concurrent resolution.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, almost 1 year ago today the regime of General Jaruzelski imposed marshal law in Poland. In that year many of us watched with heartfelt sympathy and sadness the suffering of the Polish people. The purpose of House Concurrent Resolution 432 is to signal to the Polish leadership our acknowledgment of the real but limited steps that have been taken thus far.

Lech Walesa has recently been released from detention. The indications are that marshal law may be lifted. The Holy Father is scheduled to visit Poland in June. We cannot underestimate the significance of these encouraging developments, but clearly much more needs to be done.

This concurrent resolution is intended to make possible an even fuller restoration of civil liberties and seeks to stimulate that movement by a policy of positive incentives.

Mr. Speaker, it is my hope that the administration will make the most of the unique opportunity which now presents itself in terms of influencing the course of development in Poland. As an expression of support for the President in following this positive approach, I urge adoption of House Concurrent Resolution 432.

Mr. BROOMFIELD. Mr. Speaker, I join the chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. ZABLOCKI), in supporting House Concurrent Resolution 432. This timely resolution calls for a determined policy aimed at ending the repression of the Polish people. As I have already stated before this body, there should be an immediate lifting of martial law, a release of the remaining detainees, and a resumption of dialog by the Polish Government with Solidarity and the Catholic Church.

December 12 marks the first anniversary of the imposition of martial law in that country. Our colleagues in the other body are already considering a resolution, declaring this a National Day of Solidarity and Prayer with the Polish people.

Let us hope that the repressive martial law in Poland will be lifted on the anniversary of its imposition. The noble and brave people of Poland have suffered greatly in their tragic search for freedom and liberty.

Some Polish citizens have given their lives in Poland's struggle to rid itself of external influence and coercion. Many are still being held as prisoners of the state. Those external forces who created the repression in Poland are the only ones who can lift it.

As all of you know and appreciate, having the Soviet Union as a next-door neighbor has been a liability, in many respects, for Poland. Over a year ago, when Solidarity was active in Poland, the Kremlin decided that the workers' union was moving in the wrong direction. The Soviets' solution to the problem was to establish a Polish police state. Later, when Solidarity called for a nationwide strike, Soviet armor units massed on the Polish border and conducted intimidating "maneuvers." Finally, the puppet Polish Premier declared martial law, banned Solidarity, and imprisoned Lech Walesa. It is widely known that the Kremlin leaders orchestrated all of this; only they—not the United States—will be able to end the repression.

I know that my colleagues will join me in welcoming the Polish authorities' promise to lift martial law. In that spirit, I support this resolution.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. Further reserving the right to object, I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am pleased to rise in support of House Concurrent Resolution 432, a resolution expressing the sense of the Congress on the situation in Poland and calling for a determined policy aimed at ending the repression of the Polish people.

I want to commend both the chairman and ranking minority member of the Committee on Foreign Affairs, Mr. ZABLOCKI and Mr. BROOMFIELD, respectively, for their leadership on this issue and for bringing this resolution before the House.

It is most fitting and proper that we consider this measure today which is the 34th anniversary of the signing of the Universal Declaration of Human Rights at the United Nations.

The resolution before us notes the close and lasting admiration for the people of Poland based on our mutual respect for freedom. It further recalls that 1 year ago this month martial law was imposed and Solidarity leader Lech Walesa was imprisoned as a part of a widespread repression of the legitimate aspirations of the Polish people for true civil rights and personal liberties.

Although Lech Walesa has recently been partially freed from his imprisonment and there is talk of a lifting of martial law, nothing short of a full lifting of martial law and the full release of all prisoners is required to eliminate the brutal suppression of human freedom by the Polish regime.

As signers of the Universal Declaration of Human Rights, the Helsinki accords and numerous other international agreements guaranteeing the Polish people their freedom, the current military government has continuously violated their duties and responsibilities to the Polish nation.

House Concurrent Resolution 432, therefore, expresses the sense of the Congress that the American people reaffirm their support for the people of Poland and the struggle to regain their freedom, dignity and economic security. It calls for an immediate lifting of martial law, release of prisoners and a renewed dialog with the church and the leaders of the Solidarity movement to seek common solutions to Poland's problems. Furthermore it calls for an affirmative policy of incentives by the United States to reinforce the positive developments in Poland and encourage the restoration of the basic human and civil rights of all Polish people. Finally, we should encourage economic and political reforms that will result in economic prosperity and political freedom for the Polish nation.

Accordingly, I urge all my colleagues to join in supporting House Concurrent Resolution 432.

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. Further reserving the right to object, I yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Speaker, on April 7, 1981, I introduced House Resolution 124, expressing the sense of Congress that the United States could not remain indifferent to external aggression or internal repression against the people of Poland and that such developments would have serious consequences for East-West relations.

That resolution, with over 70 cosponsors, passed almost unanimously on July 30, 1981.

Today, I am pleased to rise in support of House Concurrent Resolution 432, of which I am a cosponsor. This measure notes the recent positive developments in Poland, such a release of Lech Walesa and other Solidarity members, the efforts of the Polish Government to restore previously held freedoms, and imminent possible lifting of martial law.

In addition, just as House Resolution 124 was introduced to demonstrate that the House is behind the people of Poland in their struggle for fundamental liberties, House Concurrent Resolution 432 too demonstrates our support for their quest, by affirming that any concessions of human rights made by the Polish Government should be met with positive actions by the U.S. Government.

With talk of martial law being lifted in Poland, every effort should be made to encourage the Polish Government to continue along this line.

I commend the chairman of the Foreign Affairs Committee, Mr. ZABLOCKI, on his introduction of this resolution, thank my ranking member, Mr. BROOMFIELD, and encourage my colleagues' full support for this worthwhile measure.

● Mr. ZABLOCKI. Mr. Speaker, December 13 will mark 1 year that the brave people of Poland have suffered under the repression of martial law. Over that time the American people have shared the agony of freedom-loving Poles.

The overriding aim of U.S. policy toward Poland has been to relieve the suffering of the Polish people and to reinforce their desire for civil liberties and economic security. In large measure as a result of that balanced and prudent policy we have begun to see changes in Poland.

Only recently the leader of Solidarity, Lech Walesa, has been freed; there are encouraging signs that martial law may soon be lifted; as a sign of further progress, his Holiness, Pope John Paul will hopefully return to his homeland next June.

These are all encouraging developments. They are welcome, indeed, long overdue. However, hundreds more remain in detention and Solidarity has been outlawed. Accordingly, while we welcome these positive steps we recognize that there is still a long way to go.

What House Concurrent Resolution 432 addresses itself to is that distance yet to be traveled. In short, it applauds the real but limited progress already achieved. More importantly, though, its chief aim is to stimulate

still further movement toward freedom by a policy of positive incentives.

House Concurrent Resolution 432 was introduced on December 2 with 13 cosponsors, including the ranking bipartisan members of the Committee on Foreign Affairs, Mr. BROOMFIELD, Mr. FASCELL, and Mr. DERWINSKI; other prominent members of Polish-American heritage such as Mr. ROSTENKOWSKI; and members with large Polish constituencies. We believe that House Concurrent Resolution 432 can serve as a base from which can emerge new intiatives and opportunities in United States-Polish relations.

In setting forth this resolution, we recognize that the President's policy has helped the Polish people and we urge that each freedom restored to the Polish people result in a corresponding U.S. action to assist in the rebuilding of Poland. Indeed, we are convinced that this approach will ultimately serve the best interests of both the United States and Poland.

For instance, should martial law be lifted, we might respond by restoring, in a limited fashion, or trial basis, LOT's U.S. civil aviation privileges or Poland's MFN status.

Further significant progress on the part of the Polish Government might be met with such initiatives as exploring the possibility of providing Eximbank and OPIC credits limited to specific projects. We might also consider joint United States-Polish agricultural and marketing programs to improve industrial and agricultural output in Poland and build Polish export markets. Such projects would help to strengthen the weakened Polish infrastructure, increase the material well-being of the Polish people, and promote sound and enduring economic ties between Poland and the United States. However, I would emphasize that any such action on our part would be directly linked to concrete steps by the Polish Government to restore full economic and civil rights.

While circumstances will dictate which specific approaches the administration may wish to pursue, I offer suggestions such as those outlined above as examples of how we may constructively encourage future movement toward an even fuller restoration of civil liberties and economic growth in Poland.

The basic philosophy underlying this approach was articulated in detail in my letter to President Reagan of December 2, 1982, a copy of which I wish to include as part of these remarks.

My colleagues and I hope that the administration will make the most of the unique opportunity which now presents itself in terms of influencing the course of developments in Poland. As an expression of support for the administration in following this positive approach we urge adoption of House Concurrent Resolution 432:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., December 2, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Since the imposition of martial law in Poland on December 13, 1981, your policy has been balanced and prudent. As you know, I have warmly supported your efforts aimed at improving the lot of the Polish people and restoring their human rights and civil liberties.

As we fast approach the first year observance of the martial law regime in Poland, it is obvious that your policy has helped to attain real if limited advances. From that fact, however, comes a new challenge—and opportunity. My sincere wish is to contribute to your deliberations as you approach this dawn of a new, albeit still imperfect, chance for Poland.

Within the last few weeks certain encouraging developments have taken place in Poland to which your consistent and determined policies have clearly contributed. Most recently, Lech Walesa has been released; the Holy Father is scheduled to visit Poland in June; and it is highly likely that martial law will be lifted later this month. Obviously, more—far more—remains to be done: hundreds remain in detention; individual freedoms must be won through renewed dialogue with Solidarity and the Church; and fundamental economic reforms are long overdue.

In order to reinforce those real if modest developments it is necessary to undertake a new and different approach to Poland. In fact, to the extent that Poland has complied in significant degree with the conditions you have established, a rethinking of U.S. policy is certainly required. My hope is that the basic direction of such a revised policy will be one that offers positive incentives for further change.

Accordingly, in response to the partial compliance of the Polish government to your basic conditions and on an immediate-range basis, I urge that some of the following actions be considered:

A partial lifting of the restriction on U.S. government-sponsored food shipments to Poland on the receipt of "absolute assurances" that the distribution of such products will be monitored by independent agencies.

Initially limited restoration of LOT's U.S. civil aviation privileges, perhaps related to charter group flights of Americans travelling to Poland for the Pope's visit.

Limited to a trial basis, a restoration of Poland's long distance fishing fleet's right to operate in U.S. waters.

An indication that Poland's MFN status might be restored if clear progress is made in freeing all detainees and restoring basic human rights.

As continued progress is made in Poland toward full restoration of economic and civil rights a second-stage set of policy initiatives might be undertaken. To that end may I recommend for your careful consideration some of the following:

Along with similar efforts by West European governments, the United States might explore the possibility of providing Eximbank and OPIC credits to Poland linked to specific projects and export programs.

Consider using U.S. government-held Polish zlotys and contributions from private sources to establish an agricultural extension service and business marketing institute in Poland manned by Americans and qualified Poles to help improve Polish agricultural and industrial productivity and the quality of Polish exports.

Encourage additional joint ventures between Polish and American firms, especially those involving industrial equipment products, through licensing arrangements.

Encourage Poland to join the International Monetary Fund and the World Bank.

Provide direct bilateral aid linked to Poland's private agriculture and small business sectors.

The assumption underlying all of these suggestions is that of simultaneously leading and prodding the Polish government toward basic economic and political reforms. In addition to the lifting of martial law, the release of political prisoners, undertaking an open dialogue with Solidarity, and a renunciation of force against the Polish people, the Jaruzelski regime should be expected to undertake a number of other actions. For example, it should rationalize the price structure of basic commodities, link income to productivity, professionalize its economic bureaucracy, and introduce greater material incentives for private agriculture. Joint economic ventures with Western firms would also have to be coupled with determined efforts at earning the hard currency Poland needs to pay off its huge foreign debt.

Mr. President, I recognize that not all of these initiatives may be possible or desirable at this time. Surely there are other possible approaches on which I have not touched.

However, I believe the essential thrust of what I have attempted to outline here for your consideration embodies the type of positive approach U.S. policy toward Poland should take at this opportune juncture in our relations and in the cause of advancing U.S. interests and an improved situation for the people of Poland.

In all of this I stand ready to work with you and continue my support of your efforts to bring freedom to Poland.

With best wishes, I am

Sincerely yours,

CLEMENT J. ZABLOCKI,
Chairman.●

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SAM B. HALL, JR.). Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 432

Whereas the American people have a close and lasting admiration for the people of Poland based on their mutual respect for freedom; and

Whereas the imposition of martial law on December 13, 1981, and the imprisonment of Solidarity Leader Lech Walesa repressed the legitimate aspirations of the Polish people for true civil rights and personal liberties; and

Whereas the full lifting of martial law and the release of all political prisoners is required in order to further eliminate the brutal suppression of human freedoms by the Polish regime; and

Whereas the Polish people urgently need and deserve an improved economic opportunity which will enhance their dignity and well-being: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress—

(1) that the American people reaffirm their determined support for the people of Poland in their rightful aspirations for freedom, dignity, and economic security;

(2) that there should be an immediate lifting of martial law, a release of remaining detainees, and a more complete resumption of a full and open dialog with Solidarity and the church aimed at seeking common solutions to Poland's problems;

(3) that in order to reinforce the real if limited positive developments in Poland an appropriate United States response is necessary; and

(4) that such response by the United States embody an affirmative policy of providing positive incentives that will lead the Polish Government to restore to all Polish people their basic civil and human rights and to institute the economic and political reforms that will result in economic prosperity and political freedom for the Polish people.

● Mr. ANNUNZIO. Mr. Speaker, I rise in support of the bill I cosponsored with my good friend and colleague from Wisconsin, the Honorable CLEMENT J. ZABLOCKI, the chairman of the House Foreign Affairs Committee, expressing the sense of the Congress on the situation in Poland and calling for a determined policy aimed at ending the repression of the Polish people.

One year ago, on December 13, martial law was declared in Poland and the freedoms of the Polish were severely repressed. Polish Americans in my own city of Chicago and all over this Nation have expressed their continuing deep concern and worry for the safety of their relatives, their friends, and the future of freedom itself in the Polish nation. Excerpts from the publication "Poland Watch" follow on the brutal martial law regime in Poland:

On December 13, 1981, martial law was declared in Poland. Fifteen months of unprecendented hope and exhilaration came to an abrupt end. The "Solidarity period" had seen an enormous upsurge in political and social activity which, for the first time in post-war Poland, brought fundamental human and civil rights to the forefront of everyday life. The introduction of martial law put a halt to this—for the time being. The Polish people once again find themselves confronting a political system in which their role is confined to implementing decisions emanating from the state and party apparatus. In the meantime the struggle continues; in a multitude of ways men and women in Poland are registering their protest, and although Solidarity has effectively been banned, and "underground Solidarity" movement continues to exist and organize.

Moreover, the current situation in Poland transcends academic or humanitatian concern. First, it is clear that what happens in Poland can either heighten or reduce international tensions, and thus affect the lives of all of us. Second, it is not too far-fetched to say that our reaction can influence—even if only modestly—the course of events in Poland. Polish human-rights activists have stressed repeatedly that they derive enormous moral support from the knowledge that their struggle is followed closely in the West. In addition, the pressure of public opinion, both in its own right and as mediated by Western governments, can influence the actions of the Polish authorities. Third, the aspirations and goals of the Polish people in striving for a democratic society may give us insights into how to make our own society more democratic.

The specific measures of martial law were spelled out in a decree formally passed by the Council of State. The decree imposed servere restrictions (in many cases amounting to a complete ban) on virtually all forms of communication and movement. Solidarity was "suspended," along with a number of other organizations. The main provisions of the decree were as follows:

Anyone over the age of 17 could be interned for the duration of martial law if there were "justified suspicions" that they would present a threat to state security if allowed to remain at liberty;

All publishing, printing, and the dissemination of information in any form (including live theatrical performances) required prior permission from the appropriate authorities;

All organizations "whose activity threatens the interests of the security of the state" were suspended;

The right to strike was suspended;

No public meetings (including theater and cinema performances and sports events, but excluding church services) could be held without permission;

The wearing of "specific uniforms and badges" was banned.

The "appropriate state authorities" were empowered to:

Impose a curfew;

Ban travel to and from the region under their jurisdiction, including across frontiers;

Suspend or limit all forms of travel and transport;

Make it necessary to obtain permission before changing one's address for a period longer than 48 hours and to register with the militia immediately upon arrival;

Limit or stop all postal and telecommunications services;

Censor the mail and telephone conversations;

Requisition radio transmitters and two-way radio receivers;

Ban the taking of photographs or filming of certain buildings or in specified areas.

In addition, for the duration of martial law, everyone aged over 13 was required to carry an identity card at all times. Anyone living in a border area was required to obtain a permit to do so, and anyone wishing to visit such an area had to obtain permission in advance. Finally, all sailing on both inland and territorial waters was prohibited.

Anyone found infringing the provisions of martial law could be tried by summary and speeded-up legal proceedings. Military Courts would have jurisdiction over cases involving the infringement of regulations in those sectors of the administration and the economy which had been militarized. The decree stipulated sentences of up to ten years' imprisonment for anyone found guilty of any such infringements.

Mr. Speaker, we as Americans, along with free people all over the world, must join our hearts and our minds with the courageous Polish people, who have never lost their fervent desire for freedom. The shipyard workers, the coal miners, the farmers, and all the people of Poland must know that Americans will never be silent about this brutal war on their liberty.

On December 15, 1981, the Congress approved a resolution in support of the Solidarity movement in Poland and its attempt to bring human dignity to Poland. The bill, which was adopted unanimously, places the responsibility for the martial law oppression directly on the Soviet Union, and I urge my colleagues to approve this additional resolution today in an effort by the United States to provide positive incentives that will lead the Polish Government to restore to all Polish people their basic civil and human rights and to institute the economic and political reforms that will result in economic prosperity and political freedom for the Polish people.

As the Christmas season approaches, we all join with the brave people of Poland in their prayers and struggles for a just and peaceful resolution of their beloved country's difficulties.●

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3942. An act to amend the Commercial Fisheries Research and Development Act of 1964.

COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT AMENDMENTS

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3942) to amend the Commercial Fisheries Research and Development Act of 1964, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Fisheries Amendments of 1982".

TITLE I—COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT

SEC. 101. (a) Section 4(a) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779b(a)) is amended—

(1) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following new paragraph:

"(3) $5,000,000 for each of the fiscal years ending September 30, 1984 and September 30, 1985.".

(b) Section 4(b) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779b(b)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by inserting "; and" at the end of paragraph (3); and

(3) by adding at the end thereof the following new paragraph:

"(4) $2,500,000 for each of the fiscal years ending September 30, 1984 and September 30, 1985.".

(c) Section 4(c) of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779b(c)) is repealed.

TITLE II—MARINE MAMMAL PROTECTION

SEC. 201. Section 14 of the North Pacific Fisheries Act of 1954 (16 U.S.C. 1034) is amended to read as follows:

"SEC. 14. (a)(1) The Secretary of Commerce is directed to take such actions as are necessary and appropriate to determine the effect of the Japanese salmon drift gillnet fishery on marine mammal populations, and to reduce or eliminate the incidental taking of marine mammals, particularly Dall's porpoise, by this fishery. Such actions shall include, but not be limited to:

"(A) the placement of duly authorized observors of the United States onboard Japanese salmon fishing and research vessels while within the Fishery Conservation Zone, for the purpose of making scientific observations and studies relating to the biology of the Dall's porpoise and the incidental taking of marine mammals, seabirds, and king salmon of North American origin;

"(B) the collection of a representative sample of biological material and data on all marine mammals incidentally taken in the fishery; and

"(C) the adoption of requirements, by permit conditions or agreement, governing the incidental taking of marine mammals by Japanese salmon fishing vessels within the Fishery Conservative Zone, which will insure that new fishing gear or techniques, or both, are implemented in the North Pacific salmon fishery which will reduce porpoise mortality to the greatest extent practicable.

"(2) The introduction of new fishing gear or techniques, or both, in the fishery under paragraph (1) of this subsection shall be accomplished no later than is specified in the following timetable:

"(A) 25 per centum of the fleet by the commencement of the 1984 season;

"(B) 50 per centum of the fleet by the commencement of the 1985 season;

"(C) 75 per centum of the fleet by the commencement of the 1986 season; and

"(D) 100 per centum of the fleet in order to be eligible for a new permit for the period after June 9, 1987.

The Secretary shall have the authority to decide, based upon available fishery research, which types of fishing gear or techniques offer the most practical and effective opportunity for reducing porpoise mortality, and to specify which of these fishing gear or techniques, or both must be implemented during the time periods specified in subparagraph (A) through (D) of this paragraph. In addition, the National Marine Fisheries Service may require the implementation of new gear types or fishing techniques, or both, on a faster schedule if the Service determines that faster implementation is technically and economically feasible.

"(b) the General Permit issued under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) to the Federation of Japan Salmon Fisheries Cooperative Association on May 7, 1981 (hereinafter referred to as the 'General Permit') is extended through June 9, 1987, unless earlier terminated by the Secretary pursuant to applicable law: *Provided*, That:

"(1) all other provisions of the General Permit and applicable law shall remain in effect during that period;

"(2) the Secretary shall by January 1 of each year during that period prepare and make available a report covering the results of the annual review required by condition B-2 of the General Permit and a proposed action plan for the forthcoming fishing season setting forth monitoring, research and development, and any other necessary actions to assure compliance with the General Permit, resolve questions about the status and trends of marine mammals affected by the Japanese high seas and land-based salmon gillnet fisheries, and reduce the annual incidental take of marine mammals in the fishery conservation zone, and shall publish a notice of availability of the report in the Federal Register. The Secretary shall, by April 30 of each year during this period, prepare and make available a report covering a final action plan and shall publish a notice of availability of the report in the Federal Register.

"(3) the Memorandum of Understanding between the Government of the United States of America and the Government of Japan dated June 3, 1981 relating to such incidental taking shall be modified or renegotiated by June 9, 1984 so as to apply to this extended period and to ensure the conduct of necessary monitoring and research and development efforts to implement the action plans described in paragraph (2) of this subsection.

"(c) The taking of marine mammals incidental to fishing operations by Japanese salmon fishing vessels within the fishery conservation zone shall be regulated in accordance with the General Permit, except that the Secretary shall take appropriate steps, including the suspension or modification of the General Permit, if the Secretary determines that the General Permit holder or certificate holders are not adhering to the conditions of the General Permit or to the conditions specified in paragraphs (a)(1)(C) and (a)(2) of this section and publishes such determination and its basis in the Federal Register.

"(d) The terms and conditions under which the General Permit is issued may be modified by the Secretary in such manner as the Secretary determines to be consistent with and necessary to carry out the purposes of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) and this Act.

"(e) The Secretary shall ensure that any Memorandum of Understanding between the Government of Japan and the Government of the United States of America shall require no less of a commitment to marine mammal research and seabird research than that required by this section and the Memorandum of Understanding in effect on the date of enactment of the Fisheries Amendments Act of 1982.

"(f)(1) In order to assure full implementation of the provisions of this section, the Secretary shall include as a condition of such General Permit and any Memorandum of Understanding that the Government of Japan or the permit holder, shall provide:

"(A) appropriate funding each year to carry out fully a joint research program on Dall's porpoise and other marine mammals incidentally taken in the Japanese fishery; and

"(B) a full report each year on the activities undertaken by the Government of Japan and the General Permit holder relating to marine mammal research and the progress toward the elimination of the incidental taking of marine mammals in the fishery.

"(2) If the Secretary finds that such research cannot be successfully conducted because of a lack of adequate funding by the Government of Japan or the General Permit holder the Secretary shall immediately suspend the General Permit until such time as adequate funding is provided.".

SEC. 202. The first sentence of section 201(b)(1) of the Act of October 21, 1972 (16 U.S.C. 1401(b)(1)), is amended to read as follows: "Effective September 1, 1982, the Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate.".

TITLE III—NORTH ATLANTIC SALMON TREATY

SEC. 301. This title may be cited as the "Atlantic Salmon Convention Act of 1982".

SEC. 302. As used in this title, the term—

(1) "Act of 1976" means the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (16 U.S.C. 1801 et seq.);

(2) "Commission" means any of the Commissions of the Organization that are established by the Convention;

(3) "Commissioner" means a United States Commissioner appointed under section 403 of this title;

(4) "Convention" means the Convention for the Conservation of Salmon in the North Atlantic Ocean, signed at Reykjavik, Iceland, on March 2, 1982;

(5) "Council" means the Council established by the Convention;

(6) "fishing" has the same meaning as such term has in section 3(10) of the Act of 1976 (16 U.S.C. 1802(10));

(7) "Organization" means the North Atlantic Salmon Conservation Organization established under the Convention;

(8) "person" has the same meaning as such term has in section 3(19) of the Act of 1976 (16 U.S.C. 1802(19)); and

(9) "salmon" means all species of salmon which migrate in or into the waters of the Atlantic Ocean north of 36 degrees North Latitude.

SEC. 303. (a) The United States shall be represented on the Council and Commissions by three United States Commissioners to be appointed by the President to serve at his pleasure. Of such Commissioners, one shall be an official of the United States Government, and two shall be individuals (not officials of the United States Government) who are knowledgeable or experi-

enced concerning the conservation and management of salmon of United States origin.

(b) The Secretary of State, in consultation with the Secretary of Commerce and the Secretary of the Interior, may designate alternate United States Commissioners. In the absence of a Commissioner appointed under subsection (a) of this section, an alternate Commissioner may exercise at any meeting of the Organization, the Council, or any Commission all functions of such Commissioner.

(c) Individuals who serve as Commissioners and alternate Commissioners shall not receive any compensation for such service. Such individuals shall be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(d) In carrying out their functions under the Convention, the Commissioners may consult with the appropriate Regional Fishery Management Councils established by section 302 of the Act of 1976 (16 U.S.C. 1852), and may consult with such other interested parties as they consider appropriate. The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) shall not apply to consultations described in this subsection.

SEC. 304. (a) The Secretary of State may—

(1) receive, on behalf of the United States, reports, requests, recommendations, proposals, and other communications of the Organization and its subsidiary organs;

(2) with the concurrence of the Secretary of Commerce and the Secretary of the Interior, approve, object to, or withdraw objections to regulatory measures proposed in accordance with the Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1) of this subsection other than a proposed regulatory measure.

(b) If the concurrence required under subsection (a)(2) of this section has not been obtained by the Secretary of State—

(1) regarding the approval of, or the objection to, a proposed regulatory measure within 45 days after the measure was received on behalf of the United States; or

(2) regarding the withdrawal of an objection of the United States to a proposed regulatory measure within 45 days after such withdrawal is proposed by the Secretary of State;

the Secretary of State shall submit the matter in disagreement, together with a statement of the opposing positions, to the President for timely disposition.

SEC. 305. (a) The Secretary of Commerce, in cooperation with the Secretary of the Interior and the Secretary of the Department in which the Coast Guard is operating, shall promulgate such regulations pursuant to section 553 of title 5, United States Code, as may be necessary to carry out the purposes and objectives of the Convention and this title, and to implement regulatory measures that are binding on the United States under the Convention. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

(b) The Secretary of Commerce, in cooperation with the Secretary of the Interior, shall prepare all statements, reports, and notifications required by Articles 14 and 15 of the Convention and submit such documents to the Secretary of State for transmission to the Organization.

SEC. 306. (a) In carrying out the provisions of the Convention, the Secretary of Commerce, in consultation with the Secretary of the Interior, may arrange for the cooperation of agencies of the United States and the States, and of private institutions and organizations.

(b) Appropriate agencies of the United States may cooperate in the conduct of scientific and other programs, and may furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention. Such agencies may accept reimbursement from the Organization for providing such services, facilities and personnel.

SEC. 307. (a) It is unlawful for any person, or any vessel, subject to the jurisdiction of the United States—

(1) to conduct directed fishing for salmon in waters seaward of twelve miles from the baselines from which the breadths of territorial seas are measured, in waters of the Atlantic Ocean north of 36 degrees North Latitude; or

(2) to violate any provision of the Convention or this title, or of any regulation promulgated under this title.

(b) Any person who commits any act that is unlawful under subsection (a) of this section shall—

(1) be liable to the United States for a civil penalty under section 308 of the Act of 1976 (16 U.S.C. 1858) to the same extent as if such act were an act prohibited under section 307 of the Act of 1976 (16 U.S.C. 1857); and

(2) be guilty of an offense under section 309 of the Act of 1976 (16 U.S.C. 1859) to the same extent as if such act were an act prohibited by section 3207(1) (D), (E), (F), or (H) of the Act of 1976 (16 U.S.C. 1857(1) (D), (E), (F), or (H).

(c) Any vessel used in the commission of an act which is unlawful under subsection (a) of this section shall be subejct to civil forfeiture under section 310 of the Act of 1976 (16 U.S.C. 1860) to the same extent as if such vessel was used in the commission of an act prohibited by section 307 of the Act of 1976 (16 U.S.C. 1857).

SEC. 308. The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating shall enforce the provisions of this title and any regulation issued under this title. For purposes of such enforcement, such provisions and regulations shall be considered to be provisions of the Act of 1976 to which section 311 (a), (b), (c) and (d) of the Act of 1976 (16 U.S.C. 1861 (a), (b), (c) and (d), respectively) apply.

SEC. 309. There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the Commissioners and alternate Commissioners in accordance with the Federal Travel Regulation and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code; and

(2) the United States contribution to the Organization as provided in Article 16 of the Convention, not to exceed $50,000 for fiscal year 1983, and not to exceed, for each succeeding fiscal year, the amount assessed by the Organization for the United States for such year.

TITLE IV—GOVERNING INTERNATIONAL FISHERY AGREEMENTS

SEC. 401. Notwithstanding any other provision of law, the governing international fishery agreement entered into between the Government of the United States and the Government of Japan pursuant to the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) signed at Washington on September 10, 1982, is approved, and shall become effective on January 1, 1983.

SEC. 402. Notwithstanding any other provision of law, the governing international fishery agreement entered into between the Government of the United States and the Government of Spain pursuant to the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) signed on July 29, 1982, is approved.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. Notwithstanding the failure of the vessels named below to meet the requirements contained in sections 111 and 112 of the Vessel Documentation Act, as amended (46 U.S.C. 65 (i) and (j)), and section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), on the date of this Act, the Secretary of the Department in which the Coast Guard is operating shall cause the vessel Centurion (officially numbered 236815), owned by Joseph B. Simoncelli of Scranton, Pennsylvania, and the vessel Ellen Ruth (officially numbered 282354) owned by Jefferson B. Burton, of Isle of Palms, South Carolina, to be documented as vessels of the United States upon compliance with all other requirements of law, with the privilege of engaging in the coastwise trade.

SEC. 502. The Merchant Marine Act, 1920 (41 Stat. 988), as amended (46 U.S.C. 861 et seq), is amended by adding at the end of section 27: "For the purposes of this section, after December 31, 1983, or after such time as an appropriate vessel has been constructed and documented as a vessel of the United States, the transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6093(5)), from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandize between points in the United States: *Provided, however,* That the provisions of this sentence shall not apply to this transportation when performed by a foreign-flag ocean incineration vessel, owned by or under construction on May 1, 1982 for a corporation wholly owned by a citizen of the United States; the term citizen of the United States, as used in this proviso, means a corporation as defined in section 2(a) and 2(b) of the Shipping Act, 1916 (46 U.S.C. 802 (a) and (b)). The incineration equipment on these vessels shall meet all current United States Coast Guard and Environmental Protection Agency standards. These vessels shall, in addition to any other inspections by the flag state, be inspected by the United States Coast Guard, including drydock inspections and internal examinations of tanks and void spaces, as would be required of a vessel of the United States. Satisfactory inspection shall be certified in writing by the Secretary of Transportation. Such inspections may occur concurrently with any inspections required by the flag state or subsequent to but no more than one year after the initial issuance or the next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making such inspections, the Coast Guard shall refer to the conditions established by the initial flag state certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of an equivalent fit-

ting, material, appliance, apparatus, or equipment other than that required for vessels of the United States if the Coast Guard has been satisfied that fitting, material, appliance, apparatus, or equipment is at least as effective as that required for vessels of the United States."

SEC. 503(a) Section 20 of the Act of March 4, 1915 (38 Stat. 1185), as amended (46 U.S.C. 688) is amended.—

(1) by redesignating that section as section 20(a); and

(2) by adding at the end thereof the following new subsection:

"(b)(1) No action may be maintained under subsection (a) or under any other maritime law of the United States for maintenance and cure or for damages for the injury or death of a person who was not a citizen or permanent resident alien of the United States at the time of the incident giving rise to the action, if the incident occurred—

"(A) while that person was in the employ of an enterprise engaged in the exploration, development, or production of offshore mineral or energy resources—including but not limited to drilling, mapping, surveying, diving, pipelaying, maintaining, repairing, constructing, or transporting supplies, equipment or personnel, but not including transporting those resources by (a) vessel constructed or adapted primarly to carry oil in bulk in the cargo spaces; and

"(B) in the territorial waters or waters overlaying the continental shelf of a nation other than the United States, its terrotories, or possessions. As used in this paragraph, the term 'continental shelf' has the meaning stated in article I of the 1958 Convention on the Continental Shelf.

"(2) The provisions of paragraph (1) of this subsection shall not be applicable if the person bringing the action establishes that no remedy was available to that person:

"(A) under the laws of the nation asserting jurisdiction over the area in which the incident occurred; or

"(B) under the laws of the nation in which, at the time of the incident, the person for whose injury or death a remedy is sought maintained citizenship or residency.".

(b) The amendment made by this section does not apply to any action arising out of an incident that occurred before the date of enactment of this section.

SEC. 504. Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) is amended by inserting the following immediately before the period at the end thereof: *"Provided further,* that for the puposes of this section, supplies aboard, United States documented fish processing vessels, which are necessary and used for the processing or assembling of fishery products aboard such vessels, shall be considered ship's equipment and no merchandise".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. PRITCHARD. Mr. Speaker, reserving the right to object, I shall not object, but I would like to have the chairman of the subcommittee explain in detail this legislation, H.R. 3942.

Mr. BREAUX. Mr. Speaker, if the gentleman will yield, under his reservation of objection, I would be pleased to do that.

Mr. Speaker, the bill before us, H.R. 3942, amends the Commercial Fisheries Research and Development Act and was earlier passed by the House by unanimous voice vote on November 4, 1981. The Senate has further amended the bill to address a wide range of very important international fisheries and merchant marine related provisions.

These amendments, some of which were contained in other measures from our committee that have also already passed the House, have been worked out in close consultations with both the majority and minority members of our committee, and I commend the bill to my colleagues. I would like to take just a few moments, Mr. Speaker, and outline some of the more important provisions contained in the bill, as amended by the Senate.

The bill which we sent to the Senate in November of 1981 has become title I of the new package. As I indicated when the bill was first before us, the commercial fisheries program is a vital link between State and Federal efforts to erect practices for the effective utilization and conservation of our very important fishery resources. Essentially, the Senate preferred the existing formula for determining State grants over the new formula proposed by the House. The Senate has also added a 3-year authorization for this very important program.

Title II of the bill provides for continued cooperative scientific studies between the United States and Japan of seabirds and marine mammals, particularly Dall's porpoise, taken incidentally to the Japanese North Pacific high seas salmon fishery. Such incidental harvest is strictly limited under a permit issued by the Secretary of Commerce pursuant to the Marine Mammal Protection Act of 1972. As an amendment to the North Pacific Fisheries Act of 1954, title II of H.R. 3942 provides for the extension of the Japanese permit; requires, as a condition of the permit, the phasein of new gear and fishing techniques designed to substantially reduce such incidental harvest; and further provides for U.S. observers to monitor Japanese compliance with permit conditions. Clearly this bill not only provides for the protection and better understanding of marine mammals and seabirds but further contributes to the maintenance of positive and cooperative United States-Japanese fishery relations.

Mr. Speaker, title II of the bill also amends the Marine Mammal Protection Act of 1972 for the purpose of strengthening the process for appointing members to the Marine Mammal Commission. The Commission oversees virtually all activities that affect the protection, conservation, recovery, and care of marine mammals.

It has played a highly active and constructive role in marine mammal activities through administrative efforts, coordination of research, and financial assistance. Furthermore, it has worked closely with Federal agencies, States, and other parties in coordinating the implementation of the Marine Mammal Protection Act. In conformity with the existing responsibilties of the Congress for oversight of the Marine Mammal Protection Act, H.R. 3942 provides that all appointments to the Commission are subject to the consent of the Senate.

Title III of the bill provides for the implementation by the United States of the Convention for the Conservation of Salmon in the North Atlantic Ocean. This convention was signed in Reykjavik, Iceland, on March 2, 1982, for the purpose of conserving and managing species of Atlantic salmon. The United States is currently committed to the restoration of Atlantic salmon in New England rivers and streams, where it was once among the most valuable fishery resources. These salmon make extensive migrations during the course of their life history and in the past were intercepted in massive numbers by foreign fishermen off foreign coasts at substantial economic loss to the United States.

The Atlantic Salmon Convention is designed to protect U.S. Atlantic salmon from such interception and to assure that these fish are able to return to their native U.S. waters to spawn. H.R. 3942 provides for the United States to participate in the conservation and management of U.S. salmon throughout their range in the North Atlantic as members of the North Atlantic Salmon Conservation Organization along with Canada, Norway, Iceland, and the European community.

Mr. Speaker, title IV of the bill provides for congressional approval, as required under section 203 of the Fishery Conservation and Management Act, of the new Governing International Fishery Agreement (GIFA) between the United States and the Government of Japan signed at Washington on September 10, 1982. The new United States-Japan GIFA fully incorporates the provisions of "fish and chips" policy developed in the American Fisheries Promotion Act of 1980 under which the United States is able to derive the maximum economic benefit from those surplus fishery resources the U.S. fishing industry has not yet developed the capacity to harvest.

Pursuant to this policy, foreign nations are granted access to surplus fishery resources in U.S. waters in return for actions on their part which contribute to the development of the U.S. fishing industry. During the past year, Japanese fishing interests have participated in four separate joint ventures with U.S. fishermen in the Bering Sea, Gulf of Alaska, and Northwest Atlantic. Each of these oper-

ations provided U.S. fishermen with the opportunity to harvest substantial tonnages of underutilized species where they had no such opportunity before.

Japan is also the world leader in purchases of U.S. fishery product exports and as such has made a significant contribution to our efforts to relieve the current $3 billion U.S. trade deficit in fishery products. In consideration of the past performance of the Government of Japan, and in anticipation of future benefits to the U.S. fishing industry to be realized under the new GIFA, I urge the Members here today to support the approval of this agreement.

This title also approves the new GIFA between the Government of Spain and the United States, signed in Washington on August 13, 1982.

Mr. Speaker, title V of the bill contains several miscellaneous provisions. One amends section 27 of the Merchant Marine Act of 1920 for the purposes of clarifying U.S. documentation law which currently requires that merchandise transported by a vessel between two points in the United States be on a U.S. vessel whose document has a coastwise license endorsement. Unfortunately, under current documentation law, several major processing vessels which operate in the U.S. fisheries zone are unable to secure such a coastwise license endorsement for certain of their activities and are forced to operate under awkward restrictions.

This is due to a recent U.S. Customs Service ruling that supplies used by fishing vessels for processing fish on board, for example salt, plastic wrappers, and cardboard, qualify as merchandise is coastwise trade even though such supplies leave the vessels in an irreversibly altered state relative to when they were loaded. As a result, such processing vessels are unable to enter U.S. ports, take on fish processing supplies and return to the fishing grounds to process fish. I think the Members here today will agree that this is an unnecessary and unusual burden on an industry just barely getting off the ground in this country.

I urge my fellow Members to support H.R. 3942, which will redefine such supplies as "ships equipment" under the Merchant Marine Act of 1920.

A second provision is identical to a measure contained in the maritime authorization bill that passed the House unanimously on September 28, 1982. This provision requires all new vessels engaged in the ultrahazardous incineration of toxic wastes in U.S. waters to be built by U.S. citizens in U.S. shipyards according to U.S. standards; that they will be inspected by the Environmental Protection Agency and the U.S. Coast Guard according to U.S. standards; and that they will be operated by U.S. officers and crews according to U.S. standards. If adopted, this amendment will insure that the incineration of hazardous wastes in U.S. waters will be the safest in the world—safe for the public, safe for the environment, and safe for the personnel aboard these vessels.

The amendment also provides an exemption from the new Jones Act requirement for two existing incinerator vessels which operate under foreign flags. Lacking any current U.S. capacity to incinerate at sea, I am compelled to endorse this exemption. The 99.95-percent destruction efficiency of vessel incinerators provides an appealing alternative to landfill disposal techniques currently in use. I need not reiterate the human and environmental tragedies associated with the landfill approach.

I remain, however, deeply concerned with the standard of safety that will be achieved by the two foreign vessels. I firmly believe that such vessels should be subject to the same rigorous standards and inspections required of U.S. vessels of this type, including a certificate of inspection in addition to any foreign certificates in their possession. The amendment generously provides for the acceptance of equivalents which are as safe and effective as U.S. products and so it should be clear that the amendment is not designed to require extensive vessel reconstruction. However, I want to stress that the intent of this legislation is to require that the two foreign-flag vessels which are grandfathered under this amendment pursue and achieve full compliance with the new and additional Coast Guard requirements imposed under this amendment within 1 year of the date of enactment of this legislation. I further want to stress that the exemptions provided for the two existing grandfathered vessels should not be construed to be applicable in any way to replacement of such vessels.

Mr. Speaker, I want to make it clear that the future of at-sea incineration in this country depends on public confidence. I do not have to tell you that the public cares deeply about its own safety and about the quality of the environment. I can assure you that the Coast Guard's implementation of this amendment will be closely monitored. Furthermore, corrective legislation will be introduced promptly if it becomes apparent that the full intent of this law is not carried out.

Mr. Speaker, a third provision of title V contains the provisions of a House bill reported by our committee. The legislation provides clear choice of law rules for certain foreign maritime workers. I believe that the Members should be fully aware of what this provision does and does not do.

It does provide clear choice of law guidance to U.S. courts confronted with litigation arising from accidents in foreign offshore areas.

It does maintain the full range of U.S. Jones Act protections U.S. courts currently afford U.S. citizens employed on both traditional merchant marine vessels and special purpose vessels engaged in exploration, development, or production of offshore mineral and energy resources, no matter where they are located.

It does maintain the full range of U.S. Jones Act protections U.S. courts currently afford foreign seamen employed on traditional merchant marine vessels, no matter where they are located.

It does maintain the full range of U.S. Jones Act protections U.S. courts currently afford foreign citizens employed on special purpose vessels engaged in exploration, development, or production of mineral and energy resources on the U.S. Outer Continental Shelf.

It does not deny a remedy to foreign workers employed on special purpose vessels engaged in the exploration, development, or production of mineral or energy resources on the Outer Continental Shelves of foreign nations. It does, however, require such foreign citizens to first pursue their remedies in either the country off whose coast they are working or where they are a citizen. If no remedy exists in either forum, they may pursue Jones Act actions in U.S. courts.

It does not shield U.S. companies from litigation in the courts of the foreign country off whose coast they are operating. It is standard practice for all such companies to submit themselves to the legal procedures of such countries in return for the granted offshore concession.

Finally, it in no way indicates a congressional preference for the hiring of foreign over domestic workers in foreign offshore areas. It is designed to make American companies more competitive in the world market, and in that sense is compatible with recent congressional actions such as reform of the income tax levied on Americans working abroad.

Finally, title V of the bill simply provides congressional authorization for the documentation of two vessels, the *Ellen Ruth* and the *Centurion* as vessels of the United States. Pursuant to H.R. 3942 and upon compliance with appropriate U.S. Coast Guard requirements, these vessels will be granted the privilege of engaging in coastwise trade, so long as such vessels are owned by citizens of the United States. Mr. Speaker, I urge my colleagues to support this legislation.

□ 1520

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding and want to thank the gentleman from Louisiana (Mr. BREAUX) for the assurances that the incineration language is precisely as the House-Senate conference has now agreed.

If the gentleman will yield for one other question, I note that the Marine Mammal Protection Act amendments are part of this package. May I ask the gentleman what, if anything, is included in this bill with reference to actions against the Japanese should they not go along with the recent actions of the International Whaling Commission in providing for a commercial moratorium on the taking of whales?

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Louisiana.

Mr. BREAUX. I would respond to the gentleman from California with regard to his inquiry that there is nothing in this legislation that takes any action against a nation, such as Japan, which objects or holds a reservation on the International Whaling Convention.

However, in discussing this with the other body and in committee with staff over here, the position of our State Department and this administration has been that they would like to take specific actions against any nation, specifically the Japanese, who do object, contrary to our official position that they would take action against that particular country in the manner in which they allocate their quotas for fishing within our U.S. zone.

That has been a pretty strong position of the administration and they have assured us that that would be their position.

Mr. McCLOSKEY. So they could invoke either the allocation of fishing or the Pell amendment language should the Japanese violate the legislation, and that is discretionary and reposes in the administration and is not affected by anything in this act?

Mr. BREAUX. The gentleman is absolutely correct. We do not restrict the ability of the United States to take any actions against any country by anything in this legislation at all.

Mr. McCLOSKEY. I would hope that the Japanese in due course will read this particular portion of the CONGRESSIONAL RECORD, and I thank the gentleman.

Mr. PRITCHARD. I thank the gentleman for his explanation.

Mr. Speaker, I support the passage of H.R. 3942 which authorizes the Commercial Fisheries Research and Development Act of 1964. This bill passed the House on November 4, 1981, by voice vote. It is a very simple bill which authorizes this 18-year-old program for fiscal year 1984 and fiscal year 1985 at level funds.

I am aware of no opposition to these changes and I would recommend it to my colleagues.

The Senate has added a number of other initiatives as riders to H.R. 3942. The chairman of the subcommittee has already explained the provisions of title II, the marine mammal protection program, which extend the Japanese permit to fish for salmon in our waters; title III, North Atlantic Salmon Treaty, which implements the treaty and is an administration initiative; and title IV, the Japanese and Spanish GIFA's (governing international fishing agreements). I would like to state to my colleagues that I am aware of no opposition to these initiatives.

Finally, Mr. Speaker, title V of the bill has several provisions of interest to the Members.

Section 501 of the bill provides for the documentation of the vessels *Centurion* and the *Ellen Ruth* for the coastwise trade.

Section 502 of the bill incorporates a provision from the maritime authorization bill which extends the coverage of the Merchant Marine Act of 1920 (Jones Act) to include the transportation of hazardous waste material from a point in the United States for the purpose of incineration-at-sea, effective December 31, 1983, or such time as an appropriate such vessel (U.S.-built, U.S.-flag) has been documented as a U.S. vessel. Since the full committee markup, by the House Committee on Merchant Marine and Fisheries, much work has been done to insure that the existing foreign-flag operator is grandfathered into the Jones Act trade and still complies with the relevant U.S. Coast Guard and EPA standards. The existing operator is Waste Management, Inc., of Chicago, Ill, which owns two incineration ships. In order to insure that all such vessels, regardless of flag, are maintained in a very high state of repair, and meet all U.S.-mandated standards for ocean incineration, the committee has included language which insists upon regular Coast Guard inspection.

Section 503 substantially incorporates the provisions of H.R. 4863. That bill would require a foreign seaman injured while engaged in offshore drilling activity in waters of a foreign country to first pursue whatever legal remedy is available to him through the country in whose jurisdiction he was injured or in the country in which he is a citizen or resident before he comes of the U.S. judicial system. If there is a remedy available to him through a foreign jurisdiction, then he is precluded from instituting an action in the U.S. courts. However, if the injured party can show that there is no remedy available to him in either the country where the accident occurred, or his place of citizenship or residence, then he would be permitted to pursue his legal action in U.S. courts.

In recent years there has been a substantial number of cases instituted in the United States involving injuries sustained in foreign waters which appear to have little or no relationship with the United States. However, some courts have held that mere U.S. corporate ownership of a drilling activity may be enough to permit a lawsuit by a foreign seaman to proceed. Consequently, there has been an uncertain and confusing case law development regarding the offshore industry. H.R. 4863 is an attempt to establish a uniform approach to considering suits brought by foreign workers injured over the Outer Continental Shelf of a foreign nation.

Let me stress that this section only addresses those injuries suffered above the Outer Continental Shelf of foreign nations and is not intended to alter rights presently enjoyed by workers injured while working over the Outer Continental Shelf of the United States.

This section will not result in an increase in cost to the Federal Government and should, in fact, result in some decrease in expenses related to our now overburdened court system. The administration does not object to passage of this section, and I urge my colleagues to vote for it.

Section 504 exempts from the provisions of the Jones Act supplies aboard U.S. documented fish processing vessels which are necessary and used for the processing or assembling of fishery products aboard such vessels. These supplies are necessary for the general operation of a fishing vessel and are not sold or transported as marketable products or merchandise as that term is used in the general commercial sense.

● Mr. OBERSTAR. Mr. Speaker, the State Department in a letter to Senator BOB PACKWOOD dated December 4, 1982, made a firm commitment on behalf of the administration to use allocations under the new Japanese GIFA to bring about the Japanese adherence to International Whaling Commission decisions.

I was the author, along with Senators PACKWOOD and Magnuson, of the amendment to Fisheries Conservation and Management Act, under which nations certified as fishing in a manner to diminish the effectiveness of an international agreement for the conservation of marine resources, lose from 50 to 100 percent of their fishing allocations within the U.S. fishery conservation zone.

Unfortunately, the Packwood-Magnuson-Oberstar amendment does not provide us with an immediate response to the filing of an objection by the Japanese Government to the 1982

89-059 O-86-17 (Pt. 22)

IWC decision to begin a 5-year cessation of commercial whaling in 1986. While Japan fishes extensively in our zone, catching over 1 million tons of fish last year, the language of the amendment would not permit sanctions until 1986 when whaling in violation of the IWC decision actually began.

The allocations process under FCMA gives us a tool which, if used in a vigorous and timely manner, will permit forceful reaction without delay to overtly anticonservation acts such as the filing of objections to IWC decisions.

I expect, on the basis of written and oral assurances, that the United States will use the allocations process vigorously, beginning this spring, to bring about a retraction of Japan's objection, and will also use the allocations to prevent the filing of an objection by the Republic of Korea, a whaling nation which also fishes in the U.S. 200-mile zone. I will do my best to see that these assurances are honored, and that the allocation policy is forcefully applied.

I have been a strong supporter over the years both of the U.S. fishing industry and of whale conservation. I believe the goals of protecting the remnant stocks of great whales remaining, and of conserving the fish stocks upon which our fishermen depend, are entirely complimentary.●

● Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of this legislation and ask permission to revise and extend my remarks.

Mr. Speaker, the Commerical Fisheries Research and Development Act is an important measure that deserves to be reauthorized. As the Representative of the State with one of the Nation's largest fishing fleets, I am personally familiar with the good work that is done under this legislation. Many State fish and game agencies, including the Alaska Department of Fish and Game, utilize the funds authorized by this act to perform valuable research work which contributes to the harvest of an important source of food for the world. This bill deserves support for that reason alone.

In addition, I want to draw particular attention to one amendment which was added to this bill in the Senate. That amendment would expedite the approval of a new fishing agreement between Japan and the United States. The old agreement expires at the end of this month and the new agreement must be in place at that time.

It is unusual for me to take the floor in support of an agreement which allows the continuation of foreign fishing in our 200-mile zone. However, we must recognize that the United States and especially the U.S. fishing industry, does not exist in isolation. Japan is the market for approximately 70 percent of the processed fish products produced in Alaska and the Pacific Northwest. Japan has also begun to increase its purchase of fish from U.S. fishermen through over-the-side joint ventures. Although this activity could be increased, a start has been made. If Japan is unable to seek fishing privileges in our 200-mile zone for those species that are not harvested by U.S. fishermen but which are used in Japan then this trading relationship will suffer. Thus, approval of the new fishing agreement will benefit the fishing industry.

The agreement itself does not guarantee that Japanese vessels will be allowed to harvest fish in our 200-mile zone. Fishing privileges are allocated to foreign nations on the basis of certain criteria contained in the law and which are included as an integral part of governing international fishery agreements as this one. Each nation's allocation is judged on that nation's adherence to those criteria, especially those concerning fisheries trade. To quote from House Report 96-1138, part 1, which accompanied the bill expanding the original list of criteria:

> This trade-allocation linkage reflects a recognition of the fact that section 201(e) of the FCMA encompasses fisheries trade policies of foreign nations in the criteria for allocation of surplus U.S. fish. This is consistent with the terms of the GIFA's. However, it is clear that the more vigorous use of this device to improve U.S. fish export opportunities is in the national interest . . . allocations will be reduced or terminated for those nations that are unwilling to assist and encourage U.S. exports.
>
> While cooperation of foreign States with the United States in FCMA enforcement and conservation is essential and in fisheries research is important, market access is the touchstone.

The House emphasized the importance of fisheries trade as the basis on which foreign fishing allocations would be made in House Report 97-438. To quote:

> It is in the subcommittee's express intent that the existence of foreign tariff and other trade barriers be matters considered by the Secretary in allocating surplus fish among those nations that have applied for foreign fishing permits. A central purpose of the MFCMA is to give U.S. fishermen priority access to the fishery resources within the U.S. 200-mile zone, thereby providing an economic foundation for the development of the fishing industry.

Finally, the Committee on Merchant Marine and Fisheries specifically discussed the use of nonfisheries criteria in House Report 97-549, which accompanied a bill amending the Magnuson Fishery Conservation and Management Act. Included in the bill was an amendment to section 201(e)(1)(H) of the MFCMA, the so-called basket clause. The report states:

> The committee does not want to emphasize, however, its desire that this provision (section 201(e)(1)(H)) not be given greater weight than the seven specifically enumerated in this paragraph. *Resort to this provision should never entail an examination of political or other foreign policy issues not related to fisheries . . .*" (Italics added).

Mr. Speaker, I think the intent of Congress is clear: We welcome a mutually beneficial relationship in the fisheries area with Japan, just as we do with other countries. However, allocations are privileges to be earned, not rights to be expected. Further, those privileges will be granted on the basis of cooperation in fisheries matters and nothing else. Indeed, it is the express intent of Congress, as illustrated in the statements quoted, that political and foreign policy matters which do not involve fisheries are not to be used as a basis for granting or withholding fisheries allocations in our 200-mile fishery conservations zone. The governing international fishery agreement that we are approving today, along with the GIFA's entered into with other countries, incorporates this intent of Congress.

Mr. Speaker, I urge acceptance of this bill and express my hope for its quick approval by the President.●

● Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 3942.

Section 401 of title IV of H.R. 3942 stipulates that the International Fisheries Agreement entered into between the United States and Japan, which was signed on September 10, 1982, shall become effective on January 3, 1983.

On December 4, 1982, Acting Secretary of State Kenneth Dam sent a letter to Senator BOB PACKWOOD, of Oregon, which affirms that the administation will do everything in its power to bring about the Japanese compliance with the International Whaling Commission's recent decision for a commercial whaling moratorium, and that the administration will utilize fisheries allocations to help assure that result.

In 1970, when my Fisheries and Wildlife Subcommittee first addressed the issue of marine construction, the traditional American fisheries were in deep trouble. Immense foreign fishing fleets were operating off our coasts, fast depleting the stocks of fish upon which our fishermen had sustained themselves for over a century, using only traditional fishing methods that changed gradually from generation to generation. In the Northeast Atlantic, the Soviets alone, with their modern fishing technology, were taking twice as many fish off our own coast as were U.S. fishermen. Formerly abundant species, such as the Georges Bank haddock, were close to complete disappearance. Most others were declining, some critically.

In 1970, the great whales faced virtual extinction at the hands of the whaling industry. Having destroyed the major stocks of larger Baleen

whales in 1950's and 1960's, the whalers were in a cleanup phase, during which the most profitable course of action was to whale full tilt, reinvesting profits elsewhere until the remnants became commercially extinct. The response of our Government to such atrocities as the effective destruction of large humpback whale populations along the Alaskan coast was handwringing. So, too, was their reaction to severe depletion by Soviets and other foreign fishing fleets of haddock and flounder off both our Atlantic and Pacific coasts.

During the early 1970's, my committee, along with the Senate Commerce Committee, undertook a number of concrete measures to help protect marine mammals, fish, and other marine life. Some measures were completed back then; others were only begun during my tenure as subcommittee chairman on the Merchant Marine and Fisheries Committee.

Today, thanks to the passage and implementation of the FCMA our coastal fishing industry is rebounding, just as the fish stocks on which it depends are replenishing themselves. After a decade of severe overfishing by foreign fleets, they are rising again toward optimum abundance. At the same time, the International Whaling Commission, which was little more than a whaler's club in 1970, has been reformed, and in no small part through U.S. efforts. This year's vote to begin a cessation of commercial whaling in 1986 is evidence that the IWC is at last determined to control whalers, rather than to be contolled by them. It is evidenced that the IWC nations are now ready to allow the eventual restoration of whale populations.

Mr. Speaker, it is fully appropriate that the fisheries allocations process under the governing International Fisheries Agreement now being considered here, be used to promote our national policy of protecting the great whales, a policy that has been strongly supported by the last four administrations of this country. It is a important means of addressing whaling nations, most particularly Japan, in the one language they are sure to understand—economics. If we do not express ourselves in economic terms, we will not be heard. The whalers will do exactly as they did in the 1950's and 1960's. They will file objections to IWC decisions they find adverse and continue to deplete the few remaining whale stocks to a point of commercial extinction.

I am convinced, Mr. Speaker, that we are on the right track in using fisheries allocations to obtain compliance with the IWC, and that this can be done simultaneously with protecting our own fishermen and fisheries.●

● Mr. LANTOS. Mr. Speaker, each year, many Californians are specially reminded of the treasure we enjoy due to sound management of great whales as we personally watch the California gray whales migrate along our coast. Nearly 1 million people have taken commercial whale-watching trips from California ports since the industry began 14 years ago in about 120 boats. Many ships are idle fishing boats augmenting their income during winter months, and most are individually owned. California grosses about $2.2 million annually, and the west coast's overall annual income has been estimated at $4–$5 million. These figures do not include a tourism multiplier. Auxiliary sales include jewelry, art, clothing, books, stationery, and other retail merchandise. These creatures obviously inspire the greatest awe, and call to our noblest instincts their gentle grandeur.

Yet, this species was severely threatened in 1947. Their recovery is one of the greatest triumphs of rational management and international cooperation of our industrial age. Unfortunately other species are now similarly threatened with extinction. The scientists who called attention to the California gray whales' plight in time to rescue it now urgently call for a worldwide cessation of commercial whaling. This summer, at the annual meeting in Brighton, England, the International Whaling Commission approved a cessation of commercial whaling for 5 years. This vote, made by a three-fourths majority, is the strongest measure the IWC can take to communicate to all the countries of the world that now is their time to act on conservation of these overexploited species.

This International Whaling Commission decision is in agreement with U.S. policy calling for a halt to commercial whaling. Some countries, however, namely, Japan, Norway, U.S.S.R., and Peru, have felt that the cessation decision should not apply to their industries. They have exempted themselves by filing objections to the resolution. This is unconscionable.

Therefore, in continuation of the U.S. tradition of leadership in marine mammal protection, I am very happy to support the new Government International Fishing Agreement with Japan, but only on the conditions agreed to by the State Department in Acting Secretary Kenneth Dam's letter of December 4 to Senator PACKWOOD and PERCY. This letter indicates that the U.S. fishing allocation process under the GIFA will directly reflect Japanese action on withdrawal of their objection to the IWC cessation of commercial whaling. No country or single country's interest must be allowed to obliterate this priceless resource of all the people of the world. I stand firmly with my colleague, Mr. BONKER, and my other colleagues in both House and Senate in this conditional approval of the GIFA with Japan.●

Mr. PRITCHARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. O'BRIEN. Mr. Speaker, I rise for an item of personal explanation.

Somewhat like the distinguished Member from New York (Mr. STRATTON) in the heat of the battle yesterday afternoon on the State, Justice, Commerce, judiciary appropriation, I got so tied up that I failed to vote on final passage. So with the Chair's permission I would like on H.R. 6957, rollcall 431, to have the record indicate that had I been paying attention I would have voted in the affirmative.

U.S. FOREIGN POLICY IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 60 minutes.

Mr. BONIOR of Michigan. Mr. Speaker, I rise today to speak on a subject that has concerned me deeply for several years—U.S. policy toward Central America. I do so in a special order because I believe it is important for Members of this body, from time to time, to step away from the pressures of daily debate, and reflect more broadly on the issues before us. No issue requires that kind of sober reflection more urgently than this crisis in our foreign policy.

I rise as a critic of current U.S. policy. While proclaiming a commitment to peace and democracy, the administration continues to pursue a policy that, by its very nature, is incapable of securing either of these goals. For the administration's policy is essentially a military policy based on a narrow, ideological conception of the region's problems and prospects. It is a policy that refuses to acknowledge the mistakes of the past, and is thus left without a realistic vision of the future.

While calling for demilitarization and an end to aggression in Central America, the administration continues to place arms at the disposal of some of the most ruthless forces in the region. The United States has provided hundreds of millions of dollars in military aid to El Salvador, to a government which, even our own Ambassador acknowledges, continues flagrant violations of its own citizens' human rights.

Today's AP will provide a graphic, and all too familiar example.

LA FLORIDA, EL SALVADOR.—Maria Ruiz says the killers came at midnight, firing machine guns and swinging machetes as she and her children lay quivering in their clay hovel.

The gang dragged seven screaming peasants from neighboring huts, stabbed them in the chest and face and hacked them to death in an orgy of blood before departing, Ms. Ruiz and about 12 other witnesses told an AP reporter.

"I heard the screams and the shots," she said. "The next day they found their bodies all cut up."

The heavily armed gang had stormed into the 600-acre cooperative farm in La Florida where Ms. Ruiz and about 300 other peasants lived. The date was Nov. 20.

Nobody knows who did it and why, but the atrocity bore the markings of right-wing paramilitary gangs, which terrorize civilians to keep them from associating with leftist rebels.

After the murders, work stopped at La Florida in the foothills of Santa Ana province 52 miles northwest of San Salvador. Frightened villagers began to flee.

Ms. Ruiz said she gathered her 10 children and went to live with relatives 12 miles away in Santa Ana City, where she was interviewed.

The victims, between 29 and 59 years old, appeared to have been felled by a machete whack on the nape of the neck, the La Florida Villagers said. The killers slit the throats of three victims, repeatedly stabbed them, sliced off the nose of another victim and sexually mutilated him.

Stunned neighbors buried the bodies a few days latter in makeshift graves by the roadside where the victims died. Caked pools of blood marked the killing ground.

An officer at the Santa Ana Army garrison denied the Army was involved in the killing. Police authorities said they had no information and refused to elaborate.

U.S. military aid to Honduras has multiplied in the last year, and threatens to destabilize a country where newly formed democratic institutions are struggling to maintain autonomy from the traditionally overpowering military. Costa Rica, a democratic nation that has long foresworn the desire for a large standing army, has been pressured by the United States to strengthen its arsenal. Now, President Reagan raises the specter of military aid to Guatemala, a country whose brutal military regimes have earned it the condemnation of the world.

The folly of this policy can be illustrated by examining some of the events of the past year.

Evidence has been accumulating for nearly a year, showing that the United States is involved in an escalating, covert campaign, a "secret war" aimed at Nicaragua. Earlier this year, the Washington Post reported that President Reagan authorized $19 million for the CIA to advise, train, and arm paramilitary forces along the Honduran/Nicaraguan border.

At a minimum, and without going beyond what the administration has conceded, the purpose of this operation was to stop the flow of arms across that border, and to engage in "hit and run" raids, to sabotage, to harass the Nicaraguan Government.

There is reason to fear that the operation has gone far beyond that. It has brought the United States into a working arrangement with former members of President Somoza's national guard, who are committed to the violent overthrow of the Nicaraguan Government. This is a sordid alliance, with people who promise: "a massacre in Nicaragua . . ." and who boast that when they return to power "there will be bodies from the border to Managua."

The uprooted, the wounded, and the dead in Nicaragua bear painful witness to the thrust of this campaign. Scores of Nicaraguans have been killed, and others have fled the region as guerrilla bands sweep down on isolated villages. Although still abetted by the United States, the actions of these paramilitary forces have gained momentum beyond U.S. control.

Let us be clear. U.S. support for covert activities against Nicaragua endangers not just the security of Nicaragua, but of the United States. It poses issues with respect to the United States actual interest in Central America and with respect to the process of forming U.S. foreign policy.

To oppose U.S. support for these covert activities is not to proclaim that the Nicaraguan Government is without problems, and there clearly is a need for that Government to encourage economic and political pluralism. It is merely to proclaim that U.S. policy in the region should not be formed through the implications of covert activities. These activities commit us to a specific foreign policy that has never been openly defended and supported, and whose outcome cannot be guided by our own democractic institutions

A few days ago, Congress voiced vigorous dissent from this policy by voting unanimously to prohibit funding to any paramilitary group for the purpose of overthrowing the Government of Nicaragua. I would like to express my admiration to Mr. HARKIN and others for their leadership on this issue, and to Mr. BOLAND, chairman of the Select Committee on Intelligence, for his clear expressions of concern and his dedication to the vigorous oversight of the consequences, both intended and unintended, of U.S. covert operations.

This policy is not just an isolated case, rather it displays, in microcosm, the fundamental flaws of U.S. policy throughout the region. The United States may have started with a limited goal—to end the alleged flow of Cuban-supplied arms across the Honduran/Nicaraguan border. But to do this required an alliance with groups like the Somoscitas who have an agenda of their own. We have, thus, become accomplices to acts of aggression against Nicaragua, and allies of groups committed to unmitigated cruelties. This pattern has been repeated again and again as, in the guise of fighting a Communist threat, the United States stakes its prestige on repressive military regimes whose actions we cannot endorse, control, or even moderate.

Instead of heeding the lessons of past and present errors in U.S. policy, the administration seems determined to repeat them. This is nowhere more evident than in President Reagan's recent embrace of Guatemala's Gen. Rios Montt. If the administration resumes military aid to Guatemala, it will not only be flaunting an explicit agreement to obtain congressional approval beforehand, it will be ignoring the overwhelming evidence concerning the atrocities committed by the Guatemalan Government.

In Guatemala's countryside, Rios Montt has adopted a sophisticated and ruthless counterinsurgency campaign, including a scorched-earth policy that destroys the base of rural livelihood, and forces the peasants to flee the country or to camps under military control. Amnesty International estimates that 2,600 civilians have died in massacres since Rios Montt came to power. Americas Watch has charged that "by adopting a policy of total war, and by abandoning the rule of law, the Rios Montt government has become responsible for the consistent pattern of gross violations of internationally recognized human rights in Guatemala."

On the mere promise that Rios Montt will announce electoral laws, President Reagan extols the Guatemalan leader's commitment to democracy. Yet, since July 1, Guatemala has been under an officially declared "state of seige" which prohibits political and union activity, requires private gatherings to be approved by the defense minister, allows military authorities to detain anyone suspected of "disturbing public order," permits home searches without a warrant, places severe restrictions on the press, and creates special military tribunals to try those accused of violating the state of siege.

Neither the promise of elections, nor elections themselves will guarantee peace or even democracy to Guatemala. Guatemala has had elections before. For 30 years, these have been controlled by the military and ridden with fraud. In the past decade, political opponents of the left and center have been mercilessly eliminated. To talk of including a broad spectrum of participants in the electoral process is to ignore Guatemala's past and present conditions. Have we forgotten that, last March, Rios Montt came to power by deposing a military leader

chosen through just such an electoral process? Have we forgotten that only a year ago, the State Department assured us these elections would be a democratic solution for Guatemala? If the United States provides military aid to Rios Montt now, it will only feed the climate of violence and intimidation which poisons the prospects for democracy in Guatemala.

Again, the Guatemalan case is not an isolated one, but has broader implications that go to the heart of our understanding of democracy. Democracy cannot be reduced to a simple formula or to the simple ritual of elections. It must rise from the hearts, minds, and experience of the people themselves. It cannot be imposed by fiat from above. We, in the United States, must never fail to recall that our own route to democracy was not without struggle, or bloodshed, and that the building of our own democratic institutions was not accomplished in a year or even a decade.

While expressing satisfaction with a mere skeleton of democratic procedures, the administration has wasted opportunities for a genuine political solution to the conflicts of the region, and has discarded chances to play a role in a concrete peace process.

Last spring, when Mexican President Lopez Portillo offered to serve as an intermediary among the conflicting factions throughout the region, the Reagan administration let the offer die after a few meetings between our Secretary of State and the Mexican Foreign Minister. This fall, when the Presidents of Mexico and Venezuela made a unique joint appeal to President Reagan and the heads of state of Honduras and Nicaragua, the United States showed only rhetorical interest. Instead, the administration quickly used a meeting of Central American Governments—which did not include Nicaragua, Mexico, or Venezuela—to endorse its own conditions for dialog, and declared this to be the only future forum for considering peace proposals.

I have long believed that regional cooperation provides the key to resolving the problems of Central America. Countries such as Mexico and Venezuela are far better equipped than the United States to understand the particularities of each country, and to bring together the forces necessary to secure a lasting peace.

The events of the last year have underscored this clearly. And the administration has yet to provide a convincing rationale for ignoring and undercutting these promising peace initiatives.

Recently there have been some auspicious signs from the administration. Much was gained from the President's trip to Latin America—his new respect for the individuality of each nation, and his emphasis on the overriding importance of economic development. I hope these themes will guide U.S. policy in the future.

Like many of my colleagues, I have the deepest respect for George Shultz, whose habits of careful decisionmaking and consensus planning promise great change in our attitudes to Central America. Secretary Shultz needs and deserves time, time to slowly move U.S. policy from the ideological rut plowed by Secretary Haig, time to implement changes of policy in a way that does not produce abrupt and unsettling tilts instead of secure progress.

Nonetheless, the administration continues to display a peculiarly one-sided ability to see and support progress. While mere promises of future elections make the Guatemalan regime a friend of democracy, fully implemented land reform programs in Nicaragua evidently mean nothing. While meagerly substantiated accusations of human rights abuses in Nicaragua make the Sandinista's the region's leading proponent of genocide, the continued documented massacres in Guatemala are chalked up, apparently, to reasons of state.

Let us be honest and straightforward. Few regimes in Central America are without their problems. The ability of the United States to perceive subtle distinctions and support shades of progress is the key to a mature foreign policy. But these subtleties must be carefully defined, carefully supported, and applied uniformerly or U.S. policy becomes blind support for any regime cloaked in anti-communism.

The United States must be able to see and support progress on the left as well as the right, and, it has to be said, on the left perhaps more than the right. There is no overlooking the history of the region, and given that history, there is no mature foreign policy that does not recognize and address the revolutionary potential of the region.

The Mexicans are want to say that each Central American country must face its own revolution, and while I might dissent from their determinism, their point is valid. The history of colonialism, repression, and poverty in region that will find expression in radical politics.

Democracy is the key to the region's future, but the assertion of that ideal has to be wedded to a real program for helping each country on its road to democracy. The United States has to find a way to remain close to and to influence countries as they move through rapid programs of social progress. This is the fundamental foreign policy task for the United States in Central America.

□ 1540

FAIRNESS AND COMMITTEE RATIOS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANNEMEYER) is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, as I take the floor to deliver this special order this evening, I am reminded of several things. One is the distinguished history of this great institution. For more reasons than I have time to enumerate, our system of checks and balances has served us remarkably well. But it is not without its flaws. The grand design is always subject to interpretation and there is always room for improvement. Which brings me to my second recollection which is that there are 55 parliamentary democracies in the world. In 54 of them, the constituent assembly is organized into committees which, in turn, reflect the numerical strength of each political party on a proportional basis. That is to say the voting strength of each party in committee is proportionally the same as that party's voting strength in the constituent assembly as a whole. In only one parliamentary democracy—the United States—is this not the case. Strange as it may seem to some, the U.S. House of Representatives—this very institution—does not hold true to the concept of proportional representation on its committees, the concept of "one man-one vote" notwithstanding.

For the benefit of my colleagues, and the edification of those colleagues-to-be who will be part of this institution come January, let me provide a little background. Ever since the end of World War I, the rule of thumb in the House of Representatives has been that committee ratios shall be proportional to party membership in the entire House of Representatives with the exception of the exclusive committees where it was argued that leadership control considerations required a 60–40 majority in favor of the majority party. The only exceptions to this rule of thumb, prior to 1975 at least, were the Rules Committee, where a 2-to-1 majority was granted the majority party, and several instances when Republican membership in the whole House fell below one-third. Inasmuch as the "other body" sees no need for an additional working margin for the majority on its major committees, and the courts had ruled back in the 1960's that one man one vote was the law of the land, one would think that, if there were to be a change in tradition, the change that would have been made would have been in the direction of eliminating the exceptions rather than building upon them. However, in 1971 I believe, the Democratic Caucus voted to make

this "extra working margin" on exclusive committees 2 to 1 in some instances, most notably Ways and Means. At first, this change had no practical effect, because Republicans had only one-third of the seats in the House in the 94th and 95th Congresses, and people tended to forget about it. But, starting in the 96th Congress when GOP representation in the House rose to 36.3 percent, the injustice perpetrated by this change became more evident and people's memories were jogged. Or their sense of fairness was awakened. Or both. Republicans found themselves with a total of five less seats on the Rules, Budget, Appropriations, and Ways and Means Committees than a truly proportional allocation would have provided and eight less seats than they would have had under the "40 percent on exclusive committees (except Rules)" system.

But that was not all that Republicans found themselves short when it came to committee assignments. The majority party also saw fit to discount fractional entitlements when it came to calculating minority representation on subcommittees as well as full committees. The cumulative effect of that subtle move, coupled with the aforementioned "shorting" on the exclusive committees, was that Republicans had 15 less full committee and 58 less subcommittee seats in the 96th Congress than a truly proportional system of representation on committees would have dictated. And I might add that a letter of protest, signed by all the Republican Members of the 96th Congress, did not result in any relief from this discriminatory situation.

With the election of 1980, in which Republican congressional candidates actually got a larger percentage of the total congressional vote than did Democratic candidates (by a margin of 49.84 percent to 49.15 percent), some of us were willing to believe that, at the very least, this institution might return to the committee allocation system of the 1921-71 era. After all, Republicans had garnered 44.14 percent of the seats in the House of Representatives and a "40 percent of the exclusive committees except Rules" allocation would not unduly benefit them. However, when the dust had settled from the committee assignment process and an effort to add two more Republicans to the Ways and Means Committee had been defeated on a party line vote, Republicans found themselves with 30 less full committee and 37 less subcommittee slots in the 97th Congress than a truly proportional system would have indicated. Six of these slots were on the Ways and Means Committee alone and, if that were not enough, another new twist in the committee ratio determination process surfaced. Unlike in the 96th Congress, the majority party began treating the territorial representatives on the Interior Committee as if they did not count toward the correct committee ratio even though they do cast votes in committee proceedings.

Given the basic strength of our representational system of government, some may ask "what difference does a little bit of shorting make?" And that is a good question, because it is not just a simple shorting we are talking about, it is compound shorting and, as my colleagues know only too well, one or two votes one way or another in committee can make all the difference between passage, amendment or defeat of a bill in committee. In fact, on the Ways and Means Committee there were at least eight different instances in 1981 where the addition of six more Republicans would have reversed the outcome of a given committee vote. And who can tell how many times a Member or Members voted one way because they thought a bill would lose when they would have voted the other way if they thought it could pass.

If one conceded, as we hope everyone will, that systematic "shorting" of the minority party is inconsistent with fair play and the concept of "one man one vote," then the next question is, what can be done about it? The House Republican Conference has already gone on record, with a resolution, endorsing the principle of truly proportional representation on all committees of the House and we hope that the Democratic Caucus will see fit to take the same step. If such a consensus of opinion were to be reached, Republicans would get 38.16 percent of all the seats on all the standing committees and subcommittees of the House. Considering the fact that Republican candidates for Congress won approximately 43.8 percent of the total congressional vote in the country in the 1982 elections, this is hardly an unreasonable proposition. In fact, Republicans would get less representation on exclusive committees if this formula were adopted than if GOP Members insisted on a return to the pre-1971 tradition.

It is my sincere hope, of course, that the majority party will see the wisdom of truly proportional representation on all House committees and will put that concept into effect in the 98th Congress. But, if that should turn out not to be the case, at least this Republican is prepared to keep on fighting for fairer representation within Congress. As a number of my colleagues will recall, I am 1 of 14 Republican Members who joined in a lawsuit against the Democratic Caucus, the Democratic Steering and Policy Committee and the leaderhsip of the majority party in the House challenging the existing ratios and demanding redress. After our written protest got no meaningful response and after our attempt to redress the current imbalance on the Ways and Means Committee failed, those of us on the suit felt there was no other recourse but to go to court, however reluctantly, because all other avenues of appeal had failed. So we filed suit in the summer of 1981 in the U.S. District Court for the District of Columbia. In October of that year, that court ruled that we did indeed have standing—that this was a matter the court should look into—but that the separation of powers and the speech and debate clauses of the Constitution militated against our arguments. However, if the separation of powers doctrine gives the majority party the right to set committee ratios irrespective of "one man, one vote" considerations or any other standard of equity, then what is to prevent the majority party from limiting the minority to 25 percent membership, or 10 percent membership, on committees whenever it suits their political fancy? Accordingly, the plaintiffs appealed the decision of the district court and the case went to the U.S. court of appeals. That court heard oral arguments back last March but has still to render a decision. One can only speculate as to what that decision might be, but whatever it is, there is a likelihood of further appeal. The matter has too much consequence to simply fade away—especially if the shorting of the minority persists in the 98th Congress.

Mr. Speaker, it is my sincere hope that the shorting of the minority party on committees will not recur. Not only would truly proportional representation on committees bring us into line with other representative governments without compromising the strengths of our system, but it will give the American people a greater sense that our system really represents them. There are enough "outside" checks and balances on the legislative branch of government—the representative branch if you will—of an institutional nature to eliminate any need for "inside" checks of the politically inspired variety. Let us let the representative branch be properly representative.

□ 1550

THE 34TH ANNIVERSARY OF THE PASSAGE OF UNIVERSAL DECLARATION OF HUMAN RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. LELAND) is recognized for 60 minutes.

Mr. LELAND. Mr. Speaker, 34 years ago today the international community, acting through its representative body, the United Nations, passed a document of faith, a statement of principles, an instrument for the pres-

ervation of humankind. On December 10, 1948, the United Nations approved the Universal Declaration of Human Rights.

Across America today the passage of that declaration is being commemorated and honored. In my district today, in my home city of Houston, Tex., an annual celebration of the declaration is taking place at Rothko Chapel, under the leadership of Mrs. Dominique de Menil, a woman who has devoted her life to human rights. Today, the Menil Foundation she established with her late husband Jean is sponsoring a commemoration of the signing of this essential statement of international commitment. I want to take this opportunity, Mr. Speaker, to mark this important anniversary here in this Chamber, where we have, from time to time, an opportunity to take action that reinforces the commitment the peoples of the world made to themselves and their posterity 34 years ago.

If we look carefully around us on this December day in 1982—if we look at the world in which we live—I believe we would be well served to take this opportunity to recommit ourselves to the principles of the Universal Declaration of Human Rights. The advent of new technology, of instantaneous worldwide communication has made our world smaller. But the question must be asked, on this day of singular importance to the cause of human rights, is our world a better place, for all of its people, than it was 34 years ago?

It seems to me, Mr. Speaker, that the most appropriate point at which to begin is with the declaration itself. I will not read the entire document, although I commend it to you. But there are elements of the declaration that I believe we need to hear again.

The preamble of the Universal Declaration of Human Rights centers on four essential facts. They remain eternally true.

The first is that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human rights is the foundation of freedom, justice, and peace in the world. That is a concept with which we should be deeply familiar. Our own Declaration of Independence is built upon it.

The preamble to the declaration says, second, that disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

Third, it says that it is essential, if man it not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, and that, fourth, it is essential to promote the development of friendly relations between nations.

Those four points—equal and inalienable rights of all members of the human family, the barbarism that follows disregard and contempt for those rights, the need to protect human rights by rule of law and the need to promote world peace—are the essence of the declaration. They also provide us guidance for the future that begins today.

Within this framework, the declaration sets out the standards by which we may judge our claim to be a civilized world:

Everyone is entitled to fundamental human rights and freedoms without distinction of any kind, such as race or color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Everyone has the right to life, liberty, and the security of person.

No one shall be held in slavery or servitude.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Everyone has the right to recognition everywhere as a person before the law.

All are equal before the law and are entitled without discrimination to equal protection of the law.

Everyone has the right to an effective remedy, under law, for acts violating individual human rights.

No one shall be subjected to arbitrary arrest, detention or exile.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his other rights and obligations and of any criminal charge against him.

The individual has the right to be presumed innocent until proven guilty.

No one shall be subjected to arbitrary interference with their privacy, family, home or correspondence, nor to attacks upon their honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Everyone has the right to freedom of movement and residence within their country and the right to leave any country, including their own, and return to their country.

Everyone has the right to seek and enjoy in other countries asylum from persecution.

Everyone has the right to a nationality.

Men and women of full age, without any limitation due to race, nationality or religion, have thlright to marry and to found a family.

Everyone has the right to own property alone as well as in association with others.

Everyone has the right to freedom of thought, conscience and religion and to freedom of opinion and expression.

Everyone has the right to freedom of peaceful assembly and association.

Everyone has the right to work, to free choice of employment and the right to equal pay for equal work.

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family.

Motherhood and childhood are entitled to special care and assistance.

Everyone has the right to education and to freely participate in the cultural life of the society.

Finally, in the exercise of these rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

If you are like me, the recitation of these fundamental standards of human rights strike you as emminently proper and logical. It is hard to imagine that they are not universally upheld, because they reach out to the desires that reside in the hearts of men and women in every nation and in every culture in the world.

Our sense of our own humanity and identity, and the freedoms that humanity hungers for, make these fundamental human rights the goal of every citizen. And yet, no matter how logical they are, no matter that there are none in this Chamber who would disagree with a single one of them, they represent a list of goals for a civilized society that we have fallen far short of.

In the case of some of them, we fall far short in this country. Equal pay for equal work is still being struggled for. The courts have yet to publicly recognize that education is a fundamental right guaranteed by our Constitution. The right to a standard of living sufficient for health and well-being is a right that many cannot afford. Equal justice under the law continues to depend, in some places in this country, on who you are and who you know and what you can pay.

I think a recognition of our own shortcomings in insuring basic human rights to all of our citizens is appropriate on this anniversary of the Universal Declaration of Human Rights. But that recognition is also sobering and reinforcing, when you compare the status of human rights in this country to much of the rest of the world.

We can be justly proud that this country is as free as they come. We take for granted in America freedoms that are only dreams to oppressed peoples around the world. We can be

proud of that, but we must also recommit ourselves to human rights for all the world.

Repression of liberty and expression and association is rampant. Torture is commonplace in some countries. Death has become a constant companion to millions—death at the hands of totalitarians, and disease and famine.

Few of us in this country can imagine the terror and indignity of living in a country where every citizen is considered a potential subverter, where the horror of having a family member or friend simply disappear forever is a frequent nightmare. How can we really relate to a society where individual expression is relegated to hidden gatherings or is simply unknown?

Look around the world. The disappearances in El Salvador are frequently on the front pages of our newspapers. In Pakistan, those who steal to eat are subject to amputation of hands. Innocent women and children are brutally and openly murdered by South African commandoes in Lesotho in response to what South Africa says was a guerrilla plot to overthrow its government. But no one, least of all the South African Government, believes such an overthrow is even remotely possible.

In Poland, the freedom of association and organization that workers in America now take for granted, is forbidden to Polish workers. The rule of law in Poland is a rule of arms.

In Russia and Zaire, in Haiti and Chile, in El Salvador and Guatemala, in South Africa and Iran, human rights and freedoms which we hold dear and which we take for granted, are unknown, or at best, only dreamed of.

It is sad enough that oppression prevails in so many places. It is tragic that in some of those places, it prevails with our help. Time does not permit a recitation of the instances where misguided foreign policy makes us party to, instead of an opponent of, the deprivation of human rights.

It is more appropriate, it seems to me, to seize this opportunity to recommit ourselves to universal human rights as a fundamental goal of our foreign policy and of every action we take in this Chamber which affects our citizens and the people of the world.

I believe that the degree to which we are safe and independent and free, as a people, is related to the degree of our commitment to the rights of others to be safe and independent and free.

Consider the words of Abraham Lincoln, spoken more than a century ago:

What constitutes the bulwark of our own liberty and independence? It is not our frowning battlements, our bristling sea coasts, our army and our navy. These are not our reliance against tyranny. All of those may be turned against us without making us weaker for the struggle. Our reliance is in the love of liberty which God has planted in us. Our defense is in the spirit which prized liberty as the heritage of *all* men, in all lands everywhere.

Let us today recommit ourselves, and our Nation, to work for a world in which fundamental human rights are recognized as a gift of God, not to be tampered with or taken away; where peace and safety and well-being are the lot of all women and men, in all nations, not because their governments make it so, but because it is an essential of human life.

I thank the United Nations for its Declaration of Universal Human Rights. I thank you my colleagues for your attention!

□ 1610

GENERAL LEAVE

Mr. LELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WOLPE. Mr. Speaker, will the gentleman yield?

Mr. LELAND. I will be glad to yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Speaker, I thank the gentleman for yielding. I want to commend him on taking this special order to mark the 34th anniversary of the signing of the Universal Declaration of Human Rights by the U.N. General Assembly.

Mr. Speaker, today we mark the 34th anniversary of the signing of the Universal Declaration of Human Rights by the U.N. General Assembly. The Universal Declaration is one of the landmark documents of our time. For over three decades, it has been a beacon of hope for the world's poor, tortured, and oppressed. The Universal Declaration puts forth a vision of a world in which governments recognize and respect the inherent dignity and inalienable human rights of all men. This vision is more than an idealistic, utopian plan for universal freedom, justice, and peace. The Universal Declaration embodies the hope for a world order in which respect for human rights is a basic, indispensable component of international stability. The Universal Declaration recognizes that order based on force and repression is temporary and illusory. Only by guaranteeing basic human rights can the nations of the world hope to establish an international framework in which the peace we all desire can be achieved.

The anniversary of the Universal Declaration of Human Rights also provides us the opportunity to pause and reflect on our own national commitment to human rights. Can we say today that our Government has made human rights a key element of our foreign policy? Have our efforts to promote human rights progressed or receded during the past year? Has our foreign policy shown as much compassion for the oppressed as it has concern for those regimes which are important for our security but where corruption and oppression are hallmarks of domestic policy?

I believe strongly that promotion of human rights is not simply a nice thing to do in a foreign policy when it does not get in the way of what are often termed "overriding security concerns." Human rights are an important national interest of our country. Foreign policies which ignore basic human freedoms will continue to be self-defeating. They make no contribution to our long-term security interests, whether in Central America, southern Africa, the Far East, or Eastern Europe. When we turn a deaf ear to movements of social protest in countries where we have major security or economic interests, when we come to be viewed by native populations as the prop for repressive regimes, we not only violate our own national principles but we do major violence to our own national self-interest.

This anniversary also gives us time to reflect on the work of the human rights organizations and advocates throughout the world, who have labored to promote human freedom often under the most oppressive and dangerous conditions. The Mothers and Grandmothers of the Plaza de Mayo in Argentina; the Catholic Vicariate and Human Rights Commission in Chile; Solidarity in Poland; Charter 77 in Czechoslovakia; the various Helsinki Watch groups in Eastern Europe; the Catholic Church in El Salvador and the Philippines; Beyers Naude, Winnie Mandella and Bishop Desmond Tutu in South Africa; Andrei Sakharov, Yuri Orlov, and Anatoly Scharansky in the Soviet Union—the list could go on and on. These groups and individuals remain, for all of us who care deeply about human rights, courageous proponents of human dignity and human freedom in what sometimes seem the most hopeless situations. They remind us that the principles so eloquently enshrined in the Universal Declaration of Human Rights are alive and cannot be crushed. We owe it to these advocates of human freedom to rededicate ourselves today to a strong and forceful human rights emphasis in our foreign policy.

Mr. LELAND. Mr. Speaker, I want to thank the gentleman for participating with me, and also commend the gentleman for his incredible work, his industrious work, as chairman of the Subcommittee on Africa of the Foreign Affairs Committee. I know he has

used as a standard for his deliberations as chairman of that subcommittee the standard of human rights, universal human rights for all.

I commend him for that.

Mr. WOLPE. I thank the gentleman.

● Mr. ZABLOCKI. Mr. Speaker, today, December 10, marks the 34th anniversary of the adoption of the Universal Declaration of Human Rights by the U.N. General Assembly. The vote on adoption of this historic instrument was 48 (Western and Latin states) to nothing, with 8 abstentions (Soviet bloc, South Africa, and Saudi Arabia). A great American woman, Eleanor Roosevelt, then the U.S. Representative on the third committee of the U.N. General Assembly, was chiefly responsible for initiating and negotiating this Declaration of the United States.

The Declaration has had an enormous impact on governments and peoples everywhere. First, it gave substance to the U.N. Charter articles calling for promotion of human rights and fundamental freedoms and reaffirmed that these rights and freedoms were the legitimate concern of the international community of states. Influenced by British, French, and American traditions, the human rights and freedoms enumerated in the Declaration established a universal standard of common decency to which all governments eventually must aspire in treating their citizens. The theory and truth was, and is, that enjoyment of such rights and freedoms will promote socially and politically healthy societies and prevent another holocaust.

Second, the Declaration provided an important basis for the development of international human rights law: The International Covenants on Civil and Political Rights and on Economic and Social Rights; the Conventions on the Elimination of Discrimination Based on Race and of Discrimination Against Women; the Refugee Convention, as well as the Declarations prohibiting religious intolerance and prohibiting torture. Each of these instruments elaborates specific articles found in the Universal Declaration and obliges governments to adopt measures giving effect to the particular rights sanctioned by the conventions. Altogether, the Universal Declaration and the body of international human rights law defines the scope of internationally recognized human rights and the responsibilities entrusted to governments in promoting these rights within their domestic jurisdiction.

A third and related point is that the Universal Declaration has had an impact on domestic law. Upon independence, many new nations of Africa and Asia incorporated the Declaration in its entirety into their nations' constitutions. As for the United States, the Universal Declaration is probably the most frequently cited international instrument in the numerous human rights resolutions adopted by the House and Senate every year that condemn inhumane, barbaric, or other uncivil practices of certain foreign governments with respect to their nationals as well as particular individuals.

Sections of the U.S. Foreign Assistance Act of 1961, as amended, also reflect the impact of the Declaration. Sections 116 and 502B prohibit economic or military assistance to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights. These sections also require the Department of State to report annually to the Congress on human rights practices of countries proposed to receive such assistance, and in doing so, to account for the extent to which those countries are observing internationally recognized human rights.

Finally, the wide international acceptance of the principles of the Universal Declaration and our own evolving national human rights tradition have contributed to making human rights considerations a legitimate part of our foreign policy. Some lament such a status for human rights believing it is given too important a role. Others support the principle and believe human rights should play an even more important role. There is no doubt, however, that human rights is an important part of our foreign policy.

At the same time, it is necessary that we be balanced, prudent, and evenhanded in our approach to the application of human rights policy. We must take into consideration the practices of regimes of both the left and the right that violate human rights of their citizens and be concerned with such violations wherever they occur, whether in the Soviet Union, Poland, Nicaragua, Cuba, in South Africa or Chile. And we must not overlook violations in our own society. In this regard, the hearings held by the U.S. Commission on Security and Cooperation in Europe on human rights practices in the United States and the studies prepared by the U.S. Civil Rights Commission testify to the fact that the United States is able to monitor itself in respect to its observance, or lack thereof, of internationally recognized human rights. Thirty-four years ago today, the U.N. General Assembly, in adopting the Universal Declaration on Human Rights, created an important international standard of achievement for peoples and governments throughout the world. We must continue to promote broad acceptance of the principles of the Declaration; but, let us also dedicate ourselves to applying human rights in a balanced manner in the years ahead.●

● Mr. LEACH of Iowa. Mr. Speaker, today we commemorate the adoption by the U.N. General Assembly of the Universal Declaration of Human Rights on December 10, 1948. The United States was a leader in drafting the Declaration and in the effort to include within the U.N. Charter an unequivocable human rights standard.

In the intervening 34 years, the Universal Declaration of Human Rights has been augumented by a number of international conventions and covenants which embellish and broaden the standards set forth in the Universal Declaration. Unfortunately, the United States has not yet ratified a number of the major human rights treaties. From a human rights perspective, it could not be more timely for the administration to make a major effort in the coming year to review these treaties and work toward reconciling U.S. policy interests with the goals contained therein.

It would be a particularly positive step if the United States were to ratify the International Covenant on Civil and Political Rights as well as the Genocide Convention and to place the full moral and political weight of our Government behind as many of these international treaties as possible.

In spite of the progress made in the area of human rights law and institutions over the past 34 years, the human rights horrors of the past have not ended. In the years since the Nazi Holocaust, other holocausts have blotted the landscape of history. Countless numbers perished in Uganda and Cambodia in the 1970's. And today, the gassing of Homng tribesmen in the remote jungles of Laos and Afghan freedom-fighters on rock-studded mountains in Afghanistan is as morally reprehensible as the gassing of the Jews in the gas chambers at Dachau. In Iran, the peace-loving and gentle people of the Baha'i religious faith are being arrested, executed, tortured, and otherwise persecuted by the Iranian authorities.

Scores of other abuses are occurring around the world, both in countries hostile to the United States as well as in countries on friendlier terms with us. On this special commemorative occasion, it is fitting to recall the human rights principles set forth in the Universal Declaration of Human Rights and to recommit the U.S. Congress to the goal of achieving respect for the human rights of all peoples.●

● Ms. OAKAR. Mr. Speaker, the annual Human Rights Commemoration Day is especially meaningful to Americans. Our country was founded on the principles of human rights. The stirring words of our Declaration of Independence provided the basis for our Constitution, for our laws, and for the spirit which has animated our history. The major political struggles

during the course of our 200-year history have been human rights struggles. Many of these struggles took decades to resolve. One thinks of the efforts to eliminate slavery, to extend voting rights to women and blacks, to organize workers: all of these were human rights struggles.

The spirit that generated the American Revolution and produced our Constitution enabled past generations of Americans to win their particular battles for respect and personal liberty. Since we are all human, however, we are far from perfect. Continued work is required in the never-ending effort to achieve and secure human rights for all of our citizens. Today, the human rights struggle in our country involves efforts to provide our citizens with jobs, shelter, adequate nutrition, education, and opportunity for the youth, respect and dignity for the elderly.

The citizens of our country also have strong ties with countries throughout the world. My own district in Greater Cleveland reflects that in the diverse background of the origin of its citizens. It is fitting, therefore, that Americans express their support for human rights in different parts of the world, not only at home. Sadly, human rights principles are enshrined in various documents but are not always respected in fact.

In the Soviet Union, people of various nationalities—Ukrainians, Latvians, Lithuanians, Estonians, Jews, Armenians, Russians, and people of dozens of other nationalities—are subjected to crude repressions. This is especially true in those cases where people want to defend their culture and language from Russification, who seek to express the individual liberties we take for granted, or seek to worship in their own way.

In Latin America, crushing poverty based on social inequalities and enforced by brutal police tactics oppress the vast majority of people in several countries. The cruel and tragic deaths of the four American church people over 2 years ago in El Salvador first introduced Americans to the ugly viciousness that has been the daily lot for El Salvadorans for generations. Murder is the ultimate denial of human rights, but the daily indignities of poverty, perpetuated by privilege and enforced by violence, are the cancer that threatens the entire region with civil strife and anarchy.

In Asia, a steady stream of refugees demonstrated to the world what the consequences are of systematic violations of human rights in Cambodia, Vietnam, and China. The imprisonment of intellectuals, labor leaders, students and others in countries like Korea are but another blight on the map of the Asian Continent.

Africa has problems of its own, most prominently in South Africa with its evil system of apartheid. Other countries suffer from warfare and social injustice.

We are all familiar with the sad drama of the Middle East where thousands of individuals remain homeless and seek territorial integrity.

The sorry litany could go on. The point I would like to make, however, is that Americans who fought and won so many human rights struggles in the past must remain committed to the never-ending effort to aid their fellow human beings throughout the world in their individual and collective efforts to achieve the dignity and well-being that we summarize with the phrase "human rights." By pausing to rededicate ourselves to these lofty principles, let us hope that that dedication can serve us well at home and abroad in winning the struggle to make human rights more of a reality at home and throughout the world.●

● Mr. FAUNTROY. Mr. Speaker, I am pleased to join my colleague, Congressman MICKEY LELAND, in this special order to mark the anniversary of the Universal Declaration of Human Rights.

This is particularly important because this anniversary comes at a period in our Nation's history when we are faced with a retreat on the promotion and protection of human rights domestically and internationally.

The Reagan administration damages the effort to protect and promote human rights when it speaks up as it has, and ought to, on human rights violations in Poland but leads an effort to provide International Monetary Fund assistance to South Africa. The Reagan administration damages the cause of promoting and respecting human rights when it opposes human rights violations in Cuba, but publicly praises the vicious military government of Guatemala and refuses to recognize that many Haitian refugees have a legitimate claim for political asylum. The same damage is done to the cause of human rights when we speak out in behalf of Jewish dissidents in the Soviet Union, as we should, but all too often turn a deaf ear to the cries of the Palestinians in Diaspora for their human right of self-determination.

The Reagan administration damages its ability to represent this Nation as a promoter and protector of human rights when its practices and policies at home in matters involving fiscal, budgetary, and civil rights are unjust and favor the powerful and the rich.

Mr. Speaker, we need to demonstrate by actions here at home and abroad that we are committed to human rights on a universal basis, not just on behalf of those suffering under regimes of the left but also those suffering under fascist regimes such as South Africa. The Reagan administration, in its policy of "constructive engagement" with South Africa, is demonstrating the opposite of a universal commitment to human rights.

We are a better Nation than that.●

● Mr. GARCIA. Mr. Speaker, today is Human Rights Day. We celebrate this day in remembrance of the Universal Declaration of Human Rights, adopted by the U.N. General Assembly on December 10, 1948.

V. S. Naipaul, the Trinidad born writer, said, "Politics have to do with the nature of human association, the contract of men with men. The politics of men can only be an extension of its idea of human relationships." Mr. Naipaul has accurately described the reality of political attitudes. Disrespect for human rights, the use of terror for making a political point, the silencing of critics, and the total suppression of criticism are all ways in which a government controls its citizens. Drawing distinctions between authoritarian and totalitarian regimes, when speaking about human rights, is meaningless. These kinds of distinctions are only used to justify inexcusable policies.

I feel, however, that we should be wary of becoming self-righteous in our fight to preserve human rights. Again, to quote V. S. Naipaul, "Jargon turns living issues into abstractions." We cannot allow our ideals to stop us from maintaining at least a dialog with all nations.

Of course, this does not mean we should turn a blind eye against violators of human rights. We must never forget our responsibility to work for this cause. There are certain rights that must always be preserved; human dignity and the right to life cannot be violated. The United States must not allow any opportunity to pass in which we do not remind ourselves, and the other nations of the world, that we will not accept or tolerate the transgression of these most basic human rights.

I believe in a strong America with a consistent foreign policy. This will not be achieved by continuing a policy of excessive defense spending, or sending an inordinate amount of weapons and military aid to developing nations. Nor will it be achieved by turning a blind eye on the human rights violations of some of our so-called friends and allies. There is consistency in reason, and there is strength through peace and standing up for our ideals. These should be the underlying themes for American foreign policy.●

● Mr. LOWRY of Washington. Mr. Speaker, on this 34th anniversary of the passage of the U.N. Declaration on Human Rights, it is important to remember that the United States has only in the last decade begun to establish a true human rights policy. Respect for human rights is one of the foundations of our Nation and should serve as the guiding principle in our

relationships with other nations. We should work to defend human rights by promoting democratic processes in other areas of the world. A great example could be set, if we vigorously promoted democratic processes in our own hemisphere. Therefore, I would like to submit an article written by Leonel Gomez, a former Salvadoran land reform official who is presently seeking political asylum here:

[From the Boston Globe, Dec. 5, 1982]

BEHIND THE VIOLENCE IN EL SALVADOR

(By Leonel Gomez)

Ambassador Deane Hinton's recent public denunciation of crimes by "gorillas of the Mafia" and "extremists of the left and right" in El Salvador was an important departure from the U.S. State Department's previous posture on human-rights violations in my country. But he failed to identify the real source of the violence that has claimed more than 30,000 Salvadoran lives in the last two years: the armed forces.

Hinton's only reference to the armed forces was to "some elements of the security forces," as if the Treasury Police, the National Police and the National Guard operated independently of the Army. Indeed, he went out of his way to praise the military authorities for "speaking out unequivocally against the abuse of human rights."

What most Salvadorans know is that the Army itself is responsible for systematic political assassinations and massive killings of noncombatants. Murder and torture are not an accident: Repression has been institutionalized within the organization of the military. This organization is the key to the problems posed by Ambassador Hinton: why the human-rights violations continue, why there has been no genuine investigation of Americans' murders, why there is no functioning judicial system in El Salvador and why "death squads" continue to operate with impunity.

The institution of the armed forces, which includes the Army, the National Guard, the National Police, the Secret Police and the Treasury Police, is the most powerful force in El Salvador. The present-day role of the armed forces can be traced directly to the slaughter of 1932, when as many as 25,000 Salvadoran campesinos were massacred by the Army in retaliation for a peasant uprising, born of hunger, misery and desperation. Since that time, the Army's officers have come to take literally their official motto: "As long as the institution lives, the Republic lives."

THE OFFICER HIERARCHY

Over the past 50 years, a command hierarchy, pervasive corruption that enriches the officers in power and a system for passing that power on to the next generation of officers has evolved. The Army's power in El Salvador is a function of this unique internal organization, which is little known outside of the highest echelons of the institution itself. Army officers are organized into *tandas* when they enter military school. They train together, work together and move slowly up the ladder of advancement within the institution together. The *tanda* structure becomes a surrogate family for the young officers. Furthermore, the Army and the officers are so isolated from Salvadoran life that the *tanda* also becomes a substitute for society itself. The insularity and paranoia reflected in the Army's motto is a fact of life for officers who grow up within the *tanda* system.

Throughout the slow promotion process, *tanda* leaders emerge who will ultimately represent their comrades in the most exclusive and powerful organization in El Salvador: the Military National Security Council. The council is composed of 7 to 10 top-ranking officers, representing the most powerful *tandas* of the Army, the National Guard, National Police, Air Force and Army Intelligence Agency. For five years, council members dictate policy and oversee every action of the Army and security forces. And for five prosperous years, the council members and their allies within the armed forces will become fabulously wealthy through systematic corruption, fraud and kickbacks. At the end of five years, the Council members retire, and the next class of *tanda* leaders move in to take their place. In El Salvador, resourceful young officers can expect to be promoted from first lieutenant to second lieutenant to major to lieutenant colonel to colonel—to millionaire. The operation of the Security Council within the armed forces is remarkably like that of the Mafia: the "dons" on the council are only as secure as the entire armed forces "family." Thus, through corruption and rapacity, the needs of the entire institution are protected.

The Army's relationship with the country's economic elite is a mutually beneficial one. The oligarchy needs the Army to keep a starved and restless peasant workforce on the job for $133 a year. But the Army needs the oligarchy as well, to keep the economy going. Immense profits go to top officers from kickbacks from government contracts with large businesses and industries.

Because of the extreme poverty of most of its citizens, El Salvador's wealth is usually overlooked in the United States. The coffee crop in a good year is worth close to a billion dollars. When you consider that most agricultural workers earn less than a dollar a day when they work at all, that labor unions are illegal, that health care, housing and benefits for workers are nonexistent, the 300 to 400 percent profits sometimes earned by the country's economic elite are easy to explain. There is plenty of money for payoffs and kickbacks to Army officers who help make the system work.

While the Security Council is all-powerful, the possibility of a coup from lower-ranking officers always exists. First and second lieutenants and majors do not make much money in the armed forces. Their only hope of accruing great wealth is to bide their time until they reach the highest levels within the institution. If the Security Council jeopardizes the armed forces' lucrative relationship with the oligarchy or if the officers fear that the institution itself is threatened, the Security Council can be replaced.

SOMAZA FALL SHOCKED MILITARY

The fall of Nicaragua's Gen. Anastasio Somoza in 1979 was a huge shock to the Salvadoran military psychology and organization. Seeing the Nicaraguan National Guard crumble and its members killed in combat, exiled in disgrace or jailed by the Sandinistas, the Salvadoran officer corps literally feared for its own survival. After the military coup of October 1979, the Security Council was expanded to include representatives from other ranks and *tandas*. Historic links with the Salvadoran oligarchy were temporarily open to question, and the Army embarked on agricultural and economic reforms. The Army, however, soon saw a unique opportunity to plunder the economy directly, rather than taking kickbacks and payoffs from Salvador's great families. Progressive individuals within the military institution quickly lost ground again to traditionalists and massive corruption soon riddled the U.S.-supported land-reform project. Within a year, however, it was apparent that the Army needed the oligarchy to invest and procedure. The Army's mismanagement and corruption threatened to kill the goose that laid the golden eggs for so many years. The wealthy slowly returned to El Salvador, and the newly elected right-wing Constituent Assembly dutifully slowed agrarian reform to a virtual standstill. Meanwhile, the Army restored the Security Council, and the mutual beneficial cooperation between the oligarchy and the armed forces resumed.

Bloody repression further tightens the armed forces' organization. The Security Council decides who lives and who dies; Army troops and police carry out its will. El Salvador is a small country. The Security Council knows the union leaders, peasant organizers, opposition politicians and progressive teachers and clergy. It is not an accident that these people have been systematically eliminated by uniformed soldiers or plainclothes policemen. In April 1981, for example, the Security Council drew up and publicized a "hit list," including the names of labor, campesino, church and political leaders. Many of those on the list who stayed in El Salvador have either disappeared or live underground. Defense Minister Jose Guillermo Garcia has never renounced or withdrawn the list, in spite of international protests.

SLAUGHTER OF INNOCENTS

Similarly, the routine torture and execution of noncombatants in contested areas by Army troops is not a "command and control" problem. The slaughter of innocents is clearly a matter of Army policy. Civilians in guerrilla-contested areas are viewed as the enemy and are treated accordingly. Since the Security Council makes the policy, it is not surprising that not a single massacre has been investigated and not a single officer disciplined for carrying out that policy. The armed forces' refusal to reform itself and its failure to punish known murderers, rapists and torturers is a policy enacted at the highest levels of the institution: The Security Council must cover its own complicity in these crimes, as well as protect the younger officers behind them who are also implicated.

The U.S. ambassador surely knows the nature of the armed forces, and the Security Council's central role in continued bloody repression in El Salvador. His suggestion that independent right-wing "gorillas" are responsible for systematic torture and murder, but that the armed forces leadership is committed to human rights, is a cynical charade. Ambassador Hinton's Chamber of Commerce speech can only be viewed in the context of the State Department's likely support of Defense Minister Garcia's 1984 presidential candidacy. Since the State Department must certify to the US Congress that the Salvadoran armed forces are under control and not responsible for gross violations of human rights, another culprit must be found for the continuing atrocities. Constituent Assembly President Roberto D'Aubuisson is the logical scapegoat. The fact of the matter, however, is that neither man operates independently of the military structure that produced them. The two may be political rivals, but the institution of the Army and the role of the Security Council is more important than either of them.

Who the next president of El Salvador is matters less than what kinds of policies the Army as an institution makes. Neither D'Aubulsson nor Garcia will betray the institution that has benefited them and their friends—the organization will not allow them to. Their continued power in El Salvador assures the corrupt and bloody survival of the armed-forces system. Nothing short of a massive purge of the entire officer corps and its total subordination to a strong, progressive, civilian government can end the horror of war, poverty, and despair in El Salvador.●

● Mr. ROSENTHAL. Mr. Speaker, today, December 10, 1982, is a very important date. It is the 34th anniversary of the ratification of the U.N. Declaration on Human Rights; it is the first night of Chanukah, a holiday which commemorates Jewish freedom fighters who refused to have their religious identity denied; and it is the 75th day of Anatoly Shcharansky's fast for freedom.

Most of my colleagues are already familiar with Shcharansky's injustice and torture at the hands of those in the Soviet Union who would deny him his rights as a human being. His wife Avital, as well as other human rights activists around the world, have worked tirelessly to publicize his plight. Serving an extended term in Chistopol prison, often in isolation, denied proper food and medical treatment, the Prisoner of Conscience became desperate when even his contact with his mother was cut off last January. Shcharansky reportedly entered this fast on Yom Kippur knowing full well that in his condition he may not survive it.

This world reknown computer scientist and mathematician has been charged with treason and anti-Soviet agitation and propaganda but in reality his only crime was wishing to join his family in Israel and having the freedom to live as a Jew. These are freedoms denied in the Soviet Union where emigration figures continue to tell the devastating story. In 1979, 51,320 Soviet Jews were allowed to emigrate; in 1981, 9,447. In November 1982 only 137 Soviet Jews were let go and the total figure for 1982 is not expected to reach even 2,700.

We can only imagine the mental anguish that Shcharansky and other Jews trapped in the Soviet Union are suffering as the iron gates are allowed to clang shut and squeeze off the last hope of escape. Not only are they not allowed to leave, but their lives within the Soviet Union make a mockery of the Helsinki Accords and the U.N. Declaration of Human Rights.

Today it is especially fitting that our thoughts turn to Anatoly Shcharansky, despite the fact than no news of his condition has gotten out in the last few weeks. We must take every opportunity to communicate to the Soviets that the eyes of the world are on Shcharansky; not only on his personal treatment, but on Shcharansky as a symbol for all of Soviet Jewry. As Anthony Lewis stated in his eloquent November 18, 1982, New York Times column:

A Soviet decision to release Mr. Shcharansky would be a dramatic sign that the new leadership is pragmatic and wants to do diplomatic business.

It would also be a dramatic sign that the Soviet Union wants to finally honor the Helsinki accords which it committed to 7 years ago and would raise its stock considerably in the human rights field.●

● Mr. GILMAN. Mr. Speaker, I commend my colleague, the gentleman from Texas (Mr. LELAND) for taking the initiative to arrange this special order to commemorate the 34th anniversary of the signing of the United Nations Universal Declaration of Human Rights. Indeed, this declaration, which enumerates a broad spectrum of fundamental human rights which the member nations of the international community are urged to endorse and to respect, is as timely today as it was when it was adopted.

It is my hope that our Nation will intensify its efforts to assure that our policies adequately reflect the following principle which the Universal Declaration underscores:

Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

One of the many areas about which I know my colleague from Texas and I share a strong concern, is outlined in the Universal Declaration of Human Rights, that is the right to food. In 1976, Congress passed the right-to-food resolution. That resolution reaffirmed "the right of every person throughout the world to a nutritionally adequate diet," stating also "the need to increase our assistance for self-help development."

The gentleman and I have introduced legislation, House Resolution 424, which would create in the House a Select Committee on Hunger to help formulate policies to resolve the critical problem of hunger and malnutrition.

We intend to reintroduce this measure in the 98th Congress, and I take this opportunity to urge our colleagues to support this legislation as a means to help promote one of the most basic of human rights—the right to food.●

● Mr. HALL of Ohio. Mr. Speaker, 34 years ago today, the U.N. General Assembly unanimously approved the Universal Declaration of Human Rights, codifying into international law 30 articles spelling out the civil, political, economic, social, and cultural rights of all men and women.

I take this opportunity to once again remind my colleagues of the importance of a strong human rights policy to the long-term foreign policy objectives of the United States.

By placing a strong importance on the human rights conditions in other countries, the United States extends its diplomatic efforts beyond the heads of state to the people who will ultimately chart the course of that nation long after the existing authorities have gone. It is a policy based on the idea that the people will recognize those who have a genuine concern for their welfare and civil liberties, and that this will influence their future dealings with the United States.

Too often, American foreign policy is directed toward placating current world leaders who may be out of step with their citizens or even taking overwhelmingly unpopular stands. Thus, it is poor planning for the United States to accept without criticism gross violations of human rights based on tenuous explanations. This serves only to bolster the existing regime while civil abuses in that foreign nation continue, with ultimate loss of credibility to the United States.

Providing arms or economic assistance by the United States to an authoritarian regime is not the same as assisting the people under that regime. Therefore, there is little reason to believe that we can maintain friendship with a nation by staying friends with its leaders. On the contrary, helping dictatorships that do not enjoy popular support can have the opposite effect. Even though the press may publicize world leaders shaking hands during a state visit, the very people we are trying to befriend may have great feelings of animosity.

A case in point was the recent visit of Philippine strong man Ferdinand Marcos to Washington. He was accorded a full red-carpet welcome by the U.S. State Department and hailed as a staunch ally in the Pacific. However, his poor record on human rights was officially ignored by the administration, and no effort was made to place any distance between his repressive domestic policies and the support he enjoys from the United States. Based on his reception in Washington, the Filipino people would have no reason to doubt that the Marcos regime with all of its dark sides is fully embraced by the American people.

When Marcos is ultimately succeeded by a future ruler who may or may not continue his present policies, how are the Filipino people to perceive the United States? President Reagan, too, may be long gone from the scene by this time. But the memories of the repression and denial of civil liberties will undoubtedly linger, and the blame is certain to be laid on all who supported those conditions.

Though dissidents in other countries may be only a small minority, we can never overlook their ultimate poten-

tial. It is important to keep in mind that the stability of any repressive regime is only illusory. The lessons of Iran and Nicaragua, for example, are that we cannot afford to sacrifice our essential enduring relationships with the people of a nation for short-term security objectives.

Contrary to critics of an activist human rights policy, U.S. concern over the internal affairs of other nations does not conflict with our own national security interests and other foreign goals. Though a superficial analysis may show a dichotomy, international human rights considerations cannot be separated from our ultimate goals.

This does not mean that the U.S. human rights policy is an attempt to mold foreign cultures into the unique mold of the American morality. The U.N. Universal Declaration of Human rights, the basic document guiding U.S. human rights considerations, is recognized by all major nations.

Our steady vigilance against human rights abuses has increased global sensitivity to the issue, aided in the release of political prisoners and the emigration of dissidents, eased repression, and even saved lives. Equally important yet harder to measure, the heightened U.S. attention to human rights has given renewed hope and encouragement to oppressed peoples the world over.

On this day commemorating the adoption of the Universal Declaration of Human Rights, it is appropriate to reevaluate the record of human rights considerations in our foreign policy. Being true to our own principles upholding the dignity of men and women the world over must be of highest priority.●

● Mr. BARNES. Mr. Speaker, I am pleased to join my colleagues today in recognizing the 34th anniversary of the adoption by the United Nations of the Universal Declaration of Human Rights.

This important declaration marked a turning point in marshalling the world's efforts to combat human rights violations made by governments against their citizens. When the shocking truth surfaced about the heinous crimes committed against millions of people during World War II, the United Nations raised the issue of human rights worldwide and recognized that governments around the world needed to take a collective stand against the actions of some which deliberately ran counter to the principles of freedom and respect for the dignity and worth of human beings.

Over these past 4 years, my service on the House Foreign Affairs Committee has given me a unique perspective of the hardship that literally millions in the world suffer because of the arbitrary, discriminatory, and capricious rule of their governments. As chairman of the Inter-American Affairs Subcommittee and as a member of the Subcommittee on Human Rights and International Organizations I see the important role that Congress can play in bringing human rights violations to public attention and speaking out forcefully against them. For the millions of silent persecuted in the world, our principles of freedom and our democratic traditions represent a living hope of a better life and symbolize the fortitude that comes with a respect for and commitment to human rights.

This past year has had particular significance for all of us fighting for universal respect for human rights. In Poland, against all odds, the people have worked for freedom, in expression, in the workplace, in their government, and they were making progress. However, when Solidarity's National Commission met 1 year ago to discuss the possibility of free elections and a public referendum on the government, Polish authorities, fearful of the revolutionary nature of these changes, clamped down with an ironhand by imposing martial law on Poland. The Polish people have, despite this setback, continued as best as they can to fight for their freedom. They continue to protest, risking their lives in the face of intolerance and harsher punishments of their government.

In the Soviet Union, Anatoly Shcharansky, a man who has become the symbol of resistance and strength, enters the 75th day of his hunger strike. Shcharansky represents thousands of others in the Soviet Union who have been harassed and persecuted, imprisoned, and silenced. His tragic ordeal is mirrored daily in the lives of many people around the world. What the Soviet Government has done to him and many, many others is wrong and the passage of time will only increase our indignation that such a situation continues to exist in the Soviet Union.

I have been personally involved over the past few years trying to gain permission for a young man who has applied numerous times to emigrate from the Soviet Union with his wife and daughter. His name in Alexander Pevzner. Alexander Pevzner is not asking for much. He is only asking that his family be permitted to join his parents and sister in the United States. After 10 years, Soviet authorities persist in their refusals. Alexander Pevzner's case is indicative of the Soviet's refusal to abide by their moral obligation to respect the fundamental human rights of its citizens. As long as I am in Congress and Alexander Pevzner is in the Soviet Union, I will continue my personal efforts on his behalf until he joins us in the free world.

In South Africa, human rights violations continue. The repeated harassment of union leaders, such as Thozamile Gqweta, continues as the racist South African Government continues to try to eradicate the movement against apartheid. South African authorities have tried to silence voices of those such as Philip Mthimkulu, a journalist who worked for improvement of working conditions and better wages for black journalists and media workers. Sooner or later, the people will break the barriers that, for so long, have held them back, and unfairly kept them from enjoying the freedom they deserve. The South African Government, with its policy of apartheid and its rule by force and intimidation, cannot stand forever, Its power to impose its will on the people, to destroy the dream of freedom in their hearts, cannot survive amidst the strength of those who, against all odds, will continue to fight. The South African Government must realize that might alone will fail to stop the inevitable changes that must take place in South Africa.

More than any other country in the world, the United States has a special commitment and responsibility to help foster peace and social justice in the world. Our history, our values, our principles, and our goals as a nation compel us to stand as a beacon of freedom to the world's oppressed. We in the United States are the fortunate ones. We expect, as a matter of course, to travel freely, to voice our opinions, to determine the leadership of our Government, to worship in the manner we choose, to have access to a free flow of information, and to have the chance to pursue a productive and fulfilling life. And everywhere in the world literally thousands of people are being persecuted.

All of us, as U.S. citizens, as people who have compassion for others and who cherish and uphold the principle of individual dignity and worth, must continue more vigorously to speak out openly and forcefully to those who continue to pawn and sacrifice human beings. International Human Rights Day reminds us of our Nation's firm commitment to foster respect for human rights in the world, and calls us to action.●

● Mr. HARKIN. Mr. Speaker, today, Human Rights Day, I would like to express my deep concern over the tragic suffering of the former Portuguese colony of East Timor, which was invaded and occupied by Indonesia just over 7 years ago and continues to be subjected to an illegal Indonesian military occupation. Amnesty International recently pointed out in a letter to the New York Times that the Indonesian occupation of East Timor is characterized by "extraordinary brutality."

But American awareness of the East Timor tragedy is growing. And along with this awareness is the correct perception that the Indonesian occupa-

tion of East Timor is no less illegal and immoral than, for example, the Soviet occupation of Afghanistan. And as in Afghanistan, a just solution guaranteeing the right to self-determination for the people of East Timor, even if it cannot be found immediately, must be achieved eventually.

Indonesia bears prime responsibility for the East Timor tragedy and it is Indonesia that must be convinced to come to the negotiating table before a solution can be achieved. As I pointed out in an article I wrote for the Progressive magazine 2 years ago, the United States also bears heavy responsibility for the Timor situation, through the arms we have supplied to Indonesia and the diplomatic support that successive administrations have provided for the Indonesian position.

But Portugal, the colonial ruler of East Timor until it abandoned the territory in 1975, has an especially heavy moral responsibility to the East Timorese. On December 14, the current Portuguese Prime Minister, Dr. Francisco Pinto Balsemao, will meet in Washington with President Reagan, and I understand that the Portuguese leader plans to discuss the East Timor issue.

It is to be hoped that Portugal will carry out an energetic diplomatic campaign, both in Washington and throughout the world, in an effort to find an equitable solution to a continuing conflict that already has claimed many tens of thousands of lives and caused untold human suffering.

For the benefit of my colleagues, I would like to insert for the RECORD Amnesty International's recent letter to the New York Times:

"EXTRAORDINARY BRUTALITY" IN EAST TIMOR

To the EDITOR:

In an Oct. 14 news article, "Indonesia Defends Role in East Timor," Foreign Minister Kusumaatmadja is cited as saying that reports of human-rights abuses against residents of East Timor are "untrue."

Amnesty International has followed the human-rights situation in East Timor since the territory was invaded by Indonesia forces in December 1975, and we find the Foreign Minister's comment disturbing.

It has been evident to Amnesty International in investigating the situation in East Timor that human-rights violations occur there within the context of an occupation of extraordinary brutality in which a whole right of fundamental human rights have been denied the population.

We believe that the population of East Timor has been systematically denied the rights to freedom of expression, association, assembly and movement. Persons exercising their right to petition the government for redress of grievances have been arbitrarily detained. Movement and communication within and beyond East Timor has been tightly controlled.

We are also disturbed by the Indonesians' failure to investigate a number of cases of human-rights violations in East Timor.

One case involved "Operation Fence of Legs." Undertaken by Indonesian forces from July to September of 1981 with the aim of eliminating Fretilin forces (the movement for an independent East Timor which resisted the Indonesian invasion), its strategy was to deploy tens of thousands of Timorese to form human fences that converged on and flushed out remaining Fretilin forces.

Reports indicated that civilians enlisted for this operation were required to advance in front of Indonesian forces and were unarmed or armed only with primitive weapons. While it is not possible to gauge the number killed in the operation, it is clear that many did not return to their homes.

We also received extensive reports of torture of detainees during interrogation. Forms of torture described in those accounts include burning with red-hot irons and cigarettes, electric shocks to the genitals and other parts of the body, extraction of finger and toe nails with pliers and slashing with knives.

We have raised these concerns with the Indonesian Government. So far there has been no response.

LARRY COX,
Deputy Director, Communications, Amnesty International.

NEW YORK, *October 22, 1982.*

Last year the first major event indicating the direction which human rights policy would take under the Reagan administration was the nomination of Ernest LeFever as Assistant Secretary of State for Human Rights and Humanitarian Affairs. I am sure everyone remembers the resulting controversy, leading to the defeat of his nomination.

Some progress has been made in the areas of human rights since then, although the Reagan administration's policy remains seriously flawed. One of the most dramatic moments during the LeFever debate was the appearance of the Argentine, Jacobo Timmerman, at the Senate Foreign Relations Committee's nomination hearings in May 8, 1981.

The next day, May 19, he held a press conference arranged by my office. His remarks were pertinent then, and on Human Rights Day, 1½ years later, they retain their significance. I would like to bring them to the attention of my friends and colleagues:

TRANSCRIPTS OF TIMMERMAN INTERVIEW

REPORTER. These are the ground rules, Mr. Timmerman does not want to testify, or to say anything specifically about the nomination because he doesn't know specifically about Mr. Lefever, or the situation in the United States. He will make a statement on what he thinks United States' human rights policy should be, if you would like to ask that.

Why did you come today and why did you not testify?

TIMMERMAN. I wasn't invited to testify and that is why I am not testifying. I am in Washington invited by the Washington Post. I had lunch with them. And Foreign Policy Review, I had breakfast with them and with a couple of Senators and Congressmen and I had dinner with them.

Reporter. But you came to the hearing.

TIMMERMAN. My son was having lunch with me and he mentioned many times the hearing, so I had half an hour, 40 minutes before the show I am going to now, an interview on radio, so I said that perhaps I just drop in and see it is. See how democracy works.

REPORTER. And how did you find that it worked?

TIMMERMAN. Well, I was applauded. I was very happy about that. I saw the discussions. It is very interesting. I hope that Argentina would have the chance to have this kind of hearing about Human Rights in the Argentine Congress as soon as possible.

REPORTER. Are you afraid the the Reagan Administration might retreat on human rights?

TIMMERMAN. I am not afraid because they have already retreated, so I am sure about that. And this is something that I really cannot understand. Just let me know when I am breaking the rules. Because you see your administration has the right to change an approach to a problem or even to change the strategy. They can change the approach to human rights, change the strategy about human rights, but they have not the right to change the ideology of the American people. And I think that the Reagan Administration is changing the ideology of the American people who were always for human rights in any conditions, in any countries, not depending on what kind of government they have. I think that if you are converting human rights policy just in a fight against communism, you are going to lose also the fight against communism. Let's suppose for instance that the dissident in the Soviet Union has been interrogated by a KGB man. And this KGB man says listen, the U.S. is interested in you, but not as human right, only against Russia because they only are doing this against only Russia, not against Argentina and not about Chile. So, if this dissident is a patriot, then he will think really that the U.S. is not interested in his human rights in the democracy of the Soviet Union, but only in fighting against his country, that means Russia. I think that after the Marshall Plan, the human rights policy was the first time the U.S. has captured the imagination of the full world, and had an impact in the world. I don't remember anything you have done after the Marshall Plan to have this kind of impact in the shape of ideologies, minds, feelings all over the world. And I don't know why you are going to jeopardize that, to lose it. I am of course interested in many things but also in the U.S. When people say that they are helping friends in Argentina, believe me that the true friends of the U.S. are the political parties, the civil associations, the labor union leaders and the mothers of the missing people. Not a group of corrupt generals.

REPORTER. Your name came up yesterday at the hearing. It was alleged that Pat Derian's visit to Buenos Aires helped to relieve you of the torture you were undergoing. Did that in fact (that is, the public outspoken policy of the U.S. government under Carter), help you?

TIMMERMAN. I was kidnapped in a clandestine jail when Ms. Derian arrived to Buenos Aires and she made a scandal to the President of Argentina in a meeting with him about the way I was treated. So I was taken after that to a legal jail. They let me have a shower and have a shave. They took me to the government house because the Minister of the Interior wanted to see how I was because of the scandal Pat Derian made. And when I arrived, he said to me (that was General Harguindeguy). He said that, "I am

sure that Pat Derian is a relative of yours. I said, "No, I just met her once years ago in a meeting." He said, "She must be a relative, probably a cousin, as far as we find out because the way that she reacted about your jail." And I said, "No, she is not my cousin." And he said, "Yes, we have information that she is your cousin." Well, I say OK. But after my release (and this is a funny story), I was at a luncheon in honor of Pat Derian, and she said, "Here is my cousin Jacobo." (Listen for the end of the story.) She said, "Here is my cousin Jacobo. And I have many cousins in the gulags of the Soviet Union, I have cousins in South Africa; I have cousins in Chile; I have cousins in South Korea." A man from UPI was there and he sent a cable to Buenos Aires, and it was published in La Prensa in Buenos Aires, saying: "This was first official confirmation of rumors that Jacobo and Pat are cousins." And it was published by La Prensa from a cable from UPI!

REPORTER. But for our purposes we need to know if you believe that her intervention really is what made a difference in the way you were treated.

TIMMERMAN. In that day, it made a big difference, it made a big difference. And I know positively of many lives that were saved only because Pat Derian was also making scandals about these problems. And I remember, that once she had a very bitter discussion with a military attaché of the American embassy in Buenos Aires about this problem of human rights. And it was published in the Buenos Aires press. She was always outspoken, and there is no other way. I think that after the experience of Nazi Germany we shouldn't be silent anymore. A silent diplomacy is silence. A quiet diplomacy is surrender. And this is my experience.

REPORTER. One question . . . What did you think of Undersecretary Buckley assuring Congress that there was not anti-Semitism going on in Argentina at this time, last week, in order to get the repeal?

TIMMERMAN. I think he is wrong, and he hadn't shown any proof about that. And if you go through the files of the American press you will see many, many cases of anti-Semitism in Argentina.

REPORTER. So that is not a correct statement that he made?

TIMMERMAN. I don't know why he made it.

REPORTER. Have you read the written statements about Lefever?

TIMMERMAN. No, I have not.

REPORTER. It sounds like you are taking a real slap at him without mentioning him, you're saying there is no other way, quiet diplomacy is surrender. When he has said only yesterday that quiet diplomacy is his style. Is that indirect criticism of him?

TIMMERMAN. Well, I read the articles written by Ambassador Kirkpatrick in Commentary. I had a meeting with Ambassador Kirkpatrick, and I read the statement made by Secretary Haig before the Tri-lateral Commission and I am referring to all this. Nothing about Lefever.●

THE REASON FOR ANTI-JAPANESE SENTIMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

Mr. NELSON. Mr. Speaker, around the country during the last election "get tough with Japan" surfaced in many congressional races. Frequently, we can spot now all across the Nation bumper stickers that say, "Remember Pearl Harbor" or "When you bought your Japanese car ten Americans lost their jobs."

This anti-Japanese sentiment reflects a growing feeling in America that the Japanese Government and Japanese industry do not play fair. The U.S. trade deficit with Japan is expected to reach $20 billion in this year of 1982; 1981 reflects another trade imbalance. Japan bought $21 billion worth of merchandise from the United States in 1981, but it exported to the United States $37 billion, a $16 billion bilateral deficit.

□ 1620

Obviously access to the American market is extremely important to Japan. The openness of the U.S. market, as contrasted to the closed nature of the Japanese market, is in large part the cause of the trade imbalance.

Another contributing factor is that the dollar has remained high against the yen since last summer. Rising unemployment among Americans is also a major factor causing anti-Japanese sentiment. With a devastating 10.8-percent unemployment, we are experiencing the highest level of unemployment since the Depression. We are concluding that Japanese goods made by the Japanese are replacing American goods made by Americans.

Additionally, with huge Federal Government budget deficits, Members of Congress, including myself, are increasingly impatient with Japanese resistance to increase its spending for defense, which, by the way, presently amounts to less than 1 percent of that nation's gross national product.

Compare that to 5.9 percent of our GNP in the United States that we are spending for defense. Resentment is building against Japan for its resistance to share more of the load for its own defense.

Perhaps some of the most disturbing news is of American business selling its high technology to Japanese industries. Instead of buying items from the United States, the clever Japanese industrial giants apply the technology that they have purchased from the United States and then produce goods that directly compete with similar American products. Why U.S. businesses ever sold that technology is mystifying and inexcusable.

I am presently vigorously urging the Department of Defense to erect immediate barricades to the transfer and sale of such defense technology to Japan, especially when it involves our defense systems. Presently the Japanese are trying to buy the high technology which has produced the most advanced airplanes in the world, the F-15's and the F-16's. If Japan succeeds, it will utilize that technology to produce aircraft which will then undermine the U.S. leadership in aviation.

Enough is enough. Presently the anti-Japanese sentiment is being expressed here in America, and as this body is reflective of America, it is being expressed here on this very day in the U.S. House of Representatives as we consider the domestic content legislation, which would require of automobiles sold in America that they be 75 percent American content. Perhaps this legislation is an important statement that is needed to be made to the Japanese.

But that legislation is not the answer to the unfair Japanese practices. Perhaps the answer lies in U.S. trade barriers and American tariffs or taxes on Japanese goods that are imported into the United States, taxes and tariffs to equal those trade barriers and tariffs erected by the Japanese upon similar U.S. goods being exported or attempted to be exported to Japan.

Mr. Speaker, I would say to my friends in Japan that it looks like now is the time that turnabout is fair play. The Japanese had best pay attention to the sentiments of fairness and equity that are so important to Americans as they deal with their friends.

MAJOR LEAGUE SPORTS COMMUNITY PROTECTION ACT

The SPEAKER pro tempore (Mr. MONTGOMERY). Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 20 minutes.

● Mr. STARK. Mr. Speaker, by its temporizing and inaction to date in failing to enact the Major League Sports Community Protection Act, Congress is threatening to endorse the equivalent of the "Al Davis Special Interest Bill of 1982." If we do not now enact the sports-community protection legislation and apply it to the Oakland Raiders' disgraceful abandonment of the Oakland community and its taxpayers, we will have abdicated our responsibility to the public, to the scores of mayors who have vigorously supported this legislation, and to the Governors and other public officials who have done so.

There now seems to be a consensus in the Congress that the two key elements of this very limited legislation deserve enactment. The bills, H.R. 6467 and S. 2784, merely allow professional sports leagues to protect local communities by: First, keeping successful teams where they are; and second, enabling leagues to share revenues to the benefit of teams in smaller, less well-situated markets.

There is wide bipartisan support for the legislation both in and out of the

Congress. It has been endorsed by a number of Governors and over 40 mayors, and it has been cosponsored by some 160 Members of the House, including many members of the Judiciary Committee, and 23 Senators.

Yet the Congress now seems immobilized by the weight of business before us in these closing days of the session and perhaps—and I say "perhaps" because I would prefer to believe otherwise—an inability to determine that this legislation should be made immediately applicable to protect the taxpayers in this country, particularly those in Oakland, Calif., who have built magnificent professional sports stadiums for teams such as the Oakland Raiders. The Raiders' top executive, Al Davis, obviously recognizes the justifications for applying this legislation to the Raiders' abandonment of Oakland merely for higher profit opportunities elsewhere because he has launched a strenuous lobbying campaign, to block the application of this legislation to the multiple and conflicting lawsuits over the Raiders' effort to walk out on the Oakland community.

When the Washington Senators left the Nation's Capital, Congress was outraged. When professional basketball teams hopscotched from city to city in the early seventies, remedial legislation was promptly proposed. When the NFL and the American Football League were authorized by Congress in 1966 to merge their operations, the Congress required commitments from the two leagues that they would maintain the operations of teams in communities which successfully supported teams both financially and with civic investments of emotion and pride. On these prior occasions, Congress squarely addressed the public interest, not private interests, and it met its obligation to protect the ordinary citizen and the taxpayers of this Nation, not the special interests who sometimes ride on the back of the taxpayer.

Now, however, in the face of the most unjustified abandonment of a community in the history of professional sports, Congress appears immobilized and unable to find the time to correct the injustice of the Oakland Raiders' abandonment of our Oakland-Alameda community. And why do we face this prospect? Largely through our own inaction and our failure to have adopted the Major League Sports Community Protection Act of 1982 earlier in this session, partially because of the unwillingess of some Members to act on this legislation until the NFL's labor-management issues were satisfactorily resolved, as they now have been.

But there are also some in the Congress—and I cannot fathom their reasoning—who appear to believe that the citizens and taxpayers of Oakland deserve no better treatment than convicted antitrust price fixers who are felons. There are some, in short, who seem to think that because the Senate last week refused to endorse legislation that would immediately bail out convicted price fixers, the Congress should now penalize taxpayers in northern California who built a magnificent stadium for the Oakland Raiders. But now Congress seems to act as if it cannot correct moral wrongs and injustices even when legislation to do so is before us.

In my view, there is absolutely no relationship between the Senate's antitrust "contribution" legislation and the sports-community protection legislation. Opponents of contribution bills could properly oppose their application to pending cases because, as they put it, the "retroactivity provision is repugnant and represents a special interest bailout for convicted price fixers." But there is nothing repugnant about protecting the taxpayers of this Nation, the communities of this Nation, the mayors of this Nation, and the sports fans of this Nation when private interests take "morally wrong" actions to destroy the public interest. So the Congress should not be paralyzed by an inflexible adherence to positions that sometimes make sense but sometimes perpetuate injustice. Congress has often applied legislation to pending cases when fairness and justice have supported such application, and Congress should do so in enacting the Major League Sports Community Protection Act of 1982.

The failure of Congress to apply this legislation to the Oakland Raiders' move will simply serve Al Davis' special interests in multiple ways. For one thing, it will allow the Raiders to return to the California Legislature in its next session to push for retroactive laws at the State level. Davis and his allies have already sought amendments to the California eminent domain statute to overturn the ruling of the California Supreme Court finding that the city of Oakland could buy the Raiders at fair value and keep the team in Oakland because it serves vital public interests there.

Second, Congress' failure to act will enable Al Davis to impose on Oakland taxpayers public debt service obligations of $1.6 million annually through the year 2005. It will also enable the Raiders to repudiate commitments of the American Football League made to the Oakland community to keep the Raiders in Oakland so long as the team was well supported.

Third, it will allow Davis to charge the public heavily on pay TV of Raiders' games—with Davis pursuing windfall profits. This is Davis' true motive in abandoning Oakland despite the multimillion-dollar profits he made there. Davis himself has been quoted as saying:

> Pay-TV is where it's going to be all at in a few years. It won't matter the size of the stadiums. But can you imagine 2 million viewers paying 10 bucks a head? That means the smart pro clubs have to be in the big TV markets. That's why we're thinking about a move to Los Angeles.

Fourth, at this late date, the Raiders have no formal agreement with the Los Angeles authorities committing the Raiders to play in Los Angeles. The Raiders still operate in Oakland. But more important, the proposed agreement between the Raiders and Los Angeles authorities threatens to permit the Raiders to appropriate as much as $15 million of revenues from the 1984 Olympic games to the sole benefit of the Oakland Raiders. The Los Angeles Times recently explained in an article entitled "Raiders' Davis May Win Gold From Olympics" that "the agreement, in effect, gives Davis control over the most valuable seats during the Olympic games"—despite a preexisting contract with the Olympic Committee with directly contrary provisions.

I find it unconscionable that a single businessman who has profited at the expense of one great city, Oakland, should now be permitted to do the same with the 1984 Los Angeles Olympic games.

I am enclosing for the RECORD several reports concerning this threat to the Olympics, including the Los Angeles Times article and a United Press report, "Al Davis Stands To Reap Millions on Olympics," where the Los Angeles authorities acknowledge that the Raiders' proposed agreement may be in violation of a contract between the Olympic Committee and the Los Angeles authorities.

THE UNFAIRNESS OF EXCLUDING OAKLAND FROM THE BILL

In summary, Mr. Speaker, it would be extremely unfair to the Oakland community and to the NFL to exclude the stalemated dispute from the coverage of the sports community protection legislation. Until the present Raiders matter arose, the antitrust courts had found that leagues and communities could keep successful teams in their existing locations. The antitrust court in the Raiders case is itself retroactively creating new rules wiping out the rights of Oakland and the NFL in an unprecedented manner.

If Congress endorsed this arbitrary treatment of Oakland and the NFL, it will be simply perpetuating an unfair discrimination. This point was eloquently made by the junior Senator from Nevada who, in recently speaking about applying another measure to pending cases, said that making legislation prospective only "would be an arbitrary decision by the Congress that * * * would unfairly discriminate against the parties in pending cases which gave rise to the need for the legislation in the first place * * *.

There are many examples of legislation applicable to pending cases in the antitrust file." Here where prior law and prior congressional policy fully supported the position of the Oakland community and the NFL, and where the city of Oakland has itself won an important victory in the California Supreme Court against the Raiders, the only evenhanded solution is to have Congress' legislation apply to the dispute that gave rise to the need for congressional action.

Like other cities, Oakland deserves protection. And how can the NFL, as a league of equal members, possibly operate when one of its most successful and profitable teams is given a congressionally approved license to move while other less-situated teams, with far lower revenues and sometimes losing money, are held to a different standard and required to remain in their existing communities.

Legislation that creates different rules for different parties is unfair. Equality under the law will be guaranteed here by making the Major League Sports Community Protection Act of 1982 applicable to all parties whether they are currently in the courts or whether they will be in the courts in the future. I thus urge the Congress to enact this legislation before we adjourn.

I have previously stated that after hearings on the sports community protection legislation, certain revisions would be made clarifying provisions that have drawn comment from witnesses in the hearings. This has now been done. We have also revised the provision of H.R. 6467 applying it to pending disputes in order to state on the face of the legislation itself the public interest and governmental reasons that justify such treatment in this legislation. The full text of the revised H.R. 6467 in its current form is set forth below:

H.R. 6467

A bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Major League Sports Community Protection Act of 1982".

FINDINGS AND DECLARATIONS

SEC. 2. The Congress finds and declares that the public has an interest in preserving stability in the relationship between professional sports teams and the communities in which they operate and in encouraging professional team sports leagues to promote the economic and geographic stability of their member clubs: Therefore, be it enacted, that—

(1) It shall not be lawful by reason of any provision of the antitrust laws for a professional team sports league and its member clubs—

(a) to enforce rules or agreements authorizing the membership of the league to decide that a member club of such league shall

not be relocated from its league-franchised home area, provided that nothing in this subsection (a) shall otherwise affect the applicability or nonapplicability of the antitrust laws to any action instituted by a municipality or other public authority challenging the relocation of a member club from its league-franchised home area or any action by a member club under the antitrust laws challenging a league decision disapproving the relocation of a member club if the member club seeking to relocate has incurred an annual net operating loss for four or more consecutive seasons immediately preceding its proposed relocation; or

(b) to enforce rules or agreements for the division of league or member club revenues that tend to promote comparable economic opportunities for the member clubs of such a league.

(2) Subject to the terms of subsection 1(a) of this section, any civil action under the antitrust laws to challenge a league decision granting or denying permission to a member club to relocate must be commenced in a United States district court having jurisdiction under title 28, United States Code, section 1331, except that no such action may be brought in any district wherein such member club is located or to which such member club proposes to relocate.

INAPPLICABILITY TO CERTAIN MATTERS

SEC. 3. Nothing contained in this Act shall—

(a) be deemed to change, determine, or otherwise affect the applicability or nonapplicability of the labor laws, the antitrust laws, or any other provision of law to the wages, hours, or other terms and conditions of player employment within any sports league, to any player employment matter within any sports league, or to any collective bargaining rights and privileges of any player union within any sports league;

(b) exempt from the antitrust laws any agreement to fix the prices of admission to sports contests;

(c) exempt from the antitrust laws any predatory practice or other conduct with respect to competing sports leagues which would otherwise be unlawful under the antitrust laws; or

(d) modify any existing Federal statutes relating to the television practices of sports leagues, or change, determine, or otherwise affect the applicability or non-applicability of the antitrust laws or communications laws to any form of joint dealing practices by sports leagues with respect to the sale of any form of television.

FEDERAL PREEMPTION

SEC. 4. Notwithstanding any other provision of law, no State or political subdivision thereof shall establish, maintain, or enforce any regulation of commerce that imposes any limitation on the collective conduct of professional team sports leagues or their member clubs authorized by this Act.

APPLICABILITY TO PENDING ACTIONS

SEC. 5. This Act shall apply to any action commenced after the date of enactment of this Act and to any pending action involving the termination of use of a municipal or other public stadium or arena by the relocation of a member club of a professional team sports league from its league-franchised home area if the stadium or arena used by such club in its home area was constructed with funds obtained through the sale of public or governmental bonds, the interest on which is exempt from income tax under title 26 and which are not fully retired, and the relocation is the subject of one or more lawsuits commenced in any State or Federal court by a municipality, a public authority, or any other party.

DEFINITIONS

SEC. 6. For purposes of this Act, the term "professional team sports league" means the organized professional team sports of basketball, football, hockey, or soccer.

[From the San Francisco Examiner, Nov. 19, 1982]

AL DAVIS STANDS TO REAP MILLIONS ON OLYMPICS

LOS ANGELES.—Raiders owner Al Davis could make millions of dollars during the 1984 Olympics because the Coliseum Commission gave him exclusive control over luxury boxes he plans to build at the Coliseum, it was reported today.

The disputed agreement with Davis, made to lure his NFL franchise from Oakland, apparently conflicts with a pact signed earlier with organizers of the 1984 Olympics, the Los Angeles Times said.

Twenty months prior to reaching the agreement with Davis, the commission signed a contract with the Los Angeles Olympic Organizing Committee that gave it use of "all of the facilities at the Coliseum" during the games and providing the committee with control "over the sales of tickets for all events."

The latest estimates say the luxury seats could bring in between $6 million and $15 million in ticket sales during the games.

"There are mistakes we made," M. J. Frankovich, president of the Coliseum Commission, told the Times. He said the contract signed July 7 to bring the Raiders to the Coliseum, vacated when the Rams moved to suburban Anaheim, "may be . . . in violation" of the earlier contract the commission signed with the Olympic committee.

The agreement, which has yet to be put in its final technical form, gave Davis complete control over 174 luxury boxes with 12 seats each that he plans to construct at his expense on the Coliseum rim before the 1984 games. The estimate cost of the 2,088 seats is $12 million.

Davis controls the seats for all events staged at the Coliseum, but is obligated to give the commission 25 percent of whatever he collects for Olympic events.

Under the agreement reached with Olympic organizers, the organizing committee was to keep 90 percent of the revenue and the Coliseum Commission was to get the other 10 percent as a rental fee.

Consequently, only the Olympic committee can sell tickets for the games, while Davis controls the best seats available at the Coliseum.

Frankovich said Davis has proposed "a fair deal" in talks with Olympic officials that would leave the Raiders' owner with 50 percent of the revenue from the boxes, with the Olympic committee and the Coliseum Commission evenly splitting the rest.

Olympics President Peter Ueberroth has turned down the proposal, but talks are continuing. Frankovich said, adding, "Both Ueberroth and Davis understand they must settle or someone will go to a lawsuit."

Meanwhile, a state auditor is looking into the finances of the Coliseum to determine if the traditionally self-sustaining complex will need a public bailout to meet its $2.5 million budget. The deal bringing the Raid-

ers to Los Angeles was among the matters being looked into.

[From the Oakland Tribune, Nov. 19, 1982]

OLYMPICS PROFIT FOR AL DAVIS?

(By Kenneth Reich)

LOS ANGELES.—Raiders owner Al Davis stands to make several million dollars from the 1984 Olympics if his disputed contract with the Los Angeles Coliseum Commission—giving him exclusive control over luxury boxes that he plans to build at the Coliseum—is allowed to stand.

The agreement, in effect, gives Davis control over the most valuable seats during the Olympic Games, seats which according to the latest estimates could bring in between $6 million and $15 million in ticket sales during the games.

But Los Angeles Olympic Organizing Committee objections to this arrangement have been stated more and more forcefully in the four months since the Coliseum Commission signed with Davis July 7, and even leaders of the commission have grown uneasy.

Coliseum Commission President M. J. Frankovich, acknowledging in an interview this week that "there are mistakes we've made," conceded that the contract bringing the Raiders to the Coliseum "may be . . . in violation" of the earlier contract the commission signed with the Olympic committee.

The commission's July agreement with Davis, which has not yet been put in final technical form, gave him total control over 174 luxury boxes with 12 seats each, a total of 2,088 seats, that he plans to construct at his expense on the Coliseum rim before the 1984 games. Their estimated cost is $12 million

Davis' control includes all events staged at the Coliseum, not just Raiders games, although he is obligated to give the commission 25 percent of whatever he collects for Olympic events.

But 20 months prior to the Davis agreement, the commission signed a contract with the Los Angeles Olympic Committee giving the committee use of "all of the facilities at the Coliseum" during the Olympics and providing that the Olympic committee "shall retain control over the sale of tickets for the (Olympic) events."

Under this agreement, the Olympic committee was to keep 90 percent of the revenue and the Coliseum Commission was to get the other 10 percent as a rental fee.

Frankovich conceded this week that the Olympic committee has legal control over the tickets.

So, as it now stands, only the Olympic committee can sell tickets to the games, but only Davis can offer the best seats in the house.

But this impasse cannot last indefinitely.

In a memo to Coliseum General Manager Jim Hardy, Joel R. Bennett, a special assistant Los Angeles County counsel, said that objections from the Olympic committee to the pact with Davis are valid insofar as distribution of the Olympic revenues from the luxury boxes is concerned.

"Do you think that (Los Angeles Olympics President Peter V.) Ueberroth . . . will plead a constructive breach of contract and move to the Rose Bowl?" Bennett asked in his memo.

"That might hit Al Davis where it hurts, because of the loan provision of the Raiders' contract giving him a hold on the Olympic rentals."

The loan provision Bennett referred to contains clauses giving Davis loans and credit totaling $6.7 million over the next five years, some of which presumably would be used to help pay for the boxes. And part of the money for the loans may come out of rent the Olympics committee pays for use of the Coliseum during the Games.

Suggestions that the Olympics Committee may move some events irritates some Coliseum Commission members who had a hand in working out the deal with Davis.

Defending the agreement this week, Stanley Sanders, who sat on the commission's three-man negotiating committee, remarked, "The Coliseum Commission can't be held to make a series of different lease agreements completely consistent with each other."

And Sanders added that if the Olympic committee does not like the deal with Davis, it has only two options: It can either refuse to sell tickets to the luxury boxes, leaving them dark during the games, or it can move the Olympics out of the Coliseum.

[From the Los Angeles Times, Nov. 19, 1982]

RAIDERS' DAVIS MAY WIN GOLD FROM OLYMPICS

(By Kenneth Reich)

Raiders owner Al Davis stands to make several million dollars from the 1984 Olympics if his disputed contract with the Coliseum Commission—giving him exclusive control over luxury boxes he plans to build at the Coliseum—is allowed to stand.

The agreement, in effect, gives Davis control over the most valuable seats during the Olympic Games—seats which according to the latest estimates could bring in between $6 million and $15 million in ticket sales during the games.

But Los Angeles Olympics Organizing Committee objections to this arrangement have been stated more and more forcefully in the four months since the Coliseum Commission signed with Davis on July 7, and even leaders of the commission have grown uneasy.

THERE ARE MISTAKES

Coliseum Commission President M. J. Frankovich—acknowledging in an interview this week that "there are mistakes we've made"—conceded that the contract bringing the Raiders to the Coliseum "may be . . . in violation" of the earlier contract the commission signed with the Olympics committee.

The commission's July agreement with Davis—which has not yet been put in final technical form—gave him total control over 174 luxury boxes with 12 seats each, a total of 2,088 seats, that he plans to construct at his expense on the Coliseum rim before the 1984 games. Their estimated cost is $12 million.

Davis' control includes all events staged at the Coliseum, not just Raider games, although he is obligated to give the commission 25 percent of whatever he collects for Olympic events.

But 20 months before the Davis agreement, the commission signed a contract with the Los Angeles Olympic Committee giving the committee use of "all of the facilities at the Coliseum" during the Olympics and providing that the Olympic committee "shall retain control over the sale of tickets for the (Olympic) events."

Under this agreement, the Olympic committee was to keep 90 percent of the revenue and the Coliseum Commission was to get the other 10 percent as a rental fee.

Frankovich conceded this week that the Olympic committee has legal control over the tickets.

So, as it now stands, only the Olympic committee can sell tickets to the games, but only Davis can offer the best seats in the house.

But this impasse cannot last indefinitely.

In a memo to Coliseum General Manager Jim Hardy, Joel R. Bennett, a special assistant Los Angeles county counsel, said that objections from the Olympic committee to the pact with Davis are valid insofar as distribution of the Olympic revenues from the luxury boxes is concerned.

"Do you think that (Los Angeles Olympics President Peter V.) Ueberroth * * * will plead a constructive breach of contract and move to the Rose Bowl?" Bennett asked in his memo.

"That might hit Al Davis where it hurts, because of the loan provision of the Raiders' contract giving him a hold on the Olympic rentals."

The loan provision Bennett referred to contains clauses giving Davis loans and credit totaling $6.7 million over the next five years, some of which presumably would be used to help pay for the boxes. And part of the money for the loans may come out of rent the Olympic committee pays for use of the Coliseum during the games.

Suggestions that the Olympic committee may move some events irritates some Coliseum Commission members who had a hand in working out the deal with Davis.

Defending the agreement this week, Stanley Sanders, who sat on the commission's three-man negotiating committee, remarked, "The Coliseum Commission can't be held to make a series of different lease agreements completely consistent with each other."

And Sanders added that if the Olympic committee does not like the deal with Davis, it has only two options: It can either refuse to sell tickets to the luxury boxes, leaving them dark during the games, or it can move the Olympics out of the Coliseum.

Commission President Frankovich agreed that the Olympic committee has some gripes coming, but he insisted that the way to settle the matter is for the committee to agree to split the revenue with Davis.

Indeed, he said, Davis has already proposed what Frankovich describes as "a fair deal."

Frankovich said that he and Davis had met privately with Ueberroth and his top aide, Olympics General Manager Harry Usher, at the Bel-Air Country Club the night of Nov. 11 said that Davis had suggested that he take 50 percent of the revenue from the boxes, the Olympic committee 25 percent and the Coliseum Commission 25 percent.

Frankovich said that Ueberroth had turned down the proposal but he said further talks are in prospect. "Both Ueberroth and Davis understand they must settle or someone will go to a lawsuit," he remarked.

Usher, speaking for the Olympic committee, responded that while Davis had "thrown some numbers up in the air" during the meeting, he did not believe that a formal proposal had been made. "There's talk, there's always talk sitting in a two-hour meeting, but I think it would not be proper to say there was an offer," he said.

But, he and Ueberroth both reported, Davis had made it plain that he rejected "totally" the Olympic committee's position that the committee's original contract with the Coliseum Commission ought to be en-

forced and that the committee should receive 90 percent of all ticket revenue at the Coliseum, including revenue from the boxes.

"As far as (our) alternatives are concerned" Usher said, "we've had discussions with our legal counsel as to our avenues of legal relief, including the ability to move parts of the things that are planned for the Coliseum area."

However, Ueberroth and Usher both indicated that they are by no means anxious to do this. They fear any move from the Coliseum would alienate both the black community near the facility and high officials at City Hall.

They declined to discuss their options—if agreement cannot be reached—in any greater detail. But they said that they do not intend to give in to what they regard as a breach of their contract. That contract they noted, will bring the Coliseum Commission at least $2 million to $3 million in rental fees and more than $5 million in Olympics-financed refurbishments.

In a brief telephone conversation, Davis declined to comment on the details of the dispute, other than to ask pointedly: "Who's going to build the boxes?"

Coliseum Commission officials emphasized that they feel that the commission had little choice but to give Davis a good deal, even if it contradicted their pact with the Olympic Committee.

Frankovich said, "We were sitting there knowing it was going to be difficult to get an agreement that would coincide with our other agreements."

But the fact of the matter, he explained, was that the commission no longer had the financing it had in 1980—when it first started dealing with Davis—to put in the luxury boxes on its own.

Frankovich said that once it became clear that only Davis could build the boxes, then there was little choice but to give him total control.

And the Coliseum Commission's public relations chief, Glenn Mon, said it is important to appreciate what a tough bargaining situation the negotiators faced in dealing with a professional team executive.

"Al Davis is not unique among professional football owners," Mon said. "They've got to be some of the most greedy piranhas anywhere."

The difficulty the Coliseum Commission faced was also referred to in a memo Asst. County Counsel Bennett wrote to state Deputy Atty. Gen. Norman Flette on the Commission-Davis agreement.

"Presumably, the July agreement might be justified on the ground that Los Angeles is willing to pay or do most anything to get and keep the Raiders," Bennett wrote.

Comment from the Raiders organization came mostly from Irv Kaze, a top assistant to Davis.

He said, "Al signed the lease without knowing anything at all relative to the Olympic lease."

Upon reading the two agreements, however, Kaze said it was obvious that the same attorneys were not used in the two negotiations, since, he said, "a single lawyer would not get involved in such discrepancies."

In fact, the Coliseum Commission did use private attorneys in its talks with Davis but public attorneys, from the state, county and city, in its earlier talks with Olympic officials. Frankovich said that in trying to put the July 7 agreement with Davis in final form, the commission is once again using public attorneys in an attempt to reconcile the two arrangements.

At the Olympic committee, officials estimate that if Davis wins, he could get a $6 million windfall.

Sanders, speaking for the Coliseum Commission, said he thinks Davis' profit will be on the order of $6 million or $8 million.●

YES VIRGINIA, THERE REALLY IS AN UNCLE SAM IN TROY, N.Y.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, on September 11, 1982, a ceremony was held at the gravesite of Samuel Wilson in Troy, N.Y. Mr. Wilson is the gentleman whom we all know so well as "Uncle Sam," and it was in his honor that the title was originated.

Donald McNaughton, a retired editor of the Troy Record, gave the remarks at this ceremony. And since "Uncle Sam" Wilson has had an impact on the Federal Government in so many ways, I wanted to bring Mr. McNaughton's remarks to the attention of my colleagues.

There really was an "Uncle Sam" who played an important role in the history of the United States. My constituents in Troy, N.Y., and I are honored to have had such a highly regarded citizen as "Uncle Sam" Wilson from our area; and I am delighted to bring the observances on September 11 and Mr. Donald McNaughton's speech on that occasion to the attention of my colleagues.

The speech is as follows:

Most of you are familiar with the life and deeds of Uncle Sam Wilson, so my remarks today will not be confined to a mere repetition of these in detail but rather a discussion of the example he set which certainly has played a major role in leading so many of our sons and daughters to fame and immortality in our nation's history.

Born in Menotomy, Mass., which later became West Cambridge and is now Arlington, on September 13, 1766, Samuel Wilson migrated as a youth to Mason, N.H., when he was mustered out as a service boy in the American army during the Revolution. Accompanied by his brother Ebeneezer, he walked to Troy from Mason, N.H. in 1789, unaware that his name would some day capture and dramatize the American tradition.

He arrived here penniless but spurred by the belief that this new country was the land of opportunity, he eventually became one of the builders of Troy. Starting with hard work at odd jobs, he soon saved enough to open a brickyard and his field of business expanded. He established a slaughterhouse with his brother and quickly became known in the community for his honesty, kindness and thoughtful treatment of his employees, as well as his unshakable belief in God and his rigid observance of the Ten Commandments. This won him the love and respect of neighbors throughout the countryside—so much so that they began affectionately calling him their "Uncle Sam."

He was later appointed a Federal Meat Inspector during the war of 1812 and was ordered to furnish 300 barrels of prime beef to the Army. As these were inspected and stamped "U. S.", meaning United States, area soldiers said it meant it was Uncle Sam's beef and soon the sobriquet spread to everything bearing the initials "U. S." and cartoonists began characterizing him as the symbol of our Government.

Thus Troy gave birth to our National Symbol which has stood through the years and inspired so many Americans to greater roles in our Nation's history. Surely this was not an accident that could have just happened to any man. Actually, Samuel Wilson was able to accomplish what he did because of the clean, honorable life he had led, which enabled Americans psychologically to relate to the United States—not as an inanimate expanse of land—but rather as a watchful guardian, a kindly uncle, or yes—even a father, who was devoted to their welfare, who raised their standard of living to the highest plateau ever known to the human race.

When one reflects upon the nation's blessings of freedom to work and worship as they please, to select those who will govern them, to make of their lives what they will, to live out their days without the worry of political persecution, the one responsible for all this who comes to mind is "Uncle Sam"; and this came about because his own life was a living example of everything this great land should be.

Though Samuel Wilson died July 1, 1854 at the age of 88, his spirit has influenced the lives of untold millions of Americans down through the years. How many American fighting men ever went into service without a thought of Uncle Sam, to whom they could relate as everything for which this Country stood? Can anyone doubt that Uncle Sam rode with Lindberg on that first solo flight across the Atlantic for the glory of the United States, or that his spirit did not share that "small step for man, but giant stride for Humanity" with our first astronaut on the moon?

Likewise, the spirit of Uncle Sam has inspired many in Troy. John A. Griswold and John Winslow, during the Civil War, argued long and determinedly for the construction of the ironclad Monitor and cast its armor plates at their Troy foundry, with the result that the course of naval history was changed and Uncle Sam's realm preserved and the same two men, with Alexander Holley, made the first steel from iron ever produced in the United States, at their Troy plant.

Henry Burden devised a machine operated by the world's largest water wheel, to turn out millions of horseshoes so badly needed by the Union Army in the Civil War and later turned out spikes by the millions to unite this great nation by rail from coast to coast. These men, in effect, made Troy the cradle of the nineteenth century industrial revolution. Surely, the spirit of Uncle Sam played its part here. Many more Trojans attained fame in their fields from education, to invention and to sports.

When our Country was threatened by enemies in war, Americans by the millions fought bravely and determinedly to preserve the freedom and good life Uncle Sam had given them, in answer to his call of "I WANT YOU" proclaimed from posters outside recruiting offices throughout the Country.

Unforgettable among these, were two Troy heroes—Lt. Col. William J. O'Brien and Sgt. Thomas A. Baker, both of whom received the Congressional Medal of Honor Posthumously for their part in World War II. Never before had this highest honor

been given to two soldiers of the same city in the same unit, at the same time.

Ladies and gentlemen, all these people and many more represent the spirit of Uncle Sam. They are lasting proof that while his body lies beneath the sod here, the spirit he made famous has remained with us throughout the years and will never die.

Sam Wilson was not just a man who lived and died in the long, long ago. He was a man for whom God had a plan to inspire the people of a great new nation to live like he did—with honor, dignity, respect and justice for all.●

CONFERENCE REPORT ON H.R. 7072

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 7072) making appropriations for the Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-957)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7072) making appropriations for the Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 8, 9, 10, 12, 30, 35, 36, 38, 39, 40, 41, 59, 69, 71, and 72.

That the House recede from its disagreement to the amendments of the Senate numbered 11, 17, 24, 25, 26, 27, 28, 29, 32, 46, 47, 48, 49, 50, 51, 52, 53, 54, 57, 58, 62, 63, and 68, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$452,378,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,927,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$26,533,000;* and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$17,000,000;* and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,760,000;* and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendments as follows:

In lieu of the sum proposed by said amendment insert *$244,966,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendments as follows:

In lieu of the sum proposed by said amendment insert *$2,000,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendments as follows:

In lieu of the sum proposed by said amendment insert *$5,451,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senator numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$267,915,000*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senator numbered 18, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$37,751,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senator numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$51,035,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$4,639,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,403,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$31,912,000; of which not less than $1,480,000 shall be available for the Wholesale Market Development Program*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *22,310*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$123,745,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$12,500,000*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$289,288,000;* and the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *Provided further, That in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: Provided, That if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law; and the Senate agree to the same.*

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$10,565,657,000*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$82,146,000*; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$74,454,000*; and the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$22,892,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 14, 19, 34, 37, 45, 55, 56, 60, 67, and 70.

JAMIE L. WHITTEN,
BOB TRAXLER,
MATTHEW F. MCHUGH,
WILLIAM H. NATCHER,
DANIEL K. AKAKA,
WES WATKINS,
VIRGINIA SMITH,
J. K. ROBINSON,
JOHN T. MYERS,
JERRY LEWIS,
SILVIO O. CONTE,
Managers on the Part of the House.

THAD COCHRAN,
JAMES A. MCCLURE,
MARK ANDREWS,
BOB KASTEN,
MACK MATTINGLY,
ARLEN SPECTER,
MARK O. HATFIELD,
THOMAS F. EAGLETON,
(Except for amendment No. 70)
JOHN C. STENNIS,
LAWTON CHILES,
QUENTIN N. BURDICK,
JIM SASSER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7072) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE GENERAL COUNSEL

The conferees direct the Office of the General Counsel to station an attorney for full-time work in the State of Oklahoma and another in the State of Mississippi. The conferees expect that these attorneys will be co-located with the FmHA offices at Stillwater, Oklahoma, and Jackson, Mississippi. It has come to the attention of the conferees that serious problems have developed in the delivery of Farmers Home programs because of a lack of departmental legal services within those States.

AGRICULTURAL RESEARCH SERVICE

Amendment No. 1: Appropriates $452,378,000 for the Agricultural Research Service instead of $451,530,000 as proposed by the House and $455,201,000 as proposed by the Senate.

For animal health and protection the conference agreement provides $21,468,000 as proposed by the House instead of $23,468,000 as proposed by the Senate.

For range and pasture research the conference agreement provides $6,482,000 as proposed by the House instead of $6,732,000 as proposed by the Senate.

For beef forage research the conference agreement provides $1,500,000 as proposed by the Senate instead of $1,220,000 as proposed by the House.

For dairy forage research the conference agreement provides $2,618,000 instead of $2,318,000 as proposed by the House and $3,000,000 as proposed by the Senate.

For the Beckley, West Virginia, soil laboratory the conference agreement provides $1,809,000 instead of $1,619,000 as proposed by the House and $2,000,000 as proposed by the Senate.

For grasshopper fungus the conference agreement provides $175,000 as proposed by the Senate instead of $153,000 as proposed by the House.

For the control of perennial weeds, including Johnson grass and Bermuda grass, the conference agreement provides $200,000 as proposed by the Senate instead of $144,000 as proposed by the House.

Amendment No. 2: Restores House language which will allow the Agricultural Research Service to construct a fruit and nut germplasm repository at Geneva, New York.

The conferees have agreed that up to $9,000,000 is available for the Human Nutrition Research Center at Tufts University and up to $6,000,000 is available for the Human Nutrition Center at Grand Forks, North Dakota. The conferees will expect that the funding for these two laboratories shall not adversely impact the budgeted amounts for the other nutrition research programs and facilities.

Buildings and facilities

Amendment No. 3: For buildings and facilities of the Agricultural Research Service the conference agreement appropriates $1,927,000 instead of $850,000 as proposed by the House and $2,750,000 as proposed by the Senate.

The conference agreement provides $827,000 for the Old West Veterinary School in Nebraska, instead of $500,000 as proposed by the House and $2,000,000 as proposed by the Senate. The $827,000 provided is to be matched by the State and will provide for the initial planning and design of the facility.

The conference agreement provides $350,000 for a small farm research demonstration station in Oklahoma, as proposed by the House. The Senate bill contained no provision for this research.

The conference agreement provides $750,000 for planning in connection with the establishment of a forage seed center at Corvallis, Oregon, as proposed by the Senate. The House bill contained no provision for this planning.

COOPERATIVE STATE RESEARCH SERVICE

Amendment No. 4: Earmarks $26,533,000 for special research grants instead of $24,409,000 as proposed by the House and $27,280,000 as proposed by the Senate. The following table reflects the conference agreement for special research grants:

	House	Senate	Conference
Soybean cyst nematode	$240,000	$300,000	$300,000
Energy research		500,000	
Aquaculture	240,000	300,000	270,000
Dairy photoperiod	34,000		34,000
Dairy goats	100,000		100,000
Bean flower	99,000		99,000
Peach tree short life		192,000	192,000
TCK Smut		361,000	361,000
Stocker cattle	140,000		140,000
Agronomic studies	110,000		110,000
Dried bean	24,000	25,000	25,000
Sunflower midge		80,000	80,000
Potatoes		300,000	200,000
Biomass energy		1,800,000	1,200,000
All other studies	23,422,000	23,422,000	23,422,000
Total	24,409,000	27,280,000	26,533,000

Amendment No. 5: Earmarks $17,000,000 for competitive research grants instead of $10,000,000 as proposed by the House and $18,000,000 as proposed by the Senate. Within the total provided in the conference agreement $15,000,000 shall be for plant science grants and $2,000,000 shall be for human nutrition research grants.

Amendment No. 6: Earmarks $5,760,000 for the support of animal health and disease research as authorized by section 1433 of Public Law 95-113 instead of $6,000,000 as proposed by the Senate. The House bill contained no provision for this research.

Amendment No. 7: Appropriates a total of $244,966,000 for the Cooperative State Research Service instead of $230,082,000 as proposed by the House and $246,953,000 as proposed by the Senate.

EXTENSION SERVICE

Amendment No. 8: Earmarks $3,000,000 for the urban gardening program as proposed by the House. The Senate bill contained no provision for this program.

Amendment No. 9: Earmarks $7,531,000 for the pest management program as proposed by the House instead of $7,067,000 as proposed by the Senate.

Amendment No. 10: Earmarks $1,020,000 for the farm safety program as proposed by the House. The Senate bill contained no provision for this program.

Amendment No. 11: Deletes House language earmaking $285,000 for the energy extension program.

Amendment No. 12: Deletes Senate language earmaking $702,000 for the nonpoint source pollution program.

Amendment No. 13: Appropriates $2,000,000 for the Renewable Resources Extension Act as proposed by the Senate. The House bill contained no funds for this program.

The conferees are concerned that the current distribution of the funds for the Renewable Resources Extension Act places a greater emphasis on building broad-based support throughout the States rather than targeting funds in a more limited fashion consistent with the purposes of the Act, namely the respective capabilities of their private forests and rangelands for yielding renewable resources and the relative needs for such resources. Therefore, the conferees direct the Department to reexamine the current funding formula in light of the conferees' concern as to the limited availability of funds, so funds can be distributed to States with the greatest need.

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $323,221,000 for the Cooperative Extension Service instead of $321,506,000 as proposed by the House and $321,439,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 15: Appropriates $5,451,000 for Federal administration and coordination of the Extension Service instead of $5,521,000 as proposed by the

House and $5,171,000 as proposed by the Senate. The agreement earmarks $280,000 for two pilot technology transfer projects instead of $350,000 as proposed by the House. The Senate bill contained no provision for this program.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Salaries and expenses

Amendment No. 16: Appropriates $267,915,000 for salaries and expenses of the Animal and Plant Health Inspection Service instead of $266,531,000 as proposed by the House and $270,332,000 as proposed by the Senate. The conference agreement includes the following program amounts:

	House	Senate	Conference
Boll weevil	$1,029,000	$2,846,000	$1,029,000
Pink bollworm	2,408,000	591,000	2,408,000
Range caterpillar		160,000	160,000
Brucellosis eradication [1]	77,796,000	90,896,000	84,346,000
Interstate inspection of livestock	5,199,000	4,709,000	4,709,000
Scabies eradication	493,000		493,000
Screwworm	52,740,000	46,086,000	49,413,000
Veterinary diagnostics	6,328,000	6,015,000	6,328,000
Miscellaneous animal diseases	233,000	224,000	224,000

[1] Includes such sums as may be required for whole herd depopulation.

The conferees direct that the rate structure for brucellosis indemnity payments, which was in effect on November 25, 1982, will continue. Further, the conferees direct the Animal and Plant Health Inspection Service to defer any revision to brucellosis indemnity payments until such proposals are submitted to the appropriate committees of Congress for their review in connection with the 1984 budget request.

The conferees take note that both the House and Senate have strongly expressed their continuing support of the brucellosis eradication program. Consequently, the conferees intend that no reprogramming of brucellosis funds will be approved during fiscal year 1983, and that only a fair share of administrative absorptions will be approved. The conferees will expect the Department to submit a supplemental budget request to fund the boll weevil eradication program when producers in those States pass referenda to pay at least 70 percent of the cost of the program.

Amendment No. 17: Earmarks $1,000,000 for emergency contingency expenses of the Animal and Plant Health Inspection Service as proposed by the Senate instead of $2,500,000 as proposed by the House. The conferees note that the need for contingency funds has been reduced because the Secretary now has the authority to transfer from other appropriations or funds such sums as he may deem necessary to meet emergency conditions for the arrest and eradication of contagious or infectious diseases or pests. The Secretary should exercise this emergency authority to meet needs as they arise, rather than budget for idle contingency reserves or request reprogramming of funds which were appropriated for other specific purposes.

FOOD SAFETY AND INSPECTION SERVICE

The conferees note that the Secretary shares the concern that adequate field supervision be maintained over meat and poultry inspection in the State of Michigan, and has given assurances that he will watch the situation closely to insure that the program in Michigan will operate smoothly during the period that studies related to area offices are being conducted.

ECONOMIC RESEARCH SERVICE

Amendment No. 18: Appropriates $37,751,000 for the Economic Research Service instead of $37,251,000 as proposed by the House and $38,251,000 as proposed by the Senate.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that not less than $66,000 shall be available for preparing and disseminating forecasts of farm sector receipts, production expenses, and net income indicators for the crop year 1983 on a quarterly basis commencing prior to December 31, 1982. The conferees agree that these reports are to cover crops planted in the fall of 1982 and spring of 1983.

STATISTICAL REPORTING SERVICE

Amendment No. 20: Appropriates $51,035,000 for the Statistical Reporting Service instead of $50,823,000 as proposed by the House and $51,185,000 as proposed by the Senate.

The conference agreement provides $62,000 added by the Senate to restore catfish and mink reports.

The conference agreement also provides $150,000 for the acquisition of LANDSAT data instead of $300,000 as proposed by the Senate. The House bill contained no funds for acquisition of LANDSAT data. The conferees have agreed to provide half of the funds requested for LANDSAT data and will expect the Department to renegotiate the contracts for the acquisition of this data. The conferees are convinced that the charges proposed for acquisition of LANDSAT data are excessive and can be renegotiated. The conferees will further expect that the Department will not reprogram any funds for the acquisition of LANDSAT data. However, should renegotiation fail to allow for the acquisition of all the data needed by the Department, the Department will be expected to submit a supplemental request to the Congress for the additional funds.

AGRICULTURAL COOPERATIVE SERVICE

Amendment No. 21: Appropriates $4,639,000 for the Agricultural Cooperative Service instead of $3, 999,000 as proposed by the House and $5,000,000 as proposed by the Senate. The increase of $640,000 over the House bill is based on an increase of $140,000 for the development of criteria cooperative managers can utilize in evaluating the financial performance of their cooperatives and an increase of $500,000 to allow for increased efforts to assist and encourage agricultural cooperatives in international marketing.

WORLD AGRICULTURAL OUTLOOK BOARD

Amendment No. 22: Appropriates $1,403,000 for the World Agricultural Outlook Board instead of $1,353,000 as proposed by the House and $1,453,000 as proposed by the Senate. The conference agreement provides $50,000 for the acquisition of LANDSAT data instead of $100,000 as proposed by the Senate. The basis for this agreement is discussed under LANDSAT data in connection with Amendment No. 20.

AGRICULTURAL MARKETING SERVICE

Marketing services

Amendment No. 23: Appropriates $31,912,000 for the Agricultural Marketing Service marketing services as proposed by the House instead of $30,412,000 as proposed by the Senate. The conference agreement also restores House language earmarking funds for the Wholesale Market Development Program.

The conference agreement includes an increase of $20,000 for the cotton fiber evaluation program to restore the spinning tests.

PACKERS AND STOCKYARDS ADMINISTRATION

Amendment No. 24: Appropriates $8,668,000 for the Packers and Stockyards Administration as proposed by the Senate instead of $8,268,000 as proposed by the House.

FARM INCOME STABILIZATION

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Salaries and expenses

Amendment No. 25: Appropriates $55,962,000 for salaries and expenses of the Agricultural Stabilization and Conservation Service as proposed by the Senate instead of $54,699,000 as proposed by the House.

Amendment No. 26: Provides that the total funds available to the Agricultural Stabilization and Conservation Service for salaries and expenses shall be $370,780,000 as proposed by the Senate instead of $369,517,000 as proposed by the House.

The additional funds are provided for salaries and expenses associated with the restoration of the agricultural conservation program, the forestry incentives program and the water bank program.

Dairy indemnity program

Both the House and the Senate have provided $7,000,000 for the dairy indemnity program. This amount is in recognition of the losses suffered by dairy farmers in Hawaii during fiscal years 1982 and 1983 due to contamination of milk.

On September 21, 1982, the Food and Drug Administration announced a reduction in the action level for heptachlor, from 0.3 to 0.1 parts per million. The conferees expect that the Department will keep the appropriate committees of Congress fully apprised of the effect of this change upon the claims submitted for payment under the dairy indemnity program.

CORPORATIONS

FEDERAL CROP INSURANCE CORPORATION

Administrative and operating expenses

Amendment No. 27: Appropriates $235,200,000 for administrative and operating expenses of the Federal Crop Insurance Corporation as proposed by the Senate instead of $262,140,000 as proposed by the House. The conferees expect the Corporation to continue its work in developing equitable, actuarially sound premium rates. To accomplish this specific goal, the conferees direct full funding of the budget request for underwriting, actuarial, and program development work, and earmark $15,000 within the total provided for administrative and operating expenses for the development of insurance coverage for specific crops in certain counties in Oklahoma.

Subscription to capital stock

Amendment No. 28: Appropriates $150,000,000 for subscription to capital stock as proposed by the Senate instead of $200,000,000 as proposed by the House.

COMMODITY CREDIT CORPORATION

World markets

For agricultural commodities, the world price is the only real price. The rest of the world adds taxes to their world price for their domestic market. We, however, choose to support prices, supposedly to offset cost. Then, if we offer competitively at the world

price, as they all do, they claim "dumping." The error we make is that too many of our people listen to this claim.

As a result, they sell their commodities—we store ours. Thus, we hold an umbrella over the world price and let the rest of the world make the sales.

Export credit sales

The conferees expect the administration to fully utilize the Export Credit Sales direct loan program as necessary to stimulate additional sales of U.S. farm commodities and to help meet international competition. The conferees understand that the administration intends to increase farm exports through an expanded "blended-credit" program. The conferees expect that direct loan program funds provided in this Act be utilized for additional "blended-credit" usage.

Dairy programs

In the opinion of the conferees, the deduction of 50 cents per hundredweight from the proceeds of the sale of milk shall not be in effect, withheld or collected at any time unless surplus Commodity Credit Corporation-owned stocks of dairy products are regularly offered for sale for export to the highest bidder, as authorized by the Commodity Credit Corporation Charter. Lot sizes and delivery dates shall be determined by the Secretary to allow for orderly sales.

Refusing to sell surplus dairy products and then making the farmer pay the cost of that policy is unacceptable. These dairy products are surplus to domestic needs—they are not surplus to world needs. It is unbelievable that our Nation would refuse to sell food when millions of people throughout the world go to bed hungry every night, and then make the farmer bear the cost of that policy. This policy will not work. The history of our efforts at production controls clearly demonstrates that such controls are not a satisfactory substitute for competitive sales abroad.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF RURAL DEVELOPMENT POLICY

Amendment No. 29: Appropriates $2,000,000 for the Office of Rural Development Policy as proposed by the Senate instead of $2,142,000 as proposed by the House.

The conference agreement includes $250,000 for contracts as provided in the House report.

FARMERS HOME ADMINISTRATION

Rural housing insurance fund

Amendment No. 30: Provides that $3,261,000,000 of loans shall be insured as proposed by the House instead of $3,391,000,000 as proposed by the Senate. The conference agreement deletes Senate language providing $130,000,000 for moderate income housing loans. The conferees support the moderate income housing program. However, with current Farmers Home income limits it is highly doubtful that any loans could be made under this program.

Amendment No. 31: Provides that 22,310 units may be assisted under rental assistance agreements instead of 17,560 units as proposed by the House and 27,060 units as proposed by the Senate. The conference agreement provides for renewal of 17,560 units of assisted housing and the addition of 4,750 new units.

Amendment No. 32: Accepts Senate language limiting funds to new agreements.

Amendment No. 33: Provides $123,745,000 for new rental assistance agreements instead of $73,745,000 as proposed by the House and $173,745,000 as proposed by the Senate.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which adds language providing authority to reimburse the rural housing insurance fund for rental assistance payments. This language had been included in prior-year appropriation bills.

Agricultural credit insurance fund

Amendment No. 35: Provides $840,100,000 for real estate loans as proposed by the House instead of $818,000,000 as proposed by the Senate.

Amendment No. 36: Provides not less than $53,100,000 for water development, use, and conservation loans as proposed by the House instead of $31,000,000 as proposed by the Senate.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *: Provided, That 20 percentum of the farm ownership loans and 20 percentum of the operating loans insured, or made to be sold and insured, under this provision may be for low-income limited resource borrowers; guaranteed economic emergency loans under the Emergency Agricultural Credit Adjustment Act of 1978, $600,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Rural development insurance fund

Amendment No. 38: Deletes Senate language which strikes out "For loans to" and inserts "Loans may".

Amendment No. 39: Provides $375,000,000 for water and waste disposal loans as proposed by the House instead of $300,000,000 as proposed by the Senate.

Amendment No. 40: Provides $300,000,000 for industrial development loans as proposed by the House instead of $350,000,000 as proposed by the Senate. The conferees agree that up to $75,000,000 of the industrial development loans (B&I) shall be available for alcohol production facility loans.

Rural housing for domestic farm labor

Amendment No. 41: Restores House language providing that $12,500,000 shall be available for rural housing for domestic farm labor to be derived from the unexpended balances of amounts appropriated under this head in prior years. The Senate bill proposed a new appropriation of $10,000,000. The conferees are in agreement that sufficient carryover funds from prior-year appropriations are available to maintain an ongoing level for this program.

Mutual and self-help housing

Amendment No. 42: Appropriates $12,500,000 for mutual and self-help housing instead of $5,000,000 as proposed by the House and $15,000,000 as proposed by the Senate.

Salaries and expenses

Amendment No. 43: Appropriates $289,288,000 for salaries and expenses of the Farmers Home Administration instead of $286,870,000 as proposed by the House and $291,706,000 as proposed by the Senate. The conferees have agreed that the increase over the House amount shall be available only for the purpose of hiring additional staff at the local county office level to be used for the purposes of servicing the existing loan portfolio including providing counseling to the individual borrowers.

The conference agreement also earmarks $1,300,000 for the circuit rider program as proposed by the Senate instead of $1,000,000 as proposed by the House. The conferees agree that these additional funds are required in fiscal year 1983 due to the fact that the Farmers Home Administration did not contract for these services in a timely fashion in fiscal year 1982.

Amendment No. 44: Amends Senate language which would have provided that Farmers Home Administration farm loans could not be liquidated against the wishes of the borrowers if they meet certain conditions. The conference agreement amends the Senate language to repeat the existing law (7 U.S.C. 1981a) which specifies that the Secretary has the authority to defer payment of principal and interest under certain conditions.

The conferees are concerned that many FmHA family farm borrowers, who have followed good farm management practices and who have a reasonable chance to repay loans in subsequent years, are unable this year to keep current on debt repayment obligations due to low commodity prices, high interest rates, and other adverse circumstances beyond their control. The conferees will expect the Secretary to make maximum use of his discretion under all authorities available to him to avoid loan collection actions that would force out of business these family farmers. The Secretary is, therefore, encouraged to apply, through FmHA, the full scope of his authorities to defer, reschedule or reamortize loan payments and to avoid other servicing actions that would compel such borrowers to involuntarily liquidate their farming operation. The conferees will expect the Secretary and the agency to do everything possible to help family farm borrowers stay in business during their current difficulties.

The conferees also note that although FmHA testified that regulations would be changed to allow borrowers who receive loan deferrals to maintain the lower rates of interest on their loans, final regulations to implement this change have not yet been issued. The conferees will expect expeditious action to correct this.

The conferees will also expect the Department to use every means at their command to encourage the Farm Credit Administration and the banking institutions of this country to work with agricultural borrowers to provide for refinancing or deferral of repayments where appropriate and justified. These financial institutions are outside the control of the Congress. Therefore, it is essential that every effort be made to encourage them to adopt a lenient policy during the period of severe economic stress. Unless such a policy is put into effect, the demands on the Farmers Home Administration will be far beyond their capabilities to serve agriculture.

The conferees remain concerned about the number of homes FmHA currently has in inventory and the need to decrease that inventory. However, it has been brought to the attention of the conferees that FmHA has initiated a policy which limits the availability of single family housing loans on a county-wide basis when the inventory of houses in the whole county appears excessive. This policy is implemented even

though the majority of the inventory may be in one community within a county. The conferees are concerned that this policy artificially restricts the availability of housing loans in communities that have no inventory problems nor are of close proximity to homes in FmHA's inventory. Therefore, the conferees believe FmHA should review this policy and assure the continued availability of FmHA single family housing loans in communities that do not have inventory problems.

RURAL ELECTRIFICATION ADMINISTRATION

Rural electrification and telephone revolving fund loan authorizations

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that the Rural Electrification Administration shall require concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982.

Under a long-standing agreement between the Rural Electrification Administration and the Federal Financing Bank, FFB has reimbursed REA for its billing and collection costs on FFB loans guaranteed by REA. The conferees have been advised that the REA-FFB agreement expired on November 30, 1982, and has not been renewed because of FFB's reported refusal to continue this reimbursement process. In view of the fact that the 1981 amendments to the Rural Electrification Act now direct the FFB to make loans under an REA guarantee at the request of the borrower, FFB's legal obligation to make loans under REA's guarantee is not contingent upon the existence of an agreement between the two agencies. REA is expected to continue providing billing and accounting and related services on existing and new loans made by FFB under an REA guarantee, and FFB is expected to continue reimbursing REA for this service.

Rural telephone bank

Amendment No. 46: Deletes House language providing that appropriation is available only upon enactment into law of authorizing legislation. This language is no longer needed since the appropriation is now authorized by law.

CONSERVATION

SOIL CONSERVATION SERVICE

Conservation operations

Amendment No. 47: Earmarks $3,742,000 for snow survey and water forecasting as proposed by the Senate instead of $3,878,000 as proposed by the House.

Amendment No. 48: Earmarks $3,757,000 for operation of plan materials centers as proposed by the Senate instead of $3,781,000 as proposed by the House.

Senate Amendment No. 47 and 48 adjust the appropriation to reflect the transfer of standard level user charges to a new account.

The conferees will expect the Soil Conservation Service to accelerate the effort to digitize soil survey information and provide cartographic soil intelligence nationwide.

Watershed and flood prevention operations

Amendment No. 49: Appropriates $194,925,000 as proposed by the Senate instead of $189,925,000 as proposed by the House.

The conferees will expect in fiscal year 1983 that the Department fund all watershed project identified by the Soil Conservation Service as being ready for construction in fiscal year 1982.

Resource conservation and development

Amendment No. 50: Adds a new legislative citation to the bill language as proposed by the Senate.

Forestry incentives program

Amendment No. 51: Deletes House language limiting the cost share to 50 percent of the total cost. The conferees will expect the Department to review the cost share program and report to the appropriate committees of Congress as to the impact cost share rates have on the amount of reforestation work accomplished.

TITLE III—DOMESTIC FOOD PROGRAMS

FOOD AND NUTRITION SERVICE

The conferees feel that: (1) national efforts to reduce hunger and malnutrition should continue; (2) a national commitment to vital nutrition programs should continue; (3) the Federal government should retain primary responsibility for child nutrition programs; and (4) State and local governments be given increased responsibility for formulation and implementation of regulations governing such child nutrition programs.

Child nutrition programs

Amendment No. 52: Povides $3,178,000,000 for the child nutrition programs as proposed by the Senate instead of $2,825,781,000 as proposed by the House, and deletes House language providing that the funds are available for the period October 1, 1982 through August 15, 1983.

Amendment No. 53: Provides $896,324,000 for the child nutrition programs by direct appropriation as proposed by the Senate instead of $544,105,000 as proposed by the House. This amount reflects the budget amendment (H. Doc. 97-262) which has been submitted for these programs.

The conferees agree that the distribution of these appropriated funds among the various child nutrition programs is as follows:

Child nutrition programs:	
School lunch program	$442,500,000
Special assistance for free and reduced price lunches	1,824,900,000
School breakfast program	327,000,000
State administrative expenses	47,730,000
Summer food service program	99,400,000
Child care food program	334,800,000
Commodity procurement	94,200,000
Nutrition studies and surveys	2,470,000
Nutrition education and training	5,000,000
Total, Child nutrition programs	3,178,000,000
Transfer from section 32	−2,281,676,000
Child nutrition programs	896,324,000

Amendment No. 54: Deletes House language providing that only claims for meals served after September 1, 1982, submitted to State agencies prior to January 1, 1984, shall be eligible for reimbursement.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that, if funds available for Nutrition Education and Training grants require a ratable reduction, the minimum grant for each State shall be $50,000. The conferees note that they do not intend to address this matter again and suggest that this provision should be requested of the legislative committees.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires school authorities to submit final food service claims to States within 60 days of the claim month, and requires States to submit final reports to USDA within 90 days of the claim month. This language was submitted by the administration as a budget amendment in order to improve fiscal accountability at the local, State and Federal levels.

Special milk program

Amendment No. 57: Appropriates $20,100,000 for the special milk program as proposed by the Senate instead of $28,100,000 as proposed by the House.

Feeding program for women, infants and children (WIC)

Amendment No. 58: Appropriates $1,060,000,000 for the WIC program as proposed by the Senate instead of $652,000,000 as proposed by the House. The conference agreement provides full-year funding. The House bill had proposed that funds be available only for the period October 1, 1982 through May 15, 1983. This agreement reflects the budget amendment which has been submitted for this program.

Amendment No. 59: Deletes Senate language providing that all funds appropriated for the first quarter of fiscal year 1983 for the WIC program shall be allocated to the States immediately upon enactment of this Act. This provision has been overtaken by events.

Commodity supplemental food program

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which specifies that funds for the commodity supplemental food program remain available for a two-year period.

The conferees note that there are difficulties with the current administrative funding provisions of the commodity supplemental food program. However, the conferees have declined to recommend changes in statutory provisions, and urge the legislative committees to review the situation as soon as possible.

The conferees also note that the Secretary now has certain discretionary authorities which he can use to help mitigate the problem. Because not all programs provide the full commodity supplemental food package, it is inappropriate to base a local program's administrative funds merely on the number of people served by the program. Therefore, the Secretary should refine the administrative funding formula under existing law so that local program operators receive administrative funds based on the volume of foods provided by each local operator. The Secretary should also use his existing discretionary authority to supplement the administrative grant to CSF operators with funds from section 32 and CCC because certain food items that are regular elements of the CSF package are paid for with those funds rather than with direct appropriations.

Food stamp program

Amendment No. 61: Appropriates $10,565,657,000 for the food stamp program instead of $10,646,000,000 as proposed by the Senate and $9,291,707,000 as proposed by the House, and deletes House language providing that the funds are available for the period October 1, 1982 through July 15, 1983. This amount, together with the $250,000,000 reserve, provides a total of $10,815,657,000 for the food stamp program. This reflects the budget amendment (H. Doc. 97-262) which has been submitted for this program.

The conferees are concerned that the revised budget request for the food stamp program may be inadequate to support full-year funding. That request is $81,000,000 below the Senate-passed level, and also falls significantly below current Congressional Budget Office full-year estimates. Based on even the most optimistic economic projections, the requested amount may be inadequate to support the program for the entire fiscal year. Consequently, the conferees expect the administration to submit a supplemental request if the program's estimated costs change.

Amendment No. 62: Deletes House language defining the period of time during which reserved funds will remain available.

The conferees note that no funds are provided in this bill for the proposed cash-out demonstration projects. The conferees further note that the purpose of the food stamp program is to help people obtain a more nutritious diet, and that it is questionable whether cashing-out the program could serve this purpose.

Food donations programs

Amendment No. 63: Appropriates $156,266,000 for the food donations programs as proposed by the Senate instead of $165,200,000 as proposed by the House. The conferees agree that $100,000,000 of this amount is for the elderly feeding program.

Food program administration

Amendment No. 64: Appropriates $82,146,000 for food program administration instead of $80,146,000 as proposed by the House and $82,976,000 as proposed by the Senate.

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

Amendment No. 65: Appropriates $74,454,000 for the Foreign Agricultural Service instead of $70,947,000 as proposed by the House and $77,961,000 as proposed by the Senate. The conference agreement provides $3,507,000 for acquisition of LANDSAT data. The House bill had deleted all funds for the acquisition of this data and the Senate bill provided $7,014,000 for this purpose. The House action was predicated on the concern that raising the cost of LANDSAT data from $300,000 in fiscal year 1982 to over $7,000,000 in fiscal year 1983 for essentially the same data was excessive. Therefore, the House had deleted all funds for this program in order to reflect this concern. The conference action of providing one-half of the funds is intended to encourage the Department to renegotiate the contract and provide for a more reasonable price for the LANDSAT data. The conferees wish to stress that they strongly support this program and will expect the Department to carry it on as they have been. Furthermore, the Department is not to reprogram any funds into this program. However, if additional funds are required, then the conferees will expect the Department to submit a supplemental request.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

Veterinary biologics

The Food and Drug Administration and the Animal and Plant Health Inspection Service are now considering initiating the licensing and/or regulation of manufacturers of veterinary biologics products which are not shipped in interstate commerce. These manufacturers have been subject to State regulatory agencies for many years. Considering the number of ongoing high-priority programs conducted by FDA and APHIS, the conferees feel that the proposal to initiate a program during a time of resource constraint is a subject for careful study. Therefore, the conferees direct the agencies to submit a thorough analysis of the advisability and justification of proceeding with this program to the appropriate committees of Congress for their review and possible action.

COMMODITY FUTURES TRADING COMMISSION

Amendment No. 66: Appropriates $22,892,000 for the Commodity Futures Trading Commission instead of $22,592,000 as proposed by the House and $22,999,000 as proposed by the Senate. The conferees note that this level of funding represents a 10.5 percent increase over the 1982 level.

New information provided on December 1, 1982, indicates that automatic data processing (ADP) obligations will be $1,772,000 during fiscal year 1983, and that information provided on August 3, 1982, was erroneous. The information now provided also clarifies the intended use of these funds. It is the conferees' intention that ADP obligations not exceed $1,772,000 during fiscal year 1983. Further, the conferees direct that any change in spending on categories within the total be reported to the appropriate committees of Congress.

TITLE VI—GENERAL PROVISIONS

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that the Agricultural Research Service, Buildings and Facilities appropriation remain available until expended.

Amendment No. 68: Makes a technical correction as proposed by the Senate.

Amendment No. 69: Deletes Senate language which prohibits the use of funds in this Act to place in effect any rule or regulation which would not maintain or enhance the nutritional integrity of the foods available under the WIC program.

The conferees are concerned about maintaining the current nutritional quality of the WIC program. Decisions regarding national standards for the composition of the food package should be made on comprehensive scientific evidence, necessitating the consideration of a food item as a whole and not eliminate any food item based on a single component thereof. Therefore, the conferees direct that any modification in the WIC food package not yet implemented be based on this standard.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 625. Notwithstanding any other provision of this Act, appropriations under this Act to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, are $10,466,057,000, and, as authorized by law, the Commodity Credit Corporation shall carry out an Export Credit Sales direct loan program of not more than $500,000,000 in fiscal year 1983.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement deletes Senate language regarding production of agricultural commodities on highly erodible land which would prohibit payments and loans by the Commodity Credit Corporation and other funds under certain conditions.

The conference agreement includes language fully funding the President's budget amendment which requested a total of $10,466,057,000 for restoration of Commodity Credit Corporation losses. Without these additional funds, the Commodity Credit Corporation would have to shut down all farm programs in January 1983.

The agreement also makes the funds for direct loans for export credit sales discretionary. If commodities now in inventory are offered for sale competitively, as the conferees expect, more flexibility in this program would be appropriate.

Amendment No. 71: Deletes Senate language amending the Food, Drug and Cosmetic Act to establish a new standard of identity for milk. The Senate amendment would have written new, permanent legislation and, therefore, could not be accepted by the conferees.

The conferees point out that adoption of the amendment by the Senate indicates a desire for modification in the minimum standards for fluid dairy products. It is recognized that there is a unique interrelationship of this issue with a number of existing programs administered by the Department of Agriculture. The conferees believe that consideration of these interrelationships and the impact which an increase in these minimum standards would have on these various programs is warranted. Therefore, the conferees recommend review of this matter by the appropriate House and Senate committees at the earliest possible opportunity.

Amendment No. 72: Deletes Senate language which would have required the Secretary of Agriculture to develop a special standby export subsidy program by November 20, 1982, since that date has already passed. The conferees point out that the Commodity Credit Corporation Charter provides full authority to sell surplus U.S. commodities under such terms and conditions as are necessary to protect U.S. interests.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1983 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 amount, the 1983 budget estimates, and the House and Senate bills for 1983 follow:

New budget (obligational) authority, fiscal year 1982	$31,841,329,000
Budget estimates of new (obligational) authority, fiscal year 1983[1]	31,833,247,000
House bill, fiscal year 1983	23,066,954,000
Senate bill, fiscal year 1983	25,155,989,000
Conference agreement, fiscal year 1983	31,733,548,000

Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1982	−107,781,000
Budget estimates of new (obligational) authority, fiscal year 1983	−99,699,000
House bill, fiscal year 1983	+8,666,594,000
Senate bill, fiscal year 1983	+6,577,559,000

[1] Includes $8,749,582,000 of budget estimates not considered by the House.

JAMIE L. WHITTEN,
BOB TRAXLER,
MATTHEW F. MCHUGH,
WILLIAM H. NATCHER,
DANIEL K. AKAKA,
WES WATKINS,
MRS. VIRGINIA SMITH,
J. K. ROBINSON,
JOHN T. MYERS,
JERRY LEWIS,
SILVIO O. CONTE,
Managers on the Part of the House.

THAD COCHRAN,
JAMES A. MCCLURE,
MARK ANDREWS,
BOB KASTEN,
MACK MATTINGLY,
ARLEN SPECTER,
MARK O. HATFIELD,
THOMAS F. EAGLETON
(Except for amendment No. 70),
JOHN C. STENNIS,
LAWTON CHILES,
QUENTIN N. BURDICK,
JIM SASSER,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ALEXANDER (at the request of Mr. WRIGHT), for today, on account of a death in the family.

Mr. MAVROULES (at the request of Mr. WRIGHT), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WHITTAKER) to revise and extend their remarks and include extraneous material:)

Mr. ARCHER, for 60 minutes, December 17.

Mr. CAMPBELL, for 30 minutes, December 13.

Mr. DANNEMEYER, for 60 minutes, today.

(The following Members (at the request of Mr. BONIOR of Michigan) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LELAND, for 60 minutes, today.

Mr. STARK, for 20 minutes, today.

Mr. STRATTON, for 5 minutes, today.

Mr. BAILEY of Pennsylvania, for 60 minutes, December 13, 14, and 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WHITTAKER) and to include extraneous matter:)

Mr. SHAW.
Mr. GILMAN in two instances.
Mr. BEREUTER.
Mr. MOORHEAD.
Mr. BAILEY of Missouri.
Mr. PORTER in two instances.
Mr. HOLLENBECK.
Mr. CONTE.
Mr. LOTT.
Mr. CLINGER in two instances.
Mrs. SNOWE.
Mr. DORNAN of California.
Mr. LEACH of Iowa.

(The following Members (at the request of Mr. BONIOR of Michigan) and to include extraneous matter:)

Mr. DELLUMS.
Mr. FROST.
Mr. ADDABBO.
Mr. FASCELL in three instances.
Mr. RANGEL in two instances.
Mr. FORD of Michigan.
Mr. FORD of Tennessee.
Mr. RODINO.
Mr. MCDONALD in five instances.
Mr. HUBBARD.
Mr. STARK.
Mr. BEDELL.
Mr. AKAKA.
Mr. YATRON.
Mrs. COLLINS of Illinois.
Mr. CLAY.
Mr. FUQUA.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 240. Joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. LELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until Monday, December 13, 1982, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5269. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting a notice of the decision to convert to contractor performance the administrative telephone service function at the Navy Public Works Center, Pearl Harbor, Hawaii, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5270. A letter from the Secretary of Education, transmitting notice that the Office of Education Professional Development has no findings and recommendations for certain of its programs no longer under its control due to the legislative changes that have taken place since the report was mandated pursuant to section 553(c) of the Higher Education Act amendments, as amended; to the Committee on Education and Labor.

5271. A letter from the Commissioner, Rehabilitation Services Administration, Department of Education, transmitting a delay on the report on activities of the Department until June 1, 1983, pursuant to section 13 of the Rehabilitation Act of 1973; to the Committee on Education and Labor.

5272. A letter from the Chairman, Task Force on Environmental Cancer and Heart and Lung Disease, transmitting the fifth annual report of the Task Force, pursuant to section 402 of Public Law 95-95; to the Committee on Energy and Commerce.

5273. A letter from the Chairman, Federal Trade Commission, transmitting the fiscal year 1981 annual report of the Federal Trade Commission, pursuant to chapter 311, section 6(f) of the act of September 26, 1914; to the Committee on Energy and Commerce.

5274. A letter from the Chairman, Foreign Claims Settlement Commission of the United States, transmitting the Commission's annual report for calendar year 1981, pursuant to section 8 of the War Claims Act of 1948, as amended, and section 3(c) of the International Claims Settlement Act of 1949, as amended; to the Committee on Foreign Affairs.

5275. A letter from the Comptroller General, transmitting a report on sharing the cost of Federal water project feasibility studies (GAO/RCED-83-18, December 6, 1982); jointly, to the Committees on Government Operations, Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

5276. A letter from the Secretary of Health and Human Services, transmitting legislative recommendations with respect to reimbursement under title XVIII of the Social Security Act for optometrists' services in connection with cataracts and certain other services, pursuant to section 937(b) of Public Law 96-499; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1501. An act entitled the "Educational Mining Act of 1982"; with an amendment (Rept. No. 97-952). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7316. A bill to establish the national park visitor facilities fund, and for other purposes; with amendments (Rept. No. 97-953). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. House Joint Resolution 553. Joint resolution to authorize Indian tribes to bring certain actions on behalf of their members with respect to certain legal claims, and for other purposes; with amendments (Rept. No. 97-954). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1661. An act to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa, and for other purposes; with an amendment (Rept. No. 97-955). Referred to the Committee of the Whole House on the State of the Union.

Mr. MITCHELL of Maryland: Committee on Small Business. Minority business development efforts of the Small Business Administration (Rept. No. 97-956). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of conference. Conference report on H.R. 7072 (Rept. No. 97-957). And ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 7397. A bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region; with amendments (Rept. No. 97-958). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 631. Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes (Rept. No. 97-959). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X:

The Committee on Agriculture discharged from consideration of the bill (S. 1965) to designate certain lands in the Mark Twain National Forest in Missouri as a component of the National Wilderness Preservation System, and committed to the Committee on the Whole House on the State of the Union, and ordered to be printed.

The Committee on Agriculture discharged from consideration of the bill (H.R. 7340) to designate certain National Forest System lands in the State of Oregon in the National Wilderness Preservation System, and committed to the Committee on the Whole House on the State of the Union, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. COLLINS of Illinois:

H.R. 7404. A bill to provide for the establishment and operation of a national lottery to assist in financing the old-age, survivors, and disability insurance program; jointly, to the Committees on Ways and Means, the Judiciary, and Post Office and Civil Service.

By Mr. FLORIO:

H.R. 7405. A bill to establish a service industries development program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MICHEL (for himself and Mr. PRICE):

H.R. 7406. A bill to designate a certain Federal building in Springfield, Ill., the "Paul Findley Building"; to the Committee on Public Works and Transportation.

By Mr. MURPHY:

H.R. 7407. A bill to restrict the importation of certain steel products during periods when the domestic manufacturing capacity for steel products is underutilized and for other purposes; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 7408. A bill to amend the Natural Gas Policy Act of 1978 to define abuse for purposes of determining whether passthroughs of amounts paid to interstate pipelines for natural gas should be denied, and to deny passthroughs to interstate pipelines for actions which are imprudent; to the Committee on Energy and Commerce.

By Mr. WYDEN:

H.R. 7409. A bill to amend title 18, United States Code, to provide a mandatory penalty for the commission of a third or subsequent robbery or burglary while in possession of a firearm; to the Committee on the Judiciary.

By Mr. CONTE:

H.J. Res. 629. Joint resolution amending Public Law 97-276 to make continuing appropriations for the fiscal year 1983; to the Committee on Appropriations.

By Mr. TAYLOR:

H.J. Res. 630. Joint resolution to commemorate the 150th anniversary of the founding of Greene County, Mo.; to the Committee on Post Office and Civil Service.

By Mr. WHITTEN:

H.J. Res. 631. Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

516. By the SPEAKER: Memorial of the Senate of the Commonwealth of Pennsylvania, relative to delaying implementation of the 50-cent-per-hundredweight assessment on dairy farmers; to the Committee on Agriculture.

517. Also, memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to and accelerated, public works program; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4779: Mr. WIRTH.

H.R. 5088: Mr. DIXON.

H.R. 6348: Mr. DIXON, Mr. LONG of Maryland, Mr. ANDERSON, Mr. DE LUGO, Mr. DORGAN of North Dakota, Mr. THOMAS, Mr. LANTOS, and Mr. FORD of Tennessee.

H.R. 7312: Mr. DORGAN of North Dakota and Mr. RAHALL.

H.R. 7313: Mr. RAHALL.

H.R. 7365: Mr. JEFFORDS.

H.R. 7372: Mr. VENTO.

H.R. 7373: Mr. BEREUTER and Mr. REGULA.

H.J. Res. 590: Mr. YATES.

H.J. Res. 591: Mr. BROOMFIELD, Mr. CONTE, Mr. STANTON of Ohio, Mr. MARTINEZ, and Mr. DYMALLY.

H. Con. Res. 425: Mrs. FENWICK, Mr. HOWARD, Mr. DANIEL B. CRANE, Mr. BROYHILL, Mr. DWYER, Mrs. HOLT, Mr. BEDELL, Mr. PORTER, and Mr. LANTOS.

H. Con. Res. 432: Mr. CONTE AND Mr. BAILEY of Pennsylvania.

H. Res. 606: Mr. SAVAGE, Mr. BEVILL, Mr. WIRTH, Mr. MINISH, Mr. STARK, Mr. PANETTA, Mr. GARCIA, Mr. FAZIO, Mr. DONNELLY, Mr. DELLUMS, Mr. EDWARDS, of California, Mr. WEAVER, Mr. BONKER, Mr. FLORIO, Mr. GUARINI, Mr. FROST, Mr. HOYER, Mr. STUDDS, Mr. WASHINGTON, Mr. BONIOR of Michigan, Mr. NEAL, Mr. LUNDINE, Mrs. COLLINS of Illinois, Mr. GINGRICH, and Mr. SEIBERLING.

H. Res. 610: Mr. TAUKE, Mr. FORSYTHE, Mr. KINDNESS Mr. FISH, Mr. EDGAR, Mr. SKELTON, Mr. EVANS of Iowa, Mr. OBERSTAR, Mr. WALGREN, Mr. BEDELL, Mr. DANIEL B. CRANE, Mr. ROTH, Mr. HORTON, and Mr. CONTE.

PETITIONS, ETC.

Under clause 1 of rule XXII,

674. The SPEAKER presented a petition of Jimmy Bryan Toyota, Fort Lauderdale, Fla., et al., relative to H.R. 5133, domestic content; which was referred to the Committee on Energy and Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5133

By Mr. BETHUNE:

—At the appropriate place, insert the following:

"(c) This section shall not apply unless the United States Trade Representative determines that its implementation shall not cause the United States to be in violation of the General Agreements on Tariffs and Trade.".

—On page 9, after line 12, insert the following:

"(c) This section shall not apply unless the Secretary of Commerce determines that its implementation will not tend to disrupt the export of goods manufactured in the United States.".

—On page 9, after line 12, insert the following:

"(c) This section shall not apply unless the Secretary of Labor determines that its implementation will not frustrate the creation of new jobs in the United States.".

—On page 9, after line 12, insert the following:

"(c) This section shall not apply unless the Secretary of Commerce determined that its implementation will not adversely affect any domestic industry.".

—On page 9, after line 12, insert the following:

"(c) This section shall not apply unless the Secretary of the Treasury determines that its implementation will not add to the U.S. government budget deficit."

—On page 9, after line 12, insert the following:

"(c) This section shall not apply unless the Secretary of Labor determines that its implementation will not tend to increase the Consumer Price Index."

—On page 9, after line 12, insert the following:

"(c) This section shall not apply to any auto manufacturer that receives federal credit assistance."

—On page 9, line 16, strike out "one hundred thousand" and insert in lieu thereof "ten million".

—On page 9, line 16, strike out "one hundred thousand" and insert in lieu thereof, "twenty million".

—On page 9, line 16, strike out "one hundred thousand" and insert in lieu thereof, "thirty million".

By Mr. BROWN of Ohio:

—Page 8, line 3, strike out "For" and insert in lieu thereof "Except as provided in subsection (b)".

Page 8, insert after the table before line 11, the following:

"(b) SPECIAL RULE.—(1) For each model year beginning after January 1, 1983, the minimum domestic content ratio for a vehicle manufacturer that began automobile production or assembly in the United States between January 1, 1980, and December 31, 1982, shall not be less than the applicable minimum content ratio specified in the following table:

Model Year 1984

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 90,000.
Over 900,000	30 percent.

Model Year 1985

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 45,000.
Over 900,000	60 percent.

Model Year 1986

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 30,000.
Over 900,000	90 percent.

Model Year 1987

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 15,000.
Over 900,000	90 percent.

Each Model Year After Model Year 1987

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The ratio determined by the Secretary under paragraph (2).
Over 900,000	90 percent.

(2) The Secretary shall establish the minimum domestic content ratio for each model year after model year 1987 for vehicle manufacturers selling over 100,000 but not over 900,000 motor vehicles in the United States during such year. In establishing each such ratio, the Secretary shall take into account the extent to which changes in the technological and economic factors applicable to the production of motor vehicles in the United States have affected the carrying out of the purposes of this Act, but a ratio established under this paragraph for any model year may not be greater than 50 percent, nor less than the percentage achieved in model year 1987.

(3) If during any model year the level of the automobile production or assembly in the United States of a vehicle manufacturer falls below the production or assembly level of such manufacturer in the United States during the model year beginning after December 31, 1981, then subsection (a) shall apply to such manufacturer.

Page 8, line 11, strike out "(b)" and insert "(c)".

—Page 8, line 3, strike out "For" and insert in lieu thereof "Except as provided in subsection (b)".

Page 8, insert after the table before line 11, the following:

"(b) SPECIAL RULE.—(1) For each model year beginning after January 1, 1983, the minimum domestic content ratio for a vehicle manufacturer that began automobile production or assembly in the United States between January 1, 1980, and December 31, 1982, shall not be less than the applicable minimum content ratio specified in the following table:

Model Year 1984

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 90,000.
Over 900,000	30 percent.

Model Year 1985

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 45,000.
Over 900,000	60 percent.

Model Year 1986

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 30,000.
Over 900,000	90 percent.

Model Year 1987

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 15,000.
Over 900,000	90 percent.

Each Model Year After Model Year 1987

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:	Minimum domestic content ratio:
Not over 100,000	0 percent.
Over 100,000 but not over 900,000.	The number, expressed as a percentage, determined by dividing the number of vehicles sold by 10,000.
Over 900,000	90 percent.

(2) If during any model year the level of the automobile production or assembly in the United States of a vehicle manufacturer falls below the production or assembly level of such manufacturer during the model year

beginning after December 31, 1981, then subsection (a) shall apply to such manufacturer.

Page 8, line 11, strike out "(b)" and insert "(c)".

H.R. 7145

By Mr. PARRIS:

—On page 22 at the end of line 3, insert the following section:

SEC. 216. None of the funds appropriated in this or any other Act may be used to abolish, reorganize, convert or relocate the United States Army Corps of Engineers' Coastal Engineering Research Center from its current location at Ft. Belvoir, Virginia.

[Omitted from the Record of December 9, 1982]

H.R. 5133

By Mrs. FENWICK:

AMENDMENT (1)

—Page 14, after line 11, insert the following new section:

SEC. 7. RELATION TO TREATIES, CONVENTIONS, AND AGREEMENTS.

Notwithstanding any other provision of this Act, nothing in this Act shall be deemed to supersede the terms or conditions of any treaty, international convention, or agreement on tariffs and trade which is in existence on the date of enactment of this Act and to which the United States is a party.

Renumber the succeeding sections accordingly.

By Mr. GLICKMAN:

—On page 15, before the comma on line 8 insert the following: "and on the overall balance of trade between the United States and nations with manufacturers subjected to content ratios under Section 4."; on line 22, delete the word, "and"; on line 24, delete the period and insert in lieu thereof "; and

"(6) on exports of other manufactured and agricultural products from the United States to nations with manufacturers subjected to content ratios under this Act."

EXTENSIONS OF REMARKS

DOMESTIC CONTENT LEGISLATION UNHEALTHY FOR U.S. ECONOMY

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CARMAN. Mr. Speaker, in a short while, this Chamber will begin consideration of H.R. 5133, the so-called domestic content bill. While purporting to boost employment in our Nation's troubled auto industry, the proponents of this legislation seem to have overlooked the damage it will cause to many other sectors of our economy.

If this bill passes, we will face stronger foreign trade sanctions from our trading partners. As a result of these sanctions, the Congressional Budget Office has estimated that over 173,000 jobs will be lost, GNP will be 0.1 percent lower by 1990, and the Consumer Price Index will increase approximately 0.2 percent above its projected level. Our industries most affected by foreign trade sanctions would be agriculture, aircraft manufacturing, and other high-technology industries.

Our international trade plays an increasingly important role in the health of our domestic economy. H.R. 5133 is a threat to our international trade and therefore, our economy.

Mr. Speaker, I submit to you that H.R. 5133 provides us with many more long-term disadvantages than short-term advantages. I urge my colleagues to vote against this bill.●

THE NATURAL GAS MARKETING ACT OF 1982

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mrs. BYRON. Mr. Speaker, I urge you to join Representative HOLT, Representative DYSON, and me in supporting and cosponsoring H.R. 7358, the Natural Gas Marketing Act of 1982. This bill addresses our growing concern with the dramatic increase in the price of natural gas going into effect this winter. The average increase for residents of Maryland alone is 30 percent. But as you are aware, this is not just a regional problem. It is one that is confronting each of us from coast to coast.

What we find is that the combination of the supply incentives of the Natural Gas Policy Act of 1978, and the structural insulation of the gas producer and transmission company from the marketing of natural gas have prevented appropriate signals for price reductions for natural gas costs.

On the heels of the gas shortages of the 1970's, the transmission companies raced to the producers and agreed to sign what now are overly generous contracts in order to be assured of adequate supplies in the future. The transmission companies, fearing a return of their shortage problems, agreed with the producers to include a clause known as "take or pay" in their purchase contracts. These clauses merely state that the pipeline is obligated to pay for a set volume of gas, at a set price, over the life of the contract without regard to the fact that conservation and supply surpluses would dramatically alter their ability to sell the gas at any price.

It is for this reason that we introduce H.R. 7358, the Natural Gas Marketing Act of 1982. This bill does not interfere with the supply incentives in the NGPA, stands alongside the Natural Gas Act of 1938, and is designed to make the natural gas industry market sensitive from the "burner tip of the wellhead."

The bill accomplishes this through two approaches. First, the bill allows from a distribution company or the State public utility commission to petition the Federal Energy Regulatory Commission (FERC) certifying that the proposed rates of the transmission company are not competitive with available and useable alternative fuels within the service territory. Upon this certification, FERC is mandated to suspend the proposed rate increase for a period of up to 6 months. During this period, the transmission company bears the burden of proof to show that the proposed rates are competitive with alternative fuels. If FERC finds the rates are competitive, it is authorized to approve the rates.

Second, if FERC finds that the proposed rate is not competitive with alternative fuels, it is mandated to adjust the rate to make it competitive. Once FERC makes this adjustment, the transmission company is automatically given the right to presume that these contracts, and just the noncompetitive contracts, contain a "market out" provision. This provision, when exercised, gives to the transmission pipeline an opportunity to renegotiate the gas purchase contract(s) if, in the sole opinion of the transmission company, the gas is not marketable in its service territory.

Through this legislation we have accomplished two goals: First, we have assured the ultimate consumers of natural gas that their rates will be the lowest possible. Second, with additional responsibilities to insure natural gas price competitiveness, pipelines will be certain to negotiate with the producers in their own interests. A clear signal will reach the producer that the consumers will not pay the prices being charged. With dwindling demands, the producers will react by reducing the price on their reserves in order to protect their share of the energy consuming market.

I urge my colleagues to carefully consider the contents of the Natural Gas Marketing Act of 1982 and join Mrs. HOLT, Mr. DYSON, and me in this effort to protect the residential natural gas users.

For the benefit of my colleagues, I am including the bill and a section-by-section analysis at this time.

THE NATURAL GAS MARKETING ACT OF 1982, A SECTION-BY-SECTION ANALYSIS

H.R. 7358, the Natural Gas Marketing Act of 1982, would revise the procedures and standards by which the Federal Energy Regulatory Commission (FERC) approves rate increases sought to be charged by interstate natural gas pipelines. Its purposes are:

(1) to assure that the views of the pipeline's wholesale customers with regard to the impact of the proposed rate increase on their ability to resell the gas at retail receive a full and fair hearing;

(2) to establish a minimum standard of conduct for pipelines seeking a rate increase, under which pipelines are held responsible to manage their gas acquisition practices and gas purchase contracts with a view to maintaining their gas prices at levels competitive with alternate fuels; and

(3) to assure that any pipeline rate increase ultimately approved by FERC will not be inconsistent with the marketability of that gas at retail in competition with alternate fuels.

The bill is titled the Natural Gas Marketing Act of 1982.

Section 2 of the bill establishes procedures and legal standards to govern FERC consideration of pipeline rate increase filings. Section 2(a) sets forth the event that will trigger the procedures described in the remaining paragraphs of Section 2. That "trigger" is the filing by a local distribution company or the public utility commission of any state, including the District of Columbia, of a complaint pursuant to section 4(e) of the Natural Gas Act alleging that a rate proposed to be charged by a pipeline is not just and reasonable, and certifying under oath that such proposed rate, taken together with any prevailing lawfully imposed charges for the retail delivery of such gas, results in a retail price for natural gas that is in excess of the per MMBtu equivalent price of a competing fuel currently available to and useable by existing retail customers

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

served by or through any of the pipeline's wholesale customers.

Local distribution companies and state public utility commissions are among those parties that already have the right to file a complaint under Section 4(e) of the Natural Gas Act challenging the lawfulness of any rate increase filing made by an interstate pipeline. Under the Natural Gas Act, FERC has discretion whether to set the complaint down for hearing. This bill describes one particular kind of complaint by these two types of parties which FERC must set down for hearing. If the complainant makes the certification under oath regarding the retail prices of gas and alternate fuels, FERC has no discretion to evaluate the merits of that certification or to deny the complainant a hearing. The complaint may address a proposed purchased gas adjustment (PGA) rate increase or any other type of pipeline rate increase filing.

Section 2(b) provides that, upon the filing of a "triggering" complaint, in addition to setting the matter for hearing, FERC shall suspend the operation of the pipeline's rate increase filing until the issuance of a final appealable order upon completion of such hearing. Under the Natural Gas Act, FERC currently has discretion to suspend the operation of a rate increase filing for any period from one day to five months. Thus the increased rate often goes into effect before the hearing on its lawfulness is completed; the only remedy if the increase is found unlawful is the ordering of refunds to the pipeline's customers. This bill would make suspension of the rate increase until conclusion of the hearing mandatory, and assure that pipeline customers are not required to pay, even subject to refund, an unlawful rate increase. However, Section 2(c) provides that the total suspension period will not exceed six months, only slightly longer than the maximum suspension under the Natural Gas Act.

Section 2(c) provides that, unless otherwise agreed by all parties, FERC shall conclude its hearing and render its final decision on any proposed rate challenged in accordance with this bill within six months from the date the rate increase filing was suspended. Under the Natural Gas Act, a five month limit is imposed on the period of suspension but there is no time limit on FERC's decision-making process. As a result, the proposed rate increase often goes into effect long before the matter is resolved, complaints remain pending for months and even years after the rate in question has been in effect, and the pipeline has no incentive to expedite the hearing or to urge FERC to do so. This bill would assure that FERC proceeds to conclusion of a hearing and issuance of a final appealable order within six months, and create a substantial incentive for the pipeline to expedite the proceeding. If the pipeline and other parties all agree, they may waive the six month time limit, but in that event the proposed rate increase remains suspended and may not go into effect until the matter is finally concluded.

Section 2(d) provides that the burden of proof at the hearing on the rate increase shall be on the pipeline to establish, among other things, (1) that its gas purchase contracts with its suppliers and its gas acquisition practices are designed to maintain its gas prices, taken together with any prevailing lawfully imposed charges for the retail delivery of such gas, at a level competitive with the retail price of alternate fuels in its service territory, and (2) that its average cost of purchased gas and its wholesale rates are and will be adjustable in response to increases and decreases in the retail prices of competitive fuels in its service territory. Under the Natural Gas Act, the pipeline seeking a rate increase already bears the burden of proof to show that the increased rate is just and reasonable. Section 2(d) of the bill describes two specific elements of the showing a pipeline must make in a hearing triggered by a complaint under this bill.

Section 2(e) provides that, if FERC finds that the pipeline has successfully discharged its burden of proof under Section 2(d), FERC may approve collection by the pipeline of all or any portion of the proposed rate. FERC has discretion to find that the entire increase sought is just and reasonable, or to find that some portion of the increase sought is nevertheless not just and reasonable on any ground for which FERC has lawful authority.

Section 2(f) provides that, if FERC finds that the pipeline has failed to discharge its burden of proof under Section 2(d), FERC shall prescribe an adjustment in the pipeline's rates which it finds is sufficient to render the pipeline's rates, taken together with any prevailing lawfully imposed charges for the retail delivery of such gas, competitive with the retail price of alternate fuels in its service territory and which it finds is consistent with the long-term gas supply needs of the pipeline's customers. The adjustment ordered may be all or any portion of the rate increase sought, or it may be a rate reduction. The remedy ordered requires FERC to make two findings. First, it must find what adjustment will render the pipeline's rates competitive with prices of alternate fuels in its service territory. Second, FERC must find that such an adjustment is consistent with the long-term gas supply needs of the pipeline's customers. FERC may revise the adjustment mandated by the first test only to the extent it finds that the second test is not met.

If FERC finds that the pipeline has failed to discharge its burden of proof under Section 2(d), Section 2(f) of the bill further provides that, effective immediately, each of the pipeline's gas purchase contracts shall automatically be deemed to include a "market-out" provision relieving the pipeline of its obligation to purchase the gas if, in the pipeline's sole opinion, the gas is not marketable in the pipeline's service territory. That provision would not preempt existing terms of the contract except to the extent they are inconsistent with the provision dictated by the bill.

Section 3 of the bill sets forth certain limitations on the foregoing sections. Section 3(a) provides that nothing in the bill shall be construed as altering existing law barring unduly discriminatory pipeline rates. This is a reference to, inter alia, Section 4(b) and Section 5(a) of the Natural Gas Act. This bill is not intended to alter the requirements of either of these sections or to condone any pipeline rate or rate structure that would violate either of these sections or any other existing law.

Section 3(b) provides that, in any allocation of costs approved by FERC in connection with a pipeline rate order issued pursuant to this bill, all purchased gas costs shall be allocated equally to all volumes sold. Consonant with the limitation contained in Section 3(a), this limitation precludes FERC from shifting the burden of purchased gas costs from one pipeline customer to another on the basis of the types of, or prices of, alternate fuels available to or usable by their retail customers.

Section 3(c) provides that nothing in this bill shall be construed as giving FERC authority to increase any rate to any customer other than in accordance with a proposal filed by the pipeline. Again consonant with the limitations in Section 3(a) and 3(b), this limitation precludes FERC from prescribing, as the result of a hearing under Section 2, an increase in the pipeline's rates to any customer greater than that sought by the pipeline, or pipeline rates that differentiate among the pipeline's wholesale customers in a manner not proposed by the pipeline.

Section 3(d) provides that nothing in this bill shall be construed as giving FERC authority to alter any charges duly approved by state or local governmental authorities for the retail delivery of gas purchased from the pipeline, or to make any other adjustments in any rate order to take such charges into account. This limitation is designed to make clear that this bill does not authorize FERC to investigate, scrutinize, or otherwise question the difference between any pipeline rate or proposed rate and the resultant retail rate to any customer or customers. These matters are now exclusively within the control of state or local regulatory bodies and do not enter into FERC's decision on the pipeline's rates. Nor may FERC adjust a pipeline rate or rate structure to compensate for variations in the lawful retail markups to various retail customers in the same or different jurisdictions. FERC is thus unable to achieve indirectly what it cannot do directly under this bill.

Section 4 provides the definitional basis of specific terms referenced in the bill.●

AMERICAN INDUSTRIES OPPOSED TO H.R. 5133

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. LENT. Mr. Speaker, tomorrow the House is scheduled to consider H.R. 5133, the Fair Practices in Automotive Products Act of 1982. H.R. 5133 is perhaps the greatest threat to international trade to come before the House in over a decade. This fact is not lost on American industry which is overwhelmingly opposed to this legislation. Some of the groups which have expressed opposition to this antitrade bill are as follows:

LIST OF OPPOSING GROUPS

Aerospace Industries Association of America.
American Association of Exporters and Importers.
American Association of Port Authorities.
American Electronics Association.
American International Automobile Dealers Association.
American Retail Federation.
American Soybean Association.
Auto Importers of America.
Caterpillar Tractor Co.
Certainteed Corporation.
Colonial Sugar Company.
Computer and Business Equipment Manufacturers Association.
Consumers for World Trade.

Continental Grain Co.
Council For a Competitive Economy.
Delaware River Port Authority.
Imperial Sugar Company.
International Apple Institute.
International Association of Ice Cream Manufacturers.
International Hardwood Products Association.
League of Women Voters of the United States.
Lockheed Corporation.
Massachusetts Port Authority.
Milk Industry Foundation.
Millers National Federation.
National Association of Stevedores.
National Association of Wheat Growers.
National Automobile Dealers Association.
National Broiler Council.
National Corn Growers Association.
National Council of Farmer Cooperatives.
National Customs Brokers and Forwarders Association.
National Foreign Trade Council.
National Grain Trade Council.
National Grange.
National Retail Merchants Association.
National Soybean Processors Association.
Philadelphia Port Corporation.
Port of Baltimore.
Port of Portland.
Poultry and Egg Institute of America.
Scientific Apparatus Makers Association.
Semiconductor Industry Association.
The Boeing Company.
The Rice Millers' Association.
U.S. Cane Sugar Refiners Association.
U.S. Chamber of Commerce.
U.S. Council for International Business.
Volume Footwear Retailers of America.
Xerox Corporation.●

AUTHORIZING APPROPRIATIONS FOR THE NUCLEAR REGULATORY COMMISSION

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. BROYHILL. Mr. Speaker, as a member of the Energy and Commerce Committee and a conferee on H.R. 2330, I should like to clarify my disagreement with the colloquy conducted during the December 2, 1982, floor debate between Congressman DOWNEY and Congressman OTTINGER in connection with emergency preparedness plans and temporary operating permits in sections 5 and 11 of the bill. As the original sponsor of the reforms in the Energy and Commerce Committee, I intended the language in this bill to incorporate the principles of section 109 of the 1980 NRC Authorization Act, and of present and continuing NRC regulations relating to low-power operating licenses in our proposals included in sections 5 and 11 of the bill. It was our intention in section 5 to provide for a FEMA-approved State or local offsite emergency preparedness plan prior to the issuance of a final, full-power operating license, or in the absence of such a FEMA approved plan, a determination by the NRC that there exists a State, local or utility off-site plan which provides reasonable assurance that public health and safety is not endangered by full-power operation of the plant. On the other hand, it was our intention in section 11 to set forth the requirements for a more limited, temporary operating license. Such a temporary license is limited to an initial power level not to exceed 5 percent of rated full thermal power. In view of these initial limitations, it was not considered necessary to require an offsite plan, nor FEMA or NRC approval or other determination, and we only provided that some onsite emergency plan for the facility itself be filed with the Commission by the utility, locality or State prior to the granting of the temporary operating license.

There was no intention to, nor does the clear language of section 11 make a distinction between a plan filed by a State, by a locality or by a utility. However, there was an intention to make the distinction, discussed above, between the offsite emergency preparedness plan which is determined by the NRC to provide reasonable assurance that public health and safety is not endangered by full-power operation of the plant or which has been approved by FEMA, under section 5, on one hand, and on the other hand an onsite plan limited to the facility itself which is only required to be filed with the NRC before a temporary operating license for more-limited power operation under section 11 is issued.●

HON. ROBERT K. DORNAN

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. ZABLOCKI. Mr. Speaker, I am pleased to join my colleagues in expressing my appreciation to the gentleman from California (Mr. DORNAN) for his service to this body, his constituents and the Nation.

During the past 2 years, BOB DORNAN has served on the Committee on Foreign Affairs where he has made an important contribution to our foreign policy debates. He has been a conscientious member of the Subcommittees on Human Rights and International Organizations, Africa, and Asian and Pacific Affairs and has been an effective and articulate exponent of his views on a wide range of issues.

While I may not have always agreed with his arguments or positions on some of these issues, I never doubted his conviction, his steadfastness of purpose, or his courage and candor in presenting his case, which always deserved, and I trust received, a fair hearing. We will miss these qualities which he has brought to public life in the years ahead.

I know his colleagues and friends in this body wish him and his family every success in his future undertakings, which I am certain will be carried out with the same dedication and competence which has characterized his work with the Committee on Foreign Affairs.●

THE KIDS WHO SAVED FORT WAYNE

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. COATS. Mr. Speaker, on March 14, of this year, Fort Wayne, Ind., became a nationally known city overnight. Floodwaters poured through the city destroying or severely damaging everything in its path. Through an amazing around the clock volunteer effort by many thousands of our area citizens, Fort Wayne, Ind., was spared incalculable damage from the waters of one of the worst floods in the city's history.

One group of individuals who worked especially long, hard hours were the young people of our city. They volunteered by the thousands to help fill and stack 1 million sandbags. It was through their dedicated efforts that many homes and businesses in Fort Wayne were saved from the rising waters. The spirit of voluntarism and neighborly love that was evident during this crisis represented the true spirit in today's youth.

In the December issue of the Reader's Digest, this spirit was portrayed in an article describing the flood situation and the key role the students played in protecting the city. I believe my colleagues would benefit from reading this article and recognizing how the "spirit of voluntarism" still prevails in our society and accordingly I am entering this article in the RECORD.

THE KIDS WHO SAVED FORT WAYNE

(By Patricia Skalka)

The floodwaters came to Fort Wayne, Ind., with fast-mounting menace. Fed by melting snows, the city's three rivers quickly overflowed their banks. By Sunday, March 14, 1982, cold, dirty-brown water ten feet deep had routed 3000 people from their homes. On Tuesday, the municipal Emergency Operations Center (EOC) called for the evacuation of 9000 more of the city's 173,000 residents. Then heavy rain began pelting down. Floodwaters backed through the sewer system, blowing manhole covers into the air. Earthen dikes built to contain the rivers were saturated and would soon be useless. From the city's east side came an especially dismal report: the Pemberton dike was as soggy as toothpaste.

Two thousand volunteers had helped fill and place 100,000 sandbags along Fort Wayne's river fronts. Ten times that number of workers would be needed if the

city was going to survive. One resource remained untapped: students.

Tuesday night, Mayor Win Moses, Jr., telephoned the city's school superintendent, who agreed to shut those schools not already closed. But because of liability-insurance regulations, he could not ask the students to help. The kids would have to come of their own volition.

Everyone knew the city lay on the brink of disaster. "What if the kids don't come?" someone asked Mayor Moses.

Seven a.m., Wednesday, March 17, David J. Kiester, the man in charge of Fort Wayne's volunteer flood-fighters, walked out to the front steps of Memorial Coliseum for a breath of air. There had been frantic calls almost throughout the night. Edgewater had needed help. Lawton Park had needed help. Floodwaters had threatened the water-filtration plant, the sewage-treatment facility and the main electric transformer station. We can't survive another night like that, Kiester thought.

He peered through a curtain of fog and his heart jumped. He could hardly believe the scene before him. A parade of school buses was moving up the highway toward the Coliseum. One by one, the buses turned into the parking lot, stopped and spilled out a torrent of teenagers. Behind the buses, row upon row of cars, vans and trucks pulled up with even more kids.

"You're sure you're all right?" Ruth Baker called after her daughter as she jumped from their car.

"I'm fine; don't worry," answered Sarah, 15, who was recuperating from the flu. She waved and hurried with her friends toward the Coliseum.

David Kiester blinked back tears as he surveyed the sea of bright faces. The kids had come, lively, energetic, eager to help. Maybe we can beat this thing, Kiester thought.

Wednesday noon hundreds of teen-agers had gathered inside the exhibition hall. Mountains of sand were piled on the floor. With enthusiasm, the kids shoveled sand into pink, green and white bags, tied them and tossed the bags into waiting dump trucks. Bag after bag. Twenty thousand an hour, and still not enough. David Kiester ordered a 20-foot-tall sand mountain set up in the parking lot. "I want 75 trucks filled with bags and ready at all times," Kiester said. The kids gave him his 75 loaded trucks.

In the midst of the toil one young girl began to cry. "I'm worried about my family," she said. "I don't know if they're safe." Another girl, a stranger, hugged her, sat her down on a pile of sandbags, and comforted her.

Near State Boulevard, Mary Zieseniss, 16, and Beverly Linville, 15, hurried toward the Coliseum. "This is the most exciting thing I've ever done," Mary exclaimed as they plodded through two-foot-deep water. Suddenly, Mary spotted an elderly woman, looking exhausted as she struggled to load her belongings into a rowboat.

"Look at her," Mary said, heading across the woman's waterlogged lawn. "The dikes can wait."

For 45 minutes, Mary and Beverly worked alongside the woman, loading her boat, seeing her safely on her way, before they set off again for the Coliseum.

Worried parents phoned city hall, searching for their children who had not reported home. "Where have you been?" one father demanded of his exhausted, mudsplattered, 16-year-old daughter. "I've been fighting the flood," she said quietly. An hour later, the man was at the Coliseum, shovel in hand, to help. "I came with my daughter." "I came with my son." The words became a familiar litany to the volunteer coordinators.

Adults in cars were stopping whenever they saw teen-agers gathered. "Need a ride? Where are you going? Hop in!"

Wednesday Afternoon. Radio station WMEE broadcast a message taped by North Side High School student-council president Terry Lovejoy: "I am appealing to all the students of Fort Wayne to help in this crisis," he said. "The city is depending on us." Waves of new volunteers rolled in, 200 an hour, ready to do battle.

The volunteers had been instructed to rotate off the lines and work indoors every two hours. But Betty Collins, an adult supervisor, saw trucks and buses coming back from work sites nearly three-quarters empty.

"Where are the kids?" she asked one driver.

"They won't leave!" the driver said, "They just keep working."

At West Brook, students helped elderly residents move their furniture away from threatening floodwaters. When a leak sprang at Spy Run, an army of teen-agers repaired it. When a sewer blew at Perry, a division of kids built a wall of sandbags to contain the water.

For the first time in nearly a week, a margin of safety was perceptible. Everywhere but at the Pemberton dike. Five blocks long, Pemberton's retaining wall held back a swell of water ten feet deep and two miles long. If it broke, a wave of destruction would crash through three square miles of homes.

The dike had to be reinforced. On either side of a frame house a mere 30 feet from the dike wall, a row of teen-agers passed sandbags weighing 50 to 80 pounds each. Thump, thump, thump. Arm to arm. Catch. Twirl. Toss. Off the truck, down the driveway, over the fence, through the yard. Thud. Onto the dike. Adults made decisions. They worried and wondered. The kids worked.

8 p.m., Wednesday. City transportation director Carl E. O'Neal walked the Pemberton dike. "It's leaking like a sieve," he radioed to the EOC. An hour later, as he walked into EOC headquarters, O'Neal heard a frantic message crackle from the radio: "The dike is moving!" O'Neal raced back to Pemberton. Weary or not, the volunteers would have to reinforce the dike further.

11:30 p.m. Police issued an evacuation order to the few residents near Pemberton who remained in their homes. "You are in immediate danger. Please leave now."

Midnight. Eight hundred kids kept the bags moving. "Heavy one. Easy one. Don't stop."

As Mayor Win Moses walked through the ankle-deep water in front of the dike, an eight-year-old boy staggered past. He held on to a sandbag with both hands, dragging it. "Mr. Mayor," a man said, "that's my son. Last week he wouldn't even take out the trash."

Fifteen lines of teen-agers were now moving 25 sandbags per minute per line, building an emergency wall in front of the saturated earthen dike. They were singing. "Oh when the saints . . . Go marching in. . . ." The kids were singing! "Oh when the saints go marching in. . . ."

The kids sang to keep going, to keep the sandbags moving. They sang to win. they sang because it is the nature of youth to turn a bravura face to danger.

2 a.m., Thursday, March 18. The Pemberton dike was giving way. A hole three feet wide opened in the dike. One block north, another. Water poured through.

Police sirens and bullhorns pierced the darkness. "Get everyone out of here. Evacuate *now*. All volunteers out of the area."

"We want to stay," insisted Brett Thomas, 18, a high-school junior. "We can fight it."

A circle of teens, mud caked on their faces, conferred among themselves and voted against leaving. They stood near an empty truck refusing to climb on. "We'll wait. Let us just wait and see."

Somehow, thanks to shifting earth, thanks to desperately tossed but well-placed sandbags, the holes were sealed. The torrents became trickles. The message came from headquarters: "If the volunteers want to stay—let's give it a try."

All night, the kids worked. Slowly, the wall of sandbags began to take shape. It crept higher and wider by the hour, spreading around tree trunks and swing sets, creeping toward houses and filling up carports and garages.

The volunteers ignored aching arms and sore backs. But a prediction of rain worried them.

"If it rains, everything will be lost."

"We can't give up."

"What can we do?"

"Pray for lighter bags." And they laughed.

Dawn, Thursday, Teen-age reinforcements poured into the Coliseum. "I've been working on the lev—ee," they sang as they shoveled sand into bags and waited their turn to work the dikes. By midmorning, 5,000 volunteers crowded the arena, and more kept coming. At Pemberton, 1,500 students continued the work begun by the indomitable crew of the night before. Their dam grew taller, 9 feet high in spots, 15 feet thick. "We will win or lose at Pemberton." Mayor Moses told the city.

In the middle of a break from sandbagging, North Side High School principal Daniel G. Howe encountered two boys he had expelled for misconduct. He had heard that they were kids who didn't care about anything. Yet here they were, working hard.

"Aren't these kids grand?" a man remarked.

"These kids have always been grand," Howe said, "People just never gave them the chance to prove it."

That night the Maumee River rose to 25.93 feet, two inches below the all-time high-water mark set in 1913. The sandbag dam at Pemberton also grew higher. Ten feet, 11 feet. Finally, some 27 hours after the monumental effort had begun, the job was done. At 2 a.m. Mark Meister, president of the National Honor Society at Concordia High School, tossed his last sandbag of the day. Except for a two-hour break, he'd been working the dam since seven the previous morning. Now, covered with mud and exhausted, he could hardly believe what he heard; they could go home.

The secondary dam was finished. It stood 12 feet high, measured 30 feet across, and stretched for five blocks. Each of its 300,000 sandbags had been filled, tied, tossed and thumped into place by hand. It was awesome.

But would it hold?

Friday, March 19. Rain fell. The volunteers filled additional sandbags, watched the rain fall and waited.

At noon, it was still raining. But the dam held. At 5 p.m. the word came that the

Maumee River had dropped to 23.89 feet. And still the dam held.

The weather bureau issued a new forecast. No further rain was predicted.

Saturday, March 20. Fort Wayne returned to business as usual. In all, an estimated 50,000 people had joined the flood-control effort, nearly 30,000 of them students. At one stage eight children of the Hewitt family, ages 12 to 28, had worked the dikes with their father, Gene. Rachel Hewitt, 15, had put in a 52-hour shift.

At the Pemberton dam, a general from the Army Corps of Engineers surveyed the students' work. Later he told Carl O'Neal that the kids of Fort Wayne had performed an engineering miracle. "They did the impossible," the general said. "They did what could not be done."

Carl O'Neal cried.●

URANIUM MILL TAILINGS, TEMPORARY OPERATING LICENSE AND EMERGENCY PREPAREDNESS PLAN COLLOQUIES ON NRC AUTHORIZATION BILL (H.R. 2330)

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. LUJAN. Mr. Speaker, on December 2, 1982, during floor action on the Nuclear Regulatory Commission authorization conference report for fiscal years 1982 and 1983 (H.R. 2330), several floor colloquies occurred. These are recorded in the CONGRESSIONAL RECORD of that date beginning on page 28560. As a conference member, I indicated on the floor at that time that I had not had an opportunity to review these colloquies, that the general level of noise and activity on the floor made them difficult to follow, and I therefore did not know if I could agree with their phrasing. Having now had an opportunity to study them in detail, I would like to comment further on my understanding of the intent of the conference agreements.

Mr. Speaker, I fully support thorough and adequate regulation of the hazards posed by uranium milling activities. However, I believe that this regulation must also be reasonable and not impose burdens whose major attribute is simply to drive up costs and put more uranium miners out of work. There are enough unemployed uranium miners in my State already. In sum, I am concerned that regulations not only be adequate to protect the public but also that they be reasonabale and supported. In light of some possible confusion on the issue, I feel it advisable to clarify the intent of the conferees, of which I was one, concerning the regulation of uranium mill tailings as provided in sections 18 through 22 of the NRC authorization bill. I, along with the other conferees, of course intend that all reasonable regulatory measures necessary to protect the public health and safety be implemented. However, it is important to note that this does not translate into congressional approval for certain actions taken by NRC and EPA. In particular, the conferees in no way intend the bill to be interpreted as a ratification of any or all of the NRC regulations known as the Uranium Mill Licensing Requirements. Indeed, many of us were troubled by numerous indications that the regulations were largely devoted to minimizing radon flux from tailings piles but that the radon emanating from the piles did not pose a significant risk to the general population or, for that matter, to local residents. Obviously it makes no sense to impose costly regulations on the industry and on taxpayers to address insignificant risks. NRC and EPA must review this question and, before imposing substantial regulatory burdens, must actually ascertain that a risk is significant by comparing it to other risks which we as society view as significant. Many of us were also troubled with indications that NRC and EPA may not be formulating regulations whose costs stood in a reasonable relationship to their expected benefits. The agencies, however, assured us that they either were doing so or would take action to conform, and we decided for purposes of this bill to take them on their word and not to make any finding that they had in fact performed adequately. I emphasize that we all believed that it would not be sufficient for the agencies simply to examine whether their regulatory impositions were "feasible"—that is, that their requirements would not bankrupt the Government or private industry. We all felt that some kind of balancing is required. We decided to clarify our intent that the agencies regulate only significant risks and that their requirements exhibit a reasonable relationship between costs and benefits by adopting section 22. To reiterate, I can state absolutely and unequivocally that we did not and do not intend in any sense to ratify or to give any congressional imprimatur to all or any portion of NRC's regulations. We left the question of the validity and lawfulness of these regulations to the courts. We accordingly decided not to suspend the NRC regulations ourselves but to leave that issue to the courts, and the courts may decide to take such action if, among other things, MRC fails to demonstrate in a supportable fashion that radon poses a significant risk and that its requirements exhibit a reasonable relationship between costs and benefits.

Finally, many of us felt that, as Congress originally intended in 1978, EPA should issue its final standards in advance of NRC regulations and DOE remedial action. However, we were also concerned about EPA's inability to devise and to publish reasonable standards and we desired the regulatory program to proceed. We have accordingly modified the law to permit DOE remedial action in response to proposed standards and to permit NRC to issue regulations in the absence of EPA standards. This in no way suggests approval of any proposed standards emanating from EPA. It simply reflects our frustration with the tardiness of the Agency.

Mr. Speaker, I wish to add a few comments on the issue of State regulations of mill tailings. Under the Atomic Energy Act, certain States, known as "agreement States," are allowed to regulate their mill tailings instead of the NRC. However, the agreement State must impose requirements which, "to the extent practicable," are at least as stringent as those developed by the Federal Government. Under this language, the agreement State may adopt differing and less stringent requirements if those at the Federal level are impracticable. An agreement State's program can be revoked by NRC only pursuant to notice and a hearing before the five commissioners themselves. We reaffirmed these basic principles in adopting section 19.

Mr. Speaker, let me now express the intent of the Members who originally proposed and amended the language in section 5 relating to emergency preparedness plans, and in section 11 relating to temporary operating licenses. I consider the floor colloquies on these sections to inaccurately reflect the conferees' agreements and the clear language of those sections in the bill itself.

A temporary operating license is limited initially to low-power operation of up to 5 percent of rated full thermal power of a plant. Due to these limitations, there is no need for an approved offsite emergency preparedness plan such as that contemplated under section 5, and so the clear language of section 11 of the bill merely provides that some plan must be filed with the NRC prior to the issuance of a temporary operating permit; it need not be approved by FEMA nor determined by the NRC to meet the requirements of section 5 since the only requirement of the bill is for filing prior to the issuance of a temporary operating license. Thus the requirements for a full power operating license and a temporary operating license are not exactly the same under the clear language of the bill.

Similarly, with respect to the type of emergency plan, the bill makes a distinction between an onsite emergency plan limited to the facility itself for a temporary operating license under the amendment of section 11 to section 192a(4) of the Atomic Energy Act, and a final, full power operating license that should have a more complete emergency preparedness plan either

approved by FEMA or determined by the NRC to provide reasonable assurance that public health and safety is not endangered by full power operation of the plant under section 5. Thus the filing of much more limited onsite "plan for the facility" is all that is required under section 11. Should the temporary operating license under section 11 be amended in staged increases to finally become a full power operating license, it is clearly our intention, as expressed on pages 27-28 of the conference report, that "ultimately every nuclear powerplant will have applicable to it a State emergency response plan that provides that the public health and safety will not be endangered in the event of an emergency at such plant requiring protective action" as determined by the NRC or as approved by FEMA. Thus, the clear language of the statute makes a distinction between a limited "plan for the facility" filed for a temporary license under section 11 and a final, State emergency response plan approved for a full power license under section 5.

Finally, a distinction is indeed made in section 5 between a State or local plan which is FEMA approved and a utility—or State or local plan—which the NRC may determine exists and is adequate in the absence of a FEMA-approved State or local plan. This distinction is not contained in section 11 which only requires that a "(s)tate, local or utility emergency preparedness plan for the facility" be filed with the Commission in order for a temporary operating license to be issued.

Frankly, these provisions—allowing a utility to file an onsite plan for a temporary operating license, and allowing the NRC to determine that an adequate offsite plan of a utility exists in the absence of an FEMA-approved State or local plan for a final, full power license—were included to insure that Federal premption in the area of nuclear power would not be frustrated in the emergency planning area by foot dragging on the part of a reluctant State or locality. The wisdom of including such Federal provisions is underscored by the situation which we understand exists in one district where a county has sued to try to enjoin its State from approving an emergency plan. The clear language of the statute and our intent throughout the legislative process was to insure that a plant could operate if there existed some plan—State, local or utility sponsored—providing reasonable assurance of the public health and safety.●

AUTHORIZING APPROPRIATIONS FOR THE NUCLEAR REGULATORY COMMISSION

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. BROYHILL. Mr. Speaker, as an original sponsor of the vital licensing reforms contained in the fiscal year 1982-83 Nuclear Regulatory Commission authorizations bill, I would like to clarify certain elements in the legislative history.

My remarks are addressed to the so-called Sholly amendment which authorizes NRC to issue amendments to operating licenses for nuclear powerplants in advance of any requested hearing if the NRC determines that the amendment involves no significant hazards consideration. The amendment directs the NRC to issue regulations establishing standards for such determinations.

The conference version of the Sholly amendment contains two provisions not included in the bill previously passed by the House. It would require NRC to consult with the affected State before making a determination of no significant hazards consideration. It would also require public notice and opportunity for public comment on any such proposed determination. I have no objection to those additional safeguards, but I am also assured that they do not alter the basic intent of the amendment to give NRC the final say in the technical judgments involved in making its determination.

NRC has already published proposed standards, which I understand NRC plans to adopt, for making determinations of no significant hazards consideration. They would permit such a determination only upon a three-part finding that the proposed amendment, first, would not involve a significant increase in the probability or consequences of an accident previously evaluated; second, would not create the possibility of an accident of a type different from any previously evaluated accident; and third, would not involve a significant reduction in a margin of safety. If the amendment failed to meet any of these tests, NRC would afford an opportunity for hearing in advance of issuance of the amendment even if NRC decides on the merits in favor of the amendment.

NRC's approach appears responsive to the expressed intention of the conference report that NRC's standards should, to the extent practicable, draw a clear distinction between those amendments which do or do not involve a significant hazards consideration. It is obvious, however, that for many amendments NRC will have to do a careful review and make a technical judgment as to whether the amendment meets NRC's standards. I am sure that NRC will take into account any comments it receives from the State or interested members of the public. It is my understanding of the intent of the Sholly amendment, however, that no opponent of a license amendment could hold up issuance of the amendment by asking for a prior hearing simply because he disagreed with the NRC's judgment.●

SECRETARY OF TREASURY REGAN'S CALL FOR A NEW BRETTON WOODS CONFERENCE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. KEMP. Mr. Speaker, I applaud the suggestion by Treasury Secretary Donald Regan for an international monetary conference along the lines of the Bretton Woods Conference of 1944. While the Secretary is not proposing a specific kind of monetary system established at that conference, it is clearly time for us to reexamine the part played by the breakdown of Bretton Woods in our economic decline over the past 15 years or so.

I am convinced that the prosperity and the vast expansion of world trade which we enjoyed from 1945 to 1971, were in large part made possible by the stability of the Bretton Woods system which was based on a common international money, the gold backed U.S. dollar. The "use" of this common money made possible a system in which exchange rates were substantially stable over time, so that people could trade their goods internationally without fear of suffering windfall losses. The system of often wildly fluctuating national paper currencies which began in 1973 has greatly increased the risk of trade, diminished its volume, and contributed directly to the growing move for trade protectionism.

A number of House Members have cosponsored the Balanced Monetary Policy and Price Stability Act, which would require the administration "to request a conference of the Board of Governors of the International Monetary Fund for the purpose of considering reforms of the international monetary system which would promote price stability, financial confidence, and expanded world trade." As a coauthor of the bill, together with House Republican Whip Trent Lott, I wholeheartedly welcome Secretary Regan's initiative.

In the hope that my colleagues will become more aware of the pressing need to reform the international monetary system, I would like to insert

into the RECORD at this point articles from today's New York Times, Washington Post, and Wall Street Journal concerning Secretary Regan's suggestions.

The articles follow:

[From the New York Times, Dec. 7, 1982]

U.S. ASKS INTERNATIONAL MONETARY CONFERENCE

(By Clyde H. Farnsworth)

WASHINGTON, December 6.—The Reagan Administration disclosed today that it wants to convene an international conference similar to Bretton Woods in 1944 to improve the world's monetary system and to deal with the mounting debt of developing countries and rising worldwide unemployment.

Treasury Secretary Donald T. Regan said at a meeting with reporters that he would take the initiative in discussing such a conference with finance ministers from Britain, France, West Germany and Japan at a meeting in Frankfurt on Thursday. Mr. Regan said the world's economic problems were being handled on an ad hoc basis as emergencies arose, such as the debt repayment crisis in Mexico.

"What I'm suggesting is that we have to have some better way of operating," he said. His objectives for the proposed monetary conference, he said, would include exploring ways to control inflation, change monetary practices and deal with currency problems. He said he was seeking to achieve "viscosity," or less fluctuation in the value of the world's major currencies. This, he said, could be achieved through a convergence of international economic policies, especially those dealing with taxation and money supply. Both play key roles in the health of the economy of every nation.

"I am suggesting that we concentrate on the problems," he said. "If I knew a specific solution, I would offer it. We need thought and formal discussion."

Mr. Regan described his call for a conference as a "personal" initiative, but he said he had taken it up with other members of the Reagan Cabinet. He returned over the weekend from a trip with the President to Latin America where that region's debt problems were discussed.

The Treasury Secretary explained that he was not calling for a return to fixed exchange rates for currencies, which grew out of the conference at Bretton Woods, N.H., and lasted until 1973. Since then the major currencies have floated freely in relation to each other.

Mr. Regan also said the Administration had not changed its views against intervening in the foreign-exchange markets unless conditions become chaotic.

Up to now the Administration has avoided any talk of a new Bretton Woods. That conference established postwar monetary order by creating the International Monetary Fund and the International Bank for Reconstruction and Development, popularly known as the World Bank. Both of these institutions lend to countries in financial trouble and have come to be regarded as the pillars of international cooperation on economic issues.

The Administration's position has been that monetary conditions would improve on their own. Until recent months, for example, the Administration had opposed an increase in the $66 billion pool of lendable resources that the I.M.F. uses to help countries in trouble. The Administration is now supporting an increase between 40 and 50 percent in addition to enlargement of a special crisis fund for the I.M.F. to $20 billion from $6.8 billion.

Mr. Regan said today that the problems had become more serious with world disinflation causing a squeeze on financial resources and blocking trade. And there are "enormous risks," he said, because debt problems of the third world could cause confusion in the huge overseas Euro-dollar market, where dollars are lent and relent with no overall controls.

"The groundwork has to be laid for some kind of international meeting," Mr. Regan insisted, "but it will take a long time."

Just a few days ago the major trading nations of the world wound up a ministerial meeting called to discuss trade issues. After some fierce fighting between the United States and Europe, the meeting ended with a consensus that protectionist measures should be resisted.

Mr. Regan said the proposed monetary conference would complement the Geneva trade conference. He was asked how countries that disagreed so widely on trade could agree on monetary issues. "I think the pressure of recent events indicates even more the necessity for such stability," he said. "I think also that most nations are groping for a solution to these problems."

While the President and Mr. Regan were in Brazil, it was announced that the United States was lending Brazil $1.2 billion in an emergency "bridge" loan to help Brazil out until it starts receiving funds from a $6 billion drawing from the International Monetary Fund that it has just applied for. Mr. Regan said this typified the ad hoc approach that could be improved with refinements in the workings of the monetary system.

The coming Frankfurt meeting will be an informal gathering of finance ministers of the five leading Western industrial countries. Such meetings of the so-called Group of Five are generally held in great secrecy. Usually the site is not even announced.

Mr. Regan's decision to go public with what he wants to discuss was seen as an indication of the importance he attaches to the initiative.

The first reaction from other governments was generally favorable. "I am a bit astonished to see this initiative from the United States," said Wolfgang Glomb, financial counselor at the West German Embassy in Washington. "Until now this sort of talk has been coming mainly from Europe. There is certainly a need for greater cooperation.

A British official here, who asked not to be identified, said, "It sounds fascinating, and I'll be anxious to hear more."

[From the Washington Post, Dec. 7, 1982]

REGAN SEEKS MONETARY OVERHAUL

(By Hobart Rowen)

Treasury Secretary Donald T. Regan yesterday called for an overhaul of the international monetary system because the global problems caused by recession "continue to grow more serious."

Regan said he will ask finance ministers of the major industrial nations to consider ways to ensure a faster and more coordinated response by governments and lending agencies to cope with critical credit shortages in the Third World.

His unexpected announcement appeared to be one more reflection of an increasingly grim assessment by the Reagan administration of the world economic outlook since the annual meetings of the World Bank and the International Monetary Fund in Toronto in September.

Regan said he would bring up his proposal for the first time Thursday at a dinner meeting in Frankfurt, West Germany, with his fellow finance ministers from West Germany, Britain, France and Japan.

To achieve the end result he favors, Regan said a worldwide conference might have to be called to set it on track. But he stressed that "we are not yet ready for another Bretton Woods"—site of the 1944 conference setting up the IMF and World Bank. "We are still groping toward a solution," Regan said.

In answers to questions, Regan said that one purpose of a reorganized system would be to introduce more stability in the exchange rate system, although he denied he was advocating a move from present fluctuating rates back to the old pattern of fixed rates.

Since the World Bank and IMF meetings in September unemployment has increased almost everywhere, and pressures have accelerated for emergency measures to prevent defaults in the Third World that might also threaten the commercial banking system in the richer nations.

The Reagan administration has already approved, in principle, a major increase in funding for the IMF, whereas in Toronto, its insistence on merely a minor increase created a stalemate.

But yesterday, Regan told reporters that the present "ad hoc" basis of relations among the IMF, the Bank for international settlements in Basel, and the major nations' central banks that help finance Third World problems must be abandoned so there can be "a faster response" to the needs of less fortunate nations.

The "Group of five" session of the leading finance ministers and central bank heads to take place in Frankfurt Thursday is one of a regular series. This one is expected to make a final decision on the extent to which IMF quotas—deposits paid into the IMF by members—should be boosted as one way of enlarging the IMF's lending potential for the rest of the 1980s.

Third World nations have accumulated an estimated $500 billion to $600 billion in debt to the industrial nations and their commercial banks. Without additional loans from the IMF and the commercial banks, some defaults are possible: already, much of this debt has had to be "rescheduled," a euphemism for postponement and softer terms.

Regan made his announcement at a media briefing on his trip planned for this week to Frankfurt, and to Brussels for trade discussions with the European Community. His ideas are not committed to paper, he said, and will be presented to the five finance ministers "on an informal basis."

Regan said that his initiative was a personal one, not yet adopted by the Reagan administration. But he said he had discussed it informally with his Cabinet colleagues.

Pressed for details, Regan responded repeatedly that "I'm just trying to get the thinking started on this issue. . . . The groundwork has to be laid for some kind of financial meeting, it will take a lot of time."

Regan also officially confirmed that the United States seeks a meeting of the IMF's policy board, the Interim Committee, in late January or early February, 1983, instead of the planned April date, to settle on the quota issue.

As a companion measure, it is expected that the Group of Ten richest industrial na-

tions will also increase the funds they make available through the IMF. The quota and the Group of Ten moves together would boost IMF hard-currency resources by nearly $30 billion.

But Regan's proposal yesterday for a revamping and reorganization of the international monetary system—although still preliminary—went far beyond the immediate problem of boosting IMF resources.

He appeared to have been influenced by his trip to South America last week with President Reagan, where he said they observed that the impact of the recession, which stimulates the forces of protectionism, "is even more pronounced" than it is here or in Europe.

"The less developed countries who have to go to the IMF for help are all told one thing by the IMF, which is that conditions require that they export more and import less.

"But that creates a puzzle, because the industrialized nations are trying to export more and import less. How can every nation do this simultaneously and still maintain an international trading system?" he asked rhetorically.

He responded that "the only thing that can be done is for all of us to share the misery, and not try to insulate ourselves from it."

Regan said that the pressures brought about "in this period of disinflation" result in a series of uncoordinated moves—consideration of the IMF quota increases, and "bridging" [temporary] loans by the BIS. "There is a lot of ad hoc to this, like our own loans to Brazil and Mexico," he said.

"There's no overall symmetry—I'm not knocking the IMF, but we don't get the [needy] nations to the IMF soon enough."

[From the Wall Street Journal, Dec. 7, 1982]

U.S. SAYS IT IS READY TO HELP STABILIZE ECONOMY OF WORLD

WASHINGTON—The Reagan administration signaled it is worried enough about growing world economic strains to go along with expanded international efforts to cope with the problem, but it still isn't backing any sweeping new proposals.

Treasury Secretary Donald Regan told reporters at a briefing yesterday that he thinks the major industrial powers should consider various approaches to stabilize the troubled global financial system. He said these include creation of a faster loan-disbursing agency to help debt ridden countries keep afloat while waiting for International Monetary Fund loans to be approved; reduction of protectionist trade barriers, and closer coordination of broad economic policies to help minimize volatility in the foreign-exchange markets.

At the same time, however, Mr. Regan rejected any more sweeping proposals, such as abandoning the current system of floating exchange rates in an effort to limit the range within which currency values may fluctuate. He again turned thumbs down on suggestions that the U.S. increase its intervention in the international currency markets to keep exchange rates from getting out of line, as some European officials have proposed.

Finance ministers of the U.S., West Germany, Britain, France and Japan are scheduled to meet in Frankfurt Thursday to complete work on a plan to expand the IMF's lending resources.

Mr. Regan said U.S. officials were becoming more concerned because "the situation" internationally "continues to grow more serious and the potential is out there for an even more serious situation. We've got to try to head that off," he said.

The secretary said the finance ministers ought to begin laying the groundwork in Frankfurt for a meeting to consider the whole financial and economic issue. But he asserted it probably shouldn't come too soon because policymakers aren't sure yet what ought to be on the agenda. Asked about a second Bretton Woods conference, such as the one in 1944 that established the IMF and World Bank, he replied: "We're not ready for that yet."

The U.S. already has broached most of the proposals Mr. Regan listed in earlier international economic meetings.●

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CORCORAN. Mr. Speaker, I am the sponsor of H.R. 5665, legislation to create a new national park system designation for an area in Illinois stretching from Chicago to LaSalle-Peru, part of which will run through my congressional district. This new designation, called a National Heritage Corridor, seeks to create a partnership among Federal, State, local, and private organizations by the formation of a National Commission. Although no Federal land acquisition is required, cooperation is needed among these groups to effectively create a recreational and historical site suitable for the Federal title. Strictly on a voluntary basis, these groups will seek to improve and promote the corridor area. Conservation, business, State, and grassroots organizations, among others, have already begun that cooperative effort in the formation of the legislation, and I look forward to the continuation of this effort when the legislation receives congressional consideration, perhaps as early as next spring.

Meanwhile, I would like to include in the RECORD a brief report on the historical, scenic, ecological, and recreational significance of the proposed corridor area. This well written and informative report, "Illinois May Get A National Heritage Corridor," was authored by a constituent of mine, Marjorie Elvin, of Elgin, Ill. I urge my fellow Members to take some time to read this excellent report, which provides an Illinoisan's justification for a National Heritage Corridor designation in this unique area.

ILLINOIS MAY GET A NATIONAL HERITAGE CORRIDOR

(By Marjorie Elvin)

Illinois may get its first nationally designated area for recreation. A new concept of protecting areas of historic, scenic, ecological, and recreational value can be used in places where growing populations are putting increasing pressure on valuable resources.

Three members of the Illinois congressional delegation, Rep. Tom Corcoran and Senators Charles Percy and Alan Dixon, have introduced legislation that would establish the Illinois and Michigan Canal National Heritage Corridor. In April the Illinois General Assembly approved a joint resolution urging Congress to support establishment of the corridor proposed in Senate Bill 2157 and H.R. 5665.

The Illinois and Michigan Canal, opened in 1848, was the connecting link between the Great Lakes and the Mississippi River systems. It is credited with making Chicago the most important inland port of North America. Originally the canal was 60 feet wide at water level, had a 15-foot towpath, and a 90-foot reserve along both sides. The canal was 90 miles long, and this corridor of open land will provide a setting for a recreational trail of the same length.

Toward the end of the 19th century, as more railroads were built, traffic in the canal decreased. In 1933 the Illinois Waterway, the modern counterpart of the I&M Canal, opened, and the old canal was abandoned for navigation. In 1974 all that remained of the canal was taken over by the Illinois Department of Conservation, although the Federal Government still holds rights to the title of property along the canal.

A National Park Service report was released in December on the proposed 90-mile recreational trail along the canal which parallels the Des Plaines and Illinois Rivers. The report calls for a partnership of Federal, State, and local entities, and private interests to develop the recreational potential of the corridor.

The proposed coordinated regional plan would establish a 15-member Corridor Commission with one member from the National Park Service and the other 14 appointed by the governor of Illinois to represent business, preservation and conservation interests. The National Park Service and the Illinois Department of Conservation would lend technical assistance and staff.

The National Park Service report states that a majority of the canal towpath is suitable for trail development, and there are more than 200 historic structures centered in 17 canal towns. Illinois & Michigan Canal structures still existing include 14 of the 15 original locks, three locktender houses, two nineteenth century bridges, one mule barn and tavern, and three grain warehouses.

In accord with the goals of the report, bicycle and hiking trails and canoe routes would be developed, mostly on public land and waterways, providing for a continuous recreational trail from Summit to La Salle. Canal structures would be stabilized or renovated, and a program to increase public awareness of the unique geological and historical value of the area would be introduced.

Most of the I&M property winds through wooded countryside, paralleling the Des Plaines and Illinois Rivers. In the 1950s, however, some of the canal right-of-way was taken over for construction of Interstate Highway 55, and the canal was paved over near Chicago. In the half-century since it was abandoned, some of the historic canal has been obliterated by civilization and some is hidden in undergrowth. In places where the canal passes through cities, Illinois officials are studying where the hiking and biking paths could be rerouted or sepa-

rated by a fence from areas such as train tracks and industries.

In 1782, the land that was to become Illinois came into American political control, and thereafter waterways brought people to Illinois. Early settlement in the future state of Illinois traveled on a network of bordering and interior rivers. The great Mississippi, flowing on the western border, transported settlers from New Orleans, the landing place for many arrivals from European countries. The broad Illinois River, a tributary of the Mississippi, could be navigated by sizable boats as far as Peru.

Lake Michigan became the thoroughfare used by sailing vessels and steamers. The opening of the Erie Canal in 1825 created an all-water route that brought Illinois closer to the eastern and foreign markets than the route up the Mississippi.

In Illinois, there was confidence that Chicago would become important because of its location. The legislature talked encouragingly about a canal from the Illinois River to Lake Michigan as a major water transportation link between the two great water systems. Abraham Lincoln, as a state legislator, played a major role in the establishment of the I&M Canal.

It took twelve years to complete the canal because of financial and engineering problems. Needing manpower, the contractors made a major contribution to the population of the state by attracting Irish, German, and other European laborers who, with a steady stream of their countrymen, helped build the towns that sprang up along the canal.

Today the first old canal structures can be seen at Lockport, where the Will County Historical Society operates the I&M Canal Musuem. The 10-room museum is housed in the original canal headquarters, built in 1837. The building overlooks the canal and what was once the public landing. Several of the limestone block buildings that once served as warehouses and mills still stand along the banks of the canal. The crumbling remains of Lock 1 lie eight blocks south of the museum.

In the museum may be seen a model of a canal boat. Long and blunt ended, the canal boats carried about 90 passengers. The regular or line boats offered narrow shelves for bunks and also sold deck space to immigrating families.

The first part of the trip from Chicago was the fastest. Small steamers towed packets and freight boats on the Chicago River. Once the actual canal was reached, the boat was powered by a team of two to five mules or horses hitched to it by towlines 70 to 90 yards long. The long towline led forward until it reached the towpath, which followed the canal its full length. A driver either walked along behind the team on the towpath or rode the rear animal.

The canal opened in April, 1848, and it served well in the interval before the railroads arrived. Grain grown along the Illinois and upper Mississippi Rivers could be shipped to market by way of the canal and Great Lakes at less cost than by way of New Orleans. The canal was the most convenient way to travel, especially in the deep mud of the prairie in the rainy season. Canal packets and the connecting river steamers proved more reliable and comfortable than stagecoaches.

Some of the best preserved canal relics can be found in Channahon Parkway State Park. Locks 6 and 7, built of large stone blocks, a control dam on the Des Plaines River, and the 130-year-old lockmaster's house are in good condition. The Illinois & Michigan Canal State Trail, a 15-mile stretch of improved trail on the old canal towpath, is open for hiking and cycling from Channahon Parkway State Park to Gebhard Woods State Park at Morris.

In Gebhard Woods the water of the canal is carried in a stone aqueduct over the stream of Nettle Creek. The canal boats originally also passed over the Fox River, Little Vermillion River, and Aux Sable Creek by aqueduct.

The wide vistas of the prairies of the Illinois country had astonished the white men who came as explorers. The Illinois tallgrass prairie was a vast sea of head-high grasses waving away to a flat horizon, broken only by occasional trees in island-like groves or dense borders along streams. Six miles from Morris, the traveler today may walk through a remnant of tallgrass prairie in Goose Lake Prairie State Park.

In Illinois there are few places where the bedrock which underlies the state is visible above the deep topsoil. Near Ottawa, three state parks offer exploration into formations of sandstone—Starved Rock, Matthiessen, and Buffalo Rock.

In Starved Rock State Park formations are primarily of St. Peter's Sandstone, which was laid down by a shallow sea 440 million years ago. In this region the sandstone was brought to the surface as a result of a huge upfold known as the La Salle Anticline. Later the glacial melt-water from old Lake Chicago roared through to cut the future Illinois River Valley. Now the water-contoured sandstone of Starved Rock rises vertically 125 feet and juts out over the Illinois River on the south bank.

Starved Rock offers rugged beauty and unusual views to hikers on its 12 miles of marked trails. Today a wooden stairway leads up to the top of the rock, and offers a scenic view of the Illinois River Valley. Upstream, the waters of the river are seen rushing through the Starved Rock Dam. To the left of the dam is the lock. Towboats, jumbo barges, and pleasure craft are raised or lowered in the 600-foot long electrically controlled lock of the Illinois Waterway.

Near Utica, the Illinois Waterway Visitor Center is open seven days a week, and provides an observation area for close-up viewing of the locking through process of boats and barges. The U.S. Army Corps of Engineering maintains and operates the Illinois Waterway which extends from Lake Michigan to the Mississippi River.

In Utica is a two-story warehouse, built in 1848, which served the needs of the traffic along the Illinois-Michigan Canal. Its massive oak beams and native stone walls have been preserved, and it now houses the La Salle County Historical Museum. In the museum is the carriage which conveyed Lincoln to the scene of the first Lincoln-Douglas debate in Ottawa.

Matthiessen State Park is an area of dells and stone formations, waterfalls, caves, and cliffs. Glacial meltwaters helped erode the valley of the tributary Vermillion River and its canyons. On damp walls in the cool canyons are thick carpets of mosses, ferns grow in areas of moisture, and Virginia Creeper hangs 30 feet from canyon walls.

At Buffalo Rock State Park, a fortress-like sandstone bluff on the north bank of the river, an improved trail for hikers and cyclists on the old I&M towpath continues to La Salle. Canoeists will find a 5.5-mile stretch of the I&M Canal is navigable from Utica to La Salle, and there are three portages along the way.

A canal boat turning basin was between Locks 14 and 15 in La Salle. West of Lock 15, in the neighboring city of Peru, was the steamboat basin where steamers from the Mississippi River could pull in, and cargoes and passengers could be exchanged with the canal boats.

The enthusiasm of the people along the corridor for national recognition and a unified plan for preserving the open lands of the canal has been persistent. Canal legislation has been introduced before by Rep. Tom Corcoran of Ottawa. In 1977 he sought to make the canal a national scenic trail, in 1978 a national historic park, and in 1979 either a scenic trail or a historic park. This time, however, the introduced legislation follows the National Park Service report, and proposals generally stand a better chance of enactment when they appear on their list.●

HON. JOHN H. ROUSSELOT

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. ZABLOCKI. Mr. Speaker, I welcome this opportunity to pay tribute to a senior member of the California delegation, Mr. ROUSSELOT, who has played a major and significant role in this body for well over a decade.

It is sometimes said that Members of Congress, like great artists and playwrights, only receive the recognition they deserve when they are gone from our midst, and I suspect this principle applies most particularly to the gentleman from California. Very little legislation which has been brought to the House floor in recent years has escaped his watchful scrutiny, and in retrospect I must confess that he served a useful purpose in making us explain and justify our respective programs and official actions. Since all legislation reported out of the Committee on Foreign Affairs is invariably justifiable and reasonable, we were, of course, equal to the challenge.

In all seriousness, I commend the gentleman for his contribution to legislative debate, for his steadfastness of purpose and dedication in carrying out his responsibilities, and for his consistent adherence to the causes which he espoused with such obvious conviction.

While he is best known, perhaps, for his participation in floor debates, I should point out, as chairman of the Foreign Affairs Committee, that JOHN ROUSSELOT has been an active and conscientious member of the U.S. delegation to the annual Mexico-United States Interparliamentary Conferences over a period of some 7 years. In this capacity he has made an important contribution to bilateral discussions between legislators from our two countries on a wide variety of issues of mutual concern, not only to Mexico and the United States, but also to the

State of California, which he had ably represented for eight terms.

It is difficult to imagine life in this body without the gentleman, and I join his many colleagues and friends in wishing him, his wife Vyonne, and his family all possible success in future endeavors. I say this with a sense of confidence that the articulate and compelling voice of JOHN ROUSSELOT will continue to be heard in the years ahead.●

CLINCH RIVER—A COST AND PROLIFERATION MONSTROSITY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. OTTINGER. Mr. Speaker, recently the enormous economic cost of proceeding with the Clinch River breeder reactor (CRBR) has become more clear than at any previous time. This week the General Accounting Office provided information to Congress that not only confirms that Clinch River will cost more than $8 billion to build, but also shows that it would cost an additional $3.3 billion in taxpayer dollars to operate CRBR over its proposed 30-year life. These figures are truly staggering and provide an overwhelming strong justification for terminating the CRBR project once and for all.

However, we must not lose sight of another problem which unavoidably comes with plutonium-fueled reactors like Clinch River. These reactors could contribute to the spread of nuclear weapons. We do not need to generate our electricity from a fuel that could be made into nuclear bombs.

This grave consideration was raised in a timely editorial which appeared recently in the Washington Post. I am also inserting an excellent article, entitled "Breeders, Plutonium, and Nuclear Weapons." The work prepared by Nuclear Control: Citizens to Stop the Spread of Nuclear Weapons, a nonprofit educational organization working exclusively on the nuclear weapons proliferation problem.

I commend both of these pieces to my colleagues as they prepare to decide whether CRBR should be terminated.

[From the Washington Post, Dec. 2, 1982]

A CHANCE TO KILL THE BREEDER

As the case for building the Clinch River breeder reactor grows steadily worse, the costs of building it go steadily higher, The appropriations bill containing Clinch River's money is about to come to the floor of the House of Representatives. That gives the House an opportunity to kill, at last, this wasteful and highly dangerous venture.

The debate is currently fixed on money, since the thing can best be reached through the fiscal legislation, and the costs are large. The Energy Department's current cost estimate is $3.6 billion, and the General Accounting Office's reviews suggest even higher figures. But there are further and larger questions here.

The breeder technology is risky, but its purpose is to extract perhaps 100 times as much electricity from the uranium as the present generation of light water reactors can. Are the risks worth it? This project first took shape in the late 1960s, when the government expected a huge expansion of nuclear power that would create a severe shortage of uranium. A decade ago, the GAO pointed out recently, the government expected 800 to 1,500 reactors in operation by the end of the century, its estimate currently is 145 to 185. Meanwhile, there have been huge discoveries of high-grade uranium ore around the world, and, far from facing a shortage, the American uranium industry is frantically urging Congress to pass legislation to protect it from imports.

There's a far better reason than money for killing the Clinch River reactor. Technology places a solid wall between the present power reactors, on one side, and the plutonium technologies, on the other. The present reactors run on a uranium fuel that cannot be made into bombs. Although its wastes contain plutonium, that plutonium can be extracted only by an extremely difficult and expensive process. But the breeder reactor requires plutonium as a fuel. Once recaptured to feed the breeder, it can easily be fabricated into weapons. The breeder demolishes that wall between nuclear power and nuclear weapons. The reprocessing plants that supply breeders have military implications, and the fuel has to be handled under military security—not least to keep it out of the hands of terrorists.

If you support the principle of nuclear power as a clean and relatively safe way of generating electricity, you would do well to oppose adamantly the construction of the Clinch River breeder reactor. Building this reactor would give substance to all of the most extreme fears about nuclear power and to the accusation that it inevitably puts the ready ingredients of weapons into everyday commerce. Plutonium would place on the nuclear industry and the utilities a burden that they cannot carry. Even if the reactor were less expensive and even if it promised cheaper power—as it manifestly does not—the breeder technology can bring only harm to the civilian economy.

BREEDERS, PLUTONIUM, AND NUCLEAR WEAPONS

(By Bill Adler)

There is no way that we will be able to provide assurances that thousands of tons of plutonium are being devoted to peaceful purposes.—Senior International Atomic Energy Agency Official[1]

BACKGROUND

The plutonium breeder reactor is being actively promoted by the governments of several advanced industrialized states and Third World countries as the next generation of nuclear power plant. Breeder reactors are favored by their proponents in government and industry on the basis of being able to produce more nuclear fuel than they consume. Tremendously high costs, however, are jeopardizing breeder programs in this country and abroad. For example, the most recent cost estimates for the Clinch River Breeder Reactor, a prototype commercial breeder, range from $3.2 to more than $8.8 billion.[2] But even if breeders were economical, the threat to international security posed by the fast amounts of plutonium they would produce and use as a fuel makes them too dangerous ever to operate. Plutonium is a key ingredient of atomic bombs.[3]

HOW BREEDERS WORK

Plutonium-breeder reactors, like conventional nuclear power reactors, generate electricity by heating water to operate steam turbines. heat and plutonium are byproducts of nearly all nuclear-fission reactors.

A major difference between breeder and other power reactors is that breeders must use plutonium (or weapons-grade uranium) as fuel. Most conventional power reactors are fueled with natural or low-grade uranium unusable in nuclear weapons. The plutonium they produce can remain "locked" in highly radioactive spent fuel, where it is inaccessible and is in a dilute form unsuitable for nuclear weapons. This spent fuel can be disposed of in unaltered form. Breeders, however, require large quantities of pure plutonium to be reprocessed from spent fuel. This separated plutonium is then combined with uranium and "recycled" as breeder fuel. The separated plutonium also can be fashioned into nuclear weapons.

Nuclear fission occurs in the breeder reactor's core and in a surrounding "blanket". A typical 1,000 megawatt breeder is designed with a core of over 30,000 pounds of uranium and more than 5,800 pounds of plutonium.[4] The blanket is comprised of some 22,000 pounds of uranium, primarily consisting of the fertile isotope (non-weapons usable) U-238. Neutrons are produced by the fissioning of plutonium in the core and are absorbed by uranium in the core and in the blanket, generating both heat and more plutonium. More than 5,800 pounds of plutonium can be retrieved from the core and more than 760 pounds from the blanket each year of reactor operation. Over 6,500 pounds of plutonium are discharged from a breeder reactor every year.[5] Since less than 15 pounds of plutonium are needed to make an atomic weapon, each breeder reactor discharges enough plutonium to fashion at least 400 bombs a year.

PLUTONIUM AND THE BOMB

The principal obstacle to building an atomic bomb is obtaining plutonium or highly enriched uranium. The requisite technical information, including critical mass summaries and how to fabricate neutron reflectors and other components, is found in the public literature and is, therefore, readily available to individuals, groups and nations.

According to Dr. Theodore Taylor, a former nuclear weapons designer and former Deputy Director of the Defense Atomic Support Agency, a single, well-educated and determined individual could make a crude, but effective fission bomb.[6] A well-designed bomb could possibly fit into a small van or the trunk of a car. The Congressional Office of Technology Assessment reports:

A small group of people, none of whom have ever had access to the classified literature, could possibly design and build a crude nuclear explosive device. They would not necessarily require a great deal of technical equipment or have to undertake any experiments. Only modest machine-shop facilities that could be contracted for without arousing suspicion would be required.[7]

Similarly, any country with a nuclear power or research program, or with access

Footnotes at end of article.

to plutonium or highly enriched uranium, can manufacture nuclear devices with an explosive yield likely to equal or to surpass the power of the bombs which destroyed Hiroshima and Nagasaki. According to the Office of Technology Assessment:

The level of technological effort put forth in the minimal national program can be called low technology. Low technology encompasses the sort of nuclear device designs that would likely be produced for a first use or first test. This requires techniques which allow high confidence without prior nuclear test experience. This could be characterized as 1945 U.S. technology.[8]

SAFEGUARDING PLUTONIUM

Safeguarding large quantities of separated plutonium from misuse for destructive purposes is virtually impossible. Two processes are involved in "safeguarding" this material: (1) measurement and accounting procedures to verify the amounts of plutonium in a reprocessing plant at various points of the fuel cycle, and (2) guards, barriers, cameras, alarms and other physical-security and containment measures to ensure that plutonium is not stolen.

Safeguards must be effectively applied [9] to all elements of the breeder fuel cycle that are subject to diversion or theft of plutonium: the reactor, reprocessing plant, fuel fabrication facility, fuel storage facility and along the transportation routes between and among these facilities.

Since commercial breeders are not yet operated routinely, there is no demonstrated experience for assuring effective safeguards against diversion or theft of fresh fuels containing plutonium for refueling the reactors.

There is a limited amount of safeguards experience for commercial reprocessing plants, the key component of the breeder fuel cycle, and two major problems have become manifest:

First, existing methods of measuring the large amounts of plutonium contained in spent reactor fuel are imprecise: it is possible to estimate the quantity of plutonium contained in the spent fuel of light water reactors only to within plus or minus 10 percent.

Second, current systems can account for the amount of weapons-useable material undergoing reprocessing only to within 5 percent.[10] According to the General Accounting Office, "Uncertainties resulting from these measurements are so large that diversions of significant quantities of plutonium might not be detectable in large operating plants." [11]

Similar problems are encountered in fuel fabrication plants and in other facilities that handle plutonium in bulk.

Little commercial reprocessing has taken place in the United States, but a substantial amount of non-commercial plutonium is unaccounted for in U.S. defense and other government nuclear facilities. This material, known as Material Unaccounted For, or "MUF," can result from numerous circumstances including accounting errors, measurement uncertainties, accumulated small losses in pipes, and deliberate diversion. Between 1947 and 1981, over 4,000 pounds of plutonium were unaccounted for in this country. One facility, the Savannah River Reprocessing Plant, a weapons facility operated by the government, had a net shortage of 320 pounds of plutonium during its operating lifetime from 1955 to 1972.[12]

Although the precision of material accountability for each part of the breeder fuel cycle remains difficult to ascertain, the total amount of unaccounted-for plutonium in the fuel-cycle would be large—certainly large enough to permit undetected diversion of weapons-useable plutonium.

STEALING PLUTONIUM

Two major dangers will persist: diversion of plutonium by states and theft by terrorists and gangsters.

The potential for clandestine diversion by governments raises grave dangers. Plutonium, once separated from highly radioactive spent fuel, is readily handled at all stages of the fuel cycle. The ability of the International Atomic Energy Agency to safeguard this material against diversions by states is subject to severe political and technical constraints. Its role is limited to verifying material balances reported by states. It has no authority to seek out clandestine activities. Its role is akin to an auditor, not a policemen.

Uncertainty of materials accounting is so large that the IAEA is unlikely to know for sure whether missing plutonium was, in fact, diverted or stolen. A nation's good faith and cooperation are required for international safeguards procedures and equipment to function properly. As pointed out in a published but still officially classified report by a former IAEA inspector to the Nuclear Regulatory Commission: "* * * the representatives of state systems and the operators of the installations know exactly how effective international safeguards are and how the international safeguards system can be defeated." [13]

In a recent letter, Nuclear Regulatory Commission Chairman Nunzio Palladino pointed out that because plutonium and highly enriched uranium (HEU) "can be transformed readily into weapons, we cannot count reliably on inspection alone to provide timely warning of diversion of HEU and separated plutonium in time to prevent weapons assembly if the necessary preparatory work has been done." [14] NRC Commissioner, Victor Gilinsky, recently wrote, "* * * the IAEA system does not (and cannot!) protect plutonium in national hands * * *. In the process of separation, the plutonium loses its national identity and effective control by any one fuel supplier becomes impossible." [15]

Monitoring tons of plutonium being transported around the world in hundreds of different vehicles, and maintaining accurate accounting for the hundreds of facilities in which plutonium is handled would be an arduous enough task. Operating an intelligence system that could provide quick warning of a diversion of plutonium might be impossible to accomplish.

Sober advice to the President has been offered by the Department of Defense regarding the ability of the International Atomic Energy Agency to safeguard plutonium and other dangerous materials:

"The Department of Defense wishes to express its reservations about the effectiveness of IAEA safeguards, the weakness of the IAEA as an international institution, its susceptibility to Third World and East Bloc politics, its lack of an intelligence capability, and the limits of its scope and jurisdiction, in order to guard against undue reliance on the IAEA by those responsible for national security within the United States Government." [16]

Given the known uncertainties and errors in materials accounting, and the technical and human limitations for dealing with them, there is no basis for believing that it is safe to proceed with commercial development of breeder reactors and related fuel facilities. There is no evidence for assuming that science will eventually achieve near-perfect plutonium accounting. With tons—and eventually thousands of tons—of plutonium circulating annually in various facilities and being transported around the globe, nations desiring nuclear-weapons material would be able to obtain it.

NUCLEAR THEFTS AND THREATS

At the same time, overt seizure of plutonium, or sneak thefts within the margins of accounting error, also would be difficult to prevent. With dozens or more breeder reactors operating world-wide, hundreds of tons of plutonium would be transported within and among countries by rail, sea, truck and possibly air, presenting numerous opportunities for theft.

The principle presently used to prevent the theft of plutonium used in military facilities—containment—could not effectively be employed to keep plutonium secure once it becomes an item of international commerce. Keeping track of and guarding the hundreds of vehicles carrying plutonium will be an arduous task; preventing thefts of small quantities, enough for a few atomic bombs, could be impossible over the long run.

The Office of Technology Assessment reports, "If plutonium becomes a commonly traded commodity, minimal intermittent black market transactions seem plausible, simply because the large amounts of material that could be circulating would be difficult to safeguard perfectly." [17]

Many unauthorized intrusions of nuclear facilities already hav occurred. For example, in March 1971, five uranium rods were stolen from the Springfield fuel fabrication plant in the United Kingdom "perhaps in transit or at the Wylfa reactor in Anglessy." [18] In 1975, in a demonstration of security inadequacy, a West German Member of Perliament carried a bazooka into the Biblis reactor plant and presented it to the Director. In 1976, an intruder successfully scaled a security fence and entered a protected area at the Three Mile Island Reactor. he was not apprehended.[19]

There are a number of recent reports of a disturbing phenomenon—nuclear threats: "* * * in the seven years ending in November 1977, forty-nine threats were received in the United States "in which adversaries claimed to possess nuclear material of a nuclear device and threatened to wreak severe damage with it." By mid-1981, the count was sixty-five and rising. * * * At least four threats were deemed sufficiently credible to evoke intensive research by a specially instrumented team * * *." [20]

Nuclear terrorist threats would become far more credible once plutonium becomes widely available. In the absence of foolproof methods for keeping even small amounts of this weapons material out of irresponsible hands, the likelihood of genuine nuclear blackmail and of nuclear violence will increase over time if breeders are developed and deployed.

MOVING TOWARD A WORLDWIDE BREEDER ECONOMY

Elaborate plans are being made to protect a single commercial breeder reactor at Clinch River, Tennessee, and its accompanying facilities from sneak thefts and attack. For example, an extensive network of alarms, guards, fences, vaults and other devices, as well as specially equipped plutonium-carrying trucks with armed couriers in constant communication with law enforcement agencies, are being developed. Some of

the ancillary fuel-cycle facilities will be located in high-security nuclear-weapons compounds operated by the Department of Energy. The Nuclear Regulatory Commission staff assessment of Clinch River safeguards maintains that "the probability of a successful act of sabotage or theft is low,"[21] for this one reactor, but it also points out that "the proposed DOE facility design is conceptual in nature; hence the safeguards system is also conceptual."[22]

Despite the stringent safeguards required for Clinch River and its fuel cycle, and the present conceptual state of those safeguards, the impact of proceeding with Clinch River on the global spread of nuclear weapons is not formally being considered. According to the NRC assessment, "The staff has not evaluated the relative proliferation resistance of the various fuel cycles or the likelihood that development of the Clinch River Breeder Reactor Project will lead eventually to the further proliferation of nuclear weapons."[23]

Breeder proponents look ahead to a world in which there are hundreds, and eventually thousands, of breeder reactors despite the impracticality, if not the impossibility, that the military-like security and safeguards procedures planned for the Clinch River project can be uniformly applied throughout the world.

The International Nuclear Fuel Cycle Evaluation report estimates that there could be some 50 breeder reactors operating by the year 2000;[24] a recent Scientific American article projects that in 50 years about 1,500 breeders could be producing 1,000 megawatts of electricity each, supported by 60 large plutonium reprocessing plants and similar number of fuel fabrication facilities.[25]

Dr. Theodore B. Taylor, the former nuclear weapons designer, describes this breeder-supported world:

"The total annual quantity of plutonium shipped between the projected nuclear power plants and fuel reprocessing and fabrication plants would be in the vicinity of 2 million kilograms. It takes less than 10 kilograms of plutonium to make a fission bomb that is now old fashioned. Diversion of less than 1% of this annual flow of plutonium would be enough for more than 1,000 nuclear weapons per year."[26]

He points out that a "single fast breeder fuel reprocessing plant would discharge enough plutonium for more than 10,000 nuclear weapons per year."[27] Depending on how many breeders are producing electricity, there could be hundreds or thousands of bombs worth of material unaccounted for each year.

Plutonium, once separated from spent fuel, remains weapons useable for over 100,000 years; in fact, it then decays into another weapons material, uranium-235. Because of its exceedingly long active life, plutonium must be guarded with absolute assurance for a period of time equal to the millennia between the last ice age and the present.

THE GLOBAL IMPLICATIONS OF CLINCH RIVER

Given the inherent danger of separated plutonium, a material produced by the ton that can be used by the pound to make nuclear weapons, the implications of proceeding with the Clinch River plutonium breeder go far beyond the energy interests of the United States. Clinch River would further legitimize plutonium as a civilian fuel and would encourage breeder development and plutonium commerce around the world at the very time these programs are encountering serious difficulties in every country pursuing them.[28]

There is no human experience in commerce in a material as dangerous as plutonium. However, the inability of governments to control trafficking in heroin, portable anti-aircraft missiles and high explosives suggests that we cannot be sanguine about their ability to control trafficking in plutonium. The widespread use of plutonium as a civilian fuel would pose an unprecedented threat to human civilization, even to survival. Neither the political nor the technical skills have been developed to assure the safe and secure handling of plutonium in commerce. Unless they are, Clinch River and other commercial breeder reactors are too dangerous to bring into the world.

FOOTNOTES

[1] Judith Miller, "Trying Harder to Block the Bomb," New York Times Magazine, September 12, 1982.

[2] The Department of Energy's most recent cost estimate for Clinch River, made in 1980, is $3.2 billion, an eight-fold increase since the original 1971 projection of $400 million. An interim report by the General Accounting Office states that the cost of the project could exceed $8.8 billion (September 23, 1982). Neither the DOE nor GAO included in their calculations the cost of all the ancillary facilities such as reprocessing, fuel storage and fabrication plants. Breeder programs in France, Great Britain, Japan and West Germany are experiencing major cost escalations as well.

[3] The vast amounts of weapons plutonium in the United States and other nuclear-weapons states are also of deep concern but beyond the scope of this report on the impact of commercial plutonium on the spread of nuclear weapons.

[4] All figures, unless otherwise stated, are for a 1000 ME(e) breeder reactor. Breeder input and output information is derived from the International Nuclear Fuel Cycle Evaluation, Report of Working Group 5, Chapter 3, "The Fast Breeder Fuel Cycle," pp. 83-91, International Atomic Energy Agency, Austria, January 1980.

[5] The isotopic content of the plutonium produced in the blanket is about 97% plutonium 239, which is considered ideal weapons material. Plutonium in the core has a higher concentration of plutonium 240, but still can be readily used in nuclear bombs.

[6] Statement made at a forum on nuclear terrorism at a meeting of the Nuclear Nonproliferation Task Force, U.S. Congress, August 12, 1982.

[7] "Nuclear Proliferation and Safeguards," U.S. Congress, Office of Technology Assessment, 1977, p. 140.

[8] Ibid., p. 140

[9] By "effectively applied" we mean safeguards that can provide prompt warning of a diversion of, or can prevent theft of, a weapons quantity of plutonium—that is, less than 15 pounds.

[10] An accounting error of 5 percent of the plutonium going through a large commercial reprocessing plant amounts to 1,650 pounds, or the equivalent of more than 100 atomic bombs a year. Even if the margin could be reduced to one percent, which is regarded as highly unlikely, the amount of plutonium unaccounted for still would be equivalent to more than 20 bombs a year.

[11] "Nuclear Fuel Reprocessing and Problems of Safeguarding Against the Spread of Nuclear Weapons," General Accounting Office, EMD-80-38, March 18, 1980, p. ii.

[12] Ibid., p. ii.

[13] Emanuel R. Morgan, "Report on the Implementation of IAEA Safeguards," as reported in Nuclear Fuel, November 23, 1981, p. 9.

[14] Nunzio A. Palladino, Chairman, Nuclear Regulatory Commission, Letter to Senator Gary Hart, March 2, 1982.

[15] Victor Gilinsky, "The Administration's Risky Plutonium Policy," the Wall Street Journal, July 15, 1982.

[16] See Gerald F. Seib and John R. Emshwiller, "President Unveils Nuclear Arms Policy as Pentagon Criticizes Watchdog Agency," the Wall Street Journal, July 17, 1981.

[17] OTA, op. cit., p. 15.

[18] "Obstacles to U.S. Ability to Control and Track Weapons-Grade Uranium Supplied Abroad," General Accounting Office, GAO/ID-82-21, August 2, 1982, p. 64.

[19] Ibid., p. 65.

[20] Armory B. Lovins and L. Hunter Lovins, "Brittle Power: Energy Strategies for National Security," Brick House Publishing Co., Inc., 1982, p. 160. Quoted G. Bass, "Motivations and Possible Actions of Potential Criminal Adversaries of U.S. Nuclear Programs," report to Sandia Laboratories, RAND Corporation, R-2554-SL, February, 1980.

[21] Nuclear Regulatory Commission, "Supplemental to Final Environmental Statement related to construction and operation of Clinch River Breeder Reactor Plant," NUREF-0139, Supplement No. 1, Vol. 1, October 1982, p. 12-66.

[22] NRC Supplemental, vol. 2, op. cit., p. E-13.

[23] NRC Supplemental, vol. 1, op. cit., p. 12-33.

[24] INFCE, op. cit., p. 85.

[25] Wolfgang Sassin, "Energy," Scientific American, September 1980.

[26] Statement by Theodore B. Taylor, Subcommittee on Oversight and Investigations by the Committee on Interior and Insular Affairs, U.S. House of Representatives, October 23, 1981.

[27] Ibid.

[28] See "The Floundering Race to Build the Nuclear Concorde" by Walter C. Patterson, prepared for Congressional briefing by Taxpayers Coalition Against Clinch River, September 15, 1982.●

HELSINKI COMMISSION ISSUES REPORT ON HUMAN RIGHTS DAY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. FASCELL. Mr. Speaker, 34 years ago today, on December 10, 1948, the Universal Declaration of Human Rights was adopted unanimously by the General Assembly of the United Nations. Every year, at the United Nations and throughout the world, this anniversary is commemorated as Human Rights Day.

Born after the bloodshed of a bitter war and the most terrible violation of human rights that mankind has ever known, the Universal Declaration established international standards for the achievement and protection of human rights, standards by which the conduct of nations is still judged today. This international "Bill of Rights," while it does not have the force of law, has inspired national constitutions and international conventions on various specific rights since its adoption. On its 30th anniversary, President Carter called the historic document "a beacon, a guide to a future of personal security, political freedom and social justice." Tragically, however, that beacon does not yet shine brightly in many parts of the world. In a report released today, the Commission on Security and Cooperation in Europe, which I chair, finds that abuses of basic human rights and deprivation of fundamental freedoms occur with alarming frequency—indeed, regularity—in the Soviet Union and some East European countries.

The report, entitled "Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Findings and Recommendations Seven Years After Helsinki,"

documents in voluminous detail the Soviet and East European record of compliance in the last 2 years with the 1975 Helsinki agreement. It is with deep regret that I note that, for the most part, that record has deteriorated steadily since the Commission undertook its monitoring responsibilities in 1976. The soviet invasion and continued occupation of Afghanistan, the brutal imposition of martial law in Poland and the subsequent curtailment of human rights there, and the intensified campaign of repression against all forms of dissent in the Soviet Union vividly demonstrate the contempt with which the Soviet Union holds both the Helsinki Final Act and the universal Declaration of Human Rights. The Commission's latest report provides ample evidence of the dismal state of human rights in the U.S.S.R. and Eastern Europe. It is available through the Commission offices and I commend it to our colleagues.

Mr. Speaker, the premise on which the Universal Declaration is based—and the rationale for America's active pursuit of its aims—is simple. The Declaration states that "the inherent dignity and . . . the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." The Helsinki Final Act also recognized the vital link between respect for human rights and the development and maintenance of genuine, lasting peace. As we commemorate Human Rights Day, let us reaffirm our commitment to promoting the noble principles embodied in both these international documents. The Helsinki Commission report released today is issued in this spirit and, I hope, will contribute toward the achievement of that goal.●

DESIGNATION OF HARRY S TRUMAN NATIONAL HISTORIC SITE

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. BAILEY of Missouri. Mr. Speaker, many have been concerned in recent days about the plight of the home of the late President and Mrs. Harry S Truman. One big step to permanent protection for this historical site is the designation by Secretary Watt of the home as the Harry S Truman Historical Site. For the RECORD, I insert Secretary Watt's designation:

DESIGNATION OF HARRY S TRUMAN NATIONAL HISTORIC SITE

SEC. 1. *Purpose.* The Congress has declared it to be a national policy to preserve for the public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States. The former home of Harry S Truman, thirty-third President of the United States, in Independence, Missouri, was on November 11, 1971, designated a national landmark, in furtherance of that policy, and is listed on the National Register of Historic Places as being nationally significant. The home is left to the United States of America under the will of Bess Wallace Truman. It is, therefore, the purpose of this Order to establish the former home of Harry S Truman as a national historic site, to be administered by the National Park Service.

SEC. 2. *Authority.* This Order is issued under the authority of section 2 of the Act of August 21, 1935 (49 Stat. 666).

SEC. 3. *Designation.* The real property know as 219 North Delaware Street, in the city of Independence, Missouri, including such of the personal property therein as passed to the United States under the will of Bess Wallace Truman, is hereby designated as the Harry S Truman National Historic Site.

SEC. 4. *Administration.* For so long as this national historic site shall remain in private ownership, it shall be administered and protected by the Secretary of the Interior in accordance with the terms of a cooperative agreement to be entered into between the United States of America and the legal representative of the Estate of Bess Wallace Truman under authority of the Act of August 21, 1935 (49 Stat. 666), as amended and supplemented. Upon conveyance of this national historic site to Federal ownership, it shall be administered and protected by the National Park Service in accordance with the Act of August 21, 1939 (49 stat. 666), as amended and supplemented, and other applicable law, subject to necessary jurisdictional actions under the terms of the conveyance.

SEC. 5. *Expenditure of Funds for Development.* No funds appropriated to the Department of the Interior may be expended for the development of this national historic site, unless and until such funds are authorized by Act of Congress. All Federal expenditures under the terms of the cooperative agreement described in section 4 of this Order are subject to the availability of appropriated funds.

SEC. 6. *Effective Date.* This Order is effective immediately and will remain in effect until it is amended, superceded, or revoked, whichever occurs first.●

NUCLEAR FREEZE: ENOUGH IS ENOUGH

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. MARKEY. Mr. Speaker, I would like to commend to my colleagues a column written by C. Maxwell Stanley, president of the Stanley Foundation. It concerns the meaning of the freeze referenda passed on November 2. Mr. Stanley correctly notes that the American public overwhelmingly supported an end to the nuclear arms race, which only increases the threat of a nuclear war. As representatives of the American public we would do well to remember this ground swell of opinion against nuclear war.

The article follows:

NUCLEAR FREEZE: ENOUGH IS ENOUGH

(By C. Maxwell Stanley)

What is the meaning of the voters' response to a mutual nuclear freeze? On November 2, millions of Americans trooped to the polls in nine states and many cities and voted "yes" to freeze testing, production, and deployment of nuclear weapons. Only in Arizona was the measure defeated. The referendums carried, despite the strong opposition of President Ronald Reagan and his administration, who hammered on the themes that the nucelar freeze would benefit the Soviet Union and that some of those favoring it "want the weakening of America, and so are manipulating many honest and sincere people."

The amazing political phenomena which began with the marshaling of some 750,000 freeze supports in New York at the opening of the abortive United Nations General Assembly's Second Special Session on Disarmament in June is not going to fade away. Who are the nuclear freeze supporters? Are they only flaming liberals? Hardly, their numbers are too great. Are they soft on Communism? No, Communist ideology and tyranny remain abhorrent to the rank and file of Americans. Are they led naively by the subversive influence of external forces? Never, nuclear freeze supporters are part of the mainstream of this country's population; according to recent polls, some three out of four Amercians support the freeze.

Enough is enough is the belief at the heart of the growing antinuclear protests. Realization is developing that expanded nuclear capability does not assure greater national security. The public that has long supported the concept of nuclear deterrence is beginning to question the Reagan administration's moves to further expand the already multiple overkill of our nuclear arsenals, to trade deterrence for a capability to fight a prolonged nuclear war, and to stall on bilateral and multilateral arms control and disarmament efforts until our defense establishment is expanded.

Mounting Pentagon appropriations compound the economic woes of this country. The possibility of balancing the federal budget recedes further into the future unless the growth of military expenditures is curtailed. Furthermore, dollars for weapons tend to mean fewer dollars for essential social programs. Hence, the growing realization that a nuclear freeze would strengthen the US economy.

Moral and humanitarian considerations also support the freeze as an essential step to halting and reversing the worldwide arms races, particularly the nuclear weapons race. Belief is mounting that this country should be a leader in starting the process of serious arms reduction before the current arms races end, as all previous ones have, in major war, perhaps even a nuclear holocaust.

What does the freeze vote mean? It means that a substantial number of Americans don't want to stay a course marked for disaster. They want a mutual halt, followed by substantial reductions of nuclear arsenals. They want America to commit herself to action rather than rhetoric to reduce the likelihood of nuclear war. President Reagan would do well to listen to what the people are saying.

(C. Maxwell Stanley is a professional engineer, business executive, author, civic leader, and world citizen. He is founder and now chairman of the board of both Stanley

Consultants, Inc., and HON Industries. Mr. Stanley is president and founder of the Stanley Foundation which for more than 25 years has encouraged study, research, and education in the field of international policy. These are Mr. Stanley's personal views and do not necessarily reflect the opinions of the Stanley Foundation.)●

OPTIONS FOR SOCIAL SECURITY REFORM—PART II

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues the second installment of recommendations for social security reform put forth by the Community Council of Greater New York's Ad Hoc Committee on Social Security. On Monday, I placed the first installment of these proposals into the CONGRESSIONAL RECORD which I hope will provide some insight for Members as we grapple with the question of social security.

I also wish to hail the efforts of the Community Council in putting this report together. The Community Council is an umbrella organization which represents a number of human service organizations for New Yorkers of all ages. The Council has a vested interest in this issue because it serves not only current social security beneficiaries but future ones as well. It is a thought-provoking report and I commend it to your attention.

AN APPROACH TO THE SOCIAL SECURITY SYSTEM: CONFIDENCE NOT CRISIS, PART II

c. *Age of retirement.*—No increase should be made in the retirement age for full benefits and there should be no reduction in the present benefits for early retirement.

Studies have found no relationship between longevity and the ability to work longer periods of time.

It has been suggested that providing incentives to employers and employees is an alternative approach to encourage persons to work longer.

Persons who continue working after age 65 could cease making contributions to the Social Security Fund. Employers would continue to contribute their share but continue to receive a tax credit.

Since persons who work longer have a shorter period of retirement, their Social Security pensions could be correspondingly increased. At the present time this increase is 3 percent. In actuarial terms, this could be raised to approximately 7 percent.

d. *Reinstitution of minimum benefits.*—Persons at age 65, at least who have not paid into the System enough funds to qualify for $122 per month of retirement benefits should again be provided with a minimum benefit of that amount. This should not entail a means-test.

Persons who became eligible for minimum benefits after January 1982, should receive the $122 minimum.

The group that should be covered is usually composed of: women who spent many working years at home not covered by Social Security; farmers, members of minority groups or persons with problems of illness.

Many of these persons, (e.g. domestic workers or farmers), were only permitted to enter the System fairly recently, and could not amass enough equity to qualify for adequate benefits. These people warrant special economic protection.

PRESERVING CONFIDENCE IN THE SOCIAL SECURITY SYSTEM RECOMMENDATIONS FOR IMMEDIATE ACTION

1. Educational campaign

There is an immediate need for a factual, educational and highly visable campaign by government and the private sector to reassure retirees and working people that Social Security is sound and is the "best buy" available for Retirement, Survivors, Disability and Health Insurance (Medicare).

This ongoing campaign should include use of the media, flyers, explanatory brochures, factual presentations. The effort should begin with the educational system, and extend to our entire society, including unions, employer groups, community organizations and others.

The campaign would explain that a sizable percentage of beneficiaries (49 percent) are not retired workers. They receive benefits as dependents or Disability or Survivors benefits. (See Community Council Research Note No. 47, September, 1982.)

The campaign should also indicate the independent relationship between Social Security and private retirement benefits.

2. "Welcome to social security" letter

Every new Social Security registrant should receive a letter accompanying his or her Social Security card in which he or she is welcomed to the System, advised of its comprehensive coverage, including the various payments available, and told of its importance.

3. First steps toward periodic reporting

All participants should be assured that their covered earnings are appropriately credited to their account.

To this end:

a. All available means should be developed and utilized to encourage Social Security participants to request, on some periodic basis, an update on their accounts. (Note: presently only two million requests are received each year out of almost 200 million accounts extant.)

b. Priority should be given by the Social Security Administration to the updating of equipment and systems so that wage credits are posted more promptly to participants' accounts.

4. Social Security Advisory Council

The Social Security Advisory Council should be appointed by the President of the United States, instead of by the Secretary of Health & Human Services. Its report should be sent to the President as well as to the Speaker of the House, the President of the Senate and to the Trustees of Social Security. This body should be convened by the President more frequently than every four years, if he or Congress deems this to be necessary. It should be bi-partisan. The composition of the Advisory Council should remain intact: a Chair, equal number of representatives of the self-employed and the public.

LONG TERM RECOMMENDATIONS FOR FUTURE STUDY AND ACTION

The social and the economic impacts of any long-term changes in Social Security must be carefully studied and not acted upon until the end of this century. This would provide sufficient time to fully consider the impact of all options.

Social Security is an integral part of the overall economy. Both the benefits paid out and revenues collected by the System have a direct effect on consumer spending and the Gross National Product. Changes in the System would influence the well-being of individual recipients as well as many of our major social and economic institutions. Public service programs and private pension plans in particular would be affected.

No proposal should increase the number of persons below the poverty line. Projected changes should be based on a realistic standard, e.g. the Replacement Rate, the Poverty Index or the Bureau of Labor Statistics Lower Living Standard.[1]

1. The following recommendations are suggested for study:

a. *Include the employer's share in an individual's taxable income at the time social security benefits are received.*—Social Security benefits for those whose income is below the median level, including Social Security benefits, should not be taxed.

The employer's share of an individual's Social Security benefit (1/2 of the benefit level) should be subject to income tax at the time benefits are received. Revenues generated by this tax should be credited to the Social Security Trust Funds. This provision should be phased in. Also included in taxable income should be any portion of the Social Security benefit that resulted from an employee's payroll taxes on which an income tax credit had been received.

b. *Study required of medicare financing.*—While emphasis is centered here on financing of health care for the aging, the entire matter of planning for health care for young and old must be studied.

Continued increases in health care costs will pose major financing problems for the Medicare program in the near future. Action needs to be taken to ensure the ongoing stability of this Program which is essential to the health of older Americans.

Medicare now covers only about 44 percent of the health care expenses of older people. Solutions which entail reductions in Medicare benefits would merely shift a greater burden of health care cost onto the elderly.

Unlike retirement benefits, the amount of Medicare benefits received by a recipient is not related to past earnings.

In planning for the future of Medicare, it has been suggested that the financing be shifted to General Revenues. A visible income tax surcharge dedicated to Medicare could be enacted to pay for this. The payroll tax revenues freed up by this change should be used to support the OASDI Trust Funds.

Special concern is expressed about the impact on medical coverage of any postponement of retirement benefits. At the present time, Medicare benefits have been coupled with eligibility for retirement benefits. Persons above the age of 65 are in special need of adequate health insurance.

c. *Study needed of the relationship between retirement benefits and disability benefits.*—Persons laid off work after age 50 or 55 because of health reasons, who do not qualify for Disability benefits, and whose unemployment benefits run out, may have to lose all of their savings until such time as

[1] The Bureau of Labor Statistics standards are no longer being updated by the government. Others will have to undertake this task.

Social Security benefits are available. It is necessary to establish a series of new definitions and levels of Disability to protect these people from economic hardship.

d. *Regular periodic reporting to future beneficiaries as an aid in preserving confidence in the system.*—A study must be undertaken to ascertain the most cost effective method by which the Social Security Administration could assume the initiative in communicating the status of their accounts to all participants. As a first step, automatic notification should be provided to all persons who reach age 55.

Current law renders errors in credited wages applicable to Social Security accounts virtually impossible of correction after passage of three years (except for fraud Social Service Administration error.)

Automatic reporting will provide clear updated information on the status of their accounts to future beneficiaries. As important, it will be a means of assuring persons not yet receiving benefits that the System is prepared for the individual's future welfare. This will help to provide the confidence needed by the System.

A FINAL WORD

This Ad Hoc Committee on Social Security is composed of a group of concerned New York citizens. We recognize that Social Security is a national program. However, it also affects us deeply as New Yorkers. We are in constant touch with the system as business people, as union members, as social workers, planners and as beneficiaries.

When Congress meets on Social Security legislation, we will stand ready to comment and to speak for our recommendations. In addition, we pledge to cooperate in a partnership between the public and private sectors to publicize to all parts of our community, the benefits of Social Security and our confidence in this workable and important System.●

THE CAUCUS ASSAULT ON DEMOCRATIC PROCEDURE

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. LOTT. Mr. Speaker, the Democratic Caucus has once again proven adept at subverting majority rule in the House. At this point I insert a House Republican leadership statement on the House rules changes recommended this week by the caucus:

STATEMENT BY THE HOUSE REPUBLICAN LEADERSHIP

The proposed changes in House rules adopted by the Democratic Caucus this week are an exercise in political expediency that will concentrate more power in the hands of the Speaker and further erode the democratic process in the House.

These new rules extend years of steady and systematic assaults on free and open debate and the rights of the minority in the House.

To deny Members of either party their right to influence the expenditure of public funds or vote on the merits of proposed Constitutional amendments or be alerted to and informed of critical legislative issues before the House is inexcusable and indefensible.

There is a clear distinction between rules changes designed to streamline and expedite legislative proceedings and those intended to subvert the process. The Democratic rules changes make no major contribution to the improved management of the House or the flow of legislation, but they do make major assaults on the Members' abilities and rights to influence the legislative process.

Making the House of Representatives more effective and more productive cannot be the ultimate goal of rules that muzzle the Membership.

Specifically, the amendment to Rule XXI, clause 2, restricting riders to appropriation bills in order to limit use of public funds, deprives Members of all political persuasions of their ability to exercise full oversight responsibility. Denying that right is a mockery.

The advent of omnibus appropriation bills and budget resolutions makes the need for limiting amendments even more critical. These rules changes virtually disenfranchise anyone who disagrees with spending levels reported from Committee unless, of course, the Democratic Leadership itself sanctions an amendment to reduce spending.

The new rule requiring a two-thirds majority vote on the discharge of a Constitutional amendment is an outrageous attempt to prevent any consideration of Constitutional change that does not conform with the will of the Democratic Leadership. The House must be given the opportunity to consider, debate and vote on the merits of Constitutional change in accordance with the intent of the founding fathers, who saw the need for such deliberation.

The intent of the Constitution is also thwarted by rules changes which prevent the call of a quorum to the floor prior to consideration of legislation.

The Constitution's Article I, Section 5, specifically instructs the Congress to have a quorum present to conduct business. Postponement of votes on the Journal and eliminating votes on consideration of bills would allow the Democratic Leadership to conduct legislative business without the Constitutionally-required majority quorum. These new rules merely perpetuate "phantom legislating," and enable the Speaker to stampede the House into actions it may regret.

Rules such as these do an injustice to the House and thwart the legislative process. They must not be adopted.

SUMMARY OF DEMOCRATIC CAUCUS HOUSE RULES CHANGE PROPOSALS 98TH CONGRESS

(1) Appropriations Riders Restrictions: Clause 2, Rule XXI would be amended to prevent the offering of limitation amendments on the Floor unless already authorized by law for the period covered by the bill or if the House votes down a motion that the Committee rise after other amendments have been disposed of. Limitation amendments could still be reported by the Appropriations Committee. The amendment also confines "retrenchment" amendments (e.g., those reducing salaries and personnel) to reductions in amounts of money covered by a bill, and to those recommended by the Appropriations, thus precluding authorizing committees from offering retrenchment amendments on the Floor.

(2) Resolutions of Inquiry: Clause 5, Rule XXII would be amended to permit committees 14 legislative days to report back to the House after referral of such a resolution requesting information from the heads of executive departments, and permits a committee, by majority vote, to extend the period for reporting by an additional 14 legislative days. The current rule permits only 7 legislative days for reporting back to the House, after which a motion to discharge the committee is in order.

(3) Closed Hearings: Clause 2(g)(2)(B), Rule XI, would be amended to permit the Committees on Appropriations, Armed Services and the Select Committee on Intelligence to vote in open session to close hearings for up to seven consecutive days. Current House Rules permit all committees to vote to close hearings for two consecutive days.

(4) Resolving into the Committee of the Whole House: Clause 1, Rule XXIII would be amended to permit the Speaker to declare that the House is resolved into the Committee of the Whole House on the State of the Union at any time after the House had adopted a resolution from the Rules Committee providing for the consideration of a measure. Under present rules, the motion is subject to a vote by the House.

(5) Approval of the Journal: Clause 5(b)(1), Rule I would be amended to permit the Speaker to postpone a vote on the approval of the Journal until later in the same legislative day. Under present rules, approval of the journal is the second order of business in a legislative day and a vote may be demanded immediately.

(6) Committee Membership: Clause 6, Rule X would be amended to make removal from committee membership automatic once a Member ceases to be a member of his party caucus or conference. Members would still be elected to committees by vote of the House on nominations from the party caucuses. Under the interpretation of present rules, it would take a vote of the House to remove a Member from a committee.

(7) Tax Legislation: Clause 5, Rule XXI would be amended to prohibit non-tax committees from reporting any measure containing tax or tariff matters and the House from considering any amendment in the House or proposed by the Senate on a bill reported by a committee not having jurisdiction over tax matters.

(8) Constitutional Amendments: Clause 4, Rule XXVII would be amended to require that a discharge motion for an amendment to the Constitution, or a resolution referred to the Committee on Rules providing for the consideraiton of a constitutional amendment, must contain the signatures of two-thirds of the membership of the House in order to be called up in the House.●

MR. RANGEL WISHES THE SPEAKER A HAPPY 70th BIRTHDAY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. RANGEL. Mr. Speaker, in the 12 years since I was first elected to the House of Representatives, it has been not only an honor to serve under you, but a deep personal pleasure as well.

Yesterday, on your 70th birthday, your hometown paper the Boston Globe printed the following article. Well, all of us in the House know exactly how sentimental the press is about politicians, which is not senti-

mental at all. And the more powerful a politician gets, the more cynical, the more demanding and the more unfeeling the press gets. So when a paper says such warm things about a politician as powerful as the Speaker of the House of Representatives of the United States, well that is a true testament to the strength of character of the man.

Mr. Speaker, happy 70th, and I look forward to the honor and the pleasure of serving with you as long as we both remain in the House.

HAPPY 70TH, MR. SPEAKER, YOU'VE ALWAYS BEEN TRUE

(By David Nyhan)

Not the least reason to marvel at Tip O'Neill is the simple fact that he hasn't made much money, when he's had vast opportunity to do so.

In 46 scandal-free years of winning elections, 30 in Congress, six as Speaker of the House, he's proved almost totally inept at padding his own income and salting something away on the side.

Politicians with far less potential for self than he have become millionaires on the sly, by O'Neill's net worth is embarrassingly meager. He's got about what a public school teacher would have, if his kids were grown and his wife worked. Not much, but something.

His wealth is in coin of a different realm. He is much loved by those who know him. When he threw a party for his campaign workers, what was astonishing about the crowd in the old Cambridge Hotel was that so many were of his generation. The man, whose highest accolade is "Old Pal," kept the friends he began with.

When Tip got up in front of the band, singled out his Millie, and knocked out a better-then-passable rendition of "Apple Blossom Time," you couldn't picture any New Wave Democrats doing likewise.

O'Neill is a living political monument for a lot of reasons, but some of them are: He's kept the same wife, the same friends, the same lifestyle, the same values and the same philosophy he began with in the Thirties.

His mother died of TB before he was a year old, and he was raised by a father who was a city councilor and superintendent of sewers in Cambridge. "He taught me loyalty," O'Neill said years ago, "to live a good, ethical, honest life; that I'm truly my brother's keeper; and to always remember from whence I came."

In a lifetime of political horse trading, O'Neill could be accused of many things, but none can say he forgot his roots. The Irish yield to no one when it comes to badmouthing a social climber. Those who moved out of the three-deckers risked being labeled "two-toilet Irish," "lace curtain Irish," and most spiteful of all, "cut-glass Irish."

O'Neill never went high-hat, either in lifestyle or in his politics. The hardest thing he's said of Ronald Reagan was that the President had forgotten where he'd come from, the Depression-era poverty of working-class Illinois, where most people needed a government handout to get by.

When Reagan blew into Washington, scattering demoralized Democrats like fallen leaves, the middle class was beguiled by the sonorous siren-song of tax cuts. O'Neill warned it would be open season on the poor.

"People seem to hate the poor, that's the kind of thing that got us into deep trouble in the 1930s."

The O'Neill losses of 1981 have become the O'Neill victories of 1982, and the incoming Congress will line up much more behind the Speaker than the President, a fact that bodes well for the 12 million unemployed.

The right wing still hates Tip O'Neill and all he stands for. They see him as the symbol of the bloated government that forces some redistribution of wealth in this country, a process Reagan has managed to reverse.

There is not a man alive today who had done more good for more people, in trying to impose a semblance of fairness and sharing-the-wealth on Congress, than this man who turns 70 today.

A pillar of his party, a model to his profession, he's a testament to the best the Irish brought to this country's politics.

James Michael Curley taught him to give the crowd some words to remember. John F. Kennedy taught him that when it comes to raising dough, running for President was no different than running for alderman. And it is an old Irish legend that teaches us the central fact of democratic congressional rule today: "Where the O'Neill sits, that is the head of the table."●

A MAN ON THE RUN COVERS A COUNTRY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. ADDABBO. Mr. Speaker, I would like to take this opportunity to share the following newspaper article with my colleagues. My constituent, Tarak Kauff of Jamaica, recently concluded an 8,807-mile running tour of this country, believed to be a record for miles run in one swing through America. Tarak undertook this monumental task to express his faith and patriotism in America, and the philosophy of "always moving forward, of transcending limits." I trust my colleagues will be moved by this inspirational story.

[From the New York Times, Dec. 7, 1982]

A MAN ON THE RUN COVERS A COUNTRY

(By George Vecsey)

Tarak Kauff started running south during the last basketball season. He ran across the Delta States before the Stanley Cup playoffs and the Indy 500. While Conquistador Cielo was winning the Belmont, Tarak Kauff was conquering the Pacific Northwest.

When Italy won the World Cup, Tarak Kauff was running the endless breadth of Montana, and when the World Series was held in the Middle West, Tarak Kauff was climbing the hills of Pennsylvania. The football players went on strike, but Kauff never stopped pounding through New England.

Tarak Kauff discovered America through the soles of his feet. He ran 8,807 miles in all 50 states this year, his runner's elation tempered only by the realization that he'd better fly to Hawaii and Alaska rather than try to run across the waves or through Canada.

"Why did I do it?" Kauff says. "I love running. I'm also very patriotic about America, and I wanted to see it all again. Also, I wanted to express the philosophy of always moving forward, of transcending limits."

The distance is believed to be the record for miles run on one swing through America. The 41-year-old waiter from the Jamaica section of Queens missed five weeks this summer because of a chest injury and pneumonia, but he began running again as soon as the doctors let him. He arrived home at Battery Park two days before Thanksgiving and was met by a Marine Corps band and whistles from a Fire Department boat.

Behind him are 10 months of impressions of a vast and diverse country that he saw as perhaps no other American has ever seen it. He ran between 25 and 50 miles a day, followed by a friend in a van, Sahishnu Szcsesiul, who kept the log and fixed the meals.

Tarak Kauff ran through snowbanks in the Rockies, was ferried across the flood level of the Mississippi and spent most of his hours alone with his feelings.

But Kauff did not consider himself deprived in his isolation. For the last 12 years he has been a disciple of Sri Chinmoy, the Indian teacher who stresses running, bicycling and tennis as paths to self-transcendence. Kauff was also running as a tribute to his teacher, who, he says, changed his life.

"I was very involved in the antiwar movement in the 60's," Kauff says. "I was also very much into the drug world, looking for shortcuts, which, of course, never work. I was in a health-food store one day, and I heard about these meditations, and once I saw Sri Chinmoy I kept going back."

The 51-year-old Sri Chinmoy, a former hurdler in India, runs in long-distance races and plays a good game of tennis on courts near his center in Jamaica. He also sponsors races and running teams. During the Bicentennial, Kauff organized a relay team that covered America.

"Ever since 1976, I kept wanting to go back to America," Kauff says. "Look, the people in New York are good, too, but the intensity of the city hides the goodness. I felt the longing for simplicity, the friendliness, of the Midwest. Let's face it, sophistication is a pain in the neck."

Kauff saved his salary from waiting on tables at the Russian Tea Room, received donations from friends and left New York last Jan. 31. He covered the southern tier in the cold months and came back across the northern tier in the summer.

"Most of the miles were solitary," he recalls. "You're pretty much alone out there. After a while, you run out of mundane things to think about. It's pretty much like meditating. The whole idea of meditating is to let go of the garbagey thoughts like, 'How much money do I have in the bank?'

"Once your mind is empty, the good feelings come in. For me, the best feeling was gratitude. I felt grateful to God, to the Supreme and also to Sri Chinmoy for inspiring me. People think of athletics as antithetical to spirituality, but they aren't at all."

The good moments outnumbered the bad. Kauff can recall running 57 miles over 10-foot snowbanks in Yosemite National Park in early summer, the first day the road had been cleared for foot traffic. His friend, Sahishnu, had to detour 300 miles with the van.

He remembers the flights to the two distant states, where he stayed just long enough to run up Diamond Head in Hawaii and along Mendenhall Glacier in Alaska before returning to the lower 48.

He is 5 feet 8½ inches tall and weighs about 142 pounds, but he was down to 135 while on the road. He has run marathons in as little as 2 hours 45 minutes but settled on a pace of 9 to 10 minutes a mile during his odyssey.

A highlight of the trip? He stops to think for a moment, then says:

"In South Dakota, on a lonely road, where it's 30 miles between towns and not even any farmhouse, I saw this bicyclist coming toward me. I knew he was not on an ordinary bike ride, so we stopped and talked. His name is David Lorig, from Colorado, and he was covering the 48 states by bicycle.

"I was so inspired by him because he had nobody with him, just his bike and his pack. We stopped and talked for 15, 20 minutes. I know I'll see him again some time."

The low point of the trip came in the hills of eastern Ohio when Kauff stumbled for the first time on his trip and hurt a chest muscle. Unable to breathe comfortably, he says, he developed pneumonia and had to return to Chicago to recuperate for five weeks. Then he started right back with a 30-mile run.

He delayed his arrival in New York until Nov. 23, when Sri Chinmoy returned from a visit to Europe. The last few hundred miles "were the most comfortable of the trip," Kauff says, "I just breezed along, didn't even have a blister." The ceremony at the Battery was "inspiring," he says. On Thanksgiving, Tarak Kauff gave thanks for his mission in the best way he knew: He went for a run.●

THE PLUTONIUM CONNECTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. MARKEY. Mr. Speaker, as we approach debate on the Clinch River fast breeder reactor, I would like to once more bring up the grave threat of nuclear weapons proliferation that would inevitably follow construction of breeder reactors. The Washington-based Nuclear Control Institute this month released a special report on the dangers of proliferation associated with breeders. The report by Bill Adler warns that Clinch River would encourage breeder development and plutonium commerce around the world and that widespread use of plutonium as a civilian fuel would pose an unprecedented threat to civilization.

Because of the seriousness of the problem, I submit the report to the RECORD and recommend it to my colleagues.

BREEDERS, PLUTONIUM AND NUCLEAR WEAPONS

(By Bill Adler*)

There is no way that we will be able to provide assurances that thousands of tons of plutonium are being devoted to peaceful purposes.—Senior International Atomic Energy Agency Official.[1]

BACKGROUND

The plutonium breeder reactor is being actively promoted by the governments of several advanced industrialized states and Third World countries as the next generation of nuclear power plant. Breeder reactors are favored by their proponents in government and industry on the basis of being able to produce more nuclear fuel than they consume. Tremendously high costs, however, are jeopardizing breeder programs in this country and abroad. For example, the most recent cost estimates for the Clinch River Breeder reactor, a prototype commercial breeder, range from $3.2 to more than $8.8 billion.[2] But even if breeders were economical, the threat to international security posed by the vast amounts of plutonium they would produce and use as a fuel makes them too dangerous ever to operate. Plutonium is a key ingredient of atomic bombs.[3]

HOW BREEDERS WORK

Plutonium-breeder reactors, like conventional nuclear power reactors, generate electricity by heating water to operate steam turbines. Heat and plutonium are byproducts of nearly all nuclear-fission reactors.

A major difference between breeder and other power reactors is that breeders must use plutonium (or weapons-grade uranium) as fuel. Most conventional power reactors are fueled with natural or low-grade uranium unusable in nuclear weapons. The plutonium they produce can remain "locked" in highly radioactive spent fuel, where it is inaccessible and is in a dilute form unsuitable for nuclear weapons. This spent fuel can be disposed of in unaltered form. Breeders, however, require large quantities of pure plutonium to be reprocessed from spent fuel. This separated plutonium is then combined with uranium and "recycled" as breeder fuel. The separated plutonium also can be fashioned into nuclear weapons.

Nuclear fission occurs in the breeder reactor's core and in a surrounding "blanket". A typical 1,000 megawatt breeder is designed with a core of over 30,000 pounds of uranium and more than 5,800 pounds of plutonium.[4] The blanket is comprised of some 22,000 pounds of uranium, primarily consisting of the fertile isotope (non-weapons usable) U-238. Neutrons are produced by the fissioning of plutonium in the core and are absorbed by uranium in the core and in the blanket, generating both heat and more plutonium. More than 5,800 pounds of plutonium can be retrieved from the core and more than 760 pounds from the blanket each year of reactor operation. Over 6,500 pounds of plutonium are discharged from a breeder reactor every year.[5] Since less than 15 pounds of plutonium are needed to make an atomic weapon, each breeder reactor discharges enough plutonium to fashion at least 400 bombs a year.

PLUTONIUM AND THE BOMB

The principal obstacle to building an atomic bomb is obtaining plutonium or highly enriched uranium. The requisite technical information, including critical mass summaries and how to fabricate neutron reflectors and other components, is found in the public literature and is, therefore, readily available to individuals, groups and nations.

According to Dr. Theodore Taylor, a former nuclear weapons designer and former Depty Director of the Defense Atomic Support Agency, a single, well-educated and determined individual could make a crude, but effective fission bomb.[6] A well-designed bomb could possibly fit into a small van or the trunk of a car. The Congressional Office of Technology assessment reports:

"A small group of people, none of whom have ever had access to the classified literature, could possibly design and build a crude nuclear explosive device. They would not necessarily require a great deal of technical equipment or have to undertake any experiments. Only modest machine-shop facilities that could be contracted for without arousing suspicion would be required."[7]

Similarly, any country with a nuclear power or research program, or with access to plutonium or highly enriched uranium, can manufacture nuclear devices with an explosive yield likely to equal or to surpass the power of the bombs which destroyed Hiroshima and Nagasaki. According to the Office of Technology Assessment:

"The level of technological effort put forth in the minimal national program can be called low technology. Low technology encompasses the sort of nuclear device designs that would likely be produced for a first use or first test. This required techniques which allow high confidence without prior nuclear test experience. This could be characterized as 1945 U.S. technology."[8]

SAFEGUARDING PLUTONIUM

Safeguarding large quantities of separated plutonium from misuse for destructive purposes is virtually impossible. Two processes are involved in "safeguarding" this material: (1) measurement and accounting procedures to verify the amounts of plutonium in a reprocessing plant and in other facilities at various points of the fuel cycle, and (2) guards, barriers, cameras, alarms and other physical-security and containment measures to ensure that plutonium is not stolen.

Safeguards must be effectively applied [9] to all elements of the breeder fuel cycle that are subject to diversion or theft of plutonium: the reactor, reprocessing plant, fuel fabrication, facility, fuel storage facility and along the transportation routes between and among these facilities.

Since commercial breeders are not yet operated routinely, there is no demonstrated experience for assuring effective safeguards against diversion or theft of fresh fuels containing plutonium for refueling the reactors.

There is a limited amount of safeguards experience for commercial reprocessing plants, the key component of the breeder fuel cycle, and two major problems have become manifest:

First, existing methods of measuring the large amounts of plutonium contained in spent reactor fuel are imprecise: it is possible to estimate the quantity of plutonium contained in the spent fuel of light water reactors only to within plus or minus 10 percent.

Second, current systems can account for the amount of weapons-useable material undergoing reprocessing only to within 5 percent.[10]

According to the General Accounting Office,

"Uncertainties resulting these measurements are so large that diversions of significant quantities of plutonium might not be detectable in large operating plants."[11]

* Bill Adler is Director of Nuclear Control: Citizens to Stop the Spread of Nuclear Weapons, a project of Nuclear Control Institute.

[1] Footnotes at end of article.

Similar problems are encountered in fuel fabrication plants and in other facilities that handle plutonium in bulk.

Little commercial reprocessing has taken place in the United States, but a substantial amount of non-commercial plutonium is unaccounted for in U.S. defense and other government nuclear facilities. This material, known as Material Unaccounted For, or "MUF," can result from numerous circumstances including accounting errors, measurement uncertainties, accumulated small losses in pipes, and deliberate diversion. Between 1947 and 1981, over 4,000 pounds of plutonium were unaccounted for in this country. One facility, the Savannah River Reprocessing Plant, a weapons facility operated by the government, had a net shortage of 320 pounds of plutonium during its operating lifetime from 1955 to 1972.[12]

Although the precision of material accountability for each part of the breeder fuel cycle remains difficult to ascertain, the total amount of unaccounted-for plutonium in the fuel-cycle would be large—certainly large enough to permit undetected diversion of weapons-useable plutonium.

STEALING PLUTONIUM

Two major dangers will persist: diversion of plutonium by states and theft by terrorists and gangsters.

The potential for clandestine diversion by governments raises grave dangers. Plutonium, once separated from highly radioactive spent fuel, is readily handled at all stages of the fuel cycle. The ability of the International Atomic Energy Agency to safeguard this material against diversions by states is subject to severe political and technical constraints. Its role is limited to verifying material balances reported by states. It has no authority to seek out clandestine activities. Its role is akin to an auditor, not a policeman.

Uncertainty of materials accounting is so large that the IAEA is unlikely to know for sure whether missing plutonium was, in fact, diverted or stolen. A nation's good faith and cooperation are required for international safeguards procedures and equipment to function properly. As pointed out in a published but still officially classified report by a former IAEA inspector to the Nuclear Regulatory Commission: ". . .the representatives of state systems and the operators of the installations know exactly how effective international safeguards are and how the international safeguards system can be defeated."[13]

In a recent letter, Nuclear Regulatory Commission Chairman Nunzio Palladino pointed out that because plutonium and highly enriched uranium (HEU)

". . .can be transformed readily into weapons, we cannot count reliably on inspection alone to provide timely warning of diversion of HEU and separated plutonium in time to prevent weapons assembly if the necessary preparatory work has been done."[14]

NRC Commissioner, Victor Gilinsky, recently wrote, ". . .the IAEA system does not (and cannot!) protect plutonium in national hands. . . . In the process of separation, the plutonium loses its national identity and effective control by any one fuel supplier becomes impossible."[15]

Monitoring tons of plutonium being transported around the world in hundreds of different vehicles, and maintaining accurate accounting for the hundreds of facilities in which plutonium is handled would be an arduous enough task. Operating an intelligence system that could provide quick warning of a diversion of plutonium might be impossible to accomplish.

Sober advice to the President has been offered by the Department of Defense regarding the ability of the International Atomic Energy Agency to safeguard plutonium and other dangerous materials:

"The Department of Defense wishes to express its reservations about the effectiveness of IAEA safeguards, the weakness of the IAEA as an international institution, its susceptibility to Third World and East Bloc politics, its lack of an intelligence capability, and the limits of its scope and jurisdiction, in order to guard against undue reliance on the IAEA by those responsible for national security within the United States Government."[16]

Given the known uncertainties and errors in materials accounting, and the technical and human limitations for dealing with them, there is no basis for believing that it is safe to proceed with commercial development of breeder reactors and related fuel facilities. There is no evidence for assuming that science will eventually achieve near-perfect plutonium accounting. With tons—and eventually thousands of tons—of plutonium circulating annually in various facilities and being transported around the globe, nations desiring nuclear-weapons material would be able to obtain it.

NUCLEAR THEFTS AND THREATS

At the same time, overt seizure of plutonium, or sneak thefts within the margins of accounting error, also would be difficult to prevent. With dozens or more breeder reactors operating world-wide, hundreds of tons of plutonium would be transported within and among counties by rail, sea, truck and possibly air, presenting numerous opportunities for theft.

The principle presently used to prevent the theft of plutonium used in military facilities—containment—could not effectively be employed to keep plutonium secure once it becomes an item of international commerce. Keeping track of and guarding the hundreds of vehicles carrying plutonium will be an arduous task; preventing thefts of small quantities, enough for a few atomic bombs, could be impossible over the long run.

The Office of Technology Assessment reports, "If plutonium becomes a commonly traded commodity, minimal intermittent black market transactions seem plausible, simply because the large amounts of material that could be circulating would be difficult to safeguard perfectly."[17]

Many unauthorized intrusions of nuclear facilities already have occurred. For example, in March 1971, five uranium rods were stolen from the Springfield fuel fabrication plant in the United Kingdom "perhaps in transit or at the Wylfa reactor in Anglessy."[18] In 1975, in a demonstration of security inadequacy, a West German Member of Parliament carried a bazooka into the Biblis reactor plant and presented it to the Director. In 1976, an intruder successfully scaled a security fence and entered a protected area at the Three Mile Island reactor. He was not apprehended.[19]

There are a number of recent reports of a disturbing phenomenon—nuclear threats:

. . . in the seven years ending in November 1977, forty-nine threats were received in the United States "in which adversaries claimed to possess nuclear material of a nuclear device and threatened to wreak severe damage with it." By mid-1981, the count was sixty-five and rising . . . At least four threats were deemed sufficiently credible to evoke intensive research by a specially instrumented team . . .[20]

Nuclear terrorist threats would become far more credible once plutonium becomes widely available. In the absence of foolproof methods for keeping even small amounts of this weapons material out of irresponsible hands, the likelihood of genuine nuclear blackmail and of nuclear violence will increase over time if breeders are developed and deployed.

MOVING TOWARD A WORLDWIDE BREEDER ECONOMY

Elaborate plans are being made to protect a single commercial breeder reactor at Clinch River, Tennessee, and its accompanying facilities from sneak thefts and attack. For example, an extensive network of alarms, guards, fences, vaults and other devices, as well as specially equipped plutonium-carrying trucks with armed couriers in constant communication with law enforcement agencies, are being developed. Some of the ancillary fuel-cycle facilities will be located in high-security nuclear-weapons compounds operated by the Department of Energy. The Nuclear Regulatory Commission staff assessment of Clinch River safeguards maintains that "the probability of a successful act of sabotage or theft is low,"[21] for this one reactor, but it also points out that "the proposed DOE facility design is conceptual in nature; hence the safeguards system is also conceptual."[22]

Despite the stringent safeguards required for Clinch River and its fuel cycle, and the present conceptual state of those safeguards, the impact of proceeding with Clinch River on the global spread of nuclear weapons is not formally being considered. According to the NRC assessment, "The staff has not evaluated the relative proliferation resistance of the various fuel cycles or the likelihood that development of the Clinch River Breeder Reactor Project will lead eventually to the further proliferation of nuclear weapons."[23]

Breeder proponents look ahead to a world in which there are hundreds, and eventually thousands, of breeder reactors despite the impracticality, if not the impossibility, that the military-like security and safeguards procedures planned for the Clinch River project can be uniformly applied throughout the world.

The International Nuclear Fuel Cycle Evaluation report estimates that there could be some 50 breeder reactors operating by the year 2000;[24] a recent Scientific American article projects that in 50 years about 1,500 breeders could be producing 1,000 megawatts of electricity each, supported by 60 large plutonium reprocessing plants and similar number of fuel fabrication facilities.[25]

Dr. Theodore B. Taylor, the former nuclear weapons designer, describes this breeder-supported world:

"The total annual quantity of plutonium shipped between the projected nuclear power plants and fuel reprocessing and fabrication plants would be in the vicinity of 2 million kilograms. It takes less than 10 kilograms of plutonium to make a fission bomb that is now old fashioned. Diversion of less than 1% of this annual flow of plutonium would be enough for more than 1,000 nuclear weapons per year."[26]

He points out that a "single fast breeder fuel reprocessing plant would discharge enough plutonium for more than 10,000 nuclear weapons per year."[27] Depending on how many breeders are producing electrici-

ty, there could be hundreds or thousands of bombs worth of material unaccounted for each year.

Plutonium, once separated from spent fuel, remains weapons useable for over 100,000 years; in fact, it then decays into another weapons material, uranium-235. Because of its exceedingly long active life, plutonium must be guarded with absolute assurance for a period of time equal to the millennia between the last ice age and the present.

THE GLOBAL IMPLICATIONS OF CLINCH RIVER

Given the inherent danger of separated plutonium, a material produced by the ton that can be used by the pound to make nuclear weapons, the implications of proceeding with the Clinch River plutonium breeder go far beyond the energy interests of the United States. Clinch River would further legitimize plutonium as a civilian fuel and would encourage breeder development and plutonium commerce around the world at the very time these programs are encountering serious difficulties in every country pursuing them.[28]

There is no human experience in commerce in a material as dangerous as plutonium. However, the inability of governments to control trafficking in heroin, portable anti-aircraft missiles and high explosives suggests that we cannot be sanguine about their ability to control trafficking plutonium. The widespread use of plutonium as a civilian fuel would pose an unprecedented threat to human civilization, even to survival. Neither the political nor the technical skills have been developed to assure the safe and secure handling of plutonium in commerce. Unless they are, Clinch River and other commercial breeder reactors are too dangerous to bring into the world.

FOOTNOTES

[1] Judith Miller, "Trying Harder to Block the Bomb," New York Times Magazine, September 12, 1982.

[2] The Department of Energy's most recent cost estimate for Clinch River, made in 1980, is $3.2 billion, an eight-fold increase since the original 1971 projection of $400 million. An interim report by the General Accounting Office states that the cost of the project could exceed $8.8 billion (September 23, 1982). Neither the DOE nor GAO include in their calculations the cost of all the ancillary facilities such as reprocessing, fuel storage and fabrication plants. Breeder programs in France, Great Britain, Japan and West Germany are experiencing major cost escalations as well.

[3] The vast amounts of weapons plutonium in the United States and other nuclear-weapons states are also of deep concern but beyond the scope of this report on the impact of commercial plutonium on the spread of nuclear weapons.

[4] All figures, unless otherwise stated, are for a 1000 ME(e) breeder reactor. Breeder input and output information is derived from the International Nuclear Fuel Cycle Evaluation, Report of Working Group 5, Chapter 3, "The Fast Breeder Fuel Cycle," pp. 83-91, International Atomic Energy Agency, Austria, January 1980.

[5] The isotopic content of the plutonium produced in the blanket is about 97 percent plutonium 239, which is considered ideal weapons material. Plutonium in the core has a higher concentration of plutonium 240, but still can be readily used in nuclear bombs.

[6] Statement made at a forum on nuclear terrorism at a meeting of the Nuclear Nonproliferation Task Force, U.S. Congress, August 12, 1982.

[7] "Nuclear Proliferation and Safeguards," U.S. Congress, Office of Technology Assessment, 1977, p. 140.

[8] Ibid., p. 140.

[9] By "effectively applied" we mean safeguards that can provide prompt warning of a diversion of, or can prevent theft of, a weapons-quantity of plutonium—that is, less than 15 pounds.

[10] An accounting error of 5 percent of the plutonium going through a large commercial reprocessing plant amounts to 1,650 pounds, or the equivalent of more than 100 atomic bombs a year. Even if the margin could be reduced to one percent, which is regarded as highly unlikely, the amount of plutonium unaccounted for still would be equivalent to more than 20 bombs a year.

[11] "Nuclear Fuel Reprocessing and Problems of Safeguarding Against the Spread of Nuclear Weapons," General Accounting Office, EMD-80-38, March 18, 1980, p. ii.

[12] Ibid., p. ii.

[13] Emanuel R. Morgan, Report on the Implementation of IAEA Safeguards, as reported in Nuclear Fuel, November 23, 1981, p. 9.

[14] Nunzio A. Palladino, Chairman, Nuclear Regulatory Commission, Letter to Senator Gary Hart, March 2, 1982.

[15] Victor Gilinsky, "The Administration's Risky Plutonium Policy," the Wall Street Journal, July 15, 1982.

[16] See Gerald F. Sieb and John R. Emshwiller, "President Unveils Nuclear Arms Policy as Pentagon Criticizes Watchdog Agency," the Wall Street Journal, July 17, 1981.

[17] OTA, op. cit., p. 15.

[18] "Obstacles to U.S. Ability to Control and Track Weapons-Grade Uranium Supplied Abroad," General Accounting Office, GAO/ID-82-21, August 2, 1982, p. 64.

[19] Ibid., p. 65.

[20] Armory B. Lovins and L. Hunter Lovins, "Brittle Power: Energy Strategies for National Security," Brick House Publishing Co., Inc., 1982, p. 160. Quoted G. Bass, "Motivations and Possible Actions of Potential Criminal Adversaries of U.S. Nuclear Programs," report to Sandia Laboratories, RAND Corp. R-2554-SL, February, 1980.

[21] Nuclear Regulatory Commission, "Supplemental to Final Environmental Statement related to construction and operation of Clinch River Breeder Reactor Plant," NUREF-0139, Supplement No. 1, vol. 1, October 1982, p. 12-66.

[22] NRC Supplemental, vol. 2, op. cit., p. E-13.

[23] NRC Supplemental, vol. 1, op. cit., p. 12-33.

[24] INFCE, op. cit., p. 85.

[25] Wolfgang Sassin, "Energy," Scientific American, September 1980.

[26] Statement by Theodore B. Taylor, Subcommittee on Oversight and Investigations by the Committee on Interior and Insular Affairs, U.S. House of Representatives, October 23, 1981.

[27] Ibid.

[28] See "The Floundering Race to Build the Nuclear Concorde" by C. Patterson, prepared for Congressional briefing by Taxpayers Coalition Against Clinch River, September 15, 1982.●

HONORING REPRESENTATIVE SHIRLEY CHISHOLM

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tnursday, December 9, 1982

● Mr. WINN. Mr. Speaker, SHIRLEY CHISHOLM always represented the interests of people who have not enjoyed the prosperity most Americans have. She firmly believes in speaking for the less fortunate and in the 14 years she has served in the House of Representatives, has been a source of compassion and eloquence.

I do not agree with Congresswoman CHISHOLM on many issues, yet there are very few people in Congress whom I respect and admire more. She has always been fair and consistent in her point of view and that reflects in her voting record.

SHIRLEY CHISHOLM has visited my part of the country and was named an honorary citizen of Kansas City a few years back. She has quite a few admirers back in the Midwest—people who understand her tenacity and hard-working nature. No matter the political persuasion. SHIRLEY CHISHOLM is a Member of Congress who believes in hard work while representing the people. Her efforts on the Rules Committee—a very demanding committee—are well known and she is one of the reasons that committee carries as much prestige as it does.

SHIRLEY CHISHOLM is an effective legislator and fine lady. We will miss her here in the House. I wish her well.●

HON. RON MOTTL

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CHAPPELL. Mr. Speaker, I rise today to pay a special tribute to my dear friend and distinguished colleague, RON MOTTL.

It is hard for me to imagine anyone in Congress who will miss RON more than I. For the past 8 years he has pitched an outstanding game for the Democratic baseball team—leading us to victory over the Republicans. We will sorely miss RON—whose superb pitching and fielding abilities have enabled the Democrats to keep the opposition at bay. While my good friend, Mr. CONTE, is certainly saddened at the loss of such an able colleague as we have in RON, he is, no doubt, relieved that his team will not have to face the fierce fast pitch of RON MOTTL. There is certainly no one who can take his place on the Democratic team, and we will all be forced to go an extra round or two to compensate for the loss of our fine friend and teammate.

Aside from his remarkable athletic record, RON has served this Chamber with great distinction since 1974. As the chairman of the Veteran Affairs' Subcommittee on Hospitals and Health Care, he has taken careful consideration of the special needs of our veteran population. I know firsthand of RON's great service to our veterans through his able chairmanship of this important subcommittee.

Last June, I appeared before his subcommittee to again argue the case for the establishment of a VA outpatient clinic in Daytona Beach, Fla. Although Congress had instructed the Veterans' Administration to provide an outpatient clinic in this area in three separate appropriations measures, no action had been taken. Needless to say, through the efforts of our esteemed colleague, that much needed clinic will soon be operating. RON, the Veterans in the Fourth Congressional District of Florida who will utilize that facility certainly owe you a lot and I am most grateful for your fine work and effort on their behalf.

Along with his service on the Veterans' Affairs Committee, RON has also served on the House Energy and Commerce Committee. His work on that committee has been of great benefit to this Chamber and I am sure we will all miss his input there. He has been a studious lawmaker, carefully weighing all points of view before reaching a final analysis.

I am sure that I speak for many of our colleagues when I say you will be missed. Your good judgment and wisdom have been assets which cannot be replaced. You have served your country well and I am sure that you will continue to work for the betterment of our Nation.●

H.R. 7360

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. BEDELL. Mr. Speaker, on Monday, December 6, the House approved H.R. 7360, the Surface Transportation Act of 1982. This comprehensive transportation package was desperately needed to address the deterioration of our Nation's transportation infrastructure. The extent of this deterioration has been clearly portrayed in dozens of magazines and newspapers as well as trade publications and television and radio reports.

This legislation—as passed by the House of Representatives—is by no means a perfect bill. I spent a great deal of time studying the different provisions of this legislation and meeting with my constituents from northern Iowa about how this bill would change their businesses and lives. From the beginning I had a number of misgivings about the ramifications of this legislative package.

My major objection centered on the revenue title and the number of increases in existing taxes which will place a substantial burden upon the trucking industry. I recognize that several recent studies have recommended a greater user fee be charged to the heavy trucks to meet their responsibility for the transportation system. However, in its present form I feel that the total increase in taxes on the trucking industry is unacceptable.

The package as adopted by the House would increase the heavy user fee for large trucks on a graduating scale up to a maximum of $2,000 per truck. In addition to the increased tire, tread rubber, and fuel taxes this heavy user tax will have a devastating impact on the trucking industry. Considering that the trucking industry is already financially ailing, does it seem prudent to impose these excessive additional tax burdens? And, considering the ripple effect on agriculture and other troubled industries that rely on trucks, does it seem wise to further strain their economic welfare? I think not.

Mr. Speaker, I was disappointed that the rule granted for the debate of this legislation did not permit amendments to the revenue title. Considering the impact of these taxes on the trucking industry I believe it was important to allow an open debate and permit amendments to improve this title. I regret that in a close vote of 197 to 194 the rule that did not permit amendments to this title was adopted.

Having lost in the attempt to amend this part of the bill, I was faced with the decision to vote for or against the revenue title which had to be adopted before the entire surface transportation legislation could be approved. While recognizing the deficiencies of this revenue title, I reluctantly voted for this package with two considerations in mind.

First, it is my hope that the Senate will make sufficient changes in the heavy user tax so that a House-Senate conference committee can agree on a more reasonable heavy user tax. If the conference committee fails to make sufficient changes in the heavy user tax I can always vote against the whole surface transportation bill at that time.

Second, since the heavy user tax does not become effective until January 1, 1984, there is still time to approve changes in this provision that would address the truck industries' responsibility for the transportation system without crippling or destroying it.

The trucking industry is cognizant of its responsibility to our roads and has been very supportive of the need to address our transportation infrastructure. Hundreds of people in this important industry have called or telegramed my office in the last week to express their concern about the needs of our transportation system. They recognize their responsbility to help pay for the construction and repair of our roads and bridges and realize that a safe and improved highway system is in their best interest as well as the best interest of our country. These individuals only request that the taxes assessed to their industry be reasonable and fair. I regret that in its present form the total taxes assessed to the trucking industry are not reasonable and are not fair.

Mr. Speaker, it is my understanding that the Senate will consider this legislation today and I hope that some changes will be made to the heavy user tax. Furthermore, I would urge my colleagues to again look at this provision if a conference committee returns this bill to the House for final approval. Finally, if changes regarding the heavy user fee are not made before the President signs this legislation into law, I would urge the Ways and Means and Public Works and Transportation Committees to consider legislation in the next year to address this tax before January 1, 1984, the effective date of this provision.●

MARIO BIAGGI: A CHAMPION OF STUDENT AID

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. FORD of Michigan. Mr. Speaker, I am proud to pay tribute to one of my fellow senior members on the House Education and Labor Committee, the Honorable MARIO BIAGGI.

He has distinguished himself on that committee and particularly on the Subcommittee on Postsecondary Education with his knowledge of student aid programs, his sensitivity to the needs of the handicapped, and his dedication to adult nontraditional students.

During the consideration of the Higher Education Amendments of 1980 and the Middle Income Student Assistance Act of 1978, when I was honored to serve as the chairman of the Subcommittee on Postsecondary Education, I depended a great deal on Congressman BIAGGI's knowledge and expertise. It therefore came as no surprise to me when Fordham University on October 8 awarded him its highest nonacademic honor, its Presidential Medal. I wanted to share with my colleagues the article on this event which appeared in Inside Fordham, Fordham University's journal of events and ideas.

The article follows:

CONGRESSMAN BIAGGI RECEIVES PRESIDENTIAL MEDAL

Congressman Mario Biaggi was awarded Fordham University's Presidential Medal on October 8 as the highlight of the University's observance of National Higher Education Week. The medal, the University's highest non-academic honor, was presented by Rev. James C. Finlay, S.J., at a dinner honoring Biaggi in the McGinley Center.

In bestowing the medal, Father Finlay described Biaggi as an "indefatigable and dedicated representative of his constituents." Father Finlay said that as a member of the House Education and Labor Committee, the Congressman "has valiantly fought for the preservation of Federal support of higher education and he has sought as well to safeguard and underwrite the independent sector."

Noting that Biaggi is also a member of the House Select Committee on Aging and chairman of its Subcommittee on Human Services, Father Finlay said that he "continually has espoused and championed the concerns of senior citizens." He added that the Congressman had been a key figure in assisting Fordham to obtain a $6.5 million federal grant to build 115 units of housing for elderly and handicapped persons on an abandoned parcel of City-owned property

adjacent to Fordham's Rose Hill campus in the Bronx.

Father Finlay concluded, "The medal is an acknowledgement of the Congressman's major contribution to the commonweal, and precious token of gratitude and esteem on the part of the University for a very dear friend and neighbor."●

SHIRLEY CHISHOLM

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. FROST. Mr. Speaker, when we adjourn sine die and the 97th Congress ends, an illustrious career in the U.S. House of Representatives will end with it. When SHIRLEY CHISHOLM takes her leave of the House, we will lose a Member of intelligence, independence, and courage. This House will lose a voice that has spoken loudly and forcefully for those whose voices are all too often not heard and those voices to which not many will listen. In short, Mr. Speaker, we will all be the poorer for her absence.

SHIRLEY CHISHOLM has dedicated her life and her career to the people who are so often left behind when this country advances. She has made it her job to look out for those Americans and to ask why they are not part of the great strides this country has made in this century. Her voice has often been an irritant to the strong, the powerful, and the wealthy, but I submit that it has been her voice that has protected the powerless from the powerful. She is an advocate of a fair America, a just America, and a moral America. She is a woman of dignity, grace, and purpose and those qualities will be missed.

But, knowing of her sense of purpose, I feel sure that just because she is leaving the Halls of the House of Representatives does not mean that she will remove herself from those causes which she has so forcefully championed. I know she will continue to speak out and demand equality and justice for all Americans. I am proud to have known her and I am proud to call her my friend.●

COMMON CAUSE SUPPORTS CONGRESSIONAL PAY INCREASE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. PORTER. Mr. Speaker, I submit without comment a letter received today from Common Cause regarding remuneration of Members of Congress:

Dear Representative: The House and Senate will soon once again be faced with the extremely important but politically difficult question of what to do about congressional pay. Common Cause strongly supports appropriate pay increases for Members of Congress as well as for officials in the Executive and Judicial branches.

We recognize that this is a particularly difficult issue at this time because of the severe economic conditions in the country. Unfortunately, however, there never seems to be a right time for increasing congressional pay.

Since 1969, according to the Joint Economic Committee, the Consumer Price Index (CPI) has risen 168 percent. Pay for Members of Congress during this same period has risen 43 percent (from $42,500 to $60,662). This has resulted in congressional pay over the last thirteen years running 125 percent behind inflation. Since 1977 the CPI has increased 62 percent while Members of Congress have received only one raise of 5.5 percent—in 1979. The report of the Commission on Executive, Legislative and Judicial Salaries pointed out in 1980 that "in 1969 dollars, the purchasing power of salaries for Members of Congress has declined to $25,800."

Because congressional pay winds up linked with other government salaries, the inability to deal rationally with this issue has had a negative impact on the Executive and Judicial branches as well.

As an organization Common Cause has opposed backdoor means of enhancing congressional salaries that increase conflicts of interest and inequitably use the tax code. Common Cause worked against lifting the limits of honoraria and other outside income and for repeal of the special congressional tax break. But we also strongly believe that Members should be appropriately compensated through their congressional salaries.

Obviously $60,662 does not represent a marginal annual income. But it is far below the salaries of those in top level positions in major corporations and law firms and many other enterprises in the private sector. In addition, a study conducted for the 1980 Pay Commission showed that between 1969 and 1980 private sector executives with "responsibilities roughly comparable to those of top federal executives" received salary increases of more than 116 percent.

There are clearly other rewards in congressional service that are not monetary in nature and certainly no one expects that government salaries will or should be directly comparable with the private sector. But Members of Congress have been chosen by the people as our national leaders to make the public policy decisions that will affect the direction of our country and the lives of all Americans. It is essential that they be adequately and fairly compensated. Members should not be expected to see congressional pay in real dollars decline year after year.

Many Members have independent wealth or other major sources of additional income while others—a majority in the House of Representatives—basically live on their congressional salaries. We urge those Members who have independent financial resources to think long and hard about denying their colleagues pay increases to which they are clearly entitled and which are in the public's best interest.

We understand this is a very difficult issue politically and that the temptation is there to reject any efforts at increasing congressional pay. We strongly urge you, however, to resist this temptation and to support an appropriate pay raise for Members of Congress.

Sincerely,

FRED WERTHEIMER,
President.●

PLAN TO CALL UP H.R. 6519

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday December 10, 1982

● Mrs. SCHROEDER. Mr. Speaker, this is the text of a bill I plan to call up on suspension next week:

H.R. 6519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3111(c) of title 5, United States Code, is amended—

(1) by striking out "(c) Any" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), any"; and

(2) by adding at the end thereof the following new paragraph:

"(2) In addition to being considered a Federal employee for the purposes specified in paragraph (1), any student who provides voluntary service as part of a program established under subsection (b) of this section in the Internal Revenue Service, Department of the Treasury, shall be considered an employee of the Department of the Treasury for purposes of—

"(A) section 552a of this title (relating to disclosure of records);

"(B) subsections (a) (1), (h) (1), (k) (6) and (1) (4) of section 6103 of title 26 (relating to confidentiality and disclosure of returns and return information);

"(C) section 7213(a)(1) and 7431 of title 26 (relating to unauthorized disclosures of returns and return information by Federal employees and other persons); and

"(D) section 7423 of title 26 (relating to suits against employees of the United States);

except that returns and return information (as defined in section 6103(b) of title 26) shall be made available to students under such program only to the extent that the Secretary of the Treasury or his designee determines that the duties assigned to such students so require.".

Amend the title so as to read: "A bill to amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties.".●

TRIBUTE TO CONGRESSWOMAN SHIRLEY CHISHOLM

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CLAY. Mr. Speaker, it is my privilege to join my colleagues today in tribute to the distinguished Congresswoman from New York City, the Honorable SHIRLEY CHISHOLM, on the occasion of her retirement from the U.S. Congress.

Representative CHISHOLM and I are congressional classmates. We both joined the House of Representatives in 1969. In the last 14 years, SHIRLEY CHISHOLM has given outstanding and devoted service to the people of the 12th District of New York and all the citizens of the Nation. It has been my pleasure to serve with Mrs. CHISHOLM on the Education and Labor Committee and I have been moved by her deep commitment to improving the educational systems in our society. She is a vigorous, enthusiastic, and courageous fighter. Everyone of us fortunate enough to have worked with SHIRLEY CHISHOLM has been enriched and rewarded by the association.

SHIRLEY CHISHOLM is a unique and remarkable human being who has dedicated her life to helping her brothers and sisters. Congresswoman CHISHOLM is leaving a meaningful legacy of service to her Nation and she will be greatly missed by all the Members of this body. As she retires, I extend to SHIRLEY CHISHOLM and her family, my best wishes for a long and happy future.●

THE LESSONS OF ABSCAM

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. HUBBARD. Mr. Speaker, I received an excellent and thought-provoking letter with regard to the report prepared by the American Civil Liberties Union from professor of law, Robert L. Stenger, University of Louisville, Louisville, Ky. I believe my colleagues will be interested in Professor Stenger's comments concerning the need that "we have a high degree of confidence in the fairness and integrity of the criminal system." However, as he also states, "it is most disturbing to read of FBI activities which intrude into the lives of citizens and Members of Congress with no prior showing of probable cause before an objective magistrate."

The letter follows:

KENTUCKY CIVIL LIBERTIES UNION,
Louisville, Ky., November 5, 1982.

Representative CARROLL HUBBARD,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HUBBARD: I am sending you a copy of the ACLU Public Policy Report "The Lessons of ABSCAM" in my own name and in the name of the Board of Directors of the Kentucky Civil Liberties Union. As a law professor, a lawyer and a citizen, I find the contents of this report quite disturbing.

Surely, as a member of Congress, you are aware of the existence, implications and results of the ABSCAM investigation. The ACLU report is, in fact, drawn almost entirely from evidence which was developed before Senate and House committees. The persons who suffered most as a result of ABSCAM were your own colleagues.

I would direct your attention to two significant aspects of an ABSCAM-type investigation: privacy and the integrity of the criminal justice system. With respect to privacy, it is acknowledged in our constitutional system that an individual cannot raise a privacy defense to a criminal charge. The lawbreaker loses his privacy, among other things, by the very fact of breaking the law. The offense and its legal consequences become matters of public record and public knowledge. But unless and until there is probable cause for believing some illegal activity has occurred or is about to occur, the individual should be protected from unwanted and intrusive governmental penetration into his personal life. As I write this letter, I sit in the building outside of which Justice Brandeis lies buried; it was he who wrote so eloquently of a person's "right to be left alone." It is most disturbing to read of FBI activities which intrude into the lives of citizens and members of Congress with no prior showing of probable cause before an objective magistrate.

For the continuation of our common life as a nation under law, it is necessary that our criminal laws effectively punish lawbreakers and deter would-be lawbreakers. But to achieve these results, it is also necessary that we have a high degree of confidence in the fairness and integrity of the criminal justice system. Perceived unfairness may be as detrimental to the system as actual unfairness with respect to public confidence. Most of us saw on the national news programs the various tapes of allegedly illegal activities by members of Congress. Many of us were embarrassed at the manner in which such tapes were made and the sequence of events leading up thereto. No citizen would wish to continue any practices which condone lawbreaking, certainly not by those holding the responsibility of elected public officials. But also no citizen can watch reports of an ABSCAM-type investigation without some real fear that any one of us may be too close to a similar investigation. "There . . . go I."

I encourage you to read and study the report compiled by the American Civil Liberties Union and to discuss in with your colleagues. I hope that such study will lead you to support effect in Congress to draft appropriate laws, rules and guidelines for law enforcement agencies. Committees in both houses of Congress have already held hearings on this matter. We hope you will be able to develop legislation under which effective detection and prosecution of criminal activity can be combined with adequate protection of individual liberties, personal privacy, and collective respect for the fairness of our justice system.

Sincerely,

ROBERT L. STENGER,
Professor of Law,
University of Louisville.●

KEN HOLLAND

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CAMPBELL. Mr. Speaker, it is with mixed emotions that I take the floor today to pay tribute to my colleague from South Carolina, KEN HOLLAND. While it was KEN's choice to continue his career in the private sector, the fact is that this House is going to miss him sorely. The Nation and certainly the State of South Carolina is losing a fine legislator and a good man.

During his 8 years in the House, KEN came to be a leader on the Ways and Means Committee, speaking with a moderate voice that was respected on both sides of the aisle. As chairman of the Congressional Textile Caucus, he grappled with Democratic and Republican administrations alike for a fair deal for the industry which is the lifeblood of the South. And through it all, KEN's dry wit and honest convictions won him the admiration even of those who disagreed with him.

KEN is known for his musical ability and his love of good old, down home country music. I can well imagine that during his decisionmaking process, Willie Nelson's "Stay a Little Longer" might well have warred with Johnny Paycheck's "Take This Job and Shove It"—I am only sorry that Willie did not prevail.

I know that KEN and Diane will enjoy their new life, for they are the kind of people who find satisfaction in whatever goals they are pursuing. I wish them only the best.●

CONGRESSWOMAN SHIRLEY CHISHOLM

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Ms. MIKULSKI. Mr. Speaker, it is a privilege for me to rise today and honor my distinguished colleague, SHIRLEY CHISHOLM. Ms. CHISHOLM has been the heart of the women in Congress. She has provided tremendous leadership and has been an inspiration to us all. Her campaign for the Presidency of the United States was a lightening rod for people who had felt on the outside of the political process.

Congresswoman CHISHOLM stands for the best of the ideals that have made this country great: democracy, equality, and concern for others. She is truly unbought and unbossed.

She has been a dedicated public servant. Her constituents are not the only ones who have benefited from her great leadership. We in Congress have been challenged and inspired by her, as has the whole country. To me she has been a friend, adviser, and valued cocampaigner on the Kennedy campaign. I will miss her presence.

I wish her well in her future endeavors, and Godspeed.●

ITALIAN AID FOR POLES SHOWS BROTHERHOOD ALIVE IN BROOME COUNTY

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. McHUGH. Mr. Speaker, I would like to take this opportunity to share with my colleagues news of a heartwarming event that recently took place in upstate New York's Broome County, which I am privileged to represent.

On November 12, a wonderfully festive dinner-dance was sponsored by the Italian community in Broome County to raise funds for relief assistance for the people of Poland, who at that time had been under martial law and suffering from severe economic hardships for almost a year.

Numerous Italian organizations participated in sponsoring the event at the Fountains Pavilion in Johnson City, N.Y.—the men's and women's Abruzzi Clubs, and both the Endicott and Binghamton men's and women's lodges of the Sons of Italy.

Shortly after Thanksgiving, in a beautiful expression of the spirit of the season, representatives of Broome County's Italian organizations presented a check for over $1,000 to the Kopernik Society. That money will go to alleviate the plight of the Polish people, just as money collected almost 2 years earlier by Polish organizations in Broome County had gone to provide assistance to Italian earthquake victims.

Mr. Speaker, I wish to commend the organizations involved for the spirit of solidarity and brotherhood they have shown, and to share with my colleagues the power of their example. In a world that sometimes seems heartless and cruel, the Italian and Polish communities of Broome County have given us a beautiful example of the power of love made effective of which Francis of Assissi spoke: "the ability we have to be, for each other, channels of peace—bringing hope where there is despair, faith where there is doubt, and joy where there is sadness."●

WHAT PRICE DEFENSE? NO CHANGE IN THE SOVIET UNION IN 63 YEARS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. McDONALD. Mr. Speaker, both at the conclusion of this 97th Congress and the beginning of the 98th, we shall be called on again and again to fulfill the constitutionally mandated responsibility for the defense of these United States. I have, and I will continue to raise the question to my colleagues as to how they can vote for American money to sustain the communist world and especially the Soviet Union—and not vote for defending this country.

We have witnessed factory workers making Soviet machineguns to perpetrate the massacre of the Israeli athletes at Munich and being fed with U.S. wheat. We have seen American technology given to the Soviet Union kill our men in both Korea and Vietnam as well as perpetrating massacres against Hungarians and Poles.

I shared some mementos from Igor Gouzenko, who defected to Canada back in 1945, in another part of this RECORD. He could not be part in conscience on spying on Canada, the United States and Great Britain after seeing the reality of living in a free land. And yet there are still those who believe that we must continue to negotiate and simultaneously stop spending for defense against the Soviet Union.

If I may I would like to share some more brief passages from Igor Gouzenko's book, "The Iron Curtain," on subjects of interest on life in the Soviet Union versus the free world. Please weigh the alternatives in conscience and see whether we should arm—or disarm. Excerpts on different subjects follow:

This Christmas season no doubt, there will be many mothers in America about to bring pride and joy to future citizens in a free land. Please ponder the alternative in the Soviet Union:

Then came the day that Anna told me she was pregnant.

At first I was elated with the news because I have always loved children, but my joy gave way to sober thought of what this meant. The food situation had become very much worse. I knew that the meals at the Architectural Institute were not substantial enough to meet the new demands on Anna's bodily strength. The thin soup she received there was like muddy water. There were no fats or oils. Within a short time she began to lose her teeth.

The only way I could devise to supplement her diet was by surreptitiously bringing half of my dinner home to her. When I was served a cutlet or meat ball for dinner, I would slice it in two. One half I ate; the other I put in my pocket and took home. I did the same with the bread, which was of better quality than could be obtained in civilian stores. Many other fellow officers were doing the same for their wives.

Eventually I worked out a scheme whereby I smuggled a saucepan into the mess. The waitresses sympathized with me and furtively passed me extra soup, glancing over their shoulders at the mess managers as they did so.

As Anna's condition failed to improve I stopped eating lunch and put everything I received in the way of food into the saucepan. There were guards at the door but they, too, were married men and pretended they didn't notice my bulging coat.

Anna was suspicious.

"Igor," she would ask, "are you sure you had some lunch?"

I would wave away her question and sit there trying to seem unconcerned while she ate. In those days I can never recall going to bed without thinking how grand it would be to have something to eat. I would toss in my sleep, dreaming of hot bowls of soup and wake up in the middle of the night imagining I could smell it cooking in the room. It never occurred to me that there were ordinary people in other countries any better off than us. My whole aim, at that time, was to improve my station at Headquarters so that higher rank would bring more rations.

One night Anna's sister visited us and brought with her a salt herring that had been over-cured. The two girls made a pot of soup with the herring and offered me some, but the smell sickened me. I had to refuse it and they ate my share.

Anna did not have a single bite of fruit during those trying months. In fact, I had not seen fruit for more than five years. I had forgotten what a good cut of meat looked like.

Is it any wonder that Anna and I still walk as if into a paradise when we enter our neighborhood butcher shop or fruit store and see steaks, oranges, pears, bananas, lemons, berries . . . ?

Yes, of course we take such things for granted as curtains on our windows here in America. Could one imagine such conveniences not being readily available to the populace? Now look through the "Iron Curtain" window of reality in the Soviet Union:

During my year at the foundry's "adult school," I achieved little. It was not for lack of trying. The school was nothing but a farce. However, the year I spent there did give me an opportunity to get to know the workers.

Frequently I was invited by the handful of men who stuck at the course to visit the community boarding-house. Invariably their poverty astounded me. None of the workers had any belongings except what was stored in the trunk under each bed.

About one hundred men occupied each dormitory, and half of the beds were occupied almost continually by either the night or the day shift. Those waiting to go on shifts were invariably a noisy lot. There was much laughing and smoking. Some played on balalaikas. Frequently girls were there, visiting men. Nobody paid the least attention to the sleepers.

On one such visit, as a guest of a young student-worker, I was looking around and mentally deploring such living conditions for such hard-working men. My escort touched my arm and pointed proudly to some windows on which were some cheap muslin curtains, rarely seen in a workers' house.

"Pretty cultured, isn't it?" he said proudly. "We are in competition with a neighboring community boarding-house," he continued, "and this month we beat them, largely due, the judges said, to the cultural touch given by such things as these curtains."

The young worker actually blushed with pleasure.

"Yes, it was all my idea," he boasted.

Years later I was to remember those curtains, during my first train ride in Canada. Even the windows of the train were curtained. There were curtains on the windows of every house, not because of factory com-

petition, but because they were the ordinary things of life.

As we approached Winnipeg on the train, I saw from the window a factory, outside of which automobiles were parked, filling a vast yard.

I pointed them out in some excitement to a Canadian soldier whom I had met.

"Look at those automobiles! The government must be making a big inspection." Of course I immediately thought of the government, because who else in the Soviet State can be responsible for any assembling of men or machines.

The soldier looked at me queerly for a moment.

"Hell!" he roared, "those cars belong to the factory workers!" It was absolutely unbelievable. I was convinced that the soldier was deliberately attempting some lying propaganda, and I did not speak to him again during the remaining two nights and a day of the trip to Ottawa.

After all, what workers could ever earn enough to afford an autombile? Even if they did manage to save such a stupendous sum of money, how could they ever secure permission to buy what belongs only to the government?

In another entry in this RECORD I made available information dealing with American paratroopers of World War II going to the Soviet Union in 1982. I am quite sure there were no souvenirs worthy of bringing back to the United States. On the other hand what would the average citizen like to have in the Soviet Union? Gouzenko gives us the answer:

Moscow sent an exhaustive list of items which could not be brought back to the Soviet Union by working citizens returning from foreign assignments. One banned item was "knitting literature." That night I asked Anna what she thought was behind that particular ban.

"That's fairly easy to figure out," she replied. "The innocent knitting-book would tell people back home that there is wool in foreign countries and that women there may knit sweaters, socks and such. All that . . ." Anna's tone became unusually bitter, "might tend to make Russians suspect they are being fooled by the official lies about democratic countries."

I almost jumped from my chair. Unconsciously, I looked over both shoulders in sudden consternation lest somebody be listening. But there was nobody else in the apartment. This was our own little castle boasting its own sacred privacy. Anna had spoken in the free, outright fashion of people living in such a home in a democratic country.

All this rushed into my mind as if a dam had broken with Anna's comment. The thoughts so surprised me that I simply sat in silence, forgetting even to voice the warning I had intended to give her. Anna was right, undeniably so. But the comment voices in our home had been a whole world apart from the retrained, ominous severity of atmosphere in the Soviet colony. Abruptly, I conceded a growing detestation for my work and fellow-workers.

Next morning I removed the new Soviet Custom regulations from the secret file and studied them more closely. Yes, they were designed toward the very end Anna had mentioned.

Ordinary publications such as *Life* and *Time* were strictly prohibited. Aside from what the pictures and words contained therein might do to the Soviet mind, I could see that the mere quality of the paper would tend to cause admiring comment.

It was forbidden to bring back such household appliances as a vacuum cleaner. Again the reason was apparent. Russian housewives in nearby houses would certainly marvel at such a wonder from the democratic land and be impressed on hearing that most homes have one there. It was permitted to bring back a bicycle as long as it was absolutely plain with no "fancy decorations." Obviously, a fancy bicycle would cause other envious bicycle owners to wonder why they couldn't obtain such things.

Yes, it is the Christmas season. If the following concluding passage, and final one that I offer from Gouzenko does not effect some of my colleagues to vote for defense, then nothing will. It is Christmas, 1945:

With Communists the world over, there is no basic loyalty except to Soviet Russia. That was proven in the Spy Probe in Canada when I showed that even an elected Member of the Canadian Parliament, Fred Rose, was a Soviet agent.

For that reason, I feel that any sacrifice I may have made or may have to make—even at the cost of my life—would be well worthwhile if it helps the world realize that even in a democracy the Communist Party cannot be treated in a broad-minded manner. They are enemies, working for a flag different from the one waving above them. They work under no code of ethics. They work without any humanitarian ideology to cramp their style. The end justifies the means in everything they do and the end for Communists everywhere is advancement of the Soviet ideology.

To believe otherwise is to be an international dupe.

Our first Christmas in Canada, following my disclosure of the Soviet espionage ring, was unforgettable. The Royal Canadian Mounted Police guards erected a Christmas tree and wrapped up gifts in pretty parcels for Anna, the children and me.

This was a new experience. Never before in our pagan Soviet existence had we known the sweet, joyous thrill of a Christmas morning. These simple gifts bought from modest police pay loomed as presents of wondrous magnitude, immeasurably sweet and thrilling and heart-warming.

Never before had we known what it meant to stand around a little fir-tree and look into smiling, kindly faces of friends—in this case, the faces of men who had become more than protectors. There will be no end to our gratitude to these men.

We who had been schooled to look with atheistic scorn on the Story of Bethlehem, to regard the Yuletide season's Gospel of Love as impractical, religious drivel, found our hearts too full of strange new emotions to say so many things we should have said.

Anna and I wept like children but the constables pretended they didn't notice. They hurriedly wished us a "Merry Christmas" and turned to opening boxes for the children. Several of the boxes contained toys.

Finally, Anna spoke in Russian in a voice so low I could hardly discern the words.

"Remember that little girl in Moscow?" she asked. "The one who ran to her mother so excited at galoshes being on sale at the Serpovka, and my saying she should be thinking of her toys?"

I nodded, knowing what she meant.

Anna hurried to the kitchen to see what she could prepare in the way of a very special breakfast. I opened a cupboard and poured glasses of wine. The lump was still in my throat as I raised my glass. But one of the Mounties spoke the toast for me:

"To many happy Christmases in Canada!" he said.

Mr. Speaker, a final word. It was back on October 14, 1919, that Milwaukee, Wis., businessman and philanthropist, Mr. Jacob H. Rubin, arrived in the Soviet Union from the United States. In 1921 he would testify before the Senate Committee on Foreign Relations in the 66th Congress. That is a long way from the present 97th Congress.

In these past few days on reflecting on the status of our Nation's defenses, I have submitted evidence ranging from this year, and going back now to 1919, that in effect the Communist Moscow leadership has not changed one iota in its intent to enslave us. As we move from this 97th Congress on to the 98th and consider whether this Nation will have the defense to survive, let these words of Jacob Rubin, his final before that Senate Committee serve to hauntingly remind us, that in fact, there has been no change in 63 years:

Senator HITCHCOCK. Are they keeping the army organized for the perpetuation of the government?

Mr. RUBIN. Absolutely.

Senator HITCHCOCK. That makes a scarcity of food.

Mr. RUBIN. To a certain extent it does, but the main factor that causes shortage of food and the shortage of clothes and everything else is because the people in Russia are not producing. They are in a state of mind that it is immaterial to them what will happen in the future. They are underfed, underclothed, held by a strong discipline of despotism, ruled with an iron hand. The extraordinary commission is the dread of every person in Russia. Each one is living under a strain of fear, of uncertainty, of something dreadful that may happen. This is the greatest reason why Russia is suffering from the lack of commodities which are essential to life and happiness. So long as the Soviet Government exists, the Russian people will be slaves to a system which holds its people in submission, destroying the energy and incentive, destroying the very hope that is in the heart of every human being which makes life worth living. Communism instead of making a progress, instead of being the solution to cure the economic and political ailments of society, is a step backward, bringing us back to chattel slavery.

(Thereupon, at 5:15 o'clock p.m., the committee adjourned.)●

RECONSIDERING H.R. 7357

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. GARCIA. Mr. Speaker, on Wednesday, December 8, I testified before the House Rules Committee on

H.R. 7357. I would like to submit my testimony for the RECORD.

TESTIMONY BEFORE THE HOUSE RULES COMMITTEE ON H.R. 7357

(By Congressman Robert Garcia)

Mr. Chairman, I want to thank you for this opportunity to testify before this committee on H.R. 7357, the Immigration Reform and Control Act of 1982.

I request an open rule on this bill so that there will be ample opportunity to debate it on the House floor. This bill is one of the most significant pieces of legislation to be considered by the 97th Congress.

Its implications go beyond this Congress, or the next, or the next. Reforming our immigration law has far-reaching and long-lasting consequences. That is why I would prefer that this bill not even be considered during a lame duck session.

I also want to mention that I do not think this is a bad piece of legislation, but I am convinced that it could be made better. H.R. 7357 is a start; it needs to be fine tuned and refocused to better serve the needs of our Nation and all of its communities.

A primary objection I have with the bill centers around employer sanctions. These sanctions are designed to discourage employers from hiring undocumented workers. A fine, or sanction, would be imposed on employers who hire individuals who are not citizens or legal residents of the United States.

This provision looks good on paper. I'm afraid in practice it would allow employers to act as judge and jury with prospective employees who speak with an accent or have an hispanic surname. Employers could refuse to hire these individuals claiming that they are afraid of being fined.

During Governor Malcolm Wilson's brief tenure as governor of the State of New York, he vetoed a bill on employer sanctions. As a state senator, I worked hard to see that the bill was defeated. I feel now, as I did then, that sanctions are wrong.

Instead of employer sanctions, there should be target enforcement of existing labor laws. This would upgrade working conditions and wages so that U.S. citizens could take jobs that are now unattractive because of substandard pay or an adverse working environment.

The bill suggests a national I.D. card to be used to prove citizenship or residency in order to obtain employment. Not only would this program be expensive to implement, it is an infringement on civil liberties. It sets the stage for a more sophisticated and expensive black market for the new I.D. cards. Further, it is another stumbling block in the way of America's poor and indigent from seeking employment. The chronically unemployed don't need to become more alienated from participating in the mainstream of society.

The legalization or amnesty provision is in danger of being stricken from the bill. Articles in the December 2 editions of the New York Times and Wall Street Journal aptly point out this threat.

Legalization is more than a trade off to the Hispanic community. It is an opportunity for the United States to wipe the slate clean and to begin handling its immigration problems from a fresh start. Without a legalization program the underclass of undocumented persons in the U.S. will continue to become more and more alienated and exploited. We do not need to expand our Nation's underclass. We need all people living in and working in this country to join together and build for the future.

It has been inferred that the consideration and passage of H.R. 7357 would help heal America's unemployment problems. I find this ironic. One, because I firmly believe that blaming undocumented immigrants for unemployment problems is scapegoating. Two, because an expanded H-2 program—that is a program that invites workers from the Caribbean and Latin America to work in this country on a temporary basis—has been included in H.R. 6514. This seems to be another version of the now abolished Bracero program, which was instituted as a result of labor shortage.

The only cure for unemployment is to get the economy moving. The primary cause of this problem is not immigration but faulty economic policies. Further, the AFL-CIO has said it will not support H.R. 6514 unless the H-2 provision is tightened up. I agree with their position. I also support Congressman GEORGE MILLER'S amendment on the H-2 program.

There is another important point to be considered when discussing a new immigration policy, that is, the root cause of immigration. People come to the United States searching for opportunity, as many of our parents did. In order to control immigration, the U.S. should help developing countries with labor intensive industries what would keep potential immigrants at home.

Immigration must be stopped at the source. Agricultural and labor intensive industrial development programs in prime sending nations are two key proposals for achieving this. Bolstering developing nations' economies, particularly in Latin America and the Caribbean, also provides the dual benefits of stabilizing the region politically and building potential markets for U.S. goods and services.

It is to the advantage of those countries sending the most immigrants to cooperate, not only because it would increase their prosperity, but because it also cuts off the so-called "brain-drain" of their most intelligent and industrious workers.

Admittedly, it is not an easy task to integrate immigration policy and foreign aid. This is a radical approach to immigration, but, nonetheless, it reflects a profound understanding of the complexity of U.S. Government attempts to control the borders. H.R. 7357 does not take into account foreign policy concerns. It attempts to deal with immigration, not at the border, or before the border where the problem begins, but over the border, in the United States, where fair enforcement is much more difficult and much less permanent.

The recent economic difficulties in Mexico and the immediate increase in attempted crossings at the U.S.-Mexican border is an excellent example of the magnitude of the problem the U.S. will continue to face unless it integrates its immigration and foreign policies.

The U.S. is a wealthy country. The nations south of our border are very poor. The attraction for the people of these nations to come to the U.S. is obvious and strong. What a new immigration policy must do is assist prime sending nations in making it equally attractive for potential immigrants to stay home.

Also, the immigration and naturalization service should be given more funding to enable them to increase their efficiency. This is a serious issue, and the INS needs adequate support in handling it.

I am in favor of a new immigration policy. The U.S. has to protect its borders. We have the right to control the number of people we allow into our country. But any immigration policy must be realistic and fair if it is to properly reflect American principles of justice. As I said, H.R. 7357 is a start, but it should be refocused and fine tuned before it becomes law.●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. CLINGER. Mr. Speaker, on December 9, 1982, I was absent from the floor of the House for a vote. Had I been present, I would have voted in the following fashion:

Rollcall No. 432: H.R. 5133, automotive products practices, the House agreed to the rule (H. Res. 622) providing for the consideration of the measure to establish domestic content requirements for motor vehicles sold in the United States, "yea."●

HONORING REPRESENTATIVE RONALD MOTTL

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. WINN. Mr. Speaker, a respected colleague and good friend is leaving the House of Representatives. I wish Congressman RON MOTTL the best of luck and Godspeed.

RON MOTTL represented Ohio's 23d District with distinction for 8 years. He always displayed a strong loyalty to his constituents while, at the same time, understanding and considering the Nation as a whole. I will remember RON as a clear-thinking, independent legislator who was not afraid to buck his party's leadership if he felt strongly enough about an issue.

RON served with integrity on the House Energy and Commerce Committee and the House Veterans' Affairs Committee. He chaired the Hospitals and Health Care Subcommittee on the Veterans' Affairs panel, dealing with the difficult issue of wounded fighting men. It takes a special kind of person to understand what wounded veterans go through and I believe RON MOTTL was that kind of person.

I believe RON has always had a strong conscience. He demonstrated this when he pursued legislation addressing the increasing amount of violence in professional sports. I worked with RON on this legislation and I can testify to his hard work and perseverance.

RON MOTTL has made a strong contribution in the 8 years he served in the House and I wish him well.

JOHN NAPIER AND KEN HOLLAND

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. MONTGOMERY. Mr. Speaker, I want to join the list of my colleagues who have already paid tribute to two distinguished Congressmen from South Carolina who will not be returning to Congress in 1983, Representatives JOHN NAPIER and KEN HOLLAND.

JOHN NAPIER has worked hard in preparation for his election as Representative from the Sixth District of South Carolina. He had a great deal of Capitol Hill experience, after having worked for Senator STROM THURMOND as a legislative assistant. He later worked on the minority staff of the Senate Subcommittee on Administrative Practices and Procedures, as well as on the staff of the Senate Veterans' Affairs Committee.

Also, JOHN was chief counsel for the minority on the Senate Special Committee on Official Conduct. As you can see, JOHN knew the process here in Washington well, and it has been a great asset to him.

I consider him a good friend and will certainly miss him when the 98th Congress convenes. We will all miss his strong and forceful voice on the issues.

JOHN also made contributions as a very active member of the Agriculture Committee during his service in this Chamber. He is a man of high integrity and dedication. His efforts for his district and his strong stand on the issues has earned the respect of House Members on both sides of the aisle. We will miss him.

KEN HOLLAND'S retirement as Congressman from South Carolina's Fifth District means that the district and the State have lost a hard working and very effective lawmaker. KEN has served with distinction on both the Ways and Means Committee and the Standards of Official Conduct Committee.

He has been a most diligent worker for his constituents since being elected to the 94th Congress in 1974. I know they will miss his voice here in Washington. KEN can truly be proud of his accomplishments in this Chamber, as can the people of South Carolina.

I know my colleagues will join with me in wishing the very best for KEN and his family in the future.●

JOHN NAPIER

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CAMPBELL. Mr. Speaker, I am proud to take the floor today in honoring our distinguished colleague, and a close personal friend of mine, JOHN NAPIER.

As a fellow South Carolinian, JOHN and I have worked closely on numerous issues and problems, and I have always sought his opinions and views, especially in his area of expertise—agriculture. Ask any farmer in South Carolina, and he will tell you what many of us already know, that JOHN'S knowledge of agricultural issues and understanding of farm problems is second to none in the State.

During his 2 years in Congress, JOHN has represented his constituents loyally, just as he promised he would. He stood firmly by his principles that the size of the Federal Government must be reduced and that free enterprise is a great hope for the development of human potential.

His life from day to day in this body and in the Sixth Congressional District exemplified an honorable and hard-working determination of spirit. His study of the issues in order to most fully represent those who elected him to serve overshadowed any effort to put his personal position in the forefront through legislative or committee efforts. Of course, we all know of JOHN'S diligence, commitment, and integrity.

As a friend of JOHN'S for many years, I have observed him serve the public in several capacities, and he has excelled in every instance. For my part, I am proud to call JOHN NAPIER a good friend. I wish JOHN and his wife, Pam, the best of everything in the years ahead, and I am sure that we will see John serving the public once again in the future.●

RETIREMENT OF DON H. CLAUSEN, JOHN H. ROUSSELOT, AND CLAIR BURGENER

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. CONTE. Mr. Speaker, I am sincerely pleased to be able to take part in a tribute for my three good friends and colleagues from California—DON CLAUSEN, JOHN ROUSSELOT, and CLAIR BURGENER. These fine individuals have all distinguished themselves in important respects as Members of Congress, and their presence here will be sorely missed.

It is always difficult to capture an individual's true character in the space of a few sentences. To do this adequately, one must take many factors into consideration. In political circles, though, we are fortunate to have at least one revealing character measurement; that is, dedication to public service. If there is one thing that can be said about each of these three outstanding individuals, it is that they all have long and noteworthy careers of dedicated public service, both to their Nation and to their districts.

DON has the distinction of being one of California's most senior House Members, having been elected to represent the Second District back in 1963. JOHN first worked for the Federal Housing Administration before being elected to Congress for one term in 1961. And since 1970, the people of JOHN'S 26th District have reelected him consistently. The San Diego area has been equally well served by CLAIR'S efforts at both the State and National levels. Prior to his election to Congress in 1972, CLAIR served as a city counselor, vice mayor, State assemblyman, and State senator.

Additionally, DON and CLAIR served their Nation proudly during World War II. And while in Washington, they have done no less for their districts. DON has risen to the position of ranking minority member on the Public Works and Transportation Committee as well as having become the most senior Republican on Interior and Insular Affairs. From these positions of high rank, DON has been able to effect great results for his constituents—particularly those of the lumber industry.

CLAIR and I have had the opportunity to work more closely as we are both members of the House Appropriations Committee. It is within the ranks of this committee that CLAIR has steadily risen. Moreover, CLAIR and I share a deep-seated concern for the environment and its proper management. In a time when much of the beauty of our surroundings and the quality of the air and water is threatened, such concern is refreshing.

As for JOHN, he too has proven himself a most respected and highly capable Representative. There is little question that JOHN'S district was in good hands with JOHN sitting on both the prestigious Ways and Means and Joint Economic Committees. What has impressed me most about JOHN, however, is his iron constitution and willingness to work for that which he believes in.

A tremendous amount of political talent will be lost on the Hill when these men leave. Additionally, the retirement of DON and JOHN will create a void in the House Republican baseball team which will be very difficult for me to fill—for not only do I have to replace my designated hitter, but I have to find a new coach too.

Truly, working and playing with each of these men has been a pleasure and a privilege I will never forget. I join all House Members in extending my thanks to them for their friendship and wish each my very best in the future.●

IGOR GOUZENKO—FROM THE PAST A LESSON TO BE LEARNED

HON. LARRY McDONALD
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. McDONALD. Mr. Speaker, in another set of remarks to Members of this body, I made reference to a group of American paratroopers who in October of this year visited the Soviet Union. Their testimony definitely showed with reason and observation how conditions actually are in the Soviet Union not as some wishful thinking individuals in this country would have us believe.

Forty years before, another person lived in the Soviet Union. His name was Igor Gouzenko. Trained as a code expert by the Soviet Government, he was sent to Canada, ostensibly to be a Soviet Embassy staffer. But his actual mission was to perform espionage against the country of Canada.

However, Gouzenko became a disappointment to the Soviets as he could not fathom how his Government who had been treated so well by Canada, the United States, and Great Britain, could spy on these nations and steal their highest national secrets. His story was later put into a book called simply, "The Iron Curtain."

Has there been any difference in that space of 40 years between the observation of the American paratrooper in 1982 to the actuality of Gouzenko in 1942. I do not think so. Yet, for the benefit of my colleagues who choose still to scuttle the Nation's defenses, there must be the stark reality of the animals we deal with.

Therefore I would like to share some excerpts with my colleagues from Igor Gouzenko's book. I shall simply begin with the notation by the editor of his book, and then for my colleagues a word or two introducing each subject of Gouzenko's passages. If after reading these passages, one can still vote to sustain the Soviet Union to the detriment of our Nation's defense posture then we are in deep trouble.

EXCERPTS FROM "THE IRON CURTAIN" BY IGOR GOUZENKO

Introduction by the editor of Gouzenko's book:

If any passages, especially the ones dealing with his experiences in wartime Russia and the inner sanctums of the Soviet's most secret Intelligence organizations, seem utterly fantastic to the Western mind, the reader must remember that this is no "I was told" story. Nor is it an impressionist document from the typewriter of a "press party" observer. This man was there. He lived through the years he describes. He has seen the Red drama unfold on the stage and backstage. His testimony before some of the world's best trained legal figures has been characterized by a remarkable respect for detail, a tendency to speak only of what he could prove.

If, by way of introduction, one lone editorial comment may be permitted, it lies in the profound, unusual and daring tribute paid our free way of life by Igor Gouzenko. He deliberately risked his life to espouse what we so casually accept as our birthright. By this very act he helped to safeguard our great heritage of freedom.

Negotiate at the expense of the defense of these United States? Gouzenko states what Moscow is really after:

During the summer of 1945, I found myself restraining my tongue with difficulty when laughing comment would be made around the Soviet Embassy about some Canadian or American development. I felt like shrieking: "You fools! You miserable fools! Don't you realize these people have practically everything that the people seek and need? Why not grasp their extended hand of friendship as friends and work to our mutual benefit instead of trying to ruin them?"

But I knew, as one long associated with the spy ring, how useless it would be to plead. There is no use treating these Communists merely as members of another political party. They live and lurk in the shelter of your hospitality as enemies of everything you hold sacred. Your generous attitude toward them is treated with scorn. The extending of privileges equivalent to that of citizens is regarded as evidence of weakness. Your Red guests appreciate only the stern hand. Any attempt to compromise with the Kremlin is not only useless but harmful to the democratic world.

Recently, Earl G. Cox, Jr., of the Department of Agriculture in response to a query concerning sale of grain to the Soviet Union wrote: "Yes, history indicates that peace is more likely to be achieved between nations where there is a strong bond of trade." Mr. Cox for the benefit of his naivete should read the following from Gouzenko:

These people, the great masses of modern Russia, must stand in queues for the merest pittance of bread. Clothing means rags to the overwhelming majority. But what is worse, they have no hope of ever being able to live better. And while this condition exists, the bureaucrats bring finery from abroad for their wives.

On one occasion in Moscow there was considerable merriment caused in official circles over a long sweeping gown worn by an important secretary's wife at a large banquet. He had brought it back with him after a flying mission to London. It had obviously cost a lot of money and was certainly very beautiful but, to the chagrin of the secretary and his wife, they found during the party that it was a nightgown!

During the war all kinds of groceries were sent to Russia from the United States, but the ordinary Russian people saw very few of these. Mainly they were allocated to the innumerable stratas of bureaucrats. Thus American generosity helped this "authority" to live without hardship during the most severe period of the war.

At a dinner arranged by a general shortly after Stalingrad, I saw a table loaded with American canned goods, vodka and delicatessen products. What would have fed ten Russian families for a month was eaten there by a small group of well-fed guests. But the most unhappy aspect of it was that this group ate with complete conviction that they had a right to it. Their consciences were absolutely clear. The sufferings of the people were not their concern.

Therein lies the iron hold of the Soviet system.

The vast horde of big bureaucrats and little bureaucrats are vigorously loyal because of what it means in food, drink, homes and parties. The vast army is loyal for the same reason it stayed loyal during Russia's grimmest war years—you eat well in the army. Even when conditions were at their worst, the shrewd Soviet organization kept rations at peak-best in the front lines, so much so that troops in the rear lines continually asked to be sent up front. There used to be a saying among front-line troops:

"While you live you eat well."

The control of food is a power you people in democracies have never had to think about very seriously. But you would, if the state punished a critical public utterance or failure to pay some taxation by decreasing the food ration for your family.

Is freedom of religion worth the cost of defending America? Billy Graham could take a lesson in reality from Gouzenko:

"PROHIBITED ZONE."

There would be the outside fence. Beyond this was another fence immediately surrounding the barracks which housed the gray shadows. These camps weren't visible from the road because of the thick forest.

As for the human shadows inside the concentration camps their existence then—and today—depends solely on whether or not they are needed for work. Starvation, hunger and cold are used as handy means for disposing of those unneeded or unfit for work.

Describing these concentration camps makes me wonder if there will be readers who will shake their heads and say cynically:

"Such things cannot be in Russia. This man is exaggerating or lying."

There were undoubtedly people who said the same when the first descriptions of Nazi Germany's concentration camps were published.

Many former priests were to be found among the prisoners. These were specially assigned to wash the gilt off icons, crosses, candelabra, censers and other church articles. I saw them working in churches and they were invariably conspicuous. These former priests always seemed thinner and more emaciated than any other workers. In the solemn atmosphere of the old churches they moved like ghosts of martyrs; like living skeletons against the glimmering gold on which they worked, always in silent resignation.

On one occasion in Moscow, a group of us Komosomols was granted the "honor" of seeing how Soviet justice had dealt with these priestly dispensers of religion, "opiate of the people." We were escorted to a church which had been sealed up for some time. In fact, only a small door had been opened as an entrance for the laborers.

The atmosphere inside was positively rank. Even the NKVD overseer, smartly uniformed, had to step outside at frequent intervals for a breath of fresh air. But the workers stayed there for ten or twelve hours daily.

A member of our touring group commented on the "inferior" appearance of the ex-priests and asked if this was due to their "useless habits" of the pre-Soviet era.

"That may have had something to do with it but . . ." the NKVD overseer's hard face twisted into a leer, "most of them have contracted poison from working on the apparatus they used to employ in poisoning the people's minds. Fair enough, isn't it?"

He laughed.

"You see, the acid which they are forced to use in washing off the gilt gives off fumes which, in time, reaches their lungs. Still more of the acid works its way into their bodies through the hands."

Somebody asked if this poison resulted in a speedy death.

"No," replied the overseer, "a nice, long, slow death!"

Again he laughed.

So encouraged, our guide went into even grimmer details. Many a priestly worker sent to a high scaffold would faint from the fumes and fall varying heights to the hard stone floor. Those who were fortunate enough to die were immediately buried in the cemetery near the church. The overseer merely had to report the incident and a replacement was sent from the concentration camps.

Two things about that tour now strike me as symbolic of the devilish ingenuity behind Soviet methods. First of all, there was the fact that this "special"technique for punishing former priests was employed in secret fashion, with the poor wretches being taken after dark to a central collecting point, then moved to a church for all-night labor. In the early morning, while the residents still slept, they would be moved back to their concentration camps. In that way the Soviet prevented any embarrassing expression of public sympathy by people who still might be "suffering from the religious germ." Yet, and this is the second point, we young *Komsomols* were shown the "secret."

The reason was obvious. We had not been infected by the "germ," and seeing such "just retribution" would make us all the more appreciative of the stern way enemies of the people are handled in the Soviet.

Yet, suddenly and inexplicably during the tour I experienced an intense sensation of shame and unhappiness at this brutal desecration of a religious setting. Just why I should feel that way bothered me at the time, but roots extending back to my grandmother's peaceful little church in the village of Semeon obviously hadn't been uprooted by the constant and clever anti-religion Soviet propaganda. Automatically, however, my training as a Young Communist suppressed any sentiments not in line with the established order. I was unwittingly schooling myself, even during that mental conflict in the church, for the day when a reputation for "silent loyalty" would place me in a position of such high trust that through my hands would pass most secret communications between the chief of Military Intelligence in the Soviet Embassy at Ottawa and Intelligence Headquarters in Moscow.

But the human mind cannot be completely controlled. Despite all efforts to efface the memory, a mental picture drawn during the church tour persisted—a picture worthy of a great artist's effort for incorporation in some famed collection of "Christian Martyrs." It rises from the grim answer given by the NKVD overseer when asked if these priests showed any signs of regretting their "foolishness"?

"Regret their foolishness?" he repeated. "These miserable creatures never learn. I often catch one praying over an icon from which he is washing the gilt. You'd think the knowledge that he is poisoning himself to death would give him more practical things to think about than mouthing rot over one of the images that brought him to this end!"

Thus these courageous men of God worked—and are likely still working in nonshowplace spots of Russia—at washing off gold from sacred church articles, gold later melted and sent abroad to pay agents, to purchase machinery, to be used for the building of a "happy and joyful life" in Soviet Russia.

At another time, Mr. Speaker, I shall want to say more about Igor Gouzenko. But at least here we have a sampling of what the alternative could be if the voting continues for more bailing out of the Communist world and less support for the defensive and offensive capability of the United States.●

TRIBUTE TO HON. JACK BRINKLEY AND HON. BO GINN

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

● Mr. FOUNTAIN. Mr. Speaker, I would like to take a moment to pay appropriate tribute to two distinguished Members of of this legislative body, JACK BRINKLEY and BO GINN of the State of Georgia.

Being a resident of the State of North Carolina, a State which shares more than a common border with the State of Georgia, I have had the opportunity to work closely with both of these distinguished and dedicated public servants on a number of important issues. Indeed, I have often benefited from JACK'S and BO'S wisdom and knowledge of the broader national and international issues which we in the Congress must address.

JACK BRINKLEY has been an outstanding member of the House Armed Services Committee; and in that capacity, he has served with great ability as the chairman of that committee's vital Military Installations and Facilities Subcommittee.

When you couple his work there with his active role on the Veterans' Affairs Committee, it becomes obvious that JACK has been a key member in efforts to preserve and strengthen our defenses and our Nation as a whole. I have often gained needed insight into these and other issues through JACK'S wise counsel and advice.

BO GINN has also bestowed great honor upon his State and Nation through his diligent work on the crucial House Appropriations Committee, especially through his chairmanship of the important Military Construction Subcommittee.

Clearly, his experience and expertise in these and other areas will be sorely missed in the U.S. House of Representatives.

Mr. Speaker, I, along with our entire Nation, have benefited immensely from the admirable service rendered to America by both of these fine sons of Georgia. And I am especially honored and proud to be able to call both JACK and BO my friends.

Although both are leaving the Congress at the conclusion of the 97th session, I sincerely hope and trust that JACK and BO will continue to be active in public service. The Nation still needs their invaluable experience, dedication, ability, and integrity.●

REAGANOMICS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. MOORHEAD. Mr. Speaker, I strongly believe in our Nation's future and that the problems we have can be solved. Ronald Reagan is doing an excellent job in attacking the problems that have led us to this point. The following letter is from an unemployed worker from my district, Mr. Raymond Roy Marshall, of Glendale, Calif.:

To the EDITOR:

There are some of you who, like a sick, wounded animal, bites and tears at a hand that tries to help. So you think you have the ultimate authority on passing negative judgment upon a President, just because you may be unemployed, had to sell belongings, and perhaps a house among other things? Well, Friend, I have been without a job for 13 months now, I've sold just about every saleable belonging, I am 44 years old and have never owned a house. So now you listen to my earned and merited judgment—"God Bless Ronald Reagan!"

America was like the Titanic II, heading inexorably to the iceberg of doom, and President Reagan had the guts, courage, and statesmanship to do the only thing that might deflect the ship in time, he had to detonate a violent, destructive, calculative-risk explosion to deflect our doomed ship. Yes, much of the forward section has been destroyed. Yes, the human carnage is high (myself included). Yes, water is coming into other areas of the ship. Yes, the ship may yet sink despite the President's valiant and courageous efforts to save us—repairwork that may take years, but work severely hampered by Americans who are selfish, greedy politicians, and/or those who are suffering from the intellectual disease, "Quick-fix Syndrome". God help us all.●

CAREER CRIMINAL LEGISLATION ADVANCES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. WYDEN. Mr. Speaker, I would like to let my colleagues know that the House Judiciary Subcommittee on Crime yesterday marked up and re-

ported out a bill I introduced earlier this year, the Armed Robbery and Burglary Prevention Act of 1982 (H.R. 6386).

This legislation is almost identical to a Senate bill sponsored by Senator ARLEN SPECTER of Pennsylvania (S. 1688), a bill that passed the Senate by a vote of 93-1 just before the October recess.

Both bills would extend Federal criminal jurisdiction in a limited and carefully targeted manner by permitting Federal prosecution of an individual who has at least two prior felony robbery or burglary convictions and is then arrested and charged with a third robbery or burglary involving the use of a firearm. Conviction in Federal court would trigger a mandatory sentence of at least 15 years in a Federal penitentiary.

This legislation is designed to allow the Federal Government to lend a hand to beleagured local criminal justice officials by dealing swiftly and effectively with some of the very worst perpetrators of violent street crime. These career criminals are rational calculating professionals who know that local law enforcement resources are stretched to the limit and beyond.

If this legislation is enacted, these habitual offenders—a tiny percentage of the criminal population who commit an incredibly high percentage of the total number of crimes—will no longer be able to continue to thumb their noses at local officials and will no longer be able to rely on the revolving door of an overloaded local criminal justice system.

Instead, they will be put on notice that—if they insist on continuing a life of preying on innocent victims—they will face the very real possibility of spending 15 years in Federal prison.

Mr. Speaker, I would like to express my deepest respect and admiration for the assistance and cooperation provided by Congressman BILL HUGHES of New Jersey, who very ably guided this legislation through his Crime Subcommitte yesterday.

I feel that there is still a good chance to pass this legislation during the 97th Congress and I urge my colleagues to support it when the opportunity arises.

I think it is equally important for the Congress to pass the Justice Assistance Act before we adjourn. This legislation, which—under the able leadership of BILL HUGHES—passed the House by an overwhelming majority last February, will provide the financial assistance to local criminal justice systems that is so desperately needed.

This Congress still has an opportunity to do more than talk about the problem of violent crime. We should take advantage of that opportunity by making sure we don't go home until the career criminal bill and the justice assistance bill are both enacted into law.●

SHELL GAME ON SALARIES

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. SHAW. Mr. Speaker, I recently introduced legislation that would require a recorded vote each and every time we consider the issue of compensation for Members of Congress. In these days of budgetary crisis, the American public deserves no less from us. My own hometown newspaper, the Fort Lauderdale News and Sun Sentinel, has stated the case for putting the Congress on the record on this issue very clearly and succinctly. I urge all my colleagues to consider this editorial carefully as we debate the issue of pay raises during this "lame-duck" session of Congress.

CONGRESS READY TO PLAY SHELL GAME ON SALARIES

The shell game goes on. This time the Congressional pay raise pea has been hidden inside a resolution, passed when efforts to approve a final budget failed last October, that provides interim financing of government operations.

"Technical language" added to the money measure set a pay cap on federal salaries. A responsible move in difficult economic times, right? Not exactly. The resolution will expire on Dec. 17. Unless Congress votes otherwise the pay cap will expire with it, giving its members and all other federal employees a 4 percent cost-of-living raise.

That in itself might not be unreasonable but some experts in legalese believe the technical language in the resolution could produce unconscionable windfalls for judges and members of Congress.

They say expiration of the cap could mean implementation of several pay increases proposed over the last five years but never approved. Those abortive efforts add up to $16,638, a generous sum that would increase Congressional and judicial salaries to $77,300.

The best thing the taxpayers have going for them in this case is the established fact that the eagerness of federal legislators to raise their standard of living is almost matched by their reluctance to let their constituents know they voted themselves a higher wage. Whenever a salary scenario is met with a blast of public outrage those who put it together tend to back off.

Conveniently, the interim funding resolution expires six weeks after election day. Anybody voting for a salary increase wouldn't have to explain the move for at least two years.

The mere suggestion that anyone in Congress is contemplating a $16,000 present for those already at the top of the federal pay scale, however, should assure a broadside of protest heavy enough to rout the slickest of shell shifters.

There are signs, fortunately, that some of the more forthright members of Congress think it's time to quit playing games with the pay raise issue and thrash it out in open debate.

Leaders in both the House and Senate feel that previous attempts to slip salary increases through with "finesse" have harmed the image of Congress.

That's putting it delicately. With fringe benefits ranging from lucrative outside speaking fees to subsidized lunches, Congressmen should be able to stand up, state their pay raise case, and let the matter pass or fail on its merits.●

TRIBUTE TO CONGRESSMAN DON H. CLAUSEN

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. ANNUNZIO. Mr. Speaker, it is a pleasure for me to join with my colleagues in paying tribute to the Honorable DON H. CLAUSEN, who has ably represented the people of the Second District of California in the U.S. House of Representatives for the last 20 years. His tireless efforts on behalf of his constituency, and on behalf of all of the citizens of this Nation, are both respected and admired, and are most worthy of recognition.

Before coming to the Congress, DON was a U.S. Navy pilot in World War II, and built a business career in banking, insurance, and professional aviation. He also distinguished himself in his 7 years of public service as a county supervisor and past-president of Del Norte County, Calif., and was very active in civic and community affairs.

Elected to the 88th Congress in a special election held on January 9, 1963, DON CLAUSEN has served in the Congress with diligence and distinction as the ranking minority member of the House Public Works and Transportation Committee, and as a member of the House Interior and Insular Affairs Committee. He also has compiled a record of outstanding achievement as the congressional adviser to the World Forestry Congress in Madrid, Spain, in 1966, and to the Pan-American Highway Congresses of 1967 and 1971 in Uruguay and Ecuador.

DON is a fine legislator, and a Congressman of compassion, courage, and patriotism, who has provided exemplary service to our beloved country. He will me missed by those of us in the House of Representatives who have had the pleasure of working with him.

I extend to DON CLAUSEN my best wishes for continued success in all of his future endeavors.●

A SPIRIT OF INTERNATIONAL FRIENDSHIP

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. STARK. Mr. Speaker, I would like my colleagues to take notice of the exemplary behavior of a young 13-year-old woman from my district, Helena Ann Weiss, a member of Temple Beth Shalom. In her own way Helena has promoted both a spirit of international friendship and an awareness for human rights, by sharing her Bat Mitzvah with 13-year-old Leah Lukatsky of the Soviet Union on December 4, 1982.

Leah and her family are like thousands of Soviet Jews, who have been refused permission to emigrate from the Soviet Union. It is even more disheartening to know that Leah was unable to have her own Bat Mitzvah, because the study of religion is not permitted in the Soviet Union.

In the United States, we often take for granted the many freedoms we enjoy everyday. However, the commendable actions of Helena Ann Weiss make us aware that not all people are blessed with this same fortune, and thus, America must stand firm in its commitment for the advancement of human rights in the world. Thank you Helena Ann Weiss and Leah Lukatsky. I wish you both the best of luck.●

HON. SHIRLEY CHISHOLM

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. STRATTON. Mr. Speaker, because of the lateness of the hour when the House adjourned last evening, I found it impossible to remain on hand to participate, personally, as I had planned, with the gentlewoman from New York, Ms. FERRARO, and the gentleman from New York, Mr. RANGEL, to pay my tribute to our esteemed colleague from New York, SHIRLEY CHISHOLM, who will—unfortunately for this House—be retiring from Congress at the end of this 97th Congress.

In the 14 years that Congresswoman CHISHOLM has served as a Member of this House she has indeed made a profound change, not only in the Congress of the United States, but also in the country as a whole. Rarely, if ever, has a single Member of the House had such a profound impact on her Nation.

I can clearly remember the shock that fell over the House when SHIRLEY CHISHOLM rose in early 1969 to repudiate the decision of the Democratic Committee on Committees to place her, a Representative of an inner city district in Brooklyn with a myriad of desperate social problems to solve, on the Agriculture Committee.

This was something no other woman, or any man for that matter, had ever dared to do. But SHIRLEY, with her eloquence and the strength of her arguments won the day. And within 24 hours she was moved to the Veterans Committee—and over the past decade has been a senior member of the all-important Committee on Rules—where her vigorous and often firey defense of her beliefs is still visible, as I myself can attest when a month or so ago I had occasion to testify before the Rules Committee on a bill relating to the disposal of nuclear wastes.

But SHIRLEY was far more than a Congresswoman here, excellent as she was. She was destined to be a national leader, and in pursuit of her ideals she traveled the length and breadth of this Nation in response to requests for her to speak. I can remember running into SHIRLEY in the Albany airport in my home district on several occasions where she had come to make a speech or receive an honorary degree. And I had not even known about it.

With that national appeal of hers it was of course very natural indeed that she should have become a candidate for President of the United States in 1972. Not only was she the first woman to seek the Presidency in a major party; but she was also the first black person to run for President in a major party. And, as those of us who knew her, and worked with her during that long and exciting year, she was most certainly a deadly serious candidate.

She did not win the nomination; but her candidacy helped to transform the Nation which had never before seen or heard such an intelligent, self-confident, articulate, and dedicated person—man or woman, black or white. SHIRLEY CHISHOLM had become a national institution. In a very real sense she belonged to the Nation.

Yet she came back home again to the House of Representatives. She became a leader in the House, and her dynamism transformed the House as the Black Caucus, which she helped to found, made an increasing impact on the programs and performance of the House.

It was almost like living with a political hurricane, for those of us who served with SHIRLEY and we in New York were proud to have her as a part of our delegation.

Even though she is stepping down now from the responsibilities of a Member of Congress she will be continuing work for what she has always believed in.

We in this House, Mr. Speaker, will certainly miss SHIRLEY CHISHOLM, but we will always be proud to have served with her. We will remember her brilliance, and her very warm courtesy and generosity. All of us wish SHIRLEY a continued opportunity to continue the historic transformation she has brought about in her country. She has done much, but I know she still hopes to be able to do even more. And we know she will.●

ESTABLISH A NATIONAL LOTTERY

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mrs. COLLINS of Illinois. Mr. Speaker, the social security system is about to go broke. Congress must produce the minimum amount needed to insure that an estimated 32 million beneficiaries will receive retirement checks after next July. Consequently, in an effort to provide one new source of revenue for the system, I am today introducing legislation establishing a national lottery to assist in financing the old age, survivors, and disability insurance program.

At a time when it is incumbent upon Congress to present innovative ways to produce additional funds for the social security system, a national lottery can help to assure the continued solvency of the system.

Under my bill, a National Lottery Commission would administer an annual lottery. Sales would be through lottery tickets in States permitting this within their borders. A State's own lottery would not be overridden by the enactment of a Federal lottery. At least 40 percent of revenues received from the operation of the lottery would be placed in OASI and DI funds. The total amount of prizes paid to winners would be not less than 40 percent of lottery revenues and prizes would be tax free.

I choose to introduce this measure after looking at the operation of some 15 State lotteries presently operating, including my own State of Illinois, which generated $334 million in total sales in fiscal year 1982. It is highly conceivable then, with 153 million people over age 21 in the United States contributing to a national lottery system, this source of revenue could become a prime factor in rescuing this fund. In addition, such a national operation would be honest, supervised, and bring about reduction in illegal gambling.

In this time of desperately short revenues, I believe this measure should receive the support of my colleagues and welcome their cosponsorship.●

COMMEMORATING INTERNATIONAL HUMAN RIGHTS DAY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. BONKER. Mr. Speaker, December 10 marks the 34th anniversary of the U.N. General Assembly's unanimous adoption of the Universal declaration of Human Rights. The preamble of the universal declaration states: "Recognition of the inherent dignity of the equal and inalienable rights of all members of the human family is the foundation of freedom justice, and peace in the world." The declaration recognizes that "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law." The observance of International Human Rights Day is an appropriate time for Americans to reflect on whether the high standards the world community adopted in 1948 are reflected in this country's foreign policy.

The Congress, in a series of amendments to the Foreign Assistance Act, formulated a human rights policy because past administrations have not exercised sufficient influence to encourage the promotion of human rights. This support of human rights in the Congress is bipartisan. Human rights is a valuable foreign policy asset and is compatible with this country's long tradition of and commitment to individual rights. Time and time again, the Congress has insisted that human rights ought to be an integral part of this country's foreign policy.

Regrettably, the facts are that this administration's record is one of selective emphasis of human rights standards and circumventing, if not downgrading, human rights laws at every opportunity. It has consistently violated section 502B of the Foreign Assistance Act, which prohibits U.S. military assistance to governments which violate human rights, by sending such governments millions of dollars of security assistance. Congress enacted section 701 of the International Financial Institutions Act in order to direct the executive branch to oppose loans in the multilateral development banks to governments which are guilty of a consistent pattern of gross violations of human rights. But the Reagan administration has only voted against a handful of these loans. Ignoring serious human rights problems all over the globe, the United States has supported multilateral development bank loans to such violators as Korea, Argentina, Chile, the Philippines, Uruguay, Paraguay, Zaire, Indonesia, Uganda, and Pakistan. Just recently, the State Department announced its intention to vote for an $18 million Inter-American Development Bank loan to the Government of Guatemala, which has been charged with the massacre of thousands of helpless Indian men, women, and children.

In these and other cases, the administration has bolstered corrupt and repressive governments in Asia, Latin America, and Africa through increased diplomatic contacts and foreign assistance.

Juxtapose the Reagan administration's record on human rights in the non-Communist world with its record toward Communist countries, an obvious double standard evolves. Under the able leadership of Max Kampelman, strong U.S. concern has been demonstrated about continuing Soviet violations of the Helsinki accords. Recently, Elliott Abrams, the State Department's Assistant Secretary for Human Rights and Humanitarian Affairs, led a mission to Romania where he firmly conveyed to the Romanian authorities American concerns about continued restrictions on emigration. U.S. Ambassador to the United Nations, Jeanne Kirkpatrick has consistently criticized human rights violations in Cuba and Nicaragua.

The Reagan administration should be praised for these initiatives. But, to be credible our human rights policy must be consistent. Violations by Communist and non-Communist countries must be equally condemned. Violations of human rights in Guatemala, Taiwan, the Philippines, Chile, China, Kampuchea, West Bank, and Gaza Strip, and in South Africa should be condemned as forcefully as this administration condemns repression in Poland. If it were "inadmissible to acquire territory by war" in the Falklands or in Afghanistan, then the same standard must be applied to acquisition of territory by war in Lebanon and acquisition of territory by war in Iran.

The Reagan administration's human rights policy is not without some accomplishments. The Bureau of Human Rights and Humanitarian Affairs has been revitalized and staffed with conscientious and able officers.

They have confronted other State Department bureaus on the issues of military assistance and U.S. votes in the multilateral development banks, and have on occasion opposed the Commerce Department on the question of exporting crime control equipment to repressive regimes. Top administration officials have strongly stressed human rights concerns in Romania, El Salvador, South Korea, and the Soviet Union.

Members of Congress and the executive branch may disagree on specific human rights policies and tactics. However, all people of good will should work together for the common goal that is explicit in the Universal Declaration of Human Rights: The elimination of torture, extralegal executions, imprisonment without trial, and repression of basic civil and political rights.

The Reagan administration should use every political and diplomatic opportunity—public and private—to incorporate human rights concerns into the conduct of U.S. foreign policy. We in the Congress will continue to insure that the State Department complies fully with human rights laws. It is my hope and expectation that we will see increased cooperation between the executive and legislative branches in supporting international standards of human rights, as well as the brave people who promote them around the world.●

SHIRLEY CHISHOLM

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. RUSSO. Mr. Speaker, I have the greatest respect and admiration for Representative SHIRLEY CHISHOLM. With her retirement the Congress is losing one of its finest Members. She is wise, she is good and she has always spoken with the conviction and the honesty and the clarity that come from being honest with yourself and courageous in your beliefs.

There is a thoroughness, a sort of completion to Mrs. CHISHOLM that you feel is reflected in her work. She is always prepared, she always knows what she is about. Her district has been well represented. But it is also the nation that has been well-served, that has had the most eloquent of people speaking in behalf of those of its citizens unable to speak for themselves—the poor, the disadvantaged, the undereducated. She has been the most inspirational of leaders in articulating the human values of this country, reminding us of our consciences.

I can think of no greater teacher than Mrs. CHISHOLM, and if we must lose her talents here, we can take comfort in the fact that young people are going to be learning from a most wise master. She is a lady possessed of a loving heart and, as Dickens said, that is surely the truest wisdom.●

MR. KINGDON HARVEY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mrs. SNOWE. Mr. Speaker, I want to take this opportunity to pay tribute to Mr. Kingdon Harvey, a retired editor of the Maine weekly, the Fort

Fairfield Review. Mr. Harvey's distinguished career of 52 years has been and continues to be dedicated to creative and forthright journalism.

It gives me great pleasure to share with my colleagues this article written about Mr. Harvey and recently printed in the University of Maine Alumnus magazine recognizing him for his great contribution to Maine journalism.

[From the Maine Alumnus]

MR. KINGDON HARVEY

(By Richard W. Sprague '51)

The weekly newspaper may be diminished from what it was in American journalism, but it's still a powerful force in shaping public opinion and influencing the source of events in thousands of American small towns. There are surely more exciting areas of journalism, but none, perhaps, where an editor can better savor the direct relationship between what he does every week and its impact on the communty.

The Maine weekly has changed considerable in the past 25 years from sovereign, one-editor shops to large operations often owned by larger interests. That's not to say that things have changed for the worse; there's a new professionalism in the modern weekly and a competence that may have been missing in the old days. But the Maine weekly of 1982 seems somehow to lack the color and character of, say, John Gould's Lisbon Falls Enterprise, or the fire of Jerry White's Eastport Sentinel.

There are still a few people who know the traditional art of personal weekly journalism. They stand like old pines towering above the skyline, often battered by the elements, but sturdy enough to endure the punishment. Aroostook County has its own resident curmudgeon and gadfly in Kingdon Harvey '30, former editor of the Fort Fairfield Review, a weekly.

Harvey retired in 1980 and turned the editorship over to his son, Tom, who graduated from UMO in 1964.

Not even his close friends would describe Kingdon Harvey as a benevolent man. A quality of personal warmth notwithstanding, the 52 years he spent behind the huge rolltop desk as editor, printer, office manager, linotype operator, pressman and general factotum have endowed him with the friendly disposition of a grizzly bear.

He is firmly dedicated to the belief that anything that can happen, will happen and that if you expect it, you won't be surprised or unhappy. It's a philosophy that's made him a crackerjack newspaperman. It has made him a host of enemies among bureaucrats, politicians, corporate types and not a few of his colleagues. But it has also gotten him a few close friends and earned him the respect of a lot of people far removed from the Review's circulation area.

In fact, the Review, with a circulation of only 2,300, occupies a position in Maine journalism far out of proportion to its size. The prestige is the direct result of generations of blunt honesty, a propensity to hurl darts at the powerful, the corrupt and the officious and Harvey's total indifference to any opinion anyone might hold of him.

In appearance, Kingdon Harvey fits his image. His towering forehead and fierce eyes give the impression that he has been well-named. He worked in an incredibly cluttered office dominated by the rolltop desk used by his father, Chandler Cushman Harvey, when he was editor, a battered leather couch and dozens of photographs. Tom has the deadlines now, so Kingdon Harvey can talk leisurely about his career. He comes across as a witty and urbane man of great personal warmth.

His particular delight is politics and politicians and if he can ever be said to become expansive, it's when he speaks of them. If there's anything that pleased him more than to catch a government agency with its soiled laundry exposed, it was a good political battle.

His prominent targets, often dismissed his pen because of the relative insignificance of the Review, or gave battle. Either course was a mistake. The Review was Kingdon Harvey and had clout out of proportion to its size. Doing battle with the Terror of Fort Fairfield was a lot like hand-to-hand combat with a porcupine.

"I guess the most fun I ever had," he muses, wreathed in the smoke of the rank cigars he favors, "was in the primary fight the year Fred Payne ran against Owen Brewster for the Senate. The Bangor Commercial, the Eastport Sentinel and the Review helped tip the scales a little in that election. I guess I've known every governor personally since Brewster in 1925. Burt Cross threatened to sue me for libel once."

The principal vehicle for his arrows is the TOM E. ROTT column he still writes which is the feature most Review readers turn to first. It's a composite of his sharp wit, folksy news and frequent backhanders at his adversaries. That list currently includes certain of Fort Fairfield's town council who have excluded him from parts of their sessions, the U.S. Weather Service (the "Whether" Bureau, in the Harvey vernacular), the Postal Service and, occasionally, the telephone company and the railroad.

In the halcyon days of railroad monopoly and Populism, the railroad once sued Harvey's father for libel—an action, happily, railroad officials lost.

In his column, Harvey has tilted with such adversaries as former Senator Margaret Chase Smith and the Bangor Daily News. He once wrote that "it has been reported that Senator Brewster owns a substantial share of stock in the News," a paragraph that brought an indignant denial from the publisher threatening a libel suit if that paper lost circulation as a result of the report. Delighted, Harvey promptly shot off a letter to the publisher explaining that he understood why the paper might lose circulation from such a report, "but," he wrote, "don't you think you ought to cut me in for a share of any increase that results from your denial?"

He can also get a chuckle out of the times the adversary has drawn blood in exchange. After an editorial appeared about Gov. Burton Cross, Harvey met the Governor at a social function. Never a man to be uncivilized, he went out of his way to shake hands with the official.

To make conversation, Harvey added with a grin, "I was by your place the other day but I couldn't stop."

The Governor faced him with a cold eye and replied: "Thanks."

Harvey doesn't exactly treasure the memory, but he can laugh about it.

He'll go to the wall for a cause he believes in, no matter what it costs him or anyone else. He was loudly critical of the handling of the Cyrus Everett and Donna Mauch murders in Fort Fairfield in 1967. He published the names and death date of the victims each week for two years (the killings are still listed as unsolved).

His detractors have suggested that his pen is more vitriolic than just. Some label his paper the Fort Fairfield Revenge, and it's probably accurate to say that no one could describe his crusading as restrained. But even his enemies accord him a grudging respect for his blunt, lay-it-on-the-line honesty and his willingness to give anyone a chance to reply in the columns of the Review.

Harvey got into the newspaper business after studying journalism at the University of Maine, when he went to work for his father.

"1930 was a big year for me," he says chuckling, "I graduated from the University, married Erm and went to work for Dad."

It was a different world that Kingdon Harvey entered from what confronts his son today. There was little radio, no television; in short, no competition for either the advertising dollar or the news story.

"You could sit on a story for six days if you had to," he says. "We had as many as ten people working here and put out a 12-page paper every week."

When his father died in 1940, Harvey became editor and worked for his mother until her death in 1957. Only once, he remembers, did his mother ever question one of her son's decisions. During the time that he had turned his editorial needle on Senator Smith, Maine's senator cancelled her subscription "for economy reasons." Mrs. Harvey, an admirer of the Senator, asked that Smith continue to receive the paper, a request that Harvey continued until his mother's death.

During lean years and in the times when printers, the most nomadic of artisans, would leave at awkward times. Harvey spent as much time on the linotype machine and the press as he did writing for his paper. Once, he recalls, he spent 33 consecutive hours in the shop without leaving. but when urban renewal came to downtown Fort Fairfield and claimed his plant in 1971, Harvey sold the machinery on which he'd spent so much of his life and paid a modern offset plant in Presque Isle to print his newspaper.

"The only machinery I had left was a typewriter," he laughs, "Sometimes I looked at my hands and said to myslef, 'Harvey, you can't be working with hands clean as that.' But after working with letterpress for 41 years, offset was sheer magic to me."

When his wife, a gentle woman of intelligence and wit, died in 1974, some of the Harvey fire went out. For a lifetime, Erm Harvey's grace and beauty had taken much of the sting from her husband's blunt ways.

A lesser man (". . . . marrying Ern was the best thing that ever happened to me . . . ") might not have been straightened his back after such a blow. But Harvey, with bulldog determination, began to pick up the pieces of his life doing the only thing he loved . . . newspapering.

At 74, weathered slightly and battle-scarred, but still spare and straight, Kingdon Harvey looks back without regrets on a career in weekly journalism that spans 52 years. He had been a columnist for a daily newspaper as well as a radio announcer. He cannot remember the last time he had a vacation. It's a good thing, as he points out, it's so much fun because it's such damned hard work.

Is this crusty and proud man a latterday Don Quixote tilting at windmills? Is it all sound and fury and drudgery—as some regard weekly journalism—without much meaning? Or is this really where what's important and enduring in our country is happening?

A man who lives far from Aroostook County and who has never met Harvey answered the question this way: "I don't know the fella. I read his paper. I didn't always agree with him but he had guts. I wish there were a whole lot more like him."

Kingdon Harvey is an individualist in an age that gives lip service to the notion, but hates it in practice; even the rebels wear uniforms of depressingly similar cut and speak the same lines.

He is a splendid anachronism in an era of structured knowledge and stylized behavior. If he were younger, his survival odds would be a little lower than those of a saber-toothed tiger. But society senses a fading in the fierce, green eyes and is willing to indulge the aging warrior. We should cherish the Kingdon Harveys of the world. They add character and zest to our lives.

And there are never enough of them.●

RON MOTTL

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. YATRON. Mr. Speaker, I would like to take this opportunity to pay tribute to a good friend and fine Member of Congress, RON MOTTL.

Since RON MOTTL arrived in Congress 8 years ago, he has distinguished himself as a very effective, capable, and talented legislator. He is widely known and respected in the House for his outstanding service to his district, State, and country.

As chairman of the House Veterans Affairs Subcommittee on Hospitals and Health Care, RON MOTTL demonstrated a unique capacity for compassion for those who served this Nation in the Armed Forces. He has not forgotten the men and women who sacrificed for their country and answered the call of duty.

Congressman MOTTL was also deeply concerned about the energy problems of the United States, as was evidenced by his activity on the Committee on Energy and Commerce. He was very involved in developing long-range energy policies so that our country would not be vulnerable to another oil boycott. Providing an abundant and affordable supply of energy for the consumer was an overriding concern to him.

Indeed, RON MOTTL is a sincere and dedicated public servant who always gives his very best, whether it is on the athletic field or in service to his country.

We will truly miss RON MOTTL in the House; but his leadership and devotion to public service will long be remembered by those who served with him. I want to wish him the very best in all of his future endeavors.●

EXPERIMENTAL GROUP YOUNG PEOPLE'S THEATRE

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. DELLUMS. Mr. Speaker, I take this opportunity to commend an organization located within the Eighth California Congressional District for providing an extraordinary cultural service to the local community. This group is known affectionately in our community as EGYPT—an acronym for Experimental Group Young People's Theatre. EGYPT is a community based, nonprofit organization which is dedicated to developing the creative talents of our young people, and to enhancing the cultural lives of East Bay residents through innovative programs in the performing arts. The activities are offered to the community at a nominal fee, thereby providing opportunities in an area and to a community which has largely lacked effective access to cultural experience.

In past years, EGYPT was sustained through the generous support of private foundations, including the San Francisco Foundation, the W. A. Gerbode Foundation, the East Bay Community Foundation, the Alameda County Neighborhood Arts program, and the Oakland Parks and Recreation program. Additionally, it received very valuable assistance from the CETA title VI program.

The founding director of EGYPT is Ms. Minnie Gibson, herself a talented performing artist, and above all, a person who has demonstrated a remarkable commitment to the cultural health and viability of the Oakland community. Ms. Gibson has expressed the aim of EGYPT as being "a forum for expression in the performing arts and an effort to provide a continuing service to those who wish to become professionals in this field." With so great a reservoir of generally undirected talent in our urban communities, and with so great a need for the cultural enrichment that improves immeasurably the quality of all our lives, we can only commend Ms. Gibson and EGYPT, and wish them outstanding future success.●

1XB%131.5

AIRBORNE GOES TO RUSSIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. McDONALD. Mr. Speaker, it is high time that this body takes a very serious look at the full implication in not supporting a very necessary update of the defensive and offensive posture of these United States.

Is it strange or is it a coincidence that the same Members of this body that vote for extending credit of our hard-earned dollars to the Soviet Union and other slave labor bodies of land are the same ones who will not vote for the defense of this Nation? And with that vote goes the technology, the food, and all else that ultimately leads to the death of free peoples all over the world. Proof? Was it a PLO machinegun that perpetrated the massacre at Munich a few years back? No, it came from the Soviet Union and was made by workers who were and still are being fed with U.S. wheat.

Go a step further and you will find the trucks, tanks, and computer technology from the United States to the Soviet Union that bled Americans to death in Korea and Vietnam, and it is this same technology that shot down our airmen, now missing still from both Korea and Vietnam.

Those Members of this body who support the American labor movement are the same who vote to continue this aid behind the Soviet and Bamboo Iron Curtains. Why do not these same Members tell their labor following that it is slave labor that competes and puts them out of a job.

For the benefit of this body, I have gathered some very hardcore and irrefutable facts that should convince fellow Members that if the adage holds true that charity begins at home, we had better start looking at reality.

I realize that many multinational companies benefit most from the stability and profit from slave-labor economies. David Rockefeller has as much as admitted that fact. But let us ask a realistic question. Could we not afford an adequate defense and much more, and take care of our own, if we cut off this spigot to the Soviet Empire? There is no such thing as Soviet technology, it is totally free world technology.

And that brings me down to the reality of the Soviet Union. Is all the chatter from whatever quarter ever going to result in peace in the world? For the answer to that, and for the benefit of my colleagues I would like to begin by calling on very current testimony of what is going on in the Soviet Union.

In September of 1982, former paratroopers from World War II went to the Soviet Union. These men truly know the significance of the inscription found in green beret camps and other areas of Southeast Asia: "You have never lived, 'till you've almost died; for those who fight for it, life has a flavor—the protected will never know." These men of the airborne who went to Russia once considered the Russians their allies. They had fought in such famous places as Bas-

togne. German soldiers called them: "Devils in baggy pants."

So let me now introduce their observations on reality in the Soviet Union, and I shall present more to convince my colleagues that our defense posture update is a must. The Static Line—airborne monthly newspaper—issue of November 1982 follows:

AIRBORNE GOES TO RUSSIA

(By Jack Kennelly)

Sept. 18, 1982 was a redletter day for 87 friends, families, and members of Airborne divisions who headed for Moscow, Leningrad and Volgograd, (formerly Stalingrad). Airborne units represented were the 11th, 17th, 82nd, and 101st divisions; 517, 551 & 555 P.I.R.'s and Canada.

In order for this writer to effectively relate the experiences, emotions and vignettes of this most memorable trip, we must bear in mind: "It is in the eye of the beholder." Each member of the group most probably saw these events, a little differently; however, I will do my best to depict and convey to you the general "over-all" feelings of the group.

Russia can best be described as very large, exciting—exasperating, dynamic, dull, entertaining, boring, informative and yet completely removed. If this sounds contradictory, then that is exactly correct.

From the moment we were met by Lt. Gen. Lesof, commander of Russian Airborne Units, until we left Leningrad, we were indoctrinated with the theme: "Peace and Trust." At each meeting, the speakers, each and everyone, told us of the heroic deeds of the Russian military and civilians and how their quest for peace and trust with America is their top priority. Listening to all of these speakers, one quickly realized the Russians won the war and America was very tardy in their involvement. If any of our group swallowed this line, then I have a bridge to sell them.

Speakers ranged from a Col Gen (3 star) to women WW II veterans and each and every speech was the same. "We want peace with America and what can we do to gain their trust?" I said Russia was contradictory; let me explain. They say they want peace; yet, 12 year olds on up are in uniform. Streets are named for war victories or other military events; cities are designated "Hero" cities; all points of interest they showed us were war monuments, war cemeteries, tombs of unknown soldiers and shrines, showing the glory of war, its struggles and hardships; such as the Kremlin, Red Square, the "great battle" Planetarium In Volgograd. Not once did they mention "Lend Lease," for without the tanks, guns and equipment the U.S. sent them, the Germans would have eliminated the Russians as a world power. They downgraded and expressed contempt for Reagan, Carter and Truman, while praising Roosevelt for the Yalta Treaty. They showed us the Russian Armed Forces museum, yet conveniently and purposely did not show us the room containing the remnants of Gary Powers U-2 plane. Sam Calhoun of the 17th found this room and showed it to some of the other members of our group. Can you imagine the story they are telling Communist Bloc tourists when they show this room? You can bet they aren't saying we had one of their spies, Coabel, in the Atlanta penitentiary at the time of the "Powers Incident."

Contradictory even in religion. The Russians have preserved the great churches since the 12th century. They are gorgeous, depicting the resurrection and many more historic Biblical scenes, yet Russia today is basically a nation of non-believers. You are allowed to bring in your personal possessions, one and one only religious picture, and no religious literature.

Contradictory in Education and Communications, yes, to a very great degree. Their education system is free and excellent for the knowledge they (the committee) decides is good for the people. The only education and communication outside the Commie block is negative information. Any strikes, failures, crime or recession are force fed to the populace; all of the magnificent benefits of a democracy are not mentioned.

Contradictory in their way of life, absolutely! No homes in the cities, only large apartment complexes. The apartments the Russians consider "modern" is archaic by our standards. Automobiles for the common man is unheard of. As your "station" in the system is upgraded, you then can apply for an auto. Again the committee must decide if you are eligible. At some future date, from one to two years, they will inform you your car is ready. You must pay cash. No credit in Russia. The ruble is only valid in Russia. The average good salary is 180 Rubles a month, equal to approx. $300.00 American dollars. Generally, there are two working in the family, so $600.00 is the normal good pay for a family. Education, medical, dental and schooling are free; housing, including utilities, costs between 4 to 5 percent of your salaries. Transportation from 5 to 10¢ American money for each trip, with unlimited transfers. Moscow has excellent transportation, subways, busses, trains, street cars and trackless trolleys. Very few cars, taxies, bicycles and motorcycles. Food and clothing are very expensive. Televisions and other like equipment are also very expensive. A very crude 19" set $1,000.00 American dollars. Vodka is twice the price we pay in America. There is very little paper products, so the bread, pastries, meats, cheeses and all food are unwrapped. If you don't have your own bag (generally a mesh material), you carry the food in your hands or under your arms. Food and drug laws are non-existant. Very little, if any refrigeration. It equals America in the early 1900's.

Our trip was so orchestrated and so contribed that no matter which museum or monument we were visiting, we always traveled the same streets. They have a valid reason for this; because if you venture one or two blocks off of these streets, you will see the real Russia. Extreme poverty, the tiny apartments with clotheslines strung across the living room, the absence of air-conditioning units, the frustrated faces and a real insight into a nation that had to build a wall, not to keep people out, but to keep people in! No visitation allowed from East to West. All communications eliminated or strictly censored; you must be 60 or over and unable to walk to receive permission to go from East to West. Yes, fellow Troopers, a complete society in modern day Slavery.

Let me tell you about some of our group, the greatest and easiest to handle touring group ever. You just can't beat Airborne people. Over 50 of the group were members or family of the 17th. Joe Quade, was the Coordinator, along with Bernie Larkin of Galaxy Tours. Bernie is Airborne and a Trooper. A large bouquet is due these two gentlemen for a job exceedingly well done. Joe Beyrle of the 101st was the most honored trooper in the group. As he escaped from a German prison camp and fought with the Russians. Young John Beyrle also was in the group and John was our un-official interpreter as he works for Voice of America. Adam Broussard became sick in West Berlin and stayed a few days in the hospital, but is now home and doing well awaiting an operation.

Beverly Calhoun, wife 17th Abn. Pres. Sam was nicknamed BBC, Beverly "Badges" Calhoun because of all the badges, medals and pins worn on her jacket. The melodic tenor of Phil Carney was enjoyed by all. Mike Epstein of the 82nd was our "Platoon Leader" and "Drill Instructor" at the various military functions. Who will forget Bob Friborg called the "Battlinig Judge" from Oakland, CA. Two hoodlums could not knock him off his feet in a "mug attempt" despite 22 stitches in his head. Bob was 69 at the time and a Municipal Judge in Oakland. Bob is a member of the 17th and ex Aide-de-Camp to Gen. Ridgway. Katie Friborg effectively represented the Airborne women, while seated on the dais or at the head table. Everett Jackson of the 82nd showing his contempt for the propaganda dispelled meeting after meeting. Correctly so, as Everett was a prisoner in Communist Cuba for 12 years. Jack & Jane Kennelly, celebrating their 38th wedding anniversary in Volvograd. Joe Sequim 17th, guarding and finally getting home his "Brass Tuba." Clyde Sponanberg remembered for his quick wit and humor to keep everyone loose. Jim Bain, 517th, the Ambassador of Goodwill and should be a member of the State Dept. Dirk Strikwerda and family, a play on words, but a most striking family. Jesse Mayes, 555st showing a dislike for python snakes at the circus. Erwin Story, 555th, from W. Berlin, spending $2,000.00 extra to get home because of the disgraceful behavior of the Custom Agent in East Germany. Ed & Mary Siergiej, 17th Abn, just delightful traveling companions. Tom Waller, 551st, deadringer for Roy Acuff. Yes, Tom is from Nashville. Charles Worrilow, 17th Abn, bad leg and all, always cheerful and a source of energy for the rest of us. The group, what a marvelous party to be with. Troopers, wives, widow, children and friends, a tremendous and revealing experience.

In closing, let me sum up my feelings of Russia by quoting a line from a Sunday Radio Show in 1940. I have never forgotten this because at the time it was debatable whether the US should be an Ally of Russia. Monseignor Sheen ended his program on that Sunday with these words: Beware of Russia, she walks like a bear, but crawls like a snake.

These are still valid words in 1982.●

UNFAIR ADVANTAGES OF SUBSIDIZED TRADE

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. BEREUTER. Mr. Speaker, while congressional delegate to the recent GATT Ministerial Conference in Europe, it become even more clear to me that the European Community is in the process of making a major trade policy shift. No longer does it just have high barriers to protect its farmers, it has now begun to aggres-

sively expand its agricultural production specifically for export. While our American producers can certainly compete for international sales in even a relatively free market, they cannot compete with European producers who enjoy the unfair advantages of grossly subsidized trade.

Nowhere has the European Community subsidy policy had a more devastating effect than upon our domestic egg and broiler industry. I recently learned of an American egg producer who had lost a customer in Japan because he could not compete with a French producer who was being subsidized at the rate of 16 cents per pound of frozen egg yolk by the French Government. The standard subsidy on eggs from the European Community is 11½ cents per dozen. And the European Community has clearly signaled its intention to continue to expand production and unfairly subsidize its exports. Chick placement in France was increased by 50 percent in just 2 months recently.

Mr. Speaker, I cannot overemphasize the impact of these policies upon our domestic producers, and had we been permitted 1-minute speeches today I would have urged my colleagues to take note of the rally planned for 1:30 this afternoon, on the west steps of the Capitol, to address this topic.●

KAUAI IS THE PLACE TO BE

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. AKAKA. Mr. Speaker, as you know, the island of Kauai lies in my district. Known as the Garden Isle, Kauai is one of the most beautiful places in the world. The north shore is sprinkled with a host of perfect beaches, sugar and pineapple fields and a variety of unusual churches. On the south shore of the island lies majestic Waimea Canyon—Kauai's own Grand Canyon of the Pacific. The view from the Na Pali Coast is truly breathtaking—this is a spot where emerald cliffs plunge over 4,000 feet to meet the crashing surf below. Indeed, the Garden Isle is a lost world of breathtaking beauty.

On November 24, 1982, Hurricane Iwa smashed into the island of Kauai with winds of over 100 miles an hour, causing millions of dollars of damage. As you know from the news reports, Hurricane Iwa was not kind to our island.

In the wake of Iwa, many people decided to change their holiday plans and cancel their scheduled trip to Kauai. I just want to let my colleagues know that our tourist industry remains unaffected by the hurricane * * * on Kauai, all hotels and facilities are operating normally, the beaches are in fine shape and the climate is still one of the best in the world, with warm sunny days and clear balmy evenings. Kauai is still a jewel of the Pacific, and her people still carry that world famous spirit of aloha in their hearts. In fact, Hurricane Iwa has brought the people of Kauai closer together, as they work to clear farmland of debris and rebuild fences.

With the arrival of winter weather in Washington, I urge my colleagues to spread the word that Kauai is the place to be * * * now and in 1983.●

PENSION BUILDING CENTENNIAL

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. CLINGER. Mr. Speaker, I rise to call the attention of my colleagues to a significant anniversary and a significant new beginning. On November 18, 1982 hundreds of well-wishers gathered in the Great Hall of the old Pension Building to celebrate the 100th anniversary of the groundbreaking of that historic landmark and to mark its rebirth as the home of the National Building Museum. A joint Federal/private organization mandated by an act of Congress in 1980, the museum is the Nation's first institution to be devoted solely to celebrating the past achievements of our Nation's building industry as well as providing a central focus where all segments of the industry may come, to try together to solve the problems of creating a fit and just built environment for all of our citizens.

In the unique arrangement under which the new institution operates, the old Pension Building is made available free of charge by the Government which also assumes the cost of its repair, renovation, and maintenance. In turn the private not-for-profit corporation operating the museum raises the money for its staff salaries and program costs from the private sector.

The Pension Building is a historic Washington landmark built in 1882 by Gen. Montgomery C. Meigs of the Army Corps of Engineers to house the then rapidly expanding clerical staff needed to process veterans' benefits. Meigs created what was in its time a revolutionary office building by introducing energy efficient design elements that filled its interior rooms with natural light and fresh air. He wanted, he said, "no dark corners in the building and no ill ventilated rooms." In so doing Meigs also created a vast courtyard that has been called the most impressive interior space in America.

Hailing the inception of the museum at the celebration were representatives of the two most intimately related governmental departments, the General Services Administration and the Department of the Interior. Gerald P. Carmen expressed the "delight and honor of GSA in making the historic Federal building available for what we feel to be an appropriate purpose as an exciting new national museum." As a symbol of the change of mission of the building, the sign denoting the historic structure as the Pension Building was transferred by the Administrator to David M. Childs, president of NBM's board of directors. In response, Mr. Childs unveiled a new sign for the building identifying it as the National Building Museum.

Following Mr. Carmen's remarks, Manus J. Fish, representing the Secretary of the Interior spoke. As the third party to the tripartite agreement called for by the 1980 legislation, the Interior Department is called upon to support the museum with up to $500,000 per year for its contributions to the area of architectural preservation. As a part of his remarks, Mr. Fish delivered the following message from Secretary Watt saying:

> We are pleased to be a part of this federal/private partnership that enables us to both preserve the magnificant and historic Pension Building and provide a national showcase for all that is excellent in America's building industry.

In a proclamation citing the past significance of the building as a landmark and its emergence now as a new museum for the citizens of the District of Columbia, Mayor Marion S. Barry, Jr., declared November 18, 1982, as "National Building Museum Day."

Citing NEA's past and present support of NBM, Frank S. M. Hodsoll, Chairman of the National Endowment for the Arts, stated that:

> We at NEA are pleased to begin to reap the benefits of the seed money which enabled NBM to be born.

Roger Kennedy, director of the Smithsonian's National Museum of American History, welcomed this new addition to America's impressive array of national cultural institutions and John Agresto, Assistant Chariman for the National Endowment for the Humanities brought greetings from NEH.

In conclusion the museum's director, Bates Lowry, thanked all those whose faith, support, and help have enabled NBM to come so far so quickly and introduced Cynthia R. Field whose enthusiasm and determination were crucial for effecting the congressional action mandating the museum. Dr. Field made the first cut into the 100-pound birthday cake which, along with the wine and the music of the Hot Mustard Jazz Band, launched the Pension Building into its second century and its brand new mission.

Already the National Building Museum is producing a nationally dis-

tributed publication, Blueprints; mounting a traveling exhibition program being seen by audiences in Portland, Oreg.; Houston, New Orleans, St. Louis, and Washington, D.C.; and developing a major exhibition "America Builds Abroad: Diplomacy and Architecture." In Washington, weekly tours are held of the museum's home in the old Pension Building, and daylong visits to architecturally significant sites have begun with a trip to the spectacular Frank Lloyd Wright house "Fallingwater." With the National Preservation Institute the museum is offering this fall and spring courses dealing with various preservation issues.

In addition an active intern program brings students from universities and colleges across the country to take part in all aspects of the museum's programs. An archival collection is being formed including historic construction photographs as well as actual building artifacts. Finally, a center for the entire building industry has been begun that is currently conducting a research program on the desired formats for presenting building information, developing an indexing structure for the building field, establishing a national network of building information centers and initiating a building literature database.●

STUDENT LOANS MUST BE REPAID

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. PORTER. Mr. Speaker, the student loan program aspires toward a lofty goal, that of allowing many students an education they otherwise would not be able to afford. However, this worthwhile program is threatened by $2.7 billion in outstanding loans. For each delinquent loan there is a college student somewhere who was denied financial help. Several positive steps have been taken to rid the loan programs of this abuse.

On October 25 the Debt Collection Act of 1982 became law. The act allows the Government to dock wages and pensions from current and retired Government employees who never repaid their student loans. There are 47,000 Government employees in this category and their debt is $68 million. In my opinion every one of them currently employed ought to be fired. But, of course, this would make the loan even more difficult to collect.

Mr. Speaker, if all student loans were repaid on time, the only cost of the program would be the administrative overhead and interest subsidies. It is time to make clear to the deadbeats—in the Government and out—that these are loans, not grants, and every cent must be repaid.●

A RESPONSE TO A CALLOUS AND CONDESCENDING EDITORIAL

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. FORD of Tennessee. Mr. Speaker, yesterday one of the local newspapers in my district of Memphis, Tenn., printed an editorial that was highly insulting to the black community which comprises over 50 percent of the city's population. I would like to take this opportunity to share with my colleagues my response to this callous and condescending editorial.

During the past 8 years, I have represented all Memphians in the Congress of the United States. Not only have I represented blacks in a congressional district which is over 50 percent black, but I have represented white Memphis equally as well.

In fact, it has come to be expected that I represent black and white Memphis not only in Congress, but in my work at the State, county, and local levels as well.

It is with regret that I must bring up the issue of racism. For indeed, it seems that every time we pick up the paper, turn on our radio or television, or talk about various political, social, and economic affairs, that ugly word surfaces—it is almost as if it has become a way of life in Memphis which we cannot ignore.

Recently, hundreds of Memphians called me in reaction to the editorial published by the Memphis Press Scimitar in which the paper accused me of machine politics, and stated the black community is tired of this type of politics. It also implied the black community was divided. Throughout the primary election, the November election, and the mayoral runoff, we have constantly been told about a divided black community by the Press Scimitar.

Based on the calls I have received, and my conversations with both black and white citizens, I feel that I must speak out. Blacks are tired of the Press Scimitar editorial board telling us about how divided we are, and how we should conduct our lives. How does a white editorial writer who lives in the white community, socializes in the white community, sleeps in the white community, and wakes up white each morning in the white community have the authority to talk about a divided black community. What proof does he have?

Everytime one or two prominent blacks disagree, politically it gets top billing in the Press Scimitar as being indicative of a divided black community, and frankly speaking, we are fed up with this type of "yellow journalism" which attempts to divide a black community.

In the last election, despite what the Press Scimitar constantly wrote about the divided black community, the blacks of this city gave me 98 percent of the vote, and Mr. Patterson 98 percent. That hardly seems to reflect a divided community.

Yet, nothing was or has been printed about the white community being divided despite the fact that Mike Cody and Dick Hackett split the white vote in a race which had a dozen white candidates.

Additionally, when blacks vote as a bloc, the Press Scimitar's editorial board called it machine politics but totally ignored the impact of bloc voting by the white community.

We are tired of the Press Scimitar telling us how divided the black community is while overlooking how white public officials and white businesses ignore the needs of a community which comprises nearly half of the population of this town. We are tired of having our housing needs ignored and our transportation needs ignored. We are tired of policies which result in nice little communities in east Memphis, and rat-and-roach-infested communities with no running water or streetlights in Boxtown. We are tired of not having jobs. Yet these are the needs and concerns of the black community which are overlooked by the Press Scimitar editorial board.

With the election of another conservative mayor, it is only fair that black citizens demand that they have a black city council chairman. We certainly do not need a conservative council chairman and a conservative mayor in a town that is half black and half white.

Given the current political environment, we will accept nothing less than a black council chairman, and it does not have to be a Ford.

In a recent newspaper article depicting the makeup of the directors of city hall, it was shown that all 11 are white males. Imagine, a city 50 percent black, and 50 percent female, and not a single black director or female director.

Mayor Hackett said he has a commitment from a single black to serve on his personal staff. We do not want tokenism in a city which is 50 percent black.

The next time, the financial power brokers of Memphis sit down to raise $150,000 for a mayoral candidate to run, we want blacks sitting at that table, and we want a black candidate considered as well.

We are also serving notice that we are going to conduct a series of workshops designed to develop a plan which will result in adequate black

representation in city government, and economic development programs.

Again, we hate to bring up the issue of racism, but since the Press Scimitar keeps bringing it up, it is our moral responsibility to respond.

To the Press Scimitar, we are saying do not stand in the way of the black community. We are not going to let misleading editorial headlines dictate what the black community is all about. We ask you to respect the black community of Memphis.

We ask that you stop on your own or we will stop you because we are fed up with this type of inflammatory, condescending and insulting editorial reporting on the black community.

You are not serving the city which supports you, and if we do not sense your commitment to change, we will change things for you. Memphis must remain united, strong and dedicated to end all bigotry, and we will not stand for the editorial board of the Press Scimitar perpetuating racism, or giving misleading and negative perspectives of the black community in Memphis.

Finally, let me add that this is an issue that the black community is not divided on, that is that the Press Scimitar does not represent, or speak for the black community.●

THE AGE OF SOCIAL INSECURITY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. CLAY. Mr. Speaker, our social security system must be saved from bankruptcy. Opponents of the program support additional cuts in benefits, extensions of the retirement age, and increased reduction in disability payments.

These proposed cuts continue to impose additional burdens on our aged. They do not address the need to keep our moral obligation made almost 50 years ago to improve the quality of life and to provide our citizens a measure of dignity and support after their working years.

Despite assurances by the President that he would preserve and protect social security, the President and his congressional allies have cut social security benefits by $18 billion over the next 5 years and medicare benefits by $13.3 billion over the next 3 years. These cuts are certain to result in additional hardships for the elderly of our Nation. Social security is not a charity program. It was created in 1935 in an effort to forestall poverty and dependency by having workers contribute to a system which would ultimately provide them "real security" upon retirement.

I would like to share with my colleagues an article by Art Buchwald entitled "The Age of Social Insecurity," which provides a perspective of the "real reason" the social security system is in a lot of trouble. While taking a humorous slant, Buchwald notes that when Roosevelt created the program, recipients were not expected to live to a ripe old age.

THE AGE OF SOCIAL INSECURITY

(By Art Buchwald)

The Secret is out. Social Security is in a lot of trouble. The politicians will tell you that the system is going broke because: (A) Cost of Living Indexing is too high, (B) The work force is not contributing enough money to pay for the retired. (C) The payout for people is three times what they and their companies put in. (D) All of the above.

But no one will dare mention the real reason. I found it out by talking to a man who said he was 83 years old.

"You don't look it," I told him.

"I am. And that's what's killing Social Security," he chuckled. "When Roosevelt started the thing in the '30s he expected me to die when I hit 67. That's what the whole damn program was based on. People were supposed to die a few years after they collected their money. Now we're all hanging around in our 70s and 80s and the government doesn't know what to do about us."

"I don't believe anyone wants you to die before your time," I said. "America reveres its old people."

"They do and they don't," he said. "They're not about to kill us, but at the same time, they're getting pretty darned mad they have to pay for us for being alive."

"Well, it is burden on the working class," I admitted.

"Somebody should have thought of that when they started the system. The smart alecks in the New Deal drew up these fancy graphs and said, 'If Dooley, that's my name, dies at 67 and Mrs. Dooley dies at 70, we should have enough in the pot to take care of them.' Well, Mrs. Dooley and I are doing quite well, thank you, and now the pot is empty."

"I guess they're going to have to come up with dire measures to replenish the pot."

"They haven't come up with any good ones yet. The thinking behind Social Security was they wanted us to all get out of the work force by 65 to open up the job market for the young folks. If they change it and say you can't collect your Social Security until you're 70, that means the younger folks are going to get furious because they can't have our jobs. If the politicians cut back on our benefits they got a tiger by the tail because the senior citizen vote is the most powerful in the country. And if they raise Social Security taxes for the people who are now working, nobody is going to be able to go out and buy the things that's supposed to get us out of the recession. You don't have to be an Alan Greenspan to figure that out."

"What's the solution?"

"There ain't one, son. That's what I keep telling you. The longer we live the worse it's going to be for everybody. Every time the medical profession finds a cure for a disease, there is someone over in the Social Security Fund hitting his head against his computer."

"But we're a rich country. Surely we can take care of our old people in their September years."

"It isn't September, son, it's our December years. We're two months farther down the road than their actuarial tables. Look, don't think I'm cold-hearted about the problem. Mrs. Dooley and I were talking it over the other night and I said, 'Mama, do you want to die to save the Social Security system?' And she said, 'Not on your life! Do you?' I said, 'Nope. I'm just hitting my prime.' "

"I think you both made the right decision," I said.

"We didn't have too many choices. But I'll tell you something, son. When that trust fund goes bust there's going to be a lot of people in this country who aren't going to look kindly on us for hanging around."

"As far as I'm concerned, you and Mrs. Dooley can live as long as you want to."

"That's mighty kind of you to say that, son. Well, I guess I better start my daily walk. My doctor says it adds years to your life."

"Where do you walk?"

"Past the White House, the Capitol and the Social Security building. Every time they see me strutting by it drives them up the wall."●

WHAT THE U.S. CONGRESS SAYS ABOUT THE IRISH NATIONAL CAUCUS, INC.

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 10, 1982

● Mr. HOLLENBECK. Mr. Speaker, I submit the following statements concerning the Irish National Caucus to the RECORD for the benefit of my colleagues in Congress:

WHAT THE U.S. CONGRESS SAYS ABOUT THE IRISH NATIONAL CAUCUS, INC.

U.S. Senator Bill Bradley (D-N.J.): "Please extend my greetings to the members of the Irish National Caucus and all the Irish-American community. I am proud to join in celebrating your efforts to end all violence and terrorism in Northern Ireland.

I believe that a peaceful solution to this political situation will come only when Britain sets a timetable for withdrawal. Then the prospect of unity with Ireland will be real.

I look forward to working with you in the continuing effort to advance the protection of human rights in Ireland."

U.S. Senator Howard W. Cannon (D-NV): "The cause of unity, freedom and peace in Ireland is a worthy one and the Irish National Caucus is to be congratulated for its support of that cause. I believe in non-violent action on behalf of a peaceful solution in Ireland and am gratified that the Caucus works tirelessly toward that end."

U.S. Senator Al D'Amato (R-N.Y.): "It is the voice of the Irish National Caucus that continues to provide a loud clarion call in bringing to the attention of this country the plight of Northern Ireland. Their efforts should be supported and commended."

U.S. Senator Dennis DeConcini (D-AZ): "As a strong supporter of the search for unity, peace, and freedom in Ireland, I greatly appreciate the work of the Irish Na-

tional Caucus' nonviolent approach to achieving those goals."

U.S. Senator Daniel K. Inouye, (D-Hawaii): "I applaud the peaceful efforts to bring a just and lasting solution to Northern Ireland. We must continue these efforts until this problem is solved. I look forward to working with you in this endeavor."

U.S. Senator Howard M. Metzenbaum, (D-Ohio): ". . . For as long as I can remember, I have been deeply sympathetic to the Irish struggle for peace, justice and national reconciliation

I warmly applaud the efforts of the Irish National Caucus and the other groups that seek a peaceful, democratic and non-violent solution to Ireland's problems. You may be sure these objectives will continue to have my strong support . . ."

U.S. Senator Strom Thurmond, (R-S.C.): "It is my sincere hope, and prayer, that peace and unity will soon come to Ireland, and that a mutally beneficial agreement may be reached for the good of all its citizens. I commend the Irish National Caucus for its unceasing efforts to make this dream a reality."

U.S. Senator Lowell Weicker, (R-Conn.): ". . . The continuing tragedy of sectarian violence in Northern Ireland is deeply felt by all who cherish individual rights and freedom of conscience. The citizens and government of the United States can play a constructive role in bringing about the reunification of Ireland. The Irish National Caucus is an organization which provides the context and communications network through which this can be accomplished. Forswearing violent solutions and inflammatory rhetoric, we, who are Friends of Ireland, can begin that difficult task . . ."

U.S. Rep. Mario Biaggi (D-N.Y.) (Chairman, Congressional Comm. for Irish Affairs): "It has been my distinct privilege and honor to have worked with the Irish National Caucus since their inception in 1974. In the five years since I founded and became Chairman of the Ad Hoc Congressional Committee for Irish Affairs—no group has done more to promote the goal of peace, justice and freedom for Ireland than the Irish National Caucus."

U.S. Rep. Joseph R. Addabbo, (D-N.Y.): "Please be assured that I would be happy to add my name to the many supporters of the Irish National Caucus. I would like to pledge my continuing support for the I.N.C. for its tireless efforts on behalf of a peaceful resolution to the current situation in Ireland."

U.S. Rep. Don Albosta (D-Mi.): "I wish to congratulate the Irish National Caucus on its magnificent and non-violent work for a peaceful solution in Ireland. The Caucus shares my goals of unity, freedom and peace in Ireland."

U.S. Rep. Frank Annunzio (D-Ill.): ". . . Peace and justice must be a goal to which our great Nation remains forever committed, in both words and action, and the human rights and peace of Ireland must become a vital part of United States foreign policy . . ."

U.S. Rep. Edward P. Boland (D-Ma.): "I am committed to the goal of Irish unity as the best means of achieving a lasting peace in Ireland. Those groups and individuals which seek to promote Irish unity by encouraging a peaceful resolution of the conflict in Northern Ireland have my support."

U.S. Rep. David E. Bonior (D-Mi.): "Work like that done by the Irish National Caucus is vital to the continuing search for a peaceful, non-violent solution in Ireland. I commend you and your organization."

U.S. Rep. William Carney (R-N.Y.): "The need for peace and freedom for all of Ireland is stronger than ever today. The only way to secure a lasting peace is to end the division of the Irish people. I have a strong personal feeling for this cause, and I salute Father Sean McManus and the Irish National Caucus for their commitment to seeking a peaceful solution in Ireland."

U.S. Rep. James Collins (D-Texas): ". . . There is no greater need in the world than that of peace and cooperation. Although that important goal has been elusive in Ireland, the Irish National Caucus has been particularly tireless in its pursuit and deserves the gratitude and respect of all Americans who want to see tumult and discord in that part of the world to come to an end . . . "

U.S. Rep. Baltazar Corrada (D-Puerto Rico): "I want to take this opportunity to commend the Irish National Caucus and its work. Your organization's dedicated efforts on behalf of the unity, freedom and peace in Ireland are to be encouraged."

U.S. Rep. Lawrence Coughlin (R-Pa.): "I commend the Irish National Caucus for its untiring efforts in working for a peaceful, non-violent solution to the problems in Ireland. No cause is more just than that of bringing peace and economic justice to all the Irish peoples."

U.S. Rep. William J. Coyne (D-Pa.): ". . . The Irish National Caucus, and other groups committed to peace and unity in Ireland are to be commended for undertaking the task of informing the American public about the situation in Northern Ireland . . ."

U.S Rep. Ronald V. Dellums (D-Ca.): "There must be peace, freedom and unity in Ireland. I congratulate the Irish National Caucus for its unstinting efforts for a non-violent and peaceful solution in Ireland."

U.S. Rep. Brian J. Donnelly (D-Ma.): "I share the prayers of the Irish National Caucus' membership for an end to sectarian violence in Northern Ireland, and I look forward to the day when a new spirit of unity and peace rekindles the Irish Nation."

U.S. Rep. Bob Edgar (D-Pa.): "The Caucus' work toward peace, freedom and unity in Ireland is to be praised for its tenaciousness and reason."

U.S. Rep. Dave Evans (D-Indiana): "... I hope that some day soon the people of Ireland will be able to find a non-violent solution to their problems and achieve the lasting peace they deserve ..."

U.S. Del. Walter E. Fauntroy (D-Wash., D.C.): "... I am pleased to lend my support to the Irish National Caucus and to assist in its non-violent struggle for freedom and justice in Ireland ..."

U.S. Rep. Geraldine Ferraro (D-N.Y.): "I hope and pray that the time will come when all the Irish people can live in peace and unity. I wish to commend the Irish National Caucus for its peaceful work towards that end."

U.S. Rep. Hamilton Fish, Jr. (N.Y.): "I strongly support peace in Ireland, and congratulate the Irish National Caucus on its magnificent and non-violent work for a peaceful solution in Ireland."

U.S. Rep. Thomas M. Foglietta (Pa.): "Congratulations to the Irish National Caucus for your unfailing efforts to promote peace, freedom and unity in Ireland. I pledge to continue my support for your efforts until these goals are achieved."

U.S. Rep. Benjamin Gilman (N.Y.): "The work of the Irish National Caucus has been invaluable to me as a Member of Congress who is deeply dedicated to the cause of peace and freedom in Ireland. Working with the Caucus, the Congressional Ad Hoc Committee on Northern Ireland has been able to explore the issues of human rights in Ireland, discrimination against the minority population in Ireland and the banning of the plastic bullet. The work of the Caucus has been first-rate."

U.S. Rep. Frank Guarini (N.J.): "The Irish National Caucus represents the most dedicated organization in the United States for bringing the truth about the situation in Ireland to the American people. Your steadfast work on behalf of resolving the present divisiveness in Ireland through peaceful means should be applauded by all."

U.S. Rep. Thomas F. Hartnett (S.C.): "I am honored to be a member of the Irish National Caucus. The Caucus has made tremendous strides in promoting unity, freedom and peace in Ireland through non-violent means."

U.S. Rep. Harold C. Hollenbeck (N.J.): "I am proud to have my name associated with the fine work the Irish National Caucus is undertaking to put an end to the human rights violations occurring throughout Northern Ireland on a daily basis."

U.S. Rep. William J. Hughes (N.J.): "I strongly support peace, justice and freedom in Ireland. I congratulate the Irish National Caucus for its work which complements the efforts of the Ad Hoc Congressional Committee for Irish Affairs."

U.S. Rep. Henry J. Hyde (Ill.): "I commend the Irish National Caucus for its diligence in pursuing a non-violent and peaceful solution to the problems besetting Ireland. I join you in your dedication to this task, and pray that we will soon see an end to the fighting and violence, and the blessings of unity, freedom and peace on this great country."

U.S. Rep. James M. Jeffords (Vt.): ". . . I deeply appreciate and commend the efforts of the Irish National Caucus to promote a peaceful resolution to the strife in Ulster. After centuries of bloodshed, a solution can surely be found. Your good work is a tremendous contribution . . ."

U.S. Rep. Jack F. Kemp (N.Y.): "To Fr. Sean McManus: With best wishes and friendship to you and 'the cause'."

U.S. Rep. John LeBoutillier (N.Y.): "I congratulate the Irish National Caucus for its admirable work to make Ireland free and united."

U.S. Rep. Norman F. Lent (R-N.Y.): ". . . As a long time member of Congressman Mario Biaggi's Ad Hoc Committee for Irish Affairs, I salute the Irish National Caucus for its tireless efforts in working for peace and unity in Ireland. I am convinced that our shared goal for peace and respect for human rights will eventually carry the day! . . ."

U.S. Rep. Thomas A. Luken (D-Oh.): "I am a strong supporter of unity, justice, freedom, and peace in Ireland. I commend the Irish National Caucus for its outstanding and non-violent work for a peaceful solution in Ireland."

U.S. Rep. Nicholas Mavroules (D-Ma.): "The Irish National Caucus has been an important resource in providing information to the Congress on how we may work together to bring peace to all of Ireland."

U.S. Rep. Ray McGrath (R-N.Y.): "I support the work of the Irish National Caucus in its efforts to bring peace to Ireland. Your goals of peace and justice for all the people of Ireland are most important to me person-

ally, and to many of my constituents. I wish you every success in your endeavors."

U.S. Rep. Joseph G. Minish (D-N.J.): "As you know from my record and membership in the House group, the "Friends of Ireland", I am strongly committed to the cause of peace and freedom in Ireland. I am grieved by the violence and bloodshed which mars life in that beautiful country. However, we must continue to work towards peace and I applaud the efforts of the Irish National Caucus for their outstanding work in this area.

U.S. Rep. J. Joseph Moakley (Mass.): "I am a strong supporter of the Irish National Caucus. I applaud their efforts on behalf of peace and social justice in Ireland."

U.S. Rep. Toby Moffett (Conn.): ". . . As a strong supporter of human rights and nonviolence in Northern Ireland, and as one who looks forward to the eventual unification of Ireland, I applaud and endorse the excellent work of the Irish National Caucus to promote peace and justice in that troubled land . . ."

U.S. Rep. Guy V. Molinari (N.Y.): "At a time when unreasoning cruelty, violence, fear and bloodshed are considered the norm, the Irish National Caucus represents the larger hope of a solution to the serious problems in Ireland.

I salute you in your search for a peaceful answer to the terrible problem that threatens Catholic and Protestant alike. You nonviolent stance serves as a constant reminder that man has never bettered his role in life by abrogating the rights of others. Please count on my support, whenever you feel that it might help in your mission of peace."

U.S. Rep. Mary Rose Oakar (Ohio): "The tragic conflict in Northern Ireland must be resolved for the good of the people of Ireland and for the cause of justice. I commend the Irish National Caucus for its work providing information and leadership on this issue. I pray that people of good will can exert their best efforts for the cause of peace, unity and justice in Ireland."

U.S. Rep. Richard L. Ottinger (N.Y.): ". . . The Irish National Caucus has been an important voice in Washington, striving for peaceful and enduring settlement to the conflict that has gripped Northern Ireland. As one who is gravely concerned for the economic and human rights conditions of the people of Northern Ireland, I commend the Irish National Caucus for its magnificient efforts . . ."

U.S. Rep. Peter A. Peyser (D-N.Y.): "it is my fervent hope that peace will someday come to Ireland and its people. Together, all nations will find a peaceful and final solution to this conflict. I will continue to be strongly committed to working with the Irish National Caucus in the future to achieve this goal."

U.S. Rep. Charles B. Rangel (D-N.Y.): "The continuing violence and terrorism in Northern Ireland is a tragedy to all mankind. We in Congress cannot rest until peace and social justice come to pass."

U.S. Rep. William R. Ratchford (D-Conn.): "I support the efforts of the Irish National Caucus to seek a non-violent settlement there, and will continue to lend my backing to efforts in Congress to bring peace and freedom to a unified Ireland."

U.S. Rep. Pete Rodino (D-N.J.): "It is my goal to continue to work with the Irish National Caucus to sound a voice for reason and non-violence."

U.S. Rep. Robert A. Roe (D-N.J.): "I would like to express my strong support for the work being accomplished by the Irish National Caucus in its efforts to secure a long lasting peace in Ireland. The Irish National Caucus' determination to find that peace through non-violent methods must be applauded and supported by all."

U.S. Rep. Edward R. Roybal (D-Cal.): ". . . I greatly respect and support the Irish National Caucus' non-violent efforts to secure a free and peaceful Ireland. As a long time friend of the Irish National Caucus, I look forward to continuing my efforts on their behalf and join with them in their hope of one day seeing a united and peaceful Ireland . . ."

U.S. Rep. Marty Russo (D-Ill.): "I admire the Irish National Caucus' dedication to the goal of the reunification of Ireland. Peace among the Irish people should be given the highest priority as should peace throughout the world."

U.S. Rep. Gus Savage (D-Ill.): ". . . I always have and always will—as a journalist for 26 years and now as a Member of Congress—support national unity and liberation for all the world's oppressed peoples. At this juncture in history, the struggle of the Irish especially fits this category. I vow always to place my commitment to freedom, justice and peace above my affiliation with any political party—and I strongly believe that peace is not possible or proper in the absence of freedom and justice . . ."

U.S. Rep. Patricia Schroeder (D-Colo.): ". . . It has been a pleasure working with the Irish National Caucus this Congress. I congratulate its impressive spirit to the promotion of unity, peace and freedom in Ireland . . ."

U.S. Rep. Clay Shaw, Jr. (R-Fla.): ". . . I am most honored to be affiliated with the Irish National Caucus and applaud its members for their dedication in seeking a nonviolent solution to the problems in Ireland . . ."

U.S. Rep. Charles E. Schumer (N.Y.): "Having worked with Father McManus and the Irish National Caucus, I know that they are furthering the cause of peace, unity and freedom in Ireland. I am looking forward to working with them in the future."

U.S. Rep. Gerald B. Solomon (N.Y.): ". . . My desire for an end to the violence in Ireland is second to none. I support all organizations, both in the United States and in Ireland, that strive for peace in that troubled land. Throughout the centuries, history has taught us that violence only begets more violence. True peace will only arrive with love and justice . . ."

U.S. Rep. Louis Stokes (Ohio): ". . . I strongly support the causes of unity and peace in Ireland. The Irish National Caucus is to be commended in its unceasing efforts towards the achievement of these goals in a non-violent manner . . ."

U.S. Rep. Al Swift (Wash.): "I strongly support the work of the Irish National Caucus in its efforts to end the violence and bring peace to all the people of Ireland."

U.S. Rep. Bruce Vento (Minn.): ". . . I commend the Irish National Caucus and I am pleased to share in your prayers for peace in Ireland. It is only within the spirit of unity and non-violence advocated by the Irish National Caucus that economic justice and peace can be achieved in this most troubled but peaceful land . . ."

U.S. Rep. Doug Walgren (D-Pa.): "As a strong supporter of the Irish National Caucus, I want to congratulate each of its members for the hard work given in the name of peace and freedom in Ireland. I pledge my full support in the years ahead."

U.S. Rep. Ted Weiss (D-N.Y.): "I strongly support the efforts of the Irish National Caucus in its efforts to help achieve a peaceful resolution to this conflict."

U.S. Rep. Antonio B. Won Pat (D-Guam): "In my strong support for unity, peace and freedom for the people of Ireland, I congratulate and commend the Irish National Caucus for its outstanding efforts to seek a peaceful resolution to the turmoil in Ireland."

U.S. Rep. Gus Yatron (D-Pa.): "I strongly support unity, freedom and peace in Ireland and I congratulate the Irish National Caucus on its magnificent and non-violent work for a peaceful solution in Ireland."

U.S. Rep. Leo Zeferetti (D-N.Y.): "I have worked closely with the Irish National Caucus to achieve a peaceful solution in Ireland. Only through our joint efforts will we be able to obtain unity, freedom and peace in Ireland. I congratulate the Irish National Caucus on its tremendous work and look forward to continuing our work."●

SENATE—*Monday, December 13, 1982*

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Praise ye the Lord. Sing unto the Lord a new song, and His praise in the assembly of the faithful. Let Israel rejoice in his Maker; let the children of Zion be joyful in their King.—Psalm 149: 1, 2.

*Fear not, for behold, I bring you good tidings of great joy, which shall be to all people. For unto you is born this day in the city of David a Saviour which is Christ the Lord * * * Glory to God in the highest, and on earth peace, good will toward men.*—Luke 2: 10, 11, 14.

Lord God Almighty, as we celebrate Hanukkah and Christmas, may the profound fact of a God of righteousness, justice, and love be a reality for each of us. May His presence in our hearts and homes fill us with good will toward each other. Grant that these celebrations will not be perfunctory while we close our hearts against Thy grace, compassion, and truth. Help us to be vulnerable to the Holy Spirit, sensitive to others' need and especially thoughtful to our families. Let the light and love of God fill this place. We pray this in the name of the gift of Love, Thy son, Jesus Christ the Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

YEA!!!

Mr. BAKER. Mr. President, Paul Garver was 17 years old when he authored this week's poem "Yea!!!." He wrote it 1 month after major surgery to remove a malignant lymphoma, and after intensive chemotherapy as a followup to his operation. Paul battled the cancer which had invaded his body for 10 months after the operation, and died in the fall of 1981.

After learning of our Monday morning custom of including poetry in the RECORD at the beginning of each weekly session of the Senate, Paul's mother, Susan Garver sent me a copy of Paul's work.

I am most grateful to Susan for sharing this poem with us. Susan, her husband John, and daughter Julia, have been through the most painful of ordeals. They have emerged as a strong and compassionate family, and I am proud to have come to know them.

I ask unanimous consent, Mr. President, that Paul's poem be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

YEA!!!

Well, here I am! Seventeen years old today,
boy the years are going by too quick!
Birthdays are very special to me,
a day to celebrate your existence,
and a day to look back.

Well, here I am! Seventeen years old today,
boy the clock's ticking fast.
Birthdays are a special time,
a day to celebrate your existence
and cherish the ones around you.

Life is so full,
abounding with wonders to be seen
and emotions to be experienced.
If we all just open our eyes and gaze
upon the subtleties and finer shadings of life
greater worlds unfold.
Worlds we rarely find time to look at.
But they're here and always will be
when we choose to find them.

I'm grateful to be a leaf
in the ever growing tree of life
and this leaf's not falling off
for nothing.

—PAUL COWAN GARVER,
January 7, 1964–September 10, 1981.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order, there is a special order in favor of the distinguished Senator from Michigan (Mr. LEVIN). I ask unanimous consent that, after the execution of the special order, there be a period for the transaction of routine morning business to extend not past the hour of 1 p.m. in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE AGENDA

CLOTURE MOTION—H.R. 6211

Mr. BAKER. Mr. President, the motion to proceed to the consideration of H.R. 6211 will become the pending business at the close of the time for the transaction of routine morning business. There is a cloture motion on file which matures, according to the rules, at 1 p.m. today. After the establishment of a quorum, a rollcall vote will occur in connection with that matter. If cloture is invoked, then, according to the rules, we will continue to debate the motion for the time prescribed. It is hoped that we can reach the bill itself sometime during the day today and the earlier the better.

THE HIGHWAY BILL, DEFENSE APPROPRIATIONS, AND THE CONTINUING RESOLUTION

The matters that must be disposed of, Mr. President, continue to be the highway bill, the Defense appropriations matter, and the continuing resolution. There are other appropriation bills which are available and which may become available and which should be dealt with in order to diminish the size of the continuing resolution. There are still other matters on the calendar and others which may become available which ought to be dealt with and which many Members would like to deal with.

LATE SESSIONS THIS WEEK

But, in order to take care of those must items, I urge Senators to consider that the Senate may be in session late every night this week. The target date for adjournment sine die is still the 17th of December. It is still barely possible to do that. If we do not do that, then, after consulting with the minority leader, with the Speaker, and with the minority leader of the House other arrangements will be made to continue the 2d session of the 97th Congress either before Christmas or after Christmas. But it is my fervent wish that we may avoid that. So I urge all Senators to be as brief as possible and to facilitate the transaction of business as it is required.

HONORARIUM LIMITATION—PROPOSED RULES CHANGE

Mr. President, sometime during this week, perhaps tomorrow or the next day, it will be the intention of the leadership on this side to proceed to the consideration of a resolution reported by the Rules Committee, specifically Calendar Order No. 994, Senate Resolution 512, which is a resolution to repeal rule XXXVI of the Standing Rules of the Senate. The reason I bring that up is this: Sometime ago, the limit on honorariums that might be earned as outside income by Members was repealed as it

appeared in the statute law, but we never got around to conforming the Senate's rules to that change in the statute. The Rules Committee has reported such a change and it is now on the calendar. So that Members may not be caught by surprise, I wish to advise them that at some point this week it is the intention of the leadership to proceed to the consideration of that matter, most likely tomorrow or Wednesday.

Mr. President, I anticipate that this will be a very, very busy week. I urge Senators to arrange their schedules to be on the floor as much as possible.

Mr. President, I believe that concludes my remarks for the beginning of this day. I see the minority leader on the floor, and I expect he will wish to seek recognition at this point. I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. ABDNOR). The minority leader is recognized.

REALLOCATION OF TIME

Mr. ROBERT C. BYRD. Mr. President, I understand Mr. LEVIN does not wish to use his special order and Mr. PROXMIRE would like to have the order transferred to him, or at least a portion of it, if the majority leader would do that. I have no other requests for time.

Mr. President, I yield back my time.

Mr. BAKER. Mr. President, I ask unanimous consent that the time allocated to the Senator from Michigan (Mr. LEVIN) be transferred to the Senator from Wisconsin (Mr. PROXMIRE).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I assume, then, that morning business would automatically commence after the execution of the order now in favor of Senator PROXMIRE.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I yield back the remainder of my time.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. The Senator from Wisconsin is recognized

Mr. PROXMIRE. Mr. President, I wish to thank the minority leader for so graciously arranging for me to be able to use part of the time of the distinguished Senator from Michigan.

NUCLEAR FREE ZONE FOR EUROPE?

Mr. PROXMIRE. Mr. President, the Prime Minister of Sweden, Olof Palme, has announced that he will push forward with a plan to create a nuclear free zone in Europe. He has said that his Government intends to contact members of the NATO and Warsaw Pact alliances as well as neutral nations in Europe to explore this issue.

Mr. Palme draws his specifics from the recommendations of the Independent Commission on Disarmament and Security Issues of the United Nations. That body has suggested that a nuclear free zone could be created in an area 93 miles on each side of the Warsaw Pact-NATO border. In that zone, tactical nuclear weapons of all types would be prohibited.

Mr. President, while this plan has some obvious flaws, it is timely to consider the utility of nuclear free zones such as proposed by Prime Minister Palme. NATO countries, of course, must take into consideration the geographic reality of having Soviet missiles targeted at Europe from well outside a 93-mile zone thereby giving the Russians a free nuclear advantage. And the NATO countries must understand the need for some kind of U.S. nuclear umbrella in Europe given the conventional force advantages of Warsaw Pact forces.

But even given these serious reservations, the concept, the idea itself, deserves serious and long-term study. There are applications of the nuclear free zone concept that could reduce tensions and restrict the hazards of accidental nuclear warfare.

Mr. President, I ask unanimous consent that an article in the New York Times of December 9, 1982, about the Palme proposal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 9, 1982]

SWEDEN IS URGING ATOM-FREE REGION

PRESSES NATO AND SOVIET-BLOC NATIONS TO CREATE A ZONE IN CENTRAL EUROPE

STOCKHOLM, Dec. 8 (AP)—Prime Minister Olof Palme's Government, in its first major foreign policy move since taking office two months ago, announced a drive today to create a nuclear-free zone in Europe.

At a news conference, Foreign Minister Lennart Bodstrom said Sweden was approaching various governments to determine the possibilities of establishing "a zone free from tactical nuclear weapons in Europe."

He said governments of the two military blocs, NATO and the Warsaw pact, were being approached as well as such nations as Finland, Ireland, Yugoslavia, Switzerland and Austria that are neutral or consider themselves non-aligned. Sweden is neutral.

PROPOSAL PRESENTED TO U.N.

The initiative is based on a proposal presented to the United Nations last summer by the Independent Commission on Disarmament and Security Issues. It and other ideas are to be considered by the General Assembly starting Thursday. The proposal suggested that a 186-mile-wide nuclear-free corridor be set up on the border separating West Germany and East Germany.

The commission, led by Mr. Palme, had 18 members, including delegates from both superpowers.

Asked why Sweden was raising the issue now, Mr. Bodstrom said. "It is natural that the chairman of the commission takes the initiative now that he is Prime Minister again."

Mr. Palme's Social Democrats ousted a coalition Government led by the Center Party in September and took office in early October.

"In an initial phase," Mr. Bodstrom said of the proposal, "a zone of this kind would be established in central Europe and thereafter stretched out along the southern and northern flanks of both the power blocs."

He said such a zone would cover 93 miles on each side of the borders between the power blocs, although its "exact geographical extent" should be negotiated.

Nuclear warheads would not be allowed within such a corridor, nor would storage space for nuclear weapons.

Mr. Bodstrom said the zone would be "an important contribution to efforts for promoting détente and greater confidence between the two military alliances."

"The risks of nuclear weapons being used at an early stage of an armed conflict could thereby be counteracted," he said, reading from a Foreign Ministry statement.

DECEMBER 10—34TH ANNIVERSARY OF THE ADOPTION OF THE UNIVERSAL DECLARATION ON HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, Friday was the 34th observance of the adoption by the United Nations General Assembly of the universal declaration of human rights. This declaration, adopted on December 10, 1948, was the first step taken by the United Nations to implement one of its primary missions set forth in the charter to "reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small."

The intent of the Economic and Social Council and its Commission on Human Rights was that this document would not be legally binding, but enforced solely by collective moral persuasion. They envisioned a series of human rights treaties and covenants, of which the Genocide Convention was the first, to implement the lofty principles outlined in the declaration.

Today, as we commemorate the 34th anniversary of the human rights declaration, there are three observations I would like to make.

First, the United Nations declaration on human rights owes a great debt to the concepts of individual and collective freedom that the United States has pioneered through our Declaration of Independence, Constitution, and its subsequent interpretations by Congress and the Supreme Court. The freedoms recognized by the United Nations declaration are no strangers to Americans. They include the right to life, liberty and security of the person,

and to equal protection of the laws; freedom of religion, opinion, press, expression, and assembly; freedom from slavery and torture; the right to a fair trial, including a presumption of innocence; freedom from arbitrary arrest and so forth.

Second, this declaration, although it does not carry the force of law itself, has had a tremendous and powerful influence on the development of contemporary international law. Its principles have been incorporated in the national constitutions of many newly emergent nations and has had a significant indirect influence on municipal and national laws in many countries. In addition, international agreements and international conferences continue to refer to the declaration as "an authoritative interpretation of the charter of the highest order, (which) has over the years become a customary part of international law."

Mr. President, it is very instructive for us to reflect on this when we hear so many criticisms of declarations of this kind as being just empty rhetoric, just words that mean nothing.

As I say, they have been translated into action in a number of countries, not just idle words, but words that have inspired specific, concrete, constructive action to preserve or to extend, to establish, human rights in many countries where those rights were not possible.

Third, Human Rights Day is a time for reflection on what the universal declaration on human rights has not done. While it has resulted in an increasing public awareness of human rights, all too often the concern by nations has been cosmetic, all too concerned with the public relations aspects of human rights, rather than the substance. As the Secretary General of the United Nations has noted in his statement commemorating this day:

> I am acutely aware that we are far from achieving a universal respect for the fundamental freedoms and dignity of the human person. . . . the current international situation, which is characterized by a remorseless arms race, tension among nations and continuing economic inequities, creates an environment of insecurity further undermining human rights.

The Secretary General is all too right in pointing out that we have a very large job ahead of us if the promise and hope of the human rights declaration are to become a reality.

But, Mr. President, we must try in every way we can, both large and small.

As I have pointed out time and again, there is one small step that we here in the Senate can take to further this cause—the ratification of the Genocide Convention, the first of the human rights treaties drafted to implement the principles contained in the declaration of human rights. The time has long since passed when the protection of human rights is merely a matter of local concern. Today, the promotion of human rights is an essential element of the security of our Nation, and that of all nations, and I urge my colleagues to give careful attention to the Secretary General's statement and join me in seeking ratification of the Genocide Convention in the 98th Congress.

Mr. President, I ask unanimous consent that the text of the Secretary General's remarks on Human Rights Day be reprinted in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

MESSAGE OF THE SECRETARY-GENERAL ON HUMAN RIGHTS DAY, DECEMBER 10, 1982

The observance of Human Rights Day requires all of us to rededicate ourselves to a goal essential to the social order envisaged in the Charter of the United Nations, in which the peoples of the world reaffirm their faith in fundamental human rights, these rights were clearly defined in the Universal Declaration of Human Rights and the subsequent conventions and covenants. We should not allow this Day's observance to become merely a ritual. It must convey a message of hope to those millions throughout the world who are deprived of their basic rights.

I am acutely aware that we are far from achieving a universal respect for the fundamental freedoms and dignity of the human person. For vast numbers of human beings, many of the rights set forth in the Universal Declaration remain only distant objectives, as they are denied the right to life, liberty and security of person, the right to a standard of living adequate for health and well being, including food, clothing, housing and medical care and necessary social services, the right to education and the right to work, the right to equality before the law, the right to freedom of thought, conscience and religion and the right to be free from torture and cruel, inhuman or degrading treatment. Moreover, the current international situation, which is characterized by a remorseless arms race, tension among nations and continuing economic inequities, creates an environment of insecurity further undermining human rights.

To overcome this crisis will not be an easy task. We have to bear in mind that the United Nations is an inter-governmental organization of sovereign states. We are only too conscious of the sensitivities this entails. I would add here that an area of special concern to me is the right of our own international civil service to security, safety and independence. This is a problem to which I attach great importance, and that I am addressing separately on this Human Rights Day.

The effectiveness of our Organization in the field of human rights lies in the power of persuasion and the exercise of moral authority. This power must be used to the maximum when matters of principle are at stake. Our aim must be to create a climate of opinion in which all those in authority will come to perceive that they have much more to lose than to gain by disregarding or violating basic human rights. We must strengthen the institutions, procedures and mechanisms of the United Nations in this field. Our efforts must go beyond formalism or appearances. We must try to make sure that they have a practical impact in redressing violations of human rights. However difficult the task, we must persevere if we are not to fail the ideals of the Charter and the trust of those millions who look to the United Nations for assistance in securing respect for their human rights and fundamental freedoms.

The essence of Human Rights Day is to redeem the pledge that we in this Organization have made to all who are deprived of the rights to which they are unequivocally entitled. For my part, I intend to devote the highest priority to the promotion and protection of human rights throughut the world. I shall also ensure that the newly designated Centre for Human Rights responds effectively, courageously and impartially to its challenging mandate. I am deeply convinced that, while short term results are not always evident, every effort to meet our responsibilities in this vital area contributes to the eventual world-wide realization of human rights and to the recognition, in the words of the Declaration, "of the inherent dignity and equal and inalienable rights of all members of the human family."

FIVE-CENT GASOLINE TAX AND HIGHWAY CONSTRUCTION BILL

Mr. PROXMIRE. Mr. President, shortly we will have a vote on a motion to invoke cloture on the proposal to impose a 5-cent gasoline tax and to use the funds for highway construction, renovation, and repair. I think it is timely for us to ask ourselves, why not increase the gasoline tax by 5 cents so we can raise the billions necessary to improve our highways, our bridges, and at the same time put more than 300,000 people now out of work in the construction trades back to work?

Well, the answer is that we should not because it will not increase jobs significantly, and it imposes another regressive tax at a time when the Congress has cut by billions the taxes of those most able to pay.

We have more than $8 billion in the highway trust fund, raised by the present 4 cents gasoline tax ready, to go. Do we need the additional billions that a further 5-cent gasoline tax, a total of 9 cents Federal tax, would raise?

Of course, highway spending aficionados will always argue yes. But what documentation do we have that we need to raise the additional sum?

It is always easy under any circumstances to go out and say, "Well, you can find potholes here and there and a bridge here and there to repair." We can always do that. But what documentation do we have that we need the additional sum?

None of the money proposed would go to fill potholes, incidentally, or do the usual kind of repair. That has been and presumably would continue to be left to local, county, and State governments.

Actually, the 5-cent gasoline tax increase by the Federal Government would make it that much more diffi-

cult—perhaps impossible—for local governments to raise the funds they need from the same source from which they must raise it, that is, the gasoline tax. Rather than speed repairs on the roads we drive on, this action on the gas tax might prevent it.

Does this mean that if we go ahead with this bill the highways will be in worse shape than they are in now? Well, it depends in part on what highways we are talking about. City streets? They will be in worse shape. County highways? Worse shape. State highways? Worse shape. The interstate highways? Better shape.

Do most of us spend most of our time driving on city streets and county and State highways? Yes. The average highway mileage on the noninterstate part of the highways greatly surpasses the mileage on the interstate.

So what is the hurry? What do we really accomplish? Where is the documentation to show that the Interstate Highway System is in worse shape than the rest of our highways? Have we had hearings to document the plight of our interstate compared to local, county, and State highways? If so, where is it? Should we insist on that documentation first? Why should the Congress go ahead without convincing, detailed documentation that this big, regressive tax will really do the job it is supposed to do, that is, provide the repair needed to the roads and bridges that need it the most?

Also, some of us live in States that will get back far less than our motorists contribute.

The bill has been sharply improved in this respect. The worst losers do not lose as much as they did before, but losers we are still.

Under the original House bill, Wisconsin would get back 70 cents for every dollar it contributed; Michigan, 67 cents.

Wisconsin has unemployment in excess of 11 percent, well above the national average, Michigan in excess of 15 percent. Both States have thousands of miles of highway and tens of thousands of unemployed construction workers and others who need jobs. Under the revised bill, we will get back 85 cents on this part of the gas tax dollar, but with all of our heavy unemployment, we shall still pay out more than we will get back. Why would both States not be better off without a Federal highway program financed by a 5-cent tax, when the 5-cent tax could be imposed by the State instead and all of the money raised could be kept home and spent on the highway system in Wisconsin or Michigan. Incidentally, the same point applies to Indiana, Ohio, and many other States which would be losers under the bill.

Finally, what is there to persuade us that this is the best way to put people to work or even that it will put people to work? A number of eminent economists agree that the net effect of this kind of tax and spending program will have what they call a negligible effect on jobs.

That is not just the chairman of the Council of Economic Advisers who says that, but a number of other economists who have joined him in recent weeks.

Oh, yes, indeed, if all of this gas tax revenue is spent promptly on highways—a big "if" when you recognize we have billions of dollars sitting in the highway fund now even before the tax—assuming all of this additional 5 cents goes to repair and reconstruct highways and bridges, does it not come out of the pockets of motorists who will, therefore, have less and who will tend to travel less, to buy less of other products and, therefore, fewer people will be employed in other areas of the economy, particularly in those States like mine, where the gas tax will take away much more than it will return in spending on Wisconsin highway repair?

Mr. President, this question has never been answered, for a very good reason. There is no answer. The bill will not increase the number of jobs net, certainly not in many of the States that will pay out far more than they get back.

The Governor-elect of our State was right when he suggested that we postpone the consideration of this bill until next year, when we shall have a better understanding of how it will affect both our highways and our unemployment problem.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC PROBLEMS IN FOREST PRODUCTS INDUSTRY

Mr. GORTON. Mr. President, on Wednesday, December 8, Senator BAUCUS and I cochaired a hearing of the Small Business Productivity and Competition Subcommittee. The purpose of the hearing was to focus attention on the economic problems facing small and independent businesses in the forest products industry. Although a great deal of data has been released on the depressed state of the forest products industry to date, I believe that the problems unique to small and independent businesses have not been adequately addressed in the information that has been presented to Congress up to this point.

It is a fact that our Nation's economic troubles have crippled the entire forest products industry. High interest rates have devastated the housing market creating economic distress for every aspect of the industry. As a result, businesses throughout the entire industry have been forced to close their doors. Operators who have contracted with the U.S. Forest Service for timber supplies now face the prospect of widespread defaults on their contracts. An unfortunate consequence of the depressed state of the industry is that these economic conditions have had a disproportionate impact on small and independent businesses.

As I believe the hearing record indicates, small businesses in the forest products industry are not going to survive unless some form of relief is forthcoming in the near future. One of the witnesses at the hearing—Gary Jones, vice president of Summit Timber Co. in Darrington, Wash.—is a constituent of mine. I believe that his testimony points out, in a succinct manner, the plight that most small businesses in the forest products industry are currently facing.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement of Gary Jones so that other Members of Congress will have the opportunity to familiarize themselves with just how serious the problems are for small and independent businesses in the forest products industry.

There being no objections, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF GARY E. JONES

Mr. Chairman, my name is Gary E. Jones. I am vice president of Summit Timber Company in Darrington, Washington. Darrington is a small community of 1,000 people nestled in the Cascade Mountains 80 miles northeast of Seattle. Summit is a family-owned corporation founded 40 years ago.

I am here today not only representing Summit Timber management, but also our employees and the town of Darrington. Summit is not a large company, but we are the major employer in the Darrington area. We do not have any asset in our family that is not tied to the timber industry. To survive the past few years, we have exhausted all of our own cash and some of the bank's. Our concern here is the same as other mills in the northwest—Survival!

We favor the Hatfield-Jackson-McClure timber contract proposal. Summit is 95 per cent dependent on National Forest timber. We must buy federal timber to operate. During the decade of the 1970's we were forced to bid high timber prices because of two major factors: declining supply and inflation.

Supply became a factor because of uncertainty caused by wilderness additions, land use strictures and Forest Service budget problems. The second factor, inflation became a problem because we were bidding on timber to be removed two to seven years in the future. When bidding against the competition one had to use an inflation factor of from 8 to 12 per cent to have a chance to buy the sale. This was realistic at the time because we had seen our product

increase at or above the inflation rate during the 70's.

Some may say we took a gamble and lost, so why should we receive relief? My answer is: when we bid we were bidding under fiscal policy established by the past administrations, but we now are forced to harvest these sales under fiscal policies set by a new administration. We agree with what the President is doing and my hope is that we as an industry, and especially the small independent businesses, can survive to help strengthen our nation. We need a chance, however, to harvest timber sales that can be purchased under the conditions of this new fiscal policy. We feel that passing our industry bill will give us that chance. It will keep our timber supply from being tied up in the courts as a result of defaults and bankruptcies resulting from default damages.

We have 185 million board feet of Forest Service timber under contract at a delivered log cost of $360 per thousand board feet. On today's log market that same quality timber can be delivered at $250 per thousand board feet. The $110 difference would create a loss of over $20 million for Summit Timber Company. That, added to losses of more than $10 million in 1981 and 1982 would nearly equal Summit Timber Company's total net worth.

Our 450 union and salaried employees have done their part by taking a 25 per cent cut in pay. With this help, cash flow has stayed fairly stable and we have kept our employees working. But if we are forced to operate these contracts we have no choice but to default and close our doors, leaving the town of Darrington with 50 per cent unemployment.

We think it is to our country's benefit to keep the independent sawmill operator in business so we can continue to supply the jobs necessary to keep local communities strong.

Thank you for your time. I will try to answer any questions you may have.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

ORDER OF BUSINESS

Mr. HELMS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Would the Chair advise the Senator from North Carolina of his anticipation of what time a vote on cloture will occur?

The PRESIDING OFFICER. It will occur after a live quorum has been established, which will occur at 1 p.m.

Mr. HELMS. A cloture vote will occur on the motion to call up, is that correct?

The PRESIDING OFFICER. On the motion to proceed.

Mr. HELMS. Yes, motion to proceed or call up.

All right. Mr. President, I hope——

The PRESIDING OFFICER. The hour of 1 p.m. has arrived.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business has expired.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

CLOTURE MOTION

The PRESIDING OFFICER. Under rule XXII, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 6211, the Surface Transportation Assistance Act of 1982.

Howard Baker, Jake Garn, Alphonse D'Amato, Nicholas Brady, Bob, Dole, Dan Quayle, S. I. Hayakawa, Robert Stafford, Ted Stevens, Mark Andrews, Strom Thurmond, David Durenberger, Warren B. Rudman, John H. Chafee, Pete Domenici, John Heinz, and Jennings Randolph.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER WAIVING RULE FOR LIVE QUORUM—VOTE ON CLOTURE MOTION TO OCCUR AT 1:40 P.M. TODAY

Mr. STEVENS. Mr. President, I ask unanimous consent that the live quorum required by the rules be waived in this instance and that the rollcall on the cloture motion commence at 1:40 p.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, and I shall not object, as the Senator knows there are some Senators at the White House and at least one coming in on a plane. Does the Senator propose to run this vote a little longer than 15 minutes?

Mr. STEVENS. For the convenience of those Senators who are downtown, as well as those scheduled to leave, it is the intention of the leadership to start the rollcall vote at 1:40 p.m. to continue if for at least 20 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. The rollcall would be at least 20 minutes.

If there is any objection, Mr. President, I change the request to make it a rollcall vote which will be 20 minutes in length.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 1:40 P.M. TODAY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:40 p.m. today, at which time the rollcall vote will commence.

There being no objection, the Senate, at 1:15 p.m., recessed until 1:40 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. RUDMAN.)

SURFACE TRANSPORTATION ACT OF 1982

VOTE ON CLOTURE MOTION

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of H.R. 6211, the Highway Revenue Act of 1982, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. ANDREWS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. MATHIAS), and the Senator from Idaho (Mr. SYMMS) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 75, nays 13, as follows:

[Rollcall Vote No. 401 Leg.]

YEAS—75

Abdnor	Ford	Murkowski
Armstrong	Garn	Nunn
Baker	Glenn	Packwood
Baucus	Gorton	Pell
Bentsen	Grassley	Percy
Biden	Hart	Pressler
Boschwitz	Hatfield	Quayle
Brady	Hawkins	Randolph
Bumpers	Hayakawa	Riegle
Burdick	Heflin	Roth
Byrd, Harry F., Jr.	Huddleston	Rudman
	Jackson	Sarbanes
Byrd, Robert C.	Jepsen	Sasser
Chafee	Johnston	Schmitt
Chiles	Kassebaum	Simpson
Cochran	Kasten	Specter
Cohen	Kennedy	Stafford
D'Amato	Laxalt	Stennis
Danforth	Leahy	Stevens
DeConcini	Long	Thurmond
Denton	Lugar	Tower
Dixon	Mattingly	Tsongas
Dole	McClure	Warner
Domenici	Melcher	Weicker
Durenberger	Metzenbaum	
Eagleton	Mitchell	

NAYS—13

Boren	Hollings	Pryor
East	Humphrey	Wallop
Exon	Levin	Zorinsky
Hatch	Nickles	
Helms	Proxmire	

NOT VOTING—12

Andrews	Dodd	Mathias
Bradley	Goldwater	Matsunaga
Cannon	Heinz	Moynihan
Cranston	Inouye	Symms

The PRESIDING OFFICER. On this vote, the yeas are 75, the nays are 13. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

Mr. BAKER. Mr. President, as I recall the provisions of rule XXII, certain time may be assigned by yielding from other Senators to the two leaders and to the two managers. Is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Would the Chair please state, for the benefit of all Senators, how that operates under the provisions of rule XXII post cloture?

The PRESIDING OFFICER. Each of the two leaders and each of the managers may have 2 additional hours yielded to each of them and each of those four, in turn, may yield to other Senators.

Mr. BAKER. From the time aggregated by the leaders and managers?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair. Of course, the time we are utilizing now will charge against my hour; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, at what point may that time be yielded; at any point prior to the disposition of the motion?

The PRESIDING OFFICER. At any point prior to the disposition of the motion, time may be yielded.

Mr. BAKER. Is it necessary for me to designate the manager of the motion on this side?

The PRESIDING OFFICER. As is the normal course, the managers are to be designated by the leadership.

Mr. BAKER. Mr. President, I designate the distinguished chairman of the Finance Committee, the Senator from Kansas (Mr. DOLE) as the manager for the proponents.

Mr. President, how is the time charged in respect to a quorum?

The PESIDING OFFICER. It is charged against the 100-hour cap. It is not charged against the time of any individual Senator.

Mr. BAKER. I thank the Chair. The Senator from Kansas has been designated as the manager on this side.

I inquire of the minority leader if he is prepared to designate a manager on his side. The reason I am pressing this point is some way has to be found to accommodate the time requirement of Senators who are in opposition. While they have 1 hour each, I can assure them from our side that we will be glad to try to accommodate requirements within the time allocated to the leader and the manager so that they may go forward with their debate within the provisions of rule XXII.

Mr. ROBERT C. BYRD. Mr. President, the minority designates Mr. LONG to handle the time on this side.

Mr. BAKER. Now Mr. President, first I would like to yield to the distinguished Senator from Idaho for a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Idaho.

(The remarks of Mr. MCCLURE given at this point are printed later in today's RECORD under authority for committee to meet.)

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I yield my hour to the majority leader.

Mr. BRADY. Mr. President, I yield my hour to the majority leader as well.

Mr. BAKER. I thank both Senators, Mr. President.

Now, Mr. President, could I inquire of the distinquished Senator from New Hampshire and the distinguished Senator from Oklahoma about how much time they think they might require in order to complete the debate before the Senate votes on the motion to proceed?

Mr. NICKLES. The Senator from Oklahoma would like to use his time to the maximum extent possible. As to a time for a vote, I really do not know, but I expect it would be some time from now.

Mr. BAKER. Mr. President, I spoke earlier of the fact that time under the rule may all be under the control of those who perhaps will support the motion. Therefore, in order to do equity in this circumstance, I yield 1 of my hours of the 3 aggregated to me under the rule to the Senator from Oklahoma and 1 of the hours to the Senator from New Hampshire, which leaves me with 1 hour under my control and will leave the Senator from Kansas (Mr. DOLE) with 3 hours.

Mr. GORTON. Mr. President, I yield my hour to the Senator from Kansas.

Mr. GARN. Mr. President, I yield my 1 hour to the Senator from Kansas.

Mr. BAKER. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, it is not my desire or wish to detain the Senat or to keep us here until Christmas. It would be my desire that the leaders of this bill or the administration would pull it down. I personally do not believe this bill is in the best interests of our country and certainly not in the best interests of my State of Oklahoma.

Mr. President, may we have order?

The PRESIDING OFFICER (Mr. COHEN). The Senate is not in order. Will Senators standing in the aisle please take their seats or remove themselves from the Chamber?

The Senate will not proceed until such time as Senators now standing in the aisle take their seats or remove themselves from the Chamber.

Mr. NICKLES. I thank the Chair.

Mr. President, I believe there are a lot of reasons to be opposed to this bill. One, probably first and foremost, is that the bill has been considered urgent. It has been rushed. I do not think there have been proper hearings held on either side. We are in a lame-duck session. We are in this session that is supposed to last 3 weeks but we find ourselves condsidering a major tax bill. When I say "major," we are talking about multibillions of dollars. We are talking about a tax bill that will affect every single taxpayer in the United States, every motorist in the United States, not to mention that it will heavily tax individuals who are involved in the trucking industry.

It has been rushed through. We have been in the lameduck session for 2 weeks. We have been in this session for 2 weeks and now we find a bill on our desk, and I think I may be correct—I am not sure the bill is on our desk yet. We certainly have not seen a committee report. What we are really trying to do is to steamroll this thing through before we have had adequate time to properly consider it on its merits.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. NICKLES. A parliamentary inquiry. Does the Senator from Oklahoma have 1 hour or 2 hours?

The PRESIDING OFFICER. Two hours.

Mr. NICKLES. Mr. President, I believe there are a lot of reasons why we should be opposed to it. When we look a little closer at what is in the bill, since we have not had a lot of time to consider what is in the Senate portion of the bill one can look at what is in the bill on the House side, there are a lot of things which are detrimental. There have been numerous editorials that would kind of illustrate the fact that some of the things can be and are detrimental, I believe, to the taxpayers of this country.

To kind of highlight some of the things, before I go into detail, a lot of this bill has been proposed as a jobs bill. Actually, I think there are more economists who, if they looked at the real essence of the bill, would openly admit the fact that this bill will not actually add jobs but it actually will detract from the number of jobs. In fact, it will be taking billions of dollars out of the private sector and moving it into the construction industry. No doubt, it will be good for the construction industry, but it certainly will not be good for the rest of us, for the rest of the taxpayers.

People talk about a nickel a gallon. What is a nickel a gallon? A nickel a gallon happens to be $1 every time you fill up a 20-gallon tank. For most of us who fill up a tank, most of the time we know it costs $20, $25, $26, depending on whether or not you fill it up by yourself or have some assistance. That is a lot of money to fill up a gasoline tank. I do not know that many motorists want to see it increased another nickel a gallon, to have it increased another $1 every time you fill up your tank.

As a matter of fact, I think if you took this to a poll of the people throughout the country, you would find overwhelming support against this bill, that the people are opposed to it.

I will get into my comments somewhat later on the number of people who are opposed.

I think there are a lot of reasons. It is a redistribution of income, and a lot of States, my State included, happen to really come out very poorly in the distribution. Historically, we have received only 74 cents out of every dollar that has gone into this fund. Today we find in the bill, as it is presently, that we receive 85 percent out of the 8 cents. In my State of Oklahoma, to give an example, in the formula of last year, we would lose about 20-some million dollars. If we double the tax from 4 cents to 8 cents, then our State will lose something like $40 million. That is not counting the additional penny in mass transit on which our State would probably lose an additional $15 million to $20 million a year.

The net result of this bill will be for my State of Oklahoma, and I might add several other States throughout the country, instead of just donating 20-some million dollars a year to the general highway fund, will be talking about something on the order of $40 million to $60 million a year that will be leaving our State and going to the other States.

There are a lot of other reasons to be opposed to this bill. Just to highlight a few, Federal contracts cost considerably more than State contracts. It is estimated by our State Highway Department in Oklahoma that if you complied with a Federal contract in comparison to State contracts, it costs as much as 30 percent more because we have to abide and live by those Federal rules and regulations that the States oftentimes in their wisdom decide not to utilize just because it is Davis-Bacon. And now I know this bill has a buy-American clause, and several other similar clauses.

Mr. President, there are a number of other reasons to be opposed to this bill.

A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NICKLES. If a quorum call is placed, is that time charged to the Senator's time or against the bill?

The PRESIDING OFFICER. It is charged against the overall cap of 100 hours, but not against any individual Senator's time.

Mr. NICKLES. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objetion, it is so ordered.

Mr. EAST. Mr. President, I should like to take a few minutes of the time allotted each Senator in this postcloture period to address some initial remarks to this question of the proposed 5-cent gas tax. I do this reluctantly because I have great admiration for many people in this administration, including the President, the Secretary of Transportation, and also, I might add, for the head of the Federal Highway Administration. I appreciate that this is being submitted in good faith by these gentlemen, who look upon it as a sound contribution to tax policy, to jobs, and to roads.

So I oppose in the spirit of reluctance, more in a spirit of regret and sadness than I do any kind of personal animus toward many of the very fine people supporting this measure.

My opposition is based solely on the merit and the substance of the bill.

Obviously, the measure has gone through the House of Representatives. It seems to be moving through the Senate. Ultimately, I presume the momentum here would suggest that the American people will be paying in due course another 5 cents per gallon on their gasoline.

We are told by the proponents of this measure, and rightfully and understandably so from their perspective, that this would be a good thing for the American people and they should commend their legislators and Congress for having accommodated them.

I simply do not share the wisdom nor the enthusiasm that is being shown in the House of Representatives and here in the Senate for this measure, with all due respect for my many able colleagues on both sides of the aisle who are supporting this measure.

Mr. President, what I shall do is to state very briefly that and then I will come back at a later time for greater elaboration within the time assigned to me as to why I do not think this is a good idea.

There are many reasons. I shall offer some that I think are a bit more compelling than others.

First of all, the tax is a regressive tax. It hits the working people the hardest. We cannot contend this is a luxury now. We are not taxing something that people do not need. In contemporary American society the automobile, though it may be abused from time to time, is a necessity. People must have it to get to work and to return. To be a part of American society, the overwhelming majority of the people of this country have to have access to an automobile.

It is a regressive tax, as I say, because, of course, regardless of income level all must pay this tax, and it hits those in the middle and lower range of the economic scale the hardest. Of course, in a time of recession it would seem to be most unfortunate to burden the working people of this country with a tax not upon a luxury but upon a necessity; namely, their gasoline.

I might note I have not read of any economist of note on any part of the ideological economic spectrum or political party spectrum who commends taxation in time of recession. We are trying to encourage spending and as we take additional money out of the pockets of the working people of this country they will have less to spend on other things. Increasing taxes in time of recession is poor economics and then when we compound it with the fact that this is regressive tax, it is a double whammy, and again it hits hard right in the center of the Ameri-

can economy, the middle class, the working people, and those at the lower end of the economic scale.

I prefer not to be a part of the assault upon those dear souls who are the ones who make this country work and make it click. They are the ones who bear the burden of the function of this economy.

Mr. President, another objection I have to it, aside from it being regressive and coming about in a time of recession, we are told it is a user fee tax. Actually, it is not a user fee tax, because user fees are used to fund a particular thing that is being taxed.

To put it another way, we should not be diverting one-fifth of money into mass transit because by definition people who use mass transit are not using the highways, the biways, the roads, and the bridges. They are using mass transit. So it is not a user fee.

We are in an age of euphemisms. Instead of taxes, we talk about revenue enhancement and user fees. But I suspect that the good commonsense of the American working people know a rose when they see one, and a rose is a rose by any name, and this is a tax.

The thing from the user fee standpoint, which often can be a very commendable thing, is we are breaching that very fundamental notion of tax law that when we have a user fee, do not divert portions of it to other expenditure, and we are doing that here. We are doing it for mass transit. That I find objectionable.

It is also objectionable, Mr. President, on the idea that it creates jobs. At best, it is a jobs transfer program because, for example, in the State of North Carolina it is going to hurt tourism down there. We are a big State. We are a big donor State to the Federal Highway Fund, an agricultural State, that is rural, big, and the 10th largest State in the country. Historically, we have only gotten 74 cents of the dollar we have turned in.

It is hard to explain to the good people of North Carolina, particularly the working people, why they should want even more of this.

Tourism is big in North Carolina. It is big in the western part of the State. It is big in the Piedmont. Asheville is one of the great areas of resort activity in this country, and there is the whole beautiful mountain area of the western part of our State, the Piedmont area. Then down in the southern pines is, Pinehurst, a great golfing area, and then over on the eastern part of the State are Atlantic Beach, Morehead City, the Outer Banks, and Nagshead. People get there by automobile.

What this tax will do will be to discourage working people from going down there because of the cost.

So for every alleged job we might conceivably pick up in the construction industry, we are going to hurt in filling stations, tires, and restaurants. We are going to hurt people in North Carolina and, frankly, other parts of the country who are servicing tourism.

So at best this is a jobs transfer bill. And, of course, even if it produced all the jobs that some contend it would, it would be a mere drop in the bucket for the 11 million Americans who are unemployed.

The way we will get these people back to work and keep them at work all across the economic spectrum is to get interest rates down, get the Federal Reserve Board to appreciate the incredible damage they have done to this country by keeping the interest rates at abnormally high levels historically and also for Congress ultimately to get spending under control. That is what we should be doing. We should be getting control of the rate of growth of Federal spending here in Congress and the Federal Reserve Board should be getting interest rates down. That is where the action would be to revitalize the American economy, not a 5-cents gas tax on the working people of this country to put an alleged 300,000-and-some people to work where it is questionable whether we will even do that an even if we did we are going to displace jobs in other sectors of the economy.

Some people may think that all sounds good. I do not, and I respectfully dissent from it.

Also, Mr. President, I would note as a matter of opposition to this particular measure that at some point in trying to tax a commodity you kill the goose that laid the golden egg. We are going to eventually tax gasoline so much in this country people will quit using it, so you are going to have fewer funds, less money, available for highway construction, expansion, and maintenance. It is a risk we are running here.

There are many other reasons, Mr. President, why I think our colleagues here in the Senate ought to think very carefully before they move quickly and rapidly along the road of passing this incredible tax and, of course, there are all these sweeteners in this bill—a great burden on truckers—and this is very bad in North Carolina. It is very bad not only for the trucking industry, it is going to be bad because so many commodities in my State, which is rural and needs the use of trucks—and this is true of so many States in this Union—that it is going to increase the cost of products to consumers. It will take more to drive a big truck from Raleigh to Nags Head. Who is going to pay that? The consumer, who is ultimately going to pay it, will suffer, and so the trucking industry is going to suffer.

All in all, the 5-cent gas tax and all of the other ornaments which have been attached to this bill, I cannot in good conscience support in spite of the many distinguished colleagues here in this Chamber and in the House of Representatives who support it.

I would like to commend the leadership that is being shown here by, among others, of course, Senator NICKLES, Senator HUMPHREY, and Senator HELMS. It will probably turn out to be a very small group which will ultimately oppose this. The great majority, understandably so, in a representative democracy will finally work its will, and I understand that, and that is the way it ought to be. But I, as one Senator, want the record to show clearly and categorically, without equivocation, that I think it is a bad idea. It is going to hurt the American economy and, above all, it is going to hurt the working people in this country.

They are bearing enough burden right now in a period of recession without adding a regressive tax right at the depth of our economic uncertainty.

Mr. President, I look forward at a later time to coming back and examining some of these things with my colleagues in greater detail.

QUORUM CALL

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. NICKLES. Objection.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Objection is heard.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 48 Leg.]

Baker	Garn	Quayle
Baucus	Hollings	Stevens
Cohen	Kassebaum	Wallop
Danforth	Long	
East	Nickles	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. BAKER. Madam President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER). The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. ANDREWS), the Senator from Colorado

(Mr. ARMSTRONG), the Senator from New Jersey (Mr. BRADY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. MATHIAS), and the Senator from Idaho (Mr. SYMMS) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 79, nays 7, as follows:

[Rollcall Vote No. 402 Leg.]

YEAS—79

Abdnor	Gorton	Murkowski
Baker	Grassley	Nickles
Baucus	Hatch	Nunn
Bentsen	Hatfield	Packwood
Biden	Hawkins	Pell
Boschwitz	Hayakawa	Percy
Bumpers	Heflin	Pressler
Burdick	Helms	Pryor
Byrd, Robert C.	Hollings	Randolph
Chafee	Huddleston	Riegle
Chiles	Humphrey	Roth
Cochran	Jackson	Rudman
Cohen	Jepsen	Sasser
D'Amato	Johnston	Schmitt
Danforth	Kassebaum	Simpson
DeConcini	Kasten	Specter
Denton	Kennedy	Stafford
Dixon	Laxalt	Stennis
Dodd	Leahy	Stevens
Dole	Levin	Thurmond
Domenici	Lugar	Tower
Durenberger	Mattingly	Tsongas
Eagleton	McClure	Wallop
East	Melcher	Warner
Exon	Metzenbaum	Zorinsky
Ford	Mitchell	
Glenn	Moynihan	

NAYS—7

Boren	Garn	Quayle
Byrd, Harry F., Jr.	Long	Weicker
	Proxmire	

NOT VOTING—14

Andrews	Cranston	Mathias
Armstrong	Goldwater	Matsunaga
Bradley	Hart	Sarbanes
Brady	Heinz	Symms
Cannon	Inouye	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Madam President, how much time does the Senator from New Hampshire have?

The PRESIDING OFFICER. The Senator has 2 hours.

Mr. HUMPHREY. May we have order, Madam President?

The PRESIDING OFFICER. Senators wishing to talk should retire to the cloakroom.

Mr. HUMPHREY. Madam President, an article appeared in yesterday's Washington Post written by the Governor of Vermont, the Honorable Richard A. Snelling, who, in addition to holding that high office in the State of Vermont, was president of the National Governors Association during the year 1981-82.

In this article, which I shall read into the RECORD, Governor Snelling comes out in opposition to the pending gasoline tax. I find his article all the more credible inasmuch as his State of Vermont is a net donee; it would be a net beneficiary on a ratio of $1.68 in highway funds per $1 paid by the residents of Vermont. There are a few States that would benefit more in this respect than the State of Vermont, and yet the Governor of that State has written a highly informative opinion in opposition to the gasoline tax. It reads as follows:

No matter what combination of the three "quick nickel" highway bills now before Congress is ultimately passed as a result of the current steamroller in Washington, the bill will not do the things its backers have promised. Specifically, the quick nickel will not do anything about the current severe unemployment problem (except possibly make it worse) and it will not fill potholes.

The White House (correctly) denies that this is a jobs bill. Nevertheless, the Department of Transportation tells anybody who will listen that precisely 170,000 jobs will be created. The only reason the bill is being considered at all in the lame-duck session is the great need of Congress to appear to do something about the unemployment situation.

The bill is not going to create jobs. In its early years, it takes more money out of the economy than it puts back in. Neither a Keynesian nor a supply-side economist would claim that sending more money to Washington is a way to create jobs.

If we don't have to send that $5.5 billion a year to Washington, we will presumably spend it to buy something else. If we do send that money to Washington, we won't be able to use it to buy something else. Whoever makes that "something else" will lose his or her job. Eventually, some of the money will result in creating some new construction jobs while eliminating jobs elsewhere in the economy.

Since the money leaves our pockets well before it ever comes back from Washington, the short-term effect will be a loss of jobs and not a gain. To make things even worse as far as jobs are concerned, it is unlikely that all states will be able to spend all the money that will theoretically be available to them. This federal money must be matched by state money. Since many states are already having difficulty matching the federal funds they are now eligible for, it is unlikely that these states will be able to match any more federal funds—especially since the federal government is planning to preempt their ability to raise state gas taxes.

The bill is touted as a way to fill the nation's potholes. There are certainly plenty of potholes that need filling. However, this bill simply extends existing federal highway programs, and federal highway money is not available for filling potholes under these programs unless the whole road is repaved. As a matter of fact, the road also has to be "wide enough" and "straight enough" to meet federal standards in order to qualify for this repaving money.

There are roads that do need to be completely reconstructed. There are also other roads that simply need to have their potholes filled and their cracks sealed. It is because of a lack of pothole-filling and crack-sealing over the last decade that so many roads need to be completely repaved or reconstructed now. This bill continues the tradition of encouraging massive reconstruction rather than simple preventive maintenance.

Many states, including Vermont, already need to raise their own gas taxes this year to meet unmet maintenance requirements. It is unlikely that those states will want to impose any further "user charges" on top of a large federal increase. When states raise their own gasoline tax, they can use the money from that increase to meet their most urgent priorities—whether those priorities be pothole-filling or new construction. It has been known for a long time that state-only projects are cheaper and can be done more quickly than projects using federal money.

It is easy to understand why those who have been frustrated by Congress' inability to pass a multi-year highway bill are jumping aboard the quick-nickel steamroller. They are afraid that, if Congress does not pass this bill now, it will never address highway needs constructively. They are willing to accept any bill, even a bad bill, as long as there is some more money for highways.

Nevertheless, a bad five-year bill passed during the lame-duck session will be worse for the nation than no bill at all. It will neither create jobs nor fill potholes. It will frustrate the ability of the states to achieve these goals themselves.

Although many states will be winners from the quick nickel, others will be substantial losers. The Reagan administration dedicated itself to a restructured federalism, which recognized the diversity of needs and problems in the different states. It is ironic that this administration is pushing a bill that extends federal decision-making even further and cripples the ability of states to meet their individual highest priority needs.

This lame-duck Congress ought to go home. After the Christmas recess, a new Congress should come back and address the nation's transportation (and other) problems in a constructive way. The quick nickel ought to be allowed to die a quick death.

I repeat again, Madam President, that this article, published yesterday, was authored by Richard A. Snelling, the Governor of the State of Vermont, a State which would benefit substantially by the passage of this bill inasmuch as it would receive $1.68 for every $1 paid in gasoline taxes by that State.

Parliamentary inquiry, Madam Chairman. Is there a quorum present?

The PRESIDING OFFICER. After cloture, the Chair does have authority to count and see if a quorum is present. If, indeed, there is not a quorum present on that count, then a quorum call will ensue.

Is that what the Senator from New Hampshire is asking that the Chair do?

QUORUM CALL

Mr. HUMPHREY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. NICKLES. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The bill clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 49 Leg.]

Abdnor	Humphrey	Nickles
Baker	Jepsen	Nunn
Cochran	Kassebaum	Quayle
Denton	Kasten	Randolph
Domenici	Leahy	Schmitt
Grassley	Lugar	Thurmond
Helms	Melcher	
Huddleston	Moynihan	

The PRESIDING OFFICER. A quorum is not present.

Mr. BAKER. Madam President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. ANDREWS), the Senator from New Jersey (Mr. BRADY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. MATHIAS), and the Senator from Idaho (Mr. SYMMS), are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The PRESIDING OFFICER (Mr. HAYAKAWA). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 81, nays 6, as follows:

[Rollcall Vote No. 403 Leg.]

YEAS—81

Abdnor	Exon	Moynihan
Armstrong	Ford	Murkowski
Baker	Glenn	Nickles
Baucus	Gorton	Nunn
Bentsen	Grassley	Packwood
Biden	Hatch	Pell
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Pressler
Bumpers	Hayakawa	Pryor
Burdick	Heflin	Randolph
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Rudman
Chafee	Humphrey	Sasser
Chiles	Jackson	Schmitt
Cochran	Jepsen	Simpson
Cohen	Johnston	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stennis
DeConcini	Kennedy	Stevens
Denton	Laxalt	Thurmond
Dixon	Leahy	Tower
Dodd	Lugar	Tsongas
Dole	Mattingly	Wallop
Domenici	McClure	Warner
Durenberger	Melcher	Zorinsky
Eagleton	Metzenbaum	
East	Mitchell	

NAYS—6

Boren	Long	Quayle
Garn	Proxmire	Weicker

NOT VOTING—13

Andrews	Hart	Matsunaga
Brady	Heinz	Sarbanes
Cannon	Inouye	Symms
Cranston	Levin	
Goldwater	Mathias	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. HELMS. Mr. President, some of us have been discussing rule XXII and its implementation with respect to the rule prohibiting two speeches.

Just as a matter of record, let me share with Senators a colloquy that occurred on January 25, 1926, page 2686 of the RECORD:

Mr. SMITH. Mr. President, I rise to propound a parliamentary inquiry.

As I understand the operation of rule XXII a Senator may speak in all 1 hour but may divide his time as is convenient and as the time will permit until his hour is consumed. Am I correct in that?

The VICE PRESIDENT. That is my understanding.

Mr. HEFLIN. Mr. President, it is my understanding that a Senator can speak only once and not over an hour.

Mr. SMITH. My interpretation of the rule is that the Chair shall keep a record of the time consumed and that a Senator may divide his time.

The VICE PRESIDENT. The Senator from South Carolina is correct. The agreement provides that thereafter no Senator shall be entitled to speak in all more than 1 hour on the pending measure.

Mr. President, if the circumstances had developed with respect to the two-speech rule, I would have been loath to appeal the ruling of the Chair because I would not want a precedent to be made under the circumstances existing here today.

But I do wish for Senators to take note of what transpired on January 25, 1926, in this body.

Now there may be a later precedent of which I am not aware, but historically at least for the 10 years that I have been in the Senate, Senators may have been permitted to speak as often as they wish for so long as they did not consume more than the time alloted to them.

Mr. President, I thank the Chair.

Mr. BAKER. Mr. President, if I may have the attention of the Senate, I hope we can get on with the business at hand. The business at hand, of course, is to conclude the debate on the motion to proceed to the consideration of the highway bill. I asked the clerk to total the time that has been utilized so far. Really, even though we have been on this measure for most of the day, we have only burned up a little less than an hour in the aggregate. That leaves me with a terrible choice.

I can ask Senators to remain on the floor so we have a quorum and the Chair can observe as much, with the possibility of denying a request for the yeas and nays and the other rather harsh steps that may be taken in order to move us along.

Mr. STENNIS. If the Senator will yield to me, Mr. President, this is important. We cannot hear, cannot understand. Will the Chair get silence, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER, Mr. President, that is not my desire. I really do not want to do that. It is awkward and, at very best, it will cause a massive inconvenience for Senators.

Cloture on a motion to proceed, to tell you the truth is one of the few cloture motions that you could probably still do any good with in that the motion is not amendable. Therefore, you do not have the danger of a postcloture filibuster by amendment, but it still takes a long time to burn up the time that is available under rule XXII postcloture.

I understand that Members may have a great concern about when this measure is scheduled, assuming that we get to it, and that is a valid concern. I understand that. I am willing to take account of those concerns and the convenience of the maximum number of Senators, but we have to get to this bill.

May I inquire of the Senator from Oklahoma and the Senator from New Hampshire if they would perhaps be prepared to let us go ahead and dispose of the motion to proceed to the consideration of this measure if consent was granted and if I assure them that if that motion passes we would schedule this debate to start in earnest sometime during the day tomorrow?

There are other matters that we could take up I think to good effect today, so, if that would help ease their

burden and if that would help facilitate the action of the Senate, I would be perfectly willing to consider doing it.

Mr. HUMPHREY. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. HUMPHREY. I think I can speak on behalf of the Senator from Oklahoma and the Senator from North Carolina. It is not our wish to hold up other important business. We are perfectly amenable to any reasonable agreement to expedite other items of business.

Mr. BAKER. I thank the Senator. Let me put this request then, Mr. President, with the hope that we might be able to liquidate this issue.

ORDER FOR DEBATE ON H.R. 6211 TO BEGIN AT 2 P.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, if the motion to proceed prevails, debate on this bill begin at 2 p.m. tomorrow.

Mr. DOLE. On the bill.

Mr. BAKER. On the bill. The motion will be disposed of today but debate will be postponed, this measure will be temporarily laid aside and would recur as the pending business and debate would begin tomorrow at 2 p.m.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, with that unanimous-consent agreement, I wonder if the Senators would consider yielding back their time so that we can put the question on the motion to proceed.

Mr. NICKLES. The Senator from Oklahoma would be happy to yield his time.

I believe neither Senator from North Carolina would wish to be heard. There may be other Senators who wish to be heard, but as far as my own time is concerned, I would be happy to yield it back.

Mr. BAKER. I thank the Senator.

Mr. HUMPHREY. The Senator from New Hampshire will yield back all of his remaining time.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. RANDOLPH. Mr. President, who has the floor?

Mr. BAKER. Mr. President, does the Senator from West Virginia wish me to yield to him at this point?

Mr. RANDOLPH. Yes, just for a moment.

Mr. BAKER. Yes, I yield to the Senator.

Mr. RANDOLPH. Mr. President, there are those of us in this Chamber who believe that it is important to rebuild the vital transportation network of the United States. We believe it is imperative that it be done properly. This would include, of course, highways, bridges, and other forms of transportation, perhaps portions of the transit system.

Will the able majority leader tell me how this Senate can come to grips with this priority and a vote on the issue?

Mr. BAKER. Mr. President, I thank the Senator. As he knows, I support this bill. I am going to try very hard to pass this bill, but, like everything else we do in the Senate, we have to do it a step at a time. I think, through the good cooperation of the Senators from New Hampshire, Oklahoma, and North Carolina, we are about to reach the place where we will actually have the merit of this bill before us at 2 o'clock tomorrow afternoon.

When that time comes, I assure the Senator from West Virginia that I will be with him in trying to pass this measure; it is my hope that we can do so.

Mr. RANDOLPH. Will the majority leader yield for further comment?

Mr. BAKER. Yes, I yield.

Mr. RANDOLPH. I respect my colleague from New Hampshire. I remind him that he has had a notable career in the field of air transportation. I recall that in Congress we passed in 1944 a program which brought into being a network of needed airports in this country. It was accomplished because the Congress took action. I worked diligently for the enactment of that necessary law. We established several hundreds of airports throughout the country for scheduled, chartered, and private flying facilities as well as for defense purposes.

We are at the time in the history of our transportation system when we have a decision to make. Shall we allow in the coming weeks and months a further deterioration of our national transportation system. There are attempts being made to keep the Senate from coming to a vote. I disagree with a delay. I do understand differences on how a Member votes—I hope, however, that the Senator will permit us to vote on this constructive measure.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to, will the majority leader be good enough to give us some indication as to what he intends to take up between now and 2 p.m. tomorrow?

Mr. BAKER. Yes. Mr. President, I say to the Senator from Ohio that it depends a lot on what we can clear on both sides of the aisle. However, as I have indicated earlier, it is my desire to take up whatever appropriation bills we can find. I hope that we would be able to clear next the Interior appropriations bill.

Mr. METZENBAUM. I thank the majority leader.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, under the order previously entered, the matter is automatically laid aside until 2 p.m., tomorrow is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, the Surface Transportation Assistance Act of 1982, or gas tax bill, although touted by some as a jobs-creation proposal to deal with current high unemployment, may not produce a net increase in the number of jobs, particularly in the crucial short run. In the long run, economic benefits—and thereby jobs as an indirect result—could be achieved by improving the Nation's transportation system. But, for several reasons, this program may instead destroy more jobs than it creates, especially in the crucial immediate future.

Public works projects are typically more capital than labor intensive, with highway construction and repair programs probably even less labor intensive than other possible targeted jobs programs. A November 30 Wall Street Journal article by Bruce Bartlett, the Deputy Director of the Joint Economic Committee, cites OMB figures revealing that only 22 percent of a typical public works project is spent directly on employment. Further, OMB has found that few—25 percent or less—of workers employed on these projects were unemployed before being hired for these programs. And as for helping the hard-core unskilled, unemployed worker, since half to three-quarters of public works projects jobs require skilled labor, these targets of concern are unlikely to benefit from such programs.

As well, the costs in these programs of any job creation are also high, particularly because compliance with Davis-Bacon regulations means that union, or near union, scale rates will have to be paid. The Bureau of Labor Statistics reports that one-third of all construction workers are represented by labor unions, a high percentage

compared to other industries. The Bureau also reports that construction work receives the highest average weekly earnings of all employed full-time union-represented wage and salary workers in their industry breakdown. (Bureau of Labor Statistics, "Earnings and Other Characteristics of Organized Workers," May 1980, Bulletin 2105.) As a result, the Davis-Bacon requirements would make the cost of each alternative job created by a highway construction and repair program the most expensive of any public works project. With each single alternative job costing more, fewer jobs could be created by this program, thereby enhancing the possibility that its net result could be an overall decrease in employment.

Also undermining the jobs-creation potential of public works programs are the factors of "job substitution" and "replacement spending." Experience with these programs has shown that Federal expenditures on them increasingly replaces comparable State and local expenditures, that Federal employment in such jobs replaces positions on State and local payrolls. As a result, there is little, if any, net job creation, only substitution.

Similarly, experience and commonsense tell us that the extra money spent by the taxpayer consumer to buy gasoline will thus not be available to be spent on other commodities, thereby reducing demand and, ultimately, jobs in competing industries. And, since the tax would be collected prior to the spending and new, alternative job creation, there well could be a net decrease in jobs in the short run.

Unfortunately, a highway construction and repair program might also have a detrimental effect on jobs in one of the currently most depressed segments of our economy—the automobile and related industries. For higher gas prices well might encourage even more American consumers to purchase smaller, more fuel efficient cars just as did the earlier OPEC-induced gas price rise.

In response to my inquiry of December 1, Dr. Alice Rivlin has confirmed this evaluation of several aspects of the bill's shortrun jobs-creation potential. In a responding letter she states:

But in the short run, the net employment effects . . . would be very small, and could be either positive or negative. Whether the net employment impact would be positive or negative would depend on four factors: timing, incidence of the tax, labor intensity of the projects, and the conduct of monetary policy . . . if the tax were imposed before actual outlays occur . . . the net effects would be to drain purchasing power from the economy. As a result, employment would probably decline in the short run, although the federal budget deficit would also be reduced somewhat. . . . To the extent that the tax lowers consumer incomes in the short run, it would result in lower consumption of other goods. On the other hand, if the tax were paid out of business profits, then it would lower subsequent business investment. . . . Highway construction and repair is generally thought to be less labor intensive than many other types of targeted programs. Thus, as a program to create jobs, highway construction may not compare well with other possible programs. . . . Any upward pressure on prices resulting from the gasoline tax would place similar upward pressure on interest rates and weaken the net effects of the program on the real economy. . . .

I ask unanimous consent that the full text of Dr. Rivlin's letter, as well as the Bartlett Wall Street Journal article, be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. Mr. President, the Congress should undertake a careful review of the needs for highway and related construction and determine if or how much investment is required for any transportation initiative, and only then should this type of legislation be considered. Imposing this burden now, however, is precipitous action which most likely would destroy rather than create jobs for Americans.

I commend Congress concern for creating jobs. But jobs can be created only by eliminating the numerous formidable barriers to a healthy economy. These include an erratic monetary policy, excessive and costly regulations, and Federal spending which crowds out more efficient and effective programs and which constitutes too large a percentage of the gross national product. I encourage the Senate to concentrate on these barriers in its efforts to fight unemployment.

Therefore, since I am not convinced that there are benefits for the economy, and since Congress has failed to investigate this matter thoroughly and determine the merits of such a program, I am extremely concerned about whether or not to support this legislation.

EXHIBIT 1

[From the Wall Street Journal, Nov. 30, 1982]

PUBLIC WORKS PROGRAMS DON'T CREATE JOBS

(By Bruce Bartlett)

As Congress reconvenes for a lame-duck session, congressional leaders seem united on the need for a new public works jobs program to combat unemployment, financed by an increase in the gasoline tax. President Reagan has said he supports the proposal primarily because of the deteriorating state of the nation's highways. Unfortunately, it is highly unlikely that such a program will have any significant impact on reducing the unemployment rate. Indeed, it may even increase joblessness.

The principal problem is that business cycles can seldom—if ever—be identified until they have substantially run their course. Consequently, federal jobs programs invariably aren't enacted or implemented until the recession is virtually, or even entirely, over. This is particularly so because politicians are inclined to react to the unemployment rate, which lags behind the business cycle, rather than to changes in real GNP growth.

For example, the 1954 Economic Report of the President, submitted to Congress in January, asserted that the economic state of the nation was "marvelously prosperous," although a downturn had begun the previous July. Similarly, it was not until late in 1960 that it was recognized that a recession had begun in April. And the relatively brief 1969-70 recession was over almost before anyone realized it was taking place.

JOBS WON'T BE CREATED IN TIME

Consequently, counter-cyclical jobs programs could not even be enacted until well after a recession had begun. Although the 1960-61 recession ended in February 1961, anti-recessionary actions were still being taken in September 1962, when Congress adopted a $900 million accelerated public works program to combat the recession that ended 19 months earlier. The Public Works Impact Program was approved in 1972 to fight the recession that ended in 1970. And two public works programs were enacted in response to the 1973-75 recession: one in 1976 and another in 1977.

In addition, a public works program—even if enacted in a timely fashion—will require a significant period before coming on stream. According to a study by the Office of Management and Budget in 1979, less than 8 percent of public works projects can be completed in nine months or less, whereas 30 percent require two years or more. Hence, even if a public works program could be enacted at the beginning of a recession and construction begun within 90 days, the vast bulk of employment wouldn't be created until long after the average recession—which lasts about 12 months—had ended.

Another problem is the relatively low labor intensity of public works projects and the considerable mismatch between the job skills required for construction work and those of the unemployed.

According to OMB, the typical public works project expends only 22 percent of its cost on direct employment. The other 78 percent of expenditures have only indirect employment effects no different from a general increase in government expenditures. In addition, OMB found that very few workers employed in public works projects were unemployed prior to being hired—as few as 12 percent in one program studied and no more than 27 percent in another. And because 50 percent to 75 percent of jobs on public works projects are skilled, the chances of such a project helping unskilled, hard-core unemployed are almost nil.

Finally, OMB found that public works were a relatively high-cost method of creating employment—from $69,320 for each direct job created, assuming no substitution for existing employment, to as much as $198,059 per job with 65 percent substitution. The problem is twofold: First, federal public works projects must comply with Davis-Bacon regulations, which effectively force the payment of high, union wage rates on all projects.

Second, experience has shown that federal public works expenditures simply replace a large amount of state and local government expenditures for public works, meaning there is no net job creation. The amount of this substitution rises the longer a program is in place, reaching as much as 100 percent according to some estimates.

In addition to the problem of substitution, there is also the problem of job displace-

ment. The jobs program will destroy some jobs even as others are created. This is because the program will cause a reduction in spending for some other federal program, an increase in taxes, or the displacement of private expenditure due to "crowding out."

Putting all this together, consider the current proposal to increase federal expenditures for road and bridge repair funded by a five-cent increase in the gasoline tax. We are already 15 months into the recession, with many indicators showing it to be ending. It will take Congress several weeks to enact the proposal even if it works at high speed, with the possibility that final action cannot be completed before adjournment. It isn't such a simple thing for Congress to raise the gasoline tax without also opening up the bill to other tax issues, such as President Reagan's plan to speed next year's tax cut.

Nor will it be easy for Congress to devise a formula for allocating public works money that is fair to everyone. Thus there will probably be considerable debate on the form of the legislation even if there is consensus on the need for it. Assuming Mr. Reagan signs such legislation this year, moreover, it is doubtful that the first dollar can be spent until next spring at the earliest, with fall being a more reasonable starting time.

Also, it is highly unlikely that economic conditions won't have improved by next fall. This means the program will end up being pro-cyclical—increasing, rather than diminishing, business fluctuations. The program will take effect just when it will end up doing harm rather than good.

Perhaps most important, the gasoline tax boost will have negative effects on employment that no one has taken into account. It is certainly not going to do any good for the hard-hit U.S. auto industry. It may simply accelerate the purchase of smaller, more fuel-efficient foreign cars just as the OPEC oil price increase did.

And even if we assume that as many jobs are created as are destroyed—a very questionable assumption—the tax is likely to be implemented first, meaning that the job-destroying effect of the tax will occur before the job-creating effect of the public works spending. Even if the public works spending and the tax could be matched in the timing of dollar flows, the effect would simply be a trade-off between construction-related jobs and auto-related jobs.

QUICK FIX ISN'T THE ANSWER

There also will be regional impacts, since the jobs created are unlikely to be exactly where the unemployed currently are or where the additional job loss from the gasoline tax will be. We may end up creating more unemployment in Detroit while creating a labor shortage somewhere else. Congress also ought to consider that any gasoline tax increase will be permanent, whereas the public works will create jobs only temporarily. Thus there will almost certainly be more unemployment in the long run than if Congress does nothing.

The old-fashioned Keynesian remedy assumed that public works were paid for by deficits. Congress could adopt this method in lieu of enacting a new gasoline tax. But given a deficit already approaching $200 billion and the fact that it would require some $80 billion in public works expenditures to knock one percentage point off the national unemployment rate, this approach seems implausible.

Moreover, it is unlikely that politicians could argue today, as they did earlier, that there are no negative effects from federal deficits. Many people believe that they are primarily responsible for high interest rates. If this is the case, we would simply be trading jobs in construction for others in housing and other interest-rate-sensitive industries, not to mention the negative impact of higher interest rates throughout the country.

The human cost of 10.4 percent unemployment is unacceptable. But at some point we must admit to ourselves that quick-fix public works programs aren't the answer. Instead of reacting to the last recession we ought to be working to make sure that the recovery can be sustained.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 9, 1982.

Hon. ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of December 1, requesting information on the net employment effects of the proposed gasoline tax and highway spending program. In order to provide you a timely response, we have not done a complete, quantitative analysis of the employment effects of the proposed program. Instead, the analysis that follows is based upon the general characteristics of programs of this type.

In the long run, significant economic benefits would certainly be achieved by improving the nation's transportation system. An efficient, well maintained highway system would be a major factor in creating jobs throughout the economy. But in the short run, the net employment effects of raising the motor fuels tax by five cents and spending the resulting revenues on highway repair and construction would be very small, and could be either positive or negative. Whether the net employment impact would be positive or negative would depend on four factors: timing, incidence of the tax, labor intensity of the projects, and the conduct of monetary policy.

With regard to timing, if the tax were imposed before actual outlays occur in the highway program, the net effects would be to drain purchasing power from the economy. As a result, employment would probably decline in the short run, although the federal budget deficit would also be reduced somewhat as well. The Administration proposal would make the motor fuels tax increase effective this coming April. But the historical experience of the highway trust fund has been that only 50 percent of new contract authority is obligated in the first year that it is available, and actual expenditures are spread out over the next several years. Thus, it is likely that revenues would be raised before higher spending actually occurs. As a result, short-term employment might decline slightly, although this effect would be mitigated as expenditures rise. In addition, the Congress could avoid some of this early decline by phasing in the tax according to a schedule based on actual spending rates from the Highway Trust Fund.

The second factor concerns how much of the motor fuels tax would be paid out of consumer disposable income and how much from business profits. To the extent that the tax lowers consumer incomes in the short run, it would result in lower consumption of other goods. On the other hand, if the tax were paid out of business profits, then it would lower subsequent business investment—but this reduction would probably occur more slowly. About 30 percent of motor fuels taxes are currently paid by profit-making entities. Moreover, there is a substantial probability that some portion of the tax would be borne by oil refiners, who would be unable to pass the entire five cents forward to consumers. If this occurs, it would increase the portion of the tax paid for by businesses. Over the long run, a larger incidence of the tax on business profits would lower the rate of capital accumulation somewhat and reduce the productive potential of the economy.

The third point concerns the labor intensity of the highway construction and repair projects. Highway construction and repair is generally thought to be less labor intensive than many other types of targeted programs. Thus, as a program to create jobs, highway construction may not compare well with other possible programs. Nevertheless, this spending program would contribute to the nation's capital stock in a way that might prove beneficial to the economy and hence to employment over the longer run.

The final point to bear in mind is the impact of the program on inflation and interest rates. Any upward pressure on prices resulting from the gasoline tax would place similar upward pressure on interest rates and weaken the net effects of the program on the real economy.

Please do not hesitate to contact me if I can be of further assistance. With best wishes.

Sincerely,

ALICE M. RIVLIN,
Director.

THE SEARCH FOR A BETTER IDEA

Mr. PERCY. Mr. President, it is not news for me to say that the economic health and well-being of the United States is increasingly dependent on the strength of the world economy and visa versa. However, there is a paucity of creative ideas on how best to enhance the soundness of the international economic system. I was, therefore, particularly pleased that one of America's foremost industrialists—Henry Ford II—has been creating thinking about ways to improve economic cooperation among the NATO allies, Japan, and the United States.

At a recent meeting of the American Chamber of Commerce in London, Henry Ford II urged the United States, Japan, and the NATO allies to develop the equivalent of an "economic NATO." He makes a compelling argument that we should design a collective approach to economic matters just as we apply a common approach to security and defense matters.

When Henry Ford II speaks of the current "extraordinary international mishmash of trade barriers and tariffs and domestic content laws and custom regulations," we should pay attention. He states clearly that there is much talk about free trade in the Western world, but too much toleration of trade barriers. Ford argues that "protectionism in the long run can touch off a worldwide trading war in which nobody wins while the recession esca-

lates into a global depression of disastrous consequences for all nations."

I commend Henry Ford's speech to my colleagues and ask unanimous consent that it be inserted in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[News From the World of Ford]

THE SEARCH FOR A BETTER IDEA

As some of you may know, I spend a great deal of time in Britain these days—especially in the spring and fall—so therefore I was most flattered and appreciative of your generous offer to talk to this distinguished audience in this international capital of government and commerce. As you well know, we in the United States have always felt something special—a kinship, if you will, with Britain. Nothing better exemplifies our mutual relationship and interdependence than the American Chamber of Commerce in London.

Since my retirement from executive duties as board chairman three years ago, I have enjoyed the chance to travel extensively throughout the world, particularly to visit various Ford operations—something that I did less often when I was tied to my desk in Detroit.

This unusual freedom has given me a unique opportunity as well. I have had time to add to my knowledge of governments and business and industry in many different places of the globe. And to do a lot of thinking—not merely about the auto industry, but about the subject of international cooperation.

It seems to me—traveling around the world these past several years—that we in the industrialized Free World have an opportunity for forging new and significant tools for strengthening our relationships—in mutual economic security and in trade. I called this an opportunity—and it is. But it may also be something else. It now may be an absolute requirement in today's world.

I am talking about the need to recognize the dovetailing relationship of foreign policy and international economics. Not just by the government of the United States, although that would be helpful. Not just by Britain, or France or the Federal Republic of Germany. Of course, we already have such broad-based organizations as the OECD and GATT. But I am suggesting here something quite different and I believe the time has come for the countries in the Western Alliance to sit down together and develop a strategy and a mechanism for enhancing our economic security in the same way we fashioned NATO in 1949 to enhance our military security.

Let me cite a few examples:

1. Who can make sense out of the world's exchange rates? When we took basic economics courses in school we were taught that, if one had an economy with low inflation and high employment and a favorable balance of payments, one would have a strong currency.

But as the recent history of the Japanese yen has shown, this is not always true. In fact, the undervaluation of the yen is seriously exacerbating Japan's relations with countries of Europe and the United States.

2. We talk a lot in the Western world about free trade, yet we tolerate an extraordinary international mishmash of trade barriers and tariffs, and domestic content laws and custom regulations.

Four days from now, a GATT ministerial meeting will convene, with an agenda covering protectionism, trade in agriculture and services—and trade between the so-called "have and have-not" nations. This is an important forum and there has never been a time when it is more important to tackle some of these knotty issues of trade.

But given the history of GATT, I am not optimistic that it is solely capable of stimulating economic recovery for the nations of the West, nor the best instrument we can devise to strengthen our economic security.

3. Until last week, the United States and many governments of Europe, including Britain, had been at loggerheads over the Siberian pipeline. No need to remind this audience that, as Foreign Secretary Francis Pym has put it, "transatlantic relations have had a difficult summer."

The pipeline affairs has been most unfortunate. It has wasted time and effort on both sides of the Atlantic. But more than anything else, the pipeline controversy has served to underscore a new precept that the nations of the world need to notice: There is more economics in foreign policy and more foreign policy in economics than ever before—much more than we ever used to believe.

In this respect, I am much heartened by the fact that George Shultz, the new American Secretary of State is, by profession, an economist. He is a distinguished one who has served not only in previous American administrations as Secretary of Labor and Secretary of the Treasury, but also in the world of business as the head of a major international company.

Secretary Shultz brings a keen interest in global economic issues to the U.S. Department of State. For the first time, with Secretary Shultz, the National Security Council—which advises the President in critical international issues—now has a respected economist in a key foreign policy role. And lest it go unnoticed, let me quote from a recent article in the Washington Post, a newspaper not known for its fondness for Republican Presidents and their Cabinet members.

Secretary Shultz, said the Post, "clearly sees the interlocking significance of economic and foreign policies, and, in his brief tour of duty so far as Secretary of State, he hasn't hesitated to stake out his interest." The Post, along with the Wall Street Journal, New York Times and other major American papers, says all this makes "good sense."

And for good reason. Because, increasingly for the United States and other countries, foreign strategic and diplomatic problems have become intertwined with trade and debt questions. And these questions affect not only our relations with each other, as the pipeline affair has demonstrated, but also with the West's principal adversaries.

Even Secretary Shultz has indicated his concern over what he calls "lightswitch diplomacy." Those are situations in which one country, for parochial foreign policy reasons, temporarily erects economic barriers in an attempt to register disapproval of another country, or to discipline it.

There may have been a time in the world when economic decision-making did not have to be given much weight in foreign policy considerations—and vice versa.

There certainly was a time in America when those who had a grasp of international economics did not give much thought to foreign policy issues. Just as there was a time when a secretary of state tended to think in military and diplomatic terms, but regarded economics as either an occasional source of trouble or, as the Wall Street Journal recently said, "a source of trinkets which he could pass out to appease the natives."

Economist Herbert Stein, who served as chairman of the Council of Economic Advisers under Presidents Nixon and Ford, has described that recent era. This is the way he put it: "The world economic order was to be universalist and private. We were floaters and free traders. In a strict sense, there would be no economic relations between countries. There would be economic relations between individuals who happened to live in different countries but who operated in a world market that didn't distinguish between friend and foe."

Dr. Stein sees it differently now. He has decided that is it impossible to conduct foreign policy with an instrument—the market—which doesn't distinguish between friend and foe.

Perhaps in a curious way, we are indebted to the pipeline controversy for bringing the economic security interests of the West into sharper focus than ever before. And I am not alone in thinking so.

Just recently, Mr. Francis Pym spoke to Ford Motor Company's European Advisory Council. It was his feeling that although the pipeline dispute has been an unsettling one, it has had at least two beneficial consequences:

First, it has forced the Atlantic Alliance to think more deeply about East-West trade and to address questions which we have been reluctant to tackle as energetically as perhaps we should have done.

And secondly, said Mr. Pym, the dispute has reminded all of us that consultation and discussion are at the very heart of the Alliance. It is when we fail to consult properly and act together, when we take one another for granted, that we find ourselves at odds.

Permit me to quote him exactly, because I share his sentiment: "If the pipeline dispute," he said, "forces us to make a fresh and more thorough appraisal of East-West trade, and how it should be integrated into an overall framework for East-West relations, it will have served a useful purpose."

My grandfather had another way of saying the same thing. "Don't find fault," the original Henry Ford jotted in his diary one day. "Find a remedy."

I believe we are doing just that.

It is in this spirit that I return to a comment made earlier in my remarks—that the time has come for members of the Western Alliance—including Japan—to develop a collective approach to economic matters that parallels what we most notably have done about defense matters.

In the three decades of NATO's existence, the emphasis on both sides of the Atlantic has been almost entirely on military security. Scarcely a thought has been given to the development of a companion strategy for economic security.

True, on the European side, in the last 30 years we have seen the creation of the European Economic Community, the EMS, and similar European communities for coal, steel, atomic energy and other cooperative undertakings.

However, we have not yet created what I would describe as "an economic NATO." We in the West have not yet fashioned an economic alliance capable of doing two things: first, to protect and enhance our collective well-being, and second, to enable us collectively to respond to the economic strategies of the East.

By this, I am not suggesting the creation of a supra-national agency to dictate to private enterprise. Nor am I suggesting that business permit itself to become primarily an instrument of foreign policy. But clearly there is an overriding need for thoughtful consultation and coordination among governments of economic policies, particularly those that so affect the international operations of private business.

The Siberian pipeline affair thus strikes me as a classic example of our failure. In effect, we permitted it to escalate into a serious dispute because, as Western allies, we never fashioned a common NATO-like position based on consultation and shared understandings of what the pipeline is—and what it is not.

Is the pipeline merely a normal business deal? Or is it fraught with security risk to the West? And, certainly there are those here in Europe who would pose the same questions about U.S. grain sales to the Soviet Union.

Even as the pipeline issue disappears as an irritant among the Western allies, a basic question still remains: What should be the bottom line in the West's economic relations with the Soviet Union and the Soviet bloc?

Until East-West economic relations are determined by European and American governmental leaders, commercial enterprises in the Free World will be uncertain as to whether, how or to what extent they can deal with Moscow and its satellites.

I am reminded of the popular saying in America that "if it ain't broke, don't fix it." The Atlantic Alliance is far from collapsing; indeed, consultation and discussion are so much a habit within the Alliance that a dispute like the pipeline case attracts public attention on both sides of the water precisely because it is a rare occurrence.

Still, one cannot afford to be a starry-eyed optimist when seemingly basic policy and philosophic differences surface between the United States and Europe. Perhaps, like a motorcar that needs protective maintenance to keep it from breaking down, our Alliance may profit from a bit of a tuneup.

As global economic issues become increasingly interwoven with foreign and military policy, what sorts of steps might usefully be taken to enhance Western economic security? Myer Rashish, the international economist who served until recently as U.S. Undersecretary of State for Economic Affairs, suggests four objectives for such an "economic NATO."

"1. The institution of cooperative strategies and measures to strengthen Alliance economic security by reducing dependence on markets or material sources in Eastern Europe that make members vulnerable to Soviet influence." One could say that this was the crux of the pipeline dispute.

"2. Establish guidelines governing economic relations with Eastern bloc countries so as to minimize competition among Alliance members on credits and trade."

This is a goal to which we all could subscribe. It makes little sense to me, as a Western businessman who believes in competition among companies, to witness competition between countries that results in economic advantage for Eastern bloc countries. And, on terms more favorable than between nations of our Alliance. Sauce for the Eastern goose should not be sweeter than sauce for a Western gander.

"3. Re-examination and eventual upgrading of existing NATO controls intended to deny the Soviet Union access to goods and technology that contribute to its military capabilities" such as suggested by the President of the United States last Friday.

In principle, we in the West always have been in agreement on the need to maintain technological leadership in order to keep the peace by deterring potential aggressors. But it is no secret that, increasingly in the last few years, members of the Western Alliance have had their differences over what constitutes "normal" trade with the Soviet Union and what should be avoided.

Rashish's fourth and final objective is this:

"Coordination of foreign policy reaction—including economic sanctions—in response to future Soviet actions as, for example, in Afghanistan and Poland."

The point that Rashish and other thoughtful analysts make here is a simple one: that whenever the Soviets employ military power or the threat of it to subjugate or to strengthen their grip over other countries, we in the West have a duty to respond as a house united and not as a house divided.

And since our countermoves preferably will be diplomatic and economic rather than military—depending on the gravity of the situation—it is all the more urgent that we act in concert. As Benjamin Franklin observed, unless we hang together on crucial matters, we risk hanging separately.

In laying all this before you, I do not hold myself up as an oracle, or as an expert economist, or as a government statesman—but simply as a businessman with some modest experience in international trade over many years.

It seems to me that all of us who are businessmen have a duty to point out to those who shape our destinies that international affairs and foreign policy are no longer simply matters of concern to governments or politicians or diplomats.

Foreign policy and economic policy have become inseparable; they have become the warp and woof of international security. East-West trade and North-South trade, fiscal and monetary policy, tariffs and exchange rate problems—no longer exist in separate boxes to be dealt with singly and in isolation from each other.

In my opinion, it is time for all men and women of commerce to concern themselves with the institutions and the ministries of government that shape our economic and foreign policies.

It is no accident that Japan has already moved in this direction. The most powerful instrument of the Japanese government is the Ministry of International Trade and Industry—MITI. MITI is recognized as the essential guardian of Japanese international affairs.

One of our urgent tasks, it seems to me, will be to develop a mechanism whereby Japan and other countries on the rim of the Pacific can become participants and partners with the Atlantic Alliance in the fashioning of an international economic security organization a la NATO.

I say this is urgent because already we are hearing too much in North and South America, here and elsewhere, about the allure of protectionism as a means of saving jobs, of protecting markets, of insulating companies and countries from the harsh effects of recession.

But we ought to know that protectionism in the long run can touch off a worldwide trading war in which nobody wins while the recession escalates into a global depression of disastrous consequences for all nations.

In conclusion, it may be worth recalling that this Chamber of Commerce was, after all, formed to create some common ground between executives and companies that often were trading rivals. The Chamber has survived and strengthened over the years because it managed to do precisely that.

In like manner, the history of the Atlantic Alliance over the last 30 years has shown what we can achieve in the realm of mutual defense and military security. And so I do not think it too much to ask that the leaders of the West, together with men and women involved in commerce and industry, now seek to create some new common ground for international economic security.

For only by cooperating can we hope to achieve a peaceful, prosperous and truly free world.

RESOLUTION AGAINST FEDERAL TAKEOVER OF NUCLEAR WASTE STORAGE FACILITIES (MORRIS, ILL.)

Mr. PERCY. Mr. President, I would like to share with my colleagues a resolution which was recently passed by the Illinois State Senate. The resolution urges Congress to reject provisions of the Senate nuclear waste bill (S. 1662) which pertain to the possible Federal takeover of facilities such as the General Electric facility in Morris, Ill., for use as interim nuclear waste storage facilities. The facility in Morris, Ill., as the facilities in South Carolina and New York, was not built with the expectation that it would become a federally operated facility for storage of spent fuel from across the entire Nation. The people in the community understandably fear becoming the "dumping ground" of the Nation.

I feel compelled to repeat for my colleagues what I have stated many times on the floor of this Chamber over the past few years. The temporary storage of spent fuel should remain the responsibility of the private sector, while the Federal Government gets on with the business of addressing the longer term nuclear waste disposal problem.

Soon the Senate will once again consider nuclear waste legislation. I urge my colleagues to seriously address the concerns expressed by the people of Illinois in this Senate resolution before final passage of any nuclear waste legislation.

I ask unanimous consent that the following Illinois Senate resolution, offered by Illinois Senator Jerome J. Joyce, be inserted in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION No. 677: OFFERED BY SENATOR JEROME J. JOYCE

Whereas, the governments and the citizens of the United States and of the Commonwealth of Illinois recognize there is a serious problem regarding the generation, transportation and storage of the fuel which provides power for nuclear generating stations in the commercial power industry; and

Whereas, this Body, along with the Illinois House of Representatives, has taken legislative action toward protecting the citizenry of this State from potential and life-threatening accidents which could result from transportation of these radioactive wastes; and

Whereas, Illinois is one of only three states in the Union which hosts a facility which could eventually house spent nuclear fuel from reactors in the nuclear power industry; and

Whereas, the Illinois facility, constructed at Morris, Illinois, is located 55 miles from one of the largest population centers in the United States; and

Whereas, it has been the official legislative position of the Illinois General Assembly, as evidenced by passage of legislation barring the importation for storage in Illinois of spent radioactive fuel from states outside Illinois by a reciprocal agreement; and

Whereas, the legislative action taken by the Illinois General Assembly clearly reflects the attitudes and concerns of the citizens of this sovereign State; and

Whereas, the legislative action was a fulfillment of this Assembly's Constitutional obligation to protect the health and welfare of the People of the State of Illinois; and

Whereas, there is currently pending in the U.S. House of Representatives legislation, entitled Senate Bill 1662, which would allow the government of the United States to provide interim storage facilities away from nuclear reactors, storage space for up to 2,800 metric tons of radioactive spent fuel; and

Whereas, under provisions of Senate Bill 1662, the General Electric Company facility located at Morris, Illinois, would be eligible for federal takeover and management as an away-from-reactor storage facility; and

Whereas, such a takeover and management of the Morris facility would be a clear violation of the concerns and attitudes of the people of the Commonwealth of Illinois and, further, would not provide a permanent nor long-term solution to the pressing problem of spent nuclear fuel storage in the United States; and

Whereas, such a federal takeover of the Morris facility would likely cause Illinois residents deep concern and fear for the safety of their families and their property; therefore, be it

Resolved, by the Senate of the Eighty-Second General Assembly of the State of Illinois, That this Chamber respectfully but urgently requests the Congress of the United States to reject provisions of Senate Bill 1662 as it pertains to the possible takeover and management as an away-from-reactor storage facility at Morris, Illinois; and be it further

Resolved, That further research be conducted to determine an appropriate means of disposal of spent nuclear reactor fuel in areas of this nation where lives and property would not be endangered by an accident in transportation or storage of spent nuclear fuel; and be it further.

Resolved, That suitable copies of this preamble be prepared and communicated to Senator Alan J. Dixon and Senator Charles Percy and to the 24 members of the Illinois Congressional delegation to serve as testimony of the concern by this Chamber and the people it represents that Senate Bill 1662 does not represent the best interests of the People of the State of Illinois.

SENATE CONCURRENT RESOLUTION 131—AMERICANS MISSING AND UNACCOUNTED FOR IN SOUTHEAST ASIA

Mr. PERCY. Mr. President, I rise in support of Senate Concurrent Resolution 131 which expresses the sense of Congress concerning Americans missing and unaccounted for as a result of the conflict in Indochina. I wish to commend my distinguished colleague from California (Mr. HAYAKAWA) for the timeliness of his initiative in encouraging the U.S. Government and the Lao Government to move forward in settling this tragic problem. I am privileged to join with Senator HAYAKAWA in sponsoring the resolution and thereby in emphasizing the importance I am sure we all attach to this issue—indeed, the importance which the American people attach to the absolute necessity of relieving the anguish and anxiety of hundreds of American families.

In my capacity as chairman of the Committee on Foreign Relations, I was consulted several times during the recent recess by the administration in their effort to move toward the resolution of this difficult problem. I am encouraged by the reception given by the Laos Government to the visiting delegation from the National League of Families of American Prisoners and Missing in Southeast Asia during their visit last September in Laos. I am also encouraged by the reception accorded Deputy Assistant Secretary of State O'Donohue in Vientiane in October. These are certainly steps in the right direction and they deserve our encouragement and support. But we must not overlook that up to this point the improvements observed are in the political environment surrounding the issue. This is certainly a precondition to real progress and we welcome it. But what we must achieve is real progress: the location and repatriation of the remains of the hundreds of Americans missing in Indochina. This is a humanitarian question, affecting literally thousands of our citizens, and we must have an answer. Our Government must be unrelentless in its pursuit of this goal and, I am sure, it will enjoy the full support of this body.

The Foreign Relations Committee considered Concurrent Resolution 131 and recommended without a dissenting voice the Senate's approval thereof. I urge my colleagues to support this statement of our concern for the hundreds of Americans missing in Laos.

SECRETARY OF STATE SHULTZ' OAS ADDRESS

Mr. PERCY. Mr. President, this year, 1982, has been a year of troubled relations in this hemisphere. First there was the crisis in Central America, then the tragic war between Argentina and Great Britan, and finally the difficult financial situations that now affect nearly all Latin American countries and the United States.

Throughout these difficulties, many of our Latin American friends have thought the United States did not listen to or understand the Latin American perspective.

Mr. President, I hope and I believe that those times are over. I believe that Secretary of State Shultz signaled that they were past when on November 16 he sat down at Blair House with the foreign ministers of most of the countries of the hemisphere who were in Washington for the ninth meeting of the Organization of American States General Assembly. Secretary Shultz said at Blair House, "Since I am the newest one in this group, I'd like to listen to you * * *.

Secretary Shultz continued that theme in his very important address to the OAS General Assembly on November 17. There he talked of the successes the nations of the hemisphere and the OAS in particular have had in working together in the past. General, if not total, freedom from war has been the great achievement of the inter-American system, and continuing the tradition is one of its most serious challenges.

The Secretary also noted that the way each of the countries in the hemisphere—and the world—manages its economy in the years to come is going to have an important effect on the others. The wave of protectionism that seems primed to burst forth in a number of countries would be devastating to the world economy—to developed and developing countries alike. Similarly, economic interdependence makes it necessary for debtor and creditor nations to work conscientiously to find mutual accommodations in the present financial crisis that affects so many countries.

Secretary Shultz also noted that the economic interdependence that has emerged over the past decade now makes it especially important now to address the remaining points of the Caribbean Basin Initiative, the trade and investment incentives. These initiatives are a key to long-term growth in the region. I am delighted to learn that my colleague from Illinois, Congressman DAN ROSTENKOWSKI, will be moving ahead with the trade portion of the bill shortly.

And finally, Secretary Shultz recalled something that many may have forgotten for the moment, and that is that the ideals of democracy have been the recurring ideal and goal of the nations in this hemisphere. There is no more urgent business than to find ways in which the gains already made for democracy can be protected and additional gains made, he said. I

cannot agree more strongly with this agenda.

Mr. President, I ask unanimous consent that Secretary Shultz' speech to the OAS General Assembly be included in the RECORD at this point.

There being no objection, the remarks where ordered to be printed in the RECORD, as follows:

REMARKS OF SECRETARY SHULTZ

Mr. Chairman, distinguished Foreign Ministers and heads of delegations, Mr. Secretary General, distinguished delegates, observers and guests, ladies and gentlemen:

It's a very great pleasure to join you.

I'm more here to listen than to talk. Moreover, though I have visited nearly all of the countries represented in our organization—so I feel at home in them—this is the first time I have participated in a meeting of the OAS. I'm the junior member of the crowd. I really should listen and not talk.

We often talk about our problems and that is what we focus on. But we have to recognize that there are also accomplishments. Sometimes we lose our sense of what these accomplishments are.

In that spirit, last February, in the speech before the OAS permanent council in which he announced the Caribbean Basin Initiative, President Reagan emphasized the major themes of his administration's Latin American policy: Democracy, self-determination, economic development, and collective security. "These two great land masses north and south," he said, "can show the world that our many nations can live in peace, each with its own customs and languages and culture but sharing a love for freedom and a determination to resist outside ideologies that would take us back to colonialism." Less than two weeks from now the President will begin a visit to Latin America that is a personal expression of this vision of a cooperative effort aimed at full development of the enormous human and economic potential concentrated in this hemisphere.

I come today before this General Assembly convinced that the inter-American system is vital to peace and security for the nations of this hemisphere. We have over the years formulated a juridical base for keeping the peace, for resolving disputes and even for the sovereignty of our nations. Independence, sovereignty, non-intervention are themes that run through our charter, the record of our meetings and our inter-American experience. We have advanced these ideas further than other collective bodies and we have been well served by them.

I don't propose and couldn't possibly make a formal speech or to try to cover every issue before this Assembly. So if I may, I would like to concentrate on a few of the main reflections that occur to me as I join this discussion among neighbors and friends.

I. WAR AND PEACE

First, let me speak on the subject of war and peace. One set of reflections is about the nature of the Inter-American system itself—of which this unique organization is the formal expression, and the OAS charter and RIO treaty the formal guarantees—but which also consists of a great network of bilateral and multilateral relationships among the American states.

Geography made us neighbors. History, religion, and the shared experience of the frontier made us friends. There is far more that unites us in this hemisphere than can ever divide us. That in itself is enough to explain why each of us participates in the system. But it is probably not what has made the system durable and valuable.

The striking thing to me, thinking over what has occurred in our lifetimes, is the success the American states have had in preventing war. True enough, there was the Chaco war in the thirties; then conflicts between Costa Rica and Nicaragua, Ecuador and Peru, and El Salvador and Honduras; most recently, the tragic South Atlantic crisis we tried so hard to prevent. Also, there have been violent insurgencies, often manipulated from outside.

But for all the territorial disputes that divide us, for all the internal struggles that threaten us, these are the only instances of war between states in a half century in which every other part of the world has been convulsed in war. In a climate of general security we each have been able to avoid the levels of military expenditures that countries in other less fortunate regions could not dispense with. The developing countries of the Americas have been able to limit defense spending to 1.4 percent of their GNP, a quarter of what the developing world as a whole spends on military preparations. And although our global responsibilities impose a heavy burden of military expenditures, the United States does not fortify borders with its neighbors.

One reason why the Inter-American system has proved so durable and valuable must be that in most cases it has kept the peace. Since 1948, the OAS has been called upon formally or informally on no less than 50 separate occasions involving the settlement of disputes. From the Cuban missile crisis to local border conflicts, the Inter-American system has contributed, often decisively, to keeping the peace.

But will it in the future? We know that war came to the South Atlantic despite our efforts. We know that turbulence in Central America, where local conflicts have been exploited from the outside, can threaten the peace. And despite a variety of agreements and even treaties, we are well aware that it has been a long time since one of the territorial disputes among us has been definitively settled.

Once actually confronted with crisis, I have no doubt that we will all react with good intentions, urging negotiations, offering good offices. But recent experience suggests that could be too late. Good intentions matter, but they are not enough.

Take Central America as an example. Everyone seems to be talking peace. Yet most states in this area are challenged by insurgency. They are threatened by economic and political strife. They have brought in foreign military advisers, in one country in very large numbers.

Clearly, no strategy for peace can succeed if those who take up arms against their fellow citizens and neighbors go unopposed. That principle applies in Central America as well as elsewhere. Peace is impossible without security. Our security assistance programs, for El Salvador and for our other threatened friends, stem from that basic consideration. Neither democracy, nor human rights, nor socio-economic equity are possible in a climate of insecurity, where hostile neighbors or violent internal minorities make war on society.

But if peace requires strength, strength in turn infuses an obligation to make peace. Fortunately, not all of the conditions for war are present in Central America. Most states still lack the major offensive weapons that would be needed for an attack on their neighbors. That may give us our opening. Why shouldn't we encourage the governments of Central America to agree. All of them, on a basis of reciprocity and strict verification, not to import major offensive weapons?

Clearly, that's only a part of the solution, but it would be a start. There will be danger to peace as long as foreign troops or military advisers are present. Why not go for agreement among Central American countries, again on a basis of reciprocity and verification, to reduce their numbers to some low agreed level, why not zero?

The same treatment—reciprocity and verification—could be applied to practical mutual undertakings to end any and all support for violent activity on the territory of others.

As you think about it, other steps would be necessary as well. Internal conflicts threaten to spill over borders, so each state should be encouraged to create processes by which internal adversaries can be reconciled, human rights respected, and political competition substituted for violent confrontation.

Reconciliation leads one to that fundamental value, democracy. We all know that in the end there is no enduring stability and legitimacy without it. We also know that democracies are far less likely to go to war than governments whose leaders need not obtain the consent of the people. In Central America the democratic transformation of all the states in the area is not only a desirable step that each may set for itself; it may well be a precondition for a durable peace.

A number of countries, meeting in San Jose recently, went through a similar thought-process, trying to identify the conditions for peace in the area. If the countries of Central America could all agree on these conditions, the next step would be to begin to discuss how they could be implemented. My point is simple. If you can identify the fundamental elements of a problem, you can have some chance of solving it. If you can't, no amount of negotiations or good offices will help.

And of course, should one Central American country attack another, the Rio Treaty is there to protect the victim and restore peace. If it is clear in advance that it will be invoked, the treaty will have a deterrent effect—as it has had in so many circumstances since it was signed.

Of course, the Central American situation is not the only threat to hemispheric peace. The South Atlantic war of this spring has reminded us of how many boundary and territorial disputes remain unsettled in our region, and the potential cost of leaving these unaddressed.

The United States, while traditionally neutral on the particular claims asserted in regional territorial and boundary disputes, is not neutral on the overriding principle of peaceful dispute settlement. This implies an obligation on both parties to a dispute to seek effective means of peaceful resolution, either by negotiations, perhaps with OAS assistance, or by recourse to the various means of judicial, arbitral, conciliation, and other third-party devices available under multilateral and regional agreements or ad hoc. International law provides a variety of means; the will to use these means has been too often lacking. The OAS pioneered development of international mechanisms for such purposes throughout this century; it

must now show leadership in promoting their use.

This is advice that the United States itself follows: We are currently in litigation with Canada, in a special chamber of the International Court of Justice, over the delineation of our important maritime boundary in the gulf of Maine. Whatever the decision of that court is, we will accept it.

Earlier this month we were pleased to support a balanced resolution on the Falklands/Malvinas question in the United Nations. We could support in this body a similar resolution. We hope that both actions will prove effective in promoting a peaceful solution to this dispute.

Finally, let me take one more case. Nuclear explosives. We are undertaking a new effort to persuade the Soviet Union that its security and that of the United States can be protected and enhanced by reducing the numbers of nuclear weapons. While that effort proceeds, there is a strategy open to us to avoid the introduction or creation of nuclear arms in those countries of the hemisphere which have so far been free of them. This is the strategy conceived and launched at Tlatelolco in 1967 to protect against the use or threat of nuclear weapons, and which led to a treaty already in effect for 22 Latin American and Caribbean countries. One of the most potentially serious sources of tension and war could be eliminated if the nuclear weapons free zone of the Tlatelolco treaty were to be ratified by all eligible states.

In sum, the inter-American system has helped produce a great achievement: a general if not total freedom from war. Preserving that achievement is a major challenge for the future.

II. ECONOMIC MANAGEMENT

Now I'd like to turn to another set of reflections concerning the management of our economies. Yesterday some friends were reminding me that I used to be Secretary of the Treasury. Well, I'm sure glad I'm not Secretary of the Treasury now.

We are all members of the world economy, and not dependent on the inter-American system for the management of our economies in the same way we are for the preservation of peace. Yet what each of us does—in the management or mismanagement of our domestic economies—can greatly affect others in the hemisphere—positively or negatively.

For the developing countries of the hemisphere, this last generation has been a period of soaring growth. The motors of that growth—savings and investment—have been largely fueled from within. For example, gross savings are now about 22 percent of GNP, among the highest in the world. But external factors—substantial expansion of markets in the United States for hemispheric exports, the opening up of trade within South America, within Central America, and within the Caribbean, the development of new markets in Europe and Japan, major increases in private investments, in borrowings from multilateral development banks, and above all in commercial bank loans—have contributed much too. U.S. imports from Latin America and the Caribbean have grown from four billion dollars in 1960 to 39 billion dollars in 1980—which averages out to a compound growth rate of more than 12 percent a year for the last 20 years. This is in nominal terms and includes the price escalation on petroleum, but even so it is impressive when compared to U.S. inflation, which averaged about five percent during this period.

The mix between internal and external factors has varied from country to country. In some cases favorable external conditions have compensated for domestic rigidities; in others, unfavorable external developments have undermined otherwise sound development plans. One point is evident: size has not been a determinant of success. You don't have to be large to succeed.

Until recently, the balance was positive: We were all enjoying the fruits of growth, the developing countries of the Hemisphere at the phenomenal rate of nearly six percent a year for 20 years. Put another way, the economic size of Latin America has tripled in absolute terms since 1960. And although much of the conventional wisdom emphasizes diversification of trade, western Hemisphere countries still matter enormously to each other. In 1980, trade within the Hemisphere as a whole—including Canada—came to 155 billion dollars, 42 percent of the Hemisphere's total trade with the world. That's a big number. Latin America taken as a whole is the United States' biggest customer.

Now we are all in a period of adjustment, including the U.S. many of us, including the U.S., must compress our budget deficits and control money supply if we are to master inflation and create the conditions for renewed growth. This is a process that begins at home, and we are doing it at home, where we must each accept primary responsibility for correcting the excesses of the recent past. But falling world trade volume, interest rates that though falling are still high, the threat of protectionism. The backlash of one country's cutback on another's trade, and the ripple effects of one country's financial difficulties on another—all complicate our individual adjustment.

Nothing would be more devastating than a wave of import protectionism now. Yet such a wave threatens to burst in a number of countries, including my own. As is often the case, the way to avoid going backward is to go forward. Our best collective tactic, it seems to me, is to build in new worldwide defenses through the GATT: Joint standstill in protectionist measures and a commitment to broaden and deepen the GATT in north-south trade and in trade in services. That is the task of the GATT ministerial that convenes next week. It is a task to which each and every one of us must contribute, for the inevitable alternative to keeping the world trading system mutually open is the kind of disaster that engulfed the world in the 1930's.

It would be equally devastating if debtors and creditors were to fail to find those mutual accomodations that will permit borrowing countries to have sustained access to the financial markets. Just as borrowers must cut their current account deficits, raise domestic interest rates, and keep exchange rates realistic, so lenders should in some cases be ready to restructure or in exceptional cases, reschedule. Borrowers must look realistically to their responsibilities. And lenders should recognize that stabilization problems will be more likely to succeed if accompanied by net flows of new money.

The international monetary fund can play and is playing an essential role in this process by providing new money on a selective basis while helping countries to define stabilization programs. And in some cases individual countries can appropriately facilitate the adjustment by providing short term credit to allow time to negotiate a fund agreement, as in the case of the credit arranged for Mexico in August.

This is a long chain of actions that must be taken in a mutually supportive way. It starts at home. It requires sacrifices. It involves both private entities and governments. And it will require a high order of mutual confidence to succeed. But we must succeed. It is quite clear that the penalities for failure could be enormous.

Beyond the adjustment, or course, will come the recovery. The U.S. economy is now poised for just that. As always it will succeed only if there is new investment and new savings. But it is not too early to begin thinking through the requirements for sustained new growth in the Hemisphere. Having a disproportionate share of the world's growth potential, this Hemisphere should provide a substantial impulse to the renewed momentum for global expansion.

III. THE BALANCE OF INTERDEPENDENCE

Now let me turn to what I have labeled the balance of our interdependence. No one doubts that we depend vitally on each other, for our prosperity, for our security, for peace. We can celebrate it—or we can deplore it—but it is a fact. This year's crises—in finance, in the South Atlantic, in Central America—have underscored it.

But it is also natural that we should each be concerned about the balance of mutual accomodation. Some of the most difficult and important questions in international relations revolve around relations among neighbors. If we have to adjust our economies, who should adjust more or most? If we must compromise to keep the peace, who would go the longest way? And how do you measure it?

I think we all agree that matters such as these must not be decided simply by might or size, but by principle and concept. I do not mean by that that we should attempt to write a book of codes anticipating every situation and dictating pre-agreed rules of the game. But we should always be prepared to examine together the justice and consistency of our actions, so that a balance acceptable to all can emerge.

One important way of extending the range of long-term options—at least for some of the most vulnerable states—is the Caribbean Basin Initiative. President Reagan's trade and investment proposals will be up for decision in the Congress perhaps later this month.

Let me point out that widely quoted remarks attributed to the Chairman of the House Ways and Means Committee, Dan Rostenkowski, that he wasn't going to consider these trade and investment incentives for the CBI are not correct. We checked it out and it was not correct. The chairman reiterated that his committee would take up these considerations in the upcoming sessions of Congress.

These trade and investment incentives exemplify the creative mutual adjustments needed to spur growth. They will help to unleash in behalf of long-term growth the drive of the private sector as an engine of development financing, technical innovation, and productive employment. The stimulus they will provide will go far to ensuring the productivity of the emergency assistance already being disbursed.

The breadth and originality of the Caribbean Basin Initiative have led to some interesting side effects. One is that we have decided to increase special funds to the OAS to provide training opportunities for the Caribbean Basin countries. Another is the realization that most of the peoples of the hemisphere now live in countries that have

attained relatively advanced levels of development. These so-called "middle-income" countries properly receive less traditional public assistance than do poorer countries—yet they are also, precisely because of their relative development, countries that are ready for new kinds of partnerships to accelerate balanced development. The issue here, it seems to me, is less one of money than of dynamism, creativity, and entrepreneurship. But it is an issue very much worth keeping in mind as we seek ways to develop greater balance within the hemisphere.

IV. DEMOCRACY

Finally, let me conclude with a word about democracy in the hemisphere. Our record is uneven. For some countries—Colombia, Costa Rica, Mexico, Venezuela, Barbados, Jamaica, Trinidad, indeed most of the Caribbean—democratic institutions have functioned without interruption for a generation and more. Other countries have faced instability despite long democratic periods. A few have experienced only interludes of democratic governance.

But what is most striking is that democracy is everywhere the hemisphere's recurring ideal and practical standard. In fact, our collective commitment is so strong that sometimes I think even the criticism of our failings is intensified by it. Certainly, the Inter-American Human Rights Commission has no equal in any other region of the world.

Am I not right in thinking that our practice of democracy is making progress? In the last few years, Ecuador, Honduras, and Peru have all fully reaffirmed their democratic traditions. The Dominican Republic has sustained its newer tradition. Brazil's "Abertura", so strikingly underscored by Monday's elections, has been underway for a decade. And today, Argentina's and Uruguay's commitment to a return to democratic politics, Bolivia's newly elected government, the democratic transformation in El Salvador—all offer genuine hope for the future.

I know that much remains to be accomplished, that sharp swings have taken place in the past, that gains already made have not in all cases been fully consolidated. But more than two thirds of our membership—twenty-one—now have governments chosen through open, competitive elections. And more will soon join that list.

One of the principal reasons for President Reagan's trip to several countries of Latin America beginning the end of this month is in fact to underscore this democratic momentum, to bolster it—and to emphasize our own firm commitment to that process.

If this trend holds, it will be the greatest achievement of the Americas. I can think of no more urgent business for this organization than to find ways in which the gains for democracy already made can be protected and additional gains made. For democracy strengths both the peace and the ability to cooperate.

Thank you.

OUR MAN IN BRASILIA

Mr. PERCY. Mr. President, every once in a while the political process in this country generates an absolutely remarkable individual who is able to represent his country in very special and intangible ways. I think one such individual is Mr. Langhorne Anthony "Tony" Motley, presently our Ambassador to Brazil.

Being U.S. Ambassador in Brazil today is an important responsibility. The United States and Brazil have grown independent over the past decades as we have each pursued our own necessary interests. Nevertheless, we continue to share a great many interests in common. Communicating those common interests is perhaps the most important task of our respective ambassadors in Brasilia and Washington.

Tony Motley had some special preparation for his job. He was born and raised in Rio de Janeiro and therefore is that most Brazilian of Brazilians, a carioca. He can call upon classmates from the American School in Rio for their thoughts on the recent elections or on trade issues. He has also demonstrated his business acumen in the real estate industry in Alaska and his political wisdom in working closely with our distinguished colleagues from Alaska, Senators TED STEVENS and FRANK MURKOWSKI. But perhaps Tony Motley's greatest achievements have been winning the unqualified support of the career Foreign Service and of the Brazilian press and diplomatic corps.

Mr. President, I believe there cannot be one of us who is not proud to have Tony Motley representing the United States in Brasilia, and I ask unanimous consent that a pertinent article from the New York Times of November 24, 1982, be inserted in the RECORD at this point.

There being no objection, the article was orderded to be printed in the RECORD, as follows:

[From the New York Times, Nov. 24, 1982]

OUR MAN FROM ALASKA GOES OVER BIG IN BRASILIA

(By Warren Hoge)

RIO DE JANEIRO, Nov. 23.—When Langhorne Anthony Motley was named the United States Ambassador to Brazil a year ago, a lot of people grumbled.

"I know, I was one of them," said Lowell C. Kilday, director of the State Department's Office of Brazilian Affairs in Washington. "A lot of eyebrows were raised. We looked at Brazil, the most important country in Latin America, and thought, 'What's going on around here sending a guy like that?' "

In Brasilia, the outgoing Ambassador, Robert M. Sayre, was asked by the Federal Reserve Board head, Paul A. Volcker, then visiting Brazil, who his successor would be.

"Some real estate agent from Alaska," was the acid response, according to two other people who participated in the conversation.

THE COMPLAINTS ARE QUALIFIED

A land developer, Republican Party stalwart and former Air Force officer, Mr. Motley came here from Anchorage as one of the host of political appointees with which the Reagan Administration has filled its ambassadorial ranks—to the distress of many career diplomats like Mr. Sayre. The American Foreign Service Association says that one of every three such appointments have been going to noncareer people under President Reagan after the Carter Administration had succeeded in reducing the number to one in every four.

But today the complaining in State Department corridors over the phenomenon carries a conversational asterisk exempting Mr. Motley. In a year he has gained extraordinary access to the highest levels of the Brazilian Government, earned the high regard of other ambassadors in Brasilia, won over the most traditional diplomats in his own embassy and gained the singular tribute of being hailed as "our" Ambassador by a major Brazilian newspaper.

He played a principal role in setting up President Reagan's coming trip here, dealing directly with Brazil's President, Jaoa Baptista Figueiredo, by White House telephone while the Brazilian leader was campaigning in interior cities for candidates in elections held Nov. 15. If the two Presidents follow the practice of their first meeting in Washington in May, Mr. Motley will be doing the translating when they get together in Brasília Dec. 1.

BRAZILIAN BACKGROUND A HELP

Mr. Motley has brought to his assignment one great advantage. Born and raised in Rio de Janeiro, he speaks fluent Portuguese down to the accompanying gestures and unprintable expressions. "A lot of Brazilian editors have told me they have to clean up his interviews," an embassy press officer said.

Secure knowledge of the local tongue impatience with diplomatic formalities, and a feel for gossip and barracks room humor can get you a long way with Brazil's ruling military, and that is where Mr. Motley has gone. He has driven his pickup out to Mr. Figueiredo's farm on a number of occasions for drinks with the President himself or barbecue lunches with the presidential palace "grupo" that runs the country.

State Department officials said the embassy reporting from Brazil had grown far more informed and other ambassadors in Brasilia have been making it their habit to drop in on Mr. Motley for briefings before they take their home-leave trips. "When Motley first came, I wasn't prepared to be impressed," said one. "Who is this Republican businessman, I thought. But I've grown to have a lot of respect for him."

TELLING IT LIKE IT IS

Mr. Motley has become a familiar figure in Brazilian public life because of his willingness to talk to the press and to be interviewed on television. He earned the admiring editorial in São Paulo's Journal da Tarde after making speeches to business and banking groups in the United States arguing that Brazil's economy was being unjustly compared to those of Mexico and Argentina. The newspaper complimented Mr. Motley for doing a job that it said should have been expected from Brazil's own Ambassador in Washington, Antonio Azeredo da Silveira, a former Foreign Minister with a history of feuding with the United States.

The son of a former head of the American Chamber of Commerce in Rio, Mr. Motley has gotten high marks from the sizable American business colony for his combative response to Brazilian charges that United States protectionism is crippling the economy here. "He really tells it like it is and we appreciate that," said Joseph W. O'Neill, president of the American Chamber of Commerce in São Paulo.

Mr. Motley commonly points out that millions of Americans wear Brazilian shoes and challenges critics to find any Brazilians in American footwear. He also notes that so many Bandeirante aircraft have been sold to American commuter airlines that there

are now more Americans than Brazilians flying in such planes.

Forty-four years old and boyish-looking, he dresses in loafers and loose-fitting suits and often walks around with his hands thrust into his trouser pockets. It has not been uncommon for people to ask him where the Ambassador is.

10 YEARS IN THE AIR FORCE

Known as Tony, he said that even his mother never called him Langhorne. She is half-Brazilian and half-British and still lives in Rio. His father, an executive with Atlantic Refining in Rio, died in 1950 in a plane crash in Pôrto Alegre.

Mr. Motley lived in Rio until leaving for college at the Citadel in Charleston, S.C., when he was 17. He spent the 10 years after graduation in the Air Force before retiring to civilian life and helping create the largest real estate company in Alaska.

He served for two years as the state's Secretary of Commerce and Economic Development and then spent four years lobbying in Washington against environmental groups in the Alaska lands debate. He has worked closely with the Alaskan Senators, Ted Stevens and Frank H. Murkowski, each a Republican. In 1978 he and Senator Stevens were the only survivors of a plane crash in Anchorage that took five lives. He is outgoing and informal and works a room like a politician. "I've never seen a political appointee who got to know so many people so fast," said Mr. Kilday.

He plays soccer with the handymen and gardeners and opens his residence pool on weekends to embassy staffers who live in Brasilia's faceless "superquadra" apartment buildings. For July 4 this year, he gave a party for more than 2,000 people at his house with American beer and baked beans, parachute jumps, square dancing and treasure hunts. "He had everyone there from Cabinet officers to janitors," an embassy staffer said.

ATLANTIC CONFERENCE

Mr. PERCY. Mr. President, during the congressional recess, I had the honor to participate in the 1982 Atlantic Conference meeting held November 4–7 in the U.S. Virgin Islands. Several colleagues from the Senate as well as the House of Representatives were in attendance with me: Senators DAVID DURENBERGER, GARY HART, and CHARLES MCC. MATHIAS, JR., and Representatives RICHARD B. CHENEY and THOMAS S. FOLEY. Also participating with us was the Honorable Kenneth Dam, Deputy Secretary of State. There were a number of senior leaders from North America, South America, and Western Europe among the 43 participants in the Conference. I am asking that a full list of those who came be entered into the CONGRESSIONAL RECORD.

The Atlantic Conference meets biennially with the goal of assembling approximately 50 leaders from the three main regions of North America, South America, and Western Europe for candid, off-the-record interchange on important, timely issues of joint interest. Since 1970, the Atlantic Conference has been supervised by an international steering committee chaired by two U.S. Senators—one Democrat and one Republican. The chairmen currently are Senators CHARLES MCC. MATHIAS and GARY HART. The Conference director is John E. Rielly, president of the Chicago Council on Foreign Relations, which organizes and adminsters the Conferences. American members of the steering committee, in addition to Senators HART, MATHIAS, and myself, are Roger E. Anderson, chairman and chief executive officer, Continental Illinois Bank; James Hoge, publisher of the Chicago Sun-Times; Martha T. Muse, chairman and president of the Tinker Foundation, and Joseph Slater, president of the Aspen Institute for Humanistic Studies. We are proud of the strong Chicago and Illinois links of the Conference series.

The 1982 meeting of the Atlantic Conference addressed the subject of "Looking Toward the East: How Does the West Respond to the Soviet Union?" Earlier Atlantic Conference meetings have dealt with such topics as "Western Europe: The Alliance in Transition," "Détente: The Consequences for Relations Between Western Europe, North America and Latin America," Resources and International Politics," and "International Economic Policy: Europe, North America, Latin America."

Four papers were prepared for the 1982 discussions, which is the normal practice. There were two authors from North America, one from Europe, and one from South America. They were William Hyland, senior fellow, Carnegie Endowment for International Peace in Washington, and a former senior official of the State Department and member of the National Security Council staff; Robert Hunter, senior fellow, Center for Strategic and International Studies, Washington, and a former senior staff member of the National Security Council; Armin Gutowski, president, HWWA-Institut fur Wirtschaftsforschung, in Hamburg, West Germany; and Ronaldo Mota Sardenberg, director, policy planning staff, ministry of External Relations, Brasilia, Brazil. Each of the authors made a formal presentation to the Conference, followed by discussion. The final versions of the papers, plus a brief summary of some of the comments made in discussion, will be published in a few months as a book. Conference sessions were chaired by Conference Director John Rielly and Karl Kaiser, director of the Forschunginstitut der Deutschen Geselleschaft fur Auswartige Politik, of West Germany.

As more recent events have shown, the subject chosen for the 1982 meeting was a relevant one. The changing relations between the U.S.S.R. and the United States and the other Atlantic nations is at the center of international relations. The continued growth in Soviet military capabilities for the past two decades has broadened the Soviet Union's international reach and extended its political involvement to include Central America, Africa, and the Persian Gulf region. The Reagan administration has responded to this challenge by increasing substantially American defense spending and defense capabilities.

A related set of frictions with the nations of Western Europe has developed, most recently focused on a disagreement over the wisdom of the Soviet-European gas pipeline deal. Many Europeans also have been critical of U.S. defense policies and the NATO decision to deploy 572 Pershing II and cruise missiles in Europe by the end of next year.

Not surprisingly, there were many disagreements among Conference participants on specific policy issues, but there were also points on which many found agreement. Most of those in attendance believe that current problems in the Western Alliance are severe compared with earlier frictions and crises. The antinuclear and nuclear freeze movements, as well as the "Green" movement in Germany were discussed at length and their importance underscored. Many participants suggested that the United States must emphasize clarity in policy and objectives and that we must take a long view of our interests and goals—at least into the 1990's. It was also noted that the problems we face do not all relate directly to the Soviet Union—for instance, two recent armed conflicts in the Falklands and Lebanon were not a direct result of Soviet activities and had no Soviet involvement. Likewise we must define our policies toward other parts of the world—China, South America, and certainly Europe—on the basis of concerns beyond simple anti-Soviet attitudes. These are only a few of the topics probed by the conferees.

There is no anticipation that these meetings will result in uniform conclusions. Many differences of opinion were expressed. Rather, they are designed to contribute to understanding of the issues, clarification of both issues, and understanding by the participants of their respective positions and views. All of these goals were admirably met by the 1982 meeting.

WITHDRAWAL OF FEDERAL COURT JURISDICTION: A MEANS OF PRESERVING THE INTEGRITY OF THE CONSTRUCTION

Mr. HELMS. Mr. President, students of constitutional law in 1982 do not have to look very far to see that the Constitution does not work today the way that it has worked for most of American history. In some cases this is

the result of amendments to the Constitution changing the document's original terms. In many cases, however, this is the result of Supreme Court rulings that have amended the Constitution by the simple expedient of judicial decree.

Constitutional amendment by judicial fiat is, tragically, far advanced and represents a severe long-term threat to the American Constitution and the rule of law itself. As I have pointed out on many occasions, however, Congress has authority under the Constitution to remedy judicial usurpations and to provide a check on the courts. One of the most effective tools available to Congress is its constitutional power to control and limit the jurisdiction of the Federal courts. By removing jurisdiction from the courts in areas where Federal judges have abused their authority, Congress will be acting to preserve the integrity of the Constitution.

Mr. President, in today's Washington Times there is an excellent article on this subject by Hermine Herta Meyer. Dr. Meyer explores the history of constitutional provisions concerning prayer and the authority of Congress to withdraw Federal court jurisdiction in this area. Dr. Meyer is a member of the New York, District of Columbia, and U.S. Supreme Court bars. She studied law and political science in Switzerland and the United States. Her legal experience was acquired as an attorney with the U.S. Department of Justice, as legal adviser to the Swiss Embassy in Washington, and in private law practice.

Mr. President, I commend to the public and to my colleagues Dr. Meyer's thoughtful article and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Dec. 13, 1982]

COURT STRIPPING OR CONSTITUTION STRIPPING: WHICH IS IT?

(By Hermine Herta Meyer)

Toward the end of the 97th Congress, the nation was treated to a spectacle in the U.S. Senate, where senators who call themselves "liberal" (I call them pseudo-liberal), filibustered to death a bill which had been drafted in the hope that it might give the people in the states, who wished to have their children say a little prayer in their public schools, some protection from interference by the federal courts.

The bill provided that the Supreme Court shall not have appellate jurisdiction, and the district courts shall not have jurisdiction, in state cases relating to voluntary prayers in public schools and public buildings, and it contained a definition that "voluntary prayer" shall not include any prayer composed by a state official.

Nevertheless, the filibustering senators said they objected to "stripping" the federal courts of their jurisdiction over "constitutional" issues. But what these senators really were doing was supporting the Supreme Court's stripping the Constitution of its most important features of self-government; namely, of the power of the people to make their own laws.

Even if the bill had not contained the word "voluntary" and the definition but had simply prohibited the federal courts from taking jurisdiction over cases relating to prayers in state public schools, it would have "stripped" the federal courts of nothing to which the U.S. Constitution has entitled them. It merely would have prevented them from taking jurisdiction in cases over which the U.S. Constitution has not granted any federal judicial power. No constitutional issue was involved, because the power to legislate respecting religion has been retained by the states. That means that it did not become part of the Constitution.

As a special protection of these powers retained by the states, the 10th Amendment was added to the Constitution. It declares: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," meaning, of course, to the people of the several states.

A power retained by the states can legally be made a part of the U.S. Constitution, and thereby subject to federal control, only by a constitutional amendment in accordance with Art. V of the Constitution; that is, with the consent of two-thirds of Congress and of the legislatures or conventions of three-fourths of the states.

Therefore, when the Supreme Court decided to take jurisdiction over religion in order to force its ideas of separation of state and church on the entire nation, it could not legally change the Constitution. But armed with contempt-of-court powers and helped by federal marshals and an inactive Congress, the Supreme Court could prevent the people in the states from making their own laws respecting religion and strip them of the protection of the 10th Amendment to the Constitution.

The school prayer situation offers a good example how the Supreme Court managed to do this in the guise of "constitutional interpretation."

In 1962 and 1963 the Supreme Court decreed for the first time that prayers and Bible reading in state public schools violated the "establishment of clause" of the First Amendment's religion clause, and that had been made applicable to the states by the due process clause of the 14th Amendment.

First: The Supreme Court declared that the First Amendment's religion clause required a complete separation of state and church, although there is no such requirement.

That clause reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

We know from the debates of the First Congress, which drafted the first 10 amendments, that the religion clause had been requested by several state conventions because they feared the new Congress might misuse a provision of the new Constitution to establish a nationwide church or religion to which everyone would be compelled to conform. "Establishment of religion" was the expression of the time for an official church. The states wanted to make sure they would remain free from federal interference in matters of religion. The religion clause was intended to be a special restriction on the federal government only, not to apply to the states.

Second: There were six attempts in Congress to initiate a constitutional amendment to make the First Amendment's religion clause applicable to the states. They all failed. But the Supreme Court, obviously determined to force the First Amendment on the states, decreed that the due process clause of the 14th Amendment had made it applicable to the states.

That clause provides that no state shall deprive any person of life (sentence him to death), or of his liberty (sentence him to imprisonment), or of his property (sentence him to forfeiture of property) without due process of law, that is without first having given him access to proof procedure, today called, trial, where he could defend himself against the charges. It cannot possibly have made the provisions of the First Amendment applicable to the states, and for almost 100 years the Supreme Court so held.

These decisions are absolutely incompatible with the decisions of the Supreme Court that the 14th Amendment's due process clause did make the First Amendment applicable to the States. And in Ferguson vs. Skrupa the Supreme Court itself practically has admitted that in such cases it did not really interpret the due process clause but used it as a constitutional cover-up, so to speak to transfer a power retained by the states into the 14th Amendment whenever the Court disagreed with a state law and decided to replace it with its own beliefs. In this way, the Supreme Court fabricated a constitutional issue to serve the court as a justification for taking jurisdiction and stripping the people in the states of their protection of the 10th Amendment.

This became painfully clear when, in 1981, the Supreme Court, without briefs on the merits and without oral arguments, declared unconstitutional a Kentucky statute requiring posting of a copy of the Ten Commandments, purchased with private contributions, on the wall of each public classroom in the state.

The statute had stressed the secular application of the Ten Commandments in its adoption as the fundamental legal code of Western civilization. But the Supreme Court found that the Ten Commandments were religious in nature and that their posted copies would have the effect "to induce the schoolchildren to read, meditate upon, perhaps venerate and obey, the Commandments."

It is a historical fact that after the suppression of prayers in public schools practically all values disappeared from them; discipline deteriorated, often to a point that teaching became impossible; vandalism and violence developed as well as sexual promiscuity and the use of drugs.

Why should anybody be surprised that many people attribute this to the disappearance of prayers in the public schools? These people cannot believe that a Constitution under whose protection school children had prayed in their classrooms for 174 years could suddenly have made this practice unconstitutional, and they have begun to ask: "Why can these judges make the laws for us? We have not elected them."

The people complained to Congress because they had learned that the Constitution had given Congress the authority to protect them from the usurpations of the federal courts by using its power over their jurisdiction. It was in response to such complaints that bills were introduced in the

97th Congress to protect school prayers from interference of the federal courts.

There is no controversy that Congress has complete control of the jurisdiction of the lower federal courts, because the Constitution has given Congress full discretion to create and abolish them.

The Supreme Court, however, was created by Art. III of the Constitution, which also has prescribed in what cases the Supreme Court shall have original jurisdiction. The same article provides that in all other cases to which federal power extends, the Supreme Court shall have appellate jurisdiction "with such Exceptions, and under such Regulations as the Congress shall make."

The power of Congress over the appellate jurisdiction of the Supreme Court is the most important check the Constitution has provided for control of the usurpations of the Supreme Court.

Alexander Hamilton, also one of the framers of the Constitution, mentioned it three times in Nos. 80 and 81 of the Federalist Papers. When fears were expressed that "the errors and usurpations of the Supreme Court will be uncontrollable and remediless," Hamilton tried to assuage those fears by pointing out that the Supreme Court would have original jurisdiction only in classes of cases that rarely come up. In all other cases of federal cognizance Congress had ample authority to use its power over the Supreme Court's appellate jurisdiction to obviate or remove any "partial inconveniences" which may occur.

What has been caused by the Supreme Court's usurpations and the congressional inaction, are not just "inconveniences," but a gradual replacement of a Constitution based on the democratic principles of sovereignty and self-government of unelected life-tenured judges who, in the guise of "constitutional interpretation," have arrogated to themselves the power to dictate to the people what laws they may or may not have.

It is ardently to be desired that the 98th Congress will introduce and pass a simple bill to prevent the U.S. district courts from taking jurisdiction, and the U.S. Supreme Court from taking appellate jurisdiction, in state cases relating to school prayers in order to free the people in the states from the Constitution stripping by the Supreme Court, so the people again will be able to make their own laws in matters of school prayers.

One such law might go far in encouraging the people in the states to again exercise their retained rights to legislate with respect to schools, family and religion, and might even discourage the federal courts from further Constitution stripping.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

Mr. HATCH. Mr. President, we as a nation suffer tragedies each day on our highways and in our neighborhoods from drivers who misuse alcohol and drugs. In the last few years, a growing awareness of the carnage caused by drinking and driving has called forth a rapidly developing national consensus that the time is now to get tough on the drunk and drugged driver.

The problems posed have rightfully stirred national outrage among our citizens—and now Congress has enacted Senate Joint Resolution 241, sponsored by Senator GORDON HUMPHREY which designates this week of December 12–18, 1982, as "National Drunk and Drugged Driving Awareness Week." This week is intended to acknowledge the importance of citizens, business, and government activity that has been undertaken to deal with this national tragedy. A nationwide effort has evolved to take from drunk drivers the social acceptability they enjoy and give them instead an increased likelihood they will be caught, prosecuted, and punished.

Drunk and drugged driving is a national epidemic transcendent of State boundaries. For example, drunk and drugged drivers are the leading cause of death and injury on the road. Because the victims are often innocent drivers, passengers, and pedestrians, no one can count themselves immune to the effect of this carnage. In addition, misuse and abuse of alcohol and drugs poses a most serious threat to the economic, social, and emotional health of our society.

About 1.3 million of the 146 million licensed drivers in the United States are arrested annually for driving while intoxicated. But what can we as a nation do?

During "National Drunk and Drugged Driving Awareness Week" a number of educational activities will take place: All of our citizens will be urged to:

Buckle their seatbelts for every trip and insist their passengers do so. Safety belts are the greatest protection we have against the drunk and drugged drivers;

Report any suspicious driving to the police, especially on the weekends;

Place a light in their window during the Awareness Week;

Use headlights while driving during the week to remember the deaths from drunk and drugged drivers;

Send letters to various media encouraging the publication of articles related to this week; and

Petition local officials for the establishment of task forces to study driving while under the influence (DWI) problems and to recommend necessary local solutions.

We are all victims when a drunk gets behind the wheel of a car. The statistics alone offer a grave reminder of the magnitude of this serious problem. Each year 26,000 Americans die and 1.5 million are injured by drunk drivers. And this tragedy increases when you add the losses suffered as a result of drugged drivers. Society's loss in wages, productivity, medical, and legal costs caused by deaths and injuries in drunk driving crashes exceed $24 billion each year. More than 25 cents of every auto insurance dollar goes to pay for damage done by the drunk driver.

I would like to pose some long-range strategies to rid the roads of the driver who drinks:

First, I urge all States to legislate and enforce strict laws against drivers who drink. Statistics show that a large percentage of drunk drivers are or will be repeat driving-while-intoxicated (DWI) offenders. Too many DWI offenders still have their licenses because they were held under court probation or supervision, plea bargained to a lesser charge, or simply frustrated the process of law by continually postponing their trials.

Second, I support changes in existing drunk driving laws in all 50 States from "presumptive level" to "illegal per se statutes" under which it would be illegal to be in control of an auto with a 0.10 percent blood alcohol content (BAC) or higher. Illegal per se laws will make it easier and safer for the arresting officers to structure a drunk driving case. Accurate, scientific tests that measure the percentage of alcohol in a person's bloodstream have existed for many years. Through breath or blood tests scientists have proven that hazardous driver intoxification exists with a concentration of 0.10 percent or higher. Some 50 percent of all driver's killed each year have blood alcohol concentrations in excess of the illegal limit of 0.10 percent.

Third, prevention activities must begin in the home. Families must continue and intensify their efforts to educate their children on the various problems associated with overuse of alcohol and drugs. I would like to commend the successful grassroot parent's organizations that have developed to encourage parents to become role models for their children. They recognized that the key to preventing children's involvement with alcohol and drugs is communication.

Fourth, we must continue funding of research in alcohol and drug-related problems to tackle the problems of substance abuse in our country. President Reagan and the Congress has set forth an array of Federal programs to battle the tremendous problems of alcohol and drug misuse. Through continuation of support for the National Institute on Alcoholism and Alcohol Abuse and the National Institute on Drug Abuse, we can better understand the myriad of issues surrounding alcohol and drugs in our society.

While all States and communities must further develop and implement their own strategies, there is a logical, central partnership for the Federal Government through the National Highway Traffic Safety Administration (NHTSA), a division of the U.S. Department of Transportation. Among other things, NHTSA has been instrumental in coordinating the weekly activities of the Drunk and

Drugged Driving Awareness Week, and, therefore, is ideally positioned to work with States and communities on many of these issues. The goals of the NHTSA program are to provide the States and their communities with the latest technology in solving the drunk and drugged driver problem; to act as a catalyst to move States and communities into action in an organized and systematic manner; to educate members of society as to the magnitude of the problems and the possible solutions; and through these actions, ultimately to significantly reduce the toll of alcohol-related deaths, injuries, and property damage NHTSA officials stress that "even though drunk driving is a national problem, it can be solved only at the local level."

During this week of awareness of both drunk and drugged driving, let us as a nation briefly pause and remember the victims and their families. But after our solitude, let us then push ahead with renewed vigor to initiate and support any and all action that may end further suffering. It is best stated in a guide book entitled "How to Save Lives and Reduce Injuries—A Citizen Activist Guide to Effectively Fighting Drunk Driving" by Sandy Golden who writes "We have to get the word out that we will no longer tolerate drunk (and drugged) driving in our communities and mean it."

USE OF RESTRAINT

Mr. HARRY F. BYRD, JR. Mr. President, one definition of the word restraint is to hold back from going to extremes. U.S. District Court Judge D. Dortch Warriner, in dismissing a recent court case brought by an Henrico County, Va., woman whose son had been dismissed from a high school band, rightly asks that we use restraint when we turn to our judicial system.

His view, and it is a view that I share wholeheartedly, is that our court system is overburdened by the extremes to which citizens all too frequently go in seeking to have their wrongs, real or imagined, righted. The U.S. Constitution, he says, cannot and should not be called into play whenever and wherever a person is in disagreement with authority.

Certainly a dismissal from a school band as punishment, especially when the circumstances are reviewed by any number of impartial persons including the county school board, is not a Federal case. But, sadly, it is no more extreme in its frivolity than countless cases brought daily in courts around our Nation.

The main body of Judge Warriner's opinion, along with an editorial pointing out that such cases are largely responsible for the backlog that threatens to interfere with real justice in our land, appeared in the December 7 issue of the Richmond (Va.) Times Dispatch. I ask that the editorial, entitled "Unclogging the Courts," and the opinion, headlined "Warriner Swats Frivolity," be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

UNCLOGGING THE COURTS (II)

On Nov. 29, we printed on this page Chief Justice Warren Burger's ideas for structural changes in the nation's court system that might break up the serious logjam of cases and speed the process of justice. The proposals certainly were worthy of serious consideration.

On Dec. 1, in the U.S. District Court here, Judge D. Dortch Warriner demonstrated another way to unclog the courts. It is the route of judicial and citizen restraint and common sense. His decision in *William J. Bernstein, etc. vs. Jack Menard, et al.,* which we run on this page today, shows the value of those qualities.

In many cases, courts are overloaded because we the people have inundated them with our petty complaints. Accept a decision by someone in authority over us? Never! Hire a lawyer and make a federal case out of it.

As Judge Warriner pointed out in his order dismissing the complaint of a mother who refused to accept a disciplinary action taken against her son as a member of a Henrico County school band, all of us have rights under the U.S. Constitution, but that does not mean that the Constitution is "a god watching over us, counting the hairs on our head, or concerned when a sparrow falls from the heavens."

Were a school board acting in a totally arbitrary way that threatened a student's ability to gain an education, that would be a different matter, of course. But teachers, principals, bandmasters and others placed in authority have to be able to discipline their charges without being second-guessed by judges every time they act.

Do read the Warriner decision. It makes good sense—and great reading.

WARRINER SWATS FRIVOLITY

(Following is the main body of the opinion that U.S. District Court Judge D. Dortch Warriner issued last week in dismissing the complaint of a Henrico County mother against a public school band that had disciplined her son. The matter is discussed editorially today.)

This complaint is another example of a prevalent disposition by parties and lawyers to litigate over every source of unhappiness to which humankind may be subject. While it might be considered unfortunate that a boy be dismissed from the high school band, it is much more unfortunate that his mother saw fit to take the matter to court and that she was able to find a lawyer willing to do her bidding. (Here Judge Warriner referred to a footnote, which observed that: "This suit [as opposed to the incident] has received widespread notoriety through newspaper, radio and television coverage in Virginia."—Editor)

After an adversary hearing on a motion for a temporary restraining order, this Court found that the punishment prescribed for the boy as a result of his unpleasant encounter with the bandmaster was *de minimis.* The complaint and the supplemental complaint are themselves confirmatory of the Court's judgment.

The complaint and the supplemental complaint show that had the boy accepted the punishment meted out by the bandmaster, be it considered fair or unfair, wise or unwise, proportional or disproportional, he would have accepted a transitory embarrassment and humiliation which he might remember with distaste for the rest of his life or, more likely, which might have taught him to be more respectful of those placed in authority over him. Whatever the event, it is clear that the Constitution of the United States of America was not offended. No schoolchild has a constitutional right to be free from discipline. Indeed, discipline in school is a boon, not a curse.

Nor does the fact that the youngster has now been dismissed from the band for his refusal (or that of his mother) to go on the band trip to Florida alter the case. While all of us, including schoolchildren, have rights under the United States Constitution, the Constitution is not a god watching over us, counting the hairs on our head, or concerned when a sparrow falls from the heavens. If bandmasters must be concerned that their every disciplinary decision is subject to a constitutional standard to be judged in a federal court, harmony and rhythm will disappear from the musical scene Cacophony will prevail.

Indeed, if courts seriously entertain suits such as this, not only will the courts fall into disrepute, but much more gravely, the Constitution will become the subject of derision. It is a serious mistake to treat the Constitution as a brooding presence, ever present in time of need able to right any wrong, correct any evil, set straight that which has gone awry, feed the hungry, and clothe the naked. The Constitution is a law. It provides the framework of our government and sets forth certain restrictions upon the government's ability to interfere with fundamental rights of free men and women. Suits such as this trivialize our Constitution.

But if it be supposed that there exists a constitutional right to play a trumpet in a high school band, surely no one can argue that this boy was deprived of his "right" without due process of law. The complaint and the supplemental complaint show that the defendants went to ridiculous lengths to dignify the boy's complaint. According to the complaint and supplemental complaint, the child had an opportunity to be heard by the bandmaster, the high school principal, the superintendent of the Henrico County public schools, and even the School Board itself!

The opportunities given the boy to be heard exceed anything the Constitution would ever require for such a trivial matter. To have the Superintendent of Schools and the County School Board involved in such a spat is a waste of their time and of the taxpayers' money. One suspects that such waste, so evident here, exists for no other reason than the prevalence of frivolous and vexatious suits such as this.

SENATOR HARRY F. BYRD, JR.

Mr. NUNN. Mr. President, the Senate will lose one of its most consistent voices for fiscal responsibility and a strong national defense when Senator HARRY F. BYRD, Jr., retires at the end of this Congress.

Throughout his long and distinguished career of service to the people

of Virginia and the Nation, Senator HARRY BYRD has been a devoted proponent of a sane fiscal policy, an advocate of the Government's living within its means on a balanced budget.

During a time when the Federal Government has plunged deeper and deeper into the red ink, Senator HARRY BYRD has stood like a monument to reason and responsibility. Had the Senate paid more heed to his wise counsel, the country would not now be burdened with a national debt in excess of a $1 trillion dollars and deficits estimated at more than $150 billion a year for the foreseeable future.

The Senate's passage this year of a constitutional amendment requiring balanced Federal budgets must be considered a tribute to his long and persistent effort to alert the Nation to the dangers of deficit financing.

The strength and conviction with which he carried on this cause, so nobly pursued in this Chamber by his father for 30 years before him, has set a high and inspiring example for all of us who believe in rational fiscal policies. While his voice of reason will leave the Senate, his example will remain for years to come as a beacon, for both Democrats and Republicans, lighting the road to fiscal responsibility.

In addition to his devotion to fiscal sanity, Senator HARRY BYRD has always been a stalwart in support of a strong national defense and approached this area in a bipartisan spirit which is the true test of a statesman.

I worked closely with Senator BYRD over the years on the Armed Services Committee on a number of important issues, particularly military manpower and conventional forces, especially seapower. I always found his counsel to be studied with a keen insight into meeting military requirements in the appropriate fashion.

HARRY BYRD was always willing to dig into complex issues that many only dealt with on the surface. He worked equally hard on the so-called glamor issues of defense procurement as well as the less well known and complex issues such as the massive Defense Officer Personnel Management Act.

He was always an effective champion for Virginia when the interest of his State and our national security coincided, and he always worked diligently to insure that our defense dollars were expended in an efficient and effective manner.

His colleagues on the Armed Services Committee, and particularly myself since we sat next to each other for almost 10 years, will sorely miss his presence and guiding hand. His place of high esteem, integrity, and credibility will not be easily replaced.

I am confident that I express all our sentiments when I say that we will miss HARRY BYRD in the Senate and that we hope he will continue to counsel us on issues before the Nation.

It is comforting to know that such a wise and true friend will be only a short distance away, and we all wish both HARRY and Gretchen a long and happy retirement among their beloved apple orchards in the beautiful hills of Virginia.

SENATOR FRITZ HOLLINGS SPEAKS OUT ON THE ECONOMY

Mr. SASSER. Mr. President, I commend to my colleagues Senator FRITZ HOLLINGS' recent response to President Reagan's radio address of December 11 on the MX missile.

Characteristically, Senator HOLLINGS sets forth a commonsense agenda for our economic recovery. He does so with eloquence and uncommon conviction. And in doing so he tells the American people the plain truth about the condition of our economy today.

FRITZ HOLLINGS is a good Democrat. But he is a man who, more than all else, wants to see a bipartisan program of economic recovery for all Americans whatever their political views.

That goal, Mr. President, is the mark of a statesman. Therefore I commend FRITZ HOLLINGS for his candid and forthright response to the President's radio address, and I ask unanimous consent that his remarks be printed in full in the RECORD at this point.

There being no objection, the response was ordered to be printed in the RECORD, as follows:

RESPONSE OF SENATOR ERNEST F. HOLLINGS TO PRESIDENT REAGAN'S RADIO ADDRESS DECEMBER 11, 1982

When your Administration came to town, Mr. President, your avowed purpose was to reduce the size of government and increase the size of the economy. After two years, you have accomplished the exact opposite. Last year you told us if we passed your program there would be an immediate burst in economic activity. Instead there was negative growth. Then you told us to wait for the individual tax cuts to take effect. Still no growth. Now you say wait until interest rates come down. They are down—and still no growth. Everyone predicts a dismal 1983 because business investment and consumer confidence are frightened away by high government deficits. Under your program, deficits go from $180 billion this year to $200 billion next year to $250 billion the following year. It took this country 206 years to reach a trillion dollar debt, but just three years of your program will add half a trillion to the national debt.

As for that vaunted claim of cutting the size of government, in your two years government has grown from 22.5 percent of the Gross National Product to 24 percent, and by 1985 it will hit an all-time record of 24.6 percent. Yes, you cut nutrition for infants and expectant mothers, you slashed school lunches, and under your program a million students, instead of staying the course with student loans, have had to quit the course. While ripping those programs, you have launched a totally undisciplined program of weapons purchases that is busting the budget and breaking the economy upon which national security depends. You may prefer to buy MX missiles with red ink rather than school lunches with red ink—but the ink is just as red. And the military spree is even more unconscionable when defense contractors themselves tell you to slow down because they cannot absorb the money that fast. Three of the four military service chiefs tell you the $40 billion MX program is a bad idea, and still you plunge ahead. Tragically, it's all being done on the toil and sweat of the next generation—every dollar of it is borrowed money. I know you didn't set out to become the biggest spender of all time, Mr. President, but your blind stubbornness—trying to have it all at once—has brought you there. And, ironically, you have put three million Americans on welfare.

The problem for America isn't Social Security or gun control; it isn't abortion or prayer in the public schools or even nuclear freeze. These are important issues. But our overriding concern is economic survival. We need government controlling itself. We need a bipartisan approach of sacrifice across-the-board—with you leading the charge. To thaw the economy, we must freeze the budget. City and state governments, labor unions and business firms have had to freeze—what's the matter with Washington? Freeze discretionary spending. Freeze defense. Freeze entitlements. We can control increases in entitlements without cutting benefits. Finally, freeze further cuts, because we don't have the tax revenues to cut. In only means government borrowing billions more.

This is a program of shared sacrifice. It would mean that a Social Security recipient would not get an increase for one year; the Congressman would not get an increase in his pay or retirement; the rich would not get another tax cut; and defense would have to hold the line. The poor people in this country are already hurting bad. Now is the time for all to share in that hurt, for the good of America.

Mr. President, if you would appear tonight on television and tell the people that only a shared sacrifice can turn America around, if you would call for a freeze on spending for the next fiscal year, the word would go out over this land that Washington has finally turned the corner and set the tone for recovery and jobs and good times again. If you don't do something like this soon, we will just continue the meaningless political wrangle here in Washington, and every day there will be more unemployed, more bankruptcies, more loss of hope.

Only a bipartisan program of shared sacrifices can do the job. Lead us back to work, Mr. President. If not you, then who? If not now, then when?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAWKINS). Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. BAKER. Madam President, there is one appropriation bill that it appears we might get to at this point and I hope finish before we take up the highway bill tomorrow at 2 p.m.

Madam President, I ask that the Senate now turn to the consideration of calendar order 986, H.R. 7356, the bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983.

Mr. ROBERT C. BYRD. Madam President, we have no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments.

Mr. BAKER. Madam President, let me say that the leadership on this side would suggest that we conclude today's activities at about 6:30 p.m.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. BAKER. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, could I inquire if there are any requests for special orders that the Chair is aware of?

The PRESIDING OFFICER. There are none.

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Madam President, I ask unanimous consent that on tomorrow after the recognition of the two leaders under the standing order, there be a brief period for the transaction of routine morning business to extend not past the hour of 10 a.m. in which Senators may speak for not more than 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE ON TOMORROW

Mr. BAKER. Madam President, assuming that the Interior appropriations bill is not disposed of today, and I do not anticipate that it will be, at 10 a.m. tomorrow will the Interior appropriations bill recur as the pending business?

The PRESIDING OFFICER. It would.

Mr. BAKER. Madam President, on tomorrow, then, I expect that we will continue to debate the Interior appropriations bill. It is my hope that we can finish it before the hour of 12 noon. I urge Senators to consider the necessity to speed up, to expedite, the consideration of all measures between now and sine die adjournment. I think it is possible to finish the Interior appropriations bill by 12 noon tomorrow, and I strongly urge Senators to do so.

ORDER FOR RECESS ON TOMORROW FROM 12 NOON UNTIL 2 P.M.

Mr. BAKER. Madam President, I ask unanimous consent that at 12 noon tomorrow, in order to accommodate a requirement that Senators on both sides of the aisle may attend caucuses of their respective parties which will occur off the floor of the Senate, that the Senate stand in recess from that hour until the hour of 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983

The Senate continued with the consideration of the bill.

Mr. BAKER. Madam President, I thank all Senators. I urge that we dispose of as much debate on this measure between now and 6:30 p.m. as possible.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Madam President, I thank the majority leader for getting this matter to the floor today for debate.

Let me say to all Members who are present and who may be listening that I would hope we can dispose of some amendments tonight. If we wait until tomorrow morning to start the process of offering amendments, we will be very lucky to finish by noon. If there is anyone who really cares about getting this bill done so that we can get to conference to resolve the few remaining issues in conference, we have a very narrow window of time in which to do that, and I hope they will help us expedite that.

Madam President, I ask unanimous consent that the committee amendments to H.R. 7356 be considered and adopted en bloc and considered as original text for purposes of further amendment, provided that no point of order be considered as waived thereon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 2, line 11, strike "$322,963,000", and insert "$331,716,000";

On page 2, line 20, strike "$95,520,000", and insert "$96,320,000";

On page 2, line 22, after "expenses", insert the following: ": *Provided*, That this appropriation may be used to correct underpayments in the previous fiscal year to achieve equity among all qualified recipients.".

On page 3, line 5, strike "$468,000", and insert "$311,000";

On page 3, line 21, strike "$46,883,000", and insert "$61,533,000";

On page 6, line 23, strike ": Provided,", through and including "permitee" on page 7, line 1, and insert the following: "*Provided further*, That the Secretary of the Interior shall develop criteria for extending, on a case-by-case basis, the period allowed for phased livestock reductions on public rangelands administered through the Bureau of Land Management up to five years. Such criteria shall take into account available agricultural assistance programs, the magnitude of projected livestock reductions, alternative pasturage available, and ability of such public rangelands to sustain such phasing in of livestock reductions without damage to rangelands productivity: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision or ninety days after the effective date of this Act in the case of reductions ordered during 1979, whichever occurs later. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secertary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed."

On page 8, line 6, strike "$242,778,000", and insert "$227,279,000";

On page 8, line 8, after "expended", insert the following: "*: Provided*, That the only critical habitat to be designated under section 4(b)(2) of the Endangered Species Act of 1973 (Public Law 93-205), as amended, for the Northern Rocky Mountain Wolf in Idaho shall be coterminous with the boundaries of the Central Idaho Wilderness Areas, as established by Public Law 96-312.".

On page 8, line 21, strike "$23,149,000", and insert "$11,126,000";

On page 9, line 9, strike "$33,647,000", and insert "$19,048,000";

On page 10, line 18, strike ": Provided", through and including "Hatchery":" on line 23, and insert the following: *Provided further*, That the administrative/visitor facility at the Merritt Island NWR, Florida, for which funds were appropriated under the head "Construction and anadromous fish" in chapter VIII of Public Law 97-257 is hereby designated the Scott J. Manness-Beau W. Sauselein administrative/visitor facility and that the maintenance center not be named as provided in that account.".

On page 11, line 15, strike "$567,730,000", and insert "$537,170,000";

On page 11, line 17, strike "of which", through and including "1982" on line 20;

On page 12, line 4, after "States", insert the following: "*Provided further*, That $85,000 shall be available for the National Park Service to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further*, That not to exceed $1,000,000 shall be available for assistance to the Washington Opera, District of Columbia such assistance to be available only to the extent matched by the opera with a like amount of new or increased contributions or pledges derived from nongovernmental sources which have not previously been used for Federal matching purposes: *Provided further*, That notwithstanding any

other provision of law, the National Park Service shall establish or continue reasonable entry and recreation use fees for all units of the National Park System administered by the Department of the Interior, where practical, and that such fees may from time to time be revised: *Provided further,* That such fees less the cost of collection shall be deposited into the general fund of the Treasury: *Provided further,* That $160,000 shall be available for operation, including maintenance and protection, of the former home of Harry S Truman at 219 North Delaware Street, Independence, Missouri, upon assumption of administrative jurisdiction thereof by the National Park Service pursuant to specific legislation similar to S. 3077, Ninety-seventh Congress, or pursuant to the general authority of the Act of August 21, 1935 (49 Stat. 666), or otherwise.".

On page 13, line 8, strike "$10,087,000", and insert "$9,487,000";

On page 13, line 19, strike "$161,846,000", and insert "$147,017,000";

On page 14, line 1, strike ", and", through and including "Memorial" on line 2, and insert the following: "$1,400,000 for the Federal share of the construction and development costs for the Alaska Interagency Visitor Centers in Anchorage, Fairbanks, and Tok, Alaska, pursuant to section 1305 of the Alaska National Interest Lands Conservation Act (Public Law 96-487).".

On page 14, line 14, strike "$172,643,000", and insert "$129,400,000";

On page 14, line 18, strike "$8,995,000", and insert "$5,000,000";

On page 14, line 19, strike ", and", through and including "Area" on line 20;

On page 15, beginning on line 10, strike "I helicopter for replacement only";

On page 15, line 23, after "situations", insert "and conduct emergency search and rescue operations";

On page 16, line 8, strike ": *Provided*", through and including "commission" on line 24, and insert the following: "*Provided further,* That notwithstanding any other provision of law, the Secretary of the Interior is authorized to make available to the Smith River Fire Protection District, California, lands within the boundary of Redwood National Park for construction of a fire station.".

On page 17, line 19, strike "$365,525,000", and insert "$352,365,000";

On page 19, line 11, strike "$192,586,000", and insert "$196,506,000";

On page 19, line 13, strike ": *Provided*", through and including line 16:

On page 20, line 4, strike "$128,629,000", and insert "$142,162,000";

On page 20, line 4, strike "$88,346,000", and insert "$83,946,000";

On page 20, line 22, strike "$61,313,000", and insert "$63,819,000";

On page 21, strike "$126,609,000", and insert "$152,649,000";

On page 21, strike line 10, through and including "debts" on line 12, and insert the following: "enter into contracts with any person or organization for collection services to recover indebtedness owed the United States, and to pay for the reasonable cost of such collection services from the amounts collected.".

On page 22, line 17, strike "$850,447,000", and insert the following: "$839,339,000 of which $18,715,000 shall be available until expended for transfer to the State of Alaska to assist in the basic operation and maintenance of Bureau-owned schools which are transferred to the State, such sum to be in addition to assistance otherwise available under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) or any other Act to such schools on the same basis as other public schools, and".

On page 22, line 25, strike "$54,203,000", and insert "$56,278,000";

On page 24, line 15, strike "$73,890,000", and insert "$69,500,000";

On page 24, line 16, strike ", of" through and including "Project" on line 17;

On page 25, line 1, strike "$43,705,000", and insert "$43,585,000";

On page 27, line 4, after "Nevada", insert the following: "nor may any funds be used for maintenance of these facilities after June 30, 1983";

On page 27, line 7, after "at", insert "Concho boarding school in Oklahoma or at";

On page 27, beginning on line 9, strike "or for the operation of day schools in Alaska";

On page 27, line 14, strike ": *Provided*", through and including line 14 on page 28:

On page 28, line 19, strike "$70,743,000", and insert "$77,342,000";

On page 28, line 20, strike "$68,861,000", and insert "$75,261,000";

On page 29, line 5, strike "$6,388,000", and insert "$10,028,000";

On page 29, line 10, strike "$1,882,000", and insert "$2,081,000";

On page 30, line 15, strike "$81,100,000," and insert "$102,927,000";

On page 30, line 16, strike "$66,800,000," and insert "$79,262,000";

On page 30, line 17, strike "$14,300,000," and insert "$23,665,000";

On page 31, line 9, strike ": *Provided,*" through and including line 17;

On page 31, line 21, strike "$40,521,000," and insert "$42,812,000";

On page 31, line 24, strike ": *Provided,*" through and including line 14 on page 32;

On page 32, strike lines 17 and 18, and insert "$19,071,000";

On page 33, line 6, strike ": *Provided,*" through and including line 9;

On page 33, line 14, strike "$6,000,000," through and including line 19, and insert the following: "$6,210,000 for expenses necessary in carrying out the provisions of the Water Research and Development Act of 1978 (Public Law 95-467).".

On page 34, line 18, strike "no year";

On page 37, strike line 1, through and including line 4 on page 39, and insert the following:

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of the Point Arena, Bodega, Santa Cruz, or Eel River Outer Continental Shelf basins.

SEC. 108. Notwithstanding any other provision of law, section 1002 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) (16 U.S.C. 3142(e)(2)(C)) is amended as follows: Insert before the period: "and: *Provided,* That the Secretary shall prohibit by regulation any person who obtains access to such data and information from the Secretary or from any person other than a permittee from participation in any lease sale which includes the areas from which the information was obtained and from any commercial use of the information unless such person compensates the permittee at fair market value for such information in accordance with such regulations as the Secretary may prescribe".

On page 40, line 6, strike "$106,352,000", and insert "$104,604,000";

On page 40, line 12, strike "$58,770,000", and insert "$61,078,000";

On page 40, line 12, strike "$55,420,000", and insert "$58,078,000";

On page 40, line 17, strike ": *Provided*", through and including line 25;

On page 41, line 10, strike "$1,009,093,000", and insert "$1,007,697,000";

On page 41, line 11, strike "$186,700,000", and insert "$177,600,000";

On page 41, line 18, strike "$229,756,000", and insert "$286,805,000";

On page 41, line 20, strike "$26,432,000", and insert "$21,066,000";

On page 41, line 21, strike "$203,324,000", and insert "$256,739,000";

On page 41, line 24, after "205;", insert the following: "23 U.S.C. 101 and 205; and $9,000,000, to remain available until expended, for final payment, subject to the execution of a final agreement between the Secretary of the Interior, the Secretary of Agriculture, and the Chugach Natives, Incorporated, for the final settlement of land claims of the Chugach Natives, Incorporated, as authorized by section 1302(h) and section 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) and section 22(f) of the Alaska Native Claims Settlement Act, as amended (Public Law 94-204)".

On page 42, line 12, strike "$218,000,000", and insert "$236,200,000";

On page 42, strike line 15, through and including line 22;

On page 43, line 4, strike "$53,476,000", and insert "$55,117,000";

On page 43, line 6, strike ": *Provided*", through and including line 13;

On page 45, after line 19, insert the following:

None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than that annual fee in effect at the time of the next to last fee adjustment, plus 50 per centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall either reimburse to the permittee that excess amount, times the number of years that that fee has been in effect, or credit to the permittee that same sum to offset future fees owed to the Forest Service, at the discretion of the permittee.

On page 46, line 14, through and including line 16;

On page 47, strike line 3, through and including line 9;

On page 47, line 15, strike "$297,064,000", and insert "$247,514,000"

On page 47, after line 22, insert the following: ": *Provided further,* That $2,000,000 appropriated under the account entitled "Alternative Fuels Production" in Public Law 96-126 (93 Stat. 970 (1979)), for project development feasibility studies, is hereby transferred to this account to be used until expended for a jointly funded feasibility study of a Western Hemisphere alternative fuels facility which would utilize coal exported from the United States.".

On page 48, line 7, strike "$222,000,000", and insert "$226,500,000";

On page 48, line 12, strike "$317,790,000" and insert "$264,530,000";

On page 48, line 13, strike "$64,000,000", and insert "$24,000,000";

On page 48, line 20, strike "*Provided,* through and including "contribution", line 24;

On page 49, line 7, strike "to continue", and insert "for program management";

On page 49, line 16, strike "$31,106,000", and insert the following: "$33,106,000, of

which $2,000,000 shall be available only for expenses in issuing prohibition orders under the Powerplant and Industrial Fuel Use Act and other related laws.".

On page 50, line 6, strike "$58,800,000", and insert "54,500,000";

On page 53, after line 2, insert the following:

"Funds appropriated by this and subsequent Acts for fossil energy research and development activities may be used by the Secretary of Energy to enter into arrangements with the University of Wyoming, or any nonprofit corporation controlled by the university, for the purpose of encouraging research and development activities in the oil shale, underground coal conversion, and tar sands programs. In addition, the Secretary shall, subject to any terms and conditions which the Secretary may impose, transfer to the university or to such nonprofit corporation, all or any part of the Government's right, title, and interest in and to the land, buildings, improvements, fixtures, equipment and furnishings in the Secretary's custody of the Laramie Energy Technology Center at Laramie, Wyoming (including leasehold interests, buildings, improvements, fixtures, equipment and furnishings in the Secretary's custody on land not owned by the Government but which is a part of the center, where the Secretary determines that such transfer is integral to the future activities of the university): *Provided further,* That anticipated employment by the university, or such nonprofit corporation, at the transferred facilities shall not subject center employees to the restrictions of section 208(a), title 18, United States Code, with respect to participation, as Government employees, in any contract or other arrangement for work to be performed by the university entered into by the university and the Department before such transfer is completed: *Provided further,* That funds appropriated by this and subsequent Acts for fossil energy research and development activities may be used by the Secretary of Energy to enter into arrangements with the University of North Dakota, or any nonprofit corporation controlled by the university, for the purpose of encouraging research and development activities in the low rank coal program. In addition, the Secretary shall, subject to any terms and conditions which the Secretary may impose, transfer to the university or to such nonprofit corporation, all or any part of the Government's right, title, and interest in and to the land, buildings, improvements, fixtures, equipment and furnishings in the Secretary's custody of the lignite coal research laboratory established pursuant to the Act of March 25, 1948 (30 U.S.C. 401 et seq.), at Grand Forks, North Dakota. The transfer shall be deemed in furtherance of that Act: *Provided further,* That anticipated employment by the university, or such nonprofit corporation, at the transferred facilities shall not subject center employees to the restrictions of section 208(a), title 18, United States Code, with respect to participation, as Government employees, in any contract or other arrangement for work to be performed by the university entered into by the university and the Department before such transfer is completed.

On page 56, line 16, strike "$645,305,000", and insert "$623,724,000";

On page 56, line 25, strike "the first";

On page 57, line 24, strike "$37,235,000", and insert "$30,750,000";

On page 59, after line 5, insert the following: "*Provided further,* That notwithstanding current regulations, eligibility for Indian Health Services shall be extended to non-Indians in only two situations: (1) a non-Indian woman pregnant with an eligible Indian's child for the duration of her pregnancy through postpartum, and (2) non-Indians members of an eligible Indian's household if the medical officer in charge determines that this is necessary to control acute infectious disease or a public health hazard".

On page 59, line 17, strike "($46,965,000)", and insert "($49,614,000)";

On page 59, line 18, strike "($15,965,000)", and insert "($13,913,000)";

On page 59, line 19, strike "$65,519,000", and insert "$66,216,000";

On page 59, line 25, strike "$9,359,000", and insert "$7,665,000";

On page 60, after line 1, insert the following: "*Provided,* That no bonus payments or relocation assistance shall be provided to any person who was not physically residing within the Joint Use Area as of the date of enactment of this Act.".

On page 60, strike line 19, through and including "Center", line 23, and insert "$140,249,000";

On page 61, line 7, strike "$8,450,000", and insert "$7,450,000";

On page 63, line 5, strike "$100,000", and insert "$70,000";

On page 63, line 10, strike "$34,839,000", and insert "$32,228,000";

On page 63, line 11, strike "$6,100,000", and insert "$4,100,000";

On page 63, line 19, strike "$2,255,000", and insert "$2,321,000";

On page 65, line 5, strike "$102,632,000", and insert "$102,132,000";

On page 65, line 10, strike "$12,200,000", and insert "$11,700,000";

On page 65, line 16, strike "$19,864,000", and insert "$ 16,864,000";

On page 66, line 9, strike "*Provided*", through and including line 15;

On page 66, line 20, strike "*Provided*", through and including line 23;

On page 67, line 9, strike "$1,600,000", and insert "$1,000,000";

On page 68, line 4, strike "$2,350,000", and insert "$2,425,000";

On page 67, strike line 6, through and including line 10;

On page 69, strike line 1, through and including line 8;

On page 71, strike line 5, through and including line 9;

On page 71, line 10, strike "309", and insert "308";

On page 72, strike line 15, through and including line 12, page 73;

On page 73, line 13, strike "313", and insert "309";

On page 73, line 18, strike "314", and insert "310";

On page 73, strike line 22, through and including line 2, page 74;

On page 74, line 3, strike "316", and insert "311";

On page 74, line 9, strike "317", and insert "312";

On page 74, line 18, strike "318", and insert "313";

On page 75, after line 2, insert the following:

SEC. 314. The titles conveyed by and the easements and restrictions heretofore reserved and imposed by the Secretary of the Interior pursuant to section 506(c) of Public Law 96-487 are hereby confirmed in all respects.

SEC. 315. Except as expressly provided for by law, none of the funds appropriated by this Act shall be obligated to dispose, except by exchange, of any Federal land tract until such time as the agency responsible for administering the disposal of the tract has specifically identified the tract as no longer being needed by the Federal Government; inventoried the tract as to its public benefit values; provided opportunity for public review and discussion of the tract proposed for disposal; and provided 30 days advance notice of the tract proposed for disposal and of the plans for carrying out such disposal to the congressional delegation of the State or States in which the tract proposed for sale is located and to the appropriate congressional committees for immediate printing in the Congressional Record: *Provided,* That neither the Act of July 31, 1958, as amended (72 Stat. 438, as amended; 7 U.S.C. 1012a; 16 U.S.C. 478a) nor the Act of June 14, 1926, as amended (49 U.S.C. 869 et seq.) shall be subject to the provisions of this section.

SEC. 316. Notwithstanding any other provision of law, title II and title III of the Powerplant and Industrial Fuel Use Act, Public Law 95-620, shall apply only to powerplants and installations situated in the contiguous 48 States, the District of Columbia, and, where applicable, Puerto Rico and the territories and possessions of the United States.

Mr. McCLURE. Madam President, the appropriations bill for the Department of the Interior and Related Agencies for fiscal year 1983 as reported to the Senate totals $7,391,607,000 which is an increase of $841,356,000 above the budget estimate.

While this bill is over the estimate for fiscal year 1983, it is $133,070,000 below the fiscal year 1982 level and $130 million below the budget allocation given to the subcommittee.

Madam President, it was only with the excellent cooperation of the members of the full Committee on Appropriations that we were able to bring this bill to the floor. In order to meet our budget authority ceiling, it was necessary to reduce the recommendations approved by the Interior Appropriations Subcommittee by $268,709,000 when we met in full committee.

I must ask that Members of the Senate exhibit the same restraint evidenced by those on the committee. It is quite likely that through the conference process, the total amount of the bill will increase above that provided by the Senate, bringing us within a hair's breadth of our budget ceiling. In order to have any flexibility in conference, it is essential that we maintain the small margin we now have between the Senate bill and the allocation ceiling. While $130 million may sound like a great deal, it represents only 1.6 percent of our total allocation.

Madam President, once again, the Interior bill has been burdened with a number of legislative provisions. While this is not the appropriate vehicle for such items, the nearness of the end of the Congress placed additional pressures on the committee to accept these

provisions. Some Members may well find some of the provisions too broad or too limiting for their particular liking. I would urge that we not get bogged down in long discussions of these issues as most of them are quite familiar to the interested parties. If we can move quickly to votes on any amendments which are offered, we greatly increase the likelihood that the Interior bill can pass the Senate and that conference can be completed prior to adjournment.

The problems that would be faced by the Department of the Interior and the 26 related agencies funded by this bill if they had to operate for fiscal year 1983 under the provisions of a continuing resolution, to my mind, far outweight the importance of the legislative provisions contained in the bill.

Madam President, as a full explanation of all of the items contained in the committee's recommendation along with supporting tables was printed in the CONGRESSIONAL RECORD of December 9, I will not now provide the usual summary.

I call to the attention of the Members who may have looked at the CONGRESSIONAL RECORD of December 9 for the explanation of the bill that the tables printed along with the explanatory matter were separated by other intervening material and the table was printed at the end of the extension of remarks for the Senate for that day. Those of my colleagues who want to look at the tables, if they refer to the RECORD of December 9, will find the tables at the end of the Senate matter, separated from the explanatory material. But it is all present in that RECORD and in that place.

Madam President, I shall be happy to yield the floor to the distinguished Senator from Louisiana, who is, as usual, so very helpful in resolving various matters that come before us, both in the authorizing committee and, again, in the Appropriations Committee on these subjects.

Mr. JOHNSTON. Madam President, I thank my distinguished colleague, the chairman of the subcommittee. The job this year was a very difficult one and I think the chairman did an excellent job of taking care of the disparate entities that make up this bill in a fair and equitable way and getting it passed through the subcommittee overwhelmingly.

The compromises that were made were tenuous and difficult to make. I guess I am saying that I hope we do not have to face a whole lot of amendments, because these difficult compromises could be blown apart and we could end up with no bill if we get mired in too many amendments.

Madam President, the fiscal year 1983 Department of the Interior and Related Agencies appropriation bill provides a total of nearly $7.7 billion in budget authority and $8.3 billion in budget outlays for Department of the Interior programs excluding the Bureau of Reclamation, for the U.S. Forest Service, many programs in the Department of Energy and other agencies including the Indian Health Service, the Smithsonian Institution, and the Endowments for the Arts and Humanities. The Interior bill is under the ceiling established in conformance with section 302(b) of the Budget Act. That this bill is "under budget" is a tribute to the diligence of the subcommittee chairman, the gentleman from Idaho.

Madam President, I wish to highlight a few of the items in this bill which are of special interest to the Members on this side of the aisle. The bill provides $128,876,000 for Federal land acquisition from the land and water conservation fund. Also from this fund, the bill provides $75,000,000 for assistance to State recreation programs. State grants for abandoned mine land reclamation are funded at $133.5 million and low-income weatherization grants are included at $114 million; $96 million in the Bureau of Land Management and nearly $6 million in the Fish and Wildlife Service for payments to local governments in lieu of taxes is recommended by the committee. This bill would also appropriate $2 billion and $74 million in off-budget funding for acquisition and delivery of crude oil for the strategic petroleum reserve.

Lest my colleagues be misled by the term "appropriation bill," I point out that the bill contains several legislative items. Among these items is a prohibition against exploration and leasing in designated wilderness areas or wilderness study areas. A similar prohibition is included with respect to exploration in a portion of the California Outer Continental Shelf. The committee bill also requires that certain procedures be completed before any parcel of surplus Federal land may be sold.

Outside of these, Madam President, and perhaps one or two other very small ones, it is a traditional bread-and-butter Interior appropriations bill.

With that as a preface, I hope that we can proceed to consider this Interior appropriation bill in an expeditious manner, and I urge my colleagues to come to the floor as quickly as possible to offer any amendments which they may have.

Madam President, again, I hope that, since we are in the very last stages of this session and since we do need the cooperation of all Senators in order to get any legislation through this session, I hope that we shall not have a whole barnyard full of amendments. If we do, it means we shall probably end up with no bill at all. This is a good bill and ought to be passed.

I thank the distinguished chairman of the committee for yielding to me.

UP AMENDMENT 1430

Mr. ARMSTRONG. Madam President, on behalf of myself and the Senator from Virginia (Mr. WARNER), I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG), for himself and Mr. WARNER, proposes an unprinted amendment numbered 1430.

Mr. ARMSTRONG. I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

"SEC. ( ). Section 21 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," approved February 25, 1920 (41 Stat. 437; 20 U.S.C. 241) (hereinafter referred to in this Act as the Mineral Leasing Act of 1920) is amended as follows:

Add the following new sections:

"(d)(1) The Secretary may lease to the holder of a Federal oil shale lease additional lands necessary for the disposal of oil shale wastes and the materials removed from mined lands, and for the building of plants reduction works, and other facilities connected with oil shale operations (which lease shall be referred to hereinafter as an "offsite lease"), except that within the State of Colorado the Secretary may only issue one offsite lease not to exceed six thousand four hundred acres, and one or more offsite leases, the aggregate of which does not exceed six thousand four hundred acres. An offsite lease may not serve more than one Federal oil shale lease and may not be transferred except in conjunction with the transfer of the Federal oil shale lease that it serves.

"(2) The Secretary may issue one offsite lease of not more than three hundred and twenty acres to any person, association or corporation which has the right to develop oil shale on non-Federal lands. An offsite lease serving non-Federal oil shale land may not serve more than one oil shale operation and may not be transferred except in conjunction with the transfer of the non-Federal oil shale land that it serves.

"(3) An offsite lease shall include no rights to any mineral deposits.

"(4) The Secretary may issue offsite leases after consideration of the need for such lands, impacts on the environment and other resource values, and upon a determination that the public interest will be served thereby.

"(5) An offsite lease for lands the surface of which is under the jurisdiction of a Federal agency other than the Department of the Interior shall be issued only with the consent of that other Federal agency and shall be subject to such terms and conditions as it may prescribe.

"(6) An offsite lease shall be for such periods of time and shall include such lands, subject to the acreage limitations contained in this subsection, as the Secretary determines to be necessary to achieve the purposes for which the lease is issued, and shall

contain such provisions as he determines are needed for protection of environmental and other resource values.

"(7) An offsite lease shall provide for the payment of an annual rental which shall reflect the fair market value of the rights granted and which shall be subject to such revisions as the Secretary, in his discretion, determines may be needed from time to time to continue to reflect the fair-market value. Any offsite lease may, at the option of the lessee, include provisions for payments in any year which payments shall be credited against any portion of the annual rental for a subsequent year to the extent that such payment is payable by the Secretary of the Treasury under section 35 of this Act to the State within the boundaries of which the leased lands are located. Such funds shall be paid by the Secretary of the Treasury to the appropriate State in accordance with section 35, and such funds shall be distributed by the State only to those counties, municipalities, or jurisdictional subdivisions impacted by oil shale development and/or where the lease is sited.

"(8) An offsite lease shall remain subject to leasing under the other provisions of this Act where such leasing would not be incompatible with the offsite lease.

"(c) Any action seeking judicial review of a decision of the Secretary to issue a lease pursuant to subsection (d) may only be brought within ninety days following the date the decision of the Secretary is announced and made public by publication in newspapers of general circulation in the areas affected. Any claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in the United States district court for the district in which the lands to be leased are located. Notwithstanding the amount in controversy, such court shall have jurisdiction to determine such proceedings and to provide appropriate relief. Any such proceeding shall be expedited in every way by such court.

"(f) In recognition of the unique character of oil shale development:

"(1) In determining whether to offer or issue an offsite lease under subsection (d), the Secretary shall consult with the Governor and appropriate State, local, and tribal officials of the State where the lands to be leased are located, and of any additional State likely to be affected significantly by the social, economic, or environmental effects of development under such lease, in order to coordinate Federal and State planning processes, minimize duplication of permits, avoid delays, and anticipate and mitigate likely impacts of development.

"(2) The Secretary may issue an offsite lease under subsection (d) after consideration of (A) the need for leasing, (B) impacts on the environment and other resource values, (C) socioeconomic factors, and (D) information from consultations with the Governors of the affected States.

"(3) Before determining whether to offer or issue an offsite lease under subsection (d), the Secretary shall seek the recommendation of the Governor of the State in which the lands to be leased are located as to whether or not to lease such lands, what alternative actions are available, and what special conditions could be added to the proposed lease to mitigate impacts. The Secretary shall accept the recommendations of the Governor if he determines that they provide for a reasonable balance between the national interest and the State's interests. The Secretary shall communicate to the Governor, in writing, and publish in the Federal Register the reasons for his determination to accept or reject such Governor's recommendations. The Secretary's decision to accept or reject the Governor's recommendation shall not be subject to judicial review except insofar as that determination is found to be without observance of consultative actions required by this subsection.

"(g) The Secretary shall establish an "Oil Shale Advisory Council" to advise the Secretary on planning for oil shale development, leasing of Federal oil shale lands, development of oil shale resources on leased lands, and coordination of Federal and State oil shale activities. The Oil Shale Advisory Council ("Council") shall be made up of nine members, as follows: each of the State Directors of the Bureau of Land Management for the States of Colorado, Utah and Wyoming, or his designated representative; each of the Governors of the States of Colorado, Utah, and Wyoming, or his designated representative; and a local or county official who resides in a county where oil shale deposits are being developed, or in a contiguous county, from each of the States of Colorado, Utah and Wyoming, to be appointed by the Secretary from nominations made by the Governor of each of the States. The Secretary shall designate one of the State Directors of the Bureau of Land Management as Chairman of the Council. The Oil Shale Advisory Council shall operate in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. 1970 ed. Supp. II, App. I).".

Mr. ARMSTRONG. Madam President, this Nation has fantastically valuable and vast reserves of oil shale that lie waiting to play a decisive role in moving us toward energy independence. And yet, at this time, America's oil shale industry is limited to a handful of companies experimenting cautiously with several uncertain, risky, and terribly expensive technologies. Declining international oil prices and sluggish economies around the world have further decreased the likelihood of major advances in synthetic fuel technologies.

Added to all of this is the fact that Congress, after 4 years of study and deliberation, has failed to enact comprehensive oil shale leasing legislation. We have failed to establish a permanent Federal policy for the orderly and gradual development of this critical natural resource. In the 96th Congress, we nearly passed off-tract leasing legislation to solve the problem of off-site disposal for Federal lessees. That legislation died in the Senate at the end of the second session. Early in this Congress, I introduced S. 1073—the same legislative language that nearly became law in the previous Congress, where it passed the other body and was reported to the Senate by the Energy Committee, before languishing on the calendar. During the middle of last summer, however, when the other body passed a comprehensive oil shale leasing bill, attention shifted from off-tract legislation to this comprehensive package. Like the off-tract bill in the previous Congress, comprehensive leasing legislation passed the other body and was reported to the full Senate by the Energy Committee; and like that bill, this Congress comprehensive package has also languished on the calendar.

Now, as this Congress turns to the conclusion of its work, the time has come to enact an off-tract leasing policy to solve what is currently a pressing problem in western Colorado. At this point, I wish to outline this problem and the manner in which it would be resolved by enactment of this amendment.

The extent of this country's oil shale resources is nothing short of incredible. The total resource base is 1.8 trillion barrels, located in several major deposits scattered across some 17,000 square miles in Colorado, Utah, and Wyoming. Of this total, roughly 600 billion barrels are recoverable, using presently available technology. The 600-billion-barrel figure is equal to the entire world's proven reserves of conventional crude oil.

A 50,000-barrel-per-day retorting facility would need 270 years to recover just 5 billion barrels, the amount of recoverable oil contained in Colorado prototype oil shale lease C-a. A 400,000-barrel-per-day industry would require over 30 years to recover this same 5 billion barrels. But we are talking about 600 billion barrels—a resource that would take over 4,000 years to exhaust at the rate of 400,000 barrels per day.

The bulk of these resources, as well as richest deposits, are located in my own State of Colorado. For obvious reasons, I am concerned that these vast resources be developed in a responsible, orderly way that recognizes the danger of serious environmental, social and economic disruptions in my State and its neighbors.

Madam President, I believe we have tarried too long already, thereby increasing the danger that we may have to embark on a massive crash development program during another major energy crisis, brought on by an embargo, revolution, or war in the Middle East or elsewhere in the unstable world that supplies so much of our oil.

This amendment is designed to open the way for a prototype program that will work and tell us what we need to know about this new fuel and its cost-effective extraction and use. Specifically, it addresses the principal obstacle to the prototype program—an opinion by the Solicitor of the Department of the Interior that the Secretary of the Interior has no authority to issue off-tract leases.

As a result, Congress must now pass legislation which specifically grants the Interior Secretary authority to lease additional lands, off the oil shale lease. Without such authority, the prototype oil shale leasing program will not proceed.

89-059 O-86-20 (Pt. 22)

The administration, industry, and many in Congress recognize that this is an essential first step. The prototype oil shale testing program cannot proceed any further until this amendment or something similar is enacted into law. Let me explain why, using Colorado tract C-a as an example.

Tract C-a covers 5,120 acres and is estimated to contain some 9 billion barrels of shale oil. How much of this total is actually recovered, however, depends on the technology used; that, in turn, depends largely on whether Congress enacts off-tract leasing legislation.

The current lack of off-tract leasing authority effectively eliminates surface mining and modified in situ recovery methods as options, even though in some cases they may be the best alternatives from an economic and energy conservation viewpoint. They are eliminated because the law apparently requires that plant facilities and disposal sites be placed directly on top of the rich oil shale deposits, rendering much of the resource unavailable for extraction and seriously affecting recovery economics.

This leaves the in situ and room-and-pillar processes as options. However, in situ has been all but abandoned as an extraction method, at least for the two Federal leaseholds in Colorado. Room-and-pillar mining would recover only 1.2 billion barrels, or 12 percent, of the 9 billion barrels in tract C-a.

I believe we must insure that other options are available for mining this valuable resource. My amendment is intended to do this.

Modified in situ methods (in which part of the resource is mined out and retorted at the surface, and the rest is retorted in place) would raise the oil shale yield at tract C-a to around 2 billion barrels, or 30 percent of the total. Surface mining would recover 5 billion barrels or 58 percent of the total in-place resources.

Surface mining of tract C-a thus represents a potential savings of $133 billion over room-and-pillar methods, because it would increase the yield by 3.8 billion barrels at $35 per barrel. Savings like these could be repeated many times over the life of America's oil shale industry if off-tract leasing authority is enacted, and the modified in situ and surface mining options are available.

Environmental considerations also argue strongly for off-tract leasing. If more land is available for leasing, the least environmentally sensitive areas can be selected for surface facilities and disposal sites. Plant, wildlife, air and water resources can be better protected.

I turn now, Madam President, to the specific provisions of this amendment. Acknowledging the legislative skill and leadership provided by the Senate Energy Committee, and Senators McCLURE and WARNER in particular, I have taken all but the last of the following provisions from the bill that committee reported to the Senate, restricting them where appropriate to off-tract leasing issues:

The Secretary of the Interior is given express authority to lease off-tract lands to the holder of a Federal oil shale lease. Only two such leases may be offered in Colorado, neither of which may exceed 6,400 acres.

The Secretary may also issue off-tract leases, limited to 320 acres, to non-Federal oil shale developers. This is designed to solve the problem of small Federal inholdings in otherwise privately owned oil shale tracts; two shale developers, Chevron and Mobil, are currently experiencing this problem in Colorado.

Off-tract leases will not include any rights to any mineral deposits. Before issuing any off-tract lease, the Secretary must consider the need and environmental impact of the lease and determine that the public interest will be served.

Any off-tract lease must provide for an annual rental that reflects the fair market value of the rights granted. The rental fee may be prepaid, so the State's share of the fee can be used to mitigate front-end impacts of oil shale development.

Any suit against such leasing must be brought within 90 days of its announcement, and filed in the U.S. District Court for the district where the lands to be leased are located.

Before making a decision on any such lease, the Secretary must consult with State, tribal, and local officials, as agreed between Secretary Watt and Governors Matheson and Lamm.

The Secretary will in addition establish a permanent Oil Shale Advisory Council to advise him on all oil shale issues. Composed of Federal, State, and local officials, the Council is designed to streamline the current system of two oil shale advisory panels, formally include local government for the first time, and put the advisory body on a statutory foundation.

In conclusion, I strongly urge the adoption of these amendments. Off-tract leasing and these amendments are fully supported by the administration, and are essential to revive America's oil shale industry and the prototype program on which it depends. Until Congress is prepared at last to enact legislation setting up a comprehensive and permanent leasing policy, we must at the very least not construct new obstacles to those entities that are willing to lead the way to this valuable new fuel.

The package of amendments I am offering today is direct, uncomplicated, and familiar to my colleagues. I, for one, am prepared to go forward today with the comprehensive leasing package that the Energy Committee has reported to the Senate. Others, however, are not and it seems to me a great shame that the work of two Congresses should produce nothing of consequence in the field of oil shale leasing. It is therefore with a sense of urgency that I recommend this amendment to my colleagues and ask for its favorable consideration.

Let me take just a moment to repeat some provisions of this amendment, Madam President, which I hope and trust will not be controversial. It merely provides that the Secretary of the Interior may lease off-tract lands to the holder of a Federal oil shale lease.

Only two such leases may be offered in Colorado, neither of which may exceed 6,400 acres.

The Secretary may issue off-tract leases up to 320 acres to non-Federal oil shale developers to consolidate private holdings. No lease may include rights to mineral deposits, annual rent to be set at fair market value, and the Secretary must consider need, environmental impacts, and the public interest. Annual rental may be prepaid to mitigate front-end impacts of oil shale development on local communities.

The amendment includes consultation language to provide that the Secretary will deal with State, tribal, and local officials, language which has been approved by the two States affected, Utah and Colorado.

Under the amendment, any suit against such leasing must be brought in the local Federal court within 90 days. The Secretary will establish a permanent oil shale advisory council to advise him on all oil shale leases.

By way of explanation, Madam President, this amendment is needed because we are right at the point in the oil shale industry in Colorado where at least one promising project has actually been shut down because they do not have the authority to dispose of spent oil shale on an offsite location. In other words, they cannot go forward or, at least, are unwilling to go forward without this authority, which they have been seeking for nearly 7 years. After this length of time, one might suppose that a 7-year delay indicates some degree of controversy about the premise—that is, the idea of offsite disposal of shale. In fact, nothing could be further from the truth.

The 96th Congress nearly enacted offtract leasing legislation. The House passed something very similar in substance and content to what I have proposed. In addition, the jurisdictional committee—that is, the legislative committee of the Senate—has, both in this Congress and in the prior Congress, approved legislation which is essentially identical in its purpose to the amendment which I offer.

As a matter of fact—and I stress this—the proposal which I now offer consists, with one exception which I shall mention, entirely of provisions which are taken from the Energy Committee-recommended bill, S. 1484, and where appropriate, restricted to off-tract leases. The one exception has to do with consultation language which requires the Secretary of the Interior to consult with the Governors and with local officials.

I believe, therefore, there is no controversy about this. Yet, I stress it is of major importance to an industry which, itself, has great potential for our country and which is really critically important to the energy future of America.

Ordinarily, Madam President, I would not ask for such an amendment to be considered as part of an appropriation bill, but in view of the long history of delay on this matter and the fact that it is very timely from the standpoint of the development of the industry and, in fact, since August 1, at least one potential development has been on suspension pending the passage of such legislation, I do ask for its approval at this time.

Mr. RANDOLPH. Madam President, will my colleague from Colorado yield?

Mr. ARMSTRONG. Madam President, I shall be very pleased to yield to my colleague from West Virginia.

Mr. RANDOLPH. The able Senator from Colorado discusses a matter of continuing concern. There is a lack of understanding by many officials in the administration, the agencies involved, and the Congress on the basic need of undergirding the energy resources of the United States.

The Senator is a realist. It is not a fanciful but a factual development we should support of the oil shale program in the United States. This is true from the standpoint of a possible need, even quicker than we may think as we discuss this vital problem today. I speak of an alternative fuel supply.

I say this, and I hope understandably to the Senator and other colleagues, because of my 40 years of congressional knowledge of the subject alternative fuels. I recall, that the record may be complete, that in 1944 the President of the United States, Franklin Roosevelt, signed into law the Synthetic Liquid Fuels Act. It was my privilege to cosponsor this measure with Senator O'Mahoney from Wyoming.

In 1942, in the Subcommittee on Coal, I began hearings on synthetic liquid fuels in the House Mines and Mining Committee. During that period of time, I recall to the Senator, we had extensive hearings on the subject in Washington, D.C. We had extensive hearings in the field. We had the support of the Secretary of the Interior, Mr. Ickes. We had support generally, at that time, to bring this alternative fuels program into being.

We dealt then in dollar amounts which were less, much, much less than today. Then the program of synthetic liquid fuels was to cost approximately $85 million, a mere pittance of what we have been doing, and then withdrawing, in these latter year. During this long period of neglect a year or two ago we then found ourselves in this body, attempting to do a massive program.

Yet, after we had proved that it was feasible to convert oil shale into fuel in Rifle, Colo., as an alternative through the synthetic process, nothing was done. After we had proved that liquefaction and gasification of coal could turn into a fuel that was adaptable for motor and for aircraft transportation. All of this was proved. We were developing, and it was successful, forestry and agricultural products of America into fuels.

Then World War II came to an end, and everyone said, in a sense everyone perhaps that had something to do with the subject matter—I was not in Congress. I had been defeated in November of 1946. I was not here to make a legislative effort. I might have been unsuccessful. But $3 million of an amount running some $82 million in all was spent on pilot projects in proving that it could be done as the Germans were doing, not only with their ground mobile units but also as they struck at Great Britain from the skies.

Many people have misread the German attacks and why they failed. It was not that they ran out of fuels. Study and close analysis will prove that they ran out of aircraft because the decision had been made in the hierarchy of the German warmaking machine, under Hitler, that there be 50-50 attack planes and other varieties. Had it been 80 percent attack planes, without the Divine hand, we will say, that intervened, Great Britain would have been brought to its knees. It was a matter of days, or at least weeks, but it was the aircraft shot down by the British antiaircraft guns that changed that outcome.

Had we gone ahead, I ask the Senator from Colorado, with our program, would we have been on our knees to OPEC a few years ago? No, we would not have been on our knees, because we would have developed in a systematic, practical way the use of synthetic fuels in this country.

We are a nation on wheels and wings, with movement of people and products of the mine, the factory, and the field. Yes, that is our America. We are shortsighted, in my opinion, when we cut the substance of synthetic liquid fuels from the agenda on Capitol Hill or at the White House.

If I have talked too long, I ask forgiveness of my colleague. What I have said is based on fact and on a faith that I have in this type of fuel production in the United States. I fear that even now by actions within the Congress and the administration and business, and the oil industry, that we are making a mistake. We may have to pay dearly for our folly at a later date.

Mr. ARMSTRONG. Madam President, I believe that all Senators owe a debt of gratitude to the Senator from West Virginia for the valuable perspective which he has added to this discussion. It is sobering to realize, as he has pointed out, that actions which we take today may well have consequences 30, 40, 50 years from now. His reminder of how the actions of Congress in earlier decades have created the situation in which we now find ourselves I think puts into perspective not only my little amendment to this bill but much of the policymaking which occurs in this body. I thank the Senator for his important statement.

Mr. RANDOLPH. I thank the Senator.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Will the Senator from Colorado yield for a question?

Mr. ARMSTRONG. Yes, I will be happy to yield for a question.

Mr. METZENBAUM. Will the Senator from Colorado be good enough to advise the Senator from Ohio whether this measure that has been offered as an amendment to the Interior Department appropriations bill is identical or very similar to other pending legislation that is before the Senate?

Mr. ARMSTRONG. I beg the Senator's pardon. I did not clearly hear his question. Will he restate it?

Mr. METZENBAUM. I am sorry if I did not enunciate clearly.

Is this amendment similar to a pending piece of legislation that is before the Senate or is this an entirely new approach to the matter of oil shale leasing?

Mr. ARMSTRONG. Let me explain to the Senator that it is similar to several pieces of legislation. It is essentially identical to legislation which has twice passed the House, both in this session and in the last session. It is essentially identical to provision which is contained in a larger bill, that is, a bill of larger scope, which has been approved on two occasions by the Energy Committee of the Senate embodied in S. 1484.

S. 1484 goes far beyond the provision in this bill and deals in a much more comprehensive way with the question of oil shale leasing.

The purpose of this amendment is to address itself to a single, very limited, and I believe not controversial, aspect

of oil shale leasing which arises as a very timely matter for this reason.

On August 1 of this year, one of the few remaining oil shale operations in Colorado, which is to say in America, suspended its operations because it had not yet received permission to dispose of its shale from its leased tract offsite, and it did not feel it was practical to continue until it had that authority, which it has been seeking for some time, actually for 7 years.

As I say, the reason why it has been so long in getting this authority is not because, so far as I know, this is a controversial question but simply because each time the question has come before the Congress it has been wrapped in a large package or has come at the wrong time. I recall in the last week of the session 2 years ago we were in somewhat the same position we are now.

This measure had passed the House of Representatives but because it was tied up in some larger questions it was never considered separately. It is for that reason that I have offered a very narrowly defined amendment which is similar to a portion of other pending legislation.

Mr. METZENBAUM. Will the Senator from Colorado be good enough to advise how many acres of sites for shale oil waste would be involved in this legislation?

Mr. ARMSTRONG. Yes; we are talking about two sites not to exceed 6,400 acres each and in addition off-tract leasing not to exceed 320 acres which would be made available at the discretion of the Secretary to developers of oil shale on non-Federal land. This latter provision, although it is small in acreage, is designed to solve the problem of small Federal endholding in otherwise privately owned oil shale tracts.

There are two such tracts in my State where we simply have on the map a checkerboard pattern of private and nonprivate land and so that 320 acres is designed to accommodate that circumstance.

Mr. METZENBAUM. Will the Senator from Colorado be good enough to advise the Senator from Ohio as to the price at which that acreage would be leased and whether or not it would be leased on a competitive bid basis?

Mr. ARMSTRONG. Yes; the amendment states in section 7 that an offsite lease shall provide for the payment of an annual rental which shall reflect the fair market value of the right granted. It does not require competitive bidding but, of course, competitive bidding would really not be in order for this kind of lease because the only person to whom it would be useful would be someone who already has a lease for the oil shale to be developed. In other words, we are not conveying any new mineral rights or any oil shale rights but only in the discretion of the Secretary the right to dispose of the spent product on an adjacent site and so there could be no competition simply because there would be only one person theoretically interested or one firm that might be interested in a disposal situation.

Mr. METZENBAUM. Is the Senator from Colorado suggesting they need 6,400 acres in order to dispose of the waste from the shale oil mining?

Mr. ARMSTRONG. The figure of 6,400 acres is by way of limitation and originally—may I ask the Senator to defer for a moment? I wish to consult staff on the point I am about to make.

Mr. METZENBAUM. Madam President, I suggest the absence of a quorum.

Mr. ARMSTRONG. Madam President, I have the answer to the Senator's question if he will withhold for just a moment.

The point I wanted to verify before I stated it publicly was this, that 6,400-acre limitation was put in by the Senate committee at the suggestion of the Senator from Colorado. The bill passed by the House of Representatives contained no such limitation, and it seemed to us that it was wise to have some outer parameter on the discretion of the Secretary, but I wanted to verify before stating it that in the original bill, which has been passed by the House of Representatives, there was no such limitation.

Mr. METZENBAUM. Is it not possible under this amendment of the Senator from Colorado for the holder of a shale oil lease, perhaps property containing thousands of acres or whatever, to be able to obtain from the Government on a negotiated basis 6,400 acres which ostensibly is to be used for waste but could actually contain substantial shale oil deposits?

Mr. ARMSTRONG. I call the Senator's attention to the language of the proposed amendment, section 3, which states:

An offsite lease shall include no rights to any mineral deposits.

The Senator's point is well taken, but I believe we have accommodated that concern in the language of the amendment.

Mr. METZENBAUM. As the Senator from Colorado knows this body has brought this amendment on an appropriations bill without any prior knowledge, without any chance for any of us to study this measure, and it proves again very conclusively that on an appropriations bill there should not be legislation attached.

As the Senator from Colorado well knows it violates the rules of the Senate. The Senator from Ohio admits that he does not know all that this amendment contains because he was taken by surprise by it being offered today.

The Senator from Ohio was under the impression we would be discussing and dealing with matters having to do with the appropriations process. It is a very legitimate process. It was a logical reason for us to be here as called back by the President of the United States.

But every time this body attempts to move to deal with that which it is called back for, and that is for appropriations bills, certain Members of the Senate feel that that is a ripe and opportune time to add to the legislation, and that is what we have in this instance. We have a legislative proposal that has not moved as rapidly as some might want it to move, and some might think it should move. But it makes sense that this amendment not be included and that we go ahead with the appropriations process.

I have already indicated to the leadership of the Senate that I would go out of my way to cooperate in every instance so that we may move forward with the appropriations bills, those being the matters for which we were called back into the special session.

But now we are asked to legislate on this measure, and I have no reservations in saying that if it is the intent of the Senator from Colorado to press forward with this amendment then the Interior appropriations bill will probably not be brought to a conclusion here in this session of Congress. I do not believe it should be because it is my opinion that this matter is not appropriately offered as an amendment to the appropriations bill.

Madam President, I raise a point of order that this is legislation being attached to an appropriations bill.

Mr. ARMSTRONG. Madam President, will the Senator withhold his point of order briefly?

Mr. METZENBAUM. I certainly will.

Mr. ARMSTRONG. If Senator will withhold temporarily, let me just make a couple of observations.

First, let me say that in general I agree with his predisposition against legislative amendments to appropriations bills. I think it is unfortunate that it has become increasingly customary for such amendments to be added to money bills.

But I do not want to leave the impression for anyone who might casually read this RECORD or any spectator who may be observing this Senate that somehow the amendment which I have offered is an unusual one.

On the contrary, during the course of the consideration of appropriations bills many, sometimes dozens, even scores, perhaps hundreds of legislative provisions are routinely adopted as part of the appropriations process.

I do not suggest that this is a desirable way of doing business, but it is a fact of life.

Now, the Senator is correct that legislation on an appropriations bill does violate the rules of the Senate unless

it is specifically approved. There is a defense which I can raise, and I am not disposed to make that kind of an issue out of this particular amendment, but I merely appeal to the Senator to withhold his point of order and just recount again the reasons why.

First, because the oil shale industry is important to the future of our country, and it is in the process of shutting down.

I happen to be well informed about this because virtually all of the oil shale industry exists within my State.

One of the few remaining viable projects of the oil shale industry suspended its operations on August 1st of this year pending the approval of legislation to permit it to dispose of its spent shale off site. This is authority which it had been seeking through general approval for a number of years.

The amendment which I have offered, while it is, in the sense the Senator has suggested, misplaced on this bill, has been previously approved in spirit and in substance on two occasions by the House of Representatives and without any great controversy, and has on at least two occasions been approved by the jurisdictional committee of the Senate.

So I would hope the Senator will see fit to withhold his point of order and let the amendment be adopted.

May I also say we have reason to think it would be acceptable to the House because of previous passage.

Mr. JOHNSTON. Madam President, will the Senator yield?

Mr. ARMSTRONG. Yes, having made my case I yield.

Mr. JOHNSTON. You do not have to be a parliamentary whiz around here to know that at this late hour nothing is going to pass except virtually by unanimous consent, and from what I just heard the Senator from Ohio say this amendment or indeed the whole bill is not going to pass unless you can get his consent.

Mr. ARMSTRONG. I think that is correct, and I would be grateful if he would not make his point of order, and I will withdraw the amendment. I would not want to hold the bill in hazard over my amendment. I think my amendment is a worthy one, but it would not serve either the Senator from Colorado or the oil shale in Colorado to cause any problems for the appropriations managers.

Mr. JOHNSTON. I was going to suggest that perhaps the best way to do it is to temporarily set the amendment aside and get together with the Senator from Ohio, if it is possible.

Mr. ARMSTRONG. I would defer to the Senator's suggestion or any thought he has, and I hope if the Senator had any chance to consider it, he would not be disposed to move his point of order.

Mr. METZENBAUM. Madam President, I would like to suggest to the Senator from Colorado at this point that he withdraw his amendment and that between now and tomorrow, when we hope to dispose of this measure, that his staff and mine take a look at it.

I do not know all of the provisions of it. I think there are six pages to the amendment. I do not have any real problems about finding a site for waste disposal. I cannot conceiveably believe that you need 6,400 acres for each of two sites for waste disposal.

I would suggest that we do some examining to see whether or not it is not possible to find a correct amount of acreage needed and to look at the other provisions and, perhaps, by the morning be able to work out something that the Senator from Ohio would not find objectionable, and at this moment rather than let it be set aside I suggest it be withdrawn and it can be reoffered at a later point.

Mr. ARMSTRONG. I am grateful to the Senator from Ohio for his forbearance and for his suggestion.

I do ask unanimous consent that the amendment be withdrawn without prejudice to possibly offering it tomorrow.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment at this time and the amendment is withdrawn.

UP AMENDMENT NO. 1431

Mr. GORTON. Madam President, I have an amendment at the desk which I ask be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington (Mr. GORTON) proposes an unprinted amendment numbered 1431.

Mr. GORTON. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, amend the Section of H.R. 356 in Title I, entitled Fish and Wildlife and Parks, National Parks Service, Land Acquisition and State Assistance, by adding $10,700,000 to the total for expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Forest Service, all of which additional amount is for the Olympic National Park.

On page 9, line 10 amend the section of H.R. 7356 in Title I entitled Fish and Wildlife and Parks, United States Fish and Wildlife Service, Land Acquisition, by adding $4,000,000 to the total for expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C.4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, all of which additional amount is for the Protection Island National Wildlife Refuge.

Mr. GORTON. Madam President, the amendment I propose would add $10.7 and $4 million respectively, to two appropriations totals in the pending legislation. Those totals are in the fish and wildlife and parks, National Parks Service, land acquisition and State assistance appropriation, and the fish and wildlife and parks, U.S. Fish and Wildlife Service, land acquisition appropriation, respectively.

In 1976, the Congress passed Public Law 94-578 in which $13 million was authorized for acquisition of lands within the Olympic National Park in the State of Washington. The lands authorized for acquisition were inholdings within the park and were part of an overall plan to reduce the size of park expansion and limit impacts on the Federal Government. The same legislation directed the Secretary of the Interior to report to Congress on additional acquisition needs after 3 years.

The initial $13 million was appropriated and spent. The Secretary later reported that an additional $10.7 million was needed to complete the planned acquisitions. This $10.7 million, the subject of this amendment, would be used according to the Secretary, to complete acquisitions in the Point of Arches-Shi Shi Beach coastal area and along the shoreline of Lake Ozette that were identified for acquisition in 1976 by Public Law 94-478, and to complete land transfers with corporate owners designed by Public Law 94-578 to limit park expansion.

It is important that these funds be appropriated now rather than be put off to future years. Though private individual and corporate property owners came together in 1976 and agreed to a plan of property acquisition with the National Park Service, that plan being memorialized in Public Law 94-578, those parties cannot be expected to hold their properties from active use or sale for other purposes indefinitely. It is the responsibility of the Federal Government to carry through with its acquisition plans. The $10.7 million here involved is necessary for the Federal Government to do so.

Acquisition of land by the Federal Government is, like many Federal activities, subject to procedural requirements. In this case, they are there to protect sellers. These procedural requirements, including reviewed property appraisals and offering procedures, take time and cost money. Too much delay in appropriation of the money necessary for acquisition of property can create a need to commerce this procedural process anew. Consequent-

ly, what may appear to be an economy in deferring purchase of property may actually become an expense in duplicative procedural costs.

Postponement of purchase of properties has, in recent years, resulted in higher prices paid for property, the fair market value of which has escalated over time. Though this has perhaps not been the case in the last 2 or 3 years, land value increase will certainly recur. If we act now with acquisition, this can be avoided.

It is important to the cause of land preservation that an appropriation be made for purchase of real property at the Protection Island National Wildlife refuge. Protection Island is an important seabird habitat which wildlife preservation groups have been concerned about saving from development for some years. Those groups have been raising money from among themselves during recent years and have been purchasing development lots on Protection Island as they became available for sale as they awaited congressional action in the creation of a national wildlife refuge on Protection Island. Creation of the refuge was accomplished this year by passage of H.R. 1486, Public Law 97-333.

One provision of H.R. 1486 provided that the U.S. Fish and Wildlife Service and Protection Island landowners may agree to transfer property to public ownership at the assessed value of the property in the first 2 years after the first appropriation for land acquisition. This provision does not limit other fair market value transactions. It is my understanding that the land preservation groups which have purchased lots over time now stand ready to engage in such transactions. Their purpose for acting as promptly as possible is to liquidate their investments in preservation so that they may pursue other purchases which they regard to be important to land preservation.

The U.S. Government has reached the point in land preservation when we must rely greatly on the resources of private groups and individuals in accomplishing the greatest amount of preservation at the least public cost. The sequence and timing of land acquisition is a most valuable tool in enhancing the purchasing power of the funds we will have available. We should not, by postponing the appropriation of funds for purchase of property at Protection Island, lose the timing advantage which preservation groups have given us by making purchases before property values escalated or when they were stressed. Likewise, we should not lose the advantage we create for ourselves by restoring liquid capital to those groups who will commit it to other preservation purposes.

We do not know whether the cost of property acquisition at Protection Island will be significantly higher if acquisition is postponed. We do know, however, that the difficulty of delivering potable water to the island and a county imposed construction moratorium have discouraged property value escalation during the past several years. Because potable water could be delivered to the island in the future, and because the construction moratorium could be lifted, it would be wiser to purchase the property now, rather than wait. For this reason, it would be wisest to appropriate acquisition funding in this appropriations bill.

I can say this evening that this amendment covers two subjects. It proposes to add $10.7 million and $4 million, respectively, two appropriations totals in the pending legislation, one for the acquisition of property within the outer boundaries of the Olympic National Park in the northwest part of the State of Washington, which has been sought for many years, a portion of which has already been purchased.

Because this is privately owned land and because much of it is valuable timberland, it is important that a matter which began a number of years ago now be brought to a speedy conclusion.

Second, there is a $4-million appropriation in this amendment for the acquisition of Protection Island which was, by action of this Congress, made a national wildlife refuge.

The property on that island falls into two categories: some purchased by private organizations pending the creation of the wildlife refuge, such as Nature Conservancy which would like to get their money out of it; additional moneys for acquisitions without serious contest and at the presently assessed valuation by Jefferson County, Wash.; and, third, of course, for purchases which might have to go through condemnation or other types of purchases.

It is important to note that each of these items is included in the House version of this bill which is before us at the present time.

I also understand that the distinguished chairman of the Appropriations Subcommittee, the chairman of the Energy Committee, whose support in passing the creation of the wildlife refuge at Protection Island, was absolutely essential does have some comments to make in this respect.

● Mr. JACKSON. I am pleased to join Senator GORTON in offering an amendment which would provide $10.7 million out of the land and water conservation fund to complete acquisition of lands in the coastal unit of Olympic National Park.

In 1976, Congress passed Public Law 94-578 which adds Shi Shi Beach, Point of Arches, and the Lake Ozette shoreline to Olympic National Park. The 4,000 acres that were added to the park include outstanding examples of wilderness coastline and primeval stands of coastal hemlock, spruce, and western cedar. To date, only about half of the privately owned land involved has been acquired.

Madam President, a $10.7 million appropriations at Olympic National Park would be well spent. Most of the property to be acquired can be purchased from willing sellers with little controversy. The only fear is that if adequate funds are not appropriated, some lands may be adversely developed or logged. Along Lake Ozette, for example, storms have blown down timber on privately owned property. The current owner, ITT Rainer, has acquired all the necessary permits but has responsibly refrained from harvesting these logs in the national park. If the Park Service is not able to purchase this property soon, it is likely that roads will be constructed and the full timber removal process will take place.

Therefore, Madam President, I am hopeful that we can provide the funds necessary to complete these transactions and avert the threat of logging and development within the authorized boundaries of Olympic National Park.

Madam President, I support Senator Gorton's amendment to the Department of the Interior appropriations bill for fiscal year 1983 which would add $4 million for the acquisition of lands and waters for the Protection Island National Wildlife Refuge.

Legislation to create a national wildlife refuge on Protection Island was signed into law on October 15, 1982. The enactment of this measure was the result of patience and hard work on the part of many individuals who realized the importance of providing a habitat for a broad diversity of bird species. We are eager to see that the money authorized for the necessary land acquisitions on the island be made available so that the refuge will actually be established.

Mr. McCLURE. Madam President, the Senator from Washington has stated the background of both of these matters. The Olympic Park matter has been around for a long, long while. I would anticipate when we get to conference with the other body on this appropriations matter we will probably be able to accommodate the full amount of money that has been asked for with respect to this particular project.

On the Protection Island, that is a very new matter having just been authorized this year.

I am aware, as Senator GORTON has stated, that we can satisfy a part of the immediate pressure with about 25 percent of the total funds.

Mr. GORTON. The Senator is correct.

Mr. McCLURE. It would be my anticipation, although we have not included it in this bill, it is in the House bill, the full $4 million, and again I think we can accommodate in the conference the $1 million figure that will satisfy the immediate pressure on Protection Island and get well started on the acquisitions there.

I hope that action will be satisfactory to my colleagues from Washington.

Mr. GORTON. As has been the case in my entire 2 years in this body, the Senator from Idaho is both understanding and very, very generous with my specific requests, and on that gracious undertaking on his part, I ask unanimous consent to withdraw the amendment.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia or the Senator from New Jersey.

COMMITTEE AMENDMENT STRIKING SECTION 108 VITIATED

Mr. BRADLEY. Madam President, I ask unanimous consent that the action of the Senate agreeing to that part of the committee amendment striking section 108 be vitiated, and that the committee amendment which was proposed to strike section 108 found at page 37, lines 9 through 23 be laid on the table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Section 108, at page 37, lines 9 through 23, referred to above, is as follows:

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of the following tracts within the Block, Hudson, Toms, Carteret, Lindenkhol, Spencer, Wilmington, Baltimore, Washington, or Norfolk Canyons of Outer Continental Shelf Lease Sale Numbered 76: Block Canyon, NK 19-10: 945, 946, 989, 990; Hudson Canyon, NJ 18-3: 290, 291, 334, 335, 336, 379, 380, 423-427, 467-471, 513-515, 558, 559; Toms Canyon, NJ 18-3: 815, 859; Lindenkohl Canyon, NJ 18-6: 193-194; Wilmington Canyon, NJ 18-6: 491, 492, 535, 536, 579, 580, 624; Baltimore Canyon, NJ 18-6: 750, 751, 794, 838, 882, 883; Washington Canyon, NJ 18-8: 515, 516, 559, 560, 604; and Norfolk Canyon, NJ 18-8: 907, 908, 909, 951, 952, 953, 997.

Mr. McCLURE addressed the Chair.

Mr. BRADLEY. Madam President, will the Senator yield? Is the Senator going to speak to that matter?

Mr. McCLURE. We have no objection. I just want the RECORD to reflect that we have no objection.

The PRESIDING OFFICER. The request is granted.

Mr. BRADLEY. I thank the Senator for his consideration.

As the result of this action, roughly 60 tracts or land off the coast of New Jersey will be withdrawn from an OCS sale No. 76. These are environmentally sensitive areas which are the breeding grounds of the tilefish, an essential part of the $1 billion New Jersey fishing industry. The action taken by the Senate removes those from the OCS lease, pursuant to the desire of the New Jersey State Department of Environmental Protection.

As I understand, this action of the Senate restores the House language in full and the items, therefore, are not conferenceable. I thank the Senator from Idaho.

Mr. MATTINGLY addressed the Chair.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator from Georgia.

OCONEE RANGER DISTRICT IN GEORGIA

Mr. MATTINGLY. Mr. President, I would like to draw the attention of the distinguished subcommittee chairman to the comments made in the committee's explanatory statement dealing with the Oconee Ranger District in Georgia. The House bill prohibited the use of any funds for design or construction of this project. The committee's explanatory statement does not concur with that prohibition.

Mr. President, I believe the House position is correct. I do not believe the expenditure of any funds for this new facility is warranted. Although no funds are provided in this bill for the project, I believe that it is important that the record reflect a united position between both Houses on this matter. I have previously notified the Forest Service of my position in regard to this proposal. There is no need at this time to proceed with this proposal and I would appreciate the Senator's consideration of adopting the prohibition applied by the House.

I would also like to add my many thanks to the Senators in the past for complying with the needs of my State.

Mr. McCLURE. Mr. President, I thank the Senator from Georgia for the clarification that he has provided for the RECORD.

The committee language was inserted in the report on the basis of an appeal from the Forest Service, which pointed out that, first, there were no funds included in the fiscal year 1983 budget for this project, and, second, that there were potential cost savings that could occur if the consolidation of the two ranger districts proceeded.

The committee report, unfortunately, does not reflect the position of the Senator from Georgia and the committee will concur with his suggestion of adopting that prohibition stated by the House report.

Mr. MATTINGLY. I thank the Senator.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Is the Senator from Idaho finished with that last item?

Mr. McCLURE. Yes.

Mr. LEVIN. Mr. President, I would like to make a parliamentary inquiry at this point. Is section 108 of the committee bill subject to a point of order on the ground that it is legislation on an appropriations bill?

The PRESIDING OFFICER. Section 108 of the bill, as amended by the committee, found on page 39, does contain legislative proposals and, therefore, constitutes legislation on an appropriations bill.

Mr. JOHNSTON. Mr. President, will the Senator withhold on the point of order before he makes one, if he intends to make one?

Mr. LEVIN. I am happy to.

Mr. JOHNSTON. Could the Senator tell me what the objection to that provision might be?

Mr. LEVIN. The original provision of the Alaska lands bill provided that either the Geological Survey or private individuals could be doing the surveying which is at issue, the investigation which is provided for into these lands. But, by not having this provision, it in effect said if one private company gets information about those lands then it would have to share that information with other companies, which made it more likely that the Geological Survey would be doing the investigation, because not many commercial companies would be likely to be doing the investigation under those constraints. So the U.S. Geological Survey would be more likely to be doing the investigation, which is fine with me, because their investigation would be much more environmentally sensitive, in my opinion, or more likely to be environmentally sensitive, than would be private companies.

Now we come along and amend the Alaska lands bill and, in effect, what we will be doing here is making it somewhat less likely that the investigation of those lands will be as environmentally sensitive as it would be if the Geological Survey was doing the investigation. So before I would be willing to see this kind of change in the Alaska lands bill, I would like to see some change in this language which would provide this protection to the private folks, providing they use the most environmentally available sensitive means of investigation. If they use the most environmentally reasonable available means of investigation, then I would think we ought to give them the protection that the committee obviously wants to give them. But, in the absence of that, I would much rather have the Geological Survey doing the investigation.

So I would raise the point of order, unless we could work out some lan-

guage which says we will grant this protection to these companies if they are certified by the agencies using the most environmentally sound method of investigation.

Mr. JOHNSTON. Mr. President, I will not debate this at great length because I think if the Senator does make the point of order, the point of order, as the Chair stated, would be sustained.

I think the Senator's analysis is correct, that is to say private companies are not likely to go in and make this assessment if the results of that assessment are available to all competitors. But what we are talking about is a $61 million price tag, according to CBO, and under the law if private companies do not do it then USGS is required to do it. So what you are doing is requiring USGS to spend $61 million that otherwise would be spent by private contractors and under this language the results of what the private contractors did would be available. It simply would not be available to be used by a competitor.

I would further invite the Senator's attention to the plain fact that the USGS does not have any rigs or geophysical units to go out and do this kind of work. They would have to contract to do it.

Now, the circumstances under which they would contract to do it are the very same circumstances that they could require private individuals to do it. So, in other words, to require USGS to do it does not determine at all the conditions under which it is done. The safety factors, the guidelines, those are likely to be precisely the same whether it is done by USGS contracting it out to private industry or by USGS putting it up for bids for private industry.

If the Senator is concerned about the standards, then the Senator's amendment will not affect that. All the Senator's amendment would do would be to cost taxpayers $61 million, to use the CBO figures, and it would not get you any additional environmental protection.

So I wonder if the Senator would take that into account in his point of order.

Mr. LEVIN. I thank my friend from Louisiana. The key words that he used in his statement are, that it is more than likely to be as environmentally sound. It perhaps is likely, but if the language were added which I suggest—and I think it can be easily added because it does not contradict what the Senator says—it would not be just more likely, it would be assured that the most environmentally sound approach would be used by private entrepreneurs.

I have no objection to using private entrepreneurs and allowing them to go in and look and giving them protection. I do not have any concern about that, other than the one I mentioned.

I would like to save the money, but not at the environmental expense. I think we can accomplish both by language which says that the protection given to the information that is obtained by these private companies will be protected and need not be open to their competitors providing they use the same method which would have been used by the Geological Survey had they gone in. That is all I am after.

I am not trying to spend the $61 million. I am trying to use the same environmental protection that the Geological Survey would have used had they gone in.

Mr. McCLURE. Will the Senator yield?

Mr. LEVIN. Yes.

Mr. McCLURE. Mr. President, I wish to underscore what the Senator from Louisiana has said and add just one other point.

First of all, I understand that the Senator does not desire to prohibit this exploration. He just wants to make sure if it is done, by whomever it is done by, that it is done in the same manner with suitable protection for the environment.

I think if we look back at the Alaska Lands Act, the law that provides for this exploration program, you will find that there are very specific protections written into that act with respect to any of the exploration programs that would take place under it. There is no exception to say that the USGS will do it one way and the private sector can do it some other way. The protection required by that act is, without exception, to require them to do it in a way that does take adequate protection for the environment.

If I understand the Senator to say that what he wishes is a specific provision that says there can be no variation in the requirement between USGS and the private sector, then I would have no objection to that. I think that is implicit in the law that is already on the books. I would have no objection to making it explicit if that will satisfy the concern that the Senator has expressed.

Mr. LEVIN. I thank the Senator from Idaho. I was very much involved in this portion of the Alaska lands bill. I am troubled to see the Alaska lands bill reopened at all on an appropriation bill. I think it is inappropriate, to coin a phrase there, for us to use an appropriation bill to open an Alaska lands bill. But I wanted to be certain that if we are going to do this that we are going to use the most environmentally sound method. Now, we have that guarantee here because, in effect, the private folks are not going to go in under the existing law. It is going to be the Geological Survey that is going to go in, and that means probably no one will. So the environment is protected right now, in effect, by the stalemate.

I want to protect the environment in a different way. I think we can work out language. We can take a little time on this and work out language. The regulations proposed by the Interior Department are not adequate in this regard. I want to be sure that if we are going to open this up, that we open it up to people that will use at least as environmentally safe methods of exploration as the Geological Survey.

Mr. McCLURE. Do I understand the Senator wants to write descriptive language, to write the regulations for the Department with respect to entry on the wildlife refuge? If that is the intention of the Senator, I will join in his request to have this section stricken because I have the same concern he has about piecemeal amendments to the Alaska lands bill. I do not want to get into rewriting that provision in that way any more than the Senator does. I hope we will not get to that point because I do not think we have that kind of a problem if what he is really saying is all we want is to make sure that whoever goes in there from the private sector does just as good a job as the Geological Survey does.

Mr. LEVIN. We want the language to require them, if they go in, to use the most environmentally safe method of exploration.

Mr. McCLURE. The Senator has said that.

Mr. LEVIN. This is not the place to argue legislation. We are on an appropriation bill. We are doing here exactly what appropriation bills are not designed to do.

But I see two alternatives. I do not have any great desire to see this legislation on the bill at all, to tell the truth. I would move to strike the legislation.

Mr. McCLURE. I detected that.

Mr. LEVIN. But if there is a desire to proceed with it so that these companies can, as a practical matter, go in, then I think we should write language here which requires them to use the most environmentally sound means of exploration which are available.

Mr. McCLURE. The Senator refers to the fact that he was active in the consideration of the Alaska Lands Act. That was written rather carefully, I believe. I would refer to the provisions which are already in the act, section 1002, subsection d, going on with exploration plans which are in subsection 3; subsection f, modification to exploration plans; subsection g, taking the three pages of the act.

Mr. JOHNSTON. Will the Senator yield?

Mr. McCLURE. We can carry that language forward. There is a rather detailed requirement with respect to these exploration plans. If the Senator

is saying that that law was inadequate, that we need to rewrite the law, that is something else again.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. LEVIN. I yield.

Mr. JOHNSTON. Would the Senator accept this restatement of what he said, and I think it is virtually verbatim, that at the end of section 108 add the following: "The Secretary shall be regulation insure that the environmental standards employed by any nongovernment party obtaining such information shall be at least as stringent as those employed by a Federal agency had it obtained the information"?

Mr. LEVIN. I would like to write language in here which assures that any investigation or exploration use the most reasonably safe environmental methods available. If we are to open the bill this way—and I am not happy about opening it. The Senator from Alaska is here. I think he knows the kind of work which we did to this bill. We are reopening the bill. We are reopening the bill here and if we are going to reopen it, it would seem to me that we ought to protect that environment to the same extent that it is protected now.

Mr. JOHNSTON. What I just gave the Senator is what he asked for.

Mr. LEVIN. I asked for two things and the Senator gave me one. What I asked for was that they use at least the same methods that the Geological Survey used. I also said that they would use the most environmentally safe and protective option that is reasonably available to them in their exploration.

Mr. JOHNSTON. Who defines that?

Mr. LEVIN. The Secretary of the Interior.

Mr. JOHNSTON. By rule?

Mr. LEVIN. By rule. What is the most environmentally safe method that is reasonably available?

Mr. JOHNSTON. The Senator sort of has us over a barrel here. We have not sought to change the standard. Indeed, we have not changed the standard at all. We simply make it workable.

Mr. LEVIN. But that would change the amount of exploration there is going to be.

Mr. JOHNSTON. No, it does not.

Mr. LEVIN. There will be more exploration by this. Again, I am not trying to stop it. I want to make sure that it is environmentally safe if we are going to permit it. Originally, this was all going to be done by the Geological people. Then we changed it in the bill to allow private people to do it. There were some protections on that which had to do with sharing of information, which reduced the likelihood that they would do it.

Mr. JOHNSTON. It may have been originally planned that way. I do not know in whose mind but not in the Senate committee which drew up the bill.

Mr. LEVIN. During the debate on this bill, this was opened up for private exploration. I understand that. But there is less likelihood of there being private exploration with the present restrictions of information sharing.

The Senator wants to eliminate that protection of the environment, which is something which I think is reasonable, but I would like to add a protection in the process, which is that the method which is the most environmentally safe that is reasonably available be utilized. I think that does what the Senator needs in terms of opening this up to private enterprise, and I think it protects the environment in the process. I think we can word that so that it protects both interests.

Mr. JOHNSTON. Can the Senator propose such an amendment?

Mr. LEVIN. We would be happy to work with the staff to try to do that.

Is the manager's intention to proceed to a vote on this matter tonight?

Mr. McCLURE. Will the Senator yield?

Mr. LEVIN. I yield.

Mr. McCLURE. I do not think there is any prospect at all that we will get to final passage of this matter tonight. We will be back on the bill tomorrow morning, and there will be the opportunity to discuss these matters both between now and then and again at that time, if necessary.

Mr. LEVIN. I thank the manager.

Mr. McCLURE. I do understand, Mr. President, that the Senator has not pursued the point of order at this time but reserves the right to pursue that point of order at a later time during the consideration of this bill.

Mr. LEVIN. The Senator is correct. I thank the Senator.

Mr. McCLURE. Mr. President, for the information of all Members, we hope to be able to resolve the matters that are not controversial, matters that we can resolve, this evening, with discussions, with making the record, and by agreement. It would not be my intention to ask for or press for rollcall votes at any time past the hour of 6:30. If Members are concerned about rollcall votes at a later time, I will either attempt to get those put off until tomorrow or put the issue off until tomorrow so we will not have to have any rollcall votes past the hour of 6:30 this evening.

In the event we are not able to do that, then I believe it is the leadership's intention that if we got to such a point, we would recess pursuant to the previous order, so Members may know that they will not be compelled to come back to the floor and vote past the hour of 6:30 this evening.

Mr. STEVENS. If the Senator will yield, that is the intention of the leadership, Mr. President, that if there is not a rollcall commenced by 6:30 p.m., we shall announce that there will be no further rollcalls this evening. There are still a few minutes to go in case somebody raises the issue here now. The Senator from Idaho is going to continue to work out consent items here. As soon as those have been disposed of, we shall have a short call of consent item matters subject to approval of the minority leader. We do not intend to be in session much after 6:30 tonight.

Mr. SPECTER. Mr. President, I call the attention of the distinguished Senator from Idaho to the conversation which he and I had when this matter was in the Appropriations Committee concerning the Westinghouse fluidized bed coal gasification process at Waltz Mill, Pa., which has been funded by the House at $6.5 million for fiscal year 1983. This had been in the Senate bill formerly and I had intended to make an amendment in the Appropriations Committee to raise the funding to conform to the House level of $6.5 million, but I did not do so at that time because of the budget limitations so that the bill could come to the floor within the established ceiling.

I would like to say for the RECORD at this time that I believe the funding level at $6.5 million as established by the House to be a very reasonable figure for this project, which is the only project in the United States which is able to use every kind of coal. The Department of Energy's partial support for continued research and development would address generic environmental, health, and safety issues, and enhancement of generic data base for fluidized bed technology development.

The United States needs domestic developed versatile gasification technology if it is going to successfully reduce its dependence on foreign energy supply.

In prior years, the Government's investment in this worthwhile program has been about 5 to 3, $55.6 to $33.8 million. By end of 1982, the cumulative investment will be nearly equal—$66 to $63 million. By 1986, the Government will have invested only $86 million to the $244.5 spent million by the private sector.

In the process development unit alone, the investment by the private sector will be $9.4 to the Government's $6.5, assuming that is the figure the Congress approves.

Mr. President, I suggest that this is a matter which is very important for the Nation as a whole. I hope that the distinguished chairman will see fit to do his utmost when the matter comes to conference to have the figure set by conference at the $6.5 million level.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. SPECTER. I do so yield.

Mr. McCLURE. The Senator knows the history of the Waltz Mill project. I am familiar with it from the standpoint of the information we got this year and also the history of it in past years. As the Senator has indicated, $6.5 million is included within the House bill for this project. Of course, as such, it is a conferenceable item. My expectation would be that the amounts to be included within the total coal research and development program will be compromised with the House.

In this instance, I believe that it is likely, and I think predictable, the Waltz Mill will fare very well in that overall compromise. But in order to be able to have the flexibility to negotiate with the other body with respect to all the elements of that compromise, we did not include either money in the project in this bill. I assure the Senator that it will have very good consideration and I expect that he will be pleased with the outcome in the conference.

Mr. SPECTER. Mr. President, I thank the distinguished chairman for those words. As I have learned in the context of the U.S. Senate, those words amount to a sort of magical code, which means, in effect, though no commitments are given or understood to be taken, the chairman will do what he can within the limits of the existing funding to agree with the House figure. I very much appreciate those assurances and the approach taken.

Mr. McCLURE. I thank the Senator.

UP AMENDMENT No. 1432

(Purpose: To delete language overriding the provisions of the Small Business Innovation Development Act (P.L. 97-219))

Mr. RUDMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Hampshire (Mr. RUDMAN) proposes an unprinted amendment numbered 1432.

On page 74, line 3, strike section 311.

Mr. RUDMAN. Mr. President, this amendment eliminates section 311, found on page 74 of the bill. That section very briefly reads:

SEC. 311, No part of any appropriation contained in this Act for research and development activities shall be merged with other research and development moneys appropriated by this, or by any other Act, to create a separate account to carry out the purposes of the Small Business Innovation Development Act of 1982 (Public Law 97-219).

Mr. President, I have asked that this language be removed, No. 1, because there are serious reservations as to what precisely it does. The bill referred to was signed into law by the President this year after passage by unanimous vote in the Senate and by overwhelming vote in the House. There have been concerns on the part of some of the agencies as to how this will be administered. It is my view that if this were to be adopted in the form it appears in this bill, it would be a high likelihood that by this very simple language, we might vitiate the effect of a bill passed by Congress and signed by the President.

Mr. President, I have discussed this with the distinguished chairman of the subcommittee. I believe he agrees that there are concerns in this area. I shall be grateful if he would comment on this amendment. Hopefully, the chairman might be willing to accept this amendment in the form in which it is printed.

Mr. McCLURE. Mr. President, this language is in the House bill. If we take this out, it will be a conferenceable item. We shall discuss this matter with the members of the conference. I am quite willing to take it out now, knowing that we shall have to resolve the issue ultimately in the conference.

I do know of the Senator's concern that we not divide this fund into so many small parts that it cannot be effective in any of its parts. I know of the Senator's long interest and tremendous amount of activity in furthering this program. I think this action that he has taken today is a further expression of that interest. I do not know that I can tell what will happen in the conference, but I shall be happy to agree to the amendment at this time. Then we shall have to resolve the matter more fully in the conference.

Mr. RUDMAN. I thank the distinguished chairman of the subcommittee. Obviously, as a member of the subcommittee, I look forward to working with the distinguished chairman. There are a number of forces that would like to see Public Law 97-219 stricken from the books. They have lost their fair fight in the Senate, they lost their fair fight in the House. They are now trying to find ways with a little language here and there across the entire panoply of the appropriations process to circumvent what the President supports and signed into law. I feel a lot like someone in a shooting gallery, with a little target popping up every 3 months after hitting the bull's-eye on each succeeding shot.

I thank the chairman and shall look forward to working with him in trying to convince the House in conference that they have not done the wise thing.

Mr. JOHNSTON. Mr. President, the minority has taken a look at this matter and has some misgivings about it but is willing to resolve those misgivings in favor of the distinguished Senator from New Hampshire and go along with his amendment.

Mr. RUDMAN. I thank the Senator from Louisiana.

The PRESIDING OFFICER. The question is on the amendment.

The amendment (UP No. 1432) was agreed to.

Mr. STEVENS. Mr. President, may I inquire of the Senator from Idaho if he expects any further business on this bill this evening?

Mr. McCLURE. Mr. President, I know of no one on the floor right now who wishes to offer an amendment with respect to this bill at this time. My understanding is that following the routine morning business tomorrow and upon the return to legislative action this matter will be the pending matter tomorrow morning; am I correct.

Mr. STEVENS. I believe the Senator from Idaho is correct. I would make a parliamentary inquiry to see if there is anything different the Chair might state.

The PRESIDING OFFICER. After the expiration of morning business, this appropriations bill will once again become the pending business.

Mr. McCLURE. I thank the Chair and I thank the Senator from Alaska.

Again I should like to state to Senators who are interested in the matters that may be brought up on this bill that we have a limited time tomorrow morning to deal with the issues that will be presented if we are to finish this before we return to the other matter at 2 o'clock tomorrow.

It is, of course, our practice to allow both parties to caucus during the noon hour, so we have to complete action on this bill by noon tomorrow. There are two or three items that are or possibly might be raised that have the potential for some controversy, so I would hope those Senators who have any interest in those matters will be prepared to be here first thing tomorrow morning as we go back into legislative business.

Mr. METZENBAUM. Will the Senator from Idaho yield for a question on this matter?

Mr. McCLURE. Certainly.

Mr. METZENBAUM. Are the matters about which he speaks probably in the area of legislation on an appropriations bill or do they have to do with the amounts involved in the appropriations bill?

Mr. McCLURE. They are primarily legislative matters. We touched on one with the Senator from Michigan and evidently tomorrow we will return to that matter in one form or another. The Senator from Colorado and the Senator from Ohio had some discussion earlier with respect to the oil shale matter. I expect that that will be considered again. There will be some consideration of modification of language with respect to the withdrawal of wilderness areas from minerals leas-

ing to correct what some think was an oversight on the part of the Senator from Arizona (Mr. DECONCINI) in offering that language in the full committee. Those are all legislative matters and they will be brought up tomorrow in one way or another, I suspect, and discussed somewhat further.

Mr. METZENBAUM. Does the Senator from Idaho know whether or not the Senator from Wyoming (Mr. WALLOP) intends to offer an amendment in connection with wilderness matters?

Mr. McCLURE. The Senator from Wyoming has not indicated to me that he intended to offer an amendment in that regard, although he has discussed with me his concern about the Wyoming wilderness bill. But he has not indicated that he intended to offer it as an amendment to this pending matter. He would be free to do so, I assume, but he has not so indicated.

Mr. METZENBAUM. I am happy to say to the Senator from Idaho that although I indicated some opposition to that matter before we closed down for the recess, if the Senator from Wyoming wishes to discuss the matter and the Senator from Idaho wants to convey that to him, I am willing to take another look at that issue and see if I can be helpful.

Mr. McCLURE. I thank the Senator from Ohio. There are several such matters that have cleared the authorizing committee which we still hope can be resolved and acted on in this session of the Congress. I had some discussion with the distinguished Congressman from Ohio, Mr. SEIBERLING, last evening about some of those matters and he expressed concern that they were not moving in the Senate. I indicated to him we were doing our best to get them moving.

I might say that on one or two of the items I think the other body acted rather hastily and left us with a tangled mess to unsnarl before we could act on them, but we have tried very hard to get those matters concluded. They are ready for action in the Senate. I hope we will be able to act on one or several of those matters before the end of this session. They are matters of interest to a great number of people in this country. We are close enough to being able to resolve them that I hope we can.

I thank the Senator for his suggestion.

Mr. President, I say to the Senator from Alaska that I see no one else on the floor who seeks recognition for the purpose of dealing with the pending matter. I would be ready, if the Senator is, to lay this matter aside until tomorrow morning.

Mr. STEVENS. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I am about to submit for printing an amendment in the nature of a substitute to the House-passed nuclear waste legislation, a rather lengthy document.

Mr. President, this document has either been distributed or is in the process of being distributed to the offices of all Senators.

Mr. President, this document is the result of some intensive efforts on the part of a number of people who are members of the staffs of the various committees in the Senate and in the House that have legislative jurisdiction over portions of the legislation which has been considered in various committee forums.

It represents the best effort that I believe can be made to resolve the issues that have separated individual points of view to the point that nothing was possible to be done. Each point of view effectively stalemated the others. This I believe represents what may be the maximum or the minimum effort in legislation. It is probably the best that can be done to get a bill that can be passed.

I do not say that by way of any ultimatum to any person, just that I believe that if it moves in one direction to solve one problem for the benefit of other people, it moves in other directions and creates other problems for others.

I offer it in that spirit. Indeed, this is a compromise. It is a compromise which I offer for myself, for Mr. SIMPSON, for Mr. JACKSON, for Mr. JOHNSTON, and for Mr. DOMENICI. I hope that every Senator will approach the analysis of this particular document from the standpoint that it is the last best effort to resolve, in this Congress, a matter which has troubled this country for far too long and upon which we have invested literally hundreds of hours of time by committee members and by their staffs. I hope everyone will carefully look at this matter from the standpoint that if we cannot agree on this, it is unlikely that we will be able to agree on anything in this subject matter area during the remainder of this session.

Mr. President, in that spirit and with that plea, I submit for printing the amendment in the nature of a substitute and invite the attention of all Senators to it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATORY STATEMENTS FOR H.R. 9, H.R. 5161, S. 2715, H.R. 6419, S. 1705, S. 2308, S. 2955, AND S. 2110

Mr. McCLURE. Mr. President, the Committee on Energy and Natural Resources has ordered reported a series of pending measures, which have been filed today. In lieu of a formal report on each measure given the lateness of the hour in this session, I am submitting an explanatory statement for printing in the RECORD.

I ask unanimous consent that the explanatory statements for the following reported bills be printed in the RECORD at this point: H.R. 9, H.R. 5161, S. 2715, H.R. 6419, S. 1705, S. 2308, S. 2955, and S. 2110.

The PRESIDING OFFICER. Without objection, so ordered.

The statements follow:

FLORIDA WILDERNESS ACT OF 1982

Mr. McCLURE, from the Committee on Energy and Natural Resources, submitted the following explanatory statement to accompany H.R. 9.

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 9) to designate components of the National Wilderness Preservation System in the State of Florida, having considered the same, reports favorably thereon with an amendment to the text and submits the following information thereon:

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Florida Wilderness Act of 1982".

WILDERNESS DESIGNATION

SECTION 1. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Apalachicola National Forest, Florida, which comprise approximately one thousand one hundred and seventy acres, are generally depicted on a map entitled "Bradwell Bay Wilderness Addition—Proposed", dated February 1980, and which are hereby incorporated in and shall be deemed a part of, the Bradwell Bay Wilderness as designated by Public Law 93-622;

(2) certain lands in the Apalachicola National Forest, Florida, which comprise approximately seven thousand eight hundred acres, are generally depicted on a map entitled "Mud Swamp/New River Wilderness—Proposed", dated February 1980, and shall be known as the Mud Swamp/New River Wilderness;

(3) certain lands in the Osceola National Forest, Florida, which comprise approximately thirteen thousand six hundred acres, as generally depicted on a map entitled "Big Gum Swamp Wilderness—Proposed", dated March 1980, and shall be known as the Big Gum Swamp Wilderness;

(4) certain lands in the Ocala National Forest, Florida, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Alexander Springs & Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Alexander Springs Wilderness: *Provided, however,* That the Secretary of Agriculture shall not prohibit existing motorboat use on Alexander Springs Creek;

(5) Certain lands in the Ocala National Forest, Florida, which comprise approximately thirteen thousand two hundred and sixty acres, as generally depicted on a map entitled "Juniper Prairie Wilderness—Proposed", dated November 1981, and shall be known as the Juniper Prairie Wilderness;

(6) certian lands, in the Ocala National Forest, Florida, which comprise approximatley two thousand five hundred acres, as generally depicted on a map entitled, "Little Lake George Wilderness—Proposed", dated March 1980, and shall be known as the Little Lake George Wilderness; and

(7) certain lands in the Ocala National Forest, Florida, which comprise approximately three thousand one hundred and twenty acres, as generally depicted on a map entitled "Alexander Springs and Billies Bay Wilderness—Proposed", dated March 1980, and shall be known as the Billies Bay Wilderness.

MAPS AND DESCRIPTIONS

SEC. 2. As soon as practicable after the provisions of section 1 of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by such section with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That Correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of the relevant provisions of this Act.

SEC. 4. (a)(1) The Department of the Interior shall not issue phosphate leases in the Osceola National Forest, Florida, unless and until the President transmits a recommendation to the Congress that phosphate leasing be permitted in a specified area in the Osceola National Forest. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

(2) FINDINGS.—A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on the information available to him—

(i) there is a clear and present national need for the phosphate resulting from a domestic shortage of phosphate reserves, and

(ii) such national need outweighs the overall public values of the public lands involved, including the wilderness area designated in section 1(3) of this Act, and any adverse environmental impacts which are likely to result from the activity.

(3) REPORT.—Together with his recommendation, the President shall submit to the Congress—

(i) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(ii) a statement of the conditions and stipulations which would govern the activity; and

(iii) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the President may, if he deems it desirable, include such a statement in his transmittal to the Congress.

(4) DISAPPROVAL.—Any recommendation under this section shall take effect only upon enactment of a joint resolution of Congress approving such a recommendation. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(5) NINETY-DAY COMPUTATION.—For purposes of this section—

(i) continuity of session of Congress is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day calendar period.

(b) Within sixty days of the date of enactment of this Act, the Secretary of the Interior shall, with respect to those individuals and companies (hereinafter referred to as "applicants") which have applied for phosphate preference right leases by applications numbered—

BLM-A-080538, 080539, 080540, 080544, 080545, 080546, 080547, 080548, 080549, 080093, 080297, 080298, 080299, 080801, 080975, 079903, 079904, 079905, 079906, 079907, 079956, 079957, 079958, 079959, 079992, 080004, 080027, 080028, 080048, 080067, 080069, 080070, 080632, 080634, 080638; ES-0980, 0981, 0982, 0983, 3181, and 3208,

determine if any of those individuals or companies have made a discovery or discoveries of valuable deposits in accordance with the regulations and policies in effect as of the date of the filing of the applications.

(c) Within one year of the date of enactment of this Act, the Secretary, in consultation with the applicants, shall determine the present fair market value of leases which would be issued, absent the leasing prohibition of subsection (a) of this section, for those applications for which the Secretary has determined that a valuable deposit discovery or discoveries exist.

(1) The determination of fair market value shall be based on the replacement cost of the unmined recoverable phosphate in the ground, taking into account comparable sales of unmined recoverable phosphate in the ground in the eastern United States, costs of compliance with all applicable Federal, State, and local laws and regulations, including reclamation and restoration of the land (including wetlands) and other costs normally incurred in the mining of phosphate. In determining fair market value the Secretary may contract with an applicant to perform any necessary exploratory drilling or other evaluation work and may compensate the applicant therefor through payment of money or as an addition to the monetary credit under this Act. In lieu of the monetary credits described above, the Secretary may, at his option only, offer to purchase the preference right to the applicant's lease.

(2) In the event the Secretary and any or all of the applicants cannot agree on fair market value within one year of the date of enactment of this Act, either the Secretary, or any of the applicants shall have the right to petition the United States Claims Court for determination of fair market value in accordance with the standards set forth in this subsection, and said Court shall have jurisidiction to make said determination which shall be binding on all parties for purposes of this Act subject to the right of appeal.

(d)(1) Within three months of the date of enactment of this Act the Secretary of the Interior shall enter into negotiations and shall, within one year of the date of enactment of this Act for those lease applications for which he has determined a valuable deposit discovery or discoveries exist, extend to the applicant, its successors or assigns upon voluntary surrender and relinquishment by the lease applicant of the preference right lease applications and all right to lease the land covered by such applications a monetary credit to be used against that portion of bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the Federal government on any mineral, oil or gas lease competitively won or otherwise held by the applicant, its successors or assigns. Such credit shall be used over a period of years with not more than ten percent of a the credit to be used in any one year.

(2) Monetary credits authorized pursuant to this subsection shall be based on the fair market value of the prospective leases as determined pursuant to subsection (c) of this section.

(e) The designation of the Big Gum Swamp wilderness shall in no way be construed to diminish, abate, impair, or modify any rights which may be vested in the applicants on the date of enactment of this Act for Federal phosphate preference right leases applicable to any lands within the Big Gum Swamp wilderness area designated by this Act. The fair market value of any such rights as may exist shall be determined without reference to any restrictions on access or use which may result from designation of this area as wilderness.

(f) Notwithstanding any provision of this section to the contrary, the Secretary and the applicant may mutually agree to extend any of the time limitations in this section.

(g) effective October 1, 1983, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act: *Provided,* That any payments made pursuant to this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts: *Provided, however,* That until the necessary sums are appropriated

the holder of a phosphate lease application specified in section 4(b) will retain such legal rights he may have under such application and such rights shall remain in full force and effect.

PURPOSE

H.R. 9, as reported, would add 6 areas of national forest Land in the State of Florida, totaling approximately 49,150 acres, to the National Wilderness Preservation system and add one 1,170-acre addition to an existing wilderness. The Act also bans phosphate leasing in the Osceola National Forest unless the Congress, upon the recommendation of the President, determines otherwise. It also establishes procedures for compensating present holders of preference right lease applications in the Osceola National Forest for any statutory rights to a lease which the Secretary finds they have established.

BACKGROUND AND NEED

Wilderness

H.R. 9, as reported, would designate six new wilderness areas in the national forests in Florida, totaling 47,980 acres, and would add 1,170 acres to an existing wilderness. All areas would become components of the National Wilderness Preservation System and be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act.

All seven areas comprise roadless or undeveloped National Forest System lands in Florida that were included in the Second Roadless Area Review and Evaluation (RARE II). The RARE II recommendations were forwarded to Congress on April 16, 1979.

As reported by the Committee, the new areas to be added to the Wilderness Preservation System include the Bradwell Bay Wilderness addition (1,170 acres); the Mud Swamp/New River Wilderness (7,800 acres); the Big Gum Swamp Wilderness (13,600 acres); the Alexander Springs Wilderness (7,700 acres); the Juniper Prairie Wilderness (13,260 acres); the Little Lake George Wilderness (2,500 acres); and the Billies Bay Wilderness (3,120 acres).

These proposed additions to the wilderness system are described in pp. 5-7 of House Report 97-402, Part I (December 11, 1981) of the House Committee on Interior and Insular Affairs.

OSCEOLA NATIONAL FOREST

In addition to the wilderness proposals of the bill, the Committee acted to resolve a controversy involving the issuance of phosphate leases in the Osceola National Forest, Florida. The applications for leases have been pending for twelve years due to environmental studies, to changes in Federal regulations governing mining in the Forest, and to lawsuits.

The Osceola National Forest was specifically acquired for timber production and watershed protection. It is located in Baker and Columbus counties in central Florida, and is approximately 157,000 acres in size. It is also subject to mineral leasing for phosphate deposits under the authority of the Mineral Leasing Act of 1920 (30 U.S.C. 181, et seq.), as amended, and the Mineral Leasing Act of 1947 for Acquired Lands (30 U.S.C. 351-359).

These Acts authorize the Secretary of the Interior to issue exclusive two-year prospecting permits to qualified applicants where prospecting or exploratory work is necessary to determine the existence or workability of phosphate deposits. If the prospecting permittee discovers "valuable deposits of phosphate" within the permitted area, the law states that the permittee is "entitled" to a lease on all or part of the lands covered by the permit. Lessees are also subject to such additional requirements as may be imposed by the Secretary of the Interior or Agriculture to assure the protection of the surface values of the land. The Secretary of the Interior has authority to issue a phosphate lease. However, the Secretary of Agriculture is charged with the responsibility of ensuring that National Forest lands such as the Osceola are properly utilized for the primary purpose for which they have been acquired, or are being administered.

In 1964, 92 prospecting permits covering 144,131 acres of acquired National Forest lands in the Osceola were issued by the Secretary of the Interior with the concurrence of the Forest Service. Exploration drilling indicated apparently workable deposits in western portions of the Osceola. From July 21, 1969 to May 25, 1972, four mining companies filed applications for preference right leases on 41 permit areas in the Osceola on approximately 52,000 acres of land. This area represents about 34% of the Osceola National Forest.

These preference right lease applications were filed in accordance with the terms of the prospecting permits and the applicant's mineral discovery. The Geological Survey certified an initial showing under the pre-1976 regulations on part of the 41 preference right lease applications. However, before the preference right leases could be issued, the National Environmental Policy Act was passed in 1969. Action on the preference right lease applications was delayed pending the completion of an environmental impact statement and a suit brought by the State of Florida in 1971 to enjoin the U.S. government from issuing Osceola phosphate leases on environmental grounds.

The State of Florida sued claiming that no present technology existed which would ensure that the Osceola wetlands could be reclaimed. The State was also concerned that certain endangered species indigenous to the Osceola might become extinct if phosphate mining were allowed. It claimed that phosphate mining would adversely affect the quantity and quality of water in the Osceola necessary for ecosystem maintenance and the water supply of nearby municipalities.

On June 27, 1974, the Final Environmental Impact Statement was filed. It was reviewed by the Environmental Protection Agency and judged unsatisfactory. EPA specifically expressed concerns about the impact of surface mining upon water withdrawals from the Floridian Aquifer; pollution of the Suwannee River system from such mining runoff; air quality problems associated with the chemical processing of phosphates; and the lack of any assessment of the problem of disposal of hazardous wastes associated with phosphate mining in the Osceola. As a result of this review, further examination of mining in the Osceola was urged by the Environmental Protection Agency.

On October 28, 1975, the Secretary of the Interior ordered an additional environmental impact study to further investigate the impact of mining upon Osceola hydrology and threatened wildlife species. This Supplemental Environmental Impact Statement was filed by Interior in 1979. It provided new descriptions of the types of phosphates in the Osceola, redefined the geology and water resources, and recommended mitigating measures for the endangered species in the lease area. Upon review of this supplemental EIS, the Fish and Wildlife Service and the Environmental Protection Agency submitted comments the Bureau of Land Management objecting to the issuance of any preference right lease applications in the Osceola. EPA in particular was concerned that phosphate mining in the Osceola would result in the destruction of 28,000 acres of the Osceola ecosystem, 40 percent of which are wetlands.

On June 10, 1981, the Bureau of Land Management requested the Forest Service to prepare environmental protection stipulations based on initial showings by the preference right lease applicants which by then had been submitted and approved on all 41 applications. These stipulations were submitted by the Department of Agriculture on February 3, 1982, along with notification to the applicants to submit a final showing. When the final showing is submitted, the U.S. Geological Survey will then determine whether or not any of the lease applicants have "discovered" a valuable deposit which statutorily entitles them to a lease. At present, the Department of the Interior is reviewing the 41 pending lease applications.

Despite the fact that the twelve years of delay appears to be nearing an end, the Osceola controversy continues. Growing public sentiment in Florida against mining the Osceola as expressed by public officials, the Governor and Cabinet of the State of Florida, local and regional agencies, and interested citizen groups, has prompted a renewed effort to seek a legislative resoluton of the controversy. On December 15, 1981, the U.S. House of Representatives responded to these concerns by considering and passing H.R. 9, banning phosphate leasing in the Osceola, and compensating holders of preference right lease applications for any rights which the Secretary may determine they have.

Subsequently, to underscore its continuing critical concern with the preservation of the Osceola environment, on March 25, 1982, the State of Florida passed a statute amending Chapter 403 (Environmental Control) of the Florida Statutes. Specifically, the legislature amended section 403.087 pertaining to the issuance of State permits for sources of water and air pollution. The amendment generally provides that the extraction of solid minerals from State and National Parks or Forests is prohibited if it will degrade the ambient quality of water or air within these areas. However, a proviso states the State law does not apply in the event the Federal government prohibits the mining or leasing of solid minerals on Federal parks or forest lands.

H.R. 9, as reported by the Senate Energy and Natural Resources Committee, bans phosphate leasing in the Osceola, and compensates holders of preference right lease applications for any rights which the Secretary may determine they have.

As reported, H.R. 9 is a refinement of the measure which was passed by the House on December 15, 1981. The House passed bill contained several provisions which were either deleted or changed by the Committee, primarily to lessen the fiscal impact of this Act.

LEGISLATIVE HISTORY

H.R. 9 passed the House on December 15, 1981. A hearing before the Subcommittee on Public Lands and Reserved Water was held on April 1, 1982. At a business meeting

December 7, 1982, the Committee on Energy and Natural Resources ordered H.R. 9, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on December 7, 1982, by unanimous vote of a quorum present, recommends that the Senate pass H.R. 9, if amended as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays as follows:

Yeas: Mr. McClure, Mr. Hatfield, Mr. Domenici, Mr. Wallop, Mr. Warner, Mr. Weicker,* Mr. Humphrey,* Mr. Murkowski, Mr. Nickles, Mr. East,* Mr. Heinz, Mr. Jackson, Mr. Johnston,* Mr. Bumpers, Mr. Ford, Mr. Matsunaga,* Mr. Melcher, Mr. Tsongas, Mr. Bradley.

Nays: None.

COMMITTEE AMENDMENT

The Committee adopted an amendment in the nature of a substitute to H.R. 9. As reported, this amendment differs from H.R. 9 as passed by the House as follows:

Section 4(a)(1)(ii) was amended to require that, should the President at some future date recommend to Congress that the Osceola be opened for mining, he consider both the short- and long-term environmental impacts of such mining. This was accomplished by deleting the word "temporary" on line 14, page 7 of H.R. 9 and putting in its place the word "any".

Section 4(a)(4) was amended to provide that any recommendation made by the President to permit phosphate leasing in specified areas of the Osceola in the future under the authority vested in him under Section 4(a)(1) of the bill, would take effect only upon enactment of a joint resolution of Congress approving such recommendation. A conforming technical amendment deleted Section 4(d)(1)(C) of the Act. The Committee believes that control over future phosphate mining in the Osceola should rest solely with Congress.

Section 4(c) was amended to redefine the provision on determination of fair market value. The term "phosphate rock" was deleted and replaced with the words "unmined recoverable phosphate in the ground". This change substantially lowers the potential cost of this bill. The term "phosphate rock" is a mining term referring to mined phosphate concentrate, a finished product that current sells for about $30.00 per short ton. Unmined recoverable phosphate in the ground in the eastern United States, on the other hand, is estimated to be worth about $3.00 per short ton. This amendment therefore clarifies any unintended ambiguity with respect to the amount of compensation the Committee expects to be due preference right lease applicants under this Act who establish a right to a lease. Section 4(c) was amended to delete the binding arbitration provision. All other references to binding arbitration were deleted from the bill in the form of technical amendments. The binding arbitration provision was replaced with a provision giving the Secretary or lease applicants the right to petition the U.S. Claims Court for a final determination of fair market value in the event the parties are unable to arrive at a negotiated fair market value within one year of the Act's enactment.

Section 4(d)(1) was amended to direct the Secretary of the Interior to offer a monetary credit within one year of the Act's enactment for those lease applications for which he has determined a valuable deposit discovery exists. This leaves a monetary credit and the option of the Secretary to purchase a lease right as the only methods of compensation in the Act, as reported. It also shortens the time in which such determination should be made from three years to one.

Section 4(d)(1)(A) was amended to delete the mineral lease exchange authority as a method of compensation under this Act. All references to such exchange authority were deleted throughout the bill. Testimony before the Committee indicated that mineral lease exchanges in this instance could prove unduly complex and time-consuming.

Section 4(d)(1)(B) was amended to stretch out over a period of years the monetary credits which may be extended to preference right lease applicants for relinquishing their validated right to mine the Osceola. Not more than ten percent of the credits that may be used against that portion of bonus payments, rental or royalty payments paid into the U.S. Treasury on leases otherwise held by the applicant may be used in any one year. It should be noted that this monetary credit only applies to the Federal portion of the bonus, rental, or royalty payments involved. It does not affect that portion of lease payments which would go to a state.

Section 4(d)(1)(B) was amended to eliminate monetary credits to be used for "bidding rights". Such rights are included in the term bonus bid.

Section 4(d)(1)(C) giving the Secretary the option to suspend the issuance of phosphate preference right leases until such time as the President may transmit a recommendation to Congress permitting phosphate leasing in the Osceola was deleted.

Section 4(d)(2) was technically amended to shift the language referring to fair market value determinations to Section 4(c).

Section 4(f) was amended to delete the exchange value provision.

Section 4(h) was amended to change the date by which sums are authorized to be appropriated to October 1, 1983 from October 1, 1982.

SECTION-BY-SECTION ANALYSIS

Section 1—This section adds 6 areas of National Forest land in the State of Florida, totaling approximately 49,150 acres, to the National Wilderness Preservation System, and adds 1,170 acres to an existing wilderness. The areas are as follows:

(1) Bradwell Bay addition—1,170 acres.
(2) Mud Swamp/New River—7,800 acres.
(3) Big Gum Swamp—13,600 acres.
(4) Alexander Springs—7,700 acres.
(5) Juniper Prairie—13,260 acres.
(6) Little Lake George—2,500 acres.
(7) Billies Bay—3,120 acres.

Section 2—Provides that maps and legal descriptions of each wilderness area designated in the bill be filed by the Secretary of Agriculture with the House Interior and Insular Affairs and Agriculture Committees and with the Senate Energy and Natural Resources Committee as soon as practicable after enactment of the Act.

Section 3—Provides that the Secretary of Agriculture shall administer the wilderness areas.

Section 4—Section 4(a) bans the issuance of phosphate leases in the Osceola National Forest unless and until the President determines a clear and present national need exists for the phosphate due to domestic shortages that outweigh the public values of the lands involved. The President must publish notice of his proposed transmittal in the Federal Register prior to so reporting to Congress. Any recommendation made by the President under this section shall take effect only upon enactment of a joint resolution of Congress approving such recommendation.

SEC. 4(b) gives the Secretary of the Interior 60 days after the Act's enactment in which to determine which, if any, of the holders of the 41 preference right lease applications listed in the bill have made a valuable discovery of phosphate in the Osceola National Forest.

SEC. 4(c) gives the Secretary one year after the date of enactment of the Act in which to determine through negotiations with the holders of the 41 preference right lease applications the present fair market value of any leases for which the Secretary determines a valuable deposit discovery exists, and which would be issued absent the leasing prohibition of subsection (a) of this section. Such fair market value determination is to be based on the replacement cost of unmined recoverable phosphate in the gound, taking comparable eastern U.S. phosphate sales into consideration, as well as the costs of compliance by the applicants with all mining, reclamation and restoration costs. The Secretary has the option of offering to purchase the preference right to the applicant's lease in lieu of a monetary credit provided in Section 4(d)(1). When fair market value cannot be determined through negotiation, either the Secretary or applicant may thereafter petition the United States Claims Court for a determination of fair market value. The Claims Court determination will be binding on all parties, subject to the right of appeal.

SEC. 4(d) gives the Secretary of the Interior one year in which to extend to holders of preference right lease applications with valuable deposits validated by the Secretary a monetary credit to be used against that portion of bonus, rental or royalty payments, or any combination of these options paid into the Treasury of the U.S. and retained by the Federal government, based on the fair market value of the prospective leases as determined by negotiated agreement. In the event such determination of fair market value is made by the U.S. Claims Court pursuant to subsection 4(c)(2), any award determined by the Court shall be in the form of a monetary credit. In either case, such credit shall be used over a period of years with not more than ten percent of the credit to be used in any one year. Monetary credits authorized under this section are to be based on the fair market value of the prospective leases as determined through agreement or court determination.

SEC. 4(e) provides that the designation of the Big Gum Swamp Wilderness shall in no way impair or modify any rights which may be vested in applicants for preference right leases, there, and the fair market value of such rights as may exist shall be determined without reference to any restriction on access or use resulting from the designation of this area as wilderness.

SEC. 4(f) allows the Secretary and applicant to mutually agree to extend any of the time limitations in Section 4.

SEC. 4(g) authorizes such sums as may be necessary to carry out the Act, subject to the appropriation of funds. Any payments made pursuant to this Act shall be effective only to such extent or in such amounts as are provided in advance appropriations acts.

---

* Indicates voted by proxy.

Until the necessary sums are appropriated, the holders of phosphate lease applications in the Osceola will retain such legal rights as they may have under such application and such rights shall remain in full force and effect.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 9.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

H.R. 9 would designate components of the National Wilderness Preservation System in the State of Florida.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of H.R. 9.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., December 9, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 9, the Florida Wilderness Act of 1982, as ordered reported by the Senate Committee on Energy and Natural Resources, December 7, 1982.

H.R. 9 designates as wilderness 49,150 acres of national forest land in the state of Florida and prohibits phosphate leasing in the Osceola National Forest (except in the case where the President determines that there is a severe national need for phosphates). The bill establishes a mechanism for determining fair market value of pending preference right phosphate leases and directs the Secretary of the Interior to acquire these rights either by purchase or by providing monetary credits toward bonus, rental or royalty payments. It is estimated that additional costs to the federal government related to surveying and planning as a result of the wilderness designation will be approximately $500,000 over the five fiscal years beginning with 1983 based on information from the National Forest Service. The provisions relating to the prohibition of mining in the Osceola National Forest are expected to result in additional expenditures by the federal government, and the loss of receipts from rents and royalties forgone. It is estimated that the total budget impact of these provisions will exceed $100 million over the five fiscal years beginning with 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth Executive agency recommendations relating to H.R. 9 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 9, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here is our report on the House act, H.R. 9, a bill "To designate components of the National Wilderness Preservation System in the State of Florida."

The Department of Agriculture recommends that the bill be enacted with the amendments suggested herein.

H.R. 9 would designate six new wildernesses on the National Forests in Florida totaling 47,980 acres and add 1,170 acres to one existing wilderness. All areas would become components of the National Wilderness Preservation System and be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act. Section 4 would generally prohibit phosphate leasing on the Osceola National Forest.

All seven areas are roadless or undeveloped areas on National Forest System lands in Florida that were included in the Second Roadless Area Review and Evaluation (RARE II). We support the wildernesses proposed in H.R. 9 except the Big Gum Swamp wilderness. We recommend that the Big Gum Swamp area not be designated as wilderness at this time. Applications are pending for phosphate preference right leases on about one quarter of the tract. Until the Secretary of the Interior determines whether the preference right leases should be issued and also provides a better idea of the location and value of the mineral deposits, we recommend deferral of this wilderness designation. We also recommend deleting the New River portion of the proposed Mud Swamp/New River wilderness. The enclosed supplemental statement describes each area and provides additional information regarding our recommended amendments.

Section 1 of H.R. 9 references the Wilderness Act (16 U.S.C. 1131 et seq.). This could lead to confusion as now written since the Eastern Wilderness is coded as 16 U.S.C. 1132. We recommend that the citation for the Wilderness Act be changed to "78 Stat. 890".

We oppose the provisions of section 4 that would prohibit phosphate leasing on the Osceola National Forest and terminate leases through exchange. We have a number of concerns about these provisions and discuss them in detail in the enclosed supplemental statement. The Department of the Interior has major concerns about the feasibility and costs of the exchange proposed in section 4.

Also we understand the Department of Justice has identified legal problems associated with the arbitration provisions of section 4. Therefore, we recommend section 4 be deleted from the bill.

We note that the bill does not include provision for release of nonwilderness areas nor does it set specific time limits for congressional action on recommendations for additional wilderness which may be generated from the further planning process. These concepts are of such importance that no additions to the Wilderness System should be made without providing at the same time equally assured status to unroaded lands designated for multiple uses other than wilderness in RARE II, or which may be recommended for uses other than wilderness as a result of the further planning process. We, therefore, urge that language embodying these concepts be included in any Florida wilderness legislation.

It is estimated that surveying, planning, and related activities necessary to implement these seven wilderness designations will cost approximately $140,000 annually over the next 5 years. Section 4 pertaining to phosphate leasing could result in substantial additional costs. An estimate of these costs will be available upon completion of the administrative process currently underway.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

Enclosures.

USDA SUPPLEMENTAL STATEMENT ON H.R. 9

WILDERNESS PROPOSALS

Support designation

Bradwell Bay Addition.—The proposed 1,170-acre Sopchoppy River addition to the Bradwell Bay wilderness includes the narrow serpentine channel of the Sopchoppy River that tunnels its way through swamps, and pine-palmetto flatwoods. This is a wilderness study area designated in the Act of January 3, 1975. We support wilderness designation for the 1,170-acre addition to the Bradwell Bay wilderness.

Billies Bay.—H.R. 9 proposes a 3,120-acre Billies Bay Wilderness that is the same as the RARE II recommendation. The major attraction of the area is the abundant wildlife. We support this proposal.

Alexander Springs.—Immediately to the south and east of Billies Bay, separated by a paved State highway and campground development, is the proposed Alexander Springs Wilderness. This subtropical area contains the creek originating at Alexander Springs, a major spring with a flow of 76 million gallons per day. H.R. 9 excludes an area previously included in the RARE II recommendation which contained summer homes located on National Forest land. We concur with this exclusion and recommend designation of a 7,700-acre wilderness.

Little Lake George.—H.R. 9 would designate a Little Lake George Wilderness that encompasses 2,500 acres. A 3,040-acre Little George Wilderness was recommended as a result of RARE II. The area excluded from the RARE II recommendation includes approximately 500 acres on the northern part of the area where there is occasional motorboat use on the streams traversing the area and a woods trail used for access by hunters. We concur with this exclusion and support the 2,500-acre wilderness proposal.

Juniper Prairie.—The Juniper Prairie Wilderness proposal in H.R. 9 encompasses 13,260 acres. It is similar to the RARE II recommendation with the exception of 340 acres at the eastern edge of this area that is excluded to provide for the continued administrative use of Sweetwater Cabin. We agree with this deletion that excludes the cabin and associated roads. We recommend a boundary modification in the northeast corner to eliminate approximately 30 acres of private lands. We can provide the committee with maps showing the revised boundary and detailed description of the exclusions. We concur with a Juniper Prairie Wilderness of 13,260 acres.

Recommend change

Mud Swamp/New River.—The proposed Mud Swamp/New River Wilderness included in H.R. 9 encompasses essentially the same area as considered during RARE II except that H.R. 9 also includes a 2½-mile corridor along the New River at the northwest corner of the area. We recommend that this corridor be excluded from the proposal because it is separated from the area by a frequently used forest road and concrete bridge. Furthermore, the 2½-mile long, half-mile wide corridor, along the New River would be difficult to manage for wilderness purposes because of its elongated shape and lack of on-the-ground boundary features.

The Mud Swamp area without the New River addition would be a suitable addition to the Wilderness System and includes extensive swamp and forest habitat for a variety of wildlife, including alligator and Florida panthers (cougars). We recommend that the acreage on lines 8 and 9, page 2, be changed to "seven thousand one hundred acres" and the name referenced on line 10, page 2, be changed to "Mud Swamp Wilderness—Proposed, dated February 1980" and line 12, page 2, be changed to "Mud Swamp Wilderness". We also recommend a minor boundary adjustment to eliminate 2.5 acres of private land that is located outside the National Forest proclamation boundary.

Recommend deletion

Big Gum Swamp.—The proposed 13,600-acre Big Gum Swamp Wilderness on the Osceola National Forest is a large continuous cypress gum swamp. Applications are pending for phosphate preference right leases on about one quarter of the tract. We recommend deferral of wilderness designation for Big Gum Swamp until the Secretary of the Interior determines whether the preference right leases should be issued and also provides a better idea of the location and value of the mineable deposits.

WILDERNESS BOUNDARIES

We recommend using 100' offsets from centerline of roads for wilderness boundaries which parallel those roads. This offset distance assures exclusion of most road right-of-ways and occasional roadside facilities while providing some uniformity among wilderness. We do recommend using 66' offset for the Bradwell Bay addition in order to be consistent with the exising 66' offset on Bradwell Bay wilderness. We also recommend 150' offset for the west boundary of Billies Bay to avoid a powerline along FS-38 right-of-way. We can provide the committee with a set of maps denoting these recommended offsets.

PUBLIC DOMAIN AND WEEKS LAW LANDS

Within the proposed wilderness on the Ocala National Forest, there are both lands originating from public domain and acquired lands. Additionally, some of the National Forest lands are designated as the Ocala Game Refuge. The public domain lands within the boundaries of the Ocala Game Refuge are withdrawn from mineral entry, but no mention is made regarding the application of the leasing laws. Public domain lands outside the Ocala Game Refuge but within the wilderness boundaries are subject to the 1872 mining laws as prescribed in the Wilderness Act. It is our understanding that the likelihood of claims being filed is small. Public domain lands that are not currently withdrawn would be managed as called for in section 4(d) of the Wilderness Act. Our records indicate no outstanding or reserved rights on any of the areas.

PHOSPHATE LEASING PROVISIONS

Section 4 of H.R. 9 contains two major provisions regarding the phosphate issue. The first would generally prohibit phosphate leasing in the Osceola National Forest and the second would direct the Secretary of the Interior, within 3 years of the date of enactment of the bill, to exchange phosphate preference right lease applications on which discoveries of valuable deposits have been made for leases covering other minerals subject to the Mineral Leasing Act without competitive bidding. Exchanges would be on an equal value basis, subject to equalization by the payment of either party of up to 25 percent of the value of the leases to be issued by the Secretary. Section 4(d) provides for binding arbitration to resolve disagreements regarding value of the preference right leases.

The phosphate leasing provisions of the Mineral Leasing Act of 1920 authorize the Secretary of the Interior to issue exclusive 2-year prospecting permits to qualified applicants where prospecting or exploratory work is necessary to determine the existence or workability of phosphate deposits and to renew such permits under certain circumstances. If the permittee shows the Secretary that valuable deposits of phosphate have been discovered, the permittee is entitled to a lease for all or any of the land under the prospecting permit.

The Mineral Leasing Act for Acquired Lands of August 7, 1947, which authorizes leasing of minerals on certain acquired lands under the same conditions as those in the Mineral Leasing Act, specifically establishes the role of the Secretary of Agriculture in consenting to the leasing of mineral deposits. The Secretary of Agriculture may prescribe conditions to insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered.

Although the Secretary of Agriculture is not authorized to deny the issuance of leases, the statute requires that the Secretary prescribe adequate conditions to protect the affected area so that its primary purposes will not be lost. Pursuant to the above mentioned provisions, 92 prospecting permits covering about 144,000 acres in the Osceola National Forest were issued between 1965 and 1968. During the period from July 1969 through May 1972, 41 applications for preference right phosphate leases covering about 52,000 acres of the permitted lands were filed by four companies. No leases have yet been issued.

The standard permit issued for phosphate prospecting in the Osceola contains a list of special stipulations. Stipulation No. 3 states: "In the event the permittee makes application for mining lease on any lands under this permit the Forest Service reserves the right to include in such mining lease special stipulations to protect surface values." It is clear from this provision that the Forest Service, at the time it consented to issuance of the prospecting permit recognized its right to reserve the authority to protect the surface of the lands in the Osceola through lease stipulations. By its signature, the permittee agreed to the terms of the permit, including the authority to exercise this reserved right by the Forest Service. These statutory and contractual authorities provide ample support for the Forest Service through the Secretary of Agriculture, to impose lease restrictions on the mining companies in order to protect the primary surface values in the Osceola National Forest.

In the last few months, there has been a series of meetings with industry representatives to review current reclamation technology used in central Florida to reclaim phosphate mining areas. Preliminary on-the-ground review of mining areas indicates that satisfactory soil conditions can be created by proper planning and execution of the mining and reclamation process. Reclamation to date has been satisfactory for establishment of shallow-rooted vegetation to meet the State reclamation requirements. Observations indicate that technology to establish shallow-rooted species can be further refined to create soil conditions satisfactory for tree growth, although we have not tested such results. We have developed necessary lease stipulations that will assure affected sites are reclaimed for timber production and other resource uses and that a necessary balance between uplands and wetlands is achieved. The Secretary of the Interior can complete the administrative process to determine if the valuable deposit requirement for leasing has been satisfied. This determination compares all the estimated costs of developing and operating the mine with estimated revenues. The determination takes into account compliance with all applicable mining, surface protection, and reclamation requirements. The completion of this process will determine if economic deposits exist and thus whether the permittees are entitled to preference right leases.

Section 4(b) directs the Secretary of the Interior to make a determination of "valuable deposit" based on the regulations in effect as of the date of lease applications (July 1969-May 1972) instead of the more stringent standards as promulgated by the Secretary of the Interior on May 7, 1976. The earlier regulation basically states that the determination can be made without consideration of costs associated with adherence to environmental stipulations. This provision would allow that only mining costs would be used in the decision, and therefore, would not be a realistic estimate on the total costs. Any determination should take into account compliance with all applicable mining, surface protection, and reclamation requirements.

We have concerns about the feasibility and costs of the exchange proposed in section 4. Assuming the Secretary of Agriculture and the lease applicants can agree on terms for restoration after mining, the Secretary of the Interior could determine that deposits of substantial value exist. Experience with similar exchanges of mineral interest indicates the process for identifying and evaluating minerals suitable for exchange is extremely time consuming and it is difficult to reach agreement on value. The language in section 4(c) regarding determination of fair market value based on "replacement cost of the phosphate rock" is unclear and will further compound the problems associated with the exchange. The reference in the same subsection to comparable sales method of appraisal leads to confusion regarding which method of appraisal is actually intended by the legislation.

This Administration is opposed to such exchanges or purchases for the reason that the prospector accepted permits with the contractual understanding that the Secretary of Agriculture had the right to stipulate mining and reclamation requirements for environmental protection. No right of ownership has been conveyed by the Government. Only if a determination that a val-

uable deposit exists does a lease applicant have a compensable right. The exchange provisions of section 4 could be construed to give lease applicants an undetermined value of the phosphates by law—such value to be subject to a mineral exchange or cash. Section 4(g) gives the lease applicant an effective veto of exchange values which could result in litigation to determine the amount of cash payment.

In summary, we oppose the provisions of these bills that would prohibit phosphate leasing on the Osceola National Forest, and that would terminate leases through exchange or acquisition because of the progress being made in reclamation technology and the costs and difficulties associated with the proposed exchanges. Furthermore, the legislation could establish compensable rights for the mining companies that they do not now own, and could create an artificially high price for these newly created rights with either cash or Federally owned assets. We believe it is not necessary or desirable to withdraw the Osceola National Forest from phosphate leasing. Therefore, we oppose legislation that would prohibit phosphate leasing on the Osceola National Forest, and terminate leases through exchange or acquistion.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill H.R. 9, as reported.

WEST VIRGINIA WILDERNESS

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following explanatory statement to accompany H.R. 5161.

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 5161) to designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness, having considered the same, reports favorably thereon with an amendment to the text and submits the following information thereon:

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

DESIGNATION OF WILDERNESS AREAS

Section 1. In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Monongahela National Forest, West Virginia, which comprise approximately thirty-five thousand six hundred acres, as generally depicted on a map entitled "Cranberry Wilderness—Proposed", dated May 1982, and which shall be known as the Cranberry Wilderness: *Provided,* That for purposes of the Act of July 14, 1955 (69 Stat. 322) as amended, the Cranberry Wilderness may be reclassified only by Act of Congress enacted after the date of enactment of this Act;

(2) certain lands in the Monongahela National Forest, West Virginia, which comprise approximately six thousand one hundred acres, as generally depicted on a map entitled "Laurel Fork North Wilderness—Proposed", dated November 1981, and which shall be known as the Laurel Fork North Wilderness; and

(3) certain lands in the Monongahela National Forest, West Virginia, which comprise approximately six thousand one hundred acres, as generally depicted on a map entitled "Laurel Fork South Wilderness—Proposed", dated November 1981, and which shall be known as the Laurel Fork South Wilderness.

MAPS AND DESCRIPTIONS

Sec. 2. As soon as practicable after the provisions of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committees on Energy and Natural Resources and Agriculture, Nutrition, and Forestry of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

Sec. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness: *Provided,* That any reference in such provisions to the effective date of the relevant provision of this Act.

DISPOSITION OF VALID EXISTING RIGHTS

Sec. 4. (a) The Secretary of the Interior (hereinafter in this Act referred to as "the Secretary"), in consultation with the Secretary of Agriculture, shall acquire:

(1) all nonfederally owned coal deposits and other mineral interests and rights within the boundaries of the Cranberry Wilderness; and

(2) coal deposits and mineral interests and rights outside the boundaries of the Cranberry Wilderness which are—

(A) contiguous to the deposits, mineral interests, and rights referred to in paragraph (1) and owned by the person or entity which owns the deposits, interests, and rights referred to in paragraph (1); or

(B) economically accessible only through the exercise of rights held within the wilderness.

(b) For purposes of carrying out the acquisition required under subsection (a), not later than three months after the date of enactment of this Act, the Secretary shall initate negotiations with the owner of the coal deposits or other mineral interests and rights within the Cranberry Wilderness.

(c)(1) The Secretary shall conduct such coal or mineral evaluations with respect to the coal or other mineral interests or rights within the Cranberry Wilderness as may be necessary to determine fair market value. The fair market value of any rights as may exist shall be determined without reference to any restriction on access or use which may result from designation of the area as a wilderness. In determining fair market value the Secretary may contract with the owner to perform any necessary exploratory drilling or other evaluation work and may compensate the owner therefor through payment of money or as an addition to the monetary credit under this Act. Where the Secretary conducts such evaluations, he shall provide the owner with all data available to the Secretary as a result of the evaluations.

(c)(2) Within one year of the date of enactment of this Act, the Secretary, in consultation with the owner shall determine the present fair market value of coal deposits and mineral interests and rights.

(A) The determination of fair market value shall be based on the replacement cost of the unmined recoverable coal deposits and mineral interests and rights in the ground, taking into account comparable sales of recoverable minerals of comparable nature in the ground in the eastern United States, costs of compliance with all applicable Federal, State, and local laws and regulations, including reclamation and restoration of the land (including wetlands) and other costs normally incurred in the mining of such minerals.

(B) Upon voluntary surrender and relinquishment by the owner of all nonfederally owned coal deposits and other mineral interests and rights in the Cranberry Wilderness, the Secretary shall extend to the owner, its successors and assigns, a monetary credit to be used against that portion of payment, bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the federal government on any mineral, oil, or gas lease or other federal property competitively won or otherwise held by the applicant, its successors, or assigns. The monetary credit may be transferred or sold at any time by the owner to any other party with all the rights of the owner to the credit, and after such transfer, the owner shall notify the Secretary. In lieu of the monetary credits described above, the Secretary may, at his sole option, purchase the mineral rights referred to above.

(C) Monetary credits authorized pursuant to this subsection shall be based on the fair market value of the owner's mineral interests as determined pursuant to subsection (c) of this section. Such credit shall be used over a period of years with not more than ten percent of the credit to be used in any one year.

(d) In the event the Secretary and the owner cannot agree on fair market value within one year of the date of enactment of this Act, either the Secretary or the owner shall have the right to petition the United States Claims Court for determination of fair market value in accordance with the standards set forth in this subsection, and said Court shall have jurisdiction to make said determination which shall be binding on all parties for purposes of this Act subject to the right of appeal.

(e) Effective October 1, 1983, there are hereby authorized to be appropriated such sums as may be necessary to establish the value of the nonfederally owned mineral interests or rights lying within the Cranberry Wilderness area. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as are necessary to carry out the other provisions of this Act: *Provided,* That no payment shall be effective except to the extent or in such amounts as are provided in advance in Appropriation Acts.

(f) Exploration activities, including core drilling and use of mechanized ground equipment, shall be allowed in the Cranberry Wilderness designated by this Act to determine the value of the nonfederally owned mineral resources therein, under such reasonable stipulations and conditions as may be imposed by the Secretary of Agriculture.

OTHER PROVISIONS

Sec. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of West Virginia and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than West Virginia, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of West Virginia;

(2) with respect to the National Forest System lands in the State of West Virginia which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of West Virginia reviewed in such final environmental statement and not designated as wilderness by this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of West Virginia for the purposes of determining their suitability for inclusion in the National Wilderness Preservation System.

PURPOSE OF THE MEASURE

H.R. 5161, as reported, would add 3 areas of National Forest land in the State of West Virginia, totaling approximately 47,800 acres, to the National Wilderness Preservation System. The Act also directs the United States to acquire all nonfederally owned mineral interests and rights underlying and contiguous to, the 35,600 acre Cranberry Wilderness Area designated by the Act.

BACKGROUND AND NEED

H.R. 5161, as passed the House of Representatives, is similar to the legislation (H.R. 8033) which passed the House in the 96th Congress. It was not considered in the Senate.

A. *Cranberry Wilderness.*—This 35,600 acre wilderness proposal is part of the existing 53,000 acre Cranberry Backcountry, which has been administratively closed to motor vehicle use and managed to protect its outstanding scenic and natural values since 1936. In 1974, the proposed wilderness was designated a wilderness study area (Public Law 93-622). The wilderness study was completed by the Forest Service in 1978 and the entire study area, except for the 750 acre Cranberry Glades Botanical Area, was officially recommended to Congress for wilderness designation when the RARE II recommendations were forwarded on April 16, 1979. The wilderness proposal of H.R. 5161 is identical to the Forest Service recommendation with the exception of a very minor boundary adjustment west of the Highland Scenic Highway to allow for tree removal to preserve scenic beauty.

The proposed wilderness is within the Cranberry Black Bear Sanctuary and is closed to all bear hunting by the State of West Virginia in order to provide a secure breeding area for an estimated 100 bears. Other wildlife populations include an estimated 900 deer, 900 will turkeys, 1,800 grouse, and possibly cougar. The present management of the proposed wilderness adjacent lands as "back-country" is very similar to wilderness management although "Backcountry" classification is an administrative designation only, and does not necessarily guarantee management of the area in an undeveloped state in perpetuity.

B. *Laurel Fork North and South Wilderness.*—The two proposed 6,100 acre wilderness areas are separated only by a forest road and otherwise represent the continuous wilderness asset of the Laurel Fork drainage. The area is very moist, is traversed by the Laurel Fork River, and is bounded on the east and west by the ridges of Rich and Middle Mountains, respectively. Both areas were recommended for wilderness by the Forest Service in the RARE II process. Laurel Fork is highly scenic and has a series of beaver ponds along its length. The proposed wilderness areas also provide excellent habitat for wild turkey, black bear, bobcat, fisher and river otter.

C. *Mineral Rights.*—When the Monongahela and other Eastern National Forest lands were acquired by the Federal Government in the early part of this century, the Government often bought only the land surface, leaving the underlying mineral rights in private ownership. Such is the case in the proposed Cranberry Wilderness, where the bulk of the mineral rights are privately owned by the CSX Corporation and subsidiaries. Mining of the coal would not be compatible with wilderness designation of the area, but would be permitted.

H.R. 5161, as reported, directs the Federal Government to acquire the outstanding private mineral interests and rights. As wilderness areas will be withdrawn from mineral leasing by the time the acquisition is completed, the net effect of H.R. 5161 will be to permanently prevent the mining of coal in the proposed Cranberry Wilderness.

As discussed earlier, the bulk of the mineral rights underlying the proposed Cranberry Wilderness are in private ownership. Plans for two underground coal mines and attendant surface facilities within the wilderness proposal have been advanced since the mid 1970's and have encountered strong opposition. (The Forest Service's wilderness study of the Cranberry area concluded that coal mining could have major environmental impacts.) As a result, in 1978 the State of West Virginia imposed a moratorium on mining. Although the moratorium has now expired, CSX Corporation, which owns the mineral rights (primarily coal) has offered to convey its mineral rights within the wilderness proposal for money or monetary credits to be redeemed for the Federal portion of bidding rights.

H.R. 5161, as introduced, provided for the owner of the subsurface mineral rights in the proposed Cranberry wilderness area in West Virginia, to be compensated for its surrender of the mineral interests by means of a land exchange.

The exchange was to involve the selection of up to four sites outside the State of West Virginia, where the Department of the Interior and the owner of the mineral rights in the Cranberry area could agree that the mineral values were close to those of the Cranberry area.

H.R. 5161 as reported, would replace the land exchange provision with an extension of a monetary credit to the owner of the mineral interests in the Cranberry area. Such credit would be used in connection with other federal mineral or oil and gas leases which the owner might seek, and would not affect the portion of royalties or bonus payments to state governments that would be made under such leases.

As reported, H.R. 5161 would provide that a determination of the fair market value of the minerals in the Cranberry area, up to that level, would be negotiated by the owner of the mineral interests and the Department of the Interior. If agreement cannot be reached, the fair market value determination would be made by the U.S. Claims Court.

LEGISLATIVE HISTORY

H.R. 5161 passed the House of Representatives on June 14, 1982. The Subcommittee on Public Lands and Reserved Water received testimony on H.R. 5161 at a hearing on August 11, 1982. The Administration opposes the enactment of H.R. 5161. At a business session on December 7, 1982, the Committee on Energy and Natural Resources ordered H.R. 5161, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on December 7, 1982, by unanimous vote of a quorum present recommends that the Senate pass H.R. 5161, if amended as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays as follows:

Yeas: Mr. McClure, Mr. Hatfield, Mr. Domenici, Mr. Wallop, Mr. Warner, Mr. Weicker,* Mr. Humphrey,* Mr. Murkowski, Mr. Nickles, Mr. East,* Mr. Heinz, Mr. Jackson, Mr. Johnston,* Mr. Bumpers, Mr. Ford, Mr. Matsunaga,* Mr. Melcher, Mr. Tsongas, Mr. Bradley.

Nays: None.

COMMITTEE AMENDMENTS

The Committee adopted an amendment in the nature of a substitute to H.R. 5161, as passed the House. The Committee substitute does not change the provisions of Sections 1, 2 and 3 of H.R. 5161 as passed the House. Section 1 designates certain lands in West Virginia as wilderness. Section 2 provides for the filing of maps. Section 3 provides for the administration of the area.

The Committee amendment changes Section 4(a) to direct the Secretary of the Interior to acquire nonfederally owned coal deposits, mineral resources and rights within the boundaries of the Cranberry Wilderness and, in certain cases, outside the boundaries of that area. The nonfederally owned coal deposits, mineral interests and rights to be acquired outside the boundaries of the Cranberry Wilderness must be (1) contiguous to the deposits, mineral interests and rights in the area and owned by the party(s) who own those interests inside the area or (2) economically accessible only through ex-

* Indicates voted by proxy.

ercise of the rights within the proposed Cranberry Wilderness.

The Committee also deleted the authorization for the Secretary of Agriculture to acquire the interests within three years and deleted exchange as a method of acquisition. The Committee, noting that a specific tract for tract exchange was absent in H.R. 5161, as passed the House, preferred to require the use of monetary credits or purchase as the form of acquisition in H.R. 5161 as reported.

In Section 4(c) the Committee amendment directs the Secretary of the Interior to begin negotiation within three months from date of enactment for acquisition by the U.S. with the owners of the interests in lands in the proposed Cranberry Wilderness.

Section 4(c)(1) of the Committee amendment directs the Secretary of the Interior to conduct the necessary mineral evaluations within the Cranberry Wilderness to determine fair market value. The Secretary may contract with the owners of the mineral interests for the drilling and evaluation and may compensate the owner for such work. The Committee added language that allows fair market value to be determined without reference to any restrictions or access or use which may result in designation of the area as wilderness.

The Committee deleted the language in Section 4(c)(1) which provided for identification of lands for exchange.

In Section 4(c)(2) the Committee deleted the entire paragraph which dealt with mineral evaluation in H.R. 5161 as passed the House, and replaced it with a provision that directs the Secretary of the Interior to establish fair market values of the mineral interests within one year of the date of enactment of this Act.

The Secretary is required to begin negotiations with the owners within three months of the date of enactment of this Act. The Committee notes that any evaluation and field work done under Section 4(c)(2) in the first three months could facilitate negotiations required in Section 4(b).

In Section 4(c)(2)(A) of the Committee amendment the process for the determination of fair market value is established. The paragraph is self explanatory.

In Section 4(c)(2)(B) of the Committee amendment directs the Secretary of the Interior to extend monetary credits to the owner of mineral interests and rights in the Cranberry Wilderness upon their surrender of those rights. The monetary credit applies only to the federal portion of payment, bonus payments, rental or royalty payments paid into the U.S. Treasury. It does not apply that portion of these payments that are shared with the States.

In Section 4(c)(2)(C) of the Committee amendment, the amount of monetary credit to be extended is based on the fair market value of the owners' mineral interests. The monetary credits shall be used over a period of years with not more than ten percent of the entire credit to be used in any one year.

In Section 4(d) the Committee deleted all references to binding arbitration included in the House-passed version of H.R. 5161, and provided the Secretary of the Interior or the owner the right to petition the U.S. Claims Court for a FMV determination. The Committee did not reduce the right of appeal or eliminate due process.

In Section 4(e) the Committee amendment changes the date of authorization of appropriations from October 1, 1982 to October 1, 1983 to comply with the Budget Act. The Committee amendment expressly authorizes the use of motorized equipment and core drilling in the Cranberry Wilderness to do the necessary evaluations as required by the Act subject to reasonable conditions as may be imposed by the Secretary of Agriculture.

The Committee amendment did not change any of the provisions of Section 5 of H.R. 5161 as passed the House.

COST AND BUDGETARY CONSIDERATION

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 9, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 5161, a bill to designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness, as ordered reported by the Senate Committee on Energy and Natural Resources, December 7, 1982.

This bill designates as wilderness 47,800 acres of national forest land in the state of West Virginia. The bill establishes a mechanism for determining fair market value of affected mineral interests and directs the Secretary of the Interior to acquire by purchase or by providing monetary credits towards bonus, rental or royalty payments all nonfederally owned mineral interests in, partially in, or only economically accessible through the Cranberry Wilderness Area. Based on information from the National Forest Service, it is estimated that additional costs to the federal government related to surveying and planning as a result of the wilderness designation will be approximately $460,000 over the five fiscal years beginning with 1983. The provisions relating to the determination of fair market value and acquisition of mineral interests are expected to result in additional expenditures by the federal government. Preliminary estimates from the Bureau of Land Management indicate that these costs could exceed $20 million during the five fiscal years beginning with 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 5161.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

H.R. 5161 would designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of H.R. 5161.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth Executive agency recommendations relating to H.R. 5161 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., August 12, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We would like to offer our views on the House Act H.R. 5161, a bill "To designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness."

The Department of Agriculture recommends that the bill not be enacted.

H.R. 5161 would designate three new wildernesses on the Monongahela National Forest in the State of West Virginia. The bill includes a provision directing the Secretary of the Interior to acquire by exchange the privately owned mineral rights within the proposed Cranberry wilderness.

The previous Administration, as a result of RARE II, recommended four new wildernesses in West Virginia. These areas total 69,600 acres and include a proposed 35,600-acre Cranberry wilderness; Seneca Creek, 21,800 acres; and Laurel Fork North and Laurel Fork South, each with 6,100 acres. H.R. 5161 would exclude Seneca Creek and designate the three other areas as wilderness.

H.R. 5161 would designate a 35,600-acre Cranberry wilderness. The majority of the proposed Cranberry wilderness has been closed to public motorized use since 1936 when it was administratively designated the Cranberry Backcountry, with management emphasis on wildfire protection and enhancement of fish and wildlife values. The area is characterized by broad-rounded mountians that are heavily forested in mixed hardwoods and red spruce. The surface owner-ship rests entirely with the National Forest. However, the subsurface mineral rights on approximately 30,950 acres are privately owned and there are subordinated private mineral rights on 1,575 acres. These mineral subordinations are associated with the Highland Scenic Highway corridor. Subordination limits surface occupancy and limits powerline crossing of the highway. The mineral resources of particular concern include coal, oil, and gas.

Wilderness classification without Federal ownership or control of the subsurface coal rights is not desirable. While the area offers an unusual opportunity for solitude in an undeveloped setting, it has potentially important mineral resources.

The Department of the Interior has major concerns about the feasibility and costs of the exchange proposed in H.R. 5161. Experience with similar exchanges of mineral interests indicates the process for identifying and evaluating minerals suitable for exchange is extremely time consuming and it is difficult to reach agreement on value. Furthermore, there is concern about the monetary values foregone when legislation denies or prohibits the production of minerals, whether they be privately or publicly owned. The mineral values in this area are substantial, possibly in excess of $25 million.

Therefore, we cannot support the mineral exchange provisions of section 4 and oppose wilderness designation of the Cranberry area.

H.R. 5161 proposed wilderness designation for Laurel Fork North (09044) and Laurel Fork South (09045). Both areas were recommended for wilderness designation as a result of RARE II.

The proposed Laurel Fork North wilderness encompasses 6,100 acres of northern hardwood forest and is characterized by valleys and slopes cut by the many side drainages of the Laurel Fork of the Cheat River that flows through the center of the area. Immediately to the south, is the proposed Laurel Fork South wilderness. Like the area to the north, it also consists of 6,100 acres with similar forest and terrain.

Both areas are adjacent to the Glady Gas Field utilized by Columbia Gas Corporation as a storage area. Recent exploration in the Eastern Overthrust indicates a high potential for additional gas reserves at greater depths than previously explored. Of the approximately 12,000 acres of National Forest involved, the United States owns the mineral rights on approximately 11,200 acres. The majority of the Federal minerals in Laurel Fork South are currently under lease and approximately 13 percent of the mineral rights in Laurel Fork North are in private ownership.

The potential for discovery of additional gas reserves under these proposed wildernesses was not considered high during the RARE II process. Recent exploration activities in the area indicate higher potential for discovery of additional reserves, some of which will be foregone if the areas are designated wilderness.

Since portions of the land in both areas are currently under oil and gas leases or in private ownership and the nature and extent of development is unknown, we would prefer that these areas not be designated wilderness.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK
Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill H.R. 5161, as reported.

NATIONAL PARK VISITOR FACILITIES FUND ACT

Mr. McCLURE, from the Committee on Energy and Natural Resources, submitted the following explanatory statement to accompany S. 2715.

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2715) to establish the National Park Visitor Facilities Fund, and for other purposes, having considered the same, reports favorably thereon with an amendment to the text and submits the following information thereon:

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "National Park System Visitor Facilities Fund Act".

SEC. 2. DEFINITIONS.—For purposes of this Act—

(1) "Foundation" means the National Park Foundation established under the Act of December 18, 1967 (81 Stat. 656; 16 U.S.C. 19e and following);

(2) "Fund" means the National Park System Visitor Facilities Fund established under section 3 of this Act;

(3) "Secretary" means the Secretary of the Interior; and

(4) "visitor facility" means any structure, fixture, or improvement—

(A) which is located within a unit of the National Park System upon land owned by the United States;

(B) in which no concessioner has a possessory interest (within the meaning of section 6 of the National Park Service Concessions Policy Act (16 U.S.C. 20-20g)); and

(C) which is used to provide food, lodging, or other services to visitors.

such term also includes concessioners' employee dormitories which meet the requirements of subparagraphs (A) and (B).

SEC. 3. ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States the National Park System Visitor Facilities Fund. There shall be credited to the Fund an amount equal to all National Park System concession fees, including franchise fees and building user fees, paid to or due and owing to the United States after October 1, 1982 for the privilege of providing visitor accommodations and services in units of the National Park System (other than revenues obtained under the provisions of section 111 of the National Historic Preservation Act of 1966) (16 U.S.C. 470-470t).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.—(a) Beginning in fiscal year 1984, amounts credited to the Fund pursuant to this Act are authorized to be appropriated to the National Park Service, to be made available for expenditure by the Foundation to carry out its functions under this Act.

(b) In addition to the amount authorized to be appropriated pursuant to subsection (a) of this section, there is authorized to be appropriated, not to exceed $1,000,000 to the National Park Service, to be made available for expenditure by the Foundation to carry out its functions under this Act. Such sums shall be available for expenditure by the Foundation only to the extent such sums are matched on a dollar-for-dollar basis by cash or in-kind contributions made to the Foundation for the purposes of this Act.

(c) Except as provided in section 8 of this Act, sums appropriated under this section shall remain available until expended.

SEC. 5. ADMINISTRATION OF FUND PROJECTS.—(a) In a timely fashion, the Director of the National Park Service, with the concurrence of the Secretary, shall submit to the Executive Committee of the National Park Foundation detailed recommendations for the reconstruction, rehabilitation, replacement, improvement, relocation, or removal of visitor facilities. The Director shall specify those projects which he deems to have the highest priority for funding under this Act. The Executive Committee shall consider such recommendations and, with the concurrence of the Director of the National Park Service, recommend projects to the Board of the Foundation for its approval.

(b) The Secretary shall make grants to the Foundation from amounts available in the Fund for the purpose of carrying out projects approved under this section.

(c)(1) Any project approved and carried out under this section shall be consistent with the purposes for which the park system unit involved was established and with any approved general management plan applicable to that unit. Any plans for, and location of, any specific project shall be reviewed by and concurred in by the Director of the National Park Service.

(2) In recommending any project under this Act with respect to any property listed on, or eligible for listing on the National Register of Historic Properties, the National Park Service shall take into account the recommendations of the Advisory Council on Historic Preservation and any project affecting any such property shall be carried out in a manner consistent with the requirements of the National Historic Preservation Act (16 U.S.C. 470-470t).

(d) The Foundation shall carry out projects under this Act, and expend grants made available under this Act, in accordance with applicable provisions of law and regulations. All grants for any projects to be carried out under this Act shall be in accordance with Circular A-110 published by the Office of Management and Budget applicable to Federal grants. The Foundation shall be responsible for managing the construction activities, including the selection of persons to perform architectural, engineering, construction, and related services.

(e) By undertaking to administer any project under this Act, the Foundation shall be deemed to have agreed that all right, title, and interest in any visitor facility with respect to which such project is carried out shall be vested in the United States. The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation in connection with its activities under this Act.

(f) The Foundation shall include in its annual report to the Congress a description of projects undertaken under this Act and the Foundation's accomplishments under this Act.

SEC. 6. AUTHORITY OF THE NATIONAL PARK FOUNDATION.—For the purposes of this Act, the Foundation, in addition to any other authorities it may have—

(1) shall have all necessary and proper powers for exercise of the authorities vested in it by this Act;

(2) may execute all instruments deemed necessary or appropriate in the exercise of any of its functions under this Act; and

(3) may expend a portion of moneys received under this Act for such reasonable personnel and incidental expenses as are necessary to carry out its functions under this Act.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.—Nothing in this Act shall affect the authorities or responsibilities of the Secretary under other provisions of law, including the authorities and responsibilities vested in him under the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and under the National Park System Concessions Policy Act (79 Stat. 969; 16 U.S.C. 20-20g).

SEC. 8. EXPIRATION OF AUTHORITY.—The authorities contained in this Act shall expire on September 30, 1989. After that date, any moneys previously credited to the fund under this Act which have not been appropriated, or if appropriated, which have not been obligated or expended, shall be transferred to miscellaneous receipts of the Treasury.

PURPOSE

The purpose of S. 2715, as amended, is to establish the National Park System Visitor Facilities fund for reconstruction, rehabilitation, replacement, improvement, reloca-

tion or removal of federally owned visitor facilities within units of the National Park System. The fund will be administered by the Secretary of the Interior through grants to the National Park Foundation to accomplish authorized projects.

BACKGROUND

Numerous structures located within the 333 units of the National Park System were constructed many years ago and are now in serious need of major maintenance and rehabilitation. The Department of the Interior and the Congress have recognized that need and have appropriated increased funds in the last several years in an attempt to remedy the problem. However, such funds have primarily been directed to work on major park structures. There are over 1000 small buildings in the park system (mostly cabins and small motels, including associated support facilities) which are owned by the U.S. Government, which is responsible for non-routine maintenance, and which are used for overnight visitor accommodations or for providing support services for visitors. These buildings have been consistently placed at the bottom of the priority list for maintenance funding and most are now in critical need of major rehabilitation. It has become apparent that due to the nature of these small scattered structures they have not, for various reasons, been accorded priority for maintenance funding and that special efforts must be made to assure maintenance before the structures deteriorate beyond the point where rehabilitation is economically infeasible.

The National Park Foundation was established by Public Law 90-209 (1967) to assist the National Park Service by undertaking functions that are most appropriately accomplished by a private tax-exempt organization and as such is in a unique position to provide the flexible, small scale private and public resources to accomplish the needed work. The National Park Foundation is also able to serve as a conduit for the merger of public and private finances to meet the objectives of this legislation.

LEGISLATIVE HISTORY

S. 2715 was introduced by Senators Wallop and Domenici on July 1, 1982. The Public Lands and Reserved Water Subcommittee received testimony on S. 2715 on July 30, 1982. The administration supports the enactment of S. 2715 as introduced as indicated in testimony given before the Subcommittee. At a business session on December 7, 1982, the Committee on Energy and Natural Resources ordered S. 2715 as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on December 7, 1982, by majority vote of a quorum present recommends that the Senate pass S. 2715 if amended as described herein.

The rollcall vote on reporting the measure was 15 yeas, 1 nay, and 1 present as follows:

Yeas: Mr. McClure, Mr. Hatfield, Mr. Weicker*, Mr. Domenici, Mr. Wallop, Mr. Warner, Mr. Humphrey*, Mr. Murkowski, Mr. Nickles, Mr. East*, Mr. Heinz, Mr. Jackson, Mr. Bumpers, Mr. Ford, and Mr. Melcher.

Nays: Mr. Bradley.

Present: Mr. Tsongas.

*Indicates voted by proxy.

COMMITTEE AMENDMENTS

The Committee adopted an amendment in the nature of a substitute to S. 2715, as introduced. The Committee amendment removes the authorizational ceiling; establishes a matching fund; and strengthens the administration of the Visitor Facilities Fund by making the Fund projects subject to a different process for recommendation and administration than in S. 2715, as introduced. Specifically, S. 2715, as reported did not change sections 1 and 2 in S. 2715 as introduced.

Section 3 of the Committee amendment establishes the National Park System Visitor Facilities Fund in the Treasury of the United States, comprised of National Park System concession fees, including franchise fees and building user fees but excluding revenues received under provisions of section 111 of the National Historic Preservation Act of 1966.

In section 4 of the Committee amendment removes the authorizational ceiling of $5,000,000 annually in S. 2715 as introduced. The section authorizes appropriations up to the total amount covered into the fund.

Section 4(b) of the Committee amendment authorizes appropriations, not to exceed $1,000,000 annually in addition to that amount authorized by section 4(a) providing that expenditures can be made only to the extent that such monies are matched by private contributions.

One of the most important and attractive components of this Act is the dollar-for-dollar matching monies made available by this subsection to attract cash or in-kind contributions from non-Federal sources. The Committee hopes that the opportunity presented by this feature to leverage contributions and donations will be exercised to the fullest.

Section 4 (c) provides that sums appropriated will remain available until expended.

Section 5 (a) of the Committee amendment sets forth the procedure by which the Secretary of the Interior and the Director of the National Park Service will submit project recommendations to the Executive Committee of the National Park Foundation, and the procedure for selection and approval of high priority projects for implementation.

It will be critically important that project proposals be initiated, reviewed, recommended and adopted sufficiently in advance of the relevant fiscal year budget and appropriations processes to assure an even flow of projects for consideration and approval. The Committee looks upon this program as one to constitute an upgrading of visitor facilities, and not one of materially increasing or decreasing a park unit's visitor serving capacity in the process.

The Committee amendment to S. 2715 specified that funds were to be used for the purpose of reconstruction, rehabilitation, replacement, improvement, relocation or removal of visitor facilities. The Committee intends that the use of the word "removal" was included to provide the maximum latitude for correction of visitor facility maintenance problems. While certain structures may, because of extreme deterioration or other reasons require removal, the Committee intends that, in so doing, there shall not be a reduction in type and quantity of available visitor facilities in the National Park System as a result of implementation of the provisions of this Act.

The National Park Service should promptly prepare and adopt criteria for the guidance of priority project selection. Particular attention should be devoted in the development of such criteria to the early application of program funds to structures having historic attributes, structures which are severely threatened by an advance state of deterioration, structures which exhibit health and safety problems, and structures which offer beneficial services to greater numbers of visitors, though not necessarily in the order of priority as listed.

The Committee notes that while the great bulk of the facilities which will be ultimately benefitted by this legislation are overnight accommodations, numerous other related support facilities are entailed, such as food service structures and equipment rental and other visitor service structures, all of which are within the scope of receiving funds from the program derived from this legislation.

While this program basically constitutes one of upgrading of visitor facilities, it is critically important that the appropriate range of types of overnight accommodations be retained so as to continue to assure the opportunity for visitor choice over a range of both experiences and price levels. For example, "upgrading" should not be interpreted to mean that the least expensive and/or most primitive type of overnight accommodation (for example, tent cabins) should be necessarily "upgraded" out of existence. The range of accommodation types and corresponding price levels will normally be indicated by the general management plan for each park unit.

Section 5(b) requires the Secretary to make grants to the Foundation to carry out approved projects.

Section 5(c)(1) requires that any project approved be consistent with the purposes for which the applicable park unit was established and with the approved general management plan. The subsection also requires that the plans, location and design related to any project be approved by the Director of the National Park Service.

Section 5(c)(2) requires that the National Park Service take into account recommendations of the Advisory Council on Historic Preservation regarding any project involving property listed or eligible for listing on the National Register of Historic Properties.

Section 5(d) requires that the Foundation shall carry out projects and expend monies in accordance with applicable law and regulations, and specifically in accordance with the Office of Management and Budget Circular A-110. The provision also establishes that the Foundation is responsible for managing all aspects of the construction activities.

Section 5(e) provides that the Foundation shall not acquire any right, title or interest in any property by right of implementation of the provisions of this Act, and that the United States shall not be liable for any act of the Foundation.

Section 5(f) requires the Foundation to include a description of projects undertaken and over all accomplishments related to this act in its annual report to the Congress.

Since this is a new program in which the Congress and others will have a strong interest, it is important that this part of the annual report be reasonable detailed and comprehensive, so as to provide a good view of the operation of the entire program.

The Committee expressed concern that the donation of services or materials never dictate the implementation of a project in a manner contrary to the way in which the project might otherwise have been designed, located and carried out, absent the donation. In other words, donations should not dictate project decisions, but rather should be sought, received and applied to projects

for which they are supportive and compatible.

Section 6 sets forth the authorities of the Foundation required to implement the Act.

Section 7 provides that nothing in this Act shall affect the authorities of the Secretary under other provisions of law.

Section 8 provides that the authorities contained in this act shall expire on September 30, 1989.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 8, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2715, the National Park System Visitor Facilities Fund Act.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill Number: S. 2715.

2. Bill title: National Park System Visitor Facilities Fund Act

3. Bill status:

As ordered reported by the Senate Committee on Energy and Natural Resources, December 7, 1982.

4. Bill purpose:

The bill establishes in the U.S. Treasury the National Park System Visitor Facilities Fund to be credited with all National Park System concession fees paid or owing to the United States after October 1, 1982, excluding concession fees collected pursuant to the National Historic Preservation Act of 1966. Sums credited to the fund are authorized to be appropriated to the National Park Service (NPS) beginning in fiscal year 1984, for purposes of repairing, replacing, or removing visitor facilities.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1984	1985	1986	1987	1988
Estimated authorization level	6.7	7.0	7.3	7.6	8.0
Estimated outlays	3.4	6.2	7.1	7.5	7.8

The costs of this bill fall within budget function 300.

Basis of Estimate: Authorization levels are estimated based on concession fee receipts for recent past fiscal years, and are assumed to be appropriated prior to the start of each fiscal year. Each year's authorization level reflects estimated concession fee receipts from the prior year plus an additional $1 million per year. The bill authorizes the appropriation of $1 million, in addition to sums appropriated from the fund, contingent upon receipt by the National Park Foundation of equal cash or in-kind donations, to be used for purposes of administering the provisions of this bill. Based on information from the committee staff, CBO has interpreted the authorization to be for an annual $1 million appropriation, beginning in fiscal year 1984. For purposes of this estimate, CBO has also assumed that the requisite donations will be made to the National Park Foundation. Outlays were estimated based on information from the NPS.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Anne E. Hoffman (226-2860)

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2715.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

S. 2715 would establish the National Park Visitor Facilities Fund, and for other purposes.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2715.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 2715 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. September 30, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on S. 2715, a bill "To establish the national Park Visitor Facilities Fund, and for other purposes."

We believe that S. 2715 presents a positive and innovative solution to problems with visitor facilities in our National Parks, and we strongly recommend that the bill be enacted.

We have become increasingly aware of serious deficiencies in the physical plant of the National Park System, and, especially, of the tremendous need for renovation and restoration of visitor facilities in our National Parks. Many visitor facilities do not meet minimum health and safety standards. S. 2715 would provide a means for addressing a number of these deficiencies.

The National Park Service, directly or through private concessioners, provides various visitor facilities ranging from backcountry campsites with no amenities to large hotels and lodges with a full complement of food, lodging, and other services. Under section 6 of the Act of October 9, 1965 (79 Stat. 969), which sets forth National Park System Concessions policies, concessioners who construct visitor facilities or add improvements to existing buildings under a concession contract are responsible for maintaining them, and they receive a possessory interest in the facilities. At the end of their contract, concessioners are entitled to just compensation for any possessory interest in the facilities which has arisen. From time to time, however, by purchase, donation, or Government-funded construction, the Government has acquired ownership of about 1,000 structures and is directly responsible for their maintenance. It is these 1,000 Government-owned and maintained cabins, motels, and food facilities to which S. 2715 is addressed.

S. 2715 would permit the combination of revenues generated from National Park System franchise fees with private contributions and management resources to upgrade the quality of National Park visitor accommodations. Under S. 2715, revenues received from concessioners' franchise fees, authorized by section 3 of the Act of August 25, 1916, would be paid into a special fund, the National Park Visitor Facilities Fund, in the Treasury. Moneys from the Fund would be available for appropriation to the National Park Service for grants to the National Park Foundation, a federally chartered foundation authorized, in the Act of December 18, 1967 (P.L. 90-209), to accept and administer gifts for the benefit of the National Park System. The Foundation, with the concurrence of the Secretary of the Interior, would provide for the construction, rehabilitation, or other improvement of those visitor facilities not subject to concessioners' possessory interests. Upon completion of the projects, all right, title, and interest in the repaired or improved facilities would vest in the United States. The Fund, and the authorities provided to the Foundation by S. 2715, would expire on September 30, 1989.

Under S. 2715, the Secretary would appoint three nongovernmental members of the National Park Foundation Board who would act as a committee of the Board to consider and recommend Fund projects to the Foundation. The National Park Service would then submit to that committee recommended projects. Following the committee's review, those recommendations having the concurrence of the National Park Service, the Secretary, and the committee would be submitted to the Board of the Foundation for its approval. Upon approval of projects by the Board, the Secretary would be required to make grants to the Foundation from sums appropriated from the Fund for the purpose of carrying out those projects. The Foundation would then let contracts for construction of the approved projects in accordance with applicable laws and regulations.

The National Park Foundation is a proven entity which has been supporting National Park Service programs with private funding since its creation by the Congress 14 years ago. By providing the Foundation with authority to undertake projects approved by the Secretary, we believe that the visitor facilities covered by this bill can be rehabilitated expeditiously, efficiently, and in a cost-effective manner. The National Park Foundation will be able to attract both cash and in-kind contributions and to draw upon the business expertise of its Board members. The net effect of the Foundation's participation in the improvement of visitor facilities will be the maximization of the amount of repairs and renovations that will be completed with the moneys appropriated and the contributions received.

We agree, also, that the revenues generated by park concession franchise fees should be earmarked in the National Park Visitor Facilities Fund to be available to repair and renovate National Park vistor facilities. Earmarking funds will provide a readily identi-

fiable source for funding visitor facilities renovations and repairs.

S. 2715 addresses two concerns that might otherwise be raised by introducing the Foundation into the visitor facilities restoration process: (1) the role of the Foundation in resource protection; and (2) the role of the Foundation in concessions management.

S. 2715 specifically states that its provisions will in no way alter the authorities and responsibilities of the Secretary for protection of the National Parks under the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented. All actions or decisions of the Foundation under the provisions of S. 2715 would be subject to the review and approval of the Secretary.

Similarly, the bill specifically provides that the Secretary would continue to exercise all authorities and responsibilities for concessions management vested in him under the Act of October 9, 1965 (79 Stat. 969). The Foundation's sole function as to concessions would be to contract for the actual "bricks and mortar" repairs and construction of facilities according to needs identified by the Secretary. Under S. 2715, improvements made by the Foundation would become the property of the Federal Government.

We estimate that revenues from concessions franchise fees would average approximately $6,000,000 per year. S. 2715 would authorize not more than $5,000,000 of this amount to be paid into the Fund annually. The remainder would be credited to miscellaneous receipts of the Treasury. The bill would authorize a $4,000,000 annual appropriation from the Fund for grants to the Foundation, with an additional appropriation authorization of $1,000,000 from the Fund to be available for matching, dollar for dollar, both cash and in-kind contributions donated to the Foundation for restoration and repair of visitor facilities. We believe that such appropriated funding, combined with Foundation contributions and management resources, will enable the Foundation to complete upgrading of approximately 1,000 of the facilities for which the Government is responsible. We estimate that approximately $30,000,000 in projects would be undertaken pursuant to the authorities of S. 2715 during the five years in which the Fund would exist.

As a technical matter, we do note that, under the provisions of S. 2715, both the commencement of the Fund and the authority to appropriate moneys from the Fund begin on October 1, 1983. Thus, while the authority to appropriate project money will be force, in fact, there will be no money to appropriate since the Fund will have had no time in which to accrue deposits from franchise fees. We therefore believe that the Fund should begin accumulating in October 1982 and recommend that section 3 be amended by striking out "1983" and inserting in lieu thereof "1982".

In conclusion, we believe that S. 2715 would provide an imaginative and flexible method of improving Government-owned visitor accommodations in the parks, and we strongly recommend its enactment.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD PAUL HODEL,
Under Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill S. 2715, as reported.

DIRECTING THE SECRETARY OF THE INTERIOR TO RELEASE CERTAIN CONDITIONS CONTAINED IN A PATENT CONCERNING CERTAIN LAND CONVEYED BY THE UNITED STATES TO EASTERN WASHINGTON UNIVERSITY

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following Explanatory Statement to accompany H.R. 6419.

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 6419) to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University, having considered the same, reports favorably thereon without amendment and submits the following information thereon:

PURPOSE OF THE MEASURE

H.R. 6419 would direct the Secretary of the Interior to release the reversionary interest of the United States in certain lands which are now held by the Eastern Washington University and would enable the University to sell or exchange those lands in order to acquire other lands more suitable for educational or recreational purposes.

BACKGROUND AND NEED

The 21 acres of lakeside property that are the subject of the bill were acquired by the university in 1961 under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869-869-4). The patent provides that the land shall revert to the United States if the patentee attempts to transfer title or uses the land for other than educational and recreational purposes without the consent of the Secretary of the Interior.

The university originally acquired the land intending to develop it extensively as a retreat for its music school. The university did develop a road, powerline, well, toilets, two docks, and primitive camping areas, but abandoned its plans to install permanent buildings for educational purposes because of lack of funds. It continued using the land for recreation only, and in 1976 revised its management plan to make it compatible with the limited nature of this development and use.

As of 1980, the value of the property was approximately $250,000, according to the Oregon State Office of the Bureau of Land Management. The land is several miles from the campus. Because of its physical features, including cliffs at the edge of the lake, it is not considered safe for unsupervised recreation. The university wants to exchange or sell the land to acquire property adjacent to the campus, but cannot do so because of the reverter provision in its patent. Thus, in order for the university to conclude such an exchange, it is necessary to remove the reverter restriction. The bill is designed to achieve this objective, which cannot be accomplished administratively.

LEGISLATIVE HISTORY

A hearing on H.R. 6419 was conducted by the House Subcommittee on Public Lands and National Parks on June 21, 1982. The measure was reported favorably from the Full Interior Committee on August 4, 1982. It passed the House unanimously on August 17, 1982. No hearings have been held in the Senate on this measure.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in open business session on December 7, 1982, by unanimous vote of a quorum present recommends that the Senate pass H.R. 6419.

The rollcall vote on reporting the measure was 19 yeas, no nays, as follows:

Yeas: McClure, Hatfield, Weicker,* Domenici, Wallop, Warner, Humphrey,* Murkowski, Nickles, East,* Heinz, Jackson, Johnston,* Bumpers, Ford, Matsunaga,* Melcher, Tsongas, and Bradley.

Nays: None.

*Indicates vote by proxy.

SECTION-BY-SECTION ANALYSIS

Section 1 requires the Secretary of the Interior to release the reversionary conditions now contained in the patent which conveyed the relevant lands to Eastern Washington University. Subsection (a) specifies the conditions to be released. Subsection (b) describes the lands in question. Subsection (c) limits the authority so as to require that the University complete the implementation of the sale or exchange to be facilitated by the bill within five years of enactment. After that period, the Secretary's authority to release the conditions specified in subsection (a) lapses.

Section 2 provides that the Secretary shall release the reversionary conditions of the patent only after the University prepares and delivers to the Secretary a recordable document setting forth the terms of an agreement between the University and the Secretary which will impose on the lands the University acquires restrictions similar to those being released from the lands the University now holds under the patent, and requires that any exchange or sale of the lands presently held will be on the basis of fair market value. The section also requires that the University include the terms of its agreement with the Secretary in any document which transfers to the University property acquired by the University pursuant to the agreement. This is intended to make the restrictions imposed by the agreement a matter of record for the protection of any third parties.

COST AND BUDGETARY CONSIDERATION

The Committee does not anticipate any additional budgetary impact from enactment of H.R. 6419, to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University and to enable the University to sell or exchange those lands in order to acquire other lands more suitable to educational purposes.

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 8, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6419, a bill to direct the Secretary of the Interior to release certain conditions contained in a patent concerning cer-

tain land conveyed by the United States to Eastern Washington University, as ordered reported by the Senate Committee on Energy and Natural Resources, December 7, 1982.

This bill directs the Secretary of the Interior to remove restrictions on the use and transfer of approximately 21 acres of land held by Eastern Washington University in order to allow the university to sell or exchange this land and acquire land more suitable for educational and recreational purposes. Under provisions of the bill the restrictions currently on the land held by the university are to be placed on any land either received in exchange or purchased with the proceeds from the sale of the land.

Based on this review, it appears that no additional cost to the federal government will be incurred as a result of enactment of this legislation.

Sincerely,

ALICE M. RIVLIN,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 6419.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

H.R. 6419 would direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain lands conveyed by the United States to Eastern Washington University.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of H.R. 6419.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report was requested by the Committee but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the CONGRESSIONAL RECORD for the advice of the Senate.

The pertinent legislative report received by the Committee on Interior and Insular Affairs in the House of Representatives from the Department of the Interior setting forth Executive agency recommendations relating to H.R. 6419 is set forth below:

U.S. DEPARTMENT
OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 5, 1982.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for our view on H.R. 6419, a bill "To direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University."

We would have no objection to the enactment of H.R. 6419, if amended to incorporate our recommendations.

H.R. 6419 would direct the Secretary of the Interior to release certain conditions in patent numbered 1216646, which conveyed to Eastern Washington University (formerly the Eastern Washington College of Education), under authority of the Recreation and Public Purposes Act, approximately 21 acres of land described as lot 6, section 34, township 22 North, range 41 East, Willamette Meridian Washington. The conditions to be released are that the lands will revert to the United States if either the University or any successor uses the land for other than recreational and educational purposes or attempts to transfer title to the land.

The Secretary would not be required to release the reverter provisions of the patent unless the University has demonstrated to his satisfaction: (1) that it will dispose of these 21 areas of land only for the purpose of acquiring, by exchange or purchase, property which is more suitable for educational or recreational purposes; (2) that, if the property is sold or exchanged, the sale price or the value of the property acquired through exchange will not be less than the fair market value of the involved land; (3) that, if the land is exchanged, the University will pay to the United States the difference between the fair market value of the 21 acres and the property acquired by exchange or, if the land is sold, any portion of the amount received from the sale of the 21 acres which is not used to purchase other property; and (4) that title to any property acquired by the University by exchange of the 21 acres or by purchase with the proceeds of the sale of such land would vest in the United States if the University or any successor of the University (a) uses the substitute property for purposes other than educational or recreational purposes, (b) attempts to transfer title to such property, or (c) prohibit or restricts, directly or indirectly, or permits agents, employees, contractors, or subcontractors (including lesses, sublessees, or permittees) to prohibit or restrict the use of the property or any facilities thereon by any individual because of race, creed, color, sex, or national origin.

The University originally acquired the land in question in 1961 intending to develop it extensively as a retreat for its music school. The land is about 10 miles from the campus. The University did develop a road, powerline, well, toilets, two docks, and primitive camping areas, but abandoned its plans to install permanent buildings for educational purposes because of lack of funds. It continued using the land for recreation only and, in 1976, revised its management plan to make it compatible with the limited nature of this development and use. In September 1980, the property was worth about $250,000. We understand the University officials have been criticized for retaining valuable property which is not actually useful for educational purposes.

Because of its physical features, including cliffs at the edge of the lake, the tract is not considered safe for unsupervised recreation. The University wants to obtain some safe, useable property closer to the campus, either by exchanging the 21 acres or selling it and purchasing substitute land. However, the reverter provision in the patent precludes such action. In order for the University to use the lands to acquire lands more suitable to its purpose, it is necessary to remove the reverter provision. H.R. 6419 is designed to achieve this objective. It cannot be accomplished administratively by the Secretary.

We recognize that a change in circumstances may render land unsuitable for the purposes for which it was granted under the Recreation and Public Purposes Act and that in some circumstances it may be desirable to allow the land originally conveyed to be sold or exchanged for land more suited to the purpose of the grant. On the basis of the information we have, we believe that the facts which generated this bill present a case for allowing substitution of more suitable land for lands that do not meet the needs of the grantee, in order to accomplish the purpose of the original grant. It is our view that when lands have been granted by the United States for a specified purpose on payment of less than fair market value, any change of use of the lands should be carefully circumscribed to protect the public interest, and to assure that any transaction would be as compatible as possible with the intent of the initial grant. This has also been Congressional policy.

H.R. 6419 would meet these requirements if it were amended along these lines:

First, we recommend that the legislation establish a time limit for conveyance of the 21 acres and acquisition of the substitute property.

In addition, we believe that enforcement of the reverter provision on the substitute land which the University would be acquiring would be difficult unless there is a recordable document such as an agreement between the University and the Secretary assuring the right of reverter to the Federal Government. Accordingly, we recommend that the bill be amended to require the University to execute and deliver to the Secretary a document confirming the obligations imposed on the University by the bill.

We would be happy to work with the Committee in developing the suggested amendments.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

GARREY E. CARRUTHERS,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill H.R. 6419, as reported.

GRANTING TEMPORARY USE PERMITS TO FEDERAL AGENCIES ON PUBLIC LANDS

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following explanatory statement to accompany S. 1705.

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1705) to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior, having considered the same, reports favorably thereon with an amendment to the text and submits the following information thereon:

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That The Federal Land Policy and Management Act of 1976 is amended as follows:

(1) By inserting in section 302(b) the phrase "temporary use permits under section 319 of this Act," between the comma following the words "section 204 of this Act," and the word "and," in the first proviso;

(2) By adding the following new section 319:

"TEMPORARY USE PERMITS FOR FEDERAL AGENCIES

"SEC. 319. The Secretary is authorized to issue temporary use permits to Federal departments and agencies to use, occupy, and develop public lands. Such permits may be issued for a term not to exceed three years and may be renewed once for an additional term not to exceed three years."; and

(3) By adding the following new heading to the Table of Contents after section 318:

"Sec. 319. Temporary Use Permits for Federal Agencies.".

PURPOSE

S. 1705, as reported would authorize the Secretary of the Interior to allow temporary use of public lands by federal departments and agencies by permit for a specific term and one renewal period.

SEC. 302(b) of FLPMA authorizes the Secretary to permit other Federal agency use of public lands only through rights of way, withdrawal or cooperative agreement when the proposed uses are similar or closely related to the programs of the BLM for the public lands involved. There is no provision for temporary or short term uses. The temporary land use requirement of Federal departments or agencies are diverse and are difficult to accommodate under current law. Withdrawal and cooperative agreement authority are not sufficient or unwieldy.

The need for temporary use permits has become evident from recent experiences of the Bureau of Land Management in attempting to accommodate the land use requirements of Federal departments and agencies. In one instance, for example, BLM was unable to permit the use of a site on public lands by the Environmental Protection Agency for the purpose of monitoring the effects of hazardous waste disposal areas on private lands adjacent to those public lands. In another, the Secretary could not permit the Federal Aviation Administration to use public lands for its vector analysis program, which requires the occasional short-term use of mountain tops.

The amount and variety of Interior-controlled public land in the continental United States and Alaska, together with its diversified terrain and climatic conditions, present the military services with opportunities to vary their training operations and yet not require the use of any one particular area on a recurring basis. Yet the Secretary of the Interior is not able to permit short-term use of public lands by the military because the authorizing authorities he may use are not suitable.

A temporary use permit or authorization is consistent with procedures formerly used by the Bureau of Land Management to authorize special uses of public lands on a temporary basis. Issuance of temporary use permits should be subject to environmental review by the Secretary of the Interior in the same manner as are other land use authorizations.

LEGISLATIVE HISTORY

S. 1705 was introduced by Senator McClure by request on October 6, 1981. The Public Lands and Reserved Water Subcommittee received testimony on S. 1705 on July 27, 1982. The administration supports the enactment of S. 1705 as introduced as indicated in testimony before the Subcommittee. At a business session on December 7, 1982, the Committee on Energy and Natural Resources ordered S. 1705, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on December 7, 1982, by unanimous vote of a quorum present recommends that the Senate pass S. 1705.

The roll call vote on reporting the measure was 19 yeas, 0 nays, as follows:

Yeas: Mr. McClure, Mr. Hatfield, Mr. Domenici, Mr. Wallop, Mr. Warner, Mr. Weicker,* Mr. Humphrey,* Mr. Murkowski, Mr. Nickles, Mr. East,* Mr. Heinz, Mr. Jackson, Mr. Johnston,* Mr. Bumpers, Mr. Ford, Mr. Matsunaga,* Mr. Melcher, Mr. Tsongas, and Mr. Bradley.

Nays: None.

COMMITTEE AMENDMENT

The Committee amendment was in the nature of a substitute to S. 1705 as introduced.

The amendment limits the authority of the Secretary of the Interior to issue permits for temporary use of public lands by Federal agencies and departments only for a three year term period with one renewal period not to exceed 3 years. S. 1705, as introduced, contained no limitations on time or use by any specific entity or entities.

COST AND BUDGETARY CONSIDERATIONS

The Committee does not anticipate any additional budgetary impact from enactment of S. 1705, to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior.

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 9, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional budget Act of 1974, the Congressional Budget Office has review S. 1705, a bill to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior, as ordered reported by the Senate Committee on Energy and Natural Resources, December 7, 1982.

Based on this review, it is expected that no significant additional cost to the govenment would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1705.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

S. 1705 would amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 1705.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report was requested by the Committee but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the CONGRESSIONAL RECORD for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 on Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, S. 1705 as ordered reported, as shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF OCTOBER 21, 1976

(90 Stat. 2743, as amended, 43 USC 1701)

* * * * *

TABLE OF CONTENTS

* * * * *

TITLE III—ADMINISTRATION

Sec. 301. BLM directorate and functions.
Sec. 302. Management of use, occupancy, and development.
Sec. 303. Enforcement authority.
Sec. 304. Service charges and reimbursements.
Sec. 305. Deposits and forfeitures.
Sec. 306. Working capital fund.
Sec. 307. Studies, cooperative agreements, and contributions.
Sec. 309. Advisory councils and public participation.
Sec. 310. Rules and regulations.
Sec. 311. Program report.
Sec. 312. Search and rescue.
Sec. 313. Sunshine in government.
Sec. 314. Recordation of mining claims and abandonment.
Sec. 315. Recordable disclaimers of interest.
Sec. 316. Correction of conveyance documents.
Sec. 317. Mineral revenues.
Sec. 318. Appropriation authorization.
Sec. 319. Temporary Use Permits for Federal Agencies.

* * * * *

MANAGEMENT OF USE, OCCUPANCY, AND DEVELOPMENT

SEC. 302. (a) The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 202 of this Act when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.

(b) In managing the public lands, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law, regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropri-

*Indicates voted by proxy.

ate, the use, occupancy, and development of the public lands, including, but not limited to, long-term leases to permit individuals to utilize public lands for habitation, cultivation, and the development of small trade or manufacturing concerns: *Provided,* That unless otherwise provided for by law, the Secretary may permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way under section 507 of this Act, withdrawals under section 204 of this Act, *temporary use permits under section 319 of this Act,* and, where the proposed use and development are similar or closely related to the programs of the Secretary for the public lands involved, cooperative agreements under subsection (b) of section 307 of this Act: *Provided further,* That nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as enlarging or diminishing the responsibility and authority of the States for management of fish and resident wildlife. However, the Secretary concerned may designate areas of public land and of lands in the National Forest System where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. Nothing in this Act shall modify or change any provision of Federal law relating to migratory birds or to endangered or threatened species. Except as provided in section 314, section 603, and subsection (f) of section 601 of this Act and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

(c) The Secretary shall insert in any instrument providing for the use, occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such instrument upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance with applicable State or Federal air or water quality standard or implementation plan: *Provided,* That such violation occurred on public lands covered by such instrument and occurred in connection with the exercise of rights and privileges granted by it: *Provided further,* That the Secretary shall terminate any such suspension no later than the date upon which he determines the cause of said violation has been rectified: *Provided further,* That the Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect health or safety or the environment: *Provided further,* That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the public lands, the specific provisions of such law shall prevail.

* * * * *

TEMPORARY USE PERMITS FOR FEDERAL AGENCIES

SEC. 319. The Secretary is authorized to issue temporary use permits to federal departments and agencies to use, occupy, and develop public lands. Such permits may be issued for a term not to exceed three years and may be renewed once for an additional term not to exceed three years.

SHOW LOW, ARIZONA, LAND CONVEYANCE

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following explanatory statement To accompany S. 2308.

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2308 to direct the Secretary of Agriculture to convey certain property to the city of Show Low, Arizona, having considered the same, reports favorably thereon with an amendment to the text and submits the following information:

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of Agriculture is authorized and directed to survey and convey, by quitclaim deed and without consideration, to the city of Show Low, Arizona, all right, title, and interest of the United States to the lands generally depicted on a map entitled "Land Conveyance, City of Show Low, Arizona," and dated July 1982, which shall be on file and available in the office of the Chief Forest Service, Department of Agriculture, and more particularly described as follows:

(a) a tract of land, together with improvements thereon known as the "David C. Porter Park" estimated to include approximately 52.46 acres; and

(b) a tract of land, together with improvements thereof known as the "Show Low Municipal Airport" estimated to include approximately 533 acres.

SEC. 2. Title to any real property acquired by the city of Show Low pursuant to this Act shall revert to and become the property of the United States if the city or any successor of the city uses such real property for other than public purposes.

PURPOSE OF THE MEASURE

S. 2308 would authorize and direct the Secretary of Agriculture to survey and convey, without consideration, certain lands comprising approximately 585 acres to the city of Show Low, Arizona.

BACKGROUND AND NEED

As introduced, S. 2308 involves two parcels of land. The first is a 48-acre portion of a 52.46-acre parcel of Federal land presently under permit to the city for a city park. It has been under continuous permit to the city for a city park since November 1953. The tract has improvements placed by the city under terms of the permit, including a ball park, picnic and sanitary facilities, and parking areas. The property is surrounded by private lands and is within the developed area of the city. The bill as introduced excludes that portion of the tract used as a highway right-of-way, which establishes a portion of the southern boundary of the property.

The second parcel described in the bill as introduced consists of 897 acres and contains the Show Low Airport. This use by the city is also under permit with the Forest Service but the permit only provides for use of 317 acres. This permit has continued since November 1946. The city is interested in obtaining this property and approximately 580 acres of adjacent land to provide for possible expansion of its airport at sometime in the future and to ensure against future encroachments upon the airport in the form of development and noise-sensitive activities. The acquisition of this land by the city is an important part of the impementation of its airport Master Plan. Ownership of this property will ensure the city maximum control of the use of the land most critical to the airport's operation.

LEGISLATIVE HISTORY

S. 2308 was introduced on March 30, 1982. A hearing before the Public Lands and Reserved Water Subcommittee was held on July 27, 1982. S. 2308 was ordered favorably reported as amended at a mark-up session on December 7, 1982.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in open business session on December 7, 1982 by unanimous vote of a quorum present recommended that the Senate pass S. 2308 if amended, as described herein.

The rollcall vote on reporting the measure was 19 yeas and no nays as follows:

Yeas: McClure, Hatfield, Weicker,* Domenici, Wallop, Warner, Humphrey,* Murkowski, Nickles, East,* Heinz, Jackson, Johnston,* Bumpers, Ford, Matsunaga,* Melcher, Tsongas, Bradley.

Nays: None.

COMMITTEE AMENDMENT

During the consideration of S. 2308, the Committee adopted an amendment in the nature of a substitute offered by Senator Wallop.

In addition to several technical and clarifying changes, the Committee substitute makes two major changes in the bill as introduced. First, the amendment reduces the acreage to be conveyed from approximately 950 acres to 585 acres. The Committee believes that this conveyance is ample to meet the city's airport needs. It includes the 317 acres currently under permit plus a 216-acre addition on the south side of the airstrip in section 16. It also includes the entire 52-acre parcel of Federal land presently under permit to the city for a city park. Conveyance of both parcels would be made subject to two outstanding highway rights-of-way.

The Committee amendment also includes a reverter provision making it clear that should the lands conveyed to Show Low be used for other than public purposes, they will revert to, and become the property of, the United States. The Committee notes that "public purposes" includes retaining these lands in public ownership.

COST AND BUDGETARY CONSIDERATIONS

S. 2308 authorizes no appropriation and should have no discernible impact on the Federal budget. The estimate of the Congressional Budget Office follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 8, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2308, a bill to direct the Secre-

*Indicates vote by proxy.

tary of Agriculture to convey certain property to the city of Show Low, Arizona, as ordered reported by the Senate Committee on Energy and Natural Resources, December 7, 1982.

This bill authorizes and directs the Secretary of Agriculture to survey and convey without consideration approximately 585 acres of land. According to the provisions of the bill, title to this land will revert to the federal government if it ceases to be used for public purposes. Based on information from the National Forest Service, it is estimated that additional costs associated with surveying and administration of the conveyance will be approximately $25,000 in fiscal year 1983. The National Forest Service has estimated that the value of the land to be exchanged is approximately $3 million.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

REGULATORY IMPACT EVAI UATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2308.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. S. 2308 directs the Secretary of Agriculture to convey certain property to the city of Show Low, Arizona.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2308.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report was requested by the Committee but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the CONGRESSIONAL RECORD for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 2308.

CHEAHA WILDERNESS ACT

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitting the following Explanatory Statement to accompany S. 2955.

The Committee on Energy and Natural Resources to which was referred the bill S. 2955 to establish the Cheaha Wilderness in Talladega National Forest, Alabama, having considered the same, reports favorably and submitts the bill.

Following information thereon:

PURPOSE

S. 2955 would esigniate a 6,780-acre Cheaha Wilderness in the Talledega National Forest, Alabama.

BACKGROUND AND NEED

The 6,780-acre proposed wilderness abuts Cheaha State Park and encompasses the second and third highest peaks in Alabama. Lying within a 90 minute drive of Birmingham and 2 hours from Montgomery, the proposal straddles the southernmost extension of the Blue Ridge Mountains and is popular for hiking and other forms of primitive recreation. The Odum Scout Trail and several other trails traverse the area. Scenery is spectacular throughout, as is evidenced by the fact that the area got the highest wilderness attributes rating in the state during the RARE II review process.

The proposed wilderness consists entirely of National Forest System land and includes the steep and rugged topography of Talladega Mountain.

Resource conflicts with wilderness designation are minimal. A study by the U.S. Bureau of Mines shows no significant mineralization, timber potential is also low.

The area was recommended for further planning in RARE II because consideration was then being given to location of a scenic highway through part of the area. The proposed highway has since been rerouted outside the area.

LEGISLATIVE HISTORY

S. 2955 was introduced on September 24, 1982. A hearing before the Subcommittee on Public Lands and Reserved Water was held on November 30, 1982.

The Administation in testimony supports the enactment of S. 2955 with amendment.

At a business session on December 7, 1982, the Committee on Energy and Natural Resources ordered the S. 2955 favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on December 7, 1982, by unanimous vote of a quorum present recommends that the Senate pass S. 2955.

The rollcall vote on reporting the measure was 19 yeas, 0 nays as follows:

Yeas: Mr. McClure, Mr. Hatfield, Mr. Domenici, Mr. Wallop, Mr. Warner, Mr. Weicker,* Mr. Humphrey,* Mr. Murkowski, Mr. Nickles, Mr. East,* Mr. Heinz, Mr. Jackson, Mr. Johnston,* Mr. Bumpers, Mr. Ford, Mr. Matsunaga,* Mr. Melcher, Mr. Tsongas, Mr. Bradley.

*Indicates voted by proxy.

Nays: None.

SECTION-BY-SECTION ANALYSIS

Section 1 is the title section. The Act may be cited as the "Cheaha Wilderness Act".

Section 2 designates certain lands in the Talledega National Forest in Alabama as wilderness and names the area the Cheaha Wilderness.

Section 2(b) contains the standard language of all wilderness bills pertaining to the management of wilderness areas designated by the bill.

Section 2(c) contains the standard language of all wilderness bills pertaining to the filing of maps and legal descriptions for the wilderness areas designated by the bill.

COST AND BUDGETARY CONSIDERATION

The Committee does not anticipate any additional budgetary impact from enactment of S. 2955, to establish the Cheaha Wilderness in the Talladega National Forest, Alabama.

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 9, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2955, the Cheaha Wilderness Act, as ordered reported by the Senate Committee on Energy and Natural Resources, December 7, 1982.

This bill adds approximately 6,780 acres of National Forest System lands in Alabama to the National Wilderness Preservation System. Based on information from the National Forest Service, additional costs to the federal government resulting from surveying, planning, and related activities necessary to implement the wilderness withdrawals are expected to be approximately $20,000 per year during the five fiscal years beginning with 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2955.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

S. 2955 would establish the Cheaha Wilderness in Talladega National Forest, Alabama.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2955.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report was requested by the Committee but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the CONGRESSIONAL RECORD for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill S. 2955, as reported.

LEE METCALF WILDERNESS AND MANAGEMENT ACT OF 1982

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following explanatory statement to accompany S. 2110.

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2110) to establish the Lee Metcalf Wilderness and Management Area in the State of Montana, and for other purposes, having considered the same, reports favorably thereon with amendment(s) to the text and submits the following information.

The amendments are as follows:

1. On page 1, line 9, following the word "Forests", insert: "and certain lands in the Dillon Resource Area, Montana, administered by the Bureau of Land Management".

2. On page 1, line 10, delete "two hundred and two thousand" and insert in lieu thereof: "two hundred and forty-four thousand".

3. On page 2, line 3, delete "February" and insert in lieu thereof: "December".

4. On page 2 lines 7 and 8, amend to read as follows: "the Secretary of Agriculture, hereafter referred to as 'the Secretary', in accordance with the Wilderness Act governing".

5. On page 2, line 12, delete the word "Act." and insert in lieu thereof: "Act: *Provided further,* That the Bear Trap Canyon portion of the Lee Metcalf Wilderness shall be administerd by the Secretary of the Interior.".

6. On page 2, lines 19 and 20, delete "seventy-two thousand" and insert in lieu thereof: "thirty-five thousand five hundred".

7. On page 2, line 21, delete "February" and insert in lieu thereof: "December".

8. On page 2, delete lines 22 and 23 and insert in lieu thereof: "The area shall be hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and geothermal leasing, and all amendments thereto, and further shall be administered by the Secretary to maintain presently existing wilderness character, with no commercial timber harvest nor additional road construction permitted. The Secretary shall permit continued use of the area by motorized vehicular equipment only where such use is compatible with the protection and propagation of wildlife within the area.".

9. On page 3, delete all the material following line 6; on page 4, delete lines 1 through 18, and insert in lieu thereof:

"SEC. 3. (a) The Congress hereby determines and directs that—

"(1) the areas listed in subsection (b) of this section have been adequately studied for wilderness pursuant to Public Law 95-150 or in the RARE II Final Environmental Statement (dated January 1979);

"(2) such studies shall constitute an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option for such areas prior to revision of the initial plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) and in no case prior to the date established by law for completion of the initial planning cycle;

"(3) such areas need not be managed, unless otherwise specified in this Act, for the purposes of protecting thier suitability for wilderness designation pending revision of the initial plans.

"(b) The areas covered by subsection (a) of this section as follows:

"(1) the Mt. Henry Wilderness Study Area as designated by Public Law 95-150;

"(2) those portions of the Taylor-Hilgard Wilderness Study Area as designated by Public Law 95-150 but not designated as wilderness by this Act;

"(3) certain lands on the Gallatin National Forest and Beaverhead National Forest identified as area 1549 in the Forest Service Roadless Area Review and Evaluation (II) Final Environmental Statement, Executive Communication Number 1504, May 3, 1979, not designated as wilderness by this Act;

"(4) certain lands on the Custer National Forest known as the proposed Tongue River Breaks Wilderness, which comprise approximately 16,500 acres, as identified in Executive Communication 1504, Ninety-sixth Congress (House Document Numbered 96-119).

"(c)(1) The lands described in subsection (c)(2) of this section have been adequately studied for wilderness pursuant to Section 603 of the Federal Land Policy and Management Act (P.L. 94-579) and need not be managed, unless otherwise specified in this Act, for the purposes of protecting their suitability for wilderness designatioin, and may be made available for such uses as are deemed appropriate in land use plans developed pursuant to the Federal Land Policy and Management Act.

"(2) The lands covered by subsection (c)(1) of this section are as follows:

"(A) certain lands administered by the Bureau of Land Management in the Powder River Resource Area, Montana, identified as area number 736, Tongue River Breaks Contiguity, comprising approximately 2,000 acres as described in the "Final Decision Montana Wilderness Inventory" published November 1980 by the Bureau of Land Management;

"(B) certain lands administered by the Bureau of Land Management in the Dillon Resource Area, Montana, identified as area number MT-076-079 "Madison Tack-Ons" comprising approximately 1,500 acres, as described in the "Final Decision Montana Overthrust Belt Wilderness Inventory" published by the Bureau of Land Management, not otherwise designated as wilderness by this Act; and

"(C) certain lands administered by the Bureau of Land Management known as "Bear Trap Canyon Study Area", Madison County, Montana, as described in "Draft Suitability and Environmental Impact Statement for Wilderness Designatioin of Bear Trap Canyon Instant Study Area" published April 1980 by the Bureau of Land Management, not otherwise designated as wilderness by this Act.".

10. On page 4, delete line 19 and insert in lieu thereof the following:

"(d) The Secretary is directed to revise the".

11. On page 5, delete the period on line 2 and insert the following: ", and approximately 40 acres located in the West Fork Mill Creek (Section 13, T7S, R9E MT Principal Meridian) to exclude about 0.3 miles of existing road, parking area and public facilities. Lands excluded pursuant to this subsection are hereby removed from the National Wilderness Preservation System.".

12. On page 5, delete lines 3 through 12 and insert in lieu thereof the following:

"(e)(1) The road depicted on a map entitled "U. L. Bend Wilderness Access for Motor Vehicles" dated February 1982, and 50 feet on either side of such road, are hereby removed from the National Wilderness Preservation System. Such map shall be on file and available for public inspection in the Office of the Director of the U.S. Fish and Wildlife Service.

"(2) The Secretary of the Interior is directed to open the road referenced in subparagraph (e)(1) of this section to motorized vehicles.".

13. On page 5, line 16, delete "in section 1(a)(2) of" and insert in lieu thereof: "by".

14. On page 5, following the material on line 21 add the following: "and directs".

15. On page 5, delete line 24 and insert in lieu thereof: "the Secretary and".

16. On page 6, line 13, delete the comma following the word "half".

17. On page 6, delete line 14.

18. On page 7, line 9, delete the comma following the word "half".

19. On page 9, line 2, delete the word "and".

20. On page 9, delete the material on lines 13 and 14 and insert in lieu thereof:

"All, less HES 187 and 190,".

21. On page 10, delete lines 15-18 and insert in lieu thereof:

"(2) For so long as the Forest Service deems necessary, Burlington Northern Railroad Company accepts the responsibility accruing from this exchange to provide and manage three (3) public recreational access, including trail head facilities as needed, in the Jack Creek drainage over routes approximately as illustrated on Exhibit C of the Memorandum of Understanding dated November 20, 1981, between the U.S. Forest Service and Burlington Northern, Inc., to utilize national forest lands.".

22. On page 11, following line 11, insert on a new line, "Public Land Order 909—Jack Creek Administrative Site—7/13/1953.".

PURPOSE OF THE MEASURE

S. 2110 would establish the Lee Metcalf Wilderness and Management area in the State of Montana, release other National Forest and Bureau of Land Management lands for uses other than wilderness, and effect a major land exchange between the United States and Burlington Northern in the Taylor-Hilgard area.

BACKGROUND AND NEED

In 1977, Congress passed the Montana Wilderness Study Act. One of the areas included in that legislation was the Taylor-Hilgard area, comprising 289,859 acres. Nearly all the proposed Lee Metcalf Wilderness and Management Areas' acreage was within the Taylor-Hilgard Study boundary. Public Law 95-150 directs that the areas to be studied ". . . until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential inclusion in the National Wilderness Preservation System."

S. 2110 would designate certain lands in the Taylor-Hilgard area as wilderness direct the management of certain other lands in the area, and release still other lands from the management required by Public Law 95-150.

Legislation is needed to insure that the highest uses of lands studied under Public Law 95-150 are actually achieved, since Congress must act for the study and interim management phases to be terminated.

More specifically, S. 2110 as reported, would designate approximately 244,000 acres of Forest Service and BLM land as wilderness and direct the management of another 35,000 acres of Forest Service land for wildlife habitat and recreation values. The bill effects an exchange of lands in the area between the Forest Service and the Burlington Northern, Inc., who share a checkerboard land ownership pattern in the Taylor-Hilgard area; the exchange would consolidate holdings of both parties. In addition, S. 2110 directs the Secretary of the Interior to remove a fishing access road from the UL Bend Wilderness, Montana; releases the Forest Service RARE II area known as the Tongue River Breaks from further wilderness management; directs the Forest Service to redraw the boundary of the existing Absaroka-Beartooth Wilderness Area, Montana, to exclude approximately 50 acres of private land on the northern border; and releases from further wilderness management the Mt. Henry Wilderness Study Area, Montana, also mandated for study by Public Law 95-150.

The initial Forest Service report on Taylor-Hilgard as required by Public Law 95-150 recommended some 155,269 acres be added to the National Wilderness Preservation System. The additional acreages proposed for wilderness in S. 2110 are largely in the existing Spanish Peaks Primitive Area nearby, the area within the Taylor-Hilgard Study boundary, and the Bear Trap Canyon

Instant Study Area, managed and recommended for wilderness by the Bureau of Land Management.

The special management area is designed to accommodate the two most important uses of the lands within its boundary: wildlife and recreation. Elk and Grizzly bear populations depend on the lands generally surrounding Monument Mountain. Outdoor recreation, most importantly winter snowmobiling, is established along the Big Sky Snowmobile Trail and associated play areas, and this recreation opportunity is essential to the economy of this part of Montana, most specifically the town of West Yellowstone.

The exchange of private and public lands is necessary to consolidate public ownership in the Taylor-Hilgard portion of the Madison Wilderness. Burlington Northern, Inc., will deed over some 24,007 acres to the Forest Service, and 11,810 acres of federal land will be traded to the Burlington Northern, Inc.

LEGISLATIVE HISTORY

The Subcommittee on Public Lands and Reserved Water received testimony at a field hearing in Bozeman, Montana on May 28, 1981 on issues involved with the Taylor Hilgard and related areas. The Committee published that hearing as Publication No. 97-33, on the future management of the Mount Henry, Taylor-Hilgard, and West Pioneer Wilderness Study areas, Public Law 95-150.

S. 2110 was introduced by Senator Melcher on February 11, 1982.

At a business session on December 7, 1982, the Committee on Energy and Natural Resources ordered S. 2110, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on December 7, 1982, by unanimous vote of a quorum present recommends that the Senate pass S. 2110, if amended as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

Yeas: Mr. McClure, Mr. Hatfield, Mr. Domenici, Mr. Wallop, Mr. Warner, Mr. Weicker,* Mr. Humphrey,* Mr. Murkowski, Mr. Nickles, Mr. East,* Mr. Heinz, Mr. Jackson, Mr. Johnston,* Mr. Bumpers, Mr. Ford, Mr. Matsunaga,* Mr. Melcher, Mr. Tsongas, and Mr. Bradley.

Nays: None.

COMMITTEE AMENDMENTS

The Committee made 22 amendments to S. 2110, as introduced. Many were technical or clarifying in nature. The amendments are described as follows:

1. The amendment includes certain lands in the Dillon Reserve area administered by BLM in the area designated as the Lee Metcalf Wilderness to be designated as wilderness.

2. The amendment changes the acreage being designated as wilderness from 202,000 in S. 2110 as introduced to 244,000 in S. 2110 as reported.

3. This amendment conforms the date of the descriptive map from the date of the bill's introduction to the date of the committee amendments.

4. Technical amendment.

5. This amendment clarifies that certain lands in the Bear Trap portion of the Lee Metcalf Wilderness that are BLM lands will be managed and administered by the Secretary of the Interior in accordance with the Wilderness Act.

6. This amendment changes the acreage being designated for special management subsequent to introduction of the bill.

7. This amendment conforms the date of the descriptive map from the date of introduction to the date of the committee amendment.

8. Changes the management direction language in S. 2110 to make clear that present wilderness characteristics of the area shall be protected, and that motorized vehicles (especially snowmobiles) and other vehicles (bicycles, horsedrawn wagons) shall be allowed, and habitat improvement projects may be conducted by the Secretary of Agriculture, acting through the Forest Service.

9. This amendment releases from further wilderness management requirements certain National Forest lands and Bureau of Land Management areas which are not designated as wilderness in S. 2110 as reported, as well as certain lands in the Mt. Henry and Tongue River Breaks areas.

10. This is a technical amendment.

11. This amendment revises the boundary of the Absaroka-Beartooth wilderness to delete a Forest Service parking lot and 0.3 miles of road on the northern edge of the wilderness.

12. Changes the manner in which Congress directs the opening of the road in the UL Bend Wilderness area.

13. This amendment on a grammatical correction.

14. & 15. These are technical amendments.

16, 17, 18, 19 & 20. Correct printing errors in the land description for the proposed exchange between Burlington Northern and the Forest Service.

21. This amendment conforms the language of the bill to subsequent changes in the Memorandum of Understanding between the Burlington Northern, Inc. and the U.S. Forest Service, clarifying that the Forest Service may relieve Burlington Northern of the responsibility of providing and managing the trails if the Forest Service no longer deems them necessary, without prejudice to the land exchange itself. The memorandum is as follows:

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into this 20th day of November, 1981, by and between the Forest Service, United States Department of Agriculture, hereinafter referred to as FS, and Burlington Northern Railroad Company, a Delaware corporation, hereinafter referred to as BN, for the purpose of documenting joint understandings in relation to a proposed wilderness and legislated exchange of lands within the Gallatin and Beaverhead National Forests, Montana.

WITNESSETH:

Whereas, there is a proposal that the Congress of the United States establish a wilderness within the Taylor-Hilgard area,

Whereas, there are intermingled National Forest and BN ownerships within the Taylor-Hilgard area,

Whereas, in the event a wilderness is created, it is the intent to consolidate Federal ownership within the wilderness.

Now, therefore, BN and the FS hereto agree as follows:

1. Within 45 days following passage of Federal legislation which establishes the wilderness and consummates the associated land exchange, BN will execute and transmit to the FS a warranty deed, conveying to the United States those lands described in Exhibit A, attached hereto and made a part hereof, said conveyance to be subject to such reservations and encumbrances as are of record and acceptable to the Secretary of Agriculture.

2. Within 45 days following receipt of such warranty deed from BN, the United States shall issue patent to those lands described in Exhibit B, attached hereto and made a part hereof, said patent to convey ownership of said lands to BN subject only to (1) a reservation for ditches and canals as provided for in the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945), and (2) such reservations and encumbrances as are of record.

3. BN accepts the responsibility accruing from this exchange to provide and manage three (3) public recreational accesses, including trail head facilities as needed, in the Jack Creek drainage over routes approximately as illustrated on Exhibit C, attached hereto and made a part hereof, to utilize National Forest lands.

The recreational accesses will originate from the Jack Creek Road and will connect to the existing FS trails at points A, B, and C, as shown on Exhibit C.

4. It is further understood that the FS will, at the time patent to the lands described in Exhibit B is conveyed to BN, relinquish the interest of the United States in the Hammond Creek Road across Section 6, T. 6 S., R. 2 E., and Section 32, T. 5 S., R. 2 E.

5. It is further understood that this agreement will terminate if the required wilderness and related land exchange legislation is not passed by Congress by December 31, 1981.

EXHIBIT A

T. 6 S., R. 1 E., P.M.M.
Sec. 13, all.

T. 6 S., R. 2 E., P.M.M.
Sec. 1, Lots 13, 14, N½, W½SE¼;
Sec. 19, all fractional;
Sec. 27, all;
Sec. 29, all;
Sec. 31, all fractional;
Sec. 33, all.

T. 7 S., R. 1 E., P.M.M.
Sec. 1, all fractional;
Sec. 3, Lots 1 and 2, S½NE¼;
Sec. 11, N½NE¼.

T. 7 S., R. 2 E., P.M.M.
Sec. 5, all fractional;
Sec. 15, all;
Sec. 17, all;
Sec. 21, all;
Sec. 25, all;
Sec. 27, N½, SE¼, E½SW¼;
Sec. 35, N½.

T. 7 S., R. 3 E., P.M.M.
Sec. 31, all fractional.

T. 8 S., R. 1 E., P.M.M.
Sec. 25, N½.

T. 8 S., R. 2 E., P.M.M.
Sec. 1, all fractional;
Sec. 3, all fractional;
Sec. 9, all;
Sec. 11, all;
Sec. 13, all;
Sec. 15, all;
Sec. 17, all;
Sec. 19, all fractional;
Sec. 21, all;
Sec. 23, all;

*Indicates voted by proxy.

Sec. 25, all;
Sec. 27, all;
Sec. 33, E½;
Sec. 35, all.

T. 8 S., R. 3 E., P.M.M.
Sec. 5, all fractional;
Sec. 7, all fractional;
Sec. 17, all;
Sec. 19, all fractional;
Sec. 21, W½;
Sec. 29, all;
Sec. 31, Lots 1 and 2, NE¼, E½NW¼.

T. 9 S., R. 2 E., P.M.M.
Sec. 1, all fractional;
Sec. 11, all.

Containing 24,007.23 acres, more or less, all in Madison and Gallatin Counties, State of Montana.

EXHIBIT B

T. 5 S., R. 1 E., P.M.M.
Sec. 24, S½;
Sec. 26, all;
Sec. 34, Lots 1, 2, 3, 4, SE¼;
Sec. 36, all, less HES 187 and 190.

T. 5 S., R. 2 E., P.M.M.
Sec. 30, all fractional;
Sec. 32, all;
Sec. 34, S½.

T. 6 S., R. 1 E., P.M.M.
Sec. 2, all fractional;
Sec. 12, all.

T. 6 S., R. 2 E., P.M.M.
Sec. 2, all fractional;
Sec. 4, all fractional;
Sec. 6, all fractional;
Sec. 8, all;
Sec. 10, all;
Sec. 12, all fractional;
Sec. 14, all;
Sec. 16, all;
Sec. 22, all;
Sec. 24, all.

T. 6 S., R. 3 E., P.M.M.
Sec. 18, all fractional.

Containing 11,810.47 acres, more or less, all in Madison County, State of Montana.

EXHIBIT C

Exhibit C not reproduced in RECORD.

22. This amendment corrects an omission in the original bill.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 9, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2110, the Lee Metcalf Wilderness and Management Act of 1982, as ordered reported by the Senate Committee on Energy and Natural Resources, December 7, 1982.

This bill designates 279,500 acres of land in Montana as the Lee Metcalf Wilderness and Management Areas. Based on information from the National Forest Service, it is estimated that additional costs resulting from surveying, planning and related activities associated with the designations will be approximately $250,000 over the five fiscal years beginning with 1983.

The bill also contains provisions for the release of certain lands from wilderness management and a land exchange between the National Forest Service and a private party. A small amount of savings to the federal government is expected to be realized as as result of enactment of these provisions.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2110.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

S. 2110 would establish the Lee Metcalf Wilderness and Management Area in the State of Montana, and for other purposes.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2110.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report was requested by the Committee but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the CONGRESSIONAL RECORD for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill S. 2110, as reported.

HUMAN RIGHTS DAY

Mr. MOYNIHAN. Mr. President, on Friday, December 10, the Senate finished its business unexpectedly early in the day, and adjourned for the weekend a bit suddenly. I had planned to offer several remarks on that day with respect to International Human Rights Day, which was observed on Friday, the 34th anniversary of the adoption by the United Nations General Assembly of the International Declaration of Human Rights. I would like to do so now, if I may.

The anniversary of the adoption of the Declaration should be an occasion for special reflection, by Americans even more than other peoples, because it is—like the U.N. Charter itself—in the main an American work. In the wake of the Second World War, when the United States played the largest single role in restoring peaceful order to a war-ravaged world, our foreign policy was guided by a quintessentially American optimism—American because it was Wilsonian optimism—that the entire world might soon be governed by the spirit of the Declaration of Independence and the Bill of Rights, with perhaps just a little bit of the New Deal thrown in.

This was no more afterthought; it was, in fact, why we had entered the war in the first place.

Recall Franklin Roosevelt's famous "Four Freedoms" speech, delivered before the 77th Congress on January 6, 1941, during the dark days before the United States entered the war. The President's purpose on that day was to explain why the United States would support, through the provision of material and ammunition, the war efforts of the democracies in Europe against the totalitarian powers then embarked upon the campaign to subjugate through military force the free world.

The four freedoms summarized what the democratic nations of the world were fighting for in the great war then raging in Europe and the Pacific. They became the blueprint for American postwar policy, which had its first institutional expression in the United Nations Organization, and its clearest ideological expression in the Universal Declaration of Human Rights.

The democracies which the United States was soon to join in combat, President Roosevelt told the Congress, "look forward to a world founded upon four essential human freedoms * * *"

The first is freedom of speech and expression—everywhere in the world.

The second is freedom of every person to worship God in his own way—everywhere in the world.

The third is freedom from want . . . everywhere in the world.

The fourth is freedom from fear—which, translated into world terms, means a worldwide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor—anywhere in the world.

The United States has remained dedicated to these goals. Indeed, it was Eleanor Roosevelt herself, at the head of the American delegation to the early sessions of the United Nations General Assembly, meeting then in Paris, who took the initiative in drafting the Universal Declaration of Human Rights.

The purpose of the Declaration, as set out in its introductory sentence, was to establish—

A common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society . . . shall strive . . . to promote respect for these rights and freedoms . . .

And the Declaration set out to enumerate those rights and freedoms, in a manner that is reminiscent of nothing so much as our own Constitution and the American Declaration of Independence.

Thirty-four years later, we as a people remain dedicated to the propositions set forth in the Universal Declaration of Human Rights. We have not always been entirely successful in the implementation of the ideal.

The most recent Democratic administration, for instance, tried when it came to power in 1977 to reinvigorate a human rights policy that had seemingly been relegated by previous administrations to a distinctly lesser rung on the ladder of American priorities. While it had good intentions, it lacked breadth of vision. The policy of human rights under the Carter administration became bureaucratized and, thereby, trivialized.

As I wrote in an article published in 1977, the "concepts of human rights should be as integral to American foreign policy as is Marxist-Leninism to Soviet or Chinese or Yugoslav operations and planning."

Instead, we created a minor office in the State Department to handle the issue, relegating it to the destiny of departmental routine. Just as we have the position of Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, so now we have the position of Assistant Secretary for Human Rights and Humanitarian Affairs. We have, accordingly, come to see the policy of human rights not as the integrating ideological element of our foreign policy but, rather, as only one program among many.

The successor Republican administration came to power last year apparently persuaded that its predecessor had perverted the notion of human rights as a goal of American policy by applying a more stringent code of conduct to governments of the right than to those of the left. There is, of course, a certain inevitable truth to this, at least insofar as the most obvious effects of human rights policy are concerned: We have the means to apply pressure to governments which enjoy or seek our friendship or assistance—we do not have comparable leverage on governments which are hostile to us.

The Reagan administration therefore sought a way out of this dilemma by means of a distinction between authoritarian and totalitarian regimes. As a theoretical matter, one could argue that this distinction is the most important one of the 20th century. As a practical doctrine, unfortunately, it is too easily interpreted—rightly or wrongly—as an excuse for being more severe with human rights violations on the left than on the right.

Such a policy only invites cynicism. We only cheapen the doctrine of human rights when we allow a regime that commits violations of that doctrine to go unnoticed. This invites, in turn, a ridiculing of our human rights policy.

Unless the standard of human rights is clearly stated and impartially applied to every nation in the world, the doctrine will appear arbitrary both within the United States and throughout the world. It will be discounted by our friends and exploited by our enemies.

However, this is not to say that distinctions cannot be made among the various types of nondemocratic regimes. Commonsense tells us that some are better, some worse.

Yet all such distinction must be secondary to the principle of human rights and its impartial application with respect to the behavior of governments.

What our democratic foreign policy requires, if we are to remain true to the principles of the Universal Declaration of Human Rights, is a single standard, impartially applied.

Truthfully stated, uniformly applied and vigorously pursued, there is no more powerful idea, nor is there a more potent weapon.

Proper use of this power, Mr. President, quite naturally requires that we amass all the tools that might be available to us in the task of spreading the beacon of light that a universal standard of human rights represents.

In that context, I am pleased to bring to the Senate today a statement issued in commemoration of International Human Rights Day by the distinguished president of the Association of the Bar of the City of New York, Mr. Louis A. Craco. In very straightforward fashion, Mr. Craco advises the President, and the Senate on some vital steps we can take to lend added vigor to the strength of the Declaration.

It is not lengthy. I urge Senators to examine this statement with the care it warrants. The Association of the Bar of the City of New York is justly renowned for the good work of its Committee on International Human Rights, now chaired by Mr. R. Scott Greathead.

I ask unanimous consent that the full text of Mr. Craco's statement be printed at this point in the RECORD, along with the text of the Universal Declaration of Human Rights.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF LOUIS A. CRACO, PRESIDENT, ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

On December 10, 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights. By this act thirty-four years ago today, the community of nations articulated the fundamental rights of all individuals and took an important step toward the implementation of the rule of law in all parts of the world.

More than three decades after the adoption of the Universal Declaration, five treaties vital to the worldwide implementation of the rule of law await ratification by the United States. The Association of the Bar of the City of New York now calls on members of the United States Senate to take the long overdue action necessary to ratify these treaties.

Throughout its over one-hundred year history, the Association of the Bar of the City of New York, an organization of over 13,000 lawyers from the United States and thirty-eight foreign countries, has sought to protect fundamental rights and to promote the rule of law worldwide. In the spirit of that long-standing concern, we note that the event we commemorate today was not an end in itself, but a means to an end that has yet to be accomplished. Speaking in September, 1948, even before the Universal Declaration was completed, John Foster Dulles, the American delegate to the General Assembly, stated:

"I hope and believe this Assembly will endorse this Declaration (of Human Rights). But we must not stop there. We must go on with the drafting of a covenant that will seek to translate human rights into law . . ."

The five treaties presently awaiting ratification by the United States are: the Convention on the Prevention and Punishment of the Crime of Genocide, which was signed on behalf of the United States on December 11, 1948; the International Convention on the Elimination of All Forms of Racial Discrimination, signed on behalf of the United States on September 28, 1966; the American Convention on Human Rights, signed on behalf of the United States on June 1, 1977; and the International Covenants on Economic, Social and Cultural Rights and Civil and Political Rights, respectively, which were both signed on behalf of the United States on October 5, 1977.

The oldest of these documents, the Genocide Convention, was transmitted by President Truman to the Senate for its assent to ratification on June 16, 1949, and has been awaiting action for over thirty-three years. In his 1970 report recommending ratification of the Genocide Convention, Secretary of State William P. Rogers said:

"I am convinced that the American people together with all the peoples of the world will hail United States ratification of this Convention as a concrete example of our dedication to safeguarding human rights and basic freedoms."

Indeed, a multitude of individuals and organizations throughout the United States, including the American Bar Association, have urged the ratification of all five human rights treaties. Action by the Senate is long overdue. We call upon the President and the leadership of the Senate to take all steps necessary to ratify these five human rights treaties before the thirty-fifth anniversary of the Universal Declaration of Human Rights.

UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore, The General Assembly proclaims, This Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the people of Member States themselves and among the people of territories under their jurisdiction.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Everyone has the right to life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

(2) No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) The right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18. Everyone has right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

TRIBUTE TO DEPARTING SENATORS

SENATOR SAMUEL HAYAKAWA

Mr. MURKOWSKI. Mr. President, it has been an honor and a pleasure serving in the Senate for 2 years with my friend and colleague, Senator SAMUEL ICHIYE HAYAKAWA. Having had a successful career as a sematicist, educator, and university administrator, he selflessly chose to continue serving the people of California in the U.S. Senate. Since entering the Senate in 1976, his strong voice has supported agriculture, small business, and Americans of Asian descent.

Senator HAYAKAWA has also been a leading member in foreign relations, and I look forward to building upon the work he started as I assume his seat on the Senate Foreign Relations Committee. We will miss SAM HAYAKAWA as a Senator and a friend, and want him to know that his many years of public service to the State of California and America will not be forgotten.

SENATOR HOWARD CANNON

Mr. President, I would like to take this opportunity to pay tribute to a leader of the U.S. Senate, and of the State of Nevada, Senator HOWARD CANNON. During his 24 years of service in the Senate, Mr. CANNON has seen tremendous change. However, his leadership has always insured that the decisions of this body were wrought from wisdom, knowledge, and hard work.

HOWARD CANNON has fought hard for America as a soldier and a Senator. He has been a devoted servant of the people of Nevada and the United States, and his leadership will be missed by all of us. I wish him the best of luck in his new endeavors.

SENATOR HARRISON SCHMITT

Mr. President, the departure of Senator HARRISON "JACK" SCHMITT will be a significant loss for the U.S. Senate. Senator SCHMITT is a man of many achievements, abilities, and interests. More important, he is a man of selfless service to the people of New Mexico and America.

As a scientist, astronaut, and Senator, he has been an example to us all. Senator SCHMITT's technical knowledge has been a valuable asset over the past 3 years. His determination, hard work, and evenhanded approach to the work of this body has set an example which we will all remember. I wish him the best of luck in his future endeavors, and thank him for his contributions as a friend and fellow Republican.

SENATOR HARRY BYRD

Mr. President, it has been a tremendous honor serving in the Senate with the distinguished Senator from Virginia, Senator HARRY F. BYRD, JR. Senator BYRD's wisdom, historical perspective, and enthusiasm will be sorely missed when the 98th Congress begins in January. Throughout his 17 years of service, Mr. BYRD has fought to control the growth of Government spending, and has been a leader in fiscal restraint.

Mr. BYRD has served this country in time of war and in time of peace, and always to the best of his ability. His leadership will be missed, but his contributions to the Senate and to the Nation, will always be remembered.

SENATOR NICHOLAS BRADY

Mr. President, it is with great regret that I say goodbye to Senator NICHOLAS BRADY, a conscientious Senator and friend from New Jersey. While his arrival in this body was unexpected, his contributions have proven invaluable. He unselfishly shared his fiscal knowledge, helping the Senate in addressing the devastating effects of huge budget deficits upon our Nation's economy.

NICK came to this body under difficult circumstances, at a time in our history when his skills were needed and tested. He has helped his State and his country during a difficult period, and we will always be greatful for his thoughtful contributions. We wish him the best of luck as he returns to the private business community, and thank him for his help, wisdom, and candid spokesmanship.

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3963) to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. RODINO, Mr. HUGHES, Mr. KASTENMEIER, Mr. CONYERS, Mr. GLICKMAN, Mr. SAWYER, Mr. FISH, and Mr. KINDNESS as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendments of the Senate to the amendment of the House to the bill (S. 1894) to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 4364) to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Ariz.

The message also announced that in accordance with the request of the Senate, the bill (H.R. 6758) to authorize the sale of defense articles, defense services, and unclassified defense service publications to U.S. companies for incorporation into end items to be sold to friendly foreign countries, including the amendments of the Senate, are returned to the Senate.

The message further announced that the House has passed the following bill, without amendment:

S. 764. An act to provide for protection of the John Sack Cabin, Targhee National Forest, in the State of Idaho.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 2177. An act to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505);

H.R. 2329. An act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma;

H.R. 4364. An act to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Ariz.;

H.R. 5553. An act to provide for the use and distribution of Miami Indians judgment funds in dockets 124-B and 254 before the U.S. Court of Claims, and for other purposes;

H.R. 5795. An act to provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 before the Indian Claims Commission and docket 64-A by the U.S. Court of Claims, and for other purposes;

H.R. 6005. An act to discontinue or amend certain requirements for agency reports to Congress;

H.R. 6403. An act to provide for the use and distribution of funds awarded to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the U.S. Court of Claims, and for other purposes;

H.R. 6417. An act to amend Public Law 96-432 relating to the U.S. Capitol Grounds; and

H.J. Res. 595. Joint resolution designating December 11, 1982, as "Fiorello H. La Guardia Memorial Day."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILL PRESENTED

The Secretary reported that on today, December 13, 1982, he had presented to the President of the United States the following enrolled bill:

S. 2177. An act to amend title III of the Colorado River Basin Project Act, Public

Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SCHMITT, from the Committee on Appropriations:

Report to accompany the bill (H.R. 7205) making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 1983, and for other purposes (with additional views) (Rept. No. 97-680).

By Mr. COHEN, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2623. A bill to amend and extend the Tribally Controlled Community College Act of 1978, and for other purposes (Rept. No. 97-681).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 9. A bill to designate components of the National Wilderness Preservation System in the State of Florida.

H.R. 5161. A bill to designate certain leads in the Monogahela National Forest, W. Va., as wilderness; and to designate management of certain lands for uses other than wilderness.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

H.R. 6419. A bill to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land coveyed by the United States to Eastern Washington University.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment:

S. 1705. A bill to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with amendments:

S. 2110: A bill to establish the Lee Metcalf Wilderness and Management Area in the State of Montana, and for other purposes.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2308. A bill to direct the Secretary of Agriculture to convey certain property to the city of Show Low, Ariz.

S. 2715. A bill to establish the National Park Visitor Facilities Fund, and for other purposes.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. 2955. A bill to establish the Cheaha Wilderness in Talladega National Forest, Ala.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

Douglas A. Fenderson, of Minnesota, to be Director of the National Institute of Handicapped Research.

(The above nomination was reported from the Committee on Labor and Human Resources with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. D'AMATO:

S. 3095. A bill to amend the Internal Revenue Code of 1954 to permit certain cooperative housing corporations to replace conventional financing with tax-exempt financing; to the Committee on Finance.

By Mr. D'AMATO:

S. 3096. A bill to permit the Securities and Exchange Commission to accept reimbursement for certain expenditures, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GARN:

S.J. Res. 271. A joint resolution to make technical corrections in certain banking and related statutes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO:

S. 3095. A bill to amend the Internal Revenue Code of 1954 to permit certain cooperative housing corporations to replace conventional financing with tax-exempt financing; to the Committee on Finance.

REFINANCING OF CERTAIN LOW AND MODERATE INCOME HOUSING

● Mr. D'AMATO. Mr. President, I am today introducing legislation to permit the refinancing of publicly assisted low and moderate income cooperative housing. This refinancing of impeding "balloon" payments would involve the use of tax-exempt bonds granted by local housing authorities. Current law already permits tax-exempt financing for new residential construction and for substantially rehabilitated older housing.

Similar financing options should also be available, however, to refinance the balloon payments of conventional mortgages in cases where the local community has demonstrated a geniune commitment to such developments through the granting of local tax abatement. If such relief is not granted, rents will rise more than 37 percent for a predominantly elderly, low and middle income population. This will force the relocation of many longstanding residents and will cause severe hardship and a disruption in their lives.

In my State, I have nine such cooperative apartments. They were constructed between 1939 and 1950 and were originally financed with conventional mortgages of between 4.3 percent and 8.5 percent. The tenants in these 13,542 units can simply not afford the additional costs of refinancing their balloon payments at today's conventional mortgage rates. They must be helped. The required legislation, however, has negligible revenue implications.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (10) of section 103A(l) of the Internal Revenue Code of 1954 (relating to other definitions and special rules relating to mortgage subsidy bonds) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) CERTAIN REFINANCINGS PERMITTED.—

"(i) IN GENERAL.—If substantially all of the proceeds of an issue are used to replace mortgages on buildings owned by qualified cooperative housing corporations, subsections (e) and (h), and subparagraph (A) of subsection (j)(1), shall not apply to such issue.

"(ii) QUALIFIED COOPERATIVE HOUSING CORPORATION. For purposes of clause (i), the term 'qualified cooperative housing corporation means any cooperative housing corporation if—

"(I) all buildings owned by the corporation were constructed before 1972,

"(II) State law restricts the amount of earnings of the corporation,

"(III) some portion of the real property taxes on most of the buildings owned by the corporation were abated for at least the 10 years after the construction of said buildings, and

"(IV) the resale price of stock in the corporation is limited by a formula."

(b) The amendments made by this Act shall apply to obligations issued after the date of the enactment of this Act.●

By Mr. D'AMATO:

S. 3096. A bill to permit the Securities and Exchange Commission to accept reimbursement for certain expenditures, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

REIMBURSEMENT FOR CERTAIN EXPENDITURES OF THE SECURITIES AND EXCHANGE COMMISSION

● Mr. D'AMATO. Mr. President, I am introducing, as recommended by the Securities and Exchange Commission, a bill which would make three minor statutory changes affecting the SEC's operations.

The SEC has requested that, if possible, these amendments be considered prior to adjournment of the 97th Congress. I plan to consult with my colleagues on the Banking Committee and, in the absence of an indication that the amendments would be controversial, to seek prompt action on them.

I would like to describe briefly the three changes which the bill would make.

Section 1 of the bill would amend the Securities Exchange Act of 1934 to enable the Commission to accept reimbursement for actual expenses incurred by its members and employees in connection with meetings involving the SEC's functions and activities. The bill would require adoption by the SEC of regulations to prevent actual or apparent conflicts of interest where reimbursement from non-Federal entities is involved.

Section 2 would amend the Securities Exchange Act of 1934 to eliminate the "SECO" program, which subjects a limited number of registered broker-dealers to direct regulation by the SEC, rather than the more common system in which direct regulation is provided by securities self-regulatory organizations, subject to continuing oversight by the SEC. In support of this proposal, the SEC asserts that eliminating the separate regulatory system for SECO brokers will lead to greater efficiency in its use of resources and, at the same time, to greater uniformity in the regulation of broker-dealers.

Section 3 of the bill would provide that the SECO amendments contained in section 3 are to be effective 6 months after the date of enactment.

Section 4 of the bill would amend section 209 of title 18 of the United States Code to permit professional accounting and attorney fellows of the SEC to be reimbursed for actual relocation expenses by their former private employees. The Commission has found that restrictions on payment of relocation expenses, which results from the present applicability of subsection (e) of section 209 only to executive agencies, has inhibited its efforts to attract the most able persons as applicants for the two fellows programs. The amendment is needed now, in order to be available for accounting fellows whose applications are due prior to December 31, 1982.

Mr. President, I ask unanimous consent that the text of the bill, together with a section-by-section analysis and a justification prepared by the SEC, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new subsection:

"(c) in accordance with regulations which the Commission shall prescribe to prevent conflicts of interest, the Commission may accept payment and reimbursement, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel, subsistence, and other necessary expenses incurred by Commission members and employees in attending meetings and conferences concerning the functions or activities of the Commission. Any payment or reimbursement accepted will be credited to the appropriated funds of the Commission. The amount of travel, subsistence, and other necessary expenses for members and employees paid or reimbursed under this subsection may exceed per diem amounts established in official travel regulations, but the Commission may include in its regulations under this subsection a limitation on such amounts.)

SEC. 2. Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 780) is amended as follows:

(1) Paragraph (8) of the subsection (b) thereof is amended to read as follows:

"(h) it shall be unlawful for any broker or dealer required to register pursuant to this title to effect any transaction in, or induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptance or commercial bills), unless such broker or dealer is a member of a securities association registered pursuant to section 15A of this title or effects transactions in securities solely on a national securities exchange of which it is a member."

(2) Paragraph (9) of subsection (b) thereof is amended to read as follows:

The Commission by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraph (8) of this subsection any broker or dealer or class of brokers or dealers specified in such rule or order."

Sec. 3. The provisions in Section 2 shall become effective six months after the date of enactment.

Sec. 4. Section 209 of title 18 of the United States Code is amended by the addition of subsection (f) as follows:

"(f) This section does not prohibit the payment of actual relocation expenses to Washington, D.C., to facilitate participation in the professional fellows programs of the Securities and Exchange Commission, or the acceptance of such payment by a program participant."

SECTION-BY-SECTION ANALYSIS

Section 1 would amend the Securities Exchange Act of 1934 to give the Commission the authority to accept, on behalf of the agency, payment and reimbursement for travel and subsistence expenses actually incurred by Commission members or employees in connection with their attendance and participation at conferences and meetings concerned with the functions or activities of the Commission. This amendment is intended to permit the Commission to accept such reimbursement under circumstances consistent with the Federal conflict of interest laws and which are in accord with the Commission's own regulations prohibiting actual or apparent conflicts.

The amendment provides that payments and reimbursements accepted by the Commission will be credited to the agency's appropriated funds, and to that extent, augment the agency's authorization. Further, payments and reimbursements will be paid directly to the agency. Members and employees will travel on official orders from the Commission and will be reimbursed by the Commission in accordance with federal travel regulations.

Because per diem amounts are generally not sufficient to pay the usual accommodation expenses at these meetings and conferences, the Commission believes it is appropriate that existing per diem regulations not apply when travel and subsistence expenses are reimbursed to the Commission.

The Commission is required to adopt or maintain regulations which will prevent real or apparent conflicts of interest in situations where reimbursement for travel and subsistence expenses by Commission members and employees is accepted from non-Federal entities.

Section 2 amends the Securities Exchange Act of 1934 to require all broker dealers who register with the Commission pursuant to that Act and who effect transactions in securities (with a few exceptions) otherwise than on a national securities exchange of which they are members, to join a registered securities association. Specifically, paragraph (8) would make it unlawful for a broker dealer required to register pursuant to the Act to effect any transaction in, or induce or attempt to induce the purchase or sale of any security (except for an exempted security, commercial paper, bankers' acceptance, or commercial bill) unless such broker dealer is a member of a securities association registered pursuant to section 15A of the Act or effects transactions in securities solely on a national securities exchange of which it is a member. The amendment would delete the provision that authorizes the Commission to establish fees and charges necessary to defray the cost of the additional regulatory duties required to be performed with respect to non-members.

Paragraph (9) would allow the Commission to exempt from the requirement of joining a registered securities association any broker dealer or class of brokers or dealers. This paragraph would delete the current provision that authorizes the Commission to prescribe rules and regulations specifically for nonmembers.

Section 3 would specify a delay of six months after enactment for section 2 to beome effective.

Section 4 would amend section 209 of Title 18 of the United States Code to allow participants in the professional accounting and attorney fellows programs of the Securities and Exchange Commission to accept the payment of actual relocation expenses from their former private employers.

As interpreted by the Department of Justice, section 209 now prohibits the acceptance of such relocation expenses. Section 209(e) was adopted to permit the acceptance of relocation expenses by participants in the President's Executive Exchange and White House Fellows program. However, section 209(e) is inapplicable to the Commission's programs because it restricts the applicability of section 209(e) to executive agencies which are established by statute or Executive Order and which offer appointments not to exceed three hundred and sixty-five days.

The proposed new subsection (f) is applicable only to participants in the fellows programs of the Securities and Exchange Commission. It is intended to permit participants in those programs to accept from their former private employers actual relocations expenses to facilitate their moves to Washington, D.C.

The phrase "actual relocation expenses" is intended to encompass moving expenses, transportation of the participant and his or her family to Washington, D.C., and the net out-of-pocket costs of selling and purchasing a house incident to a move to Washington, D.C. Unlike section 209(e), it is not intended

to permit the former private employer to make any payments for the benefit of a participant while he or she is a government employee, nor does it provide for arrangements prior to entering government service for payments or benefits after the completion of government service. It does not limit negotiation near the completion of the participant's period of Commission employment for the payment of moving expenses coincident to post-Commission employment.

JUSTIFICATION FOR THE HOUSEKEEPING BILL

The three main provisions of this bill represent an effort by the Commission, in these times of severe budgetary constraints, to increase its effectiveness without any additional cost to the taxpayer.

The basis for the gift accepting authority contained in Section 1 is the fact that the proper administration of the federal securities laws and the rules thereunder depends, in large part, on the existence of an informed industry, securities bar, and public. The Commission has found that a particularly effective means to achieve this goal is for Commission members and employees to participate in and attend meetings and conferences which focus on developments and emerging trends in securities regulation and related topics. Existing constraints on accepting such reimbursement, coupled with the restrictions on the size of the Commission's travel budget, have compelled members of the Commission to limit their participation in educational and similar programs aimed at examining the federal securities laws and their impact.

Sponsoring organizations are often willing to pay the actual expenses of Commission members and employees invited to participate in meetings and conferences of an educational nature. While Commission employees may often accept such offers, an interpretation of the federal conflict of interest laws by the Comptroller General prohibits acceptance by Commissioners in most instances.[1] The Comptroller General, however has determined that when an agency has an authority to accept the reimbursement as a gift to the agency, it may be accepted regardless of whether an officer or employee of the agency is involved. While a number of federal entities currently have such authority, the Commission does not.

The Comptroller General has recognized three exceptions to the prohibition of government officers and employees from receiving "any contribution to or supplementation of salary" as compensation for their services as officers and employees of the United States government. First, pursuant to 5 U.S.C. 4111, organizations which qualify for tax-exempt status under Section 501(c)(3) of the Internal Revenue code are permitted to pay for travel subsistence and other expenses incident to attendance by government officers and employees at meetings sponsored by such organizations.[2] While the Commission utilizes this exception when ever possible to support its educational efforts, the number of entities which qualify for exemption pursuant to Section 501(c)(3) and which sponsor meetings at which commission members appear is limited. Indeed, many non-profit associations such as the American Bar Association, the American Institute of Certified Public Accountants, and the Securities Industry Association are not qualifed pursuant to Section 501(c)(3).

[1] See 36 Comp. Gen. 268, 269 (1956); 46 Comp. Gen. 689, 690 (1967).

[2] 36 Comp. Gen. at 270

The second exception is the determination that no improper supplementation of salary arises when an employee participates in an activity while on off-duty status.[3] Therefore, reimbursement from the private entity may be accepted if the employee takes annual leave or is granted administrative leave. The Commission's Conduct Regulation contains a procedure for employees to obtain administrative leave for participation in educational programs when it is in the interest of the Commission. However, the Comptroller General has ruled that Commissioners are always on official duty when they are participating in matters which are related to the commission.[4] Therefore, Commission members cannot utilize this exception.

The third exception is that, if an agency has statutory authority to accept gifts in the agency's behalf, a private source may bear the costs incurred by the agency in connection with official travel. In this situation the furnishing of travel accommodations is treated as a "donation" to the agency for utilization by the employee involved. No direct payment is made to any individual employee. Rather the "donation" is made to the agency and the amounts received are credited to the agency's appropriation. The employee is paid by the agency in accordance with regulations relating to reimbursement for official travel. The Commission lacks this specific authority although several agencies have it.[5]

While the purpose of 18 U.S.C. 209 is to prohibit conflicts of interest, as a practical matter, the Comptroller General's interpretation limits the acceptance of payment for travel expenses for non-governmental entities, based, not on the existence of actual or possible conflicts of interest but rather, on whether the agency has authority to accept gifts. The Commission believes that it could eliminate any real or apparent conflict of interest which may arise in administering the authority to accept gifts, by utilizing its rulemaking authority to impose the following restrictions on the receipt of any payment or reimbursements:

(1) Commission regulations[6] absolutely prohibit the acceptance of reimbursement for travel from any person required to file reports or registration statements with the Commission, any person directly or indirectly[7] regulated by the Commission, or, unless authorized by the Commission's Chairman in an individual case, any association of regulated entitles. These restrictions would be applied to gifts accepted by the Commission.

(2) Commission regulations also prohibit the acceptance of reimbursement for "personal living expenses, gifts, entertainment or other personal benefits which are unreasonable or lavish."[8] Should the commission be granted the authority to accept payment or reimbursement for travel and subsistence expenses in connection with official travel. This prohibition would also be applicable to such payments or reimbursements.

(3) The Commission's rules would provide that no payment or reimbursement be accepted pursuant to the statutory authority without approval in accordance with the regulations. A system for consideration of accepting such gifts at the highest levels of the Commission will be adopted.

(4) A public file showing payments or reimbursements accepted will be kept in the Commission's Public Reference Section in Washington, D.C. In addition, the Commission will publicly release on a regular basis a list of such payments or reimbursements.

(5) Circumstances in which the Commission would accept reimbursement would be specifically set forth in its rules. In general these would be limited to amounts for expenses actually incurred by Commission members and employees for travel and subsistence in connection with educational programs, public fora, or other opportunities for the Commission or its staff to inform or exchange views with significant segments of its constituents.

Section 2 of the bill would eliminate the Commission's SECO program. Under the Securities Exchange Act, broker dealers who do not join the National Association of Securities Dealers, Inc. ("NASD"), the only registered national securities association, are subject to direct regulation by the Commission by the SECO program. Currently 88 percent of the active registered broker dealers transacting over-the-counter securities business have joined the NASD and only 12 percent have chosen the SECO alternative. The proposed legislation will replace the SECO program and the attendant regulatory responsibilities assumed by the Commission with a program of complete industry self regulation subject to continued oversight by the Commission. Self-regulation for all broker dealers is preferable to direct regulation by the SEC for several reasons. Specifically, the promulgation of ethical standards, the development of rules dealing with just and equitable principles of trade and the establishment and maintenance of professional qualifications, can be provided through the existing self-regulatory structure subject to Commission oversight. Congress affirmed the desirability of self-regulation during its consideration of the Securities Acts Amendments of 1975 when it recommended that self-regulation be preserved and strengthened.

While the proposed legislation would end the SECO alternative, the Commission believes it would not reduce investor protection. Rather, the reallocation of resources currently tied to the SECO program to those areas of investor protection of major concern should increase the Commission's ability to fulfill its fundamental regulatory responsibilities.

When Congress mandated in the Securities Acts Amendments of 1964 that regulation by the Commission of SECO broker dealers be comparable to that exercised by the NASD over its member firms, the intent was to avoid giving a broker dealer any advantage of choosing one regulatory format over another. In practice, for reasons discussed below, there has generally been a significant time lag between the establishment of a regulation by the NASD for its members and the adoption of a comparable regu-

[3] See 46 Comp. Gen. at 690 and B-128527, explanatory letter dated August 11, 1967 from the Assistant Comptroller General to the Honorable Harley O. Staggers, at page 3.

[4] See letter dated August 11, 1967 from Assistant Comptroller General to the Honorable Harley O. Staggers, at page 4.

[5] See e.g., Department of Education, 20 U.S.C. 3481; Department of Energy, 42 U.S.C. 7262; Department of Housing and Urban Development, 42 U.S.C. 3535; Department of Transportation, 49 U.S.C. 1657(m); Secretary of State, 22 U.S.C. 809; ACTION, 42 U.S.C. 5042; Federal National Mortgage Association and Government National Mortgage Assocation, 12 U.S.C. 1723A(a); and Securities Investor Protection Corporation, 15 U.S.C. 78ccc.

[6] 17 CFR 200.735.4(b)(6)(ii).

[7] Indirectly regulated entities are parents, affiliates or subsidiaries of regulated entities.

[8] 17 CFR 200.735-4(b)(6)(iv).

lation for SECO brokers and dealers.[9] Furthermore, the Commission believes that the policy concerns which led some insurance firms selling investment company shares to call for an alternative to regulation by self-regulatory organizations, because they feared domination by traditional brokerage firms, are no longer justifiable or lack compelling appeal given the changes in the composition of the securities industry and the Commission's extensive oversight of the NASD. In addition, although a majority of SECO broker dealers engage in the sale of direct participation programs (i.e., the sale of real estate, oil and gas interests and other types of tax shelters and limited partnerships), no specific rules have been developed to regulate the sale of these products.

Furthermore, enforcement and compliance remedies available to the Commission for use in enforcement action against SECO broaker dealers are limited to deficiency letters, injunctive actions, and administrative proceedings, all of which have certain limitations in deterring violations of the more technical SECO rules. In comparison, the NASD has the power, through disciplinary proceedings, to levy fines on its members for violating rules, providing an additional sanction which is practical, effective and a more appropriate sanction in the case of technical violations.

In March, 1981 the Division of Market Regulation of the SEC began a SECO management study to document the operation of the SECO program and identify difficulties in its administration by the Commission. The purpose of the study was to assess the legal and administrative responsibilities of the Commission in regulating SECO firms and to determine whether SECO should be revised or discontinued. Because the SECO program served only a small minority of the registered broker dealer population transacting over-the-counter business, the program had not been given high priority within the Division. Moreover, staffing and budget constraints had caused the Division to direct its efforts to other activities and programs which relate to the broker dealer industry as a whole rather than to the small proportion of firms in the SECO program.

According to the study, elimination of the SECO program would enable the Commission to redirect approximately $436,725 in administrative costs to other programs. Fees and assessments now generated by the SECO program total $425,580. Although the elimination of the SECO program would divert these funds from the U.S. Treasury, any attempt to put SECO regulation on a par with that provided by the NASD would require significant expenditures by the Commission for additional staff and administrative costs.

Membership in the NASD should not cause SECO broker dealers any inappropriate additional regulatory burden as the legislative history of SECO indicates that registration and regulation of SECO registrants and NASD members was intended to be comparable. Neither will SECO broker dealers incur any additional costs as NASD members, since SECO and NASD fees are identical.

The Commission has entered into negotiations with the NASD to facilitate the grandfathering into the NASD of SECO members. The "special membership package" negotiated between the Commission and the NASD should be attractive enough to stimulate voluntary conversion to the NASD membership by most SECO registrants. The two largest SECO firms, Aetna Life Insurance and Annuity Company and Heritage Securities Inc. have already advised the Commission staff that they anticipate joining the NASD membership. Employees of these two firms comprise 72 percent of all SECO associated persons.

The negotiations have centered on five issues and have not rested on the passage of this legislation. The five issues are as follows:

(1) the initial membership fee of $500.00;

(2) the requirement to submit a new form U-4 for each associated person;

(3) the $50.00 fee for each associated person;

(4) the qualification examination requirements; and

(5) the processing of membership applications.

The Commission cannot unilaterally undertake the abolition of the SECO program, but must seek the approval of Congress. Currently the SECO alternative is codified in sections 15(b) (8) and (9) of the Securities Act Amendments of 1964 (Public Law 88-467, 78 Stat. 565 (1964)). These sections, when originally introduced in the House as part of the Securities Act Amendments of 1964, would have required all broker dealers transacting a securities business in the over-the-counter market to join a national securities association. This legislation abolishing SECO returns to that premise.

Section 5 of the proposed legislation would extend to the Commission's fellows programs the reimbursement rights currently afforded to executive agencies. The Commission currently has two active professional fellows programs, a professional accounting fellow program which accepts two participants annually, and an attorney fellow program which generally has no more than four participants. The Commission also has an economic fellowship program which is not currently active.

Until 1978, the Department of Justice had interpreted 18 U.S.C. 209 to permit the payment by former private employers of relocation expenses to Washington, D.C. of accounting fellows. However, in November 1978 the Justice Department reversed itself and determined that such reimbursement violated Section 209. Subsequently, in December 1979, Congress adopted an amendment to Section 209, subsection (e), which excluded from the purview of that section's prohibition, the payment of actual relocation expenses for participants in a fellows program. However, the new subsection was tailored specifically to the President's Executive Exchange and White House Fellows programs. Therefore, it contains a proviso limiting its applicability to executive exchange or fellowship programs in executive agencies which are established by statute or executive order and to appointments not exceeding three hundred sixty five days. These limitations prevented the amendment from applying to the fellows program at the Commission.

This new subsection (f) to Section 209 would permit the payment of relocation expenses for participants in the Commission's fellows program by their former private sector employers. It does not permit any payments, other than moving expenses, during the period of government employment or provide for payments at the end of the period. This would not limit negotiation near the completion of the participant's period of Commission employment for the payment of moving expenses coincident to post-Commission employment.

Participants of the fellows programs have been valuable additions to the Commission. They have generally been persons with extensive experience in the private sector or in academia. As a result, their presence on the staff has broadened the Commission's perspective and added a dimension to its expertise. The Commission desires to retain this program and attract the most able persons as applicants. The restrictions on the payment of relocation expenses, however, is having a detrimental effect on obtaining candidates for participation in the program.

The Commission has carefully structured the fellows programs to avoid conflicts of interest, which is the purpose of Section 209. Fellows in both the accounting and attorney fellow programs must sever all ties with their private employers before coming to the Commission. They are subject, while government employees, to the federal conflict of interest laws, as well as the Commission's own conduct regulations.

This legislation is particularly needed now since the application period for accounting fellows ends on December 31, 1982. Appointments will be made beginning in June and July of 1983.●

[9] For example, there are no SECO rules governing the sale of several securities products, such as variable annuity contracts and options, although the NASD has adopted rules specifically designed to cover industry selling practices in these areas.

By Mr. GARN:

S.J. Res. 271. Joint resolution to make technical corrections in certain banking and related statutes; to the Committee on Banking, Housing, and Urban Affairs.

TECHNICAL CHANGES IN CERTAIN BANKING STATUTES

● Mr. GARN. Mr. President, today I am introducing a joint resolution containing technical amendments to the recently enacted Garn-St Germain Depository Institutions Act of 1982.

In directing the committee staff to prepare them, I emphasized the need to narrow the scope of the amendments so as to take care of matters that are necessary to be corrected at this time and to leave all other matters for further review in the next Congress.

These amendments are narrow in scope, and I urge prompt consideration of them.

Mr. President, I ask unanimous consent that the joint resolution, as well as a section-by-section summary of it, be printed in their entirety in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 271

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 13(c)(5)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(5)(A)), as added by section 111 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

SEC. 2. Section 5(o)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(o)(1)), as added by section 112 of

Public Law 97-320, is amended by inserting "examination," after "operation".

SEC. 3. The last sentence of section 26(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831c(a)), as added by section 113(p) of Public Law 97-320, is amended by striking out "Depository Institutions Amendments" and inserting in lieu thereof "Garn-St Germain Depository Institutions Act".

SEC. 4. (a) Section 13(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1832(f)(1)), as added by section 116 of Public Law 97-320, is amended by striking out "paragraphs" both places it appears and inserting in lieu thereof "paragraph".

(b) Section 13(f)(6) of such Act (12 U.S.C. 1823(f)(6)), as added by section 116 of Public Law 97-320, is amended—

(1) by redesignating subparagraph (C) and (D) as subparagraph (D) and (E), respectively; and

(2) by inserting after Subparagraph (B) the following:

"(C) In the case of a minority-controlled institution the Corporation shall seek an offer from other minority-controlled institutions before proceeding with the sequence set forth in the preceding subparagraph.".

SEC. 5. Section 406(c)(3) of the National Housing Act (12 U.S.C. 1729(c)(3)), as amended by section 122(f) of Public Law 97-320, is amended by striking out "paragraphs (1) or (2)" and inserting in lieu thereof "paragraph (1) or (2)".

SEC. 6. Section 408(l) of the National Housing Act (12 U.S.C. 1730a(l)) is amended by striking out "mergers or acquisitions approved under subsection (e)(2)" and inserting in lieu thereof "any transaction approved under subsection (e)(2) or (m)".

SEC. 7. (a) Section 408(m)(1)(A)(i) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)(i)), as added by section 123 of Public Law 97-320, is amended by striking out "subsections (e)(2) and (l)" and inserting in lieu thereof "subsections (e)(2) and (l)".

(b) Section 408(m)(1)(B)(iii) of such Act is amended by striking out "Board of Directors" each place it appears and inserting in lieu thereof "Federal Home Loan Bank Board".

SEC. 8. The second sentence of section 17(a) of the Federal Home Loan Bank Act (12 U.S.C. 1437(a)), as amended by section 127 of Public Law 97-320, is amended—

(1) by striking out "the Administrative Procedure Act" and inserting in lieu thereof "section 554 of title 5, United States Code"; and

(2) by striking out "Act" and inserting in lieu thereof "section".

SEC. 9. (a) Section 406(f)(5)(C)(ii) of the National Housing Act (12 U.S.C. 1729(f)(5)(C)(ii)), as added by section 202 of Public Law 97-320, is amended by striking out "if" the second place it appears.

(b) Section 406(f)(5)(I) of such Act (12 U.S.C. 1729(f)(5)(I)), as added by section 202 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

SEC. 10. Section 13(i)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1923(i)(9)), as added by section 203 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

SEC. 11. Section 206 of Public Law 97-320 is amended to read as follows:

"SUNSET PROVISION

"SEC. 206. (a) Upon the expiration of three years after the date of enactment of this Act, section 406(f)(5) of the National Housing Act and section 13(i) of the Federal Deposit Insurance Act are repealed.

"(b) The repeal by subsection (a) shall have no effect on any action taken or authorized pursuant to the amendments made by this title by or for a qualified institution while such amendments were in effect and while net worth certificates issued pursuant to these amendments are outstanding.".

SEC. 12. The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)(B)), as amended by section 312 of Public Law 97-320, is amended by inserting "may accept a demand account from itself and" after "An association".

SEC. 13. Section 204 of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3503), as amended by section 327 of Public Law 97-320, is amended by adding at the end thereof the following:

"(4) The transitional adjustment provisions in section 19(b)(8) of the Federal Reserve Act, providing for the phase-in of reserve requirements, shall not apply to an account or accounts established pursuant to this subsection.".

SEC. 14. (a)(1) Section 5(c)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(3)) is amended by adding at the end thereof the following:

"(D) CONSTRUCTION LOANS WITHOUT SECURITY.—Investments not exceeding the greater of (i) the sum of its surplus, undivided profits, and reserves, or (ii) 5 per centum of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where (I) the association relies substantially for repayment on the borrower's general credit standing and forecast of income without other security, or (II) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party. Investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this subsection.".

(2) The amendment made by paragraph (1) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

(b) Section 5(r)(2)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(r)(2)(B)), as added by section 334 of Public Law 97-320, is amended by striking out "Depository Institutions Amendments" and inserting in lieu thereof "Garn-St Germain Depository Institutions Act".

SEC. 15. Section 352 of Public Law 97-320, is amended by inserting "Home" after "Federal" the first place it appears.

SEC. 16. Section 6 (m) of the Federal Home Loan Bank Act (12 U.S.C. 1426 (m)), as added by section 355 (b) of Public Law 97-320, is amended by striking out "Banks" and inserting in lieu thereof "banks or in connection with obtaining a charter from the Federal Home Loan Bank Board".

SEC. 17. (a) Section 5200 (b) (1) of the Revised Statutes (12 U.S.C. 84), as amended by section 401 of Public Law 97-320, is amended by inserting a comma before "to the extent specified by the Comptroller of the Currency".

(b) Section 11 (m) of the Federal Reserve Act (12 U.S.C. 248 (m)) is amended by striking out in the first sentence "under paragraph (8) of section 5200 of the Revised Statutes, as amended (U.S.C., Supp. VII, title 12, sec. 84)" and inserting in lieu thereof "under section 5200 (c) (4) of the Revised Statutes".

SEC. 18. (a) Section 5169 (b) (1) of the Revised Statutes (12 U.S.C. 27 (b) (1)), as amended by section 404 (a) of Public Law 97-320, is amended—

(1) by inserting "(except to the extent otherwise provided by law)" after "engage exclusively"; and

(2) by striking out "depository institutions" the second place it appears and inserting in lieu thereof "depository organizations, subsidiaries thereof,".

(b) The last proviso of section 5136 Seventh of the Revised Statutes (12 U.S.C. 24 Seventh), as amended by section 404 (b) of Public Law 97-320, is amended—

(1) by inserting "(except to the extent otherwise provided by law)" after "engaged exclusively";

(2) by striking out "depository institutions" the second place it appears and inserting in lieu thereof "depository organizations, subsidiaries thereof,"; and

(3) by striking out "10 per centum of its" and inserting in lieu thereof "10 per centum of the association's".

(c) The last sentence of section (2)(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), as amended by section 404 (d) of Public Law 97-320, is amended—

(1) by inserting "(except to the extent otherwise provided by law)" after "engaged exclusively"; and

(2) by striking out "depository institutions" the third place it appears and inserting in lieu thereof "depository organizations, subsidiaries thereof,".

SEC. 19. (a) Section 2(b) of the Act of May 1, 1886 (12 U.S.C. 30(b)), as amended by section 405(a) of Public Law 97-320, is amended by inserting "for a relocation outside such limits" after "stock of such association".

(b) The first sentence of section 5154 of the Revised Statutes (12 U.S.C. 35) is amended by striking out "with any name approved by the Comptroller of the Currency" and inserting in lieu thereof "with a name that contains the word 'national' ".

SEC. 20. (a) Section 406 of Public Law 97-320 is amended to read as follows:

"VENUE PROVISIONS

"SEC. 406. The last sentence of section 5198 of the Revised Statutes (12 U.S.C. 94) is amended to read as follows: 'Any action or proceeding against a national banking association for which the Federal Deposit Insurance Corporation has been appointed receiver, or against the Federal Deposit Insurance Corporation as receiver of such association, shall be brought in the district or territorial court of the United States held within the district in which that association's principal place of business is located, or, in the event any State, county, or municipal court has jurisdiction over such an action or proceeding, in such court in the county or city in which that association's principal place of business is located.' ".

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 21. Section 4 (b) (1) of the Act of March 9, 1933 (12 U.S.C. 95 (b) (1)), as amended by section 407 of Public Law 97-320, is amended by inserting "a State or" before "a State official".

SEC. 22. Section 23A (d) of the Federal Reserve Act (12 U.S.C. 371c (d)), as amended by section 410 (b) of Public Law 97-320, is amended—

(1) by striking out "except for the purchase of a low-quality asset which is prohibited" in paragraph (1) and inserting in lieu thereof "subject to the prohibition contained in subsection (a) (3)"; and

(2) by striking out "purchasing loans on a non-recourse basis from affiliated banks" in paragraph (6) and inserting in lieu thereof ", subject to the prohibition contained in subsection (a) (3), purchasing loans on a non-resource basis from affiliated banks".

SEC. 23. (a) Section 412 of Public Law 97-320 is amended to read as follows:

VISITORIAL POWERS

SEC. 412. The next to the last paragraph of section 5240 of the Revised Statutes (12 U.S.C. 484) is amended to read as follows:

(a) No national bank shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

"'(B) Notwithstanding subparagraph (A), lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a bank, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with such laws.' ".

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 24. Section 424(g) of Public Law 97-320 is amended by striking out "688" and inserting in lieu thereof "668".

SEC. 25. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)), as amended by section 507 of Public Law 97-320, is amended by striking out "Association" and inserting in lieu thereof "Administration".

SEC. 26. Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)), as amended by section 514 of Public Law 97-320, is amended—

(1) by striking out "and" before "(J)";

(2) by striking out "(L)" and inserting in lieu thereof "(K)"; and

(3) by striking out "; and" at the end thereof and inserting in lieu thereof a period.

SEC. 27. The next to the last sentence of section 124 of the Federal Credit Union Act (12 U.S.C. 1770), as amended by section 515 of Public Law 97-320, is amended by inserting "of" after "installation".

SEC. 28. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b), as amended by section 522 of Public Law 97-320, is amended—

(1) by striking out "directions" and inserting in lieu thereof "direction";

(2) by striking out "unions" in paragraph (2) and inserting in lieu thereof "union";

(3) by inserting "by" after "interest paid" in paragraph (9); and

(4) by striking out "meetings" in paragraph (15) and inserting in lieu thereof "meeting".

SEC. 29. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)), as amended by section 529 of Public Law 97-320, is amended by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting in lieu thereof "paragraph (2)".

SEC. 30. The first sentence of section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)), as amended by section 601 of Public Law 97-320, is amended—

(1) by inserting ": *Provided, however,* That such a bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C)" before "; or (G)"; and

(2) by striking out the proviso at the end thereof.

SEC. 31. Section 701(c) of Public Law 97-320 is amended—

(1) by striking out "both"; and

(2) by inserting ", on," after "prior to".

SEC. 32. The Bank Service Corporation Act, as amended by section 709 of Public Law 97-320, is amended—

(1) by striking out "the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b) et seq.)" in section 7(b) and inserting in lieu thereof the following: "section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818)"; and

(2) by striking out "under this Act" in subsections (d) and (e) of section 4 and inserting in lieu thereof "under the law of the United States".

SEC. 33. Section 4(c)(14)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(F)), as amended by section 203 of Public Law 97-290, is amended—

(1) by striking out the semicolon at the end of subparagraph (ii) and inserting in lieu thereof a period;

(2) by striking out "solely to do business with other banks and their officers, directors, or employees; (II) is owned primarily by the banks with which it does business; and (III) does not do business with the general public" in subparagraph (iii) and inserting in lieu thereof "to engage exclusively (except to the extent otherwise provided by law) in providing services for other depository organizations, subsidiaries thereof, and their officers, directors, and employees; and (II) is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions";

(3) by striking the semicolon and the word "and" at the end of subparagraph (iii) and inserting in lieu thereof a period; and

(4) by striking out subparagraph (iv).

SEC. 34. Section 414(a) of the National Housing Act (12 U.S.C. 1730g) is amended by inserting "(which, for the purpose of this section, shall include a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation)" after "insured institution" the first place it appears.

SUMMARY OF JOINT RESOLUTION

Sec. 1. Confirms intent that deferral of State franchise taxes on deposits during period of federal assistance applies to both interest and dividends paid on such deposits.

Sec. 2. Makes clear the obvious intent that the Federal Home Loan Bank Board has the authority to examine savings banks that convert to federal charter but maintain FDIC insurance.

Sec. 3. Provides correct reference to short title.

Sec. 4(a) Grammatical correction.

Sec. 4(b) Clarifies that the preference for minority controlled institutions involved in extraordinary acquisitions applies to both commercial banks and thrifts.

Sec. 5. Grammatical correction.

Sec. 6. Corrects improper cross references.

Sec. 7(a) Corrects improper cross references.

Sec. 7(b) Corrects reference to Federal Home Loan Bank Board.

Sec. 8. Confirms expanded delegation authority of the Federal Home Loan Bank Board, particularly with respect to informal adjudications.

Sec. 9(a) Grammatical correction.

Sec. 9(b) Confirms intent that exemption from State franchise taxes on deposits during period of federal assistance applies to both interest and dividends paid on such deposits.

Sec. 10. Confirms intent that exemption from State franchise taxes on deposits during period of federal assistance applies to both interest and dividends paid on such deposits.

Sec. 11. Eliminates inconsistency by specifying that the Title II sunset does not apply to outstanding certificates.

Sec. 12. Specifies power of savings and loans to open demand accounts for themselves.

Sec. 13. Provides that money market deposit accounts in all depository institutions will not be subject to the phase-in of reserve requirements under the Monetary Control Act of 1980.

Sec. 14(a) Reinserts the 5 percent construction lending authority inadvertently eliminated.

Sec. 14(b) Provides correct reference to short title.

Sec. 15. Corrects reference to the Federal Home Loan Bank Act.

Sec. 16. Restores language inadvertently omitted to allow readmission to Federal Home Loan System membership.

Sec. 17(a) Grammatical correction.

Sec. 17(b) Corrects statutory cross reference.

Sec. 18. Confirms intent that bankers' banks can provide services to depository institutions and their holding companies.

Sec. 19. Reasserts that relocation of bank's headquarters within community limits does not necessitate shareholder approval and clairfies that name approval by the Comptroller is not required when a state bank converts to federal charter.

Sec. 20. Corrects the Revised Statutes reference to make clear that only the last sentence of Sec. 5198 is being amended.

Sec. Sec. 21. Clarifies that "a state" as well as a "state official" can declare holidays for national banks.

Sec. 22. Confirms intent that the low quality asset prohibition applies to all Sec. 23A transactions.

Sec. 23. Corrects the Revised Statutes reference to make clear that only the last paragraph of Sec. 5240 is being amended.

Sec. 24. Citation correct.

Sec. 25. Corrects citation to National Credit Union Administration.

Sec. Sec. 26. Grammatical and citation corrections.

Sec. 27. Grammatical correction.

Sec. 28. Grammatical correction.

Sec. 29. Citation correction.

Sec. 30. Confirms the intent that the limitation on life insurance activities in Title VI is applicable to small bank holding companies.

Sec. 31. Clarifies that the student loan exemption from truth-in-lending applies to loans made on date of enactment.

Sec. 32. Corrects a statutory reference and makes clear that bank service corporations owned by national banks may perform the same services a national bank may perform.

Sec. 33. Conforms the language describing bankers' banks in the Export Trading Company Act to the language used in the Garn-St Germain Act.

Sec. 34. Continues the application of Sec. 414(a) of the National Housing Act to savings banks that become FDIC-insured.●

ADDITIONAL COSPONSORS

S. 2225

At the request of Mr. BAUCUS, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 2225, a bill to amend the Internal Revenue Code of 1954 to remove certain limitations on charitable contributions of certain items.

S. 2948

At the request of Mr. DOLE, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 2948, a bill to promote the development of nonanimal methods of research experimentation and testing, and to insure humane care of animals used in scientific research, experimentation, and testing.

S. 3048

At the request of Mr. THURMOND, the names of the Senator from Indiana (Mr. QUAYLE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BOREN), and the Senator from Utah (Mr. GARN) were added as cosponsors of S. 3048, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

S. 3053

At the request of Mr. D'AMATO, the name of the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 3053, a bill to amend the Agriculture Act of 1949 to modify the dairy price support program.

S. 3069

At the request of Mr. EAGLETON, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3069, a bill to amend the Natural Gas Policy Act of 1978 to prohibit increases in the wellhead prices of natural gas, and for other purposes.

SENATE JOINT RESOLUTION 263

At the request of Mr. THURMOND, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week."

SENATE JOINT RESOLUTION 265

At the request of Mr. DENTON, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of Senate Joint Resolution 265, a joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism."

SENATE CONCURRENT RESOLUTION 122

At the request of Mr. PERCY, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of Senate Concurrent Resolution 122, a concurrent resolution relating to the processed product share of U.S. agricultural exports.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL COURT REFORM ACT OF 1982

AMENDMENT NO. 4982

(Ordered to be printed and lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill (H.R. 6872) to provide greater discretion to the Supreme Court in selecting the cases it will review, to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes.

● Mr. HEFLIN. Mr. President, today, I offer an amendment to H.R. 6872 to deal with the bankruptcy jurisdiction problems raised by the Northern Pipeline decision of the U.S. Supreme Court.

Many varied solutions have been discussed in recent months. But due to the nature of a lameduck session, I am not optimistic of solving this problem by agreement, with the proposal that has been suggested. But I am hopeful that we can resolve this matter in a bipartisan manner a consensus approach.

My amendment would provide an interim solution to a problem which requires careful and thoughtful deliberation by Congress before any fundamental revamping of our bankruptcy system is made.

The Northern Pipeline decision struck down the present bankruptcy jurisdiction statute in our United States Code, section 1471(c) of title 28. That provision was viewed as constitutionally objectionable because it granted article I bankruptcy judges the power to decide traditional causes of action arising under State law. The Supreme Court held that such ancillary matters could only be decided by those life-tenured judges appointed by Congress under article III of the Constitution.

Basic to the bankruptcy reforms made by Congress in 1978 was the idea of a single forum for disposing of bankruptcy cases and related issues. The need for efficiency, economy, and timeliness motivated the creation of the single forum and the vesting of broad jurisdiction in article I judges.

The history and experience behind the 1978 Bankruptcy Reform Act strongly suggests that Congress carefully and thoughtfully study this area, before any major overhaul of the system.

But the Supreme Court decision in Northern Pipeline requires some timely modifications to prevent our bankruptcy process from stopping dead.

My amendment will address both these concerns by immediately limiting the power of bankruptcy judges for a period of transition, while basically leaving our present structure intact.

My measure will authorize article I bankruptcy judges to handle all aspects of "pure" bankruptcy cases, subject to appellate review, but would withdraw the jurisdiction of a bankruptcy judge to conduct jury trials or final judgments on "related cases."

"Related cases" are defined in my proposal as those "civil proceedings, that, in the absence of a petition in bankruptcy could have been brought in a district court or a State court." An article I bankruptcy judge could submit proposed findings of fact, conclusions of law and a proposed final judgment to a district judge, but, the article III district judge need not give deference to the recommendations of the bankruptcy judge. The district judge may hold a hearing and take additional evidence.

I believe that removing the power of the bankruptcy court to enter final judgment in related cases, and authorizing the district court to conduct an independent review of the findings of fact and conclusions of law involved, will remedy the constitutional flaws identified by the Supreme Court in Northern Pipeline.

As my amendment also provides that the parties could consent to entry of final judgment by a bankruptcy judge in a related case, the goals of efficiency, timeliness, and economy are preserved. The parties would so consent without waiving their right to traditional appellate review.

Finally, my amendment applies to the remaining transition period left under the 1978 act, that is, from now until April 1984. Such an interim measure will allow Congress to reexamine this issue with all its complexities without making rash and radical changes in the structure of our judicial system. It will permit the continued orderly disposition of bankruptcy petitions while avoiding the inevitable gaps and delay involved in the nominations process of some 200 article III judges.

I ask that my colleagues examine this measure and consider its impact on our judicial system. Congress is responsible for providing an efficient and constitutional mechanism for resolving bankruptcy matters. I hope that the Senate can act in a positive nonpartisan way to correct our system's present flaws.

Thank you, Mr. President.●

NUCLEAR WASTE POLICY ACT OF 1982

AMENDMENT NO. 4983

(Ordered to be printed and to lie on the table.)

Mr. McCLURE (for himself, Mr. SIMPSON, Mr. JACKSON, Mr. JOHNSTON, and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill (H.R. 3809) to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes.

Mr. McCLURE. Mr. President, I submit for printing an amendment in the nature of a substitute to the House-passed nuclear waste legislation.

Mr. President, this amendment is a proposed amendment in the nature of a substitute for the House-passed nuclear waste bill, H.R. 3809, Calendar No. 968. The proposed amendment was developed jointly by the majority and minority staffs of the Committee on Energy and Natural Resources and the Committee on Environment and Public Works. The text of the proposed amendment reflects the results of consultations with the staffs of interested Senators, the House Committee leadership, DOE, NRC, and outside groups. The text is intended to accommodate the comments received in that consultation to the maximum extent possible. We appreciate the assistance of all Members.

The chairmen and ranking minority members of the committees intend that the proposed amendment be offered as a substitute for the provisions of H.R. 3809 during consideration of the bill this week. Please address any questions or comments about the proposed amendment to Paul Gilman (x44431), Will Smith (x47530) or Ben Cooper (x49894) of the Energy and Natural Resources Committee staff and Jim Curtis (x42991) or Keith Glaser (x43597) of the Environment and Public Works Committee staff. It remains the intention of the chairmen and ranking minority members of the two committees to fashion ultimately a final Senate consensus position on nuclear waste legislation during floor consideration of the proposed amendment. The assistance of all Members of the Senate in achieving that objective would be appreciated.

Mr. President, I ask unanimous consent that the printed amendment and a staff summary of the amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 4983

Strike all after the enacting clause and insert in lieu thereof, the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Nuclear Waste Policy Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.
Sec. 3. Separability.
Sec. 4. Territories and possessions.
Sec. 5. Ocean disposal.
Sec. 6. Limitation on spending authority.
Sec. 7. Protection of classified national security information.
Sec. 8. Applicability.

TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE

Sec. 10. State and affected Indian tribe participation in development of proposed repositories for defense waste.

SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

Sec. 111. Findings and purposes.
Sec. 112. Recommendation of candidate sites for site characterization.
Sec. 113. Site characterization.
Sec. 114. Site approval and construction authorization.
Sec. 115. Review of repository site selection.
Sec. 116. Participation of States.
Sec. 117. Consultation with States and Indian tribes.
Sec. 118. Participation of Indian tribes.
Sec. 119. Judicial review of agency actions.
Sec. 120. Expedited authorizations.
Sec. 121. Certain standards and criteria.
Sec. 122. Disposal of spent nuclear fuel.
Sec. 123. Title to material.
Sec. 124. Consideration of effect of acquisition of water rights.
Sec. 125. Termination of certain provisions.

SUBTITLE B—INTERIM STORAGE PROGRAM

Sec. 131. Findings and purposes.
Sec. 132. Available capacity for interim storage of spent nuclear fuel.
Sec. 133. Interim at-reactor storage.
Sec. 134. Licensing of facility expansions and transshipments.
Sec. 135. Storage of spent nuclear fuel.
Sec. 136. Interim Storage Fund.
Sec. 137. Transportation.

SUBTITLE C—MONITORED RETRIEVABLE STORAGE

Sec. 141. Monitored retrievable storage.

SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE

Sec. 151. Financial arrangements for site closure.

TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

Sec. 211. Purpose.
Sec. 212. Applicability.
Sec. 213. Identification of sites.
Sec. 214. Siting research and related activities.
Sec. 215. Test and evaluation facility siting review and reports.
Sec. 216. Federal agency actions.
Sec. 217. Research and development on disposal of high-level radioactive waste.
Sec. 218. Research and development on spent nuclear fuel.
Sec. 219. Payments to States and Indian tribes.
Sec. 220. Study of research and development needs for monitored retrievable storage proposal.
Sec. 221. Judicial review.
Sec. 222. Research on Alternatives for the Permanent Disposal of High-Level Radioactive Waste.

TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE

Sec. 301. Mission plan.
Sec. 302. Nuclear Waste Fund.
Sec. 303. Alternate means of financing.
Sec. 304. Office of Civilian Radioactive Waste Management.
Sec. 305. Location of test and evaluation facility.

DEFINITIONS

SEC. 2. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "affected Indian tribe" means any Indian tribe—

(A) within whose reservation boundaries a monitored retrievable storage facility, test and evaluation facility, or a repository for high-level radioactive waste or spent fuel is proposed to be located;

(B) whose federally defined possessory or usuage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: *Provided*, That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe;

(3) The term "atomic energy defense activity" means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

(A) naval reactors development;

(B) weapons activities including defense inertial confinement fusion;

(C) verification and control technology;

(D) defense nuclear materials production;

(E) defense nuclear waste and materials by-products management;

(F) defense nuclear materials security and safeguards and security investigations; and

(G) defense research and development.

(4) The term "candidate site" means an area, within a geologic and hydrologic system, that is recommended by the Secretary under section 112 for site characterization, approved by the President under section 112 for site characterization, or undergoing site characterization under section 113.

(5) The term "civilian nuclear activity" means any atomic energy activity other than an atomic energy defense activity.

(6) The term "civilian nuclear power reactor" means a civilian nuclear powerplant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

(7) The term "Commission" means the Nuclear Regulatory Commission.

(8) The term "Department" means the Department of Energy.

(9) The term "disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such waste.

(10) The terms "disposal package" and "package" mean the primary container that holds, and is in contact with, solidified high-level radioactive waste, spent nuclear fuel,

or other radioactive materials, and any overpacks that are emplaced at a repository.

(11) The term "engineered barriers" means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved. Such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

(12) The term "high-level radioactive waste" means—

(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

(13) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(14) The term "Governor" means the chief executive officer of a State.

(15) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

(16) The term "low-level radioactive waste" means radioactive material that—

(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or byproduct material as defined in section 11e. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

(17) The term "Office" means the Office of Civilian Radioactive Waste Management established in section 305.

(18) The term "repository" means any system licensed by the Commission that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited period during initial operation, of any materials placed and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

(19) The term "reservation" means—

(A) any Indian reservation or dependent Indian community referred to in clause (a) or (b) of section 1151 of title 18, United States Code; or

(B) any land selected by an Alaska Native village or regional corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(20) The term "Secretary" means the Secretary of Energy.

(21) The term "site characterization" means—

(A) siting research activities with respect to a test and evaluation facility at a candidate site; and

(B) activities, whether in the laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(22) The term "siting research" means activities, including borings, surface excavations, shaft excavations, subsurface lateral excavations and borings, and in situ testing, to determine the suitability of a site for a test and evaluation facility.

(23) The term "spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(24) Term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(25) The term "storage" means retention of high-level radioactive waste, spent nuclear fuel, or transuranic waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

(26) The term "Storage Fund" means the Interim Storage Fund established in section 137(c).

(27) The term "test and evaluation facility" means an at-depth, prototypic, underground cavity with subsurface lateral excavations extending from a central shaft that is used for research and development purposes, including the development of data and experience for the safe handling and disposal of solidified high-level radioactive waste, transuranic waste, or spent nuclear fuel.

(28) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(29) The term "Waste Fund" means the Nuclear Waste Fund established in section 302(c).

SEPARABILITY

SEC. 3. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TERRITORIES AND POSSESSIONS

SEC. 4. Nothing in this Act shall be deemed to repeal, modify, or amend the provisions of section 605 of the Act of March 12, 1980 (48 U.S.C. 1491).

OCEAN DISPOSAL

SEC. 5. Nothing in this Act shall be deemed to affect the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

LIMITATION ON SPENDING AUTHORITY

SEC. 6. The authority under this Act to incur indebtedness, or enter into contracts, obligating amounts to be expended by the Federal Government shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

PROTECTION OF CLASSIFIED NATIONAL SECURITY INFORMATION

SEC. 7. Nothing in this Act shall require the release or disclosure to any person or to the Commission of any classified national security information.

APPLICABILITY

SEC. 8. (a) ATOMIC ENERGY DEFENSE ACTIVITIES.—Subject to the provisions of subsection (c), the provisions of this Act shall not apply with respect to any atomic energy defense activity or to any facility used in connection with any such activity.

(b) EVALUATION BY PRESIDENT.—(1) Not later than 2 years after the date of the enactment of this Act, the President shall evaluate the use of disposal capacity at one or more repositories to be developed under subtitle A of title I for the disposal of high-level radioactive waste resulting from atomic energy defense activities. Such evaluation shall take into consideration factors relating to cost, efficiency, health and safety, regulation, transportation, public acceptability, and national security.

(2) Unless the President finds, after conducting the evaluation required in paragraph (1), that the development of a repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only is required, taking into account all of the factors described in such subsection, the Secretary shall proceed promptly with arrangement for the use of one or more of the repositories to be developed under subtitle A of title I for the disposal of such waste.

Such arrangements shall include the allocation of costs of developing, constructing, and operating this repository or repositories between the Federal Government and the separate account established by section 302. The costs resulting from permanent disposal of high-level radioactive waste from atomic energy defense activities shall be paid by the Federal Government, and not from the special account established under section 302.

(3) Any repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only shall (A) be subject to licensing under section 202 of the Energy Reorganization Act of 1973 (42 U.S.C. 5842); and (B) comply with all requirements of the Commission for the siting, development, construction, and operation of a repository.

(c) APPLICABILITY TO CERTAIN REPOSITORIES.—The provisions of this Act shall apply with respect to any repository not used exclusively for the disposal of high-level radioactive waste or spent nuclear fuel resulting from atomic energy defense activities, research and development, activities of the Secretary, or both.

TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE

STATE AND AFFECTED INDIAN TRIBE PARTICIPATION IN DEVELOPMENT OF PROPOSED REPOSITORIES FOR DEFENSE WASTE

SEC. 101. (a) NOTIFICATION TO STATES AND AFFECTED INDIAN TRIBES.—Notwithstanding the provisions of section 3, upon any decision by the Secretary or the President to develop a repository for the disposal of high-level radioactive waste or spent nuclear fuel resulting exclusively from atomic energy defense activities, research and development activities of the Secretary, or both, and before proceeding with any site-specific investigations with respect to such repository, the Secretary shall notify the Governor and legislature of the State in which such repository is proposed to be located, or the governing body of the affected Indian tribe on whose reservation such repository is pro-

posed to be located, as the case may be, of such decision.

(b) PARTICIPATION OF STATES AND AFFECTED INDIAN TRIBES.—Following the receipt of any notification under subsection (a), the State or Indian tribe involved shall be entitled, with respect to the proposed repository involved, to rights of participation and consultation identical to those provided in sections 115 through 118, except that any financial assistance authorized to be provided to such State or affected tribe under section 116(c) or 118(b) shall be made from amounts appropriated to the Secretary for purposes of carrying out this section.

SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

FINDINGS AND PURPOSES

SEC. 111. (a) FINDINGS.—The Congress finds that—

(1) radioactive waste creates potential risks and requires safe and environmentally acceptable methods of disposal;

(2) a national problem has been created by the accumulation of (A) spent nuclear fuel from nuclear reactors; and (B) radioactive waste from (i) reprocessing of spent nuclear fuel; (ii) activities related to medical research, diagnosis, and treatment; and (iii) other sources;

(3) Federal efforts during the past 30 years to devise a permanent solution to the problems of civilian radioactive waste disposal have not been adequate;

(4) while the Federal Government has the responsibility to provide for the permanent disposal of high-level radioactive waste and such spent nuclear fuel as may be disposed of in order to protect the public health and safety and the environment, the costs of such disposal should be the responsibility of the generators and owners of such waste and spent fuel;

(5) the generators and owners of high-level radioactive waste and spent nuclear fuel have the primary responsibility to provide for, and the responsibility to pay the costs of, the interim storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary of Energy in accordance with the provisions of this Act;

(6) State and public participation in the planning and development of repositories is essential in order to promote public confidence in the safety of disposal of such waste and spent fuel; and

(7) high-level radioactive waste and spent nuclear fuel have become major subjects of public concern, and appropriate precautions must be taken to ensure that such waste and spent fuel do not adversely affect the public health and safety and the environment for this or future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish a schedule for the siting, construction, and operation of repositories that will provide a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by high-level radioactive waste and such spent nuclear fuel as may be disposed of in a repository;

(2) to establish the Federal responsibility, and a definite Federal policy, for the disposal of such waste and spent fuel;

(3) to define the relationship between the Federal Government and the State governments with respect to the disposal of such waste and spent fuel; and

(4) to establish a Nuclear Waste Fund, composed of payments made by the generators and owners of such waste and spent fuel, that will ensure that the costs of carrying out activities relating to the disposal of such waste and spent fuel will be borne by the persons responsible for generating such waste and spent fuel.

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors and the concurrence of the Commission shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrology, geophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands.

"Such guidelines shall take into consideration the proximity to sites where high-level radioactive waste and spent nuclear fuel is generated or temporarily stored and the transportation and safety factors involved in moving such waste to a repository.".

Such guidelines shall specify population factors that will disqualify any site from development as a repository if any surface facility of such repository would be located in a highly populated area.

Such guidelines also shall require the Secretary to consider the cost and impact of transporting to the repository site the solidified high-level radioactive waste and spent fuel to be disposed of in the repository and the advantages of regional distribution in the siting of repositories.

Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recommend sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall recommend to the President at least 3 candidate sites that he determines suitable for site characterization for selection of the first repository site. Such sites shall be recommended by the Secretary not later than July 1, 1984. Not later than July 1, 1987, the Secretary shall recommend to the President at least 3 additional candidate sites the Secretary determines for possible subsequent selection as repository sites are suitable for site characterization. The Secretary shall not recommend for characterization any area of a site used for the test and evaluation facility pursuant to Title II that the Secretary determines would permit the physical integration of the test and evaluation facility and a proposed repository.

Each recommendation of a candidate site under this subsection shall be accompanied by an environmental impact statement prepared pursuant to subsection (g) and the National Environment Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) Each environmental impact statement prepared under this paragraph shall be made available to the public.

(C) Before recommending a candidate site to the President, the Secretary shall notify the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be, of such recommendation and the basis for such recommendation.

(2) Before recommending to the President any candidate site for site characterization, the Secretary shall hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of the proposed recommendation of such candidate site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental impact statement described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be. If, during such 60-day period, the president fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study

other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this section, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (F).

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental impact statement described in subsection (g) shall be prepared within one year of the date of enactment of this Act; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c); and (3) the Secretary shall conduct public hearings under 113(b)(2) and comply with requirements under section 117 of this Act within one year of the date of enactment.

If site characterization is discontinued at any site under the second clause of the first sentence of this subsection, site characterization at such site may be continued by the President under subsection (c).

(g) ENVIRONMENTAL IMPACT STATEMENT.—Any recommendation of a candidate site under subsection (b) shall be accompanied by an environmental impact statement. With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository. For purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section, all consideration of alternative sites by the Secretary, shall be considered adequate if the statement provides an explanation of the process and reasons for the elimination of other sites for recommendation for site characterization pursuant to this section.

SITE CHARACTERIZATION

SEC. 113. (a) IN GENERAL.—The Secretary shall carry out, in accordance with the provisions of this section, appropriate site characterization activities beginning with the candidate sites that have been approved under section 112 and are located various geologic media". The Secretary shall consider fully the comments received under subsection (b)(2) and section 112(b)(2) and shall, to the maximum extent practicable and in consultation with the Governor of the State involved or the governing body of the affected Indian tribe involved, conduct site characterization activities in a manner that minimizes any significant adverse environmental impacts identified in such comments or in the environmental assessment submitted under subsection (b)(1).

(b) COMMISSION AND STATES.—(1) Before proceeding to sink shafts at any candidate site to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe on whose reservation such candidate site is located, as the case may be, for their review and comment—

(A) a general plan for site characterization activities to be conducted at such candidate site, which plan shall include—

(i) a description of such candidate site;

(ii) a description of such site characterization activities, including the following: the extent of planned excavations, plans for any onsite testing with radioactive or nonradioactive material, plans for any investigation activities that may affect the capability of such candidate site to isolate high-level radioactive waste and spent nuclear fuel, and plans to control any adverse, safety-related impacts from such site characterization activities;

(iii) plans for the decontamination and decommissioning of such candidate site, and for the mitigation of any significant adverse environmental impacts caused by site characterization activities if it is determined unsuitable for application for a construction authorization for a repository;

(iv) criteria to be used to determine the suitability of such candidate site for the location of a repository, developed pursuant to section 112(a); and

(v) any other information required by the Commission;

(B) a description of the possible form or packaging for the high-level radioactive waste and spent nuclear fuel to be emplaced in such repository, a description, to the extent practicable, of the relationship between such waste form or packaging and the geologic medium of such site, and a description of the activities being conducted by the Secretary with respect to such possible waste form or packaging or such relationship; and

(C) a conceptual repository design that takes into account likely site-specific requirements.

(2) Before proceeding to sink shafts at any candidate site, the Secretary shall (A) make available to the public the site characterization plan described in paragraph (1); and (B) hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of such plan, and to receive their comments.

(3) During the conduct of site characterization activities at a candidate site, the Secretary shall report not less than once every 6 months to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be, on the nature and extent of such activities and the information developed from such activities.

(c) RESTRICTIONS.—(1) The Secretary may conduct at any candidate site only such site characterization activities as the Secretary considers necessary to provide the data required for evaluation of the suitability of such candidate site for an application to be submitted to the Commission for a contruction authorization for a repository at such candidate site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) In conducting site characterization activities—

(A) the Secretary may not use any radioactive material at a candidate site unless the Commission concurs that such use is necessary to provide data for the preparation of the required environmental reports and an application for a construction authorization for a repository at such candidate site; and

(B) if any radioactive material is used at a candidate site—

(i) the Secretary shall use the minimum quantity necessary to determine the suitability of such candidate site for a repository, but in no event more than the curie equivalent of 10 metric tons of spent nuclear fuel; and

(ii) such radioactive material shall be fully retrievable.

(3) If site characterization activities are terminated at a candidate site for any reason, the Secretary shall (A) notify the Congress, the Governors and legislatures of all States in which candidate sites are located, and the governing bodies of all affected Indian tribes where candidate sites are located, of such termination and the reasons for such termination; and (B) remove any high-level radioactive waste, spent nuclear fuel, or other radioactive materials at or in such candidate site as promptly as practicable.

(4) If a site is determined to be unsuitable for application for a construction authorization for a repository, the Secretary shall take reasonable and necessary steps to reclaim the site and to mitigate any significant adverse environmental impacts caused by site characterization activities.

(d) PRELIMINARY ACTIVITIES.—Each activity of the Secretary under this section that is in compliance with the provisions of subsection (c) shall be considered a preliminary decisionmaking activity. "No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act."

SITE APPROVAL AND CONSTRUCTION AUTHORIZATION

SEC. 114. (a) HEARINGS AND PRESIDENTIAL RECOMMENDATION.—(1) The Secretary shall hold public hearings in the vicinity of each site under consideration for recommendation to the President under this paragraph as a site for the development of a repository, for the purposes of informing the residents of the area in which such site is located of such consideration and receiving their comments regarding the possible recommendation of such site. If, upon completion of such hearings and completion of site characterization activities at not less than 3 candidate sites for the first proposed repository, or from all of the characterized sites for the development of subsequent repositories, under section 113, the Secretary decides to recommend approval of such site to the President, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such decision. No sooner than the expiration of the 30-day period following such notification, the Secretary shall submit to the President a recommendation that the President approve such site for the development of a repository. Any such recommendation by the Secretary shall be based on the record of information developed by the Secretary under section 113 and this section, in-

cluding the information described in subparagraph (A) through subparagraph (G).

In making site recommendations and approvals subsequent to the first site recommendation, the Secretary and the President, respectively, shall also consider the need for regional distribution of repositories and the need to minimize, to the extent practicable, the impacts and cost of transporting spent fuel and solidified high-level radioactive waste.

Together with any recommendation of a site under this paragraph the Secretary shall make available to the public, and submit to the President, a comprehensive statement of the basis of such recommendation, including the following:

(A) a description of the proposed repository, including preliminary engineering specifications for the facility;

(B) a description of the waste form or packaging proposed for use at such repository, and an explanation of the relationship between such waste form or packaging and the gerologic medium of such site;

(C) a discussion of data, obtained in site characterization activities, relating to the safety of such site;

(D) a final environmental impact statement prepared pursuant to subsection (f) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including an analysis of the consideration given by the Secretary to not less than 3 candidate sites for the first proposed repository or to all of the characterized sites for the development of subsequent repositories, with respect to which site characterization is completed under section 113, together with comments made concerning such environmental impact statement by the Secretary of the Interior, the Council on Environmental Quality, the Administrator, and the Commission, except that any such environmental impact statement concerning the first repository to be developed under this Act shall not be required to consider the need for a repository or the alternatives to geologic disposal,

(E) preliminary comments of the Commission concerning the extent to which the at-depth site characterization analysis and the waste form proposal for such site seem to be sufficient for inclusion in any application to be submitted by the Secretary for licensing of such site as a repository;

(F) the views and comments of the Governor and legislature of any State, or the governing body of any affected Indian tribe, as determined by the Secretary, together with the response of the Secretary to such views;

(G) such other information as the Secretary considers appropriate; and

(H) any impact report submitted under section 116(c)(2)(B) by the State in which such site is located, or under section 118(b)(3)(B) by the affected Indian tribe where such site is located, as the case may be.

(2)(A) Not later than March 31, 1987, the President shall submit to the Congress a recommendation of one site from the three sites initially characterized that the President considers qualified for application for a construction authorization for a repository. Not later than March 31, 1990, the President shall submit to the Congress a recommendation of a second site from any sites already characterized that the President considers qualified for a construction authorization for a second repository.

The President shall submit with such recommendation a copy of the report for such site prepared by the Secretary under paragraph (1).

(B) The President may extend the deadlines described in subparagraph (A) by not more than 12 months if, before March 31, 1986 for the first site and March 31, 1989 for the second site, (i) the President determines that such extension is necessary; and (ii) transmits to the Congress a report setting forth the reasons for such extension.

(3) If approval of any such site recommendation does not take effect as a result of a disapproval by the Governor or legislature of a State under section 116 or the governing body of an affected Indian tribe under section 118, the President shall submit to the Congress, not later than 1 year after the disapproval of such recommendation, a recommendation of another site for the first or subsequent repository.

(4)(A) The President may not recommend the approval of any site under this subsection unless the Secretary has recommended to the President under paragraph (1) approval of such site and has submitted to the President a report for such site as required under such paragraph.

"(B) No recommendation of a site by the President under this subsection shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act."

(b) SUBMISSION OF APPLICATION.—If the President recommends to the Congress a site for a repository under subsection (a) and the site designation is permitted to take effect under section 115, the Secretary shall submit to the Commission an application for a construction authorization for a repository at such site not later than 90 days after the date on which the recommendation of the site designation is effective under such section and shall provide to the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, a copy of such application.

(c) STATUS REPORT ON APPLICATION.—Not later than 1 year after the date on which an application for a construction authorization is submitted under subsection (b), and annually thereafter until the date on which such authorization is granted, the Commission shall submit a report to the Congress describing the proceedings undertaken through the date of such report with regard to such application, including a description of—

(1) any major unresolved safety issues, and the explanation of the Secretary with respect to design and operation plans for resolving such issues;

(2) any matters of contention regarding such application; and

(3) any Commission actions regarding the granting or denial of such authorization.

(d) COMMISSION ACTION.—The Commission shall consider an application for a construction authorization for all or part of a repository in accordance with the laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than—

(1) January 1, 1989, for the first such application, and January 1, 1992, for the second such application; or

(2) the expiration of 3 years after the date of the submission of such application, except that the Commission may extend such deadline by not more than 12 months if, not less than 30 days before such deadline, the Commission complies with the reporting requirements established in subsection (e)(2);

whichever occurs later.

The Commission decision approving the first such application shall prohibit the emplacement in the first repository of a quantity of spent fuel containing in excess of seventy thousand metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of such a quantity of spent fuel until such time as a second repository is in operation. In the event that a monitored retrievable storage facility, approved pursuant to subtitle C of this Act, shall be located, or is planned to be located, within fifty miles of the first repository; then the Commission decision approving the first such application shall prohibit the emplacement of a quantity of spent fuel containing in excess of seventy thousand metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of spent fuel in both the repository and monitored retrievable storage facility until such time as a second depository is in operation.

(e) PROJECT DECISION SCHEDULE.—(1) The Secretary shall prepare and update, as appropriate, in cooperation with all affected Federal agencies, a project decision schedule that portrays the optimum way to attain the operation of the repository involved, within the time periods specified in this subtitle. Such schedule shall include a description of objectives and a sequence of deadlines for all federal agencies required to take action, including an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning repository operation.

(2) Any Federal agency that determines that it cannot comply with any deadline in the project decision schedule, or fails to so comply, shall submit to the Secretary and to the Congress a written report explaining the reason for its failure or expected failure to meet such deadline, the reason why such agency could not reach an agreement with the Secretary, the estimated time for completion of the activity or activities involved, the associated effect on its other deadlines in the project decision schedule, and any recommendations it may have or actions it intends to take regarding any improvements in its operation or organization, or changes to its statutory directives or authority, so that it will be able to mitigate the delay involved. The Secretary, within 30 days after receiving any such report, shall file with the Congress his response to such report, including the reasons why the Secretary could not amend the project decision schedule to accommodate the Federal agency involved.

(f) ENVIRONMENTAL IMPACT STATEMENT.—Any recommendation made by the Secretary under this section shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). A final environmental impact statement prepared by the Secretary under such Act shall accompany any recommendation to the President to approve a site for a repository. With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and

all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository. For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section, the Secretary shall consider as alternate sites for the first repository to be developed under this subtitle 3 candidate sites recommended by the Secretary pursuant to the first sentence of section 112(b) and approved by the President for site characterization, pursuant to section 112(c), for which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination, including a statement of the reasons for such determination, of the suitability of each site for development as a repository. The Secretary shall consider as alternative sites for subsequent repositories those sites recommended by the Secretary by July 1, 1984, and by July 1, 1987, pursuant to section 112(b) and approved by the President for site characterization pursuant to section 112(c) for which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination, including a statement of the reasons for such determination, of the suitability of each site for development as a repository. Any environmental impact statement prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsiblities of the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). In any such statement prepared with respect to the first repository to be constructed under this subtitle, the need for a repository or nongeologic alternatives to the site of such repository shall not be considered.

SEC. 115. (a) IN GENERAL.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor of the State in which such site is located, or the governing body of an affected Indian tribe on where such site is located, as the case may be, submits to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval is submitted, the designation of such site shall not be effective except as provided under subsection (b).

(b) CONGRESSIONAL REVIEW OF SITES.—If any notice of disapproval of a repository site designation is submitted to the Congress under section 116 or 118 after a recommendation for approval of such site is made by the President under section 114, the designation of such site as suitable for license application as a repository shall be effective upon the expiration of the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval unless, during such period, either House of the Congress passes a resolution in accordance with this subsection disapproving such site designation.

(c) DEFINITION.—For purposes of this subsecton the term "resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the ——— hereby approves the notice of disapproval submitted by ——— regarding the disapproval of the site at ——— for a repository for the disposal of high-level radioactive waste and spent nuclear fuel.". The first blank space in such resolution shall be filled with the designation of the appropriate House of the Congress; the second blank space in such resolution shall be filled with the designation of the State Governor or Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the geographic location of the proposed repository site involved.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions under this section, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118. a resolution under this section shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(B) Upon introduction, a resolution under this section shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall make it recommendations to the Senate.

(3) If any committee to which is referred a resolution introduced under paragraph (2)(A), or, in the absence of such a reolution, any other resolution under this section introduced with respect to the site involved, has not reported such resolution at the end of 45 days of continous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution under this section has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on a resolution under this section and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution under this section and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution under this section shall be decided without debate.

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions under this section and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 45 days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution under this section after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker

shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(f) COMPUTATION OF DAYS.—For purposes of this section—

(1) continuity of session of Congress is broken only by adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 45-day period referred to in subsections (d) and (e).

(g) INFORMATION PROVIDED TO CONGRESS.—In considerning any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of such comments by the Commission shall not be construed as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

PARTICIPATION OF STATES

SEC. 116. (a) NOTIFICATION OF STATES AND AFFECTED TRIBES.—The Secretary shall identify the States with one or more potentially acceptable sites for a repository within ninety days after the date of enactment of this Act. Within ninety days of such identification, the Secretary shall notify the Governor, the State legislature, and the Tribal Council of any affected Indian tribe in any State of the potentially acceptable sites within such State. For the purposes of this title, the term "potentially acceptable site" means any site at which, after geologic studies and field mapping but before detailed geologic data gathering, the Department undertakes preliminary drilling and geophysical testing for the definition of site location.

(b) STATE PARTICIPATION IN REPOSITORY SITING DECISIONS.—(1) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under paragraph (2). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(2) Upon the submission by the President to the Congress of a recommendation of a site for a repository, the Governor or legislature of the State in which such site is located may disapprove the site designation and submit to the Congress a notice of disapproval. Such Governor or legislature may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why such Governor or legislature disapproved the recommended repository site involved.

(3) The authority of the Governor or legislature of each State under this subsection shall not be applicable with respect to any site located on a reservation.

(c) FINANCIAL ASSISTANCE.—(1)(A) the Secretary shall make grants to each State notified under subsection (a) for the purpose of participating in activities required by sections 116 and 117 or authorized by written agreement entered into pursuant to subsection 117(c). Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(B) The Secretary shall make grants to each State in which a candidate site for a repository is approved under section 112(c). Such grants may be made to each such State only for purposes of enabling such State—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the State and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to its residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(C) Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall provide financial and technical assistance to any State requesting such assistance in which there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such State of the development of such repository. Such assistance to such State shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

(B) Any State desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site in such State. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the State involved setting forth the amount of assistance to be provided to such State under this paragraph and the procedures to be followed in providing such assistance.

(3) The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

(4)(A) A State may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies the Governor and legislature of the State involved of the termination of site characterization activities at the candidate site involved in such State;

(ii) the date on which the site in such State is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site in the State approved under section 112(c) with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) A State may not receive any further assistance under paragraph (2) with respect to a site if repository construction acitivities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds shall be made available to such State under paragraph (1) or (2), except for—

(i) such funds as may be necessary to support State activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period.

(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

(d) ADDITIONAL NOTIFICATION AND CONSULTATION.—Whenever the Secretary is required under any provision of this Act to notify or consult with the governing body of an affected Indian tribe where a site is located, the Secretary shall also notify or consult with, as the case may be, the Governor of the State in which such reservation is located.

CONSULTATION WITH STATES AND AFFECTED INDIAN TRIBES

SEC. 117. (a) PROVISION OF INFORMATION.—(1) The Secretary, the Commission, and other agencies involved in the construction, operation, or regulation of any aspect of a repository in a State shall provide to the Governor and legislature of such State, and to the governing body of any affected Indian tribe, timely and complete information regarding determinations or plans made with respect to the site characteriza-

tion siting, development, design, licensing, construction, operation, regulation, or decommissioning of such repository.

(2) Upon written request for such information by the Governor or legislature of such State, or by the governing body of any affected Indian tribe affected, as the case may be, the Secretary shall provide a written response to such request within 30 days of the receipt of such request. Such response shall provide the information requested or, in the alternative, the reasons why the information cannot be so provided. If the Secretary fails to so respond within such 30 days, the Governor or legislature of such State, or the governing body of any affected Indian tribe affected, as the case may be, may transmit a formal written objection to such failure to respond to the President. If the President or Secretary fails to respond to such written request within 30 days of the receipt by the President of such formal written objection, the Secretary shall immediately suspend all activities in such State authorized by this subtitle, and shall not renew such activities until the Governor or legislature of such State, or the governing body of any affected Indian tribe affected, as the case may be, has received the written response to such written request required by this subsection.

(b) CONSULTATION AND COOPERATION.—In performing any study of an area within a State for the purpose of determining the suitability of such area for a repository pursuant to section 112(c), and in subsequently developing and loading any repository within such State, the Secretary shall consult and cooperate with the Governor and legislature of such State and the governing body of any affected Indian tribe in an effort to resolve the concerns of such State and any affected Indian tribe regarding the public health and safety, environmental, and economic impacts of any such repository. In carrying out his duties under this subtitle, the Secretary shall take such concerns into account to the maximum extent feasible and as specified in written agreements entered into under subsection (c).

(c) WRITTEN AGREEMENT.—Not later than 60 days after (1) the approval of a site for site characterization for such a repository under section 112(c), or (2) the written request of the State or Indian tribe in any affected State notified under 116(a), to the Secretary, whichever, first occurs, the Secretary shall seek to enter into a binding written agreement, and shall begin negotiations, with such State and, where appropriate, to enter into a separate binding agreement with the governing body of any affected Indian tribe, setting forth (but not limited to) the procedures under which the requirements of subsections (a) and (b), and the provisions of such written agreement, shall be carried out. Any such written agreement shall not affect the authority of the Commission under existing law. Each such written agreement shall, to the maximum extent feasible, be completed not later than 6 months after such notification. If such written agreement is not completed within such period, the Secretary shall report to the Congress in writing within 30 days on the status of negotiations to develop such agreement and the reasons why such agreement has not been completed. Prior to submission of such report to the Congress, the Secretary shall transmit such report to the Governor of such State or the governing body of such affected Indian tribe, as the case may be, for the review and comments. Such comments shall be included in such report prior to submission to the Congress. Such written agreement shall specify procedures—

(1) by which such State or governing body of an affected Indian tribe, as the case may be, may study, determine, comment on, and make recommendations with regard to the possible public health and safety, environmental, social, and economic impacts of any such repository;

(2) by which the Secretary shall consider and respond to comments and recommendations made by such State or governing body of an affected Indian tribe, including the period in which the Secretary shall so respond;

(3) by which the Secretary and such State or governing body of an affected Indian tribe may review or modify the agreement periodically;

(4) by which such State or governing body of an affected Indian tribe is to submit an impact report and request for impact assistance under section 116(c) or section 118(b), as the case may be;

(5) by which the Secretary shall assist such State, and the units of general local government in the vicinity of the repository site, in resolving the offsite concerns of such State and units of general local government, including, but not limited to, questions of State liability arising from accidents, necessary road upgrading and access to the site, ongoing emergency preparedness and emergency response, monitoring of transportation of high-level radioactive waste and spent nuclear fuel through such State, conduct of baseline health studies of inhabitants in neighboring communities near the repository site and reasonable periodic monitoring thereafter, and monitoring of the repository site upon any decommissioning and decontamination;

(6) by which the Secretary shall consult and cooperate with such State on a regular, ongoing basis and provide for an orderly process and timely schedule for State review and evaluation, including identification in the agreement of key events, milestones, and decision points in the activities of the Secretary at the potential repository site;

(7) by which the Secretary shall notify such State prior to the transportation of any high-level radioactive waste and spent nuclear fuel into such State for disposal at the repository site;

(8) by which such State may conduct reasonable independent monitoring and testing of activities on the repository site, except that such monitoring and testing shall not unreasonably interfere with or delay onsite activities;

(9) for sharing, in accordance with applicable law, of all technical and licensing information, the utilization of available expertise, the facilitating of permit procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws;

(10) for public notification of the procedures specified under the preceding paragraphs; and

(11) for resolving objections of a State and affected Indian tribes at any stage of the planning, siting, development, construction, operation, or closure of such a facility within such State through negotiation, arbitration, or other appropriate mechanisms.

PARTICIPATION OF INDIAN TRIBES

SEC. 118. (a) PARTICIPATION OF INDIAN TRIBES IN REPOSITORY SITING DECISIONS.—Upon the submission by the President to the Congress of a recommendation of a site for a repository located on the reservation of an affected Indian tribe, the governing body of such Indian tribe may disapprove the site designation and submit to the Congress a notice of disapproval. The governing body of such Indian tribe may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the governing body of such Indian tribe disapproved the recommended repository site involved.

(b) FINANCIAL ASSISTANCE.—(1) The Secretary shall make grants to each affected Tribe notified under section 116(a) for the purpose of participating in activities required by section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such Tribe, may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall make grants to each affected Indian tribe where a candidate site for a repository is approved under section 112(c). Such grants may be made to each such Indian tribe only for purposes of enabling such Indian tribe—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the reservation and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to the residents of its reservation regarding any activities of such Indian tribe, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(B) The amount of funds provided to any affected Indian tribe under this paragraph in any fiscal year may not exceed 100 percent of the costs incurred by such Indian tribe with respect to the activities described in clauses (i) through (v) of subparagraph (A). Any salary or travel expense that would ordinarily be incurred by such Indian tribe may not be considered eligible for funding under this paragraph.

(3)(A) The Secretary shall provide financial and technical assistance to any affected Indian tribe requesting such assistance and where there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such Indian tribe of the development of such repository. Such assistance to such Indian tribe shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

(B) Any affected Indian tribe desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety,

and environmental impacts that are likely as a result of the development of a repository at a site on the reservation of such Indian tribe. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the Indian tribe involved setting forth the amount of assistance to be provided to such Indian tribe under this paragraph and the procedures to be followed in providing such assistance.

(4) The Secretary shall grant to each affected Indian tribe where a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such Indian tribe would receive where it authorized to tax site characterization activities at such site, and the development and operation of such repository, as such Indian tribe taxes the other commercial activities occurring on such reservation. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

(5) An affected Indian tribe may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies such Indian tribe of the termination of site characterization activities at the candidate site involved on the reservation of such Indian tribe;

(ii) the date on which such site is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site on the reservation of such Indian tribe that is approved under section 112(c) and with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) An affected Indian tribe may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

(C) At the end of the 2-year period beginnning on the effective date of any license to receive and possess for a repository at a site on the reservation of an affected Indian tribe, no Federal funds shall be made available under paragraph (1) or (2) to such Indian tribe, except for—

(i) such funds as may be necessary to support activities of such Indian tribe related to any other repository where a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support activities of such Indian tribe pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such Indian tribe with the Secretary during such 2-year period.

(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

JUDICIAL REVIEW OF AGENCY ACTIONS

SEC. 119. (a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—(1) Except for review in the Supreme Court of the United States, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

(A) for review of any final decision or action of the Secretary, the President, or the Commission under this subtitle;

(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this subtitle;

(C) challenging the constitutionality of any decision made, or action taken, under any provision of this subtitle;

(D) for review of any environmental impact statement prepared pursuant to the National Environmental Policy Act or 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this subtitle, or as required under section 135(c)(1), or alleging a failure to prepare such statement with respect to any such action;

(E) for review of any environmental assessment prepared under section 135(c)(2); or

(F) for review of any research and development activity under title II.

(2) The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

(c) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought not later than the 180th day after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 180th day after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

EXPEDITED AUTHORIZATIONS

SEC. 120. (a) ISSUANCE OF AUTHORIZATIONS.—(1) To the extent that the taking of any action related to the site characterization of a site or the construction or initial operation of a repository under this substitle requires a certificate, right-of-way, permit, lease, or other authorization from a Federal aency or officer, such agency or officer shall issue or grant any such authorization at the earliest practicable date, to the extent permitted by the applicable provisions of law administered by such agency or officer. All actions of a Federal agency or officer with respect to consideration of applications or requests for the issuance or grant of any such authorization shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to such repositories.

(2) The provisions of paragraph (1) shall not apply to any certificate, right-of-way, permit, lease, or other authorization issued or granted by, or requested from, the Commission.

(b) TERMS OF AUTHORIZATION.—Any authorization issued or granted pursuant to subsection (a) shall include such terms and conditions as may be required by law, and may include terms and conditions permitted by law.

CERTAIN STANDARDS AND CRITERIA

SEC. 121. (a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Administrator, pursuant to authority under other provisions of law, shall, by rule, promulgate generally applicable standards for protection of the general environment from offsite releases from radioactive material in repositories.

(b) COMMISSION REQUIREMENTS AND CRITERIA.—(1)(A) Not later than January 1, 1984, the Commission, pursuant to authority under other provisions of law, shall, by rule, promulgate technical requirements and criteria that it will apply, under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et. seq.) and the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), in approving or disapproving—

(i) applications for authorization to construct repositories;

(ii) applications for licenses to receive and possess spent nuclear fuel and high-level radioactive waste in such repositories; and

(iii) applications for authorization for closure and decommissioning of such repositories.

(B) Such criteria shall provide for the use of a system of multiple barriers in the design of the repository and shall include such restrictions on the retrievability of the solidified high-level radioactive waste and spent fuel emplaced in the repository as the Commission deems appropriate.

(C) Such requirements and criteria shall not be inconsistent with any comparable standards promulgated by the Administrator under subsection (a).

(2) For purposes of this Act, nothing in this section shall be construed to prohibit the Commission from promulgating requirements and criteria under paragraph (1) before the Administrator promulgates standards under subsection (a). If the Administrator promulgates standards under subsection (a) after requirements and criteria are promulgated by the Commission under paragraph (1), such requirements and criteria shall be revised by the Commission if necessary to comply with paragraph (1)(C).

"(c) ENVIRONMENTAL IMPACT STATEMENT.—The promulgation of standards or criteria in accordance with the provisions of this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2XC)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.".

DISPOSAL OF SPENT NUCLEAR FUEL

SEC. 122. Notwithstanding any other provision of this subtitle, any repository constructed on a site approved under this subtitle shall be designed and constructed to permit the retrieval of any spent nuclear fuel placed in such repository, during an appropriate period of operation of the facility, for any reason pertaining to the public health and safety, or the environment, or for the purpose of permitting the recovery of the economically valuable contents of such spent fuel. The Secretary shall specify the appropriate period of retrievability with respect to any respository at the time of design of such repository, and such aspect of such repository shall be subject to approval or disapproval by the Commission as part of the construction authorization process under subsections (b) through (d) of section 114.

TITLE TO MATERIAL

SEC. 123. Delivery, and acceptance by the Secretary, of any high-level radioactive waste or spent nuclear fuel for a repository

constructed under this subtitle shall constitute a transfer to the Secretary of title to such waste or spent fuel.

CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS

SEC. 124. The Secretary shall give full consideration to whether the development, construction, and operation of a repository may require any purchase or other acquisition of water rights that will have a significant adverse effect on the present or future development of the area in which such repository is located. The Secretary shall mitigate any such adverse effects to the maximum extent practicable.

TERMINATION OF CERTAIN PROVISIONS

SEC. 125. Sections 119 and 120 shall cease to have effect at such time as a repository developed under this subtitle is licensed to receive and possess high-level radioactive waste and spent nuclear fuel.

SUBTITLE B—INTERIM STORAGE PROGRAM

FINDINGS AND PURPOSES

SEC. 131. (a) FINDINGS.—The Congress finds that—

(1) the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interm storage of spent nuclear fuel from such reactors, by maximizing, to the extent practical, the effective use of existing storage facilities at the site of each civilian nuclear power reactor, and by adding new onsite storage capacity in a timely manner where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear power reactor; and

(3) the Federal Government has the responsibility to provide, in accordance with the provisions of this subtitle, not more than 1,900 metric tons of capacity for interim storage of spent nuclear fuel for civilian nuclear power reactors that cannot reasonably provide adequate storage capacity at the sites of such reactors when needed to assure the continued, orderly operation of such reactors.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide for the utilization of available spent nuclear fuel pools at the site of each civilian nuclear power reactor to the extent practical and the addition of new spent nuclear fuel storage capacity where practical at the site of such reactor; and

(2) to provide, in accordance with the provisions of this subtitle, for the establishment of a federally owned and operated system for the interim storage of spent nuclear fuel at one or more facilities owned by the Federal Government with not more than 1,900 metric tons of capacity to prevent disruptions in the orderly operation of any civilian nuclear power reactor that cannot reasonably provide adequate spent nuclear fuel storage capacity at the site of such reactor when needed.

AVAILABLE CAPACITY FOR INTERIM STORAGE OF SPENT NUCLEAR FUEL

SEC. 132. The Secretary, the Commission, and other authorized Federal officials shall each take such actions as such official considers necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor consistent with—

(1) the protection of the public health and safety, and the environment;

(2) economic considerations;

(3) continued operation of such reactor;

(4) any applicable provisions of law.; and

(5) the views of the population surrounding such powerplant.

INTERIM AT REACTOR STORAGE

SEC. 133. The Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 219(a) for use at the site of any civilian nuclear power reactor. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS

SEC. 134. (a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after the date of the enactment of this Act, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

(b) ADJUDICATORY HEARING.—(1) At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

(2) In making a determination under this subsection, the Commission—

(a) shall designate in writing the specific facts that are in genuine and substantial dispute, the reasons why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

(B) shall not consider—

(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor for which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless (I) such issue results from any revision of siting or design criteria by the Commission following such decision; and (II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

(3) The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

(1) an objection to the procedure used was presented to the Commission in timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

STORAGE OF SPENT NUCLEAR FUEL

SEC. 135. (a) STORAGE CAPACITY.—(1) Subject to section 8, the Secretary shall provide, in accordance with paragraph (5), not more than 1,900 metric tons of capacity for the storage of spent nuclear fuel from civilian nuclear power reactors. Such storage capacity shall be provided through any one or more of the following methods, used in any combination determined by the Secretary to be appropriate:

(A) use of available capacity at one or more facilities owned by the Federal Government on the date of the enactment of this Act, including the modification and expansion of any such facilities, if the Commission determines that such use will adequately protect the public health and safety, except that such use shall not—

(i) render such facilities subject to licensing under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); or

(B) acquisition of any modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, and provision of such equipment, to any person generating or holding title to spent nuclear fuel, at the site of any civilian nuclear power reactor operated by such person or at any Federal site;

(C) construction of storage capacity at any site of a civilian nuclear power reactor.

(2) Storage capacity authorized by paragraph (1) shall not be provided at any Federal or non-Federal site within which there is a candidate site for a repository.

(3) In selecting methods of providing storage capacity under paragraph (1), the Secre-

tary shall consider the timeliness of the availability of each such method and shall seek to minimize the transportation of spent nuclear fuel, the public health and safety impacts, and the costs of providing such storage capacity.

(4) In providing storage capacity through any method described in paragraph (1), the Secretary shall comply with any applicable requirements for licensing or authorization of such method, except as provided in paragraph (1)(A)(i).

(5) The Secretary shall ensure that storage capacity is made available under paragraph (1) when needed, as determined on the basis of the storage needs specified in contracts entered into under section 136(a), and shall accept upon request any spent nuclear fuel as covered under such contracts.

(6) For purposes of paragraph (1)(A), the term "facility" means any building or structure.

(b) CONTRACTS.—(1) Subject to the capacity limitation established in subsections (a)(1) and (d), the Secretary shall offer to enter into, and may enter into, contracts under section 136(a) with any person generating or owning spent nuclear fuel for purposes of providing storage capacity for such spent fuel under this section only if the Commission determines that—

(A) adequate storage capacity to ensure the continued orderly operation of the civilian nuclear power reactor at which such spent nuclear fuel is generated cannot reasonably be provided by the person owning and operating such reactor at such site, or at the site of any other civilian nuclear power reactor operated by such person, and such capacity cannot be made available in a timely manner through any method described in subparagraph (B); and

(B) such person is diligently pursuing licensed alternatives to the use of Federal storage capacity for the storage of spent nuclear fuel expected to be generated by such person in the future, including—

(i) expansion of storage facilities at the site of any civilian nuclear power reactor operated by such person;

(ii) construction of new or additional storage facilities at the site of any civilian nuclear power reactor operated by such person;

(iii) acquisition of modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, for use at the site of any civilian nuclear power reactor operated by such person; and

(iv) transshipment to another civilian nuclear power reactor owned by such person.

(2) In making the determination described in paragraph (1)(A), the commission shall ensure maintenance of a full core reserve storage capability at the site of the civilian nuclear power reactor involved unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor.

(3) The Commission shall complete the determinations required in paragraph (1) with respect to any request for storage capacity not later than 6 months after receipt of such request by the Commission.

(c) ENVIRONMENTAL REVIEW.—(1) The provision of 300 or more metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) shall be considered to be a major Federal action requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(2)(A) The Secretary shall prepare, and make available to the public, an environmental assessment of the probable impacts of any provision of less than 300 metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) that requires the modification or expansion of any facility at site, and a discussion of alternative activities that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an estimate of the amount of storage capacity to be made available at such site;

(ii) an evaluation as to whether the facilities to be used at such site are suitable for the provision of such storage capacity;

(iii) a description of activities planned by the Secretary with respect to the modification or expansion of the facilities to be used at such site;

(iv) an evaluation of the effects of the provision of such storage capacity at such site on the public health and safety, and the environment;

(v) a reasonable comparative evaluation of current information with respect to such site and facilities and other sites and facilities available for the provision of such storage capacity;

(vi) a description of any other sites and facilities that have been considered by the Secretary for the provision of such storage capacity; and

(vii) an assessment of the regional and local impacts of providing such storage capacity at such site, including the impacts on transportation.

(B) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code. Such judicial review shall be limited to the sufficiency of such assessment with respect to the items described in clauses (i) through (vii) of subparagraph (A).

(3) Judicial review of any environmental impact statement or environmental assessment prepared pursuant to this subsection shall be conducted in accordance with the provisions of section 119.

(d) REVIEW OF SITES.—(1) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under section (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such decision.

(2)(A) During the 60-day period following receipt of such notification, such governor or legislature or governing body may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under subparagraph (A). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

(3)(A) If any notice of disapproval is submitted to the Congress under paragraph (2), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term "resolution" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity at the site located at ————, with respect to which a notice of disapproval was submitted by ———— on ————.". The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(B) For purposes of the consideration of any resolution described in subparagraph (A), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

(e) LIMITATIONS—Any spent nuclear fuel stored under this section shall be removed from the storage site or facility involved as soon as practicable following the date on which a repository developed under this Act is available for disposal of such spent fuel

(f) REPORT.—The Secretary shall annually prepare and submit to the Congress a report on any plans of the Secretary for providing storage capacity under this section. Such report shall include a description of the specific manner of providing such storage selected by the Secretary, if any. The Secretary shall prepare and submit the first such report not later than 1 year after the date of the enactment of this Act.

(g) CRITERIA FOR DETERMINING ADEQUACY OF AVAILABLE STORAGE CAPACITY.—Not later than 90 days after the date of the enactment of this Act, the Commission pursuant to section 553 of the Administrative Procedures Act, shall propose, by rule, procedures and criteria for making the determination required by subsection (b) that a person owning and operating a civilian nuclear power reactor cannot reasonably provide adequate spent nuclear fuel storage capacity at the civilian nuclear power reactor site when needed to ensure the continued orderly operation of such reactor. Such criteria shall ensure the maintenance of a full core reserve storage capability at the site of such reactor unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor. Such criteria shall identify the feasibility of reasonably provid-

ing such adequate nuclear fuel storage capacity, taking into account economic, technical, regulatory, and public health and safety factors, through the use of high-density fuel storage racks, fuel rod compaction, transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, construction of additional spent nuclear fuel pool capacity, or such other technologies as may be approved by the Commission.

(h) APPLICATION.—Notwithstanding any other provision of law, nothing in this Act shall be construed to encourage, authorize, or require the private or Federal use, purchase, lease, or other acquisition of any storage facility located away from the site of any civilian nuclear power reactor and not owned by the Federal Government on the date of the enactment of this Act.

(i) COORDINATION WITH RESEARCH AND DEVELOPMENT PROGRAM.—To the extent available, and consistent with the provisions of this section, the Secretary shall provide spent nuclear fuel for the research and development program authorized in section 217 from spent nuclear fuel received by the Secretary for storage under this section. Such spent nuclear fuel shall not be subject to the provisions of subsection (e).

INTERIM STORAGE FUND

SEC. 136. (a) CONTRACTS.—During the period following the date of the enactment of this Act, but not later than January 1, 1990, the Secretary is authorized to enter into contracts with persons who generate or own spent nuclear fuel resulting from civilian nuclear activities for the storage of such spent nuclear fuel in any storage capacity provided under this subtitle: *Provided, however,* That the Secretary shall not enter into contracts for spent nuclear fuel in amounts in excess of the available storage capacity specified in section 135(a). Those contracts shall provide that the Federal Government will (1) take title at the civilian nuclear power reactor site, to such amounts of spent nuclear fuel from the civilian nuclear power reactor as the Commission determines cannot be stored onsite, (2) transport the spent nuclear fuel to a federally owned and operated interim away-from-reactor storage facility, and (3) store such fuel in the facility pending further processing, storage, or disposal. Each such contract shall (A) provide for payment to the Secretary of fees determined in accordance with the provisions of this section; and (B) specify the amount of storage capacity to be provided for the person involved.

(2) The Secretary shall undertake a study and, not later than 180 days after the date of the enactment of this Act, submit to the Congress a report, establishing payment charges that shall be calculated on an annual basis, commencing on or before January 1, 1984. Such payment charges and the calculation thereof shall be published in the Federal Register, and shall become effective not less than 30 days after publication. Each payment charge published in the Federal Register under this paragraph shall remain effective for a period of 12 months from the effective date as the charge for the cost of the interim storage of any spent nuclear fuel. The report of the Secretary shall specify the method and manner of collection (including the rates and manner of payment) and any legislative recommendations determined by the Secretary to be appropriate.

(3) Fees for storage under this subtitle shall be established on a nondiscriminatory basis. The fees to be paid by each person entering into a contract with the Secretary under this subsection shall be based upon an estimate of the pro rata costs of storage and related activities under this subtitle with respect to such person, including the acquisition, construction, operation, and maintenance of any facilities under this subtitle.

(4) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such storage services shall be made available.

(5) Except as provided in sections 137, nothing in this or any other Act requires the Secretary, in carrying out the responsibilities of this section, to obtain a license or permit to possess or own spent nuclear fuel.

(b) LIMITATION.—No spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored by the Secretary in any storage capacity provided under this subtitle unless such department transfers to the Secretary, for deposit in the Interim Storage Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such spent nuclear fuel were generated by any other person.

(c) ESTABLISHMENT OF INTERIM STORAGE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Interim Storage Fund. The Storage Fund shall consist of——

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsection (a), (b), and (e), which shall be deposited in the Storage Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Storage Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the interim storage of civilian spent nuclear fuel, which shall automatically be transferred to the Storage Fund on such date——

(d) USE OF STORAGE FUND.—The Secretary may make expenditures from the Storage Fund, subject to subsection (e), for any purpose necessary or appropriate to the conduct of the functions and activities of the Secretary, or the provision or anticipated provision of services, under this subtitle, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any interim storage facility provided under this subtitle;

(2) the administrative cost of the interim storage program;

(3) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at an interim storage site, consistent with the restrictions in section 135; and

(4) the cost of transportation of spent nuclear fuel.

(e) ADMINISTRATION OF STORAGE FUND.—The Secretary of the Treasury shall hold the Storage Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Storage Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Storage Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Storage Fund shall consist of estimates made by the Secretary of expenditures from the Storage Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Storage Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Storage Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Storage Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Storage Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Storage Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Storage Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of Treasury is authorized is use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purpose for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Storage Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumula-

tive amount of appropriations available to the Storage Fund, less the average undisbursed cash balance in the Storage Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

SEC. 137. (a) TRANSPORTATION.—

(1) Transportation of spent nuclear fuel under section 136(a) shall be subject to licensing and regulation by the Commission and by the Secretary of Transportation as provided for transportation of commercial spent nuclear fuel under existing law.

(2) The Secretary, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at reasonable cost.

SUBTITLE C—MONITORED RETRIEVABLE STORAGE

MONITORED RETRIEVABLE STORAGE

SEC. 141. (a) FINDINGS.—The Congress finds that—

(1) the Federal Government has the responsibility to provide for long-term storage of high-level radioactive waste and spent nuclear fuel;

(2) the executive branch and the Congress should proceed as expeditiously as possible to consider fully a proposal for construction of one or more monitored retrievable storage facilities to provide such long-term storage;

(3) the Federal Government has the responsibility to ensure that such facilities are available with sufficient capacity when needed;

(4) the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities have primary responsibility to provide for, and the responsibility to pay the costs of, the long-term storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary in accordance with the provisions of this title; and

(5) disposal of high-level radioactive waste and spent nuclear fuel in a repository developed under this Act should proceed regardless of any construction of a monitored retrievable storage facility pursuant to this section.

(b) SUBMISSION OF PROPOSAL BY SECRETARY.—

On or before June 1, 1985, the Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of one or more monitored retrievable storage facilities for high-level radioactive waste and spent nuclear fuel. Each such facility shall be designed—

(A) to accommodate spent nuclear fuel and high-level radioactive waste resulting from civilian nuclear activities;

(B) to permit continuous monitoring management, and maintenance of such spent fuel and waste for the foreseeable future;

(C) to provide for the ready retrieval of such spent fuel and waste for further processing or disposal; and

(D) to safely store such spent fuel and waste as long as may be necessary by maintaining such facility through appropriate means, including any required replacement of such facility.

(2) Such proposal shall include—

(A) the establishment of a Federal program for the siting, development, construction, and operation of facilities capable of safely storing high-level radioactive waste and spent nuclear fuel, which facilities are to be licensed by the Commission;

(B) a plan for the funding of the construction and operation of such facilities, which plan shall provide that the costs of such activities shall be borne by the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities;

(C) site-specific designs, specifications, and cost estimates sufficient to (i) solicit bids for the construction of the first such facility; (ii) support congressional authorization of the construction of such facility; and (iii) enable completion and operation of such facility as soon as practicable following congressional authorization of such facility; and

(D) a plan for integrating facilities constructed pursuant to this section with other storage and disposal facilities authorized in this Act.

(3) In formulating such proposal, the Secretary shall consult with the Commission and the Administrator, and shall submit their comments on such proposal to the Congress at the time such proposal is submitted.

(4) The proposal shall include, for the first such facility, at least five alternative combinations of proposed sites and facility designs consistent with the criteria of paragraph (b)(1). The Secretary shall recommend the combination among the alternatives that the Secretary deems preferable. The environmental assessment under subsection (c) shall include a full analysis of the relative advantages and disadvantages of all five such alternative combinations of proposed sites and proposed facility designs.

(c) ENVIRONMENTAL IMPACT STATEMENTS.—(1) Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the national Environmental Policy Act of 1969 (42 U.S.C. (2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act, an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted.

(2) If the Congress by law, after review of the proposal submitted by the Secretary under subsection (b), specifically authorizes construction of a monitored retrievable storage facility, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of such facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility, alternate sites for such facility, or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(d) LICENSING.—Any facility authorized pursuant to this section shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of the first such facility, the Commission may not consider the need for such facility, alternate sites for such facility, or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(e) CLARIFICATION.—(1) Nothing in this section limits the consideration of alternative facility designs consistent with the criteria of paragraph (b)(1) in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored, retrievable facility authorized pursuant to this section.

(2) If Congress by law after review of the proposal submitted by the Secretary under subsection (b), authorizes construction of a monitored retrievable storage facility without specifying the site for such facility, any environmental impact statement, and any licensing procedure of the Commission, with respect to the facility shall consider alternate sites to the site selected for the facility pursuant to law.

(c) IMPACT ASSISTANCE.—(1) Upon receipt by the Secretary of congressional authorization to construct a facility described in subsection (b), the Secretary shall commence making annual impact aid payments to appropriate units of general local government in order to mitigate any social or economic impacts resulting from the construction and subsequent operation of any such facility within the jurisdictional boundaries of any such unit.

(2) Payments made available to units of general local government under this subsection shall be—

(A) allocated in a fair and equitable manner, with priority given to units of general local government determined by the Secretary to be most severely affected; and

(B) utilized by units of general local government only for planning, construction, maintenance, and provision of public services related to the siting of such facility.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines are necessary to ensure achievement of the purposes of this subsection. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Such payments shall be made available entirely from funds held in the Nuclear Waste Fund established in this Act and shall be available only to the extent provided in advance in appropriation Acts.

(5) The Secretary may consult with appropriate units of general local government in advance of commencement of construction of any such facility in an effort to determine the level of payments each such unit is eligible to receive under this subsection.

(f) LIMITATION.—No monitored retrievable storage facility developed pursuant to this section may be constructed in any State in which there is located any site approved for site characterization under section 112. No repository may be developed under this Act in any State in which there is located any monitored retrievable storage facility developed pursuant to this section.

(g) PARTICIPATION OF STATES AND INDIAN TRIBES.— Any facility authorized pursuant to this section shall be subject to the provisions of sections 115, 116(a), 116(b), 116(d), 117 and 118. For purposes of carrying out the provisions of this subsection, any refer-

ence in sections 115 through 118 to a repository shall be considered to refer to a monitored retrievable storage facility.

SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE

FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE

SEC. 151. (a) FINANCIAL ARRANGEMENTS.—(1) The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on the date of the enactment of this Act, prior to termination of such licenses.

(2) If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

(b) TITLE AND CUSTODY.—(1) The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines—

(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

(2) If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

PURPOSE

SEC. 211. It is the purpose of this title—

(1) to provide direction to the Secretary with respect to the disposal of high-level radioactive waste and spent nuclear fuel;

(2) to authorize the Secretary, pursuant to this Title,

(A) to provide for the construction, operation, and maintenance of a deep geologic test and evaluation facility; and

(B) to provide for a focused and integrated high-level radioactive waste and spent nuclear fuel research and development program, including the development of a test and evaluation facility to carry out research and provide an integrated demonstration of the technology for deep geologic disposal of high-level radioactive waste, and the development of the facilities to demonstrate dry storage of spent nuclear fuel; and

(3) to provide for an improved cooperative role between the Federal Government and States affected Indian tribes, and units of general local government in the siting of a test and evaluation facility.

APPLICABILITY

SEC. 212. The provisions of this title are subject to section 8 and shall not apply to facilities that are used for the disposal of high-level radioactive waste, low-level radioactive waste, transuranic waste, or spent nuclear fuel resulting from atomic energy defense activities.

IDENTIFICATION OF SITES

SEC. 213. (a) GUIDELINES.—Not later than 6 months after the date of the enactment of this Act and notwithstanding the failure of other agencies to promulage standards pursuant to applicable law, the Secretary shall; in consultation with the Commission, the Director of the Geological Survey, the Administrator, the Council on Environmental Quality, and such other Federal agencies as the Secretary considers appropriate, is authorized to issue, pursuant to section 553 of title 5, United States Code, general guidelines for the selection of a site for a test and evaluation facility. Under such guidelines the Secretary shall specify factors that qualify or disqualify as site for development as a test and evaluation facility, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall require the Secretary to consider the various geologic media in which the site for a test and evaluation facility may be located and, to the extent practicable, to idenify sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering and selecting sites under this title.

(b) SITE IDENTIFICATION BY THE SECRETARY.—(1) Not later than 1 year after the date on the enactment of this Act, and following promulgation of guidelines under subsection (a), the Secretary is authorized to identify 3 or more sites, at least 2 of which shall be in different geologic media in the continental United States, and at least 1 of which shall be in media other than salt. Subject to Commission requirements, the Secretary shall give preference to sites for the test and evaluation facility in media possessing geochemical characteristics that retard aqueous transport of radionuclides. In order to provide a greater possible protection of public health and safety as operating experience is gained at the test and evaluation facility, and with the exception of the primary areas under review by the Secretary on the date of the enactment of this Act for the location of a test and evaluation facility or repository, all sites identified under this subsection shall be more than 15 statute miles from towns having a population of greater than 1,000 persons as determined by the most recent census unless such sites contain high-level radioactive waste prior to identification under this title. Each identification of a site shall include a detailed statement of the basis for such identification and of the probable impacts of the siting research activities planned for such site, and a discussion of alternative activities relating to siting research that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(A) an evaluation by the Secretary as to whether such site is suitable for siting research under the guidelines established under subsection (a);

(B) an evaluation by the Secretary of the effects of the siting research activities at such site on the public health and safety and the environment;

(C) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(D) a description of the decision process by which such site was recommended; and

(E) an assessment of the regional and local impacts of locating the proposed test and evaluation facility at such site.

(2) When the Secretary identifies a site, the Secretary shall as soon as possible notify the Governor of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, of such identification and the basis of such identification. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be identified after such 1 year period, following the same procedure as if such sites had been identified within such period.

SITING RESEARCH AND RELATED ACTIVITIES

SEC. 214. (a) IN GENERAL.—Not later than 30 months after the date on which the Secretary completes the identification of sites under section 213, the Secretary is authorized to complete sufficient evaluation of 3 sites to select a site for expanded siting research activities and for other activities under section 218. The Secretary is authorized to conduct such preconstruction activities relative to such site selection for the test and evaluation facility as he deems appropriate. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be evaluated after such 30-month period, following the same procedures as if such sites were to be evaluated within such period.

(b) PUBLIC MEETINGS AND ENVIRONMENTAL ASSESSMENT.—Not later than 6 months after

the date on which the Secretary completes the identification of sites under section 213, and before beginning siting research activities, the Secretary shall hold at least 1 public meeting in the vicinity of each site to inform the residents of the area of the activities to be conducted at such site and to receive their views.

(c) RESTRICTIONS.—Except as provided in section 218 with respect to a test and evaluation facility, in conducting siting research activities pursuant to subsection (a)—

(1) the Secretary shall use the minimum quantity of high-level radioactive waste or other radioactive materials, if any, necessary to achieve the test or research objectives;

(2) the Secretary shall ensure that any radioactive material used or placed on a site be fully retrievable; and

(3) upon termination of siting research activities at a site for any reason, the Secretary shall remove any radioactive material at or in the site as promptly as practicable.

(d) TITLE TO MATERIAL.—The Secretary may take title, in the name of the Federal Government, to the high-level radioactive waste, spent nuclear fuel, or other radioactive material emplaced in a test and evaluation facility. If the Secretary takes title to any such material, the Secretary shall enter into the appropriate financial arrangements described in subsections (a) or (b) of section 302 for the disposal of such material.

TEST AND EVALUATION FACILITY SITING REVIEW AND REPORTS

SEC. 215. (a) CONSULTATION AND COOPERATION.—The Governor of a State, or the governing body of an affected Indian tribe, notified of a site identification under section 213 shall have the right to participate in a process of consultation and cooperation as soon as the site involved has been identified pursuant to such section and throughout the life of the test and evaluation facility. For purposes of this section, the term "process of consultation and cooperation" means a methodology—

(1) by which the Secretary—

(A) keeps the Governor or governing body involved fully and currently informed about any potential economic or public health and safety impacts in all stages of the siting, development, construction, and operation of a test and evaluation facility;

(B) solicits, receives, and evaluates concerns and objections of such Governor or governing body with regard to such test and evaluation facility on an ongoing basis; and

(C) works diligently and cooperatively to resolve such concerns and objections; and

(2) by which the State or affected Indian tribe involved can exercise reasonable independent monitoring and testing of onsite activities related to all stages of the siting, development, construction and operation of the test and evaluation facility, except that any such monitoring and testing shall not unreasonably interfere with onsite activities.

(b) WRITTEN AGREEMENTS.—The Secretary shall enter into written agreements with the Governor of the State in which an identified site is located or with the governing body of any affected Indian tribe where an identified site is located in order to expedite the consultation and cooperation process. Any such written agreement shall specify—

(1) procedures by which such Governor or governing body may study, determine, comment on, and make recommendations with regard to the possible health, safety, and economic impacts of the test and evaluation facility;

(2) procedures by which the Secretary shall consider and respond to comments and recommendations made by such Governor or governing body, including the period in which the Secretary shall so respond;

(3) the documents the Department is to submit to such Governor or governing body, the timing for such submissions, the timing for such Governor or governing body to identify public health and safety concerns and the process to be followed to try to eliminate those concerns,

(4) procedures by which the Secretary and either such Governor or governing body may review or modify the agreement periodically; and

(5) procedures for public notification of the procedures specified under subparagraphs (A) through (D).

(c) LIMITATION.—Except as specifically provided in this section, nothing in this title is intended to grant any State or affected Indian tribe any authority with respect to the siting, development, or loading of the test and evaluation facility.

FEDERAL AGENCY ACTIONS

SEC. 216. (a) COOPERATION AND COORDINATION.—Federal agencies shall assist the Secretary by cooperating and coordinating with the Secretary in the preparation of any necessary reports under this title and the mission plan under section 301.

(b) ENVIRONMENTAL REVIEW.—(1) No action of the Secretary or any other Federal agency required by this title or section 301 with respect to a test and evaluation facility to be taken prior to the initiation of onsite construction of a test and evaluation facility shall require the preparation of an environmental impact statement under section 102(2)(C) of the Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require the preparation of environmental reports, except as otherwise specifically provided for in this title.

(2) The Secretary and the heads of all other Federal agencies shall, to the maximum extent possible, avoid duplication of efforts in the preparation of reports under the National Environmental Policy Act of 1969 (42 U.S.C. et seq.).

RESEARCH AND DEVELOPMENT ON DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE

SEC. 217. (a) PURPOSE.—Not later than 64 months after the date of the enactment of this Act, the Secretary is authorized to, to the extent practicable, begin at a site evaluated under section 214, as part of and as an extension of siting research activities of such site under such section, the mining and construction of a test and evaluation facility. Prior to the mining and construction of such facility, the Secretary shall prepare an environmental assessment. The purpose of such facility shall be—

(1) to supplement and focus the repository site characterization process;

(2) to provide the conditions under which known technological components can be integrated to demonstrate a functioning repository-like system;

(3) to provide a means of identifying, evaluating, and resolving potential repository licensing issues that could not be resolved during the siting research program conducted under section 212;

(4) to validate, under actual conditions, the scientific models used in the design of a repository;

(5) to refine the design and engineering of repository components and systems and to confirm the predicted behavior of such components and systems;

(6) to supplement the siting data, the generic and specific geological characteristics developed under section 214 relating to isolating disposal materials in the physical environment of a repository;

(7) to evaluate the design concepts for packaging, handling, and emplacement of high-level radioactive waste and spent nuclear fuel at the design rate; and

(8) to establish operating capability without exposing workers to excessive radiation.

(b) DESIGN.—The Secretary shall design each test and evaluation facility—

(1) to be capable of receiving not more than 100 full-sized canisters of solidified high-level radioactive waste (which canisters shall not exceed an aggregate weight of 100 metric tons), except that spent nuclear fuel may be used instead of such waste if such waste cannot be obtained under reasonable conditions;

(2) to permit full retrieval of solidified high-level radioactive waste, or other radioactive material used by the Secretary for testing, upon completion of the technology demonstration activities; and

(3) based upon the principle that the high-level radioactive waste, spent nuclear fuel, or other radioactive material involved shall be isolated from the biosphere in such a way that the initial isolation is provided by engineered barriers functioning as a system with the geologic environment.

(c) OPERATION.—(1) Not later than 88 months after the date of the enactment of this Act, the Secretary shall begin an in situ testing program at the test and evaluation facility in accordance with the mission plan developed under section 301, for purposes of—

(A) conducting in situ tests of bore hole sealing, geologic media fracture sealing, and room closure to establish the techniques and performance for isolation of high-level radioactive waste, spent nuclear fuel, or other radioactive materials from the biosphere;

(B) conducting in situ tests with radioactive sources and materials to evaluate and improve reliable models for radionuclide migration, absorption, and containment within the engineered barriers and geologic media involved, if the Secretary finds there is reasonable assurance that such radioactive sources and materials will not threaten the use of such site as a repository;

(C) conducting in situ tests to evaluate and improve models for ground water or brine flow through fractured geologic media;

(D) conducting in situ tests under conditions representing the real time and the accelerated time behavior of the engineered barriers within the geologic environment involved;

(E) conducting in situ tests to evaluate the effects of heat and pressure on the geologic media involved, on the hydrology of the surrounding area, and on the integrity of the disposal packages;

(F) conducting in situ tests under both normal and abnormal repository conditions to establish safe design limits for disposal packages and to determine the effects of the gross release of radionuclides into surroundings, and the effects of various credible failure modes, including—

(i) seismic events leading to the coupling of aquifers through the test and evaluation facility;

(ii) thermal pluses significantly greater than the maximum calculated; and

(iii) human intrusion creating a direct pathway to the biosphere; and

(G) conducting such other research and development activities as the Secretary considers appropriate, including such activities necessary to obtain the use of high-level radioactive waste, spent nuclear fuel, or other radioactive materials (such as any highly radioactive material from the Three Mile Island nuclear powerplant or from the West Valley Demonstration Project) for test and evaluation purposes, if such other activities are reasonably necessary to support the repository program and if there is reasonable assurance that the radioactive sources involved will not threaten the use of such site as a repository.

(2) The in situ testing authorized in this subsection shall be designed to ensure that the suitability of the site involved for licensing by the Commission as a repository will not be adversely affected.

(d) USE OF EXISTING DEPARTMENT FACILITIES.—During the conducting of siting research activities under section 214 and for such period thereafter as the Secretary considers appropriate, the Secretary shall use Department facilities owned by the Federal Government on the date of the enactment of this Act for the conducting of generically applicable tests regarding packaging, handling, and emplacement technology for solidified high-level radioactive waste and spent nuclear fuel from civilian nuclear activities.

(e) ENGINEERED BARRIERS.—The system of engineered barriers and selected geology used in a test and evaluation facility shall have a design life at least as long as that which the Commission requires by regulations issued under this Act, or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), for repositories.

(f) ROLE OF COMMISSION.—(1)(A) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Commission shall reach a written understanding establishing the procedures for review, consultation, and coordination in the planning, construction, and operation of the test and evaluation facility under this section. Such understanding shall establish a schedule, consistent with the deadlines set forth in this subtitle, for submission by the Secretary of, and review by the Commission of and necessary action on—

(i) the mission plan prepared under section 301; and

(ii) such reports and other information as the Commission may reasonably require to evaluate any health and safety impacts of the test and evaluation facility.

(B) Such understanding shall also establish the conditions under which the Commission may have access to the test and evaluation facility for the purpose of assessing any public health and safety concerns that it may have. No shafts may be excavated for the test and evaluation until the Secretary and the Commission enter into such understanding.

(2) Subject to section 305, the test and evaluation facility, and the facilities authorized in section 217, shall be constructed and operated as research, development, and demonstration facilities, and shall not be subject to licensing under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(3)(A) The Commission shall carry out a continuing analysis of the activities undertaken under this section to evaluate the adequacy of the consideration of public health and safety issues.

(B) The Commission shall report to the President, the Secretary, and the Congress as the Commission considers appropriate with respect to the conduct of activities under this section.

(g) ENVIRONMENTAL REVIEW.—The Secretary shall prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to conducting tests with radioactive materials at the test and evaluation facility. Such environmental impact statement shall incorprate, to the extent practicable, the environmental assessment prepared under section 217(a). Nothing in this subsection may be construed to limit siting research activities conducted under section 214. This subsection shall apply only to activities performed exclusively for a test and evaluation facility.

(h) LIMITATIONS.—(1) If the test and evaluation facility is not located at the site of a repository, the Secretary shall obtain the concurrence of the Commission with respect to the decontamination and decommissioning of such facility.

(2) If the test and evaluation facility is not located at a candidate site or repository site, the Secretary shall conduct only the portion of the in situ testing program required in subsection (c) determined by the Secretary to be useful in carrying out the purposes of this Act.

(3) The operation of the test and evaluation facility shall terminate not later than—

(A) 5 years after the date on which the initial repository begins operation; or

(B) at such time as the Secretary determines that the continued operation of a test and evaluation facility is not necessary for research, development, and demonstration purposes;

whichever occurs sooner.

(4) Notwithstanding any other provisions of this subsection, as soon as practicable following any determination by the Secretary, with the concurrence of the Commission, that the test and evaluation facility is unsuitable for continued operation, the Secretary shall take actions as are necessary to remove from such site any radioactive material placed on such site as a result of testing and evaluation activities conducted under this section. Such requirement may be waived if the Secretary, with the concurrence of the Commission, finds that short-term testing and evaluation activities using radioactive material will not endanger the public health and safety.

RESEARCH AND DEVELOPMENT ON SPENT NUCLEAR FUEL

SEC. 218. (a) DEMONSTRATION AND COOPERATIVE PROGRAMS.—The Secretary shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission. Not later than 1 year after the date of the enactment of this Act, the Secretary shall select at least 1, but not more than 3, sites evaluated under section 214 at such power reactors. In selecting such site or sites, the Secretary shall give preference to civilian nuclear power reactors that will soon have a shortage of interim storage capacity for spent nuclear fuel. Subject to reaching agreement as provided in subsection (b), the Secretary shall undertake activities to assist such power reactors with demonstration projects at such sites, which may use one of the following types of alternate storage technologies: spent nuclear fuel storage casks, caissons, or silos. The Secretary shall also undertake a cooperative program with civilian nuclear power reactors to encourage the development of the technology for spent nuclear fuel rod consolidation in existing power reactor water storage basins.

(b) COOPERATIVE AGREEMENTS.—To carry out the programs described in subsection (a), the Secretary shall enter into a cooperative agreement with each utility involved that specifies, at a minimum, that—

(1) such utility shall select the alternate storage technique to be used, make the land and spent nuclear fuel available for the dry storage demonstration, submit and provide site-specific documentation for a license application to the Commission, obtain a license relating to the facility involved, construct such facility, operate such facility after licensing, pay the costs required to construct such facility, and pay all costs associated with the operation and maintenance of such facility;

(2) the Secretary shall provide, on a cost-sharing basis, consultative and technical assistance, including design support and generic licensing documentation, to assist such utility in obtaining the construction authorization and appropriate license from the Commission; and

(3) the Secretary shall provide generic research and development of alternative spent nuclear fuel storage techniques to enhance utility-provided, at-reactor storage capabilities, if authorized in any other provision of this Act or in any other provision of law.

(c) DRY STORAGE RESEARCH AND DEVELOPMENT.—(1) The consultative-and-technical assistance-referred to in subsection (b)(2) may include, but shall not be limited to, the establishment of a research and development program for the dry storage of not more than 300 metric tons of spent nuclear fuel at facilities owned by the Federal Government on the date of the enactment of this Act. The purpose of such program shall be to collect necessary data to assist the utilities involved in the licensing process.

(2) To the extent available, and consistent with the provisions of section 135, the Secretary shall provide spent nuclear fuel for the research and development program authorized in this subsection from spent nuclear fuel received by the Secretary for storage under section 135. Such spent nuclear fuel shall not be subject to the provisions of section 135(e).

(d) FUNDING.—The total contribution from the Secretary from Federal funds and the use of Federal facilities or services shall not exceed 25 percent of the total costs of the demonstration program authorized in subsection (a), as estimated by the Secretary. All remaining costs of such program shall be paid by the utilities involved or shall be provided by the Secretary from the Interim Storage Fund established in section 136.

(e) RELATION TO SPENT NUCLEAR FUEL STORAGE PROGRAM.—The spent nuclear fuel storage program authorized in section 135 shall not be construed to authorize the use of research development or demonstration facilities owned by the Department unless—

(1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) has passed after the Secretary has transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the

Senate a written report containing a full and complete statement concerning (A) the facility involved; (B) any necessary modifications; (C) the cost thereof; and (D) the impact on the authorized research and development program; or

(2) each such committee, before the expiration of such period, has transmitted to the Secretary a written notice to the effect that such committee has no objection to the proposed use of such facility.

PAYMENTS TO STATES AND INDIAN TRIBES

SEC. 219. (a) PAYMENTS.—Subject to subsection (b) the Secretary shall make payments to each State or affected Indian tribe that has entered into an agreement pursuant to section 215. The Secretary shall pay an amount equal to 100 percent of the expenses incurred by such State or Indian tribe in engaging in any monitoring, testing, evaluation, or other consultation and cooperation activity under section 215 with respect to any site. The amount paid by the Secrtary under this paragraph shall not exceed $3,000,000 per year from the date on which the site involved was identified to the date on which the decontamination and decommission of the facility is complete pursuant to section 217(h). Any such payment may only be made to a State in which a potential site for a test and evaluation facility has been identified under section 213, or to an affected Indian tribe where the potential site has been identified under such section.

(b) LIMITATION.—The Secretary shall make any payment to a State under subsection (a) only if such State agrees to provide, to each unit of general local government within the jurisdictional boundaries of which the potential site or effectively selected site involved is located, at least one-tenth of the payments made by the Secretary to such State under such subsection. A State or affected Indian tribe receiving any payment under subsection (a) shall otherwise have discretion to use such payment for whatever purpose it deems necessary, including the State or tribal activities pursuant to agreements entered into in accordance with 215. Annual payments shall be prorated on a 365-day basis to the specified dates.

STUDY OF RESEARCH AND DEVELOPMENT NEEDS FOR MONITORED RETRIEVABLE STORAGE PROPOSAL

SEC. 220. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report describing the research and development activities the Secretary considers necessary to develop the proposal required in section 141(b) with respect to a monitored retrievable storage facility.

JUDICIAL REVIEW

SEC. 221. Judicial review of research and development activities under this title shall be in accordance with the provisions of section 119.

RESEARCH ON ALTERNATIVES FOR THE PERMANENT DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE

SEC. 222. The Secretary shall continue and accelerate a program of research, development, and investigation of alternative means and technologies for the permanent disposal of high-level radioactive waste from civilian nuclear activities and Federal research and development activities except that funding shall be made from amounts appropriated to the Secretary for purposes of carrying out this section. Such program shall include examination of various waste disposal options.

TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE

MISSION PLAN

SEC. 301. (a) CONTENTS OF MISSION PLAN.—The Secretary shall prepare a comprehensive report, to be known as the mission plan, which shall provide an informational basis sufficient to permit informed decisions to be made in carrying out the repository program and the research, development, and demonstration programs required under this Act. The mission plan shall include—

(1) an identification of the primary scientific, engineering, and technical information, including any necessary demonstration of engineering or systems integration, with respect to the siting and construction of a test and evaluation facility and repositories;

(2) an identification of any information described in paragraph (1) that is not available because of any unresolved scientific, engineering, or technical questions, or undemonstrated engineering or systems integration, a schedule including specific major milestones for the research, development, and technology demonstration program required under this Act and any additional activities to be undertaken to provide such information, a schedule for the activities necessary to achieve important programmatic milestones, and an estimate of the costs required to carry out such research, developmemt, and demonstration programs;

(3) an evaluation of financial, political, legal, or institutional problems that may impede the implementation of this Act, the plans of the Secretary to resolve such problems, and recommendations for any necessary legislation to resolve such problems;

(4) any comments of the Secretary with respect to the purpose and program of the test and evaluation facility;

(5) a discussion of the significant results of research and development programs conducted and the implications for each of the different geologic media under consideration for the siting of repositories, and, on the basis of such information, a comparison of the advantages and disadvantages associated with the use of such media for repository sites;

(6) the guidelines issued under section 112(a);

(7) a description of known sites at which site characterization activities should be undertaken, a description of such siting characterization activities, including the extent of planned excavations, plans for onsite testing with radioactive or nonradioactive material, plans for any investigations activities which may affect the capability of any such site to isolate high-level radioactive waste or spent nuclear fuel, plans to control any adverse, safety-related impacts from such site characterization activities, and plans for the decontamination and decommissioning of such site if it is determined unsuitable for licensing as a repository;

(8) an identification of the process for solidifying high-level radioactive waste or packaging spent nuclear fuel, including a summary and analysis of the data to support the selection of the solidification process and packaging techniques, an analysis of the requirements for the number of solidification packaging facilities needed, a description of the state of the art for the materials proposed to be used in packaging such waste or spent fuel and the availability of such materials including impacts on strategic supplies and any requirements for new or reactivated facilities to produce any such materials needed, and a description of a plan, and the schedule for implementing such plan, for an aggressive research and development program to provide when needed a high-integrity disposal package at a reasonable price;

(9) an estimate of (A) the total repository capacity required to safely accommodate the disposal of all high-level radioactive waste and spent nuclear fuel expected to be generated through December 31, 2020, in the event that no commercial reprocessing of spent nuclear fuel occurs, as well as the repository capacity that will be required if such reprocessing does occur; (B) the number and type of repositories required to be constructed to provide such disposal capacity; (C) a schedule for the construction of such repositories; and (D) an estimage of the period during which each repository listed in such schedule will be accepting high-level radioactive waste or spent nuclear fuel for disposal;

(10) an estimate, on an annual basis, of the costs required (A) to construct and operate the repositories anticipated to be needed under paragraph (9) based on each of the assumptions referred to in such paragraph; (B) to construct and operate a test and evaluation facility, or any other facilities, other than repositories described in subparagraph (A), determined to be necessary; and (C) to carry out any other activities under this Act; and

(11) an identification of the possible adverse economic and other impacts to the State or Indian tribe involved that may arise from the development of a test and evaluation facility or repository at a site.

(b) SUBMISSION OF MISSION PLAN.—(1) Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a draft mission plan to the States, the affected Indian tribes, the Commission, and other Government agencies as the Secretary deems appropriate for their comments.

(2) In preparing any comments on the mission plan, such agencies shall specify with precision any objections that they may have. Upon submission of the mission plan to such agencies, the Secretary shall publish a notice in the Federal Register of the submission of the mission plan and of its availability for public inspection, and, upon receipt of any comments of such agencies respecting the mission plan, the Secretary shall publish a notice in the Federal Register of the receipt of comments and of the availability of the comments for public inspection. If the Secretary does not revise the mission plan to meet objections specified in such comments, the Secretary shall publish in the Federal Register a detailed statement for not so revising the mission plan.

(3) The Secretary, after reviewing any other comments made by such agencies and revising the mission plan to the extent that the Secretary may consider to be appropriate, shall submit the mission plan to the appropriate committees of the Congress not later than 17 months after the date of the enactment of this Act. The mission plan shall be used by the Secretary at the end of the first period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) following receipt of the mission plan by the Congress.

NUCLEAR WASTE FUND

SEC. 302. (a) CONTRACTS.—(1) In the performance of his functions under this Act,

the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the acceptance of title, subsequent transportation, and disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of fees pursuant to paragraphs (2) and (3) sufficient to offset expenditures described in subsection (d).

(2) For electricity generated by a civilian nuclear power reactor and sold on or after the date ninety days after the date of enactment of this Act, the fee under paragraph (1) shall be equal to 1.0 mil per kilowatt-hour.

(3) For spent nuclear fuel, or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to the application of the fee under paragraph (2) to such reactor, the Secretary shall, not later than ninety days after the date of enactment of this Act, establish a one time fee per kilogram of heavy metal in spent nuclear fuel, or in solidified high-level radioactive waste. Such fee shall be in an amount equivalent to an average charge of 1.0 mil per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom, to be collected from any person delivering such spent nuclear fuel or high-level waste, pursuant to section 123, to the Federal government. Such fee shall be paid to the Treasury of the United States and shall be deposited in the separate fund. established by subsection (c). In paying such a fee, the person delivering spent fuel, or solidified high-level radioactive wastes derived therefrom, to the Federal Government shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of such spent fuel, or the solidified high-level radioactive waste derived therefrom.

(4) Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary shall establish procedures for the collection and payment of the fees established by subsection (a) and subsection (c). The Secretary shall annually review the amount of the fees established by subsections (a) and (c) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (a) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in section 601(a), the Secretary shall propose an adjustment to the fee to insure full cost recovery. The Secretary shall immediately transmit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of ninety days of continuous session have elapsed following the receipt of such transmittal unless during such ninety-day period either House of Congress adopts a resolution disapproving the Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 551 of the Energy Policy and Conservation Act.

(5) The contracts entered into under this section shall provide that in return for the payment of fees established by paragraphs (2) and (3), the Federal Government will reasonably undertake to perform the duties required of it under this Act and shall no later than December 31, 1996—

(A) take title to the spent nuclear fuel and high-level radioactive waste owned or generated by such person, and

(B) store or dispose of the spent nuclear fuel or high-level radioactive waste in a Federally owned and operated repository or monitored, retrievable storage facility.

(6) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such disposal services shall be made available.

(b) ADVANCE CONTRACTING REQUIREMENT.—(1)(A) The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

(i) such person has entered into a contract with the Secretary under this section; or

(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

(B) The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of high-level radioactive waste and spent nuclear fuel that may result from the use of such license.

(2) Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in any repository constructed under this Act unless the generator or owner of such spent fuel or waste has entered into a contract with the Secretary under this section by not later than—

(A) June 30, 1983; or

(B) the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste;

whichever occurs later.

(3) The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

(4) No high-level radioactive waste or spent unclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be disposed of by the Secretary in any repository constructed under this Act unless such department transfers to the Secretary, for deposit in the Nuclear Waste Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such waste or spent fuel were generated by any other person.

(c) ESTABLISHMENT OF NUCLEAR WASTE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Nuclear Waste Fund. The Waste Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Waste Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Waste Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the disposal of civilian high-level radioactive waste or civilian spent nuclear fuel, which shall automatically be transferred to the Waste Fund on such date.

(d) USE OF WASTE FUND.—The Secretary may make expenditures from the Waste Fund, subject to subsection (e), only for purposes of radioactive wste disposal activities under titles I and II, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository monitored, retricable storage facility or test and evaluation facility constructed under this Act;

(2) the conducting of nongeneric research, development, and demonstration activities under this Act;

(3) the administrative cost of the radioactive waste disposal program;

(4) any costs that may be incurred by the Secretary in connection with the transportation, treating, or packaging of spent nuclear fuel or high-level radioactive waste to be disposed of in a repository, to be stored in a monitored, retrievable storage site or to be used in a test and evaluation facility;

(5) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at a repository site, a monitored retrievable storage site or a test and evaluation facility site and necessary or incident to such repository monitored, retrievable storage facility or test and evaulation facility; and

(6) the provision of assistance to States, units of general local government, and Indian tribes under sections 116, 118, and 219.

No amount may be expended by the Secretary under this subtitle for the construction or expansion of any facility makes such construction or expansion is expressly authorized by this or subsequent legislation. The Secretary hereby is authorized to construct one repository and one test and evaluation facility.

(e) ADMINISTRATION OF WASTE FUND.—(1) The Secretary of the Treasury shall hold the Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Waste Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Waste Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Waste Fund shall consist of the estimates made by the Secretary of expenditures from the Waste Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Waste Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Waste Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Waste Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Waste Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Waste Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Waste Fund, less the average undisbursed cash balance in the Waste Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

ALTERNATIVE MEANS OF FINANCING

SEC. 303. The Secretary shall undertake a study with respect to alternative approaches to managing the construction and operation of all civilian radioactive waste management facilties, including the feasibility of establishing a private corporation for such purposes. In conducting such study, the Secretary shall consult with the Director of the Office of Management and Budget, the Chairman of the Commission, and such other Federal agency representatives as may be appropriate. Such study shall be completed, and a report containing the results of such study shall be submitted to the Congress, within 1-year after the date of the enactment of this Act. Management and Budget, the Chairman of the Commission, and such other Federal agency representatives as may be appropriate. Such study shall be completed, and a report containing the results of such study shall be submitted to the Congress, within 1 year after the date of the enactment of this Act.

OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

SEC. 304. (a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

(c) ANNUAL REPORT TO CONGRESS.—The Director of the Office shall annually prepare and submit to the Congress a comprehensive report on the activities and expenditures of the Office.

(d) ANNUAL AUDIT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessaary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the result of each audit conducted under this section.

LOCATION OF TEST AND EVALUATION FACILITY

SEC. 305. (a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report setting forth whether the Secretary plans to locate the test and evaluation facility at the site of a repository.

PROCEDURES.—(1) If the test and evaluation facility is to be located at any candidate site or repository site (A) site selection and development of such facility shall be conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of repositories; and (B) the Secretary may not commence construction of any surface facility for such test and evaluation facility prior to issuance by the Commission of a construction authorization for a repository at the site involved.

(2) No test and evaluation facility may be converted into a repository unless site selection and development of such facility was conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of respositories.

(3) The Secretary may not commence construction of a test and evaluation facility at a candidate site or site recommended as the location for a repository prior to the date on which the designation of such site is effective under section 115.

STAFF SUMMARY

The following summary sets forth those major changes in the House-passed bill that are being proposed. Technical and conforming changes are not discussed in this summary, but appear in the text of the attached draft. Except where noted in the text of the attached draft and the following summary, the language of the House-passed bill would be retained. The following changes are presented in the order that they appear in H.R. 7187.

I. HIGH-LEVEL RADIOACTIVE WASTE FROM ATOMIC ENERGY DEFENSE ACTIVITIES

If defense wastes are to be disposed of in a civilian repository, the federal government shall pay a *pro rata* share of the cost of developing, construction, and operating this repository (no such provision in 7187).

II. SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL WASTE

DOE, in issuing its guidelines for the recommendation of sites for repositories, must first obtain the concurrence of the NRC (7187 only requires consultation). DOE guidelines must include provisions for disqualifying potential repository sites if they are located in highly populated areas. Specific reference in 7187 to 1000 individuals in a 1 square mile area adjacent to the surface facility of the repository has been deleted.

DOE and the President, in developing and selecting repository sites, are directed to consider the cost and impact of transportation of high-level waste and the advantages of regional distribution in the siting of repositories. (No similar provision in 7187.)

DOE is directed to recommend 3 candidate repository sites to the President by July 1, 1984, and 3 additional candidate repository sites by July 1, 1987 that he determines are suitable for site characterization. Specific references to the number of media that must be represented are delated. (7187 requires 5 sites in at least 2 geologic media by July 1, 1984, and 1 additional site in a medium not included in the first round, by February 1, 1985.)

DOE is prohibited from recommending any candidate repository site that would permit the physical integration of the test and evaluation facility and the repository. (7187 includes certain restrictions *if* test and evaluation facility is to be located at repository site.)

DOE must submit an environmental impact statement on each candidate site recommended. This statement must include an analysis of each of the candidate sites considered and an explanation of the reasons for eliminating any sites not recommended to the President. The EIS need not consider the need for a repository, the time of the initial availability of a repository, nor alternatives to disposal in a repository (7187 required an environmental assessment to be submitted with each candidate site recommended.)

Capacity of the initial repository (or the combined capacity of the first repository and the monitored retrievable storage facility, if the latter is located within 50 miles of the repository) is limited to 70,000 metric tons, until such time as the second repository is in operation. (No similar provision in 7187.)

In examining alternative repository sites, DOE must consider 3 candidate sites for the

initial repository or all sites recommended for a subsequent repository for which (i) site characterization has been completed, and (ii) DOE has made a preliminary determination of the suitability of each site for development as a repository.

Rights conferred upon an Indian tribe to participate in the development of a repository, enter into a written agreement, transmit objections to Congress, and receive financial assistance, are extended to "affected Indian tribes." The term "affected Indian tribe" includes those tribes which, although the proposed repository is not located on the reservation, would suffer substantial and adverse effects to possessory or usage rights to lands outside of the reservation. (7187) limits tribal participation to those situations where the repository is located on the Indian reservation.)

NRC criteria for issuance of a construction authorization for a repository must provide for a system of multiple barriers in the design of the repository. (No similar provision 7187.)

DOE is authorized to take title to high-level waste when it is delivered to DOE for disposal in a repository (7187 prohibited title from passing until the high-level waste was delivered to DOE at the repository.)

DOE is authorized to provide for the transportation of such high-level waste, subject to the condition that the costs of transportation are to be paid by the generator of such waste. (Under 7187, transportation would be the responsibility of the generator.)

III. SUBTITLE B—INTERIM STORAGE PROGRAM

AFR storage capacity provided by DOE may not be located at any federal or nonfederal site within which there is a candidate site for a repository. (7187 allows the use of such sites.)

The NRC, in determining whether particular utilities require AFR capacity, is directed to ensure maintenance of a full core reserve capability at the site of the powerplant, unless the NRC determines that maintenance of such capability is not necessary for the continued orderly operation of the powerplant.

No authority is provided DOE under this bill to accept any foreign spent nuclear fuel. (7187 authorized DOE to accept up to 100 metric tons.)

Rights conferred upon an Indian tribe to participate in the development of an AFR and to transmit objections to Congress under 7187 are extended to any "affected Indian tribe". (See discussion under Subtitle A for definition.)

Opportunity for State or "affected Indian tribe" to transmit objections to the Congress, and requirement that such objections be overridden by two houses of Congress before DOE may proceed, are extended to the provision of any AFR storage capacity over 300 metric tons.

DOE is directed to take title to and transport spent nuclear fuel for which utilities have entered into contracts for storage, subject to the condition that the costs of transportation are to be paid by the generator of such waste. Transportation of such fuel is subject to licensing and regulation, as provided under existing law. (Under 7187, DOE is prohibited from taking title and transportation would be the responsibility of the generator of such waste.)

IV. MONITORED RETRIEVABLE STORAGE

DOE is directed to submit a report to Congress on the need for and feasibility of one or more MRS facilities by June 1, 1985 (7187 calls for report within 5 years of the date of enactment.)

The DOE report is to include at least 5 alternate combinations of proposed sites and designs, with a discussion of the advantages and disadvantages of each combination. DOE is to recommend the preferable alternative. (7187 prohibits DOE from selecting a specific site for the MRS facility.)

If Congress authorizes a MRS facility, NEPA shall apply to the construction of the facility, except that any EIS need not consider the need for the facility, nor any alternative to the design criteria. In addition, if Congress authorizes construction at a specific site, any EIS need not consider alternatives to that site. Similar restrictions apply to the NRC licensing of such a facility. (7187 states that NEPA shall apply to any proposal to construct a facility, and that such facility shall be licensed by the NRC, with no reference to any restrictions.)

Any impact assistance for a MRS would come from the repository fund (7187 provides for such assistance from the Interim Storage Fund).

V. NUCLEAR WASTE FUND

Adopted Senate one mil per kilowatt hour fee, but retained the basic structure of 7187 for the establishment and operation of the fund (7187 directed DOE to submit to Congress within 180 days a report establishing payment charges per unit of spent fuel.)

AUTHORITY FOR COMMITTEES TO MEET

Mr. McCLURE. Mr. President, on my time under the cloture rule. If I might make this statement before making the request, the Committee on Energy and Natural Resources this morning opened its hearing on the problems associated with the pricing of natural gas in the markets today. We have heard the congressional witnesses, we have heard the industry witnesses, and we just now have reached the public witnesses and the public interest group witnesses panel. We have no unanimous consent to sit beyond the hour of 2 o'clock.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, that has been cleared on this side, and there is no objection to it.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, December 13, at 10 a.m., to hold a hearing to review current conditions in the natural gas market, including related proposals for modifications to existing law.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Monday, December 13, at 1:30 to hold a markup on S. 3074, the Agriculture Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, December 14, at 10 a.m., to receive a briefing on intelligence matters and at 10:45 a.m. to conduct a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, December 14, at 10 a.m., to hold a top secret hearing on U.S. strategic doctrine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, December 14, at 2 p.m., to hold a business meeting to discuss pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the full Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, December 14, at 2 p.m., to hold a hearing to consider the nomination of W. Paul Thayer to be Deputy Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HUD AUTHORIZATION BILL

Mr. GARN. Mr. President, as the clock moves on in this lameduck session, one of the many pieces of unattended business remaining on the agenda is the fiscal year 1983 HUD authorization bill. This bill is the culmination of months of effort begun last winter and represents the Banking Committee's best effort to strike a positive balance between the demands of the continuing housing and community development needs of our Nation and the very stark budget restraints weighing on us all. It contains many important housing initiatives and, moreover, establishes the structure and limits for housing appropriations that will be sent to us by the House of Representatives in the continuing resolution. I think it is important that we not abdicate our responsibility, especially at a time when housing is finally beginning to show signs of recovery.

Our former colleague, the honorable Edward Brooke, now serves among other duties as the chairperson of the National Low Income Housing coalition, and organization with whose goals I do not always agree, but which can be counted on through its board and able president, Cushing Dolbeare, to provide factual, persuasive assistance in meeting the complex problem of housing low income families. On behalf of more than 2,000 organizations comprising the coalition, Senator Brooke has sent me a letter calling for action on Housing legislation which I ask be printed in the RECORD.

The letter follows:

NATIONAL LOW INCOME HOUSING COALITION,
Washington, D.C., November 22, 1982.

Hon. JAKE GARN,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR GARN: We have today sent the following letter to the Majority Leader:

This is an urgent plea to you to schedule action on low income housing legislation and appropriations early in the pending "lame duck" session so that the de facto Congressional moratorium on low income housing assistance can be ended promptly.

This is a time of housing crisis, especially for low income people. New production is at its lowest level in two generations. Rents in the private market are beyond the each of millions of low income households. An ever-growing number of people are homeless—unable to find any accommodations whatsoever. Almost 20 percent of all construction workers are unemployed.

Given this situation, it is little short of a tragedy that Congress recessed without acting on low income housing and adopted the appropriation for the Department of Housing and Urban Development with no funds whatsoever for providing additional low income housing assistance.

Within the last year, the hundreds of public officials and national, state, and local organizations listed below have endorsed continued federal housing assistance for low income people. We urge you to maintain this nation's commitment to meeting their housing needs by making low income housing legislation a top priority now. This Congress must not adjourn until low income housing programs have been adopted and the necessary funds to carry them out have been appropriated.

We urge you to give your full support to this effort.

Sincerely,

EDWARD W. BROOKE,
Honorary Chairperson.

NATIONAL ORGANIZATIONS SUPPORTING LOW INCOME HOUSING ACTION

ACORN.
Ad Hoc Coalition on Housing for the Elderly.
AFSCME.
Amalgamated Clothing and Textile Workers.
American Association of Homes for the Aging.
American Association of Retired Persons.
American Association of University Women.
American Baptist Churches, USA.
American Friends Service Committee.
American Institute of Architects.
American Planning Association.
American Savings & Loan League.
Americans for Democratic Action.
Association for Government Assisted Housing, Inc.
Association for Retarded Citizens, U.S.
Board of Global Ministries.
United Methodist Church.
B'nai B'rith Senior Citizens Housing.
Center for Community Change.
Center for National Policy Review.
Center for Women's Policy Studies, Older Women Prg.
Children's Defense Fund.
Citizens Energy Project.
Civic Action Institute.
Clergy & Laity Concerned.
Coalition for Low and Moderate Income Housing.
Coalition for UDAG.
Communications Workers of America.
Consumer Energy Council of America.
Cooperative Housing Foundation.
Cooperative League of the USA.
Council for Rural Housing and Development.
Council of Large Public Housing Authorities.
Council of One Hundred.
Council of State Housing Agencies.
Farmworker Justice Fund.
Federation of Southern Cooperatives.
Friends Committee on National Legislation.
Fund for an Open Society.
Gen. Bd. of Church & Society.
United Methodist Church.
Gray Panthers.
Housing Assistance Council.
Hsg. & Urban Affairs Cte., Church of God in Christ.
Hsg. Task Force, Leadership Council on Civil Rights.
Human Environment Center.
International Ladies' Garment Workers' Union.
International Union of Operating Engineers.
Interreligious Coalition for Housing.
Japanese-American Citizens League.
Joint Center for Political Studies.
League of Women Voters of the U.S.
Legal Services Community Development Task Force.
Lutheran Housing Coalition.
Martin Luther King Jr., Center for Social Change.
Migrant Legal Action Program.
Mobile Home Owners of American.
Multi Family Finance Action Council.
National American Indian Housing Council.
National Association of Home Builders.
National Association of Housing and Redevelopment Off.
National Association of Housing Cooperatives.
National Association of Land Owners.
National Association of Social Workers.
National Catholic Rural Life Conference.
National Caucus and Center on Black Aged, Inc.
National Center for Urban Ethnic Affairs.
National Coalition Against Domestic Violence.
National Committee Against Discrimination in Housing.
National Community Design Center.
National Community Design Center Directors Assn.
National Conference of Catholic Charities.
National Conference of Democratic Mayors.
National Congress of American Indians.
National Congress of Neighborhood Women.
National Council of La Raza.
National Council of Senior Citizens.
National Demonstration Water Project.
National Handicapped Housing Institute.
National Hispanic Housing Coalition.
National Housing Conference.
National Housing Law Project.
National Leadership Conference on Urban Lending.
National League of Cities.
National Leased Housing Association.
National Low Income Housing Coalition.
National Neighbors, Inc.
National Office of Jesuit Social Ministries.
National People's Action.
National Puerto Rican Forum.
National Rural Housing Coalition.
National Tenants Union.
National Urban League.
National Women's Political Caucus.
Native American Rights Fund.
Neighborhood Coalition.
Network, a Catholic Social Justice Lobby.
Ofc. of Church & Society, United Church of Christ.
Planners Network.
Potomac Institute, Inc.
Presbyterian Church in the U.S., Washington Office.
Presbyterian Disabilities Congress Caucus.
Presbyterian Health & Welfare Association.
Public Housing Authorities Directors Association.
Rural America.
Rural American Women.
Rural Coalition.
Rural Ministry Institute.
Service Employees International Union.
Shelterforce.
Sisters of Loretto.
Sisters of Mercy of the Union.
Southern Christian Leadership Conference.
Southern Neighborhoods Network.
Unitarian Universalist Association.
United Auto Workers.
United Cerebral Palsy Associations, Inc.
United Church Board for Homeland Ministries.
United Electrical Workers.
United Food and Commercial Workers.
United Neighborhood Centers of America.
United Presbyterian Church, U.S.A.
United States Catholic Conference.
U.S. Conference of Mayors.
Washington Office of the Episcopal Church, Washington Office.
United Presbytrian Church.
Women's Equity Action League.
Working Group for Community Development Reform.

STATE ORGANIZATIONS SUPPORTING ACTION NOW ON LOW INCOME HOUSING

ALASKA

North Pacific Region Housing Authority, Anchorage.
Aleutian Housing Authority, Anchorage.
AVCP Housing Authority, Bethel.
Bristow Bay Regional Housing Authority, Dillingham.
Interior Regional Housing Authority, Fairbanks.
AWARE (Aiding Women from Abuse & Rape Emergencies), Juneau.
Tingait Haida Housing, Juneau.
Juneau Women's Resource Center, Juneau.
Nana Alcat Regional Housing Authority, Kotzebue.

Metlakatla Housing Authority, Metlakatla.
Bering Strait Housing Authority, Nome.

ALABAMA

Alabama Housing Coalition, Auburn.
Evergreen Neighborhood Assn., Birmingham.
Greater Brimingham Ministries, Birmingham.
Brimingham Tenant Organization, Birmingham.
Fountain Heights Neighborhood Assoc., Birmingham.
Rising-West Princeton Neighborhood Assn., Birmingham.
Smithfield Neighborhood Assn., Birmingham.
Goldwire Circle Housing Cooperative, Birmingham.
Housing Authority of the Brimingham District, Birmingham.
Gate City Neighborhood Association, Birmingham.
East Brimingham Neighborhood Committee, Birmingham.
Inner City Housing Development Corp., Birmingham.
Operation PUSH, Brimingham Chapter, Birmingham.
First Baptist Church, Birmingham.
Christian Light C. P. Church, Eutaw.
Conecuh-Monroe Community Action Agency, Evergreen.
Alabama State Client Council, Inc., Gadsden.
Mowa Band of Choctaw Indians, McIntosh.
Catholic Social Services, McIntosh.
Wil-low Nonprofit Housing, Inc., Monroeville.
Flatwood Community Organization, Montgomery.
Southern Development Company, Montgomery.
Lee County Voters League, Opelika.
Prichard Town Assembly, Prichard.
Bessemer Community Tenants Association, Prichard.
Alabama Conf. of Black Mayors, Roosevelt City.
Pike County Voters League, Troy.
Bethel Church, Tuskegee.

ARKANSAS

Acorn, Economic Opportunity Agency of Washington County, Fayetteville.
St. Francis County Courthouse, Forrest City.
Arkansas Land and Farm Development Corporation, Forrest City.
Presbyterian Urban Council, Little Rock.
Arkansas Community Education Development Assn., Little Rock.
Concerned Citizens for Better Housing, Little Rock.
Madison Self-Help Development Corporation, Madison.
The Housing Authority of the City of Madison, Madison. Southeast Arkansas Housing Corp., Pine Bluff.
Southeast Arkansas Community Action Corporation, Warren.

ARIZONA

Natl. Assn. for the Advancement of Colored People, Flagstaff.
Church of God in Christ, Flagstaff.
Pride of Flagstaff Lodge #1184, I.B.P.O.E., Flagstaff.
First Baptist Church, Flagstaff.
Flagstaff Coalition for Better Housing, Flagstaff.
Northern Ariz. Interdenominational Ministerial Alliance, Flagstaff.
Mustard Seed Housing, Inc., Little Rock.
National Council of La Raza, Phoenix.

CALIFORNIA

California Coalition for Rural Housing.
California Rural Legal Assistance Foundation.
CHAIN—Calif Housing Action & Information Network.
California Department of Housing & Community Devel.
California Association of Tenants.
California Campaign for Economic Democracy.
Church Women United/Southern California/Nevada.
Fair Housing Congress of Southern California.
Southern California Urban Coalition.
Cafe De California, Bakersfield.
Public Action for Tenants and Housing, Berkeley.
Hirshen, Gammill, Trumbo Architects, Berkeley.
Northern California Assn. for Nonprofit Housing, Berkeley.
The Colorado Community Action Council, Blythe.
Residencia Cuahutemoc, Campesino Unidos, Inc. Proj., Brawley.
Imperial Valley Coordinated Housing Authorities, Brawley.
Coopertiva Fronteriza, Calexico.
Nosotros, Calexico City Project, Calexico.
Chico Housing Improvement Program, Chico.
Valley Oak Children's Service, Chico.
Interfaith Legislative Action Coal., Greater Pomona Valley, Claremont.
Coachella Valley Housing Coalition, Coachella.
Housing Alliance of Contra Costa County, Concord.
Flower of the Dragon, Cotati.
The Flower of the Dragon, Cotati.
Asosiacion Eecharro, Delano.
Ideal Club, Delano.
M.A.P.O. (Mexican American Political Organization), Delano.
Progressive Home Club, Delano.
Latin American Citizens Association, Delano.
Mexican American Political Association, Delano.
Catholic Community Services of Imperial Valley, El Centro.
Community Housing and Education Group, Inc., El Centro.
Fresno City Council, Fresno.
Housing Authorities of the City & County of Fresno, Fresno.
Sequoia Community Health Fdn., Fresno.
Citizen Action Neighborhood Development Org., Fresno.
El Centro De La Familia De Fresno, Fresno.
City of Fresno City Council, Fresno.
FSCHTA (Fullerton So. Central Homeowners/Tenants Assn., Fullerton.
Eden Housing, Inc., Hayward.
Mayfair Knitters of Healdsburg, Healdsburg.
Long Beach Housing Action and Assistance, Long Beach.
Senior Tenants' Rights Specialist, Los Angeles.
Weinstock Construction Corporation, Los Angeles.
Community Relations Conference of Southern Calif., Los Angeles.
Coalition for Economic Survival, Los Angeles;
Community Development Coalition, Los Angeles;
Gratz & Wolfson, Attorneys at Law, Los Angeles;
Inquilinos Hispanos Unidos, Los Angeles;
Legal Aid Foundation, Los Angeles;
Los Angeles Community Design Center, Los Angeles;
People Coordinated Service of Southern California Los Angeles;
Housing Authority of the City of Madera, Madera;
St. Andrews Parish Council, Oakland;
Housing Rights for Children Project, Oakland;
Oakland Community Housing, Inc., Oakland.
Black Catholic Vicariate, Oakland;
City of Oakland City Council, Oakland;
United East Oakland Clergy, Oakland;
Chinatown Central District Council, Oakland;
Community Economics, Inc., Oakland;
East Bay Asian Local Development Corporation, Oakland;
Oakland Better Housing, Inc., Oakland;
San Antonio Community Development CD District CCL, Oakland;
San Antonio Community Development Corporation, Oakland;
Mid-Peninsula Coalition Housing Fund, Palo Alto;
Community Housing, Inc., Palo Alto.;
Midpeninsula Citizens for Fair Housing; Palo Alto;
Palo Alto Housing Corporation, Palo Alto;
O.S.M.A. Housing Committee, Paso Robles;
Housing Coalition of San Mateo, Redwood City;
Peninsula Legal Services Foundation, Redwood City;
San Mateo Legal Aid Society, Redwood City;
Richmond Coordinated Neighborhood Councils, Richmond;
Rural Community Assistance Corporation, Sacramento;
Community Housing Improvement System and Planning, Salinas;
Housing Advocates, Salinas;
Chispa, Salinas;
Inland Area Urban League, San Bernardino;
Delmann Heights Homeowners & Tenants Association, San Bernardino.
Asian, Inc., San Francisco;
Haight Ashbury CDC, San Francisco;
Bernal Heights Community Foundation, San Francisco;
Haight Ashbury Neighborhood Council, San Francisco;
Mayor Diane Feinstein, San Francisco;
Ecumencial Ministry in the Haight Ashbury, San Francisco;
Independent Housing Services, San Francisco;
Potrero Hill CDC, San Francisco;
San Francisco Information Clearinghouse, San Francisco;
Chinese Community Housing Corporation, San Francisco;
S.F. Council of Community Housing Organizations, San Francisco;
La Raza HSG Development & Neighborhood Preservation Corp., San Francisco.
North of Market Planning Coalition, San Francisco;
Tenants and Owners Development Corporation, San Francisco;
Nancy Walker, Supervisor, City/County San Francisco, San Francisco;
Bernal Heights Community Development Corp., San Francisco;
Capital Concepts Investment Corporation, San Francisco;
Chinatown Neighborhood Improvement Resource Center, San Francisco;

Community Design Center, San Francisco;
Fillmore Community Development Corporation, San Francisco;
North of Market Planning Coalition, San Francisco;
Tenants and Owners Development Corporation, San Francisco;
Housing Action, San Jose;
Gray Panthers of Santa Clara County, San Jose;
San Jose Housing Service Center, San Jose.
Community Housing Developers, Inc., San Jose.
People's Self-Help Housing, San Luis Obispo.
San Luis County Mobileowner Tenant Assoc., San Luis Obispo.
San Luis Obispo Housing Coalition, San Luis Obispo.
Ecumenical Association for Housing, San Rafael.
Marin Gray Panthers, San Rafael.
Jesuit Social Ministries—California Province, Santa Ana.
Board of Supervisors, County of Santa Barbara, Santa Barbara.
Santa Cruz Community Credit Union, Santa Cruz.
Guadalupe Housing Association, Santa Maria.
Mayor Ruth Yannatta Goldway, Santa Monica.
City Council, City of Santa Monica, Santa Monica.
Ocean Park Community Organization, Santa Monica.
Pico Neighborhood Association, Santa Monica.
Santa Monica Rent Control Board, Santa Monica.
Santa Monicans for Renters Rights, Santa Monica.
Citizens for Affordable Housing, Santa Rosa.
Center for Community Economics, Santa Rosa.
Sonoma County Council on Aging, Santa Rosa.
Sonoma County People for Economic Opportunity, Santa Rosa.
South Park Pax, Santa Rosa.
Santa Rosa Senior Center, Santa Rosa.
NAACP, Santa Rosa Chapter, Santa Rosa.
Community Resources for Independence, Santa Rosa.
Campesino Unidos de Campahora, Soledad.
Cooperativa Santaelena, Inc., Soledad.
Sonoma County Chapter of NAACP, Sonoma.
Sonoma County Council on Community Services, Sonoma.
Community Housing Services, South Pasadena.
Catholic Charities Family Counseling Agency, Stockton.
South Stockton Community Concerns, Stockton.
Peoples Housing, Inc., Topanga.
Ola Raza, Visalia.
Pacific Management Group, Inc., Woodland Hills.
Pacific Equity Investment Corporation, Woodland Hills.
P.E.I.C. Corporation, Woodland Hills.
P.E.I.C. Securities Corporation, Woodland Hills.

COLORADO

Colorado Senior Lobby.
Colorado Chapter, Nat'l Ass'n of Social Workers.
Colorado Social Legislation Committee.
Colorado Rural Housing Development Corp.
Colorado Housing Resource Board.
Colorado Civil Rights Commission.
Colorado Hispanic Housing Coalition.
Colorado Migrant Council.
Colorado Office of Voluntary Citizen Participation.
Northwest Colorado Legal Services.
Mental Health Association of Colorado.
Colorado Housing, Inc.
Colorado Congress Senior Organization.
Center for Rural Development.
Colo CCL on Migrant & Seasonal Agricultural Workers.
Colorado Division of Housing.
Colorado Rural Legal Services.
Housing Issues Task Force.
NAHRO (Colorado).
Alamosa Housing Authority, Alamosa.
Landlord/Tenant Mediator and Community Resources, Aurora.
Boulder County Dept. of Community Action Programs, Boulder.
Boulder Gray Panthers, Boulder.
COPIRG (Colo. Public Interest Research Group), Boulder.
Center for Environmental Design, Educ. & Research, Boulder.
Adams County Housing Authority, Commerce City.
Costilla Housing Authority, Costilla.
City of Del Norte, Del Norte.
Denver Indian Center, Denver.
Acorn, Denver.
Senior Center on Wheels, Denver.
American Friends Service Committee, Denver.
Denver Opportunity, Inc., Denver.
American G.I. Forum Veterans Outreach Program, Denver.
Housing Issues Task Force, Denver.
Citizens Organized for Economic Development, Denver.
Seniors in Community Living, Denver.
Community Development Agency of City and Co., of Den., Denver.
Denver Tenants' Union, Denver.
Alliance for Basic Human Needs, Denver.
Urban League of Metropolitan Denver, Inc., Denver.
Central Denver Community Service, Denver.
Metro Denver Urban Coalition, Denver.
Mi Casa Resource Center for Women, Denver.
Nahro of Denver, Denver.
Denver Housing Authority, Denver.
Denver Housing Law Panel, Denver.
The Housing Counseling Coalition, Denver.
The Colwell Company, Denver.
Lawyers Committee for Civil Rights, Denver.
Denver Catholic Community Services, Denver.
Colorado Congress of N.E. Denver (CRA Comm.), Denver.
Alta Vista Neighborhood Council, Denver.
Center for Community Development and Design, Denver.
Denver Commission on Aging, Denver.
Denver Urban League Coalition, Denver.
North Denver Neighborhood Development Center, Denver.
Northeast Denver Neighborhood Development Center, Denver.
Sacred Heart Housing Corporation, Denver.
The Christian Caring Ministry, Denver.
The Urban Institute, Denver.
Westside Neighborhood Design Center, Denver.
Comm. on Human Relations, City & County of Denver, Denver.
S and M Construction, Fort Collins.
Fort Collins Housing Authority, Fort Collins.
The Resource Assistance Center, Fort Collins.
Christian Caring Ministry, Inc., Fort Collins.
Larimer County Dept. of Human Development, Fort Collins.
Larimer County Housing Authority, Fort Collins.
Fort Collins Housing Authority, Fort Collins.
La Jara Housing Authority, La Jara.
Office of Housing Development, City of Monte Vista, Monte Vista.
North Suburban Community Housing Resources Board, Northglenn.
San Luis-Blanca-Fort Garland Housing Devel. Corp., San Luis.
Northeastern Junior College Womens Resource Center, Sterling.

CONNECTICUT

Caucus of Connecticut Democrats.
Home Builders Association of Connecticut.
Connecticut Association of Residential Facilities,
Connecticut Association for Human Services.
Connecticut ACORN, Sisters of Notre Dame—Region B (Connecticut).
Connecticut Association for Human Services.
American Friends Service Committee, CT Office.
Connecticut Citizens Action Group.
Governor's Central Housing Committee.
Family and Children's Services of Connecticut.
Catholic Charities, Archdiocese of Hartford.
Ansonia Economic Development Administration, Ansonia.
Ansonia Fair Housing Office, Ansonia.
A. Philip Randolph Institute. Ansonia Chapter, Ansonia.
Valley Citizens for Racial Equality, Ansonia.
Valley Symposium Committee for Employment, Ansonia.
Council of Churches of Greater Bridgeport, Bridgeport.
Greater Bridgeport Regional Housing Council, Bridgeport.
Women's Internatl League, Fairfield County Branch, Bridgeport.
Canton Fair Housing/Affordable Housing Committee, Collinsville.
Lower Naugatuck Valley Community Council, Inc., Derby.
Team, Inc., Derby.
Derby Community Development Agency, Derby.
Derby Housing Authority, Derby.
Citizens Lobby, Hartford.
Urban League of Greater Hartford, Inc., Hartford.
Legal Aid Society of Hartford County, Hartford.
The Community Renewal Team of Greater Hartford, Inc., Hartford.
Hispanic Health Council, Hartford.
El Hogar Del Futuro, Hartford.
San Juan Center, Inc., Hartford.
Thirman A. Miller, Mayor of Hartford, Hartford.
Legal Services Training and Advocacy Project, Inc., Hartford.
Capitol Region Conference of Churches, Hartford.
Southend Community Services, Inc., Hartford.

Social Issues Management Team, CT Christian Conf, Hartford.
West End Civic Association, Inc., Hartford.
Women for Racial & Economic Equality—Htfd Chap., Hartford.
Hill Center, Inc., Hartford.
Rudolph P. Arnold, Deputy Mayor of Hartford, Hartford.
Sheldon Oak Central, Inc., Hartford.
Corp for Technical Assistance to Corporations, Inc., Hartford.
Taino Housing & Development Corp., Hartford.
Hartford Interval House, Hartford.
La Casa De Puerto Rico, Inc., Hartford.
Housing Coalition for the Capitol Region, Inc., Hartford.
Broad Park Development Corp., Hartford.
Good News, Hartford.
Neighborhood Housing Coalition, Hartford.
Thames Valley for Community Action, Jewett City.
Emerging Social Issues, Manchester.
Equity in Housing of Middletown, Inc., Middletown.
Friendship Services Center, Inc., New Britain.
Catholic Family Services, New Britain.
Coordinating Committee for Children in Crisis, Inc., New Haven.
Centro San Jose, New Haven.
Elm Haven Tenants Association, New Haven.
New Haven Tenants Representative Council, Inc., New Haven.
Office of Urban Affairs, Archdiocese of Hartford, New Haven.
Tower One Tenants Assoc., New Haven.
Antillean Manor Tenants Association, New Haven.
Church Street South Residents Council, New Haven.
Florence Virtue Concerned Members Association, New Haven.
Presidential Gardens Tenants Association, New Haven.
Silver Pond Tenants Association, New Haven.
New Haven Legal Assistance, New Haven.
Dwight Hall, Yale, New Haven.
Norwalk Human Relations Commission, Norwalk.
Seymour Housing Authority, Seymour.
Seymour Housing Authority Tenants Association, Seymour.
The Community of St. Luke, Stamford.
Stamford Community Housing Coalition, Stamford.
Stamford Office, Connecticut Legal Services, Stamford.
Committee on Training and Employment, Inc., Stamford.
Community Housing Coalition, Stamford.
Stratford Tenants Council, Stratford.
Women's Emergency Shelter, Inc., Waterbury.
Waterbury Housing Coalition, Waterbury.
Waterbury Area Council of Churches, Waterbury.
New Opportunities for Waterbury, Inc., (NOW, Inc.), Waterbury.
North End Center, Waterbury.
Waterbury Housing Coalition, Waterbury.
North End Center, Waterbury.
New Opportunities for Waterbury, Inc., Waterbury.
Waterbury Citizens Action Group, Waterbury.
Green Community Services, Waterbury.
United Auto Workers, Local 1251, Waterbury.
Corporation for Independent Living, West Hartford.

WASHINGTON, D.C.

Metropolitan Washington Planning & Housing Assn., Washington.
The Management Partnership, Inc., Washington.
Interfaith Conference of Metropolitan Washington, Washington.
ECO Corporation, Washington.
Southern Columbia Heights Tenant Union, Washington.
Sojourners Housing Ministry, Washington.
Jewish Community Council of Greater Washington, Washington.
Washington Inner City Self-Help, Washington.
Southern Columbia Heights Tenants Union, Washington.
Adams-Morgan Organization, Washington.
Christic Institute, Washington.
Coalition for the Homeless, Washington.
D.C. Housing Action Council, Washington.
Far Southeast Community Organization, Washington.
14th and U Streets Coalition, Washington.
Gray Panthers of Metropolitan Washington, Washington.
Housing Counseling Services, Inc., Washington.
Housing Task Force, Metro Wash Interfaith Conf., Washington.
King Emmanuel Baptist Church, Washington.
Massachusetts Avenue Cooperative Association, Washington.
NCBA HSG Development Corp. of District of Columbia, Washington.
Office of Social Development, Archdiocese of Wash., Washington.
Patrick H. Hare Planning and Design, Washington.
Sts. Paul & Augustine HBHD Housing Org., Washington.
Sojourners Housing Office, Washington.

DELAWARE

Ncall Research, Inc.
Delaware Housing Coalition, Housing Opportunities of Northern Delaware.
Delaware State Council on Housing.
Delaware Chapter, Natl. Assn. of Social Workers.
Delaware Human Relations Commission.
Delaware State Housing Authority.
Blades community Development, Blades.
Bridgeville Rehabilitation Program, Bridgeville.
Lutheran Senior Services of Dover, INc., Dover.
Kent County Self-Help Housing Corp., Dover.
Appoquinimink Development, Inc., Middletown.
Milford Housing Development Corporation, Milford.
City of Milford Community Development Program, Milford.
Independent Living, Inc., New Castle.
Wilmapco (Wilmington Metro Area Plng Ccl.), Newark.
Newark Housing Authority, Newark.
Chandler Heights Apartments, Seaford.
Farnell & Smith Property Management, Seaford.
Wilmington Housing Authority, Wilmington.
Illusion of Security Project, Pacem in Terris, Wilmington.
Community Housing, Inc., Wilmington.
September 19th Coalition, Wilmington.
New Castle Co. Dept. of Community Development & Hsg., Wilmington.
Lutheran Senior Services, Wilmington.
Neighborhood House Inc., Housing Counseling Service, Wilmington.
City of Wilmington Dept. of Realty and Housing, Wilmington.
Community Design Center, Wilmington.
Kingswood Community Center, Wilmington.
Parity Development Corporation, Wilmington.
People's Settlement Associates, Wilmington.
St. Anthony's Community Center, Wilmington.
Wilmington Department of Planning, Wilmington.
Wilmington United Neighbors, Wilmington.
Equal Opportunity Cte., New Castle Co. Bd of Realtor, Wilmington.

FLORIDA

Florida Chapter, Natl. Assn. of Social Workers.
Central Florida Legal Services.
Florida State Commission on Hispanic Affairs.
Florida Nonprofit Housing.
Florida State Council of Senior Citizens.
West Orange Farmworker Health Association, Inc., Apopka.
West Orange Farmworker's Health Organization, Apopka.
Homes in Partnership, Apopka.
Hardee Rental Homes, Bowling Green.
South Lake Memorial Hospital, Clermont.
Lee County Housing Authority, Fort Myers.
Hillsborough Association of Homes for the Aging, Hillsborough.
Hillsborough County Housing Assistance Department, Hillsborough.
Centro campesino, Homestead.
Indiantown Nonprofit Housing, Indiantown.
Jacksonville Clients Council, Jacksonville.
Jacksonville Neighborhood Resource Center, Inc., Jacksonville.
Tenants Advisory Council, Jacksonville.
Highway Park Housing, Lake Placid.
Urban League of Greater Miami, Inc., Miami.
Black Lawyers Association, Miami.
Coalition of Black Organization, Miami.
Coalition of Hispanic-American Women, Miami.
Home and Housing, Inc., Miami.
Metropolitan Dade County Community Action Agencies, Miami.
Miami/Dade Black Social Workers Association, Miami.
Miami/Dade County Assn. of Blacks in Government, Miami.
Senior Centers of Dade County, Inc., Miami.
South Florida Association of Black Psychologists, Miami.
Dade County HUD Advisory Board, Miami.
Community Relations Board of Dade County, Miami.
Dade County Council of Senior Citizens, Miami.
Overall Tenant Advisory Council of Dade County, Miami.
Santa Rosa/Milton Hous. Auth., Section 8 Program, Milton.
Opa Locka Community Development Corporation, Opa Locka.
Opa Locka NAACP, Opa Locka.
People's Rights Organization, Inc., Orlando.
Center for Independent Living, Orlando.
Central Florida War Resisters League, Orlando.

Council of Community-Based Organizations, Orlando.
Epilepsy Associations, Orlando.
Greater Orlando Legal Services, Orlando.
Hospice of Central Florida, Orlando.
Justice and Peace Office, Orlando.
Orlando Area National Organization for Women, Orlando.
People's Transit Organization, Orlando.
Progressive Alliance, Orlando.
Recruitment and Training Program, Orlando.
Southwest Community Mental Health Center, Orlando.
We Care, Orlando.
Women's Political Caucus of Metropolitan Orlando, Orlando.
Young Women's Community Club, Orlando.
Sarasota Gray Panthers, Sarasota.
Eastern Star, Margie Cooper Chapter No. 62, Sebring.
Sebring Housing Research and Development, Sebring.
Tallahassee Housing Foundation, Tallahassee.
Centers Resi-Serve, Inc., Tampa.
City of Tampa, Tampa.
Coalition of Senior Citizens, Inc., Tampa.
CTA River Apartments, Tampa.
Haciendas De Ybor Apartments, Tampa.
Haciendas Villas, Tampa.
Jewish Tower Resident Association, Tampa.
Jewish Towers, Tampa.
Mary Walker Towers, Tampa.
Tampa Chapter of NAACP, Tampa.
Tampa Housing Authority, Tampa.
Tampa United Methodist Centers, Tampa.
Lake Community Development, Inc., Tavares.
Lake Service Council, Tavares.
East Coast Self-Help Housing, Vero Beach.

GEORGIA

State Senator Parks M. Brown.
Ga. Federation of Housing Counselors.
Southeast Association of Housing Cooperatives.
Ga. Chapter of the NAACP.
Ga. State AFL-CIO.
Georgia Housing Coalition.
Ga. State A. Phillip Randolph Institute.
Southern Neighborhoods.
Georgia Chapter of NAACP.
Georgia Federation of Housing Counselors.
Georgia State AFL-CIO.
Georgia State Association of Cooperatives.
Georgia State A. Phillip Randolph Institute.
Southeastern Region, American Friends Service Cte.
West Georgia Farmers Cooperative.
Albany NAACP, Albany.
Albany State College Political Science Club, Albany.
Cobo, Albany.
Americus-Sumter Co. NAACP, Americus.
Bethel Homes Tenants Association, Athens.
Rolling Ridge Community Organization, Athens.
Covenant Presbyterian Church, Athens.
Area Action to Improve Opportunity Now (ACTION), Athens.
Citywide League of Neighborhoods, Atlanta.
Catholic Social Services—Archdiocese of Atlanta, Atlanta.
Atlanta Urban League Housing Center, Atlanta.
Georgia Residential Finance Authority, Atlanta.
Metro Fair Housing Services, Atlanta.
District V NAACP, Atlanta.
Interfaith, Inc., Atlanta.
Metro Atlanta Housing Coalition, Atlanta.
Atlanta Labor Council, Atlanta.
Urban Housing Committee, Inc., Atlanta.
Urban League Housing Center, Atlanta.
Bethlehem Area Community Association, Inc., Augusta.
Lacy Walker Task Force, Augusta.
Intercommunity Organization Council of Augusta, Augusta.
Burke Co. Clients Council, Burke County.
Burke Co. Improvement Assoc., Burke County.
Enrichment Service Program, Columbus.
Cook Co. NAACP, Cook County.
Dawson NAACP, Dawson.
NAACP, Terrell County, Dawson.
Terrell County N.A.A.C.P., Dawson.
De Kalb Housing Counseling Center, De Kalb County.
De Kalb County NAACP, De Kalb County.
Dooley Co. NAACP, Dooley County.
Nutrition Providers Association, Inc., Dublin.
Monroe County Community Improvement Coalition, Forsyth.
Gainesville Clients Council, Gainesville.
Hart Co. Ministerial Association, Hart County.
Hartwell N.A.A.C.P., Hartwell.
Hartwell Citizens in Action, Hartwell.
Henry Co. Clients Council, Henry County.
Henry Co. Citizens for a Better Community, Henry County.
Concerned Citizens League of Ideal, Ideal.
Jackson NAACP, Jackson.
Jefferson County Clients Council, Jefferson County.
Jefferson Co. Improvement Assoc., Jefferson County.
Lawrence County Clients Council, Lawrence Country.
Leesburg Clients Council, Leesburg.
Bibb Clients Council, Macon.
Wesley Chapel United Methodist Church, McDonough.
Silver '60's, McDonough.
McDonough Housing Authority Tenants Association, McDonough.
McDuffie Co. Council on Aging, McDuffie County.
Newton NAACP, Newton.
Paulding County Clients Council, Paulding County.
Pembroke Clients Council, Pembroke.
Richmond County Clients Council, Richmond County.
The Black Summit, Savannah.
Stephens County Clients Council, Stephens County.
Taylor Co. Clients Council, Taylor County.
Thomaston NAACP, Thomaston.
Thomson NAACP, Thomson.
Toombs Co. NAACP, Toombs County.
Union Point NAACP, Union Point.
God Bless You Ministry, Waycross.
Garlington Heights Tenants Association, Waycross.
Wayne County NAACP, Wayne County.
New Burke Housing Corporation, Waynesboro.
Waynesboro NAACP, Waynesboro.
Webster Co. Clients Council, Webster County.
Johnson Clients Council, Wrightsville.

HAWAII

Hawaii Chapter, Natl. Assn. of Social Workers.
Lt. Gov. Jean King, American Friends Service Committee, Hawaii Program.
Consumers Housing Task Force of Hawaii.
Hawaii Coalition on Federal Budget.
Hawaii Council of Churches Legislative Committee.
Hawaii Housing Authority.
Hawaii State AFL-CIO.
Department of Housing and Community Development, Honolulu.
Mary Anderson, Mayor of City & County of Honolulu, Honolulu.

IOWA

Iowa Chapter, Natl. Assn. of Social Workers.
Iowa Pace.
American Friends Service Committee, Iowa Committee.
Iowa Area, United Methodist Church.
Iowa Coalition of Community Organizations.
Iowa Farmers Union.
Iowa Federation of Labor, AFL-CIO.
Iowa Federation of Labor, AFL-CIO.
Iowa Poor People's Congress.
Rural Iowa, Inc.
Rural America, Midwest Regional Office.
Iowa Progressive Coalition, Black Hawk County.
Citizens for Community Improvement, Cedar Rapids.
Citizens for Community Improvement, Council Bluffs.
Social Action Department, Diocese of Davenport, Davenport.
Home, Inc. (Home opportunities Made Easy, Inc.), Des Moines.
Catholic Social Services, Diocese of Des Moines, Des Moines.
Citizens for Community Improvement, Des Moines.
Des Moines Acorn, Des Moines.
Des Moines Catholic Worker House, Des Moines.
Elderly Services For Polk County Social Services, Des Moines.
Four-mile Neighborhood Priority Board, Des Moines.
Roman Catholic Diocese of Des Moines, Des Moines.
Sherman Hill Association, Inc., Des Moines.
Coalition for Social Justice, Marshalltown.
Coalition for Community Reform, Sioux City.

IDAHO

Idaho Housing Coalition.
Boundary County Senior Citizen Council.
Idaho Homebuilders Association.
Idaho Mortgage Bankers Association.
Intermountain Management Association.
Rothschild Financial Corporaton.
El-Ada Community Action Agency, Boise.
Idaho Migrant Council, Boise.
Association of Retarded Citizens of Ada County, Boise.
Idaho Citizens Coalition, Boise.
Association for Inner Community Development, Hayden Lake.
Eastern Idaho Special Services Agency, Idaho Falls.
AYUDAS, Idaho Falls.
Idaho Legal Aid Services, Inc., Lewiston.
Southeastern Idaho Community Action Agency, Pocatello.

ILLINOIS

Illinois Department of Veteran Affairs.
Illinois Migrant Council.
Illinois Coalition Against Reagan Economics (ICARE).
Homebuilders Association of Illinois.
Illinois Public Action Committee.
Illinois National Organization for Women.

Illinois State Council of Senior Citizens Organizations.
Senior Citizens Center, Aledo.
Hillcrest Tenants' Union, Aurora.
Aurora Catholic Social Services, Aurora.
Centro Pan-Americano, Inc., Aurora.
The Salvation Army/Second Horizon Center, Aurora.
ALA (Accion Latinoamericana de Aurora), Aurora.
Batavia Apartment Tenants' Group, Batavia.
Frances Nelson Health Center, Inc., Champaign.
Family Services of Champaign County, Champaign.
Champaign-Urbana Tenant Union, Champaign.
NOW, Greater Champaign Area Chapter, Champaign.
Urban League of Champaign County, Champaign.
Peoples Community Organization, Chicago.
Hispanic Housing Development Corporation, Chicago.
Bethel Housing, Inc., Chicago.
Rogers Park Housing Services Center, Chicago.
Housing Resource Center, Uptown Center Hull House, Chicago.
Peoples Housing, Chicago.
Little Square Block Club, Chicago.
Chicago City Council, Chicago.
Lawyers' Committee for Better Housing, Chicago.
Association for Black Community Development, Chicago.
Woodstock Institute, Chicago.
United Neighbors Tenant Organization, Chicago,
Westtown Concerned Citizens Coalition, Chicago.
United Block Clubs of Wicker Park, Chicago.
Howard Area Community Center, Chicago.
Bikerdike Redevelopment Corporation, Chicago.
Chicago Area Fair Housing Network, Chicago.
Chicago Metropolitan Area Senior Citizens Senate, Chicago.
Chicago Rehab Network, Chicago.
Community Caring Conference, Chicago.
Concerned Citizens of North Lawndale, Chicago.
Federation of Black Taxpayers, Chicago.
Hyde Park Coalition on Housing and Tenants Rights, Chicago.
Lawless Garden Tenant Committee, Chicago.
Leadership CCL for Metropolitan Open Communities, Chicago.
Long Grove Tenants Council, Chicago.
Metro Seniors in Action, Chicago.
Metropolitan Housing and Planning Council, Chicago.
Metropolitan Tenants Organization, Chicago.
North Avenue Day Nursery, Chicago.
Organization for Palmer Square, Chicago.
Pierce North Tenant Organization, Chicago.
Pilsen Housing and Business Alliance, Chicago.
Quadras Unidas of East Humboldt Park, Chicago.
Rogers Park Tenants Committee, Chicago.
Sisters of Mercy, Province of Chicago, Admin. Team, Chicago.
South Austin Coalition Community Council, Chicago.
South Shore Commission, Chicago.
South Shore Housing Center, Chicago.
Unite (United NBHDS Intertwined for Total Equality), Chicago.
United Block Club of East Humboldt Park, Chicago.
De Kalb County Coordinated Child Care, De Kalb.
Family Service Agency of De Kalb County, Inc., De Kalb.
Minority Economics Resource Center (M.E.R.C.), Des Plaines.
Sinnissippi Mental Health Center, Dixon.
Neighborhood Housing Services of Elgin, Inc., Elgin.
Elgin Human Relations Commission, Elgin.
Centro de Informacion y Progreso, Elgin.
Family Service Assoc. of Greater Elgin Area, Elgin.
Tenants Organization of Evanston, Evanston.
Evanston Neighbors at Work, Evanston.
Hope Fair Housing Center, Glen Ellyn.
Morrissey Sisters Construction Company, Godfrey.
Morrissey Construction Company, Godfrey.
Catholic Charities, Diocese of Joliet, Joliet.
We Care—We Share, Joliet.
Kewanee Social Service Agency, Kewanee.
Kewanee Day Care Center, Kewanee.
Illinois Benedictine College, Lisle.
Sacred Heart Convent, Lisle.
St. Procopius Abbey, Lisle.
Madison County Homebuilders Association Auxiliary, Madison County.
Madison County Homebuilders Association, Madison County.
Christian Friendliness Association, Moline.
Activity Recreation Program, Moline.
South Suburban Housing Center, Park Forest.
Whiteside, County Housing Authority, Rock Falls.
Comp. Comm. Mental Health Ctr., Rock Is. & Mercer Cos., Rock Island.
Older Americans for Elderly Rights, Rock Island.
Project Now, Rock Island.
Information, Referral & Assistance Service, Rock Island.
YMCA Whiteside County Senior Center, Sterling.
American Red Cross, Sterling.
Lake County Community Action Project, Waukegan.
YWCA of Lake County. Waukegan.
Region Two Area Agency on Aging, West Chicago.
Family Service Assoc. of Du Page County, Wheaton.
People's Resource Center, Wheaton.
North Shore Interfaith Housing Council, Wilmette.

INDIANA

Hoosier Housing Assistance Bureau.
Indiana State Housing Board.
Patchwork Central, Evansville.
Seufert Supply & Construction Co., Ferdinand.
Wayne E. Seufert & Associations, Inc., Ferdinand.
Mayor's Office of Housing Conservation, Gary.
Colonial Gardens Tenants Council, Gary.
Concord Village Tenants Council, Gary.
Cornerstone Baptist Church, Gary.
Delaney Tenants Council, Gary.
Dory Miller Tenants Council, Gary.
Duneland Village Tenants Council, Gary.
East Glen Park Tenants Council, Gary.
Gary Citywide Tenants Council, Gary.
Gary Manor Tenants Council, Gary.
Ivanhoe Gardens Tenants Council, Gary.
100 West Eleventh Tenants Council, Gary.
1117 Exchange Tenants Council, Gary.
666 Jackson Tenants Council, Gary.
3280 Pierce Street Tenants Council, Gary.
Ralph M. Wallen Engineering, Inc., Huntingburg.
Puller Mortgage Associations, Inc., Indianapolis.
Hoosier Upland Development Corporation, Mitchell.
Displaced Homemakers Program, Muncie.
Lincoln Hills Development Corporation, Tell City.
Southeastern Indiana Adult Basic Education, Versailles.
Knox County Catholic Social Ministries, Vincennes.
Dennis Ott & Co., Inc., Waynesville.

KANSAS

Kansas Chapter, National Assn. of Social Workers.
Kansas Farmers Union.
Sharing Community in Rosedale, Inc., Kansas City.
Turner House, Kansas City.
Shawnee County Community Assistance and Action, Shawnee County.
Everywoman's Resource Center, Topeka.
Indian Center of Topeka, Topeka.
Jayhawk Area Agency on Aging, Topeka.
Topeka Housing Information Center, Topeka.
Wichita Ministerial League, Wichita.
North Heights Christian Church, Wichita.
Religious Coalition for Social Action, Wichita.
Missionary Baptist Ministers Union, Wichita.
Methodist Urban Ministries, Wichita.
Housing Coalition of Wichita, Wichita.
North Ash Church of the Nazarene, Wichita.
Mennonite Housing Rehab Service, Inc., Wichita.
Progressive Democratic Quorum, Wichita.

KENTUCKY

Dominican Sisters, Kentucky.
Appalachian Alliance.
Kentucky Fair Tax Coalition.
Kentucky Mountain Housing Development Corporation.
Kentucky Rural Housing Coalition.
Federation of Appalachia Housing Enterprises.
Catholic Committee on Appalachia.
Christian Family Housing Service, Harlan.
Citizens for Social and Economic Opportunity, Hindman.
Hope Housing, Inc., Irvine.
Concerned Citizens of Martin County, Inc., Martin County.
Frontier Housing, Inc., Morehead.
Section 8 Program, Paris-Bourbon Co. Comm. Dev. Agen., Paris.
Interfaith Building Corporation of Bell County, Pineville.
Southeastern Women's Employment Coalition, Versailles.

LOUISIANA

Louisiana Chapter, Natl. Assn. of Social Workers.
Granville County Hunger Coalition, Granville County.
Assembly of Vance, Henderson.
Southern Mutual Help Association, Jenrette.
North Louisiana Legal Assistance Corporation, Monroe.
Coalition for Human Dignity, Inc., New Orleans.

Coalition for Action, Inc., New Orleans.
Irish Channel Service Training Center, New Orleans.
Hope House, Inc., New Orleans.
Treme-East Neighborhood Association, New Orleans.
St. Landry Low Income Housing Association, Palmetto.

MASSACHUSETTS

Massachusetts Union of Public Housing Tenants.
Massachusetts Non-Profit Housing Association.
Massachusetts Chapter, Natl. Assn. of Social Workers.
Massachusetts Law Reform Institute.
Lt. Gov. Tom O'Neill.
New England Regional Council of NAHRO.
Massachusetts Advocacy Center.
Massachusetts Assn. of Community Development Corps.
Massachusetts Coalition for the Homeless.
Massachusetts Tenants Organization.
Massachusetts Urban Reinvestment Advisory CTE.
Massachusetts Union of Public Housing Tenants.
Adams Housing Authority, Adams.
Agawam Housing Authority, Agawam.
Village Park Tenant Organization, Amherst.
Amherst Housing Authority, Amherst.
Puffton Four Tenant Organization, Amherst.
Clark House Tenant Organization, Amherst.
Pioneer Human Services, Inc., Amherst.
Amherst Disarmament Coalition, Amherst.
Athol Housing Authority, Athol.
Belchertown Housing Authority, Belchertown.
Little Brothers of the Poor, Boston.
Project Bread, Boston.
Poor People's United Fund, Boston.
Social Action Ministries of Greater Boston, Inc., Boston.
Columbia Point Alcoholism Program, Inc., Boston.
Citizens Housing and Planning Association, Boston.
Mayor Kevin White, Boston.
Boston Mobilization for Survival, Boston.
Boston Urban Gardeners, Inc., Boston.
Citizens for Participation in Political Action, Boston.
Fenway Community Development Corporation, Boston.
Human Services Workforce, Boston.
Open Door Housing, Inc., Boston.
Symphony Tenant Organizing Project, Boston.
United South End/Lower Roxbury Corporation, Boston.
Greater Roxbury Development Corporation, Boston.
Southwest Corridor Land Development Coalition, Inc., Boston.
Justice & Peace Group—Sisters of Notre Dame, Boston Province.
Brimfield Housing Authority, Brimfield.
Stockard & Engler, Inc., Cambridge.
Chicopee Housing Allowance Project, Inc., Chicopee.
Columbia Point Project Care and Concern, Dorchester.
Holgate Apartments, Dorchester.
Notre Dame Montessori School, Dorchester.
Orient Heights-Local Tenants Policy Council-Boston, East Boston.
Easthampton Housing Authority, Easthampton.
South Middlesex Opportunity Council, Inc., Framingham.
Framingham Fair Housing Committee, Framingham.
Framingham Human Relations Commission, Framingham.
Granby Hosing Authority, Granby.
Construct, Inc., Great Barrington.
Great Barrington Housing Authority, Great Barrington.
Franklin County Regional Housing Authority, Greenfield.
Greenfield Housing Authority, Greenfield.
Hatfield Housing Authority, Hatfield.
Holyoke Housing Authority, Holyoke.
Holyoke Housing Authority, Holyoke.
Barnstable Housing Authority, Hyannis.
Housing Assistance Corporation, Hyannis.
Summer Street Community Seniors, Hyde Park.
Bromley-Heath Tenant Management Corporation, Jamaica Plain.
South Shore Housing Development Corporation, Kingston.
Lenox Housing Authority, Lenox.
Community Teamwork, Inc., Lowell.
Monson Housing Authority, Monson.
Montague Housing Authority, Montague.
The Claremont Company, Inc., New Bedford.
Cooperative Metropolitan Ministries, Newton.
Housing Now, Inc., North Adams.
North Adams Housing Authority, North Adams.
Hampshire Heights Tenant Organization, Northampton.
Gray Panters of the Pioneer Valley, Northampton.
Florence Heights Tenant Organization, Northampton.
Northampton Housing Authority, Northampton.
Orange Housing Authority, Orange.
Essex County Community Organization, Peabody.
North Shore Community Action Program, Peabody.
Berkshire Housing Services, Pittsfield.
Pittsfield Housing Authority, Pittsfield.
South Shore Coalition for Human Rights, Quincy.
Back of the Hill Community Development Association, Roxbury.
Catholic Sharing Committee, Roxbury.
Sojourner House (Shelter for Homeless Families), Roxbury.
Salem Harbor Community Development Corporation, Salem.
Salem Housing Alliance, Salem.
Shelburne Housing Authority, Shelburne.
Elizabeth Peabody Housing, Somerville.
Somerville Multi Service, Somerville.
Somerville Youth Program, Somerville.
Sun-Community Development Corporation, Somerville.
West Broadway Mental Health Center, South Boston.
Housing Allowance Project, Springfield.
Springfield Project for a United Neighborhood, Springfield.
N.O.W., Inc., South End Center, Waterbury.
Wilbraham Housing Authority, Wilbraham.
Williamstown Housing Authority, Williamstown.
Rural Housing Improvement, Winchendon.
The Housing Information Center, Inc., Worcester.

MARYLAND

Episcopal Social Services of Maryland, Eastern Region, National Tenants Organization, Maryland Interfaith Legislative Committee, Annapolis.
Anne Arundel Coalition of Tenants, Annalpolis.
Jubilee Baltimore, Inc., Baltimore.
Neighborhood Design Center, Baltimore.
St. Ambrose Housing Aid Center, Baltimore.
Our Daily Bread, Baltimore.
Absalom Jones Housing Center, Inc., Baltimore.
Women's Housing Coalition, Inc., Baltimore.
Housing Authority of Baltimore City, Baltimore.
Proj. Plase (People Lacking Ample Shelter & Employment), Baltimore.
Franciscan Center, Baltimore.
Regional Planning Council, Baltimore.
Baltimore Neighborhoods, Inc., Baltimore.
Belle Park Tenant Council, Baltimore.
Bernard E. Maston Tenant Council, Baltimore.
Brentwood Terrace Tenant Council, Baltimore.
Broadway Tenant Council, Baltimore.
Brooklyn Homes Tenant Council, Baltimore.
Chase House Tenant Council, Baltimore.
Cherry Hill Tenant Council, Baltimore.
Claremont Tenant Council, Baltimore.
Douglas Homes Tenant Council, Baltimore.
Ellerslie Tenant Council, Baltimore.
Fairfield Tenant Council, Baltimore.
Flag House Tenant Council, Baltimore.
Gilmor Homes Tenant Council, Baltimore.
Govans Manor Tenant Council, Baltimore.
Hollander Ridge Tenant Council, Baltimore.
Lafayette Courts Tenant Council, Baltimore.
Lakeview Terrace Tenant Council, Baltimore.
Latrobe Homes Tenant Council, Baltimore.
Lexington-Poe Tenant Council, Baltimore.
Marian House, Inc., Baltimore.
McCulloh Homes Tenant Council, Baltimore.
Monument East Tenants Council, Baltimore.
Murphy Tenant Council, Baltimore.
O'Donnell Heights Tenant Council, Baltimore.
Oswego Mall Tenant Council, Baltimore.
Perkins Homes Tenant Council, Baltimore.
Resident Advisory Council, Hsg. Auth. of Balto. City, Baltimore.
Rosemont-Dukeland Tenant Council, Baltimore.
Somerset Extension Tenant Council, Baltimore.
Westport-Mt. Winans Tenant Council, Baltimore.
West Twentieth Street Tenant Council, Baltimore.
Wyman House Tenant Council, Baltimore.
Berlin Community Housing Corporation, Berlin.
Bethesda H.E.L.P., Bethesda.
St. Mary's Women's Center, Inc., California.
The Housing Authority of the town of Easton, Easton.
People for Better Housing. Inc., Federalsburg.
Housing Authority, City of Hagerstown, Hagerstown.
Housing Authority of Washington County, Hagerstown.
John Wesley United Methodist Church, Hagerstown.

Alexander House, Inc., Hagerstown.
United Communities Against Poverty, Board of Dir., Landover.
Charles W. Gilchrist, Montgomery County Executive, Montgomery County.
Montgomery County Community Action Committee, Montgomery County.
Montgomery County Chamber of Commerce, Montgomery County.
Community Ministry of Montgomery County, Montgomery County.
Suburban Maryland Fair Housing, Montgomery County.
United Church Center for Community Ministries, Rockville.

MAINE

Maine Municipal Association.
Maine AFL-CIO.
Maine Committee on Aging.
Maine CAP Housing Council.
Maine Association of Independent Neighborhoods.
Maine Association of Public Housing Authorities.
Maine Community Action Association.
Maine State Housing Authority.
Maine Chapter, Natl. Assn. of Social Workers.
Maine State Planning Office.
Legal Services for the Elderly, Augusta.
Penobscot Area Housing Development Corporation, Bangor.
Bangor Housing Authority, Bangor.
Eastern Task Force on Aging, Bangor.
Forest Green Tenants Union, Biddeford.
Brunswick Housing Authority, Brunswick.
Franklin County Community Action Council, Inc., East Wilton.
York-Cumberland Housing Development Corporation, Gorham.
Task Force on Human Needs, Inc., Lewiston.
Lewiston Housing Authority, Lewiston.
Pleasant Point-Passamaquoddy Reservation Hsg. Auth., Pleasant Point.
Munjoy Hill Neighborhood Organization, Portland.
Portland Housing Authority, Portland.
Portland West Neighborhood Planning Council, Portland.
Southern Maine Senoir Citizens, Portland.
Portland Community Development, Portland.
Munjoy Housing Assoication, Portland.
Aroostock Regional Task Force for Older Citizens, Presque Isl.
Neighborhood Housing Services of South Portland, South Portland.
South Portland Housing Authority, South Portland.
York County Community Action Program, York County.

MICHIGAN

Michigan Black Caucus.
Michigan Chapter, Natl. Assn. of Social Workers.
Michigan Housing Coalition.
Michigan Tenants Rights Coalition.
Catholic Community Center, Benton Harbor.
Development Services Group, Inc., Detroit.
United Community Housing Coalition, Detroit.
Metro Detroit Welfare Reform Coalition, Detroit.
Parkside Homes/Parkside Resident Council, Detroit.
Detroit Non-profit Housing Corporation, Detroit.
Fair Housing Center—Detroit, Detroit.
Citizens for Better Care, Detroit.
New Detroit, Detroit.
Hubbard-Richard Citizens District Council, Detroit.
Board of Tenant Affairs, Detroit.
Brewster-Douglas Homes Block Club, Detroit.
Brewster-Douglas Tenants Council, Detroit.
Brewster Senior Council, Detroit.
Charles C. Diggs Homes Block Club, Detroit.
Charles Terrace Homes Block Club, Detroit.
Connaught-Waverly Block Club, Detroit.
Coordinating Council on Human Relations, Detroit.
Corktown Homeowners Organization, Inc., Detroit.
Detroit Metro Council of Senior Citizens, Detroit.
Detroit Tenants Union, Detroit.
Herman Gardens Resident Council, Detroit.
Herman Gardens Senior Council, Detroit.
Holy Trinity Nonprofit Housing Corporation, Detroit.
Jeffries Block Club, Detroit.
Jeffries Housing Project, Detroit.
Jeffries Middle Section Council, Detroit.
Jeffries Senior Council, Detroit.
Kercheval-Riverfront Community Organization, Detroit.
Lee Plaza Block Club, Detroit.
Mid-City Concerned Citizens District Council, Detroit.
Neighborhood Service Organization, Detroit.
Parkside Homes Block Club, Detroit.
Provincial Administrative Team, Sisters of Mercy, Detroit.
Scatter Sites Homes Block Club, Detroit.
Smith Homes Block Club, Detroit.
Sojourners Truth Homes Block Club, Detroit.
Temple Towers Block Club, Detroit.
United Community Services, Detroit.
Warren West Senior Building Block Club, Detroit.
Wolverine Senior Building Block Club, Detroit.
Urban League of Flint, Flint.
Groundwork for a Just World, Lansing.
Housing Assistance Foundation, Lansing.

MINNESOTA

Lutheran Social Services of Minnesota.
State Rep. Richard J. Kostohryz, Chairman.
State Senator Carl W. Kroening, Vice Chair.
Minnesota Multi Housing Association.
Hispanos En Minnesota.
Minnesota Association for Women in Housing, Inc.
Minnesota Chapter of Nahro.
Minnesota Citizen Action.
Minnesota Migrant Council.
State Senator Franklin J. Knoll, Chairman.
Minnesota State Council for The Handicapped.
Minnesota Tenants Union.
State Senator Hubert H. Humphrey, III.
State Rep. Ken G. Nelson, Chairman.
The Minnesota Project.
Minnesota Cap's Association.
Minnesota Chapter of Nahro.
Minnesota Federation of Business & Prof. Women.
Minnesota Project.
Minnesota Valley Action Council.
Metropolitan Council of the Twin Cities Area.
Lakes and Pines Community Action Council.
Northwest Community Action Council.
Priarie Five Community Action Council.
Region 6-E Community Action Council.
Scott-Carver Economic Council.
SEMCAC.
West Central Minnesota Community Action.
Southwestern Minnesota Opportunity Council.
Anoka County Community Action Program, Anoka County.
Arrowhead Economic Opportunity Agency, Arrowhead.
Bicounty Cap, Bemidji.
Bloomington Housing and Redevelopment Authority, Bloomington.
Community Emergency Assistance Program, Brooklyn Center.
Coon Rapids Senior Citizen Activity Center, Coon Rapids.
Tri-Valley Opportunity Council, Crookston.
Duluth Housing and Redevelopment Authority, Duluth.
Duluth Banch, NAACP, Duluth.
Duluth Community Action Program, Duluth.
Goodhue-Rice-Wabasha Citizens Action Council, Goodhue.
Koochiching-Itasca Action Council, Koochiching.
Mahube Community Council, Mahube.
Mankato Housing and Redevelopment Authority, Mankato.
Blue Earth County Housing and Redevelopment Auth., Mankato.
Western Community Action, Marshall.
Messinger, Cooper & Norton, Minneapolis.
Living Space Cooperative, Inc., Minneapolis.
Centro Cultural Chicano, Minneapolis.
Mayor Donald Fraser, Minneapolis.
Heartland Data Co-op, Minneapolis.
Cascade Esperanza, Minneapolis.
Seward West Redesign, Inc. Minneapolis.
Greater Hennepin Human Services Council, Minneapolis.
Urban Coalition of Minneapolis, Minneapolis.
Minneapolis Urban League, Minneapolis.
Twin Cities Now, Minneapolis.
Walker Community Church, Minneapolis.
Walwyn Tenants Association, Minneapolis.
West Bank Community Development Corporation, Minneapolis.
West Bank Ministries, Minneapolis.
Whitney Place, Minneapolis.
Whittier Alliance, Minneapolis.
Whittier First Avenue Co-op, Inc., Minneapolis.
Whittier School, Minneapolis.
Whole Builders Cooperative, Minneapolis.
Hawthorne Area Community Council, Minneapolis.
Haymarket Press, Minneapolis.
Bread and Roses Remodeling, Inc., Minneapolis.
Amazon Book Store, Minneapolis.
Chrysalis, A Center for Women, Minneapolis.
Segaw, Inc., Minneapolis.
Women's Mental Health Center, Minneapolis.
Seward Neighborhood Group, Minneapolis.
Greater Minneapolis Council of Churches, Minneapolis.
1915 Tenants Association, Minneapolis.
The City, Inc., Minneapolis.
Catholic Charities (Minneapolis), Minneapolis.
Cedar Riverside Pac, Minneapolis.
Cedar Riverside Peoples Clinic, Minneapolis.

Central Community Council, Minneapolis.
Cheese Rustlers, Minneapolis.
Child Care Resource Center, Minneapolis.
Citizens for Loring Park Community, Minneapolis.
Clergy and Laity Concerned, Minneapolis.
Community Design Center, Minneapolis.
All Co-op Assembly, Minneapolis.
Devils' Island Co-op, Minneapolis.
District 8 Planning Council, Minneapolis.
Dominium Group, Inc., Minneapolis.
Eastside Neighborhood Services, Inc., Minneapolis.
Elliot Park Neighborhood, Inc., Minneapolis.
Florence Court Residents Council, Minneapolis.
Freewheel Bike Co-op, Minneapolis.
Gay Survival Fund, Minneapolis.
Grand Avenue Co-op, Minneapolis.
Harriet Tubman Women's Shelter, Minneapolis.
Greater Minneapolis Metropolitan Housing Corp., Minneapolis.
Sabathani Community Center, Minneapolis.
Self-Reliance Center, Minneapolis.
Seward Cafe, Minneapolis.
Seward Housing Co-op, Inc., Minneapolis.
Neighborhood Improvement Company, Minneapolis.
Hawthorne Area Community Council, Minneapolis.
South Side Child Care Committee, Minneapolis.
Northern Sun Alliance, Minneapolis.
Southside Family School, Minneapolis.
Southside Neighborhood Housing Services, Minneapolis.
Minneapolis Housing Service, Inc., Minneapolis.
Near Northside Planning District Planning Council, Minneapolis.
Neighborhood Residents Redevelopment Corporation, Minneapolis.
New Beginning Co-Op, Minneapolis.
Northside Neighborhood Housing Services, Minneapolis.
Old Town/In Town Cooperative, Minneapolis.
Park Apartments, Minneapolis.
Partners 3, Minneapolis.
Peoples Company Bakery, Minneapolis.
Phillips Neighborhood Housing Trust, Minneapolis.
Phillips Neighborhood Housing Improvement Assn., Minneapolis.
Pillsbury-Waite Neighborhood Services, Minneapolis.
Pilot City Regional Center, Minneapolis.
Portland Apartments Association, Minneapolis.
Powderhorn Residents Group, Minneapolis.
Project For Pride In Living, Minneapolis.
St. Stephen's Catholic Church, Minneapolis.
Stevens Square Community Organization, Minneapolis.
Target City Coalition, Minneapolis.
The Alley, Minneapolis.
Accessible Space Inc., Minneapolis.
Southside Child Care Committee, Minneapolis.
Cityview Cooperative, Minneapolis.
Coalition For Affordable Housing, Minneapolis.
Common Space, Minneapolis.
Community Design Center, Minneapolis.
Consumer Self-Help, Minneapolis.
Minneapolis Community Action Agency, Minneapolis.
Minneapolis Native American Center, Minneapolis.
MLK/CLA, Minneapolis.
Northside Neighborhood Center, Minneapolis.
Northside Residents Redevelopment Council, Minneapolis.
South Minneapolis Community Federal Credit Union, Minneapolis.
Southside Child Care Community, Minneapolis.
The New Beginning Cooperative, Minneapolis.
Urban Affairs Commission, Archdiocese St. Paul/MPLS, Minneapolis.
Urban League of Minneapolis, Minneapolis.
Housing and Redevelopment Authority, Moorhead.
Inter-County Community Council, Inc., Oklee.
Dakota County Housing & Redevelopment Authority, Rosemount.
Dakota County HRA, Rosemount.
Housing and Redevelopment Authority, St. Cloud.
Catholic Charities of the Diocese of St. Cloud, St. Cloud.
St. Cloud Housing and Redevelopment Authority, St. Cloud.
Stearns County Housing and Redevelopment Authority, St. Cloud.
Tri-County Action Program, Inc., St. Cloud.
Lexington-Hamline Community Council, St. Paul.
United Handicapped Federation, St. Paul.
Metropolitan Center For Independent Living, St. Paul.
Metropolitan Senior Federation, St. Paul.
McDonough Resident Council—Chairperson, St. Paul.
Jackson-Wheelock Center, Ramsey Action Program, St. Paul.
West Seventh Street Office, Ramsey Action Program, St. Paul.
West Side Citizens Organization, St. Paul.
West Side Neighborhood Housing Services, St. Paul.
Women's Advocates, Inc., St. Paul.
Mount Airy Association of Neighbors, St. Paul.
Merrick Community Center, St. Paul.
Southern Minnesota Regional Legal Services Corp., St. Paul.
American Indian Movement, St. Paul.
Capitol Community Services, St. Paul.
Daytons Bluff Human Services (St. Paul), St. Paul.
East Center Area, Ramsey Action Program (St. Paul), St. Paul.
East Side Neighborhood Development Corporation, St. Paul.
Edgerton Hi Rise, St. Paul.
Region II Battered Women's Consortium, St. Paul.
Ramsey Action Programs—Senior Nutrition Project, St. Paul.
Ramsey Action Programs, St. Paul.
Senior Chemical Dependency Program, St. Paul.
St. Patrick's Social Concerns Committee, St. Paul.
St. Paul Public Housing Authority, Human Services, St. Paul.
St. Paul Rehabilitation Center, St. Paul.
St. Paul Tenants Union, St. Paul.
St. Paul Urban League, St. Paul.
The Honorable George Latimer, Mayor, St. Paul.
Public Housing Agency of the City of St. Paul, St. Paul.
Roosevelt Resident Council, St. Paul.
Soc Svcs, Health & HSG, Spanish-Speaking AFFS CCL, St. Paul.
State Representative Donna Peterson, St. Paul.
State Rep. Lee Greenfield, St. Paul.
Centro Legal, St. Paul.
City Wide Residents Council, St. Paul.
Guadalupe Area Project, St. Paul.
Lillian Park Thomas Community Program, St. Paul.
Ramsey Action Programs, St. Paul.
Refugee Resettlement Office, Dept of Pub. Welfare, St. Paul.
St. Paul Branch, NAACP, St. Paul.
Senior Nutrition Program, Ramsey Action Program, St. Paul.
Spanish-Speaking Advisory Committee to the Mayor, St. Paul.
Western Community Action, Inc., St. Paul.
Westside Office, Ramsey Action Program, St. Paul.
Community Development Corporation, Archdiocese, St. Paul/Mpls.
Nan McKay Associates, Inc., St. Paul.
Housing and Development Authority of Virginia, MN, Virginia.
Wright County Community Action, Wright County.

MISSOURI

Missouri Interfaith Commission on Aging.
Missouri Association for Community Action.
Missouri Assn. of Regional Public Housing Agencies.
Missouri Acorn.
Missouri Public Interest Research Group.
National Assn of Social Workers, Missouri Chapter.
UAW, Region V.
Ecumenical Housing Organization, Chesterfield.
Blue Hills Community Association, Kansas City.
Blue Hills Homes Corporation, Kansas City.
East Community Team, Kansas City.
East Myer Community Association, Kansas City.
Kansas City Neighborhood Alliance, Kansas City.
Kansas City Organization Project, Kansas City.
Longfellow Community Organization, Kansas City.
Neighborhood Housing Services of Kansas City, Kansas City.
Westside Housing Organization, Kansas City.
Ozarks Area Community Action Corporation, Springfield.
St. Louis relocation clearinghouse, St. Louis.
St. Louis Association of Community Organizations, St. Louis.
Amalgamated Clothing & Textile Workers, St. Louis.
American Friends Service Committee, St. Louis Area, St. Louis.
Bread for the World, St. Louis.
Coalition for Sensible and Humane Solutions, St. Louis.
Coalition for the Environment, St. Louis.
Community Housing Improvement & Preservation, St. Louis.
Community Housing Ministry, Inc., St. Louis.
Freedom of Residence, St. Louis.
Human Rights Office, Archdiocese of St. Louis, St. Louis.
ILGWU, St. Louis.
Metro Housing Resources, St. Louis.
St. Louis Alliance of Community Based Orgs., St. Louis.
St. Louis Neighborhood Resource Center, St. Louis.

St. Louis Teachers Union, Local 420, St. Louis.
St. Louis Tenants Union, St. Louis.
Soulard Neighborhood Improvement Association, St. Louis.
Southside Welfare Rights Organization, St. Louis.
Tenant Affairs Board, St. Louis.
Ville Area Neighborhood Housing Association, St. Louis.
Washington Heights Neighbors Association, St. Louis.
Youth Education and Health in Soulard, St. Louis.
Ozark Action, Inc., West Plains.

MISSISSIPPI

Mississippi Human Services Coalition.
Mississippi Chapter, Natl. Assn. of Social Workers.
Mississippi Association of Cooperatives.
Mississippi Legal Services Coalition.
Batesville Community Development Organization, Batesville.
Town of Bolton Development Corporation, Bolton.
Delta Housing Development Corporation, Indianola.
Catholic Charities, Inc., Jackson.
Catholic Diocese

MONTANA

Montana Department of Commerce.
Montana Federation of Teachers, AFT, AFL-CIO
Montana State Low Income Organization.
Montanans in Action for People.
Natl. Assn. of Retired Federal Employees, Chap. 876
Northern Plains Indian Housing Authorities Assn.
Northern Indian Housing & Development Council.
Region VIII CAA Association.
United Methodist American Baptist Church.
Salish-Kootenai Housing Authority.
Human Resources Development CCL Directors Assn.
Housing Authority of Billings, Billings.
City of Billings, Billings.
American Association of Retired Persons, Hamilton.
Golden Age Club, Hamilton.
District 4 Human Resources Development Council, Havre.
Low Income Senior Citizens Advocates, Helena.
Northern Cheyenne Housing Authority, Lame Deer.
YWCA Missoula Women in Transition, Missoula.
Child Start, Inc., Missoula.
Human Resources Council, District XI
Light (Low Income Group for Human Treatment), Missoula.
Missoula Housing Authority, Missoula.
Polson Community Development Agency, Polson.
Senior Citizens Association of Ravalli County, Ravalli County.
Ravalli County Council on Aging, Ravalli County.
Ravalli County Head Start, Ravalli County.
Ravalli County Refugee Center, Ravalli County.
Ravalli County Retired Teachers, Ravalli County.

NEBRASKA

Nebraska Chapter, Natl. Assn. of Social Workers.
Nebraska Chapter of Nahro.
Nebraska Chapter Design Center.
Greater Omaha Community Action, Inc., Omaha.
Omaha S&R—Jobs for Progress, Inc., Omaha.
Mercy Housing, Inc., Omaha.
Benson Tower Association, Omaha.
Burt Tower Resident Organization, Omaha.
Evans Tower Happy House Club, Omaha.
Florence Tower 5100 Club, Omaha.
Highland Tower Club, Omaha.
Hilltop-Pleasantview Resident Organization, Omaha.
Jackson 600 Club of Jackson Tower, Omaha.
Lay-Jay Tower Activity Club, Omaha.
Lafern-Williams Center, Omaha.
Logan Fontenelle Homes RDOT, Omaha.
North Omaha Community Development, Omaha.
Park Tower North Resident Association, Omaha.
Park Tower South Social Club, Omaha.
Pine Tower Residents Association, Omaha.
Pleasantview East Tower Club, Omaha.
Pleasantview West Tower Residents Association, Omaha.
Southside Terrace Resident Organization, Omaha.
The Survival Coalition of Omaha, Omaha.
Underwood Tower Association, Omaha.
Urban Housing Foundation, Inc., Omaha.

NORTH CAROLINA

North Carolina Hunger Coalition.
NC Field Program, American Friends Service Cte.
Pine Needle Apartments, Arden.
Consumer Credit Counseling Service, Asheville.
Land-of-Sky Regional Council, Asheville.
Benson Tenant Association, Benson.
New Horizons Task Force, Black Mountain.
Brevard Housing Authority, Brevard.
Low Income Housing Development Corporation, Durham.
Institute for Southern Studies, Durham.
Rural Day Care Association of Northeastern N.C., Elizabeth City.
Community Alternatives to Budget Cuts Task FS, YWCA, Greensboro.
Greensboro Urban Ministry, Greensboro.
NAACP, Greensboro Chapter, Greensboro.
Guilford Native American Association, Guilford.
Hendersonville Housing Authority, Hendersonville.
Western Carolina Community Action, Inc., Hendersonville.
Madison County Housing Authority, Marshall.
Chatham County Housing Authority, Pittsboro.
Pine Ridge Apartments, Skyland.
Johnston County Clients Council, Smithfield.
Northeast Winston Neighborhood Council, Winston-Salem.
Winston-Salem Urban League, Winston-Salem.
Caswell County Section 8 Housing (existing), Yanceyville.

NORTH DAKOTA

Dakota Association of Native Americans.
North Dakota Chapter, Nat'l Ass'n of Social Workers.
Community Action and Development Program, Dickenson.

NEW HAMPSHIRE

New Hampshire Fair Housing Coalition.
Community Action Prog. in Coos, Carroll, Grafton Co.
The Opportunities Center, Canaan.
Ossipee Concerned Citizens, Center Ossipee.
Housing Corporation of the North Country, Franconia.
LISTEN (Lebanon in Service to Each Neighbor), Lebanon
Littleton Community Development Office, Littleton.
Welfare and Unemployment Self-Help Alliance, Littleton.

NEW JERSEY

Nat'l Ass'n of Social Workers, New Jersey.
Fair Housing Council of Northern New Jersey.
New Jersey Housing Finance Agency.
New Jersey Network.
NJ State Ass'n of Housing & Redevelopment Officials.
New Jersey Tenants Organization.
Ramapo Mountain Indians of New Jersey.
Public Housing Authorities Directors Association.
Bergen County Community Development Coalition, Bergen County.
Bergen County Council of Churches, Bergen County.
Bergen County Housing Coalition, Bergen County.
Bergen County NAACP, Bergen County.
Bergen-Passaic Unit, NJ Ass'n for Retarded Citizens, Bergen County.
Community Development Coalition of Bergen County, Bergen County.
Gray Panthers of Bergen County, Bergen County.
Health and Welfare Council of Bergen County, Bergen County.
Housing Authority of Bergen County, Bergen County.
Senior Citizen Clubs of Bergen County, Bergen County.
Urban League of Bergen County, Inc., Bergen County.
Women's Rights Information Center, Bergen County.
YM/YWHA of Bergen County, Bergen County.
St. Thomas the Apostle Social Concerns Committee, Bloomfield.
Camden People's Alliance, Camden.
Camden Rent Control Committee, Camden.
Local 1067, Communications Workers of America, Camden.
Housing Authority Borough of Carteret, Carteret.
East Orange Tenant Association, East Orange.
United Tenants of Elizabeth, Elizabeth.
Englewood Community House, Englewood.
Essex County Housing Coalition, Essex County.
Housing Authority of the Township of Florence, Florence.
Presbyterian Church at Franklin Lakes Mission Comm., Franklin Lakes.
Majestic Lodge No. 153, Hackensack.
Neighborhood Civic Association, Hackensack.
YWCA of Hackensack, Hackensack.
Hudson County National Organization for Women, Hudson County.
Berkeley Tenants Organization, Irvington.
Irvington Tenants Organization, Irvington.
Jersey City Housing Authority, Jersey City.
Jersey City Tenants Committee, Jersey City.
Marion Gardens Community Association, Jersey City.

Mary House Community Center, Jersey City.
Montgomery Gateway Residents Committee, Jersey City.
Office of Campus Ministry, St. Peters College, Jersey City.
Our Lady of Sorrows Parish, Jersey City.
Sisters of St. Joseph of Peace, Jersey City.
South Hudson Evangelical Lutheran Parishes, Jersey City.
Social Concerns Committee, Leonia United Methodist Churches, Leonia.
Housing Authority, Township of Middletown, Middletown.
Montclair Tenants Organization, Montclair.
Morris County Urban League, Inc., Morristown.
Housing Coalition of Middlesex County, New Brunswick.
New Community Corporation, Newark.
Mayor Kenneth Gibson, Newark.
Metropolitan Ecumenical Ministry of Greater Newark, Newark.
Newark Coalition for Neighborhoods, Newark.
Newark Tenants Council, Inc., Newark.
Organization for Community Change, Newark.
United Tenants of Newark, Newark.
Urban Mission Council of the Presbytery of Newark, Newark.
Passaic Housing Authority, Passaic.
Housing Authority of the City of Perth Amboy, Perth Amboy.
Rural Development Corp., Port Norris.
Housing Authority of the Borough of Princeton, Princeton.
South Amboy Housing Authority, South Amboy.
Rehabilitation Contractors Advisory Board, Westmont.

NEW MEXICO

Ixtlan Housing Development Corporation.
New Mexico Coalition for Rural Housing.
New Mexico Help State Office.
New Mexico Hispanic Coalition.
New Mexico Hispanic Housing Coalition.
New Mexico State Housing Authority.
Southwest Area Office, New Mexico Help.
Albuquerque Public Housing Tenants Organization, Albuquerque.
New Mexico Public Interest Research Group, Albuquerque.
Southwest Organizing Project, Albuquerque.
The Tenants Resource Center, Albuquerque.
Albuquerque Welfare Rights Organization, Albuquerque.
City of Albuquerque Housing Authority, Albuquerque.
Home Education and Livelihood Program, Albuquerque.
Min Kantrowitz and Associates, Albuquerque.
Rural Housing, Inc., Albuquerque.
South Broadway Economic Development Corporation, Albuquerque.
Albuquerque Friends Meeting Social Concerns Comm., Albuquerque.
Central Housing Authority, Central.
Deming Self-Help Housing, Deming.
Tierra Del Sol Housing Corporation, Las Cruces.
Community Action Agency of Dona Ana County, Inc., Las Cruces.
Housing Authority of the city of Las Cruces, Las Cruces.
Southern New Mexico Mana, Las Cruces.
Region III Housing Authority, Los Lunas.
Region VI Housing Authority, Roswell.
Region V Housing Authority, Silver City.
Southwest New Mexico Council of Governments, Silver City.
Region VII Housing Authority, Socorro.
Cielo Azul Cooperative Housing Association, Taos.
Sangre De Cristo Housing Corporation, Taos.
Taos County Housing Authority, Taos.

NEVADA

Nevada Chapter, American Civil Liberties Union.
Nevada Chapter, Natl Assn of Social Workers.
Clark County Housing Authority, Las Vegas.
Housing Authority of the City of Las Vegas, Las Vegas.
Housing Authority of the City of Reno, Reno.
Washoe-Mill Apartments, Reno.
Committee to Aid Abused Women (C.A.A.W.), Sparks.

NEW YORK

New York Assn of Renewal & Housing Officials.
NY State Coal of the Concerned for Older Americans.
NY State Displaced Homemaker Program.
W.I.S.H. (Women in Self-Help).
New York Gray Panthers.
New York State Rural Advocates.
New York State Rural Housing Coalition.
New York State Tenant and Neighborhood Coalition.
Seneca Nation Housing Authority.
Statewide Youth Advocacy, Inc.
Association of Eastern Indian Housing Authorities.
Arbor House, Inc., Albany.
United Tenants of Albany, Albany.
Housing Development Council of Orleans County, Albion.
Andover Historical Society Preservation Committee, Andover.
Cayuga County Homesite Development Corporation, Auburn.
Cayuga County Office for the Aging, Auburn.
Kinship Grove Home Program, Inc., Bath.
Housing Action Corporation, Belmont.
The Binghamton Women's Center, Binghamton.
42nd Pct. Community Council, Bronx.
B.R.A.S.H. Development Corporation, Bronx.
Concerned Citizens of East 174th St., Bronx.
Equal Rights Tenant Association, Bronx.
Heat Hunters Tenant Association, Bronx.
Joseph Hall Tenant Organization, Bronx.
South Bronx Action Group, Inc. Housing Advocacy, Bronx.
THDF Corp., Bronx.
Togetherness Housing, Bronx.
Togetherness Realty, Bronx.
Togetherness Tenants League, Bronx.
TRM Corp., Bronx.
Neighborhood Association for Intercultral Affairs, Bronx.
Union & Prospect Block Assocation, Bronx.
Morrisania Revitalization Corporation, Bronx.
Neighborhood Assoc. for Intercultural Affairs, Bronx.
SEBCO Development, Inc., Bronx.
Coal in Defense of Puerto Rican & Hispanic Rights, Bronx.
Gray Panthers, Bronx.
163d Street Improvement Council, Bronx.
Northwest Bronx Community and Clergy Coalition, Bronx.
Brookhaven Local Action Center, Brookhaven.
Anti-Displacement Committee of Boerum Hill/Gowanus, Brooklyn.
Erasmus Neighborhood Federation, Brooklyn.
Flatbush Development Corporation, Brooklyn.
New York City Housing & Community Development Coal, Brooklyn.
Pratt Center for Community and Env. Development, Brooklyn.
South Slope Community Housing Clinic, Brooklyn.
Fifth Avenue Committee, Brooklyn.
Crown Heights Service Center, Brooklyn.
Los Sures, Brooklyn.
Pratt Inst Ctr for Community and Environml Devel, Brooklyn.
Astella Development Corp., Brooklyn.
Midwood Development Corporation, Brooklyn.
Booklyn Hispanic Community Development Org., Inc., Brooklyn.
Jennings Hall Senior Citizen Housing Devel. Corp., Brooklyn.
North Brooklyn Federal Credit Union, Brooklyn.
People's Firehouse, Brooklyn.
St. Nicholas NBHD Preservation & Hsg. Rehab. Corp., Brooklyn.
S.P.R.C., Inc., Brooklyn.
Woman's School of Planning and Architecture, Brooklyn.
Women's Neighborhood Builders, Brooklyn.
Belmont Shelter Corporation, Buffalo.
Buffalo Area Metropolitan Ministries, Inc., Buffalo.
Buffalo Central Homefinders, Buffalo.
Buffalo Federation of Public Housing Tenants, Buffalo.
Catholic Charities of Buffalo, Division of Housing, Buffalo.
Genesee-Moselle Assn. of Interested Neighbors (GAIN), Buffalo.
Housing Assistance Center of Niagara Frontier, Inc., Buffalo.
University Heights Community Development Corp., Buffalo.
Community Planning Assistance Ctr. of Western N.Y., Buffalo.
Division of Housing, Catholic Diocese of Buffalo, Buffalo.
Catskill Mountain Housing Development Corporation, Catskill.
Chric-Chappaqua Home Rehab. & Improvement Corp., Chappaqua.
Project Reach, Inc., Cohocton.
Community Progress, Inc., Corning.
The Salvation Army, Corning.
Cortland Housing Assistance Board, Cortland.
Cuba Community Development Corporation, Cuba.
Frontier Housing Corporation, Inc., Dexter.
Housing Assistance Program of Essex County, Inc., Elizabethtown.
Regional Housing Council of Southern Tier N.Y., Inc., Elmira.
Southern Tier Office of Social Ministry, Elmira.
Family Service Assn. of Nassau County, Hempstead.
Housing Opportunities Made Equal, Hempstead.
Columbia Co. Advocates for Better & Subsidized Hsg., Hudson.
St. Hugh's R.C. Church, Hunt. Station.
Housing Help, Inc., Huntington.
NAACP—Huntington Brnch., Huntington.
People's Resource Center, Huntington.
Unitarian Fellowship of Huntington, Huntington.
American Red Cross, Huntington Region, Huntington.
Keuka Housing Council, Inc., Keuka.

Friendship House Neighborhood Preservation Co., Lackawanna.
Cattaraugus County Neighborhood Preservation Corp., Little Valley.
St. Joseph's Church, Livonia.
Bellport-Hagerman-East Patchogue Alliance, Long Island.
Community Housing Resources BD, LI Bd of Realtors, Long Island.
Community Program Center of Long Island, Long Island.
Day Care Council of Nassau County, Long Island.
Eastern Suffolk Rural Development Corporation, Long Island.
Long Island Council of Churches, Long Island.
Long Island Region of NAACP, Long Island.
Nassau Action Coalition, Long Island.
Nassau County Commission on Human Relations, Long Island.
Nassau Division, Natl. Assn. of Social Workers, Long Island.
Nassau Housing Development Corporation, Long Island.
Presbytery of Long Island, Public Issues Ministry, Long Island.
Suburban Housing Development & Research, Inc., Long Island.
Suffolk Action Coalition, Long Island.
Suffolk Community Development Corporation, Long Island.
Suffolk Housing Services, Long Island.
Urban League of Long Island, Long Island.
Community Action in Self Help, Inc. Lyons.
Wayne County Housing Coalition, Lyons.
Good Old Lower East Side, Manhattan.
Housing Conservation Coordinators, Manhattan.
Inwood Preservation Corporation, Manhattan.
Lenox Hill Neighborhood Association, Manhattan.
Assn of Community Living Administrators in Mental Health, Melville.
St. Elizabeth R.C. Church, Melville.
Jane Grey Center, Mount Morris.
Swan Senior Center, Mount Morris.
Upper South Street Senior Housing, Inc., Mount Morris.
Mount Vernon United Tenants, Mount Vernon.
L.A.N.D. (Local Action for NBHD Devel), New York.
All People's Garden, Inc., New York.
Catholic Charities, New York.
Consumer-Farmer Foundation, New York.
Eastside SRO Legal Services Project, New York.
Housing Committee, United Neighborhood Housing, New York.
Lower East Side Coalition Housing Develop., Corp., New York.
Lower Manhattan Loft Tenants, New York.
Manhattan Valley Development Corporation, New York.
Metropolitan Center for Resource and Advocacy, New York.
New York City Coalition on Housing for Disabled People, New York.
New York City Council Member Ruth W. Messinger, New York.
New York Housing Conference, New York.
NY Neighborhood Anti-Arson Center, New York.
OFS of NBHD Preservation-Catholic Charities, New York.
Metropolitan Center for Resource & Advocacy, New York.
Holy Cross Church, New York.
The Dome Project, Inc., New York.
Stryckers Bay Neighborhood Council, New York.
Housing Committee, N.A.S.W. New York Chapter, New York.
Project Dorot, New York.
Catholic Charities Archdiocese, New York.
Operation, Open City, New York.
Community League, New York.
Clinton Housing Development Corporation, New York.
Settlement Housing Fund, New York.
N.E.R.V.E., New York.
UHAB (Urban Homesteading Assistance Board), New York.
Association of Neighborhood Housing Developers, New York.
East Harlem Council for Human Services, New York.
Coalition for the Homeless, New York.
Union of City Tenants, New York.
Holy Name of Jesus Church, New York.
Metropolitan Action Institute, New York.
Accion Latina, New York.
Association of Neighborhood Housing Developers, New York.
Center for Independence of the Disabled, New York.
Coalition for an Equitable Region, New York.
Disabled in Action, New York.
Erasmus Neighborhood Federation, New York.
Independent Living for the Handicapped, New York.
Metro North Association, New York.
Metropolitan Council on Housing, New York.
Mobility Through Access, New York.
Mobilization Against Displacement (MAD), New York.
Pueblo Nuevo Housing and Development, Inc., New York.
Regional Housing Council, New York.
Prospect-Lefferts Garden, New York.
Task Force on City Owned Property, New York.
The Renegades, New York.
United Neighborhood Houses, New York.
United Tenants Association, New York.
Urban Homesteading Assistance Board, New York.
West Harlem Community Organization, Inc. New York.
East Side Neighborhood Organization for Development, New York.
Newark Housing Authority, Newark.
Hope Village Inc., A Cooperative Community, North Rose.
Housing Authority of North Syracuse, North Syracuse.
Chenango Housing Improvement Program, Norwich.
St. Joseph's Human Development Committee, Penfield.
Hudson River Presbytery, Committee/Ministry/Aging, Pleasantville.
Human Development Services of Port Chester, Inc., Port Chester.
Brookhaven Senior Citizens for Housing, Inc., Port Jefferson.
Suffolk Interreligious Coalition for Housing, Port Jefferson.
Gray Panthers, Queens.
Riverhead Local Action Center, Riverhead.
Action for a Better Community, Inc., Rochester.
Assn of Religious Educators, Diocese of Rochester, Rochester.
Baden Street Settlement, Rochester.
Bishop Sheen Ecumenical Housing Foundation, Rochester.
Blessed Sacrament Human Development Committee, Rochester.
Catholic Charities, Diocese of Rochester, Rochester.
Catholic Family Center of Rochester, Rochester.
Choeotate City Neighborhood Association, Rochester.
Danforth Tower West Tenant Assoc., Rochester.
Dept of Justice & Peace, Diocese of Rochester, Rochester.
Eastside Community Center of Rochester, Inc., Rochester.
Exec BD of American Baptist Churchs of Monroe Assn., Rochester.
Farmworker Legal Services, N.Y., Rochester.
Housing Council in the Monroe County Area, Inc., Rochester.
Ibero-American Housing Co., Rochester.
I.H.S. (Integrating the Handicapped Into Society), Rochester.
Market View Heights Association Inc., Rochester.
Matthew H. Clark, Bishop of Rochester, Rochester.
Monroe Co. Coord GRP on Developmental Disabilities, Rochester.
Monroe County Housing Commission, Rochester.
Office of Black Ministries, Catholic Diocese, Rochester.
Office of Social Ministry, Diocese of Rochester, Rochester.
Rochester Area Labor and Religion Conference, Rochester.
Rochester Center for Independent Living, Inc., Rochester.
Rochester Housing Authority, Rochester.
Rochester Housing Authority Tenant Assoc., Rochester.
Saints Peter and Paul Church, Rochester.
St. Augustine's Church, Rochester.
St. Boniface R. C. Church, Rochester.
St. Bridget's Church, Rochester.
The Rt. Rev. Robert R. Spears Jr., Episcopal Diocese, Rochester.
Urban Strategy Committee, Episcopal Diocese, Rochester.
Women's Prison Project of Western New York, Rochester.
St. John Evangelist Parish Human Development Comm., Rochester.
N.E.B.C.A., Inc., Rochester.
Danforth Towers West Tenant Association, Rochester.
Genesee Ecumenical Ministries, Rochester.
St. Rita's Catholic Church, Rochester.
Baynton Street Center, Rochester.
Metro-Act of Rochester, Rochester.
Monroe County Coalition for Welfare Justice, Rochester.
Northeast Block Club Alliance, Rochester.
Office of Human Development of Catholic Diocese, Rochester.
Regional Council on Aging, Rochester.
Urban League of Rochester, Inc., Rochester.
Human Development Office, Diocese of Rockville Ctr., Rockville Center.
Women's Round Lake Improvement Society, Inc., Round Lake.
Carver Community Center of Schenectady, N.Y., Inc., Schenectady.
St. Lawrence County Housing Council, Inc., St. Lawrence Co.
SCCAP (Steuben County Church People Against Poverty), Steuben County.
Stoneleigh Housing, Inc., Stoneleigh.
Rural Sullivan County Housing Opportunities Co., Inc., Sullivan County.
Westside Inner City Assn., Syracuse.
City of Syracuse, Syracuse.
Plan/Build, Inc., Syracuse.

Raymond, Parish, Pine & Wiener, Inc., Tarrytown.
Center for Community Development and Pres., Inc., Tarrytown.
Tioga Opportunities Program, Tioga.
Better Housing for Tompkins, Tompkins.
Rural Ulster Preservation Corporation, Ulster.
Utica Community Action, Urban Homesteading Program, Utica.
Episcopal Church of the Good Shepherd, Webster.
St. Paul's Church Human Development Committee, Webster.
Center for Community Design, White Plains.
Housing Action Council, White Plains.
Wyandanch Community Development Corporation, Wyandanch.

OHIO

Ohio Chapter, Natl. Assn. of Social Workers.
Ohio Coalition for a Fair Budget.
Ohio Rural Housing Coalition.
Ohio Fair Housing Congress.
Ohio Rural Housing Coalition.
Ohio Citizens Council.
Mary Chapman Community Center, Ashtabula.
Advisory Board of Southeastern Ohio Legal Services, Athens.
Athens Food Co-Op, Athens.
Carriage Hill Tenants Union, Athens.
Corporation for Ohio Appalachian Development, Athens.
Fact (Federation of Athens County Tenants), Athens.
Geauga County Advisory Council on Aging, Chargin Falls.
Community Development/Transportation Committee, Chardon.
Geauga County Community Development Department, Chardon.
Geauga County Department on Aging, Chardon.
Geauga County Welfare Department, Chardon.
Geauga Metropolitan Housing Authority, Chardon.
Provincial Council, Srs. of St. Joseph of Medaille, Cincinnati.
Contact Center, Cincinnati.
Ebcon, Inc., Cincinnati.
People Against Displacement, Cincinnati.
Sisters of St. Joseph of Medaille-Provincial CCL, Cincinnati.
Walnut Hills Area Council, Cincinnati.
Walnut Hills Redevelopment Foundation, Cincinnati.
Dominican Community Services, Cincinnati.
Cincinnati Branch, NAACP, Cincinnati.
Communities United for Action, Cincinnati.
Community Action of Cincinnati, Cincinnati.
Bold Ladies of Distinction Council, Cincinnati.
Free Store, Cincinnati.
Housing Opportunities Made Equal, Cincinnati.
Phact (Public Hsg. Action Cte. Church-Tenants), Cincinnati.
The Women's City Club of Greater Cincinnati, Cincinnati.
Victory Neighborhood Center, Cincinnati.
West College Hill Civic Association, Inc., Cincinnati.
West College Hill Neighborhood Services Project, Cincinnati.
Bradley County Chapter of the NAACP, Cleveland.
Center for Neighborhood Development, Cleveland.
Commission on Catholic Community Action, Cleveland.
Cuyahoga Metropolitan Housing Authority, Cleveland.
Housing Advocates, Inc., Cleveland.
Cleveland's Nonprofit Apartment Management Company, Cleveland.
Alter Social Settlement, Cleveland.
Chagrin Falls Park Community Center, Cleveland.
Cleveland Center for Neighborhoods, Cleveland.
Goodrich-Gannett Neighborhood Center, Cleveland.
Harvard Community Service Center, Inc., Cleveland.
Katherine R. Tyler Neighborhood Center, Inc., Cleveland.
Lexington Square Community Center, Cleveland.
Utheran Housing Corporation, Cleveland.
Merrick House, Cleveland.
Morningstar Grand Chapter, Order of Eastern Star, Cleveland.
Phyllis Wheatley Association, Cleveland.
The Housing Advocates, Inc., Cleveland.
University Settlements, Cleveland.
Westside Community House, Cleveland.
Housing Our People Economically, Cleveland.
Children's Defense Fund of Ohio, Columbus.
Godman Guild Settlement, Columbus.
Near Northside Neighborhood HSG & Development Corp, Columbus.
Housing Opportunities Center, Columbus.
Perry County Metropolitan Housing Authority, Crooksville.
Social Workers Guild, Dayton.
Miami Valley Regional Planning Commission, Dayton.
Homes/Casas, Inc., Fremont.
Allen Metropolitan Housing Authority, Lima.
Churchpeople for Change and Reconciliation, Lima.
Mizpah Community Center, Lima.
Rehab Project, Lima.
Allen County Council on Aging, Lima.
El Centro de Servicios Sociales, Inc., Lorain.
EJS Enterprises, Inc., Toledo.
House My People, Inc., Toledo.
Mareda, Inc., Toledo.
Offices of Community Relations, Catholic Diocese of Toledo, Toledo.
Catholic Office of Community Relations, Diocese, Toledo.
North East & West Community Organization, Warren.
Warren-Trumbull Urban League, Warren.
AFL-CIO Community Services, Warren.
Queen Esther Chapter Number 9, Order of Eastern Star, Warren.
Surge Household Technicians, Warren.
Warren Interfaith Community Action, Warren.
Warren-Trumbull Community Service Agency, Warren.
Warren-Trumbull County Welfare Rights Orginization, Warren.
Warren-Trumbull Urban League, Warren.
Village of Darbyville, Williamsport.
Greene Metropolitan Housing Authority, Xenia.
Northeast Ohio Clients Council, Youngstown.
Northeast Ohio Legal Services, Youngstown.
Northeast Ohio Housing Coalition, Youngstown.
Citizens Advisory Board, Youngstown Community Development Agency, Youngstown.
East Wick Park Citizens Committee, Youngstown.
Human Services Under Welfare Rights, Mahoning Co., Youngstown.
Mahoning County Council on Aging, Youngstown.
Northeast Ohio Senior Citizens Council, Youngstown.
Senior Information and Referral Center, Youngstown.
Youngstown Area Consumer Advisory Council, Youngstown.
Youngstown Area Urban League, Youngstown.
Youngstown Office of Consumer Affairs, Youngstown.
Housing Development Corporation of Oklahoma.
N.A.A.C.P. of Oklahoma.

OKLAHOMA

ACORN.
Oklahoma Coalition for Citizens With Disabilities.
Oklahoma Council for the Blind.
Oklahoma Legal Aid and Defender Association.
National Conference of Black Lawyers, Oklahoma Chapter.
Southwest Oklahoma Community Action Group, Altues.
Washita Valley Community Action Council, Chickasha.
Midwest Mutual Housing, Inc., Clinton.
Washington-Lowater Community Action Program, Dewey.
Big Five Community Services, Inc., Durant.
Rural Enterprises Community Action Program, Frederick.
Little Dixon Community Action Agency, Hugo.
Great Plains Improvement Foundation, Lawton.
Muskogee County Community Services Program, Muskogee.
Twin Rivers County Community Action Foundation, Okemah.
Community Action Program of Oklahoma City and County, Oklahoma City.
Harrison-Walnut Neighborhood Organization, Oklahoma City.
Innovative Programs for the Handicapped, Oklahoma City.
JFK PAC, Inc., Oklahoma City.
Legal Aid of Western Oklahoma, Oklahoma City.
Metro Fair Housing Council, Oklahoma City.
Neighbor for Neighbor, Oklahoma City.
Neighborhood Services Organization, Oklahoma City.
Oklahoma City Northeast, Inc., Oklahoma City.
Oklahoma City Housing Authority, Oklahoma City.
Urban League of Greater Oklahoma City, Oklahoma City.
Metropolitan Mutual Housing, Inc., Oklahoma City.
Neighborhood Association of the Harrison-Walnut Area, Oklahoma City.
Office of Handicapped Concerns, Oklahoma City.
Deep Fork Tour Community Action, Okmulgee.
United Community Action Program, Pawnee.
Northeast Oklahoma Community Action Agency, Pincher.
Northeast Technical Assistance Project, Pryor.
Delta Community Action Foundation, Purcell.

Purcell Housing Development Corporation, Purcell.
Action, Inc., Shawnee.
Kibion Community Action Association, Stickler.
Payne-Noble Community Action Foundation, Stillwater.
Cookson Heights Community Action Foundation, Tahlequah.
Inca Community Services, Inc., Tishomingo.
Catholic Social Services, Tulsa.
Credit Counseling, Tulsa.
Human Rights Department, City of Tulsa, Tulsa.
Project Get-Together, Tulsa.
Tulsa Area United Way, Tulsa.
Tulsa Community Action Agency, Tulsa.
Tulsa Housing Authority, Tulsa.
Tulsa Urban League Housing Counseling, Tulsa.
Eastern Oklahoma Housing Development Corporation, Vian.
WA-Roma Tricounty Community Action Foundation, Wagner.
Opportunities, Inc., Watunga.

OREGON

Oregon Progressive Agenda.
Oregon Rural Housing Coalition.
Cascade Chapter of Nahro.
Southwestern Oregon Community Action Committee.
Clatsop-Tillamook County Housing Authority, Astoria.
Northwest Oregon Housing Association, Astoria.
Presbyterian Action for Housing Development, Cottage Grove.
Polk County Housing Authority and Urban Renewal Agency, Dallas.
Homestead Housing Inc., Eugene.
Lane County Clients Council, Eugene.
Neighborhood Economic Development Corp., Eugene.
Lane County Clients Council, Eugene.
Clackamas County Community Action Agency, Gladstone.
Housing Options for Clackamas County, Inc., Marylhurst.
Community Action Agency of Yamhill County, Inc., McMinnville.
Housing Authority of the County of Clackamus, Milwaukie.
Oregon Legal Services, Oregon City Regional Office, Oregon City.
Oregon Legal Services—Oregon City Office, Oregon City.
Umatilla Reservation Housing Authority, Pendleton.
Ecumenical Ministries of Oregon, Portland.
Marion-Polk-Yamhill Council on Aging, Salem.
Salem Nonprofit Housing, Inc., Salem.
Energy Program, Mid-Willamette Community Action Agency, Salem.
Southern Washington and Oregon Chapter, Nahro, Salem.
Housing Advisory Committee, City of Salem, Salem.
Meadowlark Village Tenant Association, Salem.
Pringle Creek Tower Tenant Association, Salem.
Shelton Village Tenant Association, Salem.
Community Action Team, Inc. of Columbia County, Scappoose.
Liffe, St. Helen.
Columbia County Housing Authority, St. Helens.
Housing Development Corporation of Washington, Co., Washington County.

PENNSYLVANIA

Pittsburgh Commission on Human Relations.
Pennsylvania Rural Housing Coalition.
Pennsylvania Rural Housing Coalition.
Hispanic American Organization, Allentown.
Tabor Community Services, Inc., Columbia.
Coalition of Religious and Civic Organizations, Easton.
Mercer Co. Community Action Agency, Farrell.
H.W.R. Southwest Gardens Center, Farrell.
Farrell Redevelopment Authority, Farrell.
City of Farrell, Farrell.
Shenango Valley Urban League, Inc., Farrell.
Mercer County Blind Association, Hermitage.
Mercer County Crippled Children and Adults Association, Hermitage.
Mercer County Association for the Retarded, Inc., Hermitage.
Mercer County CAO, Hermitage.
La Casa Del Pueblo, Inc., Kennett Square.
Family and Children's Service of Lancaster County, Lancaster.
Housing Development Corporation of Lancaster Co., Lancaster.
Lancaster YWCA, Lancaster.
Tabor Community Services, Inc., Lancaster.
Housing Opportunities, Inc., McKeesport.
Concerned Citizens of Southwest Pennsylvania, Monessen.
CCAC Boyce Campus Women's Center, Monroeville.
Greater Germantown Housing Development Corporation, Philadelphia.
Lutheran Social Mission Society of Philadelphia, Philadelphia.
Philadelphia Community Rehabilitation Corporation, Philadelphia.
Southwark Eastern Neighborhood Enterprises, Philadelphia.
West Oak Lane Community Development Corporation, Philadelphia.
Wister Neighborhood Council-NBHD Advisory Community, Philadelphia.
Tenant Action Group, Philadelphia.
Advocate Community Development Corporation, Philadelphia.
Allegheny West Foundation, Philadelphia.
Allison Street Neighbors, Philadelphia.
Aspira, Philadelphia.
Associated Day Care Program, Philadelphia.
Belfield Area Neighbors, Philadelphia.
Citizens of Tioga-Nicetown, Philadelphia.
Citywide Conference of Neighborhood Advisory CTE, Philadelphia.
Coaltion of Minority Contractors, Philadelphia.
Cobb's Creek Neighborhood Advisory Committee, Philadelphia.
Community Development Through Youth Services, Philadelphia.
Community Homes, Inc., Philadelphia.
Consumer Caucus for Neighborhood Energy Planning, Philadelphia.
Delaware Valley Chapter of Nahro, Philadelphia.
Determination, Inc., Philadelphia.
East Poplar Neighborhood Advisory Council, Philadelphia.
Federation Housing, Inc., Philadelphia.
First African Presbyterian Church, Philadelphia.
Fishtown Civic Association, Philadelphia.
Friends Suburban Project CTE, Philadelphia Yearly Meeting, Philadelphia.
Germantown Homes Inc., Philadelphia.
Germantown Settlement, Philadelphia.
Grace Lutheran Church, Philadelphia.
Gray Smith's Office, Philadelphia.
Hartranft Community Corporation, Philadelphia.
Haverford North Community Organization, Philadelphia.
Housing Association of Delaware Valley, Philadelphia.
Housing Council, Action Alliance of Senior Citizens, Philadelphia.
Human Services Center of Mantua, Philadelphia.
Hunting Park Community Development Corporation, Philadelphia.
Institute for the Study of Civic Values, Philadelphia.
Jewish Energy Project, Philadelphia.
Kensington Action Now, Philadelphia.
Kensington Council on Black Affairs, Philadelphia.
Kensington Neighbors United Civic Association, Philadelphia.
Mantua Community Planners, Philadelphia.
Mantua Scattered Site Tenant Council, Philadelphia.
Mid-West Oak Lane Civic Association, Philadelphia.
National Temple Baptist Community Development Corp., Philadelphia.
Neighborhood Development Alliance, Philadelphia.
Neighborhood Action Bureau, Philadelphia.
New Jewish Agenda, Philadelphia.
North Central Community Development Corporation, Philadelphia.
Northwest Interfaith Movement, Philadelphia.
Northwood Community Council, Philadelphia.
Ogontz Area Neighbors, Philadelphia.
Open, Inc., Philadelphia.
Percy, Philadelphia.
Philadelphia Acorn, Philadelphia.
Phila. Chapter, American Institute of Architects, Philadelphia.
Philadelphia Community Rehabilitation Corporation, Philadelphia.
Philadelphia Corporation for the Aging, Philadelphia.
Philadelphia Council of Neighborhood Organizations, Philadelphia.
Point Breeze Federation, Inc., Philadelphia.
Resident Advisory Board, Philadelphia.
Sene, Philadelphia.
Source Works, Inc., Philadelphia.
Southeast Asian Project, Philadelphia.
St. Barnabas Church, Philadelphia.
Taller Puertoricanos, Philadelphia.
The Lighthouse, Philadelphia.
United Nubian Society, Philadelphia.
Walnut Hill Community Development Corporation, Philadelphia.
West Philadelphia Inner City Network, Philadelphia.
Westside Neighborhood Council, Philadelphia.
Youth in Action, Philadelphia.
Youth in Community Service, Philadelphia.
ACORN, Pittsburgh.
Action-Housing, Inc., Pittsburgh.
Allegheny County Council on Civil Rights, Pittsburgh.
Allegheny County Department of Development, Pittsburgh.
Americans for Democratic Action, Western Pa. Chaptr., Pittsburgh.
Bureau for Social Programs & Community Action, Pittsburgh.

Council of Three Rivers American Indian Center, Pittsburgh.
Councilman Ricard E. Givens, Chairman, Pittsburgh.
Councilman William Russell Robinson, Chairman, Pittsburgh.
Domiciliary Care Program, Pittsburgh.
Families in Transition, Pittsburgh.
Hill Com. Housing Corporation, Pittsburgh.
Hill District Citizens Development Corporation, Pittsburgh.
Hon. K. Leroy Irvis District Office, Pittsburgh.
Metropolitan Tenants Organization, Pittsburgh.
Neighborhood Centers Association, Pittsburgh.
Northside Tenant's Reorganization, Pittsburgh.
Pittsburgh Area Chapter, N.A.H.R.O., Pittsburgh.
Pittsburgh Free Clinic, Pittsburgh.
Refugee Resettlement Office, Pittsburgh.
Thomas Merton Center, Pittsburgh.
Transportation Land Use Action Committee, Pittsburgh.
University of Pittsburgh, Pittsburgh.
Urban League of Pittsburgh, Pittsburgh.
Woman's Center and Shelter, Pittsburgh.
Y.M.C.A. of Greater Pittsburgh, Pittsburgh.
Pittsburgh Presbytery Committee on Aging, Pittsburgh.
Pittsburgh Architects Workshop, Pittsburgh.
The Thomas Merton Center, Pittsburgh.
Allegheny County Health Department, Pittsburgh.
American Jewish Committee, Pittsburgh.
County Health Advocacy Network, Pittsburgh.
Low Income Housing Coalition, Pittsburgh.
Southeast Asian Resettlement Program, Pittsburgh.
School of Social Work, University of Pittsburgh, Pittsburgh.
The Association of Priests, Pittsburgh.
The Bureau for Social Programs & Community Action, Pittsburgh.
United Cerebral Palsy, Pittsburgh Office, Pittsburgh.
Western Pennsylvania Fair Budget Coalition, Pittsburgh.
Berks Rural Housing, Inc. Reading.
City of Sharon, Sharon.
Redevelopment Authority of Sharon, Sharon.
Catholic Social Services, Sharon.
W/ARE, Inc., Sharon.
Shenango Valley Board of Realtors, Sharon.
Calcon Gardens Tenant Council, Sharon Hill.
Fayette County Planning Commission, Uniontown.
Citizens Concerned for a Better Community, Williamsport.
Growth, a Center for Displaced Homemakers, York.

RHODE ISLAND

Church-Community Corporation, Newport.
Women's Institute for HSG & Economic Development, Newport.
McAuley House, Providence.
St. Michael's Parish, Providence.

SOUTH CAROLINA

Ballou, William (Administrator Columbia HSG. Auth.).
NAACP of South Carolina.
Network of South Carolina.
South Carolina ACORN.
South Carolina Chapter, Nat'l Assn. of Soc. Workers.
South Carolina Fair Budget Coalition.
South Carolina Legal Services Association.
South Carolina Committee Against Hunger.
South Carolina Committee Against Hunger.
Network of South Carolina.
National Organization for Women, South Carolina.
Rural South Carolina Coalition.
South Carolina Housing Coalition.
People Actively Concerned (PAC), Beaufort.
Catholic Charities, Charleston.
African Methodist Episcopal Church of SC, Columbia.
CTZNS for Advancement of the Physically Handicapped, Columbia.
SEPEP (Southeastern Public Education Program) Columbia.
The Human Endeavor, Columbia.
Southeastern Public Education Program, Columbia.
Columbia Housing Authority, Columbia.
Midlands Housing Coaliton, Columbia.
Greenville Urban League, Greenville.
Dowshag Community Organization, Greenville.
Gower Street Community Organization, Greenville.
Southernside Block Partnership Organization, Greenville.
Western Carolina Clients Council, Greenville Chap. Greenville.
Community Care, Inc., Jenkinsville.
Fairfield United Action, Jenkinsville.
Rural Mission, Inc., John's Island.
Northside Community Organization, Spartanburg.
Northside Tenants Association, Spartanburg.
Spartanburg Clients Council, Spartanburg.
Spartanburg Clients Council, Spartanburg.
Wake Up (Work Action for Key Efforts in Unitg PPL), Spartanburg.
Wateree Community Actions, Inc., Sumter.

SOUTH DAKOTA

ACORN.
Interlakes Community Action Agency, Madison.
Western South Dakota Community Action, Rapid City.
Southeastern Human Development Corporation, Sioux Falls.

TENNESSEE

Tennessee ACORN.
Tennessee Chapter, Nat'l Assn. of Social Workers.
Presbytery of West Tennessee, Humboldt.
Mountain Women's Exchange, Jellico.
Coalition for Appalachian Ministry, Knoxville.
East Tennessee Community Design Center, Knoxville.
Committee on Religion in Appalachia, Knoxville.
Memphis Area Legal Services, Memphis.
Nashville Branch, NAACP, Nashville.
The Nashville Urban League, Nashville.
Edgehill United Methodist Church, Nashville.
Nashville Clergy and Laity Concerned, Nashville.
Nashville Urban League, Nashville.
YMCA, Nashville, Nashville.
Appalachia Mountain Housing, Robbins.
Tennessee Housing Coalition, Tullahoma.

TEXAS

Anti-Hunger Coalition of Texas.
Texas Mexican-American Rural & Urban Coalition.
Texas Tenants Union.
Texas ACORN.
Texas Consumer Association.
Texas Tenants Union.
Austin Tenant's Council, Austin.
Black Citizens Task Force, Austin.
Blackshear Residents Organization, Austin.
Clarksville Community Development Corp., Austin.
Govalle Ass'n for Survival, Austin.
Guadalupe Neighborhood Association, Austin.
Marshall Apartments Tenant Association, Austin.
Austin ACORN, Austin.
Austin Gray Panthers, Austin.
Barrio Unido, Austin.
Black Citizens Task Force, Austin.
Buena Vista Neighborhood Association, Austin.
El Concilio De East Town Lake Citizens, Austin.
Rainey Street Neighborhood Association, Austin.
Housing Authority, City of Baytown, Baytown.
Clarksville Community Development Corporation, Clarksville.
Clarksville Neighborhood Advisory Board, Clarksville.
Dallas Tenants' Association, Dallas.
East Dallas Tenants' Alliance, Dallas.
City of Donna, Donna.
Edinburg County Board of Commissioners, Edinburg.
Campagn Pro Perservacion Del Barrio, El Paso.
Southside Low Income Housing Development Corp., El Paso.
Butler Housing Residents Association, Fort Worth.
Houston Unit of the Texas Chapter, NASW, Houston.
Winter's Interest Group, Houston.
Houston Housing Development Corporation, Houston.
Asociacion Pro Servicios Sociales, Inc., Laredo.
National Council of La Raza, Mcallen Office, Mcallen.
San Antonio Renters Guild/Texas Tenants' Union, San Antonio.
Housing Authority of the City of San Antonio, San Antonio.
San Juan Board of City Commissioners, San Juan.
Community Action Agency, San Marcos.
Victory Garden Neighborhood Association, San Marcos.

UTAH

Utah Single Parent Coalition.
NAHRO, Utah Chapter.
Utah Housing Coalition.
Davis County Housing Authority, Farmington.
The Kier Corporation, Ogden.
Crossroads Urban Center, Salt Lake City.
Tenant Association for Better Housing, Salt Lake City.
Utah Issues, Salt Lake City.
Women Standing Alone (WSA), Salt Lake City.
Working Group for Community Development Reform, Salt Lake City.
Assist, Inc., Salt Lake City.
University Single Parent Coalition, Salt Lake City.

Whitmore Management Corporation, Salt Lake City.

VIRGINIA

Robert Pierre Johnson Housing Development Corp.
Virginia Ass'n of Nonprofit Homes for the Aging.
Virginia Housing Coalition.
Virginia Housing Development Authority.
Virginia Water Project.
ARHA Tenants Council, Alexandria.
Wesley Housing Development Corp., of Northern VA., Alexandria.
Alexandria Housing Coalition, Alexandria.
Southwest Virginia Housing Coalition, Appalachia.
Culpepper Garden H.A., Arlington.
Colonial Village Tenants Association, Arlington.
Tenants of Arlington County, Arlington.
Virginia Mountain Housing Inc., Blacksburg.
Warm Hearth, Inc., Blacksburg.
Monticello Area Community Action Agency, Charlottesville.
Charlottesville Housing Foundation, Charlottesville.
CHIP—Charlottesville Home Improvement Program, Charlottesville.
Clients Council, Legal Aid Soc., of New River Valley, Christiansburg.
Emmett Retirement Complex, Inc., Clifton Forge.
Guildfield Housing Development Corp., Danville.
Scott County Citizens for Better Housing, Gate City.
New Community Housing Enterprises, Gretna.
Isle of Wight Civic League, Isle of Wight Co.
Isle of Wight Chapter, N.A.A.C.P., Isle of Wight Co.
Robin Hood Tenant Association, Norfolk.
Eastern Shore Committee for Better Housing, Onley.
Tri-County Housing Corporation, Pennington GAP.
Wesley Center, Portsmouth.
Southside Forum, Portsmouth.
Environmental Design Group Inc., Architects, Reston.
Richmond Tenant Organization, Richmond.
Fulton Tenant Council, Richmond.
Hillside Tenant Council, Richmond.
Dove Court Tenant Council, Richmond.
Gilpin Tenant Council, Richmond.
Blackwell Tenant Council, Richmond.
Creighton Tenant Council, Richmond.
Whitcomb Tenant Council, Richmond.
Fairfield Tenant Council, Richmond.
Maymont/Randolph Civic Association, Richmond.
Northwest Improvement Council, Roanoke.
Southeast Rural Community Assistance Program, Roanoke.
Total Action Against Poverty, Roanoke.
Better Housing for Halifax, Inc., South Boston.
The Independent Voters League, Suffolk.
Concerned Citizens of Suffolk, Suffolk.
Tidewater Coalition for a Fair Budget, Virginia Beach.
Wise County Housing Coalition, Wise.

VERMONT

Vermont Fair Housing Coalition.
Vermont State Housing Authority.
Central Vermont Council on Aging.
Common Cause of Vermont.
Department of Housing and Community Affairs.
Northeast Vermont Area Agency on Aging.
Pectonics, Inc.
Vermont Alliance.
Vermont Cap Association.
Vermont Coalition on Handicapped.
Vermont Community Housing Services.
Vermont Federation of Teachers, AFT, AFL-CIO.
Vermont Housing Finance Agency.
Vermont Office on Aging.
Vermont State Labor Council, AFL-CIO.
Vermont Labor Forum.
Vermont Tenants, Inc.
VPIRG—Vermont Public Interest Group.
Central Vermont Community Action Council, Barrie.
Homestead Housing and Development Corporation, Bellows Falls.
Bennington-Rutland Opportunity Council, Bennington.
Champlain Valley Office of Economic Opportunity, Burlington.
King Street Revitalization Corporation, Burlington.
South Square Association Ventess, Inc., Burlington.
Northern Cooperative Resource, Montpelier.
Northeast Kingdom Community Action, Newport.
Springfield Fair Housing Coalition, Springfield.
United Electrical, Radio & Machine Workers of Am., Springfield.
St. Alban's Community Housing Group, St. Johnsbury.
Abnaki Self-Help Association, Swanton.

WASHINGTON

Washington Energy Project.
Washington State NAHRO.
Washington Rural Housing Coalition.
Northwest Regional Foundation.
Puget Sound Chapter of NAHRO.
Grays Harbor C.A.C., Aberdeen.
Stillaquamish Senior Center, Arlington.
Auburn Senior Center, Auburn.
Auburn People First, Auburn.
Bellevue People First, Bellevue.
Bellingham Senior Center, Bellingham.
Bellingham People First, Bellingham.
Whatcom County Opportunity CNC, Bellingham.
Bellingham/Whatcom County Housing Authority, Bellingham.
Gray Panthers of the Fourth Corner, Bellingham.
Lummi Indian Housing Authority, Bellingham.
Bellingham City Housing Authority, Bellingham.
Whatcom County Central Labor Council, Bellingham.
Whatcom County Community Development Department, Bellingham.
Whatcom County Housing Authority, Bellingham.
Northshore Multi Service Center, Bothell.
Bremerton People First, Bremerton.
Kitsap C.A.C., Bremerton.
Bremerton City Housing Authority, Bremerton.
Centralia/Chehalis People First, Chehalis.
Lewis County Parks and Recreation, Chehalis.
Chelan/Douglas Council on Aging, Chelan.
Clallam County Housing Authority, Clallam County.
Clarkston People First, Clarkston.
Asotin County Housing Authority, Clarkston.
N.E. Wa Rural Resources Development Assn, Colville.
Nooksak Indian Housing Authority, Deming.
South County Senior Center, Edmonds.
Ellensburg People First, Ellensburg.
Kittitas C.A.C., Ellensburg.
Kittitas County Housing Authority, Ellensburg.
Everett Senior Center, Everett.
Everett People First, Everett.
C.A.C. of Snohomish County, Everett.
Senior Opportunity Center of Snohomish, Everett.
Dujardin Custom Homes, Everett.
Everett City Housing Authority, Everett.
Everett Planning Department Authority, Everett.
Federal Way Senior Citizens, Federal Way.
Federal Way People First, Federal Way.
Shelter America Corporation, Federal Way.
San Juan Senior Center, Friday Harbor.
Hoquian Multi Purpose Center, Hoquiam.
Pace Nutrition, Ilwaco.
Kelso Department of Community Development, Kelso.
Kennewick Senior Center, Kennewick.
Tricities People First, Kennewick.
Dept of Planning and Community Development, Kennewick.
Kennewick Housing Authority, Kennewick.
Kennewick Department of Community Development, Kennewick.
Kent Parks Senior Center, Kent.
South King County Multi-Service Center, Kent.
Kirkland Senior Center, Kirkland.
Kitsap County Housing Authority, Kitsap County.
Senior Services of Island County, Langley.
Lower Columbia C.A.C., Longview.
Longview City Housing Authority, Longview.
Lower Columbia CAC, Longview.
Lopez Senior Center, Lopez.
Lynden Community Center, Lynden.
East County Senior Center, Monroe.
Grant County C.A.A., Moses Lake.
Grant County Housing Authority, Moses Lake.
Mount Lake Terrace City Housing Authority, Mount Lake Terrace.
Skagit County C.A.A., Mount Vernon.
Chehalis Tribal Housing Authority, Oakville.
Okanogan CAC, Okanogan.
Okanogan County Senior Citizen Services, Okanogan.
Okanogan Senior Citizens, Inc., Okanogan.
Olympia People First, Olympia.
Mason-Thurston C.A.C., Olympia.
Omak Senior Center, Omak.
Oroville Senior Center, Oroville.
Othello Senior Center, Othello.
Pasco/Franklin County Senior Center, Pasco.
Benton-Franklin Community Action Council, Pasco.
Pasco Department of Community Development, Pasco.
The Benton-Franklin Occupations Industrial Council, Pasco.
Pierce Housing Authority, Pierce.
Port Angles Senior Center, Port Angeles.
Port Angles People First, Port Angeles.
Housing Authority of County of Clallam, Port Angeles.
Clallam-Jefferson Community Action, Council, Port Townsend.
North Kitsap Senior Citizens, Poulsbo.
Prosser Senior Center, Prosser.
Pullman People First, Pullman.

Puyallup Senior Center, Puyallup.
Puyallup People First, Puyallup.
Puyallup Housing Authority, Puyallup.
Renton Senior Center, Renton.
Renton City Housing Authority, Renton.
The Housing Authority of the City of Richland, Richland.
Benton/Franklin Council on Aging, Richland.
Richland Community Development Program, Richland.
Richland Housing Authority, Richland.
Seattle/King County Division on Aging, Seattle.
Columbia Club, Seattle.
Evergreen Clubs of King County, Seattle.
Greenwood Senior Center, Seattle.
Highline/White Senior Center, Seattle.
Highpoint Senior Center, Seattle.
International Drop-In Center, Seattle.
Jefferson House, Seattle.
Lee House, Seattle.
Northwest Senior Center, Seattle.
Pike Place Senior Center, Seattle.
Senior Center of West Seattle, Seattle.
Shoreline Senior Center, Seattle.
Sno-Valley Senior Center, Seattle.
South Park Senior Citizens, Seattle.
Tallmadge Hamilton House, Seattle.
Wallingford Senior Center, Seattle.
Seattle People First, Seattle.
Central Area Motivation Project, Seattle.
El Centro De La Raza, Seattle.
Neighborhood House, Seattle.
Seattle Tenants Union, Seattle.
Freemont Public Association, Seattle.
Seattle Urban League, Seattle.
University House, Seattle.
Seattle Gray Panthers, Seattle.
Aging Task Force of Aging Council of GTR Seattle, Seattle.
Seattle Displacement Coalition, Seattle.
Tenants Organized in the Regrade on Queen Anne, Seattle.
Seattle Green Thumb, Seattle.
Central Area Housing Alliance, Seattle.
Cornerstone Development Company, Seattle.
Church Council of Greater Seattle, Seattle.
Environmental Works, Seattle.
International District Housing Alliance, Seattle.
International District Improvement Interim CTE, Seattle.
Island County Housing Authority, Seattle.
MUJER, Seattle.
King County Housing Authority, Seattle.
North Shore Multi Purpose Center, Seattle.
Pacific Institute of Community Organizations, Seattle.
Region X Displaced Homes Network, Seattle.
Renters and Owners Organized for Fairness, Seattle.
Seattle City Housing Authority, Seattle.
Seattle Housing Resources Group, Seattle.
Southeast Effective Development, Inc., Seattle.
The Cascade Community Center, Seattle.
The Displacement Coalition, Seattle.
The First Hill Mid Risers, Seattle.
The International Rescue Committee, Seattle.
The Light Brigade, Seattle.
Service Employees International Union, Local 120, Seattle.
Westenders Senior Center, Sekiu.
Southern Puget Sound Inter-Tribal Housing Auth., Shelton.
Shelton People First, Shelton.
South Puget Sound Tribal Housing Authority, Shelton.
Mason County Housing Authority, Shelton.
Snohomish County Housing Authority, Snohomish County.
Senior Opportunity Association, Soap Lake.
Hillyard Senior Center, Spokane.
Spokane People First, Spokane.
Catholic Charities, Spokane.
Farmers and Merchants Bank of Spokane, Spokane.
Spokane Clients Council, Spokane.
Sprague Senior Center, Sprague.
East Side Senior Center, Tacoma.
South Park Community Center, Tacoma.
Dome Chapter, People First, Tacoma.
Mt. Ranier Chapter, People First, Tacoma.
Tacoma Tenants Association, Tacoma.
Pierce County C.A.C., Tacoma.
Pierce County Gray Panthers, Tacoma.
Tacoma City Housing Authority, Tacoma.
Metropolitan Development Council, Tacoma.
Vader Senior Center, Vader.
Vancouver People First, Vancouver.
Clark County C.A.A., Vancouver.
Vancouver Department of Community Development, Vancouver.
Walla Walla Senior Center, Walla Walla.
Blue Mountain Action Council, Walla Walla.
City of Walla Walla Housing Authority, Walla Walla.
Housing Assistance Project, Walla Walla.
Walla Walla Housing Authority, Walla Walla.
Chelan-Douglas Housing Association, Wenatchee.
Wenatchee People First, Wenatchee.
Chelan-Douglas C.A.C., Wenatchee.
City of Wenatchee Housing Authority, Wenatchee.
The Shelan-Douglas Housing Association, Wenatchee.
Wenatchee Community Action Council, Wenatchee.
Klickitat-Skamania C.A.C., White Salmon.
Winlock Senior Center, Winlock.
Office of Rural and Farmworker Housing, Yakima.
Yakima Senior Center, Yakima.
Yakima People First, Yakima.
City of Yakima Housing Services, Yakima.
Northwest Rural Opportunities, Yakima.
Yakima Governor's Office, Yakima.
Yakima Housing Authority, Yakima.
The Yakima Occupations Industrial Council, Yakima.

WISCONSIN

Wisconsin Rural Housing Cooperative.
Wisconsin State Housing Coalition.
Self-Help Housing of Dodge County, Dodge County.
Community Council to Improve Long Term Care, Green Bay.
Realty Services, Inc., Green Bay.
Menominee Tribal Housing Authority, Keshena.
ESHAC, Inc., Milwaukee.
Inner City Development Project Housing Services, Milwaukee.
Justice and Peace Center, Milwaukee.
Racine Environment Committee, Racine.
Parkwood Village Tenants Organization, Sheboygan.
Impact 7, Inc., Turtle Lake.

WEST VIRGINIA

The West Virginia Land Study.
West Virginia State Assn of Housing Authorities.
West Virginia Chapter, Natl Assn of Social Workers.
Family Homes Cooperative, Beckley.
Housing Authority, City of Charleston, Charleston.
The Woodlands Institute, Cherry Grove.
Clarksburg Housing Authority, Clarksburg.
Housing Authority, City of Dunbar, Dunbar.
Housing Authority, City of Mount Hope, Mount Hope.
Housing Authority, City of South Charleston, South Charleston.
Housing Authority, City of St. Albans, St. Albans.
New Neighborhoods, Inc., Wheeling.
Tug Valley Recovery Center, Williamson.

WYOMING

Wyoming Chapter, Natl Assn of Social Workers.
Wyoming Community Development Authority.
Wyoming Department of Planning.
Casper Housing Network, Casper.
Housing Authority of the City of Casper, Casper.
Department of Economic Planning & Development, Cheyenne.
Cheyenne Housing Authority, Cheyenne.

CLINCH RIVER—$8.5 BILLION IN WASTE

● Mr. HUMPHREY. Mr. President, I have long opposed continued funding of the Clinch River breeder reactor project on the grounds that it is too expensive and is unnecessary. Indeed, the true cost of the project has been a contentious issue.

We now, however, have a fair idea of how much the project will cost. Today the General Accounting Office (GAO) released its final cost estimates on the project. Its report concludes that the project could cost $8.5 billion—over twice what the Department of Energy (DOE) projects.

GAO also noted in its report that the plutonium fuel for Clinch River would probably have to come from our military stockpile and that DOE intends to return to the military the plutonium the reactor will breed. As the GAO noted, this could raise serious legal questions. A key provision currently carried in both the House and Senate versions of the Nuclear Waste Policy Act prohibits the transfer of spent nuclear fuel from peaceful civilian reactor fuel to DOE for use in the manufacture of nuclear weapons.

A good review of the GAO report was published in yesterday's New York Times by Judith Miller. I ask that the entire text of the New York Times article be placed in the RECORD.

The article follows:

BREEDER REACTOR FAULTED ON COST

(By Judith Miller)

WASHINGTON, December 11.—The General Accounting Office has concluded that the Reagan Administration's cost estimates for the Clinch River breeder reactor "should be viewed with caution." It says the project at Oak Ridge, Tenn., could cost $8.5 billion, more than twice the Administration's estimate.

These conclusions are contained in a 20-page report by the Congressional auditing agency. The study, requested by the House Energy Subcommittee on Oversight and Investigations, is scheduled to be released Monday.

Energy Department spokesmen could not be found for comment today. But officials strongly disputed similar calculations in an interim study issued by the G.A.O. in September. Neverthless, the auditing agency has adhered to and expanded on its original estimates in this final report.

Because much of the Congressional debate about the Clinch River reactor is focused on cost, the latest report could intensify opposition to the project. The G.A.O's cost projections are expected to carry weight in Congress because the agency, while criticizing the management and the pace of the program, has consistently supported the effort to develop the breeder, a plutonium-fueled reactor intended to produce more plutonium than it consumes.

CRITICS CALL IT A LUXURY

Even in its final report, the agency says that because Clinch River was a research and development project, cost estimates "should not be the dominant considerations in funding decisions."

But some fiscal conservatives, critics of nuclear energy and liberals who oppose the project argue that building the Clinch River reactor is a luxury in an era of budgetary constraint.

"If Congress fails to kill this technological turkey in light of these new cost estimates," said Richard L. Ottinger, the Westchester Democrat who is chairman of the oversight subcommittee, "then we have totally lost our sense of budget priorities."

A vote in the Senate could come next week. There the majority leader, Senator Howard H. Baker Jr. of Tennessee, is championing the project. Last week Clinch River's proponents and opponents lobbied vigorously to win the votes of undecided legislators.

The Clinch River project, first authorized by Congress in 1972 and estimated then to cost $700 million, has survived many attempts in Congress to terminate financing. The Carter Administration tried to kill it because of concern that breeder reactors would facilitate the spread of nuclear weapons.

CONSTRUCTION ESTIMATE UNDISPUTED

The new report does not dispute the Department of Energy's estimates for plant construction and major reactor and nonreactor components, which represent about $3 billion of the department's $3.6 billion estimate.

But it says the Department has failed to include or has underestimated several other cost factors. It said the value of the plutonium required to fuel the reactor "could range from $196 million to $261 million," rather than the $10 million estimated by the department.

Based on interviews with officials from the Department of Defense and Energy, the G.A.O. said there could be problems with several assumptions about the source and disposition of the reactor's plutonium. The officials told the auditors that plutonium for Clinch River could come from military programs, among other sources. Defense Department officials said they expected that the plutonium supplied to Clinch River would eventually be returned to the military program.

But the report says this approach fails to take into account a provision in a bill now being considered by a House-Senate conference that would ban the use of plutonium from peaceful nuclear facilities in the manufacture of nuclear explosives. The G.A.O. said it had not analyzed whether such transfers of plutonium between the military and civilian sectors would be legal if that provision became law.

The report also calls insufficient the $165.6 million allocated by the Department of Energy for contingencies, including changes required by regulation, legal actions and design improvements. Allowances of $302 million to $644.3 million would be more appropriate, the G.A.O. concludes.

CITES SALARIES NOT INCLUDED

It says the Energy Department's failure to include salaries for department officials assigned to the project could add $29 million to $39 million.

The G.A.O. says the Energy Department has overestimated by as much as $212 million the expected revenues from the sale of electricity in Clinch River's five-year demonstration period.

But the major dispute between the Administration and the agency is over the interest the Treasury pays on borrowed money used to finance Federal projects. The report, like the earlier study, concludes that such interest through 1994 could total $3.9 billion.

When the G.A.O. issued its first report, Gordon L. Chipman, Deputy Assistant Secretary of Energy for Breeder Reactor Programs, argued that the interest should not be included in the assessment. Such interest costs, he argued, should not be applied to research and development projects that were not intended to break even.

The G.A.O. acknowledges that neither the Department of Energy nor the Office of Management and Budget requires that the interest be included in the cost of Government projects. "Nevertheless," the report says, "it is a real cost which G.A.O. believes is relevant to Congressional decisions on funding projects, such as C.R.B.R., which require large capital investments."●

BOB DOLE

● Mr. BOREN. Mr. President, this Sunday an interesting article appeared in the New York Times Magazine about the distinguished senior Senator from Kansas, BOB DOLE, with whom I am privileged to serve on the Finance Committee and the Agriculture Committee. I wish to share this article with the rest of the Senate. I ask that this article be printed in the RECORD.

The article follows:

[From the New York Times Magazine, Dec. 12, 1982]

THE CLOUT OF THE "NEW" BOB DOLE

(By Timothy B. Clark)

"When I first got to know Bob Dole," says George McGovern, "he was tough and mean." That was back in the early 1970's, when Senator Robert J. Dole was a most acerbic Republican Party chairman and Senator McGovern was a most liberal Democratic candidate for President. Today, the two men count each other as friends. "He has changed," says McGovern—not only on the personal and psychological levels, he adds, but in his "approach to Government policy."

The transformation of Bob Dole suggested by this unlikely friendship—the one-time political gunslinger turned into a defender of the poor, the hard-line conservative turned toward mainstream Republicanism—has taken on special significance of late. For the Senator from Kansas has become one of the most powerful and effective politicans in Washington. His political means and ends are shaping the key legislation of the day.

Earlier this year, as chairman of the Senate Finance Committee, he almost single-handedly engineered a huge tax increase in the face of a recalcitrant President and Congress—and managed to sell it as a reform measure aimed at collecting money from tax cheats and from little-taxed businesses.

In the months ahead, with a Federal budget deficit that could approach $200 billion, the 59-year-old Senator and his committee will be chief among those to determine whose ox will be gored if Congress decides to further raise taxes or cut spending. Next month, he and his committee will be holding hearings on two of the hottest issues before Congress. They will have to find answers to Social Security's financing problems—cutting benefits, increasing taxes or both. And they will seek to balance domestic needs against the principles of free trade as a world in recession scrambles for international business.

Dole's post usually receives little public notice, even though the committee's purview includes programs that will spend $435 billion in this fiscal year and every detail of the tax code, from levies on gasoline and liquor to corporate depreciation allowances to personal tax deductions. Tax action is traditionaly in the Ways and Means Committee of the House of Representatives, where revenue measures normally originate. But with the House held by the Democrats, it has fallen to the Republican-controlled Senate to confront the practical consequences of the President's pledge to "get the Government off our backs." And Bob Dole dominates the revenue machinery of the Senate. More than Howard H. Baker Jr., the majority leader—more than anyone except perhaps the President himself—Dole has initiated, manipulated and controlled the measures that constitute the fiscal posture of the United States Government. Indeed, Dole's performance in the job, coupled with the changes in his personal and political style, have made him one of a handful of Republican members of Congress who can alter the direction of Administration policy.

All of which has proven to be something of a double-edged sword for Senator Dole, who has Presidential ambitions he does not bother to hide. On the one hand, the role of tax raiser and budget cutter is not calculated to increase a candidate's political support. On the other hand, his responsibilities and visibility have been much enhanced.

Senator Dole spent the month of October on a brutal schedule of appearances in 21 states, campaigning for Republican candidates. But the election results spell trouble for the Finance Committee chairman. On Social Security particularly, he faces the prospect of writing legislation next year even less popular than the tax increases and budgets cuts on 1982, and there will be fewer Republicans in Congress to give him a helping hand.

Bob Dole's political roots are never far below the surface, and they are Populist roots. His recent attacks, for example, on pathologists who make a killing on Medicare, or lawyers and doctors who manipulate tax returns to provide themselves opu-

lent retirement plans—followed rapidly by his pleadings for "the guy who's struggling to get along on food stamps"—are echoes of the Populist revolt that swept the Kansaas plains nearly a century ago. During the depression of the 1890's, the State produced the likes of "Sockless Jerry" Simpson, who spent three terms in Congress as an implacable foe of Wall Street. And even after Populism faded, men like Alfred M. Landon, Republican Presidential nominee in 1936, could be heard plugging for the "little fellow" in the grip of the "interests."

Dole grew up in Russell, a town of 5,500 people surrounded by endless plains of wheat, and it was a shoulder-to-the-wheel, no-frills childhood for Bob, his brother and two sisters. His father, Doran, who died in 1975, managed a grain elevator; his mother, Bina, who is now 79, sold sewing machines; Bob and his brother worked at odd jobs, washing cars, digging pipe trenches.

At high school, Bob Dole was captain of the basketball team and he went on to premedical studies at the University of Kansas. He quit in 1943 to enter the Army, where he rose to the rank of captain. Twice wounded and twice decorated in World War II, he was put out of action when he led an infantry charge on a German machine-gun nest in Italy. His right shoulder was shattered, and he lost a kidney; doctors at first held little hope for his survival, then predicted he would never walk again. Dole spent 39 months hospitalized. His friends in Russell raised funds for special operations, and he stubbornly refused to accept physical dependency. He squeezed rubber balls constantly to strengthen his crippled hands, and exercised with home-built gadgets to build up weakened legs and nearly paralyzed arms.

Dole married Phyllis Holden, a physical therapist, soon after he was discharged from the hospital in 1948. "He never had planned to get married," she told an interviewer in 1976., "He felt so lacking." She also observed that much of what Dole had achieved since the war had been an effort to prove that he could do it in spite of his handicap. His education, for example: Unable to take lecture notes because his right hand was permanently crippled. Dole recorded the lectures and taught himself to write with his left hand, enabling him to transcribe them. He earned both a bachelor's and a law degree from Washburn University in Topeka, Kans.

At the age of 27, while still in law school, Dole was elected to the Kansas Legislature. Two years later, in 1952, he was elected to the first of four terms as Russell County Attorney and then, in 1960, he ran successfully for a seat in the House of Representatives. As a campaigner, Dole cut a handsome figure—and he still does. He stands 6 feet, 1½ inches, and weighs 175 pounds. His dark eyes are intense, yet they often convey the spirit of a boy who has done something mischievous.

During his eight years in the House, Dole and most of his Republican colleagues found themselves in constant and fruitless opposition to the spending programs advocated by Presidents Kennedy and Johnson. Dole voted against the first of the big antipoverty programs, in 1964, and against aid to impoverished Appalachia, subsidies for urban mass-transportation projects and Medicare. Americans for Democratic action gave him a zero approval rating four times during his stay in the House. His record on civil rights was mixed. For example, he voted for the Civil Rights Act of 1964 and the Voting Rights Act of 1965, but against the 1966 bill to ban discrimination in the sale or rental of housing.

It was after Dole's election to the Senate in 1968 that he began to attract national notice, particularly as a staunch defender of Richard M. Nixon. He backed his President's policies on Vietnam all the way, and when the Senate plunged into seven weeks of debate over an amendment to cut off money for military activities in Cambodia, Dole led the opposition, winning admiration for his clever tactics if not always for his rhetoric.

Dole's devotion to "my President," as he so often identified him, was epitomized by his tough defense of the two Nixon nominees to the Supreme Court who failed to pass muster in the Senate, Judges Clement F. Haynsworth Jr. and G. Harrold Carswell. He flayed Democrats who were concerned about Carswell's record on racial issues; Carswell made a speech supporting white supremacy, participated in the conversion of a municipal golf course to private ownership to avoid desegregation and was reported to have behaved with hostility toward civil-rights workers and lawyers who appeared in his courtroom. In a memorable moment just before the final vote on Carswell, confronted by uncertainty within his own party's ranks, Dole strode up and down the center aisle, pointing at individual Senators and proclaiming: "I would remind my Republican friends . . . that Richard Nixon was elected President in November 1968, and that with that election came the right and duty to nominate Justices of the Supreme Court." He then delivered a thinly veiled threat of political retribution. He said he hoped the President would leave the seat vacant if Carswell was rejected, and take the case to the American people. "It may be easier," he said, "to change the Senate than the United States Supreme Court."

In reward for this kind of loyalty, Nixon had Bob Dole installed as Republican national chairman in January 1971; he served in the post for two years. It was during this period that Dole's attacks on George McGovern for his antiwar stand escalated markedly as McGovern sought and won the Democratic nomination for the Presidency. McGovern recalls Dole's labels very well: "advocate of centralized power," "left-leaning big spender," "tool of organized labor." McGovern added, "There was the strong implication that those of us who opposed Nixon's war policies were giving aid and comfort to the enemy."

The Nixon campaign was controlled by the White House and operated by the Committee to Re-elect the President, with Dole and the Republican National Committee operating on the fringes. He was not privy to Watergate and he chose not to believe the allegations of illegality and White House cover-ups, actually drafting a resolution that sought to stop the Senate investigation of the White House.

Eventually, though, Dole faced the music. George McGovern dates some of the changes in Dole to that period—a "first step," as he puts it. Says Dole: "I was very disillusioned with the White House, the arrogant people who worked there. We went through purgatory for a while as a party. That, combined with a very close race for the Senate in 1974, made me think I'd better take a look at where I was going."

There was room for improvement. During his first four years in the Senate, Bob Dole won few popularity contests, with his colleagues or with his staff. Turnover was high among his aides. Those who knew him spoke of his "meanness," his sarcastic putdowns of other people.

Some of these attributes surfaced dramatically in his 1974 campaign for re-election to the Senate, a rough battle against a two-term House Democrat, William R. Roy, a doctor-lawyer from Topeka. Roy built up a comfortable lead by emphasizing Dole's connections with Nixon and Nixon's connections with Watergate. Dole exploited his opponent's admission that he had performed a number of abortions over the years. Dole called Roy an "abortionist" who favored "abortion on demand," though Roy insisted he viewed the operation as morally repugnant and only occasionally necessary to safeguard the woman's health. Dole won re-election by a 2 percent margin.

Less than two years later, Dole was on the stump again, this time as Gerald Ford's running mate. He traveled 65,000 miles through 44 states. "I'm one-man road show," he joked. "President Ford just winds me up and says 'go'."

His campaign style, though, was his own. He made much of the feelings of "lust" to which Jimmy Carter had admitted in an interview for Playboy magazine, leaving audiences with the impression that Carter favored lewd behavior. Then Dole went on to blame the Democrats for all the American wars of the 20th century. In a debate with Senator Walter F. Mondale, his counterpart on the Democratic ticket, Dole commented: "I figured up the other day, if we added all the killed and wounded in all Democrat wars in this century, it would be about 1.6 million Americans, enough to fill the city of Detroit." The remark haunted him for the rest of the campaign and added to his reputation as an unscrupulous partisan.

The Republicans lost the election by a whisker. It was a sobering experience for Dole. Vice-Presidential candidates are chosen with the idea that they will pull voters toward the national ticket, but election-day polls suggested that Dole might actually have cost Ford votes—maybe even enough to deny him election. Friends of Ford said as much to reporters.

As the 1970's progressed, evidence of change appeared in Senator Dole. As early as 1974, for example, he voted against the Republican Administration's plan to slash the antipoverty program—a program he had opposed at the time of its inception 10 years earlier. That turn-around may have reflected a new awareness of poverty gained through service on the Select Committee on Nutrition and Human Needs, of which McGovern was chairman. He started as a doubter, both of McGovern and of the committee. Dole recalls: "I may have thought McGovern was going too far" in publicizing hunger in America, "looking down the road at some Presidential contest." As Dole concentrated more on the committee's work after the 1972 election, he became impressed with the case that had been built for Federal food-assistance programs.

Together, McGovern and Dole pushed the Government deeper and deeper into the nutrition business. There was legislation nearly every year in the 1970's—fights over expanding food stamps or establishing new programs of school breakfasts and nutrition supplements for pregnant women and infants. The budget of the Food and Nutrition Service of the Agriculture Department, which administers the feeding programs, has now grown to $15 billion, and the

agency estimates that some 38 million people receive nutrition subsidies.

"I've said publicly, and much to the disgust of some of my conservative friends, that McGovern did a good job in that area," Dole says today. The statement suggests another lesson McGovern taught him—how to work with a Democrat of distinctly different philosophical outlook. Dole and McGovern were a team not only on nutrition issues, but also on other issues in the Agriculture Committee, becoming in the last half of the 1970's the dominant influence on expensive support programs for Middle Western corn and wheat crops.

The "new" Bob Dole continued to surprise. In 1978, he voted with the Democrats to give people earning from $10,000 to $30,000 larger tax cuts, a move opposed by the majority of his party. That same year he provided the key vote needed to gain Senate approval of a proposed constitutional amendment that would give the District of Columbia voting representation in the House and Senate—once again a move many Republicans opposed. Dole also won favor among liberals by proposing a program of catastrophic health insurance to provide families with Government protection against financial ruin because of extended, expensive illness.

In early 1978, Dole was the featured speaker at an Atlanta meeting of people interested in recruiting more black candidates to run under the G.O.P. banner. Applauding the effort, he said that "Republicans need to make the extra effort to erase the lingering image of our party as the cadre of the elite, the welathy, the insensitive. . . . Our job now is to demonstrate [our] concern to blacks and others who doubt [our] sincerity."

Dole's friend and admirers, when asked to explain the change in him, often point to his personal life—specifically, to his marriage in 1975 to Elizabeth Hanford, a lawyer 13 years his junior, who was serving as a Republican member of the Federal Trade Commission. (He obtained a divorce from Phyllis Dole in 1972 after 24 years of marriage and one daughter.)

Elizabeth Dole holds a Phi Beta Kappa key from Duke University and a law degree and master's in education from Harvard. She is a warm and open person who has helped chisel some of the rough edges from Dole's personality. Some say she is politically more liberal than her husband, and that this is reflected in his increasing advocacy of measures to protect the disadvantaged and in his exhortations to the Republican Party to broaden its base of support.

Mrs. Dole, herself, denies such influence. The most she will allow is that her views and those of her husband are mostly "compatible." An Assistant to the President for Public Liaison, she is a Washington power in her own right. But she is a Reagan operative, and Dole is determinedly his own man. Only occasionally do they work in tandem, as when the President came around on Dole's tax measure this year—Elizabeth Dole helped line up business support for the legislation.

Dole's physcial handicap is another significant factor in his makeup. McGovern remembers seeing Dole fall in the Senate subway one day, his crippled right arm unable to break the impact. The pain was obvious and, said McGovern, "It was a pitiful sight; he really was handicapped." Dole is virtually unable to use his right hand or arm; he must allow himself one hour to dress each morning. His concern for others who are handicapped is manifest. He has employed sign-language interpreters to enable deaf people to understand his speeches. He gave almost half of the $66,850 he earned in speaking fees last year to charities for crippled children, the blind, the retarded and other handicapped people. He has used his influence in Congress to secure tax breaks and other benefits for the handicapped.●

HUMAN RIGHTS WEEK IN MICHIGAN

● Mr. LEVIN. Mr. President, 34 years ago last Friday, representatives from member nations of the United Nations unanimously adopted the Universal Declaration of Human Rights. The event heralded a new age of global recognition that people everywhere should have certain inalienable rights not to be violated by anyone or any government—the right to freedom of thought, conscience, and religion; the right to life, liberty, and security of person; the right to be free of torture, arbitrary arrest and prolonged detention without trial or charge—to list only a few.

Being an international declaration, the document signaled to the world that making decisions affecting these rights was no longer exclusively the prerogative of individual nations. The declaration pronounced that guaranteeing fundamental human freedoms was the responsibility of the world community. This "Universal Bill of Rights" was not only a reflection of U.S. ideals but represented humanity's most basic desires. It contained a "common standard of achievement for all peoples of all nations."

Efforts to enhance respect of human rights in the international arena blossomed from the seed planted in 1948. The Genocide Convention, the Covenant on Civil and Political Rights, and the Covenant on Social, Economic and Cultural Rights—unfortunately unratified by the Senate—delineate the essential ideas of the declaration in the form of binding international treaties.

Mr. President, a structure setting forth the basic principles for promoting human rights that was agreed to 34 years ago has been finely turned and has become a growing concern to many. But it troubles me that so many nations persistently and conscientiously refuse to respect both the letter and the spirit of their international commitments. The 34th anniversary of the Declaration of Human Rights comes at a time when emigration from the Soviet Union and the Warsaw Pact nations has dropped to a distressingly low level, when Poland is clenched in the fist of martial law, when Afghanistan is fighting to expel a foreign power, when apartheid is a political reality in South Africa, when tens of thousands of missing persons in Argentina have yet to be accounted for, when cultural deprivation continues in the Baltic States, and the list trails on.

Although a great deal remains to be done to bridge the gap between aspiration and achievement, we must remember that progress has been made and future perseverence is vital. Our success in advancing the cause of human rights depends on our steadfast commitment. We must continue to care.

It is heartening that there are individuals, groups, and organizations who are committed to promoting fundamental human freedoms and who do care about people half way around the world who have been deprived of their legitimate rights.

In commemoration of Human Rights Week, the Ann Arbor and Lansing, Mich., chapters of Amnesty International are sponsoring a 24-hour candlelight vigil on the lawn of the State capitol building. Governor Milliken issued an executive declaration memorializing that "Vigil of Hope" and observance of December 10–16, 1982, as Human Rights Week in Michigan. I ask that the text of the executive declaration be printed at the close of my remarks.

Mr. President, as we commemorate the 1948 adoption of the Universal Declaration of Human Rights and recognize it as a mementous event in the history of international relations, we also thank those presently defending fundamental human freedoms, and we look to the future, rededicating ourselves to pursuing the objectives set down in the 30 articles of that document. Only with continued commitment and care can we hope to approach our aspirations.

The text referred to follows:

HUMAN RIGHTS WEEK IN MICHIGAN

December 10 marks the 34th anniversary of the adoption of the Universal Declaration of Human Rights by the United Nations.

The Michigan chapters of Amnesty International are proposing that all Michigan residents place a lighted candle in a window on the anniversary day, December 10, as an appropriate way to acknowledge the dignity and worth of all human beings.

At the same time, a "Vigil of Hope" has been planned in Lansing, where a candle will be kept burning for 24 hours and where members of Amnesty International will distribute copies of the declaration adopted 34 years ago and which still is so far from being universally implemented.

Therefore, I, William G. Milliken, Governor of the State of Michigan, do hereby declare December 10–16, 1982, as Human Rights Week in Michigan, and urge all citizens to join in a reaffirmation of commitment to human rights for all people—particularly during this week.●

WEST GERMAN PAPER COMMENTS ON TECHNOLOGY DIVERSION ISSUE

● Mr. NUNN. Mr. President, the Permanent Subcommittee on Investigations held 5 days of hearings last May

on the subject of technology diversions to the Soviet bloc and Soviet Union. On November 15, the subcommittee report was issued.

As ranking minority member of the subcommittee, I am encouraged by the fact that our hearings have played an important role in focusing needed public and Government attention on this issue, which is so critical to the national security.

The German newspaper, Frankfurter Allgemeine Zeitung, commented on the technology diversion issue in its July 15, 1982, edition.

Mr. President, I request that the article, translated into English by Dr. Edith Palmer of the Library of Congress, be printed at this point in the RECORD.

The article follows:

[Translation from the German]

ELECTRONICS EMBARGO

The Federal Republic was to be abused as a gate and, instead, it functioned as a trap. This is one way of looking at the timely seizure of four computers that were on their way from the United States via Canada. It was intended that they be sent through the Federal Republic to Switzerland, a country neutral on the issue of the technological embargo. The German customs authority became engaged in the implementation of an American search. How much might they already have missed before this time? How many German helpers make such transactions possible and how many German firms serve as a launching pad in return for a sizable compensation? Electronics has become the key to all defense. The latest war in the Near East has shown that the successful surprise effect of some Soviet precision weapons of the year 1973 has again been compensated for, and also that the West would be well-advised to maintain its traditional advantage in all fields of electronics and should under no circumstances promote a technological balance of strength. Since the Federal Republic is in need of assistance in this area, it has every reason to retain the American trust and to cooperate in the denial of high electronics technology to the Eastern Bloc. The bad example that American private firms are setting cannot be used as an excuse.●

THAT EXECUTION WASN'T PAINLESS

● Mr. HATFIELD. Mr. President, I would like to bring to the attention of my colleagues an editorial in Saturday's Washington Post authored by Chuck Colson, the president of Prison Fellowship. The editorial, "That Execution Wasn't Painless," concerned last week's execution of Charlie Brooks, Jr., in Texas. This execution, unlike that which took place in Virginia in August when Frank Coppola was electrocuted, involved the injection of sodium pentathol and three deadly poisons into the bloodstream of the condemned felon. Instead of having the individual writhe in tormented convulsions while strapped to an electric chair, the law in Texas sanctioned the neat and sterile process of lethal injection to carry out the sentence of death.

I do not rise today to pity or condone the criminal acts of Mr. Brooks, nor do I wish to slight the heartwrenching injustice done to Mr. David Gregory and to his relatives and friends. It does not follow that one who opposes the institution of capital punishment is a coddler of criminals or is insensitive to the suffering of victims and their families.

Rather, I rise to reiterate the statements I made in this Chamber on August 11 of this year to the effect that society is not God and must not judge who shall live and who shall die. Murderers should be stuck in jail permanently. Executing these men does nothing more than brutalize the very values society seeks to protect initially by sentencing criminals to death.

There is little doubt that capital punishment deters no one. When you talk about murderers whose acts were sufficiently heinous and appalling to meet the requirements of death-penalty statutes, you are talking about individuals with very sick minds. These people do not consider the consequences of their actions. They do not operate in the world of reason and responsibility.

They are violent and disturbed individuals, and they rightfully should be separated from the mainstream of society. But if we accept the premise that capital punishment does not deter capital offenders, then we must ask ourselves the troubling question: Why do we impose the sentence of death on criminals? Is is to effect "eye-for-an-eye" retribution? Is it simply to banish these murderers from the Earth?

There are two specific aspects of the execution of Charlie Brooks that are disquieting. First, as Mr. Colson pointed out in his editorial, the true issues involved in capital punishment relate to substance, not form. It matters not whether society permits the use of electric chairs or gas chambers or firing squads or "painless" lethal injections. I think this closely parallels the moral implications involved with abortion. Whether the means be saline solutions instead of suction instruments, abortion is still wrong. Capital punishment is no different. But for some reason, the public does not find lethal injections as objectionable as electrocution.

Mr. President, the public must not be misled into believing that one form of capital punishment can be more acceptable than another. Such notions divert attention from the nagging moral and spiritual issues, and place it on the clear-cut issues of time, place, and manner. Making capital punishment as painless as possible makes it no less morally reprehensible.

Mr. President, my second concern deals with the irrevocability of the death penalty. Various studies have shown that persons whose innocence is later convincingly established are convicted and sentenced to death. A study by Hugo Bedau lists 74 people since 1893 who, despite their innocence, were sentenced to death. Eight of those people were ultimately executed.

In the instant case, there is a great deal of doubt as to whether Charlie Brooks actually killed Mr. David Gregory. Brooks' codefendant, Woody Lourdes, received a 40-year sentence, and since no eyewitnesses were present, only Lourdes and Brooks know who actually killed the victim. Charlie Brooks maintained his innocence to his grave. He had no funds to stretch the appeals process any further, and he became ripe for execution. I will not seize this opportunity to discuss the racial and prosecutorial injustices inherent in our country's treatment of capital offenders. But even the most ardent supporter of capital punishment would have to confess that there was real doubt as to whether Charlie Brooks was the actual killer. The dreadful consequences to this society for taking the wrong man's life need not be spelled out.

Mr. President, I ask that the entire text of Mr. Chuck Colson's editorial be printed in the RECORD.

The editorial follows:

[From the Washington Post, Dec. 11, 1982]

THAT EXECUTION WASN'T PAINLESS

(By Charles W. Colson)

This week Charlie Brooks Jr., a 40-year-old Texas prisoner, was placed on a hospital bed, leather straps were tightened across his body, an IV needle inserted into his arm. A saline solution began to run through his veins; then, on command, an anonymous prison official emptied a syringe of sodium pentathol and a mixture of three lethal poisons into the flowing liquid.

No one knew for sure what would happen when the drugs entered Charlie Brooks' system. Would he convulse, would he die quickly? No doctor was present, or could be, of course, since medical ethics—we can be grateful—prevent doctors from deliberately taking a life. Charlie Brooks yawned deeply, wheezed a few times, gasped once or twice. Seven minutes later he was legally dead.

When the Nazis used similar procedures on humans a generation ago, the world recoiled in shock. Today, while Brook's execution is certainly headline news, within a week or so no one will remember his name except the few who keep up with such things, like his family. No surprise, however. The focus in this execution has always been on the method, not the man. And official witnesses said the death "appeared to be painless."

So the state has found a way to kill that doesn't broil a person's brain or necessitate pinning a target to the prisoner's chest. For the most part, everyone seems pleased.

Of course, putting stray or feeble animals to sleep is something humane societies have been doing for years. Now that the way has been cleared for humans through the experimental disposal of a condemned prisoner, what is to stop us from exercising the same

"humane" techniques on the unwanted, the aged, the deformed?

It is a ghastly notion that any deliberate taking of a life can be humane. And by calling it so we betray ourselves as all the more barbaric. Euphemisms cannot mask the awful truth of what we do. The old Testament prophet Isaiah had clear words for such twisted thinking: "Woe to those who call evil good and good evil."

And I can't think of a more inappropriate case to try out our newest humane form of execution. In the Bible, God demands there be two eyewitnesses before a person can be executed for a capital offense. In Charlie Brook's case, there was not only no eyewitness, there was no evidence that Brooks pulled the trigger. Two men participated in the crime; two men were found guilty. Brooks' partner was sentenced to 40 years (with parole, he can be out in two), and just last week, as Brooks' death date drew near, the partner said he would confess. Brooks maintained his innocence to his last "painless" breath.

Even the prosecutor of the case appealed for leniency, asking that the execution be stayed—but to no avail. The Supreme Court, for the second time in two months, denied a stay. Texas officials quickly strapped Brooks to a stretcher and put him to sleep forever.

Now that we have found such an easy, clean way to snuff out a life, who is to say where we will stop? ●

BILL NOURSE: AN EFFECTIVE FIGHTER FOR SMALL BUSINESS

● Mr. SASSER. Mr. President, recently Inc., a nationally known magazine for growing companies, published an article on the activities of Bill Nourse, a small businessman from Nashville, Tenn., who has earned a national reputation as an effective advocate of small business causes.

I first became associated with Bill Nourse during the 1980 White House Conference on Small Business and since that time we have worked together on small business issues and problems. He has been a source of inspiration to me, and recently he was actively involved in my campaign for reelection. As a matter of fact, he was kind enough to head our statewide small business campaign committee.

Bill Nourse understands how the wheels turn in the world of small business, both in the actual operation of small businesses and in the involvement of other factors—including political elements—that are so important to small business. He works in and around those wheels and helps to make them turn the right way.

As a member of the Senate Small Business Committee, I have found Bill's advice and counsel to be most helpful on a continuing basis, and I look forward to continuing to work with him in the years ahead.

I'm sure my colleagues are interested in leaders like Bill Nourse, and I ask that the article from Inc. be placed in the RECORD.

The article follows:

THE POLITICAL ODYSSEY OF BILL NOURSE

(By Tom Richman)

The following is a list of things Bill Nourse is not: a business wizard, devastatingly handsome, a high-tech genius, preppy, hilariously funny, a brilliant intellectual, a good ol' boy, a political radical, rich.

On the other hand, in virtually everything he does, Nourse is where most of us would like to be—somewhere on the high side of average. He and his wife run the family business, a moderately successful West Nashville hardware store. Their five kids all do well enough in school and earn most of their own tuition money. At 43, he is the businessman most businessmen would be happy to be. "He is," gushes a colleague, "the all-American small business guy. It warms your heart just to talk to him."

Nourse's eight-year-old Brookmeade Hardware & Supply Co. will gross $900,000 this year, 80 percent of it in sales to contractors and residential property management concerns. Poor location limits Brookmeade's retail volume, but Nourse has built his wholesale trade by becoming a one-stop shop for the maintenance managers of Nashville's apartment complexes.

Creative buying lets him price below much of his competition but still keep his margins healthy. Take the paint, for example. Brand-name paint prices include the manufacturer's national marketing and advertising costs. Brookmeade's wholesale accounts are interested in product performance, not label. So Nourse buys from a small independent paint-maker that can match the chemistry of the big-name companies and beat their price. And, because he is his paint supplier's largest buyer, Nourse can make demands. The supplier inventories Brookmeade's stock and ships virtually on demand. Brookmeade's private-label light bulbs also come from a small independent manufacturer.

Nourse has pushed the sale of bulbs and lightweight electrical parts to apartment complexes as far west as Little Rock, east to Jacksonville, and north into Illinois. He finds potential buyers in the Yellow Pages, mails a flier listing prices, and follows up with a telephone call. United Parcel Service makes the deliveries, usually within two days.

Next year Nourse expects Brookmeade sales to break $1 million. "If it weren't for this recession," he says, "we'd already be there."

There is something in Nourse, says a friend, that appeals to everyone who is in small business for the life-style rather than the money. "His strength," says another, "is in his typicality."

Thus no one is more surprised than Nourse himself that over the past three years he has become something more than the head of a growing family business—and that his ambitions run even higher.

Now, besides running the store and raising kids, he commutes frequently between Nashville and Washington, D.C. He talks to senators and members of Congress, and, more important, he talks to their staff aides. He has met with Presidents and is no stranger around the governor's office. Newspaper reporters seek him out. He sells paint to customers who saw him interviewed on TV the night before. He is a key man in a senatorial reelection campaign. He is asked to speak around the country. And, like the President, Nourse has acquired his own kitchen cabinet of trusted advisers. "I'm not satisfied being a small businessman," says Nourse. "I'm not contributing to society at my highest potential."

What happened to Nourse—his politicization—has happened to other small businesspeople. Jimmy Carter was a businessman before he was a governor. Rep. Berkley Bedell (D-Iowa) is still better know in some circles as a merchandiser of fishing tackle (Berkley & Co.) than as a congressman. Those, however, were isolated conversions, part of no discernible pattern, while Nourse is part of a group, one among many who had their political eyes opened by their participation the January 1980 White House Conference on Small Business.

Out of the nearly 2,000 delegates to that four-day Washington gathering—and the more than 30,000 people who attended preliminary sessions in major cities around the country—has come a crop of previously apolitical entrepreneurs and proprietors who, despite their predisposition to stubborn independence, got a bite of collective power and liked the taste.

To be elected a delegate to the January conference an individual had to campaign at one of the scores of state and regional meetings before the main event. Successful candidates were usually those who had put together a coalition of supporters and who had developed an identifiable position on an issue.

With no previous experience and motivated only by an "urge to get involved," in his words, Nourse composed a position paper, got himself elected a delegate, and jumped into public life along with several thousand others with similar backgrounds and motives.

The recommendations that conference delegates eventually made to President Carter and Congress on small business issues—taxes, regulation, economic policy—all began with gripes and proposals first made at these preliminary sessions. Coalitions were formed around specific tax reforms, for example. Compromises were made, deals were cut, parliamentary strategies were worked out.

The conference was a political training ground. Nourse had never run for office, never tried to organize support for a piece of legislation, never tried to maneuver an idea through a democratic forum. He had, in other words, never before competed in a political—as distinct from a business—environment. The White House Conference gave Nourse and others like him not just the unanticipated opportunity to enter the political world, but also on-the-job training in how to survive, and possibly thrive, there.

In the two years since the White House conference, these mostly middle-aged neophytes have organized small business conferences in their own states, gotten themselves appointed to advisory commissions and committees. They have created new small business associations, taken leadership positions in old-line business associations, worked to defeat or support candidates for political office, and otherwise started wielding their individual and collective influence. Nourse has been more active than most.

Nearly two years ago he worked to get a Tennessee banker appointed to the top job at the U.S. Small Business Administration. (If he had listened to Nourse, Reagan wouldn't have had to fire the managerially incompetent Michael Cardenas after his first year.)

Last year Nourse persuaded Gov. Lamar Alexander of Tennessee to convene a state small business conference.

This year Nourse initiated a resolution, eventually pased by the U.S. Senate, urging Reagan to fill the next empty slot on the Federal Reserve Board with someone with a background in small business or farming.

In January he showed up next to Reagan at a meeting the President held with small businesspeople the day before delivering his State of the Union address.

Currently Nourse is organizing an independent political action committee to put some cash behind small business issues on Capitol Hill, sitting on the Senate Small Business Committee's advisory panel, serving on the U.S. Chamber of Commerce's small business council, and campaigning across Tennessee for Democratic Senator Jim Sasser.

"The government doesn't understand what it unleashed with the White House Conference," says Nourse, "It created a reason and a vehicle for a whole new class of people to move into the political process. . . . I'm continually surprised that a guy who owns a hardware store in West Nashville can seriously sit down and talk with a U.S. senator about a candidate for the Federal Reserve Board."

People who have worked with Nourse say he is no rube as a political operative. "He can take a plan that is half-baked, put it together, take it to the right people, and get it done," says Jesse Hunter, a Nashville businessman, pointing to Nourse's role in effecting a change in the federal income tax laws. That change, part of last year's tax cut, permits businesses to treat the first $5,000 spent each year on capital equipment as a direct expense. That limit will rise to $10,000 in 1986. Direct expensing was not Nourse's idea, but if he hadn't pushed it persistently it might never have become law.

"We don't have to drive tractors around on the Mall to get our points across," Nourse says. He is very big on working through the system. When Nourse first approached the Tennessee governor's office about a state small business conference, says Hunter, their intitial reaction was to ask him who he thought he was "But he kept chipping away at it and won their respect."

"No other country on earth will let a guy with two or three employees affect the system the way I can," Nourse says.

"The man has charisma," says Andy Centerbury, a state government official. "Sometimes we think he get more interviews than the Governor."

He has something. He has attracted a group in Nashville and in Washington of nearly a dozen men and women who serve on his kitchen cabinet. One is a partner in a Big Eight accounting firm; another heads an advertising agency; two are lawyers; several own their own companies. Some are older than Nourse, and most of them make more money than he. All of them have more formal education. (Nourse left college after three years.) But Nourse clearly heads the group. They provide the advice, counsel, and assistance. "In high school," says one of his adviser/friends who has known him that long, "Bill would be the behind-the-scenes organizer. Now he'd be the guest of honor."

There is a cadre of people like himself, graduates of the White House conference, in every state, Nourse says. "If I want to bring a point of view to the attention of [Senator] Sam Nunn (D-Ga.), I only have to make one phone call. Another one to North Carolina, and I can be sure that [Senator] Jesse Helms (R-N.C.) will hear about it."

Nourse is no ideologue. In nearly five days of conversation, telephone calls, and addresses to groups on Sasser's behalf, he was never detected falling back on the sort of rhetorical clichés that politicians often resort to when reasoned logic fails them. Nourse usually had a reason for saying what he said that was stronger than a prejudice.

"Congress," he says, "has taken it for granted that the corner store is always going to be there. They can't make that assumption any longer. . . .

"It's not right that the banking industry is getting rich at the expense of everyone else. What's happening is a transfer of wealth from producers to bankers through interest rates. . . .

"You give big business all kinds of [tax] credit for buying machinery, but you don't give small business any credit for creating jobs. Why not have a new-jobs tax credit? It's cheaper than paying unemployment. Ronald Reagan agreed that it made sense to him. . . .

"Social Security is going to be the next major battle. Next year they're going to want to raise the tax rate by 1 percent. We're saying, 'wait a minute. That's cutting into my operating revenue.' It'll be just ruinous for people like me. . . .

"People abuse unemployment compensation. The law should be changed so that the second time you draw unemployment you have to pay half of it back. The third time you draw you should have to pay it all back. There are carpenters in my own family who draw unemployment every winter. I tell them, 'Don't you understand that you're destroying the United States? You're not entitled to a damn thing. . . .

"City services should be contracted out. That would give city council members real power. Now they have to worry about 'our poor employees.' If grass-cutting were contracted out and the grass didn't get cut, they could just tear up the contract and find someone else. I'm a firm believer that government should not be in business. . . .

"Industrial revenue bonds are abused now by the large chain stores. When the taxpayer subsidizes these new stores, it doesn't create new jobs. It just reshuffles community spending habits and hastens destruction of the small business infrastructure, which is usually the source of community political leadership. The blunt truth is that small business's track record of job creation and community leadership cannot continue if we don't restore small business's capital base. It's all part of the concentration of resources that's taking place in this country."

Nourse is not firmly in either party's political camp. Several years ago he attended a Republican weekend retreat for grassroots leaders. "Afterwards," he says "it was just assumed that I was a Republican, and probably I was."

Now that he is actively working for reelection of a Democrat, though, he would consider a switch. "I feel more comfortable with Democrats than with Republicans," he says. "Republicans have an arrogance about them. They always seem to be asking, 'What do you want from me? I'm a busy man.' Well, I may work with my hands and wear blue jeans, but I'm just as good as they are."

So far Nourse's short public life has evolved issue by issue with no clear, long-range goals. But his behavior is beginning to suggest that he is or soon will be running for something. "I wouldn't mind serving in Congress," he says, "but I can't honestly say I will. . . . I want to affect the environment in which small business operates."

His kitchen cabinet persuaded him not to run for the Tennessee legislature. "They felt I'd be bored," he says.

The term "small business movement" recurs in conversation, but Nourse can't define it. There are, as he points out, hundreds, maybe thousands, of people like himself giving more than just lip service to resolving issues affecting the small business environment, but there is no structure to that community, no glue holding them together, no vehicle for their common action.

"I see this huge vacuum out there, and I wonder who's going to fill it. The longer it's there," says Nourse, "the more I want to step in."

No one accuses Nourse of being a dreamy-eyed idealist. If he sees a movement by small businesspeople, it's probably there. And whether it is leadership of that movement or public office he eventually seeks, he already knows how he is going to get small businesspeople's support. "That hardware store is my log cabin," he says. "I'm one of them."●

AMERICA'S FIBER/TEXTILE/APPAREL INDUSTRY

● Mr. HOLLINGS. Mr. President, it was my pleasure during the congressional recess to hear a forward-looking and incisive address by one of the leaders of America's textile industry. Mr. Gerald Elden, president of Hoechst Fibers Industries and presently chairman of the board of Man-Made Fiber Producers Association, delivered a candid and realistic talk concerning some of the very serious problems facing America's fiber/textile/apparel industry. As many of my colleagues know, this industry is the largest in our manufacturing sector. Critical to America's employment and equally critical to our national security, the fiber/textile/apparel complex is integral to our economy. Any injury this industry sustains through economic problems here at home or imports from abroad reverberates throughout the economy. In terms of what this industry produces and who it employs, we are talking about one of the foundation stones of the national economy.

Written off only a few years ago by many of the so-called experts, this industry is modernized, retooled, and more than able to hold its own at home and even develop new markets overseas. Our producers can compete with businessmen in any country, but not with the governments of those countries. Only if our Government gets behind a strong trade policy, demanding from others the same kind of equity and access we have granted them over the years, can our economy sustain.

Mr. Elden has been one of the leading participants in industry-labor-government consultations looking toward the formulation of a more enlightened policy for America's textiles. He has been very much involved in various bilateral negotiations, and just a few months ago accompanied our coun-

try's textile negotiators to the People's Republic of China. The PRC has the capacity to inundate the American market, and the negotiations which will be taking place between now and the end of the year are absolutely vital to the stability of the textile industry and continuation of the jobs it provides.

I commend Mr. Elden's speech to my colleagues, both for the accuracy of the information it supplies on our fiber/textile/apparel problem, and for the sound good judgment it brings to the discussion of trade and economic problems in even a broader context. I think Mr. Elden's urgent plea for better Government-industry cooperation and understanding is right on target. Other countries have learned the success which can be achieved when all sectors of the economy are pulling together for the common good. Indeed, for much of our history, America understood that lesson full well. Unfortunately, in recent years we have lost sight of it. American industry can be competitive as never before, if only Government would develop the same spirit of competition and leadership evidenced by leaders of American industry such as Gerald Elden.

Mr. President, I ask that the text of Mr. Elden's remarks to the board of the Man-Made Fiber Producers Association be printed in the RECORD.

The remarks follow:

REMARKS TO THE MMFPA BOARD MEETING BY GERALD ELDEN

Good evening, gentlemen, and welcome to Florida. Rather at the beginning than at the end, I'd like to thank our president, Charlie Jones, and his staff in Washington—Fisher, Larry, Pat, and all the others—for their support, their effort and their dedication on behalf of our association during this past year. Without this group, under Charlie's warm but firm leadership, our association would be far less effective.

And I'd also like to thank our guest, Senator Ernest Hollings, for his leadership and help in the Congress of the United States to the fiber/textile/apparel industry of this country, in restraining imports from flooding our markets. I'd like, however, to make some additional remarks about the Senator a little later.

I am going to depart from the usual format this evening and not review the year past, since that summary is contained in the annual report, and since we will have detailed information from our various committees tomorrow. I will, however, review two specific areas, namely some of our bilateral negotiations, their progress and problems, and beyond that, I would like to talk a little about the future, the future of our industry, and the future of our country.

First to the bilaterals. As you know, I had the opportunity to travel as one of the advisors with our Government team to the Far East in August for negotiations with the PRC, with Indonesia, the Philippines, and, as it turned out, with Thailand. The most important of these bilaterals was obviously the People's Republic of China, and to summarize it for you at the outset: No agreement was reached. In addition to having to call the Chinese on various product categories where shipments were accelerating at an unprecedented rate, the group also had in its possession and presented to the Chinese at that time, the ATMI-prepared case on the dumping of polyester and cotton print cloth.

Naturally, considering the calls on various categories, the very restrictive stance taken by our government team as the basis for trading in the future, the bringing of additional categories into the bilateral scheme, and presenting the Chinese with the dumping case, set the stage for future negotiations rather than producing any possibility for agreement at that time. And this strategy—in my view—was well conceived. It's interesting to note, that in discussions with the Chinese, at one reception or another, representatives of the Ministery of Trade or China-Tex continually talked about "mutually beneficial trade," which meant in Chinese terms, anything that's good for them regardless of the problems we might encounter in the United States. The Chinese representatives were totally uninterested in the fact that the U.S. market was not growing, if, indeed, not momentarily declining, in the fact that mills were working short time or were actually being closed, in the fact that unemployment was reaching close to 20 percent in certain areas of the textile industry, in the fact that there were substantial financial losses and bankruptcies in this country. The primary goal for China is to increase its trade to the miximum with the U.S., to build its textile industry, and most of all to employ its people. "Mutually beneficial" in China means "one way."

We visited a shirting factory and a print cloth weaving mill, namely Peking Cotton Mill No. 2 and found the people disciplined, hard at work with relatively decent equipment. In fact, in the shirting mill the sewing equipment was quite up-to-date, but the number of hands that were available are unbelievable to one like myself who had not been in the Far East before. And where in typical American operations automation would be employed, for instance in packaging of men's dress shirts, the Chinese, in order to employ people, have all the packaging operations done by hand.

In Peking Cotton Mill No. 2, I asked Jim Turner of Dan River how many people a typical U.S. plant of that nature would employ for the output that they indicated, and Jim said somewhere between 800 and 1200. In Peking Cotton Mill No. 2, there were 800 people employed!

The negotiations in Indonesia and the Philippines were essentially no different in that the same concept of mutually beneficial trade meant to those countries the unrestricted or practically unrestricted growth of their exports to the United States regardless of conditions existing here. Naturally, the criteria for those negotiations were different than from those with China, since both countries are MFA signatories, and since quotas exist on many more categories than is the case with China. As you know, an agreement was reached with Indonesia recently, and negotiations are ongoing with the Philippines and with China whose representatives were in Washington until a few weeks ago.

Prior to the meeting with the People's Republic of China in Washington, a meeting was held with the President by representatives of ATMI, AAMA, MMFPA, and various legislative leaders as well as the special trade representative, Bill Brock. The President again committed the administration to a very low rate growth, tied to domestic market growth and indicated that our government would not allow linkage between these negotiations and other issues for instance sending arms to Taiwan.

China still believes that regardless of the tremendous rate of increase of their exports to the U.S. over the last two years, they should by virtue of their size, be the largest of the big four exporters to this country. Hopefully, we will reach a reasonable bilateral with China and maybe further into the future tie this tremendous threat into the multi-fiber agreement.

We must recognize that countries like Indonesia, the Philippines, and the PRC have as a major national goal employment, and we recognize that the textile industry is one of the first industries, so-called "less developed countries" turn to because of its potential labor intensity. We have much to do, as I indicated to the apparel industry at their convention in May, to become as cost-competitive as is humanly possible, through reinvestment of profits and automation where possible, and we must export. In that respect, it was happy to see the AAMA unveil a six month $260,000 program to develop a more unified and focussed approach to insure the U.S. apparel industry's competitiveness in the world market in the future, and, I am pleased that the President signed the export trading company bill S. 141 into law which is designed to encourage exports of American mechandise through establishment of separately run overseas trading companies, exempting these from certain anti-trust and pricefixing regulations.

It's a beginning; we need protectionism for a while and we cannot, at this time in our development follow a totally free trade philosophy without a worldwide fair trade philosophy. But we must also continue to modernize if we are to avoid the label of a sunset industry that some professors at MIT find an appealing description for the textile/apparel complete these days. We must work on the American retailer to buy American wherever he/she possibly can, and on the American consumer to buy American, if we are, indeed to help overcome our major unemployment problems. I like "made in America," by Americans, for Americans.

In reviewing what I said to the AAMA 6 months ago, I find that the rapidity of change continues and that it may be, indeed, accelerating. Only six months ago, I spoke about the world political focus being on Poland, Central and South America, and the Falkland Islands. Do people even remember the Falklands now with the focus on the middle east, on Israel/Lebanon, and the fall of a government through first no-confidence vote in Germany—and again on Poland?

Six months ago, I spoke of an ideology at home that had moved from liberalism to conservatism, and now, 6 months later, in the Democratic primary elections in New York State for Governor and Lieutenant Governor, a revitalized coalition of unions and typically liberal forces arrayed together as in the past, may possibly be a preview of things to come on the national scene.

I spoke about economic problems at home, an energy revolution, redistribution of the wealth of nations—changing the thrust of world politics, redirecting the flow of funds, investment policies and research programs, altering currency relationships, rebuilding dormant industries, i.e. oil exploration, and radically changing the life of the American consumer, his standard of living, and his mobility which were built on cheap energy.

Today, 6 months later, oil prices are declining, consumption is declining—energy efficiency is continuing to improve, alternate fuels, such as coal and gas, are making slower inroads, and Exxon has, in fact, discontinued its major oil shale extraction project in Colorado.

We Americans are faced with a psychological dilemma—a dilemma which on the one hand requires a large degree of flexibility in this rapidly changing world, yet on the other hand requires us to chart a steady course to a renewed and revitalized political and economically stable future.

An example of a steady course and a specific direction was brought to mind recently when I read in the Times of Secretary Shultz' first meeting with Gromyko. In 30 years, the USSR has had one foreign minister and one, totally unacceptable foreign policy for us. During those same 30 years, the U.S. has had 8 Secretaries of State and a vacillating foreign policy, and we might also be reminded that one of Kissinger's concepts in the conduct of foreign policy was that we should chart a direction for the next 20 years, fully taking into account the aberrations that take place from time to time on the world political scene. We Americans have not been able to accomplish that steady path in foreign policy.

We must also follow, it seems to me, a more focused and directed economic policy, a policy that takes a changed and more competitive world into account. We need a long-term national economic purpose, a direction to cope with the economic challenges of our time, 40 years after World War II, and those challenges still to come from a developing world a burgeoning population and a world reaching for a higher standard of living. This focus must lead to government-industry cooperation and understanding, not antagonism, to changes in anti-trust philosophy, to a recognition that the U.S. cannot support the rest of the world any longer, and that countries have a right to develop their economies, not, however, at the expense of U.S. markets, U.S. industries, U.S. taxpayers, and U.S. labor.

We have established a new economic course, and although we are facing problems, we should not radically change direction. As NASA directed the Apollo missions to their objective, the Moon, mid course corrections were made. As we in business target long-term objectives, mid course corrections are made, as some assumptions prove incorrect, and so, too, let industry try to help government stay on course, making corrections as required, but not losing sight of the long-term objective.

The information explosion provides every American with minute by minute political changes, daily world conflict updates, daily market fluctuations, daily interest rate changes, weekly money supply variations, continuous estimates on unemployment, a rash of monthly economic statistics and so on . . . ad nauseam. We have become, it seems to me, a somewhat schizophrenic public, trying in vain to chart a true course while attempting to respond rationally to a changing hurricane of events. And yet we have managed major economic problems of the past, and in the economic arena, an arena of expertise for us, we should speak loudly and clearly to our government, to help that government stay on the course it charted two years ago.

Inflation may have turned down in a very fundamental way, and we recognize productivity gains as the underlying requirement to keep inflation at low levels. Interest rates have declined, personal savings are way up, but we need to rebuild confidence of the American consumer. We need to overcome price resistance at the consumer level, at retail, by trying, if possible, to hold the line through increased productivity. And we must, through a slow and gradual recovery, reduce unemployment to restore that very confidence. "Consumers today are accumulating cash, not wardrobes," said Phil Miller of Neiman Marcus, which, of course, has its beneficial consequences elsewhere but does not help our industry short-term.

There are futurists who believe in a coming boom over the next 20 years, and I would like to join Herman Kahn of the Hudson Institute in that belief.

No, we can't do it all alone because the rest of the world will have to be part of that boom.

But here at home, current trends, conservative concepts, technical fixes, new technologies, industrial management's reawakening of our expertise, our competitive nature, our will to win and the changed energy scenario are but some of the things that make me optimistic. Our recovery is slower in coming than we had thought or hoped, but I believe still that it is coming, if not already started. After 4 months of upturn in the leading economic indicators, let not the one month's downturn during the month of August cause the short-term reactions I spoke of before.

Let me close with the following thoughts: King Hubbard, an influential geologist, suggests that children born in the 1960's will see most of the world's oil consumed in their lifetime. Oil's relevance, he says, therefore, is very, very brief in terms of human civilization. And one of the things I memorized in high school comes from Shakespeare's Macbeth and goes as follows: "Life is but a walking shadow, a poor player that struts and frets his hour upon the stage and then is heard no more."

We must work, we must try, and we must achieve, and yet, in the context of our time, I guess we should not take our individual selves too seriously.

Thank you. Good night and good luck!●

INTERIOR AND RELATED AGENCIES APPROPRIATIONS

● Mr. DOMENICI. Mr. President, H.R. 7356 as reported by the Appropriations Committee on December 8, 1982, provides $7.4 billion in new budget authority for fiscal year 1983.

Mr. President, the reported bill together with outlays from prior year authority and actions completed to date in the continuing resolution puts the Interior Subcommittee at its crosswalk allocation for budget authority but over by $0.2 billion in outlays.

The subcommittee is below the House bill by $0.1 billion in budget authority and is the same in outlays.

H.R. 7356, as reported, together with actions completed to date and possible later requirements exceeds the President's budget request by $0.8 billion in budget authority and $0.3 billion in outlays.

There are two areas where the Senate is significantly over the President's request: Energy conservation and fossil fuels, a total of $0.2 billion; and the land and water conservation fund and historic preservation, a total of $0.2 billion.

In addition, the reported bill is $0.1 billion over the President's request in each of the following: The abandoned mine reclamation fund, payments in lieu of taxes, and the National Foundations for the Arts and Humanities.

With respect to the credit budget, the committee's recommendation is within the first budget resolution's 9(2)B credit allocation for both new direct loan obligations and new loan guarantee commitments.

Mr. President, I ask that the two tables showing the relationship of the reported bill to the congressional spending and credit budgets and the President's budget requests be printed in the RECORD at the conclusion of my remarks.

The tables follow:

INTERIOR SUBCOMMITTEE SPENDING TOTALS

[In billions of dollars]

	Fiscal year 1983	
	Budget authority	Outlays
Outlays from prior year budget authority and other actions completed [1]	0.3	3.3
H.R. 7356 as reported in the Senate	7.4	5.2
Possible later requirements: Forest firefighting	.1	.1
Total for Interior Subcommittee	7.8	8.6
1st budget resolution 302(b) allocation	7.8	8.4
House-passed level	7.9	8.6
President's request	7.0	8.3
Total compared to:		
1st budget resolution 302(b) allocation		+.2
House-passed level	−.1	
President's request	+.8	+.3

[1] Adjusted to include $0.3 billion in budget authority to account for full year appropriation of costs associated with site preparation and construction activities of the Strategic Petroleum Reserve, construction activities of the Smithsonian Institution and the Native Hawaiian Claims Commission that are funded for the full year in the continuing resolution, Public Law 97-276.

INTERIOR SUBCOMMITTEE CREDIT TOTALS

[In billions of dollars]

	Fiscal year 1983	
	New direct loan obligations	New primary loan guarantee commitments
H.R. 7356 as reported in Senate, with direct loan obligations resulting from prior year commitments and other actions completed (total)	0.7	−0.7
1st budget resolution 9(b)(2) allocation	.7	.6
House-passed	.7	.7
President's request	.7	.6
Subcommittee compared to:		
1st budget resolution 9(b)(2)		([1])
House-passed		
President's request		([1])

[1] Less than $50 million.●

THE LAW OF THE SEA TREATY

● Mr. PELL. Mr. President, last week the participants of the Third United Nations Conference on the Law of the Sea met in Jamaica to culminate their 8 long years of negotiations with the signing of the treaty document as well as the final act of the Conference by interested states. Unfortunately, and

in my view misguidedly, President Reagan has decided that the United States will not become a party to this treaty, despite the fact that this treaty will, for the first time, provide a comprehensive legal regime to govern the myriad uses of the oceans.

President Reagan in announcing his decision not to sign the treaty, stated that the treaty as negotiated failed to meet U.S. objectives. He also decided at that time that the United States would no longer participate in any other deliberations of the Conference, although he did indicate that the United States would sign the final act of the Conference. In my view, this decision was ill conceived.

As you know, Mr. President, I have been urging President Reagan to send a representative to the Preparatory Commission (PrepCom) as signing of the final act entitles us to do. I believe that many of the President's objections to the treaty could be dealt with in that forum. In any event, The United States loses nothing by participating in the PrepCom since it in no way obligates the United States to ratify the treaty if upon conclusion of PrepCom the United States still finds the treaty unaceptable. Experts on the treaty have pointed out that much of what arouses concern about the treaty rests in the ambiguous nature of a number of the seabed mining provisions. These provisions will be clarified during the work of the PrepCom when the specific rules and regulations which will govern deep seabed mining are drafted.

President Reagan is currently considering whether or not to issue a proclamation, unilaterally declaring all living and nonliving resources within 200 miles of our shores to be within the exclusive economic zone (EEZ) of the United States. As you know, the Law of the Sea Treaty contains provisions which will establish such EEZ's for all coastal States, as well as provisions which will govern the exploitation and exploration of the minerals of the ocean floor beyond the jurisdiction of any State—provisions which the President has found to be unpalatable. Apparently the President considers the various provisions of the treaty to be like cherries in a bowl from which he is free to select only those most pleasing to him which he would call customary international law, while declaring others, which do not appeal to him, to be nonbinding on the United States. Unfortunately, he seems to have ignored the fact that the provisions of the treaty are a carefully balanced package of rights and obligations, woven together over 8 years of negotiation and compromise.

I fear that the administration is in for a rude awakening once other nations begin to challenge—as they surely will once the treaty enters into force—the U.S. right to certain privileges granted only to signatories of the treaty, such as the unimpeded transit of U.S. ships and planes through and over some 116 strategic straits. I need not stress too strongly my deep concern about the potential conflicts which might arise in such an environment. I would hope that before the President were to take any unilateral steps to "create his own international law" he would take into account the significant foreign policy implications which are likely to result from such an action, and would consult closely with Members of Congress to ascertain their views on the wisdom of such a step.

My initial reaction to the prospect of the issuance of such a proclamation is that it would be counterproductive to take such steps which can clearly only be successful in the context of a multilateral treaty. From the President's point of view, it would seem to me that such action would have the opposite effect of what the President intends; namely it would simply encourage other countries to "rally round" the treaty. This is presumably not the President's goal. It may be true that the President would be prepared to defend U.S. interests against "all comers" within 200 miles of our shores. But, what are our commercial and military ships and aircraft to do, thousands of miles from home, when right of transit passage through and over major waterways is defined to them because the United States is not a party to the treaty which grants such rights? What kind of reception can U.S. scientists expect to receive when they attempt to conduct important marine scientific research off foreign shores? There is no proclamation which the President may issue or law which Congress may enact that can in any way change the fact that once the treaty enters into force—which it undoubtedly will—a body of international law will be created which will govern the uses of the oceans.

I am confident that with time critics of the treaty will find that it will not be possible or practical for the United States to remain outside the framework of international law. There is no way that U.S. companies will be able to undertake commerically viable deep seabed mining operations without an internationally recognized and respected procedure for allocating exclusive mining operations, which only a multilateral treaty can provide.

Mr. President, I ask that a very thoughtful editorial on this subject which appeared on December 6 in the Providence Journal be printed in the RECORD at this point.

The editorial follows:

[From the Providence Journal, Dec. 6, 1982]

U.S. WILL BE HURT BY REFUSAL TO SIGN LAW OF SEA TREATY

The nations of the world that spent eight years negotiating the Law of the Sea Treaty are meeting in Jamaica this week to sign the final act of the LOS conference. But the isolationist attitude taken by the Reagan administration toward the treaty leaves many doubts about the effectiveness of the new ocean management regime and even more doubts about U.S. ability to profit from seabed mining—the controversial issue that has split American opinion.

Signing of the final act is largely a formal step, in which even the dissident U.S. delegation will participate. Signing of the treaty itself is the crucial step, and it is there that U.S. participation has broken down.

This is a deplorable state of affairs, since most of the White House objections could be met through actual improvements in language at a meeting of the Preparatory Commission, which will be convened after 50 nations have signed the treaty. If the United States refuses to sign, it will still be eligible to attend the PrepCom as an observer but without a vote. Unfortunately, the President has decided not to send an observer.

This means the chance to influence the regulations adopted by the PrepCom will be lost, and the United States will be out in left field, not only on the mining issues but on all the other aspects of ocean law covered by the comprehensive treaty. This country could, to better advantage, go along on the PrepCom negotiations, still reserving its right to shun the treaty if its objections had not been resolved.

As things stand, France, Canada, Japan, Australia and the Soviet Union, among the nations capable of seabed mining, are expected to sign the treaty. And while Great Britain and West Germany haven't decided whether to sign, they are going to participate in the PrepCom sessions. Thus, the Reagan administration's proposal for an "alternative regime" covering seabed mining looks ever more unlikely—and in the end it probably will fail.

Where will that leave the United States? The situation will be more serious than when the U.S. Senate refused to ratify the Versailles Treaty and the League of Nations after World War I. When the Law of the Sea Treaty goes into effect—as it will when 60 nations have signed it—U.S. seabed mining interests will have no protection under international law. Investors will probably refuse to put money into ventures that seem legally risky.

That prospect was what prompted Elliot Richardson, former chief U.S. delegate to the LOS conference, to say recently, "The rest of the world can get along without us in the law of the sea, but the question is: can we get along without the rest of the world?"

Richardson was the key U.S. negotiator who drove the hard bargains that clinched the LOS agreement after years of difficult talks among 157 nations, only to have his work repudiated by the Reagan administration. He knows, better than most Americans, the damage that will be done to American prestige in the world if this country insists on going its own way.

At a time when most of the world is looking to the United States to lead it out of an economic morass and away from perilous political confrontations, the official position on the LOS treaty is an irresponsible abdication of leadership.●

DAVID ROCKFELLER COMMENTS ON THE SOUNDNESS OF THE BANKING SYSTEM

● Mr. HATCH. Mr. President, David Rockefeller, the now retired chairman of the Chase Manhattan Bank made some interesting observations on the state of the economy and the interrelationship thereof with foreign economics, with particular reference to the nature and wisdom of international loans by American banks, in the October 11, 1982, issue of U.S. News & World Report. Especially commendable has been his efforts to bolster the economy of Jamaica at the request of the administration. Jamaica has done an economic turnaround in the worst possible times, and its beginning successes have established a beacon of free enterprise and have opened a window of freedom, especially when compared with Castro's Cuba.

His early support of a policy of quiet diplomacy, particularly among our friends, and his early support of President Reagan's economic program make his remarks all the more relevant.

Latin American, Africa, and even the actions of the World Bank meant careful watching; and, despite his perhaps more sanguine views in some of these areas, what he has said deserves attention. I commend this interview to you and suggest that it makes a very useful contribution to the discussion on these issues. I, therefore, ask that this interview be printed in the RECORD.

The interview follows:

[From the U.S. News & World Report, Oct. 11, 1982]

DESPITE "A FEW FAILURES, BANKING SYSTEM IS SOUND"—INTERVIEW WITH DAVID ROCKEFELLER, RETIRED CHAIRMAN, THE CHASE MANHATTAN BANK

(Will economic upsets abroad cause losses to American investors? Are bankers making imprudent loans? When will interest rates fall further? An international financial leader answers these questions and more)

Q. Mr. Rockefeller, bank failures and bankruptcies in this country and fears of defaults abroad are making many people worried about the safety of their money. How sound is the U.S. banking system?

A. The U.S. banking system is very sound. Obviously, in times of recessions there are more business failures, and business failures have their impact on the banking system. There have been a few failures, but my own view is that the system itself is well managed and strong and that regulatory authorities are working wisely and cooperatively with the banking system to deal with these problems.

Q. How much danger is there that we could get a situation in which some bank could collapse overseas and drag the international banking system down with it?

A. It is certainly a fact that the entire world banking system is very much interrelated. Necessarily, banks do a lot of business with one another, so there is tremendous interdependence. For that reason, the regulators in the U.S. and other countries are sure to take strong steps to prevent any major failure that appeared imminent. I think it is most unlikely that it will happen.

Q. Do you see any countries abroad that may actually default on their debts and trigger a financial panic?

A. I've been asked this question a number of times in recent years. The best answer I can give is that the nations being mentioned today are different than those mentioned a few years ago. Then, people were talking about Zaire and Peru and Turkey. Banks didn't lose money on loans to these countries, as was expected. Actually, in all three cases, the banks are making out reasonably well.

Today, we're talking about different names. In many respects, they may be stronger countries. Mexico is one. But I don't see any likelihood of default. I think that what will happen there, just as it did in Turkey, is that the banks that extended credits will get together with Mexican officials, the International Monetary Fund and the World Bank and work out a program. It may mean a stretchout of the debt rather than paying it exactly as planned. Nobody likes to be paid later than was planned, but that isn't the end of the world.

Q. That sounds like a short-range solution. What are the prospects for financial stability over the long run?

A. The long-range situation in Mexico involves its enormous oil and gas reserves. Mexico based its plans on overly optimistic forecasts for oil prices. At the moment, the world price of oil and gas has declined because of low demand, creating a short-run problem for Mexico. But, over the long run, there's no doubt in my mind that there will be very substantial demand for oil and gas—perhaps at more stable prices rather than constantly rising prices. As a result, Mexico will come back. I'm sure it will continue to be a country that bankers and investors will look at with favor.

Q. How about Canada? Has its economy been so mismanaged that it may be in trouble?

A. I feel rather unhappy about a number of measures that the Canadian government has taken in order to get control of their industries from foreign investors. They've done it in a way that has certainly frightened investment capital. Nevertheless, Canadian financial institutions are very strong, and the country has enormous natural resources. Therefore, I view the problems as being very much short-term ones which will be overcome.

Q. So you would not discourage private investment in either country—

A. Well, I don't know that I would say that this is the best moment to make new and big investments. The climate is unsettled, and people would probably rather wait and see how things work out. But I do think that both countries are basically strong, and I do not anticipate that banks or investors in either country will lose large sums of money.

Q. Should U.S. banks reduce their overseas lending?

A. I don't think one can give a broad answer to that. The banking system has acted prudently and wisely, generally speaking, in making foreign loans. Furthermore, had it not been for the commercial banking system and the existence of the Eurocurrency market, the world would have been in far more trouble in 1973 and again in 1978 and 1979 than we were. During those periods, the banking system stepped in to recycle the petro-dollars generated by the enormous increases in the price of oil produced by OPEC nations.

The banking system may have made mistakes here and there, but it has acted responsibly. In fact, during the past decade, most of the major international banks in this country have suffered far greater losses on domestic loans than on international loans.

Q. Have banks, as critics contend, been too aggressive, imprudent or greedy in their domestic lending practices?

A. As a general rule, they haven't. There may have been a few cases where they got overly enthusiastic and took exposures they were, perhaps, not fully aware of. One example is Penn Square Bank in Oklahoma City. Even there, the banks involved have dealt with the problem through their loan-loss reserves, which is precisely why such reserves exist.

But it is true that when a major-corporation is threatened by bankruptcy, banks stand to get hurt. If banks took no risks and had no losses, one would have to question whether they were performing the role that they should be playing.

Q. How do you size up Reagan's economic program? Are you disturbed that it hasn't brought the prosperity that was promised?

A. Certainly the steps taken have not achieved all the results that were sought. On the other hand, the No. 1 objective was to cut back on inflation. In that regard, the results have been dramatically favorable. Also, interest rates have fallen substantially from their peaks. And the estimates of economic output during the second and third quarters suggest that the recession perhaps has bottomed out and that a modest recovery is on the way.

Obviously, the bad part is that unemployment has been very high and the rate of new investment has not met expectations. In other words, the tax incentives passed by Congress have worked more slowly than anticipated. I would have to say that a principal reason for the bad results has been the fact that the federal deficit has been growing. This is the most serious problem facing the economy.

Q. Can we get sustained recovery without further action on the deficit? If not, what needs to be done?

A. I don't believe we will have a sound, healthy recovery unless more is done to cut the deficit. The most desirable solution is to have the economy improve so that existing taxes will pay a larger share of the deficit. I'm not sure that that's going to happen soon enough.

So, realistically, Congress is going to have to decide whether it is going to deal with the automatic increases in entitlement programs and Social Security. I'm not proposing a cutback of legitimate programs that assist the disadvantaged and elderly people. But when you see entitlement programs growing at a faster pace than the economy as a whole, that must be addressed.

The other question is whether there is some way to cut back the enormous expansion in defense programs without giving a false signal to our allies or the Soviet Union.

Q. In that situation, are interest rates going to come down some more? What can we look forward to?

A. I'm afraid they're not going to come down much from present levels until the deficit is reduced significantly.

Q. Should the Federal Reserve stay on its tight-money course, or is it time to loosen up?

A. The worst thing that could happen—after going through all the pain of getting inflation down—would be to have the Fed

open the floodgates and permit inflationary pressures to rise again. My feeling is that Paul Volcker, as chairman of the Fed, has done an outstanding job. There are signs that the Fed has slightly eased its controls on money growth in the last few months, but that was probably justified by the downturn in inflation and interest rates.

Q. Can't banks do something to bring interest rates down?

A. When loan funds came in large part from interest-free deposits or low-rate savings accounts, banks could be more flexible in their rates. But at present the money-center banks that are the nation's big lenders must purchase their funds from the money markets. The spread between the interest banks must pay on that money and the rate they charge borrowers has become very thin indeed. Whether banks can afford to cut their rates by a quarter or half percent is debatable, but the notion that banks can make reductions of, say, 4 or 5 percentage points is unrealistic.

Q. During your trip to Africa earlier this year, there were reports that you said that African Marxism is not a threat to the U.S. or to U.S. business interests. Is that your view?

A. That is not an accurate reflection of what I did say. What I said and what I believe to be true is that socialism to many African leaders today is not so much an ideology but an objective to improve the lot of their people—an objective that I think most of us would agree with. Many leaders have adopted a lot of the trappings and lingo of Marxism—but neither are nor act like Marxists. Indeed, one leader who is viewed as a strong Marxist told me that Africans can never be Communists since they believe both in God and in private property.

Q. Yet some have strong ties to Cuba and the Soviet Union—

A. Yes, but it's interesting how quickly they seem to get disillusioned. Guinea is a dramatic example:

When Guinea became independent from France in 1958, President Sékou Touré refused to go along with the plans of President de Gaulle. As a result, de Gaulle was furious and withdrew support of every kind. Other European countries would not provide aid, so Sékou Touré turned to the Soviets, who gave him substantial aid. However, he discovered that the Soviets were using him for their own purposes and that Guinea did far less well than some of its neighbors who had less natural resources but had followed a different route. In 1975, Sékou Touré invited a consortium of aluminum companies to Guinea under the leadership of Alcoa. The resulting project now provides 75 percent of Guinea's foreign-exchange currency. A similar enterprise, started by the Russians, has been a failure.

Almost all of the African countries today would rather work with the United States and the West than with the Soviet Union and are looking for friendship and support from us. I think it's in our interest to give it.

Q. Closer to home: What should the U.S. do to counter the spread of Cuban Marxism among Caribbean nations?

A. Central America is a different situation. There's no question that Cuba, with Soviet support, has been trying to establish socialist or Communist countries in Central America to work against U.S. interests. The United States should try to support groups within those countries that have a different point of view. However, Americans tend to assume that because a particular country has accepted support from a Communist state and has used Marxist rhetoric, we should never deal with them. Cutting off all contact—even with the Sandinistas in Nicaragua—may be a mistake. I'm not saying we should support them, but we need to be concerned about them. I think we need in our foreign policy more sophistication and flexibility.

Q. Have your efforts to aid the private sector of Jamaica made any progress?

A. As chairman of the U.S. Business Committee on Jamaica, I am working with 22 heads of corporations and financial institutions with interests in Jamaica to see what could be done to bolster that economy. I think significant progress has been made. After heading toward Castro Communism and economic decline for eight years, Jamaica held free elections and put in office Prime Minister Edward Seaga, who is an outspoken exponent of free enterprise. Since then, tourism, which had virtually disappeared, has come back. Foreign investors have been invited to help revive the banana industry, a major source of exports. With any sign of improvement in the world economy, one would see Jamaica come back fairly well.●

CBO AND GAO ON THE NUCLEAR FUEL CYCLE ACTIVITIES ACCOUNT

● Mr. HUMPHREY. Mr. President, just a few days ago, the Environment and Energy Study Conference Floor Brief focused attention on a House and Senate Appropriations Committee proposal to establish a nuclear fuel cycle activities account. In the past all nuclear programs, except for uranium enrichment, were placed in a single account. What the committees now proposed to create is two accounts. One account would consist of nuclear research and development activities. Another would consolidate uranium supply and enrichment, the Clinch River breeder reactor project, and nuclear waste disposal activities.

The logic behind this move, the committees state, is to "bring together those parts of the nuclear fuel cycle from which revenues are currently or will in the future be derived." Uranium enrichment is sold to utilities and produces revenues. Clinch River will produce revenues if it is completed and operates. And under the Nuclear Waste Policy Act, waste disposal activities will be paid for through fees that will be levied against the utilities.

At first glance, this scheme looks sensible. House Members, however, have already voiced concern that this new accounting procedure may lead to enrichment and waste disposal fees being used to pay for controversial account activities such as Clinch River.

I share this concern. Recently, the General Accounting Office and the Congressional Budget Office wrote replies to a letter of inquiry I sent them concerning the account. Both GAO and CBO state in their letters that moneys from enrichment and nuclear waste fees could be used to fund Clinch River's construction. The GAO, moreover, states that the proposed account would violate both existing uranium enrichment law and the House and Senate versions of the Nuclear Waste Policy Act. Existing uranium enrichment law prohibits the use of enrichment fees for anything but enrichment activities, and the Nuclear Waste Policy Act as it now reads prohibits the use of nuclear waste disposal fees for anything but nuclear waste disposal.

Neither the Department of Energy nor the Office of Management and Budget have yet replied to the letters I sent them. Both are waiting for clarification from the House Appropriations Committee. They both would like more legislative history on the report to ascertain its meaning. I believe they are entitled to this and that we ought not to reference the nuclear fuel cycle activities account language in the continuing appropriations resolution during the lameduck session. Certainly, it would be a mistake to move without some debate about the account.

In any such discussion, GAO's and CBO's replies will be useful. I ask that the complete text of my letter and these replies be placed in the RECORD.

The letters follow:

NOVEMBER 18, 1982.

Mr. CHARLES A. BOWSHER,
Comptroller General of the United States, The U.S. General Accounting Office, Washington, D.C.

DEAR MR. BOWSHER: I am writing to learn what your office's view is concerning the House Appropriations Committee proposed Nuclear Fuel Cycle Activities Account. I have enclosed copies of the pertinent passages of the Committee's House Energy and Water Development Appropriations Bill and report where this account is described. Is it your office's interpretation of the Committee's legislative and report language that:

1. The account would have two revenue streams in Fiscal Year 1983. The first would be gross receipts raised from DOE's sale of uranium enrichment services and the second would be revenues from the nuclear waste disposal fee proposed in pending nuclear waste legislation.

2. There would be outlays from the account to pay for three types of activities—enrichment, fuel cycle demonstration activities (Clinch River now and possibly commercial reprocessing later), and nuclear waste disposal activities.

3. Under the Committee's proposed accounting procedure, user fees now paid by enrichment customers to cover enrichment activity costs could be spent on account activities unrelated to enrichment (Clinch River Breeder Reactor Project and nuclear waste disposal activities) and user fees proposed to pay the costs of nuclear waste disposal activities could be spent on account activities not listed under the "Nuclear Waste Disposal Activities" heading.

4. Nearly $173,604,000 will be available to the account after making all of the Committee's projected account outlays for FY 1983 and this money could be used to cover part of the future costs of such account activities as the Clinch River Breeder Reactor Project.

Finally, I would also like to know if it is your office's view if the Committee's proposal particularly as described in points two through four above accords with the President's desires.

Given that this matter will come before the Congress during the Lame Duck session, I would appreciate a reply as soon as possible.

With warm regards, I am

Sincerely yours,

GORDON J. HUMPHREY, USS.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., December 10, 1982.

Re Subject: Comments on the new "Nuclear Fuel Cycle Activities" Account Included in House Bill 7145 (GAO/RCED-83-79).

Hon. GORDON J. HUMPHREY,
U.S. Senate.

DEAR SENATOR HUMPHREY: On November 18, 1982, you requested our views on aspects of the new "nuclear fuel cycle activities" appropriation account included in House Bill H.R. 7145, 97th Congress. The bill makes appropriations for energy and water development for fiscal year 1983. The bill would create a new appropriation account for current and potential revenue-producing Department of Energy (DOE) civilian nuclear fuel cycle activities. These activities include uranium supply and enrichment, nuclear waste management, reprocessing, and demonstration projects. The bill requires that DOE use the revenues it receives from each activity to offset its costs for that activity, to deposit any such revenues received in excess of such costs in the "nuclear fuel cycle activities" account, and to use these excess revenues to offset any other obligations against the account.

OBJECTIVE, SCOPE, AND METHODOLOGY

You requested our views on four statements listed in your letter:

The account would have two revenue streams in fiscal year 1983. The first would be gross receipts raised from DOE's sale of uranium enrichment services and the second would be revenues from the nuclear waste disposal fee proposed in pending nuclear waste legislation.

There would be outlays from the account to pay for three types of activities—enrichment, fuel cycle demonstration activities (Clinch River now and possibly commercial reprocessing later), and nuclear waste disposal activities.

Under the committee's proposed accounting procedure, user fees now paid by enrichment customers to cover enrichment activity costs could be spent on account activities unrelated to enrichment (Clinch River Breeder Reactor Project and nuclear waste disposal activities) and user fees proposed to pay the costs of nuclear waste disposal activities could be spent on account activities not listed under the "nuclear waste disposal activities" heading.

Nearly $173,604,000 will be available to the account after making all of the committee's projected account outlays for FY 1983 and this money could be used to cover part of the future costs of such account activities as the Clinch River Breeder Reactor Project.

In responding to your request, we reviewed H.R. 7145 and the accompanying House Report No. 97-850, the applicable provisions of DOE's authorizing legislation, and the respective differing nuclear waste policy bills passed by the Senate (S. 1662) and the House (H.R. 3809). DOE officials declined to discuss this matter with us pending the Secretary of Energy's determination of DOE's position on the proposed new account. Our audit was performed in accordance with generally accepted government auditing standards.

Our views on the statements in your letter are discussed below.

THE ACCOUNT WOULD HAVE TWO REVENUE STREAMS IN FISCAL YEAR 1983

The statement in your letter is correct. The House Appropriations Committee report (Report No. 97-850) on H.R. 7145 states that the purpose of the new "nuclear fuel cycle activities" account is to bring together those parts of the nuclear fuel cycle from which revenues are currently or will in the future be derived. In so doing, not only does the bill appropriate funds for nuclear fuel cycle activities, but it requires DOE to retain the revenues generated by those activities to offset costs of the activities. Without this requirement the revenues would be deposited into miscellaneous receipts of the treasury. In fiscal year 1983, according to the bill, only the uranium enrichment and nuclear waste management activities are expected to produce revenues.

Fiscal year 1983 revenues from DOE's uranium enrichment activities are expected to be slightly more than $2 billion. Revenues from nuclear waste management activities are estimated to be $300 million. At present, however, DOE is not authorized to collect revenues from utilities or others to offset DOE's cost of managing their nuclear wastes. Therefore, estimated revenues from waste management activities are dependent on the Congress enacting the pending nuclear waste policy legislation. Separate versions of this proposed legislation have passed the Senate and the House. Both versions would permit DOE to begin collecting revenues for its civilian nuclear waste management activities.

THERE WOULD BE OUTLAYS FROM THE ACCOUNT TO PAY FOR THREE TYPES OF ACTIVITIES

There would be outlays from the "nuclear fuel cycle activities" account up to the amounts appropriated for three activities—uranium enrichment, Clinch River Breeder Reactor, and nuclear waste management. The total appropriation for these activities is slightly more than $2.36 billion in fiscal year 1983. Revenues from these activities, estimated to be slightly less than $2.31 billion, would be placed in the "nuclear fuel cycle activity" account. These estimated revenues, plus an additional estimated net appropriation of $53,646,000, would be used as shown below.

Activity	*Appropriations*
Uranium supply and enrichment	$1,949,096,000
Clinch River Breeder Reactor	227,250,000
Nuclear waste management	185,000,000
Total	2,361,346,000

The amounts that would be appropriated for nuclear fuel cycle activities and available for DOE's use in fiscal year 1983 under H.R. 7145 are not dependent upon the actual revenues realized in fiscal year 1983. Regardless of the revenues received from uranium enrichment and waste management activities, the bill makes definite appropriations in the amounts shown above for each of the three activities.

For example, as noted earlier, the estimated $300 million in revenues from the waste management activity is contingent upon enactment of the pending nuclear waste policy legislation. If this proposed legislation is not enacted, revenues received into the account will decrease by $300 million. However, the total appropriation for the "nuclear fuel cycle activities" account—and the amounts appropriated for each of the three activities—would remain as shown above. In this case, the net fiscal year 1983 appropriation for the account would be $353,646,000 instead of $53,646,000.

REVENUES FROM ANY ONE NUCLEAR FUEL CYCLE ACTIVITY COULD BE SPENT ON OTHER ACTIVITIES

As we interpret H.R. 7145, revenues from any one nuclear fuel cycle activity in excess of the appropriation for that activity could be used to offset costs of other activities in the account for which funds have been appropriated. As such, the bill is inconsistent with both the existing uranium enrichment program authorization legislation and the pending bills on nuclear waste policy because the enrichment legislation and waste policy bills prohibit the use of revenues from these respective activities for any other purposes. This interpretation is compelled by the following language of the bill: "* * * (3) any revenues received in excess of fiscal year 1983 appropriations for uranium supply and enrichment activities or nuclear waste management activities shall be deposited to the credit of the *nuclear fuel cycle activities account and used to offset any other fiscal year 1983 or future obligations against the account:* Provided further, that the total sum herein appropriated shall be reduced as revenues are received during fiscal year 1983 so as to result in a final fiscal year 1983 appropriation estimated at not more than $53,646,000." (italics added)

Under the quoted last proviso, a final fiscal year 1983 appropriation estimate of not more than $53,646,000 from the general funds of the Treasury cannot be achieved without using revenues in excess of appropriations for uranium enrichment and nuclear waste management activities to offset costs of the Clinch River Breeder Reactor. As long as the excess receipts over activity appropriations are retained in the individual uranium enrichment subaccount and the individual nuclear waste management subaccount, there will always be a final appropriation from the general funds of the Treasury for the "nuclear fuel cycle activities" account of at least the dollar amount of the appropriation for the Clinch River Breeder Reactor Project, since it does not yet generate any offsetting revenues. In fiscal year 1983, that would be $227,250,000.

Moreover, subparagraph (3), quoted above, states that excess revenues from any activity over and above that activity's appropriation shall be used to offset any other fiscal year 1983 obligations against the "nuclear fuel cycle activities" account. Under the Antideficiency Act (31 U.S.C. Section 1341), the activity with the excess revenues could not legally incur any obligations for fiscal year 1983 over and above the dollar amount appropriated for that activity. Therefore, the language "any other fiscal year 1983 . . . obligations against the account" in subparagraph (3) must be referring to obligations of other activities within the "nuclear fuel cycle activities" account. This constitutes specific authority to commingle receipts of any particular activity in excess of its appropriation with those of any other activity within the "nuclear fuel cycle activities" account for the purpose of offsetting obligations of the other activities.

As we interpret H.R. 7145, revenues received from DOE's uranium enrichment activity in excess of the approximately $1.95

billion appropriation for this activity would be deposited in the "nuclear fuel cycle activities" account and would be used to offset other obligations against that account—such as the Clinch River Breeder Reactor Project and nuclear waste management activity. The bill estimates that revenues from DOE's uranium enrichment activity will exceed the appropriations for that activity by slightly less than $59 million. We emphasize, however, that the total amount of funds which could be spent on any individual nuclear fuel cycle activity, such as the Clinch River Project, is limited to the amount appropriated for that activity in the bill.

H.R. 7145 is inconsistent with DOE's program statute with respect to the use of uranium enrichment receipts. Subsection (h) of section 111, Energy Reorganization Act of 1974, as amended (42 U.S.C. 5821(h)), authorizes DOE, when so provided in an appropriation act, to retain revenues produced by its uranium enrichment activity, but only for the expressed purpose of offsetting operating expenses of that activity. The receipts are not available to DOE for any other purpose.

Similarly, according to H.R. 7145, revenues received from DOE's nuclear waste management activities in excess of the $185 million appropriation for those activities would also be deposited in the "uranium fuel cycle activities" account, and would be used for uranium enrichment activities and/or the Clinch River Breeder Reactor Project. The bill estimates that revenues from the nuclear waste management activity will exceed the appropriation for that activity by $115 million.

Both the House and Senate versions of the pending nuclear waste policy legislation would establish a trust fund or similarly segregated fund for the deposit of nuclear waste management fees. However, both the House and Senate versions of this proposed legislation would permit DOE to use these monies only for specified waste management activities. Therefore, H.R. 7145 is inconsistent with these bills.

THE $173,604,000 WILL BE AVAILABLE TO THE ACCOUNT AFTER MAKING PROJECTED ACCOUNT OUTLAYS

As shown below, revenues estimated in H.R. 7145 from uranium enrichment and nuclear waste management fees exceed the appropriations for these two activities by $173,604,000.

[In thousands of dollars]

Activity	Fiscal year 1983		Amount available for other account uses
	Estimated revenues	Appropriation	
Uranium enrichment	2,007,700	1,949,096	58,604
Nuclear waste management	300,000	185,000	115,000
Total	2,307,700	2,134,096	173,604

The bill, specifically the provision quoted above, provides that these revenues shall be used to offset any other obligations against the "nuclear fuel cycle activities" account in fiscal year 1983 or in future years. The only legally permissible fiscal year 1983 obligation against the "nuclear fuel cycle activities" account, besides the uranium enrichment and nuclear waste management activities, is the Clinch River Breeder Reactor Project. Therefore, all of the estimated $173,604,000 of revenues in excess of appropriations would have to be used to cover the costs of the Clinch River Project. The $173,604,000 of excess revenues, added to the $53,646,000 estimated net appropriation shown in H.R. 7145, equals the $227,250,000 appropriation for the Clinch River Project. This further confirms our interpretation that the bill provides for the use of revenues in excess of appropriation from any one nuclear fuel cycle activity to be used to offset the cost of other activities.

As noted earlier, however, the fiscal year 1983 appropriation for the Clinch River Breeder Reactor is not dependent upon DOE's receipt of revenues in the amounts estimated in H.R. 7145. The bill establishes a definite appropriation for that project of $227,250,000 regardless of revenues received into the account. Conversely, an increase in revenues beyond estimates in H.R. 7145 would not allow additional expenditures in fiscal year 1983 beyond the specific amounts appropriated in the bill for the Clinch River Breeder Reactor Project or the other nuclear fuel cycle activities. The additional revenues would instead be used to decrease the estimated $53,646,000 net fiscal year 1983 appropriation for the "nuclear fuel cycle activities" account.

Copies of this report are being sent to the Subcommittee on Energy and Water Development, House Appropriations Committee; to the Director, Office of Management and Budget and the Secretary of Energy; and to other interested committees of the Congress. Copies of this request will also be made available to others upon request.

Sincerely yours,

J. DEXTER PEACH,
Director.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., November 30, 1982.

Hon. GORDON J. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This letter is in response to your questions concerning the House Appropriations Committee's proposed nuclear fuel cycle account. CBO's understanding of the Committee report is that there would be two receipt streams in fiscal year 1983, receipts collected from uranium enrichment sales and fees for nuclear waste disposal, which would be used to finance activities designated by the Committee under that account. Such activities include uranium enrichment, nuclear waste disposal, and development of the Clinch River Breeder Reactor. The receipts would not be earmarked for specific programs, and thus the fees derived from uranium enrichment or nuclear waste disposal could be used to cover the costs of other programs within the account. We estimate that approximately $174 million in 1983 receipts will be available to cover the costs of such activities.

The President in his 1983 budget request, the Senate in S. 1662, the National Nuclear Waste Policy Act of 1982, and the authorizing committees of the House, have all proposed that fees for nuclear waste disposal be placed in a fund established in the Treasury for the sole purpose of developing a nuclear waste program. Under these proposals, receipts in excess of annual obligations would be invested in interest yielding bonds and would be used in future years to fund nuclear waste disposal activities. If some of these receipts are spent for other purposes, future fees for nuclear waste disposal would have to be adjusted to replace the expended amounts, and any interest that would have been earned.

As you state in your letter, outlays for the proposed nuclear fuel cycle account would represent the collection of receipts and spending for uranium enrichment, nuclear waste disposal, and the Clinch River Breeder Reactor. If at a later stage, the funding levels in the House-reported Energy and Water Development Appropriations Bill were limited to uranium enrichment and nuclear waste disposal activities, outlays charged to the account would decrease. Outlays, however, would increase in another account, assuming that Clinch River funding remains constant. This would result in no change in total federal outlays. As a result, total federal outlays in 1983 will not be affected by differences between the President's proposed structure and that of the House Appropriation's Committee.

Should you so desire, we would be pleased to provide further details.

Sincerely,

ALICE M. RIVLIN,
Director.●

THE FUTURE OF HOUSING

● Mr. GARN. Mr. President, I would like to share with my colleagues a speech given by Mr. John B. Fery, chairman of Boise Cascade. Mr. Fery charts the course of the housing industry in the dawning economic recovery. I hope that every one who wants to buy a home and everyone connected with building homes will be heartened by this speech.

Mr. Fery is optimistic about the ability of the housing industry to provide affordable homes. After a decade of building larger, more expensive homes, there is a huge untapped market for todays smaller households. Mr. Fery is also enthusiastic about transformations within the mortgage financing community. New sources of capitol and new mortgage instruments are significantly improving the viability of housing.

According to Mr. Fery, a good housing market with reasonable mortgage rates requires a good economic environment. Lower interest rates can only be achieved by putting an end to heavy deficit spending by the Federal Government. I certainly agree with this conclusion and will continue to work for budget reductions.

The speech follows:

THE FUTURE OF HOUSING: WHAT IS IN STORE FOR THE AMERICAN DREAM?

For generations, families have wanted to buy the house of their dreams. You know what that is. The traditional detached, single-family home with a year, a white picket fence, located on a tree-lined street, in a wholesome suburban community. During most of the 1970s, seven of every ten families who wanted to buy that home could do so without undue financial hardship or sacrifice. Three found the cost of home ownership too high, so didn't buy.

Today those numbers are reversed. Today only three of the ten families can achieve their housing desires. The other seven walk away frustrated, having discovered that, for them, houses are unaffordable.

For now, the great American dream of home ownership has become a nightmare. Not only for home buyers, but for everyone associated with housing—home builders, realtors, thrift institutions, even my own forest products industry.

Further, everyone in this room feels the impact. The fate of housing is tied to that of the general economy, traditionally generating more than 10 percent of the gross national product. Housing has served as a bellwether for turns in the economy. When extreme events shake the housing industry, we all feel the tremor.

As a result, the magazine and newspaper articles one commonly reads about housing these days, as well as the news stories on television, are decidedly negative.

Here are some typical headlines:

"A Housing Era Ends"—Nation's Business.

"Housing's Unsheltered Future"—Fortune.

"The Great Housing Collapse"—Newsweek.

"Housing: A Boom That May Never Come"—Dun's Business Month.

My company, Boise Cascade, is a major supplier of building materials to the housing industry. So those dreary reports about home building concern us. We take them seriously. So seriously, in fact, that we recently set out to see whether the fundamental characteristics of housing had really changed so much in so short a time.

Some months ago, our senior management spent three days in an intensive, shirt-sleeve session with distinguished, thoughtful authorities on various aspects of housing. We asked those housing experts to give us their best thinking on what the future holds.

That session pulled together a comprehensive body of knowledge about housing. It gave us the facts and the expert value judgments we needed to assess the arguments for and against housing's future.

The current pessimism about the future of housing revolves around three issues—the demand for housing, the method of financing housing and the affordability of housing. Some say that the so-called underlying, pent-up demand for housing is neither underlying nor pent up. Rather, it is nonexistent or at least dwindling. Others say that insufficient mortgage money and the lack of acceptable, understandable mortgage instruments will preclude much home-buying activity—no matter what else happens. Still others say that, even if there's a demand, and if mortgage money is available, the costs of house and mortgage are so high that people can no longer afford them. And included in everyone's consideration is the presence of the federal government and the question of its future role in housing.

Let's examine each of these issues.

DEMAND FOR HOUSING

First, the question of demand for housing—a concern easily dispatched.

Earlier this year, Market Opinion Research Corporation conducted surveys on the subject of home ownership for the National Forest Products Association. That research shows that nearly 90 percent of Americans continue to place a very high value on home ownership. When asked about the goals and aspirations they have for themselves and their children, respondents ranked home ownership near the top of the list. While having a job was the most important, home ownership shared second place with quality health care. Further, they defined home ownership as owning a single-family home on its own lot with a lawn.

These findings shouldn't surprise us. They're simply the elements of the American dream that have existed for years. The dream hasn't died, nor even changed much.

Now add to that underlying American concept a number of demographic pressures that are building.

The U.S. population is growing—from 227 million in 1980 to 287 million forecast for the year 2000.

The post-World War II baby boom generation is forming families and will continue to do so throughout the 1980s. More than 1½ million Americans will reach home-buying age each year in the 1980s—twice the rate of the 1970s.

People are living longer in the U.S.—nearly four years longer on average than just 20 years ago.

More senior citizens want to remain in their own housing units. In 1970, 16 percent of those 65 and older lived in institutions or with someone else. By 1978, only 10 percent did so.

More single heads of households want their own housing units. People stay single longer. People divorce more often. As a result, the number of people living alone has jumped from more than seven million in 1960 to nearly 18 million in 1980.

Clearly, there's a strong and growing need for housing in this country. Let's examine for a moment how that demand's been exercised and by whom.

During the late 70s, the dominant force in the housing market was the so-called upgrader. This buyer tended to have a growing family, more disposable income and was motivated partly by the investment advantage. He or she traded up from a small single-family home to a larger one. That continual, upward flow accounted for roughly 80 percent of the new housing market during those years. Builders concentrated on supplying the larger, trade-up type of house—four bedrooms, 2½ baths and the like.

The upgrade market has diminished significantly, at least for now. Homes are not appreciating at the same rates they were. Homeowners are not willing to give up a reasonable mortgage rate of 7, 8, 9 or 10 percent to swallow a 15 or 16 percent rate. Those folks are sitting on the sidelines until rates come within reach, or have chosen to fix up the old homestead.

The upgraders did do one thing in those years. They left behind their old homes for first-time buyers. If it hadn't been for that housing stock created by the upgrade market, the housing needs of first-time buyers could have been largely ignored.

As prices and interest rates rose in the late 1970s, the number of first-time buyers still in the housing market dropped off considerably. In 1977 first-time buyers purchased 36 percent of all the homes sold, according to the U.S. League of Savings Associations. During 1979, that group purchased less than 18 percent of all the homes sold. In the last few years, we estimate that that number has fallen even more.

So where have the discouraged first-time home buyers gone? Some are living with Mom and Dad. (How long can Mom and Dad tolerate that?) Some have doubled up. Some have accepted various multifamily options—townhouses, single-family attached, condominiums and the like. And some are renting (which, in turn, increases the pressure to build more rental units).

Besides first-time buyers, other important elements of the demand picture have also been ignored in recent years. The home buyer whose children are grown—the empty nester—wants to trade down to a smaller home. Other nontraditional buyers—single heads of households, divorcees, senior citizens—seek more modest homes. These potential buyers are standing by, temporarily frozen out of the housing market. But wanting in nonetheless.

Don't doubt it for a minute. The demand for housing is strong!

MORTGAGE FINANCING

That brings us to issue number two—financing. Even if housing demand exists, some say, there's insufficient mortgage money available and inadequate mortgage instruments in place to meet the demand. Let me tell you why I believe mortgage money sources and availability won't be a problem long term.

Mortgage financing is undergoing a transformation. The 30-year fixed-rate mortgage, for example, will comprise a smaller portion of the market. More affordable financing vehicles are being created and are gradually being accepted.

In just the past year, several new financing devices have emerged. Some, such as the growing-equity mortgages, are especially promising. These loans typically have a fixed interest rate, but payments increase so that the loans mature in 15 years or less.

In a period of disinflation, the idea of paying off debt quickly has obvious advantages. Some 60 percent of the families in this country now earn two paychecks. These new instruments allow those people to devote more of their income to house payments.

Just as the mortgage instruments will be different, so too the mortgage lending scene is changing. The Garn Financial Institutions Bill, hailed by many as the most significant banking legislation in nearly 50 years, was enacted a few weeks ago.

The Garn bill deregulates the S&Ls. They can now offer interest rates on savings deposits that will compete with those of money market mutual funds, while having the added advantage of being federally insured. The result will likely be the return of billions of dollars in deposits to the S&Ls, and probably a lowering of mortgage interest rates.

The question of sources of mortgage capital is partially addressed by the changing role of the thrift institutions. In addition, Fannie Mae estimates that the market share of mortgage companies and commercial banks will grow.

But that still may not be enough. Where else will the new money that housing needs come from?

Pension funds, with their vast and steadily growing reservoir of investable funds, will likely play a major role in the secondary market. Mortgage bankers predict that large institutional investors, such as pension funds, will buy up to 70 percent of all new mortgages by 1989.

Another concern with regard to the secondary market is the role of the federal government. It has helped create a healthy home-buying environment over the years through federally supported secondary mortgage institutions like Ginnie Mae and Fannie Mae, as well as FHA, VA and other programs.

This active role of government in housing is under scrutiny in some quarters today. The administration wants to eliminate all off-budget federal loan guarantee programs—of which Ginnie Mae, for example, is one. I submit that Ginnie Mae is not a drain on the U.S. Treasury. Rather, it pro-

vides a financial return, as well as a valuable, needed service. This type of government involvement should continue, and I believe the Administration and Congress will come to recognize this.

In sum, I believe the problems with mortgage money sources, instruments and secondary markets are working their way toward resolution.

AFFORDABILITY

Issue number three is the most difficult—the question of affordability. Even if the demand for housing exists and mortgage money is available, some say, the cost is too high at today's prices and today's interest rates. Let me describe for you some things that are happening, that can happen and that should happen to deal effectively with the problem of affordability.

Here's a typical statistic about housing costs: In 1978, the median price of a new house was $55,700. In August this year, that price hit a record $73,200—a staggering leap. But let's not be misled by numbers like these.

Largely it is upgraders—the folks who can afford $73,200 and who have dominated the housing market these last several years—who are paying those "median" prices. Upgraders still represent the major share of those folks who are buying. And, builders have been tailoring their work to the large-home desires of upgraders. The median price reflects that.

I'm not suggesting that prices are not high. What I am suggesting is that we can meet the needs of major segments of the market at more reasonable prices.

The single greatest cost element in a median-priced single-family home is the labor and nonwood structural materials—34 percent of the total, according to Data Resources, Inc. Lumber and plywood comprise only about 12 percent. These percentages have declined slightly over time.

Another major element is the land. The cost of a developed lot, as a proportion of the total price of a house, has risen from 22.6 percent in 1979 to 25 percent this year. Land prices have steadily reflected rising inflation.

The big leap has been in overhead, construction financing and marketing costs. These have grown by nearly half—from 10.7 percent of the price of a mid-range home in 1979 to 15 percent of that price in 1982.

With these percentages growing, you may wonder which ones are dropping. That's not difficult to figure. The builder's profit declined in the period 1979 to 1982—from 20 percent to 14 percent.

The question is how to lower those costs. Land prices are not likely to shift downward much, although the size of the lot can be reduced. And we can control other elements. We can tailor housing toward the market segments most anxious to participate—the first-time buyer, the empty nester and the single houshold head, as well as upgraders when they return in force.

Through the Market Opinion Research study and the investigations of others, we've learned that people have apparently changed their ideas of what the ideal home is. It's smaller than it was just a few years ago. It may be attached to another unit. It may be on a smaller lot. It appears that people will accept a house that's very close to, but not exactly the same as, the traditional single-family, detached home with a lawn.

So in the housing industry, it's time to think small—less than 1,500 square feet—and think attached. Tomorrow's houses will be smaller, if home buyers choose to reduce housing costs this way. Attached housing or townhouses are growing in popularity. More homeowners will repair, remodel or expand their present homes.

As housing units get smaller, however, how space is used and what amenities are provided become critical factors. The National Association of Homebuilders tells us that buyers demand greater quality if they accept less space—more attention to detail in design, construction and energy efficiency.

As homes are modified, wood will continue to be an important ingredient. Wood is the champion insulator among all structural materials in general use. When it comes to keeping homes as warm or as cool as you like, wood is six times as efficient as brick, 15 times better than concrete or stone, 400 times better than steel and, I'm told, 1,770 times more efficient than aluminum.

In spite of the market adaptations we expect, the affordability issue may cause the number of housing starts to fall short of the two million a year we experienced in the 1970s.

That may sound like bad news for the wood products business. Not so. Single-family starts may not return to their former levels, and those homes may be smaller. But we believe that other major domestic markets—multi-family construction and the repair and remodel market—will increase. And the multifamily unit will be larger. Further, world markets for wood products, especially in Japan and Europe, are growing. These expanding markets will be good for the wood business.

In addition, the forest products industry is changing. We're not adding much capacity today in wood products. In fact, we're losing capacity as marginally efficient facilities shut down permanently. New capacity is being delayed due to capital constraints and high inherent risks. And, some industry consolidations are occurring due to companies' shortage of capital and/or raw materials. These consolidations will continue as the recession plays itself out. We expect there to be less lumber and plywood capacity in place when these hard times are over.

HIGH MORTGAGE INTEREST RATES

So, what do we know so far? We know that a substantial demand for housing is waiting to be exercised. We've seen that mortgage money can be available and that appropriate mortgage vehicles are gaining acceptance. And we understand that homes must be tailored to potential buyers and that costs must be managed to tap that demand and make homes more affordable.

But there's a major facet of affordability we haven't talked about yet—high mortgage interest rates, probably the key determinant in reestablishing housing's viability.

A good housing market with reasonable mortgage rates requires a good economic environment. And that's where the federal government comes in. A lot of people, particularly in the Reagan Administration, have concentrated—and properly so—on controlling inflation, thus bringing short- and long-term rates down over time and allowing the economy to revive. The trick is to put an end to heavy deficit spending by the federal government.

We must be prepared for the fact that it will take more time. Frankly, more time, than most of us thought. But some important elements are in place for rates to gradually decline.

First, inflation is coming under control. Inflation in 1979 ran at 13.4 percent; this year it will be close to 5 percent—and seems to be holding. We are seeing a higher rate of personal savings. Consumer debt is down. And finally, interest rates are trending lower.

Of equal importance, however, is that economic improvement, like beauty, is in the eye of the beholder. The perception must grow that the federal government's deficit spending will be curtailed.

Confidence in a recovery must continue to spread. People aren't likely to make major investments in homes if they're concerned about having jobs next month, or next year. Borrowers and lenders alike must share the view that interest rates will stabilize.

Mortgage rates should then slowly decline, as the recovery spreads, reaching and holding at a more affordable level. We peg that to be in the 12 to 14 percent range.

In my judgment, a lot of pent-up housing demand will then be released—obviously more at 12 percent than at 14 percent. We already have some evidence that it will. A major developer who spoke at our Boise Cascade housing session said, and I quote:

"We have a very vital housing market. People are really struggling to find a way to buy. We've had two brief breaks in interest rates in the last two years. During each one, we broke sales records for our entire company for those periods. If we get some reasonable relief in rates, we could have a very strong market." End quote.

We have a fair idea of what the markets for our products will be throughout this decade—and that's a critical piece of knowledge.

But that's not all that's necessary. Another theme has threaded its way through my remarks today, and it's this: Everyone involved in the housing business will have to give a little so that, overall, housing can recover a lot.

Home buyers must diminish their expectations, adjusting to a smaller housing unit on a smaller piece of land. Or they must be willing to devote a large share of their income to housing.

Home builders must concentrate on being more efficient.

The forest products industry must continue working toward improved productivity and efficiency in its wood products mills. Other suppliers must do likewise.

Financial institutions must work harder to market the new instruments now available.

Everyone must do a little, make do with less, work more effectively—and the result will be the revitalized housing industry so important to our nation.

Efficient builders will provide desirable, affordable homes for key segments of the home-buying population. Those homes will be financed through instruments which respond to the needs of both borrower and lender.

The American dream of home ownership is alive, waiting and will be fulfilled, once people can afford to buy. What will do the trick is an overall improvement in the economy and in consumer confidence.

In the meantime, the adaptations a changing housing market requires are taking place—on the part of home buyers, the construction industry, the mortgage finance institutions and building material suppliers.

Traditionally, the housing industry has led America out of recessions. It might not lead this time, but it will certainly follow closely. Home ownership is so woven into the fabric of our social and economic structure that it should be a benchmark of Amer-

ican accomplishment. It has been in the past, and I'm convinced it will be again.●

PROGRAM

Mr. STEVENS. Mr. President, there is an order previously entered to convene at 9:30 a.m. in the morning; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Are there any requests for special orders?

The PRESIDING OFFICER. There are none.

Mr. STEVENS. Mr. President, after the two leaders have been recognized under the standing order, it is my understanding there will be a routine morning business period until 10 a.m. with Senators being permitted to speak therein for not to exceed 3 minutes apiece, that at 10 a.m. we will resume the Interior appropriations bill which is the pending business. There is a planned recess from 12 noon until 2 p.m. At 2 p.m. we will resume consideration of the highway and gas tax bill.

It is the urgent plea of the leadership that if it is at all possible the Interior appropriations bill get passed by the Senate.

As a matter of fact, I am informed that there have already been preliminary negotiations for the conference on that bill, that it could become law very quickly. There is not that much disagreement between the two Houses, and I urge Senators to confer with the Senator from Idaho so that if there are amendments we may program them for tomorrow.

I am sure that the distinguished Senator from West Virginia knows this bill as well as anyone and would share the opinion that if it is at all possible this bill that affects so many separate small agencies that need the guidance of Congress on appropriations should be passed if it is at all possible.

Mr. ROBERT C. BYRD. I agree.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. STEVENS. Is there further business to come before the Senate?

Mr. President, if there be no further business, I ask unanimous consent that the Senate stand in recess until 9:30 a.m. tomorrow in accordance with the previous order.

There being no objection, the Senate, at 6:44 p.m., recessed until Tuesday, December 14, 1982, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Monday, December 13, 1982*

The House met at 12 o'clock noon.

The SPEAKER. Today we have the pleasure of an old friend and former Chaplain of this House beloved by all of us, the Reverend Edward G. Latch, former Chaplain of the U.S. House of Representatives.

Rev. Edward G. Latch, D.D., former Chaplain of the House of Representatives, offered the following prayer:

Be strong and of good courage; be not afraid, neither be thou dismayed: for the Lord Thy God is with thee whithersoever thou goest—Joshua 1: 9.

Almighty God, our Heavenly Father, we pray that Thy spirit may be on our minds and in our hearts as we move through the hours of this day and as we conduct the business that relates to the welfare of our beloved country. Give to the Members of this body the insight to see clearly the steps they should take, the patience to take each step carefuly and the strength to keep on until right decisions are made for the highest good of our Nation. Continue to guide our President, our Speaker, the Members of this House and all who work under the dome of the Capitol that justice and peace and good will may come to new life in our country and in our world: to the glory of Thy holy name and the good of our human race. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 2329. An act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma;

H.R. 6417. An act to amend Public Law 96-432 relating to the U.S. Capitol Grounds; and

H.J. Res. 595. Joint resolution designating December 11, 1982, as "Fiorello H. LaGuardia Memorial Day."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 531. Joint resolution to provide for the designation of the week beginning on October 24, 1982, as "National Parkinson's Disease Week."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2336) entitled "An act to authorize appropriations for fiscal year 1983 for certain maritime programs of the Department of Transportation, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PACKWOOD, Mr. GORTON, Mr. STEVENS, Mr. LONG, and Mr. INOUYE to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1562. An act to provide comprehensive national policy dealing with national needs and objectives in the Arctic;

S. 2279. An act to designate the Alben Barkley National Historic Site;

S. 3081. An act to modify the judicial districts of West Virginia, and for other purposes;

S.J. Res. 254. Joint resolution designating September 22, 1983, as "American Business Women's Day"; and

S.J. Res. 263. Joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week."

LET US MONITOR EVENTS IN POLAND

(Ms. MIKULSKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MIKULSKI. Mr. Speaker, I was relieved to hear this weekend that Polish authorities plan to partially lift martial law restrictions. I am cautiously optimistic that this marks a first step in reestablishing some of the basic freedoms that Poles enjoyed for a brief period.

The repression of the last year has caused enormous suffering for the Polish people both in terms of basic human needs and political freedom. I welcome any movement toward the restoration of political freedom and the easing of shortages in food, medical supplies, and other family essentials.

I want to stress, however, that the announcement this weekend is in no way a substitute for the full recognition of Solidarity and acceptance of the Gdansk Shipyard Agreement. I believe that Polish authorities must recognize that no regime or government can claim legitimacy without first taking these steps. The gains that were made by Polish patriots must not be denied.

I ask that my colleagues pay special attention to the situation in Poland over the coming weeks and months. Our commitment to free people everywhere demands nothing less.

COMMITTEE ORDER NO. 34—ALLOWANCE FOR OFFICIAL EXPENSES

(Mr. HAWKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HAWKINS. Mr. Speaker, the Committee on House Administration, under the Authority granted in Public Law 92-184 and Public Law 94-440, last Thursday issued committee order No. 34, which is effective on January 3, 1983.

I include committee order No. 34 in the RECORD at this point:

COMMITTEE ORDER (34)

Resolved, That effective January 3, 1983, until otherwise provided by the Committee on House Administration, the Allowance for Official Expenses is as follows:

1. The base allowance for Official Expenses is increased to $52,000.

2. The Travel Allowance is increased to a minimum of $5,700, and the multiplier in the formula used to compute the variable for travel is increased to a range of 21 to 35 cents.

Expenditures of these funds shall be made in accordance with rules and regulations established by the Committee on House Administration.

KGB LEADERSHIP FOR THE SOVIET UNION

(Mr. McDONALD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDONALD. Mr. Speaker, a lot of nonsense has appeared in the popular press relative to the rise to leadership of Yuri Andropov in the Soviet Union. Specifically, some claim he is really a "liberal" with Western tastes and that, somehow, we should all feel hopeful. However, the evidence we have does not agree with this theory.

The evidence is that Andropov's rise to power started some time before the death of Brezhnev, and that Brezhnev, while still alive and in very failing health, was not really ruling the

Soviet Union during his last year on this Earth.

It was noticeable that after death on January 25, 1982, of the U.S.S.R's brittle ideolog—Mikhail Suslov—that some things began to change in foreign policy. Most notably serious moves to heal rifts with Communist China and Yugoslavia now took place. Andropov also moved back to the Central Committee Secretariat in April, where he could now have a direct influence on U.S.S.R. foreign and military policies.

Also prior to Brezhnev's death, there were a series of leaks to the Western press, probably orchestrated by the KGB, regarding the alleged crimes of friends and family of Brezhnev. For such things to be in open circulation in Moscow is rather unprecedented.

As for Andropov himself, we should note that he has been the head of the Soviet secret police—the KGB—longer than anyone in its history. He is also known to have played a major role in the subjugation of the Karelo Finns after the winter war (1939-40), with Finland and during the Hungarian revolt in 1956. During his tenure the KGB achieved new high levels of refinement of KGB tactics in repression, and espionage. All of this hardly adds up to great hopes for the free world. In order to provide additional details on this important topic, I am placing an expanded version of this statement in Extensions of Remarks today.

AMERICAN SAMOA FACES ECONOMIC DISASTER

(Mr. SUNIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNIA. Mr. Speaker, over the weekend, I circulated a dear colleague letter to the offices of all Members with the hope that they will have a chance to see it before floor consideration of H.R. 7397, the Caribbean Basin Economy Recovery Act. If that bill were to pass in its present form, American Samoa, the Nation's lone territory in the South Pacific, faces a real economic disaster.

All that is necessary to avert that disaster is for canned tuna to be excluded. A motion by RICHARD GEPHARDT to that extent was narrowly defeated during committee markup.

Mr. Speaker, tuna canning is American Samoa's only industry. If Caribbean-packed tuna were to be allowed to enter duty free, tuna packed in the U.S. territories—where all of the Nation's laws, rules, and regulations must be obeyed—stands no chance to compete.

When our industry is gone, sir, the alternative is to seek additional Federal appropriations for general support. While this Congress has been more than generous to my territory in the recent past, we feel a nearness to our goal of economic self-sufficiency, through the further development of tuna canning operations in our islands. There is no other resource available.

I know this Congress, the Federal Government, will come to our aid, as it has in the past. But Mr. Speaker, the pride and self-respect that comes from knowing you are beginning to pay your own keep, will be dealt a fatal blow.

We do not oppose the President's Caribbean Basin Initiative. We only ask that tuna canning be excluded.

"SOCPAC"—ALL-INCLUSIVE SOLUTION

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, today, because of the confusion in the other body on the major issues facing this lameduck session, I am forced to offer a solution so we can go home before the 98th Congress takes over.

My solution will solve the 5-cent gas tax filibuster, provide funds for improving our rail and road system, alleviate the MX crisis, contribute to a nuclear freeze, and assist in creating jobs. I call this solution the "SILVIO O. CONTE Put 'em on Amtrack Cars," or SOCPAC solution. SOCPAC is a nonnuclear approach to solving the window of vulnerability. The plan envisions putting rockets without nuclear warheads on railcars and buses all over the country. The money that we give DOD for this system would be used to improve our rail beds and roadways and thus provide jobs.

We can meet the arms control objectives of the nuclear freeze because the missiles will not have nuclear warheads on them. The warheads will be removed and stored at another location, only to be joined with the rocket in time of emergency. This will eliminate the criticism that we are building a first strike system. Yet, it will pose a targeting problem to the Soviets which they cannot solve.

Then, as Art Buchwald suggests, we can give the Soviets the Amtrak schedules and they will never be sure where anything in the system is.

Hopefully, someone will see the wisdom of SOCPAC in order to get our colleagues on the other side of this building out of their trance before Santa Claus comes.

UPDATE ON BANKRUPTCY LEGISLATION

(Mr. BUTLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUTLER. Mr. Speaker, on June 28, 1982, the Supreme Court of the United States in the now famous Marathon Pipeline case determined that much of the jurisdiction granted the Bankruptcy Court in 1978 is unconstitutional; and gave the Congress until October 4 to do something about it.

Relying on representations of great progress in Congress, and expectation of early resolution of the problems created by this decision, the Supreme Court on October 4, extended the time for congressional action to December 24.

The indicated legislative response was passed by the full Judiciary Committee on August 19, 1982, as H.R. 6978, supporting comments have been in the hands of our colleagues for some little time. Chairman RODINO has extensive remarks on the subject in the RECORD on December 8, 1982; and I have suggested possible areas of compromise in a separate bill, H.R. 7349, and my comments are in the RECORD of December 1, 1982.

On Friday of last week, the Attorney General of the United States by letter to the Speaker reviewed the situation once more and reminded the Speaker once more "that it is imperative that the necessary remedial legislation be enacted before the end of this session."

It is implicit in such a letter from the Attorney General that the Department of Justice does not intend to ask the Supreme Court of the United States for additional time if the Congress does not act by December 24; and it is my own view that the possibility of a further stay by the Supreme Court under these circumstances is extremely remote even if asked.

Mr. Speaker, it is quite apparent to me that there will be chaos in the bankruptcy courts if Congress does not act to create the appropriate article III bankruptcy judges before adjournment; and the blood will be on our hands.

HON. CLAIR W. BURGENER—A STANDUP, STANDOUT CONGRESSMAN

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, what we all will miss in bidding goodby to CLAIR BURGENER of California, is many things, the extraordinary qualities that made him such a standup, standout Congressman. He had a singular talent for getting to the heart of the matter. In committee or in the well, he rarely spoke unless the issue under consideration was of great importance. And he never failed to contribute something of value. With Mr. BURGENER acrimonious argument yielded to eloquent, gentle persuasion, always acknowledging the good points in the

other Member's case, unerringly pointing out the greater merit of his. He was formidable as an ally or as an opponent; but he was never a foe.

For the way in which I would like to be pictured by the folks at home, his portrait is the prototype. Intelligence, wit, eloquence, impeccable moral standards, a stunning wife, CLAIR has it all. The Congress and candidly the whole Nation will be the losers when Mr. BURGENER strikes his last word and leaves the well for the last time. For all of us heading into the 98th Congress, it will be a gloomy day.

□ 1215

JOB CREATION EFFORTS

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, we have all heard about the job creation effort attached to the continuing resolution. While the effort should be complimented, I do think the "nuts and bolts" of the proposal has serious problems. We should not cast a stamp of approval for an effort which will really help only a small segment of the unemployed of this Nation. We need more than political expediency.

If this Congress is serious about helping the unemployed, and I believe it is, then we should consider efforts that will help our idle workers secure gainful, meaningful employment. It is important to get our workers back to work but not jobs that will be nonexistent in just a few months.

I plan to introduce legislation that I believe goes hand in hand with the job creation efforts currently under discussion. My legislation, the Job Opportunity and Business Stimulation Act (JOBS), will allow States and hard-hit localities the flexibility to address their own particular problems in creating jobs and stimulating business. My legislation will allow States and hard-hit localities the leeway to initiate projects which will be most beneficial to the needs of their area. My legislation acknowledges differing needs not only from State to State but also from county to county within a State.

I fear the Congress may approve a job creation effort that really will not be much more than a pacifier to the voting constituencies back home. Job creation should and must be geared toward permanent, marketable employment. I urge your cosponsorship of my proposal and your help to make this effort a reality.

IS IT $700,000 OR IS IT $134,700 OR LESS?

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I am a longtime admirer of the beloved late former Vice President Alben Barkley, a native of my home county and a former resident of Paducah, Ky., who rose from McCraken County judge to be Vice President of the United States. In fact, Alben Barkley, is one of my predecessors as First District U.S. Representative of Kentucky.

I am a supporter of efforts to make his Paducah home a national historic site.

Legislation was introduced in the U.S. Senate last March 24 for this purpose and allocates up to $700,000 for the "acquisition of lands and interests therein." This bill, S. 2279, was quietly, adroitly and by voice vote passed in the U.S. Senate last Friday, December 10.

Press accounts in Kentucky yesterday indicated that a respected member of the Kentucky House delegation will push this bill through the House for passage under unanimous consent this week—possibly as early as today.

It would be unfair to my colleagues in the House if I did not point out that a fair appraisal of the real estate in question—13 acres and the Barkley homeplace—is a lot less than even $200,000. In fact, the total 30.9 acres including the homeplace is listed for tax purposes at 100 percent valuation in the McCracken County Courthouse, Paducah, Ky., for $134,700.

I can assure my colleagues in the House that this legislation deserves hearings and adequate consideration by the House. Incidentally, during the brief Senate action on this bill last Friday, the cost to the Federal Government—"not to exceed $700,000 for the acquisition of lands and interests therein"—was never mentioned. Also, opposition to the cost of this legislation by the U.S. Department of the Interior and the National Park Service was never mentioned.

There has been tremendous pressure, even this morning, upon me to support this bill today in the U.S. House of Representatives.

A fair question is why, may I ask, is there such a rush?

ROBERT F. HENRY LOCK AND DAM

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2034) to designate the lock and dam known as the Jones Bluff Lock and Dam, located on the Alabama River, as the "Robert F. Henry Lock and Dam," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Jones Bluff Lock and Dam, located on the Alabama River between Lowndes and Autauga Counties, Alabama, is designated and shall hereafter be known as the "Robert F. Henry Lock and Dam".

(b) Any reference in a law, map, regulation, document, record, or other paper of the United States to that lock and dam shall be deemed to be a reference to the "Robert F. Henry Lock and Dam".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ROBERT B. GRIFFITH WATER PROJECT

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the Senate bill (S. 1681) to designate the Southern Nevada water project the "Robert B. Griffith Water Project," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the southern Nevada water project, in Clark County, Nevada, shall hereafter be known and designated as the "Robert B. Griffith Water Project". Any reference in a law, map, regulation, document, record or other paper of the United States to that water project shall be held and considered to be a reference to the "Robert B. Griffith Water Project".

Mr. KAZEN. Mr. Speaker, S. 1681 changes the name of the southern Nevada project, which furnishes water for municipal and industrial purposes

to the Las Vegas area, to the "Robert B. Griffith Water Project."

This simple, noncontroversial bill honors a Nevada pioneer largely through whose efforts the project was constructed. I know of no objection to the bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO SCIENTIFIC AND TECHNOLOGICAL SUPERIORITY OF COMMUNICATIONS AND ELECTRONICS INDUSTRY IN THE UNITED STATES

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 130) expressing the sense of the Congress that the advancement of science and technology in the communications and electronics industry is vital to the needs of the United States.

The Clerk read as follows:

S. CON. RES. 130

Whereas the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, the Federal Communications Commission, and the Congress have long recognized the importance of scientific and technological developments in the United States in meeting its defense, industrial, and other needs;

Whereas such scientific and technological developments in the communications and electronics industry are of particular importance to the United States in meeting its defense, industrial, and other needs;

Whereas the traditional technological superiority enjoyed by the United States in the area of communications and electronics is dwindling due to the disparity in the commitment;

Whereas it is in the best interest of the United States to reverse the trend of declining United States technological superiority and to continue to lead in all areas of communications and electronics;

Whereas it is in the best interest of the United States to support the establishment of a national center dedicated to the advancement of science and technology in communications and electronics; and

Whereas such a national center would promote the interest of the public at large in such advancements in communications and electronics; tie the corporate and governmental worlds together to reach a common goal: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress shall take an active and leading role in making the public, and the corporate and governmental worlds aware of the importance of assuring and maintaining the scientific and technological superiority of the United States in the area of electronics and communications, and to encourage the establishment within the United States of a national center dedicated to communications and electronics.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. FUQUA) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. WALKER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on Senate Concurrent Resolution 130.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering Senate Concurrent Resolution 130, which expresses the sense of the Congress that the Congress shall take an active and leading role in making the public, and the corporate and governmental worlds aware of the importance of assuring and maintaining the scientific and technological superiority of the United States in the area of electronics and communications, and to encourage the establishment within the United States of a national center dedicated to communications and electronics.

My colleague, DOUG BARNARD, introduced a similar resolution (H. Con. Res. 204) which was considered by the Committee on Science and Technology in markup on August 3, 1982, and by unanimous voice vote the committee favorably reported House Concurrent Resolution 204 without amendment. On December 1, the Senate passed Senate Concurrent Resolution 130 which was referred jointly to the Committee on Energy and Commerce and the Committee on Science and Technology on December 6. Both committees support the adoption of the language proposed by the Senate in Senate Concurrent Resolution 130.

Senate Concurrent Resolution 130 is based on the views that the traditional technological superiority enjoyed by the United States in the area of communications and electronics is dwindling due to the disparity in the commitment, and that it is in the best interest of the United States to support the establishment of a national center dedicated to the advancement of science and technology in communications and electronics.

As we all know, America's international position in both science and technology is currently being challenged. The national security and the economic and social well-being of the United States will in a large measure rest on the ability of our country to remain in the forefront of the rapidly advancing communications and electronics technologies. The proposed science center could provide the assistance necessary to encourage young people to enter these important fields which are currently experiencing a shortage of qualified scientists.

This resolution does not authorize or appropriate Federal funds, but would assist the nonprofit foundation created by leaders in communications and electronics in their effort to obtain funds to build this science center. I urge my colleagues to pass Senate Concurrent Resolution 130.

The SPEAKER pro tempore (Mr. KILDEE). The Chair recognizes the gentleman from Pennsylvania (Mr. WALKER) for 20 minutes.

Mr. WALKER. Mr. Speaker, the gentleman from Florida has done an excellent job of explaining this bill. I know of no controversy. It was passed out, as the gentleman indicated, from the Committee on Science and Technology unanimously.

The minority is certainly in agreement with the gentleman that this is a policy that this Nation should pursue, and we wholly concur with the gentleman in saying that the Congress should go ahead and pass this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. FUQUA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 130).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the

Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

A similar House concurrent resolution (H. Con. Res. 204) was laid on the table.

TELECOMMUNICATIONS FOR THE DISABLED ACT OF 1982

Mr. WIRTH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2355) to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service, as amended.

The Clerk read the Senate bill, as follows:

S. 2355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Telecommunications for the Disabled Act of 1982".

SEC. 2. The Congress finds that—

(1) all person should have available the best telephone service which is technologically and economically feasible;

(2) currently available technology is capable of providing telephone service to some individuals who, because of hearing impairments, require telephone reception by means of hearing aids with induction coils, or other inductive receptors;

(3) the lack of technical standards ensuring compatibility between hearing aids and telephones has prevented receipt of the best telephone service which is technologically and economically feasible; and

(4) adoption of technical standards is required in order to ensure compatibility between telephones and hearing aids, thereby accommodating the needs of individuals with hearing impairments.

SEC. 3. Title VI of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new section:

"TELEPHONE SERVICE FOR THE DISABLED

"SEC. 610. (a) The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

"(b) The Commission shall require that essential telephones provide internal means for effective use with hearing aids that are specially designed for telephone use. For purposes of this subsection, the term 'essential telephones' means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids.

"(c) The Commission shall establish or approve such technical standards as are required to enforce this section.

"(d) The Commission shall establish such requirements for the labeling of packaging materials for equipment as are needed to provide adequate information to consumers on the compatibility between telephones and hearing aids.

"(e) In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments. The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of improved technology.

"(f) The Commission shall complete rulemaking actions required by this section and issue specific and detailed rules and regulations resulting therefrom within one year after the date of enactment the Telecommunications for the Disabled Act of 1982. Thereafter the Commission shall periodically review such rules and regulations. Except for coin-operated telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section.

"(g) Any common carrier or connecting carrier may provide specialized terminal equipment needed by persons whose hearing, speech, vision, or mobility is impaired. The State commission may allow the carrier to recover in its tariffs for regulated service reasonable and prudent costs not charged directly to users of such equipment.

"(h) The Commission shall delegate to each State commission the authority to enforce within such State compliance with the specific regulations that the Commission issues under subsections (a) and (b), conditioned upon the adoption and enforcement of such regulations by the State commission.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Colorado (Mr. WIRTH) will be recognized for 20 minutes, and the gentleman from California (Mr. DANNEMEYER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH).

GENERAL LEAVE

Mr. WIRTH. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks and to insert letters of support, and that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. WIRTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks, to insert in the RECORD letters of support, and to allow Members 5 legislative days to revise and extend their remarks.

The Telecommunications for the Disabled Act of 1982 represents a consensus approach the need of persons with hearing impairments or other physical disabilities to have access to the telecommunications services that are vital to life in modern society. The bill has been endorsed by each of the major carriers and by representatives of the telephone manufacturing industry. It is supported by groups representing the disabled, including Easter Seals, the American Association of Retired Persons, and the Disabled American Veterans. It is a common sense and economic approach to a problem that has vexed several Congresses. It recognizes the historic commitment of the telephone companies to accommodate the handicapped and relies on that tradition, rather than on Government subsidies and Federal regulation.

The Committee on Energy and Commerce has unanimously reported S. 2355, the Telecommunications for the Disabled Act of 1982. This legislation takes two constructive steps to insure that disabled Americans continue to have access to our telephone network. First, the bill modifies a regulation issued by the Federal Communications Commission (FCC) that would prevent State regulators from making specialized telephone equipment available to the disabled. Second, the legislation directs the FCC to establish a technical standard to insure that telephones needed by persons with impaired hearing are compatible with hearing aids.

Unless Congress acts during the special session, the FCC regulation will become effective on January 1, and disabled Americans will no longer be able to obtain new terminal equipment under State-supervised tariffs. As the executive director of the Paralyzed Veterans of America recently wrote to me:

> I want to express my gratitude for your efforts. The FCC regulation would preclude many individuals from obtaining this necessary, and often only, means of contact with other people, including vital medical and emergency personnel . . . Telephone companies would be prevented from subsidizing special and unique equipment to meet the needs of handicapped individuals . . . in certain cases, preventing their gainful employment. This decision . . . presents a great hardship and peril to many of our most catastrophically disabled citizens.

More than one-third of all Americans over 65 wear hearing aids. The legislation recognizes the difficulties that these persons encounter when they need to use noncompatible telephones. All standard Bell telephones are now compatible; AT&T, GTE, and some independent telephone companies have also retrofitted coin telephones. Nonetheless, places of business are installing increasing numbers of noncompatible telephones, generally because they are unaware that many of their customers will be unable to use them. The result is an unnecessary hardship, since at the present time new telephones can be manufactured to be compatible without any significant increase in cost.

A broad coalition has recognized the need for this legislation. The Nation's major telephone carriers have joined the North American Telephone Association in approving the Telecommunications for the Disabled Act. Representatives of the handicapped community and the medical profession (including the Disabled American Veterans and the American Association of Retired Persons) also endorse S. 2355.

Historically, the telephone industry (particularly Bell Labs) has done an outstanding job of developing technology that allows the disabled to use our telephone network. An intrusive Federal regulation should not interfere with the development of these technologies or prevent telephone carriers from making them available to the handicapped in cooperation with the State commissions. I urge your support for this consensus legislation, which is vital to America's elderly and disabled citizens.

MODIFYING THE COMPUTER RULE

After the introduction of this bill, AT&T petitioned the Commission for a temporary waiver of the computer rule, 47 CFR 64.702, which precludes a carrier from offering terminal equipment on a regulated basis. Subsequently, Mr. David Saks on behalf of the Organization for the Use of the Telephone requested that the Commission extend such a waiver to allow all telephone companies to offer specialized terminal equipment under tariff. Mr. Saks subsequently clarified that he intended such a waiver to be permanent.

Passage of this legislation moots the pending waiver proceedings by removing specialized terminal equipment from the jurisdiction of the computer rule. The Commission will be required to adopt a permanent modification of the computer rule to allow States to tariff specialized equipment.

For years, the special needs of the disabled have not received adequate attention at the Commission. The Commission has taken no action to resolve the issues raised in Docket 78-50, opened 4 years ago to consider standards for hearing aid compatibility and to resolve problems facing the deaf. There is no evidence that the Commission gave any consideration to the needs of the disabled during the second computer inquiry, which led to the indescriminate prohibition on the tariffing of terminal equipment.

Given such neglect, explicit legislative guidance is required. The Commission must forbear from forcing the States to deregulate any device that the disabled need in order effectively to use the Nation's telephone services. Specialized equipment now includes teletypewriters for the deaf, "hands off" equipment for quadriplegic telephone users, and artificial larynxes for persons unable to speak. It also includes optional equipment, such as speakerphones and automatic dialers, but only provided that tariffs are limited to those users who need these features in order to use telephone services effectively and independently. Automatic dialers and speakerphones could only be made available under tariff only to persons with impaired memory or mobility, not to the public at large.

In the future, the Commission may define by rule the scope of the "specialized terminal equipment" which this bill authorizes States to tariff; the Commission may attempt to enjoin tariffs that it regards as overbroad. The legislation intends a flexible reading of the term, placing primacy on the needs of the handicapped and on the desirability of making new technologies broadly available to disabled groups.

The legislation recognizes that States will not necessarily require that carriers offer terminal equipment under tariff. It recognizes that many carriers will continue their outstanding efforts of providing below-cost equipment on a deregulated basis, subsidized by charitable contributions from its shareholders. In such a case, there may be no reason for the State to prescribe tariffs for the affected equipment.[1] The bill simply states that the Commission cannot interfere with the State's decision to tariff such equipment and to allow the recovery of reasonable and prudent costs not charged directly to the user in tariffs for regulated services.

The Commission should continue to prevent distortions in the nationwide markets for terminal equipment by precluding a State from allowing recovery of any excess over the reasonable and prudent costs of providing terminal equipment on a subsidized basis. In particular, the State may not authorize a carrier to recover in tariffs for regulated services the costs of discriminatory procurement practices. Moreover, the State may not include as expenses in any regulated rate base contributions made to an affiliated entity ostensibly to subsidize equipment, unless such entity files tariffs (or other justifications of costs) to show that the costs of such equipment exceeded the price at which it was sold by an amount not less than the contribution allowed from the rate base.

The principle of the legislation is straightforward. The Commission can only preempt a State tariff when it demonstrates one of three conditions: First, the tariff concerns equipment other than specialized terminal equipment; that is, it involves devices that are not necessary for the disabled to use generally available telecommunications services (or those services that have been specially designed for their use) effectively or without assistance. Second, the tariff makes specialized equipment which has general utility (such as speakerphones) to persons who do not require it by virtue of a physiological impairment. Third, a tariff for regulated services includes costs of providing equipment that are not "reasonable and prudent," including any claimed reduction in the price at which an unregulated affiliate offers equipment that the carrier does not demonstrate to be below the actual costs of production and distribution.

ESTABLISHING A TECHNICAL STANDARD FOR EFFECTIVE USE OF TELEPHONES WITH HEARING AIDS

The second purpose of the legislation is to insure that persons with impaired hearing have access to essential telephones that are compatible with hearing aids. Today, these citizens face a hardship that is totally unnecessary, since current technology allows new telephones to be manufactured for compatibility without any significant increase in cost. A uniform technical standard is essential to insure that these Americans can travel among the States, transact business, and seek employment without discrimination based on their disability.

Persons with impaired hearing have experienced special difficulty in obtaining telephone service offered to the public in hotels and other places of public accommodation. While traveling away from home, these persons have been unable to call their families from certain hotel rooms, to use telephones in business meeting rooms, or even to seek emergency aid from elevators. Although the hotel industry has attempted to accommodate these guests, it was often prevented from doing so by the absence of a uniform technical standard and adequate labeling requirements. Therefore, the bill does not require that hotel owners retrofit telephones (other than emergency phones). Except with regard to emergency phones, the bill does not extend the jurisdiction of the Commission, nor does it express or imply an intention with regard to any pending or future proceeding under sections 201 and 208 of the Communications Act, or affect the tariffing obligations under those sections which the Commission recently recognized in its Competitive Carrier rulemaking.

The purpose of the bill is not to freeze technology. It does not mandate any particular method for achieving compatibility with hearing aids. Currently, magnetic induction provides a means for providing compatibility without incurring additional manufacturing costs. In the future, new technologies may make possible improved service to the ordinary user. This bill promotes efficiency by encouraging the development of those new technologies while holding the hearing-impaired user harmless from any potential degradation of hearing-aid compatible service.

[1] The bill does not "specify that offerings of specialized terminal equipment be under tariff," and it is "permissible for carriers to offer such equipment under tariff or on a deregulated basis." The State commission may direct the carrier to provide affordable specialized equipment to the handicapped; the carrier may elect to do so on an unregulated basis subsidized by the shareholders rather than on a regulated basis subsidized by the ratepayers.

□ 1230

Mr. KAZEN. Mr. Speaker, will the distinguished gentleman yield?

Mr. WIRTH. I am glad to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I am very glad to hear the explanation the gentleman has made. I have been contacted by motel and hotel people who were under the impression that this measure would make it mandatory for them to have these telephones in every single room.

Mr. WIRTH. That is not the case. That was the case in previous legislation, but it seemed to us on the committee that this was an onerous provision.

Let me add at this point that the objections of some members of the hotel and motel industry to not reflect on the general attitude or record of hotel and motel owners across our country to accommodate all their guests, including those with physical disabilities. Today, without the benefit of a uniform standard, equipment is manufactured with a variety of inductive characteristics, and it is not possible to design a hearing aid that is compatible with all of them. As a result, hotel owners often do not know whether the equipment they buy is or is not compatible. In the future, virtually all equipment will have the same magnetic characteristics and will be compatible with hearing aids. The hotel owner will know any exceptions—noncompatible equipment will be clearly packaged. Hotels will have the opportunity, which they generally do not have today, to choose whether they want to have compatible equipment. With comparable prices, one would expect the overwhelming majority of the hospitality industry to accommodate their guests. The requirements placed on those who choose, for some reason, to buy noncompatible systems is minimal. In the face of these minimal burdens, we have a substantial benefit to the hearing-impaired population. Over one-third of all Americans over 65 is hearing impaired. This bill assures that they will be able to phone home when they travel, to participate equally in conventions and business meetings, and to summon help if they are trapped in an elevator.

Mr. KAZEN. It certainly would be if that were to be the requirement because there are not that many people who are hotel guests in proportion to the people who do not need the telephones, so it is not necessary to have the entire industry go to this great expense of converting.

Mr. Speaker, will the gentleman go over that requirement again or explain the suggestion again?

Mr. WIRTH. Mr. Speaker, I will be glad to do that.

As far as having coin telephones be compatible, the industry is very happy with doing that. They are in the process of doing it anyway.

Mr. KAZEN. Mr. Speaker, does the gentleman refer to the manufacturing industry?

Mr. WIRTH. The manufacturers, the distributors, and the carriers.

Mr. KAZEN. All right.

Mr. WIRTH. The manufacturers are in the process of moving toward that kind of standard so that all equipment is compatible with hearing aids. The suppliers want uniformity. Since all instruments have to have a magnetic field, it makes sense to adjust telephones to have uniform strength and orientation so that hearing aids can work with telephones from different manufacturers

Let us consider the perspective of service providers, say, a hotel or motel. If you were operating a motel in downtown Dallas, the law would not apply (except to emergency phones) until you bought a new telephone system. Compatible systems are available at comparable prices, so one would expect that most hotels would simply buy compatible phones. But if, for some reason, a hotel elects a system that is not compatible, it can simply maintain a reasonable number of instruments for hearing-aid wearers to use on demand. These could be rooms reserved for the hearing impaired, or there could even be portable instruments that the hearing impaired could request. But there is no requirement that every telephone in the lobby or every room would have to have telephones that are compatible with hearing aids.

Mr. KAZEN. Mr. Speaker, what does the gentleman consider as a reasonable requirement?

Mr. WIRTH. We had a similar discussion in hearings on H.R. 5158. We encouraged the FCC to work with the industry. Working together, so that the manufacturing industry will come in, along with the motel and hotel industry, and we say that a 20-percent level could be reached in the lobbies, and that there would be 1 out of 10 rooms that would be compatible. And then the Commission would determine what was a reasonable number.

I would also point out, if I may, that this is in a transitional period. As telephones are being replaced, older hotels and motels are going to be replacing their equipment as they go along anyway, and virtually all the new equipment manufactured after this legislation would be compatible anyway. So 5 years from now or 8 years from now it is not going to be a concern. It is in the transitional phase that the FCC should give particular concern to encouraging voluntary compliance with the legislation and its purposes.

Mr. KAZEN. Mr. Speaker, I thank the gentleman.

Mr. WIRTH. Mr. Speaker, I thank the gentleman for his questions.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, I appreciate the gentleman's yielding.

I was curious about one aspect of this. What is the estimated cost that would be required for hotels and motels? Can the gentleman give us a cost estimate?

Mr. WIRTH. Mr. Speaker, a great number of the motels and hotels already have this equipment available, and as to installing any kind of new hearing compatible phone, there is no greater cost now. One can go, for example, to the Bell Telephone System or its new subsidiary and find that all standard telephones are compatible. You just cannot buy a nonconforming telephone. From most other manufacturers, the cost of a hearing compatible phone is no different from the cost of a regular telephone. I am pleased to submit representative letters from manufacturers which assured us that this legislation will not increase the cost of new telephones.

TELTONE,
December 9, 1982.

Hon. TIMOTHY WIRTH,
Chairman, House Telecommunications Subcommittee, Washington, D.C.

DEAR SIR: Teltone Corporation is a manufacturer of telecommunications equipment. This letter will confirm that S. 2355 presents a good solution to assure electromagnetic compatibility between the telephone and the hearing aid.

It is our opinion, as a manufacturer and supplier of related products, that such compatibility insofar as new telephone instruments are concerned, can be realistically achieved within the time frame proposed by legislation and with insignificant additional cost to the manufacturer.

Sincerely,

TELTONE CORPORATION,
DALE E. JOHNSON,
Vice President, Sales.

CREST INDUSTRIES, INC.,
Puyallup, Wash., December 9, 1982.

Hon. TIMOTHY WIRTH,
Chairman, House Telecommunications Subcommittee, Rayburn Building, Washington, D.C.

DEAR MR. WIRTH: As manufacturers of telephone equipment including miniature transfer keys, two-line telephones and modular hardware, this is to confirm that S. 2355 and the corresponding House Bill present a feasible and affordable solution to the problem of ensuring electromagnetic compatibility between telephone receivers and hearing aids. It is our opinion as a supplier of telephone instruments and related products, that such compatibility insofar as new telephone instruments are concerned, can be realistically achieved within the time frame proposed by legislation and at insignificant additional cost to manufacturers.

Should you have any questions, please contact me at Crest Industries, Puyallup, Washington, telephone 927-6922.

Sincerely,

EARL L. MASON,
Vice President, Corporate Planning.

Mr. McDONALD. Mr. Speaker, if the gentleman will yield further, I was particularly curious about the small hotels and motels. Would there be any cost to them?

Mr. WIRTH. There would be no significant costs. There is no retrofitting required under the legislation. If you have a hotel or a motel now that has no hearing compatible telephones, there is no requirement for retrofitting. All we are saying is that when new telephones are put in, the standards are there anyway and these are going to have the technical capability of handling the hearing-impaired.

So we do not say that you would have to go back and redo rooms or tear out telephones of that sort. It is all for new installations.

Mr. McDONALD. Mr. Speaker, I thank the gentleman.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I am pleased to yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I simply want to join with the gentleman from Colorado (Mr. WIRTH), and I want to express my appreciation to him and to the subcommittee for providing leadership here in an area that is extremely important to a great many Americans. I am pleased to join in support of this legislation.

Mr. Speaker, the Telecommunications for the Disabled Act is a vital step in assuring that the handicapped members of our society have an equal opportunity to participate in the social and work opportunities in this Nation. The act requires the establishment of uniform standards to insure that essential telephones—those phones which are to be found in public facilities, workplaces, businesses, and which are to be used to summon help in case of emergencies—are accessible to the disabled population.

The telephone companies of this country have done an admirable job in designing and providing equipment for the handicapped. The Bell System in particular has demonstrated a substantial commitment to providing the best feasible service to disabled customers. In most cases, it has been a cooperative effort between telephone companies, State utility commissions and the Federal Communications Commission to insure that the disabled have reasonable access to telephone service. In many cases, the physically impaired have been able to afford these innovations only because telephone companies have provided specialized equipment at below cost. However, a recent Federal Communications Commission decision prohibits telephone companies from subsidizing terminal equipment and requires users to pay the full cost of equipment in their homes and places of business. The effect of this ruling could be devastating to the handicapped. The Telecommunications for the Disabled Act would only insure that individuals with disabilities would have access to telephone services at affordable costs. I encourage you to support this important legislation.

Mr. WIRTH. Mr. Speaker, I thank the gentleman from Illinois.

In closing, Mr. Speaker, let me point out that this legislation is also cosponsored by the ranking minority member of the Energy and Commerce Committee, the gentleman from North Carolina (Mr. BROYHILL) and was unanimously reported out of the full committee. Our subcommittee held hearings on this issue on March 27, 1980 and February 26, 1982. Extensive hearings were also held on the Senate side, with various aspects of the industry represented.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of my colleague, the gentleman from Virginia (Mr. BLILEY), a member of the subcommittee, who met with an unfortunate accident this morning and cannot be on the floor to address the House concerning this legislation, I would like to make this following statement on behalf of the gentleman relative to S. 2355.

The remarks of the gentleman from Virginia (Mr. BLILEY), are as follows:

Though I concur with the bill's purpose of insuring telephone service for the deaf and other handicapped individuals, the manner of achieving this goal poses several questions which need further consideration.

The Telecommunications Subcommittee, which has jurisdiction over S. 2355, never held a hearing or markup session. Only one witness was heard on "related provisions" of H.R. 5158. The bill was brought before the Energy and Commerce Committee on extremely short notice during consideration of other unrelated measures.

In urging local telephone companies to continue to provide subsidized service to the handicapped, the bill would require an alteration of the FCC's "computer II" decision which was upheld by the U.S. court of appeals only last month. And it would require that the changes be made before January 1, 1983, only 3 weeks away.

S. 2355 would preempt all State regulations on the subjects covered and then ask States to bear the burden of enforcing the Federal law. The bill would regulate not only technical standards for phone equipment but require "detailed guidance as to the locations where * * * telephones must be available" in drugstores, gas stations, private clubs, workplaces, and hotels and motels.

Over 80 percent of all telephones in the United States are already hearing aid-compatible. Every coin-operated phone in the Bell and GTE systems is already in compliance. Hotel and motel operators have offered to work with organizations for the handicapped to voluntarily insure that phone service is available.

In short, this bill is a prime example of "duck fever." An attractive title hides a vast and probably unneeded new regulatory program. Affected industries and consumers deserve the courtesy of a hearing and proper legislative procedure.

● Mr. BROYHILL. Mr. Speaker, I would like to make one point in order to clarify an ambiguity in this legislation. S. 2355 does not grant jurisdiction to any Government agency to require any person to manufacture "essential" telephones or to market such telephones to anyone desiring to purchase or lease an essential telephone. There is every reason to believe that the marketplace will insure that a large supply of essential telephones are manufactured and marketed. But if it does not, no one can point to this bill as granting jurisdiction to any Government agency to require that such phones are either manufactured or marketed.●

Mr. DANNEMEYER. Mr. Speaker, I reserve the balance of my time.

Mr. WIRTH. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, I rise in support of S. 2355, the Telecommunications for the Disabled Act of 1982.

Unless Congress acts now, Federal Communications Commission regulations prohibiting State regulators from making subsidized specialized telephone equipment available to the disabled will go into effect on January 1, 1983. It is vital to the very existence of the hearing impaired and disabled that they are insured access to our telephone network. Use of a telephone is not a luxury, it is a necessity. Particularly for the disabled person, access to a telephone could mean the difference between life and death.

State regulators must be allowed to set a subsidized rate for the specialized terminal equipment. The full cost of this equipment would put it out of reach of most hearing impaired and handicapped individuals.

S. 2355 would also require that all new telephones be made compatible with hearing aids. Although all Bell telephones are currently compatible with the aids, the proliferation of new telephone equipment has seen a rise in noncompatible terminals. One-third of all Americans over 65 wear hearing

aids. It is imperative that these people have access to our network telephone. This bill would direct the FCC to establish a technical standard for the manufacture of compatible telephones to insure this access.

S. 2355 has the backing of the Nation's major telephone carriers, State regulators, the handicapped community, and the medical profession. I urge a "yes" vote.

● Mr. CORRADA. Mr. Speaker, I rise in support of S. 2355, to amend the Federal Communication Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service.

Telephone services have become the most important means of communication in today's fast growing world. The telephone companies have been providing services to the physically disabled by selling these users special telephone equipment below cost, and the unrecovered cost of including these persons in the network are shared by all users. According to a new regulation issued by the FCC, that will become effective January 1, 1983, the telephone company will be impeded from subsidizing the physically disabled users to pay the full costs of the equipment.

This bill will help the many U.S. citizens with impaired hearing in Puerto Rico as well as the mainland, to have access to telephone services by requiring the Federal Communications Commission to develop regulations to assure reasonable access to the hearing impaired and other handicapped persons and allowing the State regulatory commission to permit the telephone company to recover costs of providing such equipment by spreading the costs among all users of the system.

I urge my colleagues to vote in favor of S. 2355 and thank them for their support.●

● Mr. LONG of Maryland. Mr. Speaker, I rise in support of S. 2355, as amended, the Telecommunications for the Disabled Act of 1982.

The purpose of this bill is simple: to insure that hearing-impaired and other physically disabled Americans can enjoy greater access to the telephone network in our Nation.

Every day more telephones are being installed in homes, hospitals, schools and businesses with receivers that are useless to hearing-aid users. These receivers work, and look, like any other telephone receiver, except for one important difference—they do not give off an electromagnetic signal strong enough to be picked up by the magnetic pickup or "telecoil" in many hearing aids. They are thus incompatible with hearing aids. Of the 170 million telephones in the United States today, an estimated 40 million are incompatible with hearing aids and the number is growing.

Is the problem serious? With millions of Americans—estimates run as high as 16 million—suffering impaired hearing, and with as many as 3 million of these reliant on hearing aids, the answer is "Yes."

The incompatibility of telephone equipment with hearing aids is especially serious for the many hearing-impaired elderly who are homebound and heavily dependent upon the telephone.

The problem affects not only the hearing impaired—their family, friends, coworkers, and others who must communicate with them. With incompatible phone units such communication for personal, social, and business purposes—not to mention vital health and emergency needs—becomes impossible.

The Telecommunications for the Disabled Act recognizes and begins to address this problem by insuring that hearing impaired Americans have reasonable access to telephones that are compatible with hearing aids. It requires that all essential telephones—public and emergency phones, and telephones frequently used by the hearing impaired, for example—be made compatible with hearings aids.

Although S. 2355 does not go as far as my bill, H.R. 375, in requiring that all telephones work with all hearing aids, everywhere, it does insure that the hard of hearing are not completely excluded from the communications system.

I ask my colleagues to join me in voting for S. 2355, the Telecommunications for the Disabled Act of 1982.

The Telecommunications for the Disabled Act does not require expensive retrofitting of those phones now in place.

It does not require research and testing of new, expensive technologies.

The telephone industry supports the bill and has advised the Subcommittee on Telecommunications that making telephones compatible with hearing aids will not increase the costs of new telephones.●

● Mr. HARKIN. Mr. Speaker, the Telecommunications for the Disabled Act of 1982 recognizes that although the telephone has come to be a basic necessity of life, many hearing impaired people may not have full access to the telephone. This bill will go a long way toward removing one of the major obstacles to integration into society that the hearing impaired face. By allowing telephone companies to continue to provide specialized equipment to deaf and other handicapped individuals under the approval of State regulatory commissions, S. 2355 changes a Federal Communications Commission regulation that would hinder this ability. This regulation, now scheduled to go into effect on January 1, 1983, would prevent many disabled people from obtaining specialized terminal equipment at reasonable prices. Consumers with special needs would be thus faced with two alternatives—to forego the use of the telephone or to pay charges considerably higher than those borne by the general public.

A second beneficial aspect of this bill is the provision directing telephone companies to provide reasonable access to telephone services for persons with impaired hearing by making telephones that are compatible with hearing aids. Telephones can now be manufactured to be compatible without any significant increase in cost. Coin operated telephones, emergency service telephones, and others frequently used by the hearing impaired would be required by this bill to be compatible hearing aids.

Many disabled persons rely on specialized telephone equipment to lead productive, self-sufficient, independent lives. Since the elderly and other hearing-impaired individuals are more likely than others to feel isolated from the mainstream of society their ability to use the telephone becomes even more important. Lack of access to telephones exacerbates problems of emergency protection and the ability of the hearing impaired to obtain employment. Moroever, for those with restricted mobility the telephone may be their only means of contact, either for social purposes or in case of an emergency.

More than one-third of all Americans over age 65 wear hearing aids. Numerically, this translates into about 10.8 million citizens, many of whom are elderly. Unfortunately, not all telephones in the United States are compatible with hearing aids and not all those who need specialized terminals are able to purchase the equipment. This legislation recognizes the difficulties that hearing impaired individuals face, and I urge the House to support it.●

Mr. WIRTH. Mr. Speaker, I have no further requests for time.

Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. WIRTH) that the House suspend the rules and pass the Senate bill, S. 2355, as amended.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

STATE COMMISSIONS ON TEACHER EXCELLENCE

Mr. SIMON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 429) to establish State commissions on teacher excellence, as amended.

The Clerk read as follows:

H.J. RES. 429

Whereas the education of Americans is the foundation on which the future well-being and progress of the Nation depend;

Whereas the quality of the Nation's teachers is vital to the quality of that education; and

Whereas under the American federal system it is the responsibility of the States to regulate the certification and licensing of those teachers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares—

(1) that the governments of the States should carefully evaluate the training and performance requirements which they specify for teachers and teacher preparation institutions to ensure the competence and encourage the excellence of their teachers;

(2) that such an evaluation by any individual State could well profit from the investigation of teacher recruitment, selection, training, certification, licensing, and retention in other States;

(3) that, in order to promote this evaluation, the States should establish commissions on teacher excellence to undertake consideration of the broad range of factors involved in the entire process by which teachers are recruited, selected and trained from admission to college and university degree programs through preparation for teaching in the current educational environment, certification, licensing, and retention, and continuing professional development; and

(4) that, in addition to the progress which could be obtained by the use of this evaluation by State and local government, the national interest in the continuous improvement of the Nation's teachers would be served if the results of these investigations were made available to the President and Congress, together with recommendations from the States on ways in which improvements in the quality of school instruction could be assisted by research, evaluation, new policy initiatives, and changes in existing Federal laws.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. SIMON) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we have a matter of some importance, but not a matter of great controversy. This resolution simply calls on the State governments to appoint commissions—and some of them have the commissions already—to take a look at the whole question of teacher excellence.

The subcommittee which I chair held hearings on this question. We had witnesses from the Department of Education, the National Education Association, the American Federation of Teachers, various schools of teacher education, the NIE, and others.

The reality is that in the last 8 years those entering the field of teaching, those going to our schools to prepare themselves to become teachers, have dropped 79 points in the SAT tests, more than any other profession.

Equally disconcerting, studies in the States of Wisconsin and North Carolina suggest that the ablest teachers too often are leaving the teaching profession and those of the least ability too often are staying. I should add that this Nation has many fine, dedicated teachers of whom we should be proud.

I am not suggesting that one can always measure dedication or concern for young people by tests, but the tests show clearly that we are not appealing to the ablest in our society to become teachers, and if we believe that we build the future of this Nation through education, and if we believe the key ingredient in that process is the teacher, then we have a problem of major proportions.

It became clear in the course of the hearings that there is nothing very specific that the Federal Government can do or ought to be doing, and that the jurisdiction is one that is left to State and local governments. There are some answers that are fairly obvious. One is pay, but it is much more complicated than that.

So after consultation with my colleagues on the subcommittee, we ended up with this resolution calling on States to examine this problem to see what they should do. They may make recommendations to the Federal Government. It involves no expenditures at the Federal level at all, and it could result in some significant progress on a problem that, frankly, we are not facing up to at this point.

Mr. Speaker, I reserve the balance of my time.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to House Joint Resolution 429, which expresses the sense of Congress that States should establish commissions on teacher excellence.

Mr. Speaker, this resolution was not unanimously agreed to in the Education and Labor Committee, and several members of our committee signed report language expressing opposition to the resolution.

I oppose this resolution for two reasons. The first reason is that the resolution calls for a new layer of bureaucracy at the State level to study a problem that we all know exists. It is common knowledge that good teachers are leaving the field of teaching for more lucrative jobs in the private sector; that there is a shortage of math and science teachers; that teachers as a whole score lower on standardized tests than many other professional groups; that there is a lack of inservice training to keep teachers up to date on changes in their academic fields; and that there is a lack of incentives to keep good teachers in the classroom. In response to these problems, many States have already moved to reduce teacher "dropout" rates, to improve and increase the number of inservice training programs, and to revamp the teacher training process in teacher colleges to provide personnel better prepared to deal with the actual classroom experience. As of March this year, 23 States, including Illinois, Delaware, Texas, Maryland, Missouri, New Jersey, and Virginia, have reevaluated their teacher training and certification requirements in an effort to improve the quality of teachers sent to the classroom.

It seems to me that the requirements of House Joint Resolution 429 are superfluous and will result in an unnecessary expense of time, effort, and money by the States.

The second reason I oppose House Joint Resolution 429 is that it presupposes that the Federal Government has or should have an active role in teacher education. The resolution calls for any reports or recommendations made by the State commissions to be forwarded to the President and the Congress for study. While teacher preparation, training, and certification is, of course, of interest to everyone—Congress included—it has always been the responsibility of the State and local units of government. I do not believe that the Federal Government should begin meddling in this area of educational policy, and I see this resolution as the first step toward Federal involvement in teacher education.

□ 1245

Mr. SIMON. Mr. Speaker, I yield myself such time as I may consume.

I would just like to simply respond briefly to my colleague from Illinois (Mr. ERLENBORN).

First of all, he says we are creating a new layer of bureaucracy. In fact, we are just asking States to look at this problem, a problem that we are not facing in this Nation. We could go along blithely and ignore the problem and that is basically what my colleague is suggesting that we do, but I do not think that is in the national interest.

My colleague frequently joins those who say that the Federal Government should not be getting involved in things. For that very reason he ought to be standing up here saying, "Let us pass this resolution," because this is a resolution that simply asks the States

to look at the problem. It does not ask the Federal Government to do a single thing.

Let me add this to my colleagues: Just as sure as PAUL SIMON is standing here, if we continue to ignore this problem—and that is basically what my colleague from Illinois is suggesting—within a few years we are going to be standing here with major Federal programs to tackle this problem.

Let us see if we cannot tackle this problem at the State level and the local level and face up to it rather than simply ignoring the problem, as my colleague suggests.

I hope we pass this resoundingly.

Let me add again, as my colleague pointed out, it did pass the subcommittee and the full committee unanimously, though there are now some voices of dissent on the report.

Mr. ERLENBORN. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. I thank the gentleman for yielding and would like to ask my colleague from Illinois a question if I may.

I have heard the presentation on behalf of this proposal, House Joint Resolution 429. Although I am not privileged to serve on the Committee on Education and Labor with the gentleman from Illinois, I laud the goal of what this proposes to do.

But I am puzzled. In my State of California, for instance, we have a State board of education whose members are appointed by the Governor of our State. Their responsibility is to evaluate the curriculum for the public school system in California and make recommended changes to the legislature.

In addition to that, we have an assembly committee in the State assembly called the education committee whose responsibility it is to evaluate various matters relating to the subject of education.

Then we have a similar committee in the State senate that evaluates provisions of law relating to public education in California.

These three entities are now in existence. Assuming—maybe it is incorrect to assume—but let us assume for the purpose of this discussion that these entities are discharging their responsibilities, that is, looking out for the status of public education in California and making recommended changes. What is it that this commission that the gentleman is talking about would do that these three entities that are in existence now are not doing?

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Illinois.

Mr. SIMON. I cannot tell the gentleman. I do not know the specifics of the California situation and cannot tell him specifically what they are or are not doing.

I will tell the gentleman that in the large majority of States, almost all of the States, we are not paying attention to this problem at all. Whether California is one of those States I do not know.

If California is doing something, then the resolution does no harm whatsoever. If California is not paying attention to this problem, then it can do no harm for this body to call the attention of the board of education in California and the legislature in California to the fact that we have a problem of major dimensions here.

Let me emphasize that this is a problem of major dimensions.

If we do not take this timid step we are going to be back here in another couple of years with legislation calling for much more drastic actions because events will force us into it.

Mr. DANNEMEYER. Let me ask the gentleman from Illinois another question. I know in my State of California a public school principal may not administer corporal punishment to youngsters in a classroom except with the approval of the parent. That is not the way this Member from California believes it should be but that is the way it is today.

How is it in Illinois, the gentleman's home State? Can a principal of a public school classroom, in dealing with a youngster in the sixth grade, who has dedicated his or her life to the objective of making sure that something less than decorum exists in a public classroom, can that teacher administer corporal punishment to that youngster without the aproval of the parent?

Mr. SIMON. There have been court cases and I have to tell my colleague from California I am not precisely sure what the status is in the State of Illinois. But it has relatively little to do with the resolution at hand which I hope by colleague from California will join me in voting for.

Mr. DANNEMEYER. In response to the gentleman's observation, in my humble opinion I think the fundamental problem of the public school system in my State, and I do not know if this exists in other States of the Union, is that we have permitted a philosophy of permissiveness to come into our public school rooms when we tell the person in charge, the principal or the teacher, that in order to administer corporal punishment to some child that is disrupting the learning environment we have to get the approval of the parent.

It strikes this Member from California that when we get things turned around in our State, and our Nation, that when we have discipline in a public schoolroom we can then create an environment where students can learn, at least those that want to learn, and they will have the quiet and the concentration that is necessary as a prerequisite for any learning to take place.

Mr. SIMON. If my colleague will yield again, discipline is one of the problems but it is one of many problems.

For example, to my left is the distinguished chairman of the Committee on Science and Technology. We have a major problem in securing quality science and mathematics teachers in our public schools.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

Mr. SIMON. Mr. Speaker, I yield the gentleman 2 minutes of my time.

For example, I would say to the gentleman, believe it or not, we now have more school districts in this Nation than we have physics teachers in this Nation. That is a problem that is not going to be solved by solving the discipline problem the gentleman mentioned.

There are discipline problems, of course.

What I am suggesting in this resolution to the States of this Nation is let us look at the problem. If the problem can be solved in part in the discipline area, let us move on that. If we have science and technology and mathematics problems, let us move on them. If we have pay problems let us look at them and how we can pay teachers adequately.

There are a whole host of things. I am simply suggesting: let us not bury our head in the sand. Let us look at the problems.

This resolution calls upon the State governments to appoint commissions or to use their boards of education to somehow look at the problem.

Mr. DANNEMEYER. I thank the gentleman and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SIMON) that the House suspend the rules and pass the joint resolution, House Joint Resolution 429, as amended.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the

joint resolution, House Joint Resolution 429.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING GSA TO DONATE CERTAIN PROPERTY TO STATE AND LOCAL GOVERNMENTS

Mr. FUQUA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1856) to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Federal personal property—

(A) transferred by a component of the Department of Defense to the Defense Civil Preparedness Agency by July 15, 1979,

(B) which is, on the date of enactment of this Act, on loan to a State or a State and local government jointly as a result of a written loan agreement executed by such Agency, and

(C) which was transferred with the functions and property of such Agency to the Federal Emergency Management Agency,

shall be disposed of in accordance with subsection (b).

(b) The Administrator of General Services shall transfer title to the property described in subsection (a) to the State or local government holding the property on the date of enactment of this Act upon receipt of a certification by the Director of the Federal Emergency Management Agency that the property is being used by the State or local government concerned for a purpose consistent with that for which it was furnished.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. FUQUA) will be recognized for 20 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1856, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1856 will authorize the Administrator of the General Services Administration to donate to State and local governments certain Federal personal property that is already on loan to those governments for civil defense use. This noncontroversial piece of legislation is intended to close out the personal property loan program which was initiated in 1971 by the Defense Civil Preparedness Agency when it was a component of the Department of Defense. As a unit of DOD, the Civil Preparedness Agency was able to obtain property and loan it out for civil defense use, with title remaining in the United States. From 1971 to July of 1979, when the Civil Preparedness Agency functions were transferred to the new Federal Emergency Management Agency, nearly 30,000 pieces of property have been loaned. No new property has been added to the inventory to be loaned because a 1976 amendment to the Federal Property and Administrative Services Act severely restricted the circumstances in which excess property could be loaned to State and local governments. This bill will simply straighten out title to those previously loaned pieces of property. On certification that the property continues to be used for a purpose consistent with that for which it was loaned, GSA would transfer ownership of the property to the State or local government that holds the property.

CBO estimates that the cost of transferring the items currently on loan will be about $35,000. The bill will produce annual savings of approximately $200,000 because FEMA will no longer incur the cost of monitoring the property and processing loan renewals.

I urge adoption of this bill.

Mr. Speaker, this bill came out of the Committee on Government Operations unanimously. I am handling the bill for our distinguished chairman, the gentleman from Texas (Mr. BROOKS), who unavoidably is detained today and not able to be here.

I think there is no controversy in connection with the bill.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1856. This bill is essentially a housekeeping measure. It is designed to eliminate restrictions on the use of surplus Defense Department property lent to State and local governments more than 3 years ago.

The property in question was of no use to DOD when it was lent, and there is no expectation that DOD will ever need it again. The program under which it was transferred has not been in operation since mid-1979, so all outstanding loans, and the equipment which they concern, are old. Given these circumstances, the use restrictions which accompanied the loans serve no purpose other than imposing paperwork requirements on both State and local governments and the Federal Emergency Management Agency, the Federal agency which carried on what remains of this program.

When we balance the unlikely need of the Federal Government to recoup any of this equipment against the cost on insuring that State and local governments comply with use restrictions, I can see no reason for continuing this paperwork burden. Ending the fiction of automatically renewed loans, by transferring title for this surplus equipment to the governments which now hold it, seems a prudent course to me.

The measure placed before the House in the motion of the distinguished gentleman from Florida differs slightly from the bill endorsed by the committee itself. I want to assure the Members that the change is a very small one, designed to cure a technical problem in the bill. We have examined it on this side and agree that it improves the legislation.

Mr. FUQUA. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Georgia (Mr. BRINKLEY).

This bill was jointly referred to the Committee on Armed Services and to the subcommittee chaired by the distinguished gentleman from Georgia.

□ 1300

Mr. BRINKLEY. I thank my friend, the gentleman from Florida, for yielding.

Mr. Speaker, I rise in support of the bill H.R. 1856 that has been reported jointly by the Committees on Government Operations and Armed Services.

The bill is straightforward. Its cost is minimal. It is simply a housekeeping measure that will clean up the books on Federal personal property on loan to State and local units of government from the old Defense Civil Preparedness Agency. The bill does not provide for any new loan authority.

A similar measure, S. 1444, cleared the Senate on October 5. To my knowledge, the bill has unanimous support. It is an administration request that deserves enactment.

As a supporter of a strong dual use civil defense program for the United States, I consider the property loan program a valuable tool for helping the State and local civil defense agencies improve their capabilities for meeting their obligations—both in peacetime and wartime. These agencies are the backbone of the U.S. civil defense system. The equipment that the agencies have received under the loan program, much of it in lieu of actual financial assistance, has provided them with the day to day resources that are so necessary for them to do their jobs. In many cases, these agen-

cies have incurred significant expenses in rehabilitating the equipment, such as trucks, bulldozers, and communication gear, much of which is at least 7 to 20 years old. Therefore, these agencies have not received a bonanza at the expense of the Federal Government or the American taxpayer. Rather, they are putting to good use equipment that would otherwise end up in the junkyard or scrap heap.

Unfortunately, the loan program is no longer available to these groups because the Federal Emergency Management Agency does not have the authority to continue it. Personally, I would prefer to see the program continued and in my judgment the pending bill, H.R. 1856, would be improved if language were included that provided FEMA with that authority. However, in the interest of at least obtaining part of the package, I support H.R. 1856 and urge my colleagues to vote for it.

Mr. FUQUA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and pass the bill, H.R. 1856, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1444) to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) all Federal personal property which—

(A) was transferred by a component of the Department of Defense to the Defense Civil Preparedness Agency by July 15, 1979,

(B) is, on the date of enactment of this Act, on loan to a State or a State and local government jointly as a result of a written loan agreement executed by such Agency, and

(C) was transferred with the functions and property of such Agency to the Federal Emergency Management Agency,

shall be disposed of in accordance with subsection (b).

(b) Whenever the Director of the Federal Emergency Management Agency certifies that property described in subsection (a) is being used by the State or local government holding such property for a purpose consistent with the purpose for which the property was furnished, the Administrator of General Services shall transfer title to such property to the appropriate State or local government.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 1856) was laid on the table.

CRITICAL MATERIALS ACT OF 1982

Mr. GLICKMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4281) to provide for a Council on Critical Materials, for development of a continuing and comprehensive national materials policy, and for programs necessary to carry out that policy, as amended.

The Clerk read as follows:

H.R. 4281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Critical Materials Act of 1982".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the availability of adequate supplies of strategic and critical industrial materials continues to be essential for national security, economic well-being, and industrial production;

(2) research, development, and technological innovation are important factors which contribute to and affect the availability and use of materials;

(3) there exists no single Federal entity with the authority and responsibility for establishing critical materials policy and for coordinating and implementing that policy; and

(4) the importance of materials to national policies requires an organizational means for the coordination, within and at a suitably high level of the Executive Office of the President, of existing policies within the Federal Government.

(b) It is the purpose of this Act to establish a Council on Critical Materials under and reporting to the Executive Office of the President—

(1) to provide for necessary coordination of critical materials policies, including research and development, among the various agencies and departments of the Federal Government, and for the implementation of such policies;

(2) to bring to the attention of the President, the Congress, and the general public such materials issues and concerns, including research and development, as are deemed critical to the economic and strategic health of the Nation; and

(3) to insure adequate and continuing consultation with the private sector concerning critical materials, materials research and development, Federal materials policies, and related matters.

ESTABLISHMENT OF THE COUNCIL ON CRITICAL MATERIALS

SEC. 3. There is hereby established a Council on Critical Materials (hereinafter referred to as the "Council") under and reporting to the Executive Office of the President. The Council shall be composed of three members who shall be appointed by the President and who shall serve at the pleasure of the President. Members so appointed who are not already Senate confirmed officers of the Government shall be appointed by and with the advice and consent of the Senate. The President shall designate one of the members to serve as chairman. Each member shall be a person who, as a result of training, experience, and achievement, is qualified to carry out the duties and functions of the Council, with particular emphasis placed on fields relating to materials policy or materials science and engineering. In addition, at least one of the members shall have a background in and understanding of environmentally related issues.

RESPONSIBILITIES AND AUTHORITIES OF THE COUNCIL

SEC. 4. (a) It shall be the primary responsibility of the Council—

(1) to assist and advise the President in establishing a coherent national materials policy consistent with other Federal policies, and in carrying out activities necessary to implement such a policy;

(2) to coordinate Federal materials-related policies, programs, and research and development activities, including those related to critical materials;

(3) to review and appraise the various programs and activities of the Federal Government in accordance with the policy and directions given in the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601), and to determine the extent to which such programs and activities are contributing to the achievement of such policy and directions;

(4) to formulate and recommend to the President national policies designed to improve conditions affecting the mineral and materials needs and resources of the Nation, and to meet the social, economic, and national security goals of the Nation;

(5) to advise the President of mineral and material trends, both domestic and foreign, the implications thereof to the United States and world economies and to national security, and the probable effects of such trends on domestic industries; and

(6) to make or furnish such studies, analyses, reports, and recommendations with respect to matters of materials-related policy and legislation as the President may request.

(b) In carrying out its responsibilities under this section the Council shall have the authority—

(1) to establish such special advisory panels as it considers necessary, with each such panel consisting of representatives of industry and other members of the private sector, not to exceed ten members, and being limited in scope of subject and duration; and

(2) to establish and convene such Federal interagency committees as it considers necessary in carrying out the intent of this Act.

(c) In seeking to achieve the goals of this and related Acts, the Council and other Federal departments and agencies with responsibilities or jurisdiction related to materials or materials policy, including the National Security Council on Environmental Quality,

the Office of Management and Budget, and the Office of Science and Technology Policy, shall work collaboratively and in close cooperation.

RESEARCH AND DEVELOPMENT POLICY

SEC. 5. In addition to the responsibilities described in section 104, the Council shall have specific responsibility for overseeing and collaborating with appropriate agencies and departments of the Federal Government relative to Federal materials research and development policies and programs. Such policies and programs shall be consistent with the policies and goals described in the National Materials and Minerals Policy, Research and Development Act of 1980. In carrying out this responsibility the Council shall—

(1) review annually the materials research and development authorization requests and budgets of all Federal agencies and departments; and in this activity the Council shall, in cooperation with the Office of Science and Technology Policy, the Office of Management and Budget, and all other Federal offices and agencies deemed appropriate, ensure close coordination of the goals and directions of such programs with the policies as determined by the Council; and

(2) assist the Office of Science and Technology Policy in the preparation of such long range materials assessments and reports as may be required by the National Materials and Minerals Policy, Research and Development Act of 1980, and assist other Federal entities in the preparation of analyses and reporting related to critical materials.

COMPENSATION OF MEMBERS AND REIMBURSEMENTS

SEC. 6. (a) Members of the Council who serve full time and the chairman of the Council, if not otherwise paid officers or employees of the Government, shall be paid at the rate of basic pay provided for level II of the Executive Schedule. The other members of the Council shall be paid at a rate per diem comparable to the rate of basic pay provided for level III of the Executive Schedule.

(b) The Council may accept reimbursement from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, or from any State or local government, for reasonable travel expenses incurred by any member or employee of the Council in connection with such member's or employee's attendance at any conference, seminar, or similar meeting.

POSITION OF EXECUTIVE DIRECTOR

SEC. 7. (a) There shall be within the Council an Executive Director (hereinafter referred to as the "Director"), who shall be chief administrator of the Council. The Director shall be appointed by the Council and shall be paid, if not otherwise a paid officer or employee of the Government, at the rate of basic pay provided for level IV of the Executive Schedule.

(b) The Director is authorized—

(1) to employ such personnel as may be necessary for the Council to carry out its duties and functions under this Act, but not to exceed twelve compensated employees;

(2) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code; and

(3) to develop rules and regulations necessary to carry out the purposes of this Act.

(c) Notwithstanding section 367(b) of the Revised Statutes (31 U.S.C. 665(b)), the Council may utilize voluntary and uncompensated labor and services in carrying out its duties and functions.

RESPONSIBILITIES AND DUTIES OF THE DIRECTOR

SEC. 8. (a) In carrying out his functions the Director shall assist and advise the Council on policies and programs of the Federal Government affecting critical materials by—

(1) providing the professional and administrative staff and support for the Council;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, including research and development, which affect critical materials availability and needs;

(3) cataloging, as fully as possible, research and development activities of the Government, private industry, and public and private institutions;

(4) monitoring and evaluating the critical materials needs of basic industry and the Government, including the critical materials research and development needs of the private and public sectors;

(5) initiating Government and private studies and analyses, including those to be conducted by or under the auspices of the Council, designed to advance knowledge of critical materials issues and develop alternatives, including research and development, to resolve national critical materials problems;

(6) issuing a biennial report providing a domestic inventory of critical resources with projections on the prospective needs of government and industry for these resources, including a long range assessment, prepared in conjunction with the Office of Science and Technology Policy in accordance with the National Materials and Minerals Policy, Research and Development Act of 1980 and in conjunction with such other Government departments or agencies as may be considered necessary, of the prospective major critical materials problems which the United States is likely to confront in the immediate years ahead and providing advice as to how these problems may best be addressed, with the first such report being due on April 1, 1984; and

(7) recommending to the Congress such changes in the current policies, activities, and regulations of the Federal Government, and such legislation, as may be considered necessary to carry out the intent of this Act and the "National Materials and Minerals Policy, Research and Development Act of 1980".

(b) In exercising his responsibilities and duties under this Act, the Director—

(1) may consult with representatives of science, industry, labor, State and local governments, and other groups; and

(2) shall utilize to the fullest extent possible the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals.

AUTHORITY

SEC. 9. (a) The Council is authorized—

(1) to prescribe such rules and regulations as may be necessary for its operation;

(2) to enter into contracts and acquire property necessary for its operation;

(3) to publish or arrange to publish critical materials information that it deems to be useful to the public and private industry to the extent that such publication is consistent with the national defense and economic interest;

(4) to request available information from private and public sources which it considers necessary in the discharge of its duties if—

(A) in the case of a request for information from a private source, the furnishing of such information will not create an undue burden or hardship on such sources; or

(B) in the case of a request for information from a public source, the furnishing of such information is permitted by law; and

(5) to exercise such authorities as may be necessary and incidental to carrying out its responsibilities and duties under this Act.

(b) The authority to enter into contracts and acquire property under subsection (a)(2), and to pay compensation to members of the Council and the Director under section 6(a) and 7(a), shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There is hereby authorized to be appropriated to carry out the provisions of this Act a sum not to exceed $1,000,000 for the fiscal year ending on September 30, 1984, and such sums as may be necessary thereafter.

DEFINITION

SEC. 11. As used in this Act, the term "materials" has the meaning given it by section 2(b) of the National Materials and Minerals Policy, Research and Development Act of 1980.

The SPEAKER pro tempore. Is a second demanded?

Mr. DUNN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Kansas (Mr. GLICKMAN) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. DUNN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kansas (Mr. GLICKMAN).

GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I and others have noted in the past, we are at the same juncture regarding our import vulnerability with respect to critical materials today as we were regarding oil imports a little more than a decade ago. As I am sure you and other Members of this Chamber are aware, we are highly dependent on a broad range of critical materials necessary for both our economic as well as the Nation's strategic concerns.

In recognizing this problem, the 96th Congress passed into law the Na-

tional Materials and Minerals Policy, Research and Development Act of 1980 (Public Law 96-479), the first comprehensive legislation on materials in over three decades. This law called for, among other things, the President to provide a program plan for implementation of policies and directives of the act. One of those directives was that the President would provide for a permanent and continuing organizational mechanism, at a sufficiently high policy level to deal with the complex issues related to a national materials policy. In April of this year—some 6 months beyond the legislated deadline—the President presented to Congress his national minerals program plan and study. Although a number of important questions were addressed, including strategic stockpiling and reemphasis of the importance of materials research and development, the President's plan focused primarily on minerals production and failed to deal with such vital issues as materials processing and the use of critical materials. To be specific, industry and our defense establishment is less concerned with a pile of raw materials than they are with a final, usable product in their hands. Finally, and perhaps more importantly, the issue of a permanent organizational mechanism to deal with the long-term, critical materials issues was sidestepped.

I would note at this point that in the area of materials research and development alone, the Federal Government spends over $1 billion annually between some 14 different Federal agencies and departments. There is no coordination and certainly no overall policy guidance regarding such R&D.

Because of the importance of policy oversight and program coordination, Mr. FUQUA and I were joined by 23 other Members last year in introducing what I believe is the next important step in dealing with our national materials problems. H.R. 4281, the Critical Materials Act of 1982, continues where the National Materials and Minerals Policy, Research and Development Act of 1980 left off. It provides for a continuing three-man council to coordinate and review the various Federal materials related policies, programs and R&D be under and report to the Executive Office of the President, and would act as the focal point for all materials activities in the Federal Government. The Council on Critical Materials will focus attention for the public and private sectors on materials-related issues considered critical to the Nation's economic and strategic well-being. Importantly, the Council will establish, coordinate and implement materials policy. The Council would serve the President additionally by providing analyses of the materials policy ramifications of our defense and foreign policies as well as of our energy and environmental policies among others. The need for careful attention to the long-term balance between the production of critical materials, energy consumption and a clean environment is persistent.

The idea here is not to create yet another bureaucracy. Rather we are attempting to focus attention on these important issues for those people in the White House, OMB and the various agencies and departments whose decisions can most influence the improvement of our materials vulnerability situation. During markup before the full Committee on Science and Technology, we took further steps to provide flexibility to the administration in establishing such a Council by allowing current administration experts to serve on the Council.

I should point out that the administration opposes this legislation because they feel it is unnecessary. I would quietly note that this is the same position held when the original materials policy act was being considered in 1980 and which is now pointed to as the legislative mandate governing our Government's current materials policy.

The Committee on Science and Technology has carefully weighed these and other arguments. We have held two sets of full hearings as well as heard from numerous organizations, companies, and individuals over the past 2 years. Almost all have concluded that this next step is necessary. In reporting the bill a strong bipartisan vote of 37 to 1 favoring enactment underscored this conclusion.

I urge my colleagues in the House to join me in passing the bill H.R. 4281, the Critical Materials Act of 1982.

Mr. Speaker, I think that we have an extraordinarily serious problem regarding the issues of materials policy, the issues of chromium, cobalt, titanium, of the mineral shortages that are subjecting the United States to the same kind of squeeze as we found in oil. The fact of the matter is, many of our materials for many industries, the aviation industry, for one, but particularly for our defense industry, those materials are subject to either worldwide shortages or the fact of the matter is, they are held in either tenuous or unfriendly hands. Based upon our sets of full hearings, as well as testimony from numerous organizations, companies, and individuals, we have concluded that this is the next step necessary in a materials policy, for our failure to act in this area may be far more significant even than our failure to act in the oil and gas import situation.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, clearly, there is a fundamental relationship between the availability of critical materials and the national security of this country. This relationship was consistently ignored in past administrations. When Congress passed the National Materials and Minerals Policy, Research and Development Act of 1980, the stockpile of strategic materials was at a dangerously low level.

This administration recognizes the importance of a strong materials policy, and has taken several-steps to accomplish this. In March of last year the first major addition in 20 years was made to the stockpile of strategic materials. In addition, steps have been taken to enhance domestic production through regulatory reform and tax incentives. And, recognizing the vital role that the private sector can play in Research and Development, this administration has encouraged greater participation in this area also by providing tax credits for investment in R&D. To coordinate materials policy, President Reagan has reorganized and strengthened the Committee on Materials (Comat).

I believe this administration has been responsive to Congresses concerns in this area and has gone a long way to change the course of neglect it found 2 years ago. However, it is the feeling of our committee that materials policy is still fragmented, and too vulnerable to changes in administrations. This bill attempts to correct this by coordinating materials policy under a 3-man council reporting to the Executive Office of the President.

When this bill was first introduced, the minority had some serious reservations about the addition of yet another bureaucratic layer to accomplish what could be accomplished within the present bureaucracy. However, as amended, this bill now allows council members to serve a dual role by providing the President the option of selecting council members from among his existing staff.

I believe this bill now represents a good compromise that we can all support. It accomplishes our objectives—and it does it without mandating a lot of unnecessary growth in the Federal Government.

I yield to my friend and colleague, the gentleman from Alaska (Mr. YOUNG), for a question.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

I am a supporter of this bill and a sponsor of the bill. But one of the things that disturbs me is the constant trend of this Congress to take lands out of production of those critical materials which we are so short of today.

I was wondering if the gentleman would address that issue for me, and what is the position of the bill and the position of the honorable gentleman from Michigan on that issue.

Mr. DUNN. First, I would say that this is a different area. The gentleman

is talking about a national policy regarding our own resources. This bill is an attempt to establish a mechanism to determine the nature of strategic materials, how much of each we have on hand at any given time, and how much we should have.

Now, the two policies are, of course, going to cross at various points. The gentleman from Alaska makes the point that as a general policy we have in the past tied up too much of our land by Federal law and not allowed the minerals that lie beneath those lands to become either part of the free enterprise system or, as in this case, part of the strategic materials stockpile.

Certainly, the three-man council should consider the remarks of my colleague from Alaska as it develops and oversees an overall strategic materials policy.

Mr. YOUNG of Alaska. I thank the gentleman for his response.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. DUNN. I yield to the gentleman from Georgia.

Mr. McDONALD. I thank the distinguished gentleman from Michigan for yielding.

Mr. Speaker, there were hearings on this bill before the Seapower and Strategic and Critical Materials Subcommittee of the Committee on Armed Services, and the Committee on Armed Services did not take a position on this bill, citing that the administration witnesses indicated that current problems relating to critical materials stem from a lack of adequate funding for programs, not a lack of definition of problems, a lack of policy or a lack of research.

Citing one particular administration witness, Dr. Morgan said as follows: "I think existing mechanisms are wholly adequate" referring to the background problems of the Defense Production Act. Dr. Morgan went on to say, "I think these are far more pressing issues than the question of a council, which I believe would be superfluous," and stating that "such a provision that this bill would create would be just an addition."

In the subcommittee hearings itself, a member of the subcommittee from South Carolina (Mr. SPENCE) cited that the various problems that we have had addressed in the southland, particularly from kudzu to fire ants, there might be a natural inclination to have a commission to study each one of these, because there is this constant tendency here for almost every problem that requires a will, we bypass the will and instead create a new agency.

□ 1315

To solve the problems that we have in critical materials, these problems are well known. But there has been a lack of will in one administration after the other. And there has been a natural tendency by one administration after another to loot from the strategic minerals in case of national emergency and to sell those off and to place the money into the general fund as a means of making the deficits look not so bad.

In fact, just recently as a result of Gramm-Latta and the budget reconciliation, the Armed Services Committee, in the process of reconciliation, was forced to sell out of the strategic stockpile once again as required during the budget reconciliation of Gramm-Latta.

The General Counsel for the Department of Defense felt that they would take a position opposing H.R. 4281, since the establishment of a council to perform those duties already is assigned at the present time to the Cabinet council, and the feeling that creating a new council would just once again be redundent.

With regard to the Cabinet council, the Department of Defense, Secretary of Defense, Mr. Weinberger feels that this is an adequate situation for the defense needs, that he has ample access for counsultation at the present time.

The General Services Administration, in a letter on November 8, 1981, states:

As a result of Public Law 96-479, the President assigned the Cabinet Council on Natural Resources and Energy the responsiblity for considering the strategic and critical materials policy and of assuring coordination among federal agencies. This council uses the expertise existing within all federal agencies and requires no additional resources. In our view the council fully meets the objectives prescribed in Section 2(b) of H.R. 4281 which seeks to establish a Council on Critical Materials, reporting to the Executive Office of the President. The proposed council would require additional resources and create an overlap in jurisdiction among the agencies involved in the critical materials, with no improvement in effective coordination or counsulation. Additionally, the Federal Emergency Management Agency now carries out many specific functions described in sections 4 and 5 of the bill.

And that is a recent letter from the General Services Administration.

For these and many reasons, many of us on the House Armed Services Committee oppose this bill in the belief that it really will not solve the problem but create another layer of agency. And I think it is high time that we refrained from the temptation to solve every problem by picking up a handful of money and throwing it, and if that does not work move to two handfuls, or simply creating another bureaucracy, so we can go back home and tell the people we are taking some steps on the problem.

I think the basic lack in this whole area has been one of will in one administration after the other, not a lack of governmental agencies.

Mr. DUNN. I thank my colleague from Georgia. I think the gentleman has done a very articulate job of stating, among others, my reservations in the original bill.

The gentleman spoke in particular about the defense community. They do have many reservations. Many environmentalists have their own reservations. May I remind the gentleman that the committee added an amendment to the bill that allows, should the President desire, that this council be picked from staff already employed and familiar with the problems.

I must correct the gentleman on one matter. There is nothing in the bill that mandates that new funds must be appropriated or a new bureaucracy be created. In fact, it is my hope that the administration will choose from those already on its payroll. While not completely answering all the gentleman's reservations, the committee reached good compromise, and I urge its adoption.

Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

Mr. GLICKMAN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Nevada (Mr. SANTINI), the congressional expert on minerals materials policy.

Mr. SANTINI. Mr. Speaker, I thank the gentleman for yielding and for the generous title he conferred on me.

As chairman of the Committee on Mines and Mining, I have shared with many Members of this body an ongoing concern about the problems of materials, minerals, availability, dependency, and the significant decline in our Nation's industrial base.

Anyone who has invested more than 10 seconds of passing interest in the subject would concede that the absence of available mineral and material resources is an aggravating and contributing factor to the very distressing decline in this Nation's industrial base.

Whether it is the steel industry or the automotive industry, the homebuilding industry, or the processing industry in general, we are bringing ourself to the climax that was well described by the gentleman from Kansas as he introduced the legislation. We are building ourselves into a corner that will replicate the disastrous consequences of the oil embargo days of 1973.

We do not have a policy, a plan, a program to deal with any of the serious and substantial questions of minerals, materials, and an industrialized nation's dependency thereon.

The stockpile program is ad hoc, willy nilly, and ought to serve as a condemnation of any administration who professes that there is a policy in place. It is a joke.

We sell silver when it is at an all-time low, we buy cobalt when the price

is declining, refuse to buy copper when the copper prices are at a historic low in the United States. We continue to ignore the fact that cobalt, with manganese, titanium, the critical base metals that make automobiles, make buildings, make industrial tools, that we must depend on either the region of southern Africa or the Soviet Union as the supplier of 82 to 97 percent of these critical minerals.

It is disaster time in potential consequence. What this modest piece of legislation seeks to do is not a dramatic redress. It is not a panacea. Anyone stepping back two or three steps and critically analyzing the problem would have to concede that point. But what we hope it is is a step, one, two, or three, in a positive direction to do something substantial about this ongoing and very serious problem.

The present mechanism that exists for addressing the problem is folly, is nonsense, is repudiated and refuted by the fact that we have done nothing and are doing nothing about establishing a policy, a plan, and a program.

Of course the existing bureaucracy opposes, as they have opposed over the last 14 years, any attempt to meaningfully redress this problem, because to recognize that there is a problem is to admit they have failed and to admit that they have failed is institutionally impossible within any conscientious bureaucratic structure.

Now, these three persons are not going to revolutionize decisionmaking within the governmental structure. But these three persons will represent at least at the top of the pyramid of decisionmaking some consideration of the overall ramifications of our materials and minerals actions that is taken either legislatively or by an administrative body and hopefully provide some focus and direction, and a plan and program, which is not in place.

These three individuals are required by the legislation to have experience, these three individuals are required, as the gentleman observed, to take into consideration military implications and dependencies, and requirements.

I feel that this body can strike a measured blow for commonsense redirection by endorsing this legislation. It is a step in the right direction.

I stress it is not a panacea. I stress it is not a total solution. But the three individuals that we are seeking here to provide some direction for this Nation and its future as it deals with materials and minerals policy can well be the coordination point of a policy, plan, and program that is sorely needed in the United States of America. And I hope very much that any conscientious and concerned Members of this body, whatever their committee of origin, and whatever their party or philosophical disposition, will recognize the merits of this appeal.

Mr. GLICKMAN. Mr. Speaker, I thank the gentleman for his extraordinary comments.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I rise in support of H.R. 4281, the Critical Materials Act of 1982, and urge its passage.

Mr. Speaker, I want to commend our distinguished colleague from Nevada, who is retiring from Congress this year, for the valuable years that he has given to his country in trying to help bring about some semblance of sanity in the field of minerals policy.

He has been a great, not only crusader, but a person who has worked very closely with the Committee on Science and Technology in other legislative matters related to mineral policy.

I want to commend the gentleman and say that his services to his country in this field are going to be surely missed in the next Congress. We will miss his guidance and his help and all the valuable storehouse of information that he possesses in this matter.

As the gentleman from Nevada pointed out, this bill is no panacea, it does not solve all the problems, but it is a step in the right direction.

It has been carefully reviewed as the gentleman from Michigan pointed out. It was amended in committee, to give the President a lot of flexibility. And is trying to help us do a better job, not just for the military, but also for the civilian strategic minerals.

Mr. Speaker, from my perspective as chairman of the Committee on Science and Technology, I do not think that we can afford to wait any longer in establishing a permanent and continuing means for developing policy and implementing programs which deal with the Nation's long-term problem of critical and strategic materials. In aviation, for example, alloys of aluminum, chromium, cobalt, niobium, nickel, tantalum, and titanium are critical to the manufacture of the modern jet engines used in both civilian and military aircraft. Only in the case of titanium is our import dependence less than 50 percent; for five others, more than 90 percent of our domestic consumption is met by imports—often from countries with divergent national interests to those of the United States. Testimony before the committee has led me to believe that research, development, and technological innovation could well reduce our vulnerability to interruption in supply of these critical and strategic materials. This, however, requires proper development, coordination, and implementation of a national materials and minerals policy. Such policy should include, among others, conservation, substitution, and recycling as well as the development of processes which reduce our dependence on foreign and uncertain sources of critical and strategic materials.

H.R. 4281 provides for a permanent three-man Council on Critical Materials under the Executive Office of the President to oversee the Nation's materials policies while avoiding the creation of a burdensome bureaucracy or spreading such responsibilites through several agencies or departments. I urge my colleagues to respond favorably to this bill.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

I would like to compliment the gentleman's statement about the gentleman from Nevada (Mr. SANTINI), his position, his voice in this body that frankly has not been listened to concerning the minerals of this Nation.

Unfortunately, those who are seeking to provide the independence of this Nation, to keep us from buying from the Third World, and to actually develop those minerals which we have the capability of providing for the security of this Nation, the working class of people, those people are not being listened to. They have been ignored, accused as profiteers, of rapers of the soil, destroyers of the environment. And yet today we find ourselves dependent upon foreign countries for the strategic metals as well as some of those not strategic.

As the gentleman from Nevada has tried to express, we need a mineral policy. I can tell the gentleman that this administration is coming closer than other administrations but not close enough yet today. It is unfortunate, though, that the Congress itself does not have a minerals policy. The secret is not saving and stockpiling necessarily. The secret is production, so we are no longer dependent upon the foreign countries. The gentleman from Nevada has said this.

This bill we are voting on today is not the greatest thing in the world, but maybe it is a step. Maybe some Congressman will realize we must also produce as well as buy and stockpile. Today we are going to be dealing with legislation, bills that do continue to lock up resources. Yet there will be people advocating dependency from the strategic metals, and yet they will turn around and lock up lands.

The gentleman from Nevada is going to be sorely missed in this Congress as a crusader and outspoken on our national policy concerning minerals, and hopefully he will someday return to the body and be able to do the job he is trying to do.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Georgia.

Mr. McDONALD. I thank the chairman of the committee for yielding.

Let me also add my word of praise to the insight and wisdom of the gentleman from Nevada. I have certainly been in agreement with his concerns over our strategic minerals, and the fact that so much of them have as a source lands which are in unfriendly hands.

The problem is, it is not just foreign policy problems, it is not just the hand of southern Africa or the Soviet Union. It also might be the unfriendly hands of the Department of Interior, because we have locked up the cobalt source in this country in the wilderness areas. And we have locked up large sections of Alaska from development of some of these very same strategic minerals. And just as in Pogo, Walt Kelly said, "We have met the enemy and they is us," so often it has been this body in its deliberations on wilderness areas that has denied for this generation and future generations the opportunity of getting at these same very strategic minerals, and the unfriendly hands have so often been American hands.

But it is very convenient in this bill just to shovel the responsibility away and say we are going to solve this by creating a council, not of three individuals, but in section 7, subparagraph (b), not only three individuals, but also a staff not to exceed 12, compensated employees. And here we go again.

□ 1330

Here is another agency, another bureaucracy, and we are off to the races. What we lack in this problem is the will. We do not lack for commissions or councils.

Mr. FUQUA. Mr. Speaker, I thank the gentleman. I appreciate the gentleman's contribution and I urge adoption of the House resolution.

I appreciate the work of the gentleman from Kansas, the chairman of the subcommittee, and his fine efforts, and the gentleman from Michigan for their dedicated work in bringing this bill to the floor.

Mr. GLICKMAN. Mr. Speaker, I thank the gentleman.

Just a couple of final comments; first, that this is not new bureaucracy. This Council on Critical Materials would basically replace the current Cabinet Council. It would replace it with a permanent entity to try to get some cohesion on minerals and materials policy in this country; issues such as not only the issue of stockpiling, but the issue of mining, whether we need more production, as the gentleman from Alaska suggested; the issue of substitution, new materials through research and development that we can come up with, perhaps substitute those that we are either running out of or have no control over; recycling, advanced processing and a lot of other things.

This is not an abstract issue. Many materials on airplanes, the sources are running out. For example, the new generation of aircraft, the Boeing Aircraft, many of the materials are composites. They are graphite, they are ceramics; many things that through research and development have come up as substitutes for shortages of other minerals that we do not have.

The fact of the matter is that there is no central coordinating place to determine the answers to a lot of these issues. I would say to my colleague, the gentleman from Georgia, the Department of Defense is not even represented on the current Cabinet Council of Natural Resources and Environment, which is the policymaking entity in the administration. I can think of no more important agency to be represented in a broad variety of materials and minerals issues than the Department of Defense.

This is a small bill, one that just might make this country a little stronger and in this era of very weak industrial development in America, of high unemployment, just might provide some additional impetus to insure that our industrial base in the next 20 years remains strong.

So for all those reasons, Mr. Speaker, I would urge adoption of the legislation.

● Mr. WALGREN. Mr. Speaker, I rise in support of H.R. 4281. As my colleagues are well aware, a healthy steel industry is basic to this Nation's defense and economy. With more than 100,000 workers on layoff and another 25,000 working short weeks, this basic industry is suffering badly under the pressure of foreign competition for domestic markets. Steel imports accounted for only 2.3 percent of the U.S. market during the 1950's. More recently, imports have risen to 26 percent. Operating rates have dropped below 50 percent of capacity. Similar concerns exist regarding the titanium, aluminum, copper, and other metals producing industries.

In short, our domestic materials processing and producing industries are no longer competitive in the world marketplace. What is lacking in the United States is a coordinated and well understood policy as to the importance of a strong domestic metals producing industry. H.R. 4281, the Critical Materials Act, effectively addresses this issue. I believe that with proper coordination and direction we can deal in the short term with unfair subsidization of foreign imports and in the long term with a lack of comprehensive investments by the metals producing industries in new, innovative technologies and facilities.

Both short-term and long-term problems will require a concerted effort by the Federal Government to deal with imports and to motivate the industry to reinvest in this basic industry. The materials processing and metals producing capabilities of the Nation should be among the issues treated in providing a national materials policy. I, therefore, share the view of my distinguished colleagues, Mr. FUQUA and Mr. GLICKMAN, in urging passage of H.R. 4281.●

Mr. GLICKMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNN. Mr. Speaker, we have no further requests on this side.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA) that the House suspend the rules and pass the bill, H.R. 4281 as amended.

The question was taken.

Mr. McDONALD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A futher message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6758. An act to authorize the sale of defense articles, defense services, and unclassified defense service publications to U.S. companies for incorporation into end items to be sold to friendly foreign countries.

STUDENT INTERNS AT THE INTERNAL REVENUE SERVICE

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6519) to amend title 5, United States Code, to permit student internships at the Internal Revenue Service, as amended.

GENERAL LEAVE

Mrs. SCHROEDER. Pending that motion, Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on this bill, H.R. 6519.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The Clerk read as follows:

H.R. 6519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sec-

tion 3111(c) of title 5, United States Code, is amended—

(1) by striking out "(c) Any" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), any"; and

(2) by adding at the end thereof the following new paragraph:

"(2) In addition to being considered a Federal employee for the purposes specified in paragraph (1), any student who provides voluntary service as part of a program established under subsection (b) of this section in the Internal Revenue Service, Department of the Treasury, shall be considered an employee of the Department of the Treasury for purposes of—

"(A) section 552a of this title (relating to disclosure of records);

"(B) subsections (a)(1), (h)(1), (k)(6), and (l)(4) of section 6103 of title 26 (relating to confidentiality and disclosure of returns and return information);

"(C) sections 7213(a)(1) and 7431 of title 26 (relating to unauthorized disclosures of returns and return information by Federal employees and other persons); and

"(D) section 7423 of title 26 (relating to suits against employees of the United States);

except that returns and return information (as defined in section 6103(b) of title 26) shall be made available to students under such program only to the extent that the Secretary of the Treasury or his designee determines that the duties assigned to such students so require.".

The SPEAKER pro tempore. Is a second demanded?

Mr. DANNEMEYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 20 minutes, and the gentleman from California (Mr. DANNEMEYER) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6519 allows the Internal Revenue Service to use student volunteer interns, who are in valid academic internship programs, for a wider variety of functions than presently permitted. As you know, the present laws protecting the privacy of taxpayers forbid access to tax returns and return information by anyone other than IRS employees. Since current law does not permit interns to have access to this information, their usefulness to IRS is limited. Indeed, the IRS has used second and third year law students, under the authority provided in the Civil Service Reform Act of 1978, to perform legal research, assist in the preparation of cases for trial, and other jobs. But, IRS reports that "their usefulness is seriously impaired because in the course of performing voluntary services they cannot have access to tax information."

This bill says that the Secretary of the Treasury can consider students to be employees of IRS for purposes of access to tax information where that access is necessary for the performance of their duties. So, this is a very narrow grant of authority. If the students are given access to tax information, they are subject to the same liability as other IRS employees for the wrongful disclosure of that information. The law is very clear on the confidentiality of tax returns and student interns will be subject to the same restrictions and liable to the same punishment for violation.

The student internship program, authorized by the Civil Service Reform Act, has been widely used in Federal agencies to provide a meaningful educational opportunity for students. The Subcommittee on Civil Service polled agencies on the use of this authority and found widespread enthusiasm for the program. Literally, thousands of students have participated. Yet, usage of this program has been limited to a few agencies. Some have not used student interns at all, while others have taken only a few. The subcommittee encourages agencies to make wide use of this authority. Some agencies, or parts of agencies, have been unable to use student interns because of disclosure laws similar to those faced by the Internal Revenue Service. We urge those agencies which think a special provision, such as that contained in this bill, would permit them to set up an internship program, to come forward and ask for the necessary legislation.

I hope that the program we are authorizing today will help create an understanding of the IRS for a new generation of tax lawyers. Many tax lawyers go into private tax practice with an antipathy for the Internal Revenue Service which comes from a lack of understanding of the Service's mission and responsibility. A semester of work at the IRS should help reduce this problem.

H.R. 6519 amends current section 3111 of title 5, United States Code. We do not change how this section applies to other agencies. Indeed, this bill incorporates all the other provisions of section 3111 into the law for student interns at the Internal Revenue Service. Therefore, the restriction on using student interns to displace regular employees applies in full to the IRS. Student intership programs are not designed as a method of reducing the work force or cutting the budget and they must not be used for these purposes.

The amendment to H.R. 6519, which I am offering, makes a number of the technical amendments suggested by the Department of the Treasury and tightens up the coverage of the bill. With this amendment, the bill is fully supported by the administration. The Treasury Department reports that the bill will have no budgetary impact. I ask that a letter from the Department of the Treasury to Chairman FORD be printed in the RECORD at this point.

DEPARTMENT OF THE TREASURY,
Washington, D.C., September 28, 1982.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On May 27, 1982, Representative Schroeder introduced H.R. 6519, a bill to permit student internships at the Internal Revenue Service. The Department of the Treasury strongly supports this legislation. We do recommend two slight technical changes, however.

The Civil Service Reform Act of 1978 included a provision (5 U.S.C. 3111) which permits the head of an agency to accept the uncompensated volunteer services of students enrolled in high schools, trade schools, colleges, or universities. Under this provision, the Internal Revenue Service has utilized the assistance of second and third year law students to perform legal research, assist in the preparation of cases for trial, and perform other similar functions. The Civil Service Reform Act provision specifies, however, that student volunteers shall be considered Federal employees only for purposes of compensation for injury and tort claims. Section 6103(h)(1) of the Internal Revenue Code provides that returns and return information are open to inspection by or disclosure to officers and employees of the Department of the Treasury for tax administration purposes. Thus, under present law, student volunteers would not be considered Treasury Department employees for purposes of the disclosure statute, and their usefulness is seriously impaired because in the course of performing volunteer services they cannot have access to tax information.

H.R. 6519 would amend 5 U.S.C. 3111 to treat students performing volunteer tax administration services for the Department of Treasury as Federal employees for purposes of section 6103(a)(1), (h)(1), (k)(6), and (l)(4), and section 7213(a)(1) of the Internal Revenue Code. Thus, returns and return information could be disclosed to and by student volunteers for tax administration purposes, and they could have access to tax information for necessary use in Treasury personnel matters. Similarly, these student volunteers would be subject to criminal sanctions under section 7213 of the Internal Revenue Code for willfully making an unauthorized disclosure of returns or return information.

We would suggest two minor technical changes to the bill. First, we would add to the lsit of affected disclosure provisions in the bill a reference to 5 U.S.C. 552a. That section, added by the Privacy Act of 1974, restricts disclosure of certain information, but provides an exception for disclosure of information to employees of an agency who require the information in the performance of their duties. By treating student volunteers performing tax administration services for the Treasury Department as employees of the Department, disclosure of necessary information would be permitted under section 552a, consistent with the objectives of H.R. 6519.

Second, as a technical drafting matter, we would clarify that I.R.S. student volunteers

will be treated as employees of the Treasury Department (in addition to being employees of the United States). Because the bill provides only that I.R.S. student volunteers are treated as employees of the United States, and not, specifically, as employees of the Treasury Department, a question could be raised whether such student volunteers are authorized to receive confidential information under the statutory provisions authorizing disclosure to employees of the Treasury Department.

Accordingly, we propose the following modifications to H.R. 6519:

(1) Strike out "and" on page 2, line 5 of the bill.

(2) Strike out line 9 on page 2 of the bill and substitute "persons; and".

(3) Add following line 9 on page 2 of the bill:

"(5) Section 552a of this title (relating to the disclosure of records).

"Such students who provide voluntary service for the Department of the Treasury shall, in addition, be considered employees of such Department for purposes hereof."

We urge that the Committee give favorable consideration to this bill as a means of expanding the usefulness of the student volunteer program. There would be no budgetary impact. As specified by 5 U.S.C. 3111, no I.R.S. employees would be displaced.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report.

Sincerely,

DAVID G. GLICKMAN,
Deputy Assistant Secretary (Tax Policy).

Mr. DANNEMEYER. Mr. Speaker, we have no requests for time.

Mrs. SCHROEDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlwoman from Colorado (Mrs. SCHROEDER) that the House suspend the rules and pass the bill, H.R. 6519, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties.".

A motion to reconsider was laid on the table.

MAIL ORDER CONSUMER PROTECTION AMENDMENTS OF 1982

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7044) to amend title 39, United States Code, to strengthen the investigatory and enforcement powers of the Postal Service by authorizing certain inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes, as amended.

The Clerk read as follows:

H.R. 7044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mail Order Consumer Protection Amendments of 1982".

CEASE-AND-DESIST ORDERS; "MIRROR IMAGE DOCTRINE"; TEST PURCHASE AUTHORITY

SEC. 2. (a) Section 3005(a) of title 39, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting lieu thereof "; and"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) requires the person or his representative to cease and desist from engaging in any such scheme, device, lottery, or gift enterprise.".

(b) The first sentence of section 3005(d) of title 39, United States Code, is amended—

(1) in paragraph (1), by striking out the last "or";

(2) in paragraph (2), by striking out the period and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following:

"(3) an advertisement promoting the sale of a book or other publication, or a solicitation to purchase or a purchase order for any such publication, if (A) such advertisement is not materially false or misleading in its description of the publication, and contains no material misrepresentations of fact, (B) the advertisement accurately discloses the source of any statements quoted or derived from the publication and any opinions expressed about such publication, and (C) neither the publication nor the advertisement is designed to promote the sale of some other product as part of a commercial scheme.".

(c) Section 3005 of title 39, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) In conducting an investigation to determine if a person is engaged in any of the activities covered by subsection (a) of this section, the Postmaster General (or any duly authorized agent of the Postmaster General) may tender, at any reasonable time and by any reasonable means, the price advertised or otherwise requestd for any article or service that such person has offered to provide through the mails.

"(2) A failure to provide the article or service offered after the Postmaster General or his agent has tendered the money or property in the manner described in paragraph (1) of this subsection, and any reasons for such failure, may be considered in a proceeding held under section 3007 of this title to determine if there is probable cause to believe that a violation of this section has occurred.

"(3) The Postmaster General shall prescribe regulations under which any individual seeking to make a purchase on behalf of the Postal Service under this subsection from any person shall—

"(A) identify himself as an employee or authorized agent of the Postal Service, as the case may be;

"(B) state the nature of the conduct under investigation; and

"(C) inform such person that the failure to complete the transaction may be considered in a proceeding to determine probable cause, in accordance with paragraph (2) of this subsection.".

CIVIL PENALTIES; SEMIANNUAL REPORTS

SEC. 3. (a) Chapter 30 of title 39, United States Code, is amended by adding after section 3011 the following new sections:

"§ 3012. Civil penalties

"(a) Any person—

"(1) who, through the use of the mail, evades or attempts to evade the effect of an order issued under section 3005(a)(1) or 3005(a)(2) of this title;

"(2) who fails to comply with an order issued under section 3005(a)(3) of this title; or

"(3) who (other than a publisher described by section 3007(b) of this title) has actual knowledge of any such order, is in privity with any person described by paragraph (1) or (2) of this subsection, and engages in conduct to assist any such person to evade, attempt to evade, or fail to comply with any such order, as the case may be, through the use of the mail;

shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3) of this subsection. A separate penalty may be assessed under this subsection with respect to the conduct described in each such paragraph.

"(b)(1) Whenever, on the basis of any information available to it, the Postal Service finds that any person has engaged, or is engaging, in conduct described by paragraph (1), (2), or (3) of subsection (a), the Postal Service may commence a civil action to enforce the civil penalties established by such subsection. Any such action shall be brought in the district court of the United States for the district in which such conduct occurred or in which the defendant resides, transacts business, or receives mail.

"(2) If the district court determines that a person has engaged, or is engaging, in such conduct, the court shall determine the amount of any civil penalty under this section, taking into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to conduct lawful business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"(c) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

"§ 3013. Semiannual reports on investigative activities of the Postal Service

"The Postmaster General shall submit semiannual reports to the Board summarizing the investigative activities of The Postal Service. Each such report shall be submitted within sixty days after the close of the reporting periods ending March 31, and September 30, respectively, and shall include with respect to the reporting period involved—

"(1) a summary of any proceedings instituted under section 3005 of this title, and the results of those and of any other such proceedings decided, settled, or otherwise concluded during such period;

"(2) the number of cases in which the purchasing authority described in section 3005(e) of this title was used;

"(3) the number of applications for temporary restraining orders or preliminary injunctions submitted under section 3007 of this title and, of those applications, the number granted;

"(4) the total expenditures and obligations attributable to investigative activities of the Postal Service; and

"(5) such other information relating to the investigative activities of the Postal Service as the Board may require. Upon approval of a report submitted under the first sentence of this section, the Board shall transmit such report to the Congress.".

(b) Section 3012 of title 39, United States Code, as added by subsection (a), shall apply with respect to conduct which occurs on or after the date of the enactment of this Act.

(c) The analysis for chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3011 the following new items:

"3012. Civil penalties.
"3013. Semiannual reports on investigative activities of the Postal Service.".

CONSUMER EDUCATION PROGRAM ON SCHEMES INVOLVING FALSE REPRESENTATIONS

SEC. 4. (a) As soon as practicable after the date of the enactment of this Act, the Postmaster General or his designee, following consultation with representatives of the mail order industry, shall develop and carry out a program designed to provide consumer education to the public on schemes involving false representations through use of the mails, including the dissemination of information on recognizing practices commonly associated with such schemes, as well as appropriate measures to take upon receiving mail matter which the individual believes may be part of such a scheme.

(b) A summary of any activities carried out under subsection (a) shall be included in each annual report rendered by the Postmaster General under section 2402 of title 39, United States Code.

SEC. 5. Section 202(b) of title 39, United States Code, is amended by adding at the end thereof the following new sentence: "A Governor may serve during the term following the expiration of his term until his successor has taken office.".

The SPEAKER pro tempore. Is a second demanded?

Mr. GILMAN. Mr. Speaker I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. FORD) will be recognized for 20 minutes, and the gentleman from New York (Mr. GILMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we have a bill before us that is a tribute to the distinguished chairman and members of the Select Committee on Aging who have had under study for a long time now the reprehensible use of the mails for scams aimed at the weakest in our society: the old, the sick, and the unemployed. Chairman PEPPER has worked extraordinarily hard to produce the basis for this legislation.

I also want to compliment the chairman of the Subcommittee on Postal Personnel and Modernization, the Honorable MICKEY LELAND, who handled this bill on the House side in a very statesmanlike way.

I am pleased to tell the House that as a result of the good offices of the gentleman from Florida (CLAUDE PEPPER) and his committee and the gentleman from Texas (MICKEY LELAND) and his people, we come to the floor today with a bill that I really believe has no controversy left in it. This bill has been, at one time or another during its consideration, somewhat controversial. When the bill passed from the Committee on Post Office and Civil Service, it passed by a vote of 13 to 1. The gentleman from California (Mr. DANNEMEYER) who I see on the floor was the one vote. It might come as a surprise to the House that the gentleman from California (Mr. DANNEMEYER) and I had, preceding that vote, joined together in a good deal of serious criticism of the legislation in the form in which it came to us from the Senate and in which it was originally introduced in the House.

I am pleased to say that in part, because of his persistence and the very strong efforts that he made, we were able to come to a consensus to remove from the bill the section that contained the provisions which were the focus of the principal amendments which he offered in committee. I hope that the gentleman from California (Mr. DANNEMEYER) will now join us in supporting this much-needed bill.

H.R. 7044 is intended to plug holes in the existing postal law without infringing on anyone's constitutional rights. It has built-in procedural and substantive protections to insure that the new investigative and enforcement authority which we are granting is used properly and prudently.

The amendment to the reported bill which we are offering today is designed to extinguish even the remote possibility that we might be granting the Postal Service too much authority, because we have removed all of section 3, the civil investigation demand powers. In removing the CID section from the bill, we hope we are reestablishing the virtually unanimous support which the legislation has had and which it deserves.

Today we culminate a 2-year-long, bipartisan effort the likes of which the Congress has rarely seen in recent years. The bill which we bring before the House today has one simple purpose: To protect the American public from being injured by false representation schemes which utilize the mails.

H.R. 7044 is a refined version of the bill H.R. 3973, which was introduced last year by the Honorable CLAUDE PEPPER as the result of his Aging Committee's intensive study of the financial, physical, and emotional damage which mail-order scams are inflicting upon this Nation's senior citizens. H.R. 3973 quickly attracted some 300 House cosponsors. The Senate version of the legislation, S. 1407, has already passed that body by voice vote.

The clean bill which is before us today, H.R. 7044, was ordered reported to the House by the Post Office and Civil Service Committee—by a vote of 13 to 1. But it is, in fact, the result of a closely coordinated joint effort with Chairman PEPPER's Aging Committee. Extensive hearings by both of our committees conclusively proved the need for this legislation. The existing civil postal statute is simply too easily circumvented by today's sophisticated mail-order con men. As a result mail-order schemes are proliferating as never before, and the American public is paying the price.

H.R. 7044 plugs the holes in existing law without infringing on anyone's constitutional rights. The reported bill contains numerous procedural and substantive protections to insure that the new investigative and enforcement authority which we are granting is used properly and prudently.

The amendment to the reported bill which we are offering today is designed to extinguish even the most remote possibility that we might be granting the Postal Service too much authority. The amendment strikes all of section 3 of the bill, thereby removing the civil investigative demand provisions in their entirety. Although Chairman PEPPER and I are doing this with some reluctance, we feel it is the prudent course. The "CID" provision, although it would have provided a useful investigative tool, has in recent weeks simply become too controversial, and has deflected too much attention from the tragic problem which this bill is trying to solve.

In removing the CID section from the bill, we hope we are reestablishing the virtually unanimous support which this legislation has had and which it deserves. As Chairman PEPPER's recent Aging Committee report so clearly demonstrates, "Business and Investment Frauds Perpetrated Against the Elderly: A Growing Scandal" it is time to give the Postal Service and the courts the tools they need to better protect our senior citizens. Chairman PEPPER's report is filled with horrifying case histories illustrating the nature of the national problem we are seeking to cope with. The most vulnerable members of our society—the elderly, the sick, the unemployed—are being victimized in alarming proportions. Our Federal postal system is being perverted by the operators of these schemes, and it is time to put an end to it.

The amended bill, even without the CID section, contains investigatory and enforcement provisions which will

be of immense and immediate assistance:

First, the bill provides that the Postal Service—after a full adversarial hearing before an administrative law judge—may issue orders to require persons to cease and desist from engaging in false representation schemes. Presently, the Postal Service may only issue stop-mail orders, which are easily circumvented by experienced con men, who simply move to a new address under a new business name.

Second, the bill also permits the Postmaster General or his agent to tender in person the price of any item or service advertised through the mail. The Postal Service agent must accurately identify himself, state the nature of the conduct under investigation, and inform the advertiser that failure to complete the transaction may be presented to a court as a factor to be weighed by the court in deciding whether there is probable cause to issue a temporary stop-mail order under the existing provisions of 39 U.S.C. 3007. This provision will speed the investigative process and help prevent harm to the public. Presently, by the time the Postal Service obtains an advertised product through the mail for testing, the operator of the scam has left town.

Third, the bill also provides for civil penalties for violators of false representation orders issued pursuant to 39 U.S.C. 3005. Only a U.S. district court may enforce such penalties—which may be in an amount up to $10,000 per day—and then only after the court makes an independent determination that the subject person is engaging in, or has engaged in, violative conduct. The court shall determine the amount of the penalty, if any. All penalties will be paid into the General Treasury of the United States. This provision should help solve one of the major problems with today's civil statute: the total lack of any deterrent effect. A stop-mail order alone is no obstacle for the operators of today's increasingly sophisticated, mobile, and ruthless scams.

Fourth, the bill also required the Postmaster General to develop and carry out an extensive consumer education program as a positive means of helping prevent injury to the public. And so that we may closely monitor the conduct of the Postal Service's investigative and enforcement efforts, the bill also requires the Postmaster General to submit detailed, twice yearly reports to the U.S. Postal Service Governors and to the Congress on the investigative activities of the Postal Service.

I strongly urge the passage of H.R. 7044.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding.

In order to identify the amendment with exactness, is a copy available of the exact nature of the amendment?

Mr. FORD of Michigan. Yes; the gentleman should have one there at the desk. It is at the desk here.

It contains the change. Basically all it does is strike section 3 of the bill as it was reported from the committee.

Mr. KINDNESS. That is working from Union Calendar No. 582?

Mr. FORD of Michigan. That is correct. The gentleman will see a little notation at the top that says:

Note: See changes on pages 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16 and 17, and an amendment to the title.

Mr. KINDNESS. I have something that has just appeared before me that conforms with that description, which does not change a word in the title to the bill, the word being "inspections."

I understood it was intended or considered that that might be changed to "investigatory."

Would the gentleman describe the decision on that?

Mr. FORD of Michigan. I really do not understand what that would do to affect it, even though it is only in the title.

Mr. KINDNESS. If the gentleman will yield further, I would not assert that there in any particular meaning to that.

Mr. FORD of Michigan. The gentleman is raising a question about what word in the title?

Mr. KINDNESS. In the third line of the language following, "A bill to amend title 39," in the middle of the line the word "inspection"; I understood that was supposed to be changed to read "investigatory" and in the short title to the bill below the bill number, the same change there.

□ 1345

Mr. FORD of Michigan. If you look on page 17, you will find that that change is made in the amendment to the title.

Mr. KINDNESS. I thank the gentleman. The gentleman I think has satisfied my curiosity. I appreciate his yielding.

There was a little confusing language about just what the document is.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield to me for a question?

Mr. FORD of Michigan. I would be happy to yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Speaker, it has come to my attention that the administration has asked for at least two significant clarifications, and I wonder if I might read them to the chairman of the committee and receive a reaction on the part of those two clarifications which they are hoping to have in the conference.

The first is to limit the number of U.S. Postal Service officials authorized to issue the civil investigative demands to supervisor-level personnel in order to avoid civil liberties concerns; and second, to more effectively limit the official use of information obtained under a CID outside the context of criminal enforcement.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman clarify his question?

Mr. BEREUTER. Yes.

Mr. FORD of Michigan. What does the gentleman mean by "administration"; the administration of the Postal Service, which is the agency administering this, or somebody else? Who are we talking about?

Mr. BEREUTER. I believe it is the administration speaking from the White House level and the advisers to the White House.

Mr. FORD of Michigan. Mr. Speaker, I do not believe that in view of our amendment today, they have any further concerns about this bill.

Mr. LELAND. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Texas, the chairman of the subcommittee.

Mr. LELAND. Mr. Speaker, will the gentleman from Nebraska repeat his question?

Mr. BEREUTER. The gentleman from Michigan (Mr. FORD) has the time.

Mr. LELAND. Mr. Speaker, it is my understanding that the gentleman from Nebraska has some reservation and I would like to respond.

Mr. BEREUTER. Mr. Speaker, the reservation was expressed in the hope that we could have a resolution of these matters by a clarification in conference; that we would limit the number of U.S. Postal Service officials authorized to issue the civil investigative demands to the supervisor-level personnel in order to avoid civil liberties concerns.

Mr. FORD of Michigan. Mr. Speaker, if I may reclaim the balance of my time, that is no longer an issue. The entire civil investigative demand section is being removed from the bill.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield further for a clarification on another point?

Mr. FORD of Michigan. I certainly yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding further.

Mr. Speaker, the other point that was raised, and perhaps this has also been taken care of, is to make clear that the documents obtained by the Postal Service under a CID be available for use in criminal prosecutions.

Would the chairman care to react to that?

Mr. FORD of Michigan. Again, that issue, I believe, was removed when section 3 was removed from the bill. That was an issue raised, incidentally, by the ACLU. I am surprised that they and the White House are so well connected, but we resolved the complaints of both the American Civil Liberties Union and the White House by taking the civil investigative demand section out of the bill.

Mr. BEREUTER. Mr. Speaker, I appreciate the assurances offered by the distinguished gentleman from Michigan in that, but I thank the gentleman for yielding.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 7044, as amended, the Mail Order Consumer Protection Amendments of 1982. I commend my colleague, the gentleman from Florida (Mr. PEPPER) for taking the initiative to introduce last session the legislation, H.R. 3973, from which the measure now before us was fashioned. I also commend the chairman of the Committee on Post Office and Civil Service, the gentleman from Michigan (Mr. FORD), and my colleague, the gentleman from Texas (Mr. LELAND), who chairs the Subcommittee on Postal Personnel and Modernization, of which I am the ranking minority member, for their constructive roles in bringing H.R. 7044 to the floor.

H.R. 7044 and H.R. 3973, and S. 1407, a similar measure passed by the Senate, are designed to combat the increasing array of mail fraud schemes. As the gentleman from Florida has pointed out, all too often the target of such fraudulent undertakings are our Nation's senior citizens. Indeed, hearings conducted by the Select Committee on Aging revealed that over 60 percent of those victimized by deceptive mail order operations peddling phony health remedies, and fraudulent land deals and work-at-home schemes were senior citizens.

During this past summer, our subcommittee conducted a comprehensive series of hearings on the mail fraud problem during which the Postal Service, victims of mail fraud, and major users of the mail provided their perspectives on the problem. These hearings focused on the task of providing the Postal Service with the additional means to effectively combat fraudulent mail offerings while assuring at the same time that increased power to investigate such mail schemes did not collide with the freedoms of citizens exercising legitimate rights while using the mails.

I believe the measure before us now has gone a long way to accomplishing that objective. The provision of H.R. 7044 which would have provided the Postal Service with the authority to issue written investigative demands has been deleted. While that provision was merely similar to the power given Inspectors General of other Federal agencies, I know that section of the bill was troublesome to many of my colleagues.

Under the current measure, the Postal Service will be provided with the authority to issue cease and desist orders to those conducting deceptive mail schemes and be able to purchase promptly an item offered for sale. Moreover, civil penalties can be assessed by a U.S. district court against violators of false representation orders.

Mr. Speaker, in an earlier Congress I introduced legislation designed to help crack down on fraudulent mail offerings. While I recognize that the majority of mail order businesses are legitimate operations, I am pleased that we have before us now a measure which I believe will provide the Postal Service with the additional tools to help put many of the fraudulent mail operations out of business.

Accordingly, I urge my colleagues to vote to suspend the rules and pass H.R. 7044, so that we may begin to remedy a swiftly growing problem ensnaring so many unsuspecting citizens.

Mr. CORCORAN. Mr. Speaker, will the gentleman yield to me?

Mr. GILMAN. I would be pleased to yield to my colleague on the committee, the gentleman from Illinois.

Mr. CORCORAN. I thank the gentleman for yielding.

Mr. Speaker, I rise to discuss and urge support for the amendment which causes the deletion of section 3 of H.R. 7044. As the gentleman from New York (Mr. GILMAN) knows, and in particular the gentleman from Michigan (Mr. FORD) and the gentleman from Florida (Mr. PEPPER) also know, there has developed a considerable concern about the potential violation of individual rights and liberties in connection with the civil investigative demand provisions of section 3 of H.R. 7044. With this section in the bill I would stand in vigorous opposition to the whole bill despite its otherwise good intentions.

I think that the leadership of the committee has prudently decided to remove this very controversial section from the bill. Perhaps in some future Congress we can try again to see whether or not we can balance the need for dealing with the mail order scams that prey upon the elderly, the infirm, and disadvantaged without violating the constitutional rights that section 3 violates.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his comment.

Mr. PAUL. Mr. Speaker, will the gentleman yield to me?

Mr. GILMAN. I would be happy to yield to the gentleman from Texas.

Mr. PAUL. I thank the gentleman for yielding.

Mr. Speaker, the Post Office Committee has finally seen fit to delete the most controversial section of the legislation, H.R. 7044, section 3005(a). While this action is a step in the right direction, it represents only a partial solution to the problems posed by the legislation itself.

Congress, the legislative body of the Federal Government, promulgates paperwork, reports, and bills, to the point where we have a compilation of rules, regulations, and laws that no one really understands or can locate in the law books.

Clause after subclause after sub-subclauses are added to legislation and amended to the point where the law books can serve as a ladder to scale Mount Everest.

H.R. 7044 is another chief example; there are already sufficient laws within the Criminal Code to deal with mail fraud. This legislation is not going to solve anything, nor will it make the Postal Service's job any easier. I would state that there is nothing in this revised proposal that does not already exist in law, specifically within title 18 of the United States Code dealing with fraud.

H.R. 7044 is nothing more than a sideshow, an attraction designed to show the people that we are doing something.

At first, some Members, including myself, had strong reservations about the powers within the original proposal under section 3005(a), but the chairman of the committee saw fit to revise the bill by deleting the section.

I would certainly like to commend the gentleman for this action, but I would still like to express my reservations about the bill as revised. While it is more palatable than its predecessor, what real purpose does it serve? I say none.

H.R. 7044 is a repetitious bill reiterating things already existing in law. There is no need to further clutter the law books and I would urge my colleagues not to pass the bill.

Mr. GILMAN. Mr. Speaker, I reserve the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. LELAND).

Mr. SCHUMER. Mr. Speaker, will the gentleman from Texas yield to me?

Mr. LELAND. I would be happy to yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Speaker, from a civil liberties viewpoint, I had reservations about this bill because of section 3. I was concerned that section 3 might obligate the fourth amendment.

The chairman of our committee and the subcommittee chairman have diligently guided this legislation, the thrust of which is meritorious. Now that they have had the wisdom to excise this section, we have an excellent bill and I rise both to support the measure and to thank the chairman and the subcommittee chairman for their help and foresight on this measure.

Mr. Speaker, there is a serious problem that now confronts the elderly of this country and those who can ill afford it in these economically difficult times. Mail fraud employs the trusted channels of the U.S. Postal Service to carry out pernicious schemes to dupe individuals out of their hard earned moneys. It takes its highest toll on our elderly. Thirty percent of our senior citizens each year are deceived by these schemes. Sophisticated con men prey upon our senior citizens who grew up in a more trusting era, prey upon their daily fears that they cannot support themselves on a pension, let alone leave something of their hard earned money to their children. Every year countless men and women lose their savings that may have taken a lifetime to build, to schemes selling land underwater, false promises of weight loss, arthritis cures. These con men will stop at nothing: There are even those who read the obituaries so that they may send fraudulent bills to the families of the deceased.

Let me tell you of some of the most heinous of these crimes. Recently we learned of a man who lost $30,000 he had received as reparation for being in Dachau, to a scheme selling land underwater in Florida. In Massachusetts, it was recently discovered that several senior citizens spent more than $40,000 each for absolutely worthless health insurance. In another instance, the Postal Service blocked a scheme selling guaranteed weight loss brochures that contained only the most basic program of exercises and vitamins. At $22.50 a brochure, the promoters were raking in $112,000 a day.

These are only a few of the 200,000 mail fraud schemes reported to the Postal Service each year. These schemes were investigated and stopped, but they are the exception. The 2,000 highly respected postal inspectors can devote only 25 percent of their time to investigating and prosecuting mail fraud schemes. All too often their efforts go to naught, as the sophisticated con men know all too well how to circumvent the enforcement process. Presently, all that postal inspectors can do is make a test purchase of the suspect material. By the time the scheme has been detected and the purchase made, the con man has filled all his orders and shut down. Or if he is caught and a stop mail order issued, he merely moves his scheme to another State, or changes his address or adopts an 800 telephone number and continues to extort the public.

So mail fraud continues to escalate, particularly now, in these times of high unemployment, and there is not sufficient means to arrest its growth. While the mails are used to dupe the public, mail fraud is slowly undermining public confidence in the U.S. Postal Service.

We believe that H.R. 7004 is essential for the restoration of confidence in the mails and halting the deplorable extortion of our senior citizens.

The Subcommittee on Postal Personnel and Modernization held five hearings on this legislation, even though the Senate had reported the bill on a voice vote. We did so because we were very concerned that the powers being granted to the Postal Service might be too broad and too loosely defined. Although we had every confidence that the Postal Service would not use the new authority in any manner except that which was intended, we did not even want the potential for such a situation to exist.

We heard testimony from every interest group and organization that expressed interest in doing so. These included the mail order industry; the book, magazine, and newspaper publishing industries; and retiree organizations. We also solicited written comments from every interest group and organization that we thought might have some concern or expertise about this subject.

The consensus of these viewpoints was that a serious problem does indeed exist, and that it will continue to grow if the authorities are not given the authority they need to crack down on these schemes. However we also found that there was agreement with our concern that the nature and extent of the additional authority might be unnecessarily broad and loosely defined. We; then decided to rewrite the entire bill. In the rewriting process, we dealt with every one of our concerns, deleting some sections, and defining the new authority in very strict langauge which will insure that it can be used precisely for the purposes intended and for nothing else. This new bill H.R. 7044, has the full support of Chairman PEPPER, author of the original bill, the Senate sponsors, and those who had expressed concerns about the original bill.

We have dealt with this issue in great depth and detail. We have devoted all of the time and attention necessary to consider every possible effect that this new legislation might have. We are presenting to you a carefully thought out and precise instrument for effectively combating one of the fastest growing criminal activities in this country.

I urge you to support H.R. 7044.

Mr. LELAND. Mr. Speaker, I would like to commend the chairman for his expeditious manner in handling this bill. He has done an excellent job in terms of finding all of the difficulties and weeding them out, and has met most of the concerns, particularly those that raised the gravest concerns.

Mr. RATCHFORD. Mr. Speaker, will the gentleman yield?

Mr. LELAND. Mr. Speaker, I would like to yield now to the gentleman from Connecticut, who held hearings in his district in Connecticut and who has found that in his district, just a small city in his district, as I understand, has been really ravaged by this kind of concern.

Mr. RATCHFORD. I thank the gentleman for yielding.

Mr. Speaker, hearings held by the Select Committee on Aging have heavily documented the fact that senior citizens are the primary victims of mail order pirates, who promise arthritis and cancer cures, cures to extend the lifespan, or halt the aging process. Sixty-five percent of all documented mail fraud cases in the country are perpetrated against the elderly, and, we have learned that big money is involved. The Arthritis Foundation has estimated that $1 billion a year is lost to phony claims promising a cure for arthritis.

Medical experts have also testified that many miracle cures and alleged health restoring devices, can actually aggravate the user's condition, and cause even greater suffering. The U.S. Postal Inspection Service has testified before a hearing held in Hartford, Conn., last year that one medical fraud promotion that was stopped, was receiving 5,000 pieces of mail and an average of $112,000 per day.

Fraudulent promotions for work-at-home schemes have robbed thousands of individuals, most of them elderly, of hundreds of thousands of dollars: This is their lifesavings. In Hartford, victims were persuaded into investing $3,500 to begin a jewelry franchise. Through seemingly legitimate advertising, over 160 people were robbed of $600,000 in this fraudulent scheme in just the 6 short months it was open.

As you can see, the variety of fraudulent schemes is seemingly endless. I urge my colleagues to support this bill, to help protect the vulnerable, the elderly, by keeping the mails free from abuse.

Mr. LELAND. I thank the gentleman from Connecticut.

Mr. Speaker, I would also like to commend the minority member of the committee, the gentleman from New York (Mr. GILMAN).

Mr. FORD of Michigan. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I warmly commend the distinguished gentleman

from Michigan, the chairman of this committee, and all the members of his committee upon bringing forth this measure to the floor of the House.

This bill is a very wisely revised version of my original bill, H.R. 3973, which was cosponsored by over 300 Members of the House.

There were certain weaknesses in our bill that raised some questions in the Committee on the Judiciary, and the chairman of this committee and his committee have wisely, I think, revised my original bill to make it acceptable to the Committee on the Judiciary and I hope acceptable generally.

This bill, Mr. Speaker, is for the purpose of protecting, to a greater extent than is now done, the elderly people, particularly, of this country who are the victims of fraudulent schemes of conspiring people who take advantage of them in various ways.

Our committee, the Select Committee on Aging, held a hearing on this matter. We received testimony and have had several hearings, as a matter of fact. A dozen or more kinds of fraud have been perpetrated upon the elderly people, particularly, because some of them have a little money to invest and they are looking for some sound investment. Somebody makes a persuasive presentation to them and they fall victim to the fraud and lose the money that they otherwise would have preserved.

□ 1400

So, this bill also provides very important procedural changes in the authority of the Post Office Inspector. It makes possible for the Post Office Inspector to get access to the substance; that is, the fraudulent substance or the material that is the basis of the fraud that is about to be perpetrated. So, it will make enforcement by the Postal Service very much more effective than it has been heretofore, yet it does not grant the subpena power we provided originally in our original legislation.

It also provides additional punishment to be imposed by the courts upon those who are convicted of the perpetration of these fraudulent schemes, so I think, I feel morally certain, that this measure when it becomes law will to a large extent certainly diminish, if it does not prevent, the great number of frauds that have been perpetrated by conspiratorial characters upon the elderly people of this country.

I warmly commend the distinguished gentleman from Michigan (Mr. FORD) and his subcommittee upon the excellent job they have done in bringing this measure to the floor.

Mr. Speaker, I am please to join the distinguished chairman of the House Post Office Committee, Mr. WILLIAM D. FORD in support of H.R. 7044. This legislation, which we have introduced together, is the result of more than a dozen hearings by our Committee on Aging which examined various frauds being perpetrated against the elderly.

Mr. Speaker, I will take advantage of this opportunity to release a report "Business and Investment Frauds Perpetrated Against the Elderly: A Growing Scandal," which has as its primary recommendation the enactment of H.R. 7044. The purpose of H.R. 7044 is to give the U.S. Postal Service a greater arsenal with which to fight fraud perpetrated against the aged through the U.S. mails.

Our committee, in the course of preparing this report, investigated work-at-home schemes, securities frauds, franchise, distributorship and commodities frauds and found that such business and investment swindles perpetrated against the elderly are a growing national problem. We estimate a minimum of $5 billion a year which could be lost in these ripoffs. This is a growing national scandal.

The report details thousands of case histories taken from committee files such as the following. Nita Brumley of Lubbock, Tex., a retired nurse lost some $3,475 she invested in a phony jewelry distributorship. Arthur Shaffer of Columbia, S.C., a retired Army captain invested $9,000 for certain vending machines and received nothing for his money. Seventy-three-year-old D. H. Brinson of Reidsville, N.C., thought he was dealing with a reputable commodities dealer—He lost $52,000. Mr. and Mrs. Barney Dial mortgaged their home to invest in a plant-growing franchise; they lost $6,500. Mr. and Mrs. Ed Steinleitner from Pennsylvania lost $30,000 in a work-at-home scheme in which they were told they could make money by growing earthworms which the offering firm would buy from them. The firm left town with the money without buying back so much as a single nightcrawler.

The report offers these major conclusions:

First, fraud is a massive problem in our society today and it is growing at a rapid rate.

Second, the elderly and the poor are disproportionately represented in the victims of fraud. The elderly make up 11 percent of the population but 30 percent of the victims of crime—both violent and white-collar crime.

Third, the elderly are especially vulnerable because: They grew up in a more trusting era, some of them have a little money put away; many of them are not accustomed to making large investments; they have time on their hands and want to keep busy; and they have the desire not only to have more money on which to live but to leave a little something for their children and grandchildren.

Fourth, the elderly are particularly vulnerable to business and investment schemes which prey on the fear that many of them will not have adequate income to support themselves in their old age. In general, these fears are real; some 25 percent of the elderly have incomes placing them at or near the established poverty line.

Fifth, business and investment frauds are particularly prevalent because of the large amount of money involved and because it is often impossible to tell fraud from the great majority of legitimate business and investment opportunities.

Sixth, like most other kinds of frauds, business and investment schemes make heavy use of the U.S. mails. The fraud usually begins with an advertisement in a local newspaper. The victim responds to the ad and does not receive what was advertised; often the victim receives nothing at all.

Seventh, the primary authority to stopping such frauds rests with the States, but few have enacted specific business opportunity statutes.

Eighth, the Federal Bureau of Investigation has been increasing its efforts to fight white collar fraud with good results but neither the Federal Trade Commission or the Securities and Exchange Commission are doing the job they once did.

Ninth, the U.S. Postal Service has done an excellent job through its Inspection Service to fight fraud but it is understaffed. There are only 2,000 postal inspectors in the United States and they spend only 25 percent of their time dealing with mail fraud and false representation cases.

Tenth, the U.S. Postal Service does not have the authority it needs to do the job. Congress has invested in the Inspection Service the responsibility for identifying and prosecuting fraud but, has not given the Service even that rudimentary investigative tool—the power of subpena.

Eleventh, penalties imposed in false representation cases are too light and recidivism is a common problem.

Mr. Speaker, H.R. 7044 attempts to deal with these problems. It is a revised version of my bill, H.R. 3973 which has been cosponsored by over 300 Members of the House. The bill will help the Inspection Service by giving them the authority to tender a postal money order and gain immediate access to a product which is the subject of a false representation investigation. In the past the Postal Service was required to send away from the product. The crooks knew the procedure. Typically, they would wait 2 months and fill all the orders at once as they were closing down their operation. By the time the Inspection Service got its hands on the product it was too late. As I said, this bill will

give the Inspection Service immediate access to questionable products. This will permit testing and help them to move more quickly and thus prevent many thousands from being defrauded each year.

Another provision of this important bill will allow a U.S. district court judge to impose fines up to $10,000 for each violation of a judically imposed stop order. In other words, if a Federal judge imposes a stop order and a certain firm seeks to defraud the public by perpetrating essentially the same scheme, the U.S. Postal Service may ask and the district judge may impose the fines I mentioned. This should go far to stop recidivism.

Mr. Speaker, this is an important bill, I commend Mr. FORD and the Post Office Committee. I urge its immediate enactment.

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the distinguished member of our committee, the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague for yielding me the time.

It has been said by a famous justice of the U.S. Supreme Court that, "Government is to be feared the most when its purposes are benevolent."

On the basis of this statement, I pose my opposition to the bill in the form that it is now before us. I would like to alert the Members of the House as to truly what is going on in the Post Office Department for the purpose of protecting, allegedly, the interests of the citizens of this country. It goes back to a change that was made in our law in 1967, when at that time, in order for the Post Office to move on these scams, they had to prove intent to defraud. The law in that year, 1967, was modified to change it to its present posture of permitting the Post Office Department to move when the evidence is false and misleading, and on that point, with the change made in 1967, I would like to quote from my distinguished colleague from Michigan, Mr. WILLIAM D. FORD, who made some comments when the law was adopted in 1967:

> I am of the view that the Post Office Department has as its primary mission delivery of the mail in this nation. There has been a tendency of late to add to that mission examination and control of the content of the mails that are delivered. I do not believe that the Post Office Department is the proper agency to concern itself with the content of the mails, and I believe that measures of this type dealing with sensitive determinations as to mail content should never be placed for administration in the hands of the Post Office Department.

I happen to believe what Mr. FORD said in 1967 has matured with the last 15 years, and should be his position today. We should note today, Members, that we have arrived at 1984 even though it is only the end of 1982, because we, through the Post Office Department, employ readers who have checked and are checking a list of magazines to determine if they contain any false and misleading information.

Now, the Post Office Department has divided the regions of the country into four—Eastern, Western, and so forth. I will read a few of these magazines that are routinely read by members of the Post Office Department for the purpose of determining if, in the opinion of the reader, it contains any false and misleading information. American Legion; At Home; Chic; Cycle News; Dynamic Years; Entrepreneur; Esquire; Essence; Fetish Times; Gentlemen's Quarterly; Gordon-Star; Income Opportunities; Lapidary Journal; McCalls; Impulse; Modern Maturity; Modern Screen; Moneymaking Opportunities; Movie Stars; Players Magazine; Playgirl; Rolling Stone; San Francisco Ball; Self; Shape; Teen; The Advocate; The Sun; Mothering, and Venture.

This is just the list that is routinely read by folks working for the Post Office Department in the Western region of the country. Then, when they find something that in their opinion is false and misleading, they go after that person because they are allegedly perpetrating a fraud. Pursuant to this authority the record before the committee disclosed that we in this country—now listen to this—we in this country have banned no less than 20 books, acting through the benevolent purposes of the Post Office Department, because the Post Office Department believed that the contents of these books was something that was false and misleading.

We have reached the point in this country, notwithstanding the first amendment, that if in the opinion of somebody in the Post Office, the book, the article, the ad contains false and misleading information, that person can be taken into an administrative hearing, and if they are found to be wanting in terms of the opinion of the presiding officer of the administrative hearing, the written material can be banned, and pursuant to that authority we have banned about 20 books.

Now, I happen to believe that as a matter of law what we in the Congress should be doing is going back to what the law was in 1967, and requiring the Post Office to prove intent to defraud in order for them to have authority. The bill in the amended form before us is significantly improved over what it contained when it was originally introduced. I thank my chairman, Mr. FORD, for making the modifications that he has made.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. GILMAN. Mr. Speaker, I yield 3 additional minutes to the gentleman from California.

Mr. DANNEMEYER. There are two features of this bill that I think the Members of the House should have their attention directed to, and are at the basis of my opposition in its present form. The first one relates to the addition of a new power called cease and desist.

Now, under existing law as it was modified in 1967, if something is determined to be false and misleading, the Post Office can issue a stop order as to the post office box through which the material flows. In addition to this stop order authority, which I think they should have, they want to add a new feature called cease and desist. In other words, not only do they want to reach the post office box in terms of the ability of mail to flow through, but they want the ability to issue an in personam order; that is, to the person owning the post office box.

As to this feature, this is what the American Bar Association has said in opposition to this particular provision, and contrary to the aspersions of one of the previous speakers, this bill has never been referred to the Judiciary Committee. In my humble opinion it should have been, but it has not been. The ABA has said in opposition to this particular feature:

> The procedure under which cease and desist orders would be issued by the Postal Service under section 3 of S. 1407 amending 39 U.S.C., paragraph 305 should be clarified and set forth. This is a new grant of power to the Postal Service, and one that should be carefully limited to appropriate situations. There is considerable concern in our section about granting such powers to a non-governmental instrumentality, a concern that we shall discuss further at the end of this letter.

In other words, I think from a conceptual standpoint the law should be modified to give the Postal Department the ability to get a cease-and-desist order, but as a condition precedent to getting it there should be at least some modicum of a court proceeding in order to get it. It is not unlike a search warrant, and to get a search warrant in this country, in a criminal matter, you must show probable cause that a public offense is being committed. In terms of propriety, I think in this instance we should add a provision that a court order must first be obtained, even if it is ex parte, in order to obtain a cease-and-desist order against a particular owner of one of these post office boxes through which the mail flows.

The second basis of my objection relates to the quantity of money that this legislation will authorize for a fine. Under the form that is before us, up to $10,000 a day can be assessed against a person found in violation. Let me give the Members an example of a monetary fine which may be levied under the existing provisions of the law for violations of postal law:

If you commit mail fraud the maximum is $1,000; if you have a fictitious name or address, the maximum is $1,000.

The SPEAKER pro tempore. The time of the gentleman from California has again expired.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California.

Mr. DANNEMEYER. If you commit a theft of the mail by an officer or employee, it is $2,000; if you commit theft of a newspaper, it is $100; if you misappropriate funds, the maximum is $1,000; if you falsify postal returns to increase compensation, the maximum is $500; if you issue a money order with payment, it is $500; if you mail a firearm, the maximum is $1,000; if you mail poison, poisonous animals or explosives, the maximum fine is $10,000.

In this bill they want to authorize up to a fine of $10,000 per day for violating one of these cease-and-desist orders I have talked about previously. Admittedly, to get the monetary fine you must first go to a judge to get it, but I think that is not sufficient protection before you get to the point where the defendant has to be facing that kind of strangling economic force against his business. The court should issue a prior order.

I think what we should do is reject this bill in its present form, send it back to the committee and make very clear to the Post Office Department that we do not want them in the business of acting as big brother in our name.

In a nutshell, any effort to empower the Post Office to investigate on its own and then begin a prosecution should be narrowly drawn so that procedural due process is assured.

Mr. FORD of Michigan. I want to respond to the assertion by the gentleman from California concerning the magnitude of this bill's civil penalty provisions. When one contemplates the heinous activity which we are trying to deter, and the enormous amounts of money which the operators of these scams are making by swindling innocent people, I wonder whether a $10,000 penalty is sufficient. Nonetheless, I wish to call everyone's attention to the following list of existing civil penalty provisions in our Federal law.

LIST OF CIVIL PENALTY PROVISIONS

7 U.S.C. §§ 193, 213—permit the Secretary of Agriculture to assess a civil penalty of up to $10,000 for each violation of the Packers and Stockyards Act of 1921.

7 U.S.C. § 3805—allows Secretary of Agriculture to assess up to $10,000 for each violation of the Swine Health Protection Act, other than a violation for which a criminal penalty has been imposed.

12 U.S.C. § 1817—allows the "appropriate Federal banking agency" to assess a $10,000 per day civil penalty for willful violation of the law re change in control of insured banks.

15 U.S.C. § 18a—pertaining to premerger notification and waiting period filing, allows the Federal Trade Commission to assess a civil penalty of up to $10,000 per day of violation.

15 U.S.C § 45(1)—sets a civil penalty of $10,000 per day for violation of a Federal Trade Commission cease and desist order, recoverable in a civil action brought by the Attorney General.

15 U.S.C. § 2008—permits the Secretary of Transportation to assess against an automobile manufacturer for violating automotive fuel economy provisions a civil penalty of up to $10,000 for each violation, with each day of continuing violation as a separate violation.

16 U.S.C. § 1100 b-7—pertaining to offshore shrimp fisheries, allows the Secretary of Commerce to set civil penalties up to $10,000.

16 U.S.C. § 1375—concerning marine mammal protection, allows the Secretary of Commerce to assess a civil penalty of up to $10,000 for each violation.

16 U.S.C. § 1540—allows the Secretary of Commerce to assess civil penalties of up to $10,000 for each violation of various statutes and regulations by a person engaged in business as an importer or exporter of fish, wildlife or plants.

16 U.S.C. § 2407—concerning Antarctic conservation, allows the Director of the National Science Foundation to assess a civil penalty of up to $10,000 for each knowing violation, with each day of a continuing violation as a separate offense.

16 U.S.C. § 3142—on Alaska national interest lands conservation, allows the Secretary of Interior to assess a civil penalty of $10,000 per day, with each day of a continuing violation as a separate offense, for having violated an approved exploration plan.

16 U.S.C. § 3371—concerning control of illegally taken fish and wildlife, allows the Secretaries of Interior and Commerce to assess civil penalties of up to $10,000 for each violation.

19 U.S.C. § 1337—allows the International Trade Commission to recover in federal court civil penalties of up to $10,000 per day for violation of its cease and desist orders.

29 U.S.C. § 666—the Occupational Safety and Health Act, allows the Secretary of Labor to assess civil penalties of up to $10,000 for each willful or repeated violation of orders or regulations promulgated under the Act.

30 U.S.C. § 820—the Coal Mine Safety and Health Act, allows the Secretary of Labor to assess a civil penalty of up to $10,000 for each occurrence of a violation of a mandatory health or safety standard and $1,000 per day for failure to correct such violation.

30 U.S.C. § 1226—allows the Secretary of the department in which the Coast Guard is operating to assess a civil penalty of up to $10,000 for violation of the Ports and Waterways Safety Act.

33 U.S.C. § 1344—concerning navigable waters, allows assessment by the Secretary of the Army of up to $10,000 per day civil fine for each day of violation of a permit for dredged or fill material.

33 U.S.C. § 1517—concerning deepwater ports, allows the Secretary of Transportation to assess a $10,000 civil penalty for discharge of oil into the marine environment from a vessel that has received oil at a deepwater port.

42 U.S.C. § 300e-9—allows the Secretary of Health and Human Services to assess a $10,000 civil penalty against an employer for each 30-day period of non-compliance with various employee health benefit plan requirements.

42 U.S.C. § 300h-3—sets $5,000 per day as the civil penalty for violation of the Safe Drinking Water Act's requirement for compliance with an applicable requirement of an undergound injection control program; willful violation is punishable by a fine of up to $10,000 per day.

42 U.S.C. §§ 1857f-4 and 1857f-6(c)—sets various penalties for violations of the Clean Air Act up to a $10,000 per day civil penalty recoverable by the United States in federal district court.

42 U.S.C. § 6384a—the Energy and Conservation Act, permits the Comptroller General to access civil penalties of up to $10,000 per day for failure to comply with a Comptroller General subpoena.

42 U.S.C. § 7217—allows the Secretary of Energy to assess a civil penalty of up to $10,000 for each violation of various conflict of interest provisions.

42 U.S.C. § 7545—allows the Administrator of the Environmental Protection Agency to assess $10,000 per day civil penalty for each day of continuance of violation of fuel registration laws or regulations or failure to comply with administrative subpoenas.

43 U.S.C. § 1350—regarding the Outer Continental Shelf, authorizes the Secretary of Energy to assess civil penalties of up to $10,000 per day for each day of violation of a term of a lease, license or permit issued.

46 U.S.C. § 170—forbidding the carrying of explosives or dangerous cargo on vessels, permits the Secretary of the Treasury to assess civil penalties for knowing violations for up to $10,000 for each day of violation.

46 U.S.C. § 391—authorizes the Secretary of department in which the Coast Guard is operating to assess a $25,000 fine, with each day of a continuing violation assessable for up to $25,000, for violations of provisions governing vessels carrying certain hazardous cargoes in bulk.

49 U.S.C. § 1471—allows the Secretary of Commerce to assess civil penalties of up to $10,000 for shipments involving hazardous cargoes with each day of a continuing violation to constitute a separate offense.

49 U.S.C. § 1809—allows the Secretary of Transportation to assess civil penalties of up to $10,000 for shipments of hazardous materials violating laws or regulations, each day of a continuing violation to constitute a separate offense.

50 U.S.C. § 1705—the International Emergency Economic Powers Act, sets a civil penalty of up to $10,000 for violation of a license, order, or regulation.

50 U.S.C. App. § 2410(c)—the Export Administration Amendments Act of 1981, allows the heads of agencies exercising functions under the Act to impose a $10,000 civil penalty for each violation of the Act and permits the payment of a penalty to be imposed as a condition of restoring or continuing a license under the Act.

Mr. FORD of Michigan. Mr. Speaker, I yield 2 minutes to the gentlewoman from Cleveland, Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I thank my chairman and fine minority leader for yielding. I certainly support H.R. 7044. I am an original sponsor of the bill, and I must say that Chairman FORD, with the great, able assistance of Chairman LELAND, cleaned up the bill to address the constitutional issue, which was a legitimate concern with

so many members of the committee, and certainly our good friend from California.

But, I just wanted to mention a few things. I had hearings in my own district on the issue. I serve on both committees, and I had access to the committee hearings, and the countless, literally hundreds of mail scheme frauds that are perpetrated through the mail is really unconscionable. Our message in this bill, in my judgment, is extremely clear. It simply says that if you use the mail to defraud citizens of our country, and in particular we know that older Americans and other various vulnerable groups have unfortunately been victimized in this area, that you will be prosecuted to the full extent of the law; and that the Postal Service, which really has access to so much of the material, and so forth, will have the necessary investigatory powers.

We are just simply trying to alleviate the various forms of medical quackery and mail fraud and I know in my own district we had hearings on the subject.

□ 1415

Mr. Speaker, I was literally amazed at how many people jammed the hearing room because they read a little article in the paper that we were having congressional hearings. We had hundreds attending because these individuals were being victimized and defrauded through the mails. Besides medical quackery, one instance that I can recall was an investment scheme in which these people were promised large amounts of money for their investments. Of course, the promise was not fulfilled and hundreds were bilked of their savings.

The SPEAKER pro tempore. The time of the gentlewoman from Ohio (Ms. OAKAR) has expired.

Mr. GILMAN. Mr. Speaker, I yield 1 additional minute to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I thank my friend, the gentleman from New York (Mr. GILMAN), for yielding extra time to me.

Mr. Speaker, there have been some people beyond Members of Congress who, I think, deserve some credit for this bill. As I remember, as a member of the Aging Committee several years ago, Val Halamandaris, who is no longer going to be a staff member of the Committee on Aging, came before the chairman and put forth his knowledge of the situation and called it to our attention. He did an extraordinary job. Of course, on our side—Post Office Committee—we have the able staff of the chairman, including Jim Cregan, and the able staff of the gentleman from Texas (Mr. LELAND). They are to be commended.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to respond to the obvious need for protecting unsuspecting citizens from mail fraud by supporting this measure.

● Mr. ANNUNZIO. Mr. Speaker, I rise in support of H.R. 7044, the mail order consumer protection amendments of 1982. The purpose of this bill is to give the Postal Service the additional tools it desperately needs to fight mail-order fraud.

As chairman of the Subcommittee on Consumer Affairs and Coinage, I have seen an incredible number of these mail-order frauds dealing with the sale of coins. Disreputable coin merchants use a variety of outrageous advertising techniques to persuade potential customers that worthless tokens are valuable collectors items. They tell people that privately minted medallions are official U.S. coins. Some ads claim that quite commonplace coins are rare collectibles. Others state that the offers are "once in a lifetime deals." In each and every case, the items have huge price tags—sometimes with markups as high as 1,000 percent.

As the law now stands, it is difficult for the Postal Service to do anything about even the most obvious cases of fraud. They have no means of examining the fraudulent goods. The only way that they can get them is by putting in an order just like any other customer. These orders may be filled too late to help protect other consumers, or may never be filled at all.

Even when the Postal Service negotiates a consent agreement, the situation is rarely solved. This is because most of these operators change their names and addresses as often as most people change their socks. And every time the merchants start the fraudulent activity under a new name, the Postal Service must begin new proceedings against the new entity.

I believe that H.R. 7044 will help solve both of these problems. This bill should certainly help get to the mail fraud problem before it is too late. In addition, the bill has a section that deals with repeat offenders. It provides that when one is found guilty of mail fraud and violates the order, the Postal Service could approach the courts and ask them to impose fines. I think that this provision will go a long way in helping to crack down on those who simply do the same thing over and over again under a new name.

It is about time that we give the Postal Service the basic powers that it needs in order to enforce the law. If we do not, the only ones who will suffer are the victims of these frauds—the American consumer.●

● Mr. BIAGGI. Mr. Speaker, as a cosponsor of the pending bill I rise in total support and urge the House to take an important step in our never-ending battle to protect the elderly consumer of this Nation.

This legislation is directed at those who are using the mails to defraud older individuals—who oftimes are totally unaware of the perils which may come from simply opening their daily mail. I point out with considerable pride that this legislation was initiated after dogged investigatory work by the House Select Committee on Aging on which I serve as an original member. We conducted hearings and issued an important report spotlighting the increasing use of the mails to rip off unsuspecting senior citizens.

At one particular hearing which I participated in my home city of New York, together with Mrs. FERRARO, we heard graphic testimony about older people being duped into purchasing what we know as medical quackery devices. People were induced into believing in the value of absolutely worthless products—through slick advertising delivered to one's home in the mail—and they purchased these products and learned the hard way of their lack of value.

People who prey on the elderly through mail order consumer fraud schemes deserve the increased penalties which are provided as part of this legislation. If we are in fact going to provide sufficient deterrents to those who would defraud the elderly through the mails we must make it not worth their cost to continue these illegal practices. H.R. 7044 could subject a violator to a fine of $10,000 for each day of fraudulent conduct and knowing sometimes of the the slowness of mail service, this could result in a substantial penalty. Too often in the past, violators found it financially worthwhile to continue to engage in mail fraud for the amount they made was far in excess of any penalty they might pay. This bill should make a few more think twice before breaking the law.

H.R. 7044 also strengthens the investigative and enforcement authority of the Postal Service to halt false mail-order schemes. It would allow the Postal Service to buy a given advertised product or service with proper notice and identification. The bill would also authorize the Postal Service to issue cease and desist orders to perpetrators of mail-order schemes.

Today we are dealing with the few bad apples which exist in the $25 billion a year mail-order business. The problem is we have not vested the Postal Service with sufficient authority to weed out these bad apples. H.R. 7044 would do so while also insuring sufficient punishment for those who violate the law.

It is unfortunate that so many of our elderly citizens are subject to fraud by mail. For too many the mail is their only form of daily contact with the outside world. Older people are more trusting—more vulnerable to the

fast and furious sell—even if it is deceptive or fraudulent. Let us address this problem in a way which will lead to its eradication. H.R. 7044 is a vitally important step forward.●

● Mr. DERWINSKI. Mr. Speaker, this bill will strengthen the investigatory and enforcement powers of the Postal Service for the purpose of cracking down on the increasingly widespread problem of mail fraud.

The Mail Order Consumer Protection Act of 1982 has received careful scrutiny and extensive review. The Committee on Post Office and Civil Service, of which I am the ranking minority member, conducted a comprehensive series of hearings during which the Postal Service and a broad spectrum of mail users testified about the mail fraud issue and the most appropriate way that problem might be resolved. As the Postal Service indicated in its testimony:

Over the past several years, we have found increasing public concern about the problem of mail-order schemes built upon false advertising. Many of these schemes tend to prey most heavily on the elderly, the poor, and other more disadvantaged members of our society.

While our committee's hearings demonstrated broad support for attacking the mail fraud problem, a number of witnesses expressed concern that the earlier legislation granted the Postal Service unwarranted investigatory authority. I believe that the amendment offered by the gentleman from Michigan (Mr. FORD), which deletes the Postal Service's authority to issue civil investigative demands for documentary materials relevant to false representation investigations adequately addresses that concern.

The major provisions of the bill will permit an intensified effort against mail fraud. The Postal Service is given the authority to issue orders requiring persons to cease and desist from engaging in false representation schemes. In addition, the Postal Service will be able to purchase directly from advertisers samples of mail-order products sold under potentially false advertising. Now, the Postal Service purchases such samples by mail and the advertiser can forestall proceedings to enforce the statute by delaying shipment of the product. Finally, the bill will allow U.S. district courts to assess civil penalities of up to $10,000 per day against persons who repeat advertising schemes after an administrative law judge has determined that the scheme violates the statute.

While the vast majority of firms conducting business through the mails are legitimate operations, H.R. 7044 is an important step in providing the Postal Service with the necessary tools to help combat effectively those firms engaged in fraudulent mail schemes. For that reason, I urge my colleagues to vote to suspend the rules and pass H.R. 7044, with the amendment offered.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD) that the House suspend the rules and pass the bill, H.R. 7044, as amended.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provision of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5447, FUTURES TRADING ACT OF 1982

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, December 13, 1982, to file a conference report on the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1982

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2059), to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes, as amended.

S. 2059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ethics in Government Act Amendments of 1982".

SEC. 2. (a)(1) Chapter 39 of title 28 of the United States Code is amended by—

(A) striking out "special prosecutor" wherever it appears and inserting in lieu thereof "independent counsel"; and

(B) striking out "special prosecutor's" wherever it appears and inserting in lieu thereof "independent counsel's".

(2) The tables of chapters for title 28 of the United States Code and for part II of title 28 are amended by striking out the item relating to chapter 39 and inserting in lieu thereof the following new item:

"39. Independent Counsel.".

(b)(1) Section 49 of title 28 of the United States Code is amended by—

(A) striking out "special prosecutor" wherever it appears and inserting in lieu thereof "independent counsel";

(B) striking out "special prosecutors" wherever it appears and inserting in lieu thereof "independent counsels"; and

(C) striking out "special prosecutor's" wherever it appears and inserting in lieu thereof "independent counsel's".

(2) The item for section 49 in the table of sections for chapter 3 of title 28 of the United States Code is amended by striking out "special prosecutors" and inserting in lieu thereof "independent counsels".

(c) Title VI of the Ethics in Government Act of 1978 is amended by—

(1) striking out "SPECIAL PROSECUTOR" in the heading for section 601 and and inserting in lieu thereof "INDEPENDENT COUNSEL";

(2) striking out "special prosecutors" in subsection (c) of section 601 and inserting in lieu thereof "independent counsels"; and

(3) striking out "SPECIAL PROSECUTORS" in the heading for section 602 and inserting in lieu thereof "INDEPENDENT COUNSELS".

SEC. 3. Paragraphs (3) through (6) of subsection (b) of section 591 of title 28 of the United States Code are amended to read as follows:

"(3) any individual working in the Executive Office of the President who is compensated at or above a rate equivalent to level II of the Executive Schedule under 5313 of title 5;

"(4) any Assistant Attorney General and any individual working in the Department of Justice compensated at a rate at or above level III of the Executive Schedule under section 5314 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who held any office or position described in any of paragraphs (1) through (5) of this subsection during the period consisting of the incumbency of the President such individual serves plus one year after such incumbency, but in no event longer than two years after the individual leaves office;

"(7) any individual described in paragraph (6) who continues to hold office for not more than 90 days into the term of the next President during the period such individual serves plus one year after individual leaves office; and

"(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of the campaign exercising authority at the national level, such as the campaign manager or director, during the incumbency of the President.".

SEC. 4. (a)(1) Section 591(a) of title 28 of the United States Code is amended by striking out "specific information" and by inserting in lieu thereof "information sufficient to constitute grounds to investigate".

(2) Section 591 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) Whenever the Attorney General receives information sufficient to constitute grounds to investigate that any person not described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense, the Attorney General may conduct an investigation and apply for an independent counsel pursuant to the provisions of this chapter if the Attorney General determines that investigation of such person by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest".

(b) Section 592(a) of title 28 of the United States Code is amended to read as follows:

"(a)(1) Upon receiving information that the Attorney General determines is sufficient to constitute grounds to investigate that any person covered by the Act has engaged in conduct described in subsection (a)

or (c) of section 591 of this title, the Attorney General shall conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deems appropriate. In determining whether grounds to investigate exist, the Attorney General shall consider—

"(A) the degree of specificity of the information received, and

"(B) the credibility of the source of the information.

"(2) In conducting preliminary investigations pursuant to this section, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpenas.".

(c) Section 592(b)(1) of title 28 of the United States Code is amended by striking out "that the matter is so unsubstantiated that no further investigation or prosecution is warranted" and inserting in lieu thereof "that there are no reasonable grounds to believe that further investigation or prosecution is warranted".

(d) Section 592(c)(1) of title 28 of the United States Code is amended by—

(1) striking out "finds that the matter warrants further investigation or prosecution" and inserting in lieu thereof "finds reasonable grounds to believe that further investigation or prosecution is warranted";

(2) striking out "that the matter is so unsubstantiated as not to warrant further investigation or prosecution" and inserting in lieu thereof "that there are no reasonable grounds to believe that further investigation or prosecution is warranted"; and

(3) adding at the end thereof the following new sentence: "In determining whether reasonable grounds exist to warrant further investigation or prosecution, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.".

(e) Section 592(c)(2) of title 28 of the United States Code is amended—

(1) in clause (A) by striking out "specific information" and inserting in lieu thereof "information sufficient to constitute grounds to investigate"; and

(2) in clause (B) by striking out "such information warrants" and inserting in lieu thereof "reasonable grounds exist to warrant".

SEC. 5. Section 593 of title 28 of the United States Code is amended by adding at the end thereof the following new subsections:

"(f) Upon a showing of good cause by the Attorney General, the division of the court may grant a single extension of the preliminary investigation conducted pursuant to section 592(a) of this title for a period not to exceed sixty days.

"(g) Upon request by the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, in its discretion, award reimbursement for all or part of the attorney's fees incurred by such subject during such investigation if—

"(1) no indictment is brought against such subject; and

"(2) the attorney's fees would not have been incurred but for the requirements of this chapter.".

SEC. 6. (a) Subsection (a) of section 594 of title 28 of the United States Code is amended by—

(1) striking out "and" at the end of paragraph (8);

(2) striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "and"; and

(3) adding after paragraph (9) the following:

"(10) consulting with the United States Attorney for the district in which the violation was alleged to have occurred.".

(b) Subsection (f) of section 594 of title 28 of the United States Code is amended by—

(1) striking out "to the extent that such special prosecutor deems appropriate" and inserting in lieu thereof "except where not possible"; and

(2) striking out "written policies" and inserting in lieu thereof "written or other established policies."

(c) Section 594 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) The independent counsel shall have full authority to dismiss matters within his prosecutorial jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.".

(d) Paragraph (1) of subsection (a) of section 596 of title 28 of the United States Code is amended by striking out "extraordinary impropriety" and inserting in lieu thereof "good cause".

SEC. 7. Section 598 of title 28 of the United States Code is amended by striking out "after the date of enactment of this chapter" and inserting in lieu thereof "after the date of enactment of the Ethics in Government Act Amendments of 1982".

The SPEAKER pro tempore. Is a second demanded?

Mr. KINDNESS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, as amended, amends the special prosecutor provisions of title 28, United States Code. It extends the special prosecutor provisions for 5 years from the date of enactment, however the bill substantially amends the provisions of current law. This bill will reduce the number of lesser officials who are covered. It will adjust the mechanism for triggering a preliminary investigation by the Attorney General as well as the mechanism for the appointment of a special prosecutor. The bill will provide for an extension of time for the preliminary investigation by the Attorney General. It provides the court with discretion to reimburse subjects of investigations by special prosecutors, but who are not indicted, for all or part of their attorneys fees expended on account of the requirements of the special prosecutor provisions. Finally, the bill changes the name of the special prosecutor to independent counsel.

The bill before the House today is identical to the bill as passed by the Senate with three amendments. The Senate-passed bill added the President's spouse, children, and their spouses as well as the President's parents, brothers, and sisters and their spouses to the class of individuals covered by the special prosecutor provisions. The bill as amended deletes this provision, so that these family members are not covered. The Senate-passed bill provides that the Attorney General may apply for the appointment of a special prosecutor to investigate persons other than the class of individuals specifically covered whenever the Attorney General determines a personal, financial, or political conflict of interest or the appearance thereof may result if an officer of the Department of Justice conducts the investigation. The bill as amended deletes the reference to appearances, and thereby requires the Attorney General to determine that an actual conflict may exist in order to utilize the special prosecutor procedures. Finally, the amended bill reduces the maximum length of time a covered individual is subject to the special prosecutor provisions after he or she leaves office to 2 years. The Senate-passed bill provided coverage for a maximum of 5 years after leaving office.

This bill as amended is the product of extensive careful consideration by the Senate Subcommittee on Oversight of Government Management of the Governmental Affairs Committee as well as by the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee. The record on this bill includes testimony by former special prosecutors, officials of both the Carter and the Nixon administrations as well as Department of Justice and public-interest-group witnesses. The measure has broad support. It passed the Senate by voice vote. Even the Department of Justice, which questions the need for the special prosecutor provisions in principle, favors the amendments to the current law.

I urge my colleagues to support this measure. The potential for conflicts of interest is inherent in the practice of criminal law generally and the possibility of conflicts exists when the Department of Justice must investigate allegations of criminal activity by high-ranking Government officials. The special prosecutor provisions should be retained. This bill amends the provisions of current law to make the scope of coverage more rational, to make the process less burdensome and more equitable.

Mr. KINDNESS. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, first of all, I want to congratulate the gentleman from Texas (Mr. SAM B. HALL, JR.) for his leadership in bringing this legislation to the floor. I realize that this is a sensitive subject, and I guess it is something that no Attorney General or no Department of Justice cares to have because in a sense it reflects upon the Department of Justice and indicates that in certain cases it would not be able or could not be trusted to handle prosecutions of cases. Yet we have had the experience, it seems to me, of the utility of this kind of legislation in the special prosecutor who was appointed to investigate the antics of Billy Carter, Hamilton Jordan, Tim Kraft, and I am sure, some others. There is a public demand for this kind of legislation, for a provision in the Federal law for a special prosecutor in certain cases which are sensitive and where it might appear to be a conflict of interest and the Department should not fully handle the investigation or the prosecution of a given case.

We have placed some limitations on this legislation. For one thing, we have a sunset clause in it, and at the end of 5 years it will go out of existence, so we are not putting it on the books forever. Likewise, we have considered very thoughtfully the kinds of offenses which would be subject to investigation and possible prosecution.

I think there is some misunderstanding as to whether or not the offenses have to be very serious and have to consist of felonies, or whether certain misdemeanors might not also be included. I for one feel that we should consider the inclusion of misdemeanors because they might affect the moral climate in which we would feel a special prosecutor was needed.

The legislation, has limited application. I think that there is a public demand for it. I think it is healthy to continue it. I know there is strong support for it in the other body. I have been in communication with my colleague in the other body, Senator COHEN, a Member with whom I had the opportunity to serve when we served on the Impeachment Committee, and I know he is well aware of the sensitivity of offenses in which the executive branch is involved or where there may be other needs for the appointment of a special prosecutor. I know that he and others feel very strongly about this. I certainly do not feel that this could do any harm to the Department, and I feel it would be a very useful piece of legislation for us to enact.

Mr. Speaker, I ask for support of this legislation.

GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with respect to the Senate bill, S. 2059, there has been only favorable comment up to now, and now comes the fly in the ointment.

Mr. Speaker, today we vote to place every Member of this body under the provision of the Special Prosecutor Act § 4(c). Moreover, the awesome machinery of a Special Prosecutor can be triggered by a misdemeanor, on evidence that does not even rise to the level of probable cause. The reach of the act also extends 2 years after leaving office and even covers alleged crimes unrelated to office and alleged to occur after such service ended. Ever since it was enacted, this law has been used to harass, embarrass, and vilify; and not a single case has been made.

The act unfairly exposes persons, whose cases would ordinarily be summarily dismissed, to the intrusive investigation of a specially appointed Federal official. The enormous publicity that accompanies the appointment of a Special Prosecutor only compounds the harm. Reputations are savaged, effectiveness in office is crippled, and there is lingering suspicion even though an investigatory target is exonerated.

To say this is the price of public service is intellectually myopic. It typifies legislation that discourages qualified persons from serving in Government. Every Executive decision or legislative vote becomes a gamble because there could be raised a mere suspicion of a conflict of interest.

Since it became law the act has been trivialized. Officials on both sides of the aisle have spent a small fortune in legal expenses during the course of the investigations. It is an ordeal no other citizen must endure.

Nonetheless, the operation of the act has taught us some valuable lessons; not the least of which is that it is unconstitutional on its face. The law divests the Executive of its basic function to see that the laws are faithfully executed. Power, authority and duties given the special prosecutor are Executive functions. Prosecutorial power belongs solely to the President and changing the name to special counsel has not altered the prosecutorial function.

Another provision of the underlying law contravenes the appointments clause of the Constitution. Officers of the United States must be appointed by the President with the advice and consent of the Senate. This law places the appointment power with the courts, thereby ignoring the Senate and the President.

Both on its face and in its application the Special Prosecutor Act has been sadly deficient. This bill does not cure that, and does not belong on the suspension calendar. It should not be mixed with the legislative tumbleweeds blown across this intellectual prairie in the closing days of this Congress. I ask my colleagues to hold this legislation over to the next Congress. There is no urgency. Let us not act in haste—there is a profound need to rethink and rewrite this bill to meet a constitutional necessity and numerous practical problems.

□ 1430

Mr. SAM B. HALL, JR. Mr. Speaker, I have not further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the Senate bill, S. 2059, as amended.

The question was taken.

Mr. KINDNESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT ON HOUSE JOINT RESOLUTION 631

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight, Monday, December 13, 1982, to file a privileged report on House Joint Resolution 631.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

U.S. CAPITOL HISTORICAL SOCIETY

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4491) to exempt the U.S. Capitol Historical Society from certain taxes, as amended.

The Clerk read as follows:

H.R. 4491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to incorporate the United States Capitol Historical Society",

approved October 20, 1978 (36 U.S.C. 1201 et seq.), is amended by adding at the end thereof the following new section:

"EXEMPTION FROM CERTAIN TAXES

"SEC. 19. Notwithstanding section 105 of title 4, United States Code, or title 47, chapter 26 of the District of Columbia Code (1973), or any other provision of the District of Columbia Code, the Corporation shall not be required to pay, collect, or account for any tax specified in such sections applicable to taxable events occurring within the United States Capitol building and grounds on or after January 1, 1964.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, as amended by the committee, amends the charter of the U.S. Capitol Historical Society to make it clear that sales by the Society on the Capitol Grounds are not subject to the District of Columbia sales tax.

The committee reported this bill on March 5, 1982, following hearings by the Subcommittee on Administrative Law and Governmental Relations in December 1981. The Judiciary Committee report sets forth the rationale for this bill at length, so I will be brief.

I think all of us are acquainted with the operation of the U.S. Capitol Historical Society in the Capitol. Most of us are at least familiar with their excellent historical calendars. The Society has operated its souvenir stand in the Capitol since 1964. In November 1981, the District of Columbia sued the Society for nearly $750,000. The District alleged that the Society is liable for sales tax on sales made in the Capitol after August 1, 1966. Subsequently, upon the request of the Architect of the Capitol, the United States sued the District of Columbia in Federal court on behalf of the Society and denied the alleged tax liability.

The clarification made by this bill is needed to preserve the efforts of the Society and to protect the sovereignty of the Congress and the Government of the United States. The clarification has two sound legal bases.

First, the U.S. Capitol Historical Society is not subject to District of Columbia sales tax because it is an instrumentality of the Federal Government. Though the United States does permit State and local governments to levy taxes on Federal property pursuant to provisions of the Buck Act, the Buck Act specifically does not authorize the "levy or collection of tax on or from the United States or any instrumentality thereof." The Society has continuously operated its sales booth in cooperation with the Congress for the convenience of visitors to the Capitol. The profits of sales have been devoted to the improvement of the Capitol Building, historical research, and educational projects. Since 1968 the Society, pursuant to contract with the Architect of the Capitol, has fulfilled the functions mandated by title III of the National Visitors Center Facilities Act of 1968 to provide tourists with information, assistance and educational materials. Clearly, the Society is an instrumentality of the Federal Government.

In addition, the committee report concludes that the U.S. Capitol, the site of the sales, is not now and never has been within the jurisdiction of the District of Columbia. As indicated by a map in appendix 2 of the committee report, the Capitol is located on property reserved for the exclusive use of the U.S. Government by the proclamation of President Washington in 1798, 2 years before the District of Columbia was created. The United States has maintained exclusive control over this property upon which we stand ever since. The District of Columbia government has no jurisdiction in this enclave except that expressly granted by Congress.

The position of the committee has received support in the Federal District Court for the District of Columbia. On September 3, 1982, that court granted the motion for summary judgment by the plaintiff, the United States in its countersuit against the District of Columbia. The court agreed with the committee that the Society is an instrumentality of the United States and is therefore not subject to District of Columbia sales tax. The District of Columbia filed notice of appeal from this order on November 4, 1982.

I urge my colleagues to support this bill. It makes a helpful clarification in the law that will both preserve the worthwhile efforts of a great organization and will preserve the legitimate sovereignty of Congress and the Government of the United States in the District of Columbia.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since it was chartered in 1962 the U.S. Capitol Historical Society has received no Federal subsidies or reimbursement of any kind, yet it has returned to the Capitol hundred of thousands of dollars in improvements, art works, antiques, and historic preservation. In addition, for the convenience of tourists the Society runs a visitor information center in the Capitol under the authority of the National Visitor Center Facilities Act of 1968. At the center books, pamphlets, and memorabilia are sold, together with film and souvenirs. Sales tax has never been collected on any of these items. Profit from such sales by the Society is required by law to be returned to the Capitol, through improvements and programs that promote an appreciation of the Capitol and what it stands for. Nevertheless, the District of Columbia has filed a tax lien against the Society for sales tax beginning from 1968. As a matter of law, the merits of the case for the District of Columbia are doubtful. As a practical matter, payment of the taxes would bankrupt the Society.

But through this controversy a far larger issue has been raised. What is the authority of the District of Columbia in the Capitol and on the Capitol Grounds? The power to tax implies many other powers—the power to audit, to inspect, to enter, to confiscate for nonpayment, and to require reports. The Home Rule Act never addressed these questions and in my opinion was never intended to extend to such far-reaching jurisdiction as some officials of the D.C. government have claimed.

Mr. Speaker, I support this legislation not only to save the Capitol Historical Society, but also as a reflection of congressional intent as to the powers of the District of Columbia in the Capitol and on the Capitol Grounds.

The legislation about which we are speaking was referred to our committee because our action on the Federal charter was introduced by my colleague from New York (Mr. CONABLE).

I am happy at this time to yield to my colleague from New York (Mr. CONABLE) such time as he may consume.

Mr. CONABLE. I thank the gentleman for yielding and greatly appreciate the statements of the distinguished gentleman from Texas and the gentleman from Illinois on this important matter. It is important to the Capitol Historical Society.

As a matter of fact, if this lawsuit were successful it would wipe out the Society's treasury and leave us without any chance to perform the good works on behalf of the Capitol that we have done over the years. The Society is a nonprofit association dedicated to the beautification and enrichment of the traditions of the Captiol.

I quite agree with the statements the gentlemen have made to the effect of the Congress never really intended to cede jurisdiction over the Capitol Building itself for any purpose to the District of Columbia government.

In fact, this was part of the reserved area at the time the District of Columbia was established, reserved to Federal governmental purposes and not made in any way subject to any lesser jurisdiction.

In fact, also, this activity which is being taxed is incident to the oper-

ation of the Capitol Building. We provide an information desk at which a very modest number of tourist aids are made available for the convenience of the American public who own this building.

It would be indeed most unfortunate if the activities of this Society were to be made retroactively subject to the jurisdiction of the District of Columbia government and, in fact, I would be surprised if there were not almost unanimity of opinion among the Members here that we had no intention of giving them substantial jurisdiction for taxing or other purposes over these sacred premises.

It seems to me the body ought to vote as one to preserve the function, which is de facto and de jure as part of the operation of the Congress, as a federally chartered institution. The District of Columbia government has been ill advised to try to impose its sales tax, as though the Society were a normal commercial institution, operating on private property. This bill should pass. It should not have been necessary.

I appreciate the gentleman yielding.

□ 1445

Mr. McCLORY. I quite agree with the gentleman, and I want to commend the gentleman on his initiative in connection with this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. I thank the gentleman for yielding. I will not take the full 2 minutes, but I rise in support of the bill. I wish to clarify that on this occasion, as contrasted or as compared to the previous bill, the gentleman from Illinois and I are very much in agreement. I wish to associate myself with his remarks in support of the bill, and I would hope that we would all agree to its passage.

Mr. SAM B. HALL, JR. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, the U.S. Capitol Historical Society was chartered by the Congress in 1978 and given broad authorities to research and disseminate information on the Capitol and the Congress. It was specifically charged "to preserve and improve the Capitol." Toward that end, the Society has made many contributions to the collections of the Capitol including the sponsorship of recently dedicated murals of the late Allyn Cox in the House Corridors. The U.S. Capitol Historical Society works closely with numerous committees of the Congress, and it operates the Capitol Information Center in the Capitol by congressional authority. It is in every sense of word, and as adjudged by the Committee on the Judiciary, "an instrumentality of the Federal Government." As a member of the executive committee—and I have served in that capacity for some 12 years, I think I speak first hand of the great contributions this Society has made.

The District of Columbia government has attempted to exercise its taxing authority inside the U.S. Capitol Building by requiring the U.S. Capitol Historical Society to pay local sales tax on items sold in the Capitol. Such imposition would impair the ability of the U.S. Capitol Historical Society to continue its contributions to the Capitol itself—contributions of lasting value for the enjoyment and inspiration of all Americans. The Congress, itself, would be deprived of some of the most important services rendered by the U.S. Capitol Historical Society. Of far greater importance juridically, the exercise of the taxing power by any subordinate government within the Capitol Building and its grounds would violate the exclusive jurisdiction of the Congress. That exclusive jurisdiction emanated from the Constitution. It was further delineated in law by the proclamation of President George Washington on March 2, 1797, and the proclamation of President John Adams of July 23, 1798, both of which conferred title for these Capitol Grounds and their subsequent buildings "To the Use of the United States forever." In light of these historic facts and congressional history, the Committee of the Judiciary's Report on H.R. 4491 stated that

> The Committee concludes that the United States Capitol Building and Grounds are within the exclusive jurisdiction of the Federal Government and that the taxing authority of the District of Columbia does not and should not extend to sales within this Federal enclave.

Thus, in accordance with the recommendation of the House Committee on the Judiciary, its Subcommittee on Administrative Law and Government Relations under the distinguished former Chairman George Danielson and its present distinguished chairman, the Honorable SAM HALL, I urge passage of H.R. 4491, thereby prohibiting the taxing authority of the District of Columbia government within the U.S. Capitol Building. This action is of absolute necessity, so that the Congress may continue to carry out its responsibilities under article I, section 8, clause 17 of the Constitution of the United States, and to maintain the inviolability of the Presidential proclamations of 1797 and 1798, and to preserve the exclusive jurisdiction of the Congress over the Capitol and its Grounds.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Speaker, I appreciate the comments of the gentleman. I have just seen a letter here signed by George Washington, dated 1797.

Mr. PICKLE. Yes. That is correct.

Mr. SAM B. HALL, JR. And then another one signed by John Adams in 1798. I tell you, it makes one feel good when you see men like that on the same side that the gentleman from Texas (Mr. PICKLE) is on, and I appreciate the thought that the gentleman has expressed.

Mr. PICKLE. I would want to observe also that you are on our side too, so we are all together on this. I believe all Members are in agreement.

As a matter of historical fact, President Washington, by proclamation, did on March 2, 1797, delineate this Federal enclave, and it was further proclaimed by President John Adams. So I think it is clear in the early days of the Republic that this was the intent of our Founding Fathers and now we ought to see it again in bold language, statutory language.

GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 4491, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 7019, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. SABO submitted the following conference report and statement on the bill (H.R. 7019) making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1983, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-960)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7019) "making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1983, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 14, 25, 27, 35, 39, 41, 44, 48, 63, 73, 94, 95, and 99.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 7, 8, 19, 21, 22, 26, 29, 30, 37, 38, 40, 49, 50, 52, 54, 57, 58, 60, 61, 64, 65, 67, 68, 70, 71, 74, 76, 78, 79, 80, 82, 84, 85, 86, 87, 88, 89, and 90, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$31,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,220,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$4,900,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$409,000,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert *$5,000,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert *$54,574,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$18,255,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *"$625,000,000, of which $7,450,000 shall be derived from the unobligated balances of 'Grants-in-aid for airports'"*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$103,000,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$74,000,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$21,685,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$28,375,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$9,507,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$13,000,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

(Including Transfer of Funds);

and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert *$5,000,000*; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$240,000,000*; and the Senate agree to the same.

Amendment numbered 75:

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$405,000,000*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree with an amendment, as follows:

In lieu of the sum named in said amendment insert *$5,000,000*; and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$95,000,000*; and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to change the section number to 326; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 6, 11, 15, 16, 17, 18, 28, 43, 45, 46, 47, 53, 55, 56, 59, 66, 69, 72, 77, 91, 92, 93, 96, 97, 98, and 101.

WILLIAM LEHMAN,
MARTIN O. SABO,
LES AUCOIN,
WILLIAM H. GRAY III,
WILLIAM R. RATCHFORD,
JAMIE WHITTEN,
LAWRENCE COUGHLIN,
SILVIO O. CONTE,
JACK EDWARDS,
CARL PURSELL,
Managers on the Part of the House.

MARK ANDREWS,
THAD COCHRAN,
JAMES ABDNOR,
BOB KASTEN,
ALFONSE D'AMATO,
MARK O. HATFIELD,
LAWTON CHILES,
JOHN C. STENNIS,
ROBERT C. BYRD,
TOM EAGLETON
(except No. 92),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7019) making appropriations for the fiscal year ending September 30, 1983, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Amendment No. 1: Provides not to exceed $31,000 for official reception and representation expenses instead of $27,000 as proposed by the House and $35,000 as proposed by the Senate.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

$40,000,000, of which $1,000,000 shall be transferred and made available to the Motor Carrier Ratemaking Study Commission and

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 3: Provides that $3,220,000 shall be available for the Minority Business Resource Center instead of

$2,220,000 as proposed by the House and $4,220,000 as proposed by the Senate.

Amendment No. 4: Inserts the word "unexpended" as proposed by the Senate in lieu of "unobligated" as proposed by the House.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

Amendment No. 5: Appropriates $4,900,000 instead of $2,000,000 as proposed by the House and $7,800,000 as proposed by the Senate.

COAST GUARD

HEADQUARTERS ADMINISTRATION

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

HEADQUARTERS ADMINISTRATION

(Including Transfer of Funds)

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Coast Guard, including, but not limited to, executive direction; budget, planning and policy; command, control, communication, and operations; financial management; legal; engineering; civil rights; and personnel and health services for the Coast Guard, $72,440,000, of which $14,000,000 shall be derived by transfer from appropriations for Retired pay.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

OPERATING EXPENSES

Amendment No. 7: Appropriates $1,518,963,000 as proposed by the Senate instead of $1,587,908,000 as proposed by the House.

The conferees concur in the language contained in the Senate report directing the Coast Guard to continue to work to reduce the incidence of child and spouse abuse among Coast Guard personnel.

The conferees remain concerned about the removal of large numbers of buoys from Northeastern navigable waters and request that the Coast Guard submit a written justification to the Appropriations Committees prior to any action.

The conferees agree that of the amount provided for Coast Guard Operations the necessary requirements for the 7th District law enforcement initiative is included.

Amendment No. 8: Deletes $14,000,000 transfer proposed by the House.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Amendment No. 9: Appropriates $409,000,000 instead of $287,000,000 as proposed by the House and $425,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Vessels	$170,700,000
Aircraft	171,920,000
Shore Facilities	37,180,000
Aids to Navigation	10,000,000
Administration	19,200,000

The conferees concur in the specific earmarkings contained in the House and Senate committee reports.

As a result of a devastating storm in the winter of 1978, the pier at this nation's oldest lighthouse, the Boston Lighthouse in Hull, Massachusetts, was destroyed. Consequently, the lighthouse cannot be serviced by Coast Guard buoy tenders. In light of the frequency of severe winter storms in Boston Bay, the conferees direct the Coast Guard to devote up to $500,000 for the construction of a new Boston Lighthouse pier capable of withstanding anticipated weather conditions.

The conference agreement includes $6,600,000 for phase II of the redevelopment project for the Coast Guard Support Center in Boston.

The conference agreement includes $9,600,000 over the amended budget request for the medium range surveillance (MRS) aircraft program. This program provides significant assistance to the Coast Guard's primary missions and, in particular, to its search and rescue and drug interdiction responsibilities. The additional appropriation will allow for better spare parts provisioning and longer periods of support by technical representatives than originally planned several years ago—both have been problems resulting in unacceptable rates of aircraft down time. Accordingly, it is the intention of the conferees that the additional $9,600,000 be spent solely for increased support and training at the 5 sites in fiscal year 1983 as well as for an improved supply of spare parts.

The conference agreement includes the necessary funds for the 7th District for service life extension and rehabilitation of the fleet.

ALTERATION OF BRIDGES

Amendment No. 10: Appropriates $12,700,000 as proposed by the House instead of $12,000,000 as proposed by the Senate. The conference agreement includes the following amounts:

Point Pleasant Canal, Point Pleasant, N.J. (New Jersey DOT Highway 88)	$7,900,000
Willamette River, Portland, Oreg. (Burlington Northern RR)	1,800,000
Illinois River, Peoria, Ill. (Peoria and Pekin Union RR)	3,000,000

RESERVE TRAINING

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

$50,000,000 together with an amount not to exceed $4,000,000 which shall be derived from appropriations for Retired pay

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND

Amendment No. 12: Appropriates $5,000,000 instead of $10,000,000 as proposed by the Senate.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

Amendment No. 13: Appropriates $54,574,000 instead of $55,574,000 as proposed by the Senate.

OPERATIONS

Amendment No. 14: Appropriates $2,456,783,000 as proposed by the House instead of $2,463,220,000 as proposed by the Senate.

The conferees note that the National Oceanic and Atmospheric Administration (NOAA) estimates that it performs $27,000,000 worth of aviation weather program work for the FAA, and that it should be reimbursed under provisions in the Tax Equity and Fiscal Responsibility Act of 1982. The FAA claims that it would not object to this reimbursement, provided that NOAA, in turn, reimburses the FAA for an estimated $45,000,000 worth of weather services it provides to NOAA.

The conferees direct both the FAA and NOAA to meet and resolve this issue as soon as possible, and to report to the Committees on Appropriations no later than April 1, 1983, after which the Committees will consider supplemental budget requests to the degree required and recommended by the two agencies.

The conferees direct that the Owensboro-Daviess County Airport control tower be considered a high priority for reopening and that the necessary resources be provided to avoid delays in the operation of the Aircrafts Registry Administration System.

Section 529 of the Airport and Airway Improvement Act of 1982 (P.L. 97-248) authorizes appropriations from the Airport and Airway Trust Fund for the FAA to continue the Explosive Detection K-9 Team Training Program. The conferees support this important aviation safety program by which FAA, through a reimbursable agreement with the United States Air Force, has sponsored local law enforcement officials for canine explosive detection training provided by the Air Force. Rather than developing a cumbersome program to provide funding to local communities, which in turn need to reimburse the Air Force, the conferees direct the FAA to continue this program in its current fashion by which the FAA designates who will undergo training and reimburses the Air Force directly for providing that training. The conferees believe this approach will keep indirect program administration costs to a minimum, be more efficient, and reduce the possibility of delays in scheduling local law enforcement personnel for this important training.

It has come to the conferees' attention that the Federal Aviation Administration has received in excess of 2500 claims for retroactive compensation under the Fair Labor Standards Act Amendments of 1974. The claims are for additional compensation for work performed as GS-856-12 Electronic Technicians. Each claim covers a period of up to six prior years. The FAA estimates that it will require an average of 40 staff hours to process each claim and that the final payment will not be made before September, 1983. As a result of the foregoing, the conferees urge the Administrator to accelerate claim payments if:

(1) the claim is determined valid by the deciding official,

(2) the claim can be settled to the satisfaction of all parties concerned, and

(3) the settlement will reduce administrative costs related to search and validation of records, etc.

In the event existing regulations prohibit the above short cuts in arriving at settlements, the Administrator is urged to employ on a temporary basis any additional personnel needed and/or to obtain contract services and/or to authorize necessary overtime in an attempt to make final claim payments before September, 1983.

Under the provision of Section 509 of the Airport and Airway Improvement Act of 1982 (P.L. 97-248), airport project applications submitted prior to September 30, 1980, and not acted on positively are now eligible for reapplication and reconsideration by the Federal Aviation Administration. The conferees direct that priority consideration be

given to the reapplication from the Orlando International Airport dated December 1, 1982, submitted under this provision of law.

The conferees further direct that priority consideration be given to any application for runway extensions to accommodate jet aircraft at the Municipal Airport in Fairhope, Alabama.

The conferees direct that the comment period on Federal Aviation Administration Docket No. 22480 regarding "regulation by objective" be extended until April 1, 1983, to permit hearings by the appropriate Committees on the National Transportation Safety Board's analysis of this proposal.

The conferees urge that the study and the analysis relative to eligibility of flight service station specialists for early retirement under Public Law 92-297 be referred to the General Accounting Office for evaluation, analysis and report.

The bill includes a limitation of $600,000,000 on obligations for airport development and planning grants which are financed under contract authority for fiscal year 1983. This amount is the same as the budget request. Within the obligation level recommended, it is the intent of the conferees to exempt from this limitation the unobligated balances previously authorized and carried over from prior years.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $1,464,150,000 of the appropriation for Operations shall be derived from the Airport and Airway Trust Fund. The House bill proposed to provide $1,000,000,000 from the Airport and Airway Trust Fund.

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $5,000,000 for reimbursement of expenses incurred by certificated air carriers in the security screening of passengers traveling in foreign air transportation systems.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

: Provided further, That the Federal Aviation Administration shall not undertake any reorganization of its regional office structure without the prior approval of both House and Senate Appropriations Committees

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks $500,000 for a windshear study to be conducted by the National Academy of Sciences in cooperation with the FAA and provides that $150,000 shall be available for doubling the number of windshear sensors at Moisant Airport in Kenner, Louisiana.

The conferees intend that the windshear study be in addition to the FAA's ongoing windshear efforts.

FACILITIES, ENGINEERING AND DEVELOPMENT

Amendment No. 19: Inserts the words "lease or" as proposed by the Senate.

Amendment No. 20: Appropriates $18,255,000 instead of $16,200,000 as proposed by the House and $20,310,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Aircraft regulations and aviation security	$11,445,000
Aviation medicine	1,810,000
Environmental research	1,500,000
Facilities and equipment	3,500,000

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 21: Inserts the words "lease or" as proposed by the Senate.

Amendment No. 22: Provides for the acquisition of 21 aircraft as proposed by the Senate instead of 20 aircraft as proposed by the House.

Amendment No. 23: Appropriates $625,000,000 (including $7,450,000 derived by transfer) instead of $382,980,000 (including $7,450,000 derived by transfer) as proposed by the House and $725,000,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Air route traffic control centers	$82,111,900
Airport towers and terminal equipment	201,204,200
Flight service stations	111,100,100
Air navigation facilities	114,705,100
Aircraft and related equipment	81,070,200
Miscellaneous facilities	34,808,500

The conferees question the FAA's ability to obligate the full amount of the budget request in fiscal year 1983. In making this reduction, the conferees expect the FAA to utilize the funds so as not to adversely affect aviation safety, efficiency or economy, and to continue the MLS and FSS modernization programs on schedule without any reductions. In the event the FAA finds itself in the position of being able to accelerate its activities under this heading beyond the funding level provided, the conferees will expect the FAA to so advise the Committees on Appropriations so that a supplemental budget request can be considered. The conferees direct that ILS and DME be installed immediately at the Tupelo Airport, Mississippi.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

Amendment No. 24: Appropriates $103,000,000 instead of $93,000,000 as proposed by the House and $113,000,000 as proposed by the Senate.

The conferees believe that the reduction from the Senate bill can be achieved without any serious impact on modernizing the system, and the FAA will be expected to take the reduction in those areas which do not compromise aviation safety, efficiency, and economy.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Amendment No. 25: Limits General operating expenses to $188,500,000 as proposed by the House instead of $191,562,000 as proposed by the Senate.

Amendment No. 26: Provides that $38,000,000 of the appropriation shall remain available until expended as proposed by the Senate instead of $33,000,000 as proposed by the House.

The conference agreement includes $5,000,000 for the Rural Transportation Assistance Program.

The conferees direct the Department to conduct a study to determine the feasibility and costs of designating and constructing approximately 69 miles of highway extending from Interstate Route I-95 southeasterly to United States Route 17 in Myrtle Beach, South Carolina, at a cost not to exceed $500,000.

MOTOR CARRIER SAFETY

Amendment No. 27: Appropriates $11,600,000 as proposed by the House instead of $11,705,000 as proposed by the Senate.

HIGHWAY BEAUTIFICATION

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $500,000.

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

Amendment No. 29: Deletes language proposed by the House reallocating unobligated funds appropriated for the Wheeling, West Virginia project.

INTERSTATE TRANSFER GRANTS—HIGHWAYS

Amendment No. 30: Deletes $500,000,000 appropriation proposed by the House. The appropriation for this program is contained in Public Law 97-276.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

Amendment No. 31: Appropriates $74,000,000 instead of $70,000,000 as proposed by the House and $78,133,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Rulemaking	$5,500,000
Enforcement	9,600,000
Highway safety	9,300,000
Highway safety, salaries and expenses	(5,000,000)
Alcohol programs	(1,300,000)
Occupant restraint usage programs	(1,200,000)
Countermeasure improvement programs	(500,000)
State program management	(1,300,000)
Research and analysis	34,000,000
Research and analysis, salaries and expenses	(6,550,000)
Passenger vehicle research	(10,000,000)
Heavy duty vehicle research	(350,000)
Highway safety research	(2,100,000)
NCSA data collection and analysis	(15,000,000)
General administration	15,600,000
Permanent positions	(640)

The conferees direct that at least $250,000 of the amount provided for NCSA data collection and analysis be used for special interest accident investigations. The conferees also direct that the fiscal year 1984 NHTSA budget submission be restructured to show a separate line item for the Office of the Administrator. This account should include all salaries and expenses for the administrator's immediate office, the Office of Civil Rights, the Office of the Chief Counsel, and the Office of Public Affairs/Consumer Participation.

The conferees remain concerned about the effectiveness of the $27 million program developed by NHTSA to increase safety belt usage in the United States. Over the past decade, NHTSA has undertaken numerous

efforts at significant cost to promote safety belt usage. These efforts have had no lasting effect. In fact, the national safety belt usage rate has steadily declined from 25 percent in 1974 to 11 percent in 1981. Although NHTSA contends that its new program is significantly different from past programs, the conferees have been presented with little evidence to support claims that it will have any better long term results than past efforts.

The conferees are aware of a draft GAO report which finds that NHTSA has not determined whether the benefits to be achieved under this program will outweigh program costs. That report also asserts that past campaigns cited by NHTSA as evidence that this new program can work offer little insight into the potential success of this program.

The conferees therefore direct NHTSA to immediately refrain from obligating an additional Operations and research funds for new contracts related to this program until the following conditions are met:

(1) A program plan is established which specifies the increase in the safety belt usage rate expected to be achieved by this program, the time frame in which that goal will be accomplished, and the estimated outyear costs necessary to maintain belt usage at that level.

(2) A Government-wide mandatory safety belt use policy for Federal employees is established to set an example for the private sector to adopt similar policies.

NHTSA shall not obligate additional contract funds until the House and Senate Appropriations Committees have approved written submissions from NHTSA describing how these conditions have been met.

Amendment No. 32: Provides that $21,685,000 of the appropriation be derived from the Highway Trust Fund instead of $19,949,000 as proposed by the House and $22,794,000 as proposed by the Senate.

Amendment No. 33: Provides that $28,375,000 of the appropriation remain available until expended instead of $25,000,000 as proposed by the House and $29,724,000 as proposed by the Senate.

Amendment No. 34: Provides that $9,507,000 of the amount appropriated to remain available until expended be derived from the Highway Trust Fund instead of $8,374,000 as proposed by the House and $9,869,000 as proposed by the Senate.

Amendment No. 35: Provides that $2,000,000 of the amount appropriated be used for research and analysis projects at the Transportation Systems Center in Cambridge, Massachusetts, as proposed by the House. The Senate proposed to delete the specific earmarking for the Transportation Systems Center.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

Amendment No. 36: Appropriates $13,000,000 instead of $12,322,000 as proposed by the House and $15,241,000 as proposed by the Senate.

RAILROAD SAFETY

Amendment No. 37: Appropriates $28,000,000 as proposed by the Senate instead of $23,232,000 as proposed by the House.

Amendment No. 38: Provides that $4,800,000 shall remain available until expended as proposed by the Senate instead of $1,000,000 as proposed by the House.

RAILROAD RESEARCH AND DEVELOPMENT

Amendment No. 39: Appropriates $17,000,000 as proposed by the House instead of $20,000,000 as proposed by the Senate.

RAIL SERVICE ASSISTANCE

Amendment No. 40: Appropriates $31,675,000 as proposed by the Senate instead of $30,840,000 as proposed by the House.

The conference agreement includes the following amounts:

Local rail service assistance	$20,750,000
Washington Union Station	3,825,000
Administration and special projects	7,100,000

CONRAIL LABOR PROTECTION

Amendment No. 41: Restores the word "protection" in the heading as proposed by the House instead of the word "assistance" as proposed by the Senate.

Amendment No. 42: Conforms heading.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows:

, of which $10,000,000 shall be derived from the unobligated balances of "Redeemable preference shares": Provided, That such sum shall be considered to have been appropriated to the Secretary under said section 713 for transfer to the Railroad Retirement Board for the payment of benefits under section 701 of the Regional Rail Reorganization Act of 1973, as amended: Provided further, That, for purposes of section 710 of the Regional Rail Reorganization Act of 1973 as added by section 1143 of the Northeast Rail Service Act of 1981, such sum shall be considered to have been appropriated under section 713 of the Regional Rail Reorganization Act of 1973 and counted against the limitation on the total liability of the United States

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 44: Restores the work "further" as proposed by the House.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$700,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows:

: Provided further, That, of the funds available, $25,000,000 shall be held in reserve for 6 months after the date of enactment of this Act to be available for the rehabilitation, renewal, replacement, and other improvements on the line between Indianapolis, Indiana, Shelbyville, Indiana, and Cincinnati, Ohio: Provided further, That, of the funds available, $5,000,000 shall be made available only for the rehabilitiation, renewal, replacement, and other improvements on the line between Attleboro, Massachusetts, and Hyannis, Massachusetts, to ensure that such track will meet a minimum of class III standards as prescribed by applicable Federal Railroad Administration regulations

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees direct Conrail not to dispose of the track and signals on its Cincinnati to Indianapolis line for the 6 months following the date of enactment of this act, in order to allow sufficient time for State, local or private entities to enter into an agreement to purchase the line. During that 6-month period, Amtrak is directed to reserve $25,000,000 of the $700,000,000 appropriated to be used for the rehabilitation and improvement of that line in the event that a purchase of that line is completed with Conrail.

COMMUTER RAIL SERVICE

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

For necessary expenses to carry out the commuter rail activities authorized by section 601(d) of the Rail Passenger Service Act (45 U.S.C. 601), as amended, $15,000,000, to remain available until expended, and to be derived from the unobligated balances of "Redeemable preference shares", and for necessary expenses to carry out section 1139(b) of Public Law 97-35, $75,000,000, to remain available until expended and to be derived from the unobligated balances of "Payments for purchase of Conrail securities".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement allocates the total fiscal year 1982 and fiscal year 1983 funds appropriated for Commuter rail service as follows:

New York MTA/Conn. DOT	$59,000,000
Philadelphia SEPTA	39,000,000
New Jersey Transit	22,000,000
MdDOT/Commuter Services Corp	5,000,000
Subtotal	125,000,000
Chicago RTA	35,000,000
Total	160,000,000

PAYMENTS TO THE ALASKA RAILROAD REVOLVING FUND

Amendment No. 48: Deletes appropriation of $49,575,000 proposed by the Senate.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

Amendment No. 49: Limits the aggregate principal amount of guarantees and commitments to guarantee obligations under section 511 of Public Law 94-210 to $600,000,000 as proposed by the Senate instead of $770,000,000 as proposed by the House.

Amendment No. 50: Limits commitments to guarantee new loans under section 511 during fiscal year 1983 to $100,000,000 as proposed by the Senate instead of $275,000,000 as proposed by the House.

The conferees note and concur in the Senate floor colloquy pertaining to the section 511 loan guarantee program and its availability for small feeder railroads serving small communities.

REDEEMABLE PREFERENCE SHARES

Amendment No. 51: Authorizes that $5,000,000 shall be expended instead of $10,000,000 as proposed by the Senate. The conference agreement distributes these funds as follows:

The Bloomer Shippers Railroad Redevelopment League	$3,000,000
Iowa—Rock Island	2,000,000

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

Amendment No. 52: Appropriates $28,081,000 as proposed by the Senate instead of $28,250,000 as proposed by the House.

RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS AND UNVERSITY RESEARCH AND TRAINING

For advanced systems research, the sum of $14,500,000 is recommended for the continued development of the Advanced Group Rapid Transit (AGRT) System, including magnetic levitation, with no more than $600,000 thereof to be used for UMTA's support contractors. The conferees do not agree with UMTA's budget proposal which allocates no funds for this research. The conferees direct UMTA to utilize the $14,500,000 recommended to maximum effectiveness in building controls, test track, and vehicle equipment, as necessary, to validate AGRT with initial test results in 1984 so that the performance benefits of AGRT may be demonstrated to the transit properties. Notwithstanding the technical objectives, efforts should be directed toward making applications information on AGRT available to the transit properties.

URBAN DISCRETIONARY GRANTS

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: *$1,606,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following amounts:

Bus and bus facilities	$500,000,000
Existing rail modernization and extensions	840,000,000
New systems and new extensions	206,000,000
Baltimore (rail)	(30,000,000)
Buffalo (light rail)	(19,500,000)
Miami (rail)	(32,400,000)
Atlanta (rail)	(20,000,000)
Miami (circulator)	(27,100,000)
Detroit (automated system)	(30,500,000)
Los Angeles (engineering and right-of-way)	(25,000,000)
Santa Clara (engineering and right-of-way)	(15,000,000)
Portland	(5,000,000)
Seattle	(1,500,000)
Planning	50,000,000
Innovative techniques and technology introduction	10,000,000

Within the funds recommended for rail modernization and extensions, the conferees direct that $24,000,000 be allocated as a grant for the purchase of the Rock Island rail line between Ft. Worth and Dallas (including necessary rights-of-way and easements). The conferees also direct that $12,500,000 be allocated for purchase of certain Rock Island and Milwaukee railroad commuter lines by the Chicago RTA. Under application by appropriate officials of Tampa, Florida, not less than $2,000,000 shall be made available to rehabilitate the existing rail passenger station to provide multi-modal transportation facilities.

The conferees direct that the $5,000,000 earmarked for Portland is for the federal share of street and transit improvements in downtown Portland related to the Banfield Light Rail alignment.

In the Portland Metropolitan Region, that portion of the $76,800,000 letter of intent issued in 1982 for non-rail projects, which represents an inflation component, shall be used for non-rail projects and for completion of the Banfield Project as may be determined locally by the Metropolitan Service District without an increase in the full funding contract as approved by UMTA in March of 1982.

If presently available locally allocated interstate transfer funds supplemented as above are determined as of March 31, 1983, to be insufficient to complete the project as presently designed and contracted for in the full-funding contract, the conferees direct that UMTA report the amount and timing of the shortfall to the Appropriations Committees. It is the intent of the conferees that UMTA fund any shortfall with additional section 3 funds as soon as the shortfall has been determined.

The conference agreement includes $5,000,000 for innovative techniques and $5,000,000 for technology introduction.

The conferees direct UMTA to issue a letter-of-no-prejudice before April 1, 1983, covering the purchase of rolling stock for the Guadalupe light rail system in Santa Clara County, California. This letter-of-no-prejudice should specify that, if such rolling stock is purchased under the safe harbor leasing provisions of the Tax Equity and Fiscal Responsibility Act of 1982, the Federal tax subsidy afforded under such provision shall be excluded from any amount credited against the local share of future UMTA grants.

Of the funds made available for the Guadalupe light rail system, the conferees direct UMTA to consider right-of-way acquisition and relocation costs as an eligible expense.

The conferees reiterate report language directing UMTA to continue funding planning and technical studies and analyses and to participate in the preparation of environmental statements, including heavy rail, light rail, commuter rail, busway, bus and automated guideway alternatives which UTMA determines are likely to be cost-effective. The conferees specifically direct UMTA to fund and participate in continuing analyses including engineering in Portland (south corridor and westside).

It is the intent of the conferees that Federal funding for public projects such as rail transit, road and bridge construction, and the myriad of other transportation related projects covered by Federal funds assist the American worker and domestic contractors and suppliers to the maximum extent feasible within the bounds of statutory requirements. The conferees direct UMTA to be especially sensitive to the letter and spirit of statutory "Buy America" requirements when making "new start" rail transit grants.

NON-URBAN FORMULA GRANTS

Amendment No. 54: Appropriates $68,500,000 as proposed by the Senate instead of $32,000,000 as proposed by the House.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds the words "and allocated".

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

data from the 1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

URBAN FORMULA GRANTS

Amendment No. 57: Conforms heading.

Amendment No. 58: Appropriates $1,200,000,000 as proposed by the Senate instead of $1,300,000,000 as proposed by the House.

The conference agreement includes the following amounts:

Tier I	$680,000,000
Tier II	125,000,000
Commuter rail/fixed guideway	70,000,000
Bus and bus facilities	325,000,000

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows:

1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

It is the sense of the conferees that this year represents the last year in which the 1970 census will be used to determine distribution of either Urban or Non-urban formula grants.

Amendment No. 60: Deletes transfer of $880,000,000 proposed by the House.

INTERSTATE TRANSFER GRANTS—TRANSIT

Amendment No. 61: Deletes $365,000,000 appropriation proposed by the House. The appropriation for this program is contained in Public Law 97-276.

WASHINGTON METRO

Amendment No. 62: Appropriates $240,000,000 instead of $230,000,000 as proposed by the House and $250,000,000 as proposed by the Senate.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

Amendment No. 63: Appropriates $20,022,000 as proposed by the House instead of $21,300,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Operations	$10,722,000
Research and development	5,800,000
Natural gas pipeline safety grants	3,500,000

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

Amendment No. 64: Appropriates $2,020,000 as proposed by the Senate instead of $1,900,000 as proposed by the House.

CIVIL AERONAUTICS BOARD

SALARIES AND EXPENSES

Amendment No. 65: Provides not to exceed $4,000 for official reception and representation expenses as proposed by the Senate instead of $5,000 as proposed by the House.

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

$23,125,000: Provided, That of the foregoing amount, not to exceed $10,625,000 shall be made available for the period between April 1, 1983, and September 30, 1983

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees concur with the language of the Senate report and have acted to promote the progress toward sunset of the CAB by stipulating a lesser amount for the last half of the fiscal year than for the first half. Further, the conferees direct that the Board submit to Congress a comprehensive, budgetary and programmatic phase-out plan toward sunset, showing quarterly reductions, in conjunction with the fiscal year 1984 budget.

The conferees direct the Civil Aeronautics Board, in conjunction with the Justice Department, to conduct a study of the computer reservations systems which are leased to travel agents by the airlines and to determine the effects on competition and any anti-trust implications which may exist. Specifically, the Board and the Justice Department shall investigate the following:

—Lease costs to travel agents and any conditions of the lease which may inhibit competition;

—Charges to other airlines in order to co-host the system with the airline which offers the system for lease; whether these charges discriminate against other airlines; and whether these charges are designed to inhibit competition and violate anti-trust laws;

—The display of the schedules and the fares of those air carriers which co-host the system and those carriers which do not host the system and whether these displays unfairly discriminate against either of those class of carriers.

This study should be concluded within 45 days of the enactment of this Act, and shall be forwarded to the Congress at that time.

Within 30 days after the study has been concluded and submitted to Congress, the CAB after consultation with the Department of Justice, shall take the necessary actions to remove any biases in the display of schedules and fares, to eliminate any discriminatory costs which could inhibit competition and which discriminate against other airlines and/or travel agents. Within this time period, the Board and the Department of Justice shall report those actions taken and shall make recommendations to the Congress of any legislative actions which may be necessary in order to prevent discriminatory action by the airlines which offer for lease these automated computer reservations system that may inhibit competition in the air travel industry.

PAYMENTS TO AIR CARRIERS

Amendment No. 67: Deletes the words "section 406 and" proposed by the House.

Amendment No. 68: Deletes "1376 and" proposed by the House.

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which terminates the section 406 air carrier subsidy program but continues payments to air carriers.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

Amendment No. 70: Appropriates $65,600,000 as proposed by the Senate instead of $66,300,000 as proposed by the House.

Amendment No. 71: Deletes limitation on standard level user payments proposed by the House.

PANAMA CANAL COMMISSION

OPERATING EXPENSES

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

not to exceed $8,000 for official reception and representation expenses of the Board;

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 73: Deletes language proposed by the Senate related to wages.

Amendment No. 74: Inserts the words "of the Administrator" as proposed by the Senate.

Amendment No. 75: Appropriates $405,000,000 instead of $392,084,000 as proposed by the House and $410,402,000 as proposed by the Senate.

Amendment No. 76: Deletes earmarkings proposed by the House.

The conference agreement includes the following limitations:

Operation of guide services	$230,000
Residence for the Administrator, exclusive of wages	70,000
Employee recreation and community projects	25,000
Consultant services	560,000
Employee housing	5,700,000
Expenses of the Supervisory Board	90,000

Amendment No. 77: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which permits the Commission to incur obligations in advance of adequate receipts in the Fund.

CAPITAL OUTLAY

Amendment No. 78: Appropriates $29,024,000 as proposed by the Senate instead of $24,666,000 as proposed by the House:

Amendment No. 79: Deletes earmarkings proposed by the House.

The conference agreement includes the following amounts:

Transit projects	$21,831,000
General support projects	3,886,000
Utilities projects	2,403,000
Quarters improvements	904,000

REIMBURSEMENT OF GENERAL FUND

Amendment No. 80: Deletes language proposed by the House authorizing the Panama Canal Commission Fund to reimburse the general fund of the Treasury for the unreimbursed balance of the fiscal year 1980 appropriation for the Commission.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

Amendment No. 81: Appropriates $5,000,000 instead of $10,000,000 as proposed by the Senate.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

Amendment No. 82: Appropriates $2,950,000 as proposed by the Senate instead of $2,000,000 as proposed by the House.

TITLE III—GENERAL PROVISIONS

Amendment No. 83: Limits obligations for State and community highway safety to $95,000,000 instead of $92,500,000 as proposed by the Senate and $100,000,000 as proposed by the House.

Amendment No. 84: Inserts language proposed by the Senate exempting Public Law 97-125 from the limitation on obligations for Federal-aid highways and Highway safety construction programs.

Amendment No. 85: Limits obligations for Federal-aid highways and Highway safety construction programs to $8,100,000,000 as proposed by the Senate instead of $8,000,000,000 as proposed by the House.

Currently the Federal Highway Administration (FHWA) reimburses States for advance construction Interstate projects over a 36 month period. This payback schedule was imposed to control Federal cash outflow during a period of financial difficulty for the Federal Highway Trust Fund. Increased revenues to the Highway Trust Fund resulting from an increase in the Federal tax on motor fuels should eliminate the need for these temporary fiscal controls, and therefore the conferees direct that upon enactment of such revenue increases, FHWA shall, to the extent cash is available, discontinue imposition of the 36 month payback schedule period and make full payment upon request by a State. Furthermore, upon request by a State, to the extent cash is available, FHWA shall waive the payback schedule on advance construction projects presently under commitment.

Elimination of the payback schedule will accelerate reimbursements to the States, making available additional funds for matching Federal highway apportionments, accelerating contract lettings and employment in construction and related industries and contributing to the nation's economic recovery.

Amendment Nos. 86, 87, and 88: Delete the words "or allocated" proposed by the House.

Amendment No. 89: Deletes language proposed by the House giving priority in the redistribution formula to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code.

Amendment No. 90: Deletes language proposed by the House exempting the Dodge Island Bridge from the highway obligation limitation.

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate

which cancels the remaining debt of the St. Lawrence Seaway Development Corporation.

The conferees intend that tolls should be retained at least at the present levels to ensure that the Seaway meets all of its existing and future costs.

Amendment No. 92: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits after October 1, 1983, the apportionment of highway funds to any State which imposes a vehicle width limitation other than 102 inches on any segment of the Interstate System or any other qualifying Federal-aid highway.

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 322. (a) Any air carrier having a claim for compensation under section 406 or 419(a)(7)(B) of the Federal Aviation Act of 1958, decided by the Civil Aeronautics Board (hereinafter referred to as the "Board") may bring an action directly on the claim in the United States Claims Court as provided in section 10(a) of the Contract Disputes Act of 1978 with respect to claims which have been decided by a contracting officer. Failure by the Board to issue a final decision on a final claim within one year after it was filed with the Board, or by the date of enactment of this section, whichever is later, shall be deemed to be a decision by the Board denying the claim, and will authorize an action on the claim as provided in this section. This section shall apply to any claim decided, or deemed to have been decided, by the Board after January 1, 1981, including any claim remanded to the Board by a United States court of appeals, irrespective of when the claim was filed with the Board. Any action under this section shall be filed within one hundred and twenty days after the claim has been decided or is deemed to have been decided by the Board, or within one hundred and twenty days after the date of enactment of this section, whichever is later. Any petition for review of a decision of the Board with respect to any such claim pending in a United States court of appeals on the date of enactment of this section shall be dismissed without prejudice upon motion of the petitioner.

(b) Except as provided herein, the following provisions of the Contract Disputes Act of 1978 shall apply with respect to any claim to which this section applies as if such claim were a claim with respect to a decision of a contracting officer under section 10(a) of such Act and as if the Board were a contracting officer:

(1) Section 12, relating to interest, which shall be payable by decision of the Board or the Court of Claims at the rates provided in such section, not to precede the date of enactment of the Contract Disputes Act of 1978.

(2) Section 13, relating to the payment of claims and judgments.

(3) Section 14(i), relating to the jurisdiction of the United States Claims Court.

(c) If an administrative law judge has issued an initial decision after a hearing on the record in the case before the Board, the court may, in its discretion, rely upon the evidence adduced at such hearing and may give such initial decision such weight as it deems appropriate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The language adopted by the conferees revises the Senate language to limit the payment of interest to the period beginning with the effective date of the Contract Disputes Act of 1978, rather than from the date when the claim was filed; and to incorporate technical changes required by the Federal Courts Improvement Act of 1982 which, *inter alia*, splits the jurisdiction of the Court of Claims between two newly created courts,—a United States Claims Court, and a United States Circuit Court of Appeals for the Federal Circuit. Since the trial jurisdiction of the present Court of Claims will be transferred to the United States Claims Court, which alone will have jurisdiction to render final judgments, the revised language makes it clear that review of a CAB decision is to be by the United States Claims Court rather than the new Circuit Court of Appeals.

Amendment No. 94: Deletes language proposed by the Senate prohibiting funds for the transportation of any employees between his domicile and his place of employment, except for the Secretary of Transportation.

Amendment No. 95: Deletes language proposed by the Senate related to standard level user charges.

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *323*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 324. No funds appropriated under this Act shall be expended to pay for any travel initiated after January 1, 1983, by the Administrator of the Federal Aviation Administration as passenger or crew member aboard any Department of Transportation aircraft to any destination served by a regularly scheduled air carrier: Provided, That this limitation shall not apply if no regularly scheduled carriers' flight arrives at the destination of the Administrator within 6 hours local time of the desired time of arrival: Provided further, That this limitation shall not apply to costs incurred by any flight which is essentially for the purpose of inspecting, investigating, or testing the operations of any aspect of the Federal Aviation Administration system designed to aid and control air traffic, or to maintain or improve aviation safety: Provided further, That this limitation shall not apply to costs incurred by any flight in Department of Transportation aircraft which is necessary in times of emergency or disaster, or for security reasons, or to fulfill official diplomatic representation responsibilities in foreign countries: Provided further, That written certifications shall be issued quarterly on all flights initiated in the previous quarter subject to this limitation and shall be made readily available to Congress and the general public.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are concerned with a draft report by the General Accounting Office which is reported to suggest that adequately stringent controls are not always exercised by Federal Aviation Administration officials in the use of agency aircraft. The GAO, based primarily on analysis of FAA aircraft records and travel vouchers, is said to have concluded that thousands of dollars may have been spent needlessly through the use of agency aircraft when commercial transportation would have sufficed. While the conferees agree with the intent of the Senate amendment to this bill, they have modified the language in the bill in order to provide a better balance of administrative flexibility and legislative accountabilty. The conferees further direct the Secretary to: 1) review the official use of all DOT aircraft; 2) determine the circumstances in which official use of DOT aircraft is warranted, taking into account such factors as mission accomplishment, alternatives, and relative costs; 3) scrutinize the procedures now in effect to assure that DOT aircraft are being utilized in the best interests of the government; 4) retain for a period of at least 1 year, detailed records of official use of DOT aircraft, to include the rationale which validates the use of such aircraft; and 5) report to the Appropriations Committees no later than April 1, 1983, on the measures taken to review current procedures and any new methods instituted to insure that official use of departmental aircraft is in the best interest of the government. The department is admonished that the conferees intend to carefully review all matters relative to this issue, and have not, in any way, disposed of their alternative to set more stringent legislative criteria should the administrative response to this very serious Congressional concern prove inadequate.

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *325*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 99: Deletes language proposed by the Senate related to air service between New Orleans and London, England.

While the conferees have stricken section 328 added by the Senate, the Department of Transportation and the CAB are directed to take every reasonable action to gain the necessary international agreements or to take other appropriate actions for ther reinstatement of direct commercial air service between New Orleans and London. The conferees are in agreement that such service is vital for the success of the 1984 Louisiana World Exposition.

Amendment No. 100: Inserts language proposed by the House related to certain water line facilities crossing under I-80 and I-94 in Hammond, Indiana, and conforms section number.

Amendment No. 101: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 327. Notwithstanding any other provision of law, the Secretary of Transportation shall approve, upon request of the State of Indiana, not to exceed $4,000,000, to be made available from funds available for re-

distribution under 23 U.S.C. 118(b) for the construction of an interchange to appropriate standards as I-94 and County Line Road at the Porter-LaPorte County Line near Michigan City, Indiana. Such amount shall be subject to the obligation limitation enacted for fiscal year 1983 or any fiscal year thereafter on obligations for Federal-aid highways and highway safety construction programs.

SEC. 328. Notwithstanding any other provision of this Act, the Secretary of Transportation is authorized to transfer appropriated funds between the Coast Guard Operating expenses appropriation and the Coast Guard Headquarters administration appropriation and between the Federal Aviation Administration appropriation for Operations and the Federal Aviation Administration appropriation for Headquarters administration: Provided, That the Coast Guard and Federal Aviation Administration Headquarters administration appropriations shall be neither increased nor decreased by more than 7.5 per centum by any such transfers: Provided further, That any such transfers shall be reported promptly to the Committees on Appropriations and the appropriate authorizing committees in the House and the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees direct that future budget requests be submitted to include separate appropriation requests for headquarters administration for the Coast Guard and FAA.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1983 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 amount, the 1983 budget estimates, and the House and Senate bills for 1983 follow:

New budget (obligational) authority, fiscal year 1982	$10,749,715,927
Budget estimates of new (obligational) authority, fiscal year 1983	[1] 10,720,311,919
House bill, fiscal year 1983	[2] 11,199,399,919
Senate bill, fiscal year 1983	10,956,399,919
Conference agreement, fiscal year 1983	10,646,348,919
Conference agreement compared with:	
New budget (obligational) authority: fiscal year 1983	−103,367,009
Budget estimates of new (obligational) authority, fiscal year 1983	−73,963,000
House bill, fiscal year 1983	−553,051,000
Senate bill, fiscal year 1983	−310,051,000

[1] Includes $323,500,000 of budget estimates not considered by the House, and includes $400,000,000 of budget estimates for programs funded in Public Law 97-276.

[2] Includes $865,000,000 in appropriations for programs funded in Public Law 97-276.

WILLIAM LEHMAN,
MARTIN O. SABO,
LES AUCOIN,
WILLIAM H. GRAY III,
WILLIAM R. RATCHFORD,
JAMIE WHITTEN,
LAWRENCE COUGHLIN,
SILVIO O. CONTE,
JACK EDWARDS,
CARL PURSELL,
Managers on the Part of the House.

MARK ANDREWS,
THAD COCHRAN,
JAMES ABDNOR,
BOB KASTEN,
ALFONSE D'AMATO,
MARK O. HATFIELD,
LAWTON CHILES,
JOHN C. STENNIS,
ROBERT C. BYRD,
TOM EAGLETON
(except No. 92),
Managers on the Part of the Senate.

MAKING IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 7019, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. SABO. Mr. Speaker, I ask unanimous consent that consideration of the conference report on the bill (H.R. 7019) making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1983, and for the purposes, be in order on tomorrow or any day thereafter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PAYMENT OF LOSSES INCURRED IN TRIS-TREATED FABRICS

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 823) to provide for the payment of losses incurred as a result of the ban on the use of the chemical tris in apparel, fabric, yarn, or fiber, and for other purposes, as amended.

The Clerk read as follows:

S. 823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the United States Claims Court shall have jurisdiction to hear, determine, and render judgment upon any claim for losses sustained by any producer, manufacturer, distributor, or retailer of children's sleepwear, or by any producer, converter, manufacturer, distributor, or retailer of fabric, yarn, or fiber contained in or intended for use in children's sleepwear, (1) if those losses resulted from the actions taken by the Federal Government under the Federal Hazardous Substances Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate, and (2) if such children's sleepwear or such fabric, yarn, or fiber, as the case may be, at the time of its manufacture was subject to the requirements of or was subject to use in compliance with the mandatory Federal flammability standard FF3-71 or FF5-74.

(b)(1) In determining the validity of any claim under this Act and the amount of the losses sustained for which such a claim is brought, the court shall consider the following factors:

(A) The degree to which reasonable alternatives to Tris (2,3-dibromopropyl) phosphate existed at the time the Federal Government established the applicable mandatory Federal flammability standard referred to in subsection (a).

(B) Whether it would have been feasible or reasonable for the claimant to have tested Tris (2,3-dibromopropyl) phosphate for chronic hazards at the time the Federal Government established such flammability standard.

(C) The degree to which the Federal Government or other nationally known researchers tested Tris (2,3-dibromopropyl) for toxicity or other health hazards and disseminated the results of those tests.

(D) The degree of good faith demonstrated by the claimant in seeking to comply fully with such Federal flammability standard.

(E) The extent to which a claimant may have relied in good faith upon assurances from suppliers that the products containing Tris (2,3-dibromopropyl) phosphate were safe.

(F) The degree to which the claimant acted reasonably in using Tris (2,3-dibromopropyl) phosphate.

(G) The degree to which the claimant, in good faith, complied with actions taken by the Federal Government under the Federal Hazardous Substances Act on April 8, 1977.

(H) The degree to which the claimant, in good faith, complied with those provisions relating to exports contained in section 14 of the Federal Hazardous Substances Act and section 18 of the Consumer Product Safety Act.

(2) The court may not enter judgment in favor of a claimant under this Act, nor may the Attorney General agree to any settlement with a claimant under this Act, unless the claimant produces proof, to the satisfaction of the court or the Attorney General, as the case may be, that the claimant lawfully disposed of the apparel, fabric, yarn, or fiber with respect to which the claim was brought.

(3) In determining the amount of the losses for which a claim is brought under this Act, the amount of such losses shall not include lost profits, proceeds from distress sales, attorney's fees, or interest on any loss suffered by any producer, converter, manufacturer, distributor, or retailer of children's sleepwear, or by any producer or manufacturer of fabric, yarn, or fiber.

(c)(1) The measure of losses for any producer or manufacturer of children's sleepwear shall be the cost of producing or manufacturing the sleepwear garment, plus the cost of the fabric, yarn, or fiber used for such production or manufacture, or the cost of such sleepwear, fabric, yarn, or fiber held in stock on the date of the enactment of this Act, less the fair market value, if any, of the sleepwear garment or the fabric, yarn, or fiber. If such garment, fabric, yarn, or fiber was resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing or manufacturing the sleepwear garment plus the cost of the fabric, yarn, or fiber, less the proceeds from any such sale.

(2) The measure of losses for any producer, converter, or manufacturer of fabric, yarn, or fiber shall be the cost of producing, converting, or manufacturing the fabric, yarn, of fiber, plus the cost of the raw materials used for such production, converting, or manufacturing, or the cost of such fabric, yarn, or fiber held in stock on the date of the enactment of this Act, less the fair market value, if any, of the fabric, yarn, or fiber on such date. If the fabric, yarn, or

fiber was resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting, or manufacturing, less the proceeds from any such sale.

(3) The measure of losses for any distributor or retailer shall be the distributor's or retailer's purchase price for the children's sleepwear, fabric, yarn, or fiber involved, less the fair market value, if any, of such sleepwear, fabric, yarn, or fiber, and less the amount of any reimbursement received for such sleepwear, fabric, yarn, or fiber.

(4) In addition to the losses determined under paragraphs (1), (2), and (3) of this subsection, a claimant may also be compensated for (A) unreimbursed costs of transportation paid for the return of the sleepwear garments, fabric, yarn, or fiber involved, and (B) unreimbursed costs of the lawful disposal of such garments, fabric, yarn, or fiber.

(d) No claim under this Act may be brought as a class action. No claim under this Act may be brought by two or more parties unless damages are claimed to be jointly recoverable or are disputed among the parties.

(e) Upon payment of any claim under this Act, whether or not such payment is the result of a court judgment or a settlement, the United States shall be subrogated to the claimant's rights to recover losses or to assert a claim against any person relating to the subject matter of such claim paid by the United States. The claimant shall take the necessary steps, as determined by the Attorney General, to secure such rights in the United States in order to be entitled to the entry of a judgment by the court or payment under this Act, and the failure of the claimant to take such steps shall constitute cause to deny the entry of such judgment or such payment. The failure of the claimant to take such steps shall not limit or adversely affect the right of the United States to act as subrogee or assignee to the full extent of its payments under this Act. Any purported limitation on the right of the United States to act as assignee or to become subrogated to the rights of a claimant shall be without any effect, to the extent that the United States has made payments under this Act.

(f) Any claim under this Act shall be barred unless commenced within two years after the date of the enactment of this Act.

(g) No person shall have any claim under this Act who, on or after June 14, 1978, (1) exported from the United States any apparel, fabric, yarn, or fiber containing Tris (2,3-dipromopropyl) phosphate which was produced, converted, manufactured, or sold for use in the United States, or (2) transferred any apparel, fabric, yarn, or fiber described in clause (1) to another person with knowledge that such apparel, fabric, yarn, or fiber would be exported from the United States.

(h) Before payment is made on any claim under this Act, the Attorney General shall notify the Administrator of the Small Business Administration of the claim. The Administrator shall, after receipt of such notification, notify the Attorney General as soon as possible of—

(1) any unpaid loans made by the Small Business Administration under the Small Business Act, and

(2) other amounts owing to the Small Business Administration on account of loans made under the Small Business Act,

for the purpose of assisting the claimant on account of losses sustained as a result of the actions taken by the United States under the Federal Hazardous Substance Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate. The Attorney General shall offset, from the amount of the payment on the claim under this Act, the amount of any such unpaid loans or other amounts owing to the Small Business Administration. The amount of any offset under this subsection shall be treated as accrued and paid to the claimant in ten equal annual installments beginning with the first year in which payment on the claim under this Act is made.

(i) Nothing in this Act shall be construed as an admission of fault or liability on behalf of the United States for any personal injury which may hereafter be claimed to arise from exposure to Tris (2,3-dipromopropyl) phosphate.

The SPEAKER pro tempore. Is a second demanded?

Mr. KINDNESS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. KINDNESS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 823 would allow the U.S. Claims Court to determine the claims of all those who were harmed by the Consumer Product Safety Commission ban on the sale of certain children's sleepwear.

The history behind this bill begins in 1971, when the Consumer Product Safety Commission (CPSC) issued regulations containing flammability standards for children's sleepwear. At the time it issued the standards, the CPSC knew that those who produced the children's sleepwear—and material for such sleepwear—would treat the fabric with a chemical named tris in order to meet the flammability standard. The CPSC also knew that the safety of the chemical for that use had not been adequately tested. Nevertheless, the CPSC issued the standards, and, as expected, the producer used tris to meet the standard.

Six years later, new information developed that tris was a carcinogenic chemical. On April 8, 1977, the CPSC, based on this information, banned the sale of all tris-treated children's sleepwear—and material for such sleepwear. As a result of this ban, all tris-treated garments and fabrics were withdrawn from the market. Losses were incurred by retailers, distributors, manufacturers, converters, and producers of children's sleepwear and fabric who, as the result of the original CPSC flammability standards, had flameproofed their products by the use of tris.

Mr. Speaker, I emphasize that this bill does not grant any of the claims made by those who suffered due to the ban on tris. This bill simply allows the claimants to have the court determine whether their claims are valid. Only if the court determines that the claims satisfy the standards set forth in the bill will any compensation be paid.

Mr. Speaker, I also want to emphasize the provisions included in this bill, which answer most of the concerns regarding the legislation.

First, S. 823 as amended requires that a claimant prove that he has lawfully disposed of tris-treated products before he obtains compensation. This is to guarantee that none of these garments inadvertently end up being used by children.

Second, S. 823 as amended prohibits any recovery by a claimant who knowingly exported tris-treated products after June 14, 1978, when the CPSC ban on the export of those products was announced.

Third, S. 823 as amended requires that any claimant who received Small Business Administration loans or guarantees due to losses resulting from the ban on tris-treated products must repay from any compensation under this bill any amounts still owed the SBA. Moreover, to assure that these amounts are repaid to the SBA, the bill provides that the amounts owed by deducted from the compensation before it is paid to the claimant.

Finally, S. 823 as amended states that this legislation does not constitute an admission of liability by the United States for any personal injuries the users of tris-treated products may later claim.

Mr. Speaker, this is a carefully crafted bill. It would provide a method of compensation for those who actually suffered losses due to governmental actions. At the same time, it assures that the only persons compensated are those who actually suffered losses due to their good faith attempts to comply with Government regulations.

This is a good bill; this is a fair bill. I urge its passage.

Mr. Speaker, I insert in the RECORD at this point a short explanation of S. 823, as amended:

PURPOSE

The purpose of the proposed legislation, as amended, is to confer jurisdiction on the United States Claims Court to hear, determine, and render judgment on claims by producers, manufacturers, distributors, converters or retailers of children's sleepwear or of fabric, yarn, or fiber contained in or intended for use in such sleepwear. These claims relate to losses sustained in connection with U.S. governmental action, under the Federal Hazardous Substances Act, on

April 8, 1977, and thereafter, in banning apparel, fabric, yarn, or fiber containing Tris.

STATEMENT

The history of the efforts of the Government to set standards as to the flammability of fabrics dates to 1953, when the Commerce Department issued flammability standards for fabrics. In the same year, the Flammable Fabrics Act was enacted and made effective July 1, 1954. In 1967, the act was amended to give the Secretary of Commerce power to issue mandatory flammability standards, and he did so on July 29, 1971, as FF3-71. This applied to children's sleepwear sizes 0 to 6x and went into effect on July 28, 1972. Under the 1972 Consumer Product Safety Act, this regulatory function regarding flammability standards was transferred to the Consumer Product Safety Commission (Commission), which issued a second flammability standard FF5-74 for children's sleepwear sized 7 to 14 which was made effective May 1, 1974. Generally, manufacturers achieved compliance with FF3-71 and FF5-74 through the application of a chemical flame-retardant to the textile fibers, yarn, or uncut fabric used to make the finished garment.

The FF3-71 and FF5-74 flammability standards were performance standards which required only that the material used for children's sleepwear meet certain nonflammability criteria. Thus, neither standard required that manufacturers utilize Tris or any other specific flame-retardant chemical. Nonetheless, Tris became the most widely used flameproofing chemical because it provided an effective and inexpensive means of treating numerous synthetic fibers. Also, material treated with Tris remained relatively soft and comfortable, unlike many other flameproofed fabrics, thus retaining consumer appeal.

In March 1976, the Environmental Defense Fund (EDF), a health-oriented public interest organization, petitioned the Commission to require cautionary labeling for wearing apparel containing Tris surface concentrations in excess of 100 parts per million. This petition was based on data that showed that Tris was capable of causing mutations in Salmonella typhimurium when tested in both the presence and absence of metabolic activating systems. The petition asserted that this test has been shown to be a "highly reliable predictor" of carcinogenicity.

To evaluate the scientific issues raised in the EDF petition, the Commission conducted a search of the existing literature in April 1976, and initiated a biological testing program in its own laboratories in June 1976. In addition, the Commission asked the National Cancer Institute (NCI) to expedite its rate and mouse carcinogenicity feeding studies involving Tris that were already underway. The NCI agreed to provide the Commission with preliminary results from these studies as they became available.

On February 4, 1977, the Commission obtained the preliminary NCI test data. Within 2 weeks, the Commission's Bureau of Biomedical Science provided a statistical analysis of the NCI rat and mouse bioassay study. On February 8, 1977, the EDF petitioned the Commission, on the basis of its own analysis of the same NCI preliminary test results, to ban the sale of wearing apparel containing Tris.

On April 7, 1977, the Commission formally considered the EDF petition at its regularly scheduled meeting and, effective April, 8, 1977, issued its interpretation that children's wearing apparel made from Tris-treated fabric and uncut Tris-treated fabric intended for use in children's wearing apparel were to be banned hazardous substances under section 2(q)(1)(A) of the Federal Hazardous Substances Act. The Commission's interpretation further defined the above substances as those which are introduced into interstate commerce after April 8, 1977, or which had not yet been washed (even if they have been sold before the date.)

As a result of this ban, all Tris-treated garments and fabrics were withdrawn from the market. Losses were incurred by retailers, distributors, manufacturers, converters and producers of children's sleepwear and fabrics which, as a result of FF3-71 and FF5-74, had been flameproofed by the use of Tris. Though the exact amount of losses has never been adjudicated, the American Apparel Manufacturers Association stated that it believes the actual losses suffered by all children's sleepwear manufacturers to be about $50 million. This includes garments, uncut fabric in apparel plants, and "to date" indirect costs such as transportation, administration, and storage.

PROVISIONS OF S. 823

Under the proposed legislation, the United States Claims Court is granted jurisdiction to "hear, determine, and render judgment" on the claims submitted. This Court would hear all the facts, weigh the evidence, and determine whether there is liability on the part of the United States. The burden of proof is on the claimants to show that, in the light of the standards contained in the proposed legislation, there is a responsibility and obligation on the part of the United States to pay compensation for the losses incurred.

The standards by which the Court is to determine liability are intended to aid in the evaluation of the degree of good faith demonstrated by an individual claimant with regard to the Federal flammability standards and in the determination of whether or not that claimant met the applicable legal responsibilities under the Federal Flammability Standards. The criteria as set forth in subsection (b)(1) of the bill are as follows:

(A) The degree to which reasonable alternatives to Tris (2,3-dibromopropyl) phosphate existed at the time the Federal Government established the applicable mandatory Federal flammability standard.

(B) Whether it would have been feasible, or reasonable, for the claimant to have tested Tris (2,3-dibromopropyl) phosphate for chronic hazards at the time the Federal Government established such flammability standard.

(C) The degree to which the Federal Government, prior to establishing such flammability standard, tested Tris (2,3-dibromopropyl) phosphate for toxicity, or other health hazards, and disseminated the results of these tests.

(D) The degree of good faith demonstrated by a claimant in seeking to comply fully with such Federal flammability standard.

(E) The extent to which a claimant may have relied in good faith on assurances from suppliers that the products containing Tris (2,3-dibromopropyl) phosphate were safe.

(F) The degree to which a claimant acted reasonably in using Tris (2,3-dibromopropyl) phosphate for the time period that such substance was used.

(G) The degree to which a claimant, in good faith, complied with actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977.

If the claimant is unable to meet the burden of proof in demonstrating losses and satisfying these standards, the Court shall deny the claim.

This version of S. 823 contains several provisions that differ from those contained in the Senate-passed version.

(1) A new provision prohibits entry of judgment by a Court or settlement of a claim by the Attorney General unless a claimant produces proof of lawful disposal of Tris-treated products on which recovery is sought.

(2) A new provision which allows a claimant to recover the costs involved in lawfully disposing of Tris-treated products. This means that disposal must be carried out in a manner approved by the Commission. Since firms cannot simply stack hundreds and even thousands of pounds of garments in trash bins, (which could result in their somehow being diverted for use by children) some costs must be incurred for lawful disposal. These costs represent a direct loss from the Tris ban. (The bill already provided for a similar type of recovery in section 4, where it states that "unreimbursed cost of transportation paid for the return" of sleepwear may be recovered.) However, this recovery is limited to actual losses incurred as a result of lawful disposal. Thus, for example, if a firm sells the banned products for use as rags, any amount received from such sale must be deducted from the amount to be recovered. Obviously, any approved use of the product, such as for training employees who sew garments, provides a benefit to the company and does not add extra disposal costs. However, outright destruction of the goods, which in the end may be most desirable as a public policy matter, will probably give rise to out-of-pocket expenses which are recoverable.

(3) A new subsection (g) prohibits any recovery by a claimant who knowingly allowed the export of Tris-treated products after the Commission published its ban on the export of such products on June 14, 1978 (the date the Commission approved the export ban was May 5, 1978). If a claimant exported Tris-treated products after the initial ban on domestic sales in 1977 but before the export ban in 1978, the Court may consider this fact as part of its equitable judgment in determining whether and to what extent a claimant should obtain recovery, however such acts would not prohibit recovery. (See sections (b)(1) (D), (G), and (H) of the bill.)

(4) A new subsection (h) requires a claimant to repay the Small Business Administration (SBA) from any recovery any amounts owed or unpaid due to loans granted or guaranteed because of losses due to the ban on Tris-treated products.

This provision ensures that no claimant receives a double recovery of any losses attributable to the Tris situation: one in the form of a long-term, low-interest loan from the SBA and the other in the form of a judgment under this legislation.

The term "unpaid loans" in subsection (h)(1) means the outstanding balances of loans granted under section 7 of the Small Business Act (15 U.S.C. 636). It also includes balances outstanding where repayment has for some reason been waived by the SBA. The term "other amounts owing" in subsection (h)(2) refers to amounts due to SBA from a claimant who had obtained an SBA guaranteed loan on which the claimant then defaulted, with the result that the SBA had to pay the holder of the loan. In either case, offsets would be imposed only where the loan or guarantee was made primarily for

the purpose of assisting the claimant because of losses resulting from the Tris ban.

If a judgment is rendered for or a settlement reached with a claimant who has an unpaid loan or other amounts owing to the SBA, the Attorney General is required to offset such amounts; that is, such amounts must be deducted from the judgment or settlement and only the excess of such amounts is to be paid to the claimant.

Any award under the Act, including the amount of the offset for unpaid Tris loans, will be taxable. However, since a large portion of the award will be retained by the SBA as an offset, many manufacturers will receive less in payment than the amount of taxes they owe on the entire award. For example, a manufacturer who suffered a $3 million loss in the Tris recall may have an outstanding SBA loan for $2.5 million. On an award of $3 million, that manufacturer will have to pay $1.35 million in federal taxes, although the manufacturer will receive only $500,000 from the award. Therefore, this section provides that any offsets will be treated as accrued in ten annual installments. This mitigates the tax burden by treating the amount of the offset (an amount that the manufacturers never actually receive) as paid to them over a period of ten years. This will spread the tax liability over that same period. The manufacturer with a $3 million award and a $2.5 million offset will pay taxes of $368,000 on $800,000 for the first year (the amount actually received from the award plus one-tenth of the offset amount). In each of the next nine years, the manufacturer will pay taxes on one-tenth of the offset.

(5) A new subsection (i) provides that this bill does not constitute admission of liability by the United States for any personal injuries that may be alleged to have resulted from the use of Tris-treated products.

SECTION BY SECTION

SECTION 1

Subsection (a) provides that the Court of Claims is to have jurisdiction to hear, determine, and render judgment upon claims for losses resulting from actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate suffered either by producers, manufacturers, distributors, or retailers of children's sleepwear, or by any producer, converter, manufacturer, distributor, or retailer of fabric, yarn, or fiber contained in or intended for use in children's sleepwear. Products for which claims are asserted must have been subject to the requirements of, or for use in compliance with, the mandatory Federal flammability standard, FF3-71, or FF5-74, at the time of its manufacture.

Subsection (b)(1) outlines factors which must be considered by the court in determining the validity of a claim and in assessing losses. They are:

(A) Whether reasonable alternatives to Tris (2,3-dibromopropyl) phosphate existed at the time the Federal Government established the applicable mandatory Federal flammability standard;

(B) Whether the claimant could or should have tested Tris (2,3-dibromopropyl) phosphate for chronic hazards at the time the Federal Government established the flammability standard;

(C) The extent the Federal Government tested Tris (2,3-dibromopropyl) phosphate for toxicity, or other health hazards, and disseminated the test results prior to establishing the flammability standards;

(D) The degree of good faith demonstrated by a claimant in seeking to comply fully with the Federal flammability standard.

(E) The extent to which a claimant may have relied in good faith on assurances from suppliers that the products containing Tris (2,3-dibromopropyl) phosphate were safe.

(F) The degree to which a claimant acted reasonably in using Tris (2,3-dibromopropyl) phosphate for the time period that such substance was used.

(G) The degree to which a claimant, in good faith, complied with actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977.

(H) The degree to which a claimant, in good faith, complied with those provisions relating to exports contained in § 14 of the Federal Hazardous Substances Act (15 U.S.C. 1273) and § 18 of the Consumer Product Safety Act (15 U.S.C. 2067). (This subsection was included to allow the court to consider, in making its decision, whether the claimant exported Tris apparel, fabric, yarn, or fiber after the Commission announced that such export was prohibited under the Commission's interpretation of the applicable law. It does not bar or limit recovery by those companies which in good faith exported Tris apparel, fabric, yarn, or fiber during the period that the Commission interpreted the law as allowing such export.)

Subsection (b)(2) prohibits entry of judgment or settlement of Tris-related claims unless the claimant produces proof of lawful disposal of the products upon which such claims are based. The term "lawful disposal" means in a manner that does not violate the CPSC's Export Ban dated May 5, 1978 and the CPSC's Policy Statement dated April 8, 1977, which prohibited the sale of such products in the United States. Therefore, the term includes the destruction of such products so they would not be introduced into the marketplace.

Subsection (b)(3) provides that lost profits, proceeds from distress sales, attorneys fees, or interest on any such loss resulting to any producer, converter, maufacturer, distributor, or retailer of such children's sleepwear, or to any producer or manufacturer of fabric, yarn, or fiber shall not be included as a loss compensated under the bill.

Subsection (c)(1) sets forth the measure of losses for claims of producers or manufacturers of children's sleepwear. The measure of such losses is the cost of producing or manufacturing the sleepwear garment plus the cost of the materials, held in stock on the date of enactment, less the fair market value, if any, of the sleepwear garment or the fabric, yarn, or fiber. If the sleepwear garment or material has been resold after April 8, 1977, but prior to enactment, then the amount determined by the above measure of damages shall be reduced by the proceeds from any such sale.

Subsection (c)(2) sets forth the measure of losses for claims of producers, converters, or manufacturers of fabric, yarn, or fiber. The measure of such losses is the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting or manufacture held in stock on the date of enactment, less the fair market value, if any of such products. If the products were resold after April 8, 1977, but prior to the date of enactment, the proceeds of the sale is to be deducted from the amount determined by the above measures of damages.

Subsection (c)(3) sets forth the measure of losses for claims of distributors and retailers. The measure of such losses shall be the distributor's or the retailer's purchase price for children's sleepwear, fabric, yarn or fiber, less the amount of any reimbursement received. Some distributors and retailers destroyed such goods or returned them to manufacturers. Therefore, the substitute language reported by the Committee deletes the requirement that reimbursement be available only for goods held in stock on the date of enactment of this Act and enables a distributor or retailer to qualify to claim for the unreimbursed portion of its losses, as limited by paragraph (3) of subsection (c), notwithstanding the lack of possession of such merchandise.

Subsection (c)(4) provides that, any claimant may be compensated for unreimbursed costs of transportation paid for such sleepwear garments, fabrics, yarn or fiber and for any reasonable costs incurred in otherwise lawfully disposing of such goods.

Subsection (d) provides that claims may not be brought by two or more parties unless damages are claimed to be jointly recoverable or are disputed among these parties.

Subsection (e) provides that the United States is to be subrogated to a claimant's right to recover damages or assert a claim against any person relating to the subject matter of the claim when the claim is paid by the United States, pursuant to a judgment or settlement. The claimant will be required to execute and deliver instruments and papers and take necessary steps to secure such rights in the United States prior to entry of a judgment by the Court and payment under this bill. The failure of a claimant to perform such acts or take such steps shall constitute cause to deny the entry of such judgment and payment. However, the failure of the claimant to perform such acts or to take such steps shall not limit or adversely affect the right of the United States to act as subrogee or assignee to the full extent of its payments under this Act, and any purported limitation on the right of the United States to act as assignee or to become subrogated to the rights of a claimant upon payment shall be without any effect.

Subsection (f) provides for the time limitation as to claims under this legislation. Any claim shall be barred unless commenced within two years after the enactment of the bill.

Subsection (g) prohibits recovery by any claimant who knowingly allowed the export of Tris-treated products after the June 14, 1978 notice of the Consumer Product Safety Commission Export Ban of May 5, 1978.

Subsection (h) requires administrative offset of any judgment or settlement obtained by a claimant against any unpaid loans or amounts owing to the SBA.

Subsection (i) provides that this bill does not constitute admission of liability by the United States for any personal injuries that may result from the use of Tris-treated products.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, both Houses of Congress passed a similar bill several years ago, similar, that is, to S. 823 in its basic purpose. The House voted overwhelmingly for the legislation during the 95th Congress. The final tally was 304 to 90. But later, President Carter pocket vetoed the bill; and, although

there were enough votes to overturn the veto, by that time the Congress had already adjourned sine die. Now we have had a long delay in this Congress in bringing the measure to the House floor, but I welcome this opportunity as a matter of doing justice only by allowing the opportunity for justice to be done.

Neither the earlier bill nor this bill provides for any direct reimbursement to a manufacturer. This bill does not appropriate or authorize 1 red cent. It would merely allow those who have suffered direct losses to bring their petition to the Court of Claims. But if you read our bill, application to the Court of Claims is no guarantee of reimbursement. As a matter of fact, we established nine separate tests before an applicant becomes eligible for recovery. The total burden is placed upon petitioners to prove that:

First, there were no reasonable alternatives to tris;

Second, whether the manufacturer should have tested tris themselves;

Third, the extent to which the Government had tested for tris and the information was publicly available;

Fourth, the degree of good faith exercised by the manufacturers in complying with the standards;

Fifth, the extent to which the manufacturers of sleepwear relied upon the assurances of the chemical manufacturer;

Sixth, the degree to which the sleepwear manufacturer acted reasonably during the time tris was used;

Seventh, the degree of good faith compliance with the ban on tris;

Eighth, the degree of good faith in complying with the antiexport law; and, finally

Ninth, petitioners are to receive only actual out-of-pocket expenses. That is, profits, attorneys' fees or inflation costs are not allowed for, are prohibited.

May I also point out that in the hearings of our subcommittee earlier this year it was made known that the burn standard for children's sleepwear has been revised in such a way that chemicals are no longer needed to meet the Federal flammability regulations, just as a bit of background as to how outlandish this whole thing has proven to be, at the cost of many small businesses in particular.

This legislation is so tough that a substantial portion of those who suffered losses may not be able to recover at all. Mr. Speaker, let us end this ordeal for the many small manufacturers who have been hurt by the tris mess by voting for this bill. I urge support for the bill.

Mr. Speaker, I reserve the balance of my time.

□ 1500

Mr. SAM B. HALL, JR. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I want to join in support of this bill. This piece of legislation has been I think unfairly characterized by some as somehow an effort to undo proper regulation.

In my judgment, Mr. Speaker, it is in fact an example of how regulation ought to be done wisely.

We have a situation here where there may have been a number of particularly small manufacturers caught in a bind between two regulations. In a good faith effort to comply with one, they may have run afoul, through no bad motive of their own, of another.

What this bill does is to establish a very sensible set of procedures for determining how to undo some of that harm.

As the gentleman from Ohio just said, there is a list of conditions that have to be satisfied, dealing with whether or not people unfairly exported this, dealing with whether or not they had knowledge of its harmful properties, and so forth.

I think the bill is very well drafted. I say as one who believes that regulation of the proper sort is very much needed to achieve the quality of life we all want, if we are not prepared to show the kind of flexibility this bill shows, and if we are not prepared to take into account those rare occasions when a glitch develops in the regulatory process, then we undermine the case for regulation. Regulation is necessary. It plays an important role in gaining some goals that we all need. But it has to be done in a reasonable way.

I would also add that the interests at stake in this bill, it is obvious but sometimes the obvious gets ignored, are not just the small manufacturers, but the people who work for them. The International Ladies Garment Workers Union, for instance, is understandably quite eager to see passage of this bill because they represent some of the working men and women who might find themselves without a livelihood if we do not take what I think is a very responsible action in this case.

I commend the gentleman from Texas for bringing this bill forward and I would hope that the bill would pass.

Mr. KINDNESS. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, first of all, I want to commend the gentleman from Ohio and the gentleman from Texas on this legislation and call to the attention of the Members the importance of these measures that emanate from the Subcommittee on Administrative Law of the House Committee on the Judiciary.

This is in the nature of special legislation, providing recourse to the courts where no other remedy is available. Our Constitution permits persons to petition their government for the redress of grievances. In this bill we temporarily relax the doctrine of soverign immunity to take care of persons that have been seriously hurt by regulation.

And so in a sense this epitomizes a prerogative of the citizen and a constitutional right of the citizen which is being exercised and which is being implemented by the work of this subcommittee and thereafter by the Members of this House.

Mr. Speaker, from recent history everyone knows that tris is a chemical flame retardant. It was used on wearing apparel to meet required Federal flammability standards. Several years later this chemical was banned because it was found or claimed to have carcinogenic properties.

I agree that such items should be banned, but we overlooked the permanent damages inflicted on small manufacturers. Seventy percent of the manufacturers affected by the tris ban were small businesses with 100 or less employees. Moreover, the apparel industry already had enough problems to worry about. With the tris ban millions upon millions of dollars of manufactured clothing became worthless. Losses incurred by compliance with a specific Government mandate is not insurable. Since clothing is such a marginal business there was no tax writeoff to speak of. Hard, out-of-pocket losses put the industry near bankruptcy. And the foreign apparel manufacturers would have been only too happy to see dozens of our domestic manufacturers go under. Fortunately, the Small Business Administration came to the rescue with emergency loans to insure the survival of these manufacturers. These loans are maturing and there is a need for replacement capital. Therefore, this bill enables these manufacturers to recoup some of these hard, out-of-pocket losses.

Even though I would have preferred direct reimbursement, we have, nonetheless, through this bill only, provided that manufacturers be able to bring their petition to the court of claims. Under the quantum of proof necessary to secure reimbursement petitioners have to overcome nearly impossible evidentiary barriers to insure that only the deserving qualify.

Mr. Speaker, a similar bill passed the House overwhelmingly during the 95th Congress and it should pass with the same margin.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to take this opportunity to comment about the gentleman who has just spoken. This will probably be one of the last

times that BOB MCCLORY from Illinois will be before this body with reference to a bill of this nature.

I can only say that during the 6 years that I have been a member of the Committee on the Judiciary I have not known of any man who has been any more sincere and any more dedicated in the work that he has done on that committee. He is going to be missed. I can tell the gentleman now, my friend, you will be sorely missed by this body. And I wish you the best in the future.

Mr. MCCLORY. Mr. Speaker, I am very grateful for the generous remarks of the gentleman from Texas.

Mr. KINDNESS. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Speaker, before I go into my remarks, I wish to thank the gentleman from Texas (Mr. SAM B. HALL, JR.), the gentleman from Ohio (Mr. KINDNESS), and particularly the gentleman from Illinois (Mr. MCCLORY) for being gentlemen, No. 1, and for being outstanding legislators who have done a very commendable job. This body will miss BOB MCCLORY. He is not only a gentleman and a fine legislator, he is probably one of the best that we have in the House of Representatives.

Mr. Speaker, I am pleased to rise in support of S. 823, a bill providing for reimbursement for direct losses following the Consumer Product Safety Commission's ban on and recall of children's sleepwear treated with the chemical tris.

The tris bill is not a bailout. It simply confers jurisdiction on the U.S. Claims Court to hear claims by those who unavoidably incurred losses because of the tris ban. The bill does not authorize payment of any funds. It only gives the courts jurisdiction to hear these claims on their merits and to recommend the amount of payments, if any, to be made. The bill provides a series of criteria—including good faith—which a manufacturer must meet in order to even be eligible for indemnification, and specifically excludes from compensation any firm which exported in violation of Federal Government prohibition. There is no provision for automatic compensation in S. 823; each manufacturer will have to prove his case.

Nor does S. 823 set a precedent. The tris situation is a unique catch-22 situation: several years after forcing chemical treatment on sleepwear manufacturers in spite of the industry's documented warnings of unknown health hazards, the same Federal agency then required the manufacturers to recall those garments and pay for millions of dollars' worth of goods which they were forced by Federal regulation to treat chemically in the first place.

It should be noted, moreover, that the industry had no reason to believe that tris was any more or less dangerous than any other chemical it may have used. As a matter of fact, recognizing that any chemical the industry turned to after the tris ban might turn out to be dangerous, the Consumer Product Safety Commission actually changed the flammability standards after the ban. No chemical treatment is now necessary to meet the new flammability standards.

Mr. Speaker, this is a reasonable measure which represents simple equity. It is a clear-cut, limited bill which will rectify the great damage done mainly to small children's sleepwear manufacturers by Federal overregulation. I urge Members to vote yes.

Mr. SAM B. HALL, JR. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I rise in support of the legislation. I am familiar with this problem because I had in my district the same kind of situation that has been referred to by the gentleman from South Carolina (Mr. CAMPBELL) and other Members talking on this.

We have here a very simple situation, as the gentleman from South Carolina just indicated; namely, that the Federal Government first required manufacturers to use a particular chemical that would retard fire hazards in children's sleepwear and then subsequently told them that they could not use material permeated with that chemical, after they had purchased hundreds of yards of the material, because it was likely to cause cancer.

□ 1510

Here is a case where on the one hand our Government did not know what the other hand was doing. The Government clearly fouled up. Obviously, the economic costs were not the fault of the manufacturer in any sense. It was a clear-cut Government responsibility.

We got the bill through both the House and the Senate and then-President Carter, who was really not fully briefed on what had happened by his staff, simply pocket vetoed it in spite of all the damage and harm that it did to little people and small businesses all over the country.

In Cohoes, N.Y., for example, the Swan-Knit Co., with about 130 women employees, working in a small, old-fashioned mill building, were making their living producing these children's garments. This second ruling of the Government almost put this small company out of business. They have hung on, however.

If Congress wants to help people keep jobs in this period of unemployment, I cannot think of anything better than to provide a little overdue financial assistance to those companies who, through no fault of their own, sustained very serious financial losses because of a Government failure.

Mr. Speaker, I urge approval of the bill.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume, solely for the purpose of joining in and associating myself with the remarks of the gentleman from Texas (Mr. SAM B. HALL, JR.) with respect to the service of our colleague, the gentleman from Illinois (Mr. MCCLORY). Having slipped a little bit in the opportunity to have my say earlier, I must join in saying that my association with the gentleman from Illinois over the 8 years that I have served on the Judiciary Committee has been an association that I think to be most enjoyable as well as enlightening. I expect to learn from my colleagues in great numbers, but perhaps more than others I have learned from the gentleman from Illinois (Mr. MCCLORY), not just perhaps legislative and intellectual matters, but I am still working on trying to develop as much spring in my step as he has, there being some slight difference in our ages. I hope that I can somehow perfect that ability. It has something to do with weight and exercise, I think.

Mr. STRATTON. Mr. Speaker, will the gentleman yield to me?

Mr. KINDNESS. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, since I was concerned about the tris bill, I did not want to interrupt the proceedings earlier; but I certainly do want to join in commending the gentleman from Illinois (Mr. MCCLORY). We will miss him. He is very modest; but one of his major legislative achievements is that he and I and the gentleman from New Jersey (Mr. RODINO) joined together some years ago in creating four Monday national holidays, including Columbus Day as a national holiday, so that tourism and family associations could be better spent. That is just one of the great achievements that the gentleman from Illinois will be remembered for. Even though some people may not particularly like that change, I think the majority does, especially Columbus Day.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for pointing that out. I have been wondering who to blame for that. Now I know. I thank the gentleman for his very kind contribution, in any event.

Mr. Speaker, I yield back the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Speaker, I rise in strong support of this proposed legislation (S. 823), and thank the gentleman for yielding and for bringing this matter to the floor. Its passage will clear up contradictions in the regulations. As now written, they are not unlike Federal regulations imposed upon the highway construction industry. One set of regulations required that bells be attached to the equipment in order that it could be heard, and the next set required the workers to wear ear plugs.

In the late sixties, there developed considerable concern about children being killed when their sleepwear caught fire accidentally. Accordingly, in 1971 and again in 1974, performance standards were developed which prohibited the sale of children's sleepwear which did not meet charring and flame-resistant standards.

There are other chemicals which can be applied to fabric, but tris—2,3-dibromopropyl phosphate—was one of the most effective, and the most widely used.

On April 8, 1977, the Consumer Product Safety Commission banned tris, because it was found to cause cancer in rats and mice. All garments which had been treated or made from treated fabric were immediately removed from sale, at a cost to manufacturers, retailers, et cetera, of some $50 million.

Legislation which passed in the 95th Congress to rectify this situation was vetoed by President Carter. A bill to meet his objections was introduced in the 96th Congress, but hearings were never held in either House.

The present bill is said to meet the objections to the 1977 bill, which were:

First, it violated the established law, which states that the Federal Government is not liable for the economic impact of regulatory actions; and

Second, the Government should not be held liable in the absence of fault by Government officials.

The bill will give the Court of Claims jurisdiction to render judgment for losses resulting from actions taken by the United States, subject to certain criteria to insure there are no frivolous or fraudulent claims filed.

I strongly recommend a "yes" vote.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the Senate bill, S. 823, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MISCELLANEOUS LAW REVISIONS

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7378) to codify without substantive change recent laws related to money and finance and to improve the United States Code.

The Clerk read as follows:

H.R. 7378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENTS TO TITLE 31

SECTION 1. Title 31, United States Code, is amended as follows:

(1)(A) Chapter 5 is amended by inserting the following after section 503:

"§ 504. Office of Federal Procurement Policy

"The Office of Federal Procurement Policy, established under section 5(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 404(a)), is an office in the Office of Management and Budget.".

(B) The analysis of chapter 5 is amended by inserting the following immediately below item 503:

"504. Office of Federal Procurement Policy.".

(2) Section 1105(a) is amended by adding at the end the following:

"(25) a separate statement, for each agency having an Office of Inspector General, of the amount of the appropriation requested for the Office.".

(3) Section 1113(a) is amended by—

(A) inserting "(1)" after "(a)"; and

(B) adding at the end the following:

"(2) When requested by a committee of Congress, additional information related to the amount of an appropriation originally requested by an Office of Inspector General shall be submitted to the committee.".

(4) Section 1305(6) is amended to read as follows:

"(6) to pay the interest on the fund derived from the bequest of James Smithson, for the construction of buildings and expenses of the Smithsonian Institution, at the rates determined under section 5590 of the Revised Statutes (20 U.S.C. 54).".

(5) Section 3102(a) is amended by striking out "$70,000,000,000" and substituting "$110,000,000,000".

(6) Section 3105(b) is amended to read as follows:

"(b)(1) With the approval of the President and except as provided in paragraph (2) of this subsection, the Secretary may—

"(A) fix the investment yield for savings bonds; and

"(B) change the investment yield on an outstanding savings bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date of issue.

"(2) The investment yield on a series E savings bond shall be at least 4 percent a year compounded semiannually beginning on the first day of the month beginning after the date of issue of the bond and ending on the last day of the month before the date of redemption.

"(3) With the approval of the President, the Secretary may prescribe regulations providing that—

"(A) owners of series E and H savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection; and

"(B) series E and H savings bonds earning a different rate of interest before the regulations are prescribed shall earn a rate of interest consistent with paragraph (1).".

(7) Section 3105(c)(5) is amended by striking out "(expressed in terms of the maturity value)".

(8) Section 3106(b) is amended by striking out the first sentence.

(9) Section 3121 is amended by adding at the end the following:

"(g)(1) In this subsection, 'registration-required obligation' means an obligation except an obligation—

"(A) not of a type offered to the public;

"(B) having a maturity (at issue) of not more than one year; or

"(C) described in paragraph (2) of this subsection.

"(2) An obligation is not a registration-required obligation if—

"(A) there are arrangements reasonably designed to ensure that the obligation will be sold (or resold in connection with the original issue) only to a person that is not a United States person; and

"(B) for an obligation not in registered form—

"(i) interest on the obligation is payable only outside the United States and its territories and possessions; and

"(ii) a statement is on the face of the obligation that a United States person holding the obligation is subject to limitations under the United States income tax laws.

"(3) Every registration-required obligation of the Government shall be in registered form. A book entry obligation is deemed to be in registered form if the right to principal and stated interest on the obligation may be transferred only through a book entry consistent with regulations of the Secretary.

"(4) The Secretary shall prescribe regulations necessary to carry out this subsection when there is a nominee.".

(10) Section 3302(b) is amended by striking out "An" and substituting "Except as provided in section 3718(b) of this title, an".

(11) Section 3331 is amended by adding at the end the following:

"(f) Under conditions the Secretary may prescribe, the Secretary may delegate duties and powers of the Secretary under this section to the head of an agency. Consistent with a delegation from the Secretary under this subsection, the head of an agency may delegate those duties and powers to an officer or employee of the agency.".

(12) Section 3512 is amended by redesignating subsections (b)-(d) as subsections (d)-(f), respectively, and by inserting the following immediately below subsection (a):

"(b)(1) To ensure compliance with subsection (a)(3) of this section and consistent with standards the Comptroller General prescribes, the head of each executive agency shall establish internal accounting

and administrative controls that reasonably ensure that—

"(A) obligations and costs comply with applicable law;

"(B) all assets are safeguarded against waste, loss, unauthorized use, and misappropriation; and

"(C) revenues and expenditures applicable to agency operations are recorded and accounted for properly so that accounts and reliable financial and statistical reports may be prepared and accountability of the assets may be maintained.

"(2) Standards the Comptroller General prescribes under this subsection shall include standards to ensure the prompt resolution of all audit findings.

"(c)(1) In consultation with the Comptroller General, the Director of the Office of Management and Budget—

"(A) shall establish by December 31, 1982, guidelines that the head of each executive agency shall follow in evaluating the internal accounting and administrative control systems of the agency to decide whether the systems comply with subsection (b) of this section; and

"(B) may change a guideline when considered necessary.

"(2) By December 31 of each year (beginning in 1983), the head of each executive agency, based on an evaluation conducted according to guidelines prescribed under paragraph (1) of this subsection, shall prepare a statement on whether the systems of the agency comply with subsection (b) of this section, including—

"(A) if the head of an executive agency decides the systems do not comply with subsection (b) of this section, a report identifying any material weakness in the systems and describing the plans and schedule for correcting the weakness; and

"(B) a separate report on whether the accounting system of the agency conforms to the principles, standards, and requirements the Comptroller General prescribes under section 3511(a) of this title.

"(3) The head of each executive agency shall sign the statement and reports required by this subsection and submit them to the President and Congress. The statement and reports are available to the public, except that information shall be deleted from a statement or report before it is made available if the information specifically is—

"(A) prohibited from disclosure by law; or

"(B) required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.".

(13)(A) Section 3701 is amended to read as follows:

"§ 3701. Definitions and application

"(a) In this chapter—

"(1) 'administrative offset' means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government;

"(2) 'calendar quarter' means a 3-month period beginning on January 1, April 1, July 1, or October 1;

"(3) 'consumer reporting agency' means—

"(A) a consumer reporting agency as that term is defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

"(B) a person that, for money or on a cooperative basis, regularly—

"(i) gets information on consumers to give the information to a consumer reporting agency; or

"(ii) serves as a marketing agent under an arrangement allowing a third party to get the information from a consumer reporting agency.

"(4) 'executive or legislative agency' means a department, agency, or instrumentality in the executive or legislative branch of the Government;

"(5) 'military department' means the Departments of the Army, Navy, and Air Force;

"(6) 'system of records' has the same meaning given that term in section 552a(a)(5) of title 5;

"(7) 'uniformed services' means the Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Corps of the National Oceanic and Atmospheric Administration, and Commissioned Corps of the Public Health Service.

"(b) In subchapter II of this chapter, 'claim' includes amounts owing on account of loans insured or guaranteed by the Government and other amounts due the Government.

"(c) In sections 3716 and 3717 of this title, 'person' does not include an agency of the United States Government, of a State government, or of a unit of general local government.

"(d) Sections 3711(f) and 3716-3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.), the Social Security Act (42 U.S.C. 301 et seq.), or the tariff laws of the United States.".

(B) Item 3701 in the analysis of chapter 37 is amended to read as follows:

"3701. Definitions and application.".

(14) Section 3702(b)(2) is amended by inserting "this" before "subsection".

(15) Section 3711 is amended by adding at the end the following:

"(f)(1) When trying to collect a claim of the Government under a law except the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.), the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if—

"(A) notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency;

"(B) the head of the agency has reviewed the claim and decided that the claim is valid and overdue;

"(C) the head of the agency has notified the individual in writing—

"(i) that payment of the claim is overdue;

"(ii) that, within not less than 60 days after sending the notice, the head of the agency intends to disclose to a consumer reporting agency that the individual is responsible for the claim;

"(iii) of the specific information to be disclosed to the consumer reporting agency; and

"(iv) of the rights the individual has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative repeal or review of the claim;

"(D) the individual has not—

"(i) repaid or agreed to repay the claim under a written repayment plan that the individual has signed and the head of the agency has agreed to; or

"(ii) filed for review of the claim under paragraph (2) of this subsection;

"(E) the head of the agency has established procedures to—

"(i) disclose promptly, to each consumer reporting agency to which the original disclosure was made, a substantial change in the condition or amount of the claim;

"(ii) verify or correct promptly information about the claim on request of a consumer reporting agency for verification of information disclosed; and

"(iii) get satisfactory assurances from each consumer reporting agency that the agency is complying with all laws of the United States related to providing consumer credit information; and

"(F) the information disclosed to the consumer reporting agency is limited to—

"(i) information necessary to establish the identity of the individual, including name, address, and taxpayer identification number;

"(ii) the amount, status, and history of the claim; and

"(iii) the agency or program under which the claim arose.

"(2) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection and at other times allowed by law, the head of an executive or legislative agency shall provide, on request of an individual alleged by the agency to be responsible for the claim, for a review of the obligation of the individual, including an opportunity for reconsideration of the initial decision on the claim.

"(3) Before disclosing information to a consumer reporting agency under paragraph (1) of this subsection, the head of an executive or legislative agency shall take reasonable action to locate an individual for whom the head of the agency does not have a current address to send the notice under paragraph (1)(C).".

(16)(A) Subchapter II of chapter 37 is amended by adding at the end the following:

"§ 3716. Administrative offset

"(a) After trying to collect a claim from a person under section 3711(a) of this title, the head of an executive or legislative agency may collect the claim by administrative offset. The head of the agency may collect by administrative offset only after giving the debtor—

"(1) written notice of the type and amount of the claim, the intention of the head of the agency to collect the claim by administrative offset, and an explanation of the rights of the debtor under this section;

"(2) an opportunity to inspect and copy the records of the agency related to the claim;

"(3) an opportunity for a review within the agency of the decision of the agency related to the claim; and

"(4) an opportunity to make a written agreement with the head of the agency to repay the amount of the claim.

"(b) Before collecting a claim by administrative offset under subsection (a) of this section, the head of an executive or legislative agency must prescribe regulations on collecting by administrative offset based on—

"(1) the best interests of the United States Government;

"(2) the likelihood of collecting a claim by administrative offset; and

"(3) for collecting a claim by administrative offset after the 6-year period for bringing a civil action on a claim under section 2415 of title 28 has expired, the cost effectiveness of leaving a claim unresolved for more than 6 years.

"(c) This section does not apply—

"(1) to a claim under this subchapter that has been outstanding for more than 10 years; or

"(2) when a statute explicitly provides for or prohibits using administrative offset to collect the claim or type of claim involved.

"§ 3717. Interest and penalty on claims

"(a)(1) The head of an executive or legislative agency shall charge a minimum annual rate of interest on an outstanding debt on a United States Government claim owed by a person that is equal to the average investment rate for the Treasury tax and loan accounts for the 12-month period ending on September 30 of each year, rounded to the nearest whole percentage point. The Secretary of the Treasury shall publish the rate before November 1 of that year. The rate is effective on the first day of the next calendar quarter.

"(2) The Secretary may change the rate of interest for a calendar quarter if the average investment rate for the 12-month period ending at the close of the prior calendar quarter, rounded to the nearest whole percentage point, is more or less than the existing published rate by 2 percentage points.

"(b) Interest under subsection (a) of this section accrues from the date—

"(1) on which notice is mailed after October 25, 1982, if notice was first mailed before October 25, 1982; or

"(2) notice of the amount due is first mailed to the debtor at the most current address of the debtor available to the head of the executive or legislative agency, if notice is first mailed after October 24, 1982.

"(c) The rate of interest charged under subsection (a) of this section—

"(1) is the rate in effect on the date from which interest begins to accrue under subsection (b) of this section; and

"(2) remains fixed at that rate for the duration of the indebtedness.

"(d) Interest under subsection (a) of this section may not be charged if the amount due on the claim is paid within 30 days after the date from which interest accrues under subsection (b) of this section. The head of an executive or legislative agency may extend the 30-day period.

"(e) The head of an executive or legislative agency shall assess on a claim owed by a person—

"(1) a charge to cover the cost of processing and handling a delinquent claim; and

"(2) a penalty charge of not more than 6 percent a year for failure to pay a part of a debt more than 90 days past due.

"(f) Interest under subsection (a) of this section does not accrue on a charge assessed under subsection (e) of this section.

"(g) This section does not apply—

"(1) if a statute, regulation required by statute, loan agreement, or contract prohibits charging interest or assessing charges or explicitly fixes the interest or charges; and

"(2) to a claim under a contract executed before October 25, 1982, that is in effect on October 25, 1982.

"(h) In conformity with standards prescribed jointly by the Attorney General and the Comptroller General, the head of an executive or legislative agency may prescribe regulations identifying circumstances appropriate to waiving collection of interest and charges under subsections (a) and (e) of this section. A waiver under the regulations is deemed to be compliance with this section.

"§ 3718. Contracts for collection services

"(a) Under conditions the head of an executive or legislative agency considers appropriate, the head of the agency may make a contract with a person for collection services to recover indebtedness owed the United States Government. The contract shall provide that—

"(1) the head of the agency retains the authority to resolve a dispute, compromise a claim, end collection action, and refer a matter to the Attorney General to bring a civil action; and

"(2) the person is subject to—

"(A) section 552a of title 5, to the extent provided in section 552a(m); and

"(B) laws and regulations of the United States Government and State governments related to debt collection practices.

"(b) Notwithstanding section 3302(b) of this title, a contract under subsection (a) of this section may provide that a fee a person charges to recover indebtedness owed the United States Government is payable from the amount recovered.

"(c) A contract under subsection (a) of this section is effective only to the extent and in the amount provided in an appropriation law.

"(d) This section does not apply to the collection of debts under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

"§ 3719. Reports on debt collection activities

"(a) In consultation with the Secretary of the Treasury and the Comptroller General, the Director of the Office of Management and Budget shall prescribe regulations requiring the head of each agency with outstanding debts to prepare and submit to the Director and the Secretary at least once each year a report summarizing the status of loans and accounts receivable managed by the head of the agency. The report shall contain—

"(1) information on—

"(A) the total amount of loans and accounts receivable owed the agency and when amounts owed the agency are due to be repaid;

"(B) the total amount of receivables and number of claims at least 30 days past due;

"(C) the total amount written off as actually uncollectible and the total amount allowed for uncollectible loans and accounts receivable;

"(D) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

"(E) the total number of claims and the total amount collected; and

"(F) the number and total amount of claims referred to the Attorney General for settlement and the number and total amount of claims the Attorney General settles;

"(2) the information described in clause (1) of this subsection for each program or activity the head of the agency carries out; and

"(3) other information the Director considers necessary to decide whether the head of the agency is acting aggressively to collect the claims of the agency.

"(b) The Director shall analyze the reports submitted under subsection (a) of this section and shall report annually to Congress on the management of debt collection activities by the head of each agency, including the information provided the Director under subsection (a).".

(B) The analysis of subchapter II of chapter 37 is amended by adding at the end the following:

"3716. Administrative offset.
"3717. Interest and penalty on claims.
"3718. Contracts for collection services.
"3719. Reports on debt collection activities.".

(17) Section 3721(b) is amended by striking out "$15,000" and substituting "$25,000".

(18)(A) Subtitle III is amended by adding at the end the following:

"CHAPTER 39—PROMPT PAYMENT

"Sec.
"3901. Definitions and application.
"3902. Interest penalties.
"3903. Regulations.
"3904. Limitations on discount payments.
"3905. Reports.
"3906. Relationship to other laws.

"§ 3901. Definitions and application

"(a) In this chapter—

"(1) 'agency' has the same meaning given that term in section 551(1) of title 5 and includes an entity being operated, and the head of the agency identifies the entity as being operated, only as an instrumentality of the agency to carry out a program of the agency.

"(2) 'business concern' means—

"(A) a person carrying on a trade or business; and

"(B) a nonprofit entity operating as a contractor.

"(3) 'proper invoice' is an invoice containing or accompanied by substantiating documentation the Director of the Office of Management and Budget may require by regulation and the head of the appropriate agency may require by regulation or contract.

"(4) the head of an agency is deemed to receive an invoice on the later of the dates that—

"(A) the designated payment office or finance center of the agency actually receives a proper invoice; or

"(B) the head of the agency accepts the applicable property or service.

"(5) a payment is deemed to be made on the date a check for the payment is dated.

"(6) a contract to rent property is deemed to be a contract to acquire the property.

"(b) This chapter applies to the Tennessee Valley Authority. However, regulations prescribed under this chapter do not apply to the Authority, and the Authority alone is responsible for carrying out this chapter as it applies to contracts of the Authority.

"§ 3902. Interest penalties

"(a) Under regulations prescribed under section 3903 of this title, the head of an agency acquiring property or service from a business concern, who does not pay the concern for each complete delivered item of property or service by the required payment date, shall pay an interest penalty to the concern on the amount of the payment due. The interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611). The Secretary shall publish each rate in the Federal Register.

"(b) Except as provided in section 3906 of this title, the interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made. However, a penalty may not be paid if payment for the item is made—

"(1) when the item is a meat or meat food product described in section 3903(2)(A) of this title, before the 4th day after the required payment date;

"(2) when the item is an agricultural commodity described in section 3903(2)(B) of this title, before the 6th day after the required payment date; or

"(3) when the item is not an item referred to in clauses (1) and (2) of this subsection,

before the 16th day after the required payment date.

"(c) An amount of an interest penalty unpaid after any 30-day period shall be added to the principal amount of the debt, and a penalty accrues thereafter on the added amount.

"(d) This section does not authorize the appropriation of additonal amounts to pay an interest penalty. The head of an agency shall pay a penalty under this section out of amounts made available to carry out the program for which the penalty is incurred.

"(e) A recipient of a grant from the head of an agency may provide in a contract for the acquisition of property or service from a business concern that, consistent with the usual business practices of the recipient and applicable State and local law, the recipient will pay an interest penalty on amounts overdue under the contract under conditions agreed to by the recipient and the concern. The recipient may not pay the penalty from amounts received from an agency. Amounts expended for the penalty may not be counted toward a matching requirement applicable to the grant. An obligation to pay the penalty is not an obligation of the United States Government.

"§ 3903. Regulations

"The Director of the Office of Management and Budget shall prescribe regulations to carry out section 3902 of this title. The regulations shall—

"(1) provide that the required payment date is—

"(A) the date payment is due under the contract for the item of property or service provided; or

"(B) 30 days after a proper invoice for the amount due is received if a specific payment date is not established by contract;

"(2) for the acquisition of meat or a meat food product (as defined in section 2(a)(3) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(3))), provide a required payment date of not later than 7 days after the meat or meat food product is delivered; and

"(3) for the acquisition of a perishable agricultural commodity (as defined in section 1(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(4))), provide a required payment date consistent with that Act;

"(4) provide separate required payment dates for a contract under which property or service is provided in a series of partial executions or deliveries to the extent the contract provides for separate payments for partial execution or delivery; and

"(5) require that, within 15 days after an invoice is received, the head of an agency notify the business concern of a defect or impropriety in the invoice that would prevent the running of the time period specified in clause (1)(B) of this section.

"§ 3904. Limitations on discount payments

"The head of an agency offered a discount by a business concern from an amount due under a contract for property or service in exchange for payment within a specified time may pay the discounted amount only if payment is made within the specified time. The head of the agency shall pay an interest penalty on an amount remaining unpaid in violation of this section. The penalty accrues as provided under sections 3902 and 3903 of this title, except that the required payment date for the unpaid amount is the last day specified in the contract that the discounted amount may be paid.

"§ 3905. Reports

"(a) By the 60th day after the end of each fiscal year, the head of each agency shall submit to the Director of the Office of Management and Budget a report on interest penalty payments made under this chapter during that fiscal year. The report shall include the number, amounts, and frequency of the payments and the reasons the payments were not avoided by prompt payment.

"(b) By the 120th day after the end of each fiscal year, the Director shall submit to the Committees on Governmental Affairs, Appropriations, and Small Business of the Senate and the Committees on Government Operations, Appropriations, and Small Business of the House of Representatives a report on agency compliance with this chapter. The report shall include a summary of the report of each agency submitted under subsection (a) of this section and an analysis of progress made in reducing interest penalty payments by that agency from prior years.

"§ 3906. Relationship to other laws

"(a) A claim for an interest penalty not paid under this chapter may be filed under section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605).

"(b)(1) An interest penalty under this chapter does not continue to accrue—

"(A) after a claim for a penalty is filed under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.); or

"(B) for more than one year.

"(2) Paragraph (1) of this subsection does not prevent an interest penalty from accruing under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) after a penalty stops accruing under this chapter. A penalty accruing under section 12 may accrue on an unpaid contract payment and on the unpaid penalty under this chapter.

"(c) Except as provided in section 3904 of this title, this chapter does not require an interest penalty on a payment that is not made because of a dispute between the head of an agency and a business concern over the amount of payment or compliance with the contract. A claim related to the dispute, and interest payable for the period during which the dispute is being resolved, is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).".

(B) The analysis of subtitle III is amended by inserting the following immediately below item 37:

"39. PROMPT PAYMENT ..... 3901".

(19) Section 5103 is amended by inserting ", public charges, taxes, and dues" after "debts" the first time it appears.

(20) Section 5112(f)(1) is amended—

(A) by inserting in the matter before clause (A), a comma after "10,000,000)"; and

(B) by striking out of clause (C) "two hundred and fiftieth" and substituting "250th".

(21) Section 5132(a)(2) is amended by striking out "$54,706,000" and "1982" and substituting "$50,165,000" and "1983", respectively.

(22) Section 5154 is amended by striking out "United States coins and currency circulating within its jurisdiction" and substituting "other forms of money".

(23)(A) Chapter 61 is amended by inserting after section 6102 the following:

"§ 6102a. Assistance awards information system

"(a) The Director of the Office of Management and Budget shall—

"(1) maintain the United States Government assistance awards information system established as a result of the study conducted under section 9 of the Federal Program Information Act; and

"(2) update the system on a quarterly basis.

"(b) To carry out subsection (a) of this section, the Director—

"(1) may delegate the responsibility for carrying out subsection (a) of this section to the head of another executive agency;

"(2) shall review a report the head of an agency submits to the Director on the method of carrying out subsection (a) of this section; and

"(3) may validate, by appropriate means, the method by which an agency prepares the report.".

(B) The analysis of chapter 61 is amended by inserting immediately below item 6102 the following:

"6102a. Assistance awards information system.".

(24) Section 6501(1)(B) is amended by striking out "the law of".

(25) Section 6709(a) is amended by adding at the end the following:

"(5) For quarterly payments made for quarters beginning after December 31, 1982, the New Jersey Franchise and Gross Receipts Taxes (N.J. Rev. Stat. 54:30A-18.1) transferred to a unit of general local government in New Jersey in each of the years beginning January 1, 1980, January 1, 1981, and January 1, 1982, are deemed to be an adjusted tax of the unit under paragraph (2) of this subsection.".

(26) Section 9101 is amended by striking out "(K) the National Consumer Cooperative Bank.".

(27) Sections 9107(c)(3) and 9108(d)(2) are each amended by striking out "the National Consumer Cooperative Bank,".

CONFORMING AND TECHNICAL PROVISIONS

SEC. 2. (a) Title 5, United States Code, is amended as follows:

(1) In section 552a(b) and (m), strike out "section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d))" and substitute "section 3711(f) of title 31".

(2) In section 5514(a)(3), strike out "the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.)" and substitute "sections 3711 and 3716-3718 of title 31".

(b) Section 1114 of title 18 is amended by striking out "the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.)" and substituting "sections 3711 and 3716-3718 of title 31".

(c) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

(1) Sections 405(b)(1) and 409(a) are each amended by striking out "the Second Liberty Bond Act, as amended" and "Act" and substituting "chapter 31 of title 31" and "chapter", respectively.

(2) Section 454(c)(2) is amended by striking out "the Second Liberty Bond Act" and substituting "chapter 31 of title 31".

(3) Section 1037(a) is amended by striking out "the Second Liberty Bond Act" and "Act" and substituting "chapter 31 of title 31" and "chapter", respectively.

(4) Section 6103(m)(2) is amended by striking out "section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952)" wherever appearing and substituting "sections 3711, 3717, and 3718 of title 31".

(d) Title 28, United States Code, is amended as follows:

(1) Section 1961(b) is amended by striking out "section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a)" and substituting "section 1304(b) of title 31".

(2) Section 2415 of title 28 is amended by striking out "section 5 of the Federal Claims Collection Act of 1966" and substituting "section 3716 of title 31".

(e) Title 38, United States Code, is amended as follows:

(1) Section 210(b)(2)(A) is amended by striking out "section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a))" and substituting "section 1105 of title 31".

(2) Section 1823(c) is amended by striking out "the Second Liberty Bond Act" wherever appearing and substituting "chapter 31 of title 31".

(3) Section 4207 is amended by striking out "section 3523 of title 31" and substituting "chapter 35 of title 31".

(4) Sections 5010(a)(1) and 5011(f) are each amended by striking out "section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a))" and substituting "section 1105 of title 31".

(f) Section 2007 of title 39, United States Code, is amended by striking out "the Second Liberty Bond Act" wherever appearing and substituting "chapter 31 of title 31".

(g) The amendment made by section 1(17) of this Act applies only to claims arising after July 27, 1982.

(h) The amendment made by section 1(25) of this Act is effective after December 31, 1982, only if the Governor of New Jersey notifies the Secretary of the Treasury that, before January 1, 1983, the State amended the New Jersey Franchise and Gross Receipts Taxes statute to provide for the collection and retention of those taxes by units of general local government for years beginning as of January 1, 1983.

(i) The amendments made by section 1(11), (14), (19), (22), (24), (26), and (27) are effective as of September 13, 1982.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 3. (a) Sections 1 and 2 of this Act restate, without substantive change, laws enacted before December 1, 1982, that were replaced by those sections. Sections 1 and 2 may not be construed as making a substantive change in the laws replaced. Laws enacted after November 30, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1 and 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1 and 2 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1 and 2 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United State Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

SEC. 4. (a) The repeal of a law enacted by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

SCHEDULE OF LAWS REGULATED—STATUTES AT LARGE

Date	Chapter or public law	Section	Statutes at large Volume	Page
1902:				
June 28	1302	8	32	484
1917:				
Sept. 24	56	28		
1921:				
June 10	18	201(k)		
1922:				
Mar. 20	104	1(par. under heading "General Accounting Office.").	42	444
1950:				
Sept. 12	946	113(b)(last sentence), (d).		
1966:				
July 19	89-508	3(d)-(g), 5		
1972:				
Oct. 20	92-512	109(e)(3)		
1982:				
May 21	97-177		96	85
July 28	97-226		96	245
Sept. 3	97-248	287, 289(a), (c), 310(a).	96	570, 571, 572, 595
Sept. 8	97-253	202	96	790
	97-255		96	814
Oct. 15	97-326	8	96	1609
Oct. 25	97-365	3, 10-13	96	1749, 1754

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HUGHES) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. McCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7378 incorporates in title 31 of the United States Code laws that became effective after April 15, 1982. That date was the cutoff for inclusion of a law in the original codification of title 31 that was enacted into positive law by Public Law 97-258. Because title 31 is now law—rather than merely prima facie evidence of the law—it can be changed only by direct amendment. The bill also contains several technical amendments to clarify certain sections enacted in the original codification.

The bill was prepared for the House Judiciary Committee by the Office of the Law Revision Counsel under its authority under section 285b of title 2, United States Code, as part of the program of the Office to prepare and submit to the House Judiciary Committee, for enactment into positive law, all titles of the United States Code.

Mr. Speaker, I include a detailed explanation of H.R. 7378 at this point in the RECORD:

DETAILED EXPLANATION OF H.R. 7378—REVISION OF TITLE 31, UNITED STATES CODE, "MONEY AND FINANCE"

Purpose.—The purpose of the bill is to codify without substantive change recent laws related to money and finance and to improve the United States Code. Specifically, the bill will amend primarily title 31, United States Code, which has been enacted into positive law, to reflect changes in that title by laws that did not specifically amend that title. In the restatement, simple language has been substituted for awkward and obsolete terms, and superseded, executed, and obsolete statutes have been eliminated. This bill is a part of the program of the Office of the Law Revision Counsel of the House of Representatives to prepare and submit to this Committee, for enactment into positive law, all titles of the United States Code.

Background.—This bill is the second phase in the codification of title 31. The first phase was completed on September 13, 1982, with the enactment of title 31, United States Code, "Money and Finance", by Public Law 97-258. Other laws have been enacted that did not specifically amend that title. This bill codifies those recently enacted laws.

Revision notes.—A revision note has been prepared for each section of the bill. The revision notes explain the changes made in the source laws. Each note identifies the statutory basis or source of the section and explains significant changes in, and omissions of, language. When practical, word-for-word substitutions of language are identified and explained. Standard changes made throughout the revision to achieve internal consistency are not explained each time they are made.

Standard changes.—Certain standard changes are made uniformly throughout the revised title 31. The most significant of the other standard changes are explained in the following paragraphs:

As far as possible, the statute is stated in the present tense and in the active voice. When there is a choice of 2 or more words, otherwise of equal legal effect, the more commonly understood word is used.

The word "shall" is used in the mandatory and imperative sense. The word "may" is used in the permissive and discretionary sense, as "is permitted to" and "is authorized to". The words "may not" are used in a prohibitory sense, as "is not authorized to" and "is not permitted to". The words "person may not" mean that no person is required, authorized, or permitted to do the act.

The words "duties and powers" are substituted for "powers, duties, and functions" and any variation of that phrase. The word "duties" includes that which a person is required to do. The word "powers" includes that which a person is required to do.

The words "any part of" means "all or part of" and "in whole or in part". The word "includes" means "includes but is not limited to". The word "considered" denotes the exercise of judgment. The word "deemed" is used where a legal fiction, or what may in some cases be a legal fiction, is intended. The word "is" is used for statements of fact.

When a right is conferred, the words "is entitled" or their equivalent are used.

The first time a descriptive title is used in a section, the full title is used. Thereafter,

in the same section, a shorter title is used unless the context requires the full title to be used. For example, "Secretary of Treasury" is used the first time the title appears in a section. Subsequently, in the same section, the title "Secretary" is used.

"United States Government" is substituted for "United States" (when used in referring to the Government), "Federal Government", and other terms identifying the Government the first time the reference appears in a section. Thereafter, in the same section, "Government" is used unless the context requires the complete term to be used to avoid confusion with other governments.

The word "law" is substituted for "Act" and "joint resolution" for clarity because the word "law" includes Acts and joint resolutions.

The word "record" includes all terms previously used for records, documents, accounts, reports, files, memoranda, papers, things, and other similar items.

The words "under section ———" are used instead of "pursuant to section ———" and "in accordance with section ———".

The word "such" is not used as a demonstrative adjective. The use of the word "each", "any", "every", or "all" is confined to instances in which it is feared that doubt would arise if the word were not used.

Provisos are not used. An exception or limitation is introduced by the words "except that" or "but" or by placing the excepting or limiting provision in a separate sentence.

Substantive change not made.—Like other codifications undertaken to enact into positive law all titles of the United States Code, this bill makes no substantive change in the law. It is sometimes feared that mere changes in terminology and style will result in changes in substance or impair the precedent value of earlier judicial decisions and other interpretations. This fear might have some weight if this were the usual kind of amendatory legislation where it can be inferred that a change of language is intended to change substance. In a codification statute, however, the courts uphold the contrary presumption: the statute is intended to remain substantively unchanged. The following authorities affirm this principle:

Steward v. *Kahn* (11 Wall. 493, 502 (1871)).

Smythe v. *Fiske* (28 Wall. 374, 382 (1874)).

McDonald v. *Hovey* (110 U.S. 619, 628 (1884)).

United States v. *Ryder* (110 U.S. 729, 740 (1884)).

United States v. *Sischo* (262 U.S. 165, 168 (1923)).

Fourco Glass Co. v. *Transmirra Products Corp.* (353 U.S. 222, 227 (1957)).

Trailer Marine Transport Corp. v. *Federal Maritime Commission* (D.C. Cir., 602 F. 2d 379, 383 (1979)).

Atchison, Topeka and Santa Fe Railway Co. v. *United States* (7th Cir. 617 F. 2d 485, 490, 491 (1980)).

Walsh v. *Commonwealth* (224 Mass. 239, 112 N.E. 486, 487 (1916)).

State ex rel. Rankin v. *Wilbaux County Bank* (85 Mont. 532, 281 Pac. 341, 344 (1929)).

In re Sullivan's Estate (38 Ariz. 387, 300 Pac. 193, 195 (1931)).

Sigal v. *Wise* (114 Conn. 297, 158 Atl. 891, 894 (1932)).

Martin v. *Dyer-Kane Co.* (113 N.J. Eq. 88, 166 Atl. 227, 229 (1933)).

Norfolk & Portsmouth Bar Ass'n. v. *Drewry* (161 Va. 833, 172 S.E. 282, 285 (1934)).

Sutherland, Statutory Construction (4th ed., Sands, 1972), secs. 28.10, 28.11.

Tables.—Tables are provided at the end of this statement to show the disposition of laws affected by this codification.

SECTION-BY-SECTION SUMMARY

SECTION 1—EXPLANATION OF AMENDMENTS TO TITLE 31

Section 1 of the bill amends various sections of title 31, United States Code. A revision note for each paragraph of section 1 of the bill has been prepared to explain the amendments made by that paragraph.

SECTION 1(1)

Revised section	United States Code	Statutes at Large
504	No source	

The section is included to provide in subchapter I of chapter 5 of title 31 a complete list of the organizational units established by law that are in the Office of Management and Budget or are subject to the direction and supervision of the Director of the Office of Management and Budget.

SECTION 1(2): SECTION 1105

Revised section	United States Code	Statutes at large
1105(a)(25)	31 App.:11(k)(1)	June 10, 1921, ch. 18, 42 Stat. 20, § 201(k)(1); added Sept. 8, 1982, Pub. L. 97-255, § 3, 96 Stat. 815.

The words "The President shall include in the supporting detail accompanying each Budget" are omitted as being included in the introductory provisions of 31:1105(a). The words "submitted on or after January 1, 1983" are omitted as executed. The words "by the President" and "if any" are omitted as surplus.

SECTION 1(3): SECTION 1113

Revised section	United States Code	Statutes at Large
1113(a)(2)	31 App.:11(k)(2)	June 10, 1921, ch. 18, 42 Stat. 20, § 201(k)(2); added Sept. 8, 1982, Pub. L. 97-255, § 3, 96 Stat. 815.

SECTION 1(4)

This amends 31:1305(6) to conform to the Smithsonian Institution charter as amended by section 1 of the Act of June 22, 1982 (Pub. L. 97-199, 96 Stat. 121).

SECTION 1(5): SECTION 3102

Revised section	United States Code	Statutes at Large
3102(a)	31 App.:752 (2d par. less form of bonds).	Sept. 3, 1982, Pub. L. 97-248, § 289(c), 96 Stat. 572.

SECTION 1(6): SECTION 3105

Revised section	United States Code	Statutes at Large
3105(b)(1)	31 App.:757c(b)(1) (2d sentence).	Sept. 3, 1982, Pub. L. 97-248, § 289(a)(1)(A), (B), (D), 96 Stat. 571.
3105(b)(2)	31 App.:757c(b)(3)	
3105(b)(3)	31 App.:757c(b)(2)	

In subsection (b)(1), before clause (A), the words "and except as provided in paragraph (2) of this subsection" are added for clarity. In clause (B), the word "change" is substituted for "provide for increases and decreases in" to eliminate unnecessary words. The word "investment" is omitted the 2d time it appears as surplus.

SECTION 1(7): SECTION 3105

Revised section	United States Code	Statutes at Large
3105(c)	31 App.:757c(b)(1) (3d sentence).	Sept. 3, 1982, Pub. L. 97-248, § 289(a)(1)(C), 96 Stat. 571.

SECTION 1(8): SECTION 3106

Revised section	United States Code	Statutes at Large
3106(b)	31 App.:757c-2(b)(1) (2d sentence).	Sept. 3, 1982, Pub. L. 97-248, § 289(a)(2), 96 Stat. 571.

SECTION 1(9): SECTION 3121

Revised section	United States Code	Statutes at Large
3121(g)	31 App.:757c-5	Sept. 24, 1917, ch. 56, 40 Stat. 288, § 28; added Sept. 3, 1982, Pub. L. 97-248, § 310(a), 96 Stat. 595.

In subsection (g)(1), before clause (A), the words "Except as provided in paragraph (2)" and "(2) The term 'registration-required obligation' shall not include any obligation if" are omitted because of the restatement. Clause (C) is added for clarity.

In subsection (g)(2)(B)(i), the words "territories and" are added for consistency in the revised title and with other titles of the United States Code.

In subsection (g)(3), the words "(or of any agency or instrumentality thereof)" are omitted as included in "Government". The words "For purposes of subsection (a)" are omitted as surplus. The words "is deemed to be" are substituted for "shall be treated as" for consistency in the revised title and with other titles of the code.

In subsection (g)(4), the words "or chain of nominees" are omitted as included in "nominee" and because of 1:1.

SECTION 1(10): SECTION 3302

Revised section	United States Code	Statutes at Large
3302(b)	31 App.:484	Oct. 25, 1982, Pub. L. 97-365, § 13(a), 96 Stat. 1757.

The reference to "952(g)(2)" in 31 App.:484 is incorrect and should be "952(f)(2)".

SECTION 1(11)

This restates, as 31:3331(f), section 3646(h) of the Revised Statutes that was inadvertently omitted from the codification of title 31 by the Act of Sept. 13, 1982 (Pub. L. 97-258, 96 Stat. 1084). It provides authority for the Secretary of the Treasury to delegate duties and powers related to issuing substitute checks to heads of other agencies.

The words "terms and" are omitted as surplus. The words "duties and powers" are substituted for "power, authority, or discretion" for consistency in the revised title and with other titles of the United States Code. The words "in whole or in part" are omitted as surplus. The words "to such individuals

as he may designate within the Treasury Department" are omitted because of 31:321(b)(2). The word "agency" is coextensive with and substitued for "other department or agency of the Government or of any Federal Reserve bank" because of 31:101. The words "terms and conditions" are omitted as surplus.

SECTION 1(12): SECTION 3512

Revised section	United States Code	Statutes at Large
3512(b)	31 App.:66a(d)(1)	Sept. 12, 1950, ch. 946, 64 Stat. 832, § 113(d); added Sept. 8, 1982, Pub. L. 97-255, § 2, 96 Stat. 814.
3512(c)(1)	31 App.:66a(d)(2)	Sept. 12, 1950, ch. 946, 64 Stat. 832, § 113(b)(last sentence); added Sept. 8, 1982, Pub. L. 97-255, § 4, 96 Stat. 815.
3512(c)(2)(A)	31 App.:66a(d) (3), (4)	
3512(c)(2)(B)	31 App.:66a(b) (last sentence).	
3512(c)(3)	31 App.:66a(d)(5)	

In subsections (b)(1) and (c)(1)(A), the words "the requirements of" are omitted as surplus.

In subsection (b)(1), before clause (A), the words "the head of" are added for consistency in the revised title and with other titles of the United States Code. The word "provide" is omitted as surplus. In clause (B), the word "all" is substituted for "funds, property, and other" to eliminate unnecessary words.

In subsection (c)(1)(A), the words "the head of each executive agency shall follow" are substituted for "agencies" for clarity and consistency in the revised title and with other titles of the Code.

In subsection (c)(2), before clause (A), the words "beginning in" are substituted for "succeeding" because of the restatement. The words "on whether the systems of the agency comply with subsection (b) of this section" are substituted for 31 App.: 66a(d)(3)(A) to eliminate unnecessary words. In clause (B), the word "related" is omitted as surplus.

In subsection (c)(3)(A), the words "provision of" are omitted as surplus.

SECTION 1(13): SECTION 3701

Revised section	United States Code	Statutes at Large
3701(a)(1)	31 App.:954(e)(1)	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, § 5(e); added Oct. 25, 1982, Pub. L. 97-365, § 10(2), 96 Stat. 1755.
3701(a)(2)	31 App.:952(e)(1) (last sentence).	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, § 3(e)(1) (last sentence), (8); added Oct. 25, 1982, Pub. L. 97-365, § 11, 96 Stat. 1755, 1756.
3701(a)(3)	31 App.:952(d)(4)(A)	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, § 3(d)(4); added Oct. 25, 1982, Pub. L. 97-365, § 3, 96 Stat. 1750.
3701(a) (4), (5)	31: 3701 (1), (2)	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, § 3(g); added Oct. 25, 1982, Pub. L. 97-365, § 13, 96 Stat. 1758.
3701(a)(6)	31 App.:952(d)(4) (B), (C).	
3701(a)(7)	31:370(3)	
3701(b)	31 App.:952(g)	
3701(c)	31 App.: 952(e)(8); 31 App.:954(e)(2).	Oct. 25, 1982, Pub. L. 97-365, § 8(e) (related to §§ 3, 10(2)-12, 13(b)), 96 Stat. 1754.
3701(d)	31 App.:954 (note) (related to 31 App.:952(d)-(f), 954, 955).	

In subsections (a)(1), (b), and (c), the word "Government" is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(3)(B), before clause (i), the word "money" is substituted for "monetary fees, dues" to eliminate unnecessary words. The words "engaged in whole or in part in the practice of" are omitted as surplus. In clause (i), the words "credit or other" and "(as defined in clause (i) of this subparagraph)" are omitted as surplus.

In subsection (a)(6), 31 App.:952(d)(4)(C) is omitted as unnecessary.

In subsection (b), the words "all . . . from fees, duties, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages, interest, taxes, forfeitures, and other sources" are omitted as surplus.

In subsection (c), the words "unit of general" are added for consistency in the revised title.

In subsection (d), the word "arising" is omitted as surplus.

SECTION 1(14)

This amends 31:3702(b)(2) by inserting a word inadvertently omitted in the codification of title 31.

SECTION 1(15): SECTION 3711

Revised section	United States Code	Statutes at Large
3711(f)(1)	31 App.:952(d)(1)	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, § 3(d)(1)-(3); added Oct. 25, 1982, Pub. L. 97-365, § 3, 96 Stat. 1749.
3711(f)(2)	31 App.:952(d)(2)	
3711(f)(3)	31 App.:952(d)(3)	

In subsection (f)(1), before clause (A), the word "Government" is substituted for "United States" for consistency in the revised title and with other titles of the United States Code. The words "subsection (a) of this section, or under any other" are omitted as surplus. The word "law" is substituted for "statutory authority" to eliminate unnecessary words. In clause (A), the words "for the system of records" are omitted as surplus. In clause (C)(iii), the word "intended" is omitted as surplus. In clause (E)(ii), the words "as appropriate" and "any or all" are omitted as surplus. In clause (E)(iii), the words "all laws of the United States" are coextensive with and substituted for "the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal law".

SECTION 1(16): SECTION 3716

Revised section	United States Code	Statutes at Large
3716(a)	31 App.:954(a) (words before last comma), (c).	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, § 5(a)-(d); added Oct. 25, 1982, Pub. L. 97-365, § 10(2), 96 Stat. 1754.
3716(b)	31 App.:954(b)	
3716(c)(1)	31 App.:954(a) (words after last comma).	
3716(c)(2)	31 App.:954(d)	

In the subchapter, the words "or his designee" are omitted as unnecessary.

In subsection (a)(1) the words "head of the" are added for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1) the word "Government" is added for consistency in the revised title and with other titles of the Code.

In subsection (b)(3) the word "civil" is added for consistency in the revised title and with other titles of the Code.

In subsection (c)(2) the word "either" is omitted as surplus.

SECTION 3717

Revised section	United States Code	Statutes at Large
3717(a)	31 App.:952(e)(1) (1st-3d sentences).	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, § 3(e)(1)(1st-3d sentences), (2)-(7); added Oct. 25, 1982, Pub. L. 97-365, § 11, 96 Stat. 1755.
3717 (b), (c)	31 App.:952(e)(5)	
3717(d)	31 App.:952(e)(6)	
3717(e)	31 App.:952(e)(2)	
3717(f)	31 App.:952(e)(7)	
3717(g)(1)	31 App.:952(e)(3) (1st sentence).	
3717(g)(2)	31 App.:952(e)(4)	
3717(h)	31 App.:952(e)(3) (2d, last sentences).	

In subsection (a), the words "percentage point" and "percentage points" are substituted for "per centum" for clarity.

In subsections (a)(1) and (e), the words "Except as provided in paragraph (3)" are omitted as surplus.

In subsection (a)(2), the words "for a calendar quarter" are substituted for "quarterly", and the words "prior calendar quarter" are substituted for "that quarter", for clarity.

In subsection (b), before clause (1), the words "Subject to paragraph (6)" and "except as provided in subparagraph (B)" are omitted as surplus. In clause (2), the words "on the claim" are omitted as surplus. The words "if notice is first mailed after October 24, 1982" are added for clarity.

In subsection (c), the words "on a claim" are omitted as surplus.

In subsection (g)(1), the words "applicable" and "either" are omitted as surplus. The word "assessing" is added for clarity. The words "that apply to claims involved" are omitted as surplus.

In subsection (h), the words "under this section" are added for clarity.

SECTION 3718

Revised section	United States Code	Statutes at Large
3718(a)	31 App.:952(f)(1) (1st sentence words after 2d comma, last sentence).	July 19, 1966, Pub. L. 89-508, 80 Stat. 308, § 3(f); added Oct. 25, 1982, Pub. L. 97-365, § 13(b), 96 Stat. 1757.
3718(b)	31 App.:952(f)(2)	
3718(c)	31 App.:952(f)(3)	
3718(d)	31 App.:952(f)(1)(1st sentence words before 2d comma).	

In subsections (a) and (b), the word "Government" is added for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the words "terms and" are omitted as surplus. The words "or organization" are omitted because of 1:1. In clause (1), the words "bring a civil action" are substituted for "initiate legal action" for consistency in the revised title and with other titles of the Code. In clause (2)(B), the words "including the Fair

Debt Collection Practices Act (15 U.S.C. 1692 et seq.)" are omitted as being included in "laws and regulations of the United States Government".

In subsection (b), the words "the head of an agency" are omitted as surplus.

In subsection (c), the word "advance" is omitted as surplus.

In subsection (d), the words "Notwithstanding the provisions of any other law governing the collection of claims owed the United States" and "unpaid or underpaid" are omitted as surplus.

SECTION 3719

Revised section	United States Code	Statutes at Large
3719(a)	31 App.:955(a)	Oct. 25, 1982, Pub. L. 97-365, § 12, 96 Stat. 1756.
3719(b)	31 App.:955(b)	

In subsection (a), before clause (1), the words "of the United States" are omitted as surplus. The words "the head of" are added for consistency in the revised title and with other titles of the United States Code. In clause (1)(C), the words "uncollectible loans and accounts receivable" are added for clarity. In clause (1)(F), the words "Attorney General" are substituted for "Department of Justice" for consistency in the revised title and with other titles of the Code, including 28:503, 509.

In subsection (b), the word "submitted" is substituted for "received by each agency" for clarity.

SECTION 1(17): SECTION 3721

Revised section	United States Code	Statutes at Large
3721(b)	31 App.:241 (a)(1), (b)(1).	July 28, 1982, Pub. L. 97-226, § 1(a), 96 Stat. 245.

SECTION 1(18)

CHAPTER 39—PROMPT PAYMENT

Sec.
3901. Definitions and application.
3902. Interest penalties.
3903. Regulations.
3904. Limitations on discount payments.
3905. Reports.
3906. Relationship to other laws.

SECTION 3901

Revised section	United States Code	Statutes at Large
3901(a)	31 App.:1805	May 21, 1982, Pub. L. 97-177, §§ 6, 7(c), 96 Stat. 87, 88.
3901(b)	31 App.:1806	

In the chapter, the words "the head of" are added for clarity and consistency in the revised title and with other titles of the United States Code.

In subsection (a)(1), the word "Federal" is omitted as unnecessary and for consistency in the revised title and with other titles of the Code. The words "for this purpose" are omitted because of the restatement. The words "the purpose of" and "or more" are omitted as surplus.

In subsection (a)(5), the words "deemed to be" are substituted for "considered" for consistency in the revised title and with other titles of the Code.

In subsection (a)(6), the words "real or personal" are omitted as surplus. The words "deemed to be" are added for consistency in the revised title and with other titles of the Code.

In subsection (b), the words "the authority of" are omitted as surplus.

SECTION 3902

Revised section	United States Code	Statutes at Large
3902(a)	31 App.:1801 (a)(1), (b)(1) (2d, last sentences).	May 21, 1982, Pub. L. 97-177, § 2(a)(1), (b)-(d), 96 Stat. 85.
3902(b)	31 App.:1801(b)(1) (1st sentence).	
3902(c)	31 App.:1801(b)(2)	
3902(d)	31 App.:1801(c)	
3902(e)	31 App.:1801(d)	

In subsection (a), the words "under section 3903 of this title" are substituted for "by the Director of the Office of Management and Budget" because of the restatement. The words "in accordance with this section" are omitted as surplus.

In subsection (b), before clause (1), the words "on amounts due to a business concern under this chapter . . . to the business concern", "of the amount due", and "complete delivered . . . of property or service concerned" are omitted as surplus.

In subsection (c), the words "which remains" are omitted as surplus.

In subsection (e), the words "terms and" and "non-Federal" are omitted as surplus. The word "Government" is added for consistency in the revised title and with other titles of the United States Code.

SECTION 3903

Revised section	United States Code	Statutes at Large
3903	31 App.:1801(a)(2)	May 21, 1982, Pub. L. 97-177, § 2(a)(2), 96 Stat. 85.

In the section, before clause (1), the words "The Director of the Office of Management and Budget shall prescribe regulations to carry out section 3902 of this title" are added because of the restatement. In clause (1)(A), the words "the terms of" are omitted as surplus. In clause (1)(B), the words "of the payment" are omitted as surplus.

SECTION 3904

Revised section	United States Code	Statutes at Large
3904	31 App.:1802	May 21, 1982, Pub. L. 97-177, § 3, 96 Stat. 86.

The word "otherwise" is omitted as surplus. The words "may pay the discounted amount" are substituted for "may make payment in an amount equal to the discounted price" to eliminate unnecessary words. The words "on such unpaid amount" and "the regulations prescribed pursuant to" are omitted as surplus. The words "specified in the contract that the discounted amount may be paid" are substituted for "of the specified period of time described in subsection (a)" for clarity.

SECTION 3905

Revised section	United States Code	Statutes at Large
3905(a)	31 App.:1804 (a), (b)	May 21, 1982, Pub. L. 97-177, § 3, 96 Stat. 87.
3905(b)	31 App.:1804(c)	

In subsection (a), the word "detailed" is omitted as surplus.

In subsection (b), the words "the requirements of" are omitted as surplus.

SECTION 3906

Revised section	United States Code	Statutes at Large
3906(a)	31 App.:1803(a)(1)	May 21, 1982, Pub. L. 97-177, § 3, 96 Stat. 87.
3906(b)	31 App.:1803(a) (2), (3)	
3906(c)	31 App.:1803(b)	

In the section, the words "be construed to" are omitted as surplus.

In subsection (a), the words "not paid under this chapter" are substituted for "which a Federal agency has failed to pay in accordance with the requirements of section 2 or 3 of this chapter" to eliminate unnecessary words.

In subsection (b)(2), the word "accruing" is added for clarity. The word "both" is omitted as surplus.

In subsection (c), the words "with respect to disputes concerning discounts", "by the required payment date", and "other allegations concerning" are omitted as surplus.

SECTION 1(19)

This restores to 31:5103 the reference to public charges, taxes, and dues because they are not considered to be debts. See, Hagar v. Reclamation District No. 108, 111 U.S. 701, 706 (1884).

SECTION 1(20)

This amends 31:5112(f)(1) to make technical and conforming changes.

SECTION 1(21): SECTION 5132

Revised section	United States Code	Statutes at Large
5132(a)(2)	31 App.:369	Sept. 8, 1982, Pub. L. 97-253, § 202, 96 Stat. 790.

SECTION 1(22)

This restates 31:5154 to clarify the intent of the section. See 26 Cong. Rec. 7152, 7170 (1894).

SECTION 1(23): SECTION 6102a

Revised section	United States Code	Statutes at Large
6102a	31 App.:6102 (note)	Oct. 15, 1982, Pub. L. 97-326, § 8, 96 Stat. 1609.

In subsection (a)(1), the words "operate and" are omitted as surplus. The words "United States Government" are substituted for "Federal" for consistency in the revised title and with other titles of the United States Code. The words "information system" are substituted for "data system" for consistency with 31:6102. The words "by the Director" are omitted as surplus.

In subsection (b)(1), the words "the head of another executive agency" are substituted for "any authority of the executive branch of the Federal Government" for consistency in the revised title and with other titles of the Code.

In subsection (b)(2), the words "the head of" are added for consistency in the revised title and with other titles of the Code.

SECTION 1(24)

This amemds 31:6501(1)(B) to clarify the section as enacted by the Act of Sept. 13, 1982 (Pub. L. 97-258, 96 Stat. 1005).

SECTION 1(25): SECTION 6709

Revised section	United States Code	Statutes at Large
6709(a)(5)	31 App.:1228(e)(3) (A), (B) (words before 2d comma), (C).	Oct. 20, 1972, Pub. L. 92-512, 86 Stat. 919, § 109(e))(3) (A), (B) (words before 2d comma), (C); added Sept. 3, 1982, Pub. L. 97-248, § 287(a), 96 Stat. 570.

The words "The provisions of subparagraph (A) shall be given effect" are omitted because of the restatement. The word "general" is added for consistency in the revised title. The words "each of" are added for clarity. The text of 31 App.:1228(e)(3)(C) is omitted as executed.

SECTION 1(26)

This amends 31:9101(2) because the National Consumer Cooperative Bank is no longer a mixed-ownership Government corporation. Section 396(h)(1) and (i) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 440) provided that the Bank would cease being a mixed-ownership Government corporation on the day after the Final Government Equity Redemption Date. Section 501(36) of the Act of December 23, 1981 (Pub. L. 97-101, 95 Stat. 1440), provided that the Redemption Date was December 31, 1981.

SECTION 1(27)

This amends 31:9107(c)(3) and 9108(d)(2) because the National Consumer Cooperative Bank is no longer a mixed-ownership Government corporation. Section 396(h) (2) and (3) and (i) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 440) provided that references to the Bank in sections 302 and 303(d) (2d sentence) of the Government Corporation Control Act would be deleted on the day after the Final Government Equity Redemption Date. Section 501(36) of the Act of December 23, 1981 (Pub. L. 97-101, 95 Stat. 1440), provided that the Redemption Date was December 31, 1981.

SECTION 2—CONFORMING AMENDMENTS

Section 2(a)-(d)

Section 2(a)-(d) of the bill makes technical and conforming changes to various sections of titles 5, 18, and 28, United States Code, and to various sections of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

Section 2(e)(1)

Section 2(e)(1) of the bill makes a technical and conforming change to section 210(b)(2)(A) of title 38, United States Code.

Section 2(e)(2)

Section 2(e)(2) of the bill makes technical and conforming changes to section 1823(c) of title 38, United States Code.

Section 2(e)(3)

Section 2(e)(3) of the bill makes a technical and conforming change to section 4207 of title 38, United States Code, to clarify the amendment made by section 4(89) of the Act of October 12, 1982 (Pub. L. 97-295, 96 State. 1312).

Section 2(e)(4)

Section 2(e)(4) of the bill makes a technical and conforming change to sections 5010(a)(1) and 5011(f) of title 38, United States Code.

Section 2(f)

Section 2(f) of the bill makes technical and conforming changes to section 2007 of title 39, United States Code.

Section 2(g)

Section 2(g) of the bill is necessary because of 31 App.:241(note), as enacted by section 1(b) of the Act of July 28, 1982 (Pub. L. 97-226, 96 Stat. 245).

Section 2(h)

Section 2(h) of the bill is necessary because of 31 App.:1228(e)(3)(B)(words after 2d comma), as enacted by section 287 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248, 96 Stat. 570).

Section 2(i)

Section 2(i) of the bill provides an effecitve date of September 13, 1982 (the date of enactment of the codification of title 31, United States Code), for provisions that make technical and clerical corrections to that codification.

SECTION 3—LEGISLATIVE PURPOSE AND CONSTRUCTION

Section 3 of the bill contains a statement of the legislative effect in enacting sections 1 and 2, savings provisions, and provisions to assist in interpreting and applying the provisions of law enacted by the bill.

SECTION 4—REPEALS

Section 4 of the bill relates to the repeal of those statutes that are codified and reenacted by the bill and other statues that are executed, superseded, obsolete, or otherwise of no present legal effect.

Subsection (a) provides that a repeal of a law may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

Subsection (b) contains the schedule of laws to be repealed. It also preserves the rights, duties, and penalties incurred, and proceedings begun, before the date of enactment of the bill.

TABLE 1—MASTER DISPOSITION TABLE

This table shows the disposition of all laws affecting the restatement of title 31, United States Code, that are repealed by this bill and reenacted as part of title 31. The table is in 2 parts. Table 1A shows the disposition according to United States Code citation. Table 1B shows the disposition according to Statutes at Large citation. When a law is restated in the bill, the citation to the provision of the restatement is shown. When a law listed in the table is not restated in section 1, the table contains a reference to table 2 or 3 or another section of the bill. The table or section refereed to explains the reaons why the law is omitted from the restatement in section 1.

TABLE 1A.—UNITED STATES CODE

United States Code, title, and section	United States Code revised	
	Title	Section
31 App.:		
11(k)(1)	31	1105
11(k)(2)	31	1113
66a(b) (last sentence), (d)	31	3512
757c-5	31	3121
952(d) (1)-(3)	31	3711
952(d)(4)	31	3701
952(e)(1) (1st-3d sentences)	31	3717
952(e)(1) (last sentence)	31	3701
952(e)(2)-(7)	31	3717
952(e)(8)	31	3701
952(f)	31	3718
954(a)-(d)	31	3716
954(e)	31	3701
955	31	3719
1228(e)(3)	31	6709
1801(a)(1)	31	3902
1801(a)(2)	31	3903
1801(b)-(d)	31	3902
1802	31	3904
1803	31	3906
1804	31	3905
1805, 1806	31	3901

TABLE 1B.—STATUTES AT LARGE

Statutes at Large					United States Code Revised		Table
Date	Chapter or Public Law	Section	Volume	Page	Title	Section	
1902: June 28	1302	8	32	484			2B
1917: Sept. 24	56	28			31	3121	
1921: June 10	18	201(k)(1)			31	1105	
		201(k)(2)			31	1113	
1922: May 20	104	1 (par. under heading "General Accounting Office.")	42	444			2B
1950: Sept. 12	946	113(b) (last sentence), (d)			31	3512	
1966: July 19	89-508	3(d) (1)-(3)			31	3711	
		3(d)(4)			31	3701	
		3(e)(1) (1st-3d sentences)			31	3717	
		3(e)(1) (last sentence)			31	3701	
		3(e) (2)-(7)			31	3717	
		3(e)(8)			31	3701	
		3(f)			31	3718	
		3(g)			31	3701	
		5(a)-(d)			31	3716	
		5(e)			31	3701	
1972: Oct. 20	92-512	109(e)(3) (A), (B) (words before 2d comma)			31	6709	
		109(e)(3)(B) (words after 2d comma)				(1)	
		109(e)(3)(C)			31	6709	

TABLE 1B.—STATUTES AT LARGE—Continued

Date	Chapter or Public Law	Section	Statutes at Large Volume	Statutes at Large Page	United States Code Revised Title	United States Code Revised Section	Table
1982:							
May 21	97-177	1	96	85			2B
		2(a)(1)	96	85	31	3902	
		2(a)(2)	96	85	31	3903	
		2(b)-(d)	96	85	31	3902	
		3	96	86	31	3904	
		4	96	87	31	3906	
		5	96	87	31	3905	
		6	96	87	31	3901	
		7 (a), (b)	96	88			2B
		7(c)	96	88	31	3901	
July 28	97-226	1(a)	96	245	31	3721	
		1(b)	96	245		(2)	
		1(c), 2	96	245			2B
Sept. 3	97-248	287(a) "Sec. 109(e)(3) (A), (B) (words before 2d comma), (C)"	96	570	31	6709	
		287(a) "Sec. 109(e)(3)(B) (words after 2d comma)	96	570		(1)	
		287(b)	96	570			2B
		289(a)(1)	96	571	31	3105	
		289(a)(2)	96	571	31	3106	
		289(b)	96	571			3B
		289(c)	96	572	31	3102	
		310(a)	96	595	31	3121	
Sept. 8	97-253	202	96	790	31	5132	
	97-255	1	96	814			2B
		2	96	814	31	3512	
		3 "Sec. 201(k)(1)"	96	815	31	1105	
		3 "Sec. 201(k)(2)"	96	815	31	1113	
		4	96	815	31	3512	
Oct. 15	97-326	8	96	1609	31	6102a	
Oct. 25	97-365	3 "Sec. 3(d) (1)-(3)"	96	1749	31	3711	
		3 "Sec. 3(d)(4)"	96	1750	31	3701	
		8(e) (related to §§ 3, 10(2)-12, 13(b))	96	1754	31	3701	
		10(1)	96	1754			2B
		10(2) "Sec. 5(a)-(d)"	96	1754	31	3716	
		10(2) "Sec. 5(e)"	96	1755	31	3701	
		11 "Sec. 3(e)(1) (1st-3d sentences)	96	1755	31	3717	
		11 "Sec. 3(e)(1) (last sentence)	96	1755	31	3701	
		11 "Sec. 3(e) (2)-(7)	96	1755	31	3717	
		11 "Sec. 3(e)(8)	96	1756	31	3701	
		12	96	1756	31	3719	
		13(a)	96	1757	31	3302	
		13(b) "3(f)"	96	1757	31	3718	
		13(b) "3(g)"	96	1758	31	3701	

[1] See sec. 2(h) of bill. [2] See sec. 2(g) of bill.

TABLE 2.—LAWS OMITTED AND REPEALED

This table shows the laws omitted because of the restatement of title 31, United States Code, and repealed by the bill. The table lists the laws according to Statutes at Large citation.

TABLE 2.—STATUTES AT LARGE

Date	Chapter or Public Law	Section	Statutes at Large Volume	Statutes at Large Page	United States Code Title	United States Code Section	Explanation
1902: June 28	1302	8	32	484			Obsolete. Authorized the Secretary of the Treasury to issue bonds to defray expenditures authorized by this Act and to dispose of the bonds.
1922: May 20	104	1 (par. under heading "General Accounting Office.").	42	444			Executed. Provided that the Comptroller General audit the financial transactions of the United States Shipping Board Emergency Fleet Corporation.
1982:							
May 21	97-177	1	96	85	31 App.	1801 (note)	Obsolete. References to short titles are no longer necessary because of the restatement.
		7(a)	96	88	31 App.	1801 (note)	Executed. Provided that this Act applied to the acquisition of property or services on or after the beginning of the first calendar quarter beginning more than 90 days after May 21, 1982.
		7(b)	96	88	31 App.	1801 (note)	Executed. Provided that the provisions of this Act requiring promulgation of regulations were effective on May 21, 1982, and that the regulations were to be promulgated not later than 90 days after May 21, 1982.
July 28	97-226	1(c)	96	245	31 App.	241	Obsolete. Amended section 3(a)(1) and (3) of the Military Personnel and Civilian Employees' Claims Act of 1964 (Pub. L. 88-558, 78 Stat. 767). The Act was repealed by section 5(b) of the Act of Sept. 13, 1982 (Pub. L. 97-258, 96 Stat. 1080).
		2	96	245	31 App.	241 (note)	Executed. Provided that no funds could be obligated or expended pursuant to the amendments made by this Act before Oct. 1, 1982.
Sept. 3	97-248	287(b)	96	570	31 App.	1228 (note)	Executed. Provided that the amendment made by this section was effective after Sept. 30, 1982.
Sept. 8	97-255	1	96	255	31 App.	65 (note)	Obsolete. References to short titles are no longer necessary because of the restatement.
Oct. 25	97-365	10(1)	96	1754	31 App.	951 (note)	Executed. Redesignated sec. 5 of the Federal Claims Collection Act of 1966 as sec. 6.

TABLE 3.—LAWS OMITTED BUT NOT REPEALED

This table shows the laws omitted because of the revision of title 31, United States Code, as not being permanent and general. The table lists the laws according to Statutes at Large citation.

TABLE 3.—STATUTES AT LARGE

Date	Chapter or Public Law	Section	Statutes at Large Volume	Statutes at Large Page	United States Code Title	United States Code Section	Explanation
1982: Sept. 3	97-248	289(b)	96	571	31 App.	757c (note)	Limited interest. Provided that for a savings bond issued before the 30th day after Sept. 3, 1982, for purposes of secs. 22 and 22A of the Second Liberty Bond Act, the minimum yield for the period held is the scheduled investment yield for the period in effect on the 30th day.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us is purely technical. It was recommended to us by the Law Revision Counsel. It makes no substantive change as far as the law is concerned. It is technical, as I say.

I strongly support it and urge my colleagues to support it.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill, H.R. 7378.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MISCELLANEOUS LAW REVISIONS

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6993) to revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation," as amended.

The Clerk read as follows:

H.R. 6993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SUBTITLE I AND CHAPTER 31 OF SUBTITLE II OF TITLE 49, UNITED STATES CODE

SECTION 1. (a) Certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted by subsection (b) of this section without substantive change as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation". Those laws may be cited as "49 U.S.C. § ———".

(b) Title 49, United States Code, is amended by striking out the table of subtitles at the beginning of the title and substituting the following new table of subtitles and subtitles I and II:

TITLE 49—TRANSPORTATION

SUBTITLE		Sec.
I.	DEPARTMENT OF TRANSPORTATION	101
II.	TRANSPORTATION PROGRAMS	3101
III.	[RESERVED—AIR TRANSPORTATION]	
IV.	INTERSTATE COMMERCE	10101
V.	[RESERVED—MISCELLANEOUS]	

SUBTITLE I—DEPARTMENT OF TRANSPORTATION

CHAPTER		Sec.
1.	ORGANIZATION	101
3.	GENERAL DUTIES AND POWERS	301
5.	SPECIAL AUTHORITY	501

CHAPTER 1—ORGANIZATION

Sec.
101. Purpose.
102. Department of Transportation.
103. Federal Railroad Administration.
104. Federal Highway Administration.
105. National Highway Traffic Safety Administration.
106. Federal Aviation Administration.
107. Urban Mass Transportation Administration.
108. Coast Guard.
109. Maritime Administration.
110. St. Lawrence Seaway Development Corporation.

§ 101. Purpose

(a) The national objectives of general welfare, economic growth and stability, and security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with those and other national objectives, including the efficient use and conservation of the resources of the United States.

(b) A Department of Transportation is necessary in the public interest and to—

(1) ensure the coordinated and effective administration of the transportation programs of the United States Government;

(2) make easier the development and improvement of coordinated transportation service to be provided by private enterprise to the greatest extent feasible;

(3) encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested persons to achieve transportation objectives;

(4) stimulate technological advances in transportation;

(5) provide general leadership in identifying and solving transportation problems; and

(6) develop and recommend to the President and Congress transportation policies and programs to achieve transportation objectives considering the needs of the public, users, carriers, industry, labor, and national defense.

§ 102. Department of Transportation

(a) The Department of Transportation is an executive department of the United States Government at the seat of Government.

(b) The head of the Department is the Secretary of Transportation. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of Transportation appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) acts for the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has 4 Assistant Secretaries and a General Counsel appointed by the President, by and with the advice and consent of the Senate. The Department also has an Assistant Secretary of Transportation for Administration appointed in the competitive service by the Secretary, with the approval of the President. They shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary or the General Counsel, in the order prescribed by the Secretary, acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of the Secretary and Deputy Secretary are vacant.

(e) The Department shall have a seal that shall be judicially recognized.

§ 103. Federal Railroad Administration

(a) The Federal Railroad Administration is an administration in the Department of Transportation. To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.

(b) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary.

(c) The Administrator shall carry out—

(1) duties and powers related to railroad safety vested in the Secretary by section 6(e)(1), (2), and (6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(1), (2), and (6)(A)); and

(2) additional duties and powers prescribed by the Secretary.

(d) A duty or power specified by subsection (c)(1) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.

§ 104. Federal Highway Administration

(a) The Federal Highway Administration is an administration in the Department of Transportation.

(b)(1) The head of the Administration is the Admininstrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

(2) The Administration has a Deputy Federal Highway Administrator who is appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(3) The Administration has an Assistant Federal Highway Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator is the chief engineer of the Administration. The Assistant Administrator shall carry out duties and powers prescribed by the Administrator.

(c) The Administrator shall carry out—

(1) duties and powers vested in the Secretary by chapter 4 of title 23 for highway safety programs, research, and development related to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety;

(2) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 31 of this title; and

(3) additional duties and powers prescribed by the Secretary.

(d) A duty or power specified by subsection (c)(2) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.

§ 105. National Highway Traffic Safety Administration

(a) The National Highway Traffic Safety Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administration has a Deputy Admininstrator who is appointed by the Secretary of Transportation, with the approval of the President.

(c) The Administrator shall carry out—

(1) duties and powers vested in the Secretary by chapter 4 of title 23, except those related to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety; and

(2) additional duties and powers prescribed by the Secretary.

(d) The Secretary may carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.) through the Administrator.

(e) The Adminstrator shall consult with the Federal Highway Administrator on all matters related to the design, construction, maintenance, and operation of highways.

§ 106. Federal Aviation Administration

(a) The Federal Aviation Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator. The Administration has a Deputy Administrator. They are appointed by the President, by and with the advice and consent of the Senate. When making an appointment, the President shall consider the fitness of the individual to carry out efficiently the duties and powers of the office. The Administrator reports directly to the Secretary of Transportation.

(c) The Administrator must—

(1) be a citizen of the United States;

(2) be a civilian; and

(3) have experience in a field directly related to aviation.

(d)(1) The Deputy Administrator must be a citizen of the United States and have experience in a field directly related to aviation. An officer on active duty in an armed force may be appointed as Deputy Administrator. However, if the Administrator is a former regular officer of an armed force, the Deputy Administrator may not be an officer on active duty in an armed force, a retired regular officer of an armed force, or a former regular officer of an armed force.

(2) An officer on active duty or a retired officer serving as Deputy Administrator is entitled to hold a rank and grade not lower than that held when appointed as Deputy Administrator. The Deputy Administrator may elect to receive (A) the pay provided by law for the Deputy Administrator, or (B) the pay and allowances or the retired pay of the military grade held. If the Deputy Administrator elects to receive the military pay and allowances or retired pay, the Administration shall reimburse the appropriate military department from funds available for the expenses of the Administration.

(3) The appointment and service of a member of the armed forces as a Deputy Administrator does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from the status, office, rank, or grade. The Secretary of a military department does not control the member when the member is carrying out duties and powers of the Deputy Administrator.

(e) The Administrator and the Deputy Administrator may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.

(f) The Secretary shall carry out the duties and powers, and controls the personnel and activities, of the Administration. The Secretary may not submit decisions for the approval of, nor be bound by the decisions or recommendations of, a committee, board, or organization established by executive order.

(g) The Administrator shall carry out—

(1) duties and powers of the Secretary related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous materials) and vested in the Secretary by section 308(b) of this title and sections 306-309, 312-314, 1101, 1105, and 1111 and titles VI, VII, IX, and XII of the Federal Aviation Act of 1958 (49 U.S.C. 1347-1350, 1353-1355, 1421 et seq., 1441 et seq., 1471 et seq., 1501, 1505, 1511, and 1521 et seq.); and

(2) additional duties and powers prescribed by the Secretary.

(h) Section 103 of the Federal Aviation Act of 1958 (49 U.S.C. 1303) applies to duties and powers specified in subsection (g)(1) of this section. Any of those duties and powers may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers is administratively final.

(i) The Deputy Administrator shall carry out duties and powers prescribed by the Administrator. The Deputy Administrator acts for the Administrator when the Administrator is absent or unable to serve, or when the office of the Administrator is vacant.

§ 107. Urban Mass Transportation Administration

(a) The Urban Mass Transportation Administration is an administration in the Department of Transportation.

(b) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

(c) The Administrator shall carry out duties and powers prescribed by the Secretary.

§ 108. Coast Guard.

(a) Except when operating as a service in the Navy, the Coast Guard is a part of the Department of Transportation. The Secretary of Transportation exercises all duties and powers related to the Coast Guard vested in the Secretary of the Treasury, and other officers and offices of the Department of Treasury, immediately before April 1, 1967.

(b) The Commandant is the Chief of the Coast Guard. In addition to carrying out the duties and powers specified by law, the Commandant shall carry out duties and powers prescribed by the Secretary of Transportation. The Commandant reports directly to the Secretary.

§ 109. Maritime Administration

(a) The Maritime Administration transferred by section 2 of the Maritime Act of 1981 (46 U.S.C. 1601) is an administration in the Department of Transportation.

(b) The Administrator of the Administration appointed under section 4 of the Maritime Act of 1981 (46 U.S.C. 1603) reports directly to the Secretary of Transportation.

§ 110. Saint Lawrence Seaway Development Corporation

(a) The St. Lawrence Seaway Development Corporation established under section 1 of the Act of May 13, 1954 (33 U.S.C. 981), is subject to the direction and supervision of the Secretary of Transportation.

(b) The Administrator of the Corporation appointed under section 2 of the Act of May 13, 1954 (33 U.S.C. 982), reports directly to the Secretary.

CHAPTER 3—GENERAL DUTIES AND POWERS

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

Sec.
301. Leadership, consultation, and cooperation.
302. Policy standards for transportation.
303. Policy on lands, wildlife and waterfowl refuges, and historic sites.
304. Joint activities with the Secretary of Housing and Urban Development.
305. Transportation investment standards and criteria.
306. Prohibited discrimination.
307. Safety information and intervention in Interstate Commerce Commission proceedings.
308. Annual reports.

SUBCHAPTER II—ADMINISTRATIVE

321. Definitions.
322. General powers.
323. Personnel.
324. Members of the armed forces.
325. Advisory committees.
326. Gifts.

327. Administrative working capital fund.
328. Transportation Systems Center working capital fund.
329. Transportation information.
330. Research contracts.
331. Service, supplies, and facilities at remote places.
332. Minority Resource Center.
333. Responsibility for rail transportation unification and coordination projects.
334. Limit on aviation charges.
335. Authorization of appropriations.

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

§ 301. Leadership, consultation, and cooperation

The Secretary of Transportation shall—

(1) under the direction of the President, exercise leadership in transportation matters, including those matters affecting national defense and those matters involving national or regional emergencies;

(2) provide leadership in the development of transportation policies and programs, and make recommendations to the President and Congress for their consideration and implementation;

(3) promote and undertake the development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation;

(4) consult and cooperate with the Secretary of Labor in compiling information regarding the status of labor-management contracts and other labor-management problems and in promoting industrial harmony and stable employment conditions in all modes of transportation;

(5) promote and undertake research and development related to transportation, including noise abatement, with particular attention to aircraft noise;

(6) consult with the heads of other departments, agencies, and instrumentalities of the United States Government on the transportation requirements of the Government, including encouraging them to establish and observe policies consistent with maintaining a coordinated transportation system in procuring transportation or in operating their own transport services; and

(7) consult and cooperate with State and local governments, carriers, labor, and other interested persons, including, when appropriate, holding informal public hearings.

§ 302. Policy standards for transportation

(a) The Secretary of Transportation is governed by the transportation policy of sections 10101 and 10101a of this title in addition to other laws.

(b) Subtitle I and chapter 31 of subtitle II of this title and the Department of Transportation Act (49 U.S.C. 1651 et seq.) do not authorize, without appropriate action by Congress, the adoption, revision, or implementation of a transportation policy or investment standards or criteria.

(c) The Secretary shall consider the needs—

(1) for effectiveness and safety in transportation systems; and

(2) of national defense.

§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites

(a) It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

(b) The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

(c) The Secretary may approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

(1) there is no prudent and feasible alternative to using that land; and

(2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

§ 304. Joint activities with the Secretary of Housing and Urban Development

(a) The Secretary of Transportation and the Secretary of Housing and Urban Development shall—

(1) consult and exchange information about their respective transportation policies and activities;

(2) carry out joint planning, research, and other activities;

(3) coordinate assistance for local transportation projects; and

(4) jointly study methods by which policies and programs of the United States Government can ensure that urban transportation systems most effectively serve both transportation needs of the United States and the comprehensively planned development of urban areas.

(b) The Secretaries shall report on April 1 of each year to the President, for submission to Congress, on their studies and other activities under this section, including legislative recommendations they consider desirable.

§ 305. Transportation investment standards and criteria

(a) Subject to sections 301-304 of this title, the Secretary of Transportation shall develop standards and criteria to formulate and economically evaluate all proposals for investing amounts of the United States Government in transportation facilities and equipment. Based on experience, the Secretary shall revise the standards and criteria. When approved by Congress, the Secretary shall prescribe standards and criteria developed or revised under this subsection. This subsection does not apply to—

(1) the acquisition of transportation facilities or equipment by a department, agency, or instrumentality of the Government to provide transportation for its use;

(2) an inter-oceanic canal located outside the 48 contiguous States;

(3) defense features included at the direction of the Department of Defense in designing and constructing civil air, sea, or land transportation;

(4) foreign assistance programs;

(5) water resources projects; or

(6) grant-in-aid programs authorized by law.

(b) A department, agency, or instrumentality of the Government preparing a survey, plan, or report that includes a proposal about which the Secretary has prescribed standards and criteria under subsection (a) of this section shall—

(1) prepare the survey, plan, or report under those standards and criteria and on the basis of information provided by the Secretary on the—

(A) projected growth of transportation needs and traffic in the affected area;

(B) the relative efficiency of various modes of transportation;

(C) the available transportation services in the area; and

(D) the general effect of the proposed investment on existing modes of transportation and on the regional and national economy;

(2) coordinate the survey, plan, or report—

(A) with the Secretary and include the views and comments of the Secretary; and

(B) as appropriate, with other departments, agencies, and instrumentalities of the Government, States, and local governments, and include their views and comments; and

(3) send the survey, plan, or report to the President for disposition under law and procedure established by the President.

§ 306. Prohibited discrimination

(a) In this section, "financial assistance" includes obligation guarantees.

(b) A person in the United States may not be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a project, program, or activity because of race, color, national origin, or sex when any part of the project, program, or activity is financed through financial assistance under section 332 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), title V or VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq., 851 et seq.), or section 4(i) or 5 of the Department of Transportation Act (49 U.S.C. 1653(i), 1654).

(c) When the Secretary of Transportation decides that a person receiving financial assistance under a law referred to in subsection (b) of this section has not complied with that subsection, a Federal civil rights law, or an order or regulation issued under a Federal civil rights law, the Secretary shall notify the person of the decision and require the person to take necessary action to ensure compliance with that subsection.

(d) If a person does not comply with subsection (b) of this section within a reasonable time after receiving a notice under subsection (c) of this section, the Secretary shall take at least one of the following actions:

(1) direct that no more Federal financial assistance be provided the person.

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought against the person.

(3) carry out the duties and powers provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(4) take other action provided by law.

(e) When a matter is referred to the Attorney General under subsection (d)(2) of this section, or when the Attorney General has reason to believe that a person is engaged in a pattern or practice violating this section, the Attorney General may begin a civil action in a district court of the United States for appropriate relief.

§ 307. Safety information and intervention in Interstate Commerce Commission proceedings

(a) The Secretary of Transportation shall inspect promptly the safety compliance record in the Department of Transportation of each person applying to the Interstate Commerce Commission for authority to provide transportation or freight forwarder

service. The Secretary shall report the findings of the inspection to the Commission.

(b) When the Secretary is not satisfied with the safety record of a person applying for permanent authority to provide transportation or freight forwarder service, or for approval of a proposed transfer of permanent authority, the Secretary shall intervene and present evidence of the fitness of the person to the Commission in its proceedings.

(c) When requested by the Commission, the Secretary shall—

(1) provide the Commission with a complete report on the safety compliance of a carrier providing transportation or freight forwarder service subject to its jurisdiction;

(2) provide promptly a statement of the safety record of a person applying to the Commission for temporary authority to provide transportation;

(3) intervene and present evidence in a proceeding in which a finding of fitness is required; and

(4) make additional safety compliance surveys and inspections the Commission decides are desirable to allow it to act on an application or to make a finding on the fitness of a carrier.

§ 308. Annual reports

(a) As soon as practicable after the end of each fiscal year, the Secretary of Transportation shall report to the President, for submission to Congress, on the activities of the Department of Transportation during the prior fiscal year. The report shall include a complete statement on the effectiveness of the United States Railway Association and the Consolidated Rail Corporation in carrying out the purposes of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(b) The Secretary shall submit to the President and Congress each year a report on the aviation activities of the Department. The report shall include—

(1) collected information the Secretary considers valuable in deciding questions about—

(A) the development and regulation of civil aeronautics;

(B) the use of airspace of the United States; and

(C) the improvement of the air navigation and traffic control system; and

(2) recommendations for additional legislation and other action the Secretary considers necessary.

(c) The Secretary shall submit to Congress each year a report on the conditions of the public ports of the United States, including the—

(1) economic and technological development of the ports;

(2) extent to which the ports contribute to the national welfare and security; and

(3) factors that may impede the continued development of the ports.

SUBCHAPTER II—ADMINISTRATIVE

§ 321. Definitions

In this subchapter, "aeronautics", "air commerce", and "air navigation facility" have the same meanings given those terms in section 101(2), (4), and (8) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(2), (4), (8)), respectively.

§ 322. General powers

(a) The Secretary of Transportation may prescribe regulations to carry out the duties and powers of the Secretary. An officer of the Department of Transportation may prescribe regulations to carry out the duties and powers of the officer.

(b) The Secretary may delegate, and authorize successive delegations of, duties and powers of the Secretary to an officer or employee of the Department. An officer of the Department may delegate, and authorize successive delegations of, duties and powers of the officer to another officer or employee of the Department. However, the duties and powers specified in sections 103(c)(1), 104(c)(1), and 106(g)(1) of this title may not be delegated to an officer or employee outside the Administration concerned.

(c) On a reimbursable basis when appropriate, the Secretary may, in carrying out aviation duties and powers—

(1) use the available services, equipment, personnel, and facilities of other civilian or military departments, agencies, and instrumentalities of the United States Government, with their consent;

(2) cooperate with those departments, agencies, and instrumentalities in establishing and using aviation services, equipment, and facilities of the Department; and

(3) confer and cooperate with, and use the services, records, and facilities of, State, territorial, municipal, and other agencies.

(d) The Secretary may make expenditures to carry out aviation duties and powers, including expenditures for—

(1) rent and personal services;

(2) travel expenses;

(3) office furniture, equipment, supplies, lawbooks, newspapers, periodicals, and reference books, including exchanges;

(4) printing and binding;

(5) membership in and cooperation with domestic or foreign organizations related to, or a part of, the civil aeronautics industry or the art of aeronautics;

(6) payment of allowances and other benefits to employees stationed in foreign countries to the same extent authorized for members of the Foreign Service of comparable grade;

(7) investigations and studies about aeronautics; and

(8) acquiring, exchanging, operating, and maintaining passenger-carrying aircraft and automobiles and other property.

(e) The Secretary may negotiate, without advertising, the purchase of technical or special property related to air navigation when the Secretary decides that—

(1) making the property would require a substantial initial investment or an extended period of preparation; and

(2) procurement by advertising would likely result in additional cost to the Government by duplication of investment or would result in duplication of necessary preparation that would unreasonably delay procuring the property.

§ 323. Personnel

(a) The Secretary of Transportation may appoint and fix the pay of officers and employees of the Department of Transportation and may prescribe their duties and powers.

(b) The Secretary may procure services under section 3109 of title 5. However, an individual may be paid not more than $100 a day for services.

§ 324. Members of the armed forces

(a) The Secretary of Transportation—

(1) to ensure that national defense interests are safeguarded properly and that the Secretary is advised properly about the needs and special problems of the armed forces, shall provide for participation of members of the armed forces in carrying out the duties and powers of the Secretary related to the regulation and protection of air traffic, including providing for, and research and development of, air navigation facilities, and the allocation of airspace; and

(2) may provide for participation of members of the armed forces in carrying out other duties and powers of the Secretary.

(b) A member of the Coast Guard on active duty may be appointed, detailed, or assigned to a position in the Department of Transportation, except the position of Secretary, Deputy Secretary, or Assistant Secretary for Administration. A retired member of the Coast Guard may be appointed, detailed, or assigned to a position in the Department.

(c) The Secretary of Transportation and the Secretary of a military department may make cooperative agreements, including agreements on reimbursement as may be considered appropriate by the Secretaries, under which a member of the armed forces may be appointed, detailed, or assigned to the Department of Transportation under this section. The Secretary of Transportation shall send a report each year to the appropriate committees of Congress on agreements made to carry out subsection (a)(2) of this section, including the number, rank, and position of each member appointed, detailed, or assigned under those agreements.

(d) The Secretary of a military department does not control the duties and powers of a member of the armed forces appointed, detailed, or assigned under this section when those duties and powers pertain to the Department of Transportation. A member of the armed forces appointed, detailed, or assigned under subsection (a)(2) of this section may not be charged against a statutory limitation on grades or strengths of the armed forces. The appointment, detail, or assignment and service of a member under this section to a position in the Department of Transportation does not affect the status, office, rank, or grade held by that member, or a right or benefit arising from that status, office, rank, or grade.

§ 325. Advisory committees

(a) Without regard to the provisions of title 5 governing appointment in the competitive service, the Secretary of Transportation may appoint advisory committees to consult with and advise the Secretary in carrying out the duties and powers of the Secretary.

(b) While attending a committee meeting or otherwise serving at the request of the Secretary, a member of an advisory committee may be paid not more than $100 a day. A member is entitled to reimbursement for expenses under section 5703 of title 5. This subsection does not apply to individuals regularly employed by the United States Government.

(c) A member of an advisory committee advising the Secretary in carrying out aviation duties and powers may serve for not more than 100 days in a calendar year.

§ 326. Gifts

(a) The Secretary of Transportation may accept and use conditional or unconditional gifts of property for the Department of Transportation. The Secretary may accept a gift of services in carrying out aviation duties and powers. Property accepted under this section and proceeds from that property must be used, as nearly as possible, under the terms of the gift.

(b) The Department has a fund in the Treasury. Disbursements from the fund are made on order of the Secretary. The fund consists of—

(1) gifts of money;

(2) income from property accepted under this section and proceeds from the sale of that property; and

(3) income from securities under subsection (c) of this section.

(c) On request of the Secretary of Transportation, the Secretary of the Treasury may invest and reinvest amounts in the fund in securities of, or in securities whose principal and interest is guaranteed by, the United States Government.

(d) Property accepted under this section is a gift to or for the use of the Government under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

§ 327. Administrative working capital fund

(a) The Department of Transportation has an administrative working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services the Secretary of Transportation decides are desirable for the efficiency and economy of the Department. The services may include—

(1) a central supply service for stationery and other supplies and equipment through which adequate stocks may be maintained to meet the requirements of the Department;

(2) central messenger, mail, telephone, and other communications services;

(3) office space;

(4) central services for document reproduction, and for graphics and visual aids; and

(5) a central library service.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The fund consists of—

(1) amounts appropriated to the fund;

(2) the reasonable value of stocks of supplies, equipment, and other assets and inventories on order that the Secretary transfers to the fund, less the related liabilities and unpaid obligations;

(3) amounts received from the sale or exchange of property; and

(4) payments received for loss or damage to property of the fund.

(d) The fund shall be reimbursed, in advance, from amounts available to the Department or from other sources, for supplies and services at rates that will approximate the expenses of operation, including the accrual of annual leave and the depreciation of equipment. Amounts in the fund, in excess of amounts transferred or appropriated to maintain the fund, shall be deposited in the Treasury as miscellaneous receipts. All assets, liabilities, and prior losses are considered in determining the amount of the excess.

§ 328. Transportation Systems Center working capital fund

(a) The Department of Transportation has a Transportation Systems Center working capital fund. Amounts in the fund are available for financing the activities of the Center, including research, development, testing, evaluation, analysis, and related activities the Secretary of Transportation approves, for the Department, other agencies, State and local governments, other public authorities, private organizations, and foreign countries.

(b) Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund.

(c) The capital of the fund consists of—

(1) amounts appropriated to the fund;

(2) net assets of the Center as of October 1, 1980, including unexpended advances made to the Center for which valid obligations were incurred before October 1, 1980;

(3) the reasonable value of property and other assets transferred to the fund after September 30, 1980, less the related liabilities and unpaid obligations; and

(4) the reasonable value of property and other assets donated to the fund.

(d) The fund shall be reimbursed or credited with—

(1) advance payments from applicable funds or appropriations of the Department and other agencies, and with advance payments from other sources, the Secretary authorizes, for—

(A) services at rates that will recover the expenses of operation, including the accrual of annual leave and overhead; and

(B) acquiring property and equipment under regulations the Secretary prescribes; and

(2) receipts from the sale or exchange of property or in payment for loss or damage of property held by the fund.

(e) The Secretary shall deposit at the end of each fiscal year, in the Treasury as miscellaneous receipts, amounts accruing in the fund that the Secretary decides are in excess of the needs of the fund.

§ 329. Transportation information

(a) The Secretary of Transportation may collect and collate transportation information the Secretary decides will contribute to the improvement of the transportation system of the United States. To the greatest practical extent, the Secretary shall use information available from departments, agencies, and instrumentalities of the United States Government and other sources. To the extent practical, the Secretary shall make available to other Government departments, agencies, and instrumentalities and to the public the information collected under this subsection.

(b) The Secretary shall—

(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.) or the Civil Aeronautics Board under title IV of that Act (49 U.S.C. 1371 et seq.));

(2) study the possibilities of developing air commerce and the aeronautical industry; and

(3) exchange information on civil aeronautics with governments of foreign countries through appropriate departments, agencies, and instrumentalities of the Government.

(c)(1) On the written request of a person, a State, territory, or possession of the United States, or a political subdivision of a State, territory, or possession, the Secretary may—

(A) make special statistical studies on foreign and domestic transportation;

(B) make special studies on other matters related to duties and powers of the Secretary;

(C) prepare, from records of the Department of Transportation, special statistical compilations; and

(D) provide transcripts of studies, tables, and other records of the Department.

(2) The person or governmental authority requesting information under paragraph (1) of this subsection must pay the actual cost of preparing the information. Payments shall be deposited in the Treasury in an account that the Secretary shall administer. The Secretary may use amounts in the account for the ordinary expenses incidental to getting and providing the information.

(d) To assist in carrying out duties and powers under the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.), the Secretary of Transportation shall maintain separate cooperative agreements with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration for the timely exchange of information on their programs, policies, and requirements directly related to carrying out that Act.

§ 330. Research contracts

(a) The Secretary of Transportation may make contracts with educational institutions, public and private agencies and organizations, and persons for scientific or technological research into a problem related to programs carried out by the Secretary. Before making a contract, the Secretary must require the institution, agency, organization, or person to show that it is able to carry out the contract.

(b) In carrying out this section, the Secretary shall—

(1) give advice and assistance the Secretary believes will best carry out the duties and powers of the Secretary;

(2) participate in coordinating all research started under this section;

(3) indicate the lines of inquiry most important to the Secretary; and

(4) encourage and assist in establishing and maintaining cooperation by and between contractors and between them and other research organizations, the Department of Transportation, and other departments, agencies, and instrumentalities of the United States Government.

(c) The Secretary may distribute publications containing information the Secretary considers relevant to research carried out under this section.

§ 331. Service, supplies, and facilities at remote places

(a) When necessary and not otherwise available, the Secretary of Transportation may provide for, construct, or maintain the following for officers and employees of the Department of Transportation and their dependents stationed in remote places:

(1) emergency medical services and supplies.

(2) food and other subsistence supplies.

(3) messing facilities.

(4) motion picture equipment and film for recreation and training.

(5) living and working quarters and facilities.

(6) reimbursement for food, clothing, medicine, and other supplies provided by an officer or employee in an emergency for the temporary relief of individuals in distress.

(b) The Secretary shall prescribe reasonable charges for services, supplies, and facilities provided under subsection (a)(1), (2), and (3) of this section. Amounts received under this subsection shall be credited to the appropriation from which the expenditure was made.

(c) When appropriations for a fiscal year for aviation duties and powers have not been made before June 1 immediately before the beginning of the fiscal year, the Secretary may designate an officer, and authorize that officer, to incur obligations to buy and transport supplies to carry out those duties and powers at installations outside the 48 contiguous States and the District of Columbia. The amount obligated under this subsection in a fiscal year may be not more than 75 percent of the amount available for buying and transporting supplies to those installations for the then cur-

rent fiscal year. Payment of obligations under this subsection shall be made from appropriations for the next fiscal year when available.

§ 332. Minority Resource Center

(a) In this section, "minority" includes women.

(b) The Department of Transportation has a Minority Resource Center. The Center may—

(1) include a national information clearinghouse for minority entrepreneurs and businesses to disseminate information to them on business opportunities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the railroads of the United States;

(2) carry out market research, planning, economic and business analyses, and feasibility studies to identify those business opportunities;

(3) assist minority entrepreneurs and businesses in obtaining investment capital and debt financing;

(4) design and carry out programs to encourage, promote, and assist minority entrepreneurs and businesses in getting contracts, subcontracts, and projects related to those business opportunities;

(5) develop support mechanisms (including venture capital, surety and bonding organizations, and management and technical services) that will enable minority entrepreneurs and businesses to take advantage of those business opportunities;

(6) participate in, and cooperate with, United States Government programs and other programs designed to provide financial, management, and other forms of support and assistance to minority entrepreneurs and businesses; and

(7) make arrangements to carry out this section.

(c) The Center has an advisory committee of 5 individuals appointed by the Secretary of Transportation. The Secretary shall make the appointments from lists of qualified individuals recommended by minority-dominated trade associations in the minority business community. Each of those trade associations may submit a list of not more than 3 qualified individuals.

(d) The United States Railway Association, the Consolidated Rail Corporation, and the Secretary shall provide the Center with relevant information (including procurement schedules, bids, and specifications on particular maintenance, rehabilitation, restructuring, improvement, and revitalization projects) the Center requests in carrying out this section.

§ 333. Responsibility for rail transportation unification and coordination projects

(a) The Secretary of Transportation may develop and make available to interested persons any plans, proposals, and recommendations for mergers, consolidations, reorganizations, and other unification or coordination projects for rail transportation (including arrangements for joint use of tracks and other facilities and acquisition or sale of assets) that the Secretary believes will result in a rail system that is more efficient and consistent with the public interest.

(b) To achieve a more efficient, economical, and viable rail system in the private sector, the Secretary, when requested by a rail carrier and under this section, may assist in planning, negotiating, and carrying out a unification or coordination of operations and facilities of at least 2 rail carriers.

(c)(1) The Secretary may conduct studies to determine the potential cost savings and possible improvements in the quality of rail transportation that are likely to result from unification or coordination of at least 2 rail carriers, through—

(A) elimination of duplicating or overlapping operations and facilities;

(B) reducing switching operations;

(C) using the shortest or more efficient and economical routes;

(D) exchanging trackage rights;

(E) combining trackage and terminal or other facilities;

(F) upgrading tracks and other facilities used by at least 2 rail carriers;

(G) reducing administrative and other expenses; and

(H) other measures likely to reduce costs and improve rail transportation.

(2) When the Secretary requests information for a study under this section, a rail carrier shall provide the information requested. In carrying out this section, the Secretary may designate an officer or employee to get from a rail carrier information on the kind, quality, origin, destination, consignor, consignee, and routing of property. This information may be obtained without the consent of the consignor or consignee notwithstanding section 11910(a)(1) of this title. When appropriate, the designated officer or employee has the powers described in section 203(c) of the Regional Rail Reorganization Act of 1973 to carry out this section, but a subpena must be issued under the signature of the Secretary.

(d)(1) When requested by a rail carrier, the Secretary may hold conferences on and mediate disputes resulting from a proposed unification or coordination project. The Secretary may invite to a conference—

(A) officers and directors of an affected rail carrier;

(B) representatives of rail carrier employees who may be affected;

(C) representatives of the Interstate Commerce Commission;

(D) State and local government officials, shippers, and consumer representatives; and

(E) representatives of the Federal Trade Commission and the Attorney General.

(2) A person attending or represented at a conference on a proposed unification or coordination project is not liable under the antitrust laws of the United States for any discussion at the conference and for any agreements reached at the conference, that are entered into with the approval of the Secretary to achieve or determine a plan of action to carry out the unification or coordination project.

(e) When the approval of a proposal submitted by a rail carrier for a merger or other action is subject to the jurisdiction of the Interstate Commerce Commission under section 11343(a) of this title, the Secretary may study the proposal to decide whether it satisfies section 11344(b) of this title. When the proposal is the subject of an application and proceeding before the Commission, the Secretary may appear in any proceeding related to the application.

§ 334. Limit on aviation charges

The Secretary of Transportation may impose a charge for an approval, test, authorization, certificate, permit, registration, transfer, or rating related to aviation that has not been approved by Congress only when the charge (1) was in effect on January 1, 1973, and (2) is not more than the charge that was in effect on that date. However, this section does not apply to a charge for a test, authorization, certificate, permit, or rating related to an airman or repair station administered or issued outside of the United States, as defined in section 101(41) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(41)).

§ 335. Authorization of appropriations

(a) The following amounts may be appropriated to the Secretary of Transportation:

(1) for necessary expenses of the Office of the Secretary (including not more than $27,000 for allocation within the Department of Transportation of official reception and representation expenses as determined by the Secretary) not more than $35,193,204 for each of the fiscal years ending September 30, 1983, and September 30, 1984.

(2) for necessary expenses of carrying out transportation planning, research, and development activities, including collecting national transportation statistics, $10,486,615 for each of the fiscal years ending September 30, 1983, and September 30, 1984.

(3) for necessary expenses of the Minority Business Resource Center not otherwise provided for, not more than $10,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984, to remain available until expended.

(4) for necessary expenses of carrying out the duties and powers of the Research and Special Programs Administration, not more than $32,300,000 for the fiscal year ending September 30, 1983, and $33,300,000 for the fiscal year ending September 30, 1984.

(b) The Secretary may use only amounts appropriated for the Office of the Secretary that are authorized for that Office by subsection (a) of this section.

CHAPTER 5—SPECIAL AUTHORITY

SUBCHAPTER I—DUTIES AND POWERS

Sec.
501. Definitions and application.
502. General authority.
503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers.
504. Reports and records.
505. Arrangements and public records.
506. Authority to investigate.
507. Enforcement.

SUBCHAPTER II—PENALTIES

521. Civil penalties.
522. Reporting and record keeping violations.
523. Unlawful disclosure of information.
524. Evasion of regulation of motor carriers.
525. Disobedience to subpenas.
526. General criminal penalty when specific penalty not provided.

SUBCHAPTER I—DUTIES AND POWERS

§ 501. Definitions and application

(a) In this chapter—

(1) the definitions in section 10102 of this title apply.

(2) "migrant worker" has the same meaning given that term in section 3101 of this title.

(3) "motor carrier of migrant workers" means a motor carrier of migrant workers subject to the jurisdiction of the Secretary of Transportation under section 3102(c) of this title.

(b) This chapter only applies in carrying out—

(1) chapter 31 of this title; and

(2) other duties and powers transferred to the Secretary under section 6(e) of the Department of Transportation Act (49 U.S.C.

1655(e)) and vested in the Interstate Commerce Commission before October 15, 1966.

§ 502. General authority

(a) The Secretary of Transportation shall carry out this chapter.

(b) The Secretary may—

(1) inquire into and report on the management of the business of rail carriers and motor carriers;

(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of the person is related to the management of the business of that carrier; and

(3) obtain from those carriers and persons information the Secretary determines to be necessary.

(c) In carrying out this chapter as it applies to motor carriers, motor carriers of migrant workers, and motor private carriers, the Secretary may—

(1) confer and hold joint hearings with State authorities;

(2) cooperate with and use the services, records, and facilities of State authorities; and

(3) make cooperative agreements with a State to enforce the safety laws and regulations of a State and the United States related to highway transportation.

(d) The Secretary may subpena witnesses and records related to a proceeding or investigation under this chapter from a place in the United States to the designated place of the proceeding or investigation. If a witness disobeys a subpena, the Secretary, or a party to a proceeding or investigation before the Secretary, may petition the district court for the judicial district in which the proceeding or investigation is conducted to enforce the subpena. The court may punish a refusal to obey an order of the court to comply with a subpena as a contempt of court.

(e)(1) In a proceeding or investigation, the Secretary may take testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding or investigation pending before the Secretary may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding or investigation is at issue on petition and answer. If a witness fails to be deposed or to produce records under this subsection, the Secretary may subpena the witness to take a deposition, produce the records, or both.

(2) A deposition may be taken before a judge of a court of the United States, a United States magistrate, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding or investigation.

(3) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

(5) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. The deposition shall be filed with the Secretary promptly.

(f) Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

§ 503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers

(a) Each motor carrier of migrant workers (except a motor contract carrier) and each motor private carrier shall designate an agent by name and post office address on whom service of notices in a proceeding before, and actions of, the Secretary of Transportation may be made. The designation shall be in writing and filed with the Secretary. The carrier also shall file the designation with the authority of each State in which it operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. The designation may be changed at any time in the same manner as originally made.

(b) A notice of the Secretary to a carrier under this section is served personally or by mail on that carrier or its designated agent. Service by mail on the designated agent is made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If the carrier does not have a designated agent, service may be made by posting a copy of the notice in the office of the secretary or clerk of the authority having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of the State in which the carrier maintains headquarters and with the Secretary.

(c) Each of those carriers, including such a carrier operating in the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier. The designation shall be in writing and filed with the Secretary and with the authority of each State in which the carrier operates having jurisdiction to regulate transportation by motor vehicle in intrastate commerce on the highways of that State. If a designation under this subsection is not made, service may be made on any agent of the carrier in that State. The designation may be changed at any time in the same manner as originally made.

§ 504. Reports and records

(a) In this section—

(1) "association" means an organization maintained by or in the interest of a group of rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers that performs a service, or engages in activities, related to transportation of that carrier.

(2) "carrier" means a motor carrier, motor carrier of migrant workers, motor private carrier, and rail carrier.

(3) "lessor" means a person owning a railroad that is leased to and operated by a rail carrier, and a person leasing a right to operate as a motor carrier, motor carrier of migrant workers, or motor private carrier to another.

(4) "lessor" and "carrier" include a receiver or trustee of that lessor or carrier, respectively.

(b)(1) The Secretary of Transportation may prescribe the form of records required to be prepared or compiled under this section by—

(A) carriers and lessors; and

(B) a person furnishing cars or protective service against heat or cold to or for a rail carrier.

(2) The Secretary may require—

(A) carriers, lessors, associations, or classes of them as the Secretary may prescribe, to file annual, periodic, and special reports with the Secretary containing answers to questions asked by the Secretary; and

(B) a person furnishing cars or protective service against heat or cold to a rail carrier to file reports with the Secretary containing answers to questions about those cars or service.

(c) The Secretary, or an employee designated by the Secretary, may on demand and display of proper credentials—

(1) inspect the equipment of a carrier or lessor; and

(2) inspect and copy any record of—

(A) a carrier, lessor, or association;

(B) a person controlling, controlled by, or under common control with a carrier, if the Secretary considers inspection relevant to that person's relation to, or transaction with, that carrier; and

(C) a person furnishing cars or protective service against heat or cold to or for a rail carrier if the Secretary prescribed the form of that record.

(d) The Secretary may prescribe the time period during which records must be preserved by a carrier, lessor, and person furnishing cars or protective service.

(e)(1) An annual report shall contain an account, in as much detail as the Secretary may require, of the affairs of a carrier, lessor, or association for the 12-month period ending on the 31st day of December of each year. The annual report shall be filed with the Secretary by the end of the 3d month after the end of the year for which the report is made unless the Secretary extends the filing date or changes the period covered by the report.

(2) The annual report and, if the Secretary requires, any other report made under this section shall be made under oath.

(f) No part of a report of an accident occurring in operations of a motor carrier, motor carrier of migrant workers, or motor private carrier and required by the Secretary, and no part of a report of an investigation of the accident made by the Secretary, may be admitted into evidence or used in a civil action for damages related to a matter mentioned in the report or investigation.

§ 505. Arrangements and public records

(a) The Secretary of Transportation may require a motor carrier, motor carrier of migrant workers, or motor private carrier to file a copy of each arrangement related to a matter under this chapter that it has with another person. The Secretary may disclose the existence or contents of an arrangement between a motor contract carrier and a shipper filed under this section only if the disclosure is consistent with the public interest and is made as part of the record in a formal proceeding.

(b) Except as provided in subsection (a) of this section, all arrangements and statistics,

tables, and figures contained in reports filed with the Secretary by a motor carrier under this chapter are public records. Such a public record, or a copy or extract of it, certified by the Secretary under seal is competent evidence in a proceeding of the Secretary, and, except as provided in section 504(f) of this title, in a judicial proceeding.

§ 506. Authority to investigate

(a) The Secretary of Transportation may begin an investigation under this chapter on the initiative of the Secretary or on complaint. If the Secretary finds that a rail carrier, motor carrier, motor carrier of migrant workers, or motor private carrier is violating this chapter, the Secretary shall take appropriate action to compel compliance with this chapter. The Secretary may take action only after giving the carrier notice of the investigation and an opportunity for a proceeding.

(b) A person, including a governmental authority, may file with the Secretary a complaint about a violation of this chapter by a carrier referred to in subsection (a) of this section. The complaint must state the facts that are the subject of the violation. The Secretary may dismiss a complaint the Secretary determines does not state reasonable grounds for investigation and action. However, the Secretary may not dismiss a complaint made against a rail carrier because of the absence of direct damage to the complainant.

(c) The Secretary shall make a written report of each proceeding involving a rail carrier or motor carrier conducted and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Secretary. The Secretary may have the reports published for public use. A published report of the Secretary is competent evidence of its contents.

§ 507. Enforcement

(a) The Secretary of Transportation may bring a civil action to enforce—

(1) an order of the Secretary under this chapter when violated by a rail carrier; and

(2) this chapter or a regulation or order of the Secretary under this chapter when violated by a motor carrier, motor carrier of migrant workers, motor private carrier, or freight forwarder.

(b) The Attorney General may, and on request of the Secretary shall, bring court proceedings to enforce this chapter or a regulation or order of the Secretary under this chapter and to prosecute a person violating this chapter or a regulation or order of the Secretary.

(c) A person injured because a rail carrier or freight forwarder does not obey an order of the Secretary under this chapter may bring a civil action to enforce that order under this subsection.

(d) In a civil action brought under subsection (a)(2) of this section against a motor carrier, motor carrier of migrant workers, or motor private carrier—

(1) trial is in the judicial district in which the carrier operates;

(2) process may be served without regard to the territorial limits of the district or of the State in which the action is brought; and

(3) a person participating with the carrier in a violation may be joined in the civil action without regard to the residence of the person.

SUBCHAPTER II—PENALTIES

§ 521. Civil penalties

(a)(1) A person required under section 504 of this title to make, prepare, preserve, or submit to the Secretary of Transportation a record about rail carrier transportation, that does not make, prepare, preserve, or submit that record as required under that section, is liable to the United States Government for a civil penalty of $500 for each violation.

(2) A rail carrier, and a lessor, receiver, or trustee of that carrier, violating section 504(c)(1) of this title, is liable to the Government for a civil penalty of $100 for each violation.

(3) A rail carrier, a lessor, receiver, or trustee of that carrier, a person furnishing cars or protective service against heat or cold, and an officer, agent, or employee of one of them, required to make a report to the Secretary or answer a question, that does not make a report to the Secretary or does not specifically, completely, and truthfully answer the question, is liable to the Government for a civil penalty of $100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(5) Trial in a civil action under this subsection is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

(b)(1) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under this chapter about transportation by motor carrier, or an officer, agent, or employee of that person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, or (C) does not make, prepare, or preserve the record in the form and manner prescribed by the Secretary, is liable to the Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

(2) Trial in a civil action under this subsection is in the judicial district in which (A) the motor carrier has its principal office, (B) the motor carrier was authorized to provide transportation under subtitle IV of this title when the violation occurred, (C) the violation occurred, or (D) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

§ 522. Reporting and record keeping violations

(a) A person required to make a report to the Secretary of Transportation, or make, prepare, or preserve a record, under section 504 of this title about transportation by rail carrier, that knowingly and willfully (1) makes a false entry in the report or record, (2) destroys, mutilates, changes, or by another means falsifies the record, (3) does not enter business related facts and transactions in the record, (4) makes, prepares, or preserves the record in violation of a regulation or order of the Secretary, or (5) files a false report or record with the Secretary, shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

(b) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, (3) willfully does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Secretary, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be fined not more than $5,000.

§ 523. Unlawful disclosure of information

(a) A motor carrier, or an officer, receiver, trustee, lessee, or employee of that carrier, or another person authorized by that carrier to receive information from that carrier, may not knowingly disclose to another person (except the shipper or consignee), and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

(b) This chapter does not prevent a motor carrier, motor carrier of migrant workers, or motor private carrier from giving information—

(1) in response to legal process issued under authority of a court of the United States or a State;

(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; and

(3) to another motor carrier, motor carrier of migrant workers, or motor private carrier, or its agent, to adjust mutual traffic accounts in the ordinary course of business.

(c) An employee of the Secretary of Transportation delegated to make an inspection under section 504 of this title who knowingly discloses information acquired during that inspection, except as directed by the Secretary, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

§ 524. Evasion of regulation of motor carriers

A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade regulation of motor carriers under this chapter shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

§ 525. Disobedience to subpenas

A motor carrier, motor carrier of migrant workers, or motor private carrier not obeying a subpena or requirement of the Secretary of Transportation under this chapter to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

§ 526. General criminal penalty when specific penalty not provided

When another criminal penalty is not provided under this chapter, a person that

knowingly and willfully violates a provision of this chapter, or a regulation or order of the Secretary of Transportation under this chapter, related to transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, shall be fined at least $100 but not more than $500 for the first violation and at least $200 but not more than $500 for a subsequent violation. A separate violation occurs each day the violation continues.

SUBTITLE II—TRANSPORTATION PROGRAMS

PART A—[RESERVED—REGIONAL RAIL REORGANIZATION]

PART B—[RESERVED—OTHER RAIL PROGRAMS]

PART C—MOTOR VEHICLES

CHAPTER Sec.
31. MOTOR CARRIER SAFETY 3101

PART D—[RESERVED—AVIATION]

PART E—[RESERVED—AVIATION FACILITIES AND NOISE ABATEMENT]

PART F—[RESERVED—MISCELLANEOUS]

[PARTS A AND B—RESERVED]

PART C—MOTOR VEHICLES

CHAPTER 31—MOTOR CARRIER SAFETY

Sec.
3101. Definitions.
3102. Requirements for qualifications, hours of service, safety, and equipment standards.
3103. Research, investigation, and testing.
3104. Identification of motor vehicles.

§ 3101. Definitions

In this chapter—

(1) "migrant worker" means an individual going to or from employment in agriculture as defined in section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) or section 203(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)).

(2) "motor carrier", "motor common carrier", "motor private carrier", "motor vehicle", and "United States" have the same meanings given those terms in section 10102 of this title.

(3) "motor carrier of migrant workers" means a person (except a motor common carrier) providing transportation referred to in section 10521(a) of this title by a motor vehicle (except a passenger automobile or station wagon) for at least 3 migrant workers at a time to or from their employment, but the term does not include a migrant worker providing transportation for migrant workers and their immediate families.

§ 3102. Requirements for qualifications, hours of service, safety, and equipment standards

(a) This section applies to transportation—

(1) described in sections 10521 and 10522 of this title; and

(2) to the extent the transportation is in the United States and is between places in a foreign country, or between a place in a foreign country and a place in another foreign country.

(b) The Secretary of Transportation may prescribe requirements for—

(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and

(2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.

(c) The Secretary may prescribe requirements for the comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment of a motor carrier of migrant workers. The requirements only apply to a carrier transporting a migrant worker—

(1) at least 75 miles; and

(2) across the boundary of a State, territory, or possession of the United States.

§ 3103. Research, investigation, and testing

(a) The Secretary of Transportation may investigate and report on the need for Federal regulation of sizes, weight, and combinations of motor vehicles and qualifications and maximum hours of service of employees of a motor carrier subject to subchapter II of chapter 105 of this title and a motor private carrier. The Secretary shall use the services of each department, agency, or instrumentality of the United States Government and each organization of motor carriers having special knowledge of a matter being investigated.

(b) In carrying out this chapter, the Secretary may use the services of a department, agency, or instrumentality of the Government having special knowledge about safety, to conduct scientific and technical research, investigation, and testing when necessary to promote safety of operation and equipment of motor vehicles. The Secretary may reimburse the department, agency, or instrumentality for the services provided.

§ 3104. Identification of motor vehicles

(a) The Secretary of Transportation may—

(1) issue and require the display of an identification plate on a motor vehicle used in transportation provided by a motor private carrier and a motor carrier of migrant workers subject to section 3102(c) of this title (except a motor contract carrier); and

(2) require each of those motor private carriers and motor carriers of migrant workers to pay the reasonable cost of the plate.

(b) A motor private carrier or a motor carrier of migrant workers may use an identification plate only as authorized by the Secretary.

[PARTS D-F—RESERVED]

TRANSFER OF FUNCTIONS

SEC. 2. (a) The Federal-Aid Highway Act of 1966 (Public Law 89-574, 80 Stat. 766), the Federal-Aid Highway Act of 1962 (Public Law 87-866, 76 Stat. 1145), the Federal-Aid Highway Act of 1954 (ch. 181, 68 Stat. 70), the Act of September 26, 1961 (Public Law 87-307, 75 Stat. 670), the Highway Revenue Act of 1956 (ch. 462, 70 Stat. 387), the Highway Beautification Act of 1965 (Public Law 89-285, 79 Stat. 1028), the Alaska Omnibus Act (Public Law 86-70, 73 Stat. 141), the Joint Resolution of August 28, 1965 (Public Law 89-139, 79 Stat. 578), the Act of April 27, 1962 (Public Law 87-441, 76 Stat. 59), and the Highway Safety Act of 1966 (Public Law 89-564, 80 Stat. 731) are amended by striking out the words "Secretary of Commerce" wherever they appear and substituting "Secretary of Transportation".

(b) Reorganization Plan No. 7 of 1949 (5 App. U.S.C.) is amended by striking out the words "Department of Commerce" and "Secretary of Commerce" and substituting "Department of Transportation" and "Secretary of Transportation", respectively.

(c) The Act of March 19, 1918 (15 U.S.C. 261-264), the Act of March 4, 1921 (15 U.S.C. 265), and the Uniform Time Act of 1966 (15 U.S.C. 260, 260a, 261-263, 266, 267) are amended by striking out the words "Interstate Commerce Commission" wherever they appear and substituting "Secretary of Transportation".

(d)(1) Section 7 of the Act of March 4, 1915 (33 U.S.C. 471), rule 9 of section 1 of the Act of February 8, 1895 (33 U.S.C. 258), section 5 of the Act of August 18, 1894 (33 U.S.C. 499), sections 7 and 13 of the Act of June 21, 1940 (33 U.S.C. 517 and 523), the Act of August 21, 1935 (33 U.S.C. 503-507), the Act of March 23, 1906 (33 U.S.C. 491-498), and the General Bridge Act of 1946 (33 U.S.C. 525-533) are amended by striking out the words "Secretary of War" wherever they appear and substituting "Secretary of Transportation".

(2) The 5th paragraph of section 1 of the Act of June 21, 1940 (33 U.S.C. 511), is amended to read as follows:

"The term 'Secretary' means the Secretary of Transportation.".

(3) Section 502(c) of the General Bridge Act of 1946 (33 U.S.C. 525(c)) is amended further by striking out the words "Public Roads Administration" and substituting "Secretary of Transportation".

(e)(1) Section 2(h) of the Oil Pollution Act, 1961 (33 U.S.C. 1001(h)) is amended to read as follows:

"(h) The term 'Secretary' means the Secretary of Transportation;".

(2) The amendment made by paragraph (1) of this subsection is repealed when the amendment to section 2(h) of the Oil Pollution Act, 1961, made by section 2(1)(F) of the Oil Pollution Act Amendments of 1973 (Public Law 93-119; 87 Stat. 424), becomes effective.

(f) Section 9 of the Act of March 3, 1899 (33 U.S.C. 401), is amended to read as follows:

"SEC. 9. It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for (1) the bridge or causeway shall have been submitted to and approved by the Secretary of Transportation, or (2) the dam or dike shall have been submitted to and approved by the Chief of Engineers and Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of Transportation or by the Chief of Engineers and Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of Transportation or by the Chief of Engineers and Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of Transportation or the Chief of Engineers and the Secretary of the Army. The approval required by this section of the location and plans or any modification of plans of any bridge or causeway does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

CONFORMING EXECUTIVE PAY SCHEDULE PROVISIONS

SEC. 3. Title 5, United States Code, is amended as follows:

(1) In section 5313, add at the end thereof the following new item:

"Administrator, Federal Highway Administration.".

(2) In section 5314, strike out "Administrator, Federal Highway Administration." and substitute "Administrator of the National Highway Traffic Safety Administration.".

(3) In section 5315, strike out "Director of Public Roads." and substitute "Deputy Federal Highway Administrator.".

(4) In section 5316, strike out "Director, National Highway Safety Bureau." and substitute "Assistant Federal Highway Administrator.".

(5) In section 5316, strike out "Director, National Traffic Safety Bureau." and substitute "Deputy Administrator of the National Highway Traffic Safety Administration.".

CONFORMING PROVISIONS

SEC. 4. (a) Section 103 of the Water Resources Planning Act (42 U.S.C. 1962a-2) is amended—

(1) by inserting the subsection designation "(a)" at the beginning of the text of the section; and

(2) by adding at the end of the section the following new subsection:

"(b) The Council shall develop standards and criteria for economic evaluation of water resource projects. For the purpose of those standards and criteria, the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway. 'Savings to shippers' means the difference between (1) the freight rates or charges prevailing at the time of the study for the movement by the alternative means, and (2) those which would be charged on the proposed waterway. Estimated traffic that would use the waterway will be based on those freight rates, taking into account projections of the economic growth of the area.".

(b) Effective October 17, 1978—

(1) section 202(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210, 90 Stat. 39) is repealed;

(2) sections 304(j) and 603 of the Regional Rail Reorganization Act of 1973 (Public Law 93-236, 87 Stat. 985) are repealed; and

(3) section 4(d) of the Act of October 17, 1978 (Public Law 95-473, 92 Stat. 1470), is amended by striking out "chapter 169" and substituting "chapter 292".

(4) section 10504 of title 49 is amended by adding at the end of the section the following new subsection:

"(c) Notwithstanding subsection (b) of this section, a local public body, described in subsection (b), is subject to applicable laws of the United States related to—

"(1) safety;

"(2) the representation of employees for collective bargaining; and

"(3) employment retirement, annuity, and unemployment systems or other provisions related to dealings between employees and employers.".

(c) Section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)) is amended by adding at the end thereof the following new sentence: "The Secretary may, subject to such regulations, supervision, and review as he may prescribe, from time to time make such provision as he shall deem appropriate authorizing the performance by a Federal department or agency, with the consent of the department or agency, of any function under this subsection.".

CONFORMING CROSS-REFERENCES

SEC. 5. (a) Title 11, United States Code, is amended as follows:

(1) In item 1166 of the analysis of chapter 11, strike out "Interstate Commerce Act" and substitute "subtitle IV of title 49".

(2) In section 1166—

(A) in the catchline, strike out "Interstate Commerce Act" and substitute "subtitle IV of title 49"; and

(B) in the text, strike out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and substitute "subtitle IV of title 49".

(3) In section 1169, strike out "the Interstate Commerce Act (49 U.S.C. 1 et seq.)" and substitute "subtitle IV of title 49".

(b) Section 42(e) of title 14, United States Code, is amended by striking out "section 9(d)(1) of the Department of Transportation Act (80 Stat. 944; 49 U.S.C. 1657)" and substituting "section 324(d) of title 49".

(c) Section 2341(3) of title 18, United States Code, is amended by striking out "the Interstate Commerce Act" and substituting "subtitle IV of title 49".

(d) Title 23, United States Code, is amended as follows:

(1) In section 117(e), strike out "section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f))" and substitute "section 303 of title 49".

(2) In the analysis of chapter 3, strike out item 303.

(3) In section 322(a), strike out ", conducted under authority of the Act entitled 'An Act to authorize the Secretary of Commerce to undertake research and development in high-speed ground transportation, and for other purposes', approved September 30, 1965 (49 U.S.C. 1631 et seq.)".

(e) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 7701(a)(33)(F), strike out "part III of the Interstate Commerce Act" and substitute "subchapter III of chapter 105 of title 49".

(2) In section 7701(a)(33)(H), strike out "part I of the Interstate Commerce Act" and substitute "subchapter I of chapter 105 of title 49".

(f) Section 1337 (a) and (b) of title 28, United States Code, is amended by striking out "section 20(11) of part I of the Interstate Commerce Act (49 U.S.C. 20(11)) or section 219 of part II of such Act (49 U.S.C. 319)" and substituting "section 11707 of title 49".

(g) Subtitle IV of title 49, United States Code, is amended as follows:

(1) In section 10526(a)(5), strike out "section 1141j(a) of title 12" and substitute "section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))".

(2) In section 10544(d)(1)(B), strike out "chapters 23 and 23A of title 46" and substitute "the Shipping Act, 1916 (46 U.S.C. 801 et. seq.) or the Intercoastal Shipping Act, 1933 (46 U.S.C. 843-848)".

(3) In section 10562(1), strike out "section 1141j(a) of title 12" and substitute "section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))".

(4) In the first sentence of section 10705(c), strike out "subtitle" and substitute "title".

(5) In section 10703(a)(4)(D)(ii), strike out "section 801 or sections 843-849 of title 46" and substitute "section 1 of the Shipping Act, 1916 (46 U.S.C. 801) or the Intercoastal Shipping Act, 1933 (46 U.S.C. 843-848)".

(6) In section 10925(d)(1), strike out "certificate" and substitute "certificate or permit".

(7) In section 11346(a), strike out "section 1654(c)" and substitute "section 333(c)".

(8) In section 11348(a)—

(A) insert "504(f)," immediately before "10764"; and

(B) strike out "11711,".

(9) In section 11361(b), strike out "section 205" and substitute "subchapter IV".

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 6. (a) Sections 1-5 of this Act restate, without substantive change, laws enacted before November 15, 1982, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after November 14, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1-5 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1-5 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1-5 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

SEC. 7. (a) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large Volume	Statutes at Large Page
1887 Feb. 4	104	25(g), 203(a)(22), (23), 204(a)(1) ("qualifications" through period), (2) ("qualifications" through period), (3), (3a), (5), 220(f), 226.	24	379
1910 Apr. 14	160	6	36	299
1935 Aug. 9	498		49	546
1937 Aug. 26	818	"Sec. 26(g)"	50	837

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large Volume	Statutes at Large Page
1940				
Sept. 18	722	14(b) (related to "Sec. 25(g)"), 20(b)(4), 24.	54	919, 922, 926
1956				
Aug. 3	905	1, 2	70	958
1958				
Aug. 23	85-726	301(a), (b), 302(a)-(d), (f), (h), (i), (k), 303(a)-(c)(1), (d), (e), 311, 313(e).	72	744, 746, 747, 748, 749, 751, 753
1961				
Oct. 4	87-367	205	75	791
1962				
Oct. 11	87-793	1001(h)	76	864
1964				
Aug. 14	88-426	305(16)(B), (C)	78	424
1965				
Sept. 30	89-220	4	79	893
1966				
Sept. 9	89-564	201	80	735
Oct. 15	89-670	2, 3(a)-(e), 4(a), (b), (e)-(g), 5(a)-(e), 6(a)(1)(B), (C), (E)-(M), (2)(A) (related to §4 of the Act of Sept. 30, 1965), (4), (6)(B), (b)(1), (2), (c)(1) (1st sentence proviso, 2d, last sentences), (e)(5), (6)(B)-(D), (f)(2), (3), (g)(1)-(4)(B), (E) (5), (6), 7, 8(g)(2), (h), 9(a)-(g), (j)-(q)(3), (r), 11, 12, 17.	80	931, 933, 934, 937, 938, 939, 940, 941, 943, 944, 945, 947, 949
1968				
Aug. 23	90-495	18(b)	82	824
1970				
May 21	91-258	51(a)(1)	84	234
Dec. 31	91-605	202(a)	84	1739
1972				
Aug. 22	92-401	6	86	617
1974				
Jan. 2	93-236	602	87	1022
Oct. 28	93-496	16	88	1533
1975				
Jan. 3	93-633	113(d), (e)	88	2163
1976				
Feb. 5	94-210	401, 905, 906	90	61, 148, 149
July 8	94-348	6	90	820
July 12	94-353	16	90	882
1978				
Mar. 27	95-251	2(a)(12) "Sec. 9(a)".	92	183
Oct. 24	95-504	45	92	1753
1980				
Feb. 15	96-192	28	94	48
May 30	96-254	207	94	413
Oct. 3	96-371	2	94	1362
Oct 19	96-470	112(e)	94	2240
1981				
Aug. 6	97-31	12(8)	95	154
Aug. 13	97-35	1194(a), 1197	95	702, 703

United States Code

Title	Section
23	303

Reorganization Plans

Year	Plan No.	Section	Statutes at Large Volume	Statutes at Large Page
1968	2	2, 3	82	1369

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HUGHES) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. McCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6993, as amended, restates in comprehensive form, without substantive change certain general and permanent laws, related to transportation, as subtitle I, the Department of Transportation, and chapter 31 of subtitle II, Motor Carrier Safety. The floor amendments to the bill being offered are merely technical and clarifying in nature.

The bill was prepared for the House Judiciary Committee by the Office of the Law Revision Counsel under its authority under section 285b of title 2, United States Code, as part of the program of the Office to prepare and submit to the House Judiciary Committee, for enactment into positive law, all titles of the U.S. Code.

Mr. Speaker, I ask unanimous consent that a detailed explanation of H.R. 6993, as amended, be printed at this point in the RECORD.

Mr. Speaker, I include a detailed explanation of H.R. 6993, as amended, at this point in the RECORD:

DETAILED EXPLANATION OF H.R. 6993 REVISION OF TITLE 49, UNITED STATES CODE, "TRANSPORTATION"

Purpose.—The purpose of the bill is to restate in comprehensive form, without substantive change, certain general and permanent laws related to transportation and to enact those laws as subtitle I and chapter 31 of subtitle II of title 49, United States Code. In the restatement, simple language has been substituted for awkward and obsolete terms, and superseded, executed, and obsolete statutes have been eliminated. This bill is a part of the program of the Office of the Law Revision Counsel of the House of Representatives to prepare and submit to this Committee, for enactment into positive law, all titles of the United States Code.

Background.—In 1966, Congress mandated in the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931), a codification of the transportation laws. Congressional committees also expressed a strong desire that the Interstate Commerce Act and related statutes be codified. Considerable progress was made toward this end from 1968 to 1972 by the Joint Interagency Codification Project, a joint effort of the Department of Transportation, the Interstate Commerce Commission, and the Law Revision Counsel of the Committee on the Judiciary of the House of Representatives. More recently, in enacting section 312 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 60), Congress required the Interstate Commerce Commission to submit to Congress by February 4, 1978, a proposed revision and codification of the laws related to interstate commerce.

Effective in 1975, the Office of the Law Revision Counsel was established as a separate office in the House of Representatives with overall responsibility to prepare bills to codify and enact into positive law the remaining uncodified titles of the United States Code. In view of consistent congressional concern in having the transportation laws codified in title 49, the Law Revision Counsel concluded that work on completing the codification of those laws should be resumed. He therefore proposed to the Interstate Commerce Commission and the Secretary of Transportation that joint codification efforts be resumed, and they concurred.

The revision and codification of the Interstate Commerce Act and related laws as subtitle IV of title 49 was completed first because of the statutory deadline of February 4, 1978. The Act of October 17, 1978 (Pub. L. 95-473, 92 Stat. 1337), enacted subtitle IV into positive law.

H.R. 6993 is the next phase in the codification of title 49. The bill codifies certain general and permanent transportation laws in title 49 as subtitle I, the Department of Transportation, and subtitle II, Motor Carrier Safety. A draft of the bill was submitted to the Secretary of Transportation.

Revision of language.—To restate the laws related to transportation in one comprehensive title, it is necessary to make changes in language. Some of the changes are necessary to attain uniformity within the title. Others are necessary as the result of consolidating related provisions of law and to conform to common contemporary usage. In making changes in the language, precautions have been taken against making substantive changes in the law.

Revision notes.—A revision note has been prepared for each section of revised subtitle I and chapter 31 of subtitle II of title 49. The revision notes explain the changes made in the source laws. Each note identifies the statutory basis or source of the section and explains significant changes in, and omissions of, language. When practical, word-for-word substitutions of language are identified and explained. Standard changes made throughout the revision to achieve internal consistency are not explained each time they are made.

Standard changes.—Certain standard changes are made uniformly throughout the revised title 49. The most significant of the other standard changes are explained in the following paragraphs:

As far as possible, the statute is stated in the present tense and in the active voice. When there is a choice of 2 or more words,

otherwise of equal legal effect, the more commonly understood word is used.

The word "shall" is used in the mandatory and imperative sense. The word "may" is used in the permissive and discretionary sense, as "is permitted to" and "is authorized to". The words "may not" are used in a prohibitory sense, as "is not authorized to" and "is not permitted to". The words "person may not" mean that no person is required, authorized, or permitted to do the act.

The words "duties and powers" are substituted for "powers, duties, and functions" and any variation of that phrase. The word "duties" includes that which a person is required to do. The word "powers" includes that which a person is authorized to do.

The words "any part of" means "all or part of" and "in whole or in part". The word "includes" means "includes but is not limited to". The word "considered" denotes the exercise of judgment. The word "deemed" is used where a legal fiction, or what may in some cases be a legal fiction, is intended. The word "is" is used for statements of fact.

When a right is conferred, the words "is entitled" or their equivalent are used.

The first time a descriptive title is used in a section, the full title is used. Thereafter, in the same section, a shorter title is used unless the context requires the full title to be used. For example, "Secretary of Transportation" is used the first time the title appears in a section. Subsequently, in the same section, the title "Secretary" is used.

"United States Government" is substituted for "United States" (when used in referring to the Government), "Federal Government", and other terms identifying the Government the first time the reference appears in a section. Thereafter, in the same section, "Government" is used unless the context requires the complete term to be used to avoid confusion with other governments.

The word "law" is substituted for "Act" and "joint resolution" for clarity because the word "law" includes Acts and joint resolutions.

The word "record" includes all terms previously used for records, documents, accounts, reports, files, memoranda, papers, things, and other similar items.

The words "under section ——" are used instead of "pursuant to section ——" and "in accordance with section ——".

The word "such" is not used as a demonstrative adjective. The use of the word "each", "any", "every", or "all" is confined to instances in which it is feared that doubt would arise if the word were not used.

Provisos are not used. An exception or limitation is introduced by the words "except that" or "but" or by placing the excepting or limiting provision in a separate sentence.

Substantive change not made.—Like other codifications undertaken to enact into positive law all titles of the United States Code, this bill makes no substantive change in the law. It is sometimes feared that mere changes in terminology and style will result in changes in substance or impair the precedent value of earlier judicial decisions and other interpretations. This fear might have some weight if this were the usual kind of amendatory legislation where it can be inferred that a change of language is intended to change substance. In a codification statute, however, the courts uphold the contrary presumption: the statute is intended to remain substantively unchanged. The following authorities affirm this principle:

Steward v. *Kahn* (11 Wall. 493, 502 (1871)).
Smythe v. *Fiske* (28 Wall. 374. 382 (1874)).
McDonald v. *Hovey* (110 U.S. 619, 628 (1884)).
United States v. *Ryder* (110 U.S. 729, 740 (1884)).
United States v. *Sischo* (262 U.S. 165, 168 (1923)).
Fourco Glass Co. v. *Transmirra Products Corp.* (353 U.S. 222, 227 (1957)).
Trailer Marine Transport Corp. v. *Federal Maritime Commission* (D.C. Cir., 602 F. 2d 379, 383 (1979)).
Atchison, Topeka and Santa Fe Railway Co. v. *United States* (7th Cir., 617 F. 2d 485, 490, 491 (1980)).
Walsh v. *Commonwealth* (224 Mass. 239, 112 N.E. 486, 487 (1916)).
State ex rel. Rankin v. *Wilbaux County Bank* (85 Mont. 532, 281 Pac. 341, 344 (1929)).
In re Sullivan's Estate (38 Ariz. 387, 300 Pac. 193, 195 (1931)).
Sigal v. *Wise* (114 Conn. 297, 158 Atl. 891, 894 (1932)).
Martin v. *Dver-Kane Co.* (113 N.J. Eq. 88, 166 Atl. 227, 229 (1933)).
Norfolk & Portsmouth Bar Ass'n. v. *Drewry* (161 Va. 833, 172 S.E. 282, 285 (1934)).

Sutherland, Statutory Construction (4th ed., Sands, 1972), secs. 28.10, 28.11.

Tables.—Tables are provided at the end of this statement to show the disposition of laws affected by this codification.

AGENCY COMMENTS

The following agency letters have been received on the title 49 codification:

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., November 22, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On September 7, 1982, I received your request for the Department's review of H.R. 6993, a bill "To revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and Chapter 31 of subtitle II of title 49, United States Code, "Transportation"."

Also included for review was a committee print of a draft report explaining the bill.

The bill has previously been analyzed by the Department and with the assistance of the Law Revision Counsel, matters requiring technical corrections have been resolved. We support H.R. 6993 and its passage.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

JOHN M. FOWLER.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., November 23, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to your request, the Department of Justice has reviewed H.R. 6993, a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitle I and chapter 31 of title 49, United States Code.

The Department of Justice defers to other interested agencies, such as the Department of Transportation, as to whether this legislation should be enacted.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

SECTION-BY-SECTION SUMMARY

SECTON 1—EXPLANATION OF REVISED TITLE 49

Section 1 of the bill enacts certain general and permanent laws of the United States, related to transportation, as subtitle I and chapter 31 of subtitle II of title 49, United States Code.

Title 49—Transportation

Subtitle Section
I. Department of Transportation
II. Transportation Programs
III. [Reserved—Air Transportation]
IV. Interstate Commerce
V. [Reserved—Miscellaneous]

Subtitle I—Department of Transportation

Chapter Section
1. Organization
3. General duties and powers
5. Special authority

CHAPTER 1—ORGANIZATION

Section
101. Purpose.
102. Department of Transportation.
103. Federal Railroad Administration.
104. Federal Highway Administration.
105. National Highway Traffic Safety Administration.
106. Federal Aviation Administration.
107. Urban Mass Transportation Administration.
108. Coast Guard.
109. Maritime Administration.
110. St. Lawrence Seaway Development Corporation.

SECTION 101

Revised section	United States Code	Statutes at Large
101(a)	49:1651(a)	Oct. 15, 1966, Pub. L. 89-670, § 2(a), (b)(1), 80 Stat. 931.
101(b)	49:1651(b)(1)	

In subsections (a) and (b), the introductory declaratory words are omitted as surplus.

In subsection (a), the words "national objectives of" are inserted for clarity. The words "United States" are substituted for "Nation" and "Nation's", respectively, for consistency. The word "contribute" is substituted for "conducive" because the substituted word is more commonly used. The word "those" is substituted for "utilization".

In subsection (b)(2), the word "greatest" is substituted for "maximum" for consistency.

In subsection (b) (3) and (6), the word "national" is omitted before "transportation" as unnecessary and for consistency.

In subsection (b)(3), the word "persons" is substituted for "parties" as being more precise.

In subsection (b)(6), the words "transportation objectives" are substituted for "these objectives" for clarity and consistency. The words "full and appropriate" and "for approval" are omitted as surplus.

SECTION 102

Revised section	United States Code	Statutes at Large
102(a)	49:1652(a) (1st sentence)	Oct. 15, 1966, Pub. L. 89-670, § 3 (a), (c), (d), 80 Stat. 931.
102(b)	49:1652(a) (less 1st sentence).	
102(c)	49:1652(b) (less words between parentheses).	Oct. 15, 1966, Pub. L. 89-670, § 3(b), 80 Stat. 931; Oct. 28, 1974, Pub. L. 93-496, § 16(a), 88 Stat. 1533.
102(d)	49:1652(b) (words between parentheses), (c), (d).	
102(e)	49:1657(k)	Oct. 15, 1966, Pub. L. 89-670, § 9(k), 80 Stat. 946.

In subsection (a), the words "There is hereby established" and "to be known as" are omitted as executed. The words "(hereafter referred to in this chapter as the 'Department')" are omitted as unnecessary because of the style used in codifying the revised title. The words "of the United States Government" are added for clarity.

In subsection (b), the words "(hereafter referred to in this chapter as the 'Secretary')" are omitted as unnecessary because of the style used in codifying the revised title.

In subsection (c), the words "carry out duties and powers" and "acts for" are substituted for "act for and exercise the powers of" and "perform such functions, powers, and duties", respectively, for consistency and to eliminate surplus words. The words "unable to serve" are substituted for "disability" for consistency and clarity.

In subsection (d), the words "in the competitive service" are substituted for "under the classified civil service" to conform to 5:2102. The words "from time to time" are omitted as surplus. The words "acts for" are substituted for "act for, and exercise the powers of" for consistency and to eliminate surplus words. The words "when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant" are substituted for "during the absence or disability of the Deputy Secretary, or in the event of a vacancy in the office of a Deputy Secretary" as being more precise and for consistency.

In subsection (e), the words "The Secretary shall cause a . . . of office" and "of such device" are omitted as unnecessary because of the restatement. The words "as he shall approve" are omitted as unnecessary because subsection (b) of the section establishes the Secretary of Transportation as the head of the Department of Transportation.

SECTION 103

Revised section	United States Code	Statutes at large
103(a)	49:1652(e)(1) (1st sentence related to FRA).	Oct. 15, 1966, Pub. L. 89-670, §§ 3(e) (related to FRA) (1), (3), (4), 6(f)(3)(C) (related to FRA), 80 Stat. 932, 940.
	49:1652a	July 8, 1976, Pub. L. 94-348, § 6, 90 Stat. 820.
103(b)	49:1652(e) (related to FRA (1) (2d, last sentences), (3) (last sentence).	
103(c)	49:1655(f)(3)(A)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(3)(A), 80 Stat. 940; Aug. 22, 1972, Pub. L. 92-401, § 6, 86 Stat. 617; Jan. 3, 1975, Pub. L. 93-633, § 113(e)(1), 88 Stat. 2163.
103(d)	49:1652(e)(3) (related to FRA) (less last sentence).	
	49:1652(e)(4) (related to FRA).	
	49:1655(f)(3)(C) (related to FRA).	

In subsection (a), the words "To carry out" are substituted for "for purposes of administering and enforcing" in 49:1652a for consistency and to eliminate surplus words. The words "under those laws" are substituted for "pursuant to Federal railroad safety laws" to eliminate surplus words. The words "is responsible" are substituted for "shall retain full and final responsibility" and "shall be responsible" to eliminate surplus words. The words "and for the establishment of all policies with respect to implementation of such laws" are omitted as surplus.

In subsection (b), the words "Each of these components" are omitted as surplus.

In subsection (c), the words "vested in the Secretary" are substituted for "as set forth in the statutes transferred to the Secretary" in 49:1655(f)(3)(A) for clarity and consistency. The words "section 6(e)(1), (2), and (6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(1), (2), and (6)(A))" are substituted for "subsection (e) of this section (other than subsection (e)(4) of this section)" in 49:1655(f)(3)(A) for clarity.

In subsection (d), the word "law" is substituted for "statute" in 49:1652(e)(4) for consistency. The words after "administratively final" in 49:1655(f)(3)(C) are omitted as unnecessary because of the restatement of the revised title and those laws giving a right to appeal.

SECTION 104

Revised section	United States Code	Statutes at Large
104(a)	49:1652(e)(1)(1st sentence related to FHWA).	Oct. 15, 1966, Pub. L. 899-670, §§ 3(e) (related to FHWA)(1), (3), (4), 6(f)(3)(C) (related to FHWA), 80 Stat. 932, 940.
104(b)(1)	49:1652(e) (related to FHWA)(1) (less 1st sentence), (3) (last sentence).	
104(b)(2)	23:303(a)(1) (1st, 2d sentences).	
104(b)(3)	23:303(a)(1) (last sentence), (b), (c).	
104(c)	49:1655(f)(3)(B)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(3)(B), 80 Stat. 940; Jan. 3, 1975, Pub. L. 93-633, § 113(e)(2), 88 Stat. 2163.
	23:401(note)	Sept. 9, 1966, Pub. L. 89-564, § 201(b)(1), 80 Stat. 735; Oct. 15, 1966, Pub. L. 89-670, § 8(h), 80 Stat. 943; restated Dec. 31, 1970, Pub. L. 91-605, § 202(a), 84 Stat. 1740.
	49:1652(e)(3) (related to FHWSA) (less last sentence).	
104(d)	49:1652(e)(4) (related to FHWA).	
	49:1655(f)(3)(C) (related to FHWA).	

In subsection (b)(1), the words "Each of these components" are omitted as surplus.

In subsection (b)(2), the words "In addition to the Administrator of the Federal Highway Administration authorized by section 3(e) of the Department of Transportation Act" in 23:303(a)(1) (1st sentence) are omitted as surplus.

In subsection (b)(3), the words "In the competitive service" are substituted for "under the classified civil service" to conform to 5:2102. The text of 23:303(b), (c) is omitted as unnecessary because sections 322 and 323 of the revised title restate the authority of the Secretary of Transportation.

In subsection (c), the source provisions are consolidated. The words "The Administrator shall carry out duties and powers" are substituted for "The Secretary shall carry out through the Federal Highway Administration those provisions of the Highway Safety Act of 1966 . . . for" in 23:401 (note) and "carry out the functions, powers, and duties of the Secretary" in 49:1655(f)(3)(B) as being more precise, to eliminate unnecessary words, and for consistency. The words "vested in the Secretary" are substituted for "as set forth in the statutes transferred to the Secretary" in 49:1655(f)(3)(B) for clarity and consistency.

In subsection (d), the word "law" is substituted for "statute" in 49:1652(e)(4) for consistency. The words after "administratively final" in 49:1655(f)(3)(C) are omitted as unnecessary because of the restatement of the revised title and those laws giving the right to appeal.

SECTION 105

Revised section	United States Code	Statutes at Large
105	23:401(note)	Sept. 9, 1966, Pub. L. 89-564, § 201(a)(less pay of Administrator and Deputy Administrator), (b)(2), (c), (d), 80 Stat. 735; Oct. 15, 1966, Pub. L. 89-670, § 8(h), 80 Stat. 943; restated Dec. 31, 1970, Pub. L. 91-605, § 202(a), 84 Stat. 1739.

In subsection (a), the words "The . . . is an administration in the" are substituted for "There is hereby established within the", in section 201(a) (1st sentence) of the Highway Safety Act of 1966 (Pub. L. 89-564, 80 Stat. 731) to conform to other sections of the revised title. The words "(hereafter in this section referred to as the 'Administration')" are omitted as unnecessary.

In subsection (c), the words "carry out . . . duties and powers . . . prescribed by the Secretary" are substituted for "perform such duties as are delegated to him by the Secretary" to eliminate surplus words and for consistency. The list of excepted programs in clause (1) is substituted for "highway safety programs, research and development not specifically referred to in paragraph (1) of this subsection", in section 201(b)(2) of the Highway Safety Act of 1966 for clarity.

In subsection (d), the words "Administration . . . authorized by this section" are omitted as surplus.

The text of section 201(d) of the Highway Safety Act of 1966 is omitted as executed.

SECTION 106

Revised section	United States Code	Statutes at Large
106(a)	49:1341(a)(1st sentence)	Aug. 23, 1958, Pub. L. 85-726, §§ 301(a), (b), 302(a), (b), 72 Stat. 744; Aug. 14, 1964, Pub. L. 88-426, § 305(16)(B), (C), 78 Stat. 424.
	49:1652(e)(1)(related to FAA).	Oct. 15, 1966, Pub. L. 89-670, § 3(e) (related to FAA), 80 Stat. 932.

Revised section	United States Code	Statutes at Large
106(b)	49:1341(a)(2d sentence), (b) (1st sentence less 1st–10th words.). 49:1342(a)(1st sentence less 1st-11th words.). 49:1652(e)(related to FAA)(1) (less 1st sentence), (3) (last sentence.).	
106(c)	49:1341(b) (1st sentence 1st–10th words, 2d sentence). 49:1652(e)(2)(related to Administrator).	
106(d)	49:1342(b)(1st sentence 1st-11th words, 2d sentence, 4th-6th sentences). 49:1652(e)(2)(1st sentence less Administrator). 49:1343(a)(2)(related to deputy Administrator).	Aug. 23, 1958, Pub. L. 85–726, § 302(c)(2) (related to Deputy Administrator), 72 Stat. 745.
106(e)	49:1341(b)(less 1st, 2d sentences). 49:1342(b)(3d sentence)	
106(f)	49:1341(a)(less 1st, 2d sentences).	
106(g)	49:1652(e)(3) (related to FAA) (less last sentence). 49: 1655(c)(1)(1st sentence proviso.)	Oct. 15, 1966, Pub. L. 89–670; § 6(c)(1) (1st sentence proviso, 2d, last sentences), 80 Stat. 938; Jan. 3, 1975, Pub. L. 93–633, § 113(d), 88 Stat. 2163.
106(h)	49:1652(e)(4) (related to FAA). 49:1655(c)(1) (2d, last sentences).	
106(i)	49:1342(a) (2d, last sentences).	

In subsections (a) and (b), the source provisions are combined for clarity.

In subsection (a), the words "referred to in this chapter as the 'Administration'" are omitted because of the style of the revised title.

In subsection (b), the word "due" in 49:1342(b) (1st sentence less 1st–11th words) is omitted as surplus. The words "the duties and powers" are substituted for "the powers and duties vested in and imposed upon him by this chapter" to eliminate surplus words and for consistency. The word "consider" is substituted for "with . . . regard to" for clarity.

In subsections (c) and (d), the words "At the time of his nomination" are omitted as unnecessary and for consistency.

In subsection (c), the text of 49:1652(e)(2) (last sentence) is omitted as executed.

In subsection (d)(1), the words "Nothing in this chapter or other law shall preclude" in 49:1342(b) (4th sentence) are omitted as unnecessary because of the positive statement of authority. The words "armed force" are substituted for "armed services" to conform to title 10. The words "to the position of" are omitted as surplus.

In subsection (d)(2), the word "continue" is omitted as surplus. The words "pay provided by law for the Deputy Administrator" are substituted for "compensation provided for the Deputy Administrator" in 49:1342(b) because the pay provisions were repealed and replaced by 5:5315. The words "(including personal money allowance)" are omitted as being within the meaning of "allowance" in title 37. The words "as the case may be" are omitted as surplus. The words 'of the military grade held" are substituted for "military . . . payable to a commissioned officer of his grade and length of service" to eliminate unnecessary words. The words "administration" and "military" are added for clarity. The words "to defray" are omitted as surplus.

In subsection (d)(3), the words "acceptance of, and" are omitted as unnecessary. The word "held" is substituted for "may occupy or hold" to eliminate unnecessary words. The words "right or benefit" are substituted for "emolument, perquisite, right, privilege, or benefit" to eliminate unnecessary words. The words "incident to or" before "arising" are omitted as surplus.

In subsection (f), the word "Secretary" is substituted for "Administrator" because of the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words "In the exercise of his duties and the discharge of his responsibilities under this chapter" are omitted as surplus.

In subsection (g), the words "are hereby transferred to" in 49:1655(c)(1) are omitted as executed. The words "carry out" are substituted for "it shall be his duty to exercise" in 49:1655(c)(1) for clarity, consistency, and to eliminate surplus words. The words "In addition to such functions, powers, and duties as are specified in this chapter" in 49:1652(e)(3) are omitted as unnecessary because of the restatement.

In subsection (h), the first sentence is substituted for 49:1655(c)(1) (2d sentence) for clarity and consistency. The word "law" is substituted for "statute" in 49:1652(e)(4) for consistency. The words "carrying out" in 49:1655(c)(1) (last sentence) are substituted for "the exercise of" for consistency. The words after "administratively final" are omitted as unnecessary because of the restatement of the revised title and those laws giving a right of appeal.

In subsection (i), the words "and exercise the powers of" are omitted as surplus. The words "when the office of the Administrator is vacant" are inserted to conform to section 102 of the revised title.

SECTION 107

Revised section	United States Code	Statutes at large
107	49:1608 (note)	Reorg. Plan No. 2 of 1968, eff. July 1, 1968, § 3, 82 Stat. 1369.

In subsection (b), the words, "and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314)" are omitted as surplus because of 5:5314.

SECTION 108

Revised section	United States Code	Statutes at large
108(a)	49:1655(b)(1), (2)	Oct. 15, 1966, Pub. L. 89–670, §§ 3(e)(3) (related to USCG), 6(b)(1), (2), 80 Stat. 932, 938.
108(b)	49:1652(e)(3) (related to USCG).	

Subsection (a) reflects the transfer of the Coast Guard to the Department of Transportation as provided by the source provisions and 14:1. The words "Except when operating as a service of the Navy" are substituted for 49:1655(b)(2) because of 14:3. The words "The Secretary of Transportation exercises . . . vested in the Secretary of the Treasury . . . immediately before April 1, 1967" are substituted for "and there are hereby transferred to and vested in the Secretary . . . of the Secretary of the Treasury" to reflect the transfer of duties and powers to the Secretary of Transportation on April 1, 1967, the effective date of the Department of Transportation Act (Pub. L. 89–670, 80 Stat. 931).

In subsection (b), the first sentence is included to provide the name of the officer in charge of the Coast Guard, as reflected in 14:44. In the 2d sentence, the words "carrying out the duties and powers specified by law" are substituted for "such functions, powers, and duties as are specified in this chapter to be carried out", and the words "carry out duties and powers prescribed" are substituted for "carry out such additional functions, powers, and duties as", for consistency.

SECTION 109

Revised section	United States Code	Statutes at large
109	No source	

The section is included to provide in chapter 1 of the revised title a complete list of the organizational units established by law that are in the Department of Transportation or are subject to the direction and supervision of the Secretary of Transportation.

SECTION 110

Revised section	United States Code	Statutes at large
110(a)	No source	
110(b)	33:981 note	Oct. 15, 1966, Pub. L. 89–670, § 8(g)(2), 80 Stat. 943.

Subsection (a) is included to provide in chapter 1 of the revised title a complete list of the organizational units established by law that are in the Department of Transportation or are subject to the direction and supervision of the Secretary of Transportation.

CHAPTER 3—GENERAL DUTIES AND POWERS

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

Sec.
301. Leadership, consultation, and cooperation.
302. Policy standards for transportation.
303. Policy on lands, wildlife and waterfowl refuges, and historic sites.
304. Joint activities with the Secretary of Housing and Urban Development.
305. Transportation investment standards and criteria.
306. Prohibited discrimination.
307. Safety information and intervention in Interstate Commerce Commission proceedings.
308. Annual reports.

SUBCHAPTER II—ADMINISTRATIVE

321. Definitions.
322. General powers.
323. Personnel.
324. Members of the armed forces.
325. Advisory committees.
326. Gifts.
327. Administrative working capital fund.
328. Transportation Systems Center working capital fund.
329. Transportation information.
330. Research contracts.
331. Service, supplies, and facilities at remote places.
332. Minority Resource Center.
333. Responsibility for rail transportation unification and coordination projects.

334. Limit on aviation charges.
335. Authorization of appropriations.

SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION

SECTION 301

Revised section	United States Code	Statutes at large
301	49:1653(a)	Oct. 15, 1966, Pub. L. 89-670, § 4(a), 80 Stat. 933.

In the introductory clause before "shall", the words "in carrying out the purposes of this chapter . . . among his responsibilities" are omitted as surplus.

In clause (4), the word "compiling" is substituted for "gathering" for consistency.

SECTION 302

Revised section	United States Code	Statutes at large
302(a)	49:1653(b)(1)	Oct. 15, 1966, Pub. L. 89-670, § 4(b), 80 Stat. 933.
302(b)	49:1653(b)(2)	
302(c)	49:1653(b)(3)	

In subsection (a), the words, "In carrying out his duties and reponsibilities under this chapter" before "Secretary of Transportation" are omitted as surplus. The words "the transportation policy of sections 10101 and 10101a of this title in addition to other laws" are substituted for "all applicable statutes including the policy standards set forth in the Federal Aviation Act of 1958, as amended [49 U.S.C. 1301 et seq.]; the national transportation policy of the Interstate Commerce Act, as amended; title 23, relating to Federal-aid highways; and title 14, titles 52 and 53 of the Revised Statutes, the Act of April 25, 1940, as amended, and the Act of September 2, 1958, as amended, relating to the United States Coast Guard" because of the omitted laws is now applicable to the Secretary of Transportation and the Department of Transportation as the result of the restatement of those laws, and the Secretary is therefore bound to follow those laws by their own terms.

In subsection (c), the words, "In exercising the functions, powers, and duties conferred on and transferred to the Secretary by this chapter" before "Secretary" are omitted as surplus. The word "consider" is substituted for "give full consideration to" to eliminate surplus words. The words "for operational continuity of the functions transferred" after "the needs" are omitted as executed.

SECTION 303

Revised section	United States Code	Statutes at large
303(a)	49:1651(b)(2) 49:1653(f) (1st sentence)	Oct. 15, 1966, Pub. L. 89-670, § 2(b), 80 Stat. 931. Oct. 15, 1966, Pub. L. 89-670, § 4(f), 80 Stat. 934; restated Aug. 23, 1968, Pub. L. 92-495; § 18(b), 82 Stat. 824.
303(b)	49:1653(f) (2d sentence)	
303(c)	49:1653(f) (less 1st, 2d sentences).	

In subsection (a), the words, "hereby/declared to be" before "the policy" are omitted as surplus. The words "of the United States Government" are substituted for "national" for clarity and consistency.

In subsection (b), the words "crossed by transportation activities or facilities" are substituted for "traversed" for clarity.

In subsection (b), before clause (1), the words "After August 23, 1968" after "Secretary" are omitted as executed. The word "transportation" is inserted before "program" for clarity. In clause (2), the words "or project" are added for consistency.

SECTION 304

Revised section	United States Code	Statutes at large
304(a)	49: 1653(g) (less 3d sentence).	Oct. 15, 1966, Pub. L. 89-670, § 4(g), 80 Stat. 934.
304(b)	49: 1653(g) (3d sentence)	

In subsection (a), the text of 49: 1653(g) (last sentence) is omitted as executed.

In subsection (a)(4), the word "ensure" is substituted for "assure" as being more precise. The words "of the United States Government" are substituted for "Federal," and the words "United States" are substituted for "national" for clarity and consistency.

In subsection (b), the words "The Secretaries shall report on April 1 of each year" are substituted for "They shall, within one year after the effective date of the Act, and annually thereafter, report" to omit executed words and to specify the date of April 1 because the President prescribed April 1, 1967, as the effective date of the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931) by Executive Order No. 11340, March 30, 1967 (32 F.R. 5443). The word "consider" is substituted for "determine" for consistency.

SECTION 305

Revised section	United States Code	Statutes at large
305(a)	49: 1656(a) (less next-to-last par.).	Oct. 15, 1966, Pub. L. 89-670, § 7 (less (a) next-to-last par.), 80 Stat. 941.
305(b)	49: 1656 (less (a))	

In subsection (a), before clause (1), the words "consistent with national transportation policies" after "develop standards and criteria" are omitted as unnecessary because of section 302 of the revised title. The words "Based on experience" are substituted for "in the light of experience", and the words "shall prescribe" are substituted for "be promulgated by the", to conform to other sections of the revised title. The words "from time to time" after "shall revise" are omitted as unnecessary. The words "This subsection does apply to" are substituted for "except such proposals as are concerned with" for clarity. In clause (1), the words "a department, agency, or instrumentality of the Government" are substituted for "Federal agencies" for clarity and consistency. Similar conforming changes are made throughout the section. The word "services" after "provide transportation" is omitted as unnecessary. In clause (2), the words "48 contiguous States" are substituted for "contiguous United States" for clarity.

The text of 49:1656(a) (last par.) that provided that the Secretary of Transportation was a member of the Water Resources Council on matters pertaining to navigation features of water resource projects is omitted as superseded because 42:1962(a) gave the Secretary membership on the Council without limitation.

In subsection (b)(2), the words "unit of" before "governments" are omitted as surplus. In clause (3), the word "thereafter" after "send" is omitted as surplus.

SECTION 306

Revised section	United States Code	Statutes at large
306(a)	45:803(f)	Feb. 5, 1976, Pub. L. 94-210, § 905, 90 Stat. 148.
306(b)	45:803(a)	
306(c), (d)	45:803(b)	
306(e)	45:803(c)-(e)	

In subsection (b), the enumerated laws are substituted for "through financial assistance under this Act", meaning the Rail Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 31) and laws amended by that Act. The laws cited in the subsection are substituted for "through financial assistance under this Act" for clarity. The enumerated laws include provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 that amend other laws as well as provisions that are not amendments to other laws. A reference to the Urban Mass Transportation Act of 1964 (Pub. L. 98-365, 78 Stat. 302) is omitted because this section related to that Act is superseded by 49:1615.

In subsection (c), the word "decides" is substituted for "determines" for consistency. The word "ensure" is substituted for "assure" as being more precise.

In subsection (d), the words "at least one of the following actions" are substituted for "and/or" for clarity and consistency.

In subsection (e), the text of 45:803(d) is omitted as unnecessary because section 322 of the revised title gives the Secretary of Transportation general authority to prescribe regulations and other provisions of the revised title give the Secretary general authority to carry out his duties and powers. The text of 45:803(e) is omitted as unnecessary.

SECTION 307

Revised section	United States Code	Statutes at large
307(a)	49:1653(e)(1)	Oct. 15, 1966, Pub. L. 89-670, § 4(e), 80 Stat. 934.
307(b)	49:1653(e)(2)	
307(c)	49:1653(e)(3), (4)	

In the section, the words "be the duty of" before "Secretary shall" are omitted as surplus.

In subsection (a), the word "inspect" is substituted for "investigate" as being more appropriate. The words "person applying to the Interstate Commerce Commission for authority to provide transportation or freight forwarder service" are substituted for "applicant seeking operating authority from the Interstate Commerce Commission" as being more precise and to conform to subtitle IV of the revised title. The words "of the inspection" are inserted for clarity.

In subsection (b), the words "person applying for permanent authority to provide transportation or freight forwarder service" are substituted for "applicant for permanent operating authority" as being more precise and to conform to subtitle IV of the revised title. The words "proposed transfer of permanent authority" are substituted for "proposed transaction involving transfer of operating authority" to eliminate surplus words and for clarity because the transfer only involves permanent authority.

In subsection (c)(1), the words "providing transportation or freight forwarder service subject to its jurisdiction" are inserted for clarity.

Subsection (c)(2) is substituted for 49:1653(e)(3) for clarity and to conform to subtitle IV of the revised title. The words "freight forwarder service" are not used because the law does not provide for temporary authority for freight forwarders.

In subsection (c)(3) and (4), the word "finding" is substituted for "determination" to conform to subtitle IV of the revised title.

In subsection (c)(3), the words "necessary or" before "desirable" are omitted as surplus.

SECTION 308

Revised section	United States Code	Statutes at Large
308(a)	45:792	Jan. 2, 1974, Pub. L. 93–236, § 602, 87 Stat. 1022.
	49:1658	Oct. 15, 1966, Pub. L. 89–670, § 12, 80 Stat. 949; Feb. 5, 1976, Pub. L. 94–210, § 906(1), 90 Stat. 149.
308(b)	49:1354(e)	Aug. 23, 1958, Pub. L. 85–726, § 313(e), 72 Stat. 753.
308(c)	15:1519a	Oct. 3, 1980, Pub. L. 96–371, § 2, 94 Stat. 1362; Aug. 6, 1981, Pub. L. 97–31, § 12(8), 95 Stat. 154.

In subsection (a), the words "As part of his annual report each year" in 45:792 are omitted as unnecessary because of the restatement of the source provisions.

In subsection (b), before clause (1), the words "aviation activities of the Department" are substituted for "work performed under this chapter" because of the restatement. The words "The report shall include" are substituted for "Such report shall contain" for consistency. In clause (1), the words "and data" after "information" are omitted as surplus. The words "airspace of the United States" are substituted for "National airspace" for clarity and consistency. In clause (2), the words "the Secretary considers necessary" are substituted for "as may be considered" for clarity.

SUBCHAPTER II—ADMINISTRATIVE

SECTION 321

Revised section	United States Code	Statutes at Large
321	No source.	

A number of the source provisions of the subchapter are taken from 49:ch. 20. The text of 49:ch. 20 contains general definitions, some of which are used in those source provisions. The section includes those definitions from 49:ch. 20 that are used in the source provisions included in the subchapter.

SECTION 322

Revised section	United States Code	Statutes at Large
322(e)	49:1657(e)(1) (last 19 words), (2) (last 19 words), (f), (g).	Oct. 15, 1966, Pub. L. 89–670, § 9(e)–(g), 80 Stat. 944.
322(b)	49:1344(d) (less words after semicolon).	Aug. 23, 1958, Pub. L. 85–726, §§ 302(k), 303(a), (d) (less words after semicolon), 80 Stat. 747, 749.
	49:1657(e)(1) (less last 19 words), (2) (less last 19 words), (3) 5 App. U.S.C.	Reorg. Plan No. 2 of 1968, eff. July 1, 1968, § 2, 82 Stat. 1369.
322(c)	49:1343(i)	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, § 303(e); added May 21, 1970, Pub. L. 91–258, § 51(a)(1), 84 Stat. 234; July 12, 1976, Pub. L. 94–353, § 16, 90 Stat. 882, Oct. 19, 1980, Pub. L. 96–470, § 112(e), 94 Stat. 2240.
322(d)	49:1344(a)	
322(e)	49:1344(e)	

In the chapter, the words "Secretary of Transportation" and "Secretary" are substituted for "Administrator" in the provisions of the Federal Aviation Act of 1958 (Pub. L. 85–726, 72 Stat. 731) restated in the revised chapter because of the transfer of aviation functions to the Secretary under 49:1655(c)(1).

In subsection (a), the words "may prescribe regulations to carry out the duties and powers" are substituted for "may make such rules and regulations as may be necessary to carry out . . . functions, powers, and duties" for consistency and to eliminate unnecessary words. The text of 49:1657 (f) and (g) is omitted as executed because the transfer of personnel, assets, and liabilities, etc., has been accomplished.

In subsection (b), the words "Except where this chapter vests in any administration, agency or board, specific functions, powers, and duties" before "the Secretary may" in 49:1657(e)(1) are omitted because of the specific wording of sections 103, 104, and 106 of the revised title. The words "in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to or vested in the Secretary in this chapter" before "delegate" in 49:1657(e)(1) are omitted because the authority of the Secretary to delegate is consolidated in the subsection. The words "the duties and powers of the Secretary" are substituted for "any of his residual functions, powers, and duties" in 49:1657(e)(1) and "any of the functions transferred to him by this reorganization plan" in section 2 of Reorganization Plan No. 2 of 1968 (eff. July 1, 1968, 82 Stat. 1369), for clarity and consistency. The words "as he may designate" and "of such functions, powers, and duties as he may deem desirable" are omitted as surplus each place they appear in 49:1657(e) (1) and (2). The text of section 322(b) (1st sentence) of the revised title is substituted for 49:1344(d) (less words after semicolon) for clarity and because of the transfer of aviation functions to the Secretary of Transportation under 49:1655(c)(1). The text of 49:1657(e)(2) (words before 2d comma) is omitted as unnecessary because the authority of an officer to delegate is consolidated in the subsection. The words "the duties and powers of the officer" are substituted for "such functions, powers, and duties" in 49:1657(e)(2) for clarity and consistency. The words "the duties and powers specified in section 103(c)(1), 104(c)(1), and 106(g)(1) of this title" are substituted for "any of the statutory duties and responsibilities specifically assigned to them by this chapter" in 49:1657(e)(3) for clarity. The words "may not be delegated to an officer or employee outside the Administration concerned" are substituted for "The Administrators established by section 1652(e) of this title . . . may not delegate . . . outside of their respective administrations" in 49:1657(e)(3) for clarity and because of the restatement of the section.

In subsection (c), before clause (1), the words "aviation duties and powers" are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. In clause (2), the words "those departments, agencies, and instrumentalities" are substituted for "such other agencies and instrumentalities" in 49:1343(i) for clarity and consistency. The words "aviation . . . Department" are substituted for "Administration" in 49:1343(i) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1).

In subsection (d), before clause (1), the words "aviation duties and powers" are substituted for "for the exercise and performance of the powers and duties vested in and imposed upon him by law" in 49:1344(a) because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. The words "at the seat of government and elsewhere as may be necessary" after "expenditures" and "and as from time to time may be appropriated for by Congress" are omitted as surplus. In clause (8), the words "passenger-carrying aircraft and automobiles" are substituted for "passenger-carrying automobiles and aircraft" in 49:1344(a) for clarity. The words "such . . . as is necessary in the exercise and performance of the powers and duties of the Secretary" after "aircraft" in 49:1344(a) are omitted as unnecessary because of the restatement of the section. The text of 49:1344(a) (proviso) is omitted as unnecessary.

In subsection (e), before clause (1), the words "or in support of" are omitted as surplus. In clause (1), the words "making the property" are substituted for "for manufacture" for clarity. In clause (2), the word "formal" is omitted as unnecessary. The word "unreasonably" is substituted for "unduly" for consistency.

SECTION 323

Revised section	United States Code	Statutes at Large
323(a)	49:1343(d)	Aug. 23, 1958, Pub. L. 85–726, § 302(f), 72 Stat. 746; Oct. 4, 1961, Pub. L. 87–367, § 205(b), 75 Stat. 791; Oct. 11, 1962, Pub. L. 87–793, § 1001(h), 76 Stat. 864.
	49:1343(f)	Aug. 23, 1958, Pub. L. 85–726, § 302(h), 72 Stat. 746; Oct. 4, 1961, Pub. L. 87–367, § 205(a) 75 Stat. 791
	49:1657(a)	Oct. 15, 1966, Pub. L. 89–670, § 9(a), (b), 80 Stat. 944; Mar. 27, 1978, Pub. L. 95–251, § 2(a)(12), 92 Stat. 183.
323(b)	49:1343(g) (1st sentence 33d–43d words); 49:1657(b).	Aug. 23, 1958, Pub. L. 85–726, § 302(i) (1st sentence 31st–41st words), 72 Stat. 747.

In the section, the word "pay" is substituted for "compensation" for consistency with title 5.

In subsection (a), the words "In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, the National Transportation Safety Board, or any other officer in the Department" before "the Secretary" and "subject to the civil service and classification laws" before "to select" in 49:1657(a) are omitted as unnecessary because of title 5, especially sections 3301, 5101, and 5331. The word "appoint" is substituted for

"select, employ, appoint" because it is inclusive. The words "attorneys, and agents" after "employees" in 49:1343(c) and "including investigators, attorneys, and administrative law judges" after "employees" in 49:1657(a) are omitted as included in "officers and employees". The words "of the Department of Transportation" are substituted for "as are necessary to carry out the provisions of this chapter" for consistency.

The text of 49:1343(d) (words after 1st comma) is omitted because of section 414(a)(1)(B) of the Civil Service Reform Act of 1978 (Pub. L. 95-454, 92 Stat. 1177). The text of 49:1343(f) is omitted because of section 414(a)(2)(A) of that Act.

In subsection (b), the word "procure" is substituted for "obtain" to conform to 5:3109. The words "unless otherwise specified in an appropriation Act" after "individuals" in 49:1657(b) are omitted as surplus.

SECTION 324

Revised section	United States Code	Statutes at Large
324(a)(1)	49:1343(a)(1) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, § 302(c) (1), (2) (related to cooperative agreements), 72 Stat. 745.
324(a)(2)	49:1657(c) (1st sentence)	Oct. 15, 1966, Pub. L. 89-670, § 9(c), (d), 80 Stat. 944.
324(b)	49:1657(p)	Oct. 15, 1966, Pub. L. 89-670, § 9(p), 80 Stat. 947; Oct. 28, 1974, Pub. L. 93-496, § 16(b), 88 Stat. 1533.
324(c)	49:1343(a)(1) (less 1st sentence); 49:1657(c) (less 1st sentence), (d)(2).	
324(d)	49:1343(a)(2) (related to cooperative agreements); 49:1657(d)(1).	

In the section, the words "members of the armed forces" are substituted for "military personnel", "Members of the Army, the Navy, the Air Force, or the Marine Corps", and "members of the armed services" for clarity and to conform to title 10.

In subsection (a)(2), the words "other duties and powers of the Secretary" are substituted for "the functions of the Department" for clarity and consistency.

In subsection (b), the words "Notwithstanding any provision of this chapter or other law" before "a member" and "subject to the provisions of title 5" before "a retired" are omitted as unnecessary.

In subsection (c), the words "The Secretary of Transportation and the Secretary of a military department may make cooperative agreements under which" are substituted for "by the appropriate Secretary, pursuant to cooperative agreements with the Secretary of Transportation" in 49:1343(a)(1) and 49:1657(c) for clarity. The words "or the Coast Guard" before "may be detailed" in 49:1343(a)(1) (2d sentence) are omitted because of the transfer of the Coast Guard to the Secretary under 49:1655(b) and the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words "may be appointed, detailed, or assigned" are substituted for "may be detailed" for clarity and consistency in 49:1343(a)(1) and 49:1657(c). The words "to the Department of Transportation" are substituted for "for service in the Administration to effect such participation" in 49:1343(a)(1) because of the transfer of aviation functions to the Secretary under 49:1655(c)(1) and to eliminate unnecessary words. The words "in writing" after "annually" in 49:1657(d)(2) are omitted as unnecessary. The words "each member appointed, detailed, or assigned" are substituted for "personnel appointed" and "members of the armed services detailed" in 49:1657(d)(2) for clarity and consistency.

In subsection (d), the words "The Secretary of a military department" are substituted for "his armed force or any officer thereof" in 49:1657(d)(1) and "the department from which detailed or appointed or by any agency or officer thereof" in 49:1343(a)(2) for clarity and consistency. The words "directly or indirectly" before "with respect to" are omitted as surplus. The words "the duties and powers of . . . when those duties and powers pertain to the Department of Transportation" are substituted for "with respect to his responsibilities under this chapter or within the Administration" in 49:1343(a)(2) and "with respect to the responsibilities exercised in the position to which appointed, detailed, or assigned" in 49:1657(d)(1) for consistency and because of the transfer of aviation functions to the Secretary under 49:1655(c)(1). The words "does not control" are substituted for "No . . . shall be subject to direction or control by" in 49:1343(a)(2) and "shall not be subject to direction by or control by" 49:1657(d)(1) for clarity. The words "the acceptance of" before "and service" and "any appointive or other" before "position" in 49:1657(d)(1) are omitted as unnecessary. The words "a member" are added because of the restatement of the section. The words "that member" are substituted for "commissioned officers or enlisted men" in 49:1343(a)(2) and "officers and enlisted men" in 49:1657(d)(1) because of the restatement of the section and to eliminate unnecessary words. The word "held" is substituted for "may occupy or hold" to eliminate unnecessary words. The words "right or benefit" are substituted for "emolument, perquisite, right, privilege, or benefit" to eliminate unnecessary words. The words "incident to or" before "arising" are omitted as surplus.

SECTION 325

Revised section	United States Code	Statutes at Large
325(a)	49:1343(g) (1st sentence 1st-32d words).	Aug. 23, 1958, Pub. L. 85-726, § 302(i) (Less 1st sentence 31st-41st words), 72 Stat. 747.
	49:1657(o) (1st sentence).	Oct. 15, 1966, Pub. L. 89-670, § 9(o), 80 Stat. 947.
325(b)	49:1343(g) (1st sentence 44th-53d words, last sentence).	49:1657(o) (last sentence).
325(c)	49:1343(g) (1st sentence 54th-last words).	

In subsection (a), the words "provisions of title 5 governing appointment in the competitive service" are substituted for "civil service laws" in 49:1657(o) for clarity and consistency. The words "as shall be appropriated for the purpose of" before "consultation" in 49:1657(o) are omitted as surplus. The words "the Secretary in carrying out the duties and powers of the Secretary" are substituted for "the Department in performance of its functions" in 49:1657(o) and "the Administration in performance of its functions hereunder" in 49:1343(g) for clarity and consistency because the duties and powers are vested in the Secretary of Transportation.

In subsection (b), the word "compensation" after "may be paid" in 49:1657(o) is omitted as surplus. The words "not more than $100 a day" are substituted for "at rates not exceeding those authorized for individuals under subsection (b) of this section" in 49:1657(o) for clarity because that is the rate under 49:1657(b). The words "A member is entitled to reimbursement for expenses under section 5703 of title 5" are substituted for 49:1343(g) (last sentence) and 49:1657(o) (last sentence words after 4th comma) for clarity.

In subsection (c), the words "A member of an advisory committee advising the Secretary" are substituted for "in the case of any individual" in 49:1343(g) for clarity. The words "may serve" are added for clarity and because of the restatement of the section. The words "in carrying out aviation duties and powers" are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration.

SECTION 326

Revised section	United States Code	Statutes at Large
326(a)	49:1344(c)(1)	Aug. 23, 1958, Pub. L. 85-726, § 303(c)(1), 72 Stat. 748.
	49:1657(m)(1) (1st, 3d sentences).	Oct. 15, 1966, Pub. L. 89-670, § 9(m), 80 Stat. 946.
326(b)	49:1657(m)(1) (2d sentence), (3) (less 1st sentence).	
326(c)	49:1657(m)(3) (1st sentence).	
326(d)	49:1657(m)(2)	

In the section, the word "gifts" is substituted for "gifts and bequests" in 49:1657(m)(1) because it is inclusive.

In subsection (a), the words "accept and use" are substituted for "accept, hold, administer, and utilize", and the words "for the department" are substituted for "for the purpose of aiding or facilitating the work of the Department" in 49:1657(m)(1), to eliminate unnecessary words. The word "property" is substituted for "property, both real and personal" in 49:1657(m)(1), and "gift or donation of money or other property, real and personal" in 49:1344(c)(1) to eliminate unnecessary words. The words "aviation duties and powers" are added because the source provisions being restated only applies to carrying out duties and powers related to the Federal Aviation Administration. The words "under this section and proceeds from that property" are substituted for "pursuant to this paragraph, and the proceeds thereof" in 49:1657(m)(1) for clarity.

In subsection (b), the words "The Department has a" and "The fund consists of" are added for clarity and because of the restatement of the section. The word "separate" before "fund" is omitted as unnecessary and for consistency. The words "from the fund" are added for clarity. The words "accepted under this section" are substituted for "held by the Secretary pursuant to paragraph (1)" for clarity. The words "that property" are substituted for "other property received as gifts or bequests" to eliminate unnecessary words. The words "from securities under subsection (c) of this section" are substituted for "accruing from such securities" for clarity.

In subsection (c), the words "amounts in the fund" are substituted for "any moneys contained in the fund provided for in paragraph (1)" for clarity and consistency.

In subsection (d), the words "under this section" are substituted for "under paragraph (1)" because of the restatement of the section. The words "the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" are substituted for "For the purpose of Federal

income, estate, and gift taxes" for consistency.

SECTION 327

Revised section	United States Code	Statutes at Large
327(a)	49:1657(j) (1st sentence less 11th–17th words).	Oct. 15, 1966, Pub. L. 89–670, § 9(j), 80 Stat. 945.
327(b)	49:1657(j) (1st sentence 11th–17th words, 2d sentence, 18th–22d words).	
327(c)	49:1657(j) (2d sentence less 18th–22d words, 4th sentence).	
327(d)	49:1657(j) (less 1st, 2d, 4th sentences).	

In subsection (a), the words "Department of Transportation has" are substituted for "Secretary is authorized to establish" because the working capital fund has been established. The words "administrative" before "working" and "Amounts in the fund are available" are added for clarity. The words "the Secretary of Transportation decides are" are substituted for "as he shall find to be" for clarity. The words "desirable for the economy" are substituted for "desirable in the interest of economy" to eliminate unnecessary words. The words "such services as" before "a central supply service" and "in whole or in part" before "the requirements of the Department" are omitted as surplus. The words "the requirements of the Department" are substituted for "the requirements of the Department and its agencies" because they are inclusive.

In subsection (b), the words "Amounts in the fund" are added for clarity. The words "Amounts may be appropriated to the fund" are substituted for "(which appropriations are hereby authorized)" for clarity.

In subsection (c), the words, "The fund consists of" are substituted for "The capital of the fund shall consist of" and "The fund shall also be credited with" for clarity. The word "reasonable" is substituted for "fair and reasonable" because it is inclusive. The words "amounts appropriated to the fund" are substituted for "of any appropriations made for the purpose of providing capital" for clarity. The words "amounts received from the sale" are substituted for "receipts from the sale", and the words "payments received for loss" are substituted for "receipts in payment for", as being more precise.

In subsection (d), the words "agencies and offices in" after "available funds of" are omitted because they are included in "Department". The words "Amounts in the fund, in excess of amounts" are added for clarity. The words "any surplus found in the fund . . . above the" after "miscellaneous receipts" are omitted because of the restatement of this section. The words "to establish and" before "maintain" are omitted because the working capital fund has been established. The words "deposited in the Treasury" and substituted for "covered into the United States Treasury" for consistency. The words "are . . . in determining the amount of the excess" are added for clarity.

SECTION 328

Revised section	United States Code	Statutes at Large
328(a)	49:1657(r)(1) (1st sentence, 2d sentence words before last comma, last sentence).	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 9(r); added May 30, 1980, Pub. L. 96–254, § 207, 94 Stat. 413.
328(b)	49:1657(r)(1) (2d sentence words after last comma), (2)(B) (words after last comma).	
328(c)	49:1657(r)(2)(A), (B) (words before last comma), (C).	
328(d)	49:1657(r)(3)	
328(e)	49:1657(r)(4)	

In subsection (a), the words "Department of Transportation has" are substituted for "Secretary is authorized to establish" because the working capital fund has been established. The text of 49:1657(r)(1) (2d sentence words before last comma) are omitted as executed. The words "The Transportation Systems Center is authorized to perform" are omitted as unnecessary because of the restatement. The word "approves" is substituted for "direct . . . and, when approved by the Secretary" to eliminate unnecessary words. The words "or his designee" are omitted because of section 322(b) of the revised title.

In subsection (c)(3) and (4), the words "fair and" are omitted as surplus.

In subsection (c)(3), the words "by the Department and other agencies of the Government" are omitted as surplus.

In subsection (c)(4), the words "from other sources" are omitted as surplus.

In subsection (d)(1), before clause (A), the words "or his designee" are omitted because of section 322(b) of the revised title.

In subsection (e), the words "The Secretary shall deposit" are substituted for "there shall be transferred" for clarity and consistency. The words "in the fund" are added for clarity.

SECTION 329

Revised section	United States Code	Statutes at Large
329(a)	49:1634	Sept. 30, 1965, Pub. L. 89–220, § 4,79 Stat. 893.
	49:1655(a)(2)(A) (related to 49:1634).	Oct. 15, 1966, Pub. L. 89–670, §§ 6(a)(2)(A) (related to § 4 of the Act of Sept. 30, 1965), 9(n), 80 Stat. 937, 946.
329(b)	49:1352	Aug. 23, 1958, Pub. L. 85–726, § 311, 72 Stat. 751.
329(c)(1)	49:1657(r)(1) (less last 17 words).	
329(c)(2)	49:1657(r)(1) (last 17 words), (2).	
329(d)	49:1343(b)	Aug. 23, 1958, Pub. L. 85–726, § 302(d), 72 Stat. 746.

In subsection (a), the word "information" is substituted for "data, statistics, and other information" in 49:1634 to eliminate unnecessary words. The words "transportation system of the United States" are substituted for "national transportation system" in 49:1634 for clarity and consistency. The words "in carrying out this activity" before "the Secretary shall" in 49:1634 are omitted as surplus. The words "departments, agencies, and instrumentalities of the United States Government" are substitutes for "Federal agencies" in 49:1634 for clarity and consistency. The words "To the greatest extent practical" are substituted for "insofar as practicable" in 49:1634 for consistency. The words "The Secretary shall" are added for clarity.

In subsection (b), the words "by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.) or the Civil Aeronautics Board under title IV of that Act (49 U.S.C. 1371 et seq.)" are substituted for "the Board under subchapter IV and VII of this chapter)" in 49:1352 because 49:1655(d) (1st sentence) transferred duties of the Civil Aeronautics Board under 49:ch. 20, subch. VII to the Secretary of Transportation to be carried out through the National Transportation Safety Board. The reference to the National Transportation Safety Board is to the independent Board established by section 303(a) of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2167) outside the Department of Transportation and not to the prior Board that was a part of the Department. The words "departments, agencies, and instrumentalities of the Government" are substituted for "government channels" in 49:1352 for clarity and consistency.

In subsection (c)(1), the words "of the United States" are added for clarity and consistency. The words "of a State, territory, or possession" are substituted for "thereof" after "subdivision" for clarity. The words "related to the duties and powers of the Secretary" are substituted for "falling within the province of the Department" for clarity and consistency.

In subsection (c)(2), the words "governmental authority requesting information under paragraph (1) of this subsection" are substituted for "body requesting it" for clarity and consistency. The word "separate" before "account" is omitted as unnecessary and for consistency. The words "must pay" are substituted for "upon the payment" after "other records" for clarity. The words "preparing the information" are substituted for "such work" after "actual cost of" for clarity. The word "payments" is substituted for "All moneys received by the Department in payment of the cost of work under paragraph (1)" to eliminate unnecessary words. The words "in the Treasury" are added for clarity and consistency. The words "The Secretary may use amounts in the account" are substituted for "These moneys may be used, in the discretion of the Secretary" for clarity and to eliminate unnecessary words. The words "to getting and providing the information" are substituted for "to the work and/or to secure in connection therewith the special services of persons who are neither officers nor employees of the United States" for clarity and to eliminate unnecessary words.

In subsection (d), the words "in carrying out duties and powers under the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.)" are substituted for "in discharge of responsibilities under this chapter" in 49:1343(b) because of the transfer of aviation functions to the Secretary under 49:1658(c)(1) and for consistency. The words "directly related to carrying out that part" are substituted for "directly relating to such responsibilities" in 49:1343(b) because of the restatement of the source provisions.

SECTION 330

Revised section	United States Code	Statutes at Large
330(a)	49:1657(q)(1)	Oct. 15, 1966, Pub. L. 89–670, § 9(q)(1)–(3), 80 Stat. 947.
	49:1657(q)(2) (1st sentence).	
330(b)	49:1657(q)(2) (less 1st sentence).	
330(c)	49:1657(q)(3)	

In subsection (a), the words "may make contracts" are substituted for "is authorized

to enter into contracts" to eliminate unnecessary words. The words "the conduct of" before "scientific" are omitted as surplus. The words "a problem" are substituted for "any aspect of the problems" because of the style of the revised title. The words "carried out by the Secretary" are substituted for "of the Department which are authorized by statute" because the Secretary of Transportation is vested with all duties and powers. The words "Before making a contract" are substituted for "with which he expects to enter into contracts pursuant to this subsection" for clarity and to eliminate unnecessary words. The words "is able to carry out the contract" are substituted for "have the capability of doing effective work" for clarity.

In Subsection (b), before clause (1), the words "In carrying out this section" are added for clarity. In clause (1), the word "give" is substituted for "furnish" before "such advice" for consistency. The words "duties and powers of the Secretary" are substituted for "mission of the Department" for clarity and consistency. In clause (4), the word "contractors" is substituted for "the institutions, agencies, organizations, or persons" to eliminate unnecessary words. The words "departments, agencies, and instrumentalities of the United States Government" are substituted for "Federal agencies" for clarity and consistency.

In subsection (c), the words "considers relevant" are substituted for "as he deems pertinent" as more precise. The words "from time to time" before "disseminate" and "in the form of reports or . . . to public or private agencies or organizations, or individuals" before "such information" are omitted as unnecessary.

SECTION 331

Revised section	United States Code	Statutes at Large
331(a)	49:1657(*l*) (less last sentence).	Oct. 15, 1966, Pub. L. 89–670, § 9(*l*), 80 Stat. 946.
331(b)	49:1657(*l*) (last sentence)	
331(c)	49:1344(b)	Aug. 23, 1958, Pub. L. 85–726, § 303(b), 72 Stat. 748.

In subsection (a), the text of 49:1657(*l*) (words before 3d comma) is omitted as unnecessary. The words "of the Department of Transportation" are added for clarity. In clause (6), the words "individuals in distress" are substituted for "distressed persons" as being more precise.

In subsection (b), the words "The Secretary shall prescribe reasonable charges" are substituted for "shall be at prices reflecting reasonable value as determined by the Secretary" for clarity and to eliminate surplus words. The words "services, supplies, and facilities provided under subsection (a) (1), (2), and (3) of this section" are substituted for "The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection" to eliminate surplus words. The words "Amounts received under this subsection" are substituted for "and the proceeds therefrom" for clarity.

In subsection (c), the words "aviation duties and powers" are substituted for "the Administration" in 49:1344(b) because of the transfer of aviation functions to the Secretary of Transportaton under 49:1655(c)(1). The words "before June 1" are substituted for "prior to the first day of March" in 49:1344(b) to conform to the change in the start of the fiscal year from July 1 to October 1 under 31:1020(a)(2). The words "and materials necessary" after "supplies" in 49:1344(b) are omitted as surplus. The words "to carry out those duties and powers" are substituted for "necessary to the proper execution of the Secretary of Transportation's functions" in 49:1344(b) for clarity and consistency. The words "the 48 contiguous States and the District of Columbia" are substituted for "the continental United States" in 49:1344(b) for clarity. The words "including those in Alaska" before "in amounts" In 49:1344(b) are omitted as unnecessary because of the restatement of the section. The words "The amount obligated under this subsection in a fiscal year" in 49:1344(b) are added for clarity. The words "available for buying and transporting supplies to those installations" are substituted for "made available for such purposes" in 49:1344(b) for clarity. The word "succeeding" after "next" in 49:1344(b) is omitted as surplus.

SECTION 332

Revised section	United States Code	Statutes at Large
332(a)	49:1657a(e)	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 11; added Feb. 5, 1976, Pub. L. 94–210, § 906(2), 90 Stat. 149.
332(b)	49:1657a(a), (c)	
332(c)	49:1657a(b)	
332(d)	49:1657a(d)	

In subsection (b), before clause (1), the word "has" is substituted for "The Secretary shall, within 180 days after February 5, 1976, establish" because the time for establishing the Center has expired and the Center has been established. The words "The Department of Transportation" are added because of the restatement of the section. The words "(hereafter in this section referred to as the 'Center')" after "minority Resource Center" are omitted because of the style of the revised title.

In subsection (b)(1), the word "include" is substituted for "establish and maintain", and the words "to disseminate information" are substituted for "and disseminate information from", for clarity. The words "to them . . . related to" are substituted for "to such entrepreneurs and businesses . . . with respect to" to omit unnecessary words. The words "for purposes of furnishing . . . information" before "with respect to" are ommitted as surplus.

In subsection (b)(2), the words "those business opportunities" are substituted for "such opportunities" after "identify" for clarity.

In subsection (b)(4), the words "these business opportunities" are substituted for "the maintenance, rehabilitation, restructuring, improvement, and revitalization of the Nation's railroads" to eliminate surplus words.

In subsection (b)(5), the words "related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the nation's railroads" are omitted as unnecessary because of the restatement.

In subsection (b)(7), the words "make arrangements" are substituted for "enter into such contracts, cooperative agreements, or other transactions" to eliminate unnecessary words. The words "as may be necessary" after "transactions" are omitted as surplus. The words "to carry out this section" are substituted for "in the conduct of its functions and duties" for clarity and consistency.

In subsection (c), the words "The Secretary shall make the appointments" and the words "Each of these trade associations may submit a list of not more than" are added for clarity and because of the restatement of the section.

In subsection (d), the words "in carrying out this section" are substituted for "in connection with the performance of its functions" for clarity and consistency.

SECTION 333

Revised section	United States Code	Statutes at Large
333(a)	49:1654(a)	Oct. 15, 1966, Pub. L. 89–670, 80 Stat. 931, § 5(a)–(e); added Feb. 5, 1976, Pub. L. 94–210, § 401, 90 Stat. 61.
333(b)	49:1654(b)	
333(c)	49:1654(c)	
333(d)	49:1654(d)	
333(e)	49:1654(e)	

In the section, the word "transportation" is substituted for "services" for consistency.

In subsection (a), the words "feasible" and "but not limited to" are omitted as surplus.

In subsection (b), the words "In order" are omitted as surplus. The words "at least 2" are substituted for "two or more" for consistency.

In subsection (c)(1), the words "as are deemed" are omitted as unnecessary.

In subsection (c)(2), the words "and the study described in section 901 of the Railroad Revitalization and Regulatory Reform Act of 1976" and "or such section 901" are omitted as executed. The word "nature" is omitted as covered by "kind". The word "When" is substituted for "to the extent" for consistency. The word "necessary" is omitted as being included in "appropriate". A cross-reference to section 203(c) of the Regional Rail Reorganization Act of 1973 is included eventhough the law is unclear because section 1149 of the Omnibus Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 675) amended section 203 to repeal the powers referred to in the source provisions. No position is taken as to whether the powers described in section 203(c) are still in existence.

In subsection (d)(1)(A), the word "appropriate" is omitted as surplus.

In subsection (d)(1)(C), the words "representatives of" are added for consistency in the section.

In subsection (e), the words "in his judgment" are omitted as unnecessary and covered by "decide". The word "satisfies" is substituted for "is in accordance with the standards set forth in" to eliminate unnecessary words.

SECTION 334

Revised section	United States Code	Statutes at Large
334	49:1341(note)	Oct. 24, 1978, Pub. L. 95–504, § 45(a), 92 Stat. 1753.
	49:1341(note)	Oct. 24, 1978, Pub. L. 95–504, 92 Stat. 1753, § 45(b), (c); added Feb. 15, 1980, Pub. L. 96–192, § 28, 94 Stat. 48.

The words "fee . . . or price" are omitted as included in "charge".

SECTION 335

Revised section	United States Code	Statutes at Large
335	49:1660	Oct. 15, 1966, Pub. L. 89-670, 80 Stat. 931, § 17; added Aug. 13, 1981, Pub. L. 97-35, § 1194(a), 95 Stat. 702.
	49:1653 (note)	Aug. 13, 1981, Pub. L. 97-35, § 1197, 95 Stat. 703.

In subsection (a), the words "ending September 30, 1982" and 49:1660(2) are omitted as executed..

In subsection (a)(1), the words "Office of the Secretary" are substituted for "Secretary of Transportation" in 49:1660 for clarity.

In subsection (a)(4), the words "Notwithstanding any other provision of law" are omitted as unnecessary because of the restatement.

CHAPTER 5—SPECIAL AUTHORITY

SUBCHAPTER I—DUTIES AND POWERS

Sec.
501. Definitions and application.
502. General authority.
503. Service of notice and process on certain motor carriers of migrant workers and on motor private carriers.
504. Reports and records.
505. Arrangements and public records.
506. Authority to investigate.
507. Enforcement.

SUBCHAPTER II—PENALTIES

521. Civil penalties.
522. Reporting and record keeping violations.
523. Unlawful disclosure of information.
524. Evasion of regulation of motor carriers.
525. Disobedience to subpenas.
526. General criminal penalty when specific penalty not provided.

SUBCHAPTER I—DUTIES AND POWERS

SECTION 501

Revised section	United States Code	Statutes at Large
501(a)	No source	
501(b)	45:15	Apr. 14, 1910 ch. 160 § 6, 36 Stat. 299.
	49:26(g)	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(g); added Aug. 26, 1937, ch. 818, 50 Stat. 837; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919.
	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.

In the chapter, the source provisions are those in effect on March 31, 1967, the day before the effective date of the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931), because 49:1655(f)(2) gave the Secretary of Transportation the same powers enumerated in 49:1655(f)(2) that the Interstate Commerce Commission had before certain duties and powers under 49:1655(e) were transferred on April 1, 1967, from the Commission to the Secretary. All references to brokers in the source provisions are omitted as not being applicable to the duties and powers transferred to the Secretary of Transportation.

Subsection (a) is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the definitions are found in the revision notes for sections 3101, 3102(c), and 10102 of the revised title.

In subsection (b), the provisions of law to which the chapter applies are only certain laws listed in 49:1655(e). Those laws include the source provisions restated in chapter 31 of the revised title and 45:4, 5, 6 (in carrying out 45:4 and 5), 11, 12, 13 (proviso), 13 (less proviso in carrying out 45:11, 12, and 13 (proviso)), and 61-64b, and 49:26(a)-(f) (words before last semicolon) and (h). The administrative powers of the Secretary under the chapter are based on the administrative powers of 49:1655(f)(2). That provision lists administrative powers the Commission had under the Interstate Commerce Act (ch. 104, 24 Stat. 379) to carry out the Act, and certain other laws authorized the Commission to use its powers under the Act to carry out those other laws. The administrative powers listed in 49:1655(f)(2) and codified in the chapter therefore apply only to a law listed in 49:1655(e) that was a part of the Interstate Commerce Act or to which the powers of the Commission under the Act were applied. The text of 45:61-64b is included because section 4 of the Act of March 4, 1907 (ch. 2939, 34 Stat. 1417), stated, "It shall be the duty of the Interstate Commerce Commission to execute and enforce the provisions of this Act, and all powers granted to the Interstate Commerce Commission are hereby extended to it in the execution of this Act". The transfer to the Secretary was executed on March 31, 1967. The Act of March 4, 1907, was restated by the Act of December 26, 1969 (Pub. L. 91-169, 83 Stat. 463); section 4 was not included in the restatement. However, repeal by implication is not favored and the transfer was completed on March 31, 1967. Therefore, the text of 45:61-64b is included within the scope of the chapter. The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

SECTION 502

Revised section	United States Code	Statutes at Large
502	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
1502(c)-(f)	49:304(a)(3) (last sentence) (related to "Sec. 305").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 205"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 305").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 205"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 502	49 United States Code	Revised section
(a), (b)	12(1)(a) (1st sentence, 2d sentence, and last sentence words before 1st semicolon).	10321
	304(a) (matter before (1)), (6), (7) (Less words after semicolon).	10321
(c)	305(f)	11502
(d)	12(1)(a) (last sentence words after last semicolon), (2), (3).	10321
	305(d) (related to Commission subpena power).	10321
(e)(1)-(3)	12(4)	10321
	305(d) (related to depositions taken by Commission).	10321
(e)(4) and (5)	12(5), (6)	10321
	305(d) (related to depositions taken by Commission).	10321
(f)	12(7)	10321
	18(1) (last sentence)	10321
	305(d) (related to depositions taken by Commission).	10321

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:305(a)-(c), (e), and (g)-(j) is not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In subsection (b), the text of 49:12(1)(a)(2d sentence words after semicolon) is omitted as unnecessary because the Secretary of Transportation already has authority under chapter 3 of the revised title to make recommendations to Congress.

In subsections (c)-(f), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

In subsection (c), the words "economic and" are omitted as not being transferred to the Secretary. The text of 49:305(f) (last sentence) is omitted as not applicable to this chapter.

In subsection (d), the reference to joint boards in 49:305(d) is omitted as not applicable to this chapter because 49:305(a) (establishing joint boards) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

SECTION 503

Revised section	United States Code	Statutes at Large
503	49:304(a)(3) (last sentence) (related to "Sec. 321").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 221"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 321").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 221"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.
	49:1655(e)(6)(D) (related to "Sec. 321(a), (c)").	Oct. 15, 1966, Pub. L. 89-670, § 6(e)(6)(D), (related to "Sec. 221(a), (c)"), 80 Stat. 940.

The section is included because 49:1655(e)(6)(D) transferred to the Secretary of Transportation all functions, powers, and duties of the Interstate Commerce Commission under 49:321(a) and (c) to the extent those subsections relate to motor carriers of migrant workers and motor private carriers. The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 503	49 United States Code	Revised section
(a), (b)	321(a)	10329
(c)	321(c)	10330

See the revision notes for the revised sections for an explanation of changes make in the text. Changes not accounted for in those revision notes are as follows:

In the section, the words "motor carriers" are omitted because 49:1655(e)(6)(D) applies 49:321(a) and (c) only to motor carriers of migrant workers, other than motor contract carriers, and to motor private carriers, and 49:1655(f)(2)(B)(ii) contains no reference to 49:321. The text of 49:321(b) and (d) is not included because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(e)(6)(D).

In subsection (b), the text of 49:321(a) (less 1st-5th sentences) is omitted as not applicable to this chapter.

SECTION 504

Revised section	United States Code	Statutes at Large
504	49:304(a)(3) (last sentence) (related to "Sec. 320(a) (1st, 2d sentences), (b)-(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 220(a) (1st, 2nd sentences), (b)-(g)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 320(a) (1st, 2d sentences), 9b)-(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 220(a) (1st, 2d sentences), (b)-(g)"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.
	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
504(f)	49:320(f)	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 220(f); added Sept. 18, 1940, ch. 722, § 24, 54 Stat. 926.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 504	49 United States Code	Revised section
(a)(1), (3), and (4)	20(8)	3501, 11141
	320(e)	11141
(a)(2)	No source	
(b)(1)	20(5) (1st sentence), (6) (2d sentence, 1st cl.), (7)(b) (proviso).	11144
	320(d) (1st sentence)	11144
(b)(2)	20(1) (1st sentence less manner and form of reports), (6) (2d sentence, 2d cl.).	11145
	320(a) (1st sentence)	11145
(c)	20(5) (less 1st sentence), (6) (less 2d sentence).	11144
	320(d) (3d and 4th sentences)	11144
(d)	20(7)(b) (proviso)	11144
	320(d) (less 1st, 3d, and 4th sentences)	11144
(e)	20(1) (1st sentence related to manner and form of reports).	11145
	320(a) (2d sentence), (b)	11145

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The provisions of 49:320(c) are not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:334(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In the section, the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The text of 49:320(b) (related to 13-period accounting year) and (g) is not included because it was enacted after the effective date of the transfer authority under 49:1655.

In subsection (a), references to "water line" and "pipe line" are omitted as not applicable to this chapter. Clause (2) is added to provide a simple phrase to refer to all types of carriers to which the section applies.

In subsection (f), the words "the course of the" are omitted as surplus. The words "civil action" are substituted for "suit or action" because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

SECTION 505

Revised section	United States Code	Statutes at Large
505	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
505(a)	49:304(a)(3) (last sentence) (related to "Sec. 320(a) (less 1st, 2d sentences)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 220(a) (less 1st, 2d sentences)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 320(a) (less 1st, 2d sentences)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 220(a) (less 1st, 2d sentences)"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 505	49 United States Code	Revised section
(a)	320(a) (less 1st, 2d sentences)	10764
(b)	16(13)	10303
	304(d) (related to administrative matters)	10303

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a), the text of 49:320(a) (proviso) is not included for motor carriers of migrant workers and motor private carriers because that provision, while included in the enumeration in 49:304(a)(3) and (3a), is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The text of 40:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The words "also" and "with it" are omitted as surplus. The words "contract, agreement, or" are omitted as covered by "arrangement". The words "carrier or" are omitted as covered by "person". The words "related to a matter under this chapter" are substituted for "in relation to any traffic affected by the provisions of this chapter" for clarity because of section 501 of the revised title.

Subsection (b) does not apply to reports made to the Secretary by a rail carrier because 49:16(13) is not included in the specific enumeration of 49:1655(f)(2)(ii). The subsection does not apply to motor carriers of migrant workers and motor private carriers because 49:304(d) only applies to motor carriers and 49:304(a)93) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. References to schedules, classifications, and tariffs are omitted as not applicable to this chapter. The words "Except as provided in subsection (a) of this section" are added for clarity. The words "except as provided in section 504(f) of this title" are added for clarity and consistency because of the restatement of the chapter.

SECTION 506

Revised section	United States Code	Statutes at Large
506	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
506(a), (b)	49:304(a)(3) (last sentence) (related to "Sec. 304(c)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 204(c)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546; Sept. 18, 1940, ch. 722, § 20(b)(4), 54 Stat. 922.
	49:304(a)(3a) (last sentence) (related to "Sec. 304(c)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 204(c)"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 506	49 United States Code	Revised section
(a)	13(1) (1st sentence less words before semicolon, last sentence), (2) (1st, 2d sentences).	11701
	304(c) (1st sentence words after 5th comma, 2d sentence).	11701
(b)	13(1) (1st sentence words before semicolon).	11701
	13(2) (less 1st, 2d sentences)	11701
	304(c) (less 1st sentence words after 5th comma, 2d sentence).	11701
(c)	14	10310
	304(d) (related to reports)	10310

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsections (a) and (b), the text of 49:304(a)(3) (last sentence 1st-7th words)

and (3a) (last sentence 1st-5th words) is omitted as executed.

Subsection (a) is patterned after 49:304(c). The words "violating this chapter" are substituted for "failed to comply with any such provision or requirement" for clarity.

In subsection (b), the text of 49:13(2) (last sentence) is omitted because 49:13(3) is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The words "referred to in subsection (a) of this section" are added for clarity.

Subsection (c) does not apply to motor carriers of migrant workers and motor private carriers because 49:304(d) applies only to motor carriers and 49:324(a) (3) and (3a) do not apply 49:304(d) to motor carriers of migrant workers and motor private carriers. The word "processing" is substituted for "investigation" for clarity and to conform to other sections of the revised title. The word "findings" is added for clarity. The word "decision" is omitted as covered by "conclusions". The words "or requirement" are omitted as covered by "order". The words "in the premises" are omitted as surplus. The words "and in case damages are awarded, such report shall include the findings of fact on which the award is made" are omitted as not applicable to this chapter. The words "entered of record", "and decisions in such form and manner as may be best adapted for public information and use", and "in all courts of the United States and of the several States without any further proof or authentication thereof" are omitted as surplus. The text of 49:14(3) (last sentence) is omitted as unnecessary.

SECTION 507

Revised section	United States Code	Statutes at Large
507	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
507(a), (d)	49:304(a)(3)(last sentence)(related to "Sec. 322(b)").	Feb. 4, 1887, ch. 104, 24 stat. 379, § 204(a)(3)(last sentence) (related to "Sec. 222(b)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence)(related to "Sec. 322(b)").	Feb 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a)(last sentence)(related to "Sec. 222(b)"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 507	49 United States Code	Revised section
(a)	16(12) (related to Commission action)	11702
	322(b)(1) (less 1st sentence last 18 words, 2d sentence, last sentence).	11702
	1017(b)(1) (related to Commission action)	11702
(b)	12(1)(a) (last sentence less words before 1st semicolon and after last semicolon).	11703
	16(12) (related to action by the Attorney General).	11703
	20(9)	11703
(c)	16(12) (related to action by private person).	11705
(d)	1017(b)(1) (related to action by the Attorney General).	11703
	322(b)(1) (1st sentence last 18 words, 2d sentence, last sentence).	11702
	1017(b)(1) (related to action by a private person).	11705

See the revision notes for the revised sections for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In the section, the text of 49:322(b)(2) and (3) is not included for motor carriers of migrant workers and motor private carriers because those provisions, while included in the enumeration in 49:304(a)(3) and (3a), are not included in the specific enumeration of 49:1655(f)(2)(B)(ii).

In subsections (a) and (d), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

In subsection (a), the words "or of any term or condition of any certificate or permit" are omitted as not applicable to this chapter.

In subsection (a)(1), reference to a civil action to enforce an order for the payment of money is omitted as not applicable to this chapter.

SUBCHAPTER II—PENALTIES

SECTION 521

Revised section	United States Code	Statutes at Large
521	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 521	49 United States Code	Revised section
(a)	20(7)(a), (c)-(e)	11901
(b)	322(h)	11901

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

In subsection (a)(3), the words "against heat and cold" are inserted for consistency with sections 11105 and 11901 of the revised title.

Subsection (b) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(h) (1st sentence) only applies to motor carriers and 49:304(a) (3) and (3a) do not apply 49:322(h) (1st sentence) to motor carriers of migrant workers and motor private carriers. The reference to 49:303(c), 306(a)(1), and 309(a)(1) is omitted as not applicable to this chapter.

SECTION 522

Revised section	United States Code	Statutes at Large
522	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
522(b)	49:304(a)(3) (last sentence) (related to "Sec. 322(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 222(g)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(g)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 222(g)"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 522	49 United States Code	Revised section
(a)	20(7)(b)(less proviso)	11909
(b)	322(g)	11909

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

SECTION 523

Revised section	United States Code	Statutes at Large
523	49:1655(f)(2)	Oct. 15, 1966 Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.
523(b)	49:304(a)(3) (last sentence) (related to "Sec. 322(f)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 222(d), (f)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(f)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 222(d), (f)"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.
523(c)	49:304(a)(3) (last sentence) (related to "Sec. 322(d)") 49:304(a)(3a) (last sentence) (related to "Sec. 322(d)").	

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 523	49 United States Code	Revised section
(a)	322(e)	11910
(b)	322(f)	11910
(c)	20(7)(f)	11910
	322(d)	11910

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

Subsection (a) does not apply to motor carriers of migrant workers and motor private carriers because 49:322(e) only applies to motor carriers and 49:304(a)(3) and (3a) do not apply 49:322(e) to motor carriers of migrant workers and motor private carriers. The words "engaged in interstate or foreign commerce" are omitted as unnecessary because of the restatement of the chapter.

In subsections (b) and (c), the text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed.

SECTION 524

Revised section	United States Code	Statutes at Large
524	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 524	49 United States Code	Revised section
	322(c) (related to evasion of regulation).	11906

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The section does not apply to motor carriers of migrant workers and motor private carriers because 49:322(c) (related to evasion of regulation) only applies to motor carriers and 49:304(a) (3) and (3a) do not apply 49:322(c) (related to evasion of regulation) to motor carriers of migrant workers and motor private carriers.

SECTION 525

Revised section	United States Code	Statutes at Large
525	49:304(a)(3) (last sentence) (related to "Sec. liability)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 205(d) (related to liability)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 305(d) (related to liability)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 205(d) (related to liability)"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.
	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transportation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the tranfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 525	49 United States Code	Revised section
	305 (d) (related to liability).	11913

See the revision notes for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The section does not apply to the liability of a rail carrier because 49:46 is not included in the specific enumeration of 49:1655(f)(2)(B)(ii). The text of 49:304(a)(3) (last sentence 1st-7th words) and (3a) (last sentence 1st-5th words) is omitted as executed. The words "under this chapter" are added for clarity.

SECTION 526

Revised section	United States Code	Statutes at Large
526	49:304(a)(3) (last sentence) (related to "Sec. 322(a)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 222(a)"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 322(a)").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 222(a)"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.
	49:1655(f)(2)	Oct. 15, 1966, Pub. L. 89-670, § 6(f)(2), 80 Stat. 940.

The section is included because 49:1655(f)(2) gave the same administrative powers exercised by the Interstate Commerce Commission under certain sections of title 49 to the Secretary of Transporation to carry out duties transferred to the Secretary by 49:1655(e). See the revision notes for section 501 of the revised title for an explanation of the transfer under 49:1655(f)(2). The powers of the Commission have been codified in subtitle IV of the revised title. The comparable provisions of title 49 that are represented by the section may be found as follows:

Section 526	49 United States Code	Revised section
	322(a)	11914

See the revision note for the revised section for an explanation of changes made in the text. Changes not accounted for in those revision notes are as follows:

The reference to a certificate, permit, or license is omitted as not applicable to this chapter. The text of 49:304(a)(3)(last sentence 1st-7th words) and (3a)(last sentence 1st-5th words) is omitted as executed.

Subtitle II—Transportation Programs

Part A—[Reserved—Regional Rail Reorganization]

Part B—[Reserved—Other Rail Programs]

Part C—Motor Vehicles

Chapter: Sec. 31. Motor Carrier Safety.

Part D—[Reserved—Aviation]

Part E—[Reserved—Aviation Facilities and Noise Abatement]

Part F—[Reserved—Miscellaneous]

Part C—Motor Vehicles

Chapter 31—Motor Carrier Safety

Sec.

3101. Definitions.

3102. Requirements for qualifications, hours of service, safety, and equipment standards.

3103. Research, investigation, and testing.

3104. Identification of motor vehicles.

SECTION 3101

Revised section	United States Code	Statutes at Large
3101(1)	49:303(a)(23)	Feb. 4, 1887, ch. 104, 24 Stat. 397, § 203(a)(22), (23); added Aug. 3, 1956, ch. 905, § 1, 70 Stat. 958.
3101(2)	No source	
3101(3)	49:303(a)(22)	

In clause (1), the words "going to or from" are substituted for "proceeding to or returning from" for clarity.

Clause (2) is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the quoted definitions are found in the revision notes for section 10102 of the revised title.

In clause (3), the words "including any 'contract common carrier by motor vehicle'" are omitted as covered by the definition of "motor carrier". The words "referred to in section 10521(a) of this title" are substituted for "in interstate or foreign commerce" for clarity and consistency in the revised title. The word "except" is substituted for "but not including" for clarity. The words "at least" are substituted for "or more", and the words "but the term does not include" are substituted for "except", for consistency.

SECTION 3102

Revised section	United States Code	Statutes at Large
3102(a)	No source	
3102(b)(1)	49:304(a)(1)-(2) (related to qualifications, hours of service, and safety).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(1)-(2) (related to qualifications, hours of service, and safety), (3) (1st sentence); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
3102(b)(2)	49:304(a)(3) (1st sentence).	
	49:1655(e)(6)(C)	Oct. 15, 1966, Pub. L. 89-670, § 6(e)(6)(C), 80 Stat. 939.
3102(c)	49:304(a)(3a) (1st sentence).	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (1st sentence); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.
	49:1655(e)(6)(C)	

Throughout the chapter, the words "Secretary of Transportation" are substituted for "Interstate Commerce Commission" because 49:1655(e)(6)(B)-(D) transferred the authority of the Interstate Commerce Commission under the provisions restated in this chapter to the Secretary of Transportation.

Subsection (a) is included to maintain the jurisdictional scope of the source provisions from which subsections (b) and (c) of the revised section are taken. Subsections (b) and

(c) are based on 49:304 which, as part of 49:ch. 8, is now restated as subchapter II of chapter 105 of the revised title. In addition, 49:303(a)(11) (last sentence) extended the jurisdictional scope of 49:304 as provided in subsection (a) of the revised section.

In subsection (b), before clause (1), the words "and to that end" are omitted as surplus. The word "prescribe" is substituted for "establish" for consistency. The word "reasonable" is omitted as surplus.

In subsection (b)(1), the words "as provided in this chapter" are omitted as unnecessary because of the restatement. The term "motor carrier" is substituted for "common carriers by motor vehicle" and "contract carriers by motor vehicle" because they are inclusive.

In subsection (b)(2), the words "when needed" are substituted for "if need therefor is found" to eliminate unnecessary words.

In subsection (c), the word "prescribe" is substituted for "establish" for consistency. The word "reasonable" is omitted as surplus. The words "for a total distance of" are omitted as unnecessary because of the restatement. The words "at least" are substituted for "more than" for consistency. The word "line" is omitted as surplus. The words "possession of the United States" are added for consistency in the revised title. The words "a foreign country" and "the District of Columbia" are omitted as unnecessary because a carrier crossing the boundary of a foreign country or the District of Columbia into or from the United States would necessarily cross the boundary of a State and be covered by the provision related to a State.

SECTION 3103

Revised section	United States Code	Statutes at Large
3103(a)	49:325	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 226; added Aug. 9, 1935, ch. 498, 49 Stat. 566; Sept. 18, 1940, ch. 722, § 26(b), 54 Stat. 929.
	49:1655(e)(6)(B)	Oct. 15, 1966, Pub. L. 89-670, § 6(e)(6)(B), (C), 80 Stat. 939.
3103(b)	49:304(a)(5)	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(5); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:1655(e)(6)(C)	

In subsection (a), the words "subject to subchapter II of chapter 105 of this title" are added for clarity. The word "services" is substituted for "assistance" for consistency. The words "department, agency, or instrumentality of the United States Government" are substituted for "departments or bureaus of the Government" for consistency.

In subsection (b), the words "In carrying out this chapter" are substituted for "For the purpose of carrying out the provisions pertaining to safety" to eliminate unnecessary words. The words "department . . . or instrumentality" are added for consistency. The word "reimburse" is substituted for "transfer . . . such funds" for consistency. The words "as may be necessary and available to make this provision effective" are omitted as unnecessary because of the restatement.

SECTION 3104

Revised section	United States Code	Statutes at Large
3104(a)	49:304(a)(3) (last sentence) (related to "Sec. 324").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3) (last sentence) (related to "Sec. 224"); added Aug. 9, 1935, ch. 498, 49 Stat. 546.
	49:304(a)(3a) (last sentence) (related to "Sec. 324").	Feb. 4, 1887, ch. 104, 24 Stat. 379, § 204(a)(3a) (last sentence) (related to "Sec. 224"); added Aug. 3, 1956, ch. 905, § 2, 70 Stat. 958.
	49:1655(e)(6)(D) (related to "Sec. 324").	Oct. 15, 1966, Pub. L. 89-670, § 6(e)(6)(D) (related to "Sec. 224"), 80 Stat. 940.
3104(b)	49:304(a)(3) (last sentence) (related to "Sec. 324"). 49:304(a)(3a) (last sentence) (related to "Sec. 324"). 49:1655(e)(6)(D) (related to "Sec. 324").	

The section is included to reflect the text of former 49:324 (related to motor private carriers and motor carriers of migrant workers) which is incorporated in the revised title by cross-reference.

SECTION 2—TRANSFER OF FUNCTIONS: SECTION 2

Revised section	United States Code	Statutes at Large
2(a)	49:1655(a)(1), (B), (C), (E)-(J), (L), (4), (6)(B).	Oct. 15, 1966, Pub. L. 89-670, § 6(a)(1)(B), (C), (E)-(M), (4), (6)(B), (e)(5), (g)(1)-(4)(B), (E), (5), (6), 80 Stat. 937, 938, 939, 941.
2(b)	49:1655(a)(1)(M)	
2(c)	49:1655(e)(5)	
2(d)	49:1655(a)(1)(K), (g)(1)(A)-(D), (2), (3), (4)(A), (B), (E), (6)(B), (C).	
2(e)	49:1655(g)(5)	
2(f)	49:1655(g)(6)(A)	

Section 2 of the bill executes certain source provisions of 49:1655. The text of 49:1655 transferred the functions, powers, and duties of certain laws to the Secretary of Transportation. This section amends those laws to include the Secretary as the officer responsible for carrying out those laws. The citations in parentheses are included only for information purposes and include amendments to the acts cited. The text of 49:1655(g)(1)(B) and (D) is omitted as executed because the laws referred to in the source provision were repealed by section 8(a) of the Inland Navigational Rules Act of 1980 (Pub. L. 96-591, 94 Stat. 3435).

SECTION 3—CONFORMING EXECUTIVE PAY SCHEDULE PROVISIONS

Section 3 of the bill amends 5:5313-5316 to make changes in the Executive Pay Schedule to conform the Schedule to existing law.

In paragraph (1), a new item is added because of 23:303(a)(2) (1st sentence).

In paragraph (2), the words "Administrator, Federal Highway Administration" are struck out because of paragraph (1) of this section. The words "Administrator of the National Highway Safety Traffic Administration" are substituted because of 23:401 (note) (Pub. L. 89-564, § 201(a) (related to pay of Administrator), 80 Stat. 735).

In paragraph (3), the words "Director of Public Roads" are struck out because the Bureau of Public Roads was eliminated as a primary organizational unit in the Department of Transportation and the duties and functions of the Director were transferred to the Deputy Federal Highway Administrator by 23:303 (note) (Pub. L. 91-605, § 114(c), 84 Stat. 1723). The words "Deputy Federal Highway Administrator" are substituted because of 23:303(a) (2d sentence).

In paragraph (4), the words "Director, National Highway Safety Bureau" are struck out because the Bureau was superseded by the National Highway Safety Traffic Administration and Federal Highway Administration under 23:401 (note) (Pub. L. 89-564, § 201(d), 80 Stat. 735). The words "Assistant Federal Highway Administrator" are substituted because of 23:303(a)(2) (last sentence).

In paragraph (5), the words "Director, National Traffic Safety Bureau" are struck out because the Bureau was superseded by the National Highway Safety Traffic Administration under 23:401 (note) (Pub. L. 89-564, § 201(c), 80 Stat. 735). The words "Deputy Administrator of the National Highway Traffic Safety Administration" are substituted because of 23:401 (note) (Pub. L. 89-564, § 201(a) (related to pay of Deputy Administrator), 80 Stat. 735).

SECTION 4—CONFORMING PROVISIONS: SECTION 4(a)

Revised section	United States Code	Statutes at Large
4(a)	49:1656(a) (next-to-last par.).	Oct. 15, 1966, Pub. L. 89-670, § 7(a) (next-to-last par.), 80 Stat. 942.

Section 4(e) of the bill amends section 103 of the Water Resources Planning Act (42 U.S.C. 1962a-2) by designating the existing text of section 103 as subsection (a) and by adding a new subsection (b). The new subsection restates 49:1656(a) (next-to-last par.) because the provision more appropriately belongs in section 103. Several standard changes are made in the text stylistic consistency.

SECTION 4(b)

In section 4(b) of the bill, clause (1) repeals section 202(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 39). This section was restated as 49:10711 by the first section of the Act of October 17, 1978 (Pub. L. 95-473, 92 Stat. 1337), but section 202(f) was inadvertently omitted from the schedule of laws repealed by section 4 of that Act. Clause (2) repeals sections 304(j) and 603 of the Regional Rail Reorganization Act of 1973 (Pub. L. 93-236, 87 Stat. 985). These sections were restated as 49:10504 and 10710 by the first section of the Act of October 17, 1978, but sections 304(j) and 603 were inadvertently omitted from the schedule of laws repealed by section 4 of that Act. Clause (3) corrects a typographical error. Clause (4) restates section 304(j)(1)(B) of the Regional Rail Reorganization Act of 1973, that was added by section 804 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 139). Section 304(j)(1)(B) was mistakenly omitted from the restatement of subtitle IV of title 49, Interstate Commerce. Clause (4) restates section 304(j)(1)(B) as section 10504(c) of title 49. The subsection is effective on the date of enactment of the Act of October 17, 1973.

SECTION 4(c)

Section 4(c) of the bill restates section 303(d) (words after semicolon) of the Federal Aviation Act of 1958 (49 U.S.C. 1344(d) (words after semicolon) as part of section

307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)) for clarity.

SECTION 5—CONFORMING CROSS-REFERENCES

Section 5 of the bill makes conforming amendments to those titles of the United States Code that have been enacted into positive law and to the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.). These amendments are necessary because of the restatement of the source provisions in section 1 of the bill.

SECTION 6—LEGISLATIVE PURPOSE AND CONSTRUCTION

Section 6 of the bill contains a statement of the legislative effect in enacting sections 1-5, savings provisions, and provisions to assist in interpreting and applying the provisions of law enacted by the bill.

SECTION 7—REPEALS

Section 7 of the bill relates to the repeal of those statutes that are codified and reenacted by the bill, and other statutes that are executed, superseded, obsolete, or otherwise of no present legal effect.

Subsection (a) provides that a repeal of a law may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

Subsection (b) contains the schedule of laws to be repealed. It also preserves rights, duties, and penalties incurred, and proceedings begun before the date of enactment of the bill.

MASTER DISPOSITION TABLE

This table shows the disposition of all laws affected by the restatement in section 1 of the bill. The table is in 3 parts. Table A shows the disposition according to United States Code citation. Table B shows the disposition according to Statutes at Large citation. Table C shows the disposition according to Reorganization Plan citation. For each law restated in section 1 of the bill, the citation to the provision of the restatement is shown.

TABLE A—UNITED STATES CODE

United States Code		United States Code Revised	
Title	Section	Title	Section
15	1519a	49	308
23	303(a)(1)	49	104
	303(a)(2)		(See § 3 of bill.)
	303(b), (c)	49	104
45	15	49	501
	792	49	308
	803	49	306
49	26(g)	49	501
	303(a)(22), (23)	49	3101
	304(a)(1)-(2) (related to qualifications, hours of service, and safety), (3) (1st sentence), (3a) (1st sentence).	49	3102
	304(a)(3) (last sentence) (related to "Secs. 304(c), 305, 320, 321, 322(a), (b), (d), (f), (g)").	49	502-507, 522, 523, 525, 526
	304(a)(3) (last sentence) (related to "Sec. 305(d) (related to liability)").	49	525
	304(a)(3) (last sentence) (related to "Sec. 324").	49	3104
	304(a)(3a) (last sentence) (related to "Secs. 304(c), 305, 320, 321, 322(a), (b), (d), (f), (g)").	49	502-507, 522, 523, 525, 526
	304(a)(3a) (last sentence) (related to "Sec. 305(d) (related to liability)").	49	525
	304(a)(3a) (last sentence) (related to "Sec. 324").	49	3104
	304(a)(5)	49	3103
	320(f)	49	504
	325	49	3103
	1341(a), (b)	49	106
	1342	49	106
	1343(a)(1), (2) (related to cooperative agreements).	49	324
	1343(a)(2) (related to Deputy Administrator).	49	106
	1343(b)	49	329
	1343(d), (f), (g) (1st sentence 33d-43d words).	49	323
	1343(g) (less 1st sentence 33d-43d words).	49	325
	1343(i)	49	322
	1344(a)	49	322
	1344(b)	49	331
	1344(c)(1)	49	326
	1344(d) (less words after semicolon).	49	322
	1344(d) (words after semicolon).		(See § 4(c) of bill.)
	1344(e)	49	322
	1352	49	329
	1354(e)	49	308
	1634	49	329
	1651(a), (b)(1)	49	101
	1651(b)(2)	49	303
	1652(a)-(d)	49	102
	1652(e) (related to FAA)	49	106
	1652(e)(1) (related to FHWA).	49	104
	1652(e)(1) (related to FRA)	49	103
	1652(e)(3) (related to USCG)	49	108
	1652(e)(3) (related to FHWA).	49	104
	1652(e)(3) (related to FRA)	49	103
	1652(e)(4) (related to FHWA).	49	104
	1652(e)(4) (related to FRA)	49	103
	1652a	49	103
	1653(a)	49	301
	1653(b)	49	302
	1653(e)	49	307
	1653(f)	49	303
	1653(g)	49	304
	1654(a)-(e)	49	333
	1655(a)(1)(B), (C), (E)-(M), (4), (6)(B).		(See § 2 of bill.)
	1655(a)(2)(A) (related to 49:1634).	49	329
	1655(b)(1), (2)	49	108
	1655(c)(1) (1st sentence proviso, 2d, last sentences).	49	106
	1655(e)(5)		(See § 2 of bill.)
	1655(e)(6)(B)	49	3103
	1655(e)(6)(C)	49	3102, 3103
	1655(e)(6)(D) (related to "Sec. 321(a), (c)").	49	503
	1655(e)(6)(D) (related to "Sec. 324").	49	3104
	1655(f)(2)	49	501, 502, 504-507, 521-526
	1655(f)(3)(A), (C) (related to FRA).	49	103
	1655(f)(3)(B), (C) (related to FHWA).	49	104
	1655(g)(1)-(3), (4)(A), (B), (E), (5), (6).		(See § 2 of bill.)
	1656 (less (a) next-to-last par.).	49	305
	1656(a) (next-to-last par.)		(See § 4(a) of bill.)
	1657(a), (b)	49	323
	1657(c), (d)	49	324
	1657(e)-(g)	49	322
	1657(j)	49	327
	1657(k)	49	102
	1657(l)	49	331
	1657(m)	49	326
	1657(n)	49	329
	1657(o)	49	325
	1657(p)	49	324
	1657(q)(1)-(3)	49	330
	1657(r)	49	328
	1657a	49	332
	1658	49	308
	1660	49	335

TABLE B—STATUTES AT LARGE

Date	Chapter or Public Law	Section	Statutes at Large Volume	Statutes at Large Page	United States Code Title	United States Code Section
1887						
Feb. 4	104	25(g)			49	501
		203(a)(22), (23)			49	3101
		204(a)(1)-(2) (related to qualifications, hours of service, and safety), (3) (1st sentence), (3a) (1st sentence).			49	3102
		204(a) (last sentence of (3), (3a)) (related to "Secs. 204(c), 205, 220, 221, 222(b)")			49	502-507
		204(a)(3) (last sentence) (related to "Sec. 205(d) (related to liability)")			49	525
		204(a)(3) (last sentence) (related to "Sec. 222(a)")			49	526
		204(a)(3) (last sentence) (related to "Sec. 222(d), (f)")			49	523
		204(a)(3) (last sentence) (related to "Sec. 222(g)")			49	522
		204(a)(3) (last sentence) (related to "Sec. 224")			49	3104
		204(a)(3a) (1st sentence)			49	3102
		204(a)(3a) (last sentence) (related to "Sec. 205(d) (related to liability)")			49	525
		204(a)(3a) (last sentence) (related to "Sec. 222(a)")			49	526
		204(a)(3a) (last sentence) (related to "Sec. 222(d), (f)")			49	523
		204(a)(3a) (last sentence) (related to "Sec. 222(g)")			49	522
		204(a)(3a) (last sentence) (related to "Sec. 224")			49	3104
		204(a)(5)			49	3103
		220(f)			49	504
		226			49	3103
1910						
Apr. 14	160	6	36	299	49	501
1935						
Aug. 9	498	"Sec. 204(a)(1)-(2) (related to qualifications, hours of service, and safety), (3) (1st sentence)"	49	546	49	3102
		"Sec. 204(a)(3) (last sentence) (related to 'Secs. 204(d), (e), 205, 220, 221, 222(b)')"	49	546	49	502-507
		"Sec. 204(a)(3) (last sentence) (related to 'Sec. 205(d) (related to liability)')"	49	546	49	525
		"Sec. 204(a)(3) (last sentence) (related to 'Sec. 222(a)')"	49	546	49	526
		"Sec. 204(a)(3) (last sentence) (related to 'Sec. 222(d)(f)')"	49	546	49	523
		"Sec. 204(a)(3) (last sentence) (related to 'Sec. 222(g)')"	49	546	49	522
		"Sec. 204(a)(3) (last sentence) (related to 'Sec. 224')"	49	546	49	3104
		"Sec. 204(a)(5)"	49	546	49	3103
		"Sec. 226"	49	566	49	3103

TABLE B—STATUTES AT LARGE—Continued

Date	Chapter or Public Law	Section	Statutes at Large		United States Code	
			Volume	Page	Title	Section
1937						
Aug. 26	818	"Sec. 26(g)"	50	837	49	501
1940						
Sept. 18	722	14(b) (related to "Sec. 25(g)")	54	919	49	501
		20(b)(4)	54	922	49	506
		24	54	926	49	504
		26(b)	54	929	49	3103
1956						
Aug. 3	905	1	70	958	49	3101
		2 "Sec. 204(a)(3a) (1st sentence)"	70	958	49	3102
		2 "Sec. 204(a)(3a) (last sentence) (related to 'Secs. 204(c), 205, 220, 221, 222(b)')"	70	958	49	502–507
		2 "Sec. 204(a)(3a) (last sentence) (related to 'Sec. 205(d) (related to liability)')"	70	958	49	525
		2 "Sec. 204(a)(3a) (last sentence) (related to 'Sec. 222(a)')"	70	958	49	526
		2 "Sec. 204(a)(3a) (last sentence) (related to 'Sec. 222(d), (f)')"	70	958	49	523
		2 "Sec. 204(a)(3a) (last sentence) (related to 'Sec. 222(g)')"	70	958	49	522
		2 "Sec. 204(a)(3a) (last sentence) (related to 'Sec. 224')"	70	958	49	3104
1958						
Aug. 23	85–726	301(a), (b)	72	744	49	106
		302(a), (b)	72	744	49	106
		302(c)(1), (2) (related to cooperative agreements)	72	745	49	324
		302(c)(2) (related to Deputy Administrator)	72	745	49	106
		302(d)	72	746	49	329
		302(f)	72	746	49	323
		302(h), (i) (1st sentence 31st–41st words)	72	746, 747	49	323
		302(i) (less 1st sentence 31st–41st words)	72	747	49	325
		302(k), 303(a)	72	747	49	322
		303(b)	72	748	49	331
		303(c)(1)	72	748	49	326
		303(d) (less words after semicolon)	72	749	49	322
		303(d) (words after semicolon)	72	749		(See § 4(c) of bill.)
		303(e)			49	322
		311	72	751	49	329
		313(e)	72	753	49	308
1961						
Oct. 4	87–367	205	75	791	49	323
1962						
Oct. 11	87–793	1001(h)	76	864	49	323
1964						
Aug. 14	88–426	305(16)(B), (C)	78	424	49	106
1965						
Sept. 30	89–220	4	79	893	49	329
1966						
Sept. 9	89–564	201(a) (less pay of Administrator and Deputy Administrator)	80	735	49	105
		201(a) (related to pay of Administrator and Deputy Administrator)	80	735		(See § 3 of bill.)
		201(b)(1)	80	735	49	104
		201(b)(2), (c), (d)	80	735	49	105
Oct. 15	89–670	2(a), (b)(1)	80	931	49	101
		2(b)(2)	80	931	49	303
		3(a)–(d)	80	931	49	102
		3(e) (related to FAA)	80	932	49	106
		3(e) (related to FRA) (1), (3), (4)	80	932	49	103
		3(e) (related to FHWA) (1), (3), (4)	80	932	49	104
		3(e)(3) (related to USCG)	80	932	49	108
		4(a)	80	933	49	301
		4(b)	80	933	49	302
		4(e)	80	934	49	307
		4(f)	80	934	49	303
		4(g)	80	934	49	304
		5(a)–(e)			49	333
		6(a)(1) (B), (C), (E)–(M)	80	937		(See § 2 of bill.)
		6(a)(2)(A) (related to § 4 of the Act of Sept. 30, 1965)	80	937	49	329
		6(a)(4), (6)(B)	80	938		(See § 2 of bill.)
		6(b)(1), (2)	80	938	49	108
		6(c)(1) (1st sentence proviso, 2d, last sentences)	80	938	49	106
		6(e)(5)	80	939		(See § 2 of bill.)
		6(e)(6)(B)	80	939	49	3103
		6(e)(6)(C)	80	939	49	3102, 3103
		6(e)(6)(D) (related to "Sec. 221(a), (C)")	80	940	49	503
		6(e)(6)(D) (related to "Sec. 224")	80	940	49	3104
		6(f)(2)	80	940	49	501, 502, 504–507, 521–526
		6(f)(3)(A)	80	940	49	103
		6(f)(3)(B)	80	940	49	104
		6(f)(3)(C) (related to FRA)	80	940	49	103
		6(f)(3)(C) (related to FHWA)	80	940	49	104
		6(g)(1)–(4)(B), (E), (5), (6)	80	941		(See § 2 of bill.)
		7 (less (a) (next-to-last par.))	80	941	49	305
		7(a) (next-to-last par.)	80	942		(See § 4(a) of bill.)
		8(g)(2)	80	943	49	110
		8(h)	80	943	49	104, 105
		9(a), (b)	80	944	49	323
		9(c), (d)	80	944	49	324
		9(e)–(g)	80	944	49	322
		9(j)	80	945	49	327
		9(k)	80	946	49	102
		9(l)	80	946	49	331
		9(m)	80	946	49	326
		9(n)	80	946	49	329
		9(o)	80	947	49	325
		9(p)	80	947	49	324
		9(q)(1)–(3)	80	947	49	330
		9(r)			49	328
		11			49	332
		12	80	949	49	308
		17			49	335
1968						
Aug. 23	90–495	18(b)	82	824	49	303
1970						
May 21	91–258	51(a)(1)	84	234	49	322
Dec. 31	91–605	202(a) "Sec. 201(a) (related to pay of Administrator and Deputy Administrator)"	84	1739		(See § 3 of bill.)
		202(a) "Sec. 201(a) (less pay of Administrator and Deputy Administrator)"	84	1739	49	105
		202(a) "Sec. 201(b)(1)"	84	1740	49	104
		202(a) "Sec. 201(b)(2), (c), (d)"	84	1740	49	105

TABLE B—STATUTES AT LARGE—Continued

Date	Chapter or Public Law	Section	Statutes at Large		United States Code	
			Volume	Page	Title	Section
1972						
Aug. 22	92-401	6	86	617	49	103
1974						
Jan. 2	93-236	602	87	1022	49	308
Oct. 28	93-496	16(a)	88	1533	49	102
		16(b)	88	1533	49	324
1975						
Jan. 3	93-633	113(d)	88	2163	49	106
		113(e)(1)	88	2163	49	103
		113(e)(2)	88	2163	49	104
1976						
Feb. 5	94-210	401	90	61	49	333
		905	90	148	49	306
		906(1)	90	149	49	308
		906(2)	90	149	49	332
July 8	94-348	6	90	820	49	103
July 12	94-353	16	90	882	49	322
1978						
Mar. 27	95-251	2(a)(12) "Sec. 9(a)"	92	183	49	323
Oct. 24	95-504	45(a)	92	1753	49	334
		45(b), (c)			49	334
1980						
Feb. 15	96-192	28	94	48	49	334
May 30	96-254	207	94	413	49	328
Oct. 3	96-371	2	94	1362	49	308
Oct. 19	96-470	112(e)	94	2240	49	322
1981						
Aug. 6	97-31	12(8)	95	154	49	308
Aug. 13	97-35	1194(a), 1197	95	702, 703	49	335

TABLE C—REORGANIZATION PLANS

Year	Plan no.	Section	Statutes at Large		United States Code	
			Volume	Page	Title	Section
1968	2	2	82	1369	49	322
		3	82	1369	49	107

□ 1520

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting enactment of H.R. 6993, as amended, a bill to revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code.

As the distinguished gentleman from New Jersey (Mr. HUGHES) stated, the bill was prepared by the Office of the Law Revision Counsel of the House of Representatives.

I urge my colleagues to support H.R. 6993, as amended.

Mr. Speaker, I have no further requests for time.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill, H.R. 6993, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6993, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CLAYTON ANTITRUST ACT AMENDMENTS

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and discharge the Committee on the Judiciary from further consideration of the Senate bill (S. 816) to amend the Clayton Act to limit the circumstances under which foreign governments may sue for violations of the antitrust laws, and for other purposes, and to pass the bill, S. 816, as amended.

The Clerk read as follows:

S. 816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Clayton Act (15 U.S.C. 15) is amended—

(1) by striking out "That" and inserting in lieu thereof "(a) Except as provided in subsection (b)," and

(2) by adding at the end thereof the following new subsections:

"(b)(1) Except as provided in paragraph (2), any person who is a foreign state may not recover under subsection (a) an amount in excess of the actual damages sustained by it and the cost of suit, including a reasonable attorney's fee.

"(2) Paragraph (1) shall not apply to a foreign state if—

"(A) such foreign state would be denied, under section 1605(a)(2) of title 28 of the United States Code, immunity in a case in which the action is based upon a commercial activity, or an act, that is the subject matter of its claim under this section;

"(B) such foreign state waives all defenses based upon or arising out of its status as a foreign state, to any claims brought against it in the same action;

"(C) such foreign state engages primarily in commercial activities; and

"(D) such foreign state does not function, with respect to the commercial activity, or the act, that is the subject matter of its claim under this section as a procurement entity for itself or for another foreign state.

"(c) For purposes of this section—

"(1) the term 'commercial activity' shall have the meaning given it in section 1603(d) of title 28, United States Code; and

"(2) the term 'foreign state' shall have the meaning given it in section 1603(a) of title 28, United States Code.".

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HUGHES) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to speak in support of S. 816, a bill, which, if enacted into law, would limit to actual damages a foreign sovereign's recovery under the antitrust laws of the United States. This change will remove an anomaly in our law that permits recovery of treble damages by a foreign sovereign when the United States is limited to actual damages.

In 1978, the Supreme Court, in Pfizer, Inc. against Government of India, concluded that a foreign sovereign was a person who could recover treble damages under section 4 of the Clayton Act. Faced with a choice between denying all redress to a foreign sovereign and granting full treble damages, the Court, relying on the importance of antitrust enforcement, ruled that foreign sovereigns were entitled to full treble damages. In dissent, Chief Justice Burger articulated a telling criticism of the majority holding—that a foreign government would now have greater rights to recover damages than the United States. S. 816 responds to this criticism by limiting a foreign government to single damages, the same base amount available to the United States.

We are offering S. 816 with an amendment in the nature of a substitute. The amendment will make S. 816 identical to H.R. 5106, a bill which passed the House by a unanimous voice vote on April 27 of this year. We are getting a second look at the same language because the Senate passed H.R. 5106 with an ancillary amendment. It is my understanding that the Senate is now likely to accept the language we approved last April. We will be giving the other body that opportunity by passing S. 816 with the amendment substituting the language of H.R. 5106.

I want to stress that this is not a controversial bill. After hearings before the Judiciary Committee, the committee reported this language in a form that is unobjectionable to all parties. It is supported by the National Association of Manufacturers and by a number of companies that, in the recent past, have been involved in antitrust litigation with foreign governments. The Department of Justice has written to Chairman RODINO indicating that they do not oppose the bill in the form we have before us today. The effect of this bill is merely to place the foreign government on the same footing as the government of the United States—both will now be limited to actual damages in suits brought under the antitrust laws.

Mr. Speaker, I reserve the balance of my time.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the pending motion to suspend the rules raises no issues that the House has not already considered. It has become necessary to pass once again the House language dealing with the Pfizer case because the Senate has added a nongermane amendment providing payments for losses incurred in tris-treated fabrics. This nongermane matter has been considered separately by the House today under its own bill number, S. 823.

It is my understanding that the other body is willing to accept the House language on Pfizer as embodied in H.R. 5106, which passed the House on April 27, 1982. The House language is acceptable to the administration, whereas the Senate language is not. Therefore, it is my hope that the House will once again pass the text contained in the pending motion so that the other body might concur and then forward the legislation to the President for his approval.

I do not intend to recapitulate the debate of last April. But briefly, the bill makes two changes in antitrust treble-damage suits: First, it limits plaintiff foreign governments to single damages rather than treble damages, just as the United States is itself limited. Second, it establishes a test for determining whether a foreign plaintiff is a foreign state, limited to single damages, or a commercial enterprise, eligible for treble damages. If the plaintiff is a governmental procurement entity, or if the plaintiff is not primarily engaged in commercial activities, or if the plaintiff does not waive defenses arising out of its status as a foreign state to any claims against it in the same action, or if the plaintiff is entitled to sovereign immunity under our statutes, then such plaintiff is limited to single damages. Otherwise, the plaintiff may recover treble damages if successful on the merits.

This test is made necessary by the fact that in many parts of the world there is no clear distinction between business and government. The four-part test will enable us to carry out our policy of permitting businesses to recover treble damages while limiting the United States and other national governments to single damages.

I urge adoption of the motion to suspend the rules and pass S. 816, as amended.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I would be happy to yield to my friend, the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, my question of the gentleman is: Will this bill have to go back to the other body for concurrence?

Mr. McCLORY. Yes, it will have to go back to the other body for concurrence, because we are amending the Senate bill by putting in the House-passed bill.

It is my understanding that they will accept the language in the House bill now.

Mr. KAZEN. I thank the gentleman.

Mr. McCLORY. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. I thank the gentleman for yielding this time to me.

Mr. Speaker, as the sponsor of the original bill introduced in this Congress to limit antitrust recovery by foreign sovereigns, I am doubly gratified by what I anticipate will be the action of the House today—doubly gratified because this is the second time we have enacted this legislation in this session.

When I introduced the original bill on this issue, I intended to remedy what I saw as a fundamental unfairness in our antitrust laws arising in the wake of the Supreme Court's 1978 decision in *Pfizer, Inc.* v. *The Government of India*, 434 U.S. 308 (1978). The majority in that case held that a foreign sovereign was a person who could recover treble damages under section 4 of the Clayton Act. Yet the Court held in a 1941 case, *United States* v. *Cooper Corporation*, 312 U.S. 600 (1941), that the U.S. Government was not a person within the meaning of our antitrust laws and was not, therefore, entitled to monetary damages. It became necessary for Congress to enact section 4A of the Clayton Act to correct this interpretation of congressional intent, but in so doing, Congress limited the United States to recovery of "actual damages by it sustained and the cost of suit" (15 U.S.C. 15(a)). In my original bill, H.R. 2812, which I introduced on March 25, 1981, I sought equality between foreign governments and our own, and that objective has been preserved and fully realized in the measure before us today.

My second original objective was reciprocity, a requirement that the conduct for which redress was sought in our courts be illegal in a foreign sovereign's own country, that such laws be enforced, and that our own Government could recover actual damages under such law if injured by similar conduct. When I put it into my bill, reciprocity seemed an excellent concept, but after receiving testimony from the Department of Justice, the Department of State, and a representative of the American Bar Association, our Monopolies and Commercial Law Subcommittee members, myself among them, became convinced that it would be unworkable in actual practice.

The Assistant Attorney General for Antitrust, Mr. William Baxter, advised us that—

> The administration of the reciprocity features of H.R. 2812 will be quite complex and may, itself, serve on occasion to exacerbate problems with our foreign trading partners.

The legal adviser to the Department of State, Mr. Davis R. Robinson, told us that—

This three-tiered reciprocity test, in our view, would be difficult, if not impossible, for other countries to meet, given variations in concept and approach involved in even the most effective foreign competition laws. We further are concerned that lengthy and expensive litigation might be required to establish whether particular foreign systems of competition regulation satisfy the reciprocity test, with possible embarrassment to our foreign relations as well.

Although suggesting that the three-tiered test might be clarified, the representative of the State Department later acknowledged that he was not sure how that might be accomplished so as to avoid the problems he considered inherent in such tests as set forth in H.R. 2812. On balance, I believe we did the correct thing in eliminating the reciprocity test.

Mr. Speaker, this bill is a fair one and an appropriate amendment to our antitrust laws. I urge my colleagues to support the motion to suspend the rules and pass S. 816 as amended.

● Mr. RODINO. Mr. Speaker, I am pleased to join my colleague from New Jersey in supporting S. 816. This bill will adjust the treble damage remedy under the antitrust laws so that a foreign government, when it sues under the antitrust laws, will be limited to an actual damages recovery, the same limitation that already applies to the U.S. Government.

I want the record to reflect that we are passing a bill which contains the identical language approved by this House on April 27, when we passed H.R. 5106. Because the Senate added an ancillary amendment to H.R. 5106, that bill has not gone forward. By approving S. 816 with an amendment substituting the language of H.R. 5106, we will be affording the Senate a second opportunity to approve this constructive legislation.

The statement that I made in support of H.R. 5106 on April 27 of this year applies fully to the identical language we are addressing today. As I stressed at that time, this is not a controversial bill. We have held hearings before the Subcommittee on Monopolies to work out language that is unobjectionable to everyone. The chairman of the Foreign Affairs Subcommittee, Mr. ZABLOCKI, spoke out for this version of the bill during the debate on April 27. Since that time, the Department of Justice has written to me indicating that they do not object to passage of this form of the bill.

I urge my colleagues to join me in supporting this helpful corrective legislation.●

Mr. HUGHES. Mr. Speaker, before yielding back the balance of my time, I just want to join with my other colleagues in congratulating our distinguished colleague from Illinois. This is about the third time, I know, my colleague has heard these accolades, but he is a great Member and we are going to miss him dearly.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the Senate bill, S. 816, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title was amended so as to read: "An act to amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 816, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

DEEP SEABED HARD MINERALS

Mr. D'AMOURS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6120) to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983, 1984, and 1985, as amended.

The Clerk read as follows:

H.R. 6120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 310 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1470) is amended by striking out the period at the end and inserting in lieu thereof a comma and the following: "and $1,469,000 for the fiscal year ending September 30, 1983, and $2,150,000 for the fiscal year ending September 30, 1984.".

The SPEAKER pro tempore. Is a second demanded?

Mr. PRITCHARD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Hampshire (Mr. D'AMOURS) will be recognized for 20 minutes, and the gentleman from Washington (Mr. PRITCHARD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Hampshire (Mr. D'AMOURS).

Mr. D'AMOURS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge the House to pass H.R. 6120, a bill to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984. This legislation was enacted by the Congress in 1980 to establish procedures for the orderly development of the hard mineral resources in the deep seabed. Responsibility for implementing the act lies with the National Oceanic and Atmospheric Administration—NOAA—in the Department of Commerce.

The bill was originally scheduled under suspension of the rules on July 6, 1982, but was withdrawn so that the committees of appropriate jurisdiction could continue oversight on urgent matters related to the reauthorization; namely, the administration's decision not to sign the Law of the Sea Treaty.

The bill now incorporates the administration's request for fiscal year 1983 of $1,469,000, and would authorize $2,150,000 for fiscal year 1984. The bill, as reported, contained a 3-year reauthorization. However, it was decided that a 2-year reauthorization would be preferable in order that the Congress can continue oversight on the program.

While the basic legal framework for regulating seabed mining exploration is now in place, several major tasks for developing the program remain.

To date, four mining companies have submitted exploratory license applications to NOAA for 10 mining sites. These applications contain overlapping claims that will be resolved by NOAA's office of ocean minerals and energy, whose continued operations will be insured by the funds authorized in H.R. 6120. These funds will also provide the regulatory support necessary to foster the deep seabed mining industry.

As U.S. industry moves closer to commercial recovery of deep seabed nodules, proper regulatory support for permitting commercial recovery will play a crucial role in insuring U.S. leadership in the development of the deep seabed mining industry. I urge my colleagues to support this important program by passing the bill, H.R. 6110.

□ 1530

Mr. PRITCHARD. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 6120, which authorizes appropriations for an additional 3 years under the Deep Seabed Hard Mineral Resources Act.

That act establishes an interim legal framework for the orderly development of deep seabed mining and requires the National Oceanic and At-

mospheric Administration (NOAA) to develop and administer the regulations for exploration and eventual recovery of deep seabed minerals, although the act provides for orderly progress in research for deep seabed mining, it does not commit the United States to proceed with commercial recovery of seabed minerals before January 1988.

Since it is unclear at the present what future there may be in commercial recovery of seabed minerals, it is appropriate to provide a 3-year authorization to allow development of the procedures so that NOAA will be prepared for whatever decisions are made. NOAA has faithfully fulfilled its requirements under the act thus far, and in recognition of the fine work it has done, we should act promptly to approve its continued operation on the seabed regime framework. I urge my colleagues to support H.R. 6120.

Mr. PRITCHARD. Mr. Speaker, in order for NOAA to conduct the deep seabed mining program, I think that reauthorization levels contained in H.R. 6120 are reasonable, and I support the passage of this legislation and would urge my colleagues to do the same.

● Mr. BROOMFIELD. Mr. Speaker, I rise in support of H.R. 6120, legislation to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983, 1984, and 1985.

The Deep Seabed Hard Mineral Resources Act (Public Law 96-283) was enacted June 28, 1980. Under that law, the National Oceanic and Atmospheric Administration (NOAA) has responsibility for establishing and regulating a domestic legal framework governing exploration for and commercial recovery of deep seabed minerals.

Since enactment of Public Law 96-283 in 1980, NOAA has proceeded carefully and conscientiously in fulfilling the requirements of the law, which include the following:

First, development of regulations for the issuance of licenses for exploration of seabed minerals and of permits for commercial recovery of those resources by U.S. citizens;

Second, development of regulations for the protection of the marine environment, conservation of natural resources and safety of life and property at sea as it relates to deep seabed mining;

Third, preparation of a 5-year research plan for conducting an accelerated program of ocean research necessary to determine whether ocean mining will have a significant adverse effect on the marine environment;

Fourth, negotiations with other countries to establish stable reference areas to be set aside for assessing environmental and mineral resource characteristics; and

Fifth, negotiations on a reciprocating States agreement with other nations having domestic legislation on deep seabed mining in order to provide for mutual recognition of rights under those laws, to determine how those laws would relate to international law, and to develop a conflict resolution process.

Approval of a 3-year authorization allows for orderly progress by NOAA in carrying out the long-range activities required by the Deep Seabed Mining Act. It does not, however, commit the United States to proceed with commercial recovery of seabed resources prior to the established date of January 1988. By the time of the expiration of this reauthorization in 1985, we will be in a much better position to determine what the future will be for domestic U.S. commercial recovery of deep seabed mineral resources without handicapping future progress toward deep seabed mining.

I urge my colleagues to support this 3-year authorization measure.●

Mr. D'AMOURS. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I rise in opposition to this legislation. As you know, H.R. 6120 reauthorizes the Deep Seabed Hard Mineral Resources Act. Money provided under this particular bill would permit NOAA to issue licenses for exploration of seabed mineral deposits, issue permits for commercial recovery of those resources after January 1, 1983, and third, develop regulations to protect the marine environment, conserve natural resources, insure the safety of life and property, and finally, designate in conjunction with the State Department foreign countries that have laws similar to the Deep Seabed Hard Minerals Resources Act as "reciprocating states."

Since entering office, the Reagan administration has moved expeditiously to remove the United States from participation in the Law of the Seas Conference. Passage of H.R. 6120 today would seemingly complete that process and signal to the rest of the world a United States intent to "go it alone" with respect to deep seabed mining and recovery. In my view, the obvious arrogance of our present position represents a dangerous break from our past commitment, made in 1970, to recognize the resources of the seas as "the common heritage of mankind."

Passage of this bill and support for the President's policies tell the world that we believe high seas policies should be determined by a series of minitreaties between the industrialized nations or, better yet, between the mining consortia themselves and each of the world's coastal nations on a one-by-one basis. Further, passage of this bill and endorsement of its provisions to allow NOAA the regulatory authority to issue licenses and permits, develop regulations and, designate reciprocating states is completely absurd considering the fact that the United States has refused the opportunity to even observe the preparatory commission meetings scheduled for March 1983.

Mr. Speaker, I hope we realize what we are doing here at this time. The United States has been involved, along with a great many other nations, in trying to negotiate a Law of the Sea Treaty. The United States was instrumental in starting those negotiations. When all the negotiators came to New York for what was expected to be the final negotiating session, this administration served notice on all the rest of the countries that we were not even going to participate in those negotiations. They then came back a second time, and again we refused to participate. At this time we have refused to agree to the treaty. We are the only industrial nation that voted against the treaty when it came up, and the reality is the fact that that treaty is going into effect.

I have no great trouble with this bill per se, in which we allocate the money. The problem I have is with the report, the committee report which comes forth with it, which says that even though all the rest of the world is going to set up a treaty that has to do with how we will handle the resources of the world, we are going to go off on our own and try to see if we cannot get some other nations to join us to set up our own little minitreaty.

I do not think that is the way we should operate in this world. I think it is quite clear that the mining companies are not going to be able to get the money they need in order to mine the deep seabed under the restraints we now have, and under those circumstances I certainly believe it is a mistake to pass this bill at this particular time.

Mr. PRITCHARD. Mr. Speaker, I yield 5 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of this legislation and think that it is long overdue. The previous speaker in the well took this administration to task concerning the Law of the Sea Treaty. I have opposed that treaty concept from the very inception. I listened to many of our so-called intellectual giants tell us that we must negotiate and watch them give away what is basically the rights of this Nation.

This Nation was created great because of a system of political stability that rewarded those that were willing to take the risk with the profits from that risk. It also rewarded those with the technology we have been able to create, because of our expertise in this field. Yet, the treaty as proposed and

the one that the administration rejects takes away all the benefits, the technology, which companies would derive when they have gone into the field of deep seabed mining.

I would like to remind this body that this is an area that probably, frankly, without this legislation, if we were to sign the treaty it would be the greatest giveaway of all time. Right today, there are possibilities of mining, deep sea mining in the deep caverns of these oceans of ours within 200 miles that would give us the benefit of new minerals being created today; not old minerals, but new minerals within sight of our land. This possibility occurs.

But more than that, as one that represents the largest State in the Union with the greatest fishing potential, the treaty was wrong at the beginning because we keep giving away basically what is our right, the fish that belong to the borders of this great Nation and the State of Alaska. I am confident that the treaty as proposed and not signed by the administration—thank God for that—the fisheries would be in fact in jeopardy which we fought so strong for in this Congress to make sure that they were protected to the 200-mile limit.

I think it is unfortunate that the American people are unaware of just how close we came to disaster in a treaty that was supported by some previous administrations—for what reason I cannot tell. We keep hearing about working with the rest of the world. When I see a land-locked nation dictating to us what should and should not be done, I think that is terribly unjust.

The gentleman who spoke previously said that we are the only nation which voted against the treaty. That is possibly true. There are also 40 nations that did not sign the treaty, and basically for some of the basic reasons that I brought up at this time.

We have to recognize that when we deal with a treaty it is far reaching in more aspects than are just brought up at this time. Some people think it is correct for this Nation. I want to commend President Reagan and this administration for not signing a treaty which is basically a giveaway.

This legislation is long overdue.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield.

Mr. BEDELL. Mr. Speaker, I understand the gentleman's interests for the mining industry. I would hope that we would all share that interest. Since the treaty has been ratified, does the gentleman believe that without our participation mining companies will be able to go out and mine the deep sea in violation of that treaty?

Mr. YOUNG of Alaska. It is my intelligence, and information I received, and I do serve on that committee that handles the legislation, that if there is no treaty signed, then there would be no treaty which would require them to give the technology and expertise which they developed to countries that have no participation; plus, if there is any interest or profit made from their endeavors, then other countries could profit from it without any input at all.

□ 1540

Mr. BEDELL. Mr. Speaker, will the gentleman yield further?

Mr. YOUNG of Alaska. I am glad to yield to the gentleman from Iowa.

Mr. BEDELL. But, Mr. Speaker, my question was: does the gentleman believe that, under the circumstances that a treaty has been ratified by the nations, mining companies will be able to go out and mine the deep sea in violation of that treaty?

Mr. YOUNG of Alaska. Under this legislation, yes, because reciprocating states will agree and participate with the United States, and the United States itself can deal with the mining off its own shores.

Mr. PRITCHARD. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, while I rise in support of the motion to suspend the rules and pass H.R. 6120, the Deep Seabed Hard Mineral Reauthorization Act of 1982, as amended, I do have reservations about its impact on the Law of the Sea Treaty. I recognize the need for those provisions of the bill which reauthorize appropriations to enable the National Oceanic and Atmospheric Administration (NOAA) to process mining explorer licenses, to begin to formulate rules for commercial recovery permits, and to conduct necessary research to assess the impact of such exploration and recovery on the environment.

However, we must recall that the United States is not the only state concerned about mining the seabed. Last week in Jamaica, 117 states and 2 nonself-governing territories signed the convention on the Law of the Sea. While the United States did sign the Final Act, we did not sign the convention. A handful of others did, not including several of our allies. The latter may change their minds and sign the convention in the next few months. More than enough states signed that convention to enable the Preparatory Commission to begin its work on developing the rules and regulations under which seabed mining will take place under the proposed International Seabed Authority when the convention comes into force.

Now it strikes me as very shortsighted of this administration not to participate in the work of the Preparatory Commission. The United States is entitled to do so because our delegation signed the Final Act of the Conference last week. Beyond this, the rulemaking carried out by the United States is likely to have a bearing on the rules and regulations developed by the Preparatory Commission. I am thinking here not only of rules for exploration and commercial recovery, but in particular for environmental requirements which seabed mining companies as well as the Enterprise should be obliged to observe. In short, the United States should contribute to this exercise.

The administration has already opted not to participate in the work of the Preparatory Commission but to devote its energies to negotiating a reciprocal mining regime with other mining states. Such behavoir is not becoming of a world leader. Rather, we should make every effort to keep our hand in the continuing multilateral process and should send an observer to the Preparatory Commission that will be meeting next spring.

Last summer, several of my colleagues and I introduced House Concurrent Resolution 394, legislation expressing the sense of Congress regarding a Law of the Sea Treaty. That resolution calls for continued U.S. participation in the treaty process, by sending an observer to the Preparatory Commission.

Accordingly, I urge my colleagues to consider the importance of such participation and to cosponsor House Concurrent Resolution 394, which I plan to reintroduce in the next Congress.

Mr. D'AMOURS. Mr. Speaker, I yield 4 minutes to the chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, H.R. 6120, the Deep Seabed Hard Mineral Resources Act of 1982, as amended, causes me considerable concern, but I am willing to support its passage today. By agreement of the principals, the amended bill reauthorizes appropriations for 2 years, rather than 3 years, as the administration originally requested. The moneys authorized are to be used by the National Oceanic and Atmospheric Agency to: First, process applications for licenses for exploration by seabed miners; second, begin to formulate rules and regulations for commercial recovery of seabed minerals prior to issuing permits on January 1, 1988; third, conduct environmental research necessary to prepare rules and regulations; and fourth, continue ongoing negotiations by the United States with other seabed mining states to develop a reciprocating states regime to mine the seabed.

It is important for enviornmental research to go forward because mining of the seabed will eventually take place and when it does mining compa-

nies should do it in an environmentally sound manner. What disturbs me, however, is that the legislation is being used by the administration as part of its answer to the Convention on the Law of the Sea which it rejected last summer, a decision which I then called premature and self-defeating. The United States did not sign the convention last week at the signing ceremony in Jamaica, along with several of our allies: The United Kingdom, Japan, and the Federal Republic of Germany.

Nevertheless, the overwhelming majority of states—117 to be exact—did sign the convention thus triggering the next step in the treaty process: The creation of the Preparatory Commission that will meet in March 1983 to develop rules and regulations for seabed miners that will mine under the convention. Yet the administration says it will not even send an observer to the Preparatory Commission, but rather neglect that process, accelerate the development of rules for commercial recovery and negotiate a reciprocal states regime. I cannot be enthusiastic about the administration's posture nor for these reasons, this reauthorization.

Mr. Speaker, the work of the U.S. Government on rules and regulations is going to parallel the work of the Preparatory Commission in the next few years. There is no doubt in my mind that the United States has an opportunity to exercise leadership by participating as an observer in the Preparatory Committee meetings; to monitor the debate on rules and regulations and to influence the direction of those rules based on NOAA's research and work on U.S. rules. The United States already has the right to participate as an observer because the U.S. delegation did sign the Final Act of the conference last week, I, therefore, urge the administration to reconsider its decision not to participate in the Preparatory Commission.

The Committee on Foreign Affairs will be monitoring very closely over the next couple of years the manner in which NOAA spends its moneys under this reauthorization as well as developments in the continuing multilateral process resulting from last week's signing ceremony in Jamaica.

Mr. PRITCHARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to say that I am not fully happy with this legislation, but I think I can assure everyone that it is going to take additional legislation before deep sea mining takes place.

I know that the gentleman from Louisiana (Mr. BREAUX) has some legislation that we will be debating and arguing next year, and just because we pass this bill at this point does not mean that we will be involved in deep sea mining. It is a step forward, and some of us are not totally happy with it. However, I think at this point it is reasonable and sound to go ahead with this authorization.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, in view of the views that have been expressed by the gentleman from Washington (Mr. PRITCHARD) and by the chairman of the Committee on Foreign Affairs, the gentleman from Iowa will not ask for the yeas and nays, as I had planned to previously. I think the gentleman has expressed quite clearly some of the concerns that do exist, and my plea is only that this body would continue to look at those concerns and try to do what is in the best national interest as we move forward in this matter.

Mr. PRITCHARD. Mr. Speaker, I yield back the balance of my time.

Mr. D'AMOURS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I thank the subcommittee chairman for yielding time to me, and I congratulate him and the ranking minority member for bringing this bill to the floor.

I am a little concerned that we got off on discussing the merits and demerits of the Law of the Sea Convention with regard to the deep seabed mining legislation. The two are separate issues, and I appreciate the distinctions that were made between the two.

I would say, however, with regard to the comments that were made in questioning the administration's decision to participate in the current activities at Montego Bay, Jamaica, with regard to the Law of the Sea Treaty, that I do think that the administration is correct. There are a number of nations in the world, including many developed nations, that have seen fit not to sign the treaty. In fact, 22 nations have specifically decided not to sign the treaty, and an additional 24 nations did not even show up, indicating their strong displeasure with the end product.

I would just point out that for the United States to participate in a session following the completion of this Law of the Sea Treaty, which we feel has fundamental defects, and to make the argument that somehow we can change the intent of the treaty, including the rules and regulations, is nonsense. It is like the Congress passing a law saying that the sky is blue and that, hopefully, people in the regulation-rating department can change it and say that the sky is red or some other color.

We cannot change things that are fundamentally clear and very precise in the text of a treaty by subsequent rules and regulations. Therefore, I think it is nonsense for us to spend millions of dollars going to review sessions trying to change the clear intent of a treaty which we find fundamentally flawed.

I think, therefore, Mr. Speaker, we ought to look at that suggestion with a great deal of candor and suspicion because it simply cannot change the intent of a treaty. I do support the legislation, and I thank the gentleman for bringing it to the floor.

Mr. D'AMOURS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before closing, let me say that I would like to associate myself with the remarks made by the gentleman from Wisconsin (Mr. ZABLOCKI) and also with the remarks of the gentleman from Washington (Mr. PRITCHARD).

Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. SANTINI).

□ 1550

Mr. SANTINI. Mr. Speaker, I rise in support of H.R. 6120. It is a critical and imperative part of trying to formulate some sort of rational direction with regard to minerals and materials in our Nation's future. It underscores the necessity for each Member of this body to support the earlier legislative initiative by the gentleman from Kansas (Mr. GLICKMAN) and the gentleman from Florida (Mr. FUQUA) and the Science and Technology Committee the "Critical Materials Act of 1982."

We have in our Pacific Ocean mineral resources that could make the United States of America independent of foreign dependency on the strategic minerals of cobalt, manganese, nickel, and copper. With the exception of copper, we are dependent upon foreign sources for cobalt manganese, and nickel.

This dependence demonstrates that we are off on various tangents of issue resolutions each and every time we are addressing questions of minerals and materials. Today as we deliberate on this legislation it is done in an isolated context, not part of a national initiative, not part of a coordinated and cooperative legislative program to put this Nation one day on some kind of rational course and direction with regard to its minerals and materials.

I commend the gentleman from New Hampshire (Mr. D'AMOURS) for continuing the implementation of this noncontroversial legislation and I hope that in the years to come this body will be able to implement this legislation and legislation like it in the context of a policy, a plan, and a program.

I think the Glickman bill, H.R. 4281, earlier debated and discussed would do that, so I urge support of that legisla-

tion as well and thank the gentleman from New Hampshire for giving me two shots on one bill.

In addition, I support H.R. 6120 to reauthorize appropriations to carry out the provisions of the Deep Seabed Hard Mineral Resources Act for the following reasons:

The Seabed Mining Act of June 28, 1980, established an interim legal framework for the orderly development of the manganese nodules of the deep seabed. Under the act, the National Oceanic and Atmospheric Administration was charged with the responsibility to develop and implement the necessary regulatory steps to govern exploration and development of the hard mineral resources. In cooperation with the State Department and other Federal agencies, NOAA is also responsible for designating other nations as reciprocating states. Since passage of the act, NOAA has actively sought to fulfill its mandates as evidenced by the following activities:

Fall 1980: Creation of Office of Ocean Minerals and Energy to implement the Seabed Mining Act;

March 24, 1981: Issuance of proposed regulations and programmatic environmental impact statement for exploration licenses;

June 24, 1981: Submitted brief report to Congress on status of Law of the Sea negotiations related to system for protection of interim investments;

September 15, 1981: Issuance of final regulations and programmatic EIS;

September 1981: Issuance of final technical guidance document to assist those preparing license applications and reports;

December 1981: Submitted first biennial report to Congress on the administration of the act;

January 25, 1982: Commenced accepting applications for exploration from preenactment explorers;

February 1982: General consensus reached on text of a reciprocating states agreement;

March 12, 1982: Closed the period for accepting preenactment explorer licenses;

June 1982: Submitted 5-year plan for carrying out a program of research and assessment of the environmental effects of deep seabed mining exploration and commercial recovery.

Negotiations on the Law of the Sea Treaty were brought to a close on April 30, 1982, with 130 nations, voting to approve the treaty, 4 nations—including the United States—voting against approval, and 17 nations abstaining—including the Soviet Union. The domestic seabed mining program becomes a very significant element in maintaining access for the United States to the strategic and critical minerals on the ocean floor. The United States imports 91 percent of its cobalt consumption, 98 percent of its manganese consumption, and 72 percent of its nickel consumption. Most of these imports come from countries with unstable political bases. These minerals are essential for our economy and national security, and it is important that we pursue every means possible to assure future supplies.

In summary, NOAA has set up the basic framework outlined by the Deep Seabed Hard Mineral Resources Act. In order for NOAA to continue with the program, reauthorization of appropriations will be necessary.

I urge my colleagues to support passage of H.R. 6120.

● Mr. MARRIOTT. Mr. Speaker, I rise in support of this necessary extension of important enabling legislation. In the not too distant future the deep seabed should be an important source of strategic and critical minerals for the United States.

The original Deep Seabed Hard Mineral Resources Act (Public Law 96-283, signed into law in June 1980) established a legal structure to encourage U.S. companies to explore for and commercially recover these minerals. We need to maintain the framework that guarantees the rights of backers of these unusually risky ventures if we are to count on their eventually making ocean resources available to us.

Our hope that an acceptable Law of the Sea Treaty could be worked out with the other nations of the world has not been fulfilled. Thus, ocean mining concerns must continue to rely on a domestic and bilateral legal foundation for their investments. The interim licensing and regulatory regime developed by the National Oceanic and Atmospheric Administration (NOAA) promises this protection as well as the mechanism for minimizing the damage to the ocean environment from such mining operations.

Commercial operations are still several years away, but decisions on financial commitments for such activities as at-sea mining equipment tests will have to be made well in advance by private companies. The procedural stability provided by NOAA's efforts should contribute to the case for going ahead with these trials and, should they succeed, to the incentive of other nations to compromise on their Law of the Sea Treaty demands. The sooner commercial extraction from the seabed is proven to be feasible, the sooner the pressure on others is likely to yield a reasonable treaty for sharing the oceans treasures.

In conclusion, I urge adoption of this reauthorization to expedite both our access to new supplies of minerals like manganese, cobalt, nickel, and copper which are crucial to our national security, and our chances for obtaining a responsible treaty covering use of the world's oceans.●

Mr. D'AMOURS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Hampshire (Mr. D'AMOURS) that the House suspend the rules and pass the bill, H.R. 6120, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. D'AMOURS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

OUTER CONTINENTIAL SHELF AMENDMENTS TO TITLE III

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5906) to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to clarify provisions relating to claims, financial responsibility, and civil penalties, as amended.

The Clerk read as follows:

H.R. 5906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Outer Continental Shelf Lands Act Amendments of 1978.

SEC. 2. (a) Section 301(8) is amended by striking out "to drill for," and inserting in lieu thereof "to explore for oil on the Outer Continental Shelf or to drill for,".

(b) Section 301(19) is amended to read as follows:

"(19) 'owner' means, in the case of a vessel, a pipeline, or a mobile offshore drilling unit, any person holding title to, or in the absence of title, any other indicia of ownership of, the vessel, pipeline, or unit, whether by lease, permit, contract, license, or other form of agreement, except that such term does not include a person who, without participating in the management or operation of a vessel, a pipeline, or a mobile offshore drilling unit, holds indicia of ownership primarily to protect his security interest in the vessel, pipeline, or unt;".

(c) Section 301(20)(B) is amended by striking out "an offshore facility" and inserting in lieu thereof "a pipeline or a mobile offshore drilling unit" and by striking out "facility" and inserting in lieu thereof "pipeline or unit".

(d) Section 301(23) is amended by striking out "the owner or operator" and inserting in lieu thereof "the responsibile party" and by striking out "an owner or operator" and inserting in lieu thereof "a responsible party".

(e) Section 301 is amended by striking out "and" at the end of paragraph (24), by striking out the period at the end of paragraph (25) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following:

"(26) 'lessee' means any person holding an oil and gas lease on submerged lands of the Outer Continental Shelf granted or maintained under the Outer Continental Shelf Lands Act;

"(27) 'permittee' means any person holding a permit for geological exploration under section 11 of the Outer Continental Shelf Lands Act;

"(28) 'responsible party' means—

"(A) with respect to a vessel or pipeline, the owner or operator of such vessel or pipeline;

"(B) with respect to an offshore facility (other than a pipeline and other than a mobile offshore drilling unit in any case in which subparagraph (C) of this paragraph applies), the lessee or permittee of the area in which such facility is located, or the holder of a right of use and easement granted under the Outer Continental Shelf Lands Act for such offshore facility where such holder is a different party than the lessee or permittee; and

"(C) with respect to a mobile offshore drilling unit which is being used as an offshore facility in any case in which liability is determined under section 304(a)(2), the owner or operator of such unit and the lessee or permittee of the area in which such unit is located, to the extent of their respective liability under section 304(a)(2) of this title; and

"(29) 'mobile offshore drilling unit' means every watercraft or other contrivance capable of use as a means of transportation on water (other than a public vessel of the United States) which is operating in the waters above the Outer Continental Shelf (as the term 'Outer Continental Shelf' is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), or which is operating in the waters above submerged lands seaward from the coastline of a State (as the term 'submerged lands' is described in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)(2)), and which is capable of drilling for oil on the Outer Continental Shelf.".

SEC. 3. (a) Section 303(b)(1) is amended by striking out "owner or operator of" and inserting in lieu thereof 'responsible party with respect to".

(b) Section 303(b)(1)(B) is amended by striking out "such claims may be asserted only as to the removal costs incurred in excess of that limitation" and inserting in lieu thereof "such claim for removal costs may be asserted only to the extent that the sum of the removal costs incurred by the responsible party plus the amounts paid by the responsible party or by the guarantor on behalf of the responsible party for claims asserted under subsection (a) of this section exceeds (i) in the case of a vessel or in the case of an owner or operator of a mobile offshore drilling unit where liability is determined under section 304(a)(2), an amount equal to $250,000 or $300 per gross ton, whichever is greater, of (ii) in the case of an offshore facility (other than a mobile offshore drilling unit where liability is determined under section 304(a)(2)), an amount equal to $75,000,000, or (iii) in the case of a lessee or permittee of an area in which is located a mobile offshore drilling unit where liability is determined under section 304(a)(2), an amount equal to $75,000,000 reduced by the amount for which the owner and operator of such unit are liable under section 304(a)(2)".

SEC. 4. (a) Section 304(a) is amended to read as follows:

"(a)(1) Subject to the provisions of paragraph (2) of this subsection and of subsections (b) and (c) of this section, the owner and operator of a vessel other than a public vessel, the owner and operator of a pipeline, the lessee or permittee of an area in which is located an offshore facility (other than a pipeline), or the holder of a right of use and easement for an offshore facility, which vessel, pipeline, or facility is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(22) of this title, shall be jointly, severally, and stricty liable for all loss for which a claim may be asserted under section 303 of this title.

"(2)(A) In any case in which a mobile offshore drilling unit is being used as an offshore facility and is involved in an incident where oil pollution or the threat of oil pollution originates on or above the surface of the water, the owner and operator of such mobile offshore drilling unit shall be jointly, severally, and strictly liable for all loss for which a claim may be asserted under section 303 of this title, subject to subparagraph (C) and the limit of liability, if any, that would apply under subsection (b)(1) if such unit were a vessel.

"(B) The lessee or permittee of the area, or the holder of a right of use or easement for an area, in which a mobile offshore drilling unit is located shall be jointly, severally, and strictly liable in the case of an incident described in subparagraph (A) for all loss for which a claim may be asserted under section 303 of this title to the extent that such loss exceeds the amount for which the owner and operator of the mobile offshore drilling unit are liable under subparagraph (A), subject to subparagraph (C) and the limit of liability, if any, that would apply under subsection (b)(2) to an offshore facility if such limit were reduced by such amount for which the owner and operator of the mobile offshore drilling unit are liable.

"(C) In the case of any incident described in subparagraph (A) which is caused primarily by willful misconduct or gross negligence within the privity or knowledge of both the owner or operator of the mobile offshore drilling unit and the lessee, permittee, or holder of a right of use or easement of the area in which such unit is located, or is caused primarily by a violation, within the privity or knowledge of both the owner or operator and the lessee or permittee, of applicable safety, construction, or operating standards or regulations of the Federal Government, the owner and operator of the mobile offshore drilling unit and the lessee or permittee of the area in which such unit is located shall be jointly, severally, and strictly liable for all loss for which a claim may be asserted under section 303 of this title.".

(b)(1) Section 304(b) is amended by striking out "owner or operator" each place it appears in the matter preceding paragraph (1) and inserting in lieu thereof "responsible party".

(2) Section 304(b)(1) is amended to read as follows:

"(1) in the case of a vessel, except when the responsible party with respect to the vessel fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities, limited to $250,000 or $300 per gross ton, whichever is greater, reduced by the amount of any removal costs incurred by the responsible party with respect to the incidence; or".

(3) Section 304(b)(2) is amended to read as follows:

"(2) in the case of an offshore facility (except as provided in subsection (a)(2) of this section), limited to $75,000,000 reduced by the amount of any removal costs incurred by the responsible party with respect to the incident.".

(c) Section 304(c)(2) is amended by striking out "entity" and inserting in lieu thereof the following: "entity, but not including any third party who is carrying out a contract or other agreement with a lessee, permittee, or holder of a right of use or easement under which such party is exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil".

(d) Section 304(d) is repealed.

(e) Section 304(g)(1) is amended by striking out "owner, operator, or guarantor of" and inserting in lieu thereof "responsible party or guarantor with respect to" and by striking out "owner, operator, or guarantor" the second, third, and fourth places it appears and inserting in lieu thereof "responsible party or guarantor".

(f) Section 304(h) is amended by striking out "an owner or operator" and inserting in lieu thereof "a responsible party".

(g) Section 304 is amended by adding at the end thereof the following new subsections:

"(j) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the responsible party, to any other person, the statutory liability imposed under subsection (a) of this section.

"(k) Nothing in this title shall preclude an agreement whereby any person agrees to indemnify a responsible party for, or hold a responsible party harmless from, the liability or liability in whole or in part, arising from any oil spill pollution.

SEC. 5. (a) The first sentence of section 305(a)(1) is amended to read as follows: "The owner or operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo) which uses an offshore facility and the owner or operator of a mobile offshore drilling unit shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy an amount of liability under section 304(a) for an incident equal to $250,000 or $300 per gross ton, whichever is greater.". The last sentence of section 305(a)(1) is amended to read as follows: "In any case in which an owner or operator owns, operates, or charters more than one vessel subject to this subsection or more than one mobile offshore drilling unit, evidence of financial responsibility need be established only to meet the amount of liability set forth in the first sentence of this paragraph which is applicable to the largest of such vessels or units.".

(b) Section 305(b) is amended to read as follows:

"(b)(1) The lessee, permittee, or holder of a right of use or easement of an area on which is located at least one offshore facility (other than a pipeline) which (1) is used

for exploring for, drilling for, producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy an amount of liability equal to $75,000,000 for each incident involving an offshore facility (other than a pipeline) in any area covered by an oil and gas lease or a permit for geological exploration under the Outer Continental Shelf Lands Act which is held by such lessee or permittee.

"(2) The owner or operator of a pipeline which is located on the Outer Continental Shelf and has the capacity to transport more than one thousand barrels of oil at any one time shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy an amount of liability equal to $75,000,000 for each incident involving a pipeline which is located on the Outer Continental Shelf and is owned or operated by such owner or operator.

"(3) In any case in which an easement has been granted for the construction or maintenance of one or more offshore facilities, the holder of such easement shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy an amount of liability equal to $75,000,000 for each incident involving an offshore facility on such easement.".

(c) Section 305(c) is amended be striking out "any owner or operator of an offshore facility or vessel" and inserting in lieu thereof "any responsible party", by striking out "such owner or operator" each place it appears and inserting in lieu thereof "such responsible party", and by adding at the end thereof the following: "Nothing in this title shall impose liability with respect to an incident on any guarantor for damages or removal costs which exceeds in the aggregate the amount of financial responsibility which that guarantor has provided for each responsible party. Nothing in this subsection shall be construed to limit any other statutory, contractual, or common law liability of a guarantor to any responsible party for whom such guarantor provides evidence of financial responsibility including, but not limited to, the liability of such guarantor for negotiating in bad faith a settlement of any claim.".

SEC. 6. (a) Section 306(b)(1) is amended by striking out "owner and operator of such source" and inserting in lieu thereof "responsible party with respect to such source".

(b) Section 306(b)(2) is amended by striking out "owner, operator," each place it appears and inserting in lieu thereof "responsible party".

(c) Section 306(c)(1) is amended by striking out "owner, operator," and inserting in lieu thereof "responsible parties".

SEC. 7. (a) Section 307(a) is amended by striking out "owner, operator," and inserting in lieu thereof "responsible party".

(b) Section 307(b)(2) is amended by striking out "owner or operator" and inserting in lieu thereof "responsible party".

(c) Section 307(c) is amended by striking out "owner, operator," and inserting in lieu thereof "responsible party".

(d) Section 307(d) is amended by striking out "owner, operator," and inserting in lieu thereof "responsible party".

(e) Section 307(j)(1) is amended by striking out "an owner, operator," and inserting in lieu thereof "a responsible party".

(f) Section 307(j)(3) is amended by striking out "owner, operator," and inserting in lieu thereof "responsible party".

(g) Section 307(k) is amended by striking out "owner, operator," and inserting in lieu thereof "responsible party".

(h) Section 307(1) is amended by striking out "owner, operator," and inserting in lieu thereof "responsible party".

SEC. 8. (a) Section 308(b) is amended by striking out "owner, operator," and inserting in lieu thereof "responsible party".

(b) Section 308(c) is amended by striking out "owner, operator," and inserting in lieu thereof "responsible party".

SEC. 9. Section 310(b) is amended by striking out "owner or operator of" and inserting in lieu thereof "responsible party with respect to".

SEC. 10. Section 312(a)(2) is amended by striking out "section 305(a)(3)" and inserting in lieu thereof "section 305(a)(2), section 305(a)(3),".

SEC. 11. The amendments made by this Act shall take effect one year after the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. STUDDS) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5906 contains some highly technical language, but its purpose is simply to amend in noncontroversial but important ways the law establishing liability for oil spills from facilities operating on the Outer Continental Shelf.

Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (OCSLAA) established an offshore oil spill pollution fund financed by a tax on OCS oil, designed to provide a means of compensating those suffering economic loss as the result of an OCS oil spill. Title III also imposed liability upon those operating oil rigs on the OCS for losses due to oil pollution, and required such operators or their guarantors to provide the Coast Guard with evidence of financial responsibility up to the maximum of statutory liability imposed. The goals of H.R. 5906, the bill we have before us today, are threefold: To clarify the liability and penalty provisions in title III; to adjust the liability limit for OCS facilities from $35 million plus cleanup costs to a total of $75 million; and to reapportion the liability among the parties operating on the OCS to reflect more closely the industry practice that prevailed prior to enactment of the OCSLAA.

The amendments clarifying the liability provisions of title III will facilitate the growth of a marine insurance market for OCS-related activities by removing ambiguities in the law which were of legitimate concern to the insurance industry. Other amendments will improve the overall operation of title III by augmenting the civil penalty provisions and by clarifying the manner in which claims for economic loss may be asserted against the offshore oil spill pollution fund.

By raising the limit of liability of offshore facilities to $75,000,000, H.R. 5906 adopts a more realistic and workable standard than that which exists in current law. The inclusion of both cleanup and damage costs within the liability limit will provide industry with a greater degree of certainty about the upper limit of costs which it will be called upon to bear in the event of a major pollution incident. This amendment will also guarantee that oil production facilities are treated in the same manner as vessels carrying OCS oil.

Finally, the reapportionment of liability mandated by H.R. 5906 will allocate the risks associated with OCS development more equitably among the participants in that development. While title III presently imposes liability solely upon the owners and operators of offshore facilities and vessels, H.R. 5906, as amended, will apportion it among the holders of leases, permits and easements issued under the OCSLAA, as well as the owners and operators of vessels, mobile offshore drilling units and pipelines.

I will not attempt today to go into great detail concerning the provisions of the bill simply for the purpose of establishing legislative history. The House committee report, which was filed on September 23, expresses the intent of the committee as a whole in what I believe to be a comprehensive and objective manner.

I do want to emphasize one point, however. H.R. 5906, as originally introduced, was a much shorter and much simpler bill, designed to deal with a few important but easy to correct defects in the law. The legislation grew considerably more complex during committee consideration, and addressses several more significant problems with the current law than did the the original bill.

Despite the relatively ambitious nature of this legislation with respect to pollution from OCS facilities, it does not in any manner reduce or eliminate the urgent need to enact a truly comprehensive oil spill liability bill such as H.R. 85.

It is my intention, and I think I can speak for the full membership of the Merchant Marine and Fisheries Com-

mittee on this point, to push for prompt action in the 98th Congress on a comprehensive oil spill bill.

In closing, let me assure Members that H.R. 5906 is a carefully drafted, necessary, and responsible piece of legislation, and I urge that it be supported.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amendments contained in H.R. 5906 as reported by the Merchant Marine and Fisheries Committee seek to correct and clarify problem areas which have arisen from title III of the Outer Continental Shelf Lands Act Amendments of 1978 relating to the oil pollution liability fund. Without these changes, the law will prevent rather than promote the purposes of the act. Therefore, I support these amendments which greatly improve the application of this statute.

To highlight the changes in this bill, the amendments would:

Cap the limit of liability for cleanup and damages at $75 million;

Clarify the limit of guarantors' liability and insure compliance with all insurance laws;

Eliminate the "owner or operator" nomenclature and substitute the term "responsible party," whose identity will vary according to the type of facility owned or operated and the type of interest held. This will insure that liability is shared among those actively engaged in this industry;

Permit the responsible party to transfer a portion of liability to his contractors; and

Remove contractors of the responsible party from a category excusing them from liability.

This revision was fully considered and debated in the Merchant Marine and Fisheries Committee. It directly addresses the outstanding issues in the OCS law and seeks to thoroughly address the concerns of oil companies, drilling contractors, insurance underwriters, environmentalists, the Coast Guard, and others who work with this law.

As all of you know, the State of Alaska has a larger Continental Shelf area than all the rest of the United States. Therefore, the relationship of the activities under the OCS Act and all other maritime and resource activities that occur in this area are of great concern to me. As the prospect of all of offshore development looms closer to reality, the need for an adequate and comprehensive oilspill liability law becomes ever important. The industry to date has an excellent record with regard to oilspills on the Outer Continental Shelf. However, I believe we must have a good law in place to handle any situation that may arise in the future and to provide adequate compensation to innocent victims and cleanup of spills.

I urge you all to support this bill which greatly improves the application of this OCS law and hope that by doing so we speed it along its way to enactment during the remaining days of this Congress.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I rise in support of the bill before the House.

In essence, the bill before us is designed to address current ambiguities in title III of the 1978 OCS Lands Act Amendments with regard to the party ultimately responsible for oilspills emanating from OCS activities. The current statute has resulted in Coast Guard interpretations holding the drilling contractors solely responsible for all oilspills and the major oil company lessees free from liability. I do not believe that Congress would have enacted a joint and several liability statute if the intent had been to single out only one party. Much testimony has been received by the Panama Canal/OCS Subcommittee, as well as the Coast Guard Subcommittee of our Merchant Marine and Fisheries Committee, indicating that real problems exist with the imposition of liability solely on the drilling contractors.

Essentially, the amendment enacts into statute the preferred industry practice for the apportionment of liability. The general rule, therefore, is the imposition of liability on the oil company lessee for any oilspill emanting from their lease and the oil reservoir contained therein. A statutory cap of $75 million is also established by H.R. 5906 for these types of oilspills. The committee intends that the point of origin of an uncontrolled flow of oil determines where an oil pollution incident originates, not where the oil and water first come into contact with one another. For example, the Pemex Bay of Campeche oilspill originated below the surface of the water.

Within this general rule, the amendment would impose liability on the drilling contractor conducting operations on a lease for those oilspills originating on or above the surface of the water. Our intent in dividing liability in this manner is to hold the contractor responsible only for the required petroleum and other oil that is present on the rig in order for it to conduct its operations and which are clearly under the control of the rig owner. The cap on the liability of the drilling contractor would be established in the same manner as the liability of a vessel under the current statute, that is, at $300 a gross ton or $250,000, whichever is greater. Given the current size of equipment operating on the OCS, potential liability for contractors would range from $4.5 to $10.5 million. Should the costs of damages and removal for oilspills, normally the responsibility of the drilling contracts, exceed such contractor's liability limits, the amendment would require the lessee to assume the liability—again up to the statutory $75 million limit for each oilspill.

The same division of liability would apply with respect to drilling contractors and permittees, where prelease drilling operations were being conducted pursuant to a valid permit.

The last major element of the amendment would authorize responsible parties to obtain hold harmless or indemnity agreements from other persons for all, or any portion, of the liability to which such responsible party would otherwise be subject pursuant to this act. This provision does not allow responsible parties to escape liability or avoid the obligation to obtain certificates of financial responsibility. It does allow, however, parties operating on the OCS to decide among themselves the issue of who will ultimately pay cleanup or damage costs in the event a polluting event occurs. Due to a concern over an apparent ambiguity in this provisions as reported by the committee, we have amended the pertinent language on page 10 of the bill before us.

Mr. Speaker, another provision of existing law, pertaining to the method of filing certificates of financial responsibility, should be brought to the Members' attention. Page 21 of the committee report clarifies that an OCS party responsible for filing a certificate as evidence of financial responsibility is required to make only one showing of his maximum responsibility. The entity filing does not have to make multiple filings because one certificate evidencing his financial responsibility may include a listing of his offshore facilities or his mobile offshore drilling units. The responsible party is responsible for each offshore facility or MODU listed on his certificate.

Under existing law, a vessel owner or operator files his certificate evidencing financial responsibility with the Federal Maritime Commission, and an offshore facility owner or operator files his certificate with the Coast Guard.

In a letter to me from the Department of Transportation, the Department stated that it assumes that the Federal Maritime Commission would have to approve the evidence of financial responsibility for MODU's since their limit of liability is the same amount as a vessel. The Department's assumption is not correct, as the committee intends that the owners of MODU's continue to file their certificates of financial responsibility with the Coast Guard, and not with the Federal Maritime Commission. The committee did not grant the FMC the authority to approve the evidence of financial responsibility for MODU's.

Mr. Speaker, I would also like to indicate that a provision adopted by our committee, and contained on pages 12 and 13 of the bill, clarifies our intent as to those situations where liability limits set forth in the statute may be breached. In the bill before the House, we have more clearly indicated our intent to preserve existing statutory, contractual, or common law remedies available to those parties who receive guarantees from another party, such as an insurance company, when their guarantor negotiates in bad faith the settlement of a claim made pursuant to this statute. This provision does not create a Federal cause of action on the bad faith issue. It contemplates, however, that the failure to negotiate a settlement, when one is offered, can constitute bad faith negotiation.

Mr. Speaker, I urge my colleagues to support the timely enactment of this necessary corrective legislation.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, I would like to take this opportunity to speak in support of H.R. 5906, which would amend title III of the Outer Continental Shelf Lands Act of 1978. This bill is similar to title II of H.R. 2792, which was referred to the Subcommittee on Panama Canal/Outer Continental Shelf, a subcommittee that I have the privilege of chairing.

My subcommittee has received testimony from many representatives from the Outer Continental Shelf industry addressing the ambiguities which exist in the present law with respect to liable parties and damages resulting from oil spills. This legislation clearly provides for the equitable distribution of liability to responsible parties. Additionally, this legislation will help foster an insurance market for offshore pollution, which is what Congress attempted to do in 1978.

Therefore, Mr. Speaker, I give my full support for the passage of H.R. 5906.

● Mr. FORSYTHE. Mr. Speaker, on September 17, 1978, the President signed into law the 1978 amendments to the Outer Continental Shelf Lands Act. Those amendments were under consideration for almost 5 years by the Ad Hoc Select Committee on the Outer Continental Shelf and, when the bill was considered on the floor, I was the only member of the select committee to vote against passage.

I did so because I felt the bill was deficient in some areas, ambiguous in others, and would require the drafting of some 30 to 40 new or revised regulations. My worst fears were confirmed after the Select Committee on the Outer Continental Shelf, of which I was the ranking minority member, concluded 22 days of oversight hearings within an 18-month period.

In the final report of the select committee numerous problems were pointed out, one of which pertained to the confusion over statutory liability that resulted from the ambiguous language in title III of the 1978 amendments, the offshore oil pollution compensation fund.

The purpose of title III was to provide a guarantee that no matter what damages or cleanup costs were incurred as a result of an OCS spill, funds to cover this expense would be provided. The passage of title III in 1978 was a milestone; unfortunately, because of ambiguous language and technical problems, the proper application of statutory liability and other provisions is questionable.

I will not go into any great detail explaining the provisions of H.R. 5906, since that has already been done. What is important is that all of the parties involved in offshore oil and gas activities are in agreement that the language in this bill is correct and that it will solve the problems that exist.

Fortunately, there have been no claims against the fund, which speaks well of the overall safety of the U.S. Outer Continental Shelf oil and gas program. However, if there was a spill resulting in damages to commercial property, personal property, or fisheries, and the resultant cleanup cost, it is questionable if the fund would fulfill its purposes as it is now written. The language in H.R. 5906 is needed if the oilspill liability fund is going to operate properly and as intended.

Mr. Speaker, the committee has done a good job in putting this bill together, and I urge my colleagues to give it the support it deserves.●

● Mr. LENT. Mr. Speaker, today we are considering H.R. 5906, a bill amending the offshore oilspill pollution fund, title III of the OCSLAA. The provisions in H.R. 5906 as reported by the Merchant Marine and Fisheries Committee solve problems that have existed since the 1978 OCS Amendments, which created the fund, were signed into law on September 17, 1978.

These problems have been thoroughly investigated for the past 3½ years, first by the Select Committee on the Outer Continental Shelf and then by the Panama Canal/OCS Subcommittee, of which I am the ranking member, and the Coast Guard Subcommittee, both of the House Merchant Marine and Fisheries Committee.

I am pleased that all those holding divergent views on how to solve the various problems have reached agreement on the amendments to the oilspill pollution fund, and I am pleased that the bill is being given judicious consideration.

The corrections to the OCS oilspill pollution fund, made by this bill are important and will insure the ability to pay for any damage, cleanup, or removal that may result from an oilspill caused by OCS oil and gas activities. This is particularly important as we embark on the administration's new and expanded 5-year OCS leasing program.

The passage of the oilspill pollution fund as title III of Public Law 95-372 in 1978 was a milestone and, luckily, to date no claims have been filed against the fund. I hope no reason even arises for any claim to be made.

I look forward to seeing this bill signed into law in the near future and urge its adoption.●

□ 1600

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. STUDDS) that the House suspend the rules and pass the bill (H.R. 5906), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING REPLACEMENT OF EXISTING PUMP CASINGS IN SOUTHERN NEVADA WATER PROJECT PUMPING PLANTS

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1621) to authorize the replacement of existing pump casings in southern Nevada water project pumping plants 1A and 2A, and for other purposes, as amended.

The Clerk read as follows:

S. 1621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to procure, and provide for the installation of, twelve new stainless steel casings and minor appurtenant parts to replace twelve existing cast steel pump casings in pumping plants 1A and 2A of the southern Nevada water project, first stage.

SEC. 2. The Secretary is hereby authorized to negotiate with the original manufacturer for the procurement of the new stainless steel replacement casings.

SEC. 3. Costs incurred in the procurement of the twelve pump casings and minor appurtenant parts shall be borne by the United States and shall be nonreimbursable and nonreturnable. The State of Nevada shall install the twelve stainless steel casings and minor appurtenant parts at its cost in a manner satisfactory to the Secretary.

SEC. 4. There is hereby authorized to be appropriated beginning October 1, 1983, for procurement of twelve stainless steel pump

casings and minor appurtenant parts for southern Nevada water project pumping plants 1A and 2A the sum of $1,500,000 (July 1980 price levels), plus or minus such amounts, if any, as may be justified by reason of changes in procurement costs as indicated by engineering cost indexes applicable to the type of procurement involved: *Provided*, That, except as otherwise may be required by existing contracts, the United States shall incur no further liability with respect to the twelve pumps in pumping plants 1A and 2A of southern Nevada water project, first stage and no further expenditures or actions by the United States with respect to those pumps are either expressly or impliedly authorized by this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. KAZEN) will be recognized for 20 minutes, and the gentleman from Nebraska (Mr. BEREUTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the southern Nevada water project was authorized in 1966. The first phase of the project was placed in operation in 1971 and can deliver 132,000 acre-feet of water annually from Lake Meade for municipal and industrial purposes in Las Vegas, North Las Vegas, Henderson, Boulder City, and Nellis Air Force Base. The second stage, which is under construction, will provide for the delivery of an additional 166,800 acre-feet annually.

The operation of the original pumps and motors at pumping plants 1A and 2A has been unsatisfactory and it is evident that the lifespan of the units will be significantly shorter than normal unless modified.

Since the expiration of the 1-year warranty period, the original supplier has expended considerable effort to modify the pumps. Cost expended in an effort to obtain acceptable results from the pumps approximate $1 million by the supplier, $300,000 by the water users, and $150,000 by the Bureau of Reclamation. The original bid for furnishing and installing the pumps was $693,400. Experiments have demonstrated that the replacement of the existing cast steel casings with stainless steel casings will solve the problems at the two pumping plants. The supplier has agreed to install the new pumps casing at cost.

S. 1621, which passed the Senate on May 19, 1982, authorizes the Secretary of the Interior to procure and provide for the installation of 12 new stainless steel casings and appurtenant parts to replace existing pump casings in pumping plants 1A and 2A of the southern Nevada water project.

The Secretary is authorized to negotiate for the procurement of the new casings with the original manufacturer of the original casings.

The costs of procurement of the pump casings will be borne by the United States and will be nonreimbursable and nonreturnable. In approving the bill, the committee took into consideration the fact that the problem with the pump casings was, at least in part, due to faulty design and the responsibility of the Bureau of Reclamation. This in no way intended to be a precedent for not requiring expenditures for municipal and industrial purposes in connection with Federal reclamation projects to be reimbursable in the future, as they have been heretofore. The State of Nevada will install the replacement casings and parts at its cost.

The bill authorizes the appropriation of $1,500,000 (July 1980 price levels) with a provision for cost indexing for the procurement of new casings. It further provides that the United States shall incur no further liability with respect to the pumps.

Mr. Speaker, I urge approval of the bill and reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1621, a bill to provide for pump casing replacement for pumping plants 1A and 2A of the southern Nevada water project, first stage.

Mr. Speaker, the Subcommittee on Water and Power Resources of which I am a member, held hearings on this bill and its House equivalent in June of this year. In August it was marked up in both subcommittee and full committee and favorably reported out of full committee. In addition, the administration is on record as supporting this bill in testimony provided to the subcommittee by Commissioner Robert Broadbent of the Bureau of Reclamation during the June hearing.

Due to an apparent design deficiency, the 14 pumps concerned have required excessively high operation and maintenance costs since their installation. The Bureau was involved as contracting officer in this project. All parties involved including the contractor, Hitachi American Ltd., have demonstrated their good faith in spending time and money to correct the deficiencies. Hitachi, for one, has spent close to $1 million on its efforts to solve these problems, well in excess of its original bid of $693,400. The water users have spent approximately $300,000 in this same effort. Two of the fourteen pump casings have now been replaced with redesigned versions in which the problems have been solved.

This bill provides for the procurement of the redesigned casings for the remaining 12 pumps. The Secretary is authorized to negotiate with Hitachi, rather than put the new casings out for bid, to give the Secretary the option of taking advantage of Hitachi's offer to provide the casings at its cost.

The minority members of the Water and Power Subcommittee, like the subcommittee chairman, the distinguished gentleman from Texas, are aware and supportive of the policy that costs of reclamation projects allocated to municipal and industrial uses are 100 percent reimbursable by the water users. We were further aware that this bill does not follow that policy, but felt that the support of the administration as well as our own was appropriate as an admission of Federal responsibility and the Federal role in allowing bids on a bad design for the pumps. The subcommittee members made it clear in their earlier proceedings they did not wish this bill to set a precedent for an exception to the policy for municipal and industrial costs, but felt this bill was appropriate due to the unique circumstances in this instance.

I urge my colleagues to support this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DANNEMEYER).

□ 1610

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague from Nebraska for yielding.

Mr. Speaker, I rise in opposition to this bill. I understand the rationale that has gone into the compromise which it represents. But one of the reasons that this country is in the trouble that it is, facing a debt of over a trillion dollars, is because all of us when presented with hard cases like this have a tendency to turn Uncle Sam from a benevolent leader in this institution of ours into Uncle Sucker.

The policy of the existing law requires municipal and industrial users to pay 100 percent of the cost of the reimbursement for Federal funds used for development of water projects. I think this is a sound principle. And we should stick to this principle.

Now, in this instance there are some charges that the design on the particular pumps was defective and perhaps the Federal Government was involved in that process. Perhaps it was not. But if this principle is to be given life, then I think it is appropriate for the cost to be coming from the Federal Treasury—I do not quarrel with that. But we should stick to the requirement that the people at the local level who are getting this benefit reimburse the Federal taxpayer for that cost. And it is this feature of the bill that I find objectionable, and I frankly think we should turn it down. It is only $1.8 million, not a lot of money, but it is a significant amount to anybody who has to pay taxes in this country. And I also think if we can

stick to this principle we can avoid similar cases coming up in the future.

Mr. KAZEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Nevada (Mr. SANTINI), the author of the companion bill in the House.

Mr. SANTINI. Mr. Speaker, I urge every Member of this body to join in support of S. 1621. It has passed the scrutiny and the unanimous vote of the U.S. Senate. It passed the House Committee on Interior and Insular Affairs without objection on August 11, 1982. It is a legislative proposal that on its face presents irrefutable and compelling logic to support it, because the cost entailed here is related to the Bureau of Reclamation's responsibility in installation and oversight on that pipeline. That responsibility has been generally recognized from the beginning of this legislation. The Members can quarrel about the reimbursement provision as the gentleman from California would urge to do but no one can quarrel about the inherent merits, the compelling merits of the compensation requirement now.

I urge all Members to support this bill.

Mr. KAZEN. Mr. Speaker, I yield 2 minutes to the distinguised gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I shared some of the concerns of the gentleman from California and had intended to ask some questions in regard to this matter. But at least in my opinion, the answers that have been given allay many of my concerns.

I do understand, is it not correct, that the committee did hold hearings and did vote and pass this in the House of Representatives?

Mr. KAZEN. If the gentleman will yield, yes, we did. We had very thorough hearings. I think that the full committee understands and are sympathetic with the provisions.

Mr. BEDELL. Do I understand further that the defective parts of this were parts that the Federal Government was responsible for the specifications?

Mr. KAZEN. Yes. The Federal Government was responsible for the specifications on this project.

Mr. BEDELL. And those specifications were the things, as I understand, that have caused this expenditure.

Mr. KAZEN. The gentleman is correct.

Mr. BEDELL. And most importantly of all, I understand very clearly that it is clearly a part of the record that this is not meant to set any precedent as far as reimbursement is concerned. Frankly that was the concern of the gentleman from Iowa. If we are going to waive this and waive that and waive that, pretty soon we do not have reimbursement. And I understand we have the assurance that is not the case.

Mr. KAZEN. The gentleman is correct. We assure the gentleman from Iowa that none of us on the committeee or anyone who had anything to do with this bill intends for this to be a precedent.

Mr. BEDELL. I thank the chairman very much.

Mr. KAZEN. Mr. Speaker, before I yield the balance of my time, this apparently is going to be the last bill that will be authored or sponsored by the distiguished gentleman from Nevada (Mr. SANTINI). He is no longer going to be with us at the next session.

It has been my privilege, Mr. Speaker, to have served with this gentleman for all of the years that he has been in the Congress on the Committee on Interior and Insular Affairs. He has been a member of some of the subcommittees which I have had the privilege of chairing, and I have been a member of the committee that he now chairs.

I can testify, Mr. Speaker, that the State of Nevada, the interests of the State and the interest of this country have been very jealously guarded by the gentleman from Nevada. He has been a very articulate spokesman for the problems of the West, for the problems that are of such strategic importance to the welfare of this country.

Mr. Speaker, all of us are going to miss the gentleman from Nevada. We wish him well and certainly we hope that he will come back and visit with us at any time that he is in the area.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, this is the second time today I have had the privilege of complimenting the gentleman from Nevada. His predecessor was on our side of the aisle. The gentleman defeated him. I had apprehensions. May I say he far exceeded my grandest hopes of being a gentleman who speaks well for the State of Nevada as well as this Nation.

Mr. SANTINI showed the courtesy to travel to my State and become deeply involved in the problems my State was facing when there was an attempt and actually a successful attempt on this House floor to take away lands that belonged to the State. He worked hard to dilute the bill, to be a little more acceptable, although not acceptable to me, with the understanding that he was able to achieve by traveling in person, showed the character and the caliber of this individual who represented the State of Nevada.

I hope that he sees the wisdom of returning to the legislative process some day. But if he does not, I am confident with his ability he will be able to go forth into the private sector and receive his just due because of the dedication he has shown this body and the State of Nevada.

Mr. KAZEN. Mr. Speaker, I thank the gentleman for joining me in this tribute, a very well deserved tribute, to the gentleman from Nevada.

Mr. SANTINI, we are going to miss you.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I do that for two reasons. First of all, I want to join my chairman and the distinguished gentleman from Alaska in the compliments just paid to our colleague from Nevada. In the two terms I have served with him on the Interior Committee this Member certainly found him to be an extremely effective and articulate spokesman on national issues and on issues important to his State, and in addition, a fine person.

Second, with respect to this bill, I would remind my colleagues that the administration does support it. A similar bill was reported from the House Committee on Interior and Insular Affairs, without dissenting vote. We believe it is fair to the Federal Government, to the landowners, and to the firm involved.

I urge support of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the Senate bill, S. 1621, as amended.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 1621.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING APPOINTMENT AND AUTHORITY OF SUPREME COURT POLICE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6204), to provide for appointment and authority of the Supreme Court Police, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 3, line 19, after "(c)" insert "The authority created under subsection (a)(2) shall expire three years after the date of enactment of this subsection. During the three-year effective period of subsection (a)(2), the Marshal of the Supreme Court shall report annually to the Congress on March 1 regarding the administrative cost of carrying out his duties under such subsection.".

□ 1620

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, and I will not object, I take this reservation in order to allow the gentleman from Texas the opportunity to explain the procedure that is going on here and at the same time indicate that the steps taken here by the gentleman from Texas, moving to concur in the Senate amendment, is certainly agreeable, so far as I know, with everyone who has been concerned with this legislation on this side of the aisle.

I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Speaker, today we consider this legislation amending the authorization for the Supreme Court Police in the wake of an attack on the person of Justice Byron White as he addressed a meeting of the Utah Bar Association. Although Justice White quipped that he had been hit harder on the football field in Utah than on this more recent occasion, the threat to public officials, including members of the Supreme Court, in our society today is not a matter to be taken lightly.

This bill, H.R. 6204, was introduced by Mr. RODINO, for himself and Mr. MCCLORY, in an attempt to clarify the authority of the Supreme Court Police to protect Supreme Court personnel both on and off the premises of the Court and to clarify the authority of the Supreme Court Police to use firearms and make arrests in the performance of their protective function. Following a hearing where representatives of the Court testified, the subcommittee worked with representatives of the Court and formulated the amendment in the nature of a substitute which is reprinted before you today.

Currently, security arrangements for the Supreme Court personnel off the premises of the Court are handled through the cooperation of the U.S. marshal's service. Members of the Supreme Court Police force are not authorized to carry firearms off the premises of the Court. Their arrest authority off the premises of the Court is unclear. While many members of the Supreme Court Police force are deputy U.S. marshals and are therefore authorized to carry firearms and make arrests off the Court premises, passage of this bill will clarify their authority in an appropriate fashion, by amendment to the provisions of title 40 which authorize the Supreme Court Police.

As amended by the subcommittee, the bill amends the provisions in title 40 of the United States Code which currently authorize the Supreme Court Police in the following respects:

First, it clarifies the authority of the Supreme Court Police to protect the property of the Supreme Court and persons in the vicinity of the Court property.

Second, it authorizes the Supreme Court Police to protect the Justices, their official guests, and officers or employees of the Court who are engaged in the performance of official duties in any part of the United States.

Third, it clarifies the arrest authority of the Supreme Court Police and limits arrest authority in the performance of their protective function away from the Supreme Court grounds to arrests for violations of Federal laws.

Fourth, it clarifies and makes explicit the authority of the members of the Supreme Court Police Force to carry firearms as may be required for the performance of duties under the act.

Fifth, it repeals the requirement that the Marshal of the Supreme Court shall publish regulations deemed necessary for the protection of the Supreme Court Building and grounds in a local newspaper for 10 days prior to their effective date, and substitutes a requirement that the proposed regulations be posted at the Supreme Court Building and be made reasonably available to the public in writing.

The amendment in the nature of a substitute reported by the subcommittee improves upon H.R. 6204 as introduced on behalf of the Chief Justice by more carefully defining the protective functions of the Police and by specifically relating their arrest authority and their authority to carry firearms to those functions. Moreover, the subcommittee amendment requires that the Justices identify their official guests and provide written authorization for the Supreme Court Police to carry a firearm while protecting such official guests outside of Virginia, Maryland, and the District of Columbia.

The subcommittee recommends that H.R. 6204, as amended, be reported favorably to the House.

Mr. KINDNESS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MODIFICATION OF THE NORTH AMERICAN CONVENTION TAX RULES

Mr. STARK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3191) to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions, as amended.

The Clerk read as follows:

H.R. 3191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (2) of section 274(h) of the Internal Revenue Code of 1954 (relating to attendance at conventions, etc.) is amended to read as follows:

"(2) CONVENTIONS ON CRUISE SHIPS.—In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting unless—

"(A) the cruise ship is a vessel documented under the laws of the United States,

"(B) all ports of call of the cruise are inside the North American area, and

"(C) the taxpayer establishes (by written statements signed by the taxpayer and by an officer of the sponsoring organization or group, and by such other methods as may be prescribed by regulations) that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212.

Paragraph (1) shall not apply to any meeting with respect to which the requirements of the preceding sentence are met."

(b) The amendment made by subsection (a) shall apply to conventions, seminars, and meetings beginning after December 31, 1982.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. STARK) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. STARK).

GENERAL LEAVE

Mr. STARK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3191, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3191 revises the tax treatment of the expenses of attending conventions on U.S. Cruise Ships.

Currently, the Internal Revenue Code flatly disallows all deductions for the expenses of attending conventions, seminars, and similar meetings on cruise ships. This automatic disallowance of deductions has effectively eliminated conventions on cruise ships, even those that fly the U.S. flag. Permitting a deduction for attending conventions on U.S.-flag cruise ships would make them competitive with U.S. hotel facilities and create jobs in the cruise ship industry.

H.R. 3191 allows business deductions for the expenses of attending meetings on U.S.-flag cruise ships, but only if the taxpayer establishes the direct relation between the cruise meeting and the taxpayer's business, and only if all ports of call of the cruise are in the North American area, which includes the United States, our possessions and territories, Canada, and Mexico. The bill includes special reporting requirements for taxpayers seeking to deduct cruise meeting expenses. If the ship calls on a port outside the North American area, no deduction is available. Expenses for meetings on foreign-flag cruise ships remain nondeductible. The bill will have a negligible effect on budget receipts.

I would point out, Mr. Speaker, that H.R. 3191 was the subject of hearings by the Subcommittee on Select Revenue Measures, which I chair, and was unanimously reported by the subcommittee. Therefore, I urge the House to approve H.R. 3191.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3191, relating to conventions held on ships documented under the laws of the United States.

Currently, a deduction is denied for expenses incurred in attending a convention held on ships, whether or not documented under the laws of the United States.

H.R. 3191 provides a limited exception to the current rules by allowing a tax deduction for expenses incurred in attending a convention held on board a ship documented under the laws of the United States, provided: First, all the ship's ports of call are in North America; and second, taxpayer files statements with the Treasury establishing the convention is directly related to the conduct of his trade or business. This reporting requirement is intended to allow the Treasury to detect any abuses.

I urge the bill's adoption.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. GUARINI).

Mr. GUARINI. Mr. Speaker, I would like to thank you and Chairman ROSTENKOWSKI for your assistance in bringing this bill through the Ways and Means Committee and to the House floor for consideration today.

As you know, during the 96th Congress, a miscellaneous tax measure was enacted establishing safe harbor tax rules for conventions held in the North American area, defined as Mexico, Canada, the United States and its possessions. Through an oversight, this legislation did not include conventions held aboard United States-flag passenger ships, when all ports of call are within these boundaries. H.R. 3191 will remedy this omission.

At the time of the 1980 convention rule changes, the American passenger ship industry had just begun to rebuild. This industry now numbers four ships. The *Oceanic Independence* and the *Constitution* began offering passenger service in the Hawaiian Islands. The *Delta Queen* and the *Mississippi Queen* offer similar service along the Mississippi River. These four American-flag ships employ 1,300 American workers.

H.R. 3191 will correct the inequity now in the Tax Code and enable the American passenger ships to compete on an equal footing with land-based facilities for a share of the multimillion-dollar convention business.

This bill has the support of labor and management.

According to the Joint Tax Committee, this bill will have virtually no impact on Treasury revenues.

Passage of H.R. 3191 will help insure that the American flag passenger ship industry has a chance to rebuild and continues to be a source of employment for American workers.

I respectfully request the support of my colleagues for this measure.

● Mr. HEFTEL. Mr. Speaker, today the House is taking up H.R. 3191, a bill introduced by Mr. GUARINI to correct the tax status of our fledgling domestic cruise ship industry in connection with attending a business convention held on such vessels. This bill would simply give U.S.-flag cruise ships the same treatment now being given to North American hotels by providing that individuals who attend business conventions held on such vessels may deduct the reasonable expenses incurred in connection with their participation at the conventions.

When Congress revised the convention tax rules in 1980, cruise ships, which had historically qualified for tax deduction treatment, were inadvertently excluded. H.R. 3101 merely reinstates the historic tax treatement for cruise ships, but on a very limited basis. Only U.S.-flag ships will qualify for this tax treatment, and they are restricted to North American ports of call. Taxpayers attending a convention must meet strict reporting and other requirements, and the convention itself must be directly related to the active conduct of the taxpayer's trade or business or to an income-producing activity.

There are several important reasons why this bill should be supported. The domestic cruise ship industry now numbers only four ships that are engaged solely in the passenger trade. These include the *Delta Queen* and the *Mississippi Queen*, which ply the Mississippi River, and the *Oceanic Independence* and the *Constitution*, which sail among the Hawaiian Islands. The recent repatriation of the *Independence* and the *Constitution*, in particular, represents a significant challenge to the many foreign-flag vessels that dominate cruise ship trade from U.S. ports. Moreover, these two ships have provided needed jobs for several hundered U.S. workers.

However, this fledgling domestic fleet must compete both with subsidized foreign-flag vessels and with the North American hotel industry. Foreign-flag vessels are heavily subsidized by their governments, in recognition of the need to maintain a passenger vessel fleet for strategic purposes.

The North American hotel industry receives favorable tax treatment under the Internal Revenue Code, as individuals attending conventions at hotels in North America, including Canada and Mexico, are able to fully deduct the expenses of attending such meetings. Furthermore, the administration has by tax treaty extended this tax treatment to conventions conducted in Jamaica, and the Ways and Means Committee just last week adopted a provision in the Caribbean Basin Initiative to extend this tax deduction treatment to the entire region.

Therefore, what we are talking about here today is a question of fairness. H.R. 3191 is a fairness bill. It merely gives conventions held on cruise ships the same tax treatment as conventions held in land-based hotels. Even the handful of opponents who have surfaced against this bill acknowledge that the current situation is inequitable.

This bill is also significant for what it does not do. It does not cost the Treasury any money. Both the Treasury Department and the Joint Tax Committee have determined that H.R. 3191 will not result in any additional revenue loss, as this extension of tax deduction treatment to conventions held on cruise ships will only cause the shifting around of a very small portion of existing convention business.

Mr. Speaker, last year 1.4 million Americans took cruises on foreign vessels. We can be sure that very little of

what they spent on those cruises was repatriated to this country. Moreover, those cruises created few American jobs.

Therefore, Mr. Speaker, we have today an opportunity to correct a very inequitable provision of the Tax Code, secure over 1,000 U.S. jobs, and do it all without any cost. I urge my colleagues to support this bill.●

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STARK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. STARK) that the House suspend the rules and pass the bill, H.R 3191, as amended.

The question was taken.

Mrs. FENWICK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZING INDIAN TRIBES TO BRING ACTIONS WITH RESPECT TO CERTAIN LEGAL CLAIMS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 553) to authorize Indian tribes to bring certain actions on behalf of their members with respect to certain legal claims, and for other purposes, as amended.

The Clerk read as follows:

H.J. RES. 553

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Claims Act of 1982".

SEC. 2. (a) Subsection (a) of section 2415 of title 28 United States Code, is amended by striking "after December 31, 1982" in the third proviso and inserting in lieu the following: "sixty days after the date of publication of the list required by section 4(c) of the Indian Claims Act of 1982: *Provided,* That, for those claims that are on either of the two lists published pursuant to the Indian Claims Act of 1982, any right of action shall be barred unless the complaint is filed within (1) one year after the Secretary of the Interior has published in the Federal Register a notice rejecting such claim or (2) three years after the date the Secretary of the Interior has submitted legislation or legislative report to Congress to resolve such claim".

(b) Subsection (b) of section 2415 of title 28, United States Code, is amended by striking "December 31, 1982" in the proviso and inserting in lieu the following: "sixty days after the date of the publication of the list required by section 4(c) of the Indian Claims Act of 1982: *Provided,* That, for those claims that are on either of the two lists published pursuant to the Indian Claims Act of 1982, any right of action shall be barred unless the complaint is filed within (1) one year after the Secretary of the Interior has published in the Federal Register a notice rejecting such claim or (2) three years after the Secretary of the Interior has submitted legislation or legislative report to Congress to resolve such claim".

SEC. 3. (a) Within ninety days after the enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register a list of all claims accruing to any tribe, band or group of Indians or individual Indian on or before July 18, 1966, which have at any time been identified by or submitted to the Secretary under the "Statute of Limitation Project" undertaken by the Department of the Interior and which, but for the provisions of this Act, would be barred by the provisions of section 2415 of title 28, United States Code: *Provided,* That the Secretary shall have the discretion to exclude from such list any matter which was erroneously identified as a claim and which has no legal merit whatsoever.

(b) Such list shall group the claims on a reservation-by-reservation, tribe-by-tribe, or State-by-State basis, as appropriate, and shall state the nature and geographic location of each claim and only such other additional information as may be needed to identify specifically such claims.

(c) Within thirty days after the publication of this list, the Secretary shall provide a copy of this Act and a copy of the Federal Register containing this list, or such parts as may be pertinent, to each Indian tribe, band or group whose rights or the rights of whose members could be affected by the provisions of section 2415 of title 28, United States Code.

SEC. 4. Any tribe, band or group of Indians or any individual Indian shall have one hundred and eighty days after the date of the publication in the Federal Register of the list provided for in section 3 of this Act to submit to the Secretary any additional specific claim or claims which such tribe, band or group of Indians or individual Indian believes may be affected by section 2415 of title 28, United States Code, and desires to have considered for litigation or legislation by the United States.

(b) Any such claim submitted to the Secretary shall be accompanied by a statement identifying the nature of the claim, the date when the right of action allegedly accrued, the names of the potential plaintiffs and defendants, if known, and such other information needed to identify and evaluate such claim.

(c) Not more than thirty days after the expiration of the one hundred and eighty day period provided for in subsection (a) of this section, the Secretary shall publish in the Federal Register a list containing the additional claims submitted during such period: Provided, That the Secretary shall have the discretion to exclude from such list any matter which has not been sufficiently identified as a claim.

SEC. 5. (a) Any right of action shall be barred sixty days after the date of the publication of the list required by section 4(c) of this Act for those pre-1966 claims which, but for the provisions of this Act, would have been barred by section 2415 of title 28, United States Code, unless such claims are included on either of the lists required by section 3 or 4(c) of this Act.

(b) If the Secretary decides to reject for litigation any of the claims or groups or categories of claims contained on either of the lists required by section 3 or 4(c) of this Act, he shall send a report to the appropriate tribe, band, or group of Indians, whose rights or the rights of whose members could be affected by such rejection, advising them of his decision. The report shall identify the nature and geographic location of each rejected claim and the name of the potential plaintiffs and defendants if they are known or can be reasonably ascertained and shall, briefly, state the reasons why such claim or claims were rejected for litigation. Where the Secretary knows or can reasonably ascertain the identity of any of the potential individual Indian plaintiffs and their present addresses, he shall provide them with written notice of such rejection. Upon the request of any Indian claimant, the Secretary shall, without undue delay, provide to such claimant any nonprivileged research materials or evidence gathered by the United States in the documentation of such claim.

(c) The Secretary, as soon as possible after providing the report required by subsection (b) of this section, shall publish a notice in the Federal Register identifying the claims covered in such report. With respect to any claim covered by such report, any right of action shall be barred unless the complaint is filed within one year after the date of publication in the Federal Register.

SEC. 6. (a) If the Secretary determines that any claim or claims contained in either of the lists as provided in sections 3 or 4(c) of this act is not appropriate for litigation, but determines that such claims may be appropriately resolved by legislation, he shall submit to the Congress legislation to resolve such claims or shall submit to Congress a report setting out options for legislative resolution of such claims.

(b) Any right of action on claims covered by such legislation or report shall be barred unless the complaint is filed within 3 years after the date of submission of such legislation or legislative report to Congress.

The SPEAKER pro tempore. Is a second demanded?

Mr. BEREUTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman fron Nebraska (Mr. BEREUTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I discuss the bill before us, I want to associate myself with the remarks made about the gentleman from Nevada (Mr. SANTINI) in connection with the previous bill. Unfortunately for us, Mr. SANTINI will be leaving the the Congress at the end of this session and I want to praise him as one of the most productive, tenacious, and brilliant members of the Interior Committee during the period I have had to spend and serve there. JIM SANTINI has been faithful, conscientious, and prompt and he has a brilliant and penetrating mind which

could see through to the essentials of any matters before us. We will miss him around here. I wish him well in whatever he undertakes.

Mr. Speaker, once again I am here to urge the House to pass legislation to extend the statute of limitations imposed by 28 U.S.C. 2415 on certain Indian damage claims. The claims involved are monetary damage claims of Indians and Indian tribes against third parties which the United States, as trustee, has an obligation to pursue on behalf of the Indians.

I will not go into detail on the background of this legislation. That has been set out in full in the committee report. In addition, this matter has been before the House on three separate occasions in the past.

On those occasions, Congress extened the statute with the support and at the urging of the administration. They needed time to review old records and to identify and research these potential claims. They needed time to evaluate the claims and, where appropriate, to prepare them for litigation or legislation.

Ten years have passed since the first extension. We have appropriated over $21 million to the Bureau of Indian Affairs to support their trustee effort to identify and evaluate the claims.

Yet, of the more than 17,000 separate claims identified, fewer than 1,000 have been litigated or identified as appropriate for litigation.

There are three basic reasons I am here urging the House to act favorably on this legislation.

First, I am concerned about the potential monetary liability of the United States to the Indian claimants if the statute is permitted to expire on December 31 of this year without adequate disposition of the claims by the administration. The committee has not made a determination that the United States would be liable.

However, representations have been made to the Congress over the last 10 years by administration and Indians' witnesses alike which have raised this concern. For instance, the Interior Department report on legislation extending the statute in 1980 stated:

> In view, therefore, of our trust responsibility to the Indians on whose behalf the claims involved may be brought, and the potential liability of the United States if we fail to meet that responsibility we recommend that the statute of limitations be extended.

During an oversight hearing of the Senate Select Committee on Indian Affairs in 1979, Senator Cohen, chairman of the committee, asked:

> If the claim by the tribes does not survive the statute of limitations, would there be a suit against the U.S. Government as trustee for failure to carry out a fiduciary obligation, in your judgment.

Hans Walker with the Interior Solicitor's Office replied:

> That is very possible. It would be a breach of the trust obligation to bring an action on their behalf.

Finally, Mr. Speaker, the following statement is made in the report of the Senate Indian Affairs Committee on the 1980 extension legislation:

> A question has also been raised regarding the potential liability of the United States to Indian tribes or individuals for failure to actively pursue claims on their behalf * * *. The Library of Congress opinion * * * addressed this issue * * * is not free from doubt * * *. (L)itigation may be anticipated if the statute * * * is allowed to expire.

Second, Mr. Speaker, I support this legislation because of the inadequate notice given to potential Indian claimants by the administration of their intent to decline litigation of most of the claims and their failure to submit, timely, legislation for resolution of the claims.

On November 17, 1982, the Federal district court here in Washington, in the case of Covelo Indian Community against Watt, held that the administration failed to comply with certain provisions of the last act of Congress extending the statute. Among other things, the court found that the United States had not afforded the Indian plaintiffs procedural due process in giving them adequate notice of the intention to abandon the Indian claims.

In a lengthy quote from a footnote of the court's decision, Judge Cochran stated:

> Defendants contend, as a final argument for dismissal, that plaintiff's action is barred by laches. They claim that plaintiffs had enough knowledge concerning the decisions not to litigate and not to propose legislation, to institute a lawsuit much earlier in time. This argument lacks merit since defendants did not make public many of their final decisions until the congressional oversight hearings held September 16 and 23, 1982. Moreover, the Sampsel report, which defendants contend satisfies their obligation under section 2 of Public Law 96-217, was not submitted until October 21, 1982, making this case truly ripe at that time. If anyone has been guilty of foot-dragging in pursuing this matter, it has been the defendants. Their equitable defense must, therefore, fail.

Mr. Speaker, If a trustee is going to decline to pursue the rights of a beneficiary which are subject to a statute of limitations, it does not comport with the accepted standards of due process to do so 1 month before the statute will run. Yet, that is exactly what the Interior Department has done in this case.

Acting under the goad of the court's order, BIA caused to be published in newspapers in Indian country legal notices affecting literally thousands of claims advising potential Indian claimants of their intent to abandon the claims for litigation or legislative resolution and of the impending expiration of the statute on December of this year. The notice I have here is dated December 2, 1982. It is inconceivable that the Indians could pursue their own resolution in the 1 month the administration has left them.

Finally, Mr. Speaker, I support extension of the statute because of the breach of the duty the administration owed to us here in the Congress. The last time we extended this statute, we required the Secretary of the Interior to submit to Congress legislation on those identified "2415" claims which were deemed not appropriate for litigation. He has to do this by June 31, 1981.

His failure to do so gave rise to the Covelo lawsuit and decision I just mentioned. The court made explicit findings of this breach of duty.

The court said:

> It is clear from the legislative history that Congress wanted assistance from defendants in the form of carefully considered legislative proposals designed to resolve those claims deemed in appropriate for litigation, in order to bring about a swift, yet equitable, conclusion to the 2,415 claims program. It is also clear from the stipulated facts, however, that defendants have not complied with section 2.

In noting the belated efforts of the Department, the court stated:

> Defendants argue that the Sampsel report, submitted October 21, 1982, some 15 months late, satisfies their obligations under section 2. That report, however, contains only one legislative proposal which relates to approximately 50 percent of the total number of one class of claims * * *. If the defendants are permitted to pursue their plan * * * the remainder of nonlitigated claims will be essentially willed out of existence by defendants. In this court's opinion, this is not what Congress intended.

The court then noted:

> The statute imposed a mandatory duty owing to plaintiffs and to Congress. We hold that defendants breached that duty.

Mr. Speaker, I bring this legislation to the floor with some reluctance. As I noted, we have been here three times in the past attempting to insure that our Indian wards are accorded justice while protecting the equitable interests of innocent non-Indian third parties. Yet, I am constrained to do so. We do not expect that the administration is going to make any radical change in the decisions it has made with respect to their treatment of these claims. We do feel, however, that this legislation will result in providing the Indian claimants with adequate notice of their intentions.

I would like to close my remarks with a last quote from the district court decision in the Covelo case:

> We cannot, of course, order a change in attitude but, considering the pressures of time, we do not deem it inappropriate to suggest that, to avoid chaotic conditions at year's end, it might be prudent for all parties to join in an urgent request to Congress to extend the statute of limitations for a reasonable period beyond the date of ulti-

mate decision in this litigation. If the Federal defendants prevail, no prejudice will result to them; if plaintiffs prevail the Federal defendants will have ample time to formulate reasonable, workable proposals, keyed to due process, for the consideration of Congress.

It is my understanding that the parties have done so and that the administration has no objection to the passage of this bill. Mr. Speaker, I urge passage of the bill.

□ 1630

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 553. This legislation provides for an extension of the time limits contained in section 2415 of title 28 of the United States Code. Under that section, the United States has the right and duty to bring suits for money damages against third parties on behalf of Indian tribes and individuals for claims arising out of contracts or torts. The kinds of claims involved include infringement of Indian water rights, degradation of fishing rights, and a variety of nonpublic trespasses.

The law requires that the United States bring these so-called 2,415 claims by December 31 of this year. House Joint Resolution 553 was introduced in part because of concern that the Departments of Justice and Interior will not have fulfilled their responsibilities with respect to these claims by the time the statute expires.

On September 23 the Interior Committee held a hearing on the resolution and on the Departments' efforts with respect to the claims. I can say that the testimony established a clear need for action to insure that the United States fulfills its legal obligations to Indians and protects the Federal Treasury from unnecessary liability.

The record shows that when Congress in 1966 enacted the 6-year statute of limitations for the United States to bring contract or tort claims against American citizens, it did so without any intent to affect the U.S. obligation to bring such claims on behalf of Indians.

When it became apparent that the United States faced potentially huge liability for breach of trust if it failed to act on the Indian claims, Congress extended the statute to give the Departments of Interior and Justice time to identify, research, evaluate and file any such valid claims.

In the language of the last extension, Congress also included a requirement that the Departments submit by June 1981, legislation to resolve those claims not well suited to resolution by litigation.

Over the past 10 years and at a cost of over $20 million, the Departments have identified over 17,000 legally valid claims. However, the Department of Justice has determined that less than 1,000 of these claims are candidates for litigation, that several thousand should not be litigated, and that several thousand others should be resolved by legislation.

Despite having identified a number of claims as condidates for legislative solution, the Departments did not submit any legislation to Congress until just this past month, much too late for proper consideration and passage. Moreover, the legislation submitted deals only with a fraction of those claims which the Departments indicated would most appropriately be resolved by legislation.

As reported by the Interior Committee, House Joint Resolution 553 would provide a mechanism for resolving these Indian damage claims with finality and in a manner that is fair to the claimants.

In short, the legislation provides that a list of all identifed claims with arguable legal merit be compiled within 360 days. Any and all claims not listed would be forever barred.

The listed claims would be dealt with in the following manner:

For those claims the Departments determine should be resolved by legislation, the statute of limitations would run 3 years from the date legislation is submitted to Congress.

For those claims the Departments determine should be neither legislated nor litigated, the statute would run 1 year from the date that notice is provided to the tribes or individuals advising them of the Departments' decisions and the reasons for them.

The remaining claims would be litigated.

Mr. Speaker, House Joint Resolution 553 should be enacted for a variety of reasons, among them the following:

First, it precludes the need for the filing, before December 31, of hundreds of protective lawsuits. This means that thousands of potential defendants will be spared being joined in litigation which otherwise might be avoided by negotiation or legislation.

Second, House Joint Resolution 553 insures that potential Indian claimants are provided due process. In particular, it would insure that Indians receive more than just a few weeks notice from their trustee of the trustee's decision not to bring litigation on their behalf. After years of consideration of these cases, the Departments have recently been publishing notices of potential actions, in newspapers. This gives the Indians little time to learn more about their potential claims and whether they want to pursue them on their own. Simple fairness mandates an extension in these cases.

Third, House Joint Resolution 553 insures that Congress will have sufficient time to consider legislative solutions to claims which the Departments believe can best be resolved by legislation.

Fourth, and perhaps most important to those of us concerned about Federal deficits, House Joint Resolution 553 reduces the prospect of substantial liability to the U.S. Treasury as a result of successful breach of trust suits brought against the United States for failure to pursue identified claims. Such liability has been repeatedly cited in the past as reason for extending the statute. It is still an excellent reason for doing so.

I am pleased to state that the administration does not oppose enactment of this legislation, that it is considered workable and, all things considered, desirable. For the record, I recognize that some within the administration disagree with language in the committee's report concerning decisions respecting these Indian claims and the bases for them. Nevertheless, we share, I believe, a common concern that the United States acquit its trust responsibilities to Indians honorably and, as noted earlier, with due regard for the interests of the American taxpayer.

Accordingly, I urge the Members of the House to approve House Joint Resolution 553.

Mr. Speaker, I yield 5 minutes to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Speaker, I rise in opposition to the House Joint Resolution 553 which would authorize an additional 3 years onto the statute of limitations.

I find it incredible, absolutely incredible, that once again we find ourselves granting an extension of the statute of limitations for an additional 3 years, to the Indian tribes so they may file claims against the U.S. Government.

We have extended this authority before and it has been extended, as a matter of fact three times previously since 1966. In my opinion, that has been more than adequate for all of the claims that need to be filed, for all of the litigation that needs to be brought against the U.S. Government.

We must end this litigation process, which has our taxpayers over a barrel. We are paying for the litigation; and we are paying for the claims. In shutting this legal door, I think the rights of individuals who have a clear and

just claim can be handled by private relief legislation.

I was told last time when we considered this legislation: "One more extension is all that is needed; that is all we need, one more extension and we can take care of these claims and get this litigation on track and provide the relief we need with one more extension."

Here we are again. I ask my colleagues: How many more times are we going to come to this Congress for an extension so that Indians can litigate their claims against the U.S. taxpayers?

I urge my colleagues to vote against this measure.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I would say to my colleagues on the floor, that I understand the frustrations of the gentleman from Montana about the continued extensions. I must say I share that frustration and concern. Although the responsibility for that certainly must fall on two particular agencies of the Federal Government in part, I think there is a misunderstanding that should be clarified.

The House Republican Conference Digest on this resolution inadvertently did convey some information that is incorrect. The 3-year extension is for claims which would require legislative action by this body. There is a 1-year extension only for claims that the Department of Justice and the Department of the Interior do not intend to pursue. Then that 1-year extension starts from the date of notice given by DOJ and DOI that they do not intend to pursue the matter.

But the 3-year extension itself relates to matters that the administration finds will require legislative remedy rather than litigation.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Montana.

Mr. MARLENEE. I thank the gentleman for yielding.

Mr. Speaker, if in fact we grant this extension and all the claims are not settled, is the gentleman going to ask for another extension in 3 years?

Mr. BEREUTER. Well, this gentleman will not be asking for it.

Mr. MARLENEE. Will the gentleman be back to this Congress for another extension?

Mr. BEREUTER. This gentleman will not. That is the only assurance I can give you.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the chairman.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, I cannot make any ultimate or binding pledges, but speaking for myself, I think this ought to be the end of it. I think they would have to make a very strong case to come back 3 years from now.

This is not a question of whacking Indians so much as it is the taxpayers. In order to save money in this situation, we need to have the bill passed, and I hope this is the last extension. I will do my best to see that it is.

Mr. MARLENEE. Mr. Speaker, I thank the chairman, and I thank the gentleman for yielding.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I will be pleased to yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yelding.

Mr. Speaker, in the past the Committee on the Judiciary has dealt with this and has brought legislation to the floor to extend this statute of limitations expiration date. This comes up rather suddenly, without that committee jurisdiction having been exposed to some consideration of this matter.

I am having difficulty understanding the bill and would ask the gentleman if he could explain the final paragraph of the bill on page 8, other than the amendment to the title. The paragraph reads:

> Any right of action on claims covered by such legislation or report shall be barred unless the complaint is filed within 3 years after the date of submission of such legislation or legislative report to Congress.

That is, I take it, sort of self-defeating; that is, if a legislative solution is sought, obviously the claimant tribe or individual Indian is not likely to file suit while the Congress is still likely to act.

□ 1640

Is this not another one of these situations where we are kind of holding off the Indian claimants possibly with the prospect of legislative solution to the problem being there, and then we say 3 years expires, no legislative action has occurred, and the individual or tribe is again barred, and we are going to be asked automatically for another extension of time on those matters that have been referred to the Congress for legislation remedy. Am I misconstruing that paragraph?

Mr. BEREUTER. In response to the gentleman, I guess the first thing I should say is that I understand it is expected that a relatively small minority of the 15,000 to 17,000 claims pending would involve litigation. In most instances it is expected to be recommended that there should be no litigation; in other cases, some litigation, but only a relatively small amount, it is my understanding. I have understood that we may be talking about 1,000 out of 17,000 would fall in the category of legislative remedy, and in those cases many of them are expected to fall within a single area of legislative remedy. So, I think the gentleman's characterization of what might happen in those instances is perhaps relevant.

Perhaps the chairman would also like to comment.

Mr. UDALL. Mr. Speaker, the gentleman from Ohio is correct. As introduced, the bill was entirely within the jurisdiction of the Committee on Interior and Insular Affairs. When it was amended to deal with imminent limitation problems, statute of limitation problems, the client was in a situation where, had it been an original bill, the Judiciary Committee would have requested a referral and we would have had to agree to that. No request for referral was made, and we are in the situation, because of the amendment added by the committee—and I will tell the gentleman that I hope we will be a little more careful and that he will be a little more observant and blow the whistle on us when we get into Judiciary Committee jurisdiction.

Mr. KINDNESS. If the gentleman will yield further, I just want to be sure I understand another aspect of this. If we construe together sections 2, 3, and 4, it would appear that there will be 270 days following the passage of this act before the 3 years would start to run in the case of those situations in which the 3-year period would be applicable, so you would have three-quarters of a year pass before the 3 years starts to run. Then, the 3 years would begin running, because—it is a procedure that is a little tricky to follow here.

I was commenting to the gentleman from Texas (Mr. SAM B. HALL, JR.) a little while ago that you have to learn to do a highland fling before you can work your way through this, and his comment was to the effect that that was not enough. But, I think it is 270 days before the 3 years start to run. Is that a correct interpretation?

Mr. BEREUTER. I believe the gentleman's understanding is correct. That length of period is due to the process of adding the 90-day publication period and the 180-day period in which the tribe submits information to the Secretary. So, it could be a maximum of 270 days before the 3 years begins to run in those cases that relate to legislative remedies.

Mr. KINDNESS. Therefore, we could have a total period of something pretty close to 4 years before we are dealing with the matter finally.

I appreciate the effort that is undertaken here. I just have a little difficulty in understanding it. I fail to see why it has to be absolutely dealt with before this Congress adjourns, because the date could be extended with somewhat adequate consideration of these problems even though it is after the

first of the year and the period of the limitation has expired. It can be opened up again as it has been in the past, but the risk of filing quite a number of lawsuits, I guess, is what makes us concerned.

Mr. BEREUTER. And the cost to the Treasury of that involvement through breach of faith lawsuits against the Federal Government in its trust responsibilities.

Mr. KINDNESS. I thank the gentleman for yielding.

I appreciate his responses to these questions.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield again?

Mr. BEREUTER. I yield to the gentleman.

Mr. MARLENEE. Mr. Speaker, the last time we extended—does the gentleman have any information on the number of claims that were pending at that time?

Mr. BEREUTER. I had the information, but I have just been advised that on the occasions that we extended it we were dealing with approximately 11,000 to 12,000 claims at that time.

Mr. MARLENEE. The last time we extended we were dealing with 11,000 claims. Now, we are dealing with something like 17,000.

Mr. BEREUTER. Fifteen thousand, maybe as many as 17,000. Probably closer to 15,000.

Mr. MARLENEE. I think it is a good indication of exactly what can happen with this kind of legislation to leave it open. The longer we leave it open, the more claims we can find, the more work for the attorneys, and the further this thing will go.

I thank the gentleman for yielding.

Mr. BEREUTER. I take note of the gentleman's comments, and I will look for some positive solutions from the gentleman in the future.

● Mr. LEE. Mr. Speaker, I rise in strong opposition to the enactment of House Joint Resolution 553, an extension of the statute of limitations deadline before which Indian tribes may seek damages in contract and tort claims. Congress has already provided more than enough time for such actions.

The fact many of these actions have been allowed to exist in the first place is a matter I have long questioned. It has appeared foolish to me that our Government would allow in some instances alleged Indian tribes to bring massive lawsuits against hundreds of thousands of innocent property owners for ejectment and repossession of their homes, for millions of acres of land and for multimillion-dollar awards, often based on alleged procedural violations which may or may have not occurred centuries ago. But that, Mr. Speaker, is the sad tale of what is behind the legislation we consider today.

Before us is another extension of time for Indian tribes to bring their lawsuits. Another extension will not serve to resolve the problems these lawsuits create for innocent taxpaying property owners. What this extension does represent is this Congress failure to resolve the growing problem of Indian land claims in a just permanent fashion. What is most unfortunate is that this failure is costly, and does real harm to people totally innocent of any wrongdoing.

As has been discussed today, prior to 1966 no statute was in existence. Congress established the limitation specifically in order to put a final end to the anguish of countless thousands of residents of land which was once in Indian possession. Congress acted to decide these matters once and for all. Yet, over these past 16 years and again today, we find serious consideration for legislation that would prolong the indecision. I oppose this strongly.

The Department of the Interior and its Bureau of Indian Affairs has continually indicated that they needed "just a little more time" to extinguish the claims in processing. Yet with the approach of every deadline, the Department's logs bloat with more claims. Rather than reduce their number, the unhandled case count is today still in the thousands.

What this Congress must realize is that these numbers reflect communities, families and individual homeowners whose properties are placed in jeopardy, whose titles to the land they paid for are suddenly no longer sacrosanct, whose abilities to sell their land for a fair price are vanished under the cloud of Indian claims.

Mr. Speaker, on March 18, 1980, I stood in this great Chamber and participated in the very same debate. Many of my colleagues at that time deeply opposed any further extension of the statute of limitations. Those opponents referred to the records made on this issue of extending the statute of limitations in 1977. Then, in 1977, the House indicated that extension would be the final extension. I quote from the 1977 conference report:

I think it ought to be very clear that this House has indicated on the record that this is the final extension, and that we are sending a message to the Department of the Interior and to the Justice Department that they had better get busy in processing whatever claims they have because this House will not extend the statute in the future . . .

Even some of my colleagues who favored the extension back in 1980, and who could overlook the sense of the House made in that 1977 quote, said they would note vote for another extension.

Mr. Speaker, is it not time that Congress realize that it must finally resolve these claims? The Congress has delayed time and time again, until today estimates of the American land under threat of Indian claim is as high as a phenomenal 80 percent. Every parcel, every tract and every claim represents property that American families have purchased and built their lives around. The cloud of potential claims must be dissipated. Congress today has the opportunity to start that process by making the existing deadline final. Let us begin there, and continue with a sensible, just and permanent resolution of these claims once and for all.●

● Mr. DASCHLE. Mr. Speaker, I rise in support of House Joint Resolution 553 which extends the deadline for filing legal action on thousands of pre-1966 Indian claims. The Federal Government, in its legal role as trustee, has been negligent in pursuing resolution of these claims. While thousands of claims have been identified, few have been litigated. In addition, there are more claims yet to be filed. The administration would have allowed the statute of limitations to expire December 31, 1982, leaving thousands of Indian people without the necessary financial resources or evidentiary material necessary to pursue these claims.

House Joint Resolution 553 requires that within 90 days all Indian claims currently identified be published in the Federal Register. Within 180 days, the Secretary of Interior must publish additional claims submitted, after which time no additional claims would be considered. The statute of limitations on published claims would be extended until the United States has filed litigation, the Secretary of Interior has reported his decisions to reject claims to the affected Indian people, or the Secretary submits legislation to Congress dealing with these claims. In the latter case, the statute of limitations would expire 3 years after the legislation takes place.

A lawsuit filed by the Native American Rights Fund resulted in a recent decision by a Federal judge that the Government has failed to properly represent Indians, and ordered the Government to file lawsuits for them by December 31, or to submit legislation by December 15 to resolve claims the Government will not pursue through the courts. In addition, the judge ordered the Government to notify Indian people of the status of their claims.

I understand that the administration has now tempered its opposition to this legislation in light of the recent court decision. The administration's past vigorous opposition, however, shows once again its lack of concern that people—poor people in particular—be able to pursue their legal rights. It also shows an alarming disregard for the Federal Government's trustee role in the matter of these claims.

I urge my colleagues to support House Joint Resolution 553 which

allows these damage claims to be settled in a reasonable manner.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the joint resolution, House Joint Resolution 553, as amended.

The question was taken.

Mr. MARLENEE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

APPOINTMENT OF CONFEREES ON H.R. 6056, TECHNICAL CORRECTIONS ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6056) to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980, with the Senate amendments thereto, and—

First, concur in the Senate amendments numbered 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 19, 20, 21, 22, 23, 25, 28, 29, 32, and 35.

Second, disagree with the Senate amendments numbered 9, 15, 18, 24, and 27, and

Third, concur in the Senate amendments numbered 1, 10, 14, 16, 17, 26, 30, 31, 33, 34, 36, and 37, with amendments; insist on the House amendments, and request a conference with the Senate.

The Clerk read the title of the bill.

The Clerk read the House amendments to the Senate amendments as follows:

The amendments to the Senate amendment numbered 1 are as follows:

On the first page of the Senate amendments, line 4, insert ", as amended by section 206(b)(1) of the Tax Equity and Fiscal Responsibility Act of 1982," after "1981)".

On page 4 of the House engrossed bill, after line 14, insert the following:

(aa) AMENDMENT RELATED TO SECTION 102.—Clause (ii) of section 102(b)(1)(B) of the Economic Recovery Tax Act of 1981 is amended by striking out "qualified net capital gain" and inserting in lieu thereof "qualified net capital gain (or, if lesser, the alterative minimum taxable income within the meaning of section 55(b)(1) of such Code)".

On page 8 of the House engrossed bill, line 12, strike out "(12)" and insert in lieu thereof "(13)".

On page 11 of the House engrossed bill, after line 7, insert the following:

(aa) AMENDMENT RELATED TO SECTION 202.—Subsection (d) of section 179 (relating to election to expense certain business assets) is amended by adding at the end thereof the following new paragraph:

"(10) RECAPTURE IN CERTAIN CASES.—The Secretary shall, by regulations, provide for recapturing the benefit under any deduction allowable under subsection (a) with respect to any property which is not used predominantly in a trade or business at any time before the close of the second taxable year following the taxable year in which it is placed in service by the taxpayer."

On page 19 of the House engrossed bill, in the material following line 18, strike out "section 1371(g)" and insert in lieu thereof "section 1361(d)".

On page 40 of the House engrossed bill, strike out line 23 and all that follows down through line 4 on page 41 and insert the following:

(8) TREATMENT OF ANNUITIES.—Clause (ii) of section 2056(b)(7)(B) is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, an annuity shall be treated in a manner similar to an income interest in property (regardless of whether the property from which the annuity is payable can be separately identified)."

The amendment to the Senate amendment numbered 10 is as follows:

On page 5 of the Senate amendments, strike out lines 19 and 20 and insert the following: "such determination occurs or the month in which the hiring date occurs".

The amendment to the Senate amendment numbered 14 is as follows:

In lieu of striking out the matter proposed to be stricken by the Senate amendment numbered 14, strike out line 1 on page 53 of the House engrossed bill and all that follows down through line 2 on page 54, and in lieu of inserting the matter proposed to be inserted by the Senate amendment numbered 14, insert the following:

(A) CASH SETTLEMENT CONTRACTS.—Subsection (b) of section 1256 (defining regulated futures contract) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) FOREIGN CURRENCY CONTRACTS.—Subsection (b) of section 1256 (as amended by subparagraph (A)) is amended by adding at the end thereof the following new sentence:

"Such term includes any foreign currency contract."

(C) FOREIGN CURRENCY CONTRACT DEFINED.—Section 1256 is amended by adding at the end thereof the following new subsection:

"(g) FOREIGN CURRENCY CONTRACT DEFINED.—

"(1) FOREIGN CURRENCY CONTRACT.—For purposes of this section, the term 'foreign currency contract' means a contract—

"(A) which requires delivery of a foreign currency which is a currency in which positions are also traded through regulated futures contracts,

"(B) which is traded in the interbank market, and

"(C) which is entered into at arm's length at a price determined by reference to the price in the interbank market.

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of paragraph (1), including regulations excluding from the application of paragraph (1) any contract (or type of contract) if its application thereto would be inconsistent with such purposes."

The amendment to the Senate amendment numbered 16 is as follows:

On page 8 of the Senate amendments, strike out lines 14 through 23 and insert the following:

(iii) ELECTION BY TAXPAYER WITH RESPECT TO POSITIONS HELD DURING TAXABLE YEARS ENDING AFTER MAY 11, 1982.—In lieu of the election under clause (ii), a taxpayer may elect to have the amendments made by subparagraphs (B) and (C) applied to all positions held in taxable years ending after May 11, 1982, except that the provisions of section 509(a) (3) and (4) of the Economic Recovery Tax Act of 1981 shall not apply.

The amendment to the Senate amendment numbered 17 is as follows:

Insert the matter proposed to be inserted by the Senate amendment numbered 17 and at the end of such matter insert the following:

(e) AMENDMENT RELATED TO SECTION 507.—Section 1234A (relating to gains or losses from certain terminations) is amended to read as follows:

"SEC. 1234A. GAINS OR LOSSES FROM CERTAIN TERMINATIONS.

"Gain or loss attributable to the cancellation, lapse, expiration, or other termination of—

"(1) a right or obligation with respect to personal property (as defined in section 1092(d)(1)) which is (or on acquisition would be) a capital asset in the hands of the taxpayer, or

"(2) a regulated futures contract (as defined in section 1256) not described in paragraph (1) which is a capital asset in the hands of the taxpayer,

shall be treated as gain or loss from the sale of a capital asset.".

The amendment to the Senate amendment numbered 26 is as follows:

In lieu of the matter proposed to be inserted by the Senate amendment numbered 26, insert the following:

(f) CERTAIN LONG-TERM PROJECTS.—Subclause (I) of section 46(a)(2)(C)(iii) is amended to read as follows:

"(I) before January 1, 1983, all engineering studies in connection with the commencement of the construction of the project have been completed and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and".

The amendment to the Senate amendment numbered 30 is as follows:

Insert the matter proposed to be inserted by the Senate amendment numbered 30, and on page 73 of the House engrossed bill, after the matter following line 3, insert the following:

(c) AMENDMENT RELATED TO SECTION 421 OF THE REVENUE ACT OF 1978.—The last sentence of section 55(b)(1), as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A) (and in determining the sum of itemized deductions for purposes of subparagraph (C)(i))".

(d) AMENDMENTS RELATED TO SUBCHAPTER S REVISION ACT OF 1982.—

(1)(A) Section 6 of the Subchapter S Revision Act of 1982 is amended by adding at the end thereof the following new subsection:

"(f) TAXABLE YEAR OF S CORPORATIONS.—Section 1378 of the Internal Revenue Code of 1954 (as added by this Act) shall take effect on the day after the date of the enactment of this Act. For purposes of applying such section, the reference in subsection (a)(2) of such section to an election under section 1362(a) shall include a reference to an election under section 1372(a) of such

Code as in effect on the day before the date of the enactment of this Act.".

(B) If—

(i) after October 19, 1982, and on or before the date of the enactment of this Act, stock or securities were transferred to a small business corporation (as defined in section 1361(b) of the Internal Revenue Code of 1954 as amended by the Subchapter S Revision Act of 1982) in a transaction to which section 351 of such Code applies, and

(ii) such corporation is liquidated under section 333 of such Code before March 1, 1983,

then such stock or securities shall not be taken into account under section 333(e)(2) of such Code.

(2) Subsection (e) of section 1368 (relating to distributions) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO DISTRIBUTE EARNINGS FIRST.—

"(A) IN GENERAL.—An S corporation may, with the consent of all of its affected shareholders, elect to have paragraph (1) of subsection (c) not apply to all distributions made during the taxable year for which the election is made.

"(B) AFFECTED SHAREHOLDER.—For purposes of subparagraph (A), the term 'affected shareholder' means any shareholder to whom a distribution is made by the S corporation during the taxable year."

(3) Subsection (d) of section 1374 (relating to determination of taxable income) is amended by striking out "subsections (a)(2) and (b)(2)" and inserting in lieu thereof "this section".

(4) Subparagraph (B) of section 221(b)(1) is amended by striking out "(9),".

(5) The last sentence of section 4975(d) is amended by striking out "section 1379" and inserting in lieu thereof "section 1379, as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982".

(e) AMENDMENT RELATED TO MISCELLANEOUS REVENUE ACT OF 1982.—Subsection (c) of section 105 of the Miscellaneous Revenue Act of 1982 is amended by striking out "the amendment made by subsection (a)" and inserting in lieu thereof "the amendment made by subsection (b)".

The amendments to the Senate amendment numbered 31 are as follows:

In lieu of the matter proposed to be inserted by the Senate amendment numbered 31, insert the following:

SEC. 306. TECHNICAL AMENDMENTS TO THE REVENUE PROVISIONS OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982.

(a) AMENDMENT RELATED TO TITLE II.—

(1) AMENDMENTS RELATED TO SECTION 201.—

(A) Section 201 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(i) by redesignating the second subsection (c) as subsection (d), and

(ii) by striking out "subsection (c)(1)" in subsection (e)(2) and inserting in lieu thereof "subsection (d)(1)".

(B) Clause (ii) of section 55(e)(5)(B) (defining qualified investment income) is amended by striking out "net capital gain" and inserting in lieu thereof "capital gain net income".

(C) Subparagraph (E) of section 55(d)(2) (relating to adjustments to net operating loss computation) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "paragraph (1)".

(2) AMENDMENT RELATED TO SECTION 204.—Paragraph (1) of section 291(a) (relating to 15-percent reduction for certain preference items) is amended by adding at the end thereof the following new sentence: "Under regulations prescribed by the Secretary, the provisions of this paragraph shall not apply to the disposition of any property to the extent section 1250(a) does not apply to such disposition by reason of section 1250(d)."

(3) AMENDMENT RELATED TO SECTION 205.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (2) of this subsection and paragraph (5) of subsection (d)".

(4) AMENDMENTS RELATED TO SECTION 208.—

(A) Subsection (d) of section 208 of such Act is amended—

(i) by striking out "described in section 1381(a)" in paragraph (3)(E)(i) and inserting in lieu thereof "engaged in the furnishing of electric energy to persons in rural areas", and

(ii) by inserting ", or section 168(f)(8)(J) of such Code, as added by subsection (b)(4)" after "as added by subsection (a)(1)" in paragraph (5) thereof.

(B) Subsection (d) of section 208 of such Act (relating to effective dates) is amended by adding at the end thereof the following new paragraph:

"(7) COORDINATION WITH AT RISK RULES.—Subparagraph (J) of section 168(f)(8) of the Internal Revenue Code of 1954 (as added by subsection (b)(4)) shall take effect as provided in such subparagraph (J)."

(C) Subparagraph (C) of section 208(d)(3) of such Act (defining transitional safe harbor lease property) is amended to read as follows:

"(C) PROPERTY USED IN MANUFACTURE OF AUTOMOBILES.—

"(i) IN GENERAL.—Property is described in this subparagraph if—

"(I) such property is used by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacture of automobiles or trucks,

"(II) 50 percent or more of the motor vehicles produced by the taxpayer during calendar year 1981 are passenger automobiles and light-duty trucks,

"(III) such property is automobile manufacturing property, and

"(IV) such property would be described in subparagraph (A) if 'October 1' were substituted for 'January 1'.

"(ii) AUTOMOBILE MANUFACTURING PROPERTY.—For purposes of this subparagraph, the term 'automobile manufacturing property' means machinery, equipment, and special tools of the type included in the former asset depreciation range guideline classes 37.11 and 37.12.

"(iii) TREATMENT OF CERTAIN VENDORS.—For purposes of this subparagraph, any special tools owned by a taxpayer described in subclauses (I) and (II) of clause (i) which are used by a vendor for the production of component parts for sale to the taxpayer shall be treated as automobile manufacturing property used by such taxpayer.".

(5) AMENDMENT RELATED TO SECTION 211.—Paragraph (2) of section 211(e) of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date for foreign tax credit for taxes on oil and gas income) is amended to read as follows:

"(2) RETENTION OF OLD SECTIONS 907(b) AND 904(f)(4) WHERE TAXPAYER HAD SEPARATE BASKET FOREIGN LOSS.—

"(A) IN GENERAL.—If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a separate basket foreign loss, such loss shall not be recaptured from income of a kind not taken into account in computing the amount of such separate basket foreign loss more rapidly than ratable over the 8-year period beginning with the first taxable year beginning after December 31, 1982.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) The term 'separate basket foreign loss' means any foreign loss attributable to activities taken into account (or not taken into account) in determining foreign oil related income (as defined in old section 907(c)(2)).

(ii) An 'old' section is such section as in effect on the day before the date of the enactment of this Act.".

(6) AMENDMENTS RELATED TO SECTION 222.—

(A) The last sentence of paragraph (2) of section 222(f) of such Act is amended by inserting ", except that in applying such section both direct and indirect ownership of stock shall be taken into account" before the period at the end thereof.

(B)(i) Paragraph (3) of section 312(j) (relating to earnings and profits of foreign investment companies) is amended by striking out "in partial liquidation or".

(ii) The heading for paragraph (3) of section 312(j) is amended to read as follows:

"(3) REDEMPTIONS.—".

(7) AMENDMENT RELATED TO SECTION 223.—Subparagraph (b) of section 223(b)(2) of such Act (relating to effective date for changes in tax treatment of distributions of appreciated property in redemption of stock) is amended to read as follows:

"(B) either before October 21, 1982, or within 90 days after the date of such ruling.".

(8) AMENDMENTS RELATED TO SECTION 224.—

(A)(i) Subsection (h) of section 338 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(8) SALE TREATED SEPARATELY FOR CONSOLIDATED RETURN PURPOSES.—Except to the extent otherwise provided in regulations, the target corporation shall not be treated as a member of an affiliated group with respect to the sale described in subsection (a)(1).".

(ii) If—

(I) any portion of a qualified stock purchase is pursuant to a binding contract entered into on or after the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, and on or before the date of the enactment of this Act, and

(II) the purchasing corporation establishes to the satisfaction of the Secretary of the Treasury or his delegate that such contract was negotiated on the contemplation that, with respect to the deemed sale under section 338 of the Internal Revenue Code of 1954, the target corporation would be treated as a member of the affiliated group which includes the selling corporation,

then the amendment made by clause (i) shall not apply to such qualified stock purchase.

(B)(i) Subsection (d) of section 224 of such Act is amended by adding at the end thereof the following new paragraphs:

"(4) EXTENSION OF TIME FOR MAKING ELECTIONS; REVOCATION OF ELECTIONS.—

"(A) EXTENSION.—The time for making an election under section 338 of such Code shall not expire before the close of February 28, 1983.

"(B) REVOCATION.—Any election made under section 338 of such Code may be revoked by the purchasing corporation if revoked before March 1, 1983.

"(5) RULES FOR ACQUISITIONS DESCRIBED IN PARAGRAPH (2).—

"(A) IN GENERAL.—For purposes of applying section 338 of such Code with respect to any acquisition described in paragraph (2)—

"(i) the date selected under subparagraph (B) of this paragraph shall be treated as the acquisition date,

"(ii) a rule similar to the last sentence of section 334(b)(2) of such Code (as in effect on August 31, 1982) shall apply, and

"(iii) subsections (e), (f), and (i) of such section 338, and paragraphs (4), (5), (6), and (8) of subsection (h) of such section 338, shall not apply.

"(B) SELECTION OF ACQUISITION DATE BY PURCHASING CORPORATION.—The purchasing corporation may select any date for purposes of subparagraph (A)(i) if such date—

"(i) is after the later of June 30, 1982, or the acquisition date (within the meaning of section 338 of such Code without regard to this paragraph), and

"(ii) is on or before the date on which the election described in paragraph (2)(C) is made.".

(ii) Subparagraph (A) of section 224(d)(2) of such Act is amended by striking out "under paragraph (1)" and inserting in lieu thereof "(within the meaning of section 338 of such Code without regard to paragraph (5) of this subsection)".

(9) AMENDMENTS RELATED TO SECTION 231.—

(A) Clause (ii) of section 263(g)(2)(B) (defining interest and carrying charges) is amended by striking out "section 1232(a)(4)(A)" and inserting in lieu thereof "section 1232(a)(3)(A)".

(B) Section 1232 (relating to bonds and other evidences of indebtedness) is amended by redesignating subsection (d) as subsection (c).

(C)(i) The next to the last sentence of section 1232(b)(2) (defining issue price) is amended by striking out "(other than a bond or other evidence of indebtedness or an investment unit issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or an insolvency reorganization within the meaning of section 371 or 374)".

(ii) Subsection (b) of section 1232 is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR EXCHANGE OF BONDS IN REORGANIZATIONS.—

"(A) IN GENERAL.—If—

"(i) any bond is issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) for another bond (hereinafter in this paragraph referred to as the 'old bond'), and

"(ii) the fair market value of the old bond is less than its adjusted issue price,

then, for purposes of the next to the last sentence of paragraph (2), the fair market value of the old bond shall be treated as equal to its adjusted issue price.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) BOND.—The term 'bond' includes any other evidence of indebtedness and an investment unit.

"(ii) ADJUSTED ISSUE PRICE.—The adjusted issue price of the old bond is its issue price, increased by any original issue discount previously allowed as a deduction.".

(iii) For purposes of paragraph (4) of section 1232(b) of the Internal Revenue Code of 1954 (as added by clause (ii)), any insolvency reorganization within the meaning of section 371 or 374 of such Code shall be treated as a reorganization within the meaning of section 368(a)(1) of such Code.

(iv) The amendments made by this subparagraph shall apply to evidences of indebtedness issued after December 13, 1982; except that such amendments shall not apply to any evidence of indebtedness issued after such date pursuant to a written commitment which was binding on such date and at all times thereafter.

(10) AMENDMENT RELATED TO SECTION 235.—Section 235(g)(5) of such Act is amended by striking out "section 253" and inserting in lieu thereof "section 242".

(11) AMENDMENT RELATED TO SECTION 236.—Subsection (c) of section 236 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN RENEGOTIATIONS.—If—

"(A) the taxpayer after August 13, 1982, and before January 1, 1983, borrows money from a government plan (as defined in section 219(e)(4) of the Internal Revenue Code of 1954),

"(B) under the applicable State law, such loan requires to renegotiation of all outstanding prior loans made to the taxpayer under such plan, and

"(C) the renegotiation described in subparagraph (B) does not extend the duration of or change the interest rate on any such outstanding prior loan,

then the renegotiation described in subparagraph (B) shall not be treated as a renegotiation, extension, renewal or revision for purposes of paragraph (1)."

(12) AMENDMENT RELATED TO SECTION 237.—Paragraph (2) of section 401(d) (as redesignated by section 237 of the Tax Equity and Fiscal Responsibility Act of 1982) is amended by striking out "paragraph (9)(B)" and inserting in lieu thereof "paragraph (1)(B)".

(13) AMENDMENT RELATED TO SECTION 266.—Section 266(c)(3) of such Act is amended by striking out "section 103(f)(2)(C)" and inserting in lieu thereof "section 101(f)(2)(C)".

(14) AMENDMENT RELATED TO SECTION 283.—Section 283(b)(2)(B) of such Act (relating to liability for tax and method of payment) is amended by striking out "January 18" and inserting in lieu thereof "February 17".

(b) AMENDMENTS RELATED TO TITLE III.—

(1) AMENDMENTS RELATED TO SECTION 302.—

(A) Subsection (d) of section 31 (relating to year for which credit allowed) is amended to read as follows:

"(d) YEAR FOR WHICH CREDIT ALLOWED.—

"(1) WAGES.—Any credit allowed—

"(A) by subsection (a) shall be allowed for the taxable year beginning in the calendar year in which the amount is withheld, or

"(B) by subsection (c) shall be allowed for the taxable year beginning in the calendar year in which the wages are received.

For purposes of this paragraph, if more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

"(2) INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—Any credit allowed by subsection (b) shall be allowed for the taxable year of the recipient of the income in which the amount is received.".

(B) Paragraph (4) of section 3(i) of the Subchapter S Revision Act of 1982 is hereby repealed.

(2) AMENDMENT RELATED TO SECTION 310.—Subsection (d) of section 310 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date for requirement that obligations be registered) is amended by adding at the end thereof the following new paragraph:

"(4) EFFECTIVE DATE FOR TAX-EXEMPT OBLIGATIONS.—In the case of obligations the interest on which is exempt from tax (determined without regard to the amendments made by this section)—

"(A) under section 103 of the Internal Revenue Code of 1954, or

"(B) under any other provision of law (without regard to the identity of the holder),

the amendments made by this section shall apply only to obligations issued after December 31, 1983.".

(3) AMENDMENT RELATED TO SECTION 336.—Section 7701(a) (relating to definitions) is amended by redesignating paragraph (38) (as added by section 336(a) of the Tax Equity and Fiscal Responsibility Act of 1982) as paragraph (39).

(4) AMENDMENT RELATED TO SECTION 339.—Subparagraph (B) of section 6038A(c)(2) (defining controlled group) is amended by inserting ", (b)(2)(C)," after "(a)(4)".

(5) AMENDMENT RELATED TO SECTION 354.—Paragraph (23) of section 501(c) (relating to exempt organizations) is amended by striking out "25 percent" and inserting in lieu thereof "75 percent".

(c) AMENDMENTS RELATED TO TITLE IV.—

(1) AMENDMENTS RELATED TO SECTION 402.—

(A) The second sentence of section 6226(g) (relating to determination of court reviewable) is amended by striking out "Only" and inserting in lieu thereof "With respect to the partnership, only".

(B) The second sentence of section 6228(a)(6) (relating to determination of court reviewable) is amended by striking out "Only" and inserting in lieu thereof "With respect to the partnership, only".

(2) AMENDMENTS RELATED TO SECTION 405.—

(A) Subsection (b) of section 405 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(b) PENALTY.—Subsection (a) of section 6679 (relating to failure to file returns as to organization or reorganization of foreign corporations and acquisition of their stock), as amended by section 340(b)(1), is amended by striking out 'section 6035 or 6046' and inserting in lieu thereof 'section 6035, 6046, or 6046A'.".

(B) Paragraphs (2) and (3) of section 405(c) of such Act are amended to read as follows:

"(2) The section heading of section 6679, as amended by section 340(b)(2), is amended to read as follows:

"'SEC. 6679. FAILURE TO FILE RETURNS, ETC., WITH RESPECT TO FOREIGN CORPORATIONS OR FOREIGN PARTNERSHIPS.'

"(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6679 and inserting in lieu thereof the following:

"'Sec. 6679. Failure to file returns, etc., with respect to foreign corporations or foreign partnerships.'"

On page 26 of the House engrossed bill, line 5, strike out "170(b)" and insert in lieu thereof "165(c)(3), 170(b)".

On page 41 of the House engrossed bill, after line 8, insert the following:

(10) CLARIFICATION OF EFFECTIVE DATE.—Paragraph (2) of section 403(e) of the Economic Recovery Tax Act of 1981 is amended by striking out "and paragraphs (2) and (3)(B) of subsection (d)" and inserting in

lieu thereof "paragraphs (2) and (3)(B) of subsection (d), and paragraph (4)(A) of subsection (d) (to the extent related to the tax imposed by chapter 12 of the Internal Revenue Code of 1954)".

The amendment to the Senate amendment numbered 33 is as follows:

On page 28 of the Senate amendments, beginning in line 17, strike out "of the Internal Revenue Code of 1954".

The amendment to the Senate amendment numbered 34 is as follows:

On page 31 of the Senate amendments, after line 15, insert the following:

(11) SECTION 278(D) OF SUCH ACT IS AMENDED—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs service both during January 1983, and before January 1, 1983, which constitutes medicare qualified Federal employment (as defined in section 210(p) of such Act), the individual's medicare qualified Federal employment (as so defined) performed before January 1, 1983, for which remuneration was paid before such date, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for the purpose of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act.";

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2) and striking out "or (2)" in subparagraph (A) thereof.

The amendment to the Senate amendment numbered 36 is as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:"311".

The amendments to the Senate amendment numbered 37 are as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(3) the amendment made by subsection (C) of section 305 shall take effect as if included in the amendments made by section 421 of the Revenue Act of 1978.

(4) the amendments made by subsection (d) of section 305 shall take effect on the date of the enactment of the Subchapter S Revision Act of 1982.

(5) The amendment made by subsection (e) of section 305 shall take effect on the date on the enactment of the Miscellaneous Revenue Act of 1982.

(d) FOR SECTION 306.—The amendments made by section 306 shall take effect as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 to which such amendments relate.

Amend the title so as to read: "A bill to make technical corrections in the Economic Recovery Tax Act of 1981 and certain other recent tax legislative."

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Illinois?

□ 1650

Mr. CONABLE. Reserving the right to object at this point, Mr. Speaker, I would like to ask the gentleman from Illinois (Mr. ROSTENKOWSKI) if he will further explain what is to be acccomplished by this procedure, which I acknowledge is somewhat complicated in that there are a number of amendments involved.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, H.R. 6056, the Technical Corrections Act of 1982, as it passed the House on September 14, 1982, contained technical, clerical, conforming, and clarifying amendments to provisions enacted in the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, the Installment Sales Revision Act of 1980, the Bankruptcy Tax Act of 1980, and certain other tax legislation enacted in 1980.

The Senate has returned the bill to the House with amendments approved by the Senate Finance Committee and with additional floor amendments. For the most part, these amendments make only technical and clarifying changes to these prior acts, in the spirit of the original bill. Several technical corrections to the Tax Equity and Fiscal Responsibility Act of 1982 are also included. These corrections amend a number of tax provisions as well as provisions of the 1982 act relating to hospice care, the PSRO program and the Federal supplemental compensation program. In addition, a correction to the Omnibus Reconciliation Act of 1981 relating to the medicaid program is included and the expiration date for the special tax rules relating to servicemen missing in action is extended.

However, several of the Senate amendments are of concern to Members of the House. I believe the House should disagree to those objectionable amendments. These include a provision to permit a bankrupt airline to sell abroad its airplanes leased under the safe-harbor leasing transition rules of the 1982 act without recapture of past leasing tax benefits; a provision allowing certain trust beneficiaries to receive a refund for a portion of the windfall profit tax; a provision grandfathering certain rehabilitations under the 10-percent rehabilitation tax credit of prior law; and a provision allowing certain bulk sales of petroleum products to the Defense Department not to disqualify the seller from independent producer status.

In addition, the House amendment includes several new provisions which were not in the original House bill or Senate amendments. Generally, these provisions have been brought to the attention of the Congress since Senate action on the bill and require expeditious treatment.

For example, under the Tax Equity and Fiscal Responsibility Act of 1982, a provision requiring bond registration was made applicable to certain bonds issued after 1982. The Treasury Department has requested a delay of this effective date for State and local bonds. The amendment delays that provision for tax-exempt State and local bonds, for 1 year, through 1983. Many Members of the House have expressed support for such a delay.

The amendment also addressed a serious problem that has developed in the original issue discount bond rules enacted in TEFRA last summer. The amendment subjects bonds issued pursuant to a plan of corporate reorganization to the new original issue discount rules. In order not to harm taxpayers relying on present law, the amendment applies only to bonds issued after today with the exception of bonds issued pursuant to a binding written contract in effect today. This amendment is included at the specific request and with the strong support of the administration. No inference is intended by this amendment as to the state of present law.

Under TEFRA, new rules were established relating to certain corporate acquisitions. The amendment provides that corporations selling the stock of a subsidiary would not be required to take any recapture income in its consolidated return. This clarifies the uncertainty regarding the original legislation. Certain additional transitional relief is provided.

An amendment is made to the recently enacted Subchapter S legislation, as requested by the Treasury Department in its press release on November 26, 1982. That legislation requires subchapter S corporations to adopt a calendar year unless the taxpayer establishes to the satisfaction of the Secretary a business purpose for some other accounting method. Many taxpayers apparently have been attempting to make elections before the new provision is effective in order to be grandfathered under prior law, thus obtaining a year's tax deferral on up to 11 months of income. The amendment makes the new calendar year rules applicable to elections made after October 19, 1982, the date of enactment of that bill. Relief is provided to make whole certain taxpayers who had transferred stock and securities to a corporation which had planned to elect a fiscal year.

A provision is included in the amendment to assist certain employees in government retirement plans where under State Law, new Loans made after the new TEFRA loan distribution rules became effective, caused all outstanding balances to be treated as new loans resulting in taxable distri-

butions. Under the amendment, the outstanding balances are not treated as new loans under the TEFRA provision, to the extent that the repayment period and interest rates were not changed. As a result, only the additional loan amount will be considered a taxable distribution. This relief is for a transitional period.

The amendment also clarifies the application of certain safe-harbor leasing transitional rules applicable to automobile manufactures and provides for recapture of certain amounts expensed when the property is subsequently converted to personnal use, Finally, the amendment makes a number of other noncontroversial, clerical, and conforming amendments.

I urge the House to concur in this unanimous-consent request.

Mr. CONABLE. Mr. Speaker, further reserving the right to object, I quite agree that the amendments accepted here are for the most part technical in nature and not the subject of any substantial dispute. The amendments that the committee chairman has recommended be subject to disagreement and with the request that we go to conference I also believe should be explored further. Some of them are substantial amendments, amendments of some substance, despite the fact that they are part of a Technical Corrections Act. Then the last item, the item wherein the committee chairman suggests that we accept the amendments of the Senate with some exception, subject to an amendment, involves the extension of the time within which municipalities have to register the issuance of tax-exempt bonds.

Now, this is an interesting subject, Mr. Speaker, and it seems to me that we probably are likely to compromise it eventually. The chairman of the committee feels that that provision should be postponed for 1 year, primarily because small issuers, that is, school boards and small municipalities, are going to have to go through substantially greater redtape in the issuance of tax-exempt bonds than they have previously. The bankers and brokers do not object to this registration proposal, but the small municipalities or public bodies do have a problem with it. I quite agree with the chairman of the committee that there should be some postponement of the effective date. The Treasury has suggested 6 months, and the chairman is suggesting 1 year. We do not know what the Senate's attitude may be, and, of course, they may very well disagree with what we have done and confer about this matter also.

In any event, some delay is clearly appropriate, and for that reason I appreciate the way the chairman of the committee has handled it.

It seems to me, therefore, Mr. Speaker, that the course the gentleman has suggested is entirely appropriate, both as to the matters we accept and as to the matters on which we go to conference, as well as the matters for which we are seeking approval as a matter of first instance as an amendment to the proposal sent us by the Senate.

Therefore, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Illinois? The Chair hears none and, without objection, appoints the following conferees: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, CONABLE, DUNCAN, and ARCHER.

There was no obligation.

PERIODIC PAYMENT SETTLEMENT ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5470) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, with Senate amendments thereto, and concur in the Senate amendment to the title of the bill and concur in the Senate amendment to the text of the bill with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—INCOME TAX PROVISIONS

SEC. 101. TREATMENT OF RECIPIENT OF SETTLEMENT PERIODIC PAYMENTS.

(a) TREATMENT OF RECIPIENT.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended by striking out "whether by suit or agreement" and inserting in lieu thereof "whether by suit or agreement and whether as lump sums or as periodic payments".

(b) TREATMENT OF ASSIGNEE-PAYOR.—

(1) IN GENERAL.—Part III subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 130 as section 131 and by inserting after section 129 the following new section:

SEC. 130. CERTAIN PERSONAL INJURY LIABILITY ASSIGNMENTS.

"(a) IN GENERAL.—Any amount received for agreeing to a qualified assignment shall not be included in gross income to the extent that such amount does not exceed the aggregate cost of any qualified funding assets.

"(b) TREATMENT OF QUALIFIED FUNDING ASSET.—In the case of any qualified funding asset—

"(1) the basis of such asset shall be reduced by the amount excluded from gross income under subsection (a) by reason of the purchase of such asset, and

"(2) any gain recognized on a disposition of such asset shall be treated as ordinary income.

"(c) QUALIFIED ASSIGNMENT.—For purposes of this section, the term 'qualified assignment' means any assignment of a liability to make periodic payments as damages (whether by suit or agreement) on account of personal injury or sickness—

"(1) if the assignee assumes such liability from a person who is a party to the suit or agreement, and

"(2) if—

"(A) such periodic payments are fixed and determinable as to amount and time of payment,

"(B) such periodic payments cannot be accelerated, deferred, increased, or decreased by the recipient of such payments,

"(C) the assignee does not provide to the recipient of such payments rights against the assignee which are greater than those of a general creditor,

"(D) the assignee's obligation on account of the personal injuries or sickness is no greater than the obligation of the person who assigned the liability, and

"(E) such periodic payments are excludable from the gross income of the recipient under section 104(a)(2).

"(d) QUALIFIED FUNDING ASSET.—For purposes of this section, the term 'qualified funding asset' means any annuity contract issued by a company licensed to do business as an insurance company under the laws of any State, or any obligation of the United States, if—

"(1) such annuity contract or obligation is used by the assignee to fund periodic payments under any qualified assignment,

"(2) the periods of the payments under the annuity contract or obligation are reasonably related to the periodic payments under the qualified assignment and the amount of any such payment under the contract or obligation does not exceed the periodic payment to which it relates,

"(3) such annuity contract or obligation is designated by the taxpayer (in such manner as the Secretary shall by regulations prescribe) as being taken into account under this section with respect to such qualified assignment, and

"(4) such annuity contract or obligation is purchased by the taxpayer not more than 60 days before the date of the qualified assignment and not later than 60 days after the date of such assignment.".

(2) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 130 and inserting in lieu thereof the following new items:

"Sec. 130. Certain personal injury liability assignments.

"Sec. 131. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1982.

SEC. 102. EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income), as amended by section 101(b), is amended by redesignating section 131 as section 132 and by inserting after section 130 the following new section:

"SEC. 131. CERTAIN FOSTER CARE PAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include amounts received by a foster parent during the taxable year as qualified foster care payments.

"(b) QUALIFIED FOSTER CARE PAYMENT DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified foster care payment' means any amount—

"(A) which is paid by a State or political subdivision thereof or by a child-placing agency which is described in section 501(c)(3) and exempt from tax under section 501(a), and

"(B) which is—

"(i) paid to reimburse the foster parent for the expenses of caring for a qualified foster child in the foster parent's home, or

"(ii) a difficulty of care payment.

"(2) QUALIFIED FOSTER CHILD.—The term 'qualified foster child' means any individual who—

"(A) has not attained age 19, and

"(B) is living in a foster family home in which such individual was placed by—

"(i) an agency of a State or political subdivision thereof, or

"(ii) an organization which is licensed by a State (or political subdivision thereof) as a child-placing agency and which is described in section 501(c)(3) and exempt from tax under section 501(a).

"(c) DIFFICULTY OF CARE PAYMENTS.—For purposes of this section—

"(1) DIFFICULTY OF CARE PAYMENTS.—The term 'difficulty of care payments' means payments to individuals which are not described in subsection (b)(1)(B)(i), and which—

"(A) are compensation for providing the additional care of a qualified foster child which is—

"(i) required by reason of a physical, mental, or emotional handicap with respect to which the State has determined that there is a need for additional compensation, and

"(ii) provided in the home of the foster parent, and

"(B) are designated by the payor as compensation described in subparagraph (A).

"(2) LIMITATION BASED ON NUMBER OF CHILDREN.—In the case of any foster home, difficulty of care payments for any period to which such payments relate shall not be excludable from gross income under subsection (a) to the extent such payments are made for more than 10 qualified foster children.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 131 and by inserting in lieu thereof the following items:

"Sec. 131. Certain foster care payments.
"Sec. 132. Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

TITLE II—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 201. TREATMENT OF HAWAII PREPAID HEALTH CARE ACT UNDER EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) EXEMPTION FROM PREEMPTION.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 through 393-51).

"(B) Nothing in subparagraph (A) shall be construed to exempt from subsection (a)—

"(i) any State tax law relating to employee benefit plans, or

"(ii) any amendment of the Hawaii Prepaid Health Care Act enacted after September 2, 1974, to the extent it provides for more than the effective administration of such Act as in effect on such date.

"(C) Notwithstanding subparagraph (A), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the Hawaii Prepaid Health Care Act (as in effect on or after the date of the enactment of this paragraph), but the Secretary may enter into cooperative arrangements under this paragraph and section 506 with officials of the State of Hawaii to assist them in effectuating the policies of provisions of such Act which are superseded by such parts.".

(b) TREATMENT OF OTHER STATE LAWS.—The amendment made by this section shall not be considered a precedent with respect to extending such amendment to any other State law.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 202. TREATMENT OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS UNDER EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) DEFINITION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENT.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), relating to definitions, is amended by adding at the end thereof the following new paragraph:

"(40)(A) The term 'multiple employer welfare arrangement' means an employee welfare benefit plan, or any other arrangement (other than an employee welfare benefit plan), which is established or maintained for the purpose of offering or providing any benefit described in paragraph (1) to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, except that such term does not include any such plan or other arrangement which is established or maintained—

"(i) under or pursuant to one or more agreements which the Secretary finds to be collective bargaining agreements, or

"(ii) by a rural electric cooperative.

"(B) For purposes of this paragraph—

"(i) two or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group,

"(ii) the term 'control group' means a group of trades or businesses under common control,

"(iii) the determination of whether a trade or business is under 'common control' with another trade or business shall be determined under regulations of the Secretary applying principles similar to the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b), except that, for purposes of this paragraph, common control shall not be based on an interest of less than 25 percent, and

"(iv) the term 'rural electric cooperative' means—

"(I) any organization which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954 and which is engaged primarily in providing electric service on a mutual or cooperative basis, and

"(II) any organization described in paragraph (4) or (6) of section 501(c) of the Internal Revenue Code of 1954 which is exempt from tax under section 501(a) of such Code and at least 80 percent of the members of which are organizations described in subclause (I).".

(b) LIMITATION ON PREEMPTION OF STATE LAW WITH REGARD TO WELFARE PLANS WHICH ARE MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)), as amended by section 201 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provision of this section—

"(i) in the case of an employee welfare benefit plan which is a multiple employer welfare arrangement and is fully insured (or which is a multiple employer welfare arrangement subject to an exemption under subparagraph (B)), any law of any State which regulates insurance may apply to such arrangement to the extent that such law provides—

"(I) standards, requiring the maintenance of specified levels of reserves and specified levels of contributions, which any such plan, or any trust established under such a plan, must meet in order to be considered under such law able to pay benefits in full when due, and

"(II) provisions to enforce such standards, and

"(ii) in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement, in addition to this title, any law of any State which regulates insurance may apply to the extent not inconsistent with the preceding sections of this title.

"(B) The Secretary may, under regulations which may be prescribed by the Secretary, exempt from subparagraph (A)(ii), individually or by class, multiple employer welfare arrangements which are not fully insured. Any such exemption may be granted with respect to any arrangement or class of arrangements only if such arrangement or each arrangement which is a member of such class meets the requirements of section 3(1) and section 4 necessary to be considered an employee welfare benefit plan to which this title applies.

"(C) Nothing in subparagraph (A) shall affect the manner or extent to which the provisions of this title apply to an employee welfare benefit plan which is not a multiple employer welfare arrangement and which is a plan, fund, or program participating in, subscribing to, or otherwise using a multiple employer welfare arrangement to fund or administer benefits to such plan's participants and beneficiaries.

"(D) For purposes of this paragraph, a multiple employer welfare arrangement shall be considered fully insured only if the terms of the arrangement provide for benefits the amount of all of which the Secretary determines are guaranteed under a contract, or policy of insurance, issued by an insurance company, insurance service, or insurance organization, qualified to conduct business in a State.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendments be

considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Illinois?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I will ask the chairman of the committee if he can give us an explanation of this amendment.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, the House passed H.R. 5470 under suspension of the rules on September 20, 1982. As passed by the House, H.R. 5470 would clarify the tax treatment of periodic payments of certain types of compensation for personal injuries excludable from gross income under section 104 of the Internal Revenue Code. As passed by the House, the bill had a negligible revenue impact and was supported by the administration.

The Senate passed H.R. 5470 on October 1, 1982, by voice vote. As passed by the Senate, the bill included minor amendments to the periodic payment provision and five other nongermane amendments. The Senate amendments deal with the tax treatment of foster care payments, the treatment of Indian tribal governments similar to States in determining their eligibility to issue tax-exempt bonds, a provision waiving the ERISA preemption rule in the case of the Hawaii Prepaid Health Care Act, a provision extending the highway trust fund and taxes through September 30, 1985, and, finally, a provision relating to withholding by the Virgin Islands on certain passive investment income of U.S. individuals or corporations.

Mr. Speaker, under the request I am making today, the House would take the following action with respect to the Senate amendments:

A. PERIODIC PAYMENTS

The Senate amendment defines a qualified funding asset as a U.S. obligation or an annuity contract issued by a State licensed life insurance company. Under the request I am making today, the House would permit an annuity contract issued by any insurance company licensed to do business under the laws of any State to qualify as a funding asset.

B. FOSTER CARE

Under my request, the House would agree to the Senate amendment which exempts certain foster care payments from tax, with an amendment.

The Senate amendment excludes from income payments received by foster parents as "difficulty of care" payments for a foster child having physical, mental or emotional handicaps. The House amendment makes technical and clarifying changes to this provision and also codifies present practice by excluding from gross income basic foster care payments made to reimburse foster parents for the expenses of caring for foster children.

Thus, foster parents would generally be relieved of recordkeeping burdens on basic care payments, as well as payments designated for the special needs of certain types of foster children.

C. HIGHWAY TRUST FUND AND VIRGIN ISLANDS WITHHOLDING

The Senate amendment proposed to extend highway excise taxes and the highway trust fund for 1 year and permitted expenditures out of the trust fund for a specific period of time.

In view of House passage of H.R. 6211, the Surface Transportation Assistance Act of 1982, the House would drop this 1-year extension from this bill. In addition, under my request, the House would drop the Senate amendment relating to Indian tribal governments.

Further, under my request, the House would drop the Senate amendment with respect to Virgin Islands withholding. I want to emphasize that the Senate amendment has previously passed the House as separate legislation, H.R. 7093, and will be subject to a separate unanimous-consent request which I plan to make later today.

D. HAWAIIAN PREPAID HEALTH CARE LAW PREEMPTION

My request also provides that the House would agree to the Senate amendment which excepts the Hawaii Prepaid Health Care Act from the 1974 Employee Retirement Income Security Act (ERISA) preemption standard, with amendments. This amendment is within the jurisdiction of the Committee on Education and Labor and enjoys the bipartisan support of the leadership of that committee.

Under the House amendment, the exception for the Hawaiian Act from preemption under section 514 or ERISA would apply to the State statute as in effect on or before September 2, 1974 (except for administrative amendments to the act). The House amendment also includes language to the effect that the exception made by this legislation is not to be considered as a precedent for extending the exception to other State laws. The provision would be effective on date of enactment.

E. MULTIEMPLOYER HEALTH TRUSTS

The Senate ERISA preemption amendment is limited to Hawaii prepaid health care law. Under my request, the House amendment incorporates the principle provisions of H.R. 6462, dealing with certain preemption issues arising under Federal and State law. The provision clarifies Federal and State responsibilities involved in the regulation of multiple employer health trusts. Again, Mr. Speaker, as with the Hawaiian preemption provision, this amendment is within the jurisdiction of the Committee on Education and Labor and enjoys the bipartisan support of the leadership of that committee.

□ 1700

Mr. CONABLE. Mr. Speaker, further reserving the right to object, I do rise in support of this bill and the manner in which the chairman has suggested handling it at this stage in the procedure.

I am particularly interested in the portion of the bill which relates to the Federal income tax levied on foster care payments. The bill now before us builds on the substantial improvement added by an amendment by Mr. DURENBURGER in the other body. As others have explained, the House amendment in effect codifies existing law with regard to "regular" or "basic" foster care payments and makes clear that so-called "difficulty of care" payments in the case of children with physical, mental, or emotional handicaps will not be excluded from gross income.

Basic foster care payments are set by the States. Generally they are quite low relative to the actual cost of raising a child. A revenue ruling in 1977 made it clear that so long as the foster care payment did not exceed the actual cost of providing foster care, the payment was excludable from gross income. In addition, the excess cost of providing foster care could be taken as a charitable deduction. On its face, this appears to be a sensible policy which recognizes that foster care payments do not usually constitute income to foster parents and one which does nothing to discourage families from accepting foster children.

Last summer, I was concerned therefore to learn that in upstate New York, and particularly in Monroe County, many foster parents were very confused and worried about IRS policy with regard to the treatment of foster care payments. This concern stemmed from two factors.

First, there was the issue of whether foster payments exceeded actual costs of providing foster care. The only way to determine this was to go on a case-by-case basis and look at records kept by each foster family on the food, clothing, shelter, utilities, educational, and other expenses. Unless the foster parents could demonstrate that the foster care payment did not meet these costs, the foster care payment could be considered to be taxable income. Unfortunately, many foster families are not as good at keeping records as they are at providing foster care, expense they incur on behalf of their foster children. The provision before us, while codifing the current

practice of excluding from gross income amounts received as reimbursement for the expenses of caring for a foster child, does nothing to resolve the recordkeeping problem. I would hope that the Treasury Department, when it drafts regulations pertaining to this new provision would consider establishing some sort of benchmark dollar amount as a level below which foster care payments would be excluded from gross income. One possible benchmark, which is updated annually, is the "U.S. Department of Agriculture Estimates of the Cost of Raising a Child." This guide sets out economy, low and moderate levels for urban and rural nonfarm child costs. Since in most instances State foster care payments are substantially below levels, it might be possible to exclude them from gross income without requiring any recordkeeping by foster parents.

The other problem has to do with whether or not the State and county child-placing agencies are required to send 1099 forms to foster parents. Under the revenue ruling, it appears that when foster care payments are intended to reimburse the expenses of caring for the foster child, rather than constituting a payment for services rendered by the foster parents, such forms are unnecessary. I would urge the IRS to take into account the provisions in this bill specifically excluding such payments from gross income when it requires agencies to file such returns. Last summer, for example, both foster parents and the county foster care agency went through needless confusion and alarm when the IRS threatened to assess a $5 fine against Monroe County, N.Y., for each of the four quarterly 1099 forms which it had not sent out to its 1,300 foster parents. Although this particular situation was eventually resolved, foster care agencies and parents remain concerned as to what will be required of them in the future.

The legislation before us today helps clarify some of these issues.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, section 201 of the amendment to which the distinguished chairman of the Ways and Means Committee has referred relates to matters under the Employee Retirement Income Security Act of 1974 (ERISA) which are wholly within the jurisdiction of the Committee on Education and Labor.

The provision in H.R. 5470 preserving from ERISA preemption the Hawaii Prepaid Health Care Act was added in the Senate Finance Committee and but for minor technical cleanup of that language, that provision is unchanged under this amendment. This amendment is now acceptable to the Committee on Education and Labor and its language has been prepared with the full cooperation of our ranking minority member, the distinguished gentleman from Illinois (Mr. ERLENBORN).

To exempt from ERISA's preemption the Hawaii Prepaid Health Care Act as it existed on the day ERISA was enacted is purely a matter of equity. The Subcommittee on Labor-Management Relations held a hearing on this proposal last January and the statement presented by Senator MATSUNAGA at that time puts the problem in its proper perspective. I include Senator MATSUNAGA's statement in full in the RECORD at this point:

TESTIMONY GIVEN AT A HEARING BEFORE THE SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS OF THE COMMITTEE ON EDUCATION AND LABOR, 97TH CONGRESS, 2D SESSION, IN HONOLULU, HAWAII, ON JANUARY 7 AND 8, 1982

(Prepared statement of Hon. Spark M. Matsunaga, a U.S. Senator from the State of Hawaii)

Mr. Chairman and members of the Subcommittee, thank you for this opportunity to discuss the Hawaii Prepaid Health Care Act and its preemption by the Federal Employee Retirement Income Security Act of 1974 (ERISA).

ERISA's preemption of state laws governing employee benefits, particularly the Hawaii state law in question, has been raised several times in congress. The House Education and Labor Subcommittee on Labor Standards received testimony on this matter on June 1, 1978. The Senate Labor and Human Resources Committee heard witnesses on this issue during the Committee hearings on ERISA improvement in August of 1978 and February of 1979. On December 4, 1979, the Senate Finance Subcommittee on Private Pension Plans and Employee Benefits heard testimony on this issue also. At one point during recent congressional consideration of the Multiemployer Plan Amendments Act, the United States Chamber of Commerce and the National Association of Manufacturers opposed passage of the Multiemployer Bill because of an amendment to preserve the Hawaii health care act.

In discussing this issue, I would like to review briefly the Hawaii Prepaid Health Insurance Act, relate the development of the present issue, examine the arguments made against Hawaii's mandated health insurance plan, and analyze the reasoning behind these arguments.

First, let me explain the law's provisions. The Hawaii Prepaid Health Insurance Act requires all employers in the State of Hawaii to provide their workers with prepaid medical health insurance. This coverage is comparable to the medical insurance provided by the federal government to its civil service employees. Under the Hawaii statute, employers in the State must secure health insurance for their workers. This required insurance coverage provides comprehensive care, not limited to work related injuries. The coverage must be comparable to the community standard. In effect, the community standard is the level of benefits provided by the commercial prepaid health plan having the largest number of subscribers. Current benefits include:

1. 120 days of hospital benefits plus outpatient service.
2. Surgical benefits.
3. Medical services, including home, office, hospital visits and intensive medical care.
4. Laboratory, X-ray, and radiotherapy services.
5. Maternity benefits for workers who have participated in a plan nine or more months before childbirth.
6. Drug and alcohol abuse treatment.

Unlike the federal program where each worker selects his own health insurance program, under the Hawaii law, the employer selects one program for all its employees. The employer may either secure commercial coverage or it may undertake a self-insurance program. Under a self-insurance program, the employer must prove to the State Department of Labor that the employer has adequate resources to pay for the requisite health benefits. If the employer wishes to select commercial coverage, it is free to choose a commercial carrier based on the carrier's services and premiums. While the Hawaii State Insurance Commissioner has licensed over 200 carriers to provide such prepaid health insurance, all but 1,000 of the State's 18,500 employers subscribe to one of the State's two major commercial insurers—Kaiser Permanente Health Plan or the Hawaii Medical Services Association.

The Hawaii statute requires an employer to pay half the premiums for this insurance coverage. Many employers voluntarily pay for their worker's full premium cost. Where a worker contributes to his or her own coverage, the State law restricts this contribution to no more than 1.5 percent of the worker's annual wages. For financially pressed businesses that have difficulty covering the premium cost the State provides premium supplements out of its reserve funds. Between 1974 and 1977, the State expended about $30,000 to supplement employer's premium payments.

Excluded from the statute's mandatory coverage are:

1. Government employees.
2. Agricultural seasonal workers.
3. Employees working less than 20 hours a week or at wages less than 86.67 percent of the prevailing State minimum hourly wage.
4. Workers covered by a Federal program or receiving public assistance.
5. Religious objectors.
6. Individuals working in family employment.
7. Commissioned insurance and real estates salesmen.

Despite these exceptions, 98 percent of the State of Hawaii's population has some form of comprehensive or catastrophic medical coverage through the State mandated program for workers or through the Federal civil service, medicare, and medicaid program.

Furthermore, the comprehensive health care benefit programs available for employers in Hawaii, are generally better and cheaper than comparable programs in other states. It is important to stress that reliance on private medical treatment and commercial carriers in Hawaii, has led to effective utilization and cost control programs. Inpatient hospital care has been reduced in Hawaii to half the national average. In addition, monthly premiums for medical insurance in Hawaii compare very favorably with the premiums required by plans nationwide under the Federal civil service health insurance program.

Second, let me relate the background of the present controversy. The Hawaii Prepaid Health Care Law was enacted on June 2, 1974. On November 21, 1977, the Federal

district court for the Northern District of California held that ERISA preempted the Hawaii statute. In other words, the ERISA rendered the state's prepaid health insurance act invalid.

This litigation arose out of a 1976 amendment to the Hawaii Act adding drug and alcohol abuse treatment. Standard Oil Company of California up to this point had complied with Hawaii requirements. Some of the company's workers in Hawaii had elected to participate in Standard Oil's Self-funded Health Care Program which provides 80 percent reimbursement. This self-funded program did not provide drug and alcohol treatment, and Standard Oil sought to enjoin the State of Hawaii from enforcing this new requirement.

Reviewing ERISA, the district court stated that:

"The legislative history discloses no explicit Congressional decision that State health insurance laws should be preempted. Neither the parties nor the Court in its independent research found any specific discussion in Congress about the pros and cons of that course."

The Court's statement was later supported by Senator Lloyd Bentsen, the chief drafter of ERISA in the Senate Finance Committee. At a public hearing on August 15, 1978, on this issue, Senator Bentsen stated that the Finance Committee did not deal with the question of preempting health insurance. Nevertheless, the Court ruled that the broad language of ERISA preempted all state laws relating to private employee benefit plans including Hawaii's Prepaid Health Insurance Act, and relief, if any, must come from Congress. Both the Ninth Circuit Court of Appeals and the U.S. Supreme Court affirmed this decision.

Shortly after the lower court's decision, the State of Hawaii sought remedial legislation to save the Hawaii statute from ERISA preemption.

In 1977, with Senator Dan Inouye as cosponsor, I introduced S. 1383 to exempt from ERISA preemption, state health insurance laws. At our urging, Senator Harrison Williams, then Chairman of the Senate committee on Labor and Human Resources, included as part of his ERISA Improvements Act of 1979, a provision exempting from ERISA preemption, the Hawaii prepaid Health care law, as well as any other State law determined to be substantially identical to the Hawaii statute and requiring benefits substantially identical to those required under the Hawaii law. Under the Williams bill, state health insurance requirements for reporting, disclosure, fiduciary responsibility, and enforcement, would be preempted if they were similar to ERISA provisions. In the version of S. 209, the ERISA Improvements Act, reported favorably by the Senate Committee on Labor and Human Resources, this provision was expanded to exempt from preemption all State health insurance laws.

Because of strong opposition from the U.S. Chamber of Commerce and the National Association of Manufacturers to the expanded Williams exemption proposal, I subsequently offered an amendment to the Multiemployer Pension Plan Amendments Act to exempt only the Hawaii statute. This approach was taken in bills which were later introduced by Senator Inouye and myself, S. 3151 in the 96th Congress and S. 1232 in the present Congress. These bills exempt only the Hawaii Prepaid Health Care Law, while retaining ERISA reporting, disclosure, fiduciary, and enforcement requirements for the Hawaii Health Insurance Program.

During the lengthy congressional consideration of this issue, national business organizations opposed any legislation to preserve the Hawaii statute. It was argued that the Hawaii statute would detract from the coverage already provided by multistate employers to their workers. It was further argued that the Hawaii statute, if preserved and especially if followed by other states, would prevent multistate employers from providing a uniform compensation package for their workers nationwide. Behind these arguments, was the general apprehension that the Hawaii statute might be used as the basis for a national health insurance program. I would like to discuss these points as the third part of my testimony:

In a statement presented at the 1978 Oversight Hearings on ERISA, Robert S. Stone, Senior counsel of IBM, argued that the Hawaii statute could detract from higher health insurance coverage provided by multistate employers. It was argued that the Hawaii statute could override the compensation package reached in collective bargaining agreements.

This argument obviously stems from a misunderstanding of the Hawaii state law. The Hawaii statute merely sets a minimum standard for health insurance coverage required of employers. Benefits in excess of those required by the Hawaii statute, are not affected by the law. Indeed, a prepaid health care plan included in collective bargaining is presumed to meet the requirement of the statute. The Hawaii law does not override health benefits obtained in collective bargaining.

Furthermore, the minimum standards established for a comprehensive health care program by the Hawaii statute should not pose additional burdens on multistate employers, for the Hawaii state requirements are generally lower than the benefits already extended to workers by multistate employers. Boris Auerbach, Secretary of Federated Department Stores and Vice President of the ERISA Industry Committee or ERIC, noted during the hearings on S. 209 in February of 1979, that the Federal Health Maintenance Organization Act of 1973 which governs federally-qualified health maintenance organizations, is more extensive than that required under the Hawaii law. Moreover, he stated that employers in his association already provide adequate and in most cases more generous plans than those required by the State of Hawaii. Thus, Hawaii's statute would add no financial cost to multistate employers' current health programs.

The chief argument against exempting Hawaii's prepaid health insurance program from preemption by ERISA, has focused on the potential obstacles posed against an employer intent on establishing a uniform benefit package for its workers nationwide. Mr. Stone in the 1978 hearings stated that if other states followed Hawaii's example, the multiplicity of state requirements would prevent multistate employers from providing uniform benefits to its workers. George J. Pantos, Counsel to ERIC, stated that ERISA's preemption provision reflected an overriding concern for interstate employers who must develop a uniform benefit system, since these interstate employers with 10 percent of all plans cover 85 percent of all pension plan participants. At the same hearings, Peter Nash, also a Counsel to ERIC added that the state-mandated health premiums could reduce the compensation available to workers in that state, because to meet state-mandated health coverage, and employer would reduced compensation in another area, thereby creating nonuniformity for workers in different states. The administrative cost and difficulty in meeting different state health insurance requirements were again raised by Mr. Auerbach during hearings in February of 1979.

All of these arguments fail to recognize the long-established fact that the several states have different requirements for group life insurance, health insurance, workmen's compensation, unemployment compensation, and disability insurance. For social as well as economic reasons, multistate employers have met these requrements which differ from state to state.

To determine the administrative cost and complexity for meeting different state health insurance requirements, I talked with a consultant at a major accounting firm and with the Financial Management Office of the Federal Office of Personnel Management, I was informed that any employer using an automated payroll would not encounter any difficulty or extraordinary cost in meeting different state health care requirements for the following reasons: First, medical benefits are fairly uniform nationwide. Second, payroll offices using automated systems can easily cope with any variations as they do with existing differences in pay packages for workers in different states—differences in such matters as local tax withholdings, fringe benefits negotiated by local unions such as pregnancy coverage, holidays, vacation schedules, and reimbursement for protective clothing and work tools. If all 50 states developed varying health insurance programs, these experts were fairly confident that a computer program could deal with varying benefit packages.

In addition, the expert at the Federal Office of Personnel Management noted that the existing federal health insurance program although immense, is neither costly nor complicated to administer. The federal employees health benefits program covers four basic categories of health insurance—government wide plans, employee organization plans, individual practice plans, and local group practice plans. Each federal workers must make his own election as to the plan he or she wishes to join. The biggest task for the Office of Personnel Management is to educate the workers on the various alternative plans available and to process the employee's selection. This election process is opened at the time the worker joins the federal work force and each November for the entire federal work force. Besides the educational task and the task of processing elections, the Office of Personnel Management has not encountered significant problems in making the appropriate payroll deduction, collecting the withheld funds, and transmitting the collected funds to the appropriate carrier selected by the individual worker. For the total 3,491,091 individuals enrolled in the federal employees health benefit program in 1979, the program received a total of $3.3 billion in income. Expenses incurred by the Office of Personnel Management for 1979, amounted to $6.8 million. In other words, the administrative cost for the program in 1979 amounted to only 0.2 percent, or one-fifth of 1 percent of the total income.

The federal employees health benefits program annually copes with the extreme difficulty posed by individual employee selection from over 100 plans which differ from state to state. Yet, the administrative cost for this program is practically insignifi-

cant. In comparison, the greater simplicity of private employer's plans should require even less administrative cost.

The two arguments of administrative complexity and nonuniformity have been repeated almost as if they were articles of faith. The real reason behind these arguments may well be rooted in an apprehension of national health insurance. Taking the administrative complexity argument at face value, some members of the Senate Committee on Labor and Human Resources expanded the initial Hawaii exemption in S. 209 to permit dissimilar state health insurance programs. This was undertaken in the hope that the burden of meeting different state requirements would lead multistate employers to support national health legislation.

In truth, some representatives of the business community view the Hawaii statute as an undesirable experiment in national health insurance. It is feared that the Hawaii experience would familiarize Americans with the benefits of such a program and establish a favorable environment for expanding the program to other states.

The controversy over national health insurance leads me to the fourth and final portion of my presentation, regarding the implications raised by the business community. It should be here noted that during the three years that the Hawaii Prepaid Health Insurance Program was being considered, the State legislature questioned the need for such legislation. State action was deemed unnecessary in view of "imminent national health legislation". However, after three years wait, the State legislature in 1974 decided to enact Hawaii's own Prepaid Health Insurance Act.

The enactment of a National Health Insurance Program appears as unlikely today as it appeared in 1974, 1978 or 1979. Yet, during the debate on the Matsunaga amendment to the Multiemployer Pension Plans Amendment Act, the National Association of Manufacturers and United States Chamber of Commerce argued that the amendment was inappropriate and non-germane to the legislation under consideration. They argued that the Hawaii exemption provision should be considered only in the context of national health legislation; and, although the Ninth Circuit Court of Appeals has upheld the invalidation of the Hawaii Prepaid Health Act, the State of Hawaii should postpone seeking remedial legislation until the Congress considers national health legislation. The effect of such a delay would be to strip health insurance coverage from thousands of workers in Hawaii.

Ironically, the handful of multistate employers who oppose Hawaii's program and who operate in Hawaii will not terminate their own health insurance programs; nor will local, established employers. As employers have conceded, and as the Health Education and Welfare Department has confirmed, the Hawaii state minimum standards are exceeded by many industries. The Hawaii legislative bureau report estimated in 1971 that only 11.7 percent of the state's work force did not have hospital coverage, 13.5 percent lacked surgical coverage, and 17.2 percent did not have regular medical insurance. Consequently, for the majority of employers and workers, the mandated state requirements of 1974 imposed no additional burden.

According to an HEW issued in 1977, 46,000 workers, chiefly in small, new or marginal businesses, benefitted from the state-mandated health insurance coverage. The 46,000 who are affected, are chiefly minium wage workers, mostly women who must support their families. These are workers in garment, hotel or restaurant industries.

In summary let me note that the Hawaii Prepaid Health Care Act has been in effect since 1974. It has guaranteed continued health insurance coverage in pre-existing programs and it has expanded coverage to 46,000 workers in the State who previously did not enjoy health insurance benefits. It has imposed minimal financial burdens on established employers, especially multistate employers. By mandating near-universal coverage, and relying on competition among commercial carriers and private doctors, the statute has kept premium costs sufficiently low to be borne by new, small, or marginal businesses with minimal adverse effect.

The alleged administrative complexity for multistate employers has not been substantiated, and, in fact, only a handful of multistate employers operate in Hawaii. Those that do operate in the State, easily meet the State requirement with the company's voluntary or collective-bargained plan. Hawaii's Health Insurance Plan is unique and limited to a single State. However, even if other States were to enact similar legislation, automated payroll systems which already cope with numerous compensation differences from State to State, could readily cope with variations in health insurance plans at minimal cost.

Fear of the favorable precedent the Hawaii statute might create for national legislation has motivated opponents of the Hawaii Health Care Act. They have argued for broad ERISA preemption of the Hawaii act and all State health insurance laws, and they have counseled against such State action except in the context of national health proposals. In view of the unlikely prospect for national health legislation, ERISA preemption would preclude State initiative in this area. In the meantime, 46,000 workers in Hawaii would be deprived of their health insurance coverage guaranteed under the State's preempted law.

Mr. Chairman, for the foregoing reasons, I strongly urge that your Subcommittee take expeditious action to exempt Hawaii's Prepaid Health Insurance Act from the preemption provisions of ERISA.

Section 202 of the amendment concerns a related matter wholly within the jurisdiction of the Education and Labor Committee as well. Many of you are well aware of the serious problems caused by the failure of certain health insurance trusts (also called multiple employer insurance trusts or MET's) to pay beneficiaries claims.

Although the Employee Retirement Income Security Act of 1974 (ERISA) was enacted to protect workers, some individuals have used ERISA as a smokescreen to conceal fraudulent activities.

These individuals approach employers, particularly small businesses, offering a cheaper alternative to traditional group health insurance coverage.

They set up trusts which they administer themselves to provide health coverage. But unlike licensed insurance carriers, they often fail to comply with the basic solvency controls which each State establishes to protect health care consumers.

When the State tries to enforce these controls, the trusts claim to be beyond the reach of State law because they are "employee benefit plans" covered by Federal law.

But by the time the U.S. Department of Labor decides if Federal law applies, the individuals who established the bogus insurance ventures have long since departed with the money and workers are left without any means of covering their unpaid medical bills.

Section 202 clarifies and strengthens the ability of the States to protect their citizens from such unscrupulous individuals by giving the State clear authority to establish and enforce standards for MET's.

Health insurance is of critical importance to workers and their families. The average worker is clearly unable to meet spiraling medical costs without that protection.

Both of the premium payers (employers, as well as employees) are entitled to rely on the fact that the health insurance which they have purchased will be there when it is needed.

If problems in delivery of health insurance arise, the States must be able to step in immediately to protect consumers.

Our ranking minority member, Mr. ERLENBORN, will discuss the particulars of this amendment in more detail. Section 202 closes a loophole in ERISA in urgent need of attention. Both the National Association of Insurance Commissioners and the administration have urged us to move expeditiously on this noncontroversial but essential amendment to ERISA.

Finally, neither sections 201 or 202 of this amendment are intended in any way either to overturn or endorse the decision of the U.S. First Circuit Court of Appeals in *Wadworth, et al.* v. *Whaland* (562 F. 2d 70 1st Cir. 1977, cert. denied, 435 U.S. 980 (1978)), which held that a New Hampshire insurance law regulating the content of group insurance policies sold to ERISA covered welfare plans was not preempted under section 514 of ERISA. Resolution of that issue should be dealt with in separate legislation after a full opportunity for both sides to present their views.

Mr. CONABLE. I thank the gentleman for his contribution.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I have no objection to the request of the distinguished chairman (Mr. ROSTENKOWSKI). H.R. 5470 belongs in conference where the bill's managers from both bodies can work out an agreement on its important features.

One significant feature is the Durenberger amendment which exempts cer-

tain foster care payments from Federal income tax treatment. I strongly endorse the amendment, and I believe the modest restrictive amendments to it, made by the House, will not alter the purpose of the original Senate amendment.

Foster parents in my State, who had for years assumed their payments from the State for caring for special children in their homes were tax exempt, have been, in the past year and a half, subjected to IRS audits in which such income has been claimed to be taxable. Large tax claims have been made against parents who believed they had no liability.

In most cases, perhaps all, the foster parents had incurred expenses equal to, or greater than, the income they received from the State. Because they thought the income was exempt, they kept no records.

This amendment liberates such payments from Federal income tax. It recognizes the special services of the foster parents. It helps the States save the money and emotional heartbreak which institutionalization would cause. It also saves a good deal of record keeping which would benefit no one.

The cost of the amendment is minimal. The Treasury says it will cost less than $5 million. At that price, the amendment is a bargain. I am pleased that the House has accepted the spirit of the Durenberger amendment.

● Mr. ERLENBORN. Mr. Speaker, the amendments being offered to the legislation we are now considering (H.R. 5470) are severalfold. The provisions relating to the Internal Revenue Code have been considered by the committee having jurisdiction over those matters, the Committee on Ways and Means. The provisions relating to the amendment to ERISA, the Employee Retirement Income Security Act of 1974 (Public Law 93-406) which was added in the other body are solely within the jurisdiction of the Committee on Education and Labor and have been the subject of hearings held this year by the Subcommittee on Labor-Management Relations.

The agreed amendments to ERISA are corrective in nature. These amendments to ERISA section 514 serve to reaffirm the broad Federal preemption of State laws as they relate to employee benefit plans as was the original intent of ERISA.

The first amendment which adds a new paragraph (5) to ERISA section 514(b) will enable the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. 393-1 through 51) to be administered in a limited fashion after the date of enactment of H.R. 5470. Last year the Supreme Court let stand the decision of the Ninth Circuit Court of Appeals in Standard Oil Company of California against Agsalud that the broad preemptive framework relating to both pension and welfare (for example, health) plans agreed to by the ERISA conferees does in fact supersede the Hawaii statute. The agreement to amend ERISA to permit the future application of the Hawaii law was reached solely on the basis and with the understanding that the Hawaii law is an unusual special case, inasmuch as the law was enacted just prior to the signing of ERISA on September 2, 1974, and that the law will be permitted to operate only as a narrow exception which is not expected to do violence to the strong Federal preemption scheme. In agreeing to the Hawaii exception this body will be reaffirming the broad scope of ERISA preemption and the validity of the interpretation of the Federal courts in connection with the Hawaii statute. To help allay the fears of those who might otherwise view this action as the beginning of a weakening of Federal preemption under ERISA, the amendment contains an explicit statement that this limited exception shall not be considered a precedent with respect to extending similar treatment to any other State law.

It should be noted that the provision of the Hawaii law which triggered the Standard Oil challenge remains preempted under the new exception. In fact any amendment to the Hawaii Prepaid Health Care Act enacted after September 2, 1974, is preempted except to the extent such amendment provides only for the effective administration of the law effective as of such date.

STOP METS ABUSE

The other issue addressed by the ERISA amendments are also the subject of H.R. 6462, a bill which the chairman of the Subcommittee on Labor-Management Relations, PHILLIP BURTON, and I introduced on May 21 to put a stop to what the attorney general in my State, Illinois, has characterized as an increasing problem having the potential to become the "most sophisticated and profitable white-collar crime in America." In a growing number of States across the Nation, operators of bogus insurance trusts are bleeding the trusts of funds and claiming bankruptcy, thus leaving thousands of people holding the bag for millions of dollars in unpaid hospital and medical bills. The ensuing tragedies of the victims, personal bankruptcies, and damaged personal credit ratings, serve notice to this Congress of the urgent need to enact the proposed legislation this year.

On March 5, the subcommittee held hearings in Chicago, Ill., to investigate the problems caused by these so-called multiple employer health trusts—or MET's. Our proposed legislative solution is an outgrowth of the consensus which emerged at the hearing among the interested parties—State and Federal regulators, the insurance industry, the actuarial profession, and legitimate health plan sponsors. The language in the amendment is a modification of that found in H.R. 6462 and reflects suggestions made by the Department of Labor.

Generally, the abuses connected with MET's can be and, in some cases, have been dealt with under appropriate State laws. Unfortunately, the MET operators have been successful in thwarting timely investigations and other enforcement activities of State agencies by asserting that such entities are ERISA plans for which all State regulation is preempted pursuant to section 514 of the Employee Retirement Income Security Act of 1974 (ERISA). In all too many cases, the result has been that State remedial actions have come too late to head off insolvency and benefit losses stemming from the mismanagement and misdeeds of the MET operators. This has proved to be the general rule in spite of the steps taken by the Department of Labor to clarify the jurisdictional role of the States in regulating MET's. In fact the ERISA Administrator in the Department of Labor has testified that in virtually all of the cases in which the Department has issued an opinion as to the coverage of a MET entity under ERISA, the entity in question has been found not to qualify as an employee welfare benefit plan with respect to which the ERISA preemption provision applies. The proposed legislation closes off all avenues of opportunity that might currently exist for MET operators to avoid such regulation at the Federal and State level, as may be applicable in each particular circumstance.

EXPLANATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENT PROVISIONS

OVERVIEW

The amendment defines the term "multiple employer welfare arrangement" to include all forms of what have come to be known in the insurance trade as multiple employer trusts or MET's. These arrangements may provide benefits—typically hospital and medical benefits—on a fully insured basis or on a basis that does not involve the full guarantee of benefit payments by a licensed insurance company. Some of the arrangements may meet the definition of "employee welfare benefit plan" under ERISA, and, thus, are currently regulated at the Federal level as ERISA plans; others do not meet the ERISA plan definition, and, thus, are subject to whatever existing regulation may apply to such entities at the State level. Under the proposed amendment to ERISA's preemption provisions, the scope of State regulation is clarified with respect to all such arrangements whether or not they are fully insured or meet ERISA definition of "plan."

The amendment reaffirms the original intent of Congress in enacting the Employee Retirement Income Security Act of 1974 (ERISA) that if a multiple employer welfare arrangement does not meet the definition of an employee welfare benefit plan under the act, then such an entity is not exempted—under the preemption provisions set forth in section 514 of ERISA—from the application of State insurance and other laws regulating such entities. With respect to arrangements which meet the definition of ERISA plans, the amendment specifically permits State regulation in varying degrees depending on the type of arrangement and whether or not the arrangement is determined by the Department of Labor to be an ERISA covered welfare benefit plan. Thus, the amendment removes any potential obstacle that might exist under current law which could hinder the ability of the States to regulate multiple employer welfare arrangements to assure the financial soundness and timely payment of benefits under such arrangements.

DEFINITION

A new paragraph (40) is added to section 3 of ERISA which defines the term "multiple employer welfare arrangement." This term includes employee welfare benefit plans now covered under ERISA as well as other arrangements (so-called MET's) which are not covered under ERISA as plan entities. Any such arrangement which is established or maintained under or pursuant to one or more collective bargaining agreements is excluded from the scope of the term. Also excluded are plans or other arrangements maintained by a single employer. "Single employer" is defined to include two or more trades or businesses within the same control group.

The provisions of the amendment are consistent with the original intent of Congress in excluding those multiple employer welfare arrangements which do not meet the "employee welfare benefit plan" definition from the scope of the coverage and preemption provisions of ERISA. In this regard, the position of the Committee on Education and Labor was clearly stated in the Activity Report of the Pension Task Force (94th Cong., 2d sess., 1977):

It has come to our attention, through the good offices of the National Association of State Insurance Commissioners, that certain entrepreneurs have undertaken to market insurance products to employers and employees at large, claiming these products to be ERISA covered plans. For instance, persons whose primary interest is in the profiting from the provision of administrative services are establishing insurance companies and related enterprises. The entrepreneur will then argue that his enterprise is an ERISA benefit plan which is protected under ERISA's preemption provision from state regulation.

We are concerned with this type of development, but on the basis of the facts provided us, we are of the opinion that these programs are not "employee benefit plans" as defined in Section 3(3). As described to us, these plans are established and maintained by entrepreneurs for the purpose of marketing insurance products or services to others. They are not established or maintained by the appropriate parties to confer ERISA jurisdiction, nor is the purpose for their establishment or maintenance appropriate to meet the jurisdictional prerequisites of the Act. They are no more ERISA plan than is any other insurance policy sold to an employee benefit plan.

LIMITATION ON PREEMPTION OF STATE LAW

Section 514 of ERISA is amended to make clear the extent to which State law is preempted with respect to employee welfare benefit plans which also meet the new multiple employer welfare arrangement definition.

Multiple employer welfare arrangements that do not meet the ERISA welfare plan definition are unconditionally subject to the State law. Such arrangements (i.e. MET's) are not regulated as plan entities under ERISA. This policy was reinforced in Wayne Chemical Inc. against Columbus Agency Service Corp., in which the Court of Appeals for the Seventh Circuit stated:

Congress would have had no reason to exempt from state regulation insurance programs that are established and maintained by entrepreneurs for their own profits.

With respect to multiple employer welfare arrangements which do meet the definition of welfare plan, the amendment amends the ERISA preemption provision to permit limited State regulation of such plans while retaining the full scope of the Federal regulation which is presently applicable. The amendment to the preemption provision is necessary since State regulation is fully preempted under present law.

The amendment identifies two different categories of plan arrangements which may be subject to State regulation. In the first category are welfare plans which first are either fully insured or second, are not fully insured but have obtained an exemption from the Department of Labor that they meet the ERISA "employee welfare benefit plan" definition. States may regulate such plans under their insurance laws, but such regulation is restricted to standards requiring the maintenance of contribution and reserve levels considered necessary for such plans to pay promised benefits in full when due.

In the second category are all other welfare plans which first, meet the definition of multiple employer welfare arrangement, second, are not fully insured, and third, have not obtained the above mentioned exemption from the Department of Labor. These plans are subject to ERISA and whatever State law may apply to them (except to the extent that the State law may be inconsistent with the Federal law under title I of ERISA).

Another provision (new ERISA section 514(b)(6)(C)) clarifies present law and deals with a question which has arisen as to whether ERISA applies to any aspect of a multiple employer welfare arrangement which does not meet the ERISA welfare plan definition (hereinafter referred to as a MET).

Since employers frequently subscribe to these MET arrangements to provide employees with welfare benefits, there is a strong presumption that ERISA applies. The Department of Labor, which has taken the position that the MET itself does not constitute a single umbrella-like employee benefit plan, has consistently maintained that each employer or union which subscribes to the MET has established its own employee benefit plan. Under this analysis, the MET is not a single large plan, but rather a funding vehicle for a number of small individual employee benefit plans.

This analysis does not jeopardize the application of State law to the MET because it is clear even under present law that State law may apply to funding vehicles for plans; for example, State insurance laws obviously apply to licensed insurance companies which underwrite benefits in a number of individual employer or union established employee benefit plans. It also fills a gap in State law by subjecting the operators of the MET to the reporting, disclosure, and fiduciary standards of ERISA to the extent they are administrators and fiduciaries to these subscribing welfare plans.

The Department of Labor's analysis is entirely consistent with the congressional intent under ERISA. Nevertheless, the Court of Appeals for the Fifth Circuit, in *Taggart Corp.* v. *Life & Health Benefits Administration*, 617 F.2d 1208 (5th Cir. 1980), has held that ERISA does not apply to the plans which subscribe to the MET. Even more disturbing is the reasoning of this decision which holds that employers which purchase insurance to underwrite benefits and/or which hire third parties to administer the plans do not establish welfare plans covered by ERISA. This reasoning is wholly inconsistent with the language of ERISA, its legislative history, the case law and the shared understanding of the employee benefit plan community. It is also a critical issue because it affects the jurisdictional scope of ERISA.

While there is every reason to believe that the courts will readily see the error of the Taggart decision (e.g., the Court of Appeals for the 11th Circuit has in an en banc hearing ruled that ERISA applies to the "plans" that subscribe to a MET) to reconsider the Taggart decision, section 514(b)(6)(C) makes it clear that welfare plans which subscribe to or use MET's as a funding vehicle are subject

(as ERISA plans) to the applicable provisions of title I, including the preemption provisions (which preempt State law in connection with such plans).

EXEMPTION FOR CERTAIN PLANS

A new section 514(b)(6)(B) is added to ERISA which allows multiple employer welfare arrangements which are not fully insured to apply to the Secretary of Labor for an exemption from section 514(b)(6)(A)(ii) if they meet the requirements under sections 3(1) and 4 necessary to be considered employee welfare benefit plans to which title I applies.

Legitimate ERISA plans which obtain such an exemption will, as a result, be subject only to those standards of State law specified in section 514(b)(6)(A)(i). The Secretary of Labor would not have to consider any application for an exemption unless the Secretary determines that an exemption process pursuant to regulations is necessary.

In summary, the amendment would allow added protections of State law to apply to multiple employer welfare arrangements by: First, clarifying that non-ERISA plan MET's are fully subject to State law; second, allowing State insurance law which does not conflict with ERISA to apply to nonfully insured, noncertified ERISA plan arrangements; and third, allowing State financial solvency requirements to apply to fully insured, and certified ERISA plan arrangements. It is not intended that fully insured ERISA plans will be subject to increased regulation at the State level. In fact, the National Association of Insurance Commissioners has provided written assurance that it is not the intent of any State insurance commissioner to regulate these fully insured plans or the underlying insured in a manner different from that which occurs at present. It is expected that the Department of Labor will provide applicable State insurance commissioners with immediate notice of any application for exemption under section 514(b)(6)(B).●

● Mr. VENTO. Mr. Speaker, I rise in support of H.R. 5470 and in particular the provision in this bill which provides for the tax treatment of foster care payments for children.

Mr. Speaker, the passage of legislation to make difficulty-of-care payments and basic payments as nontaxable income is desperately needed.

"Difficulty of care" payments are the additional payments that foster parents receive for the care of physically, mentally, and emotionally handicapped children. These payments, which are provided by nearly every State, are not significant. They do not enrich foster parents. Indeed, they barely cover the unique costs that these children present.

While these payments are not a gold mine to foster parents, they do, however, represent a significant cost savings to the State. Rather than funding the full costs for the institutionalization of a child, the State, under the difficulty of care payment is payable to pay a smaller portion.

Obviously, this approach has several positive features. The child is removed from the institutional background and is placed in a home environment; the State's financial burden is significantly reduced; and foster parents are provided with a small modicum of financial assistance for the burden that they have assumed.

Unfortunately the Internal Revenue Service has chosen to ignore these substantial benefits. Instead, the IRS has initiated a review of foster parents in my district and other areas of Minnesota and in California. The intent of this interview is to charge back taxes for difficulty of care and other foster parent payments. Rather than recognizing the costs associated with the care of foster children and the nature of foster care payments, the IRS is treating such payments as taxable income.

That, Mr. Speaker, is simply not the case. Individuals acting as foster parents do not assume such awesome responsibilities for financial gain. The penalties now being imposed by the IRS will have a negative impact on our Nation's foster care programs. While there is talk of a need for increased voluntarism, the IRS is panelizing such commitments.

Mr. Speaker, the bill before the House does not address all the problems facing foster parents but it is an important start. By passing H.R. 5470, Congress is showing clear support for the cause of foster parents. I urge my colleagues to support this important legislation.●

Mr. CONABLE. Mr. Speaker, I have no further reason to reserve my right to object, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

INDIANA WILDERNESS

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2710) to establish the Charles C. Deam Wilderness in the Hoosier National Forest, Ind.

The Clerk read as follows:

S. 2710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131), certain lands within the Hoosier National Forest, Indiana, which comprise approximately twelve thousand nine hundred and fifty-three acres as generally depicted on a map entitled "Charles C. Deam Wilderness—Proposed", dated April 30, 1982, are hereby designated as wilderness, and therefore as a component of the national wilderness system, and shall be known as the Charles C. Deam Wilderness.

SEC. 2. Subject to valid existing rights, the Charles C. Deam Wilderness as designated by the Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by the Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be reference to the effective date of this Act.

SEC. 3. Nothing in this Act shall affect the right of public access to cemeteries located within the Charles C. Deam Wilderness, including the Terril Cemetery. The right of access to privately-owned land completely surrounded by national forest lands within the area, designated by this Act as wilderness and to valid occupancies wholly within the area designated by this Act as wilderness shall be protected in accordance with the provisions of section 5 of the Wilderness Act.

SEC. 4. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas in Indiana and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Indiana, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Indiana;

(2) with respect to the national forest lands in the State of Indiana which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewal Resources Planning Act of 1974 as amended by the National Forest Managemnt Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Indiana reviewed in such final environmental statement and not designated as wilderness by this Act shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Indiana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 5. As soon as practiable after enactment of this Act, maps and legal descrip-

tions of the Wilderness Area shall be filed with the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and such maps and legal descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That corrections of clerical and typographical errors in such legal descriptions and maps may be made.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 2710. This bill would resolve a longstanding controversy over the issue of wilderness in the Hoosier National Forest in Indiana by designating a 12,953-acre Charles C. Deam Wilderness. Concurrently, the bill confirms the Forest Service's April 16, 1979, release of certain other roadless lands in the forest and continues their availability for nonwilderness types of multiple use as may be deemed appropriate through the national forest land management planning process.

Mr. Speaker, I am especially gratified that we are able to recommend approval of this consensus bill today, as S. 2710 will complete action on a series of Forest Service and citizen group wilderness proposals in the Hoosier National Forest which date back to 1973. Over the years, the initial 16,727 acre Forest Service proposal was modified nearly a dozen times by various groups, but no bill has ever passed Congress. In 1974 a 30,750 wilderness bill (S. 3433) passed the Senate, but the House took no action. Subsequent compromise efforts failed to achieve total consensus until 1978 when the so-called 16,850 Salt Creek compromise was reached. I was fortunate to be able to inspect the lands involved in the Salt Creek compromise in June 1980, and it was my opinion that the compromise represented a reasonable proposal which would protect a solid core of lands possessing excellent opportunities for primitive recreation and management in their natural state. However, opposition to this compromise surfaced from the State department of natural resources, which did not want some 3,200 acres of lands leased from the U.S. Army Corps of Engineers land included in the wilderness. After more than a year of discussion, Indiana Governor Orr offered an alternative 12,953-acre proposal, and that is the proposal before us today in S. 2710.

Mr. Speaker, the need for designation of some wilderness in Indiana should be apparent. Although the State is in excess of 20 million acres in size, not a single acre is currently designated as wilderness. Most Indiana residents must now drive over 1 day just to reach small designated wilderness areas in southern Kentucky or southern Illinois. Given these facts it is no wonder that many Indiana residents have worked so long and hard to see a wilderness established in the Hoosier National Forest. Not only will wilderness designation provide opportunities for primitive recreation, but it will insure that at least one area in the State of significant size will be protected from development and allowed to return eventually to a near virgin forest condition. This will be a boon to scientific research and provide an outdoor classroom for various groups and institutions, including Indiana University, which is located less than 15 miles from the proposed wilderness.

It will also provide habitat protection for the numerous wildlife species which have been shown to thrive in an unmanaged and undeveloped forest environment. Further, wilderness designation does not preclude sport hunting or nonconsumptive use of wildlife when such activities are conducted in a manner which preserve the untrammeled condition of the wilderness environment.

Mr. Speaker, before concluding, I should mention several features of S. 2710 which deserve special comment because they relate to overall wilderness policy. These issues are as follows:

Name of wilderness: S. 2710 departs from the general policy followed by the Committee on Interior and Insular Affairs that wilderness areas not be named after individuals, except for nationally recognized historical persons such as John Muir, Jim Bridger, and Bob Marshall. In the case of S. 2710, however, we are willing to make an exception in deference to the unanimous wishes of the Indiana delegation to have the wilderness named after Charles C. Deam. Mr. Deam was Indiana's first State forester, the author of several books on the trees and shrubs of Indiana, and is known throughout the State for his conservation efforts.

Release language: As I mentioned earlier, S. 2710 not only designates the Charles C. Deam Wilderness, but also confirms the April 1979 release of another roadless area in the Hoosier National Forest—the 7,000 acre Mogan Ridge area, RARE II No. 09342—and continues its availability—since 1979—for such nonwilderness types of multiple use as may be deemed appropriate through the national forest land management planning process. The release formula found in section 4 of S. 2710 is virtually identical to the formula that has already become law for national forest lands in Alaska, Colorado, and New Mexico and has the same legal effect. Under this formula, released lands may be managed for uses deemed appropriate in accordance with the land management plans prepared for such areas pursuant to the National Forest Management Act [NFMA]. Further wilderness review of such released lands will not occur until the initial land management plans prepared pursuant to NFMA are revised some 10 to 15 years after their implementation, at which time NFMA specifically requires a review and consideration of all multiple uses, including wilderness.

Of course, such released lands will only be reviewed for wilderness potential if they still possess wilderness characteristics at such time as NFMA plans are revised each 10 to 15 years.

Two-unit wilderness: The proposed wilderness is actually designated in two units separated by the Tower Ridge Road. This road will remain open to the public with the wilderness units on either side. In order to allow for maintenance of the road the official wilderness boundary will be set back 100 feet north and south of the centerline of the Tower Ridge Road.

Private inholdings: The proposed wilderness contains some small private inholdings. Pursuant to section 5(c) of the Wilderness Act, these inholdings may be acquired by the Government only if the landowner concurs in the acquisition. In short, wilderness designation specifically prohibits any forced acquisition of inholdings by condemnation. Further, S. 2710 provides for adequate access to such inholdings in accordance with the provisions of section 5 of the Wilderness Act.

In conclusion, Mr. Speaker, I strongly support S. 2710 and note that the bill is endorsed by the entire Indiana delegation, Governor Orr, the Reagan administration and the environmental and other interest groups affected. I think I have explained the bill's provisions, but those wishing further details should consult the House and Senate committee reports on S. 2710. Finally, I would like to particularly commend my friend and colleague LEE HAMILTON for the diligent efforts he has put into resolving this controversial matter. Without his and the rest of the delegation's consistent hard work and efforts to reach a compromise, we would not be where we are today in recommending this bill for the President's signature.

Mr. Speaker, I now yield such time as he may consume to the gentleman from Indiana (Mr. HAMILTON)

Mr. HAMILTON. Mr. Speaker, I wish to express my appreciation to the gentleman from Ohio and the ranking minority Member for the excellent co-

operation we have had throughout consideration of this bill.

Mr. Speaker, I appreciate the opportunity to support S. 2710, a bill to establish the Charles C. Deam Wilderness Area in the Hoosier National Forest in Indiana.

As you know, S. 2710 would set-aside a 12,900-acre tract in south-central Indiana as a national wilderness area. Much of this area, which contains very impressive hardwood and wildlife populations, is found in my congressional district. The bill provides that all remaining RARE II lands in the Hoosier National Forest will be released for multiple-use management by the U.S. Forest Service. Any further statewide review for wilderness designation would require an act of Congress.

Mr. Speaker, the controversy over a wilderness designation in Indiana has been a long and difficult one. However, this bill, based upon the recommendations of Indiana Governor Orr, is a good compromise enjoying widespread, bipartisan support. It was jointly introduced in the Senate by Senators QUAYLE and LUGAR; and the House version Representative DECKARD and I introduced has been cosponsored by the entire Indiana delegation. I have added to the subcommittee record statements by Governor Orr, Jeffrey Stant of the Salt Creek Wilderness Coalition, Eugene Hazel of the Citizens Concerned about Nebo Ridge, James Mason of the Indiana Audubon Society, and Tim Mahoney on behalf of the Indiana Sierra Club—all endorsing S. 2710.

On August 12, the Senate Committee on Energy and Natural Resources held hearings on S. 2710, and I testified at that time. The bill was endorsed by all witnesses, including administration spokesmen. S. 2710 was approved with technical amendments by a unanimous committee vote of 17 to 0. On October 1 it passed the Senate by voice vote.

Mr. Speaker, I hope that the House will move as quickly, and that we will be able to pass this compromise during the remaining few days of this session. I have greatly appreciated the fine work and cooperation I have received from the gentleman from Ohio (Mr. SEIBERLING) and his subcommittee staff on this matter over the years, as well as his present willingness to act expeditiously on S. 2710.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. DECKARD).

Mr. DECKARD. Mr. Speaker, I rise in support of S. 2710, which would establish the Charles Deam Wilderness Area in southern Indiana. This will be the only wilderness area in the State of Indiana and is the result of more than a decade of negotiation and compromise by interested parties in and out of government. Designation of the area is supported by Indiana's Gov. Robert Orr, by environmental and business groups, and by the entire Indiana congressional delegation.

A small portion of the proposed area is located within my district, and the full 13,000-acre site is itself a small part of the Hoosier National Forest, therefore it will easily be consistent with the multiple-use aspects of the forest. Passage of this bill will not, in any way, affect the broader resource management goals of the Hoosier National Forest.

Mr. Speaker, I would only reemphasize that this is a bipartisan, consensus bill, cosponsored by every member of the Indiana House and Senate delegation, and I urge its passage.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the Senate bill, S. 2710.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 2710, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. SEIBERLING. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SEIBERLING. Is it correct that the majority leader does not wish to take up the remaining bills on the Suspension Calendar at this time?

The CHAIRMAN. The Chair will ask the majority leader to make a statement.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I am happy to yield.

Mr. WRIGHT. The gentleman is correct. We have discussed the bills that otherwise would be eligible for immediate consideration, and there are Members on the minority side who have objections to some of them and particular objections lie at this moment.

Beyond that, the weather is said to be bad and inclement conditions in the streets reportedly getting worse. Members of the House have been invited to the White House tonight and their families are expecting to go. We think the sooner we get out of here the better off we will be tonight.

There will be opportunities, we hope, in the remainder of the week for the consideration of additional bills on the Suspension Calendar.

Mr. SEIBERLING. I wonder if I could inquire of the gentleman, we have one other bill which I think is relatively noncontroversial, but I would like to ask the ranking minority member on the subcommittee if we could expeditiously dispose of S. 1965, the Paddy Creek Wilderness bill.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I believe the majority leader has placed it very clearly. I do not object to the bill. It is my bill.

But there was a tentative agreement that if the Indian wilderness bill was taken up and passage would take place that we would vote.

We have about 40 or 45 minutes of voting here and, in all due respect, I think it would be the correct way to accomplish this and get the vote out of the way.

Mr. SEIBERLING. I do not wish to delay matters and I thank the majority leader and yield back.

AUTHORIZING SALE OF DEFENSE MATERIALS TO U.S. COMPANIES FOR SALE TO FRIENDLY FOREIGN COUNTRIES

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6758) to authorize the sale of defense articles, defense services, and unclassified defense service publications to U.S. companies for incorporation into end items to be sold to friendly foreign countries, with Senate amendments thereto, and concur in the Senate amendment.

□ 1710

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That the Arms Export Control Act is amended by inserting after chapter 2A the following new chapter:

"Chapter 2B.—SALES TO UNITED STATES COMPANIES FOR INCORPORATION INTO END ITEMS

"SEC. 30. GENERAL AUTHORITY.—(a) Subject to the conditions specified in subsection (b) of this section, the President may, on a negotiated contract basis, under cash terms (1) sell defense articles at not less than their estimated replacement cost (or actual cost in the case of services), or (2) procure or

manufacture and sell defense articles at not less than their contract or manufacturing cost to the United States Government, to any United States company for incorporation into end items (and for concurrent or follow-on support) to be sold by such a company on a direct commercial basis to a friendly foreign country or international organization pursuant to an export license or approval under section 38 of this Act. The President may also sell defense services in support of such sales of defense articles, subject to the requirements of this chapter: *Provided, however,* That such services may be performed only in the United States. The amount of reimbursement received from such sales shall be credited to the current applicable appropriation, fund, or account of the selling agency of the United States Government.

"(b) Defense articles and defense services may be sold, procured and sold, or manufactured and sold, pursuant to subsection (a) of this section only if (1) the end item to which the articles apply is to be procured for the armed forces of a friendly country or international organization, (2) the articles would be supplied to the prime contractor as government-furnished equipment or materials if the end item were being procured for the use of the United States Armed Forces, and (3) the articles and services are available only from United States Government sources or are not available to the prime contractor directly from United States commercial sources at such times as may be required to meet the prime contractor's delivery schedule.

"(c) For the purpose of this section, the terms 'defense articles' and 'defense services' mean defense article and defense services as defined in sections 47(3) and 47(4) of this Act.".

SEC. 2. Sections 42(d) and 42(e) of the Arms Export Control Act are amended by striking out "and 29" wherever it appears and inserting in lieu thereof "29 and 30".

SEC. 3. Section 21(i)(1) of the Arms Export Control Act is amended by deleting the comma following "under this section" and inserting in lieu thereof "or under authority of chapter 2B,".

Amend the title so as to read: "An Act to authorize the sale of defense articles to United States companies for incorporation into end items to be sold to friendly foreign countries.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. GOODLING. Mr. Speaker, reserving the right to object—and I will not object—I just merely want to say that this is a bill that we passed unanimously here before we went home for the election. Unfortunately, the other body messed it up, and they had to come back and redo it. I strongly support the bill, and I thank the chairman for bringing it forth.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Debate has been concluded on all motions to suspend the rules.

Pursuant to the provision of clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: S. 2355, House Joint Resolution 429, H.R. 4281, H.R. 7044, S. 2C59, S. 1621, H.R. 3191, and House Joint Resolution 553, all by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

TELECOMMUNICATIONS FOR THE DISABLED ACT OF 1982

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 2355, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. WIRTH) that the House suspend the rules and pass the Senate bill, S. 2355, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 365, nays 14, not voting 54, as follows:

[Roll No. 435]

YEAS—365

Addabbo	Campbell	Early
Akaka	Carman	Eckart
Alexander	Cheney	Edgar
Anderson	Clausen	Edwards (AL)
Andrews	Clay	Edwards (CA)
Annunzio	Clinger	Edwards (OK)
Anthony	Coats	Emerson
Applegate	Coelho	English
Archer	Coleman	Erdahl
Ashbrook	Collins (IL)	Erlenborn
AuCoin	Conable	Evans (IA)
Bafalis	Conte	Evans (IN)
Bailey (MO)	Corcoran	Fary
Bailey (PA)	Coughlin	Fazio
Barnard	Courter	Fenwick
Barnes	Coyne, James	Ferraro
Beard	Coyne, William	Fiedler
Bedell	Craig	Fields
Benedict	Crane, Daniel	Findley
Bennett	D'Amours	Fish
Bereuter	Daniel, R. W.	Fithian
Bethune	Daschle	Flippo
Bevill	Daub	Florio
Biaggi	Davis	Foglietta
Bingham	de la Garza	Foley
Boggs	Deckard	Ford (MI)
Boland	Dellums	Ford (TN)
Boner	DeNardis	Forsythe
Bonior	Derrick	Fountain
Bonker	Derwinski	Frank
Bouquard	Dicks	Frenzel
Bowen	Dingell	Fuqua
Breaux	Dixon	Garcia
Brinkley	Donnelly	Gaydos
Brodhead	Dorgan	Gejdenson
Broomfield	Dornan	Gejdenson
Brown (CA)	Dowdy	Gephardt
Brown (CO)	Downey	Gibbons
Brown (OH)	Dreier	Gilman
Broyhill	Duncan	Gingrich
Burgener	Dunn	Ginn
Burton, John	Dwyer	Glickman
Burton, Phillip	Dymally	Gonzalez
Byron	Dyson	Goodling
Gore	Martin (NY)	Santini
Gradison	Matsui	Sawyer
Gramm	Mattox	Scheuer
Gray	Mazzoli	Schneider
Gregg	McClory	Schroeder
Grisham	McCloskey	Schulze
Guarini	McCollum	Schumer
Gunderson	McCurdy	Seiberling
Hagedorn	McDade	Sensenbrenner
Hall (IN)	McEwen	Shamansky
Hall (OH)	McGrath	Shannon
Hall, Sam	McHugh	Sharp
Hamilton	McKinney	Shaw
Hammerschmidt	Mica	Shelby
Hance	Michel	Siljander
Hansen (ID)	Mikulski	Simon
Hansen (UT)	Miller (CA)	Skeen
Harkin	Miller (OH)	Skelton
Hawkins	Mineta	Smith (AL)
Heckler	Minish	Smith (IA)
Hefner	Mitchell (MD)	Smith (NE)
Heftel	Molinari	Smith (NJ)
Hendon	Mollohan	Smith (OR)
Hertel	Montgomery	Snowe
Hightower	Moore	Snyder
Hiler	Morrison	Solarz
Hillis	Mottl	Solomon
Hollenbeck	Murphy	Spence
Holt	Murtha	St Germain
Hopkins	Myers	Stangeland
Horton	Napier	Stark
Howard	Natcher	Staton
Hoyer	Nelligan	Stenholm
Hubbard	Nelson	Stokes
Huckaby	Nichols	Stratton
Hughes	Nowak	Studds
Hunter	O'Brien	Swift
Hutto	Oakar	Synar
Hyde	Oberstar	Tauke
Jacobs	Obey	Tauzin
Jeffords	Ottinger	Taylor
Jeffries	Oxley	Traxler
Jones (NC)	Panetta	Trible
Jones (OK)	Parris	Udall
Jones (TN)	Pashayan	Vander Jagt
Kastenmeier	Patman	Vento
Kazen	Patterson	Volkmer
Kemp	Pease	Walgren
Kennelly	Pepper	Walker
Kildee	Perkins	Wampler
Kindness	Petri	Watkins
Kogovsek	Peyser	Waxman
Kramer	Pickle	Weaver
LaFalce	Porter	Weber (MN)
Lagomarsino	Price	Weber (OH)
Lantos	Pritchard	Weiss
Latta	Quillen	White
Leach	Rahall	Whitehurst
Leath	Rangel	Whitley
LeBoutillier	Ratchford	Whittaker
Lee	Regula	Whitten
Leland	Reuss	Williams (MT)
Levitas	Rinaldo	Williams (OH)
Lewis	Ritter	Winn
Livingston	Roberts (KS)	Wirth
Loeffler	Roberts (SD)	Wolf
Long (LA)	Rodino	Wolpe
Long (MD)	Roe	Wortley
Lott	Roemer	Wright
Lowry (WA)	Rogers	Wyden
Lujan	Rose	Wylie
Luken	Rostenkowski	Yates
Lundine	Roth	Yatron
Madigan	Roukema	Young (AK)
Markey	Rousselot	Young (FL)
Marks	Roybal	Young (MO)
Marlenee	Russo	Zablocki
Martin (IL)	Sabo	Zeferetti

NAYS—14

Badham	Dannemeyer	Robinson
Butler	Hall, Ralph	Rudd
Collins (TX)	Johnston	Shumway
Crane, Philip	McDonald	Stump
Daniel, Dan	Paul	

NOT VOTING—54

Albosta	Carney	Emery
Aspin	Chappell	Ertel
Atkinson	Chappie	Evans (DE)
Beilenson	Chisholm	Evans (GA)
Blanchard	Conyers	Fascell
Bliley	Crockett	Fowler
Bolling	Dickinson	Frost
Brooks	Dougherty	Goldwater

Green	Marriott	Railsback
Hartnett	Martin (NC)	Rhodes
Hatcher	Martinez	Rosenthal
Holland	Mavroules	Savage
Ireland	Mitchell (NY)	Shuster
Jenkins	Moakley	Smith (PA)
Lehman	Moffett	Stanton
Lent	Moorhead	Thomas
Lowery (CA)	Neal	Washington
Lungren	Pursell	Wilson

Mr. BUTLER and Mr. PHILIP M. CRANE changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and to enable telephone companies to accommodate persons with other physical disabilities."

A motion to reconsider was laid on the table.

□ 1730

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

STATE COMMISSIONS ON TEACHER EXCELLENCE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, House Joint Resolution 429, as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SIMON) that the House suspend the rules and pass the joint resolution, House Joint Resolution 429, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 225, nays 153, not voting 55, as follows:

[Roll No. 436]

YEAS—225

Addabbo	Bennett	Brodhead
Akaka	Bevill	Brown (CA)
Alexander	Biaggi	Burton, John
Anderson	Bingham	Burton, Phillip
Andrews	Boggs	Byron
Annunzio	Boland	Clay
Anthony	Boner	Clinger
AuCoin	Bonior	Coelho
Bailey (PA)	Bonker	Collins (IL)
Barnard	Bouquard	Conte
Barnes	Bowen	Coyne, William
Bedell	Brinkley	D'Amours
Daschle	Hughes	Price
Davis	Hutto	Pritchard
de la Garza	Hyde	Rahall
Deckard	Jacobs	Rangel
Dellums	Jeffords	Ratchford
DeNardis	Jones (NC)	Reuss
Derrick	Jones (OK)	Rinaldo
Dicks	Jones (TN)	Rodino
Dingell	Kastenmeier	Roe
Dixon	Kazen	Roemer
Donnelly	Kennelly	Rose
Dorgan	Kildee	Rostenkowski
Dowdy	Kogovsek	Roybal
Downey	LaFalce	Russo
Dwyer	Lantos	Sabo
Dymally	Leach	Santini
Dyson	Leland	Scheuer
Early	Levitas	Schneider
Eckart	Long (LA)	Schroeder
Edgar	Long (MD)	Schumer
Edwards (CA)	Lowry (WA)	Seiberling
English	Luken	Shamansky
Erdahl	Lundine	Shannon
Evans (IN)	Madigan	Sharp
Fary	Markey	Shelby
Fazio	Matsui	Simon
Ferraro	Mattox	Skeen
Findley	Mazzoli	Skelton
Fithian	McCloskey	Smith (IA)
Flippo	McCurdy	Smith (NJ)
Florio	McHugh	Snowe
Foglietta	McKinney	Snyder
Foley	Mica	Solarz
Ford (MI)	Mikulski	St Germain
Ford (TN)	Miller (CA)	Stark
Frank	Mineta	Stokes
Fuqua	Minish	Studds
Garcia	Mitchell (MD)	Swift
Gaydos	Mollohan	Synar
Gejdenson	Montgomery	Tauke
Gephardt	Mottl	Tauzin
Gibbons	Murphy	Traxler
Gilman	Murtha	Udall
Ginn	Natcher	Vento
Glickman	Nelligan	Volkmer
Gonzalez	Nelson	Walgren
Gore	Nichols	Watkins
Gray	Nowak	Waxman
Guarini	O'Brien	Weaver
Hall (IN)	Oakar	Weiss
Hall (OH)	Oberstar	White
Hamilton	Obey	Whitley
Hance	Ottinger	Williams (MT)
Hawkins	Panetta	Williams (OH)
Hefner	Patman	Wirth
Heftel	Patterson	Wolpe
Hertel	Pease	Wright
Hollenbeck	Pepper	Wyden
Horton	Perkins	Yates
Howard	Petri	Yatron
Hoyer	Peyser	Young (MO)
Hubbard	Pickle	Zablocki
Huckaby	Porter	Zeferetti

NAYS—153

Applegate	Crane, Daniel	Hagedorn
Archer	Crane, Philip	Hall, Ralph
Ashbrook	Daniel, Dan	Hall, Sam
Badham	Daniel, R. W.	Hammerschmidt
Bafalis	Dannemeyer	Hansen (ID)
Bailey (MO)	Daub	Hansen (UT)
Beard	Derwinski	Heckler
Benedict	Dornan	Hendon
Bereuter	Dreier	Hightower
Bethune	Duncan	Hiler
Breaux	Dunn	Hillis
Broomfield	Edwards (AL)	Holt
Brown (CO)	Edwards (OK)	Hopkins
Brown (OH)	Emerson	Hunter
Broyhill	Erlenborn	Jeffries
Burgener	Evans (IA)	Johnston
Butler	Fenwick	Kemp
Campbell	Fiedler	Kindness
Carman	Fields	Kramer
Cheney	Fish	Lagomarsino
Clausen	Forsythe	Latta
Coats	Fountain	Leath
Coleman	Frenzel	LeBoutillier
Collins (TX)	Gingrich	Lee
Conable	Goodling	Lewis
Corcoran	Gradison	Livingston
Coughlin	Gramm	Loeffler
Courter	Gregg	Lott
Coyne, James	Grisham	Lowery (CA)
Craig	Gunderson	Lujan
Marks	Regula	Stangeland
Marlenee	Ritter	Staton
Martin (IL)	Roberts (KS)	Stenholm
Martin (NY)	Roberts (SD)	Stratton
McClory	Robinson	Stump
McCollum	Rogers	Taylor
McDade	Roth	Trible
McDonald	Roukema	Vander Jagt
McEwen	Rousselot	Walker
McGrath	Rudd	Wampler
Michel	Sawyer	Weber (MN)
Miller (OH)	Schulze	Weber (OH)
Molinari	Sensenbrenner	Whitehurst
Moore	Shaw	Whittaker
Morrison	Shumway	Whitten
Myers	Siljander	Winn
Napier	Smith (AL)	Wolf
Parris	Smith (NE)	Wortley
Pashayan	Smith (OR)	Wylie
Paul	Solomon	Young (AK)
Quillen	Spence	Young (FL)

NOT VOTING—55

Albosta	Evans (GA)	Mitchell (NY)
Aspin	Fascell	Moakley
Atkinson	Fowler	Moffett
Beilenson	Frost	Moorhead
Blanchard	Goldwater	Neal
Bliley	Green	Oxley
Bolling	Harkin	Pursell
Brooks	Hartnett	Railsback
Carney	Hatcher	Rhodes
Chappell	Holland	Rosenthal
Chappie	Ireland	Savage
Chisholm	Jenkins	Shuster
Conyers	Lehman	Smith (PA)
Crockett	Lent	Stanton
Dickinson	Lungren	Thomas
Dougherty	Marriott	Washington
Emery	Martin (NC)	Wilson
Ertel	Martinez	
Evans (DE)	Mavroules	

Mr. DUNCAN changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

CRITICAL MATERIALS ACT OF 1982

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4281, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kansas (Mr. GLICKMAN) that the House suspend the rules and pass the bill, H.R. 4281, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 164, not voting 54, as follows:

[Roll No. 437]

YEAS—215

Addabbo	Bevill	Coelho
Akaka	Biaggi	Coleman
Alexander	Bingham	Collins (IL)
Anderson	Boland	Conte
Andrews	Boner	Coyne, William
Annunzio	Bonior	Craig
Anthony	Bonker	D'Amours
Applegate	Bouquard	Daschle
AuCoin	Brinkley	Davis
Bafalis	Brodhead	de la Garza
Bailey (PA)	Brown (CA)	Deckard
Barnard	Burton, John	Dellums
Barnes	Burton, Phillip	DeNardis
Bedell	Clausen	Derrick
Bennett	Clay	Dicks
Bereuter	Clinger	Dingell

Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Evans (IA)
Fary
Fazio
Ferraro
Fiedler
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gray
Hall (IN)
Hall (OH)
Hall, Ralph
Hance
Hansen (ID)
Harkin
Hawkins
Hefner
Heftel
Hertel
Hollenbeck
Howard
Hoyer
Hughes
Hutto
Hyde
Jones (NC)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
Leland
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
Markey
Marlenee
Marriott
Matsui
Mattox
McCurdy
McDade
McEwen
McHugh
McKinney
Mica
Mikulski
Mineta
Minish
Mitchell (MD)
Mollohan
Mottl
Murphy
Murtha
Natcher
Nelson
Nowak
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Pease
Pepper
Perkins
Pickle
Price
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Ritter
Rodino
Roe
Rose
Rostenkowski
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Shelby
Simon
Skeen
Skelton
Smith (IA)
Snowe
Solarz
St Germain
Stark
Staton
Stokes
Swift
Synar
Tauke
Traxler
Udall
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Young (MO)
Zablocki
Zeferetti

NAYS—164

Archer
Ashbrook
Badham
Bailey (MO)
Beard
Benedict
Bethune
Bowen
Breaux
Broomfield
Brown (CO)
Brown (OH)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Cheney
Coats
Collins (TX)
Conable
Corcoran
Coughlin
Courter
Coyne, James
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derwinski
Dornan
Dreier
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (IN)
Fenwick
Fields
Findley
Fithian
Forsythe
Fountain
Frenzel
Gingrich
Gradison
Gramm
Gregg
Grisham
Gunderson
Hagedorn
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Hendon
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hunter
Jacobs
Jeffords
Jeffries
Johnston
Jones (OK)
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
LeBoutillier
Lee
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Madigan
Marks
Martin (IL)
Martin (NY)
Mazzoli
McClory
McCloskey
McCollum
McDonald
McGrath
Michel
Miller (CA)
Miller (OH)
Molinari
Montgomery
Moore
Morrison
Myers
Napier
Nelligan
Nichols
O'Brien
Oakar
Oxley
Parris
Pashayan
Paul
Petri
Peyser
Porter
Pritchard
Quillen
Regula
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Roth
Sawyer
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Siljander
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snyder
Solomon
Spence
Stangeland
Stenholm
Stratton
Studds
Stump
Tauzin
Taylor
Trible
Vander Jagt
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
Whitehurst
Whitley
Whittaker
Whitten
Winn
Wortley
Wylie
Young (FL)

NOT VOTING—54

Albosta
Aspin
Atkinson
Beilenson
Blanchard
Bliley
Boggs
Bolling
Brooks
Carney
Chappell
Chappie
Chisholm
Conyers
Crockett
Dickinson
Dougherty
Emery
Ertel
Evans (DE)
Evans (GA)
Fascell
Fowler
Frost
Goldwater
Green
Guarini
Hartnett
Hatcher
Heckler
Holland
Ireland
Jenkins
Lehman
Lent
Lungren
Martin (NC)
Martinez
Mavroules
Mitchell (NY)
Moakley
Moffett
Moorhead
Neal
Pursell
Railsback
Rhodes
Rosenthal
Savage
Shuster
Smith (PA)
Stanton
Thomas
Washington

□ 1740

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

MAIL ORDER CONSUMER PROTECTION AMENDMENTS OF 1982

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 7044, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD) that the House suspend the rules and pass the bill, H.R. 7044, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 320, nays 61, answered "present" 1, not voting 51, as follows:

[Roll No. 438]

YEAS—320

Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
AuCoin
Bafalis
Bailey (PA)
Barnes
Bedell
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Brown (OH)
Broyhill
Burgener
Burton, John
Burton, Phillip
Byron
Campbell
Cheney
Clausen
Clay
Clinger
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (IA)
Evans (IN)
Fary
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Frank
Frenzel
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Ginn
Goodling
Gradison
Gray
Grisham
Guarini
Gunderson
Hagedorn
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Harkin
Hawkins
Hefner
Heftel
Hendon
Hertel
Hightower
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Latta
Leach
Lee
Leland
Levitas
Lewis
Livingston
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marks
Marriott
Martin (IL)
Martin (NY)
Matsui
Mattox
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Molinari
Mollohan
Montgomery
Moore
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Rahall
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Shamansky
Sharp
Shaw
Shelby
Simon
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Stenholm
Stokes
Studds
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—61

Archer
Ashbrook
Badham
Bailey (MO)
Barnard
Beard
Butler
Carman
Coats
Collins (TX)
Craig
Crane, Daniel

Crane, Philip	Johnston	Quillen
Dannemeyer	Kemp	Roemer
Dornan	Kindness	Seiberling
Dreier	Kramer	Shannon
Evans (GA)	Lagomarsino	Shumway
Fields	Leath	Siljander
Florio	LeBoutillier	Smith (AL)
Gingrich	Loeffler	Smith (OR)
Glickman	Marlenee	Staton
Gore	McClory	Stratton
Gramm	McDonald	Stump
Gregg	McEwen	Swift
Hance	Miller (OH)	Vander Jagt
Hansen (ID)	Ottinger	Weber (MN)
Hansen (UT)	Oxley	Yates
Hiler	Paul	
Jeffries	Porter	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—51

Albosta	Ertel	Martinez
Aspin	Evans (DE)	Mavroules
Atkinson	Fascell	Mitchell (NY)
Beilenson	Fowler	Moakley
Blanchard	Frost	Moffett
Bliley	Goldwater	Moorhead
Bolling	Green	Neal
Brooks	Hartnett	Pursell
Carney	Hatcher	Railsback
Chappell	Heckler	Rhodes
Chappie	Holland	Rosenthal
Chisholm	Ireland	Savage
Conyers	Jenkins	Shuster
Crockett	Lehman	Smith (PA)
Dickinson	Lent	Stanton
Dougherty	Lungren	Thomas
Emery	Martin (NC)	Washington

□ 1750

Mr. PORTER and Mr. CRAIG changed their votes from "yea" to "nay".

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, was amended, was passed.

The result of the vote as announced was above recorded.

The title was amended so as to read: "A bill to amend title 39, United States Code, to strengthen the investigatory and enforcement powers of the Postal Service by authorizing certain investigatory authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes."

A motion to reconsider was laid on the table.

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate bill (S. 1407) to amend title 39, United States Code, by strengthening the investigatory and enforcement powers of the Postal Service by authorizing inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mail Order Consumer Protection Amendments of 1982".

INSPECTION AUTHORITY

SEC. 2. (a) Chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 413. Inspection authority

"(a) The Postal Service may require, pursuant to a written demand made under this section, that any officer or employee designated by the Postal Service be given access at reasonable times to inspect or copy any books, records, documents, or other objects that the Postal Service has reason to believe relate to any matter (except a matter pertaining to chapter 6 of this title or to the provisions of title 18 concerning the carriage of letters by private express) under investigation by the Postal Service pursuant to its authority under section 404(a)(7) of this title. Any written demand under this section shall describe with reasonable particularity the items sought to be examined, and shall specify a reasonable time and place for making the inspection. No written demand issued under this section may impose an unreasonable burden upon the party to whom the demand is issued. The Postal Service shall, after reasonable notice and opportunity for interested parties to comment, issue regulations providing procedures and conditions for exercising its inspection authority under this section.

"(b) If a person issued a written demand under subsection (a) refuses to obey such demand, any district court of the United States within the judicial district within which such person is found, resides, receives mail, or otherwise transacts business, may (upon application by the Postal Service) order such person to comply with the written demand issued under subsection (a). Any failure to obey such order of the court may be punished by the court as a contempt thereof.".

(b) The table of sections of chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 412 the following new item:

"413. Inspection authority.".

AMENDMENT TO SECTION 3005

SEC. 3. Section 3005 of title 39, United States Code, is amended to read as follows:

"§ 3005. False representations; lotteries

"(a)(1) The Postal Service may issue an order described under paragraph (1) or (2) of subsection (b), or both such orders, upon determining on the basis of evidence satisfactory to the Postal Service that any person—

"(A) is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, including the mailing of matter which is nonmailable under section 3001(d) of this title; or

"(B) is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind.

The mailing by any person of matter which is nonmailable under section 3001(d) shall constitute prima facie evidence that such person is engaged in conducting a scheme or device described by subparagraph (A).

"(2) Nothing contained in this subsection shall prohibit the mailing of—

"(A) a newspaper of general circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery; or

"(B) tickets or other materials concerning such a lottery within that State to addresses within that State.

As used in this paragraph, the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(b) When permitted under subsection (a), the Postal Service may issue—

"(1) an order which—

"(A) directs the postmaster of the post office at which mail arrives, addressed to any person engaged in an activity described by subsection (a)(1) (or to any representative of such person), to return such mail to the sender appropriately marked as in violation of this section if such person or representative is first notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns the mail to the sender; and

"(B) forbids the payment by a postmaster to such person or representative of any money order drawn to the order of either, and provides for the return to the remitter of the sum named in the money order; or

"(2) an order which requires any person (or representative of such person) engaged in an activity described by subsection (a)(1) to cease and desist from such activity.

"(c)(1) The public advertisement by a person engaged in activities described by subsection (a)(1) that remittances may be made by mail to a person named in the advertisement is prima facie evidence that the latter is the agent or representative of the advertiser for the receipt of remittances on behalf of the advertiser. The Postal Service may ascertain the existence of the agency relationship in any other legal way satisfactory to it.

"(2) As used in this section and in section 3006 of this title, the term 'representative' includes an agent, or representative acting as an individual or as a firm, bank, corporation, or association of any kind.

"(d)(1) In conducting investigations to determine whether any person is engaged in activities described by subsection (a)(1), the Postal Service (or any duly authorized agent of the Postal Service) may tender at any reasonable time, and by any reasonable means, the price of any article or service that such person has offered for sale by mail. If the United States district court determines that there has been an unreasonable failure by any such person to provide the article or service to the Postal Service or its agent upon the tender of the advertised price of the article or service, such failure shall, for purposes of section 3007 of this title, constitute probable cause to believe that such person is engaged in activities described by subsection (a)(1).

"(2) If the Postal Service issues to any person a written demand, under section 413 of this title, to inspect documents or other items in the course of investigations to determine whether such person is engaged in activities described by subsection (a)(1), and if the United States district court deter-

mines that there has been an unreasonable refusal, such refusal by such person to comply with such demand shall, for purposes of section 3007 of this title, constitute probable cause to believe that such person is engaged in activities described by such subsection.

"(3) The Postal Service shall, after reasonable notice and opportunity for interested parties to comment, issue regulations regarding reasonable conditions for compliance with written demands to inspect documents or other items under paragraph (2), and reasonable conditions for providing the article or service involved upon tender of the advertised price under paragraph (1).".

CIVIL PENALTIES

SEC. 4. (a) Chapter 30 of title 39 of the United States Code is amended by adding after section 3011 the following new section:

"§ 3012. Civil penalties

"(a) Any person—

"(1) who evades or attempts to evade the effect of an order issued under section 3005(b)(1);

"(2) who fails to comply with any order issued under section 3005(b)(2); or

"(3) who (other than a publisher described by section 3007(b)) has actual knowledge of any such order, is in privity with any person described by paragraph (1) or (2), and engages in conduct which assists any such person to evade, attempt to evade, or fail to comply with any such order (as the case may be);

shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3). If orders are issued under both paragraphs (1) and (2) of section 3005(b) with respect to any activity described under section 3005(a), separate penalties may be assessed under this subsection for conduct described by paragraphs (1) and (2) of this subsection. The resumption through use of any instrumentality of interstate commerce of any activity with respect to which a cease and desist order has been issued under section 3005(b)(2) of this title shall, for purposes of this subsection, be considered to be a failure to comply with such order.

"(b)(1) Whenever, on the basis of any information available to it, the Postal Service finds that any person is engaging in conduct described by paragraph (1), (2), or (3) of subsection (a), the Postal Service may commence a civil action to enforce the civil penalties established under such subsection. Any such action shall be brought in the district court of the United States for the district in which such conduct occurred or in which the defendant resides, transacts business, or receives mail.

"(2) In determining the amount of any civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to conduct lawful business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.".

(b) The amendment made by subsection (a) shall apply with respect to conduct which occurs on or after the date of the enactment of this Act.

(c) The table of sections of chapter 30 of title 39, United States Code, is amended by inserting after the item relating to section 3011 the following new item:

"3012. Civil penalties.".

ANNUAL STATEMENTS

SEC. 5. Section 2401(g) of title 39, United States Code, is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) investigative activities of the Postal Service, including a statistical summary of matters referred for prosecution and the results thereof, the number of investigative demands issued pursuant to section 413 of this title, and a statistical summary of administrative and civil actions initiated pursuant to sections 3005 and 3007 of this title;".

MOTION OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FORD of Michigan moves to strike out all after the enacting clause of the Senate bill, S. 1407, and insert in lieu thereof the provisions of the bill, H.R. 7044, as passed by the House.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DANNEMEYER. What is the parliamentary situation with respect to the bringing to the attention of the House this Senate bill relating to the subject matter at this time?

The SPEAKER pro tempore. By unanimous consent it is brought before the body.

Mr. FORD of Michigan. If the gentleman will yield to me, I will try to tell him what we are doing.

Mr. DANNEMEYER. May I inquire, Is this being done on the basis of a unanimous-consent request?

The SPEAKER pro tempore. Yes, it is.

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman is tardy on his objection on that.

Mr. FORD of Michigan. Mr. Speaker, what I am trying to do now is substitute the language of the House bill as we amended it to take out the section the gentleman wanted taken out, for the language of the Senate bill so that we can send it back without any of the offending language. What we have now is a motion to adopt as a substitute for all the language of the Senate bill the House bill as the gentleman and I have amended it.

Mr. DANNEMEYER. On the basis of that explanation, I withdraw my objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD).

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend title 39, United States Code, to strengthen the investigatory and enforcement powers of the Postal Service by authorizing certain investigatory authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 7044) was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, there were 300 cosponsors of the bill, and therefore I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1982

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 2059, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) to suspend the rules and pass the Senate bill, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 347, nays 37, not voting 49, as follows:

[Roll No. 439]

YEAS—347

Addabbo	Broomfield	Dellums
Akaka	Brown (CA)	DeNardis
Alexander	Broyhill	Derrick
Anderson	Burgener	Dickinson
Andrews	Burton, John	Dicks
Annunzio	Burton, Phillip	Dingell
Anthony	Byron	Dixon
Applegate	Campbell	Donnelly
Archer	Carman	Dorgan
AuCoin	Clausen	Dornan
Bafalis	Clay	Dowdy
Bailey (PA)	Clinger	Downey
Barnard	Coats	Duncan
Barnes	Coelho	Dunn
Beard	Coleman	Dwyer
Bedell	Collins (IL)	Dymally
Bennett	Conable	Dyson
Bereuter	Conte	Early
Bethune	Corcoran	Eckart
Bevill	Coughlin	Edgar
Biaggi	Courter	Edwards (AL)
Bingham	Coyne, James	Edwards (CA)
Boggs	Coyne, William	Edwards (OK)
Boland	D'Amours	Emerson
Boner	Daniel, Dan	English
Bonior	Daniel, R. W.	Erdahl
Bonker	Dannemeyer	Erlenborn
Bouquard	Daschle	Evans (GA)
Bowen	Daub	Evans (IA)
Breaux	Davis	Evans (IN)
Brinkley	de la Garza	Fary
Brodhead	Deckard	Fazio

Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Frank
Frenzel
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Hawkins
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Leland
Levitas
Lewis
Loeffler
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NY)
Matsui
Mattox
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Molinari
Mollohan
Montgomery
Moore
Morrison
Mottl
Murtha
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts (KS)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—37

Ashbrook
Badham
Bailey (MO)
Benedict
Brown (CO)
Brown (OH)
Butler
Cheney
Collins (TX)
Craig
Crane, Daniel
Crane, Philip
Derwinski
Dreier
Forsythe
Gingrich
Hansen (ID)
Hillis
Jeffries
Johnston
Kindness
Livingston
Lott
McDonald
Murphy
Myers
O'Brien
Oxley
Paul
Pursell
Roberts (SD)
Rousselot
Shumway
Smith (OR)
Staton
Wilson
Young (AK)

NOT VOTING—49

Albosta
Aspin
Atkinson
Beilenson
Blanchard
Bliley
Bolling
Brooks
Carney
Chappell
Chappie
Chisholm
Conyers
Crockett
Dougherty
Emery
Ertel
Evans (DE)
Fascell
Fowler
Frost
Goldwater
Green
Hartnett
Hatcher
Heckler
Holland
Ireland
Jenkins
Lehman
Lent
Lungren
Martin (NC)
Martinez
Mavroules
Mitchell (NY)
Moakley
Moffett
Moorhead
Neal
Railsback
Rhodes
Rosenthal
Savage
Shuster
Smith (PA)
Stanton
Thomas
Washington

□ 1800

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING REPLACEMENT OF EXISTING PUMP CASINGS IN SOUTHERN NEVADA WATER PROJECT PUMPING PLANTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 1621, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the Senate bill, S. 1621, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were yeas 67, nays 315, not voting 51, as follows:

[Roll No. 440]

YEAS—67

Anderson
Applegate
AuCoin
Badham
Bailey (PA)
Bedell
Bereuter
Bingham
Boner
Bonker
Bouquard
Breaux
Brown (CA)
Burton, Phillip
Daschle
Davis
de la Garza
Dingell
Donnelly
Dyson
Evans (GA)
Flippo
Foley
Ford (MI)
Ford (TN)
Gejdenson
Gibbons
Ginn
Gonzalez
Hagedorn
Hall, Sam
Hansen (UT)
Hightower
Huckaby
Jones (NC)
Jones (TN)
Kastenmeier
Kazen
Kogovsek
Leland
Lewis
Lujan
Marks
Marlenee
Murphy
O'Brien
Obey
Pashayan
Rahall
Roe
Rostenkowski
Rousselot
Rudd
Santini
Seiberling
Simon
Skelton
Smith (NE)
Stump
Udall
Waxman
Weaver
White
Williams (MT)
Wirth
Wright
Young (AK)

NAYS—315

Addabbo
Akaka
Alexander
Andrews
Annunzio
Anthony
Archer
Ashbrook
Bafalis
Bailey (MO)
Barnard
Barnes
Beard
Benedict
Bennett
Bethune
Bevill
Biaggi
Boggs
Boland
Bonior
Bowen
Brinkley
Brodhead
Broomfield
Brown (CO)
Brown (OH)
Broyhill
Burgener
Burton, John
Butler
Byron
Campbell
Carman
Cheney
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dorgan
Dornan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (IA)
Fary
Fazio
Fenwick
Ferraro
Fiedler
Fields
Fish
Fithian
Florio
Foglietta
Forsythe
Fountain
Frank
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Gray
Gregg
Grisham
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Harkin
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hiler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Johnston
Jones (OK)
Kemp
Kennelly
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Levitas
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Luken
Lundine
Madigan
Markey
Marriott
Martin (IL)
Martin (NY)
Matsui
Mattox
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Molinari
Mollohan
Montgomery
Moore
Morrison
Mottl
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
Oakar
Oberstar
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roemer
Rogers
Rose
Roth
Roukema
Roybal
Russo
Sabo
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Siljander
Skeen
Smith (AL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Stangeland
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
Weiss

Whitehurst	Winn	Yates
Whitley	Wolf	Yatron
Whittaker	Wolpe	Young (FL)
Whitten	Wortley	Young (MO)
Williams (OH)	Wyden	Zablocki
Wilson	Wylie	Zeferetti

NOT VOTING—51

Albosta	Evans (DE)	Martinez
Aspin	Evans (IN)	Mavroules
Atkinson	Fascell	Mitchell (NY)
Beilenson	Findley	Moakley
Blanchard	Fowler	Moffett
Bliley	Frost	Moorhead
Bolling	Goldwater	Neal
Brooks	Green	Railsback
Carney	Hartnett	Rhodes
Chappell	Hatcher	Rosenthal
Chappie	Holland	Savage
Chisholm	Ireland	Shuster
Conyers	Jenkins	Smith (PA)
Crockett	Lehman	St Germain
Dougherty	Lent	Stanton
Emery	Lungren	Thomas
Ertel	Martin (NC)	Washington

Mr. KILDEE changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1810

MODIFICATION OF NORTH AMERICAN CONVENTION TAX RULES

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3191, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. STARK) that the House suspend the rules and pass the bill, H.R. 3191, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 219, nays 164, not voting 50, as follows:

[Roll No. 441]

YEAS—219

Addabbo	Burton, Phillip	Edwards (AL)
Akaka	Cheney	Edwards (CA)
Alexander	Clausen	Erlenborn
Anderson	Clay	Evans (GA)
Andrews	Coelho	Evans (IN)
Annunzio	Collins (IL)	Fary
Anthony	Conte	Fazio
Applegate	Coyne, William	Fenwick
Archer	Crane, Daniel	Ferraro
Ashbrook	Crane, Philip	Fields
AuCoin	Daniel, Dan	Fish
Badham	Daniel, R. W.	Fithian
Bafalis	Daschle	Flippo
Bailey (PA)	Davis	Florio
Barnes	de la Garza	Foglietta
Beard	Dellums	Foley
Bennett	DeNardis	Ford (MI)
Bevill	Dickinson	Ford (TN)
Biaggi	Dicks	Fountain
Bingham	Dingell	Frank
Boggs	Dixon	Fuqua
Boland	Donnelly	Garcia
Boner	Dowdy	Gaydos
Bonior	Downey	Gejdenson
Bonker	Dreier	Gephardt
Breaux	Duncan	Gibbons
Brinkley	Dwyer	Gilman
Brown (CA)	Dymally	Gonzalez
Brown (OH)	Dyson	Gray
Burton, John	Early	Guarini
Hagedorn	Mikulski	Russo
Hall (IN)	Miller (CA)	Sawyer
Hall (OH)	Mineta	Scheuer
Hance	Minish	Schneider
Hawkins	Mitchell (MD)	Schroeder
Heckler	Mollohan	Schulze
Hefner	Moore	Schumer
Heftel	Morrison	Seiberling
Hertel	Murphy	Shamansky
Hillis	Murtha	Siljander
Hollenbeck	Napier	Simon
Holt	Natcher	Smith (NJ)
Howard	Nelligan	Snyder
Hoyer	Nelson	Solarz
Hubbard	Nichols	Spence
Hutto	Nowak	Stangeland
Hyde	Oakar	Stark
Jeffries	Oberstar	Stokes
Johnston	Panetta	Studds
Jones (NC)	Parris	Swift
Jones (OK)	Pashayan	Synar
Kazen	Patman	Tauzin
Kemp	Paul	Traxler
Kennelly	Pepper	Trible
Kogovsek	Perkins	Udall
LaFalce	Peyser	Vander Jagt
Lantos	Pickle	Vento
Leland	Price	Wampler
Livingston	Pritchard	White
Long (LA)	Quillen	Whitehurst
Long (MD)	Rahall	Whitley
Lott	Rangel	Whitten
Lowry (WA)	Ratchford	Williams (MT)
Luken	Rinaldo	Williams (OH)
Lundine	Roberts (SD)	Wilson
Markey	Robinson	Wolf
Marks	Rodino	Wortley
Marlenee	Roe	Wright
Matsui	Rose	Yatron
Mattox	Rostenkowski	Young (AK)
McCloskey	Roth	Young (MO)
McDonald	Rousselot	Zablocki
Mica	Roybal	Zeferetti

NAYS—164

Bailey (MO)	Gore	McHugh
Barnard	Gradison	McKinney
Bedell	Gramm	Michel
Benedict	Gregg	Miller (OH)
Bereuter	Grisham	Molinari
Bethune	Gunderson	Montgomery
Bouquard	Hall, Ralph	Mottl
Bowen	Hall, Sam	Myers
Brodhead	Hamilton	O'Brien
Broomfield	Hammerschmidt	Obey
Brown (CO)	Hansen (ID)	Ottinger
Broyhill	Hansen (UT)	Oxley
Burgener	Harkin	Patterson
Butler	Hendon	Pease
Byron	Hightower	Petri
Campbell	Hiler	Porter
Carman	Hopkins	Regula
Clinger	Horton	Reuss
Coats	Huckaby	Ritter
Coleman	Hughes	Roberts (KS)
Collins (TX)	Hunter	Roemer
Conable	Jacobs	Rogers
Corcoran	Jeffords	Roukema
Coughlin	Jones (TN)	Rudd
Courter	Kastenmeier	Sabo
Coyne, James	Kildee	Santini
Craig	Kindness	Sensenbrenner
D'Amours	Kramer	Shannon
Dannemeyer	Lagomarsino	Sharp
Daub	Latta	Shaw
Deckard	Leach	Shelby
Derrick	Leath	Shumway
Dorgan	LeBoutillier	Skeen
Dornan	Lee	Skelton
Dunn	Levitas	Smith (AL)
Eckart	Lewis	Smith (IA)
Edgar	Loeffler	Smith (NE)
Edwards (OK)	Lowery (CA)	Smith (OR)
Emerson	Lujan	Snowe
English	Madigan	Solomon
Erdahl	Marriott	St Germain
Evans (IA)	Martin (IL)	Staton
Fiedler	Martin (NY)	Stenholm
Findley	Mazzoli	Stratton
Forsythe	McClory	Stump
Frenzel	McCollum	Tauke
Gingrich	McCurdy	Taylor
Ginn	McDade	Volkmer
Glickman	McEwen	Walgren
Goodling	McGrath	Walker
Watkins	Weiss	Wyden
Waxman	Whittaker	Wylie
Weaver	Winn	Yates
Weber (MN)	Wirth	Young (FL)
Weber (OH)	Wolpe	

NOT VOTING—50

Albosta	Ertel	Mavroules
Aspin	Evans (DE)	Mitchell (NY)
Atkinson	Fascell	Moakley
Beilenson	Fowler	Moffett
Blanchard	Frost	Moorhead
Bliley	Goldwater	Neal
Bolling	Green	Pursell
Brooks	Hartnett	Railsback
Carney	Hatcher	Rhodes
Chappell	Holland	Rosenthal
Chappie	Ireland	Savage
Chisholm	Jenkins	Shuster
Conyers	Lehman	Smith (PA)
Crockett	Lent	Stanton
Derwinski	Lungren	Thomas
Dougherty	Martin (NC)	Washington
Emery	Martinez	

Mr. GEJDENSON changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

AUTHORIZING INDIAN TRIBES TO BRING ACTIONS WITH RESPECT TO CERTAIN LEGAL CLAIMS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, House Joint Resolution 553, as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the joint resolution, House Joint Resolution House 553, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 228, nays 153, not voting 52, as follows:

[Roll No. 442]

YEAS—228

Addabbo	Burgener	Early
Akaka	Burton, John	Eckart
Alexander	Burton, Phillip	Edgar
Anderson	Clausen	Edwards (AL)
Andrews	Clay	Edwards (CA)
Annunzio	Coats	Edwards (OK)
Applegate	Coelho	English
AuCoin	Coleman	Erdahl
Bafalis	Collins (IL)	Evans (IA)
Bailey (PA)	Conable	Evans (IN)
Barnes	Coyne, James	Fary
Bedell	Coyne, William	Fazio
Bennett	D'Amours	Ferraro
Bereuter	Daschle	Fiedler
Bevill	Davis	Fish
Biaggi	de la Garza	Flippo
Bingham	Deckard	Florio
Boggs	Dellums	Foglietta
Boland	DeNardis	Ford (MI)
Boner	Derrick	Ford (TN)
Bonior	Dixon	Fountain
Bonker	Donnelly	Frank
Bouquard	Dorgan	Garcia
Bowen	Dowdy	Gaydos
Breaux	Downey	Gejdenson
Brinkley	Dwyer	Gephardt
Brodhead	Dymally	Gibbons
Brown (CA)	Dyson	Gilman

Ginn	McClory	Roybal
Glickman	McCloskey	Russo
Gonzalez	McCurdy	Sabo
Gore	McHugh	Santini
Gray	McKinney	Scheuer
Gregg	Mica	Schneider
Hall (IN)	Mikulski	Schroeder
Hall (OH)	Miller (CA)	Schumer
Hall, Ralph	Mineta	Seiberling
Hall, Sam	Minish	Shamansky
Hamilton	Mitchell (MD)	Shannon
Hance	Molinari	Sharp
Harkin	Mollohan	Siljander
Hawkins	Murphy	Simon
Heckler	Myers	Skeen
Hefner	Natcher	Smith (IA)
Hightower	Nelligan	Smith (NJ)
Hiler	Nelson	Solarz
Howard	Nichols	St Germain
Hoyer	Nowak	Stokes
Hughes	O'Brien	Studds
Jacobs	Oakar	Synar
Jones (OK)	Oberstar	Tauzin
Jones (TN)	Obey	Traxler
Kastenmeier	Ottinger	Udall
Kazen	Oxley	Vento
Kemp	Panetta	Volkmer
Kennelly	Pashayan	Walgren
Kildee	Patterson	Watkins
Kogovsek	Pease	Waxman
Kramer	Pepper	Weaver
LaFalce	Perkins	Weber (MN)
Lagomarsino	Peyser	Weiss
Lantos	Pickle	White
Leach	Price	Whitten
Leland	Pritchard	Williams (MT)
Levitas	Pursell	Williams (OH)
Lewis	Rahall	Wilson
Long (LA)	Rangel	Wirth
Long (MD)	Ratchford	Wolpe
Lowry (WA)	Reuss	Wright
Lujan	Rinaldo	Wyden
Luken	Rodino	Yates
Lundine	Roe	Yatron
Markey	Roemer	Young (AK)
Matsui	Rose	Young (MO)
Mattox	Rostenkowski	Zablocki
Mazzoli	Roth	Zeferetti

NAYS—153

Anthony	Foley	McCollum
Archer	Forsythe	McDade
Ashbrook	Frenzel	McDonald
Badham	Fuqua	McEwen
Bailey (MO)	Gingrich	McGrath
Barnard	Goodling	Michel
Beard	Gradison	Miller (OH)
Benedict	Gramm	Montgomery
Bethune	Grisham	Moore
Broomfield	Guarini	Morrison
Brown (CO)	Gunderson	Mottl
Brown (OH)	Hagedorn	Napier
Broyhill	Hammerschmidt	Parris
Butler	Hansen (ID)	Patman
Byron	Hansen (UT)	Paul
Campbell	Heftel	Petri
Carman	Hendon	Porter
Cheney	Hillis	Quillen
Clinger	Hollenbeck	Regula
Collins (TX)	Holt	Ritter
Conte	Hopkins	Roberts (KS)
Corcoran	Horton	Roberts (SD)
Coughlin	Hubbard	Robinson
Courter	Huckaby	Rogers
Craig	Hunter	Roukema
Crane, Daniel	Hutto	Rousselot
Crane, Philip	Hyde	Rudd
Daniel, Dan	Jeffords	Sawyer
Daniel, R. W.	Jeffries	Schulze
Dannemeyer	Johnston	Sensenbrenner
Daub	Jones (NC)	Shaw
Dickinson	Kindness	Shelby
Dicks	Latta	Shumway
Dingell	Leath	Skelton
Dornan	LeBoutillier	Smith (AL)
Dreier	Lee	Smith (NE)
Duncan	Livingston	Smith (OR)
Dunn	Loeffler	Snowe
Emerson	Lott	Snyder
Erlenborn	Lowery (CA)	Solomon
Evans (GA)	Marks	Spence
Fenwick	Marlenee	Stangeland
Fields	Marriott	Stark
Findley	Martin (IL)	Staton
Fithian	Martin (NY)	Stenholm
Stratton	Vander Jagt	Whittaker
Stump	Walker	Winn
Swift	Wampler	Wolf
Tauke	Weber (OH)	Wortley
Taylor	Whitehurst	Wylie
Trible	Whitley	Young (FL)

NOT VOTING—52

Albosta	Evans (DE)	Mavroules
Aspin	Fascell	Mitchell (NY)
Atkinson	Fowler	Moakley
Beilenson	Frost	Moffett
Blanchard	Goldwater	Moorhead
Bliley	Green	Murtha
Bolling	Hartnett	Neal
Brooks	Hatcher	Railsback
Carney	Hertel	Rhodes
Chappell	Holland	Rosenthal
Chappie	Ireland	Savage
Chisholm	Jenkins	Shuster
Conyers	Lehman	Smith (PA)
Crockett	Lent	Stanton
Derwinski	Lungren	Thomas
Dougherty	Madigan	Washington
Emery	Martin (NC)	
Ertel	Martinez	

□ 1820

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

HOUR OF MEETING TOMORROW

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourns to meet at 11 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NOTICE OF REPLAY OF "AGRONSKY AND COMPANY" IN SUPPORT OF CONGRESSIONAL PAY RAISE

(Mr. DINGELL asked and was given permission to address the House for 1 minute.)

Mr. DINGELL. Mr. Speaker, I would like to announce to the House that tomorrow on the internal communication channel on television, channel 6, there will be four replays of "Agronsky and Company" over the weekend, at 9:30 am., 11:30 a.m., 12:30 p.m., and 2:30 p.m. The period of time taken for each of these will be exactly 5 minutes.

As my colleagues know this is the program in which a panel of nationally known commentators, experts, and writers endorsed a pay raise for the House of Representatives. I hope my colleagues will watch the program.

APPOINTMENT OF CONFEREES ON H.R. 7144, DISTRICT OF COLUMBIA APPROPRIATION, 1983

Mr. DIXON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Speaker pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees: Messrs. DIXON, NATCHER, STOKES, WILSON, LEHMAN, WHITTEN, COUGHLIN, GREEN, PORTER, and CONTE.

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, WEDNESDAY, DECEMBER 15, 1982, TO FILE CONFERENCE REPORT ON H.R. 7144, DISTRICT OF COLUMBIA APPROPRIATION, 1983

Mr. DIXON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Wednesday, December 15, 1982, to file a conference report on the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAKING IN ORDER ON OR AFTER THURSDAY, DECEMBER 16, 1982, CONSIDERATION OF CONFERENCE REPORT AND ANY AMENDMENTS IN DISAGREEMENT ON H.R. 7144, DISTRICT OF COLUMBIA APPROPRIATION, 1983

Mr. DIXON. Mr. Speaker, I ask unanimous consent that it be in order at any time on Thursday, December 16, 1982, or any day thereafter, to consider the conference report and any amendments in disagreement on the bill (H.R. 7144) making appropriations for the government of the District of Columbia for the fiscal year ending September 30, 1983.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALKER. Reserving the right to object, Mr. Speaker, has that time schedule been cleared with the minority?

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. DIXON. Yes, it has.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. DIXON)?

Mr. ROUSSELOT. Reserving the right to objection, Mr. Speaker, can the gentleman restate what the legislation is.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, I was asking unanimous consent that the conference report on this bill, H.R. 7144, be considered any time after the report has been returned. In other words, waiving the 3-day rule. I was asked if the minority had been consulted. The answer was yes.

Mr. ROUSSELOT. And this is the District of Columbia appropriations?

Mr. DIXON. Yes, it is.

Mr. ROUSSELOT. For 1983?

Mr. DIXON. Yes.

Mr. ROUSSELOT. And how much does it cost?

Mr. DIXON. I do not know until it comes back from conference. I can tell the gentleman what was in the House bill.

Mr. ROUSSELOT. Roughly what is it? Give us a rough figure.

Mr. DIXON. Well, it involves $366 million in Federal payments, about $1.2 billion I believe in D.C. revenues.

Mr. ROUSSELOT. Is that below or above last year?

Mr. DIXON. The authorization of Federal payment is above last year's.

Mr. ROUSSELOT. I thank the gentleman for giving us a clear amendment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. DIXON)?

There was no objection.

□ 1830

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5121) to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendments, as follows:

In lieu of the Senate amendments insert:

Strike out all after the enacting clause and insert:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Federal Oil and Gas Royalty Management Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

Sec. 101. Duties of the Secretary.
Sec. 102. Duties of lessees, operators, and motor vehicle transporters.
Sec. 103. Required recordkeeping.
Sec. 104. Prompt disbursement of royalties.
Sec. 105. Explanation of payments.
Sec. 106. Liabilities and bonding.
Sec. 107. Hearings and investigations.
Sec. 108. Inspections.
Sec. 109. Civil penalties.
Sec. 110. Criminal penalties.
Sec. 111. Royalty interest, penalties and payments.
Sec. 112. Injunction and specific enforcement authority.
Sec. 113. Rewards.
Sec. 114. Noncompetitive oil and gas lease royalty rates.

TITLE II—STATES AND INDIAN TRIBES

Sec. 201. Application of title.
Sec. 202. Cooperative agreements.
Sec. 203. Information.
Sec. 204. State suits under Federal law.
Sec. 205. Delegation to States.
Sec. 206. Shared civil penalties.

TITLE III—GENERAL PROVISIONS

Sec. 301. Secretarial authority.
Sec. 302. Reports.
Sec. 303. Study of other minerals.
Sec. 304. Relation to other laws.
Sec. 305. Effective date.
Sec. 306. Funding.
Sec. 307. Statute of limitations.
Sec. 308. Expanded royalty obligations.
Sec. 309. Severability.

TITLE IV—REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS

Sec. 401. Amendment of Mineral Lands Leasing Act of 1920.

FINDINGS AND PURPOSES

SEC. 2. (a) Congress finds that—

(1) the Secretary of the Interior should enforce effectively and uniformly existing regulations under the mineral leasing laws providing for the inspection of production activities on lease sites on Federal and Indian lands;

(2) the system of accounting with respect to royalties and other payments due and owing on oil and gas produced from such lease sites is archaic and inadequate;

(3) it is essential that the Secretary initiate procedures to improve methods of accounting for such royalties and payments and to provide for routine inspection of activities related to the production of oil and gas on such lease sites; and

(4) the Secretary should aggressively carry out his trust responsibility in the administration of Indian oil and gas.

(b) It is the purpose of this Act—

(1) to clarify, reaffirm, expand, and define the responsibilities and obligations of lessees, operators, and other persons involved in transportation or sale of oil and gas from the Federal and Indian lands and the Outer Continental Shelf;

(2) to clarify, reaffirm, expand and define the authorities and responsibilities of the Secretary of the Interior to implement and maintain a royalty management system for oil and gas leases on Federal lands, Indian lands, and the Outer Continental Shelf;

(3) to require the development of enforcement practices that ensure the prompt and proper collection and disbursement of oil and gas revenues owed to the United States and Indian lessors and those inuring to the benefit of States;

(4) to fulfill the trust responsibility of the United States for the administration of Indian oil and gas resources; and

(5) to effectively utilize the capabilities of the States and Indian tribes in developing and maintaining an efficient and effective Federal royalty management system.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(1) "Federal land" means all land and interests in land owned by the United States which are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate;

(2) "Indian allottee" means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against alienation;

(3) "Indian lands" means any lands or interest in lands of an Indian tribe or an Indian allottee held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian tribe or an Indian allottee in the conveyance of a surface or nonmineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539);

(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of Annette Island Reserve, for which any land or interest in land is held by the United States in trust or which is subject to Federal restriction against alienation;

(5) "lease" means any contract, profit-share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil or gas;

(6) "lease site" means any lands or submerged lands, including the surface of a severed mineral estate, on which exploration for, or extraction or removal of, oil or gas is authorized pursuant to a lease;

(7) "lessee" means any person to whom the United States, an Indian tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease;

(8) "mineral leasing law" means any Federal law administered by the Secretary authorizing the disposition under lease of oil or gas;

(9) "oil or gas" means any oil or gas originating from, or allocated to, the Outer Continental Shelf, Federal, or Indian lands;

(10) "Outer Continental Shelf" has the same meaning as provided in the Outer Continental Shelf Lands Act (Public Law 95-372);

(11) "operator" means any person, including a lessee, who has control of, or who manages operations on, an oil and gas lease site on Federal or Indian lands or on the Outer Continental Shelf;

(12) "person" means any individual, firm, corporation, association, partnership, consortium, or joint venture;

(13) "production" means those activities which take place for the removal of oil or gas, including such removal, field operations, transfer of oil or gas off the lease site, operation monitoring, maintenance, and workover drilling;

(14) "royalty" means any payment based on the value or volume of production which is due to the United States or an Indian tribe or an Indian allottee on production of oil or gas from the Outer Continental Shelf, Federal, or Indian lands, or any minimum royalty owed to the United States or an Indian tribe or an Indian allottee under any provision of a lease;

(15) "Secretary" means the Secretary of the Interior or his designee; and

(16) "State" means the several States of the Union, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

DUTIES OF THE SECRETARY

SEC. 101. (a) The Secretary shall establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.

(b) The Secretary shall—

(1) establish procedures to ensure that authorized and properly identified representatives of the Secretary will inspect at least once annually each lease site producing or expected to produce significant quantities of oil or gas in any year or which has a history of noncompliance with applicable provisions of law or regulations; and

(2) establish and maintain adequate programs providing for the training of all such authorized representatives in methods and techniques of inspection and accounting that will be used in the implementation of this Act.

(c)(1) The Secretary shall audit and reconcile, to the extent practicable, all current and past lease accounts for leases of oil or gas and take appropriate actions to make additional collections or refunds as warranted. The Secretary shall conduct audits and reconciliations of lease accounts in conformity with the business practices and recordkeeping systems which were required of the lessee by the Secretary for the period covered by the audit. The Secretary shall give priority to auditing those lease accounts identified by a State or Indian tribe as having significant potential for underpayment. The Secretary may also audit accounts and records of selected lessees and operators.

(2) The Secretary may enter into contracts or other appropriate arrangements with independent certified public accountants to undertake audits of accounts and records of any lessee or operator relating to the lease of oil or gas. Selection of such independent certified public accountants shall be by competitive bidding in accordance with the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252), except that the Secretary may not enter into a contract or other arrangement with any independent certified public accountant to audit any lessee or operator where such lessee or operator is a primary audit client of such certified public accountant.

(3) All books, accounts, financial records, reports, files, and other papers of the Secretary, or used by the Secretary, which are reasonably necessary to facilitate the audits required under this section shall be made available to any person or governmental entity conducting audits under this Act.

DUTIES OF LESSEES, OPERATORS, AND MOTOR VEHICLE TRANSPORTERS

SEC. 102. (a) A lessee—

(1) who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary; and

(2) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment the lessee may have made of the obligation to make any royalty or other payment under a lease or under the mineral leasing laws.

(b) An operator shall—

(1) develop and comply with a site security plan designed to protect the oil or gas produced or stored on an onshore lease site from theft, which plan shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances at lease sites;

(2) develop and comply with such minimum site security measures as the Secretary deems appropriate to protect oil or gas produced or stored on a lease site or on the Outer Continental Shelf from theft; and

(3) not later than the 5th business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off of production for more than 90 days, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(c)(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry, on his person, in his vehicle, or in his immediate control, documentation showing, at a minimum, the amount, origin, and intended first destination of the oil.

(2) Any person engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, on Federal or Indian lands shall maintain documentation showing, at a minimum, amount, origin, and intended first destination of such oil or gas.

REQUIRED RECORDKEEPING

SEC. 103. (a) A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this Act through the point of first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this Act or determining compliance with rules or orders under this Act. Upon the request of any officer or employee duly designated by the Secretary or any State or Indian tribe conducting an audit or investigation pursuant to this Act, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee, State, or Indian tribe.

(b) Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Outer Continental Shelf shall be maintained for 6 years after the records are generated unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation to maintain such records.

PROMPT DISBURSEMENT OF ROYALTIES

SEC. 104. (a) Section 35 of the Mineral Lands Leasing Act of 1920 (approved February 25, 1920; 41 Stat. 437; 30 U.S.C. 191) is amended by deleting "as soon as practicable after March 31 and September 30 of each year" and by adding at the end thereof "Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, except for any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved.".

(b) Deposits of any royalty funds derived from the production of oil or gas from, or allocated to, Indian lands shall be made by the Secretary to the appropriate Indian account at the earliest practicable date after such funds are received by the Secretary but in no case later than the last business day of the month in which such funds are received.

(c) The provisions of this section shall apply with respect to payments received by the Secretary after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

EXPLANATION OF PAYMENTS

SEC. 105. (a) When any payment (including amounts due from receipt of any royalty, bonus, interest charge, fine, or rental) is made by the United States to a State with respect to any oil or gas lease on Federal lands or is deposited in the appropriate Indian account on behalf of an Indian tribe or Indian allottee with respect to any oil and gas lease on Indian lands, there shall be provided, together with such payment, a description of the type of payment being made, the period covered by such payment, the source of such payment, production amounts, the royalty rate, unit value and such other information as may be agreed upon by the Secretary and the recipient State, Indian tribe, or Indian allottee.

(b) This section shall take effect with respect to payments made after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

LIABILITIES AND BONDING

SEC. 106. A person (including any agent or employee of the United States and any independent contractor) authorized to collect, receive, account for, or otherwise handle any moneys payable to, or received by, the Department of the Interior which are derived from the sale, lease, or other disposal of any oil or gas shall be—

(1) liable to the United States for any losses caused by any intentional or reckless

action or inaction of such individual with respect to such moneys; and

(2) in the case of an independent contractor, required as the Secretary deems necessary to maintain a bond commensurate with the amount of money for which such individual could be liable to the United States.

HEARINGS AND INVESTIGATIONS

SEC. 107. (a) In carrying out his duties under this Act the Secretary may conduct any investigation or other inquiry necessary and appropriate and may conduct, after notice, any hearing or audit, necessary and appropriate to carrying out his duties under this Act. In connection with such hearings, inquiry, investigation, or audit, the Secretary is also authorized where reasonably necessary—

(1) to require by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all books, papers, production and financial records, documents, matter, and materials, as the Secretary may request;

(4) to order testimony to be taken by deposition before any person who is designated by the Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) In case of refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary. Any failure to obey such order of the court may be punished by such court as contempt thereof and subject to a penalty of up to $10,000 a day.

INSPECTIONS

SEC. 108. (a)(1) On any lease site on Federal or Indian lands, any authorized and properly identified representative of the Secretary may stop and inspect any motor vehicle that he has probable cause to believe is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site, for the purpose of determining whether the driver of such vehicle has documentation related to such oil as required by law.

(2) Any authorized and properly identified representative of the Secretary, accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he has probable cause to believe the vehicle is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site. Such inspection shall be for the purpose of determining whether the driver of such vehicle has the documentation required by law.

(b) Authorized and properly identified representatives of the Secretary may without advance notice, enter upon, travel across and inspect lease sites on Federal or Indian lands and may obtain from the operator immediate access to secured facilities on such lease sites, for the purpose of making any inspection or investigation for determining whether there is compliance with the requirements of the mineral leasing laws and this Act. The Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

(c) For the purpose of making any inspection or investigation under this Act, the Secretary shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase, condemnation, or otherwise.

CIVIL PENALTIES

SEC. 109. (a) Any person who—

(1) after due notice of violation or after such violation has been reported under subparagraph (A), fails or refuses to comply with any requirements of this Act or any mineral leasing law, any rule or regulation thereunder, or the terms of any lease or permit issued thereunder; or

(2) fails to permit inspection authorized in section 108 or fails to notify the Secretary of any assignment under section 102(a)(2)

shall be liable for a penalty of up to $500 per violation for each day such violation continues, dating from the date of such notice or report. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraph (1) if:

(A) the violation was discovered and reported to the Secretary or his authorized representative by the liable person and corrected within 20 days after such report or such longer time as the Secretary may agree to; or

(B) after the due notice of violation required in subparagraph (a)(1) has been given to such person by the Secretary or his authorized representative, such person has corrected the violation within 20 days of such notification or such longer time as the Secretary may agree to.

(b) If corrective action in not taken within 40 days or a longer period as the Secretary may agree to, after due notice or the report referred to in subsection (a)(1), such person shall be liable for a civil penalty of not more than $5,000 per violation for each day such violation continues, dating from the date of such notice or report.

(c) Any person who—

(1) knowingly or willfully fails to make any royalty payment by the date as specified by statute, regulation, order or terms of the lease;

(2) fails or refuses to permit lawful entry, inspection, or audit; or

(3) knowingly or willfully fails or refuses to comply with subsection 102(b)(3),

shall be liable for a penalty of up to $10,000 per violation for each day such violation continues.

(d) Any person who—

(1) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) knowingly or willfully takes or removes, transports, uses or diverts any oil or gas from any lease site without having valid legal authority to do so; or

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted,

shall be liable for a penalty of up to $25,000 per violation for each day such violation continues.

(e) No penalty under this section shall be assessed until the person charged with a violation has been given the opportunity for a hearing on the record.

(f) The amount of any penalty under this section, as finally determined may be deducted from any sums owing by the United States to the person charged.

(g) On a case-by-case basis the Secretary may compromise or reduce civil penalties under this section.

(h) Notice under this subsection (a) shall be by personal service by an authorized representative of the Secretary or by registered mail. Any person may, in the manner prescribed by the Secretary, designate a representative to receive any notice under this subsection.

(i) In determining the amount of such penalty, or whether it should be remitted or reduced, and in what amount, the Secretary shall state on the record the reasons for his determinations.

(j) Any person who has requested a hearing in accordance with subsection (e) within the time the Secretary has prescribed for such a hearing and who is aggrieved by a final order of the Secretary under this section may seek review of such order in the United States district court for the judicial district in which the violation allegedly took place. Review by the district court shall be only on the administrative record and not de novo. Such an action shall be barred unless filed within 90 days after the Secretary's final order.

(k) If any person fails to pay an assessment of a civil penalty under this Act—

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (j), or

(2) after a court in an action brought under subsection (j) has entered a final judgment in favor of the Secretary,

the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period referred to in subsection (j). Judgment by the court shall include an order to pay.

(l) No person shall be liable for a civil penalty under subsection (a) or (b) for failure to pay any rental for any lease automatically terminated pursuant to section 31 of the Mineral Leasing Act of 1920.

CRIMINAL PENALTIES

SEC. 110. Any person who commits an act for which a civil penalty is provided in section 109(d) shall, upon conviction, be punished by a fine of not more than $50,000, or by imprisonment for not more than 2 years, or both.

ROYALTY INTEREST, PENALTIES AND PAYMENTS

SEC. 111. (a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due, or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments at the rate applicable under section 6621 of the Internal Revenue Code of 1954. In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount due.

(b) Any payment made by the Secretary to a State under section 35 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 191)

and any other payment made by the Secretary to a State from any oil or gas royalty received by the Secretary which is not paid on the date required under section 35 shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(c) All interest charges collected under this Act or other applicable laws because of nonpayment, late payment or underpayment of royalties due and owing an Indian tribe or an Indian allottee deposited to the same amount as the royalty with respect to which such interest is paid.

(d) Any deposit of royalty funds made by the Secretary to an Indian account which is not made by the date required under subsection 104(b) shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(e) Notwithstanding any other provision of law, no State will be assessed for any interest or penalties found to be due against the Secretary for failure to comply with the Emergency Petroleum Allocation Act of 1973 or regulation of the Secretary of Energy thereunder concerning crude oil certification or pricing with respect to crude oil taken by the Secretary in kind as royalty. Any State share of an overcharge, resulting from such failure to comply, shall be assessed against moneys found to be due and owing to such State as a result of audits of royalty accounts for transactions which took place prior to the date of the enactment of this Act except that if after the completion of such audits, sufficient moneys have not been found due and owing to any State, the State shall be assessed the balance of that State's share of the overcharge.

(f) Interest shall be charged under this section only for the number of days a payment is late.

(g) The first sentence of section 35 of the Act of February 25, 1920 is amended by inserting "including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982" between "royalties" and "and".

INJUNCTION AND SPECIFIC ENFORCEMENT AUTHORITY

SEC. 112. (a) In addition to any other remedy under this Act or any mineral leasing law, the Attorney General of the United States or his designee may bring a civil action in a district court of the United States, which shall have jurisdiction over such actions—

(1) to restrain any violation of this Act; or

(2) to compel the taking of any action required by or under this Act or any mineral leasing law of the United States.

(b) A civil action described in subsection (a) may be brought only in the United States district court for the judicial district wherein the act, omission, or transaction constituting a violation under this Act or any other mineral leasing law occurred, or wherein the defendant is found or transacts business.

REWARDS

SEC. 113. Where amounts representing royalty or other payments owed to the United States with respect to any oil and gas lease on Federal lands or the Outer Continental Shelf are recovered pursuant to any action taken by the Secretary under this Act as a result of information provided to the Secretary by any person, the Secretary is authorized to pay to such person an amount equal to not more than 10 percent of such recovered amounts. The preceding sentence shall not apply to information provided by an officer or employee of the United States, an officer or employee of a State or Indian tribe acting pursuant to a cooperative agreement or delegation under this Act, or any person acting pursuant to a contract authorized by this Act.

NONCOMPETITIVE OIL AND GAS LEASE ROYALTY RATES

SEC. 114. (a) Subsection 17(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(c)) is amended by inserting the words "not less than" after the words "payment by the lessee of a royalty of" and by inserting the words "nor more than 16⅔ per centum" after the word "per centum.".

(b) Subsection 17(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(c)) is amended by changing the period to a colon and adding the following: *"Provided,* That the royalty rate shall be not more than 12½ per centum unless the Secretary finds that an increase in the royalty rate will not adversely affect the exploration, development or production of oil or gas or the overall revenue to the Federal Government generated by such activity.".

(c) The amendments made by subsections (a) and (b) shall take effect on the date six months after completion and submission to Congress by the Secretary of a thorough study of the effects of a change in the royalty rate under section 17(c) of the Mineral Leasing Act of 1920 (1) on the exploration, development, or production of oil or gas and (2) on the overall revenues generated by such change. Such study shall be completed and submitted to Congress on the date one year after the date of enactment of this Act.

TITLE II—STATES AND INDIAN TRIBES

APPLICATION OF TITLE

SEC. 201. This title shall apply only with respect to oil and gas leases on Federal lands or Indian lands. Nothing in this title shall be construed to apply to any lease on the Outer Continental Shelf.

COOPERATIVE AGREEMENTS

SEC. 202. (a) The Secretary is authorized to enter into a cooperative agreement or agreements with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under this Act in cooperation with the Secretary, and to carry out any other activity described in section 108 of this Act. The Secretary shall not enter into any such cooperative agreement with a State with respect to any such activities on Indian lands, except with the permission of the Indian tribe involved.

(b) Except as provided in section 203, and pursuant to a cooperative agreement—

(1) each State shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Federal lands within the State; and

(2) each Indian tribe shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Indian lands under the jurisdiction of such tribe.

Information shall be made available under paragraphs (1) and (2) as soon as practicable after it comes into the possession of the Secretary. Effective October 1, 1983, such information shall be made available under paragraphs (1) and (2) not later than 30 days after such information comes into the possession of the Secretary.

(c) Any cooperative agreement entered into pursuant to this section shall be in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977, and shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited to, a limitation on the use of Federal assistance to those costs which are directly required to carry out the agreed upon activities.

INFORMATION

SEC. 203. (a) Trade secrets, proprietary and other confidential information shall be made available by the Secretary, pursuant to a cooperative agreement, to a State or Indian tribe upon request only if—

(1) such State or Indian tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this Act and who have a need to know;

(2) such State or tribe accepts liability for wrongful disclosure;

(3) in the case of a State, such State demonstrates that such information is essential to the conduct of an audit or investigation or to litigation under section 204; and

(4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe.

(b) The United States shall not be liable for the wrongful disclosure by any individual, State, or Indian tribe of any information provided to such individual, State, or Indian tribe pursuant to any cooperative agreement or a delegation, authorized by this Act.

(c) Whenever any individual, State, or Indian tribe has obtained possession of information pursuant to a cooperative agreement authorized by this section, or any individual or State has obtained possession of information pursuant to a delegation under section 205, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

STATE SUITS UNDER FEDERAL LAW

SEC. 204. (a)(1) A State may commence a civil action under this section against any person to recover any royalty, interest, or civil penalty which the State believes is due, based upon credible evidence, with respect to any oil and gas lease on Federal lands located within the State.

(2)(A) No action may be commenced under paragraph (1) prior to 90 days after the State has given notice in writing to the Secretary of the payment required. Such 90-day limitation may be waived by the Secretary on a case-by-case basis.

(B) If, within the 90-day period specified in subparagraph (A), the Secretary issues a demand for the payment concerned, no

action may be commenced under paragraph (1) with respect to such payment during a 45-day period after issuance of such demand. If, during such 45-day period, the Secretary receives payment in full, no action may be commenced under paragraph (1).

(C) If the Secretary refers the case to the Attorney General of the United States within the 45-day period referred to in subparagraph (B) or within 10 business days after the expiration of such 45-day period, no action may be commenced under paragraph (1) if the Attorney General, within 45 days after the date of such referral, commences, and thereafter diligently prosecutes, a civil action in a court of the United States with respect to the payment concerned.

(3) The State shall notify the Secretary and the Attorney General of the United States of any suit filed by the State under this section.

(4) A court in issuing any final order in any action brought under paragraph (1) may award costs of litigation including reasonable attorney and expert witness fees, to any party in such action if the court determines such an award is appropriate.

(b) An action brought under subsection (a) of this section may be brought only in a United States district court for the judicial district in which the lease site or the leasing activity complained of is located. Such district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to require compliance or order payment in any such action.

(c)(1) Notwithstanding any other provision of law, any civil penalty recovered by a State under subsection (a) shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate.

(2) Any rent, royalty, or interest recovered by a State under subsection (a) shall be deposited in the Treasury of the United States in the same manner, and subject to the same requirements, as are applicable in the case of any rent, royalty, or interest collected by an officer or employee of the United States, except that such amounts shall be deposited in the Treasury not later than 10 days after receipt by the State.

DELEGATION TO STATES

SEC. 205. (a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, audits, and investigations to any State with respect to all Federal lands or Indian lands within the State; except that the Secretary may not undertake such a delegation with respect to any Indian lands, except with the permission of the Indian tribe allottee involved.

(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that—

(1) it is likely that the State will provide adequate resources to achieve the purposes of this Act;

(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this Act in accordance with the requirements of subsections (c) and (d) of this section; and

(3) such delegation will not create an unreasonable burden on any lessee, with respect to the Federal lands and Indian lands within the State.

(c) The Secretary shall promulgate regulations which define those functions, if any, which must be carried out jointly in order to avoid duplication of effort, and any delegation to any State must be made in accordance with those requirements.

(d) The Secretary shall by rule promulgate standards and regulations, pertaining to the authorities and responsibilities under subsection (a), including standards and regulations pertaining to:

(1) audits performed;

(2) records and accounts to be maintained; and

(3) reporting procedures to be required by States under this section.

Such standards and regulations shall be designed to provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under paragraph (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

(e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority or responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made, the Secretary may revoke such delegation.

(f) The Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this section. Payment shall be made no less than every quarter during the fiscal year.

SHARED CIVIL PENALTIES

SEC. 206. An amount equal to 50 per centum of any civil penalty collected by the Federal Government under this Act resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 202 or a State under a delegation under section 205, shall be payable to such State or tribe. Such amount shall be deducted from any compensation due such State or Indian tribe under section 202 or such State under section 205.

TITLE III—GENERAL PROVISIONS

SECRETARIAL AUTHORITY

SEC. 301. (a) The Secretary shall prescribe such rules and regulations as he deems reasonably necessary to carry out this Act.

(b) Rules and regulations issued to implement this Act shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding section 553(a)(2) of that title.

(c) In addition to entering into cooperative agreements or delegation of authority authorized under this Act, the Secretary may contract with such non-Federal Government inspectors, auditors, and other persons as he deems necessary to aid in carrying out his functions under this Act and its implementation. With respect to his auditing and enforcement functions under this Act, the Secretary shall coordinate such functions so as to avoid to the maximum extent practicable, subjecting lessees, operators, or other persons to audits or investigations of the same subject matter by more than one auditing or investigating entity at the same time.

REPORTS

SEC. 302. (a) The Secretary shall submit to the Congress an annual report on the implementation of this Act. The information to be included in the report and the format of the report shall be developed by the Secretary after consulting with the Committees on Interior and Insular Affairs of the House of Representatives and on Energy and Natural Resources of the Senate. The Secretary shall also report on the progress of the Department in reconciling account balances.

(b) Commencing with fiscal year 1984, the Inspector General of the Department of the Interior shall conduct a biennial audit of the Federal royalty management system. The Inspector General shall submit the results of such audit to the Secretary and to the Congress.

STUDY OF OTHER MINERALS

SEC. 303. (a) The Secretary shall study the question of the adequacy of royalty management for coal, uranium and other energy and nonenergy minerals on Federal and Indian lands. The study shall include proposed legislation if the Secretary determines that such legislation is necessary to ensure prompt and proper collection of revenues owed to the United States, the States and Indian tribes or Indian allottees from the sale, lease or other disposal of such minerals.

(b) The study required by subsection (a) of this section shall be submitted to Congress not later than one year from the date of the enactment of this Act.

RELATION TO OTHER LAWS

SEC. 304. (a) The penalties and authorities provided in this Act are supplemental to, and not in derogation of, any penalties or authorities contained in any other provision of law.

(b) Nothing in this Act shall be construed to reduce the responsibilities of the Secretary to ensure prompt and proper collection of revenues from coal, uranium and other energy and nonenergy minerals on Federal and Indian lands, or to restrain the Secretary from entering into cooperative agreements or other appropriate arrangements with States and Indian tribes to share royalty management responsibilities and activities for such minerals under existing authorities.

(c) Except as expressly provided in subsection 302(b), nothing in this Act shall be construed to enlarge, diminish, or otherwise affect the authority or responsibility of the Inspector General of the Department of the Interior or of the Comptroller General of the United States.

(d) No provision of this Act impairs or affects lands and interests in land entrusted to the Tennessee Valley Authority.

EFFECTIVE DATE

SEC. 305. The provisions of this Act shall apply to oil and gas leases issued before, on, or after the date of the enactment of this Act, except that in the case of a lease issued before such date, no provision of this Act or any rule or regulation prescribed under this Act shall alter the express and specific provisions of such a lease.

FUNDING

SEC. 306. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary for the cooperative agreements, contracts, and delegations authorized by this Act: *Provided*, That nothing in this Act shall be construed to affect or impair any authority to enter into contracts or make payments under any other provision of law.

STATUTE OF LIMITATIONS

SEC. 307. Except in the case of fraud, any action to recover penalties under this Act shall be barred unless the action is commenced within 6 years after the date of the act or omission which is the basis for the action.

EXPANDED ROYALTY OBLIGATIONS

SEC. 308. Any lessee is liable for royalty payments on oil or gas lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator of the lease, or due to the failure to comply with any rule or regulation, order or citation issued under this Act or any mineral leasing law.

SEVERABILITY

SEC. 309. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE IV—REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS

AMENDMENT OF MINERAL LANDS LEASING ACT OF 1920

SEC. 401. Section 31 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188) is amended by redesignating subsection (d) as subsection (j) and by inserting after subsection (c) the following new subsections:

"(d)(1) Where any oil and gas lease issued pursuant to section 17(b) or section 17(c) of this Act or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease (A) occurs after the expiration of the primary term or any extension thereof, or (B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

"(2) No lease shall be reinstated under paragraph (1) of this subsection unless—

"(A) with respect to any lease that terminated under subsection (b) of this section prior to enactment of the Federal Oil and Gas Royalty Management Act of 1982:

"(i) the lessee tendered rental prior to enactment of such Act and the final determination that the lease terminated was made by the Secretary or a court less than three years before enactment of such Act, and

"(ii) a petition for reinstatement together with the required back rental and royalty accruing from the date of termination, is filed with the Secretary on or before the one hundred and twentieth day after enactment of such Act, or

"(B) with respect to any lease that terminated under subsection (b) of this section on or after enactment of the Federal Oil and Gas Royalty Management Act of 1982, a petition for reinstatement together with the required back rental and royalty accruing from the date of termination is filed on or before the earlier of—

"(i) sixty days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice, or

"(ii) fifteen months after termination of the lease.

"(e) Any reinstatement under subsection (d) of this section shall be made only if these conditions are met:

"(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: *Provided, however,* That after receipt of a petition for reinstatement, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

"(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future rentals at a rate of not less than $10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement that future rentals shall be at a rate not less than $5 per acre per year, all as determined by the Secretary;

"(3)(A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future royalties at a rate of not less than 16⅔ percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

"(B) payment of back royalties and inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement for future royalties at a rate not less than 16⅔ percent: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

"(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement. A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed $500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

"(f) Where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of section 17(e) of this Act, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

"(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim, being filed with the Secretary—

"(A) with respect to any claim deemed conclusively abandoned on or before the date of enactment of the Federal Oil and Gas Royalty Management Act of 1982, on or before the one hundred and twentieth day after such date of enactment, or

"(B) with respect to any claim deemed conclusively abandoned after such date of enactment, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

"(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided, however,* That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

"(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than $5 per acre per year;

"(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

"(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

"(g)(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 17(b) or 17(c) of this Act.

"(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 17(c) of this Act.

"(h) The minimum royalty provisions of section 17(d) and the provisions of section 39 of this Act shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

"(i)(1) In acting on a petition to issue a noncompetitive oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgment it is equitable to do so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

"(2) In acting on a petition for reinstatement pursuant to subsection (d) of this section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judgment, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. MILLER of California. Reserving the right to object, Mr. Speaker, I reserve the right to object to ask the gentleman from Arizona if he could tell me what happened to the House provision dealing with the discretionary increase of royalties by the Secretary of the Interior.

Mr. UDALL. Mr. Speaker, if the gentleman will yield, the provision in the bill which is now being offered has not been changed. It has the Miller amendment with the 1½ years from now effective date.

Mr. MILLER of California. So the amendment would become effective 18 months from the day of enactment?

Mr. UDALL. That is exactly right.

Mr. MILLER of California. And not 2 years, with the study as the Senate had it?

Mr. UDALL. Exactly. There is no study and the effective date is 18 months.

I am informed that the study is still in there, but the 18 month figure is also there which the gentleman desires.

Mr. MILLER of California. If the effective date is 18 months, I would withdraw my objection.

I am sorry to see we are doing a study. We have studied it 19 times now.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona that the House amendment to the Senate amendments be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona (Mr. UDALL)?

Mr. MARRIOTT. Mr. Speaker, reserving the right to object, I would just like to ask the chairman if this bill now contains the language that we wrote, the amendments that we wrote in the committee dealing with the royalty payment increases?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, it does, indeed.

The bill that is before us today, H.R. 5121, is the product of extensive efforts to blend the provisions of the House-passed royalty management legislation and similar Senate Energy Committee legislation.

This compromise bill is the result of efforts that began several weeks back. At that time, Chairman MCCLURE of the Senate Energy and Natural Resources Committee and I attempted to draft a compromise bill that would incorporate the best provisions of both the House passed bill and the Senate Energy Committee bill. That process was almost complete when Chairman MCCLURE took an opportunity to take the bill to the floor and obtain Senate approval.

Since that time we have continued to discuss the legislation. The bill we bring to the floor today represents a fair compromise between the Senate and the House version of the bill. This bill would go a long way toward improving the problems which have plagued the Federal oil and gas royalty management system in the past. Among other things the bill:

Requires the development of a comprehensive inspection, collection, auditing, and accounting system capable of determining the royalty and other payments owed to the United States and the Indian tribes;

Establishes strict civil penalties and criminal penalties for violations of the act;

Speeds up payments to the States of their share under the Mineral Leasing Act of 1920 of oil and gas royalty receipts from once every 6 months to once a month;

Requires an explanation of what such payments were based upon so that the State or Indian tribes can cross check such explanation with their own records to see if the royalty management system is properly accounting for all oil and gas produced for Federal or Indian lands;

Provides the States with the authority to sue under Federal law in Federal court to recover royalties, interest, or civil penalties with respect to oil and gas leases on Federal lands located within States under certain conditions;

Requires that site security plans be developed for all onshore oil and gas lease sites to help protect against oil and gas theft;

Requires notice of the start of oil or gas production not later than the fifth business day after such production began;

Requires that lessees and operators maintain records to properly account for the production of oil and gas from the Federal lands, Indian lands, and the Outer Continental Shelf;

Provides authority to pay rewards to informants who provide information to the Government which leads to the recovery of oil or gas or royalties;

Provides authority to the Secretary of the Interior to enter into cooperative agreements and contracts with States and Indian tribes to carry out inspection, auditing and certain enforcement activities under the act;

Requires more frequent inspections of lease sites by experienced personnel to determine whether oil or gas has been diverted or stolen;

Provides the Secretary with the authority to delegate his authority to conduct inspections, audits, and investigations to any State with respect to Federal or Indian lands within that State, and

Authorizes the Secretary of the Interior to reinstate terminated oil and gas leases at a higher royalty and rental rate.

The bill at the desk contains a provision, from the House passed bill, deleted by the Senate, which permits the Secretary of the Interior the discretionary authority on noncompetitive oil and gas leases to charge a royalty rate of between 12½ and 16⅔ percent. The present rate is 12½ percent. Additionally this provision from the House bill requires that in order for the Secretary to increase the royalty rate above 12½ percent, he would have to make a finding that such increase would not adversely affect exploration development or production or overall reserves to the United States. The bill adds further language which would: First, implement this section of the bill 18 months after the date of enactment of the bill; and second, require a thorough study to be submitted to Congress of the effects of a royalty rate change on oil and gas production and on overall revenues to the United States.

Mr. Speaker, this is a bill that enjoys strong bipartisan support from our committee. It is a good Government bill. It will assist in correcting abuses

89-059 O-86-27 (Pt. 22)

of the past, with particular respect to oil and gas royalty management. I urge my colleagues to support the bill's passage.

Mr. MARRIOTT. Mr. Speaker, the substitute to H.R. 5121, which we have before us today, retains in substance all the main points of H.R. 5121, the Federal Oil and Gas Royalty Management Act of 1982, which the House passed in September. The substitute is a synthesis of the House and Senate bills, which were different but not far apart. Under direction of their respective committee chairmen, the staff members of both Houses have produced a bill which preserves the essential elements of both bills and is far more precise in its language than any of its predecessors.

The new H.R. 5121 clarifies, reaffirms and expands the previously existing authority of the Secretary of the Interior to collect and account for royalties due on Federal oil and gas lease production.

This legislation is the result of the admirable initiative and perseverence of Secretary of the Interior James Watt in moving to correct the royalty management problems which have led to a grievous loss of revenue to the States, the Indian tribes, the reclamation fund and the Federal Treasury in recent years.

Once again, I wish to commend my colleagues, Mr. UDALL, Mr. SANTINI, and Mr. MARKEY for their leadership in pursuing legislation to enhance the Secretary's ability to gain control of an unwieldy situation. H.R. 5121 will restore to the American people revenues rightfully theirs as well as insure that royalty revenues due in the future will be collected in a timely and efficient manner and distributed to the proper recipients as rapidly and efficiently as possible.

As I have said before, I think the States have much to gain by this legislation for it provides for a nationally uniform system of accounting which does not burden the States detailed royalty accounting functions.

At the same time, it does enable States to monitor and assist Federal royalty management by entering into cooperative agreements to conduct inspections, audits or investigations to carry out enforcement authority of the Secretary. This will insure that the proper amount of royalty will be collected in the future and that the States will receive their fair share.

Further, this legislation will permit States to sue under Federal law to collect royalties, interests or civil penalties in cases where the Federal Government fails to take action in a timely manner. To strenghten this enforcement tool, States will be authorized to have access to production data as well as confidential data for use in State audits, investigations and litigation under the bill. Compensation will be provided to the States for their participation pursuant to cooperative agreements or litigation.

States will further benefit from the requirements for prompt distribution of royalty revenues to the States. Whereas existing law provides for distribution every 6 months, this bill will provide for monthly distribution with a full accounting for the revenue's origin, thereby enabling the States to monitor and better employ all the income to which they are entitled.

I think this is a sound piece of legislation and I urge my colleagues to give it their full support.

Mr. CHENEY. Mr. Speaker, will the gentleman yield?

Mr. MARRIOTT. I yield to the gentleman from Wyoming.

Mr. CHENEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is an important piece of legislation. We are eager to get it back to the Senate in the hopes that we can get it passed. I certainly hope that the House will approve the recommendation of the chairman of the Interior Committee.

Mr. Speaker, as the chairman has stated, this substitute for H.R. 5121, as the House passed it in September, leaves substantively intact the most important elements of that bill. Specifically it—

First, clarifies and expands the existing authority of the Secretary of the Interior to establish a royalty collection and accounting system for the moneys due on Federal oil and gas leases;

Second, enables States to monitor and share in the royalty collection efforts of the Secretary of the Interior;

Third, provides for much more prompt distribution of royalty revenues to States and Indians; and

Fourth, establishes an administrative procedure to relieve the Congress from the burden of dealing with a series of individual private relief bills which have been routinely used to reinstate oil and gas leases.

The States in which oil and gas production occurs on Federal lands, such as my own State of Wyoming, strongly support this legislation because it promises not only prompt distribution of royalty revenues but also more accurate accounting and complete collection of the amounts due.

Not only these States, but the public at large have much to gain by rectifying, through the efforts of Secretary Watt and this legislation, a long-standing problem which has grown to immense proportions in the last several years.

I know that this legislation would not have come about without the leadership of Secretary Watt and the cooperation and perseverence of Messrs. UDALL, SANTINI, MARKEY, and MARRIOTT for which I commend them all.

This is a bipartisan bill, badly needed and carefully drawn, and I urge my colleagues to support it.

Mr. MARRIOTT. Mr. Speaker, I would just like to conclude by again thanking the chairman and the Member from California. I think this is a good compromise. It does the things we want to do, and this side agrees with the bill and has no objection.

Mr. UDALL. Mr. Speaker, I thank the gentleman from Utah and I thank the gentleman from Wyoming (Mr. CHENEY) and the other minority people who worked so diligently in getting this legislation before us.

Mr. SANTINI. Mr. Speaker, will the gentleman yield?

Mr. MARRIOTT. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Speaker, I, too, want to join with the gentleman from Utah and the gentleman from California in the enthusiastic endorsement of this long overdue reform of the way in which we collect royalty payments for the lease of Federal lands. It has been a long time in coming.

I am happy we are able to see this initiative move as far as it has.

The gentleman from Arizona again is championing farsighted legislation that is about 20 years overdue. I appreciate that very much. Had it not been for the leadership of the gentleman, his initiative and his push, we would not be here tonight.

I hope the Senate will join with that same inspiration and action.

Mr. Speaker, I want to compliment Chairman UDALL, Congressman MARKEY, and Congressman MARRIOTT and the committee staff for the work they have done on H.R. 5121, the Federal Oil and Gas Royalty Management Act of 1982.

Through many long hours of subcommittee hearings, we identified the gross mismanagement of the royalty collection program by the Interior Department, and the bureaucratic inertia that allowed this mismanagement to continue unabated for over 20 years. Secretary Watt, in a bold and decisive move, ordered a study of the problem by the Linowes Commission. That study confirmed the findings of the subcommittee, numerous GAO reports, and various others studies. The time has come to overcome the paralysis that has gripped the Interior Department for over 20 years. This legislation is needed now.

That the royalty management program has been one of the worst managed programs in the Federal Government there can be no doubt. Manpower has been severely lacking. A shortage of inspectors in the field has left site security lacking. Theft has been rampant, and inspections have been few and far between. Earth scientists have been performing the tasks of ac-

countants, with the result that entire accounts have been lost; and unpaid balances, when finally detected, go uncollected. We have allowed oil producers to operate on an honor system long enough. Our obligation to fiscal responsibility requires that we pass this bill posthaste.

The substitute bill before the House today has been only slightly modified from the earlier bill which passed with this Chamber's unanimous support on September 29. It establishes strict penalties, both civil and criminal, for oil producers that do not play by the rules. It formalizes the cooperative agreements program that the Secretary has been conducting on his own initiative, while at the same time it guarantees the rights of the States to receive their share of royalty payments in a timely manner and with assurance that each State's share of royalty payments has been properly accounted for. In short, this bill puts integrity back into the royalty management program.

I urge my colleagues to rise in favor of this legislation so long overdue.

Mr. MARRIOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona (Mr. UDALL)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

SKYROCKETING PRICE OF NATURAL GAS

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, today I am introducing legislation to address the most pressing concern in the Sixth District of Missouri and throughout much of the Nation: The skyrocketing price of natural gas.

The legislation I am introducing addresses the natural gas problem in two ways: First, my bill rolls the prices back to their October 1, 1982, levels and freezes them there for 2 years; second, it establishes a volume adjustment option in natural gas contracts to override the take or pay clauses which have pushed gas prices to artificially high levels. This legislation will enable and require gas pipeline companies to provide consumers the lowest priced gas they have on contract and should lead to lower gas prices.

Mr. Speaker, the need for such reform is clear. The people of Missouri are reeling from dramatic increases in the price of natural gas to heat their homes. Prices have risen 91 percent since January 1981 and 36 percent in the past year alone. Natural gas prices continue to climb. The elderly are especially being hit hard. Squeezed between fixed incomes and rapidly rising gas prices, some Missourians are facing a choice between heating and eating.

While their friends and neighbors have pitched in admirably to help them pay their bills and turn the heat back on, charity cannot begin to deal with the magnitude of this problem, particularly when the middle-income families themselves are being adversely affected by the continuing rapid rise in natural gas prices.

Citizens cannot understand why they should have to pay for high priced gas from deep wells or foreign nations when relatively cheap gas in the Hugoton fields of Kansas goes begging for buyers. The market cannot justify these high prices; demand is down and there is a supply surplus, yet prices continue to rise dramatically.

One major problem is that pipeline companies are automatically passing cost increases through to distributors and ultimately to consumers. In order to avoid a rerun of the natural gas shortages of previous years, many pipeline companies were so eager to insure future supplies that they signed long-term contracts with "take or pay" clauses. Under these contracts, pipelines must pay for the gas even if they don't need it. Since most contracts for the relatively cheap "old" gas don not have these take or pay clauses, the pipelines are forced to take this expensive gas first even though sometimes it costs 10 times as much. And consumers are being told that they must foot the bill.

My legislation amends the Natural Gas Policy Act of 1978 to fix these problems and turn this disastrous situation around. It would require all natural gas contracts to include a volume adjustment option, which would override take or pay clauses. Pipelines would have to take the lowest cost gas they have on contract first. The savings would be passed directly on to consumers.

The affect of this change is that producers who have been selling gas at very high prices because of these take or pay clauses will not be able to sell their gas unless they lower their prices. This creates a very powerful market incentive for producers and pipelines to renegotiate their contracts. In addition, by freezing maximum prices on natural gas for 2 years, my bill insures that producers can not force pipelines to pay higher and higher prices in order to get gas supplies they may need.

Mr. Speaker, the situation is grave. Nearly 6,000 homes in the Kansas City area alone have had their gas supplies shut off because the residents are unable to pay their bills. I urge all of my colleagues to join with me in pushing for prompt action on this vital legislation.

CHILD PORNOGRAPHY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I took out this special order tonight because there is a general epidemic across the country, it has been such for about 14 years now, of venereal disease. Two new types of epidemics, both incurable, have been added to the social diseases of America just in the last year or so; one is Herpes II, and there is a rather dark sick joke on it going around that the difference between true love and Herpes is that Herpes II is forever.

The other epidemic is more insidious even than the Herpes, which is incurable. It is called AIDS, acquired immune deficiency syndrome. Twenty-five percent of the people that get this are dying and because it is retained in the blood, little children who have had birth defects and have needed blood transfusions are now coming up with this. Our older people in hospitals who have merely been seeking blood transfusions found themselves carriers of this horrendous new disease, AIDS.

It is particularly prevalent in the homosexual community. Nobody seems to be willing to state on the networks why. It is probably because in discussions of it they talk about homosexuals in our country that have had up to 1,000 to 1,500 sexual contacts in a given year. That is a lot of activity.

Mr. Speaker, I would like to give a tragic example of how pornography is influencing the venereal disease epidemics, how it is influencing rape and how I believe the facts can no longer be dismissed, that it is influencing the whole motion picture industry.

□ 1840

We tend to be very cynical in the Congress with "Gee Whiz" figures, but just listen to this: I did a documentary when I was hosting a television show 14 years ago, pointing out pornography had become a $5 million industry. That, I guess, could fairly be called a cottage industry. It is certainly an industry now, somewhere between $4 and $6 billion.

There is a rape every 12 minutes in the United States. Half of those rapes

are young women under age. One quarter of the rapes are children under the age of 12 years. One quarter of all the rapes in the United States are under 12.

If anybody is going to tell me this has not had an effect, that pornography has not had an effect on rape, I will tell them that they are crazy.

Certain segments of the feminist movement are now very aggressively and with a great deal of intellectual facts to back them up, coming out hard against the effect pornography has had in demeaning women in the United States of America. When we say "women," that means our grandmothers, our mothers, our wives, our daughters, our sisters.

Something simply is going to have to be done in this body in the 98th Congress. We have done nothing in the last 6 years except unanimously pass one bill or resolution about 6 years ago that took out distributors. When you take out distributors, which we would never do with illegal gun running or with narcotics, then it makes it almost impossible for the law authorities to get a handle on this.

One thought before I put into the RECORD the dimensions of this nightmarish problem, and that is its effect on the motion picture industry.

Last month, as I started to say, I went to see a film on computers out at the Disney studio because I was told that not only was it entertaining but it had something to say about the incredible growth of computer technology in our society and its acceptance by young people, down to gradeschool children, if their families are lucky enough to have a small personal computer.

The Disney film was called "Tron." Playing with it was a film called "Fast Times at Ridgemont High." I missed the opening titles of the film "Fast Times at Ridgemont High," but I was curious because the film was based on the book written about a high school in my congressional district, Redondo Beach High School, along the beautiful California coastline.

The film was so crass, so vile in its presentation to basically what is called in the trade a teenybopper audience, that I was stunned. I could not believe as I looked around and saw 10-, 12-, and 13-year-olds in the audience that I was seeing this film with kids in attendance. I could not enjoy the Disney film because it was doublebilled with this.

I walked outside and talked to some of the people on what they call this quad theater, some decent young usherettes, a cashier. The projectionist had been in the business since 1942, a year when a great classic film like "Casablanca" won an academy award. He said the decay in the business had been absolutely beyond description.

When I looked at what they called the sheet in front of the theater on this film, "Fast Times at Ridgemont High," and saw that it had been directed by a woman named Amy Heckerling, who made her reputation in some of the horror films where they stick needles in eyeballs and disembowel people regularly for almost 2 hours, I could not believe that a woman who lends herself to the degradation in this film where they established a 15-year-old girl, an actress whose father was an actor of some fame killed in a recent horrible helicopter accident. I understand that he had cut her off in his will, ironically, 2 weeks before he died because of this film. This girl may have been 18, 19, 20, 21, but she looked 15.

This Congress, could not tolerate a verbatim discussion of the dialog in this film. I will give just a sampling of two scenes using highly inaccurate euphemisms.

The girl is sitting in a cafeteria with a 16-year-old girl, asking about a particularly sleazy filmed seduction scene in the dugout of the high school baseball stadium the night before, and the other said she was not aware of all the variables in sex, and the 16-year-old gives her a lecture on how to engage in oral sex, and then takes carrots out of her lunch box and proceeds to demonstrate. The other girl tries to master this form of sexual activity, and all the boys are sitting at a table adjoining them.

This was all filmed at the Van Nuys High School. In discussing this with my staff, they pulled a letter out in which parents of the Van Nuys High School complained that the kids brought home this nightmarish story.

In the film all the boys are sitting at a table watching this laughing. Later on as the girl describes the pain in losing her virginity, her 16-year-old friend tells a 15-year-old "If you do it a lot, I assure you it is going to get great."

Then she asks, "At the moment of sexual climax, how much seed or semen," or some other crass word in place of the euphemism, "comes out of the man? and the 16-year-old kid says, "A quart," and it goes downhill from there.

This is a film with the words "high school" in the title, which means a few college kids, freshmen and sophomores, who are not serious about what they are going to do in life, might find time to go, but a serious junior, senior, man or woman, looking for a career, they do not have time and the 30-year-old audience is not going to go.

Here is a film by a studio directed at a teenage and subteen audience. I saw the subteens in the theater with my own eyes.

Just within the hour I talked with the marketing manager of this studio. I pointed out to him, since this studio, the biggest now in the world, Universal Pictures, is going to make a third of a billion dollars alone off one excellent family film, "E.T.," that I was appalled that they would put out this type of junk, loathesome product, to help "corrupt the morals of the youth of America." That is my quote, and that is exactly what this film, "Fast Times At Ridgemont High," is doing. It is corrupting the morality of young Americans.

Now, when this is going on in the regular motion picture business, which by the way combined with the entire music industry, is not making as much as the porno industry, you see who is winning in the United States of America as far as what we culturally dish up to our children.

In 1981, I repeat, the porno industry was between $4 and $6 million. Of the 10 major magazines sold in America, 6 are slick, soft-core or hardcore girlie magazines—that is a trade name—girlie porno magazines.

Penthouse and Playboy, the two hedonist champion girlie magazines, together sell more than Time and Newsweek together. They are, using the so-called term adult bookstores in the United States, now a number surpassing 15,000. That is more than all of the McDonald's Restaurants, with about half of the second chain thrown in.

According to industry estimates, there are 400 of these porno or skin magazines on the market, and perhaps as many as 20 million men and women buy them regularly. You are almost offended using the word "women" in that context. Women are becoming a marketplace for these magazines which demean and degrade them.

Two to 3 million Americans view pornographic movies each week. Videotapes of films represent about 50 percent of the home-movie market.

There is a special article in Parade magazine, I think one of the titles or subtitles was "Smut Sultans," about the hardcore pornography industry in this country. The FBI and Department of Justice contributed to this.

The amount of statistics would just rock you, boggle your mind. I have 12 pages of them. The subject is so disgusting in what it portends for the future of the country that even though this Chamber is still televised, there are people across the country listening to this, I am not going to offend them.

So I am going to put these 12 pages of statistical garbage, all of it unfortunately factual and true, in the RECORD:

Mr. Speaker, In 1981, the porno industry was estimated to have taken in between $4 and $6 billion, now, 1982 it is making as much money as the conventional movie and record industries combined.

So-called adult bookshops in the United States now number more than 15,000. That is three times the number of McDonald restaurants.

According to industry estimates, there are more than 400 "porno" or "skin" magazines on the market and perhaps as many as 20 million men and women buy them regularly. A decent person resents saying "women" in that context.

About 2 to 3 million Americans view pornographic movies each week; videotapes of such films represent about 50 percent of the home-movie market.

It is estimated that there are at least 250 "kiddie porn" magazines on the market.

As pornography has become more popular, its content has changed considerably. Much of it now portrays violence, degradation, and humiliation rather than just seduction, lust, adultery. Common themes include sadism, incest, child molestation, multiple rape, and even murder, that is, snuff films—either simulated or real (rare but horribly factual).

The surest sign of how bullish the 1970's were for the porn industry is that the Mafia has moved in—just as it pushed into gambling and drugs in earlier decades.

A Parade magazine investigation of the Nation's hardcore pornography—titled "Smut Sultans" aided by access to confidential reports from the FBI, Justice Department, and other agencies—reveals an upper eschelon of five men who control a major portion of the industry. Below this group is a second level of two dozen major porn merchants who also produce, import, and distribute a veritable "pornocopia" of 8-millimeter stag films, full-length 16- and 35-millimeter X-rated motion pictures, books, magazines, weird rubber and plastic paraphernalia, and video tapes.

Top moneymaker in the pornography industry is the automatic peep show, a small private booth—often called masturbation booths—in which a quarter is dropped which brings 2 minutes of filmed hardcore pornography. According to the Adult Business Report, the pornography industry trade paper, approximately 75 percent of the adult bookstores have peep shows.

X-rated books and magazines that cost 50 cents to produce retail for between $5 and $10. The 15-minute, 8-millimeter movies wholesale for $3 and retail in this country for $20. Full-length 35-millimeter motion picutres may cost up to $150,000 to produce and will generally return two or three times that amount.

The fastest growing pornography product is video cassettes. More than 1 million U.S. homes are already equipped with video recorders, and dealers report that an increasing number of people buy X-rated films at prices ranging from $80 to $150, double the charge for regular movies.

What is called cableporn is another hot item. At the current rate of growth, nearly 50 percent of the U.S. households with televisions will be wired for cable by 1989. X-rated and R-rated cassettes currently account for between 50 and 60 percent of all prerecorded tape sales.

Hugh Hefner and Bob Guccione, the high priests of hedonism, have entered the cableporn market and are transforming their magazines, Playboy and Penthouse, into video ventures. Penthouse Entertainment Television Network is being developed for a satellite-fed audience projected at 5 million by Guccione. Hefner plans to rename the existing Escapade Cable Service—the pornography channel which now has well in excess of 170,000 viewers nationally—the Playboy channel,

And on TV, another rival operating as a pay service through the ultra-high-frequency broadcast spectrum, has more than 570,000 viewers. Fancy hotels now routinely contract to show their guests films like "Virgin Prize" along with the more conventional fare, which includes a lot of R-rated crap.

At least 60 million dollars' worth of X-rated video cassette tapes are expected to be sold this year.

Feminists have begun to organize against pornography. Organizations with names like "Women Against Pornography" and "Women Against Violence Against Women" have been formed and led by feminist theorists such as Andrea Dworkin and Susan Brownmiller. The feminists believe that pornography is intrinsically sexist. Of course they are correct. As a depiction of predatory and sadistic male sexuality, porn, they say, makes violence against women not only acceptable but exciting to men. "Pornography is the theory; rape is the practice" has become the rallying cry of women who fear that porn's glorification of sadism condones—and even encourages—violence against females. Citing the work of the Marquis de Sade, Andrea Dworkin describes the pornographic mentality as one in which "rape is foreplay, preparation for the main event, which is maiming to death."

Today, a rape occurs every 12 minutes in the United States; half of the victims are under the age of 18 and a quarter are under the age of 12.

One of the biggest lies about pornography is that "pornography is not a victimless crime." At least four groups are victimized by pornography:

First, women—they are looked upon merely as sex objects and much of contemporary pornography highlights the joys of sado-masochistic sex.

Second, adolescents—there is no way that pornography can freely circulate without falling into the hands of millions of teenagers. In addition to portraying a demeaning picture of women, pornography tells adolescents—and others—that sexual activity need not be related to love, morality, commitment, or responsibility. Pornography tells adolescents that aberrational sex is the most exciting and appealing form of sex. Hustler magazine, for example, has presented beastiality as an unrivaled form of sexual gratification—the supreme sexual experience.

Pornography encourages implusive sex, careless sex, daring sex, irresponsible sex, and it implies there are no adverse consequences. You would never guess from viewing pornography that irresponsible sex leads to teenage pregnancies, premature marriages, abortions, illegitimate children, venereal disease, or psychic traumas. Nor would you suspect that extramarital sex had any unhappy consequences. The truth is exactly the opposite.

Third, children—youngsters who pose for pornographers are obvious victims the pornographers make obscene profits peddling such wares to the sick sick souls who feast on them.

Fourth, society in general and the family in particular—pornography is a direct challenge to the family because it encourages attitudes that are destructive of it. Family stability lies at the heart of a stable society and a healthly attitude toward sexuality is central to a sound moral code. The French nobility, before the terror of the French Revolution, used to amuse themselves by watching people have sexual intercourse. The implications and parallels are worth reflecting upon.

Is pornography a form of expression that is protected by the first amendment? Absolutely not. The Founding Fathers had in mind freedom of religious and political speech when they drafted the first amendment. Pornography would not have been considered a form of speech by the Founding Fathers, but, rather, a corruption of speech.

A series of decisions by the U.S. Supreme Court opened the doors to the current flood of pornography. The present definition of obscenity as enunciated by the Court on June 21, 1973, in Miller against California is that it is material "that the average person, applying community standards, would find * * * as a whole, appeals to the prurient interest," material that "depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable State law," and material that "taken as a whole, lacks serious artistic, political or scientific value."

If local communities were free to control or ban pornography instead of being constantly overruled by court decisions, real progress could be made in the war against pornography.

Just listen to a few excerpts from testimony by Joseph B. Haggerty, detective, Metropolitan Police, obscenity unit, before the U.S. Senate last Friday, December 10, 1982:

Missing children, throwaways, abandoned or neglected children are all victims of the vultures of the street—pimps, pornographers and, many times, other victims like themselves.

Life no longer recognizes them as human beings.

The only jobs available are in massage parlors, escort services, performing in sex films or photographs.

New laws govern their existence: Right is doing something and getting away with it and wrong is getting caught.

The only way to arrest a pimp for pandering or procuring is through his prostitutes. These prostitutes must testify at both the Grand Jury and at the trial. Even if the prostitute is a juvenile, both appearances are still necessary.

Pertaining to child pornography, a child is described as anyone under the age of 16 years. Because most pornographers are well aware of these laws, they try to use models 16 years old or older to avoid prosecution.

Currently, pornographic films, magazines, photographs and videotapes released in this country are under no restrictions except the relatively vague obscenity laws—censorship of this material is nearly impossible.

Here are some factual excerpts from the testimony presented by John Dillingham of the Washington School of Psychiatry at the same U.S. Senate hearing on Friday on a particularly shocking study on child pornography.

Funding for the study was provided by the National Center on Child Abuse and Neglect.

Close to 750 individuals were interviewed—namely children at risk, child prostitutes and child pornography victims, parents, pimps and customers in Washington, D.C., New York and Baltimore.

The youngest child interviewed was six years old. This child had already experienced oral sex and masturbation.

People in their very late teens and middle twenties were interviewed to get a picture at a later date of the lives of people who had started as child prostitutes and pornography participants.

Child prostitution turns out to be a very large industry in the United States.

Child pornography is a "cottage industry". Children acknowledge that they are invariably asked to pose for personal pornographic photos by customers on the street and in bars and restaurants and hotels. They acknowledge observing the Exchange of pornographic snapshots in which their peers are exhibited. Most children are unwilling to admit that they actively engage is such activities, although they universally point the finger at each other. Customers apparently do exchange these photos much like trading baseball cards. There is also a significant amount of home movies and home videos which are also exchanged.

The largest group of children have been pushed out of their homes. they are not runaways. They have been told directly, or by family behavior, that there is no more room for them in their homes—either for economic reasons, or for reasons of age, specific family dynamics, or because of resistance to intra-family sexual exploitation, or because of severe family trauma.

More than 75 percent report sexual abuse within the family.

An overwhelming percentage report a feeling of alienation from family lifestyle, and family disciplinary culture, from a very early age.

More then 60 percent report previous contact with mental health, social services, or other institutional helping professions. These have been perceived as actively hostile to the child, as instruments of increasing the alienation from family, and of intensifying a punitive familial attitude or policy toward the child.

The incidence of serious and chronic mental illness among the children and young people who engage both in prostitution and in pornography is very, very high. It is also evident that a significant number of young people have had situational mental health crisis due to severely traumatic family catastrophies—catastrophic deaths, suicides, murders, for which they have received no emergency or crisis intervention support.

These children appear to share more direct characteristics with the adult homeless population. These children who are more pushed out than runaway, appear to be the "undocumented aliens" of the general population—and will be the homeless adults of the future.

At the same U.S. Senate hearing 3 days ago I was impressed as a parent and grandparent by the testimony of Mr. Robert Pitler, bureau chief, Appeals Bureau, District Attorney's Office for New York County (Manhattan).

Here are Mr. Pitler's thoughts on proposed changes in the Sexual Exploitation of Children Act of 1977 (18 U.S.C. 2251-53):

First, the act recognized the grave harm to children who are made to engage in sexual activity for the purpose of visually reproducing that conduct.

Second, the act prohibits the knowing interstate transportation and shipment or mailing *only* of obscene materials depicting the sexually explicit conduct of a child under sixteen years of age.

Third, in requiring proof of obscenity, the Congress was concerned with the constitutionality of any statute which did not require proof of obscenity.

Fourth, many people expressed the view that all hardcore material depicting the sexual conduct of children was by its very nature obscene—thus, it was thought that even by requiring proof of obscenity the statute would still be an effective deterrent.

Fifth, the Supreme Court in *Ferber* v. *New York* has held that, given the compelling interest in protecting children, proof of obscenity is not required to validate legislation which prohibits the dissemination of child pornography.

Sixth, accordingly, the obscenity requirement should be eliminated from the statute.

Seventh, the belief that a ban on the distribution of obscene materials alone would discourage distributors from dealing in child pornography ignores the reality that the obscenity laws have failed to discourage the distribution of obscenity.

Eighth, the deterrent value of a statutory ban on obscenity is effectively undercut by the difficulties in prosecuting obscenity cases successfully—concept of obscenity is complex, and its application to particular cases is a matter of considerable delicacy, resting on often highly elusive criteria. For example, defense counsels have argued successfully that, even though the materials at issue in a particular case are disgusting, they simply do not appeal to the prurient interest in sex of either heterosexuals or any definable sexually deviant group, or they argue that materials are not patently offensive by community standards.

Ninth, the deterrent effect of the ban on obscenity is also undermined by the requirement that the work in question must be examined as a whole—this does not protect the child who is abused sexually in the production of that work.

Tenth, the New York Legislature chose to prohibit the dissemination of both non-obscene and obscene materials depicting children engaged in sexual conduct.—"It is irrelevant to the child whether or not the material is obscene or has a literary, artistic, political or social value."

Eleventh, the statute has no application when actors or actresses or models over 16 years of age are used to portray children of lesser years—a twenty-four year old actress was used to portray a fourteen year old in *Lolita* although they interviewed over 700 children for the lead roll.

Twelfth, the desire of those who insist that they want the "real thing" must be subordinated to the compelling interest in protecting children.

My colleagues, since most if not all child pornography crosses State lines, we need Federal action to eradicate this loathsome problem. We must see tough new laws coming from this Congress. Let us get about it. How much longer can we mock God by our vile abuse of children and women in the United States?

I admonish all Members to reread Matthew 18: 6: "Whosoever shall harm one of these little ones who believes in Me, it were better for him that a millstone were hung around his neck, and that he were drowned in the depth of the sea."

I say I have accepted the offer of the marketing manager of the great television studio Universal to go out there and have lunch with him for about 2 hours he asked for, and discuss "Fast Times at Ridgemont High." He said he is the father of teenagers.

I pointed out that I came to the Congress with five teenagers and 6 years later they are all in their twenties, two of my daughters are married, the other daughter is close to it. I have become a grandfather twice in the last year, and once again next May.

We have a very sick, very sick problem with American cultural life. I have been to the Soviet Union five times, and let me tell my colleagues that the Russians look at this child pornography problem in the United States along with our narcotics problems, and they do not have any fear that any of the defense systems that we are building would ever be used against them or that they are every going to have to use any of their defense systems against us.

They really do take seriously the most arrogant boast of their god-head

whose picture is on every outhouse and administrative wall in all of the Soviet Union, their god-head Vladimir Ilich Ulyanov Lenin, who said there will never be a conflict with these capitalists because they will just be picked off the vine like rotting fruit.

□ 1850

If ever there was anything rotten in the state of the United States—not Denmark—it is this pornography problem. It is working in concert with the narcotics problem, although the narcotics industry is $80 billion and this is $4 to $6 billion. The Mafia has moved in heavily. Five families around Miami, the Mafiosi Cosa Nostra families, control 80 percent of this garbage, and they murder people to get the rights in the small towns to see "Deep Throat," which was made with crime money down in Miami.

I do not know what the Congress of the United States is going to do in the next 2 years with all the pressing problems, but I hope that somewhere, somehow, some subcommittee on justice in this House or in the other body will address itself to this problem and try to do something in the United States of America—under all the protections of our first amendment and greatest amendment, the first amendment of our Bill of Rights, to not let people wrap themselves in the flag, wrap themselves in congressional protection, wrap themselves in freedom of speech so that they can continue to aggravate this Nation with their incurable social diseases and a rape rate that is not only the disgrace of the world, but never in all of recorded history, from the Huns sweeping across Europe back to the world primeval, where man's inhumanity to man was taken out on women and young girls; never anywhere in history has a nation, let alone a nation of culture and intellect, in its third century, tolerated the rape rate that we see in the United States of America today.

I submit the rest for the RECORD, and hope something happens in the 98th Congress, because we did not do anything on this issue for the 6 years this Member was here.

REFLECTIONS OF A MEMBER OF CONGRESS—1971 TO 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PEYSER) is recognized for 60 minutes.

Mr. PEYSER. Mr. Speaker, since I first was elected to Congress in 1971, I believe that this is about my fourth general order in that period of time. For those who are still waiting in the House, I promise to try to keep my remarks direct, but I did want to make a special reference to some of the things that I saw and was involved in during this period of time that I think are worthwhile putting in the RECORD. I tried to do it in a way that will be quite concise, and set forth the points that I have in mind.

So, I sort of broke this apart, and I said from 1971 to 1982, what were the biggest problems and perhaps the tragedies that I witnessed in this country and in this Congress in that period of time?

I think the first on the list would have to be the war in Vietnam and the tragedy that resulted to hundreds of thousands of Americans—really to millions of Americans, because the tragedy struck all of us, and of course particularly to those many thousands who lost their lives in Vietnam. This was a tragedy that happened because of a number of circumstances: The executive branch involvement at that time and the Congress willingness to go along with the executive without questioning. I think that we learned a great lesson from that tragedy, and I am hopeful and believe that that type of thing will never happen again.

The second problem and tragedy would have to be Watergate, because Watergate put this country through probably one of the most traumatic experiences that it has ever been through. It dragged out, as it had to in order to go through the process, to a point that it was the main conversation, the only thing that was in peoples' minds in this country. The real question was whether this democracy could survive a Watergate. The only good part of that whole problem was, it could survive. It showed that this democratic process was strong enough to take one of the toughest blows that had ever been administered to it and come up stronger than ever. So, while it was a tragedy, it also showed a great strength.

The third greatest problem is the one that is facing us today, and that is the problem of 12 million Americans unemployed, with an unfortunate indication that the numbers in the next months are even going to go higher. This is a tragedy that I hope that we still in this Congress, in the 97th Congress, and particularly I hope in the 98th Congress, are going to take direct action on. This is not a "sit and let's wait and see what it going to happen" problem. It is a problem that calls for us in the Congress to do something about it.

I believe that when we look back on this period of time, this unemployment problem will be equal in its tragedy to the other two problems that I have just mentioned.

Now, I also have been in the unusual situation, as have many of my colleagues in this period of time, to have served under four Presidents. It is a very unique period because of the resignation of one of our Presidents that we have had that number in a very short period of time. I have made sort of a one liner on how my feelings are concerning the jobs that those four Presidents have done and are doing. So, this does not pretend to be a complete analysis at all, but just a very quick sort of shot of where I feel they are.

The first President I served under was President Nixon, and I would have to say about President Nixon that he was probably one of the most competent Presidents, but the other side of the coin was that he was basically dishonest. This Government cannot survive a Chief Executive in office that has demonstrated the trait of dishonesty that was illustrated by the years of President Nixon. I was very criticized during that period of time for not immediately jumping into the forefront, as many of my colleagues did, in calling for the impeachment of the President. I did not call for the impeachment because I felt that I was like a member of a grand jury, sitting here in this House waiting for the evidence. Well, when the tapes became available and the Judiciary Committee said that Members of the Congress could listen to those tapes, I went and I spent 6 hours in a room listening to those tapes of the President.

When I came out there were a group of reporters from the AP and the UP and many of the newspapers, because they knew of my past reluctance to act on this. They said, "Congressman, what would you do now?"

I said, "I would vote to impeach the President," because in those 6 hours I heard our President say the kind of things that I just felt were so terrible and so much against what this country stood for, and particularly what the President stood for, that I felt he would have to leave.

President Ford: Very briefly, I equate President Ford, and say, here was a very decent and a very honest man, and he was good for us in the period of time that he served. He was a response that the Congress really gave the country to what had happened with President Nixon.

On President Carter, I felt that President Carter was and is an extremely intelligent, decent individual. I felt that the big failing of President Carter was that he never understood how to work with the Congress, and he never understood the relationship that the Executive held with the total Government. Because of that lack of understanding, he lost his election.

On President Reagan, who is just at the midterm of his Presidency, I have simply said I believe the President is so rigid in his beliefs and so unbending until he has lost the fight that this is serving him very poorly and serving the country very poorly. Also, I feel that he lacks in a very basic understanding of the peoples' problems. I do not really believe that he understands

the suffering and the agony that some of the legislative measures that this Congress passed a year ago have created for a great many people.

□ 1900

It is certainly my hope that in the last 2 years that realization and also the willingness to be more flexible and more yielding will show themselves and this country will profit by it, and I am sure the Congress will be glad to work with the President.

What were the biggest successes? Well, I think one of the great successes in the Congress was the enactment of the War Powers Act, because that War Powers Act finally put the Congress in a situation that said that when young Americans are going to be committed in a war in a foreign country, this Congress is going to have a voice and say something as to what happens. I think that was a great success, and it was very important for the American people.

Another success was the gains made in that period, from 1971 to 1982, in education and the arts, along with the recognition on the part of the Federal Government that we have a real responsibility, that an educated young American is undoubtedly the greatest strength we have, and that the development of the arts is something that is of the utmost importance for this country and for our civilization.

A third point is that during that period of time we really recognized the needs of the elderly and made gains for the elderly through the Older Americans Act programs that responded to the needs of this large segment of the American public that has so long gone neglected.

Another issue is the congressional awareness—and I do not mean this in a controversial sense—of the agriculture programs of this country because I do not think it either served agriculture well or the Congress or the people well to have a Congress that traditionally, until this period of time, basically accepted the programs for agriculture without questioning them and without finding out what the implications were to the consumers of the country as well as to the farmers. I think that the agriculture community and the consumers, the total country, will profit because of the recognition Congress now has on these programs.

One last area is that in this period of time we saw the beginning really of community development programs, urban programs, and mass transit programs where the Federal Government recognized the need for their assistance in helping these areas and in helping the people of the country specifically in rebuilding and keeping their cities vital.

I have talked of the biggest successes. Briefly, let met talk of what I see as the biggest failures. One of the biggest failure over this period of time has been the inability of the Congress and the White House to work together for any period of time as a team, as though we were all working for the same good. The fact is that that really has not happened.

Another failure is the refusal of the Congress to put a limit on campaign spending in congressional races and its refusal to let public financing of congressional races take place, because I think, more than any one factor, we are going to find the continuing influence of substantial money controlling many elections. I just am not convinced that that is in the best interests of this country.

Another area of failure has been the inability of the Congress to change its rules to halt procedures that slow down or stop legislation from being acted on, either to defeat legislation or to pass legislation. One of the biggest wastes of time we go through in this Congress everyday is that we generally vote for the approval of the Journal. We have a lot of demands on our time and we have a lot of things to do, and yet we go through that charade everyday. There are many, many other examples of absolute waste of time in this House and also in the Senate. But I am not going to speak to the Senate, because the Senate's waste of time would far exceed anything we can come up with. Nevertheless, I think we in the House have not really addressed the problem effectively.

I also believe that the Congress has not developed an overall solution of the energy problem that we have in this country or the problem of our sources of energy in the years to come. It is certainly something to which we have to direct ourselves. Everytime we start getting to it the price of oil begins to drop a little and we shelve whatever those programs are.

Another vitally important thing is the inability on the part of the Congress or the Executive to develop a national trade program. What are we going to do to compete with foreign trade? What is our program? We have never had in the years that I have been here any consistent program that would let our manufacturers and our producers compete favorably with foreign producers and manufacturers. Any program that says this is the course of action we are going to take on trade is completely nonexistent, and we desperately need it.

I guess I would have to list as the last failure the fact that the Congress, while it made many gains in education and in the arts, unfortunately, during this past session, turned around and cut back on many of those gains and cut back on many of those programs. That ultimately will hurt us, and I am convinced that ultimately we will reverse that action.

Finally, let me give my personal overall reaction to having served in this Congress. Many people have said to me, as I am sure they have said to Members all throughout the history of Congress and for many, many years, "it must be awfully frustrating down there."

Well, let me point out that there is no job that is not frustrating. We have our frustrations, but I do not know of any job in this country that has the rewards that this job has, nor do I know of any job that can give one the kind of satisfaction that this job has given me. So from my point of view this has undoubtedly during this period of time been the greatest period in my life and one that has given me more feeling of accomplishment than, I think, anything I could have done. And to the Members of the House who are continuing to serve and to the Congresses that will follow, let me say that I hope you share that feeling, because it is going to be important not to look on this as a job, but to look on this as an opportunity to serve this great country of ours and the great people that you represent.

So, Mr. Speaker, I leave the Congress at this time, but I leave it with a great feeling that it has been a great experience and one that I would urge my colleagues to stay with. And to those of you who are not yet in the Congress, let me say that I hope you look to the future someday and plan on making the race to serve with these great men and women in the Congress.

A TRIBUTE TO THE HONORABLE BILLY LEE EVANS OF GEORGIA ON HIS DEPARTURE FROM CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BRINKLEY) is recognized for 60 minutes.

Mr. BRINKLEY. Mr. Speaker, our friend and Georgia delegation member BILLY EVANS completes this chapter of his public service at the end of the 97th Congress. Uncommon bonds develop between Members of the House and it is not easy to say goodby to any Member, but it is especially difficult to say goodby to a Member of your own State's delegation whose district is adjacent to your own and with whom you have worked on so many important issues, such as Warner Robins Air Force Base. BILLY is generous in victory and gracious in adversity, and it is especially appropriate for us to get together today to thank him for his service, to wish him well, and to say so long to a really terrific guy.

BILLY came to the Congress well prepared to assume the responsibilities of serving the people who elected him. A graduate of the University of Georgia School of Law, BILLY earned a distin-

guished record as a member of the Georgia House of Representatives from 1969-76. Deeply committed to his fellowman, BILLY has taken an active role in programs which respond directly to the needs of others, including the Elks and the Scottish Rite Masons.

Elected to the 95th Congress in 1976, BILLY has achieved an impressive record of leadership on issues ranging from transportation to the Federal judicial system. His heavy committee assignments include the Public Works and Transportation, Judiciary, and Small Business Committees. His influence in each of these sectors has been great, but is was his expertise and splendid counsel as chairman of the 1980 House Select Committee on Narcotics Abuse and Control field hearings in Macon and Brunswick, Ga., that resulted in his finest hour. His was a compelling case for stricter enforcement of our drug laws, and his voice of passionate concern moved many to action.

He has been a champion of agriculture, knowing full well that wherever the farmer was, the consumer was close behind him. Their lot was closely intertwined.

BILLY EVANS' hard-working dedication to the people of his district has won the respect of each and every one of us who now gathers to pay him tribute. In spite of his enviable achievements, BILLY has never lost the common touch. He is an easy man to be with, whose infectious humor and easy smile are always at the ready. I value his friendship and wish him Godspeed in the years ahead.

Mr. Speaker, at this point I wish to include for the RECORD, a résumé on the congressional service of this remarkable man, and I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks under this special order.

BILLY EVANS

1. *Economic policy.*—Congressman Evans supported the Reagan Administration's budget and tax proposals for Fiscal Year 1982. Passage of the Budget Reconciliation Act reduced government spending from an annual growth rate of 14 percent to 5.5 percent. The Congressman does not agree with the Fiscal Year 1983 Reagan budget proposal with projected budget deficits of $95 to $150 billion. He is committed to and will support responsible legislation to reduce government spending and the national debt.

2. *Judiciary.*—On October 20, 1981, Congressman Evans introduced legislation aimed at preventing the discharge under Chapter 7 bankruptcy of affordable debt, creating standards for repayment under Chapter 13 of the Bankruptcy Code and removing inefficiency in bankruptcy proceedings. The bill has 278 co-sponsors and two days of hearings have been held with additional hearings expected to be held in April or May.

Rep. Evans serves on the Judiciary Committee with two subcommittee assignments—(1) Monopolies and (2) Commerical Law and Administrative Law. This committee is responsible for such controversial issues as abortion, ERA, school prayer, busing, the revision of the U.S. criminal code, bankruptcy reform laws and antitrust matters.

Rep. Evans co-sponsored and supported the Regulatory Reform bill, restricting authority of federal agencies to issue regulations that have the force of law for businesses and institutions. The House Judiciary Committee favorably reported the bill out of committee on December 8, 1981.

3. *Public Works and Transportation.*—Congressman Evans is a member of the Public Works and Transportation Committee where he serves on two subcommittees—(1) Surface Transportation and (2) Water Resources. The Committee has jurisdiction over highway and air transportation, federal and congressional buildings and grounds, oil and other pollution of navigable waters, public works for benefit of navigation, including bridges and dams, water power, water transportation and roads and their safety.

4. *Small Business.*—Congressman Evans serves on the Small Business Committee where his active role to provide a strong, free enterprise system has won him the respect and gratitude of small businessmen everywhere. He has been awarded the "Guardian of Small Business" award for his outstanding support of legislation affecting small businesses and small businessmen.

Representative Evans co-sponsored and supported the Prompt Payment Act, which encourages the federal government to pay its bills to businesses in a timely manner by requiring the government to pay an interest penalty on overdue accounts. The measure is a positive step indicating to the small business community a determination to put the U.S. government on a businesslike basis. The bill was passed by the full House of Representatives on March 24, 1982.

5. *Narcotics.*—Representative Evans has distinguished himself as a leader in the fight against narcotics abuse since serving on the Select committee on Narcotics Abuse and Control. He has chaired vital hearings and investigations on such subjects as marijuana, the sale of drug paraphernalia, and the activities of law enforcement in Georgia.

Representative Evans introduced legislation allowing the military to share information, equipment (already paid for by taxpayers) and intelligence with law enforcement officials about drug trafficking. The bill was included in the Department of Defense Authorization Act signed into law December 1, 1981.

Representative Evans introduced legislation to repeal the prohibition against the use of certain herbicides (paraquat) to eradicate marijuana by countries receiving assistance under the Foreign Assistance Act of 1961 for international narcotics control. The bill was included in the International Security and Development Cooperation Act of 1981 (Public Law 97-113, signed into law 12/29/81).

6. *Agriculture.*—Representative Evans has consistently supported legislation and actively worked to preserve programs affecting the American farmer, which he considers the backbone of the U.S. and directly responsible for maintaining a balance of payments.

MAJOR ACCOMPLISHMENTS

1977—Introduced amendment to extend for one year the use of Mirex, an insecticide used to kill fire ants . . . as a result of his amendment, the EPA was forced to actively seek an alternative to the highly controversial use of Mirex. Within a few months we received word that Ferriamicide had been developed at the University of Mississippi and would be approved for limited applications.

Feb. 18, 1977—Evans co-sponsored H.R. 904, the Veterans Benefits Pass-Through bill. This measure would make certain that people receiving veteran's pension benefits and social security will not have their increases in social security offset by decreases in their veteran's benefits. Passed by House.

Feb. 25, 1977—Evans worked deligently on the Public Works Jobs Bill which passed the House. This bill, H.R. 11 directly affected the Eighth District because approximately $13 million worth of applications were submitted to implement local public works projects such as water and sewer systems, health, school police and fire protection facilities.

May 12, 1977—Evans co-sponsored the bill which called for compensating innocent victims of violent crime. We have provisions for the criminal but not for the victim.

May 23, 1977—Held hearings and co-sponsored bill to outlaw sexual abuse and exploitation of children. Passed House unanimously.

June 28, 1977—Evans signs letter to President calling to block the sale of a powerful computer to Soviet Union. Sale of "Cyber 76" was blocked.

Aug. 4, 1977—House and Senate Conferees agreed on amendment co-offered by Evans to Agriculture Act of 1977. The amendment authorized the Secretary of Agriculture to pay 80 percent of target price for disaster relief for a 50 percent or greater loss on the 1977 crop for total planted acres of corn and feed grain.

Nov. 29, 1977—Introduced legislation to provide for a fair return on a farmer's cost of production, 100 percent parity.

Feb. 24, 1978—Co-sponsored a bill, Social Security Refinancing Act, which would substantially ease the burden of Social Security taxes on middle-income taxpayers.

July 15, 1978—Evans sponsored a bill to require all non-resident aliens who hold, acquire or transfer interest in American farmlands to file reports with Sec. of Agriculture. (This was to find out exactly how much of Georgia farmland was being purchased by foreign interests.)

Sept. 14, 1978—Evans awarded "Guardian of Small Business" award by National Federation of Independent Businesses (NFIB) for voting in favor of small business 83 percent of the time during the 95th and 96th Congresses.

Oct. 6, 1978—Evans commended by Chairman of Public Works and Transportation Committee, Congressman Harold T. Johnson, for his work on "Surface Transportation Act of 1978". This was a four year authorization of federal grants for highways, etc.

Oct. 13, 1978—House passed bill co-sponsored by Evans to protect privacy of rape victims. It prevents cross-examination into their prior sexual conduct.

Dec. 7, 1978—Evans appointed by Speaker to represent U.S. at a high-level international meeting in Geneva, Switzerland on Indochinese refugees.

April 25, 1979—Evans introduced H.R. 3721, a bill which calls for a ten year mandatory minimum penalty for smuggling 100 or more pounds of marijuana. Current law for trafficking in marijuana carries a five year maximum penalty. Though this bill has not been approved, Evans fought for the Infant Formula Bill two weeks ago

which was approved overwhelmingly. This bill increased the penalty for trafficking in 1000 or more pounds to 15 years and/or $125,000. This penalty is subject to being doubled if the defendent has a previous felony drug conviction. Evans first bill stimu-lated the argument for increases.

Oct. 16, 1979—Evans introduced H.R. 5540, the Patient Package Inserts bill. This bill would require FDA to issue a priority group of dangerous drugs that needed to include inserts explaining the proper administration of the drug, storage and any significant side effects or adverse reactions to the drug.

Dec. 11, 1979—Evans held press conference with Peter Bensinger, Administrator of a division of the Justice Dept., the Drug Enforcement Agency (DEA). They jointly announced an increase in the number of Drug Enforcement Agents in Georgia as a direct result of Congressman Evans efforts.

Dec. 11, 1979—Evans chaired hearings on Drug Paraphernalia, hearings that have been termed the most significant of the Narcotics Committee. He heard testimony from "head shop owners", "High times Magazine", "High Life Magazine", etc. As a direct result of Evans efforts and emphasis on the paraphernalia industry, the Justice Department produced a "Model Anti-Paraphernalia Bill" which has been circulated across the country to every Governor and State Legislature to help in the fight against this blatant industry which capitalizes on the drug using adolescent.

Feb. 14, 1980—Evans awarded "Humanitarian of the Year Award" by Chinese-American Lions Club for "humanistic concern and deeds on behalf of the displaced people of Asia."

Feb. 29, 1980—Requested and chaired hearings in Georgia on Drug Trafficking, both in Macon and Brunswick. Heard testimony from GBI, DEA, sheriffs, local police and other law enforcement people, parents, teachers, etc.

April 23, 1980—Worked to get approval of new kidney dialysis facility in Eastman. This was approved and will serve about five counties in the Middle Georgia area.

April 25, 1980—Actively worked to obtain air service for Waycross.

May 28, 1980—House Small Business Committee approved a bill which Evans co-sponsored and chaired hearings on—the "Equal Access to Justice Act". H.R. 6429 would enable a person to recover attorney fees and other costs if he prevails in a civil action or agency proceeding brought by the federal government. Costs would come from the budget of the offending agency.

June 6, 1980—Voted to override Carter's veto on 10 cent per gallon tax.

June 12, 1980—Introduced a bill to encourage medium size businesses to begin exporting their goods and services to foreign markets. "Trade Simplification Act" would remove some of the unnecessary, governmentally created obstacles to exporting and would encourage trade activity therefore, improving our economic balance of trade.

Representative Evans was instrumental in obtaining federal funds from the Economic Development Adminstration, U.S. Department of Agriculture and Department of Housing and Urban development for construction of a fuel alcohol production plant in Douglas, Ga.

Representative Evans introduced legislation allowing the military to share information, equipment (already paid for by taxpayers) and intelligence with law enforcement officials about drug trafficking. The bill was included in the Department of Defense Authorization Act signed into law December 1, 1981.

Evans introduced legislation to repeal the prohibition against the use of certain herbicides (paraquat) to eradicate marijuana by countries receiving assistance under the Foreign Assistance Act of 1961 for international narcotics control. The bill was included in the International Security and Development Cooperation Act of 1981 (Public Law 97-113, signed into law 12/29/81).

Congressman Evans introduced on October 20, 1981, legislation aimed at preventing the discharge under Chapter 7 bankruptcy of affordable debt, creating standards for repayment under Chapter 13 of the Bankruptcy Code and removing inefficiency in bankruptcy proceedings. The bill has 202 cosponsors and hearings on the measure are expected to be held by the Judiciary Committee in early spring.

Representative Evans has consistently supported legislation and actively worked to preserve programs affecting the American farmer, which he considers the backbone of the U.S. and directly responsible for maintaining a balance of payments.

□ 1910

GENERAL LEAVE

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. GINN. Mr. Speaker, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from the First District of Georgia (Mr. GINN).

Mr. GINN. Mr. Speaker, it is an honor to join with the friends of my distinguished colleague, the Honorable BILLY LEE EVANS, for the special order on the occasion of his retirement from the Congress.

BILLY LEE and I have been both friends and congressional neighbors during his 6 years of distinguished service. We are neighbors because our districts are adjacent to each other, and we have worked together on many mutual problems.

In those experiences and in others, I have always known him to be a man of great determination and ability. He has been a fighter for the interests of his constitutents, and he has carried out his duties with determination.

In the area of agriculture, he has combined his knowledge of both urban and rural areas to help forge new alliances directed at helping our family farmers and small communities. He has been an articulate spokesman for the small farmer, and he has won many new friends for the farmer here in the Congress.

He has had the vision to see that the propriety of rural and urban areas are closely linked. He has had the ability to translate that relationship into policy decision in our Government.

In the area of combating drug abuse, BILLY LEE has been a dynamic leader in both recognizing the seriousness of the problem and in devising solutions to the problem. He has been one of the most active members of the Select Committee on Narcotics Abuse and Control.

In this arena, he has brought national attention to the fact that our State of Georgia has become a prime target for drug smugglers who would bring illegal narcotics into the United States.

The intense buildup of law enforcement programs in Florida has forced many smugglers farther up the coast to Georgia, and into my own congressional district.

BILLY LEE took note of this problem, and has conducted hearings on the issue in my district which illuminated the danger that is developing. As a result, we have a new beginning in bringing additional Federal narcotics officers into the area to fight the new threat.

These deeds and many more mark the distinguished official record of my colleague from the Eighth District.

In addition, BILLY LEE is a man who has refused to become overly impressed with the power of his office. He has resisted "Potomac Fever." He has never tried to cloak himself in pretension. He has taken his job seriously, but he has always kept his wit carefully sharpened to focus on the Congress whenever he saw we were becoming a little too big for our britches.

I am also leaving the Congress this year, and I sincerely hope that my new role outside this body will allow me to call on BILLY LEE often for his help and fellowship. I know that he will find many new challenges and attain many new accomplishments in the years ahead. I wish him and his lovely wife, Debbie, Godspeed in the future.

Mr. BRINKLEY. I thank the gentleman for his remarks and wish to note at this point that BILLY LEE EVANS was one of the chief architects in the change of the posse comitatus law which enables now greater cooperation with military authorities in cracking down on those who violate the drug and narcotics laws.

At this point I yield to the gentleman from Georgia (Mr. MCDONALD).

Mr. MCDONALD. I thank the gentleman from Georgia's Third Congressional District, the dean of the delegation, JACK BRINKLEY, for taking out this special order for honoring our colleague.

It is a pleasure to join in this tribute and salutation to our colleague from Georgia's Eight Congressional District, BILLY LEE EVANS.

He was elected to Congress in November 1976 and has served in the 95th, the 96th, and the 97th Congresses. BILLY LEE has served his district,

State, and Nation well. He has been a valued member of the Georgia delegation and has exhibited a detailed understanding of the agricultural problems of Georgia farmers and the Nation.

Congressman EVANS has been a hard worker. He has been a person with an open mind to all questions with a diligent style in his pursuit to the solution of the Nation's problems as he saw them.

One of Congressman EVANS' traits that caused him to be admired by this Member has been his resistance to the temptation of demogoguery. This virtue of demogoguery is perhaps pandemic in these environs and philosophically speaking a strong case could be made that one's strongest assets may lead to one's end. It may be that Congressman EVANS' lack of demogogic style has limited his tenure in this House.

To Congressman BILLY LEE EVANS, to Georgia's Eighth District and his lovely wife I join my colleagues in wishing him and his family Godspeed.

Mr. BRINKLEY. I thank the gentleman.

I now yield to another gentleman from Georgia (Mr. BARNARD).

Mr. BARNARD. Mr. Speaker, the House of Representatives is losing one of its most likable and effective Members in the retirement of my friend and colleague from Georgia, BILLY LEE EVANS.

BILLY LEE was elected to the U.S. House of Representatives after a distinguished career in the Georgia General Assembly, representing one of Georgia's finest communities, Bibb County.

In Washington, BILLY LEE's energies as a legislator continued with his usual vigor. As a member of the influential Judiciary Committee, he early on recognized how vast the illegal drug problem is, and how entrenched its tentacles have become. He spent much time in researching this problem, and in bringing it to the attention of the public.

As a member of the Judiciary Committee, he also spearheaded efforts to bring into balance the bankruptcy laws of our country. We now have pending a bill with more than 250 cosponsors, which is indicative of the support he has garnered for this legislation.

Our districts adjoin each other in the middle of the Georgia's farm belt, and we have worked together in agricultural development, insuring the marketplace for agricultural products, and ridding rural communities of insect infestations.

BILLY LEE has been forthright in representing his district, expressing strong political and economic convictions. But amid all his concerns, he has maintained his cheerful and optimistic demeanor, and his genuine concern for the welfare of his colleagues.

Mr. BRINKLEY. I thank the gentleman.

I now yield to the gentleman from North Carolina (Mr. WHITLEY) and thank him for his patience.

□ 1920

Mr. WHITLEY. I thank the gentleman for yielding.

As previous speakers have done, I want to associate myself with their remarks on behalf of our colleague, BILLY LEE EVANS.

The previous speaker and I, the gentleman from Georgia (Mr. BARNARD) and I were elected to Congress at the same time as BILLY LEE EVANS. Therefore, and for a number of reasons, we have been very close to him over the years of his service. I have had occasion as a member of the Committee on Agriculture, and the Subcommittee on Tobacco and Peanuts, to visit in his district and the adjoining district in Georgia. And his district and mine share a large number of common characteristics. I have a coastal area, as he does. We have the same kind of problems with an increasing amount of drug smuggling into our shallow ocean inlets. We have the same crops, the same type of soil. So he and I have shared a number of common experiences.

Through it all, as a member of the House Committee on Agriculture, the Subcommittee on Tobacco and Peanuts, I have found that BILLY LEE EVANS unfailingly and unflagingly was a supporter of agriculture, and that is agricultural commodities which are primary interests and concern in his district.

He has done a job that he can be proud of, that his family can be proud of, and that all the people in his district can be proud of, as I am sure they are. I want to commend him for it. This House is the better for his having served in it. It will be the poorer for his departure.

Like others who have spoken before me, I wish him Godspeed in his future undertakings and want to assure him we will miss him around here.

Mr. BRINKLEY. I thank the gentleman.

I want to say the gentleman from North Carolina is a real champion of agriculture. I know from personal experience how hard he has worked in the commodity fields of peanuts and tobacco and other matters like that. I thank him especially for his remarks today.

Mr. WHITLEY. If the gentleman will yield for one further comment, I would like to add the gentleman in the well, the gentleman from Georgia (Mr. BRINKLEY), as well as our colleague, the gentleman from Georgia (Mr. GINN) who spoke earlier, likewise are departing at the end of this session of Congress. Everything I said about Mr. EVANS applies equally to them.

I say to my colleague in the well that I have been associated with him in so many ways, fellow members of the Committee on Armed Services, fellow officers in the House Prayer Breakfast Group and many other activities we have shared together. Certainly things are going to be different around here with the three departing Members of the Georgia delegation.

And all of us, and I am sure that all of my colleagues, would join me in expressing the hope that you three departing gentlemen will visit frequently and we will have an opportunity to be with you often in the future.

Mr. BRINKLEY. The reports of the gentleman are the envy of the entire House of Representatives. Not only does he provide the program in a refined fashion for the balance of the Thursdays and Fridays, but the finest explanation of the following week's program that I have seen.

I compliment the gentleman for that.

Mr. WHITLEY. I thank the gentleman for his comments.

Mr. BRINKLEY. In conclusion, Mr. Speaker, earlier on the floor Mr. HUCKABY was here. He was called I think to the Christmas party. Congressmen MONTGOMERY, LEVITAS, and FOWLER also have given me their remarks to insert in the RECORD providing plaudits and accolades of this fine man.

BILLY, we have some tough competition in the Christmas party down at the White House. But in spite of it all, I think you will see from tomorrow's RECORD the esteem and high regard in which you are held.

You are an excellent lawyer and we will be looking at your star to continue to rise in the future. We wish you all the best.

Thank you very much for your service and for your example to all of us who serve in this body.

● Mr. LEVITAS. Mr. Speaker, I am pleased to join in this special order to pay tribute to the distinguished service of our friend and colleague, BILLY LEE EVANS.

BILLY LEE is a native Georgian, born on November 10, 1941, in Tifton. His hometown, Macon, is the heart of Georgia's Eighth Congressional District. BILLY LEE is a graduate of the University of Georgia, where he received his B.A. in 1963 and his L.L.B. in 1965. BILLY LEE always took pride in his representation of Georgia's heartland.

Before coming to Washington, I had the opportunity of serving with BILLY LEE during much of his 8-year tenure in the Georgia General Assembly. Since BILLY LEE was elected to the U.S. House of Representatives in 1976, I have again had the pleasure of serv-

ing with him in this distinguished body.

During his 6 years of service in the U.S. House of Representatives, BILLY LEE has done an admirable job of representing Georgia's Eighth District. BILLY LEE's representation of his district has been especially laudable as well as difficult since the Eighth is the largest district in land area east of the Mississippi River.

BILLY LEE and I served together on the Public Works and Transportation Committee, and he worked hard for Georgia and the Nation. I am aware of his responsible record on the Small Business and Judiciary Committees. He was not afraid to take on difficult issues.

In addition to these regular committee assignments, BILLY LEE has also distinguished himself as a member of the Select Committee on Narcotics Abuse and Control. This committee, of course, has been working to find solutions to our Nation's terrible drug abuse problem, and BILLY LEE has been at the forefront of these efforts. Literally thousands of people will be spared the ravages of drug abuse because of his work.

I am proud to have had the honor of working with BILLY LEE EVANS. He has truly served his district, his State, and his Nation well. I wish him well in his future endeavors.●

● Mr. FOWLER. Mr. Speaker, BILLY LEE EVANS and I have served together since our freshman days in the 95th Congress, and in those 6 years, Congressman EVANS has demonstrated his concern, not only for the people of the Eighth District, but also for all Georgians and all Americans.

As a member of both the Small Business Committee and the Judiciary Committee, he has worked diligently to protect the interests of our Nation's small businessmen and women. These efforts have become increasingly important as our Nation's economic situation—and the outlook for entrepreneurs—has worsened in recent years. Independent businessmen in Georgia and across the Nation owe a great deal of appreciation to Congressman EVANS for all his work on their behalf.

The dedication which he has shown to small business was matched by his excellent service on the Public Works and Transportation Committee. As a member of the Surface Transportation Subcommittee, Congressman EVANS has done a superb job of improving our Nation's roads and transportation networks which are so vital to the continued growth of our Nation's economy.

As the Representative from a district which is predominantly rural but also includes one of Georgia's major cities, Congressman EVANS has demonstrated a fine ability to represent diverse interests and compromise on issues without compromising his principles.

I look back upon my 6 years of service alongside BILLY LEE EVANS with great pride and pleasure, and I know you join me in saying that he will be missed.●

● Mr. MONTGOMERY. Mr. Speaker, I am honored to take part today in this special tribute to a good friend and an outstanding Congressman from the State of Georgia, BILLY LEE EVANS. He will not be among us in the next Congress and we will indeed miss his strong voice and leadership.

Since he came to Congress in 1977, BILLY EVANS has been a hard worker for his Eighth District of Georgia. In addition, he has done yeoman's work on a number of committees.

He has made a great contribution to the vital Judiciary Committee, as well as the Public Works and Transportation Committee. Also, he has been active on the Small Business Committee and he also found time in a busy schedule to serve on the Select Committee on Narcotics Abuse and Control.

As you can see, and as anyone knows who is familiar with BILLY EVANS, He has been a hard working and dedicated Members of this Chamber. He is a man of high integrity and I know he has gained the respect of Members on both sides of the aisle.

BILLY EVANS has been a great friend to me and I will miss his leadership and his counsel when the new Congress convenes in January.

He can truly be proud of his accomplishments in this Chamber. He has made a very positive contribution to the governmental process, as well as serving his State of Georgia with distinction.

BILLY has gained a great amount of legislative experience in his years in the Georgia Assembly and in this Chamber. I am sure he will combine this expertise with his leadership abilities and put them to work in a very positive manner in the years ahead.

He is a very capable man and an outstanding American. It has been an honor to serve with him in this Chamber.●

● Mr. SKELTON. Mr. Speaker, it is highly appropriate that we pause at this time in our deliberations to pay tribute to a friend and colleague who will be leaving us at the end of this session, BILLY LEE EVANS of Georgia.

In his 6 years in Congress, BILLY LEE EVANS has achieved a record that few have equaled in such a short time. His service has been characterized by integrity, devotion to duty, and an adherence to principle. He is a dedicated and conscientious legislator who has served the people of his district, the State of Georgia, and our Nation with honor and distinction. In his work on the House floor, and on two important committees—Judiciary and Public Works and Transportation—BILLY LEE has always put those interests first, and his own personal interests second.

Mr. Speaker, BILLY LEE EVANS has earned the respect of his colleagues here in the House for his effectiveness and skill as legislator. But this body will miss more than his talents. We will miss his warm and friendly manner, his support, and his friendship. I know I speak for all Members when I wish BILLY LEE EVANS well in all of his future endeavors. Let me also say, in closing, that our office doors will always be open to BILLY LEE, and I hope we will see him often in the days and months ahead.●

● Mr. RAHALL. Mr. Speaker, I would first of all like to thank my colleague from Georgia, Mr. BRINKLEY, for taking this time today so that we can thank a friend of all of our's for his services in this House—BILLY LEE EVANS.

I had the opportunity to come to Congress in the same class as BILLY LEE, and because of this, we developed a warm and special friendship. Also, as members of the Public Works and Transportation Committee, we worked on many important pieces of legislation together.

In his short tenure here, BILLY LEE EVANS has taken the lead on some very important issues. In 1980, he traveled to Southeast Asia and called for normal relations between the United States and Vietnam as the only way of preserving American influence in the region. He also looked into Asian issues as a member of the Select Committee on Narcotics Abuse and Control, to which he devoted a considerable amount of time. From that position, BILLY LEE pushed for a bill providing stiffer penalties for trafficking in marihuana.

BILLY LEE EVANS has made a lasting contribution to the Congress, and his time here will not be forgotten. I join my colleagues, in wishing him the very best, and hope that his interest in public service will remain strong and know that our friendship shall always remain.●

● Mr. RUSSO. Mr. Speaker, it is hard to take a full measure of the works of a Member and when we go to say "good-bye" we can at best sometimes simply say, "Congratulations on a job well done." That is what I say to BILLY LEE EVANS today, a man who brought with him to the Congress the experience of his days in Georgia government as well as the fine qualities one may ascribe to a southern gentleman.

BILLY LEE has been above all independent. He has worked hard. I am particularly appreciative of his support for the Select Committee on Sports. Who knows, maybe one of these days we can share the field again on this one.

BILLY, you will be missed here and I join with your other friends in wishing you success.●

● Mr. SAM B. HALL, JR. Mr. Speaker, BILLY LEE EVANS has done an outstanding job of representing the Eight Congressional District of Georgia, and I am going to miss him. Unfortunately, the great State of Georgia is losing one-third of its House delegation this year with the departure of BILLY LEE and my other friends, Bo GINN and JACK BRINKLEY.

I have served with BILLY LEE on the Judiciary Committee where more often than not we have found ourselves in agreement on the complex issues faced by the committee. He was a strong proponent of the intrabrand franchise legislation which sought to protect small business. In fact, his record throughout shows strong support for America's small business community. In addition, he has taken the lead to bring about much-needed changes in the Bankuptcy Reform Act—an act which unfortunately has resulted in far too many people declaring bankruptcy in order to avoid paying their bills.

BILLY LEE has been very effective as a member of the Select Committee on Narcotics and Control. He is recognized throughout the law enforcement community as a no-nonsense legislator who fights for stiffer penalties against the vermin who deal in dangerous drugs. Every parent in America owes him a debt of gratitude for his unceasing work to get the drug pushers off the street and away from our children.

On the Public Works and Transportation Committee, BILLY LEE EVANS has been a friend of those of us in the Southwest and West who are dependent on adequate sources of water for agricultural, industrial, and municipal uses. As a committee member, he warned of the inherent fallacies in the Airline Deregulation Act, and what he had to say has been borne out by an economic crisis in this vital industry, much of which has been caused by the deregulation legislation.

BILLY LEE EVANS is an energetic, perceptive, and outgoing personality. He is well liked and regardless of his future plans, I know that he will succeed. He has certainly been a friend of mine, and I look forward to our contined association in the years ahead.●

● Mr. FUQUA. Mr. Speaker, one of our valued colleagues, the Honorable BILLY LEE EVANS, will be retiring from Congress at the end of the 97th Congress and I would like to take the opportunity to join other Members of the House in wishing him the greatest success in his future endeavors.

During the 6 years that BILLY LEE EVANS has served among us, he has distinguished himself as a thoughtful and effective legislator whose careful representation of his constituents was equaled only by his concern for the general welfare of the Nation.

Serving a rural southern district much like my own, BILLY LEE EVANS proved to share many of the concerns which dominate my service; particularly the desparate straits of the American farmer in this day of soaring farm costs and dwindling farm profits.

Along with others serving in this House, I will miss BILLY LEE EVANS' strong voice and wise counsel.●

● Mr. MAZZOLI. Mr. Speaker, I would like to add my tribute to an old friend and colleague, BILLY EVANS, of the Eighth District of Georgia. I have served with BILLY many years on the Judiciary Committee. We have always had a friendly rivalry going whenever my Fighting Irish of Notre Dame played against his Bulldogs of Georgia. BILLY has been a hard-working Representative for his constituents, I have enjoyed working with him, and I wish him well as he leaves the House.●

● Mr. SENSENBRENNER. Mr. Speaker, as the close of the 97th session of Congress draws near, I am glad to have the opportunity to join with my fellow colleagues in extending my thanks and appreciation to Congressman BILLY LEE EVANS for his service and dedication in the House of Representatives.

Having the privilege to work with Mr. EVANS on the House Judiciary Committee, I have had the opportunity to see his dedication and persistent drive in addressing the issues. Recognized as a leading congressional expert on bankruptcy law, I have worked with him in trying to reform current bankruptcy legislation. As a member of the House Subcommittee on Monopolies and Commercial Law, he has sponsored H.R. 4786, the Bankruptcy Improvements Act of 1981, a piece of legislation that is supported by myself and over half the Members of the House of Representatives. In addition to his duties on the Judiciary Committee, he has devoted much of his time and energies to his post on the Select Committee on Narcotics Abuse and Control, as chairman of the Drug Prevention Task Force. Although the funding for this grave problem are low, his efforts have paid off as great strides have been made in stopping this epidemic that is crippling our society.

At this time, I would like to join with my fellow colleagues in honoring the distinguished service and dedication of Congressman BILLY LEE EVANS to the Eighth Congressional District of Georgia and to the United States of America.●

● Mr. HEFNER. Mr. Speaker, I rise today to join in paying tribute to one of our departing Members, BILLY LEE EVANS of Georgia.

When BILLY LEE came to Washington in 1976, he brought with him a sense of dedication and hard work which he maintains today. He has served tirelessly on many of our committees and has worked hard for his district and his State in the area of public works, judiciary matters, and has become a recognized spokesman against the growing drug-related crime problems we face in this country.

Throughout it all, BILLY LEE has maintained his sense of humor, a rare and valuable commodity in the Halls of Congress. He has pursued his goals without rancor or ill-temper, gracious in victory and willing to come back and fight another day when defeated. He has been a good friend to many of us, and we will miss him.

I join with my colleagues in wishing BILLY LEE well in the future. Whatever career goals he now sets for himself, I know he will do well. I hope he will not be a stranger, but that although we may no longer enjoy his active participation in our debates, he will still share with us his advice and friendship. Good men like BILLY LEE EVANS are hard to find, and I am pleased that I had the privilege of serving with him during his tenure in Congress.●

BANKRUPTCY LEGISLATION: THE NEED FOR A CONSTITUTIONAL BANKRUPTCY COURT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 30 minutes.

● Mr. RODINO. Mr. Speaker, the Supreme Court has set a deadline of December 24, 1982, for the Congress to act to create a constitutional Bankruptcy Court. In the absence of congressional action or a further extension of the stay of the Supreme Court's Northern Pipeline decision, the bankruptcy courts will lose all judicial power after December 24. The Judicial Conference, in an attempt to bridge the gap in the event of nonaction, has proposed an interim rule. The problem is that the rule proposed is itself both invalid and unworkable and has all of the constitutional infirmities of the present court system. In addition, what a majority of the Supreme Court left to Congress to do cannot be done by a dissenting opinion, the Administrative Office of the U.S. Courts, the Judicial Conference, or a district court rule.

The report of the National Bankruptcy Conference, which follows, points out that the Judicial Conference's suggested interim rule would be unworkable and subject to legal challenge:

STATEMENT OF NATIONAL BANKRUPTCY CONFERENCE IN OPPOSITION TO PROPOSED JUDICIAL CONFERENCE RULE

On September 28, 1982, the Judicial Conference of the United States submitted to each federal circuit a rule proposed for adoption by the federal district courts,

prompted by the decision of the Supreme Court in *Northern Pipeline Construction Co.* v. *Marathon Pipe Line Co.*, 102 Sup.Ct. 2858 (1982), that, effective October 4, 1982 [later extended to December 24, 1982 (103 Sup.Ct. 199 (1982))], the bankruptcy courts would lose all jurisdiction in bankruptcy cases. The rule was proposed for adoption "in the absence of Congressional action or extension of the stay" to "permit the bankruptcy system to continue without disruption in reliance upon jurisdictional grants remaining in the law as limited by" *Marathon*. Since this proposed rule is regarded in some quarters as a complete, or at least a workable, solution to the chaos that would otherwise result if Congress fails to act before the bankruptcy courts lose all jurisdiction, the National Bankruptcy Conference considers it imperative that it record its views that the proposed rule (1) is invalid, or of such dubious validity that the additional litigation it will provoke will bring about the same chaos it is supposed to avoid, and (2) in any event is wholly unworkable.

THE PROBLEM

Under the old Bankruptcy Act, "courts of bankruptcy," consisting of the federal district courts and the referees appointed by them for six-year terms with salaries subject to diminution (by Bankruptcy Rule 901(7), effective in 1973, the referees were redesignated "bankruptcy judges"), were given "original jurisdiction" over the bankruptcy case proper, including such matters as rulings on petitions, allowance of claims, rulings on discharge, and confirmation of plans. (Bankruptcy Act, §§ 1(1) and (26), 2a, 34, 38, and 40.) Their jurisdiction in this area was exclusive. 1 Collier, *Bankruptcy*, ¶2.06 (14th ed., 1968). This was recognized by § 23, par. 19, and § 256, par. 6, of the Judicial Code of 1911 (36 Stat. 1087), later codified in a single section but unchanged as to substance in the Judicial Code of 1948 as 28 U.S.C. § 1334: "The district courts shall have original jurisdiction, exclusive of the courts of the States, of all matters and proceedings in bankruptcy."

Under § 23 of the old Bankruptcy Act, the courts of bankruptcy also had jurisdiction over "controversies" arising in the bankruptcy case about property in the custody of the court (defined as property that was, on the filing of the petition, in the custody or control of the debtor, or of one not holding under an adverse claim of right, or of one holding under an adverse claim that was "merely colorable"). In addition, their jurisdiction extended to other "controversies" with the consent of the defendant. This jurisdiction was not exclusive, but concurrent with that of any other court which would have had jurisdiction of the controversy in the absence of bankruptcy. Collier, supra. In addition, special provisions in old §§ 60b, 67e, and 70e(3) provided that, quite apart from custody of property or the consent of the defendant, the courts of bankruptcy and "any State court which would have had jurisdiction if bankruptcy had not intervened" should have concurrent jurisdiction of controversies under those sections.

This bifurcated jurisdiction in the second class of matters, i.e., over "controversies," turning largely on questions of the "colorability" of adverse claims or the "consent" of the defendant, tended to produce more litigation about jurisdiction than about the merits of the controversies and meant, if the trustee or debtor in possession lost the jurisdictional dispute, that he must go and litigate the merits in courts that might be quite distant from the court entertaining the bankruptcy case, at great loss of time and expense. Frequently, it seemed the better part of wisdom either to bring the action in such other court originally, or to abandon it.

This feature of the old Bankruptcy Act was widely recognized as one of its most serious defects, and the Commission on Bankruptcy Laws of the United States (which included representatives of the Judicial Conference), the American Bankers' Association, the National Commercial Finance Conference, the National Bankruptcy Conference, the Commercial Law League of America, the Department of Justice, and the Judicial Conference, all recommended a unified bankruptcy court jurisdiction.

Perhaps the greatest advance in the expeditious and economical administration of bankruptcy cases was new 28 U.S.C. § 1471 which, in its first three lettered subsections:

(a) Gave the federal district courts "original and exclusive jurisdiction over all cases under title 11."

(b) Gave the district courts "original but not exclusive jurisdiction of all civil proceedings arising under title 11 or arising in or related to cases under title 11"—without regard to custody of property or consent of the defendant.

(c) Provided that the newly constituted bankruptcy courts "shall exercise all of the jurisdiction conferred by this section on the district courts."

As the new Bankruptcy Code originally passed the House, the newly-constituted bankruptcy courts were to be staffed by Article III judges. Due largely to the efforts of the Judicial Conference, that proposal was defeated in the Senate. Under new 28 U.S.C. §§ 151-154 as enacted, the new "bankruptcy courts" are created as "adjuncts" to the district courts, to be staffed by bankruptcy judges, to be appointed after April 1, 1984, who are to be Article I judges appointed for 14-year terms, and whose salary is subject to diminution. Until these judges are appointed, § 404(a) of Public Law 95-598 provides that "courts of bankruptcy," as defined in § 1(10) of the old Act and created by § 2a of the old Act, shall continue to function. And § 405 (a) and (b) of P.L. 95-598 provide that they shall exercise the jurisdiction conferred by § 241 of P.L. 95-598, which enacts new 28 U.S.C. § 1471.

The *Marathon* decision of last June, which invalidated the jurisdictional grant of § 1471, was a case involving a breach of contract action, governed entirely by state law, brought by a Chapter 11 debtor in possession against a third party in the bankruptcy court pursuant to 28 U.S.C. § 1471 (b) and (c). A majority of the Supreme Court, made up of a plurality of four Justices and a concurrence of two more, held the jurisdictional grant to bankruptcy courts under 28 U.S.C. § 1471 to be in part unconstitutional, because the bankruptcy judges were not Article III judges, and further held that the balance of the jurisdictional grant to these courts was nonseverable and invalid for that reason, but stayed its judgment until October 4, 1982. On October 4, it further stayed its judgment to and including December 24, 1982.

Just how much of the jurisdictional grant of 28 U.S.C. § 1471 is unconstitutional is unclear. Arguably, § 1471(a), giving the federal district courts original and exclusive jurisdiction of the bankruptcy case proper, and so much of § 1471(c) as directs the bankruptcy courts to exercise that original and exclusive jurisdiction, was not involved in the constitutional ruling. And the two concurring justices, one of whose votes was necessary for a majority, would have confined the constitutional ruling to the case before it, which implicated only so much of § 1471(b) as gave the district courts original but not exclusive jurisdiction of the debtor in possession's action to enforce the state law cause of action as one "related to" the Chapter 11 case, and so much of § 1471(c) as directed the Chapter 11 courts to exercise that jurisdiction (192 Sup. Ct. at 2882). But the plurality opinion, while stating that "at the least, the new bankruptcy judges cannot constitutionally be vested with jurisdiction to decide this state-law contract claim" (102 Sup.Ct. at 2880, fn. 40), goes on to indicate that the constitutional objection extends to efforts to authorize Article I courts to decide disputes over "private rights" (102 Sup. Ct. at 2870-2871) or "rights created by state law" (102 Sup. Ct. at 2878) (which raises some doubt about even the constitutional authority of the bankruptcy courts to allow claims based on state law, as most claims are, under § 1471 (a) and (c)). The plurality also indicates that constitutional objections may not extend to efforts to authorize Article I courts to enforce "Congressionally created rights" or "public rights" (102 Sup. Ct. at 2869-2870), at least where the final determination is left to an Article III reviewing judge (102 Sup.Ct. at 2875-2879) (which raises some doubt about the constitutional validity of § 1471 (b) and (c) insofar as they would authorize bankruptcy courts to resolve disputes which do involve an interpretation of substantive provisions of the Bankruptcy Code such as the avoidance of preferences under § 547 or the denial of discharges under § 727, even though the plurality also suggests (102 Sup.Ct. at 2871) that "the restructuring of debtor-creditor relations, which is at the core of the federal bankruptcy power," may involve "public" rather than "private" rights).

In any event, since six justices are agreed (102 Sup.Ct. at 2880, fn. 40, and 2882) that what is not unconstitutional in § 1471's grant of jurisdiction to bankruptcy courts is nonseverable and invalid for that reason, it is clear that the bankruptcy courts will lose all jurisdiction after December 24, 1982, unless Congress acts or the Court again extends the stay of its judgment. The proposed Judicial Conference rule is supposed to bridge the gap in the event that neither the Court nor the Congress acts by that time. For the reasons indicated below, the National Bankruptcy Conference is of the view that the proposed rule is both invalid and unworkable.

INVALIDITY

1. *The assumption that the bankruptcy jurisdiction which the bankruptcy courts lose will vest in the district courts.* This assumption underlies the entire proposed rule and a September 27, 1982, memorandum of the Administrative Office of the United States Courts that accompanies the submission of the proposed rule states:

"*Marathon* does not cause a jurisdictional lapse. The Administrative Office concludes that *Marathon* did not invalidate 11 [sic] U.S.C. sections 1471 (a), (b). In addition, sections 404 and 405 of the 1978 Act also vest bankruptcy powers in the district courts as 'courts of bankruptcy' until 1984."

A. 28 U.S.C. § 1471

Presumably, the Administrative Office memo is intended to say that *Marathon* invalidated only § 1471(c), directing the bank-

ruptcy courts to exercise all of the jurisdiction conferred by § 1471 (a) and (b). But § 1471(c) is merely another way of saying two things: (1) the bankruptcy courts shall exercise all of the jurisdiction and (2) the district courts shall exercise none of it. A decision that the jurisdictional grant to the bankruptcy courts is invalid is not a decision that the prohibition of the exercise of any of that jurisdiction by the district courts is likewise invalid. Indeed, footnote 40 of the plurality opinion (102 Sup.Ct. at 2880), with which the concurring opinion agreed (102 Sup.Ct. at 2882), in explaining its nonseverability ruling expressly declined to go that far:

". . . Nor can we assume, as The Chief Justice suggests [dissenting opinion, 102 Sup.Ct. at 2882], that Congress' choice would be to have this case 'routed to the United States district court of which the bankruptcy court is an adjunct.' We think that it is for Congress to determine the proper manner of restructuring the Bankruptcy Act of 1978 to conform to the requirements of Art. III, in the way that will best effectuate the legislative purpose."

What a majority of the Supreme Court left to Congress to do cannot be done by a dissenting opinion, the Administrative Office, the Judicial Conference, or a district court rule.

B. Sections 404 and 405 of P.L. 95-598

The alternative assertion in the Administrative Office memorandum, that §§ 404 and 405 of P.L. 95-598 "vest bankruptcy powers in the district courts as 'courts of bankruptcy' until 1984" perpetuates a view expressed in a July 22, 1982, memorandum of the Administrative Office's General Counsel which is printed in House Report No. 97-807 at p. 30. As has been amply demonstrated (see House Report No. 97-807 at pp. 32-49), that memorandum misconstrues §§ 404 and 405 of P.L. 95-598 as "incorporating and preserving" the jurisdiction conferred on the old courts of bankruptcy by § 2a of the old Act. But all these sections really do is to direct that the courts of bankruptcy as defined in old § 1(1) and created by old § 2a shall exercise the new jurisdiction (now known to be invalid) defined in 28 U.S.C. § 1471 as enacted by § 241 of P.L. 95-598. That memorandum also ignores § 401(a) of P.L. 95-598, which repeals the old Act in its entirety, including the jurisdictional grant in old § 2a, effective October 1, 1979.

The National Bankruptcy Conference believes that the memorandum's reading of P.L. 95-598, which would revert to the bifurcated jurisdictional grants of the now-repealed old Bankruptcy Act, is clearly wrong, and thus provides no support for the Judicial Conference's rule. But, even if it were correct on this point, it would invoke jurisdictional grants which, as footnote 31, to the plurality opinion in *Marathon* reminds us (102 Sup. Ct. at 2876), have never been "explicitly endorsed" by the Supreme Court but which seem in considerable jeopardy also in view of the *Marathon* ruling.

C. 28 U.S.C. § 1334

The Judicial Conference apparently does not invoke, although others have invoked, as a basis for finding bankruptcy jurisdiction in the district courts, old 28 U.S.C. § 1334, giving the district courts original jurisdiction, exclusive of the courts of the States, of "all matters and proceedings in bankruptcy." While that section is to be replaced by a new 28 U.S.C. § 1334 dealing solely with the appellate jurisdiction of district courts over bankruptcy courts, the replacement under § 402(b) of P.L. 95-598 is not to take effect until April 1, 1984. The failure to repeal old § 1334 sooner is quite probably an inadvertence since it adds nothing to new § 1471(a). In any event, if old § 1334 is given continuing effect, it arguably gives the district courts only a limited original and exclusive jurisdiction over the bankruptcy case proper and not the pervasive, concurrent jurisdiction that the Judicial Conference's proposed rule assumes the district courts have over controversies arising under or related to cases under title 11.

D. 28 U.S.C. § 1331

Some have also argued, although the Judicial Conference apparently does not so assume, that district courts have bankruptcy jurisdiction as part of their federal question jurisdiction, which is defined today in 28 U.S.C. § 1331 to include all civil actions "arising under the . . . laws . . . of the United States." It has been defined in the same way since 1875 (18 Stat. 470), save that there was originaly a requirement that the amount in controversy exceed $500, a requirement that was increased over the years until in reached $10,000 in 1958 (72 Stat. 415) but was eliminated entirely in 1980 (94 Stat. 2369). Passing the points that the federal question jurisdiction has never been viewed as including bankruptcy jurisdiction, that it would have been inadequate to do so at any time until elimination of the amount in controversy requirement in 1980, and that, since 1841, every time Congress has enacted a bankruptcy law it has not relied on the federal question jurisdiction but has enacted a separate provision conferring the bankruptcy jurisdiction on the bankruptcy courts (5 Stat. 446; 14 Stat. 517; 30 Stat. 545, 552; 92 Stat. 2668), it is obvious that the federal question jurisdiction is not adequate to enable the district courts to deal with bankruptcy cases. The proposed Judicial Conference rule assumes that all matters "related to cases under title 11," although they involve no federal question whatsoever, are now within the jurisdiction of the district court. *Williams* v. *Austrian*, 311 U.S. 642 (1947), holds that the jurisdictional grant in § 2a of the former Bankruptcy Act to district courts to cause the estates of bankrupts to be collected gave them pendent jurisdiction, regardless of diversity of citizenship of the presence of a federal question, to entertain a Chapter X trustee's action against officers and directors of a corporate debtor for misappropriation of corporate assets. But the federal question jurisdiction carries pendent jurisdiction over nonfederal claims only if there is a federal claim with "substance sufficient to confer subject matter jurisdiction on the court." *United Mine Workers* v. *Gibbs*, 383 U.S. 715, 725 (1966). There can be no pendent jurisdiction where there is no federal claim whatsoever.

In short, before a federal court other than the Supreme Court can exercise any jurisdiction (1) Congress must have conferred that jurisdiction (2) on a court qualified under the Constitution to exercise it. The Supreme Court having decided in *Marathon* that the Article I bankruptcy courts are not qualified under the Constitution to exercise the jurisdiction Congress attempted to confer upon them by 28 U.S.C. § 1471, the effort of the Judicial Conference, and of others whose arguments we have addressed here, is to demonstrate that Congress also conferred that same jurisdiction on the Article III district courts. But all of these efforts involve tortured and unacceptable interpretations of other federal statutes which were enacted before the problem created by *Marathon* arose, and which were in no way designed to deal with that problem. Hence it was that a majority of the Supreme Court concluded that it would take further action by Congress after the *Marathon* decision "to determine the proper manner of restructuring the Bankruptcy Act of 1978 to conform to the requirements of Art. III, in the way that will best effectuate the legislative purpose" (102 Sup. Ct. at 2880, fn. 40).

Even if this were not so evidently the case, and one or more of the various theories for finding bankruptcy jurisdiction in the district courts without further Congressional action were eventually to prevail, a failure of Congress to act or of the Court again to extend its stay by December 24, 1982, will still produce complete chaos in the administration of bankruptcy cases. Each of the various theories supporting district court jurisdiction is so tenuous that it is certain to be contested in the courts and another two years of litigation over jurisdiction will be necessary before the Supreme Court can resolve the matter.

2. *The assumption that the federal district courts have authority to promulgate the proposed Judical Conference rule.*

The proposed rule itself invokes, as authority for its adoption by district courts, Bankruptcy Code § 105, §§ 404 and 405 of P.L. 95-598, FRCP Rules 53 and 83, and Bankruptcy Rules 513 and 927.

A. Bankruptcy Code § 105(a)

Bankruptcy Code § 105(a) provides that: "The *bankruptcy court* may issue any order, process, or judgment that is necessary or proper to carry out the provisions of this title" (*emphasis added*). As a matter of statutory construction, this provision does not reach the interim "courts of bankruptcy" created by § 404(a) of P.L. 95-598 to serve until new 28 U.S.C. § 151 tales effect on April 1, 1984, to create the new "bankruptcy courts," since § 405(b) of P.L. 95-598, while it gives the interim courts some of the new jurisdiction, does not give them that conferred by § 105. As a matter of statutory construction, also, a grant of jurisdiction under § 105(a) to "issue any order, process or judgment" is not a grant of jurisdiction to promulgate rules.

Section 105(a) is a near copy of now repealed § 2a(15) of the old Bankruptcy Act, which was also confined to orders, process, and judgments, and was never thought to authorize the promulgation of rules. (But the Administrative Office, which regards old § 2a(15) as "incorporated and preserved" by § 404(a) of P.L. 95-598, should be invoking old § 2a(15), which was at least addressed to "courts of bankruptcy," rather than new § 105(a), which applies to "bankruptcy courts.")

B. Sections 404 and 405 of P.L. 95-598

The proposed rule's invocation of §§ 404 and 405 of P.L. 95-598 as a source of district court rule-making authority is apparently again based on a misreading of those sections to vest bankruptcy jurisdiction in the district courts. See p. 8, supra.

C. FRCP 53 and 83

FRCP 53, governing the appointment of standing and special masters by district courts, can hardly be stretched to authorize the district courts to promulgate the Judicial Conference's proposed rule, which would refer to the bankruptcy judges some or all cases within the jurisdiction defined by 28 U.S.C. § 1471 (a) and (b) and which, (like 28 U.S.C. § 1471(c), would authorize

them to exercise jurisdiction in all such cases (with a single limitation not already imposed by new 28 U.S.C. § 1481 and § 405(a) of P.L. 95-598 forbidding the bankruptcy judges to conduct jury trials).

Subdivision (b) of FRCP 53 provides: "A reference to a master shall be the exception and not the rule . . . . [I]n actions to be tried without a jury, save in matters of account and of difficult computation of damages, a reference shall be made only upon a showing that some exceptional condition requires it."

This provision obviously contemplates that references, even to a standing master, shall be reserved for exceptional cases and shall be done only on an individualized, case-by-case basis. Its requirements are not satisfied by a recital in the proposed rule that "exceptional circumstances exist" calling for a blanket reference to the bankruptcy judges of all cases under title 11 as well as all or most civil proceedings arising in or related to cases under title 11. As the Supreme Court said, in interpreting Rule 53(b) in *LaBrey* v. *Howes Leather Co.*, 352 U.S. 249, 256, 259 (1957), and disapproving of a reference to a master of all issues of liability and damages in two antitrust cases of "unusual complexity of issues of both fact and law" by a district court whose calendar was badly congested and who had referred eleven cases to masters in the past six years: "The use of masters is 'to aid judges in the performance of specific judicial duties, as they may arise in the progress of a cause,' *Ex parte Peterson*, 253 U.S. 300, 312 (1920), and not to displace the court." From this decision others have concluded that, "with a few minor exceptions, references in nonjury cases run counter to the spirit and purpose of judicial administration in the federal courts," Kaufman, *Masters in the Federal Courts: Rule 53*, 58 Column.L.Rev. 452, 459 (1958), and that, beyond the use of masters on matters of account and damages and to supervise discovery, "it is difficult to conceive of a reference of a nonjury case that will meet the rigid standards of the La Buy decision." 9 C. Wright and A. Miller, *Federal Practice and Procedure* 791 (1971).

The rule proposed by the Judicial Conference for adoption by the district courts is so at war with the letter and the spirit of FRCP 53 that FRCP 83, authorizing each district court to make rules "governing its practice not inconsistent with these rules," merely serves, not as authority for the proposed rule, but to accentuate its invalidity.

D. Bankruptcy rules 513 and 927

This leaves, as possible sources of rulemaking authority, only Bankruptcy Rules 513 and 927. Rule 513 provides only that, if a reference is made by a judge in a bankruptcy case (and the Advisory Committee's Note indicates that only a district judge is contemplated) to a special master, the Federal Rules of Civil Procedure shall apply. As indicated by the Advisory Committee's Note, only FRCP 52(a) and 53 refer to masters. Rule 52(a) provides only that: "The findings of a master, to the extent that the courts adopts them, shall be considered as the findings of the court." And FRCP 53, as we have seen (pp. 13-14) contains no authority for the adoption of the Judicial Conference's proposed rule. Moreover, § 405(d) of P.L. 95-598 provides that the existing Bankruptcy Rules are to apply only "to the extent not inconsistent with the amendments made by" P.L. 95-598 so that, if new 28 U.S.C. § 1471(c) forbids the district courts to exercise bankruptcy jurisdiction as we have argued (p. 7) Rule 513 is no longer applicable.

That leaves only Bankruptcy Rule 927, authorizing district courts to "make and amend rules governing practice and procedure under the Act not inconsistent with these rules." Fortunately, it is not necessary to determine the full extent to which the existing Bankruptcy Rules are consistent with P.L. 95-598 and then to test the proposed Judicial Conference rule for consistency with the surviving Bankruptcy Rules. The proposed rule is inconsistent with FRCP 53 as incorporated by Rule 513 if the latter rule is not inconsistent with P.L. 95-598. If Rule 513 is inconsistent with new 28 U.S.C. § 1471(c) because § 1471(c) continues to forbid district courts to exercise bankruptcy jurisdiction, then so in Rule 927 for the same reason.

In sum, the theories invoked to find jurisdiction in the district courts to promulgate the proposed rule are as tenuous as the theories invoked to find other bankruptcy jurisdiction in those courts. And they are at least as provocative of litigation that will magnify the chaos in bankruptcy administration that will ensue if neither the Congress nor the Supreme Court acts by December 24, 1982.

UNWORKABILITY

Passing all questions as to the validity of the proposed rule and the litigation questioning its validity that it will provoke, the rule is on its own terms unworkable and provocative of additional litigation.

(1) Subsection (b)(1) refers to the bankruptcy judges "all cases under Title 11 and all civil proceedings arising in or related to cases under Title 11." The Administrative Office memorandum of September 27 accompanying the proposed rule states (p. 2) that "all bankruptcy matters are intially referred to a bankruptcy judge" by this subsection. But the subsection, while it tracks the language of new 28 U.S.C. § 1471(a) in referring to "all cases under Title 11," omits the language of § 1471(b) covering "all civil proceedings arising unde title 11." The omission invites litigation as to whether such matters as actions to recover preferences under § 547 or fraudulent conveyances as defined in § 548 and objections to discharge under § 727(a) are intended not to be referrred to bankruptcy judges.

(2) This confusion is compounded by the provision in subsection (c)(3) that the judgments of bankruptcy judges "in civil proceedings related to cases under Title 11 but not arising in or under Title 11," that would be appealable if rendered by a district judge and that do not result from stipulation, shall not be affective and shall not be entered until signed by a district judge, with the bankruptcy judge to submnit findings, conclusions, and a proposed judgment to the district judge.

Does this provision contemplate that civil proceedings "arising under title 11" are not referred to bankruptcy judges, as subsection (b)(1) seems to imply? If so, what are the orders and judgments of bankruptcy judges under subsection (c)(2) (referred to in the Administrative Office memorandum (p. 3) as "not involving a final judgment in a Marathon claim") that are effective upon entry unless stayed by the bankruptcy judge or the district court?

Or does subsection (c)(3) contemplate that such matters are referred to the bankruptcy judges despite the omission in subsection (b)(1) and that their orders and judgments in such matters are under subsection (c)(2) effective on entry unless stayed?

In any event, what are the judgments "not arising under Title 11" which require the signature of a district judge? For example:

(a) Under § 502(b)(1) claims are not allowable if unenforceable against the debtor or his property under applicable law outside of title 11, usually state law. Does every ruling on an objection to a claim under § 502(b)(1) require the signature of a district judge?

(b) Under § 522(b), a debtor may elect the exemptions provided by the law of the state of his domicile, or the law of that state may confine him to such state law exemptions. Does every judgment on an objection to a state law exemption require the signature of a district judge?

(c) Under § 541(a)(1), property of the estate includes "all legal or equitable interests of the debtor in property as of the commencement of the case." Nothing in title 11 provides a rule for determining when or to what extent a debtor has a legal or equitable interest in property. That will be determined under nonbankruptcy law, usually state law. Do all judgments on such determinations require the signature of the district judge?

(d) Section 544(a) gives the trustee the hypothetical status of a judgment lien creditor and a bona fide purchaser of real estate. But this will enable him to avoid unperfected prepetition transfers by the debtor only if he can locate some law, usually state law, outside of title 11, rendering such unperfected transfers voidable by judgment lien creditors or bona fide purchasers of realty. Does every judgment in a trustee's action under § 544(a) require the signature of a district judge?

(e) Under § 544(b), the trustee may avoid prepetition transfers of property that any creditor with an allowable unsecured claim could have avoided under applicable law, usually state law, outside of title 11. Does every judgment in a trustee's action under § 544(b) require the signature of a district judge?

(3) Subsection (c)(3) also requires the signature of the district judge on every judgment "wherever otherwise constitutionally required." While this provision adds nothing to what the Constitution would otherwise require, it provides no guidance to judges or practitioners operating under the proposed rule as to what is constitutionally required.

(4) Although subsection (c)(4) requires objections to be filed to orders, judgments, or proposed judgments of bankruptcy judges within 10 days after entry unless the time is shortened for cause by the bankruptcy judge or the district court, such objections are not necessary under subsection (c)(5) in order to insure district court review in any type of case:

(a) For whatever is covered by subsection (c)(2), although no objection is filed to the bankruptcy judge's order or judgment, and although the matter was not controverted before the bankruptcy judge, the district court is required by subsection (c)(5)(A)(ii) to review it if the bankruptcy judge "certifies that the circumstances require" such review. Thus are the bankruptcy courts empowered, under no discernible standard, to refer cases for review to the district courts, who apparently must review and decide them although no party has objected or is interested in appearing to defend or challenge the bankruptcy court's ruling!

(b) For cases "not arising in or under Title 11, or wherever otherwise constitutionally required," within the meaning of subsection

(c)(3), the district court is required by subsection (c)(5)(A)(iii) to review the bankruptcy judge's proposed judgment before signing it, again although no party has objected or is interested in appearing to defend or challenge the bankruptcy judge's proposed judgment, although the parties can avoid this review if the bankruptcy judge has entered a judgment in what would otherwise be a subsection (c)(3) case that "result[s] from a stipulation among the parties."

(5) In conducting either of the above sorts of review, or in reviewing a subsection (c)(2) case on objection of a party, although one of the "exceptional circumstances" supposed to justify the proposed rule is "the specialized expertise necessary to the determination of bankruptcy matters," the district court under subsection (c)(5)(B) may take additional evidence and "need give no deference to the findings of the bankruptcy judge." (Although the Administrative Office memorandum states (p. 3) that, if the bankruptcy judge has certified under subsection (c)(5)(A)(ii) that circumstances require review, the order or judgment of the bankruptcy judge is to be "confirmed.") Thus far we have come from FRCP 53, authorizing the district courts in exceptional circumstances to invoke the expertise of masters whose findings of fact in nonjury cases are to be accepted by the court "unless clearly erroneous." Although the expertise is invoked in the proposed rule, it need be given "no deference."

(6) Finally, whenever under subsection (c)(6) the bankruptcy judge certifies, in any case subject to review by a district court, that "the circumstances require immediate review," the district court is to accomplish that review "as soon as possible."

Thus the proposed rule, because of its ambiguities in the employment and omission of categories employed in 28 U.S.C. § 1471 contains the seeds of multitudinous litigation. And, for the cases where no litigation results, it imposes on the district courts the burden of unaided review in which they need give "no deference" to bankruptcy judge save for the bankruptcy judge's certification that the review must be expedited. The proposed rule does not chart a course for "the orderly course of . . . business" (subsection (a)). It charts no intelligible course and creates only confusion.

Plainly, under the proposed rule, the district courts will have a heavy involvement in judgments and orders in bankruptcy cases because the uncertainties of the rule compel this involvement. Indeed, assuming this rule is understood to attempt to delegate dispositive power to the bankruptcy court over a given proceeding, it seems no overstatement to assert that any prudent party will decline to rely on a bankruptcy court's order respecting important matters even if they are undisputed, e.g., orders authorizing a negotiated extension of credit under § 364. Instead, he will want the assurance of a district court order. The district court judges for the most part simply have no time to respond to this increased workload. The inability to obtain prompt orders will make it impossible for bankruptcy administration to proceed efficiently.●

CONFERENCE REPORT ON S. 2336, AUTHORIZATION FOR APPROPRIATIONS OF MARITIME PROGRAMS FOR FISCAL YEAR 1983

Mr. JONES of North Carolina submitted the following conference report and statement on the Senate bill (S. 2336) to authorize appropriations for fiscal year 1983 for certain maritime programs of the Department of Transportation, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-961)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2336) to authorize appropriations for certain maritime programs of the Department of Transportation for fiscal year 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Transportation for fiscal year 1983, as follows:

(1) for payment of obligations incurred for operating differential subsidy, $454,010,000; (2) for research and development, $15,300,000; (3) for operations and training, $78,113,000 including—

(A) $5,516,000 for reserve fleet expenses;

(B) $36,707,000 for maritime education and training expenses, including $17,251,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $17,768,000 for financial assistance to State maritime academies, and $1,688,000 for expenses necessary for additional training; and

(C) $34,890,000 for other operating and training expenses; and

(4) for the acquisition of three C-6 type vessels for the National Defense Reserve Fleet pursuant to section 510 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1160), from operators replacing such vessels in their services with vessels to be delivered by United States shipyards during 1982, not more than $25,000,000.

SEC. 2. There are authorized to be appropriated for the fiscal year 1983, in addition to the amounts authorized by section 1 of this Act, such supplemental amounts for the activities for which appropriations are authorized under section 1 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

SEC. 3. Section 615 of the Merchant Marine Act, 1936 (46 U.S.C. 1185), is amended to read as follows:

"SEC. 615. Notwithstanding any other provision in this Act, until October 1, 1983, an operator receiving or applying for operating differential subsidy under this title may construct, reconstruct, or acquire its vessels of over five thousand deadweight tons outside the United States. Any vessel constructed, reconstructed, or acquired in accordance with this section or section 1610 of P.L. 97-35 and any vessel of over five thousand deadweight tons otherwise constructed, reconstructed, or acquired outside of the United States before October 1, 1983, and documented under the laws of the United States, shall be deemed to have been United States built for the purposes of this title, section 901(b) of this Act, and section 5(7) of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391(a)(7)). Section 607 of this Act does not apply to any vessel constructed, reconstructed, or acquired under this section. No liquid and/or dry bulk vessel, constructed, reconstructed, or acquired under this section, other than section 1610 of P.L. 97-35, may, during the first three years of its documentation under the laws of the United States, carry any portion of the preference cargoes reserved for carriage by United States-flag commercial vessels, unless the vessel is less than three years of age at the time of acquisition under this section and no bulk vessel built in the United States, foreign built bulk vessel that has been documented under the laws of the United States for at least three years, or bulk vessel constructed, reconstructed, or acquired in accordance with section 1610 of P.L. 97-35 is available at fair and reasonable rates for United States-flag commercial vessels. No vessel constructed, reconstructed, or acquired under this section may be transferred or placed under the registry or flag of a foreign nation during its useful economic life, unless approved by the Secretary of Transportation under section 9 of the Shipping Act, 1916 (46 U.S.C. 808).".

SEC. 4. Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C., 1273(f), is amended by adding at the end thereof the following new sentence: "No additional limitations may be imposed on new commitments to guarantee loans for any fiscal year, except in such amounts as established in advance in annual authorization Acts. No vessels eligible for guarantees under this Title shall be denied eligibility because of its vessel type.".

SEC. 5. The Secretary of Transportation shall not enter into new commitments to guarantee loans under section 1103 of the Merchant Marine Act, 1936 (46 U.S.C. 1273) in an amount greater than $950,000,000 during fiscal year 1983.

SEC. 6. (a) Section 1104(a)(3) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1274)(a)(3)), is amended by inserting after the word "Fund" the words ", or for which related obligations were accelerated and paid by the Secretary,".

(b) Section 1104(h) of such Act (46 U.S.C. 1274(h)) is amended by inserting after the word "acceleration" the word ", assumption,".

(c) The first sentence of section 1105(a) of such Act (46 U.S.C. 1275(a)) is amended by inserting after the word "demand" the following: "(unless the Secretary shall, upon such terms as may in his discretion be provided in the obligations or agreements relating thereto, prior to such demand, in his discretion, have assumed the obligor's rights and duties under said obligations and agreements and shall have made any payments in default)".

(d) Section 1105(b) of such Act (46 U.S.C. 1275(b)) is amended to read as follows:

"(b) In the event of a default under a mortgage, loan agreement, or other security agreement between the obligor and the Secretary, the Secretary may (upon such terms as may in his discretion be provided in the obligations or agreements relating thereto), at his option and discretion—

"(1) notify the obligee or his agent of such default and the assumption by the Secretary of the obligor's rights and duties under said obligation and agreements relating thereto and make any payment in default; or

"(2) notify the obligee or his agent of such default and the obligee or his agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but

not later than 60 days from the date of such notice, payment by the Secretary of the unpaid principal amount of said obligation and the unpaid interest thereon. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment. The validity of the guarantee of any obligation made by the Secretary under this title shall be unaffected and such guarantee shall remain in full force and effect notwithstanding any assumption of such obligation by the Secretary pursuant to subsections (a) and (b) of this section.".

(e) The first sentence of section 1105(c) of such Act (46 U.S.C. 1275(c)) is amended by inserting after the word "payment" the words "or assumption" and by inserting after "Secretary", the first time it appears, the words ", in his discretion,".

SEC. 7. Section 362(b) of title 11, United States Code is amended:

(a) at the end of paragraph (7), by striking "or";

(b) at the end of paragraph (8), by striking the period and substituting "; or"; and

(c) by adding at the end thereof the following new paragraph:

"(9) under subsection (a) of this section, of the commencement or continuation to final decree and execution of the foreclosure by the Secretary of Transportation or the Secretary of Commerce of a mortgage on a vessel or vessels pursuant to the Ship Mortgage Act, 1920, as amended, held by said Secretary under the provisions of sections 1101-1110 or section 207 of the Merchant Marine Act, 1936, as amended.".

SEC. 8. After September 30, 1983, no funds may be appropriated to or for the use of the Federal Maritime Commission unless the appropriation of those funds has been authorized by legislation enacted after December 31, 1982.

SEC. 9. The Merchant Marine Act, 1920 (41 Stat. 988), as amended (46 U.S.C. 861 et seq.), is amended by adding at the end of section 27: "For the purposes of this section, after December 31, 1983, or after such time as an appropriate vessel has been constructed and documented as a vessel of the United States, the transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C, 6903(5)), from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandise between points in the United States; Provided, however, that the provisions of this sentence shall not apply to this transportation when performed by a foreign-flag ocean incineration vessel, owned by or under construction on May 1, 1982 for a corporation wholly owned by a citizen of the United States; the term "citizen of the United States," as used in this proviso, means a corporation as defined in section 2(a) and 2(b) of the Shipping Act, 1916 (46 U.S.C. 802 (a) and (b)). The incineration equipment on these vessels shall meet all current United States Coast Guard and Environmental Protection Agency standards. These vessels shall, in addition to any other inspections by the flag state, be inspected by the United States Coast Guard, including drydock inspections and internal examinations of tanks and void spaces, as would be required of a vessel of the United States. Satisfactory inspection shall be certified in writing by the Secretary of Transportation. Such inspections may occur concurrently with any inspections required by the flag state or subsequent to but no more than one year after the initial issuance or the next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making such inspections, the Coast Guard shall refer to the conditions established by the initial flag state certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of an equivalent fitting, material, appliance, apparatus, or equipment other than that required for vessels of the United States if the Coast Guard has been satisfied that fitting, material, appliance, apparatus, or equipment is at least as effective as that required for vessels of the United States.".

SEC. 10. That, notwithstanding the failure of the vessel named below to meet the requirements contained in sections 111 and 112 of the Vessel Documentation Act, as amended (46 U.S.C. 65 (i) and (j)), and section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), on the date of this Act, the Secretary of the Department in which the Coast Guard is operating shall cause the vessel Centurion (officially numbered 236815), owned by Joseph B. Simoncelli, of Scranton, Pennsylvania, to be documented as a vessel of the United States upon compliance with all other requirements of law, with the privilege of engaging in the coastwise trade.

And the House agree to the same.

WALTER B. JONES,
MARIO BIAGGI,
JOHN B. BREAUX,
BRIAN J. DONNELLY,
GENE SNYDER,
PAUL N. MCCLOSKEY, Jr.,
DON YOUNG,
Managers on the Part of the House.

BOB PACKWOOD,
SLADE GORTON,
TED STEVENS,
DANIEL K. INOUYE,
RUSSELL B. LONG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill, S. 2336, to authorize appropriations for certain maritime programs of the Department of Transportation for fiscal year 1983, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SECTION 1

The House authorized a total of $572.423 million which is the same amount that is expected to be appropriated. This is $30.6 million above the President's request. The largest increase is $25 million for the acquisition of three vessels for the National Defense Reserve Fleet. Financial assistance to State maritime academies has also been increased, while research and development funding has been decreased.

The Senate authorized a total of $541.823 or $30.6 million less than the House. The Senate did not authorize $25 million for the aquisition of trade-in vessels and provided less for aid to State maritime academies while providing $1.5 million more for research and development.

The Conference substitute adopts the House figures for research and development at $15.3 million, for operations and training at $78.113 million, and for the acquisition of trade-in vessels at $25 million so that the total amount being authorized is $572.423 million.

SECTION 2

The Conference substitute adopts section 2 of the House amendment that provides authority for supplemental amounts that may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law. The Senate has no comparable provision.

SECTION 3

The Senate amended section 615 of the Merchant Marine Act of 1936 so as to extend for a two-year period the temporary authority provided by section 1610 of the Omnibus Reconciliation Act of 1981, permitting U.S.-flag operators receiving or applying for operating differential subsidies to construct, reconstruct, or acquire vessels outside the United States. It permits the use of capital construction funds in conjunction with this temporary authority and the prior year's temporary authority. The Senate bill permits these vessels to be considered U.S.-built vessels for the purposes of carrying preference cargoes without the statutory three-year waiting period and for making conversions required by the Port and Tanker Safety Act. The House has no comparable provision.

The Conference substitute adopts the Senate provision permitting these U.S.-flag operators to construct, reconstruct, or acquire vessels outside the United States, but limits it to October 1, 1983. However, it does not permit the use of capital construction funds. It provides that these vessels and those vessels constructed, reconstructed, or acquired under section 1610 of Public Law 97-35 shall be deemed to have been U.S.-built vessels for the purpose of eligibility for receiving operating differential subsidies, the carriage of preference cargo without a three-year waiting period, and for making conversions required by the Port and Tanker Safety Act. It also provides for a number of additional conditions. No liquid-bulk and/or dry-bulk carrier constructed, reconstructed, or acquired under this section—other than section 1610 of Public Law 97-35—may, during the first three years as a documented U.S.-flag vessel, carry any preference caroes unless (1) the vessel is less than three years of age and (2) no U.S.-built bulk vessel, foreign-built bulk vessel that has been documented for at least three years, or bulk vessel constructed, reconstructed, or acquired in accordance with section 1610 is available at fair and reasonable rates for U.S.-flag commercial vessels. In addition, none of these vessels may be transferred or placed under the registry or flag of a foreign nation during its useful economic life unless approved by the Secretary of Transportation.

SECTION 4

The House authorized an increase in the legislative ceiling of the Title XI Federal Ship Financing Fund from the present $12 billion to $15 billion to provide sufficient loan guarantee authorizations to meet existing requests. It also limited the Administration's authority to deny or defer requests for loan guarantees that meet the legislated standards and criteria of existing law.

The Senate amended Title XI by limiting new vessel construction loan guarantee com-

mitments to amounts that are established in advance in the annual authorization acts. It does not provide for limiting Administration discretion.

The Conference substitute adopts the Senate's annual authorization requirements and the House's limitation on the Administration's discretion in denying or deferring requests for loan guarantees solely because of a vessel's type.

SECTION 5

The Senate limited new Title XI guarantee commitments to $2.25 billion for merchant vessel construction during fiscal years 1983, 1984, and 1985—provided that no more than $850 million be committed in any one of these years. The House has no comparable provision.

The Conference substitute limits new commitments to $950 million for fiscal year 1983. This should provide the Secretary adequate leeway to consider and meet any national security requirements that may arise during the next fiscal year.

SECTION 6

The Senate amended the default provisions of Title XI so as to permit greater flexibility in the handling of defaults by the Secretary of Transportation. The House has no comparable provision. The Conference substitute adopts the Senate provisions without modification.

SECTION 7

The Senate amended section 362(b)(7) of Title II, U.S. Code pertaining to defaults by a shipowner in bankruptcy. It exempts the Secretary of Transportation, as a Title XI mortgage, from the automatic stay provisions of the bankruptcy code and the prohibition from taking unrelated foreclosure action on a Title XI mortgage. The House has no comparable provision. The Managers adopt a technical substitute for the Senate provision that includes exemption authority for the Secretary of Commerce, and that clarifies the Secretary's ability to carry the foreclosure to a conclusion.

SECTION 8

The Senate bill would subject the Federal Maritime Commission to an annual authorization procedure and authorize $11.65 million for fiscal year 1983. The House has no comparable provision. The Conference substitute does not adopt a specific authorization amount for fiscal year 1983 but does adopt the concept of annual authorization for appropriations commencing with fiscal year 1984.

SECTION 9

The House provided for the exclusion of foreign-flag vessels from the transportation of hazardous wastes for incineration at sea. It also permitted foreign-flag vessels to operate in this trade until December 31, 1983 or until an appropriate U.S.-flag vessel is available, subject to certain inspection requirements.

The Senate provided a similar exclusion but permitted those foreign-flag vessels owned by or under construction for a citizen of the United States on May 1, 1982 to operate in this newly protected domestic trade.

The Conference substitute adopts the House provision.

SECTION 10

The House provided for the documentation of the vessel *Centurion* as a vessel of the United States with the privilege of engaging in the coastwise trade. The Senate has no comparable provision. The Conference substitute adopts the House provision.

And the House agree to the same.

WALTER B. JONES,
MARIO BIAGGI,
JOHN B. BREAUX,
BRIAN J. DONNELLY,
GENE SNYDER,
PAUL N. MCCLOSKEY, JR.,
DON YOUNG,
Managers on the Part of the House.

BOB PACKWOOD,
SLADE GORTON,
TED STEVENS,
DANIEL K. INOUYE,
RUSSELL B. LONG,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 5447

Mr. DE LA GARZA submitted the following conference report and statement on the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-964)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Futures Trading Act of 1982".

TITLE I—JURISDICTION

OPTIONS; FUTURES CONTRACTS

SEC. 101. (a) Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended by—

(1) redesignating paragraph (1) as paragraph (1)(A);

(2) inserting in the third sentence of paragraph (1)(A), as so redesignated ", except to the extent otherwise provided in subparagraph (B) of this paragraph," after "exclusive jurisdiction";

(3) adding a new subparagraph (B) to read as follows:

"(B) Notwithstanding any other provision of law—

"(i) this Act shall not apply to and the Commission shall have no jurisdiction to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call, or other option on one or more securities (as defined in section 2(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982), including any group or index of such securities, or any interest therein or based on the value thereof.

"(ii) This Act shall apply to and the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty') and transactions involving, and may designate a board of trade as a contract market in, contracts of sale (or options on such contracts) for future delivery of a group or index of securities (or any interest therein or based upon the value thereof): Provided, however, That no board of trade shall be designated as a contract market with respect to any such contracts of sale (or options on such contracts) for future delivery unless the board of trade making such application demonstrates and the Commission expressly finds that the specific contract (or option on such contract) with respect to which the application has been made meets the following minimum requirements:

"(I) Settlement of or delivery on such contract (or option on such contract) shall be effected in cash or by means other than the transfer or receipt of any security, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security, as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982);

"(II) Trading in such contract (or option on such contract) shall not be readily susceptible to manipulation of the price of such contract (or option on such contract), nor to causing or being used in the manipulation of the price of any underlying security, option on such security or option on a group or index including such securities; and

"(III) Such group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to such measure.

"(iii) Upon application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery involving a group or index of securities, the Commission shall provide an opportunity for public comment on whether such contracts (or options on such contracts) meet the minimum requirements set forth in clause (ii) of this subparagraph).

"(iv)(I) The Commission shall consult with the Securities and Exchange Commission with respect to any application which is submitted by a board of trade before December 9, 1982, for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities. If, no later than fifteen days following the close of the public comment period, the Securities and Exchange Commission shall object to the designation of a board of trade as a contract market in such contract (or option on such contract) on the ground that any minimum requirement of clause (ii) of this subparagraph is not met, the Commission shall afford the Securities and Exchange Commission an opportunity for an oral hearing, to be transcribed, before the Commission, and shall give appropriate weight to the views of the Securities and Exchange Commission. Such oral hearing shall be held after the public comment period, prior to Commission action upon such designation, and not less than thirty nor more than forty-five days after the close of the public comment period, unless both the Commission and the Securities Exchange Commission otherwise agree. If such an oral hearing is held, the Securities and Exchange Commission fails to withdraw its objections, and the Commis-

sion issues an order designating a board of trade as a contract market with respect to any such contract (or option on such contract), the Securities and Exchange Commission shall have the right of judicial review of such order in accordance with the standards of section 6(b) of this Act. If, pursuant to section 6 of this Act, there is a hearing on the record with respect to such application for designation, the Securities and Exchange Commission shall have the right to participate in that hearing as an interested party.

"(II) Effective for any application submitted by a board of trade on or after December 9, 1982, for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities, the Commission shall transmit a copy of such application to the Securities and Exchange Commission for review. The Commission shall not approve any such application if the Securities and Exchange Commission determines that such contract (or option on such contract) fails to meet the minimum requirements set forth in clause (ii) of this subparagraph. Such determination shall be made by order no later than forty-five days after the close of the public comment period under clause (iii) of this subparagraph. In the event of such determination, the board of trade shall be afforded an opportunity for a hearing on the record before the Securities and Exchange Commission. If a board of trade requests a hearing on the record, the hearing shall commence no later than thirty days following the receipt of the request, and a final determination shall be made no later than thirty days after the close of the hearing. A person aggrieved by any such order of the Securities and Exchange Commission may obtain judicial review thereof in the same manner and under such terms and conditions as are provided in section 6(a) of this Act.

"(v) No person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982), or except as provided in clause (ii) of this subparagraph, any group or index of such securities or any interest therein or based on the value thereof.".

OPTIONS ON FOREIGN CURRENCIES

SEC. 102. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by adding at the end thereof the following new subsection:

"(f) Nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.".

COMMODITY POOLS

SEC. 103. Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by—

(1) inserting "(1)" immediately following the section designation; and

(2) adding at the end thereof the following new subsection:

"(2) Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 or the Securities Exchange Act of 1934 governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool.".

SHARING INFORMATION WITH CONTRACT MARKETS AND OTHER SELF-REGULATORY ORGANIZATIONS

SEC. 104. Section 8a(6) of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting "registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934," before "notwithstanding"; and

(2) striking out "and consumers" and inserting in lieu thereof a comma and immediately thereafter "consumers, or investors, or which is necessary or appropriate to effectuate the purposes of this Act: Provided, That any information furnished by the Commission under this paragraph shall not be disclosed by such contract market, registered futures association, or self-regulatory organization except in any self-regulatory action or proceeding".

TITLE II—MISCELLANEOUS AMENDMENTS TO THE COMMODITY EXCHANGE ACT

DEFINITIONS

SEC. 201. Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended by—

(1) inserting in paragraph (1)(A), as redesignated by section 101 of this Act, immediately after the sentence defining the term "futures commission merchant" a new sentence to read as follows: "The term 'introducing broker' shall mean any person, except an individual who elects to be and is registered as an associated person of a futures commission merchant, engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom."; and

(2) amending the sentence defining the term "commodity trading advisor" in paragraph (1)(A), as so redesignated, to read as follows: "The term 'commodity trading advisor' shall mean any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 4c, or any leverage transaction authorized under section 19, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing; but such term does not include (i) any bank or trust company or any person acting as an employee thereof, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees, (v) the fiduciary of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act or 1974, (vi) any contract market, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: Provided, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession: Provided further, That the Commission, by rule or regulation, may include within this definition, any person advising as to the value of commodities or issuing reports or analyses concerning commodities, if the Commission determines that such rule or regulation will effectuate the purposes of this provision.".

PERSONNEL RESTRICTIONS

SEC. 202. Section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 4a(f)) is amended by—

(1) striking out "(A)" after the paragrpah designation; and

(2) striking out subparagraph (B).

LEGISLATIVE FINDINGS

SEC. 203. Section 3 of the Commodity Exchange Act (7 U.S.C. 5) is amended to read as follows:

"SEC. 3. Transactions in commodities involving the sale thereof for future delivery as commonly conducted on boards of trade and known as 'futures' are affected with a national public interest. Such futures transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodities and the products and byproducts thereof in interstate commerce. The prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities and the products and byproducts thereof and to facilitate the movements thereof in interstate commerce. Such transactions are utilized by shippers, dealers, millers, and others engaged in handling commodities and the products and byproducts thereof in interstate commerce as a means of hedging themselves against possible loss through fluctuations in price. The transactions and prices of commodities on such boards of trade are susceptible to excessive speculation and can be manipulated, controlled, cornered or squeezed, to the detriment of the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, rendering regulation imperative for the protection of such commerce and the national public interest therein. Furthermore, transactions which are of the character of, or are commonly known to the trade as, 'options' are or may be utilized by commercial and other entities for risk shifting and other purposes. Options transactions are in interstate commerce or affect such commerce and the national economy, rendering regulation of such transactions imperative for the protection of such commerce and the national public interest."

UNLAWFUL FUTURES TRADING; FOREIGN FUTURES

SEC. 204. Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended to read as follows:

"SEC. 4. (a) It shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States, its territories or possessions, for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on or subject to the

rules of a board of trade, exchange, or market located outside the United States, its territories or possessions) unless—

"(1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' for such commodity;

"(2) such contract is executed or consummated by or through a member of such contract market; and

"(3) such contract is evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery: Provided, That each contract market member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commission or the Department of Justice.

"(b) The Commission may adopt rules and regulations proscribing fraud and requiring minimum financial standards, the disclosure of risk, the filing of reports, the keeping of books and records, the safeguarding of customers' funds, and registration with the Commission by any person located in the United States, its territories or possessions, who engages in the offer or sale of any contract of sale of a commodity for future delivery that is made or to be made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions. Such rules and regulations may impose different requirements for such persons depending upon the particular foreign board of trade, exchange, or market involved. No rule or regulation may be adopted by the Commission under this subsection that (1) requires Commission approval of any contract, rule, regulation, or action of any foreign board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market, or (2) governs in any way any rule or contract term or action of any foreign board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market.".

SPECULATIVE LIMITS

SEC. 205. Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended by—

(1) inserting "rule, regulation, or" before "order" wherever it occurs in subsections (1) and (2);

(2) inserting in the fourth sentence of subsection (1) after "delivery months," the words "or for different number of days remaining until the last day of trading in a contract,";

(3) striking out in subsection (2) "order's promulgation" and inserting in lieu thereof "promulgation of the rule, regulation, or order";

(4) amending subsection (3) to read as follows:

"(3) No rule, regulation, or order issued under subsection (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by rule, regulation, or order consistent with the purposes of this Act. Such terms may be defined to permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available on an exchange. To determine the adequacy of this Act and the powers of the Commission acting thereunder to prevent unwarranted price pressures by large hedgers, the Commission shall monitor and analyze the trading activities of the largest hedgers, as determined by the Commission, operating in the cattle, hog, or pork belly markets and shall report its findings and recommendations to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture in its annual reports for at least two years following the date of enactment of the Futures Trading Act of 1982.";

(5) inserting in the first sentence of subsection (4) ", an introducing broker," after "futures commission merchant", and striking out "as floor broker" and inserting in lieu thereof "a floor broker"; and

(6) adding at the end thereof the following new subsection:

"(5) Nothing in this section shall prohibit or impair the adoption by any contract market or by any other board of trade licensed or designated by the Commission of any bylaw, rule, regulation, or resolution fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery traded on or subject to the rules of such contract market, or under options on such contracts or commodities traded on or subject to the rules of such contract market or such board of trade: Provided, That if the Commission shall have fixed limits under this section for any contract or under section 4c of this Act for any commodity option, then the limits fixed by the bylaws, rules, regulations, and resolutions adopted by such contract market or such board of trade shall not be higher than the limits fixed by the Commission. It shall be a violation of this Act for any person to violate any bylaw, rule, regulation, or resolution of any contract market or other board of trade licensed or designated by the Commission fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation, or resolution has been approved by the Commission: Provided, That the provisions of section 9(c) of this Act shall apply only to those who knowingly violate such limits.".

AGRICULTURAL OPTIONS

SEC. 206. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) amending subsection (a) by—

(A) inserting "or" at the end of clause (A);

(B) striking out clause (B); and

(C) redesignating clause (C) as clause (B);

(2) amending subsection (b) to read as follows:

"(b) No person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an option, privilege, indemnity, bid, offer, put, call, advance guaranty, or decline guaranty, contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe. Any such order, rule, or regulation may be made only after notice and opportunity for hearing, and the Commission may set different terms and conditions for different markets.";

(3) in subsection (c), inserting immediately after the first sentence the following: "With respect to any commodity regulated under this Act and specifically set forth in section 2(a) of this Act prior to the date of enactment of the Commodity Futures Trading Commission Act of 1974, the Commission may, pursuant to the procedures set forth in this subsection, establish a pilot program for a period not to exceed three years to permit such commodity option transactions. The Commission may authorize commodity option transactions during the pilot program in as many commodities as will provide an adequate test of the trading of such option transactions. After completion of the pilot program, the Commission may authorize commodity option transactions without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the documentation required under clause (1) of the first sentence of this subsection and the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal."; and

(4) amending subsection (d) by—

(A) in clause (1), inserting ", other than a commodity specifically set forth in section 2(a) of this Act prior to enactment of the Commodity Futures Trading Commission Act of 1974," immediately after "physical commodity";

(B) in clause (2), inserting ", other than a commodity specifically set forth in section 2(a) of this Act prior to enactment of the Commodity Futures Trading Commission Act of 1974," immediately after "subsection (b) of this section"; and

(C) inserting ", other than options on a commodity specifically set forth in section (2)(a) of this Act prior to enactment of the Commodity Futures Trading Commission Act of 1974," immediately after "The Commission may permit persons not domiciled in the United States to grant options under this subsection".

INTRODUCING BROKER; REGISTRATION REQUIREMENT

SEC. 207. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by—

(1) inserting in the introductory clause "or introducing broker" after "futures commission merchant";

(2) inserting in paragraph (1) "or introducing broker" after "futures commission merchant"; and

(3) inserting in paragraph (2) "if a futures commission merchant," after "such person shall,".

REGISTRATION PROCEDURE; TECHNICAL AMENDMENTS

SEC. 208. Section 4f of the Commodity Exchange Act (7 U.S.C. 6f) is amended by—

(1) amending subsection (1) to read as follows:

"(1) Any person desiring to register as a futures commission merchant, introducing broker, or floor broker hereunder shall be registered upon application to the Commission. The application shall be made in such form and manner as prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the buisness in which the applicant is or will be engaged, including in the case of an application of a futures commission merchant or an introducing broker, the names and addresses of the managers of all branch offices, and the names of such officers and partners, if a partnership, and of such officers, directors, and stockbrokers, if a corporation, as the Commission may direct. Such person, when registered hereun-

der, shall likewise continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to such person's business as the Commission may require. Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked pursuant to the provisions of this Act."; and

(2) inserting in subsection (2) "or as introducing broker" after "futures commission merchant".

INTRODUCING BROKERS—REPORTS, BOOKS, AND RECORDS

SEC. 209. Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended by—

(1) inserting in subsection (1) ", introducing broker," after "futures commission merchant"; and

(2) inserting in subsection (3) ", introducing brokers," after "Floor brokers".

MISREPRESENTATION OF STATUS; TECHNICAL AMENDMENTS

SEC. 210. Section 4h of the Commodity Exchange Act (7 U.S.C. 6h) is amended to read as follows:

"SEC. 4h. It shall be unlawful for any person falsely to represent such person to be a member of a contract market or the representative or agent of such member, or to be a registrant under this Act or the representative or agent of any registrant, in soliciting or handling any order or contract for the purchase or sale of any commodity in interstate commerce or for future delivery, of falsely to represent in connection with the handling of any such order or contract that the same is to be or has been executed on, or by or through a memoer of, any contract market.".

RECORDKEEPING CONFORMED TO CURRENT SYSTEM; LARGE TRADER REPORTS

SEC. 211. Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended to read as follows:

"SEC. 4i. It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market—

"(1) if such person shall directly or indirectly make such contracts with respect to any commodity or any future of such commodity during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission, and

"(2) if such person shall directly or indirectly have or obtain a long or short position in any commodity or any future of such commodity equal to or in excess of such amount as shall be fixed from time to time by the Commission,

unless such person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions described in clauses (1) and (2) hereof as the Commission may by rule or regulation require and unless, in accordance with rules and regulations of the Commission, such person shall keep books and records of all such transactions and positions and transactions and positions in any such commodity traded on or subject to the rules of any other board of trade, and of cash or spot transactions in, and inventories and purchase and sale commitments of such commodity. Such books and records shall show complete details concerning all such transactions, positions, inventories, and commitments, including the names and addresses of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person.".

REGISTRATION; ASSOCIATED PERSON STATUS

SEC. 212. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended to read as follows:

"SEC. 4k. (1) It shall be unlawful for any person to be associated with a futures commission merchant as a partner, officer, or employee, or to be associated with an introducing broker as a partner, officer, employee, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation or acceptance of customers' orders (others than in a clerical capacity or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such futures commission merchant or of such introducing broker and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a futures commission merchant or introducing broker to permit such a person to become or remain associated with the futures commission merchant or introducing broker in any such capacity if such futures commission merchant or introducing broker knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, or introducing broker (and such registration is not suspended or revoked) need not also register under this subsection.

"(2) It shall be unlawful for any person to be associated with a commodity pool operator as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such commodity pool operator and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a commodity pool operator to permit such a person to become or remain associated with the commodity pool operator in any such capacity if the commodity pool operator knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity pool operator, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this subsection. The Commission may exempt any person or class of persons from having to register under this subsection by rule, regulation, or order.

"(3) It shall be unlawful for any person to be associated with a commodity trading advisor as a partner, officer, employee, consultant, or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of a client's or prospective client's discretionary account or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such commodity trading advisor and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked. It shall be unlawful for a commodity trading advisor to permit such a person to become or remain associated with the commodity trading advisor in any such capacity if the commodity trading advisor knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired), or been revoked. Any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity trading advisor, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this subsection. The Commission may exempt any person or class of persons from having to register under this subsection by rule, regulation, or order.

"(4) Any person desiring to be registered as an associated person of a futures commission merchant, of an introducing broker, of a commodity pool operator, or of a commodity trading advisor shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire at such time as the Commission may by rule, regulation, or order prescribe.

"(5) It shall be unlawful for any registrant to permit a person to become or remain an associated person of such registrant, if the registrant knew or should have known of facts regarding such associated person that are set forth as statutory disqualifications in section 8a(2) of this Act, unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed.".

CONFORMING AMENDMENT

SEC. 213. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by striking out subsections (5) and (6).

EXTENSION OF ANTIFRAUD PROVISION

SEC. 214. Section 4o of the Commodity Exchange Act (7 U.S.C. 6o) is amended to read as follows:

"SEC. 4o. (1) It shall be unlawful for a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

"(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

"(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

"(2) It shall be unlawful for any commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator registered under this Act to reprsent or imply in any manner whatsoever that such person has been sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been passed upon, by the United States or any agency or officer thereof. This section shall not be construed to prohibit a statement that a person is registered under this Act as a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator, or associated person of a commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented.".

EXTENSION OF AUTHORITY REGARDING PROFICIENCY EXAMINATIONS

SEC. 215. Section 4p of the Commodity Exchange Act (7 U.S.C. 6p) is amended by—

(1) striking out in the first sentence "futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers" and inserting in lieu thereof "persons required to be registered with the Commission";

(2) striking out in the second and third sentences "as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers,"; and

(3) striking out in the last sentence "the customers of futures commission merchants and floor brokers" and inserting in lieu thereof "customers, clients, pool participants, or other members of the public with whom such individuals deal".

CONTRACT MARKET RULES

SEC. 216. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended by—

(1) amending paragraph (8) to read as follows:

"(8) enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, that (i) have been approved by the Commission pursuant to paragraph (12) of this section, (ii) have become effective under such paragraph, or (iii) must be enforced pursuant to any Commission rule, regulation, or order; and revoke and not enforce any bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, that has been disapproved by the Commission;";

(2) amending paragraph (12) to read as follows:

"(12) except as otherwise provided in this paragraph, submit to the Commission for its prior approval all bylaws, rules, regulations, and resolutions ('rules') made or issued by such contract market, or by the governing board thereof or any committee thereof, that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, as such terms and conditions are defined by the Commission by rule or regulation, except those rules relating to the setting of levels of margin. Each contract market shall submit to the Commission all other rules (except those relating to the setting of levels of margin and except those that the Commission may specify by regulation) and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the contract market requests review and approval thereof by the Commission or the Commission notifies such contract market in writing of its determination to review such rules for approval. The determination to review such rules for approval shall not be delegable to any employee of the Commission. At least thirty days before approving any rules of major economic significance, as determined by the Commission, the Commission shall publish a notice of such rules in the Federal Register. The Commission shall give interested persons an opportunity to particpate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such rules are of major economic significance shall be final and not subject to judicial review. The Commission shall approve such rules if such rules are determined by the Commission not to be in violation of this Act or the regulations of the Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this Act or the regulations of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific sections of this Act or the Commission's regulations which would be violated. At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this Act or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period as the contract market may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the contract market may agree to, such rule may be made effective by the contract market until such time as the Commission disapproves such rule in accordance with this paragraph. The Commission shall specify the terms and conditions under which a contract market may, in an emergency as defined by the Commission, make a rule effective on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under this paragraph, or during any period of review by the Commission. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may immediately make effective a temporary rule dealing with such emergency if the contract market notifies the Commission of such action with a complete explanation of the emergency involved.".

ARBITRATION

SEC. 217. (a) Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended to read as follows:

"(11) provide a fair and equitable procedure through arbitration or otherwise (such as by delegation to a registered futures association having rules providing for such procedures) for the settlement of customers' claims and grievances against any member or employee thereof: Provided, That (i) the use of such procedure by a customer shall be voluntary and (ii) the term 'customer' as used in this paragraph shall not include another member of the contract market; and".

(b) Section 17(b)(10) of the Commodity Exchange Act (7 U.S.C. 21(b)(10) is amended to read as follows:

"(10) the rules of the association provide a fair, equitable, and expeditious procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: Provided, That (i) the use of such procedure by a customer shall be voluntary and (ii) the term 'customer' as used in this paragraph shall not include another member of the association.".

CONTRACT MARKET DESIGNATION PROCEDURES

SEC. 218. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by inserting immediately after the first sentence the following: The Commission shall approve or deny an application for designation as a contract market within one year of the filing of the application. If the Commission notifies the board of trade that its application is materially incomplete and specifies the deficiencies in the application, the running of the one-year period shall be stayed from the time of such notification until the application is resubmitted to completed form: Provided, That the Commission shall have not less than sixty days to approve or deny the application from the time the application is resubmitted in completed form. If the Commission denies an application, it shall specify the grounds for the denial.".

APPEALS; CONFORMING AMENDMENT

SEC. 219. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9) is amended by—

(1) striking out in the first and ninth sentences "as futures commission merchant or any person associated therewith as described in section 4k of this Act, commodity trading advisor, commodity pool operator, or as floor broker hereunder" and inserting in lieu thereof "with the Commission in any capacity"; and

(2) inserting in the eleventh sentence after "doing business" the words ", or in the case of an order denying registration, the circuit in which the petitioner's principal place of business listed on petitioner's application for registration is located,".

RESTRAINING ORDERS

SEC. 220. Section 6c of the Commodity Exchange Act (7 U.S.C. 13a-1) is amended by inserting in the proviso contained in the first sentence after "no restraining order" the following: "(other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect, when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property)".

STATE ANTIFRAUD JURISDICTION

SEC. 221. Section 6d of the Commodity Exchange Act (7 U.S.C. 13a-2) is amended by adding at the end thereof the following new subsection:

"(8)(A) Nothing in this Act shall prohibit an authorized State official from proceeding in a State court against any person registered under this Act (other than a floor broker or registered futures association) for an alleged violation of any antifraud provi-

sion of this Act or any antifraud rule, regulation, or order issued pursuant to the Act.

"(B) The State shall give the Commission prior written notice of its intent to proceed before instituting a proceeding in State court as described in this subsection and shall furnish the Commission with a copy of its complaint immediately upon instituting any such proceeding. The Commission shall have the right to (i) intervene in the proceeding and, upon doing so, shall be heard on all matters arising therein, and (ii) file a petition for appeal. The Commission or the defendant may remove such proceeding to the district court of the United States for the proper district by following the procedure for removal otherwise provided by law, except that the petition for removal shall be filed within sixty days after service of the summons and complaint upon the defendant. The Commission shall have the right to appear as amicus curiae in any such proceeding.".

CONFIDENTIALITY PROVISIONS; DISCLOSURE

SEC. 222. Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended by—

(1) inserting immediately before the period at the end of subsection (a) the following: ": Provided further, That the Commission may withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person";

(2) amending subsection (b) by—

(A) striking out "or" before "in an administrative or judicial proceeding"; and

(B) inserting immediately before the period at the end thereof ", in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code";

(3) amending subsection (e) by—

(A) striking out "of the Executive Branch";

(B) adding at the end thereof the following: "Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction, or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this Act. Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under this Act or the laws of such State or political subdivision to which such State or political subdivision or any department or agency thereof is a party. The Commission shall not furnish any information to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such department or agency except in connection with an adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party.";

(4) redesignating subsections (f) and (g) as subsections (h) and (i), respectively; and

(5) adding new subsections (f) and (g) to read as follows:

"(f) The Commission shall disclose information in its possession pursuant to a subpena or summons only if—

"(1) a copy of the subpena or summons has been mailed to the last known home or business address of the person who submitted the information that is the subject of the subpena or summons, if the address is known to the Commission, or, if such mailing would be unduly burdensome, the Commission provides other appropriate notice of the subpena or summons to such person, and

"(2) at least fourteen days have expired from the date of such mailing of the supena or summons, or such other notice.

This subsection shall not apply to congressional subpenas or congressional requests for information.

"(g) The Commission shall provide any registration information maintained by the Commission on any registrant upon reasonable request made by any department or agency of any State or any political subdivision thereof. Whenever the Commission determines that such information may be appropriate for use by any department or agency of a State or political subdivision thereof, the Commission shall provide such information without request.".

REGISTRATION AUTHORITY; TEMPORARY LICENSE

SEC. 223. Section 8a(1) of the Commodity Exchange Act (7 U.S.C. 12a(1)) is amended to read as follows:

"(1) to register futures commission merchants, associated persons of futures commission merchants, introducing brokers, associated persons of introducing brokers, commodity trading advisors, associated persons of commodity trading advisors, commodity pool operators, associated persons of commodity pool operators, and floor brokers upon application in accordance with rules and regulations and in the form and manner to be prescribed by the Commission, which may require the applicant, and such persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing, and in connection therewith to fix and establish from time to time reasonable fees and charge for registrations and renewals thereof: Provided, That notwithstanding any provision of this Act, the Commission may grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commission may adopt, except that the term of any such temporary license shall not exceed six months from the date of its issuance;".

STATUTORY DISQUALIFICATION FROM REGISTRATION; DELEGATION OF REGISTRATION FUNCTIONS

SEC. 224. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) amending paragraph (2) to read as follows:

"(2) upon notice, but without a hearing and pursuant to such rules, regulations, or orders as the Commission may adopt, to refuse to register, to register conditionally, or to suspend or place restrictions upon the registration of, any person and with such a hearing as may be appropriate to revoke the registration of any person—

"(A) if a prior registration of such person in any capacity has been suspended (and the period of such suspension has not expired) or has been revoked;

"(B) if registration of such person in any capacity has been refused under the provisions of paragraph (3) of this section within five years preceding the filing of the application for registration or at any time thereafter;

"(C) if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction (except that registration may not be revoked solely on the basis of such temporary order, judgment, or decree), including an order entered pursuant to an agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, from (i) acting as a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or affiliated person or employee of any of the foregoing or (ii) engaging in or continuing any activity involving any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to commission regulation under section 4c or 19 of this Act, or concerning securities;

"(D) if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery, or any activity subject to Commission regulation under section 4c or 19 of this Act, or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, of (iv) involves the violation of section 152, 1341, 1342, or 1343, or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(E) if such person, within ten years preceding the filing of the application or at any time thereafter, has been found by any court of competent jurisdiction, by the Commission or any Federal or State agency or other governmental body, or by agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, (i) to have violated any provision of this Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board where such violation involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, or (ii) to have willfully aided, abetted, counseled, commanded, in-

duced, or procured such violation by any other person;

"(F) if such person is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, denying, suspending, or revoking such person's membership in any contract market or registered futures association, or barring or suspending such person from being associated with a registrant under this Act or with a member of a contract market or with a member of a registered futures association;

"(G) if, as to any of the matters set forth in subparagraphs (A) through (F) of this paragraph, such person willfully made any material false or misleading statement or omitted to state any material fact in such person's application; or

"(H) if refusal, suspension, or revocation of the registration of any principal of such person would be warranted because of a statutory disqualification listed in this paragraph: Provided, That such person may appeal from a decision to refuse registration, condition registration, suspend, revoke or to place restrictions upon registration made pursuant to the provisions of this paragraph in the manner provided in section 6(b) of this Act; and Provided, further, That for the purposes of paragraphs (2) and (3) of this section, 'principal' shall mean, if the person is a partnership, any general partner or, if the person is a corporation, any officer, director, or beneficial owner of at least 10 per centum of the voting shares of the corporation, and any other person that the Commission by rule, regulation, or order determines has the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of such person which are subject to regulation by the Commission;";

(2) striking out paragraph (4) and redesignating paragraph (3) as paragraph (4);

(3) inserting a new paragraph (3) to read as follows:

"(3) to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that—

"(A) such person has been found by the Commission or by any court of competent jurisdiction to have violated, or has consented to findings of a violation of, any provision of this Act, or any rule, regulation, or order thereunder (other than a violation set forth in paragraph (2) of this section), or to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any such provision;

"(B) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

"(C) such person failed reasonably to supervise another person, who is subject to such person's supervision, with a view to preventing violations of this Act, or of any of the statutes set forth in subparagraph (B) of this paragraph, or of any of the rules, regulations, or orders thereunder, and the person subject to supervision committed such a violation: Provided, That no person shall be deemed to have failed reasonably to supervise another person, within the meaning of this subparagraph if (i) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person and (ii) such person has reasonably discharged the duties and obligations incumbent upon that person, as supervisor, by reason of such procedures and system, without reasonable cause to believe that such procedures and system were not being complied with;

"(D) such person was convicted of a felony other than a felony of the type specified in paragraph (2)(D) of this section within ten years preceding the filing of the application or at any time thereafter, or was convicted of a felony, including a felony of the type specified in paragraph (2)(D) of this section, more than ten years preceding the filing of the application;

"(E) such person was convicted within ten years preceding the filing of the application for registration or at any time thereafter of any misdemeanor which (i) involves any transaction or advice concerning any contract of sale of a commodity for future delivery or any activity subject to Commission regulation under section 4c or 19 of this Act or concerning a security, (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing, (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling, (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(F) such person was debarred by any agency of the United States from contracting with the United States;

"(G) such person willfully made any material false or misleading statement or willfully omitted to state any material fact in such person's application, in any report required to be filed with the Commission by this Act or the regulations thereunder, or in any proceeding before the Commission;

"(H) such person has pleaded nolo contendere to criminal charges of felonious conduct, or has been convicted in a State court or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction;

"(I) in the case of an applicant for registration in any capacity for which there are minimum financial requirements prescribed under this Act or under the rules or regulations of the Commission, such person has not established that such person meets such minimum financial requirements;

"(J) such person is subject to an outstanding order denying, suspending, or expelling such person from membership in a contract market, a registered futures association, or any other self-regulatory organization, or barring or suspending such person from being associated with any member or members of such contract market, association, or self-regulatory organization;

"(K) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any statute or any rule, regulation, or order thereunder which involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling or (ii) to have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person;

"(L) such person has associated with such person any other person and knows, or in the exercise of reasonable care should know, of facts regarding such other person that are set forth as statutory disqualification in paragraph (2) of this section, unless such person has notified the Commission of such facts and the Commission has determined that such other person should be registered or temporarily licensed;

"(M) there is other good cause; or

"(N) any principal, as defined in paragraph (2) of this section, of such person has been or could be refused registration:

Provided, That pending final determination under this paragraph, registration shall not be granted: Provided further, That such person may appeal from a decision to refuse registration or to condition registration made pursuant to this paragraph in the manner provided in section 6(b) of this Act;";

(4) amending paragraph (4), as redesignated, to read as follows:

"(4) in accordance with the procedure provided for in section 6(b) of this Act, to suspend, revoke, or place restrictions upon the registration of any person registered under this Act if cause exists under paragraph (3) of this section which would warrant a refusal of registration of such person, and to suspend or revoke the registration of any futures commission merchant or introducing broker who shall knowingly accept any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market from any person if such person has been denied trading privileges on any contract market by order of the Commission under section 6(b) of this Act and the period of denial specified in such order shall not have expired: Provided, That such person may appeal from a decision to suspend, revoke, or place restrictions upon registration made pursuant to this paragraph in the manner provided in section 6(b) of this Act;";

(5) striking out "and" at the end of each of paragraphs (6), (7), and (8); and

(6) adding a new paragraph (10) to read as follows:

"(10) to authorize any person to perform any portion of the registration functions under this Act, in accordance with rules, notwithstanding any other provision of law, adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to section 17(j) of this Act, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

EMERGENCY POWERS; JUDICIAL REVIEW

SEC. 225. Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended to read as follows:

"(9) to direct the contract market, whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including, but not limited to, the setting of temporary emergency margin levels on any futures contract, and the fixing of limits that may apply to a market position acquired in good faith prior to the effective date of the Commission's action. The term 'emergency' as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act to the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity. Any action taken by the Commission under this paragraph shall be subject to review only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. Such review shall by based upon an examination of all the information before the Commission at the time the determination was made. The court reviewing the Commission's action shall not enter a stay or order of mandamus unless it has determined, after notice and hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms 'market emergency', 'emergency', or equivalent language in its own bylaws, rules, regulations, or resolutions; and".

EXPORT SALES REPORTING

SEC. 226. The Commodity Exchange Act is amended by adding immediately after section 8c (7 U.S.C. 12c) the following new section:

"SEC. 8d. The Commission may, in accordance with the procedures provided for in this Act, refuse to register, register conditionally, or suspend, place restrictions upon, or revoke the registration of, any person, and may bar for any period as it deems appropriate any person from using or participating in any manner in any market regulated by the Commission, if such person is subject to a final decision or order of any court of competent jurisdiction or agency of the United States finding such person to have knowingly violated any provision of the export sales reporting requirements of section 812 of the Agricultural Act of 1970 (7 U.S.C. § 612c-3), or of any regulation issued thereunder.".

CERTAIN PROHIBITED TRANSACTIONS

SEC. 227. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) amending subsection (a) to read as follows:

"(a) It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any person registered or required to be registered under this Act, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to his own use or the use of another, any money, securities, or property having a value in excess of $100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts or which otherwide was received from any customer, client, or pool participant in connection with the business of such person. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution. The word 'value' as used in this subsection means face, par, or market value, or cost price, either wholesale or retail, whichever is greater. A person convicted of a felony under this subsection shall be suspended from registration under this Act and shall be denied registration or reregistration for five years or such longer period as the Commission shall determine, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest. The Commission may upon petition later review such disqualification and for good cause shown reduce the period thereof.";

(2) amending subsection (b) by adding at the end thereof the following: "A person convicted of a felony under this subsection shall be suspended from any registration under this Act, denied registration or reregistration for five years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for five years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.";

(3) amending subsection (c) by adding at the end thereof the following: "A person convicted under this subsection of knowingly violating the provisions of section 4a shall be suspended from any registration under this Act, denied registration or reregistration for a period of two years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for two years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.";

(4) amending subsection (d) to read as follows:

"(d) It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guarantee', or 'decline guaranty', or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity. Such prohibition against any investment transaction in an actual commodity shall not apply to (1) a transaction in which such person buys an agricultural commodity or livestock for use in such person's own farming or ranching operations or sells an agricultural commodity which such person has produced in connection with such person's own farming or ranching operations nor to any transaction in which such person sells livestock owned by such person for at least three months, (2) a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, or (3) a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a United States Government security, a certificate of deposit, or a similar financial instrument if no nonpublic information is used by such person in such transaction. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public."; and

(5) inserting after the words "'decline guaranty'" each place they appear in subsection (e) the following: ", or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract".

REAUTHORIZATION

SEC. 228. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years during the period beginning October 1, 1982, and ending September 30, 1986.".

OFF-EXCHANGE JURISDICTION; ROLE OF STATES

SEC. 229. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding at the end thereof the following new subsection:

"(e) Nothing in this Act shall supersede or preempt—

"(1) criminal prosecution under any Federal criminal statute;

"(2) the application of any Federal or State statute, including any rule or regulation thereunder, to any transaction in or involving any commodity, product, right, services, or interest (A) that is not conducted on or subject to the rules of a contract market, or (B) (except as otherwise specified by the Commission by rule or regulation) that is not conducted on or subject to the rules of any board of trade, exchange, or market located outside the United States, its territories or possessions, or (C) that is not subject to regulation by the Commission under section 4c or 19 of this Act; or

"(3) the application of any Federal or State statute, including any rule or regulation thereunder, to any person required to be registered or designated under this Act who shall fail or refuse to obtain such registration or designation. The Commission may refer any transaction or matter subject to such other Federal or State statutes to any department or agency administering such statutes for such investigation, action, or proceedings as that department or agency shall deem appropriate.".

AIDING AND ABETTING; CONTROLLING PERSON

SEC. 230. Section 13 of the Commodity Exchange Act (7 U.S.C. 13c) is amended by—

(1) striking out "in administrative proceedings under this Act" in subsection (a);

(2) redesignating subsection (b) as subsection (c); and

(3) inserting a new subsection (b) to read as follows:

"(b) Any person who, directly or indirectly, controls any person who has violated any provision of this Act or any of the rules, regulations, or orders issued pursuant to this Act may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person. In such action, the Commission has the burden of proving that the controlling person did not act in good faith or knowingly induced, directly or indirectly, the act or acts constituting the violation.".

REPARATIONS PROCEDURE

SEC. 231. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) amending subsection (a) to read as follows:

"(a) Any person complaining of any violation of any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, by any person who is registered under this Act may, at any time within two years after the cause of action accrues, apply to the Commission for an order awarding actual damages proximately caused by such violation.";

(2) amending subsection (b) to read as follows:

"(b) The Commission may promulgate such rules, regulations, and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing, and service of pleadings or orders, the nature and scope of discovery, counterclaims, motion practice (including the grounds for dismissal of any claim or counterclaim), hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.";

(3) striking out subsections (c) and (e);

(4) redesignating subsections (d), (f), (g), (h), and (i) as (c), (d), (e), (f), and (g), respectively;

(5) striking out "subsection (g)" in subsection (d), as so redesignated, and inserting in lieu thereof "subsection (e)"; and

(6) amending subsection (f), as so redesignated, to read as follows:

"(f) Unless the party against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that either an appeal as herein authorized has been taken or payment of the full amount of the order (or any agreed settlement thereof) has been made, such party shall be prohibited automatically from trading on all contract markets and, if the party is registered with the Commission, such registration shall be suspended automatically at the expiration of such fifteen-day period until such party shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made: Provided, That if on appeal the appellee prevails or if the appeal is dismissed, the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction, the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.".

TECHNICAL AMENDMENT

SEC. 232. Section 16(d) of the Commodity Exchange Act (7 U.S.C. 20(d)) is amended by inserting "or market positions" after "transactions".

REGISTERED FUTURES ASSOCIATIONS

SEC. 233. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) amending subsection (b)(4)(E) by inserting before the period at the end thereof the following: ", which may require the applicant to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing. Notwithstanding any other provision of law, such an association may receive from the Attorney General all the results of such identification and processing";

(2) striking out "section 8a(4)" in subsection (d) and inserting in lieu thereof "section 8a(1)";

(3) striking out "subsection (k)" in subsection (h) and inserting in lieu thereof "subsection (i)";

(4) striking out the last sentence in subsection (j) and inserting in lieu thereof the following: "A registered futures association shall submit to the Commission any change in or addition to its rules and may make such rules effective ten days after receipt of such submission by the Commission unless, within the ten-day period, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such registered futures association in writing of its determination to review such rules for approval. The Commission shall approve such rules within thirty days of their receipt if Commission approval is requested under this subsection or within thirty days after the Commission determines to review for approval any other rules unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this Act or the regulations issued pursuant to this Act, and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be inconsistent with the requirements of this section or in violation of this Act or the regulations issued pursuant to this Act. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period of time as the registered futures association may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the registered futures association may agree to, such rule may be made effective by the registered futures association until such time as the Commission disapproves such rule in accordance with this subsection.";

(5) adding at the end thereof the following new subsections:

"(o)(1) The Commission may require any futures association registered pursuant to this section to perform any portion of the registration functions under this Act with respect to each member of the association other than a contract market and with respect to each associated person of such member, in accordance with rules, notwithstanding any other provision of law, adopted by such futures association and submitted to the Commission pursuant to section 17(j) of this Act, and subject to the provisions of this Act applicable to registrations granted by the Commission.

"(2) In performing any Commission registration function authorized by the Commission under section 8a(10), this section, or any other applicable provisions of this Act, a futures association may issue orders (A) to refuse to register any person, (B) to register conditionally any person, (C) to suspend the registration of any person, (D) to place restrictions on the registration of any person, or (E) to revoke the registration of any person. If such an order is the final decision of the futures association, any person against whom the order has been issued may petition the Commission to review the decision. The Commission may on its own initiative or upon petition decline review or grant review and affirm, set aside, or modify such an order of the futures association; and the findings of the futures association as to the facts, if supported by the weight of the evidence, shall be conclusive. Unless the Commission grants review under this section of an order concerning registration issued by a futures association, the order of the futures association shall be considered to be an order issued by the Commission.

"(3) Nothing in this section shall affect the Commission's authority to review the granting of a registration application by a registered futures association that is performing any Commission registration function authorized by the Commission under section 8a(10), this section, or any other applicable provision of this Act.

"(4) If a person against whom a futures association has issued a registration order under this subsection petitions the Commission to review that order and the Commission declines to take review, such person may file a petition for review with a United States court of appeals, in accordance with section 6(b) of this Act.

"(p) Notwithstanding any other provision of this section, each futures association reg-

istered under this section on the date of enactment of the Futures Trading Act of 1982, shall adopt and submit for Commission approval not later than ninety days after such date of enactment, and each futures association that applies for registration after such date shall adopt and include with its application for registration, rules of the association that require the association to—

"(1) establish training standards and proficiency testing for persons involved in the solicitation of transactions subject to the provisions of this Act, supervisors of such persons, and all persons for which it has registration responsibilities, and a program to audit and enforce compliance with such standards;

"(2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce compliance with such requirements, except that such requirements may not be less stringent than those imposed on such firms by this Act or by Commission regulation; and

"(3) establish minimum standards governing the sales practices of its members and persons associated therewith for transactions subject to the provisions of this Act.

"(q) Each futures association registered under this section shall develop a comprehensive program that fully implements the rules approved by the Commission under this section as soon as practicable but not later than September 30, 1985, in the case of any futures association registered on the date of enactment of the Futures Trading Act of 1982, and not later than two and one-half years after the date of registration in the case of any other futures association registered under this section.".

LEVERAGE TRANSACTIONS

SEC. 234. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Commission shall regulate any transactions under a standardized contract described in subsection (a) of this section involving commodities described in subsection (b) of this section or any other commodities (except those commodities described in subsection (a) of this section) under such terms and conditions as the Commission shall prescribe by rule, regulation, or order made only after notice and opportunity for a hearing. The Commission may set different terms and conditions for such transactions involving different commodities. Notwithstanding any other provision of this section, the Commission may prohibit any transaction for the delivery of any commodity under a standardized contract described in subsection (a) of this section that is not permitted by the rules, regulations and orders of the Commission in effect on December 9, 1982, if the Commission determines that any such transactions would be contrary to the public interest."; and

(2) striking out subsection (d).

PRIVATE RIGHTS OF ACTION

SEC. 235. The Commodity Exchange Act is amended by adding at the end thereof the following new section:

SEC. 22. (a)(1) Any person (other than a contract market, clearing organization of a contract market, licensed board of trade, or registered futures association) who violates this Act or who willfully aids, abets, counsels, induces, or procures the commission of a violation of this Act shall be liable for actual damages resulting from one or more of the transactions referred to in clauses (A) through (D) of this paragraph and caused by such violation to any other person—

"(A) who received trading advice from such person for a fee;

"(B) who made through such person any contract of sale of any commodity for future delivery (or option on such contract or any commodity); or who deposited with or paid to such person money, securities, or property (or incurred debt in lieu thereof) in connection with any order to make such contract;

"(C) who purchased from or sold to such person or placed through such person an order for the purchase or sale of—

"(i) an option subject to section 4c of this Act (other than an option purchased or sold on a contract market or other board of trade);

"(ii) a contract subject to section 19 of this Act; or

"(iii) an interest or participation in a commodity pool; or

"(D) who purchased or sold a contract referred to in clause (B) hereof if the violation constitutes a manipulation of the price of any such contract or the price of the commodity underlying such contract.

"(2) Except as provided in subsection (b), the rights of action authorized by this subsection and by sections 5a(11), 14, and 17b(10) of this Act shall be the exclusive remedies under this Act available to any person who sustains loss as a result of any alleged violation of this Act. Nothing in this subsection shall limit or abridge the rights of the parties to agree in advance of a dispute upon any forum for resolving claims under this section, including arbitration.

"(b)(1)(A) A contract market or clearing organization of a contract market that fails to enforce any bylaw, rule regulation, or resolution that it is required to enforce by section 5a(8) and section 5a(9) of this Act, (B) a licensed board of trade that fails to enforce any bylaw, rule, regulation, or resolution that it is required to enforce by the Commission, or (C) any contract market, clearing organization of a contract market, or licensed board of trade that in enforcing any such bylaw, rule, regulation, or resolution violates this Act or any Commission rule, regulation, or order, shall be liable for actual damages sustained by a person who engaged in any transaction on or subject to the rules of such contract market or licensed board of trade to the extent of such person's actual losses that resulted from such transaction and were caused by such failure to enforce or enforcement of such bylaws, rules, regulations, or resolutions.

"(2) A registered futures association that fails to enforce any bylaw or rule that is required under section 17 of this Act or in enforcing any such bylaw or rule violates this Act or any Commission rule, regulation, or order shall be liable for actual damages sustained by a person that engaged in any transaction specified in subsection (a) of this section to the extent of such person's actual losses that resulted from such transaction and were caused by such failure to enforce or enforcement of such bylaw or rule.

"(3) Any individual who, in the capacity as an officer, director, governor, committee member, or employee of a contract market, clearing organization, licensed board of trade, or a registered futures association willfully aids, abets, counsels, induces, or procures any failure by any such entity to enforce (or any violation of the Act in enforcing) any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, shall be liable for actual damages sustained by a person who engaged in any transaction specified in subsection (a) of this section on, or subject to the rules of, such contract market, licensed board of trade or, in the case of an officer, director, governor, committee member, or employee of a registered futures association, any transaction specified in subsection (a) of this section, in either case to the extent of such person's actual losses that resulted from such transaction and were caused by such failure or violation.

"(4) A person seeking to enforce liability under this section must establish that the contract market, licensed board of trade, clearing organization, registered futures association, officer, director, governor, committee member, or employee acted in bad faith in failing to take action or in taking such action as was taken, and that such failure or action caused the loss.

"(5) The rights of action authorized by this subsection shall be the exclusive remedy under this Act available to any person who sustains a loss as a result of (A) the alleged failure by a contract market, licensed board of trade, clearing organization, or registered futures association or by any officer, director, governor, committee member, or employee to enforce any bylaw, rule, regulation, or resolution referred to in paragraph (1) or (2) of this subsection, or (B) the taking of action in enforcing any bylaw, rule, regulation, or resolution referred to in this subsection that is alleged to have violated this Act, or any Commission rule, regulation, or order.

"(c) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action must be brought within two years after the date the cause of action accrued.

"(d) The provisions of this section shall become effective with respect to causes of action accruing on or after the date of enactment of the Futures Trading Act of 1982: Provided, That the enactment of the Futures Trading Act of 1982 shall not affect any right of any parties which may exist with respect to causes of action accruing prior to such date.".

SPECIAL STUDY OF FUTURES AND RELATED MARKETS

SEC. 236. The Commodity Exchange Act is amended by adding at the end thereof the following new section:

"SEC. 23. (a)(1) The Board of Governors of the Federal Reserve System, the Commission, and the Securities and Exchange Commission, with assistance from the Secretary of the Treasury, shall conduct a study of the effects on the economy of trading in contracts of sale of commodities for future delivery and in options (including options on commodities, options on contracts of sale of commodities for future delivery, options on foreign currencies, and options on securities, including exempted securities or on any group or index of securities). The agencies participating in the study may select representative futures contracts and options contracts and representative periods of time for detailed study.

"(2) The Board of Governors of the Federal Reserve System shall organize the study and shall do so in such manner that the total cost to all participating agencies of conducting the study is not more than $3,000,000. To the extent possible, such agen-

cies shall use data which are readily available to them.

"(3) among the areas to be studies are—

"(A) the effects, if any, that trading in such instruments has on the formation of real capital in the economy (particularly that of a long-tern nature) and the structure of liquidity in credit markets;

"(B) the economic purposes, if any, served by the trading of such instruments;

"(C) the sufficiency of the public policy tools available to regulate such trading activity to avoid harmful economic effects in the markets for such instruments, the underlying cash markets, and related financial markets;

"(D) the adequacy of investor protections afforded to participants in the markets for such instruments; and

"(E) the extent to which such instruments may be utilized to manipulate, or profit from the manipulation of, the markets for evidences of indebtedness, foreign currency, and securities.

"(4) The Commission shall have primary responsibility for selecting and studying the instruments under its jurisdiction, and the Securities and Exchange Commission shall have primary responsibility for selecting and studying the instruments under its jurisdiction.

"(5) The Board of Governors of the Federal Reserve System shall review, and may supplement with its own analyses, the studies conducted under this subsection by the Commission and the Securities and Exchange Commission. The Board of Governors, after consultation with the Commission and the Securities and Exchange Commission, shall, not later than September 30, 1984, submit to Congress a report comprised of such studies, together with any supplementation and recommendations for legislative or regulatory action proposed by the participants.

"(b)(1) The Commission shall conduct at a cost of not more than $200,000 a study of (A) the nature, extent, and effects of trading in representative futures markets by persons possessing material information not generally available to the public regarding present or anticipated cash or futures transactions (to which such persons are not parties) in any commodity, and (B) the adequacy of the Commission's authority to prevent market and customer abuses resulting from the possession of such nonpublic information.

"(2) To the extent possible, the Commission shall use data which are readily available to it in conducting the study. The Commission shall, not later than September 30, 1984, transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study and including any recommendations for legislative action.".

NATIONAL FUTURES ASSOCIATION STUDY AND SERVICE FEES

SEC. 237. Section 26 of the Futures Trading Act of 1978 (92 Stat. 877) is amended by—

(1) inserting "(a)" immediately following the section designation; and

(2) adding at the end thereof the following new subsections:

"(b) The Commodity Futures Trading Commission shall submit to Congress a report containing the results of a study of the regulatory experience of the National Futures Association for the period beginning January 1, 1983 and ending September 30, 1985. The report shall be submitted not later than January 1, 1986. The report shall include (but not to be limited to) the following—

"(1) the extent to which the National Futures Association has fully implemented the program provided in the rules approved by the Commission under section 17(p) and (q) of the Commodity Exchange Act and the effectiveness of the operation of such program;

"(2) the actual and projected cost savings to the Federal Government, if any, resulting from operations of the National Futures Association;

"(3) the actual and projected costs which the Commission and the public would have incurred if the Association had not undertaken self-regulatory responsibility for certain areas under the Commission's jurisdiction;

"(4) problem areas, if any, encountered by the Association;

"(5) the nature of the working relationship between the Association and the Commission;

"(6) an assessment of the actual and projected efficiencies the Commission has achieved or expects to be achieved as a result of the continuing regulatory activities of the Association; and

"(7) the immediate and projected capabilities of the Commission at the time of submission of the study to turn its attention to more immediate problems of regulation, as a result of the activities of the Association.

"(c) Nothing in this section shall limit the authority of the Commission to promulgate, after notice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act: Provided, That the fees for any specified service or activity or function shall not exceed the actual cost thereof to the Commission.".

AGRICULTURAL EXPORTS

SEC. 238. Section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, the President shall not prohibit or curtail the export of any agricultural commodity or the products thereof under an export sales contract (1) entered into before the President announces an action that would otherwise prohibit or curtail the export of the commodity or products thereof, (2) the terms of which require delivery of the commodity or products thereof within two hundred and seventy days after the date the suspension of trade is imposed, except that the President may prohibit or curtail the export of any commodity or the products thereof during a period for which the President has declared a national emergency or for which Congress has declared war.".

EFFECTIVE DATE

SEC. 239. This Act shall be effective upon the date of enactment of this Act, except that sections 9, 14, and 28 of this Act shall be effective one hundred and twenty days after the date of enactement of this Act, or such earlier date as the Commodity Futures Trading Commission shall prescribe by regulation.

And the Senate agree to the same.

E DE LA GARZA,
ED JONES,
BERKLEY BEDELL,
DAN GLICKMAN,
THOMAS DASCHLE,
BRYON L. DORGAN,
TOM HARKIN,
GLENN ENGLISH,
LEON E. PANETTA,
BILL WAMPLER,
JAMES M. JEFFORDS,
E. THOMAS COLEMAN,
PAT ROBERTS,
JOE SKEEN,
STEVE GUNDERSON,
COOPER EVANS,

For consideration of title I and section 237:

JOHN D. DINGELL,
TIMOTHY E. WIRTH,
JAMES T. BROYHILL,
Managers on the Part of the House.

JESSE HELMS,
BOB DOLE,
S. I. HAYAKAWA,
RICHARD G. LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
DAVID PRYOR,
DAVID BOREN,
HOWELL HEFLIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The *Senate* amendment struck out all of the *House* bill after the enacting clause and inserted a substitute text.

The *House* recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the *House* bill and the *Senate* amendment. The differences between the *House* bill, the *Senate* amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

(1) JURISDICTION (SEC. 101) [1]

The *House* bill provides that the Commodity Futures Trading Commission shall not designate a contract market for trading in any contract of sale (or option on such contract) for future delivery of a group or index of securities if the Securities and Exchange Commission determines that such contract (or option on such contract) fails to meet the minimum requirements of this provision. Any such determination must be made by rule or order within 45 days after the close of the comment period on the application. This period may be extended to not more than 90 days by the Securities and Exchange Commission, with the consent of the board of trade involved and on the basis of a published statement of the reasons therefor. A person aggrieved by any such rule or order of the Securities and Exchange Commission may obtain judicial review in the same manner as is provided in section 25 of the Securities Exchange Act of 1934. (Sec. 101(3))

[1] The section references after (i) each numbered item, (ii) the description of the *House* bill, and (iii) the description of the *Senate* amendment are references to the *Conference* substitute, H.R. 5447 as passed by the *House*, and the *Senate* amendment thereto, respectively.

The *Senate* amendment provides for consultation by the Commission with the Securities and Exchange Commission with respect to the designation of a board of trade as a contract market in any such contract (or option on such contract). If, within 15 days following the close of the comment period on the application, the Securities and Exchange Commission objects to the designation on the ground that any minimum requirement of the provision is not met, the Commission must afford the Securities and Exchange Commission an opportunity for an oral hearing before the Commission, and give appropriate weight to the views of the Securities and Exchange Commission. The oral hearing must be held not less than 30 nor more than 45 days after the close of the comment period, unless both the Commission and the Securities and Exchange Commission otherwise agree. If an oral hearing is held and the Securities and Exchange Commission fails to withdraw its objections, and the Commission issues an order making such a designation, the Securities and Exchange Commission has the right of judicial review of the order in accordance with the standards of section 6(b) of the Commodity Exchange Act. (Sec. 3(b))

The *Conference* substitute provides that the terms of the *Senate* amendment will govern applications filed with the Commission prior to December 9, 1982. For all applications filed on or after December 9, 1982, the Commodity Futures Trading Commission shall not designate a contract market for trading in any contract of sale (or option on such contract) for future delivery of a group or index of securities if the Securities and Exchange Commission determines that such contract (or option on such contract) fails to meet the minimum requirements of this provision. Any such determination must be made by order within 45 days after the close of the comment period on the application. In the event of such determination, the board of trade is afforded an opportunity for a hearing on the record before the Securities and Exchange Commission. If a board of trade requests a hearing on the record, the hearing must commence no later than 30 days following receipt of the request, and a final determination must be made within 30 days after the close of the hearing. A person aggrieved by any such order of the Securities and Exchange Commission may obtain judicial review in the same manner and under such terms and conditions as is provided in section 6(a) of the Commodity Exchange Act.

It is the intent of the conferees that the *Conference* substitute gives the Securities and Exchange Commission certain authority only as to the approval of a futures contract on a group or index of securities (or option on such contract) prior to the trading of the contract. Moreover, the authority of the Securities and Exchange Commission contained in the *Conference* substitute is limited to making a finding that such a futures or option contract meets the criteria set forth in the *Conference* substitute. The Commodity Futures Trading Commission retains exclusive authority to regulate all aspects of trading in such contracts after such contracts are approved.

(2) COMMODITY TRADING ADVISOR (SEC. 201(2))

The *House* bill excludes from the definition of "commodity trading advisor" persons acting as employees of banks and trust companies if their furnishing of advice with regard to futures trading is solely incidental to the conduct of their business. (Sec. 210(2))

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(3) SPECULATIVE LIMITS (SEC. 205)

(a) The *House* bill authorizes the Commission to set different trading or position limits for different numbers of days remaining until the last day of trading in a contract. (Sec. 204(1))

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill provides that the terms bona fide hedging transactions or positions, which are to be defined by the Commission, shall permit producers, purchasers, sellers, middlemen, and users of a commodity or product derived therefrom to hedge their legitimate anticipated business needs for that period of time for which a futures contract is open and available. The *House* bill also requires the Commission to monitor the trading activities of selected large hedgers to determine the adequacy of the Commission's powers to diminish, eliminate, or prevent unwarranted price pressures caused by large hedgers. The Commission is to report findings and recommendations on this subject in its annual report to the Senate and House agriculture committees in each of the 4 years following enactment of the bill. (Sec. 204(4))

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to give the Commission discretion to define the terms bona fide hedging transactions or positions to permit producers, purchasers, sellers, middlemen, and users of a commodity to hedge their legitimate anticipated business needs for the period of time for which an appropriate futures contract is open and available. The amendment also provides that the Commission shall monitor and analyze the trading activities of the largest hedgers, as determined by the Commission, operating in the cattle, hog, or pork belly markets and report its findings and recommendations to the House and Senate agriculture committees in its annual reports for at least 2 years following the date of enactment of the bill.

(c) The *House* bill provides that contract markets or licensed boards of trade may not fix limits on the amount of trading performed or positions held which are higher than the limits, if any, fixed by the Commission. (Sec. 204(6))

The *Senate* amendment contains the same provision except that it would permit the Commission to waive its limits and approve the higher limits set by a contract market or board of trade. (Sec. 7(6))

The *Conference* substitute adopts the *House* provision.

(d) The *House* bill provides that the criminal misdemeanor penalties applicable to violations of the speculative limits provisions shall apply only to those who knowingly violate these provisions. (Sec. 204(6))

The *Senate* amendment provides that the Act's criminal misdemeanor penalties applicable to violations of the speculative limits provisions shall not apply unless the violation is in furtherance of an attempt to manipulate, corner, or squeeze a market. (Sec. 7(6))

The *Conference* substitute adopts the *House* provision.

(4) AGRICULTURAL OPTIONS (SEC. 206)

The *House* bill removes the statutory ban on the trading of options on agricultural commodities and gives the Commission discretion to authorize, pursuant to current procedures applicable to options transactions, a pilot program, not to exceed 3 years, under which each contract market could be designated for trading in one agricultural option contract. Three years after the beginning of the pilot program, the Commission could authorize the trading of options on agricultural commodities without regard to the restrictions of the pilot program. The Commission would be required to transmit to the House and Senate agriculture committees documentation of its ability to regulate these transactions successfully, including a copy of the implementation regulations, and *60 days* of continuous session of Congress must expire after the date of such transmittal before trading may be authorized. (Sec. 205)

The *Senate* amendment removes the statutory ban on the trading of options on agricultural commodities and retains current law under which the Commission would be required to transmit to the House and Senate agriculture committees documentation of its ability to regulate these transactions successfully, including a copy of the implementing regulations, and *30 days* of continuous session of Congress must expire after the date of such transmittal before trading may be authorized. (Sec. 8)

The *Conference* substitute adopts the *House* provision with an amendment to permit the Commission to authorize commodity option transactions during a pilot program in as many agricultural commodities as will provide an adequate test of these options. The *Conference* substitute also provides that, after completion of the pilot program, the Commission may authorize the trading of options on agricultural commodities without regard to the restrictions of the pilot program. Before such transactions may be authorized, the Commission must transmit to the House and Senate agriculture committees documentation of its ability to regulate these transactions successfully, including a copy of the implementing regulations, and 30 calendar days of continuous session of Congress must expire after the date of such transmittal.

The conferees intend that the pilot program should, whenever possible, be "folded into" existing options pilot programs, using the same kind of regulatory scheme already in place for these other options pilot programs.

(5) REGISTRATION OF AGENTS (SEC. 212)

The *House* bill requires any partner, officer, or employee of a futures commission merchant or introducing broker who solicits or accepts customers' orders (in a non-clerical capacity), or who supervises such activity, to register as an associated person of the futures commission merchant or introducing broker for whom the action is performed. (Sec. 211)

The *Senate* amendment is the same, except that it also applies to agents of futures commission merchants and introducing brokers. (Sec. 14)

The *Conference* substitute adopts the *House* provision with an amendment to require that agents of introducing brokers register with the Commission as associated persons of the introducing brokers.

Section 4(k)(1) of the Act, as amended by the *Conference* substitute, requires that introducing brokers be registered with the

Commission. This new class of registrant is defined in an amendment to section 2(a)(1) of the Act to include persons who solicit funds but who do not elect to be registered as associated persons of a futures commission merchant. Section 4(k)(1) is thus intended to require that all individuals who meet the statutory definition of "introducing broker" but who are not exempt or have not elected to become registered as associated persons of futures commission merchants be registered with the Commission as introducing brokers. Thus, the Commission will have authority to require registration as introducing brokers of all persons who solicit public funds and who are not otherwise registered. Because many introducing brokers will be small businesses or individuals, as contemplated by the definition of this class of registrant, the conferees contemplate that the Commission will establish financial requirements which will enable this new class of registrant to remain economically viable, although it is intended that fitness tests comparable to those required of associated persons will also be employed. The intent of the conferees is to require Commission registration of all persons dealing with the public, but to provide the registrants with substantial flexibility as to the manner and classification of registration.

(6) APPROVAL OF FUTURES CONTRACTS—PUBLIC INTEREST TEST

The *House* bill provides that, in determining whether to approve a new futures contract for trading, the Commission must consider, among other things, the extent to which trading of the new contract is likely to divert investment capital from capital formation and to cause price manipulation and destabilization in the commodity forming the basis for the new contract. (Sec. 216)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision. The conferees intend, however, that the Commission consider the matters specified in the *House* provision in determining whether designation of a board of trade as a contract market for any financial futures contracts would be contrary to the public interest.

(7) ARBITRATION PROCEDURES—FUTURES ASSOCIATION (SEC. 217)

The *House* bill provides that a futures association shall not be registered unless the association's rules provide a fair and equitable *expeditious* procedure for the settlement of customers' claims and grievances. (Sec. 219)

The *Senate* amendment provides that a futures association shall not be registered unless the association's rules provide a fair and equitable procedure for the settlement of customers' claims and grievances. (Sec. 30(2))

The *Conference* substitute adopts the *House* provision.

(8) CONTRACT MARKET DESIGNATION PROCEDURES (SEC. 218)

The *House* bill provides that the Commission shall have not less than 60 days in which to approve or deny a resubmitted application for designation as a contract market, the 60-day period to run from the time the application is resubmitted in completed form. (Sec. 220)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(9) STATE ANTIFRAUD JURISDICTION (SEC. 221)

The *Senate* amendment provides that, except as specified in the provision, nothing in the Act shall prohibit an authorized State official from instituting a state court action or administrative proceeding against any registrant (except floor brokers) for an alleged violation of certain State securities or commodities antifraud statutes.

Under the *Senate* amendment no State could initiate any action or proceeding against any registrant for alleged violation of any State licensing, registration, or qualification requirement provided for under any State securities or commodities statute or of any rule, regulation, or statement of general policy issued under any State securities or commodities statute.

No State antifraud action or proceeding could be instituted under this provision unless:

(a) the State provides the Commission with prior written notice of its intention to proceed and with a copy of the proposed complaint and supporting evidence;

(b) the Commission, based on a review of the complaint and evidence, is able to determine and, in fact, determines that the State action or proceeding would not be inconsistent with the Act or any rule or policy of the Commission; and

(c) the Commission notifies the States, in writing, of its determinations.

The Commission shall make its determinations and notify the State within 30 days of the receipt of the State's proposed complaint and supporting evidence, unless the Commission and the State agree to another period. The State may not act if the Commission determines that the State's activity would be inconsistent with the Act or any rule or policy of the Commission. If the Commission fails to make either of the determinations and to notify the State within the prescribed period, the State may initiate an action or proceeding based on the complaint submitted to the Commission. The authority to make the determinations under this provision may not be delegated to any employee of the Commission. A determination by the Commission that a proposed State action is not inconsistent with the Act or any rule or policy of the Commission is final and not subject to judicial review. (Sec. 22)

The *House* bill contains no comparable provision.

The *Conference* substitute provides that nothing in the Commodity Exchange Act shall prohibit an authorized State official from proceeding in a State court against any person registered under the Act (other than a floor broker or registered futures association) for an alleged violation of any antifraud provision of the Act or any antifraud rule, regulation, or order issued pursuant to the Act. Any State instituting a proceeding under this provision shall give the Commission prior written notice of its intent to proceed and shall furnish the Commission with a copy of its complaint or other moving paper immediately upon instituting any such proceeding. The Commission shall have the right to intervene in any such proceeding and to file an appeal. The Commission or the defendant may remove such proceeding to the district court of the United States for the proper district by following the procedure for removal otherwise provided by law, except that the petition for removal shall be filed within sixty days after service of the summons and complaint upon the defendant. The Commission shall have the right to appear as *amicus curiae* in any such proceeding.

The conferees intend that nothing contained in this provision will permit any State to impose, or to initiate any suit, action, or proceeding for an alleged violation of, any State licensing, registration, or qualification requirement provided for under any State securities or commodities statute. Similarly, nothing in this provision permits any State to initiate any suit, action, or proceeding against a person registered under the Act for an alleged violation of any rule, regulation, guideline, or statement of general policy issued under any State securities or commodities statute.

The authority contained in the *Conference* substitute extends only to enforcement of the antifraud provisions of the Act and the antifraud rules, regulations, or orders of the Commission and not to other provisions that may appear in the same section in conjuction with these antifraud provisions.

(10) CONFIDENTIALITY PROVISIONS—DISCLOSURE (SEC. 222)

(a) The *House* bill requires the Commission to establish procedures under which persons who have submitted information to the Commission will be advised within 5 days after receipt of a request for release of this information under the Freedom of Information Act that such a request has been made. The procedures would have to provide both the submitter and the requester an opportunity to submit written arguments regarding the request. The Commission would not have to notify the information submitter of a request for information if the Commission has determined to deny the request, the Commission has no discretion to withhold release, or the information has already been made public. (Sec. 223)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(b) The *Senate* amendment provides that the Commission may not, unless specifically authorized in the Act, disclose any records containing or based on confidential information or proprietary information that is not customarily disclosed to the public by the person submitting the information, except that confidential or proprietary information may be disclosed when necessary to obtain public comment. (Sec. 22(1))

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(c) The *Senate* amendment provides that the Commission may not disclose data or information obtained in connection with the investigation of any person except that such data or information may be disclosed in a congressional proceeding or certain administrative or judicial proceedings. (Sec. 22 (1) and (2))

The *House* bill contains no comparable provision.

The *Conference* substitute provides that the Commission may withhold from public disclosure any data or information concerning or obtained in connection with any pending investigation of any person.

The *Conference* substitute thus places information concerning or obtained in connection with any pending Commission investigation of any person in the same category under the Act as, for example, trade secrets or names of customers. This category of information is protected from public disclosure under the provision of the Freedom of Information Act (5 U.S.C. 552(b)(3)) applicable to information exempted from disclo-

sure by a statute that specifically refers to particular types of matters to be withheld. However, this protection for investigatory information shall not apply once the Commission investigation has been closed.

(d) The *Senate* amendment exempts congressional subpenas and requests for information from the requirement that a copy of any subpena or summons issued to the Commission be mailed to the information submitter and 14 days from the date of such mailing have expired before releasing the information. (Sec. 22(5))

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with a clarification that the Commission may utilize other notification procedures in lieu of mailing the subpena or summons to submitters of information and that the Commission is to provide information pursuant to the subpena or summons only if at least 14 days have expired from the date of mailing or other form of notification. The conferees recognize that a subpena may ask for data or information that is a compilation of material obtained from many different sources. Under such circumstances, it may be extremely costly and burdensome for the Commissioin to mail a copy of the subpena to each submitter of information. The *Conference* substitute will permit the Commission in such cases to use alternate procedures to notify submitters of information of the existence of the subpena, such as by publication in the Federal Register. Of course, the conferees do not intend by the adoption of this provision that the Commission use alternative notification procedures when mailing a copy of the subpena to each person would pose no significant resource or administrative problems.

(11) EMERGENCY POWERS (SEC. 225)

The *House* bill amends the Act to specifically provide that the Commission shall have the power, in a market emergency, to fix position limits that may apply to a position acquired in good faith prior to the effective date of the Commission's action. (Sec. 226)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(12) EXPORT SALES REPORTING (SEC. 226)

The *House* bill provides that any person who, directly or indirectly, sells for export or agrees to sell for export any quantities, as described in the next paragraph of this item, of wheat, corn, soybeans, and any component or commodity related to those commodities must report to the Commission within 48 hours (a) the date of sale, (b) the identity of the commodity, (c) the quantity sold, (d) the country or countries to which the commodity is to be shipped and the ultimate destination if known, and (e) such other information as the Commission may by regulation require. The Commission must make each report available to the public on the first working day following its receipt by the Commission.

The *House* bill applies the disclosure requirements to those persons whose total export sales and cancellations of wheat, corn, and soybeans exceed 100,000 metric tons daily or 200,000 metric tons within 7 calendar days, unless changed by rule or regulation issued by the Commission. The Commission must promulgate rules and regulations implementing the disclosure provisions within 90 days of the effective date of the bill.

The *House* bill also requires the Commission to revoke the registration of any futures commission merchant, associate of any futures commission merchant, commodity pool operator, or floor broker who accepts any order for a futures contract from, or places such an order with, any person who has been found in violation of the foregoing disclosure provisions or who, himself, is a person who has been found in violation of such provisions. Any such person is not eligible to reapply for registration until 12 months after the date of revocation. (Sec. 226A)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute provides that the Commission may, in accordance with the procedures provided for in the Act, (a) refuse to register, register conditionally, or suspend, place restrictions upon, or revoke the registration of, any person, and (b) bar for any period as it deems appropriate any person from using or participating in any manner in any market regulated by the Commission, if such person is subject to a final decision or order of any court of competent jurisdiction or agency of the United States finding such person to have knowingly violated any provision of the export sales reporting requirements of section 812 of the Agricultural Act of 1970 (7 U.S.C. § 612c-3), or of any regulation issued thereunder.

The conferees fully expect the Commission to recommence publishing the commitments of large traders and to make them routinely available to vendors and interested government agencies. These reports provide quantitative data on how the largest traders are positioning themselves in the futures markets and are factored into the personal trading strategy of many traders.

(13) INSIDER TRADING (SEC. 236)

The *House* bill provides that no insider may own, control, have a beneficial interest in, or enter into any cash contract or contract for future delivery in any commodity on any contract market. The term "insider" is defined as any individual who has access to information, not generally available to the public, about present or anticipated cash or futures trading or present or anticipated cash or futures positions, to which such individual is not a party, in any commodity of any other person where the trading or positions are in amounts at or above Commission designated reporting levels as specified under section 4i of the Act. (Sec. 226B)

The *Senate* amendment requires the Commission to conduct a study to determine (a) the extent of insider trading of futures contracts on contract markets subject to regulation under the Act and (b) whether such trading is, or can reasonably be anticipated to be, connected with excessive speculation or manipulation or improper control of the futures markets, or improper activities with respect to the establishment of cash prices for the commodities involved. The Commission must complete the study and report its findings to the Committee on Agriculture of the House and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 6 months after the date of enactment of the bill. The *Senate* amendment defines trading by an insider in the same manner as the *House* bill, except that the information to which the insider has access must be "material". (Sec. 33)

The *Conference* substitute provides that the Commission shall, at a cost of not more than $200,000, undertake a study of the nature, extent, and effects of trading in representative futures markets by persons possessing material information regarding cash or futures transactions that is not generally known to the public and the adequacy of the Commission's authority to prevent market and customer abuses resulting from the possession of such nonpublic information. To the extent possible the Commission shall use data which are readily available. Not later than September 30, 1984, the Commission shall transmit to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture a report describing the results of these studies and including any recommendations for legislative action. If the Commission should find that there is a problem with respect to insider trading, the conferees intend that the Commission immediately take appropriate action to deal with the situation under its current authority.

(14) DISQUALIFICATION (SEC. 227)

(a) The *House* bill provides that any person convicted of a felony under section 9(a) of the Act must be suspended from any registration under the Act and denied reregistration for 5 years or such longer period as the Commission shall determine, unless the Commission determines that the imposition of such a penalty is not required to protect the public interest. Section 9(a) under the bill makes it a felony for any person registered or required to be registered or any employee or agent to steal or with criminal intent convert to his own use or the use of another, any money, securities, or property having a value in excess of $100 which was received from any customer, client or pool participant in connection with the business of such person. (Sec. 227(1))

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment that in the event of any disqualification under the provision the Commission may upon petition later review the disqualification and for good cause shown reduce the period thereof.

(b) The *House* bill provides that any person convicted of a felony under section 9(b) of the Act must be suspended from any registration under the Act, denied registration or reregistration for 5 years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for 5 years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest. Section 9(b), among other things, makes it a felony for a person to attempt to manipulate the price of a commodity or a futures contract, attempt to corner any such commodity or transmit false or misleading market information or false or misleading statements of a material fact in any registration application or report filed with the Commission. (Sec. 227(2))

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment that in the event of any disqualification or market bar under the provision the Commission may upon petition later review the sanction and for good cause shown reduce the period thereof.

(b) The *House* bill provides that any person convicted of knowingly violating the

provisions of section 4a of the Act (relating to position limits fixed by the Commission or by a contract market or other board of trade licensed or designated by the Commission) must be suspended from any registration under the Act, denied registration or reregistration for 2 years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for 2 years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest. (Sec. 227(3))

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment that in the event of any disqualification or market bar under the provision the Commission may upon petition later review the sanction and for good cause shown reduce the period thereof.

(15) REAUTHORIZATION (SEC. 228)

The *House* bill extends the authorization for appropriations under the Commodity Exchange Act for 4 years through September 30, 1986. (Sec. 228)

The *Senate* amendment extends the authorization for appropriations for 2 years through September 30, 1984. (Sec. 26(1))

The *Conference* substitute adopts the *House* provision.

(16) CONTROLLING PERSON (SEC. 230)

(b) The *House* bill provides that any person who, directly or indirectly, controls any person who has violated any provision of the Act or any of the rules, regulations, or orders issued pursuant thereto may be held liable for such violation in any action brought by the Commission to the same extent as the controlled person. Under the *House* bill the Commission has the burden of proving either that the controlling person did not act in good faith *or* directly or indirectly induced the act or acts constituting the violation. (Sec. 230)

The *Senate* amendment contains a comparable provision but provides that in proving any such violation, the Commission shall bear the burden of showing both that the controlling person did not act in good faith *and* directly or indirectly induced the act or acts constituting the violation. (Sec. 27)

The *Conference* substitute adopts the *House* provision with an amendment to provide that the Commission has the burden of proving that the controlling person did not act in good faith or *knowingly induced*, directly or indirectly, the act or acts constituting the violations.

Section 2(a)(1) of the current law contains a provision that the act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust, as well as of such official, agent, or other person. This section has been included in the Act for many years and in essence provides *respondeat superior* and general principal-agent standards for imposing liability on employers and principals for the acts of their employees or agents. The conferees intend that this section not be used as a basis for imputing liability to a controlling person of a firm for acts of an employee or agent of the firm since it does not include the protections that have carefully been articulated in the *Conference* substitute and would make a nullity of that provision.

(17) REGISTERED FUTURES ASSOCIATIONS (SEC. 233)

(a) The *House* bill provides that if a futures association grants a registration application in performing any Commission registration function that it is authorized to perform, the registration shall be conditional until the expiration of 15 days after notification of the registration is received by the Commission. Within that period the Commission may direct the futures association to vacate the grant of registration and to take further action on the application. (Sec. 233(4))

The *Senate* amendment provides that nothing in the Act shall affect the Commission's authority to review the granting of a registration application by a registered futures association that is performing any Commission registration function authorized under the Act. (Sec. 30(5))

The *Conference* substitute adopts the *Senate* provision. The conferees note that if the Commission determines to review a registration decision and order of a registered futures association and issues a final registration decision as a result of this review, the party or parties adversely affected by the Commission's action may appeal the decision in the manner provided in section 6(b) of the Commodity Exchange Act. In this circumstance, the Commission itself would be issuing a final registration decision, and the conferees, therefore, intend that an appeal from that decision would be governed by the provisions of sections 6(b), 8a(2), 8a(3) and 8a(4) of the Commodity Exchange Act concerning the availability of and procedures for appellate review.

The conferees contemplate that in the near future the Commission and the National Futures Association will be discussing the assumption by NFA of a portion, if not all, of the Commission's registration functions. The conferees adopted the *Senate* provision in order to provide both parties with sufficient flexibility to work out the most appropriate procedures for Commission review, if determined to be necessary, of the granting of registrations by NFA. The conferees understand that these procedures could ultimately include the type of conditional registration provided in the *House* provision.

(b) The *House* bill requires each futures association registered on the date of enactment of the bill to adopt and submit for Commission approval not later than 90 days after such date of enactment, and each futures association that applies thereafter for registration to include with its application for registration, rules that require the association to—

(1) establish training standards and proficiency testing for personnel of members involved in the solication of transactions subject to the provisions of the Act, supervisory officials of such personnel, and all individuals for which it has registration responsibilities, and a program to audit and enforce such standards;

(2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce such requirements. Such requirements may not be less stringent than those imposed on such firms by the Act or by Commission regulation; and

(3) establish minimum standards governing the sales practices of its members and persons associated therewith as to transactions subject to the provisions of the Act. (Sec. 233(4))

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

The *House* bill requires each registered futures association to develop a comprehensive program that fully implements the rules approved by the Commission under section 17 of the Act not later than 2 years after the date of enactment of the bill in the case of any futures association registered on such date, and not later than 2 years after the date of registration in the case of any other registered futures association. (Sec. 233(4))

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provisions with an amendment requiring the National Futures Association to develop its comprehensive program by September 30, 1985, and in the case of any futures association not registered on the date of enactment of the bill, not later than 2½ years after the date of registration.

The conferees recognize that adoption of new section 17(q) establishes an ambitious goal for the National Futures Association in that the new section requires the futures association's self-regulatory program be fully implemented by September 30, 1985. The conferees are also aware that unless all persons covered by the regulatory program of a futures association join an association, the self-regulatory purposes of section 17 of the Commodity Exchange Act will not be fulfilled and, in particular, the goal of new section 17(q) may be impossible to achieve. To this end, the National Futures Association has petitioned the Commission to adopt a rule that would, in effect, require all persons (except floor brokers) that are required to be registered with the Commission to be members of a registered futures association. The conferees recognize that, under the Act, the Commission has authority to adopt such a rule. The conferees understand that the Act gives the Commission authority to adopt rules relating to membership in a registered futures association in order to effectuate fully the specific policies underlying section 17(m) of the Act. The conferees expect that the Commission will exercise this authority and adopt such rules or take such other action as it deems to be necessary or appropriate to insure that persons eligible for membership in a registered futures association become and remain members of at least one such association. The conferees also are of the view that the adoption of such rules would be consistent with the Commission's duty under section 15 of the Act to weigh the purposes and policies of the Act to be served by the rule as well as the interests reflected in the antitrust laws and to endeavor to take the least anticompetitive means of achieving the Act's objectives.

(18) LEVERAGE TRANSACTIONS (SEC. 234)

(a) The *House* bill amends the provisons relating to leverage transactions to specifically require the Commission to regulate any leverage transactions involving commodities (other than agricultural commodities) under terms and conditions as the Commission shall prescribe by January 31, 1983. The *House* bill would delete the provision in current law under which the Com-

mission may prohibit or regulate any leverage transaction involving commodities other than agricultural commodities and other than gold and silver bullion and bulk coins under terms and conditions as the Commission shall initially prescribe by October 1, 1979. (Sec. 234(1))

The *Senate* amendment contains no comparable provision. It retains current provisions of law relating to leverage transactions.

The *Conference* substitute adopts the *House* provision with amendments that would (1) delete the specific date (January 31, 1983) by which the Commission would be required to issue regulations governing leverage transactions; and (2) add a sentence to section 19(c), as revised by the *House* provision, that would authorize the Commission to prohibit leverage transactions in any commodity not being lawfully offered and sold on December 9, 1982, if the Commission finds that leverage transactions in any such commodity would be contrary to the public interest. The conferees intend that the Commission issue comprehensive regulations governing leverage transactions as expeditiously as possible.

The conferees recognize the increasing demands upon the Commission's resources and accordingly do not object to the current regulatory moratoria maintaining the status quo in the industry until such time as a comprehensive regulatory system is in place and the Commission is capable of regulating an expanded leverage industry. The moratoria are not ratified and extended in the bill itself, however, since they are inherently anticompetitive and thus contrary to the fundamental objectives of economic competition and the free marketplace. The conferees intend for the Commission to terminate these moratoria as quickly as the Commission determines it is prudent to do so.

(b) The *House* bill also strikes out section 19(d) of the Act which provides that if the Commission determines that any leverage transaction is a contract for future delivery within the meaning of the Act, such transaction shall be regulated as a futures contract in accordance with the applicable provisions of the Act. (Sec. 234(2))

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. The *Conference* substitute, in repealing section 19(d), is in no way to be construed as limiting or circumscribing the Commission's authority to take appropriate action under any other provision of the Commodity Exchange Act against transactions masquerading as "leverage" contracts. Likewise, the conferees do not intend that the repeal of section 19(d) have any effect on any lawsuit or administrative proceeding now pending between the Commission and any leverage transaction merchant. Nor does the action of the committee of conference affect in any way the Commission's authority under existing law to define the terms "margin account", "margin contract", "leverage account", "leverage contract", "leverage transaction", or "leverage" or to otherwise regulate such accounts, contracts, or transactions.

(19) PRIVATE RIGHTS OF ACTION (SEC. 235)

The *House* bill adds a provision to the Act to explicitly authorize private rights of action and to set forth the conditions under which they would be allowed and damages would be recoverable. The *House* bill provides that—

(a)(1) Any person (other than a contract market, clearing organization of a contract market, licensed board of trade, or registered futures association) who violates the Act or who willfully aids in the violation of the Act shall be liable for actual damages resulting from any of the following transactions caused by such violation to any other person who—

(A) received trading advice from such person for a fee;

(B) made through such person any futures contract or option contract subject to the Act on or subject to the rules of any contract market or other board of trade, or made a deposit with such person in connection with any order to make such contract;

(C) entered into a transaction with or placed through such person an order for the purchase or sale of:

(i) an option subject to section 4c of the Act (other than an option purchased or sold on a contract market or other board of trade;

(ii) a leverage contract subject to the Act; (iii) an interest or participation in a commodity pool; or

(D) purchased or sold a futures or options contract if the violation constitutes a manipulation of the price of any such contract or the price of the commodity underlying such contract.

(2) The rights of action authorized by this provision and the arbitration and reparations provisions of the Act are the exclusive remedies under the Act available to any such person that sustains loss as a result of any alleged violation of the Act. This provision does not limit the rights of the parties to agree in advance of a dispute upon any forum for resolving claims under this section, including arbitration.

(b)(1)(A) A contract market or clearing organization of a contract market that fails to enforce any bylaw, rule, regulation or resolution that it is required to enforce by section 5a(8) and section 5a(9) of the Act, (B) a licensed board of trade that fails to enforce any bylaw, rule, regulation or resolution that it is required to enforce by the Commission, or (C) any contract market, clearing organization of a contract market or licensed board of trade that in enforcing any such bylaw, rule, regulation or resolution violates the Act or any Commission rule, regulation or order, shall be liable for actual damages sustained by a person that engaged in transactions on or subject to the rules of such contract market or licensed board of trade to the extent of such person's actual losses that resulted from such transactions and were caused by such failure to enforce such bylaws, rules, regulations, or resolutions.

(2) A registered futures association that fails to enforce any bylaw or rule that is required under section 17 of the Act or in enforcing any such bylaw or rule violates the Act or any Commission rule, regulation, or order shall be liable for actual damages sustained by a person that engaged in transactions specified in paragraph (a) of this provision to the extent of such person's actual losses resulting from such transactions and caused by such failure to enforce such bylaw or rule.

(3) Any officer, director, governor, committee member or employee of a contract market, licensed board of trade, or a registered futures association who willfully aids any failure by such organization to enforce any bylaw, rule, regulation or resolution referred to in subparagraph (1) or (2), shall be liable for actual damages sustained by a person that engaged in transactions specified in paragraph (a) of this provision on or subject to the rules of such contract market, licensed board of trade or, in the case of an officer, director, governor, committee member or employee of a registered futures association, transactions specified in paragraph (a) of this provision.

(4) A person seeking to enforce liability under this provision must establish that the contract market, licensed board of trade, clearing organization, registered futures association, officer, director, governor, committee member, or employee acted in bad faith and that such action caused the loss.

(5) The rights of action authorized by this provision shall be the exclusive remedy under the Act available to any person that sustains a loss as a result of (A) the alleged failure by a contract market, licensed board of trade, clearing organization, or registered futures association or by any officer, director, governor, committee member or employee to enforce any bylaw, rule, regulation or resolution referred to in subparagraph (1) or (2), or (B) the taking of action that is alleged to have violated the Act, or any Commission rule, regulation or order.

(c) The United States district courts shall have exclusive jurisdiction of actions brought under this provision. Any such action must be brought within two years after the date the cause of action accrued.

(d) These provisions become effective with respect to causes of action accruing on or after the date of enactment of the bill. Enactment of the bill does not affect any right of any party that may exist with respect to causes of action accruing prior to such date. (Sec. 236)

The *Senate* amendment contains no comparable provision.

(NOTE.—In *Merrill Lynch, Pierce, Fenner & Smith* v. *Curran*, 50 U.S.L.W. 4457 (May 3, 1982), the Supreme Court decided that implied private rights of action exist under the Commodity Exchange Act in cases brought by an investor against his futures commission merchant for violation of an antifraud provision of the Commodity Exchange Act, and by speculators in futures contracts against a contract market and its officials and against futures commission merchants of other market participants claiming damages resulting from unlawful price manipulation that allegedly could have been prevented by the Exchange's enforcement of its own rules. The court did not decide, however, the elements of liability, causation, and damages, and expressed no opinion about any such question.)

The *Conference* substitute adopts the *House* provision with an amendment to make the provisions of paragraph (a)(1)(B) described above applicable to any futures or option contract subject to the Act, including off-exchange transactions, as well as those that are made on or subject to the rules of any contract market or other board of trade.

(20) STUDY OF THE COMMODITY FUTURES INDUSTRY (SEC. 236)

The *House* bill requires the Board of Governors of the Federal Reserve to organize and conduct, with the assistance of the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Secretary of the Treasury, a study and investigation of the structure, participation, uses, and effects on the economy of trading in contracts of sale of commodities for future delivery and in related instruments, such as options on commodities, options on contracts of commodities for future delivery, and options on securites, including

options on exempted securities or on any group or index of securities. Among those areas to be studied are—

(a) the number, types, and characteristics of investors, speculators, arbitrageurs, and hedgers engaged in such trading, the purposes for which such persons utilize such trading, and the financial resources devoted to each of these trading activities;

(b) the impact of speculation in such trading on cash and contract prices, and the conditions under which such speculation may have adverse effects on these objectives;

(c) the consequences, if any, of trading in such contracts and related instruments on formation of real capital in the economy (particularly that of a long-term nature), the structure of liquidity in credit markets, interest rates, and inflation;

(d) the sufficiency of the public policy tools available to the Commission or other agencies to limit or curtail any such trading activity found likely to have a harmful effect on national economic goals;

(e) the economic purposes, if any, served by such trading;

(f) the adequacy of investor protections afforded to participants in designated markets for such trading;

(g) the impact, if any, of such contracts and related instruments on the markets for evidences of indebtedness, foreign currency, and securities;

(h) the extent to which such contracts and related instruments may be utilized to manipulate markets for evidences of indebtedness, foreign currency, and securities;

(i) the nature and consequences, if any, of perceived disparities between the regulation of such contracts and related instruments traded in contract markets regulated by the Commission and the regulation of functionally equivalent instruments traded in markets regulated by the Securities and Exchange Commission; and

(j) the operations of the pilot program relating to trading in stock index futures.

Not later than September 30, 1984, the Board of Governors must submit to Congress a report describing the results of the study and include in the report an assessment of the impacts of the activities studied and recommendations for any legislation and regulatory action. (Sec. 237)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment in the nature of a substitute.

The first subsection of the *Conference* substitute requires a study of the effects on the economy of trading in futures contracts and options. The study would be carried out by the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, and the Securities and Exchange Commission, with the assistance of the Secretary of the Treasury. The Board of Governors, however, would have responsibility for organizing and administering the study, total cost of which may not exceed $3,000,000. Among the areas to be studied are—

(a) the effects of trading in such instruments on the formation of real capital in the economy and on the structure of liquidity in credit markets;

(b) the economic purposes, if any, served by the trading of such instruments;

(c) the sufficiency of the public policy tools available to regulate such trading activity to avoid harmful economic effects in the markets for such instruments, the underlying cash markets, and related financial markets;

(d) the adequacy of investor protections afforded to participants in the markets for such instruments; and

(e) the extent to which such instruments may be utilized to manipulate, or profit from the manipulaton of, the markets for evidences of indebtedness, foreign currency, and securities.

The participating agencies are authorized to select representative instruments and representative periods of time for detailed study, and are directed, to the extent possible, to utilize data readily available to them.

The conferees intend that the areas of study enumerated in clauses (a) and (b) above include contracts of sale for the future delivery of commodities involving any group or index of securities (and options thereon), and options on any group or index of securities. The conferees also understand that the enumeration of areas to be studied is not exclusive, and may include other areas of study such as those set forth in the *House* bill.

The *Conference* substitute gives the Commodity Futures Trading Commission and the Securities and Exchange Commission the primary responsibility for selecting and studying the instruments under their respective jurisdictions. The Board of Governors is required to review, any may supplement with its own analysis, studies conducted by the other agencies and shall submit a report of the study to Congress by September 30, 1984.

The second subsection of the *Conference* substitute requires the Commodity Futures Trading Commission to undertake a study of insider trading which is discussed under item (13), "Insider trading", of this statement.

(21) PILOT PROGRAM FOR TRADING IN STOCK INDEX FUTURES CONTRACTS

The *House* bill provides that for the period beginning on the date of the enactment of the bill and ending September 30, 1984, all boards of trade designated as contract markets for trading in stock index futures contracts shall be subject to a pilot program to be established by the Commission by rule, regulation, or order. Under the pilot program, the Commission must closely monitor such trading and make an assessment of the impact, if any, of such trading on the markets in the underlying securities and on the process of forming real capital.

The *House* bill provides that the Board of Governors of the Federal Reserve shall include in the study described in the preceding item a study of the operation of the pilot program for trading in stock index futures contracts.

Not later than March 31, 1984, the Board of Governors must submit to Congress and the Commission a preliminary report describing the results of that part of its study relating to trading in stock index futures including—

(a) findings with respect to the economic benefits, if any, that have resulted from such trading;

(b) a description of any adverse effect on the underlying markets in securities, on the formation of real capital, and on investor protection, that may have resulted from such trading; and

(c) recommendations as to whether such trading should be permitted to continue after the termination of the pilot program and, if continuation of such trading is recommended, whether any legislation or regulatory action applicable to such trading is necessary.

The *House* bill provides that if the Board of Governors of the Federal Reserve recommends in its preliminary report that trading in stock index futures contracts be terminated or that other regulatory or legislative action be taken, then the Commission must submit a report to Congress, not later than September 30, 1984, containing a plan to implement the recommendations of the Board of Governors or a statement of reasons in support of the Commission's opinion that such recommendations should not be implemented. (Sec. 237)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision in view of the inclusion in the *Conference* substitute of the study of the commodity futures industry, including trading in stock index futures contracts, as described in item (20) above.

(22) STUDY OF NATIONAL FUTURES ASSOCIATION AND SERVICE FEES (SEC. 237)

The *House* bill requires the Commission to submit a report to Congress not later than March 1, 1985, on the results of a study on the experience of the National Futures Association (NFA) for the period January 1, 1983, through December 31, 1984. The report is to include, but not be limited to, the following:

(a) the extent to which the NFA has implemented its program and the effectiveness of that program;

(b) the actual and projected cost savings to the Government resulting from NFA operations;

(c) an estimate of the costs the Commission and the public would have incurred had the NFA not undertaken its activity;

(d) the problem areas encountered by the NFA;

(e) the nature of the working relationship between the NFA and the Commission;

(f) an estimate of the efficiencies the Commission has or will achieve as a result of the continuing regulatory activities of the NFA; and

(g) the immediate and projected capabilities of the Commission to deal with other regulatory problems as a result of NFA activities.

The *House* bill also bars the imposition of any new user or transaction fee or tax under existing authority in the Commodity Exchange Act, or any other statute, or the recommendation to Congress of any such fee or tax under section 26 of the Futures Trading Act of 1978, until after the conclusion of the legislative session in which the Commission's study of the NFA is submitted to Congress. Any subsequent proposal to institute a user or transaction fee or tax must be accompanied by data and studies measuring (i) the relative benefit to commodity professionals and to the general public flowing from the functions of the Nation's commodity markets and from Federal commodity regulation and (ii) the effect of the proposed fee or tax on liquidity in U.S. contract markets. (Sec. 238)

The *Senate* amendment requires the Commission to conduct a study of the probable effect of imposing fees on the purchase and sale of futures and options contracts and leverage transactions under the Commission's jurisdiction. The study report is to be submitted to the House and Senate agriculture committees not later than January 1, 1984. The study shall include, but not be limited to, consideration of the effect of a transaction fee on market liquidity, a determination of the portions of the Commission's

budget benefiting the public and the commodity market participants, and consideration of the incidence of such fees, including their impact on producers, processors, manufacturers, and other hedgers. (Sec. 31)

The *Conference* substitute adopts the *House* provision with regard to a study of the regulatory experience of the National Futures Association with an amendment providing that the report shall be submitted not later than January 1, 1986, and changing the period to be studied to January 1, 1983, through September 30, 1985.

The *Conference* substitute deletes both the *House* and *Senate* provisions relating to user fees or transaction fees and provides that nothing in section 26 of the Futures Trading Act of 1978 shall limit the authority of the Commission to promulgate, after notice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act, except that the fees for any specified service or activity or function shall not exceed the actual cost thereof to the Commission.

Authority is provided in the Commodity Exchange Act and in other laws for the Commission to charge reasonable fees for certain activities in conjunction with administration and enforcement of the Commodity Exchange Act. For example, the Independent Offices Appropriation Act of 1952 authorizes the Commission to charge fees for certain of its activities. Section 8a of the Commodity Exchange Act authorizes the Commission to charge fees for registration and renewal thereof. Under this and other authority, the *Conference* substitute recognizes that the Commission may promulgate, after notice and opportunity for hearing, a schedule of equitable fees to be imposed for certain specific activities.

The conferees intend that the fee schedule addressed by the *Conference* substitute is to be strictly limited to Commission activities directly related to: (1) Commission audits of firms which are not members of contract markets or of a registered futures association; (2) contract market and registered futures association rule enforcement reviews and financial reviews; (3) initial and renewal registration of futures commission merchants, commodity trading advisors, commodity pool operators, associated persons, floor brokers, and introducing brokers (including agents of introducing brokers), but only until such time as the registration functions are assumed by a registered futures association; (4) contract market designation; (5) reparations unit fees; (6) publications of the Commission; (7) Freedom of Information Act services; and (8) providing transcripts of Commission meetings.

The *Conference* substitute does not contain authority for the Commission to impose fees in addition to those fees specified pursuant to the Commodity Exchange Act or any other Act, nor does the *Conference* substitute authorize the Commission to impose any other "user" fee, or a "user" tax, transaction fee, or transaction tax. The conferees intend to closely monitor development of the Commission's fee structure, and expect the Commission to provide the House Committee on Agriculture, and the Senate Committee on Agriculture, Nutrition, and Forestry adequate time to review the regulations and schedule adopted by the Commission, before such schedule and regulations are made effective.

(23) AGRICULTURAL EXPORTS (SEC. 238)

The *Senate* amendment prohibits the President, except in periods of declared war or national emergency, from prohibiting or curtailing the export of any agricultural commodity, or the products thereof, covered by an export sales contract when (a) the export sales contract was made prior to the announcement of action prohibiting or curtailing these exports and (b) the contract requires delivery within 270 days after the trade suspension is imposed. (Sec. 32)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(24) EFFECTIVE DATE (SEC. 239)

The *Senate* amendment provides that the provisions of the bill shall be effective upon the date of enactment, except that sections 9, 14, and 28 dealing with (a) the registration of introducing brokers and their associated persons, (b) the registration of associated persons of commodity pool operators and commodity trading advisors, (c) the prohibitions on the employment of an unregistered associated person, and (d) the creation of a new system for handling reparations cases would be effective 120 days later, unless the Commission made these sections effective earlier through the issuance of regulations. (Sec. 34)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The conferees note that the *Conference* substitute authorizes the Commission to grant a temporary 6-month license to any registration applicant who appears to be qualified while a complete fitness check is being conducted on the applicant. These temporary licenses will be granted pursuant to such rules, regulations, or orders as the Commission may adopt.

In order to meet the objectives of the temporary licensing provision prior to the effective date of the rules, regulations, or orders implementing this provision, the conferees encourage the Commission to take appropriate interim steps as soon as possible, including but not limited to the use of "no action positions", to accelerate the opportunity for apparently qualified individuals who submit complete applications to the Commission to begin work while a fitness check is being conducted. The conferees assume, of course, that any such interim steps would also include measures designed to provide adequate protection for the public.

E DE LA GARZA,
ED JONES,
BERKLEY BEDELL,
DAN GLICKMAN,
THOMAS DASCHLE,
BYRON L. DORGAN,
TOM HARKIN,
GLENN ENGLISH,
LEON E. PANETTA,
BILL WAMPLER,
JAMES M. JEFFORDS,
E. THOMAS COLEMAN,
PAT ROBERTS,
JOE SKEEN,
STEVE GUNDERSON,
COOPER EVANS,

For consideration of title I and section 237:

JOHN D. DINGELL,
TIMOTHY E. WIRTH,
JAMES T. BROYHILL,
Managers on the Part of the House.

JESSE HELMS,
BOB DOLE,
S. I. HAYAKAWA,
RICHARD G. LUGAR,
THAD COCHRAN,
WALTER D. HUDDLESTON,
DAVID PRYOR,
DAVID BOREN,
HOWELL HEFLIN,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BLILEY (at the request of Mr. MICHEL), for today, on account of hospitalization for a broken arm.

Mr. SHUSTER (at the request of Mr. MICHEL) for today, and the balance of the week on account to recuperation necessitated by several major surgeries due to an auto accident in the Ninth District on October 11, 1982.

Mr. LEHMAN (at the request of Mr. WRIGHT), for this week, on account of medical reasons.

Mr. MAVROULES (at the request of Mr. WRIGHT), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. BEREUTER) to revise and extend his remarks and include extraneous material:)

Mr. CONTE, for 60 minutes on December 16.

Mr. CONTE, for 60 minutes, on December 20.

(The following Members (at the request of Mr. EVANS of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 30 minutes, today.

Mr. RODINO, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. EVANS of Indiana, for 5 minutes, today.

Mr. LAFALCE, for 15 minutes, on December 14.

Mr. ALEXANDER, for 60 minutes, on December 15.

Mr. PHILLIP BURTON, for 60 minutes, on December 15.

Mr. WRIGHT, for 60 minutes, on December 16.

Mr. FOLEY, for 60 minutes, on December 16.

Mr. ALEXANDER, for 60 minutes, on December 16.

Mr. ALEXANDER, for 60 minutes, on December 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ERLENBORN, to revise and extend his remarks prior to passage of H.R. 5470.

Mr. DORNAN of California, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $5,434.

(The following Members (at the request of Mr. BEREUTER) and to include extraneous material:)

Mr. YOUNG of Alaska.
Mr. DANNEMEYER in two instances.
Mr. RITTER.
Mr. KRAMER.
Mr. EVANS of Delaware.
Mr. CARMAN.
Mr. DERWINSKI.
Mr. O'BRIEN in three instances.
Mr. MCCLOSKEY in two instances.
Mr. GILMAN.
Mr. COLLINS of Texas in two instances.
Mr. PAUL.
Mr. SMITH of New Jersey.
Mr. FIELDS in three instances.
Mr. CORCORAN.

(The following Members (at the request of Mr. EVANS of Georgia) and to include extraneous matter:)

Mr. EDWARDS of California.
Mr. MINETA.
Mr. STARK.
Mr. SAM B. HALL, JR.
Mr. CONYERS.
Mr. MCDONALD.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. HALL of Ohio.
Ms. OAKAR.
Mr. RODINO in four instances.
Mr. BLANCHARD.
Mr. EDGAR.
Mr. MOTTL in two instances.
Mr. AKAKA.
Mr. FLORIO.
Mr. LAFALCE.
Mr. MURPHY.
Mr. DOWNEY.
Mr. HOYER.
Ms. FERRARO in two instances.
Mr. ROYBAL.
Mr. CLAY in two instances.
Mrs. CHISHOLM.
Mr. MARKEY.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1562. An act to provide comprehensive national policy dealing with national needs and objectives in the Arctic; to the Committee on Science and Technology.

S. 3081. An act to modify the judicial districts of West Virginia, and for other purposes; to the Committee on the Judiciary.

S.J. Res. 254. Joint resolution designating September 22, 1983, as "American Business Women's Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 263. Joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2177. An act to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505).

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2329. An act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma;

H.R. 4364. An act to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima Country, Ariz.;

H.R. 5553. An act to provide for the use and disposition of Miami Indians judgment funds in dockets 124-B and 254 before the U.S. Court of Claims, and for other purposes;

H.R. 5795. An act to provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64-A by the U.S. Court of Claims, and for other purposes;

H.R. 6005. An act to discontinue or amend certain requirements for agency reports to Congress;

H.R. 6403. An act to provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the U.S. Court of Claims, and for other purposes;

H.R. 6417. An act to amend Public Law 96-432 relating to the U.S. Capitol Grounds; and

H.J. Res. 595. Joint resolution designating December 11, 1982, as "Fiorello H. La Guardia Memorial Day."

ADJOURNMENT

Mr. BRINKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 25 minutes p.m.) under its previous order, the House adjourned until Tuesday, December 14, 1982, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5277. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of December 1, 1982, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 97-267); to the Committee on Appropriations and ordered to be printed.

5278. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-219, "Police Officer and Firefighter Cadet Programs Funding Authorization and Human Rights Act of 1977 Amendment Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

5279. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-256, "District of Columbia Protection of Minors Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

5280. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-257, "Eviction Limitation, Fire and Casualty Amendment Act, and Anti-Drunk Driving Clarifying Amendments Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

5281. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-258, "Anna J. Cooper Circle Designation Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

5282. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-259, "Closing of a Portion of Porter Street, Northeast, Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

5283. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-260, "Closing of a Public Alley in Square 140 Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

5284. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-261, "Closing of a Portion of a Public Alley in Square 5129 Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

5285. A letter from the District of Columbia Auditor, transmitting a report entitled: "Follow-up to the Water Bill Policies and Procedures," pursuant to section 455(d) of Public Law 93-198; to the Committee on the District of Columbia.

5286. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the Department's intention to consent to a request by the Government of Egypt to transfer certain defense items to the Government of Turkey, pursuant to section 620c(d) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

5287. A letter from the Assistant Secretary, Department of Interior, transmitting a draft of proposed legislation to vest the Secretary of the Interior with jurisdiction over certain statute of limitations claims, and for other purposes; to the Committee on Interior and Insular Affairs.

5288. A letter from the Director, Mineral Management Service, Department of the Interior, transmitting notice of the proposed

refund of $15,682.52 to Tenneco Oil Exploration & Production, Marathon Oil Co., Mitchell Energy Corp., ARCO Oil & Gas Co., and General American Oil Co. of Texas, for excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LEHMAN: Committee of conference. Conference report on H.R. 7019. (Rept. No. 97-960). And ordered to be printed.

Mr. JONES of North Carolina: Committee of conference. Conference report on S. 2336. (Rept. No. 97-961). And ordered to be printed.

Mr. BONIOR of Michigan: Committee on Rules. House Resolution 626. A resolution providing for the consideration of House Joint Resolution 631, joint resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes. (Rept. No. 97-963). Referred to the House Calendar.

Mr. DE LA GARZA: Committee of conference. Conference report on H.R. 5447 (Rept. No. 97-964). And ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1964. An act to designate certain lands in the Mark Twain National Forest, Mo., which comprise about 17,562 acres, and known as the Irish Wilderness, as a component of the National Wilderness Preservation System; referred to the Committee on Agriculture for a period ending not later than December 14, 1982, for consideration of such portions of the bill as fall within that committee's jurisdiction pursuant to clause 1(a), rule X (Rept. No. 97-962, Pt. I). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GARCIA (for himself, Mr. COURTER, Mr. CLAY, Mr. CORCORAN, Mr. DANIEL B. CRANE, Mr. DERWINSKI, Ms. FERRARO, Mr. GILMAN, Mr. LELAND, Ms. OAKAR, and Mr. TAYLOR):

H.R. 7410. A bill to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. AKAKA (for himself, Mr. FUQUA, Mr. FLIPPO, Mr. HOLLENBECK, Mr. LOWERY of California, Mr. MCGRATH, Mr. LONG of Maryland, Mr. WALKER, Mr. SKEEN, Mr. SCHEUER, Mr. ALEXANDER, Mrs. BOGGS, Mr. MARKEY, Mrs. SCHNEIDER, Mr. MATSUI, Mr. MAVROULES, Mr. HOYER, Mr. LANTOS, Ms. OAKAR, Mr. WHITEHURST, Mr. MATTOX, Mr. ERDAHL, Mr. GINGRICH, Mr. GRISHAM, Mr. KRAMER, Mr. CLAUSEN, Mrs. CHISHOLM, Mr. JOHN L. BURTON, Mr. JEFFRIES, Mr. HANSEN of Idaho, Mrs. HECKLER, Mr. BROWN of California, Mr. YOUNG of Missouri, Ms. FIEDLER, Mr. UDALL, Mr. LUJAN, Mr. HEFTEL, Mr. SANTINI, Mr. WON PAT, Mr. BADHAM, and Mr. FORSYTHE):

H.R. 7411. A bill to provide encouragement and necessary regulation for the commercial development of space; to the Committee on Science and Technology.

By Mr. COLEMAN:

H.R. 7412. A bill to amend the Natural Gas Policy Act of 1978 to freeze natural gas prices at their October 1, 1982, levels, override take or pay clauses, and create market incentives in the natural gas industry; to the Committee on Energy and Commerce.

By Mr. DIXON:

H.J. Res. 632. Joint resolution requiring the Federal Energy Regulatory Commission to commence a rulemaking relating to natural gas pipeline rate designs, and to report its findings, conclusions, and recommendations; to the Committee on Energy and Commerce.

By Mr. SYNAR:

H.J. Res. 633. Joint resolution designating the week of January 16 through January 22, 1983, as "National Jaycee Week"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GOODLING introduced a bill (H.R. 7413) for the relief of Katsuhito Nakaji, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 748: Mr. GILMAN.

H.R. 7162: Mr. HOWARD.

H.R. 7302: Mr. WEISS.

H.R. 7362: Mr. DAUB, Mr. CAMPBELL, Mr. BUTLER, Mr. RAILSBACK, Mr. MORRISON, Mr. MOAKLEY, Mr. MOTTL, Mr. SAM B. HALL, JR., Mr. SMITH of Oregon, Mr. OTTINGER, Mr. COUGHLIN, Mr. EVANS of Georgia, Mr. OXLEY, Mr. CONYERS, Mr. ROUSSELOT, and Mr. DUNCAN.

H.R. 7373: Mr. GAYDOS and Mr. FORD of Michigan.

H.R. 7406: Mr. SIMON, Mr. MADIGAN, Mr. RUSSO, Mr. O'BRIEN, Mr. CORCORAN, Mrs. MARTIN of Illinois, Mr. DERWINSKI, Mr. PHILIP M. CRANE, Mr. DANIEL B. CRANE, Mr. MCCLORY, Mr. RAILSBACK, and Mr. HYDE.

H.J. Res. 591: Mr. APPLEGATE, Mr. BONER of Tennessee, Mr. DAN DANIEL, Mr. GOLDWATER, Mr. HOYER, Mr. LANTOS, Mr. LATTA, Mr. LEWIS, Mr. MCDONALD, Mr. MOORHEAD, Mr. NATCHER, Mr. PATTERSON, Mr. OXLEY, Mr. ROUSSELOT, Mr. WEAVER, and Mr. DAVIS.

H. Con. Res. 275: Mr. HILER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.J. Res. 631

By Mr. BONIOR of Michigan:

—Page 10, line 3, insert ": *Provided further,* That none of the funds appropriated by this joint resolution or by any other Act, shall be available for any activity relative to the construction of the O'Neill Irrigation Unit in the State of Nebraska" before the period.

By Mr. CONTE:

—On page 10, in line 3, after "1982" insert ": *Provided further,* That no appropriation, fund or authority made available by this joint resolution or any other Act shall be used for construction of the Garrison Diversion Unit in North Dakota".

By Mr. COUGHLIN:

—On page 10, line 3, before the period insert ": *Provided further,* That no funds be made available by this joint resolution shall be obligated or expended for research and development, design, or construction of the Clinch River Breeder Reactor project: *Provided further,* That appropriations made available in this joint resolution for the Clinch River Breeder Reactor project shall be available for the termination of contractual instruments for that project previously entered into pursuant to section 106 of Public Law 91-273 as amended".

By Mr. CRAIG:

—On page 27, after line 9, add the following new section:

SEC. 128. Section 101(e) of Public Law 97-276 is amended by striking out "December 17, 1982," and inserting in lieu thereof "March 15, 1983,".

By Mr. EDGAR:

—Page 10, line 3, before the period insert ": *Provided further,* That not to exceed $86,000,000 shall be available for construction of the Tennessee-Tombigbee Waterway during the fiscal year ending September 30, 1983.".

By Mr. EDWARDS of California:

—Page 27, immediately after line 9, insert the following new section:

"SEC. 128. Notwithstanding any other provision of this joint resolution, for an additional amount for the Peace Corps, $25,000,000, which shall remain available to be expended as follows: 50 percent during fiscal year 1983, 30 percent during fiscal year 1984, and 20 percent during fiscal year 1985.".

By Mr. FAZIO:

—On page 27, after line 9, insert the following:

SEC. . (a) Section 101(e) of Public Law 97-276 is amended by striking out "December 17, 1982," and inserting "September 30, 1983,".

(b) In lieu of payment of salary increases of up to 27.2 percent as authorized by law for senior executive, judicial, and legislative positions (including Members of Congress), it is the purpose of this section to limit such increases to 15 percent. Notwithstanding the provisions of section 306 of S. 2939 made applicable by subsection (a) of this section, nothing in subsection (a) shall (or shall be construed to) require that the rate of salary or pay payable to any individual for or on account of services performed after December 17, 1982, be limited to an amount less than the rate (or maximum rate, if higher) of salary or pay payable as of such date for the position involved increased by 15 percent and rounded in accordance with 5 U.S.C. 5318.

(c) Nothing in this section shall be construed as specifically authorizing the obligation or expenditure of funds for salary in-

creases for positions subject to section 140 of Public Law 97-92.

By Mr. SIMON:

—Page 4, line 15, immediately after "(b)" insert "(1)"; and on page 6, immediately after line 5, insert the following new paragraph:

(2) Notwithstanding section 102 of this joint resolution, chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 128. TARGETING ASSISTANCE FOR THOSE LIVING IN ABSOLUTE POVERTY.—In carrying out this chapter, the President—

"(1) in fiscal year 1983, shall attempt to use not less than 40 percent of the funds made available to carry out this chapter, and

"(2) in fiscal year 1984 and each fiscal year thereafter, shall use not less than 50 percent of the funds made available to carry out this chapter,

to finance productive facilities, goods, and services which will expeditiously and directly benefit those living in absolute poverty (as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association). Such facilities, goods, and services may include, for example, irrigation facilities, extension services, credit for small farmers, roads, safe drinking water supplies, and health services. Such facilities, goods, and services may not include studies, reports technical advice, consulting services, or any other items unless (A) they are used primarily by those living in absolute poverty themselves, or (B) they constitute research which produces or aims to produce techniques, seeds, or other items to be primarily used by those living in absolute poverty. Research shall not constitute the major part of such facilities, goods, and services.".

By Mr. TAUZIN:

—At the end of title I, add the following new section:

SEC. . No funds provided under this joint resolution shall be used to deny or reduce SSI benefits because of assistance provided by a private nonprofit organization, or any entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental body, if the appropriate State agency has certified that such assistance was based on need as determined by such organization or entity.

By Mr. TRAXLER:

—On page 27, after line 9, strike out the section added to the resolution by the amendment offered by Mr. FAZIO, and insert in lieu thereof the following:

SEC. . Section 101(e) of Public Law 97-276 is amended by striking out "December 17, 1982," and inserting in lieu thereof "March 15, 1983,".

Or, if the amendment offered by Mr. FAZIO is not adopted,

On page 27, after line 9, insert the following:

SEC. . Section 101(e) of Public Law 97-276 is amended by striking out "December 17, 1982," and inserting in lieu thereof "March 15, 1983,".

H.R. 6296

By Mr. RINALDO:

(To the amendment in the nature of a substitute offered by Mr. Gonzalez of Texas.)

—Page 57, after line 8, insert the following new section (and conform the table of contents on page 2 accordingly):

AMENDMENT TO SECTION 232 OF THE NATIONAL HOUSING ACT

SEC. 523. Section 232 of the National Housing Act is amended—

(1) by inserting the following after "intermediate care facilities" in subsection (a)(2): "and board and care homes";

(2) by striking out the period at the end of subsection (b)(3) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end of subsection (b):

"(4) the term 'board and care home' means any residential facility providing room, board, and continuous protective oversight that is regulated by a state pursuant to the provisions of section 1616(e) of the Social Security Act, so long as the home is located in a State which, at the time of an application is made for insurance under this section, has demonstrated to the Secretary that it is in compliance with the provisions of such section 1616(e).";

(3) by inserting the following after "intermediate care facility" the second time it appears in subsection (d): "or a board and care home";

(4) by striking out "The" in the first sentence of subsection (d)(4) and inserting in lieu thereof "(A) With respect to nursing homes and intermediate care facilities and combined nursing home and intermediate care facilities, the";

(5) by striking out "(A)" and "(B)" in the first sentence of subsection (d)(4) and inserting in lieu thereof "(i)" and "(ii)", respectively;

(6) by adding the following new subparagraph at the end of paragraph (4) of subsection (d):

"(B) With respect to board and care homes, the Secretary shall not insure any mortgage under this section unless he has received from the appropriate State licensing agency a statement verifying that the State in which the home is or is to be located is in compliance with the provisions of section 1616(e) of the Social Security Act.";

(7) by inserting the following after "intermediate care facilities" in subsection (i)(1): "or to board and care homes";

(8) by inserting "or 1973" after "1967" in subsection (i)(1);

(9) by inserting the following before the period at the end of subsection (i)(1): "or as mandated by a State under the provisions of section 1616(e) of such Act"; and

(10) by striking out "and" at the end of subsection (i)(2)(D), by striking out the period at the end of subsection (i)(2)(E) and inserting in lieu thereof "; and", and by adding the following new subparagraph at the end of subsection (i)(2):

"(F) in the case of board and care homes, be made with respect to such a home located in a State with respect to which the Secretary has received from the appropriate State licensing agency a statement verifying that the State in which the home is or is to be located is in compliance with the provisions of section 1616(e) of the Social Security Act.".

H.R. 7145

By Mr. BEREUTER:

—On page 14, line 12, strike the period and substitute "; and $2,400,000, to remain available until expended, for contracting and land acquisition activities along the Missouri River in accordance with Section 107 of Public Law 95-625.".

EXTENSIONS OF REMARKS

SOPHIE'S CHOICE

HON. PAUL S. TRIBLE, JR.
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. TRIBLE. Mr. Speaker, on Thursday, December 16, 1982, the capital city of my State of Virginia will host the southern premiere of the film "Sophie's Choice." Richmond was chosen for this honor because of the generosity of Pulitzer Prize-winning author William Styron, who wrote the 1979 novel on which the film is based. Mr. Styron is a member of the class of 1942 of Christchurch School, and the proceeds of the film premiere will benefit his old school.

Mr. Styron is now a resident of the State of Connecticut, but his Virginia roots and ties are deep and firm. Mr. Styron grew up in the Tidewater, a native of Newport News. He attended public schools in that area, and spent 2 years at Christchurch School, graduating in 1942. Christchurch School is located in Middlesex County, on the banks of the Rappahannock River, only 14 miles from its confluence with the Chesapeake Bay. Mr. Styron writes lovingly of the impact and image of that riverfront campus in many of his works.

After leaving Christchurch, Mr. Styron entered Davidson College in North Carolina. He received his bachelor's degree from Duke University. During the war years, Mr. Styron saw action in the U.S. Marine Corps, serving in Korea. His first novel was "Lie Down in Darkness" (1951), which received great critical acclaim. In 1955, he published "The Long March," which was made into a television film. "Set This House on Fire" was published in 1959, and in 1967, Styron released "The Confessions of Nat Turner," which won him the Pulitzer Prize. "Sophie's Choice" was published in 1979, and Styron earned the American Book Prize for it in 1980.

The southern premiere of "Sophie's Choice" will establish the William Styron Fund at Christchurch School, as part of their $4.5 million capital fund campaign. Mr. Styron will be in Richmond for that event, as will many of his former Christchurch schoolmates. In tribute to this important occasion for Mr. Styron, and for Christchurch School, I would like to read into the RECORD the Commencement Address which Bill Styron gave at his school in 1975. This small essay contains much of the essence of Bill Styron, the writer and of Christchurch, the small but excellent boys prep school. Styron's reminiscenses of his days at Christchurch School and his exhortation to the graduates to enjoy life, people, and freedom contain an important message for us all.

Mr. Speaker, I would now like to read the 1975 Commencement address of William Styron at Christchurch School:

AUTHOR WILLIAM STYRON'S '42 COMMENCEMENT ADDRESS

In December of the second of my two years at Christchurch, there occurred an event which would decisively alter my life and the lives of my friends here at school and indeed people everywhere. On that day—it was a mild and golden and cloudless Sunday—I had taken illegal leave of the campus and had gone on a gently beer-soaked automobile ride through this incomparable Virginia countryside, which was beautifully forlorn and wild-looking in those days. It was a wintry, leafless afternoon—very bright, as I say—with no hint in it of menace. My companions on that ride that afternoon were a classmate named Bill Bowman and two girls from Urbanna, who even at this late date shall remain nameless. Bowman, besides being a year older than I was, was a native of New York City, and thus I trusted him in sophisticated matters, such as beer. The beer we were drinking out of brown bottles, purchased stealthily the day before at Cooks' Corners, was a vile concoction called Atlantic, so crudely brewed that gobbets of yeast floated in it like snowflakes. I earnestly hope it is no longer being manufactured. At any rate, our car and its occupants finally ended up down the road in West Point where, inhaling the sweet fumes of the papermill's hydrogen sulphide (intense and ripe even on the Sabbath), we dismounted at a seedy little cafe for hamburgers. It was while we were in this dive, eating hamburgers and surreptitiously swilling the foul Atlantic, that the waitress came to the table and announced the perplexing and rather horrible radio news. I'll never forget her homely face, which was like a slab of pale pine with two small holes bored in it, nor her voice, which had all the sad languor of the upper Pamunkey River. "The Japanese," she said, "they done bombed Pearl Harbor." Her expression contained a certain real fear. "God help us," she went on, "it's so close. Imagine them gettin' all the way to South Carolina."

That woman's knowledge of geography was only a little less informed than our own, and the next day—as we sat in study hall listening to the radio and President Roosevelt's call for a declaration of war against the Axis powers—few of us sitting there could realize how irrevocably things would be change—for us and the world—and how all of our lives thence forth would be in one way or another determined by the existence of war. Some of this war has been necessary, some not. I speak of this now because it occurs to me that you, the Class of 1975, comprise the first body of students in over a decade to graduate without there hanging over your head the clear and present danger of death in a foreign land, in a war in which no American really had any business participating.

I'll return to this rather somber subject at the end of the few words I have to say. In the meantime, I'd like to reflect briefly on Christchurch in terms of peace, contentment, fulfillment—in short, Christchurch as antithesis of all that has been grim and inhuman about the thirty-three years of American life since I myself graduated here. I would not be so fatuous as to say that when I was here all was perfect bliss, that in this garden of earthly delights high above the Rappahannock a scuffed toe would not have uncovered a toad or two. But of all the schools I attended, including the three institutions of higher learning I went to subsequently in the South and North, only Christchurch ever commanded something more than mere respect—which is to say, my true and abiding affection. I think that much of the warmth and sweetness I felt and still feel for Christchurch has to do with the fact that when I was a student the place was very small and resembled a family—a sometimes tumultuous and quarrelsome, always nearly destitute but at the same time close-knit and loyal family. When I was here there were, I believe, only fifty-odd boys. We were poor. The school was poor. Many schools at the end of the Depression were poor, but the threadbare nature of Christchurch was almost Dickensian in its pathos. The library, for instance. At sixteen, I had a natural inclination for geography and I loved to pore over maps, but in the library there was only one geography book. It was not a bad atlas, had it been left undamaged, but it had been divested of Africa and all of Eastern Europe—something which to this day has produced significant gaps in my knowledge of the earth. The works of American literature stopped with Jack London—no Hemingway, no Fitzgerald, no Thomas Wolfe, no Theodore Dreiser; in compensation, we had that laudable work Tom Sawyer, but even this boy's classic palled upon perhaps the fifth reading. The Encyclopedia Britannica was of such antique vintage that its information in the technological sphere alone ceased, I remember, with the invention of the telegraph and the diving bell. The pride of the entire library was a complete 20-volume Shakespeare, but at least three volumes had been left out in the rain and the pages were stuck together, while someone else had stolen both King Lear and Richard III. Despite all this deprivation, I managed to get educated enough to pass onto college and acquit myself with at least passable honor. Our masters, good-natured and hideously underpaid drudges who possessed nonetheless high ideals and admirable patience, dispensed as much learning as was within their power. I still salute them in memory. When out of sheer exhaustion the teachers flagged and stumbled, the brotherly family-like nature of the school allowed us to teach each other. My classmate Tommy Peyton taught me all the Trigonometry I ever knew. Langley Wood tutored me in Chemistry, also about the girls in Richmond. It was in Jimmy Davenport's late evening seminar that I learned how to beat the dealer at blackjack.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

In later years, after leaving Christchurch and college, I became the good friend of several of those who had attended the great preparatory schools of New England. In all truth, it must be said that the potential for a good early education must have been somewhat larger at these richly endowed schools, with their splendid libraries and other resources, than it was at Christchurch; but I emphasize that word potential in the realization that at Christchurch, for those of us who had the determination—and most of us did—it was possible to overcome the handicaps and obtain an excellent preparation for college, while in the process having a good time. Most of my friends who went to those venerable northern institutions with names like Andover and St. Paul did not seem to have a good time; so often their descriptions of school life are bleak, cold, impersonal, resembling a bearable but monotonous servitude rewarded later by glorious times at Princeton or Yale. At Christchurch I remember we worked as hard as anyone else to get our learning, but we also enjoyed ourselves. And I say that with memory uncontaminated by false nostalgia. Nothing warms my heart more than the recollection of those little sloops we sailed down on this matchless river. Certainly there are few schools in America that have proximity and access to a waterway of such magnificence. It mattered little to us that some of the boats were ancient and badly caulked and water-logged and had been known with some frequency to sink sedately beneath the waves, even in the middle of a race; they were our boats and we loved them. Sailing, like the other sports, gave us ravenous appetities, and this leads to another obvious delight: the always tenderly prepared meals of Mr. Joseph Cameron, who of course is now an almost global legend. Could anything be more incongruous, more preposterous than the idea of any institution of learning where the food was consistently palatable and often superb? While my Ivy League friends still complain thinly and bitterly of soggy Swiss steaks and glutinous mashed potatoes, I recall cheese biscuits and pastries and delicately grilled fish, fresh from the river or the bay, which would have caused a French chef to salivate with envy. Christchurch may not have been in those days a well-heeled place, but it had a warm and golden ambience, and life was sweet, and we ate like kings. . . .

I have tried to give you just a few details of Christchurch as I remember it around thirty-three years ago, on the eve of a world war which would forever change the lives of all of us, while at the same time making America the most powerful country in the world, endowed with the capacity for enormous good and enormous evil—both of which, as it turned out, it exercised with typical American prodigality The Marshall Plan and Vietnam. The Peace Corps and My Lai. The Civil Rights Bill of 1964 and the Tonkin Resolution. We have seen both the splendid right and the inestimable wrong of which our country is capable. I have already spoken of the irony which subtly connects my class of 1942 and yours of 1975: how we were the first Christchurch students to graduate into a world engulfed by war, while you are the first in many years to emerge from this place in a world which—ravaged and divided as it is by conflict—sees America in a peaceful stance, drained and shamed by its participation in a 10-year death-spree in Southeast Asia, but now nominally at least at peace. I am not by nature the sunniest of optimists about our mortal condition; I think warfare and violence, contention and strife are all inestricably lodged in the human animal—an animal so often disposed to become plain beast—and that the odds in favor of a globe totally purged of war are not at all good. But it may be that through wise political action and the exercise of hard moral sense the worst sort of cataclysms—the Vietnams—can be avoided; and thus the only benign aspect of Vietnam itself might have been that it has taught us a cruel but necessary lesson. What a marvelous notion it is that the Class of 1975 might be able to look back, thirty-odd years from now, on the years at Christchurch and recall them with as much tender feeling as I and so many of my fellow classmates do, but with a vision unclouded by our images of the dead and multilated of so much senseless warfare.

But it will be up to you, by which I mean that in our time—specifically in a democracy—both the evils and the noble deeds of government come about with the advice and consent of the people. All of you will vote soon, many of you will become influential in a number of ways, and so although it has been a recurringly cynical view that individuals are helpless against the Juggernaut of history, I subscribe to a more hopeful view and do not think it is idle to say that you will have more power than you might realize to stave off or even cancel out the Apocalypse. I believe you have that opportunity like no generation before you. But you cannot lie back restfully and close your eyes: imperialistic interventions—whether Communist, Fascist or democratic—demagoguery, warmongering, weird revival by murderous and diabolical forces are always in the background in our era, and abiding danger. Only a little over thirty years ago, in the depths of the Nazi Terror, an obscure Czechoslovakian labor leader, Julius Fucik, wrote a mere six words in what I regard to be among the most moving utterances of this century: the very last words he was to write before being led off to his execution by the Gestapo: "Mankind, I loved you. Be vigilant!"

So now as you move away from this beautiful hill on the Rappahannock, I say to you: Drink wisely, enjoy laughter, try to love one another, be vigilant.●

MAMIE McCOY AT 100

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. STARK. Mr. Speaker, the length of a human life, usually specially marked as each decade passes, becomes truly remarkable when the 10th decade is completed.

That is why I am dedicating these brief remarks in today's CONGRESSIONAL RECORD to the 100th birthday anniversary, December 27, of a long-time resident of Livermore, Calif., Mrs. Mary McCoy, known to her many friends and relatives as "Mamie."

Mrs. McCoy was born in 1882 in Randolph, Vt., and came to the Livermore Valley with her parents 3 years later. Although she has traveled widely, she has been quoted as saying, "There is nowhere better than Livermore to Live."

A lot of my constituents agree and I know that they also join me in wishing Mrs. McCoy sincere congratulations on her 100th birthday.

Mrs. McCoy is still active in her church—the First Presbyterian Church of Livermore—and still finds time to teach younger people the subtleties of bridge and other card games. Surrounded by her friends, her son and her daughters and her grandchildren, including great and great-great, Mrs. McCoy will have a lovely day December 27, a wonderful addition to the already joyous Christmas season. Our thoughts and good wishes will be with her on that day.

I thought that the readers of this RECORD might like to know a little more about this nice woman. Livermore historian Janet Newton has written an article about her for the Livermore Heritage Guild Newsletter and I include it at this point:

Mary McCoy lives on a ranch on Mines Road. She will be one-hundred years old on December 27, 1982, having been born in Randolph, Vermont in 1882. She was brought to the Livermore Valley in 1885 by her father, John Stanley.

John Stanley had three older brothers, George, Joseph and James. They came to California during the Gold Rush and they settled in the Livermore Valley. John also came to California before the Civil War but then went back and fought in the war. On his first journey to California he walked all the way across the Isthmus of Panama.

After the war he returned to California where he joined his brothers in the Livermore Valley. George Stanley had a slaughterhouse on the road that approached Livermore from the west, not far from the Portola on-ramp to interstate highway 580—near what Mary refers to as the Esden bridge. John began peddling meat from his brother's butcher shop to gangs of men working on the railroad and to houses around the valley.

In the 1880's John returned to Vermont where he married Marian York. Mary was their second child (their first one died at birth). In 1885 John brought his family to California and settled on a ranch on Mines Road, next to the ranch of Charles H. McCoy.

At this time John's brothers owned large acreages north of town. Stanley Boulevard is named for Chester Stanley, a descendant of one of them who was an Alameda County Supervisor. Mary McCoy's late sister Grace, was the wife of noted Livermore native Louis Gardella.

Mamie, as she is generally called, attended the Mocho School on Mines Road, very near where she lives now. She rode a horse and cart or a bicycle to town to attend Livermore High School where she was a classmate of May Nissen. It took an hour to drive to town.

In 1895 Mamie was married to Charles H. McCoy. The house where she lives now was built by her husband three years later. Mamie's father-in-law Charles L. McCoy owned the land across Mines Road from Mamie's husband's place. It was an almond orchard. Her mother-in-law was a niece of Senator William Sharon of Comstock Lode

silver mining fame who had a large house in Oakland. Charles. L. McCoy worked in the mining exchange in San Francisco. Both Mamie and her son Jim, with whom she now lives, remember the big McCoy house in Oakland. There were large ornaments on the floor made of cast metal, painted. One was in the shape of a grasshopper and one in the shape of a turtle. Charles L. was born in Oakland where he knew Jack London.

Mamie has four children and a number of grandchildren and great and great-great grandchildren. She has been active in many Livermore social organizations and is regarded as a good partner in card games. She has also found time, during her long life to travel widely over the United States. For example, she has traveled "back East, New York, Atlantic City, Niagara Falls and places like that" but, she says, "There is nowhere better than Livermore to live."

Mrs. McCoy has been blessed and is still blessed with an amount of energy that amazes her friends. An article in the Livermore Herald in 1971 quotes her as saying "Our life was simple, healthy and busy. Youngsters had no time to get into mischief when there were chores to do all day. But they had fun anyway . . . dances in the barn, singing, music and laughter."●

SOVIET CHEMICAL ARMS USE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. RITTER. Mr. Speaker, at a time when we are discussing nuclear arms control with the Soviets in Geneva, this information on Soviet use of toxin warfare in Afghanistan and Southeast Asia should be instructive as to how well the Soviets have lived up to their commitment to the 1972 Biological and Toxin Weapons Convention which they signed. I would like to insert the following article into the RECORD for the benefit of my colleagues from Chemical & Engineering News, December 6, 1982.

NEW EVIDENCE OF SOVIET CHEMICAL ARMS USE

In a just-released report to Congress and to the United Nations, the State Department details what it calls "convincing" new evidence of continued Soviet involvement in chemical and toxin warfare in Southeast Asia and Afghanistan. This is the second report that State has released this year, but the first to offer evidence that the Soviets are using mycotoxins of the trichothecene family against resistance fighters in Afghanistan. At a press briefing, Robert Dean, deputy director of the Bureau of Politico-Military Affairs, said, "The implications of these findings are far-reaching," indicating a breach of two international treaties banning the use of such weapons.

The report is a compilation of refugee reports; Soviet and Laotian defector accounts; analytical data from some 350 samples, including two toxin-contaminated Soviet gas masks retrieved from Afghanistan; autopsy reports; and accounts from medical personnel at refugee camps. And according to Gary Crocker, an intelligence officer in the State Department, it offers a firm case that the Soviets and Soviet-supplied Vietnamese and Laotian forces were conducting chemical warfare on resistance fighters in Afghanistan, Laos, and Kampuchea, even as late as this October.

When pressed, Crocker admits that most of the evidence is circumstantial. But he says that "the blood and autopsy data are beyond circumstantial. I don't think you could come up with an alternate hypothesis" to the deliberate use of these toxic or lethal agents.

"I don't make the gas masks my focal point," Crocker says. The masks allegedly used by Soviet soldiers in Afghanistan, and photographs of a 15-year old Laotian boy covered with blistering lesions, the result, the State Department says, of a "yellow-rain" attack on his remote village, were certainly the focal point of the press conference.

Crocker says the two masks were obtained "through special operations." One was obtained near Kabul, the capital of Afghanistan, in September 1981. Analysis of this mask, using "new techniques," found T-2 toxin, a fungal toxin also present in samples collected after yellow-rain attacks in Southeast Asia. The other mask was removed from a Soviet soldier who had died in Afghanistan in December 1981. Analysis of material eluted from the mask's hose connections revealed the presence of T-2 toxin, diacetoxyscirpenol (DAS), verricarol, and zearalenone.

Verricarol and zearalenone have never been reported in the more than 350 samples of blood, urine, vegetation, yellow-rain residue, and autopsy material that have been analyzed to date. Verricarol is the hydrolysis product of all macrocyclic trichothecenes, which are more toxic than such simple trichothecenes as T-2 toxin. Zearalenone is a plant estrogen, a fungal product, but not of the trichothecene family.

The masks were first analyzed by the Army's Chemical Systems Laboratory in Aberdeen, Md., under the direction of Emory Sarver. At the press conference Sarver said that the new analytical method "is a gas chromatograph/mass spectrometer technique" developed at his lab. Chester J. Mirocha, a trichothecene expert at the University of Minnesota, found about 250 ng of T-2 toxin in a chloroform extract sent to him.

Mirocha was specifically asked to confirm the presence of T-2 toxin, he says. He failed, however, to detect T-2 toxin in a piece of rubber also sent to him for analysis. Details of the area of the mask eluted, and the extraction and derivatization procedures used by the Army were not available. How much of a "wet substance that dries to a fine powder" (the description of yellow rain given by Sharon Watson, a senior scientist at the Armed Forces Medical Intelligence Center) would remain on a gas mask transported hundreds of miles and analyzed months after capture remains an open question.

Watson, at the press conference described a "horrible" new lethal agent that causes skin to blacken and decompose within one to three hours after death. "I don't know of any traditional chemical weapon agent that causes that kind of rapid decomposition of the skin all over the body," she said. The report mentions phosgene oxime as an agent that can cause the softening of skin in three to six hours. Crocker says that some scientists have suggested that a snake venom might be involved. Three snake venom experts contacted by C&EN discount this possibility.

One criticism voiced by scientists last year was that trichothecenes could not rapidly bring on the symptoms of bloody diarrhea and vomiting, and dizziness described by Southeast Asian victims of yellow rain attacks. Though unreported in this latest compilation, Crocker tells C&EN that Army animal studies have shown that a combination of trichothecene, aflatoxin, and dimethylsulfoxide (as a carrier) can produce the rapid bleeding and other symptoms noted.

Mirocha says that much of the autopsy material (from a Kampuchean victim of an alleged toxin attack) that he analyzed for trichothecenes also contained aflatoxin, which is prevalent in Southeast Asia. Of the tissues analyzed, heart (HT-2, 1 ppm) and stomach (T-2, 25 ppb; HT-2, 4 ppm) were especially high in mycotoxins. Mirocha's findings were confirmed by Rutgers University scientist Joseph D. Rosen.

Mirocha has now analyzed some "80 to 100 blood samples of which about one third have been positive for the trichothecenes T-2 toxin and HT-2." He also has analyzed 10 urine samples, most of which have been positive for T-2 and HT-2.

At the press conference, Dean said that the U.S. did not want to politicize the issue. Yet the timing of the report's release was excellent, coming just as the U.N. voted again to demand Soviet withdrawal of troops from Afghanistan and to set up a permanent, independent panel of experts that the General Secretary can call on to investigate future charges of chemical warfare. It also came on the heels of a U.N. resolution to convene a meeting of the signatories to the 1972 Biological & Toxin Weapons Convention to strengthen compliance and verification provisions of that treaty.

The Soviets have called the latest U.S. charges a "brazen lie . . . a propaganda screen behind which the Reagan Administration is pressing forward with its large-scale program of preparations for chemical and biological warfare."●

FREEZING NATURAL GAS PRICES

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. DANNEMEYER. Mr. Speaker, there are those who think that freezing natural gas prices would help ease the burden of high natural gas prices for our constituents. Nothing could be farther from the truth.

Retail natural gas prices have risen 20 to 60 percent over the past year. Under the Natural Gas Policy Act, however, price ceilings for natural gas subjected to those ceilings by Congress in 1978 escalate at only the rate of inflation plus a small "correction factor." We are not experiencing inflation of 20 to 60 percent. Thus, the NGPA's gradual decontrol of certain wellhead prices cannot be responsible for the gas bill increases our constituents are being hit with.

Congress in the NGPA chose to encourage the production and use of certain types of natural gas. By not establishing price ceilings for that gas, Congress made certain that this, most ex-

pensive gas would be available in ever greater quantities for purchase by natural gas pipelines. If producers are encouraged to produce only the most expensive kind of natural gas, that is what consumers will end up buying.

It is the growing volume of this congressionally favored gas, not its growing price per unit, that is causing natural gas bills to climb so sharply. The average price for section 107 gas—the congressionally favored gas—has been declining since July 1982. A freeze of section 107 prices will only preserve the high prices that have been paid in the past.

In short, freezing wellhead natural gas prices is like giving aspirin to a person with a hemorrhage. It will do nothing about the real causes of high natural gas prices: the NGPA. In fact, a natural gas wellhead price freeze is more like shooting our bleeding patient in the head. It will cause natural gas prices to be even higher than they otherwise would be and will eventually bring back the natural gas shortages and curtailments we suffered in 1977 and 1978.

Right now, pipelines and producers are attempting to renegotiate many of their gas purchase contracts. Some are having more success than others, but on one thing is clear: A natural gas price freeze will bring these efforts to a screeching halt. How can the parties renegotiate their gas contacts when the Government has taken one of the most important bargaining chips—the price clause—off the table? When faced with 5 more years of wellhead price controls, as the Eagleton-Danforth proposal would provide, why would any producer give up any right he has in an existing contract?

We know that Federal wellhead price controls cause natural gas shortage. Only 5 years ago we were all faced with closed factories and schools because natural gas simply was not available in many parts of the country. Nothing will more surely bring these shortages back than freezing wellhead natural gas prices. I refuse to believe that the only solution to high natural gas consumer prices is no natural gas for consumers.●

WOMEN IN THE FUTURE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. CONYERS. Mr. Speaker, Omni magazine long ago established itself as a leading journal on science and futurism. Its monthly features on breakthroughs in medicine, space technology, engineering, and the environment have expanded our understanding of the potential of human invention in the decades ahead. In the December 1982 issue, Kathy Keeton, president of Omni, examines the changing role of women and the extraordinary possibilities for women in both their domestic and professional roles. I commend Ms. Keeton's article to the attention of my colleagues. The article, published in Omni's "First Word" column, follows:

FIRST WORD

(By Kathy Keeton)

Radical breakthroughs in science and technology will alter every aspect of all our lives, but a woman's life perhaps most intimately and most dramatically. For the woman who, as C. P. Snow says, has "the future in [her] bones," astounding opportunities lie ahead.

Today a woman who wants both career and children faces a troubling dilemma. Often the end of her prime childbearing years coincides with a time she most needs to be at work, when she's breaking through a last level of apprenticeship to establish a strong foothold in her field.

Tomorrow a woman may be spared this crisis. She'll be able to freeze some of her eggs while she is young and healthy, to be fertilized whenever she's ready for motherhood. Or an embryo that has already been created will be frozen, and when the decision to parent becomes comfortable, the mother will take the fetus to term. (For a more revealing examination of how such a fertility clinic might work, see our portrait of Dr. Landrum Shettles, on page 50.)

Human embryos have, in fact, been frozen and revived. At the Royal Free Hospital, in London, England, embryos are being cryogenically preserved until researchers are confident that they can be successfully thawed and implanted in a woman's womb. Female pioneers are on the waiting list to receive these embryos; the advent of this procedure may be as early as next year.

By the mid-1980s, test-tube insemination should be perfected; meanwhile, scientists are already working on an artificial womb. Within a decade a woman will have the option of watching her fetus mature in a controlled, external environment.

The next generation will also be able to choose the sex of its children more reliably. Already one sex selection method, developed by Dr. Ronald Ericsson, in California, enables a couple to have a 75 to 80 percent success rate in choosing to have a male child.

What else besides these reproductive breakthroughs can a woman of the future expect before the next century?

Well, she'll know more assuredly whether it is her own genes or the culture at large that is responsible for certain of her actions. Reports on how brain chemicals interact with hormones reveal that many of our feelings and actions may be dictated by a sexually exclusive genetic blueprint found only in women. As the *raison d'être* behind the female biosystem is revealed, I predict that women's cultural status and self-esteem will improve dramatically.

Recent brain studies support psychological notions that women are better at communicative skills, while men have a natural talent for spatial tasks. Though it was traditionally believed that computer expertise demanded keen analytical skills, we now know that understanding and programming a computer are akin to learning and speaking a new language. Many women will, therefore, excel in this burgeoning field, and by the end of the 1980s, when a 50 percent rise in computer-related jobs is anticipated, women should play a key role in the most important industry created since the end of World War II.

Space will provide women with another route to professional success, albeit a less direct one. Women's superior reflexes and endurance capabilities will give them the edge as the spaceship drivers of the future. And they may fare better in space itself. As Omni reported in a recent issue, the results of a rigorous five-year study by NASA proved women superior to any group of men at adapting to the physical and emotional challenges of space. Women also form close-knit and supportive groups; their muscle-to-fat ratio is better suited to zero gravity; they eat less food and breather less oxygen then men do.

"Time goes, you say? Ah no! Alas, Time stays, we go," wrote Austin Dobson, the English poet. Mortals' most precious commodity is indeed time, but it may stay a little while longer in the future. Birth technologies will enable women to make wiser decisions about when to have their children. Sexual and familial relations should improve overall. Within a decade many of us might employ home robots to do the dirty work, giving us more time for leisure and recreation. Marriages may become more stable, as men and women have more time for each other. Magnetic trains that whisk through a vacuum-tube tunnel from New York to Los Angeles in under half an hour could easily accommodate two-career families as early as the beginning of the next century.

As we approach the year 2000, the expanding populations in both Western and Third World nations will make physical space one of our most precious commodities. Since land will become scarcer and energy less abundant, cooperative housing clusters will become more common. Women, the bonders, will make these run smoothly, and smaller, more intimate day-care centers will satisfy both parents and children in these communities. Some anthropological studies now suggest that kinship may actually have evolved from female genes, indicating that women will adapt well to these changes in lifestyle.

Technological innovations should also promote future peace. Legislated space satellites could beam solar energy to Earth, while other communications satellites will broadcast educational programs to underdeveloped countries. Industry will move with certainty into space, allowing women in the process to get a firmer grasp on this planet and beyond. It's all an idealistic vision, but one that may eventually come to pass. As we rejoice during this holiday season, let's also celebrate tomorrow's woman.●

THOUGHTS ON THE HARKIN AMENDMENT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. DORNAN of California. Mr. Speaker, because of the extreme importance of the debate Wednesday prior to passing of the substitute amendment by Mr. BOLAND to the Harkin amendment to the Defense appropriations bill, I took out this exten-

sion of remarks to make a special and final observation. Because of the constraints on time, I was not able, in addressing my colleagues on Wednesday, as to why I was so strongly against the Harkin amendment, to give what I think would have been the most telling example of why restrictions on Presidential perogatives in foreign policy by the House of Representatives are so dangerous. This great body must never run from its responsibility to prevent our Nation from ever sliding into immoral situations while we are trying to maximize the fight for freedom, human rights and dignity around the world; but we must never prevent ourselves, by poorly drafted laws, from helping heroes and heroins anywhere who fight, suffer and die trying to cast off oppression.

Suppose in the late 1930's, Claus von Stauffenberg came to Washington, D.C. for assistance or advice. You recall he was the German officer who was executed by Nazi SS thugs after he tried to kill Adolf Hitler in the "Valkyrie" assassination plot of July 20, 1944. You will recall that von Stauffenberg and hundreds of other brave German officers including General Rommel were murdered by Hitler because they tried to stop the by then insane Führer from totally destroying what was left of Germany—very late in their wisdom and repentance but better late than never. But just imagine von Stauffenberg coming to the United States in the late 1930's when he was only a captain or major, having angrily resigned as a member of "the regular military forces of a sovereign nation," which was about to provoke a worldwide war bringing about the killing of 55 million people.

Suppose von Stauffenberg checked in with our Pentagon, then the Department of War—quartered in what is now the Old Executive Office Building next to the White House—and asked for some advice—advice only—on how to assassinate Hitler? No, scratch assassinate. That might have been hard to take for some 1939 bleeding-heart liberals. Liberals, even then, would probably not have the stomach to encourage the assassination of even a madman who was about to launch the most unimaginable slaughter in all of recorded history, together of course with the massive killing by fellow dictators Stalin and Mao. So suppose young noble von Stauffenberg asked for advice from: Our then embryonic Office of Strategic Service—actually, even that predecessor agency to our CIA was not yet formed—or from our War Department or Department of the Navy. A Harkin answer for advice would be "No," for advice on how to destabilize the Third Reich, to end Adolf Hitler's proclaimed 1,000 year reich, and return Germany to a democracy. A Harkin-type amendment would actually have precluded our helping to prevent World War II.

If a Harkin-type amendment becomes universal today and is applied fairly across the board, we would not be able to help anybody, not even Mr. Harkin's beloved Sandinista Marxist government in Nicaragua if we choose. Because I repeat it is an illegal government; illegal because the Marxist Communists refuse to let the people have elections. Immoral because they have betrayed the successful revolution against the dictator Somoza, betrayed it to Communists who set up a new dictatorship.

Yes, if a Harkin amendment existed in 1939, a young Capt. Claus von Stauffenberg, a righteous gentile, a man who received the permission of the Catholic Bishop of Berlin to kill the despot Adolf Hitler—that is called moral tyrannicide, the killing of a tyrant—would have been denied advice from our Government on how to destabilize the Nazi government on the eve of the extermination of 6 million Jews and 6 million other innocent men, women, and children in the extermination camps of Poland and Germany. Remember, that Dachau opened up outside Munich in 1936, 2 years before Prime Minister Neville Chamberlain's awful betrayal of Czechoslovakia also in Munich.

House Members—and I do not impugn anyone's sincerity or motives when they talk against human rights violations by rightwing death squads in Central America—must be fair in their condemnation of man's inhumanity to man. And no one takes a place ahead of me in the passionate abhorrence of the viciousness of those who would return the oligarchies to Central America. But I repeat, as passionately as I can, my plea to some of the louder Members on the other side of the aisle to speak out just once in a while about Communist atrocities that are taking place across the globe at this very moment. It would have been a moral act for any righteous person to come to the United States in the name of the German people to get help to move against the sovereign Nazi government—a government which did come to power, in the personage of Adolph Hitler, by election not revolution as a matter of fact with a vote percentage equal to Allende's in Chile.

When will we ever see elections in Cuba, in Nicaragua, in the Soviet Union, or any of the East bloc countries, in Afghanistan, in Communist China, et cetera, et cetera, et cetera. There has never been a contested election in any Communist country in our lifetimes and there never will be. I can guarantee you that Allende, once he had achieved power in Chile, would have postponed all future elections forever.

Consider the Claus von Stauffenbergs of the world when you look at future Harkin amendments. They are maldirected.●

NAHC HOLDS SUCCESSFUL 22D ANNUAL CONFERENCE IN BALTIMORE, MD.—ADOPTS ACTION AGENDA

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. MITCHELL of Maryland. Mr. Speaker, it was my pleasure to address the 22d Annual Conference of the National Association of Housing Cooperatives which met in my city of Baltimore on October 7-10. In a highly successful annual conference, some 400 cooperators from 25 States and the District of Columbia attended a series of workshops, forums, and tours of Baltimore cooperatives. The NAHC keynote address was given by James Rouse who has done so much to make Baltimore and other cities livable.

Mr. Speaker, from my experience and service as a member of the Committee on Banking, Finance and Urban Affairs, and its Housing and Community Development Subcommittee, I know that housing cooperatives stand for affordable, nonprofit housing. A housing cooperative is owned and operated by the people who live in it.

At the October 10 meeting of the NAHC board of directors, new officers and a new executive committee were elected. Charles Rappaport, president of the Federation of section 213 Cooperatives in New York was reelected chairman of the board. Lydia Joseph, executive director of the California Association of Housing Cooperatives, was elected president. Other officers elected were: Herbert Fisher, Chicago, Ill., executive vice president; Stewart Kohl, Washington, D.C., reelected treasurer; and Johnathan Klein, Boston, Mass., secretary. The new executive committee consists of the five elected officers, as well as, Al Reynolds, immediate past president; Roger Willcox, president emeritus; Marlene Cooper, Southeast Association of Housing Cooperatives; Paul Fisher, Federation of Section 213's; and Peter Merrill, NAHC executive director.

The success of the conference is owed to many volunteers: Fern Dannis of Urban Asset Management of Baltimore, who coordinated the conference program; and, the Potomac Association of Housing Cooperatives—a regional association of housing cooperatives of Maryland, Virginia, and the District of Columbia. NAHC's efforts were led by Jean Minor, NAHC president, and NAHC Annual Conference Committee Chairman Myrine Buford

of Reservoir Hill Mutual Homes in Baltimore.

The 1983 NAHC Annual Conference will be held during October in Atlanta, with the Southeast Association as cohost.

Mr. Speaker, I am pleased to include in the RECORD the 1982-83 NAHC action agenda which represents cooperative housing issues at the Federal level that should be considered in developing national housing policies and programs. The NAHC action agenda was adopted unanimously by the membership at the annual conference, and was drafted by Legislative Committee Cochairmen Walter Dodd of River Park Mutual Homes, Washington, D.C., and Timothy C. Mitter of Greenbelt Homes, Inc., Greenbelt, Md.

Mr. Speaker, it is important that, as we search for innovative means of providing affordable housing, we fully explore the benefits of cooperative ownership.

The NAHC 1982-83 action agenda follows:

COOPERATIVE HOUSING DEVELOPMENT

1. NAHC position: Allow Tax-exempt Mortgage Revenue Bond financing for cooperative project mortgages.

Explanation: In the 1982 tax leglislation Congress approved use of mortgage revenue bonds for cooperative blanket mortgages under the single family program. Leasing cooperatives are also eligible. Authorization continues for use of mortgage revenue bonds to finance cooperative loan shares.

Recommended action: Treasury Department should promptly issue regulations. Congress should extend authority for use of mortgage revenue bonds under the more favorable multifamily program.

2. NAHC position: Assure continued funding for College Housing Program.

Explanation: NAHC notes with approval the Department of Education's issuance of regulations for the College Housing Program. Students need special assistance in obtaining safe and sound housing. The College Housing Program, formerly administered by HUD, has proved to be an invaluable source of funding for both college and student sponsored cooperative housing. This program should be continued and, at a minimum, loans should be made out of revolving fund composed of the repayments of principal on previous loans. While the number of college students is expected to drop during the 1980's, some existing projects will need modernization and rehabilitation. Nonprofit cooperative college student housing can play an important part in holding down college housing costs.

Recommended action: Congress should continue authorization and appropriations for College Housing Program; the Department of Education should continue implementation of the program.

3. NAHC position: Reactivate the Section 106(b) Seed Money Program.

Explanation: The Federal Seed Money program for nonprofit sponsors of low and moderate housing is currently restricted to senior citizen housing under Section 202. This program is an important element in allowing community, religious, fraternal and cooperative organizations to sponsor low and moderate cooperative housing. Seed money is necessary for residents sponsoring cooperative conversions to employ qualified consultants to assure proper planning for successful conversions. This program can be administered on a revolving fund basis, allowing repayments to be used to fund future developments.

Recommended action: Congress should amend the Housing and Community Development Act of 1968 to provide eligibility under Section 106(b) for non-profit sponsors of all HUD/FHA insured low/moderate income developments and cooperative conversions.

4. NAHC position: Develop regulations which will accommodate conversions of rental properties to cooperative ownership.

Explanation: Cooperative conversions are a vehicle for converting rental properties to multifamily ownership while providing nonprofit and affordable homeownership opportunities to current residents. Section 246 of the National Housing Act and Section 203(a) of the Housing and Community Development Amendments of 1978 encourage HUD to preserve Department-owned properties as cooperative housing. The full implementation of this directive would include an evaluation of all HUD-owned properties prior to disposition to determine the feasibility of conversion to cooperative ownership. In HUD-held and HUD-insured properties where there has been a default, the Department should encourage cooperative conversion, protecting the rights of tenants through notification and right of first refusal.

Recommended action: HUD should promulgate regulations that will accommodate conversions to cooperatives of HUD-owned, HUD-held, and HUD-insured properties where there have been defaults.

COOPERATIVE OPERATIONS AND FINANCE

5. NAHC position: Revise the Section 203(n) program and extend its provisions.

Explanation: Section 203(n) of the National Housing Act was passed by Congress in 1974 to insure loans for the purchase of cooperative memberships/loans. Financing is often necessary to purchase memberships/shares in today's cooperative housing market. Federal loan insurance will greatly increase the willingness of lenders to finance cooperative memberships/shares. These provisions have never been used. The current 203(n) for existing cooperatives conflicts in significant ways with other HUD/FHA cooperative housing programs. The Handbook and regulations should be revised to reflect the unique nature of cooperative housing as developed by HUD/FHA since 1950. The 203(n) multifamily program should be released to encourage the development of new cooperatives as well as resident-sponsored cooperative conversions. In addition, the 203(n) authorization should be amended by Congress to allow the program to be used for all cooperatives as well as establishing a uniform 30-year loan for 203(n) loan insurance.

Recommended action: Congress should amend the National Housing Act to permit use of Section 203(n) in (1) all housing cooperatives, (2) cooperatives whose blanket mortgage has been paid off, (3) establish a uniform 30-year period for 203(n) loan insurance, and (4) provide protection for the lenders in case of a blanket mortgage default. We note with approval that legislation to accomplish these goals is pending as part of the FY 1983 Housing Authorizations in the Senate and House.

6. NAHC position: Eliminate or reduce the impact of Section 277 of the Internal Revenue Code on housing cooperatives.

Explanation: Section 277 of the Internal Revenue Code requires certain membership organizations to distinguish, for income tax purposes, between member and non-member income and offsetting expenses. Several IRS Area Offices have required housing cooperatives to file pursuant Section 277, specifically requiring that income earned from reserve funds be considered "non-member income." NAHC opposes the extension of Section 277 to housing cooperatives, particularly in the case of interest income from required reserve funds. This year a Federal court decision in the Land O'Lakes (a former cooperative) case has held that dividends on lender required share purchases was member income.

7. NAHC position: Protect tax deductions for cooperative housing members.

Explanation: Current Federal income tax law provides that cooperative members lose their tax deductions should be the cooperative receive more than twenty percent of its income from outside sources.

Recommended action: Congress should revise Section 216 of the Internal Revenue Code seeking relief from the required percentage of income that a cooperative must have from member sources (the "80/20" problem).

8. NAHC position: Authorize the Veterans Administration to guarantee the financing of cooperative memberships/shares.

Explanation: Current Veterans Administration authorization does not allow the VA to guarantee or insure cooperative membership/share loans. The VA housing program currently includes single family, condominiums, and mobile homes.

Recommended action: Congress should amend the Veterans Administration to allow the VA to guarantee or insure cooperative membership/share loans. NAHC testified in support of legislation to accomplish this goal last year. The VA opposed this legislation as being too risky and not needed.

9. NAHC position: Develop a secondary mortgage market for cooperative blanket mortgages and membership/share loans.

Explanation: NAHC notes with approval the 1979 and 1980 congressional authorizations of a secondary market for individual cooperative membership loans by the Federal Home Loan and the Federal National Mortgage Association. A secondary market is necessary for individual cooperative membership/shares and cooperative blanket mortgages. We note with approval that FNMA has purchased on a negotiated basis cooperative share loans. We urge a formal program on a regular basis.

Recommended action: FHLMC, FNMA, and GNMA should promptly develop a secondary market for blanket mortgages and individual cooperative membership loans. Congress should amend the Internal Revenue Code to treat, for the purpose of determining the bad debt reserve, cooperative memberships/shares as real property.

10. NAHC position: Establish on-going resident orientation and Board training programs for HUD-FHA insured and assisted cooperatives.

Explanation: To assure effective management and successful operations, housing cooperatives need ongoing member orientation and Board training programs. HUD should require member education programs for all HUD/FHA assisted or insured cooperatives.

Recommended action: HUD should develop criteria for member orientation and Board training to be required in all HUD/FHA insured or assisted cooperatives. Cost

of training should be included in the cooperatives' operating budgets.

11. NAHC position: Require certification of property and resident managers.

Explanation: The management of housing cooperatives requires unique skills and knowledge. A certification program should be developed for managers and resident managers of insured and assisted cooperatives. Property management firms, professionals, and resident managers should be required to meet appropriate criteria and obtain certification. An on-going program, requiring additional training and demonstration of professional capability should be an element in maintaining certification.

Recommended action: HUD should encourage certification of property managers for all assisted and insured cooperatives.

12. NAHC position: Allow excess project income in HUD assisted developments to be retained for capital improvements.

Explanation: When excess income is generated in HUD assisted cooperative developments, HUD should permit placing excess income in replacement reserves. Currently, HUD requires either a refund to the government or a reduction in subsidy. Instead, this income should be used to fund the HUD-required replacement reserves. Many of these developments will soon require life-cycle improvements; using excess income to fund the replacement reserves may reduce the need for HUD assistance when future improvements are required.

Recommended action: HUD should adopt a policy permitting excess project income, in assisted cooperative developments, to be placed in replacement reserves, rather than paid back to the government.

13. NAHC position: Hold public hearings before determining variances in carrying charges in co-ops with mortgages insured pursuant to Sec. 223(f) of the National Housing Act.

Explanation: In 1977, a significant number of Mitchell-Lama Cooperatives in New York City were refinanced with mortgages insured pursuant to Sec. 223(f). Approval of carrying charge levels which previously had been under the jurisdiction of the New York City Department of Housing Preservation and Development, passed to HUD. HPD, pursuant to local law, held public hearings in connection with variances. HUD does not hold such hearings and in their absence arbitrary and capricious determinations can result. A growing body of case law holds that public hearings are a requirement of the decision-making proceedings of any governmental body under due process protections of the 14th Amendment.

Recommended action: HUD should promptly issue regulations providing for a public evidentiary hearing in connection with determining variations in carrying charges in cooperatives insured under Section 223(f) of the National Housing Act.

FEDERAL PROGRAM OPERATIONS

14. NAHC position: Ensure that the National Consumer Cooperative Bank continues to play a strong and innovative role in cooperative housing operations and development.

Explanation: NAHC notes with approval congressional action last year "privatizing" the National Consumer Cooperative Bank. The Bank has been an invaluable resource for existing and developing housing cooperatives. Under current law the Bank's housing activities are limited to 30 percent of the Bank's gross assets after October 1, 1985. We believe that this limitation should be lifted to give the Bank greater flexibility in its operations, and we note with approval the recommendation by the President's Commission on Housing that called for removal of this restriction. The Bank, however, should continue to serve all kinds of consumer cooperatives and should not become a housing bank.

Recommended action: Congress should lift the 30 percent restriction on housing activities of the Bank, and the National Consumer Cooperative Bank should plan for its long-term role in the cooperative housing field.

15. NAHC position: Encourage the use of the Section 8 "certificate" and "set aside" programs for housing cooperatives.

Explanation: Cooperative housing has proved to be a desirable and cost effective use of federal housing assistance to low and moderate income families. Currently, about 5,000 members of housing cooperatives receive assistance under the Section 8 program. To ensure the consistent and successful use of Section 8 by housing cooperatives, HUD should add a chapter to the Section 8 Handbook to cover the use of Section 8 in all types of housing cooperatives.

Recommended action: HUD should add a chapter to the Section 8 Handbook for housing cooperatives. Section 8 certificates for use in cooperative conversions can help minimize displacement and enable low income and elderly to remain in their homes.

16. NAHC position: Promote cooperative housing development by the Farmers Home Administration (FmHA).

Explanation: Cooperative enterprise is quite common in rural areas. NAHC notes with approval the success of a rural cooperative housing demonstration project funded by FmHA. FmHA should continue this initiative and consider a set-aside of Section 8 units to further encourage the development of the cooperative form of homeownership in rural areas. We oppose efforts now pending in the Senate to largely gut the entire FmHA program.

Recommended action: FmHA should encourage the development of cooperative home ownership in rural areas. HUD and the National Consumer Cooperative Bank should utilize their expertise in cooperative housing to assist FmHA and other agencies interested in the development of the cooperative form of home ownership.

17. NAHC position: Provide cooperative housing training for HUD area office staff.

Explanation: There has been increased interest in cooperative housing throughout the country. Successful implementation of cooperative housing programs requires sensitive understanding of cooperative housing operations and development. A staff person, designated in each HUD area office, should be trained to serve as a resource for professionals, tenant groups and cooperative members concerning the development and operations of housing cooperatives.

Recommended action: HUD should establish an ongoing cooperative housing training program for area office staff.

18. NAHC position: Strengthen HUD Office of the Special Assistant for Cooperative Housing.

Explanation: There is need for a central resource within HUD to coordinate and expedite cooperative housing programs. This office would (1) coordinate central office activities in the cooperative housing field, (2) serve as a technical and policy resource for field offices regarding cooperative housing, (3) develop and adjust or modify regulatory/legislative proposals necessary to assure the effectiveness of cooperative housing programs, (4) serve as HUD liaison with other agencies as their programs relate to cooperative housing, and (5) serve as HUD liaison with consumers and professionals in the cooperative housing sector. The office of the Special Assistant was authorized by Congress in Section 102(h) of the Housing Amendments of 1955, as amended in 1966 and 1976.

Recommended action: Secretary of HUD should appoint a full time Special Assistant to the FHA Commissioner with adequate staff and full time responsibilities for cooperative housing programs.

Resolution on foreclosures adopted at 1982 annual membership meeting:

Be it resolved that NAHC call upon HUD to establish separate and more reasonable standards for institution of foreclosures of housing cooperatives, recognizing that foreclosures also eliminate the ownership interests of members occupants, and calls upon HUD to develop alternate forms of relief, including working with local housing representative associations and memberships, before seeking foreclosures.

Further be it resolved that the Board and Staff of NAHC be directed and authorized to meet with appropriate HUD officials at the National Level to develop and implement new policies with respect to past and prospective foreclosures of HUD-assisted housing cooperatives.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 14, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 15

9:00 a.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 1584 and H.R. 4083, bills designating certain lands in California as wilderness.

3110 Dirksen Building

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on computer matching programs to detect fraud and mismanagement in Government programs.
3302 Dirksen Building

Labor and Human Resources
Business meeting, to consider pending nominations.
4232 Dirksen Building

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings to review issues relating to the Clean Water Act.
4200 Dirksen Building

Finance
To hold hearings on S. 2985, to provide that debts shall accrue only in certain circumstances.
2221 Dirksen Building

Joint Economic
Economic Goals and Intergovernmental Policy Subcommittee
To hold hearings to examine certain issues relating to defense spending and its effect on the national economy.
2247 Rayburn Building

Conferees
On H.R. 7144, appropriating funds for fiscal year ending September 30, 1983, for the government of the District of Columbia.
S-126, Capitol

DECEMBER 16

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 2300, to establish domestic content requirements for motor vehicles sold in the United States.
235 Russell Building

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To continue oversight hearings on computer matching programs to detect fraud and mismanagement in Government programs.
3302 Dirksen Building

Small Business
To hold oversight hearings on the small business investment companies (SBIC) program of the Small Business Administration.
424 Russell Building

*Select on Intelligence
Budget Authorization Subcommittee
Closed business meeting, on pending business matters.
S-407, Capitol

10:00 a.m.
Armed Services
To hold hearings on the structure and operating procedures of the Joint Chiefs of Staff, Department of Defense.
1318 Dirksen Building

10:30 a.m.
Joint Economic
Monetary and Fiscal Policy Subcommittee
To hold hearings on political, economic, and constitutional reform matters.
5110 Dirksen Building

2:00 p.m.
Armed Services
Preparedness Subcommittee
To hold hearings on Army operational readiness.
212 Russell Building

DECEMBER 17

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2300, to establish domestic content requirements for motor vehicles sold in the United States.
235 Russell Building

JANUARY 12

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review Federal programs which create certain job opportunities.
4232 Dirksen Building

JANUARY 25

9:30 a.m.
Finance
To hold hearings on the administration's assessment of the meeting of ministers to the General Agreement on Tariffs and Trade (GATT).
2221 Dirksen Building

CANCELLATIONS

DECEMBER 15

9:30 a.m.
Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings on Government debt collection procedures.
5302 Dirksen Building

DECEMBER 16

10:00 a.m.
Foreign Relations
Closed meeting, to consult with an official of the Department of State on the threshold test ban and peaceful nuclear explosion treaties.
S-116, Capitol

HOUSE OF REPRESENTATIVES—*Tuesday, December 14, 1982*

The House met at 11 a.m.

Rev. Charles Mallon, permanent deacon, Holy Family Church, Mitchellville, Md., offered the following prayer:

The Lord is my light and my salvation; whom shall I fear? The Lord is the stronghold of my life; of whom shall I be afraid?—Psalm 27:1-2.

Father free this deliberative body of all useless anxiety and unrealistic considerations. And by Your light allow them to see the naked truth and to act responsive to it.

Father give joy to their hearts and teach them to rely upon Your strength.

We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

WASTEFUL AND CONTROVERSIAL PROJECTS

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, yesterday when the Rules Committee met to consider the rule on the continuing resolution, a number of Members spoke before the Rules Committee and fortunately convinced the Rules Committee that as we consider this important resolution, significant amendments dealing with the Clinch River project, the O'Neil project and the Garrison diversion water project be considered with full opportunity for discussion, debate, and for a vote.

Unfortunately, yesterday one project was deleted from that list dealing with the Tennessee Tombigbee Waterway. I am simply advising the Members of the House today that while I am disappointed that we have not had the opportunity to have an up or down vote on that specific project, and to eliminate at least $100 million of funding that I believe should be picked up by the States of Alabama and Mississippi, I am pleased that the Rules Committee did give consideration to all of the other projects that requested it and that full debate and discussion can take place today.

It is my hope that the Members on both sides of the aisle will carefully look at the Tennessee Tombigbee Waterway as we move to further construction and hopefully force some cost sharing on that project in the future.

Apparently, the chairman and other members of the Appropriations Committee would not accept a rule allowing debate on funding for the Tenn-Tom included in the continuing resolution. Obviously, I am disappointed by this decision. I believe that, if it were in order today, an amendment to reduce the Federal commitment to this project by $100 million would receive the support of the House.

However, I cannot discount the good work the Rules Committee did yesterday in allowing amendments regarding other controversial projects. For example, an amendment to halt funding for the Clinch River breeder reactor is extremely important. On the vote today on Clinch River we can help save billions of dollars in future uneconomical commitments and strike a blow for sanity in our nuclear nonproliferation policy.

Amendments dealing with other wasteful or controversial projects will also be in order today, and I intend to support these. I feel that it is time Congress began to move again toward forging a modern and responsible water policy, and votes on these appropriations matters are the best available means of making progress on critically important water issues.

For these reasons I plan to vote for the rule making in order specific amendments to the continuing resolution. Supporters of the amendment to reduce funding for the Tenn-Tom to a rational level will not be granted a decision today. But, it is perhaps only an indication that we did our job too well in forcing the project's supporters to shy away from a vote in the House.

BRINGING RELIEF TO NATURAL GAS CUSTOMERS

(Mr. DIXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, yesterday I introduced a resolution (H.J. Res. 632) which is intended to bring relief to natural gas customers around the country who are facing severe increases in their bills. Already this year, in my area in California, the bills of gas consumers have increased over 50 percent from a year ago and they are expected to rise further during this winter by another 50 percent.

With a surplus of natural gas and with the price of oil on the decline, increases of this magnitude are unnecessary and do not reflect true market conditions.

These price increases have come about largely because of the wellhead pricing provisions of the Natural Gas Policy Act and the practices of the Federal Energy Regulatory Commission which allow interstate pipeline companies to average in the price of high cost gas in the supplies sold to local distribution companies even though a sufficient quantity of low cost gas is available.

If distribution companies were given the discretion to purchase high cost gas only when the market required, they would be able to prevent these inordinate increases from taking place. What is needed is a regulatory mechanism to provide this discretion. My resolution would direct the Federal Energy Regulatory Commission to address this concern by initiating a rulemaking proceeding regarding pipeline rate design. This proceeding would consider the service agreements which currently obligate distribution companies to purchase unnecessary quantities of high cost gas and the relationship between pipeline companies and local distributors.

This resolution does not attempt to change any of the pricing provisions in the Natural Gas Policy Act. Instead, it is intended to bring about and facilitate the operation of a freer market in the sale and purchase of gas at the wellhead, in the pipeline, and at the consumer burner tip. I urge you to study this resolution and join in support of it.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 631, FURTHER CONTINUING APPROPRIATIONS, 1983

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 626 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 626

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 631) making further continuing appropriations and pro-

viding for productive employment for the fiscal year 1983, and for other purposes, the first reading of the joint resolution shall be dispensed with, and all points of order against the joint resolution are hereby waived. After general debate, which shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, and shall be confined to the joint resolution and the amendments made in order by this resolution, the joint resolution shall be considered as having been read for amendment under the five-minute rule. No amendment to the joint resolution shall be in order except the following amendments printed in the Congressional Record of December 13, 1982, which shall be in order any rule of the House to the contrary notwithstanding, shall be considered if offered only in the following order, and shall not be subject to amendment but shall each be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent of the amendment and a Member opposed thereto: (1) an amendment by, and if offered by, Representative Edwards of California; (2) an amendment by, and if offered by, Representative Simon of Illinois; (3) an amendment by, and if offered by, Representative Tauzin of Louisiana; (4) an amendment by, and if offered by, Representative Fazio of California; (5) an amendment by, and if offered by, Representative Traxler of Michigan, said amendment shall be in order even if the amendment numbered 4 above is agreed to, and if amendments numbered 4 and numbered 5 are both agreed to, only amendment numbered 5 shall be reported back to the House; (6) an amendment by, and if offered by, Representative Coughlin of Pennsylvania; (7) an amendment by, and if offered by, Representative Bonior of Michigan; and (8) an amendment by, and if offered by, Representative Conte of Massachusetts. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit, and all points of order are waived against instructions contained in a motion to recommit if offered by Representative Conte of Massachusetts, and against any amendment required by said instructions to be reported back to the House.

The SPEAKER. The gentleman from Michigan (Mr. BONIOR) is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 626 provides for the consideration of House Joint Resolution 631, making appropriations and providing for a productive employment program for the fiscal year 1983.

All points of order which might lie against the resolution would be waived under the proposed rule.

One hour of general debate is provided to be divided equally between the chairman and ranking minority member of the Committee on Appropriations.

The committee would make in order eight amendments which were to have been printed in the RECORD of December 13, are not amendable, and will be debatable for a period not to exceed 30 minutes. That time shall be equally divided between the proponent of the amendment and a Member opposed. Those amendments by, and if offered by, specific Members will be considered only in the following order:

First, by Mr. EDWARDS relating to the funding of the Peace Corps.

Second, by Mr. SIMON relating to the manner of expenditure of foreign assistance.

Third, by Mr. TAUZIN relating to low-income energy assistance.

Fourth, by Mr. FAZIO relating to the salaries of Members of Congress.

Fifth, by Mr. TRAXLER, also relating to the salaries of Members of Congress, which shall be in order regardless of the disposition of Mr. FAZIO's amendment. If both are agreed to, only Mr. TRAXLER's, as the last adopted, will be reported back to the House.

Sixth, by Mr. COUGHLIN relating to the funding of the Clinch River breeder reactor.

Seventh, by myself and Mr. EVANS of Delaware relating to funding of the O'Neill irrigation unit in Nebraska.

Eighth, by Mr. CONTE relating to funding of the Garrison water project.

Finally, one motion to recommit with or without instructions is in order and points of order are waived against the instructions if offered by Mr. CONTE. It is my understanding that such instructions would relate only to title II, the jobs program section of the resolution.

Mr. Speaker, this has been a difficult rule to craft. I would venture to say that very few Members of this body can remember the last time this many amendments have been made in order on a continuing appropriation. These resolutions are generally brought to the floor under a closed rule because the Congress is usually under severe time constraints when that occurs. To do otherwise would defeat the purpose of a continuing; that is, temporary, uniform, and expeditious funding of Government activities.

However, the Rules Committee, quite frankly, is not inclined to send a rule to the floor that we feel will be defeated. We have recognized that there is a substantial amount of pressure from the general membership to obtain separate votes on certain issues. The budget process, being what it is, has unfortunately not allowed Members that opportunity this year.

Thus, we have tried to fashion a rule that would allow for representative votes in important areas without encouraging legislative chaos or erecting obstacles to the serious need for rapid resolution of our funding problems.

It is not a perfect situation. We all probably have amendments that we would like to see proposed. However, while the amendments that would be made in order are not all-inclusive, they do provide a balanced opportunity for expression in the areas of energy and water resources, foreign aid, aid to the poor and elderly, and Members' salaries.

Additionally, it is expected that the motion to recommit will contain instructions to delete the jobs program, hence, allowing Members a separate vote on that issue.

As I stated, we have tried to choose representative amendments for important issues. I am not going to tell you that our decisions were made without political considerations. They were, but it was our job to fashion a rule that would pass on the floor and get the resolution passed quickly.

I realize that the debate time is not long. However, the hour for general debate equals what would normally be provided on these resolutions when they are customarily considered in the House as opposed to the Committee of the Whole. With regard to the limited time on the amendments, these are familiar issues and I dare say that the debate will probably not change many minds.

This is the most open rule we have had on a continuing appropriation and I would urge Members to support it.

With regard to the resolution itself, continuing appropriations are provided for the 10 appropriations bills not yet enacted. This resolution will remain in effect until March 15, 1983.

Funding levels are set in the following manner:

Activities under the Agriculture, D.C., Transportation, Interior, and Treasury-Post Office appropriations are set at the lower of the House- or Senate-passed levels.

Defense and Commerce-State-Justice appropriations are set at the House-passed levels.

The Labor-HHS-Education appropriation is set at the House-passed level with additional funds provided for refugee assistance, employment and training programs, health planning and other programs whose authorizations had not been enacted.

The energy and water resources appropriation is set at the fiscal year 1982 level.

The foreign assistance appropriation is set at the fiscal year 1982 level with certain variations provided for refugee assistance, peacekeeping operations, trade and development, and assistance to Egypt and Israel. These variations will be explained in general debate.

The resolution also provides additional funding for several Federal housing programs and $50 million for

private volunteer organizations for food and shelter programs for the needy.

It further prohibits oil and mineral leasing in wilderness areas and off the northern California coast.

No pay cap for Members of Congress is continued in this resolution. Thus, unless one of the two amendments dealing with this issue is successful, Members' pay would automatically increase to the prescribed amount.

There is also a provision that would, in effect, limit outside earned income for Senators to 30 percent of their salaries. The House already has such a provision.

Finally, and perhaps most significantly, the resolution contains $5.4 billion in new funding for job creation. It is expected that 244,600 jobs would be created directly and indirectly for projects of objective need and merit largely for repair and rehabilitation of our national infrastructure. These projects would range from repair of highways and bridges to VA hospital maintenance.

Another $1 billion is provided for temporary jobs—not to exceed 6 months—which would be administered by the Labor Department and once again provide assistance for repairing infrastructure.

This certainly will not alleviate our unemployment problems, particularly with trends and administration policy moving in the opposite direction. But it will provide hope to our people at a time of year when they are most receptive to it and most despondent without it.

They have borne with extraordinary patience, empty promises and it is time to acknowledged their patience with an admission of our responsibility for the situations many of them face.

Mr. Speaker, this is extremely important legislation and I would urge my colleagues to proceed posthaste to approval of the rule, passage of the resolution, and a fulfillment of our responsibilities.

Mr. Speaker, I reserve the balance of my time.

□ 1115

Mr. QUILLEN. Mr. speaker, I yield myself as much time as I may use.

Mr. Speaker, the continuing resolution process is becoming old hat. I think it is time that we stop bringing these continuing resolutions with a Christmas tree list before this body just before Christmas. The regular appropriation process is the right way to go. Let the Appropriations Committee come in with its general appropriation bills, pass them, and insist that the Senate do likewise.

Now, when this rule was crafted, it was crafted so as to gain support of certain Members in the hope that the rule would pass. That is no way to run a railroad. I think the issue should stand on thir own merits, and not be used for political or partisan gain.

Eight amendments were made in order; one to strike the Clinch River breeder reactor. Over $1 billion have already been spent on this project. Yet the Democrats want a jobs bill creating more public works jobs while at the same time allowing an up or down vote on the Clinch River breeder reactor, which will eliminate jobs, if they are successful. To me, it is entirely an effort aimed at Tennessee, from those who do not realize that the taxpayers are going to be stuck with $1 billion or more already expended on a process that America greatly needs.

There are eight amendments made in order to curry favor, in the hope that the jobs portion of the bill will be enacted into law. However, if it survives in the Senate, the President has said that he will veto it.

So, I am wearing a Christmas vest, Mr. Speaker, just in case. In 1963 we were here on Christmas Eve. In other years since I have been here we were here the day before Christmas. Now, does it really make sense to bring a continuing resolution to the floor of this House with a Christmas tree of amendments on it, knowing that we are going to spin our wheels, knowing that it is not going to achieve its purpose? I would ask the Members of this body to vote down this rule.

Let us, if we have to have a continuing resolution, bring one back just to extend the current appropriation, including the level pay cap, and let us close up shop and get the job done.

When the amendment comes to the floor on the Clinch River breeder reactor, I would caution the Members of the House that if they cut it out they are going to cut out jobs on one hand, and on the other hand they are going to probably pass their make-believe jobs idea supposed to create employment. It just simply does not make sense. So, I would ask my colleagues to look at this measure with great care, because it is so important.

Two amendments were made in order on the Members pay raise; one to reduce the amount, another to strike it. I shall vote against any pay raise, and I shall vote for the Traxler amendment to strike the pay raise in this bill because I think we are today setting a bad precedent by bringing such a Christmas tree continuing resolution to the floor of the House. I am opposed to the pay raise, and ask my colleagues to join me on that amendment likewise.

Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I was necessarily absent yesterday when this rule came before the Committee on Rules and was voted out. Had I been present, I would have voted against the rule for various reasons, among them being two amendments; one to be offered by the gentleman from Michigan (Mr. BONIOR) and the other to be offered by the gentleman from Massachusetts (Mr. CONTE). Both of these amendments, as I understand it, would deny funds for two reclamation projects which have been authorized after work by legislative committees of both the House and the Senate, after having been passed by both bodies, signed by the President, in fact there have been funds appropriated for both of these projects.

The project in Nebraska that the gentleman from Michigan will seek to deny funds to is now in court. The effect of the amendment which he will offer, if it is successful, will be to practically abort the case which is now, as I understand it, far advanced and almost in a position where a decision can and will be rendered by a judge. I think that it is particularly obnoxious because of the fact that it not only seeks in a very summary way to nullify the work of this body and the other body, but also to nullify the work of a court of this land.

So, I reluctantly find myself in a position of opposing the rule for the continuing resolution. It certainly is not that I am against a continuing resolution to keep this Government going, because it is now obvious that we are not going to be able to pass all the appropriations bills before the time for this session to end. So, I am very much in hopes that, as my good friend and colleague from Tennessee has said, that we will vote down this rule and thereby give notice to the Rules Committee that the House expects them to bring a rule to the floor making in order a continuing resolution which will be signed by the President of the United States and which will become law.

What we need is a continuing resolution, not a veto which will keep us here, as the gentleman has also said, much later than I think most of the Members of this body would like to stay in session.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes for debate only to the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time. Mr. Speaker, I cannot support this rule offered in connection with the continuing resolution raises a number of very serious questions about the operations of the House. Under these circumstances we are going to be called upon to resolve, in a temporary stopgap funding resolution, major issues of significant national importance.

In the case of the amendment regarding the Clinch River project, we are being asked to weigh, in a total of 30 minutes of debate, a project in

which the taxpayers of this Nation have already invested nearly $1.5 billion—which, even if termination is approved, will likely cost another $200 million, and if, as I would expect, various contractors bring suit, the project could easily approach a total sunk cost of some $2 billion.

What is the benefit to the taxpayer of this expenditure? If the project is carried through to completion not only will we have demonstrated the capability to provide a limitless source of energy, one which appears to offer every potential of being cost competitive with current technology, one which is conservation oriented, totally domestic in resource supply, but we will also have provided a revenue stream for the Federal Government. Depending on the price of electricity over the next 20 to 30 years, this project may provide several billion dollars of revenues in addition to invaluable research data and operating experience. If the project is halted, the taxpayers are left with a $2 billion expenditure with absolutely nothing to show for it.

In every opportunity which this House has had since the project was initially authorized in 1972, the continuation of the Clinch River breeder reactor has been supported. Today, opponents of the project, aided by a rule which not only limits debate to 30 minutes, but also permits this amendment to be offered without regard to any House rule whatsoever, are seeking to rush through what amounts to a termination of this project without even the opportunity to consider responsible alternatives.

Let me emphasize that point—the Department of Energy, the Science and Technology Committee and the industry itself are already examining proposals to provide alternative financing arrangements which will reduce the Federal Government's portion of the costs of the project. However, under the terms of this rule, we are precluded from considering such alternatives.

I would urge all of my colleagues to keep this fact in mind as the vote on this project nears. If the Coughlin amendment is adopted, you will have precluded the opportunity to consider a more responsible approach that would lower the Federal Government's investment but retain this vital energy R. & D. project.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of this rule providing for the consideration of House Joint Resolution 631, making further continuing appropriations for fiscal year 1983. As my colleagues may recall, last September I stood in the same spot and promised that I would not support another continuing resolution that did not provide an opportunity for the House to consider some of the more controversial projects that had not yet been dealt with in our regular fiscal year 1983 bills. The rule currently under consideration fulfills that promise.

Mr. Speaker, I am by nature opposed to closed rules on appropriation bills. I believe that the House should be permitted to work its will on such measures whenever possible.

But I do support the modified closed rule on this continuing appropriations measure.

I know that some of my colleagues are disappointed that they are unable to offer amendments dealing with certain matters ordinarily contained in the energy and water development appropriations bill. Unfortunately, there simply is not time for all such amendments. We are rapidly approaching the expiration date for the current continuing resolution. Because of the irresponsible action of the majority in tacking a nongermane title on to this bill, we will be facing a veto and another exercise of brinksmanship over this measure. But at the same time, there will be an opportunity to vote on several important energy and water projects, and I urge that my colleagues support this rule.

Mr. Speaker, I will be offering one of the amendments to which I alluded a minute ago, to eliminate funding for the Garrison diversion project. This project suffers from nearly all of the public policy ills known to man or water project cost overruns, inadequate planning and design, defective cost/benefit ratio, fiscal irresponsibility, environmental degradation, and adverse international consequences. It is a project that might have had some merit in 1965, when it was conceived and first authorized. But as each year passes and the cost goes up and the environmental consequences become clearer and the international opposition grows, the project becomes less and less defensible. Mr. Speaker, with only 15 percent of the project complete at this time, we must cut our losses and kill the Garrison project.

Again, I urge my colleagues to adopt this rule so that we can put an end to the misguided Garrison diversion project.

In closing, Mr. Speaker, let me say this: I do not relish standing up here on the floor of the House today supporting this continuing resolution, but we have no alternative. As I said before the Rules Committee, if I were a Member of the House and I were not on the Appropriations Committee, I would be livid mad about the whole procedure because Congress and the Members of the House are not going to be able to work their will.

□ 1130

They are either going to buy the package or they are not going to buy the package, and then it goes over to the Senate. I might say here that we had a meeting this morning at the White House, and the President said—and I copied his words down—in regard to the continuing resolution and in regard to the public works, he said, "I don't give a damn whether it is Friday night, and how long this Congress has to stay in in session, I will not sign the continuing resolution with the jobs bill in it."

Now, I say to the Members, "if you guys and gals all want to be around here and you are going to be dreaming of a white Christmas on December 24, you keep that in."

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, I am amazed at the comment the gentleman has just made, quoting the President of the United States as threatening the Congress with having to stay in session if they do something for American jobs. Some of us have been trying very hard to help the President keep a promise that he made to our friends in the Caribbean to create a climate conducive to jobs down there.

It is very difficult for us to do that kind of thing if he just takes that kind of a stance and says, if the gentleman quoted him right, that he "doesn't give a damn" if the Government is brought to a standstill and if Members of Congress have to be in session on Christmas Eve because he is that much against doing something to give American citizens jobs. I cannot conceive of the President of the United States making a statement like that. Certainly the gentleman is misquoting him.

Mr. CONTE. I am sorry, I did not hear the gentleman. What was that?

Mr. WRIGHT. Surely the gentleman has not quoted the President correctly. Would the gentleman desire to rephrase or recall it somewhat differently?

Is the gentleman threatening the Congress that if we pass this bill, using the President as the source of his threat, we are going to have to be in session and, therefore, should vote against the bill so we can go home for the holidays? Does the gentleman think that Members of Congress care that little about their responsibility to help Americans who do not have jobs?

Mr. CONTE. Mr. Speaker, if the gentleman will give me a chance to answer, I am not threatening anybody. I am giving the gentleman the facts of life.

I say to the gentleman, "If you want to be here, if you want to enjoy your jobs over that 'silly-billy' you put together, it doesn't create anything."

And as I said, it is like a great magnet, bringing every nut and bolt

into this bill. All you did was get 13 subcommittees together and say, "draft something quick. There's $6 billion; divide it up. Divide it up any way you want."

I would like to have a good jobs bill. I would like to sit down with the majority leader and work out a jobs bill, but not this facade, not this facade that we have here.

Let us face the facts. Whether we think it is a threat or not, the President says he is going to veto the bill, and he will veto the bill.

The SPEAKER. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

Mr. QUILLEN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, we have gotten these vetoes before and we stayed here, and finally we wound up with a clean continuing resolution. That is what we are going to get here.

Unfortunately, the other body especially, would not listen to us. This continuing resolution should have gone to the end of the fiscal year. Now, even this one goes to March 15, and we are going to be in the same problem when we are ready for the Easter recess. Read the RECORD come Easter. This should go to the end of the fiscal year.

Mr. Speaker, I say, let us get out of here and go home.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I would like to thank the gentleman from Massachusetts (Mr. CONTE). I had some reservations about this bill, and now that the gentleman has explained it in the way he has, with the implied threat, I have no difficulty in voting for it at all and declaring to the American people that this is a clear test between the gentleman's party and mine and where our priorities lie.

Mr. CONTE. Mr. Speaker, the gentleman can interpret it any way he wants, but the President has got the right down there to either sign the bill or not sign it. If he does not like it, he can veto the bill and we will be here on December 24, we will be here on January 1 working on something, and I say to the gentleman, "maybe by that time, Mr. Majority Leader, you and I can work out a decent employment bill."

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I have no more time left.

Mr. BONIOR of Michigan. Mr. Speaker, I yield, for debate purposes only, 3 minutes to the gentleman from Texas (Mr. WRIGHT).

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, let me say this: The President only made a promise of a veto, and it is no threat. I want the gentleman and other Members to know that.

Mr. WRIGHT. Mr. Speaker, I appreciate that euphemistic touch.

Mr. QUILLEN. Nobody is beating Members over the head.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WRIGHT. Mr. Speaker, I appreciate the euphemism that the gentleman uses, but I just simply cannot believe my ears when I stand here and hear my good friend, the gentleman from Massachusetts, quoting the President of the United States as saying that he "doesn't give a damn" if Congress is in session New Year's Eve or Christmas Eve, or whenever it may be, just so long as we do not try to do anything to help the unemployed Americans. I really cannot understand that.

Who does he think he is? Really, I mean, after all, the Constitution gives to the President the right to veto legislation, but it certainly did not intend to confer upon him the role of "Big Daddy." He is not supposed to be the dictator who writes the legislation.

As I read the Constitution, it very carefully and very assiduously left control of the purse strings to the Congress of the United States, and that control is to begin in the people's House, the House of Representatives.

Now, are we to be subjected to a threat at this late moment of the year? Are we to be threatened that the President, who just got $230 billion out of this House only a few days ago for defense and weapons of destruction, straining at a gnat while swallowing that camel, will veto a bill simply because it has as much as $5 billion to try to put Americans back to work doing things that desperately need doing in the United States?

I cannot believe that. Surely the gentleman from Massachusetts misunderstood the President. Surely the President, whether he calls it a promise or a threat, whether he smiles benignly or frowns furiously, is not trying to intimidate the Congress to the point that it must let him write its legislation in order to get his signature, and that if we do not knuckle under and bow down again and allow the White House to write our bills for us, he is going to punish us by requiring us to be in session on Christmas Eve. Now, surely that is not the attitude that ought to be attributed to a President.

But if it is, if the gentleman from Massachusetts correctly characterizes the attitude of this President, which I earnestly hope he did not, then I think there is not a man or woman in this House worthy of his or her honor who would not willingly be in session on Christmas Eve, or New Year's eve or whenever, if that were the necessity required to do the things necessary to care for the needs of this Nation, pull this country out of the deep depression that the Reagan economic policies have plunged us into, and at least start us again on the road to recovery by giving people some work to do in jobs that need doing.

Mr. QUILLEN. Mr. Speaker, I yield myself 2 minutes, after which I shall yield 3 minutes to the gentlewoman from Nebraska (Mrs. SMITH).

Mr. Speaker, my good friend, the majority leader, has, I think, put words in the President's mouth. I am sure that a promise is not a threat.

I think each Member of this body deserves to know what to expect. No one knows what the Senate is going to do in regard to jobs bills. No one knows what the conferees are going to decide in the final analysis. I know that our fine President is sincere. He wants to cut spending. He wants to do something meaningful for the unemployed of this Nation.

Back in the late 1970's, when we had another recession almost equal to this one, a public works job bill was passed, but it took 3 years before any jobs really got underway, and the recession had ended.

As I said in my earlier remarks, amendments are made in order to eliminate certain works projects in this continuing resolution. They are saying, "Take it away with one hand and play politics with the other."

I am convinced, after having been here on Christmas Eve in 1963 under a Democratic President and another time just before Christmas, that this Congress should not be asked to consider such important legislation in the closing hours of this session. Let us defeat this rule. Let us get down to business on regular appropriations bills.

As I said, Mr. Speaker, the President is sincere.

The SPEAKER. The time of the gentleman from Tennessee (Mr. QUILLEN) has expired.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nebraska (Mrs. SMITH)

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in strong opposition to this incredible rule making in order the continuing appropriation.This rule is partly the product of a legislative process gone wild as is the legislation it makes in order. This rule protects only a select few of the Members of this body, allowing them to offer amendments, while the rest of the Members are shut out from even perfecting those amendments eligible to be offered.

The continuing appropriation is one of the most important bills this Congress must act on. It provides for all Government operations until next

spring, and only a handful of Members are allowed under the rule to influence the operations of our Government until that time. The Appropriations Committee has done its work as best it could under the budget constraints; most of the appropriation bills were ready by the end of September. The House could have acted on them by now in an orderly fashion. The House could have debated the issues at length in the normal fashion.

Under the procedure this rule requires there is no time for adequate debate. Thirty minutes of debate will not give the Members a full and complete knowledge of the complex issues some of the permitted amendments raise.

Further, the skids are greased for certain amendments. All points of order against them are waived. So, what cannot normally be done on the floor of the House can now be done under this rule. Rules that allow for orderly procedure are thrown out the window to serve a few Members who have pet projects they want to keep or kill.

The public interest has been ignored; vested and selfish interests are most apt to prevail in this procedural atmosphere of confusion, haste, and emotion.

The people of my State have been working for more than 28 years to enhance their agriculture production through a water project that could be killed here today after 30 minutes of debate. Their interests are not protected by this rule. The rule allows an ill-founded amendment to deauthorize a major reclamation project in my district.

The sponsor of the amendment has never testified before our Energy and Water Subcommittee in regard to the water project he seeks to deauthorize. His interest in it is new found. Yet he is allowed by the Rules Committee to offer an amendment to kill it. The Members, in their zeal to cut Government spending—a zeal I share—will probably want to vote to cut Government spending. But they are offered an extremely limited choice. In fact, the only way to vote to reduce Government spending under this procedure is to kill energy or water projects.

Energy and water projects are an extremely small part of the total Government budget and yet they alone are singled out for attack under this rule.

Mr. Speaker, I urge a "no" vote on this rule. The procedure it requires is discriminatory, unfair, hasty, and a terrible way to legislate.

Mr. RUDD. Mr. Speaker, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am delighted to yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I rise in opposition to the rule for House Joint Resolution 631, making further continuing appropriations for fiscal year 1983.

This rule, which allows only 30 minutes of debate for each of 8 amendments on 87 separate and very complicated issues.

More significantly, there are several amendments allowed for in the rule which cover energy and water projects whose design, development, and construction go back literally decades. And yet, we as a body are asked to make decisions on these very important projects in 30 minutes time.

I understand the concerns that some Members have regarding these programs. However, a continuing resolution is not the proper forum from which to debate the merits of projects that have significant impact on the Federal budget, our energy situation, and the availability of precious water for our farms and cities.

Each of these projects under debate has been subjected and will be subjected to years of debate, analysis, and, of course, struggle. The authorizing committee of both Houses have struggled for many years on these projects. The Appropriations Committees work every year on each of these projects, and yet we as a body are being asked to make a decision in 30 minutes.

I urge my colleagues to oppose the rule for this continuing resolution and support the orderly legislative process that is the hallmark of our Federal Legislature.

□ 1145

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself 2 minutes, and I yield myself this time to react to the allegations that were made by the gentlewoman from Nebraska.

First of all, the court's duty and responsibility is to interpret the law; it is not to make the law. The mere fact that this project is in the courts is no reason for this Congress not to act on it.

You might recall that in 1980 former Congressman John Cavanaugh of Nebraska offered an amendment to do virtually the same thing that I will attempt to do later on in this bill. That failed by a very narrow vote of 211 to 202.

Second, the gentlewoman mentioned that this is a deauthorization. This is not a deauthorization. The bill would have to be deauthorized to the authorization committee and, hopefully, that will take place next year.

Third, the gentlewoman raised the issue of public support for this bill and this project in Nebraska. The Omaha paper, the main paper in Omaha, in a poll, showed 2 to 1 opposition against this very project in her own State. Fifty-thousand people have signed a petition to deauthorize and put an end to this project in Nebraska.

I will have much more to say about this project in the debate.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. EDGAR) for debate only.

Mr. EDGAR. Mr. Speaker, I rise in reluctant support of this continuing resolution. I find myself in a very precarious position because I find that I am the only Member of the House to request an amendment before the Rules Committee yesterday. That was denied. All other amendment requests were accepted.

I would like to ask just a basic question, and that is: Who in this House, who of our colleagues, is afraid of an up or down vote on the Tennessee Tombigbee Waterway?

I share with my colleagues two exhibits.

EXHIBIT A

H. RES. —

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 631) making further continuing appropriations and providing productive employment for the fiscal year 1983, and for other purposes, the first reading of the joint resolution shall be dispensed with, and all points of order against the joint resolution are hereby waived. After general debate, which shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations and shall be confined to the joint resolution and the amendments made in order by this resolution, the joint resolution shall be considered as having been read for amendment under the five-minute rule. No amendment to the joint resolution shall be in order except the following amendments printed in the CONGRESSIONAL RECORD of December 13, 1982, which shall be in order any rule of the House to the contrary notwithstanding, shall be considered if offered only in the following order, and shall not be subject to amendment but shall each be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent of the amendment and a Member opposed thereto: (1) an amendment by, and if offered by, Representative Edwards of California; (2) an amendment by, and if offered by, Representative Simon of Illinois; (3) an amendment by, and if offered by, Representative Tauzin of Louisiana; (4) an amendment by, and if offered by, Representative Fazio of California; (5) an amendment by, and if offered by, Representative Traxler of Michigan and said amendment shall be in order even if the amendment No. 4 above is agreed to; (6) an amendment by, and if offered by, Representative Coughlin of Pennsylvania; (7) an amendment by, and if offered by, Representative Edgar of Pennsylvania; (8) an amendment by, and if offered by, Representative Bonior of Michigan; and (9) an amendment by, and if offered by, Representative Conte of Massachusetts. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as

may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit, and all points of order are waived against instructions contained in a motion to recommit if—offered by Representative Conte of Massachusetts.

Exhibit A is the continuing resolution as drafted for consideration by the Rules Committee, which listed out nine amendments, not eight. One of those amendments was an up or down vote on the Tennessee Tombigbee Waterway. When this particular resolution was placed on the desk of the members of the Rules Committee, suddenly a caucus was called, and that particular rule was laid aside. The amendment to be offerd by the gentleman from Pennsylvania was scratched out, and we got exhibit B, which is the rule that the gentleman from Michigan (Mr. BONIOR) is presenting us today.

EXHIBIT B

H. RES. —

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes, the first reading of the joint resolution shall be dispensed with, and all points of order against the joint resolution are hereby waived. After general debate, which shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, and shall be confined to the joint resolution and the amendments made in order by this resolution, the joint resolution shall be considered as having been read for amendment under the five-minute rule. No amendment to the joint resolution shall be in order except the following amendments printed in the Congressional Record of December 13, 1982, which shall be in order any rule of the House to the contrary notwithstanding, shall be considered if offered only in the following order, and shall not be subject to amendment but shall each be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent of the amendment and a Member opposed thereto: (1) an amendment by, and if offered by, Representative Edwards of California; (2) an amendment by, and if offered by, Representative Simon of Illinois; (3) an amendment by, and if offered by, Representative Tauzin of Louisiana; (4) an amendment by, and if offered by, Representative Fazio of California; (5) an amendment by, and if offered by, Representative Traxler of Michigan, said amendment shall be in order even if the amendment No. 4 above is agreed to, and if amendments No. 4 and No. 5 are both agreed to, only amendment No. 5 shall be reported back to the House; (6) an amendment by, and if offered by, Representative Coughlin of Pennsylvania; (7) an amendment by, and if offered by, Representative Bonior of Michigan; and (8) an amendment by, and if offered by, Representative Conte of Massachusetts. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit, and all points of order are waived against instructions contained in a motion to recommit if offered by Representative Conte of Massachusetts, and against any amendment required by said instructions to be reported back to the House.

In this particular rule we do not have an opportunity to vote on the Tennessee Tombigbee Waterway.

Now, let me remind the House that in September the gentleman from Alabama (Mr. BEVILL), chairman of the subcommittee on water and energy issues, stood in the well of the House and said he was ready for consideration of that bill, he was ready in September, in October, and in November, and he was ready in December when we began this lameduck session. And yet no consideration of this bill has been presented.

Mr. Speaker, the chairman of the subcommittee is ready, the chairman of the full committee is ready, the House is going to be here for a number of days, there are less than 20 amendments offered to this particular bill in question. I think the full House should get full consideration on the Energy and Water Appropriation Act.

The amendment that I had planned to offer was a change of strategy. We are now supportive of the Tennessee Tombigbee Waterway. We were going to give this waterway $60 million more than any other water project in the Nation. We were going to commit the Federal Government to complete the project, but ask that the States of Alabama and Mississippi provide just a minimal share. Their present share is 3.7 percent. We were going to request that they come up with some of the additional cost of a project that will eventually cost $1.8 billion simply from Pickwick. Tenn., to Demopolis, Ala. And the question still in front of us is the question of whether to spend another billion dollars below Demopolis and whether to spend the money in the Port of Mobile to increase that particular harbor to receive the extra goods and services.

I asked the Members of this House: Who is afraid of that vote? It would simply reduce the expenditure for that project by $100 million.

I urge a favorable consideration on the rule because the Rules Committee did act appropriately in allowing votes on other projects. I only regret that they did not include a vote on the Tenn-Tom project. Perhaps the "other body" will have more courage. Again, who is afraid of a vote on Tenn-Tom?

Mr. BONIOR of Michigan Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota (Mr. DORGAN) for purposes of debate.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in opposition to the rule that was crafted yesterday by the Rules Committee which would bring to the floor of this House a rule that permits in order amendments to strike funds for a number of projects, including one that is very important to North Dakota.

I think it is a terrible rule. It suggests that a project such as the one I am concerned about in North Dakota, and others that have been described here on the floor, can be debated for 30 minutes, and then this body can take a vote on the merits or demerits of those projects.

When the gentleman from Massachusetts (Mr. CONTE) discussed his amendment, he said the House would have a chance to vote on this project. I am glad he said "vote" and not "consider" because certainly this House will not have a chance to fully consider the merits of this project in 30 minutes. It is a disservice, I think, to an orderly process, and a disservice to full consideration to suggest that projects like the Garrison diversion project, which has been in the planning for 30 years, can be debated, discussed, and considered by this House in 30 minutes. That is why I oppose the rule.

Now, history is full of people in this country who have said no to everything. All along the way, at every step in building this country, people have said no, we cannot do that, it wastes money, it is the wrong approach, we should not do it. It is easy to say no. It is a lot more difficult to determine what should be done, what should be done for States and regions and all parts of this country to make it a better country.

We have a project in North Dakota called the Garrison diversion project. It is a project that was promised us as part of the Pick-Sloan flood control plan in the 1940's. I just want to tell the Members what the bargains was so that they all know.

In the 1940's, some folks came to North Dakota and to some other parts of the region, and they said, "We do not want it to flood any more in Kansas City, Mo. We do not like floods in Kansas City, Mo." They said, "We want reliable downstream river navigation. We want cheap hydroelectricity. So what we would like you to do up there in North Dakota is build a dam for you that would flood 550,000 acres of some of your best land. As a result, we get the benefits downsteam—flood protection, navigation, hydroelectric power—from that dam. You get a permanent flood, a flood that comes and stays, flooding over half a million acres. Therefore we will give you, as part of the bargain, a water resource

development program called Garrrison diversion."

That was in the 1940's. Today, 1982, to the floor comes a bill with $4 million for Garrison diversion. That is cosmetic money for many of the projects around here. At the rate of $4 million a year it would take 200 years to build that project. And then some folks come to the well of the House and say, "Well, what we have got to do now is change the bargain. We have changed our minds. We are going to kill the Garrison diversion project. It is not any good they charge. It is environmentally unsound they say. The cost-benefit ratio does not work they allege."

That is all nonsense. And if we had the time on the floor this afternoon I could prove it is nonsense. I intend to make a good start during the 30 minutes. that is why the rule is such a tragedy. We cannot fully discuss this issue in 15 minutes on the pro side for Garrison diversion. We cannot do that.

But let me in the couple of minutes that I have available discussing the rule just to respond to the opponents who say that the cost-benefit ratios do not add up for the Garrison diversion program. Well, of course they do not add up if you ignore all of the benefits that accrue to the major parts of the project downstream. How many hundreds and hundreds of millions of dollars have been saved by having provided the flood protection to downstream cities? You need remedial arithmetic if you want to figure out cost benefits without considering these massive benefits.

Some say, "Well, this project will affect Canada, and Canada is upset about it." And they say we should not build it because Canada objects. I hope every Member of the House understands when they vote on this project that not $1 of the $4 million we are asking for will affect Canada with return flows into Canada from this project. It simply is not true. We are building phase 1 of the project. That does not include return flows to Canada. And the Canadian argument is specious with respect to phase 1 of this project.

Some say it will ruin the environment. That is absolute nonsense. We produce 85 percent of the wildlife waterfowl in our part of the country. For every acre that we take out of wetlands for this project, we are mitigating acres and replacing them. This will not damage the environment.

My point is that the arguments against this project are nonsense, and I hope we will vote down this rule. I think it is a travesty to tell States like North Dakota and others that have worked for 30 years for these kinds of projects, that we are going to bring to the floor and debate it for 30 minutes.

I think what we ought to do is vote this rule down. We will get the energy and water bill to the floor, and we will vote on these projects up or down and then we can fully debate these issues and be fair to States like North Dakota.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes for debate only to the chairman of the Committee on Appropriations, the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, at this time may I say that I realize the Rules Committee faces different circumstances. But I would like to call attention to the problems that we have on our committee.

I wrote the Rules Committee this time with the hope that this resolution be considered in the House with only two amendments in order, that having to do with the jobs section and that having to do with a pay raise restriction. I will insert at the end of these remarks a copy of my letter to the Rules Committee. Various amendments would have the effect of going beyond the duration of this resolution, and I think it would be very unwise to restrict or cut out these projects for this brief period. The stopping and the starting would be unconscionable, the cost would be high, and it would not have the end result that the proponents say it would have.

So I say here that I believe in looking after our country. I worked hard with the help of the Committee on Appropriations. We went back over the record of the hearings and looked for proposals that had been made to take care of our own country and not let it go down. At the request of the leadership I prepared a resolution, with the help of the various Appropriations Committee subcommittees, those things which our country could use and which we need. Keep in mind that all these figures we have been voting out for military spending and everything else is useless unless we have a strong economy.

I thought it well to call attention to the Nation and my colleagues not that we ought to create jobs but our first responsibility ought to be to do the work that is necessary to build up, protect, and support the wealth of the country that we have, including military. It is necessary that we look after our own country.

Again, I appreciate the problems that the Rules Committee had, and I can understand what they did. But I remind you again: We have got to have a bill signed by the President in 4 days. That means a bill through the House, it means agreement with the Senate. I realize the effect this jobs bill may have in that. But I assure you that we cannot let the Government cease on Friday as the Attorney General says it would. We will have to do whatever is necessary. But whatever may happen, I urge the Members to read what is in my letter to the Rules Committee. It will show that we asked for a rule where we would consider it in the House, and I do hope that we will turn these amendments down, because it would be only for this short interim period, and we will just complicate things and it will cost money, because I feel sure they will appear in the bill that we bring up.

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., December 10, 1982.

Hon. RICHARD BOLLING,
Chairman, Committee on Rules, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN. The Committee on Appropriations today reported a joint resolution making further continuing appropriations and providing for productive employment for fiscal year 1983. The Committee has reported twelve of the thirteen regular annual appropriation bills, and eleven of these bills have passed the House. It is hoped that conference on several bills will be cleared before the end of the session. Despite the concerted efforts of the Committee, it appears certain that several bills will not be enacted into law by December 17, 1982, the termination date of the current continuing resolution.

The Attorney General's April 25, 1980, decision will require the shutdown of agency operations if appropriations are not enacted by December 17. In addition, because of the severe unemployment situation facing the country, the Committee has included a second title in the joint resolution making appropriations which will create productive employment and help improve certain deteriorating conditions. Therefore, we would respectively request a hearing before your Committee on an appropriate rule for the orderly and prompt consideration of this joint resolution.

The broad nature of a continuing resolution could make it open to any germane amendment. In the past, continuing resolutions have been considered in the House, which has proved beneficial. The time element makes this almost imperative.

There is one matter which deserves separate attention. The cap on salaries of federal executives which includes Members of Congress which was in the version of the resolution which I recommended was striken by an amendment. The stated purpose of the amendment was to allow the House an opportunity to limit executive salaries that would otherwise occur automatically under existing law. This right must be protected and the House must be allowed an opportunity to vote on this matter.

The Committee greatly appreciates the continued cooperation you have given us on these matters.

Sincerely,

JAMIE WHITTEN,
Chairman.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume, and I would urge my colleagues to vote against the rule. We should not have these up or down votes which eliminate public works jobs, but should continue the projects to continue jobs. So I think it is time that we really face the facts of life and pass a continuing resolution which is free of the Christmas tree amendments and go from there.

Mr. Speaker, I yield 4 minutes to the gentleman from New Hempshire (Mr. GREGG).

□ 1200

Mr. GREGG. Mr. Speaker, today we will take up the issue of Clinch River. There has been some concern expressed as to why we are getting this issue with only 30 minutes of debate. The basic reason is that finally the Rules Committee recognized it was simply unfair not to allow the House of Representatives to vote on this very important issue. We failed to get an energy and water bill up this year which would have had the issue in it. We failed in the Committee on Science and Technology to get an authorization bill up which would have had this issue in it, whereas last year when it came before the Committee on Science and Technology we defeated it. We failed in the last continuing resolution to get this issue before the House.

Therefore, it is time we take up this issue.

Granted the time will be short, the debate will be truncated. But everybody in this House has heard much of the debate. This year all we have to add to that debate is some additional studies. Those studies conclude and reinforce what we have been finding out year after year, and that is that it is not a salable project, it is not a viable project.

We heard earlier from the gentlewoman from Tennessee that there was a question of termination cost versus completion costs. Yes, termination costs will mean we spend about $1.5 billion on this project. But if we go to completion, we now find out it is going to cost us $8 billion to complete this project.

When this was originated it was a $700 million project. Now it has escalated to $8 billion and there has not been a shovel turned. It is not in the ground yet. What will be the actual cost of this project? When this project was begun, let us remember, the private sector was going to pay for 50 percent of the project. Today they are paying for less than 2 percent of this entire project.

You ask yourselves, is it a viable project? Obviously it is not a viable project if the private sector has backed out for 48 percent of its commitment to the project.

What we really have here in Clinch River is the question of whether we are going to have commercialized nuclear energy in this country or we are going to have nationalized nuclear energy in this country.

Under the light water system which we now have we have nuclear plants which can be built in the private sector. They are competitive in the private sector. Under the breeder program we do not have a plant that can be built in the private sector and be competitive in the private sector.

The reason the breeder reactor is not competitive is that it was proposed in the early seventies when we felt that nuclear fuel was going to become scarce and unavailable. For a breeder reactor to be competitive in the private sector, nuclear fuel must cost at least $165 a pound. Today it is $20 and less per pound.

In the early seventies when we designed the breeder the theory was that we were going to have reduced nuclear availability and supply. Today we actually have an expanding supply of nuclear fuel to the point where uranium mines are closing down throughout the country due to oversupply.

What this plan essentially means, if we approve the Clinch River breeder reactor, is that we are going to end up with a nuclear industry which cannot compete in the private sector because the cost of fuel will never make it competitive in the private sector and therefore it must constantly come to the Government for its funding, for its support, and for its operation.

The effect of that is to nationalize the nuclear industry.

As someone who has supported light water reactors, who comes from a State which has the Seabrook powerplant, which is probably the key nuclear issue in the country, and supports the completion of that light water reactor, I find it totally inexcusable that we as a Congress would nationalize this industry at this time and create a business climate where the light water people will not be able to compete because they will be competing with the Federal Govenment which is building breeder reactors.

This is a boondoggle in the classic sense. It is a project which cannot stand on its own two feet and yet claims it is a private sector project. We should defeat this project.

The SPEAKER. The time of the gentleman from New Hampshire (Mr. GREGG) has expired.

Mr. QUILLEN. Mr. Speaker, I yield 1 additional minute to the gentleman from New Hampshire.

Mrs. BOUQUARD. Mr. Speaker, will the gentleman yield?

Mr. GREGG. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. Mr. Speaker, would the gentleman concede the GAO has estimated this project will cost $3.6 billion and the reason for the increase in the cost of the project to this level is because of the political debate, because of the years we have put off the construction of the Clinch River breeder reactor, and that 90 percent of the design of Clinch River is complete and plant equipment procurement is more than 70 percent complete that we should go ahead with construction?

Mr. GREGG. I would have to disagree. I think this afternoon when we get into the debate we will bring in the GAO reports which show they are estimating costs at approximately $8 billion.

Mrs. BOUQUARD. Does the gentleman know of any other research and development project where the interest in the national debt has been computed in the cost of a project?

Mr. GREGG. I am relying on the GAO report. The GAO report says $8 billion. Maybe the gentlewoman wants to disagree with how GAO arrives at their figures. That is the gentlewoman's representation, that is the gentlewoman's right. But we started off this project at $700 million. We are now up to $8 billion. Even if we are at the $3.2 billion which the gentlewoman is estimating, we cannot make this project competitive in this century, and we cannot make this project competitive going into the next century.

Mrs. BOUQUARD. This is a research and development project that allows us to continue the nuclear option.

Mr. GREGG. This is a demonstration project, as the gentlewoman knows.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, over 190 Members wanted to make some adjustments on the Tennessee Tombigbee project in this last year. This is not a small matter. This is the largest works project in the country. We have a rule that slithered out from under the Rules door, has come down here, and it is shabby procedure. Some deals have been cut that I do not think redound to the benefit or certainly the credit or the good name of this body.

They talk about jobs. If we were building the pyramids in the middle of Iowa, we would call it a jobs bill. The Tennessee Tombigbee Canal should have some adjustments made to it, and it is a wrong rule that we cannot touch that project now. I know the gentleman, the chairman, said in his opinion we should go forward. but this is a legislature with 435 Members. I think it is shabby procedure, and I hope my colleagues will vote this rule down.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Speaker, I rise in opposition to this rule. It is a very frustrating rule to all Members, regardless of which side they are on—the Clinch River breeder reactor, the O'Neal unit, the Garrison diversion—they are important issues. And they ought to at least be deserving of full scale, unlimited, and uninhibited debate. To take them up under these conditions is not fair to the Members of this House.

I am hopeful, Mr. Speaker, that we can defeat the rule, have these issues discussed rationally, at length, and then make a proper decision. But not under these procedures or this rule. I urge its defeat.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, it is very interesting to listen to the opposition from the Republican side of the aisle to the jobs portion of this legislation. They suggest that these jobs are somehow not real and that they are not long term. Apparently from their viewpoint, unless you are on a career ladder to becoming the vice president of Chase Manhattan Bank, it is not a real job.

Let me suggest for the 12 million people who are out of work, who are in the construction trades, who are blue collar workers, who are trying to feed their families, the jobs that this bill would provide, the jobs with brick and mortar and paint, are real.

The suggestion has been made that these are Government jobs. Let me also suggest when we put these jobs out to bid they will employ private sector engineers, private sector architects, and private sector individuals to paint buildings, build buildings, and repair the infrastructure of this country.

They also suggest apparently there is no such thing as a real job created by Government unless it is created through a tax subsidy, unless we give away billions of dollars to corporations in the hope that they might create a job. Let me tell my colleagues there is more certainty that a job will be created under title II of this bill than there was under the tax bill that the Reagan administration pushed on this country 2 years ago. Since this administration entered office 2 years ago with the promise of economic rejuvenation resulting from massive tax cuts for the wealthy, the unemployment rate has skyrocketed by 30 percent to a postwar high of nearly 11 percent. We are still looking for the first job created by that policy.

Let me also note that they say these jobs will come too late. Well, I listened to the President's economic advisers. They tell us we are going to go along for the next 1½ or 2 years in excess of 9 percent unemployment. Apparently there will be plenty of unemployed people for the next 2 years to take these jobs as the money becomes available.

I would also like to point out to Members of Congress that included in title II of this bill is a section to provide for employment-related day care, so that workingwomen who have been forced out or kept out of the job market, women who are seeking to enter the job market to support their families, will have day care available to them. Study after study tells us that as many as 12 to 15 percent of the women in this country who want to work cannot get into the job market because of inadequate day care for their children. I would also suggest to my friends on the Republican side of the aisle that when they have the necessary day care, these women will be entering the job market in private sector jobs. They will be going into entry level, they will be leaving the welfare rolls, they will be leaving the unemployment rolls for a paycheck.

I suspect I know why the Republicans would not like this legislation to come to the floor. This legislation contains money for soup lines, money for food distribution, money for blankets and emergency shelter, with money for day care, with money to help low-income housing. This bill is a signal to this country that we are in a full-blown emergency, that we have 12 million jobless people who are walking the streets. We have modern-day "Okies" traveling from Lansing and Detroit to Orange County, Calif., to Arizona, to Colorado in a desperate search for jobs in the Sun Belt, as our Secretary of Labor advised the jobless to do last year. But those States and those cities are full up, their people are unemployed, and there are no jobs.

So the question is, who will try to help? And the suggestion from the Democratic side of the aisle is a practical, as well as a compassionate one. Rather than paying an additional $5 billion in unemployment benefits, why do we not try to put it into paychecks and get people back to work? Why do we not spend a fraction of someone's annual welfare expenses or unemployment expenses, and provide day care so that that person, who wants to work, can go out and find a job?

I believe that this is a sound approach. I have read the comments of the president of the Bank of America and that organization's chief economists, and others who have concluded that however much they liked the concept of Reaganomics, however much they had hoped Reaganomics would prove the magical elixir to cure our economic problems, they have concluded that Reaganomics is a failure, that it has not stimulated the economy, that it was founded on false hopes and fake projections, and that we need another approach to move out of this recession. That message does not appear to have taken hold of the administration, which is now recommending that we cut into Mr. Reagan's $180 billion deficit by slashing away at miniscule programs like the Center for Disease Control and the Indian child welfare program. Perhaps that message has not gotten across to the depleted number of Republican Members in this Congress.

But I believe that is the message coming from the people of this country: Not a return to irresponsible spending or programs that do not work, but innovation and compassion for the victims of this depression. I believe the people of this country are tired of the Reagan administration's willingness to tamper with the economy and subsidize billions of dollars in benefits for wealthy individuals and corporations, and its refusal to demonstrate any concern or support for the millions of Americans who are jobless, impoverished, and endangered because of its irresponsible economic gamble.

This legislation is an attempt to respond to that great need in a responsible and timely way. I hope that the House will pass this legislation today and that the administration will accept this mandate to act on behalf of millions of Americans who need the help of their Government.

● Mrs. SCHNEIDER. Mr. Speaker, I intend to vote for the motion to recommit the continuing resolution offered by the gentleman from Massachusetts, which contains instructions to strike title II.

In doing so, I am not opposing job programs—indeed, I have supported every job training and creation proposal we have considered in the past 2 years. Rather, I am sending a message to the leadership of this House that the way to show leadership in the jobs area is not to throw money at the problem in a continuing resolution but to take the time to formulate a meaningful, sound solution to the unemployment problem.

This proposal was drafted in haste with a minimum of thought. Let us send the bill back to committee and put a lot more people back to work—on a long-term basis—than the 300,000 or so your proposal would portend to include.

Thank you, Mr. Speaker.●

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing debate on this rule, I think it is quite evident this is not a perfect rule. It was a very difficult rule to craft.

Let me initially point out there was only one objection in the Rules Committee to the rule and that was by the gentleman from Tennessee (Mr. QUILLEN). Subsequently, the gentleman from Arizona has expressed his opposition to the rule.

It was a difficult rule to put together because of the situation that we find ourselves in in this body with respect to the budget and with respect to giving Members of the House of Representatives a chance to vote on bills such as the energy and water resources bill. We tried to be as repre-

sentative as we could in selecting amendments that would allow Members to express their will in the area of foreign aid, in the area of water and energy resources, in the area dealing with pay for Members. And we think we did a good job. We hope Members will consider this when they vote on this rule, and I would encourage Members to cast affirmative votes so we can get on with the business of this House.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROBERTS of Kansas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 163, not voting 47, as follows:

[Roll No. 443]

YEAS—223

Addabbo	Dyson	Howard
Akaka	Eckart	Hoyer
Alexander	Edgar	Huckaby
Anderson	Edwards (CA)	Hutto
Andrews	English	Jones (NC)
Annunzio	Erdahl	Jones (TN)
Applegate	Erlenborn	Kastenmeier
Aspin	Ertel	Kazen
AuCoin	Evans (GA)	Kennelly
Bailey (PA)	Fary	Kildee
Barnard	Fascell	Kogovsek
Barnes	Fazio	LaFalce
Bedell	Ferraro	Lantos
Benedict	Fiedler	Latta
Bennett	Fish	Leland
Bereuter	Flippo	Livingston
Bevill	Florio	Long (LA)
Biaggi	Foglietta	Long (MD)
Bingham	Foley	Lott
Boggs	Ford (MI)	Lowry (WA)
Boland	Ford (TN)	Luken
Bolling	Fountain	Lundine
Boner	Fowler	Madigan
Bonior	Frank	Markey
Bonker	Fuqua	Marriott
Bowen	Garcia	Matsui
Breaux	Gejdenson	Mattox
Brinkley	Gephardt	Mavroules
Brooks	Gibbons	Mazzoli
Burton, Phillip	Ginn	McClory
Byron	Gonzalez	McCurdy
Chisholm	Gore	McDade
Clay	Gray	McHugh
Clinger	Green	McKinney
Coelho	Gregg	Mica
Collins (IL)	Grisham	Michel
Conable	Guarini	Mikulski
Conte	GundersonHall, (IN)	Miller (CA)
Conyers	Hall (OH)	Mineta
Coughlin	Hall, Ralph	Minish
Coyne, William	Hall, Sam	Mitchell (MD)
D'Amours	Hance	Moakley
Daschle	Harkin	Molinari
de la Garza	Hatcher	Mollohan
Dellums	Hawkins	Murphy
Dicks	Hefner	Murtha
Dingell	Heftel	Natcher
Dixon	Hertel	Nelson
Donnelly	Hillis	Nowak
Dowdy	Hollenbeck	Oakar
Downey	Horton	Oberstar
Dwyer		Ottinger
Panetta	Sawyer	Vander Jagt
Pashayan	Scheuer	Vento
Patterson	Schneider	Walgren
Pease	Schumer	Washington
Pepper	Seiberling	Watkins
Perkins	Shamansky	Waxman
Peyser	Shannon	Weaver
Price	Simon	Weber (MN)
Rahall	Smith (IA)	Weiss
Rangel	Smith (PA)	White
Ratchford	Snyder	Whitley
Reuss	Solarz	Whitten
Rinaldo	St Germain	Williams (MT)
Rodino	Stark	Wirth
Roe	Stokes	Wolpe
Roemer	Stratton	Wright
Rogers	Studds	Wyden
Rose	Stump	Yates
Rostenkowski	Swift	Young (MO)
Roybal	Synar	Zablocki
Russo	Tauzin	Zeferetti
Sabo	Traxler	
Santini	Udall	

NAYS—163

Archer	Gramm	Petri
Ashbrook	Hamilton	Pickle
Atkinson	Hammerschmidt	Porter
Badham	Hansen (ID)	Pritchard
Bafalis	Hansen (UT)	Pursell
Bailey (MO)	Hartnett	Quillen
Beard	Hightower	Regula
Bethune	Hiler	Rhodes
Bliley	Holt	Ritter
Bouquard	Hopkins	Roberts (KS)
Broomfield	Hubbard	Roberts (SD)
Brown (CO)	Hughes	Robinson
Brown (OH)	Hyde	Roth
Broyhill	Jeffords	Roukema
Burgener	Jeffries	Rousselot
Butler	Jenkins	Rudd
Campbell	Johnston	Schroeder
Carman	Jones (OK)	Sensenbrenner
Clausen	Kemp	Sharp
Coats	Kindness	Shaw
Coleman	Kramer	Shelby
Collins (TX)	Lagomarsino	Shumway
Corcoran	Leach	Siljander
Courter	LeBoutillier	Skeen
Coyne, James	Lent	Skelton
Craig	Levitas	Smith (AL)
Crane, Daniel	Lewis	Smith (NE)
Crane, Philip	Loeffler	Smith (NJ)
Daniel, Dan	Lowery (CA)	Smith (OR)
Daniel, R. W.	Lujan	Solomon
Dannemeyer	Lungren	Spence
Daub	Marlenee	Stangeland
Davis	Martin (IL)	Stanton
Dickinson	Martin (NC)	Staton
Dorgan	Martin (NY)	Stenholm
Dornan	McCloskey	Tauke
Dreier	McCollum	Taylor
Duncan	McDonald	Thomas
Dunn	McEwen	Trible
Early	McGrath	Volkmer
Edwards (AL)	Miller (OH)	Walker
Edwards (OK)	Mitchell (NY)	Wampler
Emerson	Moore	Weber (OH)
Emery	Moorhead	Whitehurst
Evans (IA)	Morrison	Whittaker
Fenwick	Mottl	Williams (OH)
Fields	Myers	Winn
Findley	Napier	Wolf
Forsythe	Nelligan	Wortley
Frenzel	O'Brien	Wylie
Gaydos	Obey	Yatron
Gilman	Oxley	Young (AK)
Glickman	Parris	Young (FL)
Goodling	Patman	
Gradison	Paul	

NOT VOTING—47

Albosta	Dougherty	Lee
Anthony	Dymally	Lehman
Beilenson	Evans (DE)	Marks
Blanchard	Evans (IN)	Martinez
Brodhead	Fithian	Moffett
Brown (CA)	Frost	Montgomery
Burton, John	Gingrich	Neal
Carney	Goldwater	Nichols
Chappell	Hagedorn	Railsback
Chappie	Heckler	Rosenthal
Cheney	Hendon	Savage
Crockett	Holland	Schulze
Deckard	Hunter	Shuster
DeNardis	Ireland	Snowe
Derrick	Jacobs	Wilson
Derwinski	Leath	

□ 1215

The Clerk announced the following pairs:

On this vote:

Mr. Brown of California, with Mrs. Snowe against.

Messrs. WORTLEY, VOLKMER, PARRIS, and GLICKMAN changed their votes from "yea" to "nay."

Messrs. STUMP, WHITE, and SAM B. HALL, JR., changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1230

REDUCING RATE OF CERTAIN TAXES PAID TO VIRGIN ISLANDS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Island source income, with the Senate amendments thereto, to concur in the Senate amendment to the title of the bill, to disagree to Senate amendments 2, 3, and 4, and to concur in the Senate amendment numbered 1 to the text of the bill with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the text of the bill and the House amendments to the Senate amendment numbered 1, as follows:

Senate amendments:

(1) Page 4, after line 12, insert:

SEC. 2. CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL.

(a) Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection: "Continued Payment of Disability Benefits During Appeal

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability.

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, is pending with respect to the determination that he is not so entitled,

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month beginning after the date of the enactment of this subsection for which (under such de-

termination) such benefits are no longer otherwise payable, and ending with the earlier of (i) the month preceding the month in which a decision is made after such a hearing, (ii) the month preceding the month in which no such request for a hearing or an administrative review is pending, or (iii) June 1984.

"(2)(A) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1), and the final decision of the Secretary affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title, except as otherwise provided in subparagraph (B).

"(B) If the Secretary determines that the individual's appeal of his termination of benefits was made in good faith, all of the benefits paid pursuant to such individual's election under paragraph (1) shall be subject to waiver consideration under the provisions of section 204.

"(3) The provisions of paragraphs (1) and (2) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made—

"(A) on or after the date of the enactment of this subsection, or prior to such date but only on the basis of a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, and

"(B) prior to October 1, 1983.".

(2) Page 4, after line 12, insert:

SEC. 3. PERIODIC REVIEWS OF DISABILITY CASES.

Section 221(i) of the Social Security Act is amended—

(1) by inserting "(1)" after "(i)";

(2) by inserting ", subject to paragraph (2)" after "at least every 3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The requirement of paragraph (1) that cases be reviewed at least every 3 years shall not apply to the extent that the Secretary determines, on a State-by-State basis, that such requirement should be waived to insure that only the appropriate number of such cases are reviewed. The Secretary shall determine the appropriate number of cases to be reviewed in each State after consultation with the State agency performing such reviews, based upon the backlog of pending reviews, the projected number of new applications for disability insurance benefits, and the current and projected staffing levels of the State agency, but the Secretary shall provide for a waiver of such requirement only in the case of a State which makes a good faith effort to meet proper staffing requirements for the State agency and to process case reviews in a timely fashion. The Secretary shall report annually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the determinations made by the Secretary under the preceding sentence.".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

(3) Page 4, after line 12, insert:

SEC. 4. MEDICAL EVIDENCE.

(a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) In any case of a medical review of the continuing disability of an individual, before making a final determination with respect to any such individual, the Secretary shall make every reasonable effort to seek and obtain all relevant medical evidence from all persons or institutions which have diagnosed or treated such individual with respect to his impairment or impairments within the preceding 12-month period. In making such final determination the Secretary shall consider all evidence available in such individual's case record relating to such impairment or impairments, including medical evidence used in making the initial determination that the individual was under a disability and medical evidence used in any subsequent review, determination, or judicial review relating to such impairment or impairments. Nothing in the preceding sentence shall be considered to preclude the Secretary from finding an individual to be ineligible on the basis that such individual is not disabled within the meaning of the term disability for purposes of initial determinations under this title even if such individual's medical condition has not improved or otherwise changed since any prior determination of his eligibility. Discussion of such evidence shall be included in the statement of the case required to be provided under section 205(b).".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

(4) Page 4, after line 12, insert:

SEC. 5. REPORT BY SECRETARY.

Section 221(i) of the Social Security Act (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall report semiannually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Represenatitives with respect to the number of reviews of continuing disability carried out under paragraph (1), the number of such reviews which result in an initial termination of benfits, the number of requests for reconsideration of such initial termination or for a hearing with respect to such termination under subsection (d), or both, and the number of such initial terminations which are overturned as the result of a reconsideration or hearing.".

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes.".

House amendments to Senate amendment numbered 1: In lieu of the matter proposed to be inserted by Senate amendment numbered 1, strike out all after the enacting clause of the House engrossed bill and insert in lieu thereof the following:

SECTION 1. INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.

(a) IN GENERAL.—Subpart D of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to possessions) is amended by inserting after section 934 the following new section:

"SEC. 934A. INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.

"(a) GENERAL RULE.—For purposes of determining the tax liability incurred by citizens and resident alien individuals of the United States, and corporations organized in the United States, to the Virgin Islands pursuant to this title with respect to amounts received from sources within the Virgin Islands—

"(1) the taxes imposed by sections 871(a)(1) and 881 (as made applicable to the Virgin Islands) shall apply except that '10 percent' shall be substituted for '30 percent', and

"(2) subsection (a) of section 934 shall not apply to such taxes.

"(b) SUBSECTION (a) RATES NOT TO APPLY TO PRE-EFFECTIVE DATE EARNINGS.—

"(1) IN GENERAL.—Any change under subsection (a)(1), and any reduction under section 934 pursuant to subsection (a)(2), in a rate of tax imposed by section 871(a)(1) or 881 shall not apply to dividends paid out of earnings and profits accumulated for taxable years beginning before the effective date of the change or reduction.

"(2) ORDERING RULE.—For purposes of paragraph (1), dividends shall be treated as first being paid out of earnings and profits accumulated for taxable years beginning before the effective date of the change or reduction (to the extent thereof)."

(b) WITHHOLDING.—Subchapter A of chapter 3 of such Code (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 1444. WITHHOLDING ON VIRGIN ISLANDS SOURCE INCOME.

"For purposes of determining the withholding tax liability incurred in the Virgin Islands pursuant to this title (as made applicable to the Virgin Islands) with respect to amounts reveived from sources within the Virgin Islands by citizens and resident alien individuals of the United States, and corporations organized in the United States, the rate of withholding tax under sections 1441 and 1442 on income subject to tax under section 871(a)(1) or 881 (as modified by section 934A) shall not exceed the rate of tax on such income under section 871(a)(1) or 881, as the case may be."

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 934 of such Code is amended by inserting befor the period at the end thereof "or in section 934A".

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part III of subchapter N of chapter 1 of such Code is amended by inserting after the item relating to section 934 the following new item:

"Sec. 934A. Income tax rate on Virgin Islands source income."

(2) The table of seactions for subchapter A of chapter 3 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1444. Withholding on Virgin Islands source income."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

(2) WITHHOLDING.—The amendment made by subsection (b) shall apply to payments made after the date of the enactment of this Act.

SEC. 2. CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL

Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection: "Continued Payment of Disability Benefits During Appeal

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's,

or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, is pending with respect to the determination that he is not so entitled,

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month beginning after the date of the enactment of this subsection for which (under such determination) such benefits are no longer otherwise payable, and ending with the earlier of (i) the month preceding the month in which a decision is made after such a hearing, (ii) the month preceding the month in which no such request for a hearing or an administrative review is pending, or (iii) June 1984.

"(2)(A) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1), and the final decision of the Secretary affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title, except as otherwise provided in subparagraph (B).

"(B) If the Secretary determines that the individual's appeal of his termination of benefits was made in good faith, all of the benefits paid pursuant to such individual's election under paragraph (1) shall be subject to waiver consideration under the provisions of section 204.

"(3) The provisions of paragraphs (1) and (2) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made—

"(A) on or after the date of the enactment of this subsection, or prior to such date but only on the basis of a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, and

"(B) prior to October 1, 1983.".

SEC. 3. PERIODIC REVIEWS OF DISABILITY CASES.

Section 221(i) of the Social Security Act is amended—

(1) by inserting "(1)" after "(i)";

(2) by inserting ", subject to paragraph (2)" after "at least every 3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The requirement of paragraph (1) that cases be reviewed at least every 3 years shall not apply to the extent that the Secretary determines, on a State-by-State basis, that such requirement should be waived to insure that only the appropriate number of such cases are reviewed. The Secretary shall determine the appropriate number of cases to be reviewed in each state after consultation with the State agency performing such reviews, based upon the backlog of pending reviews, the projected number of new applications for disability insurance benefits, and the current and projected staffing levels of the State agency, but the Secretary shall provide for a waiver of such requirement only in the case of a State which makes a good faith effort to meet proper staffing requirements for the State agency and to process case reviews in a timely fashion. The Secretary shall report annually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the determinations made by the Secretary under the preceding sentence.".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 4. EVIDENTIARY HEARINGS IN RECONSIDERATIONS OF DISABILITY BENEFIT TERMINATIONS.

(a) IN GENERAL.—Section 205(b) of the Social Security Act is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and

"(C) as a consequence of the finding described in subparagraph (B), such individual is determined by the Secretary not to be entitled to such benefits,

any reconsideration of the finding described in subparagraph (B), in connection with a reconsideration by the Secretary (before any hearing under paragraph (1) on the issue of such entitlement) of his determination described in subparagraph (C), shall be made only after opportunity for an evidentiary hearing, with regard to the finding described in subparagraph (B), which is reasonably accessible to such individual. Any reconsideration of a finding described in subparagraph (B) may be made either by the State agency or the Secretary where the finding was originally made by the State agency, and shall be made by the Secretary where the finding was originally made by the Secretary. In the case of a reconsideration by a State agency of a finding described in subparagraph (B) which was originally made by such State agency, the evidentiary hearing shall be held by an adjudicatory unit of the State agency other than the unit that made the finding described in subparagraph (B). In the case of a reconsideration by the Secretary of a finding described in subparagraph (B) which was originally made by the Secretary, the evidentiary hearing shall be held by a person other than the person or persons who made the finding described in subparagraph (B)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to reconsiderations (of findings described in section 205(b)(2)(B) of the Social Security Act) which are requested on or after such date as the Secretary of Health and Human Services may specify, but in any event not later than January 1, 1984.

SEC. 5. CONDUCT OF FACE-TO-FACE RECONSIDERATIONS IN DISABILITY CASES.

The Secretary of Health and Human Services shall take such steps as may be necessary or appropriate to assure public understanding of the importance the Congress attaches to the face-to-face reconsiderations provided for in section 205(b)(2) of the Social Security Act (as added by section 4 of this Act). For this purpose the Secretary shall—

(1) provide for the establishment and implementation of procedures for the conduct of such reconsiderations in a manner which assures the beneficiaries will receive reasonable notice and information with respect to the time and place of reconsideration and the opportunities afforded to introduce evidence and be represented by counsel; and

(2) advise beneficiaries who request or are entitled to request such reconsiderations of the procedures so established, of their opportunities to introduce evidence and be represented by counsel at such reconsiderations, and of the importance of submitting all evidence that relates to the question before the Secretary or the State agency at such reconsiderations.

SEC. 6. REPORT BY SECRETARY.

Section 221(i) of the Social Security Act (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall report semiannually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the number of reviews of continuing disability carried out under paragraph (1), the number of such reviews which result in an initial termination of benefits, the number of requests for reconsideration of such initial termination or for a hearing with respect to such termination under subsection (d), or both, and the number of such initial terminations which are overturned as the result of a reconsideration or hearing.".

SEC. 7. OFFSET AGAINST SPOUSES' BENEFITS ON ACCOUNT OF PUBLIC PENSIONS.

(a) IN GENERAL.—Subsections (b)(4)(A), (c)(2)(A), (e)(8)(A), (f)(2)(A), and (g)(4)(A) of section 202 of the Social Security Act are each amended—

(1) by striking out "by an amount equal to the amount of any monthly periodic benefit" and inserting in lieu thereof "by an amount equal to one-third of the amount of any monthly periodic benefit"; and

(2) by adding at the end thereof the following new sentence: "The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10.", shall be rounded to the next lower multiple of $0.10.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall apply with respect to monthly insurance benefits payable for months in the 60-month period beginning December 1, 1982. After the close of such 60-month period, the provisions of the Social Security Act to which such amendments relate shall read as they would if this section had not been enacted.

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to Senate amendment 1 thereto be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. ARCHER. Mr. Speaker, reserving the right to object, and I shall not object, I would like to engage in a brief colloquy with my friend and colleague,

the chairman of the Subcommittee on Social Security of the Committee on Ways and Means, the gentleman from Texas (Mr. PICKLE).

It is my understanding that the first section of this bill is a noncontroversial bill relating to the Virgin Islands. However, the other body has added to this bill, by amendment, provisions that affect the continuing disability investigations, or CDI's. That body has sent us the basic language, but it is my understanding that the gentleman from Texas, after consultation with a number of colleagues and with the administration, has worked out some adjustments to accommodate the language in this section to make it relatively noncontroversial, at least from his point of view.

As the gentleman knows, I am not particularly happy about the resolution of CDI problems in the legislation before us. I feel very strongly that the disability insurance program requires further review and very likely some major improvements.

I also am extremely concerned about the way in which important, far-reaching legislation is developed in such a short period of time. When we do this sort of thing, we often make mistakes. I have a feeling that this may be another instance of acting in haste so that we can repent at leisure.

The disability insurance program, although in relatively good financial condition today, Mr. Speaker, probably needs the kind of reform which this legislation does not address in any way.

For example, many Members have thought for a long time that the entire hearings and appeals process should be shortened, without abridging the rights of anyone, to save both taxpayers and claimants a great deal of time and money.

I would hope that the chairman of the subcommittee would agree that what we are doing here today should in no way be construed to deter any efforts which might come later to effect the kind of reform which a number of my colleagues and I have in mind and have discussed with him so often in the past.

I wonder if the gentleman from Texas would like to comment.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I am happy to yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Speaker, I assure the gentleman that there will be no lessening of efforts next year to try to find substantive reform in the manner in which we handle disability reviews. It is a very serious problem and has plagued all of us because we have many people throughout the country who have been injured, or felt they have been, by the review; yet we must find a better solution.

What we are offering here today is the result of a general compromise between the Members of the House and the other body. What we have done simply is that we have taken the Senate bill and accepted three provisions: First, in termination cases we would continue benefits, if the individual so requests, until there has been a decision by an ALJ. This provision would apply only for a limited period of time. Second, we would give the Secretary of the HHS authority to slow down numbers of the reviews. Third, we would provide that reports would be made to the Congress semiannually.

Now, we went one step further: We have said that by January 1, 1984, there will be a face to face evidentiary hearing at reconsideration in termination cases. We engaged in colloquy with many Members and secured agreement from them to assure that we are testing to see how this procedure will work. We are trying to avoid any controversial reform at this point.

Having said that, I think we all recognize we are trying to find a better way to handle it in the future, but we do not close the record at this point. I think there is general agreement, but I assure the gentleman again that that will be something we will have to consider next year or in the months ahead.

We have also in this bill provided further relief in the area of the public pension offset.

Mr. ARCHER. Mr. Speaker, further reserving the right to object, I would be happy to yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I want to thank my good friend, the gentleman from Texas (Mr. ARCHER), for yielding.

Mr. Speaker, I rise in strong support of the amendments made to this bill with respect to social security disability, and I urge my colleagues to support this measure. Moreover, I ask my colleagues to accept this language, with the amendments, and send it over to the other body so that we can get some type of legislation passed this year.

Mr. Speaker, the choice before us today is very plain. There is no question that substantial changes need to be made in the social security disability law. To those who plan to make those changes in the 98th Congress, I pledge my fullest support. But today is the day that we are faced with a more immediate, and more pressing choice: What will we do and that will we say to the disabled of this country?

Last March, the Reagan administration followed the letter of the law in beginning the reviews of social security disability recipients all across the country. In a program with 2.4 million Americans involved, there is bound to be some abuse; no one argues that such a review is not necessary or desirable. The issue, however, is not whether or not the legislation is necessary—it is whether or not it is being done properly and well.

The evidence indicates that it is not.

The overwhelming evidence is of people in comas being terminated from the disability rolls. It is of individuals committing suicide when they learn that their benefits are ending when they have no other source of income. It is of people dying after being told that they are "no longer disabled." In my own hometown, one man attempted suicide when hearing of his potential termination. That man is now crippled from the neck down. The Los Angeles Times and the New York Times are just two of countless newspapers across this Nation that have documented several other examples. We cannot argue that a problem does not exist.

A problem does exist—a very serious one. It exists because a legitimate change was made in the law, but no parameters were provided to effect those changes. In Massachusetts, the review backlog is almost 7 months. In New Jersey, it is almost 9. New England as a whole is not much better, and the problem is getting worse. We need to take action, and we need to take action now.

This bill is not perfect. While, to its credit, it slows down the reviews process and continues benefit payments through the administrative law judge level, it does not address the issue of medical improvement. Next year, next Congress, is a better time to fully review the disability program. But today we need to act, and this bill is a good compromise, and a good solution. I commend my colleague and friend from Texas, Mr. PICKLE, for allowing this bill to come to the floor.

You know, it is all quite fitting that this debate take place in the "People's House." We represent the people here—all of the people: the perfectly healthy and the totally disabled. They are waiting for us to provide some guidelines to the Social Security Administration so that the unfairness associated with this worthy review concept is eliminated. Terminate those who are able to work, yes; but don't terminate them when they clearly cannot.

This is not a political issue, and it is not being done for political gain. It is being done because it is right. When the other body passed this bill, they did so by a 70-to-4 vote. Those of us in the people's House owe this to all the citizens of America. The situation in past months needs to be corrected, and it does not speak highly of anyone in Government. I say to my colleagues on both sides of the asle who have supported these disability reforms, pass

this bill, send it to the Senate, and send a message to all Americans, disabled and healthy, that we truly are the people's House.

Thank you, Mr. Speaker.

Mr. ARCHER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, I would like to thank the gentleman for yielding, and commend the gentleman from Texas for bringing this legislation to the attention of the House in a very timely fashion.

I rise in support of H.R. 7093, as presented to us today. This bill addresses the serious problems we face in the area of disability review.

Congress has been addressing this issue for many months, and I feel we are now presented with a good solution to the problem. In brief, H.R. 7093 in this form will continue disability benefits and medicare through appeal to the ALJ hearing level for those under CDI review. The Secretary of HHS will have the authority to slow down the number of reviews being sent to the State agencies for review to levels below those required by the 1980 amendments. The Secretary will also be required to report to the Finance and Ways and Means Committees semiannually on all aspects of the CDI process. Face-to-face evidentiary hearings will be required at the reconsideration level of the appeals process no later than January 1, 1984. H.R. 7093 contains language designed to guarantee that the Social Security Administration will take every possible step to fulfill the intent of this law. Finally, a section will be added to the Senate version of this bill that remedies problems caused by the expiration of the public pension exception clause.

In Vermont a number of disability insurance recipients have gone close to a year without benefits while their case was under review, only to have their benefits reinstated at the ALJ level. The tragedies that occurred from this procedure have been documented, and I am happy to see this body address the problem in a straight-forward way.

While the administration correctly responded to a congressional request to increase the review rate of disability recipients—and I commend the Social Security Administration for doing so—the continued reports of people being wrongfully removed from the disability rolls, and the disappearance of many of these people's only income in the form of disability insurance benefits during the review process, is wrong. We must respond to these problems immediately.

The proposed amendments to this bill do not alter the intent of the Senate-passed bill—which is a basically sound solution to the problem. This version of H.R. 7093 will simply be a stronger statement by Congress on the disability issue, and will effect immediate improvements in the disability situation.

I encourage my colleagues to vote for this bill.

Thank you.

Mr. ARCHER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of these interim amendments. I do urge the distinguished chairman, the gentleman from Texas (Mr. PICKLE) to continue to give his full attention to this serious problem of the method by which we send cases to the administrative law judge level.

Mr. Speaker, the review of disability cases currently underway should not cause undue hardship to those innocent elderly who are truly deserving and disabled. It was in 1980, before I was a Member of this distinguished body, that the Congress enacted the Disability Amendments of 1980 which mandated periodic review of disability determinations and it was President Carter and the Secretary of HEW Joseph Califano who asked for the weeding out of those who were abusing the system.

Last year Congress had presented to us a GAO report which found that an alarming $2 billion was being handed out each year to people who were no longer disabled. This week another study's findings were released indicating that this figure may well be as high as $4 billion each year. Over half of this abuse is occurring because beneficiaries did not report the fact that they had returned to work or that their condition had improved. Certainly it is important to decrease this abuse so that benefits for those truly deserving can be protected.

However, it has become clear that in a large number of cases, elderly and disabled individuals have undergone severe hardship when their benefits have been discontinued unjustly. Often benefits are stopped abruptly while it may be 12 to 18 months before benefits can be restored through the appeal process.

Despite the difficulties for the disabled that have occurred because of this stepped-up review process, there has been a problem getting action on this issue by the Ways and Means Social Security Subcommittee in the House. I commend the chairman of the subcommittee, Mr. PICKLE, for the sensible interim approach his subcommittee has taken on this issue with H.R. 7093.

Although this compromise does not represent a long-term solution to the problems of the continuing disability investigation program, allowing recipients to continue to draw benefits while they appeal their review decision to the administrative law judge level as provided in H.R. 7093, will alleviate the most serious hardships endured by those truly deserving. It is my sincere hope that a sound, long-term, final solution to the problems with the disability program will be discussed and agreed upon as soon as possible in the new 98th Congress.

Mr. ARCHER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. I thank the gentleman for yielding.

Mr. Speaker, I concur with the actions being taken here today.

Mr. Speaker, I would like to commend the chairman and the ranking minority member of the Social Security Subcommittee, Mr. PICKLE and Mr. ARCHER, for their work in reaching a compromise on this important bill. I am hopeful that the Senate will agree to the House language. I think that we all agree that there is a profound need for us to pass social security disability legislation in this session of Congress. To date, about 200,000 people have been terminated from the disability insurance rolls since the continuing disability review process was begun in March 1981. Of the 50 percent who have appealed their terminations, 67 percent have been returned to the program through the appeals process. Every month that we delay, another 53,000 cases are reviewed by State agencies and about 22,000 beneficiaries terminated. Based on current data, we can expect about 7,500 of these beneficiaries to be erroneously terminated next month. What this means is people with acute, chronic, and often terminal illness will be taken off the disability rolls with, at most, 2 months notice. Many of these people have no income other than money that they receive from the Social Security Administration.

What happens to these individuals and their families is tragic. There are documented cases of people committing suicide after receiving their notices of termination. There are cases of people dying during or directly after the medical examinations imposed on them by the continuing disability reviews. Often this is because they are sent to doctors who are not their own treating physician and have no previous knowledge of their health conditions and the threat these tests may pose to the person's life. And then there is the growing body of evidence uncovering people who have died from conditions that the Social Security Administration said they did not have or that were not serious enough to keep them from working.

I have never been one who believes that we should pass Federal legislation based on anecdotal information, but the stories that we are hearing come from every State in the Nation and many of these have been clearly substantiated. I feel compelled to read you four examples that appeared in a recent article in the Los Angleles Times so that you can begin to feel these "statistics."

Thomas A. Alvey, 47, of La Habra. He died August 26 of heart disease six months after he had been declared fit for work and no longer eligible for disability benefits. After his benefits were cut off, the former supermarket manager was forced to subsist on an $81.67 monthly Federal stipend and help from his mother, whose only income was from social security.

Ernestina Orozco, 45, of La Puente, A mother of two teenagers, she was to have been informed by the Social Security Administration that her two types of cancer were not sufficiently serious to keep her from working. But on August 9—two days before the notification was mailed—Mrs. Orozco died of cancer of the colon.

Willie Simmons, 47, of Reseda, He was removed from the disability rolls in February because his extremely painful "multiple neurological degenerative disease" were not considered debilitating enough to keep him from working as a hospital clerk. He died of those multiple ailments in May.

Victor Graf, 59, of Stockton he had been receiving disability benefits because of a heart condition. He received a letter from social security in July saying his disability payements would cease in September. He visited his cardiologist on August 2 to get more medical evidence in an attempt to show disability evaluators they has erred in his case. But within six hours after he left the doctor's office, Graf died of a heart attack.

To correct actions taken by Congress in 1980 and signed into law by President Carter—we are asking today for the passage of a simple emergery bill to better protect the disability insurance recipients until comprehensive legislation can be taken up next year. We are seeking to slow down the review process so that the State staff responsible for adjudication will have the time to do thorough, accurate assessments. The administration must see some merit to a slowdown as the Social Security Administration has implemented a limited slow down within the confines of the existing law. We are seeking to extend the benefits to persons who chose to appeal their terminations through the administrative law judge process. We do this for three reasons: First, 67 percent of the appealed terminations have been wrong; second, there is clearly established legal principle that legitimately awarded benefits should not be taken away without due process; and third, people who have been erroneously terminated have faced additional, devastating hardships such as the loss of their homes, the loss of their cars and bankruptcy. It is not taking about 11 months from the time one is terminated to the time one actually receives a check after a reversal at the administrative law judge level. Even for those persons who are reinstated and receive retroactive benefits, it is often too late to save their homes for the mortgages have already been foreclosed. Many will never have another opportunity to own a home again. Furthermore, during the appeals process, beneficiaries are deprived of their medicare benefits. Since they have substantially reduced income, many cannot afford the necessary medical care and prescriptions that their health condition requires. Many people's health has severely deteriorated during this protracted time period.

Mr. Speaker, I believe that this bill, which will continue benefits and medicare, will substantially improve the lives of thousands of people throughout the Nation. I thank all my colleagues who have worked so hard to get this bill before the House today and strongly urge its passage.

Mr. ARCHER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, what I have not heard yet in all this colloquy, but could the gentleman give us some explanation as to just exactly what it is we are doing? There seems to be some disagreement, if I heard correctly, as to whether or not what we are doing is substantive or whether or not what we are doing is basically going around—because this is a program that for all its merits, and it has many, has risen in cost over the last 25 years by 1,500,000 percent.

Now, if we are doing something which is going to be a substantive kind of change in this program and we are doing it in haste, we are doing it at the end of a session, we are doing it with a Senate add-on, then I think the House ought to be aware of that and maybe we ought to be a little more cautious about just where we are going.

I have not heard an explanation yet as to just what we are doing and how much it is going to cost us.

Mr. ARCHER. Mr. Speaker, further reserving the right to object, I would say to the gentleman that this bill does not go nearly as far in reform as I would like to see, as I mentioned, in the hearings and appeals process. However, it is my understanding that there will be a net benefit both to the Government and to the claimants out of the terms that have been put into this bill. I am given some assurance, and I cannot speak for the administration, that the administration feels that this on balance will be beneficial, although it does not go nearly as far as many of us would like to have gone.

Mr. WALKER. If the gentleman will yield further, could the gentleman explain to us how we are going to get the net benefit to the recipients and to the Government?

Mr. ARCHER. The gentleman from Texas (Mr. PICKLE) was beginning to describe that, and I yield to the gentleman to continue with his explanation.

Mr. PICKLE. If the gentleman will yield further, let me repeat again for you: What we are doing with this stopgap measure is to continue benefits to the administrative law judge level.

Second, we give authority to the Secretary of HHS to slow down some of the review; and, third, we require the Secretary to issue reports back to the Congress periodically.

We went one step further to say that there must be a face-to-face evidentiary hearing at reconsideration in termination cases and the Secretary of HHS must give information to the claimants that they should bring their evidence in, present all facts at the reconsideration level. It also requires that HHS tell all of its field offices to stress the importance of the reconsideration level.

We are trying to say to everybody, the intent is to move this evidence up so we can see it; but we are not closing the record at this point. That is a very controversial thing. I think after a period of 6 months to a year, we will have a lot more experience in knowing how to handle it. We are not going to say that we are just going to forget it, I assure you.

What we are trying to do is test what is the best way. I believe what we arrived at is what is the best thing to do, under the circumstances, for those people having their benefits cut off. I think this is the general agreement.

Mr. Speaker, the House passed H.R. 7093 on September 20, 1982. As passed by the House, H.R. 7093 would make it clear that only a 10-percent tax will be imposed on passive income from the Virgin Islands when the recipient is a U.S. individual or corporation and that there will be a corresponding withholding obligation on the Virgin Islands payor of the income. The bill also allows the Virgin Islands government to reduce this 10-percent rate at its discretion.

At present, U.S. tax laws are applied, under a "mirror image" system, as the local tax law in the Virgin Islands. It is the position of the Internal Revenue Service that a non-Virgin Island person who is a recipient of passive income from the Virgin Islands is subject to a 30-percent Virgin Islands tax. Without inference regarding the correctness of this position under present law, the bill imposes the 10-percent tax rate I have described.

The Senate passed H.R. 7093 December 3, 1982, by a vote of 70 to 4 with amendments attached that deal with the social security disability reviews.

This Congress has struggled all year with the problem of the continuing

disability investigations in social security. The Committee on Ways and Means recognized this problem early—raised in the Congress, held hearings on it and passed legislation, H.R. 6181, to deal with it.

That legislation is good legislation, but I recognize and the committee recognizes that we cannot solve this problem now in a lameduck session. However, we believe some progress can be made now, recognizing that more progress must be made in the near future.

Two things are needed: relief and reform. Beneficiaries need relief. And substantive reform is the only way to provide permanent relief.

The bill before us, which consists of Senate amendments to a House bill would: First, continue benefits for those appealing to an ALJ for a limited time—basically from now until next June on terminations made by October of 1983; second, give the Secretary of HHS authority to slow down the number of reviews being considered: and third, provide that reports be made to Congress every 6 months on the continuing disability reviews.

The bill also contains a section dealing with the handling of medical evidence in reviewing termination cases.

We propose that we accept the first three provisions which I have outlined—benefits to the ALJ on a limited basis, authority to slow down the reviews, and regular reports to Congress.

We propose to drop the section regarding the handling of medical evidence.

We would also add some changes which will move us toward more substantive reform without at this time getting into or bogged down by controversial matters. We would require that by no later than January 1, 1984, a face-to-face evidentiary hearing be provided in termination cases at the reconsideration level. And we would require that the Secretary take all steps possible to insure that this process be a meaningful one.

We would not, however, make any changes in this bill regarding closing the record or the acceptability of medical evidence at various stages of review.

Finally, we provide a more permanent solution in the area of the public pension offset.

The problem we face is that passing so-called stopgap legislation which simply extends benefits in disability termination cases will make the problems facing claimants worse. I think most Members agree with this. Lack of action on reforms during this session of Congress means that it is likely to be 1984 before anything substantive can be done, expecially since the consideration of financing legislation will be the first priority of 1983.

The Subcommittee on Social Security has concluded that an earlier face-to-face meeting between the beneficiary and decisionmaker and a generally "beefed-up" reconsideration process was the the only practical option to enable SSA to handle these reviews expeditiously and get the beneficiary a fair and humane decision as early as possible in the decision. Long delays in reaching an ALJ and difficulties in hiring more ALJ's do not make that level the best for handling these reviews.

Making sure the reconsideration decisionmaker has all the available evidence is necessary in order to make a good judgment and in order to make that level more meaningful. I recognize, however, that fears are too great at this time to ask Congress impose any legal restrictions in this area without further experience.

We have made our intention clear that reconsideration must be strong, but we have reserved for the next Congress the final judgment on what the law itself should say about admissibility of evidence at each level. Our intent is clear, however, and I repeat: We must make reconsideration a strong level—that is, to make the case early.

All allowances and as many as 50 percent of the denials never reach an ALJ. The fundamental fact is that this process will not work if it is not strong up front. That is where most of the cases will continue to be heard and decided.

We must take this small step toward beefing up reconsideration to insure that we eventually provide the beneficiary with a process whereby he or she can receive a satisfactory decision as early in the process as possible and to insure that we do not continue to bog down our appeal process so that no one, beneficiaries under review or new claimants, can get their cases heard.

Finally, under section 7 of the House amendment, the current public pension dollar-for-dollar offset would be amended so that only one-third of the public pension would be used to reduce the social security spouse's benefit. For example, a person who receives a public pension of $400 per month and is eligible for a spouse benefit of $250 would actually receive a social security benefit of $118. Under current law this person would receive no spouse benefit. This provision will expire in 5 years.

Many Members are concerned about female Government employees in their districts who are nearing retirement age but who were not eligible to receive their public pension prior to December 1, 1982, the date provided in the 1977 Social Security Amendments for the expiration of the public pension exception clause. I gave my word some time ago I would attempt to provide some relief in this area. I acknowledge the able and persistent leadership of Mr. Jacobs in pressing this concern and of Mr. OBERSTAR in working with us to find a good solution.

There is widespread concern that these women made their retirement plans in reliance on the existence of the unreduced spouse's benefit just as much as other women who became eligible for their pensions before December 1, 1982. However, women who were eligible before December 1 have no offset and women who become eligible after December 1 are offset dollar for dollar.

These concerns led my Social Security Subcomittee last year to move to extend the exception clause in a modified version. This has not become law and, in the interim, a Federal district court in Alabama has issued an opinion in the Mathews against Schweiker case that the exception clause and the separability clause in the 1977 amendments are both unconstitutional. The judge's order was that SSA should go back and find the class of males who were denied benefits under the exception clause and pay them full benefits. This decision, if affirmed by the Supreme Court, will mean that action taken now to extend the offset exception for women would also extend it for men, increasing costs dramatically.

This amendment modifies the offset in a manner which will benefit those Government workers who have relatively small public pensions in comparison to their social security spouse's benefit. This is exactly the same group that we were seeking to help by extending the offset. However, this provision does not discriminate on the basis of gender, and, therefore, does not raise the constitutional issues which the original exception clause raised and any extension of it would raise. Costs associated with this amendment are very small—approximately $135 million over the 5 years.

I urge, therefore, that the House accept these amendents to the Senate bill so that we can make progress in this Congress on these important issues.

I include here a factsheet explaining these amendments:

PROPOSED AMENDMENT TO SENATE-PASSED DISABILITY AMENDMENTS, H.R. 7093

Several amendments primarily aimed at relieving the CDI situation were attached by the Finance Committee in September to H.R. 7093, a Ways and Means revenue bill on the Virgin Islands. These amendments would do the following:

Sec. 1. Clarifies the rate of certain taxes paid to the Virgin Islands on Virgin Island source income.

Sec. 2. Continue disability. benefits and Medicare coverage through appeal to the ALJ hearing level for beneficiaries who have their benefits terminated as the result of a CDI. The payments under this provision will be effective only through June 1984, for termination decisions made prior to October 1983;

Sec. 3. Give the Secretary authority to slow down the number of cases sent to the State agencies for re-examination, below the rate required by the 1980 amendments to review all beneficiaries at least once every 3 years;

Sec. 4. Requires the State agencies to use all relevant medical evidence from the 12-month period preceding the review and to review all evidence contained in the beneficiary's folder in conducting the review. Senator Long added a requirement to this provision that a beneficiary can still be found ineligible even if his medical condition has not improved since his initial determination.

Sec. 5. Require the Secretary to report to the Finance and Ways and Means Committees semi-annually on the CDI process and percentages of terminations, reconsideration requests, and ALJ reversals.

The disability amendments were approved by the Senate on December 3, 1982, by a vote of 70 to 4. The Virgin Islands amendment has been approved by the House as H.R. 7093 and by the Senate both as H.R. 7093 and as part of H.R. 5470.

The proposed amendment would:

1. Accept Sections 1, 2, 3, and 5 of H.R. 7093.

2. Delete Section 4 of H.R. 7093.

3. Add a new section which requires a face-to-face evidentiary hearing at the reconsideration level. This requirement would be effective no later than January 1, 1984, and would apply only in termination cases.

4. Adds a provision ordering the Secretary to take necessary steps to assure public understanding of the importance Congress attaches to the face-to-face reconsiderations and to the importance of submitting all evidence at that level.

5. Add a new section which could remedy the problems caused by the expiration of the public pension exception clause on December 1, 1982. This section avoids constitutional problems which were posed by an extension of the exception clause but continues to provide at least partial social security spouses benefits—in a non-discriminatory manner—to women who retire from government service. Specifically, the section would reduce the social security spouse benefit by 33% of the government pension and would apply to benefits payable for the 60-month period beginning December 1, 1982.

Following is a fuller explanation of the public pension offset.

PUBLIC PENSION OFFSET

Under current law, all persons who become eligible for a public pension based on noncovered government employment after November 30, 1982 will have any social security spouse's benefit reduced dollar-for-dollar by amounts received as a public pension.

This November 30, 1982 expiration date has not resulted from a recent legislative action. Rather, it has resulted from the language of the public pension offset exception clause which was enacted in 1977.

Last year during consideration of H.R. 3207 by the Social Security Subcommittee of the Committee on Ways and Means, the staff proposed a number of different options with respect to the exception clause. One of the options would have broken the public pension into two pieces: (1) social security equivalent; and (2) private pension equivalent. A person receiving social security as a worker as well as a private pension has only the social security worker's benefit offset against the spouse's benefit. There is good reason, therefore, only to reduce the spouse's benefit by that portion of the public pension which is equivalent to social security. In the proposal the staff presented to the Subcommittee, a percentage of the public pension would have been used to offset the spouse's benefit, with the remainder of the public pension disregarded in the offset computation.

This option was passed over by the Subcommittee in favor of one under which the public pension exception clause would be gradually eliminated over the four-year period from December 1982 through November 1986. Workers who first become eligible subject to full offset of their social security spouses's benefit.

The amount of the public pension offset which would be effective during the phase-out period would be a certain percentage which would be determined based on the date on which the worker first became eligible to receive a public pension. The following schedule would be used to determine the percentage to be used in the offset:

Date on Which Worker is First Eligible for Public Pension and Offset Percentage:

Dec. 1982 through Nov. 1983—20.
Dec. 1983 through Nov. 1984—40.
Dec. 1984 through Nov. 1985—60.
Dec. 1985 through Nov. 1986—80.

As under the current exception clause, workers would also have to meet the requirements for entitlement to a dependent's benefit as they were in effect and being administered in January 1977 in order to qualify by this new exception clause.

Since no action beyond the Subcommittee level was taken on H.R. 3207, the public pension exception clause expired on December 1, 1982. Attempts to extend the exception clause have been complicated by the Mathews decision which, if affirmed by the Supreme court, would result in the retroactive entitlement of certain males who were denied benefits under the exception clause. This situation has resulted in widespread interest in both the House and Senate in enacting legislation before the end of the session which would address the concerns about the offset but solve the problem in a manner different than extending the exception clause—one which is not discriminatory. A provision under which one-third of a non-government pension would be counted would address the concerns in a non-discriminatory manner.

The two most important points to be made concerning the provision contained in the House amendment are:

(1) The offset would apply to all persons, male and female;

(2) The amount of the public pension which is used to reduce the social security spouse's benefit would be 33% of the government pension.

Thirty-three percent approximates the portion of the CSRS annuity which is equivalent to social security retirement benefits for the average earner.

It should be noted that this approach is not an extension of the exception clause. Under an extension of the exception clause (ignoring possible constitutional questions), few women would be offset and most men would be offset completely. Under the proposal some women would be offset but some men would not be.

Under the new offset provision, a person who receives a public pension of $400 per month and is eligible for a spouse benefit of $250 would actually receive a social security benefit of $118. (This is determined by subtracting the offset amount which is $132 (.33 × $400) from the spouse benefit of $250. Under current law this person would receive no spouse benefits. Under an extended exception clause, if this person were a female she would receive a $250 spouse's benefit. A man would usually receive no spouse's benefit in this case.

Four general conclusions about a proposed solution to count one-third of the government pension in the offset are:

(1) In cases where there is a wide difference between the amounts of the two benefits, with the public pension being larger than the spouse's benefit, the amount of the offset is large. These cases would tend to be males who would already be affected anyway under current law.

(2) In cases where there is a wide difference between the amounts of the two benefits, with the public pension being smaller than the spouse's benefit, the offset is relatively small. These cases would tend to be women who have relatively small pensions based on their own work and relatively large spouse's benefits based on their husband's earnings.

(3) In cases where there is little difference between these two benefits, there is relatively little reduction. These cases would also tend to be women.

(4) Some women who would not be affected by the offset under an extension of the exception clause would be affected under this proposal. However, these women would have to have relatively large public pension.

The Office of the Actuary has estimated that the cost of this proposal. It seems to be approximately $135 million through 1987. (By comparison, the cost of a five year extension of the exception clause for just women in $420 million for this same period.) The cost of the proposal would increase by approximately $100 million if the Mathews decision were reversed.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, do we have some idea as to the amounts of money as to how much money we are going to spend, how much it is going to cost the States, the amounts of money that we are considering here today?

Mr. ARCHER. I do not believe we have any definitive amounts because this will involve new procedures that are going to have to be implemented before we can really be sure just exactly what the final results are.

Mr. PICKLE. Mr. Speaker, will the gentleman yield further?

Mr. ARCHER. Futher reserving the right to object, Mr. Speaker, I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding further.

The Social Security Administrator has approved the language and the procedure we have adopted because they think it will be valuable to get this experience. So they approved the legislation we presented.

Mr. WALKER. I thank the gentleman.

Mr. FORD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Tennessee.

Mr. FORD of Tennessee. I thank the gentleman for yielding.

89-059 O-86-29 (Pt. 22)

Mr. Speaker, I want to clear up one matter. Would the record be closed—and I guess I direct my question to the chairman of the Ways and Means Committee, the gentleman from Illinois, Mr. ROSTENKOWSKI. I just want to make sure for the record that the ALJ level, there the record will still remain open; we will not close the record at the State agency level?

Mr. ARCHER. The gentleman is correct.

Mr. FORD of Tennessee. Is that correct? I know in the committee with the legislation in particular, we talked about closing the record at the State agency level, but the record will remain open all the way to the administrative law judge level?

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I will be happy to yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding further.

The gentleman knows full well that I think the record should be closed, at least the case should be made at the beginning and all evidence submitted.

We even offered a substitute for that in our subcommittee and passed it, saying that new evidence could be offered at the ALJ level on a worsening condition. But the question of evidence, medical evidence, is so controversial we are saying in this legislation that we will not close the record at the reconsideration level; that it will stay open. But instead, we are trying to say to everybody: Try to make your case early so we have the evidence. There is general agreement on that.

May I say to the gentleman that the chairman of the Aging Committee, Senator PEPPER, approves; Congressman SYNAR, who worked with us diligently to try to arrive at an agreement, has agreed to this procedure.

I think there is no disagreement with what we are trying to do. I am accepting this as a temporary measure until we can get some more experience.

Mr. FORD of Tennessee. I am not in disagreement with the bill. I just want to make sure that the record will not be closed at the State agency level.

● Ms. OAKAR. Mr. Speaker, since March 1981, the administration has accelerated implementation of the continuing disability investigation process, the results have been astounding. Approximately 150,000 disability insurance beneficiaries have been eliminated, causing hardship, both financial and emotional, to many defenseless human beings. Even more serious is the claim that this expanded review program has unnecessarily increased the number of cessations in an effort to save the Federal Government money, and that there are discrepancies in determining who is disabled.

As all of my colleagues realize, many disability recipients have been notified that they will no longer be eligible for disability insurance, only to find out later, that their decisions have been overturned, and that they can go back onto the rolls. Sadly, for a handful of recipients, the news arrived too late. Other beneficiaries have become victims of the "waiting game." Backlogs at the State agency level have exacerbated the problems.

In my own State of Ohio, disabled constituents have written, illustrating their review process and the inconsistencies in determining eligibility. One gentleman, a social security disability recipient of 6 years has only one kidney. Recently, he received notification that his benefits are being terminated. At the present time, he is awaiting a decision from the appeals court.

Another constituent, who has been determined disabled, not only by the Social Security Administration, but also by the Veterans' Administration, has been denied further benefit payments.

It appears that a tightening of the regulations determining disability has proved discriminatory in many cases. I hope that by receiving testimony from our witnesses today, we will be able to determine exactly where the inconsistencies lie.

There is no question that the system needs to be improved, and Secretary Schweiker has made initial steps to alleviate some of the burden that has been placed on the agencies and the beneficiaries. We obviously have to go further. H.R. 7093 can provide further assurances that the disability review system can work efficiently and effectively.

The disability bill before us makes an attempt to improve this critical situation.

I commend Chairman ROSTENKOWSKI and Subcommittee Chairman PICKLE for moving on this legislation.

By striking the Long language, which was agreed to on the Senate floor, stating that one need not prove that medical improvements play a role in determining a disability, we will be taking a further step toward improvement.

Mr. Speaker, members of the Congressional Caucus on Women's Issues have been extremely concerned with the pension offset issue. As Chair of the Aging Committee's Task Force on Social Security and Women, I have been especially concerned about this unfair provision which has reduced social security spousal benefits as a result of the Government pension offset provision contained in the 1977 Social Security Amendments. We are pleased that Congressman PICKLE has responded to our concerns and has proposed an improvement responding to this dire situation. As of December 1, 1982, 5,000 women, retired from public service, dependent on social security spousal benefits, lost a significant portion of their social security benefits. By 1987, the number of women affected by the 1977 Social Security Amendments is expected to reach 25,000. They are harshly affected by a dollar-for-dollar reduction, reducing social security benefits, by the amount of their public pension. For a woman who receives an average monthly public pension of $873, and a spousal benefit of $196 a month, the reduction translates into a matter of financial survival.

Although the offset provision is not completely repealed, this is a good first step and will reduce the hardship suffered by those penalized by the pension offset provision.

Mr. Speaker, it is clear that H.R. 7093 is not the final solution to two serious problems. It is a start, however, that can provide the impetus for greater and strong improvements in the 98th Congress. I support the efforts of the Ways and Means Chairman and urge my colleagues to do also.●

● Mr. VENTO. Mr. Speaker, I rise in support of the compromise amendment to the Senate passed measure H.R. 7093.

Mr. Speaker, the continuing disability investigations accelerated to unreasonable levels by the Reagan administration has worked a very significant hardship on those who have been subjected to it. This measure as amended by unanimous consent by chairman of the subcommittee, Mr. PICKLE, will continue benefits through the administrative law judge level of appeal.

Second, it will send a signal to the Secretary of Health and Human Services to reduce the accelerated CDI's.

Third it will provide an annual report back to Congress concerning the social security disability program.

Mr. Speaker, many problems have resulted from the current CDI's. Individuals without any face-to-face interviews are declared ineligible for social security disability, inadequate notification in terms of recipients rights have also plagued the process. The upshot has been that over 200,000 people have been removed from social security disability, many I know inappropriately.

This measure H.R. 7093, as amended, will provide some much needed relief, but frankly what is most needed is a strong dose of commonsense in the SSA and the Reagan administration. Social security disability eligibility should not be withdrawn unless there are substantive evidence and certainly due process with benefits paid through the appeal procedure for those under CDI's should be provided.

Mr. Speaker, I would find very troublesome the section 4 added by the Senate, it seems to reverse the initial intent of the social security disability review solution that was added to the

measure and applaud efforts to remove it.

When the guidelines are established anew for the social security disability we must monitor it carefully to assure that the intent of this measure is fulfilled. The medical record of disability determination should be open through the administrative law judge level, surely this is appropriate.

Hopefully most applicants will make an effort to provide most medical information at the State determination level, however, we should not close our appeal process to facts which would affect the outcome of the determination, especially in light of the record of paper reviews and lack of client notification.

Mr. Speaker, I am also mindful of the Congressman OBERSTAR, spouse benefit measure which I have cosponsored inclusion in this measure and strongly support it and applaud my colleague from Minnesota for his hard work to correct this inequity.

Mr. Speaker, today we should all support these changes and I look forward to a careful and thoughtful consideration of other changes in the 98th Congress.●

● Mr. DOWNEY. Mr. Speaker, I rise in strong support of H.R. 7093. This bill provides emergency relief to one of the most vulnerable groups in our country today.

This legislation is long overdue. Lives have unnecessarily been lost because of delays in implementing remedial legislation. And the deaths are only the tip of an iceberg of human suffering resulting from administrative foulups in the social security disability program.

H.R. 7093, as amended by Chairman PICKLE, addresses the problems of the disability program in a number of important ways.

First of all, it contains slowdown provisions. This means that the Secretary of the Department of Health and Human Services now has the authority to reduce the numer of cases that must be reviewed by each State. One of the major problems with the review process stems from the fact that States were simply given too many cases, too soon, and with too little staff support. This created a situation where hasty and poorly judged termination decisions were made, only to later find that 67 percent of those appealing the decision should not have been taken off in the first place.

The need for the slowdown is well illustrated by the New York State experience. Last September, New York had a backlog of 31,000 cases out of a total 60,000 cases under review. The State receives 12 percent of all continuing disability investigations nationwide, but was only capable of handling 7 to 8 percent of them.

A second provision of enormous importance allows for continued payment of benefits through the administrative law judge stage of the appeals process. The absolute necessity of continued payment of benefits was impressed upon me at a field hearing I held in my district on this issue last summer. The following statement from one of the witnesses eloquently expresses the incalculable emotional and financial strain of losing all financial support during the appeals process.

I just want to say that with the scare of open heart surgery; the stress of not being able to pay bills; the feelings of helplessness for myself and my wife of not being able to work; I've gone through all of these. But these are normal reactions for someone in my position. But to you I declare that, for someone such as I who should not be exposed to such extreme stress, the battle for a disability for which I am entitled is ridiculous. I have tried my best; but I am in debt, because I have to fight a system for help, that I have contributed to since the day I started working. I realize that some screening must be necessary because of false claims, but in my case, my family doctor has already advised the Social Security Review Board by letter that he wouldn't take any responsibility for my health if I returned to work too soon.

In closing I beg you to think of the people who do return to work rather than fight for disability; people who end up either permanently disabled or dead because they were disabled even though the system said they were not.

Finally, I want to congratulate Chairman PICKLE for his contributions to this bill. In particular, the addition of a face-to-face hearing at the reconsideration stage of appeals makes a constructive and much-needed administrative reform in the review process. I am confident that it will greatly improve the quality of decisions that are made by State agencies.

It is very likely that additional administrative reforms will be needed in the future. However, this bill addresses the immediate crisis, and injects some humanity into an inhuman bungling, bureaucratic system.●

● Ms. FERRARO. Mr. Chairman, I rise in support of the amendment to lessen the adverse effects of the pension offset provision. Under this provision which has just become effective, dependent's benefits under social security are reduced dollar for dollar for any public pension received as a result of Government employment. We must act today to delay it or 5,000 women will lose a significant portion of their social security spousal benefits.

Had I been in Congress when this provision was considered, I would have opposed it on principle as well as practice. In principle, it is wrong to compare social security entitlements with pensions earned as a result of a career in public service. However, in practice, this offset is even more unfair. Application of the offset disproportionately affects older women, married and widowed, who would otherwise qualify for spouse's benefits as a result of their husband's payments into the social security system. They would lose their benefits for one reason only—these women worked for the Government instead of another employer. This is simply not fair.

Over the past few years we have heard a lot about the feminization of poverty. Unless we act today, we will be responsible for relegating even more women to difficult economic conditions during their retirement years. I strongly urge my colleagues to support this amendment.●

Mr. PEPPER. Mr. Speaker, today the House is considering H.R. 7093 with a Senate amendment which is amended by a House amendment respecting the disability insurance program of the country. The author of this amendment was the able gentleman from Texas, Mr. PICKLE. This amendment most favorably affects the disabled people of this country. Mr. PICKLE worked long and hard in the development of this amendment showing his great compassion and concern for the disabled people. I wish in the warmest way to commend my dear friend Mr. PICKLE for his sponsorship of this amendment.

Mr. ARCHER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois (Mr. ROSTENKOWSKI) that the reading be dispensed with?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ORPHAN DRUG ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5238) to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes, with a Senate amendment thereto and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

That (a) this Act may be cited as the "Orphan Drug Act".

(b) The Congress finds that—

(1) there are many diseases and conditions, such as Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette syndrome, and muscular dystrophy which affect such small numbers of individuals residing in the United States that the diseases and conditions are considered rare in the United States;

(2) adequate drugs for many of such diseases and conditions have not been developed;

(3) drugs for these diseases and conditions are commonly referred to as "orphan drugs";

(4) because so few individuals are affected by any one rare disease or condition, a pharmaceutical company which develops an orphan drug may reasonably expect the drug to generate relatively small sales in comparison to the cost of developing the drug and consequently to incur a financial loss;

(5) there is reason to believe that some promising orphan drugs will not be developed unless changes are made in the applicable Federal laws to reduce the costs of developing such drugs and to provide financial incentives to develop such drugs; and

(6) it is in the public interest to provide such changes and incentives for the development of orphan drugs.

SEC. 2. (a) Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following:

"Subchapter B—Drugs for Rare Diseases or Conditions

"RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 525. (a) The sponsor of a drug for a disease or condition which is rare in the States may request the Secretary to provide written recommendations for the nonclinical and clinical investigations which must be conducted with the drug before—

"(1) it may be approved for such disease or condition under section 505, or

"(2) if the drug is a biological product, before it may be licensed for such disease or condition under section 351 of the Public Health Service Act.

If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for a disease or condition which is rare in the States, the Secretary shall provide the person making the request written recommendations for the nonclinical and clinical investigations which the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for such disease or condition under section 505 or licensing under section 351 of the Public Health Service Act for such disease or condition.

"(b) The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"DESIGNATION OF DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 526. (a) The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for a disease or condition which is rare in the States. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for a rare disease or condition and—

"(1) if an application for such drug is approved under section 505, or

"(2) if the drug is a biological product, a license is issued under section 351 of the Public Health Service Act,

the approval or license would be for use for such disease or condition, the Secretary shall designate the drug as a drug for such disease or condition. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (b) respecting the designation of the drug.

"(b) Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(c) The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"PROTECTION FOR UNPATENTED DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 527. (a) Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505(b), or

"(2) issues a license under section 351 of the Public Health Service Act for a drug designated under section 526 for a rare disease or condition and for which a United States Letter of Patent may not be issued,

the Secretary may not approve another application under section 505(b) or issue another license under section 351 of the Public Health Service Act for such drug for such disease or condition for a person who is not the holder of such approved application or of such license until the expiration of seven years from the date of the approval of the approved application or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) If an application filed pursuant to section 505(b) is approved for a drug designated under section 526 for a rare disease or condition or a license is issued under section 351 of the Public Health Service Act for such a drug and if a United States Letter of Patent may not be issued for the drug, the Secretary may, during the seven-year period beginning on the date of the application approval or of the issuance of the license, approve another application under section 505(b), or, if the drug is a biological product, issue a license under section 351 of the Public Health Service Act, for such drug for such disease or condition for a person who is not the holder of such approved application or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with the disease or condition for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications or the issuance of other licenses before the expiration of such seven-year period.

"OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 528. If a drug is designated under section 526 as a drug for a rare disease or condition and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary shall encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with the disease or condition who need the drug to treat the disease or condition and who cannot be satisfactorily treated by available alternative drugs.".

(b) Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by inserting before section 501 the following:

"Subchapter A—Drugs and Devices.".

SEC. 3. Title II of the Public Health Service Act is amended by adding at the end the following:

"ORPHAN PRODUCTS BOARD

"SEC. 227. (a) There is established in the Department of Health and Human Services a board for the development of drugs (including biologics) and devices (including diagnostic products) for rare diseases or conditions to be known as the Orphan Products Board. The Board shall be comprised of the Assistant Secretary for Health of the Department of Health and Human Services and representative, selected by the Secretary, of the Food and Drug Administration, the National Institutes of Health, the Centers for Disease Control, and any other Federal department or agency which the Secretary determines has activities relating to drugs and devices for rare diseases or conditions. The Assistant Secretary for Health shall chair the Board.

"(b) The function of the Board shall be to promote the development of drugs and devices for rare diseases or conditions and the coordination among Federal, other public, and private agencies in carrying out their respective functions relating to the development of such articles for such diseases or conditions.

"(c) In the case of drugs for rare diseases or conditions the Board shall—

"(1) evaluate—

"(A) the effect of subchapter B of the Federal Food, Drug, and Cosmetic Act on the development of such drugs, and

"(B) the implementation of such subchapter;

"(2) evaluate the activities of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration for the development of drugs for such diseases or conditions,

"(3) assure appropriate coordination among the Food and Drug Administration, the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, and the Centers for Disease Control in the carrying out of their respective functions relating to the development of drugs for such diseases or conditions to assure that the activities of each agency are complementary,

"(4) assure appropriate coordination among all interested Federal agencies, manufacturers, and organizations representing patients, in their activities relating to such drugs,

"(5) with the consent of the sponsor of a drug for a rare disease or condition exempt under section 505(i) of the Federal Food, Drug, and Cosmetic Act or regulations issued under such section, inform physicians and the public respecting the availability of such drug for such disease or condition and inform physicians and the public respecting the availability of drugs approved under section 505(c) of such Act or licensed under section 351 of this Act for rare diseases or conditions,

"(6) seek business entities and others to undertake the sponsorship of drugs for rare diseases or conditions, seek investigators to facilitate the development of such drugs,

and seek business entities to participate in the distribution of such drugs, and

"(7) recognize the efforts of public and private entities and individuals in seeking the development of drugs for rare diseases or conditions and in developing such drugs.

"(d) The Board shall consult with interested persons respecting the activities of the Board under this section and as part of such consultation shall provide the opportunity for the submission of oral views.

"(e) The Board shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report—

"(1) identifying the drugs which have been designated under section 526 of the Federal Food, Drug, and Cosmetic Act for a rare disease or condition,

"(2) describing the activities of the Board, and

"(3) containing the results of the evaluations carried out by the Board.

The Director of the National Institutes of Health and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall submit to the Board for inclusion in the annual report a report on the rare disease and condition research activities of the Institutes of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration; and the Secretary of the Treasury shall submit to the Board for inclusion in the annual report a report on the use of grants and controls provided pursuant to this Act. Each annual report shall be submitted by June 1 of each year for the preceding calendar year.".

SEC. 4. (a) There are authorized to be appropriated $14,000,000 in fiscal year 1983, $18,000,000 in fiscal year 1984, and $18,000,000 in fiscal year 1985. In order to assist eligible entities to defray the costs of qualified experimental expenses, as defined by this section.

(b) The Secretary is authorized to make grants to and enter into contracts with eligible entities in order to carry out the purposes of this section.

(c) An eligible entity is any manufacturer or sponsor which has received from the Secretary a designation for a drug pursuant to section 526(c) of the Food, Drug, and Cosmetic Act as amended by this Act.

(d) QUALIFIED EXPERIMENTAL EXPENSES.—For purposes of this section—

(1) IN GENERAL.—The term "qualified experimental expenses" means any amount paid or incurred for activities carried out—

(A) in connection with an exemption for a drug for a rare disease or condition under section 505(i) of the Federal Food, Drug, and Cosmetic Act, or regulations issued under such section, and

(B) after the date the drug is designated under section 526 of such Act.

(2) EXPENSES MUST BE RELATED TO USE FOR RARE DISEASE OR CONDITION.—Amounts may be taken into account under paragraph (1) only to the extent they are attributable to activities related to the use of a drug for the disease or condition for which it was designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

(3) AMOUNTS PAID FOR LAND, ETC.—Amounts paid or incurred for land (or improvements to land) or for property of a character subject to the allowance for depreciation shall not be taken into account under paragraph (1), except that allowances under section 167 shall be treated as expenses.

HOME HEALTH SERVICES

SEC. 5. (a) Part D of title III of the Public Health Service Act is amended by inserting after subpart II the following new subpart:

"Subpart III—Home Health Services

"HOME HEALTH SERVICES

"SEC. 339. (a)(1) For the purpose of encouraging the establishment and initial operation of home health programs to provide home health services (as defined in section 1861(m) of the Social Security Act) in areas in which such services are not otherwise available, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities and loans to proprietary entities to meet the initial costs of establishing and operating such home health programs. Such grants and loans may include funds to provide training for paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act). The Secretary shall make grants and loans to entities for home health programs only in those areas which do not have adequate home health services, and shall give special consideration to areas with inadequate means of transportation to obtain necessary health services.

"(2) In making grants and loans under this subsection, the Secretary shall—

"(A) consider the relative needs of the several States for home health services; and

"(B) give preference to areas in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or disabled.

"(3)(A) No loan may be made to a proprietary entity under this section unless the application of such entity for such loan contains assurances satisfactory to the Secretary that—

"(i) at the time the application is made the entity is fiscally sound;

"(ii) the entity is unable to secure a loan for the project for which the application is submitted from non-Federal lenders at the rate of interest prevailing in the area in which the entity is located; and

"(iii) during the period of the loan, such entity will remain fiscally sound.

"(B) Loans under this section shall be made at an interest rate comparable to the rate of interest prevailing on such date with respect to the marketable obligations of the United States of comparable maturities, adjusted to provide for administrative costs.

"(4) Applications for grants and loans under this subsection shall be in such form and contain such information as the Secretary shall prescribe.

"(5) Payments under grants and loans under this subsection may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants and loans.

"(6) There are authorized to be appropriated for grants and loans under this subsection $5,000,000 for each of the fiscal years ending on September 30, 1983, and September 30, 1984.

"(b)(1) The Secretary may make grants to and enter into contracts with public and private entities to assist them in developing appropriate training programs for paraprofessional personnel to provide home health services.

"(2) Any program established with a grant or contract under this subsection to train homemaker health aides shall—

"(A) extend for at least forty hours, and consist of classroom instruction and at least twenty hours (in the aggregate) of supervised clinical instruction directed toward preparing students to deliver home health services;

"(B) be carried out under appropriate professional supervision and be designed to train students to maintain or enhance the personal care of an individual in his home (but not including any structural changes to the home) in a manner which promotes the functional independence of the individual; and

"(C) include training in—

"(i) personal care services designed to assist an individual in the activities of daily living such as bathing, exercising, personal grooming, and getting in and out of bed; and

"(ii) household care services such as maintaining a safe living environment, light housekeeping, and assisting in providing good nutrition (by the purchasing and preparation of food).

"(3) In making grants and entering into contracts under this subsection, special consideration shall be given to entities which establish or will establish programs to provide training for persons fifty years of age and older who wish to become homemaker home health aides.

"(4) Applications for grants and contracts under this subsection shall be in such form and contain such information as the Secretary shall prescribe.

"(5) Payments under grants and contracts under this subsection may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants and contracts.

"(6) There are authorized to be appropriated for grants and contracts under this subsection $2,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984.

"(c) The Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on or before January 1, 1984, with respect to—

"(1) the impact of grants made and contracts entered into under subsections (a) and (b) (as such subsections were in effect prior to October 1, 1981);

"(2) the need to continue grants and loans under subsections (a) and (b) (as such subsections are in effect on the day after the date of enactment of the Community Home Health Services Act of 1982); and

"(3) the extent to which standards have been applied to the training of personnel who provide home health services.".

(b) The Secretary shall report the results of studies currently evaluating home and community based services, and any recommendations for legislative action which might improve the provision of such services, to the Congress prior to January 1, 1985.

(c) The Secretary of Health and Human Services shall compile and analyze the results of significant studies carried out by any public or private entity, group, or individual, relating to current and alternative reimbursement methodologies for home health services. The Secretary shall make recommendations with respect to such reimbursement methodologies as they might be applied in health care programs funded in

whole or in part by Federal funds, and report such recommendations to the Congress within 180 days after the date of the enactment of this Act.

(d) The Secretary of Health and Human Services shall undertake a thorough investigation of—

(1) the methods available to stem fraud and abuse in the medicare and medicaid home health programs; and

(2) the extent to which such methods are applied in stemming such fraud and abuse. The Secretary shall report the results of the investigation to the Congress within 18 months after the date of the enactment of this Act.

(e)(1) The Secretary of Health and Human Services shall develop and carry out demonstration projects commencing no later than January 1, 1983, to test—

(A) methods for identifying patients at risk of institutionalization who could be treated more cost-effectively with home health services; and

(B) alternative reimbursement methodologies for home health agencies in order to determine the most cost-effective and efficient way of providing home health services.

(2) Methods for identifying patients at risk of institutionalization to be tested by the Secretary under paragraph (1)(A) may include, but not be limited to, the identification of hospitalized medicare patients who are condidates for early discharge due to availability of home health services and individuals in the community who could avoid institutionalization with the availability of home health services.

(3) Reimbursement methodologies to be tested by the Secretary under paragraph (1)(B) may include but not be limited to fee schedules, prospective reimbursement, and capitation payments.

(4) The Secretary shall report to Congress his findings with regard to the demonstrations carried out under paragraph (1) no later than January 1, 1984.

ANALYSIS OF THYROID CANCER; ACTIONS BY SECRETARY

SEC. 6. (a) In carrying out section 301 of the Public Health Service Act, the Secretary of Health and Human Services shall—

(1) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the risks of thyroid cancer that are associated with thyroid doses of Iodine 131;

(2) conduct scientific research and prepare analyses necessary to develop valid and credible methods to estimate the thyroid doses of Iodine 131 that are received by individuals from nuclear bomb fallout;

(3) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the exposure to Iodine 131 that the American people received from the Nevada atmospheric nuclear bomb tests; and

(4) prepare and transmit to the Congress within one year after the date of enactment of this Act a report with respect to the activities conducted in carrying out paragraphs (1), (2), and (3).

(b)(1) Within one year after the date of enactment of this Act, the Secretary of Health and Human Services shall devise and publish radioepidemiological tables that estimate the likelihood that persons who have or have had any of the radiation related cancers and who have received specific doses prior to the onset of such disease developed cancer as a result of these doses. These tables shall show a probability of causation of developing each radiation related cancer associated with receipt of doses ranging from 1 millirad to 1,000 rads in terms of sex, age at time of exposure, time from exposure to the onset of the cancer in question, and such other categories as the Secretary, after consulting with appropriate scientific experts, determines to be relevant. Each probability of causation shall be calculated and displayed as a single percentage figure.

(2) At the time the Secretary of Health and Human Services publishes the tables pursuant to paragraph (1), such Secretary shall also publish—

(A) for the tables of each radiation related cancer, an evaluation which will assess the credibility, validity, and degree of certainty associated with such tables; and

(B) a compilation of the formulas that yielded the probabilities of causation listed in such tables. Such formulas shall be published in such a manner and together with information necessary to determine the probability of causation of any individual who has or has had a radiation related cancer and has received any given dose.

(3) The tables specified in paragraph (1) and the formulas specified in paragraph (2) shall be devised from the best available data that are most applicable to the United States, and shall be devised in accordance with the best available scientific procedures and expertise. The Secretary of Health and Human Services shall update these tables and formulas every four years, or whenever he deems it necessary to insure that they continue to represent the best available scientific data and expertise.

TECHNICAL AMENDMENTS TO THE PUBLIC SERVICE ACT

SEC. 7. (a)(1) Section 338B(e) of the Public Health Service Act (42 U.S.C. 254m-(e)) is amended by inserting before the period the following: "or under section 225 as in effect on September 30, 1977".

(2) Section 337(a) of such Act (42 U.S.C. 254j(a)) is amended by striking out "carrying out this subpart" and inserting in lieu thereof "carrying out this subpart (other than section 338G)".

(3) Section 338D(b) of such Act (42 U.S.C. 254O(b)) is amended by striking out "section 338F(b)" and inserting in lieu thereof "section 338F(d)".

(4) Section 338E(d)(1) of such Act (42 U.S.C. 254p(d)(1)) is amended by striking out "section 338D(c)" and inserting in lieu thereof "section 338D(b)".

(5) Section 1536 of such Act (42 U.S.C. 300n-5) (as amended by section 935 of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out "this title and" and inserting in lieu thereof "this title and—".

(6) The second sentence of section 1904(a)(1)(F) of such Act (42 U.S.C. 300w-3(a)(1)(F)) is amended by striking out "equipment for the systems" and inserting in lieu thereof "equipment for the systems (other than systems with respect to which grants were made as prescribed by section 1905(c)(2))".

(7) Effective October 1, 1982, section 1912(b) of such Act (42 U.S.C. 300x-1(b)) is amended to read as follows:

"(b)(1) From the remainder of the amount appropriated under section 1911 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such remainder for that fiscal year as the amounts—

"(A) which would have been provided by the Secretary to the State and entities in the State under section 301 of this Act for mental health services demonstrations and under the Community Mental Health Centers Act and the Mental Health Systems Act for mental health services for fiscal year 1981 if the Secretary had obligated all the funds for such purposes available for such Acts under Public Law 96-536, and

"(B) provided by the Secretary to the State and entities in the State under the laws referred to in subparagraphs (D) and (E) of paragraph (2) for fiscal year 1980,

bore to the total amount appropriated for mental health services demonstrations and mental health services for fiscal year 1981 under Public Law 96-536 for section 301 of this Act, the Community Mental Health Centers Act and the Mental Health Systems Act and the total amount appropriated for fiscal year 1980 for the provisions of law referred to in subparagraphs (D) and (E) of paragraph (2).

"(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981:

"(A) The Community Mental Health Centers Act.

"(B) The Mental Health Systems Act.

"(C) Section 301 of this Act.

"(D) Sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act of 1970.

"(E) Sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

"(3) For purposes of paragraph (1), the total amount appropriated under Public Law 96-536 for mental health services demonstrations under section 301 of this Act shall be deemed not to exceed $20,000,000; and if such total amount did exceed $20,000,000, the amount that would have been provided to each State and entities in each State shall be ratably reduced for purposes of paragraph (1)(A) to conform to the limit prescribed by this paragraph.

"(4) To the extent that all the funds appropriated under section 1911 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1915 for the fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1916(b)(3);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.".

(8) Section 1915(c)(5) of such Act (42 U.S.C. 300x-4(c)(5)) is amended (1) by inserting "procedures for" before "procedural", and (2) by striking out "review procedures" and inserting in lieu thereof "review".

(9)(A) Section 1915(c)(6)(A)(i) of such Act (42 U.S.C. 300x-4(c)(6)(A)(i)) is amended—

(A) by striking out "for mental health services";

(B) by inserting "for mental health services" after "fiscal year 1981";

(C) by inserting "for mental health services demonstrations under section 301 of this Act" before "if the Secretary"; and

(D) by striking out "such Acts" each place it occurs and inserting in lieu thereof "such provisions of law".

(2) Section 1915(c)(6)(A)(ii) of such Act (42 U.S.C. 300x-4(c)(6)(A)(ii)) is amended—

(A) by striking out "for mental health services";

(B) by inserting "for mental health services" after "fiscal year 1981";

(C) by inserting "and for mental health services demonstrations under section 301 of this Act" before "if the Secretary"; and

(D) by striking out "such Acts" and inserting in lieu thereof "such provisions of law".

(b) Section 831(b) of such Act (42 U.S.C. 297-1(b)) is amended by inserting before the period a comma and the following: "$400,000 for the fiscal year ending September 30, 1983, and $800,000 for the fiscal year ending September 30, 1984".

(c)(1)(A) Section 737(2) of such Act (42 U.S.C. 294j(2)) is amended by inserting "in a State" after "means a school".

(B) Section 781(a)(2) of such Act (42 U.S.C. 295g-1(a)(2)) is amended by striking out "under area health education center programs".

(C) Section 791A(b)(3)(A) of such Act (42 U.S.C. 295h-1a(b)(3)(A)) is amended by striking out "postbaccalaureate" and inserting in lieu thereof "baccalaureate".

(2) Section 791(c)(2)(A) of such Act (42 U.S.C. 295h(c)(2)(A)) is amended to read as follows:

"(A) such application contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) beginning in the fiscal year for which the applicant receives a grant under subsection (a) that—

"(i) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted; and

(ii) such entity shall expend or obligate at least $100,000 in funds from non-Federal sources to conduct such programs; and".

(3)(A) Section 709(d) of such Act (42 U.S.C. 292i(d)) is amended to read as follows:

"(d) Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.".

(B) Title VIII of such Act is amended by adding at the end thereof the following:

"TECHNICAL ASSISTANCE

"SEC. 857. Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.".

(4) Section 1602(f)(2) of such Act (42 U.S.C. 300g-2(f)(2)) is amended by inserting after "including" the following: "selling real property pledged as security for such a loan or loan guarantee and".

(5) Section 306(l)(2) of such Act (42 U.S.C. 242k(l)(2)) is amended by striking out subparagraph (D) and redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(6) Section 308(d) of such Act (42 U.S.C. 242m(d)) is amended (1) by inserting ", if an establishment or person supplying the information or described in it is identifiable," after "No information", and (2) by striking out "authorized by guidelines in effect under section 306(l)(2) or under regulations of the Secretary" and inserting in lieu thereof "such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose".

(7) Section 330(d)(2) of such Act (42 U.S.C. 254c(d)(2)) is amended by inserting before "and the costs" the following: ", the costs of repaying loans made by the Farmers Home Administration for buildings,".

(8) Section 207(a)(1) of such Act (42 U.S.C. 209(a)(1)) is amended by inserting "psychology," after "pharmacy,".

(9) Section 302 of the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79) is repealed.

(d)(1) The paragraph beginning with "Service and supply fund:" under the heading "PUBLIC HEALTH SERVICE" in the Federal Security Agency Appropriation Act, 1946 (42 U.S.C. 231) is amended by inserting ", or in advance," after "stock furnished".

(2)(A) The matter in section 1706(a) (42 U.S.C. 300u-5(a)) of the Public Health Service Act preceding paragraph (1) is amended by striking out "Health Information, Health Promotion and Physical Fitness and Sports Medicine" and inserting instead "Health Promotion".

(B) The section heading for section 1706 of such Act (42 U.S.C. 300u-5) is amended to read as follows:

"OFFICE OF HEALTH PROMOTION".

(e) The first sentence of section 311(c)(2) of such Act (42 U.S.C. 243(c)(2)) is amended by striking out "forty-five days" and inserting instead "six months".

(f) Section 1932 of such Act is amended by—

(1) inserting "(a)" after "1932.", and

(2) adding a new subsection (b) as follows:

"(b) The Secretary shall promulgate separate regulations governing the administration of this part. Such regulations shall take into account the distinctive features of the grant program authorized under this part.".

(g) From the funds appropriated under section 419B of such Act or under any other applicable provision of law, the Secretary of Health and Human Services shall provide for the development and support of not less than ten comprehensive centers for sickle cell disease.

SEC. 8. Of the funds available to the Interagency Task Force on Acid Deposition, pursuant to the Energy Security Act of 1980, there shall be made available $800,000 for the purposes of studying the effects of acid deposition on the Quabbin Reservoir in Massachusetts.

SEC. 9. Title 35, United States Code is amended by adding the following new section:

"§ 155. Patent term extension

"Notwithstanding the provisions of section 154, the term of a patent which encompasses within its scope a composition of matter or a process for using such composition shall be extended if such composition or process has been subjected to a regulatory review by the Federal Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act leading to the publication of regulation permitting the interstate distribution and sale of such composition or process and for which there has thereafter been a stay of regulation of approval imposed pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act which stay was in effect on January 1, 1981, by a length of time to be measured from the date such stay of regulation of approval was imposed until such proceedings are finally resolved and commercial marketing permitted. The patentee, his heirs, successors or assigns shall notify the Commissioner of Patents and Trademarks within ninety days of the date of enactment of this section or the date the stay of regulation of approval has been removed, whichever is later, of the number of the patent to be extended and the date the stay was imposed and the date commercial marketing was permitted. On receipt of such notice, the Commissioner shall promptly issue to the owner of record of the patent a certificate of extension, under seal, stating the fact and length of the extension and identifying the composition of matter or process for using such composition to which such extension is applicable. Such certificate shall be recorded in the official file of each patent extended and such certificate shall be considered as part of the original patent, and an appropriate notice shall be published in the Official Gazette of the Patent and Trademark Office.".

House Amendment to Senate Amendment:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE; FINDINGS

SECTION 1. (a) This Act may be cited as the "Orphan Drug Act".

(b) The Congress finds that—

(1) there are many diseases and conditions, such as Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette syndrome, and muscular dystrophy which affect such small numbers of individuals residing in the United States that the diseases and conditions are considered rare in the United States;

(2) adequate drugs for many of such diseases and conditions have not been developed;

(3) drugs for these diseases and conditions are commonly referred to as "orphan drugs";

(4) because so few individuals are affected by any one rare disease or condition, a pharmaceutical company which develops an orphan drug may reasonably expect the drug to generate relatively small sales in comparison to the cost of developing the drug and consequently to incur a financial loss;

(5) there is reason to believe that some promising orphan drugs will not be developed unless changes are made in the applicable Federal laws to reduce the costs of developing such drugs and to provide financial incentives to develop such drugs; and

(6) it is in the public interest to provide such changes and incentives for the development of orphan drugs.

AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 2. (a) Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"Subchapter B—Drugs for Rare Diseases or Conditions

"RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 525. (a) The sponsor of a drug for a disease or condition which is rare in the States may request the Secretary to provide written recommendations for the nonclinical and clinical investigations which must be conducted with the drug before—

"(1) it may be approved for such disease or condition under section 505, or

"(2) if the drug is a biological product, before it may be licensed for such disease or condition under section 351 of the Public Health Service Act.

If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for a disease or condition which is rare in the States, the Secretary shall provide the person making the request written recommendations for the nonclini-

cal and clinical investigations which the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for such disease or condition under section 505 or licensing under section 351 of the Public Health Service Act for such disease or condition.

"(b) The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"DESIGNATION OF DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 526. (a)(1) The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for a rare disease or condition. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for a rare disease or condition and—

"(A) if an application for such drug is approved under section 505, or

"(B) if the drug is a biological product, a license is issued under section 351 of the Public Health Service Act.

the approval or license would be for use for such disease or condition, the Secretary shall designate the drug as a drug for such disease or condition. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (b) respecting the designation of the drug.

"(2) For purposes of paragraph (1), the term 'rare disease or condition' means any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date the request for designation of the drug under this subsection is made.

"(b) Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(c) The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"PROTECTION FOR UNPATENTED DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 527. (a) Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505(b), or

"(2) issues a license under section 351 of the Public Health Service Act,

for a drug designated under section 526 for a rare disease or condition and for which a United States Letter of Patent may not be issued, the Secretary may not approve another application under section 505(b) or issue another license under section 351 of the Public Health Service Act for such drug for such disease or condition for a person who is not the holder of such approved application or of such license until the expiration of seven years from the date of the approval of the approved application or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) If an application filed pursuant to section 505(b) is approved for a drug designated under section 526 for a rare disease or condition or a license is issued under section 351 of the Public Health Service Act for such a drug and if a United States Letter of Patent may not be issued for the drug, the Secretary may, during the seven-year period beginning on the date of the application approval or of the issuance of the license, approve another application under section 505(b), or, if the drug is a biological product, issue a license under section 351 of the Public Health Service Act, for such drug for such disease or condition for a person who is not the holder of such approved application or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with the disease or condition for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications or the issuance of other licenses before the expiration of such seven-year period.

"OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 528. If a drug is designated under section 526 as a drug for a rare disease or condition and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary shall encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with the disease or condition who need the drug to treat the disease or condition and who cannot be satisfactorily treated by available alternative drugs.".

(b) Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by inserting before section 501 the following:

"Subchapter A—Drugs and Devices.".

ORPHAN PRODUCTS BOARD

SEC. 3. Title II of the Public Health Service Act is amended by adding at the end the following:

"ORPHAN PRODUCTS BOARD

SEC. 227. (a) There is established in the Department of Health and Human Services a board for the development of drugs (including biologics) and devices (including diagnostic products) for rare diseases or conditions to be known as the Orphan Products Board. The Board shall be comprised of the Assistant Secretary for Health of the Department of Health and Human Services and representatives, selected by the Secretary of the Food and Drug Administration, the National Institutes of Health, the Centers for Disease Control, and any other Federal department or agency which the Secretary determines has activities relating to drugs and devices for rare diseases or conditions. The Assistant Secretary for Health shall chair the Board.

"(b) The function of the Board shall be to promote the development of drugs and devices for rare diseases or conditions and the coordination among Federal, other public, and private agencies in carrying out their respective functions relating to the development of such articles for such diseases or conditions.

"(c) In the case of drugs for rare diseases or conditions the Board shall—

"(1) evaluate—

"(A) the effect of subchapter B of the Federal Food, Drug, and Cosmetic Act on the development of such drugs, and

"(B) the implementation of such subchapter;

"(2) evaluate the activities of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration for the development of drugs for such diseases or conditions,

"(3) assure appropriate coordination among the Food and Drug Administration, the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, and the Centers for Disease Control in the carrying out of their respective functions relating to the development of drugs for such diseases or conditions to assure that the activities of each agency are complementary,

"(4) assure appropriate coordination among all interested Federal agencies, manufacturers, and organizations representing patients, in their activities relating to such drugs,

"(5) with the consent of the sponsor of a drug for a rare disease or condition exempt under section 505(i) of the Federal Food, Drug, and Cosmetic Act or regulations issued under such section, inform physicians and the public respecting the availability of such drug for such disease or condition and inform physicians and the public respecting the availability of drugs approved under section 505(c) of such Act or licensed under section 351 of this Act for rare diseases or conditions,

"(6) seek business entities and others to undertake the sponsorship of drugs for rare diseases or conditions, seek investigators to facilitate the development of such drugs, and seek business entities to participate in the distribution of such drugs, and

"(7) recognize the efforts of public and private entities and individuals in seeking the development of drugs for rare diseases or conditions and in developing such drugs.

"(d) The Board shall consult with interested persons respecting the activities of the Board under this section and as part of such consultation shall provide the opportunity for the submission of oral views.

"(e) The Board shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report—

"(1) identifying the drugs which have been designated under section 526 of the Federal Food, Drug, and Cosmetic Act for a rare disease or condition,

"(2) describing the activities of the Board, and

"(3) containing the results of the evaluations carried out by the Board.

The Director of the National Institutes of Health and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall submit to the Board for inclusion in the annual report a report on the rare disease and condition research activities of the Institutes of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration; the Secretary of the Treasury shall submit to the Board for inclusion in the annual report a report on the use of the credit against tax provided by section 44H of the Internal Revenue Code of 1954; and the Secretary of Health and Human Services shall submit to the Board for inclusion in the annual report a report on the program of assistance under section 5 of the Orphan Drug Act for the development of drugs for rare diseases and conditions. Each annual

report shall be submitted by June 1 of each year for the preceding calendar year.".

TAX CREDIT FOR TESTING EXPENSES FOR DRUGS FOR RARE DISEASES OR CONDITIONS

SEC. 4. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44G the following new section:

"SEC. 44H. CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified clinical testing expenses for the taxable year.

"(b) QUALIFIED CLINICAL TESTING EXPENSES.—For purposes of this section—

"(1) QUALIFIED CLINICAL TESTING EXPENSES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified clinical testing expenses' means the amounts which are paid or incurred by the taxpayer during the taxable year which would be described in subsection (b) of section 44F if such subsection were applied with the modifications set forth in subparagraph (B).

"(B) MODIFICATIONS.—For purposes of subparagraph (A), subsection (b) of section 44F shall be applied—

"(i) by substituting 'clinical testing' for 'qualified research' each place it appears in paragraphs (2) and (3) of such subsection, and

"(ii) by substituting '100 percent' for '65 percent' in paragraph (3)(A) of such subsection.

"(C) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified clinical testing expenses' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

"(D) SPECIAL RULE.—For purposes of this paragraph, section 44F shall be deemed to remain in effect for periods after December 31, 1985.

"(2) CLINICAL TESTING.—

"(A) IN GENERAL.—The term 'clinical testing' means any human clinical testing—

"(i) which is carried out under an exemption for a drug being tested for a rare disease or condition under section 505(i) of the Federal Food, Drug, and Cosmetic Act (or regulations issued under such section),

"(ii) which occurs—

"(I) after the date such drug is designated under section 526 of such Act, and

"(II) before the date on which an application with respect to such drug is approved under section 505(b) of such Act, and

"(iii) which is conducted by or on behalf of the taxpayer to whom the designation under such section 526 applies.

"(B) TESTING MUST BE RELATED TO USE FOR RARE DISEASE OR CONDITION.—Human clinical testing shall be taken into account under subparagraph (A) only to the extent such testing is related to the use of a drug for the rare disease or condition for which it was designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

"(c) COORDINATION WITH CREDIT FOR INCREASING RESEARCH EXPENDITURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any qualified clinical testing expenses for a taxable year to which an election under this section applies shall not be taken into account for purposes of determining the credit allowable under section 44F for such taxable year.

"(2) EXPENSES INCLUDED IN DETERMINING BASE PERIOD RESEARCH EXPENSES.—Any qualified clinical testing expenses for any taxable year which are qualified research expenses (within the meaning of section 44F(b)) shall be taken into account in determining base period research expenses for purposes of applying section 44F to subsequent taxable years.

"(d) DEFINITION AND SPECIAL RULES.—

"(1) RARE DISEASE OR CONDITION.—For purposes of this section, the term 'rare disease or condition' means any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date such drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(3) SPECIAL LIMITATIONS ON FOREIGN TESTING.—

"(A) IN GENERAL.—No credit shall be allowed under this section with respect to any clinical testing conducted outside the United States unless—

"(i) such testing is conducted outside the United States because there is an insufficient testing population in the United States, and

"(ii) such testing is conducted by a United States person or by any other person who is not related to the taxpayer to whom the designation under section 526 of the Federal Food, Drug, and Cosmetic Act applies.

"(B) SPECIAL LIMITATION FOR CORPORATIONS TO WHICH SECTION 934(B) OR 936 APPLIES.—No credit shall be allowed under this section with respect to any clinical testing conducted by a corporation to which section 934(b) applies or to which an election under section 936 applies.

"(4) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (1) and (2) of section 44F(f) shall apply for purposes of this section.

"(5) ELECTION.—This section shall apply to any taxpayer for any taxable year only if such taxpayer elects (at such time and in such manner as the Secretary may by regulations prescribe) to have this section apply for such taxable year.

"(e) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 1987."

(b)(1) Section 280C of such Code (relating to denial of deduction for portion of wages for which credit is claimed under section 40 or 44B) is amended by adding at the end thereof the following new subsection:

"(c) CREDIT FOR QUALIFIED CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS.—

"(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified clinical testing expenses (as defined in section 44H(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 44H (determined without regard to subsection (d)(2) thereof).

"(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

(A) the amount of the credit allowable for the taxable year under section 44H (determined without regard to subsection (d)(2) thereof), exceeds

"(B) the amount allowable as a deduction for the taxable year for qualified clinical testing expenses (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

"(3) CONTROLLED GROUPS.—In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 44F(f)(5)) or a trade or business which is treated as being under common control with other trades or business (within the meaning of section 44F(f)(1)(B)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subparagraphs (A) and (B) of section 44F(f)(1)."

(2)(A) The section heading of section 280C of such Code is amended to read as follows:

"SEC. 280C. CERTAIN EXPENSES FOR WHICH CREDITS ARE ALLOWABLE."

(B) The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 280C and inserting in lieu thereof the following:

"Sec. 280C. Certain expenses for which credits are allowable."

(c)(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44G the following new item:

"Sec. 44H. Clinical testing expenses for certain drugs for rate diseases or conditions."

(2) Subsection (b) of section 6096 of such Code is amended by striking out "and 44G" and inserting in lieu thereof "44G, and 44H".

(d) The amendments made by this section shall apply to amounts paid or incurred after December 31, 1982, in taxable years ending after such date.

GRANTS AND CONTRACTS FOR DEVELOPMENT OF DRUGS FOR RARE DISEASES AND CONDITIONS

SEC. 5. (a) The Secretary may make grants to and enter into contracts with public and private entities and individuals to assist in defraying the costs of qualified clinical testing expenses incurred in connection with the development of drugs for rare diseases and conditions.

(1) The term "qualified clinical testing" means any human clinical testing—

(A) which is carried out under an exemption for a drug for a rare disease or condition under section 505(i) of the Federal Food, Drug, and Cosmetic Act (or regulations issued under such section),

(B) which occurs—

(i) after the date such drug is designated under section 526 of such Act, and

(ii) before the date on which an application with respect to such drug is submitted under section 505(b) of such Act.

(2) The term "rare disease or condition" means any disease or condition which occurs so infrequently in the United States that

there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date the request for designation of the drug under this subsection is made.

(c) For grants and contracts under subsection (a) there are authorized to be appropriated $4,000,000 for fiscal year 1983 and for each of the next two fiscal years.

HOME HEALTH SERVICES

SEC. 6. (a) Part D of title III of the Public Health Service Act is amended by inserting after subpart II the following new subpart:

"Subpart III—Home Health Services

"HOME HEALTH SERVICES

"SEC. 339. (a)(1) For the purposes of encouraging the establishment and initial operation of home health programs to provide home health services in areas in which such services are inadequate or not readily accessible, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities and loans to proprietary entities to meet the initial costs of establishing and operating such home health programs. Such grants and loans may include funds to provide training for paraprofessionals (including homemaker home health aides) to provide home health services.

"(2) In making grants and loans under this subsection, the Secretary shall—

"(A) consider the relative needs of the several States for home health services;

"(B) give preference to areas in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or disabled; and

"(C) give special consideration to areas with inadequate means of transportation to obtain necessary health services.

"(3)(A) No loan may be made to a proprietary entity under this section unless the application of such entity for such loan contains assurances satisfactory to the Secretary that—

"(i) at the time the application is made the entity is fiscally sound;

"(ii) the entity is unable to secure a loan for the project for which the application is submitted from non-Federal lenders at the rate of interest prevailing in the area in which the entity is located; and

"(iii) during the period of the loan, such entity will remain fiscally sound.

"(B) Loans under this section shall be made at an interest rate comparable to the rate of interest prevailing on the date the loan is made with respect to the marketable obligations of the United States of comparable maturities, adjusted to provide for administrative costs.

"(4) Applications for grants and loans under this subsection shall be in such form and contain such information as the Secretary shall prescribe.

"(5) There are authorized to be appropriated for grants and loans under this subsection $5,000,000 for each of the fiscal years ending on September 30, 1983, and September 30, 1984.

"(b)(1) The Secretary may make grants to and enter into contracts with public and private entities to assist them in developing appropriate training programs for paraprofessionals (including homemaker home health aides) to provide home health services.

"(2) Any program established with a grant or contract under this subsection to train homemaker home health aides shall—

"(A) extend for at least forty hours, and consist of classroom instruction and at least twenty hours (in the aggregate) of supervised clinical instruction directed toward preparing students to deliver home health services;

"(B) be carried out under appropriate professional supervision and be designed to train students to maintain or enhance the personal care of an individual in his home in a manner which promotes the functional independence of the individual; and

"(C) include training in—

"(i) personal care services designed to assist an individual in the activities of daily living such as bathing, exercising, personal grooming, and getting in and out of bed; and

"(ii) household care services such as maintaining a safe living environment, light housekeeping, and assisting in providing good nutrition (by the purchasing and preparation of food).

"(3) In making grants and entering into contracts under this subsection, special consideration shall be given to entities which establish or will establish programs to provide training for persons fifty years of age and older who wish to become paraprofessionals (including homemaker home health aides) to provide home health services.

"(4) Applications for grants and contracts under this subsection shall be in such form and contain such information as the Secretary shall prescribe.

"(5) There are authorized to be appropriated for grants and contracts under this subsection $2,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984.

"(c) The Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on or before January 1, 1984, with respect to—

"(1) the impact of grants made and contracts entered into under subsections (a) and (b) (as such subsections were in effect prior to October 1, 1981);

"(2) the need to continue grants and loans under subsections (a) and (b) (as such subsections are in effect on the day after the date of enactment of the Orphan Drug Act); and

"(3) the extent to which standards have been applied to the training of personnel who provide home health services.

"(d) For purposes of this section, the term 'home health services' has the meaning prescribed for the term by section 1861(m) of the Social Security Act.".

"(b) The Secretary shall report the results of studies currently evaluating home and community based health services, and any recommendations for legislative action which might improve the provision of such services, to the Congress prior to January 1, 1985.

"(c) The Secretary of Health and Human Services shall compile and analyze the results of significant studies carried out by any public or private entity, group, or individual, relating to current and alternative reimbursement methodologies for home health services. The Secretary shall make recommendations with respect to such reimbursement methodologies as they might be applied in health care programs funded in whole or in part by Federal funds, and report such recommendations to the Congress within 180 days after the date of the enactment of this Act.

"(d) The Secretary of Health and Human Services, acting through the Inspector General of the Department of Health and Human Services, shall undertake a thorough investigation of—

(1) the methods available to stem fraud and abuse in the provision of home health services under medicare and medicaid; and

(2) the extent to which such methods are applied in stemming such fraud and abuse.

The Secretary shall report the results of the investigation to the Congress within 18 monts after the date of the enactment of this Act.

(e)(1) The Secretary of Health and Human Services shall develop and carry out demonstration projects commencing no later than January 1, 1984, to test—

(A) methods for identifying patients at risk of institutionalization who could be treated more cost-effectively with home health services and other non-institutional health services; and

(B) alternative reimbursement methodologies for home health agencies in order to determine the most cost-effective and efficient way of providing home health services.

(2) Methods for identifying patients at risk of institutionalization to be tested by the Secretary under paragraph (1)(A) may include, but not be limited to, the identification of hospitalized medicare patients who are candidates for early discharge due to availability of home health services and individuals in the community who could avoid institutionalization with the availability of home health services.

(3) Reimbursement methodologies to be tested by the Secretary under paragraph (1)(B) may include but not be limited to fee schedules, prospective reimbursement, and capitation payments.

(4) The Secretary shall report to Congress his findings with regard to the demonstrations carried out under paragraph (1) no later than January 1, 1985.

(f) For purposes of this section, the term "home health services" has the meaning prescribed for the term by section 1861(m) of the Social Security Act.

ANALYSIS OF THYROID CANCER; ACTIONS BY SECRETARY

SEC. 7. (a) In carrying out section 301 of the Public Health Service Act, the Secretary of Health and Human Services shall—

(1) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the risks of thyroid cancer that are associated with thyroid doses of Iodine 131;

(2) conduct scientific research and prepare analyses necessary to develop valid and credible methods to estimate the thyroid doses of Iodine 131 that are received by individuals from nuclear bomb fallout;

(3) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the exposure to Iodine 131 that the American people received from the Nevada atmospheric nuclear bomb tests; and

(4) prepare and transmit to the Congress within one year after the date of enacement of this Act a report with respect to the activities conducted in carrying out paragraphs (1), (2), and (3).

(b)(1) Within one year after the date of enactment of this Act, the Secretary of Health and Human Services shall devise and publish radioepidemiological tables that estimate the likelihood that persons who have or have had any of the radition related cancers and who have received specific doses

prior to the onset of such disease developed cancer as a result of these doses. These tables shall show a probability of causation of developing each raditation related cancer associated with receipt of doses ranging from 1 millirad to 1,000 rads in terms of sex, age at time of exposure, time from exposure to the onset of the cancer in question, and such other categories as the Secretary, after consulting with appropriate scientific experts, determines to be relevant. Each probability of causation shall be calculated and displayed as a single percentage figure.

(2) At the time the Secretary of Health and Human Services publishes the tables pursuant to paragraph (1), such Secretary shall also publish—

(A) for the tables of each radiation related cancer, an evaluation which will assess the credibility, validity, and degree of certainly associated with such tables; and

(B) A compilation of the formulas that yielded the probabilities of causation listed in such tables. Such formulas shall be published in such a manner and together with information necessary to determine the probability of causation of any individual who has or has had a radiation related cancer and has received any given dose.

(3) The tables specified in paragraph (1) and the formulas specified in paragraph (2) shall be devised from the best available data that are most applicable to the United States, and shall be devised in accordance with the best available scientific procedures and expertise. The Secretary of Health and Human Services shall update these tables and formulas every four years, or whenever he deems it necessary to insure that they continue to represent the best available scientific data and expertise.

TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 8.(a) Section 207(a)(1) of such Act (42 U.S.C. 209(a)(1)) is amended by inserting "psychology," after "pharmacy,".

(b) Section 306(1)(2) of such Act (42 U.S.C. 242k(1)(2)) is amended by striking out subparagraph (D) and redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(c) Section 308(d) of such Act (42 U.S.C. 242m(d)) is amended (1) by inserting ", if an establishment or person supplying the information or described in it is identifiable," after "No information", and (2) by striking out "authorized by guidelines in effect under section 306(1)(2) or under regulations of the Secretary" and inserting in lieu thereof "such establishment or person has consented (as determined under regulations of the Secretary to its use for such other purpose".

(d) The first sentence of section 311(c)(2) of such Act (42 U.S.C. 243(c)(2)) is amended by striking out "forty-five days" and inserting instead "six months".

(e) Section 330(d)(2) of such Act (42 U.S.C. 254c(d)(2)) is amended by inserting before "and the costs" the following: ", the costs of repaying loans made by the Farmers Home Administration for buildings,".

(f) Section 337(a) of such Act (42 U.S.C. 254j(a)) is amended by striking out "carrying out this subpart" and inserting in lieu thereof "carrying out this subpart (other than section 338G)".

(g)(1) Section 338B(e) of the Public Health Service Act (42 U.S.C. 254m-(e)) is amended by inserting before the period the following: "or under section 225 as in effect on September 30, 1977".

(2) Section 338D(b) of such Act (42 U.S.C. 294w(b)) is amended by striking out "section 338F(b)" and inserting in lieu thereof "section 338E(d)".

(3) Section 338E(d)(1) of such Act (42 U.S.C. 294x(d)(1)) is amended by striking out "section 338D(c)" and inserting in lieu thereof "section 338D(b)".

(h) Section 340(g) of the Public Health Service Act (42 U.S.C. 256(g)) is amended (1) by striking out "and" after "1980," in paragraph (a) and by inserting before the period in that paragraph a comma and "and $3,000,000 for the fiscal year ending September 30, 1982", and (2) by inserting "and" after "1980," in paragraph (2) and by striking out in that paragraph ", and $3,000,000 for the fiscal year ending September 30, 1982".

(i) Section 737(2) of such Act (42 U.S.C. 294j(2)) is amended by inserting "in a State" after "means a school".

(j) Section 781(a)(2) of such Act (42 U.S.C. 295g-1(a)(2)) is amended by striking out "under area health education center programs".

(k)(1) Section 791A(B)(3)(A) of such Act (42 U.S.C. 295h-1a(b)(3)(A)) is amended by striking out "postbaccalaureate" and inserting in lieu thereof "baccalaureate".

(2) Section 791(c)(2)(A) of such Act (42 U.S.C. 295h(c)(2)(A)) is amended to read as follows:

"(A) such application contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) beginning in the fiscal year for which the applicant receives a grant under subsection (a) that—

"(i) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted; and

"(ii) such entity shall expend or obligate at least $100,000 in funds from non-Federal sources to conduct such programs; and".

(l) Section 831(b) of such Act (42 U.S.C. 297-1(b)) is amended by inserting before the period a comma and the following: "$400,000 for the fiscal year ending September 30, 1983, and $800,000 for the fiscal year ending September 30, 1984".

(m) Title VIII of such Act is amended by adding at the end thereof the following:

"TECHNICAL ASSISTANCE

"SEC. 857. Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.".

(n) Sections 1001(c), 1003(b), and 1005(b) of such Act (42 U.S.C. 300(c), 300a-1(b), 300a-3(b)) are each amended by striking out the comma after "1981" and inserting in lieu thereof a semicolon.

(o) Section 1101(b) of such Act (42 U.S.C. 300b(b)) (as in effect before its repeal by section 2193(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by inserting a comma after "1981".

(p) Section 1536 of such Act (42 U.S.C. 300n-5) (as amended by section 935 of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out "this title and" and inserting in lieu thereof "this title and—".

(q) Section 1602(f)(2) of such Act (42 U.S.C. 300g-2(f)(2)) is amended by inserting after "including" the following: "selling real property pledged as security for such loan or loan guarantee and".

(r)(1) The matter in section 1706(a) (42 U.S.C. 300u-5(a)) of the Public Health Service Act preceding paragraph (1) is amended by striking out "Health Information, Health Promotion and Physical Fitness and Sports Medicine" and inserting instead "Health Promotion".

(2) The section heading for section 1706 of such Act (42 U.S.C. 300u-5) is amended to read as follows:

"OFFICE OF HEALTH PROMOTION".

(s) The second sentence of section 1904(a)(1)(F) of such Act (42 U.S.C. 300w-3(a)(F)) is amended by striking out "equipment for the systems" and inserting in lieu thereof "equipment for the systems (other than systems with respect to which grants were made as prescribed by section 1905(c)(2))".

(t) Effective October 1, 1982, section 1912(b) of such Act (42 U.S.C. 300x-1(b)) is amended to read as follows:

"(b)(1) From the remainder of the amount appropriated under section 1911 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such remainder for that fiscal year as the amounts—

"(A) which would have been provided by the Secretary to the State and entities in the State under section 301 of this Act for mental health services demonstrations and under the Community Mental Health Centers Act and the Mental Health Systems Act for mental health services for fiscal year 1981 if the Secretary had obligated all the funds for such purposes available for such Acts under Public Law 96-536, and

"(B) provided by the Secretary to the State and entities in the State under the laws referred to in subparagraphs (D) and (E) of paragraph (2) for fiscal year 1980,

bore to the total amount appropriated for mental health services demonstrations and mental health services for fiscal year 1981 under Public Law 96-536 for section 301 of this Act, the Community Mental Health Centers Act and the Mental Health Systems Act and the total amount appropriated for fiscal year 1980 for the provisions of law referred to in subparagraphs (D) and (E) of paragraph (2).

"(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981:

"(A) The Community Mental Health Centers Act.

"(B) The Mental Health Systems Act.

"(C) Section 301 of this Act.

"(D) Sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act of 1970.

"(E) Sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

"(3) For purposes of paragraph (1), the total amount appropriated under Public Law 96-536 for mental health services demonstrations under section 301 of this Act shall be deemed not to exceed $20,000,000; and if such total amount did exceed $20,000,000, the amount that would have been provided to each State and entities in each State shall be ratably reduced for purposes of paragraph (1)(A) to conform to the limit prescribed by this paragraph.

"(4) To the extent that all the funds appropriated under section 1911 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1915 for the fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1916(b)(3);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.".

(u)(1) Section 1915(c)(5) of such Act (42 U.S.C. 300x-4(c)(5)) is amended (1) by inserting "procedures for" before "procedural", and (2) by striking out "review procedures" and inserting in lieu thereof "review".

(2)(A) Section 1915(c)(6)(A)(i) of such Act (42 U.S.C. 300x-4(c)(6)(A)(i)) is amended—

(i) by striking out "for mental health services";

(ii) by inserting "for mental health services" after "fiscal year 1981";

(iii) by inserting "for mental health services demonstrations under section 301 of this Act" before "if the Secretary"; and

(iv) by striking out "such Acts" each place it occurs and inserting in lieu thereof "such provisions of law".

(B) Section 1915(c)(6)(A)(ii) of such Act (42 U.S.C. 300x-4(c)(6)(A)(ii)) is amended—

(i) by striking out "for mental health services";

(ii) by inserting "for mental health services" after "fiscal year 1981";

(iii) by inserting "and for mental health services demonstrations under section 301 of this Act" before "if the Secretary"; and

(iv) by striking out "such Acts" and inserting in lieu thereof "such provisions of law".

(v) Section 1932 of such Act is amended by—

(1) inserting "(a)" after "1932.", and

(2) adding a new subsection (b) as follows:

"(b) The Secretary shall promulgate separate regulations governing the administration of this part. Such regulations shall take into account the distinctive features of the grant program authorized under this part.".

(w) From the funds appropriated under section 419B of such Act or under any other applicable provision of law, the Secretary of Health and Human Services shall provide for the development and support of not less than ten comprehensive centers for sickle cell disease.

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 9. (a) Section 931(a) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "'1980,'" in paragraphs (1), (2), and (3) and inserting in lieu thereof "'1980;'".

(b) Section 936(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "300m(d)(1)(B)(ii)" and inserting in lieu thereof "300m(d)(1)(B)".

(c) Section 942(i) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out " 'feasible (1)' " and inserting in lieu thereof " 'feasible (i)' ".

(d)(1) Section 963(b)(4) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "clause (2)" and inserting in lieu thereof "clause (3)".

(2) Section 311(a)(3) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4577(b)(3)) is amended by striking out the period at the end and inserting in lieu thereof a comma.

(e) Section 965(a) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out paragraph (A) and by redesignating parapraphs (B), (C), and (D) as paragraphs (1), (2), and (3), respectively.

(f) Section 2741(a)(3) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "and 'and' ".

(g)(1) Section 709 of the Controlled Substances Act (21 U.S.C. 904) is amended (1) by striking out subsections (a) and (b), (2) by striking out "(c)", and (3) by amending the section heading to read as follows:

"PAYMENT OF TORT CLAIMS"

(2) The item relating to section 709 in the table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out "Authorizations of Appropriations" and inserting in lieu thereof "Payment of Tort Claims".

(h) Section 302 of the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79 is repealed.)

(i) The paragraph beginning with "Service and supply fund:" under the heading "PUBLIC HEALTH SERVICE" in the Federal Security Agency Appropriation Act, 1946 (42 U.S.C. 231) is amended by inserting ", or in advance," after "stock furnished".

(j)(1) Section 6(b)(1) of the Consumer Product Safety Act (15 U.S.C. 2055(b)(1)) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (4)".

(2) Section 11(c) of such Act (15 U.S.C. 2060(c)) is amended by striking out "section 10(e)(4)" and inserting in lieu thereof "subsection (f)".

(3) Section 15(g)(1) of such Act (15 U.S.C. 2064(g)(1)) is amended by striking out "section 12(c)(1)" and inserting in lieu thereof "12(d)(1)".

(4)(A) Section 19(a)(7) of such Act (15 U.S.C. 2068(a)(7)) is amended by striking out "section 9(d)(2)" and inserting in lieu thereof "section 9(g)(2)".

(B) Paragraph (8) of Section 19(a) of such Act is repealed and paragraph (9) and the first of the two paragraphs (10) are redesignated as paragraphs (8) and (9), respectively.

(5) Section 31(b)(1) of such Act (15 U.S.C. 2080(b)(1)) is amended by striking out the "The Commission" and all that follows through "Substances Act," and inserting in lieu thereof the following:

"(b)(1) The Commission may not issue—

"(A) an advance notice of proposed rulemaking for a consumer product safety rule,

"(B) a notice of proposed rulemaking for a rule under section 27(e), or

"(C) an advance notice of proposed rulemaking for regulations under section 2(q)(1) of the Federal Hazardous Substances Act,".

(k) Section 3(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1472(a)) is amended by striking out ", after consultation with the Technical Advisory Committee provided for in section 6 of this Act".

(l) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) (as amended by section 1211(f)(1) of the Omnibus Budget Reconciliation Act of 1982) is amended by adding at the end thereof the following:

"(e) For purposes of this section (1) the term 'manufacturer' includes an importer for resale, and (2) a dealer who sells at wholesale an article or substance shall with respect to that sale be considered the distributor of that article or substance.".

(m) Section 1211(h)(4) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "by inserting ', Science and Transportation' immediately after 'on Commerce', and".

STUDY

SEC. 10. Of the funds available under section 706 of the Energy Security Act, there shall be made available $800,000 for the costs of a grant or contract for a study of the water quality of the Quabbin Reservoir in Massachusetts.

PATENT TERM EXTENSION

SEC. 11. (a) Title 35, United States Code, is amended by adding the following new section:

"§ 155. Patent term extension

"Notwithstanding the provisions of section 154, the term of a patent which encompasses within its scope a composition of matter or a process for using such composition shall be extended if such composition or process has been subjected to a regulatory review by the Federal Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act leading to the publication of regulation permitting the interstate distribution and sale of such composition or process and for which there has thereafter been a stay of regulation of approval imposed pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act which stay was in effect on January 1, 1981, by a length of time to be measured from the date such stay of regulation of approval was imposed until such proceedings are finally resolved and commercial marketing permitted. The patentee, his heirs, successors or assigns shall notify the Commissioner of Patents and Trademarks within ninety days of the date of enactment of this section or the date the stay of regulation of approval has been removed, whichever is later, of the number of the patent to be extended and the date the stay was imposed and the date commerical marketing was permitted. On receipt of such notice, the Commissioner shall promptly issue to the owner of record of the patent a certificate of extension, under seal, stating the fact and length of the extension and identifying the composition of matter or process for using such composition to which such extension is applicable. Such certificate shall be recorded in the official file of each patent extended and such certificate shall be considered as part of the original patent, and an appropriate notice shall be published in the Official Gazette of the Patent and Trademark Office.".

(b) The analysis for chapter 14 of such title 35 is amended by adding at the end the following:

"155. Patent term extension.".

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. MADIGAN. Mr. Speaker, I reserve the right to object for the purpose of giving the gentleman from California (Mr. WAXMAN) some opportunity to remind the House as to what the orphan drug bill is, to explain briefly the Senate amendment, and also explain the House amendment to the Senate amendment.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for the opportunity to explain this matter.

Mr. Speaker, the Senate amendment to H.R. 5238 includes the Orphan Drug Act in a form similar to that passed by the House in October 1982 by a voice vote. The purpose of the Orphan Drug Act is to provide incentives for the development of drugs for rare diseases and conditions.

There are many diseases and conditions which affect only a small number of people in this country. Examples of such diseases and conditions are Huntington's disease which afflicts 14,000 persons, myoclonus—2,000 persons, ALS (Lou Gehrig's disease)—9,000 persons, Tourette syndrome—100,000 persons, and muscular dystrophy—200,000 persons. Unfortunately, adequate drugs have not been developed for these rare diseases or conditions because pharmaceutical companies expect to lose money on them. The cost of developing such drugs is likely to exceed the relatively small return on sales. As a result, these drugs generally lack a sponsor to undertake the necessary research and development activities to obtain approval by the Food and Drug Administration (FDA). For this reason, they are known as orphan drugs.

The Senate amendment did not change most of the incentives for orphan drug development contained in the House bill. Both amend applicable Federal law to clarify the requirements needed for FDA approval of an orphan drug. Second, both offer exclusive marketing rights on orphan drugs which are not subject to patent protection. These exclusive rights would extend for a period of 7 years. Third, both establish an "Orphan Products Board" to coordinate the activities of the Federal agencies involved in drug research and regulation.

Unfortunately, the Senate amendment deleted from the House bill a 90-percent tax credit for 7 years for the cost of orphan drug development and substituted a 3-year grant program totaling $50 million. The amendment I am offering contains a compromise among the House and Senate tax and legislative committees. The compromise provides a 50-percent tax credit for the cost of conducting human clinical tests and a deduction for the remaining 50 percent of clinical testing expenses. In addition, the compromise authorizes grants of $4 million for 3 fiscal years to defray the cost of orphan drug development. Although this is less than the tax benefits in the House-passed bill, I believe it is a good compromise and will provide sufficient incentives for the development or orphan drugs.

The Senate amendment adds a number of other provisions to the Orphan Drug Act. First, it adds a package of technical and minor amendments to the Public Health Service Act. All of these amendments are included in H.R. 6355 as reported by the Commerce Committee. The House amendment before us makes some additional technical changes which were also in H.R. 6355.

Second, the Senate amendment directs the Secretary of the Department of Health and Human Services to develop radioepidemiological tables which will catalog for each radiogenic cancer the probability that a radioactive dose caused the cancer. The Secretary is also required to study the relationship between iodine 131 and thyroid cancer.

Third, the Senate amendment provides a small grant and loan program to proprietary entities for the initial cost of establishing and operating home health care centers and for training homemaker health aides.

Also, it requires the Department of Health and Human Services to provide funding for 10 comprehensive sickle cell centers.

Further, it directs the Secretary of HHS to promulgate separate regulations for the administration of the primary care block grant.

In addition, it requires the EPA to set aside $800,000 to study the water quality of the Quabbin Reservoir in Massachusetts.

Finally, the Senate amendment extends the patent for a food additive.

As I have indicated, my amendment makes some minor and technical changes in the Senate amendment as well as restores the tax credit for orphan drug development. Both the tax and legislative portions of the amendment have been discussed with the appropriate House and Senate committees, and it is my understanding that it is acceptable to all concerned.

The Senate amendment to which we are concurring contains a provision within the jurisdiction of the Judiciary Committee. Concurrence in this provision does not constitute a waiver of the Judiciary Committee's jurisdiction. The provision has been included because it is identical to one contained in a bill reported by the Judiciary Committee.

Mr. Speaker, I urge adoption of my amendment to the Senate substitute to H.R. 5238.

SECTION-BY-SECTION ANALYSIS OF ORPHAN DRUG ACT

SHORT TITLE; FINDINGS

The Senate amendment to H.R. 5238 as amended by the House (hereafter H.R. 5238) provides that this Act may be cited as the "Orphan Drug Act." The bill reports the Congress' findings that adequate drugs for some diseases or conditions which affect only a small number of U.S. residents are not being developed. Pharmaceutical companies are unwilling to sponsor such drugs for Food and Drug Administration (FDA) approval because development costs are likely to exceed the small return on sales of the drugs. These drugs are known as orphan drugs because no pharmaceutical company will sponsor their development. The Congress also finds that it is in the public interest to amend applicable Federal laws to encourage the development of orphan drugs.

RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES OR CONDITIONS

H.R. 5238 establishes a new subchapter B in Chapter 5 of the Federal Food, Drug and Cosmetic Act (FFDCA) and adds a new section 525 to subchapter B.

Section 525(a) provides that the sponsor of a drug (including a biological product) for a disease or condition which is rare in the United States (hereafter known as an orphan drug) may request the Secretary of Health and Human Services (hereafter Secretary) to provide written recommendations for clinical and non-clinical investigations. This request may be made before the drug is designated as an orphan drug. If the Secretary has reason to believe that the drug is an orphan drug, he must provide the sponsor with written recommendations for the investigations which must be conducted before the drug or biological product may be approved under section 505 of FFDCA or licensed under section 351 of the Public Health Service Act (PHSA), respectively. In making such recommendations, the Secretary must exercise his best judgement based upon the information available at the time of the request.

Subsection (b) requires the Secretary to promulgate procedural rules necessary to implement this section.

DESIGNATION OF DRUGS FOR RARE DISEASES OR CONDITIONS

H.R. 5238 adds a new section 526 to FFDCA.

Section 526(a) provides that the manufacturer or sponsor of a drug may request the Secretary to designate the drug as one for a disease or condition. The term "rare disease or condition" is defined as a disease or condition which occurs so infrequently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. Determinations under the definition would be made on the basis of the facts and circumstances as of the date the request for designation of the drug is made.

Upon such a request, the Secretary must so designate the drug if he finds: (1) the drug is being or will be investigated for a disease or condition rare in the United States; and (2) the drug would be used for that rare disease or condition if approved under section 505 of FFDCA or licensed under section 351 of PHSA. As a part of the request for designation as an orphan drug, the manufacturer or sponsor must consent to public notice of the drug's designation.

In determining whether a drug is for a rare disease or condition, the Secretary will look primarily at the number of people who will be able to use the drug. This target population could be all persons with the indicated disease or condition, or because of varying circumstances among the disease group, a subset of all persons with the disease. Once the number of potential users is estimated, then the Secretary would determine whether there is any reasonable expectation that the drug's cost could be recovered.

The requirement that the Secretary determine that a drug sponsor could not reasonably expect to recover its costs is not intend-

ed to establish a test of the "commercial value" of a drug. Rather, it is an effort to focus the Secretary's evaluation on the incidence of the disease and whether the predicted low use will prevent development of the drug.

Subsection (b) requires the Secretary to give notice to the public that a drug has been designated as an orphan drug.

Subsection (c) requires the Secretary to promulgate procedural regulations necessary to implement subsection (a).

PROTECTION FOR UNPATENTED DRUGS FOR RARE DISEASES OR CONDITIONS

H.R. 5238 adds a new section 527 to the FFDCA.

If the Secretary has approved an application for an orphan drug under section 505(b) of FFDCA or issued a license under section 351 of PHSA for which a U.S. Letter of Patent may not be issued, section 527(a) prohibits the Secretary from approving a second application or issuing another license for the same drug until seven years after the approval of the first application or issuance of the first license. Section 505(c)(2) does not apply to the refusal to approve an application under this subsection.

Notwithstanding subsection (a), the Secretary may approve the application of a second sponsor or issue a license to a second sponsor for the same drug under subsection (b) in either of two circumstances. First, if the Secretary finds that the holder of the approved application or license for an orphan drug cannot assure the availability of the drug, then the Secretary may approve a second application or issue another license during the seven year period. In determining the availability of a drug, the test is whether the drug's sponsor is making the drug available and accessible to those afflicted with the disease or condition for which the drug is designated. Before taking this action, the Secretary must provide the holder of the approved application or license with reasonable notice and opportunity for submission of views. This is an informal procedure not subject to the Administrative Procedures Act. The Secretary may also approve a second application or issue another license for an orphan drug if the holder of the first application or license so consents in writing.

OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES OR CONDITIONS

H.R. 5238 adds a new section 527 to FFDCA.

If a notice of claimed exemption under section 505(i) is filed for an orphan drug, section 527 requires the Secretary to encourage the sponsor of an orphan drug to design protocols for human clinical investigations which permit the addition of individuals who need the drug for treatment because there is no satisfactory alternative drug available.

ORPHAN PRODUCTS BOARD

H.R. 5238 adds a new section 227 to Title II of PHSA.

Section 227(a) establishes an Orphan Products Board in the Department of Health and Human Services for the development of drugs, biologics, devices and diagnostic products for rare diseases and conditions. The Board is chaired by the Assistant Secretary for Health and comprised of representatives of FDA, National Institutes of Health (NIH), Centers for Disease Control, and any other department or agency that the Secretary determines is engaged in relevant activities. Representatives of all departments and agencies are selected by the Secretary.

Subsection (b) provides that the function of the Board is to promote the development of orphan drugs and devices and the coordination of Federal, public and private agencies in their activities relating to development of orphan drugs and devices.

Subsection (c) requires the Board to evaluate the effect upon, and implementation of, subchapter B of FFDCA on the development of orphan drugs. Also, the Board must evaluate the activities of NIH and the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) in the development of orphan drugs. Further, the Board must assure appropriate coordination among the relevant Federal agencies as well as manufacturers and organizations representing patients in their activities relating to orphan drugs. Fourth, the Board shall inform physicians and the public of the availability of an orphan drug. Fifth, it shall seek businesses and others to sponsor orphan drugs, investigators to facilitate the development of such drugs, and businesses to distribute such drugs. Finally, the Board shall recognize the efforts of public and private groups and individuals in seeking the development of orphan drugs.

Subsection (d) requires the Board to consult with interested persons regarding its activities. Such consultations must provide the opportunity for the presentation or oral views.

Subsection (e) requires the Board to submit an annual report to the specified Congressional committees which identifies drugs designated under section 526 of FFDCA, describes the activities of the Board, and contains the results of the Board's evaluations. The Director of NIH and the Administrator of ADAMHA must submit a report on their research activities with respect to rare diseases and conditions to the Board for inclusion in the annual report. The Secretary of Treasury must submit a report on the use of the orphan drug tax credit to the Board for inclusion in the annual report. The Secretary of Health and Human Services must also submit a report on the grant program to the Board for inclusion in the annual report. The Board's annual report is to be submitted by June 1 of each year for the preceding year.

TAX CREDIT

Overview

The bill provides an elective nonrefundable income tax credit for certain human clinical testing expenditures ("qualified clinical testing expenses") which are necessary in obtaining the approval by the Food and Drug Administration for the commercial sale of a drug for a rare disease. The rate of the credit is 50 percent of the amount of clinical testing expenditures. The amount of any deduction or charge to capital account attributable to "qualified clinical testing expenses" otherwise allowable is reduced by the amount of the credit. In addition, no credit is allowable under any other provision for amounts eligible for the new credit.

Qualified clinical testing expenses

For purposes of the credit, the bill defines the term "qualified clinical testing expenses" to mean amounts which would qualify as "qualified research expenses" under the credit for research and experimental expenditures (section 44F), with certain modifications. Under these modified rules, a taxpayer's expenditures eligible for the new credit consist of (1) "in-house" expenditures by the taxpayer for wages, supplies, and rentals of personal property used in certain types of testing ("clinical testing") conducted by the taxpayer; and (2) 100 percent of amounts paid to any person by the taxpayer (other than an employee of the taxpayer) for "clinical testing" conducted on the taxpayer's behalf. However, expenditures are not eligible for the credit to the extent that the expenditure is funded by any grant, contract, or otherwise by another person or any governmental entity.

qualified clinical testing

The bill defines the term "clinical testing" to mean any human clinical testing which (1) is carried out under an exemption for a drug being tested for a rare disease under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FFDCA), (2) occurs after the date such drug is designated as a drug for a rare disease under section 526 of such Act, but before the date on which an application with respect to such drug is approved under section 505(b) of such Act, and (3) which is conducted by or on behalf of the taxpayer to whom the designation under such section 526 of such Act applies.

For purposes of the new credit, human clinical testing is the testing which uses human subjects to determine the effects of the drug on human beings and which is necessary for approval of the drug under section 505(b) of the FFDCA. Expenditures are not incurred under a 505(i) exemption unless their primary purpose is to qualify the drug for sale in the United States. Testing is taken into account only if it is related to the use of a drug for the rate disease or condition for which the drug was designated under section 526 of the FFDCA.

Rare disease or condition

For purposes of the credit, the bill defines the term "rare disease" to mean any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation of the taxpayer that the cost of developing and making available in the United States a drug for such disease will be recovered from sales in the United States of such drug, including sales by licensees. This determination with respect to any particular drug is to be made on the basis of the facts and circumstances in existence as of the date on which such drug is designated under section 526 of the FFDCA. Since the Secretary of Health and Human Services must make a similar determination under section 526 of the FFDCA, it is expected that the Secretary of the Treasury generally is to rely on the finding of the Secretary of HHS made under such section 526. However, because the reasonable expectation must be that of the taxpayer, the Secretary of the Treasury may find that a taxpayer's reasonable expectations as of the date of designation of the drug did not satisfy the definition of rare disease for purposes of the credit.

Coordination with credit for increasing research activities

Any qualified clinical testing expenses taken into account in computing the new credit for a taxable year cannot be taken into account for purposes of computing the credit for research and experimental expenditures allowable under section 44F for such taxable year. However, any qualified clinical testing expenses for any taxable year which are qualified research expenses (within the meaning of section 44F(b)) are to be taken into account in determining base period research expenses, for purposes

of applying section 44F to subsequent taxable years.

Limitations on testing outside the United States and testing by possessions corporations

Expenditures for testing outside the United States are not eligible for the credit unless (1) the testing is conducted outside the United States because there is an insufficient testing population in the United States, and (2) the testing is conducted by a United States person or any other person who is not related to the taxpayer to whom the section 526 designation applies. For this purpose, two corporations are unrelated if each owns, directly or indirectly, less than a 10 percent interest in the other.

In addition, the credit is not available for any testing, either inside or outside the United States, conducted by corporations to which section 934(b) or section 936 applies.

Disallowance of deductions

The credit is available for qualified clinical testing expenses for the taxable year regardless of whether the taxpayer has elected under section 174 to expense or amortize research expenditures. However, the amount of any deduction for qualified clinical testing expenses is reduced by the amount of any credit allowed for such expenses. If the taxpayer capitalizes, rather than deducts, the qualified clinical testing expenses otherwise allowable as a deduction for the taxable year, the amount chargeable to capital account for the taxable year is reduced by the excess of the amount of the credit over the amount allowable as a deduction for qualified clinical testing expenses for the taxable year.

Rules for aggregation of related taxpayers

For purposes of the credit, all members of a controlled group of corporations are treated as one taxpayer. Aggregation is also required of all partnerships, proprietorships, and any other trades or businesses which are under common control with the taxpayer. The rules defining these terms are similar to the rules applicable to the credit for research and experimental expenditures.

Effective date

The bill applies to qualified clinical testing expenditures paid or incurred after December 31, 1982, and before January 1, 1988.

GRANTS

H.R. 5238 authorized appropriations to $4 million for fiscal years 1983, 1984 and 1985 for grants to assist eligible entities or individuals to defray the costs of qualified clinical testing expenses. Qualified clinical testing expenses are defined as human clinical testing of a drug designated for a rare disease or condition under section 526 and carried out under a section 505(i) exemption. The term "rare disease or condition" is defined the same throughout the Act.

The purpose of the grant program is to allow FDA to continue its current grant activities. The FDA has identified certain orphan drugs which probably would be sponsored by a drug company if there were some evidence of their effectiveness. FDA makes grants to independent clinical investigators to conduct initial tests to develop that evidence; and if the tests are successful, FDA then seeks drug companies to sponsor the further tests necessary for approval of the drugs.

Under this grant program, FDA would continue to fund independent investigators to conduct initial human clinical tests. It is not intended that FDA make grants to drug companies which utilize the tax credit.

□ 1245

Mr. MADIGAN. Is it correct to describe the Senate amendment with regard to the tax provisions as making the tax benefits less generous for the industry than those that were contained in the House bill which passed the House unanimously?

Mr. WAXMAN. Yes; that is a correct statement. They are less generous than those that passed this House.

Mr. MADIGAN. And is it also correct to identify the House amendment to the Senate amendment as being purely technical in nature, and not dealing with any substantive legislative matter?

Mr. WAXMAN. It is not solely technical in nature. It is to carry out the agreement of all the parties that have been involved in this legislation, as to how the tax benefit would be treated. There was a change to iron out a controversy over another item the Senate had added dealing with a study by one of the Senators.

● Mr. ROSTENKOWSKI. Mr. Speaker, first let me congratulate Chairman WAXMAN of the Subcommittee on Health and Environment of the Committee on Energy and Commerce for his continued diligence in working out a compromise that we hope will result in the enactment of H.R. 5238, the Orphan Drug Act.

This legislation will facilitate the development of drugs for rare diseases or conditions in the United States. It is my understanding that the major thrust of this legislation is to clarify the Food and Drug Administration's approval process for orphan drugs, to coordinate the activities of Federal agencies involved in drug research, and for other purposes.

H.R. 5238 also contains a provision on which Chairman WAXMAN and I have closely consulted. As originally passed by the House on September 28, 1982, the bill allowed a 90-percent tax credit for the cost of conducting human clinical trials as an incentive to developing orphan drugs. The provision before the House today permits a tax credit equal to 50 percent of these costs. This incentive is limited to those cases where there is no reasonable expectation that the cost of developing and making available such orphan drugs in the United States would be recovered from U.S. sales of such drugs. I wish to emphasize that this credit provision is a tax matter within the jurisdiction of the Committee on Ways and Means. However, due to the unique and extremely limited circumstances involved in providing incentives for the development of orphan drugs, I have worked in cooperation with Chairman WAXMAN and the Commerce Committee to expedite consideration of this important legislation. In view of these unique circumstances and the extensive consultation between our two committees, I believe that public policy will be best served by agreeing to the carefully worked out tax provisions in H.R. 5238. Mr. Speaker, I wish to emphasize that this is not intended to constitute a precedent for consideration of other tax measures on nonrevenue legislation. Nor should it be construed as a jurisdictional precedent if amendments to this tax credit prove to be necessary in the future. Rather, it is a practical approach to providing this limited problem with a timely solution.

The tax credit provision in H.R. 5238 is similar in many respects to the research and development tax credit which we enacted in 1981. I am including in the RECORD at the conclusion of my remarks a detailed, technical discussion of the tax credit provision which is intended to be the official legislative history of the tax credit for the interpretative guidance of the Treasury Department and the public.

Mr. Speaker, the new credit provision breaks new ground in determining what is an orphan drug. The provision defines the term "rare disease or condition" as any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease will be recovered from sales in the United States of that drug. The statute provides that this determination shall be made on the basis of the facts and circumstances as of the date such drug is designated under section 526 of the Federal Food, Drug and Cosmetic Act.

This same definition will appear in both the Internal Revenue Code and the Federal Food, Drug, and Cosmetic Act. Thus, both the taxpayer and the FDA must make determinations as to whether there is a reasonable expectation of profit from domestic sales of the drug. Consequently, it is expected that a designation by the FDA under section 526 would constitute sufficient grounds for treatment of a drug as an orphan drug for purposes of the 50-percent tax credit. While all interpretative determinations of the Internal Revenue Code are within the purview of the Department of the Treasury, it is expected that the Treasury Department and the Internal Revenue Service will give due deference to the scientific expertise of the FDA in determining whether the tax credit is available.

It is the intention of the Committee on Ways and Means to monitor closely the impact of this tax incentive, the definition of orphan drug and the administration of this new credit. To that end, the tax credit will sunset at the end of 1987. I am informed by the staff of the Joint Committee on Taxation that the estimated revenue loss resulting from enactment of the 50-percent tax credit for orphan drugs

will be $8 million in fiscal year 1983, $15 million in 1984, 1985, 1986, and 1987, and $7 million in 1988.

Again, I applaud the efforts of Chairman WAXMAN both for providing leadership in stimulating development of these important drugs and for respecting the concerns of the tax writing committees in the development of this particular tax incentive.

Mr. Speaker, I fully support the 50-percent tax credit provided in this legislation and urge its adoption.

CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS

OVERVIEW

The bill provides an elective nonrefundable income tax credit for certain human clinical testing expenditures—"qualified clinical testing expenses"—which are necessary in obtaining the approval by the Food and Drug Administration for the commercial sale of a drug for a rare disease. The rate of the credit is 50 percent of the amount of clinical testing expenditures. The amount of any deduction or charge to capital account attributable to "qualified clinical testing expenses" otherwise allowable is reduced by the amount of the credit. In addition, no credit is allowable under any other provision for amounts eligible for the new credit.

QUALIFIED CLINICAL TESTING EXPENSES

For purposes of the credit, the bill defines the term "qualified clinical testing expenses" to mean amounts which would qualify as "qualified research expenses" under the credit for research and experimental expenditures—section 44F—with certain modifications. Under these modified rules, a taxpayer's expenditures eligible for the new credit consist of first, "in-house" expenditures by the taxpayer for wages, supplies and rentals of personal property used in certain types of testing—clinical testing—conducted by the taxpayer; and second, 100 percent of amounts paid to any person by the taxpayer—other than an employee of the taxpayer—for "clinical testing" conducted on the taxpayer's behalf. However, expenditures are not eligible for the credit to the extent that the expenditure is funded by any grant, contract, or otherwise by another person or any governmental entity.

QUALIFIED CLINICAL TESTING

The bill defines the term "clinical testing" to mean any human clinical testing which first, is carried out under an exemption for a drug being tested for a rare disease under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FFDCA), second, occurs after the date such drug is designated as a drug for a rare disease under section 526 of such act, but before the date on which an application with respect to such drug is approved under section 505(b) of such act, and third, which is conducted by or on behalf of the taxpayer to whom the designation under such section 526 of such act applies.

For purposes of the new credit, human clinical testing is the testing which uses human subjects to determine the effects of the drug on human beings and which is necessary for approval of the drug under section 505(b) of the FFDCA. Expenditures are not incurred under a 505(i) exemption unless their primary purpose is to qualify the drug for sale in the United States. Testing is taken into account only if it is related to the use of a drug for the rare disease or condition for which the drug was designated under section 526 of the FFDCA.

RARE DISEASE OR CONDITION

For purposes of the credit, the bill defines the term "rare disease or condition" to mean any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation of the taxpayer that the cost of developing and making available in the United States a drug for such disease will be recovered from sales in the United States of such drug, including sales by licensees. This determination with respect to any particular drug is to be made on the basis of the facts and circumstances in existence as of the date on which such drug is designated under section 526 of the FFDCA. Since the Secretary of Health and Human Services must make a similar determination under section 526 of the FFDCA, it is expected that the Secretary of the Treasury generally is to rely on the finding of the Secretary of HHS made under such section 526. However, because the reasonable expectation must be that of the taxpayer, the Secretary of the Treasury may find that a taxpayer's reasonable expectations as of the date of designation of the drug did not satisfy the definition of rare disease for purposes of the credit.

COORDINATION WITH CREDIT FOR INCREASING RESEARCH ACTIVITIES

Any qualified clinical testing expenses taken into account in computing the new credit for a taxable year cannot be taken into account for purposes of computing the credit for research and experimental expenditures allowable under section 44F for such taxable year. However, any qualified clinical testing expenses for any taxable year which are qualified research expenses—within the meaning of section 44F(b)—are to be taken into account in determining base period research expenses, for purposes of applying section 44F to subsequent taxable years.

LIMITATIONS ON TESTING OUTSIDE THE UNITED STATES AND TESTING BY POSSESSIONS CORPORATIONS

Expenditures for testing outside the United States are not eligible for the credit unless first, the testing is conducted outside the United States because there is an insufficient testing population in the United States, and second, the testing is conducted by a U.S. person or any other person who is not related to the taxpayer to whom the section 526 designation applies. For this purpose, two corporations are unrelated if each owns, directly or indirectly, less than a 10-percent interest in the other.

In addition, the credit is not available for any testing, either inside or outside the United States, conducted by corporations to which section 934(b) or section 936 applies.

DISALLOWANCE OF DEDUCTIONS

The credit is available for qualified clinical testing expenses for the taxable year regardless of whether the taxpayer has elected under the section 174 to expense or amortize research expenditures. However, the amount of any deduction for qualified clinical testing expenses is reduced by the amount of any credit allowed for such expenses. If the taxpayer capitalizes, rather than deducts, the qualified clinical testing expenses otherwise allowable as a deduction for the taxable year, the amount chargeable to capital account for the taxable year is reduced by the excess of the amount of the credit over the amount allowable as a deduction for qualified clinical testing expenses for the taxable year.

RULES FOR AGGREGATION OF RELATED TAXPAYERS

For purposes of the credit, all members of a controlled group of corporations are treated as one taxpayer. Aggregation is also required of all partnerships, proprietorships, and any other trades or businesses which are under common control with the taxpayer. The rules defining these terms are similar to the rules applicable to the credit for research and experimental expenditures.

EFFECTIVE DATE

The bill applies to qualified clinical testing expenditures paid or incurred after December 31, 1982, and before January 1, 1988.●

● Mr. WEISS. Mr. Speaker, it is with great pleasure that I support H.R. 5238, the Orphan Drug Act. The passage of this legislation will mark a new beginning in the needed development and marketing of drugs for rare diseases.

The problem of orphan drugs is nothing less than a human and social tragedy. Millions of Americans suffer daily from debilitating and often fatal disorders, not because a treatment for their ailment does not exist, but because such treatments are unprofitable to develop and market. The cost of research and development for new drugs is so high that drug manufacturers have no financial incentive to produce drugs unless a mass market exists. Consequently, drugs to treat individuals afflicted with rare diseases

fail to attract the interest or resources of private pharmaceutical manufacturers. Our current system of drug development leaves little hope or promise for the 2,000 individuals affected by myoclonus, the 9,000 affected by ALS, the 14,000 affected by Huntington's disease, the 100,000 affected by Tourette Syndrome, the 200,000 affected by muscular dystrophy, and the millions affected by other orphan illnesses. With few exceptions, the cries of these individuals have gone unheard and unheeded by both industry and government.

The Orphan Drug Act addresses many of the regulatory and economic obstacles that impede the development of these drugs. Specifically, the legislation provides financial incentives in the form of tax credits and grants, adds limited flexibility in the drug approval process for orphan drugs, assures exclusive marketing rights for currently nonpatentable substances that treat rare diseases, and establishes an Orphan Products Board to coordinate Federal activities in this area. While we cannot legislate a panacea for the orphan drug problem, this bill significantly increases the possibility that industry will develop these drugs and that government will be more actively involved in the amelioration of this troubling issue.

I would like to commend the gentleman from California, Mr. WAXMAN, for his efforts and leadership in this area. His work culminates a process begun several years ago by former Representative Elizabeth Holtzman. Early last year, I was proud to have reintroduced the original orphan drug bill which she authored. But most deserving of credit for congressional attention to this problem are those individuals, patients, family members, and physicians who have worked tirelessly to bring their plight into the public arena.

Mr. Speaker, I strongly urge my colleagues to support this responsible and compassionate legislation. It recognizes that those in need of orphan drugs should be afforded the same care and concern as that given to persons afflicted with more prevalent and profitable diseases. And it offers a glimmer of hope to those who are suffering and who deserve a real chance to enjoy a more healthy future.●

Mr. MADIGAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California (Mr. WAXMAN) that the amendments be considered as read?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous that all Members may have 5 legislative days within which to revise and extend their remarks on the measure just considered.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes, and that I may include extraneous and tabular material.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, 1983

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

The SPEAKER. The Chair designates the gentleman from Illinios (Mr. ROSTENKOWSKI) as Chairman of the Committee of the Whole, and requests the gentleman from New York (Mr. PEYSER) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 631) with Mr. PEYSER, Chairman pro tempore, in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the joint resolution is dispensed with.

The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman and my colleagues, first I want to call attention to the urgency of the actions we are to take here. We have to get the joint resolution through the House, through the Senate, through conference, and signed by the President in 4 days. It means, of course, that anything we finally agree on must be agreeable to the President if we are to meet the deadline of December 17.

No one regrets having to operate as we are having to do this year more than I. We need not detail again the circumstances which caused us to be late dealing with our appropriations. We started almost 2 months late because we did not have an agreement on the budget ceiling, also other circumstances beyond the committee's control have made it necessary for us to have this continuing resolution. Members will recall that under an opinion of the attorney general, unless we get this bill signed into law by December 17 all Government activities, or practically all, will come to a standstill. In my opinion, we will have to have an agreement between the House, the Senate, and the White House, that we can all agree upon, by this Friday.

Title II of the resolution, providing for productive employment and helping to improve certain deteriorating aspects of the country, is included because we found a condition that was arising where the soundness of our economy was not being adequately addressed. In recent days, the House passed the defense appropriation bill. We put in commitments that will equal billions of dollars over just the next 4 years. Not only that, we passed that defense bill at a level providing $230 billion in appropriations for fiscal year 1983.

The point that is behind this is that a strong defense is based on a strong economy. So, I welcome the chance to help with the preparation of a resolution that will help with what we need to do to strengthen the economy of this country.

Let me go into a little detail and tell the Members just how we went about it when we were asked to look into this. The Appropriations Committee, so far as I know, is the only place where such extensive hearings are held on so many diverse programs. In the 97th Congress, we had 11,772 witnesses and printed 211 volumes of hearings. So, I called on the subcommittee chairmen to review the hearing record and point out additional unmet needs of the country, to retard the deterioration and preserve its investments, and protect the well-being of this Nation.

May I say that I recognize that Government activity alone cannot get us to recover, but it will be increasing the

wealth of our country and keeping our resources in good shape.

Today, in American agriculture, farmers owe over $200 billion at 15, 16, and even 20 percent interest. If the present values go down as they are doing now, fewer of them will be able to farm next year unless we make special arrangements.

May I call the attention of the Members to why it is necessary, in my opinion, to call the attention of the public and of the Congress to the fact that we are doing something, not merely to create jobs, but to do the work needed in our Nation which will preserve and generate jobs, that would go on creating jobs. Given the current deteriorating situation I defy anyone to see if there is any better way to bring together the hearings which show where we need it and what we need.

We do not tie down the funds provided to specific projects in most instances, because we know that we need the persons who deal with this to have some flexibility so that the whole country will be assisted. In calling on the Secretary of Commerce and the Secretary of the Treasury to conduct a study and report to the Congress, we recognize that we have got to get American business back in world business. In addition to that, we also point out in title II that in this process we need to create what amounts to the old Reconstruction Finance Corporation, because people with problems have different kinds of problems. Some need liquid assets at the moment. We have had experience in this, and although it was controversial at the time, I am glad I supported it. Another example of Government assisting business out of a difficult time is the Chrysler loan program, which has proven to be very worthwhile. Not only has the Government liability been secured, but we see that it got back on the track. We also saw this cooperation with New York City loan guarantee program and elsewhere. But the Congress cannot deal with these things item by item. We need a government corporation to handle these things as was done when we tried to recover from the last depression. Others may differ with me, but we have all the signs we had in the years that preceded the last depression, and we are right on the edge of another one.

Let me tell the Members what motivated our conduct and led us to try to do something about the current situation. Unemployment has increased to 10.8 percent on a national basis, reaching a national high of 17.2 percent in the State of Michigan. Actual filings of business-related bankruptices for the year ending June 30, 1982, totaled 77,503, as compared to 66,332 the preceding year. Business failures reported by Dun & Bradstreet are up 49 percent compared to 1 year ago. Only 35.7 percent of our domestic steel industry capacity is currently being utilized, which represents the lowest capacity since 1932. Pay attention to that date.

The Trade Adjustment Assistance Administration of the Department of Labor certified that 510,000 individuals are unemployed as a result of foreign automobile imports. During the 1975 recession, approximately 76 percent of unemployed workers were covered by some form of unemployment benefits. Today, only 49 percent are currently covered. Our unemployment compensation now exceeds $20 billion a year.

So, I say to the Members, having received this information from the subcommittees, and without tying it down to specific projects but leaving some leeway, $5.4 billion was recommended, which is a very small part of what we appropriated to Defense only a few days ago. It is a mighty small step to direct our attention to getting back on track and restoring our country. I believe it does make a difference.

It is also our committee that asked for a review of the Federal Reserve System and recently they have begun to reduce the interest rates, and that is essential.

In my letter to the Rules Committee I suggested that the joint resolution be considered in the House. Otherwise, the nature of the resolution is such that nearly any Germane amendment would be in order. The Rules Committee has a difficult task, and I understand that, but let me say this with regard to the amendments that were made in order: I hope the Members will vote against those in the energy and water development area, and I will tell the Members why.

These cut-back amendments will expire when the resolution expires. To stop these projects and start over again does not make any sense. I am sure every last one of them will be in the bill on appropriations for energy and water development, and if they are stopped here, the stoppage will only be temporary; it will end with the termination date of the resolution. So, whatever a Member may feel, in the long run certainly it would be shortsighted and do no good whatever to vote for them here when they will come back before us. The nature of a continuing resolution is basically to maintain existing programs. Major programs should not be started or stopped.

So, I urge the Members to support us in this effort. May I say again, whatever action the Members take here it is evident that before we do meet this December 17 deadline we are going to have to have agreement between the House and Senate and the President, because that is the situation we face.

Mr. Chairman, I would like to take a few moments at this time to discuss the construction of the continuing resolution. As I have said earlier in my statement, this resolution before you has two parts; the normal continuing resolution which provides temporary funding for the Government until March 15, 1983 and a separate part dealing with the maintenance and improvement of the real wealth of our country.

The continuing resolution section of this resolution provides emergency and temporary funding for various departments and agencies through March 15, 1983 for 10 of the regular appropriations bills. As my colleagues will remember, three of the regular appropriations bills have already been provided for by previous actions; namely, the HUD-Independent Agencies bill, the military construction bill and the legislative branch appropriations bill. The 10 remaining bills are provided for in this resolution as follows:

The following five bills are provided for at the House or Senate bill rate, whichever is lower—a special provision deems House and Senate reported bills as having been passed: Agriculture, Transportation, Interior, District of Columbia, and Treasury-Postal Service-General Government.

The following three bills are provided for at the House passed rate of operations with minor exceptions: Defense, Commerce-Justice-State-Judiciary, and Labor-Health and Human Services-Education.

The energy and water development bill is provided for at the current rate of operations.

The foreign operations bill is provided for at the rate of operations of last year's appropriation bill, with certain exceptions.

As all of my colleagues know, and I have mentioned it a number of times before, as soon as any regular appropriation bill is signed into law it automatically disengages from coverage under this resolution. I have made numerous commitments to all of you that it is the intention of this committee to pass regular appropriation bills. The committee has indeed reported 12 of the 13 bills; only the foreign assistance bill has not been acted upon by the committee.

The Appropriations Committee has for a number of years stated its opposition to the use of a continuing resolution as the correct manner of funding Government activities. However, due to inaction by the other body, and often-times circumstances beyond our control, the use of this unique emergency funding device becomes necessary. No one in this House, the Senate or for that matter in the White House wishes to see the Government come to a halt this weekend. So it is in this spirit that we have prepared this resolution that generally provides funding

at restrictive levels until March 15, 1983.

With regard to title II, I would like to call to the attention of the Members the section which appears on page 33 of the resolution which directs the Secretary of the Treasury and the Secretary of Commerce, with the assistance of leaders from the business community, to study and report to the Congress on the appropriate means to deal with the critical situation facing American trade abroad. At the present time, American business is handicapped because of restrictive barriers to free trade imposed by foreign Governments, or more frequently from government-owned corporations. It is my firm belief that this situation must be reversed, we must open up new markets, and maintain a strong and favorable balance of payments.

The report which accompanies this resolution also points out the need for a cooperative spirit between Government and the business sector. In the past the Federal Government has come to the assistance of the Lockheed Corp., the Chrysler Corp., and the city of New York. During the dark days of the depression, the Government formed a Reconstruction Finance Corporation to deal with the problems of debt management, and the needs of businesses to get their financing straightened out. The committee strongly recommends that the appropriate committees of the Congress review the past success we have had and report needed legislative cures.

At this time I would like to recommend to all my colleagues that they examine the details of title II of this resolution dealing with the necessity of protecting the real wealth of the Nation. We have all read story after story, and the Appropriations Committee has heard thousands of hours of testimony from witnesses who have pointed up the absolute necessity to begin again to rebuild our country's roads and bridges, our waterways and harbors, our rural and city sewer systems, our decaying inner cities as well as our neglected small city business districts. The needs are everywhere, just open your eyes and see how bad the situation is. We have an obligation to our children to protect and develop our Nation's resources—we must not forget our responsibility. This approach will create new productive jobs, put people back to work through the private sector and reduce our untolerably high rate of unemployment.

I am glad to have the attention of the Members that it is time we realize first and foremost that our best national defense is to have a strong economy, and conditions are such that we had better get busy now. That is why I hope the Members will support us.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, this continuing resolution is made up of two very different creatures:

A stop-gap funding measure; and

A jobs bill that is one of the biggest grab-bags of Christmas presents this Chamber has ever seen.

In the face of the November elections and unemployment reaching unprecedented levels since the Great Depression, we came back for this lame-duck session with a number of efforts to put our people back to work.

One effort is the bipartisan $5 billion highway jobs bill that we worked on and passed over here, and which I voted for. We did our jobs, and now the Senators are working the bill over—and over. That bill will create some 300,000 jobs.

The other was an effort by the Joint Economic Committee to put together a second jobs bill under the able leadership of its chairman, the gentleman from Wisconsin (Mr. REUSS) whom we will all miss, himself a distinguished economist. I understand there were hearings with John Kenneth Galbraith, Walter Heller, former Labor Secretaries Ray Marshall and Willard Wirts, Federal Reserve Chairman Paul Volcker and others.

Mr. Chairman, something happened to the Reuss proposal, the one that would have reduced deficits by $0.5 billion the first year, rising to $7 billion the third year, on the way to the forum. The long-awaited, eagerly anticipated jobs bill you have before you is not the one drafted with the aid of renowned economists or former Labor Secretaries. As I said in full committee last Friday, the jobs proposal you have before you was drafted with a magnet. Every program with a nut or bolt within 5 miles has been drawn into this bill. The road to economic recovery in this proposal is in the tracks of a bulldozer. We passed a $5 billion highway bill the other day, and we have $250 million more in highway funds in this bill. There is no rhyme nor reason. We do not even know whether the States can afford to match the additional $250 million in highway funds, let alone use it.

This is not a carefully planned bill—it is a Christmas tree. Excepting defense, the nine biggest appropriations subcommittees have gotten their plums in this proposal, and the branches of the poor Christmas tree are breaking.

There is $50 million in here for a program called the "SBA national resources development grants." I have served on the Small Business Committee for 24 years, and I have never heard of that program. Do you know what it is supposed to do? Provide tree-planting services. Christmas trees, I am sure.

Our auto industry is in trouble. No problem, we will put in $100 million for the Government to buy cars, whether it needs them or not. We'll buy 15,000 cars. And with the $100 million, create 2,000 jobs, at a cost of $50,000 per job. Mr. Chairman, this is a replay of the surplus milk situation. Right now we have warehouses overflowing with surplus milk and cheese. With this bill, we will have garages overflowing with surplus cars.

These programs are fantasies.

But things really take a serious turn when you look at the energy and water section. That is where you really see the plums. Plums like an additional $145 million on top of the $236 million increase in Corps of Engineers funding already in the regular energy and water bill. That additional money will speed construction of projects like the Red River waterway, a $1.7 billion barge canal on one of the most silt-laden and unstable watercourses in the country, a project faulted by both the GAO and the Army Auditing Agency, a project that duplicates rail service already in existence.

And if you look at the corps' $65 million in operation funds, you will see it is going for projects that include the Tennessee Tombigee, a project you may have thought you would have a separate vote on today.

If you look ever further, beyond the report, buried in the bill under the heading "other productive activities," you will find a section providing as follows: "appropriations for the Yatesville Lake construction project shall be made available for obligation in the amount designated for that project in title II of H.R. 7145." That is an $8 million earmark, as far as I can determine, for a project that would have reduced the $200 million damage from the twin 1977-78 flood of the Big Sandy River by $5,000, that would have reduced the worst flood in history by 2.5 inches, and that, according to the Corps of Engineers will operate in the red for its entire 100 year economic life as a recreational facility. The total cost for that project, by the way is estimated at $200 million.

In case you are wondering how many jobs per dollar you are creating, take a look at Bureau of Reclamation operation and maintenance, where you will be spending $21 million to create 434 jobs—a cost of $49,000 per job. At $49,000 a job, the next thing you know, those 434 workers will think they work for the House of Representatives.

In case you are wondering what kind of jobs you will be funding, let me point you to page 46 of the report, which states that flood control funds will be used for "increasing the stockpile of materials for revetment work, which would include the ordering of additional reinforcement and other materials." For any unemployed stock clerk out there, take heart. This jobs bill is coming to the rescue.

Or look a little further down on page 46, where Bureau of Reclamation funds will be used for archeological studies and boundary fencing. Another major step in the rebuilding of America.

Somewhere on the way to the forum, this jobs bill got hijacked and soaked in a pork barrel—a pork barrel that could not make it through the regular funding process, I might add.

And in case you are taken by the notion that this bill is meant to create jobs to help the immediate problem of our 10.8 percent unemployment rate, look closely at the bill language. Take the $489 million for military housing construction money, for instance. That money is to remain available for obligation through September 30, 1987—5 years from now. By supporting title II of this bill, you will be getting a foot up on unemployment all right, unemployment in 1987. And that pattern is repeated through the bill: $500 million in transportation programs—to remain available until expended; $1 billion in community development block grant money—to remain available until September 30, 1985; $20 million for construction in the Forest Service—to remain available until expended; $200 million for rural water and waste disposal grants—to remain available until expended; $100 million for watershed and flood prevention operations—to remain available until expended.

Do not let yourself be kidded. These programs are not designed to prime the pump to get us out of our current crisis. These programs are not designed to put people to work today. They are not even necessarily designed to put people to work tomorrow. these are programs that will put people to work whenever the agencies get around to spending it, whether the pump needs priming or not, and that may be years from now.

This bill is being used as a vehicle, a vehicle to provide extra funds to a number of programs that could not get those funds any other way, and a vehicle to provide funds for a lot of projects that never would get funded any other way. What is more, it is doing it by using the guise of jobs creation as a free pass, free from the scrutiny of hearings, free from the scrutiny of individual examination and authorization, and free from scrutiny as to cost effectiveness. This bill is a grab bag, pure and simple.

Mr. Chairman, when I finally saw this eagerly anticipated jobs bill, and took a look at the proposal list of $5.6 billion in appropriations and $1.1 billion in other obligations, I could not believe my eyes. I said to myself we owe the American people a lot more than this. The problems of unemployment and business bankruptcies are far too serious to insult the people with this grab bag of goodies. We are throwing money around in this proposal like it was going out of style. But just throwing money around will not make sure this $6.7 billion is used wisely to put as many people to work as possible, and until we can be sure, I think it would be very wise to refrain.

Mr. Chairman, as much as any person in this room, I am in favor of jobs, and I am in favor of responsible action to assist those most in need at this time of 10.8 percent unemployment.

But we will not do anyone a favor by enacting this bill in its current form, including ourselves.

For that reason, at the proper time, I intend to offer a motion to recommit with instructions, the purpose of which will be to strike title II. We will do far better to pass a clean continuing resolution than to go forward with title II as it is now.

I urge you to support that motion.

After 2 weeks behind closed doors, the majority leadership offers those 12 million Americans a three point program:

First, borrow $5.4 billion,

Second, buy a barrel of ripe pork, and

Third, hang it out as veto bait.

This is not a jobs bill, but the opening shot in the 1984 election. Those 12 million unemployed deserve something better. Title II should be stricken, and I will offer a motion to recommit to do just that.

The House has had its chance, and failed, and we should let the Senate start with a clean slate.

□ 1300

Mr. WHITTEN. Mr. Chairman, I yield 7 minutes to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, when the 1983 HUD-Independent Agencies appropriation bill was signed into law on September 30—we had deferred action on four accounts that comprised the principal thrust of the subsidized housing programs. We did that because we wanted to give the authorization committee as much an opportunity as possible to produce a 1983 housing bill.

It now appears very unlikely that such a bill will be signed into law, and both the committee and the HUD Appropriations Subcommittee felt that it had to provide some funds for subsidized housing in this fiscal year.

As the report indicates, the HUD Subcommittee had $9.7 billion of unused section 302 budget authority remaining under its allocation. We reserved that authority for subsidized housing. Also, at the time the bill was signed by the President and at the time it was before the House for consideration, I made an agreement with the gentleman from Massachusetts (Mr. CONTE) that we would not exceed the section 302(b) allocation.

We have kept that agreement. On page 5 of the report, there is a table which explains the subcommittee's recommendation on how to make use of the $9.7 billion. Major thrusts in 1983 include: 10,700 units of new public housing construction; 1,000 units of Indian housing construction; 10,000 units of section 202 housing for the elderly construction; 47,270 units of section 8 existing housing; 15,000 units of section 8 moderate rehabilitation; and 60,000 units of section 8 authority that will be allocated for conversion of units from the rent supplement program.

In addition, we have also provided $2.5 billion for the public housing modernization program and $500 million for the Ginnie Mae tandem program. The committee has recommended splitting the $500 million tandem money—with $350 million to be allocated to the targeted tandem program, and $150 million to be allocated to what are known as section 8 partially assisted projects—20 percenters. In the case of the targeted tandem funds, the projects are to be allotted by the Department on the basis of a firm commitment date, and in the case of the section 8 partially assisted program, projects are to be allotted on the basis of some type of random lottery.

The committee has also included language, which is described in considerable detail on pages 8, 9, and 10 of the report, dealing with the Veterans' Administration's medical computer system.

Without getting into too much detail, what we are trying to do through this language is to get the VA off the dime. We want the Veterans' Administration to begin to install a workable computer system in the 172 hospitals—one that can schedule patients—that can do lab work—that can do pharmacy prescriptions, et cetera.

The fact is that the VA has been studying and restudying for the past 3 or 4 years whether it is best to go with a centralized computer system or a decentralized computer system. Meanwhile, the VA hospital system is far behind the private sector in the use of computers. I think this language will help solve that problem and get the VA moving in the right direction.

In title II of this resolution, the HUD Subcommittee has included four items. It is my belief that the so-called jobs bill which is included in title II is absolutely essential at this time. We have been talking around and around about when this recession is going to come to an end. The fact is that it has not come to an end. We are looking at an unemployment rate of 10.8 percent—the highest in over 40 years. The time has come to stop talking about the 12 million Americans that do not have a job—the time has come to start doing something about it.

This $5.4 billion is not extravagant. We just voted $230 billion for 1 year of defense spending. In fact, it is carried in this very same resolution. I should think that the Members here could find it in their hearts to provide $5 billion to help put 600,000 Americans back to work. That is what this money will do—and we have chosen those kinds of programs that will put them to work in the shortest time possible.

Now as I said a few minutes ago, the HUD subcommittee has four items in the jobs bill. Let me review them for you.

We have provided an extra $50 million on top of the $72 million carried in the 1983 budget for maintenance and repair projects at VA hospitals. This type of work is handled at the local level for the smaller types of construction projects—usually running anywhere from $50,000 to $400,000. It is capable of generating jobs in a very short time, and it will be extremely helpful to hospitals to get these smaller construction projects underway. Very often, in the budget crunch each year, it is the maintenance line item that gets either cut or severely restricted. This small amount of extra funding is just the kind of thing that meets the ticket for the VA and creates jobs.

We have also added an additional $200 million on top of the $2.5 billion provided in title I for public housing modernization. This additional $200 million, as the report suggests, is targeted at those kinds of projects which lend themselves to creating jobs for the less skilled workers, where as we all know, the unemployment rate is among the highest. Also, it is expected that the $200 million can be used to put people to work about as fast as any activity in this title.

We have included $1 billion for additonal jobs under the community development block grant program. It is anticipated that this will create about 65,000 jobs—and in that connection, I might point out that the CDBG program produces jobs at one of the lowest cost per job rates of any program we have here before us. The cost per job is roughly $15,000. That is relatively low and because the report directs that the funds be used for light construction work, it is expected that these funds can be put to work very quickly. We did not include any funding within the $1 billion for the small-city portion of the community block grant program. The entire $1 billion is allocated to the metro or large-city allocation—and the report suggests why we did that.

Finally, Mr. Chairman, we have included $50 million for a new program to help private charitable organizations feed and provide shelter for the very needy and unemployed. What we have done is to appropriate the money to the Federal Emergency Management Agency—which will be responsible for auditing the funds—and directed FEMA to transfer the money to the United Way of America. The United Way will constitute a board of directors that will allocate the funds as soon as possible. I would be the first to admit that we are chartering some new ground here—and we may have to make some minor adjustments in this approach. But I do believe that if any of you have watched television during the Thanksgiving season you cannot help but come away with the feeling that the private agencies are doing a good job of setting up soup kitchens and trying to feed people who have just plain run out of money—or who do not have a place to sleep.

We have been told that these private agencies are under tremendous pressure and are strapped for resources. It is hoped that this effort will provide the kind of one-time emergency shot in the arm to get hot meals and some decent shelter for an increasing number of Americans that simply cannot afford it.

I know some of you might ask the question "Isn't that what food stamps are for?" The answer is that there are literally hundreds of thousands of Americans that slip through the cracks in connection with the food stamp program. Very often these people do not have kitchens—or they have nowhere they can really call home—and therefore, they really do not have cooking facilities. That is the group we are targeting, and regrettably, that group is getting larger each day. That is who this program is designed to help and I would hope that we would give it a chance.

□ 1315

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I wish to engage the distinguished chairman of the Appropriations Subcommittee on HUD-Independent Agencies, Mr. BOLAND, in a colloquy concerning the emergency food and shelter amendment to the continuing resolution. It is my understanding the committee intends that the determination of how the money can best be used should be made on a local level. In many communities, there is a need for rehabilitation of structures to be utilized as emergency shelters. Is it the understanding of the gentleman from Massachusetts (Mr. BOLAND) that the local boards could distribute this money for rehabilitation of existing structures which could then be used as a temporary emergency shelter?

Mr. BOLAND. The gentleman from Minnesota is correct. If the local board determines that this is an appropriate use of these funds, there is nothing in the legislation which would preclude rehabilitation of existing structures for use as temporary emergency shelters.

Mr. VENTO. I understand that there is nothing in this legislation which requires nonprofit organizations receiving these funds to match the Federal money with private contributions. However, it is the nature of nonprofit agencies which have been providing emergency food and shelter, that they are likely to have been receiving monetary gifts and in-kind contributions of material and labor.

I wisi. to confirm with the distinguished chairman that it is not his intention that these funds should replace existing fundraising efforts or inhibit nonprofit agencies receiving these funds from soliciting other voluntary monetary or in-kind contributions.

Mr. BOLAND. The gentleman is again correct. The committee report specifically states that the resources of private voluntary organizations are insufficient to serve the growing number of needy individuals. These funds are intended to augment the current efforts of nonprofit agencies. It is not the intent of this legislation to restrict the ability of these organizations to raise other funds or solicit in-kind contributions.

Mr. VENTO. I thank the gentleman.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Oklahoma.

Mr. WATKINS. I would like to engage the chairman of the HUD-Independent Agencies Subcommittee, the gentleman from Massachusetts (Mr. BOLAND), in a brief colloquy regarding the community development block grant program.

The joint resolution currently under consideration includes $1 billion in title II for community development grants in fiscal year 1983. The funds are to create approximately 65,000 jobs in the light construction industry. Bill language limits these funds to metropolitan cities and urban counties. The report accompanying this joint resolution states that the committee has taken this action because it believes these funds should be expended as soon as possible. Smaller localities were excluded because of an unobligated balance of approximately $300 million in the community development grant program at the end of fiscal year 1982. Thus, none of the $1 billion for community development grants can be used in small localities even when there may be a high unemployment rate.

Mr. Chairman, this action causes a great deal of concern on the part of Members who represent smaller localities. Can the gentleman from Massachusetts tell me why there was such a

large unobligated balance at the end of fiscal year 1982?

Mr. BOLAND. I certainly understand the gentleman's concern, I asked the Department why there was an unobligated balance of nearly $300 million in the small-cities portion of the community development grant program at the end of fiscal year 1982. The Department indicated that the unobligated balances were primarily caused by the need to issue new regulations for the small-cities program pursuant to the 1981 authorization act.

First, the Department issued revised regulations regarding the State-administered program. These regulations were not made final until April 8. Second, and this accounts for the largest amount of the unobligated balance, final regulations on the HUD-administered part of the program were not issued until August 16.

Mr. Bollinger, the Assistant Secretary for Community Planning and Development, has assured the subcommittee that these unobligated funds for small cities are out or will be out in a couple of months. He also has assured the subcommittee that this problem should not happen again. Let me assure the gentleman that we will follow up during the hearings on the 1984 budget to make sure the Department continues to obligate in a timely manner the small-cities portion of the community development grants program.

Mr. WATKINS. I thank the gentleman for his assurances that he will continue to exert his leadership in seeing that the small cities set-aside is fully utilized. As you remember, we ran into a similar problem earlier this year when HUD failed to obligate the small communities portion of UDAG funds. Although UDAG funds are not in title II of this bill, will the subcommittee pursue both these problems and see that HUD lives up to the permanent authorization's requirements for these set-asides, except as provided in title II?

Mr. BOLAND. Yes; the subcommittee will pursue both of these problems.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I would like to seek a point of clarification with Chairman NATCHER and Mr. CONTE, the ranking Republican on funding under the fiscal year 1983 continuing appropriations bill for the Job Training Partnership Act, section 181.

Mr. NATCHER. I would be happy to clarify your question on the funding for the Job Training Partnership Act contained in the continuing resolution before us today.

Mr. CONTE. I would be happy to respond as well.

Mr. JEFFORDS. Mr. Chairman, is it your understanding that funding for the transition year under the new Job Training Partnership Act is provided in the fiscal year 1983 continuing resolution according to the provisions of the Comprehensive Employment and Training Act?

Mr. NATCHER. Yes; that is my understanding.

Mr. CONTE. That is also my interpretation of the continuing resolution.

Mr. JEFFORDS. It is also your understanding that the provisions for set-asides under CETA continue to apply, including those in title IV-A, youth programs during this 1-year transition into the new structure of the Job Training Partnership Act?

Mr. NATCHER. Yes; it is.

Mr. JEFFORDS. It is my understanding as ranking member on the House Employment Opportunities Subcommittee that set-asides under CETA, including the 22-percent set-aside for local education agencies, continue to be in effect under the continuing resolution. It is also my understanding that because dollars will be appropriated according to the titles and sections of the old CETA and will be allocated by the Department of Labor to the prime sponsors on that same basis, that funds will be used locally on a basis that corresponds to our appropriations. Is this also your understanding?

Mr. NATCHER. Yes; it is.

Mr. CONTE. That is also my understanding. Was that the intent of your committee?

Mr. JEFFORDS. Yes; it was our intent that because funds would be allocated by the Department of Labor onto the prime sponsors by title, that they would be spent locally on approximately the same basis, with some provision for flexibility. It has come to our attention, however, that in some cases section 181 of the new law—which allows for program consolidation in order to provide for an orderly transition year is being used to ignore the set-aside requirements under CETA.

Mr. CONTE. Could you give us an example of what is happening with funds provided under the continuing resolution?

Mr. JEFFORDS. Yes, I can. The situation in the San Francisco prime sponsor is a case in point. When the DOL sent out its first quarter's allocation, under the authority of the initial fiscal year 1983 continuing resolution, it was by title under CETA. The San Francisco prime sponsor received allocations under titles II, IV, and VII. When that prime sponsor's advisory council met in October it decided that it would consolidate all moneys received under those three titles into title VII. The school system was then informed that it would have to discontinue its youth employment projects funded under title IV-A of CETA because moneys for title IV and the 22-percent set-aside had been consolidated into title VII and therefore discontinued.

Mr. Chairman, it was never the intent of the authorizing committee to relieve prime sponsors of their responsibility to meet the 22-percent set-aside requirements through program consolidation during the transition year.

Mr. CONTE. Is there indication that this difficulty is occurring in areas outside of the cities?

Mr. JEFFORDS. Yes; we are hearing about similar problems in areas such as Federal Way, Wash.; Irvine, Calif.; Des Moines, Iowa; McAllen, Tex.; Wolcott, N.Y.; and North Salem, N.Y. We are uncertain as to the extent of the problem and lack sufficient data to make a complete determination.

Mr. CONTE. I am concerned that if we wait until all data are available that the problem will be beyond remediation.

Mr. JEFFORDS. Mr. Chairman, we are sufficiently concerned about this problem that Chairman PERKINS, Mr. ERLENBORN, the ranking Republican, Chairman HAWKINS, and I are writing a letter to the Department of Labor clarifying our intent regarding the 22-percent set-aside under the continuing resolution for the transition year between CETA and the new structure under the Job Training Partnership Act. We are also asking DOL whether there have been guidelines issued concerning these set-aside provisions.

Mr. NATCHER. I hope this clarifies the issue. The new Job Training Act allows for strong and essential participation of the schools and is strongly supported by me. We did not anticipate nor do we support a weakening of this relationship during the transition year.

Mr. JEFFORDS. Thank you very much Mr. NATCHER and Mr. CONTE.

Let me turn now to title II of this continuing appropriations bill, the jobs title.

One might summarize the jobs portion of House Joint Resolution 631 as JOBS, a juicy opportunity for B.S. I am deeply disappointed with the provisions in the bill supposedly designed to create jobs with a rather large expenditure of money. I am also disappointed that the $5.4 billion price tag will be added to the already astronomical Federal deficit, rather than transferred from the excessive defense budget and other sources of unnecessary but already authorized funding.

The jobs programs being proposed are being oversold as the total solution, or at least as substantial relief, to our Nation's unprecedented, post-depression high unemployment rates. This perception is misleading and creates expectations and hopes which will not be fulfilled. The real unemploy-

ment problems are being glossed over in favor of billion dollar programs which may satisfy laudable goals but do little to meet the real needs of the unemployed.

There are currently 12 million people out of work in the United States. The job programs in this bill are construction oriented, and yet the construction industry accounts for only 5.9 percent of the work force. Even if these programs are fully implemented, targeted to those who are unemployed and funded immediately, they will provide temporary help to a very small percent of our unemployed.

An analysis shows that very few jobs will be created relative to the money spent, and that this bill will have little impact on long-term employability in this country. A Congressional Budget Office report issued this month indicates that infrastructure improvement programs do next to nothing to bolster long-term employability. More than $2 billion of the funding under this title is devoted to infrastructure improvement, including waste disposal, highways, transit, and rail projects.

Moreover, very little is done in the areas of most acute need such as jobs for women and youth. By way of illustration, unemployment among women who maintain families is presently running at 12.5 percent, versus 7.7 percent for male heads of households. With some 24 percent of our young people unemployed, the amount to be spent in that area is also dismally small.

However, it must be said that there are some portions of the jobs title which do merit consideration and funding. I hope that these items will be retained in conference with the Senate and not thrown out along with the unproductive aspects of the title.

In this category I would include funding for food distribution and emergency shelter; funding for day care services and home health services; the funding for urban parks and recreation, the National Park Service, the Forest Service, and the Fish and Wildlife Service, which will employ our youth in Conservation Corps-type projects; low-income energy weatherization funding; and funding for title III of the job training bill for dislocated workers. I also support the bill's funding for employment services, job search assistance and unemployment claims staff, which are trust fund items and therefore do not contribute to the cost of the bill. Unfortunately, these worthwhile features of title II comprise only 14.5 percent of the title's total funding.

What should we be doing with the remaining 85.5 percent? Our first efforts should be directed at alleviating the immediate concerns of the unemployed whose benefits have expired, by providing alternative resources to cover basic living costs such as health care, nutrition, and mortgage payments and to prevent personal bankruptcies. There are precious few provisions in House Joint Resolution 631 for these purposes.

Our longer term efforts should be broadened to benefit women, youth, the long-term unemployed, and structurally unemployed. The emphasis should be on distressed areas with high levels of poverty and unemployment and low levels of capital investment. Only a very small portion of these groups are targeted under this legislation.

Each effort should contribute to the well-being of our economy. We should be examining our fiscal, monetary, and structural policies in order to develop a comprehensive response to our serious unemployment problems. In short, our approach cannot be a patchwork quilt, but rather must be a well-woven fabric of integrated policies. We are getting off to a bad start because we are taking the very limited or even nonexistent resources and putting them into programs that are labeled "jobs programs" but which, for all of their worthwhile goals, will do little for the serious problems facing the unemployed.

It also should be pointed out that throughout the jobs portion the words "to remain available until expended" appear. This obviously is an opportunity for these funds not to be expended at all, and will not require immediate attention to the critical areas described above ought to be funded.

Finally, my State of Vermont will not do well under the bill's allocation formula for the jobs programs. We will get nothing under section 1(A) of the allocation which distributes 80 percent of the available funds. Under section 2, which provides for the distribution of 5 percent of the available funds, we might get some money for the Springfield area and parts of the Northeast Kingdom.

Mr. Chairman, the unemployed deserve our attention. They deserve constructive, real means by which their problems and ultimately the problems of the Nation can be resolved. Unfortunately, House Joint Resolution 631 does not represent the evenhanded, bipartisan approach that is required. I regret this very much.

Finally, Mr. Chairman, I want to turn to the Fazio and Traxler amendments, and the issue of congressional pay hikes.

There is no good time to vote in favor of a congressional pay raise. The pay has been changed only 14 times since the United States came into being. During the period of high inflation, pay raises were turned down with the feeling that Members of Congress ought to feel the pains of inflation. Obviously at a time of recession, the question is raised as to how you can raise your salary when others are out of work. For these and other reasons, I have continuously voted against pay increases since I have been in Congress. And if it were not for two very serious trends, I would do so again. In addition to voting against the pay raises, I have contributed the personal benefit to me of a pay raise to charity until such time as the people have had a say on the issue. I intend to continue this principle.

First, I will examine what has happened to the real value of congressional pay over recent years. I will also discuss the related issue of pay comparability with the judicial and executive branch, and the problems this has created. Second, I will review how many Members, especially Senators, have taken an alternate route of pay increases in receiving funds from special interest groups to alleviate this loss of real value. Next, I will indicate how Members are treated differently from all other groups with respect to being able to deduct their away-from-home expenses as a business expense. Finally, I will note the trend toward wealthy individuals being the ones that are staying in Congress, and a substantial outflow of good, middle-income Congressmen who are retiring because much better options are available to them outside of public service.

As was pointed out recently in a letter from Common Cause backing a pay increase, since 1969 Members of Congress have been running 125 percent behind inflation. This has been especially true since 1977; whereas Members of Congress have received only a 5.5-percent raise, the CPI has gone up 62 percent. Thus in 1969 dollars, the purchasing power of Members of Congress had declined from $42,500 to $25,800.

Traditionally, positions in the executive and judicial branches have been pegged to congressional salaries. Due to constitutional provisions and how pay increases have been handled technically under the law, judicial officers have moved ahead. Through history, members of the circuit court of appeals for the Federal judiciary have received the same salary as Members of Congress. However, these judges now receive $74,000 a year. District court judges who traditionally have been paid less than Members of Congress, receive $70,300 annually. As to the executive branch, increases in pay for department heads has been restricted by the congressional pay cap. This has caused a serious problem in finding qualified individuals in the executive branch who are not independently wealthy.

The special problem for Members of Congress is also included in the tax laws. You may remember that recently Congress tried to give itself a tax break. This occurred in a rather devious manner in 1981. This overgenerous

tax break was later repealed. I voted for the repeal. Under ordinary tax laws, men involved in a business which requires them to be away from home are able to deduct their away-from-home expenses. In addition, most businesses fully reimburse employees required to have expenses away from home. Of course the amount of time a Member spends in his home district or in Washington varies depending upon many circumstances. In addition, a large number of Members of Congress and most Senators move their families to Washington. Because this presents inequitable circumstances, both favorable and unfavorable, the Congress in 1954 established a rule that the limit to such expenditures would be $3,000. However, the regulations established by the Secretary of the Treasury with respect to the 1981 tax break did not set an overall annual limit, but rather allowed Congressmen various options. The net result was a huge tax break. A wiser approach would have been to merely adjust the $3,000 limit for the CPI since it was originally established. This would have provided for an equitable circumstance of about one-half of that which the regulations allowed for. It should be pointed out that the regulations recommended for Congressmen by the Secretary of the Treasury are the same as applied to Federal employees and also to State legislators. They still do apply to these groups. Unfortunately, Congress in its attempt to end an inequitable circumstance overdid it by close to 100 percent and thus placed themselves back being treated very much differently than all other taxpayers. This reduction in the real dollar value of Members of Congress would be in addition to the figure given above.

What bothers me most is the way that Congress has tried to alleviate this situation by allowing Members to receive large payments for speeches. Although I have taken the position that the earning of outside income where conflicts of interest do not lie is a political matter to be fought out in campaigns. I take a strong position against the present honorarium system.

The Senate in particular has done very well under the system wherein up to $2,000 may be received for a single speech because Senators have no overall ceiling. Whereas Members have fallen behind approximately $17,000 from their statutory-derived salary, Senators have picked up at least an equal amount through honorariums. The average Senator, in 1981, received $19,575. In addition, Senators have been able to pay out of their expense account money for traveling back to their home States. Since most Senators have moved their families to Washington, they do not have the dual residency situation. For instance, the most outstanding critic of the tax break issue in the Senate not only received approximately $20,000 in honorariums for speeches, but in addition charged his expenses while in his home State to his expense account. To me, it is a serious situation wherein a substantial share of Members of Congress receive direct payments from special interest groups. To me this is legalized bribery. There is no question but some reimbursement ought to be appropriate for traveling to make speeches, but the sum of $2,000 is indefensible. It should be noted that these honorarium limits have crept up at about the same rate as the Congressmen's salaries have gone down. I believe this is a serious trend undermining public confidence in the Congress.

Members of the House have not been, on the whole, well rewarded by speech honorariums. The average Congressman sees only approximately $5,000 a year from such speeches. In addition, most of the honorarium money goes to Members of the leadership and the three more powerful committees: Ways and Means, Budget, and Appropriations. The large majority of House Members receive $3,000 or less.

Thus, House Members, as compared to Senators, are disadvantaged in three ways, First, many, if not most, have a dual residency situation and they are not able to get the benefit of the tax laws which are available to members of the business community and State legislators. Second, they are not able to pay out of their expense accounts for their expenses in their district in the same way Senators can. Third, they generally have not received the benefits of the honorarium pay-as-you-speak system, receiving on an average 15 percent or less than Senators.

What should be done? In recognition of the serious economic situation, I believe it is only proper that we move very carefully and slowly. I would recommend the following:

First, that we do not allow the situation to get any worse, and that we increase salaries only to the extent recommended for Federal employees, by 4 percent. That we commit ourselves to doing this inflation adjustment on an annual basis, provided, however, that no such increase shall take effect until after the next election.

Second, that we reduce the honorarium limits such that the amount received from any one organization will not exceed the sum of $500, a reduction from the present $2,000 limit. The normal tax bracket of a Congressman would reduce this to approximately $250 as an actual benefit, and would not be sufficient to imply any substantial benefit, as compared to the time and effort connected with giving such a speech.

Third, that the allowable deduction for compensation for away from home expenses be allowed to rise to the equivalent in real money of what it would be if the $3,000 limit were raised to an appropriate amount for the present year. In conjunction with this, those that have moved, in effect, their permanent residence to Washington should not be allowed to obtain reimbursement from their expense accounts for expenses within their districts or home States.

In conclusion, having already appeared on a nationally televised program advocating the above, and having received the response, almost all negative, I am well aware of the risk we are taking by making such moves at this time. However, I believe that this risk is much less than the risk of loss of public confidence when there is a full realization of how Members are supplementing their salaries through speeches to special interest groups, and the drain of nonwealthy Congressmen from the Congress, such that we may well become a club for the wealthy. For these and other reasons, a congressional pay raise of one kind or another has recently been advocated by the Washington Post, the New York Times, Common Cause, AFL-CIO, the Business Round Table, and others.

Because I desired to propose this option, and because I disliked most of the so-called JOBS portion. I voted against the rule, hoping for an opportunity for amendments. Unfortunately that will not be possible. Thus, I will vote to cut the raise from 27 percent to 15 percent, and otherwise guide myself by the principles set forth above.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Ohio (Mr. STANTON).

Mr. STANTON of Ohio. Mr. Chairman, I rise to bring to the attention of the membership one section of House Joint Resolution 631 that causes me significant concern.

I am referring to section 203, which indicates that the Board of Governors of the Federal Reserve and the Federal Open Market Committee "should take such actions as are necessary to achieve and maintain a level of interest rates low enough to generate significant economic growth and thereby reduce the current intolerable level of unemployment."

I find this section objectionable on several levels. First, procedurally, it is inappropriate for the Appropriations Committee, through the use of a continuing resolution, to send a signal to the Federal Reserve Board regarding monetary policy. The rules of the House specifically provide that monetary policy and the operating practices of the Federal Reserve are within the purview of the House Committee on

Banking, Finance and Urban Affairs. If the rule had not been crafted to waive all points of order, this section would clearly be subject to a procedural objection.

Second, section 203 misinterprets the power of the Federal Reserve. The resolution attributes to the Federal Reserve the absolute power to dictate interest rates. This is an oversimplified view. Interest is the price of credit, and that price is determined by both demand for and supply of money and credit. The Federal Reserve, however, determines only the supply side of this equation through the use of bank reserve requirements and open market operations. The demand factor is outside the control of the Federal Reserve. It is subject to inflationary expectations and fiscal policy. It is, therefore, unreasonable to hold the Federal Reserve wholly responsible for interest rate behavior.

Third, while I sympathize with the concerns the proponents of section 302 have to promote real economic growth and to reverse the unacceptable rise in unemployment, I fear that the language of this section neglects the problem of inflation and inflationary expectations. Recently, the traditional approaches to monetary policy have been invalidated by inflation and the inflationary expectations of the marketplace. Sustained easing of the Nation's money supply tends to raise, not lower, interest rates. The reason is twofold. Some investors fear a revival of inflation as a result of above-target expansion of the money supply. Others anticipate renewed tightening as the Federal Reserve attempts to bring the money supply back within the target range. In either case, interest rates go up.

Fourth, this section fails to mention the role of the growing Federal Budget deficit on interest rates.

Mr. Chairman, I am afraid that the inclusion of this language could precipitate the very thing it is trying to avoid; that is, higher interest rates. The psychology of the marketplace remains fragile, but rates have fallen significantly within the last few months. Today, the Federal Reserve discount rate stands at 8½ percent and the marketplace appears to be supportive of the current Federal Reserve approach to monetary policy. The language of this resolution could severely upset this psychology and could lead some lenders and market makers to anticipate a change in Federal Reserve policy and thereby create an increase in interest rates.

In view of these problems with section 203, I would hope that before this resolution is finally approved that the language of this section be deleted. As I have indicated, while the goals of this section are laudatory, its impact may lead to the very thing it seeks to avoid.

Mr. WHITTEN. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. I thank the gentleman for yielding.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, earlier this year, the administration deleted from its original budget proposal some $150 million which would otherwise be used to operate and maintain what it termed low or moderately used waterways. There was no funding alternative available for these facilities, and so our subcommittee, under the gentleman's direction, decided that we could not stand by and watch them close down. Our recommendation was to restore the necessary funding.

Unfortunately, of course, our bill did not have an opportunity to be scheduled on the floor.

Now, the continuing resolution states:

> That no appropriation, fund or authority made available by this joint resolution or any other Act may be used directly or indirectly to significantly alter, modify, dismantle or otherwise change the normal operation and maintenance requirement for any civil works project . . .

Is it the intent of the House, in approving this language, to disapprove the administration's plan with regard to the operation and maintenance of the targeted projects?

Mr. BEVILL. Yes, the gentlewoman is right. This is what the committee intended.

Mrs. BOGGS. And is the funding contained within the resolution sufficient to carry these projects until such time as our bill is passed?

Mr. BEVILL. Yes, it is. These waterways and projects will not be closed.

Mrs. BOGGS. I thank the gentleman.

Mr. DONNELLY. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Massachusetts.

Mr. DONNELLY. Mr. Chairman, I am very concerned to see that there is no funding provided in this legislation for continued planning and engineering for the Town Brook flood control project of the Army Corps of Engineers.

Flooding in Quincy and Braintree, Mass., causes an estimated $2.1 million worth of damage annually. The Army Corps of Engineers, after conducting a preliminary study, issued a report in September 1980, proposing construction of a flood control system with a total estimated cost of $25.3 million. No further action has been taken pending direction from the Congress, and the destructive flooding continues in Quincy and Braintree, Mass.

In order to proceed to the next step in the Town Brook project, which is continued planning and engineering, the corps requires $600,000. No authorization is necessary to appropriate that funding. I request at this time, therefore, that the Corps of Engineers be directed to reprogram $600,000 of available funds to continue the planning and engineering of the Town Brook project.

Mr. BEVILL. We will be glad to work with the gentleman on this reprograming.

Mr. DONNELLY. I thank the gentleman for his support.

Mr. AKAKA. Mr. Chairman, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Hawaii.

Me. AKAKA. With respect to the OTEC pilot plant project, would the gentleman agree that under the continuing resolution the Department of Energy has sufficient funding in fiscal year 1983 to proceed to the preliminary design stage and the selection of at least two of the cost-shared contracts for preliminary design?

Mr. BEVILL. The gentleman is correct. Report language to that effect was included in both the House and Senate reports in connection with the regular 1983 bill and we would expect the Department to proceed with funding at least at the level specified in the House report.

Mr. MYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

□ 1330

Mr. WYLIE. I thank the gentleman from Indiana for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from Ohio (Mr. STANTON). Section 203 and the report language referring to that section cannot go unchallenged by us as members of the Committee on Banking. According to the rules of the House, monetary policy and operating practices of the Federal Reserve are subject to oversight by the Banking Committees of the House and Senate. As a member of the Banking Committee I do not want to be misunderstood on this issue. It would be best if recommendations on monetary policy were brought forth after the normal hearing process. And this would be the case were it not for the rule today. Section 203 could not be included in this resolution because it is not germane.

The gentleman from Ohio (Mr. STANTON) referred to the language in section 203 which says the Fed "should do whatever is necessary to achieve and maintain a level of interest rates," and then the language in the report refers to that section and directs the Fed to do something vis-a-vis interest rates.

Now, are we advising or directing? There is an ambiguity there.

The level of unemployment is certainly intolerable. But may I point out that the Fed discount rate was 12 percent a year ago. Yesterday it was lowered to 8½ percent. The annualized growth of monetary aggregates, M_1 and M_2, have averaged over 10 percent since August.

Mr. Chairman, the effects of a change in monetary policy are felt after a lag of usually 6 to 9 months. We are now seeing effects of changes in monetary and fiscal policy over the last year in increased housing starts, new car sales, and higher retail sales.

The point I want to make is it is one thing to use the Fed as a whipping boy for past failures of Congress on fiscal policy, it is another thing to do something constructive about it. And Lord knows over the years Congress has done a poor job on fiscal policy.

Congressional directives to lower interest rates are bound to lead to renewed fears of inflation and hence higher interest rates. It means we are blaming the Fed and not addressing the root cause of high interest rates which is the demand made on the capital markets by the Treasury in its efforts to finance the high budget deficits. I hope when this bill gets to conference section 203 is dropped.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. I thank the gentleman for yielding.

Mr. Chairman, the level of administrative funds provided for the Education Consolidation and Improvement Act was not adjusted when the fiscal 1982 supplemental of $149 million was passed, and it appears at this time that this level of funds was not adjusted in the fiscal 1983 Labor-HHS bill either. This failure to adjust means that the State of Michigan will lose $97,630 in fiscal 1983, and a total of $194,720 when the lack of an adjustment for fiscal 1982 is included.

Mr. Chairman, you indicated in a floor colloquy with Mr. FAZIO that funds could be reprogramed from evaluation and studies in order to compensate State administration, and the Senate has already provided for such a reprograming in its bill. My question of the distinguished gentleman from Kentucky and chairman of the subcommittee on Labor-HEW is, Can you accept in conference the Senate reprograming for ECIA?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Kentucky.

Mr. NATCHER. I thank the gentleman for yielding.

Mr. Chairman, I would like to say to the distinguished gentleman from Michigan (Mr. TRAXLER), who is a hard working, able member of our committee, that every consideration will be given to his request.

Mr. TRAXLER. I thank the gentleman for that.

Mr. WHITTEN. Mr. Chairman, I yield to the gentleman from Ohio (Mr. STOKES) for the purpose of a unanimous-consent request.

Mr. STOKES. Mr. Chairman, I ask unanimous consent to proceed on a matter out of order, and the time I consume not be charged against the time allotted under the rule.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

(By unanimous consent, Mr. STOKES was allowed to speak out of order.)

REPORT BY COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT ON ALLEGATIONS OF IMPROPER CONDUCT BY MEMBERS, OFFICERS, OR EMPLOYEES OF THE HOUSE OF REPRESENTATIVES

Mr. STOKES. Mr. Chairman, this past summer two former House pages declared on nationwide television that they had been victims of sexual misconduct by Members of the House of Representatives. These charges created a national sensation when they were made. On behalf of the Committee on Standards of Official Conduct, Mr. SPENCE, the ranking minority member of the committee, and I introduced a resolution to authorize a complete and thorough investigation of these allegations. The House promptly agreed to that resolution, and on July 27, 1982, the committee retained Joseph A. Califano, Jr., as independent special counsel to supervise the investigation.

The committee and its special counsel today completed their investigation of the charges made by the two former House pages. Mr. Chairman, I have filed the committee's report with the House today.

In a 132-page report, the special counsel found that there was "no merit whatsoever in any of the original allegations of sexual misconduct made by the two former pages." Since so much attention was given to the original charges, let me quote in full what the special counsel concluded:

> The special counsel has found no support whatsoever for the sensational allegations and charges of homosexuality that launched this investigation. To the contrary, the evidence developed contradicts every one of the original highly publicized allegations made by the two former pages. Those allegations resulted either from out-and-out fabrication, over-active teenage imagination stimulated by conversations with a journalist, or teenage gossip which has in virtually every case proved to be utterly inaccurate.

I am pleased to be able to report these conclusions to the House and to the American people. But I must also report that the investigation is not yet completed. The special counsel is still investigating some matters. In one case involving a House employee, based on the special counsel's recommendation, the committee has voted to open a preliminary inquiry.

In coordination with the Department of Justice and its drug enforcement administration. This committee and its special counsel have also been investigating allegations of illicit use and distribution of drugs by Members, officers, or employees of the House. Both the Department of Justice and the special counsel have a number of matters under active investigation. Based on the special counsel's recommendation, the committee has voted to open a preliminary inquiry in the case of a second House employee.

The committee has voted to transmit the evidence developed in all matters still under investigation to the 98th Congress with the recommendation that the investigation be completed as expeditiously as possible next year.

The investigation conducted by the committee and its special counsel of the charges made by the two former pages has been an expensive and difficult task. Attorneys and investigators on the special counsel's staff carefully examined and followed up hundreds of leads, allegations, and rumors. They interviewed more than 150 individuals, many more than once, and conducted more than 50 depositions presided over by a member of this committee. They have traveled some 40,000 miles to interview witnesses in 40 cities; 45 subpenas have been issued: 31 to compel testimony, and 14 to compel production of documents. Agencies and individuals have responded to a variety of requests for materials and information the effort devoted to this investigation has been required to assure the American people that the House of Representatives has the institutional stamina to discharge its constitutional responsibility to investigate thoroughly allegations of wrongdoing involving its Members, officers, and employees.

But the fact that these widely publicized allegations have been found to be totally without foundation should give us all pause. In a special section of his interim report to the committee, the special counsel traced the origin of rumors about a "page scandal" and the events that led up to the national television exposure given to the irresponsible charges made by the two former pages. Healthy debate and honest criticism strengthens our democratic institutions. But widespread distribution of sensational rumors and charges that turn out to be totally false can create a corrosive distrust that serves no useful purpose.

This past summer the House—and individual Members of the House—endured a firestorm of slanderous publicity that cannot be justified and that was, in the final analysis, wholly undeserved. The press would do well to con-

sider how such episodes can be avoided in the future.

I want to assure the House and the American people that this committee will continue to do its part by investigating thoroughly and meticulously allegations of improper conduct by Members, officers, or employees of the House.

Mr. Chairman, at this time I yield to the distinguished ranking minority member of our committee, the gentleman from South Carolina (Mr. SPENCE)

Mr. SPENCE. Mr. Chairman, I concur in the views just expressed by the chairman. There has been no partisanship in the work the committee has carried out over the past few months. This committee was committed, from the outset, to conducting a diligent investigation of the sensational charges of sexual misconduct made by two former pages last summer. To assure that this investigation would be impartial and thorough, both in appearance and in fact, the committee retained independent outside counsel to supervise the investigation. The interim report of the special counsel demonstrates the thoroughness and care with which this investigation has been carried out. I am gratified by the conclusion the special counsel has reached, that there is "no merit whatsoever" to the charges originally made by the former pages. At the same time the bipartisan leadership of this committee remains committed to providing the special counsel with the resources necessary to pursue and investigate all matters that are still pending and to complete this investigation as promptly as possible in the next Congress.

Mr. MYERS. Mr. Chairman, I yield 4 minutes to a very valuable member of the Appropriations Committee, the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, I rise to express my concern over that section of the bill previously alluded to by the two gentlemen from Ohio, the distinguished ranking minority member of the Committee on Banking and Currency (Mr. STANTON). He raised a very serious question about this bill, particularly as it relates to what the Congress would be telling the central bank of the United States, the Federal Reserve Board, that it must do.

Now, let me say parenthetically, Mr. Chairman, that I am not unsympathetic to the attempt by the Congress to play a role. I may disagree with my friend from Ohio somewhat on that issue. But I personally believe that under the Constitution of the United States the Congress has the responsibility to help establish a monetary policy that preserves and protects and promotes a stable currency, one that will maintain its value over a long period of time. A stable dollar is necessary to give us lower interest rates and help this economic recovery.

But the gentleman from Ohio and my friend (Mr. WYLIE), brought up the point that if the Congress, through this bill, simply directs the Federal Reserve Board to target lower interest rates as a permanent policy, the results mentioned by the gentleman from Ohio (Mr. STANTON) would take place just as assuredly as the overall bill would destroy many jobs rather than create jobs.

The effect I am talking about is a resultant inflation that could very well wipe out many of the gains that have been made.

I am deeply concerned as to how the monetary policy in this country has been conducted. It has caused unnecessary unemployment, high interest rates, and falling prices. Let us not make the mistake of thinking, that if we go from one extreme, targeting the supply of money, to another extreme, targeting interest rates as we did from 1973 to 1979, that either one will work. We need a balanced approach, which is neither inflationary nor deflationary.

I think that a major lesson of the last several years is that targeting policy based on an arbitrary definition of the supply of money does not take into consideration what the gentleman from Ohio called the other side of the equation, the demand for money. When the Federal Reserve Board quotes a level of M_1 or M_2 or M_3 it is reporting an equilibrium position at a given time. We do not know, nor can we know, the exact impacts of supply and demand in determining the quantity. We would be remiss therefore if we make policy based solely on these measures.

Let me say that I mentioned earlier I am not unsympathetic to the goals of the bill language because I think Congress has been woefully negligent in looking at monetary policy and it has caused a terrible situation in this country particularly in those industries sensitive to high interest rates—steel, autos, housing, agriculture, small business—all have been affected. Ultimately consumer lending rates have literally shut off the ability of the American people to purchase the goods and services that are so important to their standard of living.

□ 1345

Mr. KEMP. I wish Congress, and I just raise this as an issue because I know we cannot amend the bill, as we should, to take this out. I would hope that Congress would begin to look at monetary policy with an eye to the ultimate goal: Stable prices. We must establish policies which produce a stable currency. The Government must once again guarantee the American people that we are going to have stable purchasing power, stable prices, sound, honest money, and an environment in which interest rates can come down. In establishing such a policy we can use interest rates and monetary aggregates as tools, not as targets.

It is desperately important that the Federal Reserve Board have a balanced monetary policy, one that looks at interest rates, monetary aggregates, the economy, more stable exchange rates, with a goal to giving us what we very much need, stable prices, honest money and low inflation.

Mr. Chairman, I must oppose this legislation. It is not a bill to create jobs. It is a bill to transfer and destroy jobs. It is unconscionable for us to be engaging in such short-sighted window dressing, when the basic steel, auto, agriculture industries, small business, and other sectors are so depressed. There is one answer to high unemployment and to our fiscal problem, and that is economic growth and recovery. A Hoover-style Reconstruction Finance Corporation is not the answer. Job-shuffles are not the answer. We must create incentives, protect the unemployed and disadvantaged, and reform monetary policy to get this economy moving again.

I thank the gentleman for the time.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas (Mr. ALEXANDER), a member of the committee.

Mr. ALEXANDER. Mr. Chairman, a minute ago the gentleman from Massachusetts (Mr. CONTE) referred to title II of the bill which is now pending as a Christmas tree.

I would respond to the gentleman that in this current session of Congress, this is the last chance before Christmas that we have to address the problem that most concerns the Nation in this holiday season. I mean, of course, a worsening economic recession and the present near-depression levels of unemployment. It is a time of emergency and it is a time to act, and if we do not deal with it now in the form of a jobs proposal that is practical and doable and workable, I would be reminded of a famous political quotation delivered not long ago by our President when he asked, "If not us, who; and if not now, when?"

These will be recognized as Mr. Reagan's words when he addressed the situation which preexisted the present economic recession. Economic conditions are far worse now, of course, and the term "Reagan recession" had already become a part of our Nation's history. But the President's question remains, to haunt both him and us: Are we serious about providing jobs for our people? Are we serious about putting America back to work? Are we, indeed, serious about economic recovery?

If we are, then there is no better time than the present to pass a jobs

bill. I challenge the President and his party to join in supporting this recovery measure or to admit that he and they prefer rhetoric to solutions.

The very fact that a jobs bill is before us today shows the magnitude of our present economic disaster. We all know that more than 12 million Americans are jobless and that the Nation's unemployment rate has reached the highest level since the Great Depression itself.

We know that business failures are at the highest level since 1932 and that our Nation's factories are at 68.4 percent of capacity—the lowest level of operation since World War II.

And we know that 6.6 million Americans are barely getting by—or trying to—in part-time jobs because the full-time jobs they need are just not available.

The bill before us would benefit our people and it would benefit our institutions. It would put Americans to work repairing and restoring and renovating the roads and bridges of the Nation and the rest of the infrastructure which the private sector needs to stabilize and expand.

This bill provides new credit for small business and would fund entrepreneurial opportunities and job possibilities. It would help fund public-works projects—industrial parks, water and sewer systems, and transportation projects among them—that our community leaders tell us they need in order to attract new business and industry. And the bill provides for critically needed maintenance on public buildings and facilities.

Moreover, the bill will not involve us in a host of new regulations. For the most part, it operates within the framework of existing programs which by consensus have shown themselves to be workable.

I have characterized this bill as an emergency measure, and so it is. It is neither a panacea nor a pork barrel, nor is it tailor-made for any district in particular. I myself would have liked to see more attention to the needs of the Nation's rural communities and small towns and midsized cities—which make up so much of the American population and of my own district as well.

This bill is not perfect, but it is good for America as a whole. It is a starting point toward recovery—like the highway and public transportation bill passed last week and like the capital investment programs which the 98th Congress will take up.

We in Congress can start the process of bringing our economy back to full health. We count on the Federal Reserve to do its part by relaxing interest rates and thereby the fears and uncertainties which high rates have caused. And we count on the private sector to respond with new investments and job opportunities.

Under the circumstances, this bill carries an inexpensive price tag. Adding all its provisions together, it will cost less than a fourth of the $25 to $30 billion which just 1 percentage point of unemployment adds to the Federal deficit.

It is time to put aside partisan political arguments and debates about who is right and who is wrong in this or that abstract theory or economic doctrine. The abstruse questions do not concern us now so much as do the 18 million fully or partially unemployed people for whom full-time work would be synonymous with the economic recovery of this Nation.

The bill before us delivers on the promise that all of us, in both parties, have made to the American electorate in recent months—to get our economy moving again and to generate worthwhile jobs for American workers. I urge my colleagues to vote for this bill. The time is right for it, and we cannot with justice put off our duty.

Mr. MYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Chairman, I rise in strong opposition to title II of this bill. It is not a turkey. It is capon. To the extent that it relies upon public works as a countercyclical tool, it is impotent to do the job that it is designed to do.

As a former Chief Counsel of the Economic Development Administration, I probably have as much or more experience as anybody in this House in trying to use a public works program as a countercyclical tool. I will tell my colleagues, it just does not work. It will not work to solve the infrastructure problem, which is immense and growing, and it certainly is not going to work to solve the unemployment problem, which is also immense and growing.

In trying to couple these two together, I think we do a disservice. I think it is hypocritical to suggest that a quick-fix, hurry-up jobs program is in any way going to address the structural unemployment problem in this country.

The LPW program which I was involved in trying to administer 6 years ago was designed to try to resolve the recession of 1975-76. The money did not come on stream until 1977 and 1978. In fact, today we are still spending money out of that local public works program of 6 years ago. It may be helping to solve this year's recession, but it is not helping the recession that it was designed to help, which was 7 years ago.

Even if we address the problem and get the projects on stream in a reasonable time, I tell you that the cost per job is outrageous. The GAO has done a study that shows that in the local public works programs, the average cost per job was about $65,000 per job. That sure is not cost effective in my book.

There has been much discussion on this floor recently as to what direction our Nation should take to achieve the long sought after goal of economic recovery.

Helping the over 12 million Americans currently out of work must be a matter of the highest priority to this body. But by help I do not mean the type of short-term, make-work public works jobs programs that reportedly are being considered. We owe it to those of our citizens who cannot find work to create a stable and healthy economy so that the jobs they do find will be permanent jobs—jobs with a future.

This cannot be accomplished by a multibillion-dollar countercyclical boondoggle. It is the height of hypocrisy, in my opinion, to suggest that putting 400,000 or 600,000 or even a million people to work for 15 weeks or so is an answer to the unemployment of over 12 million. That is political cynicism at its worst. More than that it is bad economics, because it is very likely to fuel the inflation that we have struggled so hard to bring under control.

Experience with the local Public Works Act of 1976 shows us the flaws in this approach: The overall effect of programs of this type is relatively small. The impact of the program comes too late to have any meaningful effect and in fact has an adverse effect because of the inflationary pressure created. In the rush to use available grant money, projects of relatively low priority to the community are frequently funded. And the direct cost of each created job is outrageously high.

To quote from a study commissioned by EDA and prepared by Chase Econometrics on the 1976 LPW program:

> Relative to the size of the affected industries and to their cyclical distress the LPW program was extremely small . . . the maximum level of impact of the LPW program occurred in mid-1978—about 6 quarters after the expenditures began . . . the pattern of construction expenditures financed under LPW funds differs from the normal expenditure in a manner which suggests that in many cases it is unlikely that LPW projects would have received local funding in the absence of the LPW program.

The program was supposed to help solve the recession of 1976. Instead it helped cause the inflation of 1978 and beyond because the money never came on stream until the recession was over.

The same study estimated just under $95,000 as the cost per person of direct LPW employment in the construction inudstry. Another study prepared for the Office of Management and Budget (OMB) also finds public works a relatively high cost method of creating jobs—from $69,320 for each job created, assuming no substitution for existing employment, to as much as

$198,059 per job with 65 percent substitution. Because of that high cost, so-called countercyclical programs will not help our economy.

One valuable lesson that this Nation has recently learned is that deficit spending does have consequences—it boosts interest rates and drives the private sector out of the credit market. The cost of financing a public works jobs program will only further exacerbate our economic problems. To do this under the guise of helping the unemployed is unconscionable. It will solve neither the unemployment problem nor the infrastructure crisis.

What we need instead is a program that combines a responsible monetary policy with a strong infrastructure system on which a healthy economy can grow.

Results of the President's efforts to stop runaway Government spending are finally beginning to convince the wary business community that a real change in policy has occurred. The process is slow and painful but economic indicators are now showing an improvement in the overall state of our economy.

As far as the infrastructure base is concerned, we are in trouble.

Such basic public facilities as roads, bridges, sewers, rails, and mass transit systems, are in deplorable condition. A cover story in Newsweek states that—

> Today, one-quarter of the Interstate Highway System is worn out and needs resurfacing. One-half of Conrail's rails and roadbeds are seriously decayed. Half of all American communities cannot expand because their water-treatment systems are at or near capacity. One fifth of the Nation's bridges are so dangerously deficient they are either restricted or closed.

Working in conjunction with the private sector and the local community, the Federal Government has a major role to play in the rebuilding of these important public facilities. But in order to achieve maximum effectiveness, the participation of the Federal Government must be based on a rational approach fortified with sufficient information on the existing infrastructure.

Therefore, as a key element of the program for economic development, I would propose that an inventory and assessment be made of the Nation's public facilities and that a breakdown and projection of capital investment expenditures be included in Special Analysis D of the Unified Budget.

H.R. 6591, a bipartisan initiative to institute this form of capital budgeting, was the subject of 4 days of hearings before the Subcommittee on Economic Development on which I serve as ranking minority member.

Expert witnesses from all levels of Government and the business community enthusiastically supported this concept, which has been cosponsored by over 50 Members representing the full spectrum of political, philosophic, and geographic areas.

I have been assured by the chairman of the Public Works Committee, the gentleman from New Jersey, that he "will work toward placing a Federal capital investment budget bill on the top of the House Public Works Committee's agenda in the 98th Congress." It is essential that we know the scope of the problem before we can devise an effective strategy to solve it. H.R. 6591 will supply the necessary information.

The rebuilding of our Nation's infrastructure must take place at both the national and local levels. The Federal Government simply can no longer afford to bear the lion's share of the escalating burden.

According to Ray Barnhart, Administrator of the Federal Highway Administration, our Nation's highway system "constitutes a large part of living costs. If we have poor highways, those costs will increase. Ninety percent of everything we eat, wear or use travels by highways." If our Nation's overall economy is to survive and grow, a healthy Interstate Highway System is essential.

The recently passed House surface transportation bill, H.R. 6211, goes a long way toward strengthening this essential element of this Nation's infrastructure, and Members of the House are to be congratulated on the passage of this important legislation.

While the need for an adequate interstate transportation system is great, so also is the need of the community for other vital infrastructure necessary to support industry. We have learned over the years that certain elements must be present in order for economic development to occur. These are: The availability of developable land and space; public works, public service, and development facilities; the availability of low-cost capital; favorable tax policy on investment in the area; adequate labor force; and the ability of the State and local government to assist in development.

H.R. 6100, the National Development Investment Act, which passed the House by a substantial margin, recognizes these factors and addresses the need for the community to develop a strategy by which those elements that are lacking can be developed. This bipartisan measure carries the relatively small price tag of $500 million, and is designed to offer communities which can develop a strategy for economic development with 50-percent matching grants for building of the necessary facilities to attract and support private investment. The emphasis of this program, to be administered by the Department of Commerce, which has demonstrated expertise in this area, is on private sector involvement in the economic development process. It recognizes that without this involvement no meaningful economic recovery can take place. The key to recovery lies in long term, private sector jobs rather than temporary federally subsidized ones. And Federal resources should be dedicated to stimulating this kind of long-term growth rather than wasted on quick fix gimmicks that in the end only make things worse.

Currently this legislation awaits the call to conference by the Senate. While in these waning days of this session, the possiblity of that conference occurring is slight, I am encouraged by my colleagues in the other body that next session will bring further dialog and more thorough consideration of this valuable component to a national economic recovery program.

The final element of the package that I would offer is the speedy consideration of the President's enterprise zone legislation. The community which lacks the economic and physical base to support industry must be reached by an effective economic development program. The enterprise zone concept is a highly targeted method of providing the distressed community with the type of assistance that will enable it to attract private investment and move in the direction of self-sufficiency. Working in conjunction with the National Development Investment Act, enterprise zone legislation would benefit the most highly distressed areas of the Nation, both rural and urban, and is a necessary component to meaningful national economic development.

We must face the realization that public works jobs programs simply do not work. We must reject the arguments that will be made to return us to the folly of the Federal Government buying jobs for our unemployed. To quote an editorial from the New York Times:

> Nothing would be more hollow than to lunge for a quick jobs package that produces little new employment, and more inflation.

The rebuilding of America's infrastructure combined with a responsible Federal spending policy will in turn generate the meaningful employment opportunities we are all seeking. That approach will build the necessary economic base on which industry will not only survive, but will, in fact, flourish.

I urge my colleagues today to support the sound economic concepts I have outlined as the cornerstone in our efforts to rebuild America's economic base, and vote for the gentleman from Massachusetts motion to recommit.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, I yield to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Chairman, I was very pleased to note the commit-

tee has recognized the very substantial need for financing public housing modernization. Not only has it included $2.5 billion in title I of this joint resolution for this purpose, $200 million has also been included in title II. The report underscores the great urgency for such funds at large housing authorities like St. Louis whose allocations have been weighted toward new construction.

Unfortunately, public housing in St. Louis has become synonymous with Pruitt-Igoe, the greatest failure the Government has experienced in the housing field. Rather than learning a lesson from that failure, however, we are rapidly heading in the direction of creating more and more Pruitt-Igoes in older, larger cities throughout the country. An investment of countless billions of dollars would be lost and thousands of Americans would be left without homes the Government could never afford to replace.

Recognizing the importance of restoring distressed public housing, several years ago the St. Louis Housing Authority developed a comprehensive modernization plan for rehabilitating its largest projects into suitable homes for their residents. Substantial improvements have already been achieved. One project has been restored. At a second, if work can be completed, by 1984, 50 percent more units will be available for occupancy at a savings of $24,000 in utility costs.

The authority, however, has been frustrated in its efforts to complete this program by the inadequacy of its modernization allocation. At the same time, it has $8.5 million in development funds that cannot be committed. It is my understanding that the situation in St. Louis is the type that would be addressed by the $2.5 billion modernization allocation included in this joint resolution. So I would ask the gentleman if he agrees that housing authorities with urgent modernization needs and fully developed programs for addressing them, while facing recapture of development moneys that cannot be used, should be given preference in the allocation of the modernization appropriation?

Mr. BOLAND. The gentleman is correct. I am aware of the situation in St. Louis, where the housing authority has placed a high priority on modernization and has demonstrated its ability to make immediate use of modernization money. I strongly urge the Department to make available sufficient money to those public housing authorities, like St. Louis, which are facing recapture of development money and have plans for modernizing existing projects. A large project like Darst Webbe should be completely restored so that low-income families can have decent housing.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, in my State of California the United Way has been very helpful in providing funds for domestic violence shelters. As I understand the section on food distribution and emergency shelters it is not the subcommittee's intention to preclude the use of these funds for shelters for domestic violence. Is this a correct reading of this section?

Mr. BOLAND. Yes, it is not the subcommittee's intention to preclude the use of these funds for shelters for victims of domestic violence.

Mr. STARK. Mr. Chairman, I thank the gentleman.

Mr. MYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. O'BRIEN), a member of the Appropriations Committee.

Mr. O'BRIEN. Mr. Chairman, like the gentleman from Massachusetts (Mr. CONTE), I, too, object to title II.

I yield to the gentleman from Azizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, I rise in opposition to title II of this piece of legislation, in view of the fact that it is going to cause additional impact on our national debt and the raising of inflation.

Mr. Chairman, this body is under the deadly delusion that it can create economic prosperity and wealth out of thin air: or at least off the printing press. House Joint Resolution 631 contains a provision for a massive $5 billion public works program designed to resolve the crisis of high unemployment. In other words, the overspending and deficit financing that helped us get into our present economic straits will not get us out. George Orwell would be very proud of this example of "new think."

Mr. Speaker, we are being asked to vote on another program of dubious merit and definite high cost, with very little consideration being given to just what benefit this will have for the serious long-term problems we have in the economy. Supporters of the program will argue that long-term solutions are not sought in this bill. I can certainly agree. But, it this bill seeks short-term solutions to the unemployment problem then I should point out two salient points: First, at $5 billion price tag, we are going to buy very few jobs at a very high price, and second, the cost of this short-term solution will exacerbate old problems and create new ones that will, in time "come home to roost."

Before this body votes on this ill-conceived and ill-advised move, I think we should ask ourselves just what effect it will have on the economy.

Certainly, a few jobs will be created, if, the jobs outlined are actually there, if the programs can be set up in a timely manner, and if, the administration of the funds made available approaches an Olympian efficiency, then and only then, this highly touted jobs program will reduce the current unemployment by 5 percent, at best. What happens to the other 95 percent of the unemployed is anybody's guess. At the going rate outlined in this bill, the cost to eliminate unemployment and put everyone out of work on the Federal payroll is a mere $100 billion. Why, we pay more than that today just in interest payments on the national debt. And that is exactly the point. The committee, in its justification for this make-work program, cites the high unemployment, the high rate of business failure, the loss of corporate profit, and the continued high level of interest rates. That, fellow Members, is the core to our economic ailments. We posted a record Federal deficit last year and seem to be on our way to doing the same this next year. And yet, the committee's response seems to be, "let's spend more." Has anybody asked themselves what $5 billion will do to the Federal deficit? Has anybody asked what that increase in the deficit will do to the private borrowing market, the lifeblood of business, and source of employment? I will tell you what it will do. It will increase the demands of an already overcrowded market, add even more fuel to the gargantuan appetites of the Federal Government, pushing interest rates even higher, killing off more businesses, putting more people out of work.

It is estimated that in fiscal year 1982, the Federal Government's total borrowing as a percentage of net national savings reached 99.5 percent. What does that say about the ability of business to create jobs? What does that say about the potential for economic recovery if this body is going to insist on following the spending policies that put us in the situation we are facing?

We cannot, in good faith, turn our back on the little progress we have made for reducing the stranglehold this Government has on economic expansion and prosperity. We cannot, in good faith, tell the businesses of the United States, that this Government, which consumes 99.5 percent of national savings, that we want the last drop from the bucket. I urge my colleagues to oppose title II of this bill, and if it should remain part of the bill, then to oppose the bill.

Mr. O'BRIEN. Mr. Chairman, title II is captioned "'Meeting Our Economic Problems."

Whether you characterize this bird as a turkey or a capon means little or nothing. It is the stuffing that is distasteful. I support the remarks of the gentleman from Massachusetts (Mr. CONTE). In addition, I find another peculiarity that troubles, me. There are two copies of the report around, probably a flaw in the printing. The copy

that I have indicates what moneys go to what projects. Title II in this respect is considerably flawed. As article II starts out, it points to the State of Michigan with a 17.2-percent unemployment rate, and the report discloses that the city of Flint, Mich., suffers under a 17.5-unemployment rate.

Let me also direct your attention to Ohio. Ohio has a statewide 12.5-unemployment rate, with Youngstown-Warren having a brutal 18.7-percent rate.

Now take a look at Texas. Texas has an 8-percent unemployment rate. Now add up how much of the $1.1 billion is spread around where truly needed. There is 2.6 percent that goes to Michigan; 3 percent goes to Ohio and 4.9 percent goes to Texas.

I have no problems with the great State of Texas. I just think that is a terrible way to distribute the money. This title II is poorly conceived, and unfairly drafted where the really high unemployment areas are concerned. It should be stricken from the bill.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Chairman, I rise in opposition to the Coughlin amendment which will be offered soon. Our opponents to the CRB have offered nothing as a replacement for this project. They have no alternatives that meet both the feasibility and affordability standards.

Second, they argue there is no need for an alternative.

Let me ask today how history would judge a Congress which in the late 1960's or the early 1970's had provided for a technology to replace liquid hydrocarbon fuels, even though everyone knew then that there was at least a 40-year supply of such fuels at prices of 10 years ago.

I suggest to you that such an action would have been deemed both farsighted and statesmanlike. You are going to have the same choice today. You can provide for the energy to run our economy in an economically efficient and environmentally sound and military-secure fashion or you can run the same risks, only for higher stakes than this country ran with oil imports 15 years ago.

I think that there is only one responsible choice and that is to defeat this amendment and commit America to a future worthy of her past.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ROYBAL).

Mr. GIBBONS. Mr. Chairman, will the gentleman yield to me?

Mr. ROYBAL. I yield to the gentleman.

Mr. GIBBONS. Mr. Chairman, I only rise to ask a question about the language on page 53. The language is, "* * * only to procure domestically manufactured vehicles."

I assume that means vehicles which are manufactured in this country and the components are manufactured in this country.

Mr. ROYBAL. That is correct. The amount of money that is appropriated is $100 million. The money will go to the general supply fund. They in turn will make the purchase, but only of domestically produced automobiles.

Mr. GIBBONS. These are autos that are produced entirely within this country and their components are produced entirely within the country?

Mr. ROYBAL. That is correct.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman.

Mr. MYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I think it should be pointed out here that title II of this bill will violate the very budget that this House adopted. It is $3.5 billion over the section 302(b) allocations in outlays. That means that in fiscal year 1983 if this is passed, we will be spending and borrowing an additional $3.5 billion that we have not budgeted and it will be in direct violation or direct contradiction of what we adopted as a budget.

Where will this money come from? It will be borrowed. It will be borrowed from the credit unions, the savings and loans and the banks of this Nation and that will be money that will not be available for people who want to borrow to build houses, buy automobiles, start a small business, buy a washing machine or get an educational loan.

How far more efficiently we could use this money to create jobs by leaving it in the private sector where it is available to the people of this Nation to achieve their goals.

If the chairman would permit, I would like to ask a question.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, may I say that I do not agree with the gentleman, in that in the overall we are within the section 302 allocation.

I know the gentleman and some of the members of the Budget Committee feel that they should apply separate measures to each bill, with which we disagree fully. Otherwise, without hearings, to give to any group the right to measure, define or allocate by subcommittee and by program is not in the act and I consider it in the overall in the section 302 allocation.

Mr. REGULA. Well, the chairman is correct in terms of budget authority in section 302(a); but what I said in my statement was that in section 302(b) in outlays for fiscal year 1983 passage of this bill will result in a $3.5 billion excess over the 302(b) budget allocation.

Mr. WHITTEN. Well, there are lots of figures floating around. We have ours and we differ with the gentleman. The whole budget resolution is woefully inadequate with respect to the relationship of outlays to budget authority. We all knew it was not realistic from the moment it appeared.

Mr. REGULA. I thank the chairman.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. CONTE. Mr. Chairman, I yield 30 seconds to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I rise in opposition to the amendment to delete funding for the Clinch River breeder reactor. This project has suffered long enough at the hands of opponents who have labeled it a "pork barrel politics." These individuals complain about the cost of the project, charge that the design is outdated, and claim the reactor is behind schedule. Each of these alleged reasons for killing this project is a direct result of the delays its opponents have brought about since 1974. Had this project proceeded on schedule it would not face the increased costs inflation has brought about over the past 8 years. Despite these delays it has managed to incorporate the latest in breeder technology in its design.

The opponents of the Clinch River project ignore the benefits it promises in the future, as well as the jobs, and energy it will provide. The chief benefit comes in the energy technology this project will provide. It is impossible to imagine how we can expect to broaden our energy options without creating and testing a breeder model. Six nations have preceded us in the movement toward breeder technology.

We have a responsibility to prepare for the future. We cannot expect the current oil glut to continue. The breeder program will provide the technology, research, and model we need to prepare for our future energy needs. To scrap this project would not only be a waste of money, but also a waste of the human resources of time, experience, and hard work which has been invested. And we could not hope to recapture this loss in the future, so we would stand unprepared in the face of the next energy crunch.

I would urge my colleagues to keep the future in mind when they vote on this amendment. With the Clinch River breeder reactor we can look forward to a new technology, jobs, and a new energy option. Without it we will stumble about in the dark seeking the energy to light our way. I hope my colleagues will vote against this amendment.

Mr. WHITTEN. Mr. Chairman, I yield such time as he may consume to

the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I rise in support of the House Joint Resolution 631, further continuing appropriations for fiscal year 1983. I would like to pay special tribute to the Appropriations Committee for including a very important element in the jobs stimulus title: An additional appropriation of $250 million for the low-income weatherization program at the Department of Energy.

The results of this program, in existence since 1977, have been impressive both in terms of energy savings for the Nation and income savings for low-income people. According to a 1981 study by the Consumer Energy Council, weatherization results in savings to low-income households of 27 percent in their fuel bills or 4 percent of their average annual income. This figure is significant because low-income households spend a larger proportion of their income on energy than other income groups—often as high as 40 percent.

Because low-income households have little disposable income, they usually cannot afford to make the improvements in their homes that are needed to reduce energy needs, beyond the economies they have already achieved through reduced comfort.

The low-income weatherization program delivers energy at a cost per barrel of oil equivalent which makes it a cheaper way to expand the Nation's energy resources than any other form of energy production. According to the Consumer Energy Council, the low-income weatherization program has "produced" saved energy at less than half the cost the resident would pay for oil, electricity, or natural gas.

The potential for employment in the weatherization industry is impressive. The conservation industry is a labor-intensive industry, particularly as compared to other forms of energy production. The Appropriations Committee has estimated that this $250 million appropriation is sufficient to put 4,750 people to work for 1 year in direct labor. As the committee notes, this figure does not include additional jobs that would be created in the manufacture of weatherization materials. This program has another unique advantage in stimulating jobs because of the new spending that would be freed up from reduced fuel bills. The committee estimates that this appropriation would save up to 1 million barrels of oil equivalent annually in the weatherized homes. Based on the average delivered cost of residential fuel, that energy savings would translate into $45 million annually in reduced fuel costs. These fuel savings, once invested in other sectors of the economy, would create additional jobs, approximately 20,000 jobs over the estimated 20-year life of the conservation investments.

Mr. Chairman, I recently introduced the Weatherization and Employment Act of 1982, which aims to weatherize the remaining low-income households in the Nation over the next 11 years, giving special attention to the job creation and job training aspects of the weatherization program. I believe that the appropriation in the continuing resolution for fiscal year 1983 is an important first step toward attaining that goal.

Mr. WHITTEN. Mr. Chairman, I reserve my time at this point.

Mr. CONTE. Mr. Chairman, I reserve my time.

Mr. WHITTEN. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Chairman, I rise to express support for House Joint Resolution 631, providing further continuing appropriations for fiscal year 1983. Given the Congress poor record in approving the 13 appropriations bills required to fund Government operations through the current fiscal year, I believe enactment of this resolution is imperative.

While I support adoption of the resolution, I must emphasize that there are provisions that I find troubling, and even objectionable. I am particularly concerned with the fact that the resolution provides appropriations only through March 15, 1983. This short-term approach to the funding problem completely undermines any incentive for Congress to exercise the discipline that is required for a responsible budget policy.

This is certainly a poor way to run the Government. What we need is stability in Government policy, particularly with regard to Government spending. These short-term solutions only foster uncertainty by imposing false deadlines on Government operations and causing undue panic among many beneficiaries of Government programs. Such action also requires that Congress again divert its attention and effort from other pressing matters next March to assure the continued operation of Federal programs.

I support the House leadership's efforts to use the continuing appropriation as a vehicle to expedite action on an emergency jobs stimulus program. Some form of economic stimulus is clearly needed if we are to have any hope of economic recovery in the near future. There are still few signs that we have begun to emerge from the deepest recession in the Nation's postwar history. And it is clear that tax reductions alone have not been sufficient to encourage investment and create new jobs and production.

Once again, however, I must express reservations with the jobs stimulus proposals included in the resolution. In general, I believe the plan has been conceived too hastily and includes provisions that will not meet our urgent job creation objectives. I must also object to the fact that the initiatives included in the stimulus plan are biased in favor of urban communities and clearly ignore the Nation's rural areas. Essential urban development, public works and housing improvement funding is restricted only to urban areas. The need for jobs and basic structural improvements is as imperative in our rural communities as it is in our cities. I would hope that if this proposal is put into effect, efforts will be made to restore the traditional allocations in most of the programs between urban and rural communities.

Let me also point out that I am pleased that a number of important amendments to the resolution have been ruled in order. I strongly support the effort of my colleague from Pennsylvania (Mr. COUGHLIN) to delete all funding in the resolution for the Clinch River breeder reactor and plan to join in the discussion in support of that amendment.

I am also pleased to see that several amendments will be offered regarding the issue of increasing congressional salaries. I have long maintained that Congress must confront this issue directly, only on a separate recorded vote. I have also believed that any salary increase should only be enacted for a subsequent Congress in order to eliminate the immediate conflict in interest. While I realize that raising this question in a lameduck session is not entirely consistent with this second point, I think it does permit us to address this question in a way that minimizes the inherent conflict in our considerations.

Like most bills that include numerous issues and provisions, I find there are both good and bad points in this resolution. However, I strongly believe that we are far better off adopting this resolution than delaying action and compounding the confusion and uncertainty in our budget policy. A time of economic uncertainty and distress is not the time for stopgap solutions to Government spending. For the future, I urge that efforts be made to ignore and streamline our budget and appropriations process to provide for more timely action on essential Government appropriations.

Mr. WHITTEN. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, I rise today to address a matter of great importance to both this body and to the State of California: the House-passed provision to the Interior appropriations bill prohibiting oil and gas leasing on the central and northern California coast. I am concerned by the misunderstanding which may surround this provision, and would like to

take a moment to provide some clarification and background regarding offshore oil and gas drilling off the California coast.

Just a few weeks ago, the House approved by an overwhelming majority a fiscal year 1983 Interior appropriations bill which contained a provision which would suspend oil and gas leasing on a portion of the central and northern California coast through the 1983 fiscal year. The provision was approved without objection by the subcommittee and full committee, and on the floor of the House. The provision would cover a smaller portion of the northern and central California area slated for oil and gas leasing October of 1983.

The Senate has marked up an Interior appropriations bill containing a California oil and gas leasing provision as well, but here the similarities between the two bills ends. The Senate Interior Appropriations Subcommittee has addressed the extremely complex and important issue of California offshore oil and gas leasing with a meaningless and powerless provision which bears no more than superficial resemblance to the provision passed by the House. It is important here to note the considerable distinctions between the two bills, as the issues the House provision addresses promise to attract increasing public and congressional attention support in the coming weeks and months.

The provision approved by the House sets aside for protection an area of the central and northern California Outer Continental Shelf from Pismo Beach north to the Oregon border by excluding funding for leasing there during the 1983 fiscal year. The moratorium on offshore oil and gas drilling in the area described by the House provision enjoys the support of both California Senators, the Governors of California and Oregon, the majority of the California delegation—Republicans as well as Democrats—and affected coastal cities and counties. The House language would protect only those areas considered to have low estimated recoverable resources as well as a high risk of serious damage to the area's marine environment and those who depend upon it for their livelihood and recreation. In drafting the House language, care was taken to insure that it would have no effect upon the significant oil and gas development which is taking place off Point Arguello, over 40 miles to the south.

In contrast, the Senate version would offer no protection to the central and northern California coast during the coming fiscal year. The provision describes for nominal protection only those four small tract areas which have already been deleted from leasing by administrative decision. Thus, the provision leaves open virtually the entire northern and central and northern California coast for a lease sale scheduled for completion in October 1983.

By permitting continued development in that portion of a previous lease sale where 85 percent of the estimated recoverable resources in the sale area were expected to be found, the House provision acknowledges the need for continued development of necessary oil and gas off the California coast. However, in those offshore areas of low hydrocarbon potential, the important environmental and economic considerations attendant upon oil and gas leasing must be considered as well.

Nineteen billion dollars in revenue is generated annually by tourism in California coastal counties, and an additional $1 billion is contributed by the State's fisheries. These important environmentally dependent economic concerns must be taken into account by any decision to offer offshore oil and gas leases. In fact, the Outer Continental Shelf Lands Act Amendments of 1978 define a balance of relative environmental sensitivity against an area's resource potential as a prerequisite for conducting Outer Continental Shelf oil and gas leasing. Federal law also mandates consistency of major Federal actions with existing regulations designed to protect natural resources. Off the California coast, the dwindling population of the California sea otter—a threatened species protected by Federal law—would be severely affected by any drilling north of Pismo Beach. None of these important factors is given serious consideration by the Senate drilling provision.

Last year, Congress recognized the importance to consider important environmental and economic factors in balance with estimates of resources recoverable from an area when it passed an appropriations provision suspending leasing in almost all of the northern and central California coast offered for leasing that year. That provision named the specific tract groups to be leased, and thus, the enacted language cited those tract groups to be excluded from leasing. However, since that time, the Department of the Interior has changed its leasing format, and offshore leasing is now conducted on an areawide basis. Thus, this fiscal year's continuation of last year's northern and central and California coast leasing prohibition must observe an areawide, rather than tract-group specific designation of the region it covers. For this reason, I commend the House for its foresight in enacting this year's areawide provision, and urge the conferees to continue to support that language in conference.

The provision passed by the Senate Appropriations Committee is almost a verbatim transcript of last fiscal year's prohibition language, but is inapplicable to this year's leasing program. In fact, none of the areas mentioned in the Senate language can be leased during the coming fiscal year. The Senate language is, in short, powerless, and should be rejected by the House.

I wish to underscore the importance of holding firm with the House-passed provision regarding California oil and gas leasing. The productivity and environmental well-being of scenic and resource-poor northern and central California depends upon its unspoiled coastal environment. Thank you for your attention.

● Ms. FERRARO. Mr. Chairman, I rise in support of the resolution and ask unanimous consent to revise and extend my remarks.

Mr. Chairman, we are experiencing the worst employment since the Great Depression. More brutally, and accurately, 12 million Americans are out of work—a post World War II record.

I support the job creating sections of this bill because they will provide useful, constructive work and training for thousands of workers displaced by the recession brought on by Reaganomics.

I especially want to call attention to provisions of the bill which will help a sector of our economy which is suffering terrible unemployment but which is not always paid the attention it deserves.

I speak, of course, of our unemployed women.

There are two issues here: Why do women work? And, what kind of jobs do they do?

Women work because they must work. Our female work force has doubled since 1960. Not because women thought working would be a lark. President Reagan is wrong, and sadly out of touch with reality, when he tries to blame male unemployment on women working instead of his own misguided economic policies.

Now, 74 percent of all women are working because they are single, divorced, widowed, or married to husbands who make less than $15,000 a year.

As unemployment has soared, the wife's job has, in many cases, become the only barrier between her family and welfare. This was dramatically illustrated in a December 8 article in the Wall Street Journal which showed that many women—married to steelworkers, autoworkers, construction workers—have become the breadwinners for their families as their husbands lost their jobs.

We all know that the overall unemployment rate is 10.8 percent. We are accustomed to having the rate broken down by various groupings. For example, we hear that 9.2 percent of white men are unemployed, and that among black teenagers, unemployment is a crushing 50 percent or higher.

89-059 O-86-30 (Pt. 22)

One group we do not hear as much about is women who do not have husbands to support them. These are women who are single, or widowed, or divorced, and who are responsible for taking care of themselves or themselves and their children. Their numbers are growing, and so are their problems.

The Bureau of Labor Statistics says unemployment among these women in November 1982 was 12.5 percent, more than 3 points higher than the rate for white men over the age of 20. And those who do have jobs must deal with the reality that their jobs pay less than they would pay if men held them.

Eighty percent of all women work in just 20 job classifications. Those classifications do not pay as well as the jobs in which men are concentrated. And those classifications do not include many of the jobs we seek to create here today—carpenter, plumber, bulldozer operator, welder.

There is no reason women cannot hold these jobs—no reason except a traditional pattern of discrimination which some administrations have tried to address but this one is virtually ignoring. In the short run—now, when we need the work—women are not going to these jobs.

According to the Bureau of Labor Statistics, there were over 4 million persons employed in the construction trades in August. Of these, 387,000, or 9.3 percent, were women.

In the specialty of highway and street construction, 262,300 were employed, of which 16,500, or 6 percent, were women.

I recently received a report on job opportunities in federally aided construction prepared by the Southeast Women's Employment Coalition. They noted that only 5.2 percent of all workers on federally financed highway projects are women—and that's including those working in secretarial and office positions created by roadbuilding projects.

While much of this bill and of the highway bill we passed last week will not help women who need good paying jobs now, I am pleased that some provisions of this bill will provide immediate help.

The employment and jobs training programs, through the Jobs Corps and the Job Training Partnership Act passed earlier this year, are necessarily aimed at helping workers displaced because of dislocations in major industries, and most of these workers are men. Still, the job search assistance, retraining, and relocation assistance offered could help women trying to reenter the job market, and I am hopeful that will happen.

The added funds for running State employment services agencies will help women in two ways. First, women will likely get many of the jobs in the agencies, and women and men alike will benefit from improved efficiency in processing unemployment checks and providing help finding jobs.

Probably the single most valuable item in this bill for working women is the additional $50 million for day care services. For many working mothers of young children, the availability of affordable day care is critical.

For women with part-time or low-paying jobs—and women still make only 59 cents for every dollar men earn—reliable, subsidized day care means a direct increase in their disposable income. In many cases, it can mean the difference between being able to work and being forced onto the welfare rolls.

Having adequate day care enhances the value of the job training opportunities in this bill, as it means women can be sure their children are being cared for while they seek better job opportunities.

Finally, as in the case of employment services, the day care jobs created by the additional funding will provide work for women. Thousands of unemployed day care workers, who have lost their jobs because of the recession and Reagan budget cuts, will be rehired, and most of them are women.

Immediate work openings for women will also result from the increase in home health care services. Cutbacks in these programs have resulted in hospitalizations which could have been avoided if proper outpatient care had been available. Restoring the home health services will not only provide jobs for women, it will also save money by providing competent medical care without the expense of hospitalization.

While these are the principal areas of jobs opportunities for women, I am hopeful that women will benefit from other provisions as well. For example, I would expect that women will get a reasonable share of the 160,000 emergency productive jobs created by the bill. These jobs involve repairing community facilities and must produce a tangible benefit to the community. There is no reason women cannot do these jobs, and those women who are able and willing, and who meet the other eligibility requirements, should be given full consideration.

Women should also be considered for the 65,000 light construction jobs provided through community development grants. As I mentioned earlier, women make up a very small percentage of construction workers. With unemployment at 23 percent in the construction trades, we must be sensitive to the need to put people back to work. I believe this bill, coupled with the highway and bridge repair bill, respond to that need. At the same time, I hope we will reaffirm our commitment to move toward equal employment opportunity and to eliminate sex discrimination wherever it exists.

The unemployed are not statistics. They are real human beings with real hopes and fears. For the Nation, an unemployment rate of 10.8 percent is intolerable. But for a family whose breadwinner—whether a man or a woman—is unemployed, the unemployment rate is 100 percent, and that is not just intolerable, it is tragic. If it goes on too long, it can completely ruin people's lives. For millions of Americans, this recession has gone on too long. We have to do something now.

The immediate concern of this bill, and rightly so, is to put people back to work. It is vitally important, however, that we move now to develop policies to restore long-term health to the economy.

In this regard, I was very pleased to notice the committee's recommendation, in its report, that we give prompt consideration in the 98th Congress to reviving the Reconstruction Finance Corporation. This is an idea which I have repeatedly spoken in favor of as a means of strengthening Government cooperation with the private sector and generating needed investment.

The RFC played a key role for 25 years in helping to lead the country out of the depression. When it finally went out of business, it had stimulated billions of dollars of investments and returned a profit to the taxpayers. A similar institution now could provide needed capital assistance to strengthen the private sector. I look forward to working with members of the Committee on Appropriations and other interested Members to make this idea a reality.●

● Mr. SYNAR. Mr. Chairman, the House action today regarding social security disability will go a long way toward resolving the current problems facing many of our constituents who rely on disability for their livelihood. I commend Subcommittee Chairman JAKE PICKLE for his hard work. Through the development of this legislation, Congressman PICKLE demonstrated a firm commitment to finding a compassionate solution that made good sense. He was always open to ideas from those of us who were interested in this bill but who are not members of the Ways and Means Committee.

I would like to point out specifically three ways in which this legislation improves the disability process. First, the bill temporarily provides extended disability benefits for persons terminated as part of the continuing review effort. There has been a great deal of confusion regarding this effort—which began last year in response to a 1980 congressional mandate—and many of us have feared that truly deserving disabled citizens were being terminat-

ed, or at a minimum, denied critical benefits during the time they processed an appeal. The high rate of reinstatement by independent administrative law judges (ALJ's) confirmed that fear. This bill closes the "window" of time during which terminated recipients who would appeal and win were without any income. The provision has an automatic sunset (October 1983) and serves to provide temporary relief from the problem until the review process is moving swiftly.

Second, Congressman PICKLE's initiative puts into permanent law specific steps which the Social Security Administration must take in the review process. Every terminated recipient now will be entitled to a face-to-face reconsideration hearing before appealing to ALJ's and every terminated recipient will be given reasonable notice and basic information concerning their rights before the reconsideration, particularly concerning their rights of representation and the introduction of evidence.

This addresses a serious problem: Many recipients were confused and scared by the sparse information provided to them concerning the review of their benefits and a great deal of misinformation resulted. Oklahomans who were affected in this way would come to my district office seeking help daily.

And finally, the measure requires a semiannual report from the Social Security Administration to the Congress concerning the review process. This is badly needed. As we considered this legislation over the past few months I became aware of the acute lack of information about the reviews. Many of the disagreements were caused by conflicting information and interpretations of it, and these semiannual reports will be welcomed. I look forward personally to following the progress and being ready to act if further problems develop.●

● Mr. WAXMAN. Mr. Chairman, I appreciate the work of the chairman and the Committee on House Joint Resolution 631, the continuing resolution for fiscal year 1983.

I especially appreciate the inclusion in the bill of the provisions relating to health planning found in section 101(e)(4). These provisions read:

(4) Such amounts as may be necessary for carrying out the following activities, not otherwise provided for, at the current rate: health planning activities authorized by the Public Health Service Act: *Provided*, That no penalty shall be applied nor any State or agency agreement terminated pursuant to sections 1512, 1515, or 1521 of the Public Health Service Act during fiscal year 1983;

The most important effect of these provisions is to appropriate the amounts necessary for continuing health planning activities at the current, or fiscal year 1982, rate in fiscal year 1983. The bill thus provides $37.731 million for health systems agencies, $19.200 million for State health planning and development agencies, $1,325 million for technical assistance centers and $6.633 million for program management in fiscal year 1983.

The bill also provides that no HSA agreement shall be terminated under section 1512 of the PHS Act. In this way the bill extends the provisions enacted in the supplemental appropriations bill last spring to reduce the required HSA staff levels under subparagraph (b)(2)(B) to not less than 3 and 1 per 300,000 residents rounded to the nearest 300,000.

The bill further provides that no HSA agreement shall be terminated pursuant to section 1515. This provison clearly provides that agencies shall not be terminated or not renewed during fiscal year 1983 under paragraph (b)(2) because they have been conditionally designated longer than 36 months, under paragraph (b)(3) with 90 days notice, or under subparagraph (c)(3)(B) because they have been returned to conditional designation for longer than 12 months.

The bill finally provides that no penalty shall be applied nor any State agency terminated pursuant to section 1521. This provision means that that no State shall have funds under the Public Health Service Act or Comprehensive Alcohol Abuse Act reduced in fiscal year 1983 under the terms of paragraph (d)(2). It also provides that State agencies shall not be terminated under subparagraph (b)(2)(B) for extending beyond the period set by paragraph (d)(1), under subparagraph (b)(2)(C) with 90 days notice, or under subparagraph (b)(4)(B) because they have been returned to conditional designation for longer than 12 months.

The health planning provisions of House Joint Resolution 631 are important to maintain our State and local health planning agencies until new health planning legislation is enacted. They are consistent with the provisions of the new planning legislation, H.R. 6173, which was passed by the House in September.●

● Mr. FRENZEL. Mr. Chairman, often Members will refer to a bad bill pending before the House as "the worst bill I have ever seen." That the normal hyperbole of the institution, and I have indulged in it myself. But it is an overused custom, so I will not use it today.

I will merely say that House Joint Resolution 631 would surely rank in the top 20 of any objective observer's worst list. It is waste, its inanities, and the false claims made for it are of Olympian quality and gargantuan size. It may not be a grand champion "worst," but it is surely a contender.

A bad bill invariably needs a bad rule. If I had not read the bill, I would have known as soon as I saw the rule that the bill was a turkey. Only those appropriations bills that are either bad or sneaky need a rule at all. This bill needs a closed rule with every waiver known. That is a dead giveaway that its authors are ashamed of it.

The rule keeps us from amending the bill, except in a few less important instances where our elite leaders have designed to let the people be heard. The rule is an affront to the House and to the people we represent. It casts a shadow of darkness over the bill, and calls into question not only the substance, but also the motivation behind the bill.

Closed rules are useful sometimes. They should never, however, be used on appropriations bills, unless the sponsors have something to hide.

This rule will hide a number of obnoxious features. First among them is that the bill is nearly $9 billion over budget in outlays. The CBO figure is $8.7 billion.

That probably is a record. At least, I cannot remember any bill which ever exceeded the budget resolution outlay limitations by that much.

We all know that we appropriate budget authority, not outlays. Nevertheless, this House cannot approve any appropriations bill without due regard for outlays. None of us can say, "the bill is not really over budget; it just spends $9 billion more than we voted to spend."

That egregious overspending is reason enough to vote against the bill, but the way in which we spend it is even more reason.

Fifty million dollars is strictly peanuts in a bill that exceeds budget outlays by $9 billion. But, one of the expenditures on this bill tosses $50 million to a private agency with instructions to counsel with a few other agencies and spend it on needy people. That is real targeting. Spreading dollar bills with pitchforks would distribute taxpayers' moneys with about the same precision.

We are told that $5.4 billion of this bill is intended to create some 300,000 jobs, which may or may not ever be created. Whatever jobs are created will surely be temporary, and they will surely be tilted in favor of skilled construction labor. The cost per job is expensive. Projects, which the sponsors say are ready for immediate start, have never been ready. We have passed such bills again and again, and the projects have always lagged behind the congressional promises. They usually come onstream after the recovery, and cause only overtime, not jobs.

We should not be deluded into thinking that the symbols-without-substance job bill, title II of this resolution is the only thing wrong with this bill. Even if that were set aside,

the resolution would still be $3.3 billion over budget in outlays.

Further, there are many instances of legislating on an appropriations bill, but all of them are protected by the rule from points of order. One of the worst examples occurs in the customs section where jurisdiction of other committees is invaded by the Appropriations Committee and that invasion is protected by the rule.

The whole mess should be returned to the committee for wholesale rehabilitation. Some of the page numbers can be salvaged, but all the rest of the bill should be scrapped. In its present condition, the bill should be defeated.●

● Mr. MONTGOMERY. Mr. Chairman, I especially want to thank the very able and distinguished chairman of the Subcommittee on HUD-Independent Agencies, Mr. BOLAND, for his leadership in helping to resolve the automated data processing issue at the Veterans' Administration. For several years now the Veterans' Administration has been unable to make any decision as to the kind of computer system that should be installed in the Veterans' Administration hospital system.

The language contained in the resolution being considered is consistent with my position and the position of other members of the Committee on Veterans' Affairs relating to Department of Medicine and Surgery computer capabilities.

The long history of providing the VA hospital system with clinical computer capabilities has been fraught with planning difficulties, imprecise cost projections, overly optimistic schedules, and management indecision. During this regrettable period, the Congress has expressed concern that this lack of automated data processing service in the Department of Medicine and Surgery has adversely impacted on the quality of health care delivered in VA hospitals.

Many of us in the House were very pleased when Mr. Robert P. Nimmo issued his executive order of February 18, 1982, providing new direction in use and control of computers and ADP technology in the Department of Medicine and Surgery with a policy of decentralization which places the emphasis on quality of health care rather than gathering data. When the House and Senate Veterans' Affairs Committees were briefed on his directive we were told that maximum effort would be exerted in implementing decentralization and that there would be no further development or expansion of the old centralized ADP program, Apples. We were also told that equipment and other sources intended for the expansion of Apples would be reprogramed to support the new decentralized policy.

We were later amazed to learn that the Administrator's earlier executive order had been reversed and that a subsequent decision was made to go back to the original plan for a centralized system. Our committee learned that the expansion of certain Apples (COMISS) sites was made unilaterally by the Office of Data Management and Telecommunications.

Mr. Chairman the Appropriations Committee has taken the position consistent with those of us on the Veterans' Affairs Committee who support a decentralized computer system for the Department of Medicine and Surgery. In a letter sent to the Administrator on November 19 the ranking minority member of our committee, the Honorable JOHN PAUL HAMMERSCHMIDT, and I asked the Administrator not to proceed with the centralized (COMISS) system and to begin immediately to implement the current decentralized system developed by the Department of Medicine and Surgery. At the same time we did not suggest any limitation on the Veterans' Administration to develop options either through the private sector or otherwise, where such options could possibly enhance or improve on the decentralized MUMPS system. Our position was simply that until the Veterans' Administration has a better system, it should begin immediately to implement fully the integrated MUMPS system. We feel this would be cost effective, but more importantly, we feel the MUMPS system is the only system currently available that could be quickly implemented. VA hospitals must have computer capability if we are to provide quality care to veteran patients.

The overriding issue, Mr. Chairman, is the quality of care to be provided to veterans who receive their care and treatment in VA medical centers. The VA is far behind the private sector, and we must begin to catch up. We can continue to conduct studies and implement pilot projects. That is not satisfactory. There have been too many studies. Let us get on with getting the job done. If the other body accepts the language of the House, we will see major progress in a short period of time.

I compliment all members of the Appropriations Committee who have joined in support of our efforts, and I would urge the other body to do likewise. We can no longer afford to wait—to continue to haggle about what system should be provided. This is the best system available, and we need to get on with it.●

● Mr. LONG of Louisiana. Mr. Chairman, I rise in support of House Joint Resolution 631, to provide continuing funding for a myriad of important programs which otherwise would be terminated in the absence of their regular annual appropriations. I share the concern of many of my colleagues that "government by continuing resolution" is not the way to run the Nation's business. Nevertheless, we find ourselves once again in the unfortunate circumstances of making key decisions on a vast range of Federal programs in the waning moments of the congressional session.

As a Member of the House, I would like to commend our appropriations chairman, Mr. WHITTEN, for having led us through passage of nearly all appropriations measures for the current fiscal year. And again, I would commend him for leading this effort to keep the Government functioning until the Senate can complete the actions for which it is responsible. It is not an easy task. The urgency of today's situation compels a streamlined procedure. Yet, the principle of fairness demands the opportunity to offer amendments or make changes in our funding priorities over the next few months. That delicate job of balancing the need for swift action with the legitimate need of Members to affect the pending legislation falls to the Rules Committee.

Yesterday, the Rules Committee identified eight amendments which merit consideration by the full House in its work on the continuing funding measure. One of these amendments is offered by a colleague of mine from Louisiana, Congressman BILLY TAUZIN, and I would like to take just a few moments to add my support for passage of this effort. The amendment is necessary to make sure that private sector initiatives to help the elderly and the poor pay high fuel bills are not blocked by the actions of the Federal Government. It is an amendment crucial to the most vulnerable of our society—people who are constantly walking an economic tightrope between the choice of food or fuel.

The problem arose when Federal bureaucrats at the Department of Health and Human Services delivered a strict ruling which states that a voluntary checkoff program for fuel assistance, which is administered by the utility companies must offset supplemental security income (SSI) benefits. The effect is deadly. People in need simply will not take the heating assistance provided by this voluntary system for fear of losing their SSI benefits. At a time when reliance upon private initiative and charitable giving is so great, it would be regrettable to allow these efforts to fall prey to a misguided Federal interpretation. I strongly urge the support of the House for this measure, and I was delighted to be able to work with my friend from Louisiana in making sure this amendment could be heard today.

In addition, I would like to call the attention of other rural Members of the House to the existence in this bill of additional funding for watershed and flood protection programs, and for rural water and waste disposal systems

so important to our areas. As my enlightened colleague, Mr. WHITTEN, informed us yesterday in the Rules Committee, this Nation, prided by a reputation as the world's symbol of progress, has not had a new major public works project since 1976. The lack of such an initiative by our Government in 6 years has led us to the present condition of a failing infrastructure—to the lack of roads and bridges and dams and public facilities that we need to function as a modern, productive society.

This bill addresses needs, not just of our metropolitan areas, but of rural America, where one-third of the American population still lives. The need for public works improvements in rural communities is greater today than in years past. Our facilities—where they exist—have grown older and in greater disrepair. Our tax bases remain small and unable to borrow the money necessary to finance such large projects. The farm economy is in its worst condition since the Great Depression. Consequently there is less money circulating in these communities, fewer jobs, and a greater need to bolster the growth of nonfarm business and industry.

The money available in the continuing resolution would be added to the $120 million made available in the Agriculture appropriations bill passed by the House. Together, these two bills would bring the total amount of funding for rural water and waste disposal programs to $320 million—an amount about equal to the total Federal effort in 1980. This Federal effort is greatly needed. It will lead to an economic infusion desperately needed in the rural economy. By way of example, in my State of Louisiana, the FmHA has identified 53 communities, water and sewer districts that have sound applications, and which should be funded in the judgment of the experienced officials of FmHA. However, at current levels of funding, I have been informed that only 12 of the 53 can be funded. That means that the agency will be unable to take care of more than three-quarters of the communities that desperately need water and waste disposal systems and present viable projects.

I submit that this potential for construction, jobs, and the future of our rural communities should be developed. I submit that this program is needed, successsful, and well liked. It will help deliver pure water to rural homes and help maintain good health for our rural families. And, it will help rebuild and restore the public service infrastructure that can contribute to longer term, self-sustaining economic growth in rural communities.

Mr. Chairman, I believe that House Joint Resolution 631 is a well balanced bill which continues vital Government programs and services, provides the opportunity for more jobs, and builds in a fair assessment of the range of public project needs. I call upon my colleagues—urban and rural alike—to support the measure.●

● Mr. ST GERMAIN. Mr. Chairman, I rise in strong support of House Joint Resolution 631, to make further continuing appropriations for fiscal year 1983. I wish to commend our distinguished Speaker and the other members of the Democratic leadership for taking the initiative in this postelection session of the 97th Congress to respond to the dismal economic conditions that have brought the highest level of unemployment since the Great Depression. Not only is this appropriations bill providing for the continuing funding of the Federal Government, but it bravely attempts at a minimal level of assistance to provide funding for a series of measures which addresses the critical unemployment problem that is having devastating effects on our economy.

As chairman of the Committee on Banking, Finance and Urban Affairs, the Speaker requested that our committee make recommendations to him as to what ought to be included as part of an economic stimulus package on the programs that the Banking Committee has jurisdiction over. Our recommendations have been embodied in title II of House Joint Resolution 631, and, indeed, the Appropriations Committee increased the funding that the Banking Committee Democrats recommended. Title II contains an additional billion dollars for the community development block grant program to be made available to entitlement communities through the regular entitlement process for the purpose of funding public facility improvements. It is our expectation that this additional block grant funding be used exclusively for the type of public facility activities contained in section 105(a)(2) of the Housing and Community Development Act of 1974, as amended.

Title II also contains additional funding for the successful and much needed weatherization grants for our low income, elderly citizens. For those of us in the colder climate of this country, this program has been a godsend. I am particularly appreciative of the Appropriations Committee's concern in providing an additional $250 million for the weatherization program. Not only does this program provide weatherization for 250,000 homes for our low-income senior citizens but the direct labor involvement in this program will be 4,700 people put to work this winter season.

I would also commend the committee for providing an additional $1.2 billion on top of the $1.5 billion for public housing modernization. Both our Banking Committee and the Appropriations Committee earlier this year tentatively agreed to appropriate the budget authority for our public housing modernization program totaling $1.5 billion. Since the public housing modernization program is a job intensive-type of assistance and since the condition of many public housing projects, many of which are 30 to 40 years old, are in great need of major renovation, such as new heating units, new windows, and additional weatherization and other utility improvements, this total of $2.7 billion of public housing modernization is a welcome initiative that the Appropriations Committee is to be highly commended for.

I know that the public housing authorities in my area of the country can and will use all of the moneys the Department of Housing and Urban Development will allocate to us for these modernization efforts. There will be no delay, the need is there, and I believe that the housing authorities have the ability to use this modernization increase budget authority.

Finally, Mr. Chairman, I commend the Appropriations Committee and my colleague from Massachusetts, Mr. BOLAND, for appropriating $9.7 billion of budget authority for the continuation of our assisted housing programs. I regret that the Banking Committee was unable to bring to the floor our housing authorization bill for fiscal year 1983. Our committee reported the authorization bill out of the committee last May, but due to the delay of the budget resolution, the administration's vehement opposition to the direction of our bill and our ability to work out the necessary compromises with the minority members of the Banking Committee, we have been unable to move forth our bill as we expected.

While I and the other Democratic members of the Banking Committee feel that the budget authority provided in our authorization bill, as well as in this appropriations bill, is far too little to meet the low- and middle-income housing needs of this Nation, we applaud the Appropriations Committee for taking on the responsibility to continue, at least, the structure of our assisted housing programs through to the end of fiscal year 1983.

While there are some differences in the manner in which the Appropriations Committee and the Banking Committee would allocate the budget authority for the use of the various assisted housing programs, I believe that the direction taken by the Appropriations Committee by providing $9.7 billion in budget authority for our assisted housing programs is absolutely essential if we are not to turn our face from the low-income housing crisis that this Nation is facing.

I strongly support this joint resolution and I urge my colleagues to

strongly oppose the Republican efforts to delete title II of the resolution which would only send another message to the American public that the administration and the Congress do not care about the economic difficulties of this Nation.●

● Mr. STOKES. Mr. Chairman, I rise in support of House Joint Resolution 631, making further continuing appropriations and providing for productive employment for fiscal year 1983.

Title I of this joint resolution provides continuing funding authority for the operation of the Federal Government through March 15, 1983, since only two appropriations bills have been enacted at this time. It is unfortunate that once again we must resort to this improper and inefficient way of funding Federal operations. Another continuing resolution, however, is unavoidable. Adoption of this joint resolution is critical to insuring the smooth functioning of most of the Federal Government until the regular appropriations bills are enacted.

Title I of this joint resolution also provides $9.7 billion in new budget authority for assisted housing programs. I wholeheartedly support these provisions and complement the distinguished chairman of the HUD-Independent Agencies Appropriations Subcommittee for his recommendations incorporating a balanced and reasonable approach to the complex and difficult problem of meeting the housing needs of our Nation's poor and disadvantaged persons given the severe financial constraints facing the subcommittee. The inclusion of this funding in the continuing resolution at this time is is critical to insuring a viable Federal housing program for fiscal year 1983. Due to the lack of authorizing legislation, the funding authority for the housing programs was not included in the regular HUD-Independent Agencies Appropriations Act. Now, however, we have no alterternative but to recommend assisted housing funding through this joint resolution.

Mr. Chairman, thousands of American families are in dire need of affordable and decent housing. To partially address this need, this joint resolution includes funding for 10,700 units of new public housing. I believe that this is the minimum level at which we can maintain a viable housing program. To fall below this level would be turning our backs on those who are most in need and risking the permanent termination of a most important component of the Federal housing effort. Together with the 10,000 units of section 202 elderly housing recommended in this legislation, the 10,700 units of public housing are the only new housing construction activities recommended for fiscal year 1983. I am pleased additionally to support funding for 47,270 section 8 existing units and 15,000 section 8 moderate rehabilitation units, housing more than 62,000 needy households.

The Appropriations Committee is especially sensitive to the critical and growing need to rehabilitate public housing projects, many of which are dilapidated and in serious need of major repair. Across the country, public housing projects have unacceptably high vacancy rates and are boarded up due to lack of suitable plumbing, heating, insulation, and so forth. To let these units further deteriorate while so many needy people are on the waiting lists for public housing would be irresponsible.

This joint resolution provides $2.5 billion in new budget authority to continue comprehensive modernization oi public housing. These resources will not only help to alleviate a chronic housing problem but will also provide immediate jobs in a depressed construction industry.

Mr. Chairman, I strongly endorse title II of the joint resolution which includes $5.4 billion to implement a major jobs and economic stimulus program. At the outset, let me say that it is a national tragedy that over 12 million Americans who want and need to work now find themselves unemployed. In the black community, and unconscionable 1 out of every 5 persons is out of work.

Putting Americans back to work must be the first priority of this Congress and the Nation. Government is supposed to be "for the people." It is all too clear that the people, including over 12 million unemployed Americans, now need their Government.

Mr. Chairman, we have without our reach the means and the tools to put Americans back to work in essential and productive jobs. We know how to do it. We know how Government can stimulate the economy. Unfortunately, because the current administration does not seem interested in a Government which does these things, we must seize the initiative.

The emergency jobs stimulus legislation is a comprehensive approach to addressing the urgent plight of the unemployed in this Nation, not through make work jobs, but through jobs which are essential to the rebuilding of America. Nearly 250,000 jobs created through the emergency jobs stimulus legislation will provide multiple benefits to communities through-out the Nation. In fact, nearly every American will benefit directly or indirectly through this bill by way of improved transportation services, upgraded rail, highway and transfit systems, improved public facilities, and better maintained parks and recreational areas.

Title II of this joint resolution provides increased funding for a number of ongoing Federal programs, which will contribute to a minimum startup time and effective utilization of Federal resources for job creation. These items include $1 billion in additional funding for the community development block grant; $250 million for low-income weatherization; $250 million for interstate transfer grants; $190 million for rail/Amtrak projects; $200 million for the renovation of public facilities; $489 million for military housing; and $800 million in rural development grants and loans. Moreover, $1 billion is provided for temporary and short-term jobs for unemployed individuals, $200 million for dislocated workers, and $339 million for State employment services offices to provide job location assistance.

There are those who say that the price tag for this legislation is too high. In response to this, I would point out that we just passed a $232 billion defense funding bill—the largest peacetime military budget ever. If we can afford to put this much money into military systems and hardware, I think that we can afford to spend $5.4 billion on the unemployed people of this Nation—people who represent the real strength of our country.

Title II, the emergency jobs stimulus package, is urgently needed to put an end to the lingering recession which is destroying the lives of millions of people. We have the necessary resources and the means to put people back to work if only we have the will. I urge you to adopt House Joint Resolution 631 as a necessary and essential first step to fulfilling our responsibility to the American people.●

□ 1400

Mr. WHITTEN. Mr. Chairman, I yield myself the remaining 3 minutes.

Mr. Chairman, I want to repeat again that we have given you the figures about how the economic situation is getting worse and worse by the day and I repeat again that we, in our jobs section of this bill, have had the best information I know how to get from the various subcommittees of the Committee on Appropriations as to cases that have been made before them as to the needs of the country.

I point out that item, and also I point out at the same time that we have called on American industry, we have called on various departments of Government to bring forward a plan for legislation where we will prevent what happened in the Depression of years ago.

The main thing I come here to ask my colleagues is to go along with the committee, and I hope these cutback amendments on vital public works projects will be voted down.

Let me repeat why. In the first place these amendments, having read them, merely stop these projects for the time of this resolution, and that, according to this resolution we have before us, would be March 15. We would incur a

lot of unnecessary expense during that period. Next year we will have a new Congress, and in all probability it will be put back.

So in my judgment, it would be a serious mistake to vote for these amendments in this circumstance, and I hope Members will stand by the committee and vote down these amendments and let us proceed to conference with the Senate and vote for final passage.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the joint resolution is considered as having been read and open for amendment under the 5-minute rule. No amendments are in order except the following amendments printed in the CONGRESSIONAL RECORD of December 13, which shall only be in order if offered by the Member named in each amendment, shall be considered only in the following order, and shall not be subject to amendment: First, an amendment by Representative EDWARDS of California; second, an amendment by Representative SIMON of Illinois; third, an amendment by Representative TAUZIN of Louisiana; fourth, an amendment by Representative FAZIO of California; fifth, an amendment by Representative TRAXLER of Michigan, said amendment shall be in order even if the amendment No. 4 above is agreed to; sixth, an amendment by Representative COUGHLIN of Pennsylvania; seventh, an amendment by Representative BONIOR of Michigan; and eighth, an amendment by Representative CONTE of Massachusetts.

The text of the joint resolution is as follows:

H.J. RES. 631

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely:

TITLE I

FURTHER CONTINUING APPROPRIATIONS ACT, 1983

SEC. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1982 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

Agriculture, Rural Development and Related Agencies Appropriation Act, 1983;

District of Columbia Appropriation Act, 1983;

Department of Interior and Related Agencies Appropriation Act, 1983: *Provided,* That no programs or facilities funded therein may be terminated unless such termination is specifically approved in the appropriations process, including reprograming;

Department of Transportation and Related Agencies Appropriation Act, 1983, except as previously provided for in section 156 of Public Law 97-276; and

Treasury, Postal Service, and General Goverment Appropriation Act, 1983.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed the House as of December 17, 1982, is different from that which would be available or granted under such Act as passed by the Senate as of December 17, 1982, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of December 17, 1982, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations of the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1982: *Provided further,* That for the purposes of this joint resolution, when an Act listed in this subsection has been reported to the House or the Senate but not passed by that House as of December 17, 1982, it shall be deemed as having been passed by that House.

(4) Whenever an Act listed in this subsection has been passed by only the House as of December 17, 1982, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, but at a rate for operations of the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1982.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1982, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Such amounts as may be necessary for continuing the activities of the Foreign Assistance Appropriations Act of 1982, Public Law 97-121, under the terms and conditions, and at the rate, provided for in the Act, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the State Department Basic Authorities Act of 1956, or any other provision of law or this joint resolution, except that the rate for the United Nations Development Program shall be $134,000,000: *Provided,* That amounts allocated to each country under this paragraph shall not exceed those provided in fiscal year 1982 and new country programs shall not be initiated unless submitted through the regular reprograming procedures of the Committees on Appropriations: *Provided further,* That notwithstanding any other provision of law, authority for the Export-Import Bank for direct and guaranteed loans shall be that as proposed in the budget estimates and in addition, in order to create additional jobs in the United States through the sale of the United States products abroad, such unused authority as necessary from fiscal year 1982 shall be carried forward into fiscal year 1983 in order to maintain the fiscal year 1982 level: *Provided further,* That such additional sums and authority as are necessary to provide for increases for economic and military assistance for Israel and Egypt in furtherance of the Camp David peace process as authorized in H.R. 6370 as reported to the House of Representatives, and in addition $25,000,000 for Egypt in Foreign Military Direct Credit Sales: *Provided further,* That sums for migration and refugee assistance, peacekeeping operations, and trade and development shall be at the rate provided in the budget requests: *Provided further,* That of the amount of funds available under this subsection to carry out the provisions of section 103 of the Foreign Assistance Act of 1961, funds up to the amount requested in the budget may be used for payment to the International Fund for Agricultural Development: *Provided further,* That notwithstanding any other provision of this joint resolution or any other Act, none of the funds provided in this joint resolution shall be made available to Honduras until that country meets the terms of the binding arbitration award established by the Inter-American Commercial Arbitration Commission in Tegucigalpa on November 7, 1981.

(c) Such amounts as may be necessary for programs, projects, or activities provided for in the Department of Defense Appropriation Act, 1983 (H.R. 7355), at a rate of operations, and to the extent and in the manner provided for in such Act as passed by the House of Representatives on December 8, 1982, as if such Act had been enacted into law.

(d) Such amounts as may be necessary for programs, projects, and activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1983 (H.R. 6957), at a rate for operations and to the extent and in the manner provided for in such Act as passed the House of Representatives as if such Act had been enacted into law: *Provided,* That sections 106, 125, and 149 of Public Law 97-276 shall be effective until the termination date set forth in section 102(c) of this joint resolution.

(e)(1) Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1983, at a rate for operations and to the extent and in the manner provided for in House Report 97-894 and in H.R. 7205 as passed the House of Representatives on December 1, 1982, as if such Act had been enacted into law, except as previously provided for in sections 132, 134, 135, 136, 137, 138, 139, 140, 141, 142, and 146 of Public Law 97-276: *Provided,* That of the funds appropriated for "Higher and continuing education", $3,000,000 shall be available until expended for the Carl Albert Congressional Research and Studies Center.

(2) For refugee and entrant assistance activities administered by the Department of Health and Human Services, $532,152,000 of which $16,600,000 shall be for grants to school districts under section 311 of the Refugee Act of 1980 as amended, $35,000,000 shall be for targeted assistance for refugees and entrants and $68,000,000 shall be for social services for refugees and entrants: *Provided,* That such funds may be expended for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act, 94 Stat. 1810, but

for the application of paragraph (2)(B) thereof.

(3) Notwithstanding any other provision of this joint resolution, except section 102, there are appropriated such amounts as may be necessary, not to exceed $5,411,000,000 for Department of Labor, Employment and Training Administration, "Advances to the Unemployment Trust Fund and Other Funds".

(4) Such amounts as may be necessary for carrying out the following activities, not otherwise provided for, at the current rate:

health planning activities authorized by the Public Health Service Act: *Provided,* That no penalty shall be applied nor any State or agency agreement terminated pursuant to sections 1512, 1515 or 1521 of the Public Health Service Act during fiscal year 1983;

utilization and quality control peer review activities authorized by Public Law 97-248;

activities under the Comprehensive Employment and Training Act as authorized by section 181 of the Job Training Partnership Act, Public Law 97-300; sections 236, 237, and 238 of the Trade Act of 1974, as amended; section 51 of the Internal Revenue Code of 1954, as amended; and sections 210, 211, and 212 of Public Law 95-250; and

activities under the Department of Labor, Employment and Training Administration, for "Program Administration".

(5) Notwithstanding any other provision of this joint resolution, neither the restriction contained in the proviso under the heading "OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION: SALARIES AND EXPENSES" in Public Law 97-257 (96 Stat. 844) nor any similar or comparable provision of any other law shall apply or have any continuing effect during fiscal year 1983 or any succeeding fiscal year.

(f) Such amounts as may be necessary for continuing activities which were conducted in fiscal year 1982, for which provision was made in the Energy and Water Development Act, 1982, at the current rate of operations: *Provided,* That no appropriation, fund or authority made available by this joint resolution or any other Act may be used directly or indirectly to significantly alter, modify, dismantle, or otherwise change the normal operation and maintenance required for any civil works project under Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Operation and Maintenance, General, and the operation and maintenance activities funded in Flood Control, Mississippi River and Tributaries: *Provided further,* That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982 without prior approval of the Committees on Appropriations: *Provided further,* That no appropriation, fund or authority made available to the Department of Energy by this joint resolution or any other Act, shall be used for any action which would result in a significant reduction of the employment levels for any program or activity below the employment levels in effect on September 30, 1982.

(g) Notwithstanding section 102(c) of this joint resolution, the following amounts are provided for fiscal year 1983:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriation Acts, is increased by $485,114,257, of which $6,460,000 shall be for assistance in financing the development or acquisition cost of low-income housing for Indian families as authorized by section 5(c) of the aforementioned Act and of which $125,000,000 shall be for the modernization of existing low-income housing projects: *Provided,* That budget authority obligated under such contracts shall be increased above amounts heretofore provided in appropriation Acts by $9,186,630,000: *Provided further,* That of the budget authority provided herein, $1,775,130,000 shall be allocated for public housing new construction other than for low-income housing for Indian families: *Provided further,* That any balances of authorities made available prior to enactment of this Act which are, or become available for obligation in fiscal year 1983, shall be added to and merged with the authority provided herein, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1983: *Provided further,* That the $89,321,727 of budget authority deferred and to be made available in accordance with the provisos under the heading Annual Contributions for Assisted Housing in Chapter VII of the Supplemental Appropriations Act, 1982 (Public Law 97-257), shall be made available for the modernization of five thousand and seventy-three vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act: *Provided further,* That none of the merged amounts available for obligation in 1983 shall be subject to the provisions of section 5(c) (2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): *Provided further,* That with respect to newly constructed and substantially rehabilitated projects under section 8 of the United States Housing Act of 1937, as amended, during 1983, the Secretary shall not impose a percentage or other arbitrary limitation on the cost and rent increases resulting from increased construction cost in exercising the authority to approve cost and rent increases set forth in section 8(1) of such Act.

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1983 by not more than $105,160,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SPECIAL ASSISTANCE FUNCTIONS FUND

During 1983, within the resources and authority available, gross obligations for the principal amounts of direct loans made pursuant to section 305 of the National Housing Act, as amended (12 U.S.C. 1720), shall not exceed $500,000,000, which may be financed with collections received in 1983, and additional obligations are authorized in such amounts as are necessary for increases to prior year commitments.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 17, 1982, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) March 15, 1983, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 106. No provision in any appropriation Act for the fiscal year 1983 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 107. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1983, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

(1) for the period from October 1, 1982, until the next applicable wage survey adjustment becomes effective, the rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1982; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1983, a rate which exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1983.

(b) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of subsection (a) of this section shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of subsection (a) may not apply to any increase in a wage schedule or

rate which is required by the terms of a contract entered into before the date of enactment of this Act.

(c) For the purposes of subsection (a) of this section, the rate payable to any employee who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1982, shall be determined under regulations prescribed by the President.

(d) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(e) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

SEC. 108. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted: *Provided*, That no part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year 1982.

(INCLUDING TRANSFER OF FUNDS)

SEC. 109. Notwithstanding any other provision of this joint resolution, the following administrative provision shall apply to the Veterans Administration: The $35,000,000 limitation on Veterans Administration medical automatic data processing services carried in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983 (Public Law 97-272), is hereby repealed: *Provided*, That none of the funds which are made available by this or any other Act shall be used to further develop, implement, install, administer, operate, or maintain the computerized medical information support system (COMISS) as described in the VA ADP and Telecommunications Plan, fiscal years 1984-1987, dated September 1982, except to administer, operate and maintain the currently operational outpatient automated pharmacy, prescription, labeling, and editing system (APPLES) at locations where such system is currently operating: *Provided further*, That fifty-two of the full-time equivalent employment (FTEE) ceiling assigned to the Office of Data Management and Telecommunications for the development of COMISS shall immediately be transferred to the Department of Medicine and Surgery to support the decentralized hospital computer program: *Provided further*, That the FTEE ceiling for the Office of Data Management and Telecommunications in fiscal year 1983 shall not exceed one thousand nine hundred and thirty-four, including not to exceed one FTEE located in the Central Office to support APPLES: *Provided further*, That $1,000,000 of the amount appropriated to the "General operating expenses" account in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983 (Public Law 97-272), is hereby transferred to the "Medical care" account to support the transferred FTEE.

SEC. 110. Notwithstanding any other provision of this joint resolution, moneys deposited into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)) are hereby made available, subject to such limitations as may be provided in appropriation Acts and in section 5(a)(1) of such Act, until expended for the acquisition of strategic and critical materials under section 6(a)(1) of such Act (and for transportation and other incidental expenses related to such acquisition). This paragraph applies without fiscal year limitation to moneys deposited into the fund before, on, or after October 1, 1982: *Provided*, That during the fiscal year ending on September 30, 1983, not more than $120,000,000 in addition to amounts previously appropriated in prior years, may be obligated from amounts in the National Defense Stockpile Transaction Fund for the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition.

SEC. 111. Notwithstanding section 102(c) of this joint resolution, subsection (c) of section 4 of the Commission on Wartime Relocation and Internment of Civilians Act (50 U.S.C. App. 1981 note) is amended by striking out "shall submit" and all that follows through the end of the subsection and inserting in lieu thereof "may make available to the public such interim findings and other information as it deems appropriate and shall submit a written report of its findings and recommendations to Congress not later than June 30, 1983.".

SEC. 112. Notwithstanding any other provision of this joint resolution the Postal Service shall continue six-day delivery of mail and rural delivery of mail shall continue at the 1982 level.

SEC. 113. Notwithstanding any other provision of this joint resolution, except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 4(d)(1) of Public Law 96-312 and section 603 of Public Law 94-579, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, none of the funds provided in this joint resolution shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning or within any lands designated by Congress as wilderness study areas, under leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982.

SEC. 114. No reduction in the amount payable to any State under title IV of the Social Security Act with respect to any of the fiscal years 1977 through 1983 shall be made prior to the date on which this resolution expires on account of the provisions of section 403(h) of such Act.

SEC. 115. Notwithstanding any other provision of law or this joint resolution, except section 102, an amount for those International Financial Institutions referred to in title I of Public Law 97-121, the Foreign Assistance and Related Program Appropriations Act, 1982, as is equal to the total for such institutions in that title, may be allocated by the President among those institutions in a manner which does not exceed the limits established in authorizing legislation.

SEC. 116. Notwithstanding any other provision of this joint resolution or any other provision of law, none of the funds made available under this resolution or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other non-cost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 117. Notwithstanding any other provision of this joint resolution, there is appropriated to the Department of the Treasury $248,000,000 for "Salaries and expenses", Bureau of Government Financial Operations; $553,700,000 for "Salaries and expenses", United States Customs Service; and $235,000,000 for "Salaries and expenses", United States Secret Service.

SEC. 118. Such amounts as may be necessary for continuing activities conducted pursuant to section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended, which were conducted in the fiscal year 1982, under the terms and conditions and at a rate to maintain current operating levels.

SEC. 119. None of the funds provided by this joint resolution may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of lands within the Department of the Interior Central and Northern California Planning Area which lie north of the line between the row of blocks numbered N808 and the row of blocks numbered N809 of the Universal Transverse Mercator Grid System.

SEC. 120. Notwithstanding any other provision of this joint resolution, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below

fiscal year 1982 levels or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1982 levels, including but not limited to, toll free telephone tax law assistance and Internal Revenue Service walk-in assistance available at Internal Revenue Service field offices.

SEC. 121. Notwithstanding any other provision of this joint resolution, none of the funds made available to the General Services Administration under this Act shall be obligated or expended after date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position described in section 3310 of title 5, United States Code.

SEC. 122. Notwithstanding any other provision of this joint resolution, funds available to the Federal Building Fund within the General Services Administration may be used to initiate new construction, purchase, advance design, and repairs and alteration line-item projects which are included in the Treasury, Postal Service and General Government Appropriation Act, 1983, as passed by the House or the Senate.

SEC. 123. Section 305(b) of Public Law 97-253 is amended by inserting before the period the following: ", except for those individuals who serve three days or less in the month of retirement".

SEC. 124. No funds appropriated by this joint resolution or any other Act may be used to enter into a restructured contract of the National Aeronautics and Space Administration for tracking and data relay satellite services if the estimated impact on total program cost of such restructured contract exceeds $216,000,000, or if the estimated total cost of the restructured tracking and data relay satellite services program exceeds $2,704,000,000, unless the Committees on Appropriations, having been apprised of higher estimates by the Administrator of the National Aeronautics and Space Administration, approve entering into such contract: *Provided*, That if at any time the Administrator of the National Aeronautics and Space Administration estimates that the total cost of the tracking and data relay satellite services program will exceed $2,704,000,000 or that the impact on total cost of restructuring the contract for such services will exceed $216,000,000, he shall promptly notify the Committees on Appropriations and shall take no actions that would cause such costs to increase without the approval of the Committees on Appropriations.

SEC. 125. Of the funds made available to the Department of Defense by this joint resolution, $200,000 shall be transferred to the Department of Education which shall grant such sum to the Board of Education of the Highland Falls-Fort Montgomery, New York central school district. The funds transferred by this section shall be in addition to any assistance to which the Board may be entitled under subchapter 1, chapter 13 of title 20 United States Code.

SEC. 126. The provisions of H. Res. 611, 97th Congress, approved November 30, 1982, relating to the House of Representatives Page Board, shall be the permanent law with respect thereto.

SEC. 127. (a)(1) Except as provided by paragraph (2), no Member may, in any calendar year beginning after December 31, 1982, have outside earned income attributable to such calendar year which is in excess of 30 per centum of the aggregate salary as a Member paid to the Member during such calendar year.

(2) In the case of any individual who becomes a Member during any calendar year beginning after December 31, 1982, such Member may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member which is in excess of 30 per centum of the aggregate salary as a Member paid to the Member during such calendar year.

(b) For purposes of subsection (a), honoraria shall be attributable to the calendar year in which payment is received.

(c) For the purposes of this section—

(1) "Member" means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(2) "honorarium" means a payment of money or anything of value to a Member for an appearance, speech, or article, by the Member; but there shall not be taken into account for purposes of this paragraph in any actual and necessary travel expenses incurred by the Member to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that they are not paid or reimbursed;

(3) "travel expenses" means, with respect to a Member, the cost of transportation, and the cost of lodging and meals while away from his residence or the Greater Washington, District of Columbia, metropolitan area; and

(4) "outside earned income" means, with respect to a Member, wages, salaries, professional fees, honorariums, and other amounts (other than copyright royalties) received or to be received as compensation for personal services actually rendered but does not include—

(A) the salary of such Member as a Member;

(B) any compensation derived by such Member for personal services actually rendered prior to the effective date of this section or becoming such a Member, whichever occurs later;

(C) any amount paid by, or on behalf of, a Member to a tax-qualified pension, profit-sharing, or stock bonus plan and received by such Member from such a plan; and

(D) in the case of a Member engaged in a trade or business in which the Member or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by such Member so long as the personal services actually rendered by the Member in the trade or business do not generate a significant amount of income.

Outside earned income shall be determined without regard to any community property law.

(d) This section shall take effect on the date of the enactment of this Act.

TITLE II

MEETING OUR ECONOMIC PROBLEMS WITH ESSENTIAL PRODUCTIVE JOBS

CONGRESSIONAL FINDINGS

SEC. 201. The Congress finds that unemployment has increased to 10.8 per centum on a national basis, reaching a national high of 17.2 per centum in the State of Michigan. Actual filings of business-related bankruptcies for the year ending June 30, 1982, reached a total of seventy-seven thousand five hundred and three as compared with a prior year figure of sixty-six thousand three hundred and thirty-two and business failures, as reported by Dun and Bradstreet, are up 49 per centum compared to one year ago. Only 35.7 per centum of the raw domestic steel industry's capacity is currently being utilized which represents the lowest capacity since 1932. The American farmer is more than $200,000,000,000 in debt, financed at rates ranging between 15 and 20 per centum, with higher costs and lower prices. The Trade Adjustment Assistance Administration of the Department of Labor has certified that five hundred and ten thousand are unemployed as a result of foreign automobile imports. During the 1975 recession approximately 76 per centum of unemployed workers were covered by some form of unemployment benefit and today only 49 per centum are currently covered. Long-term economic stability can only be achieved through the private sector where existing Federal domestic and foreign policies are inadequate to provide means for the recovery of major and minor industries, of large and small businesses, or of United States agricultural production, which is being held off world markets by refusing to sell at competitive prices. Today every possible means must be made to increase American production to sell American, instead of continuing to make competitors out of customers. The current unacceptable level of unemployment which has not existed since the Great Depression prior to World War II creates an economic and humanitarian problem too serious to ignore, and since a strong and viable economy is an essential ingredient of our national security and the efforts to increase our military capability and readiness. Unemployment compensation has reached an annual rate of over $20,000,000,000, and now hundreds of thousands of workers have exhausted the period of time for which they are entitled to draw unemployment compensation at a time when the material wealth of the Nation is being allowed to deteriorate in the watersheds, rivers and harbors, and that in the interest of the Nation immediate steps should be taken to retain and restore our physical wealth. It is essential that interest rates, which have been reduced following a General Accounting Office investigation of the Federal Reserve System at the request of the committee, continue at present or lower rates for industrial and agricultural recovery.

SEC. 202. The appropriate committees of the Congress are directed to study the current economic crisis with specific emphasis to long-term recovery, and a strong private sector based on a cooperative Government/industry partnership; and that these findings be presented to the respective Houses of the Congress by no later than March 15, 1983, for appropriate action.

SEC. 203. The Board of Governors of the Federal Reserve and the Federal Open Market Committee should take such actions as are necessary to achieve and maintain a level of interest rates low enough to generate significant economic growth and thereby reduce the current intolerable level of unemployment.

SEC. 204. In an effort to reduce unemployment cost, to increase the benefit of expenditures, and to put people back to productive work, where the benefits of the efforts will be of value, notwithstanding any other provision of this joint resolution, the following sums are appropriated, in addition to amounts otherwise made available, out of any money in the Treasury not otherwise

appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely:

MAINTAINING AND PROTECTING PUBLIC INVESTMENT

FEDERAL BUILDINGS

In order to assist in reducing the backlog of needed maintenance and repair of Federal buildings across the Nation, $200,000,000 for payment to the "Federal Buildings Fund", General Services Administration, to remain available until expended, which shall be available under the subactivity "Alterations and repairs" for projects which do not require prospectuses.

REBUILDING AMERICA'S HIGHWAYS

To accelerate the construction and reconstruction of the Nation's highways, to improve safety on the Nation's highways, and to provide for productive jobs, an additional amount of $200,000,000, to remain available until expended, for "Interstate transfer grants—highways", Federal Highway Administration, Department of Transportation.

IMPROVING MASS TRANSPORTATION

To accelerate the improvement of urban mass transportation systems, and to provide for productive jobs, an additional amount of $50,000,000, to remain available until expended, for "Interstate transfer grants—transit", Urban Mass Transportation Administration, Department of Transportation.

IMPROVING THE SAFETY OF RAIL PASSENGERS

To ensure the safety of those traveling in the Nation's most heavily traveled rail corridor and to provide for productive jobs, $100,000,000, to remain available until expended, for the rehabilitation (including repair, reconstruction, replacement, or elimination) of highway bridges which cross over the Northeast corridor rail transportation properties conveyed pursuant to section 701(b) of Public Law 94-210: *Provided*, That a State identifies such bridge as constituting a potential danger to motorists, pedestrians, or rail operations.

REBUILDING RAILROAD INFRASTRUCTURE

To provide for the improvement of railroad rights-of-way, and to provide for productive jobs, the Secretary of Transportation shall make capital grants to the National Railroad Passenger Corporation of $90,000,000, to remain available until expended.

IMPROVING FACILITIES AND SERVICES PROVIDED TO VETERANS

For an additional amount for "Medical care", Veterans Administration, $50,000,000, to create productive jobs to improve the facilities and care being provided to veterans throughout the country.

PUBLIC HOUSING MODERNIZATION

The amount of contracts for annual contributions provided under the heading "Annual contributions for assisted housing" in section 101(g) of this joint resolution is hereby increased by $10,000,000, to be made available on the same terms as other authority provided under that heading to create jobs in the construction and other related trades which will result in the production of real assets in the modernization of existing low-income housing projects: *Provided*, That the total new budget authority provided under that heading in said section shall be increased by $200,000,000.

COMMUNITY DEVELOPMENT

For an additional amount for "Community development grants," to be made available to metropolitan cities and urban counties in accordance with the provisions of section 106(b) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), to create jobs in communities throughout the country through the funding of local community development programs and to produce real assets for the American people as a result thereof, $1,000,000,000, to remain available until September 30, 1985.

COMPETITION IN WORLD MARKETS

In light of increased export subsidies being made by foreign governments, or frequently through Government-owned corporations, and the resulting disadvantage it places upon American sales abroad, and the overall effect on free trade and world competition, and American balance of payments, a study is directed to be conducted by the Secretary of the Treasury and the Secretary of Commerce, with cooperation of the American business community, to examine the current trade crisis with the objective of making American exports more competitive in world markets and strengthening our commitment to "Sell American", there is hereby appropriated to the International Trade Administration, Department of Commerce, $200,000 for necessary expenses, including the hiring of consultants, as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

INCREASING LOCAL ECONOMIC DEVELOPMENT

Toward the objective of restoring the prior level of Federal support for economic development purposes throughout a wide geographic area as provided for by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, an additional amount of $200,000,000 is appropriated for "Economic development assistance programs", Economic Development Administration.

INCREASING SMALL BUSINESS ACTIVITIES

For additional capital for the "Business loan and investment fund", authorized by the Small Business Act, as amended, $2,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business loan and investment fund", authorized by section 7(a) of the Small Business Act, as amended, $230,000,000, to remain available without fiscal year limitation, to help small businesses throughout the Nation to employ additional personnel thus increasing jobs in the private sector.

DEVELOPING PARKS AND RECREATION AREAS

For grants to any State government or agency thereof or public institution of higher education for small business oriented employment or national resources development programs, pursuant to section 21(a)(1) of the Small Business Act, an additional amount of $50,000,000 is appropriated for the "Business Loan and Investment Fund".

IMPROVING AND CREATING PARKS AND RECREATIONAL FACILITIES

To provide productive jobs to improve urban parks, there is appropriated for expenses necessary for the "Urban Parks and Recreation Fund" for rehabilitation grants and innovation grants only, under the provisions of the Urban Park and Recreation Recovery Act of 1978 (title 10 of Public Law 95-625), $100,000,000, to remain available until expended.

To provide jobs to sustain programs of improvement and maintenance of park service roads, trails, and other existing facilities which will receive an estimated three hundred and fifty-eight million visits in 1983, there is appropriated an additional $50,000,000 for "Operation of the National Park System", National Park Service.

PRESERVING THE NATIONAL FOREST SYSTEM

In order to provide jobs to improve and maintain forest roads, trails, and other existing facilities which are part of the real wealth of this country, there is appropriated an additional amount of $25,000,000, to remain available for obligation until September 30, 1984, for the "National Forest System".

In order to provide jobs which will result in the construction of real assets for this country, an additional amount of $20,000,000 is appropriated, to remain available until expended, for "Construction", Forest Service.

IMPROVING INDIAN HEALTH FACILITIES

In order to provide for construction, repair and improvements, and other services to Indians and to create productive jobs which provide these increased levels of services, there is appropriated an additional amount of $50,000,000, to remain available until expended, for "Indian Health Facilities".

IMPROVING FISH AND WILDLIFE SERVICE FACILITIES

In order to provide jobs for the necessary maintenance of wildlife refuges, fish hatcheries, and research facilities, thus increasing the natural resources across the Nation under the jurisdiction of the United States Fish and Wildlife Service, Department of the Interior, there is appropriated an additional $25,000,000, for "Resource Management".

ASSISTING IN RURAL DEVELOPMENT AND RESOURCE CONSERVATION

In order to provide assistance for basic human amenities, to alleviate health hazards, to promote stability of rural areas by meeting the need for new and improved rural water and waste disposal systems and to meet national safe drinking water and clean water standards and to create jobs to assist in achieving these objectives which increase the real wealth of this country, there is appropriated an additional amount of $200,000,000 for "Rural Water and Waste Disposal Grants", Farmers Home Administration, Department of Agriculture, to remain available until expended.

In order to assist eligible borrowers such as communities and others to provide assistance for basic human amenities, alleviate health hazards and promote the orderly growth of rural areas by meeting the need for the financing of new and improved rural water and waste disposal systems and meet the National Clean Water Standards and the Safe Drinking Water Act and to assist in achieving these objectives which create and conserve real wealth throughout the country, $600,000,000 for additional loans to be insured, or made to be sold and insured, under the "Rural Development Insurance Fund", Farmers Home Administration, Department of Agriculture in accordance with and subject to the provisions of 7 U.S.C. 1928 and 86 Stat. 661-664.

For an additional amount for "Salaries and Expenses", Farmers Home Administration, Department of Agriculture, $6,500,000.

In order to assist States, local units of government, groups and individuals in developing area plans for resource conservation and development and to create jobs to increase and conserve the real wealth of this country, there is appropriated an additional amount for "Resource Conservation and Development", Soil Conservation Service, Department of Agriculture, $15,000,000, to remain available until expended.

INCREASING THE EFFECTIVENESS OF SOIL CONSERVATION ACTIVITIES

In order to assist in installing works of improvement; reduce damage from floodwater sediment and erosion; for the conservation, development, utilization and disposal of water; and for the conservation and proper utilization of land, there is appropriated an additional amount for "Watershed and Flood Prevention Operations", Soil Conservation Service, Department of Agriculture, and to assist in providing jobs which will increase and conserve the real wealth of this country, $100,000,000, to remain available until expended: *Provided*, That an additional $25,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663).

FEDERAL, STATE, AND LOCAL PRISON MODERNIZATION

In order to provide jobs in the construction industry and related trades, for planning, acquisition of sites and remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, for "Buildings and facilities", Federal Prison System, Department of Justice, $95,000,000, to remain available until expended: *Provided*, That of this amount, $40,000,000 shall be transferred to "Support of United States Prisoners", Legal Activities for the Cooperative Agreement Program for the purpose of renovating, constructing and equipping State and local jail facilities that confine Federal prisoners.

ENHANCEMENT OF WATER RESOURCE AND HYDROELECTRIC POWER BENEFITS

To improve flood control, shore protection, and other measures as authorized by law, to provide water resource and hydroelectric power benefits, to assist in the generation of productive jobs, an additional amount of $40,723,000, to remain available until expended, is hereby appropriated for "Construction, general", Corps of Engineers—Civil, Department of the Army.

To maintain harbor channels and other navigable waterways essential to the conduct of commerce, to preserve and operate existing river and harbor and flood control measures which will protect the real wealth of the Nation, and to assist in the creation of productive jobs, an additional amount of $65,000,000, to remain available until expended, is hereby appropriated for "Operation and maintenance, general", Corps of Engineers—Civil, Department of the Army.

To construct and maintain flood control measures and to assist in the generation of productive jobs, for the river system which drains more than two-fifths of the Nation, to perform necessary rescue work, and repair and restoration of flood control projects as authorized by law, an additional amount of $40,000,000, to remain available until expended, is hereby appropriated for "Flood control, Mississippi River and tributaries", Corps of Engineers—Civil, Department of the Army.

RECLAMATION AND IRRIGATION PROJECTS

To accelerate the completion of projects which will provide additional industrial and municipal water, irrigation water, and hydroelectric capability and to generate productive jobs, an additional amount of $10,400,000, to remain available until expended, is hereby appropriated for "Construction program", Bureau of Reclamation, Department of the Interior.

To accelerate hydrogenerator uprating, soil and moisture conservation operations on reclamation projects, levee construction, improvements of recreation areas, and to assist in creating new productive jobs, an additional $21,200,000, to remain available until expended, is hereby appropriated for "Operation and maintenance", Bureau of Reclamation, Department of the Interior.

EMERGENCY PRODUCTIVE JOBS

(a) There is hereby appropriated to the Department of Labor $1,000,000,000 for the purpose of providing productive jobs in accordance with the provisions of this heading.

(b)(1) No individual employed with funds available under this heading—

(A) shall be eligible for unemployment compensation during the period of productive job employment under this heading; or

(B) shall be paid except upon certification in writing by the supervising official that such job was performed.

(2) Individuals employed with funds available under this heading—

(A) shall be certified by the State employment service as unemployed at the time of such certification and for at least fifteen of the twenty-six weeks immediately prior to such certification, in accordance with criteria established by the Secretary of Labor, with priority given those who are not currently eligible for unemployment compensation;

(B) shall be paid at a rate which shall not be less than the highest of (i) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (ii) the minimum wage under the applicable State or local minimum wage law, or (iii) the prevailing rates of pay for individuals employed in similar occupations by the same employer, but in no case shall the Federal contribution to such wage exceed $10,000 per annum; and

(C) subject to paragraph (1)(A), shall be provided benefits and employment conditions comparable to the benefits and conditions provided to others employed in similar occupations by the same employer.

(3)(A) No currently employed worker shall be displaced by any individual employed with funds available under this heading, including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits.

(B) Not more than 15 per centum of the funds provided to any eligible entity under this heading may be used for the cost of administration.

(c) Funds available under this heading may be used for the purpose of providing unemployed individuals with temporary employment for not more than six months in repair, maintenance, and rehabilitation of public facilities and in the conservation, rehabilitation, and improvement of public lands. Such employment shall be in one or more of the following areas:

(1) road and street repair,

(2) bridge painting and repair,

(3) repair and rehabilitation of public buildings,

(4) repair and rehabilitation of water systems,

(5) erosion, flood, drought, and storm damage assistance and control,

(6) removal of refuse from drainage ditches, illegal dumping sites, and other public areas,

(7) park and playground rehabilitation,

(8) installation and repair of drainage pipes and catch basins in areas subject to flooding,

(9) stream, lake, and waterfront harbor and port improvement and pollution control,

(10) forestry, nursery, and silvicultural operations,

(11) fish culture and habitat maintenance and improvement,

(12) rangeland conservation, rehabilitation, and improvement,

(13) installation of graded ramps for the handicapped, and

(14) energy conservation.

(d) Funds available under this heading shall be allocated as follows:

(1)(A) Eighty-three per centum of the funds available under this heading shall be allocated among eligible entities which, during the three months preceding the date of allocation for which satisfactory data are available, had an average rate of unemployment in excess of 9 per centum.

(B) In making such allocation, the Secretary shall allocate 50 per centum of the funds under this paragraph on the basis of the relative number of unemployed persons, 25 per centum of such funds on the basis of the relative number of unemployed persons residing in areas of substantial unemployment (determined in accordance with section 4(3) of the Job Training Partnership Act), and 25 per centum of such funds on the basis of the relative excess number of unemployed persons (in excess of 4.5 per centum of the labor force).

(2) Five per centum of the funds available under this heading shall be allocated, in the manner prescribed in paragraph (1)(B), among States which are not eligible for an allocation under paragraph (1) for the purposes of serving units of general local government which are not eligible entities but which, during the three months most recently preceding the date of allocation for which satisfactory data are available, had an average rate of unemployment in excess of 9 per centum.

(3) Two per centum of the funds available under this heading shall be allocated among Native American tribes, bands, and groups for use in meeting the need for employment and training and related services of such tribes, bands, and groups.

(4)(A) The remainder of the funds available under this heading shall be allocated, in the manner prescribed in paragraph (1)(B), among eligible entities which are not eligible for an allocation under paragraph (1) for the purpose of serving a locality—

(i) which has had a large scale loss of jobs caused by the closing of a facility, mass layoffs, natural disasters, or similar circumstances, or

(ii) which has experienced a sudden or severe economic dislocation.

(B) In expending funds from such allocation in the case of an eligible entity serving two or more such localities, the eligible entity shall take into consideration the severity of unemployment in each such locality.

(e)(1) For purposes of this heading an eligible entity is—

(A) a unit of general local government with a population equaling or exceeding fifty thousand persons, or a consortium including such a unit and other units of general local government;

(B) a concentrated employment program grantee (serving a rural area); or

(C) a State.

(2) A State shall not qualify as an eligible entity with respect to an area served by another eligible entity. A larger unit of general local government shall not qualify as an eligible entity with respect to an area served by a smaller such unit.

(3) For purposes of this heading, the term "State" means each of the several States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(f) The Secretary of Labor shall notify recipients within thirty days after the date of enactment of this Act of the allocation of funds appropriated herein.

(g) The Comptroller General, the Secretary of Labor, and the Inspector General of the Department of Labor shall have the same authority with respect to funds available under this heading as is contained in sections 163, 164, 165 (a) and (b) and 166 of the Job Training Partnership Act with respect to funds available under that Act. The fiscal control and fund accounting procedures applicable to funds made available under that Act shall also apply to funds available under this heading.

(h) The Secretary of Labor shall promulgate such rules and regulations as may be necessary to carry out the purposes of this heading no later than thirty days after the date of enactment of this Act.

EMPLOYMENT AND TRAINING ASSISTANCE

For an additional amount for "Employment and training assistance", $232,400,000, of which $200,000,000 shall be for carrying out title III of the Job Training Partnership Act (Public Law 97-300).

INCREASING ASSISTANCE TO THE UNEMPLOYED THROUGH EMPLOYMENT SERVICES

For an additional amount for "Grants to States for unemployment insurance and employment services", from the Employment Security Administration Account in the Unemployment Trust Fund, $339,000,000, of which $272,250,000 shall be available only to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic grant was based, which cannot be provided for by normal budgetary adjustments: *Provided*, That any portion of the funds granted to a State in the current fiscal year and not obligated by the State in that year shall be returned to the Treasury and credited to the account from which derived.

ASSISTANCE THROUGH DAY CARE SERVICES

There is hereby appropriated for allotments under section 2003 of the Social Security Act for the fiscal year 1983, in addition to any other allotment under subsection (c)(2) of such section 2003, the sum of $50,000,000, to be used by the States and other jurisdictions receiving such allotments only for child day care services in accordance with the last sentence of such section 2003.

Section 2003(c) of the Social Security Act is amended—

(1) by striking out "$2,450,000,000" in paragraph (2) and inserting in lieu thereof "$2,500,000,000"; and

(2) by adding at the end thereof (after and below paragraph (5)) the following new sentence: "Of the amount specified for purposes of subsections (a) and (b) in paragraph (2) (for the fiscal year 1983), $50,000,000 shall be available only for purposes of child day care services, including but not limited to services described in section 2007.".

INCREASING HEALTH SERVICE ACTIVITIES

For an additional amount for "Health services", $15,000,000: *Provided*, That these funds shall be for the provision of home health care services at community and migrant health centers authorized under titles III and XIX of the Public Health Service Act, in order to provide productive jobs to render health services throughout the country.

OTHER PRODUCTIVE ACTIVITIES

Notwithstanding any other provision of law or this joint resolution, appropriations for the Yatesville Lake construction project shall be made available for obligation in the amount designated for that project in title II of H.R. 7145, the Energy and Water Development Appropriation Act, 1983, as reported in the House of Representatives.

FOOD DISTRIBUTION AND EMERGENCY SHELTERS

There is hereby appropriated $50,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program. Notwithstanding any other provision of this joint resolution or any other Act, such amount shall be made available under the terms and conditions of the following paragraphs:

The Director of the Federal Emergency Management Agency shall award a grant for $50,000,000 within forty-five days after enactment of this joint resolution to the United Way of America for the purpose of providing emergency food and shelter to needy individuals through private voluntary organizations.

As soon as practicable after enactment of this joint resolution, the United Way of America shall constitute a special board for the purpose of determining how the program funds are to be distributed. The special board shall consist of seven members. The United Way of America, the Salvation Army, the Council of Churches, the National Conference of Catholic Charities, and the Council of Jewish Federations, Inc. shall each designate a representative to sit on the board. The United Way of America shall name two other private voluntary organizations which shall also designate representatives to sit on the board.

Eligible private voluntary organizations should be nonprofit, have a voluntary board, have an accounting system, and practice nondiscrimination.

Participation in the program should be based upon a private voluntary organization's ability to deliver emergency food and shelter to needy individuals and such other factors as are determined by the special board.

Administrative costs shall be limited to 2 per centum of the total appropriation.

As authorized by the Charter of the Commodity Credit Corporation, the Corporation shall process and distribute surplus food owned or to be purchased by the Corporation under the food distribution and emergency shelter program in cooperation with the Federal Emergency Management Agency (FEMA).

CONSTRUCTION AND MODERNIZATION OF HOUSING UNITS FOR MILITARY FAMILIES

In order to accelerate the construction and maintenance of family housing, to increase the quality of life of military personnel and their families, and to stimulate jobs in the construction industry and its related trades, there is appropriated for expenses of family housing for the Army for construction, including addition, expansion, extension and alteration, and for maintenance, as follows: for Construction, $86,490,000; for Maintenance, $154,242,000; in all, $240,732,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

In order to accelerate the construction and maintenance of family housing, to increase the quality of life of military personnel and their families, and to stimulate jobs in the construction industry and its related trades, there is appropriated for expenses of family housing for the Navy and Marine Corps for construction, including addition, expansion, extension and alteration, and for maintenance, as follows: for Construction, $40,653,000; for Maintenance, $32,301,000; in all, $72,954,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

In order to accelerate the construction and maintenance of family housing, to increase the quality of life of military personnel and their families, and to stimulate jobs in the construction industry and its related trades, there is appropriated for expenses of family housing for the Air Force for construction, including addition, expansion, extension and alteration, and for maintenance, as follows: for Construction, $45,310,000; for Maintenance, $130,489,000; in all, $175,799,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

LOW-INCOME ENERGY CONSERVATION

In order to create productive jobs in manufacturing and installation of weatherproofing products, there is appropriated an additional amount for "Energy conservation," Department of Energy, $250,000,000, to remain available until expended for low-income weatherization: *Provided*, That funds for low-income weatherization activities appropriated under this joint resolution shall be expended according to the regulations pertaining to the maximum allowable expenditures per dwelling unit which were in effect on October 1, 1982, and to the regulations pertaining to priority in providing weatherization assistance which were in effect on October 1, 1982.

SCHEDULED MOTOR VEHICLE PROCUREMENT

In order to assure the timely replacement of planned Federal motor vehicle replacement by American plants in accordance with established practices which will stimulate jobs in assembly plants and facilities of related suppliers, $100,000,000 for the General Services Administration to increase the capital of the General Supply Fund, established by section 109 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 756), for the purchase of motor vehicles: *Provided*, That the funds made available by this appropriation may be used only to procure domestically manufactured vehicles.

AVAILABILITY OF FUNDS

No part of any appropriation contained in this title shall remain available for obliga-

tion beyond the current fiscal year unless expressly so provided herein.

AMENDMENT OFFERED BY MR. EDWARDS OF CALIFORNIA

Mr. EDWARDS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of California: Page 27, immediately after line 9, insert the following new section:

"SEC. 128. Notwithstanding any other provision of this joint resolution, for an additional amount for the Peace Corps, $25,000,000, which shall remain available to be expended as follows: 50 percent during fiscal year 1983, 30 percent during fiscal year 1985.".

The CHAIRMAN. Pursuant to the rule, the gentleman from California (Mr. EDWARDS) will be recognized for 15 minutes, and a Member opposed to said amendment will be recognized for 15 minutes.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, this amendment would grant additional funding for the Peace Corps in the amount of $25 million over the next 3 years, and I offer this in cooperation and jointly with the gentleman from Iowa (Mr. LEACH).

Mr. Chairman, the Peace Corps recuits and funds about 2,800 new volunteers each year. At present there are approximately 4,700 Peace Corps volunteers in various nations around the world. However, the Peace Corps needs about 1,800 to 2,200 additional volunteers over the next few years to meet the growing demands for its help throughout the world. It costs about $20,000 for each volunteer in the Peace Corps, and to support and maintain their facilities around the world.

We are all well aware of the fine job that the Peace Corps is doing all over the world. Their mission is not just to give one-time aid and assistance, but to help the people in developing nations to develop self-sufficiency and independence. However, they cannot continue to do this job without additional appropriations. The amendment which the gentleman from Iowa and I now propose would appropriate $25 million in additional funds from the continuing resolution for funding of the Peace Corps over the next 3 years. The amendment would appropriate 50 percent of the $25 million the first year, 30 percent the following year, and the final 20 percent the third year.

Adoption of this amendment would enable the Peace Corps to continue to assist those who are in need throughout the rest of the world.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I would make two brief points. One is that by perspective, the House should understand that the Peace Corps at its peak had 15,000 volunteers. Now it has about 5,000. We have, in other words cut the Peace Corps by two-thirds at the same time we have increased defense expenditures rather dramatically.

One of the ways the U.S. Congress influences foreign policy is through the purse string. It is here, in terms of priorities, that I think a greater emphasis ought to be made, as the gentleman from California has so ably articulated, for more emphasis to be placed on jobs for peace rather than jobs for war.

With that, I congratulate the gentleman from California and would urge adoption of his amendment.

Mr. EDWARDS of California. I thank the gentleman for his comments.

Mr. Chairman, I yield to the gentleman from Maryland (Mr. LONG), the chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations.

Mr. LONG of Maryland. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California and I agree very much on a great many of his proposals. I support the Peace Corps and have already taken action which will provide much of the increase the gentleman seeks.

The administration requested $97 million for the Peace Corps in fiscal year 1983. With what the committee is proposing, and if we would accept the Senate figure, that would provide approximately $12 million, which would be very close to the $12,500,000 that the gentleman seeks for the first year. We do not ordinarily appropriate for anything further than the first year.

So this would give the gentleman practically everything he wants.

I wonder if the gentleman would withdraw his amendment in view of that? I will undertake to recommend to the conferees that they accept the Senate figure.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from Maryland (Mr. LONG), the chairman of the subcommittee, for his cooperation in this matter and, yes, I would withdraw the amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield to me before he withdraws his amendment?

Mr. EDWARDS of California. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman in the well. I strongly support him and state that HENRY REUSS and I were the original fathers of the Peace Corps. We put in the original bill, even before President Kennedy came to Washington.

They have done an outstanding job. It is one of the best segments, I would say, of our entire foreign aid program. They have been great ambassadors for the United States. They have done a lot of good out there in the boondocks under great hardships, and they deserve our support.

Mr. Chairman, I want to join the gentleman from California. I will work with the gentleman from Maryland (Mr. LONG) in conference on this, and we will go for the high figure.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman from Massachusetts very much.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

Mr. LONG of Maryland. I thank the gentleman.

The CHAIRMAN pro tempore (Mr. PEYSER). The gentleman from California (Mr. EDWARDS) requests unanimous consent that his amendment be withdrawn.

Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON:

Page 4, line 15, immediately after "(b)" insert "(1)"; and on page 6, immediately after line 5, insert the following new paragraph:

(2) Notwithstanding section 102 of this joint resolution, chapter 1 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 128. TARGETING ASSISTANCE FOR THOSE LIVING IN ABSOLUTE POVERTY.—In carrying out this chapter, the President—

"(1) in fiscal year 1983, shall attempt to use not less than 40 percent of the funds made available to carry out this chapter, and

"(2) in fiscal year 1984 and each fiscal year thereafter, shall use not less than 50 percent of the funds made available to carry out this chapter,

to finance productive facilities, goods, and services which will expeditiously and directly benefit those living in absolute poverty (as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association). Such facilities, goods, and services may include, for example, irrigation facilities, extension services, credit for small farmers, roads, safe drinking water supplies, and health services. Such facilities, goods, and services may not include studies, reports, technical advice, consulting services, or any other items unless (A) they are used primarily by those living in absolute poverty themselves, or (B) they constitute research which produces or aims to produce techniques, seeds, or other items to be primarily used by those living in absolute poverty. Research shall not constitute the major part of such facilities, goods, and services.".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. SIMON) will be recognized for 15 minutes, and a Member opposed to said amendment will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment in behalf of my colleague, the gentleman from New York (Mr. GILMAN) and myself, an amendment which says basically this: that the development assistance portion of AID, 50 percent of that should go to help those who are in the most severe straits of poverty.

This is somewhat technical. We divide AID into two sections. One is the economic support fund, which includes aid to the Middle East, for example, Israel, Egypt, and that area. That totals $2.56 billion. My amendment does not touch that. That remains safe.

The second part of AID is development assistance to go to the poorest countries where they really need help. That totals $1.4 billion.

What we say in this amendment is that half of that ought to go to help the very poor.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to my colleague, the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

Let me say, Mr. Chairman, I rise in support of the Simon amendment, as I understand it, and I will have a question which I hope we can get clarified.

While it is true that offering such an amendment to the continuing resolution is unorthodox, the fact is that the Committee on Rules has allowed it to be considered. This is an amendment which reflects everything that I ever believed our aid program should be, if my understanding of it is correct.

There is no reason why 50 percent of our bilateral AID program cannot be targeted at those people in the developing world who are living in absolute poverty. If our AID program does not do that, what good is it?

Let me also point out that this amendment would not prohibit the expenditure of AID funds for institutional development or agricultural research; 50 percent of AID funds could still be used for these purposes. Moreover, as the amendment itself makes clear, even within the 50 percent targeted for those living in absolute poverty, this amendment would allow research which produces or aims to produce, techniques, seeds, or other items to be primarily used by those living in absolute poverty.

Let me ask the gentleman a question to clarify my understanding: It has been suggested by some that the Simon amendment would force AID to increase its funding for India, since India has the largest percentage of the world's poor who live in absolute poverty.

Could the gentleman from Illinois (Mr. SIMON) clarify this point, and would this amendment force AID to reallocate its country programs in favor of India? Would this amendment require funding to Vietnam, Angola, Cambodia, Cuba, or any other country not now allowed or provided for in our AID program?

Mr. SIMON. Mr. Chairman, I can assure the gentleman from Maryland (Mr. LONG) that this amendment does not require that one single penny be allocated to different countries than it is allocated to right now. AID would have the complete authority.

What it does do is say within countries, we have to target a little more. I would emphasize the point I was about to make: What we are saying is that if that one portion of AID, development assistance, $700 million out of a total of $4 billion, ought to be targeted. That, I hasten to add, is in line with what the law is right now. The law now says the Congress declares that the principal purpose of U.S. bilateral development assistance is to help the poor majority of people in developing nations.

What we are asking is, let us put some teeth in the law.

If I can make three more points, then I will yield some time, and I will certainly yield to the distinguished chairman of the Committee on Foreign Affairs.

One message has gone out that this would be of harm to research universities. We have changed the language from the original bill so that that is simply not a valid criticism any more.

Two other points: This is basically, in the same form, very similar form, to an amendment that has been unanimously adopted by the Committee on Foreign Relations of the other body.

I yield to my colleague, the gentleman from New York (Mr. GILMAN).

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. I thank the gentleman for yielding to me. Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from Illinois (Mr. SIMON), the socalled targeted development aid amendment. This amendment would target initially 40 percent and by fiscal year 1984, 50 percent of this Nation's development assistance to those living in absolute poverty. As the sponsor of the legislation, H.R. 4588, the Hunger Prevention and African Food Security Act, from which the amendment before us has been fashioned, I am pleased that the House has this opportunity to consider this important measure. I would like to note that 165 of my colleagues have cosponsored H.R. 4588.

Because several proposals have been offered concerning targeted development aid, including one which the Senate Foreign Relations Committee passed, with the support of the administration, it is understandable that some confusion exists about what the amendment before us hopes to accomplish. The amendment is essentially an effort to assure that our development assistance programs provides credence to the 1973 New Directions legislation directing the Agency for International Development to focus such programs on "helping the poor majority of people in developing countries to participate in a process of equitable growth through productive work and to influence decisions that shape their lives." Such emphasis is in contrast to earlier development emphasis which targeted assistance on larger scale projects in the hope that benefits would eventually trickle down to reach the poor. Because, we recognize that in certain instances and in certain nations, such institution-building efforts are necessary and appropriate, the amendment calls only for 50 percent of our development assistance to be targeted to finance productive facilities, goods, and services which will expeditiously and directly benefit those living in absolute poverty.

I believe the amendment is careful to recognize also that certain research, such as studies, reports, technical advice, and consulting services, can also be designed to fall within the 50-percent provision.

Accordingly, I urge my colleagues to support this amendment which I believe can help make the poor more self-reliant, a primary goal envisioned by the New Directions legislation.

□ 1415

Mr. SIMON. Mr Chairman, I yield such time as he may consume to my colleague from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I certainly am very sympathetic with the gentleman's amendment. People who support the amendment in my district have been to see me, and I have indicated that I was sympathetic with the general approach. My question is this: To what extent does the U.S.-aid operation have control over the distribution of this assistance once it gets into the hands of the foreign country?

Suppose we allocate x millions of dollars to Lower Slobovia; how are we going to make sure that Lower Slobovia will look out for those 50 percent who are the least well equipped, the poorest, and so forth, unless we ourselves start telling the country how to do it?

Mr. SIMON. We do not simply hand money to a country. We say, "Here is money for a credit union, to help get it started," or, "here is money for a building."

We allocate money under AID for specific projects, and what we are

saying in this amendment is, let us allocate these projects so that they help the people who really need help.

Mr. STRATTON. I thank the gentleman.

Mr. SIMON. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, I, like everybody else, would like to see our foreign aid program on a bilateral basis be directed to the people who need it the most; we all agree with that. All of our development assistance should be directed in this way. The disagreement we may have is over the best method to achieve increased incomes and standards of living.

I want to say, as someone who has only recently taken over the ranking minority position on the committee Mr. LONG mentioned, the Subcommittee on Foreign Operations, that I have been encouraged at our progress despite the fact that I have been an opponent and critic of foreign aid in the past. I think there are areas in which we need further changes, but there has been an attempt by the administration and the State Department to bring closer control over some of the targeting to which the gentleman aludes. We are now embarking on a totally new effort to channel assistance into private enterprise at the most basic level. Of course we must assist in the first instance by helping to build institutions and networks of distribution. But the goals are to service the needs of small farmers, emerging small businessmen, and even at the microbusiness level of stallkeepers and town markets.

My question is, if 70 percent, as I understand it, of the world's poor live in Southwest Asia; that is, India, Pakistan, Bangladesh, if 70 percent by definition as used in the bill live there, does the gentleman want to target more money into that area? I think that we should be very cautious in making such a decision. Poverty does not necessarily reflect the opportunities available to a nation. India, by far the most poverty stricken in terms of numbers of desperately poor people, has access to technology, education, and capital from industrialized nations. It has a solid credit rating in private markets and a vibrant and dynamic private sector which, given incentive to reach is potential, would provide a basis for greatly reducing poverty in that nation.

The CHAIRMAN. The gentleman from Illinois (Mr. SIMON) has 5 minutes remaining.

Mr. SIMON. Mr. Chairman, I yield 1 minute to the gentleman from New York.

Mr. KEMP. It seems to me that what we ought to be doing is more in Africa and Central America. My concern is that this amendment would tend to disrupt our ability to target aid into Africa and Latin and Central America, regions with much less access to private capital than we find in Asia and regions upon which this country has tremendous hopes for the future. The amendment before us may just prevent us from moving to new nations, to new projects to bring the successes found in Asia to other continents. We should not restrict our programs in a way which limits repeating our success.

Moreover, I remind the gentleman that 60 percent of all the loan money that the World Bank, through its soft loan agency, IDA, is using goes to India, Pakistan, Bangladesh, and Southwest Asian countries. There is also a considerable volume of bilateral aid from our own and other nations. Does he want more of our scarce bilateral dollars to follow the generous support already provided through the multilateral programs? I think that we should recognize the need to allocate resources efficiently and to address the needs of all regions.

Mr. SIMON. As I indicated to the gentleman from Maryland, you can take the precise country formula we use right now as far as where we spend our dollars. There are plently of poor in all these countries we now spend our money; in fact, you could exclude Asia if you wanted to and still live within the formula of this amendment, though obviously I would not favor that.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 15 minutes.

Mr. ZABLOCKI. Mr. Chairman, I rise in opposition to this amendment. As a principal author of the New Directions policy the gentleman from Illinois has referred to, I must say that the amendment he is proposing could very well be counterproductive.

I strongly endorse the purpose of the amendment, that development aid is primarily intended to help the poorest people in the poorest developing countries. I am pleased that so many of my colleagues endorse that principle, but surprised that they do not recognize the obvious pitfalls of the gentleman's proposed amendment.

Mr. SIMON's amendment is well intended, but it will be, as I said, counterproductive in trying to bring about the objectives it seeks. Now, Mr. Chairman, before speaking on the substance of the amendment, I would like to emphasize my strong view that this amendment is authorizing legislation and should be considered in conjunction with the foreign aid authorization, not in this or any other appropriation bill. I have always opposed legislation in an appropriation bill. It is not the way to legislate. If we are going to continue in that vein, we should disband the authorizing committees, but I believe legislation should be in an orderly fashion.

An amendment comparable to the one before us was considered earlier this year in the form of H.R. 4588. The committee did not accept the amendment. Instead, it agreed to keep the language reaffirming that the basic focus of development assistance is to alleviate the worst manifestations of poverty among the world's poor majority. The Foreign Affairs Committee subsequently held hearings on the issue of targeted aid, and will certainly continue its oversight of this important aspect of foreign aid.

I must oppose this amendment for several reasons. First, its meaning is difficult to understand, and I challenge my colleagues to tell me how it would be implemented. The title sounds good. It is like motherhood, but how are you going to define the absolutely poor?

Now, we are legislators; definitions are very important. How do you define the absolutely poor? The World Bank standards referred to in the amendment only produce estimates, and I stress the term "estimates" of the incidence of poverty. Do we ask AID to walk down the road asking in any of the countries considered, "Are you absolutely poor?"

Imagine what the bureaucrats can do trying to meet this requirement. AID has stated that it will cost at least an additional $45 million in administrative costs to demonstrate compliance with this amendment. I guarantee that $45 million would not directly or even indirectly benefit the absolutely poor.

Second, this amendment would take us back to the handout mentality of foreign aid. Perhaps the greatest contribution this country had made to relieving poverty in the developing countries has been through our support for the agricultural research responsible for the green revolution. We helped finance the research and helped countries extend the results of this research to their farmers so that countries like India, Pakistan, and Indonesia—those countries are now reaching food self-sufficiency, and many poor people are immeasurably better off.

Would such assistance for research meet the requirements of the amendment before us? I doubt it. We all know the proverb, "Give a person a fish and you will feed him for a day. Teach him to fish and you feed him for a lifetime." I am afraid that this amendment takes us back to the handing out of fish mentality.

Many persons far more knowledgeable than I about development, such as Wallace Campbell, head of CARE, one of the world's outstanding relief organizations, and Clifton Wharton, president of the board of directors of the Rockefeller Foundation and chairman

of the Board for International Food and Agricultural Development, also argue against this amendment on the grounds similar to those I have just stated.

We in Congress should be proud of the role we have played over the last 10 years in directing the U.S. aid given to developing countries be increasingly targeted in areas and programs that will benefit the poor in the world's poorest countries. I remain strongly committed to that objective.

The amendment before us, however well meaning, is misdirected. It would create a bureaucratic monstrosity and generate mountains of paper in the name of helping the poor. They cannot eat paper. It is simplistic and counterproductive, and as I said before, a motherhood proposal only seeking to do good but creating confusion and unnecessary complexity.

I urge my colleagues to reject the amendment. We want to help the poor, not smother them in bureaucracy and paper.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. BROOMFIELD), the ranking minority member of the House Foreign Affairs Committee.

Mr. BROOMFIELD. Mr. Chairman, although U.S. development assistance policy is already directed toward benefiting the "poorest of the poor," I continue to be concerned that we make every reasonable effort to improve the effectiveness of such aid in promoting self-help development for those who are most seriously affected by poverty. While we must provide not only some critical goods and services directly to the most destitute of our fellow men to assure their day-to-day survival, at the same time, we must provide them with the improved technical knowledge and skills and organizational training to permit them to take an ever more successful role in improving their own abilities to satisfy their basic human needs. Although this amendment was born of the best motives, unfortunately, it will create costly and probably insoluble administrative nightmares, with dubious effects on the prospects for self-sustaining, long-term development on which the only hope of the truly poor ultimately rests. The amendment mandates that the Agency for International Development (AID) spend not less than 50 percent of U.S. development aid to provide goods and services directly for the so-called absolute poor, as that term is defined by the World Bank. AID has estimated that it would cost at least between $40 million and $50 million to do the necessary baseline economic measurements to determine the incidence (percent) of absolute poverty in areas where aid projects are undertaken.

Even then, AID would not be able to demonstrate that 50 percent, or any other fixed amount of development funds, are directly benefiting persons in the target group of the absolute poor. According to an internal World Bank report of last February "Poverty Measurements in the Bank," the primary system used by the Bank to measure absolute poverty" is unable to identify poor beneficiaries."

If the World Bank itself does not believe the state of the art in its own poverty measurement systems can identify poor beneficiaries, how can we expect AID to be able to assure us that the direct beneficiaries of a specific dollar value of our development aid are primarily persons who fall in the category of absolute poverty. Furthermore, the World Bank's absolute poverty standards, against which the amendment would require AID to measure our programs, are based on a poverty measurement system which the Bank's internal reports criticize for ignoring data on access to critical basic human needs such as potable water and health and education services. In its summary and conclusions, the World Bank's internal report last February noted that there are "some serious conceptual problems in the Bank's measurement of the absolute poor. This, together with the serious deficiency of data in most developing countries, must imply that such estimates be considered, at best, very approximate." This amendment seeks to rigidly apply poverty measurement standards to AID programs, a purpose for which the originators of the measurement standards do not consider them sufficiently precise, or capable of being made so, at this point in time.

We all agree that providing goods and services directly to the poorest beneficiaries is an important part of the humanitarian aspects of development aid.

However, setting a rigid dollar amount on such welfare-type transfers, together with the high administrative costs of trying to prove that the direct beneficiaries are individually qualified as absolutely poor, will shift scarce dollars and emphasis away from other equally important development needs. This amendment will significantly restrict funds available for training agricultural extension agents, and rural health workers, or for training and organizational development of local institutions in recipient countries to take responsibilities for and to sustain their own development process. Prestigious private groups with extensive development experience, such as CARE and the National Association of Land Grant Colleges, have recognized these shortcomings of this well-intentioned amendment, and they regretfully oppose it.

Last, burdening AID with administratively costly, highly complex, and arbitrary poverty estimation systems may force AID to focus most of its attention on a few countries such as India, Indonesia, and Nigeria, with large and fairly densely located populations living in absolute poverty. Harder to reach, more dispersed pockets of absolute poverty in countries with relatively small populations, such as some extremely poor countries in the Sahel, could easily be adversely affected by the administrative ramifications of this amendment.

We must continue and strengthen our current development aid policy of seeking to eliminate the worst manifestations of poverty and actively seeking to promote self-help development.

This amendment, however appealing it sounds, will not help to meet these goals in the long run. I would urge my colleagues to vote "no."

□ 1430

Mr. ZABLOCKI. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, I rise in opposition to the amendment offered by my colleague from Illinois (Mr. SIMON) because I believe it contains flaws which would have the effect of preventing the very results intended by the amendment.

First, this amendment to require that AID use 50 percent of development assistance to directly benefit the absolutely poor should be included in authorizing legislation rather than in this continuing resolution. However, when the House Foreign Affairs Committee considered the Simon amendment in May of this year during markup of authorizing legislation, it was not adopted by the committee on the grounds that existing legislation already mandates that development aid focus on aid to the poorest people in developing countries which are poorest. Therefore, I do not believe it is necessary.

Furthermore, the language of the amendment does not adequately define how the poorest individuals will be identified and the amendment would be likely to result in aid being concentrated on a few countries which have the largest populations of extremely poor people.

In addition, the simplicity of the language in the Simon amendment; that is directly benefiting the absolutely poor, leaves open many questions on what direct benefits would be—would they be limited to direct handouts to the poor and thus exclude training and research programs which will benefit them?

Lastly, the additional costs of demonstrating compliance are estimated by AID to be $45 million. Reprogramming costs would be at least $210 million for fiscal year 1983.

Therefore, I urge the defeat of the Simon amendment. It would not ac-

complish the purpose for which it is intended.

Mr. Chairman, I join the chairman of the Committee on Foreign Affairs in opposing this amendment.

I think the points have been well made. No one doubts the proper motivation that our colleague, the gentleman from Illinois (Mr. SIMON), brings to this issue. The question is, Can it work?

I think this amendment would create an administrative monstrosity. As the gentleman from New York pointed out, it would also direct aid to a number of countries that are already receiving substantial assistance or a couple of countries, Ethiopia and Vietnam, that under other laws would not qualify for aid.

So we should keep in mind, as I think the gentleman from Illinois would, that the concept that he is approaching is good and we would all like to see it done in a better fashion, but I think the way to do it is through careful consideration by the committee. Since the foreign aid authorization bill is going to die in a few days, the committee will be back to work early in 1983 and the gentleman will have an opportunity to sell his point and see if some perfection of this idea could be developed.

But, Mr. Chairman, from a practical standpoint, I would suggest that at this time, under this particular procedure we are following, this amendment should be rejected.

Mr. ZABLOCKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, I thank my colleague for yielding me this time.

Mr. Chairman, I reluctantly rise in opposition to the amendment. I must say that the gentleman from Illinois is a friend and he has a sincere motive in offering this legislation the intent of which I agree with.

I would hope that we could work together to come up with a solution to move our foreign assistance program toward the humanitarian ends that I think most Members of good will share.

The gentleman from Wisconsin (Mr. ZABLOCKI) has made an eloquent point, however, and that is this: How is it possible to administer a program where we require that 50 percent of the money go directly into the hands of a designated group of people? And it has to be on an individual basis, because if it is not on an individual basis, I say to my friend, the gentleman from Illinois, it would have to go to the government.

Does anyone really think that some of the governments of these countries are going to do for the people what we would like to see done?

Second, the gentleman from New York (Mr. GILMAN), who is equally motivated by the very highest social conscience, has suggested that building roads and highways, building dams, and providing development projects by redirecting our foreign aid program into the type of development assistance where private enterprise and small cottage industries can start to put people back to work is trickledown.

I know the gentleman did not mean it, but let us face it: Helping people to help themselves is, as the gentleman from Wisconsin (Mr. ZABLOCKI) pointed out, as noble a cause—indeed, it is the highest cause of true charity.

Helping people to help themselves should be the goal of foreign aid, and I would suggest that we work together to try to redirect foreign aid to that goal rather than say arbitrarily that 50 percent of all the money ought to go to one part of the world as opposed to another or to one individual, as opposed to another. I think that would be administratively impossible and would not achieve the fine goals the authors of the amendment intend.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. KEMP. If I have any time remaining, I yield to the gentleman from New York.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. KEMP) has expired.

Mr. ZABLOCKI. Mr. Chairman, I reserve the balance of my time.

Mr. SIMON. Mr. Chairman, I yield 30 seconds to my colleague, the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, many of the Members who are objecting to this amendment obviously have not read it. They talk as if we are handing out fish rather than trying to increase the ability to fish.

The amendment reads as follows:

• • • to finance productive facilities, goods, and services which will expeditiously benefit those living in absolute poverty.

It goes on to say:

Such facilities, goods, and services may include, for example, irrigation facilities, extension services, credit for small farmers, roads, safe drinking water supplies, and health services.

You ask, What is "poverty"? The amendment cites "the standards for absolute poverty adopted by the International Bank for Reconstruction and Development, and the International Development Association."

The CHAIRMAN pro tempore. The time of the gentleman from Maryland (Mr. LONG) has expired.

Mr. SIMON. Mr. Chairman, I think my colleague, the gentleman from Maryland (Mr. LONG) has made an extremely important point.

Mr. Chairman, I yield 1½ minutes to my colleague, the gentleman from Ohio (Mr. HALL).

Mr. HALL of Ohio. Mr. Chairman, I rise in support of the targeted development aid admendment. As a cosponsor of this amendment, I am pleased that my colleagues of the Rules Committee supported my effort to make the targeted development aid amendment in order to the continuing appropriation resolution.

Under the rule fashioned by the Rules Committee, only eight amendments to the continuing resolution are permitted. I am grateful that my Rules Committee colleagues agreed with me that the targeted development aid amendment deserves to be considered today by the full House.

The continuing resolution is the only possible vehicle remaining in the 97th Congress for this amendment to channel development assistance to the poorest people around the world. The House did not have the opportunity to consider a foreign aid authorization bill this year. Although the House Foreign Affairs Committee reported a supplemental authorization measure, it was not brought before the House in 1982. Similarly, a separate foreign aid appropriations bill has not been reported by the Appropriations Committee for consideration this year.

The vote we will cast today on the targeted development aid amendment is the most important international economic development vote of the 97th Congress. By voting in favor of this amendment, we will help to insure that development aid is targeted to assist the truly needy people of the developing world.

This amendment does not involve any new programs or any increases in foreign aid. Rather, it seeks to guarantee that the aid we currently send is channeled correctly and effectively.

The Agency for International Development's $1.4 billion development assistance program is supposed to have as its "primary purpose" helping the poor in developing countries to become more productive. Yet, according to Bread for the World, only about one-fourth of U.S. development aid is directed toward helping poor people to become more productive and self-sufficient. Unfortunately, much of the money tends to be used for consultation and other administrative expenses, or else is dedicated to programs that benefit the bureaucracies or elites of the recipient nations.

For example, AID reportedly is spending $772,000 to help the Government of Sierra Leone to collect more taxes. Neither this, nor the $5.6 million spent to provide surveys, assessments, and seminars to the Government of Mauritania to improve its administrative procedures is likely to end up providing much direct benefit to the poor.

While there may be some long-term benefits of these types of expenditures, they are not in keeping with the spirit and intent of the development assistance program. The targeted de-

velopment aid amendment would require that 50 percent of AID's development aid go to finance productive facilities and other goods and services to be primarily used by the absolutely poor. Examples include irrigation facilities, roads, health clinics, and credit for poor people to encourage private-sector income-generating projects. It seems sensible to require that $700 million out of the $1.4 billion in the development assistance program be specifically earmarked for those living in absolute poverty.

In my opinion, the targeted development aid amendment actually is a conservative proposal. It is an effort to use more efficiently the present levels of funding in order to accomplish the goals already spelled out in the law governing the development assistance program. Certainly, the United States alone cannot solve the problems of global hunger and poverty. However, the efforts in this regard that we have been undertaking should be more properly focused and directed. That is the purpose of this amendment.

If we are to make the most effective use of our international expenditures, then we must emphasize projects that directly benefit the poor of the world, such as one with which I am familiar through strategies for responsible development at the University of Dayton.

Between 1976 and 1982, the University of Dayton group used an AID grant along with private funds to help five villages in Niger become self-reliant in food production. The group explored ways to control erosion, experimented with drought-resistant crops, and examined better farm management techniques.

When the first part of the project was completed, the university applied for a grant extension to continue teaching the villagers the new agricultural methods. AID did not refund the project, so the group had to leave Niger. A Canadian group which had been part of the project now continues the work alone.

If we wish to aid the poverty-stricken citizens of developing nations, we will have to fund programs like that of strategies for responsible development which provide direct benefits to those individuals on a person-to-person level. As a Peace Corps volunteer who served 2 years in Thailand, I am personally aware of the vital importance of the person-to-person approach. Assistance to help the general economy of developing nations is an important element of our foreign aid program, but it is no substitute for smaller scale direct person-to-person efforts to help the absolute poor.

At a time when we are carefully examining all Federal expenditures and attempting to get the most out of the money we spend, our citizens clearly want us to reform our approach to foreign aid. The targeted development aid amendment is the most important vote we will cast in this Congress to improve and redirect our international economic development program. I urge my colleagues to join with me to vote in favor of the Simon amendment.

Mr. ZABLOCKI. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, I thank the chairman of the committee for yielding me this time.

Mr. Chairman, I am inclined to agree with the spirit of what my friend, the gentleman from Illinois (Mr. SIMON), wants to do. Fundamentally I think all of our foreign assistance ought to go for human need programs. I do not think we ought to be giving a nickel for military assistance.

I do feel, however, my friend from Illinois addressed the wrong pot. I think it is unbelievable that we would give more money and more military and other assistance to the Middle East at a time when we have a peace initiative at hand. I think it sends the wrong signal. In addition, at a time when our own people are in great pain due to our economic problems, I do not believe taxpayers want their money increased for foreign aid.

I think the authorizing committee's figure should have stood, as opposed to the subcommittee of the Appropriations Committee adding more and more to the Middle East. I do not think they contribute to world peace by doing that, and I really feel that some of us should have the courage to speak out for the sake of world peace and the President's peace initiative in the Middle East.

Mr. ZABLOCKI. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, while the 50-percent provision is put forward with the very best of intentions—after all, who can oppose helping the poorest of the poor?—I do not believe that this is the best way of going about it.

This is an enormous issue, one which merits the greatest amount of attention, thought, and planning that we can possibly give it. It should be put forward as an independent piece of legislation on which a full set of hearings can be held so that we can insure that we go about this matter in the most proper and effective way and do not end up cutting off our right hand to help the left one.

If at this point we automatically allocate half of AID's budget to food and shelter for the poorest of the world's poor, we would at the same time be cutting out a great many education and economic self-help programs and would in effect be adding to the already too great number of the poorest of the poor in the world. This would affect what little we have already accomplished in helping the poor rise out of their poverty, and that will have a tremendous setback if we go ahead with this. We are also told that it will probably cost about $40 million to determine who the poorest of the poor are.

Mr. Chairman, most of the private volunteer organizations are opposed to this legislation, and I have to admit that I was a cosponsor of it until I studied it and saw what we were doing. So I would urge that we do not move forward at this time but have a careful study of the issue.

Mr. SIMON. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. SIMON) is recognized for 2 minutes.

Mr. SIMON. Mr. Chairman, let me make several points very quickly.

No. 1, I would love to do this in a foreign aid authorization, but we know how frequently they come up.

No. 2, my distinguished colleague—and I have great respect for the chairman of the committee—says that AID says that it is going to cost $45 million in administrative costs to do this. If that is the case, they are not living up to the law right now because the law says they ought to be primarily helping the poor, and we are trying to put some teeth into the law.

Third, I want to underline what my colleague, the chairman of the subcommittee, the gentleman from Maryland (Mr. LONG), said. It is not a question of whether we hand out fish or whether we teach people how to fish. What we are saying is, let us teach the poor to fish and not simply the wealthy in some of these countries how to fish. That is what it is all about. That is where we ought to be targeting this money.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I am glad to yield to my colleague, the gentleman from New York.

Mr. GILMAN. Mr. Chairman, much has been said about the bureaucratic assistance that this amendment would require. This measure is trying to avoid unnecessary and costly bureaucracy that is tied to the present AID measures. Too many of the development projects that AID finances provide for studies and consulting with Government bureaucracies and do not directly assist the poor.

As a matter of fact, as I understand it, USAID is now spending over $700,000 to help the Government of Sierra Leone to collect more taxes. How does that help the poor?

Similarly, $5.6 million is being spent to provide surveys, assessments, and seminars to help the Government of Mauritania improve its administrative procedures. That expenditure certainly does not help the poor.

Mr. Chairman, this amendment is trying to avoid just that kind of unnecessary bureaucracy and that is why we are giving it favorable consideration.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, let me say that the complaint here of the authorizing committee is that this is not authorized. But the Rules Committee settled that by allowing the amendment.

Let me point out in addition; that for 18 years now I have been on this committee and I have heard this stuff about how we ought to be helping the poor. The authorizing committee has still not gotten a handle on it or has not even tried. It was up to them a long time ago to try to deal with the problem. They have not done it. Most of our aid goes to the well-to-do, the well-invested the military and not to the poor who represent the real reason why we are voting foreign aid.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has expired.

Mr. ZABLOCKI. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I must resent the remark that the Foreign Affairs Committee was not cognizant of or was not interested in this issue.

Where was the gentleman from Maryland when the gentleman from Wisconsin was in the forefront in supporting the New Direction program, when AID programs for the poor majority were started?

As I have pointed out, this amendment would be counterproductive because it would not do what the gentleman from Maryland or the gentleman from Illinois wants to do, but it would be spent for bureaucracy and paperwork.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

Mr. ZABLOCKI. Mr. Chairman, I yield the remainder of my time to the gentleman from Wisconsin (Mr. OBEY).

The CHAIRMAN. The gentleman from Wisconsin (Mr. OBEY) is recognized for 1½ minutes.

Mr. OBEY. Mr. Chairman, I would strongly urge that the committee reject the amendment offered by the gentleman from Illinois (Mr. SIMON).

It is meant to do a good thing, and the gentleman who offers it generally does good things when he offers his amendments on this floor. But the fact is that we do not know how the gentleman's proposal is going to be defined. We do not know from whom that money is going to be taken. We do know that what the gentleman is proposing is going to be extremely expensive administratively, and, therefore, because we do not know the specific impact, we should not be dealing with this kind of an issue on a continuing resolution. We ought to be dealing with it on a regular authorization bill or, if we can get one, perhaps on the regular appropriations bill. But this is not the place to do it.

So far as I know, our committee has held no hearings on this proposal, and I would suggest that there is also something very basically wrong with the amendment. It is fine to say emotionally that we want our AID program to help the poorest of the poor. Ideologically, that is where I come from but the fact is that many times items in the foreign aid bill which do the poorest the most good in the long run, do not start as AID programs directed primarily at the poor.

For example, let us take agricultural research. Are we going to have the poorest of the poor conduct the agricultural research, or are we going to have that agricultural research conducted by the people who know the most about growing food?

□ 1245

I just think the gentleman's proposal is well-meaning. It certainly sounds good. I can understand why groups would want to do it if they think they are going to get some of the money directed their way.

Since we are in favor of sound development, this is not the procedural way to go and it certainly is not the substantive way to go. And because of the incredible expense of administrative cost it is going to hurt the very people we want to help.

● Mr. PICKLE. Mr. Chairman, I rise in support of the Simon amendment to House Joint Resolution 631, which proposes to target existing development assistance funds toward the poorest peoples in the world. This is the right way to go, it is a compassionate way to go, it is the sensible way to go.

We are a great nation, enormously rich by comparison with other nations of the world; and I find it commendable that we have such a generous foreign assistance program. I find it commendable that we at least share a small portion of our wealth in an effort to relieve suffering in other parts of the world. But in recent years, we have discovered that our foreign aid program has not been all that effective in many areas. Perhaps of most pressing concern today is the lack of any measurable improvement in our battle against world hunger.

One area of the world warrants our immediate and special concern—the sub-Saharan region of Africa—an area in which population growth rates are increasing while food production is declining. This is a region of 20 or more poor underdeveloped countries which remain for the most part unable to benefit from technological advances, nor able to reach minimal standards of living for the masses of the people who reside there. The amendment which we are considering today would target U.S. efforts and moneys toward productive agricultural activities. Food distribution systems would be strengthened in countries which can neither produce enough food to feed their people, nor obtain the necessary foreign exchange to purchase food on the world market. Hunger is a global problem Mr. Chairman, but it is most urgent and most immediate in sub-Saharan Africa. Our attention and our efforts should be focused on the pressing needs which present themselves in this region of the world.●

● Mr. RAHALL. Mr. Chairman, at a time when many domestic programs are being axed at the expense of vast increases in foreign aid, it is imperative that Congress scrutinize the use of our taxpayers' dollars, and in all cases ask for what purpose U.S. made weapons are being used. I regret that we must approach foreign assistance appropriations without being able to closely scrutinize the objectives of our foreign assistance program.

At a time when unemployment in our country is over 10 percent with over 12 million people out of work, we must ask ourselves how we can authorize increases in foreign aid while so many of our own people are unemployed. The authorization to the State of Israel calls for an increase of $300 million in foreign military assistance and a "forgiveness" of some additional $200 million in loans over the fiscal year 1982 level. The levels for this aid are authorized in the continuing appropriations resolution under H.R. 6370. This legislation was reported to the House on May 17, 1982. No action was taken on this legislation, it was never debated before the full House and now it is being used to authorize funding levels for foreign assistance to Israel and Egypt. It is unfortunate that the Members of this body were not given the opportunity to debate this important legislation before it was added to such a crucial appropriations resolution.

Furthermore, the levels of aid to the State of Israel exceed those requested by the President. It is ironic that while U.S. taxpayers are suffering from a deep recession, we are at the same time unwillingly financing an Israeli policy of expanding West Bank settlements that doom President Reagan's peace initiative in the Middle East. It is ironic that Israel receives from the United States $627 per citizen while the citizens of Lebanon, trying to rebuild and recover from an invasion at the hands of Israel and financed by U.S. tax dollars, receive from the United States $7.45 per citizen.

Any further widening of the gap in U.S. aid to Israel and aid to friendly Arab States, will most certainly hurt the United States in working with Egypt, Jordan, and the friendly Arab States for the implementation of President Reagan's peace initiative.●

● Mr. OTTINGER. Mr. Chairman, I rise in support of the amendment to the continuing appropriations bill for fiscal year 1983 offered by my distinguished colleague from Illinois, Representative PAUL SIMON. The amendment would require that at least 50 percent of Agency for International Development bilateral assistance funds must be used to finance projects which directly benefit people living below the "absolute poverty line" established by the World Bank.

Some 800 million people—40 percent of the developing world's population—live in absolute poverty. Yet only about one quarter of U.S. development aid is directed toward helping these people become more productive and self-sufficient. The vast majority of U.S. bilateral assistance funds are directed at bureaucracies in recipient countries. The New York Times recently noted:

Aid is often squandered at the national level where bureaucracies soak up resources and money never reaches the intended rural areas.

The respected group, Bread for the World, which has been leading the fight for effective food assistance programs and the targeted development aid amendment in particular, concurs with the Times, noting:

AID empasizes a bureaucratic trickle-down strategy rather than assisting poor people themselves. Recent AID policy statements indicate a new shift away from poverty oriented projects.

The Simon amendment seeks to focus the emphasis of bilateral development assistance programs directly to the absolute poor. It would require that 50 percent of AID's development funds go to finance productive facilities and other goods and services to be primarily used by those most greatly devastated by poverty. Examples include food and food distribution, irrigation facilities, roads, health clinics, and credit for poor people to encourage private sector income generating projects.

In addition to effectively benefiting the developing world, this amendment is in our national interest. It will strengthen the economic, political, and social structures of developing countries and thus lend stability and peace to volatile regions of the world. It will promote healthy economic growth and thus create and expand new markets for U.S. exports which will directly improve our economy and ease our balance-of-payments deficits.

The targeted development aid amendment is an important and necessary measure to deliver more assistance to those who most desperately need it. I urge my colleagues to support the amendment.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SIMON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SIMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 227, noes 184, not voting 22, as follows:

[Roll No. 444]

AYES—227

Addabbo	Garcia	Mitchell (MD)
Akaka	Gaydos	Moakley
Alexander	Gejdenson	Moffett
Anderson	Gilman	Mollohan
Andrews	Gingrich	Moorhead
Anthony	Glickman	Mottl
Applegate	Gonzalez	Murphy
AuCoin	Gore	Natcher
Barnes	Gray	Neal
Bedell	Green	Nelson
Bennett	Guarini	Nowak
Biaggi	Gunderson	O'Brien
Boggs	Hall (IN)	Oakar
Bolling	Hall (OH)	Oberstar
Boner	Hall, Ralph	Ottinger
Bonior	Hall, Sam	Panetta
Bonker	Hamilton	Patman
Bouquard	Hammerschmidt	Patterson
Brinkley	Harkin	Pease
Brodhead	Hawkins	Pepper
Brooks	Heckler	Perkins
Brown (CA)	Hefner	Petri
Brown (CO)	Heftel	Peyser
Broyhill	Hertel	Pickle
Burton, Phillip	Hightower	Pursell
Clay	Hollenbeck	Quillen
Clinger	Horton	Rahall
Coelho	Howard	Rangel
Collins (IL)	Hoyer	Ratchford
Conte	Hubbard	Reuss
Conyers	Huckaby	Rinaldo
Coyne, James	Hughes	Roberts (KS)
Coyne, William	Hunter	Rodino
Crockett	Hyde	Roe
D'Amours	Jacobs	Rose
Daschle	Jeffords	Roybal
Daub	Jenkins	Russo
Davis	Jones (NC)	Sabo
Deckard	Jones (OK)	Santini
Dellums	Jones (TN)	Savage
DeNardis	Kastenmeier	Scheuer
Derrick	Kazen	Schneider
Dicks	Kennelly	Schroeder
Dingell	Kildee	Schumer
Donnelly	Kogovsek	Seiberling
Dorgan	LaFalce	Shamansky
Dowdy	Lantos	Shannon
Downey	Leach	Sharp
Dwyer	Leland	Simon
Dymally	Levitas	Smith (IA)
Early	Long (LA)	Smith (NJ)
Eckart	Long (MD)	Snowe
Edgar	Lowry (WA)	Solarz
Edwards (CA)	Luken	St Germain
Emery	Lundine	Stark
English	Madigan	Staton
Ertel	Markey	Stokes
Evans (IA)	Marriott	Stratton
Evans (IN)	Martin (IL)	Studds
Fenwick	Martin (NC)	Swift
Ferraro	Matsui	Synar
Fish	Mattox	Tauke
Fithian	Mavroules	Tauzin
Florio	McCloskey	Taylor
Foglietta	McCurdy	Traxler
Foley	McDade	Udall
Ford (MI)	McKinney	Vento
Ford (TN)	Mikulski	Volkmer
Frank	Miller (CA)	Walgren
Frenzel	Mineta	Walker
Fuqua	Minish	Washington
Watkins	Whittaker	Wright
Waxman	Whitten	Wyden
Weaver	Williams (MT)	Yates
Weiss	Wirth	Young (MO)
Whitley	Wolpe	

NOES—184

Annunzio	Fiedler	Myers
Archer	Fields	Napier
Ashbrook	Findley	Nelligan
Aspin	Flippo	Nichols
Atkinson	Forsythe	Obey
Badham	Fountain	Oxley
Bafalis	Fowler	Parris
Bailey (MO)	Gephardt	Pashayan
Bailey (PA)	Gibbons	Paul
Barnard	Ginn	Porter
Beard	Goodling	Price
Benedict	Gradison	Pritchard
Bereuter	Gramm	Regula
Bethune	Gregg	Rhodes
Bevill	Grisham	Ritter
Bingham	Hance	Roberts (SD)
Bliley	Hansen (ID)	Robinson
Boland	Hansen (UT)	Roemer
Bowen	Hartnett	Rogers
Breaux	Hatcher	Rostenkowski
Broomfield	Hendon	Roth
Brown (OH)	Hiler	Roukema
Burgener	Hillis	Rousselot
Butler	Hopkins	Rudd
Byron	Hutto	Sawyer
Campbell	Ireland	Sensenbrenner
Carman	Jeffries	Shaw
Carney	Johnston	Shelby
Chappell	Kemp	Shumway
Cheney	Kindness	Siljander
Clausen	Kramer	Skeen
Coats	Lagomarsino	Skelton
Coleman	Latta	Smith (AL)
Collins (TX)	Leath	Smith (NE)
Conable	LeBoutillier	Smith (OR)
Corcoran	Lee	Smith (PA)
Coughlin	Lent	Snyder
Courter	Lewis	Solomon
Craig	Livingston	Spence
Crane, Daniel	Loeffler	Stangeland
Crane, Philip	Lott	Stanton
Daniel, Dan	Lowery (CA)	Stenholm
Daniel, R. W.	Lujan	Stump
Dannemeyer	Lungren	Thomas
de la Garza	Marks	Trible
Derwinski	Marlenee	Vander Jagt
Dickinson	Martin (NY)	Wampler
Dixon	Mazzoli	Weber (MN)
Dornan	McClory	Weber (OH)
Dreier	McCollum	White
Duncan	McDonald	Whitehurst
Dunn	McEwen	Williams (OH)
Dyson	McGrath	Winn
Edwards (AL)	McHugh	Wolf
Edwards (OK)	Mica	Wortley
Emerson	Michel	Wylie
Erdahl	Miller (OH)	Yatron
Erlenborn	Mitchell (NY)	Young (AK)
Evans (DE)	Molinari	Young (FL)
Evans (GA)	Moore	Zablocki
Fascell	Morrison	
Fazio	Murtha	

NOT VOTING—22

Albosta	Frost	Railsback
Beilenson	Goldwater	Rosenthal
Blanchard	Hagedorn	Schulze
Burton, John	Holland	Shuster
Chappie	Holt	Wilson
Chisholm	Lehman	Zeferetti
Dougherty	Martinez	
Fary	Montgomery	

□ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Beilenson for, with Mr. Fary against.

Messrs. PERKINS, HUNTER, VOLKMER, TAUZIN, PANETTA, FRENZEL, and MARRIOTT changed their votes from "no" to "aye."

Mr. SNYDER changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. PEYSER). The Chair will remind visitors in the gallery that they are here as guests of the House, and there will be no display concerning the actions taken on the floor.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: At the end of title I, add the following new section:

SEC. . No funds provided under this joint resolution shall be used to deny or reduce SSI benefits because of assistance provided by a private nonprofit organization, or any entity whose revenues are primarily derived on a rate-of-return basis regulated by a State of Federal governmental body, if the appropriate State agency has certified that such assistance was based on need as determined by such organization or entity.

Mr. TAUZIN. Mr. Chairman, the amendment Congressman WYDEN and I are offering is not a complicated one. But it is, nonetheless, very important to low-income persons and senior citizens who receive supplemental security income (SSI) benefits.

A recent interpretation of Federal law, by Health and Human Services Secretary Schweiker, will result in a reduction of SSI benefits to any recipient who accepts energy assistance from a nonprofit organization or from a utility company.

Our amendment would prohibit the enforcement of that interpretation of the Social Security Act which would label such assistance as income for purposes of determining SSI eligibility and payment amounts.

The winter heating months are here. The strain on Government sponsored energy assistance programs is overwhelming. Frankly, without voluntary help, many SSI recipients could face a cruel choice between food and fuel. The Department's ruling, in effect, prohibits SSI recipients from getting voluntary help that is already on line.

All across the Nation, utility companies and private nonprofit organizations have been working together to provide emergency assistance to low-income and elderly people, to help them pay ever-increasing utility bills. More than 25 investor owned utilities already have energy assistance programs with millions of dollars that could be used to help these people. Many other utilities are developing similar programs.

But Federal law is standing in the way.

We can act, however, and get the obstacles out of the way of voluntary efforts to assist the neediest people in our society.

I hope you will join me in support of this amendment. After all, private sector initiatives to voluntarily assist the Nation's poor and elderly deserve to meet with success, and not obstacles in Federal law.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from New York.

□ 1510

Mr. BIAGGI. I thank the gentleman for yielding.

I take this opportunity to commend him for this very sensitive, humane, and necessary amendment. Clearly it is an opportunity for the private sector to make a contribution to the needs of those who need it most, the SSI recipients. The interpretation that Secretary Schweiker has put on it only redounds to the disadvantage of the SSI recipients. It limits them to their present meager sums of money. Obviously the private sector is aware of the need and they are responding. The Government should not be so cruel as to benefit as the result of the generosity of the private sector.

Further it would discourage voluntary participation by the private sector if this interpretation were to stand.

I commend the gentleman once again. It is an amendment that I urge the Members of the House to pass and pass overwhelmingly.

As an original member of the House Select Committee on Aging I wish to commend my colleague for his amendment which may mean the very survival for many of this Nation's poorest elderly in this winter that is now upon us.

Many of us on the east coast experienced our first taste of winter this past weekend with a major snowfall and cold snap. The onset of winter brings fear and apprehension to many of our senior citizens who do not know whether they will have enough funds to pay for heating costs.

This is an obvious national problem and was the subject of a front page article in this past Sunday's New York Times. The headline read—"Utility Shut Offs Reported on Rise." The article contends that there may be as many as 300,000 involuntary gas disconnections during this upcoming winter season. Already in the State of Ohio, there are more than 25,000 homes without either heat or electricity and the numbers are on the rise all over the Nation. The one-two punch of higher energy prices and reductions in Federal aid are producing misery for thousands of elderly today and will affect thousands more during the balance of the winter.

Clearly among those who will face utility cutoffs this winter will be senior citizens. I recall that in 1978 I conducted a series of national hearings of my Subcommittee on Human Services, House Select Committee on Aging. The topic was the need for the establishment of a Federal low-income energy assistance program. I learned at these hearings how senior citizens—never wanting to be delinquent in paying their bills would come up with their utility bills and then give up eating for several days to compensate. As a result of these findings, Congress was compelled to create the low-income energy assistance program.

Yet today this very program is in the horns of a dilemma. Its funding level has remained constant between this year and last—yet heating costs for almost all forms of heating have risen and demand is increasing due to the current recession.

Let us remember that this amendment is aimed at helping the absolutely poorest of our elderly citizens—those who are subsisting on SSI. These are men and women who through necessity are compelled to stretch scarce dollars in a week by week survival battle. What this amendment would do is reverse an archaic and cruel Government policy which would reduce the SSI benefit of an older person if they should receive some form of assistance from a private nonprofit organization or charity. This is wrong and we must not be a party to its ratification.

This amendment will last for the duration of the continuing appropriations bill or until March 15 of next year. I would hope that during this time period we will be able to adopt a more permanent bill to abolish this policy before it does any more harm to poor and needy seniors in our Nation.

Mr. TAUZIN. I thank the gentleman for his comments.

I want to point out that amending this act will take care of the immediate problem of the 25 utilities and many others who want to start such programs. We are going to need permanent legislation to deal with this issue.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding.

Mr. Chairman, I commend my colleague, the gentleman from Louisiana, for offering this temporary fix in the tax law.

Mr. Chairman, the amendment offered by my colleague from Louisiana is a temporary response to an issue under the supplemental security income (SSI) program.

Under current SSI law, any emergency aid given to an aged, blind, or disabled SSI recipient by any nonpublic organization is counted as income and therefore results in a reduction in or loss of SSI benefits. This includes, for example, emergency assistance provided by a church to help an SSI

recipient pay rent, or assistance from a utility company fuel fund to help an aged or disabled individual pay heating costs. However, if a State or local government provides this same kind of emergency aid, it is not counted under SSI.

The Tauzin amendment provides that this kind of assistance furnished by a church or other nonprofit organization, or a government-regulated entity such as a utility company, would not be considered as income under the SSI program, if the State certifies that the organization furnished the assistance on the basis of a determination of need. The amendment is in effect only for the duration of the continuing appropriations legislation before us today. A permanent resolution of this issue will require an amendment to title XVI of the Social Security Act, which is under the jurisdiction of the Committee on Ways and Means.

I am going to support the Tauzin amendment. I do not think Federal law should discourage churches and other organizations in their voluntary efforts to aid the needy in this Nation. Immediate action is necessary so that needy SSI recipients can begin to receive any emergency fuel assistance that is available to them.

I intend to encourage the chairman of our Subcommittee on Public Assistance and Unemployment Compensation, Mr. FORD, of Tennessee, to begin working on a permanent solution to this matter as soon as possible.

Mr. TAUZIN. I thank the gentleman.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Oregon.

Mr. WYDEN. I thank the gentleman for yielding.

Mr. Chairman, I rise today to urge my colleagues to join Mr. TAUZIN and me in our efforts to promote the volunteer spirit and to keep senior citizens and other low-income individuals warm this winter.

As Mr. TAUZIN has explained, private utilities across the country have kicked off a fundraising drive designed to help low-income senior citizens and others pay for their fuel bills this winter. It is my understanding that the utilities have already raised $10 million for this project—and that members of the public who have been asked to contribute have responded enthusiastically.

But now this project—which is really only in its infancy—has been threatened. Instead of supporting this exciting demonstration of voluntarism—as they should be at a time when benefits are being cut across the board—Health and Human Services has proposed to strangle it.

As Mr. TAUZIN has indicated, the Secretary of Health and Human Services has decided to uphold a regional HHS ruling stipulating that any assistance received by the elderly under this project would be applied against supplemental security income and other Government benefits.

I am outraged by this decision, and I know other Americans will be too. We are talking about some of the most vulnerable people in our society. We are talking about people who are falling between the cracks—literally walking an economic tightrope on which they must balance food against fuel, and fuel against their medical care. We are talking about people who are facing the coldest months of the year with nowhere else to turn for help.

Instead of being sympathetic to these needs—and supportive of the volunteer spirit that made this country great—Health and Human Services officials have proposed to leave the elderly and the low income out in the cold.

That is not only cruel—it is hypocritical. The administration has trumpeted the value of private sector voluntarism to meet our serious social needs. And now it is proposing actions that would stifle efforts to move in that direction—actions that would discourage needy individuals from taking advantage of the volunteer program because of the fear they will be penalized for doing so.

I do not believe Americans will stand for this. Americans do not want the Government to play Scrooge to older Americans and other needy persons at this time of year. Americans want Government to support private, volunteer efforts—not stifle them.

This is not an issue that can wait to be decided until the 98th Congress convenes. We must act now if millions of older Americans are to stay warm this winter—and if the spark of voluntarism that has been ignited is to be allowed to grow into full flame.

That is why Mr. TAUZIN and I have introduced this amendment to specifically exclude such private assistance payments from counting as income in SSI-eligibility determinations. And that is why we are asking for your support.

Many of these private assistance projects, such as Project Help in my own district, are just getting off the ground. Notices are just now going out to customers and employees of the utilities asking them to help out.

Let us not nip this wonderful display of voluntarism in the bud. Let us not tell our citizens and our business community that the Government owns the candy store. Let us encourage this spirit of giving, and hope that it spreads to other aspects of our society—helping needy citizens and relieving pressures on the bloated Federal budget.

I urge my colleagues to support our amendment.

Mr. TAUZIN. I thank the gentleman for his statement and for his assistance on this worthwhile amendment.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from California.

Mr. PANETTA. I thank my colleague for yielding.

Mr. Chairman, this amendment is similar to legislation that I have introduced that is before the Committee on Ways and Means. I appreciate the comments of the chairman of the Committee on Ways and Means because what we need here is permanent legislation to deal with this inequity. You cannot at one point argue for reductions in SSI benefits and at the same time urge voluntary efforts to try to fill the gap, but if there are voluntary efforts that means there is that much less in terms of SSI benefits.

We have a real contradiction as it is now being interpreted by the administration. This amendment seeks to clarify that inequity, and hopefully what we will have with the help of the chairman of the Committee on Ways and Means is permanent legislation to deal with this inequity.

Mr. TAUZIN. I thank the gentleman. I want to commend him for the work he has done on that bill and offer my personal support for a permanent correction in the law.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Chairman, I just simply want to commend the gentleman and the gentleman from Oregon (Mr. WYDEN) for this very fine piece of legislation.

There are many discriminatory practices toward SSI recipients. And this would be especially ironic if we did not correct the problem with respect to our businesses who want to make a contribution to the plight of our most vulnerable people who happen to be in this case I believe the elderly and women who are heads of households.

I really want to compliment the gentleman. I hope we get unanimous support for the gentleman's amendment.

Mr. TAUZIN. I thank the gentlewoman.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, SSI recipients are usually the poorest of the poor. This amendment corrects an inequity. If natural gas prices keep going up at their current levels, we will all be eligible for SSI and we will all need these kinds of payments.

I would encourage my colleagues not only to support the amendment by the gentleman from Louisiana, but also to support efforts to restrict the rise of prices of natural gas.

Mr. TAUZIN. I thank the gentleman. I think a good free market would do that.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Oklahoma.

Mr. McCURDY. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the work the gentleman has done on this amendment. I rise in support of the amendment to the continuing appropriations bill offered by my colleague, Mr. TAUZIN, which would allow supplemental security income (SSI) recipients to receive assistance from private nonprofit organizations or public utilities, to help them pay their monthly utility bills, without having their SSI benefits reduced.

SSI recipients are among our poorest and neediest citizens and with skyrocketing home heating costs, these Americans may soon be forced to choose between food and fuel. I applaud the administration's efforts to urge the private sector to assist the elderly and truly needy. In fact, nearly 25 utility companies have developed programs designed to help low-income people with their home heating bills. Unfortunately, a recent interpretation of the law by Health and Human Services Secretary Richard Schweiker will reduce SSI benefits to individuals who accept energy assistance from private nonprofit organizations or public utilities. This action will serve to discourage rather than encourage private sector assistance of our poor and elderly and push the needy closer to despair.

Mr. TAUZIN's amendment would prohibit the enforcement of this interpretation of Federal law and I urge my colleagues to join me in supporting this sensitive and humane amendment.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Ohio.

Mr. ECKART. I thank the gentleman for yielding.

Mr. Chairman, I, too, would like to join the previous speakers in commending the gentleman in the well for his work on this issue and rise in support of his amendment as well as the efforts of my colleagues from California.

In northern Ohio we have witnessed substantial increases in our primary heating source which is natural gas. We have also witnessed a tremendous increase in the number of voluntary organizations expressing support and concern for the elderly, disabled, and needy who are less capable of affording those increases. This is an important first step. I am convinced that the Ways and Means Committee will conduct serious hearings to make it permanent.

I commend the amendment, its sponsor, and urge its adoption.

Mr. TAUZIN. I thank the gentleman.

In one utility alone the response was 70 percent of its customers wanted the ability to check off that dollar contribution to help their neighbors in times of need. That is the American spirit I think we ought to be acknowledging today.

Mr. FORD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Tennessee.

Mr. FORD of Tennessee. I thank the gentleman for yielding.

Mr. Chairman, I would like to rise in strong support of the amendment now before the House and say as chairperson of the Committee on Public Assistance we plan to look at this matter in the new session, and hopefully we can come to some resolution in making this permanent because we know that the resolution will only be for the life of the continuing resolution which we are going to adopt today hopefully.

We will take the matter up and hopefully we can make it a permanent law, that the recipients will have this when the continuing resolution ends.

Mr. TAUZIN. I thank the gentleman and salute him for that hope also. It is a hope we share.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Kentucky.

Mr. NATCHER. I thank the gentleman for yielding.

Mr. Chairman, as pointed out by the chairman of the Committee on Ways and Means, this is a matter that is principally under the jurisdiction of that committee. This amendment has the substantive effect of changing the income and assets test under the supplemental security income program. It prohibits the Social Security Administration from reducing or terminating SSI benefits to disabled individuals because of assistance provided to them by nonprofit agencies. An example of this would be privately funded fuel assistance programs; that would be one instance.

The amendment is effective only during the period of this continuing resolution, as the author knows. While it is a little unusual, Mr. Chairman, for an amendment such as this to come at this time on a continuing resolution, we have no objection to the amendment, and on this side we would accept the amendment.

□ 1520

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield.

Mr. CONTE. Mr. Chairman, I want to commend the gentleman in the well for his amendment. As one who has been vitally concerned with low income fuel assistance, I am pleased that we passed a $1.85 billion level of funding in the HHS appropriation bill here a couple weeks ago. This is a good sound amendment and the minority has no objection to it.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman.

Mr. FRENZEL. Mr. Chairman, the minority on the Ways and Means Committee, which would normally have jurisdiction over this matter, has the same feeling as that expressed by its distinguished chairman, now in the chair of this committee, particularly our ranking member, the distinguished gentleman from New York (Mr. CONABLE) who suggested this earlier and put it into the report of the Commission of Private Sector Initiatives has been a strong supporter of this amendment.

We approve of the amendment and hope that it is speedily adopted.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, I would like to have a brief colloquy between me and the distinguished gentleman from Kentucky. Would the gentleman yield for that purpose?

Mr. TAUZIN. I certainly yield; yes.

Mr. PEPPER. Mr. Chairman, the bill provides $542,152,000 for refugee and entrant assistance activities administered by the Department of Health and Human Services. The gentleman and members of his committee have repeatedly given assurances that it intends to fund 100 percent of eligible costs associated with these aliens. May I assume that the gentleman's committee intends to maintain its 100 percent reimbursement policy during the period covered by this resolution?

Mr. NATCHER. Mr. Chairman, will the gentleman yield to me momentarily?

Mr. TAUZIN. I yield.

Mr. NATCHER. Mr. Chairman, the distinguished gentleman from Florida, is correct.

Mr. PEPPER. I thank the gentleman.

May I ask one other question? There is considerable concern among State officials that this funding level will not be sufficient. While we are relying on the committee's judgment to determine these levels, can the gentleman assure me that should this appropriation not be sufficient to cover 100 percent of eligible refugee and entrant costs, the gentleman's committee will

seek a supplemental appropriation to fund the balance.

Mr. NATCHER. Mr. Chairman, as the gentleman in the well knows, we have always followed matter concerning the refugee money carefully. This is a right important matter, not only for the gentleman's State, but for all the States on the east and west coast. The gentleman is correct.

Mr. PEPPER. Mr. Chairman, I thank the gentleman very much.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding.

I have one question. I know in the gentleman's amendment he is saying that the SSI recipient would be receiving some funds from nonprofit organizations.

Now, the Federal Government certainly is not for profit with a $1 trillion debt, but we do have the low income energy assistance program. Now, if people are receiving some assistance from that program, will that change their SSI?

Mr. TAUZIN. No; the SSI payments are not reduced currently with any contribution from Federal, State, or local governments.

The CHAIRMAN. The time of the gentleman from Louisiana (Mr. TAUZIN) has expired.

Is there any opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Louisiana (Mr. TAUZIN).

The amendment was agreed to.

The CHAIRMAN. Pursuant to the rule, the gentleman from California (Mr. FAZIO) is recognized for 15 minutes to offer an amendment and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from California (Mr. FAZIO).

AMENDMENT OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Chairman, I offer an amendment made in order by the rule and duly printed in the RECORD of December 13, 1982.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. FAZIO: On page 27, after line 9, insert the following:

SEC. 129. (a) Section 101(e) of Public Law 97-276 is amended by striking out "December 17, 1982," and inserting "September 30, 1983,".

(b) In lieu of payment of salary increases of up to 27.2 percent as authorized by law for senior executive, judicial, and legislative positions (including Members of Congress), it is the purpose of this section to limit such increases to 15 percent. Notwithstanding the provisions of section 306 of S. 2939 made applicable by subsection (a) of this section, nothing in subsection (a) shall (or shall be construed to) require that the rate of salary or pay payable to any individual for or on account of services performed after December 17, 1982, be limited to an amount less than the rate (or maximum rate, if higher) of salary or pay payable as of such date for the position involved increased by 15 percent and rounded in accordance with 5 U.S.C. 5318.

(c) Nothing in this section shall be construed as specifically authorizing the obligation or expenditure of funds for salary increases for positions subject to section 140 of Public Law 97-92.

Mr. FAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is that time again. We seem to so regularly face the most momentous and difficult decision that we have to make during any session of Congress and that is the issue of whether or not we are going to compensate ourselves at a higher rate of pay. It is never a good time to do it and, obviously, right now we face a very high rate of unemployment; but as I look back at the way we behaved in regard to this issue in the recent past, I find we have found many other excuses not to deal with it, not to take it up front and not to discuss it even with ourselves and our constituents.

We have always found that perhaps this is not the right time because we had not reduced taxes or perhaps because we had reduced subsidies or someone's entitlement. Perhaps we complain that it is an election year. We can find numerous excuses as to why we should not deal with it; but I think it is time that we focus to some degree on perhaps what we have done to ourselves in the process of not facing up to the impact that our lack of forthright decisionmaking has had on us as individuals.

I would like to use these charts to indicate to the Members, and perhaps to our constituents, what has happened to Members of Congress as compared to other people in our society, other occupational groups during the last decade. Certainly in terms of our purchasing power, we have lost far more than any other group in our society. White collar workers have over the last decade lost some 9 percent of their purchasing power as of 10 years ago. Members of Congress have lost four times that, 36 percent of our purchasing power.

There are a number of managerial groups in our society: Banking, retailing, and the aerospace industry, where people have had absolute gains despite the inflation that we have been wracked with over the last decade, gains in their purchasing power. Why is that? Because if we look at the salary increases that various classes of workers and types of managers have received, we find that Members of Congress have been far behind.

The cost of living has gone up over the last decade over 125 percent. Members of Congress have had a pay increase of 42.7 percent, far below every other class that we can compare with.

Production workers and white-collar workers have done far better on the average.

Now, we are not asking to be compared, we are not asking to receive the same level of compensation as our constituents, but I think it is important that we provide for some adjustment. We have in the last 5 years failed to take some 27 percent of the 32½ percent which Federal workers have been given.

It is important to realize that my amendment will reduce the amount that is due for cost-of-living adjustment—the 27 percent. The bill before us would provide a $77,300 salary; my amendment would reduce that to $69,800.

What I hope we do today is to take back some of that 27 percent and then begin in the future to take whatever we think we can afford to pay our white-collar workers. They are an important element in this, because there are some 32,000 of them who have been impacted by our frustration, by what some would term our vindictiveness, by our decision to make the imposition of a pay cap almost an annual affair.

I think it is important to point out that a number of people who are concerned about how this body operates have taken a look at our behavior and have urged us in recent days to do something about it, not just because of the impact is will have on those of us as individuals who have a need for additional compensation, but because it is hurting this institution. We demean ourselves in the manner in which we handle it. In addition, because it is importantly hurting the managers of the Federal Government that we rely on to run the programs that we regularly appropriate funds for, we do the people of this country a lot of harm by denying them a fair wage.

We have had the United Auto-workers, the Business Round Table, the AFL-CIO, the National Association of Manufacturers, the National Association of Realtors, Common Cause, and many other commentators and analysts say, "Congress, give yourself a modest increase." The Washington Post and the New York Times added their support this morning.

I think it is important to point out that one of the reasons we have not had an increase is because there is an increasing reliance on outside income to provide a replacement for it. Members of the other body, no longer governed by any rule, are able to take outside income from honorariums that now we know range well over $50,000. There will be in this year, when the maximum allowable honorarium has gone to $2,000, many Members of the other body who will probably equalize their pay in outside income.

I do not think our constituents are aware of why they have an interest in our voting for pay raises, that in terms of real dollars after the 50-percent tax bracket is applied, amount to less than some Members can earn in one single honorarium.

□ 1530

So I think it is time for us to focus a little bit of our attention on trying to provide some information to the people who will judge us by our actions.

We have only had 10 pay raises in the history of the House of Representatives, and yet there are those who assume we get one once a year. In fact, I do not understand where these free haircuts that someone talked about come from. I pay at least $8.50 for one in the Rayburn Building, when I do not tip.

I understand my constituents feel very deeply about the need to keep us equivalent, and they ask me regularly, "Why don't you just take the cost of living or what Federal workers get?" I have to tell them we fail to do that year after year because we are afraid of their reaction.

Today we are lagging some 57.5 percent behind the cost-of-living index based on the increase from 1977 to the present which has been 62½ percent. We had a 5.5-percent raise to compensate for that 62.5 percent inflation. If we go back to 1969, the cost of living has gone up 171 percent since then and we have lagged 130 percent behind.

I think on the merits, the case is there. I hope people appreciate the fact at this time we have used the upfront, direct approach. There can be no process argument against our behavior in this body. We have responded to our critics who always oppose us because of our approach.

Mr. Chairman, for the benefit of the Members and the public, under leave which I have obtained, I would like to insert several graphs, tables, and other source material which amplify what I have said.

EXPLANATION OF THE FAZIO AMENDMENT

This amendment partially lifts the freeze which is currently applied to the salaries of approximately 32,000 senior-level Federal employees and officials. As it has been reported to the House, House Joint Resolution 631 contains no pay cap; thus, unless reduced, these salaries would go to their statutory rates which, in some cases, would result in a 27-percent salary increase. The amendment reimposes a salary cap on these senior-level employees, but provides that a 15-percent cost-of-living adjustment may be given, in lieu of the 27.2 percent due to the most senior people. This equates to less than the increase given to all other employees during the 96th Congress, and none of the increases given to all other employees during the 97th Congress.

The first paragraph restores the current pay cap on senior-level people as it was approved in the first continuing resolution. The second paragraph partially lifts the cap and provides an increase up to 15 percent, based on cost-of-living adjustments already provided to other Federal employees under title 5 of the United States Code. A rounding rule is also included. The third paragraph provides that there shall be no adjustment for those positions covered by section 140 of Public Law 97-92.

SENIOR LEVEL SALARIES

[Capped, uncapped, and partially capped rates]

Executive schedule	Current salary (Capped)	Under the continuing resolution (H.J. Res. 631) legal salary (Uncapped)	Under the Fazio amendment (Partial cap)
Level I (includes Cabinet)	$69,630.00	$88,600	$80,100
Level II (includes Members)	60,662.50	77,300	69,800
Level III	59,500.00	70,500	68,400
Level IV	58,500.00	67,200	[1] 67,200
Level V	57,500.00	63,800	[1] 63,800

[1] The salaries for these positions would be at their legal rates.

Note.—In addition to the approximately 1,700 covered by the executive level rates enumerated above, the salaries of an additional 30,500 Senior Executive Service and other senior-level general schedule or comparable employees have been capped. If the cap is removed, most of these salaries would be adjusted identical with the Level V adjustment.

TITLE: PERCENTAGES OF SALARY INCREASES FOR MEMBERS OF CONGRESS AND SELECTED OCCUPATIONS COMPARED WITH COST-OF-LIVING INCREASES

Category	Years spanned	Percent increase
CPI (cost of living)	1971–81	124.6
Executives:		
Aerospace	1971–81	1,000.1
Retailing	1971–81	161.2
Banking	1971–81	127.5
Advertising	1971–81	94.6
Production workers	1969–82	158.4
White collar	1969–82	155.0
Members	1971–81	42.7

Data to be presented in this order from left to right of graph. Years spanned to appear under bar for each occupation. All bars blue except Members. Members bar red.

[Note.—Graphs not printed in RECORD.]

Changes in purchasing power of Members of Congress and selected other occupations, 1971–81

Category	*Percent loss or gain*
Executives:	
Aerospace	+389.8
Retail	+16.3
Banking	+1.3
Advertising	−13.0
Production workers	−10.7
White collar	−9.0
Members of Congress	−36.0

KEY INDICATORS

[Percent changes since]

	1969	1977
CPI	171.6	62.5
Hourly earnings index	167.3	54.2
Average general schedule	138.0	43.5
Members of Congress	42.7	5.5

COMPARISON CHART OVER PAST 5 YEARS

[In percent]

	CPI	Federal employees	Private (Census Bureau)		Congressional pay increases
			White collar	Blue collar	
1978	9.8	5.5	6.6	9.2	0
1979	13.3	7.02	9.3	7.8	5.5
1980	12.4	9.11	7.5	7.8	0
1981	8.9	4.8	8.7	7.9	0
1982	6.97	4.0	9.5	7.2	0

Note.—Members salaries under various formulas since 1977: (1) If adjusted by Federal wage increases since 1977 = $82,995.19. (2) If adjusted by CPI since 1977 = $99,235.57. (3) If adjusted by average private sector wage increases since 1977 = $89–979.18.

Members salaries under various formulas since 1970: (1) If adjusted by Federal wage increases since 1970 = $92,675.52. (2) If adjusted by CPI since 1970 = $113,252.74. (3) If adjusted by average private sector wage increases since 1970 = $101,781.44.

Members actual salaries: (1) 1977—$57,500. (2) 1979—$60,662.50. (3) 1982—$60,662.50.

Year	Salary level for Members of Congress	Percent of adjustment in salaries	Percent of Federal employee pay adjustment	CPI	Percent of private sector wage increases	Quadrennial Commission recommendation	President's recommendation based on Quadrennial Commission
1970	$42,500.00	0	6	5.5	4.6		
1971	42,500.00	0	5.96	3.4	6.2		
1972	42,500.00	0	10.64	3.4	7.5		
1973	42,500.00	0	4.77	8.8	6.2	$53,500	
1974	42,500.00	0	5.52	12.2	6.4		[1] $52,800
1975	44,600.00	5.0	5	7.0	5.7		
1976	44,600.00	0	5.17	4.8	7.3	57,500	
1977	57,500.00	29.0	7.05	6.8	7.7		57,500
1978	57,500.00	0	5.5	9.8	7.8		
1979	60,662.50	5.5	7.02	13.3	8.0		
1980	60,662.50	0	9.11	12.4	6.9	85,000	
1981	60,662.50	0	4.8	8.9	8.6		70,900
1982	60,662.50	0	4	6.97	7.5		

[1] Over 3 years.

Note.—Members' salaries under various formulas: $82,995.19 if adjusted by Federal wage increases since 1977. $99,235.57 if adjusted by CPI since 1977. $89,979.18 if adjusted by average private sector wage increases since 1977. $92,675.52 if adjusted by Federal wage increases since 1970. $113,252.74 if adjusted by CPI since 1970. $101,781.44 if adjusted by average private sector wage increases since 1970.

	Number of employees	Scheduled salary rate	Actual salary rate	difference
EXECUTIVE BRANCH				
Vice President	1	100,700	79,125	21,575
Executive schedule:				
Level I	14	88,600	69,630	18,970
Level II	90	77,300	60,662	16,638
Level III	150	70,500	59,500	11,000
Level IV	354	67,200	58,500	8,700
Level V	133	63,800	57,500	6,300
Senior Executive Service:				
ES-2	612	59,230	58,500	730
ES-3	1,047	61,515	58,500	3,015
ES-4	3,450	63,800	58,500	5,300
ES-5	751	65,500	58,500	7,000
ES-6	237	67,200	58,500	8,700
Merit pay [1]	9,036	63,115	57,500	5,615
General schedule [1]	3,813	63,800	57,500	6,300
Senior Foreign Service:				
Grade 1: Level 6	7	67,200	58,500	8,700
Grade 2:				
Level 5	206	65,500	58,500	7,000
Level 4	150	63,800	58,500	5,300
Grade 3:				
Level 4	257	63,800	58,500	5,300
Level 3	225	61,515	58,500	3,015
Level 2	127	59,230	58,500	730
Foreign Service [2]	773	63,115	57,500	5,615
Department of Medicine and Surgery:				
Chief Medical Director	1	70,500	59,500	11,000
Deputy Chief Medical Director	1	67,200	58,500	8,700
All other [1]	7,192	63,800	57,500	6,300
Uniformed Services:				
Chiefs of Staff	5	87,218	57,500	29,718
Grade				
O-10	29	79,049	57,500	21,549
O-9	122	69,740	57,500	12,240
O-8	380	62,878	57,500	5,378
LEGISLATIVE BRANCH				
Congress:				
Senators	97	77,300	60,662	16,638
Representatives	432	77,300	60,662	16,638
President pro tempore of the Senate	1	87,300	68,575	18,725
Majority and minority leaders	4	87,300	68,575	18,725
Speaker of the House	1	100,700	79,125	21,575
Senate staff:				
Level III	6	70,500	59,500	11,000
Level IV	89	67,200	58,500	8,700
Level V [2]	146	63,800	57,500	6,300
House staff:				
Level III	13	70,500	59,500	11,000
Level IV	57	67,200	58,500	8,700
Level V	246	63,800	57,500	6,300
Executive Schedule:				
Level II	1	77,300	60,662	16,638
Level III	5	70,500	59,500	11,000
Level IV	15	67,200	58,500	8,700
Level V	20	63,800	57,500	6,300
Senior Executive Service:				
ES-2	7	60,741	58,500	2,241
ES-3	39	63,800	58,500	5,300
ES-4	37	64,480	58,500	5,980
ES-5	10	65,160	58,500	6,660
ES-6	2	65,840	58,500	7,340
ES-8	7	67,200	58,500	8,700
General schedule [3]	297	63,800	57,500	6,300
Architect of the Capitol, Executives	7	65,616	57,500	8,116
Do	1	60,352	57,500	2,852
OTA Assistant Directors	4	63,800	57,500	6,300
OTA program managers	4	63,800	57,500	6,300

[1] Scheduled salary rate listed is the maximum rate allowed by law for these positions. The actual scheduled salary rate may be higher or lower for some positions.

[2] One position at $57,500, the balance at $57,000 by administratively imposed ceiling.

[3] Scheduled salary rate listed is the maximum rate allowed by law for these positions. The actual scheduled salary rate may be higher or lower for some positions.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., December 10, 1982.

B-210039.

Hon. VIC FAZIO,
Chairman, Subcommittee on Legislative Branch, Committee on Appropriations, House of Representatives

DEAR MR. CHAIRMAN: On November 29, 1982, you asked for our decision on the exact effect of section 130(c) of the Act of October 1, 1981, Public Law 97-51, 95 Stat. 958, 966, should the Congress fail to enact a continuation of the pay cap as imposed until December 17, 1982, by section 101(e) of the Act of October 2, 1982, Public Law 97-276, 96 Stat. 1186, 1189.

Section 130(c) makes a permanent appropriation "for 'Compensation of Members' * * * as authorized by law and at such level recommended by the President for Federal employees for that fiscal year * * *." That section also provides: "such sums when paid shall be in lieu of any sums accrued in prior years but not paid."

Funds are thus appropriated by section 130(c) to pay Members' pay as otherwise authorized by law, but that section does not modify the legal rates of pay prescribed for Members. The provision that payments made from that appropriation will be in lieu of sums accrued and not paid has the effect of voiding claims of Members for backpay—pay which was not paid in prior years by virtue of appropriation pay limitations.

In keeping with that analysis of section 130(c) we find that, under the provisions of statutory law, the scheduled rate of pay for Members is now $77,300.[1] Appropriated funds have been denied to pay Members more than $60,662.50,[1] but that appropriation limitation expires December 17, 1982. If the appropriation limitation expires and a limitation is not otherwise enacted, the pay of Members will automatically increase to the $77,300 rate authorized by law. In terms of section 103(c) this rate is derived from the $74,300 rate which was in effect during fiscal year 1982 as increased by 4 percent, which was the level of increase recommended by the President for Federal employees for fiscal year 1983.

The legal rates of pay for Members are derived from the application of the Act of December 16, 1967, Public Law 90-206, Title II, 81 Stat. 42, as amended, 2 U.S.C. 351-361 and the provisions of the 1975 comparability increase legislation. The Act of August 9, 1975, Public Law 94-82, Title II, 89 Stat. 421, 2 U.S.C. 31. The appropriation limitations which have kept the pay of Members at $60,662.50 have not changed the provisions of those statutes. They have withheld a part of the pay otherwise due under the applicable provisions of law, but the appropriation limitations do not alter the statutory rates otherwise prescribed. See *United States* v. *Will*, 449 U.S. 200 (1980).

The language "such sums when paid shall be in lieu of any sums accrued in prior years but not paid" was included on the premise that absent that provision there would have remained an open question as to the liability of the Government on claims for backpay of Members once the appropriation pay restriction was removed. The inclusion of the provision resolves the issue and voids claims of Members for backpay. In arriving at this result we have considered not only the language of section 130(c) but also its legislative history, including the debates in the House and Senate.

Accordingly, we find that if the pay cap language is not retained after December 17, 1982, the pay of Members will automatically increase to $77,300, unless some other provision of law is enacted to prevent that result.

[1] We have used the figures $77,300 and $60,662.50 in this letter as a matter of convenience. We recognize that those rates apply to Members generally but that higher rates of pay apply to the President Pro Tempore of the Senate, the Majority and Minority Leaders of the House and Senate and the Speaker of the House.

The impact figures which you requested will be submitted to you by separate letter.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., December 14, 1982.

DEAR REPRESENTATIVE: The AFL-CIO believes that members of Congress are deserving of a pay adjustment and should have the opportunity to vote for or against such a proposal during consideration of the continuing resolution. When H.J. Res. 631 comes to the House floor this week, the AFL-CIO urges members to vote against reimposing the pay ceiling and for recoupment of the real wage loss members have experienced over the past several years.

In 1980 a federal pay commission stated, "The purchasing power of congressional salaries is reaching the point that it may deter from seeking office those who must support themselves and their families on salary alone." The AFL-CIO is concerned that the extraordinary expenses of serving in the U.S. Congress may make the job prohibitively expensive for many otherwise qualified persons and may result in candidates for Congress coming from and increasingly narrow stratum of our society.

In 1980 the Commission on Executive, Legislative and Judicial Salaries recommended that congressional salaries be increased to $85,000. President Carter reduced that recommendation to $70,853 before forwarding it on to Congress with his endorsement. In 1982 congressional salaries are still capped at $60,662.50.

Not only is the pay cap creating a genuine hardship on many members serving in the Congress, but top-level government jobs are also capped and therefore often insufficiently attractive to the most highly qualified potential applicants.

The AFL-CIO urges the Congress to abide by the 1975 law which coupled congressional pay raises with federal white-collar pay raises and to vote down the reimposition of the pay cap.

Sincerely,

RAY DENISON,
Director,
Department of Legislation.

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, D.C., December 14, 1982.

DEAR CONGRESSMAN: Today, the House will be asked to consider the issue of pay raises for the Legislative and Executive Branches. Under the continuing resolution which expires on December 17, the cap limiting Congressional salaries and those of senior Executive Branch officials will expire.

The National Association of Manufacturers believes that an increase in salaries for both the Congressional and senior officials in the Executive Branch is warranted. We are aware that "options" range from 4 to 27 percent for Members of Congress with a similar range for the Executive Branch. While we believe a salary adjustment is warranted in both cases, we would urge that the Congress identify a specific increase within the range of options for its members.

While Congressional pay scales have for all practical purposes been frozen since 1977, we believe that selecting the high end of the range is inappropriate, particularly in view of the nation's current high unemployment and large budget deficits. We believe, however, that an increase of a lesser and more reasonable amount is both warranted and would be acceptable to the nation's citizens.

We trust the Congress will exercise wisdom and political courage when this measure is brought up for debate and resolution.

With kind regards,

Sincerely,

JERRY J. JASINOWSKI,
Senior Vice President and Chief Economist.

THE BUSINESS ROUNDTABLE,
Washington, D.C., December 14, 1982.

DEAR REPRESENTATIVE: The House and Senate will be faced again with the politically difficult question of a Congressional pay raise. The Business Roundtable supports appropriate pay increases for Members of Congress as well as for officials in the Executive and Judicial branches.

Since 1977, the Consumer Price Index has increased by 62.5 percent, while Members have only received one raise of 5.5 percent in 1979. A recent report by the Commission on Executive, Legislative and Judicial Salaries stated that "in 1969 dollars, the purchasing power of salaries for Members of Congress has declined to $25,800."

The Business Roundtable has testified in the past in support of pay increases for the legislative, executive, and judicial branches of government. We urge you and your colleagues to vote in support of a pay raise this week which we believe is in the public interest.

Sincerely,

JOHN POST,
Executive Director.

COMMON CAUSE,
Washington, D.C., December 10, 1982.

DEAR REPRESENTATIVE: The House and Senate will soon once again be faced with the extremely important but politically difficult question of what to do about congressional pay. Common Cause strongly supports appropriate pay increases for Members of Congress as well as for officials in the Executive and Judicial branches.

We recognize that this is a particularly difficult issue at this time because of the severe economic conditions in the country. Unfortunately, however, there never seems to be a right time for increasing congressional pay.

Since 1969, according to the Joint Economic Committee, the Consumer Price Index (CPI) has risen 168 percent. Pay for Members of Congress during this same period has risen 43 percent (from $42,500 to $60,662). This has resulted in congressional pay over the last thirteen years running 125 percent behind inflation. Since 1977 the CPI has increased 62 percent while Members of Congress have received only one of 5.5 percent—in 1979. The report of the Commission on Executive, Legislative and Judicial Salaries pointed out in 1980 that "in 1969 dollars, the purchasing power of salaries for Members of Congress has declined to $25,800."

Because congressional pay winds up linked with other government salaries, the inability to deal rationally with this issue has had a negative impact on the Executive and Judicial branches as well.

As an organization Common Cause has opposed backdoor means of enhancing congressional salaries that increase conflicts of interest and inequitably use the tax code. Common Cause worked against lifting the limits on honoraria and other outside income and for repeal of the special congressional tax break. But we also strongly believe that Members should be appropriately compensated through their congressional salaries.

Obviously $60,662 does not represent a marginal annual income. But it is far below the salaries of those in top level positions in major corporations and law firms and many other enterprises in the private sector. In addition, a study conducted for the 1980 Pay Commission showed that between 1969 and 1980 private sector executives with "responsibilities roughly comparable to those of top federal executives" received salary increases of more than 116 percent.

There are clearly other rewards in congressional service that are not monetary in nature and certainly no one expects that government salaries will or should be directly comparable with the private sector. But Members of Congress have been chosen by the people as our national leaders to make the public policy decisions that will affect the direction of our country and the lives of all Americans. It is essential that they be adequately and fairly compensated. Members should not be expected to see congressional pay in real in real dollars decline year after year.

Many Members have independent wealth or other major sources of additional income while others—a majority in the House of Representatives—basically live on their congressional salaries. We urge those Members who have independent financial resources to think long and hard about denying their colleagues pay increases to which they are clearly entitled and which are in the public's best interest.

We understand this is a very difficult issue politically and that the temptation is there to reject any efforts at increasing congressional pay. We strongly urge you, however, to resist this temptation and to support an appropriate pay raise for Members of Congress.

Sincerely,

FRED WERTHEIMER,
President.

At this time, Mr. Chairman, I would like to yield to my good friend and colleague from California, the ranking member of the subcommittee which I chair, Mr. BURGENER.

Mr. BURGENER. I thank the gentleman for yielding.

Mr. Chairman, I strongly support adequate pay for adequate work. We ought not to be talking today about what is good for Members of Congress; we ought to talk about what is good for the public.

How will the public interest best be served? I submit it will be best served if we build and strengthen this Congress and if we build and strengthen the executive branch. I maintain that good pay is essential to good government.

Unfortunately, the Senior Executive Service in the executive branch of Government is tied to congressional pay. I think they ought not to be. I think they never should have been, but they are. I submit that because of that, bad pay is leading to bad government.

Let me give you some evidence. The Navy just conducted a study of the Senior Executive Service. They now have an average of 4½ years of experience on the job. Prior to these pay caps, they had 7½ years of experience on the job. That is bad, and we are driving people to early retirement when they are still productive.

What happens to the public interest? What happens to the taxpayers when we do that?

First of all, we start paying them retirement with annual cost-of-living adjustments attached that the private sector does not have. Their retirement pay begins to escalate over the years. Then we hire a replacement for the early retirees. Now we have in effect, two salaries to pay. Does that serve the public interest? It does not.

Every year we procrastinate and every year we fail to address this issue and we drive good people out of Government. We drive them out of the House, we drive them out of the executive branch at great cost to the public.

I would vote aye. There are about three options available to us today. We can reimpose the cap and stay where we are, with a pay cap, not a good action for the public interest.

We can take the full raise or we can take some intermediate position.

In the interest of success, I guess, I would personally choose the intermediate position, but I would certainly vote for the full raise if that were the only option.

In an effort to get help, we created the Commission on Executive, Legislative and Judicial Salaries to take the onus off of us and in an effort to remove it from this arena. What did the Commission do in 1980? They reported and recommended that we be paid $85,000 a year. President Carter, after careful consideration, reduced that recommendation. He had every right to do that. He reduced it to $70,830. That was his recommendation and we still failed. We rejected it.

The Washington Post today said no one should get rich from this job. I do not know of anyone who has. But they further said no one should get poor from it, either.

Honorariums are a poor substitute for adequate pay. They are fraught with conflicts of interest. They are dangerous and they are not in the public interest. I have suggested in past messages on this floor that if we continue to neglect adequate pay for this body, we are going to end up with two kinds of people in this House: a combination of millionaires and ne'er-do-wells, and once in a while you get them in the same package.

Let us think of the public interest. Let us build a better House and a better Government. Let us face it head on with a recorded vote, and vote for better Government.

Mr. FAZIO. I thank the gentleman for his comments.

The CHAIRMAN. The gentleman from California (Mr. FAZIO) has consumed 11 minutes.

Mr. FAZIO. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Chairman, I rise in hearty support of this amendment. I am leaving the Congress. It will have nothing to do with me, but I tell you, my colleagues, I have watched and I have listened to my colleagues, and we cannot go on like this.

One after another of my colleagues, independent of this amendment or any other chance of raising their salaries, have told me that they are digging into their life savings in order to stay here. When you are one of a two-earner couple, it is very different and I plead with my colleagues who are married to a good businesswoman or a good lawyer or a good businessman not to take that as an excuse and say, "Well, we can live perfectly well on what we have."

There are many people who are married to someone who does not work, who have children, trying to maintain a mortgage on their home in the district, pay rent here, and pay dentists bills. We have lost good people in this House.

The turn foreman from Armco Steel came down here. Why did he go home? Because he simply could not pay the bills on what we were paying him. He had a wife and children who were miles out in the country where he could afford housing for them.

We cannot go on like this. We are not doing the right thing. People have seen me on this floor. I have objected to any backdoor effort to raise benefits for Members of Congress, but I feel that the public must support us in a responsible, open, and honest way of arriving at something that must be done in the public interest, and I hope very much my colleagues will vote for this amendment.

Mr. FAZIO. I thank the gentlewoman.

● Mr. DERWINSKI. Mr. Chairman, the issue of Government pay rates is one of the most crucial and misunderstood issues facing Congress. As the senior Republican on the Post Office and Civil Service Committee, I have been in the position, year after year, of seeing this issue overemphasized by the media or ignored by Members.

The truth is that a detailed review of existing Government compensation laws—salary, retirement, and fringe benefits—would calm the popular indignation against pay raises, starting with the most basic fallacy of all: that taxpayers are saving money in the long run by denying top Federal employees and Members salaries which are competitive with their private sector counterparts.

It does not take an actuarial genius to figure out why more and more of our top level Federal employees are leaving Government at the earliest opportunity to pursue more lucrative careers in private enterprise. It should be very apparent that it is costing the public more to fund retirement annuities and cost-of-living increases in retirement income than it would cost us to keep top Government managers in active employment at higher pay.

Furthermore, the more salaries are compressed, the less incentive there is for top managers to assume additional responsibilities.

We cannot continue this foolish practice if we want the Federal Government to function in an effective and efficient manner. However broad or narrow you feel the Government's role should be, you are not solving the problem, making no real savings, and frankly, making no sense by refusing to adjust the salary ceiling.

In 1978, we passed the landmark Civil Service Reform Act of 1978. The centerpiece of that legislation was the creation of a Senior Executive Service with tenure conditioned more on performance than seniority. The response to that provision of the new law was encouraging, but all of the promised incentives for enlisting in the SES have not materialized because riders to certain appropriations have restricted funds and reduced the opportunities for proper compensation. It has been a somewhat discouraging development not only for top Federal managers but for those of us whose committees are responsible for stemming the brain drain which is threatening the civil service systems from the top.

Federal salaries have to be competitive if we are to retain our talented and experienced executives. Service in top Government positions offers a nationwide forum for talent. It would be a tragedy if executives in the private sector were discouraged from this forum because they had children in college or because they could not maintain the fruits of their hard-earned success on Government salaries.

Recruiters for both present and past administrations will tell you it is becoming increasingly difficult to attract competent persons to top Government positions because of the salary levels.

We have another opportunity here today to reverse an illogical trend and in the process make it possible for the Government to attract the type of expert, qualified personnel who will assist in making the Government responsible and responsive to the taxpayers.●

● Mr. SENSENBRENNER. Mr. Chairman, I would like to go on record at this time as being opposed to a pay increase in congressional salaries. While I applaud the committee's action in forcing an open and direct vote on the floor on this issue, I think it is irresponsible to bring the matter up in this manner. The amendment offered by Mr. FAZIO permits a situation where Members can vote themselves an increase by voting either yes or no on the amendment. A yes vote would mean a 15-percent increase where a no vote would mean a 27-percent increase. While I oppose this way of handling the issue, I will vote for a reduced level of increase.

Shortly, Mr Speaker, there will be another amendment offered by Mr. TRAXLER, to replace the pay cap on Members of Congress salaries. This is the kind of action which is responsible and will show the American people that Congress is really serious about sharing the economic burdens equally. It will also show that we, as their elected Representatives, are willing to share in the sacrifices needed to get our economy back on the right track.●

● Mrs. SCHNEIDER. Mr. Chairman, I intend to vote for the Fazio amendment to the continuing resolution, and I urge my colleagues to as well, but not for the reason that he offers it. Mr. Chairman, I cannot support a pay increase for Members during a time of such economic stress. My motive in supporting the Fazio amendment is to limit the amount granted in the bill in the unlikely and unfortunate case that the Traxler amendment fails. The Traxler amendment, which would retain the present cap on Members' salaries, is the appropriate approach at this time. We are sending the wrong signal to the country if we vote ourselves a raise at a time when the deficit is so large and so many people are out of work, not to mention during a lameduck session fully 2 years from the next election.

Legislation I have cosponsored calls for open, unambiguous votes on Members' compensation, and would insure that no increase is actually made without an intervening election. I urge the committee and my colleagues to accept this commonsense approach.●

The CHAIRMAN. Is there further debate on the amendment?

The question is on the amendment offered by the gentleman from California (Mr. FAZIO).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FAZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 303, noes 109, not voting 21, as follows:

[Roll No. 445]

AYES—303

Addabbo	Erlenborn	Markey
Akaka	Ertel	Marks
Alexander	Evans (DE)	Marlenee
Andrews	Fazio	Martin (NC)
Annunzio	Fenwick	Martin (NY)
Anthony	Ferraro	Matsui
Applegate	Findley	Mattox
Aspin	Fish	Mavroules
AuCoin	Fithian	Mazzoli
Badham	Flippo	McClory
Bailey (PA)	Foglietta	McCloskey
Barnard	Foley	McCurdy
Barnes	Ford (MI)	McDade
Beard	Ford (TN)	McGrath
Bennett	Forsythe	McHugh
Bereuter	Fountain	Mica
Bevill	Fowler	Mikulski
Biaggi	Frank	Miller (CA)
Bingham	Frenzel	Miller (OH)
Bliley	Frost	Mineta
Boggs	Fuqua	Minish
Boland	Garcia	Moakley
Boner	Gejdenson	Moffett
Bonior	Gephardt	Molinari
Bonker	Gibbons	Mollohan
Bowen	Gingrich	Morrison
Breaux	Ginn	Murphy
Brinkley	Glickman	Murtha
Brodhead	Goldwater	Myers
Brooks	Gonzalez	Napier
Brown (CA)	Gore	Neal
Brown (OH)	Gramm	Nichols
Burgener	Gray	Nowak
Burton, Phillip	Green	Oakar
Butler	Grisham	Oberstar
Campbell	Guarini	Obey
Carman	Gunderson	Ottinger
Carney	Hall (IN)	Panetta
Chappell	Hall (OH)	Pashayan
Cheney	Hall, Ralph	Patterson
Chisholm	Hall, Sam	Pease
Clay	Hammerschmidt	Pepper
Clinger	Hance	Perkins
Coats	Hansen (ID)	Peyser
Coelho	Hartnett	Porter
Coleman	Hawkins	Price
Collins (IL)	Heckler	Pritchard
Conable	Hefner	Quillen
Conte	Heftel	Rahall
Conyers	Hertel	Rangel
Coughlin	Hightower	Ratchford
Courter	Hiler	Reuss
Coyne, James	Holland	Rhodes
Coyne, William	Howard	Ritter
Craig	Hoyer	Roberts (KS)
Crane, Daniel	Hubbard	Roberts (SD)
Crane, Philip	Huckaby	Robinson
Crockett	Hughes	Rodino
Daniel, Dan	Hutto	Roe
Daniel, R. W.	Hyde	Roemer
Daschle	Jeffords	Rose
de la Garza	Jenkins	Rostenkowski
Dellums	Jones (NC)	Rousselot
Derrick	Jones (OK)	Roybal
Derwinski	Jones (TN)	Russo
Dickinson	Kastenmeier	Sabo
Dicks	Kazen	Savage
Dingell	Kemp	Scheuer
Dixon	Kennelly	Schneider
Donnelly	Kildee	Schumer
Dorgan	Kogovsek	Seiberling
Dougherty	LaFalce	Sensenbrenner
Dowdy	Latta	Shamansky
Downey	Leath	Shannon
Duncan	Lee	Simon
Dunn	Leland	Skelton
Dwyer	Lent	Smith (IA)
Dymally	Levitas	Smith (PA)
Early	Lewis	Snowe
Eckart	Livingston	Solarz
Edgar	Loeffler	Solomon
Edwards (AL)	Long (LA)	Spence
Edwards (CA)	Long (MD)	St Germain
Edwards (OK)	Lott	Stangeland
Emerson	Lowry (WA)	Stanton
Emery	Luken	Stark
English	Lundine	Staton
Erdahl	Lungren	Stenholm
Stokes	Vento	Williams (MT)
Stratton	Walker	Williams (OH)
Studds	Wampler	Winn
Stump	Washington	Wolf
Swift	Watkins	Wolpe
Synar	Waxman	Wortley
Tauzin	Weaver	Wright
Taylor	Weber (MN)	Wyden
Thomas	Weiss	Yates
Traxler	White	Young (FL)
Trible	Whitehurst	Young (MO)
Udall	Whitley	Zablocki
Vander Jagt	Whittaker	Zeferetti

NOES—109

Anderson	Harkin	Oxley
Archer	Hatcher	Parris
Ashbrook	Hendon	Patman
Atkinson	Hillis	Paul
Bafalis	Holt	Petri
Bailey (MO)	Hopkins	Pickle
Bedell	Horton	Pursell
Benedict	Hunter	Regula
Bethune	Ireland	Rinaldo
Bouquard	Jacobs	Rogers
Brown (CO)	Jeffries	Roth
Broyhill	Johnston	Roukema
Byron	Kindness	Rudd
Clausen	Kramer	Santini
Collins (TX)	Lagomarsino	Sawyer
Corcoran	Lantos	Schroeder
D'Amours	Leach	Sharp
Dannemeyer	LeBoutillier	Shaw
Daub	Lowery (CA)	Shelby
Davis	Lujan	Shumway
Deckard	Madigan	Siljander
DeNardis	Marriott	Skeen
Dornan	Martin (IL)	Smith (AL)
Dreier	McCollum	Smith (NE)
Dyson	McDonald	Smith (NJ)
Evans (IA)	McEwen	Smith (OR)
Fascell	McKinney	Snyder
Fiedler	Michel	Tauke
Fields	Mitchell (MD)	Volkmer
Florio	Mitchell (NY)	Walgren
Gaydos	Moore	Weber (OH)
Gilman	Moorhead	Whitten
Goodling	Mottl	Wirth
Gradison	Natcher	Wylie
Gregg	Nelligan	Yatron
Hamilton	Nelson	
Hansen (UT)	O'Brien	

NOT VOTING—21

Albosta	Evans (GA)	Montgomery
Beilenson	Evans (IN)	Railsback
Blanchard	Fary	Rosenthal
Bolling	Hagedorn	Schulze
Broomfield	Hollenbeck	Shuster
Burton, John	Lehman	Wilson
Chappie	Martinez	Young (AK)

□ 1550

Messrs. SILJANDER, FIELDS, BROWN of Colorado, ARCHER, LAGOMARSINO, and McEWEN changed their votes from "aye" to "no."

Messrs. WILLIAMS of Ohio, LONG of Maryland, DUNN, PHILIP M. CRANE, and DANIEL B. CRANE, and Ms. MIKULSKI changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Chairman, I offer an amendment which has been in order by the rule and duly printed in the RECORD. It is amendment No. 1.

The Clerk read as follows:

Amendment offered by Mr. TRAXLER: On page 27, after line 9, strike out the section added to the resolution by the amendment offered by Mr. Fazio, and insert in lieu thereof the following:

SEC. 129. Section 101(e) of Public Law 97-276 is amended by striking out "December 17, 1982," and inserting in lieu thereof "March 15, 1983,".

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan (Mr. TRAXLER) will be recognized for 15 minutes, and a Member opposed to the amendment will be recognized for 15 minutes.

The Chair recognizes the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Chairman, we have an issue with which we are all familiar. We have been around this track a number of times.

I am aware of the arguments in favor of a congressional pay raise, as well as for executive staff and for the judges and the President. I am not unmindful of the fact that the Congress has run about 125 percent behind the inflation rate since 1969. I am aware that since 1977 the Consumer Price Index has increased some 62 percent while the salaries of the President and members of the Judiciary and the Congress have increased 5½ percent. Furthermore, I also know that there are prominent and very worthwhile organizations and media, such as Common Cause, the Washington Post, and the New York Times, and others, that support some reasonable approach to salaries. But I am compelled, in view of the dire economic circumstances in my State, 17 percent unemployed, to offer this amendment and to plead with the Members to recognize that while the need may be there, the time is not here. The timing is very poor, and I would urge this body to defer the issue until the economy has made a recovery and keep faith with the less fortunate than we are, the unemployed in my State and in this Nation. Please cast your vote for my amendment which keeps the present cap, thus allowing no raise for the President, Federal judges, executive personnel, and Members of Congress.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would just like to echo the remarks of the gentleman from Michigan (Mr. TRAXLER) and rise in support of the amendment.

Mr. Chairman, I rise to state my total opposition to any pay increase for Members of Congress. I opposed the Fazio amendment to stress this point. The intent of the amendment was to increase the amount of the pay for Members of Congress by approximately $9,000.

Mr. Chairman, I remind my colleagues that our country is in a very serious depression, only surpassed by the Great Depression. Twelve million Americans are out of work, and heat-

ing costs are making millions of Americans, especially the poor and elderly face the decision of having adequate heat or adequate food. I cannot with good conscience even consider increasing the pay for Members of Congress with these problems facing my constituents. I am sure most of you have similar situations in your district.

Mr. Chairman, I urge my colleagues to think very seriously about the impact of increasing pay at a time when our country and its people are fighting to survive. I say to you that it will be a positive sign that we are aware of the problems and are willing to lead the way toward economic recovery if we do not increase pay for Members of Congress.

Mr. Chairman, I support the Traxler amendment to continue the pay cap and will vote in that manner.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I am pleased to yield to my distinguished colleague, the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I find myself in a difficult position. I recognize, as the gentleman has stated, the equity in the case for a congressional pay raise. But I join with the gentleman in questioning the timing of a pay raise at this particular time.

There are two serious problems, it seems to me. First of all, there is no good time for a pay raise. We have all experienced that before, and I have voted for them and I have voted against them. But at this particular time I think it does two things. First of all we have a tremendous rate of unemployment, 10.8 percent, a record rate since the Depression years of 40 years ago.

□ 1600

Many, many people in addition to that are teetering on the edge of losing their business or losing their jobs. In view of these economic times I think that it is almost unbelievable that we sit here in Congress and raise our pay.

Second, I feel that it destroys the credibility of us with these constituents and also it undermines their public confidence in an institution such as this one, going forward in these economic times and voting ourselves this raise in our pay.

So it is with regret that I have to rise and express my opinion but certainly I think it should be considered.

I thank the gentleman for yielding.

Mr. TRAXLER. I thank my distinguished colleague for his contribution.

Mr. FAZIO. Mr. Chariman, I rise in opposition to the amendment.

At this time I yield such time as he may consume to the gentleman from South Carolina (Mr. HOLLAND).

Mr. HOLLAND. Mr. Chairman, among the issues I have confronted in my 8 years in Congress, the most volatile, the most troublesome, has been the recurring question of congressional pay. This matter sends Members searching for reasons to defy reason itself. It causes the press to literally foam at the mouth for its nature as a tasty morsel waiting to be devoured by all readers. It has generated into the congressional offices a class of mail unequaled in angry rhetoric.

How many times I have stood on the House floor to have my colleagues tell me they need the money, it is the right thing to do, but they fear the political consequences of voting for a pay raise for themselves. There are a few hearty souls who have enough political strengths and candor to support pay increases, but they do not come near a majority. I number myself among that minority, although I must confess that I have never felt comfortable with setting my own pay at the public expense. My approach has been to try to convince my constituents that they are getting their money's worth. After all, my salary amounts presently to 12 cents per constituent per year.

There is much misinformation at work upon the public mind about the cost of government generally and the Congress in particular. Recently, The State published an editorial saying that each Congressman cost the public $2.6 million. The source quoted was Tax Foundation, Inc., a Washington-based interest group of dubious repute. I called this organization and requested, several weeks ago, a copy of the study from which this figure was derived. That request was repeated last Friday, and has not yet been honored.

The fact is that the $2.6 million amount is so flagrantly false that it cannot be supported. The Tax Foundation, Inc., is a liar. The State, without any analysis or examination, republished this absurdity. The public became upset, and I don't blame anyone for being incensed. But Congress got another bad mark and its elected Members got more wary about their status as an important branch of our Government.

Another source of misinformation surrounding congressional pay is an element among the Members themselves. There is a tendency to exploit this issue for political gain. After all, we love to hear a Congressman talk about how he or she singlehandedly saved the taxpayers a bundle of money. Too many, I suppose, have gained a seat in Congress by running against and running down the institution.

The ones who make me weary are those who are independently wealthy, who should serve without pay, who always vote against pay increases, who make high-fidelity speeches opposing, and who then accept the money and put it in the bank along with their dividends, rent income, interest, and various pension payments.

As a lawyer in Camden seeking my first term in Congress, I shared the general public attitude about this matter. At that time the pay was $42,500 per year. I had never examined the higher cost of living in Washington, had no reason to wonder about the cost of maintaining two residences, one in the world's second highest real estate market, our Nation's Capital, and honestly considered that pay level to be adequate.

Soon after arriving in Washington, I discovered that one-bedroom apartments rentable in Columbia for $250 could be occupied for $800 to $1,200 a month. The first breakfast I bought myself in Washington was $8.50 (one egg, toast, coffee, bacon, no grits).

Once, we purchased a three-bedroom frame house with two baths (both indoors) on a small lot in a subdivision 8 miles down the congested freeway from the U.S. Capitol. I might mention that the neighbors were not overly friendly to a Member of Congress and none ever came over just to say, "Welcome to the old warm and friendly neighborhood." One man came by as we were moving out a year later to offer his help since we were leaving.

This house could have been purchased in South Carolina for between $30,000 and $35,000. Our bargain-basement cost: $90,000, because the owner had to make a quick sale. The annual property tax on this mansion—$1,134.

After selling the Washington residence, I became famous for sleeping in my office as a protest against the $600 to $800 rent on roach-infested, dust-filled basement apartments. My protest, however, did nothing to bring down rent in D.C. One constituent expressed pride that his Congressman was the only one who ever gained any publicity for sleeping alone.

Following my failed rent protest, Congress enacted a law allowing Members to deduct the costs of living in Washington. I then rented a one-bedroom apartment because the ability to deduct its full cost was some help. A great furor erupted in the press and the public became aroused. Congress caved in. The result: Congress looks weak-kneed and I have a tax deduction I can't take.

Next year, when I become a private citizen with a Washington apartment, I will be able to deduct the cost of even the most lavish apartment as a cost of doing business in Washington. There's something out of place when Congress would not be allowed to have equal treatment under the law.

The law that allows Congressmen to deduct $3,000 a year was enacted in 1952. Consider, also, these statistics:

Since 1969, the Consumer Price Index has risen 176 percent. Members' pay has risen from $42,500 in 1969 to $60,662.50, for a percentage increase of 42.7 percent. That is a difference of 134.3 percent.

Since 1977, the CPI has increased (1977 to Oct. 1982) by 62.5 percent. Members have only received one raise of 5.5 percent in 1979.

Since 1977, civil servants have received the following increases: 1977, 7.5 percent; 1978, 5.5 percent; 1979, 7.02 percent; 1980, 9.11 percent; 1981, 4.8 percent; 1982, 4.0 percent, total, 37.48 percent. This compares with 5.5 percent for Members.

It is a well-known fact that I have some friends in the entertainment business. One of my friends is paid $50,000 per night for two shows in which he sings songs (no dancing). Kenny Rogers, I read, made $30 million last year. The professional football players' strike obtained each player a $40,000 increase.

Now, I have nothing but admiration for these singers and athletes. However, I am not ready to turn the Government over to them. I don't think they could manage it. What we ought to do, though, is examine our priorities. I do not think we would exchange our form of representative government for any other system, and we should be prepared to pay for what we are fortunate enough to enjoy.

My retirement from Congress will enable me to provide for my children's education. Then I will reenter politics at some level. I am proud to have served my country in this way and would do it again with one exception: I would have been a much better Representative had I not suffered the worry and indignity of financial problems.

In government as in all things, we get whatever quality we pay for. I am afraid we Americans are short-changing ourselves in this area and should take on a new attitude about this matter.

Next week I will vote for a congressional pay raise again, although I am not to be affected by it. Whatever my Congressman costs me as a taxpayer is a good deal.

Mr. FAZIO. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I think it is crazy for us to vote on our own pay because it is inherently a conflict of interest. But the Constitution requires it.

As the Members know, the law provides that Members of Congress are supposed to get the same amount of pay increases annually as other Federal workers. We have turned those down in 5 out of the last 6 years. The result has not been that this place is any better off or that the taxpayers are better off. The result has been that Congress has found other ways, at least some Members have found other ways (such as speaking fees from special interests or special tax breaks) to go through the back door for pay raises which are less healthy for the institution than when we do it through the front door. That hurts the integrity of the entire House.

I personally think 15 percent is too high. As the Members know, I have been arguing for a smaller figure. But anybody who believes that the 15 percent figure is too high can solve that problem by simply turning back to the Treasury the amount which they think is excessive.

Over the last 6 years, salaries in the private sector have risen 46 percent, salaries for other Federal workers have increased 37 percent. Congressional salaries have risen 5½ percent.

I simply want to say, unless you believe that Members of Congress ought never get a pay increase, that some raise is justified just as almost every other group in society has had some raise over the last 4 and 5 years.

I ask you to do that, not to vote for zero because everybody knows in this place, in their hearts, that that is not the responsible thing to do for this institution. Do what you know is right for the integrity of this institution and do it through the front door today.

I also ask that in the future you be prepared, and this is terribly important, that you be prepared to vote on an annual basis to provide the same kind of adjustment for Members of Congress that the President provides for other Federal employees so that Congress avoids large increases every 5 years or so. That in the long run serves the taxpayers best. It will help keep this place a cleaner and a more honorable institution. It will help us resist the pressure for backdoor gimmicks.

We are entitled to the same raises as other Federal employees. That is fair. Congress should not be depending upon special interests to supplement and increase congressional pay through honoraria or other tax gimmicks.

I ask my colleagues to do what is right for the long term independence of this institution and to vote against the Traxler amendment.

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Chairman, I rise in support of the Traxler amendment. I voted in favor of the amendment that came forward a moment ago in order to get on the Record the fact that it was the lesser of the two evils to vote for that amendment.

In any event, the vote then was to increase your pay a certain amount but less than the evil we would have if we voted against that amendment.

This amendment would be to restore the cap.

Maybe some of you can justify a vote to raise your salaries. I would be the last one in the world to say maybe in some instances it might not be justified.

But in my district, the First District of Texas, I cannot go back in good faith and tell 3,500 men and women who were let off from Lone Star Steel at Lone Star, Tex., last August, who are living on a meager existence of approximately $250 every 2 weeks and maybe not that much, that it is time for me to raise my salary as a Member of this House. I cannot do that.

I do not believe, regardless of all the publicity that has come our way lately with reference to what Martin Agronsky and his people said, what Common Cause said and what others have said, that now is the time to increase our salaries.

So I respectfully request that those who are getting ready to vote to vote to extend the pay cap and leave our salaries as they are at this time.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. SAM B. HALL, JR. I yield to the gentleman from Texas.

Mr. KAZEN. I wish to associate myself with the remarks of the gentleman. I, too, support this amendment.

I made commitments to vote against a pay raise during my last campaign and I mean to keep them. I am against the pay raise and therefore will vote for the amendment.

Mr. FAZIO. Mr. Chairman, I yield 3 minutes to the chairman of the Committee on Rules, the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Chairman, I had not planned to speak to the House again before I retired. I had not been aware that this matter was going to come up because I had been ill for a number of weeks. I hope you recognize that I am no longer ill, that I am feeling fine.

I am feeling so fine that I am delighted to have an opportunity to take on this issue which I consider one of the most important issues that faces the Congress this or any other year.

I think our inability as an institution to deal with this issue has put us on the road to destroying the democratic process. I know that our people often think, unless they are met with honest answers, that it is ridiculous for us to think that we should be paid more than $60,000 a year.

But I have had an experience with a district in the center of the country that was always represented by a conservative with 2 years' exception over a 40-year period until I became the Representative from that district.

I have voted for every pay increase that has ever been before this institution. I have been proud of that vote

and I have taken it back to my people. Rather clever people with a good deal of financing have tried to beat me with that issue and it has never even begun to take hold.

This is something that is a test of the courage of the Members of Congress. If we have not the courage to deal with our own pay, what makes anybody think we have the courage to deal with the great issues of the world?

That is what we are responsible for dealing with.

It seems to me imperative that we defeat this proposition and stand by the one that has passed in the hands of the gentleman from California (Mr. FAZIO).

□ 1610

I do not know of anything more important than that we have the character, the courage, the guts, whatever you want to call it, to explain to our constituents why it is important for Members of Congress not to be paid what good ones are worth—they would be paid as are the great executives of great corporations—but be paid a living wage so that they do not have to be ashamed if they do not have money beyond their pay, they do not have to be ashamed of the education they give their children or the status that their wives have.

I do not think there could be a more important thing that this Congress could do than to support what it is has already supported overwhelmingly by defeating this proposition.

I urge the Members to recognize that they can face up to their constituents. I urge the Members to recognize that it is not pertinent that there are a large number of unemployed today. They would like us to have a decent pay. They would like to have decent pay for themselves.

Mr. TRAXLER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. FIEDLER.)

Ms. FIEDLER. Mr. Chairman, I rise in support of the amendment.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. Mr. Chairman, today, the House will attempt to vote itself an increase in its own pay—and I plan to adamantly oppose this action.

At a time of high unemployment and hard times, a pay raise for Congressmen would send the wrong signal to the taxpayer and the American public.

Until the fiscal health of Government and the economy is restored, Congress does not merit an increase in its own pay.

The reason for this is clear.

The American people understand that the cost of living in Washington is high and the expense of maintaining a residence at home and in Washington is prohibitive. But they also understand that this Congress has refused over and over again to act in their best interests to bring spending under control.

As we wind up the 97th Congress, we having witnessed at best a small decrease in the rate of growth in Government spending.

I intend to vote against every attempt at an increase in congressional pay and benefits until such time as Congress respects the will of the American people to bring spending under control and restore the health and vitality to the American economy.

It is unconsionable for this body to consider an increase in its pay while the American public continues to suffer from its unwillingness to address the economic problems we face in this country.

Mr. TRAXLER. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. Mr. Chairman, I rise in support of the Fazio amendment which places a cap on congressional pay at $69,800, thus preventing a possible 27 percent pay raise.

Since my election to Congress, I have consistently supported a pay cap whenever it has come to the floor for a vote. I urge my colleagues in the House to join with me in limiting what would otherwise be an unacceptable increase. I do not know how the figures translate to every State in our Nation, but I do know that if this amendment does not pass, the potential $17,000 pay raise would be nearly $5,000 more than the average Mainer earned during all of 1981. With nearly 11 percent of our Nation's work force out of work, to vote otherwise would be unconscionable.

I plan to support the Fazio amendment now. I will also support the Traxler amendment to cap our pay at its current level. I urge my colleagues to do likewise.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to my distinguished colleague, the gentleman from Idaho (Mr. CRAIG).

Mr. CRAIG. Mr. Chairman, I rise in support of the amendment. Unemployment in this Nation is nearly 11 percent. In some counties in my district, it is twice that amount and more.

We have looked to every aspect of our Federal system to reduce the burden of growing Federal expenditures. We have looked for waste, cut programs and reduced Federal employment by about 100,000.

I am not saying that a raise is not deserved. There are those who perform their duties in such a manner that they deserve a great deal more than is being considered here today. But these are not the times to be raising congressional pay. We should lead this country. We should not ask the people of this Nation to "do as we say, not as we do." That is not leadership, it is hypocrisy.

A great many Members have stood before this body today and compared the salaries of Members of Congress to salaries paid to executives in private enterprise. Repeatedly, they have drawn from that comparison that Members are underpaid. Well, if we are going to liken ourselves to these executives, let us take the comparison further and compare the performance of those companies to the manner in which this Government is run. Frankly, any executive serving a company that loses $100 billion each year, would not get a raise. He would get fired.

I compliment the House for bringing this issue to the floor for a full and open vote. It was the fair and honorable thing to do. While I would agree that a discussion of equitable congressional compensation is long overdue, I cannot return home and explain how a raise at this time is justified, no matter how well deserved you might think it is. The builders in my district deserve to be building houses. The miners standing idle deserve to be in the mines working. The loggers, the farmers, the real estate agents, all deserve better compensation than they are receiving now. They cannot vote themselves a raise. They must earn it, and they will, when we earn ours and put this Nation back on its economic feet again.

Leadership begins at the top. We are facing a true test of that leadedrship now. I am in support of continuing the congressional pay cap and ask that you vote in favor of the Traxler amendment.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to my distinguished colleague, the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I rise in support of the amendment.

I have consistently supported the proposition that Congress should not vote itself a pay raise without an intervening election so that the people can decide whether or not to rehire their representatives at the new rate. Therefore, I am opposed to any congressional pay raise at this time, and if any is passed, I will donate mine to charity.

A $9,000 or $17,000 congressional pay raise under current economic conditions would be clearly excessive even if we had passed it before the election.

I do not know about your district, but in the sixth District of Wisconsin either $9,000 or $17,000 is a lot of money. Many of my constitutents would be happy to be earning $9,000, much less getting a $9,000 raise. When people are hurting in Wisconsin and all across the country due to the cur-

rent economic climate, it is unconscionable that Congress should seek to reward itself in this manner.

This raise is both untimely and excessive, and I urge my colleagues to support the amendment in order to retain the current cap on congressional pay.

Mr. TRAXLER. Mr. Chairman, I yield to the distinguished gentleman from Florida (Mr. McCOLLUM).

Mr. McCOLLUM. Mr. Chairman, I rise in support of the Traxler amendment which continues the freeze on pay for Members of Congress at the level of $60,662.50.

Certainly a good case can be made for the need to have a fair and appropriate housing allowance to offset the enormous and burdensome cost to Members who maintain homes in their districts and also have to live in Washington during session, and even an occasional cost-of-living pay increase may be justified. However, this is absolutely the worst time to be considering such matters. Estimates for the deficit next year go as high as $200 billion; the public debt of our country has accumulated to the point now that it is well in excess of $1 trillion, and the interest on this debt exceeds $100 billion a year. Unemployment is raging at a post-World War II high, and all indications are that we are a long way from a return to traditionally good economic times. All of this is due to the failure of this Congress and past Congresses to balance the budget and bring about a sound fiscal policy necessary to give us low interest rates and high employment and productivity in the private sector without runaway inflation. The public knows this, and for Congressmen to vote a pay raise for themselves under these conditions is a slap in the face to the taxpayers who sent them here.

The straightforward manner in which this matter has been presented and is being debated is commendable, but now is simply not the time to even be considering a pay increase. I strongly urge my colleagues to join me in voting for the Traxler amendment to freeze our pay at the present level.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to my colleague on the committee, the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, I rise in support of the amendment.

Although Members of Congress have not had a pay raise for 4 years and certainly deserve one, this is the wrong time to approve one. The national unemployment rate is 10.8 percent, the highest since the 1930's. Unemployment in Dundalk and Essex in my district is 20 percent—nearly twice the national average. Thousands of laid-off workers have already exhausted or are quickly running out of unemployment benefits. Many have no means at all of providing for their families; meeting their monthly home, car, and utility bills; or bringing food to the table.

In the face of these economic calamities, how can I vote for a pay raise?

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Chairman, I rise in support of the amendment to remove the proposed 4-percent pay increase to Members of Congress and senior level Federal employees. Unless we act today, Members of Congress will receive pay increases when millions of our constituents cannot even find gainful employment.

The issue has been around for a long while and the arguments will be made that Members of Congress have not had much of a pay raise for quite a long time. Traditional arguments will be made pointing up that Washington is one of the Nation's most expensive cities in which to live and that a Member's salary just does not go far nowadays. Mr. Chairman, I have heard all of these arguments before and, while I am in agreement with many of the facts surrounding this issue, I must remind my colleagues that not one of us was forced to run for this job. For my part, I consider that I made a contract with my constituents to work for them in the Congress for the next 2 years at the current pay scale.

In the past few weeks our offices in Alabama and my office here in Washington have received considerable mail on this subject. I believe it would be fair to say that the tone of all of these letters is virtually unanimous. My people are opposed to a pay raise and rightfully so. Unemployment in my State of Alabama today is the highest of any State in the Nation and many of those employed are on the short-time 3-day work weeks and some are working a week on and a week off. There is a real squeeze on many families in my district to put food on the table and it will be a lean Christmas in many homes in my district.

At a time, Mr. Chairman, when virtually every segment of the economy is feeling a pinch in the purse strings, I must say to my colleagues that the larger increase being suggested is completely asinine and, even the smaller figure, the 4-percent increase, which in many Members' minds is acceptable, in my judgment, would be sending the wrong signal to thousands of Americans who are being asked to accept short-time layoffs and curtailment of salary increases in these severe economic times.

This Member of Congress opposed the congressional salary increase back in 1977 and I also voted against pay raises again in 1978, 1980, and 1981. I hope this legislative body will support the amendment being offered to remove any and all increases in congressional pay from this continuing resolution. In the event we fail to remove this feature of the continuing resolution, Mr. Chairman, I shall be forced to oppose passage of the resolution.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WALGREN).

Mr. WALGREN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I want to urge my colleagues to join me in maintaining the present freeze against congressional pay raises.

At a time of devastating unemployment and economic hardship, I believe it is critical for the Congress to set an example—an example of extending ourselves toward others—not reaching for a benefit for ourselves.

With 11.5 percent of Pennsylvania's workers unemployed, over 135,000 people are out of work in the Pittsburgh area. Millions of Americans face their unemployment benefits ending and face the prospect of being unable to meet mortgage payments or rising heating bills. For these Americans to see the Congress raise its own salaries above the current $60,600 level is, in my view, very damaging to the national spirit that is necessary to see many people through these hard times.

I understand the difficulties that many Members experience because of the high cost of living in Washington. But Members of Congress choose to run for office knowing the salary levels. And their economic inconvenience must take a back seat to public confidence in Government.

Those supporting the pay raise in this debate today have pointed out that congressional pay has fallen well behind inflation over the last 10 years and that the Congress has refused to take any "automatic" cost-of-living increases in 5 of the last 6 years. At some point, they argue, pay for Members of Congress must be adjusted to take account of inflation or we will find ourselves governed by mediocre people who accept other "outside" income from special interest groups.

I believe the public would support adjustments in pay for Members of Congress because the Nation and good government are best served when Government service is attractive. But in my 6 years in the Congress, I have yet to see a proposal that did not make any increase in pay effective immediately, if not before. We should follow the wisdom of the Founding Fathers when in proposing the 11th amendment to the Constitution in 1786, they included the requirement that no change in pay for Members of Congress be valid unless "an election intervened."

Clearly only Congress can change congressional pay because Congress is the highest legislative authority we have. But increasing pay after an election can only be seen as cynical by people who live and support families on the amount of money proposed as a "raise."

I want to share just two of the many letters about the proposed pay raise that I have received. One is from a man in the north hills of Pittsburgh. He writes:

After having watched the 11 o'clock news the other night, I came away in disbelief—not quite sure what I had just seen and heard. I saw old people weeping and crying in anguish—people who are disabled. Why? They had been informed of the probability of losing social security disability benefits. At that same moment, the local newspapers were again informing readers of another blitz cooking in Congress. What does it take to get a point across to the Congress? Once again it seems the greedy in Washington are determined to increase their salaries. We have people out here existing way below the poverty level—and not of their own choosing.

"Look around you," this citizen asks the Congress, "where is your conscience?"

An 85-year-old senior citizen from the east suburbs of Pittsburgh makes the same point about the irony of increasing congressional pay at a time of great pain throughout the country.

"I live on $460 a month from social security," this senior citizen writes:

Property taxes on my home take $106 a month. After other expenses, which keep going up, there's really nothing left. I am only one person in thousands who do not get pay raises. To pay for raises of our Congressmen and Senators is like taking food and lodging from the less fortunate. We all have to cut expenses where we can—there is a limit.

As many of you know, I have been outspoken in my opposition to backdoor attempts to disguise pay raises through special tax breaks and to hide pay increases in bills on totally unrelated subjects.

Today the House leadership should be commended for giving Members an opportunity to vote on the pay raise issue alone, up or down, in an honest, open manner. The Traxler amendment gives Members a clear opportunity to register their opposition to this pay raise.

I hope we have seen the last of congressional subterfuges designed to increase Members' pay without full debate and opportunity for recorded votes.

Earlier this year, I joined in a bipartisan effort to correct this problem once and for all. The Congressional Pay Reform Act was not considered by this Congress, but I—and I hope many others—intend to introduce this bill again in the next Congress.

The bill sets five important principles:

First. No Congressman would ever be eligible for a pay raise or change in tax treatment during his current term of office;

Second. No change in congressional pay or benefits could be made without a recorded vote;

Third. No change in pay or benefits could be joined with any other legislation but must be voted on by itself;

Fourth. No Congressman would ever be exempt from IRS audits; and

Fifth. No Congressman would ever be eligible for automatic cost-of-living increases.

When it comes to congressional pay, the integrity of Congress is at stake. I appreciate this opportunity to register my strong opposition to this proposed pay increase, and I urge my colleagues to join me in voting to freeze congressional pay at present levels.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support this amendment which would strike the language of the previously adopted amendment and would reinstate the pay cap, thereby preventing a pay raise for Members of Congress.

Those who support a congressional pay raise had a tactical advantage in today's debate. Because the bill we are considering does not contain a provision extending the pay cap, we have a situation in which Members of Congress would be eligible for a 27-percent pay increase.

The previous amendment, offered by the gentleman from California, gave us only the chance to vote for a 15-percent pay increase instead of the 27 percent. I oppose even a 15-percent pay increase, but voted for the previous amendment as the lesser of two evils—15 percent is bad, but 27 percent is even worse. Therefore I gave reluctant support to the previous amendment.

Now, however, we have an amendment which I can wholeheartedly support. This amendment would supersede the previous one, and in place of the 15-percent increase just adopted, it would restore the pay cap. This would mean that Members of Congress would not receive any pay raise.

As my colleagues know, the parliamentary rule governing consideration of this bill provided that these two amendments could be considered only in the order in which they were presented on the floor today. So as I said earlier, proponents of a pay raise had a tactical advantage in dealing with this issue.

Nevertheless, those of us who oppose any pay raise at all can still prevail if we will stand firm and vote "yes" on this amendment. A "yes" vote now will undo the 15-percent amendment previously adopted, and will return us to our current situation, in which we have a pay cap in place preventing us from obtaining a pay raise.

In this Congress just drawing to a close, we have seen repeated efforts to get increased pay, benefits, and tax breaks for Members of Congress. Time and time again I have criticized these efforts and have asked how we could in good conscience vote to improve our own economic circumstances at taxpayer expense while we are calling upon the American people to make sacrifices.

We simply must not vote ourselves a pay raise during these difficult economic times. I urge my colleagues to vote for no pay increase by voting "yes" on this amendment that keeps a cap on congressional pay.

Mr. TRAXLER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan to cap the pay of Members of Congress at the current rate of $60,662. This is simply not the time for Members to be raising their own pay.

I just voted against the amendment offered by the gentleman from California to increase Members' pay by 15 percent. While I think the House was taken a step forward by having a recorded vote on this issue, I think that it is wrong for Congress to raise its own pay when workers across the country are taking pay cuts to keep their jobs, or are losing their jobs, or working more than one job just to make ends meet. I cannot go back to my district in Nebraska and tell the people who have just been laid off from the Lockwood Corp., Great Western Sugar, Midwec Corp., or the Co-op Refinery that I have increased by own pay 15 percent.

So many people around the country today are wondering where their next dollar will come from. They are struggling to make ends meet. Farm income is at its lowest since the Great Depression. The effects of a devastated farming industry can be seen on Main Street. Farm implement dealers, auto dealers, feed and grain merchants, and many more of the businesses that support the farm community are hurting like never before. They are looking to the Congress to find a solution to this country's economic problems. What does Congress do? Congress attempts to raise its pay. At the very least this is bad timing.

Pay for Members of Congress is an issue that can be decided by the next Congress. It should not be decided in this lameduck session. The country has so many problems to be solved and so many other important issues before

it that should take precedence. We met in this lameduck session to finish up the people's business because we were unable to do so earlier in the year as we should have. Now we have left the people's business behind and turned to raising our own pay.

I urge the adoption of the amendment by the gentleman from Michigan to cap our pay at the current rate of $60,662.

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, the gentleman from Michigan has introduced one of the most important amendments of this session, and it brings up the need that we have in this House to review the ethics bill. As I am leaving after 8 terms, I hope that early next session the House realizes that you need to eliminate and remove the so-called ethics bill. It has a good name, but the bill stifles initiative and the opportunity of Members to work. The ethics bill limits Members adversely.

I remember 4 years ago, when a gentleman from New York, Mr. Pike, stood here on the floor, and he said: "I am leaving this House." And he said: "You will not let me go home on weekends to practice law on small cases and earn a few thousand dollars, but if I wrote a book, I could make $100,000. It is ethical to be a writer, but not ethical income to work as a lawyer."

This ethics bill has no equity, there is no fairness to it.

I can draw dividends when I am here, and that is considered equitable. But if you owned a hardware store and you made $20,000 salary, that is considered unethical.

What we need to do is to change that ethics bill and for you all to go home more and work hard. You know, this Congress meets too much. The more we meet, the more laws we pass and the more Congress spends. In Texas the legislature meets 4 months every 2 years. That is saying the government of Texas manages the State with 2 months of legislating each year. Congress should cut our meeting time in half. Send the Members back home and allow them to work so they can earn a living. It would be the greatest thing in the world for the country. It would balance our financial reponsibilities. Let us meet less in Congress. Let us go home and earn salaries on the weekends. But we cannot consider raising salaries while our budget is so large, and America faces severe unemployment.

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. I thank the gentleman for yielding, and I would like to indicate my support for the amendment and to join in the remarks made by my distinguished colleague, the gentleman from Texas.

I have fought from its very inception the limitation on outside earned income. That is a decision, it seems to me, for our constituents to make. I happen to have eight children. To me it is more important to try to increase my income. I am willing to invest a whale of a lot of time and energy to do that, and I think any Member of this body has a perfect right to do it.

To suggest that in any way there is some sort of conflict of interest in doing that, it seems to me is absurd. My brother, the gentleman from southern Illinois, was a practicing dentist before coming to this body, and I challenge anyone to show me a single vote we have made on this floor that would constitute a conflict of interest if he continued to draw earned income from the practice of dentistry. I lectured professionally before getting to this body, and that, it seems to me, is one of the legitimate ways in which I can augment my income. If it means the diversion of too much time from my duties in this body or if there is a concern over the magnitude of outside earned income, that is a decision for my constituents to make.

The worker indeed is worth his salt. But I submit to you that the way to address this problem is: First, by eliminating that restriction on outside earned income; and second, lifting that stupid $3,000 deduction for expenses that goes back to 1952 and treating us the way you treat any businessman in this country. This would resolve any of these economic problems without necessitating a pay increase.

Mr. FAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Chairman, for the benefit of the membership, I would like to list the following salaries, paid with public funds. They all exceed the $60,700 received by Members of Congress. In my own city of Kansas City, the director of public works, a nonelected position, makes $61,800; the finance director makes $61,200. In the city of Los Angeles, the director of the bureau of sanitation—we are talking garbage here—makes $69,500 a year; the deputy director of the city of Los Angeles, bureau of sanitation, makes more than anybody in this room, he makes $64,164. That is the No. 2 man in garbage in Los Angeles. The chief of administration in the State of Wyoming, not a populus State, makes $69,200. The chief of mental health of the State of Arizona makes $93,000. And there is a school superintendent in White Plains, N.Y., who has 5,500 students under his control, who makes $64,500. A more detailed list is as follows:

City positions:	
Corporate counsel for Chicago	90,000.00
Administrative officer of Chicago city government	81,000.00
First assistant to corporate counsel for Chicago	68,796.00
Chief administrative officer for Detroit	64,900.00
City manager of Kansas City	70,980.00
City manager of Fort Worth, Tex	72,612.00
City attorney of Cincinnati	62,082.00
Public works director of Kansas City	61,800.00
City attorney for Kansas City	63,960.00
Finance director for Kansas City	61,200.00
Director, bureau of sanitation, L.A	69,572.16
Assistant director, bureau of sanitation, L.A	64,164.24
County position: Prince Georges County executive, Maryland	67,659.00
State positions:	
Chief of administration for Connecticut	67,624.00
Chief of banking of Alaska	64,452.00
Chief of agriculture for New York	65,700.00
Chief of administration for Wyoming	69,216.00
Chief of budget for Washington State	66,800.00
Chief of health for Alabama	68,003.00
Chief of health for Arizona	77,349.00
Chief of mental health for Arizona	93,078.00
School positions:	
Superintendent for Indiana schools	74,000.00
Superintendent for Montgomery County schools	70,000.00
Superintendent for White Plains, N.Y., schools—approximately 5,500 students	64,500.00
Superintendent of schools, Chicago—does not include pension funding	120,000.00
Deputy superintendent of schools, Chicago	63,747.00
Chief finance officer for Chicago School Board	100,000.00

Mr. FAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. I thank the gentleman for yielding.

Mr. Chairman, I had not intended to support a pay raise, but I have changed my mind. I had thought originally that because of the hard times that our country is going through, and particularly the district and the State that I represent, that this was not the time for a pay raise. But having thought about it and reflected on the fact that I am leaving this body, and thinking about what is in the interest of the institution, I really and truly believe, Mr. Chairman, that it is in the interest of this institution and in the interest of the whole country and in the interest of the unemployed people, in the interest of the business people and the working people who are suffering from this recession, that we attract and keep the best people that we can in this body.

I think, as Chairman BOLLING said, it is a test of our courage, yes, but I think it is also a test of our honesty and a test of our wisdom, a test of our

honesty in the sense that if this were a secret ballot I think we would get a pay raise, because I think most Members will say, the majority of the Members will say, that we need to have it. It is a test of our wisdom, I think, because we know that this institution is under attack, and we know that this institution, the House and the Senate, the Congress of the United States, is one of the most precious assets of our country. We must protect that institution, protect it by holding and keeping the best people, protect it by trying to do something about the problem of the ethics of the Members and the attacks on our ethics from the outside. And that can only be done when we receive a decent rate of pay.

□ 1620

Now, you say that it is not the time for the pay raise. Of course this is not a good time. But in the 8 years I have been in this body it has never been a good time. It has been because, well, there is high rate of inflation, or we are cutting the budget, or the President has called for austerity. There is always a reason why it is not the time.

But there must be a time. There must be a time for a pay raise. And I submit that this is the time.

This is our opportunity to act with courage and with wisdom and with honesty and to do it as we are doing it in a straightforward and up front manner and go back and talk to our people about it and say, yes, this is in the interests of the whole country.

I urge a "no" vote.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Chairman, once again the House of Representatives is forced to consider a resolution on continuing appropriations without having an opportunity to vote on the individual items which it contains. Obviously, we must approve a resolution to keep the Government operating beyond this Friday, but the House leadership has done a disservice to us all by including pay raises for Members of Congress in this measure. We make a mockery of what we are trying to accomplish when we address congressional pay in this manner.

If Members of Congress are to be given a pay increase, there should be a separate vote so we can consider that idea on its merits. For too long we have penalized senior executives in the Federal Government by linking their pay increases with that of Members of Congress. As a result, we are no longer able to attract and retain qualified individuals to serve in Government. This is clearly reflected in the GAO determination that the executive turnover rate is over 90 percent—producing a disastrous brain drain.

Pay raises for executives in the Federal Government should not be tied up with pay increases for Members of Congress. By treating pay this way, we hold every Member of this body up to ridicule by the people of this Nation, and I might add, rightfully so.

No wonder the average American thinks Members of Congress are dishonest. We act like we are. We demonstrate our dishonesty for every American to see, when we fail to cast separate, recorded votes on issues of fundamental importance. We deserve the criticism and scorn we so frequently and generously receive.

Let us no longer hide behind senior executives on the pay issue but instead show the public that we have the courage to consider congressional pay raises, separately, on their merits.

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Chairman, I will not repeat my earlier speech. But I do hope my colleagues would reject this amendment. This amendment would reimpose the pay cap and leave us right where we are. I have never questioned another Member's vote or their motivations. And I am not going to start now. I have great respect for my colleagues who differ with me very strongly on this issue. But for those of may colleagues who believe that good pay is essential to good government, and I do, and I think the gentleman from Missouri (Mr. BOLLING) pointed that out very strongly, this is one of the most important votes we are going to cast.

If you believe that good pay means good government, you owe it to the people you represent to vote for that, even if it is not very popular at the moment. We owe them our industry. And the public interest demands a better institution, and particularly a better senior executive service.

I said earlier that by forcing early retirement on senior executives, we are paying double. We pay their retirement pay, with the cost-of-living adjustments, then we pay for their replacement. That just is not good sense. And we are getting less experienced people in the senior service. And we are losing good people from Congress.

I urge my colleagues, in the interests of their constituents, to reject this amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BURGENER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I would like to suggest to Members of the House, those of you who may hesitate to take this pay raise in the face of such suffering in the country, you do not have to take it, nobody has to know whether you take it or not. You can return the money to the Treasury. If you do not approve of taking it under these conditions, you can return the money to the Treasury and you will not have profited yourselves.

So if that is causing a hesitation, I hope in the interests of the whole, it will not cause a "yea" vote for this amendment.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I rise in favor of the amendment.

Mr. Chairman, I rise in support of this amendment and in opposition to raising congressional pay.

We are here as representatives. If you represent your district, ask yourself how they would vote. And there is little doubt that your constituents would oppose this pay increase. As their voice in Washington, do you not have a responsibility to see that their views get represented? I think so, and I think it is a responsibility that should not be ignored.

The Traxler amendment should be supported because it says what the country believes.

● Mr. PURSELL. Mr. Chairman, during my entire career in public service, as a member of the Wayne County Board of Commissioners, as a member of the Michigan Senate and as a U.S. Congressman from Michigan's Second Congressional District, I have never supported an increase in my own salary. During a period of severe economic decline in Michigan and the United States, action by the Congress to increase the salaries of its Members is totally inappropriate.

In Michigan, for example, the unemployment rate exceeds 17 percent. For almost 36 consecutive months, Michigan's unemployment has been in double digits. Until workers in Michigan and other industrial States experience better employment opportunities, it is unreasonable for the Congress to vote itself any increase in pay.

During House consideration of this matter, I vcted against an increase in congressional salaries and for an amendment to cap congressional salaries at current levels.●

● Mr. COURTER. Mr. Chairman, regardless of whether or not one chooses to support a pay raise, we must certainly be opposed to the way that this pay raise has been proposed to the Chamber. I was outspoken against previous attempts in 1980 and 1981 to increase Members salaries specifically because of the manner in which these raises were enacted. In addition, I was one of a number of Members who sponsored legislation to repeal the increased benefits we gave ourselves last year. I am, in fact, amazed that, after the public uproar surrounding last year's controversial and back-door ap-

proach to raising our salaries, we would again attempt to increase our earnings in the same secretive fashion.

I am not opposed to a pay raise per say. Our salary increases fall well below the rise in the CPI, and this alone is reasonable justification for additional income. However, the experience of last year's pay-raise fiasco should have taught us, once and for all, that this is an issue of importance to our constituencies. While it is true that any attempt to raise our salaries will be unpopular with some sector of the population, we can never hope to win public approval of such measures until we are willing to argue straightforwardly as to why we feel we are warranted in requesting more of the taxpayers' money. It would have been far more appropriate to vote on this issue prior to the elections. We then would have demonstrated that we truly believe in the need for a pay raise by showing our willingness to go to the polls on this issue. But by waiting until after the election, when everyone can feel secure in his position for the next 2 years, we are sending the signal that we ourselves are not convinced of the fairness of this raise.

Members of Congress are in the position of being constitutionally empowered to determine their own salaries. This is an unusual, some might claim enviable situation. However, with this position comes a great responsibility not to betray the public trust. I believe it is possible for us to provide ourselves with the salaries that this demanding job warrants and still maintain the respect and support of the individuals we represent. But this can be achieved only if we are forthright and straightforward in debating this issue, and only if we are willing to take responsibility for our actions through the democratic process.●

● Mr. BEDELL. Mr. Chairman, the issue of compensation for Members of Congress has caused controversy since the first Congress in 1789. It should come as no surprise therefore that in recent years a number of efforts have been taken to defuse the dilemma of dealing with congressional pay by establishing compensation commissions, automatic cost-of-living raises or backdoor tax breaks. I have been opposed to all of these approaches. It is my strong belief that there is only one way that the issue of compensation for Members of Congress can be addressed and that is out in the open with a public debate and a recorded vote.

There may be justification for a reasonable cost-of-living increase for Members of Congress. Since 1977, according to the Joint Economic Committee, the Consumer Price Index (CPI) has risen 62 percent while pay for Members of Congress during this same period has risen just once by 5.5 percent in 1979.

However, Mr. Chairman, I plan to vote against the pay increase for Members of Congress because it is my opinion that the pay raise contained in the continuing resolution is excessive and unjustified in these austere times. Instead, I plan to vote to continue the pay cap for Members of Congress.

As I began to study this issue I was willing to consider the merits of a reasonable cost-of-living adjustment. I recognized the arguments that my colleagues have raised on this issue since it it true the Congress has denied themselves a pay raise for the last 3 years. Furthermore, a cap on our salaries extends over to a cap on the salaries of our senior career executives who make substantially less than similar executives in private industry according to a recent study.

However, it must be noted that our Nation faces the worst unemployment since the Great Depression. There are currently more than 12 million Americans out of work. Net farm income for farmers has fallen. Students are unable to obtain adequate college financial assistance. Our elderly live in fear of their monthly utility bill, and small businesspersons must face the possibility of prolonged hard times and even bankruptcy.

In light of these facts can we justify a 15-percent increase in pay for ourselves? I cannot support such a proposal. I believe this pay increase is too large and should be defeated. Furthermore, at this time I think we should approve the proposal to cap our salaries until a more reasonable increase can be presented to the Congress for debate and a recorded vote.●

Mr. TRAXLER. Mr. Chairman, I have no further requests for time, and I yield the balance of my time to the distinguished gentleman from California (Mr. FAZIO).

The CHAIRMAN. There are 8 minutes remaining.

Mr. FAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I do not want to repeat the points that have been made by other Members. But as one of the younger Members with a family who has revered the institutions of this democracy, I think the remarks of the gentleman from Missouri about whether or not we owe it to the institution are important to consider.

I simply think this decision is one that has to be made in a professional or a personal manner. It seems to me that a professional looks at the evidence in front of them and then makes a decision. If you look at comparability, there is no question if this were before a committee we would say, yes, it needs to be done. If we looked at it in terms of other laws that impinge upon our ability to earn money, then let us look at these other laws later, outside income, $3,000 depreciation, but these are not before us now. We have to look at the issue before us now.

It seems to me if the majority leader of the other body has said that he believes that Congress is institutionally incapable of setting its own salary, it is a challenge to this institution. If people have personal reasons for voting no, for example, if they want to return it to this institution, then I think they ought to find personal ways in which to evidence their beliefs. The gentlewoman from New Jersey indicated a very appropriate way for these personal responses.

It seems to me that we have to vote professionally. We have to vote for the institution, and the professional institutional vote is no.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. MCCLOSKEY).

Mr. MCCLOSKEY. Mr. Chairman, 15 years ago today I was sworn in as a freshman Member of Congress in this well. At that time the salary was $30,000 a year. Today the salary has doubled, but the cost of living has tripled. I hope our colleagues will reject this amendment and have faith in yourselves.

I can tell the Members in going back to private life that I recognize that many of my colleagues with whom I have served are among the ablest men and women in the United States. You are also entrusted with the greatest responsibility in the United States, that of managing a budget in excess of $800 billion. If any of us were shareholders in a company, we would insist that the people managing the company were the individuals most qualified to protect our interests and were paid accordingly. You are those people. And I would ask that you have faith in yourselves and vote yourselves a salary that is at least one-third to one-half what any of you of ability would be earning on the outside. It seems to me as one of your constituents that is what I should ask you to do as I retire from this body.

I want to make one further point. If any of you face an election candidate, whether you be Democrat or Republican, 2 years hence who campaigns against you on this issue, I will come to your district 2 years from now and campaign for you on that issue. I wish you luck.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, there is little that I can add to the remarks of the chairman of the Rules Committee, the gentleman from Missouri (Mr. BOLLING), with respect to this institution. As a new Member, however, I am made more confident in my remarks

by his long-standing support of this issue and his long tenure in this body.

Let me say that this vote has ramifications far beyond just this body; far beyond the effect of our action or us individually.

I stood on this floor last year and discussed our ability to manage this Federal Government and to effectively provide competent personnel for our defense establishment. Last week we passed a budget of approximately $232 billion for defense because we believed that the defense of this country was very important. This amendment will directly relate to the ability of our Government to hire and retain the kind of people with the kind of ability and quality that is necessary to effectively administer that kind of responsibility and to manage each and every program that this Congress has established.

When we hear of the sanitation director of Los Angeles and his deputy making more than any of us or our own Federal managers and of the mental health director in Arizona making $93,000, when we hear of General Motors hiring at similar levels, we must realize that it is our responsibility to provide salaries which are competitive and fair and that will allow us to retain and recruit the best people that our country has to offer.

Mr. Chairman, I trust and urge that this amendment be defeated and that we act to provide compensation for our senior executives and ourselves consistent with the private sector, good management of our Federal Government, and with equity.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to this amendment. I believe it is time that we paid the Members of the House what they are worth. I really sincerely believe they are worth $100,000 a year. I think it has been a shame that we have brought our salaries down far below the Cabinet officers. We are supposed to be coequal.

I do not doubt for a minute that if we took a poll of the wives or spouses of the Members, that the pay increase would pass overwhelmingly. Each of you just go home and check and see if that is not true.

The real reason I rise is I believe there is a constitutional issue here. We have allowed Members of the House and Senate to be paid less than the Cabinet officers and other top people in this Government. I think it is time we brought ourselves up to the proper level and truly become a coequal branch of Government. I would vote against this amendment.

Mr. FAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. GINN).

Mr. GINN. Mr. Chairman, I was greatly impressed by the comments of my dear friend, the gentleman from Missouri (Mr. BOLLING). He said that he had served here for many years and had never voted against a salary increase for Members of Congress. I have served here now for 10 years and I do not recall ever voting for one.

□ 1630

In fact, I have returned salary increases to the Treasury. I did not take advantage of the cost-of-living tax deduction.

Mr. Chairman, I came here 10 years ago in debt and I am leaving this institution in debt. Now, I hope that proves I have been honest, but I also hope that like myself today, you can mount the courage and do what we ought to do for this institution. It is definitely in the best interests of this institution that this modest salary increase for Members of Congress pass. You simply cannot maintain two homes and send children to college on the present salary.

Therefore, Mr. Chairman, as one of the last votes that I will cast as a Member of this body, I want it to be for the good of this institution.

I want to see all Americans be able to run for Congress and be able to live on the salary—and be independent. That is why this matter is so important to this institution.

Mr. FAZIO. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, we now have come to the final hour. We now know the facts. I think there is no question we all understand the need for this. We understand that the vast majority of the people here on the floor believe we should have a reasonable raise.

The question is whether our pride in the way this institution has handled this issue now will be matched by our pride in the way we conduct ourselves when it comes to casting a vote.

In the past in order to make our constituents feel that we are empathetic with their problems, that we have understood their concerns, that we wanted them to know we cared about their economic condition, we have denied raises to ourselves in order to placate them. That denial at some point turns against us. It turns us into a body that I think we all understand is less than we should be. It is often said that Members of Congress as individuals are improving with each election but when added together we add up to far less than the institution really ought to amount to, far less than the whole.

I see this opportunity as a chance to redeem ourselves in that context, to show we not only have the courage to deal with social security and a complex defense budget that is difficult for all of us to deal with, but that we also have the courage to own up to our own personal needs and to be willing to stand before our constituents as human beings with real needs. We do not want to be on a pedestal. We want them only to understand us and our personal situation, the need to support two homes for example. We want them to understand us as real people who have families with bills to pay.

I do hope the Members will have the courage and take the opportunity to do what we know is right. I urge you to reject the amendment and to take a modest increase in pay for the next Congress.

● Mr. LONG of Maryland. Mr. Chairman, I rise in support of the Traxler amendment prohibiting an increase in the present salary of Members of Congress.

Although Members of Congress have not had a pay raise for 4 years and certainly deserve one, this is the wrong time to approve one. The national unemployment rate is 10.8 percent, the highest since the 1930's. Unemployment in Dundalk and Essex in my district is 20 percent—nearly twice the national average. Thousands of laid off workers have already exhausted or are quickly running out of unemployment benefits. Many have no means at all of providing for their families, meeting their monthly home, car, and utility bills, or bringing food to the table.

In the face of these economic calamities, how could I vote for a pay raise?●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. TRAXLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 208, not voting 18, as follows:

[Roll No. 446]

AYES—208

Albosta	Clinger	Emerson
Anderson	Collins (TX)	Emery
Applegate	Conable	English
Archer	Corcoran	Erdahl
Aspin	Courter	Evans (IA)
Atkinson	Coyne, James	Fascell
AuCoin	Craig	Fiedler
Bailey (MO)	Crane, Daniel	Fields
Beard	Crane, Philip	Flippo
Bedell	D'Amours	Frank
Benedict	Dannemeyer	Fuqua
Bennett	Daschle	Gaydos
Bereuter	Daub	Gephardt
Bethune	Davis	Gilman
Bevill	de la Garza	Gingrich
Boland	Deckard	Glickman
Boner	Dickinson	Gore
Bonior	Dorgan	Gradison
Bouquard	Dreier	Gramm
Brown (CO)	Duncan	Gregg
Brown (OH)	Dunn	Gunderson
Broyhill	Dyson	Hall, Ralph
Byron	Eckart	Hall, Sam
Cheney	Edwards (AL)	Hamilton
Clausen	Edwards (OK)	Hammerschmidt

Hance	McEwen	Schroeder
Hansen (ID)	McKinney	Sensenbrenner
Hansen (UT)	Michel	Shamansky
Harkin	Mikulski	Sharp
Hatcher	Miller (OH)	Shaw
Hefner	Mitchell (MD)	Shelby
Hendon	Mitchell (NY)	Shumway
Hertel	Moore	Siljander
Hightower	Moorhead	Skeen
Hiler	Morrison	Smith (AL)
Hillis	Mottl	Smith (NE)
Hopkins	Natcher	Smith (NJ)
Horton	Neal	Smith (OR)
Hubbard	Nelligan	Snowe
Huckaby	Nelson	Snyder
Hughes	Nichols	Solomon
Hunter	O'Brien	Spence
Ireland	Oakar	Stangeland
Jacobs	Oxley	Stenholm
Jeffries	Panetta	Stump
Jones (OK)	Parris	Synar
Jones (TN)	Pashayan	Tauke
Kazen	Patman	Tauzin
Kildee	Paul	Taylor
Kindness	Pease	Traxler
Kogovsek	Perkins	Vander Jagt
Kramer	Petri	Volkmer
Lagomarsino	Pickle	Walgren
Lantos	Pursell	Walker
Latta	Quillen	Watkins
Leach	Ratchford	Weber (MN)
LeBoutillier	Regula	Weber (OH)
Lee	Rinaldo	Whitehurst
Levitas	Ritter	Whitley
Loeffler	Roberts (KS)	Whittaker
Long (MD)	Roberts (SD)	Williams (OH)
Lowery (CA)	Roemer	Wirth
Lujan	Rogers	Wolpe
Madigan	Rose	Wortley
Marriott	Roth	Wyden
Martin (IL)	Roukema	Wylie
Martin (NY)	Rudd	Yatron
McCollum	Santini	Young (FL)
McCurdy	Sawyer	
McDonald	Schneider	

NOES—208

Addabbo	Derwinski	Heckler
Akaka	Dicks	Heftel
Alexander	Dingell	Holland
Andrews	Dixon	Hollenbeck
Annunzio	Donnelly	Holt
Anthony	Dornan	Howard
Ashbrook	Dougherty	Hoyer
Badham	Dowdy	Hutto
Bafalis	Downey	Hyde
Bailey (PA)	Dwyer	Jeffords
Barnard	Dymally	Jenkins
Barnes	Early	Johnston
Biaggi	Edgar	Jones (NC)
Bingham	Edwards (CA)	Kastenmeier
Bliley	Erlenborn	Kemp
Boggs	Ertel	Kennelly
Bolling	Evans (DE)	LaFalce
Bonker	Evans (IN)	Leath
Bowen	Fazio	Leland
Breaux	Fenwick	Lent
Brinkley	Ferraro	Lewis
Brodhead	Findley	Livingston
Brooks	Fish	Long (LA)
Broomfield	Fithian	Lott
Brown (CA)	Florio	Lowry (WA)
Burgener	Foglietta	Luken
Burton, Phillip	Foley	Lundine
Butler	Ford (MI)	Lungren
Campbell	Ford (TN)	Markey
Carman	Forsythe	Marks
Carney	Fountain	Marlenee
Chappell	Fowler	Martin (NC)
Chisholm	Frenzel	Matsui
Clay	Frost	Mattox
Coats	Garcia	Mavroules
Coelho	Gejdenson	Mazzoli
Coleman	Gibbons	McClory
Collins (IL)	Ginn	McCloskey
Conte	Gonzalez	McDade
Conyers	Goodling	McGrath
Coughlin	Gray	McHugh
Coyne, William	Green	Mica
Crockett	Grisham	Miller (CA)
Daniel, Dan	Guarini	Mineta
Daniel, R. W.	Hall (IN)	Minish
Dellums	Hall (OH)	Moakley
DeNardis	Hartnett	Moffett
Derrick	Hawkins	Molinari
Mollohan	Roe	Studds
Murphy	Rostenkowski	Swift
Murtha	Rousselot	Thomas
Myers	Roybal	Trible
Napier	Russo	Udall
Nowak	Sabo	Vento
O'Neill	Savage	Wampler
Oberstar	Scheuer	Waxman
Obey	Schumer	Weiss
Ottinger	Seiberling	White
Patterson	Shannon	Whitten
Pepper	Simon	Williams (MT)
Peyser	Skelton	Winn
Porter	Smith (IA)	Wolf
Price	Smith (PA)	Wright
Pritchard	Solarz	Yates
Rahall	St Germain	Young (AK)
Rangel	Stanton	Young (MO)
Reuss	Stark	Zablocki
Rhodes	Staton	Zeferetti
Robinson	Stokes	
Rodino	Stratton	

NOT VOTING—18

Beilenson	Goldwater	Rosenthal
Blanchard	Hagedorn	Schulze
Burton, John	Lehman	Shuster
Chappie	Martinez	Washington
Evans (GA)	Montgomery	Weaver
Fary	Railsback	Wilson

□ 1640

Messrs. VENTO, JOHNSON, and NAPIER changed their votes from "aye" to "no."

Mr. LANTOS and Ms. MIKULSKI changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1650

AMENDMENT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COUGHLIN: On page 10, line 3, before the period insert: ": *Provided further,* That no funds made available by this joint resolution shall be obligated or expended for research and development, design, or construction of the Clinch River breeder reactor project: *Provided further,* That appropriations made available in this joint resolution for the Clinch River breeder reactor project shall be available for the termination of contractual instruments for that project previously entered into pursuant to section 106 of Public Law 91-273 as amended.

Mr. COUGHLIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 15 minutes, and a Member opposed to said amendment will be recognized for 15 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, this amendment to eliminate funding for the Clinche River breeder reactor is offered on behalf of myself, Mr. BROWN of California, Mr. WOLPE of Michigan, and a bipartisan coalition of Members.

I yield 2 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I rise in support of this amendment. I want to make it clear that I am a supporter of the breeder reactor program. I have been for the last 20 years. I supported breeder reactor research and development on the Joint Committee on Atomic Energy. I have supported breeder programs on the Science Committee. I believe that it is essential that this country have a breeder reactor program, but not that we build Clinch River at this time. I will give the Members several good reasons.

First, Clinch River was proposed at a time, 10 years ago, when we estimated that we would need 1,200 gigawatts of nuclear power by the year 2000. That estimate has now been changed down to about 250 or 300. When we approved the project, we were told that we were running out of uranium, that uranium costs would go sky high. They have actually dropped. We have a supply of uranium well into the next century. Uranium mining companies are going broke because they cannot sell uranium in today's market.

We were told that we needed the program at Clinch River because the Europeans were building a similar kind of plant. The latest issue of Science has a story headlined, "Europe's Fast Breeders Move to Slow Track."

The fact is, the Europeans, as they did on the Concorde, are beginning to back away their breeder program at this time. It is not necessary, nor is it economical, even in Europe, to generate electricity by breeder reactors. So we do not need to fear that they will preempt global markets in a bright new technology.

But, the most convincing reason is that the longer we continue this project the more of a burden on the taxpayers does it become. The GAO has estimated that when this plant has been finished it will still cost about $100 million a year, above operating income just to continue it. This plant, if built, will not even pay its operating costs, to say nothing of the interest on invested capital. If we do not approve this amendment offered by the gentleman from Pennsylvania we commit ourselves not to the $200 million for Clinch River that is in this budget, but to another $200 million a year, or more, including costs, for the next 30 years. That is what led David Stockman to oppose Clinch River in his more rational hours here in the House.

Mr. BEVILL. Mr. Chairman, I yield myself 2 minutes.

The CHAIRMAN. Is the gentleman opposed to the amendment?

Mr. BEVILL. I am in opposition to the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Alabama (Mr. BEVILL) is recognized for 2 minutes.

Mr. BEVILL. Mr. Chairman, this is an unusual situation for the Energy and Water Development Subcommittee. I say unusual because usually we have one of the first appropriations bills through the Congress. This year we had our regular appropriation bill ready before the recess. The bill has been approved by the House Appropriations Committee. It is ready for consideration by this House.

But Mr. Chairman, this bill is a continuing resolution, providing interim funding for a few weeks, until our regular bills can get out. Certainly it is wrong to try to deal with such an important issue as the Clinch River project with limited debate and no opportunity for substitute amendments or other measures to perfect the will of this body.

Let me also point out that our Energy and Water Development Subcommittee has followed this project closely. We have heard all the testimony, reviewed all the facts from everyone knowledgeable about this project—both nationally and internationally. We believe strongly you should support it.

You should know that Clinch River is a national project. It involves jobs from California to Massachusetts. It involves the skills of many highly trained technical personnel, as well as skilled craftsmen. Over 3,500 jobs are at stake on this vote.

The project has the support of the President, the great majority of our leading scientists and engineers and most energy experts who look to our future. It is supported by the leading labor and business organizations. Maybe you saw the statement in today's Washington Post.

More than that, the project is a necessary project if we are to provide the energy this country will need after the turn of the century. Let me give you a few facts.

First, a breeder reactor system can use the energy available from our uranium resources 60 times more efficiently than today's light water reactors. Certainly this ought to interest those of you devoted in energy conservation.

Second, the energy available from the uranium already mined and stored above ground as "tails" from our enriching plants for today's light water reactors is roughly equal to all our unmined coal and 3 times the energy in OPEC oil reserves.

Third, even at a very modest growth rate, the Nation will need to have twice the amount of electricity supply that we now have by the first decade in the 21st century. The long time required for developing this technology and the tremendous investment in people and facilities would make it costly to the Nation and foolish to interrupt this development now. We would lose the benefit of over $1.3 billion invested to date in this project.

Let me address five issues.

First, CRBR is foremost a research and demonstration effort. It represents the state-of-the-art of liquid metal fast breeder reactor technology in the world. Over 1,000 engineering changes have been made since the conceptual design was completed, incorporating the latest technological developments and improvements in safety systems, mechanical components, core design, and fuels.

Second, CRBR is the most economical means of developing breeder technology by the turn of the century. The site is now being cleared. The design is 90 percent complete. Over $1.3 billion has been invested and 70 percent of the plant equipment is ready or on order.

Third, the CRBR effort has assembled an impressive team of people and facilities which are at the forefront of American breeder reactor development; 753 private utilities are partners in CRBR development.

Fourth, the current total cost estimate from the Department of Energy for CRBR is $3.6 billion, including the $1.3 billion already invested. This includes all engineering, design, procurement, and construction costs and accounts for current inflation estimates.

Finally, the CRBR may provide revenues far beyond its cost after it is operating as an NRC licensed powerplant and will contribute much to the public utilities knowledge of breeder safety and operations.

Let me strongly urge you to support the committee and vote "no" on this amendment.

□ 1700

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. HOPKINS).

Mr. HOPKINS. Mr. Chairman, Clinch River is a budget buster in the classic sense. Estimated to cost less than $700 million when first authorized, Clinch now threatens to put the Government another $8.8 billion in debt. When we are facing a Federal deficit looming as large as $200 billion, this is simply unacceptable.

Certainly it is important to fund alternative research and development to secure long-term solutions to our energy problems. This particular project, however, does not fall into this category. The Department of Energy's own blue ribbon panel on energy priorities agrees with this assessment. Nothing can be clearer than their own report language:

The Energy Research Advisory Board believes that the construction of a breeder reactor demonstration at this time is not an urgent priority and thus, under current budget constraints, recommends that a demonstration be delayed until a future time.

It is hard to understand why we are being asked to ignore such excellent advice. As the General Accounting Office and other critics have pointed out. Clinch River stands virtually no chance of recovering its outlandish costs, despite the loud but hollow claims to the contrary. Industry realizes that the breeder would not be economical until the year 2050 and does not want to waste its money. That is why the taxpayers are being asked to foot the bill.

It is time to vote with the people who elected us and for sound budget policy against this large, uneconomical subsidy for the breeder lobby.

Mr. COUGHLIN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. MCGRATH).

Mr. McGRATH. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, once again we have the opportunity to eliminate the funding for the Clinch River breeder reactor, and I want to urge my colleagues to support the amendment of the gentleman from Pennsylvania.

It seems that each year we vote on this project, and the boondoggle seems to survive by a smaller margin every year. I hope that this time, a majority of my colleagues will see this project for what it really is: an unnecessary, uneconomic energy project which is totally inconsistent with the free market approach to energy development.

At a time when we are being forced to economize in so many other areas, it makes no sense to me to build this enormously expensive demonstration project. Clinch River will demonstrate nothing; the French have already constructed a commercial breeder, and long before Clinch River is finished they will have completed a new and larger version. Both have turned out to be uneconomic.

Clinch River will never fulfill the promise of endless, cheap energy. Consumers are being asked to finance through taxes an energy project which will not solve this Nation's energy problems. Perhaps the Wall Street Journal put it best:

Industry realizes that breeder technology won't be economical before the year 2030 (or later) and doesn't want to waste its money. That's why the taxpayers are being asked to foot the bill . . . Government generally has no business in the energy market. We see no reason to change that assessment in the case of Clinch River. (Wall Street Journal, 11/20/82)

In summary, I want my colleagues to note that the assumptions on which the CRBR was originally planned are no longer valid. The project was authorized on the assumption of a 7-per-

cent annual increase in the demand for electric power and a shortage of uranium to operate the less expensive capital intensive light water reactors that we have today. Electric growth is now expected to be 3 percent per year or less. The price of uranium continues to go down and the DOE estimated price for the year 2020 is half the figure needed to make breeders economical.

Now is the time to put a stop to this blatant abuse of the taxpayers funds. I urge my colleagues to support the amendment of the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. WEBER).

Mr. WEBER of Minnesota. Mr. Chairman, as a member of the Science and Technology Committee which, contrary to the points made by the previous speaker, is among the committees of Congress that did vote to halt funding for the Clinch River breeder reactor, I think it is important for the Members to understand that the reasons why we should terminate VRBR are very simple to understand.

Simply put, the economics of this project have changed drastically since its inception. Demand for electricity is not increasing at the rate it was when the project was initiated, and proven uranium deposits have nearly doubled, leading to a decline in uranium prices. Those two facts make the project noncompetitive commercially. Members should understand, however, exactly what a vote in favor of Clinch River means in terms of the future of breeder technology. Members will be asked to vote for still additional breeder reactor projects in the future because the electric utilities industry clearly admits that a near sized prototype will need to be completed before this technology, even by the industry's own view, is competitive.

Mr. Chairman, if our Government continues to subsidize the construction of this and future breeder reactors, without any chance that those reactors will be commercially competitive, we will soon have, in effect, "nationalized" the nuclear energy industry.

I urge my colleagues to support the Coughlin amendment.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana (Mr. MYERS).

Mr. DUNCAN. Mr. Chairman, will the gentleman yield?

Mr. MYERS. I yield to the gentleman from Tennessee.

Mr. DUNCAN. Mr. Chairman, I rise in opposition to the amendment to delete funding for the Clinch River breeder reactor. This project has suffered long enough at the hands of opponents who have labeled it a "pork barrel politics." These individuals complain about the cost of the project, charge that the design is outdated, and claim the reactor is behind schedule. Each of these alleged reasons for killing this project is a direct result of the delays its opponents have brought about since 1974. Had this project proceeded on schedule it would not face the increased costs inflation has brought about over the past 8 years. Despite these delays it has managed to incorporate the latest in breeder technology in its design.

The opponents of the Clinch River project ignore the benefits it promises in the future, as well as the jobs, and energy it will provide. The chief benefit comes in the energy technology this project will provide. It is impossible to imagine how we can expect to broaden our energy options without creating and testing a breeder model. Six nations have preceded us in the movement toward breeder technology.

We have a responsibility to prepare for the future. We cannot expect the current oil glut to continue. The breeder program will provide the technology, research, and model we need to prepare for our future energy needs. To scrap this project would not only be a waste of money, but also a waste of the human resources of time, experience, and hard work which has been invested. And we could not hope to recapture this loss in the future, so we would stand unprepared in the face of the next energy crunch.

I would urge my colleagues to keep the future in mind when they vote on this amendment. With the Clinch River breeder reactor we can look forward to a new technology, jobs, and a new energy option. Without it we will stumble about in the dark seeking the energy to light our way. I hope my colleagues will vote against this amendment.

Mr. MYERS. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, I say to the Members of the Committee this afternoon that the chairman of the Subcommittee on Energy and Water Development of the Committee on Appropriations, the gentleman from Alabama (Mr. BEVILL), and I have been on this subcommittee for several years. Certainly Clinch River is nothing new to us, and most of the Members in this Chamber this afternoon know that we have been up and down this road a number of times.

If we are really serious about finding a new source of energy for the future so we will not have brownouts, it would be very impressive this afternoon if we were able by some technique to dim the lights down somewhat like we do in the summertime here, and we would dramatize that we do have an energy problem facing our country sometime in the future.

This is what Clinch River is all about. It certainly is not an answer all by itself. But if we in the United States are really serious about solving our own problems, we cannot afford to turn our backs upon using some of the waste that is now being generated in the generating reactors around the country that burn nuclear. We are going to use the tailings here in the Clinch River reactor. It is the first generation, but it is a very, very important generation.

Mr. Chairman, if Members are concerned about our children and grandchildren having adequate energy in the future, they will vote against this particular amendment.

Mr. COUGHLIN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Chairman, I rise in support of this amendment to delete funds for the Clinch River breeder reactor. As a member of the House Science and Technology Committee with primary jurisdiction over our energy research and development program, I am convinced that to proceed with this project is not in the best interests of a balanced energy program and that breeder technology will not be commercially feasible until at least the year 2030.

As you all are aware, we are facing a serious budget crunch that has forced drastic cuts in the area of energy research as well as many other areas of the budget. Funds for coal, solar, other nuclear projects, and conservation have all experienced major budget cutbacks over the past 2 years. While we have cut these other aspects of our energy program, funding for basic breeder research and the Clinch River reactor has been preserved. Currently, this one Clinch River project and the basic breeder research program consume over 35 percent of our energy research and development funds. It is important that our energy program be balanced and we not put all of our "eggs in one basket." Research and development of other nuclear systems, fusion, coal, solar, and conservation must receive adequate attention in our research program.

At the same time, one might be able to make a case for large expenditures on both breeder technology and the CRBR if there were convincing arguments that the CRBR was critically needed to solve our energy problem. But, the fact of the matter is that breeder reactors will not be commercially viable until well into the next century, at the earliest.

Consider these facts. Utilization of breeders for energy will be more expensive than the current use of light-water reactors—no one disputes this fact. Because of rising costs of light-water reactors and falling electricity demand, 69 light-water reactors were cancelled from 1975 to 1982 in this country. There has not been a single new order for a light-water reactor in

this country since 1978. While there are several reasons why nuclear orders have been cancelled, it remains true that the major justification for breeder technology is valid only if uranium to supply light-water reactors is no longer available at a reasonable price.

What we find, however, when we examine the status of uranium supply and price is that the estimates regarding both supply and price for uranium were greatly underestimated when the need for early commercialization of breeder technology was first conceived. In 1974, it was estimated by the Federal Government that there was 1.7 million pounds of proven and probable reserves of uranium, which is about enough to fuel 340 light-water reactors over their lifetime. In 1980, the Department of Energy reported that there is actually about 3.5 million pounds of proven and probable reserves of uranium, or enough to fuel 700 light-water reactors over their lifetimes. The latest estimates from the Department of Energy further reflect that we will probably have about 165 light-water reactors operating by 2000 and 285 by the year 2020. Accordingly, early commercialization of breeder technology cannot be justified on a basis of a shortage of uranium supply.

Now, let us examine the price of uranium. Uranium is the only nonrenewable fuel whose price has declined since 1979, when the last hike in OPEC oil prices occurred. Currently, uranium is selling for about $18 per pound. A recent Los Alamos study found that the price of uranium would have to reach $185 per pound before breeder reactors could be competitive with light-water reactors. According to DOE's own figures, such a uranium price will not be reached until well into the next century. Therefore, on the basis of uranium price, early commercialization of breeder technology cannot be justified.

There are other problems with the Clinch River project which should send a signal of caution against further support for this project. A recent analysis by the General Accounting Office has indicated that the final cost for construction and operation of the CRBR may ultimately reach $11 billion. This estimate should not be taken lightly or easily dismissed by any of us during a time of severe fiscal restraint. While the point is often made that some of our European friends are proceeding with a breeder commercialization program, the fact that these programs are experiencing serious cost overruns is ignored. It might indeed represent a preferable strategy for our Nation to learn from the mistakes of our European friends while continuing to advance the state of basic research on nuclear technology.

I support a strong and aggressive energy program for our country. But, I believe this program must be a balanced one. We must support energy efforts to insure that we can burn coal more cleanly, to develop synthetic fuels, to advance solar energy, to implement energy conservation, and to improve the efficiency and operation of our light-water reactors in the short and mid term.

As was recently pointed out in a Washington Post article, "Nuclear Power Isn't Scary—These Reactors Are," by S. David Freeman, Director of the Tennessee Valley Authority:

> What we should be doing is fundamentally reexamining the nuclear option. Is there an inherently better technical option than the apparently "unforgiving" reactor design we have today?

Freeman goes on to point out that we need more research into modifications of the basic light-water reactor designs such as has recently occurred in Sweden and in other alternate reactor concepts such as the high-temperature, gas-cooled reactor. This Member of Congress is deeply concerned that if we concentrate our resources on CRBR, we will not be able to explore these other nuclear options that may be capable of breathing some life back into a dying nuclear industry.

Over the long term, I believe we must continue to pursue basic research in breeder technology—which would not be cut by this amendment today—development of fusion energy, and research into advanced solar utilizations. The decision regarding which one or ones of these long-term energy sources will be adopted for future use is not ready to be made. Commercialization of breeder technology is premature—and CRBR is the first step to commercialization. I urge you to have the insight to terminate this ill-advised project today before we indeed are too far down the road to turn back.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Chairman, The gentleman from Pennsylvania (Mr. COUGHLIN) and I are offering this amendment today because the Clinch River breeder reactor has become synonymous with waste in the Federal budget. It is, quite simply, the MX of our Nation's energy policy.

The Clinch River breeder reactor has no economic or technical justification. It is a horrendous subsidy to special interests who have so little confidence in the project that they will only assume 3 percent of its cost. That leaves the American taxpayer picking up the tab for 97 percent of the project's $8.5 billion total cost.

How can we, in good conscience, continue this kind of wasteful expenditure when 11 million Americans are out of work, and we are asking Americans everywhere to make tremendous sacrifices? It is not fair. It is not right.

The Clinch River breeder reactor is waste—pure and simple. It deserves the same fate on the floor of this House that the MX missile received last week.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Chairman, I rise in opposition to this amendment.

When all the trappings and all the rhetoric are stripped away from this debate, only one issue remains. It is whether or not the United States of America will continue to have a viable nuclear option for the generation of electricity. You will hear many experts quoted by both sides, but one fact is irrefutable. Without Clinch River, nuclear power is of only very limited use to this Nation. It is facetious to argue that you will have a breeder program without building a breeder.

There are many among the opponents of this project who have argued that while they support nuclear power and even the breeder reactor, they are troubled by the costs of this project. Let me point out that by adopting the Coughlin amendment, you will have precluded any consideration of alternative financing arrangements which could very well resolve legitimate concerns over the Federal investment required for the project.

We face a troubled economy, and that is a concern for all of us. Yet, despite the obvious relationship between economic progress and the availability of energy, we are debating a proposal which would sacrifice the only energy technology currently available which could meet the electrical power requirements of this Nation and this economy for the foreseeable future. And, in the final analysis, when we talk about economic progress, we are really talking about the quality of life and the right to economic opportunity that are the hallmarks of this Nation.

Many issues have been raised during the course of the debates on the rule, general debate, and now during the brief time we are permitted under the rule to discuss this amendment. The issues are far too complex to cover in the brief time I have. But, let me make just one or two observations. The opponents of this project have offered nothing as a replacement for this project. Indeed, I believe they recognize there are no other alternatives that can meet both the feasibility and affordability standards.

Second, they argue that there is no need for an alternative. Let me ask you how history would judge a Congress which in the late 1960's or even the early 1970's, had provided for a technology to replace liquid hydrocarbon fuels, even though, as everyone then knew, there was at least a 40-

years supply of such fuels at the prices charged back then.

I suggest to you that such an action would have been deemed both farsighted and statesmanlike. You have the same choice today. You can provide for the energy to run our economy in an economically efficient, environmentally sound, and militarily secure fashion. You can run the same risks—only for higher stakes—that this country ran with oil imports 15 years ago.

I think that there is only one responsible choice and that is to defeat this amendment and commit America to a future worthy of her past.

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentlewoman yield?

Mrs. BOUQUARD. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I also rise in very strong opposition to the amendment.

I hope that we will recognize here that the Nation has a finite supply of uranium-235. All that breeder technology means to us is the ability to extend that supply through modifying another uranium isotope that enables us to use an otherwise inactive but potential nuclear fuel, uranium-238.

In practical terms it means a transitional technology that will carry us from the fossil fuel or chemical age to the nuclear fusion age. It is vital. Without this amendment our Nation will lack any commercial breeder program. Without it we will be purchasing this technology most assuredly in the future—probably from France. Please defeat this amendment. There is not a better example of a justifiable nor necessary investment in our future.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Chairman, last Monday Madison Avenue became the newest supporter of the Clinch River project, beginning with this $23,000 full page ad featured in the Wall Street Journal. Please reflect on the misinformation we have been fed during this advertising campaign.

You have been told that fiscal conservatives support this project, yet it is opposed by the Heritage Foundation, the National Taxpayers Union, the Conservative Caucus, and the Council for a Competitive Economy, to name a few.

You have been told that industry supports this project. If that is so, then why is the taxpayer footing 97 percent of the project? Why does industry not put its money where its mouth is?

You have been told that the project will cost $3.6 billion. Then why is the GAO reporting a cost of $8.5 billion?

You have been told that the real energy experts—whatever that means—support Clinch River. If that is so, then why did DOE's own Energy Research Advisory Board recommend postponing construction?

Let us face facts. There is no way this project could survive without the well-heeled army of industry lobbyists that are paid to scare Congress into thinking that our country will go down the drain if we do not build this boondoggle.

The cynics say that Congress cannot withstand the kind of pressure reflected by this advertisement. But, we are looking at a whopping $180 billion deficit.

We are in a pinch. We must cut Clinch.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. MORRISON).

Mr. MORRISON. Mr. Chairman, we are going to hear a great deal today about the General Accounting Office report. I would like to point out that in its opening statement the General Accounting Office mentioned that the Clinch River breeder reactor is a research and demonstration project and we should not judge its merits solely on cost or revenue estimates.

Let us remember that our goal is energy independence. Our stockpile of 24,000 cannisters of depleted uranium represents a valuable resource, fuel that represents an energy equivalent value of $70 trillion when used in a breeder reactor like Clinch River.

□ 1710

Let me repeat that; with oil at $30 per barrel, taxpayers own $70 trillion worth of potential energy if we take advantage of the breeder reactor.

Where are we with Clinch River? The official total cost is $3.6 billion. We have spent $1.4 billion. The cost to complete is $2.2 billion spread over a number of years. The cost to the taxpayers if terminated is $1.7 billion with nothing to show for it; $742 million worth of equipment has already been purchased. The site is being prepared and excavation has begun.

Those who say we are technologically buying something that is obsolete have not reviewed the features of the Clinch River project. It has distinct technological advantages over the breeder programs of Japan, France, United Kingdom, West Germany, and the Soviet Union. This is not the time to abandon our best shot at energy independence. Vote against the move to halt the progress of Clinch River.

Mr. COUGHLIN. Mr. Chairman I yield 1 minute to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, our Nation now faces two serious economic problems: A Federal deficit that is approaching $200 billion a year, and an unemployment rate that is approaching 11 percent.

Some supporters of the Clinch River breeder reactor project claim that it must be continued because of the jobs that will be created.

An examination of the $8.5 billion Clinch River project indicates that it will add billions of dollars to the Federal deficit, while creating only 8,000 jobs.

Let me repeat: $8.5 billion to create 8,000 jobs. That is over $1 million for every job created! The Clinch River project not only fails to effectively create jobs, it diverts our limited capital resources away from investments that could create jobs in a cost-effective manner.

I urge every Member of Congress who is concerned about the growing Federal deficit, and growing unemployment lines, to support the Coughlin-Wolpe amendment to eliminate funding for the Clinch River breeder reactor.

Mr. BEVILL. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Water Resources Subcommittee of the Committee on Public Works and Transportation, the gentleman from New Jersey (Mr. ROE).

Mr. ROE. I thank the gentleman for yielding.

I sit here in amazement. I guess it really is not Christmastime. Maybe it is Halloween. Because it seems to me anybody that is against anything in this House they use the following words: "We are going to have plutonium that is going to blow up the world; it is a porkbarrel project, it is job creation, it is a kneejerk policy."

Here we ask the American people to spend $1.5 billion and more. We have all of the experts who have never attended a public hearing on this issue, most of them the same people who have spoken here today who talk about $1 million a job but they do not talk about the point of a technological advance that this country needs.

We are on our hands and knees economically in this country because we failed to foresee what was going to happen in energy. We have transferred billions of our resources to the Middle East.

That is what has really happened. The cost of production is increasing day in and day out, day in and day out.

Here we are talking about creating new jobs and spending $5 billion to do it. We are going to knock out 8,000 jobs here. It does not make sense.

Mr. Chairman, we are entering yet another phase of what has been a prolonged debate on the Clinch River breeder reactor project. I believe it is important to examine the viewpoint of our European allies regarding the role of the fast breeder reactor in their energy supply strategies and, more particularly, their view on the importance of the Clinch River project.

The media coverage of European breeder activities has of late tended to emphasize the slowing down of these efforts because of various difficulties. These allegations are overstatements of the true situation. In fact, for the most part, these doomsayers' psuedoscenarios are pure baloney.

This coverage has overlooked the fact that these governments are funding breeder development at very healthy levels in the midst of a major economic recession.

The French breeder program, certainly the largest and most advanced effort in the free world, is quite healthy. It is supported by an integral part of the French Government's program to expand technology development efforts in that country. There have been technical difficulties, but they have either been resolved or are resolvable. The Government as well as the scientists, engineers, and others directly involved in the Super Phenix work are committed to begin plant operation.

Even the German program, in spite of political difficulties not too dissimilar to our own apparent penchant for self-mutilation, has maintained their financial commitment to Super Phenix. In addition, they are more than 50-percent complete in the construction of their 300-megawatt breeder plant.

To sum up the view of our French and German colleagues vis-a-vis Clinch River, I have a letter recently sent to the Department of Energy from Mr. Rapin of the French Commissariat a l'Energie Atomique (CEA) and Dr. Popp of the German Bundesministerium fur forschung and Technologies (BFT). I request that this letter be included in the RECORD. The two senior officials express their interest in a proposed cooperative venture among our respective countries. Clearly this letter is solid evidence of the international communities' confidence in the U.S. breeder development program—and, in particular, demonstrates their conviction that the Clinch River breeder reactor design is on the forefront of world breeder technology and is certainly worthy of completion:

A L'ENERGIE ATOMIQUE,
FÜR FORSCHUNG UND TECHNOLOGIE,
November 26, 1982.

DEAR DR. BREWER: This is to acknowledge receipt of your letter of 11/22nd and to express our interest in working with you to seek areas of mutual interest in which to expand on breeder reactor collaborative relationship.

The area of plant experience is of obvious interest to all fast breeder reactor development programs, and cooperation becomes more appropriate as the CRBR plant proceeds to the construction phase.

The Clinch River Breeder Reactor represents an outstanding milestone for the future of fast breeders in the world. It incorporates technological feature and innovation of great interest to the French and German side and its partners and we believe that interesting opportunities for cooperation exist which should be fully exploited. Based on your letter, we proposed the establishment of a plant experience working group under the existing agreements to work out the details of an exchange of the important technical information both sides have to offer.

Successful development of the breeder reactor and its fuel cycle will be advanced by closer international cooperation. This will be important in accelerating progress as well as achieving economies in development. We in France and the Federal Republic of Germany look forward to continued cooperation with the United States in breeder industrialization.

Sincerely,

MICHEL RAPIN,
Directeur de l'Institut de Recherche Technologique et de Développement Industriel.

DR. MANFRED POPP,
Ministerial dirigent.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. ROE. I am happy to yield to the gentleman from New York.

Mr. STRATTON. I appreciate the gentleman yielding to me. It has been just 10 years since we suffered the oil embargo in the Middle East and people have forgotten that we are still not totally independent on energy.

This is a program for growth and development of our country, and I certainly oppose the amendment.

Mr. ROE. I thank the gentleman.

The costs keep going up on technology in America because every time we turn around somebody else has a new idea. Some coalition gets together. But look at the coalitions. Are they building? Do they speak to creation of wealth of the country? Do they talk about building a reservoir or a dam for a water supply or power? No. It is always opposed, opposed, opposed, opposed.

The most difficult thing in America is to get anything done.

What the American people are saying to the people of this country and to this Congress is "For God's sakes, stop the talking, making up your mind what you are going to do and go on and do something about it."

That is what we ought to do and I ask you and urge you to oppose this amendment.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. CONTE), the distinguished ranking minority member of the Appropriations Committee.

Mr. CONTE. Mr. Chairman, the Clinch River breeder reactor is just like a nuclear version of the supersonic transport (SST), which I was pleased to help kill nearly 10 years ago.

Just because breeder technology can be developed, does not mean that it should be. And it especially does not mean that it should be developed at the expense of the American taxpayers.

In the early 1970's when we stopped massive federally subsidized research on the SST, the private sector lost interest as well. Private industry went on to build the successful B-747 and L-1011, while the French and British Governments got stock with the Concorde, a flying white elephant that is too expensive to fly.

The French are now repeating their mistake by subsidizing their own breeder reactor, in effect creating a nuclear concorde. They will likely end up with a reactor that can only produce electricity at a price higher than anyone could afford. We do not have to follow their example.

At a cost of over $8.8 billion, we can ill-afford to develop a technology that is no longer useful in a period of increasing uranium supplies and decreasing demand for electricity.

Instead, at a fraction of the cost, we can continue to develop uranium efficiency improvements for conventional reactors which can produce electricity at reasonable prices and also conserve uranium.

I urge the deletion of funding for Clinch River.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Chairman, I rise in support of the Clinch River breeder reactor project and in opposition to the amendment. This is simply a continuation of the support I have given this project and this concept in the past.

We have heard all the arguments why the Clinch River project should be terminated: too expensive, obsolete, electric power unneeded, unmanageable process, and poor design. These points have been tossed about with little or no regard for facts. Such claims distract from the impressive amount of innovative, dedicated, creative science, and engineering which have been applied to breeder process development during the last two decades.

On the other hand, during the past 20 years the Committee on Science and Technology and its predecessors have received expert testimony on the need for alternate energy producing processes, the need for looking ahead to the Nation's future, and the need for greater reliance on this Nation's mental and physical resources.

It is extremely discouraging that we make calm, ordered, scientific judgments of technology, carefully innumerating and quantifying the hazards and the capabilities of a process. Then we submerge this evaluation in a flood of emotional rhetoric.

We should remember that the breeder process has been evaluated at a small scale and must be demonstrated on a larger scale before the private sector can justify substantial invest-

ment. Until that time of successful demonstration the economic risk is too great to attract industry and utility capital. That is why continued Federal support is needed at this time. We have already provided significant support in process development, major equipment procurement, and site preparation. Failure to complete commitments will be wasteful and will raise questions of our integrity, perception, and vigor.

I am firmly convinced that if we fail to support the Clinch River project, we will be showing complete disregard for our responsibility to prepare this Nation for the future.

Mr. Chairman, I strongly urge my colleagues to join me in the support of the Clinch River breeder reactor project. We have the opportunity to design, construct, and operate breeder technology which has the ability to use our own resources, to utilize our own expertise, to expand our Nation's capabilities, to strengthen our energy alternatives, and to regain control of our energy future.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr, Chairman, today we are debating what has become one of the most controversial energy-related matters pending before Congress: Whether or not to continue funding for the Clinch River breeder reactor. I find this controversy somewhat disconcerting. Unemployment has reached 10.8 percent, the national deficit is an unprecedented $110 billion, and the income gap between the rich and the poor is widening at a brisk pace. In the face of this economic situation, in which the administration continues to call for cuts in low-income energy assistance, I do not believe there should be any need to debate the obvious—we cannot afford this exorbitant and unnecessary program.

Setting aside for the moment the important question of the affordability of this nuclear research project, we must question whether or not this program is necessary for the long-term energy security of the United States. In this period of energy instability, our Nation must continue to prepare realistically and intelligently for the energy needs we will face in the coming century. If it were a fact that the Clinch River breeder reactor (CRBR) were necessary to this security, I would be the first Member to join in supporting this program.

However, the fact remains that the Clinch River breeder reactor is not needed at this point in time. Though some scientists argue that our Nation's energy future will include breeder reactor technology in the distant future, they also agree that we do not need to develop this costly project within the short term.

The Department of Energy makes periodic projections of nuclear energy demand upon which to base calculations on the need for research projects.

The Department's projections for nuclear energy demand have dropped by 25 percent since 1980, evidencing the drastic change in expectations for nuclear power growth since the CRBR was initially authorized. Since the mid-1970's, 61 domestic nuclear power projects have been canceled; only 6 plants have been ordered since 1974; no new nuclearpower plants have been ordered since 1978.

A recent GAO study entitled, "The Liquid Metal Fast Breeder—Options for Deciding Future Pace and Direction," cites Government figures which conclude that breeder reactor technology would not become a factor in our Nation's energy security until well after 2020. It explains that our domestic uranium reserves alone, thus discounting the many sources of uranium available from our closest allies, will be able to provide our nuclear industry with plenty of uranium until at least 2020. With these sufficient reserves, we have no urgent need for breeder technology, so attractive in its ability to make more fuel than it consumes.

In addition, the GAO report goes on to explain that breeder reactors will not be able to provide competitive electricity until some point between 2025 and 2035. The Clinch River breeder reactor program as authorized would develop an operating demonstration plant by 1990, some 40 years before it could be used economically.

Finally, the Department of Energy's Energy Research Advisory Board has determined that the construction of the Clinch River breeder reactor is not an urgent priority and recommended that such a demonstration project be delayed until some future date.

Present economic difficulties press upon us the need for fiscal responsibility. The Department of Energy's budget already displays a short-sighted imbalance toward the nuclear power industry. The administration proposed cutting low-income energy assistance programs by some 30 percent this year, and has expressed its intentions to do so again for fiscal year 1984. When the administration considers it important to cripple a vital energy program for economic reasons, it makes absolutely no sense to continue funding an unnecessary, and extremely expense program which overshadows the relative expensive of energy assistance.

Mr. Chairman, I hope my colleagues will join me in supporting the Coughlin amendment to delete funding for the Clinch River breeder reactor and help our Nation return to an intelligent energy policy.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN) and the gentleman from Michigan (Mr. WOLPE) to delete funds for the Clinch River Breeder Reactor.

I have heard all of the hearings. I sit on the Science and Technology Committee. I am chairman of the relevant energy subcommittee of the Energy and Commerce Committee.

The evidence is overwhelming that this project is not needed. We are overloaded with uranium up to our ears. In fact, the uranium industry sought restrictions on imports of uranium in the NRC bill because we have too much uranium. This means that we can be sure of continuing with fission reactors, and without breeders, well into the next century. In addition, new technology exists which permits fission reactors to use uranium 30 percent more efficiently.

Clinch River has nothing to do with energy independence for the United States contrary to what the opponents of the amendment have claimed. The energy crisis we had was an imported oil shortage, and only 7 percent of our oil goes to produce electricity. Nuclear reactors just produce electricity and will therefore have an insignificant effect on our energy security.

This project just produces electricity and it is desired only by the utility industry as a Federal Government bailout. It ought to be soundly rejected. There is no need for it.

The worst thing of all is that Clinch River gets us into a serious problem of proliferation. One core load of the Clinch River breeder reactor contains enough plutonium to make 200 nuclear weapons. Once we get into sending plutonium around the world, there will be no security for anyone.

Another compelling argument against CRBR has now emerged.

On December 10, the General Accounting Office provided Congress with its most recent and most convincing estimates of the truly staggering costs which the taxpayers of this Nation will have to bear if Clinch River is not terminated. According to the GAO, more than $8.5 billion will be needed just to build CRBR and another $2.6 billion will be required to operate it for 25 years.

These cost estimates conflict sharply with DOE claims that the Clinch River breeder will cost a mere $3.6 billion to build and will earn $8.2 billion over its 30-year life through the sale of the power it produces.

The GAO report clearly shows the project would lose over $2 billion if it is allowed to operate.

In light of budget deficits of upward to $200 billion in the coming budget year, how can we in the Congress in good conscience continue to appropriate funds for this unneeded pork barrel project which will cost taxpayers billions of dollars now and more in the future?

The project's supporters are now arguing that because more than $1 billion has already been spent on Clinch River, the project should proceed. But incredible as it sounds, $1 billion amounts to only 10 percent of the more than $10 billion additional which Clinch River will cost the taxpayers of this country if the project is built and operated as DOE plans.

The choice is simple; we must act today. By terminating the Clinch River breeder reactor now, we can save an additional $10 billion cost in the future. I urge you to support the Coughlin/Wolpe amendment and terminate Clinch River once and for all.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Armed Services Committee, the gentleman from Illinois (Mr. PRICE).

□ 1720

Mr. PRICE. Mr. Chairman, I rise in opposition to the amendment. Again we are required to consider the issue of support for the Clinch River breeder reactor. We provided the first authorization leading toward this project in 1969. It is truly a sad testimonial that this project has not been completed and is not now developing the sound base we must have to solve our critical energy supply problem.

I have many times on this floor presented the facts concerning our inevitable need for the breeder reactor system. None of the fundamental facts have changed. Our only solution still lies with coal use to the maximum degree practicable and the phasing in of nuclear sources as soon as we can build up the technology and hardware base. I never thought two such adverse developments would be encountered in efforts to dispose of our foreign dependency on energy fuels: These are the resistance in some quarters to the greater use of coal and the vacillation in developing and shifting our dependence to nuclear fuels. We can help get these efforts on track by providing the support the Clinch River breeder reactor needs today.

I would like to invite my colleagues attention to a statement made by labor, industry, and other organizations concerned and responsible for the solution of our energy problem which was printed today in the Washington Post. I am including the statement at the conclusion of my remarks since it succinctly states the facts supporting the need for the Clinch River project.

[Advertisement From the Washington Post, Dec. 14, 1982]

WE DON'T USUALLY AGREE . . . BUT ON CLINCH RIVER WE DO.

18 labor unions . . . the NAACP . . . the U.S. Chamber of Commerce . . . the General Federation of Women's Clubs . . . the National Conference of Black Mayors . . . the National Association of Manufacturers . . . along with more than a dozen other business, labor, minority, scientific and professional organizations, we have formed the "Committee on Jobs, Environment and Technology." We have done so because we all agree on one vital issue:

The Clinch River Breeder Reactor must be included in any responsible planning to supply future generations with the affordable energy they will need.

In real terms, America is still dependent on foreign sources of energy. A sudden increase in the price of oil or a cutback in OPEC production could again wreak havoc with our economy. Therefore, we have a responsibility to pursue policies that will help free America from the grip of foreign energy sources and enable us to regain control over our own energy and economic destiny.

Without available and affordable energy supplies, there can be no sustained economic growth, no abundant employment opportunities, no world leadership status.

While CJET will ultimately concern itself with a range of issues, our first priority is completion of the Clinch River Breeder Reactor Project. The result of a 20 year alliance between the federal government and private industry, this project represents the spirit of innovative research and development that has characterized U.S. history at its best.

Consider these facts:

Even using conservative growth estimates of 1 percent or 2 percent per year, America will still have to double its electrical energy capacity by early in the next century.

Breeder reactors produce more fuel than they consume and represent an energy potential that exceeds all U.S. coal reserves or three times OPEC oil reserves. They will use already mined uranium valued at $17 trillion, which has no other use to mankind.

Completion of Clinch River will cost the government $2 billion over the $1.3 billion already invested. Thus the total cost, including the unprecedented utility investment of $340 million, will be $3.6 billion . . . a figure confirmed by the General Accounting Office.

Some opponents claim that the final cost will be $8 billion without explaining that that figure includes "imputed interest" . . . something never included in any previous government R & D project cost estimates.

Termination will cost the government at least $300 million, plus the $1.3 billion already spent. Completing the plant will enable the government to recoup its investment through the sale of the plant's electricity.

75 percent of the equipment is either now on site or on order at a fixed price. The design of the plant is almost 90 percent complete and site preparation has begun.

Japan, Germany, Great Britain, France and the Soviet Union are pushing ahead with breeder programs because they know that those who lead the world in energy development will lead the world economically and politically.

Clinch River is not just another government project. It is a vital and prudent technological demonstration project that will help assure future generations of adequate energy supplies, a secure economy and jobs.

America has always been a world leader in developing advanced technologies to benefit current and future generations.

Now is no time to turn back. The future depends on us.

Building & Construction Trades Department, AFL-CIO;

National Association for the Advancement of Colored People;

American Association of Engineering Societies;

American Nuclear Energy Council;

American Nuclear Society;

American Public Power Association;

Americans for Energy Independence;

Atomic Industrial Forum, Inc.;

Edison Electric Institute;

General Federation of Women's Clubs;

International Association of Bridge, Structural and Ornamental Iron Workers;

International Association of Heat & Frost Insulators and Asbestos Workers;

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers;

International Brotherhood of Electrical Workers;

International Brotherhood of Painters & Allied Trades;

International Union of Bricklayers & Allied Craftsmen;

International Union of Elevator Constructors;

International Union of Operating Engineers;

Laborers' International Union of North America;

National Association of Manufacturers;

National Conference of Black Mayors;

National Rural Electric Cooperative Association;

National Society of Professional Engineers;

New England Council;

Operative Plasterers' & Cement Masons' International Association of the United States & Canada;

Scientists & Engineers for Secure Energy;

Sheet Metal Workers' International Association;

Tile, Marble, Terrazzo, Finishers & Shopmen International Union;

U.S. Chamber of Commerce;

United Association of Journeymen & Apprentices of the Plumbing & Pipefitting Industry of the United States & Canada;

United Brotherhood of Carpenters & Joiners of America;

United Union of Roofers, Waterproofers & Allied Workers;

Utility Workers Union of America;

Youth for Energy Independence.

(Sponsored by the Committee on Jobs, Environment and Technology; Robert Georgine, Chairman; President, Building and Construction Trades Department, AFL-CIO.)

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Mississippi (Mr. WHITTEN), chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Chairman, if I could have the attention of the Members, I wish they would think about this one point: This provision is for the duration of this continuing resolution, March 15. The minute March 15 arrives we are going to have to deal with it again. So if you start tying it

down between now and March 15 and the new Congress should say, "Don't cut it," I think it is very unwise to do it at this point. Whatever you wish to do, do it in the regular order, because this would be for only the period to the end of this resolution. So I hope you will defer action on this because it could prove very, very costly acting now.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I hope this is the end of the road, Mr. Chairman, because I have stood and supported for the last 8 years the similar amendments offered by my colleague, the gentleman from Pennsylvania. What we have said in the past is even more justified today.

As the ranking minority member on the Subcommittee on Energy Development and Applications of the Science and Technology Committee, which brings you the nonnuclear energy alternatives, let me say that the issue before us today is whether we can recognize the wisdom of what is needed and what is not needed. And Clinch River is clearly not needed. Our full committee turned this matter down a year ago, and we just have not been allowed to vote on it this year prior to the Appropriations Committee's consideration. That is why this Congress did not kill this project earlier this year.

The only new factor in this debate is that the cost estimates today have risen to between $8 billion and $12 billion for a project that has not yet been stopped. There is not a single bit of construction started; only a little bit of land has now been cleared, and that just in recent weeks.

The proliferation risks, enormous costs, environmental concerns, and safety problems with this project have been discussed on this floor many times over the years. Much time has been spent on discussing the menace of huge stockpiles of plutonium created by the development of a breeder reactor, and the dangers are well known. In 1977, the NRC halted the licensing process for Clinch River with over 100 unresolved safety issues which still remain. Before we build a breeder, substantially more research is needed to comprehend, evaluate, and control the safety risks that will accompany the use of this technology.

In 1973, we were promised a breeder demonstration program after 6 years, or in 1979. Let us now look at what has happened. In 1982, after spending over $1 billion, we are now promised a demonstration project in 1990—8 more years along the road. Clearly, we are losing ground here. If the NRC licensing process requires an alternative site, the project could be set back another 4 years to 1994, at significantly higher costs.

Overall, this would be an 11- to 15-year delay. Instead, in the more than 10 years since Clinch River was first authorized, we have gone forward with a strong base breeder program. This base program will not be jeopardized by cancellation of Clinch River.

in light of this inglorious history, the project bears a high burden of proof if it is to again receive more funding for the future. After much deliberation, the Science Committee believes and has recommended that this project be terminated. I strongly agree.

Mr. Chairman, one of the key reasons for the Clinch River project in the past has been our need to satisfy projected large increases in electric power demand during the next three decades. Under this scenario, breeders would be essential to help us meet our growing electrical power needs. Yet, we have all recently heard form many experts that these projected increases will probably not occur. From 7.8 percent in early 1970, the current rate is 2 to 3 percent.

The Science Committee has held several hearings on the future of energy utilities. During these hearings, we heard from many witnesses that we should now expect significantly lower electricity growth rates in the future. Utility and Commission forcasts indicate that electric demand in the 1980's will probably grow at only half the rate of the 1970's.

Another claimed need for Clinch River has been that the breeder will soon be needed because of our diminishing supply of uranium. Clinch River was originally authorized in order to anticipate this shortage and to extend our uranium supplies farther into the future.

However, by all accounts, we have now dramatically underestimated our supplies of uranium. Utilities have encountered numerous licensing difficulties for new nuclear plants, causing the cancellation of many of these plants, and corresponding less use of uranium. Preliminary reports from the NURE program have also indicated that we have more uranium than we originally thought. Thus, the original breeder demonstration schedule no longer makes technical sense. As a result, I believe that we should now reexamine the Clinch River program before we further invest in it.

In a time of severe fiscal constraints, we should ask ourselves whether we need the breeder now. We need to seriously consider whether it is more important to devote our limited taxpayers' money to this project or to some other worthy program that is deserving of our immediate attention. I admit that the breeder is one of the so-called inexhaustible forms of energy, along with our fusion and solar energy resources, that may well be needed in the next century. But right now, we need to examine whether the breeder will be helpful in the short term.

The answer to this critical question is "No." Our immediate interest is to reduce our dependence on petroleum. The breeder cannot satisfy these immediate needs. At the present time, only a limited amount—close to 9 percent—of our annual oil consumption is used to generate electricity. Moreover, much of that oil is specifically used to fire small backup generators to meet peak load requirements. The size and scale of breeder reactors will always make them uneconomical for such intermittent applications. Thus, the Clinch River project will have virtually no impact on our present oil import problem.

It will be well into the 21st century before the breeder reactor even begins to look commercially attractive. By that time, oil-fired central power stations will long since have been replaced by coal and conventional nuclear powerplants. We hope to have other forms of inexhaustible energy supplies, such as fusion and solar, on line by then. A viable synfuels industry will also have been developed.

Many technical issues have again been recently raised about the Clinch River project. A recent General Accounting Office report strongly criticized the Department of Energy's plan to install steam generators before even testing a prototype. This report went out to say that this plan was financially risky and recommended that it be dropped. With such a significant expenditure of funds at stake, it would seem to me that the Department would at least proceed as technically prudently as possible.

As my colleagues may be aware, the prestigious Energy Research Advisory Board (ERAB) has also recently had a chance to review this project. In determining our Nation's overall energy priorities, this distinguished scientific panel has indicated that the Clinch River project was not a high-priority item. After careful consideration, the ERAB panel concluded that the construction of a breeder reactor demonstration project was not "an urgent priority" at this time, and recommended that "such a demonstration be delayed until a future time" in light of current budget constraints.

I urge my fellow colleagues to recognize the economic realities of our present situation. There is no doubt that we will have to devote a great deal more money to Clinch River in future years if we go ahead with this project. Funding problems in these years will certainly be even more serious, as the administration tries to balance our budget in 1983 and 1984 with more difficult cuts.

The estimated costs of the Clinch River project have increased more

than sevenfold, from an original estimate in 1969 of over $400 million to today's estimate of over $3 billion. Unfortunately, there is no guarantee that these exorbitant costs will not continue to escalate. In fact, I understand that the General Accounting Office has recently estimated the total cost for Clinch River at $8.9 billion, possibly going as high as $11 billion.

Furthermore, it is unreasonable for the Federal Government to be responsible for all of these increasing costs. Our taxpayers' liability in this project has grown from about $100 million to now over $3 billion—more than 30 times the original estimate. According to recent estimates, the utility and industry share of today's costs for Clinch River had dwindled from 50 percent to about 9 percent of total costs. This is certainly not a wise course to follow.

Mr. Chairman, many of my colleagues are concerned that we will severely restrict our Nation's ability to develop the breeder option if we do not build Clinch River. This is surely not the case. Even without Clinch River, we will still have an aggressive breeder program. The base breeder program that the administration has proposed, and which has been authorized by the Science Committee, will provide for a strong breeder program that will, in fact, enhance the program by calling for a more rational design.

In a recent report to the members of the Energy and Commerce Committee, the staff also recommended that we evaluate alternative nuclear reactor programs before we continue to support Clinch River. They recommended that technical audits be performed on major alternative programs, even including safety and reliability improvements in the use of our conventional nuclear light-water reactors, as well as more efficient use of our uranium resources.

This is the way to go. We have the time. Given our serious funding problems, I believe that there are certainly much better ways to spend the money authorized for Clinch River than on the controversial type of breeder design that it would now demonstrate. In my opinon, it certainly would be better to go forward with research and development activities, including the development of all of the breeder technologies, at this time.

Mr. Chairman, it is time for us to put aside projects that have only symbolic meaning. We cannot affort to devote our limited taxpayers' money to the demonstrations of technologies that have limited merit if any.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I rise in support of the Coughlin-Wolpe amendment.

When I first came on the Science and Technology Committee in 1975, one of our first witnesses that year was Admiral Rickover. And I was quite shocked when he appeared before our committee and in testimony on Clinch River said that it was outdated technology and that it ought not to be built. At that time I began to investigate. I thought this person supported everything in nuclear energy. And then I found out that what he was saying was absolutely correct.

That is why the Science and Technology Committee which has heard all of this evidence, as the gentleman from New York (Mr. FISH) said, this session of Congress turned it down because we know that this is indeed a turkey.

One of the earlier speakers said that those of us who are opposed to Clinch River are always saying "no" to everything, "no" to jobs, "no" to progress, "no" to everything. Absolutely false.

I for one say "yes" to hydropower, "yes" to windpower, "yes" to solar power, "yes" to synthetics, "yes" to alcohol and biomass, "yes" to photovoltaics, "yes" to conservation. Take the $8.5 billion from this white elephant and put it in those, and we will be able to tell OPEC what to do with its oil.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Chairman, we have all heard the arguments for and against the Clinch River breeder reactor. This project has been debated ad nauseum for years and I hope that a majority of the Members share my view that we should resolve this issue once and for all and put this project out to pasture at last.

The project proponent's justifications are well known to everyone. But for those who have missed the reams of "Dear Colleagues" that have floated across our desks we had only to open the Washington Post or the New York Times to view the full page ads loudly proclaiming the urgent need for the Clinch River project. By those in the private sector who ought to be the ones paying for it, but who will not.

I have reviewed it all and I am a strong supporter of safe nuclear power and continue to reach the same conclusion: The Clinch River breeder is an example of a wasteful project at its worst. It is expensive, inordinately so at $8.5 billion at a time when the Federal Government is faced with a deficit approaching $200 billion.

There is also the question of uranium supply. At one time, it was expected that nuclear power would be the major source of electrical generating capacity in this country and, as a consequence, uranium to run the plants would be in limited supply. But, Mr. Chairman, there will be no practical application of this technology in the next 50 or 100 years, because the electrical demand is not there and uranium is readily available and projected to be for a long time to come. The Clinch River breeder should be eliminated. I urge a "yes" vote on the Coughlin amendment.

Mr. COUGHLIN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I rise in opposition to the amendment to delete funding for the Clinch River breeder reactor.

There are a number of points overlooked by those who would simply eliminate Government participation in this demonstration project. First, the utilities have not backed down from their $300 million commitment to the project. Second, with much of the project's design complete and its components on order, costs will not rise to the extent that critics charge. Third—and most importantly—we would be more seriously wasting the Government's money if we canceled participation in the project now; $1.3 billion has already been spent; cancellation could cost anywhere from $300 to $500 million. Furthermore, if we remain committed to Clinch River we will finish a project that is designed to become part of the Tennessee Valley Authority and ultimately pay for itself. How many Government projects can make that claim these days?

It would be a mistake to cancel when, according to the Department of Energy, 96 percent of the research and development for the Clinch River is completed, 86 percent of the project design is done, and 60 percent of the major components are completed or on order. More than 3,500 people are employed throughout the United States on the project. Furthermore, the United States faces an uncertain energy future and it would, in my judgment, be extremely shortsighted to cut ourselves off from this energy option. It may or may not be possible to rely upon other forms of alternative energy, but who can be certain? I would suggest that the energy crises of the past decade are a somber reminder that the U.S. Government, in partnership with the private sector, must encourage—not discourage—development of all feasible alternative energy sources.

Therefore, I urge a "no" vote on this amendment. The role of Government is not to develop, market and sell new alternative energy sources. It does, however, have a major responsibility as a catalyst toward the initial development and demonstration of worthwhile projects. This investment could pay major dividends to the American people before the end of the decade.

Mr. COUGHLIN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. I thank the gentleman for yielding.

Mr. Chairman, I think this project may have had some good arguments behind it at the time of its inception when we were talking about a $700 million total cost. The cost overrun since that time, coupled with the delays that have attended increasing Government and bureaucratic bungling in the process, have pyramided those estimated costs to completion to about $8.5 billion, according to GAO.

If we were to shut the project down right now, with close-down costs estimated by the Science and Technology Committee, it is a $1.5 billion expenditure.

I submit to the Members that if the private sector were to look at some kind of a project of this nature, they would have long since made the decision they are not going to throw good money after bad.

Further, when we are talking about energy for our Nation, we do not have to be nay sayers. I would hope that my good colleague, the gentleman from Iowa, would join with me, with the support of many others in this body, to deregulate natural gas. ERDA estimated back in 1975 that we have an estimated potential supply of 2,000 years, and that is a better substitute and we will not have to depend upon the taxpayer to fund it.

Mr. COUGHLIN. Mr. Chairman, I reserve the balance of my time to conclude debate.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico (Mr. SKEEN).

Mr. SKEEN. Mr. Chairman, I support the timely completion of the Clinch River breeder reactor (CRBR) plant. I ask your assistance in speeding the project to completion. As the debate of timing for the completion of a demonstration breeder continues, it is important to look at a number of essential facts in light of our past experience in nuclear energy. Opponents of the project say that we are building the demonstration plant too soon.

First, we must remember that the issue of timing depends in part on the availability of abundant uranium to meet our long-term needs. It took 20 years to commercially deploy light water reactors from the operation date of the first demonstration plant, the Shippingport reactor in Pennsylvania. Using the same pattern of plant size escalation and with the understanding that it now takes about 10 to 14 years to build a replicated commercial light waterplant, we can get a clear picture of the time needed to deploy commercial breeders. If we worked full speed ahead now to complete the Clinch River plant, it would be operational by 1989 or 1990. After 5 years of operation, we would commit the prototype and optimistically construct it in 12 years. After another 5 years of operation we could commit a commercial plant and bring it online in 10 years by the year 2020.

This scenario optimistically assumes all the plants work so well that utilities are so attracted to the idea of building breeders that they order plants before a single commercial breeder operates. Given such prior commitments, we could then start deploying commercial plants in quantity by the year 2025.

We must also remember that not building the breeder expeditiously means that we must continue to mine and utilize the fissionable uranium-235 that is available for use only in current light water reactors. Following this path means we run the very real risk of allowing our resources to dwindle until it is too late. With fuel for the breeder—uranium-238—already mined and milled, we need only use it to extend energy resources for hundreds of years. And we must secure the technology now to insure that we have the capability to do so. What we need is certainty in supply of energy sources. The breeder will provide this certainty and allow us time to explore numerous other promising alternatives.

I urge my colleagues to support the timely completion of the Clinch River breeder reactor project and defeat this amendment.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. Mr. Chairman, the Clinch River breeder reactor encompasses exactly the choice this Congress and the next one will have to face dozens of times if this Nation is to get from here to there, from a beleaguered and declining present to a secure and rising future.

Clinch River is an asset, a capital investment, a key. It is not the total of what we must do, but it is an important element. It is a place where knowledge will be put to practical use and more knowledge will be accumulated, where ideas will be tested and more suggested.

And this testing and creation of ideas is the key to high technology development, the kind of thing even those opposed to Clinch River are counting on to keep this Nation going.

But if we throw away Clinch River, we throw away an important key.

As for energy, the opponents say there never will be a shortage of nuclear fuel.

This reminds me of things I heard 15 years ago when everybody was dead certain the era of cheap energy would go on forever.

Opponents greatly stretch the facts and claim to find what they call a true cost of $8.4 billion, and they claim the price is too high. To get this figure they use accounting tricks never before used on a project of this kind.

But how does even this exaggerated sum compare with the hundreds of billions we sent overseas as a result of the energy shortage created by the OPEC gang?

What if we had spent $8 billion 15 years ago—in the era of cheap energy? Invested in things like this and in synfuels, in all the other things we are exploring now with some desperation.

If Clinch River is killed after going this far, I hope I am alive 15 or 20 or 30 years from now when America is at a greater disadvantage for energy.

Why, I expect I would hear even some of the staunchest contemporary opponents calling for a hang-the-expense crash project to make up the disadvantage.

The technology is developing. The world will use it. And the major industrial nations of the world are going ahead with it.

It is far better for the United States to learn to handle breeder rectors now than to try to learn under emergency conditions.

It is far better to learn to do it now in the right way, when there is time, rather than to do it badly with far greater potential for harm when the emergency comes.

Everyone knows that economic growth cannot be sustained without available and affordable energy. Everyone knows that what you do not have, you have to buy when the need comes.

If we fall behind here, we will buy it from the Japanese or the Germans or the Frency. And as its use develops in the world, everybody else will be buying it—buying it from the Japanese and the Germans and the French.

And we extend—in one area—a declining present into a declining future.

The choice I mentioned is timeless. It was no less stark for those who explored the new world than it is for us today.

Do we draw back in fear and wither? Or do we move forward into the future and find the winning edge that is the result of solid preparation and investment?

We should move forward now; and move forward with this project while there still is time to do it right.

Mr. BEVILL. Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. WRIGHT), the distinguished majority leader.

The CHAIRMAN pro tempore (Mr. BAILEY of Pennsylvania). The gentleman from Texas (Mr. WRIGHT), the majority leader, is recognized for 4½ minutes.

Mr. WRIGHT. Mr. Chairman, I earnestly hope that we will do as we have done on 15 or more occasions in the past, and that is to reject these

amendments which would turn back the clock and would scrape all of the work that has gone into this nuclear breeder reactor technology.

We may say all we want about the opposition of certain individuals who have had other technologies that they were advocating; the fact remains that this is the only nuclear breeder reactor project that we have on the books.

Now, our Nation already has invested $1.3 billion in bringing it to its present state. Are we going to drop that? Are we willing to turn the calendar backward and pretend that we no longer have an energy problem? To do so would be to close our eyes to the facts and to turn our backs upon the future.

This Nation faces the incontrovertible need to develop before the beginning of the next century at least twice the capacity in electrical energy that we have today. Is there another way to do it? I know of none. The nuclear breeder reactor is the only thing we have which will generate, that is to say, will produce, more energy than it consumes.

Yes, some of us can talk grandly about some day doing something specific by substituting solar technology. But let us just face the reality of what has been happening in the last 2 years.

□ 1730

Three years ago we were investing $150 million in photovoltaic solar technology, technological research to make us first among the nations of the world in this new emerging industry, $150 million. You know what we are investing this year under the Reagan budget? Fifty million dollars, only one-third what we were investing in that research.

Are we aware that the Japanese are investing almost as much as we are in photovoltaic and solar energy research; they, with half our population? Is that to be our future? Are we to avert our eyes from what this portends for the future?

Are we to say no, there is not any way that we are going to make that dream of peaceful use of nuclear power come true? I do not think we want to do that.

We have one project going. That is the Clinch River breeder reactor. We have invested $1,300 million in it. This is not the time to close the books upon it. It is so far as we are able to determine a successful project. And it is the only successful project that we have in breeder reactors. So let us have the courage to go forward.

It will cost an estimated $2 billion more to complete. But think of its worth. The energy-producing potential of nuclear breeders is greater than all the coal reserves in this country, and they are great. We have one-third of the coal known to be extant throughout the entire world. It has a greater potential than all the oil reserves that are known to exist in the Middle East. And yet we are willing to turn our backs upon it before we have completed our first project? I think not.

Let us in the words of one whose total philosophy I have not embraced, stay the course at least on this project to which we have committed ourselves. Let us vote down this amendment and say to the world, to the future, to our own country, that we are going to see to it that there is sufficient electrical energy output and capacity in this Nation to sustain a growing economy. Because if we do not, there will not be enough power available to us and we shall have to look forward to a declining, shrinking and stagnant economy without the capacity for growth that produces the opportunities and the jobs that our population will deserve and demand and rightly should expect of us. Solomon said where there is no vision the people perish. May that not be the epitaph of our civilization.

Mr. COUGHLIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. MCEWEN).

Mr. MCEWEN. Mr. Chairman, I rise in strong opposition to the amendment.

Mr. COUGHLIN. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, this would terminate the funding for the Clinch breeder reactor except for the approximately $44 million estimated by the Committee on Science and Technology as the funding necessary to pay termination costs, not $1 billion as others claim.

As we in Congress face the prospect of deficits upward of $100 billion, there are those who say we can no longer cut discretionary funding. But the truth is that we have cut everything but the pork.

Here is a piece of pork, the Clinch River breeder reactor, where the Department of Energy's own blue ribbon advisory committee on research says it should be deferred, postponed, and it is of very low priority.

Here is a piece of pork, the Clinch River breeder reactor, which our own auditors, the Congress auditors, the General Accounting Office, says will no longer cost the original estimated $699 million, but will cost $8.5 billion to construct and operate for 5 years.

Here is a project that those auditors, our auditors, say will not earn money even in the remaining 25-year life but will cost the taxpayers an additional $2.6 billion.

Here is a program in which the private investment has declined from initially 60 percent, with a 50-percent commitment, down to 7 percent or 2 percent depending how you figure it. This is welfare and jobs not for people but welfare for public utilities and nuclear engineers. That is what this is.

Here is a demonstration project for technology which even its supporters admit will not be viable until well into the next century. And here is a research and development project presenting potentially obsolete technology when, even without the Clinch River breeder reactor, we will be spending almost half a billion dollars a year on breeder research itself.

Finally, here is a program that is opposed by the authorizing committee of this House—most important. And opposed by such disinterested publications and such diverse publications as the New York Times, the Wall Street Journal, and Human Events; opposed by organizations with no financial interest in the project, from the National Taxpayers Union to the Sierra Club; opposed by such diverse organizations as the United Steel Workers and the American Enterprise Institute.

Have we no conscience? Can we not get rid of at least a little piece of the work? Vote "yes" on the amendment.

● Mr. COURTER. Mr. Chairman, after many hours of personal reflection, I feel compelled to support the amendment to delete continued construction for the Clinch River breeder reactor and instead use available funds to terminate it. In the past I have always given the issue of funding Clinch River my closest consideration, taking into account its effects on our nuclear energy research and development base. My decisions in the past were based on the difficult issues, but on different circumstances and assumptions. I have carefully reviewed all the previous arguments for and against the funding, but have based my difficult decision to oppose continued funding at this time on the following factors:

First, there is reluctance on behalf of public utilities to move ahead with constructing previously planned nuclear powerplants. The commercial nuclear industry has experienced several setbacks unanticipated from earlier years. Utility rates nationwide have gone up markedly, leading to slower rates of growth and demand and, therefore, any projections for commerical application of Clinch River breeder technology must be altered to accommodate the changed circumstances in today's public utility market. Utilities in the near term will continue to reevaluate the future scope of their nuclear generator plans, while considering totally different technologies which may become economically competitive and more desirable.

Second, just 1 year ago the Department of Energy stated that costs for the Clinch River breeder reactor amounted to $1.1 billion for components and that it would take an additional $2.8 billion to complete the

project. In adjusted 1982 dollars, the total project would cost about $3.5 billion, said DOE. However, the Department of Energy may have ignored or greatly underestimated several key expenditures.

While the Department of Energy states that the entire project could be completed within 7 years, its original contingency fund for possible cost overruns is only $200 million. Assuming a 12-percent interest rate, a delay of just 1 year in construction could run the total cost up by $400 million in just that year.

In addition, the Department of Energy did not include the costs of reprocessing Clinch River's own fuel, which could amount to $300 million. As a result of this and other not previously assumed costs, the Clinch River program may now cost substantially more than thought. If any of the cost factors increase or if unforseen costs arise, this project will be beyond the realm of responsible fiscal control. It has been suggested that we can learn the technology of the breeder reactor by purchasing or otherwise sharing French patent rights and knowledge. The French, I understand, have a lead in this technology and we can possibly save enormous amounts of money by placing a small American staff at the French site. The French admit that their breeder reactor costs them 2½ times more to operate than light water reactors.

In conclusion, I oppose the building of the Clinch River breeder reactor because I can see no near term or midterm market for this technology. The General Accounting Office and the Congressional Research Service see a market for this technology in approximately 40 years, which may be reasonable to support research and development but not a justification for a multibillion-dollar demonstration project. New uranium finds, unanticipated costs and electrical demand have all been different in the last 4 years than anticipated; circumstances have changed—and so must my vote.●

● Mr. YOUNG of Missouri. Mr. Chairman, opponents of Clinch River imply that they have a new case against the Clinch River breeder reactor project. Their case is not new. It contains the same old red herrings breeder opponents have used, unsuccessfully, for years—that the project is too expensive, that breeder development can be delayed with no penalty, that uranium is cheap and plentiful and likely to stay that way, and that nuclear power requirements have dwindled to insignificance.

The solution, they say, is to cancel the Clinch River project.

This view is worse than shortsighted. It is clearly dangerous to our energy future. As a proven means of extending a valuable resource of limited availability, the breeder must be developed. It is time to meet the issues head on; to make the decision to complete this vital link to a secure energy future for America and to lower once and for all the antigrowth barriers which jeopardize the future economic well-being of the Nation.

The facts on Clinch River are as follows:

We have already made a substantial investment in the Clinch River project and the supporting technology development necessary to assure its success. This investment—an insurance policy if you will—has amounted to some $6 billion, of which $1.4 billion is the direct investment in Clinch River. All major equipment procurements are essentially completed and the design is more than 90 percent complete. Site preparation also has been approved and is well underway. We would be foolish and indeed the international community would regard us as fools—to allow unfounded allegations and visceral fears to stop us now.

The costs remaining to complete the CRBR construction amounts to some $2.2 billion distributed over a period of about 7 years. Clearly, this level of funding—that is, the insurance premiums on our energy future—is well in line with comparable R&D expenditures this country has made in similar programs of major national importance.

The fact that present U.S. uranium resources appear to be adequate to fuel light water reactors for the next 30 years or so, is a moot point as far as the breeder timetable is concerned. On the present schedule, assuming the expeditious completion of CRBR, commercialization of breeders could not occur for at least 30 years. Those who argue that we can delay the breeder until we need it are devoid of any perception of the technical issues at stake or the associated leadtimes required for technology development and to assemble the related infrastructure. We cannot simply throw a switch and turn on the needed expertise and experience required to implement the technology nor can we wish the hardware into being so that we can one day operate the breeder plants economically.

Clearly, the time for the Clinch River breeder reactor is now. We should prove to ourselves as well as the rest of the world that we stand by our obliation to control our energy future; that we do not vacillate in our conviction that nuclear electric power, through our breeder reactor development program, is an essential part of that future; and that we will not forfeit the investment already made to insure that future.

We urge you to support completion of the CRBR. It is the right plant at the right time.●

● Mr. TAUKE. Mr. Chairman, today, the House will have just the opportunity to reduce or eliminate several excessive, opulent indulgencies of the Federal Government when we consider House Joint Resolution 631, the continuing resolution. Considering our current economic problems, it is important, perhaps now more than ever, to spend our citizen's tax dollars more prudently, and House Joint Resolution 631 presents us with this opportunity. Within this measure, there are several projects of dubious fiscal rationality, and I would like to take just a few minutes to outline my concerns about one of these projects—the Clinch River breeder reactor—and to urge your support for the Coughlin amendment which deletes funding for this project.

The Clinch River breeder reactor was conceived in 1970, under a set of economic projections which are not valid today. Twelve years ago, it was assumed that breeder reactors would be economically competitive by the year 2000. Today, that is not the case. Instead, a dramatic shift in our energy requirements has meant that the Clinch River project will not be cost effective until the 21st century. This shift in our country's energy projection is due primarily to: First, the increased supply of uranium; and second, the decreased demand for electricity. These two changes force us to reevaluate the continuation of the Clinch River breeder reactor. Even the Department of Energy's own energy research advisory board has recommended that we defer construction of the Clinch River plant until the prospects for commercialization improve while maintaining an investment in basic breeder research.

The primary attraction of the breeder reactor in the first place was its efficient use of uranium—much more efficient than the less expensive light water nuclear reactors. If uranium were scarce and expensive, the extra capital costs associated with breeder technology would be offset by the fuel savings. The Clinch River project was begun 12 years ago because it was expected that a rapidly escalating demand for nuclear power would lead to a critical shortage of uranium by the year 2000. But in the past decade, estimates of our nuclear power requirements have been cut to less than one-sixth of the original projections; estimates of our uranium supply have doubled; and the price of uranium has actually declined in real dollars. In fact, the domestic uranium mining industry is on the verge of collapse, due to a lack of demand for its product. The Senate is even considering legislation that would prohibit imports of cheaper uranium from Australia and Canada.

When the Clinch River project was first proposed, energy planners were concerned about both the supply and price of uranium. In 1974, our total

supply of proven and probable reserves were estimated to be about 1.7 million pounds, or enough to provide 340 reactors with a lifetime supply of fuel.

At the time those estimates were made, the Department of Energy began a national uranium resource evaluation (NURE) survey to try to arrive at a better understanding of our uranium resource base. In 1980, NURE reported that our uranium reserves had, in fact, been grossly underestimated, and that our proven and probable reserves were close to 3.5 million pounds—enough to fuel 700 reactors.

In fact, uranium is the only nonrenewable fuel whose price has declined since the last OPEC price hike in 1979. Since that year, uranium has decline by 59 percent; while oil has increased by 146 percent, and natural gas has increased by 74 percent.

As a result of the increase in supply of uranium and a decrease in the price of the uranium market, 9,000 of an estimated 22,000 workers in the uranium mining industry have been laid off, 30 uranium mining complexes have shut down. And 395 uranium exploration projects have been discontinued. One must suspect that the collapse of our uranium mining industry is a direct consequence of the wildly exaggerated predictions for the growth of nuclear power put forth by Government forecasters.

While the uranium resource base has roughly doubled, the demand for its product has decreased sharply, as the predicted boom in the nuclear market has failed to materialize. In 1974, the U.S. Atomic Energy Commission predicted that we would have 1,200 operating nuclear powerplants by the year 2000. The Department of Energy's February 1982 report to Congress projects only 165 operating nuclear reactors by the end of the century and no more than 285 plants by the year 2020.

The expected market for nuclear power has failed to materialize primarily because the demand of electricity has dropped to less than half the level experienced during the early 1970's. Slower electric growth rates are predicted, by both the Department of Energy and the Edison Electric Institute, for at least the next 20 years.

These changes mean that the fuel savings promised by the breeder, in return for the investment in this high-priced, capital-intensive technology will not be needed, or even affordable, until at least the middle of the 21st century. In 1972, it was expected that the rapid growth of nuclear power would shrink the uranium supply fast enough to make the capital-intensive breeder an economical replacement for light-water nuclear reactors by the year 2000. Clearly, this is not the case.

Mr. Chairman, the question is, Why are we ignoring the evidence and rushing to embrace the breeder reactor? Why are we forcing a product on the market before its time? The result of our continuation of the Clinch River breeder system will be an irretrievable loss of billions of dollars, which we cannot afford, to our economy. This is an action we cannot afford to take. I urge you to join with me in support of the Coughlin amendment.●

● Mr. GOLDWATER. Mr. Chairman, we have, as in years past, begun to hear all sorts of claims about the Clinch River breeder reactor; some for it, and some vilently opposed. This time the arguments focus on economics, with the main issues including the total cost of the plant and the amount needed to keep the project going for another year. I have been particularly intrigued with the cost estimates that have been published by both sides on this debate, with the Department of Energy now saying that this reactor's cost has increased to $3.6 billion, and with the project opponents saying no, it is $7, $8 or $12 billion, or whatever number either side cares to pull out of its hat. I have little doubt that next week someone will tell us the cost is $15 billion, or $25 billion if you count—fill in your choice of additional items—or whatever. And frankly, I do not care.

The reason I take this lighthearted approach is a simple one. Although the true cost of Clinch River may be the question to some people, it is not the issue to me. As I see it, the issues that we must address as responsible policymakers are not only how much does the CRBR cost, but what do we get for that cost and is it worth it? To make this decision, I ask you to accept only one premise; that we are using a substantial amount of energy now and will need more in the future. The how much and when are not that important. What is important is to determine how we will find the additional energy sources and supplies which we will surely need for future economic growth.

The answer to that question is also simple. We do it by conducting research and development of course, and since the oil embargo of 1973 we have spent, we in the Congress, over $40 billion of taxpayers' money to develop new energy sources.

What do we have to show for it? Where are the synthetic fuels plants we so earnestly debated a few years ago, and a few years before that? Where are the power-producing windmills that were supposed to be dotting the countryside? Where are the large photovoltaic arrays, the limitless nuclear fusion power supplies or the breeder reactors we promised ourselves, and the American people? Of all these technologies, what have we really built, and what are we in the position to build now? More bluntly, what have we got to show for our $40 billion? And, most importantly, what will we have to show tomorrow when we really need it?

So far, the answer is, not very much. Our success rate has not been very high, and the reasons, technological difficulties, lack of sufficient funding, changing priorities, are all too familiar. But there is one technology we have been spending money on that is almost ready to be brought to the demonstration stage and is now ready to be build in a significant size. That is the breeder reactor, and its demonstration plant is called Clinch River. Over $1 billion has already been spent on CRBR, and an additional $2 billion, more or less, is needed to complete it.

To anyone who really believes we have an energy problem—remember when we used to call it the energy crisis? Has anything really changed since then?—I ask, how can we not proceed into the next phase of development of breeder reactors, our most advanced energy technology? How can we give up now? I know that a $3, $5, or $10 billion price tag is a tremendous amount of money, and that the $250 million we are being asked to spend on Clinch River in fiscal year 1983 will buy a lot of other things if not spent on the development of the breeder. However, I conclude that spending a responsible amount of money on the CRBR is not only warranted, but essential.

We have invested over $200 billion so far in electrical powerplants in this Nation. The money now needed for Clinch River may lead to the technology that will keep our electrical generating capability healthy and growing. The cost of not having sufficient energy available when needed in the future, in terms of economic growth, national security, and social welfare, is more than I care to gamble with.

To put matters in another perspective, consider that Clinch River can be completed at a cost of about 2 weeks that of imported oil. Further, if we do complete this reactor, the revenues from the sale of electricity it will produce over its lifetime will amount to about $8 billion, which will go a long way toward making up for both its capital and operating costs. And finally, and this is the real clincher, the availability of breeder technology will open up to use the $15 trillion equivalent in energy content in depleted uranium ores that can fuel breeder reactors, and that have already been mined and are now in storage at Government facilities. This material, if used in breeder reactors, will have an energy content that is greater than that of all the world's coal and oil. It is ours to use if, and only if, we have the breeder reactor.

And so it is time to return to the question I posed at the start of this letter. Who cares if Clinch River costs

$100 billion? I would care, of course, and know we must do everything possible to keep those costs down. Frankly, I have much more confidence in the $3.6 billion estimate of the Department of Energy than I do in the inflated figures that are being thrown around by those who, as in years past, are trying to come up with whatever fabricated arguments they can to show that breeder reactors are unnecessary, overly expensive, technologically deficient, or evil—remember proliferation, and our total failure to get other nations to abandon their breeder efforts because of this concern.

What it all boils down to is that we have put ourselves in a position of energy insufficiency, and have received as our penalty a parking ticket in terms of our need to build a breeder demonstration plant as a way out. And so I say, pay the $2 billion, and take a necessary and economical step for energy security.●

● Mr. PEASE. Mr. Chairman, once again the Clinch River breeder reactor question is before us. I urge my colleagues to support the Coughlin amendment and reject funds for the breeder reactor.

No matter what party affiliation, political philosophy, or region of the country, all of us have colleagues who oppose this bill. Opposition is not based on a single factor. While objection to the CRBR's cost are the predominant complaint, it is far from the only one.

The venture to produce fuel for light water reactors obviously serves a particular group of clients—those with light water reactors. But a breeder reactor is useless if the credibility of today's light water reactors does not recover. And if reactor operators are not willing to invest a significant amount in development of an operation that benefits them directly why should American taxpayers do the same?

Mr. Chairman, the original cost estimates for the CRBR were less than $700 million. The Department of Energy, which supports the project, with thoroughly questionable methodology—such as using an imputed interest rate of zero percent—recently found the breeder would cost $3.6 billion. The General Accounting Office looked again and estimated $8.9 billion.

Mr. Chairman, I urge my colleagues, in a year when we have made enormous cuts in programs ranging from medicare to energy conservation to business tax incentives, to support the Coughlin amendments to delete funding for the Clinch River breeder reactor.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. COUGHLIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 217, noes 196, not voting 20, as follows:

[Roll No. 447]

AYES—217

Addabbo	Glickman	Ottinger
Albosta	Goodling	Panetta
Applegate	Gradison	Patterson
Aspin	Gramm	Paul
Bailey (MO)	Gray	Pease
Barnes	Green	Petri
Bedell	Gregg	Peyser
Bethune	Guarini	Porter
Bingham	Gunderson	Pritchard
Boland	Hall (IN)	Pursell
Bonior	Hall (OH)	Rahall
Bonker	Hamilton	Rangel
Brodhead	Harkin	Ratchford
Broomfield	Hawkins	Reuss
Brown (CA)	Heckler	Ritter
Brown (CO)	Heftel	Rodino
Burton, Phillip	Hertel	Roemer
Byron	Hiler	Rogers
Carman	Hillis	Rosenthal
Chisholm	Hopkins	Roybal
Clay	Howard	Russo
Clinger	Hoyer	Sabo
Coats	Huckaby	Savage
Collins (TX)	Hughes	Sawyer
Conte	Jacobs	Scheuer
Conyers	Jeffords	Schneider
Coughlin	Jeffries	Schroeder
Courter	Jenkins	Schumer
Coyne, James	Kastenmeier	Seiberling
Crane, Daniel	Kemp	Sensenbrenner
Crane, Philip	Kennelly	Shamansky
Crockett	Kildee	Shannon
D'Amours	Kogovsek	Sharp
Daschle	Kramer	Shaw
de la Garza	LaFalce	Shumway
Deckard	Lantos	Simon
Dellums	Leach	Smith (NJ)
DeNardis	LeBoutillier	Snowe
Derrick	Leland	Snyder
Dicks	Lent	Solarz
Dingell	Levitas	St Germain
Dixon	Long (MD)	Stark
Donnelly	Lott	Stokes
Downey	Lowry (WA)	Studds
Dunn	Lundine	Swift
Dymally	Lungren	Synar
Early	Markey	Tauke
Eckart	Martin (IL)	Thomas
Edgar	Martin (NY)	Traxler
Edwards (CA)	Matsui	Trible
Edwards (OK)	Mattox	Udall
Emery	Mavroules	Vander Jagt
Ertel	McCloskey	Vento
Evans (DE)	McCollum	Volkmer
Fascell	McCurdy	Walgren
Fazio	McDade	Walker
Fenwick	McGrath	Washington
Ferraro	McHugh	Waxman
Findley	McKinney	Weaver
Fish	Mikulski	Weber (MN)
Florio	Miller (CA)	Weber (OH)
Foglietta	Minish	Weiss
Ford (MI)	Mitchell (MD)	Whittaker
Fowler	Mitchell (NY)	Williams (MT)
Frank	Moakley	Wirth
Frenzel	Moffett	Wolf
Frost	Molinari	Wolpe
Garcia	Moore	Wortley
Gejdenson	Neal	Wyden
Gephardt	Nowak	Wylie
Gibbons	Oakar	Yates
Gilman	Oberstar	
Gingrich	Obey	

NOES—196

Akaka	Annunzio	Atkinson
Alexander	Anthony	Badham
Anderson	Archer	Bafalis
Andrews	Ashbrook	Bailey (PA)
Barnard	Gore	Nelson
Benedict	Grisham	Nichols
Bennett	Hall, Ralph	O'Brien
Bereuter	Hall, Sam	Oxley
Bevill	Hammerschmidt	Parris
Biaggi	Hance	Pashayan
Bliley	Hansen (ID)	Patman
Boggs	Hansen (UT)	Pepper
Boner	Hartnett	Perkins
Bouquard	Hatcher	Pickle
Bowen	Hefner	Price
Breaux	Hendon	Quillen
Brinkley	Hightower	Regula
Brooks	Holland	Rinaldo
Brown (OH)	Hollenbeck	Roberts (KS)
Broyhill	Holt	Roberts (SD)
Burgener	Horton	Robinson
Butler	Hubbard	Roe
Campbell	Hunter	Rose
Carney	Hutto	Rostenkowski
Chappell	Hyde	Roth
Cheney	Ireland	Roukema
Clausen	Jones (NC)	Rousselot
Coelho	Jones (OK)	Rudd
Coleman	Jones (TN)	Santini
Collins (IL)	Kazen	Shelby
Conable	Kindness	Siljander
Corcoran	Lagomarsino	Skeen
Coyne, William	Latta	Skelton
Craig	Leath	Smith (AL)
Daniel, Dan	Lee	Smith (IA)
Daniel, R. W.	Lewis	Smith (NE)
Dannemeyer	Livingston	Smith (OR)
Daub	Loeffler	Smith (PA)
Davis	Long (LA)	Solomon
Derwinski	Lowery (CA)	Spence
Dickinson	Lujan	Stangeland
Dorgan	Luken	Stanton
Dornan	Madigan	Staton
Dowdy	Marks	Stenholm
Dreier	Marlenee	Stratton
Duncan	Marriott	Stump
Dwyer	Martin (NC)	Tauzin
Dyson	Mazzoli	Taylor
Edwards (AL)	McClory	Wampler
Emerson	McDonald	Watkins
English	McEwen	White
Erlenborn	Mica	Whitehurst
Evans (IA)	Michel	Whitley
Evans (IN)	Miller (OH)	Whitten
Fiedler	Mineta	Williams (OH)
Fields	Mollohan	Wilson
Flippo	Montgomery	Winn
Foley	Moorhead	Wright
Ford (TN)	Morrison	Yatron
Forsythe	Mottl	Young (AK)
Fountain	Murphy	Young (FL)
Fuqua	Murtha	Young (MO)
Gaydos	Myers	Zablocki
Ginn	Napier	Zeferetti
Goldwater	Natcher	
Gonzalez	Nelligan	

NOT VOTING—20

AuCoin	Dougherty	Lehman
Beard	Erdahl	Martinez
Beilenson	Evans (GA)	Railsback
Blanchard	Fary	Rhodes
Bolling	Fithian	Schulze
Burton, John	Hagedorn	Shuster
Chappie	Johnston	

□ 1750

Mr. HUNTER changed his vote from "aye" to "no."

Mr. SCHEUER and Mr. MINISH changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BONIOR OF MICHIGAN

Mr. BONIOR of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BONIOR of Michigan: Page 10, line 3, insert: *"Provided further,* That none of the funds appropriated by this Joint Resolution, or by any

other Act, shall be available for any activity relative to the construction of the O'Neill irrigation unit in the State of Nebraska" before the period.

The CHAIRMAN pro tempore (Mr. BAILEY of Pennsylvania). Pursuant to the rule, the gentleman from Michigan (Mr. BONIOR) will be recognized for 15 minutes, and a Member opposed to said amendment will be recognized for 15 minutes.

The Chair recognizes the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members, the amendment I offer is straightforward in its intent. It would simply prohibit the expenditure of funds from any source for construction of the O'Neill irrigation unit in Nebraska.

In the short time I have, let me preface my remarks by noting that a similar amendment was offered by our former colleague, John Cavanaugh, himself a Nebraskan, in 1980. That amendment was defeated by only nine votes. Over 165 Members of the 202 who supported that amendment are still in the House and this amendment is even more justified today.

In the 2 short years since John offered his amendment, the cost of this project has increased by 60 percent—to $368.7 million. That represents an increase of 300 percent over the 1972 authorization level.

Maybe that does not bother you much. You might say the cost of everything has increased. Consider, however, that the benefit-to-cost ratio has fallen from 2.7 to 1.3 and continues to drop.

Consider that this project will benefit only 300 farms at a cost to the Government of $1.2 million per farm. Largest among the affected landholders are the State of Nebraska—5,100 acres—and the Prudential Insurance Co.—4,480 acres.

Consider that the beneficiaries will pay back only $45 million or 12 percent of the cost. The rest will be paid through utility rate increases to the citizens of Colorado, Iowa, Minnesota, Montana, Missouri, Nebraska, North Dakota, South Dakota, and Wyoming even though the O'Neill project would generate no power. Consider further that since the beneficiaries' costs are fixed at $45 million, that all additional or increased cost must be borne by these nine States, eight of which receive no benefits.

Consider that more than 30,000 acres will be taken to irrigate only 77,000 and that 40 percent of those acres have already been irrigated by private wells at an average cost of one-eighth of what the Federal Government will spend per acre.

Consider that 30 percent of the lands to be irrigated are, in the Bureau's own terminology, class III lands of restricted suitability for irrigation.

Consider that one of the areas destroyed by this project is the only known confluence of six different ecosystems in the United States and that endangered whooping cranes have been recently sighted in that area.

Consider that the Bureau of Reclamation has stated that corn will be the dominant crop to be produced in the irrigated lands. This year, Nebraskan farmers destroyed 400,000 acres of corn—five times the amount to be irrigated—to comply with Federal farm programs.

Consider that a statewide poll by the largest newspaper in Nebraska—Omaha World Herald—found its citizens in opposition to this project by a 2-to-1 margin and that 50,000 Nebraskans have signed a petition to stop its construction.

Consider that the cost of the project will not be repaid to the Treasury until the year 2053, that the payments are interest-free while the Federal Government will have to borrow with interest to cover the costs.

Consider that the project is opposed by the National Taxpayers Union, the National Wildlife Federation, Sierra Club, the Nature Conservancy, the Nebraska Water Conservation Council and others.

Consider, finally, that the Bureau of Reclamation has recognized two alternatives having better benefit-cost ratios at half the cost. Two diversion projects: First, to replenish the aquifier; and second, for surface irrigation.

Mr. Chairman, if this body is to have any credibility whatsoever, it must apply the standards and rigors of our current austerity policies consistently and equitably.

How can we decry the increased cost of food stamps which supply sustenance to the needy, and yet avert our eyes from a 2-year, 60-percent increase for a project of such dubious value that it is not even supported by its home State?

How can we tell millions of social security recipients that the few dollars they receive each month jeopardizes the economic health of the country while we provide $1.2 million to each of 300 farmers?

How can we demand the repayment of student loans in full yet ask for only 12 cents on the dollar on benefits provided to a select few?

How in the world can we expect our constituents to trust their economic fate to leaders who would ask them to pay eight times the average costs for irrigation for a crop we will demand be destroyed? They would be entirely justified in questioning our sanity, let alone our competence.

I do not need to tell either side of the aisle that the faith of our people is being tested in the fires of upheaval, loss, insecurity, despondency, and deprivation. A betrayal at this moment, could mean the irretrievable loss of a generation already buffeted by Vietnam and Watergate. Our demands upon our citizens must be judicious, our burdens eminently equitable.

I do not know the outcome of an anticipated vote on the jobs program title of this bill. I cannot imagine "staying the course" with regard to Americans whose only hope is a job while seeking a "safe harbor" for an expensive few. Such a course only erodes our national unity and our harvest is cynacism and apathy.

The money in the bill for this project is only $500,000. However, $5 million exists from previous appropriations and funding reprograming is possible without a vote from the House. Even a small amount of construction would do irreversible environmental damage and create its own perverse justification for continuing.

I want to emphasize to my colleagues that this vote is every bit as important as those which they will cast on the other two projects considered here today. We are talking about 360 miles of canals and a dam that is over 200 feet high and over a mile long. We are talking about the expenditure of at least one-third of a billion dollars. But unlike the other two projects, Members can stop this highly questionable project with very little unrecoverable costs to the country. This project is less than 2 percent completed, no land has been purchased, no environmental damage done.

I ask Members to allow us a year to seek deauthorization of this project and to show the country that all of our expenditures are based upon the same standard: need and merit.

I reserve the balance of my time.

□ 1800

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. BONIOR) has consumed 8 minutes.

Mr. BEVILL. Mr. Chairman, I rise in opposition to the amendment offered by my good friend and colleague, the gentleman from Michigan.

The CHAIRMAN pro tempore. The gentleman from Alabama (Mr. BEVILL) is recognized for 15 minutes.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. YOUNG).

Mr. YOUNG of Missouri. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to direct my remarks to Congressman BEVILL, chairman of the Subcommittee on Energy and Water Development, of the Committee on Appropriations.

Mr. Chairman, as you are aware, over the last 10 days the Midwest was subject to one of the worst floods in this century. My own district in Missouri was the site of the most severe flood in recorded history. Thousands

of families have been left homeless and the total damage has been estimated to be several hundred million dollars. One of the areas that was hit hardest by the floodwaters was the area along the Meramec River. Almost a year ago, this Congress passed Public Law 97-128, which deauthorized several Corps of Engineers projects, including the Meramec Park Lake and Dam which would have reduced the damages from the recent flooding.

Public Law 97-128 also included a provision which would provide for flood control prevention consisting of structural and nonstructural measures along the lower Meramec River.

Mr. Chairman, I am aware of the tremendous constraints which the Committee on Appropriations is under in providing for all the different needs of the Members of this body. I am also aware that the energy and water development appropriations bill provided funds to initiate the flood control study which will help prevent the tragic disaster of flooding that has taken place in Missouri. I want to commend the members of the committee for including the funds for the lower Meramec flood control project in the House version of the bill.

Mr. Chairman, on December 10, 1982, the President declared 15 counties in Missouri as Federal disaster areas due to the severe floods and damages that I have discussed. It is absolutely essential that we begin the needed flood control work as soon as possible.

Mr. Chairman, it is my understanding that the Appropriations Committee will include the funds necessary to begin this work in the House version of the energy and water development appropriations bill that will be brought to the floor early in the 98th Congress. Mr. Chairman, I would like to ask if that is your understanding as well.

Mr. BEVILL. That is correct.

Mr. YOUNG of Missouri. I thank the gentleman.

Mr. BEVILL. Mr. Chairman, I oppose this amendment. I do not think that this amendment is in order at this time because this project is in court. The President requested $700,000 for the project in fiscal year 1983. The committee did not put any money in the bill for the project.

I assume what my good friend and colleague from Michigan is seeking to do with his amendment is to stop the court proceeding. That is exactly what would be the result if his amendment passed. It just tells the court, "You cannot go any further."

I say that because if one reads the amendment, it says that none of the funds appropriated by the joint resolution—and there are none—or by any act shall be available for any activity relative to the construction of the O'Neill irrigation unit in the State of Nebraska.

□ 1810

So actually, Mr. Chairman, I would say that this amendment is premature. It should not be here. The court is considering this matter.

This is a multipurpose project. It provides irrigation, recreation, fish and wildlife, and flood control benefits. It is a project that has had considerable study, and considerable study is going on now. If we adopt this amendment, the court cannot act. I think that is wrong. Congress traditionally leaves these matters for the courts to decide when they are in court. We should let the court act on it.

So, Mr. Chairman, I urge that the Members defeat this amendment.

Mr. Chairman, I yield such time as she may desire to the gentlewoman from Nebraska (Mrs. SMITH), who is a valued member of the Subcommittee on Energy and Water Development.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman from Alabama for yielding me this time.

I oppose the amendment by the gentleman from Michigan. I speak on behalf of the people of the Third Congressional District of Nebraska with respect to the vital water-conserving project in my district known as the O'Neill Unit of the Pick-Sloan Missouri River Basin development program.

I am here because the gentleman from Michigan is offering an amendment that would deny any further funding for this excellent, desperately needed multipurpose reclamation project.

This amendment would inflict destructive mischief working against the interests of both proponents and opponents of the O'Neill unit.

This is true because the O'Neill unit and the question of its funding is in litigation, with a trial being imminent in the Federal District Court of Nebraska even as I address the House. The issues in that trial are the very ones that have been raised repeatedly already in many hearings and in several debates here in the House and now again in this debate.

The litigation of which I speak could settle all these issues once and for all if the judicial process is allowed to proceed. But if the House again attempts to legislate answers to these issues, the questions will remain, I fear, simply because Congress has repeatedly examined, reexamined, reauthorized, funded, studied, and restudied again as it has repeatedly approved this project for construction every year since 1974.

In 1977, opponents of the project, having failed to persuade either the Congress or the executive branch of the merits of their opposition, turned, as they should, to the courts to seek redress. And that is exactly what should be allowed to proceed in normal fashion to formal decision and thence to appeal. In the meantime, a court order prohibiting construction remains in effect, as it has since March 4, 1977.

Therefore, I implore my colleagues to act responsible and wisely in this matter, to reject this unfair amendment and any other improper and irresponsible legislative amendments relating to the O'Neill unit, and to help me discourage any other restrictive or limiting amendments relating to this project. I am simply asking the House, and later I will ask any other opponents, to let the judiciary work its will on this matter.

How wise a course this would be is strikingly demonstrated by the litigation involving the Garrison project in North Dakota. There, on May 6, 1981, the court ruled, in effect, that construction could not be resumed until Congress reauthorized the project. On November 20, 1981, the House refused by an overwhelming vote of 317 to 67, to overturn the court's ruling. And all for the best, too. Subsequently, on May 7, 1982, an appeals court reversed the lower court's demand for reauthorization, vindicating the House's position, preserving clear separation of powers between legislative and judicial branches, and avoiding setting dangerous precedent in judicial concrete.

In the lawsuit involving the O'Neill unit, if the court rules adversely to the project's supporters, the project almost certainly will face further congressional action aimed at reauthorization or be dropped from further consideration. If the court rules for the project, there will be ample time for the gentleman from Michigan, Delaware, and others to express themselves in regular hearings on this project and the 900 or more others whose funding is considered and recommended annually by my Appropriations Subcommittee on Energy and Water Development.

In brief, the main issue being addressed in the lawsuit of major concern to the Congress is whether Congress must reauthorize the project before construction can be resumed. The project's opponents insist that reauthorization is mandatory because the indexed cost estimate allegedly exceeds the indexed ceiling authorized by the Congress as the result of supposed improper changes in indexing procedures and as a result of ostensibly unauthorized design changes in the project's principal dam. The court also will rule on whether the Bureau of Reclamation has adequately addressed three technical defects in the environmental impact statement.

According to research by the legal division of the Congressional Research Service, Congress has not yet passed any law requiring that a project be re-

authorized when the estimated project cost exceeds the indexed authorized ceiling. Nevertheless, if Federal courts should cloud the legal situation by requiring reauthorization under these circumstances, the Bureau has indicated that it would not engage in construction until Congress acted positively to reauthorize.

Some opponents have suggested that without restrictive amendments, a favorable court order would result in an all-out construction effort of the O'Neill unit before congressional action could halt it. But even if no appeals are taken, the Bureau of Reclamation could not possibly even award construction contracts in less than 1 year even though the authorizing statutes permit the Bureau to shift limited funds from one project to another to avoid costly construction delays.

Furthermore, this continuing resolution provides not even one red cent of new construction funds—just because the court has forbidden further construction, and because the costs of conducting the Government's defense in the suit can be paid out of administrative costs.

But with any amendment prohibiting use of even administrative funds for meeting court costs, a gross injustice would be inflicted upon the U.S. Government and the proponents of the project. It would also be improper interference with the judicial process. The will of Congress and of the executive branch would be thwarted and aborted in a way repugnant to those who cherish fairplay and the hopes that our Government is not only a Government of laws but of orderly, reliable, understandable procedures.

Here is how the will of Congress and of the executive branch has been expressed with respect to the O'Neill unit.

The project was first authorized in 1954 and reauthorized in 1972 by Public Law 92-514, planning funds were made available in 1974, and construction funds in 1976. The Congress, having thus unequivocally in the most positive possible fashion endorsed, supported, and advocated the construction of the O'Neill unit, has in every year since 1976 provided construction funds for the project until fiscal year 1983 because all preconstruction work has been completed permissible under the existing court order.

Even so, the House Appropriations Committee Report No. 97-850 accompanying our bill, H.R. 7145, on page 157 states:

> O'Neill Unit, Neb.—The Committee, without prejudice, has deleted funds contained in the budget for the O'Neill Unit in Nebraska pending resolution of the current court litigation. Because of the litigation, there is no present requirement for funding. If the Court decides in favor of the project, the Bureau of Reclamation may utilize available funds to continue the project.
>
> The Committee wishes to emphasize its continued strong support for the O'Neill Unit and will recommend additional funding as needed in future appropriation bills.

Nevertheless, opponents of the project continue to question the wisdom of Congress in funding its construction in annual appropriations bills—and, of course, that is the way it is supposed to work. Indeed, I note that the gentleman from Michigan has not previously given my subcommittee the benefit of his views on the O'Neill unit in the comprehensive hearings held each spring here in room 2362 of the Rayburn Building, and I invite him and any other colleagues who have views, pro or con, to do so at the very next opportunity. After all, every year, our subcommittee's hearings attract more than 2,000 witnesses, many of whom come thousands of miles at their own expense, to express their views on water projects in every stage of planning, construction, operation, and repair.

In addition to the continued strong support of the U.S. Congress for the O'Neill unit, seven Presidents, including both Jimmy Carter and Ronald Reagan, have endorsed and supported this project not only in their budgets but in testimony by their respective Secretaries of the Interior, the Commissioners of the Bureau of Reclamation, all Governors of Nebraska since the project was authorized in 1954, nearly all Nebraska Members of Congress from the State, the State AFL-CIO trade union organization, dozens of mayors, chambers of commerce, water-planning organizations, the Nebraska State Legislature, and even the Sioux Indians who live adjacent to the project site in north central Nebraska.

Let me emphasize that the AFL-CIO sends a representative at union expense to testify every year in support of the O'Neill unit before our subcommittee because of the enormous economic benefits the project would provide—benefits that are obvious to everyone except the small group of opponents. Here is what the union representative said in his testimony in 1981:

> We represent approximately 12,000 members. Our unemployment is more severe now than ever before. We need some work—not extended unemployment benefits, food stamps, and other Federal assistance!

What he clearly recognized was that the O'Neill unit would create not only construction jobs during the 10 years of construction but others as the $153 million annual economic benefits, estimated by project supporters, ripple throughout the national economy. The union leader's testimony this year was essentially the same, noting additionally that "Our unemployment has not improved, in fact, conditions are worse."

Additionally, I wish to make the committee aware of a test to which the O'Neill unit was subjected—a unique test to which no other similar project has been subjected—and the O'Neill unit came through with flying colors.

The test was agreed to by both proponents and opponents because of the continuing criticism of the project. The House Appropriations Committee in its report on the fiscal year 1982 funding bill, directed that the Bureau of Reclamation conduct a new 120-day reconnaissance study of alternate methods of providing water service to the O'Neill unit area.

The Bureau scrutinized nine proposed alternative plans. The purpose was to see whether, before undertaking major construction, another hard look at the situation might turn up some less expensive plan to achieve the same results in light of the rapidly changing economic situation.

The Bureau's report, issued in October 1981, reveals clearly that the only practical, feasible way to provide vitally needed water to the O'Neill unit project area with certainty and within a reasonable time is through construction of the O'Neill unit as authorized by law.

Perhaps most important of all, the local people in the project area overwhelmingly support the project—voting 77 and 78 percent for it in two separate referendums in 1979—to ratify water repayment contracts and other contractual arrangements for distribution of the water at considerable cost to themselves, and pledging to repay Uncle Sam millions and millions of dollars directly back into the U.S. Treasury.

In spite of all this, the small group of opponents have proven themselves exceedingly successful in making headlines by attacking the O'Neill unit, alleging over and over again that support for the project is fading. There is no hard data to substantiate this allegation.

Indeed, it is quite possible that whenever the project is studied objectively and fairly by openminded disinterested persons, new advocates are won for it.

On February 26, 1982, the Nebraska Legislature's Public Works Committee held a widely publicized hearing on the O'Neill unit. At least 8 individuals and representatives of 45 organizations with memberships and populations totaling more than 296,763 persons from every aspect of the State's political, civic, and economic life crowded into the hearing room in support of the project, representing many, many areas outside the Third Congressional District.

At this hearing, only 13 individuals and 12 representatives of mostly environmental organizations with less than 5,000 members in the State opposed the O'Neill unit.

Nevertheless, in spite of this outpouring of support for the O'Neill unit, despite the Nebraska Legislature's repeated endorsement of the project, one of our State senators had the temerity to write to Chairman WHITTEN and my subcommittee Chairman BEVILL on July 13, 1982, as follows:

Popular support for the project . . . in recent times has eroded here in Nebraska. This year, the Unicameral [that's our legislature] tried, but failed to pass, a formal resolution in support of the O'Neill unit. This is the first time such a resolution was effectively blocked. The significance is obvious. It is abundantly clear that the vast majority of Nebraskans no longer support the project.

The senator did not bother to give me a copy of his letter, but of course Chairman WHITTEN and Chairman BEVILL turned to me for an explanation as the official representative of the district in which the O'Neill unit is located.

For the RECORD I wish to submit both the State senator's letter and responses to Chairman WHITTEN and Chairman BEVILL from two distinguished Nebraska chairmen of legislative committees with jurisdiction over public works in my State, Hon. Loran Schmidt, chairman, agriculture and environment committee, and Hon. John W. DeCamp, chairman, public works committee.

I quote from Chairman DeCamp's letter:

There was no attempt to even take up the resolution (endorsing the O'Neill unit) this session of the Legislature because this session . . . was so tied up with battles over budget matters. . . . There has never been serious opposition at any time to this resolution. . . . There is no doubt . . . that there were the votes to pass the resolution.

Mr. Chairman, as with all important, large-scale undertakings, there are good arguments for and against the O'Neill unit, and reasonable, honest men can disagree over whether the weight of the argument is on one side or the other. I do deeply resent the enormous amount of misinformation and misleading statements that opponents of the O'Neill unit have persisted in distributing among Members of Congress. While it is extremely easy to be against a dam in somebody else's district, with or without reliable information about it, it is extremely difficult for proponents to counter and rebut false allegations.

I know, for example, that the gentleman from Michigan does not mean to oppose the project superficially without careful analysis. I am sure that so far he has relied on trusted counselors, who in this case obviously do not understand the intensifying shortage of water in the West nor the necessity for the measures contemplated in Federal water projects generally and in the O'Neill unit particularly. I regret that the gentleman from Delaware has allowed his name to be used as the author of an article in the Christian Science Monitor on September 22, 1982, filled with the same sort of wrongful assumptions and misinformation as was contained in the State senator's letter to my distinguished chairmen. If he had given me the opportunity, I would have been happy to respond to each concern expressed in the article. I am still glad to do so—if wanted.

Furthermore, while debates in the House on this project are readily available and while I have wearied my colleagues by sending much additional factual material in an effort to counter wrongful information, I stand ready to provide still more information to anyone who asks for it. I would be happy to try to respond to any concern and to any question expressed by Members.

In conclusion, an amendment to deny all funding to the O'Neill unit would in effect establish an unprecedented mechanism for deauthorizing public works projects of the Bureau of Reclamation.

This is an issue that should be dealt with carefully by the authorizing committee through the usual legislative process—certainly not in haste in a "lameduck" session of Congress and most certainly not in this offhand fashion in an appropriations bill.

It is true that the Army Corps of Engineers has an established procedure for deauthorizing its projects. But it is also thru that no Bureau of Reclamation project has ever been deauthorized, and no system exists for doing so.

Therefore, I hold that it is unfair, unjust, and unconscionable to deauthorize the O'Neill unit in the manner contemplated through such a denial of funds without hearings, without giving the people of Nebraska an opportunity to effectively respond to the proposal, and without allowing the time-tested congressional legislative process to be brought fully to bear on the issues.

And now, for the RECORD, I submit a statement containing full information about the O'Neill unit and why the promises of the Federal Government to the people in the project area should be forthwith fulfilled after 27 years of waiting.

The statement follows:

O'NEILL UNIT, PICK-SLOAN MISSOURI BASIN PROGRAM, NEBRASKA

The O'Neill Unit, authorized by the Reclamation Project Authorization Act of 1972, Public Law 92-514, on October 20, 1972, is a multipurpose project to serve the functions of irrigation, recreation, fish and wildlife, and flood control. Norden Dam and Reservoir would be constructed on the Niobrara River to store and divert water. Regulated irrigation releases would supply water to 77,000 acres of irrigable land. Recreation and fish and wildlife enhancement facilities also are included.

The economic justification of the O'Neill Unit is favorable. Based on projected October 1982 price levels, the cost of the unit is estimated to be $364,560,000. The ratio of benefits to costs is estimated to be 1.3 to 1, based on direct benefits only, and 1.6 to 1, based on total benefits. About 95 percent of the cost of the unit will be repaid by direct beneficiaries and Pick-Sloan Missouri Basin Program power revenues.

Numerous alternatives to the O'Neill Unit were examined in the final environmental statement and supplements and the October 1981 Alternatives Study. None of those alternatives proved to be superior to the authorized O'Neill Unit.

Currently, an injunction by the United States District Court of Nebraska is barring construction activities on the O'Neill Unit. Reclamation has provided all of the material requested by the court to set a hearing date. If and when the injunction is lifted, Reclamation intends to proceed with construction of the O'Neill Unit as funds are provided by the Congress in subsequent appropriation bills.

The fiscal year 1982 budget provided $500,000 for the 120 day Alternative Study, O'Neill Unit. The President's budget request for fiscal year 1983, which presently is before the Congress, includes $700,000 for the unit.

The appropriations authorized are $329,728,000 (October 1982). The comparable Federal obligation is $364,560,000. This exceeds the ceiling by more than 5 percent but the differential is less than the amount for contingencies included in the obligation. Appropriate congressional committees have been advised of the estimated ceiling and obligation status for this project. Additional appropriation ceiling will be requested when it appears certain that this cost will exceed the authorized ceiling limitation.

The unit is 2 percent complete. A bridge on the access road to Norden damsite was completed in November 1976. Since the March 4, 1977, injunction by the United States District Court, only limited preconstruction work in compliance with that court order has been undertaken. Upon removal of the injunction, efforts in fiscal year 1983 would be to prepare specifications for the construction of Norden Dam and to improve the county road for access to Norden damsite leading toward the early resumption of construction as directed by Congress.

The O'Neill Unit would supply water to irrigate about 77,000 acres. About 30,000 acres would be required for construction of the O'Neill Unit. Of that amount, about 22,000 acres is for Norden Dam and Reservoir and approximately 8,000 for canals and laterals. Of the 22,000 acres acquired for the dam and reservoir, production from 6,375 acres would be permanently lost due to inundation by water stored in the reservoir. In addition, production for the 8,000 acres needed for canals and laterals would also be lost. The lands from which production would be lost are as follows:

	Reservoir acres	Canals and laterals [1] acres
Cropland	226	[2] 6,000
Grassland	2,482	2,000
Forest	2,382	
Riparian	785	
River water surface	500	
Total	6,375	8,000

[1] Estimated.
[2] Estimated 4,000 acres of dry cropland and 2,000 acres of irrigated cropland—subject to refinement of final alinement of facilities.

Of the remaining 15,700 acres in the reservoir area, about 1,000 acres is cropland. The remainder is grassland (9,800 acres) and forest land (4,900 acres). The cropland would continue to grow crops on a lease agreement as a part of the wildlife management plans. The grassland and forest land would be converted from present uses to wildlife management and recreation areas.

The permanent loss of cropland acres would be about 6,226 acres of which it is estimated the 2,200 acres would be irrigated. About 16,000 acres would be converted from grazing cattle to wildlife management, recreation, and non-use.

Application of irrigation water would have two significant indirect effects—recharge of the declining groundwater table and improvement of groundwater quality. Application of surface water to 69,000 acres in the O'Neill-Atkinson area would recharge the groundwater and sustain irrigation of another 22,000 acres. In addition, average pumping lifts would be reduced from about 200 feet to about 100 feet resulting in a significant energy savings. As groundwater levels in the project area have declined there has been an associated decline in groundwater quality. Recharge of the groundwater would reduce this impact.

By the time the O'Neill Unit is constructed and in operation (10-12 years) the demand for feed grain is expected to increase significantly. Projections show a national increased need for corn production of 10-15 million acres by the year 2000.

The current estimate for costs allocated to irrigation is about $4,500 per acre. Current assessments of market value indicates that the value of other comparable land, after it is provided with a water supply, is about $1,000 per acre, which is below the project's investment cost. However, the direct benefits analysis of irrigation based on farm sizes and crop yields projected to year 2010 indicate that the increased net farm income is greater than the investment costs when both are computed using a 3¼ percent discount rate for a 100-year period of analysis.

The O'Neill Unit is strongly supported by the local people.

Mr. YOUNG of Florida. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am happy to yield to my good friend and colleague, the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentlewoman for yielding, and I want to compliment her on her contribution to this debate this afternoon. I remember just a few short years ago when she served with such distinction as a member of the Subcommittee on Foreign Operations, and I recall her helping to develop the information I would like to present to the House at this time.

As we consider the dollars we are spending for an irrigation project in one of our own States, Nebraska, I recall how, thanks to the gentlewoman from Nebraska, we learned that through the World Bank we have helped to finance irrigation and water projects in Afghanistan to the tune of $2 million; in Cameroon, $14.5 million; in India, $126 million; Indonesia, $140 million; Pakistan, $35 million; the Philippines, $150 million; Colombia, $126 million; Guatemala, $72 million; India, an additional $200 million; and Yugoslavia, $73 million. And the list goes on and on.

A lot of those dollars are U.S. dollars, and it just seems to me that if we can be providing irrigation projects for farmers throughout the world, we certainly can be providing much needed water for farmers here at home.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman from Florida (Mr. YOUNG).

Mr. ROBERTS of Kansas. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Kansas.

Mr. ROBERTS of Kansas. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, my district and that of my neighbor to the north, represented by the gentlewoman from Nebraska, have a common border of over 200 miles. We both have projects in the Pick-Sloan Missouri Basin plan, and we both share a common problem in our districts of a declining water table.

If we do not begin to take steps right now to really try to preserve our water table, the entire agricultural economy of this area could be placed in jeopardy. We need these projects to help keep the water where it falls and not let it run off.

The O'Neill project is a meritorious project with a high benefit-cost ratio. It deserves our support, and I urge my colleagues to reject the amendment.

Mr. Chairman, we have been down this road before. In 1980 and in 1981 we rejected this proposal during the regular appropriations process. This is the wrong time and it is the wrong place to do this business.

I just heard my colleague, the gentleman from Michigan, make an incredible statement, in which he was describing a $500,000 water research management program in the same context with such issues as our export policy, why farmers are having to tear up their ground due to a farm policy, food stamps, student loans, Watergatge, Vietnam, social security—but he left out the pay raise. We are going to have to give him the Pinocchio award for sticking his nose in other Members' districts.

Mr. Chairman, it is high time that we proceed with this project. But, to begin with, it is not even going to proceed; it is in court. In that regard, this is the wrong way to do business. We should let the courts decide and then proceed.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman from Kansas (Mr. ROBERTS).

Mr. REGULA. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I commend the gentlewoman from Nebraska (Mrs. SMITH) for her efforts to preserve the water supply in her State. In the years to come water is going to be recognized as one of the precious resources of this Nation and will be valued even more highly than presently.

The States that take the initiative in developing water supplies within their boundaries will effectively address what will become an extremely serious problem in the years to come.

It seems to me that this is a project that is directed toward preserving the water that falls in Nebraska and keep it there for the purpose of providing a strong agricultural economy.

We have seen clearly in the debate on the local content bill that one of the key elements in the ability of the United States to work toward a favorable balance of trade is surplus agricultural products that can be sold overseas. Plentiful farm production is dependent on water.

□ 1820

To address a problem in this bill of this magnitude and of this importance to Nebraska and to the gentlewoman's district would be an abuse of the legislative process. This is a continuing resolution. It is designed to keep the Government operating temporarily while we can address these problems in either authorizing or appropriation committees after adequate hearings.

This certainly is not the forum in which we should be taking an amendment that would not have had the proper hearings, that has long-term consequences not only for Nebraska but for the entire United States.

I support the gentlewoman's efforts to oppose this amendment.

Mr. BONIOR of Michigan. Mr. Chairman, I yield 4 minutes to my distinguished colleague from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Chairman, I have listened to the debate here and I know the gentlewoman from Nebraska is very much concerned about this project. I realize that there is a water problem in the western part of the United States including Nebraska, but there are cost-effective alternatives with much higher benefit-cost ratios to solve that problem.

A Federal investment of $4,535 per acre is eight times the average amount spent by the private sector to irrigate land. The Federal cost per acre of this particular project is four times, four times the current market value of irrigated land in the project area.

The major crop to be grown is corn, yet Nebraska farmers are participating in acreage reduction programs.

My colleagues, there are approximately 300 beneficiaries under this particular project. Each beneficiary, on average, would in effect be subsi-

dized at a cost of $1.2 million. We simply cannot afford that.

The gentlewoman from Nebraska was absolutely correct in stating that the support for this project in Nebraska was there earlier. It was there earlier, but the benefit-cost ratio has changed substantially and that support has seriously eroded.

In this session of the unicameral legislature in Nebraska, a resolution was introduced to reaffirm the State legislature's support for O'Neill, the project we are discussing.

But what happened? The resolution failed to pass.

I have here a letter from State Senator Don Wesley to Congressman JAMIE WHITTEN, the chairman of the Appropriations Committee, dated July 13, 1982, which says in effect that the lawmakers are not reaffirming their support for this particular project.

The fact that no money is appropriated this year is precisely why we need to act at the present time. The committee report clearly states that if the current injunction is lifted the Bureau of Reclamation may utilize available funds to continue the project.

The O'Neill unit has had its day in court. Now it deserves its day in Congress.

To put it simply, this project costs a lot. It does not help many people. It is environmentally unsound. If I had to put it on a scale of importance ranking from 1 to 10 it would probably have trouble making 1.

I oppose the project not because I have any particular ax to grind or political gain to make. Obviously I do not. The voters have determined that in Delaware.

But I feel strongly about it. I feel that it is not fair for us to spend public money on projects of dubious merit such as this one when we are asking so many Americans to tighten their belts and weather the dark clouds of our economic situation. We are cutting back assistance programs and making other tough decisions all in the name of narrowing the deficit so we can continue our fight to reduce inflation, to reduce the interest rates, and to put Americans back to work. We just cannot talk about getting tough and weeding out unnecessary expenditures in all departments, including the Defense Department, and then go ahead and allow millions of dollars to be spent on a dam we really do not want. That just is not fair.

Mrs. SMITH of Nebraska. I would like to say that the statement about Senator Wesely is not true, and I will refute it in the RECORD by inserting the text of the Senator's letter followed by texts of two letters from Nebraska legislative leaders with jurisdiction over this resolution and this project. The letters follow:

NEBRASKA STATE LEGISLATURE,
Lincoln, Nebr., July 13, 1982.

Hon. JAMIE WHITTEN,
Chairman, Committee on Appropriations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your committee will soon begin acting on the various appropriations bills and the Energy and Water Development Appropriations Bill for FY 83 is expected to contain funding for the O'Neill Unit, a Bureau of Reclamation water project which is part of the Pick-Sloan Missouri Basin Program.

Our Unicameral legislature was asked, by formal resolution, to again support the project. Popular support for the project has existed in previous years, and the legislature has previously endorsed it. Popular support, however, in recent times has eroded here in Nebraska. This year, the Unicameral tried, but failed to pass a formal resolution in support of the O'Neill Unit.

This is the first time such a resolution was effectively blocked. The significance is obvious. It is abundantly clear that the vast majority of Nebraskans no longer support the project.

As a member of the Unicameral who serves on the Public Works Committee, I believe that it is essential that your Committee fully understand the change in the position of the state.

Sincerely,

DON WESELY,
Senator.

NEBRASKA STATE LEGISLATURE,
Lincoln, Nebr., August 4, 1982.

Hon. TOM BEVILL,
Chairman, Subcommittee on Water and Energy Development.
Hon. JAMIE WHITTEN,
Chairman, Appropriations Committee, House of Representatives, Washington, D.C.

DEAR SIRS: Recently you received a letter dated 13 June 1982 from State Senator Don Wesely of the State of Nebraska in which Senator Wesely alleged, "This year, the Unicameral tried, but failed to pass a formal resolution in support of the O'Neill Unit."

Congressman, I want to assure you the letter is totally false and that information is, in the most polite terms, contrary to truth.

There was no attempt to even take up the resolution this session of the Legislature because this session of the Legislature was so tied up with battles over budget matters that I felt it unfair in the last hour of the Legislature to bring the resolution up and put the Legislature into a prolonged debate. There is no doubt in my mind that there were the votes to pass the resolution.

Remember, the Legislature has passed this resolution every timne it has come up in the State of Nebraska. I have been the sponsor each of those times. There has never been serious opposition at any time to this resolution.

Additionally, the legislation necessary for implementation of the O'Neill Project has been passed in previous years, amended as necessary, and always received overwhelming support by the Legislature and a signature by the Governor, be he Republican or Democrat.

The additional statements of Senator Wesely in the letter are equally erroneous. Senator Wesely is an urban senator who knows as much about water and our water needs in out-state Nebraska as a sow does about Sunday. There is no change of position in the State of Nebraska on the Norden Dam and for Senator Wesely to suggest otherwise is irresponsible. It has become popular for a few individuals in the State to campaign in opposition to the project and try to launch their political careers on that basis. It is tragic and unfortunate—but every State has its opportunist—that some of our own people in the State of Nebraska would so eagerly think to cut the throat of agriculture in Nebraska by cutting the throat of the dam.

The purpose of this letter, therefore, is to assure you that the Legislature has done nothing of record except to support the Norden Dam both in the past and up to the present. When and if the Legislature chooses to oppose it, I will be the first to let you know.

Possibly the most important thing to advise you, Congressman, is that when it comes to getting factual information the O'Neill project, the only absolutely reliable source of information at the congressional level is Congresswoman Virginia Smith. This dam has been carefully shepherded through Congress by and through her and I assure you that if anything truly adverse to the interest of the dam were done by the Legislature, she would be the first to know.

Respectfully,

JOHN W. DECAMP.

NEBRASKA STATE LEGISLATURE,
Lincoln, Nebr., August 4, 1982

Hon. TOM BEVILL,
Chairman, Subcommittee on Water and Energy Developments, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN BEVILL: It has been a number of months since you graciously afforded me the opportunity to visit with you in your office about the O'Neill Project here in Nebraska.

I have seen a copy of a letter, dated July 13, 1982, from a colleague of mine—Senator Don Wesely who is an opponent of the O'Neill Project and who has inevitably stated "this year the Unicameral tried but failed to pass a formal resolution in support of the O'Neill Unit. This is the first time such a resolution was effectively blocked. The significance is obvious. It is abundantly clear that the vast majority of Nebraskans no longer support the project."

Senator John DeCamp did not, out of consideration for the serious budget problems which demanded the major portion of our legislative time, attempt to pass the resolution during the 1982 legislative session. There is no doubt in my mind that if he had tried, the resolution would have passed.

Senator Wesely represents the thinking of a small minority of individuals here in Nebraska who are opposed to water storage projects. His thinking is in direct contrast to the thinking of the vast majority of Nebraska citizens. Your colleague and our own Congresswoman Virginia Smith is the single best authority from this state as to the true feelings of Nebraskans on the O'Neill Project. I and most of my colleagues support her wholeheartedly.

We are deeply grateful to you for the support and assistance you have given her on this project which is of vital importance to Nebraska citizens on this issue.

With every best wish, I remain. . .
Sincerely,
Senator LORAN SCHMIT,
CHAIRMAN, COMMITTEE ON
Agriculture and Environment.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to my friend and colleague, the gentleman from Florida (Mr. GIBBONS).

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana (Mr. MYERS) the ranking minority member of the appropriations subcommittee.

Mr. MYERS. I thank my chairman for yielding this 1 minute and I will try not to use all of it. I guess everyone says that and few really mean it.

I rise in opposition to this amendment. I shall not speak for the merits of the project. Many people have already addressed that, particularly the gentlewoman from Nebraska who knows this project better than anyone else in this Chamber this afternoon and has done an excellent job in presenting the merits.

The one thing that concerns me is our friend from Michigan I think has gone much further, by reading his amendment here, than he really intends. Chairman BEVILL has spoken of this.

None of the funds appropriated by this joint resolution or by any other Act shall be available for any activity relative to the construction of any irrigation program.

There are no funds in this bill for this project. That is the reason the gentleman had to go beyond this bill. In any other act this particular amendment would be ruled out of order or in any other appropriation, but because the rule provided for it, it has been brought up this afternoon.

But this would deny, as the chairman has said, due process.

This is now in litigation and by denying funds we deny due process. I do not think anyone wants to vote for that.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I rise in support of the Bonior amendment.

Mr. BONIOR of Michigan. Mr. Chairman, I yield myself 1 minute just to clarify the remarks that were made by my distinguished chairman of the subcommittee and the gentleman from Indiana (Mr. MYERS).

What we are dealing with here is a continuing resolution and there indeed is money in the continuing resolution for this project because it refers in the energy and water part of the bill to fiscal year 1982 levels. So let us be clear on that.

Second, it has been suggested to me by others that I not stick my nose into other people's districts. My response to that, and I say this with a very kind heart, is that I will stick my nose anywhere in this country where my taxpayers have to pay for projects. They have a right and they demand that I stick my nose into those particular situations.

□ 1830

Third, if I could I would just like to point out to my colleagues that I did come to the committee—the last time I came to the committee I asked them to deauthorize two projects in my own district and they are still there. That is why we have to come to the floor in such unusual situations to address perhaps one of the biggest boondoggles in this bill.

Mr. Chairman, I yield 2 minutes to my distinguished colleague from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, I think it is important that we understand exactly what we are attempting to do here.

First of all, I have the greatest regard for my friend from Nebraska. I have been to the committee. I have talked to my friend from Nebraska. I happen to believe that we have a duty to determine how taxpayers' money is best spent. I believe that is the duty that we have. And the gentleman from Michigan is right. We are going to vote now as to whether we should go ahead with this project or whether we should not go ahead with this project.

We should understand several things. It is said that 90 percent of the money will be paid back. It will be, but not by the irrigators. It will be paid back by users of power and this project generates absolutely no power. The irrigators will pay back 13 percent of the amount of the cost of this. This project will cost some $368 million to irrigate less than 300 Nebraska farms—more than a million dollars per farm. It will cost $4,500 per acre to increase the value of that land by less than $1,000. Does that make any sense at all in expenditures of taxpayers' money?

The purpose of this irrigation is to enable farmers to grow more corn. Mr. Chairman, our problem today is we have too much corn and too much other grain. We are paying farmers to destroy their corn, and taxpayers are paying billions of dollars to store our bulging surplus. Does it make any sense at all to anyone in this Chamber to say that we should spend hundreds of millions of dollars in order to grow more corn and then turn around and pay those same farmers millions and millions of dollars not to grow corn in our society?

Mr. Chairman, this project never did make sense. It makes less sense today. I do not believe we should spend money we do not have to produce corn and other crops that we do not need. Being a long-time opponent of this project, I am pleased to associate myself with this effort.

There are few decisions we must make that are so black and white and few issues where the evidence falls so overwhelmingly on one side. With annual deficits of $175 billion facing the Nation nothing should be so priviledged as to be sacrosanct from the detailed scrutiny necessary to assure fiscal responsibility.

The O'Neill project involves the construction of a dam on the environmentally unique Niobrara River and a 28-mile diversion canal to deliver water to 77,000 acres of land, half of which is already irrigated through private development. Providing irrigation to these 77,000 acres, however, would require inundating 30,000 acres. Only 12 percent of the acreage to be irrigated is class I farmland—land to which irrigation poses only minimal hazards. Nearly one-third is class III land which contains soil that has only marginal ability to hold water, meaning that irrigation water may pass right through the soil, carrying contaminants with it to the ground water below.

The cost of the project has again skyrocketed, this year by over $30 million from fiscal year 1982 to $368 million in fiscal year 1983, which means a taxpayer outlay of more than $1.2 million for each of the less than 1 percent of Nebraska's farms that would benefit from the project. The present projected cost of O'Neill is $4,535 per acre, up from $4,130. It is estimated that the market value of the land will increase by much less than $1,000 per acre. Does it really make sense, Mr. Chairman, for us to spend $368 million of taxpayers' money to irrigate 300 farms and increase the value of the land by far less than 25 cents for every dollar spent?

I would hope that these illuminating figures are enough to convince my colleagues of the necessity for this amendment. There are, however, several important developments that need attention as well.

First and foremost concerns the justification for the project. The major purpose of the project is to provide water for corn production precisely at the same time as Agriculture Secretary Block is desperately attempting to control oversupply and stimulate weak demand. To worsen this bleak situation, the Bureau of Reclamation noted in its project data sheet for this year that "a higher proportion of corn is expected with application of project water." Finally, to add insult to injury and heighten the sheer folly of the need for this project, I call attention to an article in the Omaha World-Herald on August 24. The headline reads "Farmers Destroy 400,000 Acres of Corn." These Nebraska farmers were forced to destroy this corn in order to comply with the administration's set-aside program aimed at re-

ducing the flood of corn the market is drowning in. And according to ASCS, farmers in my State of Iowa had to destroy 554,000 acres during this time in order to comply.

Mr. Chairman, needless to say, our midwest agricultrual economy is devastated. Not since the Great Depression have conditions and future prospects been so dismal, and yet the Interior Department is proposing to spend Federal money we do not have to produce more and more corn we do not need. Funding the O'Neill project distorts the market forces of supply and demand by exacerbating our problems with excessive supply. It also gives an unfair advantage to the less than 1 percent of Nebraska's farms that would receive this heavily subsidized water. The other 99 percent must complete without this substantial advantage.

Second and perhaps equally important, there is no consensus on this project. Intense and organized opposition exists both within the project area and around the State of Nebraska. Additionally, our colleague DOUG BEREUTER conducted a poll in his district and found that only 17 percent favored the project while a majority of 54 percent were opposed.

Mr. Chairman, it is clear to me, and I hope to our colleagues as well, that the O'Neill project is an expensive, unwarranted, and unneeded pork barrel boondoggle. I strongly believe that we must not allow the expenditure of funds for this project during these times of massive budget deficits, especially when no consensus of opinion exists in support of it.

I commend Messrs. BONIOR and EVANS for this worthy and needed amendment, and I urge its adoption.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. Mr. Chairman, I rise not only in opposition to this amendment but to simply point out that regardless of the merits of the matter before us today, to wake up and see that your constituency is blindsided by a rule that talks about the authorizing language that would not ordinarily belong in an appropriating measure is wrong. It is bad precedent. For that very reason I say let the courts decide, as it is scheduled to be decided in March of next year, and I urge the Members with all due respect to vote this amendment down.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Chairman, I rise in opposition to the amendment and associate myself with the remarks of the gentleman from Nebraska.

Mr. BEVILL. Mr. Chairman, I yield the balance of the time on this side to the chairman, the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, this is an example of what your committee was up against in this whole continuing resolution. I do not believe there is a controversy on the Hill on which one side or the other did not try to get us to enlist the Congress on their side of the argument. This matter is in court. And I think to form the policy of interfering where the controversy is in court would be all out of order.

With all due deference to the feelings of our friends, that is what courts are for and we should not enlist this Congress on either side of this issue.

So I hope the amendment is defeated.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I oppose the amendment.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Michigan (Mr. BONIOR).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. BONIOR of Michigan. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1840

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Michigan (Mr. BONIOR) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 144, not voting 44, as follows:

[Roll No. 448]

AYES—245

Anderson	Ashbrook	Barnard
Annunzio	Aspin	Barnes
Anthony	Atkinson	Bedell
Applegate	AuCoin	Bereuter
Archer	Bailey (MO)	Biaggi
Bingham	Glickman	Nowak
Blilley	Gonzalez	Oberstar
Boland	Gradison	Obey
Bonior	Gramm	Ottinger
Bonker	Gray	Panetta
Brinkley	Green	Patterson
Brodhead	Grisham	Paul
Brown (CA)	Guarini	Pease
Broyhill	Gunderson	Petri
Byron	Hall (OH)	Peyser
Campbell	Hall, Ralph	Porter
Carman	Hamilton	Pritchard
Clay	Hance	Rangel
Clinger	Harkin	Ratchford
Coats	Hartnett	Reuss
Coelho	Hawkins	Rinaldo
Collins (IL)	Hefner	Ritter
Collins (TX)	Heftel	Rodino
Conable	Hertel	Roemer
Conte	Hiler	Rosenthal
Corcoran	Hillis	Rostenkowski
Coughlin	Horton	Roth
Courter	Howard	Roukema
Craig	Hoyer	Roybal
Crane, Daniel	Huckaby	Russo
Crane, Philip	Hughes	Sabo
Crockett	Hunter	Santini
D'Amours	Hutto	Savage
Daniel, R. W.	Hyde	Sawyer
Dannemeyer	Jacobs	Scheuer
Daschle	Jeffries	Schneider
Dellums	Jenkins	Schroeder
Derrick	Jones (OK)	Schumer
Dicks	Kastenmeier	Seiberling
Dingell	Kennelly	Sensenbrenner
Dornan	Kildee	Shamansky
Dougherty	Lagomarsino	Shannon
Downey	Lantos	Sharp
Dreier	LeBoutillier	Shaw
Dunn	Lee	Shumway
Dwyer	Leland	Siljander
Dymally	Levitas	Simon
Early	Long (MD)	Smith (NJ)
Eckart	Lowry (WA)	Solarz
Edgar	Luken	Solomon
Edwards (CA)	Lundine	St Germain
Emery	Lungren	Stokes
English	Markey	Stratton
Erdahl	Martin (IL)	Studds
Erlenborn	Martin (NY)	Swift
Ertel	Matsui	Synar
Evans (DE)	Mavroules	Tauke
Evans (IN)	McClory	Tauzin
Fascell	McCloskey	Traxler
Fazio	McCollum	Trible
Fenwick	McCurdy	Udall
Ferraro	McDade	Vander Jagt
Fields	McDonald	Vento
Findley	McGrath	Volkmer
Fish	McHugh	Walgren
Fithian	Mica	Walker
Florio	Mikulski	Washington
Foglietta	Miller (CA)	Waxman
Ford (MI)	Mineta	Weaver
Ford (TN)	Minish	Weber (MN)
Forsythe	Mitchell (MD)	Weber (OH)
Fowler	Moakley	Weiss
Frank	Moffett	Whitehurst
Frenzel	Molinari	Williams (MT)
Frost	Moore	Wirth
Fuqua	Moorhead	Wolf
Garcia	Mottl	Wolpe
Gejdenson	Murphy	Wortley
Gephardt	Murtha	Wyden
Gilman	Neal	Yates
Gingrich	Nelligan	Yatron
Ginn	Nelson	

NOES—144

Addabbo	Breaux	Davis
Akaka	Brooks	de la Garza
Albosta	Broomfield	Dickinson
Alexander	Brown (CO)	Donnelly
Andrews	Brown (OH)	Dorgan
Badham	Burgener	Dowdy
Bafalis	Butler	Duncan
Bailey (PA)	Carney	Dyson
Benedict	Chappell	Edwards (AL)
Bennett	Cheney	Edwards (OK)
Bethune	Clausen	Emerson
Bevill	Coleman	Evans (IA)
Boggs	Coyne, James	Fiedler
Boner	Coyne, William	Flippo
Bouquard	Daniel, Dan	Foley
Bowen	Daub	Fountain

Gaydos	Madigan	Rousselot
Gibbons	Marlenee	Rudd
Goodling	Marriott	Shelby
Gore	Martin (NC)	Skeen
Gregg	Martinez	Skelton
Hall (IN)	Mazzoli	Smith (AL)
Hall, Sam	McEwen	Smith (IA)
Hammerschmidt	McKinney	Smith (NE)
Hansen (ID)	Michel	Smith (OR)
Hansen (UT)	Miller (OH)	Snowe
Hatcher	Mollohan	Snyder
Heckler	Montgomery	Spence
Hendon	Morrison	Stangeland
Hightower	Myers	Staton
Holt	Napier	Stenholm
Hopkins	Natcher	Stump
Hubbard	Nichols	Taylor
Jones (NC)	Oakar	Thomas
Jones (TN)	Parris	Wampler
Kazen	Patman	Watkins
Kogovsek	Pepper	White
Kramer	Perkins	Whitley
Latta	Pickle	Whittaker
Leath	Pursell	Whitten
Lent	Quillen	Williams (OH)
Lewis	Rahall	Wilson
Livingston	Regula	Wright
Loeffler	Roberts (KS)	Wylie
Long (LA)	Roberts (SD)	Young (AK)
Lott	Robinson	Young (FL)
Lowery (CA)	Rogers	Young (MO)
Lujan	Rose	Zablocki

NOT VOTING—44

Beard	Goldwater	O'Brien
Beilenson	Hagedorn	Oxley
Blanchard	Holland	Pashayan
Bolling	Hollenbeck	Price
Burton, John	Ireland	Railsback
Burton, Phillip	Jeffords	Rhodes
Chappie	Johnston	Roe
Chisholm	Kemp	Schulze
Conyers	Kindness	Shuster
Deckard	LaFalce	Smith (PA)
DeNardis	Leach	Stanton
Derwinski	Lehman	Stark
Dixon	Marks	Winn
Evans (GA)	Mattox	Zeferetti
Fary	Mitchell (NY)	

□ 1850

Mrs. SNOWE and Mr. HANSEN of Idaho changed their votes from "aye" to "no."

Messrs. DOUGHERTY, BIAGGI, BARNARD, and COLLINS of Texas changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment which was made in order by the rule and duly printed in the CONGRESSIONAL RECORD.

The Clerk read as follows:

Amendment offered by Mr. CONTE: On page 10, in line 3, after "1982" insert ": *Provided further,* That no appropriation, fund or authority made available by this joint resolution or any other Act shall be used for construction of the Garrison Diversion Unit in North Dakota".

The CHAIRMAN pro tempore (Mr. MITCHELL of Maryland). Pursuant to the rule, the gentleman from Massachusetts (Mr. CONTE) will be recognized for 15 minutes, and a Member opposed to said amendment will be recognized for 15 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

□ 1900

Mr. Chairman, I rise in support of my amendment to stop wasting taxpayers' dollars on the Garrison diversion unit in North Dakota. This kind of Federal boondoggle would have been stopped long ago by commonsense alone, were it not for the fact that in the arena of pork barrel politics, commonsense is often the least common of all the senses.

The Garrison project is a continuing threat to Canadian interests. As this map illustrates, the Garrison project meanders back and forth across the divide between the Missouri River drainage basin, which drains to the south, and the Hudson Bay drainage basin, which drains north into Canada. Seventy-nine percent of the project is north of the divide.

According to the report of the International Joint Commission, which was assigned to investigate Canadian concerns about Garrison pollution of Canadian waters, the Garrison project "would cause significant injury to health and property in Canada as a result of adverse impacts on the water quality and on some of the more important biological resources in Manitoba." There would be increased phosphate and nitrate runoff pollution in the Red and Souris Rivers, and the introduction of American rough fish into Canadian waters. Scientists estimate that once introduced into the Canadian watershed, these fish could absolutely devastate Manitoban commercial and sport fishing in Lake Winnipeg.

The proponents of this project claim that Canadian concerns have been dealt with by moving forward only with phase 1, which includes features only in the Missouri River basin watershed. This is not true.

A number of technical features that are necessary to prevent the transfer of harmful American fish and irrigation pollutants into Canadian waters, such as fish screens and sand filters, have yet to be perfected. In addition, the Bureau of Reclamation has indicated that a proposed siphon that would carry the new Rockford Canal under the Sheyenne River near Devils Lake could, through seepage and routine cleaning and maintenance, result in the transfer of American rough fish to Canadian waters.

Mr. Chairman, at this point I would like to insert letters from the Canadian Ambassador and the premier of Manitoba regarding this project.

CANADIAN EMBASSY,
Washington, D.C., November 29, 1982.

Hon. SILVIO CONTE,
House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CONTE: The Premier of the Province of Manitoba, the Honourable Howard Pawley, has asked me to bring to your attention the attached letter which sets out the Province's concern about funds being appropriated for the Garrison water diversion project in fiscal year 1983.

The Government of Canada shares Manitoba's concern. We continue to have apprehensions about the project's potentially adverse transboundary effects as identified by the International Joint Commission. The Commission concluded that the project as now designed would have seriously damaging effects on Manitoba waters in violation of the Boundary Waters Treaty between Canada and the United States.

We deeply appreciate the recognition of Canadian concerns by Congress in previous Garrison appropriation votes in stipulating that funds be spent only on portions of the project not affecting Canada. At the same time, we see danger in continuing construction momentum in the absence of project redesign that would avoid water flows into Canada. I would be grateful if you would bear these Canadian concerns in mind in your forthcoming deliberations on the Garrison Diversion appropriation.

Yours sincerely,

ALLAN GOTLIEB,
Ambassador.

THE PREMIER OF MANITOBA,
Winnipeg, November 29, 1982.

Mr. SILVIO O. CONTE,
House of Representatives, Rayburn Building, Washington, D.C.

DEAR REPRESENTATIVE CONTE: The House of Representatives will be voting soon on the 1983 Energy and Water Development Bill which contains a $4 million appropriation for construction of the Garrison Diversion Project in North Dakota. The Manitoba government is opposed to the appropriation of additional funds for this project before the outstanding issues between Canada and the United States are resolved in accordance with the Boundary Water Treaty.

In June of this year, a Canadian Parliamentary delegation, composed of representatives of both the federal and Manitoba governments and the country's three major political parties, met with members of the House of Representatives. During those meetings, the delegation stated that the inter-basin transfer of water could have a disastrous impact on Manitoba by reducing water quality and destroying the province's multi-million dollar fishing industry. These concerns have been supported by the findings of the studies conducted by the International Joint Commission.

Additional funding for the project at this time would increase momentum toward completion of a project inconsistent with both the treaty signed by our two countries and formal U.S. government assurances that bilateral issues would be resolved before construction proceeds on project features which could affect Manitoba. For these reasons, I urge you not to support additional funding for Garrison at this time so that the project may be redesigned to meet the needs of North Dakotans for water and to eliminate the risk that inter-basin transfer of water creates for Manitobas.

Yours sincerely,

HOWARD PAWLEY.

Mr. Chairman, even if phase I of the Garrison project does not violate our treaty with Canada, the project is still economically absurd. Phase I would require the construction of nearly all Garrison unit reservoirs and pumping stations and 67 percent of the 258

miles of canals, but will irrigate only 34 percent of the original 250,000 acres of land. This would bring the estimated benefit-to-cost ration down to 0.92 to 1 using a 3.125-percent interest rate. With a more realistic 7.625-percent interest rate, the benefit/cost ratio drops to 0.43 to 1.

This type of nonreturn on the taxpayers' investment is even more outrageous when you consider that the total authorized project cost of $207 million in 1965 has now escalated to over a billion dollars.

Finally, Mr. Chairman, this project would result in the greatest single unit loss of prairie wetlands in North Dakota history—over 70,000 acreas of prime prairie waterfowl marshes. It would destroy or damage 13 national wildlife refuge areas, and severely hamper North Dakota's status as the producer of more ducks annually than any State except Alaska. The proponents of this project claim that mitigation efforts are underway, but in fact, Mr. Chairman, the Federal-State Committee created to come up with a migratory waterfowl mitigation plan will not even issue its report until December 30 the end of this year.

Mr. Chairman, this project is only 15 percent complete—only the McCluskey Canal, shown in green on this map, has been finished. The time to stop this travesty is now—before we sink another dime into it. This amendment is endorsed by the Wildlife Management Institute, the National Audubon Society, the National Taxpayers Union, the Coalition for Water Project Review, the Environmental Policy Center, Friends of the Earth, the National Wildlife Federation, the Natural Resources Defense Council and the Sierra Club. I ask that correspondence from these organizations be included in the RECORD, and urge the adoption of this amendment.

WILDLIFE MANAGEMENT INSTITUTE,
Washington, D.C. December 6, 1982.

DEAR CONGRESSMAN: We understand the House of Representatives soon will take up the fiscal year 1983 Energy and Water Appropriations bill. Among the items to be considered will be an amendment by Mr. Conte to delete funding for the Garrison Diversion Project in North Dakota. That amendment deserves your careful attention.

It is estimated that this Bureau of Reclamation project ultimately will cost taxpayers over $1 billion. In addition, there are a number of project costs beyond dollar expression, such as its devastating impacts on fish, wildlife and their habitats. Adverse impacts that should be prevented include—

Garrison will destroy some 70,000 acres of prime wetlands in the State of North Dakota and will degrade or destroy 12 national wildlife refuges—all located in the Central Flyway for migratory birds. Substantial numbers of migratory birds are produced annually in North Dakota, including more ducks than in any other state except Alaska. Garrison will remove prime habitat migratory birds depend on for food, reproduction and survival.

The interbasin transfer of water (from the Missouri River basin to the Hudson Bay watershed) could destroy more than half of the fishery in Manitoba. The International Joint Commission has concluded that the Garrison project would violate the Boundary Waters Treaty between the U.S. and Canada.

Despite these anticipated adverse impacts on national and international resources, plans and actions to avoid the losses or replace the economic resources have been inadequate or lacking. The Department of the Interior at one time concluded that approximately 146,000 acres were needed to replace wildlife habitat losses caused by the project and questioned if that acreage was adequate. To date, only about 8,000 acres have been set aside to replace project-induced losses. There are no plans to add more acreage at this time, even though project construction is moving forward.

We understand the Department of the Interior is working on a re-evaluation of the Garrison project. A revised plan to prevent and compensate for project-induced habitat losses is to be released before the end of 1982. It is obvious that a revised plan is needed.

In view of the inadequate Garrison Diversion Project plans, it is believed that Mr. Conte's proposed amendment deserves support.

Sincerely,

DANIEL A. POOLE,
President.

COALITION FOR
WATER PROJECT REVIEW,
Washington, D.C., November 29, 1982.

Hon. SILVIO CONTE,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE CONTE: The House will soon consider the FY83 Energy and Water Appropriations bill (H.R. 7145). When it does, Congressman Conte will offer an amendment to delete funding for the Garrison Diversion project, a Bureau of Reclamation project in North Dakota. You supported Congressman Conte in a similar effort last year and we strongly urge you to support him again in his effort to halt further spending on the Garrison project until the massive environmental, international and economic problems created by the project are resolved.

In September of this year when it appeared possible that the Energy and Water Appropriations bill might be considered by the full House, several of us wrote you about our specific objections to the project. Copies of letters from the National Wildlife Federation, the National Audubon Society, and the Sierra Club are attached. (Also attached for your information is correspondence from Canada's Ambassador to the United States and the Premier of Manitoba to Members of the House Appropriations Committee expressing Canada's concerns about the project.) We will be happy to supply further information about the project if you so desire.

We'd like to express our thanks to you for voting to cut funding for the Garrison project last year. We look forward to your support again of the Conte amendment to delete funding for Garrison.

Brent Blackwelder, Environmental Policy Center; Dave Conrad, Friends of the Earth; Charlene Dougherty National Audubon Society; Ed Osann, National Wildlife Federation; Greg Thomas, Natural Resources Defense Council; and Jim Elder, Sierra Club.

SIERRA CLUB,
Washington, D.C., September 13, 1982.

DEAR REPRESENTATIVE: On behalf of the membership of the Sierra Club, I am writing to urge your support for an amendment Congressman Conte will offer to the FY83 Energy and Water Appropriations bill to delete funding for the Garrison Diversion Project, a Bureau of Reclamation irrigation project in North Dakota. I understand this bill may reach the House floor for consideration in the near future.

The Garrison Diversion project should not receive further funding unless or until the massive environmental and other problems associated with it are resolved. In this time of economic stress and competing priorities for the allocation of the increasingly scarce federal monies, there cannot be any justification to spend federal funds—no matter how little—on a project such as Garrison.

The Garrison project, as authorized by the Congress in 1965, is designed to irrigate 250,000 acres (6/10ths of 1 percent of the agricultural land) in North Dakota. The Bureau of Reclamation estimates the total cost for the project at just over one billion dollars—a five-fold increase from the original 1965 estimate of $207 million dollars. The Bureau's data show that the federal investment per irrigated acre is $3753, while repayment by the beneficiary is set at $77 per acre. This strikes us as an unconscionable expenditure of federal funds.

The project's "benefits" are quite questionable as well. One of the cited benefits, for example, is that of wildlife enhancement. In reality, the project will have a devastating and deadly effect on wildlife. Presently North Dakota, with its many shallow lakes and prairie wetlands, is one of this nation's more productive wildlife areas. The variety of its waterfowl—geese, ducks, shore birds, and others—is enormous and rich. The wildlife refuges and wetlands located there, besides providing important breeding and nesting areas, are also located on the Central Flyway for North American birds. The Garrison project will adversely affect North Dakota's rich wildlife habitat. It will damage or destroy 12 National Wildlife Refuges and result in the loss of a substantial amount of wetlands acreage in North Dakota—all important habitat for wildlife. Furthermore, virtually nothing is being done to mitigate these wildlife losses.

The project will inflict substantial environmental damage on Canada as well. The International Joint Commission, which investigated the impacts Garrison will have on Canada, determined the project will have significant adverse impacts on Canada's water resources and will violate the Boundary Waters Treaty between the U.S. and Canada. For example, as the project transfers water from the Missouri River Basin across the Continental Divide and into the Hudson Bay Watershed, new and different biota and rough fish will be introduced into Canadian waters. It is estimated that this will result in a loss of 50 to 70 percent of Manitoba's commercial fishery.

There are many other adverse consequences of the Garrison project. But, there is time to take corrective action because much of the damage has not yet occurred. The project is only 15 percent complete. Before allowing construction to gain further momentum, this is an ideal time to halt funding and to determine if there are less damaging alternatives to the authorized project. I would urge Congress to conduct hearings on the present project and request

that alternative courses of action be developed by an objective body before any more federal dollars are wasted on Garrison. With such information at hand, Congress could then determine, what, if any, project should be built.

I would be happy to discuss the project with you further or provide additional information. Thank you for taking our views into consideration.

Sincerely,

JIM ELDER,
Washington Representative.

NATIONAL AUDUBON SOCIETY,
Washington, D.C., September 13, 1982.

DEAR REPRESENTATIVE: The Energy and Water Appropriations bill will be on the House floor in the very near future. Congressman Conte will offer an amendment to that bill to delete fiscal year 1983 funding for the Garrison Diversion unit, a Bureau of Reclamation project in North Dakota. You supported Congressman Conte in a similar effort in July, 1981. On behalf of the nearly one-half million members of the National Audubon Society, I urge you to vote once again in favor of cutting funding for this project.

In the event the energy and water appropriations bill is incorporated into a continuing resolution, we urge you to press for a rule permitting separate votes to be taken on the question of funding certain controversial projects. Several projects, including Garrison, slated for funding in the energy and water appropriations bill have been the subject of very close House floor votes in past years. On such issues where a sizeable segment of the House opposes further funding, we believe it is important, indeed critical, that separate votes be taken. We hope you agree and that you will work to ensure that separate votes are permitted.

Returning to the issue of the Garrison Diversion project, I'd like to point out just a few of the reasons to oppose the project:

If built as authorized, the project will damage or destroy 12 National Wildlife Refuges and will result in the loss of 70,000 acres of prime waterfowl marshes, thereby causing a devastating impact on North Dakota's rich and productive wildlife. (North Dakota produces more ducks annually than any other state except Alaska; its wetlands and refuges are extremely important to migratory birds as well.)

Costs of the project have quintupled since its authorization in 1965 to $1.018 billion, while its cost ratio has dropped. Intended as an irrigation project, 220,000 acres will be taken in order to irrigate 250,000 acres (only 6/10 of 1 percent of North Dakota agricultural land). The federal investment per acre amounts to $3,753 per acre with repayment by the farm beneficiary set at $77 per acre.

If built as authorized, the project will have significant adverse impacts on Canada, including possible destruction of 50-70 percent of Manitoba's commercial fisheries.

The International Joint Commission has determined that the authorized project will violate the Boundary Waters Treaty between the United States and Canada.

Project impacts downstream have not been adequately evaluated and concern over such impacts has caused a group of South Dakota landowners to go to court to demand that these impacts be studied and disclosed before construction continues. (Construction, however, is proceeding pending resolution of the court case.)

I also have great concern about what is now being constructed in North Dakota. The United States has from time to time assured Canada that the U.S. will not build a project which potentially affects Canada's waters. Since nearly 80 percent of the authorized project will affect Canadian waters, I am puzzled about what the Bureau of Reclamation is now building and what the Bureau expects it will be allowed to complete. If the Bureau does not expect to build the entire authorized project because of the potential harm to Canada, then it should so inform the Congress. Such a major shift from the original project to a different, much smaller project with new costs, unevaluated impacts, and different benefits should not be permitted without review and authorization by Congress.

Although authorized in 1965, Garrison is only 15 percent complete. Since its authorization, massive problems—environmental, international and economic—have come to light. Before compounding these problems with further construction, we believe that environmentally, economically and internationally sound alternatives to the existing project should be developed and that Congress should have the opportunity to examine and authorize, if it chooses, an alternative project.

I could list many more reasons why Garrison should not be funded. You have probably heard most of the reasons, but if you would like more information, please contact me or my Washington office (547-9009).

I urge you to continue to actively oppose further funding for the Garrison project and to do what you can to ensure that a review of the existing project and a complete and objective analysis of alternatives to the existing project are undertaken.

Sincerely,

RUSSELL W. PETERSON,
President.

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., September 24, 1982.

DEAR REPRESENTATIVE: When the House considers the Energy and Water Development Appropriations bill for Fiscal 1983, Representative Conte will offer an amendment to delete four million dollars in new construction funds for the Garrison Diversion Unit in North Dakota. The National Wildlife Federation urges you to support this amendment.

There are several reasons why the Congress should reject Secretary Watt's request for $4 million for Fiscal 1983, and any additional construction funds that may be sought for the Garrison project as currently authorized.

The Bureau of Reclamation, and the State of North Dakota, are seeking to build this controversial project in "phases," preferring to deal with unsolved problems such as the impacts on Canadian watersheds and the enormous fish and wildlife mitigation requirements after much of the project is built and hundreds of millions of dollars have been spent;

The Bureau of Reclamation, and the local project sponsor, have refused to replace wildlife habitat lost to the project concurrently with project construction;

At $1.15 billion, the Garrison project is one of the most expensive projects in the entire Reclamation program, and funds for other necessary programs and projects important to the wildlife resources of the nation are proposed for reduction this year.

The Garrison Diversion is plagued with many problems—international, economic, and environmental. One of the most critical of these problems is the project's effect on twelve National Wildlife Refuges—all located on the Central Flyway for migratory birds. North Dakota produces more ducks than any other state in the Lower 48. The health and viability of these populations are dependent on the Wildlife Refuges and the food and habitat that they provide. The Garrison Diversion Unit would destroy 70,000 acres of prime waterfowl marshes and destroy or damage these 12 crucial Wildlife Refuges.

The environmental impacts on the National Wildlife Refuges would be reason enough to examine the Garrison Diversion Unit more closely before appropriating more funds. But when the project's international impacts and economic shortcomings are also considered, your action to support the Conte amendment to strike new construction funds for the Garrison Diversion Unit becomes all the more critical.

Sincerely,

JAY D. HAIR,
Executive Vice President.

NATIONAL WILDLIFE REFUGES ADVERSELY AFFECTED BY GARRISON DIVERSION PROJECT

Audubon NWR established 1956, includes 14,735 acres to provide waterfowl production and migration habitat. Garrison Impacts: 4,174 acres of upland and 490 acres of wetland inundated, reducing nesting islands from 196 to 148. Pronghorn antelope herd eliminated.

Sheyenne Lake NWR established 1935, includes 799 acres water and 210 acres of uplands, to provide waterfowl production and migration habitat. Garrison Impact: to be totally inundated by the proposed Lonetree Reservoir.

Arrowwood NWR established 1935, includes 15,934 acres, to provide waterfowl production and migration habitat. Garrison Impact: to receive nearly a 3-fold increase in James River flows through the refuge, precluding drawdown management for wildlife food production.

J. Clark Salyer NWR established 1935, includes 58,748 acres, to provide waterfowl production and migration habitat. Garrison Impact: to receive increased flows of low quality water in the Souris River through the refuge, possibly carrying carp into the managed pools of the refuge, resulting in destruction of aquatic habitat.

Tewaukon NWR established 1934 includes 8,156 acres, to provide waterfowl production and migration habitat. Garrison Impact: to receive nearly a 2-fold increase in Wild Rice River flows through the refuge, precluding drawdown management for wildlife food production and introducing carp to managed pools.

Upper Souris NWR established 1935, includes 32,085 acres, to provide waterfowl production and migration habitat. Garrison Impact: possible carp introduction resulting in destruction of aquatic habitat.

Sand Lake NWR, South Dakota, established 1935, includes 21,450 acres, to provide waterfowl production and migration habitat. Garrison Impact: reduced summer flows of James River through the refuge, while receiving increased fall and winter flows of low quality water from irrigation drainage. Winter flows may promote overwintering concentrations of migratory waterfowl, resulting in disease and high mortality.

Des Lacs NWR established 1935, includes 18,841 acres, to provide waterfowl production and migration habitat. Garrison Impact: possible carp introduction resulting in destruction of aquatic habitat.

89-059 O-86-32 (Pt. 22)

Lake Alice NWR established 1935, includes 7,539 acres, to provide waterfowl production and migration habitat. Garrison Impact: winter flows may induce overwintering of waterfowl, resulting in disease and high mortality.

Dakota Lake NWR established 1939, includes 800 acres water and 3,100 acres of upland, to provide waterfowl migration habitat. Garrison Impacts: winter flows may induce overwintering of waterfowl, resulting in disease and high mortality.

Wild Rice Lake NWR established 1936, includes 778 acres, to provide waterfowl migration habitat. Garrison Impacts: increased flows of low quality water in the Wild Rice River through the refuge.

Lake Nettie NWR established 1939, includes 2,895 acres, to provide waterfowl production and migration habitat. Garrison Impacts: increased water table from the project has reduced the drying and regeneration of wetland habitat, reducing its value for waterfowl production.

Except where noted, all refuges are located in North Dakota.

SEPTEMBER 10, 1982.

U.S. House of Representatives:

Until the outstanding bilateral issues are resolved, the Manitoba government is strongly opposed to further funding for portions of the Garrison Diversion Unit potentially affecting this Province. As both the Canadian Parliamentary Delegation and citizen sponsored delegations stated during their recent meetings with Members of the U.S. Congress, the interbasin transfer of water could have a disastrous impact on the Province by reducing water quality and destroying the fishery. Additional funding at this time would only increase momentum toward completion of the project in a manner inconsistent with the international boundary waters treaty and formal U.S. Government assurances to Canada that bilateral issues would be resolved before construction proceeds on features of the project which could affect Manitoba.

HOWARD PAWLEY,
Premier of the Province of Manitoba.

CANADIAN EMBASSY,
Washington, D.C., September 13, 1982.

Hon. JAMIE L. WHITTEN,
House of Representatives,
Washington, D.C.

DEAR MR. WHITTEN: The Premier of Manitoba, the Honorable Howard Pawley, has asked me to ensure that the attached telegram, conveying Manitoba's concern over the prospect of an additional appropriation for the Garrison Diversion Unit, is brought to the attention of all members of the House Appropriations Committee. As you know, it is expected that the Committee will shortly have before it for consideration an additional $4 million appropriation requested for the Garrison project as part of the Energy and Water Development Appropriations bill for the 1983 fiscal year.

Canada remains seriously concerned over the potential adverse transboundary impacts of the Garrison Diversion project. The basis of Canadian concern relates to the serious and irreversible damage to Manitoba's multi-million dollar freshwater fishery associated with project-related transfers of different kinds of fish species, diseases and parasites from the Missouri River system into the Hudson Bay drainage basin. Numerous scientific studies, including the two-year examination of the project's transboundary impacts carried out by the International Joint Commission, have substantiated Canadian concerns, and concluded that the project as now designed would seriously affect Manitoba waters with damaging results, in violation of United States obligations to Canada under the 1909 Boundary Waters Treaty.

In recent meetings between Canadian legislators and members of Congress, and in consultations between Canadian and U.S. officials, Canadian representatives have continued to urge that the project be redesigned so as to eliminate all interbasin transfers of water and associated harmful foreign biota. The Canadian and Manitoba governments remain of the view that, consistent with previous formal United States government assurances to Canada, project features potentially affecting Canada should not be built until the outstanding bilateral issues are satisfactorily resolved.

We deeply appreciate the recognition of Canadian concerns shown in past Garrison appropriations votes by the Congress, in stipulating that additional appropriations be spent only on portions of the project not affecting Canada. Your willingness to bear our concerns in mind in your forthcoming deliberations on the Garrison Diversion appropriation requested this year will be very much appreciated.

Yours sincerely,

ALLAN GOTLIEB,
Ambassador.

NATIONAL TAXPAYERS UNION,
Washington, D.C., September 14, 1982.

DEAR REPRESENTATIVE: In the near future, the Energy and Water Appropriations bill for fiscal year 1983 will be on the House floor for your consideration. On behalf of the National Taxpayers Union, I am writing to urge you to support Congressman Conte's amendment to delete funding for the Garrison Diversion project, a Bureau of Reclamation project in North Dakota.

We strongly object to spending any money at all for the Garrison project until the economic, international, and environmental problems associated with it are resolved. The project is only 15 percent complete. The time to solve these problems is now—before we rush to resume construction of this project as we have done so often with other projects in the past. The Garrison project was stopped in 1977 by Court order, and was lifted last May. Yet, it appears that the Department of the Interior, which is now free to resume construction of Garrison this year, is intent on proceeding with a rapid construction schedule which may cause irreparable environmental harm, violate the Boundary Waters Treaty with Canada, and preclude the orderly development and consideration of economic alternatives to the authorized project which could save millions of taxpayer dollars.

The cost of the Garrison project is rapidly escalating. When authorized in 1965, the Bureau of Reclamation estimated the total cost would be in the neighborhood of $207 million. Current estimates are over $1 billion. Garrison, like many other water projects, carries with it a large subsidy to the individual beneficiaries. In this case, the Bureau's own project data sheet shows that the federal cost per irrigated acre to be $3,753 and the repayment by the beneficiary for each acre is only $77. This is nothing less than a federal welfare program for large farmers in North Dakota, at the expense of beleaguered taxpayers throughout the country.

The International Joint Commission concluded that the Garrison project, if built as authorized, would violate the 1909 Boundary Waters Treaty between the United States and Canada. The U.S. State Department has sought to reassure the Canadians that their concerns will be addressed. The Interior Department has stated that they are moving ahead with the project in phases, beginning with an 85,000 acre "first phase." (The authorized project calls for irrigation of 250,000 acres). The Interior Department has further stated that it will not move to the next phase until the concerns of Canada have been met. Since 79 percent of the authorized project will impact upon Canada's waters, it is unlikely that the Bureau will be able to meet Canada's concerns and move on to the next phase. And, if the Bureau knows this—and surely they must—then it should tell the Congress, the taxpayer who is footing the bill and the farmers in North Dakota who will be affected.

As you recall, last year Congress came very close to deleting funds for the project during consideration of the fiscal year 1982 Energy and Water bill. In November, the House overwhelmingly disapproved an attempt by the Senate to order the Department of the Interior to proceed with construction, overruling court orders to the contrary. A group of landowners in South Dakota, concerned about the impact of the Garrison project on the James River and their land, has filed suit. We understand this case is currently pending in court in South Dakota. Canadian citizens, concerned about the potential loss of over half of the commercial fishery in Manitoba as a direct result of the Garrison project, came to Washington several months ago at their own expense to plead for relief. Several farmers from North Dakota have similarly made the long and expensive trek to Washington in an attempt to convince you that they do not want this project.

This year—a year of great economic stress and a time when hard decisions about funding programs must be made—is the time to address the Garrison issue directly. We ask that you not fund this program this year. The Bureau, as late as this spring, had nearly $9 million in previously appropriated but unexpended funds for Garrison. Instead of rushing ahead with construction, we urge you to call for Congressional hearings to examine alternatives to the Garrison project. And if there is an alternative to the project which meets the economic, environmental, and international problems, then the Congress should subject that alternative to the normal Congressional authorization process.

Sincerely,

LEN RIPPA,
Director of Congressional Affairs.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of Mr. CONTE's amendment to delete funding for the Garrison diversion project in North Dakota.

When Congress authorized the project back in 1965, many of the problems now associated with the project were not foreseen. It now appears, however, that the project will cause great harm to the environment both in this country and in Canada.

The Garrison project is of special concern to me because it falls within

the interest areas of the House Interior Committee and the House Foreign Affairs Committee. As a member of both committees, I feel a responsibility to do what I can to see that the problems in the bill are resolved by delaying further funding until a thorough review of the project can be conducted to determine if there are alternatives which might be acceptable.

There are several reasons to oppose continued construction of the Garrison project at this time:

First, Canada opposes construction of Garrison, and I do not feel we should let the project go forward until the concerns of Canada have been fully considered. As you recall, in 1976, the International Joint Commission concluded that the project would be in violation of the Boundary Waters Treaty, which should be sufficient reason for us to disapprove funding the project at this time. But we should also consider the impacts the project will have on our neighbors to the North. The irrigation return flows may well pollute their waters. The interbasin transfer of water from the Missouri River to the Hudson Bay Watershed will most likely result in the introduction of rough fish and foreign biota into Canadian waters. It is estimated that this could lead to the destruction of half or more of the commercial fishing in Manitoba and adversely affect the recreation industry there as well.

Second, aside from the impacts on Canada, I am also concerned about the U.S. environmental impacts of the project. The project will ruin thousands of acres of wetlands which are much-needed habitat for the ducks and other wildfowl in the State as well as for the hundreds of thousands of migratory birds which pass through North Dakota. We have all heard before that the project will harm a dozen national wildlife refuges, which would be a great tragedy.

I also urge you not to lose sight of the fact that Garrison is a billion dollar project, even though the fiscal year 1983 appropriation is only $4 million. Future funding requests will most likely be much higher, which we cannot easily afford during this time of fiscal constraints.

Today we have an opportunity to halt this project. There is time to sit back and work out the problems associated with Garrison. Let us stop funding for the time being and reconsider the project now while so little damage has been done and so little money has been expended.

Mr. BEVILL. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. (Mr. MITCHELL of Maryland). The gentleman from Alabama (Mr. BEVILL) is recognized for 15 minutes.

Mr. BEVILL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from North Dakota (Mr. DORGAN).

Mr. DORGAN of North Dakota. Mr. Chairman, I always find the gentleman from Massachusetts entertaining. However, his accuracy does not match his entertainment. On this issue, the fact is the representation by Mr. CONTE with his map of the Garrison diversion unit is sadly deficient. I would like to clear up some of the misimpressions that I think were left on the floor of the House by that presentation.

I was 2 years old, Mr. CONTE, when the Federal Government told North Dakota that it wanted to strike a bargain with North Dakota. The Federal Government said, "We are tired of the flooding down in Kansas City, Mo., and we would like to do something about that."

The Federal Government said, "We would like downstream navigation capabilities on the Missouri. We would like to do something about that."

The Federal Government said, "We would like cheap hydroelectric electricity in that region, and we would like to do something about that. What we want to do is build a dam. We want to flood 550,000 acres of North Dakota good river bottom land," and in exchange for a flood that came and stayed in North Dakota, "You folks in North Dakota are going to get some benefits. We will give you a water diversion unit if you allow that flood, that 550,000-acre flood, to come and stay.

I was 2 years old when they made that promise to North Dakota. Today, on the floor of the House, we are asking for $4 million. At that rate, it will take 200 years to build that project.

My friend from Massachusetts tells you his facts about the project; the fact is, in the 1940's they promised North Dakota a 1-million acre project. The project that my friend from Massachusetts talked about is a 250,000-acre project. He knows full well that the phase that is now being talked about is only an 85,000-acre project at this point.

Well, I am not willing to let this House forget its promise. I do not think fast shuffles are appropriate in public policy. I think we ought to stick to the commitments and promises that are made to people, and i think we ought to do it based on the facts. It is wrong—wrong to break promises. You promised North Dakota a water diversion program. Where is the justice in coming to the floor of this House with the kind of facts that were represented here, suggesting that we ought to break that commitment?

Let me talk about the facts. The project is going to degrade the environment, my friend from Massachusetts says. That is absolute nonsense. The fact is that a five-member group with two Federal representatives including a Federal Fish and Wildlife official just finished last Friday a mitigation enhancement program that determined that this project will in fact enhance wild waterfowl environment. The waterfowl habitat will be enhanced, not degraded.

There is not another State in this country that has contributed more to waterfowl enhancement and habitat than North Dakota. We have 5.3 million acres, fee-owned or easement, of wetlands in North Dakota.

I am not sure what the gentleman suggests. Does he want North Dakota to be a 70,000 square mile duck nest? We produce 85 percent of the ducks and geese. We do our job in North Dakota. If we become a national duck nest up there, you are not going to be able to eat spaghetti. What we raise up there is Durum wheat, which produces the semolina flour that gives us spaghetti. The fact is, we have a good integration of a farm economy and wildlife habitat and we have good wetlands that produce a tremendous duck and geese population up there.

□ 1910

This project will not degrade the environment. This project will not degrade the wildlife habitat.

On the cost issue, they say it costs too much. The fact is that the costs are going to be paid largely from the hydroelectric power that is being produced by that dam. That was part of the promise.

They say that the Canadians have some concerns. Not one penny of the $4 million is going to be used to build any feature of this project that is going to run water into the Hudson Bay drainage, and that is a fact. The cost, the environment, the Canadian issues that have been raised are all absolute nonsense. The issue is commitment.

The 85,000-acre phase I project is something that this Government owes North Dakota. That flood that came in and stayed up there, we accepted that. Now we want a water resource enhancement program that we were promised.

It is environmentally sound, it is cost-effective, and it makes good sense. And we are not going to violate the boundary waters treaty with Canada.

Mr. Chairman, this project can stand on the facts, and the facts are that his project makes sense for North Dakota's future and this project makes sense for this country's future.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, having talked with the gentleman earlier and having talked to the present

Governor of his State and the prior Governor of his State, I have learned about the fact that the diversion project is almost complete.

Can the gentleman give us some information about how complete it is, what is left to be done, and how much money has been spent so far on this project?

Mr. DORGAN of North Dakota. Mr. Chairman, the diversion project was promised in the 1940's; it was authorized in the mid-1960's. We have worked on portions of the project, including the canals that the gentleman from Massachusetts mentioned. We do have a long way to go, but all along the way we have paid careful attention to environmental concerns.

The CHAIRMAN pro tempore. The time of the gentleman from North Dakota (Mr. DORGAN) has expired.

Mr. BEVILL. Mr. Chairman, I yield 2 additional minutes to the gentleman from North Dakota (Mr. DORGAN).

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, I rise in opposition to the amendment deleting funding for the Garrison diversion project and ask my colleagues to maintain funding for this long-promised, cost-effective water resource project. Over the years, I have joined with my colleagues in Minnesota's neighboring State, North Dakota, in strongly supporting this project as a means to harnessing the water from the Missouri River and using it to supplement and enhance rivers and lakes in North Dakota for farm and city use. For example, by completing this long-promised water diversion project, it has been estimated by the Bureau of Reclamation that the State's gross farm economy would be supplemented by $85.5 million in income annually.

I want to emphasize that none of the $4 million in this appropriation would effect project water draining into Canada. Rather, this funding would allow construction of various aspects of the project under which all project water would remain in the Missouri River Basin. Moreover, Canada has been assured by the Congress and both State and Interior Departments that the boundary waters treaty will be observed.

In addition to honoring our previous commitments to North Dakota in return for their flooding of 550,000 acres of prime farmland under the 1944 Missouri Flood Control Act, we should approve this project because of its relatively high benefit/cost ratio of 1.3 to 1 in direct benefits and 2.1 to 1 overall. For this reason the project has strong bipartisan support here in the Congress as well as the administration. While my home State of Minnesota will get no direct benefit from this $4 million appropriation, it is important that we honor our earlier promises and work to provide North Dakota with an adequate water irrigation system.

I urge my colleagues to oppose this amendment.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the Garrison diversion project is about the last of the "Dust Bowl babies" that the Congress is going to be dealing with, and it ought to be reevaluated by the appropriate authorizing committee in the House.

There has got to be a more cost effective way to provide for North Dakota's legitimate water needs. There are some internal contradictions in this project which I would like to touch on, briefly.

Earlier this year, in January to be exact, the Secretary of Agriculture declared set-asides on wheat and feed grains because of overproduction. On the one hand we are paying farmers not to grow crops, and on the other hand, with the Garrison project, we are going to be spending ultimately $1 billion to create new farmlands, and thereby, subsidize the production of the very crops which the Government is paying millions not to produce.

That does not make a lot of sense.

As to the figures, the Garrison project will cost over $3,300 an acre, $810,000 a farm, and fewer than 1,000 farmers will benefit from the project. The irrigators are going to pay back only $19.3 million over the 50-year lifetime of the project, and electric power generation will pay back $810 million, 30 percent of which will be paid by consumers in Minnesota, the beneficiaries of this agriculture and power interests are really the beneficiaries of this whole undertaking.

My principal concern, however, has been over its adverse environmental impacts. The International Joint Commission, which has responsibility over boundary waters between the United States and Canada, has repeatedly expressed concern that Garrison would cause water quality problems between the United States and Canada, and that the project would have an adverse environmental impact on Canada and would ultimately be found to be in violation of the United States-Canada Boundary Waters Treaty. Canadians, both at the Federal and Manitoba provincial levels, have very grave concerns that interbasin transfers of fish and biota from North Dakota waters into Canada would cause unknown and potentially far-reaching effects upon Canadian waters. Canadian members of Parliament, members of the Manitoba Provincial Parliament, and Howard Pawley, Premier of the Province of Manitoba are outspokenly opposed to the continuation of the Garrison diversion project. But apart from that, as one who has been very keenly involved in wetlands preservation for waterfowl production, I find it very disturbing that we will be destroying in this one project more wetlands than we have preserved in the last decade—70,000 acres in one shot. Twelve national wildlife refuges will be lost or damaged in the wake of Garrison; 220,000 acres of dryland farms will be taken, in order to create 250,000 acres of irrigated land, a swamp that has marginal benefit, at best.

On every test, economic, land management, environmental, international relations, Garrison fails. The Conte amendment should be supported by this body. I urge an "aye" vote.

Mr. BEVILL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise this evening in support of the Garrison diversion project in North Dakota and in opposition to the amendment to strike the funds for that project.

I recall several years ago that a former Member with whom many of us served, Art Link, who went on to become Governor of North Dakota, was speaking about the commitment that had been made to the people of North Dakota to build this diversion project. And again this evening we hear from the gentleman from North Dakota (Mr. DORGAN), who represents that State and who has done a splendid job in representing its people, and he reminds us again of the commitment of the Federal Government to build this diversion project. In 1944, it was definitely promised to the people of North Dakota for the 500,000 acres of prime farmland that were taken away from the State and flooded to build a reservoir and provide downstream benefits for the cities and the States below the State of North Dakota.

I for one am grateful to the people of North Dakota for honoring their commitment and keeping their promises, and I would hope that all of us this evening would stand up for what is right and keep faith with the commitments that have been made in support of this project.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I rise in support of the amendment and in opposition to the project.

I wish that the chairman of our Foreign Affairs Committee were here, along with our ranking member, because there are foreign policy consid-

erations that should enter into the consideration of this project.

There was indeed an agreement. I think it was dated in 1954, and some part of that was completed. But there is not a conservation group in this country that approves of this. There is not anybody who cares about our land and what is happening to this planet who is in favor of this project. It will indeed provide benefits, and I can quite understand those who represent this area speaking on behalf of it.

But we are supposed to have a broader view. It will indeed interfere with some of our foreign relations with Canada, which I think would be most unwise.

Mr. Chairman, I caution this House. I think this is a very unfortunate project, and I hope very much that it will be defeated and that the amendment will be supported.

□ 1920

Mr. BEVILL. Mr. Chairman, I rise in opposition to the amendment.

I would like to point out that this project has had much investigation and study in the past. We are talking about $4 million here which is for the purpose of constructing and operating a test area so potential effects on Canadian waters can be evaluated.

This project is being built by an agency of the U.S. Department of Interior. I hope we have not reached the point now in the Department of Interior that when we send funds down there to protect our wildlife that wildlife is not protected. If they are, this country is getting in bad shape.

Our committee has consistently supported this project. We have had hearings and the people from North Dakota have come down here and testified every year for this project. It means a lot to that area, and certainly the North Dakota delegation and the Governor have consistently supported this project.

Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Indiana (Mr. MYERS), the ranking minority member of this subcommittee.

Mr. MYERS. I thank our chairman for yielding once again.

This is another one of the projects that just keeps coming back. It seems like we have a few of these that have a way of having repetition.

The proponents of this amendment this afternoon that would strike whatever funding might be available to the Garrison diversion project would lead you to believe that all of this is going for destruction of natural wetlands and that there is going to be a huge take of land.

There is a total in the Garrison diversion project of 216,000 acres. One would believe from the proponents that that is going to build dams and lakes and, as the gentleman from Massachusetts said, canals.

The truth of the matter is that two-thirds, 146,000, is going for fish and wildlife mitigation, enhancing the wildlife in North Dakota, 146,000 acres to create more ducks.

My gosh, you cannot kill them all now. I know my friend from Massachusetts tries but he cannot get them all.

We are going to improve the wildlife by the building of this diversion.

Second, the Audubon Society has been mentioned this afternoon. For the past 4 years the Audubon Society has been successful in delaying this project. It has added to the cost by $500 million for the completion of it.

Yet the project will be brought in under index costs, the original index costs.

The last thing, the Audubon Society is now suing in South Dakota, alleging that the water will be destroyed in South Dakota, yet, as our chairman said, the Governor of South Dakota traveled here just a few weeks ago asking that we complete this.

I think it would be only wise if the Congress this afternoon, this committee, refuses this amendment.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will try to answer some of the gentleman's questions. I am sorry if I offend the gentleman from Indiana, but thank God there has been somebody in this well trying to protect some of the rich environmental treasures that we have in this great land of ours.

I will take a back seat to no one. I am proud of what I have done in the 24 years I have been here and I am going to fight as long as I have a little breath and a little stamina left in me.

I am not trying to kid anyone or hoodwink anyone on this project. The opponents of this amendment can try to put words in my mouth, but my colleagues will be able to read what I really said in the RECORD.

Let me first try to answer some of the gentleman's arguments.

Mr. Chairman, the first argument that the proponents of the project make is that the people of the United States somehow "owe" North Dakota this billion dollar boondoggle because of North Dakota's participation in the Pick-Sloan project. That argument is ridiculous. Nothing in the 1944 act creating the Pick-Sloan project authorized the Garrison Diversion unit. North Dakota did, indeed, lose some land to the construction of the Mainstem Dams on the Missouri River—but it also gained a supply of hydroelectric power and definite flood control benefits. If the people of North Dakota have any grievance about the loss of their land, surely it is no help to flood an additional 220,000 acres in order to irrigate some 250,000 acres.

Another misconception is that the Garrison project enjoys vast local support. In fact, one county in North Dakota has successfully sued to remove itself from the Garrison Conservancy District, and several other counties are considering similar measures. In the recent November elections, a number of candidates for the State legislature, county commission, and even the Garrison Conservancy District Board of Directors, were elected on platforms in which their opposition to the Garrison diversion project play a prominent role. Mr. Chairman, at this point in the RECORD I ask that I may be permitted to insert copies of several newspaper articles discussing this anti-Garrison sentiment.

The material referred to follows:

[From the Jamestown (N. Dak.) Sun, Nov. 3, 1982]

COMMON GROUND: THE VOTE IS IN . . . ALMOST

(By James Smorada)

With two Jamestown wards still a-counting, the off-year election produced some surprises and hints of possible surprises to come.

One of the trends that seems to be emerging indicates a larger number of electors has second thoughts about the Garrison Diversion project.

Unofficial and incomplete returns in Jamestown and Stutsman County show incumbent Garrison board member and proponent Royal Berstler has been defeated by Darwin Fisher, a man who has campaigned for a place on the board because he opposes the water project.

And county voters may have elected three new commissioners who have said they are "soft on Garrison."

In District 29, voters elected a political newcomer, Wade Williams, who has indicated he feels there needs to be some modifications in the water diversion project.

In the region, voters in Renville, Pierce and McLean counties have elected Garrison board members who have voiced concerns about the project.

The trend suggests voters no longer consider the project an untouchable. Opponents of the project gained political strength on Tuesday—a measure of power in state politics opponents have not had in the past.

The results also suggest it is now possible for a candidate to oppose Garrison Diversion—or just question it—and still be elected to office.

It remains to be seen if the sentiment makes any appreciable difference to the project's future but one thing is clear: if Garrison is to survive, major compromises will have to be considered.

The objections abroad, the cost Washington may not be willing to bear, and the slightly less enthusiastic support the diversion project polled strongly suggests the idea is ripe for compromise.

Perhaps the one-sixth of the board, elected and opposed to Garrison, can play a role redesigning the water project. A growing number of voters seem to be saying the project needs some fresh thinking—not bullheaded reluctance to change.

[From Jamestown (N. Dak.) Sun., Nov. 4, 1982]

HANSON, UNHJEM ELECTED

(By J. P. Furst)

Democrat Lyle Hanson and Republican Mike Unhjem have been reelected to the state House of Representives out of District 48—finally.

Because of 1,800 defective computer ballots, Hanson and Unhjem could not claim victory until county officials had punched out duplicates of the ballots and computed the results.

Both candidates had substantial margins over Democrat Bill Meier and Republican Harold Trautman in the 24 precincts reporting on Tuesday. The 24-hour delay in Wards 2 and 3 simply confirmed the result.

Hanson received 2,517 votes, Unhjem had 2,354, Meier had 2,052 and Trautman had 1,910. Hanson outpolled all three candidates in Wards 2 and 3, as well.

Meier, chairman of the Stutsman County Commission, said he considers his defeat a result of voter sentiment on Garrison Diversion.

The voters provided a landslide victory for Darwin Fisher, a project opponent, in his race for Garrison Diversion Conservancy District director. A pair of county commission candidates who oppose Garrison were also elected.

"Garrison was probably the difference in my election," he said. "The courthouse might have been a factor, but the way other county races went, I think Garrison was the biggest single factor.

"We'll probably have to take another look at Garrison," he said, referring to commission action on the Missouri River project.

Preservation of the 1883 county courthouse was a critical campaign issue in the commission race, contributing to the ouster of two incumbents.

Hanson, a geography teacher at Jamestown Junior High, has served two terms in the House. He carried every District 48 precinct but one.

"Things couldn't be better," he said Thursday. He said the coming session of the Legislature will be "a session of compromise," now that the Democrats have become the majority party in the House.

"We should have better legislation, as a result," Hanson said, "I think the people voted for more balance in their state government. Now they have it."

He said Meier had "a pretty tough race," running against a pair of incumbents. Hanson said he believed the courthouse conflict had a lot to do with Meier's defeat.

He said the rotation of candidate names on the ballot had a strong influence, also.

Unhjem, an official at first National Bank of Jamestown, returns to the House for his fifth term. He said "I'm personally satisfied, but I'm surprised by the extent of Republican losses statewide."

He believes Democrats ran a "misleading" campaign on state spending but the Republicans "never did make a strong clear response." He conceded that he made few responses during his campaign to the charges he considered misleading.

"Having Quentin Burdick and Byron Dorgan at the top of the ballot had an impact," he said, as did "the condition of the farm economy. A lot of people wanted to express their frustration."

[From the Jamestown (N. Dak.) Sun, Nov. 3, 1982]

GARRISON OPPONENT WINS SEAT—FISHER DEFEATS BERSTLER

(By J. P. Furst)

Darwin Fisher of Ypsilanti, a strong opponent of Garrison Diversion, received 60 percent of the vote Tuesday and was elected to the Garrison Conservancy District board.

Fisher defeated Royal Berstler of Jamestown, a Garrison promoter and a member of the board since 1978.

Pierce, McLean and Renville counties also chose Garrison opponents to represent them on the district board, a clear rejection of the $1.2 billion project.

One-sixth of the district board will now be comprised of members who believe Garrison must be changed.

Not counting Wards 2 and 3, Fisher received 3,742 votes. Berstler had 2,656. Fisher also defeated him in the June primary but the magnitude of his victory on Tuesday was surprising.

Fisher said, in his campaign, that he supports a Missouri River project, but not Garrison. He believes it should be modified in favor of a pipeline system.

He presented his candidacy as a referendum on the project. He is chairman of the Committee to Save Stutsman County, a grass-roots organization opposed to Garrison.

Berstler, on the other hand, promoted the project as the only means of keeping Missouri water in the state, out of southern hands.

Fisher was one of a number of Stutsman County candidates calling for modifications in the 250,000-acre project, now under construction.

In Wards 1, 4, 5 and 6, he received 1,894 votes to Berstler's 1,634.

He won every precinct but one—Precinct 10. Berstler won 92-91 in that rural Jamestown precinct. Fisher's margin in other regions, however, was overwhelming.

In Precinct 6 he won 80-33, in Precinct 19 by 121-42, in Precinct 1 by 130-39, and in Precinct 7 by 126-63. Fisher received big margins in Precincts 12, 13, and 16 also.

Fisher went goose-hunting Wednesday morning and was not available for comment. Neither was Berstler or Garrison district manager Homer Engelhorn.

In McLean County, Herb Nathan defeated Reinhold Fwicker 2,592 to 2,452. Nathan farms near the McClusky Canal and has opposed Garrison for years.

In Pierce County, Frank V. Schaan of Balta was defeated by Leroy Johnson, 1,445-945. Schaan has been a Garrison board member for serveral years.

In Renville County, Paul Christianson defeated incumbent Earl Palmer 1,072-396.

But Arnold Seibel of rural Harvey, a Garrison opponent, has probably lost his seat on the board. Seibel leads Garrison promoter Jerry Roble by 300 votes with four major precincts still to be reported in Wells County.

The Harvey and Fessenden precincts are expected to elevate Roble to the post.

J. C. Eaton of Minot, the Ward County incumbent, had a lead of 300 votes over Garrison opponent Lynn Martin with most precincts reporting on Wednesday.

I also ask that I may insert a copy of a letter sent to me my the Wells County Director of the Garrison Diversion Conservancy District. In that letter, Mr. Arnold Seibel states that "operation and maintenance costs on the McClusky Canal have already exceeded $6 million, but seepage continues to cause problems." Apparently the Bureau is continuing with other project features before solving this problem. Mr. Seibel also points out that a number of cities, including Harvey, Fessenden, Turtle Lake, and Mercer have found that Garrison Diversion water is too expensive to use. So much for the much ballyhooed benefit of improving municipal water supplies.

The letter follows:

HARVEY, N. DAK.,
November 30, 1982.

DEAR CONGRESSMAN CONTE: We would like to ask for your help and support in defeating appropriations for North Dakota's Garrison Diversion Project.

We feel that our tax money is simply being wasted. We definitely do not want to see construction begin on Lonetree Dam and the New Rockford Canal. Operation and maintenance costs on the McClusky Canal have already exceeded $6 million, but seepage continues to cause problems. Yet the Bureau of Reclamation, knowing about this seepage and saturation, is planning to let bids on the New Rockford Canal.

Cities, such as Harvey, Fessenden, Turtle Lake, and Mercer have already discovered that Garrison Diversion water is too expensive for their use.

Not all North Dakotans blindly endorse the Garrison Project. Anything you can do will be greatly appreciated.

Thank you,

ARNOLD A. SEIBEL,
Wells Co., Director,
Garrison Diversion, Conservancy District.

Finally, Mr. Chairman, I want to put a stop to the claim that just building phase 1 of this project will take care of the international problems. In fact, there are real questions whether the precautions being taken in phase 1 will be adequate to prevent detrimental transfers of chemical and biological pollutants to Canadian waters. In addition, there is no basis for continuing to build phase 1 of the project to the size of the now contemplated standards, if in fact those features will be used only on phase 1. What we are seeing is a classic example of the "sunk hole" argument in the making, that once we have invested all this money, we might as well finish the project.

Mr. Chairman, so far we have spent almost $160 million on this project, and in my opinion that is $160 million too much. But let us not throw another billion dollars in good money after the bad.

Mr. Chairman, we are opposed to this project because it would destroy the best breeding grounds for ducks in the United States.

We are opposed to this because it is a boondoggle and will cost the taxpayers $1 billion.

We are opposed to this because our Canadian friends to the north do not want any part of this project and are

begging us to stop it. So in all sincerity let us stop this project tonight.

Mr. BEVILL. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Oklahoma (Mr. WATKINS) a member of the subcommittee.

Mr. WATKINS. Mr. Chairman, I thank the gentleman for yielding and stand in support of the Garrison project. We have a Bureau project in my district, McGee Creek, which would be eligible for additional funding under title II of this act. Is is the intent of the distinguished chairman of the subcommittee that no funds available in fiscal year 1983 shall be expended on construction of the aqueduct unless other elements crucial to local economic benefit, such as the access roads, are started?

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman.

Mr. BEVILL. The gentleman is correct.

Mr. WATKINS. I thank the Chairman.

Mr. BEVILL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, Mr. CONTE, to delete additional funding for the Garrison diversion project.

As chairman of the House Foreign Affairs Subcommittee that oversees international environmental policy, I am especially concerned about the potential effects of this project on wildlife and land and water resources in both the United States and Canada. An interbasin transfer of water could degrade water quality, disrupt or destroy wildlife and its habitat and cause other environmental damage.

The United States-Canadian Boundary Waters Treaty of 1909 clearly states:

> Waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other.

The United States-Canada Joint Commission has found that the project would result in a violation of the 1909 treaty and has recommended that those portions which would affect Canada not be built at this time. While the Department of State previously promised Canada that features potentially affecting Canada will not be constructed until our differences have been resolved, the Bureau of Reclamation seems intent on proceeding with aspects that clearly have potential effects on Canada.

Nine million dollars in previously appropriated but unexpended funds exist for the Garrison unit—an amount sufficient to evaluate possible alternatives. New funds should be withheld until the appropriate committees in Congress have reexamined the entire project.

Over the past decade, the United States has been the leader in international efforts to protect the world's environment and natural resources. The United States should not renege on this leadership role by proceeding with a project that could pose serious environmental threats to our neighbors in Canada.

Mr. Chairman, until we have a much better understanding of the nature and extent of possible environmental consequences of the Garrison diversion unit and until we have resolved potential conflicts with Canada, I do not believe $4 million in new construction funds are warranted. I urge my colleagues to support the Conte amendment.

Mr. BEVILL. Mr. Chairman, I yield the balance of my time to the distinguished Member of Congress, the gentleman from North Dakota (Mr. DORGAN).

Mr. DORGAN of North Dakota. Mr. Chairman, once again let me quietly but very respectfully say "nonsense," "nonsense" to the arguments on cost effectiveness, on degradation of the environment, on the Canadian concern.

Let me give my colleagues a few facts.

Here is a diplomatic note from this country to the Canadians. Let me read from it. It talks of the first phase of the Garrison diversion program. It reads:

> "None of the features included in this phase would involve the transfer of water from the Missouri River Basin into Canada."

Four million dollars we are talking about, to help complete the first phase. And it is only a small step in the first phase. This diplomatic note says it all. We are not building features which will send water to Canada under phase 1.

My friend from Minnesota talked about the Garrison diversion issue. My guess is he still wants to keep receiving the cheap hydroelectric power that he gets from the dam they built over there in North Dakota. They get nearly twice as much hydroelectric power in Minnesota from that dam than we do in North Dakota. They get the benefits, we get the cost. The benefits promised us back in the 1940's have not been received, and if some on this floor have their way will never be received by the citizens of North Dakota. That is fundamentally unfair.

Yes, indeed, in the 1940's, in the Pick-Sloane project they anticipated a 1-million-acre diversion program: Not 250,000 acres, as it has been scaled to in the mid-sixties, not 85,000 acres that have been talked about recently, but 1 million acres of water diversion program in North Dakota.

There is a refrain from a song that says, "Take the money and run." I am afraid there are some folks around here who want to do that with projects like this. They want to take the benefits that accrue to their region of the country and then leave the costs someplace else and renege on the commitments and promises. I am just saying that is fundamentally unfair. It is not the right thing to do, not good for the country, certainly not good for the State I am from.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman for yielding and say to my colleague that I am a westerner who votes against boondoggle projects. In fact, I am so against them that 3 years ago on the floor of this House I killed one in my own district and almost did not come back because of it. I take a close look at all of them.

As I look at the Garrison diversion project, I find it is not a boondoggle—that unlike boondoggles, this one has a favorable cost-benefit ratio—that it does have some environmentally beneficial factors to it. The one wildlife project that is being flooded is going to be replaced. This project does and will provide inexpensive hydroelectricity. And by the way, this project is paid for out of that hydroelectrical cost.

Finally, it does improve municipal water sources. Yes, some small towns may find that it is impossible to pay for them, and not hook up. But they find that that is true of new municipal water resources that are being built all across this country.

This is a good project, and I am pleased to support it.

Mr. DORGAN of North Dakota. I thank the gentleman.

I have great respect for the gentleman from Massachusetts who has been in this body many, many years, believes in a lot of great things, fights for them very hard on the floor of this House. In my heart I believe he is dead wrong on this issue. I think the people of North Dakota and the people in this country are best served by keeping our commitments to a good project, one that is environmentally sound, economically sound, and one that will be good for our future.

Mr. Speaker, I yield to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Chairman, it is with a great deal of reluctance that I today support the Conte amendment to delete $4 million in funding for the Garrison project. Unlike many of my colleagues who will be voting for this amendment, it is not my belief that all water development projects should be automatically regarded as "pork

barrel" ripoffs of the taxpayer. Anyone who has lived in the Dakotas should realize the very real necessity that environmentally sound, locally supported irrigation projects have for our region.

Both North and South Dakota are, in many portions, semiarid States. Both North and South Dakota have given up over 500,000 acres of land apiece so that our downstream States could enjoy the benefits of flood control, navigation, and cheap hydroelectric power. Both North and South Dakota were promised, for their sacrifice, significant assistance from the Federal Government for water development purposes. Both North and South Dakota have been thus far the victim of unkept promises in this regard.

All that being said, however, I must still oppose further funding of the Garrison project for one reason and one reason only. That is the very distinct possibility that construction of the project could have a seriously damaging effect on the residents of South Dakota. There is a distinct possibility that if the project is completed as present plans call for, and absent the possibility of drainage into Canada, the return flows that come into the James River in South Dakota could have serious impacts, at times dewatering the river and at other times flooding it. Also, there exists the likelihood that these return flows could have a serious impact on the quality of the water in the James River.

These negative impacts need not happen, however. In fact, legislation passed this year, and signed into law in H.R. 4347, provides for a study to determine if there is some way that these possible damaging effects can be turned into benefits for both North and South Dakota. At this time, however, that study has not yet started, and there are still no protections written into law that will assure the South Dakota residents along the James River that work on the Garrison project will not have the damaging effects on them that they legitimately fear.

As much as I regret the position this puts me in, and as much as I realize the necessity of my neighbor to the North to develop a beneficial plan for the efficient use of its water supply, I must vote against any further appropriations for the Garrison projects until the necessary safeguards for South Dakota are put into place.

Mr. CONTE. Mr. Chairman, I just wanted to respond to my good friend. I have the same admiration for my good friend, the gentleman from North Dakota. It pains me to fight the gentleman on this project. But deep in my heart, I know I am right.

● Mr. FASCELL. Mr. Chairman, I would first like to commend the gentleman from Massachusetts for taking the initiative and leadership on this important issue.

As chairman of the House delegation to the Canada-United States Interparliamentary Group, I have become familiar with Canadian concerns over the construction of the Garrison diversion project. This water project has become a major issue in United States-Canadian relations. Proponents of the project argue that Canada is protected by an understanding between the two governments that the project will not be completed in a manner that would impact adversely on Canadian waters. However, the U.S. Government has taken no steps to redesign the project so that Canadian waters will not be impacted, and the Canadians are sufficiently knowledgeable of the U.S. political system to know that, once millions of dollars have been poured into the project, pressures for completion may be too strong to resist.

I would like to bring to the Members' attention a letter which I received from Ian Watson and Henry Hicks, the Canadian co-chairmen of the Canada-United States Interparliamentary Group. The letter sets forth the current Canadian perspective on the project and deserves the Members' close scrutiny.

I think that the best solution is that offered by Chairman ZABLOCKI, which is for the United States to redesign the project in a manner which deals with both the Canadian concerns and domestic environmental issues.

I urge the Members to support the Conte amendment as the first step toward forcing a restructuring of the project in a manner that avoids any adverse effect on Canadian waters, deals with the major U.S. environmental concerns, and still meet the needs of the people of North Dakota.

JULY 9, 1982.

Hon. DANTE B. FASCELL,
Co-Chairman, Canada-United States Inter-Parliamentary Group, U.S. Section, Chairman, Subcommittee on International Operations of the House Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR DANTE: As Canadian Co-Chairman of the Canada-United States Inter-Parliamentary Group, we wish to alert you to the continuing concern of Canadian parliamentarians over possible Congressional action in respect to the Garrison Diversion Unit.

As you are doubtless aware, the U.S. Court of Appeals ruled in May 1982 that Congressional re-authorization for the Garrison Diversion Unit was not required as had been contended before a lower court which had earlier granted an injunction against further construction on the project. Consequently, the ruling of the U.S. Court of Appeals means that construction can go ahead using the previously appropriated funds amounting approximately to $9 million. Added to this funding could be the House appropriation request for FY83 for $4 million and the possible addition of $10 million to be diverted from other projects of the Department of Interior, a proposal supported by Senator Burdick. The Secretary of the Interior, James Watt, and U.S. officials indicated in February of this year that construction on the project would proceed.

It will be evident to you from our numerous exchanges on the Garrison project which have taken place at past meetings of the Canada-United States Inter-Parliamentary Group, that these developments cause Canadians considerable concern. You will recall that Canada has opposed the project since its beginnings in the 1960s and the Canadian government has formally advised the United States that Canada cannot accept any Garrison plan which does not effectively guarantee against biota transfer to the Hudson Bay drainage basin.

I know you are also aware that the report of the International Joint Commission (IJC) of 1977 confirmed Canadian apprehensions concerning the transfer of incompatible forms of biota to Canadian rivers and lakes. That report recommended that those portions of the Garrison project which could affect waters flowing into Canada should not go forward as authorized until the question of biota transfer was resolved. The IJC recommendation did not preclude construction of the Lonetree Reservoir provided all outlet works from the Reservoir are located so as to discharge only into the Missouri River Basin and if fishing in the Reservoir were forbidden.

We are aware of efforts of the U.S Administration to devise an approach to the Garrison project which will reduce the risk of water and biota transfer, including the most recent project modification known as the Olson-Janklow plan. We appreciate these efforts and consider that this plan represents a welcome acknowledgement of Canadian concerns. We are also pleased that the United States Administration has indicated it will consult with Canada in developing the plan.

However, it is noted in Canada that the Olson-Janklow plan has no official status and that the only Garrison plan authorized by Congress is the original 250,000 acre project with its attendant risk to Canada. It is under this authorization that additional funds for Garrison are appropriated. We are concerned to know if Garrison proposals (for authorization, funding or construction) will be limited to the modified Olson-Janklow plan currently being proposed? Or, might we be faced with a renewed pressure for the full-scale Garrison or increased support for additional components as a logical outcome of the gradual build-up of various parts of the original plan? Moreover, while the Olson-Janklow plan (which in essence involves a modified part of the original Garrison project plus a second phase providing for increased irrigation along the James River in South Dakota using a portion of the water available from the Garrison project in North Dakota), would seem not to affect Canadian waters, some important questions of a technical nature still remain. Canada is interested in learning more about the design and engineering of certain aspects of this project before it can decide whether the modifications can be developed without serious risk to Canada waters.

What we would urge is that Congress delay any new authorization of funding for the Garrison until the two governments have had a chance to work out the remaining bilateral problem areas and to reach agreement on modifications under the new plan.

The members of the Canadian section of the Canada-United States Inter-Parliamentary Group are aware of your personal sensitivity to Canadian problems over this issue

and are grateful for your help in enlarging understanding of the Canadian viewpoint. We bring our current concerns to your attention in the hope that when the House appropriation vote on this issue is held, you might be able to convey to Congressmen why Canada is not yet completely satisfied that its interests will be protected.

Yours sincerely,

IAN WATSON.

HENRY D. HICKS.●

● Mr. DERWINSKI. Mr. Chairman, I urge my colleagues to support the amendment deleting funds in this resolution for the Garrison diversion unit in North Dakota.

Although there are other domestic arguments for delaying construction on this project until it has been evaluated further, I want to emphasize the reasons why the Garrison diversion unit, as currently envisioned, would adversely affect our relations with Canada.

This project would result in a violation of the 1909 Boundary Waters Treaty between Canada and the United States. Project irrigation would pollute rivers that flow from the United States into Canada, and harmful fish would be transferred into the Canadian watershed. This would have disastrous results for commerical, sport and native people's fisheries in the Province of Manitoba.

The United States-Canadian International Joint Commission has requested a moratorium on the Garrison diversion project, and the Government of Canada has made the same request repeatedly. In my judgment, such a moratorium is justified, and I again urge support of the Conte amendment.●

● Mr. ZABLOCKI. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Massachusetts.

For the past several years funding for the Garrison diversion project has been controversial in this body. There are various outstanding domestic environmental issues, and our Northern neighbor Canada has serious reservations on the impact that the project would have on Canadian waters and aquatic life. This year I attended the annual Canada-United States Interparliamentary Group meeting, and I know from those discussions that the Canadian concerns are strong and genuine.

If we continue on the present path we will be confronted with this controversy every year for the next decade. A lot of money has already been sunk into the project and should not be wasted. The only reasonable course is for the project to be redesigned so as to deal with the prominent domestic environmental issues and to avoid any adverse impact on Canadian waters. To do otherwise is to keep the project mired in controversy, to further delay construction, and maybe even to prevent it from ever reaching completion—that surely is not in the interest of the United States, much less the people of North Dakota.

Mr. Chairman, the best route to insure the redesign of this important water project is to reject the funds in this bill for the Garrison diversion project and thereby force a review of the legitimate criticisms and concerns.

I urge the Members to support the Conte amendment.●

● Mr. CLAY. Mr. Speaker, I rise in support of the amendment to delete funding for the Garrison diversion project in North Dakota.

Many words have been spoken today in an attempt to sway the undecided and perhaps change the minds of others who have voted to continue this project in the past. It is my fervent hope that there will always be Members with open minds who can change their positions, as many noted colleagues have done on this one issue.

With all the many facts and figures and noted champions on the side of Garrison, year after year it rolls on. Congress after Congress continues to appropriate money for it. Each year we come closer to killing this wasteful boondoggle but victory has eluded us. Why? Why do some of us continue to vote for a wasteful and destructive water project of such magnitude that it almost defies description? Why do Members who vote correctly on a whole score of other environmental issues vote for Garrison? Why do Members who otherwise favor good Canadian-United States relations vote for Garrison? And why do Members who categorically vote against high-priced Federal expenditures continue to vote for Garrison?

This country has been coasting along for decades, finding the easiest way to deal with pressures and party lines and problems it to vote money for them. The downhill ride is about to end and I fear a brick wall looms ahead. A wall of economic recession, environmental degradation, and loss of faith with the American people we represent. We must put the brakes on wasteful Government spending now. There is simply no way we can continue to vote for projects like the Garrison diversion unit with equanimity.

I ask that each of you reach down into your conscience and ask a few honest questions: Do we really need this project and its $1 billion price tag? Might there not be a better way, a cheaper way, to give the people of North Dakota the kinds of benefits they need rather than a project that will be a irrigate six-tenths of 1 percent of the land? Is the damage or destruction of 12 congressionally authorized national wildlife refuges not worth considering? And is there any reason we should continue to antagonize our good neighbors in Canada? They are deeply concerned about the intrusion of run off from this project in North Dakota into the Hudson Bay watershed in Manitoba.

Certainly there are no easy answers to these questions. I only say that we must take our responsibilities as representatives of the people seriously enough to ask them and to come up with an answer of no funding for Garrison until some of the harder questions are put to rest.

I hope you will join me in supporting the Conte amendment to cut funding for Garrision in fiscal year 1983.●

● Mr. PEASE. Mr. Chairman, in a year when we have fought tooth and nail to cut needless Federal spending, North Dakota's Garrison Diverson water project has again returned to remind us that not all Federal waste is treated equally.

Conceived as a way to suddenly irrigate historically dry land farms. Garrison Diverson costs and benefits have been shifted, altered and exaggerated since conception. The project, which will barely provide more irrigated farmland that it will take from existing production, is an international embarrassment.

Despite the continued pleas of our friend and neighbor Canada, the supporters of Garrison push on. Since the early 1970's, Canada has made clear that it fears that the new drainage from irrigated North Dakota lands will end up polluting Canadian rivers. The International Joint Commission (IJC), a bilateral body that has overseen United States-Canadian boundary questions for 70 years, recommended that the project not be built at this time—1977—since it would cause significant injury to health and property in Canada. Our State Department has varied its spending commitment to respecting this violation, but of late seems to have forgotten its promises to honor international treaty agreements, at least on this continent.

Garrison, like similar innocent and well meaning projects, was originally expected to cost little, barely over $200 million in 1965. Today less than 25 percent complete, price estimates now exceed $1 billion. Each acre of irrigated land will cost American taxpayers $4,000. Federal belt tightening slips completely on this program.

Mr. Chairman, because of the huge costs involved, the continuing violations of international treaty agreements, and tremendous adverse environmental effects, the Garrision Diverson should be stopped. The Conte amendment to cut H.R. 7145 accordingly should be approved by this House. Our official duplicity over waste should end as it regards the Garrison Diverson and its never ending cost to American taxpayers.

I urge approval of the Conte amendment.●

The CHAIRMAN pro tempore. The question is on the amendment offered

by the gentleman from Massachusetts (Mr. CONTE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 152, not voting 29, as follows:

[Roll No. 449]

AYES—252

Addabbo	Ferraro	McHugh
Anderson	Fiedler	McKinney
Annunzio	Fields	Michel
Archer	Findley	Mikulski
Ashbrook	Fish	Miller (CA)
Aspin	Fithian	Miller (OH)
Atkinson	Florio	Minish
AuCoin	Foglietta	Mitchell (MD)
Badham	Ford (MI)	Mitchell (NY)
Bafalis	Forsythe	Moakley
Bailey (MO)	Fowler	Molinari
Bailey (PA)	Frank	Moore
Barnes	Frenzel	Moorhead
Bedell	Fuqua	Mottl
Biaggi	Garcia	Murphy
Bingham	Gaydos	Murtha
Bliley	Gejdenson	Neal
Boland	Gilman	Nelligan
Bonior	Gingrich	Oakar
Bonker	Goodling	Oberstar
Breaux	Gradison	Obey
Brinkley	Gramm	Ottinger
Brodhead	Gray	Parris
Broomfield	Green	Patterson
Brown (CA)	Gregg	Paul
Brown (CO)	Grisham	Pease
Brown (OH)	Guarini	Peyser
Broyhill	Gunderson	Porter
Butler	Hall (IN)	Price
Byron	Hall (OH)	Pritchard
Campbell	Hamilton	Pursell
Carman	Harkin	Rangel
Chisholm	Hartnett	Reuss
Clay	Hertel	Rinaldo
Clinger	Hiler	Ritter
Coats	Hillis	Rodino
Coleman	Holt	Roe
Collins (IL)	Horton	Roemer
Collins (TX)	Howard	Rostenkowski
Conable	Hoyer	Roukema
Conte	Huckaby	Rousselot
Conyers	Hughes	Roybal
Corcoran	Hyde	Russo
Coughlin	Ireland	Sabo
Courter	Jacobs	Savage
Coyne, James	Jeffords	Sawyer
Craig	Jeffries	Scheuer
Crane, Daniel	Jenkins	Schneider
Crane, Philip	Kastenmeier	Schumer
Crockett	Kemp	Seiberling
D'Amours	Kennelly	Sensenbrenner
Daniel, Dan	Kildee	Shamansky
Daniel, R. W.	Lagomarsino	Shannon
Dannemeyer	Latta	Sharp
Daschle	Leach	Shaw
Davis	LeBoutillier	Shumway
Deckard	Lee	Siljander
Dellums	Lent	Smith (NJ)
Derrick	Livingston	Snowe
Derwinski	Loeffler	Snyder
Dingell	Long (MD)	Solarz
Dornan	Lowery (CA)	Solomon
Dougherty	Lungren	Spence
Downey	Madigan	St Germain
Dreier	Markey	Stanton
Duncan	Marlenee	Stark
Dunn	Martin (IL)	Staton
Early	Martin (NC)	Stokes
Edgar	Martin (NY)	Stratton
Edwards (CA)	Martinez	Studds
Edwards (OK)	Mattox	Swift
Emery	Mavroules	Synar
Erdahl	McClory	Tauke
Erlenborn	McCollum	Tauzin
Evans (IN)	McDade	Trible
Fascell	McDonald	Udall
Fenwick	McGrath	Vander Jagt
Vento	Weber (OH)	Wyden
Walgren	Whitehurst	Wylie
Walker	Williams (OH)	Yates
Washington	Wirth	Yatron
Waxman	Wolf	Young (FL)
Weaver	Wolpe	Zablocki
Weber (MN)	Wortley	Zeferetti

NOES—152

Akaka	Gonzalez	Nichols
Albosta	Gore	Nowak
Alexander	Hall, Ralph	O'Brien
Andrews	Hall, Sam	Oxley
Anthony	Hammerschmidt	Panetta
Applegate	Hance	Pashayan
Barnard	Hansen (ID)	Patman
Benedict	Hansen (UT)	Pepper
Bennett	Hatcher	Perkins
Bereuter	Hawkins	Petri
Bethune	Hefner	Pickle
Bevill	Heftel	Quillen
Boggs	Hendon	Rahall
Boner	Hightower	Ratchford
Bouquard	Holland	Regula
Bowen	Hopkins	Roberts (KS)
Brooks	Hubbard	Roberts (SD)
Burgener	Hunter	Robinson
Burton, Phillip	Hutto	Rogers
Carney	Jones (NC)	Rose
Chappell	Jones (OK)	Rosenthal
Cheney	Jones (TN)	Roth
Clausen	Kazen	Rudd
Coelho	Kindness	Santini
Coyne, William	Kogovsek	Shelby
Daub	Kramer	Simon
de la Garza	Lantos	Skeen
Dickinson	Leath	Skelton
Dicks	Leland	Smith (AL)
Dixon	Levitas	Smith (IA)
Donnelly	Long (LA)	Smith (NE)
Dorgan	Lott	Smith (OR)
Dowdy	Lowry (WA)	Stangeland
Dwyer	Lujan	Stenholm
Dymally	Luken	Stump
Dyson	Lundine	Taylor
Eckart	Marriott	Traxler
Edwards (AL)	Matsui	Volkmer
Emerson	Mazzoli	Wampler
English	McCloskey	Watkins
Ertel	McCurdy	Weiss
Evans (IA)	McEwen	White
Fazio	Mica	Whitley
Flippo	Mineta	Whittaker
Foley	Mollohan	Whitten
Fountain	Montgomery	Williams (MT)
Frost	Morrison	Winn
Gephardt	Myers	Wright
Gibbons	Napier	Young (AK)
Ginn	Natcher	Young (MO)
Glickman	Nelson	

NOT VOTING—29

Beard	Ford (TN)	Moffett
Beilenson	Goldwater	Railsback
Blanchard	Hagedorn	Rhodes
Bolling	Heckler	Schroeder
Burton, John	Hollenbeck	Schulze
Chappie	Johnston	Shuster
DeNardis	LaFalce	Smith (PA)
Evans (DE)	Lehman	Thomas
Evans (GA)	Lewis	Wilson
Fary	Marks	

□ 1950

Messrs. HUNTER, WINN, LUKEN, and BEREUTER changed their votes from "aye" to "no."

Messrs. LEE, GUARINI, HARTNETT, EDWARDS of California, HUGHES, TAUZIN, PRICE BREAUX, and SPENCE changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MITCHELL of Maryland, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes, pursuant to House Resolution 626, he reported the bill back to the House with sundry amendments adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the joint resolution?

Mr. CONTE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit House Joint Resolution 631 to the Committee on Appropriations, with instructions to that committee to report the resolution back to the House forthwith, with the following amendments: Strike title II.

On page 6, in line 21, after "resolution" insert ": *Provided further*, That the rate for operations for the Board for International Broadcasting, including grants to RFE/RL, Inc., shall be $111,600,000, and the rate for operations for the United States Information Agency shall be $507,547,000".

Mr. CONTE. Mr. Speaker, this motion to recommit would strike out title 2 with only one exception, about which I want to forewarn the House: There are $44 million in here for the Voice of America and Radio Free Europe, Radio Liberty, which was requested by the administration. Otherwise, title I is exactly the same as the resolution reported by the committee, with the pay raise and other amendments as adopted.

Mr. Speaker, this is one of the last major votes of this session. And it will test your loyalties to the principles you have fought for. I urge you to vote for the motion to recommit this resolution with instructions to strike title II.

Those who are concerned with the environment, and who voted to delete funding for the various public works projects this afternoon, should vote for the motion. There is funding for more pork barrel water projects in title II than anything you considered all afternoon long. There is funding for projects like the Red River Water-

way, the central Arizona project, the central Utah project, and yes even the Tennessee Tombigbee. This title gives the Army Corps of Engineers and the Bureau of Reclamation a blank check, and the environmental groups oppose the water projects in this title.

For those of my young progressive colleagues who believe the future of this country lies in investment in high technology, in encouraging creativity and invention, and in training and educating our people for the future, should vote for this motion, because title II is about to invest your capital in old ideas. Imagine what $6 billion could do in building bullet trains, in investing in the latest steel production technology and in providing lasting training to our unskilled workers. Instead, title II invests in canals and Federal buildings and purchase of 15,000 motor vehicles to bail out the automobile industry.

For those of you who have advocated a "pay as you go" approach to new projects in this Congress, should vote for this motion. Title II thumbs its nose at the notion of fiscal responsibility that has marked this Congress, and it harkens back to a time of free spending that is simply counterproductive in this time of record deficits.

And for those of you who believe this Government must take responsible action to deal with the 12 million unemployed people in this country, I urge you to vote for this motion. Somewhere on the way to this forum, this bill got hijacked. In place of jobs for the people, this title substitutes fantasies like small business tree planting services, and hundreds of pork barrel Christmas tree projects that fill pages and pages in the report.

There is very little in this bill for unemployed older Americans, for unemployed teenagers, for unemployed women. They all have very high unemployment levels, and need all the help they can get.

This bill is not a jobs bill. It pays for bulldozers and dams and buildings, projects that will be built over a number of years and not, I repeat, not in the immediate months ahead when we need the jobs for our 12 million unemployed. If anyone thinks this $6 billion is going to relieve the people who need help now, they are misinformed, and worse than that, they are wrong.

Title II offers the 12 million unemployed of this country three things:

A chance to borrow $5.4 billion;

A grab bag of Christmas presents and projects bigger than this Chamber has ever seen; and

A guarantee of being vetoed.

And let me tell you a couple of other things it offers:

A strong probability of putting the Government out of business, when December 17 rolls around, furloughing hundreds of thousands of Government workers; and

The wonderful occasion to spend Christmas and even New Years Eve together trying to push a continuing resolution through and get it signed.

If this were a good bill, worth fighting for, I would be in there with you. But when you realize this bill is a backhanded way to fund every nut and bolt program for the next several years without regard to the budget, in the sheep's clothing of providing jobs, I hope you will get mad and reject these charades.

I can tell you with all honesty that I would be only too pleased to work with my colleagues on both sides of the aisle to produce a bipartisan jobs bill that will be acceptable to Congress and to the administration. We produced a legislative miracle with the tax bill and another on the highway. I think we can produce another. But first we must separate the wheat from the chaff and reject this ill-conceived, and misdirected attempt to bulldoze our way through the national tragedy of our 12 million unemployed Americans.

VOICE OF AMERICA, RADIO FREE EUROPE/RADIO LIBERTY

Mr. Speaker, my motion to recommit includes an amendment to add a total of $44 million for the operations of the Voice of America and Radio Free Europe/Radio Liberty, as strongly requested by the administration. Of this total, $22.7 million is for the Voice of America, and $21.3 million is for Radio Free Europe/Radio Liberty.

These important information tools have been long neglected and are now sadly antiquated. Their importance and impact are testified to time and again by refugees from the Soviet block and other closed societies where accurate information is not available.

Listen to a letter from 181 Soviet seamen regarding these radio efforts:

We send heartfelt thanks to the people of America, the Congress and President Reagan. . . To everyone who makes it possible for us to listen to the voice of truth. We ask you to forgive us that we cannot write our names.

Time does not permit under the limitations of a motion to recommit, but I could read letter after letter similar to this one. We all are aware of the strong support of these radio efforts on the part of the various immigrant groups all over the United States. We have heard from them, the Estonians, the Lithuanians, the Ukrainians, The Russian Jews, all of them and more. Now let us let them hear from us by supporting this motion to recommit, and with it, a much needed boost for the Voice of america and Radio Free Europe/Radio Liberty.

President Reagan's letter follows:

THE WHITE HOUSE,
Washington, D.C., December 9, 1982.

Hon. MARK O. HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MARK: A month ago I sent to the Congress requests for an additional $22.7 million in appropriations for the United States Information Agency and an additional $21.3 million for the Board for International Broadcasting in the current fiscal year. I would like to explain why I have take this step, and to enlist your cooperation in securing passage of this important legislation during the current session.

International broadcasting is vital to our national security. The success of our nation in the international arena depends to a critical degree on how well the actions and intentions of the United States are understood by the rest of the world. By making clear where our country stands on the major issues of our time, and by articulating the ideals and aspirations that underlie our actions, we can gain understanding of and support for American foreign policy. By making available full and unbiased information about world events, we can provide the perspective necessary for intelligent judgments about world affairs.

The importance of international broadcasting and its role in the worldwide competition of ideals is not always well understood. Radio continues to be the primary method of communication in many areas of the world. In some areas—notably, in the Communist world—international radio remains virtually the only source of reliable news and information. For this very reason, the Soviet Union has long sought to prevent reception of these broadcasts. Their efforts have increased measurably in recent years in the wake of the turmoil in Poland. The jamming of Western radio broadcasts by the Soviet Union is now of unprecedented intensity, and for the first time extends to broadcasts intended for other countries—specifically, Poland and Afghanistan.

At the same time, the Soviet Union appears to have launched a campaign of intimidation designed to inhibit Western broadcasting efforts. In a recent conference of the International Telecommunications Union in Nairobi, the U.S.S.R. had one of its allies introduce a resolution that would have legalized jamming of international broadcasts. The Polish government has repeatedly complained that Western broadcasts have interfered illegitimately in that nation's internal affairs, and the Soviets themselves have undertaken a campaign of slander against the principal radio organizations supported by the U.S. Government, the Voice of America and Radio Free Europe/Radio Liberty.

We reject the charge that U.S. international broadcasting operations are in any sense improper. The principle of freedom of information is embodied in a number of international agreements to which the U.S.S.R. and its allies are parties, and deliberate interference with international broadcasting is specifically outlawed under the Convention of the International Telecommunications Union. Soviet accusations that U.S. broadcasts are irresponsible are, in any event, utterly without foundation. The existing charters and guidelines of the Voice of America and of Radio Free Europe/Radio Liberty are sufficient indication of the painstaking efforts that have been undertaken to ensure the accuracy, reliability, and responsibility of our radio stations.

There is nothing provocative about broadcasting the truth.

It is vital that we undertake initiatives now for the modernization and strengthening of our international radio broadcasting operations. The time has come to give these operations—for too long systematically underfunded and neglected—the attention they deserve. The additional funding I am requesting for the Voice of America and Radio Free Europe/Radio Liberty in FY 83 is a critical first step in this direction. These monies are intended primarily to assist rapid modernization of the technical infrastructure of the radios and to rebuild personnel levels in essential areas. Failure to obtain the additional funding in the current session will seriously hinder timely implementation of our overall program. Particularly at this time of critical change in the Communist world, having these improved capabilities as soon as possible is a matter of vital national interest. Please join me in this important effort.

Sincerely,

RONALD REAGAN.

□ 2000

Mr. WHITTEN. Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, it is with no pleasure that I point out this serious situation which faces our Government and our country. Let me call to the Members' attention just how the situation has deteriorated since we began this new approach.

Unemployment has increased to 10.8 percent on a national basis, reaching a national high of 17.2 percent in the State of Michigan. Bankruptcies have increased to 77,503 from 66,332 last year. Business failures are up 49 percent since last year; only 35.7 percent of the raw domestic steel industry capacity is currently being utilized, which represents the lowest capacity since 1932. American farmers owe $200 billion, and now they want to pay farmers in kind, with commodities that we would not have if we had kept them on the market to feed a starving world. We stored instead of selling it and our competitors sold them.

During the 1975 recession, approximately 76 percent of the unemployed workers were covered by some form of unemployment benefits. Today, only 49 percent are covered. We are now spending over $20 billion a year for unemployment compensation.

May I say to the Members that this committee was asked to come up with what we could do to generate production activities. We have not created jobs. We have pointed out that in this bill we studied the hearings of appropriations subcommittees provided for many of those things that have been requested and are needed. They would strengthen the wealth of this country and also generate jobs. I say to the Members that we have got a situation so very close to what happened before and if Members will go back and study history they would see that our President at the beginning of the Great Depression, said, "Let's look to private business."

We are not ignoring private business. In our recommendations we have called on the Secretary of Commerce and the Secretary of the Treasury to get together and see what can be done to put our folks back in business so that they can compete in world markets. We need to. We are competing not with these automobile companies in Japan, we are competing with the government. Foreign governments have corporations that belong partially to the government and partially to private enterprise. We are asking for a report to the Congress as to what the Congress can do by legislation.

So I say to the Members, we have provided from the hearings in the Appropriations Committee in the past, at the direction of the chairmen, to see what is available, and we ask the Members to go along with it.

I am going to be candid with the Members. It is evident that we have got to have a continuing resolution that will be agreed on by the President, agreed on by the Senate, and agreed on by the House. But, let us stand up here and point out to the people that we are going to have to work to save our own country, or else we are going into the worst depression that we ever saw because all the earmarks are just like what preceded the other depression. I happened to come along in that period, when you could not buy a sack of flour in the State of Mississippi. I do not believe folks will stand in line like they used to, so I ask the Members here not to create jobs, but let us spend money on our own country.

Let me call attention to this: Do the Members realize that we appropriated $230 billion for defense last week; that we committed ourselves on these new weapons to over $400 billion 4 years from now? Do the Members realize that that will not be worth the paper it is written on if the economy keeps going like it is now?

Let me say and call to the attention of the Members that some years ago, President Eisenhower vetoed the public works bill because it had 69 new starts. We failed to override the veto. It came back and we sent it back to him. He said that we owe so much; our situation is so serious, our obligations at home and abroad, that we cannot afford these 69 new starts to strengthen our country. On the second round we overrode his veto. I was honored to make the motion to cut everything by 2.5 percent. We sent the bill back to the President, and that time the Congress overrode his veto. Do the Members know what I used? I used his message. I said, "The more we owe, the greater our problems, the more imperative it is that we look after our own country, for it is on that that all the rest depends."

I want the Members to know that in our committee we believe in stability. We did something about interest rates. But, I want to tell the Members that we draw a distinction between money and national wealth and try to stabilize our money and hold down. Members will recall, in our recommendations last year we rescinded $14.3 billion the first year at his request. Let me say, you can leave your children all the money in the world in a wornout land, and they would never make it.

We ask the Members here, let us point out to our country that we need to go to work here at home to strengthen our economy, because the military is only as strong as the economy at home. With respect to all this money you have been appropriating, let us make it worthwhile by taking care of the basic things in our domestic economy, because, so help me, it is on that that all the rest depends.

● Mr. MILLER of California. Mr. Speaker, the goal of the additional spending in this bill is to stimulate the creation of jobs and economic recovery, which is the most important mandate facing this Congress and our Government.

In recent weeks, much of our attention has focused on the need to create jobs in the construction sector, particularly in the building and repair of our deteriorating roadways, bridges, and public transportation systems. These are important jobs because they will reemploy tens of thousands of workers who have been unemployed because of the deep recession.

But it is also crucial, as we fashion broad jobs legislation, that we pay special attention to the employment needs of women workers, relatively few of whom stand to benefit from jobs in the heavy construction area.

In order to meet the needs of some women who must join the labor force because of economic necessity, I have encouraged the leadership of this House to include in this legislation a special, supplemental child care program. I am very proud that the leadership of the House has recognized that for millions of women throughout this Nation, child care is first and foremost an employment issue and that without child care, millions of women will simply be unable to take the jobs they need to support their families. A large number of women—perhaps as many as 12 to 14 percent—are prevented from assuming full-time jobs because of inadequate child care. The need for employment-related day care is especially great among women between the ages of 18 and 24, non-high-school graduates, minorities, mothers whose families have incomes under $15,000.

Creating education and job training programs, and even jobs, will not benefit many of these women unless we simultaneously provide them with child

care. As the U.S. Commission on Civil Rights has noted last year:

Whether women will be able to enter the labor force or to seek training and education with men will depend, to a great extent, on the types of care that are available, including those provided or fostered by the Federal Government.

Even for those women who are working, inadequate child care remains a most serious constraint on employment. In 1978, nearly one-third of the women interviewed identified inadequate child care as a "major problem."

For these women, working is an essential fact of life. For millions of other women, inadequate child care precludes employment. Rather than being employed, tax-paying citizens, millions of women are condemned to welfare dependency and poverty because of the lack of adequate child care.

In coming years, increasing numbers of mothers will join the work force either by choice or of necessity. By 1990, the number of preschool children who need child care will grow by over 25 percent. By 1990, nearly half the children under the age of 6 will have working mothers, as will 81 percent of children aged 6 to 17. We can also expect the number of children living with only their mothers to grow by more than one-third over the same period.

Yet this administration and this Congress have tried to deny these changing demographics, and have taken actions which cripple employment opportunities for millions of American women across this Nation by eviscerating child care. In the last 2 years, we have dramatically reduced the major source of child care support in Federal law by removing the longstanding $200 million set-aside for child care in title XX and then cutting title XX funding. The result has been predictable: Many States have substantially reduced their child care programs, while many have also raised fees which discourage marginal workers from seeking employment because their wages do not offset the costs of child care.

Our actions in reducing child care have contributed to the unemployment crisis in this country, especially among women. And unless we reverse that senseless and costly trend, millions of women will be unable to participate in job training, education, and employment programs which hopefully this Congress will create to relieve the crushing unemployment rate. In addition, our failure to provide adequate day care for working parents who must work and who want to work will consign millions of young children to inadequate or nonexistent supervision. In both cases, the costs of our failure to provide these services—in continued unemployment, in growing welfare dependency, in increasing costs of essential human service programs, in remedial education and health care, and a multitude of other areas—will be far, far greater than the small amount of these day care services.

House Joint Resolution 631 addresses this great need by providing an additional $50 million for employment-related child care. The Appropriations Committee and others supportive of this section recognize that unless we increase our support for child care, the promise of employment and new jobs for millions of women in this country is nothing but a hollow promise.

At the same time, this additional funding will directly employ 4,000 additional people in the provision of child care services. An additional 33,000 children each month will receive child care services under this legislation. The committee has indicated its intention that these additional $50 million not replace any State or Federal funds currently being expended on day care, but that they rather be used to expand the availability of child care services.

Mr. Speaker, this special effort is just the first step toward creation of a sound child care system in this country which is closely tied to the employment needs and desires of American families. This provision of House Joint Resolution 631 recognizes that child care is not a welfare issue, it is not a Liberal or Conservative issue, it is not a social service issue. Child care is an employment issue because it is the foundation on which millions of eligible and willing Americans will be able to enter, and remain full participants in, the labor force. They will become wage-earners and taxpayers rather than remain dependent on taxpayers for income support and vital services. And we can achieve this goal at a fraction of the per capita cost of most education and job training efforts.

Important as this supplemental appropriation for child care is under these dreadful economic circumstances, it is just a small part of the overall task of assuring that working parents have adequate day care.

While we drastically reduced funding for day care services through title XX and other federally funded programs, we are spending many times that same amount for child care through indirect financing via the day care tax credit. The availability of child care services has the greatest employment effects in the case of lower income wage earners. But over 80 percent of the current credit goes to those earning over $15,000 a year, and nearly half of all the money expended through the credit benefits those earning over $25,000 annually.

Low-income people are not able to take the full benefit of the tax credit because of their small tax obligations. Since the remaining amount of the credit is not refundable, the excess represents a large out-of-pocket expense for low-income workers, frequently more than the differential between working or remaining on public assistance. As currently structured, therefore, the day care credit gives maximum benefits to those for whom day care is not the basis of whether or not to work, while the poorer person who really needs the services in order to get off public assistance and into a job does not receive those benefits.

It is my hope, and I believe the hope of millions of working people throughout this country, that we in Congress will undertake serious efforts to develop a child care policy in this country which meets the employment needs of parents and the day care needs of children. This supplemental child care section of the continuing resolution is an important step in that direction, not only because it provides an additional amount of funding, but because it addresses the child care issue as a means of supporting all Americans who want to work.

DISCUSSION POINTS ON CHILD CARE

Jobs bill should speak to the special employment problem of women: 12 to 14 percent of women cannot work because of unavailability of child care; 30 percent of working women cite day care as a major concern.

Providing day care is far cheaper, on a per capita basis, than job training or employment subsidies.

The provision in this bill will provide an additional 33,000 day care slots, and will provide jobs for 4,000 day care workers.

Growing number of women workers, female headed households, and young children make it imperative that we view child care as employment, not welfare, issue.

The administration and Congress have cut child care by eliminating the $200 million under title XX, by reducing overall title XX funding, and by eliminating CETA workers who staffed many centers. These action multiply the barriers which prevent workers—especially women—from seeking or retaining employment.●

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 191, nays 215, not voting 27, as follows:

[Roll No. 450]

YEAS—191

Archer	Gingrich	Morrison
Ashbrook	Goodling	Myers
Atkinson	Gradison	Napier
Badham	Gramm	Nelligan
Bafalis	Green	Nichols
Bailey (MO)	Gregg	O'Brien
Benedict	Grisham	Oxley
Bereuter	Gunderson	Parris
Bethune	Hammerschmidt	Pashayan
Bliley	Hansen (ID)	Paul
Broomfield	Hansen (UT)	Petri
Brown (CO)	Hartnett	Porter
Brown (OH)	Hendon	Pritchard
Broyhill	Hiler	Pursell
Burgener	Hillis	Quillen
Butler	Holt	Regula
Campbell	Hopkins	Ritter
Carman	Horton	Roberts (KS)
Carney	Hubbard	Roberts (SD)
Cheney	Huckaby	Robinson
Clausen	Hunter	Roemer
Clinger	Hyde	Rogers
Coats	Ireland	Roth
Coleman	Jeffords	Roukema
Collins (TX)	Jeffries	Rousselot
Conable	Jenkins	Rudd
Conte	Johnston	Sawyer
Corcoran	Kemp	Schneider
Coughlin	Kramer	Sensenbrenner
Courter	Lagomarsino	Shaw
Coyne, James	Latta	Shumway
Craig	Leach	Siljander
Crane, Daniel	LeBoutillier	Skeen
Crane, Philip	Lee	Smith (AL)
Daniel, Dan	Lent	Smith (NE)
Daniel, R. W.	Levitas	Smith (OR)
Dannemeyer	Lewis	Snowe
Daschle	Livingston	Snyder
Daub	Loeffler	Solomon
Deckard	Lott	Spence
Derwinski	Lowery (CA)	Stangeland
Dickinson	Lujan	Stanton
Dornan	Lungren	Staton
Dreier	Madigan	Stenholm
Duncan	Marlenee	Stump
Dunn	Marriott	Synar
Edwards (AL)	Martin (IL)	Tauke
Edwards (OK)	Martin (NC)	Tauzin
Emerson	Martin (NY)	Taylor
Emery	McClory	Trible
English	McCloskey	Vander Jagt
Erdahl	McCollum	Walker
Erlenborn	McCurdy	Wampler
Evans (IA)	McDonald	Weber (MN)
Fenwick	McEwen	Weber (OH)
Fiedler	McGrath	Whitehurst
Fields	McKinney	Whittaker
Findley	Michel	Winn
Fish	Miller (OH)	Wolf
Forsythe	Mitchell (NY)	Wortley
Fountain	Molinari	Wylie
Fowler	Montgomery	Young (AK)
Frenzel	Moore	Young (FL)
Gilman	Moorhead	

NAYS—215

Addabbo	Brinkley	Downey
Akaka	Brodhead	Dwyer
Albosta	Brooks	Dymally
Alexander	Brown (CA)	Dyson
Anderson	Burton, Phillip	Early
Andrews	Byron	Eckart
Annunzio	Chappell	Edgar
Anthony	Chisholm	Edwards (CA)
Applegate	Clay	Ertel
Aspin	Coelho	Evans (IN)
AuCoin	Collins (IL)	Fascell
Bailey (PA)	Conyers	Fazio
Barnard	Coyne, William	Ferraro
Barnes	Crockett	Fithian
Bedell	D'Amours	Flippo
Bennett	Davis	Florio
Bevill	de la Garza	Foglietta
Biaggi	Dellums	Foley
Boggs	Derrick	Ford (MI)
Boland	Dicks	Ford (TN)
Boner	Dingell	Frank
Bonior	Dixon	Frost
Bonker	Donnelly	Fuqua
Bouquard	Dorgan	Garcia
Bowen	Dougherty	Gaydos
Breaux	Dowdy	Gejdenson
Gephardt	Martinez	Russo
Gibbons	Matsui	Sabo
Ginn	Mattox	Savage
Glickman	Mavroules	Scheuer
Gonzalez	Mazzoli	Schumer
Gore	McDade	Seiberling
Gray	McHugh	Shamansky
Guarini	Mica	Shannon
Hall (IN)	Mikulski	Sharp
Hall (OH)	Miller (CA)	Shelby
Hall, Ralph	Mineta	Simon
Hall, Sam	Minish	Skelton
Hamilton	Mitchell (MD)	Smith (IA)
Hance	Moakley	Smith (NJ)
Harkin	Mollohan	Solarz
Hatcher	Mottl	St Germain
Hawkins	Murphy	Stark
Hefner	Murtha	Stokes
Heftel	Natcher	Stratton
Hertel	Neal	Studds
Hightower	Nelson	Swift
Holland	Nowak	Traxler
Howard	Oakar	Udall
Hoyer	Oberstar	Vento
Hughes	Obey	Volkmer
Hutto	Ottinger	Walgren
Jacobs	Panetta	Washington
Jones (NC)	Patman	Watkins
Jones (OK)	Patterson	Waxman
Jones (TN)	Pease	Weaver
Kastenmeier	Pepper	Weiss
Kazen	Perkins	White
Kennelly	Peyser	Whitley
Kildee	Pickle	Whitten
Kogovsek	Price	Williams (MT)
LaFalce	Rahall	Williams (OH)
Lantos	Rangel	Wirth
Leath	Ratchford	Wolpe
Leland	Reuss	Wright
Long (LA)	Rinaldo	Wyden
Long (MD)	Rodino	Yates
Lowry (WA)	Roe	Yatron
Luken	Rose	Young (MO)
Lundine	Rosenthal	Zablocki
Markey	Rostenkowski	Zeferetti
Marks	Roybal	

NOT VOTING—27

Beard	Evans (GA)	Railsback
Beilenson	Fary	Rhodes
Bingham	Goldwater	Santini
Blanchard	Hagedorn	Schroeder
Bolling	Heckler	Schulze
Burton, John	Hollenbeck	Shuster
Chappie	Kindness	Smith (PA)
DeNardis	Lehman	Thomas
Evans (DE)	Moffett	Wilson

□ 2020

The Clerk announced the following pairs:

On this vote;

Mr. Thomas for, with Mr. Fary against.

Mr. Chappie for, with Mr. John L. Burton against.

Mr. MOTTL changed his vote from "yea" to "nay."

Mr. DECKARD changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were yeas 204, nays 200, not voting 29, as follows:

[Roll No. 451]

YEAS—204

Addabbo	Frank	Neal
Akaka	Frost	Nelson
Albosta	Fuqua	Nowak
Alexander	Garcia	Oakar
Andrews	Gaydos	Oberstar
Annunzio	Gejdenson	Obey
Anthony	Gephardt	Ottinger
Aspin	Gibbons	Panetta
AuCoin	Gilman	Patman
Bailey (PA)	Ginn	Patterson
Barnard	Gonzalez	Pease
Barnes	Gore	Pepper
Eedell	Gray	Perkins
Bevill	Guarini	Peyser
Biaggi	Hall (IN)	Pickle
Boggs	Hall (OH)	Price
Boland	Hance	Rahall
Boner	Harkin	Rangel
Bonior	Hawkins	Ratchford
Bonker	Hefner	Reuss
Bowen	Heftel	Rinaldo
Breaux	Hertel	Rodino
Brinkley	Holland	Roe
Brodhead	Howard	Rose
Brooks	Hoyer	Rosenthal
Broomfield	Huckaby	Rostenkowski
Brown (CA)	Hughes	Roybal
Chappell	Hutto	Russo
Chisholm	Jeffords	Sabo
Clay	Jenkins	Savage
Coelho	Jones (NC)	Scheuer
Collins (IL)	Jones (OK)	Schneider
Conyers	Jones (TN)	Schumer
Coyne, William	Kastenmeier	Seiberling
Crockett	Kazen	Shamansky
D'Amours	Kennelly	Shannon
de la Garza	Kildee	Sharp
Dellums	LaFalce	Simon
Derrick	Lantos	Skelton
Derwinski	Leath	Smith (IA)
Dicks	Leland	Smith (NJ)
Dingell	Long (LA)	Solarz
Dixon	Long (MD)	St Germain
Donnelly	Lowry (WA)	Stark
Dorgan	Luken	Stokes
Dougherty	Lundine	Stratton
Dowdy	Madigan	Studds
Downey	Markey	Swift
Dwyer	Marks	Traxler
Dymally	Martinez	Udall
Early	Matsui	Vento
Eckart	Mattox	Walgren
Edgar	Mavroules	Washington
Ertel	Mazzoli	Watkins
Evans (IN)	McCurdy	Waxman
Fascell	McDade	Weaver
Fazio	McHugh	Weiss
Ferraro	Mica	White
Findley	Mikulski	Whitten
Fithian	Miller (CA)	Williams (MT)
Flippo	Mineta	Williams (OH)
Florio	Minish	Wolpe
Foglietta	Mitchell (MD)	Wright
Foley	Moakley	Wyden
Ford (MI)	Mollohan	Yates
Ford (TN)	Murphy	Young (MO)
Fountain	Murtha	Zablocki
Fowler	Natcher	Zeferetti

NAYS—200

Anderson	Cheney	Dickinson
Applegate	Clausen	Dornan
Archer	Clinger	Dreier
Ashbrook	Coats	Duncan
Atkinson	Coleman	Dunn
Bafalis	Collins (TX)	Dyson
Bailey (MO)	Conable	Edwards (AL)
Benedict	Conte	Edwards (OK)
Bennett	Corcoran	Emerson
Bereuter	Coughlin	Emery
Bethune	Courter	English
Bliley	Coyne, James	Erdahl
Bouquard	Craig	Erlenborn
Brown (CO)	Crane, Daniel	Evans (IA)
Brown (OH)	Crane, Philip	Fenwick
Broyhill	Daniel, Dan	Fiedler
Burgener	Daniel, R. W.	Fields
Butler	Dannemeyer	Fish
Byron	Daschle	Forsythe
Campbell	Daub	Frenzel
Carman	Davis	Gingrich
Carney	Deckard	Glickman

Goodling	Lujan	Roukema
Gradison	Lungren	Rousselot
Gramm	Marlenee	Rudd
Green	Marriott	Sawyer
Gregg	Martin (IL)	Schroeder
Grisham	Martin (NC)	Sensenbrenner
Gunderson	Martin (NY)	Shaw
Hall, Ralph	McClory	Shelby
Hall, Sam	McCloskey	Shumway
Hamilton	McCollum	Siljander
Hammerschmidt	McDonald	Skeen
Hansen (ID)	McEwen	Smith (AL)
Hansen (UT)	McGrath	Smith (NE)
Hartnett	McKinney	Smith (OR)
Hatcher	Michel	Snowe
Hendon	Miller (OH)	Snyder
Hightower	Mitchell (NY)	Solomon
Hiler	Molinari	Spence
Hillis	Montgomery	Stangeland
Holt	Moore	Stanton
Hopkins	Moorhead	Staton
Horton	Morrison	Stenholm
Hubbard	Mottl	Stump
Hunter	Myers	Synar
Hyde	Napier	Tauke
Ireland	Nelligan	Tauzin
Jacobs	Nichols	Taylor
Jeffries	O'Brien	Trible
Johnston	Oxley	Volkmer
Kemp	Parris	Walker
Kindness	Pashayan	Wampler
Kogovsek	Paul	Weber (MN)
Kramer	Petri	Weber (OH)
Lagomarsino	Porter	Whitehurst
Latta	Pritchard	Whitley
Leach	Pursell	Whittaker
LeBoutillier	Quillen	Winn
Lee	Regula	Wirth
Lent	Ritter	Wolf
Levitas	Roberts (KS)	Wortley
Lewis	Roberts (SD)	Wylie
Livingston	Robinson	Yatron
Loeffler	Roemer	Young (AK)
Lott	Rogers	Young (FL)
Lowery (CA)	Roth	

NOT VOTING—29

Badham	Edwards (CA)	Railsback
Beard	Evans (DE)	Rhodes
Beilenson	Evans (GA)	Santini
Bingham	Fary	Schulze
Blanchard	Goldwater	Shuster
Bolling	Hagedorn	Smith (PA)
Burton, John	Heckler	Thomas
Burton, Phillip	Hollenbeck	Vander Jagt
Chappie	Lehman	Wilson
DeNardis	Moffett	

□ 2030

The Clerk announced the following pairs:

On this vote:

Mr. Fary for, with Mr. Thomas against.

Mr. John L. Burton for, with Mr. Chappie against.

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair recognizes the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. SMITH of Oregon. Mr. Speaker, I have a preferential motion I send to the desk.

The SPEAKER. The gentleman will be seated. The Speaker has the right of recognition.

Mr. SMITH of Oregon. Mr. Speaker, I have a preferential motion.

Mr. WALKER. Regular order, Mr. Speaker.

□ 2040

The SPEAKER. The Chair recognizes the majority leader, the gentleman from Texas (Mr. WRIGHT).

LEGISLATIVE PROGRAM

Mr. WRIGHT. Mr. Speaker, let me simply announce for the benefit of the Members that it is our intention now to have no further votes tonight. We plan to take up the things that we put off last night in order that Members might go and attend the reception in the White House, the remaining suspension, as was agreed with the Republican leadership and our leadership last night, but we will not have any votes. We will roll the votes until tomorrow, let the votes be the first thing tomorrow.

We will come in at 10 o'clock tomorrow and the first order of business tomorrow then will be votes on the suspensions that have been debated tonight.

I think that is a fair arrangement, trying to accommodate everybody, as was agreed last night when we rose early and those who had suspension on the calendar accommodated the rest of us by postponing their suspension in order that Members and their families might attend the White House party.

Therefore, I would ask your cooperation and your good graces to permit us simply tonight to debate these suspensions and let their votes be rolled until tomorrow morning and they come the first thing tomorrow when we convene at 10 a.m.

PREFERENTIAL MOTION OFFERED BY MR. SMITH OF OREGON

Mr. SMITH of Oregon. Mr. Speaker, I offer a preferential motion.

The SPEAKER. The gentleman will state his preferential motion.

Mr. SMITH of Oregon. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The question is on the preferential motion offered by the gentleman from Oregon (Mr. SMITH).

The question was taken, and the Speaker announced that the noes appeared to have it.

Mr. SMITH of Oregon. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 122, nays 202, not voting 109, as follows:

[Roll No. 452]

YEAS—122

Archer	Clinger	Derwinski
Ashbrook	Coats	Dornan
Atkinson	Coleman	Dougherty
Bailey (MO)	Collins (TX)	Dreier
Benedict	Conable	Duncan
Bereuter	Corcoran	Edwards (AL)
Bethune	Courter	Edwards (OK)
Bliley	Coyne, James	Emerson
Brown (CO)	Craig	Erlenborn
Brown (OH)	Crane, Daniel	Evans (IA)
Butler	Crane, Philip	Fenwick
Campbell	Daniel, R. W.	Fiedler
Carman	Dannemeyer	Fields
Carney	Daub	Frenzel
Cheney	Davis	Gingrich
Goodling	Lujan	Roth
Gradison	Lungren	Roukema
Green	Marlenee	Rousselot
Gregg	Martin (IL)	Sawyer
Grisham	Martin (NC)	Schneider
Gunderson	Martin (NY)	Sensenbrenner
Hansen (ID)	McCollum	Shaw
Hansen (UT)	McDade	Shumway
Hartnett	McGrath	Siljander
Hendon	Michel	Skeen
Hiler	Miller (OH)	Smith (NE)
Hopkins	Molinari	Smith (NJ)
Hunter	Moore	Smith (OR)
Hyde	Moorhead	Snowe
Jeffries	Morrison	Solomon
Kemp	Napier	Stangeland
Kramer	Nelligan	Staton
Lagomarsino	Pashayan	Stump
LeBoutillier	Paul	Walker
Lee	Porter	Weber (MN)
Lent	Pritchard	Whitehurst
Lewis	Regula	Whittaker
Livingston	Ritter	Wolf
Loeffler	Roberts (KS)	Wortley
Lott	Robinson	Young (AK)
Lowery (CA)	Rogers	

NAYS—202

Akaka	Gonzalez	Oberstar
Albosta	Gore	Obey
Alexander	Gramm	Ottinger
Anderson	Gray	Panetta
Andrews	Guarini	Parris
Anthony	Hall (IN)	Patman
Aspin	Hall, Ralph	Patterson
AuCoin	Hall, Sam	Pease
Bafalis	Hamilton	Pepper
Bailey (PA)	Hance	Perkins
Barnard	Harkin	Petri
Barnes	Hatcher	Pickle
Bedell	Hefner	Price
Bennett	Hertel	Pursell
Bevill	Hightower	Quillen
Boggs	Hillis	Rahall
Boland	Holt	Rangel
Boner	Horton	Ratchford
Bowen	Howard	Rinaldo
Breaux	Hoyer	Rodino
Brinkley	Hubbard	Roemer
Brown (CA)	Huckaby	Rosenthal
Broyhill	Hughes	Rostenkowski
Burton, Phillip	Hutto	Roybal
Byron	Ireland	Rudd
Chappell	Jeffords	Russo
Coelho	Jenkins	Schumer
Coughlin	Jones (OK)	Seiberling
Coyne, William	Jones (TN)	Shamansky
D'Amours	Kastenmeier	Shannon
Daniel, Dan	Kazen	Sharp
Daschle	Kennelly	Shelby
de la Garza	Kildee	Skelton
Dellums	Kogovsek	Smith (IA)
Dickinson	LaFalce	Snyder
Dicks	Latta	Solarz
Dingell	Leach	Spence
Dixon	Leath	Stenholm
Donnelly	Levitas	Stokes
Dorgan	Lowry (WA)	Stratton
Dowdy	Luken	Studds
Dymally	Markey	Swift
Dyson	Marriott	Synar
Early	Martinez	Tauke
Eckart	Matsui	Tauzin
Edgar	Mavroules	Taylor
Emery	McCloskey	Traxler
English	McCurdy	Trible
Erdahl	McDonald	Udall
Evans (IN)	McKinney	Vento
Fazio	Mica	Volkmer
Ferraro	Mikulski	Walgren
Fish	Miller (CA)	Wampler
Fithian	Mineta	Watkins
Florio	Minish	Waxman
Foglietta	Mitchell (NY)	Weaver
Foley	Moakley	Weiss
Ford (MI)	Mollohan	Whitley
Fountain	Montgomery	Whitten
Fowler	Mottl	Wolpe
Frank	Murphy	Wright
Frost	Murtha	Wyden
Gaydos	Myers	Wylie
Gejdenson	Natcher	Yatron
Gibbons	Neal	Young (FL)
Gilman	Nelson	Zablocki
Ginn	Nichols	
Glickman	Oakar	

NOT VOTING—109

Addabbo	Fascell	O'Brien
Annunzio	Findley	Oxley
Applegate	Flippo	Peyser
Badham	Ford (TN)	Railsback
Beard	Forsythe	Reuss
Beilenson	Fuqua	Rhodes
Biaggi	Garcia	Roberts (SD)
Bingham	Gephardt	Roe
Blanchard	Goldwater	Rose
Bolling	Hagedorn	Sabo
Bonior	Hall (OH)	Santini
Bonker	Hammerschmidt	Savage
Bouquard	Hawkins	Scheuer
Brodhead	Heckler	Schroeder
Brooks	Heftel	Schulze
Broomfield	Holland	Shuster
Burgener	Hollenbeck	Simon
Burton, John	Jacobs	Smith (AL)
Chappie	Johnston	Smith (PA)
Chisholm	Jones (NC)	St Germain
Clausen	Kindness	Stanton
Clay	Lantos	Stark
Collins (IL)	Lehman	Thomas
Conte	Leland	Vander Jagt
Conyers	Long (LA)	Washington
Crockett	Long (MD)	Weber (OH)
Deckard	Lundine	White
DeNardis	Madigan	Williams (MT)
Derrick	Marks	Williams (OH)
Downey	Mattox	Wilson
Dunn	Mazzoli	Winn
Dwyer	McClory	Wirth
Edwards (CA)	McEwen	Yates
Ertel	McHugh	Young (MO)
Evans (DE)	Mitchell (MD)	Zeferetti
Evans (GA)	Moffett	
Fary	Nowak	

□ 2050

Mr. BEDELL and Mr. BOLAND changed their votes from "yea" to "nay."

Mr. HUNTER and Mr. STUMP changed their votes from "nay" to "yea."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make the following statement:

It is the usual and customary practice in this House that when we come to the end of a proceeding, as we did, that the majority leader then announces the program for the remainder of the night. The majority leader had informed me that he was going to make that announcement. Normally it is a unanimous-consent request, and that is what the Chair anticipated that the majority leader would do.

It is the prerogative and the duty of the Speaker of the House to run this body in an expeditious manner and he should be informed when motions are going to be made, whether they are privileged or otherwise, and when he is suddenly confronted with a privileged motion, then it is my opinion, while the Chair appreciates that he follows the rules of the House, it does not improve the decorum of the House. The Speaker at all times tries to be fair, and thought he was being fair with the Members when he was recognizing the majority leader to inform the membership what the program was for the remainder of the evening.

If the minority leader has anything to say, the Chair would be delighted to hear from him at this time.

Mr. MICHEL. The gentleman has nothing to say other than what I understand the agreement to be from this point on, Mr. Speaker, that the five bills in question will be taken up in sequence here and that the votes would be put off until tomorrow, if there is a vote demanded, and those votes would be the first order of business tomorrow.

The SPEAKER. The Chair was about to make that statement, Mr. Minority Leader.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, December 15, 1982.

□ 2100

PERMISSION TO PRINT IN CONGRESSIONAL RECORD REPORT OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. STOKES. Mr. Speaker, by direction of the Committee on Standards of Official Conduct, I ask unanimous consent that the report of that committee (H. Rept. No. 97-965) filed today, be printed in today's edition of the CONGRESSIONAL RECORD.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to inquire of the gentleman whether or not this has been cleared with the minority.

Mr. STOKES. The ranking minority member of our committee was one of the members who voted for the resolution asking that this be done in the House.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

OREGON WILDERNESS ACT OF 1982

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7340) to designate certain national forest system lands in the State of Oregon for inclusion in the national wilderness preservation system, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Oregon Wilderness Act of 1982".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands, as generally depicted on maps, appropriately referenced, dated December 1982 (except as otherwise dated), are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Mount Hood National Forest, which comprise approximately forty thousand nine hundred acres, are generally depicted on a map entitled "Columbia Gorge Wilderness—Proposed", and shall be known as the Columbia Gorge Wilderness;

(2) certain lands in the Mount Hood National Forest, which comprise approximately fifty-five thousand acres, are generally depicted on a map entitled "Salmon-Huckleberry Wilderness—Proposed", and shall be known as the Salmon-Huckleberry Wilderness;

(3) certain lands in the Mount Hood National Forest, which comprise approximately twenty-seven thousand acres, are generally depicted on a map entitled "Badger Creek Wilderness—Proposed", and shall be known as the Badger Creek Wilderness;

(4) certain lands in the Mount Hood National Forest and the Willamette National Forest, which comprise approximately forty-seven thousand acres, are generally depicted on a map entitled "Hidden Wilderness—Proposed", and shall be known as the Hidden Wilderness;

(5) certain lands in the Willamette National Forest, which comprise approximately twenty thousand acres, are generally depicted on a map entitled "Middle Santiam Wilderness—Proposed", and shall be known as the Middle Santiam Wilderness: *Provided,* That, the Secretary of Agriculture upon enactment of this Act shall terminate all existing contracts for the sale of timber within the Middle Santiam Wilderness as designated by this Act. The Secretary shall compensate the owners of such contracts by offering to sell them similar contracts of approximately equal volumes and values of timber. Such compensatory sales shall be carried out on a negotiated basis;

(6) certain lands in the Siuslaw National Forest, which comprise approximately six thousand five hundred acres, are generally depicted on a map entitled "Rock Creek Wilderness—Proposed", and shall be known as the Rock Creek Wilderness;

(7) certain lands in the Siuslaw National Forest, which comprise approximately eight thousand eight hundred acres, are generally depicted on a map entitled "Cummins Creek Wilderness—Proposed", and shall be known as the Cummins Creek Wilderness;

(8) certain lands in the Umpqua National Forest, which comprise approximately nineteen thousand eight hundred and twenty acres, are generally depicted on a map entitled "Boulder Creek Wilderness—Proposed", and shall be known as the Boulder Creek Wilderness;

(9) certain lands in the Umpqua and Rogue River National Forests, which comprise approximately fifty-five thousand acres, are generally depicted on a map entitled "Rogue-Umpqua Divide Wilderness—Proposed", and shall be known as the Rogue-Umpqua Divide Wilderness;

(10) certain lands in and adjacent to the Siskiyou National Forest, which comprise approximately twenty-two thousand acres, are generally depicted on a map entitled "Grassy Knob Wilderness—Proposed", and shall be known as the Grassy Knob Wilderness;

(11) certain lands in and adjacent to the Siskiyou and Rogue River National Forests, which comprise approximately twenty-six thousand acres, are generally depicted on a map entitled "Red Buttes Wilderness—Proposed", and shall be known as the Red Buttes Wilderness;

(12) certain lands in the Umpqua, Willamette, Deschutes, and Winema National Forests, which comprise approximately one hundred and fifty-five thousand acres, are generally depicted on a map entitled "Diamond-Thielsen Wilderness—Proposed", and which are hereby incorporated in and shall be deemed to be a part of the Diamond Peak Wilderness and designated by Public Law 88-577: *Provided,* That, the existing Diamond Peak Wilderness together with the additions thereto of this Act shall henceforth be known as the Diamond-Thielsen Wilderness;

(13) certain lands in the Rogue River and Winema National Forests, which comprise approximately one hundred and thirteen thousand acres, are generally depicted on a map entitled "Sky Lakes Wilderness—Proposed", and shall be known as the Sky Lakes Wilderness;

(14) certain lands in the Fremont National Forest, which comprise approximatley seven thousand eight hundred and twenty-five acres, are generally depicted on a map entitled "Coleman Rim Wilderness—Proposed", and shall be known as the Coleman Rim Wilderness;

(15) certain lands in the Ochoco National Forest, which comprise approximately seven thousand one hundred acres, are generally depicted on a map entitled "Bridge Creek Wilderness—Proposed", and shall be known as the Bridge Creek Wilderness;

(16) certain lands in the Ochoco National Forest, which comprise approximately fourteen thousand four hundred acres, are generally depicted on a map entitled "Mill Creek Wilderness—Proposed", and shall be known as the Mill Creek Wilderness;

(17) certain lands in the Ochoco National Forest, which comprise approximately thirteen thousand four hundred acres, are generally depicted on a map entitled "Ochoco Canyon Wilderness—Proposed", and shall be known as the Ochoco Canyon Wilderness;

(18) certain lands in the Wallowa-Whitman, Malheur, and Umatilla National Forests, which comprise approximately two hundred and five thousand acres, are generally depicted on a map entitled "North Fork John Day Wilderness—Proposed", and shall be known as the North Fork John Day Wilderness;

(19) certain lands in and adjacent to the Wallowa-Whitman National Forest, which comprise approximately thirty-one thousand acres, are generally depicted on a map entitled "Joseph Canyon Wilderness—Proposed", and shall be known as the Joseph Canyon Wilderness;

(20) certain lands in the Willamette and Mount Hood National Forests, which comprise approximately thirteen thousand five hundred acres, are generally depicted on a map entitled "Mount Jefferson Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of, the Mount Jefferson Wilderness as designated by Public Law 88-577;

(21) certain lands in the Willamette and Deschutes National Forests, which comprise approximately six thousand acres, are generally depicted on a map entitled "Mount Washington Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of, the Mount Washington Wilderness as designated by Public Law 88-577;

(22) certain lands in the Willamette and Deschutes National Forests which comprise approximately thirty-six thousand acres, are generally depicted on a map entitled "Three Sisters Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of, the Three Sisters Wilderness as designated by Public Laws 88-577 and 95-237;

(23) certain lands in the Winema National Forest which comprise approximately three thousand acres, are generally depicted on a map entitled "Mountain Lakes Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of, the Mountain Lakes Wilderness as designated by Public Law 88-577;

(24) certain lands in the Fremont National Forest which comprise approximately three thousand seven hundred and thirty acres, are generally depicted on a map entitled "Gearhart Mountain Wilderness Additions—Proposed," and which are hereby incorporated in, and shall be deemed to be a part of, the Gearhart Mountain Wilderness as designated by Public Law 88-577;

(25) certain lands in the Malheur National Forest which comprise approximately thirty-five thousand one hundred acres, are generally depicted on a map entitled "Strawberry Mountain Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of, the Strawberry Mountain Wilderness as designated by Public Law 88-577; and

(26) certain lands in the Wallowa-Whitman National Forest which comprise approximately thirty-four thousand three hundred acres, are generally depicted on a map entitled "Eagle Cap Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of, the Eagle Cap Wilderness as designated by Public Laws 88-577 and 92-521.

SEC. 3. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendation to the Congress of the United States no later than three years from the date of enactment of this Act:

(1) certain lands in the Willamette National Forest which comprise approximately forty thousand acres, are generally depicted on a map entitled "Old Cascades Wilderness Study Area", dated December 1982, and which shall be known as the Old Cascades Wilderness Study Area;

(2) certain lands in the Willamette National Forest which comprise approximately sixty-five thousand acres, are generally depicted on a map entitled "Waldo Lake Wilderness Study Area", dated December 1982, and which shall be known as the Waldo Lake Wilderness Study Area; and

(3) certain lands in and adjacent to the Willamette and Umpqua National Forests which comprise approximately seven thousand five hundred acres, are generally depicted on a map entitled "Hardesty Mountain Wilderness Study Area", dated December 1982, and which shall be known as the Hardesty Mountain Wilderness Study Area.

(b) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary concerned in accordance with the provisions of the Wilderness Act: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 5. As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area shall be filed with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service Department of Agriculture.

SEC. 6. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Oregon and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Oregon, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Oregon;

(2) with respect to the National Forest System lands in the State of Oregon which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act, and those lands designated for wilderness study in section 3 of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Oregon reviewed in such Final Environmental Statement and not designated as wilderness or for study by Congress or remaining in further planning upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide Roadless Area Review and Evaluation of National Forest System lands in the State of Oregon for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 7340, the Oregon Wilderness Act of 1982. This bill represents a long overdue solution to the question of which national forest roadless lands in Oregon shall be designated wilderness, and which roadless lands will be made available for uses other than wilderness in accordance with Forest Service land management planning process. In so doing, the bill would add 26 areas in Oregon to the National Forest Service System totaling approximately 1,006,000 acres, and earmark another 112,000 acres for further wilderness study. Of roadless lands reviewed for wilderness potential by the Forest Service, roughly two-thirds would be released for uses other than wilderness.

Mr. Speaker, it is important that we act on this at this time. The Ninth Circuit Court of Appeals has upheld the decision of the district court in a case in California to the effect that the Forest Service, in deciding which lands should be recommended for wilderness designation by Congress, failed to carry out the requirements of the environmental laws, and therefore is going to have to do it all over again. This affects all of the States in that circuit, obviously, and means that all the roadless areas in the national forest will be tied up until such time as the Congress decides which ones should be put in wilderness and which should not. So, it is important that we act on this for purposes of providing the certainty that is needed for further investment in the timber and other industries, and it is also important from the standpoint of ending the long uncertainty that resulted from the failure of the Congress to act in the past on the Oregon wilderness issue.

Mr. Speaker, there are some who have characterized H.R. 7340 as a bill which would add disproportionate amounts of land and timber to wilderness, while ignoring the "development" side of the equation and uses such as timber harvest and mining. Nothing could be further from the truth. If H.R. 7340 is enacted into law, the wilderness and potential wilderness lands in Oregon will amount to roughly 2.5 million acres. Every single Western State, with the exception of the relatively arid States of Nevada, Utah, and Arizona, currently has a larger percentage of its national forest lands designated as wilderness or potential wilderness.

On the other side of the equation, if H.R. 7340 is enacted, roughly 84 percent of the national forest lands in the State will remain available for development type uses and motorized recreation. In terms of timber production, approximately 97 percent of the State's potential yield would remain outside wilderness or potential wilderness. It is also extremely important to bear in mind that the wilderness designations of H.R. 7340 protect uses and values that over the long run may provide more economic benefits to Oregon's economy than would the traditional extractive industries. In particular, many of the wilderness proposals and boundaries of the bill are drawn to provide protection for jeopardized anadromous fish runs and spawning grounds, which contribute millions of dollars annually to the economy. Studies in some areas suggest that the long-term economic values of these fisheries is greater than the timber potential. In addition, the wilderness designation of H.R. 7340 will provide economic benefits by maintaining high quality and quantity water flows for municipal and agricultural use; protecting key use areas for hunters, fishermen and the fast growing primitive recreation industry; and preserving the type of clean and beautiful outdoor environment that attracts high technology industry and workers to States such as Oregon. So I submit that H.R. 7340 makes good sense from an economic, as well as an aesthetic and recreation standpoint.

In summary, Mr. Speaker, I believe H.R. 7340 is a balanced bill which designates critical lands for wilderness protection and "releases" other lands for important uses such as timber harvest. I urge my colleagues support of the bill.

I would say it comes after three separate hearings in Oregon, and field trips by members of the committee, including myself, and it also comes after a full hearing in Washington. It does seem to me that we have an adequate record on which to base our decisions.

I would like to commend the gentleman from Oregon (Mr. WEAVER), a member of our committee, who has taken an active role in promoting a resolution of this, and also the gentleman from Oregon (Mr. AUCOIN) who has similarly taken a leadership role in working out this complicated legislation, as well as a newer Member, RON WYDEN, also from Oregon.

Of course, I also wish to thank the chairman of our committee, the Honorable MORRIS UDALL.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I will yield to Mr. UDALL.

Mr. UDALL. Mr. Speaker, I want to compliment the Oregon delegation members the gentleman just referred to, and the chairman of the subcommittee, the able gentleman from Ohio. We have a lot of difficulty and slowdown with some of these wilderness bills, but we are gradually and steadily completing this job. It took 20 years to make the studies, or almost 20 years, and we are now in the process of putting the final pieces of the wilderness system together. This is an important bill in that respect. I congratulate the gentlemen for it, and I offer my strong support of the legislation.

Mr. SEIBERLING. I thank the gentleman.

Mr. SMITH of Oregon. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield.

Mr. SMITH of Oregon. Mr. Speaker, I wonder if I might have a colloquy with the chairman, the gentleman from Ohio.

How long has this bill been introduced into the House of Representatives?

Mr. SEIBERLING. Well, the bill was only introduced 2 weeks ago. However, as the gentleman knows, the RARE-II recommendations and the whole RARE-II issue have been pending before the committee for several years. This bill simply finally pulls some unanswered issues together and makes a recommended decision on the basis of studies we have made of the whole Oregon National Forest Wilderness issue. Many of the wilderness proposals in this bill are identical to the proposals contained in Senator HATFIELD's bill in the last Congress.

Mr. SMITH of Oregon. I believe it was introduced about the first of December, and I believe we have had one hearing, which was last week, is that not correct, on the bill itself?

Mr. SEIBERLING. That is correct, but as the gentleman knows, we often have extensive hearings on proposed legislation, after which, on the basis of the information thus derived, we put together in final form a bill which we take to the floor. Interestingly enough, we often do that without even the benefit of a further hearing. In this case, after we put together the final version, we then held a hearing in Washington, in which testimony

was given by representatives of this administration, the timber industry and environmental organizations.

Mr. SMITH of Oregon. That hearing was held on the sixth of December; is that right?

Mr. SEIBERLING. I believe that is the correct date.

□ 2110

Mr. SMITH of Oregon. How long was that hearing?

Mr. SEIBERLING. The hearing lasted most of the morning.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to say to my good friend—and he is my dear friend—the distinguished gentleman from Oregon (Mr. SMITH) who is one of my colleagues that I cherish, that there were six hearings held in Oregon on the wilderness issue in this session of Congress, three by my subcommittee.

Mr. SMITH of Oregon. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. Mr. Speaker, I am sure the gentleman from Ohio would be delighted to yield to the gentleman in a bit, but first I would like to finish my statement.

Three hearings were held by my Forest Subcommittee, and three were held by my subcommittee chaired by the gentleman from Ohio (Mr. SEIBERLING), all dealing with the economics and specific wilderness areas in Oregon. That is six total hearings in this session of Congress, six hearings in Oregon.

And I say to my dear friend, the gentleman from Oregon, that my dear friend protested those hearings. He attacked me in the press for holding those hearings. He did not even come to those hearings, even though he was invited. He did not even come to the hearing in his own congressional district to represent his district in those hearings. We pleaded with him, we begged him to come to those hearings.

Mr. SMITH of Oregon. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. We asked him to come so we could get his input on the issue, but he refused to come and instead attacked us for holding these field hearings on the issue in Oregon. I am sorry that that had to be the case.

Then Senator HATFIELD in the prior session of Congress held three hearings in Oregon on the wilderness bill he had introduced and passed in the Senate. Then another hearing was held in Washington, D.C., for a total of 10 hearings on this issue, not to mention the dozens of roadless area review studies and administrative hearings held on this issue.

We have been trying to resolve RARE-II for many, many years, and it is essential to our timber economy, which I know the distinguished gentleman from Oregon (Mr. SMITH) cherishes and tries to support just as much as I do. It is essential to the timber industry of Oregon that this issue be resolved. It must be resolved; it has to be. A RARE-II bill must be passed.

Mr. SMITH of Oregon. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. And it has to be done very soon because of the threat of the Ninth Circuit Court of Appeals decision in the State of California case, which at any moment, even tomorrow, could lock up our entire roadless areas of Oregon just like that, without any questions asked, and, therefore, it would bring our entire timber industry to a halt.

So this issue must be addressed. It must be addressed as soon as possible because of the jeopardy our timber industry is in, and I ask the gentleman to simply state what actually happened in terms of the hearings we held in Oregon and the great amount of study we have given to this issue.

Mr. SMITH of Oregon. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. I must return the time to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I do not wish to yield at this time. The gentleman will have his time.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as to what we are about to do tomorrow on this bill, it has been badly represented by those who are supporting it. We have been told that there is a great rush and need for this.

I would like to stress this matter and compliment the gentleman from Oregon (Mr. SMITH) for bringing forth the fact that we have had this bill 14 days or less. There have been no actual hearings on this legislation regardless of what my good chairman says. The Governor of Oregon opposes the bill, and the timber industry opposes it. It has created a false emergency. It covers 600 and some odd million acres, more than any other bill had ever imposed, including that of the Senator from Oregon, Mr. HATFIELD. We will lose 200 million board feet of timber per year, and it is valued at $44 to $60 million a year that will be lost.

I think the thing that hurts me the most is that my good friend, the gentleman from Oregon (Mr. WEAVER) has stated these things in his great hearings:

On February 19, in Salem, Oreg., he said:

I will not allow testimony on any specific wilderness areas or forests. That will come when, as I intend to do, I introduce an Oregon wilderness bill that will include specific wildernesses. The hearings will be held of course eventually on the specific forest areas. At that time we will take up what is suitable for each area and which are suitable for inclusion in the forest system.

Today we are concerned primarily with balance.

In Bend, Oreg., on February 20, 1981, the gentleman from Oregon (Mr. WEAVER) said this:

I intend to introduce after these hearings a wilderness bill which will include the actual specific wilderness areas. At that time we will hold hearings throughout Oregon to see the effect of and the desirability of these specific areas in their particular locales.

This hearing will have nothing to do with specific land areas. It is a hearing designed to determine what we think is a decent balance between the various multiple uses of your forest, the timber harvest, the commercial harvest land and wilderness land.

In Medford, Oreg., on February 21, 1981, he said:

With that, I want to say that upon the conclusion of these hearings, and this is the last one, that I will soon be introducing a bill for all of Oregon which will include specific land areas proposed for wilderness.

First, I want to get the moderation, the balance, and then we will go on to specific land areas proposed for wilderness. Then we will come back in several months and hold hearings throughout Oregon on these specific proposals. At that time then we will want testimony as to the effect on each land area, its merit for wilderness, its effect on the local area. We will have full hearings on those, and I can assure you, anyone who wants to testify in these hearings, I will want to hear them.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. Mr. Speaker, I sincerely ask the gentleman to listen to what I have just said. This is all in 1981, and we are in 1982. The bill has been introduced, and we have never had any hearings. This is the man who is promoting this.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman for just one-half second.

Mr. WEAVER. Mr. Speaker, I just want to say, yes, the first three hearings were on the economic effect of the wilderness and what comprised moderation and balance. They were very helpful hearings, and we arrived at 2 percent of the timber as a modest and balanced amount. That is what we have in this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I will reclaim the balance of my time.

What I am stressing here is full hearings across the State of Oregon, and their effect on the locale. Now, the way this thing has been run tonight is absolutely a disaster as far as I am concerned. First, the gentleman from Oregon was not properly recognized, and he was gaveled down very, very quickly. I think that was wrong. He has a right to protect his interests.

He has not been protected in the committee.

Second, we are here tonight debating the bill, and let us face it, there are not that many around listening to this program, but I hope that the Members remember tomorrow that this used to be a representative forum of government, a body that had representatives that spoke to those people, and they should be listened to. I have heard my good friend, the subcommittee chairman, the gentleman from Ohio, say that collectively and nationally we must consider this. Forget the little man, forget the jobs in the timber industry, forget the local input, and listen to the special interest groups, the Sierra Club, the Friends of the Earth, all these different groups of lobbyists and lawyers out here that camp out in certain Members offices. Forget the people out there who are affected each day.

All I can say is that the gentleman from Oregon, Mr. SMITH, since it affects his district, does not want this bill with his district being affected, nor does the newly elected Member from Oregon want it. If the gentleman from Oregon (Mr. WEAVER) wants it in his district, let us write that area up and I will support him in it.

□ 2120

If the gentleman from Oregon (Mr. AUCOIN) wants it, I will support him in that area. But let us not start taking everybody's name in the national collective interest and putting areas in wilderness.

I am going to do everything in my power, as I said, on tomorrow to defeat this legislation that has been poorly drafted, poorly conceived, and very badly put upon the Members of this House.

I reserve the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. Mr. Speaker, from those who oppose the bill, with the attacks you have heard on this question of hearings, if you listen to those attacks you would come to the belief that somehow the Oregon delegation as a whole has prevented the people of Oregon from speaking either to the macro questions of wilderness in this or in terms of the total amount of acreage or the specific locations that are candidates for wilderness.

The truth of the matter is that that is just not so. Senator HATFIELD, the dean of this delegation held three field hearings across the length and breadth of Oregon taking testimony on specific issues, specific candidate wilderness areas. The gentleman from Oregon (Mr. SMITH) knows that.

My colleague, Mr. WEAVER, held seven hearings both on the aggregate totals that ought to be appropriate for a wilderness bill and on specific questions. There were a total of 10 hearings.

If anyone in this Chamber believes that the Oregon delegation has been somehow remiss in letting Oregonians speak out on this bill they are sadly mistaken.

MARK HATFIELD, a man I respect, who is from this gentleman's side of the aisle, chairs the Senate Appropriations Committee and he is an honorable man. He is sitting over in the other body tonight waiting for the Oregon bill to be sent over to him. He believes, and the junior Senator believes, that this bill, if passed over there, can be approved at a decent acreage level that all parties can agree to, all reasonable parties can agree to.

We believe there is a majority in the delegation that is reasonable, and that we can get this issue behind us.

We have a bipartisan approach. It is regrettable that the gentleman from Oregon (Mr. SMITH) somehow thinks that we can solve the lockup of the 3 million acres of roadless acres in Oregon by passing release language for all 3 million acres. But anybody in this Chamber who has been through this issue before knows that that is simply not practical.

One can fantasize and believe in his fantasy that it can be done but obviously there are enough votes in the House and in the other body on the part of those who want some degree of acreage for wilderness, there are enough votes among those to cancel out and veto such an approach.

So what, then, is the approach? To unlock 3 million acres of roadless areas that are now totally tied up by a 9th circuit court decision. It does not take a genius to figure it out. It is to strike a balance, to release those acres that makes sense for commercial development.

We release 2 million acres and preserve 1 million acres for wilderness protection.

Time is brief and it is difficult to go through the numbers. But let me conclude by saying in terms of describing what is a reasonable compromise Oregon's national forests have approximately 11 million acres of commercial forest lands in them. This bill, by releasing 2 million acres of roadless areas, increases that amount to 13 million acres, over 13 million acres of multiple use commercial forest lands.

By preserving 1 million acres of pristine areas for wilderness protection we bring the total in Oregon in the wilderness system to 2 million acres of wilderness; 13 million acres on the one hand to logging and use for multiple use and 2 million for the enjoyment of all people, the preservation of wildlife, the preservation of genetic diversity in our national forests, backpacking, the preservation of wild salmon streams, and habitats. I think that 13 million acres figure for commercial lands and 2 million acres figure for wilderness is a reasonable proposition.

It is at least reasonable enough to attract the interest of the two Republican Senators from the State of Oregon and all of the Democrats in the House.

I urge your support of this legislation.

Mr. SEIBERLING. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WYDEN).

Mr. WYDEN. I thank the gentleman for yielding.

Mr. Speaker, I rise today to speak on behalf of legislation which I believe will allow the forest products industry, recreationalists, and environmentalists in Oregon to get about the business of planning a productive, healthy, and environmentally sound future for our State.

When I joined my colleagues, Mr. AUCOIN, and Mr. WEAVER, in introducing the Oregon Wilderness Act of 1982 last week, I described the bill as representing a series of pluses for our State.

I still feel that way.

The Oregon Wilderness Act of 1982 is a plus for those of us committed to protecting Oregon's great natural resources because it sets aside land that will be maintained in its pristine beauty.

This bill will enhance the recreational opportunities available to residents within the State and contribute to Oregon's longstanding appeal to tourists.

It will also preserve headwaters of key streams and rivers indispensable to the long-range enhancement of our salmon runs, a task of utmost priority.

But the bill is also a plus for the forest products industry—an industry which is the economic mainstay of our State, but which has been devastated by the current recession.

The major reason for the downturn in the forest industry's fortunes is a lack of market for its goods. This slowdown in demand has affected not only domestic markets, but Oregon's international market as well.

Opponents of the Oregon Wilderness Act of 1982 would have us believe that it will only make matters worse for the hard-hit industry. I don't believe that's true.

First of all, by resolving the present uncertainty over some 3 million acres of land, the bill increases, not decreases, the amount of land available for use by the wood products industry. Once the timber industry depression ends, the industry would have some 2 million acres of additional land available under this bill.

But second, this bill allows the forest products industry to put its house in order—and it does so at a time when order is desperately needed.

To date, the wilderness debate has been marked by uncertainty—uncertainty as to where the wilderness areas

will be—and how extensive they will be.

That cloud of uncertainty now has been darkened further by the Ninth Circuit Court of Appeal's decision nullifying the Forest Service's resource planning in California.

As Oregon is in the ninth circuit, we must consider the possibility that a ccmpanion suit might be filed, challenging Forest Service planning in Oregon. We must also consider the likelihood that such a suit would prevail—sending the Forest Service back to the drawing board, forcing wilderness advocates and the timber industry alike to once again renew an arduous and time-consuming hearings process that could take well beyond 1985 to complete.

We must remove this cloud of uncertainty for the good of the forest products industry—as much as for the good of the other parties.

If we do not, we increase the risk that court actions could lock up timber needed for local and international markets. We also increase the risk of commercial development that might harm potential wilderness areas.

I believe the Oregon Wilderness Act of 1982 is the hallmark of compromise—and for that, I tip my hat to Mr. WEAVER and Mr. AUCOIN who crafted it.

This bill does not give industry everything it wants, nor, does it give the environmental community all that it wants.

What it does is strike a happy medium. It gives industry an additional 2 million acres of land for its use, and it designates another 1 million acres in Oregon's national forests as wilderness.

The wilderness areas represent only a small amount of usable timber—approximately 2 percent of the total allowable cut. What is more, these protected areas are some of the worst commercial timberlands. That is why many of these areas are still roadless.

In conclusion, Mr. Speaker, I would like to note how appropriate it would be for a lameduck Congress preoccupied with rebuilding our infrastructure to preserve what is one of the central components of our infrastructure—wilderness.

Wilderness is much more than some "playground for the hale and hearty environmentalist." It is the watersheds from which we derive clean drinking water; it is the breeding and wintering grounds for our wildlife, so important to hunters; and it is the spawning grounds for the great salmon of the Pacific Northwest, upon which a $150 million per year commercial fishing industry depends.

I represent the most urbanized district in Oregon—a district which receives the smallest amount of wilderness under this bill. But it is also a district with perhaps the largest number of wilderness advocates.

Many of the city dwellers in my district derive tremendous satisfaction from just knowing such areas exist to "get away from it all". Regardless of whether they actually do get away to wilderness, the pyschic benefit of knowing it is there remains.

Wilderness is a hallmark of American history—there were always new frontiers to be conquered. Now there are no more frontiers to conquer in this country.

But we can act to preserve what land we do have in its natural, pristine state, so generations to come will not be denied the opportunity to share that tradition, to know what the frontier once was and the special role it has played in America's westward movement.

And we can do that without jeopardizing economic development in our State.

I urge my colleagues to support this bill.

Mr. YOUNG of Alaska. Mr. Speaker, prior to yielding to the gentleman from Oregon (Mr. SMITH) I yield myself such time as I may consume.

I would like to ask the gentleman who just preceded me how many acres is in the gentleman's district of this 6 million? How many acres are in the gentleman's district?

Mr. WYDEN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman.

Mr. WYDEN. My district has a number of areas. I cannot give the gentleman a specific number.

Mr. YOUNG of Alaska. To be specific, the gentleman has 20,000 acres involved out of 1 million. The rest involved is from the district of the gentleman from Oregon (Mr. SMITH) and his area is in the majority, in fact some 700,000-odd acres in two districts.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. SMITH).

(Mr. SMITH of Oregon asked and was given permission to revise and extend this remarks.)

Mr. SMITH of Oregon. Mr. Speaker, I think this is a very interesting time here where we have created an emergency on something that has been going on in Oregon for a long time. We have held one hearing since this bill was introduced on the first day of December. That was on the 6th of December.

We had field hearings on another bill in Oregon. They were not specific in nature. They did not try to define the lines of what we were going to lock up.

I am proud of the fact that Oregon and Oregonians have taken good care of the land and the trees and the water that we have.

□ 2130

We have a great pride. But we also have people who are involved in trying to make a living in our State, and throughout that State today we have a lot of people unemployed. And I would just like to point out that we also have a lot of people who are employed who are unhappy with this bill.

I would like to start with Gov. Victor Atyieh, who was just reelected for his second term as the chief executive of our State. He is in strong opposition to this locking up, nearly doubling of the wilderness acreage in the State of Oregon. I cannot think of anything worse for our economy or for this Nation today than trying to double the amount of wilderness area, the amount of timber that is pulled out of production.

I would like to read to the House a portion of a letter that was sent by Mr. Jim Bledsoe, who is the executive secretary of the Western Counsel of Lumber Production & Industrial Workers. This was written on the third day of December. I will quote from it. And I would like to put the entire document in the RECORD.

Let me say from the outset that your specious comments regarding this bill have succeeded in deceiving no one in the industry. To tout this bill as an attempt to save our industry, gentlemen, when it will in fact double Oregon's current wilderness acreage is nothing short of conspired subterfuge on your parts. Why not portray the bill's intended purpose—additional resource set asides, and its inevitable consequences, additional unemployment, as they really are. Why the publicity smokescreen. It seems almost trite to have to remind you as Oregon's U.S. Representatives that your State currently faces a 11.5 percent unemployment rate and that such timber dependent counties as Coos and Douglas are plagued with rates of 12 and 15 percent respectively. These figures do not even include the many, many people who have been out of work for two years or more nor the thousand people that exhaust their unemployment benefits in Oregon each and every week.

Gentleman, how is it possible that you propose to exacerbate these moribund statistics. Revenues from timber sales, they have already been halved this year. Do you propose fiscal strangulation next year? Please do not overlook the devastating impact that additional wilderness designations will have on the economies of the specific communities located in their midst.

I understand from further discussion with Mr. Bledsoe that their estimate is that we will lose some 6,000 to 8,000 potential jobs by locking up these specific areas.

The RARE-II recommendations were for 427,000 acres. The proposal we have before us is for 1,120,000 in round numbers, acreage. I think that is atrocious at this particular time.

When I look at the congressional districts, there is—the Speaker talked earlier about a decorum in the House and about the way that we do business. And I am a freshman Member of

this body for the next few days, until the 98th Congress is sworn in. And I do not know all the rules. But I do know that normally the Member whose district is affected is allowed some kind of priority.

I would just point out that in the new redistricting that we have in the State of Oregon we have five districts. District No. 1, which Mr. AUCOIN, who is the sponsor of the bill, represents has zero acres. District No. 2, which my successor, Mr. BOB SMITH, will represent, has 635,000 acres. District No. 3 has approximately 20,000 acres in it. That is Mr. WYDEN's district. District No. 4, which Mr. WEAVER represents, and is a sponsor of the bill, has 245,000 acres. And District No. 5, the district that I will be representing after the 3d of January, has some 105,000 acres. So that it is hard to tell where the boundaries are at this present time. But I represent some 700,000 of these acres. That means that the bulk of the unemployment in our timber industry will be in the present district. And let me say that it is in very dire economic straits.

I think that the way this bill has been railroaded through the House, I recommended in the committee when we lost on a party line vote on Monday that we rename this bill the Oregon antijobs bill of 1982. I cannot think of anything we need less than more wilderness acreage at this time. I fail to see the urgency. I think that my substitute to offer language which would have made the court decision sufficient would have been the way to handle this. We can handle the additional acreage, if that is necessary, in the 98th Congress, where we can hold hearings with the new Members of this body, very carefully being able to look at the situation and help represent the constituents in the second district. At this point I include the following:

WESTERN COUNCIL,
LUMBER, PRODUCTION AND
INDUSTRIAL WORKERS,
Portland, Oreg., December 3, 1982.

To: Congressmen Les AuCoin, Jim Weaver and Ron Wyden.

From: Jim Bledsoe, Executive Secretary, Western Council LPIW.

Subject: Oregon Wilderness Act of 1982.

DEAR SIRS: Once again the LPIW has had to rely on the newspapers in order to get even a few details on yet another injurious wilderness bill. Experience teaches us that surreptitious legislation portends an attempted coup.

Let me say from the outset that your specious comments regarding this bill have succeeded in deceiving no one in the industry. To tout this bill as an attempt to save our industry gentlemen, when it will in fact double Oregon's current wilderness acreage, is nothing short of conspired subterfuge on your parts. Why not portray the bill's intended purpose—additional resource set asides, and its inevitable consequences—additional unemployment as they really are? Why the publicity smokescreen?

It seems almost trite to have to remind you, as Oregon's U.S. Representatives, that your state currently faces an 11.5% unemployment rate and that such timber-dependent counties as Coos and Douglas are plagued with rates of 12% and 15% respectively. These figures do not even include the many, many people who have been out of work for two years or more; nor the thousand people that exhaust their unemployment benefits in Oregon each and every week. Gentlemen, how is it possible that you propose to exacerbate these moribund statistics?

And what about county revenues from timber sales? They've already been halved this year. Do you propose fiscal strangulation next year? Please do not overlook the devastating impact that additional wilderness designations will have on the economies of the specific communities located in their midst.

I am enclosing clippings from our newspaper, *The Union Register*, dated October 15, 1982. This was a special edition and served as the culmination of our Union's efforts to turn out our membership's vote for our political supporters back in November. Each of you will note that you received a Western Council endorsement. I hasten to note that if the Wilderness Bill passes the House, your efforts will be perceived as antiethial to our own, and you will never receive another LPIW endorsement.

One final note. The next time that you take it upon yourselves to ostensibly "help" the forest products industry, please consult with those of us who have an interest in the industry beforehand.

Sincerely,

JAMES S. BLEDSOE,
Executive Secretary.

STATEMENT OF THE ASSOCIATION OF OREGON COUNTIES ON THE OREGON WILDERNESS ACT OF 1982, DECEMBER 8, 1982

The Association of Oregon Counties previously has spoken on the issue of Wilderness expansion in Oregon under the RARE II program. We have supported much of the effort to place in wilderness those areas suitable for wilderness designation. We have opposed efforts to arbitrarily cede as wilderness areas with high other values including timber production and recreation.

Oregon is the nation's number one timber producing state. Thirteen national forests in Oregon cover more than 25% of the entire land area of the state. Of Oregon's 36 counties, 32 receive revenues from national forest harvests. In many of the Oregon counties, national forest revenues provide the major support for schools and roads. Oregon's counties have the most direct interest of any group in programs which would alter or diminish the timber base which supports Oregon's number one industry.

The Association of Oregon Counties has traditionally supported multiple use of public lands. We continue to give vigorous support to this principle. This includes designation of lands for special uses, and that encompasses designation as wilderness. Approximately 1.3 million acres in Oregon are now wilderness areas. We supported the RARE II effort, and endorsed the initial determination and recommendations of the Forest Service which were transmitted to the White House as provided by law. We supported the recommendations of the White House with the exception of the North Fork of the John Day.

As AOC said in its statement of nearly two years ago, it is not a question of whether we are to have wilderness or not, or whether there are additions to present wilderness areas which are desirable. The question is how much and where will new wilderness areas be created, or present areas expanded.

The ADC position continues to support designation of areas with high WARS rating (Wilderness Attribute Rating System) as wilderness. Those areas which have high other values in resources including timber harvest and recreation should be multiple use designation. The WARS system evaluated wilderness areas on a sacle of 4 to 28. In Oregon, the medium level is 20. The top 10% of areas stood at 23. We conclude that those areas with a WARS rating of above 20 should have serious consideration as wilderness, given that other resources values are low. Productivity levels for national forests place a 70 cubic foot per year per acre as a determination of commercial timber land. AOC feels a 50 cf/yr production level is more nearly a reliable and useful standard. Areas with the 50 cf/yr level per acre production should be given serious consideration as multiple use lands.

We cannot support additions to the Wallows-Whitman national forest. That forest already has 18% of its total area in wilderness, and these proposals add 13% more. Additionally, the comprehensive land use plan for Wallows County, approved by the State, and developed with full local participation of federal agencies, provides no further wilderness designations. The EIS notes in this regard, serious eroding of public support for government when local voices are not recognized. Also one of the greatest losses of commercial forest land on a single national forest is the Wallows-Whitman.

It seems to us that in considering wilderness one must look at the professional technical evaluation of the areas. Please note those areas in H.R. 7340 which have low WARS figures: Coleman, Gearhart, Bridge Creek, Rogue-Umpque, Mill Creek, Middle Santiam, Grassy Knob, Hardesty, North Fork John Day, Three Sisters Additions, Salmon-Huckleberry. And there really is no logical way in which wilderness designation can be given to the Middle Santiam, especially considering that it has the highest productivity of all the areas, 140 cubic feet/acre/year. The North Fork John Day is also an area that simply is not suitable for wilderness, not only with a low WARS number, but also an area that has seen logging, extensive mining, construction of cabins and other man-made structures.

We do agree that resolution of the RARE II issues needs to be done. But it makes little sense to give away areas with low wilderness ratings and with high other resource values. What is happening is simply that those interests which for many reasons want areas withdrawn from multiple use, many times in order to have the areas available for small, single use groups, having failed to accomplish their aims in the orderly land use planning process of the Forest Service, have now determined that they can accomplish what they want by the political process of having the Congress merely name the areas wilderness. It makes a mockery of the Wilderness law, and a full rejection of the concept multiple use.

It seems to us that the Congress would be on a much more positive footing if it would determine those areas with high wilderness values, relatively low other resource values, and areas not already duplicated in established wilderness, the struggle is between those interests which merely want to set

land aside, and those who are dependent upon and interested in multiple use.

We appreciate the opportunity to make these comments.

KESS CANNON,
Executive Assistant.

Mr. Speaker, today, we are addressing an issue of great concern to all Oregonians, the Oregon Wilderness Act of 1982. I feel fortunate to live in a State that takes so much pride in the beauty and preservation of its lands. Oregon has done a magnificent job of exercising multiple-use management in taking care of these resources for future generations. Keeping in mind that many of these areas can be managed for multiple use, providing jobs and revenues to support the rural economies in Oregon. I think we should be looking closer at the economic impact to the State should we lock up an additional 1.12 million acres, doubling the size of Oregon's present wilderness areas.

There is strong opposition in Oregon to H.R. 7340. Governor Atiyeh is opposed to the procedure in which the bill is being pushed through the House. The bill was introduced just slightly more than 1 week ago. Labor groups see the efforts of my Oregon colleagues as being at odds to their own and are opposing the bill. The Association of Oregon counties, whose lifeblood depends on revenues from our national forests, are opposed. The forest products industry is opposed to passage of this legislation. Also, the administration is opposed to H.R. 7340; the Forest Service recommendations for RARE II under President Carter were only 427,000 acres that they felt suitable for wilderness. H.R. 7340 more than doubles that amount of acreage.

My Oregon colleagues contend that this measure is of the utmost urgency due to a Ninth Circuit Court of Appeals decision on the RARE II environmental impact statement which said the Forest Service RARE II EIS is inadequate. If urgency is truly the key for pushing through this legislation during the lameduck session, then I, for one, do not understand why my Oregon colleagues did not seek a simpler solution to the problem. I offered a substitute in committee which went directly to the heart of the problem by declaring the legal and factual sufficiency of the RARE II EIS for the State of Oregon. This remedy would have resolved the urgency question and left the issue open for debate in the 98th Congress.

More than 600,000 acres of the land designated for wilderness in this legislation will be in a newly elected Member's district. Locking up this much land will significantly impact many areas in his new district. I believe we should delay just a few weeks more, until the beginning of the 98th Congress, so that the new Member in the Oregon delegation will have an opportunity to evaluate the legislation and state his views accordingly.

My colleague from the State of Oregon feels that sufficient hearings have been held on the legislation, others seem to differ. No hearings on the specific designations outlined in H.R. 7340 have been held except for one subcommittee hearing 1 week ago. I have on record three times where my colleague from Oregon stated in field hearings in February 1981 and I quote:

I will not allow testimony on any specific wilderness areas or forests. That will come when, as I intend to do, I introduce an Oregon wilderness bill that will include specific wildernesses. the hearings will be held of course eventually on the specific forest areas. At that time we will take up what is suitable for each area and which are suitable for inclusion in the forest system.

It seems that one of the primary issues of concern to the Congress during the lameduck session is jobs. LPIW, a labor group in Oregon, roughly estimates that the acreage involved in H.R. 7340 will remove approximately 2 million board feet from annual harvest. They feel this will result in a loss of jobs in the neighborhood of 6,000 to 8,000. Another example I would like to cite is the impact this legislation will have on a particular county in my district. Linn County will lose approximately 1,488 jobs and the unemployment rate in that county is already 11.9 percent. The economic situation in Oregon is so sensitive that it makes no sense at all to be passing legislation like H.R. 7340 which could further devastate the State. This legislation should be relabeled the Oregon antijob bill of 1982.

I urge my colleagues to vote against H.R. 7340. Wait until the beginning of the 98th Congress which is only a few weeks away and give all interested parties an opportunity to evaluate the legislation which was introduced only a little more than a week ago.

The thousands of Oregonians employed by the timber industry now and the thousands who are unemployed because of the severe depression in that industry will join me in saying thanks for your help if we can defeat this bill.

I believe all my colleagues to be highly concerned about unemployment. I urge you to vote against this antijob proposal.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Oregon. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I must admit that I came here this evening without very much understanding of this bill. It does not affect my State in particular. I did not have very much understanding. But I am a little concerned about the procedures I am hearing about here.

Do I understand the gentleman to say that the hearings that we heard about earlier have not really been held, all these hearings that took place? We heard there were hearings in Oregon, that there were hearings before Congress, that these really have not taken place?

Mr. SMITH of Oregon. No. I believe the gentleman from Oregon (Mr. WEAVER) held hearings in the second district and actually throughout the State.

Mr. WALKER. Were those the hearings that did not cover any specifics?

Mr. SMITH of Oregon. He had a bill introduced at that time. But if the gentleman will notice, he also in his record said that he would be back for hearings on the specific boundaries of the potential wilderness areas that he was going to speak to.

Mr. WALKER. So these hearings mentioned in all those statements that were supposed to go on in Oregon about the specifics, those hearings have never been held?

Mr. SMITH of Oregon. Only the gentleman from Oregon (Mr. WEAVER) was in attendance at those hearings in February 1981, I believe, as far as a Member of Congress.

Mr. WALKER. But the specifics in the bill—the people of Oregon have never had a chance to comment on that particular thing, other than this hearing that was held.

Mr. SMITH of Oregon. My colleague is correct.

Mr. WALKER. There was a hearing held in Washington as I understand.

Mr. SMITH of Oregon. There was one hearing held on December 6.

Mr. WALKER. It lasted how many minutes?

Mr. SMITH of Oregon. I believe they said it was about an hour.

Mr. WALKER. Sixty minutes. And then we proceed under the cover of dark of night to run this out onto the floor. We ran it out under a procedure that the Chair defined so we would be assured that hardly anybody would be here to listen to this debate. I think the Members would be a little disturbed to hear a major bill of this significance has 60 minutes of hearings before it is brought to the floor under suspension. I find it appalling.

I would vote against this bill just on the procedure.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Oregon. I yield to the gentleman from Missouri.

Mr. EMERSON. I thank the gentleman for yielding.

In regard to the hearings, did the gentleman from Oregon and the committee chairman, the chairman of the Subcommittee on Public Lands, control the witness list?

Mr. SMITH of Oregon. I certainly did not control the witness list. I would have to say I do not know who did control it.

Mr. EMERSON. In other words, they controlled the witness list, they invite who is going to come to the hearings, who is going to testify. Or were these open public hearings?

Mr. SMITH of Oregon. I believe they were testified at open public hearings. But I do not know who had control over the actual list of people who testified. I think we would have to ask the gentleman from Oregon (Mr. WEAVER).

Mr. STATON of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Oregon. I would be happy to yield to my colleague from West Virginia.

Mr. STATON of West Virginia. Mr. Speaker, I understand that the rush for this is to clear up that which is a RARE-2 problem in Oregon, and this will finally put it to rest.

The question I have got for my colleague from Oregon is, Will this bill take into consideration all the proposed wilderness in Oregon, or is there some other wilderness that could be brought out at a later date?

Mr. SMITH of Oregon. Well, I have not been privy to anybody's office but my own. I am not planning on bringing out any more wilderness because I do not think that is appropriate in our kind of economy. I could almost say that the State of Oregon is in a situation where we are in a depression, have been in that for a number of years.

I think if Oregonians had the opportunity to testify at hearings today, they do not want their environment destroyed, but they certainly do not want to have their opportunity for a job destroyed either. And I think for too long we have looked at the wrong side of the coin, or only one side of the coin.

I think it would be appropriate to put this off to the 98th Congress and be able to have the people of Oregon have open hearings.

Mr. STATON of West Virginia. If the gentleman would yield further, is there not another section of wilderness area in Oregon that perhaps another gentleman is planning to introduce as wilderness?

Mr. SMITH of Oregon. I have not heard of any. But again I am not privy to that.

Mr. STATON of West Virginia. I thank my colleague.

□ 2140

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 minute.

I just want to say that the effort to impugn the committee's hearing record is totally off base. I personally chaired three hearings in Oregon on this whole RARE-III issue covering the entire roadless areas in the national forests question.

One of those hearings was in the district of the gentleman from Oregon (Mr. SMITH). I pleaded with him to attend the hearing. He declined to do so. Mr. WEAVER attended all the hearings, Mr. WYDEN testified in one of them.

The overwhelming majority of the witnesses there was in favor of wilderness designations that are in this bill.

I think the impression that has been given here is without foundation.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us make the record perfectly clear. The hearings that were held in Oregon were not hearings on this legislation, absolutely not. They were hearings on a concept, but not a specific occasion.

The most that was ever recommended at any one time was around 400-and-some-odd-thousand acres. When the Carter administration, that bleeding heart liberal when it comes to conservation, introduced this, at the most, there was no hearing on the specifics of this bill, none whatsoever, including what the gentleman from Oregon (Mr. WEAVER) has introduced, not one specific area.

I do impugn the committee in the way it was handled. If we wanted to solve the problem of the Ninth Court decision, then we should have adopted the recommendation of Mr. Carter, especially the language of Mr. SMITH, and we would have a bill to solve the problem.

This is a grab by the wilderness group of additional land, making it 201 million acres of wilderness within the United States and taking jobs away from, by the way, the people of America.

I am amazed that we stood on this floor today and debated jobs for all those poor people. The Republicans were trying to take away jobs from people and yet here we have a bill that is taking jobs away from people.

The answer on the Democrats' side is to make make-believe jobs, Government jobs, more taxes, more control. The Republican side says, "Listen, let's use our resources to employ our people."

This bill as proposed by the sponsors of the bill is not doing their constituency a favor.

I want to compliment the gentleman from Oregon (Mr. SMITH) for leading this charge, recognizing that Oregon's timber industry is vital. I want to stress this. If this is such an emergency, why is there not any timber industry representative, any labor union, any Governor supporting it? No one is supporting this bill other than the environmentalists, and that is all, the environmentalists, no one else.

It is unfortunate at this late hour, a bill introduced on December 1, that we have to have this debate. This is not the first time this has happened. We have debated these types of bills with nobody around; but if the American public would watch and listen, we are talking about jobs here. We are talking about jobs for people in Oregon in the timber industry and the spinoff of those jobs and the proposal in this legislation of 1-million-some-odd acres will take away from the jobs of the people of America and the people of Oregon.

It is time that this Congress wakes up to the fact that we cannot respond to just the special interest groups who want more locked up, more locked up, and more locked up.

Some people say that we must have this pristine beautiful area, the fish and the trees and the streams. I say that is great and that is grand, but we also need work for people and it is vitally important that we keep records.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I am glad to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Speaker, in regard to the committee hearing process, may I say to the ranking minority member, in a quick survey of the staff and the members present, I find that none of them recall of having been at any hearing that the gentleman from Oregon (Mr. WEAVER) held in Oregon.

The SPEAKER pro tempore. The time of the gentleman from Alaska has expired.

Mr. SEIBERLING. Mr. Speaker, I yield the balance of my time to the gentleman from Oregon (Mr. WEAVER), but I simply want to say that the gentleman from Oregon (Mr. WYDEN) himself testified at one of those hearings and those hearings covered most of the areas in this bill.

Mr. WEAVER. Mr. Speaker, the hearings were held, three by me on the economics, three by the chairman on the specific wilderness areas; every single boundary that is in this bill was discussed in these hearings.

The timber amounts to 2 percent of all the timber in Oregon. The ninth circuit court has ruled, and may rule against Oregon any day, locking up all our forests unless we pass the bill.

Furthermore, the timber industry right now is pleading to not harvest the timber that we have. They have a bill in Congress asking for termination of the contracts that they now hold on Federal timber.

Therefore, this bill to relieve the dire emergency in Oregon of locking up all 3 million acres, putting only 2 percent of the timber, leaving 97 percent of all the timber in Oregon open for commercial harvest, 1 percent being already in wilderness, is urgently needed for passage today.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBER-

LING) that the House suspend the rules and pass the bill, H.R. 7340, as amended.

The question was taken.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 1964, DESIGNATING CERTAIN LANDS IN MISSOURI AS A COMPONENT OF THE NATIONAL WILDERNESS SYSTEM

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 97-966) on the resolution (H. Res. 628) providing for the consideration of the Senate bill (S. 1964) to designate certain lands in the Mark Twain National Forest, Mo., which comprise about 17,562 acres, and known as the Irish Wilderness, as a component of the National Wilderness Preservation System which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AMENDING THE RULES OF THE HOUSE OF REPRESENTATIVES TO ESTABLISH AN OFFICE FOR THE BICENTENNIAL OF THE HOUSE OF REPRESENTATIVES

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 97-967) on the resolution (H. Res. 621) amending the rules of the House of Representatives to establish an office for the bicentennial of the House of Representatives, which was referred to the House Calendar and ordered to be printed.

EFFIGY MOUNDS SITE, INCLUDING TRUMAN HISTORIC SITE

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1661) to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa, and for other purposes, as amended.

The Clerk read as follows:

S. 1661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior is authorized to accept a conveyance of approximately four acres of land adjacent to the Effigy Mounds National Monument in the State of Iowa, and in exchange therefor to convey the grantor, without monetary consideration, approximately three acres of land within the monument, all as described in subsection (b) of this section. Effective upon consummation of the exchange, the land accepted by the Secretary shall become part of Effigy Mounds National Monument, subject to the laws and regulations applicable thereto, and the land conveyed by the Secretary shall cease to be part of the monument and the boundary of the monument is revised accordingly.

(b) The land referred to in subsection (a) which may be accepted by the Secretary is more particularly described as that portion of the southeast quarter of the southeast quarter of section 28 lying south and east of County Road Numbered 561, and the land referred to in subsection (a) which may be conveyed by the Secretary is more particularly described as that portion of the northeast quarter of the northeast quarter of section 33 lying north and west of County Road Numbered 561, all in township 96 north, range 3 west, fourth principal meridian, Allamakee County, Iowa.

SEC. 2. (a) In order to preserve and interpret for the inspiration and benefit of present and future generations the former home of Harry S. Truman, thirty-third President of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from another Federal agency, or otherwise, the residence and real property known as 219 North Delaware Street in the city of Independence, Missouri, together with such property adjacent thereto as passed to Bess Wallace Truman upon the death of her husband. The Secretary may also acquire, by any of the above means, fixtures, and personal property for use in connection with the residence.

(b) The property acquired pursuant to subsection (a) is designated as the Harry S. Truman National Historic Site and shall be administered by the Secretary in accordance with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). The Secretary is further authorized, in the administration of the site, to make available certain portions thereof for the use of Margaret Truman Daniel subject to reasonable terms and conditions which he may impose.

(c) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 3. Section 401 of the Act entitled "An Act to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes", approved January 8, 1971 (16 U.S.C. 160k), is amended by striking out "$26,014,000" and inserting in lieu thereof "$38,314,000".

SEC. 4. Section 9 of the Act entitled "An Act to provide for the establishment of Cape Code National Seashore", approved August 7, 1961 (16 U.S.C. 459b-8), is amended by striking out "$33,500,000" and inserting in lieu thereof "$40,567,575".

SEC. 5. Section 8 of the Act entitled "An Act to provide for the establishment of the Cape Lookout National Seashore in the State of North Carolina, and for other purposes,", approved March 10, 1966 (16 U.S.C. 459g-7), is amended by striking out "$7,903,000" and inserting in lieu thereof "$9,903,000".

SEC. 6. Section 15 of the Act entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes", approved October 21, 1970 (16 U.S.C. 460x-14), is amended by striking out "$57,753,000" and inserting in lieu thereof "$67,449,557".

SEC. 7. (a) For purposes of section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(3)), the statutory ceilings on appropriations established by the amendments made by this Act shall be deemed to be statutory ceilings contained in a provision of law enacted prior to the convening of the Ninety-fifth Congress.

SEC. 8. (a) Section 4 of the Act of October 26, 1972 (86 Stat. 1181; 16 U.S.C. 433c note) is amended by striking the phrase "not more than $9,327,000" and inserting in lieu thereof "$9,825,000".

(b) Section 5 of the Act of June 2, 1936 (49 Stat. 1393; 16 U.S.C. 433e) is hereby repealed.

SEC. 9. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to make available to the Smith River Fire Protection District in California the use of lands, consisting of approximately one-half acre adjacent to the town of Smith River, California within the boundary of the Redwood National Park, for construction of a fire station.

SEC. 10. (a) The Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, 40 U.S.C. 871) is amended as follows:

(1) by striking out in paragraph (10) of section 6, the figure "100,000,000" and inserting in lieu thereof "120,000,000."; and

(2) by adding at the end of section 17(a) the following: "There are further authorized to be appropriated for operating and administrative expenses of the Corporation sums not to exceed $3,250,000, each, for the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988."

(b) Section 5(e) of the Pennsylvania Avenue Development Corporation Act of 1972 is amended by—

(1) inserting "(1)" after (e);

(2) striking out "The Corporation" in the second sentence thereof and substituting:

"(2) The Corporation"; and

(3) adding the following new paragraph at the end thereof:

"(3) Any alteration, revision, or amendment of the plan and any other action taken by the Corporation which is not a substantial change in the plan within the meaning of paragraph (2) but—

"(A) which is a significant change in the plan, or which is another significant action taken by the Corporation, and

"(B) which relates to housing, any major structure, historic preservation, office space, or retail uses, within the development area

shall not take effect until thirty days after notice of such change or other action has been submitted to the Committee on Interior and Insular Affairs of the United States of House Representatives and to the Committee on Energy and Natural Resources of

the United States Senate, unless prior to the expiration of such thirty day period each of such committees notifies the Corporation in writing that the committee does not object to such change or other action. Such notice to the committees shall include an explanation of the reasons why the change or other action is proposed and a summary of any recommendations received by the Corporation from the Secretary of the Interior, the Mayor of the District of Columbia, or from any other interested agency, organization, or individual."

(c) Section 6 of the Pennsylvania Avenue Development Corporation Act of 1972 is amended by inserting "(a)" after "SEC. 6." and by adding the following new subsection at the end thereof:

"(b) Whenever the Corporation submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources.".

(d)(1) Section 3(c) of the Pennsylvania Avenue Development Corporation Act of 1972 is amended by inserting "(7)" at the beginning of the unnumbered paragraph following paragraph (6).

(2) Section 5(a)(10) of such Act is amended by inserting "a" before "whole".

(3) Section 5(b) of such Act is amended by striking out "Cooperation" and substituting "cooperation".

(e) Section 11 of the Pennsylvania Avenue Development Corporation Act of 1972 is amended by inserting "(a)" after "SEC. 11." and by adding the following new subsections at the end thereof:

"(b) Within six months after the date of the enactment of this subsection, the Corporation shall transmit to the Congress an estimate, for each fiscal year, of the additional funds which will be necessary for the Corporation to carry out the development plan through the fiscal year 1990. Such estimate shall include a detailed statement of the projects and other expenditures for which such funds are proposed to be used, together with an estimate of the projected costs thereof.

"(c) The Corporation shall submit a report annually to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate discussing in detail the actions it has taken within the reporting period to protect and enhance the significant historic and architectural values of structures within the boundaries of the Corporation's jurisdiction, and indicating similar actions it plans to take and issues it anticipates dealing with during the upcoming fiscal year related to historic and architectural preservation. Such report shall be prepared on a fiscal year basis, shall indicate the degree to which public concern has been considered and incorporated into decisions made by the Corporation relative to historic and architectural preservation, and shall be submitted each January first.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, to my knowledge, there is no objection to the bill on this side. If the gentleman will try to expedite the process, it would be greatly appreciated.

Mr. SEIBERLING. I will be happy to do that. Let me very briefly state what this bill is all about.

Mr. Speaker, S. 1661 would authorize a land exchange at Effigy Mounds National Monument. As reported, it would also establish the Harry S. Truman National Historic Site in Independence, Mo.; increase authorization funding ceilings at five units of the national park system; allow one-half acre of land in the Redwood National Park to be used for construction of a fire station; and reauthorize appropriations for the Pennsylvania Avenue Development Corporation.

Most of the provisions in the bill are basically housekeeping matters to facilitate better administration of existing parks and historic sites.

The one major new provision is the establishment of the Harry S. Truman National Historic Site. When President Truman's wife, Bess, died in October, her will provided that their home in Independence, Mo., would be donated to the United States, under the direction of the Archivist. However, the Archivist does not have the Federal responsibility or the appropriate organization, for administering national historic sites, a function that is carried out by the National Park Service.

Because of the urgent need to protect this important site, our colleague, Mr. SKELTON, requested the Secretary of the Interior to exercise his authority to designate and administer President Truman's home as a national historic site. The Department refused, and Mr. SKELTON quickly, and wisely, introduced the legislation that is now before us.

The Subcommittee on Public Lands and National Parks held a hearing and markup on December 7. We were astonished to learn that the Truman home was being protected by only one around-the-clock guard, paid for by the Truman estate, to patrol the exterior of the house. Imminent threats to the home include possible vandalism, theft, or fire. The executor of the Truman estate testified that administration of the house as a unit of the national park system would be compatible with the terms of the will.

On December 8, the day after our hearing, the Secretary of the Interior signed a secretarial order designating the home as a national historic site. In addition, the Senate Appropriations Committee has earmarked $160,000 in the budget for the National Park Service to operate, maintain, and protect the site. Authorizing legislation is essential, however, to assure the long-term protection of this important historic site.

None of this would have happened without the untiring efforts of Mr. SKELTON and his quick grasp of what needed to be done. The former home of President and Mrs. Harry S. Truman is truly a special place, and all Americans will benefit from its preservation.

Before closing, I would also like to thank our colleague, Mr. COLEMAN, for his eloquent testimony on behalf of the legislation. And I would like to thank several staff members who worked hard on this legislation, including Loretta Neumann and Clay Peters of the Interior Committee staff and Toni Arnett of Mr. SKELTON's staff.

Mr. Speaker, I urge all Members to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, first I would like to say I appreciate the expeditious manner in which this matter has been handled. I do appreciate it and the citizens of Missouri appreciate it.

This is a national monument, a national shrine, and all Americans are grateful for the expeditious work the gentleman has done.

Also, I would be remiss if I did not say a word of thanks to the gentleman from Missouri (Mr. COLEMAN) who was kind enough in my absence, as Members know, I had a death in the family and I had to be away and the gentleman was kind enough to personally appear before the subcommittee and explain the necessity of this situation.

□ 2150

Mr. Speaker, I rise in support of S. 1661 which contains the language of H.R. 7366, a bill I introduced to authorize the Harry S. Truman National Historic Site. H.R. 7366 was cosponsored by the entire Missouri congressional delegation.

Former First Lady Bess Truman passed away in her hometown, Independence, Mo., on October 18 at the age of 97. In keeping with the Truman's generosity, Mrs. Truman's will bequeathed their home, carriage house, and grounds to the "People of the United States of America." Subsequently, efforts were made by several parties to see to the transfer of this property to the custody of the U.S. Park Service. While those initial attempts encountered unexpected roadblocks at the Interior Department,

Secretary Watt finally capitulated to congressional pressure, and agreed to declare the residence a National Historic Site and to provide temporary security measures at the currently underprotected home.

The Secretary's action does not remove the necessity for the legislation we are considering today. S. 1661 will assure that the Harry S. Truman National Historic Site is managed by the U.S. Park Service as are the homes of 26 other former Presidents. This measure would authorize the Secretary of the Interior to administer the property, provide for its long-term preservation, and to develop it for visitation by the public. Secretary Watt's recent action only meets the immediate security needs of the property.

The home of President Truman and his wife Bess embodies the very essence of Missouri's finest citizens. During his lifetime, Mr. Truman rose to the most powerful position in the Nation, yet he and his family never forgot their roots. They never forgot the importance of home and community. The house which we are considering today was in fact the Truman residence for more than half a century. And that is why this legislation is so important. It is a most accurate reflection of the values and motivations of our beloved President Truman and of what he hoped for his fellow Americans: A simple and serene life, and the strength one can find through his community. I urge my colleagues to support this bill.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Missouri.

Mr. EMERSON. I thank the gentleman for yielding to me at this time.

Mr. Speaker, I want to commend the gentleman for his leadership on this issue. This is a matter of concern not only to his district in Independence, but to all Missouri and to the United States at large, and I urge its speedy passage, and I hope that we will not have a dissenting vote.

Mr. SKELTON. I thank the gentleman.

Mr. SEIBERLING. Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the bill now under consideration, S. 1661, a bill which includes a number of miscellaneous provisions. All of these items have been noncontroversial, all are supported by the administration and many of them have previously passed the House as other bills.

I urge the support of this measure by my colleagues.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in support of S. 1661, a bill to authorize the Secretary of the Interior to accept approximately 4 acres of land adjacent to the Effigy Mounds National Monument in Iowa in return for 3 acres of land, approximately equal in value, currently within the boundary of the monument but isolated from the main body of parkland by a State highway. The land exchange will regularize the park boundary and will enable park authorities to patrol the boundaries more effectively to prevent poachers from evading State and Federal officials.

A number of amendments were added to the bill by the full Interior and Insular Affairs Committee to address a number of other concerns within other units of the national park system. In particular, an amendment was added by our committee, at my request, to authorize the Secretary to make a small parcel of land within the boundary of Redwood National Park available to the Smith River Fire Protection District for construction of a firehouse.

The Smith River Fire Protection District has recently agreed to annex an area known as Hiouchi and other nearby sites in order to provide them with fire protection. They currently have no 24 hour, year-round fire protection and must rely on service from other communities which are quite some distance away. The long response time has placed property and lives in danger.

The community of Smith River and the Hiouchi area are adjacent to Redwood National Park and the Six Rivers National Forest. Very little private property remains available in the area. As a result, the community turned to the Park Service for assistance in locating a site for the fire station.

When Redwood National Park was established, the northern boundary was drawn in such a way that a number of parcels of land were included which have some development on them. One of these parcels has been identified by the fire district as a possible site for location of the firehouse. The one being considered is actually located on Highway No. 199. The Park Service personnel in the area have studied the problem and agree that the site is appropriate. It has existing structures on it and is not an integral part of the redwood tree groves. I have been assured that no redwood trees will be removed from the property.

Our amendment simply authorizes the Park Service to continue in their ongoing efforts to work out an agreement with the community. It does not require or direct the construction but simply makes it possible if all parties agree. The rights of any holders of a current use and occupancy agreement would be protected. We have also limited the amount of land which can be used for this purpose to one-half acre.

I would like to thank the members of the committee for accommodating the request of the community of Smith River and urge prompt final action on the legislation.

● Mr. COLEMAN. Mr. Speaker, I would like to take this opportunity to once again extend my support for S. 1661, which contains provisions to expedite and facilitate the transfer of the home of former President Harry S. Truman to the National Park Service.

Through the generosity of his beloved wife, the late Mrs. Bess Truman, this beautiful Victorian home was willed to the U.S. Park Service after her passing this past October, to serve as an historical landmark.

Their home is one that belonged both to history and the Trumans, and it was with a deep sense of devotion and history that Mrs. Truman so graciously and unselfishly donated it to the people on her passing.

For over 50 years, this fine building was home to the Truman family. After 7 years of distinguished service in our Nation's highest office, it served as the private home for Bess and Harry Truman. It became a home where they could find privacy from the rest of the world, and a home Mrs. Truman continued to live in for the rest of her life.

Called to the highest office in the land by the death of Franklin Roosevelt, Harry Truman found himself entrusted with awesome decisions both here and abroad. His were the crucial decisions that shaped this Nation and the world community in the postwar era effecting the end of the war in Japan, the stability and prosperity of a war-ravaged Europe, and the maintenance of Western strength in the face of Stalinist ambitions.

The Trumans enjoyed retreating to their "Summer White House" at North Delaware Street often during his term as President. It was here on June 25, 1950, that their vacation was interrupted when President Truman was notified that the North Koreans invaded South Korea. President Truman's decisions regarding the invasion of South Korea as well as other foreign affairs set the pattern for American foreign policy for succeeding decades.

Many distinguished citizens visited the Trumans at their Independence home. Among them were six former Presidents: Lyndon Johnson, Richard Nixon, Gerald Ford, John Kennedy, Jimmy Carter, and Herbert Hoover, in addition to countless other friends and officials that visited the home to seek advice and consultation from the Trumans.

During his time in office, Harry Truman carried with him a keen sense of history, a history his late wife Bess

has so generously offered to share with the rest of the Nation by willing their home to the Park Service as a national landmark.

I was happy to testify in support of this important legislation before the Interior Subcommittee on Public Lands and National Parks last week, and have been heartened by the actions of Secretary Watt to bring the home under the protection of the Interior Department during its consideration by Congress. This action will begin security and maintenance operations vital to insure that the Truman home is preserved. Once action is taken by Congress, the home will join the homes of 26 other Presidents as a historical landmark permanently under the protection of the Interior Department.

I believe it is only fitting that Americans all across our land be given the opportunity to see where Harry Truman spent so much of his life.●

● Mr. YOUNG of Missouri. Mr. Speaker, I rise in support of S. 1661, a bill to acquire the home of President Harry S. Truman for a national historic site.

Today, this body has the opportunity to protect and preserve an important national treasure. I refer, of course, to the home and "Summer White House" of our 33d President, Harry S. Truman. Being a resident of Missouri, I, of course, have an interest in this legislation, but I feel it would be a shame if we let this home, containing as it does so many possessions of the former President, remain unprotected and otherwise outside the public domain.

S. 1661 will assure that the Truman home will become the property of the U.S. Park Service, where its historic value can be shared and enjoyed by all.

I believe that it is only fitting that Americans from all across the Nation will be given the opportunity to visit the home where Harry Truman spent so much of his life. I urge my colleagues to join me in support of this measure.●

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the Senate bill, S. 1661, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

VOYAGEURS NATIONAL PARK

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and concur in the amendments of the Senate numbered 2 and 3 to the House amendment to the Senate bill (S. 625) to revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes, and concur with an amendment to Senate amendment numbered 1.

The Clerk read as follows:

Page 3, of the House engrossed amendment, strike out lines 19, 20, and 21 and insert:

"(A) makes the tender of a conveyance to the United States, by such instrument and in such manner as are satisfactory to the Secretary, including but not limited to lease or easement, by the State of Minnesota of the lands or interests therein described in paragraph (1) (C) and (D); and

Page 6, line 23, of the House engrossed amendment, strike out "(1)".

Page 7, strike out lines 4 to 8, inclusive of the House engrossed amendment.

House amendment to Senate amendment numbered 1:

In Senate amendment numbered (1) strike out all after "(A)" and insert the following in lieu thereof: "tenders a conveyance of the lands described in paragraph 1 (C) and (D) to the United States by such instrument and in such manner as are satisfactory to the Secretary, including but not limited to lease or easement: *Provided,* That it the interest conveyed is a lease or easement, the State of Minnesota shall substitute therefore a transfer of all right, title and interest in the land by June 30, 1987: *Provided further,* That if the State does not transfer all right, title and interest in such lands by June 30, 1987, the land described in paragraph 1(E) shall revert to the United States for administration by the Secretary as part of the park; and".

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 625, a bill to amend the act establishing the Voyageurs National Park in Minnesota passed the Senate on June 10, 1982. On September 24 the House passed the bill with an amendment incorporating the provisions of H.R. 846, a companion bill introduced by Mr. OBERSTAR. On October 1 the Senate concurred in the House amendment with an amendment.

The Senate amendment basically contained two parts: First, a technical matter that is acceptable; the other, a substantive matter that relates to requirements for the exchange of certain lands between the Federal Government and the State of Minnesota.

Over the past few weeks, we have held numerous discussions among those Members who have expressed concern over this issue and have prepared a compromise which is acceptable to us and, I understand, to the affected Senators as well.

Basically the compromise would authorize the Secretary of the Interior to transfer certain lands in the Black Bay area of Voyageurs National Park to the State of Minnesota if, among other things, the State agrees to transfer certain lands to the United States. The Senate amendment would allow such transfer to be made by a lease or easement instead of requiring fee title; the House amendment would specify that if the transfer were made by lease or easement, that the State would substitute this for fee title by June 30, 1987, or else the land in Black Bay would revert to the United States for administration by the Secretary as part of the park.

I think this is an excellent compromise, and I wish to thank my colleagues Mr. OBERSTAR and Mr. VENTO for the excellent work they have done on this issue. I urge the House to approve the bill, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would like to compliment the gentleman from Minnesota (Mr. OBERSTAR) for supporting this bill. In the late hours of the night, we sometimes forget where we are.

My original objection to this bill does not arise from an objection to the bill itself, although I have little enthusiasm for it. I will support the bill. My objection, of course, over the last few days, has come from, I believe, some of the actions by the committee that I think are unwarranted.

We have a decorum in this body that I think is important. Again, as I have stated publicly, Members should be considered as they represent that district. This is one reason why, although with little enthusiasm, I am supporting the bill for the gentleman from Minnesota (Mr. OBERSTAR). I want to give the gentleman credit for it, and no one else, for leading this great leg-

islation through the House, to the Senate, back to the House, and we would like to see the efforts come to a full fruition.

Mr. Speaker, I rise with little enthusism for the bill now before us, S. 625, which provides for boundary adjustment to Voyageurs National Park in Minnesota.

This bill authorizes some land exchanges and deletions, provides for an authorization ceiling increase to complete additional land acquisition, and reestablishes a date whereupon a wilderness study proposal is to be submitted to Congress.

The bill has two other provisions which I note are strongly objected to by the administration, and I must say that I too, find them difficult to support, particularly in this time of very tight fiscal constraints. Both are study provisions.

The first calls for a quarter-of-a-million-dollar study to develop a tourism plan for the park. While I can sympathize with the rather hard-pressed economic situation in the local community, and while I can understand the local desire to enhance and promote tourism, I do not believe spending a quarter-of-a-million dollars on a study is apt to bring much of a result. Moreover, the language of the bill is very ambiguous as to the desired end product, and I believe it asks for results that are already required by existing law to be accomplished in the form of the park's general management plan. I should point out that the general management plan of which I speak was just completed and approved in 1980.

There is no way that this new tourism plan will be able to promote much significant new development or use in the park itself beyond that which is already identified in the park's general management plan, so I do not really understand what this new quarter-of-a-million dollars is going to go for.

On a similar theme, the bill provides for $75,000 to be appropriate for a study related to road access to the park. I do not really know what this can prove either, as no matter what comes of this study, since the roads are outside of the park, the Secretary of the Interior will have no authority to implement any of the study's recommendations. Moreover, since the park was established to provide a relatively primitive type of visitor experience, I doubt that the Park Service, in this study, will likely advocate much in the nature of significantly enhanced road access. The study objectives and directives are very unclear in the bill, and I consequently fail to find any rationale for this expenditure of funds.

Mr. Speaker, I must say that I do feel that this type of nickel-and-dime spending through many of these little bills that we continue to pass like this one, do tend to add up to quite a considerable amount of money before long. This is the type of situation where we all need to be more responsible and scrutinizing. I do not feel that these two study provisions are very necessary, and it is a shame that they have been attached to this bill.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to thank the chairman of the subcommittee, the gentleman from Ohio (Mr. SEIBERLING), for the enormous labor that he has devoted to Voyageurs National Park legislation over the past 2 years, and the time he has personally devoted, and that of his staff, to spend time with us two Members from Minnesota who have been most directly involved with this, the two Senators, and particularly Senator DURENBERGER, who has been the principal sponsor in the Senate of this legislation, to work out an acceptable compromise of some very detailed and technical questions that we now come to this point to finally have resolved.

I would also like to thank the gentleman from Alaska, who I know has had a number of internal difficulties in the committee over other matters, and I fully understand that.

Always the gentleman and mighty persuasive advocate for the view he holds, we respect him also for his parliamentary skill both in the Committee on Interior and Insular Affairs and in the Committee on Merchant Marine and Fisheries, on which I have the honor to serve with him.

I thank him for his understanding of the peculiar circumstances surrounding the Voyageurs National Park. The solution we have worked out, which he has come to accept, and in which he has played an important role, and also his staff on that side, I would like to say to my colleagues that this legislation today brings us to the end of about a 14-year odyssey for me. It began on this legislation with my predecessor, John Blatnik, who initiated the Voyageurs National Park legislation, then along with the Governor of Minnesota, Harold LeVander, whose administrative assistant at the time is now the Republican Senator from Minnesota, DAVE DURENBERGER. The four of us have marched a long way.

We come now to the conclusion of a very difficult matter, creating a national park on the United States-Canadian border, making it a viable entity now with this legislation making it something that has really totally generated the enthusiasm of the people of Minnesota, which will realize the economic potential that was advertised for the park when it was first discussed.

So I thank those who participated in this final act, the final chapter of Voyageurs National Park, bringing it to a successful conclusion.

Mr. Speaker, the House and Senate have passed virtually identical bills relating to the boundaries of Voyageurs National Park.

When Congress adjourned on October 2, only one, somewhat technical, difference existed between the two versions. That difference concerned the transfer of land from the State of Minnesota to the National Park Service in exchange for the return of the waters and islands of Black Bay to the State. The State of Minnesota and the Department of the Interior during the Carter administration agreed to the principles of this exchange. In 1980, and again in the first days of the 97th Congress in 1981, Senator DAVE DURENBERGER and I introduced identical legislation to implement this exchange. After thorough hearings in both House and Senate committees and extensive discussions involving the Minnesota congressional delegation, the committee leadership, environmental groups here in Washington and in Minnesota, the Minnesota Department of Natural Resources and the people of northern Minnesota in the area where the park is located, we have reached agreement as to the exact language of legislation.

The gentleman from Ohio (Mr. SEIBERLING) will offer an amendment to the Senate-passed bill which will authorize the return of Black Bay to the State. In return, the State will transfer to the Park Service lands which the Park Service needs for improved management of the park. This transfer could be made by lease or easement, or by outright fee transfer. If the transfer is made by lease or easement, the State must transfer title to the land to the Federal Government by June 30, 1987, or the Federal land transferred will revert back to the Federal Government. This provision is the product of extensive discussions involving all of the major parties to this legislation.

I want to point out to the House that there is probably no other provision of proposed legislation affecting such a small amount of land has received the thorough consideration this provision has received. It has support of the Minnesota Department of Natural Resources, Senator DAVE DURENBERGER, the leadership of the House Interior Committee, my colleague from Minnesota on the committee (Mr. VENTO), and myself. This bill is the result of a carefully crafted compromise between the provision in the House bill requiring immediate fee transfer and that in the Senate bill, as well as in my original bill, which would

have required only a lease or easement without fee transfer at any point.

Passage of this legislation is extremely important to the future of Voyageurs National Park. It will resolve a lingering controversy over the management of Black Bay. It will make an important addition to the park in the area of Black Bay Narrows, which is necessary for the construction of a visitors' facility. In addition, the legislation authorizes an innovative promotion program to increase visitor use of Voyageurs National Park, a beautiful water park, which, unfortunately, has not enjoyed the level of visitor use that it should have.

I particularly want to express my appreciation to my colleague, the gentleman from Minnesota (Mr. VENTO) for cosponsoring my original bill and for his diligence in supporting it in committee, through hearings, markup, and floor action. He has been most helpful in working out some of the complex technical details of the bill and responsive to my concerns and those of the people who live nearest the park. His support has been instrumental in bringing the bill this far. Again, I thank the gentleman (Mr. VENTO) for his help.

I expect that the Senate will act very quickly on this legislation. They have passed virtually identical legislation twice already this year. I hope that by Christmas this legislation will be on its way to the White House for enactment.

Mr. SEIBERLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and concur in the amendments of the Senate numbered 2 and 3 to the House amendment to the Senate bill, S. 625, and concur with an amendment to Senate amendment numbered 1.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments to the Senate bill, S. 625, were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 2200

EDUCATIONAL MINING ACT OF 1982

Mr. SEIBERLING. Mr. Speaker, I move that the House suspend the rules and pass the Senate bill (S. 1501) entitled the "Educational Mining Act of 1982", as amended.

The Clerk read as follows:

S. 1501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. (a) Subject to the conditions and limitations specified in this section, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to the University of Alaska, all right, title, and interest of the United States in the following described land comprising approximately fifty-seven acres:

FAIRBANKS MERIDIAN, ALASKA

Township 2 North, Range 1 East

Section 8:

East half southeast quarter southwest quarter northeast quarter southeast quarter,

North half southwest quarter southeast quarter northeast quarter southeast quarter,

South half south half southeast quarter northeast quarter southeast quarter,

East half northeast quarter northwest quarter southeast quarter southeast quarter,

Northeast quarter southeast quarter southeast quarter,

North half southeast quarter southeast quarter southeast quarter,

North half south half southeast quarter southeast quarter southeast quarter,

South half southeast quarter southeast quarter southeast quarter southeast quarter,

South half southwest quarter northwest quarter southeast quarter southwest quarter.

Section 9:

West half southwest quarter southwest quarter,

South half southwest quarter northwest quarter northeast quarter southwest quarter southwest quarter,

Southwest quarter northeast quarter southwest quarter southwest quarter,

Southeast quarter southwest quarter southwest quarter,

West half west half southwest quarter southeast quarter southeast quarter southwest quarter,

Southwest quarter southeast quarter southwest quarter,

South half southwest quarter northwest quarter southeast quarter southwest quarter.

(b) Conveyance under this section shall be made only upon the condition that the described land shall be held and used by the University of Alaska and shall not be conveyed by the University.

(c) No conveyance shall be made unless application for conveyance is filed by the university with the Secretary within six months of the date of the approval of this Act.

(d) The Secretary may at his discretion require that he be provided a perimeter survey of the lands to be conveyed under this section. All costs of obtaining such survey shall be borne by the university.

SEC. 102. (a) Notwithstanding the Act of March 4, 1931 (46 Stat. 1530-1548), or any other provision of law, the following described lands, situated in Mono County, California, and comprising approximately 202.167 acres, are withdrawn from settlement, sale, location, or entry under all of the general land laws, including the mining laws: The southeast quarter of the southeast quarter of section 23, the west half of the northwest quarter of section 25, and the north half of the northeast quarter of section 26, all in township 5 south, range 32 east, Mount Diablo meridian, California.

(b) Notwithstanding the first section of the Act of March 4, 1931 (46 Stat. 1530, 1532), the withdrawal accomplished by said Act of March 4, 1931, of the lands described as the southwest quarter of section 34, township 5 south, range 33 east, Mount Diablo meridian, comprising approximately 160 acres, situated in Mono County, California, is hereby modified to the extent that the lands described in this subsection may be exchanged by the Secretary of the Interior in accordance with the directive contained in subsection (c) of this section.

(c) Notwithstanding any other provision of law, the Secretary of the Interior is hereby authorized to exchange the Federal lands described in subsection (b) of this section for the lands described in subsection (a) of this section, the title to the lands to be acquired by the United States to be satisfactory in all respects to the Secretary and to be conveyed by a good and sufficient deed, in recordable form, that is satisfactory to the Secretary.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "American Conservation Corps Act of 1982".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 202. (a) FINDINGS.—The Congress finds that—

(1) public lands, resources, and facilities, including parks, rangelands, wildlife refuges, forests, water resources, fishery facilities, historic and cultural sites, and urban and community resources, have become subject to increasing public use and resource production demands;

(2) the condition of many of these lands, resources, and facilities has deteriorated as a result of these increasing uses and demands and as a result of the inability of Government agencies to adequately staff and fund the maintenance necessary to arrest the deterioration;

(3) public land management agencies have a responsibility to assure that public lands and resources are managed—

(A) to assure continued productivity,

(B) to protect public health and safety, and

(C) to assure their wise and economic conservation, maintenance, and use;

(4) a program designed to systematically guide and enhance the conservation, rehabilitation, and improvement of our public lands, resources, and facilities is urgently needed; and

(5) youth conservation programs have proven highly successful and cost effective in providing training and jobs for unemployed youth and in assisting land management agencies at all levels of government to reduce the backlog of neglected public land conservation, rehabilitation and improvement projects and to carry out other public land resource management work.

(b) PURPOSE.—It is the purpose of this title to—

(1) reduce the backlog of conservation, rehabilitation, and improvement work on the public lands, prevent the further deterioration of public lands and resources and facilities, conserve energy and restore and

maintain community lands, resources, and facilities;

(2) establish an American Conservation Corps to carry out a program to improve, restore, maintain, and conserve public lands and resources in the most cost-effective manner;

(3) use such program to assist State and local governments in carrying out needed public land and resource conservation, rehabilitation, and improvement projects;

(4) provide for implementation of the program in such manner as will foster conservation and the wise use of natural and cultural resources through the establishment of working relationships among the Federal, State, and local governments, Indian tribes, and other public and private organizations; and

(5) use this program to increase (by training and other means) employment opportunities for young men and women especially those who are economically, socially, physically, or educationally disadvantaged and who may not otherwise be productively employed.

DEFINITIONS

SEC. 203. For purposes of this title:

(1) The term "Secretary" means the Secretary of the Interior, except where otherwise expressly provided.

(2) The terms "public lands" and "publicly owned lands" mean any lands and waters (or interest therein) owned or administered by the United States or by any agency or instrumentality of a State or local government.

(3) The term "program" means the public lands conservation, rehabilitation, and improvement program established under this Act.

(4) The term "program agency" means any Federal agency or instrumentality with responsibility for the management of any public or Indian lands, any State agency designated by the Governor to manage the program in that State, and the governing body of any Indian tribe.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary. Such term also includes any Native village corporation, regional corporation, and Native group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).

(6) The term "Indian" means a person who is a member of an Indian tribe.

(7) The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for individual Indians or Indian tribes, and any real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States.

(8) The term "employment security service" means the agency in each of the several States with responsibility for the administration of unemployment and employment programs, and the oversight of local labor conditions.

(9) The term "chief administrator" means the head of any program agency as that term is defined in paragraph (4).

(10) The term "enrollee" means any individual enrolled in the American Conservation Corps in accordance with section 205.

(11) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

PUBLIC LANDS CONSERVATION, REHABILITATION, AND IMPROVEMENT PROGRAM

SEC. 204. (a) ESTABLISHMENT AND ADMINISTRATION OF PROGRAM.—Not later than ninety days after the enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture and after consultation with the Secretary of Labor, shall establish and administer a public lands conservation, rehabilitation, and improvement program to carry out the purposes of this title. Under such program, the Secretary shall provide assistance to program agencies for the establishment and operation of residential and nonresidential American Conservation Corps centers and for the implementation by the American Conservation Corps of projects designed to carry out such purposes.

(b) PROJECTS INCLUDED.—The program established under this section may include, but shall not be limited to, projects such as—

(1) forestry, nursery, and silvicultural operations;

(2) wildlife habitat conservation, rehabilitation, and improvement;

(3) rangeland conservation, rehabilitation, and improvement;

(4) recreational area development, maintenance, and improvement;

(5) urban revitalization;

(6) historical and cultural site preservation and maintenance;

(7) fish culture and habitat maintenance and improvement and other fishery assistance;

(8) road and trail maintenance and improvement;

(9) erosion, flood, drought, and storm damage assistance and control;

(10) stream, lake, and waterfront harbor and port improvement, and pollution control;

(11) insect, disease, rodent, and fire prevention, and control;

(12) improvement of abandoned railroad bed and right-of-way;

(13) energy conservation projects and renewable resource enhancement;

(14) recovery of biomass from public lands, particularly forestlands; and

(15) reclamation and improvement of strip-mined lands.

(c) PREFERENCE FOR CERTAIN PROJECTS.—The program shall provide a preference for those projects which—

(1) will provide long-term benefits to the public;

(2) will provide meaningful work experience to the enrollee involved;

(3) will be labor intensive; and

(4) can be planned and initiated promptly.

(d) LIMITATION TO PUBLIC LANDS.—Projects to be carried out under the program shall be limited to projects on public lands or Indian lands except where a project involving other lands will provide a documented public benefit and reimbursement will be provided to the program agency for that portion of the total costs of the program which does not provide a public benefit. Notwithstanding any other provision of law, any reimbursement referred to in the preceding sentence shall be retained by the program agency and shall be used by the agency for purposes of carrying out other projects under the program.

(e) CONSISTENCY.—The Secretary and the chief administrators of other program agencies shall assure that projects selected under this title for conservation, rehabilitation, or improvement of any public lands are consistent with the provisions of law relating to the management and administration of such lands and with all other applicable provisions of law.

(f) CONSERVATION CENTERS.—(1) Each program agency may apply to the Secretary for approval of conservation centers to carry out projects under this title.

(2) Applications for approval of conservation centers shall be submitted to the Secretary in such manner as the Secretary may prescribe. Each application shall contain, in such detail as the Secretary deems necessary—

(A) a comprehensive description of the objectives and performance goals for the conservation center and a description of the types of projects to be carried out, including a description of the types and duration of training (including work experience) to be provided;

(B) a description of the facilities and equipment to be available for use in the center;

(C) an estimate of the number of enrollees and crew leaders necessary for the proposed projects, the length of time for which the services of such personnel will be required, and the services which will be required for their support;

(D) a plan for managing the conservation center, supplying the necessary equipment and material, and administering the payroll; and

(E) such other information as the Secretary shall prescribe.

(3) In approving conservation centers, the Secretary shall give due consideration to the cost and means of transportation available between the center and the homes of the enrollees who may be assigned to those centers. The location and type of conservation centers shall be selected in such manner as will increase the enrollment of economically, socially, physically, and educationally disadvantaged youths, and of youths from areas of high unemployment.

(g) LOCAL GOVERNMENT PARTICIPATION.—Any State carrying out a program under this title shall provide a mechanism under which local governments in the State may be approved by the State to participate in the program and to carry out projects in accordance with the requirements of this Act.

(h) AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the management of conservation centers under the program.

(i) JOINT PROJECTS.—The Secretary is authorized to develop jointly with the Secretary of Labor regulations designed to allow, where appropriate, joint projects in which activities supported by funds authorized under this title are coordinated with activities supported by funds authorized under employment and training statutes administered by the Department of Labor (including the Comprehensive Employment and Training Act and any successor statutes). Such regulations shall provide standards for approval of joint projects which meet both the purposes of this title and the purposes of such employment and training statutes under which funds are available to support the activities proposed for approval. Such regulations shall also establish a single mechanism for approval of joint projects developed at the State or local level.

ENROLLMENT, FUNDING, AND MANAGEMENT

SEC. 205. (a) ENROLLMENT IN PROGRAM.—(1) Enrollment in the American Conservation Corps shall be limited to individuals who, at the time of enrollment, are—

(A) unemployed;

(B) not less than sixteen or more than twenty-five years of age (except that programs limited to the months of June, July, and August may include individuals not less than fifteen years and not more than twenty-one years of age at the time of their enrollment); and

(C) citizens or lawful permanent residents of the United States or lawfully admitted alien parolees or refugees.

(2) Except in the case of a program limited to the months of June, July, and August, individuals who at the time of applying for enrollment have attained age sixteen but not attained age nineteen, and who are no longer enrolled in any secondary school shall not be enrolled unless they give adequate written assurances, under criteria to be established by the Secretary, that they did not leave school for the express purpose of enrolling.

(3) The selection of enrollees to serve in the American Conservation Corps in any conservation center shall be the responsibility of the chief administrator of the program agency. Enrollees shall be selected from those qualified persons who have—

(A) applied to, or been recruited by, the program agency, a State employment security service, a prime sponsor under the Comprehensive Employment and Training Act (or comparable entity under any successor statutes), community or community-based nonprofit organization, the sponsor of an Indian program, or the sponsor of a migrant or seasonal farmworker program; and

(B) been screened for eligibility and referred to the program agency by the State employment security service.

(4) In the recruitment and selection of enrollees, special consideration shall be given to both—

(A) economically, socially, physically, and educationally disadvantaged youths, and

(B) youths residing in areas, both rural and urban, which have substantial unemployment.

(5)(A) Except for a program limited to the months of June, July, and August, any qualified individual selected for enrollment may be enrolled for a period not to exceed twenty-four months. When the term of enrollment does not consist of one continuous twenty-four-month term, the total of shorter terms may not exceed twenty-four months.

(B) No individual may remain enrolled in the American Conservation Corps after that individual has attained the age of twenty-six.

(b) SERVICES, FACILITIES, SUPPLIES, ET CETERA.—The program agency shall provide such quarters, board, medical care, transportation, and other services, facilities, supplies, and equipment as the Secretary deems necessary for conservation centers. Whenever possible, the Secretary shall make arrangements with the Secretary of Defense to have such logistical support provided by a military installation near the proposed center, including the provision of temporary tent centers where needed. The Secretary shall establish basic standards of health, nutrition, sanitation, and safety for all conservation centers, and shall assure that such standards are enforced.

(c) CONSERVATION CENTER MANAGEMENT.—Every conservation center shall have sufficient supervisory staff appointed by the chief administrator which may include enrollees who have displayed exceptional leadership qualities.

(d) FUNDING.—(1) The Secretary may award grants to, or enter into agreements with, program agencies for the funding and operation of conservation centers approved by the Secretary under this title.

(2) The Secretary shall not make any grant to, or enter into any agreement with any program agency for the funding of any conservation center under this title unless such agency certifies that projects carried out by the conservation center will not—

(A) result in the displacement of individuals currently employed by the program agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);

(B) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the program agency concerned; or

(C) impair existing contracts for services.

(3) Of the sums appropriated to carry out this title for any fiscal year—

(A) not less than 35 per centum shall be made available by the Secretary for expenditure by State program agencies;

(B) not less than 25 per centum shall be made available by the Secretary for expenditure pursuant to agreements with the Secretary of Agriculture;

(C) not less than 25 per centum shall be made available by the Secretary for expenditure by program agencies within the Department of the Interior;

(D) not less than 5 per centum shall be made available by the Secretary for expenditure by the governing bodies of participating Indian tribes; and

(E) the remaining amount shall be made available by the Secretary for expenditure by other Federal program agencies and for demonstration projects or projects of special merit carried out by any program agency or by any nonprofit organization or local government which is undertaking or proposing to undertake projects consistent with the purposes of this title.

10 per centum of the amount disbursed to State agencies under subparagraph (A) (or to local governments within the State where paragraph (4) applies) shall be divided equally among the States and 90 per centum of such amount shall be distributed among such States proportionately according to the total youth population of such States between the ages of fifteen and twenty-five (as determined on the basis of the most recent census). Any State receiving funds under subparagraph (A) for the operation of any conservation center shall be required to provide not less than 15 per centum of the cost of operation of such center. Any State receiving funds under subparagraph (A) for any fiscal year shall provide not less than 10 per centum of such funds to local governments approved by the State under section 4(g) to carry out projects under this Act unless no such local government in that State is approved before the end of such fiscal year. In any case where no such local government is approved before the end of such fiscal year, such 10 per centum may be expended by the State in accordance with this Act.

(4) If, at the commencement of any fiscal year, any State does not have a program agency designated by the Governor to manage the program in that State, then during such fiscal year each local government within such State may establish a program agency to carry out the program within the political subdivision which is under the jurisdiction of such local government. In any such case, the State share (or a reasonable portion thereof) for such State may be made available by the Secretary for expenditure by such local government program agencies to carry out the program within such political subdivisions. Such local government program agencies shall be in all respects subject to the same requirements as State program agencies. Where more than one local government within a State has established a program agency under this subsection, the Secretary shall allocate funds between such agencies in such manner as he deems equitable.

(5) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

(6)(A) There is authorized to be appropriated to the Secretary for purposes of carrying out this title $50,000,000 for the fiscal year 1983, and the amount determined under subparagraph (B) for each of the fiscal years 1984 through 1989 from so much of the following amounts as would otherwise be credited to miscellaneous receipts in the Treasury—

(i) all franchise fees estimated to be collected for the fiscal year concerned by the Secretary and Secretary of Agriculture; and

(ii) all receipts estimated to be due and payable to the United States for the fiscal year concerned from (I) permit fees (including fees for special use permits) imposed by the Secretary or the Secretary of Agriculture, (II) sales of timber by the Secretary or the Secretary of Agriculture, and (III) leasing activities of the Secretary and the Secretary of Agriculture other than leasing activities under the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.) or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

Such sums shall remain available until expended. Appropriations under this section shall be made without fiscal year limitation.

(B) The amount authorized to be appropriated under subparagraph (A) for each of the fiscal years 1984 through 1989 shall be $250,000,000 plus a percentage increase for each fiscal year based upon the percentage increase in the Consumer Price Index published by the Bureau of Labor Statistics. The increase for each such fiscal year shall be a percentage of $250,000,000 (plus unappropriated balances). Such percentage for any fiscal year shall be equal to the percentage increase of—

(i) the Consumer Price Index for the last calendar year ending prior to such fiscal year, over

(ii) the Consumer Price Index for the calendar year 1982.

(7) No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1982.

FEDERAL EMPLOYEE STATUS

SEC. 206. (a) IN GENERAL.—Except as otherwise specifically provided in the following paragraphs, enrollees and crew leaders shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment:

(1) For purposes of the Internal Revenue Code of 1954 and title II of the Social Security Act, enrollees and crew leaders shall be deemed employees of the United States and any service performed by any person as an

enrollee shall be deemed to be performed in the employ of the United States.

(2) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, enrollees and crew leaders shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply, except—

(A) the term "performance of duty" shall not include any act of an enrollee member or crew leader while absent from his or her assigned post of duty, except while participating in an activity authorized by or under the direction and supervision of the Secretary or the conservation center supervisory staff (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee's or crew leader's employment is terminated.

(3) For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee of the Government" as defined in section 2671 of title 28, United States Code.

(4) For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee" as defined in that section.

(b) AMENDMENT OF TITLE 5.—Section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (12) the following new paragraph:

"(13) service as an enrollee or crew leader only if the enrollee or crew leader in the American Conservation Corps later becomes subject to this subchapter.".

USE OF VOLUNTEERS

SEC. 207. (a) Where any program agency has authority to use volunteer services in carrying out functions of the agency, such agency may use volunteer services for purposes of assisting projects related to conservation centers established under this title and may expend funds made available for those purposes to the agency, including funds made available under this title, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

(b)(1) The Secretary may recruit, without regard to the civil service classification laws, rules or regulations, the services of individuals contributed without compensation as volunteers for aiding or in facilitating the activities administered by the Secretary through the Bureau of Land Management.

(2) In accepting such services, the Secretary—

(A) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

(B) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

(3) Volunteers under this subsection shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28, United States Code, and subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 208. (a) PAY.—The Secretary shall establish standards for—

(1) rates of pay for enrollees which shall be not less than the wage required by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1));

(2) rates of pay for crew leaders which shall be at a wage comparable to the compensation in effect for grades GS-3 to GS-7; and

(3) reasonable hours and conditions of employment.

(b) COORDINATION.—The Secretary and the chief administrators of other program agencies carrying out programs under this Act shall coordinate the programs with related Federal, State, local, and private activities.

(c) MILITARY EXEMPTION STUDY.—The Secretary, in consultation with the Secretary of Defense, shall conduct a study to determine the feasibility and desirability of allowing enrollees who have completed a two-year enrollment in the program to be exempt from training and service under the Military Selective Service Act (50 U.S.C. App. 456). A report containing the results of the study shall be submitted to Congress not later than one year after the enactment of this Act.

EDUCATION, GUIDANCE, AND PLACEMENT

SEC. 209. (a) ACADEMIC CREDIT.—Whenever possible, the Secretary shall make arrangements for the award of academic credit by educational institutions and agencies to enrollees for competencies developed from work experience under this title.

(b) STUDY.—Program agencies may provide training and educational materials and services for enrollees and may enter into arrangements with academic institutions for academic study by enrollees during nonworking hours to upgrade literacy skills, obtain equivalency diplomas or college degrees, or enhance employable skills. Whenever possible, an enrollee seeking study or training not provided at his or her conservation center shall be offered assignment to a conservation center providing such study or training.

(c) CERTIFICATION.—The program agencies shall provide certification of the training skills acquired by enrollees who have participated in the program.

(d) GUIDANCE AND PLACEMENT.—The program agency shall provide such job guidance and placement information and assistance for enrollees as may be necessary. Such assistance shall be provided in coordination with appropriate State, local, and private agencies and organizations.

EVALUATION AND PILOT PROJECTS

SEC. 210. (a) RESEARCH AND EVALUATION.—The Secretary shall provide for research and evaluation to—

(1) determine costs and benefits, tangible and otherwise, of work performed under this title and of training and employable skills and other benefits gained by enrollees, and

(2) identify options for improving program productivity and youth benefits, including improved alternatives for: organization, subjects, sponsorship, and funding of work projects; recruitment and personnel policies; siting and functions of conservation centers; work and training regimes for youth of various origins and needs; and cooperative arrangements with programs, persons and institutions not covered under this Act.

(b) DEMONSTRATIONS.—The Secretary may authorize pilot or experimental projects to demonstrate or test new or alternative arrangements or subjects of work and training for programs under this title, which may include alternatives identified under subsection (a)(2).

ANNUAL REPORT

SEC. 211. The Secretary shall prepare and submit to the President and to the Congress at least once each year a report detailing the activities carried out under this Title. Such report shall be submitted not later than December 31 of each year following the date of enactment of this Act. The report shall describe (1) conservation work procedures, accomplishments and benefits; (2) the extent to which youth who are economically, socially, physically or educationally disadvantaged have been enrolled in and benefited by the program; (3) other youth benefits; and (4) problems and opportunities encountered in carrying out the Act which require attention. The Secretary shall include in such report such recommendations as he considers appropriate.

LABOR MARKET INFORMATION

SEC. 212. The Secretary of Labor shall make available to the Secretary and to any program agency under this title such labor market information as is appropriate for use in carrying out the purposes of this title.

EMPLOYEE APPEAL RIGHTS

SEC. 213. In the case of—

(1) the displacement of a Federal employee (including any partial displacement through reduction of nonovertime hours, wages or employment benefits), or the failure to reemploy an employee in a layoff status, contrary to a certification under section 205(d)(2) (A) or (B) of this Act, or

(2) the displacement of a Federal employee by reason of the use of one or more volunteers under section 207(b)(2)(A) of this Act,

such employee is entitled to appeal such action to the Merit Systems Protection Board under section 7701 of title 5, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1501 as reported by the Committee on Interior and Insular Affairs combines one noncontroversial bill which has passed the Senate with two bills which passed the House earlier in this Congress, but which have languished in the Senate.

Title I of the reported bill packages the Senate-passed Educational Mining Act with H.R. 2475, which the House initially passed almost 1 year ago.

The Senate-passed bill transfers the Federal interests in about 56 acres of

land in Alaska to the University of Alaska, for use in the training of mining and geology students. That transfer is included as section 101 of the reported bill.

Section 102 authorizes the acquisition of about 500 acres of privately owned land in the Owens Valley area of California in exchange for Federal lands. The exchange, supported by the administration, the State of California, the University of California, and several environmental groups, will further the protection of the critical habitat of the Owens Valley pupfish, an endangered species. The language is the same as that in H.R. 2475, as passed by the House.

Title II is identical to H.R. 4861 which passed the House by a wide margin (291-102) on June 9, 1982. The bill would provide for the establishment of an American Conservation Corps. The purpose is to accomplish needed conservation work on our public lands and community resources and to provide jobs for our Nation's young people.

The Corps would be administered by the Secretary of the Interior with the cooperation of the Secretaries of Agriculture and Labor. The program would be funded by using certain Federal revenues generated from various leasing and permitting activities—offshore oil and gas leasing, timber cutting, franchise and other fees.

The authorization for appropriations would be limited to $50 million in fiscal 1983 and $250 million annually thereafter through fiscal 1989, with a percentage increase allowed each year based on increases in the Consumer Price Index. Of the total annual appropriations, 35 percent would be distributed to States, 25 percent each to the Departments of Interior and Agriculture, 5 percent to participating Indian tribes and 10 percent to other Federal agencies and for special projects. States would be required to provide 15 percent matching funds and a mechanism (including at least 10 percent of the State's funding share) for local government participation.

Conservation projects would include conservation of forests, fish, wildlife, rangelands and soils; revitalization of urban areas and preservation of historic sites; maintenance of recreational areas; energy conservation and production of renewable resources. Work on private lands must provide documented public benefits and require reimbursement for any nonpublic benefits.

The program would have both a year-round and a summer component. Enrollees must be unemployed and be between the ages of 16 and 25 for the year-round program, and between 15 and 21 for the summer program. Special consideration in the recruitment and selection of enrollees would be given to disadvantaged youth who live in areas of substantial unemployment. Opportunities for training and academic study would be provided and certification granted for skills acquired by enrollees.

Those are some of the highlights of the legislation. Before concluding, however, I do want to emphasize that this program, while relatively modest in terms of funding, would offer much needed help—not only to our Nation's unemployed youth but also to the productivity of our Nation's lands and resources. I urge my colleagues to again support this important legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1501, the Educational Mining Act of 1982. Mr. Speaker, this bill is possibly the most appropriately named legislation to come before the House this year. The purpose of the legislation is to transfer some patented mining claims to the University of Alaska at Fairbanks so as to allow the students of geology there to further their academic careers in their chosen field. This bill is exactly like the types that have allowed Michigan Tech and the Colorado School of Mines to further their academic programs through hands on research. This bill simply allows the transfer of some donated mining claims to the university without the necessity of the schools having to go through the formal patent process. These claims are underground mines, outside of Fairbanks, Alaska, where silver has been mined on and off for many years. The donation of these claims and the implementation of these claims through this process will allow students from the United States who attend the University of Alaska to get into a mine, break a few rocks, and perhaps learn something about the noble science of geology.

There is attached to this legislation a provision that would reinstitute the Youth Conservation Corps. In a different form. That is unfortunate, Mr. Speaker, because although the House has passed this legislation, the Senate has failed to do so for some legitimate reasons, and I fear that the future of the students at the University of Alaska will be jeopardized because of this extra baggage. While I understand the concern of the Senate over the Youth Conservation Corps bill, I believe that this Nation needs to foster in its youth an appreciation of, and a love for, the higher principles of multiple-use management that eludes the so-called environmentalists, who feel that the only way to manage our resources is to put them off limits. I think, although it may make my distinguished colleague from Ohio shudder, that if the Youth Conservation Corps is instituted, we may see some real environmentalists emerge, rather than the lockup no growthers that claim to be environmentalists today. I realize the outyear obligations of this rider concern the other body, but I would hope they see the wisdom of getting our young people productive jobs in our productive forests, as well as supporting legislation that will help tomorrow's geologists better understand the nature of the bounty of this Earth that God has given us. I urge the Members' support of this legislation.

● Mr. JEFFORDS. Mr. Speaker, I rise in support of S. 1501 and I commend the Interior Committee for adding to it the provisions of H.R. 4861, the American Conservation Corps Act, which passed the House overwhelmingly earlier this year.

I am greatly disturbed at the turn that debate over the jobs issue has taken. Unemployment continues to rise as the overall rate climbed to 10.8 percent in November. Twelve million Americans are now considered unemployed and many more have given up looking for work. Among youth, this rate is 24.2.

We all agree that these figures constitute a serious problem. But that is where our consensus ends. Tragically, this serious, human problem has been addressed only on political terms. We talk about unemployment and then consider adding $5.4 billion to the continuing resolution for all kinds of programs dear to many of my colleagues, most of which will contribute little or nothing to the solution of the unemployment problem regardless of their other merits.

However, the American Conservation Corps concept is a sound one that would begin to have a constructive effect on youth employment. This bill would create a program to carry out conservation and rehabilitation projects with an emphasis on hiring disadvantaged youth. Projects could be implemented in both rural and urban areas and would be funded by revenues from leases and royalties on Federal lands.

This bill combines concepts from the Young Adult Conservation Corps and the Youth Conservation Corps, both of which have been targeted for elimination. I recognize that these programs have not been perfect and I believe that this bill remedies most of these problems.

There is a considerable backlog of needed conservation work in this country. The American Conservation Corps offers us a way to perform this work at a modest cost and in a way that addresses the serious problem of youth unemployment.

Even though previous youth conservation work programs suffered from a lack of coordination and though they did not focus clearly on conservation, they returned more than $1 in assessed value for each dollar invested. This bill would further improve this

ratio and would better target the program to disadvantaged youth and to those who live in areas of high unemployment. It provides youth with meaningful work, teaches transferable skills and benefits all of us.

Mr. Speaker, I urge my colleagues to support this bill now and to provide an appropriation for the American Conservation Corps as a part of any jobs legislation that may be considered by the Congress. We have an opportunity to not only conserve and improve our national and cultural resources, but also to make a major investment in the future of our youth.●

Mr. Speaker, I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the Senate bill, S. 1501, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PADDY CREEK WILDERNESS ACT OF 1981

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1965) to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System.

The Clerk read as follows:

S. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be known as the Paddy Creek Wilderness Act of 1981.

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), the following area as generally depicted on a map appropriately referenced, dated December 1981, is hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System; certain lands in the Mark Twain National Forest, Missouri, which comprise about six thousand eight hundred and eighty-eight acres, are generally depicted on a map entitled "Paddy Creek Wilderness Area", dated December 1981, and shall be known as the Paddy Creek Wilderness Area.

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the Paddy Creek Wilderness Area with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 4. The area designated as wilderness by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), except that any reference is such provisions to the effective date of such Acts shall be deemed to be a reference to the effective date of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker I rise in strong support of S. 1965, which would designate a 6.888-acre Paddy Creek Wilderness in the Mark Twain National Forest in Missouri. The Paddy Creek area was designated by Congress as a wilderness study area in 1976 (Public Law 94-557) with instructions that the area be evaluated to determine whether it should be recommended for addition to the National Wilderness Preservation System. The Forest Service has completed the study and recommended the area for wilderness, and on September 13 President Reagan sent a message to Congress confirming the administration's endorsement of the wilderness proposal. The Subcommittee on Public Lands and National Parks had previously held a hearing on the area on May 24 of this year, and found near unanimous support for wilderness designation.

Mr. Speaker, the outstanding natural attributes of the area are fully described in the House and Senate committee reports, and in the President's message transmitting the wilderness recommendation (see House Document 97-235, part 10, September 13, 1982), so I will not take the time to describe the area here. Suffice it to say that S. 1965 is strongly supported by both Missouri Senators, the administration, and numerous individuals and conservation organizations in Missouri and elsewhere. I urge my colleagues' agreement in passing this excellent legislation which was reported by the committee on December 8.

As a final note, I have conferred with Chairman DE LA GARZA of the Committee on Agriculture and we have agreed that it is the intent of the House in accepting the Senate bill that the Secretary of Agriculture file the official maps of the Paddy Creek Wilderness with the Committee on Agriculture as well as with the Committee on Interior and Insular Affairs. Normally, this requirement would be written into the law, but as this requirement was inadvertently omitted in the Senate bill, we have agreed to this procedure in order to avoid having to amend the bill and send it back to the Senate over such relatively minor matter.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. BAILEY).

Mr. BAILEY of Missouri. Mr. Speaker, I rise in strong opposition, and will do my utmost, to expedite, as I know the chairman of the subcommittee has, his support. However, the truth of the matter is that the chairman of the subcommittee, the gentleman from Ohio, has said just about all he knows about the Paddy Creek area. The chairman, of course, I suppose, has been no closer than a few thousand miles, or at least a few hundred miles, of Paddy Creek. He may have been in St. Louis at one time going through the airport. But, the point of that, Mr. Speaker, is not that there is any difference in his philosophy if he had been there, but just to point out that he has not been.

□ 2210

And we do not have a philosophical difference, the chairman and I, about our love for the Ozarks and our love of the beauty that is gathered there. I am returning home. These are my last few days in Congress. I am one of those proverbial "lameducks."

But what we do have in strong opposition is the practical and the procedural operations of this Congress in trying to designate Paddy Creek as a wilderness. Paddy Creek, the Oregon wilderness that the gentleman from Oregon (Mr. SMITH) is interested in, and the Irish Wilderness that the gentleman from Missouri (Mr. EMERSON) is interested in have all been conducted without adequate hearings in those districts. Certainly the chairman of the subcommittee has held no hearings on Paddy Creek.

What we have here is an entirely different situation than what we had in Indiana, because the Governor of the State of Missouri does not support Paddy Creek's inclusion as a wilderness, nor does this Member, nor does the other gentleman from Missouri who was speaking and who represents the area close to the Paddy Creek area. We do not have that.

Now, the history of Paddy Creek is not unlike many other of the forestry-owned lands of south central Missouri. The area was cut off with the timber production of one Silvester Paddy, in 1816. He had a large lumbering, timbering operation there in the early 19th century. That is how the area gets the name, Paddy Creek. They cut the trees from Paddy Creek, floated them down Paddy Creek, onto the Gasconade River, down the Missouri River into St. Louis to build homes for the German immigrants who came during the early days of the Arch. "This was the Gateway" to the West period during the early 1800's.

During the Civil War, Mr. Speaker, the area was almost desolate because the Union Forces and the Southern Forces ran the settlers out in Texas County, near Houston, Mo., the largest county in the State, and when the settlers came back after the Civil War to claim their homesteads, there were many losses of lives because of the claims and the counterclaims of the new ownerships.

There was a period of prosperity. My family moved there in the early 1900's. Then in the 1930's during the Great Depression, the U.S. Government bought the land. They bought it for $1 and $2 and $3 an acre from the people who lived there.

Here is the story from the National Geographic:

There were also problems for rangers in the 1930s in the Missouri Ozarks: woodland burnings set almost ritually each spring in the belief they hastened the grasses' greening; struggling peckerwood sawyers who fed their mobile mills with poached timber as an unwritten birthright; moonshiners whose smoking stills could draw an unsuspecting fire-fighting crew into a hail of gunfire.

"The first thing a ranger had to do," said Claude Ferguson, "was to convince the moonshiner he wasn't a 'revenooer.'"

Claude and I grew up in those hills, where, half a century earlier, the straight-grained yellow pine had drawn in big lumber companies. In less than a generation the prime conifers had been logged and hauled along narrow-gauge railroads to the mills, leaving the denuded hills to recloak themselves as best they could. What came back was mostly blackjact oak, and much of the land, considered nearly worthless by private owners, was eventually purchased by the federal government. It was a familiar pattern in our southeastern woods, a rape of the forest and a jilting of the land. But those woods accounted worthless became the nucleus of our national forest lands east of the plains.

The first units of the Mark Twain National Forest were being formed, one of them cradling the valley-and-hill town of Willow Springs, where I was born. With Claude and other friends, I did a lot of growing up in that forest, drawn by an inborn need to hike and camp and swim and fish in it. My dad hunted squirrel and quail in it, and an uncle farmed rocky fields bordering it.

Claude led our forays into the woods by dint of superior woodsman's lore, and went on to a career in the Forest Service, which was inevitability itself.

When I was a high-school senior, I earned a dollar or two from the same service—at 32 cents an hour, as I recall—fighting forest fires. When flames threatened, our school permitted seniors to go help save the Mark Twain's trees. Trading stuffy classrooms for a ride in green trucks into the glories of autumn woods, we seniors could not have been more pleased.

There is testimony from the hearing that was held in Licking, Mo., from a gentleman, Mr. McLaughlin, who talked about the settlements there and how he needed to be able to go back to find his old friends' home places throughout the Paddy Creek area, throughout the forest area, because now, if they block off the roads that are in there and make this a wilderness area, those old settlers will not be able to go back to their old home places.

The Federal Government, as I say, bought the land from the U.S. Forest Service. Here is a map showing the close proximity of the forest areas, one to the other, the wilderness areas that are proposed or suggested for Missouri.

Now, what I want to point out by referring to the map is that we have designated wilderness areas in Missouri already. We have the Mingo Wilderness area with 8,000 acres, the Hercules-Glade Wilderness area with 12,300 acres, the Piney Creek Wilderness area with 8,400 acres, the Devil's Backbone Wilderness area with 6,900 acres, the Bell Mountain Wilderness area with 8,530 acres, and the Rockpile Mountain Wilderness area with 3,820 acres.

In the RARE II area we are considering today, we have the Irish Wilderness with 17,000 acres. Then we have potential wilderness areas: the Lower Rock Creek, Van East Mountain, Smith Creek, Swan Creek, Spring Creek, North Fork, Big Spring, Upper Jacks Fork, and the Cardareva Area.

The point I want to make with that, Mr. Speaker, is that the Devil's Backbone area is only 52 miles from Paddy Creek; Bell Mountain is only 65 miles away; Hercules-Glade is 73 miles; Rockpile Mountain is 88 miles; Piney Creek is 96 miles; Mingo Reserve is 108 miles; Spring Creek is only 42 miles from Piney Creek; Swan Creek is 60 miles; Big Creek is 68 miles; Anderson Mountain is 80 miles; and Irish Wilderness is 68 miles.

We do not need a wilderness in the Ozark Hills every 50 miles, 20 miles on one side of Houston, Mo., and 20 miles on the other side.

This is a basic topographic area that is beautiful. It is the rocky hills of the Ozarks, but it is no different. The springs are the same, the creeks are the same, and the valleys are the same.

Here are the facts, Mr. Speaker. Paddy Creek is about 6,000 acres. That is about 3 miles by 3 miles. It is about 3 miles east and west and 3 miles north and south. There are 28 miles of roads already constructed within this area. There are 18.9 miles of trails, including 700 or 800 blazed trees and a number of signs. There are 160 acres of private land in there.

The point of all this is that it is certainly no pristine area. There are fences. There is a sawmill located inside this wilderness area.

Now, the point is that I doubt if anybody else here knows that because they have not been there. Somebody from the U.S. Forest Service ran up a plan or they ran up a flag, somebody rallied around it and ran over here, and the two U.S. Senators, bless their hearts, said that we have got to have a wilderness in Missouri again, another wilderness area.

It is going to cost something. The gentleman from Oregon (Mr. SMITH) talked about the economic cost. It is the same in my area, only it is a teensy-weensy place with a few people making a small living from timbering in an area that is very small.

But it is going to cost $59,000 to $67,000 annually out of a school district that is called Plato, Mo., with a high school of 35 seniors and with a gymnasium that was built in 1938. It seems a lot to them.

It has got a potential of selling timber. Between 1965 and 1975 there were 11 timber sales, 3 million board feet, enough timber to build 300 homes. The potential growing stock is 21 million feet.

But is it pristine? Let us look at the facts. Thirty-seven percent of the area is covered with stands of saplings and small trees. Only 5 percent of the area has 99-year-old timber, and that is versus a U.S. Forest Service plan that calls for 10 percent of an area to remain in overmature trees.

There are 47 sawmills, headers, and stave mills surrounding the area, evidence of importance to the timber industry.

Is it a pristine area, Mr. Speaker? Guns from Fort Leonard Wood, Mo., the largest engineering training station in the United States, are 4 miles from Paddy Creek and you can hear the guns. You can hear the artillery. Let us not be sold on this bill of goods that this is a pristine area, that this is an area that we have been looking for, or that this is some area that some people have been just clamoring to make into a wilderness. It certainly is not. There are no endangered or threatened species, and there is no deterioration of the water. In fact, it is a beautiful area. It is an area that I am going home to. I am going home to be with it. I am going there, and I am going to say to the Members of the House that the Missourians are going to take care of it and they are going to take care of it better than if it were a wilderness designation.

Mr. H. O. McLaughlin testified at the hearing. I do not know how old he is. I suggest that he is an elderly man. Here is what he said:

H. O. McLaughlin. I'm H. O. McLaughlin, Plato, Missouri, Box 56, and there is something else, my zip code is 65552. My friends, I'm gonna change the tempo of this meeting just for a moment of history. And I'm not so sure that you're all, or probably any of you, are gonna agree with it or you're gonna like it. But there's been certain things said around this meeting that I didn't exactly agree with, and I didn't like it, but I took it on the chin, so that's just what's gonna happen, hah. My friends, in the Thirties, there was a study made and this study was for National Forest in our area. This land at that time and our people who lived in it were a people that had gone through a Depression. Money was so scarce, seventy-five cents a day was top wages, and you'd better be a good hand to be able to stay there ten hours or you couldn't hack it. Along come this Forest Service and led us to believe that they'd buy our land, they'd give us five dollars an acre for it. They bought most of it off the Courthouse steps or off the speculators that speculated on land, if they could buy it today for two dollars an acre and sell it tomorrow for two dollars and a quarter, they didn't give a damn who they sold it to. That's just exactly, they asked no questions. My friends, that encircled our area and many of our people that has died, have already gone, died with a grudge in their hearts that this happened to them because of land that was taken in and around about them that they had sold, dreamed of owning themselves if they ever could possibly. And to their dying day, they never got to own it, it belongs to the United States Government, and, friends, it went on. I know of only one, and they led us to believe at those meetings that, yes, we'll trade you land here where fences are a problem and this, and we'll swap around and we'll make it right with all of you . . . back in the Thirties when we were all broke, during drouths and there was a Depression that we couldn't do anything about, that's when this all started, here in our State of Missouri. And I had a grudge in my heart for a long time for the Forest Service. I couldn't hardly stomach it to save my life. But I've grown in the years to accept it.

□ 2220

He says he wants to be able to go back into the wilderness area. He wants to be able to drive his car, his pickup truck, back to the old home places of his friends in the wilderness area. He wants to be able to visit those places where there is a firebush growing now by an old homestead of the people that he knew and grew up with in the Paddy Creek area.

I think Congress needs to address itself sometimes more to a local constituency than the U.S. Senators do and that is what I am doing here today, Mr. Speaker. I am speaking for the small group of people, a minority if you will, of people who live in the local area of Paddy Creek who do not want this area designated as a wilderness.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. BAILEY of Missouri. I am happy to yield.

Mr. EMERSON. I would like to compliment my colleague from Missouri on his remarks. He has made a very eloquent statement about the Paddy Creek which lies in the district which he presently represents.

He and I have very strong feelings about some of the basic rules of comity which are not being applied here in the House of Representatives. I want to compliment the gentleman on his representation of his people and to say that I as one Representative from Missouri speaking to another intends to abide by the rules of comity and support the gentleman's position.

Mr. BAILEY of Missouri. I thank the gentleman very much.

I would like to add as far, of course, as we know the Farm Bureau and the forest products and the mining industries are opposed to this, the Texas County Courthouse, Democrats to a one, the presiding judge and the two associate judges. It is the local support that is unanimous.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. BAILEY of Missouri. I am happy to yield.

Mr. YOUNG of Alaska. Mr. Speaker, I would like to compliment the gentleman in the well, Mr. BAILEY, and I compliment him because he is speaking on an issue he feels very strongly about. It will probably be the last time he will be on this floor for a period of time and we hope he will come back to us.

Mr. Speaker, I rise in strong opposition to S. 1965, the Paddy Creek wilderness bill. Designation of this 6,700-acre area as wilderness is unnecessary and unwarranted.

As the gentleman from Missouri (Mr. BAILEY) has pointed out, there is no shortage of wilderness areas in Missouri. Five national forest wildernesses already exist totaling 39,575 acres. Four of these areas were designated in 1980 by this Congress. The areas are scattered throughout the State and offer ample opportunities for people to "experience the wilderness." Adding another area will not change this situation but it will lock up an area currently being used by a wide variety of recreational users.

Paddy Creek is not a pristine area and should not have been considered for wilderness designation. There are numreous signs of man's presence in the area—roads, fences, manmade ponds, and evidence of timber harvests. It is time this Congress stopped arbitrarily drawing circles around areas and calling them wilderness when they do not come close to qualifying.

I urge my colleagues to respect the wishes of the gentleman from this area (Mr. BAILEY) and vote against the bill.

Mr. SEIBERLING. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I rise in strong support of S. 1965, to designate the Paddy Creek area in Missouri as a component of the National Wilderness Preservation System. This area contains about 6,900 acres of land in Texas County, Mo. The land lies around the Little Paddy and Big Paddy Creeks, and is part of the Mark Twain National Forest.

By congressional mandate, the Paddy Creek area was made a wilderness study area in 1976. The 5-year study period has now ended, and the Forest Service has recommended that the area be placed in the wilderness system. I fully support this recommendation, and urge my colleagues to adopt this legislation.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman what little time I have.

Mr. EMERSON. I want to say to the gentleman he is talking about percentages of land and percentages of the national forest and wilderness. I think that is important but I think we also have to look to the views and the attitudes of the local people and what they think about it.

The gentleman here has spoken saying the Texas County Court is in opposition to this. It is the highest elected body in Texas County and I think their opinion ought to have some weight.

Mr. VOLKMER. I would also like to comment there are many people in Texas County who do support this designation and I believe the gentleman from Missouri who spoke previously would have to admit that. I believe if you go back and look at the comments during the time the comment period was opened on the RARE II study it was overwhelmingly in favor of this designation.

Mr. SEIBERLING. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I just want to call attention of the Members again, as emphasized already by the gentleman from Missouri (Mr. VOLKMER) if you looked at the map the gentleman from Missouri (Mr. BAILEY) had beside him when he spoke you can see that the total national forest land in Missouri is a very, very small fraction of the total State of Missouri.

Then if you consider the fact that the proposed wilderness areas when added to all of the other wilderness areas in the State would be only 4.5 percent of that forest land you can begin to see that we are talking about an extremely small percentage.

As the gentleman from Missouri, Mr. VOLKMER, pointed out, it is one-half of 1 percent of the land in Missouri.

But that land is Federal land. It belongs not only to all of the people of Missouri but to all of the people of the United States. It makes a mockery of that to say that we are interfering with the land of the local people. They happen to live there but the land is land that belongs to all of the people of the United States.

This has been supported not only by both Senators from Missouri on both sides of the political aisle but it is supported by other Members of the Missouri delegation in the House. It is supported by most of the newspapers in Missouri. It is supported by the Missouri Wilderness Coalition who has probably more people in it than all of the people that live in the county affected.

But I would like also to say that it is not correct to say that the people in that county are unanimously opposed to this. I have a petition here signed by 44 residents of the area in question. Some of them live within a half a mile of the proposed wilderness.

Here is what it says:

We, the following people of the Roby community would like to see our area known as Paddy Creek protected under the Wilderness Bill for future generations. Some of us work in the timber industry and believe that surely we can afford to set back this 6,858 acre area. We are tired of seeing acre after acre clear cut, we have often thought how nice it would be to have Paddy Creek with all its unique caves, springs, and rock formations set aside for our enjoyment and future generations to come.

Cody Elliott, Garry Williams, Elbert Largent, Charles E. Moffant, Marvin Myers, J. D. Bays, Henry Croft, Nolan Mace, Rhonda Morgan, Rusty Morgan, Sonia Mace, Lela Bettes, Sam Hathaway, Sam Kinney, Frank Bettes, Kay Bettes, M. M. Brown, Charlotte Brown, Mildred Pitts, Golda Shaffer, Jerry Bettes.

Joel F. Stone, George H. Stone, Alvin R. Mortense, Sharon Mortensen, Fairie Mace, Joe B——, L—— B——, James Woods, Carol Woods, Nancy L. Creaston, Ben Craft, Daisy Kimrey, Eula Kimrey, Hugh Becht, Steve Elliott, Phyllis J. Mace, Leon Mace, Harold Elliott, Ollie Elliott, Bess Hutchison, Carl Hutchison, Carmen Elliott, Wilson Elliott.

□ 2230

Now, it is true, as the gentleman has said, that I have not been to Paddy Creek. I would love to go. As the gentleman from Alaska knows, I love to go to wilderness areas, hike in them, see their natural splendor.

But here we have an overwhelming support within his own home State. We have support of both Senators, passed the Senate unanimously. We have support of other members of the delegation. And we have support of people who live in that area.

I respect the gentleman's right to differ in the views of the majority or the minority. But I have to say that this is not an open-and-shut situation. It is one where both local people and people in the State as a whole favor this legislation. And I strongly urge our colleagues to support it.

Mr. YOUNG of Alaska. Mr. Speaker, I know it is late and everything else. Again, I want to state this is supposed to be a representative form of government. I am getting tired of listening to what the Senators want or believe in. This is not the Senate. It is the House. And the Senate has its rights, yes. But this gentleman—the gentlemen here represent those areas.

The key to this type of government, if they do not represent them correctly, they are no longer elected. But to say it is in the collective interest, in the national interest, the senatorial interest, is doing a disservice to the House and the committee I serve on.

It is ironic to me the good chairman, who will refer to the Senators today with great love, but at the same time can say the Senators have done the wrong thing in the committee all the time. You cannot have your cake and eat it too.

This is the responsibility of this House. And the delegate represented from that area, elected from that area, has the responsibility of speaking for those people in the majority, and that is what he is doing, and the majority should be listened to in both cases.

I can just say to my colleague those that signed that petition, if you check out their membership, the Sierra Club or the Friends of the Earth, they belong to them all. That serves their philosophy. They have the right to do that. Let us not kid ourselves in this body. Let us recognize it for what they are.

Mr. Speaker, I strongly oppose this legislation. All I can say is one of the gentleman who spoke in favor of it, I do not believe he has 1 acre in his district in wilderness. It is all in someone else's district. I think that is the incorrect way to handle things. If people want wilderness in their area they should support and promote it, but do not put it in somebody else's backyard.

Mr. SEIBERLING. Mr. Speaker, I also mentioned that Members of the House delegation support this legislation.

Mr. YOUNG of Alaska. No one from the House delegation from that district. And that is the difference. The district the wilderness is being proposed, the district of the gentleman from Missouri (Mr. EMERSON), the district of the gentleman from Missouri (Mr. BAILEY), they oppose it. They are elected by those people. If they did not do the job correctly, then in fact they should be unelected.

Mr. SEIBERLING. If I would follow the reasoning of the gentleman, I would infer the reason Mr. BAILEY will not be with us next year is because he did not support this wilderness.

Mr. YOUNG of Alaska. He carried the county. That ought to tell the gentleman something. He carried the county. They do not want the wilderness area.

Mr. SEIBERLING. I do not make that inference, because I am sure there were other issues. Nevertheless that shows the fallacy of the gentleman's argument.

Mr. YOUNG of Alaska. There is no fallacy. He carried the county. When you have a representative form of government you have to start listening.

Mr. Speaker, I have to say this again and again. This body is slowly evolving into a directed body of dictatorship from those who have the power and not from those who are duly elected from the areas.

"In the national and collective good." I hate that word "collective." There is no such thing as collective good when you have a representative form of government. There is no such thing as national importance when you have a representative form of government.

Now, if we are not going to have a representative form of government, let us forget it. Let us let the White House run the whole thing, or let the Senate run the whole thing. But this body is doing itself a great disservice when we continue to disregard the interest of that specific area, especially in the utilization of resources that affect the employment of people.

It is unfortunate. I have been through this thing for 12 years. I watched my State lose 147 million acres of land in the national interest. The national interest for what? For what? There was no national interest. It was Federal land. It could be federally managed. But, no, we had to make it park and wilderness, and those Alaskans should not have the right to utilize the lands as in the past.

Yes; if they create Paddy Creek Wilderness, those people who want to go back in and see their homesteads will not be allowed to because they cannot walk that far, because they are up in their years. They cannot use those roads or visit those mills. That is what I am objecting to. There is no other value in there, there is no threat to this area.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the Senate bill, S. 1695.

The question was taken.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMUNICATION FROM CHARLES TIMOTHY FRIEDMAN, JR.

The SPEAKER pro tempore laid before the House the following communication from Charles Timothy Friedman, Jr.:

DECEMBER 13, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that I have been served with a subpoena issued by the United States District Court for the District of Columbia.

Sincerely,

CHARLES TIMOTHY FRIEDMAN, Jr.

THE NUCLEAR FREEZE DEBATE

Mr. DORNAN of California. Mr. Speaker, I find myself in the closing days of the 97th Congress again in a very frustrating situation because of the last hour and so many of my distinguished colleagues on the House floor desiring to pay respect to some of my hard-working colleagues who are retiring from distinguished service here. I should take the full 60 minutes of this special order because of the critical nature of the subject, the value or feasibility of a nuclear freeze, and past Soviet arms control behavior.

Instead I will endeavor to go speedily through information that I would like to make available to the Members and include an open letter that I wrote to one of the more talented actors in the America firmament of film stars, not our great President, but that fine citizen of Connecticut and California, Mr. Paul Newman. In my letter to Paul I enclosed 67 instances of Soviet violations and deceptions of arms control treaties that are not generally known by even our brightest citizens. The nuclear freeze this summer and fall was based on so much misguided idealism, bad information augmented by deliberate disinformation by citizens not of the United States, that I cannot fault Mr. Newman and other concerned Americans who operate virtually in the blind. The freeze was defeated in Arizona and the vote was close only in California because of the efforts to get the truth out to the American public by well-informed private citizens such as Mr. Martin Coleman from Pacific Palisades. So here are the facts, folks. No more claims of naivete will be accepted.

Mr. Speaker, the nuclear freeze issue and movie star Paul Newman's naive claims on Soviet treaty compliance prompted me to direct my staff to study Soviet ARMS control behavior. This research led to an open letter to Mr. Newman which includes a documented partial list of Soviet violations, deceptions, and other measures to circumvent arms control agreements, tonight, this information is being submited to the RECORD.

U.S. Government policy has been to either deny or accept these constant Soviet efforts to evade arms control limitations. I am urging President Reagan to release any information of Soviet arms control "violations" that will not compromise our intelligence-gathering procedures. It is my belief that if the American people are given the facts, they can informatively evaluate the Soviet past as a guide to help determine the future course of U.S. foreign policy.

America should have realistic expectations about the value of arms control in meeting U.S. national security requirements. Arms Control has three main objectives for the United States: First, lower the chance of war; second, reduce the devastation of war; and third, reduce military budgets. Unfortunately, these objectives can conflict with each other. Giving away a needed system in an arms control agreement may reduce the military budget, but increase the chance of war due to unpreparedness. Agreeing to build a defensive system may lower the chance of war and devastation of war, but it can increase the military budget.

The United States has increased defense needs due to the documented massive Soviet military buildup. This can be countered by reducing Soviet offensive threats and/or by increasing U.S. defenses. Arms control attempts to reduce U.S. defense needs by reducing the Soviet threat. If the Soviets have no desire to reduce their military threat to the United States, a good arms control agreement will be difficult to negotiate and have limited utility. Arms control is only possible in areas where both sides are interested. Limiting the possiblities of accidental war is in both nation's interest and hence agreements in this area are attainable and useful.

The Reagan administration's attempts to achieve worthwhile arms control agreements show good faith and our willingness to reduce—not merely freeze—the defense needs of both sides. Unfortunately, if you look at past Soviet arms control behavior, the possibilities for many mutually beneficial agreements appear remote.

The Soviets have different objectives in arms control than the United States. Rather than use the process to allow for reductions on both sides, the Soviets see arms control as a way to obtain unilateral advantage. Talks are often used as a trap to delay or retard American counters to Soviet actions. Talks can be a stalling tactic. Promising an agreement can help the antidefense groups in the United States.

The Soviets attempt to reduce those categories of arms where the United States has the advantage.

Agreements are signed with every intention of cheating where possible and using all carefully worded loopholes to the utmost advantage.

An agreement may be reached with the United States to stop our momentum in a certain area, luring us into a false sense of security, with every intention of breaking out of the agreement when it appears they can catch up or pass us in doing so. The Soviets did this when they broke the moratorium on testing nuclear weapons in the atmosphere in September 1961.

Another reason for arms control, in the Soviet view, is for information gathering. The Soviets never issued a data base in the SALT I process. A data base is simply a fair statement of what armaments they have. The Soviets learned what we thought they had be negotiating on the basis of U.S. figures.

The point is, it is difficult to get a worthwhile agreement under these circumstances. A good, verifiable, enforceable agreement is desirable. An agreement that lacks any one of these three key elements is not worth the paper it is written on. The naive belief that a nuclear freeze with the U.S.S.R. would make the world safer is not based on these realities but on wishful thinking. A nuclear freeze that is not based on equality lacks all three elements essential for a desirable agreement.

Let us briefly analyze the problem of verifying a freeze.

To put it simply, it is easier to hide than to find—deception, camouflage, mobility, a closed society, the small size of nuclear weapons, and the ability to store components of a nuclear weapon—which could be quickly assembled for a launch—makes adequate verification by national technical means extremely difficult.

An immediate freeze agreement, even if it was verifiable and enforceable, would not be a good idea because of the adverse military imbalance.

Soviet missile advantages are actually understated. So-called experts look only at deployed, SALT-counted launchers. The Soviets have thousands of additional nondeployed ICBM's that could attack the United States.

The point is, although deployed Soviet ICBM numbers appear to remain constant—only the deployed missiles are remaining constant. Nondeployed missiles can be fired and the

Soviets are building 200 ICBM's every year. We are building none.

Comparing U.S. static numbers to U.S.S.R. static numbers is also misleading because Soviet ICBM's are generally larger and more capable—that is, more warheads—than U.S. ICBM's.

Although most people do not see the SS-20 IRBM as a threat to the United States, this missile has the capabilty to hit America, according to former Secretary of Defense Melvin Laird. There are 340 SS-20 launchers deployed with 3 warheads each and at least 1 reload per launcher.

The limited antiballistic missile defense capability around Moscow further increases the Soviet missile advantage. Soviet ABM (antiballistic missle) capable SAM's—surface to air missiles—also reduce U.S. missile penetration capability. Remember, the United States has no ABM's. None.

First strike advantage: Most if not all U.S. ICBM's can today be destroyed by only 25 percent of the deployed Soviet ICBM force. Hence if a war started, the Soviets would have a lot more power than appears on the surface—and the United States would have much less.

Mr. Speaker, Soviet submarine missile strength is also underestimated. The United States has 520 SLBM's (submarine launched ballistic missiles) in the active fleet. The U.S.S.R. is only allowed 950 SLBM's under SALT but actually has more because older SLBM's of the U.S.S.R. are not counted.

The U.S.S.R. also has 50 nuclear-powered and 20 diesel-powered subs that carry cruise missiles. That's right, Mr. Speaker, cruise missiles. Most of these are nuclear capable and could be used against the territory of the United States, but are not considered strategic and are ignored in SALT agreements.

The majority of Soviet SLBM's (SS-N-8 and SS-N-18's) have ranges that allow the subs to launch from protected waters so that it is nearly impossible for U.S. ASW (antisubmarine warfare) to neutralize or destroy them.

The Soviets have over 80 ballistic missile carrying subs and over 150 subs that carry some kind of ballistic missile or cruise missile. The United States has less than 100 nuclear- and diesel-powered attack submarines to hunt down those Soviet subs.

The United States has only 32 ballistic missile carrying subs and no, repeat no, cruise missile subs capable of attacking the Soviet Union. Only 19 of our ballistic missile subs may be out of port at any one time—to be hunted down by over 190 Soviet attack submarines.

Contrary to popular beliefs, the Soviets also have a bomber advantage.

U.S.S.R.: 150 long-range Bear and Bison strategic bombers; 180-plus long-range Backfire strategic bombers (the Soviet B-1); 80-plus other Bear and Bison long-range aircraft; and 740-plus Badger and Blinder medium-range bombers.

United States: 213 B-52's armed for nuclear strategic missions (only some 60 are actually on ground alert with a chance to survive a first strike) and 6 FB-111 medium-range fighter-bombers, actually designed as an all-purpose tactical air command fighter.

What could have been:

B-1 PROCUREMENT PROGRAM, AIR FORCE ESTIMATE

	Buy	Deliveries
Fiscal year:		
1977	3	
1978	5	
1979	13	1
1980	27	4
1981	42	15
1982	48	40
1983	48	48
1984	48	48
1985	6	48
1986		36
Total	240	240

The Soviet bomber advantage is even greater than these numbers because of the asymmetry in air defense. We cannot stop most of their bombers although our Air National Guard and Air Reserve pilots are top notch, as good as active duty pilots. There are simply not enough fighter jocks to go "up and at 'em."

In the 3 years following ratification of the ABM Treaty in 1972, the United States phased out the bulk of its continental air defenses. The Department of Defense stated that with only limited ABM deployment allowed, the utility of air defense in a major attack on the United States is restricted. Our SAM defenses were deactivated years ago and only a token force of 6 USAF squadrons, 108 obsolescent F-106 interceptors, plus some 200 Air National Guard and Canadian aircraft, as Secretary of Defense Donald Rumsfeld said, to "insure the sovereignty of our air space in peacetime." The last SAM site dedicated to the defense of the continental United States was withdrawn from Florida in 1979, just when Cuba was increasing its capability to threaten the southern United States with its new Mig-27 fighter bombers.

The point is hundreds of Soviet bombers are a serious threat to the United States and our allies. The bombers would be essentially unopposed in the United States. It has been estimated that, God forbid it, if war were to strike, almost one-half of the radioactive contamination of the United States would result because the United States has abandoned its air defenses and most Soviet bombers could penetrate unopposed to their targets. Restoration of even a rudimentary air defense would eliminate most of this potential contamination.

In contrast, there are some 10,000-plus SAM launchers and 2,500 interceptor aircraft deployed in the U.S.S.R. These air defenses are continually being modernized.

The effectiveness of the U.S. bomber force depends upon how it is designed to penetrate these Soviet defenses. Because the B-52 has a declining expectancy of penetrating the Soviet air defenses, the B-1 Peacemaker II was specifically designed for this penetration mission. A problem, of course, is that since President Carter killed the B-1, we will not have a new bomber, the B-1B until 1986. While the B-52 must carry us through this decade of vulnerability, the young crews have told me personally that it would be suicide to go into combat in a B-52, virtual U.S. kamikaze missions. Now a brief look at the asymmetry in civil defense.

The importance the Soviets attach to this program is indicated not only by the amount of resources devoted to it, but by the appointment of a Deputy Minister of Defense to head the program. And that was some 10 years ago.

The scope of the civil defense program is such that a very high Soviet official said:

> In our country, there is not one economic branch or area of social endeavor that is not in one way or another associated with civil defense.

The source for this quote is the "Civil Defense Review" hearings by the civil defense panel of the Subcommittee on Investigations of the Committee on Armed Services (U.S. House of Representatives, 1976, p. 191).

The Soviets protect 10 to 15 percent of their people in cities of over 25,000 population with blast shelters. The Soviets plan to evacuate and disperse their unprotected population that is in potential target areas. The evacuees will live in their assigned resettlement area where they will be fed and either provided with a fallout shelter or put to work building an expedient one. Contrary to Soviet propaganda which claims a war is not survivable, translated Soviet civil defense manuals say that this evacuation and dispersal of people can reduce deaths in a nuclear war to 3 to 4 percent of the population.

The Soviets also plan to take strong measures to better protect their industry. Boeing Aircraft Co. ran tests of these measures from translated Soviet civil defense manuals. Boeing found that packing critical machinery in sandbags would be fully adequate for Soviet factories since it would protect against fire, debris, and anything but a direct nuclear explosion—up to 80 psi in that awful nuclear effects lingo.

As far as the recovery asymmetry, it was calculated that the Soviets could recover from a nuclear war, war initiated by the Soviets after taking these

civil defense measures, in 2 to 4 years—it would take the United States 3 to 6 times longer to recover.

The casualty asymmetry is also frightening. The United States would lose 10 to 30 times as many people in such a Soviet initiated war as the U.S.S.R. The exact difference is unknown but there is no doubt though that the Soviets would have millions less die than the United States because they have a civil defense program and we do not, even though they start with a current population of 267½ million citizens to our current 232½ million—35 million more citizens than the United States.

The main point of all this comparison between the United States and U.S.S.R. is too show that the United States which had parity with the U.S.S.R. if not superiority when the SALT process began—has fallen behind. The SALT I "freeze" did not prevent the Soviet buildup. The SALT II call for equal levels of "strategic nulcear delivery vehicles" or launchers did not and could not stop or even slow the Soviet buildup across the whole range of conventional and nuclear weapons.

Mr. Speaker, the arms control approach of the past that compared forces on the basis of launchers is fatally flawed as candidate Reagan said in the 1980 Presidential race. The number of launchers on both sides is meaningless. Counting 318 heavy Soviet ICBM launchers such as the SS-18 as equal to 318 U.S. Minuteman launchers is like having a naval agreement and allowing the Soviets 318 aircraft carriers and allowing the United States 318 coastal PT boats.

This whole arms control approach fails to recognize the dynamics of the offense versus the defense, ignores the fact that the Soviets do not keep these agreements very well, and has limited the ability of the United States to defend itself in the ABM Treaty.

Yes, the United States should do everything possible to attempt to reduce or take away the Soviet military threat—through negotiations—but the threat is real and growing every day. We must act to reduce the threat by maintaining an adequate defense, as we talk, talk, talk, honestly and vigorously in attempts to reduce the threat.

Mr. Speaker, history is our only guide to the future and those who ignore history are condemned to relive it, especially painful and bloody history. The record shows arms control as practiced by the United States over the last 10 years failed to check the ongoing awesome Soviet military buildup. The well-intentioned freeze advocates remind me of Neville Chamberlain's naive offer of the Sudetenland to Hitler in 1938. "Peace for our time" was proclaimed, followed shortly by World War II. "Peace through strength" can be the only way to insure survival of the free world as we move through the unchartered and incredibly dangerous times ahead.

I recommend to my colleagues that they read my letter to Mr. Newman including the partial list of Soviet violations included in my remarks at this point.

OPEN LETTER TO PAUL NEWMAN

Dear Paul, while most people realize that the Soviet Union cannot be trusted to keep arms control agreements, it is understandable why you feel the Soviets abide by treaties. If one were to look only at official U.S. statements on Soviet violations, it may appear that the U.S.S.R. has a good track record in complying with arms control agreements. There are three main reasons why this false impression has persisted and why people of good will such as yourself have been taken for a ride.

First, in order to obtain Soviet agreement on a Standing Consultative Commission (SCC) for airing alleged SALT violations, the U.S. had to agree that the proceedings would be "confidential." Hence, open official U.S. disclosure of Soviet SALT violations is rare.

Second, U.S. intelligence agencies often feel that it is best not to "go public" with successfully determined information of Soviet military activities. Announcing our knowledge of those activities may lead to changes in Soviet camouflage, concealment, and deception (CCD) procedures which could reduce our ability to ferret out such activities in the future.

Third, if an administration supports an arms control agreement, an announcement of Soviet violations would be an admission of a failure in its arms control policy, and hence call into question the success of its overall foreign policy. This leads administrations, Republican or Democratic, toward a policy of ignoring or, much worse, explaining away Soviet violations. For exmple, according to the U.S. Arms Control and Disarmament Agency (ACDA), the Soviets proposed and the U.S. accepted a "Mistakes Understanding" concerning any violations of the Threshold Test Ban Treaty. The understanding was that "one or two slight, unintended breaches per year" are not to be considered violations.

For these three reasons, there are few official and public U.S. Government documentations of Soviet arms control violations. One does not need to look very hard though, to find numerous reports of Soviet violations, deceptions, and calculated measures to circumvent arms control limitations. Soviet activities have been uncovered by many officials, both in and out of our government. So that debate on the value of arms control can be based on reality and not on naive misperceptions, I am enclosing a partial list of Soviet "violations" that have been reported publicly. In addition, there are many violations that are known only by intelligence officials. And obviously, there are additional violations that are unknown even to Allied intelligence officials, i.e. cases where the Soviets have cheated so cleverly that they have not been caught. After all, our intelligence forces are not perfect.

The following list gives a short description of Soviet Violations, Deceptions, and calculated measures to Circumvent arms control limitations (VDC's) and lists sources that report or discuss the specific Soviet action and/or capability. For more information on a particular Soviet VDC, see the relevant arms control agreement and the sources.

The list is organized as follows: Soviet VDC's are presented; then VDC's of other arms control agreements are outlined.

Note that each VDC is numbered for reference purposes only. The numbers represent different types of VDC's, not the total quantity of all VDC's. For example, violation number one mentions the illegal deployment of 18 SS-9 ICBM's. Each SS-9 was a separate violation, for a total of 18 violations.

SALT

Violation: (1) SS-9: illegal deployment of 18 SS-9 heavy ICMBs at Tyuratam test range during SALT I. This violated the SALT I limitation on ICBM launchers.

Source: David S. Sullivan, Soviet SALT Deception, Coalition of Peace Through Strength, 1979, p. 7; Senator Jake Garn, "The Suppression of Information Concerning Soviet SALT Violations by the U.S. Government," Policy Review, No. 9, Summer 1979, p. 23; Senator Gordon J. Humphrey, "Analysis and Compliance Enforcement in SALT Verification," International Security Review, v. 5, Spring 1980, p. 4; "Soviet Violations of Arms Control Agreements," National Security Record, No. 45, May 1982, The Heritage Foundation, p. 2; Senator Steven Symms, Congressional Record, May 27, 1982, p. S 6357.

Violation: (2) SS-11: deployment of this missile at a SS-4 Medium Range Ballistic Missile (MRBM) site is an instance of attempted deception and is a violation of the SALT I Treaty.

Source: Humphrey, p. 6; "Soviet Violations of Arms Agreements," p. 2; Sullivan, p. 7.

Violation: (3) SS-16: deployment of 40-220 of these mobile ICBMs violates SALT II Provisions banning mobile ICBMs and violates SALT II limits on Strategic Nuclear Delivery Vehicles (SNDV's).

Source: Humphrey, pp. 5, 7, 12; Sullivan, Soviet SALT Deception, p. 4; David Sullivan "A SALT Debate: Continued Soviet Deception," Strategic Review, v. 7, Fall 1979, p. 32, David Sullivan, "Lessons Learned From SALT I and II: New Objectives for SALT III," International Security Review, Vol. VI, No. III, Fall 1981, pp. 362, 368; "Soviet Violations of Arms Agreements," p. 2; Garn, p. 31; Michael Getler, "Government Experts Challenge Reports of Sovet SALT Violations," Washington Post, April 9, 1982; Secretary of State Cyrus Vance, "SALT ONE: Compliance," The Department of State Selected Documents, No. 7, February 1978, p. 10; "Soviets Violate SALT II," Human Events, April 17, 1982, p. 3.

Violation: (4) SS-17: this ICBM was one of the heavy missile replacements for the light SS-11 ICBM. The SS-17 carries four times the warheads of a SS-11 and three to four times the throw weight. These replacements violate SALT I provisions prohibiting replacement of light ICBM launchers with heavies.

Source: "Lessons Learned From SALT I and II: New Objectives for SALT III," p. 365; Lawrence K. Orr, "Soviet Violations of SALT I," Issues in Brief, November 16, 1979, pp. 2, 3, 4; Michael B. Donley, ed., The SALT Handbook, The Heritage Foundation, 1979 p. 62; M. Stanton Evans, "How We Ignore Moscow's Treaty Violations," Human Events, June 19, 1982, p. 7; Garn, pp. 14-20; Soviet SALT Deception, p. 3; Humphrey, p. 7.

Violation: (5) SS-18: encoding of telemetry for this missile violates the agreements in both SALT I and SALT II to refrain from

interfering with national technical means of verification.

Source: Soviet SALT Deception, p. 7; "Soviet Violations of Arms Agreements," p. 2.

Violation: (6) SS-18: Rapid reload and refire exercises for the SS-18 have been reported; these exercises violate SALT II provisions prohibiting rapid reloads for ICBM's.

Source: Symms, p. S 6357; Clarence A. Robinson, Jr., "Soviet SALT Violations Feared," Aviation Week, September 22, 1980.

Violation: (7) SS-19: this ICBM was one of the heavy replacements for the light SS-11 ICBM. The SS-19 carries six times the warheads and three to five times the throw weight of a SS-11. Deployment of the SS-19 violates SALT I provisions prohibiting replacement of light ICBM launchers with heavies.

Source: Donley, p. 62; Orr, pp. 2-4; "Lessons Learned From SALT I and II: New Objectives for SALT III." p. 361; Evans; "Soviet Violations of Arms Agreements," p. 2; Vance, p. 5; Robert J. Einhorn, "Treaty Compliance," Foreign Policy, Winter 1981-82, p. 30; Geoffrey Levitt, "Problems in the Verification and Enforcement of SALT Agreements in Light of the Record of Soviet Compliance With SALT I," Harvard International Law Journal, Vol. 22, No. 2, Spring 1981, pp. 385-386; Garn, pp. 14-20; Soviet SALT Deception, pp. 1-3, 5; Humphrey, pp. 3, 4, 7, 8, 14.

Violation: (8) reintroduction of ICBM equipment to deactivated complexes: these measures violate dismantling or destruction requirements of the SALT Treaties.

Source: Humphrey, p. 13; Air Force magazine, January 1979, p. 18; "Soviet Violations of Arms Agreements," p. 2.

Violation: (9) SS-NX-19: this sea launched cruise missile (SLCM) has had its telemetry encoded during tests which violates the agreements in both SALT I and SALT II forbiding interference with the national technical means of verification of the other party.

Source: Symms, p. S 6357; David S. Sullivan, The Bitter Fruit of SALT: A Record of Soviet Duplicity, Texas Policy Institute, (reprinted in the Congressional Record; May 13, 1982, p. S 5178.)

Violation: (10) SS-NX-20: encoding of telemetry for this sea launched ballistic missile (SLBM) violates both the SALT I and SALT II accords on non-interference with national technical means of verification.

Source: "Soviet Violations Feared;" Daniel Southerland, "Are Soviets Violating SALT II Guidelines?" Christian Science Monitor, May 12, 1982, p. 1; Symms, p. S 6357.

Violation: (11) excess old ICBM launchers were not dismantled as required with additional deployments of new SLBM launchers. In 1976 the Soviets admitted they were over the SALT I freeze limit and acted to rectify the situation after much delay. This violation consisted of going over the SALT I freeze limit by 41 launchers.

Source: Orr, pp. 2, 6; "Soviet Violations of Arms Agreements," p. 2; Humphrey, pp. 4-13; Soviet SALT Deception, p. 7; Garn, p. 21; Levitt, p. 390; Vance, p. 7.

Violation: (12) III X launch control silos: the Soviets built 150-200 of these silos in violation of the SALT I freeze on ICBM launchers.

Source: Vance, pp. 4-5; Levitt, p. 386; Clarence A. Robinson, "Soviet Violations Detected," Aviation Week, October 21, 1974; Colin Gray, "SALT I Aftermath: Have the Soviets Been Cheating?" Air Force magazine, November 1975; Garn, p. 22; Humphrey, p. 8; "Soviet Violations of Arms Agreements," p. 2; Orr, pp. 2-3.

Violation: (13) over SALT I limits on nuclear ballistic missile submarines (SSBNs): the Soviet violated the SALT I limit of 62 SSBNs. Some sources say the Soviets have more than 68 strategic submarines.

Source: Orr, pp. 2, 6; "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 7; Soviet SALT Deception, p. 4.

Violation: (14) SS-N-12: deployment of this sea launched cruise missile (SLCM) violates the protocol to the SALT II Treaty which prohibits deployment of SLCMs with ranges over 600 kilometers.

Source: The Military Balance 1982-1983, The International Institute for Strategic Studies, London, 1982, lists two range figures for this SLCM: 550 kilometers and 1,000 kilometers; perhaps there are two versions of this SLCM.

Violation: (15) SS-N-3: deployment of this SLCM violates the protocol to the SALT II Treaty which prohibits deployment of SLCMs with ranges in excess of 600 kilometers.

Source: The range of this SLCM is 840 kilometers according to Donley, p. 132.

Violation: (16) development of a tactical ABM has violated the ABM Treaty.

Source: Humphrey, p. 2.

Violation: (17) ABM radars on Kamchatka: this 1975 deployment violated the ABM Treaty of 1972. The Soviet Union merely informed the U.S. that Kamchatka had always been an ABM test site, and deployment of ABM radars at ABM tests sites was allowed. The problem here was that the Soviet Union did not tell the U.S. that Kamchatka was an ABM site when the ABM Treaty was signed.

Source: Garn, p. 25; Vance, p. 6; Orr, p. 10; Levitt, p. 383; Humphrey, p. 3; "Soviet Violations of Arms Agreements," p. 2; Soviet SALT Deception, p. 5; William R. Van Cleave, "SALT on the Eagle's Tail," Strategic Review, Spring 1976, p. 50.

Violation: (18) blinding U.S. satellites with ground based lasers: this violates the SALT provisions that prohibit interference with national technical means of verification.

Source: Levitt, p. 388; Vance, pp. 9-10; Orr, pp. 5, 12; Philip J. Klass, "Anti-Satellite Laser Use Suspected," Aviation Week, December 8, 1975, p. 12.

Violation: (19) SA-2: tests of this surface to air missile (SAM) in an ABM mode has violated the ABM Treaty.

Source: Garn, p. 26; Melvin Laird, "Arms Control: The Russians are Cheating," Reader's Digest, December 1977. (Laird was Nixon's first Secretary of Defense.)

Violation: (20) failure to dismantle excess ABM test range launchers as required by the SCC violated the ABM Treaty.

Source: Soviet SALT deception, p. 7; Humphrey, p. 2; Levitt, pp. 389-390; Vance, p. 6.

Violation: (21) testing a movable ABM: these tests violate the ABM Treaty.

Source: Garn, p. 25; Vance, p. 10; Orr, p. 9; Laird, p. 4; "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 2; Van Cleave, p. 50.

Violation: (22) deployment of ABM battle management radars: introduction of these radars violates the ABM Treaty.

Source: Orr, p. 9; "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 2.

Violation: (23) SA-5: tests of this SAM in an ABM mode has violated the ABM Treaty.

Source: Humphrey, p. 2; Soviet SALT Violations Feared;" Soviet Violations of Arms Agreements," p. 2; Levitt, p. 381; Orr, pp. 8-9; John D. Lofton, "Top Military Man at SALT Calls it Quits," Battle Line, July 1979; Robert Hotz, "The Case Against Kissinger," Aviation Week, December 8, 1975; Vance, p. 10; Einhorn, p. 30; Garn, p. 26; Laird.

Violation: (24) SA-10: tests of this SAM in an ABM mode has violated the ABM Treaty.

Source: Humphrey, p. 2.

Violation: (25) Backfire: this bomber (which is not counted as a heavy bomber in the SALT II Treaty) has carried the AS-6 strategic (range over 600 kilometers) air launched cruise missile (ALCM); this violates the SALT II provision that prohibits non-heavy bombers from carrying strategic ALCMs.

Source: "Soviet Violations of Arms Agreements," p. 3; "Soviet SALT Violations Feared," Getler; Donley, p. 123.

Deception: (26) SS-11: deployment of this missile at a SS-4 MRBM site is an instance of attempted deception.

Source: Humphrey, p. 6; "Soviet Violations of Arms Agreements," p. 2; Soviet SALT Deception, p. 7.

Deception: (27) SS-16: this mobile ICBM was tested at night (in 1976) for deception purposes. Tests of the SS-16 have occurred above the arctic circle (not a common practice) to conceal information from U.S. monitors.

Source: Soviet SALT Deception, p. 4; Garn, p. 31; Getler; "A SALT Debate: Continued Soviet Deception," p. 32; Southerland, pp. 1, 14; "Soviets Violate SALT II," p. 3; "How Russia Hides Its Missiles," Foreign Report, published by the Economist newspaper limited, London, March 5, 1981, p. 3; "Lessons Learned From SALT I and II: New Objectives for SALT III," pp. 362, 368; Orr, p. 12.

Deception: (28) encoded telemetry: many Soviet missile tests have used this illegal (according to SALT) deception to make it difficult to determine the size number, and type of warheads.

Source: for reports of encoding (or encryption) of telemetry for the SS-18, SS-NX-19 and SS-NX-20 see Soviet SALT Deception, p. 7; "Soviet Violations of Arms Agreements," p. 2; Symms, p. S 6357; The Bitter Fruit of SALT: A Record of Soviet Duplicity, (in the Congressional Record, May 13, 1982, p. S 5178); Southerland, p. 1; "Soviet Violations Feared."

Deception: (29) the Soviet Union falsified the number of SSBNs and SLBMs deployed and under construction at the time of the SALT I freeze.

Source: Humphrey, p. 4; Soviet SALT Deception, p. 3; "A SALT Debate: Continued Soviet Deception," pp. 31-32; "Lessons Learned From SALT I and II: New Objectives for SALT III," p. 362.

Deception: (30) AS-3 and AS-6: Under SALT II, bombers that carry strategic ALCMs must be counted under Multiple Independently targeted Reentry Vehicles (MIRV) limits. The Soviets deceptively made the claim that none of their ALCMs had strategic range, so none of their bombers are counted as MIRVed. This claim is false since the AS-3 and AS-6 ALCMs are both strategic.

Source: Donley, p. 126; Soviet Military Power, the Department of Defense, p. 61; "Soviet Violations of Arms Agreements," p. 3.

Deception: (31) Bear: 105 of these heavy bombers are configured to carry the AS-3 strategic ALMC. The Soviets deceptively

claimed no MIRVed heavy bombers in the SALT II data exchange.

Source: Sullivan, in the Congressional Record, May 13, 1982, p. S5179; Symms, p. S6357.

Deception: (32) concealment of missiles as they leave production plants: this deception circumvents SALT I and SALT II provisions that prohibit certain deliberate concealment measures.

Source: "Soviet Violations of Arms Control Agreements," p. 2; Humphrey, p. 5; "How Russia Hides its Missiles," p. 3.

Deception: other measures to interfere with national technical means of verification include:

Deception: (33) dummy roads, facilities, equipment, and lauch sites.

Source: Orr, p. 10; Jack Anderson, "Soviet Subterfuge a SALT Concern," Washington Post, May 23, 1979; "How Russia Hides Its Missiles," p. 2.

Deception: (34) restriction of electronic emissions for air defense radars to prevent interception of data.

Source: Anderson; Orr, p. 10.

Deception: (35) covered submarines with tarps to conceal the SLBM launcher count.

Source: Orr, p. 10; Evans; "How Russia Hides Its Missiles," pp. 2-3; Levitt, p. 389; Humphrey, p. 5; Soviet SALT Deception, p. 4; "Soviet Violations of Arms Agreements," p. 2.

Deception: (36) tunnels to conceal over 20 submarines.

Source: "Soviet Violations of Arms Agreements," p. 2; Soviet SALT Deception, p. 4; Humphrey, p. 5; "How Russia Hides Its Missiles," p. 2.

Deception: (37) camouflaged factories producing missile and submarine components.

Sources: Orr, p. 10; Garn, p. 30; "How Russia Hides Its Missiles," p. 3; Levitt, p. 388; Clarence A. Robinson, Jr., "Soviets Hiding Submarine Work," Aviation Week, November 11, 1974; Humphrey, p. 5; Soviet SALT Deception, p. 4; "Soviet Violations of Arms Agreements," p. 2.

Deception: (38) camouflaged missile launching sites.

Source: Levitt, p. 388; Vance, pp. 7-8; "How Russia Hides Its Missiles," p. 2; Garn, p. 30; Orr, p. 10.

Deception: (39) construction of dummy submarines.

Source: Garn, p. 30; Evans; "How Russia Hides Its Missiles," p. 2; Humphrey, p. 5; Soviet SALT Deception, p. 4; "Soviet Violations of Arms Agreements," p. 2.

Deception: (40) in addition to sending encoded telemetry back from their missiles, (see number 28) the Soviets may have sent deceptive uncoded telemetry.

Source: Edward J. Epstein, "Soviet Missiles Can Fool Monitors," Wall Street Journal, October 18, 1982.

Deception: (41) refusal to give data in SALT I: this deceptive uncooperative behavior allowed the Soviets to later argue that some alleged violations were based on "faulty" U.S. data. (e.g. see number 17).

Source: according to national security advisor Henry Kissinger's White House press briefing on SALT I, June 15, 1972, "the Soviet Union has been extremely reluctant to specify precise numbers . . ." see SALT I Reconsidered, Institute of American Relations, 1979, p. 77 for these remarks.

Deception: (42) SSBN geographical asymmetry farce: the Soviet Union demanded and was granted the right to build more SSBNs than the U.S. during the SALT I freeze on total ICBM and SLBM launchers. This demand was accepted on the basis of a deceptive claim. The U.S. based some SSBNs overseas. The Soviets claim they should be given more submarines since U.S. submarines could hit Soviet targets while near their bases and Soviet submarines could not hit U.S. territory while near their bases. Soon after the SALT Treaty, the Soviets began testing a new long range SLBM which allows them to hit the U.S. while near home bases. Since the U.S. subsequently withdrew its submarines from overseas bases, the geographical asymmetry is actually the other way.

Source: Soviet SALT Deception, pp. 3-4; "Lessons From SALT I and SALT II: New Objectives for SALT III," p. 362; "A SALT Debate: Continued Soviet Deception," p. 32; Donley, p. 83; the U.S. no longer has overseas home basing of SSBNs according to Senior Chief Riccio, Office of Naval research.

Deception: (43) Backfire: the Soviet Union has been deceptive in describing this bomber as medium range, in its claims that the Backfire does not have and will not be given the capability to strike targets in the U.S., and in the production rate. There is no doubt that the Backfire bomber (which can be refueled inflight) can attack targets in the U.S.

Source: Soviet SALT Deception, p. 7; Humphrey, p. 6; SALT II Reference Guide, The White House, Spring 1979; "Lessons Learned From SALT I and II: New Objectives for SALT III," pp. 364, 368; "A SALT Debate: Continued Soviet Deception," p. 37.

Deception: (44) camouflage, concealment, and deception of ABM deactivization: these measures violate the SALT provisions that prohibit interference with national technical means of verification.

Source: Soviet SALT Deception, p. 7; Humphrey, p. 2; "Soviet Violations of Arms Agreements," p. 2.

Circumvention: (45) SS-7: large numbers of old SS-7 heavy missiles at an unidentified installation circumvents the SALT I provisions requiring destruction or dismantling of old systems as they are replaced.

Source: Soviet SALT Deception, p. 7; Air Force magazine, September 1979, p. 24; Humphrey, p. 6.

Circumvention: (46) SS-16: tests of this mobile ICBM circumvented Brezhnev's pledge to Nixon that the Soviet Union would not deploy a mobile ICBM.

Source: Soviet SALT Deception, p. 4; Garn, p. 31; "How Russia Hides Its Missiles," p. 2; "A SALT Debate: Continued Soviet Deception," p. 32; "Lessons Learned From SALT I and II: New Objectives for SALT III," p. 362; Getler; Orr, p. 12; Garn, p. 31; Humphrey, p. 5.

Circumvention: (47) SS-18: simulated tests of this missile with more than ten warheads circumvents the SALT II limit of ten warheads on an ICBM.

Source: William E. Jackson, Jr., quoted by Southerland, p. 14.

Circumvention: (48) SS-20: the Soviets have circumvented the SALT agreements with this missile which is called an intermediate range ballistic missile (IRBM) but which has ICBM range. The range of this missile (over 5,500 kilometers) should qualify it as an ICBM under SALT definitions. Encryption of the telemetry data in tests of this missile also circumvents the SALT agreements.

Source: "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 5; Symms, p. S 6357; Levitt, p. 387; Vance, p. 10; Orr, p. 5; Laird.

Circumvention: (49) extra missiles have been stored: when the Soviet Union has replaced old missiles, it has kept them as a strategic reserve. This circumvents the stipulations of the SALT agreements which call for dismantling or destruction of ICBM launchers when replaced by new SLBM launchers.

Source: "Lessons Learned From SALT I and II: New Objectives for SALT III," p. 368; "Whither Arms Control?-II," Wall Street Journal, May 20, 1982, p. 26; Soviet SALT Deception, p. 7; Humphrey, p. 5; "Soviet Violations of Arms Agreements," p. 2; see also the Harold Brown Department of Defense Reports which mention these extra missiles.

Circumvention: (50) Hotel SSBN: these submarines circumvented the SALT I Treaty; although equipped with SLBMs, these submarines were not counted under SALT limits.

Source: for a description of these submarines see Donley, pp. 93-101; the Military Balance 1982-83; or Jane's Fighting Ships.

Circumvention: (51) Golf Ballistic Missile Submarine (SSB): these submarines also circumvented the SALT I limits; although these submarines carried SLBMs, they were not counted toward the Soviet limit of 62 ballistic missile submarines.

Source: for a description of these submarines see Donley, pp. 93-101; the Military Balance 1982-83, or Jane's Fighting Ships.

Circumvention: (52) Cruise Missile Submarines (SSGN and SSG): the Soviets have 50 nuclear powered and 20 diesel powered cruise missile submarines that have circumvented the SALT limits. Most of these cruise missiles are nuclear capable.

Source: Soviet Military Power, p. 40; Donley, p. 132; "Soviet Violations of Arms Agreements," p. 3; "Lessons Learned From SALT II: New Objectives for SALT III," p. 368.

Circumvention: (53) development of two new ICBMs: SALT II only allows the deployment of one new ICBM. These developments then circumvent the SALT Treaty. Deployment of course would violate the treaty.

Source: William E. Jackson, Jr., p. 14.

Circumvention: (54) concealment of missiles as they leave production plants: this deception circumvents SALT I and SALT II provisions that prohibit certain deliberate concealment measures.

Source: "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 5; "How Russia Hides Its Missiles" p. 3.

Circumvention: (55) Anti-Satellite weapons (ASATs): these ASATs circumvent the SALT provisions that prohibit interfernece with national technical means of verification.

Source: Vance p. 10; Levitt, p. 388; Clarence A. Robinson, Jr., "Soviets Push for Beam Weapon," Aviation Week, May 2, 1977.

Circumvention: (56) Bear: Navy versions of this strategic heavy bomber circumvent SALT II limitations. While these aircraft are not counted, hundreds of junked B-52s are counted.

Source: Donley, p. 109; Soviet Military Power, p. 47; *Soviet SALT Deception*, p. 10.

Circumvention: (57) testing illegal ABM radars (high powered) and developing illegal exotic technologies (e.g. beams and leasers) circumvents the ABM Treaty which prohibits the deployment of these measures.

Source: Orr, p. 8; Evans; Garn, p. 24; Henry S. Bradsher, "Soviet ABM Setup Has Pentagon Concerned," Washington Star, February 16, 1977; Levitt, p. 384; Clarence A Robinson, Jr., "Further violations of SALT

Seen," Aviation Week, February 3, 1975; Clarence A. Robinson, Jr., "Soviets Push for Beam Weapons," Humphrey, p. 2; Van Cleave, p. 50

OUTER SPACE TREATY

Circumvention: (58) Fractional Orbital Bombardment System (FOBs): this is SS-9 heavy ICBMs at the Tyuratam test range were designed to become a FOBs upon launch. This capability circumvented the Outer Space Treaty provisions prohibiting weapons of mass destruction in space.

Source: Soviet SALT Deception, p. 7; Humphrey, p. 6.

ATMOSPHERIC TEST BAN MORATORIUM OF 1958

Violation: (59) over 30 Soviet tests were conducted in the atmosphere in less than two months (beginning September 1, 1961.)

Source: Kathleen Teltsch, "U.N., 87-11, Appeals to Soviet on Test," *New York Times*, October 28, 1961.

1962 CUBAN MISSILE CRISIS AGREEMENT

Violation: (60) a few of the violations of the agreement which prohibits the stationing of offensive arms in Cuba are: ballistic missile submarines visiting Cienfuegos harbor; nuclear capable MIGs being given to Cuba; and a Soviet combat brigade stationed in Cuba.

Source: There are numerous reports of these Soviet and Cuban activities; a few of these sources are: "Soviet Violations of Arms Agreements," p. 2; Humphrey, p. 7; *Soviet SALT Deception*, p. 8; *Air Force* magazine, September 1979, p. 22.

THRESHOLD TEST BAN TREATY

Violation: (61) the Soviets have made many tests in violation of the 150 kiloton limit.

Source: Einhorn, p. 31; "Soviet Violations of Arms Agreements," p. 1; "Soviet SALT Violations Feared;" Humphrey, p. 7; Rowland Evans and Robert Novak, "Violations of the Test Ban?" *Washington Post*, September 1979; *Soviet SALT Deception*, p. 8.

1973 AGREEMENT BETWEEN THE U.S.A. AND THE U.S.S.R. ON THE PREVENTION OF NUCLEAR WAR

Violation: (62) the Soviet Union failed to consult with the U.S. concerning the Arab-Israeli 1973 War and threatened to use force against a U.S. ally (i.e. Israel); these actions were violations of this Agreement.

Source: "Soviet Violations of Arms Agreements," p. 2.

MUTUALLY BALANCED FORCE REDUCTION TALKS (MBFR)

Deception: (63) Soviet deception and fabrication of Warsaw Pact force levels at these negotiations is the norm.

Sources: Soviet SALT Deception, p.7.

BREZHNEV'S SS-20 PLEDGE

Violation: (64) Brezhnev's March 1982 pledge to freeze Soviet deployments of SS-20s was nothing more than a propaganda ploy since the Soviet Union has deployed since the Soviet Union has deployed 40-50 SS-20 since that time and continues to introduce new SS-20 launchers at a rate of one every five days.

Source: Secretary of Defense Weinberger announced this in an October 1982 issue of Il Tempo, an Italian newspaper; see also the Washington Post, October 16, 1982 for this report.

GENEVA PROTOCOL

Violation: (65) Soviet use of lethal nerve gas on populations in Afghanistan violates this Treaty.

Sources: "Soviet Violations of Arms Agreements," p. 3; Chemical Warfare in Southeast Asia and Afghanistan, U.S. Department of State; Gloria Duffy, "Chemical Warfare: The Cloud of Doubt," Christian Science Monitor, January 26, 1982, p. 23.

BIOLOGICAL WEAPONS CONVENTION (BWC)

Violation: (66) a 1979 anthrax epidemic (fatal to thousands) in Sverdlovsk, USSR, gives evidence that this Convention has been violated. An accidental explosion at a military installation that had been a suspected biological weapons production plant caused the epidemic. The Soviets deny this, but refuse to have discussions with the U.S. concerning this violation.

Sources; Einhorn, p. 32.

BIOLOGICAL WEAPONS CONVENTION (BWC)

Violation: (67) the U.S. has put before the U.N. evidence collected in Southeast Asia that lethal chemical and biological warfare toxins have been used by Soviet supplied Vietnamese troops on people in Laos and Cambodia. Use of these toxins called "yellow rain" and "white rain" violate the BWC.

Sources: "Soviet Violations of Arms Agreements," p. 3; Chemical Warfare in Southeast Asia and Afghanistan, Einhorn, p. 32.

□ 2250

TRIBUTE TO HON. GREG CARMAN, HON. JOHN LeBOUTILLIER, HON. GARY LEE, AND HON. DON MITCHELL

The SPEAKER pro tempore (Mr. RATCHFORD). Under a previous order of the House, the gentleman from New York (Mr. HORTON) is recognized for 60 minutes.

GENERAL LEAVE

Mr. HORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HORTON. Mr. Speaker, as dean of the New York Republican congressional delegation, I requested this special order to honor four New York Republican Members who will not be returning to the 98th Congress next year. They are Congressmen GREG CARMAN, JOHN LEBOUTILLIER, GARY LEE, and DON MITCHELL. Each of these Members represented the constituents of their respective districts outstandingly well. I know the entire New York delegation, as well as the Members of this House, join me in wishing them success in their future endeavors.

Mr. Speaker, I join with my colleagues today in expressing both my respect and admiration for the work of my friend, Congressman GREGORY CARMAN, and his service to the people of New York's Third Congressional District. GREG was elected to this House on November 4, 1980. In just 2 short years, GREG established himself as a respected and able Member of Congress.

GREG served this House on both the Committee on Banking, Finance and Urban Affairs, and the Select Committee on Aging. To his credit, GREG has earned the respect of a very troubled industry, the financial industry, through his devotion to his committee assignment. I personally have worked with GREG on issues of vital interest to the Northeast-Midwest and can attest to his deep conviction and concern for the well-being of his constituents and this country.

I am disappointed that this House will not be afforded the able and tireless services of my friend, GREGORY CARMAN, during the 98th Congress. I would like to take this opportunity to commend GREG on his fine record of accomplisment and wish him the very best of luck in his future endeavors.

Mr. Speaker, JOHN LEBOUTILLIER was elected to, and actively and effectively participated in, what is already being called a most historic Congress. His successful election bid came 2 years after his graduation from the Harvard Business School, and after he had authored several widely read articles and books on the problems and challenges facing American today. His knowledge of government and business, combined with his candor, diligence, and dedication to the responsibilities of his office earned him the respect and admiration of his colleagues, myself included.

JOHN is an outstanding individual and a colleague whose opinions I value highly. I regret that he will not be here in the 98th Congress, but I wish him the very best in whatever pursuit he should attempt.

Mr. Speaker, GARY LEE is a close friend and has been a trusted colleague throughout our 4 years of service together in the House. He has a solid understanding of the problems facing New York and the Northeast, and has represented the constituents of his 33d Congressional District with tireless energy and dedication. He is an outstanding individual whose presence will be sorely missed in the 98th Congress.

GARY brought to this Congress a wealth of knowledge about State and local government, knowledge which he acquired through a distinguished career of public service which began with his election to the Dryden City Council in 1960. He later served as Dryden town supervisor, member and later chairman of the Thompkins County Board of Supervisors, member of the New York State Assembly, and in 1978 he was elected to the 96th Congress.

In Congress, GARY ably and effectively served on the Energy and Commerce Committee. In 4-short years, he established a solid reputation as an effective, intelligent, and hard-working legislator.

I commend GARY for the work he did in this Congress so outstandingly

well. As I stated earlier, his energy and dedication will be sorely missed.

Mr. Speaker, DON MITCHELL has been a close friend of mine throughout our service together in the House of Representatives. I have valued his friendship, as well as his counsel on any number of issues important to the State of New York and this Nation.

DON and I have worked closely together on a wide variety of endeavors ranging from the New York State Republican congressional delegation to the Canadian-United States Interparliamentary Conferences. During his 10 years of service in the House of Representatives, and his work on the Armed Services Committee, DON has displayed an intense devotion to the needs and best interests of his constituents in the 31st Congressional District of New York, as well as the people of the United States.

DON has a very distinguished record of service to society. DON served in the Navy as an aviator during World War II. Later he became the mayor of Herkimer, N.Y., before moving on to the New York State Assembly. In 1972, DON was elected to the U.S. House of Representatives from New York's 31st District.

Significantly, DON did not confine his efforts on behalf of his fellow man to the political sector. In conjunction with his public service, DON has been extremely active in many private service clubs and organizations, making a very positive contribution to the well-being of his friends and neighbors.

I know that we in this House will miss the intelligence, the commonsense, and the abilities of DON MITCHELL during the 98th Congress. I am sure that the Members join me in wishing DON and his family the very best of luck in the future.

● Mrs. HOLT. Mr. Speaker, DON MITCHELL, a member of the class of the 93d Congress, is leaving this House at the end of the session. I came to Congress with DON and it has been my great pleasure to serve with him on the Armed Services Committee. He is one of the finest gentlemen I have ever met. We will miss his contributions here on the floor, but even more, we will miss his expertise in committee, where he has combined fiscal responsibility with a real understanding of our defense needs. DON has helped to lead the fight to restore our defense capabilities, and we should all thank him for that. I personally will miss him, and I know that Duncan and I wish him and Gretta the best of luck and much happiness.●

● Mr. ERLENBORN. Mr. Speaker, among our colleagues who will be retiring at the end of this Congress is DON MITCHELL of New York. I want to add my good wishes to those others are making to DON for a healthy and happy retirement.

DON has devoted 10 years to serving the people of what has been New York's 31st District, and they can be proud of having voted five times to have him represent them in this body. He is a fine human being who has done his homework and deserves time with his family.●

● Mr. FUQUA. Mr. Speaker, the Honorable DONALD J. MITCHELL of the 31st District of New York will be ending his congressional service when this body adjourns this year and I think this is an appropriate time to recognize the outstanding contributions he has made to our deliberations.

I have always felt that the standard by which a Member of this House should be measured is the contribution he or she makes as we face decisions on the difficult issues which come before us.

DONALD MITCHELL has more than measured up to its standard.

His 10 years of service in the U.S. House of Representatives had been marked by outstanding service to his constituents as well as a deep and abiding concern for the welfare of the Nation.

Having previously served in elective office as a town councilman and mayor and as a State assemblyman in New York, where he rose to the postion of majority whip, DONALD MITCHELL came among us with an intimate knowledge of local and State problems which translated into useful insight for the House of Representatives as we considered programs which affected State and local government.

I consider myself more fortunate than most Members of this House because DONALD MITCHELL has shown the wisdom to purchase property in beautiful Cedar Key, one of the many coastal jewels in my district, and will thus be a constituent of mine.

I wish him great success in all his future endeavors.●

● Mr. BIAGGI. Mr. Speaker, I rise today to pay tribute to a fine gentleman and an extremely capable legislator as well as friend, DON MITCHELL, who has decided to seek his well-earned retirement after 10 years in service to the people of the 31st District of New York.

DON, who was elected to Congress in 1972, has served with distinction as a member of the House Committee on Armed Services. During that time, he has contributed vitally to the improvement of life for our military personnel, while serving as the ranking minority member of the Subcommittee on Military Personnel and Compensation. He has been responsible for major pay increases and important benefits for those who are directly responsible for the freedom and protection of our great country. He has been a friend to our military men and women here and abroad.

DON has shown an active involvement and interest as well in our Nation's civil defense; he has been a staunch supporter of keeping the citizens of the United States informed and alert in the event of a nuclear attack or any major disaster; he has fought to increase authorizations for programs such as FEMA, the agency created to enhance the multiple use of emergency preparedness and resources at the Federal, State, and local levels of government. DON has been the major proponent of civil defense in Congress.

During his tenure in Congress, DON cofounded the Northeast Midwest Congressional Coalition, and has served as part of the Republican leadership, as assistant regional whip for New England and the Middle Atlantic States.

I am sure that DON's work on behalf of national, social, and civic causes he believes in will continue long after he leaves us. While DON is leaving Congress to return to his optometry business part-time and to enjoy the relaxation and less-hectic life that he richly deserves, I hope he knows how much we will miss him. I will miss; he has been a good friend.

May DON, his lovely wife, Gretta, and their family share a fruitful and relaxing future together.●

● Mr. GILMAN. Mr. Speaker, I thank the gentleman from New York for the opportunity to honor our departing colleague, GREGORY W. CARMAN. It is truly our loss that this bright, young talent is leaving the House of Representatives. He has exhibited his expertise on the Banking, Finance and Urban Affairs Committee, where he has also been instrumental in serving his constituents to shore up financial institutions in his district.

Representative CARMAN has been a true representative and fighter for the people of the Third District. As a freshman he boldly worked to stop all present and future dumping of dredged waste in the Long Island Sound through legislation amending the Clean Water Act and the Ocean Dumping Act. He has also distinguished himself in his staunch efforts to keep Grumman a family oriented, community owned, and Long Island operated business by opposing the LTV Corp. takeover attempt and leading a determined fight to this end.

GREG followed through on the trust placed in him in his appointment by the Republican leadership to the Republican Task Force on Crime, as with every task he took on. Perhaps the greatest tribute that we could give GREG is to repeat the honor bestowed on him by the senior citizens of the Woodbury health related facility in his district, who named him "Man of the Year" for his conscientious work on the Select Committee on Aging.

Certainly GREG, as we lament your departure we also wish you good health and joy in the years ahead, knowing that you will continue to use your keen intellect and your determination to take action to improve the quality of life for the benefit of the people of the State of New York and this Nation.●

● Mr. LOEFFLER. Mr. Speaker, with sincere respect—indeed with great affection—I salute my distinguished friend and colleague, GARY LEE of New York.

I had the privilege of serving with GARY in the last Congress on the Energy and Commerce Committee, where he worked diligently in behalf of measures to encourage increased production and conservation of our crucial energy resources. For his efforts, our Nation owes GARY a debt of gratitude.

During this Congress, GARY spoke strongly and wisely in opposing higher taxes, deficit spending, and increased Federal intrusion in our daily lives.

Thank you, GARY, for your dedicated efforts in behalf of our country. We shall miss you. Keep in close touch.●

● Mr. GILMAN. Mr. Speaker, I thank our colleague, the gentleman from New York (Mr. HORTON) for arranging this time for us to bid our farewells to those members of the New York delegation who will not be with us in January. I speak now of JOHN LEBOUTILLIER, who had the privilege of representing the Sixth District of New York, which includes the North Shore of Long Island, and parts of Queens.

When JOHN came to this body 2 years ago, he gained our attention as the youngest Republican Member elected to the 97th Congress. He was a scant 27 years of age—but nonetheless, put all his energies and efforts into his committee assignment, that of Foreign Affairs. I was pleased to have JOHN's input on our committee, and appreciated his diligent work on behalf of our POW's and MIA's. It is a difficult assignment for anyone, since information is so rarely available, and much frustration ensues. But JOHN LEBOUTILLIER persevered in this work, and the entire Foreign Affairs Committee is the better for it.

I know that my colleagues are also aware of JOHN's literary accomplishments as the author of "Harvard Hates America," as well as a novel, and we hope that JOHN will continue to write in the future. I am pleased to join in wishing him best wishes for success and happiness in the months and years ahead, Mr. Speaker, secure in the knowledge that JOHN has gained a wealth of experience from his service in the House of Representatives that will remain with him for a long time.●

● Mr. MARTIN of New York. Mr. Speaker, I am deeply grateful to the dean of our New York State Republican delegation for this opportunity to salute our four departing members.

It comes as no surprise to anyone, Mr. Speaker, to say that the New York congressional delegation has been hard hit by reapportionment, primarily due to population losses in some of our downstate areas. But in addition to that, and in some cases because of it, we are losing not just seats, but flesh-and-blood individuals of high quality.

GREGORY W. CARMAN and JOHN LEBOUTILLIER have been classmates of mine for the past 2 years. Serving in this Congress with them has been most pleasurable, and they can take pride in the spirit and contributions which our class of 1980 has brought to the 97th Congress and the accomplishments we have helped bring about.

Since our first days in Congress. I have been deeply impressed and gratified by GREG CARMAN's knowledge of and concern for my congressional district in the northernmost reaches of the State. Having attended St. Lawrence University in my district, GREG had a most valuable comprehension of our needs as well as those of his own area. This has indeed been a valuable asset to our entire delegation.

JOHN LEBOUTILLIER, of course, is still a young man and has many more valuable contributions to make to his country after his departure from this body. In particular, I hope he will continue to encourage our young people to participate in politics and enter our political system as early in their lives as possible.

In my own area of the State, Mr. Speaker, we are losing two of our most forceful advocates in GARY A. LEE and DONALD J. MITCHELL.

It has been my pleasure to serve with GARY LEE in both the New York State Assembly and here in Congress. I am well aware, therefore, of his keen legislative ability, his dedication to his constituents, and the high degree of energy with which he has practiced both.

As a Navy veteran, an elected official at the local and State levels and an able college administrator, GARY LEE brought to Congress a unique blend and breadth of experience. That experience was an asset to this entire body; I know I personally will miss his always generous and helpful advice.

While I gladly join this tribute to our good friend DON MITCHELL, Mr. Speaker, I refrain, with equal pleasure, from bidding him farewell. Having been assigned, through reapportionment, three of the counties which he has represented so ably over the years, I can look forward to having him as a most distinguished constituent.

As many of our colleagues already know, DON is returning home to the lovely village of Herkimer, N.Y. to resume his optometry practice. He will be looking into my eyes often as I seek him out for his good counsel.

DON MITCHELL, Mr. Speaker, has not been one to "hunt ducks with a brass band." Instead, he has devoted himself quietly to the kind of work that brings honor to this entire body, with ability and experience built up over his years as a Herkimer councilman, mayor, and New York State Assemblyman.

DON's experience in local and State government clearly has contributed immensely to his views on fiscal responsibility in Government, the value of local initiative and the importance of effective constituent service. Just as clearly, his experience as a World War II Navy pilot has contributed to his outstanding—indeed, patriotic—work as a member of the House Armed Services Committee.

Typically, as a member of that panel, DON has tackled the nuts-and-bolts issues, leaving the popular and grand designs to others. We are all in his debt for his efforts on behalf of civil defense and military personnel.

But despite all this, Mr. Speaker, nothing has become DON MITCHELL over his 10 years of congressional service as his deep love for the region in which he and his constituents live.●

● Mr. ERLENBORN. Mr. Speaker, although I am sorry that our colleague, GARY LEE of New York, will not be returning for the 98th Congress, I am pleased to join in this salute to him.

GARY has been an effective legislator, one with whom it has been a pleasure to work. He is a good and decent person, and I wish him success in his new endeavors.●

● Mr. BRINKLEY. Mr. Speaker, DON MITCHELL will be remembered in this body as an uncommon man. He is very practical and at the same time he can make projections into the future which make a lot of sense. Civil defense is one such area which DON has identified as a candidate for improving. Relative costs are low when overall Defense Department costs are considered; such costs would be defensive in nature, and protective in nature, whereas the bulk of defense armament spending is offensive in nature. This is something we would be doing for our own people to save lives in the event of war. Additionally, the peacetime dimension on guard against natural disasters would accrue as a peacetime benefit. That is important and DON MITCHELL will be remembered as a pioneer in this area.

DON, you are a terrific guy, and we wish you well.●

● Mr. GREEN. Mr. Speaker, I rise this evening out of great respect for four of our distinguished colleagues who will not be returning for the 98th Congress. Representatives DONALD MITCHELL, GARY LEE, GREG CARMAN, and JOHN LEBOUTILLIER have contributed

greatly to the workings of this body and they will be missed.

The relationship I have with my good friend DON MITCHELL goes back many years. In fact, he and I first entered the State legislature in Albany together in the same class which was elected in November of 1964. Subsequently, he was elected to the 93d Congress and I renewed our partnership when I joined him here in the 95th.

GARY LEE has demonstrated outstanding leadership on several issues, perhaps most importantly on those regarding railroad and other transportation matters which are so critical to the Northeast.

All four of these gentlemen have served their districts and the Nation with distinction. I will miss them personally, this body will miss their various contributions, and I know that every Member of the house joins me in wishing them well in their future activities.●

● Mr. WORTLEY. Mr. Speaker, although I rarely agreed with him, Walter Lippmann once said:

The final test of a leader is that he leaves behind in other men the conviction and the will to carry on:

In this Mr. Lippmann was correct and there is no finer example of the legacy that men of leadership quality leave behind than is exhibited by four of my retiring fellow New York colleagues; GARY LEE, DON MITCHELL, GREG CARMAN, and JOHN LEBOUTELLIER.

GARY LEE, my colleague with whom I share Onondaga County has made outstanding contributions in both the 96th and 97th Congresses. His service on the Energy and Commerce Committee has earned the respect of fellow committee members and professional staff members. GARY was never afraid to take the point in tough issues that sometimes were viewed as unpopular by the interest groups, and he never stayed away from the tough battles—if he was convinced it was the right battle. I have a great deal of respect for GARY, it has been a tough year for both of us, I consider him a friend and I know that he will always stand up for America, he is a standup guy. He has been good for New York and good for our country. To GARY, his wife Kathleen, and to his children, I wish them the very best.

DON MITCHELL my neighboring colleague to the east has provided me sage wisdom in my first term in Congress and I will dearly miss his advice and counsel. There is no one who is a greater defender of our Armed Services than DON. His service on the Armed Services Committee is marked with achievement at every turn. As an upstate Congressman like myself he has been a big boost to continuing a Defense Department commitment to our area. I understand that when DON leaves the Hill in a few weeks he is returning to the central New York area he loves so much. I do not blame him one bit—perhaps there is a little jealousy there because I understand the attraction and natural beauty of that area so well. I will miss DON but he too leaves behind as Mr. Lippmann said "the conviction and the will to carry on."

GREG CARMAN and I came into the freshman class together this year and we fast became friends as well as colleagues. We were fortunate to share committee assignments on the Banking, Finance and Urban Affairs Committee and the Select Committee on Aging. I was able to observe firsthand the contributions he made in his all-too-brief stay in the 97th Congress. Long Island can be proud that they sent GREG here to represent them, as I am proud to have worked with him these last 24 months.

JOHN LEBOUTELLIER, although a fellow freshman with me this year—he is really about half my age—who brought with him a sense of purpose and dedication to the job that has rarely been exhibited by an incoming Member. JOHN is not afraid to speak out in behalf of his beliefs regardless of political risks. His candid style and openness brought a large dose of fresh air to this body that sometimes suffers from staleness and rigidity. JOHN succeeded in piercing that veil, and by speaking out caused us all to think a little differently, and perhaps a little more candidly. That is JOHN's legacy. His impact on this body will be felt for years to come.●

● Mr. NICHOLS. Mr. Speaker, as chairman of the Subcommittee on Military Personnel and Compensation, I have had the distinct pleasure of working very closely with DON MITCHELL for a number of years. No subcommittee chairman could ask for a finer or more dedicated ranking minority member. Ours is a partnership that has been very important to me, both personally and professionally. I have come to rely on DON frequently for his strong support and wise counsel.

Results speak louder than words. DON MITCHELL has played a major role in the dramatic turnaround we have seen in terms of military manpower during the past 18 months. Two years ago, only slightly more than half of the Army's nonprior-service recruits were high-school graduates. Today that figure is 86 percent. Over 80 percent of today's recruits are in the top three mental categories, compared with just 50 percent in 1980. Retention statistics are similarly impressive.

Obviously, there is no one explanation for this reversal. The state of the economy has played a role, as well as the renewed national pride in military service. However, Congress can take much of the credit as well. The comprehensive improvements in military pay and allowances enacted during 1980-81 literally turned the tide. DON MITCHELL was a principal player in the enactment of that legislation and deserves a great deal of the credit for our current record of success.

In addition to his tireless efforts on behalf of better pay, DON MITCHELL has made a significant contribution to achieving a workable compromise on the legislation enacted in September to protect the rights of divorced military wives. When the Armed Services Committee restructured the compensation for military physicians several years ago, DON MITCHELL's expertise in health care matters was invaluable. He has fought tenaciously over the years to prevent the piecemeal erosion of military benefit.

In September the Council of Military Organizations, composed of a number of associations that represent active duty and retired military personnel, hosted a luncheon to express the thanks and appreciation of their respective memberships to DON. It was a well-deserved tribute. He has always been willing to stand up and be counted on behalf of our Nation's men and women in uniform and their families.

DON, Carolyn joins me in wishing you and Gretta a very happy and prosperous retirement. You have earned it, and I know your optometry practice will keep you extremely busy. You will be sorely missed by the Congess, by the Armed Services Committee, and by the servicemen and women of the Nation.●

● Mr. DICKINSON. Mr. Speaker, there is no question about it: We are going to miss DON MITCHELL greatly. It has been a pleasure to serve with DON on the House Armed Services Committee where he has been a strong and effective advocate of improving our Nation's defense posture.

We have had many lean years for the Defense budget, years when it was not popular to support the expenditures necessary for a strong national defense. DON MITCHELL was not intimidated by the hue and cry of those who were willing to sacrifice national security to meet other short-term goals. He has been willing to stand up and be counted in support of realistic levels of defense spending.

He epitomizes the quote attributed to British Air Marshal Sir John Slessor:

It is customary in democratic countries to deplore expenditure on armaments as conflicting with the requirements of social service. There is a tendency to forget that the most important social service that a government can do for its people is to keep them alive and free.

As a firm believer in civil defense and the acknowledged congressional expert in the field, DON MITCHELL has always been willing to fight for what he believes is right. He has provided strong leadership for an improved pro-

gram to protect the American public in the event of disaster.

DON MITCHELL's name is synonymous with expertise in military personnel matters. He has long been an articulate spokesman for the Nation's soldiers, sailors, airmen, and marines and deserves a great deal of credit for the current success we are experiencing in recruiting and retention. As the ranking minority member of the Subcommittee on Military Personnel and Compensation, DON MITCHELL has worked diligently to protect the rights of service personnel and has provided substantial leadership for improved pay and benefits. He is truly the friend of the man and woman in uniform.

I am pleased to join with my many House colleagues in paying tribute to DON MITCHELL today. He will be missed and leaves big shoes to fill. I wish him Godspeed in his new endeavors.●

● Mr. MONTGOMERY. Mr. Speaker, I want to add my name to the list in this Special Order on Representative DONALD MITCHELL of New York.

After serving 10 years in the House from the 31st District, he announced his retirement. I know many of us here on the Hill will miss his abilities. He has been a most capable and distinguished Congressman.

I have come to know DONALD MITCHELL through our service together on the Armed Services Committee. We served on the Military Installations and Facilities Subcommittee and the Military Personnel and Compensation Subcommittee, where he was the ranking minority member. I can say that he has made a valuable contribution to these committees.

His dedication to service to his country and his fellowman began after graduation from Columbia University. He was a naval aviator from 1942 to 1945 and then served as town councilman and New York State assemblyman before being elected to Congress in 1972.

DON's participation in Red Cross activities as well as scouting, Cancer Society, Kiwanis Club, and so forth, point out his great interest in civic affairs and I know he will return to his district and remain a strong leader in the years to come.

I want to wish him the best. He has earned our respect and we will surely miss him here in the House of Representatives.●

● Mr. LENT. Mr. Speaker, I would like to take this opportunity to pay tribute to four Members of the New York congressional delegation who, unfortunately, will not be returning to the 98th Congress. I refer, of course to my good friends GARY LEE, DON MITCHELL, GREG CARMAN, and JOHN LEBOUTILLIER. Their contributions to the U.S. Congress have been such that we most surely will feel their absence.

Representative DON MITCHELL made his mark as a New York State assemblyman from Herkimer County, N.Y., before being elected to the U.S. House of Representatives in 1972. DON has won subsequent elections without difficulty and in 1978, his popularity was such that he had no opponent. DON's outstanding efforts as a member of the House Armed Services Committee have earned him a reputation as an effective and capable legislator. His constituents know him as a hard working and diligent Representative of New York's 31st District. His legislative abilities and wise counsel will surely be missed by his colleagues in the House.

Representative GARY LEE came to the Congress in 1978 vis-a-vis various local government posts and the New York State Assembly. It has been my privilege to work closely with GARY on a number of major legislative projects in the House Energy and Commerce Committee. GARY was extremely influential in blocking the passage of H.R. 5158, the Telecommunications Act of 1982. GARY and I also worked together on the Lent-Lee compromise which gave the Nation an excellent process for an orderly transfer of the Conrail railroad system—as an entity—to private ownership. His legislative leadership on the committee and within the New York delegation will indeed be missed during the upcoming Congress.

My neighbor in New York's Third Congressional District, GREG CARMAN, has decided to retire and pursue other interests in the private sector. When GREG was elected in 1980, he brought to the Congress a wealth of experience in local government matters as a former councilman for the town of Oyster Bay. As chairman of the Long Island Congressional Caucus, I relied heavily upon GREG's expertise and knowledge of Long Island. I know that he has been a truly effective and diligent Representative for his constituency. I have known GREG for many, many years and hope that he continues to use his many talents at whatever endeavors he chooses to pursue.

Last, but certainly not least, my young colleague JOHN LEBOUTILLIER. JOHN joined our ranks in 1980 and worked hard for the economic principles and policies he so effectively espouses. Knowing JOHN as I do, I believe the Congress has not seen the last of this hard-working, bright and articulate young man. His views and comments have captured the imagination of thousands across the country. My very best wishes to you, JOHN.

Mr. Speaker, it saddens me to see these hard working and able men leave the Congress after many years of distinguished service to the State of New York and this Nation. I know that the Congress will miss their expertise when we convene again in January.●

● Mr. GILMAN. Mr. Speaker, I thank FRANK HORTON for providing us the privilege of honoring our colleague and good friend from New York, DON MITCHELL, who will be leaving us after a long and fruitful career. I know DON's constituents will surely miss him, as I and my colleagues will in these halls. Often so popular with the citizens of the 31st District that they would not even allow an opponent to enter the ring against him, so here, too, he has proved himself a tried and true leader and loyalist to his party and his convictions.

My association with DON MITCHELL precedes our congressional work, when we were both serving as assemblymen in the New York State Legislature from 1966 to 1972.

As the regional whip for New England and the Middle Atlantic States, DON MITCHELL has been a forger of policy and coalitions in order to protect our region and to present its needs and positions most effectively in the Congress. DON was no novice to the duties of whip, having served as minority whip in the New York State Legislature. The Armed Services Committee loses this same outstanding leadership, which DON has consistently exhibited throughout his service in the Congress. His expertise in military affairs and the civil defense needs of the country have enabled him to be an effective advocate of legislation and a man of action on his committees. DON's integrity gained him the respect of all in the Congress. He has been a pace setter and an upholder of our standards. Our loss in these halls is a gain for those who will see more of him in New York.

DON, we will miss your voice of reason and your fighting spirit. Our best wishes go with you and your family in all your new endeavors.●

● Mr. McGRATH. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to four fine Republican Members of the New York delegation who will not be returning to Congress, JOHN LEBOUTILLIER, GREG CARMAN, DON MITCHELL, and GARY LEE.

I came to Congress 2 years ago with JOHN LEBOUTILLIER and GREG CARMAN. Besides being freshmen, we all represented a portion of Nassau County and worked together on the Long Island Congressional Caucus. JOHN, of course, is known by most of us as being an outspoken Member, and in numerous cases he was outspoken on many causes that are special to us—the security of Israel, a strong national defense, and opposition to the expansionist and adventurist policies of the Soviet Union.

GREG CARMAN, by contrast, has quietly been a diligent Member of this body who has effectively represented the people of the Third District of New York. I know GREG's decision not to

seek reelection was a difficult one, but I know I speak for my colleagues when I say we appreciate all he has accomplished in the short time he has been here.

Very few of us have failed to recognize that GARY LEE has been among the most conscientious and best prepared Members of this body, and I would cite particularly his work on the Energy and Commerce Committee. Many of us relied on his sound judgment on some very difficult issues, and we will miss his contributions.

For the past 10 years, DON MITCHELL has effectively served his constituents in the 31st District. He has made a solid contribution to this Nation's defense posture through his service on the Armed Services Committee, and in that capacity he has also served the best interests of the people of his district.

As these four individuals leave the House to enter other fields of endeavor, I want to wish them well. They have served their districts, New York State and the Nation with distinction.●

● Mr. WOLF. Mr. Speaker, I join my colleagues today in special recognition of four Members of the New York delegation who will not be returning for the 98th Congress.

I would like to take this opportunity to express my sincere appreciation to Representatives GARY LEE, DON MITCHELL, GREG CARMAN, and JOHN LEBOUTILLIER for their dedicated service and contributions to this institution. They have served with honor and distinction and the people of New York and this Nation are losing able leaders.

I pay special tribute to two fellow freshmen classmates, GREG CARMAN and JOHN LEBOUTILLIER. It has been a privilege to be in their company in the 97th Congress and I will miss their friendship.

I salute GARY, DON, GREG, and JOHN as outstanding, hardworking and effective public servants and wish them continued success in the years ahead.●

● Mr. LEE. Mr. Speaker, colleagues, I take great pleasure today in joining with you in offering my highest personal regards for my fellow New Yorker and friend, Congressman DON MITCHELL.

Within a matter of days, DON will be retiring from public life and returning to his private business in upstate New York after a decade of outstanding and honorable service. It is vital to remember at this stage that Congress loss is New York's gain.

During his tenure in this House, DON has earned himself a place of respect among his colleagues and his constituents. He has been an ardent and unshakable proponent of the environmental protection laws which will preserve the Adirondack region for the enjoyment and livelihood of generations to come. He has fiercely fought to protect the jobs and stability of his constituents through a decade which saw both private and Government businesses lean toward relocation from the Northeast to the Sun Belt. He has done an outstanding job on the Armed Services Committee.

Here in the Congress, DON will be remembered for his legislative initiatives and for his level-headed approach to this very difficult job we have shared: solving the problems of this country.

Surely, in his decade of service here, no Member of Congress has offered such a stable, commonsense, and respected source of help for his colleagues as DON MITCHELL. He has worked selflessly to help junior Members like myself to understand and make good use of the congressional system. And he has provided a bedrock and reasoned sounding board for senior Members.

Today, I offer DON my most sincere regards and best wishes for the return to private life which he has so richly earned. It has been a high honor to serve with him.●

● Mr. WINN. Mr. Speaker, the House is losing four dedicated Members of Congress when DON MITCHELL, GARY LEE, JOHN LEBOUTILLIER, and GREG CARMAN leave this decisionmaking body. All four have shown loyalty to their country and their party and I wish them well in their new pursuits.

DON MITCHELL worked tirelessly on the Armed Services Committee and was very effective on the floor of the House as well. GARY LEE provided good direction on the Energy and Commerce and House Administration Committees and, I believe, showed a great deal of dignity during his recent election. JOHN LEBOUTILLIER served with me on the Foreign Affairs Committee and was always very acquainted with important foreign policy issues when they came before the committee. GREG CARMAN served admirably on Banking, Finance and Urban Affairs and the Select Committee on Aging.

I will miss all of them. The House is a better place because of their efforts.●

● Mr. GILMAN. Mr. Speaker, I rise to pay tribute to one of our colleagues who will not be with us in the next Congress. I am referring to our distinguished colleague from New York, GARY A. LEE, and I thank the dean of our New York Republican delegation, FRANK HORTON, for providing us this opportunity to say a few words about this dedicated legislator.

Coming to the Congress in 1978, GARY LEE has admirably served the people of the 33d District for the past 4 years. Before coming to Congress, GARY served in the ranks of local and State government and as the director of Cornell University's office of scholarships.

GARY's involvement in his committee work has made him a crucial part of the important Energy and Commerce Committee. Along with serving on this committee he has also served on the House Administration Committee. He has fought many battles on the floor of the House and has come out victorious because of his determination, his knowledge, and his keen intellect.

I am honored to have had the opportunity to work with GARY on New York State issues as part of the New York State delegation. We will miss GARY's presence in this body. I would like to wish GARY, as I am sure we all would, joy and good health in the days ahead and in all his new endeavors.●

● Mr. COURTER. Mr. Speaker, I rise to pay tribute to JOHN LEBOUTILLIER, whose absence from the upcoming Congress will be noticed by Members on both sides of the aisle.

In his 2 years as a Representative, JOHN has demonstrated a great concern for the needs of New York's Sixth District. He has worked exceptionally hard to represent the values of his diverse constituency, and, I believe, has accurately reflected those views in this Chamber.

Perhaps more significant than JOHN's contribution to his district is the contribution he has made to the Republican Party and to all individuals who share his concern for the future of this Nation. JOHN has always been outspoken in his opposition to those policies which he feels are inimical to the welfare of the United States. While some may disagree with his platform, few would fault the sincerity on which his beliefs are founded. I for one have nothing but admiration for JOHN's commitment to making his beliefs felt in the Government and throughout the Nation.

JOHN's presence in Congress has added a great deal to the debate and legislative activity of the last 2 years. His statements have challenged the intellect of many of his colleagues, including myself. I value his individuality, enthusiasm, and compassion, and I will miss his companionship.●

□ 2300

TRIBUTE TO THE HONORABLE HAROLD HOLLENBECK AND THE HONORABLE MILLICENT FENWICK

The SPEAKER pro tempore (Mr. RATCHFORD). Under a previous order of the House, the gentleman from New Jersey (Mr. COURTER) is recognized for 60 minutes.

GENERAL LEAVE

Mr. COURTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. COURTER. Mr. Speaker, I took 60 minutes out for the purpose of commenting on two individuals from the State of New Jersey. Needless to say, it is very, very late in the evening, 11 o'clock, and many Members during the last 3 or 4 days, knowing that I would be bringing this special order forward, indicated to me that they would want to be here, but if it was a late evening they could not because of other commitments and general exhaustion. So, I know there are many Members who have written comments which will be placed in the RECORD.

Mr. Speaker, I rise to pay tribute to a significant force in this governing body, HAROLD "CAPPY" HOLLENBECK. I know I share the feelings of the New Jersey delegation, and this body as a whole, when I say that CAPPY's absence will be severely felt in the 98th Congress.

CAPPY, who was educated at Fairleigh Dickinson University and the University of Virginia Law School, worked his way up through New Jersey politics before winning the Ninth Congressional seat in 1976. His list of offices include a seat on the East Rutherford Borough council, 4 years in the New Jersey State Assembly, and 2 years as a New Jersey State senator.

During my years of association with CAPPY HOLLENBECK, I have always found him to be cooperative and innovative in addressing the problems facing our home State. During his three terms in Congress, CAPPY has been a Representative in the fullest sense of the word, working to accurately gage the feelings of his constituency and reflecting those views in the Chamber.

As one concerned about encouraging our Nation's scientific and technological base, CAPPY is well known for his attempts to persuade his colleagues to embrace some of America's most important research projects. During the 96th Congress, he won passage of an amendment restoring adequate funding for an automatic manufacturing research facility, which, he argued convincingly, would help the Nation compete with the Japanese. He also proposed in 1980 that lists of Federal scientific grants carry descriptions of the ultimate goals of their research, so that Members could be made aware of the potential value of these various projects.

CAPPY has maintained an objective, independent pattern of evaluation throughout the 6 years he has been in Washington, always placing the needs of his district and the Nation at large ahead of partisan considerations. He has demonstrated, through his every action as a Congressman, that he is fully aware of his responsibilities as an elected official. CAPPY is a true public servant, and I for one will deeply miss his companionship in the New Jersey delegation.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Speaker, I want to rise in support of my friend, CAP HOLLENBECK. I will miss him. It is sometimes hard to get over the partisan walls that we erect, but CAP has been a reasonable and a good Member of Congress, and I think that the State of New Jersey will miss him.

I will particularly miss playing baseball against CAP HOLLENBECK. CAP had a rare ability at shortstop to see a ball that was batted to him and quickly get out of the way. This reminds me a lot of someone who would play dodgeball. Actually, CAP's job was to catch the ball, which he did also very well.

I will miss him primarily as a legislator, but also a baseball player.

Mr. COURTER. I thank the gentleman.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Illinois.

Mr. RUSSO. Mr. Speaker, I want to think the gentleman for taking this special order, and I certainly want to be here this evening to pay tribute to a hard-working, dedicated gentleman from New Jersey.

I, like my dear colleague from New York, have had many experiences on the baseball diamond. In fact, I believe one of my first hits on the baseball field was because CAP could not move his legs fast enough to get to the ball. In fact, the second time up I decided that the best thing to do was to try it all over again. The trouble was, I hit it a little bit harder. CAP got the ball, but could not throw it.

CAP, I am going to miss you. My batting average would have been much better if you had stayed and had you played shortstop again this year. In fact, we heard rumors when we first came to Congress that you would be the pitcher, and God only knows how well we would have done had he pitched the ball, because, if he could not throw it 60 feet he would have a heck of a time throwing it 90 feet.

CAP, we are going to miss you. We hope to have an old-timers' game where we bring the bases in closer and the pitching in closer and give you extra swings at the plate so that you can do something about your anemic batting average of 0 for 10. We are going to miss you.

Mr. COURTER. I thank the gentleman for his contribution. Those are valuable contributions. I did not know too much about that area of expertise which the gentleman from New Jersey has.

Mr. Speaker, I appreciate the opportunity for this Special Order so that I may rise to honor a fine and noble public servant, the gentlelady from New Jersey, MILLICENT FENWICK.

Congresswoman FENWICK's distinguished career in government began as a member of the Bernardsville Borough Council for 7 years, as the director of consumer affairs for New Jersey, and later, as a representative on the New Jersey State Assembly.

During her 8 years in Congress, she has earned an impeccable reputation for integrity. And, as a legislator, she may best be remembered as a champion of human rights—be it a cause for the elderly, women, or the less fortunate. Her voice has become synonymous with the people's, and her concerns represent the concerns of humanity. Indeed, she raised the consciousness of each of us here in this Chamber with her scorn of special interest contributions.

MILLICENT FENWICK has always reminded us that we first are responsible to those we represent, and their interests should always be our first priority.

Forever to be remembered as the inspiration for the elegant and composed Doonesbury character, Lacy Davenport, her contrasting outspoken and independent manner have endeared her to many.

Her constituents, the citizens of New Jersey, and this Nation regret the loss of this dedicated and honorable stateswoman. Speaking for myself, I have every respect and fondness for MILLICENT FENWICK, and I hope for the benefit of our home State of New Jersey that she will remain active in the civic and social causes she has always championed.

We, her colleagues in the House of Representatives, and in particular, the members of the New Jersey delegation, consider it a privilege and an honor to know and serve with MILLICENT FENWICK.

Finally, I would like to thank her for her many years of outstanding leadership and unselfish devotion to her country, and I ask God's blessings for her and her family in the many years to come.

● Mr. MINISH. Mr. Speaker, I am sorry to be marking the close of the term of my friend "CAPPY" HOLLENBECK of New Jersey. I have truly enjoyed the companionship of this amiable man, and I have been very much impressed with his tireless service of his constituents. CAPPY is not a partisan soul, and it has been a pleasure to cooperate closely with him on very many occasions. He has always been diligently on the job for the people who sent him to Washington.

CAPPY HOLLENBECK is a person who looks forward, not back, so it is most appropriate here to consider the

future. I would like to think that his public service career is only just beginning, and that our State and the Nation will be able to draw on his talents in the days to come. Typically, CAPPY has lately been warning us about the importance of sustaining a civilian space program adequate to the needs of the future, and I understand that he intends to keep us aware of this issue, which is too often liable to be neglected in the face of immediate demands. Perhaps this care for the future of the country is the single most impressive characteristic of the public service of my friend and colleague from New Jersey.

Mr. Speaker, it has been an honor to serve with CAPPY HOLLENBECK, and I heartily join all our colleagues in wishing him well in the days to come.●

● Mr. CARMAN. Mr. Speaker, it is a pleasure today to rise and pay tribute to MILLICENT FENWICK who has been a Member of Congress since 1975. MILLICENT has served with distinction and dedication in the Congress and on the Foreign Affairs and Education and Labor Committees. Her unique enthusiasm, her dignity, and her charm have made it a special pleasure to serve with her in the Congress. I wish her all the best in her future endeavors.●

● Mr. FORSYTHE. Mr. Speaker, it is with regret that I have to rise today to honor my friend and long-time colleague, the Honorable HAROLD C. HOLLENBECK, who was defeated on November 2, 1982. CAPPY and I served together in Trenton at the State legislature and I was glad to welcome him to this Chamber when he was elected to serve New Jersey's Ninth Congressional District for the 95th Congress.

In the House, we served together on the Science and Technology Committee and he also provided valuable assistance to the people of the State of New Jersey through his work on the House Public Works and Transportation Committee and on the House Select Committee on Aging. He has never failed to tend to the needs of his district or the needs of the Nation.

To a large extend CAPPY's defeat was the result of his newly created Ninth District. He had a district that was comprised of 60 percent new territory and that was heavily Democratic. He campaigned hard and the victory was not easy for his Democrat opponent. However, that is a tribute to CAPPY and the hard work he has done in Congress for his constituents and the State of New Jersey.

He is a dedicated public servant and I am sorry to see him go. This House and our State will miss his good services, but I know that however CAPPY chooses to spend his energies in the future will be successful and profitable. I wish him the very best in the years to come.●

● Mr. SENSENBRENNER. Mr. Speaker, I would like to take this opportunity to recognize the 6 years of meritorious service given to the Ninth District of New Jersey and the Nation by Congressman HAROLD "CAP" HOLLENBECK.

I had the pleasure to serve with Congressman HOLLENBECK on the Committee on Science and Technology during the past 2 years. His contributions to this committee have included work on long range energy and mineral policies as well as oversight on several NASA projects, including the space shuttle.

Congressman HOLLENBECK is also active on the House Committee on Public Works and Transportation and the House Select Committee on Aging. Within the Public Works and Transportation Committee, "CAP" HOLLENBECK enhanced his ability to make Federal spending decisions for major projects such as water resources, airport development, and the Federal highway program.

Congressman HOLLENBECK has had a distinguished career in public life. After a distinguished tenure in the New Jersey State Legislature and State senate, "CAP" HOLLENBECK ran for Congress in 1976, winning in a district where Republicans had failed to win in over a decade. Congressman HOLLENBECK maintained his seat in Congress with decisive victories in 1978 and 1980 as well.

Mr. HOLLENBECK has been granted many honors by New Jersey organizations. He received the New Jersey Veterans of Foreign Wars "Outstanding Legislator of the Year" award, and the New Jersey Young Republicans' "Man of the Year" award.

I join my colleagues in the House to honor Congressman HOLLENBECK and wish him the best of luck in his future endeavors.●

● Mr. DERWINSKI. Mr. Speaker, I am especially pleased to have the opportunity to join in honoring one of our colleagues, the gentlewoman from New Jersey, MILLICENT FENWICK. I have had the pleasure of serving with MILLICENT for the past 8 years, and I am confident that her absence from this body will surely be felt in the years ahead.

As fellow members of the House Foreign Affairs Committee, I can attest to the many contributions which MILLICENT has made in the areas of human rights for Soviet Jews and for other political prisoners held captive by Communist totalitarianism.

MILLICENT has distinguished herself as an effective spokesperson for prison reform and civil rights. Her legislative skill on the Education and Labor Committee has been instrumental in the improvement of employment standards and the development of educational opportunities for many. Her dynamic style in representing her constituents in New Jersey's Fifth District has earned her national attention. She has served with a vigor which is stimulating to those of us who have had the opportunity to serve with her.

MILLICENT has lent her name to causes which she believes best represent good government and will improve the quality of life for the average American. No finer description can be attributed to MILLICENT, than to say that she was always tirelessly dedicated, refreshingly honest, and clearly outspoken on issues of deep concern to her.

I extend my best wishes to MILLICENT, and commend her on executing her duties with great distinction. Her devotion as a public servant will long be remembered in the Congress and by the people of New Jersey and the country.●

● Mrs. ROUKEMA. Mr. Speaker, when the new Congress convenes in January, one of the most effective voices on behalf of the people of New Jersey will not be present. Although Congressman HAROLD "CAP" HOLLENBECK is leaving Congress, I know that he will be warmly remembered because of his advocacy of issues and causes that would directly benefit the people he represented.

CAP HOLLENBECK came to Congress with a solid background in local government, having served on the East Rutherford Borough Council and in the New Jersey Assembly and the New Jersey Senate. Following his election to Congress in 1976, he quickly established a reputation as a man who worked doubly hard for his constituents and as a national leader on defense, veterans affairs, and science and technology issues.

Since we both represent portions of Bergen County, I was able to work closely with CAPPY on a number of issues of mutual interest to our constituents. He was instrumental in obtaining grants to help keep energy bills down in his district; he worked tirelessly to obtain additional funds for senior citizen housing in Bergen County. He was always accessible, meeting with local organizations and individuals whenever they had a problem or wanted to voice their views on legislation.

I will never forget the courtesy he extended to me as a new Member of Congress; CAP was most helpful during the transition period in 1980 and remained helpful whenever asked throughout my first term. Our district offices worked together frequently on a variety of Bergen County issues and, as most people would recognize, he was more interested in getting something accomplished than in taking credit for it.

CAP HOLLENBECK is recognized as a leader on science and technology issues, particularly as an advocate of a strong civilian space program. He has

indicated his continuing interest in this particular issue, and I know our country will be the better for it.

He also established himself as one of the outstanding spokesmen on behalf of the people of the Northeastern States. He recognized the economic and structural problems that particularly affect our region of the country, and he was among the first to seek a more balanced national budgetary policy that would treat the people of the Northeast more fairly. He spoke out often on behalf of mass transit, not only because it is so critical to the people of northern New Jersey, but also because it is a problem common throughout the older urban areas of the northeast.

CAP HOLLENBECK is as involved with his constituents as any Member of Congress serving today, yet he has found time to make a mark as an effective spokesman for his region. He has always been gracious and helpful to me, and I will miss him when the new Congress convenes next year.

But those of us who served with CAPPY also know that he will continue to be heard on national policy issues, and in that endeavor we wish him the best of luck and success.●

● Mr. GILMAN. Mr. Speaker, I rise today to pay tribute to one of our colleagues and a good friend who will not be with us for the next Congress. I am, of course, referring to Congressman HAROLD "CAP" HOLLENBECK of New Jersey, and I thank my distinguished colleagues, Messrs. FORSYTHE and COURTER, for giving us all the opportunity to say a few words about "CAP."

Congressman HOLLENBECK came to the Congress in 1974, and has admirably served the people of our neighboring Ninth District of New Jersey for these many years. His involvement with his committee assignments is well known, as transportation and public works matters are vital to our region of the Northeast. Furthermore, his interest in science and technological matters is basic as well, since this day and age forces us to consider the computerization of our offices, and certainly CAP has ably assisted his constituents in understanding Federal actions regarding these matters. His third committee assignment, that of the Select Committee on Aging, reflects his concern for the senior citizens of our country, and their unique and special needs, most especially at this time of the year, when heating bills begin to skyrocket and the necessary fruits and vegetables become ever more dear for those on a fixed income. I know that they join with me in thanking CAP for his dedicated years of service on the Hill, and wish that he was not leaving.

I had the pleasure of working with CAP HOLLENBECK on a matter that is of great importance to us both—that of our POW's and MIA's. CAP's tireless efforts on their behalf is legendary, and his involvement with a day of recognition for them has been salutory. Certainly, the outcome of that legislation would not have been as successful had CAP not been involved, and I suspect that he will continue contributing to the welfare of our senior citizens and those still unaccounted for in Vietnam when he returns to the private sector. I, for one, look forward to his having the benefit of expertise in matters of importance to the New York metropolitan area, and so I wish him well, and look forward to seeing more of CAP HOLLENBECK in the months ahead.●

● Mr. ERLENBORN. Mr. Speaker, the gentlelady from New Jersey (Mrs. FENWICK) will soon be leaving this Chamber, but it will be a long time before she is forgotten. Gentle though she is, she has also been a formidable friend or foe, depending on whether you agree with her, because her stand on any given issue always stems from a heartfelt conviction. More often than not in my case, she has been a friend, a friend I have been proud to have on my side both on the Education and Labor Committee, where we have served together, and on the House floor.

Her perseverance has made her an effective legislator and a true representative of her constituent. Thus, I join in bidding a fond farewell to MILLICENT FENWICK, a fabulous lady whose fortitude and flair for forthrightness, fairness, and freshness will echo in this House and in our hearts for years to come.●

● Mrs. HOLT. Mr. Speaker, with the close of the 97th Congress we will be losing one our most erudite legislators, MILLICENT FENWICK. Throughout her illustrious career MILLICENT has championed the causes of social justice, consumer affairs, civil rights, quality education, and a drug free society. She has represented her New Jersey district and our Nation in the finest tradition. I am proud to have served in the Congress with her and I want to wish her the very best in all that the she may do in the future. We will miss her.●

● Mr. CONTE. Mr. Speaker, with great pleasure, but a sense of deep loss, I join with my colleagues in paying tribute to two of the Garden State's finest representatives, MILLICENT FENWICK and CAP HOLLENBECK.

With the loss of MILLICENT FENWICK, there will be a void in this Chamber that will never be filled. Never before has there been in one Congressman or woman such a combination of intelligence, integrity, insight, poise, and charm. Through her legislative work, her enthusiasm, and her countenance, she has made believers of the doubters of this Congress; she has been a spokeswoman for good government by being a model legislator.

HAROLD "CAP" HOLLENBECK has been another good friend of mine in the Congress whose departure represents another great loss for this body and for the Republican Party. CAP and I got to know each other on the GOP baseball diamond, where he always responded enthusiastically to the question, "Who's on second?" Fortunately for his New Jersey constituents, however, CAP has been a much better legislator than second baseman. A hardworking member of the Science and Technology Committee, CAP is one of the most knowledgeable people on the space program in the Congress. Above all, CAP is a man of his word who votes his conscience, and he has been a credit to his district and his party.

With the departure of these two great legislators from this body, the moderate wing of the Republican Party will be a little fewer in ranks, but a lot stronger in our resolve to bring more people like MILLICENT and CAP into the party, and into the Congress. I salute them both on their accomplishments, and wish them many years of happiness and prosperity in whatever paths they choose to follow.●

● Mr. DWYER. Mr. Speaker, I join today in a well-deserved tribute to two of my colleagues from New Jersey, MILLICENT FENWICK and HAROLD HOLLENBECK.

Mrs. FENWICK has been a most dedicated voice for the people of New Jersey throughout her distinguished career, exhibiting time and time again her commitment to equity and justice for all people.

That commitment has transcended our own borders; Mrs. FENWICK has been one of this body's most ardent advocates for human rights worldwide, and her vision and experience as a member of the Committee on Foreign Affairs will be missed, to be sure.

In fact at every level she has served, beginning with the Bernardsville Council and culminating in 8 years representing New Jersey's Fifth Congressional District, MILLICENT FENWICK has been a credit to her office.

Mr. Speaker, I also rise today to pay tribute to my distinguished colleague from the Ninth District of New Jersey, the Honorable HAROLD C. "CAPPY" HOLLENBECK.

CAPPY HOLLENBECK came to the Congress in 1976 and has represented his constituents with compassion and with hard work for the last 6 years. There has never been any question where CAPPY stands on an issue: he stands squarely on the side of the people of his district, looking out for their best interests to the best of his ability.

In the 6 years in Washington, CAPPY HOLLENBECK has done some outstanding work on both the Public Works

Committee and the Science and Technology Committee. He has been a crucial and active member of the Select Committee on Aging. And his contributions will surely be missed by the Northeast-Midwest Congressional Coalition.

In everything CAPPY HOLLENBECK has done in public life he has always been a success, made a positive contribution. Today, as we pay tribute to him as he leaves public office, I feel confident that he will continue to contribute, through whatever means he considers appropriate.

After 6 years, I congratulate my colleague on a job well done and wish him all the best as he begins yet another phase in his distinguished career.●

● Mr. SMITH of New Jersey. Mr. Speaker, I rise this evening to pay tribute to two outstanding Members of this body—MILLICENT FENWICK and HAROLD "CAPPY" HOLLENBECK.

Both legislators will not be among our ranks when the 98th Congress convenes next January. Indeed, the State of New Jersey and the people of the Fifth and Ninth Districts, respectively, have lost two very able, competent, and highly respected Members of the House of Representatives.

Mr. Speaker, MILLICENT FENWICK is loved and admired by many. She is outspoken, witty, and above all candid. She has been a champion of procedural reform in this House and a leader in the fight to safeguard the rights and privileges of the minority party. This is particularly relevent when one considers the unwholesome and unjust rule changes that the majority party hopes this body will adopt next January. MILLICENT, we will miss you in that debate.

Mr. Speaker, MILLICENT has had a long and distinguished private and public career. She was a career woman long before the term was coined, long before it became fashionable and the status quo. She was an editor for Vogue magazine, served from 1958 to 1964 on the Bernardsville Borough Council, served in the general assembly from 1969 to 1972, and as director of consumer affairs from 1972 to 1974. MILLICENT has served in Congress since then and as a testimony to her enviable hometown popularity she received a whopping 78 percent of the vote in 1980 from the voters of the Fifth District.

Mr. Speaker, we also justly honor this evening a man that I have come to know, and respect, my good friend, HAROLD "CAPPY" HOLLENBECK.

CAPPY's three successful terms in the House follow years of civic involvement and participation. A practicing attorney, CAPPY was Carlstadt's prosecutor from 1966 to 1967 and served on East Rutherford's Council from 1967 to 1969. He moved up to the State legislature in 1968 and served in the general assembly until 1971, and in the State senate until 1973.

Mr. Speaker, CAPPY HOLLENBECK has worked hard to stay in close touch with his constituents. Through his mail and personal contact, he has reached out to provide superb constituency services for his district. CAPPY is known here in Congress for his moderation, perspective, and keen sensitivity to budget priorities that place the poor, destitute, and disadvantaged at the top of the list.

CAPPY is a skilled legislator, a man who has much to offer. He, like MILLICENT, will be missed in these Halls.●

● Mr. HUGHES. Mr. Speaker, I am happy to hage ve this opportunity to pay tribute to MILLICENT FENWICK for her outstanding service in the House of Representatives.

Since her election in 1974, MILLICENT has been one of this body's most hard working and dedicated Members. One has only to see her familiar figure hustling through the Halls of the House buildings, or to observe her tenacity in a committee hearing room, or to hear her eloquence on the House floor to appreciate what a fine legislator we will lose at the end of this Congress.

Having had the privilege of working with MILLICENT on the Aging Committee, I have had the opportunity to observe firsthand the active and enthusiastic participation which has characterized all her committee work. For 8 years, she has been one of the House's strongest and most effective voices for the rights of senior citizens and women, and, above all, for good government. Her genuine concern for the people of New Jersey, and, indeed, for people everywhere, is evident in all she does, from her work to create the Helsinki Commission to her fight against reductions that hurt the poor, needy & handicapped.

I only hope that, when the time comes for me to conclude my service in Congress, I can say that I have conducted myself with as much dignity, class and grace, as MILLICENT FENWICK has in the time she has served here. The New Jersey delegation, and the entire House of Representatives, will certainly be poorer for her absence.●

● Mr. ROUKEMA. Mr. Speaker, today we pay tribute to one of our most distinguished and beloved retiring Members, MILLICENT FENWICK—a legendary figure who will be irreplaceable in the hearts of her fellow New Jerseyites.

As we honor MILLICENT today, I cannot help but think back to the first time we met in 1970. Assemblywoman FENWICK was addressing the New Jersey School Boards Association and then—as now—she totally captivated the audience. Many of us who met her that day were very pleased when she was elected to Congress in 1974. We knew she would bring the same concern, commitment and compassion to her job that she had already brought to the State assembly and the State government as our first director of consumer affairs.

She had an established and distinguished record at the local level in Bernardsville, N.J., as a member of the school board and the borough council. She was elected to two terms in the State assembly when she became the first consumer affairs commissioner in the State of New Jersey—indeed, one of the first in the country. She helped draft and implement landmark consumer legislation that has since directly benefited millions of citizens throughout our State.

When MILLICENT FENWICK came to Congress in 1975, those of us who knew her were not disappointed. She was not one to sit quietly and let others guide her decisions; instead, she quickly established herself as an outstanding Congresswoman with a national reputation.

Her record over four terms speaks for itself. She authored the bill creating the Helsinki Commission; she established a leadership position in our successful fight last year to eliminate additional funding for new nerve gas production. One of her most outstanding achievements has been a reduction in the marriage tax; this was literally a labor of love for MILLICENT since she came to Congress. She has distinguished herself as a member of the Foreign Affairs Committee, and she recently helped author changes within the Export Trade Act. Since we both serve on the Education and Labor Committee, I have also had the opportunity to see firsthand her commitment to protecting Guaranteed Student Loans for those students who need assistance. And I have been proud to cosponsor her landmark legislation that would encourage home health care for senior citizens, thus replacing expensive, impersonal nursing home care. Her record is a varied and compassionate one, consistent in its fiscal responsibility and sense of humaneness.

On a personal level, MILLICENT FENWICK has become a role model for millions of women across the country. Long before there was a women's movement, there was MILLICENT FENWICK leading by example and leading by doing. She first established herself in the business world through her accomplishments and then went on to government to create a similarly outstanding record.

She is friend, trusted and respected in New Jersey, in Washington, and throughout the United States. One cannot really do justice in explaining the kind of warm, friendly, and committed woman that is MILLICENT FENWICK. I can only state for myself that it has been a rare honor to serve with her and work with her on a day-to-day basis.

Many have asked about Mrs. FENWICK's future plans. All of us are sincerely interested that we continue to benefit from her enormous reservoir of talents. It is my earnest hope that the administration will act in its own enlightened self-interest and appoint MILLICENT FENWICK to one of the numerous positions where she can continue to ably serve her country and mankind. And so, MILLICENT, I say good luck, godspeed, and thank you for all you have done.●

● Mr. ROE. Mr. Speaker, the House of Representatives is the greatest deliberative body in the world. Its 435 Members serve as a direct link between the people and the Federal Government. That is indeed a heavy responsibility. Working together on a daily basis, the members of this body are indeed a unified family dedicated to the needs of others.

It is a sad occasion when members of any family depart. And that is indeed the case with two members of my immediate family, HAROLD "CAP" HOLLENBECK and MILLICENT FENWICK, both key Members of the New Jersey congressional delegation.

CAP and I have been close friends since he first came to Congress in 1976. I have found him to be a hardworking young man strongly dedicated to the needs of his congressional district, his State, and his Nation. The truth of the matter is there are just not enough hours in the day to suit CAP HOLLENBECK when it comes to serving the people he represents.

As a key Republican member of the House Science and Technology Committee, CAP HOLLENBECK has become a national leader in the bipartisan fight to save funds for scientific research and the space program from the Reagan administration's budget cutting block. CAP has always put peoples needs ahead of party politics. For example, he was only one of five Republicans to oppose a 1980 Republican amendment that would require persons with incomes above the poverty level to reimburse the Government for food stamps they received during times of economic hardship.

I for one will miss his warmth, his spirit and his drive as this body tackles the plethora of problems facing this great Nation over the next 2 years.

MILLICENT FENWICK has become a symbol over the past 8 years as what is good and right about Government. As perhaps the most recognizable figure in Washington outside of the President, her words and actions have received enormous coverage by the national press. And this gracious lady has thankfully utilized that notoriety to seek better lives for the less fortunate of the world.

As a member of the House Foreign Affairs Committee she was one of the original authors of legislation that resulted in the creation of the historic Helsinki Commission pressure on the Soviet Union to guarantee human rights for the millions living under their tyranny.

MILLICENT FENWICK brought a uniqueness to this body that will be irreplaceable. Whenever she rose to speak on this floor, her words drove right to the heart of the matter. And whether or not we agreed with what she said, we all appreciated the honest manner in which she approached her work.

A love of New Jersey is deeply imbedded in MILLICENT FENWICK. I am confident that New Jersey will play a key role in whatever she decides to do in the future.●

● Mr. BEREUTER. Mr. Speaker, I want to take this time to add my thoughts to those of a great many other colleagues who have served over the past 8 years with the distinguished gentlewoman from New Jersey, MILLICENT FENWICK.

During her most notable tenure in the House of Representatives, MILLICENT has very ably served her constituents in New Jersey's Fifth District. But her constituency has not ended there. MILLICENT has spoken eloquently on behalf of the poor, of minorities, of women, and on behalf of a great many other Americans. She has not hesitated to take on difficult issues with her characteristic zeal. On many occasions MILLICENT FENWICK has served as a conscience for this body, and she has earned the respect and admiration on both sides of the aisle.

When MILLICENT FENWICK leaves the Congress at the close of this 97th Congress she will have completed 24 years of public service. We shall miss her, but we know that her years of outstanding service to her State and to the Nation will continue in other ways.

There are those who maintain that service in Congress is the capstone for those who choose lives of public service. While it is true that this chamber will be poorer without MILLICENT FENWICK, the world beyond these rarified halls will be richer. MILLICENT has graciously pledged her continuing activism and commitments to goals of equality and compassion. There should, therefore, indeed be celebration instead of sadness because of the wide public arena that awaits her.●

● Mr. GUARINI. Mr. Speaker, I am most pleased to join our colleagues in honoring Congresswoman MILLICENT FENWICK, who will be leaving Congress at the end of this term. It seems that everyone in the Nation knows of this refreshingly witty and delightful woman, who has graced the Halls of Congress these past 8 years. I am most proud to represent the community where she spent some of the early years of her life—Hoboken, N.J.—where she still serves as a trustee at the Stevens Institute of Technology, one of America's most prestigious engineering schools.

Mrs. FENWICK's record of compassion and genuine concern for her constituents, couched in her inimitably frank style, has won for her many admirers among the people of her district, her State, and all those who care about people. She is urbane and sophisticated, yet she has a remarkable empathy for the problems of the typical man in the street. I am honored to have been able to work with her at two levels, both in the statehouse in New Jersey and here in the U.S. Congress. I must confess I have always been an unabashed admirer. She is a Representative of strong convictions, yet she is flexible enough to listen to both sides of an argument. We are losing one of our most colorful Members, yes, but we are also losing one of our most capable and conscientious Members as well.

New Jersey, and indeed, the entire Nation, is proud of Mrs. FENWICK. As a consumer advocate and as a strong proponent of fair civil rights law, she leaves a legacy of which any Congressperson would be proud.

I only hope that Mrs. FENWICK will not restrict her remarkable statesman qualities to her Bernardsville home. Her tremendous abilities and flawless reputation for honesty and compassion would suit her ideally as a representative of this country in some challenging capacity. I look forward to hearing more from MILLICENT FENWICK, the living legend who leaves her mark as a valuable national treasure.●

● Mr. FORSYTHE. Mr. Speaker, as dean of the New Jersey Republican delegation, I appreciate this opportunity to pay tribute to a very great lady and dear colleague, MILLICENT FENWICK.

So much has been written in the national press about her character, her dedication, her integrity, her candor and her wit—and I am glad I have never been on the receiving end of one of her retorts. It is one thing to read about such a character, but it is quite another to have been able to work with her at both the State and national levels and to call her a friend. I have known MILLICENT for more than 20 years. She spoke at my first campaign fundraiser many years ago. Her service to her hometown of Bernardsville, to Somerset County, and to the State of New Jersey in the State assembly, as director of consumer affairs and as vice chairman of the New Jersey Committee for the U.S. Commission on Civil Rights has been inspirational. Her service to her constituents of the Fifth Congressional District is legendary.

Throughout her 8 years in Congress, she has spoken out for the little people, for fairness, decency, and compassion. Above all, she has sought to

prevent Government from trampling on the rights of the individual. She has carried this theme to the House Foreign Affairs Committee where she has worked hard to promote the cause of justice internationally.

It is exceedingly unfortunate in my view that MILLICENT was denied the Senate seat she sought this year. New Jersey and the Nation have lost a grand and eloquent voice in the Congress and I will miss her when we convene again next January.●

● Mr. RHODES. Mr. Speaker, I am very pleased to join in this special tribute to Congresswoman MILLICENT FENWICK. MILLICENT has been an important Member of the House and I had hoped that she would be successful in her bid to bring her unique qualifications to the Senate. It is, indeed, unfortunate that this will not be. She has that rare quality I call style, which added much to the House, and would have been even more noticeable in the Senate.

Her limitless interest in the pressing issues before the Congress and her tireless efforts on behalf of her constituents are well known to all who have had the privilege of working with her.

MILLICENT contributed frequently to the proceedings on the House floor and in committee meetings with sincere eloquence. Her powers of gentle persuasion were most effective. She championed her causes in a direct and heartfelt manner. MILLICENT FENWICK can take justifiable pride in the fine record she established during her tenure in the House.

Betty joins me in wishing Congresswoman FENWICK well in her future endeavors.●

● Mr. SENSENBRENNER. Mr. Speaker, I would like to take this opportunity to commend Repesentative MILLICENT FENWICK for her 8 years of meritorious sevice to the Fifth District of New Jersey and the Nation.

When Mrs. FENWICK entered Congress in 1974, she brought the House of Representatives a distinct kind of class and elegance. But she also proved to be an effective legislator. Often called the conscience of Congress, Mrs. FENWICK has demonstrated her intergrity and honesty by steering clear of the world of political skulduggery.

Although her knowlege of procedural processes is limited, Mrs. FENWICK is involved in a wide range of legislative endeavors in which her comprehension of the issues is formidable. Serving on the House Foreign Affairs Committee, she worked to create the Helsinki Committee to maintain pressure for human rights.

Representative FENWICK also serves on the House Committees on Education and Labor and The House Select Committee on the Aging. Her work on the House Select Committee on the Aging is especially renowned, and her devotion to the rights of senior citizens is very admirable. For example, Congresswoman FENWICK is promoting a piece of legislation which would allow senior citizens to receive Federal health care benefits at home while saving the taxpayers billions by reducing costly hospital and nusing home care programs.

Representative FENWICK has always been an advocate of eliminating foolish or ridiculous legislation in Congress. Her nationally renowned campaign against the so-called marriage tax, and subsequent victory is testimony to her devotion to the commonsense principle of legislation.

Mrs. FENWICK has had an admirable history of public service. From championing causes of civil rights, prison reform, and conservation in the New Jersey State Legislature to championing the causes of consumers as the director of New Jersey's division of Consumer Affairs; MILLICENT FENWICK has demonstrated that she lives up to the Almanac of American Politics' summation of her mission to "go where she can be of service".

I join the other Members of Congress in paying my respect to this very distinguished lady and legislator.●

● Mr. CONTE. Mr. Speaker, with the end of each Congress, each of us comes to the well of the House to reflect on the achievements of our colleagues who will not be continuing their service in the next Congress. Each time we take the well, it is with a note of sadness, but this time for me it is particularly painful. Not only am I losing two great friends, but I will also be without two comrades in arms who have shared ideology and sense of purpose with me throughout their congressional careers.

Without MILLICENT FENWICK, the Halls of Congress will be a little less friendly and a lot less elegant. Throughout her congressional career, MILLICENT has been one of the chief spokesmen for "good government" by being a thoughtful legislator. Her support for this institution has at its root a love of the American people and their Govenment.

She has led the unending struggle for equal rights and equal opportunity for all our citizens. In so doing, she has been the most eloquent spokesman for what is good about the Congress. No one has done more than MILLICENT FENWICK to prove that human concern and republicanism are allies rather than adversaries. While I am certain that here convictions will not allow her to rest on her laurels, it is my sincerest hope that she will continue to be an example for all public servants, male and female, Republican and Democrat alike, through her works and deeds.

Thank you, MILLICENT, for giving me the opportunity to serve with you. It has been one of the highlights of my congressional career.

Another great friend leaving at the end of this Congress is HAROLD "CAP" HOLLENBECK. Playing on my GOP "Nasty Nine" since he first arrived in Congress, CAP has answered affirmatively and enthusiastically to the perennial question "Who's on second?" Fortunately for his constituents, however, CAP has been a much better legislator than second baseman.

Through his work on the House Committee on Science and Technology, CAP has become one of the most knowledgeable Members of this body on the space program. His expertise in that area will be missed by his colleagues on both sides of the aisle.

Above all, CAP has been an honest politician and a man of his word. We Northeastern Republicans have been through some tough times these past few years. Through it all, if CAP said he was on my side not only did I know he would deliver, but moreover I knew I was doing something right.

Mr. Speaker, I join with my colleagues in wishing MILLICENT and CAP all the happiness and success they so richly deserve.●

● Mr. RHODES. Mr. Speaker, I am pleased to join the special order paying tribute to HAROLD "CAP" HOLLENBECK. It is indeed disappointing that the recent redistricting in New Jersey had such a devastating effect on CAP's political fortunes.

CAP HOLLENBECK worked hard for his constituents during his time in office and he will be missed by the people of his district, as well as by his colleagues in the Congress. He has many friends here who wish him well. I am one of them.●

● Mr. RODINO. Mr. Speaker, I want to take this opportunity to pay tribute to two very fine members of the New Jersey Congressional delegation who are leaving Congress at the end of this term. MILLICENT FENWICK and HAROLD HOLLENBECK are dedicated public servants who have made many contributions to their State and their country.

Since she first came to the House in 1975 Congresswoman FENWICK has been an outspoken advocate of international human rights and good government. As a member of the Foreign Affairs Committee, she fought for the establishment of the Helsinki Commission to monitor human rights violations throughout the world, and she has been an ardent supporter of civil rights here at home.

The House will surely miss Congresswoman FENWICK's eloquence, honesty, and wit during our debates. We in the New Jersey delegation will miss the humor she provided at many of our meetings. Her constituents will miss the personal attention she gave them during her countless hours of service.

Congressman HOLLENBECK has established a record of independence and compassion during his 6 years in the House. His work on the Science and Technology Committee has been marked by his strong commitment to the advancement of scientific research in America, and he has used his position on the Public Works and Transportation Committee to fight for forwardlooking programs that will benefit not only New Jersey but the entire Nation.

On budget issues, Congressman HOLLENBECK has courageously raised his voice as an advocate of the disadvantaged, the elderly and the minorities of our country. We will miss his sensitivity and intelligence on the issues that mean life or death to the most vulnerable in our society.

I am proud of the service performed by MILLICENT FENWICK and HAROLD HOLLENBECK for their State and their country, and I join with my colleague in wishing them all the best as they leave the Congress to pursue other interests.●

● Mr. GREEN. Mr. Speaker, I want to join my colleagues in paying tribute to our distinguished Members from New Jersey, MILLICENT FENWICK and HAROLD "CAP" HOLLENBECK, whose retirement we sadly acknowledge. They have served their State and country with distinction and will be sorely missed in the 98th Congress.

I rise today to express to them a deep sense of appreciation for their years of dedicated service to this body and to this Nation. As moderate Republicans representing the Northeast, we have worked together on many occasions and I have admired their work for the people of New Jersey.

MILLICENT FENWICK has been and, I am sure, will continue to be a fervent Republican. She is a person of irresistible character, outspoken and elegant at all times. On the Foreign Affairs Committee, she worked to create the Helsinki Commission to maintain pressure for human rights. She introduced a bill to end the "marriage penalty" in tax law, and sponsored legislation to keep the food stamp program from having its funding cut. She opposed military aid to Vietnam but remained active in fighting human rights violations there.

I have had the pleasure of working closely with CAP HOLLENBECK on many issues. During the debate on the first budget resolution last May, CAPPY and I offered an amendment to the Jones budget resolution to reduce the levels of defense spending. On the Science and Technology Committee, he has fought hard to save funds for pure research and argues against the funding cutbacks that the Budget Committee and the administration have tried to enact. He, too, is outspoken and willing to take a stand for the people of New Jersey.

It has been a privilege to know and work with both MILLICENT and CAPPY. They have served with integrity and commitment and have set an example for us all to emulate. I join my colleagues in wishing them the best in their future.●

● Mr. GUARINI. Mr. Speaker, I am proud to join my colleagues in tribute to "CAP" HOLLENBECK, who represented for 6 years the good people of the district which neighbors mine in New Jersey. Coincidentally, his Capitol office is just down the corridor from mine as well, so I often had the chance to enjoy his company on our weekly flights back home and during many trips over to this Hall. CAPPIE is one of the warmest, most concerned individuals I have ever known; he has won many friends here both on and off the Hill. These friendships have no limit in party affiliation, for, above all, CAP HOLLENBECK's character and genuine care for his constituents defies partisan boundaries.

CAP has been an articulate and outstanding spokesman for the people of Bergen County and all New Jersey. As a Congressman he showed his concern for all by dedicating himself to helping the young, the old, the poor, handicapped people, and all those who look to us in Washington to help guarantee for them a dignified lifestyle. CAP HOLLENBECK was faced with a series of difficult choices in this last term in Congress when his party urged him to cut the programs on which many of his people depend. In the end, CAP HOLLENBECK decided that his constituents needed his loyalty more.

CAP HOLLENBECK was always most interested in being a good Congressman for all the people of his district. He has served his people well in the halls of Congress. While I shall miss his company here, I am looking forward to seeing him often back home in New Jersey. Best of luck, CAP, in your new adventures, wherever they may lead you.●

● Mr. CARMAN. Mr. Speaker, I rise today to honor CAP HOLLENBECK who will be leaving Congress this year at the end of his third term. CAP has served with distinction during this 6-year period. As a member of the Aging Committee he worked hard in support of the Older Americans Act and as a member of the Committee on Science and Technology he has been a crucial supporter of NASA and the National Science Foundation. His dedication will be missed. I enjoyed working with him and wish him all the best in what I know will be a successful future.●

● LAGOMARSINO. Mr. Speaker, I rise to pay tribute to my dear friend and colleague on the Foreign Affairs Committee MILLICENT FENWICK.

Anyone who knows MILLICENT knows she represents the fighting spirit of one who champions the cause of the underdog, the downtrodden, and the disadvantaged. She is respected on the foreign affairs committee and in this House because she is not afraid to speak her mind, to question or to challenge authorities or institutions.

MILLICENT's devotion to duty and to serving the people of her district are well recognized. She is conscientious in attending to all the varied functions of being a Member of Congress, and faithfully attends the meetings of her subcommittees and committees, asking probing questions and offering thoughtful comments and observations on the issues coming before us.

MILLICENT's personal style, her charm and grace have been a distinct asset for the Foreign Affairs Committee, particularly in our meetings with representatives of other countries, where she often carries on conversations fluently in the language of our foreign guests. Her presence will be sorely missed in the next Congress, and I can only hope this administration will have the presence of mind to use MILLICENT's talents in some appropriate way as a diplomatic representative of this country.

In whatever endeavor she undertakes, I know she will offer the same gracious style that marks her presence in the Congress. I am most pleased to join my colleagues in wishing MILLICENT a most successful and fulfilling future, a future I am sure that will be as rewarding as the past.●

● Mr. GILMAN. Mr. Speaker, it is truly a privilege to honor the most honorable gentlewoman from New Jersey. It is difficult to imagine this Chamber without her gracious presence. She has demonstrated what a truly honorable and respected Member of Congress can accomplish in these Halls. When she speaks, we listen, on both sides of the aisle. We know she has always done her homework. I recall the impression it made on a member of my staff attending a briefing on the extension of the Civil Rights Act that MILLICENT had attended and was the only Member of Congress there. She had specific questions which she was determined to have answered by the committee experts.

MILLICENT's floor challenges to hasty judgments and generalizations have made us focus in on the specifics of legislation. I have always admired her erect stance as she fought off any challenge and disregarded any pressure until she got to the heart of the matter at hand.

We are losing a great legislator and a staunch fighter for justice and fairness in our land. She understands the heartbeat of our Nation and more importantly the heartbeat of our people and those who have to work hard to make ends meet.

Some say her pipe has contributed to the great sense of wisdom and dignity surrounding her that always makes

us listen, but I think not. We listened because we knew she had studied the issues hard and would not leave her principles for popularity. More interested in standing tall than in rising to the top, she worked hard learning the legislative process and getting the big picture in a number of committees. On all she left her mark. I have particularly enjoyed working with MILLICENT FENWICK on our Foreign Affairs Committee where we will sorely miss her strong presence.

MILLICENT, you have left your invigorating mark on all of us who have had the privilege of knowing you and serving with you. We wish you joy and good health in the days ahead, knowing that the State of New Jersey and the Nation have only begun to benefit from your dedication and inspired leadership.●

● Mr. RINALDO. Mr. Speaker, it is a privilege to join my colleagues today in honoring my good friend and fellow Representative from New Jersey, HAROLD "CAP" HOLLENBECK, who is leaving Congress at the conclusion of this session after having ably and effectively represented the residents of New Jersey's Ninth Congressional District since being elected to Congress in 1976.

During his 6 years of service, he has brought to the deliberations of the House a strong sense of personal conviction, integrity, and legislative ability. In establishing an impressive record of public service, he has contributed creatively and constructively to legislation advancing the welfare of his district and the Nation.

CAPPY has been a dedicated legislator, and his love of his district, State, and country has had a positive influence on all who have known and worked with him. He has won respect from both sides of the aisle and from people familiar with his accomplishments.

I express my admiration and gratitude for a job well done, and wish CAPPY success and happiness in his future endeavors.●

● Mr. CHAPPELL. Mr. Speaker, I join my colleagues today in paying tribute to a distinguished Member of this body, HAROLD C. HOLLENBECK.

In his 6 years of service in this body, HAROLD HOLLENBECK has distinguished himself by his hard work and independence in diligently representing the people of the Ninth District of New Jersey. With a voting record which supersedes partisanship, HAROLD HOLLENBECK has performed a service to both his district and his Nation. He has displayed the same personal integrity in his work on the Public Works and Transportation, Science and Technology, and Select Aging Committees.

Thus, it is with a feeling of loss that we witness the departure of HAROLD HOLLENBECK. We are losing an able colleague, and New Jersey is losing a fine Representative. I certainly wish HAROLD HOLLENBECK well in his future endeavors.●

● Mr. RINALDO. Mr. Speaker, it is with a sense of personal regret that I join my colleagues today in saying farewell to a truly outstanding and popular Member, the Congresswoman from New Jersey, MILLICENT FENWICK.

During her four terms in the House she has compiled an impressive record of achievement and in doing so has gained recognition as a true and effective representative of the people. She has demonstrated her many skills both in committee and in debate on the House floor. I have long admired and respected the joy and enthusiasm she has shown for her profession. Her life and record are marked with one achievement after another as she has ably and effectively represented New Jersey's Fifth Congressional District and has deservedly gained the reputation as the conscience of the Congress.

Throughout her many years in public office she has been a dedicated public servant with few peers. Before her election to Congress, she served first as a member of the Bernardsville (New Jersey) Board of Education before being elected to the New Jersey State Assembly in 1958. Representative FENWICK served in the assembly until 1971 when she was appointed State Director of Consumer Affairs, a post she held until 1974 when she was elected to the House.

During her 8 years of congressional service, she has loyally championed and creatively contributed to legislation significantly advancing the welfare of our Nation. There is no denying that her service to the Congress, her constituents, and to the Nation has been substantial.

I express my gratitude for the noble service she has rendered and join my colleagues on both sides of the aisle in wishing her Godspeed.●

● Mr. MINISH. Mr. Speaker, the outstanding personality of my colleague from New Jersey, the Honorable MILLICENT FENWICK, is so well known that it is difficult to avoid repeating what is so well known to all of us here. Her endearing characteristics and her high principles are known throughout America, and we will miss her when she leaves this House.

I would like to emphasize one aspect of MILLICENT's career that is often overlooked: her relation to the politics of New Jersey. Too many people overlook the virtues of the Garden State, and outsiders may not realize that our colleague is in fact typical of a tradition of public service we have there which can represent the best in American political life. From Governor Woodrow Wilson back in the Progressive Era we can trace a tradition of selfless public service which has made New Jersey a good place to live and work, and the Honorable MILLICENT FENWICK is very much a part of this tradition. In the legislature and in other public offices, MILLICENT FENWICK endeared herself to the people of New Jersey for years before her service in Congress made her a popular heroine to Americans all over the country. I certainly hope that Mrs. FENWICK will find new outlets for her patriotism and energy when the 97th Congress comes to a close.

I am pleased to have had the opportunity to work with my distinguished colleague for the people of New Jersey and America.●

Mr. HOLLENBECK. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I will be happy to yield to the gentleman from the State of New Jersey.

Mr. HOLLENBECK. Mr. Speaker, I want to thank the gentleman for bringing this special order on tonight, along with the dean of our delegation, Congressman FORSYTHE. The gentleman has been very patient in trying to bring this special order to the floor. I never dreamed that I would be on the floor for the last time competing with the nightly news or competing with Johnny Carson or Don Rickles. Respecting my friends from Illinois and from the State of New York, they neglected to mention that in those games, not mentioning the game I played shortstop in, they generally swung somewhere from the dugout, especially the gentleman from Illinois, when the now Senator from Maine, whose name I must not mention, was on the mound.

Mr. Speaker, I would be less than honest to stand before you tonight if I did not admit that I am saddened to be leaving Congress after 6 years. Not because I lost an election, but because I will not have the opportunity to serve the people of the 9th District of New Jersey in the upcoming 98th Congress.

However, I ask that my colleagues take comfort in knowing that I will continue, in one way or another, to represent the interests I have defended for so long.

There are many I would like to recognize as I look back on my 6 years here.

First, and foremost, my constituents, for entrusting me with the responsibility of representing them in the Congress.

Second, I must pay tribute to my colleagues from within the New Jersey delegation, and I can only think that our great State is well served by these fine lawmakers.

Finally, I would like to thank all my colleagues, from both sides of the aisle, for working with me to serve the people.

In my 6 years here I have held a great many posts: the Committees on Banking, Finance and Urban Affairs;

Standards of Official Conduct; Public Works and Transportation; Science and Technology; and the Select Committee on Aging.

In addition, I have held a variety of informal positions: with the Northeast-Midwest Coalition; the Environmental Study Group; and the Gypsy Moths Coalition, just to name a few.

Although my roles were many, I never felt that I was taking on too much. To be sure, if anything I believe there was much more to be done.

As I leave these Halls of Congress, I take with me several remembrances. First, the honor to call my fellow representatives "colleagues and friends." It has indeed been an honor for me to have had the opportunity to serve with you.

Second, I take with me a renewed sense of respect for the greatness and permanence of the legislative process. Granted, unique was the day we found ourselves in complete agreement on any given issue. Yet we never forgot our purpose in disagreement: That purpose being to represent all the interests of all the people. And although I must say that I was not always pleased with the outcome of many of our debates, I am comforted in knowing that, in the long run, it is the people who are the victors.

Finally, I leave Congress with the conviction to continue serving the people, in whatever I do. I find little satisfaction in serving myself at the expense of others. Public service has always been my calling, and it will remain so.

I confess I am a bit embarrassed to be showered with such tributes this evening. Believe me, I an not accustomed to taking the floor to pat my own back, or to have others do it for me. But I thank my colleagues for their words tonight, and more importantly, for serving with me in the House of Representatives these past 6 years.

Thank you very much.

□ 2310

A TRIBUTE TO THE HONORABLE TOBY MOFFETT UPON HIS DEPARTURE FROM CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. MILLER) is recognized for 60 minutes.

Mr. MILLER of California. Mr. Speaker, it is with mixed emotions that I stand before the House today to honor and to praise a colleague of ours, TOBY MOFFETT.

TOBY and I came here together in 1975 in the 94th Congress, along with a very large class of freshmen, for the purposes of meeting an unmet agenda in this country and to try to bring reform to the Halls of Congress. I was fortunate enough to become immediate friends with TOBY. I watched his ability to organize the Congress, I watched his ability to move among one of the largest classes in the history of the Congress of the United States, and we joined in friendship and joined in commitment in a number of immediate fights to reform the seniority system and to reform the manner of selection of committees within the Congress of the United States to hold committee chairmen accountable to the entire body. That is what was begun in the caucus in the 94th Congress.

Later I was honored to travel to Chile, where we investigated torture and murder and violations of human rights by the Government in Chile and we were able to come back and present an amendment to cut off aid to that Government.

We joined arms and walked out of this Chamber when a President of the United States demanded $800 million more to continue an immoral war in Vietnam against the will of the American people. We have seen that as a record of courage and a record of commitment that has been built by our colleague, TOBY MOFFETT.

But he came more than a colleague; he came also as my friend. We were able to vacation together, to fish together now and then, and to share a bet on a football game or a basketball game, but never to share the winnings of those bets.

We have also watched our children grow. We have shared the same experiences. We saw his daughter, Julia, in high school, and we saw Julia performing and excelling in horsemanship.

We witnessed his marriage to his new wife, Myra Delapp, and 8 months ago, we shared the birth of his daughter, Mary Ellen.

So this is more than saying goodbye to a colleague, it is saying goodbye to a dear friend, and it is also a recognition that the Congress of the United States and indeed the people of the United States will miss TOBY MOFFETT. They will miss him because he came to Congress with an agenda. He came to Congress with a sense of urgency about the agenda and a commitment to meet the goals of the unmet agenda of this country, an agenda to address the inequities in our society, the imbalances of power within this country, and the injustices that affect millions of Americans everyday.

Mr. Speaker, this is an agenda that is not without its opponents. It is an agenda that ran against the powerful within the Government and against powers outside the Government. The gentleman from Connecticut became a spokesman for the consumer and for the elderly, and his battles on natural gas and oil are a legend. His organization of this Congress on the repeal of the oil depletion allowance should be set down as a model for new Members of Congress when they seek to organize around the important and difficult issues of our time.

His oversight as a member and chairman of the Subcommittee on Government Operations, I suspect, will lead many in the administration not to be sad that TOBY MOFFETT is leaving. James Watt will not be sad that TOBY MOFFETT is leaving. James Edwards will not even be here to say goodbye because he left before. Anne Gorsuch will not be sad to see TOBY MOFFETT leave. Why? Because he has constantly kept that diligence and that sense of urgency that these people came to Washington as part of this administration to serve the people who elected this administration, to be advocates for their departments and not the participants in the dismantling of that agenda. And I daresay that he has held as tight a rein on this administration as he did on the previous administration.

The fact that these people will not be sad to see TOBY MOFFETT leave the Halls of Congress is testimony to a record of courage and conviction, a record that was recognized by Time magazine some months ago when TOBY was selected from among the 50 "faces of the future," and I suspect the fact that he will not be in Congress will not diminish his presence, his power, or his commitment to this country.

Just a few minutes ago, when sitting in the cloak room, one of the more powerful chairmen of the House shook TOBY MOFFETT's hand and said, "I'm going to miss you as a friend but not as my adversary." I think that sums up how we feel about TOBY MOFFETT. Those who have fought alongside of him have welcomed his friendship, his courage, his diligence, and his organizational skills, and those who have opposed him have felt the brunt of those exact skills.

Finally, after the race for the Senate in which he was defeated running against Senator LOWELL WEICKER, Senator WEICKER the next morning said about his opponent, "TOBY MOFFETT is a class act." And let me say that for the last 8 years, while I have shared a seat in Congress with the gentleman from Cnnnecticut, he has been nothing but a class act.

Mr. Speaker, I daresay that the agenda he came here to carry out is still unmet, but it is much further along toward completion because of his service in the Congress of the United States.

TOBY MOFFETT'S ANNOUNCEMENT OF HIS CANDIDACY FOR THE U.S. SENATE, DECEMBER 1, 1981

I hope we can focus today, and in the coming year, not simply by asking what kind of Senator we want to elect, but by thinking about what kind of society we want to create for the rest of the century.

It is said by the historian Dumas Malone that Thomas Jefferson "had strongly armed

his mind before critical events occurred, and was more than ready for them when they came."

We should be looking for public servants who, like Jefferson, are prepared for the future. We should be looking for people who are ready for the rest of this century.

The slogan of the other party—"Time for a Change"—seems so shallow and short-sighted. The challenge is not to merely change from one personality or even one party to another but to elect people who are prepared for a time of change.

The United States Senate can be the most important institution for charting a course to the next century. Its most important task is to help insure that we get there in one piece.

First, it must confront the ugly and frightening reality that the world continues to spend over half a trillion dollars a year—a million dollars per minute—on more efficient ways to kill people. Total nuclear firepower, already over a million Hiroshimas, continues to grow rapidly.

The Senate must exert pressure to move beyond the constructive first step taken this week in Geneva to extend arms control negotiations beyond medium-range missiles, to include long-range weaponry.

We must also push for non-proliferation, serious non-proliferation. Unless the superpowers show that they are committed to this principle, there is no reason to believe that Pakistan and other nations will pay any attention. At this point, the Administration is not taking this problem seriously at all.

Finally, we must take steps to keep weaponry out of space. The place for Star Wars is in the movie houses.

The Geneva meetings are a positive first step on the arms control front. Such negotiations are difficult. They take place in an atmosphere of insecurity on both sides. It will be critically important to have more Senators, working together, who will question the assertion that the United States is woefully behind the Soviets in every important defense category.

The fact is that we already possess missiles that can travel 6,000 miles and land on a targeted city block in Moscow. We have cruise missiles that can part your hair from 2500 nautical miles. We have Trident submarines. Just one of them has enough warheads to destroy all of Europe.

We are not weak. We are not behind the Soviets in any disastrous sense. If anyone is losing the arms race, it is all of us—the entire world community. Our major fear should be the seemingly never-ending cycle of arms buildups.

The positive first step by the President on the arms control front has not been matched by any step toward reason and reality in domestic policy, particularly in the economic arena.

The idea of cutting spending to decrease the Federal deficit is a sound one. My own proposal to have the House take time each year to investigate programs, to find out which programs work and which ones don't, is a rational approach to weeding out waste, fraud, and abuse. The House is moving towards implementing this kind of review session—and the Senate should, too.

But so many of the conservatives who used to worry about Federal deficits have since jumped ship. They are off on a wild and dangerous "supply-side" adventure, an adventure charted on an impossible course.

There is no way we can balance the budget by spending $1.5 Trillion on defense in the next five years and granting $800 billion in tax cuts during the same period. Even if every penny of the President's proposed budget cuts are approved by the Congress, those reductions still won't be nearly enough to balance the budget. Not with the "supply-side" gameplan in effect.

Reaganomics is ludicrous in this respect. The President wanted tight money. He has tight money. And that policy is helping to ruin America's housing and automobile industries.

Reaganomics goes one step further—trying to combine tight money and the resultant constricting economy with "supply-side incentives. That's like trying to swim upstream with Milton Friedman and downstream with Jack Kemp at the same time.

James Tobin, the Nobel prize-winning economist from Yale, describes the Reagan budget and tax program as "an historic reversal of direction and purpose". In Professor Tobin's view, "the message is clear enough; inequality of opportunity is no longer a concern of the Federal government."

For the victims, the all-too-common victims, the budget cuts are major and disastrous.

To cut older people and infants off nutrition programs is mean-spirited. Many of the other cuts are simply foolish. They will cost us more later on—to clean up drinking water that's become contaminated because safeguard were dropped . . . to incarcerate juvenile delinquents who might have been salvaged by youth programs that were cut . . . to rebuild streets, sewers, and bridges that could have been saved with regular maintenance.

The Reaganomics gameplan is deferring an investment in the future. The gameplan protects the powerful political interests—things like tobacco subsidies and the Senate Majority Leader's favorite dam and breeder reactor.

And while singing the praises of the work ethic, Reaganomics tries to fight inflation by putting people out of work. That's wrong. That's cruel. And it's a bankrupt Economic Policy.

The Reaganomics game plan also hits hard at the nation's economic future. When the Administration slashes funds for the Export-Import Bank, for example, Connecticut's export business suffers, well into the future. And so do the jobs that go with those businesses.

Perhaps most damaging to our economic well-being and productivity in the long-run are the cuts in human capital. The critical shortage of skilled labor projected for our State will be worsened by cuts in education especially in fields like engineering.

Are we ready for the rest of the century? Our chief political opponent, the Soviet Union, is not cutting back on education. Our main economic competitor, Japan, has half our population but graduates more engineers than we do.

We cannot attack our obvious productivity problem by cutting research and development, scientific education or by simply shoveling tax cuts out the Treasury Department door for businesses and wealthy individuals.

Nor can we address our productivity problem by creating scapegoats such as environmental regulations or trade unions. Republicans intrigued by the idea of union-busting should remember that it was a man named Lincoln who came to this very city in 1860, during the shoemakers' strike, and applauded unions and their right to strike.

We are in for a major transition, both nationally and in our State. What kinds of people will we elect to lead us through it? How will we handle change? How will we prepare for the future?

The United States Senate can be the major forum for this discussion. The Senate needs more of the kind of new blood represented in that 1974 freshman class in the House. Some of my classmates are already there—Chris Dodd, Paul Tsongas, Max Baucus. They need to increase their numbers so that the post-Watergate Democrats can play a leadership role in the Senate—just as they have in the House, with committee and subcommittee chairmanships and leadership positions.

This group combines the best of the Democratic tradition of compassion and vision with the new realities of limited resources.

I am deeply appreciative that so many people in Connecticut, many of whom I have never had the pleasure of meeting, have taken an interest in my future, in my options. I and my family also appreciate your understanding that this was a most personal decision.

For the past eight years, I have been growing: From community organizer and consumer advocate working outside the system to House subcommittee chairman. This growing process, this sometimes painful transition, has enabled me to learn a great deal about how to be effective in a legislative body.

I want to continue to grow in that direction. It will provide me with a chance to contribute to peace, to the creation of a rational and fair economic plan and to serve our entire State as an accessible representative.

Accordingly, I have decided to seek the United States Senate seat now in Republican hands.

SOME OF CONGRESSMAN MOFFETT'S MAJOR ACHIEVEMENTS AS CHAIRMAN OF THE HOUSE SUBCOMMITTEE ON ENVIRONMENT, ENERGY, AND NATURAL RESOURCES

Toby Moffett—in the largest leap ever made by a junior House member to take charge of a subcommittee—defeated three more senior Members to become Chairman of one of the House's major investigative/oversight panels. (Feb. 79)

In 1980, he held hearings, subpoenaed the Secretary of Energy and joined a court suit, all of which led to the defeat of the 10¢-a-gallon gasoline tax.

Forced the Environmental Protection Agency (EPA) to revise its miles-per-gallon testing and labeling program to reflect real-life driving conditions.

Uncovered an attempt by the EPA to gut the law restricting the use of lead in gasoline—a promise by EPA administrator Gorsuch not to prosecute a refinery and to weaken the law. Result: Gorsuch plan stopped.

Conducted hearings on Interior Secretary Watt's plan to allow oil and gas drilling in sensitive environmental areas off the coast of California. Result: Leasing attempts halted by Federal courts.

Authored successful legislation to save the American Conservation Corps, to provide up to 100,000 jobs for youths—a program Secretary Watt had attempted to scrap.

Disclosed attempt by Reagan administration to cut enforcement efforts at Energy Department to collect oil company price overcharges. Result: Congress added funds to the budget for continued collection of hundreds of millions of dollars.

Investigation of $2 billion synthetic fuels plant revealed mismanagement by Energy Department. Result: Administration dropped project.

Probed Nuclear Regulatory Commission inspection procedures at nuclear plants. Result: stronger safety inspection program and improved emergency evacuation plans to protect residents from nuclear accidents.

Conducted only Congressional investigation critical of federal expenditures for massive political pork barrel water and dam projects. Result: $138 million in construction stopped.

Through extensive hearings, forced Department of Energy to highlight conservation as a tool for reduced energy consumption.

Successfully encouraged the government itself to institute energy conservation measures within its agencies.

Exposed millions of dollars in waste and overpayments resulting from poor or nonexistant financial accounting procedures in Energy Department. Result: major Government Accounting Office investigation.

Through a series of hearings on ground water pollution, led the effort to develop a national ground water protection policy and federally backed clean-up programs.

MAJOR LEGISLATIVE ACCOMPLISHMENTS

Co-authored emergency legislation to provide immediate relief to the people of Lebanon following the current crisis. Congress passed and the president signed the bill, authorizing $50 million in aid, within weeks after it was introduced.

Introduced a resolution, co-sponsored by more than 70 House Members, to maintain eligibility of graduate and professional students in the Guaranteed Student Loan Program. More than 5,000 graduate students in Connecticut are dependent on this form of aid.

Filed a court brief against Agriculture Department regulations that would have cut reimbursement rates for family day care facilities by up to 30 percent. Result: the judge rejected the new regulations and cited the brief as being instrumental in his decision.

Forced the Secretary of Agriculture and the director of the Office of Management and Budget to release $1 million in Summer Food Care funds for the State of Connecticut. Result: 27,000 low-income children benefitted from nutritious meals during the summer months.

Wrote law providing for the transfer of certain Conrail freight operations in Connecticut to private rail carriers. Result: continued rail service to factories and plants located throughout the state.

Added an amendment to rail legislation which permitted the State of Connecticut to receive additional funding to operate commuter rail lines.

Introduced a resolution to prevent the Department of Health and Human Services from "deregulating" nursing homes, so that elderly persons in nursing homes will not be exposed to conditions that violate fire and health codes.

Wrote a new formula for Medicaid reimbursement, which saved the State of Connecticut $37 million in 1981.

Filed a legal brief, challenging the veto of a Federal rule which would have protected consumers against fraud and misrepresentation in the used car industry. Case will be argued before U.S. Supreme Court in the fall of 1982.

Drafted 1981 bill to institute a "moratorium" on new legislation in Washington for a certain period each year, coupled with an investigation/oversight "season" in Congress to examine existing laws and agencies.

Authored 1981 bill to adopt a regional approach to the prevention of acid rain.

Wrote home insulation safety law.

Played a key part in investigation of U.S. role in Arab boycott of American firms doing business in Israel.

Authored resolution denouncing Soviet harassment of Jews and dissidents seeking to leave the USSR.

Inserted provision in Rail Reorganization Act to maintain Office of Public Counsel, thereby insuring access for rail freight users in decision-making process.

Wrote law mandating appliance efficiency labeling and standards.

Led the successful 1975 battle to retain price controls on domestic crude oil.

Fought to keep controls on natural gas prices.

Instituted tough penalties for oil companies that overcharge the public.

Led three successive and successful battles to establish and continue emergency fuel assistance to the poor and elderly.

Served as the sole New England representative on the joint House-Senate national energy bill conference committee.

Amended National Energy Act, to protect smaller industries in their efforts to convert from oil and gas to coal.

Amended National Energy Act, to prevent utilities from abusing fuel adjustment clause in their bills.

Provided for "citizen intervenor" funding to insure consumer representation at state utility rate hearings.

Wrote 1979 law requiring, in times of severe shortage, a one percent "set aside" of oil for residential home heating use.

Wrote and served as House Floor Manager for law requiring U.S. to have a standby gasoline rationing plan "on the shelf" in case of severe shortages.

Helped establish this country's Strategic Petroleum Reserve.

Fought IRS provision permitting multinational oil companies to deduct royalties paid to foreign governments. Result: Tax loophole was closed and taxpayers saved an estimated half-billion dollars a year.

Amended Department of Energy budget to cut millions of taxpayers' dollars being used in questionable and non-productive endeavors.

Mr. RATCHFORD. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Connecticut.

Mr. RATCHFORD. Mr. Speaker, I thank the gentleman for yielding, and certainly I join in echoing the words the gentleman has so eloquently stated this evening.

The man we honor tonight is without a doubt one of the more effective Members of Congress. He is an activist, and I can recall, when he was elected 8 years ago, that many said that an activist simply could not make it in the Congress of the United States; he could give a good speech, lead a cause, and be out there in front, but he would not get something done. But what the gentleman proved was that an activist could be effective in Congress, for without a doubt TOBY MOFFETT was one of the more effective coalition builders in this Congress.

Let it be an issue of energy and he would find common cause in an oil producing State so that together the interests of both for the betterment of the people of the United States could be advanced.

I think specifically of the fight of 2 years ago when the issue was funding for the whole question of fuel assistance, and we in the North and the Northeast were told that it simply cannot be done because the money will not be there.

So what did this leader do? He reached out to Texas. He found a problem that was unique in that area, and he found a goal which was one that could be advanced for both and as a result we were able to benefit the old, the frail, and those who needed relief in this very difficult situation.

He has been an advocate in the truest sense, initially for the consumer, then for those concerned for the quality of life and the future of our environment. He has been in every sense a leader.

But to many of us he was much more than that; he was a friend. This Member of Congress remembers full well the encouragement that he gave to me as a young speaker of the house in times when we were told in Connecticut that "what you are doing can't be done because it wasn't done that way in the past."

This Member of Congress also remembers 8 years ago coming through a very narrow loss, with all the emotion that that entailed, and being consoled by TOBY MOFFETT, who then had been elected to the Congress of the United States, and he was urging me to hang in there because there would be another day, although not too many others saw it.

But he did. He provided the encouragement and I am thankful, because without that this Member of Congress simply could not have done it and would not be standing here this evening.

He has helped me in every possible way since I was elected to the Congress in 1978. He opened his office to me, provided a working environment, and provided staff to work with me, and he was always providing valuable counsel as it related to me, our staffs, and what we were trying to do collectively for the Fifth District of Connecticut.

□ 2320

Our relationship is a relationship that is more than that of one of 435 Members of this body. Our relationship is that of true friends.

TOBY has made a contribution that is unique, I think, in the history of our State, a State that prides itself in strong public servants and in unique leaders, a State that has brought to this United States Abe Ribicoff, Ella

Grasso, CHRIS DODD. TOBY is in that category. He is indeed a true leader.

Let me say to you, those who are gathered here tonight, his friends, we will meet again and it will be to pay tribute to TOBY MOFFETT who is making some new, different, but certainly some very unique and very positive contributions to the future of this country.

But tonight what we dc is to gather to say thank you to a colleague, thank you to an associate, thank you to a friend, but, above all, thank you to a public servant in the truest sense.

Mr. MILLER of California. Mr. Speaker, I now yield to the gentleman from eastern Connecticut, the Representative from the Second District, Mr. GEJDENSON.

Mr. GEJDENSON. Mr. Speaker, I wish to echo the remarks of my colleague from the western part of the State. I think if we take a look at TOBY'S career we know full well that we have not lost him from public service because his commitment to the consumers on issues that affect them, whether energy or Government spending programs, preceded his time in elective office.

TOBY MOFFETT was not someone who found concern for his constituents and concern for the people of this country when he came to this Congress 8 years ago. His concern for the people of Connecticut preceded that and his actions as a consumer advocate, finding an unelective role at that time to fight for the people of his State on the issues of utility regulation, of consumer regulation, and really started a movement in Connecticut which in those days was a very fragile one, but where today we have an institution in CCAG, an organization that is committed to fighting for the consumers of all of the people of the State of Connecticut.

I think my colleagues have to a large degree represented the great job that TOBY did here in his 8 years in the House. I think it is important to recognize that as he reached out to BILL RATCHFORD and helped him, he reached over to help me in eastern Connecticut. In a time when there were not many who thought I would ever end up in the House of Representatives, TOBY MOFFETT, at some political risk, came to assist me in eastern Connecticut.

I think more than anything else his friendship and his assistance is the reason that I am here today.

I think if we take a look at the issues that we all fight for in our own districts, TOBY always made time to come over and help us. In my district in the 2 years that I have been in Congress, we have had three instances where ground water was polluted as a result of the mishandling of dumps and industrial waste products.

TOBY came and TOBY came quickly to give my assistance on an issue that he had become not only a leader in Connecticut but a leader nationally.

Whether it be military spending or the environment or consumer issues, TOBY was always there and TOBY was always at the forefront. I believe he will remain there.

I think it is important that each of us recognize that as Members our impact at times is limited. TOBY MOFFETT in a very short time had his impact reach across the Nation on energy issues primarily but on many other issues. Many Members of the House and many people around America looked to TOBY MOFFETT for leadership on the vital issues of the day and I am convinced that they will continue to do so.

With that I yield back to my good friend from California (Mr. MILLER).

Mr. MILLER of California. I now yield to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY. Mr. Speaker, the honor of representing Connecticut in this body during the past months was heightened for me by sharing it with TOBY MOFFETT, a friend whom I have known and admired for many years. His spontaneous help, from the moment I announced my candidacy, was a gesture of encouragement and confidence which he repeated time and time again during my first weeks in Washington. This willingness to be of service, as characteristic of TOBY as his dedication to his ideals, is equally reflected in his commitment to this congressional body.

TOBY'S own election to the House of Representatives in 1974 was the culmination of intense, vital years as teacher, youth organizer, director of the office of students and youth under the commissioner of education, aide to U.S. Senator Mondale and prime force in the creation of the Connecticut Citizens Action Group. In those preliminary roles he touched and influenced the lives of many, as he has in his four terms in Congress. Translating idealism into practical action is a way of life for TOBY, from which consumers and constituents, youth and future generations, benefit enormously.

TOBY came to Washington as Connecticut's consumer advocate activist and was an instant leader, working for change within the institution he loved. He sought stronger environmental safeguards; he sought a more intelligent energy policy and a saner defense program; and he staunchly defended minority rights. An expert in the energy matters so important to constituents in Connecticut and the Northeast, he pioneered legislation on their behalf, giving hope, emoting charisma. Simultaneously, through competent staff, he provided a caring, compassionate constituent service.

TOBY MOFFETT gave new meaning to the oversight function of a Congressman. As chairman of the Government Operations Committee's Subcommittee on Environment, Energy and Natural Resources, he served effectively as a watchdog over national energy policies. He fought the decontrol of oil and natural gas prices. He supported policies designed to conserve energy and he brought to task those charged with protecting the environment who have been lax in their duties. From the vantage point of a member of TOBY'S subcommittee, I have witnessed the remarkable manner in which he has promoted the efficiency and effectiveness of the programs under his jurisdiction.

We in Connecticut are proud of TOBY MOFFETT. His name is synonymous with energy in many senses of the word. He is a man devoted to his family and to his friends, of which I am fortunate to be numbered. Sympathy, intelligence, dedication, and vision brought him to the House of Representatives. We will, I predict, see him launch into new endeavors and reach new pinnacles, or pinnacles anew. Self-made, self-starting, his contribution will be great.

For the freshmen in the delegation standing here tonight it almost seems unreal to me that I will stay here and that TOBY, for awhile, will be gone. But what TOBY MOFFETT did for me was to provide a benchmark.

When there are moments when I wonder if one can work harder, if one can go further, if one could represent one's constituents better as a Member of Congress, I will only have to think of what I saw TOBY do and TOBY is my example and will make me a better Congressman for Connecticut.

I say thank you, TOBY.

□ 2320

Mr. MILLER of California. I yield to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to thank my colleague, the gentleman from California (Mr. MILLER) for taking this time to recognize service in Government, certainly by one who served in this body and in great measure by the legacy that he leaves for a short while out of public service, in truly making our country a better place in which to live.

As a senior Member, one would have to admit that initially TOBY MOFFETT was not one who I often agreed with. As a matter of fact, my good friend, even in disagreement, was one who had new ideas, was one who was creative. And I think truly, Mr. Speaker, if we are to survive, we are going to have to look to people who come to this body who represent not only their constituency, but represent us on a national scale and give us the thought

process and the vision to make this work a better place in which to live.

I am thoroughly impressed by what the preceding speaker, the gentlewoman from Connecticut (Mrs. KENNELLY) has observed about a junior Member of the Congress. And I will always look at TOBY MOFFETT as a junior Member. But certainly one who I have a great deal of respect for and one who even in the closing days of an outstanding career I look to for some guidance in not only energy policy, but in the direction that people think we ought to move.

One great attribute about a legislator is that you can trust him. Even though we came from different perspective views, TOBY MOFFETT you also knew where he was coming from. And I respect that in a legislator.

He never surprised you. He told you what he thought. He gave you full recognition and notice that this is what he intended to do, and for that I felt rich as a legislator.

I am going to miss the contribution that this young man has made. I certainly hope that his appetite for giving is not satisfied. There is much in this individual's chemistry that will help America. I may not agree with it, but there is much he can contribute.

And so in the closing days of a brilliant political career, at least at this point I am encouraged that so many of us feel—and I am talking about the men tonight and the ladies who respect his contribution—TOBY's career is not ended. It may be just beginning.

As chairman of the Ways and Means Committee, he gave me a great deal of perspective. I did not agree with it. But it was perspective.

TOBY has great heights to climb. He has done a great deal in a very short period of time. I am going to be supportive of him, because I trust him. And if a legislator can trust a fellow legislator, that is 95 percent of the battle.

So, my colleague, Congressman MILLER, I appreciate the opportunity you have given to me to make my feelings known about an individual who I think is a great American, who has much more to contribute, and who I encourage to a short political career that realy is kindled in my opinion by a defeat. I wish himn well and I want him to know that he has a friend from Illinois in the name of DAN ROSTENKOWSKI.

Mr. MILLER of California. I thank the chairman for his words tonight and know that TOBY also appreciates them.

I yield at this time to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I join with my colleagues and friends of TOBY MOFFETT to congratulate him on his years of outstanding service to the Nation and the people of Connecticut—and to wish him a speedy return to public life.

Seldom has the House or the country seen a Member of Congress accomplish so much in such a short time. TOBY has displayed burning energy, and enthusiasm for public service; he has showed us all how to better use the "bully pulpit" of a congressional office to help protect the consumers and workers of America. He has shown us how to use a subcommittee to investigate, shed light, and arouse public concern over key environmental and energy issues. His work on toxic wastes, energy, and auto efficiency, unwise public works projects, and the havoc which would be wreaked by an oil import fee, have helped improve the lives of all Americans.

TOBY's leaving will deprive the House of one of its best oversighters—unfortunately at a time when we need him more than ever.

He has demonstrated again the old truth that eternal vigilance is the price of liberty—and of good government.

I am going to miss his presence in this Chamber. His wit and courage are an example to us all. I can only hope that he will soon find another platform to continue his work on behalf of the American people.

Mr. Speaker, I would address my colleagues in the Chamber and the Congressman's staff and say that following the remarks that I would put in the RECORD about my colleague's good works as a subcommittee chairman and in dealing with the environment, dealing with his ability to use oversight as a tool that worked well, to talk about something that bothers me and that TOBY did well.

He did it so well that I thought about this in this sense.

If you think about a political leader—and I tried to think about somebody as I extend my remarks who talked about the importance of what one person could do. And so if you will bear with me for a minute—a person who some years ago talked about the futility of being one man. And he suggested that if we all gave in and said that we could not make changes in the world because it was futile, we should look at Martin Luther King, or we should look at Martin Luther, as a practical matter. If we would give in to expediency and say that if that was a cause for us to not want to make changes—we should look at those people who in the expediency of giving in to politics gave in to the camps of Dachau and Auschwitz, and we did not give in—many people did not.

Then you could look at the other danger, this person said, and we could give in to the concerns of temerity, and say that many of us did not wish to be laughed at and so we would not take a chance and risk the temerity or take the temerity and risk the chance of being laughed at by our colleagues.

And the other great danger, this colleague of ours of some years back said, was the risk of comfort, which TOBY did not have. TOBY did not have the comfort of an education paid for by his parents or TOBY did not have the comfort of a great deal of outside income. And many people could use that comfort to not take a chance.

If you have a great deal of education, a great deal of income, you do not have to risk fighting.

□ 2340

So as our friend said, the futility, the expediency, the temerity, the comfort, all those things could deny one person from trying to change the course of the world and if you did not risk greatly, you could not achieve greatly.

Now, the person who said that, and I wish it could have been me, was a person who I am sure both TOBY and I admire, it was Robert Kennedy when he finished his book in March of 1968 and he wrote those words in Los Angeles just before he was assassinated; but I think back on it and I think that those apply to TOBY who was willing to risk greatly, to achieve greatly.

We will miss him, those of us who may not risk as greatly as we would like. He did achieve greatly and I think that will go on his record and I think we will all admire him for that.

In addition to that, we will miss him as a friend. We will miss his wife, Myra, and little Mary Ellen. I expect they will be back and I expect he will continue to achieve and to risk and the country will see him and so we will say just farewell for a while.

I again thank my distinguished colleague, the gentleman from California, for calling this special order. I apologize for the maudlin sort of feeling here, but I say just so long to one of my best friends.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for his remarks.

I yield to the distinguished gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding.

I just want to add my words of appreciation for the service of TOBY MOFFETT, and as the gentleman from California (Mr. STARK) who just left the well has said, I think all of us feel that this is far from the end of a distinguished public career, that having lost a narrow election to serve in the other body, his record here being as outstanding as it was and it has been described by other Members and him being so young a man in terms of his public service, very experienced, but in terms of years very young, it is absolutely certain that he is going to continue to play a major role in the public

affairs of the United States and I think that is all to the good.

Whether people on either side of the aisle have always agreed with TOBY, he has been recognized from the first moment he came into the House as a man of extraordinary ability, capacity and dedication and eloquence and determination in the causes that he chose to support and those causes were causes that I think the vast number of us believe have been extraordinarily well served by his time in the House of Representatives.

So we do not bid him goodby. We salute him and we expect that he will serve in another capacity in the public life of our Nation, perhaps some day back in the House of Representatives; but in any case, continuing to contribute to the welfare of the citizens of this country and the broader community of the world, which he also constantly expressed concern and involvement and commitment to.

I thank the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for his contribution.

I yield to the gentleman from Illinois (Mr. RUSSO).

Mr. RUSSO. Mr. Speaker, I want to thank my colleague, the gentleman from California, for giving me this opportunity to pay tribute to one of my dear friends and to one of the finest Members of the Congress, TOBY MOFFETT. When TOBY and I served on the Energy and Commerce Committee, we often found ourselves on the same side on a number of important issues, ranging from no-fault insurance to the decontrol of oil prices. I can remember the battle that we fought on decontrol. Even though we lost, we raised the conscious level of the American people. His voice on these, and on a host of other important issues, has been strong and compelling. The Congress is losing a very special individual.

All of us are going to miss TOBY as a Congressman, and I am going to miss him as a friend. I mentioned that we have often been together on issues, but on occasion, we have disagreed on issues—but these differences have never affected our personal relationship. And for that I am most grateful. I have come to value TOBY'S friendship, his intellegence, his counsel, and, of course, his move to the hoop, and I must admit one of his strong assets was not passing to a better shooter. I do have to say in all candor that while on rare occasions TOBY might take advantage of us "old-timers" on the basketball court, on the floor of the House you always knew where he stood on the great issues facing our country.

I do not like saying goodby to TOBY, not only for the personal loss to those of us who have enjoyed our work with him as colleagues, but because I believe that he is one of the most concientious, wise and thoughtful people in the Congress. In difficult times like these, it is particularly painful to say goodby to a Member of the caliber of a TOBY MOFFETT. Sometimes, the voice of the poor, the disadvantaged, the vulnerable, the average working American gets lost here in Washington—but TOBY MOFFETT always heard these voices. People throughout the country have lost a good friend and a tremendous advocate.

His work here has been characterized by great energy and passion, an all too rare commodity. You notice someone like this—in fact, you may have your mind changed, be inspired, and at the very least you are compelled to think longer and harder about the issues you are confronting. I believe he can be paid one of the greatest compliments you might receive here, at least in my book—he has made a difference. He translated his compassion into action and he did it with skill. If we must lose his talents, I think we can be pleased that young people will have the benefit of TOBY'S experience and philosophy. I hope as well that TOBY will find some time to commit his thoughts to paper, so all of us can continue to benefit from his insights. Today I join with my colleagues in commending TOBY for a job well done and wishing him continuing success in the future.

I may extend this invitation to TOBY, that should his old legs carry him further, he is always welcome to join the boys down in the gym and we will show him the same courtesies he has shown us throughout the years; that is, we will stay away from him. We will not pass the ball too often to him and we will make sure that he very rarely takes as many shots as he has done over the past 8 years. There are only a few of us in the Chamber here today that can claim to shooting more often than TOBY MOFFETT and I will leave those individuals nameless.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman.

I yield to the gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. Mr. Speaker, I want to thank the gentleman from California for yielding.

I suppose it is natural that these special orders take on kind of a melancholy tone because those of us who will be here in the next session of Congress come to talk about one who will not. Certainly my own people are not adverse to attending wakes, but I do not think that we should be melancholy here tonight, because what we are here to talk about is somebody who really set a standard for all of us to live by in the future.

Many people run for Congress, talking about the great things that they intend to do if they get elected. They talk about issues of justice and fairness and coming here to represent the unrepresented. TOBY MOFFETT was one of those.

Many who arrive here in Washington find that it is not so easy to translate what you said in your campaign and what you said to your constituency into public policy; but TOBY in his years here in the House of Representatives never forgot who sent him here or why they sent him.

TOBY was able to come here and not just be one who stood on this floor and made speeches, but one who learned how to make legislation, how to make public policy, how to make sure that what was done here made life better for the people he was sent to represent, how to make sure that the policies that were developed in this body were fairer for all Americans.

I think that is really a standard that all of us have to remember. We have now a system of politics, a system of government that is easily corroded; it is easily corrupted, that allows as far as I am concerned too much special interest politics.

We have had Members who have stood here on the floor of the House of Representatives against those special interests, at some political peril, who have been able to see through the camouflage and the smokescreens that have been put up and have been able to say "no, we are not going to put up with that, we are not going to allow that, we are not going to allow the people to be unrepresented." I think TOBY MOFFETT has been one of our leaders and one of those people who has continually been able to do that.

□ 2350

I stand here as one who got into an awful lot more trouble than he would have in his first couple of years in Congress because he followed TOBY MOFFETT'S lead. But I stand here with no regrets. He is somebody that I think we can all learn a lot from. He is also somebody I do not think we should eulogize because he stands for a lot of things that we should remember, and he is going to contribute an awful lot in the future, maybe more in the future outside of this body than he has in the past.

So we will look forward to hearing from him, we will look forward to his participation in the political process, we will look forward to his resumption of public office some day, hopefully soon, in the future.

We want to tell him that we have not forgotten what he stood for and that some of us will remember and try to follow his lead even after he is not serving in the House of Representatives.

I thank the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for his remarks and his contribution to this special order.

Mr. Speaker, I yield to my friend and colleague, the gentleman from New York (Mr. DOWNEY) not just for the purpose of remarks about TOBY MOFFETT, but also obviously to explain how this fight of justice, truth and against special interests would have five members of the Committee on Ways and Means participating in this special order. I find it very difficult to understand. That is a committee where I have never seen five members praise another Member of Congress like this.

I do not know if you truly want him to leave, because of the problems he has created. I was quite pleased that the chairman of the Committee on Ways and Means would come and participate in this special order, but I find it a little difficult, and perhaps the gentleman from New York can explain why we ended up in this situation.

Mr. DOWNEY. I thank the gentleman for yielding.

Mr. Speaker, I am delighted that he has changed the rather maudlin tones that I had heard evinced here today about the gentleman from Connecticut (Mr. MOFFETT). I think the answer is quite clearly relief on the part of the members of the Committee on Ways and Means that Mr. MOFFETT will not be a Member of Congress in the next 2 years.

Mr. MILLER of California. Does that mean that the oil depletion allowance is back?

Mr. DOWNEY. The oil companies are free of the shackles that bound them while Mr. MOFFETT was here making sure that we did not give any more of the Treasury away.

Mr. MILLER of California. Does the gentleman mean that old people are going to have to pay more for home heating oil?

Mr. DOWNEY. Well, it probably means a whole raft of things, unimaginable things. Frankly, I cannot imagine the Congress of the United States without TOBY MOFFETT.

As the gentleman from California is aware, as well as my colleague, the gentleman from Illinois (Mr. RUSSO) when we first came to this body in 1975 we were really a form of mass without substance and direction, and one of the leaders in the effort to give us some direction and some clout was TOBY MOFFETT, and he did it in a way that was unusual.

He managed to craft the skills that he had learned organizing street youth gangs in Philadelphia.

Mr. MILLER of California. Is the gentleman suggesting that the class of the 94th Congress was to be equated with youth gangs? We have a process of taking down the gentleman's words here.

Mr. DOWNEY. Well, we had none of the civility of the Philadelphia youth gangs back in 1975. It was that unique ability of Mr. MOFFETT to blend together the disparate personalities and provide them some direction that is his true hallmark.

Mr. MILLER of California. Could the gentleman explain or persuade us that in this organizational effort, how come when those early press conferences were held, the organizes were always in the back behind the rostrum?

Mr. DOWNEY. Well, Mr. MOFFETT, as the gentleman knows, had an unerring ability for the camera lens. This ability was second only to his ability to appear on the CBS Morning News and radio more often than many Members of Congress, which I think was probably one of the reasons he was held in a minimum of high regard by some of our colleagues.

Mr. MILLER of California. The gentleman means in the New York media market.

Mr. DOWNEY. Yes. For the most part, he had not only this uncanny sense of what the press thought was important, but an uncanny sense of what was important for our country. And in a place where money, power and influence, getting along, going along, are really much more the premium, TOBY followed very few of those early leads.

He was comfortable with his ideology, and that comfort and enthusiasm for the ideas that he espoused, he managed to infect—I do not know that that is probably the right adjective or verb—infect others around him. He was able to make people understand that a government freely elected by the people was good for people and that government had a positive role to play in a whole variety of things, energy, conservation, nuclear power, nuclear freeze. This was really unique and very special.

There are very, very few people who combine the ability to organize, the ability to draw out and the ability to codify ideas in a way that is palatable to legislators, palatable to the media, and palatable to people.

He was able to do all those three things. Frankly, he was without peer and is without peer in this matter.

I am quite sure that the next 2 years, the next 4 years, whatever Congressman MOFFETT does in that time he will do well and that our country will profit from his doing it.

Mr. MILLER of California. Speaking of profit, let us stop right there. This is an important point that the gentleman has made.

At one of our first meetings when the gentleman from New York and the gentleman from Connecticut that we are talking about, at one of our first meetings there was a consideration of the Giants versus the Redskins and I remember discussing profit there and I remember discussing whether or not the Giants could enhance our effort, realizing the American dream of profit, or whether the Redskins could.

The gentleman from New York said very clearly, over the advice of the gentleman from Connecticut, that all the Redskins had to do was to simply show up and we were home free.

Well, it was not free. I notice this weekend the Giants are coming back to town. I do not know if that is symbolic, that Mr. MOFFETT is leaving here. I would like to know if the gentleman would suggest, in his engagements with the gentleman from Connecticut, has profit been there?

Mr. DOWNEY. There is no question that the gentleman from Connecticut (Mr. MOFFETT) was much maligned for his anticapitalist tendencies. Very few people who really knew Mr. MOFFETT, those were the people who did not know him, would say that those of us who knew him closely knew he was an entrepreneur of the most unusual sense. He was a man who was capable of seeing a good deal and moving to it.

Among the good deals that he saw most recently was the Georgetown-Virginia contest, and he picked the Virginia squad, much to his happiness and his profit.

Throughout his tenure here, he was capable of seeing a winner and a loser and understanding a point spread with rare, rare ability.

This is not found in many individuals.

The gentleman, of course, brings up a very sore point with me. Of course, the gentleman is talking about the 1979 Giants, weak in linebackers and even more tepid in the defensive secondary. But that particular day there was no question that Mr. MOFFETT saw something that I did not see, an inspired Giant squad, a poorly motivated Redskins squad.

Mr. RUSSO. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I would be delighted to yield to the gentleman from Illinois.

Mr. RUSSO. Rumor has it, on pretty good reliable sources, some of the same sources that the media use, that the gentleman from Connecticut is seeking a free agency in baseball and there is a possibility that maybe the New York Yankees, in dire straits for a very sure handed shortstop, an excellent hitter, could use a gentleman of Mr. MOFFETT's abilities.

As I recall the first game we had in 1975 as freshmen, the second play on national television, which was the Joe Garagiola show, was our great friend from Connecticut playing shortstop. A slow roller was hit to him. He bent down to get the ball, never came up with the ball, the ball went out to the outfield.

Mr. MILLER of California. It must have been somebody else's fault.

Mr. RUSSO. It was a possible double play. He went through the entire motion, faked out our second baseman who thought a ball was coming to him, and nothing happened.

We almost lost the ball game if it was not for the abilities of some of the other members of the team.

I must admit TOBY MOFFETT, I do not think TOBY has ever gotten a hit in any game in the 8 years he has been here.

Mr. MILLER of California. When the gentleman suggested the term "free agency," that means that he would work for the Yankees for free, because clearly his talents would not allow a six-figure salary.

Mr. DOWNEY. On a sensitive point, I want to say that I participated in that first game.

Mr. Speaker, I would like to record to show at this point we have been joined by the gentleman from Massachusetts, Mr. MARKEY, the original author of the nuclear freeze and one of the giants in that effort, as well as its preeminent expert.

□ 2400

I want to say that the gentleman from Illinois does the gentleman from Connecticut a disservice, because rarely have I seen a shortstop look better than TOBY MOFFETT did in his Baltimore Oriole uniform. The fact that several of the balls hit to him managed to elude his grasp I think is nitpicking. Frankly, he looked terrific at shortstop in the warmups.

Mr. MILLER of California. A lot of discussion has been given here tonight about how TOBY MOFFETT looked, and there has been a lot of discussion about form over substance. Tell us again how he played his position.

Mr. DOWNEY. He looked excellent in practice.

Mr. RUSSO. His hair was always combed.

Mr. DOWNEY. Always combed. The hat fit him in sort of a jaunty manner that really defies description.

Mr. RUSSO. His uniform was never dirty.

Mr. MILLER of California. Explain again, when he went down for the ball, what happened?

Mr. RUSSO. He said, "MARTY, help me."

Mr. MILLER of California. Mr. Speaker, I would be delighted to yield to the gentleman from Massachusetts (Mr. MARKEY) who has studied now 6 years in the Moffett media school and accelerated in his class.

Mr. DOWNEY. Also a gentleman who has an unerring sense of the camera lens and how to project himself on it.

Mr. MILLER of California. And predictions. The gentleman from Massachusetts is very good at predictions.

Mr. DOWNEY. No, question, the gentleman from Massachusetts has an uncanny grasp of the obvious.

Mr. RUSSO. If the gentleman will yield for one other comment, it is appropriate that the gentleman from Massachusetts would participate in this. They play the game of basketball the same way.

Mr. MILLER of California. Gun and run?

Mr. RUSSO. Big O and no D. Two more famous individuals in the House gym in basketball are ED MARKEY and TOBY MOFFETT. Neither can shoot well, but shoot often. Neither knows how to play defense.

Mr. MILLER of California. I yield to the gentleman.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for holding this special order. I come to praise Caesar, not to bury him. I have tried to, as best I could, to emulate the master, TOBY MOFFETT. None have been better in their political or athletic career.

Mr. MILLER of California. Never have so many tried.

Mr. MARKEY. Never tried to hug the limelight, but at the same time always performing at his superb level of performance that would be expected of someone who is trying as best he could to give leadership to the others who need it to be pointed in the direction of victory. TOBY MOFFETT has given us that kind of guidance over the years.

The gentleman from New York (Mr. DOWNEY) in many, many areas—arms control among them—is considered to be an E. F. Hutton in this body, and I have been honored to call him my friend, but none have excelled in more areas of public policy in my 6 years in public policy than TOBY MOFFETT. I have been able to watch him from the vantage point as a co-member of the Energy and Commerce Committee since the day I arrived in Congress.

The gentleman from Connecticut has always demonstrated an ability to take on the very, very tough issues of the day and to give a point of view that would not have been expressed in the committee deliberations unless he was present. He had the ability to take on, not just the special interests, not just an unpopular point of view, but oftentimes the most difficult thing that any person in this body has to do, and that is the leadership. Those are the people in responsibility, through the seniority system, who have risen to positions of power, and for the most part, unfortunately in characterizing this body, I have deferred to in an unnecessarily deferential way.

Early in his career—1974, 1976, 1978—I think he was very instrumental in helping to break down a system that I think was not as productive as it could have been, because that undue deference was paid to that seniority system. The criticism that he took, the price he had to pay politically early on in his career was eventually vindicated, and we now have a system, I think, which is much more open, much more capable of dialog, than had ever been possible before in the history of this Congress.

I think none were more responsible than seeing that new openness, that window placed open so that people could look in and see, that window of openness that TOBY MOFFETT gave to the citizens of this country to see how their Government worked.

Mr. DOWNEY. I make a point here about the gentleman's eloquence and also about the gentleman's tie. Is not that the same tie I have seen the gentleman wear four times last week?

Mr. MARKEY. This is what TOBY MOFFETT always said, if you have a good point, do it over and over again. TOBY MOFFETT would miss a shot four, five, six, seven times in a row, but never in any way—I think we could all say that about TOBY MOFFETT—his confidence was never for a moment stultified by any lack of success.

Mr. DOWNEY. I do not think there is any question that he could be amply characterized as a Michaelangelo of the media, as well as the sculptor of great ideas.

Mr. MARKEY. If I may, TOBY MOFFETT did not consider the hearing that he conducted a success unless five cameras were placed there.

Mr. MILLER of California. Sort of set a standard for us, the five-camera standard.

Mr. MARKEY. His staff deserves a lot of credit for those cameras, but I think the Congressman himself has to be given the vast bulk of credit. He had a telegenic quality that drew cameras. His presence will be greatly missed except for the gentleman from New York, who now sees a vacuum he can fill.

Mr. MILLER of California. I want to thank the gentleman from Massachusetts (Mr. MARKEY) for his remarks and for his contribution, his significant contribution to this special order.

I yield to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding. In all frankness, it was my intention to go home this evening. I happened to turn on the television, and I thought I was seeing a new pilot program to replace the "Tonight Show," and hoping that I might be able to participate in that pilot I rushed over here, because I did want to add my words to the praise that has been given to our good friend, TOBY MOFFETT, who I notice is not present in the Chamber.

I guess for the first year that I was in the Congress I had always thought that TOBY was Italian, and I found out to my great disappointment that he is in fact Lebanese, but ethnics do appeal

to me and for that reason I wanted to come over and praise him, because he has been a good friend.

In all seriousness, he is somebody whose great ability has been to make waves in the process. I think that is something that we need more of in terms of the Congress; his knowledge, his understanding, and perhaps most of all, his friendship has been important to us. For that reason, I did want to come over and share in this praise that he fully deserves.

Mr. MILLER of California. I want to thank the gentleman for his contribution, and I want to say to those who are watching, if they will telephone, if you phone you can have the last word and phone in, was TOBY MOFFETT a success or a failure?

But, if the gentleman from New York has anything further to say I would be delighted to yield. If not, let me say in all seriousness the tribute and the fact of the number of Members who showed up here tonight, and the tribute they have paid, is in fact a tribute, a standard that has been set for public service, but it is also a tribute that all of us are fortunate enough to call a friend. TOBY MOFFETT has been our friend, and that is why we have been a little bit lighthearted here tonight, because we expect to continue to enjoy that friendship. We look forward to spending New Years again with Myra and Mary Ellen and Julia and other friends. This is not a man you forget easily. This is a man that I expect to continue to work with and together tonight, tomorrow, and throughout the future.

□ 2410

In no sense of the word is TOBY MOFFETT leaving public service, in my mind.

Mr. Speaker, I want to thank all of the Members who participated, and I also want to make a point that was touched on by the gentleman from Massachusetts. As much as we respect TOBY MOFFETT's legislative ability and his ability to challenge the interests in the issues, we also respect his ability to assemble what I think is one of the great staffs that have worked together on this Hill and worked together as a family and as a unit to provide support for one of the really rambunctious, creative individuals who has come to the Congress of the United States.

I personally would like to thank them for their help and their efforts on behalf of the same issues and on behalf of the same interests that have been the public interests. I want to thank them for the many long hours and the many weekends they have spent in this effort together in a real partnership. It is one of the few times we will see it in Congress—a real partnership between a staff and a Member of Congress.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Speaker, I want to say very simply, that the history of Congress has been enriched by TOBY and he will join the list of Henry Clay, Allard Lowenstein, and others who have had a tremendous impact on this institution.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I think that when the chronicle of the politics of the last quarter of the 20th century is written, TOBY MOFFETT's name will stand out as 1 of the 10 outstanding Members of Congress, those Members who stood up for the principles they believed in and made a real difference in the important public policy decisions that were critical in questions of defense, energy, and the economy. His name, along with others, such as John Moss and MOE UDALL, will be, I believe, engraved in the history of this country.

Mr. MILLER of California. Mr. Speaker, I would just like to say that it was said during the campaign, and it has been proven true in his years of service, that one good person can still make a big difference.

● Mr. MCKINNEY. Mr. Speaker, I will have a special reason for missing TOBY MOFFETT when he leaves this Chamber in January. As the senior member of the Connecticut delegation at the ripe old age of 51, I have enjoyed having TOBY in the No. 2 spot to remind me that seniority does not translate into age. BILL RATCHFORD, with silver gray hair at age 48, will assume the second spot and will never offer me the same excuse.

More seriously, TOBY MOFFETT is a man of ideas and a man of energy. Although we sit on different sides of this Chamber and frequently differ on issues, I have always respected him as a thinker worth listening to. We have always shared a concern for providing residents of the Northeast with adequate energy resources at a reasonable cost. The people of Connecticut's Sixth District for the past 8 years have had a Congressman whose boundless energies have served them well.●

● Mr. BOLAND. Mr. Speaker, I am delighted to join my colleagues in paying tribute to the Honorable ANTHONY TOBY MOFFETT of Connecticut who will be leaving the House at the end of this Congress.

Since TOBY MOFFETT was elected in 1974, he has established a notable record of legislative action. He has tirelessly fought for the people of his district, his State, and the entire Nation. He has gained a well-deserved reputation as an effective and thoughtful representative of the Nation's consumer interests.

TOBY's significant work in the area of energy earned him the chairmanship of the Energy Subcommittee of the Committee on Government Operations. In this position, and as a member of the Commerce Committee, TOBY has contributed a great deal to America's energy policy. The energy problems which face America today often seem intractable and attempts at their solution always arouse controversy. The House has been fortunate to have TOBY MOFFETT playing a leadership role in these areas. He has always been willing to spend long hours studying these problems, and to place himself at the center of the highly charged debate which surrounds them.

It has been a pleasure for me to work with TOBY on matters of common concern to our constituents. Because he is a native of Holyoke, Mass., because the Sixth Connecticut District adjoins my district of Massachusetts, and because I know his fine parents, I consider TOBY to a friend and neighbor. I extend to him my best wishes for success in his future endeavors.●

● Mr. ANNUNZIO. Mr. Speaker, I rise today to pay tribute to the Honorable TOBY MOFFETT, who has ably represented the people of the Sixth District of Connecticut in the U.S. House of Representatives for the last 8 years. His record of excellence and creative accomplishments as a citizen, as a public servant, and as a Member of Congress are most worthy of recognition.

Before coming to the House of Representatives, TOBY served as the Director of the Office of Students and Youth for the U.S. Commissioner of Education from 1969 to 1970, and as a staff assistant to former Senator Walter Mondale from 1970 to 1971. He also compiled a record of outstanding achievement as the director of the Connecticut Citizens Action Group from 1971 to 1974, and he is a man of exceptional writing abilities and teaching skills, who has been active in civic and community affairs, as well as consumer advocacy.

Elected in 1974, TOBY MOFFETT has served with distinction as a member of the House Energy and Commerce Committee as well as a member of the Subcommittees on Health and the Environment, on Fossil and Synthetic Fuels, and on Commerce, Transportation, and Tourism of that committee. He has also given outstanding service as the chairman of the Subcommittee on Environment, Energy, and Natural Resources of the House Government Operations Committee. His dedication to high standards is an inspiration to his friends and fellow citizens, and he will be missed here in Congress by all

of us who have had the opportunity to work with him.

I extend to TOBY MOFFETT my best wishes for continued success in all of his future endeavors, in devotion to the highest principles.●

● Mr. JONES of North Carolina. Mr. Speaker, I join with the majority of the Members of this House in realizing the loss of one of the more popular Members; I refer to my good friend, TOBY MOFFETT. It was always a pleasure to discuss legislation with TOBY as he was always understanding and in most cases, fully cooperative.

On a more personal basis, I do not know of any Member of Congress above the Mason-Dixon line who was as well informed about the athletics of the Atlantic Coast Conference. He knew all the names of the players of the major schools, such as North Carolina State University and the University of North Carolina. I mention this to show just how well-rounded and well-informed he is. Of course, I shall miss this camaraderie, and certainly want to wish him and his family well in the years ahead. I am sure whatever career he decides to pursue, he will prove to be an outstanding success. Even though he will not be with us after January, I shall consider him a friend, and in closing, offer him not only friendship, but any assistance that I might lend him in the years ahead.●

● Mr. MITCHELL of Maryland. Mr. Speaker, I am pleased to join my colleagues in this tribute to yet another fine Member who will not serve with us after the current session. Representative TOBY MOFFETT will not return next year and I will certainly miss this spirited man who has dedicated his tenure in Congress to such causes as consumer protection, legislative oversight, and energy conservation.

Representative MOFFETT has held strongly to his various missions. His voice has often been heard on behalf of this Nation's poor, elderly, and youth. Additionally, he has utilized his various House positions to draw attention to inequities and injustices.

It has been quite apparent that, during his years of service in the House, TOBY MOFFETT has remained steadfast in his commitment to the consumer. He has conducted in-depth probes into ground water contamination and related toxic waste problems, the controversial oil import fee, automobile miles-per-gallon standards and test procedures, "pork-barrel" dam projects, emergency planning around nuclear powerplants, and the taxpayer-funded Synthetic Fuels Corporation. His expertise and commitment brought needed congressional attention to such sensitive, critical issues.

Mr. Speaker, it is often that we realize that we will miss a departing colleague. However, I believe that Mr. MOFFETT will continue to work arduously on behalf of those causes for which he fought in the Congress. He is entering other arenas of public service and I am certain that his contributions will be just as valuable. I wish him the very best.●

● Mr. WAXMAN. Mr. Speaker, when TOBY MOFETT retires at the end of this session, the House will lose one of its finest Members and I will lose having a good friend as a colleague. I wish to take this opportunity not only to wish TOBY well, but to pay tribute to his work here and consider what his retirement will mean to us.

TOBY MOFFETT came to Congress as part of the much heralded class of 1974. As a fellow member of that class, I have been constantly impressed with how quickly TOBY mastered difficult and important issues and translated popular rhetoric into legislative victories. We have read the stories on how special interests have come to control Congress. The truth is TOBY was captivated by a special interest—it is called the public interest, and he has fought for it in every battle he has entered. It is futile to recall every cause TOBY has championed, but it is essential I at least acknowledge his tremendous contributions to environmental energy and consumer legislation. Both as chairman of the Environment, Energy, and Natural Resources Subcommittee, and as a member of the Energy and Commerce Committee, TOBY has stood as Horatius did at Tiber and protected the public interest.

Perhaps no issue illustrates TOBY's commitment and skills as his work on acid rain. Several years ago the public and most Members of the House were unaware of the emerging acid rain problem. TOBY read the studies, looked at the acidification of lakes, and realized the need for Federal legislation. Through his efforts we have all been educated on the problem, and it is now one of the public's highest pollution concerns. Acid rain legislation will not pass this year, but I will be supporting strong legislation during the next Congress. When that legislation is enacted, it will be a fitting tribute to TOBY's dedication and vision.

It is obvious TOBY's talents will be missed here. I will miss his friendship and the abilities he brought as an ally. But after speaking to TOBY, I am confident we will be working with him in the coming years. I know we all wish him the success that is his due.●

● Mr. ROSENTHAL. Mr. Speaker, TOBY MOFFETT has been a friend and close colleague since he came to Washington in the 94th Congress. We represent constituents in adjoining States. We share a Government Operations Committee assignment and are both subcommittee chairmen there. Each of us has a special interest in consumer and environmental issues; and in democratizing the committee system so that newer and younger Members of Congress can more effectively participate in the legislative process.

TOBY has been able to accomplish what most Members of Congress only aspire to: Success in tackling some of our Nation's most difficult problems without sacrificing his dedication to the day-to-day needs of his constituents. As chairman of the Environment, Energy, and Natural Resources Subcommittee, TOBY compiled an enviable record of investigative hearings which exposed taxpayer giveaways to the energy industry, nuclear energy hazards, natural gas and crude oil price gouging, and exploitation of our Nation's finite natural resources.

TOBY MOFFETT has been the quintessential legislator: Compassionate, tough, dedicated, fair, and resourceful. What we have witnessed during these past 8 years is merely chapter 1 of what I know will be a long and successful public career. Given the significance of his past accomplishments in so short a time, I can hardly wait for chapter 2.●

● Mr. ST GERMAIN. Mr. Speaker, since first coming to Congress, our esteemed colleague, the Honorable TOBY MOFFETT, has been a strong advocate of consumer rights. He has served his constituents and the Nation well with his vigilance in monitoring the activites of the energy industry. At a time in our history when we saw soaring energy costs and inadequate supplies, TOBY was in the forefront of those questioning the reasons for the situation and searching for equitable solutions to our price and supply problems. He has earned a reputation as a tenacious fighter for consumers and, as chairman of the Subcommittee on Environment, Energy, and Natural Resources, he has become a major congressional spokesman in these areas.

As fellow southern New Englanders, we have worked together for many common goals. His energy, enthusiasm, and intelligence have proven invaluable assets to the New England congressional delegation. I have followed TOBY's career closely since he came to Congress. The qualities which made him quickly become a leader of his class will assure his future success. I wish him the very best and know that, whatever he chooses to do, we can expect to hear from TOBY MOFFETT.●

● Mr. SYNAR. Mr. Speaker, I appreciate the opportunity to participate in this special order for my friend and colleague from Connecticut, TOBY MOFFETT.

I have served closely with TOBY not only as a Member of the House, but particularly by our work together on the Government Operations Committee and the House Energy and Commerce Committee.

As you all know, TOBY has served with distinction as chairman of the Government Operations Subcommittee on Environment, Energy and Natural Resources, and I have been lucky to serve with him on that subcommittee since first coming to Congress.

During the 4 years I have worked with him, TOBY has brought literally scores of important issues before the committee and before the House of Representatives. I know you are all familiar with these issues and with TOBY's leadership in his capacity as chairman of that subcommittee, so I will not reiterate his many accomplishments in that area.

But I do want to say a few personal words about TOBY and my work with him. I think that the highest compliment one can pay a fellow colleague is to say that he always stands up for what he believes is right. And, as much as any Member I know, TOBY has consistently stood up and fought for each and every cause he believed in. And as important, he fought those battles openly, and with forthrightness and integrity.

There have been some issues in the past 4 years over which we disagreed—sometimes very strongly. But I always knew where he stood; and, in a time when many politicians try to be all things to all people, his candor was always refreshing. And no matter that we disagreed, I always learned something from his perspective on issues.

I will miss his leadership on many issues in which we share a mutual interest. I will miss our sometimes lively debates on other issues. And, I will miss him as a friend.●

● Mr. BONIOR of Michigan. Mr. Speaker, it is always hard to say goodby to those of our colleagues who will not be returning in the next session. Seeing TOBY MOFFETT leave, however, will be particularly difficult.

TOBY is a dear friend. Over the last 6 years, we have fought together for environmental and energy causes, have played basketball and baseball together, and have learned to trust and depend on each other.

Our backgrounds are so similar, and our interests are so much alike that I know I will be losing a close friend and not merely a colleague. I know also that TOBY has much more to offer his district, to the State of Connecticut, and to this country. I look forward to the day when we will again see him in public office.●

● Mr. STARK. Mr. Speaker, I join with my colleagues and friends of TOBY MOFFETT to congratulate him on his years of outstanding service to the Nation and the people of Connecticut—and to wish him a speedy return to public life.

Seldom has the House or the country seen a Member of Congress accomplish so much in such a short time. TOBY has displayed burning energy, and enthusiasm for public service; he has showed us all how to better use the "bully pulpit" of a congressional office to help protect the consumers and workers of America. He has shown us how to use a subcommittee to investigate, shed light, and arouse public concern over key environmental and energy issues. His work on toxic wastes, energy and auto efficiency, unwise public works projects, and the havoc which would be wreaked by an oil import fee, have helped improved the lives of all Americans.

TOBY's leaving will deprive the House of one of its best "oversighters"—unfortunately at a time when we need him more than ever.

He has demonstrated again the old truth that eternal vigilance is the price of liberty—and of good government.

I am going to miss his presence in this Chamber. His wit and courage are an example to us all. I can only hope that he will soon find another platform to continue his work on behalf of the American people.●

● Mr. SAM B. HALL, JR. Mr. Speaker, when my friend TOBY MOFFETT leaves the House at the end of the "lameduck" session, Congress will have lost one of its more energetic and effective young Members. He has boundless enthusiasm for the give and take of politics, and while our views are not often parallel, I have the greatest admiration for his ability and integrity.

As we all know, TOBY MOFFETT ran a tremendous Senate campaign in his native State of Connecticut and came very close to success against a popular encumbent. On the basis of this strong campaign and his statewide image as a spirited fighter for environmental and consumer causes, I predict that he will soon be back in the political arena. He has already enjoyed outstanding success at the polls.

I have enjoyed serving with TOBY MOFFETT and wish him well in his future endeavors.●

● Mr. AKAKA. Mr. Speaker, I am pleased to join my colleagues today in tribute to the gentleman from Connecticut, TOBY MOFFETT on the occasion of his retirement from the U.S. Congress.

TOBY is best known for his efforts on energy policy, particularly in regard to consumers' rights. However, his commitment to social activism did not begin when he entered the House of Representatives in 1974. His concern for the rights of others began long before that. Whether it was as a teacher in Boston's inner-city schools, as the first director of HEW's Office of Students and Youth or as executive director of the Connecticut Citizen Action Group (CCAG), TOBY has consistently worked for the disenchanted, disenfranchised or unrepresented people of this society. His work with the CCAG was particularly successful, leading to that group's role as a national model for citizen advocacy groups.

My colleague's brand of social activism is also somewhat of a pioneering effort. He is a serious legislator who works very well within the system. His understanding of the House led to his chairmanship of the Energy Subcommittee on Government Operations. He has used this position to good effect, most notably by leading the effort which rejected a proposed dime-a-gallon oil import fee.

As TOBY leaves the House to return to Connecticut, we certainly will miss both his counsel and his wisdom.●

● Mr. OBERSTAR. Mr. Speaker, TOBY MOFFETT's heartbreakingly close loss in his Senate race is a loss not only for the Senate, but for all of us in the Congress and throughout the country who are working for a responsible energy policy, environmental protection, vigorous enforcement of our consumer laws, for a commonsense and cost-conscious approach to defense spending.

In the tremendous scope of his legislative activities and the unsurpassed energy which he has brought to his official duties, TOBY MOFFETT has set a standard by which other Members are judged. He brought to this House his enormous enthusiasm and competence as a consumer advocate. He remains as passionate and as effective an advocate as the day he entered this House.

Quite simply, the Congress will not be the same without TOBY. He would have been a tremendous Senator for the people of Connecticut and for the Nation. His commitment to peace and to progressive domestic policies would have made him a tremendous ally in the Senate for those of us deeply concerned about the misallocation of the national budget and its grotesque emphasis on nuclear weaponry at the expense of human services programs.

There is no doubt that only a chapter in the book of TOBY MOFFETT's political career has come to an end. Those of us who know TOBY and respect his ability and dedication to public service will not be surprised should TOBY join us again either as a colleague in this House or as a Member of the other body.

I hope the next few years will be rewarding ones for him, as he has the opportunity to explore diverse professional experiences, as well as the joys and privacy of a temporary retirement.●

● Mr. LONG of Louisiana. Mr. Speaker, ANTHONY TOBY MOFFETT will be leaving the House at the close of this session of the Congress. Today, I am pleased to be able to make a few remarks about TOBY before he leaves our ranks.

For the past 8 years, it has been an honor for me to have TOBY MOFFETT as a fellow Congressman. From the very first day of his service in the House, TOBY has been one of the hardest working Members in this body. TOBY has diligently and unceasingly sought to defend and advance the interests of his Connecticut constituents. At the same time, TOBY has been a vigorous defender of the House as an institution. We have shared a common interest in seeking to improve the legislative process.

During his time in the House, TOBY has been a vigorous defender and advocate of the consumer. He has been recognized by his colleagues as a vigilant overseer of the bureaucracy and the executive branch. For TOBY, "oversight" is much more than just a word used by political scientists. He has shown all of us how oversight can be used effectively to make our political institutions responsive and accountable. In his time of service in this body, TOBY has conducted in-depth probes into ground water contamination and related toxic waste problems, the controversial oil import fee, automobile miles-per-gallon standards and test procedures, "pork barrel" dam projects, emergency planning around nuclear powerplants, and the taxpayer-funded Synthetic Fuels Corporation.

For myself, I have to admit that I have met few individuals with the wide range of interests and the energy that I have observed in the time I have known TOBY. In addition, he is a man of character and integrity who has brought great credit to this body. It was typical of TOBY MOFFETT the man that he did not seek to hide or cover up his feelings after his recent loss in Connecticut's senatorial election. However, I, along with all his other friends, have been very pleased to see the way he has bounced back from this temporary setback.

We do not know what the future holds for TOBY MOFFETT. Yet, each of us can rest assured that TOBY will find a way to continue serving the people of this country. My friend, we shall miss you in this body. I wish you the very best in the years ahead.●

● Mr. RAHALL. Mr. Speaker, first off I would like to thank the gentleman from California, Mr. MILLER, for setting aside this period of time so that we may have an opportunity to express our thanks and appreciation to a Member of this body, who has served his State, district, and Nation with distinction, TOBY MOFFETT.

During the 8 years he has represented the Sixth District of Connecticut, TOBY MOFFETT has never let things just "go along as always." He has been one to shake the system, from time to time, and has always made it a point that the best interests of the people be served.

As chairman of the Subcommittee on the Environment, Energy, and Natural Resources, TOBY fought President Carter's dime-a-gallon oil import fee; he fought the decontrol of oil prices; he worked for numerous energy conservation programs; and always took the side of the consumer, especially those in New England who often took the brunt of higher energy prices.

His career, for now, has been cut short here in Congress, but knowing TOBY, his efforts will not cease. His principles remain the same, his goals have been unaltered, and I know that he will fight another day.

Our personal friendship has grown over the time we have both spent in this body. In January 1980, we traveled to the Middle East together, and visited the land of our grandparents, Lebanon. Our relationship has been strong, because of our similar ethnic backgrounds, and even though he will not be a Member of the 98th Congress, I am pleased to know that our friendship will carry on in the years to come.

I wish TOBY, and his wife, Myra, the very best, and hope that all their future endeavors are successful.●

● Mr. ROYBAL. Mr. Speaker, I take this opportunity to pay tribute to one of the hardest working and most dedicated Members of the House. For 8 years TOBY MOFFETT has provided this body with the principles, visions, and creative ideas so badly needed in these turbulent times. Through his commitment to justice and the ideals of peace TOBY has been a courageous leader and a reliable ally in the difficult battles.

I know I speak for my colleagues when I say that we are honored to have had such a fine human being among us and we respect his many contributions to all the people of this Nation.●

● Mr. FORD of Michigan. Mr. Speaker, it is with great pleasure that I join with my colleagues in paying tribute to ANTHONY TOBY MOFFETT. I will truly miss TOBY as both a friend and a colleague when he leaves the House of Representatives at the end of the 97th Congress. As a member of the "Watergate class" of 1974, TOBY brought to Washington a dedication to social activism and an energetic and aggressive style. After only 4 years in the House, TOBY was elected to the chairmanship of the Government Operations Subcommittee on the Environment, Energy, and Natural Resources—a mark of the high esteem in which TOBY is held by his colleagues.

TOBY has long fought to benefit consumers through his actions and votes in the House. TOBY led the fight against the decontrol of natural gas and, as winter is upon us, we are now seeing the dire consequences of decontrol. He has continued his battle to assist in lowering the costs of heating fuel to a more affordable level for consumers throughout the Northeast and the remainder of the Frost Belt. The people of the Sixth District of Connecticut, as well as consumers everywhere in the United States, are losing a fine Representative in Washington.●

● Mr. MATSUI. Mr. Speaker, it is with a profound sense of regret that I join my colleagues this afternoon and pay tribute to TOBY MOFFETT, who will be leaving this House after 8 years of distinguished service. TOBY's wit, intelligence and style have often infused this body's debates with an infectious spirit, one of which we are saddened to be cured.

I have had the pleasure of serving with TOBY on the old Interstate and Foreign Commerce Committee, where I witnessed his ingenuity and talent firsthand. This Nation has TOBY MOFFETT to thank for his pioneering efforts in articulating the extent of the contamination of underground water supplies by hazardous wastes and motivating the Government to take curative action.

TOBY's legislative record attests to his abiding concern for the rights of all Americans to receive equitable treatment from their Government and the various institutions which comprise our society. His championship of environmental and consumer oriented legislation has translated into a better life for all Americans, especially those generations not yet born. TOBY learned well from my predecessor, John Moss, and conducted thorough oversight investigations into the activities of Federal agencies to insure they were serving the public interest by carrying out their statutory mandates.

In closing, I would like to share the last stanza of a poem by Robert Frost which epitomizes TOBY's attitude and contribution to the House of Representatives:

I do not see why I should ere turn back
Or those should not set forth upon my track to overtake me.
Who should miss me here and long to know if still I held them dear.
They would not find me changed from him they knew
Only more sure of all I thought was true.

TOBY, I wish you Godspeed.●

● Mr. RODINO. Mr. Speaker, I want to take this opportunity to recognize an outstanding Member of this House, TOBY MOFFETT, who is leaving Congress at the end of this term.

For the last 7 years TOBY MOFFETT has devoted himself to fighting for the best interests of all the people over the special interests of a few. As a member of the Energy, and Commerce Committee, he has been an articulate and knowledgeable spokesman for the cause of energy conservation, reminding this House and the Nation of our commitment to a safer, cleaner, and more energy efficient environment.

His vigilant oversight of the Federal bureaucracy has held our Government

accountable to the people and protected American consumers from abuse.

His work for tougher regulatory standards for nuclear power plants has made safety a certain priority for our future energy sources.

His contributions to a sensible policy for stopping the spread of nuclear weapons has helped to put this administration on notice that the people of this country want action to preserve world peace.

The gentleman from Connecticut has never failed to take the House floor to argue for the rights of those Americans who too often find themselves without a voice—the disadvantaged and minorities—when he has felt those rights were being denied.

A man of principle and strong conviction, TOBY MOFFETT's intellectual independence and vitality will be sorely missed here.

I am proud to have served with him, and wish him all the best in the future.●

● Mr. EDWARDS of California. Mr. Speaker, I am most grateful to my colleague GEORGE MILLER for arranging this special order. I would like to take this opportunity to express my deepest appreciation for TOBY MOFFETT, a tough and talented legislator. TOBY MOFFETT has dedicated his entire life to civic and community service. This commitment has been manifested time and time again working with urban street gangs around the country, teaching in Boston's inner-city schools and directing youth programs.

TOBY MOFFETT embodies that all too rare and noble fighter who is so often needed to champion and safeguard our precious natural resources.

TOBY's earnest commitment to social activism, his staunch advocation of peace and his indefatigable fight for a wise energy policy will not only be sorely missed by this body, but also by this country.

Equally difficult to replace will be TOBY's legislative skills as chair of the Subcommittee on Environment, Energy, and Natural Resources. As a member he has been a sage for our times by persisting to enact a variety of ideas to conserve energy.

As one of this country's leading consumer advocates, TOBY has never been reticent in speaking out. Though he will no longer be with us, his eloquent voice and ideas will continue to exist in this body.

As a good friend of TOBY's, I am very aware of what a positive, energetic, and determined force he has been for consumer advocates and environmentalists. I will deeply miss his indomitable spirit and relentless energy which has inspired many of us seated here.

When TOBY first arrived here 8 years ago he injected some healthy and long needed criticism of this staid body. I hope we can pay TOBY everlasting tribute by taking advantage of his fair and undeniable constructiveness.

We have not heard the last of TOBY MOFFET. Even in his defeat TOBY has manifested his courageous spirit. His valiant effort tells us all that we can expect him to be a continuing dynamic force in our society.●

● Mr. BROOKS. Mr. Speaker, I regret very much that TOBY MOFFETT will not be returning as a Member of the 98th Congress next month. He has been a valuable Member of the House of Representatives for the past 8 years, and we will miss his clear, constructive thinking and the articulate expression of his views that have contributed so much to our deliberations.

We on the Government Operations Committee will especially miss TOBY. As chairman of the Environment, Energy, and Natural Resources Subcommittee, he conducted a number of important investigations of nuclear plant safety, ground water contamination and administrative shortcomings in the Department of Energy and the Environmental Protection Agency. He has been an ardent champion of the rights of consumers and has forcefully and effectively opposed those special interests that would exploit them. His efforts in this area have been of great benefit to people across the Nation and they, too, will miss him.

TOBY is still a young man and I am sure that with his strong sense of public service he will continue to make a solid contribution to the general welfare for many years to come. In whatever he endeavors, I wish him well.●

● Ms. OAKAR. Mr. Speaker, as I reflected on the accomplishments of our young colleague, TOBY MOFFETT, I was struck with how much he has accomplished since his 1974 election:

The American Conservation Corps, a youth jobs program which may employ as many as 100,000 of our youngest citizens;

Environmental legislation which attempts to make this world a better place for all of us, regardless of economic background;

Legislation which I term "people legislation," like strong medicaid, social security, and pensions;

Internal rules changes in our great party which help promote Members who have proven their ability to lead and legislate; plus much more.

Of TOBY MOFFETT it can be said that he not only tried, but succeeded.

Mr. Chairman, like myself, TOBY comes from a working class background. He has worked his way up, at one point becoming the head of the Connecticut Citizen Action Group—a group which became a model for similar organizations throughout the country. In Congress he has consistently fought the big oil companies and the administration, trying to prevent deregulation of natural gas because it would hurt the majority of people while helping a few big companies.

His global vision was extraordinary, so TOBY pushed the nuclear freeze petition and advocated the banning of nerve gas production.

Of TOBY MOFFETT it can not only be said that he "tried, tried very hard" but that he left a legacy which endures.

Good luck, TOBY. And keep it up! We need you!●

● Mr. ROE. Mr. Speaker, I rise today to join my colleagues in paying tribute to TOBY MOFFETT, the able Representative of the people of the Sixth Congressional District of Connecticut for the past 8 years.

TOBY has been a fine Congressman who has dedicated his years here to bettering the lives of all Americans. His dedicated work as chairman of the House Energy Subcommittee on Government Operations has propelled him into the national spotlight as a key spokesman on the highly important issue of energy development.

Though a young man of only 38 years, TOBY MOFFETT's life has been dedicated to the service of others. After graduation from college he took a job teaching in Boston's inner-city schools. During the late 1960's he traveled America trying to increase job opportunities for disadvantaged young people. In fact, TOBY once directed youth programs for the Nixon administration.

When TOBY MOFFETT came to Congress in 1974, he occupied the office next to mine in the Longworth Building. I found him to be a man of incredible energy, eager to learn all there was about how the system worked here and how that power could be utilized to benefit those he was elected to serve.

Mr. Speaker, unfortunately, TOBY MOFFETT will not be serving with us when the new Congress convenes next month. But I am quite sure his name will be included as a Member of the House class of 1984.●

● Mr. DWYER. Mr. Speaker, it is an honor to take part in today's special tribute to TOBY MOFFETT. In only four terms as a Member of this body, he has established himself as one of our most preeminent Members, and he will be missed.

Congressman MOFFETT is among our most energetic and dedicated spokesmen, not only for the people of Connecticut's Sixth District, but for the people of this entire Nation as well.

As a member of the Energy and Commerce Committee and chairman of the Subcommittee on Environment, Energy, and Natural Resources, he has become a leader in areas that are vital to our health and quality of life.

TOBY MOFFETT is a man of ideas, principle, and compassion. I am confident that we will continue to hear a

lot about him as he transfers these attributes into other forums.

I want to thank Congressman MILLER for calling this special order for Congressman MOFFETT, affording us an opportunity to offer our appreciation for the many contributions he has made to our work here and extend our best wishes for what we know will be a bright future.●

● Mr. DELLUMS. Mr. Speaker, I am honored, but also saddened to join with my colleagues tonight in honoring my close friend Mr. TOBY MOFFETT, the fine Representative from Connecticut. I am saddened because the Congress desperately needs decent and principled people like TOBY and his absence from the 98th Congress will be a real loss to this institution.

Since coming to Congress with the class of 1974, TOBY has been a forthright advocate of people's rights around the world. He has been a strong supporter of human rights both in the United States and abroad and an outspoken opponent of the powerful special economic interests which unfortunately dominate our society to the detriment of the needs of the great majority of Americans. As a member of the Energy and Commerce Committee and as chairman of the Governmental Operations Subcommittee on Environment, Energy, and Natural Resources, TOBY has led the fight for a rational and equitable energy policy. He fought for policies to meet the needs of America's people and not the greed of the profit-hungry oil companies.

Over the years, his staff and mine have joined together in many efforts to express our "progressive" perspective. None was quite as successful as the venture known as Little Anthony and the Anti-Imperialists, our combined softball team.

This Congress will miss TOBY MOFFETT and I hope that the 99th Congress will be honored with his presence.●

● Mr. JONES of Oklahoma. Mr. Speaker, there is a standing joke in the House that when one of our Members is elected to the Senate, the intelligence level in both bodies is raised.

Here, unfortunately, is a case where both the House and the Senate are losers.

TOBY MOFFETT has been a superb Representative and he would have made a superb Senator starting next year.

But we are here today to praise TOBY MOFFETT, not to conduct a wake.

First, we should praise TOBY MOFFETT's accomplishiments. He has been a fierce advocate of the causes in which he believes. He has won battles and he has lost battles—but he has always been a Congressman who cared, who cared deeply and fought fiercely for what he thought was right.

Second, we should look to TOBY MOFFETT's future. I do not know where he is going right now or where he wants to go in a few years. But you can bet that Connecticut and the United States have not heard the last of TOBY MOFFETT.

Anybody who is still 2½ years short of being 40 years old has a great future ahead. TOBY MOFFETT clearly does.●

□ 1157

SMALL BUSINESS INNOVATION DEVELOPMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

● Mr. LAFALCE. Mr. Speaker, on June 22, the House overwhelmingly passed H.R. 4326, the Small Business Innovation Development Act. The Senate had passed the measure earlier and the President signed it into law on July 22, 1982.

Since the law's enactment, the Small Business Administration and other agencies have moved rapidly to implement its provisions. The SBA has issued expeditiously the required policy directive for the general conduct of the program throughout the Federal Government. The 10 Federal agencies required to establish small business innovation research programs are moving toward the first solicitations for SBIR proposals. In fact, the first SBIR solicitation will be released by the Department of Energy on December 15, 1982.

Throughout the implementation, one question has arisen repeatedly. I want to take a moment to address this question. Small businesses historically have received a very small share of Federal Government awards and grants for research and development. Precise statistics are not available; however, estimates indicate that only about 4 percent of the Federal R&D budget is awarded to small firms. It is now generally recognized that small high technology firms are the most efficient innovators in our Nation's economy. The low percentage of R&D awards to small firms, together with their innovative and job creation potential, was the driving force behind the enactment of the Small Business Innovation Development Act of 1982.

The act, which is also known, as Public Law 97-219, requires a fixed percentage of the extramural R&D budgets of 10 of the larger Federal agencies to be earmarked for award of research or research and development under SBIR programs. The act also requires the establishment of goals for awards of research and development in agencies having R&D budgets of $20 million or more under normal procurement or grant procedures, that is, outside the SBIR programs. The act states that awards by agencies to small firms for R&D outside the SBIR programs cannot be counted as part of the fixed percentage reserved for SBIR programs.

The question has arisen—and it is a crucial question indeed—whether SBIR awards can be counted toward achieving the non-SBIR goals of agencies. The answer is clearly no. The intent of the act was to increase R&D awards to small business through the special provisions of SBIR programs. If agencies can count SBIR awards as part of their overall small business R&D awards, the result might very well be a shift from normal small business R&D awards to SBIR awards rather than a net addition as is clearly the congressional intent.

Mr. Speaker, I appreciate the opportunity to comment on this important point of the Small Business Innovation Development Act. I am confident that the act will help unleash the innovative potential of small high technology firms and result in increased innovation, a broader technological base and increased employment in our Nation's troubled economy.

COLUMBIA GAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, today, I sent the following letter to the chairman of the board of the Columbia Gas Pipeline.

All of us who serve in Congress are hearing with increased frequency that the natural gas prices of our constituents are going up at record rates even though there is, at present, a surplus of supply and a decline in demand. That never happens in a free market.

The explanation is that we do not have, and perhaps we never have had, a truly free market in the natural gas industry. It is regulated, overregulated, and reregulated from one end to the other. Of course, I firmly believe that we should have a free market in natural gas; if we did, the city-gate price which the consumer pays would be declining. To establish this free market, competition must replace regulation in every possible instance.

It will be the next Congress, and not this lameduck session, which will have the responsibility to once again tackle natural gas legislation. I do not envy my colleagues who will return. But I do have a few thoughts that I would like to pass along. For this reason, I insert the following letter in the RECORD at this time.

AN OPEN LETTER TO COLUMBIA PIPELINE,
December 14, 1982.

Mr. W. W. FERRELL,
Chairman, the Columbia Gas Transmission Co., Wilmington, Del.

DEAR MR. FERRELL: I recently received a copy of your news release entitled "Columbia Transmission Initiates Program to Reduce Gas Costs". Part of me wants to say, "It's about time!". Another part of me wants to congratulate and encourage your efforts.

I wish you had taken this initiative sooner. In March 1982, I testified against your gas purchasing practices at a hearing held in Columbus, Ohio, by the Federal Energy Regulatory Commission on combined Purchased Gas Adjustment requests for 1981 and 1982. Those very P.G.A. requests were bloated by an assortment of high-priced gas contracts.

At the time of the Columbus hearing I called on your company to initiate a program to reduce the city-gate price of gas on your system by reducing your obligations for the most expensive sources of your supplies. This program would have allowed your distributor customers to remain competitive with fuel oil. Your industrial customers would have stayed on your system and stayed on without the subsidy from residential users inherent in the "discount" rate you now request. My proposal came not from my experience as an elected official—as you may have assumed—but from my experience as a businessman.

When demand falls, the first response of any business must be to lower the volume and cost of inventory. To do this, in your industry, requires a downward readjustment in the quantities and price of natural gas contracted supplies. Naturally this requires renegotiation of the price clauses and take-or-pay clauses of contracts. To be effective, you should clear the most expensive inventory first and move on until your average delivered price is competitive. That was the nature of my advice to you this past March; had you accepted it, the consumers on your system—many of whom have no other supplier available—would have less expensive gas service this very winter.

But then, you ignored my advice in 1978 when I predicted that the Natural Gas Policy Act (NGPA) would create these problems. You supported it and Congress passed it; I led the (unsuccessful) opposition.

So the years 1979, 1980, and 1981—when the natural gas contracts which have since proven controversial were signed—were years dominated by the policy and flaws of the NGPA.

The NGPA has a number of fundamental flaws. Perhaps chief among them is that it only gave an incentive to producers to produce the exotic and expensive supplies. Since the price payable for new conventional gas was tightly limited but the price for gas below 15,000 feet was unlimited, producers naturally concentrated on producing the more profitable supplies. Some misguided observers saw this and proclaimed that only the center of the earth contains the very last treasures of methane. The pipelines, or their part, were driven by the motivation to increase your reserves-to-production ratio regardless of the cost. At Columbia, you signed one contract after another at never-before-heard-of prices: I understand that you signed one contract at roughly $9 per mcf, and obliged your customers to take-or-pay for this gas at 90 percent, even though your own accounts reported a surplus of supply already under contract at the time. By the way, you had better put that contract at the top of your new program to reduce gas costs?

You were by no means alone. Your pipeline brethren were, as one producer described it, waiting in the hall honing to sign any deal offered. In short, the industry accepted the always false "energy policy" of James ("the end is at hand") Schlesinger and Jimmy (Moral Equivalent of War) Carter: namely, supply is geophysically limited, demand is relentless, and conducting the rationing is the challenge which makes men saints.

When you couldn't buy from the bowels of the earth at $9, you bought from Canada and Mexico. Neither Canada nor Mexico of course, was any longer willing to foolishly supply us with gas at below market rates as they had done for years. They knew they were the marginal supply—they wanted to be paid accordingly. They wanted a price equivalent to oil! President Carter dispatched his Czar! But the Czar didn't start; the NGPA ("the final solution") was incubating in a bitter congressional conference . . . The Czar didn't want to deal with imported supplies until the deck was cut by Congress. With the NGPA safely in law, the Czar struck the sort of deal that made him so well loved, he okayed a schedule of price increases for Canadian gas that put today's Canadian imports, at $4.94, and Mexican imports, at $5.01, substantially above the price of competing fuel oil! And, by the way, the new policy gave the Canadian and Mexican governments the ability to adjust the price unilaterally.

And, the pipelines—yours included—contracted for all they could get.

Well, things didn't turn out the way the NGPA thought they would. Demand does respond to price. It declines. If price doesn't then decline, and even larger surplus develops. (In the energy policy biz, headlines call it a glut.) But the NGPA's rolled-in prices keep rolling-on up. And, only now, do you and your pipeline brethren initiate your programs to reduce gas costs.

My political brethren, or many of them at least, are no wiser. In my book, those colleagues in Congress who voted for the NGPA are now witnessing the beauty of their work. Let us now toast the Democratic leadership of the House of Representatives which sheltered this NGPA from the will of the House in procedural trickery on more than one occasion, solely to save the NGPA from the likes of myself and Toby Moffett (and our coalition of bona fide free-marketeers and bona fide price-controllers).

Let us now toast those who call "Freeze!". Because, by my count, many of them voted to create this anomalous situation and evidentially want to preserve it forever in a timeless, frozen state. How proud the Freezers must be of their NGPA handiwork to put on ice the many recent record-high Purchased Gas Adjustments of Columbia and all your pipeline brethren. Isn't it an irony that Columbia, and many other pipelines, now want to thaw high prices just as so many elected officials call for a Freeze.

Congress is fundamentally a political place and it cannot be expected to be fertile ground for healthy economic thought, which is precisely why so many errors were made in the construction of the NGPA. I always remind my natural gas consumers that the maximum lawful prices paid to producers were set by Congress, as different dollar amounts were mystically arrived by, an inflation index inserted, and chiseled into posterity by politicians. So I call all expensive natural gas "Congressional Gas". Only by literal Act of (Democratic) Congress is $9 gas from 15,000 feet able to be produced and sold, and in great quantities, especially when its value as a fuel is 40-to-60% less. And don't forget about Alaskan gas. It will be one year to the day on December 15 that final approval was given by Congress and the President to force a $50 billion pipeline project for $18 gas into the bills of consumers even if it is never completed and used. Thank God the banks still say "no way" even though so many energy "policymakers" argued that we needed it and need it now.

So Columbia is not solely to blame that such ridiculously expensive gas exists; Congress is. Columbia is to blame for buying it. It was Columbia which ignored the lack of demand already evident on their system and bought it anyway. Perhaps the critical fault was taking the word of "energy policymakers", as if they knew what they were talking about, who said in 1977 that not enough gas would be found at any price to meet likely demand. You are the ones in business. you now know, or ought to, what demand is real and what is merely forecast.

The changes you have experienced this last year are not the result of a "temporary glut". There is no temporary glut. Nor was there in 1977 a geophysical shortage of fossil fuels. Nor does gas from different locations justify different prices. The political energy policymakers who tell you otherwise are the same false prophets who tricked you into this mess: ignore them at all times.

Columbia must change to adapt to this current market because the future of your industry depends upon it. The ups and downs of consumer demand for the product you supply is here to stay. Congress, when it reconvenes in January of 1983, may or may not alter the decontrol schedule of the NGPA. But unless we are to idiotically freeze prices at current unconscionable high levels, decontrol of the wellhead price of gas is necessary and inevitable. It is important to realize that, if done in today's market, immediate decontrol might well reduce the prices consumers pay. It would certainly pressure the pipelines to reverse their recent purchasing practices. From June, 1981, to June, 1982, the average price paid producers increased from $2.00 an mcf to $2.29, whereas the average delivered price charged by pipelines increased from $4.61 to $5.61. Now something turned that $.29 into a dollar! With decontrol will come more sensitivity to price complaints by consumers and more conservation. Will the pipeline industry act like businessmen and adapt to prosper in the market or run to Congress or to FERC for protection from a market switching to other fuels to save money?

I am leaving Congress after 17 years in office. So I will not be here for the debate after this winter's prices begin to give Congressmen and Senators the itch to "do something".

Let me advise you to do something yourselves. There are a number of small producers (really farmers, -realtors and such) in the Southeastern Ohio who have contracts to sell you gas at prices up to the NGPA price of $5.42. (This variety of "Congressional Gas" is known as "Tight Sands".) But for over 150 days you have shut-in their wells, as you continued to take even more expensive gas under your new program to reduce costs. These producers came to Columbia months ago asking to sell their gas to you at a lower price. You still refused to buy and shut them in. They then asked if they could sell their gas to a local industry which can't afford Columbia's NGPA price for gas but you refused to transport it. You told them

the local industry was Columbia's market not theirs, true to the public utility-monopoly theory that has dominated your industry since the 1938 Natural Gas Act. Then—and I'm not making this up—they called a town meeting to ask you to move their gas so they could sell it to the local school district for $2.50, more than 50% off the NGPA price. But still you refused.

So here's what you should add to your program: find those local producers and those school districts and those industries (if they're still there) and tell them you've changed your mind.

And if Congress does legislate in the 98th Congress, tell them about the bill I left behind, H.R. 7122. It would allow the pipeline industry—for the very first time—to actually earn and retain money for transporting gas owned by producers and ready to be sold to willing buyers. You and I know that the heart of the 1938 Natural Gas Act is the idea of preventing a pipeline from making money by transporting gas without first having to buy it and then resell it even though it cannot earn money on the resale. You and I know that my proposal to pay you $.05 cents to move shut-in gas to a willing buyer at, in all likely cases a reduced price, is inconsistent with current industry practices. It is, in short, a new idea.

But did you ever stop to think that one of the reasons Business Week called the financial future of your industry bleak is that you still operate as if it were 1938. Your industry's adamant resistance to grasp its own future is one of the latent reasons why anxious but economically confused politicians shout "Freeze" without understanding that they are, thereby, endorsing the very high prices they complain of and that they are, thereby, preventing the competition and conservation of the marketplace from lowering the price the consumer pays.

Tell Congress that you now realize that if only slightly higher prices had been allowed to develop more conventional domestic reserves of gas in 1977, 1978 and 1979, then the delivered price of gas (which the local gas company passes on to consumers) would actually be lower today, even though the prices paid to the producers would be, on average, higher. Tell them the reason is that conventional supplies could have satisfied the thirst of the pipeline at a much lower price than the deep and the exotic and the imported. And these supplies could have come without the "strings attached" of indefinite price escalators which threaten to send the price of what new gas was elicited by the NGPA up to the price of other "Congressional Gas". But the NGPA would never allow you to bid with cash so you and your pipeline brethren offered high "take-or-pay" provisions, so that you were sure you had that gas "signed up" under contract. Tell them you regret it all. Explain to Congress that's why prices are rising to the consumer in a time of surplus and why your current contracts bind you to pay (and pass on) the cost of gas you can't sell because your customers don't need it.

Admit to Congress that your behavior since the 1978 passage of the NGPA is part of the problem—almost as much as the NGPA itself.

I'm writing to you, Columbia, not just because I've criticized you in the past, but also because you were among the many pipelines which bought too much high-priced "Congressional Gas" because you believed all those doom-and-gloom "energy policy makers" in Congress and the Carter Administration in 1977 and 1978. Tell them you overestimated need and underestimated conservation. Tell them you've now seen the light and you are actually doing something yourselves. Tell Congress you'll change if they will let you.

Do something more. Spread the word.

Sincerely,

CLARENCE J. BROWN,
Ranking Minority Member,
Subcommittee on Fossil and Synthetic Fuels,
Committee on Energy and Commerce.●

PRESERVING THE NUTRITIONAL INTEGRITY OF WIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GOODLING) is recognized for 5 minutes.

● Mr. GOODLING. Mr. Speaker, in 1978 the Congress extended the special supplemental food program for women, infants, and children for 4 years and increased its authorization of appropriations funding levels (Public Law 95-627). We also substantially amended the bill to address the content of the prescription foods provided to the high-risk women, infants, and children participating in this important health-nutrition program.

In our deliberations on legislative alternatives, the House Committee on Education and Labor, the authorizing committee, drew heavily upon the expertise and knowledge of two bodies established by the Congress: the Advisory Council on Maternal, Infant and Fetal Nutrition, and the Advisory Committee on Nutrition Education.

As a result of this deliberative process, the committee adopted two changes in the statute which were enacted by the Congress. These changes addressed the prescription food package by refining the definition of "supplemental foods" and requiring that the Secretary prescribe, by regulation, that the supplemental foods package contain appropriate amounts of fat, sugar, and salt. Based upon those changes, the USDA has promulgated regulations (November 17, 1980) which address Congress concerns. Many States have already fully implemented these changes, although they are not required to be implemented nationally until December 31, 1982.

This deliberative process should be continued. Therefore, no one should construe the language in the statement of managers accompanying the Agriculture appropriation conference report on H.R. 7072 which addresses the content of the WIC food package as expressing the consensus of this Congress that USDA should alter the content of the WIC food package regulations scheduled for final implementation on December 31, 1982. Any changes in the package must be consistent with the statute's requirements and address the nutrition-health needs of the WIC program's high-risk participants and promote the long-term objectives of this successful and important health and nutrition program.●

JOBS, PEACE, AND PENNSYLVANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE) is recognized for 10 minutes.

● Mr. WILLIAM J. COYNE. Mr. Speaker, I rise in strong support of the "Jobs with Peace" resolution introduced by the gentleman from California, Mr. DON EDWARDS.

This resolution would express the sense of the House that more money should be made available for jobs in education, transportation, housing programs, and other productive industries by significantly reducing the amount of tax dollars spent on nuclear weapons, foreign military intervention, and wasteful military programs.

A one-time meeting of a "Jobs with Peace" congressional caucus today laid the groundwork for a congressional strategy to achieve this goal. In the next Congress, the ranks of those who favor a more reasonable military budget will likely grow, so we may make some progress toward the goals of the resolution.

As a Representative from a northeastern industrial State, I certainly hope that this is the case. Studies by the Machinists Union, one of the largest unions in defense-related industries, indicate that large increases in military spending may actually decrease the number of available jobs. In a time of 10.8-percent unemployment, this is a serious contention.

President Dwight D. Eisenhower was aware of this prospect. He noted:

> Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children.

A recent study by Employment Research Associates of Lansing, Mich., suggests that when military spending goes up, expenditures are foregone in the following categories: Durable goods, nondurable goods, residential and nonresidential construction, services, State and local government, exports and imports, producers' durable equipment, and Federal civil purchases.

This can have a negative effect on States such as Pennsylvania where jobs depend on such economic activities. According to the Michigan study, Pennsylvania ranks fifth among the States in the number of jobs lost as a result of military spending. At this point, I would like to share with my colleagues some of the findings of the Employment Research Associates:

STATES IN ORDER OF NEGATIVE EMPLOYMENT IMPACT OF MILITARY SPENDING, ANNUAL AVERAGE 1977-78

Number of jobs foregone	
1. New York	−288,200
2. Illinois	−160,750
3. Michigan	−139,100
4. Ohio	−131,900
5. Pennsylvania	−112,900
6. New Jersey	−71,950
7. Wisconsin	−71,700
8. Indiana	−64,550
9. Minnesota	−54,550
10. Tennessee	−47,200
11. Florida	−40,150
12. Massachusetts	−39,800
13. Iowa	−38,500
14. Oregon	−37,850
15. Nevada	−24,100
16. Louisiana	−23,350
17. West Virginia	−18,950
18. California	−13,800
19. Arkansas	−12,300
20. Nebraska	−6,200
21. Missouri	−4,500
22. Vermont	−4,250
23. Rhode Island	−3,650
24. Wyoming	−3,050
25. Idaho	−2,850
26. Arizona	−112,850
27. Montana	−2,300
28. Delaware	−1,200
29. South Dakota	−600
Number of jobs gained	
1. Kansas	+600
2. New Hampshire	+650
3. Maine	+2,350
4. Alabama	+3,550
5. Connecticut	+3,950
6. North Dakota	+4,450
7. New Mexico	+7,450
8. Utah	+9,350
9. Kentucky	+11,100
10. Colorado	+11,200
11. Texas	+15,450
12. Alaska	+15,750
13. Oklahoma	+16,000
14. Maryland	+17,050
15. Washington	+20,200
16. Georgia	+20,950
17. Mississippi	+23,450
18. N. Carolina	+23,800
19. S. Carolina	+29,200
20. Hawaii	+45,200
21. Virginia	+125,950
Net jobs loss	1,015,500

	Number of jobs		Net job gain or loss
	Foregone	Created	
PENNSYLVANIA			
Durable goods	−39,500	+20,750	−18,750
Nondurable goods	−14,650	+1,650	−13,000
Residential construction	−10,400	+3,550	−6,850
Nonresidential construction	−6,900	+350	−6,550
Services	−74,000		−74,000
State and local government	−51,450		−51,450
Military personnel		+57,700	+57,700
Total			−112,900

Source: Employment Research Associates, Lansing, Mich.

Mr. Speaker, on November 2, more than 50 communities in this Nation voted on referenda which dealt with the subject of jobs, military spending, and peace. In the city of Pittsburgh, voters mandated, by nearly a 2-to-1 margin, a yearly report by the mayor on the impact of military spending on the city.

Such findings will prove a useful guide to this Congress as we determine our budget priorities. Spending which does little to enhance our national security while resulting in a net job loss for certain regions of the country will, I am sure, be subject to rigorous scrutiny. I will be joining my colleagues who favor jobs with peace in such a review.●

CONGRESS AND IMMIGRATION REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, later this week the House is scheduled to consider H.R. 7357, the Immigration Reform and Control Act of 1982.

As one Member observed during my recent appearance before the Rules Committee on this bill, "there is no such thing as a perfect immigration bill." The reason is simple. Immigration has always been a highly emotional and controversial subject and one that directly or indirectly affects the life of every American. I certainly agree that there is no such thing as a perfect immigration bill and H.R. 7357 is no exception.

At the same time, it does represent the best that can be developed. It is fair. It is just and it is balanced.

Its enactment is essential if Congress is to meet its obligation to construct a reasonable and humane immigration policy. If Congress does not act on this urgently needed legislation, it may be subject to a good deal of public criticism for its failure to address an issue of vital concern to the vast majority of American people.

Further, its passage is necessary if we are to protect the jobs of American workers, particularly during this time of record levels of unemployment.

The bill does enjoy widespread support from a variety of diverse organizations and individuals. That list includes the Reagan administration, several national Jewish organizations, the U.S. Catholic Conference, Father Theodore Hesburgh and his Citizens' Committee for Immigration Reform, and numerous ethnic organizations. It is also noteworthy that the past four administrations and the bipartisan Select Commission on Immigration and Refugee Policy endorsed employer sanctions and recommended many of the provisions contained in this bill.

I recognize that the opponents of this legislation are also numerous and that many of the concerns they have expressed are indeed legitimate. However, an analysis of those concerns demonstrates that many, in fact, are addressed by the legislation, while others relate more directly to possible changes that have been proposed or to the Senate version of this legislation.

I would also like to point out that there are certain inherent risks in deferring consideration of this matter until some future time, as some critics of the bill have suggested. I, for one, am deeply concerned by the increasingly hostile attitude toward newly arrived immigrants and refugees, that we have witnessed over the past 2 years.

As a result, I have little hope that the future will bring a better "legislative climate" for debating this type of legislation. Because of my fear that the atmosphere surrounding the immigration issue will grow more restrictionist, I believe the time for enacting meaningful and effective immigration legislation is now.

I wish to insert in the RECORD a letter I received last week from the Attorney General recognizing the importance of the legalization program proposed in this legislation.

In that letter he stated that this country can no longer "tolerate the existence of a hidden foreign people within our borders, living apart from American laws." I certainly agree with his comment and I know he shares my view that the legalization program is an essential part of the legislation that will be debated later this week. Our sense of fairness and decency and the fact that undocumented aliens have contributed to our economic well-being require that we provide this exploitable "shadow population" with the opportunity to be legalized.

I also wish to insert in the RECORD a letter I received last Friday from the Reverend Theodore Hesburgh, president of Notre Dame and cochairperson of the Citizens' Committee for Immigration Reform supporting this legislation. As former Chairman of both the Civil Rights Commission and the Select Commission on Immigration and Refugee Policy, he is eminently qualified to discuss the pending bill.

Father Hesburgh's letter points out quite clearly the need for employer sanctions and a generous legalization program in order to "wipe the slate clean" for undocumented aliens who have "lived in the shadows as an underclass." I hope my colleagues will keep his comments in mind as we debate this important legislation.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., December 9, 1982.

HON. PETER W. RODINO, Jr.,
Chairman, House Judiciary Committee, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you on the eve of the House consideration of H.R. 7357, the Immigration Reform and Control Act of 1982, to underscore the Administration's unwavering support for its passage in the closing days of this session. Few matters before the Congress are of equal importance. Few laws could contribute as much to our nation's future prosperity and security.

I am writing to you also to express my deep concern regarding certain amendments

which may be offered in the course of House consideration of the bill. As I have stated on other occasions, I believe it would be unfortunate were the Congress to undertake at this time significant change of our laws governing the legal admission of immigrants and refugees. The most pressing issues facing us do not concern legal immigration, but accelerating illegal migration and mass asylum. I firmly believe that Congress should concentrate in the few days remaining in this session on these latter problems, which your bill so thoughtfully addresses. For this reason, I strongly urge that consideration of changes in the legal immigration system be deferred for another day.

The Administration also would oppose efforts to eliminate the legalization provisions of the bill. These provisions deal realistically and humanely with the sad fact that more than three million persons entered this country illegally in a time when our immigration laws went unenforced. With the passage of this law, that time of neglect will end. But as a practical matter, we could not now search out and deport all these people, even if we chose to do so. Nor can this great nation long tolerate the existence of a hidden foreign people within our borders, living apart from American laws. The legalization provision of the bill promises an end to this situation. To take it from the bill would undo the essential balance so carefully maintained until now. I recommend that this not be done.

I want to express again my gratitude for your years of work and leadership on behalf of these reforms, and our readiness to do all we can to assist you as the House takes up this important legislation.

Sincerely,

WILLIAM FRENCH SMITH,
Attorney General.

CITIZENS' COMMITTEE
FOR IMMIGRATION REFORM,
Washington, D.C., December 7, 1982.

DEAR FRIEND: The Citizens' Committee for Immigration Reform grew out of the Select Commission on Immigration and Refugee Policy of which I had the honor to serve as chairman for eighteen months. During that time the Commission studied, debated and analyzed the major immigration and refugee issues in public hearings, consultations with experts and through research by noted scholars and Commission staff. As you may know, the Commission recommendations served as the basis for the Simpson-Mazzoli Immigration Reform and Control Act of 1982, which will be considered on the floor of the House during the next few days.

I should like to take this opportunity, along with Gerald Ford, Cyrus Vance, Elliot Richardson, Lane Kirkland and the other members of our Committee, to express our support for the bill. I wish to emphasize, however, that we have serious concerns about several areas in the bill—the numbers of immigrants and refugees to be admitted annually, legalization of undocumented aliens currently in the country and temporary workers.

IMMIGRANT AND REFUGEE NUMBERS

The bill, as passed by the House Judiciary Committee, makes no changes in the current law for legal immigration to the United States. This leaves the principle of family reunification as the cornerstone of U.S. immigration policy, which we whole-heartedly support. Under the terms of the Refugee Act of 1980, refugees are admitted outside of this ceiling on legal immigration after counsultation between the President and Congress.

There may be attempts to amend the bill to place refugees under the same ceiling as immigrants, and I should like to sound a note of caution and concern about the wisdom of this move. Firstly, by putting immigrants and refugees under one ceiling, we would be placing immigrants in direct competition with refugees for scarce visa numbers. This would be divisive nationally. Secondly, such a move would greatly limit the flexibility of our government to respond to crises and emergencies abroad. Thirdly, the humanitarian and human rights values for which we stand as a nation would be seriously questioned and severely limited. We would urge the defeat of such an amendment.

LEGALIZATION AND EMPLOYER SANCTIONS

Our Committee would view any attempt to weaken the legalization and employer sanctions portions of the bill with considerable alarm. As it is, we favor a system of legalization in which all undocumented persons become permanent residents upon coming forward with the proper documentation, with all the rights and benefits of permanent resident aliens. Without a substantial legalization program, we shall oppose the entire bill.

Coupled with the legalization program, as provided in the House Judiciary Committee version of the bill, there should be a nondiscriminatory, effective employer sanctions program aimed at all employers who knowingly hire undocumented persons, with civil and criminal penalties for those who break this law. Since in most cases, undocumented persons come to the United States in search of employment, we must close the door to illegal immigrants by cutting off their source of work.

I personally favor a more secure method of identification for work purposes only and support that concept as outlined in the bill, but our Committee feels strongly that it is crucial to implement a legalization program as soon as possible after the date of enactment of this omnibus bill. For too long, undocumented persons have lived in the shadows as an under-class. We must wipe the slate clean and grant a full opportunity for legalization.

TEMPORARY WORKERS

As far as temporary workers are concerned, at present we support the current H-2 (temporary worker) program without any expansion of the provisions, as provided in the House Education and Labor Committee amendments. The Select Commission favored, and we would support, further study of this issue after passage of measures to curb illegal immigration.

The need for a rational, just, humane and race-free immigration and refugee policy is clear and the time for action is at hand. As President Gerald R. Ford said in accepting an invitation to join our Committee, it is important to "convince leaders of all viewpoints . . . that each one has an obligation to be less parochial and more understanding of the national need for a constructive solution . . . the time has come to terminate inflexibility due to uninformed, self-interested or political reasons."

Please don't hesitate to contact the Executive Director of the Citizens' Committee, Nina K. Solarz, at 387-3238 if you have any questions or if you would like any further information. She will be very pleased to assist you or your staff.

With best personal regards.

Sincerely,

Rev. THEODORE M. HESBURGH, C.S.C.,
Co-Chairman.●

HON. DON MITCHELL

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, I am pleased to join with my colleagues on both sides of the aisle in paying tribute to DON MITCHELL. DON has been a valued member of the Armed Services Committee during his five terms in the House and has served with particular distinction as the ranking minority member of the Subcommittee on Military Personnel and Compensation.

DON MITCHELL is an acknowledged expert in the complex areas of military compensation, retired pay, survivor benefits, personnel management, and the military medical care system. When DON MITCHELL speaks on military personnel matters, he speaks on behalf of the young Navy petty officer enduring long hours, arduous duty and family separation to serve his country's interests in the Indian Ocean and the Army corporal serving an unaccompanied tour of duty along the DMZ in South Korea.

People are DON MITCHELL's forte. He has a deep and abiding personal concern for our Nation's men and women in uniform and for their families as well. DON has repeatedly evidenced that concern through his diligence and leadership on the Military Personnel and Compensation Subcommittee.

In addition to his expertise in military personnel matters, DON MITCHELL has also been an articulate advocate of a strong national defense. The popularity of defense spending is cyclical. One year it is in vogue to speak eloquently on behalf of increased defense spending, but by the next year, the political winds have often shifted. DON MITCHELL believes that national defense should not be the victim of such political expediency, and he has had the courage to stand up and be counted in both good times and bad.

In addition, DON MITCHELL has been the conscience of the Congress on civil defense and has worked long and hard to increase our Nation's commitment to the protection of our own population. He has served the cause of civil defense with singular dedication and deserves our thanks and appreciation.

DON, we wish you and Gretta the very best in the years ahead. We will miss you on the Armed Services Committee. You can take great pride in your record of accomplishments.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MONTGOMERY for today on account of the death of a friend.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. NELLIGAN, for 15 minutes, on December 16.

Mr. FRENZEL, for 60 minutes, on December 17.

Mr. DICKINSON, for 60 minutes, today.

Mr. BROWN of Ohio, for 15 minutes, today.

Mr. GOODLING, for 5 minutes, today.

Mr. COLLINS of Texas, for 60 minutes, on December 17.

(The following Members (at the request of Mr. MILLER of California) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WILLIAM J. COYNE, for 10 minutes, today.

Mr. RODINO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RAHALL, during debate on the Simon amendment to House Joint Resolution 631 in the Committee of the Whole today.

Mr. PICKLE, immediately preceding the vote on the Simon amendment to House Joint Resolution 631 in the Committee of the Whole today.

Mr. OTTINGER, during debate on the Simon amendment to House Joint Resolution 631 in the Committee of the Whole today.

Mr. GOLDWATER, just prior to the vote on the Coughlin amendment to House Joint Resolution 631 in the Committee of the Whole today.

Mr. PEPPER, statement to appear before passage of H.R. 7093.

(The following Members (at the request of Mr. DORNAN of California) and to include extraneous matter:)

Mr. GILMAN in two instances.

Mr. NELLIGAN.

Mr. DAUB.

Mr. PHILIP M. CRANE.

Mr. REGULA.

Mr. COURTER.

Mr. PORTER.

Mr. ROBERTS of Kansas.

Mr. FRENZEL in five instances.

Mr. MCCLOSKEY.

Mr. PURSELL in two instances.

Mr. DANNEMEYER in three instances.

Mr. DAVIS in two instances.

Mr. HUNTER in two instances.

Mr. CARMAN.

Mr. DERWINSKI in two instances.

Mr. MARTIN of North Carolina.

Mr. COLLINS of Texas in two instances.

Mr. MCCLORY.

Mr. TAUKE.

Mr. ROBERT W. DANIEL, JR.

Mr. LAGOMARSINO.

Mr. THOMAS.

Mr. NAPIER.

Mr. HOLLENBECK.

Mr. MOORE.

Mr. BLILEY.

(The following Members (at the request of Mr. MILLER of California) and to include extraneous matter:)

Mr. GAYDOS in two instances.

Mr. LEVITAS in two instances.

Mr. SKELTON.

Ms. OAKAR.

Mr. RUSSO in two instances.

Mr. PEPPER.

Mr. CONYERS.

Mr. BARNES.

Mr. EDWARDS of California.

Mr. STARK.

Mr. HALL of Ohio.

Mr. ERTEL.

Mr. MOTTL.

Mr. RODINO.

Mr. FAUNTROY.

Mr. MILLER of California.

Mr. MATSUI.

Mr. LONG of Maryland.

Mr. DOWNEY.

Mr. BONKER.

Mr. ROE.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 764. An act to provide for protection of the John Sack cabin, Targhee National Forest in the State of Idaho;

S. 1444. An act to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes;

S. 1681. An act to designate the southern Nevada water project the "Robert B. Griffith Water Project";

S. 1894. An act to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes;

S. 2034. An act to designate the lock and dam known as the Jones Bluff Lock and Dam, located on the Alabama River, as the "Robert F. Henry Lock and Dam"; and

S. 2710. An act to establish the Charles C. Deam Wilderness in the Hoosier National Forest, Ind.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on December 3, 1982 present to the President, for his approval, bills and a joint resolution of the House of the following title:

H.R. 2329. An act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma;

H.R. 4364. An act to declare that the United States hold in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Ariz.;

H.R. 5553. An act to provide for the use and disposition of Miami Indians judgment funds in dockets 124-B and 254 before the U.S. Court of Claims, and for other purposes;

H.R. 5795. An act to provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64-A by the U.S. Court of Claims, and for other purposes;

H.R. 6005. An act to discontinue or amend certain requirements for agency reports to Congress;

H.R. 6403. An act to provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the U.S. Court of Claims, and for other purposes;

H.R. 6417. An act to amend Public Law 96-432 relating to the U.S. Capitol Grounds; and

H.J. Res. 595. Joint resolution designating December 11, 1982, as "Fiorello H. La Guardia Memorial Day."

ADJOURNMENT

Mr. MILLER of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at (12 o'clock and 14 minutes a.m.) the House adjourned until today, Wednesday, December 14, 1982, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Report of a House committee concerning the foreign currencies and U.S. dollars utilized by it during the third quarter of calendar year 1982 in connection with foreign travel pursuant to Public Law 95-384 is as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Biaggi, Mario, M.C.	8/21	8/27	Israel		540.00		4,169.00				4,709.00
Breaux, John, M.C.	9/12	9/14	Cayman Islands		[3] 130.00		520.00				650.00
Fronville, Claire L.	7/17	7/25	England	375.25	650.00		1,850.00				
						7.50	[4] 13.00				2,513.00
Smith, G. Wayne	9/12	9/14	Cayman Islands		[1] 130.00		520.00				650.00
Westcott, Jacquelyn M.	7/17	7/25	England	374.84	650.00		1,423.00				
						7.50	[4] 13.00				2,086.00
Committee total					2,100.00		8,508.00				10,608.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] No Embassy. After trip State Department issued check to traveler for expenses. 2 nights lodging equals $80; 2 days food equals $50.
[4] Train, Brighton/London.

WALTER B. JONES, Chairman, Dec. 2, 1982.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5289. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting a report on negotiated contracts for experimental, developmental, test, or research work, or for industrial mobilization in the interest of the national defense, covering the period April 1982 through September 1982, pursuant to 10 U.S.C. 2304(e); to the Committee on Armed Services.

5290. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the supply support function at the Naval Shipyard, Philadelphia, Pa., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5291. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the night shelf stocking function at the Navy Commissary Store, Little Creek, Va., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5292. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the motor vehicle operation motor vehicle maintenance function at the Naval Air Station, Key West, Fla., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5293. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the Navy Commissary Store, Portsmouth, Va., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5294. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the night shelf stocking function at the Navy Commissary Store, Yorktown, Va., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

5295. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-262, "Closing of a Public Alley in Square N-699 Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

5296. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

5297. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting a report on a new record system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

5298. A letter from the Comptroller General of the United States, transmitting a report on block grants for housing (GAO/RCED-83-21, December 13, 1982); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STOKES: Committee on Standards of Official Conduct. Report on Investigation Pursuant to House Resolution 518 (Rept. No. 97-965). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 628. A resolution providing for the consideration of S. 1964, a bill to designate certain lands in the Mark Twain National Forest, Mo., which comprise about 17,562 acres, and known as the Irish Wilderness, as a component of the National Wilderness Preservation System. (Rept. No. 97-966). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 621. A resolution amending the Rules of the House of Representatives to establish an office for the Bicentennial of the House of Representatives (Rept. No. 97-967). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 7414. A bill to transfer management of the national defense stockpile to the Secretary of Defense; to the Committee on Armed Services.

By Mr. BIAGGI:

H.R. 7415. A bill to amend the Higher Education Act of 1965 to promote the matching of lists of defaulting borrowers of student loans with lists of public employees; to the Committee on Education and Labor.

By Mr. CONYERS:

H.R. 7416. A bill to protect the rights of individuals guaranteed by the Constitution of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of polygraph equipment for certain purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. GILMAN:

H.R. 7417. A bill to repeal the withholding on interest and dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. MOORHEAD:

H.R. 7418. A bill to amend the Internal Revenue Code of 1954 to double the investment tax credit for American-made automobiles and certain light-duty trucks and to provide that the investment tax credit shall not be recaptured with respect to such vehicles by reason of any disposition, et cetera, after the second year of use; to the Committee on Ways and Means.

By Mr. WILLIAMS of Ohio:

H.R. 7419. A bill to increase the number of weeks for which benefits are payable under the Federal Supplemental Compensation Act of 1982, and for other purposes; to the Committee on Ways and Means.

By Mr. WRIGHT (for himself, Mr. MICHEL, Mr. HOWARD, Mr. ROE, and Mr. HAMMERSCHMIDT):

H.R. 7420. A bill to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, Calif., project as the Don H. Clausen Fish Hatchery; to the Committee on Public Works and Transportation.

By Mr. SHARP:
H.R. 7421. A bill to suspend the final decision of the Federal Communications Commission in Docket No. 20868 (second computer inquiry) to the extent it prohibits the provision, installation, and maintenance of telephones and other customer-premises equipment by regulated communications carriers; to the Committee on Energy and Commerce.

By Mr. BONKER (for himself, Mr. LEACH of Iowa, Mr. GEJDENSON, Mr. ROSENTHAL, Mrs. FENWICK, Mr. PORTER, Mr. PRITCHARD, Mr. BARNES, Mr. DYMALLY, Mr. BINGHAM, Mr. LAGOMARSINO, Mr. WOLPE, Mr. SOLARZ, Mr. LANTOS, Mr. GILMAN, Mr. FASCELL, and Mr. YATRON):
H. Con. Res. 434. Concurrent resolution condemning all forms of religious persecution and discrimination as a violation of human rights; to the Committee on Foreign Affairs.

By Mr. EDWARDS of California (for himself, Mr. ADDABBO, Mr. ASPIN, Mr. AUCOIN, Mr. BARNES, Mr. PHILLIP BURTON, Mr. CLAY, Mr. CONYERS, Mr. WILLIAM J. COYNE, Mr. CROCKETT, Mr. DELLUMS, Mr. DYMALLY, Mr. EARLY, Mr. EDGAR, Mr. FORD of Michigan, Mr. FOWLER, Mr. FRANK, Mr. GRAY, Mr. HOYER, Mr. KASTENMEIER, Mr. KOGOVSEK, Mr. LEACH of Iowa, Mr. LELAND, Mr. MARKEY, Mr. MATSUI, Mr. MAVROULES, Ms. MIKULSKI, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. OBERSTAR, Mr. OTTINGER, Mr. PANETTA, Mr. PEASE, Mr. RANGEL, Mr. REUSS, Mr. RODINO, Mr. ROSENTHAL, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SEIBERLING, Mr. SHANNON, Mr. SIMON, Mr. SOLARZ, Mr. STARK, Mr. STOKES, Mr. STUDDS, Mr. WALGREN, Mr. WASHINGTON, Mr. WEAVER, Mr. WEISS, Mr. WIRTH, and Mr. WOLPE):
H. Res. 627. Resolution expressing the sense of the House in support of a call for jobs with peace; jointly, to the Committees on Armed Services, Foreign Affairs, and Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

518. The SPEAKER presented a memorial of the voters of the State of Montana, relative to opposition to the placement of MX missiles in Montana; jointly, to the Committees on Armed Services and Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5571: Mr. GOODLING, Mr. ALBOSTA, Mr. BAILEY of Pennsylvania, Mr. WON PAT, Mr. ROE, Mr. BAFALIS, Mr. DUNCAN, Mr. PORTER, and Mr. BURGENER.
H.R. 5616: Mr. MOTTL, Mr. EVANS of Georgia, Mr. GOODLING, Mr. WILSON, Mr. HOWARD, Mr. NICHOLS, Mr. BAILEY of Pennsylvania, and Mr. ATKINSON.
H.R. 6009: Mr. EDWARDS of Oklahoma.
H.R. 6115: Mr. SCHEUER.
H.R. 6975: Mr. PEPPER.
H.R. 7014: Mr. EDWARDS of California, Mr. FASCELL, Mr. NOWAK, Mr. SHAMANSKY, and Mr. UDALL.
H.R. 7106: Mr. MOTTL, Mrs. BOGGS, Mr. SHELBY, Mr. AKAKA, Mr. DOWNEY, and Mr. MARLENEE.
H.R. 7178: Mr. HUGHES and Mr. TAUKE.
H.R. 7309: Mr. NATCHER, Mr. ALEXANDER, Mr. ANNUNZIO, Mr. FOGLIETTA, Mr. MATSUI, Mr. LAFALCE, Mr. MCCURDY, Mr. SPENCE, Mr. MORRISON, Mr. SHARP, and Mr. MINISH.
H.R. 7314: Mr. HORTON.
H.R. 7321: Mr. APPLEGATE, Mr. HARTNETT, Mr. KINDNESS, Mr. CLINGER, Mr. WEBER of Minnesota, Mr. STENHOLM, Mr. DE LUGO, and Mr. YATRON.
H.R. 7337: Mr. SHAMANSKY, Mr. CORRADA, Ms. OAKAR, Mr. FORD of Tennessee, Ms. MIKULSKI, and Mrs. HALL of Indiana.
H.R. 7373: Mr. GILMAN, Mr. STUDDS, and Mr. CONYERS.
H.R. 7386: Mrs. FENWICK and Mrs. HALL of Indiana.
H.J. Res. 459: Mr. BUTLER, Mr. STUMP, and Mr. CONTE.
H.J. Res. 585: Mr. SAM B. HALL, JR., MR. CARNEY, Mr. DYMALLY, Mr. SOLARZ, Mrs. KENNELLY, Mr. WILSON, Mr. DOWDY, Mr. FRENZEL, AND Mr. KOGOVSEK.
H.J. Res. 590: Mr. SIMON.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

675. By the SPEAKER: Petition of H.F. Kimmel, relative to the Constitution of the United States; to the Committee on the Judiciary.

676. Also, petition of the Burbank City Council, Burbank, Calif., relative to an investment tax credit on American-made automobiles; to the Committee on Ways and Means.

677. Also, petition of the Metal Trades Department, AFL-CIO, relative to redress of a grievance on behalf of American shipyard workers; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5133

By Mr. GRAMM:
—Page 14, redesignate section 7 as section 8, and insert after line 11 the following new section:

SEC. 7. WAIVER.

Sections 4 and 5 shall not apply in any calendar month to any vehicle manufacturer located in a foreign country if the Secretary of the Treasury determines that in that month such country had in effect restrictions (including tariffs and quotas) on imports of motor vehicles and automotive products into such country not more stringent than those applicable on the day before the date of the enactment of this Act to imports into the United States of motor vehicles and automotive products.

Page 15, redesignate section 8 as section 9.

By Mr. BETHUNE:
—On, page 9, after line 12 insert the following:

"(c) This section shall not apply unless the United States Trade Representative determines that its implementation shall not cause the United States to be in violation of the General Agreements on Tariffs and Trade,".

S. 1964

By Mr. EMERSON:
—Strike all after the enacting clause and insert the following:

That this Act may be known as the Irish Wilderness Act of 1981.

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), the following area as generally depicted on a map appropriately referenced, dated December 1981, is hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, certain lands in the Mark Twain National Forest, Missouri, which comprise about seventeen thousand five hundred and sixty-two acres, are generally depicted on a map entitled "Irish Wilderness", dated December 1981, and shall be known as the Irish Wilderness.

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Irish Wilderness area with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 4. The area designated as wilderness by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), except that any reference in such provisions to the effective date of such Acts shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) Nothwithstanding any other provision of law, section 4(d)(3) of the Wilderness Act of 1964 shall remain in full force and effect until December 31, 1993, notwithstanding the expiration dates therein, with respect to deposits of lead, zinc, iron and associated minerals capable of being mined by underground methods in the lands described in section 2 of this Act.

(b) The Secretary of the Interior, in consulation with the Secretary of Agriculture, shall process any application for a prospecting permit or lease and made a final administrative decision on its issuance within 90 days from the date such application is filed. If the Secretary approves the issuance of a prospecting permit or a lease or of any operations thereunder, any appeal of that decision, whether administrative or judicial, which delays the issuance of such permit or lease or operations thereunder, will extend the 1993 deadline with respect to that permit or lease by the period of time such issuance or operations are delayed thereby.

(c) The Secretary of Agriculture and the Secretary of Interior shall provide for economic and practicable ingress and egress in accordance with reasonable regulations which they may prescribe, compatible with preservation of the wilderness environment.

SENATE Tuesday, December 14, 1982

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Our prayer this morning will be offered by the Reverend Richard C. Halverson, Jr., son of the Senate Chaplain.

PRAYER

The Reverend Richard C. Halverson, Jr., offered the following prayer:

Let us pray.

Father in Heaven, as the time approaches when those who labor in this Senate will gather with loved ones in homes across the country, we pause to request for them the gift that is You.

In this season, we have much for which to be thankful: fathers, mothers, husbands, wives, sons, daughters, brothers, sisters, and grandchildren—all a blessing and many richly blessed.

But in many families there is much grief and sorrow this year. Some husbands and wives are estranged or divorced. You are peace, give them forgiveness and reconciliation. Some loved ones are ill or have died. You are life, send them healing and comfort. Some children have rebelled against their parents or strayed into harmful living. You are truth, grant them grace and wisdom.

We ask for the gift that is You from our perfect Father in Heaven who, when it is prayed in the name of Jesus, His Son, can hardly deny our request. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

REV. RICHARD C. HALVERSON, JR. COMMENDED FOR PRAYER

Mr. LUGAR. Mr. President, I know that all of our colleagues would join me in expressing our delight with the prayer this morning offered by the son of the distinguished Chaplain of the Senate. It was indeed a pleasure and an honor to have him open our session with the prayer this morning.

SENATE SCHEDULE TODAY

Mr. LUGAR. Mr. President, in the absence of the majority leader, let me simply mention that following the recognition of the majority and minority leaders a period for the transaction of routine morning business has been ordered not to extend beyond 10 a.m. with not more than 3 minutes for each speech.

Not later than 10 a.m. the Senate will resume consideration of H.R. 7356, the Interior appropriations bill.

As ordered, a recess is contemplated from 12 noon until 2 p.m. for the convenience of Senators who will be meeting in various conferences during this period of time.

At 2 p.m. debate will be resumed on H.R. 6211, Calendar Order No. 987, the surface transportation bill.

THE FEDERAL RESERVE BOARD LOWERS THE REDISCOUNT RATE BY ONE-HALF POINT

Mr. LUGAR. Mr. President, let me take this moment during opening statements this morning to simply indicate my own pleasure in reading that the rediscount rate has been lowered by one-half point. It is apparent that the Federal Reserve Board is taking the leadership. The trading markets yesterday indicated that the Fed clearly might operate in such a manner as to lower the rediscount rate, although the signs did not necessarily dictate that that would be the case. But it is apparent and apparent also by unanimous vote of those who voted on that lowering that the Fed has decided to take action decisively.

I hope it will be a prelude to further rediscount rate lowerings. I am of the opinion, as I think are perhaps a majority of our colleagues, that this is a time in which our economy can operate strongly at lower interest rates.

We are clearly of a mind that inflation must be controlled. The slackness of the economy dictates that this is likely to be the case but, at the same time, this leadership on the part of the Fed is significant and welcome. Many of us who have called upon the Fed to take that leadership certainly congratulate the Board of Governors on hearing that call and acting at least with dispatch.

Mr. President, I see no Senators on our side who require time, and so I yield back the time of the majority leader. I would be happy to yield additional time to the minority leader if he should request it.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. GORTON). The minority leader is recognized.

THE FEDERAL RESERVE BOARD LOWERS THE REDISCOUNT RATE BY ONE-HALF POINT

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader.

I join with him in commending the Fed for taking the action, which represents the seventh time that the Fed has lowered the discount rate one-half point since July.

I compliment the Fed. I would not say that it is entirely, however, the leadership of the Fed. I think Congress has had a lot to do with this. It was back in July, that part of the year, when those of us on this side of the aisle introduced legislation to require the Fed to take actions, such as it has been taking since then, to get interest rates down and promote economic recovery and thus increase the employment of people in this country.

There were 40 cosponsors of the legislation introduced by me. I talked with the majority leader of the House, Mr. Wright, and he introduced somewhat similar legislation over there. There were between 60 and 70 cosponsors there.

So immediately I got a reaction from the Federal Reserve. Mr. Volcker came to visit me, and I know he has visited several Senators since that time.

So it seems to me that the Federal Reserve, while it should be commended, and I do commend it, saw a train coming down the track. That train was the possible action by Congress which created the Federal Reserve. I think it remains an unwritten axion that the creature of the Congress can be reminded that Congress can still step in and formulate policy and guidelines by which the Federal Reserve Board shall be persuaded in its actions.

The distinguished majority leader has likewise, recently especially, been quite outspoken in his opinion that the Federal Reserve Board needs to relax its tight money policy in order to promote economic growth, get interest rates down, and get people back to work.

So I would say that Congress has had some influence in all likelihood in this matter.

But I do join the distinguished Senator in commending the Fed for lowering the discount rate again in what is now the longest postwar recession. I hope the Fed will continue to take such actions as would insure the dropping of the interest rates because in so doing I think it enhances the chances

for economic recovery, economy growth, and reduction of unemployment in the long run.

Mr. ROBERT C. BYRD. I yield the remainder of my time to the acting Republican leader.

Mr. LUGAR. Mr. President, apparently no further time is required by the majority or the minority.

Under the orders, it is my understanding that we will now proceed to a period for the transaction of routine morning business.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m. with statements limited therein to 3 minutes each.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHERE TO CUT DEFENSE

Mr. PROXMIRE. Mr. President, Newsweek magazine has devoted almost its entire issue of December 20, 1982, to the subject of the Defense of the United States. In a most unusual and indepth effort, Newsweek explores the basis of U.S. military doctrine and strategy.

Mr. President, this is a most remarkable article because it is so specific and clear in its discussion and in its recommendations.

The key to the Newsweek analysis is dedication to the proposition that "Budget cuts can actually leave America stronger." Why? Because budget cuts, if accomplished properly, will strengthen the conventional capabilities of U.S. forces while maintaining sufficient deterrence to preclude a willful act leading to nuclear war.

Looking at the European theater, the article concludes that "the solution to weaknesses in Western defenses is better conventional capabilities—not Weinberger's theory of protracted nuclear war." Conventional war fighting capability deters the temptation for Soviet aggression in Europe and greatly lessens the opportunities for escalation of unbalanced military confrontations into nuclear exchanges.

In support of this European concept, Newsweek recommends restoring the cut in manpower made by the Senate Defense Appropriations Committee. Citing the contribution of the NATO allies to NATO ground and air forces, the argument is made that the United States must recognize the extraordinary commitment the NATO partners are making—they, after all, are supplying the battlefield. And we should consider the need for trading partners, Newsweek continues.

Convincing as this line of argument might be, it does not address the central proposition of the NATO alliance—that NATO countries must bear a fair share of the burden of their own defense. And in that light, it is clear that the NATO countries can and should do more.

Getting down to particulars, Newsweek is not hesitant in selecting those particular weapon systems it believes can safely be canceled—without harming national security.

Among those singled out for elimination are the controversial MX, the B-1 bomber, the two nuclear aircraft carriers, reductions in the Maverick missile, the Viper, the A-10, and the reactivation of World War II battleships.

This is a list which may be low in terms of outlays the first year, at $2.7 billion, but enormous in terms of the 5-year savings at $56.4 billion.

In just about each case, Newsweek cites alternatives to these systems or explains why the military justification does not measure up to the level of expenditure required.

For example, the two nuclear aircraft carriers. Their mission is to strike the Soviet mainland, but as Newsweek quotes one expert: "No Admiral in his right mind is going to want to go tearing up into the Kola Peninsula to bash heck out of it." They are just too vulnerable for that role.

Mr. President, the Newsweek analysis is rich in examples and explanations. It makes difficult defense problems far easier to understand to the layman and that may be its most important contribution to the debate that this body should be engaging in. I ask unanimous consent that the Newsweek article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, Dec. 20, 1982]

WHERE TO CUT DEFENSE—BUDGET CUTS CAN ACTUALLY LEAVE AMERICA STRONGER—THE KEY IS CAREFUL ANALYSIS OF LONG-TERM U.S. STRATEGY

Karl von Clausewitz, the great 19th-century military theorist, liked to speak of the "fog of war": the clamor and confusion as massed men hurl themselves at each other, the smoke and rain that often obscure the field of battle, the fear that at times clouds all but the most obtuse minds. It is difficult to see war whole, even from the distance of command. "A general never knows anything with certainty, never sees his enemy clearly, never knows positively where he is," said Napoleon.

As with war itself, so with the annual defense budget of the United States. It is hard to see whole, even for those who write it. Preoccupied with their own shares of the budget, the individual armed services slight each other's needs. Interservice programs critical to national security, such as airlift and sealift, are always shortchanged. Congress often treats defense as just another public-works program—only bigger—with the decision to purchase one weapons system instead of another turning not on the relative merits of each, but rather on whose district will get the money and jobs.

CALAMITY

Perhaps worst of all, the military budget seems driven by a technological imperative. Costly but sophisticated weapons are outward signs of American military might and American political will and thus are necessary for their own sake or as bargaining chips in future arms negotiations. They precede the formulation of strategy and to some extent determine it. This is no mere academic problem. "If the strategy comes first," says Thomas Powers, author of "Thinking About the Next War," "then the nature of the Soviet-American military confrontation is something we have chosen deliberately, and we may be said to be in control of our own fate. But if the weapons come first, spawned by man's sheer technical inventiveness, then the confrontation, with all its attendant dangers, is something that has happened to us—a kind of natural calamity, like a hurricane, or a drought, or the beginning of a new ice age."

The strategy should come first, if only for budgetary reasons. John M. Collins, a retired Army colonel who is now a defense analyst at the Library of Congress, points out: "Until you have a strategy you do not know what forces are needed. And until you know that, you cannot spend $1.6 trillion intelligently."

POLICY

Ever since the cold war bisected Central Europe, the underlying aim of U.S. national-security policy has been containment of the Soviet Union within the sphere of influence it established following World War II. The principal strategic vehicles of the policy have been the U.S. nuclear deterrent and conventional armed forces operating in tandem with allies, through arrangements like NATO.

Until the late 1970s, that dual strategy worked reasonably well. Soviet military power made no conquests besides the suppression of revolts within the Eastern bloc itself, and even the successful ideological inroads—Cuba, for example—were few. On the other hand, the U.S. strategy has done little to deter aggression by other communist states, such as North Vietnam and North Korea. And recently both the nuclear deterrent and NATO's conventional forces in Europe began to lose their credibility. Theoretically vulnerable to attack from new Russian missiles, America's landbased Titans and Minutemen could no longer guarantee a successful retaliation in the event of a Soviet strike. The manned B-52 bombers, too, seemed less threatening if they had to fly into the teeth of massed Soviet air defenses. Only the ballistic-missile submarines remained invulnerable. But their missiles lacked the accuracy to be of value against hardened military targets, and there were grounds for doubting whether a U.S. president would authorize their use against civilian populations, knowing the terrible cost of Russian revenge.

At the same time, an unmistakable Soviet buildup of conventional forces was well under way. Although the number of Rus-

sian divisions forward deployed in Central Europe has remained constant at 30 since the 1968 invasion of Czechoslovakia, those divisions have been fleshed out by the addition of some 75,000 men. Those 30 Soviet divisions are augmented by 28 non-Soviet Warsaw Pact divisions. The number of tanks in the combined Warsaw Pact divisions has increased from 12,000 to 16,000 since 1964, and—more important—their quality has improved with the introduction of T-64 and T-72 tanks.

NERVOUS ALLIES

The NATO allies, with the conspicuous exception of the United States, did beef up defense budgets during the last decade. But by 1980 NATO forces readily available for service on the front still totaled just 27 divisions—740,000 troops. Some nervous Europeans, hearing American talk of "limited" nuclear war and suspecting that it meant war limited to them, began to wonder if some sort of accommodation with the Soviet Union, economic or political, might not be advisable. This was exactly the process of "Finlandization" that American policy had aimed to prevent.

After they took office two years ago, Ronald Reagan and his secretary of defense, Caspar Weinberger, surveyed the military landscape and decreed change. The money came first. During Jimmy Carter's administration, the Pentagon had won its first real budget gains after eight straight years of decline, and Reagan upped the ante to 7 percent real spending growth a year. The B-1 bomber, killed by Carter as part of the trade-off in which he agreed to the cruise missile, would now be revived. There would be a 600-ship Navy.

Then came the search for a strategy that would make maximum use of the money—and justify the weapons. At the escalated level of nuclear war, the evolving strategy, designed by former Defense Secretaries James Schlesinger and Harold Brown and continued under Caspar Weinberger, went beyond traditional deterrence theory. Under the new doctrine, the United States should be able to fight a protracted nuclear war—and win. This means having less vulnerable intercontinental missiles, as well as an array of forward-based intermediate-range weapons like the Pershing II missile. The strategy, made possible by innovations in missile accuracy and communications systems, has raised fears that for the first time an American government finds the unthinkable thinkable, The Reagan administration does not "endorse the concept" of nuclear-war fighting, Weinberger insists—but, he asks, "what is the alternative to planning to prevail? . . . If there has to be a war, if all our deterrent efforts fail . . . I'm not going to plan to lose."

REFORM

At the same time, Weinberger is carrying out what he calls "the intellectual reform of our policy regarding conventional warfare." In recent years conventional strategy has called for the United States to maintain a "one and a half war" capability—meaning that U.S. forces should be prepared to fight, in concert with NATO allies, a full war of short duration in Central Europe and a smaller conflict somewhere like the Persian Gulf. Weinberger's intellectual reform contemplates fighting an all-out conventional war longer than the 30 days traditionally used as a U.S. planning objective. Even more ambitious, it envisions "horizontal escalation" in hostilities with the Soviet Union—counterattack at Soviet targets of value remote from the field of battle.

In theory, horizontal escalation finesses the difficulties of defeating a Soviet land army in the Middle East by relying on American maritime supremacy (enter the 600-ship Navy) to attack surrogate nations elsewhere. In practice, as former Defense Secretary Harold Brown points out, horizontal escalation would lack credibility as a deterrent even if the Navy had the ability to carry it out, because there is no target other than the Russian homeland that the Navy could attack that would be more valuable to the Soviets than the Persian Gulf oilfields are to the United States. "Cuba doesn't equate to Southwest Asia," says Brown. "If the Soviets attack the . . . oilfields, how much good does it do for us to relieve them of the burden of a $3 billion-a-year subsidy in Cuba?"

At bottom, all U.S. military strategy, and thus all major budgetary commitments for defense, must begin by confronting the harsh reality of geography: the United States is at a distinct disadvantage when it comes to leaning on other nations. Merely by massing its troops along one or another of its borders, the Soviet Union can influence events in all three of the areas most vital to U.S. interests—Western Europe, the Middle East and the Pacific environs of Japan and the Koreas. The United States, by contrast, is a maritime nation isolated by two vast oceans, yet with sea lanes and overseas interests to protect. In order to influence events in countries like West Germany or Saudi Arabia, it must be able to project power over thousands of miles, with all the attendant logistical problems.

Periodically there are cries for a scaling down of commitments overseas. Former CIA Director Stansfield Turner, writing with George Thibault in the magazine Foreign Affairs, said, "It is difficult to believe that the degree to which Europe has dominated our procurement of equipment, doctrine and training did not contribute heavily to our shortcomings" in Korea, Vietnam and the Iranian hostage-rescue mission. The Senate Appropriations Committee, noting that more than half the defense budget is devoted to the NATO commitment, recently voted to force the withdrawal of 23,000 American soldiers from Europe. It also cut back funding requests for the Rapid Deployment Force now being assembled to meet military contingencies in the Persian Gulf. In both cases the panel made plain its resentment over the allies' alleged unwillingness to shoulder a greater part of the burden of their own defense.

BATTLEFIELDS

But if the underlying aim of U.S. security policy is containment of Soviet expansionism, then the basic commitments to the defense of Europe, the Persian Gulf and Japan cannot be abandoned. "There is only one thing worse than fighting with allies," as Churchill said, "and that is fighting without them." In Europe the NATO countries provide more than 60 percent of allied ground-combat capability and about 55 percent of combat aircraft. Moreover, in an item that doesn't show up in the defense budget, West Germany supplies free real estate and facilities for American forces. In wartime, as former Under Secretary of Defense Robert Komer notes, West Germany "would even provide the battlefields."

Moreover, the allies are irreplaceable trading partners. America's international commerce, most of it with the industrial democracies and the oil producers, accounts for one-sixth of all domestic jobs and one-third of all profits. Forty percent of U.S. farm production is sold overseas. As a mercantile nation, the United States cannot afford the loss of markets that would follow an American withdrawal for overseas defense. Nor can the country afford to lose what Komer calls "perhaps our most important remaining strategic advantage over the U.S.S.R . . . that we are blessed with many rich allies, while the Soviets have only a few poor ones." And the United States would not welcome the rise in West German and Japanese militarism that might follow a U.S. pullback. West Germany could even develop independent nuclear forces. As former National Security Council staffer Morton Halperin warns, "Massive German rearmament would dramatically increase the chances of war with the Soviet Union."

If the U.S. strategy of containment through alliances is to remain intact, there are certain inevitable consequences. For a start, the Weinberger policy of horizontal escalation should be dropped. Horizontal escalation fails the first test of deterrence—reminding a potential enemy that aggression will cost more than it gains. It also undermines the alliances. By proposing to punish an aggressor elsewhere rather than confront it directly at the point of attack, horizontal escalation implicitly abandons potential battlefields like the Persian Gulf. The citizens of Europe, whose lights were fading because they had lost Persian Gulf oil, would take no cheer from the news that in retaliation U.S. Marines had captured Havana.

KILOTONS

The United States must also recognize the deterioration of nuclear weaponry's credibility as an option in the defense of allies. Europeans doubt—with good reason—that the United States would invite attack on its own cities by using nuclear weapons. Nor does anyone believe that the Europeans would beg for the use of tactical nuclear weapons on their own territories (in northern Germany, it is sometimes said, the towns are only a couple of kilotons apart). While America cannot now afford to give up the capacity to ride out a Soviet first strike and retaliate in full force, the solution to weaknesses in Western defenses is better conventional capabilities—not Weinberger's theory of protracted nuclear war.

Therefore, as a minimum first step, Congress should restore all of the funds it cut for redeploying U.S. troops closer to the forward defense positions on the East German border and for improving allied airfields. It should lift the ceiling it imposed on troop strength in Europe. And it should restore its 50 percent cut in funds to improve facilities in the Indian Ocean area. Cuts should not come from the budget for NATO readiness. The ax should fall elsewhere.

If the United States is ever to shake free from its dependence on nuclear weapons, it must begin looking for cuts in the strategic arsenal. Not doing so invites danger. As the respected Sen. Sam Nunn suggested not long ago, increasing the portion of the budget devoted to nuclear programs also increasing the risk of a nuclear confrontation. Having slighted conventional forces, he said, "we will inadvertently decrease our options to protect vital interests without having to resort to the use of nuclear weapons."

The best-known candidate for elimination is the MX missile. The case in its favor has never been wholly persuasive. By itself, the 192,000-pound behemoth adds little or nothing to the nuclear deterrent; with its high accuracy and 10 warheads, it has more fire-

power than the U.S. strategy of maintaining retaliatory capability would require. It was the idea of a deceptive basing mode that originally made the MX a plausible replacement for the Minuteman III missiles. With deceptive basing—Carter's plan to shuffle 200 missiles among 4,600 shelters—now abandoned, the MX becomes expendable. Cutting it from the budget would save $14.9 billion by the end of fiscal 1987. Besides, there are reasons to suspect that its real reason for being is the Air Force's fear that the Navy, with multiwarhead missiles aboard near-invulnerable Trident submarines, would usurp the Air Force role as prime bearer of the nuclear deterrent. As one defense specialist on Capitol Hill notes, one of the MX's chief attractions to the Air Force is that it's "so big the sonofabitch won't fit in a Trident submarine."

In any case, it is time to rethink the larger question of whether the United States should continue to sink billions of dollars into preserving the land-based leg of the strategic triad. Just as Richard Nixon could get away with a trip to China when more liberal presidents could not, so a defense hard-liner like Ronald Reagan could make palatable a decision to live with a weakened land-based leg—what some proponents call an "isosceles triad" with two strong legs and one weak one.

On the other hand, the Trident submarine program, plagued by prodigious cost overruns, should be continued. Mobile and invisible, it is deceptive basing in practice, not just theory. Until the Soviet Union develops much better antisubmarine-warfare technology than it now has, this sea leg is by far the safest part of America's strategic triad. And the Trident II missile, which like the MX has the capacity to destroy hardened Soviet targets, is scheduled to go into service in 1989.

BOMBER

The Lazarus-like B-1 bomber, killed once already by the Carter administration, can be earmarked for reburial. The case for manned strategic bombers remains strong—as Sen. John Tower, chairman of the Armed Services Committee, emphasizes, they can be recalled in the event of a mistaken order to proceed to target. But the B-1 is too expensive to make sense for the few years it would perform its primary function. The current long-range bomber is the venerable B-52, which is thought able to penetrate Soviet air defenses until the late 1980s. By the early 1990s, if not sooner, the new advanced-technology bomber (known as "Stealth" for its radarevading abilities) should be in service. Why, then, spend at least $23 billion through fiscal 1987 on an interim airplane? One argument is that forcing the Soviets to modify their air defenses to defeat the B-1 will divert billions that would otherwise go to developing offensive weapons. But once they did so, the B-1 would be no more effective than B-52s equipped with cruise missiles.

Conventional-force reductions are harder to recommend—these forces have for so long been neglected. Some highly visible systems are overdesigned and overburdened with expensive technology, but to criticize complex weaponry across the board is to miss an important point: America's chief military advantage over the Soviet Union is precisely its technological supremacy. In an era when microelectronics are making it possible for opposing forces to clash without ever coming within visual range of one another, it makes no sense for the United States to give up its edge.

QUANTUM LEAP

At the same time, a certain skepticism about high technology is appropriate. One reason the Soviets consistently put more new weapons in the field than the United States is that, as John Collins notes, they settle for "incremental improvements," constantly updating weapons in actual use. The American tendency, on the other hand, is to strive for "the quantum leap forward." Typically, new systems come loaded with "bells and whistles"—Pentagon slang for technological frills—which often fail to work at first, leading to production delays and cost overruns. At that point, as Sen. Gary Hart likes to say, "better becomes the enemy of good." It also becomes the enemy of efficiency. Technology is giving each service the ability to perform the mission of another: increasingly, long-range aircraft are able to perform the same duties as aircraft carriers. But the services are so traditionbound that they don't adjust to the changing implications.

There are some troubled high-tech weapons under development that deserve a chance—if the bugs can be worked out of them. One is the Abrams (M-1) main battle tank, a "high risk" design that has given critics a field day. The tank proved "allergic" to dust, a commodity often found on battlefields. Its transmission failed so often that one Senate tank expert observed, "General Motors would have issued a recall notice for all of them." But since 1979 Abrams has been performing much better, and it is now winning applause from allied tank experts. Another troubled system with a future is the F-18 fighter-bomber, which carries a total program cost of $40 billion—more than either the MX or the B-1. It was adopted by the Navy at least in part because the Navy didn't want to take an Air Force Plane. Among the F-18's problems was the fact that in its attack mode the missiles it carried weighted it down so much that it could not achieve its specified range of 550 miles. But the most recent classified-test results indicate that the $22.5 million-per-copy airplane is now within striking distance of passing grades.

DEADLY FIRE

But the argument for building two new Nimitz-class nuclear-powered aircraft carriers is less than compelling. They are the centerpieces of Navy Secretary John Lehman's plans for a 600-ship fleet, but their strategic value doesn't justify their total cost of $7 billion—$4.7 billion by 1987—not to mention the additional $30 billion or so needed to deck out two carriers with full complements of aircraft and support ships. The task forces include four air wings over the life of the two carriers (total cost: $18.6 billion), four Aegis-class cruisers ($6.2 billion) and eight destroyers ($4.2 billion); some of these support craft might be necessary for other missions, but if the two carriers are canceled, several billions of dollars extra could be saved.

The main mission of the carriers, it appears, would be to provide platforms for airplanes to attack the Soviet land mass, which Sam Nunn dryly describes as "not a very well-thought-out strategy." As one congressional staff defense specialist says, "No admiral in his right mind is going to want to go tearing up [through the Arctic Circle] into the Kola Peninsula to bash hell out of it." The big ships would draw deadly fire from Soviet Backfire bombers carrying cruise missiles, and even if they survived, their bombers—only 35 per carrier—would be unlikely to penetrate Soviet air defenses in great numbers. Indeed, the vulnerability of Nimitz-class carriers to humiliatingly cheap missiles is a strong argument against building any more than the 13 the Navy now has. It is worth recalling that during the Iranian hostage crisis when a little gunboat diplomacy might have helped, the admirals declined to send a supercarrier into the Persian Gulf. Not wanting to lose it, they didn't use it.

Similar considerations apply to the Navy's plans to bring four vintage battleships out of mothballs. One, the New Jersey, will be commissioned this month, and another, the Iowa, should be available for sea duty late next year. The Navy should stop there. Equipped with cruise missiles for land attack, the main mission of the revitalized battleships apparently would be to strike at the Soviet heartland. They, like the carriers, would be in harm's way. Alternative possibilities are to deploy one battleship in the Caribbean, with air support based on land in Texas or Florida, and one in the western Pacific, with air cover out of South Korea, the Philippines or Okinawa. A carrier could then be relieved for Indian Ocean patrol. For this purpose, though, the battleships already reactivated are enough. Savings: $909.5 million.

Another candidate for removal from the Navy's budget is the fleet of 342 AV-8B Harrier jump jets now being purchased for the Marines. The Harrier is a short-takeoff-and-landing aircraft designed for close air support of ground troops from forward bases. It is a capable plane, but its duties could be handled by the attack version of the dual-mission F-18 fighter-bomber called the Hornet. The Marines could buy the F-18 in place of the AV-8B without any increase in F-18 orders, since the Navy's production plans include planes for reserve units and for the task forces planned for the two Nimitz-class supercarriers. It would save $4.5 billion by the end of fiscal 1987 and eliminate the need for the Marines to develop two quite different training and logistical systems. The Marines point out that the Harrier can do things the Hornet cannot, but there is nonetheless enough overlap to justify the cut. Besides, suggests former Pentagon analyst Russell Murray II, the real reason the Marines want the Harrier is to avoid a repeat of their experience in Korea, when the Air Force tried to take over Marine planes and convert them to deep interdiction missions. Murray says the Marines want "to tie their future aircraft so closely to their ground forces that it would simply be infeasible to transfer their control to the Air Force."

NO THREAT

Another capable aircraft that should be cut back is the F-15 long-range interceptor known as the Eagle. As part of a total buy of the 1,395 F-15s, the Air Force wants 144 for air defense of the continental United States against Soviet bombers—an almost nonexistent threat that is far less important than that posed by the Soviet ICBM's. The F-15 is indeed a hot plane—too hot, since its top speed of more than Mach 2.5 squanders fuel and is rarely if ever used by pilots—but it is not needed for continental air defense. Reducing the F-15 purchase by 108 aircraft would yield $2.4 billion in savings by fiscal 1987.

Even the Air Force has offered to stop buying the A-10 Thunderbolt, another attack plane intended for close support for ground troops. That job can, however, be handled by the Army's new AH-64 Apache

helicopter. The A-10 has been kept alive mainly by New York Sen. Alfonse D'Amato; it is built in his state. Cutting it would produce a savings of $386.3 million over the Reagan budget cycle.

One deservedly criticized high-tech weapon is the DIVAD (for Division Air Defense) computer-operated radar-guided anti-aircraft gun, which was inspired by demonstration last February the DIVAD trained its sights on a drone Huey helicopter hovering nearby—and failed to fire. After repairs to a disconnected cable, the DIVAD fired—this time, directly into the ground 300 yards away. The Soviet version of the weapon doesn't perform well, either. Says one congressional staff specialist: "We have taken a relatively inexpensive, inaccurate Soviet weapon and turned it into a relatively very expensive, inaccurate American weapon." Canceling it would save $2.7 billion by fiscal 1987.

VIPER

An equally troubled weapon is the hand-held Viper antitank gun—essentially a high-tech version of the bazooka. Its main problem is its ineffectiveness against the frontal armor of the new Soviet T-72 tanks. U.S. soldiers would have to let the T-72 go by and fire from behind—a questionable practice. The Marines have already rejected it. "You want something that hurts the enemy, not just pisses him off," says Sen. Warren Rudman, who calls the Viper "a turkey with characteristics of a cat, because it has nine lives." No senator "would hesitate to give soldiers the best weapon even at the highest cost," he adds "But no one, starting with me, is going to give him the worst at the highest cost." Canceling it would save $1 billion by fiscal 1987.

Further assorted savings:

The Army's Helicopter Improvement Program, an unnecessary interim retooling of the OH-58 Scout helicopter until a new Scout is in the field; $786.8 million saved.

Two-thirds of the production of the heat-seeking version of the air-to-surface Maverick missile, which is intended for night use in place of the optically guided Maverick. Any alert enemy who wants to divert the missile can easily do so, however—simply by setting fires to pull it off course. "It would probably get more pilots killed than would kill targets," says Anthony Battista of the House Armed Services Committee; $1.2 billion saved.

Half the civil-defense budget. This is not technically Pentagon money, but should be construed as national-security spending. Savings: $1.2 billion.

All told, these cuts would lower the defense budget by only $2.7 billion in the current fiscal year. But starting next year, the "bow wave" of spending will start to hit, set in motion by programs authorized last year and this. By the end of fiscal 1987 Newsweek's defense-budget cuts of $56.4 billion, plus the civil-defense savings, would total $57.6 billion, with minimal impact on national security. This would still represent a growth in spending higher than 5 percent annual real growth—the figure endorsed by the Joint Chiefs of Staff during the Carter administration. It will not, however, narrow the gap between expenditures and strategy. The Joint chiefs of Staff will have to come up with a coherent way to integrate the four services into a single fighting force before that gap will fully close. Cuts along these lines should be made now, while there is still time. Otherwise, they will surely be made later, and they will come out of the basic operating funds for keeping American armed forces ready. That would harm national security.

CUTTING THE BUDGET—NEWSWEEK SUGGESTS CUTS THAT WILL SAVE BILLIONS WITHOUT HARMING NATIONAL SECURITY

System or program	Fiscal 1983 savings	Total savings over 5 yrs.
Cancel B-1 bomber	$859,500,000	$22,900,000,000
Cancel MX missile unless administration comes up with a believable basing mode	1,100,000,000	14,900,000,000
Cancel two Nimitz-class aircraft carriers	164,900,000	4,700,000,000
Cancel AV-8B Harrier jump jet	181,900,000	4,500,000,000
Cancel DIVAD air defense system	34,800,000	2,700,000,000
Eliminate F-15s for continental air defense	72,800,000	2,400,000,000
Cut funding for Maverick missile by two-thirds	47,200,000	1,200,000,000
Cancel Viper antitank gun	123,000,000	1,000,000,000
Cancel reactivation of battleships Missouri and Wisconsin	15,000,000	909,500,000
Cancel Army Helicopter Improvement Program	49,400,000	786,800,000
Terminate A-10 antiarmor airplane	40,800,000	386,300,000
Totals	2,700,000,000	56,400,000,000

Reagan's wish list [1]

[In billions of dollars]

Program	*Fiscal 1983 budget authority*
Strategic forces	23.1
General-purpose forces	106.5
Intelligence and communications	18.0
Airlift and sealift	4.4
Guard and Reserve forces	14.3
Reserarch and development	20.1
Central supply and maintenance	22.2
Training, medical, other general personnel activities	44.2
Support of other nations (Excluding military-assistance programs)	.9
Administration and associated activities	4.3
Total	258

[1] The defense budget for fiscal year 1983 authorizes spending that will grow by billions in the years ahead.

Source: Department of Defense.

BAHAIS IN IRAN SUFFER RELIGIOUS PERSECUTION

Mr. PROXMIRE. Mr. President, World Press Review recently printed an article by Christian Ullman about the religious persecution of the Bahai sect in Iran. According to the article, the Bahais, who believe in the unity of all major religions, are considered "heretics" and denied all civil rights.

The author explains that the new Islamic Republic does not recognize the roughly 300,000 Bahais in Iran as one of its official religious minorities. Their shrines and religious centers are destroyed and their cemeteries vandalized. He also reports that hundreds of Bahais have been killed in Iran since 1978. In one account, "a husband and wife were tied to the doors of their house, wood was piled over them, and a fire was set, killing them."

The author goes on to enumerate the many forms of harassment endured by the Bahais in their day-to-day life. For example, the State does not legally recognize couples who are married in Bahai religious ceremonies and, therefore, individuals joined together in this way may be persecuted and their children considered illegitimate. In addition, children of the Bahais do not have access to education.

Members of the Bahai sect are easy targets for those who wish to harm them because the authorities will not arrest their assailants. Sadly, the Bahais are imprisoned within this system because legal emigration is not possible.

Mr. President, the terrible religious persecution of the Bahai sect in Iran reminds us that the potential for genocide still exists. We know from history that genocide may occur when the human rights of a particular group are grossly violated. While Americans abhor such persecution, our Nation has neglected to meet its full responsibility in discouraging this criminal act.

Mr. President, the United States has not yet ratified the Genocide Convention and while our Nation waits, thousands suffer. As a leader in the area of international human rights, our country must join over 80 other nations in officially condemning genocide. Once again, I urge my colleagues to ratify this treaty.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business has expired.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The Senate continued with the consideration of the bill.

● Mr. SCHMITT. Mr. President, I would like to address the fine work of the chairman of the Interior Subcommittee of Appropriations, Senator McCLURE, in bringing this measure to the Senate floor. Many of us realize the difficulty of guiding an appropriations bill of this complexity through the Senate, but few can appreciate the

extra qualities of patience, hard effort, and sincere dedication which are required to succeed during this extraordinary legislative session. This appropriations bill, the product of Senator McCLURE's long effort, is witness to his skills as a legislator and a fine human being.

I would also like to commend his staff as exemplary in their efforts to support the chairman. Their assistance to this Senator when questions have arisen has been appreciated. Each one of us knows the value of a clear, concise response—even when it is not the one we want to hear. I would like to personally thank each of them. It is my understanding that Diana Barnhart will be leaving the Senate shortly to travel across the country and serve in another capacity. It will be our loss, and we wish her well. Senator McCLURE has been well served by this hard-working staff unit, as has the Senate as a whole.

As the Senator representing New Mexico, it is a privilege to thank the chairman for his helpfulness and concern for those issues which have been of particular importance to my State.

Sometimes "small" can be meaningful, as is the case with small sawmills in northern New Mexico. The language in the Senate report directed to the needs of small loggers will be of great help in terms of employment and preservation of a way of life.

The chairman's farsighted efforts to insure the protection of the archaeological record in the San Juan Basin as our Nation moves to meet its energy requirements will be appreciated by future generations. In conjunction with this effort is the action taken to further our knowledge and understanding of the Fajada Sun Dagger Calendar site of the Chaco Canyon in New Mexico. The computer graphics modelling effort provided in this measure will aid and protect this remarkable ancient Pueblo calendar.

The vital issue of Indian economic development has been addressed very positively in several forms in this measure. I speak for the tribes in New Mexico specifically when I say "thank you" to the chairman for his support for the Navajo Indian irrigation project, the rehabilitation of the Sandia Pueblo's farm laterals, and the continuation of the fish hatchery on the Mescalero Reservation. In each project there is a proven track record from which the tribes can continue to build with the assistance provided in this appropriations bill.

There are many other issues of national significance which have benefitted from the chairman's careful handling and understanding. I would again like to express my gratitude for his efforts on behalf of New Mexicans and the Nation as a whole.●

● Mr. DeCONCINI. Mr. President, during the Appropriations Committee's consideration of the Interior and Related Agencies bill, I offered an amendment, along with Senator BUMPERS, to prohibit the use of funds to process new gas, oil or coal leases on Federal lands being considered as wilderness. The amendment was passed and is now a part of the bill. We included lands already within the National Wilderness Preservation System, lands within any Forest Service RARE II area recommended for wilderness designation or allocated to further planning, and lands designated by Congress as wilderness study areas.

Mr. President, the people of this country have acted to identify and set aside certain areas of our public lands to remain untampered with for the near future. We have attempted to do this carefully and openly through an orderly process. This program is continuing through the congressional review of the wilderness areas recommended by the U.S. Forest Service on a State-by-State basis.

There certainly has been a lot of differing opinions as to which areas should be designated wilderness and which should not. But I have received a lot of agreement on one thing—be careful. Be careful on what we set aside and be careful on what we open up. The resources we own together as a Nation are crucial to a number of competing, but not necessarily conflicting, goals, so my constituents have demanded that we consider all of our needs before we turn them over to private interests.

Mr. President, therein lies the problem. This administration appears to be striking out at our Nation's land, water and energy resources at a furious pace. There are over 1,000 new wilderness lease applications pending for more than 3 million acres of wilderness, and Secretary Watt has indicated he will issue these leases for oil and gas drilling in wilderness areas unless Congress specifically prohibits it. The Secretary, through a number of recent actions, has badly strained public confidence in the Government's willingness to protect public resources and property—and the people are looking to the Congress. What we are dealing with is nothing less than public trust and confidence. What they are saying is, slow down. Our committee amendment is simply a 1-year limitation on funds to stop the Secretary from processing new leases—a 1-year moratorium.

It was not the intent of the DeConcini Bumpers/committee amendment to interfere with, or affect in any way, valid existing leases. In our amendment language, we specifically included language to protect valid existing rights in RARE II areas recommended for wilderness designation by Congress as wilderness study areas. We did not specifically include already designated wilderness areas in our protection of existing leases and rights, but we did not intend to exclude them. We intended to offer a floor amendment today to make sure all valid existing leases and rights are excluded from the funding limitation. We have discussed the need for this amendment with members of the committee, with the Department of Interior and with representatives of the public interest groups and there is agreement that it is appropriate to recognize all valid existing rights. The protection of valid existing leases in congressionally designated wilderness areas is included also in S. 2801, the bill which was introduced by Senator HENRY JACKSON and which has 54 cosponsors. For this reason I have no objection to the amendment offered by the floor manager to include Federal lands within the National Wilderness Preservation System.

Mr. President, I thank the distinguished floor manager, Senator McCLURE, the subcommittee chairman, for his cooperation and commend him for his dedicated leadership and for the tremendous amount of effort he and his capable staff have made to bring this bill to the floor.●

● Mr. WEICKER. Mr. President, I stand here concerned about our commitment to support and involve the States with the recovery of endangered species.

Congress has recently demonstrated its concern with whales by applying pressure on the Japanese in order to force them to sign the International Whaling Commission Agreement. At the same time, the Senate has not restored the part of the Department of the Interior fiscal year 1983 budget used for grants to the States to assist State endangered species recovery programs.

Mr. President, it is under section 6 of the Endangered Species Act that the Secretary is given the authority to enter into management and cooperative agreements with the States for the purposes of managing habitats of endangered and threatened species and engaging in other joint activities. These efforts are funded through Federal matching grants to the States and represent the major provision of the act for effecting recovery. One needs only to examine the legislative history of the act to find that Congress intended that a cooperative Federal-State relationship be initiated and sustained.

The House recognizes the importance of the States cooperative recovery of endangered species and has added $4,000,000 to restore the program.

I would hope that my colleagues on the Interior appropriations conference will view the $4,000,000 favorably and concede to the House.●

PAPAGO INDIAN WATER RIGHTS

● Mr. DECONCINI. Mr. President, I have serious concerns relating to the funding requirements of title III of Public Law 97-293, the Papago Indian water rights. I will not now take the Senate's time to explain just how important this water settlement is to both Indians and non-Indians in southern Arizona. However, I would like to say that the negotiations—including the legislation—evolved over 5 intense years and the settlement is now dependent on moneys being appropriated as authorized. I have asked the Department of the Interior to supply a statement as to the costs which will be required in this fiscal year 1983 to meet their schedule for implementing the law. The Department estimates a fiscal year 1983 requirement of $20,465,000. Most of this sum, $20,250,000, is trust funds and would not be considered as outlays.

However, there has not been a request for appropriations from the administration and I have taken up the matter with the committee. Within the committee, however, we are faced with two problems; one is purely a problem of adding $20 million to this bill, and the other is a continuing discussion as to the subcommittee jurisdiction.

I would like to ask the distinguished floor manager, the subcommittee chairman, if he would be willing to seriously consider a supplemental for at least $15,000,000 for the Papago Tribe trust fund, and would he continue to work with me to get an agreement on subcommittee jurisdiction?

Mr. McCLURE. I understand a supplemental will be requested by the Bureau of Reclamation for these settlement costs. I am certain that by the time we act on a fiscal year 1983 supplemental, we will have resolved the jurisdictional question.

Mr. DECONCINI. I thank the distinguished floor manager.●

ENTRANCE AND RECREATION USE FEES

● Mr. BUMPERS. Mr. President, I am concerned about language in this bill appearing on lines 14-21 on page 12.

Basically, this provision directs the National Park Service, notwithstanding any other provision of law, to establish and continue entrance and recreation use fees for all units of the national park system.

Mr. President, this language directly repeals one piece of general legislation as well as several specific provisions in a number of park bills enacted by the Congress in the past few years. The language in this bill before us is bad policy. But aside from that, I very much regret that the Senate is being asked to deal with a policy issue such as this in this manner.

Mr. President, the Congress, in a fairly bipartisan manner as I recall, voted to freeze park entrance fees in 1979. This freeze was imposed in response to a proposal by the Carter administration to greatly increase entrance fees practically across the board, and use the money for park maintenance activities. As the subcommittee chairman of the Parks Subcommittee at the time, I held a hearing on this matter and found the proposal poorly thought out and inequitable. The Congress responded by enacting a freeze. Since then, the Congress has passed numerous park bills with specific provisions prohibiting the imposition of entrance fees on a park-by-park basis. The language in the Interior appropriations bill would, in effect, repeal this general statute and these specific provisions as well.

Mr. President, one of the highest priorities of the Reagan administration—and of David Stockman and Jim Watt in particular—has been to repeal this entrance fee freeze. The administration has transmitted several bills to the Congress to make this change. Those measures have been referred to the Senate Committee on Energy and Natural Resources Committee. Despite these efforts, not one hearing has been conducted on any of these bills. The Energy and Natural Resources Committee has not considered this manner in any fashion during the 97th Congress. And yet, we find before us today a provision in this appropriations bill directing the National Park Service to establish and collect these fees where they are not presently collected and raise them at those parks where they are collected now. In the depths of one of the worst recessions in our Nation's history, this Congress is being asked to respond by charging the American public more money for the privilege of entering their own national parks toward a balanced Federal budget.

Mr. President, I am not opposed to taking a look at the entrance fee issue. Maybe these fees should be increased or imposed in some instances. But I firmly believe this is something we should look at in the appropriate authorizing committees of the House and Senate—not in the context of an appropriations bill.●

WILLIAMS CREEK FISH HATCHERY

● Mr. DECONCINI. Mr. President, before we dispose of the measure before us, I would like to get the chairman's interpretation of the committee's intention with respect to fiscal year 1983 funding for the operation of the Williams Creek Fish Hatchery on the White Mountain Apache Indian Reservation in Arizona.

Mr. President, it has been my understanding that $101,000 is included in the BIA budget in fiscal year 1983 for the continued operation of the Williams Creek Fish Hatchery. It is my further understanding that although this project will be funded by the BIA, the management will be provided by the U.S. Fish and Wildlife Service by contract through this fiscal year. Can the chairman tell me what was the clear intent of the committee regarding the future management of this facility at Williams Creek?

Mr. McCLURE. The Senator from Arizona has accurately stated what I believe to be the committee's intent with regard to the operation of the Williams Creek Fish Hatchery. Although $101,000 has been included in the BIA budget, the committee expects the BIA to contract with the Fish and Wildlife Service for the continued management of the facility.

Mr. DECONCINI. I thank the chairman for his clarification in this matter. As you know, the fish hatchery at Williams Creek is very important to this Senator and the citizens of Arizona. Arizonans will be happy to know that this facility will continue to receive the fine services of the highly qualified and capable staff of the Fish and Wildlife Service.●

SECTION 315

● Mr. BUMPERS. Mr. President, section 315 of H.R. 7356 is very similar to language included as section 111 of the continuing resolution, Public Law 97-276. Section 315 requires Federal agencies to take the following actions before disposing of any tract of Federal land: First, identify the tract as no longer being needed by the Federal Government; second, inventory the tract for its public benefit values; third, provide the public with opportunities to review and discuss the proposed disposal; and fourth, notify the congressional delegation of the State in which the tract is located and the appropriate congressional committees of the proposed sale 30 days in advance. These required actions are not intended to overturn or replace any existing statutory or regulatory requirements governing Federal land disposals, but are instead intended to supplement them.

The committee is aware that some confusion has arisen over the interpretation of section 111 of the continuing resolution. The General Services Administration and the Department of the Interior interpreted section 111's requirement regarding the sale of Federal land to apply only to lands with "national environmental or economic value." This was not the intent of the committee or the sponsors of the amendment. Rather, the provisions of section 111 of the continuing resolution were intended to apply to any tract of Federal land, and not merely to those properties with "national environmental or economic significance."

To insure that the language of section 315 of this bill is clear, no reference to "lands with national environmental or economic value" has been included. The provisions of section 315 of this bill apply to the sale of any federally owned land. The language ex-

empts only disposals specifically authorized by previous legislation, and disposals carried out under the authority of the Townsite Act or the Recreation and Public Purposes Act.●

UP AMENDMENT NO. 1433

Mr. McCLURE. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1433.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, line 10, strike section 308 and insert the following new section in lieu thereof:

"SEC. 308. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 4(d)(1) of Public Law 96-312 and section 603 of Public Law 94-579, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas: *Provided,* That nothing in this section shall prohibit the expenditures of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning or within any lands designated by Congress as wilderness study areas, under valid existing right or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further,* That funds provided in this Act may be used by the Secretary of Agriculture or Interior to issue under their existing authority in any area of national forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seimic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further,* That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting, in conjunction with the Secretary of Energy, the National laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and X-ray defraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of national forest or public land wilderness areas that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness or other non-surface disturbing methods."

Mr. McCLURE. Mr. President, this is a matter that was discussed in the committee. I am frank to say that the amendment I am now offering in slightly different form was turned down by a vote in the committee.

However, after talking to the people that were involved in that matter in the committee, I think there is no objection to it. I refer to the language that was adopted in the committee with respect to wilderness withdrawal. Senator DECONCINI offered an amendment and his position prevailed in the committee, but it had one error in it. That was that it did not recognize valid existing rights within existing wilderness areas.

The amendment that I am offering makes that correction. It also adds the language which is in the minerals withdrawal from existing wilderness bill which Senator JACKSON has introduced with many cosponsors. Over half of the Senate are cosponsors of that bill.

While it does not restate the entire Jackson bill, this amendment is patterned primarily after the House action down to the point where we pick up with the Jackson bill on the second page dealing with the conditions and limitations upon the exploration.

I emphasize that the language in the Jackson bill is repeated verbatim in this amendment.

Mr. President, I believe that the principals who have expressed an interest in this, at least through their staffs in every instance, are aware of this language and this amendment. I do not know of any substantial objection to the amendment at this time, but if there is any concern, then I would withhold consideration of it until we can have time to study it.

If there are other Members who wish to speak to the amendment, I am happy to yield to them at this time. It is not my desire to try to rush this through at all, because I think there are those who want to at least read the language before voting on the amendment.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I believe this amendment will be perfectly suitable, but staff is now reading it with a fine tooth comb. If we may have a few more minutes, perhaps move on to something else while we are studying it carefully, then we can determine whether there is in fact objection. But we would not want to approve it at this time.

Mr. METZENBAUM. Will the Senator from Idaho be good enough to yield for a question?

Mr. McCLURE. Surely.

Mr. METZENBAUM. And that is, just what does this amendment do? I came in about 2 minutes late. I found that the amendment was already on the floor.

Mr. McCLURE. The amendment picks up the language that was added in the committee, the DeConcini amendment, and makes one correction to that which I think Senator DECONCINI would confess he did not intend; that is, that valid existing rights not be recognized. This will recognize valid existing rights.

If the Senator will look at the structure of the amendment, the first page and the tip of the second page simply pick up on the committee action; the words are exactly the same with that one change.

Then the second page is the addition of the language in the Jackson bill, of which I believe the Senator from Ohio is a cosponsor. Over half of the Members of the Senate are cosponsors of that language, even though it has not gone to markup in the authorizing committee. This issue kind of eluded the authorizing committee because it was offered in the appropriations context first in the other body.

It picks up the DeConcini language with that one change, and then it also picks up the remainder of the Jackson bill.

Mr. METZENBAUM. Since I am not at all reluctant to admit I do not know what the DeConcini amendment is, will the Senator be good enough to explain the DeConcini as well as the Jackson amendment?

Mr. McCLURE. It is a moratorium on minerals leasing within wilderness areas, study areas and designated RARE II areas. This is an issue which has had a great deal of interest over the last 6 months. It arose first in the Montana-Bob Robertson Wilderness Area, second, in New Mexico with respect to some proposed oil and gas exploration, and then became a matter of interest in Wyoming.

I had earlier in the continuing resolution offered an amendment which simply established a moratorium for the period of the continuing resolution. This language goes further in time than that, but this amendment would add back the prescription on the exploration activities contained in the Jackson bill that was not contained in the earlier language which I had offered to the continuing resolution.

Mr. METZENBAUM. Will the Senator from Idaho indicate, if he knows, whether those who represent the so-called environmental groups around the Congress are supportive or opposed to this amendment?

Mr. McCLURE. I am sure the Senator knows that I am not as close to them as some others are around here. They do not necessarily come around to my office and tell me what they like or dislike about what it is I am about to do. But in general terms, as I understand it, they did not expect or intend that the DeConcini action taken in the full committee would fail to recognize valid existing rights. They have no objection to that change. They recognize it is a valid and necessary exercise.

Second, obviously they have no objection to the Jackson language because they were very great proponents of the Jackson bill. I have not asked them about whether they want that added, but I think, if we are going to deal with the question of the withdrawal of the wilderness areas, the RARE II areas and the study areas, we ought to at least do it with the language that was contained in the Jackson bill rather than a blanket prohibition.

I am frank to say, as the Senator will certainly understand, this is not action that I necessarily favor. I think it goes further than is justified by the circumstances. I have been very candid about that. However, I also recognize that the majority rules in this body, and the majority in the committee desired that we have the geographic extent including those three categories. So I am acceding in that regard to the will as expressed by the majority of the committee.

Mr. MELCHER. Will the Senator yield?

Mr. McCLURE. Does the Senator from Ohio have further questions?

Mr. METZENBAUM. It is my understanding that the Senator from Idaho is going to temporarily lay this amendment aside?

Mr. McCLURE. If the Senator desires to have a little further time to check on the language, I shall be happy to do that. I am not attempting at all to rush the consideration of it.

Mr. METZENBAUM. Is it not a fact that this is legislation on an appropriation bill?

Mr. McCLURE. Yes, the DeConcini amendment is.

Mr. METZENBAUM. I thank the Senator from Idaho. I will study it further and advise him whether or not I would either ask him to withdraw the amendment or raise a point of order both to the DeConcini amendment as well as to this amendment.

Mr. McCLURE. I shall make a prediction right now: The Senator from Ohio will not make a point of order against the DeConcini amendment. I am telling him what he will do; I am predicting what he will do.

Mr. METZENBAUM. The Senator from Idaho is quite often sufficiently perceptive to know those matters against what I might raise a point of order and those against which I might not raise a point of order.

Mr. McCLURE. Mr. President, if the Senator from Montana has a question, I shall be pleased to respond.

Mr. MELCHER. Mr. President, I am looking at an amendment which I believe is the one we are discussing. I am confused as to what is the DeConcini amendment.

Mr. McCLURE. The amendment offered in the subcommittee was a blanket withdrawal of all of the designated wilderness areas, those that had been recommended for wilderness under the RARE II process and those that had been recommended for further study under the RARE II, and protecting valid existing rights with the exception of the valid existing rights within the wilderness areas. I think that was a grammatical error rather than an intentional difference.

I might add to that that this was an amendment which was offered first—not mine, the DeConcini amendment—in the House of Representatives and follows the amendment which I had offered to the continuing resolution that sought to keep things in the status quo pending the action in the Energy and Natural Resources Committee on the Jackson bill. It was offered in the Appropriations Committee, I believe, by Representative YATES in the other body. Senator DECONCINI then picked up on that action here, to follow on the action that was taken in the other body. It was a part of the bill when it came to us, was not part of the subcommittee mark, and was then added in the full committee meeting.

Mr. MELCHER. If the chairman will yield further, on page 2 of the amendment before us, beginning with the proviso—I notice that it is typed on a different typewriter, with smaller type.

Mr. McCLURE. The second part the Senator makes reference to is picked up from the Jackson bill.

Mr. MELCHER. Is it the intention of the amendment to permit the Secretary of the Interior to issue permits to conduct prospective seismic surveys, core sampling, et cetera, on national forest lands without the usual procedure, which is covered, I believe, by a memorandum of understanding between the two Secretaries?

Mr. McCLURE. This is more restrictive rather than less restrictive.

Mr. MELCHER. Mr. President, I have not completed my question.

Mr. McCLURE. I beg the Senator's pardon.

MELCHER. It is generally conducted now, as I understand it, under a memorandum of agreement between the two Secretaries. Is it the intention to have a Secretary of the Interior issue these permits without the consultation with the Secretary of Agriculture on the national forest lands and therefore sign off on the Forest Service—as I read this language, it refers to existing law. A memorandum of understanding is certainly not existing law.

I raise this point because I have noticed in this proposed bill all along that apparently the language is drafted in such a way as to permit the Secretary of the Interior to issue these permits in a manner that is not permitted now.

I want to clarify that by saying "under this bill," I mean the bill that was passed in the House overwhelmingly and that Senator JACKSON introduced here with, I believe, 53 or 54 cosponsors. The language of that bill has always disturbed me in this proviso, because I believe it would have to be construed that it is a broadening of the authority of the Secretary of the Interior to issue the permits without getting the usual approval of the Forest Service prior to the permits being before us.

Mr. McCLURE. Will the Senator yield?

Mr. MELCHER. Yes.

Mr. McCLURE. I appreciate the Senator's raising this question, because I believe the legislative history should be made very clear on that point. I do not regard the Seiberling-Jackson bill as being a broadening of authority. It is a restriction on the authority. It is a proscription, an addi-

tional requirement that is not contained in existing law, and I do not believe that it supplants or would affect the memorandum of understanding between the two Secretaries.

As the Senator from Montana knows, the minerals exploration that has been conducted on national forest lands has generally been done under the supervision of the people in the BLM. That was done many, many years ago, but it was done under the memorandum of understanding to which the Senator makes reference.

The final authority for those actions is vested in the Secretary of the Department of Agriculture pursuant to those memorandums of understanding. It has been a matter of procedure that says that the minerals activities on the national forests is generally supervised by Department of Interior personnel. That has been a matter of practice for many, many years.

I do not believe that this language varies from that, nor would it strike out the responsibility or the authority of the Secretary of the Department of Agriculture. I do not believe that the language necessarily reads or should be read to mean that the institutional arrangements that are already in being are wiped out by this enactment.

Mr. MELCHER. Mr. President, I am not convinced that that is the case at all. I think the Wilderness Act passed in 1964 and the subsequent memcrandum of agreement is clearly understood to mean that when there is going to be prospecting on the lands withdrawn for wilderness, the arbiter of that, if it is national forest land, is, first of all, the Forest Service. It is after the recommendation or denial by the Forest Service that it comes before the Secretrary of the Interior. I find this language very confusing in the first proviso.

Furthermore, I find the third proviso in the third sentence of this series of provisos to be plowing some new ground. First, let me explain.

I am reading from the second "provided further:"

Provided further, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act—

The structure of this amendment at this point strays far, I think, from this appropriation bill. I continue—

by conducting, in conjunction with the Secretary of Energy, the National laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate.

I think the reference to "this act" means the Wilderness Act. I do not know that this language is really clear here. Nevertheless, the new ground that I refer to is adding "by conducting in conjunction with the Secretary of Energy and the National Laboratories or other Federal agencies as appropriate such mineral inventories."

Mr. McCLURE. Mr. President, will the Senator yield for one question or clarification?

Mr. MELCHER. I yield.

Mr. McCLURE. In that proviso that the Senator read first that provided further that funds provided in this act and then he suggested that that be referred to the Wilderness Act.

Mr. MELCHER. The second reference to the act is what I was referring to. It would be about four lines below that.

It says forest and public land land areas withdrawn pursuant to this act.

I believe that reference is to the Wilderness Act.

Mr. McCLURE. No. I think it goes further than that.

Mr. MELCHER. What does it refer to then?

Mr. McCLURE. It refers to the areas that are described at the beginning of the amendment which are the designated wilderness areas, the recommended RARE II wilderness areas and those recommended for further study.

Mr. MELCHER. I will accept that as not being too confusing, but it would be better to say in this section. I point that out. It would be better construction.

Mr. McCLURE. This language was simply picked up from the Seiberling-Jackson bill. It is verbatim to the Jackson bill.

Mr. MELCHER. Yes; I understand, but that is an act standing on its own.

Mr. McCLURE. I understand.

Mr. MELCHER. This is an amendment in an appropriations bill. It gets a little bit confusing. But, nevertheless, that is a rather minor point.

Mr. McCLURE. Excuse me.

Mr. MELCHER. That is a minor point.

What I am referring to as plowing new ground is adding consultation with the Secretary of Energy and the national laboratories or other Federal agencies as appropriate. It is six of one and half a dozen of the other.

I will point out that that in no way in this particular proviso refers to the Secretary of Agriculture or the Forest Service. I find it not only confusing, but I find it totally inept in what the real world is. We are doing something on national forest lands. He has to be working with the Forest Service.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MELCHER. I yield.

Mr. McCLURE. The Senator points out a problem that is always the case when we try to use the appropriations process tc achieve legislative ends. Had this matter gone through the authorizing committee of which the Senator is a member I am sure those questions would have been raised and would have been resolved either in language or in legislative history or report language.

The fact is that this matter was injected in the other body as they acted on the appropriations process.

So we are at the point now of trying to do in this manner what would ordinarily be done in a more extended discussion in the authorizing committee.

But I do not believe that we should be as concerned perhaps as the Senator has expressed it because of the reference to the responsibility for the mineral survey. Mineral surveys are being conducdcted by the Geological Survey, and there is provision in the Wilderness Act for that, and the Bureau of Mines is also involved in that, both of those subagencies being parts of the Department of the Interior.

That is a matter of existing law and statute.

The national laboratories also have certain responsibilities established by provisions of other laws.

So this is not just breaking new ground. It is a recognition of the responsibility that has been established through the provisions of other statutes.

Mr. MELCHER. I am going to ask the chairman the pertinent question. Does he agree or disagree with the method that is followed by the memorandum of understanding between the Secretaries of Interior and Agriculture?

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MELCHER. I yield.

Mr. McCLURE. I certainly have no objection to that arrangement that has been in effect for many years, and I do not think that this bill should be read as affecting that memorandum of understanding to any greater extent than it has been affected by the provisions of the other statutes calling for such mineral surveys.

Mr. MELCHER. Whose amendment is this, may I inquire? Is it the chairman's amendment as seemed to be purported in the amendment?

Mr. McCLURE. The Senator is correct.

Mr. MELCHER. Would the chairman object to clarifying language as to the retention of the guiding principles of that memorandum of understanding? It is not there, even though this bill is only going to last for 10 or 12 months. I guess it would be between now and October 1. That would be less than 10 months. I think it should be made clear at this point because if we are going to ever pick up this language and enact it into law I would have grave apprehensions about how it would be interpreted later on for the future. I know this will only apply to 9½ months of money that would be spent, and frankly there is probably

very little money going to be spent in the next 9½ months under the terms described in the amendment. But if it is going to be used as a model for appropriate legislation by the authorizing committee later on I think it should be a point we clarify at this time.

Mr. McCLURE. I would certainly be willing to clarify the language, but I caution the Senator we do not want to make that so clear that we have cast some doubts upon other statutes.

Mr. MELCHER. Yes; I understand.

Mr. McCLURE. So what I would try to indicate at this point is I read this language to mean that these authorities are not in derogation of restrictions or procedures that are already in established law, but this language should not be read nor interpreted to expand the authority of the Department of the Interior but to be prescriptive on the kinds of operations that can take place under the restrictions being added to existing law and circumscribes action that is otherwise permitted under existing law.

Mr. MELCHER. I thank the chairman for that comment.

I note that these provisions are limited to the time prescribed in the appropriations process for the life of this bill, which is 9½ months, but if it would become final it would become legislation to be permanent, and if this language indeed was a model to become permanent I would remind the chairman that it would then be permanent law, and what this Secretary of the Interior or past Secretaries of the Interior have done is not necessarily what future Secretaries of the Interior would do, and I could well believe that a Secretary of the Interior in the future, maybe even this one, would want to interpret this if it were an act of Congress on his own and not connected with the appropriations bill to grab more authority over national forest lands away from the Forest Service and just simplify what they might consider redtape.

After all, it is a procedure and it does generate paperwork, and so on, and so they can make the case, "Congress in the most recent act gave me broader authority"—my being the Secretary of the Interior—"and my Solicitor advises me that we do not have to refer to that memorandum of agreement," dated I suppose in the late sixties.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. MELCHER. I yield.

Mr. McCLURE. I think the legislative history being established here with respect to the meaning of this provision would make it almost impossible for such a Solicitor to give that kind of advice. I think the Senator has made a contribution.

Mr. MELCHER. I have seen some arbitrary Solicitors and arbitrary Secretaries, as I am sure the chairman has noted also.

Mr. McCLURE. Yes; and I think others who know less about it than the Senator from Montana does, will do well to know at this point that this Secretary of the Interior has not tried to acquire the Forest Service. The last one did.

Mr. MELCHER. He better not. I thank the chairman. I will propose clarifying language that might be acceptable to the chairman.

Mr. McCLURE. I thank the Senator for his contribution.

MODIFICATION OF UP AMENDMENT NO. 1433

I might just note that there is a typographical error and, therefore, ask the clerk to correct the copy at the desk.

On the first page on line 4, the reference is to section 4(d)(1) of Public Law 96-312. That reference should be to section 5(d)(1).

Therefore, I ask unanimous consent that the amendment be so corrected.

The PRESIDING OFFICER. If there is no objection, the clerk is directed to modify the amendment.

Mr. McCLURE. Mr. President, if there are others who have amendments they wish to offer we can set this aside while others are examining the amendment. I see no one seeking recognition on this side.

Mr. METZENBAUM. Mr. President, I will say to my friend from Idaho that checking into this particular amendment, I may not wish to make an issue of it but I would like to be certain about that.

I would like to direct his attention to page 12 of the act, lines 14 through 21, and ask the Senator from Idaho if that language does not fly directly in the face of an earlier congressional enactment which provided that no fees were to be charged for units for entry and recreation use fees of the national park system, and that this totally undoes that particular piece of legislation; and I would also ask, as a second part of it, whether that is not a legislative proposal on this appropriations bill?

Mr. McCLURE. Mr. President, will the Senator yield? I wonder if I might yield to the Senator from Louisiana because, as I recall, this language was added in the committee at the request of the Senator from Louisiana and, perhaps, he would like to comment.

Mr. JOHNSTON. The Senator has reference to page 12, lines—give me the lines again?

Mr. METZENBAUM. Lines 14 to 21:

That notwithstanding any other provision of law, the National Park Service shall establish or continue reasonable entry and recreation use fees for all units of the National Park System administered by the Department of the Interior, where practical, and that such fees may from time to time be revised: Provided further, That such fees less the cost of collection shall be deposited into the general fund of the Treasury:

My recollection is that Congress passed legislation prohibiting the charging of such fees, and although I cannot remember exactly when or the details of it, it does seem to me that this item in this appropriations bill is repeated in the congressional enactment without hearings by the appropriate authorizing committee.

Mr. JOHNSTON. This was not my provision, but it was the feeling of the committee that the National Park Service ought to have the right to enact a reasonable entry and recreational use fee, and for that reason it was put in in committee. I do not recall the person who put in the amendment.

Mr. METZENBAUM. I would make the observation that there may be an argument that can be made to that end, and I think, I am not certain, I would agree that it should be done, but it seems to me that it is of such major moment that this language specifically directs that fees be charged.

Mr. JOHNSTON. I beg the Senator's pardon. It says "where practical, and that such fees may from time to time be revised." So it was the intent of the amendment that the National Park Service have the right to determine where it is practicable, which means it is discretionary.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding, because I think he misreads the provision. This provision does not add any new fees. This provision has to do with the disposition of the fees which are already being collected.

Mr. METZENBAUM. I beg to differ with my friend. It says the National Park Service shall establish or continue reasonable entry or recreational use fees for all units of the National Park System.

I might say, if the Senator from Idaho—what happens to the fees now, the fees that are charged?

Mr. McCLURE. Those fees, along with concessionaires' fees, are miscellaneous receipts to the Treasury.

Mr. METZENBAUM. I am advised, and I am frank to admit I am not an authority on this subject, by knowledgeable staff that they go immediately to the land and water conservation fund pursuant to the 1981 appropriations bill.

I would like to suggest to both managers of the bill—the ranking and minority—that lines 14 through 21 up to the colon on line 21 do not belong in this bill. They certainly raise some issues of tremendous national concern as to whether there should or should not be fees charged. I think it belongs before the appropriate committee for a hearing, but it certainly does not

belong in this appropriations bill, and I am reluctant to raise——

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. METZENBAUM. Yes.

Mr. JOHNSTON. From the minority standpoint we would have no objection to the Senator's amendment if he wishes to offer one.

Mr. METZENBAUM. Would the Senator from Idaho find that acceptable, Mr. President?

Mr. McCLURE. I have no objection.

Mr. METZENBAUM. I will yield the floor for a moment in order that I might draft an appropriate amendment.

Mr. McCLURE. Is the amendment simply to strike that language in the proviso that starts on page 12, line 13 at the end of the line, and ending at the end of lines 20 and the first of line 21 with the word "Treasury"?

Mr. METZENBAUM. The Senator from Idaho is correct.

Mr. McCLURE. Mr. President, I ask unanimous consent that that language just referred to be stricken from the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. METZENBAUM. I want to thank the Senator from Idaho and the minority manager for their cooperation.

I would now like to direct your attention to page 75, lines 3 through 6, and ask if the manager of the bill would be good enough to explain that and also whether or not it would not have some impact on certain litigation presently pending and whether or not we are going beyond the point that we ought to be going when currently the Secretary of Interior is challenging and raising issues with respect to the validity of certain titles and raising questions with respect to the easements and restrictions that have been heretofore reserved and opposed by the Secretary of the Interior, and I am questioning whether or not that language should be in this legislation, in this appropriations bill, and what impact it has and why it is there.

Mr. McCLURE. Mr. President, if the Senator will yield, this amendment was offered by Senator BURDICK in the committee and it deals precisely and specifically with titles to the Shee Atika in Alaska.

Mr. METZENBAUM. I am sorry, I did not hear that.

Mr. McCLURE. The Shee Atika Tribal Corp., native corporation, in Alaska. I wish Senator BURDICK were here to explain the background, which he understand much better than do I, but it has to do with the transfer of certain lands that were authorized by the Alaska lands bill, and this would make clear that the conveyance is not subject to court challenge.

Mr. METZENBAUM. Is it not a fact that there is litigation pending with respect to those very lands at the moment and that we would be doing that which so often Congress is called upon to do, and that is to eliminate the right of litigants to have their matter properly resolved in courts?

Mr. McCLURE. I would understand, the staff advises me, that there is a court action pending with respect to the harvest of timber on the lands affected by this amendment. But the question is broader than simply that of harvesting timber, so that the language here would allow the tribal corporation to deal with those lands knowing they have title to them.

I am not certain that I can answer the question, but I would assume from the staff comment that the language that Senator BURDICK offered will not invalidate that particular lawsuit, although if the basis of the injunction against removing timber is they do not have title, then it might.

Mr. METZENBAUM. I cannot tell the Senator that I am an authority on this subject, because I am not an authority. I do know what my small convictions are. We just had a bill (S. 995) which had to do with passing legislation which would have an impact upon pending litigation. If we are to do that—normally I would not be in favor of doing it—but if we are to do that, then the committee that ought to be considering the reason for doing it is the authorizing committee, not the Appropriations Committee.

I believe, again, that we have a situation of legislation on an appropriations bill and legislation that is affecting pending litigation. Although I am reluctant to do that absent Senator BURDICK being on the floor—and I am perfectly willing to await his arrival—I do not believe that we ought to impact any pending lawsuits in this manner.

I yield to the Senator from Louisiana to address himself to these questions.

Mr. JOHNSTON. I thank the Senator. What this does is carries out precisely the intent of Congress. The Congress describes certain lands that the Alaskan Natives were to get, and they indeed got that land. This simply confirms the title to that land that the Congress intended.

We regard whatever cloud there is on those titles to be a spurious kind of cloud and ought to be expunged, and that is exactly what this legislation does, to carry out the intent of Congress.

Mr. METZENBAUM. I respect what the manager of the bill on the minority side, my good from Louisiana, is saying. And I am not certain I am opposed to the posture of the Senator from North Dakota. I know that I am opposed to legislating on pending litigation and would say that if this language were withdrawn to give those who are litigants in that matter an opportunity at least to make their case in the very early part of the coming session, which is only about a month away, I think it would be far more appropriate, and I for one would at least have an open mind on the issue.

I do not believe this is the way to do it. I hope that the managers of the bill would see fit to eliminate this section with the understanding that at the very early part of the next session we will move into this, we will take up a separate bill on this subject, and I for one would be very openminded in considering that legislation.

Mr. McCLURE. Will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Idaho.

Mr. McCLURE. As I indicated earlier, this amendment was offered in the full committee by Senator BURDICK. I would not want to take that action without having had the opportunity to talk to him about it. I have no personal interest in it.

Mr. METZENBAUM. I understand. I appreciate the Senator's courtesy and I want to join in that courtesy being extended to the Senator from North Dakota. I hope that some way word can be sent to Senator BURDICK so that he might come to the floor.

Mr. McCLURE. I will attempt to get word to the Senator. I hope that the Senator from Ohio will do likewise. Then, perhaps, following that opportunity to discuss it with him, we can take whatever action may seem appropriate at that time.

Mr. METZENBAUM. I thank the Senator from Idaho.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I am prepared to advise the managers of the bill that the amendment that they were kind enough to lay aside is not objectionable to the Senator from Ohio and if they care to proceed with it, it is fine with me.

Mr. McCLURE. I thank the Senator from Ohio. Is there anyone else who has any concern, or does anybody have any desire to discuss the amendment further? If there is no such question, Mr. President, I ask that the amendment be acted upon.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Idaho (Mr. McCLURE).

The amendment (UP No. 1433, as modified), was agreed to.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1434

(Purpose: To conform bill to report)

Mr. McCLURE. Mr. President, I send five technical amendments to the desk and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection to the request? If not, without objection, the amendments will be considered en bloc.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1434.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line 14 delete the linetyped number "$896,000".

On page 40, strike line 8.

On page 43, lines 6 through 9 delete the linetype through and including the word "appropriation".

On page 48, line 13 strike the figure $24,000,000" and insert the figure "$29,000,000" in lieu thereof.

On page 56, line 25 strike the numeral and insert in liet thereof: $15,000,000.

Mr. McCLURE. Mr. President, these matters have all been cleared on both sides of the aisle. I ask unanimous consent that they be agreed to en bloc and that the bill thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

The amendment (UP No. 1434) was agreed to.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATURAL GAS

Mr. WARNER. Mr. President, I am considering sending forth an amendment, but I would like first to extend the courtesy to acquaint the managers of this bill with the purport of this amendment and perhaps receive their advice.

Yesterday, the leadership of the Senate Energy Committee, Senator McCLURE and Senator JOHNSTON, arranged for hearings where we took up the subject of the natural gas situation.

Essentially, there is an overproduction at this time. Nevertheless, in the face of this overproduction, there are continuously rising prices. This has caused a situation of grave concern, particularly for hundreds of thousands of people who lack the economic means with which to obtain the necessary heat for their homes and small businesses. There is likely to be enormous hardship this winter.

The likelihood of any legislative relief adopted here in the lameduck session, in my opinion and, I think, in the opinion of many, is very remote. We have, I believe, left a clear impression on the Federal Energy Regulatory Commission that they should exercise their current statutory powers through regulation and otherwise to impress upon the industry to try and cap off any further price increases.

But I also mentioned during the course of the hearing the possibility at this time of augmenting the emergency funding provided by the Department of Health and Human Services to provide relief for those who economically cannot do it themselves. It would be to augment those funds by a transfer of money from the Department of Energy, which I believe at this time has close to a half-billion dollars in an escrow account. That account is generated from funds on the overcharge situation. We would transfer a part or perhaps all of those funds to HHS now in the hopes that those funds can be used to alleviate the present and in all likelihood the forthcoming hardships to be endured by those who cannot obtain the funding from the energy assistance fund.

That fund at the moment, of course, as I understand, is almost dried up, and there is doubt brought upon the 1983 amount, of course, by the current legislative bogdown here in the Congress with reference to the continuing resolution.

At this time, Mr. President, I yield to the distinguished manager of the bill for his comments.

Mr. McCLURE. Mr. President, first let me commend the distinguished junior Senator from Virginia for the leadership he has given in this matter. His voice has been heard very loudly and clearly with respect to the problem that is emerging.

I say it is emerging because in spite of the fact that many people have already experienced the steep escalation in price, that has not yet reached its end.

I also appreciate his diligence in the hearings that were conducted yesterday, in opening the hearings, questioning the witnesses, and participating in that hearing.

The Senator made a couple of comments in his remarks just now which I think need to be emphasized, but I would like to change the emphasis just slightly.

One is with respect to the likelihood of legislating in the remainder of this lameduck session.

It is not just a question of whether or not we can legislate; it is question of whether or not any such legislation would really deal with the question or with the problem.

We received one thing from all of the witnesses yesterday. We had two panels made up of producer groups and consumer groups. Both of those panels, I think almost without exception, cautioned the committee that nothing that we could do would have an immediate impact on price; that there was very little if anything that we could expect that could be placed into effect in time to affect the bills of people in December, January, February, and March of this year. That is the critical period. That is the emergency we are being called upon to address. But at the same time I think the Senator from Virginia has raised a very valid point in that low-income energy assistance is something that might be applied very quickly, and it would apply very directly to the problem that exists—not the adjustment of the prices but the inability of people to pay their bills.

We had a number of our colleagues from the Senate who appeared and testified in support of legislation which they have introduced, but each of them is pointing to the imminence of interruption of service to people who simply cannot pay their bill and therefore their service is cut off.

The use of low-income energy assistance through Health and Human Services might well be the only means by which we can do anything in a timely fashion to deal with that particular problem as it spreads across this country in the coming weeks and months.

The Senator is correct that there is a fund which has been collected as a result of overcharge activities in the monitoring of the very complex pricing structure that we had under the price regulation scheme, legitimate arguments that lead to the decision that some oil had been priced in the wrong category and that therefore consumers had had to overpay. But in spite of the fact that that money has been recovered, it is very difficult to distribute. The result has been that it has not been distributed. That money is there in the account, and there might well be no better use for it than to respond to the very real human need that is occurring now as prices escalate very rapidly.

Might I indicate to my friend and others who might be listening that we in the Northwest earlier experienced much the same thing.

Now, we have some opportunities to adjust to that that others do not have, but most of our natural gas supply comes from Canada. As world oil prices went up, the Canadians raised the price of their natural gas to parallel that oil price increase. We have

been in a substantially deregulated market for several years, and the consumers in my region of the country have already been hit with that, but they have also made their adjustments to contend with it.

I want to caution my friends that when they look at the plight that does really afflict a great many people throughout the country we look at it from the standpoint of the capacity of the individual to pay rather than whether or not the price is right, because in my area of the country the price has gone up and we are already paying a great deal more than is being charged in some of the areas from which the cries are now coming for relief.

So it really is, in my judgment at least, more the ability of the individual to pay and to respond on that end of it than it is whether or not the price is right in the first place.

Second, I think we must look at the changes that have occurred in the last 3 years with respect to the mixture of old gas and new gas, that which is controlled under the NGPA and has been controlled by Supreme Court edict since 1954, and that which was decontrolled under NGPA or in which we set up categories that would not be controlled, and people who made investments in reliance upon that particular price structure.

There it is easy to point to those who drilled for deep gas, as an example, very, very deep wells, very expensive to drill, and they drilled in reliance upon the fact that they would be able to market into a market that had both cheap old gas and expensive old gas and the new gas that would be melded with those supplies so that the consumers would get a melded price which was within their capacity to pay.

Events catch up with us; the economy has had a downturn, and as a result energy consumption has gone down. As prices went up, we had conservation, but I think the largest single item in the reduction of energy consumption lies in the lack of economic activity. And so suddenly we had a great number of people, who were producing natural gas to put into the market, who found that the market was much smaller than was anticipated and therefore the mixing of inexpensive and expensive supplies of gas did not occur and certainly could not occur in the terms that were considered under the take or pay contracts.

It is the shift in the market that causes both the consumer difficulty and threatens the producer inequity that might come from blind or unreasoned actions by the Congress.

But the Senator from Virginia has pointed toward a possibility that I think is worth considering.

Mr. WARNER. If the Senator will yield, I certainly want to receive the benefit of the advice from Senators EAGLETON, DANFORTH, JEPSEN, KASSEBAUM, and BOSCHWITZ. I believe that is the full number that appeared before us yesterday urging possible legislative remedies to be taken up in the lame-duck. I do not wish to pronounce those impossible but I think there are certain practicalities and, being pragmatic, it is not likely. If the Senator will permit, in the remaining time I will see what kind of a consensus we could have among this group to come forward with an amendment today to try and break loose some funds that are needed for the energy assistance program.

Mr. McCLURE. Mr. President, once again I wish to thank the Senator from Virginia for the suggestions and for his leadership because I do believe that it is not impossible to form some kind of a consensus on something that could provide some relief to some people who are very much in need of it. I hope that that effort that is ongoing will produce some results.

Mr. WARNER. Will the manager of the bill acquaint me with the time remaining in which I could try to forge this coalition?

Mr. McCLURE. We hope to finish this legislation before noon today.

Mr. WARNER. We will see if we can achieve it within that time. Perhaps we should allow our colleague from Louisiana to comment on this proposal, the proposal being perhaps for the managers of the bill to consider an amendment whereby we would instruct the Department of Energy to transfer part or all of those funds that have been accumulated in an escrow account—I understand there are some $500 million under the law that we passed last year with reference to price of petroleum—to HSS for the specific purpose of the energy assistance fund.

Mr. JOHNSTON. Mr. President, I appreciate the concern of the Senator for those who are hit really not so much by take or pay contracts and by the NGPA increase in prices but really by the recession, because the real problem here is that their incomes have gone down and it is just difficult to pay the rising cost of fuel bills. The fuel bills, as my colleague has pointed out, have not really gone up primarily because of the increasing prices under NGPA or because of the take or pay. Indeed, the average consumer is today paying $5.61 per million Btu's and of that less than 5 percent is represented by the rise in price during the past year because of take or pay and because of NGPA. Nevertheless, there is a great deal of problem with people in paying not only the heating bills but all of their bills.

However, I think that we would be hasty if, on the floor here, we tried to divide up a $500 million fund and say that, since this is in the Department of Energy, it ought to go to the low-income energy assistance fund. I think that ought to go through the regular appropriations process and have some hearing on it. Which we shall be able to do in January. I believe we would be hasty to try to spend that much money which, after all, would exceed—I believe that would be scored as an appropriation under the Budget Act—I believe. Certainly, that is a question we ought to know the answer to. It would count as an appropriation and, I believe, would put this bill out of balance. I think we should do it in January.

Mr. WARNER. Will the Senator allow us, in the brief time remaining, to try to make some assessment of the legality of this? In the course of the hearing today, I fear we might have raised some false hopes among many Americans that Congress could and would act in this brief session to try to alleviate these hardships.

These hardships are brought upon the people in the lower economic bracket by almost a quixotic situation which the Senator from Louisiana quickly laid out yesterday; namely, while the increase in the price of gas from the producer was very small, the overall increase of combined production, transmission, and delivery has amounted, in some States, to between 30 and 40 or 50 percent.

I hope the managers of this bill will allow us to take a quick look at it. Perhaps we can reach some consensus in time for this amendment to be considered before the bill is called up for passage at noon today.

Does the distinguished Senator from Louisiana have any further comments on this?

(Mrs. HAWKINS assumed the chair.)

Mr. JOHNSTON. Madam President, I am certainly always glad to work with the distinguished Senator from Virginia. I hope this bill will be ready for passage by noontime. I think this is the date the distinguished committee chairman has set. Nevertheless, if we can work it out in that time, I think that would be very good. I am certainly willing to try .

Mr. McCLURE. Madam President, will the Senator from Louisiana yield on that point?

Mr. JOHNSTON. Yes.

Mr. McCLURE. As everybody is aware, it is customary on Tuesdays for the respective parties to caucus and discuss various matters of interest to the legislative schedule for this week. Under those circumstances, we do not ordinarily have any votes after the hour of 12 or 12:30 p.m. at the very latest. If we cannot complete this bill before noon today, as the Senator is aware, we have unanimous consent to

return to the highway bill at 2 p.m. today for further consideration of that bill. I should say initial consideration, because all that has been considered so far is the motion to proceed to consideration. Once we get on that, it is very uncertain as to whether or not or when we can get back on this legislation.

I do hope that all Senators will consider whether it is necessary to offer amendments and, if they do offer amendments, to consider how long it is going to take to get those disposed of so that we have some chance of financing the consideration of this bill and getting to passage of it in the next 45 minutes.

I remind all Members that this bill is about $8 billion. It is a little less than that in authorization and a little more in outlays for the next fiscal year, and it affects every State in the Union. There are interests that are very close to the heart of every Member of this body contained within the parameters of this legislation. I do hope we can complete it so that all Members' interests can be protected in the normal manner of the appropriations process and not have to try to adopt something in a continuing resolution.

Mr. WARNER. I thank the distinguished chairman. I should not want to do anything that would delay action on this particular bill. I shall try to determine quickly the technicalities here and whether or not it can be done without jeopardizing the bill. I am convinced, myself, of the substantive value of this amendment but there are the technicalities which should be examined. It may well be that if I cannot resolve it in the brief time remaining, I shall consider this amendment as a part of the continuing resolution.

In any event, I believe this colloquy has been helpful. I am hopeful that other Senators, through their staffs, will be acquainted with this proposal and provide me with an indication of their possible interest in joining me in this effort.

Madam President, unless there are further comments—I yield to the Senator from North Carolina.

Mr. HELMS. I thank the Senator.

UP AMENDMENT NO. 1435

(Purpose: To provide sufficient funds for the operation of the Pisgah Forest National Fish Hatchery through September 30, 1983)

Mr. HELMS. Madam President, I have an unprinted amendment at the desk which I have submitted on behalf of Senator EAST and myself. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for himself and Mr. EAST, proposes an unprinted amendment numbered 1435.

Mr. HELMS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 14, insert before the period the following: "*Provided further*, that sufficient funds are included for the operation of the Pisgah Forest National Fish Hatchery through September 30, 1983"

Mr. HELMS. I shall be brief, Madam President. I have discussed this amendment with the chairman and other Members. It would provide funds to keep the Pisgah Forest National Fish Hatchery in operation through September 30, 1983.

For the most part, Madam President, we are caught in a time squeeze in negotiations in North Carolina which I shall discuss in just a moment.

The hatchery represents an integral part of the trout industry in our State. Anglers invest some $25 million in the economy of North Carolina each year. Pisgah furnishes about 50 percent of the fish for the catchable trout program in North Carolina, not to mention trout for the Cherokee Indian Reservation in the Great Smokey Mountains. Pisgah produces more than 700,000 9- to 10-inch trout each year.

The purpose of this amendment is to keep this fish hatchery open pending negotiations between officials in North Carolina and the U.S. Department of Interior Fish and Wildlife Service. The State has expressed an interest in taking over operation of this fishery, but negotiations will require time. If the hatchery closes—and it probably will if this amendment is not enacted—I doubt the State will be able to assume control of the fishery. The losers, of course, will be the people who benefit from it—the Cherokee Indians, and others who fish in State and Federal waters.

The pending bill provides funding for hatcheries in Missouri and South Carolina that will enable them to continue to operate while arrangements are made for State takeover. What Senator EAST and I are asking is only that a similar accommodation be made for this hatchery in our State.

I understand the amount of money required to keep the hatchery open until next October is somewhere in the neighborhood of $270,000. I have discussed this with the distinguished chairman of the Interior Subcommittee, the Senator from Idaho, and hope he will find this amendment consistent with the overall appropriation objectives of his subcommittee.

Madam President, I urge adoption of the amendment.

Mr. McCLURE. Madam President, the Senator from North Carolina and his colleague (Mr. EAST) have indeed discussed this matter with me. This question of the maintenance of the fish hatcheries has been, perhaps, as difficult a one as any we have had to deal with. We have made accommodations where it is clear in my mind that the Federal purpose is not sufficient to justify the continuation of the investment of Federal moneys in it. People at the local level have asked the opportunity to work out some transfer of the facilities rather than simply closing the facilities. The Senator from North Carolina has indicated that that is the case with respect to this fish hatchery in North Carolina. We have made similar adjustments for others in almost identical circumstances and I have no objection to doing so here.

I think the Senator from North Carolina has come up with a constructive suggestion that will protect the interests of the people that are in that locality and certainly, they are important interests, important in those communities and in that area.

I am pleased to say that as far as I am concerned on behalf of the majority we will accept the amendment.

Mr. HELMS. I thank the Senator.

Mr. JOHNSTON. Madam President, we concur in that. This fish hatchery is a worthwhile project. It costs only $237,000, I believe. I think that is a worthwhile expenditure, even if it does by this minuscule amount increase the deficit. It is in a good cause.

Mr. HELMS. I thank the Senator.

I am going to see if the Cherokee Indians will not make Senator McCLURE and Senator JOHNSTON honorary chiefs.

I thank the Senator.

I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The amendment (UP No. 1435) was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Madam President, I am aware that the Secretary of Agriculture, as part of the President's asset management program, is considering the sale of the Hector Land Use Area, which is managed as a part of the Green Mountain National Forest and is the only National Forest Service area in the State of New York. The Hector Land Use Area is a 13,000-acre tract that has 4,000 acres of fenced pasture, 6,900 acres of timber land, and includes a 25-mile trail system. The Green Mountain National Forest is expected to complete its land use disposal study on April 1, 1983. Including public comment periods, this would make late summer or early fall

the earliest effective date of the disposal study decision.

The committee has included bill language providing for a 30-day notification requirement to congressional delegations. In response to a request by Senator D'AMATO, I would like to express concern about the possible disposal of the Hector Land Use Area and would ask the Secretary to closely review the Forest Service proposal to insure that the public benefit provided New York residents by the continued existence of the Hector Land Use Area as the sole Forest Service presence in that State is duly considered.

Mr. BUMPERS. Madam President, I have an amendment which I shall offer momentarily. I agree to yield to the Senator from Montana for 2 minutes for the purpose of entering a colloquy in the RECORD.

Mr. MELCHER. Madam President, I wonder if I could engage the chairman of the subcommittee in a colloquy.

We have a situation in Montana where through an error in calculation in impact aid funds some school districts with AA students are attributed to the schools in incorrect numbers. It causes a deficiency of impact aid funds for those particular schools.

The AA students are Indian students in public schools and because the calculation is miscalculated the funds are not adequate to meet the needs of the schools.

In this final determination, whether it is not to this bill but through another bill, including the continuing resolution, if those wrong numbers are still applied these particular schools on Indian reservations will be deficient in funds.

If that should occur, it will then become the obligation of the Bureau of Indian Affairs to contract out those particular students to other school districts.

With the impact aid, these particular public schools with more than 50 percent of Indian enrollment also receive assistance out of the school equalization funds from the State of Montana.

So it is advantageous for the Federal Government to have the impact aid and the combination of the State school foundation program aid go through these public schools.

I draw this to the attention of the chairman of this subcommittee now because if we do not have a correction of these incorrect figures at the time we have up the continuing resolution it will be necessary to have additional funds appropriated for the Bureau of Indian Affairs in order to provide the opportunity for education for these Indian students.

Mr. McCLURE. Madam President, will the Senator yield?

Mr. MELCHER. I am delighted to yield.

Mr. McCLURE. I understand the dilemma the Senator from Montana has is a dilemma I also have because the impact aid funds and the distribution of the impact aid funds are within the jurisdiction of the Subcommittee on Health and Human Services. That issue will be resolved with respect to the availability of impact aid money.

The other side of that question, however, is, as the Senator describes it, if we cannot resolve it appropriately there, then it may create an impact on matters that are within this bill.

We believe that there is adequate money within this bill to take care of that situation, although certainly if we impose more burden upon that particular fund for the responsibility of Indian students, then it will spread that available money more thinly, but we believe there is enough money to accommodate in the event that the other matter cannot be resolved in the other appropriations bill. If that should prove not to be the case, if it is not resolved appropriately in the other appropriations bill and if it should prove that there is not enough money to respond to whatever occurred there, then I would be happy to work with the Senator from Montana to try to adjust whatever we can do or take whatever action might be necessary at that time. But it is a little difficult for me at this time to say that I know what will happen. I cannot anticipate it that well, and we believe we can accommodate to whatever might occur within the funds that are provided in this bill.

Mr. MELCHER. I thank the chairman.

UP AMENDMENT NO. 1436

(Purpose: To delete $2.13 million from the Bureau of Land Management's coal leasing program)

Mr. BUMPERS. Madam President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1436.

Mr. BUMPERS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 12, strike "$331,716,000" and insert in lieu thereof "$329,586,000".

Mr. BUMPERS. Madam President, in order to let my colleagues know the gist of this amendment, let me give you a little historical perspective.

The amendment deals with coal leasing, principally out in the Powder River Basin and other areas out West, all in Federal coal lands.

First, I point out that there are 16 billion tons of coal under lease in the United States right now—that is Federal coal—16 billion tons that the Department of the Interior has under lease right now. There are 565 existing leases, over half of which have not even had a development plan filed on them. In 1980, 68 million tons of coal were mined off Federal lands. As a matter of fact, in the entire United States, on Federal lands and all private lands—Virginia, Kentucky, North Carolina, West Virginia, as well as all of Pennsylvania, Illinois, and the western lands—800 million tons of coal were produced in the United States in 1980. In short, with the 16 billion tons of coal we have under lease right now, if we did not mine another ton of coal from any other lands except just Federal lands, we would have enough at current rates of consumption to last 25 years; and if we continue to mine at the present rates of 68 or 69 million tons a year off Federal lands, Federal coal under lease right now would last this country 200 years.

Despite that fact, last April the Interior Department leased 1.6 billion tons more coal. We can ask ourselves the question, and I wish to know the answer, because I do not, Why would they lease another 1.6 billion tons when we have 16 billion tons under lease and half of it does not have a development plan filed on it?

If that were the only question I would not be standing here right now. But in 1976 when we passed what we called the Federal coal leasing amendments, we included some provisions dictating how Interior would lease coal.

Mr. President, I want you to listen to the language. It says "Provided that notwithstanding the competitive bidding requirements of this section, the Secretary may, subject to such conditions which he deems appropriate, negotiate the sale at fair market value of coal," et cetera. "Fair market value" are the key words.

Later on in the same section it states:

No bid shall be accepted which is less than the fair market value as determined by the Secretary of the coal subject to the lease.

Here is the kicker which makes the Secretary a czar:

The Secretary prior to his determination of the fair market value of the coal subject to the lease shall give opportunity for and consideration to public comments on the fair market value.

And I want you to listen to what the Congress gave the Secretary the authority to do:

Nothing in this section shall be construed to require the Secretary to make public his judgment as to the fair market value of the coal to be leased or the comments he received thereon prior to the issuance of the lease.

In other words, the law says he must determine the fair market value and

not accept a bid less than the fair market value, but he does not have to tell anybody, including Congress, how he did it. He does not have to justify it.

Well, that is a very handy provision when you consider what happened on April 28, 1982. I will tell you what happened. The BLM decided to accept bids on 1.6 billion tons of coal. At the fair market value? No; in the past the BLM would never accept a bid unless it met what they called minimum acceptable bid level. "Minimum acceptable bid" level was fair market value. But just a few days before this 1.6 billion tons of coal were leased, the BLM changed the rules of the game. They had already determined that the fair market value of this coal was some $90 million under the old "minimum acceptable bid" requirement.

But just a few days before the lease, before the bids were to be received, they changed the procedure and said:

In the future the bid only has to be market "entry level."

Market entry level, what does that mean? God only knows. The House Interior Committee had hearings last year and repeatedly asked the Interior Department to justify this sale and to tell the committee what that market entry level meant. Well, in this case it meant a loss of more than $40 million to the U.S. Treasury because the bids that were accepted brought 40 percent less than the fair market value. There is not any question that issuing those leases was a violation of the law. The Coal Leasing Act of 1976 says that Interior shall not accept a bid for less than fair market value, and here they are blatantly accepting $40 million less than the fair market value that they had originally established for the coal.

Madam President, we can sit here and do nothing. We can say, "Ain't that awful?" or we can say, "Well, after all, the Secretary is a czar. We have no right to question him," or you can give the House Interior Committee the opportunity to investigate not just this sale but the whole determination of fair market value in BLM's leasing program.

Now, my amendment simply deletes $2.13 million from the appropriation for coal leasing, and that is the amount of money it would take Interior to lease at least another 2.7 billion tons of coal late in 1983.

I am telling you I do not want to release that land yet. All this amendment does is conform to the House bill which reduces the budget by $2.13 million and says, "You may not lease that coal in 1983, maybe early in 1984, after the House conducts its investigation on the way Interior is leasing coal lands."

I do not mind telling you that I have serious reservations about why should we be leasing land when we have got coal leases galore. There are 150,000 or 250,000 coal miners unemployed, and we have a glut of coal. Why would we be leasing lands except to accommodate the coal companies, and help them build their reserves?

They are not going to mine this coal. They cannot sell what they have now. If you think they can sell it, let me tell you what those bids brought in the Powder River Basin sale. Why, it is a national scandal. It is a shame for this body to have done nothing about this already: 1.6 billion tons were offered in 13 tracts; 2 leases did not even get a bid; 8 got 1 bid. I would have bid if I had known nobody else was going to bid. Three tracts got two bids; you cannot lease something when nobody bids—so they rejected those two no-bids; of the eight tracts that got one bid, and three that got two bids, they rejected one.

Do you know what the U.S. Government got for the coal? Do you know what the taxpayers of this country got for the coal which they own? An average on 1.6 billion tons of coal of 3.6 cents per ton. Why, of course, I would have bid; would not you, Senator? It is like buying a bird nest on the ground. You cannot beat a deal like that. One bid that was accepted brought 0.6 of a penny, 0.6 cents per ton.

I am just saying it is time to stop that nonsense. All I am doing here for the time being is saying let us adopt the same language the House has adopted and it will not be a conferenceable item.

In my opinion, the House is not going to recede to the Senate unless we adopt this amendment. Give the House Interior Committee an opportunity to explore this whole question about fair market value. So far as I am concerned, those leases ought to be declared invalid because they did not bring fair market value. Not one single soul who testified over on the House side from the Department of the Interior had the temerity to say that these leases brought fair market value. On the contrary, the evidence is overwhelming that they brought 40 percent less than the fair market value.

I say it is time to bring James Watt and the Interior Department to bay. Let us save ourselves $2 million and not go ahead with two more sales of another 2.7 billion tons of coal to help somebody build their reserves.

There is plenty of time to lease this coal. Coal is an important item in our energy future, and nobody denies that. We are going to have to dig it all some day. But if you just let it out for 3 cents a ton today, and the coal companies hang onto it for 20 years, 20 years from now coal will be $50 to $100 a ton, and the United States will have gotten the bountiful sum of 3 cents a ton for coal.

All I am saying is let us delay these two additional sales, and look into the program over the next year. If you think it is fine, then it will be fine. But if you do not, we will make some changes in the law. Madam President, I yield the floor.

Mr. McCLURE. Madam President, I rise in opposition to the amendment. I do not suppose there is any point in prolonging the discussion. I hope we can get to a vote relatively soon on it so that we can also resolve other matters that have to be resolved.

I rather imagine that nothing that is said on the floor on either side of this debate is going to change anybody's mind.

I know I have discussed this with the distinguished Senator from Arkansas a number of times in the past, and he points to a number of facts which, in his mind, justifies certain conclusions, and that is his prerogative to come to those conclusions. But there are other conclusions that can be derived from the same set of facts.

One of them is an irrefutable fact, again maybe not persuasive but an irrefutable fact. If we adopt the amendment, we will have denied to the taxpayers of this country the opportunity to get $12 million in bonuses that will be bid if these are put up for sale in 1983.

So to save $2 million we lose $12 million. That does not persuade me that that is a particularly good deal.

The Senator from Arkansas and I have discussed at various times in the past various methods of bidding for coal or other minerals, and the Senator has a strongly held view in respect to how we ought to bid on other matters, and I would agree with him in part that we ought to be trying some things that have been authorized that have not been tried with respect to oil and gas leasing.

But one of the things that is common to both of those questions is how much does the taxpayer get helped or how much does the consumer get hurt by bonus bidding itself?

Now, the Senator points to one in which there was six-tenths of 1 cent per ton bonus bid on one of those leases. And he will say—I do not think he said it today, but he did in the committee—what is the obvious fact, and that what is the upfront money is a very small part of the total amount we will recover from that resource. Regardless of what the amount of the bonus is, the real recovery for the taxpayer lies in the recovery of the mineral and the payment of the royalties for that mineral when it is recovered and sold. And whether it is 3 cents a ton or 10 cents a ton on the lease is just in infinitesimal part of the total recovery which we will get from the utilization of this resource when that coal reaches market.

So our objective, if we are really looking for objectives, ought to be to

get this to market at the lowest possible cost for the benefit of the consumers. There seems to be a little bit of thought on the part of some that you can separate the bonus bid from the cost to the consumer. As a matter of fact, the market is going to determine what that value of that coal is. The market is going to determine how much royalty is paid. And the amount that is paid up front in the bonus bid, if you apply that to the lease, is a small part of the total question.

When you look at one lease in which the bid was six-tenths of 1 cent, the Senator says there was only one bid and, therefore, it was obviously a giveaway. I think you can infer quite a different set of facts. One is that that is all it was worth and that nobody was much interested. Why else were they not bidding if it was worth more than that?

As a matter of fact, the Senator said, "Gosh, if I had known I could have gotten it so cheap, I would have been out there doing it myself." Aside from any conflict of interest question, it requires some money, I say to the Senator. Somebody has to put that up in advance.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. McCLURE. I am happy to yield.

Mr. BUMPERS. If this is such a great deal for the coal consumer, why do we insist on $18 billion in bonus bids for OCS oil and gas leases? Why do we not give the consumer that kind of break on oil and gas? Why do you make the distinction between oil and gas and coal?

Mr. McCLURE. Mr. President, I thought I made that plain to the Senator before. I do not think bonus bidding does the consumer any good.

Mr. BUMPERS. But when do you make the distinction?

Mr. McCLURE. I do not want to make a distinction. I would just as soon do away with it in both cases. All bonus bidding does is help the big guys and hurt the little fellows. It means the big guys who have the money are the ones that can come in there and bid it away from all the little guys. That does not help the consumer, either. It simply concentrates the industry into the hands of fewer people. It decreases competition.

While you can say on a particular sale that this will maximize the return to the taxpayers right now, in the long run it does not maximize the return. In my opinion, it minimizes competition and, therefore, minimizes the return. But that is a separate issue.

Mr. BUMPERS. Will the Senator yield for one more question?

Mr. McCLURE. I am happy to yield.

Mr. BUMPERS. Take the Senator's argument and put the best face on it. If you are concerned about the consumer, why should we make a distinction between leasing Federal lands and private lands? For example, the House Interior Committee found that private coal in the Powder River area brought 18 cents, nearly five times as much as Federal coal brought in the Powder River basin sale.

Mr. McCLURE. Yes, I am happy to respond to that. I do not know all there is to know about every one of these leases. I am not an expert in that field, and I have not been out on the grounds, and I have not looked at the geological report.

But the Senator would certainly understand that the conditions under which you must mine determines the value—how thick is the bed of coal, how much overburden is there, what are the transportation problems, what is the disposal problem, all of those have to do with the value of the lease itself. And there are an infinite number of variables involved in that.

I am not going to conclude that because one lease had one price and another lease had another price that those variables are not justified. I think you can jump to that conclusion, but I think you would have to have better evidence than has been presented to us that that conclusion is justified. It is possible, but it is also quite possible that those variations are very well justified.

But, again, Madam President, I suspect that the minds on this matter were pretty well made up before we entered the debate. I hope that we can get to a vote on the matter very soon.

I see my colleague from Louisiana is on his feet, and I yield to him for whatever comments he has at this time.

Mr. JOHNSTON. I thank my distinguished colleague.

Madam President, the Senator from Arkansas is right on this amendment. The coal companies are not ready to mine this coal. What they are doing is acquiring large tracts of land—if these leases are allowed to be consummated—to acquire large tracts and put that in their bank at a very low cost.

If we wait, we do not hurt the consumer at all because this coal is not going to be mined in the meantime. What we will do, if we get to a better market condition later on, the taxpayer will get more for the coal which is owned by the United States. It is just as simple as that. In my view we ought to wait and not proceed with it and I would, therefore, support the Bumpers amendment.

Mr. McCLURE. Madam President, I hope the Senator from Louisiana will remember those words when we get to OCS, because if those words are correct in coal leasing, they are doubly correct with respect to OCS. I suspect my friend from Louisiana is going to eat those words before this is over because if there is anything about putting things into the bank, it has got to be the big oil companies that are bidding off shore.

Now, Madam President, there are reasons why it is to the advantage of the taxpayers of this country for the producers to have an inventory so that they can make their plans for future operations. There are reasons why coal is bid beyond current production plans. We have discussed this before. The leases are for less than the life of a plant.

Many times coal is leased in order to be available throughout the life of a plant, for a mined mouth utility plant as an example. And it can be argued that you had twice as much under lease as you intend to mine in the next 10 years is totally unjustified where, as a matter of fact, it is completely justified in order to put together the financing and operating package that makes it possible to put together the mining and the utilization plan.

So I do not think it is unjustified, but again I do not suppose we will change anybody's mind with respect to this discussion here today. I just hope that the amendment is rejected.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, I should have begun my comments with the politician's prayer, which goes like this:

Oh Lord, let my words be tender and sweet for tomorrow I may have to eat them.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I wish to first thank the Senator from Arkansas for bringing up this amendment. The amendment applies basically to two areas of the country, the Fort Union Coal Region and the San Juan River Coal Region. Fort Union is in Montana and I can tell you, Madam President, that Montanans watch coal leases very closely. We are deeply affected by coal leases. On the one hand, we want coal to be produced and mined in Montana, to benefit Montana and the rest of the country. But, on the other hand, Montanans want to make sure the leases are fair to Montana, to producers, and to the U.S. Government and the taxpayers. We also want to make sure that coal leasing and mining are done responsibly, with appropriate environmental safeguards.

The Senator from Arkansas has stated the reasons for his amendment, which would conform with the House language that these two major sales should be temporarily delayed until the House investigation into the Powder River Basin sale is completed.

Madam President, I feel very strongly about this amendment. Last April, the Federal Government held the

largest sale of coal leases in history. The Interior Department sold over 1.5 billion tons of coal in the Powder River Basin of Montana and Wyoming.

The timing of this sale could not have been worse. Just 2 years ago, coal in that region sold for 15 to 20 cents a ton. But last April, the average price was only 3.5 cents a ton. Prices ranged from 8.2 cents to a paltry .07 cent a ton.

Coal mining activity has nearly come to a halt. Today only 8 percent—just 13 million acres—of Federal coal leasing land is being mined.

Yet, in April the Interior Department sold another 23,500 acres of coal land. And, because the price has fallen so dramatically the Federal Government sold some of its most precious natural resources at bargain basement prices.

I ask unanimous consent that a table showing the results of the Powder River Basin sale be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

RESULTS OF THE POWDER RIVER REGIONAL COAL LEASE SALE, APR. 28, 1982, CHEYENNE, WYO.

Tract name and bidder(s)	Acres	Tons (million)	Entry level bid	Bid (acre)	Total bid	Amount per ton (cents)
Little Rawhide Creek, Wyo.: Meadowlark Farms (AMAX)	530	90.0	[1] $13,600	$14,000.00	7,420,000.00	8.2
Spring Creek, Mont.: No bids	659	35.0	[1] 4,200			
Spring Draw, Wyo.: Shell Oil Co.	3,687	323.0	[1] 7,000	7,025.00	25,901,175.00	8.0
North Decker, Mont.: No bids	1,431	66.0	[1] 2,300			
Rocky Butte, Wyo.: Texas Energy Services/Northwest Mutual Life	4,856	445.0	[1] 2,300	2,300.00	11,168,800.00	2.5
Duck Nest Creek, Wyo.: Meadowlark Farms (AMAX)	1,154	143.0	[1] 3,100	3,125.00	3,606,250.00	2.5
Keeline, (Wyo.: Rosebud Coal Sales (NERCO) Neil Butte Co.[2]	3,238	170.0	[1] 25	498.00	1,612,524.00	.9
				[2] 500.00	[2] 1,619,000.00	
Coal Creek, Mont.: Coal Creek Mining Co., Wesco Resources [2]	1,033	60.0	[1] 25	330.00	340,890.00	.58
				[2] 340.00	351,220.00	
Colstrip A & B, Mont.: Western Energy (Montana Power Co.)	1,633	58.5	[1] 25	25.50	41,641.50	.07
Colstrip D, Mont.: Western Energy (Montana Power Co.)	2,250	43.5	[1] 25	25.50	57,375.00	1.3
Colstrip C, Mont.: Western Energy (Montana Power Co.)	893	18.9	[1] 25	25.50	22,771.50	1.2
West Decker, Mont.: Montana Royalty Co. (NERCO)[2] Neil Butte Co.	40	5.0	[1] 25	[2] 500.00	[2] 20,000.00	.4
				490.00	19,600.00	
Cook Mountain, Mont.: Thermal Energy (Washington Energy Co.)	2,096	178.0	[3] 2.5	[3] 2.5	4,450,000.00	2.5
Total					54,658,000.00	[3] 3.56

[1] In dollars per acre. [2] Apparent high bidder. [3] Cents per ton equals average bonus bid. Source: Western Organization of Resource Councils.

Mr. BAUCUS. Only a few bidders showed up at this sale, despite the low prices. There was more than one bid on only 3 of 13 tracts. And these three tracts brought bonus bids 13 to 20 times higher than the entry level bids set by the Interior Department for other tracts.

If we are going to sell Federal mineral leases, it is critically important that the Federal Government get top dollar and that true competitive bidding takes place. That is just good, sound management.

In addition, however, there have been allegations that Interior Department bid levels were improperly leaked to coal industry officials and that subsequent outside pressure led to the Department's sudden decision to reduce the minimum acceptable bid levels from $94.7 million to $52.5 million.

The Powder River sale raises some disturbing questions. It looks very much like the United States threw open the doors to the Federal Treasury and invited the coal industry to help themselves.

The purpose of the amendment before us now is to prevent this from happening again. The House Appropriations Committee has begun an investigation of the management of the Federal mineral leasing program—in response to the charges of impropriety in the Powder River Basin sale.

It is just commonsense to wait until that investigation is complete before we proceed with the next scheduled coal lease sales: in the Fort Union coal region, also partly in Montana, and the San Juan River coal region.

Such a delay would cause no hardship. There is a glut in the coal market already. Delaying these sales will not affect any current production facilities or interfere with any production or delivery contracts.

Delaying these next sales until the 1984 fiscal year will give Congress time to examine the coal leasing program so that we do not repeat the Powder River Basin giveaway.

Montanans understand all too well the value of protecting our precious natural resources. Nothing could be more shortsighted than squandering these reserves.

I think that the colloquy between the Senator from Arkansas and the Senator from Idaho adequately describes the vastness of the areas in this scheduled sale. We do not have enough information to judge whether the Powder River sale was properly conducted, or to know if similar mistakes are likely to occur in the next major sales. That is all the more reason for waiting for the investigation, to find out what the facts are, to find out whether the Interior Department has the facts concerning these resources and the taxpayers' revenues or whether it does not.

In listening to the Senator from Idaho, I must be candid and say I have heard no good reason to oppose this amendment. I did not hear any solid argument as to why we should oppose the amendment of the Senator from Arkansas to temporarily delay these sales.

I am also gratified to see the Senator from Louisiana (Mr. JOHNSTON) support the Senator from Arkansas. It is a strong leadership position which he has taken. I compliment the Senator from Louisiana in supporting the amendment of the Senator from Arkansas. I urge my colleagues to join us in supporting a temporary delay so Congress can insure the proper long term management of these precious resources.

I again thank the Senator from Arkansas on his offer of a very sound amendment.

Mr. BUMPERS. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Madam President, there is one further point I want to make. That is that this amendment does not interfere with BLM's other coal permitting activities, or, unhappily, does not preclude the Interior Department from proceeding to process 170 applications for prospecting and leasing that were filed prior to the coal lease amendments of 1976. Those cover 6 billion tons. So there are 6 billion tons that may be leased simply because we grandfathered those applications in, in the 1976 law. Those leases may be processed and let and they cover 6 billion tons even if we adopt the amendment.

Mr. MELCHER. Madam President, I want to support this amendment and I want to make clear why I am supporting it.

We have looked at this in Montana for at least a year. Indeed, the appropriate subcommittee of the Committee on Energy and Natural Resources did hold a public hearing in Billings prior

to the Powder River coal lease sale. That was in February.

It became very clear to me in February that the Secretary of the Interior was proposing to sell too much coal.

When we use this term sell, I should make clear that what the Secretary does is ask for bids on leases. It is a bonus bid that we are talking about, generally, when we say sell. They do not sell the coal outright. They issue a lease and the bonus bid price is the term that comes in, the vernacular, I guess, to describe this in applying the word sale.

But as a result of the public hearing at Billings I strongly recommended to the Secretary of the Interior that they greatly reduce the amount of coal that would be put up for bid and tie it into something that was sensible. They have always had too much speculation in the bidding on coal leases in Montana and other Western States over the past 15 or 20 years. There is no need to encourage it further.

The Secretary of the Interior subsequent to the date of the lease sale had reduced the amount of coal that would be put up for bid, but it was still way too much.

Before there is any more of this coal in Montana put up for bid, as far as I am concerned, I want to find out why they are putting it up for bid. It ought to be clearly understood by Members of this body that in ongoing operations, where there is actually a mining operation in effect, where there are workers there and people are actually mining coal, the leases that they get for additional coal can be arranged for under different provisions of the law, and are routinely arranged for, by the Secretary of the Interior in order to keep the operation going. That is a separate matter.

What we are talking about here is saying to the Secretary of the Interior, and the BLM in particular, do not go ahead and prepare any more coal lease sales. There is an abundance of coal already available and being mined. That is one thing. Second, there are a lot of leases that are out right now, which have already been granted for coal production to the holders of their leases, and there is development of the coal going on at this time.

I think the House in adopting the so-called Yates amendment for this same amount was wise in doing so, and I think the Senator from Arkansas in proposing that the Senate track with that amendment exactly is also very wise. I commend him for doing so. I support the adoption of the amendment.

I would say, Madam President, that unless this amendment is adopted we might be discussing this matter for some time. I am delighted that we have asked for the yeas and nays and that the yeas and nays have been ordered because I think it is wise to have a record vote on this, but if it is not granted it will cause some of us some concern about what would be the outcome in the conference committee. Without this prohibition, some of us are going to have a lot of trouble accepting this bill or conference report.

Mr. BUMPERS. Madam President, I am prepared to vote.

Mr. McCLURE. I am prepared to vote.

Mr. JOHNSTON. I wonder if we can stack these votes to a later time. We are about to run out of time.

Mr. BUMPERS. Madam President, I have been told that there is a possibility the majority leader would request that we extend the time into the normal caucus time. I do not know whether that request is about to be made or not. Can the floor manager advise us?

Mr. McCLURE. I thank the Senator for his comment. While we are trying to clarify that situation, I wonder if we can temporarily set aside this amendment and proceed to the consideration of another matter. Perhaps at the time we conclude that we will know how to proceed on this.

Mr. BUMPERS. That will be fine.

Mr. McCLURE. Madam President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Madam President, I believe the Senator from Minnesota had an amendment that he wished to offer.

UP AMENDMENT 1437

(Purpose: To appropriate funds to carry out the study of the Study Committee established pursuant to Public Law 96-607)

Mr. DURENBERGER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER) proposes an unprinted amendment numbered 1437.

Mr. DURENBERGER. Madam President, I ask unanimous consent that further reading of the amendment be disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 8, insert before the period ", of which $150,000 shall be available to carry out the study pursuant to title IX of Public Law 96-607 (94 Stat. 3542)".

Mr. DURENBERGER. Madam President, for many years before I came to the U.S. Senate, I have been trying to make sense out of the expenditure of public moneys at various levels on a project in the Twin Cities. This amendment would make available out of the appropriately authorized funds the sum of $150,000 to facilitate a study which is already underway in the community.

Mr. McCLURE. Madam President, the amendment makes available within the funds that are available the amount of money that would go into this study. It is not contained in the House bill. I have discussed the matter with the Senator from Minnesota. I do not know what the disposition might be when we get to conference.

However, I have no objection to suggesting that this study go forward in this context and taking it to conference to see what the disposition might be by the conferees.

I am prepared to accept the amendment.

Mr. JOHNSTON. Madam President, we shall accept the amendment as well.

The PRESIDING OFFICER. It will require unanimous consent to extend the Senate session beyond the hour of 12 o'clock.

Mr. McCLURE. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Is it within the existing rule to suggest the absence of a quorum?

The PRESIDING OFFICER. It will take unanimous consent to extend the session beyond the hour of 12 o'clock.

UNANIMOUS CONSENT AGREEMENT

Mr. McCLURE. Madam President, I have consulted with the distinguished minority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD). I ask unanimous consent that we be permitted to continue the discussion of the pending legislation until 12:30 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Reserving the right to object, Madam President, could we have any votes that might be ordered during that half hour stacked after the recess?

Mr. McCLURE. I shall include that within the request, that whatever rollcall votes are ordered be deferred until the hour of 2 p.m. and that they occur sequentially at that time.

Mr. ROBERT C. BYRD. Further reserving the right to object, I understand that the yeas and nays have been ordered on the amendment by Mr. BUMPERS. Could it be the first vote at that time?

Mr. McCLURE. Yes, it could be the first vote at that time and whatever others might be ordered between now and 12:30 would occur after the vote on his amendment and prior to passage of the bill.

Mr. ROBERT C. BYRD. I have no objection.

Mr. McCLURE. I have consulted with the majority leader and he has no objection to this arrangement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Madam President, I wonder if we might inquire how many other amendments there are?

Mr. DURENBERGER, Will the Senator yield for the purpose of moving this amendment?

Mr. JOHNSTON. Yes.

Mr. DURENBERGER. Madam President, I move adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (UP No. 1437) was agreed to.

Mr. DURENBERGER. I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALIFORNIA COASTLINE

Mr. CRANSTON. Madam President, I am afraid the Senate is about to send to conference language that was written to protect the California coastline from Secretary of the Interior James Watt, but which, in fact, would have the exact opposite effect, because it covers none of the tracts Secretary Watts now wants to lease for oil and gas drilling. I hope those of my colleagues on both sides of the aisle who are conferees for the Senate appropriation bill, as well as Members of the other body, will take the time to study this matter briefly:

I have tracked carefully the progress of the Interior appropriations bill as it moved through the other body.

I have watched it carefully as it progressed through the Senate Interior Appropriations Subcommittee and through the full Senate Appropriations Committee.

I have been following closely a provision known as the AuCoin amendment added in the other body.

That provision brings current and extends for 1 year an amendment enacted by Congress to last year's Interior appropriations bill banning oil and gas leasing on a carefully delineated portion of the Outer Continental Shelf off the northern and central California coastline.

My colleague from California (Mr. HAYAKAWA) and I support the present AuCoin amendment in the form in which it passed the other body this year.

I deeply appreciate the efforts of the Senator from Idaho (Mr. McCLURE) to help protect the California coastline by adding a substituting amendment to the Senate version of the Interior appropriations bill using not this year's but last year's AuCoin amendment. I am very glad he agrees that this area deserves protection. Unfortunately this Senate language had little or no discussion in subcommittee or full committee, before it was adopted.

Neither I nor my colleague from California (Mr. HAYAKAWA) sit on that committee. And, regrettably, I was not able to explain these committee amendments to my colleagues before they were adopted by the committee. I want now to explain to the Senator from Idaho and my colleagues that the language which this body passed last year—which made sense last year—no longer is useful to protect the California coastline. It now means nothing. The language needs to be changed to protect the coastline. It needs to be changed to the language which the House has adopted this year.

When last year's AuCoin amendment was adopted, it covered 100 percent of the tracts up for leasing in the limited area we are concerned about. That is, only certain tracts in four arbitrarily designated basins were being considered for immediate sale. The language referring to the four Northern basins covered all the tracts in those four basins then proposed for lease sale.

But, since then, Madam President, Secretary of the Interior Watt has proposed to lease nearly all of the area off the northern and central California coastline except those tracts. Many of the new areas make even less sense as subjects for OCS leasing than the previously excluded tracts because they involve deeper water, rougher conditions, even lower oil and gas resource estimates, and greater environmental risks.

The spectacular, scenic and unspoiled area we are talking about contains much of the Nations's most beautiful remaining shorelines: San Simeon, Big Sur, Monterey Bay, the Farallone Islands, Point Reyes National Seashore and the Mendocino Headlands, to name just a few of the highlights.

None of the House-passed language would prevent oil and gas recovery from the new big oil strike in the southwestern portion of the Santa Maria basin, the fifth basin.

The southern Santa Maria basin is an area in which I have consistently supported drilling because the potential resource is very large and the environmental risk small. But the northern part of the Santa Maria basin and the remaining area which Senator HAYAKAWA and I both desire to protect contains little known oil or gas, and drilling would threaten precious coastal scenery, the fishing and crabbing industries, the tourist industry, threatened marine mammals, and some of the Nation's most valuable seashore.

Allowing Federal leases here is inconsistent with California's federally approved coastal zone management plan.

And Federal law requires consistency. All leasing activity yet attempted in the area which the House language protects has been enjoined by the Federal district court in a decision approved by the Ninth Circuit Court of Appeals.

Yet Secretary Watt continues to try to get at it.

Now the Senate sends to conference language apparently written to protect the coastline from Mr. Watt, but which, in fact, would have the exact opposite effect because it covers none of the tracts Mr. Watt now wants to lease.

I hope those of my colleagues who are on this conference, as well as Members of the other body, will take the time to study this matter briefly.

If they do, I believe the Senate will—as it should—recede from its position in conference and accept the House language.

Nor should anyone be fooled by a so-called compromise proposal which the Interior Department is promoting, which would threaten Big Sur with oil spills by drawing a line in an entirely new place, without environmental assessment, hearings or any study at all.

The appropriate place is exactly where the House drew it, and I ask my colleagues to recede, when this matter gets to conference.

ALASKA LANDS BILL AMENDMENT

Mr. LEVIN. Madam President, I am wondering if my friends from Idaho and Louisiana might engage in a brief colloquy with me on a matter I raised last night. I am very much troubled by the amendment to the Alaska lands bill which is incorporated in this bill, as they know. Last night, there was a ruling of the Chair that section 108 would be subject to a point of order on the grounds that it is legislation on an appropriation bill. I did not make the point of order last night. I understand that there could be a possibility that if such a point of order were raised, there could be a defense of germaneness raised on a threshold basis at best. I am not sure I want to get into that area at all.

I do, however, hope that my friends will consider, during this lunch hour, the possibility of withdrawing section 108. If that remains in the bill, it is going to precipitate a lengthy debate on the Alaska lands bill and the balance that was reached on that bill on the very issue that is incorporated in section 108.

I know what my friends are trying to achieve and, frankly, I would like to help them move toward the goal of saving that money, $60 million or so, provided we can do so in a way which is environmentally the safest way of proceeding. Going back into the history of this bill last night after our colloquy, I was absolutely convinced that the delicate balance which was described last night was intended by the persons who voted on this bill and who

proposed the language which would be changed. I hope that the managers of this bill would see fit to withdraw section 108 and, if they do so, I can assure them that I shall work with them on legislation which would be brought up as a separate bill to try to achieve the goal that they are trying to achieve, which is the saving of $60 million.

I have some sympathy for what they are trying to do with that legislation. I want to be sure, however, that if we do give an incentive to private enterprise to go out there and explore, they go on the most environmentally safe and secure methods possible.

Again, I simply want to put them on notice that if 108 stays in this bill, it does amend the Alaska lands bill. If it does stay in there, I believe it will precipitate a lengthy debate and I hope they will see fit to withdraw that section over the lunch hour.

Mr. JOHNSTON. Madam President, let me be clear about the effect of the parliamentary threat, if that is the word for the statement my friend from Michigan has just made.

If this bill goes down, which, of course, it surely will if the matter is filibustered, we do not go to conference on this bill and, in effect, we have the House bill in the continuing resolution. That means that all the work the Senate has done, including projects like Sleeping Bear, for example, all go down the drain. If the Senator from Michigan wishes to do that after all the work many of us have put in, much of it on his behalf, the threat is not going to deter me, and the Senator can do just whatever he is legislatively big enough to do.

As far as trying to work out this matter, I have certainly tried to work it out. My staff has worked on it. What I have been advised is that, instead of just having something that is environmentally safe, which we are all for, the Senator wants to say, you cannot explore unless you use helicopters and you cannot use the kind of things that are used everywhere. That is tantamount to saying you shall not explore Alaska at all.

In the Alaska lands bill, Congress clearly intended, mandated, that Alaska be explored. We are not changing at all the mandate that there be safe exploration of Alaska. We are not changing that standard at all. All we are saying is that if someone goes in and spends time and money in acquiring information, anyone who gets that information cannot use it to bid against them, in effect. To me, that is entirely reasonable and it has nothing to do with the environmental standards.

All I can say is if the Senator wishes to make his point of order, that is certainly within the rules and I think is entirely kosher and, indeed, we will raise the defense of germaneness, because it is plainly germane to section 305 of the Senate bill. We shall let the Senate work its will on that. If the Senate sustains the Senator from Michigan, he wins. If the Senate overrules him and he wishes to filibuster, as far as I am concerned, that is his right under the rules.

Mr. LEVIN. Madam President, I thank the Senator from Louisiana. Let me first say that on November 10, five Senators wrote Secretary Watt about this subject. We have not gotten a response from the Secretary—now more than a month later—although we said we looked forward to his response in that letter. This is a subject which has been debated at length during the consideration of the Alaska lands bill as to what degree of environmental protection should be given to the Alaska range. I happen to be the cosponsor of that amendment with Senator NELSON. I should like to briefly read so the Senators from Louisiana and Idaho can understand.

I am not trying to make a technical objection for the purpose of leverage. I am trying to point out to the Senators and the Senate that this was a much-debated subject at that time and we are changing the deal on an appropriation bill, a deal that was made in the Alaska lands bill.

This is a question by Senator NELSON of Senator JACKSON, who was manager of that bill:

> May I conclude therefore that it is intended that the seismic exploration program will be carried out using the least environmentally harmful techniques? And may I conclude further that the guidelines developed for the seismic program will adopt from the findings of the preliminary study not only those seismic techniques with least adverse environmental effect, but also the conditions such as time period, location of support facilities, et cetera, under which they can be employed safely?

That was the question by the prime sponsor of the amendment. Senator JACKSON answered:

> Yes; the Secretary is given discretion and we would expect him to include in the seismic exploration program those stipulations that will provide the highest level of protection to the fish and wildlife in their habitat * * *.

The highest level of protection.

Now, the committee is seeking, in effect, to increase the amount of exploration that will be done there over what otherwise would occur. That is clear. There will be additional exploration because of this amendment.

Mr. McCLURE. Will the Senator yield on that?

Mr. LEVIN. I shall be happy to.

Mr. McCLURE. I think it might be well stated in the reverse, that what we are trying to do is make certain that the exploration that is conducted is conducted under rules which it can genuinely occur. I do not see us changing the rules or modifying the conditions, because everything the Senator has referred to as applicable now would be applicable if the language remains in the bill. If, on the other hand, there are those who wish to seize upon the restriction, the natural restriction on the availability of information to artificially restrict that which was agreed upon earlier, then I think I would understand.

What we are trying to do by the change in the language—of which I am not the author, by the way—is to make certain that the intent of the Congress as expressed in the Alaska lands bill is carried out. There is something that is frustrating the will of the Congress and we are trying to make certain that that does not frustrate it.

There are those who want to frustrate the will of the Congress. They want less exploration carried out than was contemplated by Congress when we passed that bill. I can understand. That is a legitimate point of view. There are those who did not want us to explore in the Arctic Wildlife Refuge at all and if, by any stratagem, they can restrict it, they will do so. I understand that motivation. It is an honorable motivation. But that is not what Congress had decided.

So I think I am saying what we are trying to do is get more done. The failure to do this would be unbalancing it on the side of those who want less done.

Mr. LEVIN. I think the Senator might also agree that it was also the intent of the Congress, expressed by the Senator from Washington, the manager of the bill, that this exploration would be done with the technique with least adverse environmental effect.

Those are the words I am trying to add to the committee amendment. If the committee would agree that persons who go in there, who can protect information from being shared with their commercial competitors—and I can understand why the Senator says that, and it makes sense to me. If he would simply add to that the other part of the intention of Congress, that provided that they used techniques Senator NELSON talked about and the manager of the bill agreed to, "techniques that would have the least adverse environmental effect," I would be happy to go along with it.

Mr. McCLURE, I think the legislation is clear both in the original and in the enactment, and ought to be clear here now that it is not our intention to change from that expression by the Congress in the first instance. But there is a difference between legislative history that uses these words in the context of a discussion of what is intended and writing them into the statute where they become proscriptive. They can then be used in a different manner than they can otherwise be used.

I want to leave that issue of least environmental damage in exactly the same context that it was when we passed the bill—neither enhancing it nor diminishing it. That I think we can do and have done by this colloquy. I hope that the Senator would be satisfied with that legislative history that indicates a very clear intention not to depart from that standard which was established during and in the passage of the Alaska lands bill and expressed in it.

Mr. LEVIN. If my friend would yield on that, however, the difficulty with that is that about a month ago, five of us wrote to the Secretary challenging some preliminary regulations on this precise point and have not even received a response from the Secretary of the Interior. So if the Alaska lands bill is going to be amended on an appropriation bill, we would like the legislative history, which we believe is not being carried out by the Secretary of the Interior, to be clarified on this bit of legislation.

Mr. JOHNSTON. Will the Senator yield on that point?

Mr. LEVIN. Yes; I yield.

Mr. JOHNSTON. The report accompanying the Alaska Lands Conservation Act is very clear on two points: First, that the Secretary must carry out the exploratory program and must report to the Congress within 5 years after enactment. The difference here is that if they can get no private parties to do the exploration, then the Secretary must, himself, do it. So it is very clear in the legislation that the exploration must be done.

It is also very clear that the guidelines—quoting here—"shall insure that exploration does not significantly affect fish, wildlife, or their habitats or the environment, with special consideration given to caribou calving and postcalving seasons."

It further provides for an environmental impact statement.

We are not derogating one whit or jot or tittle from those very strict requirements. I suggest to the Senator that all we are doing is making a provision workable that Congress intended to be workable in the first place.

Mr. LEVIN. I am happy to work with my friend to make it workable, but I at the same time feel that we should carry out the intent of Congress on this very critical point.

This was stated on the floor in August 1980. I am wondering if my friend from Louisiana can give me the date of the report he just read from.

Mr. JOHNSTON. It is from the legislative history of Public Law 96-487. I do not have a date from that. But I have a copy if the Senator wishes to see it.

Mr. LEVIN. I think the latest statement of congressional intent as stated by the manager of the bill and the maker of the amendment here on the floor was August 18, 1980.

I believe the report the Senator is referring to was somewhat earlier, I believe, November 1979.

But the standard which the Senator referred to is a slightly different standard. It is not significantly different from the standard which was quite clearly tentatively adopted by the Senate.

All I am trying to do here is to make it practically possible for what the committee wants but at the same time to be sure that the congressional intent stressed on the floor in August 1980 is also carried out.

If I could just summarize, I believe that the congressional intent is as stated by the Senator from Idaho, that there was an intent here that private companies could assist in this project. I believe that is part of the congressional intent, and we should make that workable, but I also believe it was the congressional intent, as I have read from the floor in a very clear colloquy, that this exploration be done with the least adverse environmental tactics.

I wish to work with the Senators to achieve both of those intents.

I am not trying to thwart the first intent of the Senator from Idaho or Senator from Louisiana that we permit this. I am trying to accomplish both senatorial intents.

Mr. McCLURE. Madam President, let me say to my friend from Michigan, I do not want to be misunderstood and I do not want the RECORD to be ambiguous on this point later.

Congress expressed its intention when Congress passed the Alaska lands bill. What that intention was, must be derived from the entire record, the words that are contained in the statute, the reports that came from authorizing committees, and the actions on the floor. What I am trying to say to the Senator from Michigan is that we do not intend to subtract from, and it would not be my intention to add to or vary from, in any way what the provisions were in the Alaska lands bill.

I say that because I do not want the RECORD to indicate that the reading of one colloquy is all of the legislative history, and my statement that we are accepting what the intention was of Congress should not be read in the context just of the one colloquy. It is the total of all of the legislative history of that piece of legislation.

As I view the problem that we have here, there are some who think that the Secretary of the Interior may not in the future follow what was the congressional intent and the legislative language and they wish now to mandate their own view of what that intention was upon the Secretary even before he has failed to follow it.

A little bit earlier, the distinguished Senator from Ohio quite properly remarked that there should be a little bit of a tendency around here not to try to legislate where matters are before the court in order to solve the court suit. How much less appropriate it is for us to try to anticipate some perceived wrongdoing on the part of someone and preemptively strike before they have taken any action?

Mr. LEVIN. Madam President, will the Senator yield on that?

Mr. McCLURE. I yield.

Mr. LEVIN. I could not agree with him more, that we should not try to predict what the Secretary is going to do. In this case, five of us have written the Secretary 1 month ago after the Secretary has acted, raising questions about his action, and cannot even get a response to our letter.

Mr. McCLURE. I am not acquainted with the letter or the contents of it, and I understand that the Senator wishes to have an answer. The Secretary does not do what I ask him to do in every instance, although we have had some amiable conversations at various times.

I would be pleased to suggest to him that he answer the Senator's letter, and if that will help any, we will try to get that response.

I am sure that dialog with respect to the operations and the exploration up there is not one that has ended. It has not ended with the action that he has undertaken. It will not be ended by the Senator's letter. It will not be ended by his response to the Senator's letter.

That is an ongoing evolution of the administration of a law which is on the books now which, in my opinion, should not be disturbed by an attempt to prescriptively write the rules here on the floor of the Senate.

Mr. LEVIN. Madam President, one other factor, if I may throw it into this pot, is last night we also went back and scratched our memory about some other parts of this congressional intent. Interestly enough, some of us actually remember that the requirement to share information was viewed at the time as a way of keeping the amount of exploration down to a reasonable level. That is not a quirk necessarily. Some of us actually remember that at the time when we said, should we open this to private exploration before we decide whether to lease it or do we want the Geological Survey to do the exploration? The first step was, yes, let us let the private folks go in there. There was some doubt about that. There were some real doubts whether it should be allowed at all. The compromise was; yes, we will let them in providing they share information so that we can keep down the amount of exploration.

We have not decided to open this up to oil and gas leasing. We are supposed to be deciding here whether or not to do it, not where to do it, but whether or not to do it.

What my friend points out is not necessarily just a quirk of statutory history here. There were some at least who viewed this as a good way of restricting the amount of private exploration.

Let me at this point read into the RECORD the letter of November 10, 1982, to Secretary Watt. This was a letter sent to the Secretary by myself, Senators BUMPERS, CRANSTON, HART, and TSONGAS. Senator TSONGAS was the principal author of the final substitute on the Alaska lands bill, and I was cosponsor of the Nelson amendment, which is really what we are talking about here on the coastal range.

This is a letter dated November 10, 1982:

U.S Senate,
COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, D.C., November 10, 1982.

Hon. JAMES G. WATT,
Secretary , U.S. Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: As you are aware, the Senate's consideration of the Arctic National Wildlife Refuge was an arduous procedure, and we are committed to seeing that the intent of the Senate as stated in the Alaska National Interest Lands Conservation Act (ANILCA) is met in managing this important resource. After reviewing the proposed regulations for the geological and geophysical exploration of the coastal plain of the Arctic Refuge (47 FR 41060, September 16, 1982) we would like to bring to your attention some problems that could be corrected if modifications are made before the final regulations are promulgated.

We would first like to reiterate the intent of Congress that any decisions to permit oil and gas development in the coastal plain would be made only after careful exploration demonstrates that such development can occur without damaging the area. Unfortunately, the draft regulations appear to assume that development will be allowed. We fear that the draft regulations bias the case in favor of oil and gas development, and we hope that the final regulations will make it clear that a decision regarding development will not be reached before 1985.

We had expected that the regulations would include very specific requirements to assure that any exploration activity would have only the most limited effect upon the coastal plain. We had also expected that the standards would be based upon the information gathered for the required environmental impact statement. The draft regulations do not contain such requirements or standards. The burden should be placed on an applicant to prove that exploration can meet strict environmental standards and therefore exploration should be allowed. Instead, however, the burden now rests with the Department of Interior to determine that an exploration plan is unacceptable, and the agency may find it difficult to refuse to grant a permit to an applicant who can fulfill the vague requirements established in the draft regulations. For example, 37.21(d)(11) requires the applicant to include only a "general description of the anticipated impacts that the proposed exploratory activities may have on the refuge's wildlife, its habitat, the environment, subsistence uses and needs and cultural uses." This is clearly insufficient. The regulations should be changed to include specific standards for acceptable impacts based on information gathered from the EIS and the baseline study. Failure to include such standards would be inconsistent with clearly-expressed legislative intent.

Similarly, in 37.31, the responsibility is improperly placed on the applicant, rather than the Department, to determine which equipment and activities are appropriate. For example, 37.31(b)(4) states that "above ground explosive charges shall be utilized in a manner to minimize damage to the vegetative mat." We understand that the draft EIS contains specific recommendations defining adequate ground cover and the types of explosives that best minimize environmental damage. More specific requirements should be included in the final regulations.

We are also concerned that the proposed regulations concerning suspension and modifications of activities (37.34) do not require the Director of the Fish and Wildlife Service to suspend any activities that would significantly adversely affect the refuge's wildlife. The Department will need sufficient discretion so that small infractions of the rules could be rectified and plans modified without requiring an applicant to forfeit a permit. However, the Act cannot reasonably be interpreted to allow work to continue under any permit while the permittee is not complying with the approved plan, or when exploration activities are causing significant damage to the refuge. To meet the statutory requirements of the ANILCA, the Department should be required to suspend the permit under these conditions, and the regulations should make that clear to all potential applicants.

We understand from 37.12(a) that additional stipulations not included in the draft regulations may be included in permits before exploration is allowed to take place. While many such stipulations will be site specific and cannot be listed in the regulations, it is important to describe in the final regulations the kinds of stipulations which might be imposed. Doing so would inform potential applicants of their responsibilities, protect the public interest in maintaining the standards set forth in the Act, and ensure that the question of allowing oil and gas development in the Arctic coastal plain is not prejudiced by unnecessary environmental damage or determined until more information is available.

We cannot emphasize too strongly the need to protect the coastal plain until such time as the Congress can determine whether oil and gas development should be allowed. We hope that you will consider our comments carefully, and we look forward to your response.

Sincerely,

CARL LEVIN.
DALE BUMPERS.
ALAN CRANSTON.
GARY HART.
PAUL TSONGAS.

Mr. MELCHER. Mr. President, will the Senator yield to me?

Mr. LEVIN. I would be happy to yield to the Senator from Montana.

Mr. MELCHER. Mr. President, I ask unanimous consent that an amendment can be submitted to UP amendment No. 1433, as modified.

The PRESIDING OFFICER (Mr. ARMSTRONG). Is there objection to the Senator's request?

Mr. McCLURE. Mr. President, will the Senator restate it or will the Chair restate the request?

Mr. MELCHER. I ask unanimous consent that an amendment can be offered to UP amendment No. 1433, as modified.

Mr. McCLURE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. McCLURE. Under the existing unanimous-consent request we are to recess at 12:30 p.m. to return at the hour of 2 p.m., and the pending matter at that time would be the rollcall on the Bumpers amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. Mr. President, I ask unanimous consent that the amendment to be offered by the Senator from Montana with respect to certain modifications to the wilderness withdrawal language be in order following the Bumpers amendment. I am trying to accommodate all Members within the constraints of the unanimous-consent agreement that we have.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 2 p.m.

Whereupon the Senate at 12:32 p.m. recessed until 2 p.m., at which time the Senate reassembled when called to order by the Presiding Officer (Mr. ANDREWS).

The PRESIDING OFFICER. The Senate will come to order.

VOTE ON UP AMENDMENT 1436

Under the previous order, the Senate will proceed to vote on the Bumpers amendment.

The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) is necessarily absent.

I also announce that the Senator from Arizona (Mr. DECONCINI) and the Senator from New York (Mr. MOYNIHAN) are absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 47, nays 48, as follows:

[Rollcall Vote No. 404 Leg.]

YEAS—47

Baucus	Eagleton	Melcher
Bentsen	Exon	Metzenbaum
Biden	Ford	Mitchell
Boren	Glenn	Nunn
Bradley	Heflin	Packwood
Bumpers	Hollings	Pell
Byrd, Harry F., Jr.	Huddleston	Percy
Byrd, Robert C.	Humphrey	Proxmire
Cannon	Inouye	Pryor
Chafee	Jackson	Randolph
Chiles	Johnston	Riegle
Cohen	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Dixon	Levin	Specter
Dodd	Long	Tsongas
	Matsunaga	Zorinsky

NAYS—48

Abdnor	Gorton	Nickles
Andrews	Grassley	Pressler
Armstrong	Hatch	Quayle
Baker	Hatfield	Roth
Boschwitz	Hawkins	Rudman
Brady	Hayakawa	Schmitt
Burdick	Heinz	Simpson
Cochran	Helms	Stafford
D'Amato	Jepsen	Stennis
Danforth	Kassebaum	Stevens
Denton	Kasten	Symms
Dole	Laxalt	Thurmond
Domenici	Lugar	Tower
Durenberger	Mattingly	Wallop
East	McClure	Warner
Garn	Murkowski	Weicker

NOT VOTING—5

DeConcini	Hart	Moynihan
Goldwater	Mathias	

So the amendment (UP No. 1436) was rejected.

Mr. BAKER. Mr. President, if we could have the cooperation of Senators for just a moment, I think we might be able to arrange the schedule of the Senate for today and perhaps even expedite its deliberations.

The PRESIDING OFFICER. The next order of business is to return to the consideration of H.R. 6211, the gasoline tax bill.

Mr. BAKER. Yes.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the majority leader yield to the Senator from Idaho?

Mr. BAKER. I yield to the distinguished Senator from Idaho for a parliamentary inquiry.

Mr. McCLURE. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, my understanding of the unanimous-consent request earlier was that following the vote on the Bumpers amendment it would be in order for the Senator from Montana to seek the language change which he had presented this morning and that following that the Senate would return to the gas tax bill.

The PRESIDING OFFICER. There was no further proviso, I advise the Senator from idaho, in putting off the gasoline tax bill under the unanimous-consent request agreed to this morning.

Does the majority leader wish to propose another unanimous-consent request?

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, that is what I was preparing to do.

Mr. President, I ask unanimous consent that further consideration of the gasoline tax bill be postponed long enough to accommodate the Senator from Montana offering an amendment to the amendment previously offered on the appropriations bill.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, does the Senator from Arkansas wish to make a motion to reconsider the other vote?

Mr. BUMPERS. Mr. President, let me say to the minority leader that I was not on the prevailing side and am not in a position to do so. I think it will work out all right.

Mr. McCLURE. Mr. President, reserving the right to object, and I shall not object, I understand the Senator from Colorado has an amendment, the language of which has been agreed to by those principals who have been involved in discussing it, and I inquire if that is the case. The Senator from Ohio I know has been involved in that discussion, and I would not propose that we get into other controversial matters. But if those two matters are subject to an agreement I wonder if we might not take enough time to dispose of those two matters if they are in agreement and then proceed to final passage of the appropriations bill.

Mr. JOHNSTON. Mr. President, reserving the right to object, both amendments have been checked by staff. They are acceptable, and I would not think it would take any debate except to the extent that someone requires it.

The PRESIDING OFFICER. Does the distinguished majority leader then wish to modify the unanimous-consent request?

Mr. BAKER. Mr. President, I am about to do even better than that.

It sounds to me as if there are only two amendments remaining.

Mr. LEVIN. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. LEVIN. Mr. President, there will be lengthy debate on a committee amendment which is legislation on this appropriations bill. We had some debate on that. There seems to be significant additional debate. It is an amendment of the Alaska lands bill on an appropriations bill. I do not think it is appropriate, and I think it should be debated with sufficient length to illuminate that issue as to what we are doing on this appropriations bill.

Mr. BAKER. Mr. President, I was about to say that I knew of no other amendments, and see if we could get unanimous consent that the two amendments identified would be the only amendments in order. We would have three votes then on the two amendments plus final passage.

But based on the remarks of the Senator from Michigan I think that unlikely at this time.

Therefore, my request is modified so that the amendment of the Senator from Montana (Mr. MELCHER) may be considered at this time for 2 minutes equally divided, and that an amendment by the Senator from Colorado may be considered for 2 minutes equally divided, and that following on after that, Mr. President, absent further orders by unanimous consent, the Senate return to the consideration of the gas tax bill.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

Mr. BAKER. Mr. President, I was going to get to that request and make another request, but let me include that in this request.

Mr. President, earlier this week I indicated that it would be the intention of the leadership to ask the Senate to proceed to the consideration of Senate Resolution 512 reported from the Rules Committee to repeal rule XXXVI of the Senate limiting outside earned income, which is Calendar Order No. 994.

Senators have been on notice to that effect. It has been discussed, I believe, in both caucuses.

I ask unanimous consent, Mr. President, after the disposition of the two amendments included in this request, that the Senate then proceed to the consideration of Calendar Order No. 994, Senate Resolution 512, and that there be a 1-hour time limitation on that resolution to be equally divided and controlled in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, under the present situation we will have two amendments on the Interior appropriations bill. Then we will have an hour's debate, not more than an hour's debate, on Senate Resolution 512; and after disposition of those items the Senate will return to the consideration of the highway bill; is that correct?

The PRESIDING OFFICER. That is correct.

LATE HOUR SESSIONS

Mr. BAKER. Mr. President, may I say to my colleagues that it is the intention of the leadership on this side to try to finish the highway bill today, and by today I mean this afternoon and tonight and in the early hours of the morning and tomorrow, if necessary. But, Mr. President, I really think we must finish the highway bill, and we have to do the continuing resolution. There are other things that I

would like to do and other Senators would like to do, but those two items are the must legislation for the Senate this week.

So, Mr. President, Senators should be on notice that we will be in late, in session very late tonight; that we will be in session very late every night this week if that is necessary in order to complete action on these two measures.

Several Senators addressed the Chair.

Mr. McCLURE. Mr. President, will the Senator yield for an inquiry?

Mr. BAKER. Yes; I yield.

Mr. McCLURE. I understood the Senator from Michigan to indicate again his dissatisfaction with one provision of the pending bill. I had understood earlier the Senator was going to make a point of order against that provision. I am not sure that I understood whether the Senator from Michigan now was saying he was going to make that point of order or just simply going to filibuster long enough so that he would hope to get some accommodation on the language.

Mr. LEVIN. The Chair said last night that a point of order would lie against the provision because it is legislation in an appropriation bill. I did not intend to make the point had the Chair not so ruled. I do intend to debate that provision at length as to whether we would be amending the Alaskan lands bill on Interior appropriations.

Mr. McCLURE. Mr. President, if the Senator will yield again, I had hoped the Senator from Michigan would make his point of order and allow the rules of the Senate to apply to this particular issue in the appropriate manner and that the Senate could then work its will. But if the Senator does not wish to allow that to happen he is within his rights.

Mr. BAKER. Mr. President, what is the business now before the Senate?

The PRESIDING OFFICER. Under the uanimous-consent request the Senator from Idaho, the manager of the bill, is recognized.

Mr. BAKER. Mr. President, before we proceed I ask unanimous consent that I may yield——

The PRESIDING OFFICER. The Senator from Montana is recognized to offer his amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that I may be recognized for 2 minutes so that I may yield to the Senator from Kansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I just remind my colleagues on the floor that based on the statement of the distinguished majority leader, as I understand, there are about 80 or 90 amendments pending to the gas tax bill, to different titles. It may be if we stay all night and tomorrow we can get through 8 or 10 of those, and we will have it down to 70, but I would hope for those who have amendments, unless they really feel constrained to introduce them, unless they are of great urgency, would let us know so that we might be able to postpone those until a more propitious time, such as next year. [Laughter.]

Mr. BAKER. I thank the Senator and I yield back my time.

The PRESIDING OFFICER. The Senator from Montana.

UP AMENDMENT NO. 1438 (MODIFICATION OF UP 1433)

Mr. MELCHER. Mr. President, I send an amendment to amendment 1433 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1438 as a modification to UP 1433.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, line 10, strike section 308 and insert the following new section in lieu thereof:

"SEC. 308. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312 and section 603 of Public Law 94-579, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditures of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning or within any lands designated by Congress as wilderness study areas, under valid existing right or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further*, That funds provided in this Act may be used by the Secretary of Agriculture in any area of national forest lands or Secretary of the Interior to issue under their existing authority in any area of national forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting, in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and X-ray defraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further*, That in carrying out any such inventory or surveys, where national forest system lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of national forest or public land wilderness areas that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness or other nonsurface disturbing methods."

The PRESIDING OFFICER. Under the unanimous-consent agreement the Senator has 2 minutes.

Mr. MELCHER. Mr. President, this amendment straightens out the confusion that might have developed in the wording of amendment No. 1433 offered by the chairman of the subcommittee earlier today and on which we had considerable discussion.

It simply puts it right up front that on Forest Service lands the permits will be handled through the Forest Service; on BLM lands permits will be handled through the Department of the Interior.

Mr. McCLURE. Mr. President, I think the amendment, as the Senator from Montana has indicated, gives the flexibility to the Secretaries to make whatever agreements between themselves and between the Departments they might wish to make, and the amendment is acceptable to us on this side of the aisle.

Mr. MELCHER. I thank the chairman.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment (UP No. 1438) was agreed to.

UP AMENDMENT NO. 1439

The PRESIDING OFFICER. The Senator from Colorado has 2 minutes on his amendment.

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1439.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 21 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oilshale, gas, and sodium on the public domain", approved February 25, 1920 (41 Stat. 437, as amended; 30 U.S.C. 241), is further amended by adding the following new subsections:

"(c)(1) The Secretary may within the State of Colorado lease to the holder of the Federal oil shale lease known as Federal Prototype Tract C-a additional lands necessary for the disposal of oil shale wastes and the materials removed from mined lands, and for the building of plants, reduction works, and other facilities connected with oil shale operations (which lease shall be referred to hereinafter as the "offsite lease"). The Secretary may only issue one offsite lease not to exceed six thousand four hundred acres. An offsite lease may not serve more than one Federal oil shale lease and may not be transferred except in conjunction with the transfer of the Federal oil shale lease that it serves.

"(2) The Secretary may issue one offsite lease of not more than three hundred and twenty acres to any person, association or corporation which has the right to develop oil shale on non-Federal lands. An offsite lease serving non-Federal oil shale land may not serve more than one oil shale operation and may not be transferred except in conjunction with the transfer of the non-Federal oil shale land that it serves. Not more than two offsite leases may be issued under this paragraph.

"(3) An offsite lease shall include no rights to any mineral deposits.

"(4) The Secretary may issue offsite leases after consideration of the need for such lands, impacts on the environment and other resource values, and upon a determination that the public interest will be served thereby.

"(5) An offsite lease for lands the surface of which is under the jurisdiction of a Federal agency other than the Department of the Interior shall be issued only with the consent of that other Federal agency and shall be subject to such terms and conditions as it may prescribe.

"(6) An offsite lease shall be for such periods of time and shall include such lands, subject to the acreage limitations contained in this subsection, as the Secretary determines to be necessary to achieve the purposes for which the lease is issued, and shall contain such provisions as he determines are needed for protection of environmental and other resource values.

"(7) An offsite lease shall provide for the payment of an annual rental which shall reflect the fair market value of the rights granted and which shall be subject to such revisions as the Secretary, in his discretion, determines may be needed from time to time to continue to reflect the fair-market value.

"(8) An offsite lease may, at the option of the lessee, include provisions for payments in any year which payments shall be credited against any portion of the annual rental for a subsequent year to the extent that such payment is payable by the Secretary of the Treasury under section 35 of this Act to the State within the boundaries of which the leased lands are located. Such funds shall be paid by the Secretary of the Treasury to the appropriate State in accordance with section 35, and such funds shall be distributed by the State only to those counties, municipalities, or jurisdictional subdivisions impacted by oil shale development and/or where the lease is sited."; and

"(9) An offsite lease shall remain subject to leasing under the other provisions of this Act where such leasing would not be incompatible with the offsite lease.

"(d) In recognition of the unique character of oil shale development:

"(1) In determining whether to offer or issue an offsite lease under subsection (c), the Secretary shall consult with the Governor and appropriate State, local, and tribal officials of the State where the lands to be leased are located, and of any additional State likely to be affected significantly by the social, economic, or environmental effects of development under such lease, in order to coordinate Federal and State planning processes, minimize duplication of permits, avoid delays, and anticipate and mitigate likely impacts of development.

"(2) The Secretary may issue an offsite lease under subsection (d) after consideration of (A) the need for leasing, (B) impacts on the environment and other resource values, (C) socioeconomic factors, and (D) information from consultations with the Governors of the affected States.

"(3) Before determining whether to offer an offsite lease under subsection (c), the Secretary shall seek the recommendation of the Governor of the State in which the lands to be leased are located as to whether or not to lease such lands, what alternative actions are available, and what special conditions could be added to the proposed lease to mitigate impacts. The Secretary shall accept the recommendations of the Governor if he determines that they provide for a reasonable balance between the national interest and the State's interests. The Secretary shall communicate to the Governor, in writing, and publish in the Federal Register the reasons for his determination to accept or reject such Governor's recommendations."

Mr. ARMSTRONG. I will take just a moment to explain the amendment. Yesterday I offered an amendment which would permit the Secretary of Interior, under closely defined circumstances, to grant offsite disposal authority to oil shale lessees in the State of Colorado.

The Senator from Ohio (Mr. METZENBAUM) raised certain questions. Overnight he and I and our staffs have consulted and we have formulated an even more tightly drawn amendment which would have just this effect: It would permit one offsite disposal tract of not to exceed 6,400 acres within the State of Colorado to a Federal oil shale lessee.

In addition, it would permit the Secretary to issue not to exceed two such offsite disposal leases for private operators, that is people who are producing oil from shale on privately owned property, where there is a Federal inholding, and each of those two would not exceed 320 acres.

Mr. President, I put a lengthy statement in the RECORD yesterday about the need for this legislation.

I ask unanimous consent that Senators HART and WARNER be added to the amendment as cosponsors.

The Presiding Officer. Without objection, the cosponsors will be added.

Mr. ARMSTRONG. In conclusion, Mr. President, I would like to express to the Senator from Ohio my appreciation for his willingness to work with us on this matter and to permit us to go forward and offer this important amendment.

The PRESIDING OFFICER. Does the Senator from West Virginia wish to be added as a consponsor?

Mr. HART. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, may I be added as a cosponsor? I think my discussion with the able Senator has indicated my long-time interest in any program of this type in which we attempt to develop alternative fuels.

Mr. ARMSTRONG. Mr. President, I would be very honored to have the cosponsorship of the Senator from West Virginia. I ask unanimous consent that he be added.

The PRESIDING OFFICER. Without objection, he is recognized as a cosponsor.

Mr. HART. Mr. President, I wish to join my colleague, Senator ARMSTRONG, in sponsorship of this amendment. It is, as I understand it, virtually identical to S. 2520, a piece of legisla-

tion introduced earlier this year to try to get prompt action in behalf of a single oil shale endeavor in our State, and I am pleased to see action on this, and I wish to identify myself with it.

The PRESIDING OFFICER. The Senator from Colorado will be added as a cosponsor.

Mr. HART Mr. President, I am pleased to join my colleague, Senator ARMSTRONG, in cosponsoring this amendment to remove a statutory obstacle to the development of one of the four prototype oil shale leases issued in 1974. The amendment would authorize the Secretary of the Interior to issue an offsite lease for surface operations necessary to support open pit mining of tract C-a, the oil shale lease held by the Rio Blanco Oil Shale Co. This is the only prototype lease suitable for this method of operation; issuing the offsite lease will make possible the first test of this potentially most efficient form of oil shale mining.

This amendment is virtually identical to S. 2520, legislation which I introduced earlier this year in an effort to get prompt congressional action on the single, narrow issue of Rio Blanco's need for an oil shale lease. This is the only statutory change needed for the first generation of oil shale development. The change itself is noncontroversial. It is supported by the administration, all members of the Colorado congressional delegation, Gov. Richard D. Lamm of Colorado, industry, and environmentalists.

But approval of this change in the law has been impossible because of disagreements over other possible changes in the law. In both this Congress and the previous Congress, the Committee on Energy and Natural Resources has reported legislation making other, essentially unrelated, changes in the Mineral Leasing Act to greatly expand the authority of the Secretary of the Interior to issue future oil shale leases. I and several other Senators have opposed these open-ended proposals, and in the face of these strong disagreements the committee's bill has not been considered by the full Senate.

It has been tragic to hold Rio Blanco hostage to these disagreements. Earlier this year, the company was forced to seek, and receive, a suspension of its lease because of the failure of Congress to enact legislation authorizing the offsite lease.

The consequences of the previous congressional stalemate are far greater than the effect on Rio Blanco. The open pit operation which will be made possible by offsite leasing legislation promises to be the most efficient way to recover oil shale. Rio Blanco officials have testified before the Energy Committee that an open pit mine would let them increase the production of shale oil from their lease from 1.5 billion barrels to 5 billion barrels. It is in the national interest to enable Rio Blanco to undertake their open pit mine so we can study that method of operation and determine whether it would be appropriate to authorize additional offsite leasing.

Our oil shale reserves are too vast for us to wait any longer to move forward into a first generation of oil shale development. The amount of oil trapped in the shale deposits of Colorado alone is greater than the amount of petroleum in all the Middle East's oil fields. We have enough shale oil to sustain for several centuries a production level of about 1 million barrels per day—an amount roughly equal to the amount of oil we now import from the Middle East.

I am grateful to all Senators for their willingness to agree to withhold any controversial second-degree amendments which could jeopardize action on this Rio Blanco measure.

Mr. ARMSTRONG. Mr. President, if I have any time remaining, I would like to yield to the Senator from Virginia. Before I do that I wish to add my appreciation for his participation in this matter.

Mr. WARNER. Mr. President, I wish to commend the two Senators from Colorado and my colleague from Ohio for working out this situation. It has been a matter of deep concern to the Senate Subcommittee on Energy of which I am chairman, and only through the efforts on behalf of these distinguished Members of the Senate has this compromise been effected.

The PRESIDING OFFICER. The Senator from Ohio is recognized on the time of the Senator from Colorado.

Mr. METZENBAUM. Mr. President, I think the Senator from Ohio has recognition in his own right.

The PRESIDING OFFICER. The Senator is correct. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, this amendment, as modified, in my opinion, is to meet the problems that could have been created by the original amendment which I thought was too broad, would have affected too much land area owned by the Federal Government.

I do not think there is anybody in the Senate who does not support the concept of developing our soil shale reserves in this country. But I think the question is to see to it that the Federal Government is adequately protected, that our environmental concerns are protected, and that we do it with a sense of fairness and equity.

This measure now deals with one particular situation that has to do with the fact that a company has already closed down its facilities because of its profit in connection with its waste disposal. As I understand it, it would make it possible for that company to open its doors and produce oil shale hopefully in the not too distant future.

In addition, there are two special provisions having to do with 320 acres, each of which would be providing a waste disposal area inside, where the land is owned by the Federal Government inside, a much larger private holding.

I think we have come out with a fair compromise. It has been a pleasure to work with both of the Senators from Colorado and my friend from Virginia, as well.

Mr. McCLURE. Mr. President, will the Senator from Colorado add the Senator from Idaho as a cosponsor of the amendment?

Mr. ARMSTRONG. I would be honored to do that, Mr. President, I ask unanimous consent that the Senator from Idaho (Mr. McCLURE) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, this is a matter that we have been working on in the Energy and Natural Resources Committee for a long while. While this does not settle all of the issues with respect to oil shale, it is a significant advance. I am pleased we have been able to work it out here today.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado (Mr. ARMSTRONG).

The amendment (UP No. 1439) was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table. The motion to lay on the table was agreed to.

REPEAL OF RULE XXXVI OF THE STANDING RULES OF THE SENATE

The PRESIDING OFFICER. Under the unanimous-consent agreement, the clerk will report Senate Resolution 512.

The assistant legislative clerk read as follows:

A resolution (S. Res. 512) to repeal rule XXXVI of the Standing rules of the Senate.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, the distinguished Senator from Oregon, Senator HATFIELD, will manage this resolution on this side. He is not present on the floor but he is nearby. On our time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 1 minute without the time being charged against the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it would appear that the managers of this resolution are not fully in place to proceed with debate on the repeal of rule XXXVI. I had a request from the distinguished chairman of the Interior Committee and the Senator from Nebraska, and perhaps others, that they would like to engage in a colloquy on the Interior appropriations bill. I ask unanimous consent that it may be in order to do that for not more than 5 minutes, at which time the Senate will return to the consideration of the rule XXXVI proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983

The Senate resumed consideration of the bill.

Mr. McCLURE. Mr. President, I thank the Senator from Tennessee for his accommodation. As usual, he is very accommodating.

I am pleased to yield to the Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend, the chairman of the committee.

Mr. President, I wish to make a brief inquiry and a statement. I have visited with the problem that we have in Nebraska with both the chairman of the committee and the ranking minority member. I compliment the committee for their efforts to cut back on Federal expenditures.

I understand that there has been some consideration given to the possible funding for 1 year only of certain fish hatcheries if it is proven beyond a reasonable doubt that the States or local subdivisions thereof intend to pick up the funding after the next fiscal year. As I understand it, the reason for that is that if the States or the local subdivisions feel it is necessary for some of these fish hatcheries, if their budgets are already obligated, it has at least a consideration by the committee, which has been evidenced by at least one agreement to an amendment on the floor, that it might be that consideration would be given to one fish hatchery in Nebraska known as the Crawford Fish Hatchery in the amount of $84,000 if it can be proven beyond a reasonable doubt by the Governor-elect and the chairman of the game and parks commission that, indeed, they would intend to pick this up.

I would say there is $84,000 for this facility included in the House bill. I would just like to have a response from the chairman of the committee or the ranking minority member that if we could prove reasonably that State officials in Nebraska intended to pick that up, would it be possible that the Senator could back such a consideration when he goes to conference with the House on this bill?

Mr. McCLURE. Mr. President, the Senator does state it correctly. This issue, the proposed closure of fish hatcheries, is one that is very close to every Member of the Senate and most of the Members of the House, as I have found through this process of trying to determine which ones we should maintain that had a sufficient Federal connection to justify Federal operation. We tried to set up some objective criteria along that line to determine whether or not we should agree with the Fish and Wildlife Service as to their priorities for closure.

As the Senator has said, the hatchery at Crawford, Nebr., is included in the House bill for funding and we have, on the basis of our criteria, determined that there was not sufficient Federal connection to justify it being high enough in the priority list to remain open. But we have, on two or three other occasions, been informed that the State or local interests were in the process of negotiating to take over the operation of those facilities. Where we could determine that this was a bona fide process that was going to lead to or would likely lead to operation by non-Federal entities, we then provided the money to keep them open pending the conclusion of those negotiations.

If the State of Nebraska can give us that kind of assurance that they indeed will be able to take it over at the end of this fiscal year, it would be my intention then to yield in the conference to the position which is already stated in the House.

I might note that this, I believe, is in the district of Congresswoman Virginia Smith and she is very interested in maintaining it as well. I am sure she will be fighting, as well, with her House Members to see that the House position is maintained when we get to the conference. I am very happy that the Senator from Nebraska has entered into this, as he has, in an affirmative way. I am very pleased to give him that kind of positive assurance. When we receive from the State reasonable assurances that they will be in a position to take it over, I will be happy to yield to the House position in conference.

Mr. EXON. Mr. President, I thank my friend from Idaho for his consideration. We will make every effort to obtain the assurances, which I think will be in order. I will simply say to him this is the only major fish hatchery in Nebraska. There are a lot of trout in Idaho, but very few in Nebraska.

I believe under the circumstances we will be able to prove not only the need but to get the commitment from the State officials to proceed on the same basis that the other hatcheries for which consideration is being given proceed. I thank the Senator.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I believe that colloquy has ended and we automatically resume consideration of the resolution from the Rules Committee.

REPEAL OF RULE XXXVI OF THE STANDING RULES OF THE SENATE

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of Senate Resolution 512.

Mr. HATFIELD. Mr. President, in the past year and a half, the Senate has confronted the issue of outside earned income limitations several times. As my colleagues know, Federal law currently limits Federal officials to $2,000 in honoraria per engagement. Prior limitations restricting honoraria receivable to $25,000 per year were repealed last year. This repeal received overwhelming support in this very same Senate.

Nevertheless, there remains on the books as Senate rule, rule 36, which limits the outside earned income of Senators to 15 percent of salary. At the current salary level, Members would be limited to just over $9,000 in honoraria annually. The effective date of the rule was postponed in 1979 until January 1, 1983, and it is this situation that Senate Resolution 512 deals with.

Mr. President, a hearing was held in the Rules Committee of the Senate and the Rules Committee voted in support of the repeal of rule XXXVI. It has been on the calendar for several days now and is brought here under a unanimous-consent agreement with a 1-hour time limitation.

At this point, I yield to the Senator from Utah (Mr. GARN).

Mr. BAKER. Will the Senator first yield to me?

Mr. HATFIELD. I yield to the majority leader.

Mr. BAKER. Mr. President, I thank the Senator.

I would like to point out that this matter is a matter that has been negotiated in regular legislative procedures. It has been considered by the Rules Committee in open public hearing. It has been voted on in a recorded vote there. It has been reported to the floor. It is on the calendar and it has been there for several days. I have an-

nounced a number of times that we were going to bring it up.

I want to make absolutely sure that everyone understands precisely what we are about and that it is done in an open and public way.

Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, there will be a rollcall vote and I hope it will occur shortly. I would not add very much to what the Senator from Oregon has said, except that we have crossed this bridge in Congress already. That is, the law has been changed to eliminate that limitation.

The only thing that happened to us was we did not go ahead and conform the rules of the Senate to that change in statute law. All this resolution will do is to conform the rules of the Senate to the law as it now exists.

Mr. President, I hope the Senate will adopt this resolution.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I will be very brief and, primarily, will outline the sequence of events so there is no doubt about this issue.

On September 24, 1981, there was the first hearing and vote on this matter in the Rules Committee, and on September 30, 1981, there was a final vote. The law has been changed since Septemer 30, 1981.

That law says that there will be a $2,000 limit per speech on outside honoraria, but there is no cap on that.

The point that I wanted to make very strongly is that a lot of people have missed, and over and over again it is reported, that it was a limit on honoraria. That is only partially correct. The law before September 30, 1981, placed a limit on all outside earned income, far, far broader than just speechmaking.

At the same time, there has never been a limit on unearned income. If you had coupons, if you were rich, you could clip your coupons and draw from trust funds and there was no limit and no detailed reporting.

This is not taxpayers' money. In fact, the taxes are paid. I would assume that most of it, or 50 percent of what we earn, is returned to the general fund of the Treasury. It is fully reported and always has been in great detail as to where and how much.

I think those points are extremely important, that we are just conforming what was done openly on two record votes in September of 1981 through the process of the majority leader has outlined today; that it is not taxpayers' money; that it is fully disclosed. It seems to me that it is a matter of conscience between each individual Senator and his constituency. It is required that it be fully and completely disclosed. It used to be a ban on all outside earned income, or at least a cap.

So I would hope the Senate would realize that. This vote today is merely to conform a Senate rule with the action taken on September 30, 1981, nothing more and nothing less.

Mr. INOUYE. Mr. President, will my distinguished colleague yield?

Mr. GARN. I am happy to yield.

Mr. INOUYE. Under this resolution, can a Member of this body declare publicly that he has voluntarily set for himself a cap?

Mr. GARN. Absolutely, a Senator could. That is a very good idea that the Senator from Hawaii asks about. It is a matter of conscience between a Senator and his constituency, to answer to them at election time on not taxpayers' money, earned income outside the taxpayers' fund. It would seem to me that any Senator, rather than trying to impose his standard on everybody else, affecting their families and their livelihood, is certainly able to put out a press release and establish his own policy, if he desires to set a limit, or to take none, if he wants to do so. Any Senator has a right to do that.

Mr. INOUYE. I thank the Senator.

The PRESIDING OFFICER. Do any other Senators seek time?

Is all time yielded back?

Mr. HATFIELD. I yield back the remainder of my time.

Mr. INOUYE. I yield back the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the resolution. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MATSUNAGA (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Arizona (Mr. GOLDWATER). If he were present, he would vote "aye." I have already voted "nay." Therefore, I withdraw my vote.

Mr. SCHMITT. Mr. President, on this vote I have a pair with the distinguished Senator from Maryland (Mr. MATHIAS). If he were here, he would vote "aye." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. JOHNSTON. Mr. President, on this vote I have a pair with the Senator from Tennessee (Mr. SASSER). If I were permitted to vote, I would vote "aye." The Senator from Tennessee, if he were here, would vote "nay." Therefore, I withhold my vote.

Mr. RANDOLPH. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from West Virginia has raised the point of order that the well is occupied by Senators and the clerk cannot conduct an orderly rollcall. Therefore, it is the request of the Presiding Officer that the Senators clear the well.

Mr. STEVENS. A point of order, Mr. President. There is no such rule that we cannot be in the well.

The PRESIDING OFFICER. The Chair did not indicate there was a rule. The Chair simply made an observation.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Tennessee (Mr. SASSER) is necessarily absent.

I also announce that the Senator from Arizona (Mr. DECONCINI) and the Senator from New York (Mr. MOYNIHAN) are absent because of illness.

I further announce that, if present and voting, the Senator from Arizona (Mr. DECONCINI), would vote "nay."

The PRESIDING OFFICER (Mr. WARNER). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 54, nays 38, as follows:

[Rollcall Vote No. 405 Leg.]

YEAS—54

Armstrong	Glenn	Pryor
Baker	Gorton	Quayle
Bentsen	Hart	Randolph
Boschwitz	Hatch	Roth
Brady	Hatfield	Rudman
Bumpers	Hayakawa	Simpson
Byrd, Harry F., Jr.	Heinz	Specter
	Hollings	Stafford
Chafee	Humphrey	Stennis
Cochran	Inouye	Stevens
Cranston	Jepsen	Symms
D'Amato	Kassebaum	Thurmond
Danforth	Laxalt	Tower
Dixon	Leahy	Tsongas
Dodd	Lugar	Wallop
Dole	McClure	Warner
Domenici	Murkowski	Weicker
Durenberger	Packwood	
Garn	Percy	

NAYS—38

Abdnor	East	Mattingly
Andrews	Exon	Melcher
Baucus	Ford	Metzenbaum
Biden	Grassley	Mitchell
Boren	Hawkins	Nickles
Bradley	Heflin	Nunn
Burdick	Helms	Pell
Byrd, Robert C.	Huddleston	Pressler
Cannon	Jackson	Proxmire
Chiles	Kasten	Riegle
Cohen	Kennedy	Sarbanes
Denton	Levin	Zorinsky
Eagleton	Long	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—3

Matsunaga against.
Schmitt against.
Johnston for.

NOT VOTING—5

DeConcini	Mathias	Sasser
Goldwater	Moynihan	

So the resolution (S. Res. 512) was agreed to, as follows:

S. RES. 512

Resolved, That rule XXXVI of the Standing Rules of the Senate is repealed effective January 1, 1983.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SURFACE TRANSPORTATION ACT OF 1982

Mr. BAKER. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The present business before the Senate is that which the clerk is about to state, H.R. 6211.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause, and insert the following:

TITLE I—HIGHWAY REVENUE ACT OF 1982

Subtitle A—Short Title; Table of Contents; Amendment of 1954 Code

SEC. 101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Highway Revenue Act of 1982".

(b) TABLE OF CONTENTS.—

TITLE I—HIGHWAY REVENUE ACT OF 1982

Subtitle A—Short Title; Table of Contents; Amendment of 1954 Code

Sec. 101. Short title; table of contents.
Sec. 102. Amendment of 1954 Code.

Subtitle B—Tax Changes

Sec. 111. Motor fuel taxes.
Sec. 112. Excise tax on heavy trucks.
Sec. 113. Heavy truck use tax.
Sec. 114. Taxes on heavy truck tires.
Sec. 115. Tax on synthetic lubricating oil.
Sec. 116. Period taxes and exemptions in effect.
Sec. 117. Treatment of certain motor carrier operating authorities acquired by taxpayers other than corporations.
Sec. 118. Extension of payment due date for certain fuel taxes.

Subtitle C—Floor Stocks Provisions

Sec. 121. Floor stocks taxes.
Sec. 122. Floor stocks refunds.
Sec. 123. Definitions and special rules.

Subtitle D—Highway Trust Fund; Mass Transit Account

Sec. 131. Extension of Highway Trust Fund.
Sec. 132. Mass Transit Account.

SEC. 102. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided therein, whenever in subtitle B an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Subtitle B—Tax Changes

SEC. 111. MOTOR FUEL TAXES.

(a) TAXES ON GASOLINE, DIESEL FUEL, AND SPECIAL MOTOR FUELS INCREASED FROM 4 CENTS A GALLON TO 9 CENTS A GALLON.—

(1) GASOLINE TAX.—Subsection (a) of section 4081 (relating to tax on gasoline) is amended by striking out "4 cents a gallon" and inserting in lieu thereof "9 cents a gallon".

(2) DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041 (relating to tax on diesel fuel and special motor fuels) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) DIESEL FUEL AND SPECIAL MOTOR FUELS.—

"(1) DIESEL FUEL.—There is hereby imposed a tax of 9 cents a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in such vehicle, or

"(B) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under subparagraph (A).

"(2) SPECIAL MOTOR FUELS.—There is hereby imposed a tax of 9 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or paragraph (1) of this subsection)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A)."

(b) EXEMPTION FOR METHANOL AND ETHANOL FUELS.—

(1) IN GENERAL.—Section 4041 is amended by adding at the end of the subsection (b) inserted by subsection (c) of this section the following new paragraph:

"(2) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(A) IN GENERAL.—No tax shall be imposed by subsection (a) on any qualified methanol or ethanol fuel.

"(B) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(C) TERMINATION.—On and after October 1, 1989, subparagraph (A) shall not apply."

(2) COORDINATION WITH CREDIT.—Subsection (c) of section 44E (relating to coordination of credit for alcohol used as a fuel with exemption from excise tax) is amended by striking out "section 4041(k) or 4081(c)" and inserting in lieu thereof "subsection (b)(2) or (k) of section 4041 or section 4081(c)".

(c) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

(1) GASOLINE.—Subsection (a) of section 6421 (relating to nonhighway use of gasoline) is amended by striking out the first sentence and inserting in lieu thereof the following: "Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081."

(2) DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041 is amended by inserting after subsection (a) the following new subsection:

"(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE; EXEMPTION FOR QUALIFIED METHANOL AND ETHANOL FUEL.—

"(1) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

"(A) IN GENERAL.—No tax shall be imposed by subsection (a) on liquids sold for use or used in an off-highway business use.

"(B) TAX WHERE OTHER USE.—If a liquid on which no tax was imposed by reason of subparagraph (A) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B) or (2)(B) of subsection (a) (whichever is appropriate).

"(C) OFF-HIGHWAY BUSINESS USE DEFINED.—For purposes of this subsection, the term 'off-highway business use' has the meaning given to such term by section 6421(d)(2)."

(3) CLERICAL AMENDMENTS.—

(A) Subparagraphs (A) and (B) of section 6421(d)(2) are each amended by striking out "qualified business use" and inserting in lieu thereof "off-highway business use".

(B) The heading for paragraph (2) of section 6421(d) is amended by striking out "QUALIFIED" and inserting in lieu thereof "OFF-HIGHWAY".

(d) CREDIT FOR ALCOHOL USED AS A FUEL.—Section 44E (relating to alcohol used as a fuel) is amended—

(1) by striking out "40 cents" each place it appears and inserting in lieu thereof "90 cents", and

(2) by striking out "30 cents" each place it appears and inserting in lieu thereof "68 cents".

(e) USE IN CERTAIN TAXICABS.—

(1) IN GENERAL.—Paragraph (1) of section 6427(e) (relating to use in certain taxicabs) is amended by striking out "an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel" and inserting in lieu thereof "an amount determined at the rate of 4 cents a gallon".

(2) EXTENSION OF REPAYMENT.—Paragraph (3) of section 6427(e) (relating to termination) is amended by striking out "December 31, 1982" and inserting in lieu thereof "September 30, 1984".

(3) SUSPENSION OF SHARED TRANSPORTATION REQUIREMENT.—Clause (ii) of section 6427(e)(2)(A) (relating to qualified taxicab services) is amended to read as follows:

"(ii) is not prohibited by company policy from furnishing (with the consent of the passengers) shared transportation.".

(4) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the reduced rate of fuel taxes provided for taxicabs by section 6427(e) of the Internal Revenue Code of 1954. Not later than January 1, 1984, the Secretary shall transmit a report on the study conducted under the preceding sentence to the Congress, together with such recommendations as he may deem advisable.

(f) REFUND OF MOTOR FUEL TAXES TO AERIAL AND OTHER APPLICATORS OF AGRICULTURAL SUBSTANCES.—Paragraph (4) of section 6420(c) (defining use on a farm for farming purposes) is amended to read as follows:

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

"(B) if—

"(i) the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and

"(ii) the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline,

then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes."

(g) EXEMPTION FOR QUALIFIED COMMUTER HIGHWAY VEHICLES.—

(1) IN GENERAL.—Section 6421 (relating to gasoline used for certain non-highway purposes or by local transit systems) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) QUALIFIED COMMUTER HIGHWAY VEHICLES.—

"(1) ALLOWANCE.—Except as provided in subsection (i), if gasoline is used in a qualified commuter highway vehicle while such vehicle is engaged in transporting individuals between their residences and their place of employment, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

"(2) QUALIFIED COMMUTER HIGHWAY VEHICLE DEFINED.—For purposes of paragraph (1) the term 'qualified commuter highway vehicle' means a commuter highway vehicle within the meaning of subparagraph (B) of section 46(c)(6), except that such subparagraph shall be applied—

"(A) without regard to clause (iii) or (iv) thereof, and

"(B) by substituting 'individuals' for 'the taxpayer's employees' in clause (ii).

"(c) TERMINATION.—This subsection shall not apply on and after October 1, 1989.".

(2) Section 6427 (relating to fuels not used for taxable purposes) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) QUALIFIED COMMUTER HIGHWAY VEHICLE.—Except as provided in subsection (i), if any fuel on which tax is imposed by section 4081(a) is used by any person in a qualified commuter highway vehicle (within the meaning of section 6421(j)(2)) while such vehicle is engaged in transporting individuals between their residences and their place of employment, the Secretary shall pay (without interest) to such person an amount equal to the amount of the tax imposed on the sale of the fuel.".

"(3) CONFORMING AMENDMENTS.—

"(A) The heading for section 6421 is amended by inserting ", qualified commuter highway vehicles," after "purposes".

"(B) The table of sections for subchapter (B) of chapter 65 is amended by inserting ", qualified commuter highway vehicles," after "purposes" in the item relating to section 6421.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) GASOLINE USED IN NONCOMMERCIAL AVIATION.—Paragraph (3) of section 4041(c) (relating to noncommercial aviation) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) on any gasoline is the excess of 12 cents a gallon over the rate at which tax was imposed on such gasoline under section 4081."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 6416(b) is amended by striking out "section 4041 (a)(1) or (b)(1)" and inserting in lieu thereof "paragraph (1)(A) or (2)(A) of section 4041(a)".

(B) Subsection (a) of section 6427 is amended by striking out "section 4041 (a), (b), or (c)" and inserting in lieu thereof "section 4041 (a) or (c)".

(C) Paragraph (1) of section 6427(b) is amended by striking out "subsection (a) or (b) of section 4041" each place it appears and inserting in lieu thereof "subsection (a) of section 4041".

(D) Subsection (c) of section 6427 is amended by striking out "section 4041 (a), (b) or (c)" and inserting in lieu thereof "section 4041 (a) or (c)".

(3) TARIFF ON ALCOHOL IMPORTED FOR USE AS A FUEL.—Item 901.50 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by striking out "20¢ per gal." each place it appears and inserting in lieu thereof "90¢ per gal.", and

(B) by striking out "12/31/82" and inserting in lieu thereof "12/31/92".

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on April 1, 1983.

(2) FOR SUBSECTION (e)(2).—The amendment made by subsection (e)(2) shall take effect on January 1, 1983.

(3) SHARED TRANSPORTATION REQUIREMENT.—The amendment made by subsection (e)(3) shall apply with respect to fuel purchased after December 31, 1982 and before January 1, 1984.

(4) TARIFF ON IMPORTED ALCOHOL.—The amendments made by subsection (g)(3) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after March 31, 1983.

SEC. 112. EXCISE TAX ON HEAVY TRUCKS.

(a) CHANGES IN EXISTING MANUFACTURERS EXCISE TAX.—

(1) INCREASE IN THRESHOLD WEIGHTS.—Paragraph (2) of section 4061(a) (relating to exclusion for light-duty trucks, etc.) is amended to read as follows:

"(2) EXCLUSION FOR TRUCKS WITH GROSS VEHICLE WEIGHT OF 33,000 POUNDS OR LESS, AND CERTAIN TRAILERS.—

"(A) The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(B) The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary)."

(2) INCREASE IN THRESHOLD WEIGHTS FOR PARTS.—

(A) IN GENERAL.—Section 4061(b) (relating to tax on parts and accessories) is amended by adding at the end thereof the following new paragraph:

"(3) EXCLUSION FOR TRUCKS WITH GROSS VEHICLE WEIGHT OF 33,000 POUNDS OR LESS.—No tax shall be imposed by paragraph (1) on any part or accessory which, as determined under regulations prescribed by the Secretary, is suitable for use, and ordinarily used, on, or, in connection with, a vehicle having a gross vehicle weight of 33,000 pounds or less.".

(B) CONFORMING AMENDMENT.—Paragraph (1) of section 4061(b) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(3) EXEMPTION OF CERTAIN RAIL TRAILERS AND VANS.—Subsection (a) of section 4063 (relating to exemptions for specified articles) is amended by adding at the end thereof the following new paragraph:

"(8) RAIL TRAILERS AND RAIL VANS.—The tax imposed under section 4061 shall not apply in the case of—

"(A) any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car, and

"(B) any parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A).

For purposes of this paragraph, a piggy-back trailer or semitrailer shall not be treated as designed for use as a railroad car."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) INCREASE IN PARTS TAX.—

(1) IN GENERAL.—Paragraph (1) of section 4061(b) (relating to tax on parts and accessories) is amended by striking out "8 percent of the price for which so sold, except that on and after October 1, 1984, the rate shall be 5 percent" and insert in lieu thereof "12 percent of the price for which so sold, except that no tax shall be imposed under this paragraph on and after October 1, 1989".

(2) COORDINATION WITH RETAIL SALES TAX.—

(A) Subsection (e) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new paragraph:

"(5) TRUCK PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for resale by the purchaser on or in connection with the first retail sale by such purchaser of an article which is taxable under section 4051.".

(B) Paragraph (2) of section 6416(b) (relating to special cases in which tax payments considered overpayments) is amended—

(i) by striking out "or" at the end of subparagraph (M),

(ii) by striking out the period at the end of subparagraph (N) and inserting in lieu thereof "; or", and

(iii) by inserting after subparagraph (N) the following new subparagraph:

"(O) resold on or in connection with the first retail sale of an article which was taxable under section 4051.".

(c) IMPOSITION OF RETAIL TAX ON SALE OF HEAVY TRUCKS AND TRAILERS.—

(1) IN GENERAL.—Chapter 31 is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Heavy Trucks and Trailers

"Sec. 4051. Imposition of tax on heavy trucks and trailers sold at retail.

"Sec. 4052. Definitions and special rules.

"Sec. 4053. Exemptions.

"SEC. 4051. IMPOSITION OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed on the first retail sale of the following articles (including in each case parts or accessories sold on or in connection therewith or with the sale thereof) a tax of 12 percent of the amount for which the article is so sold:

"(A) Automobile truck chassis.

"(B) Automobile truck bodies.

"(C) Truck trailer and semitrailer chassis.

"(D) Truck trailer and semitrailer bodies.

"(E) Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

"(2) EXCLUSION FOR TRUCKS WEIGHING 33,000 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(3) EXCLUSION FOR TRAILERS WEIGHING 26,000 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(4) SALE OF TRUCKS, ETC., TREATED AS SALE OF CHASSIS AND BODY.—For purposes of this subsection, a sale of an automobile truck or truck trailer or semitrailer shall be considered to be a sale of a chassis and of a body described in paragraph (1).

"(b) TERMINATION.—On and after October 1, 1989, the taxes imposed by this section shall not apply.

"(c) TRANSITIONAL RULE.—In the case of any article taxable under subsection (a) on which tax was paid under section 4061(a), subsection (a) shall be applied by substituting '2 percent' for '12 percent'.

"SEC. 4052. DEFINITIONS AND SPECIAL RULES.

"(a) FIRST RETAIL SALE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'first retail sale' means the first sale, for a purpose other than for resale, after manufacture, production, or importation.

"(2) LEASES CONSIDERED AS SALES.—Rules similar to the rules of section 4217 shall apply.

"(3) USE TREATED AS SALE.—

"(A) IN GENERAL.—If any person uses an article taxable under section 4051 before the first retail sale of such article, then such person shall be liable for tax under section 4051 in the same manner as if such article were sold at retail by him.

"(B) EXEMPTION FOR USE IN FURTHER MANUFACTURE.—Subparagraph (A) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under section 4051 to be manufactured or produced by him.

"(C) COMPUTATION OF TAX.—In the case of any person made liable for tax by subparagraph (A), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(b) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the fair market value (including any tax imposed by section 4071) at retail of any tires (not including any metal rim or rim base), and

"(C) the price shall include the value of any trade-in.

"(2) SALES NOT AT ARM'S LENGTH.—In the case of any article sold (otherwise than through an arm's-length transaction) at less than the fair market price, the tax under this subchapter shall be computed on the price for which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) CERTAIN COMBINATIONS NOT TREATED AS FURTHER MANUFACTURE.—For purposes of this subchapter (other than subsection (a)(3)(B)), a person shall not be treated as engaged in the manufacture of any article merely by reason of combining such article with an item described in section 4063(d).

"(d) CERTAIN OTHER RULES MADE APPLICABLE.—Under regulations prescribed by the Secretary, rules similar to the rules of—

"(1) subsections (c) and (d) of section 4216 (relating to partial payments),

"(2) subsection (f) of section 4216 (relating to certain trucks incorporating used components), and

"(3) section 4222 (relating to registration), shall apply for purposes of this subchapter.

"SEC. 4053. EXEMPTIONS.

"(a) EXEMPTION OF SPECIFIED ARTICLES.—No tax shall be imposed under section 4051 on any article specified in subsection (a) of section 4063.

"(b) CERTAIN EXEMPTIONS MADE APPLICABLE.—The exemptions provided by section 4221(a) are hereby extended to the tax imposed by section 4051."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Chapter 31 is amended by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 31—RETAIL EXCISE TAXES

"Subchapter A. Special fuels.

"Subchapter B. Heavy trucks and trailers.

"Subchapter A—Special Fuels".

(B) The table of chapters for subtitle D is amended by striking out the item relating to chapter 31 and inserting in lieu thereof the following new item:

"Chapter 31. Retail excise taxes."

(C) Paragraph (2) of section 6416(b), as amended by this Act, is amended by inserting "or under section 4051" after "section 4041(a)".

(D) Paragraph (1) of section 6416(a) is amended by striking out "chapter 31 (special fuels)" and inserting in lieu thereof "chapter 31 (relating to retail excise taxes)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 1983.

SEC. 113. HEAVY TRUCK USE TAX.

(a) INCREASE IN RATE OF TAX.—Subsection (a) of section 4481 (relating to imposition of tax) is amended to read as follows:

"(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 33,000 pounds at the rate specified in the following table:

"Taxable gross weight		
At least	But less than	Rate of tax
33,000 pounds.....	55,000 pounds.....	$80 a year, plus $10 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds.....	80,000 pounds.....	$300 a year, plus $52 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds or more.	.....	$1,600 a year."

(b) EXEMPTION WHERE TRUCK USED FOR 5,000 MILES OR LESS ON PUBLIC HIGHWAYS.—Section 4483 (relating to exemptions from highway use tax) is amended by adding after subsection (c) thereof the following new subsection:

"(d) EXEMPTION FOR TRUCKS USED FOR 5,000 MILES OR LESS ON PUBLIC HIGHWAYS.—

"(1) SUSPENSION OF TAX.—

"(A) IN GENERAL.—If—

"(i) it is reasonable to expect that the use of any highway motor vehicle on public highways during any taxable period will be 5,000 miles or less, and

"(ii) the owner of such vehicle furnishes such information as the Secretary may by forms or regulations require with respect to the expected use of such vehicle,

then the collection of the tax imposed by section 4481 with respect to the use of such vehicle shall be suspended during the taxable period.

"(B) SUSPENSION CEASES TO APPLY WHERE USE EXCEEDS 5,000 MILES.—Subparagraph (A) shall cease to apply with respect to any highway motor vehicle whenever the use of such vehicle on public highways during the taxable period exceeds 5,000 miles.

"(2) EXEMPTION.—If—

"(A) the collection of the tax imposed by section 4481 with respect to any highway motor vehicle is suspended under paragraph (1),

"(B) such vehicle is not used during the taxable period on public highways for more than 5,000 miles, and

"(C) except as otherwise provided in regulations, the owner of such vehicle furnishes such information as the Secretary may require with respect to the use of such vehicle during the taxable period,

then no tax shall be imposed by section 4481 on the use of such vehicle for the taxable period.

"(3) REFUND WHERE TAX PAID AND VEHICLE NOT USED FOR MORE THAN 5,000 MILES.—If—

"(A) the tax imposed by section 4481 is paid with respect to any highway motor vehicle for any taxable period, and

"(B) the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to such taxable period,

the amount of such tax shall be credited or refunded (without interest) to the person who paid such tax.

"(4) OWNER DEFINED.—For purposes of this subsection, the term 'owner' means, with respect to any highway motor vehicle, the person described in section 4481(b)."

(c) CLARIFICATION OF TRAILERS CUSTOMARILY USED IN CONNECTION WITH HIGHWAY MOTOR VEHICLES.—

(1) Subsection (c) of section 4482 is amended by adding at the end thereof the following new paragraph:

"(5) CUSTOMARY USE.—A semitrailer or trailer shall be treated as customarily used in connection with a highway motor vehicle if such vehicle is equipped to tow such semitrailer or trailer."

(2) The heading for subsection (c) of section 4482 is amended by inserting "AND SPECIAL RULE" after "DEFINITIONS".

(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—Section 4482 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—In the case of the taxable period which ends on September 30, 1989, the amount of the tax imposed by section 4481 with respect to any highway motor vehicle shall be determined by reducing each dollar amount in the table contained in section 4481(a) by 75 percent."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1984.

(2) SHORT TAXABLE PERIODS.—For purposes of subchapter D of chapter 36 of the Internal Revenue Code of 1954—

(A) the period beginning on July 1, 1983, and ending on December 31, 1983, and

(B) the period beginning on January 1, 1984, and ending on June 30, 1984,

shall each be treated as a taxable period.

(3) TRANSITIONAL RULE FOR FIRST SHORT PERIOD.—In the case of the taxable period beginning on July 1, 1983, the tax imposed by section 4481(a) of such Code with respect to the use of any highway motor vehicle shall be determined by substituting "$1.50 for such period" for "$3.00 a year" in such section 4481(a).

(4) TRANSITIONAL RULE FOR SECOND SHORT PERIOD.—In the case of the taxable period beginning on January 1, 1984, the amount of the tax imposed by section 4481(a) of such Code (as amended by this section) on the use of any highway motor vehicle shall be an amount equal to the sum of—

(A)(i) one-sixth of the amount of the tax imposed by such section (determined without regard to this paragraph), plus

(ii) one dollar multiplied by the number of thousands of pounds (or fraction thereof) in the gross weight of such vehicle, and

(B) subsection (d) of section 4483 of such Code (as amended by this section) shall be applied by substituting "2,500" for "5,000" each place it appears.

Notwithstanding clauses (i) and (ii) of subparagraph (A), no tax shall be imposed on any highway motor vehicle weighing 33,000 pounds or less.

(5) TRANSITIONAL RULE FOR THE TAXABLE PERIOD BEGINNING ON JULY 1, 1984.—In the case of the taxable period beginning on July 1, 1984, the amount of the tax imposed by section 4481(a) of such Code (as amended by this section) on the use of any highway motor vehicle shall be an amount equal to the sum of—

(A) two-thirds of the amount of the tax imposed by such section (determined without regard to this paragraph), plus

(B) one dollar multiplied by the number of thousands of pounds (or fraction thereof) in the gross weight of such vehicle, and

(6) COORDINATION WITH INSTALLMENT PAYMENT OF TAX.—

(A) The Secretary of the Treasury or his delegate shall by forms or regulation provide for appropriate adjustments in the application of section 6156 of such Code with respect to the taxable periods referred to in paragraph (2).

(B) For purposes of subparagraph (A)—

(i) there shall be substituted for the table appearing in section 6156(a) of such Code the following table:

"If liability is incurred in—	The number of installments shall be—
July, August, September, January, February, or March	2",

and

(ii) in lieu of subsection (e) of such section 6156, this paragraph shall not apply to any liability for tax incurred in October, November, December, April, May, or June.

(f) STUDY OF ALTERNATIVES TO TAX ON USE OF HEAVY TRUCKS.—

(1) IN GENERAL.—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study of—

(A) alternatives to the tax on heavy vehicles imposed by section 4481(a) of the Internal Revenue Code of 1954, and

(B) plans for improving the collecting and enforcement of such tax and alternatives to such tax.

(2) ALTERNATIVES INCLUDED.—The alternatives studied under paragraph (1) shall include taxes based either singly or in suitable combinations on vehicle size or configuration; vehicle weight, both registered and actual operating weight; and distance traveled. Plans for improving tax collection and enforcement shall, to the extent practical, provide for Federal and State cooperation in such activities.

(3) CONSULTATION WITH STATE OFFICIALS AND OTHER AFFECTED PARTIES.—The study required under subsection (a) shall be conducted in consultation with State officials, motor carriers, and other affected parties.

(4) REPORT.—Not later than January 1, 1985, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under paragraph (1) together with such recommendations as he may deem advisable.

SEC. 114. TAXES ON TIRES, INNER TUBES, AND TREAD.

(a) GENERAL RULE.—Subsection (a) of section 4071 (relating to imposition and rate of tax on tires and tubes) is amended to read as follows:

"(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on the following articles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer, a tax at the following rates:

"(1) Tires of the type used on highway vehicles, at the rate determined under the following table:

If the tire weighs:	The rate of tax is:
50 lbs or less	9.75 cents per lb.
More than 50 lbs. but not more than 100 lbs.	$4.875 plus 15 cents per lb. for each lb. in excess of 50 lbs.
More than 100 lbs	$12.375 plus 25 cents per lb. for each lb. in excess of 100 lbs.

"(2) Inner tubes for tires, 10 cents per pound.

"(3) Tread rubber, at the rate determined under the following table with respect to the tire on which the tread rubber is used:

If such tire weighs:	The rate of tax is:
50 lbs. or less	5 cents per lb.
More than 50 lbs. but not more than 100 lbs.	8 cents per lb.
More than 100 lbs	16 cents per lb.".

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 4218 is amended by striking out "Except as provided in subsection (d), if" and inserting in lieu thereof "If".

(2) Section 4218 is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(3) Subsection (a) of section 4218 is amended by striking out "(b), (c), or (d)" and inserting in lieu thereof "(b) or (c)".

(4) Subsection (e) of section 4221 is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

(5) Paragraph (3) of section 4221(e), as redesignated by paragraph (4), is amended—

(A) by striking out "(3)" in subparagraph (A) and inserting in lieu thereof "(2)", and

(B) by striking out "paragraph (4)" in subparagraph (B) and inserting in lieu thereof "paragraph (3)".

(6) Paragraph (1) of section 6412(a) is amended—

(A) by striking out "4071(a) (1), (3), or (4)" and inserting in lieu thereof "4071(a) (1), (2), or (3)", and

(B) by striking out the last sentence.

(7) Subparagraph (A) of section 6412(a)(2) is amended by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(3)"

(8) Subparagraph (G) of section 6416(b)(2) is amended—

(A) by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(3)"

(B) by striking out "or" at the end of clause (iii),

(C) by adding "or" at the end of clause (iv), and

(D) by inserting after clause (iv) the following new clause:

"(v) used, or sold for use, in the recapping or retreading of a tire which weighs less than the weight of the tire with respect to which such tax was imposed,".

(9) Subparagraph (L) of section 6416(b)(2) is amended to read as follows:

"(L) in the case of any tire or inner tube taxable under paragraph (1) or (2) of section 4071(a), sold to any person for use as described in section 4221(e)(3)(A);".

(10) Subparagraph (M) of section 6416(b)(2) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

(11) Subparagraph (D) of section 6416(b)(3) is amended by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(3)".

(12) Paragraph (3) of section 6416(b) is amended by striking out subparagraph (E), by adding "or" at the end of subparagraph (D), and by redesignating subparagraph (F) as subparagraph (E).

(13) Subparagraph (A) of section 6416(b)(4) is amended by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(3)".

(14) Paragraph (3) of section 9502(b) is amended by striking out "under paragraphs (2) and (3) of section 4071(a), with respect to

tires and" and inserting in lieu thereof "section 4071(a)(2) with respect to".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold on or after April 1, 1983.

SEC. 115. TAX ON SYNTHETIC LUBRICATING OIL.

(a) IN GENERAL.—Section 4092 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(c) SYNTHETIC LUBRICATING OILS.—For purposes of this subpart, the term 'lubricating oil' includes any synthetic lubricating oil.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold after the date of the enactment of this Act.

SEC. 116. PERIOD TAXES AND EXEMPTIONS IN EFFECT.

(a) PERIOD TAXES IN EFFECT.—

(1) SPECIAL FUELS TAX.—

(A) Subsection (a) of section 4041 (as amended by this Act) is amended by adding at the end thereof the following new paragraph:

"(3) TERMINATION.—On and after October 1, 1989, the taxes imposed by this subsection shall not apply."

(B) Subsection (e) of section 4041 is hereby repealed.

(2) TIRES AND TREAD RUBBER.—Subsection (d) of section 4071 is amended to read as follows:

"(d) TERMINATION.—On and after October 1, 1989, the taxes imposed by subsection (a) shall not apply."

(3) GASOLINE.—Subsection (b) of section 4081 is amended to read as follows:

"(b) TERMINATION.—On and after October 1, 1989, the taxes imposed by this section shall not apply."

(4) HIGHWAY USE TAX.—Sections 4481(e) and 4482(c)(4) are each amended by striking out "1984" each place it appears and inserting in lieu thereof "1989".

(5) FLOOR STOCKS TAXES.—Paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended—

(A) by striking out "1985" each place it appears and inserting in lieu thereof "1990" and

(B) by striking out "1984" each place it appears and inserting in lieu thereof "1989".

(6) OTHER PROVISIONS.—Paragraph (2) of section 6156(e) (relating to installment payments of tax on use of highway motor vehicles) and subsection (h) of section 6421 (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems) are each amended by striking out "1984" and inserting in lieu thereof "1989".

(b) TERMINATION OF EXEMPTIONS.—

(1)(A) Subsection (f) of section 4041 is amended by adding at the end thereof the following new paragraph:

"(3) TERMINATION.—On and after October 1, 1989, paragraph (1) shall not apply."

(B) Subsection (g) of section 4041 is amended by adding at the end thereof the following new sentence: "Paragraphs (2) and (4) shall not apply on and after October 1, 1989."

(2) Subsection (a) of section 4221 (relating to certain tax resales) is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by section 4051, 4061, 4071, or 4081, paragraphs (4) and (5) shall not apply on and after October 1, 1989."

(3) Section 4483 (relating to exemption for highway use tax) is amended by adding after subsection (d) thereof the following new subsection:

"(e) TERMINATION OF EXEMPTIONS.—Subsections (a) and (c) shall not apply on and after October 1, 1989."

(4) Section 6420 (relating to gasoline used on farms) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) TERMINATION.—This section shall apply only with respect to gasoline purchased before October 1, 1989."

(5) Section 6427 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) TERMINATION OF SUBSECTIONS (a), (b), (c), AND (d).—Subsections (a), (b), (c), and (d) shall only apply with respect to fuels purchased before October 1, 1989."

SEC. 117. TREATMENT OF CERTAIN MOTOR CARRIER OPERATING AUTHORITIES ACQUIRED BY TAXPAYERS OTHER THAN CORPORATIONS.

(a) GENERAL RULE.—Paragraph (2) of section 266(c) of the Economic Recovery Tax Act of 1981 (relating to stock acquisitions of motor carrier operating authorities) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) TREATMENT OF CERTAIN NONCORPORATE TAXPAYERS.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which—

"(i) a noncorporate taxpayer or group of noncorporate taxpayers on or before July 1, 1980, acquired in one purchase stock in a corporation which held, directly or indirectly, any motor carrier operating authority at the time of such acquisition, and

"(ii) the acquisition referred to in clause (i) would have satisfied the requirements of subparagraph (A) if the stock had been acquired by a corporation,

then, for purposes of subparagraphs (A) and (C), the noncorporate taxpayer or group of noncorporate taxpayers referred to in clause (i) shall be treated as a corporation. The preceding sentence shall apply only if such noncorporate taxpayer (or group of noncorporate taxpayers) on July 1, 1980, held stock constituting control (within the meaning of section 368(c) of the Internal Revenue Code of 1954) of the corporation holding (directly or indirectly) the motor carrier operating authority."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after July 30, 1980.

SEC. 118. EXTENSION OF PAYMENT DUE DATE FOR CERTAIN FUEL TAXES.

(a) IN GENERAL.—The Secretary shall prescribe regulations which permit any qualified oil jobber whose liability for tax under section 4081 of the Internal Revenue Code of 1954 is payable with respect to semimonthly periods to pay such tax on or before the date which is 15 days after the close of such semimonthly period if such payment is made by wire transfer to any government depository authorized under section 6302 of such Code.

(b) QUALIFIED OIL JOBBER DEFINED.—For purposes of this section—

(1) IN GENERAL.— the term "qualified oil jobber" means any wholesale distributor who—

(A) has made an election to be treated as a producer under section 4082(d) of such Code, and

(B) for the semimonthly period, has sold 2,000,000 gallons or less of gasoline which is taxable under section 4081 of such Code.

(2) AGGREGATION OF SALES.—The sales of gasoline taxable under section 4081 of such Code of—

(A) all trades or businesses (whether or not incorporated) which are under common control with the distributor (within the meaning of section 52(b)), and

(B) all members of any controlled group of corporations of which the distributor is a member,

for any semi-monthly period shall be included in the sales of the distributor for such period. The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in wholesale distribution of gasoline through partnerships, joint ventures, and corporations.

(3) CONTROLLED GROUP OF CORPORATIONS.—The term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(A) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

Subtitle C—Floor Stocks Provisions

SEC. 121. FLOOR STOCKS TAXES.

(a) 1983 TAX ON GASOLINE.—On gasoline subject to tax under section 4081 which, on April 1, 1983, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 5 cents a gallon.

(b) 1983 TAX ON TIRES AND TREAD RUBBER.—On any article which would be subject to tax under paragraph (1) or (2) of section 4071(a) if sold by the manufacturer, producer, or importer on or after April 1, 1983, which on April 1, 1983, is held by a dealer and has not been used and is intended for sale, there shall be imposed a floor stocks tax equal to the product of—

(1) the number of pounds, multiplied by

(2) the excess of the rate in effect under section 4071(a) on April 1, 1983, over such rate in effect on March 31, 1983.

In the case of tread rubber, the tax imposed by this subsection shall not apply in the case of any person if such person establishes, to the satisfaction of the Secretary of the Treasury or his delegate, that all tread rubber held by him on April 1, 1983, will be used otherwise than in the recapping or retreading of tires which are of the type used on highway vehicles (as defined in section 4072(c)).

(c) 1983 TAX ON TRUCK PARTS AND ACCESSORIES.—On any article which would be subject to tax under section 4061(b) if sold by the manufacturer, producer, or importer, on or after April 1, 1983, which on April 1, 1983, is held by a dealer and has not been used and is intended for sale, there shall be imposed a floor stocks tax equal to 4 percent of 90 percent of the price for which the dealer purchased such article.

(d) TAX ON SYNTHETIC LUBRICATING OILS.—On any synthetic lubricating oil which would be subject to tax under section 4091(b) if sold by the manufacturer, producer, or importer, on or after the date of the enactment of this Act (and on which no tax was imposed on or before such date), which on such date of enactment is held by a dealer and has not been used and is intended for sale, there shall be imposed a floor stocks tax equal to 6 cents per gallon.

(e) OVERPAYMENT OF FLOOR STOCKS TAXES.—Section 6416 shall apply in respect of the floor stocks taxes imposed by this sec-

tion, so as to entitle, subject to all provisions of section 6416, any person paying such floor stocks taxes to a credit or refund thereof for any of the reasons specified in section 6416.

(f) DUE DATE OF TAXES.—The taxes imposed by this section shall be paid at such time after May 15, 1983, as may be prescribed by the Secretary of the Treasury or his delegate.

(g) TRANSFER OF FLOOR STOCKS TAXES TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund for any period, the taxes imposed by this section shall be treated as if they were imposed by section 4061, 4071, 4081, or 4091 of the Internal Revenue Code of 1954, whichever is appropriate.

SEC. 122. FLOOR STOCKS REFUNDS.

(a) GENERAL RULE.—

(1) IN GENERAL.—Where, before the day after the date of the enactment of this Act, any tax-repealed article has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate on or before October 1, 1983, based on a request submitted to the manufacturer, producer, or importer before July 1, 1983, by the dealer who held the article in respect of which the credit or refund is claimed, and

(B) on or before October 1, 1983, reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061 or 4071 (whichever is appropriate) shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(b) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES OF TRUCKS AND TRAILERS.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where after November 28, 1982, and before the day after the date of the enactment of this Act, a tax-repealed article on which tax was imposed by section 4061(a) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION OF ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection,

(B) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate on or before October 1, 1983, based on information submitted to the manufacturer, producer, or importer before July 1, 1983, by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser, and

(C) on or before October 1, 1983, reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) CERTAIN USES BY MANUFACTURER, ETC.—In the case of any article which was subject to the tax imposed by section 4061(a) (as in effect on the day before the date of the enactment of this Act), any tax paid by reason of section 4218(a) (relating to use by manufacturer or importer considered sale) with respect to a tax-repealed article shall be deemed to be an overpayment of such tax if tax was imposed on such article after November 28, 1982, by reason of section 4218(a).

(d) TRANSFER OF FLOOR STOCKS REFUNDS FROM HIGHWAY TRUST FUND.—The Secretary of the Treasury shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made under this section.

SEC. 123. DEFINITIONS AND SPECIAL RULES.

(a) IN GENERAL.—For purposes of this subtitle—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means any article on which a tax was imposed by section 4061(a) or 4061(b) as in effect on the day before the date of the enactment of this Act, and which will not be subject to tax under section 4061(a) or 4061(b) as in effect on the day after the date of the enactment of this Act.

(4) Except as otherwise expressly provided herein, any reference in this subtitle to a section or other provision shall be treated as a reference to a section or other provision of the Internal Revenue Code of 1954.

(b) 1983 EXTENSION OF FLOOR STOCKS REFUND TO TIRES.—

(1) IN GENERAL.—In the case of an article on which a tax was imposed by section 4071(a) as in effect on March 31, 1983, and which will not be subject to tax under such section as in effect on April 1, 1983, such article shall be treated as a tax-repealed article for purposes of subsection (a) of section 522.

(2) ALLOWANCE OF REFUND.—In the case of a tax-repealed article to which paragraph (1) applies, subsection (a) of section 522 shall be applied by treating March 31, 1983, as the date of the enactment of this Act.

Subtitle D—Highway Trust Fund; Mass Transit Account

SEC. 131. EXTENSION OF HIGHWAY TRUST FUND.

(a) EXTENSION.—Subsections (c) and (f) (3), (4), (6), and (7) of section 209 of the Highway Revenue Act of 1956 (23 U.S.C. 120 note) are amended as follows:

(1) by striking "October 1, 1984" each place it appears and inserting in lieu thereof "October 1, 1989", and

(2) by striking "September 30, 1984", each place it appears and inserting in lieu thereof "September 30, 1989", and

(3) by striking "July 1, 1985" each place it appears and inserting in lieu thereof "July 1, 1990".

(b) CONFORMING AMENDMENTS.—

(1) MANAGEMENT OF TRUST FUND.—Subsection (e)(1) of section 209 of the Highway Revenue Act of 1956 is amended by striking "Commerce" and inserting in lieu thereof "Transportation", and by striking "up to and including the fiscal year ending September 30, 1985".

(2) EXPENDITURES FROM TRUST FUND.—Subsection (f)(1) of section 209 of the Highway Revenue Act of 1956 is amended as follows:

"(1) FEDERAL-AID HIGHWAY PROGRAM.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1990, to meet those obligations of the United States heretofore or hereafter incurred which are authorized by law or which are attributable to Federal-aid highways (including those portions of general administrative expenses of the Federal Highway Administration payable from such appropriations)."

(c) INVESTIGATION AND REPORT TO CONGRESS.—Section 210 of the Highway Revenue Act of 1956 is repealed.

(d) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4061-11) is amended as follows:

(1) by striking "October 1, 1984" and inserting in lieu thereof "October 1, 1989"; and

(2) by striking "July 1, 1985" each place it appears and inserting in lieu thereof "July 1, 1990".

(e) INCREASE IN AMOUNT TRANSFERRED TO NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—Clause (ii) of section 209(f)(5)(A) of the Highway Revenue Act of 1956 (23 U.S.C. 120 note) is amended—

(1) by striking out "$20,000,000" and inserting in lieu thereof "$45,000,000", and

(2) by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1989".

SEC. 132. MASS TRANSIT ACCOUNT.

(a) IN GENERAL.—Section 209 of the Highway Revenue Act of 1956 is amended by adding at the end thereof the following new subsection:

"(h) MASS TRANSIT ACCOUNT.—

"(1) IN GENERAL.—There is established on the books of the Treasury of the United States an account within the Highway Trust Fund to be known as the 'Mass Transit Account'.

"(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account 1/9 of the amounts appropriated to the Highway Trust Fund under this section which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983.

"(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation

Acts, for making capital expenditures before October 1, 1989 (including capital expenditures for new projects), under section 22 of the Urban Mass Transportation Act of 1964.

"(4) DUTIES OF THE SECRETARY OF THE TREASURY WITH RESPECT TO THE MASS TRANSIT ACCOUNT.—It shall be the duty of the Secretary of the Treasury to manage the Mass Transit Account and to make an annual report to the Congress as provided in subsection (e) of this section. The interest on, and the proceeds from the sale or redemption of any obligation held in the Mass Transit Account shall be credited to and form a part of the Mass Transit Account.

"(5) REPAYABLE ADVANCES.—There are hereby authorized to be appropriated to the Mass Transit Account, as repayable advances, such additional sums as may be required to make the expenditures referred to in paragraph (3) of this section. Advances made pursuant to this paragraph shall be repaid and interest on such advances shall be paid to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Mass Transit Account for such purposes. Such interest shall be at rates computed in the same manner as provided in subsection (e)(2) of this section for special obligations and shall be compounded annually."

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I wish to speak for a moment to an issue that has been debated in one form or another, and that is the natural gas price increase.

I very much appreciate that the Energy Committee was holding hearings yesterday and there was a colloquy in the Chamber this morning. But I think at this particular time——

The PRESIDING OFFICER. The Senator from Kansas will suspend for a moment. The Chair requests that there be order in the Chamber so that the Senator's remarks may be heard.

Senators are requested to return to their desks and coversations should be conducted in the cloakroom.

The Senator from Kansas.

Mrs. KASSEBAUM. I thank the President.

NATURAL GAS

Mr. President, I just wish to say in my opening that I am very appreciative of those who have expressed concern about this issue. There was a thoughtful debate of this yesterday in the Energy Committee.

Mr. President I applaud the concern that the Senators from Missouri and others have demonstrated over the natural gas crisis facing us this winter. It is clear that something is drastically wrong in the natural gas marketplace today, and this is a point in time which we can discuss it on the Senate floor. Consumers are being forced to pay high rates, rapidly increasing, in a time of surplus supplies. I can think of no more stinging indictment of the operation of the market than this fact. One can analyze the market ad infinitum, attempt to dissect it in minute statistical detail and you are still left with the unlikely pair of increasing price and growing surplus.

Absolutely no purpose is served by attempts to place the blame on any one segment of the industry. The producers blame the pipelines. The pipelines blame the producers. The utilities point the finger upstream at the pipelines. The only sure thing to emerge from this morass is that the consumers are indeed blameless, but are the ones suffering. Some segments of the industry urge us to be patient; the various parties will work things out voluntarily, we are told. I would be the first to endorse such a "hands off" approach if the end users in this market were free to choose among alternatives. They clearly are not. We must not turn our backs on the very people who bear the consequences of this distorted market.

It is necessary to break down the total wellhead price increase in order to get at the source of this artificial price inflation. From mid-1981 to mid-1981, the average wellhead price of natural gas rose aproximately 17 percent. Recent figures indicate that this wellhead increase accounts for about 70 percent of the increase in consumer rates. Some of this wellhead increase is attributable to the increasing ceiling prices for gas set in the NGPA. According to a study of the Energy Information Administration, more than 75 percent of the increase, however, is due to increasing the purchases of the high cost, section 107 gas. We need to look no further than the Hugoton field in Kansas to see these statistics brought to life. In the 5-year period beginning in 1977, five major pipelines drawing from the Hugoton field saw their total supplies from all fields grow by a modest 1.4 percent. During that same timeframe, however, the five pipelines' total take of Hugoton gas actually declined by more than 26 percent. What made up this discrepancy? Most of it was made up by an increase, this winter alone, of over 42 Bcf in the purchases of high-cost Wyoming and Canadian gas. When you consider the fact that the average Hugoton sale this winter will average below 0.50 Mcf, while the high-priced gas ranges from $6 to $9 Mcf, the absurdity of the market becomes very evident.

What would lead rational businessmen to foresake our inexpensive, conventional gas for exotic, high-priced supplies? The main culprit, I believe, is the pervasive existence of take-or-pay obligations binding pipelines to producers. High take-or-pay percentages based on open-well deliverability have so restricted the natural gas market that it cannot respond in a rational manner. Estimates of the portion of total supplies subject to take-or-pay obligations range as high as 80 percent. Quite clearly, these take-or-pay obligations lead to the abandonment of low-cost sources of gas first in a period of slackening demand.

The amendment that I have offered addresses these twin problems of escalating ceiling prices and take-or-pay contracts.

In that respect, it is very similar to the proposal of the Senators from Missouri, Senator DANFORTH and Senator EAGLETON. Indeed, the portion dealing with ceiling prices under the NGPA is very similar to that proposed earlier in the session as well by Senator EAGLETON and a number of other bills that have been introduced.

I wish that we could have delayed consideration of these proposals until the Energy Committee has had a chance to consider the natual gas question in a hearing scheduled for this coming Monday. However, I feel compelled to point out a significant difference in the way in which my amendment and that offered by Senator DANFORTH deal with the take-or-pay problem. Under Senator DANFORTH'S approach, every take-or-pay obligation created since 1978 would be voided automatically. This would occur regardless of the reasonable percentage level of the obligation and without regard to the effect that this voiding would have on the validity of the reminder of the contract. The massive upheaval and uncertainty that this action would cause in the natural gas marketplace could very well harm the very consumers that it is designed to help.

It is with great reluctance that I approach any legislative action on private contracts. Were it not for the overriding public interest involved in this situation, I would not even suggest such a course of action. We should adopt the narrowest and most specifically targeted approach possible. My amendment will seek to deal with the take-or-pay situation by allowing and encouraging pipelines to adopt a more balanced mix between low-cost and high-cost gas. The main tool to be used in achieving this goal will be a specific grant of legislative authority to FERC which will allow pipelines to abrogate or modify their take-or-pay obligations in order to permit them to increase their usage of lower cost gas. A prudence standard will be added to the current grounds of fraud, abuse, and misrepresentation contained in section 601 of the NGPA for denying purchased gas adjustments. These two features would work together to disallow the passthrough of purchased gas costs when it could be shown that a pipeline had imprudently failed to avail itself of the opportunity to modify its take-or-pay obligations. It is important to realize that my legislation will not prevent the passthrough of costs without giving the pipelines the opportunity to modify their take-or-pay obligations.

To do so for an extended period of time would clearly be unfair in that it would leave pipelines obligated to the producer while denying them the mechanism to recover the costs in question. I believe this to be a more responsible approach which avoids the problems created by an automatic voiding of all post 1978 take-or-pay obligations.

To help insure that pipelines have sufficient incentive to purchase lower cost gas, my amendment would require FERC to apply an incentive rate of return procedure in pipeline rate cases. The goal of such a device will be to encourage a pipeline to contract for the maximum amount of low-cost gas which is consistent with that pipeline's long-term supply and demand posture and its physical characteristics. I do not believe that a rigid, legislated, incentive rate of return based on purchases above some mythical "market-clearing price" would be desirable. In practice, such a price would be impossible to determine and individual pipeline conditions might well make its application inappropriate anyway.

Whatever action we take here today, we should realize that a comprehensive examination of the NGPA is desparetely needed in the upcoming 98th Congress. This does not preclude us, however, from taking steps to give some relief to those who are suffering so unfairly from current, artifically inflated natural gas prices.

Mr. President, I ask unanimous consent that I might yield to the Senator from Missouri (Mr. DANFORTH) for the purpose of debate only without losing my right to the floor, and that upon being recognized, the continuation of my speech not be counted as a second speech under rule XIX, and that I be allowed to leave the Chamber when I have so yielded, and I might be recognized at the conclusion of Senator DANFORTH's remarks.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I thank the Senator from Kansas, and I thank the Chair.

Mr. President, rising natural gas prices are creating a genuine crisis in my State and in other States that rely on this fuel for home heating. The rapid escalation of gas costs is causing serious hardship, not only to the poor and the elderly, but also to a broad range of people with moderate incomes, whose budgets cannot stand the sudden jolt that this winter's heating bills will cause.

The Gas Service Co. of Kansas City reports that last year's price increases by themselves have resulted in 8,000 cutoffs of gas service as the heating season begins. But the worst is yet to come. The company also reports that its cost of gas will rise nearly 50 percent from January 1982 to January 1983. Other areas face increases that are just as alarming. The Bureau of Labor Statistics reported on Friday that natural gas prices had increased nationwide by 25.7 percent between November 1981 and November 1982—5 percent in the last month alone. More than 53 percent of all U.S. households depend on natural gas for home heating, and according to one survey of public utility commissions, as many as 300,000 households on natural gas may have their heat cut off this winter.

One of the central aims of the Natural Gas Policy Act was to cushion—by a policy of gradual decontrol—the transition from 25 years of regulated gas prices to a free market environment. I was a supporter of the NGPA, but I must say that in this aim it has failed. Gas prices have more than doubled—and in some cases tripled—in the 4 years since passage of the NGPA, increasing at an average annual rate of more than 21 percent. Indeed, it appears that in many areas we have reached the market clearing prices that were the goal of the act—2 years ahead of schedule and at a level no one anticipated. And there is no end in sight.

As a result of these rising prices, new gas discoveries, and a slumping national economy, there is more gas out there than can be sold. But the market is not working as it should—that is, with stable or falling prices. One reason is quite clear: take-or-pay contract clauses.

Very simply, these clauses bind a natural gas pipeline company to pay for gas it has contracted for, whether it takes the gas or not. Producers demanded these clauses during the mid-1970's, when gas supplies were short, and pipelines agreed to them for fear of getting caught short of gas if they did not.

Now circumstances have changed, and the pipeline companies have more gas than they can sell. Because of these take-or-pay contract clauses, they are buying high-priced gas—and at the same time telling producers of cheap gas to cap their wells. For example, gas with an average cost of 50 cents per 1,000 cubic feet in Kansas's giant Hugoton field is being shut in, while gas costing from $6 to $9 continues to flow. Similarly, small producers in New Mexico find themselves unable to sell gas at $2 and $3 to a company that is paying $8 to Oklahoma producers and then shipping it all the way to California. In Appalachia, 45 cent gas is being refused in favor of $8 gas from the Southwest.

In such a situation, gas prices can rise even without increases in wellhead prices. Indeed, the Department of Energy says that between 56 and 75 percent of the recent increases in producer revenues should be attributed to changes in the mix of gas. For example, if a pipeline has access to $5 gas and 50 cent gas, shifting from a 50 to 50 blend to a 60 to 40 blend increases prices by more than 16 percent—with no change in the wellhead price paid to producers.

As a result, consumers are getting a double or even triple whammy: Rising prices have reduced demand—thus, there is less low-cost gas in the blend to keep prices down; new, higher cost gas continues to rise in price under the NGPA; and in some cases industrial customers are switching to alternate fuels, chiefly oil. This last result is not only contrary to our national policy of reducing our reliance on oil, but more importantly, it reduces the number of customers sharing the fixed costs of the natural gas system and drives prices up further.

The amendment I intend to propose to this bill, along with Senator EAGLETON and others, is simple and straightforward: it voids any contract clause that requires payment for gas not taken. If such a clause is necessary to avoid a loan default by the producer, the Federal Energy Regulatory Commission would have the power to reinstate or modify it to the extent necessary.

The amendment also gives the Commission the power to reduce the charges for purchased gas that pipelines pass along to distribution companies if the pipelines imprudently fail to obtain the least-cost mix of gas. Currently, the Commission's only grounds for denying such costs are waste and fraud, and the Commission interprets those criteria very narrowly.

This amendment does not purport to deal with the whole range of natural gas issues. Without question, further consideration to this subject will have to be given by the 98th Congress. Indefinite price escalator clauses, for example, are a ticking time bomb set to explode with the arrival of decontrol. Striking down take-or-pay clauses, however, is one way that we can provide relief to consumers this winter.

And it is a solution that opens up the market, instead of regulating it further.

At present, pipelines are prevented by take-or-pay clauses from responding to changed market conditions; yet they are not penalized for the bad judgment they showed in signing these clauses—as businesses would be in an ordinary market environment. The pipelines can simply pass along higher gas costs to consumers. Elimination of these clauses would allow pipelines to buy the cheapest gas available and pass those savings back to consumers. Not next year, not in 1985, but now.

It is for this reason—the need for immediate relief—that the amendment does not simply give FERC the power to abrogate take-or-pay clauses. We cannot sit by and wait for the outcomes of endless proceedings and appeals while the consumer continues to pay these unfair and unnecessary gas costs. We should act now, allowing FERC to reinstate such clauses only if necessary to protect small producers whose entire bankroll depends on them.

If this amendment is enacted, consumers would benefit from lower natural gas prices. Distribution companies and pipeline companies would benefit from an increased ability to market their product to industrial customers. And many gas producers would benefit from an increased ability to sell existing, cheap gas that they now cannot dispose of.

In this connection, let me read a letter that Senators EAGLETON, KASSEBAUM, and I received from John McMillan, chief executive officer of Northwest Energy Co. He writes:

As Chairman of the Board of Northwest Energy Company, I strongly support your efforts to secure emergency legislation to deal with the existing "take-or-pay" problems in natural gas producer sales contracts.

Northwest Energy has two interstate pipeline subsidiaries, Northwest Pipeline Corporation serving the Rocky Mountains and Pacific Northwest, and Northwest Central Pipeline Corporation serving the Kansas-Missouri markets. On Northwest Pipeline, while we anticipate some take or pay problems, nonetheless, we have been able to reduce our rates twice in the past six months. The Northwest Central system, which we acquired on November 12, 1982, has severe problems generated by take or pay provisions in existing contracts. Northwest Central has been forced, because of these provisons, to reduce its take of gas available in the Kansas Hugoton Field at a cost of 50¢ per thousand cubic feet and maintain its takes of high-cost gas, in the range of $5.25 per thousand cubic feet. The consequence has been dramatically higher rates to our customers.

We are convinced that the Northwest Central market area cannot absorb the magnitude of rate increases which take or pay has forced. We are deeply concerned over the impact on individual homeowner consumers produced by escalating rates. We are equally concerned that if immediate relief is not provided, many industrial and commercial gas consumers will be priced out of the natural gas market. If this happens, residential rates will be forced even higher.

I will not let this happen. I will employ every legitimate alternative available to produce rate reductions on the Northwest Central system.

We have been attempting to solve these problems by contract re-negotiation efforts. We will continue to press these efforts.

I do not believe, however, that re-negotiation efforts, or any other alternative presently available to us will solve the problems soon enough to provide relief this winter. Your legislation should provide relief this winter. I join you in urging immediate passage.

Not everyone will benefit, of course. Some gas producers will be hurt—those who went out and sold decontrolled gas for $8 and $9, and who now are finding it possible to sell their gas for $4 and $5. Oil companies will be hurt—because the artificial market conditions that are making fuel oil cheaper in some areas than gas will disappear. But I cannot believe that we will defer to well-heeled oil and gas lobbyists when our own constituents are suffering in the cold.

I believe that enactment of this amendment would bring substantial relief to consumers. One effect it would have would be to dramatically reduce the amount of section 107, decontrolled gas in the market. The Department of Energy has estimated that if pipelines stopped taking this high-cost gas, prices would decline by 14 percent.

In some areas the effect would be larger than others. Where there is little low-cost gas available to a pipeline system, there would be little impact. But the Gas Service Co. of Kansas City estimates that eliminating take-or-pay clauses would allow them to cut their prices by 25 to 30 percent. These savings will materialize in customers' bills when the pipelines file their next purchased gas adjustments with the Federal Energy Regulatory Commission—typically in March or April—soon enough to make a difference this winter.

Some people ask whether we should tamper with existing contracts. We did so, of course, 4 years ago with the Natural Gas Policy Act itself. A recent policy analysis issued by the Cato Institute puts this question into perspective:

Contracts are a form of governmentally enforced private ordering. In a free enterprise system, parties are free to contract—to bind themselves to perform in the future. With rare exceptions, these contracts are honored and enforced by the government. Private ordering through contracts is the sinew that binds together any free enterprise system: Without freedom of contract, no modern free market system can exist. The question can properly be asked whether it is appropriate, then, to reopen contracts in the natural gas industry. The answer is clearly yes. These contracts are not the product or manifestation of a free-market system. All of the present contracts were entered into within the framework of pervasive administrative regimentation of the natural gas industry. That regulatory regime set the prices that were to be charged and determined the duration for which supply arrangements were to persist, two of the main elements of free-contract relationships. In order to move effectively from government direction to market direction of the natural gas industry, it will be both necessary and proper to reopen past contracts which came into being under this regulatory control and to allow the parties to decide for themselves, in a free-market setting, the contractual terms that they find mutually agreeable.

And finally, Mr. President, let me conclude by sharing with my colleagues a letter I received from a couple in Independence, Mo. It is a letter that speaks eloquently to the need to cut the rising price of natural gas. The letter reads as follows:

DEAR MR. DANFORTH: I am writing you about the high utility bills. The gas is out of sight. We try hard to pay our bills and not ask for help. We are both old, 74 and 78, and both have arthritis and we have to have it warm, and we want to pay our bills and do our own thing, but they keep going higher and higher. I am beginning to feel there isn't no place for old people. I am glad you fellows have a job and good salary, but please don't forget us. We need our utility bills cut.

Thank you and God bless you.

I urge my colleagues to join with me in supporting this amendment.

(Mr. WARNER assumed the chair.)

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Kansas now has the floor.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Kansas may yield to me without losing her right to the floor and under the same terms and conditions that she outlined previously.

Mrs. KASSEBAUM. I am happy to yield to the majority leader.

The PRESIDING OFFICER. The majority leader has asked that the Senator from Kansas yield to the majority leader for the purpose of making a statement, is that correct?

Mr. BAKER. I am sorry, I did not hear what the Chair said. I did ask unanimous consent that the Senator from Kansas yield to me so I could take up one other unrelated matter, then I will have a brief colloquy with the Senator from Kansas and she would be rerecognized under the same terms and conditions as she outlined under per previous request. That is my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Will the Senator yield to me under those conditions?

Mrs. KASSEBAUM. I yield to the majority leader.

JUSTICE ASSISTANCE ACT OF 1982—H.R. 4481

Mr. BAKER. Mr. President, before I go on, there is one matter of unfinished business that I believe has been cleared on both sides and should be dealt with at this time, and that is the engrossment of the Criminal Justice Assistance Act that has not yet been attended to.

Mr. President, I ask unanimous consent that in the engrossment of the Senate amendments to H.R. 4481, the Criminal Justice Assistance Act, the following four amendments which I send to the desk be considered as

having been agreed to prior to third reading.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The name of Mr. BRADLEY was added as a cosponsor of each of the four amendments referred to herein.)

The four amendments are as follows:

Purpose: To create a Federal offense for robbery of a pharmacy, and for other purposes

At the end of the bill, add the following new section:

SEC. ——. (a) Chapter 103 of title 18 of the United States Code is amended by adding at the end thereof a new section as follows:

"§ 2118. Robbery of a pharmacy

"(a) Whoever takes property from a pharmacy or a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) by force or violence, or by intimidation, shall be imprisoned for not more than ten years, or fined not more than $5,000, or both.

"(b) For purposes of this section, the term 'property' means a controlled substance, consisting of a narcotic, amphetamine, or barbiturate that is listed in Schedules I through IV established by section 202 of the Controlled Substances Act (21 U.S.C. 812).".

"(b) The analysis for chapter 103 of title 18 of the United States Code is amended by adding at the end thereof the following:

"§ 2118. Robbery of a pharmacy.".

"(c) (1) The Senate finds that—

(A) There has been an alarming increase in the number of pharmacy robberies since enactment of the Comprehensive Drug Abuse Prevention and Control Act of 1970;

(B) there is a serious need to ensure the maximum Federal effort in attempting to curb these often violent crimes; and

(C) this goal can best be accomplished through consultation between the relevant Government agencies and those dealing with controlled substances.

(2) It is the sense of the Senate that —

(A) the Attorney General, in consultation with the Secretary of Health and Human Services, through the Administrator of the Drug Enforcement Administration should regularly meet with the Joint Commission of Pharmacy Practitioners to discuss this problem; and

(B) that in order to provide accurate and current information on the nature and extent of pharmacy crime the Department of Justice should collect relevant data and include pertinent results in its annual Uniform Crime Report.

——

Purpose: To provide federal criminal penalties for tampering with food, drugs and cosmetics

At the end of the bill, add the following title:

FEDERAL ANTI-TAMPERING ACT

SEC. 201. This title may be cited as the "Federal Anti-Tampering Act."

SEC. 202. Title 18, United States Code, is amended by adding the following new chapter:

"CHAPTER 56—ADULTERATION

"§ 1211. Malicious injury by adulterating a product

"(a) Whoever, with intent to injure, kill, or endanger the health or safety of any person, or with intent to cause damage or injury to the business reputation of an individual, partnership, corporation, association, or other business entity (1) does any act which results in a food, drug, device, or cosmetic being adulterated or attempts to do any such act or (2) tampers or attempts to tamper with any hazardous substance or any other article, products, or commodity of any kind or class which is produced or distributed for consumption by individuals or use by individuals for purposes of personal care or in the performance of services rendered within the household, if such act of adulteration or tampering occurs before the food, drug device, cosmetic, hazardous substance or other article, product, or commodity is introduced or delivered for introduction into interstate commerce, while such item is in interstate commerce, while such item is held for sale (whether or not the first sale) after shipment in interstate commerce or if such act of adulteration or tampering otherwise affects interstate commerce, shall be punished by imprisonment for not more than twenty years or fined not more than $20,000, or both, or, if personal injury or death results to another, by imprisonment for any term of years or for life.

"(b) Whoever, with willful and malicious intent, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would constitute a violation of subsection (a) shall be punished—

(i) if personal injury or death results to another, by imprisonment for any terms of years or for life;

(ii) if such conduct causes any person to be in sustained fear for his or another person's safety, causes any government agency or authority to direct a sale prohibition against, or recall of, any food, drug, device, or cosmetic, or causes any individual, partnership, corporation, or association to implement such prohibition or recall in response to such conduct, or causes other serious disruption to the public, by imprisonment for not more than 20 years or by a fine of not more than $20,000, or both;

(iii) in any other case, by imprisonment for not more than 3 years or by a fine of not more than $5,000, or both.

"(c) As used in subsection (a), 'food,' 'drug,' 'device,' 'cosmetic,' and 'adulterated' shall have the meanings ascribed to those terms in the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301-392); 'hazardous substance' shall have the meaning ascribed to that term in the Federal Hazardous Substances Act (15 U.S.C. 1261(f)).".

SEC. 203. If any provision of this Act is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision shall remain in effect in all of its valid applications that are severable.

SEC. 204. The analysis of part I of title 18, United States Code, is amended by adding the following:

"56. Adulteration ..... 1211".

——

Purpose: To combat violent street crime by establishing a Federal offense of a continuing career of robberies or burglaries

At the end of the bill, add the following title:

ARMED CAREER CRIMINAL ACT

SEC. 201. This title may be cited as the "Armed Career Criminal Act of 1982".

SEC. 202. Chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2118. Armed Career Criminals

"(a) Any person who while he or any other participant in the offense is in possession of or has readily available any firearm or imitation thereof, commits, or conspires or attempts to commit robbery or burglary in violation of the felony statutes of the State in which such offense occurs or of the United States—

"(1) may be prosecuted for such offense in the courts of the United States if such person has previously been twice convicted of robbery or burglary, or an attempt or conspiracy to commit such an offense, in violation of the felony statutes of any State or of the United States; and

"(2) shall, if found guilty pursuant to this section, and upon proof of the requisite prior convictions to the court at or before sentencing, be sentenced to a term of imprisonment of not less than fifteen years nor more than life and may be fined not more than $10,000.

"(b) Notwithstanding any other provision of law: (1) any person charged pursuant to this section shall be admitted to bail pending trial or appeal as provided in section 3148 of title 18, United States Code; (2) the prior convictions of any person charged hereunder need not be alleged in the indictment nor shall proof thereof be required at trial to establish the jurisdiction of the court or the elements of the offense; (3) any person convicted under this section shall not be granted probation nor shall the term of imprisonment imposed under paragraph (a), or any portion thereof, be suspended; and (4) any person convicted under this section shall not be released on parole prior to the expiration of the full term of imprisonment imposed under paragraph (a).

"(c) For purposes of this section—

"(1) 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

"(2) 'felony' means any offense punishable by a term of imprisonment exceeding one year; and

"(3) 'firearm' has the meaning set forth in section 921 of title 18, United States Code.

"(d) Except as expressly provided herein, no provision of this section shall operate to the exclusion of any other Federal, State, or local law, nor shall any provision be construed to invalidate any other provision of Federal, State, or local law.

"(e) Ordinarily the United States should defer to State and local prosecutions of armed robbery and armed burglary offenses. However, if after full consultation between the local prosecuting authority and the appropriate Federal prosecuting authority, the local prosecuting authority requests or concurs in Federal prosecution and the Attorney General or his designee approves such prosecution to be appropriate, then Federal prosecution may be initiated under this Act.".

SEC. 203. The table of sections for chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"2118. Armed Career Criminals.".

SEC. 204. (a) It is the intent of Congress that any person prosecuted pursuant to this Act be tried expeditiously and that any appeal arising from a prosecution under this Act be treated as an expedited appeal.

(b) This section shall not create any right enforceable at law or in equity in any person, nor shall the court have jurisdiction to determine whether or not any of the procedures or standards set forth in this section have been followed.

PURPOSE: TO MAKE IMPROVEMENTS IN LAWS RELATING TO VIOLENT CRIME AND ILLEGAL DRUGS

At the end thereof add the following and make technical amendments as necessary.

TITLE —CONTRACT SERVICES

SEC. . This title may be cited as the "Contract Services for Drug Dependent Federal Offenders Act Amendment of 1981".

SEC. . Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 (18 U.S.C. 4255 note) is amended—

(1) by striking out "1981; and" and inserting in lieu thereof "1981,", and

(2) by inserting before the period at the end thereof the following: "; $4,500,000 for the fiscal year ending September 30, 1983; $5,500,000 for the fiscal year ending September 30, 1984; and $6,500,000 for the fiscal year ending September 30, 1985".

SEC. . Titles through may be cited as the "Violent Crime and Drug Enforcement Improvements Act of 1982"

TITLE —BAIL REFORM

SEC. . This title may be cited as the "Bail Reform Act of 1982".

SEC. . (a) Sections 3141 through 3151 of title 18, United States Code, are repealed and the following new sections are inserted in lieu thereof:

"§ 3141. Release and detention authority generally

"(a) PENDING TRIAL.—A judicial officer who is authorized to order the arrest of a person pursuant to section 3041 of this title shall order that an arrested person who is brought before him be released or detained, pending judicial proceedings, pursuant to the provisions of this chapter.

"(b) PENDING SENTENCE OR APPEAL.—A judicial officer of a court of original jurisdiction over an offense, or a judicial officer of a Federal appellate court, shall order that, pending imposition or execution of sentence, or pending appeal of conviction or sentence, a person be released or detained pursuant to the provisions of this chapter.

"§ 3142. Release or detention of a defendant pending trial

"(a) IN GENERAL.—Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be—

"(1) released on his personal recognizance or upon execution of an unsecured appearance bond, pursuant to the provisions of subsection (b);

"(2) released on a condition or combination of conditions pursuant to the provisions of subsection (c);

"(3) temporarily detained to permit revocation of conditional release, deportation, or exclusion pursuant to the provisions of subsection (d); or

"(4) detained pursuant to the provisions of subsection (e).

"(b) RELEASE ON PERSONAL RECOGNIZANCE OR UNSECURED APPEARANCE BOND.—The judicial officer shall order the pretrial release of the person on his personal recognizance, or upon execution of an unsecured appearance bond in an amount specified by the court, subject to the condition that the person not commit a Federal, State, or local crime during the period of his release, unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

"(c) RELEASE ON CONDITIONS.—If the judicial officer determines that the release described in subsection (b) will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, he shall order the pretrial release of the person—

"(1) subject to the condition that the person not commit a Federal, State, or local crime during the period of release; and

"(2) subject to the least restrictive further condition, or combination of conditions, that he determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

"(A) remain in the custody of a designated person, who agrees to supervise him and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

"(B) maintain employment, or, if unemployed, actively seek employment;

"(C) maintain or commence an educational program;

"(D) abide by specified restrictions on his personal associations, place of abode, or travel;

"(E) avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

"(F) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

"(G) comply with a specified curfew;

"(H) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(I) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

"(J) undergo available medical or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

"(K) execute an agreement to forfeit upon failing to appear as required, such designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court such indicia of ownership of the property or such percentage of the money as the judicial officer may specify;

"(L) execute a bail bond with solvent sureties in such amount as is reasonably necessary to assure the appearance of the person as required;

"(M) return to custody for specified hours following release for employment, schooling, or other limited purposes; and

"(N) satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

The judicial officer may not impose a financial condition that results in the pretrial detention of the person. The judicial officer may at any time amend his order to impose additional or different conditions of release.

"(d) TEMPORARY DETENTION TO PERMIT REVOCATION OF CONDITIONAL RELEASE, DEPORTATION, OR EXCLUSION.—If the judicial officer determines that—

"(1) the person—

"(A) is, and was at the time the offense was committed, on—

"(i) release pending trial for a felony under Federal, State, or local law;

"(ii) release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or

"(iii) probation or parole for any offense under Federal, State, or local law; or

"(B) is not a citizen of the United States or lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); and

"(2) the person may flee or pose a danger to any other person or the community;

he shall order the detention of the person, for a period of not more than ten days, excluding Saturdays, Sundays, and holidays, and direct the attorney for the Government to notify the appropriate court, probation or parole official, or State or local law enforcement official, or the appropriate official of the Immigration and Naturalization Service. If the official fails or declines to take the person into custody during that period, the person shall be treated in accordance with the other provisions of this section, notwithstanding the applicability of other provisions of law governing release pending trial or deportation or exclusion proceedings. If temporary detention is sought under paragraph (1)(B), the person has the burden of proving to the court that he is a citizen of the United States or is lawfully admitted for permanent residence.

"(e) DETENTION.—If, after a hearing pursuant to the provisions of subsection (f), the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, he shall order the detention of the person prior to trial. In a case described in (f)(1), a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if the judge finds that—

"(1) the person has been convicted of a Federal offense that is described in subsection (f)(1), or of a State or local offense that would have been an offense described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had existed;

"(2) the offense described in paragraph (1) was committed while the person was on release pending trial for a Federal, State, or local offense; and

"(3) a period of not more than five years has elapsed since the date of conviction, or the release of the person from imprisonment, for the offense described in paragraph (1), whichever is later.

Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Import and Export Act (21 U.S.C. 951 et seq.), section 1 of the Act of September 15, 1980 (21 U.S.C. 955a), or an offense under 18 U.S.C. 924(c).

"(f) DETENTION HEARING.—The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) will reasonably assure the appearance of the person as required and the safety of any other person and the community in a case—

"(1) upon motion of the attorney for the Government, that involves—

"(A) a crime of violence;

"(B) an offense for which the maximum sentence is life imprisonment or death;

"(C) an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); or

"(D) any felony committed after the person had been convicted of two or more prior offenses described in subparagraphs (A) through (C), or two or more State or local offenses that would have been offenses described in subparagraphs (A) through (C) if a circumstance giving rise to Federal jurisdiction had existed; or

"(2) upon motion of the attorney for the Government or upon the judge's own motion, that involves—

"(A) a serious risk that the person will flee; or

"(B) a serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the attorney for the Government, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed five days, and a continuance on motion of the attorney for the Government may not exceed three days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the Government or on his own motion, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether he is an addict. At the hearing, the person has the right to be represented by counsel, and, if he is financially unable to obtain adequate representation, to have counsel appointed for him. The person shall be afforded an opportunity to testify, to present witnesses on his own behalf, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding pursuant to (e) that no condition or combination of conditions will reasonably assure the safety of any other person and the community shall be supported by clear and convincing evidence. The person may be detained pending completion of the hearing.

"(g) FACTORS TO BE CONSIDERED.—The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning—

"(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

"(2) the weight of the evidence against the person;

"(3) the history and characteristics of the person, including—

"(A) his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

"(B) whether, at the time of the current offense or arrest, he was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

"(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. In considering the conditions of release described in subsection (c)(2)(K) or (c)(2)(L), the judicial officer may upon his own motion, or shall upon the motion of the Government, conduct an inquiry into the source of the property to be designated for potential forfeiture or offered as collateral to secure a bond, and shall decline to accept the designation, or the use as collateral, of property that, because of its source, will not reasonably assure the appearance of the person as required.

"(h) CONTENTS OF RELEASE ORDER.—In a release order issued pursuant to the provisions of subsection (b) or (c), the judicial officer shall—

"(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct; and

"(2) advise the person of—

"(A) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

"(B) the consequences of violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

"(C) the provisions of sections 1503 of this title (relating to intimidation of witnesses, jurors, and officers of the court), 1510 (relating to obstruction of criminal investigations), 1512 (tampering with a witness, victim, or an informant), and 1513 (retaliating against a witness or an informant).

"(i) CONTENTS OF DETENTION ORDER.—In a detention order issued pursuant to the provisions of subsection (e), the judicial officer—

"(1) shall include written findings of fact, and a written statement, or a written reference to the hearing record, concerning the reasons for the detention;

"(2) shall direct that the person be committed to the custody of the Attorney General for confinement in a corrections facility in accordance with regulations promulgated pursuant to the provisions of subsection (j); and

"(3) may recommend that the person receive special medical or similar treatment or attention, but the Attorney General shall not be bound by such a recommendation.

"(j) CUSTODY WHILE AWAITING TRIAL.—The Attorney General shall promulgate regulations governing custody of persons detained pending trial. The regulations shall provide that—

"(1) to the extent practicable, the person be confined—

"(A) in a facility located near the court in which the person will have to appear;

"(B) separate from persons awaiting or serving sentences or being held in custody pending appeal; and

"(C) separate from persons who are defendants in the same case;

"(2) the person be afforded reasonable opportunity for private consultation with his counsel and, to the extent practicable, for private visits with his family or other persons;

"(3) on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the person is confined shall deliver the person to the custody of a United States Marshal or other appropriate Federal law enforcement officer for the purpose of an appearance in connection with a court proceeding or for another official purpose; and

"(4) the person may be released temporarily, in the custody of a United States Marshal or other appropriate person, if necessary for preparation of the person's defense or for another compelling reason.

"(k) PRESUMPTION OF INNOCENCE.—Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

"§ 3143. Release or detention of a defendant pending sentence or appeal

"(a) RELEASE OR DETENTION PENDING SENTENCE.—The judicial officer shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence, be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c). If the judicial officer makes such a finding, he shall order the release of the person in accordance with the provisions of section 3142 (b) or (c).

"(b) RELEASE OR DETENTION PENDING APPEAL BY THE DEFENDANT.—The judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—

"(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c); and

"(2) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

If the judicial officer makes such findings, he shall order the release of the person in accordance with the provisions of section 3142 (b) or (c).

"(c) RELEASE OR DETENTION PENDING APPEAL BY THE GOVERNMENT.—The judicial officer shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to the provisions of section 3731 of this title, in accordance with the provisions of section 3142, unless the defendant is otherwise subject to a release or detention order.

"§ 3144. Release or detention of a material witness

"If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpena, a judicial officer may order the arrest of the person and treat the person in accord-

ance with the provisions of section 3142. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

"§ 3145. Review and appeal of a release or detention order

"(a) REVIEW OF A RELEASE ORDER.—If a person is ordered released by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court—

"(1) the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release; and

"(2) the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of release.

The motion shall be determined promptly.

"(b) REVIEW OF A DETENTION ORDER.—If a person is ordered detained by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court, the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.

"(c) APPEAL FROM A RELEASE OR DETENTION ORDER.—An appeal from a release or detention order, or from a decision denying revocation or amendment of such an order, is governed by the provisions of section 1291 of title 28 and section 3731 of this title. The appeal shall be determined promptly.

"§ 3146. Penalty for failure to appear

"(a) OFFENSE.—A person commits an offense if, after having been released pursuant to this chapter—

"(1) he knowingly fails to appear before a court as required by the conditions of his release; or

"(2) he knowingly fails to surrender for service of sentence pursuant to a court order.

"(b) GRADING.—If the person was released—

"(1) in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction, for—

"(A) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, he shall be fined not more than $25,000 or imprisoned for not more than ten years, or both;

"(B) an offense punishable by imprisonment for a term of five or more years, but less than fifteen years, he shall be fined not more than $10,000 or imprisoned for not more than five years, or both;

"(C) any other felony, he shall be fined not more than $5,000 or imprisoned not more than two years, or both; or

"(D) a misdemeanor, he shall be fined not more than $2,000 or imprisoned more than one year, or both; or

"(2) for appearance as a material witness, he shall be fined no more than $1,000 or imprisoned for not more than one year, or both.

A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement that he appeared or surrender, and that the defendant appeared or surrendered as soon as such circumstances ceased to exist.

"(d) DECLARATION OF FORFEITURE.—If a person fails to appear before a court as required, and the person executed an appearance bond pursuant to section 3142(b) or is subject to the release condition set forth in section 3142(c)(2)(K), or (c)(2)(L), the judicial officer may, regardless of whether the person has been charged with an offense under this section, declare any property designated pursuant to that section to be forfeited to the United States.

"§ 3147. Penalty for an offense committed while on release

"A person convicted of an offense committed while released pursuant to this chapter shall be sentenced, in addition to the sentence prescribed for the offense to—

"(1) a term of imprisonment of not less than two years and not more than ten years if the offense is a felony; or

"(2) a term of imprisonment of not less than ninety days and not more than one year if the offense is a misdemeanor.

A term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 3148. Sanctions for violation of a release condition

"(a) AVAILABLE SANCTIONS.—A person who has been released pursuant to the provisions of section 3142, and who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.

"(b) REVOCATION OF RELEASE.—The attorney for the Government may initiate a proceeding for revocation of an order of release by filing a motion with the district court. A judicial officer may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before a judicial officer in the district in which his arrest was ordered for a proceeding in accordance with this section. The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

"(1) finds that there is—

"(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

"(B) clear and convincing evidence that the person has violated any other condition of his release; and

"(2) finds that—

"(A) based on the factors set forth in section 3142(g), there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

"(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community. If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, he shall treat the person in accordance with the provisions of section 3142 and may amend the conditions of release accordingly.

"(c) PROSECUTION FOR CONTEMPT.—The judge may commence a prosecution for contempt, pursuant to the provisions of section 401, if the person has violated a condition of his release.

"§ 3149. Surrender of an offender by a surety

"A person charged with an offense, who is released upon the execution of an appearance bond with a surety, may be arrested by the surety, and if so arrested, shall be delivered promptly to a United States marshal and brought before a judicial officer. The judicial officer shall determine in accordance with the provisions of section 3148(b) whether to revoke the release of the person, and may absolve the surety of responsibility to pay all or part of the bond in accordance with the provisions of rule 46 of the Federal Rules of Criminal Procedure. The person so committed shall be held in official detention until released pursuant to this chapter or another provision of law.

"§ 3150. Applicability to a case removed from a State court

"The provisions of this chapter apply to a criminal case removed to a Federal court from a State court.".

(b) Section 3154 of title 18, United States Code, is amended—

(1) in subsection (1), by striking out "and recommend appropriate release conditions for each such person" and inserting in lieu thereof "and, where appropriate, include a recommendation as to whether each such person should be released or detained and, if release is recommended, recommend appropriate conditions of release"; and

(2) in subsection (2), by striking out "section 3146(e) or section 3147" and inserting in lieu thereof "section 3145";

(c) Section 3156(a) of title 18, United States Code, is amended—

(1) by striking out "3146" and inserting in lieu thereof "3141";

(2) in paragraph (1)—

(A) by striking out "bail or otherwise" and inserting in lieu thereof "detain or"; and

(B) by deleting "and" at the end thereof;

(3) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and";

(4) by adding after paragraph (2) the following new paragraphs:

"(3) The term 'felony' means an offense punishable by a maximum term of imprisonment of more than one year; and

"(4) The term 'crime of violence' means—

"(A) an offense that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense."; and

(5) in subsection (b)(1), by striking out "bail or otherwise" and inserting in lieu thereof "detain or".

(d) The item relating to chapter 207 in the analysis of part II of title 18, United States Code, is amended to read as follows:

"207. Release and detention pending judicial proceedings ..... 3141".

(e)(1) The caption of chapter 207 is amended to read as follows:

"CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS".

(2) The section analysis for chapter 207 is amended by striking out the items relating to section 3141 through 3151 and inserting in lieu thereof the following:

"3141. Release and detention authority generally.
"3142. Release or detention of a defendant pending trial.
"3143. Release or detention of a defendant pending sentence or appeal.
"3144. Release or detention of a material witness.
"3145. Review and appeal of a release or detention order.
"3146. Penalty for failure to appear.
"3147. Penalty for an offense committed while on release.
"3148. Sanctions for violation of a release condition.
"3149. Surrender of an offender by a surety.
"3150. Applicability to a case removed from a State court."

SEC. 103. Chapter 203 of title 18, United States Code, is amended as follows:

(a) The last sentence of section 3041 is amended by striking out "determining to hold the prisoner for trial" and inserting in lieu thereof "determining, pursuant to the provisions of section 3142 of this title, whether to detain or conditionally release the prisoner prior to trial".

(b) The second paragraph of section 3042 is amended by striking out "imprisoned or admitted to bail" and inserting in lieu thereof "detained or conditionally released pursuant to section 3142 of this title".

(c) Section 3043 is repealed.

(d) The following new section is added after section 3061:

"§ 3062. General arrest authority for violation of release conditions

"A law enforcement officer, who is authorized to arrest for an offense committed in his presence, may arrest a person who is released pursuant to chapter 207 if the officer has reasonable grounds to believe that the person is violating, in his presence, a condition imposed on the person pursuant to section 3142 (c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or (c)(2)(M), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(2)(J).".

(e) The section analysis is amended—

(1) by amending the item relating to section 3043 to read as follows:

"3043. Repealed."; and

(2) by adding the following new item after the item relating to section 3061:

"3062. General arrest authority for violation of release conditions.".

SEC. 104. Section 3731 of title 18, United States Code, is amended by adding after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from a decision or order, entered by a district court of the United States, granting the release of a person charged with or convicted of an offense, or denying a motion for revocation of, or modification of the conditions of, a decision or order granting release.".

SEC. 105. The second paragraph of section 3772 of title 18, United States Code, is amended by striking out "bail" and inserting in lieu thereof "release pending appeal".

SEC. 106. Section 4282 of title 18, United States Code, is amended—

(a) by striking out "and not admitted to bail" and substituting "and detained pursuant to chapter 207"; and

(b) by striking out "and unable to make bail".

SEC. 107. Section 636 of title 28, United States Code, is amended by striking out "impose conditions of release under section 3146 of title 18" and inserting in lieu thereof "issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial".

SEC. 108. The Federal Rules of Criminal Procedure are amended as follows:

(a) Rule 5(c) is amended by striking out "shall admit the defendant to bail" and inserting in lieu thereof "shall detain or conditionally release the defendant".

(b) The second sentence of rule 15(a) is amended by striking out "committed for failure to give bail to appear to testify at a trial or hearing" and inserting in lieu thereof "detained pursuant to 18 U.S.C. § 3144".

(c) Rule 40(f) is amended to read as follows:

"(f) RELEASE OR DETENTION.—If a person was previously detained or conditionally released, pursuant to chapter 207 of title 18, United States Code, in another district where a warrant, information or indictment issued, the Federal magistrate shall take into account the decision previously made and the reasons set forth therefor, if any, but will not be bound by that decision. If the Federal magistrate amends the release or detention decision or alters the conditions of release, he shall set forth the reasons for his action in writing.".

(d) Rule 46 is amended—

(1) in subdivision (a), by striking out "3146, 3148, or 3149" and inserting in lieu thereof "3142 and 3144";

(2) in subdivision (c), by striking out "3148" and inserting in lieu thereof "3143";

(3) by amending subdivision (e)(2) to read as follows:

"(2) SETTING ASIDE.—The court may direct that a forfeiture be set aside in whole or in part, upon such conditions as the court may impose, if a person released upon execution of an appearance bond with a surety is subsequently surrendered by the surety into custody or if it otherwise appears that justice does not require the forfeiture."; and

(4) by adding the following new subdivision at the end thereof:

"(h) FORFEITURE OF PROPERTY.—Nothing in this rule or in chapter 207 of title 18, United States Code, shall prevent the court from disposing of any charge by entering an order directing forfeiture of property pursuant to 18 U.S.C. § 3142(c)(2)(K) if the value of the property is an amount that would be an appropriate sentence after conviction of the offense charged and if such forfeiture is authorized by statute or regulation.".

(e) Rule 54(b)(3) is amended by striking out "18 U.S.C. § 3043, and".

SEC. 109. Rule 9(c) of the Federal Rules of Appellate Procedure is amended by striking out "3148" and inserting in lieu thereof "3143", and following the word "community", inserting "and that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or in an order for a new trial".

TITLE II—WITNESS-VICTIM PROTECTION

SEC. 201. This title may be cited as the "Witness-Victim Protection Act of 1982".

PART A—VICTIM'S IMPACT STATEMENT

SEC. 202. Subsection (c)(2) of Rule 32 of the Federal Rules of Criminal Procedure is amended by striking out ", and such other information as may be required by the court." and inserting in lieu thereof ". The report shall also contain verified information stated in a nonargumentative style assessing the financial, social, psychological, and medical impact upon and cost to any person who was the victim of the offense committed by the defendant. The report shall also include a statement of any need of the victim for restitution and such other information as may be required by the court.".

PART B—PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

SEC. 203. (a) Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1512. Tampering with a witness, victim, or an informant

"(a) OFFENSE.—Whoever—

"(1) knowingly uses or attempts to use physical force, threat, intimidation, or fraud with intent to—

"(A) influence the testimony of another person in an official proceeding;

"(B) cause or induce another person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, mutilate, or conceal an object with intent to impair such object's integrity or availability for use in an official proceeding;

"(iii) evade legal process summoning him to appear as a witness, or to produce a record, document, or other object in an official proceeding; or

"(iv) absent himself from an official proceeding to which he has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer of information relating to an offense or a possible offense;

"(2) knowingly and maliciously hinders, delays, prevents, or dissuades or attempts to hinder, delay, prevent, or dissuade—

"(A) a witness or victim from attending or testifying in an official proceeding; or

"(B) a witness, victim, or a person acting on behalf of a victim from—

"(i) making a report of an offense or a possible offense to a judge, a law enforcement officer, a probation or parole officer, or an officer of a correctional facility;

"(ii) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted or assisting in such prosecution or proceeding; or

"(iii) arresting, or causing or seeking the arrest of, a person in connection with an offense; or

"(3) corruptly, or by threats of force, or by any threatening letter or communication, intentionally influences, obstructs, or impedes or attempts to influence; obstruct, or impede the—

"(A) administration of justice;

"(B) administration of a law under which an official proceeding is being or may be conducted; or

"(C) exercise of a legislative power of inquiry;

shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000, or imprisoned not more than ten years, or both. Whoever is guilty of an offense set forth in subsection (a)(2) or (a)(3) shall be fined not more than $25,000, or imprisoned not more than five years, or both. Whoever is convicted for a second or subsequent offense under this section shall be sentenced to a term of imprisonment, or fine, or both, up to twice those authorized for such offense.

"(c) AFFIRMATIVE DEFENSE.—In a prosecution for an offense under subsection (a)(1) of this section, it is an affirmative defense, as to which the defendant has the burden of proving the defense by a preponderance of the evidence, that the conduct engaged in consisted solely of lawful conduct and that the defendant's sole intention was to encourage or cause the other person to testify truthfully.

"(d) DEFENSES PRECLUDED.—It is not a defense to a prosecution under this section that—

"(1) an official proceeding was not pending or about to be instituted;

"(2) the testimony, or the record, document, or other object, would have been legally privileged or would have been inadmissible in evidence; or

"(3) no person was injured physically, or, in fact, intimidated.

"(e) JURISDICTION.—There is Federal jurisdiction over an offense described in this section if—

"(1) the official proceeding, offense, or prosecution is or would be a Federal official proceeding, offense, or prosecution;

"(2) the officer is a Federal public servant and the information or report relates to a Federal offense or a possible federal offense;

"(3) the administration of justice, administration of a law, or exercise of a legislative power of inquiry relates to a Federal Government function;

"(4) the United States mail or a facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of the offense, or in the distribution of the proceeds of the offense; or

"(5) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of the offense or in the distribution of the proceeds of the offense.

"§ 1513. Retaliating against a witness or an informant

"(a) OFFENSE.—Whoever—

"(1) knowingly engages in conduct by which he causes bodily injury to another person or damages the property of another person because of—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given, or any record, document, or other object produced, by a witness in an official proceeding; or

"(B) any information relating to an offense or possible offense given by a person to a law enforcement officer; or

"(2) being a Federal public servant, unlawfully subjects a Federal public servant to economic loss or injury to his business or profession because of any matter described in subparagraph (A) or (B) of paragraph (1);

shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000, or imprisoned for not more than ten years, or both. Whoever is guilty of an offense in any other case under this section shall be fined not more than $10,000, or imprisoned for not more than two years, or both.

"(c) JURISDICTION.—There is Federal jurisdiction over an offense described in this section if—

"(1) the official proceeding is a Federal official proceeding;

"(2) the law enforcement officer is a Federal public servant and the information relates to a Federal offense or a possible Federal offense;

"(3) the United States mail or facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of such offense punishable under this section, or in the distribution of the proceeds of such offense; or

"(4) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of the offense, or in the distribution of the proceeds of such offense punishable under this section.

"§ 1514. Definitions

"As used in sections 1512 and 1513 of this title—

"(1) 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant (including an elected official, judge, or juror)—

"(A) authorized under law to engage in or supervise the prevention, detention, investigation, or prosecution of an offense; or

"(B) serving as a parole or probation officer under this title;

"(2) 'maliciously' means for the purpose of—

"(A) intimidating, harassing, harming, or injuring in any other way another person; or

"(B) interfering with the orderly administration of justice;

"(3) 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury, a parole or probation officer;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(4) 'physical force' means physical action against another, and includes confinement;

"(5) 'victim' means an individual against whom an offense has been or is being committed, or was attempted to be committed;

"(6) 'witness' means an individual—

"(A) who has knowledge of the existence or nonexistence of facts relating to an offense;

"(B) whose declaration under oath is or may be received in evidence for any purpose;

"(C) who has reported an offense to a judge, a law enforcement officer, or probation officer, or an officer of a correctional facility;

"(D) who has been served with a subpoena, including a grand jury subpoena, issued under the authority of a court of the United States;

"(E) who a reasonable person would believe to be an individual described in this paragraph; or

"(F) who the defendant in fact believed was an individual described in this paragraph.

"§ 1515. Penalty for an offense committed while on release pending judicial proceeding

"Any term of imprisonment which is imposed under section 1503, 1512, or 1513 when the offense is committed while such person is released under chapter 207 of this title shall be consecutive to any sentence of imprisonment for the offense with respect to which release was ordered.".

(b) The analysis for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"1512. Tampering with a witness, victim, or an informant.
"1513. Retaliating against a witness or an informant.
"1514. Definitions.
"1515. Penalty for an offense committed while on release pending judicial proceedings.".

SEC. 204. (a) Title 18 of the United States Code is amended by adding after chapter 223 the following new chapter:

"CHAPTER 224—PROTECTION OF WITNESSES

"Sec.
"3521. Witness relocation and protection.
"3522. Reimbursement of expenses.
"3523. Civil action to restrain witness or victim intimidation.
"3524. Definition for chapter.

"§ 3521. Witness relocation and protection

"(a) RELOCATION.—The Attorney General may provide for the relocation or protection of a government witness or a potential government witness in an official proceeding if the Attorney General determines that an offense described in section 1503, 1512, or 1513, or a State or local offense that is similar in nature or that involves a crime of violence directed at a witness, is likely to be committed. The Attorney General may also provide for the relocation or protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered.

"(b) RELATED PROTECTIVE MEASURES.—In connection with the relocation or protection of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General may take any action he determines to be necessary to protect such person from bodily injury, and otherwise to assure his health, safety, and welfare, for as long as, in the judgment of the Attorney General, such danger exists. The Attorney General may—

"(1) provide suitable official documents to enable a person relocated to establish a new identity;

"(2) provide housing for the person relocated or protected;

"(3) provide for the transportation of household furniture and other personal property to the new residence of the person relocated;

"(4) provide a tax-free subsistence payment, in a sum established in regulations issued by the Attorney General, for such times as the Attorney General determines to be warranted;

"(5) assist the person relocated in obtaining employment; and

"(6) refuse to disclose the identity or location of the person relocated or protected, or any other matter concerning the person or the program after weighing the danger such a disclosure would pose to the person, the detriment would cause to the general effectiveness of the program, and the person seeking the disclosure.

"(c) CIVIL ACTION AGAINST A RELOCATED PERSON.—Notwithstanding the provisions of subsection (b)(6), if a person relocated under this section is named as a defendant in a civil cause of action, arising prior to the person's relocation, for damages resulting from bodily injury, property damage, or injury to business, process in the civil proceeding may be served upon the Attorney General. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person relocated at his last known address. If a judgment in such an action is entered against the person relocated, the Attorney General shall determine whether the person has made reasonable efforts to comply with the provisions of that judgment. The Attorney General shall take affirmative steps to urge the person relocated to comply with any judgment rendered. If the Attorney General determines that the person has not made reasonable efforts to comply with the provisions of the judgment, he may, in his discretion, after weighing the danger to the person relocated, disclose the identity and location of that person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclosure by the Attorney General shall not subject the government to liability in any action based upon the consequences thereof.

"§ 3522. Reimbursement of expenses

"The provision of transportation, housing, subsistence, or other assistance to a person under section 3521 may be conditioned by the Attorney General upon reimbursement of expenses in whole or in part to the United States by a State or local government.

"§ 3523. Civil action to restrain witness or victim intimidation

"(a) INITIATION OF ACTION.—The Attorney General may initiate a civil proceeding to prevent and restrain an offense involving a witness or a victim under section 1503, 1512, or 1513. Afer a hearing and upon a finding, which may be based upon hearsay or the representation of the attorney for the government or the counsel for the defendant, that an offense under section 1503, 1512, or 1513 involving a witness or a victim has occurred or is reasonably likely to occur, the court may order that a defendant, a witness or other person connected with the case, or any individual in the courtroom—

"(1) refrain from engaging in conduct in violation of section 1503, 1512, or 1513;

"(2) maintain a prescribed distance from a specified victim or witness; and

"(3) refrain from communicating with a specified victim or witness except under such conditions as the court may impose.

"(b) JURISDICTION.—A district court of the United States in which a proceeding is initiated under this section has jurisdiction to hear and determine the matter so presented, and to prevent and restrain an offense referred to in subsection (a). In a proceeding initiated under this section, the court shall proceed as soon as practicable to a hearing and determination.

"§ 3524. Definition for chapter

"As used in this chapter, 'government' includes the Federal Government and a State or local government.".

(b) The table of chapters for part II of title 18, United States Code, is amended by adding after the item for chapter 223 the following new item:

"224. Protection of witnesses..... 3521."

(c) Title V of the Organized Crime Control Act of 1970 (84 Stat. 933) is repealed.

PART C—RESTITUTION

SEC. 205. (a) Chapter 227 of title 18, United States Code, is amended by adding at the end the following:

"§ 3579. Order of restitution

"(a) ORDER.—The court, in imposing a sentence on a defendant for any offense under this title, except an offense described in subsection (d), may order the defendant to make appropriate restitution. The order of restitution shall require that the defendant—

"(1) in the case of an offense causing injury or death, make restitution to the victim of the offense or estate of the victim in an amount that does not exceed income lost because of the victim's incapacitation or death, necessary medical expenses including ones associated with physical, psychological or vocational rehabilitation, and, if applicable, the expenses for the funeral and burial of the victim; and

"(2) in the case of an offense resulting in loss, damage, or destruction of property—

"(A) restore the property to the victim of the offense; or

"(B) make restitution to the victim of the offense in an amount that does not exceed the value of the property.

The court may order that restitution be made in the form of money or, if the victim agrees, in services to the victim or to a person or organization designated by the victim. If the court does not order restitution, the court must state for the record the reasons. The court shall make the order of restitution as fair as possible to the victim without unduly complicating or prolonging the sentencing process.

"(b) RELATIONSHIP TO CIVIL PROCEEDINGS.—

"(1) The court shall not order restitution as to any victim who is bound by an earlier judgment in, or settlement of, a civil proceeding involving the underlying offense.

"(2) Any amount paid to a person pursuant to an order of restitution shall be set off against an amount later recovered as compensatory damages by such person in any civil proceeding.

"(3) A conviction of a defendant by a Federal court of an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the victim.

"(4) If appropriate the court may consider ordering restitution to any party who has compensated the victim for expenses or losses directly related to the crime.

"(5) An order of restitution may be enforced by the victim or the United States in the same manner as a judgment in a civil action and notwithstanding any other provision of law, an order of restitution shall be satisfied by the defendant before any Federal lien.

"(c) RESTITUTION AS CONDITION.—If a defendant is placed on probation or paroled pursuant to this title, any restitution ordered under this section shall be a condition of such parole or probation. Failure to comply with an order of restitution shall be grounds for the revocation of parole or probation.".

(b) The analysis for chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3579. Order of restitution."

PART D—FEDERAL ACCOUNTABILITY FOR ESCAPE OR RELEASE OF FEDERAL PRISONER

SEC. 206. (a) Section 1346(b) of title 28, United States Code, is amended by inserting "(1)" immediately after "(b)".

(b) Section 1346(b) of title 28, United States Code, is amended by adding at the end thereof the following:

"(2)(A) Subject to the provisions of chapter 171 of this title and subparagraph (B) of this paragraph, the district courts, together with the United States District Court of the Virgin Islands, shall have exclusive jurisdiction of any civil action on a claim against the United States for damages, accruing on and after the date of enactment of this paragraph, for personal injury or death directly caused by any dangerous offender charged with or convicted of a Federal offense who is released from, or who escapes from, lawful custody of an employee of, or any person acting as the lawful agent of, the United States as a result of the gross negligence of such employee or person.

"(B) For the purposes of this paragraph, 'dangerous offender' means a person charged with or convicted of a crime involving the use, attempted use, or threatened use of violence against the person of another.".

TITLE III—CONTROLLED SUBSTANCES PENALTIES

SEC. 301. This title may be cited as the "Controlled Substances Penalties Amendments Act of 1982".

SEC. 302. Subsection (b) of section 401 of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(1) in paragraph (1), by—

(A) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and inserting after "(1)" a new subparagraph to read as follows:

"(A) In the case of a violation of subsection (a) of this section involving—

"(i) 100 grams or more of a controlled substance in schedule I or II which is a mixture or substance containing a detectable amount of a narcotic drug other than a narcotic drug consisting of—

"(a) coca leaves;

"(b) a compound, manufacture, salt, derivative, or preparation of coca leaves; or

"(c) a substance chemically identical thereto;

"(ii) a kilogram or more of any other controlled substance in schedule I or II which is a narcotic drug;

"(iii) 500 grams or more of phencyclidine (PCP); or

"(iv) 5 grams or more of lysergic acid diethylamide (LSD);

such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $250,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than $500,000, or both";

(B) in subparagraph (B), as redesignated above, by—

(i) striking out "which is a narcotic drug" in the first sentence and inserting in lieu

thereof "except as provided in subparagraphs (A) and (C),"

(ii) striking out "$25,000" and "$50,000" and inserting in lieu thereof "$125,000" and "$250,000", respectively; and

(iii) striking out "of the United States" in the second sentence and inserting in lieu thereof "of a State, the United States, or a foreign country"; and

(C) in subparagraph (C), as redesignated above, by—

(i) striking out "a controlled substance in schedule I or II which is not a narcotic drug" and ", (5), and (6)" and inserting in lieu thereof "less than 50 kilograms of marihuana, 10 kilograms of hashish, or one kilogram of hashish oil" and "and (5)", respectively;

(ii) striking out "$15,000" and "$30,000" and inserting in lieu thereof "$50,000" and "$100,000", respectively; and

(iii) striking out "of the United States" in the second sentence and inserting in lieu thereof "of a state, the United States, or a foreign country";

(2) in paragraph (2), by—

(A) striking out "$10,000" and "$20,000" and inserting in lieu thereof "$25,000" and "$50,000", respectively; and

(B) striking out "of the United States" and inserting in lieu thereof "of a state, the United States, or a foreign country";

(3) in paragraph (3), by—

(A) striking out "$5,000" and "$10,000" and inserting in lieu thereof "$10,000" and "$20,000", respectively; and

(B) striking out "of the United States" and inserting in lieu thereof "of a state, the United States, or a foreign country";

(4) in paragraph (4), by striking out "(1)(B)" and inserting in lieu thereof "(1)(C)";

(5) by striking out paragraphs (5) and (6).

SEC. 303. (a) Title III of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new section:

"IMITATION CONTROLLED SUBSTANCES

"SEC. 308. (a) For purposes of this section, the term—

"(1) 'imitation controlled substances' means any substance other than a controlled substance or prescription drug, or combination of such substances, which is marketed, sold, or distributed to encourage recreational drug use or abuse or any similar nonmedical use and—

"(A) by representation or appearance (including color, shape, size, and markings) would lead a reasonable person to believe that the substance is a controlled substance; or

"(B) purports to act, either alone, in multiple doses, or in combination with a substance or substances, like a controlled substance, either stimulant or depressant as defined in section 102(9) of the Controlled Substances Act;

"(2) 'distribute' means the actual, constructive, or attempted transfer, delivery, or dispensing to another of an imitation controlled substance;

"(3) 'manufacture' means the production, preparation, propagation, compounding, or processing of an imitation controlled substance, and includes any packaging or repackaging of such substance or labeling or relabeling of its container, except that such term does not include the preparation, compounding, packaging, or labeling of an imitation controlled substance in conformity with applicable State or local law by a practitioner as an incident to his administering or dispensing of such substance in the course of his professional practice; and

"(4) 'controlled substance' is used as defined in section 102(6) of the Controlled Substances Act.

"(b)(1)(A) Except as provided in subparagraph (B), it shall be unlawful for any person knowingly or intentionally to create, manufacture, or distribute, or possess with intent to create, manufacture, or distribute an imitation controlled substance. Any person who violates this paragraph shall be sentenced to a term of imprisonment of not more than two years, a fine of not more than $10,000 or both.

"(B) Subparagraph (A) does not apply to the creation, manufacture, distribution, or possession of an imitation controlled substance by a person if the imitation controlled substance is created, manufactured, distributed, or possessed for use as a placebo in the course of the professional practice of a practitioner registered under part C of the Controlled Substances Act or in research conducted under section 505(i) of this Act or conducted in connection with an application filed under section 505(b) of this Act.

"(2) Any person at least 18 years of age who violates paragraph (1)(A) by distributing an imitation controlled substance to a person under 18 years of age shall be sentenced to a term of imprisonment of not more than four years, fined not more than $20,000, or both.

"(c) It is unlawful for any person to place any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances. Any person who violates this subsection is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than $5,000, or both.".

(b) Subsection (a) of section 302 of such Act is amended by striking out "paragraphs (h), (i), and (j)" and inserting in lieu thereof "paragraphs (h) and (j)".

SEC. 304. Subsection (b) of section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and inserting after "(b)" a new paragraph to read as follows:

"(1) In the case of a violation under subsection (a) of this section involving—

"(A) 100 grams or more of a mixture or substance containing a detectable amount of a narcotic drug in schedule I or II other than a narcotic drug consisting of—

"(i) cocoa leaves;

"(ii) a compound, manufacture, salt, derivative, or preparation of cocoa leaves; or

"(iii) a substance chemically identical thereto;

"(B) a kilogram or more of any other narcotic drug in schedule I or II;

"(C) 500 grams or more of phencyclidine (PCP);

"(D) 5 grams or more of lysergic acid diethylamide (LSD);

the person committing such violation shall be imprisoned for not more than twenty years, or fined not more than $250,000, or both.";

(2) in paragraph (2), as redesignated above, by—

(A) striking out "narcotic drug in schedule I or II, the person committing such violation shall" and inserting in lieu thereof "controlled substance in schedule I or II, the person committing such violation shall, except as provided in paragraphs (1) and (3),"; and

(B) striking out "$25,000" and inserting in lieu thereof "$125,000";

(3) in paragraph (3), as redesignated above, by—

(A) striking out "a controlled substance other than a narcotic drug in schedule I or II, the person committing such violation shall" and inserting in lieu thereof "less than 50 kilograms of marihuana, less than 10 kilograms of hashish, less than one kilogram of hashish oil, or any quantity of a controlled substance in schedule III, IV, or V, the person committing such violation shall, except as provided in paragraph (4)"; and

(B) striking out "$15,000" and substituting "$50,000".

SEC. 305. Section 1012 of the Controlled Substances Import and Export Act (21 U.S.C. 962) is amended by striking out "the United States" in subsection (b) and inserting in lieu thereof "a State, the United States, or a foreign country".

SEC. 306. (a) This section may be cited as the "National Narcotics Act of 1982".

(b)(1) The Congress hereby makes the following findings:

(A) The flow of illegal narcotics into the United States is a major and growing problem.

(B) The problem of illegal drug activity falls across the entire spectrum of Federal activities both nationally and internationally.

(C) Illegal drug trafficking is estimated by the General Accounting Office to be a $79,000,000,000 a year industry in the United States.

(D) The annual consumption of heroin in the United States is in the range of four metric tons, and annual domestic consumption of cocaine is estimated to be forty to forty-eight metric tons.

(E) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact and United States agencies estimate that they are able to interdict no more than 5 to 15 per centum of all hard drugs flowing into the country.

(F) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(G) Increased drug trafficking is strongly linked to violent, addiction-related crime and recent studies have shown that over 90 per centum of heroin users rely upon criminal activity as a means of income.

(H) Much of the drug trafficking is handled by syndicates which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(I) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.

(J) The magnitude and scope of the problem requires a director of National and International Drug Operations and Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies.

(K) Such a director must have broad authority and responsibility for making management, policy, and budgetary decisions with respect to all Federal agencies involved in attacking this problem so that a unified and efficient effort can be made to eliminate the illegal drug problem.

(2) It is the purpose of this section to insure—

(A) the development of a national policy with respect to illegal drugs;

(B) the direction and coordination of all Federal agencies involved in the effort to implement such a policy; and

(C) that a single, competent, and responsible high-level official of the United States Government, who is appointed by the President, by and with the advice and consent of the Senate, and who is accountable to the Congress and the American people, will be charged with the responsibility of coordinating the overall direction of United States policy, resources, and operations with respect to the illegal drug problem.

(c) There is established in the executive branch of the Government an office to be known as the "Office of the Director of National and International Drug Operations and Policy" (hereinafter in this section referred to as the "Office of the Director"). There shall be at the head of the Office of the Director a Director of National and International Drug Operations and Policy (hereinafter in this section referred to as the "Director"). There shall be a Deputy Director of National and International Drug Operations and Policy (hereinafter in this section referred to as the "Deputy Director") to assist the Director in carrying out the Director's functions under this section.

(d)(1) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director and the Deputy Director shall each serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than four years unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. The Director shall be entitled to the compensation provided for in section 5313, title 5, United States Code. The Deputy Director shall be entitled to the compensation provided for in section 5314, title 5, United States Code.

(2) The Director shall serve as the principal director and coordinator of United States operations and policy on illegal drugs.

(3) The Director shall have the responsibility, and is authorized to—

(A) develop, review, implement, and enforce United States Government policy with respect to illegal drugs;

(B) direct and coordinate all United States Government efforts to halt the flow into, and sale and use of illegal drugs within the United States;

(C) develop in concert with governmental entities budgetary priorities and budgetary allocations of entities of the United States Government with respect to illegal drugs; and

(D) coordinate the collection and dissemination of information necessary to implement United States policy with respect to illegal drugs.

(4) In carrying out his responsibilities under paragraph (3) the Director is authorized to—

(A) direct, with the concurrence of the head of the agency employing such personnel, the temporary reassignment of government personnel within the United States Government in order to implement United States policy with respect to illegal drugs;

(B) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(C) accept and use donations of property from all government agencies; and

(D) use the mails in the same manner as any other department or agency of the executive branch.

(5) Notwithstanding any other provision of law, rule, or regulation to the contrary, the Director shall have the authority to direct each department or agency with responsibility for drug control to carry out the policies established by the Director consistent with the general authority of each agency or department.

(6) The Administrator of the General Services Administration shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

(e) The Director shall submit to the Congress, within nine months after enactment of this section, and annually thereafter, a full and complete report reflecting United States policy with respect to illegal drugs, plans proposed for the implementation of such policy, and, commencing with the submission of the second report, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

(f) For the purpose of carrying out this section, there are authorized to be appropriated $500,000 for fiscal year 1983, and such sums as may be necessary for each of the four succeeding fiscal years, to be available until expended.

(g) This section shall be effective January 1, 1983.

SEC. 307. (a) Section 609(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1429) is amended—

(1) by inserting "(1)" after "(b)", and

(2) by adding at the end the following new paragraph:

"(2) Any airman certificate issued under this Act shall be revoked upon the conviction in any court of the holder of such certificate for any violation of any State or Federal statute relating to the transportation or distribution of any controlled substance as defined by the Controlled Substances Act.".

(b) The amendment to section 609(b) of the Federal Aviation Act of 1958 made by subsection (a) shall not apply to any offense committed before the date of enactment of this section.

(c) Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(b)) is amended—

(1) by striking out "(b) Any person who" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), any person who";

(2) by striking out "uses or attempts to use" and inserting in lieu thereof "sells, uses, attempts to use, or possesses with the intent to use"; and

(3) by adding at the end the following new paragraph:

"(2)(A) Any person who violates paragraph (1) (other than by selling a fraudulent certificate) with the intent to violate any State or Federal statute relating to the transportation or distribution of any controlled substance as defined by the Controlled Substances Act shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or both.

"(B) Any person who sells a fraudulent certificate (as that term is used in paragraph (1)) with the knowledge that the purchaser intends to use such certificate in connection with any act violating any State or Federal statute relating to the transportation or distribution of any controlled substances as defined by the Controlled Substances Act shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or both.".

(d)(1) Chapter 2 of title 18 of the United States Code is amended by adding after section 35 the following:

"§ 36. Use of aircraft for narcotics purposes

"(a) Any person who operates an aircraft (as defined by section 1301(31) of title 49 of the United States Code) with knowledge that such aircraft is, incident to such operation, used or intended to be used in the commission of an act which is a violation of any State or Federal statute relating to the transportation or distribution of any controlled substances as defined by the Controlled Substances Act shall be subject to a fine of not more than $25,000 or imprisonment for not more than 5 years, or both.

"(b) Any person convicted of a second violation of subsection (a) of this section, shall be subject to a fine of not more than $50,000 or imprisonment for not more than 10 years, or both.

"(c) Any penalty imposed for a violation of this subsection shall be in addition to, and not in lieu of, any penalty imposed under any State or Federal statute relating to the transportation or distribution of any controlled substances as defined by the Controlled Substances Act.".

(2) The table of sections for chapter 2, title 18, United States Code, is amended by adding after the item relating to section 35, the following:

"36. Use of aircraft for narcotic purposes.".

TITLE IV—SENTENCING REFORM

SEC. 401. This title may be cited as the "Sentencing Reform Act of 1982".

SEC. 402. (a) Title 18 of the United States Code is amended by—

(1) redesignating sections 3577, 3578, 3611, 3612, 3615, 3617, 3618, 3619, 3620, and 3656 as sections 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, and 3670 of a new chapter 232 of title 18 of the United States Code, respectively;

(2) repealing chapters 227, 229, and 231 and substituting the following new chapters:

"CHAPTER 227—SENTENCES

"Subchapter
"A. General Provisions 3551
"B. Probation 3561
"C. Fines 3571
"D. Imprisonment 3581

"SUBCHAPTER A—GENERAL PROVISIONS

"Sec.
"3551. Authorized sentences.
"3552. Presentence reports.
"3553. Imposition of a sentence.
"3554. Order of criminal forfeiture.
"3555. Order of notice to victims.
"3556. Order of restitution.
"3557. Review of a sentence.
"3558. Implementation of a sentence.
"3559. Sentencing classification of offenses.

"SUBCHAPTER A—GENERAL PROVISIONS

"§ 3551. Authorized sentences

"(a) IN GENERAL.—Except as otherwise specifically provided, a defendant who has been found guilty of an offense described in any Federal statute, other than an Act of Congress applicable exclusively in the District of Columbia or the Uniform Code of Military Justice, shall be sentenced in accordance with the provisions of this chapter so as to achieve the purposes set forth in subparagraphs (A) through (D) of section 3553(a)(2)

to the extent that they are applicable in light of all the circumstances of the case.

"(b) INDIVIDUALS.—An individual found guilty of an offense shall be sentenced, in accordance with the provisions of section 3553, to—

"(1) a term of probation as authorized by subchapter B;

"(2) a fine as authorized by subchapter C; or

"(3) a term of imprisonment is authorized by subchapter D.

A sentence to pay a fine may be imposed in addition to any other sentence. A sanction authorized by section 3554, 3555, or 3556 may be imposed in addition to the sentence required by this subsection.

"(c) ORGANIZATIONS.—An organization found guilty of an offense shall be sentenced, in accordance with the provisions of section 3553, to—

"(1) a term of probation as authorized by subchapter B; or

"(2) a fine as authorized by subchapter C. A sentence to pay a fine may be imposed in addition to a sentence to probation. A sanction authorized by section 3554, 3555, or 3556 may be imposed in addition to the sentence required by this subsection.

"§ 3552. Presentence reports

"(a) PRESENTENCE INVESTIGATION AND REPORT BY PROBATION OFFICER.—A United States probation officer shall, pursuant to the provisions of Rule 32(c) of the Federal Rules of Criminal Procedure, make a presentence investigation of a defendant, and shall, before the imposition of sentence, report the results of the investigation to the court.

"(b) PRESENTENCE STUDY AND REPORT BY BUREAU OF PRISONS.—If the court, before or after its receipt of a report specified in subsection (a) or (c), desires more information than is otherwise available to it as a basis for determining the sentence to be imposed on a defendant found guilty of a felony, it may order that the defendant, for the purpose of a study, be committed to the custody of the Bureau of Prisons for a period of not more than sixty days. The order shall specify the additional information that the court needs before determining the sentence to be imposed. Such an order shall be treated for administrative purposes as a provisional sentence of imprisonment for the maximum term authorized by section 3581(b) for the offense committed. The Bureau shall conduct a complete study of the defendant during such period, inquiring into such matters as are specified by the court and any other matters that it believes are pertinent to the factors set forth in section 3553(a). The period of commitment may, in the discretion of the court, be extended for an additional period of not more than sixty days. By the expiration of the period of commitment, or by the expiration of any extension granted by the court, the Bureau shall return the defendant to the court for final sentencing, shall provide the court with a written report of the pertinent results of the study, and shall make to the court whatever recommendations the Bureau believes will be helpful to a proper resolution of the case. The report shall include recommendations of the Bureau concerning the guidelines and policy statements, promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994(a), that it believes are applicable to the defendant's case. After receiving the report and the recommendations, the court shall proceed finally to sentence the defendant in accordance with the sentencing alternatives and procedures available under this chapter.

"(c) PRESENTENCE EXAMINATION AND REPORT BY PSYCHIATRIC OR PSYCHOLOGICAL EXAMINERS.—If the court, before or after its receipt of a report specified in subsection (a) or (b) desires more information than is otherwise available to it as a basis for determining the mental condition of the defendant, it may order that the defendant undergo a psychiatric or psychological examination and that the court be provided with a written report of the results of the examination pursuant to the provisions of section 4247.

"(d) DISCLOSURE OF PRESENTENCE REPORTS.—The court shall assure that a report filed pursuant to this section is disclosed to the defendant, the counsel for the defendant, and the attorney for the government in a timely manner, pursuant to the provisions of Rule 32(c) of the Federal Rules of Criminal Procedure.

"§ 3553. Imposition of a sentence

"(a) FACTORS TO BE CONSIDERED IN IMPOSING A SENTENCE.—The court, in determining the particular sentence to be imposed, shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) the need for the sentence imposed—

"(A) to reflect the seriousness of the offense, to promote respect for law, and to provide just punishment for the offense;

"(B) to afford adequate deterrence to criminal conduct;

"(C) to protect the public from further crimes of the defendant; and

"(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

"(3) the kinds of sentences available;

"(4) the kinds of sentence and the sentencing range established for the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines that are issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and that are in effect on the date the defendant is sentenced;

"(5) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2) that is in effect on the date the defendant is sentenced; and

"(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

"(b) APPLICATION OF GUIDELINES IN IMPOSING A SENTENCE.—The court shall impose a sentence of the kind, and within the range, referred to in subsection (a)(4) unless the court finds that an aggravating or mitigating circumstance exists that was not adequately taken into consideration by the Sentencing Commission in formulating the guidelines and that should result in a sentence different from that described.

"(c) STATEMENT OF REASONS FOR IMPOSING A SENTENCE.—The court, at the time of sentencing, shall state in open court the reasons for its imposition of the particular sentence, and, if the sentence—

"(1) is of the kind, and within the range, described in subsection (a)(4), the reason for imposing a sentence at a particular point within the range; or

"(2) is not of the kind, or is outside the range, described in subsection (a)(4), the specific reason for the imposition of a sentence different from that described.

If the sentence does not include an order of restitution, the court shall include in the statement the reason therefor. The clerk of the court shall provide a transcription of the court's statement of reasons to the Probation System, and, if the sentence includes a term of imprisonment, to the Bureau of Prisons.

"(d) PRESENTENCE PROCEDURE FOR AN ORDER OF NOTICE OR RESTITUTION.—Prior to imposing an order of notice pursuant to section 3555, or an order of restitution pursuant to section 3556, the court shall give notice to the defendant and the government that it is considering imposing such an order. Upon motion of the defendant or the government, or on its own motion, the court shall—

"(1) permit the defendant and the government to submit affidavits and written memoranda addressing matters relevant to the imposition of such an order;

"(2) afford counsel an opportunity in open court to address orally the appropriateness of the imposition of such an order; and

"(3) include in its statement of reasons pursuant to subsection (c) specific reasons underlying its determinations regarding the nature of such an order.

Upon motion of the defendant or the government, or on its own motion, the court may in its discretion employ any additional procedures that it concludes will not unduly complicate or prolong the sentencing process.

"§ 3554. Order of criminal forfeiture

"The court, in imposing a sentence on a defendant who has been found guilty of an offense described in section 1962 of this title or in title II or III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 shall order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant forfeit property to the United States in accordance with the provisions of section 1963 of this title or section 413 of the Comprehensive Drug Abuse and Control Act of 1970.

"§ 3555. Order of notice to victims

"The court, in imposing a sentence on a defendant who has been found guilty of an offense involving fraud or other intentionally deceptive practices, may order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant give reasonable notice and explanation of the conviction, in such form as the court may approve, to the victims of the offense. The notice may be ordered to be given by mail, by advertising in designated areas or through designated media, or by other appropriate means. In determining whether to require the defendant to give such notice, the court shall consider the factors set forth in section 3553(a) to the extent that they are applicable and shall consider the cost involved in giving the notice as it relates to the loss caused by the offense, and shall not require the defendant to bear the costs of notice in excess of $20,000.

"§ 3556. Order of restitution

"(a) ORDER.—The court, in imposing a sentence on a defendant for any offense under this title, except an offense described in section 3671, may order the defendant to make appropriate restitution. The order of restitution shall require that the defendant—

"(1) in the case of an offense causing injury or death, make restitution to the victim of the offense or estate of the victim in an amount that does not exceed income lost because of the victim's incapacitation or death, necessary medical expenses including ones associated with physical, psychological, or vocational rehabilitation, and, if

applicable, the expenses for the funeral and burial of the victim; and

"(2) in the case of an offense resulting in loss, damage, or destruction of property—

"(A) restore the property to the victim of the offense; or

"(B) make restitution to the victim of the offense in an amount that does not exceed the value of the property.

The court may order that restitution be made in the form of money or, if the victim agrees, in services to the victim or to a person or organization designated by the victim. If the court does not order restitution, the court must state for the record the reasons. The court shall make the order of restitution as fair as possible to the victim without unduly complicating or prolonging the sentencing process.

"(b) RELATIONSHIP TO CIVIL PROCEEDINGS.—

"(1) The court shall not order restitution as to any victim who is bound by an earlier judgment in, or a settlement of, a civil proceeding involving the underlying offense.

"(2) Any amount paid to a person pursuant to an order of restitution shall be set off against an amount later recovered as compensatory damages by such person in any civil proceeding.

"(3) A conviction of a defendant by a Federal court of an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the victim.

"(4) If appropriate the court may consider ordering restitution to any party who has compensated the victim for expenses or losses directly related to the crime.

"(5) An order of restitution may be enforced by the victim or the United States in the same manner as a judgment in a civil action and notwithstanding any other provision of law, an order of restitution shall be satisfied by the defendant before any Federal lien.

"(c) RESTITUTION AS CONDITION.—If a defendant is placed on probation or a term of supervised release pursuant to this title, any restitution ordered under this section shall be a condition of such term of supervised release or probation. Failure to comply with an order of restitution shall be grounds for the revocation of probation or for prosecution for contempt.

"§ 3557. Review of a sentence

"The review of a sentence imposed pursuant to section 3551 is governed by the provisions of sections 3742.

"§ 3558. Implementation of a sentence

"The implementation of a sentence imposed pursuant to section 3551 is governed by the provisions of chapter 229.

"§ 3559. Sentencing classification of offenses

"(a) CLASSIFICATION.—An offense that is not specifically classified by a letter grade in the section defining it, is classified—

"(1) if the maximum term of imprisonment authorized is—

"(A) life imprisonment, or if the maximum penalty is death, as a Class A felony;

"(B) twenty years or more, as a Class B felony;

"(C) less than twenty years but ten or more years, as a Class C felony;

"(D) less than ten years but five or more years, as a Class D felony;

"(E) less than five years but more than one year, as a Class E felony;

"(F) one year or less but more than six months, as a Class A misdemeanor;

"(G) six months or less but more than thirty days, as a Class B misdemeanor;

"(H) thirty days or less but more than five days, as a Class C misdemeanor; or

"(I) five days or less, or if no imprisonment is authorized, as an infraction.

"(b) EFFECT OF CLASSIFICATION.—An offense classified under subsection (a) carries all the incidents assigned to the applicable letter designation except that the maximum fine that may be imposed is the fine authorized by the statute describing the offense, or by this title, whichever is the greater.

"SUBCHAPTER B—PROBATION

"Sec.
"3561. Sentence of probation.
"3562. Imposition of a sentence of probation.
"3563. Conditions of probation.
"3564. Running of a term of probation.
"3565. Revocation of probation.
"3566. Implementation of a sentence of probation.

"SUBCHAPTER B—PROBATION

"§ 3561. Sentence of probation

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to a term of probation unless—

"(1) the offense is a Class A felony;

"(2) the offense is an offense for which probation has been expressly precluded; or

"(3) the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense.

"(b) AUTHORIZED TERMS.—The authorized terms of probation are—

"(1) for a felony, not less than one nor more than five years;

"(2) for a misdemeanor, not more than two years; and

"(3) for an infraction, not more than one year.

"§ 3562. Imposition of a sentence of probation

"(a) FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF PROBATION.—The court, in determining whether to impose a term of probation, and, if a term of probation is to be imposed, in determining the length of the term and the conditions of probation, shall consider the factors set forth in section 3553(a) to the extent that they are applicable.

"(b) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence of probation can subsequently be—

"(1) modified or revoked pursuant to the provisions of section 3564 or 3565;

"(2) corrected pursuant to the provisions of rule 35 and section 3742; or

"(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

"§ 3563. Conditions of probation

"(a) MANDATORY CONDITIONS.—The court shall provide, as an explicit condition of a sentence of probation—

"(1) for a felony, a misdemeanor, or an infraction, that the defendant not commit another federal, State, or local crime during the term of probation; and

"(2) for a felony, that the defendant also abide by at least one condition set forth in subsection (b)(2), (b)(3), or (b)(13).

"(b) DISCRETIONARY CONDITIONS.—The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 3553 (a)(1) and (a)(2) and to the extent that such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 3553(a)(2), that the defendant—

"(1) support his dependents and meet other family responsibilities;

"(2) pay a fine imposed pursuant to the provisions of subchapter C;

"(3) make restitution to a victim of the offense pursuant to the provisions of section 3556;

"(4) give to the victims of the offense the notice ordered pursuant to the provisions of section 3555;

"(5) work conscientiously at suitable employment or pursue conscientiously a course of study or vocational training that will equip him for suitable employment;

"(6) refrain, in the case of an individual, from engaging in a specified occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the offense, or engage in such a specified occupation, business, or profession only to a stated degree or under stated circumstances;

"(7) refrain from frequenting specified kinds of places or from associating unnecessarily with specified persons;

"(8) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

"(9) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(10) undergo available medical, psychiatric, or psychological treatment, including treatment for drug or alcohol dependency, as specified by the court, and remain in a specified institution if required for that purpose;

"(11) remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense in section 3581(b), during the first year of the term of probation;

"(12) reside at, or participate in the program of, a community correction facility for all or part of the term of probation;

"(13) work in community service as directed by the court;

"(14) reside in a specified place or area, or refrain from residing in a specified place or area;

"(15) remain within the jurisdiction of the court, unless granted permission to leave by the court or a probation officer;

"(16) report to a probation officer as directed by the court or the probation officer;

"(17) permit a probation officer to visit him at his home or elsewhere as specified by the court;

"(18) answer inquiries by a probation officer and notify the probation officer promptly of any change in address or employment;

"(19) notify the probation officer promptly if arrested or questioned by a law enforcement officer; or

"(20) satisfy such other conditions as the court may impose.

"(c) MODIFICATION OF CONDITIONS.—The court may, after a hearing, modify, reduce, or enlarge the conditions of a sentence of probation at any time prior to the expiration or termination of the term of probation, pursuant to the provisions applicable to the initial setting of the conditions of probation.

"(d) WRITTEN STATEMENT OF CONDITIONS.—The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the sentence is subject, and that is sufficiently clear and specific to serve as a

guide for the defendant's conduct and for such supervision as is required.

"§ 3564. Running of a term of probation

"(a) COMMENCEMENT.—A term of probation commences on the day that the sentence of probation is imposed, unless otherwise ordered by the court.

"(b) CONCURRENCE WITH OTHER SENTENCES.—Multiple terms of probation, whether imposed at the same time or at different times, run concurrently with each other. A term of probation runs concurrently with any federal, State, or local term of probation, or supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation, except that it does not run during any period in which the defendant is imprisoned, other than during limited intervals as a condition of probation or supervised release, in connection with a conviction for a federal, State, or local crime.

"(c) EARLY TERMINATION.—The court, after considering the factors set forth in section 3553(a) to the extent that they are applicable, may terminate a term of probation previously ordered and discharge the defendant at any time in the case of a misdemeanor or an infraction or at any time after the expiration of one year of probation in the case of a felony, if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice.

"(d) EXTENSION.—The court may, after a hearing, extend a term of probation, if less than the maximum authorized term was previously imposed, at any time prior to the expiration or termination of the term of probation, pursuant to the provisions applicable to the initial setting of the term of probation.

"(e) SUBJECT TO REVOCATION.—A sentence of probation remains conditional and subject to revocation until its expiration or termination.

"§ 3565. Revocation of probation

"(a) CONTINUATION OR REVOCATION.—If the defendant violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, and after considering the factors set forth in section 3553(a) to the extent that they are applicable—

"(1) continue him on probation, with or without extending the term or modifying or enlarging the conditions; or

"(2) revoke the sentence of probation and impose any other sentence that was available under subchapter A at the time of the initial sentencing.

"(b) DELAYED REVOCATION.—The power of the court to revoke a sentence of probation for violation of a condition of probation, and to impose another sentence, extends beyond the expiration of the term of probation for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.

"§ 3566. Implementation of a sentence of probation

"The implementation of a sentence of probation is governed by the provisions of subchapter A of chapter 229.

"SUBCHAPTER C—FINES

"Sec.
"3571. Sentence of fine.
"3572. Imposition of a sentence of fine.
"3573. Modification or remission of fine.
"3574. Implementation of a sentence of fine.

"SUBCHAPTER C—FINES

"§ 3571. Sentence of fine

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to pay a fine.

"(b) AUTHORIZED FINES.—Except as otherwise provided, the authorized fines are—

"(1) if the defendant is an individual—

"(A) for a felony, or for a misdemeanor resulting in the loss of human life, not more than $250,000;

"(B) for any other misdemeanor, not more than $25,000; and

"(C) for an infraction, not more than $1,000; and

"(2) if the defendant is an organization—

"(A) for a felony, or for a misdemeanor resulting in the loss of human life, not more than $500,000;

"(B) for any other misdemeanor, not more than $100,000; and

"(C) for an infraction, not more than $10,000.

"§ 3572. Imposition of a sentence of fine

"(a) FACTORS TO BE CONSIDERED IN IMPOSING FINE.—The court, in determining whether to impose a fine, and, if a fine is to be imposed, in determining the amount of the fine, the time for payment, and the method of payment, shall consider—

"(1) the factors set forth in section 3553(a), to the extent they are applicable, including, with regard to the characteristics of the defendant under section 3553(a), the ability of the defendant to pay the fine in view of the defendant's income, earning capacity, and financial resources and, if the defendant is an organization, the size of the organization;

"(2) the nature of the burden that payment of the fine will impose on the defendant, and on any person who is financially dependent upon the defendant;

"(3) any restitution or reparation made by the defendant to the victim of the offense, and any obligation imposed upon the defendant to make such restitution or reparation to the victim of the offense;

"(4) if the defendant is an organization, any measure taken by the organization to discipline its employees or agents responsible for the offense or to insure against a recurrence of such an offense; and

"(5) any other pertinent equitable consideration.

"(b) LIMIT ON AGGREGATE OF MULTIPLE FINES.—Except as otherwise expressly provided, the aggregate of fines that a court may impose on a defendant at the same time for different offenses that arise from a common scheme or plan, and that do not cause separable or distinguishable kinds of harm or damage, is twice the amount imposable for the most serious offense.

"(c) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence to pay a fine can subsequently be—

"(1) modified or remitted pursuant to the provisions of section 3573;

"(2) corrected pursuant to the provisions of rule 35 and section 3742; or

"(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

"(d) TIME AND METHOD OF PAYMENT.—At the time a defendant is sentenced to pay a fine, the court may provide for the payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, payment is due immediately.

"(e) ALTERNATIVE SENTENCE PRECLUDED.—At the time a defendant is sentenced to pay a fine, the court may not impose an alternative sentence to be served in the event that the fine is not paid.

"(f) INDIVIDUAL RESPONSIBILITY FOR PAYMENT.—If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization. If a fine is imposed on an agent or shareholder of an organization, the fine shall not be paid, directly or indirectly, out of the assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.

"§ 3573. Modification or remission of fine

"(a) PETITION FOR MODIFICATION OR REMISSION.—A defendant who has been sentenced to pay a fine, and who—

"(1) has paid part but not all thereof, and concerning whom the circumstances no longer exist that warranted the imposition of the fine in the amount imposed or payment by the time or method specified, may petition the court for—

"(A) an extension of the time for payment;

"(B) a modification in the method of payment; or

"(C) a remission of all or part of the unpaid portion; or

"(2) has thereafter voluntarily made restitution or reparation to the victim of the offense, may petition the court for a remission of the unpaid portion of the fine in an amount not exceeding the amount of such restitution or reparation.

"(b) ORDER OF MODIFICATION OR REMISSION.—If, after the filing of a petition as provided in subsection (a), the court finds that the circumstances warrant relief, the court may enter an appropriate order.

"§ 3574. Implementation of a sentence of fine

"The implementation of a sentence to pay a fine is governed by the provisions of subchapter B of chapter 229.

"SUBCHAPTER D—IMPRISONMENT

"Sec.
"3581. Sentence of imprisonment.
"3582. Imposition of a sentence of imprisonment.
"3583. Inclusion of a term of supervised release after imprisonment.
"3584. Multiple sentences of imprisonment.
"3585. Calculation of a term of imprisonment.
"3586. Implementation of a sentence of imprisonment.

"SUBCHAPTER D—IMPRISONMENT

"§ 3581. Sentence of imprisonment

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to a term of imprisonment.

"(b) AUTHORIZED TERMS.—The authorized terms of imprisonment are—

"(1) for a Class A felony, the duration of the defendant's life or any period of time;

"(2) for a Class B felony, not more than twenty-five years;

"(3) for a Class C felony, not more than twelve years;

"(4) for a Class D felony, not more than six years;

"(5) for a Class E felony, not more than three years;

"(6) for a Class A misdemeanor, not more than one year;

"(7) for a Class B misdemeanor, not more than six months;

"(8) for a Class C misdemeanor, not more than thirty days; and

"(9) for an infraction, not more than five days.

"(c) CAREER CRIMINALS—

"(1) For the purposes of this section, a career criminal is defined as a person sixteen years of age or older who has been found guilty of a crime of violence which is a felony offense or an offense described in section 841, 952(a), 955, or 959 of title 21, and has been convicted of two prior felony offenses, each of which is either a crime of violence in violation of State or Federal law or an offense described in section 841, 952(a), 955, or 959 of title 21.

"(2) A career criminal shall receive the maximum or approximately the maximum penalty for the current offense.

"(3) Prior to full implementation of the provisions of title V relating to sentencing reform, a career criminal may receive a sentence of imprisonment without parole prior to the expiration of the full term of imprisonment imposed by the court.

"§ 3582. Imposition of a sentence of imprisonment

"(a) FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF IMPRISONMENT.—The court, in determining whether to impose a term of imprisonment, and, if a term of imprisonment is to be imposed, in determining the length of the term, shall consider the factors set forth in section 3553(a) to the extent that they are applicable, recognizing that imprisonment is not an appropriate means of promoting correction and rehabilitation. In determining whether to make a recommendation concerning the type of prison facility appropriate for the defendant, the court shall consider any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2).

"(b) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence to imprisonment can subsequently be—

"(1) modified pursuant to the provisions of subsection (c);

"(2) corrected pursuant to the provisions of rule 35 and section 3742; or

"(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

"(c) MODIFICATION OF AN IMPOSED TERM OF IMPRISONMENT.—The court may not modify a term of imprisonment once it has been imposed except that—

"(1) in any case—

"(A) the court, upon motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that extraordinary and compelling reasons warrant such a reduction and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; and

"(B) the court may modify an imposed term of imprisonment to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure;

"(2) in the case of a defendant who has been sentenced to a term of imprisonment in excess of six years, the court, upon motion of the defendant or the Director of the Bureau of Prisons, may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that extraordinary and compelling reasons require such a reduction and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; but the court may consider only two such motions with respect to a particular defendant, one, after the defendant has served at least six years of his sentence, and a second, after the defendant has served at least the maximum term of imprisonment specified in the applicable guideline issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1); and

"(3) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(n), upon motion of the defendant or the Director of Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

"(d) INCLUSION OF AN ORDER TO LIMIT CRIMINAL ASSOCIATION OF ORGANIZED CRIME AND DRUG OFFENDERS.—The court, in imposing a sentence to a term of imprisonment upon a defendant convicted of a felony set forth in chapter 95 (racketeering) or 96 (racketeer influenced and corrupt organizations) of this title or in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.), or at any time thereafter upon motion by the Director of the Bureau of Prisons or a United States attorney, may include as a part of the sentence an order that requires that the defendant not associate or communicate with a specified person, other than his attorney, upon a showing of probable cause to believe that association or communication with such person is for the purpose of enabling the defendant to control, manage, direct, finance, or otherwise participate in an illegal enterprise.

"§ 3583. Inclusion of a term of supervised release after imprisonment

"(a) IN GENERAL.—The court, in imposing a sentence to a term of imprisonment for a felony or a misdemeanor, may include as a part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment.

"(b) AUTHORIZED TERMS OF SUPERVISED RELEASE.—The authorized terms of supervised release are—

"(1) for a Class A or Class B felony, not more than three years;

"(2) for a Class C or Class D felony, not more than two years; and

"(3) for a Class E felony, or for a misdemeanor, not more than one year.

"(c) FACTORS TO BE CONSIDERED IN INCLUDING A TERM OF SUPERVISED RELEASE.—The court, in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release, shall consider the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6).

"(d) CONDITIONS OF SUPERVISED RELEASE.—The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision. The court may order, as a further condition of supervised release, to the extent that such condition—

"(1) is reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), and (a)(2)(D);

"(2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B) and (a)(2)(D); and

"(3) is consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a);

any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(19), and any other condition it considers to be appropriate. If an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he be deported and remain outside the United States, and may order that he be delivered to a duly authorized immigration official for such deportation.

"(e) MODIFICATION OF TERM OR CONDITIONS.—The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6)—

"(1) terminate a term of supervised release previously ordered and discharge the person released at any time after the expiration of one year of supervised release, if it is satisfied that such action is warranted by the conduct of the person released and the interest of justice; or

"(2) after a hearing, extend a term of supervised release if less than the maximum authorized term was previously imposed, and may modify, reduce, or enlarge the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release, pursuant to the provisions applicable to the initial setting of the term and conditions of post-release supervision.

"(f) WRITTEN STATEMENT OF CONDITIONS.—The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, and that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

"§ 3584. Multiple sentences of imprisonment

"(a) IMPOSITION OF CONCURRENT OR CONSECUTIVE TERMS.—If multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively, except that the terms may not run consecutively for an attempt and for another offense that was the sole objective of the attempt. Multiple terms of imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms are to run consecutively. Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently.

"(b) FACTORS TO BE CONSIDERED IN IMPOSING CONCURRENT OR CONSECUTIVE TERMS.—The court, in determining whether the terms imposed are to be ordered to run concurrently or consecutively, shall consider, as to each offense for which a term of imprisonment is being imposed, the factors set forth in section 3553(a).

"(c) TREATMENT OF MULTIPLE SENTENCES AS AN AGGREGATE.—Multiple terms of imprisonment ordered to run consecutively shall be treated for administrative purposes as a single, aggregate term of imprisonment.

"§ 3585. Calculation of a term of imprisonment

"(a) COMMENCEMENT OF SENTENCE.—A sentence to a term of imprisonment commences on the date the defendant is received in custody awaiting transportation to, or arrives voluntarily to commence service of sentence at, the official detention facility at which the sentence is to be served.

"(b) CREDIT FOR PRIOR CUSTODY.—A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences—

"(1) as a result of the offense for which the sentence was imposed; or

"(2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed;

that has not been credited against another sentence.

"§ 3586. Implementation of a sentence of imprisonment

"The implementation of a sentence of imprisonment is governed by the provisions of subchapter C of chapter 229 and, if the sentence includes a term of supervised release, by the provisions of subchapter A of chapter 229.

"CHAPTER 229—POSTSENTENCE ADMINISTRATION

"Subchapter
"A. Probation 3601
"B. Fines 3611
"C. Imprisonment 3621

"SUBCHAPTER A—PROBATION

"Sec.
"3601. Supervision of probation.
"3602. Appointment of probation officers.
"3603. Duties of probation officers.
"3604. Transportation of a probationer.
"3605. Transfer of jurisdiction over a probationer.
"3606. Arrest and return of a probationer.
"3607. Special probation and expungement procedures for drug possessors.

"SUBCHAPTER A—PROBATION

"§ 3601. Supervision of probation

"A person who has been sentenced to probation pursuant to the provisions of subchapter B of chapter 227, or placed on probation pursuant to the provisions of chapter 403, or placed on supervised release pursuant to the provisions of section 3583, shall, during the term imposed, be supervised by a probation officer to the degree warranted by the conditions specified by the sentencing court.

"§ 3602. Appointment of probation officers

"(a) APPOINTMENT.—A district court of the United States shall appoint qualified persons to serve, with or without compensation, as probation officers within the jurisdiction and under the direction of the court making the appointment. The court may, for cause, remove a probation officer appointed to serve with compensation, and may, in its discretion, remove a probation officer appointed to serve without compensation.

"(b) RECORD OF APPOINTMENT.—The order of appointment shall be entered on the records of the court, a copy of the order shall be delivered to the officer appointed, and a copy shall be sent to the Director of the Administrative Office of the United States Courts.

"(c) CHIEF PROBATION OFFICER.—If the court appoints more than one probation officer, one may be designated by the court as chief probation officer and shall direct the work of all probation officers serving in the judicial district.

"§ 3603. Duties of probation officers

"A probation officer shall—

"(a) instruct a probationer or a person on supervised release, who is under his supervision as to the conditions specified by the sentencing court, and provide him with a written statement clearly setting forth all such conditions;

"(b) keep informed, to the degree required by the conditions specified by the sentencing court, as to the conduct and condition of a probationer or a person on supervised release, who is under his supervision, and report his conduct and condition to the sentencing court;

"(c) use all suitable methods, not inconsistent with the conditions specified by the court, to aid a probationer or a person on supervised release who is under his supervision, and to bring about improvements in his conduct and condition;

"(d) be responsible for the supervision of any probationer or a person on supervised release who is known to be within the judicial district;

"(e) keep a record of his work, and make such reports to the Director of the Administrative Office of the United States Courts as the Director may require;

"(f) upon request of the Attorney General or his designee, supervise and furnish information about a person within the custody of the Attorney General while on work release, furlough, or other authorized release from his regular place of confinement, or while in prerelease custody pursuant to the provisions of section 3624(c); and

"(g) perform any other duty that the court may designate.

"§ 3604. Transportation of a probationer

"A court, after imposing a sentence of probation, may direct a United States marshal to furnish the probationer with—

"(a) transportation to the place to which he is required to proceed as a condition of his probation; and

"(b) money, not to exceed such amount as the Attorney General may prescribe, for subsistence expenses while traveling to his destination.

"§ 3605. Transfer of jurisdiction over a probationer

"A court, after imposing a sentence, may transfer jurisdiction over a probationer or person on supervised release to the district court for any other district to which the person is required to proceed as a condition of his probation or release, or is permitted to proceed, with the concurrence of such court. A later transfer of jurisdiction may be made in the same manner. A court to which jurisdiction is transferred under this section is authorized to exercise all powers over the probationer or releasee that are permitted by this subchapter or subchapter B or D of chapter 227.

"§ 3606. Arrest and return of a probationer

"If there is probable cause to believe that a probationer or a person on supervised release has violated a condition of his probation or release, he may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him.

"§ 3607. Special probation and expungement procedures for drug possessors

"(a) PRE-JUDGMENT PROBATION.—If a person found guilty of an offense described in section 404 of the Controlled Substances Act (21 U.S.C. 844)—

"(1) has not, prior to the commission of such offense, been convicted of violating a Federal or State law relating to controlled substances; and

"(2) has not previously been the subject of a disposition under this subsection;

the court may, with the consent of such person, place him on probation for a term of not more than one year without entering a judgment of conviction. At any time before the expiration of the term of probation, if the person has not violated a condition of his probation, the court may, without entering a judgment of conviction, dismiss the proceedings against the person and discharge him from probation. At the expiration of the term of probation, if the person has not violated a condition of his probation the court shall, without entering a judgment of conviction, dismiss the proceedings against the person and discharge him from probation. If the person violates a condition of his probation, the court shall proceed in accordance with the provisions of section 3565.

"(b) RECORD OF DISPOSITION.—A nonpublic record of a disposition under subsection (a), or a conviction that is the subject of an expungement order under subsection (c), shall be retained by the Department of Justice solely for the purpose of use by the courts in determining in any subsequent proceeding whether a person qualifies for the disposition provided in subsection (a) or the expungement provided in subsection (c). A disposition under subsection (a), or a conviction that is the subject of an expungement order under subsection (c), shall not be considered a conviction for the purpose of a disqualification or a disability imposed by law upon conviction of a crime, or for any other purpose.

"(c) EXPUNGEMENT OF RECORD OF DISPOSITION.—If the case against a person found guilty of an offense under section 404 of the Controlled Substances Act (21 U.S.C. 844) is the subject of a disposition under subsection (a), and the person was less than twenty-one years old at the time of the offense, the court shall enter an expungement order upon the application of such person. The expungement order shall direct that there be expunged from all official records, except the nonpublic records referred to in subsection (b), all references to his arrest for the offense, the institution of criminal proceedings against him, and the results thereof. The effect of the order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or institution of criminal proceedings. A person concerning whom such an order has been entered shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge such arrests or institution of criminal proceedings, or the results thereof, in response to an inquiry made of him for any purpose.

"SUBCHAPTER B—FINES

"Sec.
"3611. Payment of a fine.
"3612. Collection of an unpaid fine.
"3613. Lien provisions for satisfaction of an unpaid fine.

"SUBCHAPTER B—FINES

"§ 3611. Payment of a fine

"A person who has been sentenced to pay a fine pursuant to the provisions of subchapter C of chapter 227 shall pay the fine immediately, or by the time and method specified by the sentencing court, to the clerk of the court. The clerk shall forward the payment to the United States Treasury.

"§ 3612. Collection of an unpaid fine

"(a) CERTIFICATION OF IMPOSITION.—If a fine is imposed, the sentencing court shall promptly certify to the Attorney General—

"(1) the name of the person fined;

"(2) his last known address;

"(3) the docket number of the case;

"(4) the amount of the fine imposed;

"(5) the time and method of payment specified by the court;

"(6) the nature of any modification or remission of the fine; and

"(7) the amount of the fine that is due and unpaid.

The court shall thereafter promptly certify to the Attorney General the amount of any subsequent payment that the court may receive with respect to, and the nature of any subsequent remission or modification of, a fine concerning which certification has previously been issued.

"(b) RESPONSIBILITY FOR COLLECTION.—The Attorney General shall be responsible for collection of an unpaid fine concerning which a certification has been issued as provided in subsection (a). An order of restitution, pursuant to section 3556, does not create any right of action against the United States by the person to whom restitution is ordered to be paid.

"§ 3613. Lien provisions for satisfaction of an unpaid fine

"(a) LIEN.—A fine imposed pursuant to the provisions of subchapter C of chapter 227 is a lien in favor of the United States upon all property belonging to the person fined. The lien arises at the time of the entry of the judgment and continues until the liability is satisfied, remitted, or set aside, or until it becomes unenforceable pursuant to the provisions of subsection (b). On application of the person fined, the Attorney General shall—

"(1) issue a certificate of release, as described in section 6325 of the Internal Revenue Code, of any lien imposed pursuant to this section, upon his acceptance of a bond described in section 6325(a)(2) of the Internal Revenue Code; or

"(2) issue a certificate of discharge, as described in section 6325 of the Internal Revenue Code, of any part of the person's property subject to a lien imposed pursuant to this section, upon his determination that the fair market value of that part of such property remaining subject to and available to satisfy the lien is at least three times the amount of the fine.

"(b) EXPIRATION OF LIEN.—A lien becomes unenforceable and liability to pay a fine expires—

"(1) twenty years after the entry of the judgment; or

"(2) upon the death of the individual fined.

The period set forth in paragraph (1) may be extended, prior to its expiration, by a written agreement between the person fined and the Attorney General. The running of the period set forth in paragraph (1) is suspended during any interval for which the running of the period of limitations for collection of a tax would be suspended pursuant to section 6503(b), 6503(c), 6503(f), or 7508(a)(1)(I) of the Internal Revenue Code of 1954 (26 U.S.C. 6503(b), 6503(c), 6503(g), or 7508(a)(1)(I)), or section 513 of the Act of October 17, 1940, 54 Stat. 1190.

"(c) APPLICATION OF OTHER LIEN PROVISIONS.—The provisions of sections 6323, other than 6323(f)(4), 6331 through 6343, 6901, 7402, 7403, 7405, 7423 through 7426, 7505(a), 7506, 7508, 7602 through 7605, 7622, 7701, and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 6323, 6331 through 6343, 6901, 7402, 7403, 7405, 7423 through 7426, 7505(a), 7506, 7508, 7602 through 7605, 7609, 7610, 7622, 7701, and 7805) and of section 513 of the Act of October 17, 1940, 54 Stat. 1190, apply to a fine and to the lien imposed by subsection (a) as if the liability of the person fined were for an internal revenue tax assessment, except to the extent that the application of such statutes is modified by regulations issued by the Attorney General to accord with differences in the nature of the liabilities. For the purposes of this subsection, references in the preceding sections of the Internal Revenue Code of 1954 to 'the Secretary' shall be construed to mean 'the Attorney General,' and references in those sections to 'tax' shall be construed to mean 'fine.'

"(d) EFFECT OF NOTICE OF LIEN.—A notice of the lien imposed by subsection (a) shall be considered a notice of lien for taxes payable to the United States for the purposes of any State or local law providing for the filing of a notice of a tax lien. The registration, recording, docketing, or indexing, in accordance with 28 U.S.C. 1962, of the judgment under which a fine is imposed shall be considered for all purposes as the filing prescribed by section 6323(f)(1)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 6323(f)(1)(A)) and by subsection (c).

"SUBCHAPTER C—IMPRISONMENT

"Sec.
"3621. Imprisonment of a convicted person.
"3622. Temporary release of a prisoner.
"3623. Transfer of a prisoner to State authority.
"3624. Release of a prisoner.
"3625. Inapplicability of the Administrative Procedure Act.

"SUBCHAPTER C—IMPRISONMENT

"§ 3621. Imprisonment of a convicted person

"(a) COMMITMENT TO CUSTODY OF BUREAU OF PRISONS.—A person who has been sentenced to a term of imprisonment pursuant to the provisions of subchapter D of chapter 227 shall be committed to the custody of the Bureau of Prisons until the expiration of the term imposed, or until earlier released for satisfactory behavior pursuant to the provisions of section 3624.

"(b) PLACE OF IMPRISONMENT.—The Bureau of Prisons shall designate the place of the prisoner's imprisonment. The Bureau may designate any available penal or correctional facility that meets minimum standards of health and habitability established by the Bureau, whether maintained by the federal government or otherwise and whether within or without the judicial district in which the person was convicted, that the Bureau determines to be appropriate and suitable, considering—

"(1) the resources of the facility contemplated;

"(2) the nature and circumstances of the offense;

"(3) the history and characteristics of the prisoner;

"(4) any statement by the court that imposed the sentence—

"(A) concerning the purposes for which the sentence to imprisonment was determined to be warranted; or

"(B) recommending a type of penal or correctional facility as appropriate; and

"(5) any pertinent policy statement issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28.

The Bureau may at any time, having regard for the same matters, direct the transfer of a prisoner from one penal or correctional facility to another.

"(c) DELIVERY OF ORDER OF COMMITMENT.—When a prisoner, pursuant to a court order, is placed in the custody of a person in charge of a penal or correctional facility, a copy of the order shall be delivered to such person as evidence of this authority to hold the prisoner, and the original order, with the return endorsed thereon, shall be returned to the court that issued it.

"(d) DELIVERY OF PRISONER FOR COURT APPEARANCES.—The Bureau of Prisons shall, without charge, bring a prisoner into court or return him to a prison facility on order of a court of the United States or on written request of an attorney for the Government.

"§ 3622. Temporary release of a prisoner

"The Bureau of Prisons may release a prisoner from the place of his imprisonment for a limited period, if such release appears to be consistent with the purposes for which the sentence was imposed and any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2), if such release otherwise appears to be consistent with the public interest and if there is reasonable cause to believe that the prisoner will honor the trust to be imposed in him, by authorizing him, under prescribed conditions, to—

"(a) visit a designated place for a period not to exceed thirty days, and then return to the same or another facility, for the purpose of—

"(1) visiting a relative who is dying;

"(2) attending a funeral of a relative;

"(3) obtaining medical treatment not otherwise available;

"(4) contacting a prospective employer;

"(5) establishing or reestablishing family or community ties; or

"(6) engaging in any other significant activity consistent with the public interest;

"(b) participate in a training or educational program in the community while continuing in official detention at the prison facility; or

"(c) work at paid employment in the community while continuing in official detention at the penal or correctional facility if—

"(1) the rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the community; and

"(2) the prisoner agrees to pay to the Bureau such costs incident to his official detention as the Bureau finds appropriate and reasonable under all the circumstances, such costs to be collected by the Bureau and deposited in the Treasury to the credit of the appropriation available for such costs at the time such collections are made.

"§ 3623. Transfer of a prisoner to State authority

"The Director of the Bureau of Prisons shall order that a prisoner who has been charged in an indictment or information with, or convicted of, a State felony, be transferred to an official detention facility within such State prior to his release from a federal prison facility if—

"(1) the transfer has been requested by the Governor or other executive authority of the State;

"(2) the State has presented to the Director a certified copy of the indictment, information, or judgment of conviction; and

"(3) the Director finds that the transfer would be in the public interest.

If more than one request is presented with respect to a prisoner, the Director shall determine which request should receive preference. The expenses of such transfer shall be borne by the State requesting the transfer.

"§ 3624. Release of a prisoner

"(a) DATE OF RELEASE.—A prisoner shall be released by the Bureau of Prisons on the date of the expiration of his term of imprisonment, less any time credited toward the service of his sentence as provided in subsection (b). If the date for a prisoner's release falls on a Saturday, a Sunday, or a legal holiday at the place of confinement, the prisoner may be released by the Bureau on the last preceding weekday.

"(b) CREDIT TOWARD SERVICE OF SENTENCE FOR SATISFACTORY BEHAVIOR.—A prisoner who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration of his life, shall receive credit toward the service of his sentence, beyond the time served, of thirty-six days at the end of each year of his term of imprisonment, beginning after the first year of the term, unless the Bureau of Prisons determines that, during that year, he has not satisfactorily complied with such institutional disciplinary regulations as have been approved by the Attorney General and issued to the prisoner. If the Bureau determines that, during that year, the prisoner has not satisfactorily complied with such institutional regulations, he shall receive no such credit toward service of his sentence or shall receive such lesser credit as the Bureau determines to be appropriate. The Bureau's determination shall be made within fifteen days after the end of each year of the sentence. Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted.

"(c) PRE-RELEASE CUSTODY.—The Bureau of Prisons shall, to the extent practicable, assure that a prisoner serving a term of imprisonment spends a reasonable part, not to exceed six months, of the last ten percent of the term to be served under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for his reentry into the community. The United States Probation System shall, to the extent practicable, offer assistance to a prisoner during such pre-release custody.

"(d) ALLOTMENT OF CLOTHING, FUNDS, AND TRANSPORTATION.—Upon the release of a prisoner on the expiration of his term of imprisonment, the Bureau of Prisons shall furnish him with—

"(1) suitable clothing;

"(2) an amount of money, not more than $500, determined by the Director to be consistent with the needs of the offender and the public interest, unless the Director determines that the financial position of the offender is such that no sum should be furnished; and

"(3) transportation to the place of his conviction, to his bona fide residence within the United States, or to such other place within the United States as may be authorized by the Director.

"(e) SUPERVISION AFTER RELEASE.—A prisoner whose sentence includes a term of supervised release after imprisonment shall be released by the Bureau of Prisons to the supervision of a probation officer who shall, during the term imposed, supervise the person released to the degree warranted by the conditions specified by the sentencing court. The term of supervised release commences on the day the person is released from imprisonment. The term runs concurrently with any federal, State, or local term of probation or supervised release or parole for another offense to which the person is subject or becomes subject during the term of supervised release, except that it does not run during any period in which the person is imprisoned, other than during limited intervals as a condition of probation or supervised release, in connection with a conviction for a federal, State, or local crime.

"§ 3625. Inapplicability of the Administrative Procedure Act

"The provisions of sections 554 and 555 and 701 through 706 of title 5, United States Code, do not apply to the making of any determination, decision, or order under this subchapter."; and

(3) adding the following new section at the end of chapter 232:

"§ 3671. Definitions for sentencing provisions

"As used in chapters 227 and 229—

"(a) 'found guilty' includes acceptance by a court of a plea of guilty or nolo contendere;

"(b) 'commission of an offense' includes the attempted commission of an offense, the consummation of an offense, and any immediate flight after the commission of an offense; and

"(c) 'law enforcement officer' means a public servant authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of an offense."; and

(4) adding the following caption and sectional analysis at the beginning of new chapter 232:

"CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

"Sec.
"3661. Use of information for sentencing.
"3662. Conviction records.
"3663. Firearms possessed by convicted felons.
"3664. Bribe moneys.
"3665. Liquors and related property; definitions.
"3666. Remission or mitigation of forfeitures under liquor laws; possession pending trial.
"3667. Conveyance carrying liquor.
"3668. Disposition of conveyances seized for violation of the Indian liquor laws.
"3669. Vessels carrying explosives and steerage passengers.
"3670. Duties of Director of Administrative Office of the United States Courts.
"3671. Definitions for sentencing provisions.".

(b) The chapter analysis of Part II of title 18, United States Code, is amended by striking out the items relating to chapters 227, 229, and 231, and inserting in lieu thereof the following:

"227. Sentences..... 3551
"229. Post-Sentence Administration .. 3601
"231. Repealed.....
"232. Miscellaneous Sentencing Provisions..... 3661".

SEC. 403. (a) Chapter 235 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"§ 3742. Review of a sentence

"(a) APPEAL BY A DEFENDANT.—A defendant may file a notice of appeal in the district court for review of an otherwise final sentence if the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a); or

"(3) was imposed for a felony or a class A misdemeanor and is greater than—

"(A) the sentence specified in the applicable sentencing guideline issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), to the extent that the sentence includes a greater fine or term of imprisonment or term of supervised release than the maximum established in the guideline, or includes a more limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the maximum established in the guideline; and

"(B) the sentence, if any, specified in a plea agreement under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure.

"(b) APPEAL BY THE GOVERNMENT.—The government may file a notice of appeal in the district court for review of an otherwise final sentence if the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a); or

"(3) was imposed for a felony or a Class A misdemeanor and is less than—

"(A) the sentence specified in the applicable sentencing guideline issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), to the extent that the sentence includes a lesser fine or term of imprisonment or term of supervised release than the minimum established in the guideline, or includes a less limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the minimum established in the guideline; and

"(B) the sentence, if any, specified in a plea agreement under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure;

and the Attorney General or the Solicitor General personally approves the filing of the notice of appeal.

"(c) RECORD ON REVIEW.—If a notice of appeal is filed in the district court pursuant to subsection (a) or (b), the clerk shall certify to the court of appeals—

"(1) that portion of the record in the case that is designated as pertinent by either of the parties;

"(2) the presentence report; and

"(3) the information submitted during the sentencing proceeding.

"(d) CONSIDERATION.—Upon review of the record, the court of appeals shall determine whether the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines; or

"(3) is outside the range of the applicable sentencing guideline, and is unreasonable, having regard for—

"(A) the factors to be considered in imposing a sentence, as set forth in chapter 227 of this title; and

"(B) the reasons for the imposition of the particular sentence, as stated by the district court pursuant to the provisions of section 3553(c).

The court of appeals shall give due regard to the opportunity of the district court to judge the credibility of the witnesses, and shall accept the findings of fact of the district court unless they are clearly erroneous.

"(e) DECISION AND DISPOSITION.—If the court of appeals determines that the sentence—

"(1) was imposed in violation of law or imposed as a result of an incorrect application of the sentencing guidelines, it shall—

"(A) remand the case for further sentencing proceedings; or

"(B) correct the sentence;

"(2) is outside the range of the applicable sentencing guideline and is unreasonable, it shall state specific reasons for its conclusions and—

"(A) if it determines that the sentence is too high and the appeal has been filed under subsection (a), it shall set aside the sentence and—

"(i) remand the case for imposition of a lesser sentence;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a lesser sentence;

"(B) if it determines that the sentence is too low and the appeal has been filed under subsection (b), it shall set aside the sentence and—

"(i) remand the case for imposition of a greater sentence;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a greater sentence; or

"(3) was not imposed in violation of law or imposed as a result of an incorrect application of the sentencing guidelines, and is not unreasonable, it shall affirm the sentence.".

(b) The sectional analysis of chapter 235 of title 18, United States Code, is amended by adding the following new item after the item relating to section 3741:

"3742. Review of a sentence.".

SEC. 404. Chapter 403 of title 18, United States Code, is amended as follows:

(a) Section 5037 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsections (a) and (b) and inserting the following new subsections in lieu thereof:

"(a) If the court finds a juvenile to be a juvenile delinquent, the court shall hold a disposition hearing concerning the appropriate disposition no later than twenty court days after the juvenile delinquency hearing unless the court has ordered further study pursuant to subsection (e). After the disposition hearing, and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994, the court may suspend the findings of juvenile delinquency, enter an order of restitution pursuant to section 3556, place him on probation, or commit him to official detention. With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of chapter 207.

"(b) The term for which probation may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than seventeen years old, beyond the lesser of—

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term that would be authorized by section 3561(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between seventeen and twenty-one years old, beyond the lesser of—

"(A) three years; or

"(B) the maximum term that would be authorized by section 3561(b) if the juvenile had been tried and convicted as an adult.

The provisions dealing with probation set forth in sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.

"(c) The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than seventeen years old, beyond the lesser of—

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term of imprisonment that would be authorized by section 3581(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between seventeen and twenty-one years old—

"(A) who is convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

"(B) in any other case beyond the lesser of—

"(i) three years; or

"(ii) the maximum term of imprisonment that would be authorized by section 3581(b) if the juvenile had been tried and convicted as an adult.".

(b) Section 5041 is repealed.

(c) Section 5042 is amended by—

(1) striking out "parole or" each place it appears in the caption and text; and

(2) striking out "parolee or".

(d) The sectional analysis is amended by striking out the items relating to sections 5041 and 5042 and inserting in lieu thereof the following:

"5041. Repealed.
"5042. Revocation of probation.".

SEC. 405. The Federal Rules of Criminal Procedure are amended as follows:

(a) Rule 32 is amended—

(1) by deleting subdivision (a)(1) and inserting in lieu thereof the following:

"(1) IMPOSITION OF SENTENCE.—Sentence shall be imposed without unnecessary delay, but the court may, upon a motion that is jointly filed by the defendant and by the attorney for the government and that asserts a factor important to the sentencing determination is not capable of being resolved at that time, postpone the imposition of sentence for a reasonable time until the factor is capable of being resolved. Prior to the sentencing hearing, the court shall provide the counsel for the defendant and the attorney for the government with notice of the probation officer's determination, pursuant to the provisions of subdivision (c)(2)(B), of the sentencing classifications and sentencing guideline range believed to be applicable to the case. At the sentencing hearing, the court shall afford the counsel for the defendant and the attorney for the government an opportunity to comment upon the probation officer's determination and on other matters relating to the appropriate sentence. Before imposing sentence, the court shall also afford counsel for the defendant an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of the sentence. The attorney for the government shall have an equivalent opportunity to speak to the court. Upon a motion that is jointly filed by the defendant and by the attorney for the government, the court may hear in camera such a statement by the defendant, counsel for the defendant, or the attorney for the government.";

(2) by adding after the words "right to appeal" in the first sentence of subdivision (a)(2) the words "from the conviction, of his right, if any, to obtain review of the sentence,";

(3) by deleting "right of appeal" in the second sentence of subdivision (a)(2) and inserting in lieu thereof "right to appeal or right to obtain review";

(4) by amending the first sentence of subdivision (c)(1) to read as follows:

"A probation officer shall make a presentence investigation and report to the court before the imposition of sentence unless the court finds that there is in the record information sufficient to enable the meaningful exercise of sentencing authority pursuant to 18 U.S.C. 3553, and the court explains this finding on the record.";

(5) by amending subdivision (c)(2) to read as follows:

"(2) REPORT.—The report of the presentence investigation shall contain—

"(A) information about the history and characteristics of the defendant, including his prior criminal record, if any, his financial condition, and any circumstances affecting his behavior that may be helpful in imposing sentence or in the correctional treatment of the defendant;

"(B) the classification of the offense and of the defendant under the categories established by the Sentencing Commission pursuant to section 994(a) of title 28, that the probation officer believes to be applicable to the defendant's case; the kinds of sentence and the sentencing range suggested for such a category of offense committed by such a category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1); and an explanation by the probation officer of any factors that may indicate that a sentence of a different kind or of a different length than one within the applicable guideline would be more appropriate under all the circumstances;

"(C) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2);

"(D) verified information stated in a nonargumentative style containing as assessment of the financial, social, psychological, and medical impact upon, and cost to, any individual against whom the offense has been committed, and any need of such individual for restitution; and

"(E) such other information as may be required by the court.";

(6) in subdivision (c)(3)(A), by deleting "exclusive of any recommendations as to sentence" and inserting in lieu thereof ", including the information required by subdivision (c)(2) but not including any final recommendation as to sentence,";

(7) by deleting "or the Youth Correction Division of the Board of Parole pursuant to 18 U.S.C. 4208(b), 4252, 5010(e)" in subdivision (c)(3)(B) and inserting in lieu thereof "pursuant to 18 U.S.C. 3552(b)"; and

(8) by deleting "or imposition of sentence is suspended;" in subdivision (d) and inserting in lieu thereof a comma.

(b) Rule 35 is amended to read as follows:

"Rule 35. Correction of Sentence

"(a) CORRECTION OF A SENTENCE ON REMAND.—The court shall correct a sentence that is determined on appeal under 18 U.S.C. 3742 to have been imposed in violation of law, to have been imposed as a result of an incorrect application of the sentencing guidelines, or to be unreasonable, upon remand of the case to the court—

"(1) for imposition of a sentence in accord with the findings of the court of appeals; or

"(2) for further sentencing proceedings if, after such proceedings, the court determines that the original sentence was incorrect.

"(b) CORRECTION OF SENTENCE FOR CHANGED CIRCUMSTANCES.—The court, on motion of the government, may within one year after the imposition of sentence, lower a sentence to

reflect a defendant's subsequent, substantial assistance in the investigation or prosecution of another person who has committed an offense, to the extent that such assistance is a factor in applicable guidelines or policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a).".

(c) Rule 38 is amended—

(1) by amending the caption to read: "Stay of Execution" and deleting "(a) STAY OF EXECUTION.";

(2) by deleting subdivisions (b) and (c);

(3) by redesignating subdivisions (a)(1) through (a)(4) as subdivisions (a) through (d), respectively;

(4) in subdivision (a), by adding "from the conviction or sentence" after "is taken";

(5) in the first sentence of subdivision (b), by adding "from the conviction or sentence" after "is taken";

(6) by deleting "or a fine and costs" in the first sentence of subdivision (c);

(7) by deleting "and costs" in the second sentence of subdivision (c);

(8) by amending subdivision (d) to read as follows:

"(d) PROBATION.—A sentence of probation may be stayed if an appeal from the conviction or sentence is taken. If the sentence is stayed, the court shall fix the terms of the stay."; and

(9) by adding new subdivisions (e) and (f) as follows:

"(e) CRIMINAL FOREFITURE, NOTICE TO VICTIMS, AND RESTITUTION.—A sanction imposed as part of the sentence pursuant to 18 U.S.C. 3554, 3555, or 3556 may, if an appeal of the conviction or sentence is taken, be stayed by the district court or by the court of appeals upon such terms as the court finds appropriate. The court may issue such orders as may be reasonably necessary to ensure compliance with the sanction upon disposition of the appeal, including the entering of a restraining order or an injunction, or requiring a deposit in whole or in part of the monetary amount involved into the registry of the district court or execution of a performance bond.

"(f) DISABILITIES.—A civil or employment disability arising under a Federal statute by reason of the defendant's conviction or sentence, may, if an appeal is taken, be stayed by the district court or by the court of appeals upon such terms as the court finds appropriate. The court may enter a restraining order or an injunction, or take any other action that may be reasonably necessary to protect the interest represented by the disability pending disposition of the appeal.".

(d) Rule 40 is amended by deleting "3653" in subdivision (d)(1) and inserting in lieu thereof "3605".

(e) Rule 54 is amended—

(1) by amending the definition of "Petty offense" in subdivision (c) to read as follows: "'Petty offense' means a class B or C misdemeanor or an infraction."; and

(2) by adding a new definition as follows: "'Grade' includes the issue whether, for the purposes of section 3571 (Sentence of Fine), a misdemeanor resulted in the loss of human life.".

(f) The Table of Rules that precedes Rule 1 is amended as follows:

(1) The item relating to Rule 35 is amended by deleting the words "or Reduction";

(2) The item relating to Rule 38 is amended to read as follows:

"38. Stay of Execution.
"(a) Death.
"(b) Imprisonment.
"(c) Fine.
"(d) Probation.
"(e) Criminal forfeiture, notice to victims, and restitution.
"(f) Disabilities.".

SEC. 406. The Rules of Procedure for the Trial of Misdemeanors Before United States Magistrates are amended as follows:

(a) Rule 1 is amended by deleting "(including petty offenses)".

(b) Rule 9 is amended by deleting "as defined in title 18, U.S.C., § 1(3)".

(c) A new Rule 12 is added at the end thereof to read as follows:

"Rule 12. Definitions

"As used in these rules—

"(1) 'minor offense' means a misdemeanor or an infraction;

"(2) 'petty offense' means a Class B or C misdemeanor or an infraction.".

(d) The Table of Rules that precedes Rule 1 is amended by adding at the end thereof the following new item:

"12. Definitions.".

SEC. 407. (a) Title 28 of the United States Code is amended by adding the following new chapter after chapter 57:

"CHAPTER 58—UNITED STATES SENTENCING COMMISSION

"Sec.
"991. United States Sentencing Commission; establishment and purpose.
"992. Terms of Office; compensation.
"993. Powers and duties of chairman.
"994. Duties of the Commission.
"995. Powers of the Commission.
"996. Director and staff.
"997. Annual report.
"998. Definitions.

"§ 991. United States Sentencing Commission; establishment and purpose

"(a) There is established as an independent commission in the judicial branch of the United States a United States Sentencing Commission which shall consist of seven voting members and one nonvoting member. The President, after consultation with representatives of judges, prosecuting attorneys, defense attorneys, law enforcement officials, senior citizens, victims of crime, and others interested in the criminal justice process, shall appoint the voting members of the Commission, by and with the advice and consent of the Senate, one of whom shall be appointed, by and with the advice and consent of the Senate, as the Chairman. Not more than four of the members of the Commission shall be members of the same political party. The Attorney General, or his designee, shall be an ex officio, nonvoting member of the Commission. The Chairman and members of the Commission shall be subject to removal from the Commission by the President only for neglect of duty or malfeasance in office or for other good cause shown.

"(b) The purposes of the United States Sentencing Commission are to—

"(1) establish sentencing policies and practices for the federal criminal justice system that—

"(A) assure the meeting of the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

"(B) provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct while maintaining sufficient flexibility to permit individualized sentences when warranted by mitigating or aggravating factors not taken into account in the establishment of general sentencing practices;

"(C) reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process; and

"(2) develop means of measuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

"§ 992. Terms of office; compensation

"(a) The voting members of the United States Sentencing Commission shall be designated or appointed for six-year terms, except that the initial terms of the first members of the Commission shall be staggered so that—

"(1) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and the chairman serve terms of six years;

"(2) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and two members appointed by the President serve terms of four years; and

"(3) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and one member appointed by the President serve terms of two years.

"(b) No voting member may serve more than two full terms. A voting member designated or appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was designated or appointed shall be designated or appointed only for the remainder of such term.

"(c) Each voting member of the Commission shall be compensated during the term of office as a member of the Commission at the rate at which judges of the United States courts of appeals are compensated. A Federal judge may serve as a member of the Commission without resigning his appointment as a Federal judge.

"§ 993. Powers and duties of chairman

"The Chairman shall—

"(a) call and preside at meetings of the Commission; and

"(b) direct—

"(1) the preparation of requests for appropriations for the Commission; and

"(2) the use of funds made available to the Commission.

"§ 994. Duties of the Commission

"(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of this title and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System—

"(1) guidelines, as described in this section, for use of a sentencing court in determining the sentence to be imposed in a criminal case, including—

"(A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment;

"(B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment;

"(C) a determination whether a sentence to a term of imprisonment should include a requirement that the defendant be placed on a term of supervised release after imprisonment, and, if so, the appropriate length of such a term; and

"(D) a determination whether multiple sentences to terms of imprisonment should be ordered to run concurrently or consecutively;

"(2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in the view of the Commission would further the purposes set forth in section 3553(a)(2) of title 18, United States Code, including the appropriate use of—

"(A) the sanctions set forth in sections 3554, 3555, and 3556 of title 18;

"(B) the conditions of probation and supervised release set forth in sections 3563(b) and 3583(d) of title 18;

"(C) the sentence modification provisions set forth in sections 3563(c), 3573, and 3582(c) of title 18;

"(D) the authority granted under rule 11(e)(2) of the Federal Rules of Criminal Procedure to accept or reject a plea agreement entered into pursuant to rule 11(e)(1); and

"(E) the temporary release provisions set forth in section 3622 of title 18, and the prerelease custody provisions set forth in section 3624(c) of title 18; and

"(3) guidelines or general policy statements regarding appropriate use of the probation revocation provisions set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of probation or supervised release set forth in sections 3563(c), 3564(d), and 3583(e) of title 18.

"(b) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code. If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than 25 percent.

"(c) The Commission, in establishing categories of offenses for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, have any relevance to the nature, extent, place of service, or other incidents of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

"(1) the grade of the offense;

"(2) the circumstances under which the offense was committed which mitigate or aggravate the seriousness of the offense;

"(3) the nature and degree of the harm caused by the offense, including whether it involved property, irreplaceable property, a person, a number of persons, or a breach of public trust;

"(4) the community view of the gravity of the offense;

"(5) the public concern generated by the offense;

"(6) the deterrent effect a particular sentence may have on the commission of the offense by others; and

"(7) the current incidence of the offense in the community and in the nation as a whole.

"(d) The Commission in establishing categories of defendants for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, with respect to a defendant, have any relevance to the nature, extent, place of service, or other incidents of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

"(1) age;

"(2) education;

"(3) vocational skills;

"(4) mental and emotional condition to the extent that such condition mitigates the defendant's culpability or to the extent that such condition is otherwise plainly relevant;

"(5) physical condition, including drug dependence;

"(6) previous employment record;

"(7) family ties and responsibilities;

"(8) community ties;

"(9) role in the offense;

"(10) criminal history; and

"(11) degree of dependence upon criminal activity for a livelihood.

The Commission shall assure that the guidelines and policy statements are entirely neutral as to the race, sex, national origin, creed, and socioeconomic status of offenders.

"(e) The Commission shall assure that the guidelines and policy statements, in recommending a term of imprisonment or length of a term of imprisonment, reflect the general inappropriateness of considering the education, vocational skills, employment record, family ties and responsibilities, and community ties of the defendant.

"(f) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall promote the purposes set forth in section 991(b)(1), with particular attention to the requirements of subsection 991(b)(1)(B) for providing certainty and fairness in sentencing and reducing unwarranted sentence disparities.

"(g) The Commission, in the course of promulgating guidelines pursuant to subsection (a)(1) to meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code, shall review the nature and capacity of the penal, correctional, and other facilities and services available, and shall make recommendations concerning any change or expansion in the nature or capacity of such facilities and services that might become necessary as a result of the guidelines promulgated pursuant to the provisions of this chapter.

"(h) The Commission shall assure that the guidelines will specify a sentence to a substantial term of imprisonment for categories of defendants in which the defendant—

"(1) has a history of two or more prior Federal, State, or local felony convictions for offenses committed on different occasions;

"(2) committed the offense as part of a pattern of criminal conduct from which he derived a substantial portion of his income;

"(3) committed the offense in furtherance of a conspiracy with three or more persons engaging in a pattern of racketeering activity in which the defendant participated in a managerial or supervisory capacity;

"(4) committed a crime of violence that constitutes a felony while on release pending trial, sentence, or appeal from a Federal, State, or local felony for which he was ultimately convicted; or

"(5) committed a felony that is set forth in section 401 or 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841 and 960), and that involved trafficking in a substantial quantity of a controlled substance.

"(i) The Commission shall insure that the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in many cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense, and the general appropriateness of imposing a term of imprisonment on a person convicted of a crime of violence that results in serious bodily injury.

"(j) The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of rehabilitating the defendant or providing the defendant with needed educational or vocational training, medical care, or other correctional treatment.

"(k) The Commission shall insure that the guidelines promulgated pursuant to subsection (a)(1) reflect—

"(1) the appropriateness of imposing an incremental penalty for each offense in a case in which a defendant is convicted of—

"(A) multiple offenses committed in the same course of conduct that result in the exercise of ancillary jurisdiction over one or more of the offenses; and

"(B) multiple offenses committed at different times, including those cases in which the subsequent offense is a violation of section 3146 (penalty for failure to appear) or is committed while the person is released pursuant to the provisions of section 3147 (penalty for an offense committed while on release) of title 18; and

"(2) the general inappropriateness of imposing consecutive terms of imprisonment for an offense of conspiring to commit an offense or soliciting commission of an offense and for an offense that was the sole object of the conspiracy or solicitation.

"(l) The Commission shall insure that the guidelines reflect the fact that, in many cases, current sentences do not accurately reflect the seriousness of the offense. This will require that, as a starting point in its development of the initial sets of guidelines for particular categories of cases, the Commission ascertain the average sentences imposed in such categories of cases prior to the creation of the Commission, and in cases involving sentences to terms of imprisonment, the length of such terms actually served. The Commission shall not be bound by such average sentences, and shall independently develop a sentencing range that is consistent with the provisions of this section and with the purposes of sentencing described in section 3553(a)(2) of title 18, United States Code.

"(m) The Commission periodically shall review and revise, in consideration of comments and data coming to its attention, the guidelines promulgated pursuant to the provisions of this section. In fulfilling its duties and in exercising its powers, the Commission shall consult with authorities on, and individual and institutional representatives of, various aspects of the Federal criminal justice system. The United States Probation System, the Bureau of Prisons, the Judicial Conference of the United States, the Criminal Division of the United States Department of Justice, and a representative of the Federal Public Defenders shall submit to the

Commission any observations, comments, or questions pertinent to the work of the Commission whenever it believes such communication would be useful, and shall, at least annually, submit to the Commission a written report commenting on the operation of the Commission's guidelines, suggesting changes in the guidelines that appear to be warranted, and otherwise assessing the Commission's work.

"(n) The Commission, at or after the beginning of a regular session of Congress but not later than the first day of May, shall report to the Congress any amendments of the guidelines promulgated pursuant to subsection (a)(1), and a report of the reasons therefor, and the amended guidelines shall take effect one hundred and eighty days after the Commission reports them, except to the extent the effective date is enlarged or the guidelines are disapproved or modified by Act of Congress.

"(o) The Commission and the Bureau of Prisons shall submit to Congress an analysis and recommendations concerning maximum utilization of resources to deal effectively with the Federal prison population. Such report shall be based upon consideration of a variety of alternatives, including—

"(1) modernization of existing facilities;

"(2) inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to ensure adequate security; and

"(3) use of existing Federal facilities, such as those currently within military jurisdiction.

"(p) The Commission shall evaluate the impact of the sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentencing, and the use of incarceration, and shall, by affirmative vote of a majority of the voting members of the Commission, issue a report of its findings to all appropriate courts, the Department of Justice, and the Congress.

"(q) The Commission, within three years of the date of enactment of the Sentencing Reform Act of 1982, and thereafter whenever it finds it advisable, shall recommend to the Congress that it raise or lower the grades, or otherwise modify the maximum penalties, of those offenses for which such an adjustment appears appropriate.

"(r) The Commission shall give due consideration to any petition filed by a defendant requesting modification of the guidelines utilized in the sentencing of such defendant, on the basis of changed circumstances unrelated to the defendant, including changes in—

"(1) the community view of the gravity of the offense;

"(2) the public concern generated by the offense; and

"(3) the deterrent effect particular sentences may have on the commission of the offense by others.

Within one hundred and eighty days of the filing of such petition the Commission shall provide written notice to the defendant whether or not it has approved the petition. If the petition is disapproved the written notice shall contain the reasons for such disapproval. The Commission shall submit to the Congress at least annually an analysis of such written notices.

"(s) The Commission, in promulgating general policy statements regarding the sentencing modification provisions in section 3582(c)(2) of title 18, shall describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples. Rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.

"(t) If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, it shall specify by what amount the sentences of prisoners serving terms of imprisonment that are outside the applicable guideline ranges for the offense may be reduced in order to carry out the purpose of the reduction.

"(u) The Commission shall ensure that the general policy statements promulgated pursuant to subsection (a)(2) include a policy limiting consecutive terms of imprisonment for an offense involving a violation of a general prohibition and for an offense involving a violation of a specific prohibition encompassed within the general prohibition.

"(v) The appropriate judge or officer shall submit to the Commission in connection with each sentence imposed a written report of the sentence, the offense for which it is imposed, the age, race, and sex of the offender, information regarding factors made relevant by the guidelines, and such other information as the Commission finds appropriate. The Commission shall submit to Congress at least annually an analysis of these reports and any recommendation for legislation that the Commission concludes is warranted by that analysis.

"(w) The provisions of section 553 of title 5, relating to publication in the Federal Register and public hearing procedure, shall apply to the promulgation of guidelines pursuant to this section.

"§ 995. Powers of the Commission

"(a) The Commission, by vote of a majority of the members present and voting, shall have the power to—

"(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

"(2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332);

"(3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chairman;

"(4) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

"(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(6) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 655(b));

"(8) request such information, data, and reports from any federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

"(9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;

"(10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

"(11) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

"(12) establish a research and development program within the Commission for the purpose of—

"(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on federal sentencing practices;

"(B) assisting and serving in a consulting capacity to federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

"(13) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

"(14) publish data concerning the sentencing process;

"(15) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the factors set forth in section 3553(a) of title 18, United States Code;

"(16) collect systematically and disseminate information regarding effectiveness of sentences imposed;

"(17) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

"(18) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

"(19) study the feasibility of developing guidelines for the disposition of juvenile delinquents;

"(20) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy;

"(21) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties; and

"(22) perform such other functions as are required to permit federal courts to meet their responsibilities under section 3553(a) of title 18, United States Code, and to permit others involved in the federal criminal justice system to meet their related responsibilities.

"(b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate other than the power to establish general policy statements and guidelines pursuant to section 994(a) (1) and (2), the issuance of general policies and promulgation of rules and regulations pursuant to subsection (a)(1) of this section, and the decisions as to the factors to be considered in establishment of categories of offenses and offenders pursu-

ant to section 994(b). The Commission shall coordinate its activities under subsections (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), (a)(14), (a)(15), (a)(16), (a)(17), and (a)(18), to the extent practicable, with any related activities of the Administrative Office of the United States Courts and the Federal Judicial Center for the purpose of avoiding unnecessary duplication.

"(c) Upon the request of the Commission, each federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

"(d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursuant to section 994, the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.

"(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member of any action taken by it.

"§ 996. Director and staff

"(a) The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to him by the Commission.

"(b) The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), 89 (Health Insurance), and 91 (Conflicts of Interest).

"§ 997. Annual report

"The Commission shall report annually to the Judicial Conference of the United States, the Congress, and the President of the United States on the activities of the Commission.

"§ 998. Definitions

"As used in this chapter—

"(a) 'Commission' means the United States Sentencing Commission;

"(b) 'Commissioner' means a member of the United States Sentencing Commission;

"(c) 'guidelines' means the guidelines promulgated by the Commission pursuant to section 994(a) of this title; and

"(d) 'rules and regulations' means rules and regulations promulgated by the Commission pursuant to section 995 of this title.".

(b) The chapter analysis of part III of title 28, United States Code, is amended by adding after the item relating to chapter 57 the following new item:

"58. United States Sentencing Commission. 991".

REPEALERS

SEC. 408. (a) The following provisions of title 18, United States Code, are repealed:

(1) section 1;

(2) chapter 309;

(3) chapter 311;

(4) chapter 314;

(5) sections 4281, 4283, and 4284; and

(6) chapter 402.

(b) The item relating to section 1 in the sectional analysis of chapter 1 of title 18, United States Code, is amended to read: "1. Repealed.".

(c) The chapter analysis of part III of title 18, United States Code, is amended by amending the items relating to—

(1) chapters 309 and 311 to read as follows:

"309. Repealed.
"311. Repealed.";

and

(2) chapter 314 to read as follows:

"314. Repealed.".

(d) The sectional analysis of chapter 315 of title 18, United States Code, is amended by amending the items relating to—

(1) section 4281 to read: "4281. Repealed."; and

(2) sections 4283 and 4284 to read as follows:

"4283. Repealed.
"4284. Repealed.".

(e) The item relating to chapter 402 in the chapter analysis of part IV of title 18, United States Code, is amended to read as follows:

"402. Repealed.".

SEC. 409. (a) Sections 404(b) and 409 of the Controlled Substances Act (21 U.S.C. 844(b) and 849) are repealed.

(b) Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by deleting the designation "(a)" at the beginning of the subsection.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 410. The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended as follows:

(a) The second sentence of section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended to read: "An alien who would be excludable because of the conviction of an offense for which the sentence actually imposed did not exceed a term of imprisonment in excess of six months, or who would be excludable as one who admits the commission of an offense for which a sentence not to exceed one year's imprisonment might have been imposed on him, may be granted a visa and admitted to the United States if otherwise admissible: Provided, That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense.".

(b) Section 242(h) (8 U.S.C. 1252(h)) is amended by adding "supervised release," after "parole,".

SEC. 411. Section 4 of the Act of September 28, 1962 (16 U.S.C. 460k-3) is amended by deleting "petty offense (18 U.S.C. 1)" and substituting "misdemeanor".

SEC. 412. Section 9 of the Act of October 8, 1964 (16 U.S.C. 460n-8) is amended—

(a) in the first paragraph, by deleting "commissioner" each place it appears and substituting "magistrate"; and

(b) in the second paragraph, by amending the first sentence to read: "The functions of the magistrate shall include the trial and sentencing of persons charged with the commission of misdemeanors and infractions as defined in section 3581 of title 18, United States Code."

SEC. 413. Title 18 of the United States Code is amended as follows:

(a) Section 924(a) is amended by deleting ", and shall become eligible for parole as the Board of Parole shall determine".

(b) Section 1161 is amended by deleting "3618" and inserting in lieu thereof "3667".

(c) Section 1761(a) is amended by adding ", supervised release," after "parole".

(d) Section 1963 is amended—

(1) in subsection (a), by deleting "(1) any interest he has acquired" and all through the end of the subsection and substituting "the property described in section 3554 in accord with the provisions of that section."; and

(2) by repealing subsections (b) and (c).

(e) Section 3006A is amended—

(1) in subsections (a)(1) and (b), by deleting "misdemeanor (other than a petty offense as defined in section 1 of this title)" each place it appears and substituting "Class A misdemeanor"; and

(2) in subsections (a)(3) and (g), deleting "subject to revocation of parole," each place it appears.

(f) Section 3143, as amended by this Act, is amended—

(1) in subsection (a), by adding "other than a person for whom the applicable guideline promulgated pursuant to 28 U.S.C. 994 does not recommend a term of imprisonment," after "sentence,"; and

(2) in subsection (c), by adding the following at the end thereof: "The judge shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to the provisions of section 3742 in accordance with the provisions of—

"(1) subsection (a) if the person has been sentenced to a term of imprisonment; or

"(2) section 3142 if the person has not been sentenced to a term of imprisonment.".

(g) Section 3147, as amended by this Act, is amended—

(1) in paragraph (1), by deleting "not less than two years and"; and

(2) in paragraph (2), by deleting "not less than ninety days and".

(h) Section 3156(b)(2) is amended by deleting "petty offense as defined in section 1(3) of this title" and substituting "Class B or C misdemeanor or an infraction".

(i) Section 3172(2) is amended by deleting "petty offense as defined in section 1(3) of this title" and substituting "Class B or C misdemeanor or an infraction".

(j) Section 3401 is amended—

(1) by repealing subsection (g); and

(2) in subsection (h), by deleting "petty offense case" and substituting "Class B or C misdemeanor case, or infraction case,".

(k) Section 3668 (formerly section 3619) is amended by deleting "3617" and "3618" and substituting "3666" and "3667", respectively.

(l) Section 4004 is amended by deleting "record clerks, and parole officers" and substituting "and record clerks".

(m) Chapter 306 is amended as follows:

(1) Section 4101 is amended—

(A) in subsection (f), by adding ", including a term of supervised release pursuant to section 3583" after "supervision"; and

(B) in subsection (g), by deleting "to a penalty of imprisonment the execution of which is suspended and" and substituting "under which", and by deleting "the suspended" and substituting "a".

(2) Section 4105(c) is amended—

(A) in paragraph (1), by deleting "for good time" the second place it appears and substituting "toward service of sentence for satisfactory behavior";

(B) in paragraphs (1) and (2), by deleting "section 4161" and substituting "section 3624(b)";

(C) in paragraph (1), by deleting "section 4164" and substituting "section 3624(a)";

(D) by repealing paragraph (3); and

(E) by amending paragraph (4) to read as follows:

"(4) Credit toward service of sentence may be withheld as provided in section 3624(b) of this title.".

(3) Section 4106 is amended—

(A) in subsection (a), by deleting "Parole Commission" and substituting "Probation System";

(B) by amending subsection (b) to read as follows:

"(b) An offender transferred to the United States to serve a sentence of imprisonment shall be released pursuant to section 3624(a) of this title after serving the period of time specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1). He shall be released to serve a term of supervised release for any term specified in the applicable guideline. The provisions of section 3742 of this title apply to a sentence under this subsection, and the United States court of appeals for the district in which the offender is imprisoned or under supervision after transfer to the United States has jurisdiction to review the sentence as though it had been imposed by the United States district court."; and

(C) by repealing subsection (c).

(4) Section 4108(a) is amended by adding ", including any term of imprisonment or term of supervised release specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1)," after "consequences thereof".

(n) Section 4321 is amended by deleting "parole or".

(o) Section 4351(b) is amended by deleting "Parole Board" and substituting "Sentencing Commission".

(p) Section 5002 is amended by deleting "Board of Parole, the Chairman of the Youth Division," and substituting "United States Sentencing Commission,".

SEC. 414. The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended as follows:

(a) Section 401 (21 U.S.C. 841) is amended—

(1) in subsection (b)(1)(A), by deleting the last sentence;

(2) in subsection (b)(1)(B), by deleting the last sentence;

(3) in subsection (b)(2), by deleting the last sentence;

(4) in subsection (b)(4), by deleting "subsections (a) and (b) of", and by adding "and section 3607 of title 18, United States Code" after "404";

(5) in subsection (b)(5), by deleting the last sentence; and

(6) by repealing subsection (c).

(b) Section 405 (21 U.S.C. 845) is amended—

(1) in subsection (a), by deleting "(1)" the second place it appears, and by deleting ", and (2) at least twice any special parole term authorized by section 401(b), for a first offense involving the same controlled substance and schedule"; and

(2) in subsection (b), by deleting "(1)" the second place it appears, and by deleting ", and (2) at least three times any special parole term authorized by section 401(b), for a second or subsequent offense involving the same controlled substance and schedule".

(c) Section 405A, as added by title IX of this Act, is amended—

(1) in subsection (a)—

(A) by deleting "(1)"; and

(B) by deleting "and (2) at least twice any special parole term authorized by section 401(b) for a first offense involving the same controlled substance and schedule";

(2) in subsection (b)—

(A) by deleting "(1)" and "not less than three years and"; and

(B) by deleting "and (2) at least three times any special term authorized by section 401(b) for a second or subsequent offense involving the same controlled substance and schedule"; and

(3) by deleting subsection (c).

(d) Section 408(c) (21 U.S.C. 848(c)) is amended by deleting "and section 4202 of title 18 of the United States Code".

SEC. 415. The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended as follows:

(a) Section 1010 (21 U.S.C. 960) is amended—

(1) in subsection (b)(1), by deleting the last sentence; and

(2) in subsection (b)(2), by deleting the last sentence.

(b) Section 1012(a) (21 U.S.C. 962(a)) is amended by deleting the last sentence.

SEC. 416. Section 114(b) of title 23, United States Code, is amended by adding ", supervised release," after "parole".

SEC. 417. Section 5871 of the Internal Revenue Code of 1954 (26 U.S.C. 5871) is amended by deleting ", and shall become eligible for parole as the Board of Parole shall determine".

SEC. 418. Title 28 of the United States Code is amended as follows:

(a) Section 509 is amended—

(1) in paragraph (3), by deleting "; and" and substituting a period; and

(2) by repealing paragraph (4).

(b) Section 591(a) is amended by deleting "petty offense" and substituting "Class B or C misdemeanor or an infraction".

(c) Section 2901 is amended—

(1) in subsection (e), by deleting "section" and substituting "section 3581"; and

(2) in subsection (g)(3), by adding ", supervised release," after "parole", and by adding "supervised release," after "parole,".

SEC. 419. Section 504(a) of the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504(a)) and section 411(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(a)) are amended—

(a) by deleting "Board of Parole of the United States Department of Justice" and substituting "if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, on motion of the attorney for the government, the district court of the United States for the district in which the offense was committed";

(b) by adding ", pursuant to sentencing guidelines and policy statements issued pursuant to 28 U.S.C. 994(a),";

(c) by deleting "Board" and "Board's" and substituting "court" and "court's", respectively; and

(d) by deleting "an administrative" and substituting "a".

SEC. 420. Section 411(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(c)(3)) is amended by adding "or supervised release" after "parole".

SEC. 421. Section 454(b) of the Comprehensive Employment and Training Act of 1973, as added by section 2 of the Act of October 27, 1978 (29 U.S.C. 927(b)), is amended by deleting "or parole" the first place it appears and substituting ", parole, or supervised release".

SEC. 422. The Public Health Service Act (42 U.S.C. et seq.) is amended as follows:

(a) Section 341(a) (42 U.S.C. 257(a)) is amended by deleting "or convicted of offenses against the United States and sentenced to treatment" and "addicts who are committed to the custody of the Attorney General pursuant to provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code),".

(b) Section 343(d) (42 U.S.C. 259(d)) is amended by adding "or supervised release" after "parole".

SEC. 423. Section 11507 of title 49, United States Code, is amended by adding ", supervised release," after "parole".

SEC. 424. Section 10(b)(7) of the Military Selective Service Act (50 U.S.C. App. 460(b)(7)) is amended by deleting "parole" and substituting "release".

EFFECTIVE DATE

SEC. 425. (a)(1) This title shall take effect on the first day of the first calendar month beginning twenty-four months after the date of enactment, except that—

(A) the repeal of chapter 402 of title 18, United States Code, shall take effect on the date of enactment; and

(B)(i) chapter 58 of title 28, United States Code, shall take effect on the date of enactment of this Act or October 1, 1982, whichever occurs later, and the United States Sentencing Commission shall submit the initial sentencing guidelines promulgated pursuant to section 994(a)(1) of title 28 to the Congress within eighteen months of the effective date of the chapter; and

(ii) the sentencing guidelines promulgated pursuant to section 994(a)(1), and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code, shall not go into effect until the day after—

(a) the United States Sentencing Commission has submitted the initial set of sentencing guidelines to the Congress pursuant to subparagraph (B)(i), along with a report stating the reasons for the Commission's recommendations;

(b) the General Accounting Office has undertaken a study of the guidelines, and their potential impact in comparison with the operation of the existing sentencing and parole release system, and has, within three months of the submission of the guidelines, reported to the Congress the results of its study; and

(c) the Congress has had six months after the date described in subclause (a) in which to examine the guidelines and consider the reports.

(2) For the purposes of section 992(a) of title 28, the terms of the first members of the United States Sentencing Commission shall not begin to run until the sentencing guidelines go into effect pursuant to paragraph (1)(B)(ii).

"(b)(1) The following provisions of law in effect on the day before the effective date of this Act shall remain in effect for five years after the effective date as to an individual convicted of an offense or adjudicated to be a juvenile delinquent before the effective date and as to a term of imprisonment during the period described in subsection (a)(1)(B):

(A) Chapter 311 of title 18, United States Code.

(B) Chapter 309 of title 18, United States Code.

(C) Sections 4254 through 4255 of title 18, United States Code.

(D) Sections 5041 and 5042 of title 18, United States Code.

(E) Sections 5017 through 5020 of title 18, United States Code, as to a sentence imposed before the date of enactment.

(F) The maximum term of imprisonment in effect on the effective date for an offense committed before the effective date.

(G) Any other law relating to a violation of a condition of release or to arrest author-

ity with regard to a person who violates a condition of release.

(2) Notwithstanding the provisions of section 4202 of title 18, United States Code, as in effect on the day before the effective date of this Act, the term of office of a Commissioner who is in office on the effective date is extended to the end of the five-year period after the effective date of this Act.

(3) The United States Parole Commission shall set a release date, for an individual who will be in its jurisdiction the day before the expiration of five years after the effective date of this Act, that is the earliest date that applies to the prisoner under the applicable parole guideline. A release date set pursuant to this paragraph shall be set early enough to permit consideration of an appeal of the release date, in accordance with Parole Commission procedures, before the expiration of five years following the effective date of this Act.

(4) Notwithstanding the other provisions of this subsection, all laws in effect on the day before the effective date of this Act pertaining to an individual who is—

(A) released pursuant to a provision listed in paragraph (1); and

(B)(i) subject to supervision on the day before the expiration of the five-year period following the effective date of this Act; or

(ii) released on a date set pursuant to paragraph (3);

including laws pertaining to terms and conditions of release, revocation of release, provision of counsel, and payment of transportation costs, shall remain in effect as to that individual until the expiration of his sentence, except that the district court shall determine, in accord with the Federal Rules of Criminal Procedure, whether release should be revoked or the conditions of release amended for violation of a condition of release.

(5) Notwithstanding the provisions of section 991 of title 28, United States Code, and sections 4351 and 5002 of title 18, United States Code, the Chairman of the United States Parole Commission or his designee shall be a member of the National Institute of Corrections, and the Chairman of the United States Parole Commission shall be a member of the Advisory Corrections Council and a nonvoting member of the United States Sentencing Commission, ex officio, until the expiration of the five-year period following the effective date of this Act. Notwithstanding the provisions of section 4351 of title 18, during that five-year period the National Institute of Corrections shall have seventeen members, including seven ex officio members. Notwithstanding the provisions of section 991 of title 28, during the five-year period the United States Sentencing Commission shall consist of nine members including two ex officio, nonvoting members.

SEC. 426. (a)(1) Four years after the sentencing guidelines promulgated pursuant to section 994(a)(1), and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code, go into effect, the General Accounting Office shall undertake a study of the guidelines in order to determine their impact and compare the guideline system with the operation of the previous sentencing and parole release system, and, within six months of the undertaking of such study, report to the Congress the results of its study.

(2) Within one month of the start of the study required under subsection (a), the United States Sentencing Commission shall submit a report to the General Accounting Office detailing the operation of the sentencing guideline system and discussing any problems with the system or reforms needed.

(b) The Congress shall review the study submitted pursuant to subsection (a) in order to determine—

(1) whether the sentencing guideline system has been effective;

(2) whether any changes should be made in the sentencing guideline system; and

(3) whether the parole system should be reinstated in some form and the life of the Parole Commission extended.

TITLE V—CRIMINAL FORFEITURE

SEC. 501. This title may be cited as the "Comprehensive Forfeiture Act of 1982".

PART A

SEC. 502. Section 1963 of title 18, United States Code, is amended to read as follows:

"§ 1963. Criminal penalties

"(a) Whoever violates any provision of section 1962 of this chapter—

"(1) shall be fined not more than $25,000 or imprisoned for not more than twenty years, or both; and

"(2) shall forfeit to the United States any property, irrespective of any provision of State law—

"(A) constituting, or derived from, any interest in or contribution to an enterprise he has acquired, maintained, established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962 of this chapter;

"(B) constituting a means by which he has exerted influence or control over any enterprise he has acquired, maintained, established, operated, controlled, conducted, or participated in the acquisition, maintenance, establishment, operation, conduct or control of, in violation of section 1962 of this chapter; and

"(C) constituting, or derived from, any proceeds which he obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962 of this chapter.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this section, that he forfeit to the United States all property described in paragraph (2).

"(b) Property subject to criminal forfeiture under this section includes—

"(1) real property, including things growing on, affixed to, and found in land; and

"(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities including, but not limited to—

"(A) any position, office, appointment, tenure, commission, or employment contract of any kind which the incumbent acquired or maintained in violation of section 1962 of this chapter, through which the incumbent conducted, or participated in or facilitated the conduct of, the affairs of an enterprise in violation of section 1962 of this chapter, or which afforded the incumbent a source of influence or control over the affairs of an enterprise which was exercised in violation of section 1962 of this chapter;

"(B) any compensation, right or benefit derived from a position, office, appointment, tenure, commission, or employment contract described in subparagraph (A) which the incumbent obtained, directly or indirectly, through a pattern of racketeering activity or unlawful debt collection in violation of section 1962 of this chapter, or which accrued to the incumbent during the period that he controlled, influenced, conducted, or participated in or facilitated the conduct of, the affairs of the enterprise in violation of section 1962 of this chapter; and

"(C) any amount payable or paid under any contract for goods or services which was awarded or performed through a pattern of racketeering activity or unlawful debt collection.

"(c) All right, title, and interest in property described in subsection (a)(2) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is held in the name of, or possessed by, a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States: Provided, That the Attorney General shall not direct disposition of any such property if, in a proceeding under subsection (h), the person establishes to the Attorney General by evidence contained in a petition, or the Attorney General otherwise has reason to know, that—

"(1) the person was a bona fide purchaser of the property for value; and

"(2) the person was reasonably without cause to believe that the property was of the type described in subsection (a)(2).

"(d) If any of the property described in subsection (a)(2)—

"(1) cannot be located,

"(2) has been transferred to, sold to, or deposited with, a third party,

"(3) has been placed beyond the jurisdiction of the court,

"(4) has been substantially diminished in value by any act or omission of the defendant, or

"(5) has been commingled with other property which cannot be divided without difficulty,

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

"(e)(1) Upon application of the United States, the court may, after a hearing with respect to which any adverse parties have been given reasonable notice and opportunity to participate, enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a)(2) for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of section 1962 of this chapter and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if the court determines—

"(i) that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that the property is in the possession or control of the party against whom the order is to be entered, and

"(ii) that the party against whom the order is to be entered has failed to demonstrate that the entry of the requested order would result in substantial and irreparable harm or injury to him that outweighs the need to preserve the availability of the property through the entry of the requested order:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown

or unless an indictment or information described in subparagraph (A) has been filed.

"(2) Upon application of the United States, a temporary restraining order to preserve the availability of property described in subsection (a)(2) for forfeiture under this section may be granted without notice to the adverse party or his attorney if—

"(A) an indictment or information described in paragraph (1)(A) has been filed or if the court determines that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that the property is in the possession or control of the party against whom the order is to be entered; and

"(B) the court determines that the nature of the property is such that it can be concealed, disposed of, or placed beyond the jurisdiction of the court before the adverse party may be heard in opposition.

A temporary order granted without notice to the adverse party shall expire within such time, not to exceed ten days, as the court fixes, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. If a temporary restraining order is granted without notice to the adverse party, a hearing concerning the entry of an order under paragraph (1) shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(f) Upon conviction of a person under this section, the court shall enter a judgment of forfeiture of the property to the United States and shall also authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following the entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from an enterprise, or an interest in an enterprise, ordered forfeited under this section may be used to offset ordinary and necessary expenses to the enterprise which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm or loss to him. The proceeds of any sale or other disposition of property forfeited under this section and any moneys forfeited shall be used to pay all proper expenses for the forfeiture and the sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertising and court costs. The Attorney General shall forward to the Treasurer of the United States for deposit in the general fund of the United States Treasury any amounts of such proceeds or moneys remaining after the payment of such expenses.

"(h) With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation, or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this chapter;

"(2) compromise claims arising under this chapter;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

A person who has filed a petition for remission or mitigation of forfeiture under this subsection, and who is dissatisfied with the Attorney General's decision regarding his petition, may obtain review of the Attorney General's decision in the district court in which the order of forfeiture was entered. The court shall set aside the decision of the Attorney General if it finds, based on the record of the petition proceedings, that the decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(i) The Attorney General shall within one hundred and eighty days of the enactment of this Act promulgate regulations with respect to—

"(1) making reasonable efforts to provide notice to persons who may have an interest in property ordered forfeited under this section;

"(2) granting petitions for remission or mitigation of forfeiture;

"(3) the restitution of property to victims of an offense petitioning for remission or mitigation of forfeiture under this chapter;

"(4) the disposition by the United States of forfeited property by public sale or other commercially feasible means;

"(5) the maintenance and safekeeping of any property forfeited under this section pending its disposition; and

"(6) the compromise of claims arising under this chapter.

Pending the promulgation of such regulations, all provisions of law relating to the disposition of property, or the proceeds from the sale thereof, or the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Such duties as are imposed upon the Customs Service or any other person with respect to the disposition of property under the customs law shall be performed under this chapter by the Attorney General.

"(j) Except as provided in this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property, prior to or during the trial or appeal of the criminal case, or during the period in which any petition for remission or mitigation of forfeiture is pending before the Attorney General.

"(k) The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) In order to facilitate the identification or location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under rule 15 of the Federal Rules of Criminal Procedure.".

PART B

SEC. 503. Part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end thereof the following new section:

"CRIMINAL FORFEITURES

"Property Subject to Criminal Forfeiture

"SEC. 413. (a) Any person convicted of a violation of this title or title III punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law—

"(1) any property constituting, or derived from, any proceeds he obtained, directly or indirectly as the result of such violation;

"(2) any of this property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and

"(3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 408 of this title (21 U.S.C. 848), he shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this title or title III, that he forfeit to the United States all property described in this subsection.

"Meaning of Term 'Property'

"(b) Property subject to criminal forfeiture under this section includes—

"(1) real property, including things growing on, affixed to, and found in land; and

"(2) tangible and intangible personal property, including rights, privileges, interests, claims and securities.

"Third Party Transfers

"(c) All right, title, and interest in property described in subsection (a) vests in the

United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is held in the name of, or possessed by, a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States: Provided, That the Attorney General shall not direct disposition of any such property if, in a proceeding under subsection (i), the person establishes to the Attorney General by evidence contained in a petition for remission or mitigation of forfeiture, or the Attorney General otherwise has reason to know, that—

"(1) the person was a bona fide purchaser of the property for value; and

"(2) the person was reasonably without cause to believe that the property was of the type described in subsection (a).

"Substitute Assets

"(d) If any of the property described in subsection (a)—

"(1) cannot be located,

"(2) has been transferred to, sold to, or deposited with a third party,

"(3) has been placed beyond the jurisdiction of the court,

"(4) has been substantially diminished in value by any act or omission of the defendant, or

"(5) has been commingled with other property which cannot be divided without difficulty,

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

"Protective Orders

"(e)(1) Upon application of the United States, the court may, after a hearing with respect to which any adverse parties have been given reasonable notice and opportunity to participate, enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this title or title III for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if the court determines—

"(i) that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that the property is in the possession or control of the party against whom the order is to be entered, and

"(ii) that the party against whom the order is to be entered has failed to demonstrate that the entry of the requested order would result in substantial and irreparable harm or injury to him that outweighs the need to preserve the availability of the property through the entry of the requested order:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) Upon application of the United States, a temporary restraining order to preserve the availability of property described in subsection (a) for forfeiture under this section may be granted without notice to the adverse party or his attorney if—

"(A) an indictment or information described in paragraph (1)(A) has been filed or if the court determines that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that the property is in the possession or control of the party against whom the order is to be entered; and

"(B) the court determines that the nature of the property is such that it can be concealed, disposed of, or placed beyond the jurisdiction of the court before the adverse party may be heard in opposition.

A temporary order granted without notice to the adverse party shall expire within such time, not to exceed ten days, as the court fixes, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. If a temporary restraining order is granted without notice to the adverse party, a hearing concerning the entry of an order under paragraph (1) shall be held at the earliest possible time and prior to the expiration of the temporary order.

"Warrant of Seizure

"(f) The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (f) may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"Execution

"(g) Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"Disposition of Property

"(h) Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"Authority of the Attorney General

"(i) With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this chapter;

"(2) compromise claims arising under this chapter;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 511(e) of this title (21 U.S.C. 881(e)), of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

A person who has filed a petition for remission or mitigation of forfeiture under this subsection, and who is dissatisfied with the Attorney General's decision regarding his petition, may obtain review of the Attorney General's decision in the district court in which the order of forfeiture was entered. The court shall set aside the decision of the Attorney General if it finds, based on the record of the petition proceedings, that the decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"Applicability of Civil Forfeiture Provisions

"(j) Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 511(d) of this title (21 U.S.C. 881(d)) shall apply to a criminal forfeiture under this section.

"Bar on Intervention; Exhaustion of Administrative Remedies

"(k) Except as provided in this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property, prior to or during the trial or appeal of the criminal case, or during the period in which any petition for remission or mitigation of forfeiture is pending before the Attorney General.

"Jurisdiction To Enter Orders

"(l) The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"Depositions

"(m) In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeit-

ure, after the entry of an order declaring property forfeited to the United States the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under rule 15 of the Federal Rules of Criminal Procedure.".

SEC. 504. Section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 824) is amended by adding at the end of subsection (f) the following sentence: "All right, title, and interest in such controlled substances shall vest in the United States upon a revocation order becoming final.".

SEC. 505. Section 408 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 848) is amended—

(a) in subsection (a)—

(1) by striking out "(1)";

(2) by striking out "paragraph (2)" each time it appears, and inserting in lieu thereof "section 413 of this title"; and

(3) by striking out paragraph (2); and

(b) by striking out subsection (d).

SEC. 506. Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended—

(a) in subsection (a) by inserting at the end thereof the following new subsection:

"(7) All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this title punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.";

(b) in subsection (b)—

(1) by inserting "civil or criminal" after "Any property subject to"; and

(2) by striking out in paragraph (4) "has been used or is intended to be used in violation of" and inserting in lieu thereof "is subject to civil or criminal forfeiture under";

(c) in subsection (c)—

(1) by inserting in the second sentence "any of" after "Whenever property is seized under"; and

(2) by inserting in paragraph (3) ", if practicable," after "remove it";

(d) in subsection (d) by inserting "any of" after "alleged to have been incurred, under";

(e) in subsection (e)—

(1) by inserting "civilly or criminally" in the first sentence after "Whenever property is"; and

(2) by striking out in paragraph (3) "remove it for disposition" and inserting in lieu thereof "and dispose of it"; and

(f) by inserting at the end thereof the following new subsections:

"(h) All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(i) Pending, or upon, the filing of an indictment or information charging a violation of this title or title III for which criminal forfeiture may be ordered under section 413 of this title, and alleging that property would, in the event of conviction, be subject to criminal forfeiture, any civil forfeiture proceeding concerning such property commenced under this section shall, for good cause shown, be stayed pending disposition of the criminal case.".

SEC. 507. Part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end thereof the following new section:

"CRIMINAL FORFEITURES

"SEC. 1017. Section 413 of title II, relating to criminal forfeitures, shall apply in every respect to a violation of this title punishable by imprisonment for more than one year.".

SEC. 508. The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(a) by adding immediately after

"Sec. 412. Applicability of treaties and other international agreements."

the following new item:

"Sec. 413. Criminal forfeitures."; and

(b) by adding immediately after

"Sec. 1016. Authority of Secretary of the Treasury."

the following new item:

"Sec. 1017. Criminal forfeitures.".

PART C

SEC. 509. (a) Section 511(e)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended by adding after "retain the property for official use" the following: "or transfer the custody or ownership of any forfeited property to any Federal, State, or local agency pursuant to section 616 of the Tariff Act of 1930 (19 U.S.C. 1616).".

(b) Section 511(e) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(e)) is further amended by striking out all that follows "this subchapter shall be" and inserting in lieu thereof the following: "deposited in the Drug Assets Forfeiture Fund."

SEC. 510. The Comprehensive Drug abuse Prevention and Control Act of 1970 (21 U.S.C. 881 et seq.) is amended by inserting after section 516 the following new section to read as follows:

"§ 517. Drug Assets Forfeiture Fund

"(a) There is hereby established in the Treasury of the United States a special account that shall be entitled the 'Drug Assets Forfeiture Fund'. This account shall be available without fiscal year limitations for the following purposes of the United States Department of Justice;

"(1) the payment of all expenses necessary to inventory, safeguard and maintain property under seizure, detention, or forfeited pursuant to any provision of this Act. Expenses of maintenance may include payments for contract services and payments to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions;

"(2) the payment of awards for information or assistance leading to a civil or criminal forfeiture under, or regarding any violation of, this Act, at the discretion of the Attorney General;

"(3) the payment of valid liens and mortgages against any property that has been forfeited pursuant to any provision of this Act, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made.

"(b) The Drug Assets Forfeiture Fund shall be initially funded by any sums not otherwise obligated from the 1981 and 1982 fiscal year appropriations of the United States Department of Justice.

"(c) All proceeds from the sale or other disposition of property forfeited under any provision of this Act and any seized and forfeited currency shall be deposited to the Drug Assets Forfeiture Fund.

"(d) At the end of each calendar quarter, any sums in the Fund in excess of ten million dollars shall be transferred to the general fund of the Treasury of the United States.

"(e) Amounts in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(f) Within sixty days of the end of each fiscal year, the Attorney General shall report to the appropriate oversight committee of the Congress on the receipts and disbursement of the Drug Assets Forfeiture Fund.

"(g) The provisions relating to payments to and disbursements from the Drug Assets Forfeiture Fund established by this section shall apply to all property disbursed of or in Department of Justice custody on or after the effective date of the Violent Crime and Drug Enforcement Improvements Act of 1982.".

PART D

SEC. 511. Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"§ 607. Seizure; value $100,000, or less; prohibited articles; transporting conveyances

"If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise consists of articles the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, or otherwise transport or store any controlled substances,

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.".

SEC. 512. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended by striking out "$250" in the second sentence and inserting in lieu thereof the following: "$2,500 or ten percent of the value of the claimed property, whichever is less".

SEC. 513. Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended by striking out "after deducting the actual expenses of seizure, publication, and sale in the Treasury of the United States." and inserting in lieu thereof the following: "into the Customs Forfeiture Fund.".

SEC. 514. Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and substituting in lieu thereof the following: "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to the procedure set forth in section 607,".

SEC. 515. Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended by—

(1) inserting "aircraft," immediately after "vehicle," wherever it appears in the section;

(2) striking out "and the value of such vessel, vehicle, merchandise, or baggage as determined under section 606 does not exceed $10,000," in the first sentence and inserting in lieu thereof the following: "and the article is subject to the provisions of section 607 of this Act,"; and

(3) striking out "If such values of such vessel, vehicle, merchandise, or baggage exceeds $10,000," in the second sentence and inserting in lieu thereof the following: "If the article is not subject to the provisions of section 607 of this Act,".

SEC. 516. (a) Section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended by striking out "disposed of as follows:" and clauses (1), (2), and (3), and inserting in lieu thereof the following: "deposited in the Customs Forfeiture Fund.".

(b) Section 613(b) of the Tariff Act of 1930 (19 U.S.C. 1613(b)) is amended by striking out "(a) (1) and (2) of this section" and inserting in lieu thereof "(a)(4) of section 613a of this Act (19 U.S.C. 1613a(a)(4))".

SEC. 517. The Tariff Act of 1930 is amended by adding a new section immediately after section 613 (19 U.S.C. 1613) to read as follows:

"§ 613a. Customs Forfeiture Fund

"(a) There is hereby established in the Treasury of the United States a special account for the United States Customs Service that shall be entitled the 'Customs Forfeiture Fund'. This account shall be available without fiscal year limitations for the following purposes of the United States Customs Service—

"(1) the payment of all expenses necessary to inventory, safeguard, and maintain property under seizure, detention, or forfeited pursuant to any law enforced or administered by the United States Customs Service, including payments for expenses of maintenance, contract services, and to reimburse any Federal, State, or local agency for any expenditures made for the maintenance of property;

"(2) the payment of awards of compensation to informers under section 619 of the Tariff Act of 1930, as amended;

"(3) the payment by appropriate customs officers for the purchase of information concerning violations or possible violations of any law enforced or administered by the Customs Service; and

"(4) the payment to persons whom the appropriate customs officer determines hold valid—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) liens against property that has been forfeited pursuant to any law enforced or administered by the United States Customs Service,

subject to the condition that no payment to a lienholder shall exceed the net proceeds of the sale or, where the property is retained or transferred for official use, the appraised value less all applicable expenses.

"(b) The Fund shall be initially funded by any sums not otherwise obligated from the 1981 and 1982 fiscal year appropriations of the United States Customs Service.

"(c) All proceeds from the sale or other disposition of property forfeited, including any seized and forfeited currency, under any law enforced or administered by the Customs Service shall be deposited to the Customs Forfeiture Fund.

"(d) At the end of each calendar quarter, any sums in the Fund in excess of $10,000,000 shall be transferred to the general fund of the Treasury of the United States.

"(e) Amounts in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(f) Within sixty days of the end of each fiscal year, the Commissioner of Customs will report to the appropriate oversight committee of the Congress on the receipts and disbursement of the Customs Forfeiture Fund.

"(g) The provisions relating to payments and disbursements from the Fund established by this section shall apply to all property disbursed of or in the custody of the Customs Service on or after the effective date of this Act.".

SEC. 518. A new section, section 616, is added to the Tariff Act of 1930 (19 U.S.C. 1616) to read as follows:

"§ 616. Disposition of forfeited property

"(a) Notwithstanding any other provision of law, the Commissioner is authorized to retain forfeited property for official use or to transfer such forfeited property on such terms or conditions as he may determine to—

"(1) any other Federal agency; or

"(2) to any State or local governmental agency which routinely assists in the enforcement of the laws of the United States or participated in any of the acts which led to the property being seized.

The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency.

"(b) The Secretary of the Treasury is authorized to order the discontinuance of any Federal forfeiture proceedings in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute when he determines that such action is in the best interest of the United States. After the filing of a complaint for forfeiture in a United States district court, the appropriate attorney for the Department of Justice shall also have the authority to seek a voluntary dismissal of the complaint in favor of State or local action when he deems it to be in the best interest ot the United States.

"(c) Whenever forfeiture proceedings are discontinued by the Federal Government in favor of State or local proceedings, the Secretary is authorized to transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials.

"(d) Whenever forfeiture proceedings are discontinued by the Federal Government in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of such a decision. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials.".

SEC. 519. Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended by striking out "$50,000" wherever it appears and inserting in lieu thereof "$250,000".

SEC. 520. (a) The Tariff Act of 1930 is amended by adding a new section to read as follows:

"§ 589. Arrest authority of customs officers

"Subject to the direction of the Secretary of the Treasury, an officer of the Customs Service as defined in section 401(i) of this Act, as amended, may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States for arrest, search or seizure, or production of evidence;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(b) Section 7607 of the Internal Revenue Act of 1954 (26 U.S.C. 7607) is repealed.

SEC. 521. Sections 602, 605, 606, 608, 609, 611, 613, 614, 615, 618, and 619 (19 U.S.C. 1602, 1605, 1606, 1608, 1609, 1611, 1613, 1614, 1615, 1618, and 1619) of the Tariff Act of 1930 are amended by inserting the word "aircraft," immediately after the words "vehicle" or "vehicles," wherever they appear.

TITLE VI—SURPLUS FEDERAL PROPERTY AMENDMENTS

SEC. 601. Section 203 of the Federal Property and Administrative Services Act of 1949 as amended (40 U.S.C. 484), is further amended by adding at the end thereof the following new subsection:

"(p)(1) Under such regulations as he may prescribe, the Administrator is authorized in his discretion to transfer or convey to the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or any political subdivision or instrumentality thereof, surplus property determined by the Attorney General to be required for correctional facility use by the authorized transferee or grantee under an appropriate program or project for the care or rehabilitation of criminal offenders as approved by the Attorney General. Transfers or conveyance under this authority shall be made by the Administrator without monetary consideration to the United States. If the Attorney General determines that any surplus property transferred or conveyed pursuant to an agreement entered into between March 1, 1982, and the enactment of this subsection was suitable for transfer or conveyance under this subsection, the Administrator shall reimburse the transferee for any monetary consideration paid to the United States for such transfer or conveyance.

"(2) The deed of conveyance of any surplus real property disposed of under the provisions of this subsection—

"(A) shall provide that all such property shall be used and maintained for the purpose for which it was conveyed in perpetuity, and that in the event the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the United States, revert to the United States; and

"(B) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to

be necessary to safeguard the interests of the United States.

"(3) With respect to surplus real property conveyed pursuant to this subsection, the Administrator is authorized and directed—

"(A) to determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which such transfer was made;

"(B) to reform, correct, or amend any such instrument by the execution of a corrective reformative or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law; and

"(C) to (i) grant releases from any of the terms, conditions, reservations, and restrictions contained in, and (ii) convey, quitclaim, or release to the transferee or other eligible user any right or interest reserved to the United States by any instrument by which such transfer was made, if he determines that the property so transferred no longer serves the purpose for which it was transferred, or that such release, conveyance, or quitclaim deed will not prevent accomplishment of the purpose for which such property was so transferred: Provided, That any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as he or she shall deem necessary to protect or advance the interests of the United States.".

SEC. 602. The first sentence of subsection (o) of section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(o)), is further amended by revising the first sentence of such subsection to read as follows:

"(o) The Administrator with respect to personal property donated under subsection (j) of this section and with respect to personal or real property transferred or conveyanced under subsection (p) of this section, and the head of each executive agency disposing of real property under subsection (k) of this section, shall submit during the calendar quarter following the close of each fiscal year a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) showing the acquisition cost of all personal property so donated and of all real property so disposed of during the preceding fiscal year.".

TITLE VII—MISCELLANEOUS CRIMINAL JUSTICE IMPROVEMENTS

PART A

SEC. 701. (a) Chapter 95 of title 18, United States Code, is amended by adding new sections 1952A and 1952B, following section 1952, as follows:

"§ 1952A. Use of interstate commerce facilities in the commission of murder-for-hire

"(a) Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility in interstate or foreign commerce, with intent that a murder be committed in violation of the laws of any State or the United States as consideration for the receipt of anything of pecuniary value or for a promise to pay anything of pecuniary value, shall be fined not more than $10,000 or imprisoned for not more than five years, or both; and if personal injury results, shall be fined not more than $20,000 and imprisoned for not more than twenty years, or both; and if death results, shall be subject to imprisonment for any term of years or by life imprisonment, or shall be fined not more than $50,000, or both.

"(b) As used in this section—

"(1) 'anything of pecuniary value' means anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage; and

"(2) 'facility of interstate commerce' includes means of transportation and communication.

"§ 1952B. Violent crimes in aid of racketeering activity

"(a) Whoever, as consideration for the receipt of or as consideration for a promise or agreement to pay anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnaps, maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires so to do, shall be punished—

"(1) for murder or kidnapping, by imprisonment for any term of years or for life or a fine of not more than $50,000, or both;

"(2) for maiming, by imprisonment for not more than thirty years or a fine of not more than $30,000, or both;

"(3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years or a fine of not more than $20,000, or both;

"(4) for threatening to commit a crime of violence, by imprisonment for not more than five years or a fine of not more than $5,000, or both;

"(5) for attempting or conspiring to commit murder, by imprisonment for not more than ten years or a fine of not more than $10,000, or both; and

"(6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years or a fine of not more than $3,000, or both.

"(b) As used in this section—

"(1) 'racketeering activity' has the meaning set forth in section 1961 of this title; and

"(2) 'enterprise' includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce.".

(b) The analysis at the beginning of the chapter is amended by adding after the item relating to section 1952 the following:

"1952A. Use of interstate commerce facilities in the commission of murder-for-hire.

"1952B. Violent crimes in aid of racketeering activity.".

PART B

SEC. 702. Section 2510 of title 18 of the United States Code is amended—

(1) in paragraph (10), by striking out "and" at the end thereof;

(2) in paragraph (11), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(12) 'surreptitious entry' means a physical entry upon a private place or premises to install, repair, reposition, replace, or remove any electronic, mechanical, or other device, and includes both covert entry and entry effected by means of a ruse or subterfuge.".

SEC. 703. Section 2518(1) of that title is amended—

(1) in paragraph (e), by striking out "and" at the end thereof;

(2) in paragraph (f), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(g) a statement whether surreptitious entries are required to carry out the order.".

SEC. 704. Section 2518(4) of that title is amended—

(1) in paragraph (d), by striking out the "and" at the end thereof;

(2) in paragraph (e), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(f) whether surreptitious entries are authorized or approved to carry out the order, and, if such entries are authorized or approved, the identity of the agency authorized to make the surreptitious entries.".

SEC. 705. Section 2518(7) of that title is amended—

(1) by amending paragraph (a) to read as follows:

"(a) an emergency situation exists that involves—

"(i) immediate danger of death or serious physical injury to any person,

"(ii) conspiratorial activities threatening the national security interest, or

"(iii) conspiratorial activities characteristic of organized crime,

that requires a wire or oral communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and"; and

(2) by inserting a comma and "and may make any surreptitious entry required to effect such interception," immediately before "if an application for an order".

SEC. 706. Section 2519(1) of that title is amended—

(1) by inserting immediately after paragraph (e) the following:

"(f) the fact that surreptitious entries to carry out the order were authorized or approved;"; and

(2) by redesignating paragraphs (f) and (g) as paragraphs (g) and (h), respectively.

SEC. 707. Section 2519(2) of that title is amended in paragraph (a) by striking out "(g)" and by inserting in lieu thereof "(h)".

PART C

SEC. 708. Section 5031 of title 18 of the United States Code is amended by striking the word "eighteenth" both places it appears and inserting in lieu thereof the word "seventeenth".

SEC. 709. Section 5032 of title 18 of the United States Code is amended—

(1) by striking out the word "or" preceding "(2)" in the first paragraph;

(2) by striking the period at the end of the first paragraph and inserting in lieu thereof ", or (3) that the offense charged is a felony and that there is a substantial federal interest in the case or the offense to warrant the exercise of federal jurisdiction.";

(3) in the fourth paragraph, by striking "punishable by a maximum penalty of ten years imprisonment or more, life imprisonment or death," and insert in lieu thereof "that is a crime of violence or an offense de-

scribed in section 841, 952(a), 955, or 959 of title 21,"; and in the same paragraph, strike out "sixteen" and "sixteenth" and insert in lieu thereof "fourteen" and "fourteen'h", respectively;

(4) in the fourth paragraph, by striking out the period at the end of the paragraph and inserting in lieu thereof "; however, a juvenile who is alleged to have committed one of the preceding enumerated felonies after having been found guilty of one act which if committed by an adult would have been a crime of violence or an offense described in section 841, 952(a), 955, or 959 to title 21, or a crime of violence in violation of a State felony statute, shall be transferred to the appropriate district court of the United States for criminal prosecution."; and

(5) by adding at the end of the section the following:

"Whenever a juvenile transferred to district court under this section is not convicted of the crime upon which the transfer was based or another crime which would have warranted transfer had the juvenile been initially charged with that crime, further proceedings concerning the juvenile shall be conducted pursuant to the provisions of this chapter.

"Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until any prior juvenile court records of such juvenile have been received by the court, or the clerk of the juvenile court has certified in writing that the juvenile has no prior record, or that the juvenile's record is unavailable, and why it is unavailable.

"Whenever a juvenile is adjudged delinquent pursuant to the provisions of this chapter, the specific acts which the juvenile has been found to have committed shall be described as part of the official record of the proceedings and part of the juvenile's official record.".

SEC. 710. Section 5038 of title 18 of the United States Code is amended by striking subsection (d) and inserting in lieu thereof the following:

"(d) Whenever a juvenile is found guilty of committing an act which if committed by an adult would be a felony that is a crime of violence or an offense described in section 841, 952(a), 955, or 959 of title 21, such juvenile shall be fingerprinted and photographed. Fingerprints and photographs of a juvenile who is not prosecuted as an adult shall be made available only in accordance with the provisions of subsection (a) of this section. Fingerprints and photographs of a juvenile who is prosecuted as an adult shall be made available in the manner applicable to adult defendants.

"(e) Unless a juvenile who is taken into custody is prosecuted as an adult neither the name nor picture of any juvenile shall be made public by any medium of public information in connection with a juvenile delinquency proceeding.".

PART D

SEC. 711. Section 1201 of title 18 of the United States Code is amended—

(1) in subsection (a)(3), by deleting "or" at the end thereof;

(2) in subsection (a)(4), by deleting the comma at the end thereof and substituting "; or"; and

(3) by adding after subsection (a)(4) a new subsection (a)(5) to read as follows:

"(5) the person is among those officers and employees designated in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of his official duties,".

PART E

SEC. 712. Chapter 7 of title 18 of the United States Code is amended by adding a new section at the end thereof to read as follows:

"§ 115. Influencing, impeding, or retaliating against a federal official by threatening or injuring a family member

"(a) Whoever assaults, kidnaps, or murders, or attempts to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official, United States judge, or Federal law enforcement officer, with intent to impede, intimidate, interfere with, or retaliate against such official, judge or law enforcement officer while he is engaged in or on account of the performance of his official duties, shall be punished as provided in subsection (b).

"(b)(1) An assault in violation of this section shall be punished as provided in section 111 of this title.

"(2) A kidnaping or attempted kidnaping in violation of this section shall be punished as provided in section 1201 of this title.

"(3) A murder or attempted murder in violation of this section shall be punished as provided in sections 1111 and 1113 of this title.

"(4) A threat made in violation of this title shall be punished by a fine of not more than $5,000 or imprisonment for a term of not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(c) As used in this section, the term—

"(1) 'Federal law enforcement officer' means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of federal criminal law;

"(2) 'immediate family member' of an individual means—

"(A) his spouse, parent, brother or sister, child, or person to whom he stands in loco parentis; or

"(B) any other person living in his household and related to him by blood or marriage;

"(3) 'United States judge' means any judicial officer of the United States, and includes a Justice of the Supreme Court and a United States magistrate; and

"(4) 'United States official' means the President, President-elect, Vice President, Vice President-elect, a Member of Congress, a Member-elect of Congress, a member of the executive branch who is the head of a department listed in 5 U.S.C. 101, or the Director of Central Intelligence.".

PART F

SEC. 713. Section 31 of title 18 of the United States Code is amended in the definition of "motor vehicle" by striking out "or passengers and property;" and inserting in lieu thereof "passengers and property, or property or cargo;".

PART G

SEC. 714. (a) Section 207(a) of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1056(a)) is amended by striking out "a civil penalty not exceeding $1,000" and inserting in lieu thereof "a civil penalty not exceeding $10,000".

(b) Section 209 of such Act (31 U.S.C. 1058) is amended by striking out "$1,000, or imprisonment not more than one year, or both" and inserting in lieu thereof "$50,000, or imprisonment not more than five years, or both".

(c) Section 231(a) of such Act (31 U.S.C. 1101(a)) is amended—

(1) by inserting ", or attempts to transport or cause to be transported," after "transports or causes to be transported" in paragraph (1); and

(2) by striking out "in an amount exceeding $5,000" and inserting in lieu thereof "in an amount exceeding $10,000".

(d) Section 235 of such Act (31 U.S.C. 1105) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following new subsection after subsection (a):

"(b) A customs officer may stop and search, without a search warrant, a vehicle, vessel, aircraft, or other conveyance, envelope or other container, or person entering or departing from the United States with respect to which or whom the officer has reasonable cause to believe there is a monetary instrument being transported in violation of section 231.".

(e)(1) Chapter 1 of such Act is amended by adding the following new section at the end thereof:

"§ 214. Rewards for informants

"(a) The Secretary may pay a reward to an individual who provides original information which leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000, for a violation of this title.

"(b) The Secretary shall determine the amount of a reward under this section. The Secretary may not award more than 25 per centum of the net amount of the fine, penalty, or forfeiture collected or $250,000, whichever is less.

"(c) An officer or employee of the United States, a State, or a local government who provides information described in subsection (a) in the performance of official duties is not eligible for a reward under this section.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

(2) The table of contents of such chapter is amended by adding the following new item after the item relating to section 213:

"214. Rewards for informants.".

SEC. 715. Section 1961(1) of title 18, United States Code, is amended—

(1) by striking out "or" after "(relating to embezzlement from union funds),"; and

(2) by inserting before the semicolon at the end thereof the following: ", or (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act".

PART H

SEC. 716. (a) Chapter 103 of title 18 of the United States Code is amended by adding at the end thereof a new section as follows:

"§ 2118. Robbery of a pharmacy

"(a) Whoever takes property from a pharmacy or a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) by force or violence, or by intimidation, shall be imprisoned for not more than ten years, or fined not more than $5,000, or both.

"(b) For purposes of this section, the term 'property' means a controlled substance, consisting of a narcotic, amphetamine, or barbiturate that is listed in Schedules I through IV established by section 202 of the Controlled Substances Act (21 U.S.C. 812).".

(b) The analysis for chapter 103 of title 18 of the United States Code is amended by adding at the end thereof the following:

"2118. Robbery of a pharmacy.".

(c)(1) The Senate finds that—

(A) there has been an alarming increase in the number of pharmacy robberies since enactment of the Comprehensive Drug Abuse Prevention and Control Act of 1970;

(B) there is a serious need to ensure the maximum Federal effort in attempting to curb these often violent crimes; and

(C) this goal can best be accomplished through consultation between the relevant Government agencies and those dealing with controlled substances.

(2) It is the sense of the Senate that—

(A) the Attorney General, in consultation with the Secretary of Health and Human Services, through the Administrator of the Drug Enforcement Administration should regularly meet with the Joint Commission of Pharmacy Practitioners to discuss this problem; and

(B) that in order to provide accurate and current information on the nature and extent of pharmacy crime the Department of Justice should collect relevant data and include pertinent results in its annual Uniform Crime Report.

PART I

SEC. 717. (a) Chapter 19 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 373. Solicitation to commit crime of violence

"(a) OFFENSE.—Whoever, with intent that another person engage in conduct constituting a Federal crime of violence, and under circumstances strongly corroborative of that intent, solicits, commands, induces, or otherwise endeavors to persuade such other person to engage in such conduct, shall be imprisoned not more than one-half the maximum term of imprisonment or fined not more than one-half the maximum fine prescribed for the punishment of the crime solicited, or both; or if the crime solicited is punishable by death, shall be imprisoned for not more than twenty years.

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited. A renunciation is not 'voluntary and complete' if it is motivated in whole or in part by a decision to postpone the commission of the crime until another time or to substitute another victim or another but similar objective. If the defendant raises the affirmative defense at trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

"(c) DEFENSE PRECLUDED.—It is not a defense to a prosecution under this section that the person solicited could not be convicted of the crime because he lacked the state of mind required for the commission of the crime, because he was incompetent or irresponsible, or because he is immune from prosecution or otherwise not subject to prosecution.".

(b) Chapter 1 of title 18 of the United States Code is amended by adding at the end thereof a new section as follows:

"§ 16. Crime of violence defined

"Except as otherwise expressly provided, as used in this title 'crime of violence' means—

"(1) an offense that has an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(2) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

PART J

SEC. 718. Section 1111 of title 18 of the United States Code is amended by adding after the word "arson" the words "escape, murder, kidnapping, treason, espionage, sabotage,".

PART K

SEC. 719. (a) The problem of drug abuse continues to worsen in most parts of the world;

(b) The number of drug abusers has risen and abuse has spread geographically;

(c) The number, variety, and potency of illicitly used narcotics, drugs, and psychotropic substances have increased;

(d) Illicit production has expanded and trafficking flourishes; and

(e) A declaration by the United Nations of an International Year Against Drug Abuse would serve as a catalyst for interest and action at all international levels involving families, communities, neighborhoods, schools, religious institutions, and public, private, and voluntary associations: It is the sense of the Congress that the President is urged to promote a declaration by the United Nations of an International Year Against Drug Abuse.

PART L

SEC. 720. (a) Part D of the Controlled Substances Act is amended by adding after section 405 the following new section:

"DISTRIBUTION IN OR NEAR SCHOOLS

"SEC. 405A. (a) Any person who violates section 401(a)(1) by distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school is (except as provided in subsection (b)) punishable (1) by a term of imprisonment, or fine, or both up to twice that authorized by section 841(b) of this title and (2) at least twice any special parole term authorized by section 401(b) for a first offense involving the same controlled substance and schedule.

"(b) Any person who violates section 401(a)(1) by distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school after a prior conviction or convictions under subsection (a) have become final is punishable (1) by a term of imprisonment of not less than three years and not more than twenty years and (2) at least three times any special term authorized by section 401(b) for a second or subsequent offense involving the same controlled substance and schedule.

"(c) In the case of any sentence imposed under subsection (b) imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under section 4202 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.".

(b) Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "or 405A" after "405".

(c) Section 401(c) of such Act is amended by inserting "or 405A" after "405" each place it occurs.

(d) Section 405 of such Act (21 U.S.C. 845) is amended by striking out "Any" in subsections (a) and (b) and inserting in lieu thereof "Except as provided in section 405A, any".

PART M

SEC. 721. Notwithstanding any other provision of this Act, all contracts entered into pursuant to the authority granted in this Act shall be effective for any fiscal year only to such an extent or in such amounts as are provided in appropriation Acts.

PART N

SEC. 722. Section 405 of part D of the Controlled Substances Act (21 U.S.C. 845) is amended to read as follows:

"§ 845. Distribution to juveniles

"(a) Any person at least twenty-one years of age who violates section 401(a)(1) by distributing a controlled substance in Schedule I or II other than marijuana to a person under eighteen years of age shall be punished by a mandatory minimum term of imprisonment of five years as a part of any sentence imposed pursuant to section 401(b). No part of a sentence of imprisonment imposed pursuant to this section shall be suspended.

"(b) Any person at least twenty-one years of age who violates section 401(a)(1) by distributing marijuana or a controlled substance in Schedule III to a person under eighteen years of age shall be punished by a mandatory minimum term of imprisonment of three years as a part of any sentence imposed pursuant to section 401(b). No part of a sentence of imprisonment imposed pursuant to this section shall be suspended.

"(c) Any person sentenced under this section shall be ineligible for parole or any other type of release from imprisonment during the period of the mandatory minimum term of imprisonment.".

PART O

SEC. 723. (a) Chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 929. Use of restricted ammunition

"(a) Whoever, during and in relation to the commission of a crime of violence for which he may be prosecuted in a court of the United States, including a felony which provides for an enhanced punishment if committed by the use of a dangerous weapon or device, uses or carries any handgun loaded with armor-piercing ammunition as defined in subsection (b), shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment including that imposed for the felony in which the armor-piercing handgun ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole.

"(b) For purposes of this section—

"(1) 'armor-piercing ammunition' means ammunition which, when or if fired from any handgun used or carried in violation of subsection (a), under the test procedure of the National Institute of Law Enforcement and Criminal Justice Standard for the Ballistics Resistance of Police Body Armor promulgated December, 1978, is determined to be capable of penetrating bullet-resistant apparel or body armor meeting the requirements of Type IIA of Standard NILECJ-

STD-0101.01 as formulated by the United States Department of Justice and published in December of 1978;

"(2) 'crime of violence' means—

"(i) an offense, other than a misdemeanor that consists solely of damage to property and that does not place another person in danger of death or serious bodily injury, that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(ii) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(3) 'handgun' means any firearm, including a pistol or revolver, originally designed to be fired by the use of a single hand.".

(b) The table of sections for chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following:

"929. Use of restricted ammunition.".

PART P

SEC. 724. (a) Chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1365. Aggravated property destruction of an energy facility

"(a) Whoever knowingly and willfully—

"(1) damages the property of an energy facility in an amount that in fact exceeds $5,000; or

"(2) damages the property of an energy facility in any amount and causes a significant interruption or impairment of a function of an energy facility,

shall be punished in accordance with subsection (b).

"(b) An offense described in this section is—

"(1) punishable by a fine of not more than $50,000 or imprisonment of not more than ten years, or both—

"(A) in the circumstances set forth in subsection (a)(1) if the damage exceeds $100,000; and

"(B) in the circumstances set forth in subsection (a)(2); or

"(2) punishable by a fine of not more than $25,000, or imprisonment of not more than five years, or both, in any other case.

"(c) For purposes of this section, the term 'energy facility' means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning except a facility subject to the jurisdiction, administration, or in the custody of the Nuclear Regulatory Commission.

"(d) There is Federal jurisdiction over an offense described in this section if the offense is committed on the premises of an energy facility.".

(b) The table of contents for chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1365. Aggravated property destruction of an energy facility.".

PART Q

SEC. 725. (a) AUTHORIZATION.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions and purposes of this Act.

(b) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, no provision of this Act shall take effect prior to October 1, 1982.

PART R

SEC. 726. (a) Section 2252 of title 18, United States Code, is amended—

(1) in subsection (a)(1) by striking out ", for the purpose of sale or distribution for sale, any obscene" and inserting in lieu thereof "any"; and

(2) in subsection (a)(2) by striking out "for the purpose of sale or distribution for sale, or knowingly sells or distributes for sale, any obscene" and inserting in lieu thereof ", sells, or distributes any".

(b) Section 2253(3) of title 18, United States Code, is amended by striking out ", for pecuniary profit".

PART S

SEC. 727. Section 924(c) of title 18 of the United States Code is amended to read as follows:

"(c) Whoever—

"(1) uses any firearm to commit any felony for which he may be prosecuted in a court of the United States; or

"(2) carries a firearm during the commission of any such felony if an element of the offense is the use of violence or threat of imminent violence as defined in section 16 of this title;

shall, in addition to the punishment provided for the commission of the felony, be sentenced for the first such offense to a term of imprisonment of not less than two years, nor more than ten years, and for a second or subsequent such offense under this subsection or after conviction of using or carrying a firearm in the course of a similar felony under a State, local, or foreign law, to a term of imprisonment of not less than five nor more than twenty-five years. A term of imprisonment imposed pursuant to this subsection shall be consecutive to any other sentence of imprisonment for commission of the felony in which the firearm was used or carried. Notwithstanding any other provision of law, the court shall not suspend the imposition or execution of sentence or place the person on probation, nor shall the person be paroled before completing the specified minimum term of imprisonment.".

S. 3048, THE FEDERAL ANTI-TAMPERING ACT

Mr. THURMOND. Mr. President, the legislation which is before us now, S. 3048, the Federal Anti-Tampering Act, is a response to recent events which have brought fear and disgust into the hearts and minds of us all. I am referring, of course, to the numerous cases of tampering with products intended for human consumption. The vulnerability of the public was dramatically and tragically brought home to us recently in Chicago, where cyanide was inserted into Tylenol capsules, placed on drug store shelves, and purchased by innocent consumers. This incident resulted in the death of several persons, including three from the same family.

The Chicago poisonings were rapidly followed by a series of copycat tamperings involving such things as acid in eyedrops and razor blades in packaged foods. The most recent serious incident reportedly occurred around Thanksgiving and involved serious injury from cyanide-laced Anacin capsules. There have also been reports of individuals fraudulently alleging that products have been adulterated in order to bring harm upon the manufacturers or sellers of the products who are forced to recall the merchandise and remove it from store shelves.

Mr. President, the heinous conduct which we have witnessed demands prompt action by the Federal Government. In order to deter this conduct and to bring the full resources of the Federal Government to bear in apprehending and prosecuting the individuals who perpetrate these despicable crimes, I, along with the distinguished Senator from Delaware, Mr. BIDEN, and a number of other Senators have cosponsored S. 3048.

This legislation invokes the broad commerce jurisdiction of the United States to make it a serious Federal crime to tamper with or adulterate foods, drugs, cosmetics, hazardous substances, or any other commodity designed for personal use, with the intent to harm individuals or businesses. Currently adulteration is punishable by a maximum prison sentence of only 1 year or by a fine of $1,000, or both. By making this crime a felony and by increasing the maximum penalties significantly, we hopefully will be able to deter those who contemplate such conduct.

This measure also punishes the willful and malicious conveying of false information about product adulteration or tampering. By expanding the scope of Federal law in these areas, we will be better able to address the full range of product tampering conduct which the recent cases have demonstrated. In particular, we will be able to reach those situations where the tampering is undertaken or alleged in order to do harm to the public health and safety or to the reputation and good will of businesses.

Further, this legislation establishes severe penalties for violators. Those who engage in actual or attempted malicious product tampering or those who willfully convey false information about such tampering, will face imprisonment of up to 20 years, or a fine of up to $20,000, or both, and even a life sentence if death or injury results from the prohibited conduct.

By expanding the Federal antitampering laws and increasing the penalties for violations, we will be providing maximum protection to consumers throughout this country. The reprehensible poisonings which occurred must be prevented if possible, but certainly punished severely. Only by increasing the deterrence factor can we hope to succeed in realizing this objective.

This legislation also is important in that it encourages the use of Federal resources in appropriate cases to capture and prosecute tampering criminals. Almost all of the products which are subject to possible tampering are manufactured for and shipped in

interstate commerce. Because of this, it might be extremely difficult for one State to adequately investigate and prosecute a course of conduct carried out in one or more States, prior to the product being shipped to another State for distribution or final sale to consumers. Therefore, by assuring that the investigatory and prosecutorial resources of the Federal Government are available in all tampering cases, we will improve our ability to bring product tampering criminals to justice expeditiously.

Mr. President, surely all of my colleagues will agree that the product tampering activity which has occurred in recent weeks is a very serious problem. It can and has led to death, serious personal injury, and huge financial and intangible losses to the makers and sellers of the victimized products. It has brought fear and uncertainty to almost all of us who, up until recently, had great faith that the products we purchased were fit for consumption. Because of the devastating impact that these events have had on consumers and businesses alike, it is imperative that the Congress take whatever action is necessary to protect consumers and restore their confidence in the safety of the products they purchase. S. 3048 will help achieve these results. I, therefore, urge my colleagues to join me and the distinguished cosponsors in voting for passage of this legislation so that we may fulfill our responsibility to the Nation's consumers before this session of Congress expires.

Mr. President, Forbes magazine's December issue has a most informative article on "The Poison Problem." It is timely and relevant to the issues of S. 3048. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE POISON PROBLEM

(By Priscilla S. Meyer with Jay Gissen)

Frank Alger, president of the Lawson Co. in Cuyahoga Falls, Ohio, says that on Oct. 13 four retailers received phone calls that made his blood run cold. There was poison in some Lawson milk headed to customers, the voice said. A later call demanded money. If the company wanted to save its customers' lives, as well as the good name and possible solvency of Lawson, it must pay.

Now, a suspected extortionist is behind bars and no customers have been poisoned. In fact, after Lawson recalled all its milk, it discovered none had been poisoned. But it was a costly and frightening experience, says Alger. "The eventual recall cost $100,000," he says, and hurt business for weeks.

Businesses have been encountering this sort of threat, the real thing as well as bluffs, for several years now. Adulterated and poisoned products (apart from bomb threats against plants and stores) stretch well beyond national brands like Tylenol, and the targets include more than national drug companies. The Tylenol case may or may not turn out to be an extortion scheme gone awry (suppose some secretary threw out the extortionate demand letter, for example), but the wide publicity over Tylenol poisonings has brought the ugly problem of product extortion out of the closet.

Product extortion schemes emerged in the late 1970s and at first received only local publicity. One of the earliest involved cyanide-adulterated food. A small grocery store outside Portland, Ore. got word in late 1979 that a poisoned product would be found on its shelves marked with a large "X," and that there were other poisoned products on the store's shelves as well. To locate the poisoned items the market owner—who, of course, closed down the store and cleaned off his shelves—would have to pay in diamonds that were to be attached to carrier pigeons, waiting at a soon-to-be-disclosed location.

Local publicity brought to investigators the dealer who had sold the pigeons, the extortionist was identified and eventually, after he tried to pull a similar scheme by poisoning a jar of Campbell Soup Co.'s Vlasic pickles at a Safeway store in La Jolla, Calif., he was arrested.

But product extortion threats became a larger and larger problem. A separate attempt was made using Vlasic pickles in Atlanta in 1980, this time for cash. In late 1979 the FBI was already working on five separate schemes, which they suspected involved two separate groups of extortionists. Investigators feared they were hearing about fewer than half the schemes that were actually under way. "This sort of thing petrifies companies," an investigator confided.

Typically, an adulterated package of the product was sent to the manufacturer along with a note demanding money in exchange for disclosure of where other poisoned or drugged products had been put on retail shelves. Alternatively, retail stores were told of the location of one adulterated item—like the Vlasic pickles—and warned they wouldn't be told the location of other similarly poisoned products if they didn't pay up.

More than once in the late 1970s the national press investigated, and determined not to publish, stories on the growing extortion menace on grounds that it might cause an explosion of poisonings. Then the Tylenol disaster in October let the cat out of the bag. The wide publicity produced waves of copycat poisonings, adulterated drugs, food products, acid in eyedrops and other horrifying crimes. "Tylenol was the first time this agency has had to deal with anything of this kind," says James Greene, a spokesman for the FDA. "Then came Excedrin and then a flurry of deliberate tampering of various food products over a couple of weeks now."

"At any given time we're dealing with a number of these things," says a spokesman for the FBI, conceding "it's terrifying." Unfortunately, it's not simply copycat psychos out there.

"There are 15 ongoing extortion cases I know about today," says Paul Chamberlain of the Paul Chamberlain Agency, a private Los Angeles-based company staffed by ex-FBI agents that specializes in helping companies deal with extortion and kidnapping problems.

One investigator suspects the idea of product extortion may actually have come from a mystery novel, "Murder to Go," by Emma Lathen, which outlined a scheme to destroy a fried-chicken franchise business through poisonous zinc salts. Simon & Schuster, the publisher, says there were two printings in 1969 with some 10,000 copies sold in hardback.

Paperback editions, with some 190,800 copies, came out between 1971 and 1977. By that time more sophisticated versions of a product extortion scheme were circulating in the prison underground, spelling out the ABCs of product extortion.

Before the late 1960s, extortion was primarily a personal problem—kidnapping of the wealthy tied to ransom notes. Then came a wave of politically motivated airplane hijackings, triggering, in 1971, similar hijackings for cash extorted from the airlines.

That was in November 1971 when D. B. Cooper, reportedly armed with a bomb, hijacked a Northwest Boeing 727 on a Washington, D.C.-Seattle flight, collected $200,000 ransom in Seattle, plus four parachutes, and ordered the pilot to fly to Mexico. Cooper bailed out along the way, and was never captured. That set off a chain of similar hijackings against other airlines, which became so pervasive that, by January 1972, federal officials were attributing four out of five of the ongoing hijackings to extortion rather than politics. That sort of extortion is currently almost at a standstill, investigators say, thwarted by extensive precautions by airlines.

Even so, the extortion wave has spread, first involving bomb threats against airlines in the terminals, and eventually similar threats to corporate facilities, department stores, skyscrapers and plant facilities. And these extortion schemes continue; witness the recent bombing of Gulf Oil facilities near Houston.

Indeed, FBI bank crime statistics through June 1978 don't even include bomb devices. Suddenly, in the next six months there were 63 incidents at banks involving bomb devices, many apparently used for extortion. In the first six months of 1982, bomb devices were used 162 times.

Some in the FBI privately fear that product extortion, when properly executed, may be unstoppable. The implications are chilling. "It may ultimately become like the bomb scares. You can only empty a building so many times a day—and after a while you just live with the threats. And sometimes a bomb does go off," says the president of an insurance company writing coverage against such risks. Today some large buildings get as many as five bomb threats a day, mostly hoaxes. Mostly, but not all.

Safeguards as effective as those against airplane hijackings will be hard to devise. Business and the public must contend with yet another paradox of the 20th century—marvels of human ingenuity developed to enhance life sometimes matched by ingenious efforts to strike against it.

WHEN THE EXTORTIONIST CALLS . . .

As bad as product and bombing extortion threats may seem, things can be made worse by improper handling, investigators say.

In one instance cited by an ex-FBI agent, a company chief executive kept going to his board of directors for advice, slowing down efforts of investigators. The decisions they made were "absolutely unreal," he says—refusing to let the FBI secretly monitor the drop, for example—"because the board had no background at all to make these decisions."

As a result, the ransom money was lost. An even greater threat—avoidable death of

customers or employees—is possible through improper handling, say the investigators.

Here are a few pointers:

Use tamper-resistant packaging. Campbell says it's coming out with such packaging for its Vlasic pickles, and Tylenol is available now in tamper-resistant packaging. The experts say that if an extortionist is determined, nothing will stop him, but making it difficult may at least improve the odds he will move to some easier product.

Protect your company with insurance, which is now available to pay ransoms, cost of extortion recalls or, in some cases, even the cost of reestablishing a brand that has been crushed in an extortion scheme. Such insurance is available through most major corporate insurance policies.

In the early 1970s such extortion insurance was illegal in some states on the grounds that it seemed improper to insure payments to criminals. But another form of extortion had sprung from political protests—bank and corporate executive kidnappings. As kidnappings mounted, companies began going offshore to buy the coverage en masse and at great cost. Domestic insurance regulators relented.

First, American International Group, rapidly following by Chubb Corp. and the Professional Indemnity Agency, began offering the coverages at lower cost and in association with special services to help companies deal with kidnappings and extortion.

Consider a crisis management team. Advisers for setting up an internal team to deal with potential extortion are available through most insurance companies. In large companies the security manager generally is in charge of this team, which learns in advance how to deal with extortion threats properly.

Instruct your staff on how to handle threats. Executives, clerks and secretaries who might be first to receive a threat by phone or mail should be warned always to take it seriously. In the case of an extortion letter, it should be handled as little as possible and placcd between the pages of a magazine until it can be removed to a plastic envelope to preserve fingerprints. And the envelope most certainly should be saved.

Don't call the local police. Investigators say local police rarely have had experience in dealing with corporate extortion schemes or corporate kidnappings. Most police headquarters are closely monitored by the press. Calling the cops is tantamount to calling the local newspaper or televison station.

Call the FBI. Most extortion notes warn against this but, in fact, it violates the U.S. Code not to report a felony. What's more, the FBI will know what to do. "Our priorities are, first, to protect life, second, to protect property and, third, identify and apprehend persons responsible," say Lane Bonner of the FBI. In short, the FBI understands the seriousness of the threat to your brand and corporation as well as to your customers, and agents are trained to act accordingly. The faster the FBI is called, the more likely the crime is to be thwarted, Bonner adds.

Have someone empowered to make decisions. Someone should be predesignated to make decisions as to whether the threat is real, whether the ransom should be paid and how to deal with the extortionist. Confusion occurs when, for example, the board of directors must be consulted or a team of managers must make quick decisions through a flurry of bureaucratic memos.

Mr. SPECTER. Mr. President, I wish to offer what I hope will be seen by all my colleagues as a constructive suggestion with regard to our impending conference on the Justice Assistance Act.

In the days that have intervened since this body passed the Justice Assistance Act, H.R. 4481, as amended by the Senate, on Thursday evening, I have sought to work with other interested colleagues to determine whether other matters might appropriately be attached to the Senate amendment before its transmission to the House. In the waning days of this session there are several discrete measures in various stages of the legislative process that seemed likely candidates for such treatment. The packet of amendments offered by the majority leader and adopted by unanimous consent today are all measures that I can support. They are all included in this package without Senate objection.

Despite my support for the additional amendments, I respectfully observe for the benefit of my colleagues in both the Senate and the House that we should avoid sacrificing the benefits of enacting the Justice Assistance Act if other important but collateral issues cannot be resolved in the time remaining.

The Senate passed the Justice Assistance Act by unanimous consent. Last February, the House passed its version of the Justice Assistance Act by a vote of 289 to 73. The support of the White House and the Department of Justice were secured. This measure represents an important development in Federal assistance to State and local law enforcement and can help in the fight against crime.

In recognition of the importance of the Justice Assistance Act and its prompt enactment, I offer the following observation: As deeply as I believe in the career criminal amendment I have sponsored to this bill, I stand willing to recommend that the House-Senate conference leave it for another day if forebearance is needed for enactment of justice assistance and urge my colleagues who have attached other criminal law matters, in the spirit of accommodation, to be prepared to do the same.

Many of these other provisions are already under review in a separate conference. The career criminal bill, on the other hand, is not before the House.

I respectfully suggest that in this way we can foster a cooperative spirit in which other substantive criminal law matters can be conferenced in good faith and can thereby achieve the greatest possible legislative concensus and progress on matters about which many of us feel most deeply. Most importantly, we should not let justice assistance become the victim of nonenactment because of the additions of other matters.

THE FEDERAL ANTI-TAMPERING ACT

Mr. BIDEN. I joined Senator THURMOND in introducing the Federal Anti-Tampering Act, S. 3048, because I strongly believe that we cannot afford to wait any longer to enact necessary legislation.

The recent Tylenol tragedies have clearly demonstrated just how vulnerable we all are to the horror of random violence. These crimes are most reprehensible because the victims were innocent people and because the weapon used was a common household item we have all grown to trust. Fortunately, local authorities—in this instance the Chicago Police Department—have done excellent investigative work which I sincerely hope will soon result in an arrest.

This bill will enable the Federal law enforcement authorities to do all it can to assist local officials. In sum, it creates a felony punishable by up to 20 years in prison and $20,000 or life in prison if injury or death results when anyone adulterates or attempts to adulterate a food, drug, device or cosmetic tampers or attempts to tamper with a hazardous substance or a product designed for personal use or use within the home, or gives false information about such acts.

This bill is intentionally drafted very broadly. In essence it encompasses almost any change made in anything intended to be put on a persons body, in a persons body or used in the home if it is done with intent to injure a person or a business.

The bill increases the penalties for similar acts which under current Federal law are misdemeanors. In addition it will allow the full use of Federal investigative resources in most cases, thereby providing local authorities with assistance.

I urge your support for the "Federal Anti-Tampering Act."

S. 3048

Mr. LEAHY. Mr. President, the anti-tampering bill before the Senate fills a large gap in the protection of consumers against purposely adulterated food, drugs, and cosmetics. The crimes that have prompted our immediate attention to this problem do more than threaten and harm individuals. They eat away at the trust between members of our society. They threaten our sense of community.

I commend Senators THURMOND and BIDEN for their fast and thorough work on this bill. I am proposing an amendment that would establish three, rather than two, degrees of offense for those who convey false information about tampering. My amendment would create separate and appropriate penalties for those who disseminate false information leading to personal injury or death, for those who cause product recalls and disruption, and for those whose lies do not result

in direct and palpable harm. Under the present text, the latter two classes of offenders are lumped together, and conduct that we should strongly discourage may nevertheless be penalized too strongly where no direct injury results.

With this amendment, I believe the bill is fairer on its face and should therefore be welcomed by its supporters. It should also answer potential critics of the bill who might have regarded the penalties in the original text as excessively harsh where false information is transparently false and results in no harm.

I believe that Senators of both parties concerned with this bill have cleared this amendment, as have the industry groups supporting its passage.

I hope that the Senate and the House take prompt action on this legislation. Our lives and peace of mind are at stake.

Mr. THURMOND. Mr. President, the amendment offered on behalf of the distinguished Senator from Vermont (Mr. LEAHY) to S. 3048 is an improving amendment that is acceptable. It provides a more rational penalty structure for the crime of making malicious false statements concerning acts of tampering prohibited by other parts of the bill. I urge my colleagues to accept this amendment.

SURFACE TRANSPORTATION ACT OF 1982

The Senate resumed consideration of the bill.

Mr. BAKER. Mr. President, I understand and I am aware of the intention of the Senator from Kansas and the Senators from Missouri to offer a natural gas deregulation amendment. I have no problem with that. I anticipated it and the Senate will deal with it in its wisdom in whatever manner it wishes.

I had not expected it now and thought that we could deal with two leadership amendments first, as a procedural matter. I wonder if the Senators would agree to permit me to offer the substitute first, which is in the nature of an effort to bring together several parts of the bill that would be referred to different committees; and, second, then to provide that the distinguished minority leader, who has priority recognition after the majority leader, would be recognized to offer an amendment which he has in mind and which I think will embody perhaps a series of proposals in connection with title I; and that following on after that, the Senator from Texas (Mr. BENTSEN) would be recognized; and that after that the Senator from Kansas, or one of the Senators from Missouri, would be recognized to offer the natural gas deregulation bill?

The reason for that is just so everyone will know how we are going to proceed and we will have a regular order of business. I wonder if the Senator would react to that suggestion.

Mrs. KASSEBAUM. Mr. President, I state to the minority leader that I have no problem yielding the floor, with the assurance that we would be able to continue in the order of debate. The Senator from Missouri (Mr. EAGLETON) has comments he wished to make, and the Senator from Pennsylvania (Mr. SPECTER), and I believe the Senator from Nebraska (Mr. EXON) also wish to be recognized.

I have no problem with that order, I say to the majority leader, as long as there would be assurance that we would be able to send forward the amendment.

Mr. BAKER. This request would provide it, but I have not yet put the request.

The Senator from Missouri?

Mr. DANFORTH. I would like to inquire of the leader as to the procedure. As I understand it, the substitute would be offered and then the natural gas amendment that Senator KASSEBAUM intends to offer would be offered as an amendment to the substitute. Is that correct?

Mr. BAKER. Yes, except the way I described it, I would offer a complete substitute. It is my understanding then that the minority leader intends to offer an amendment to that substitute, I believe to title I. Then the Senator from Texas (Mr. BENTSEN) would offer an amendment to the substitute.

I assume that the amendment of the Senator from Kansas would be an amendment to the Baker substitute.

Mr. DANFORTH. Would the Baker substitute be original text?

Mr. BAKER. It would be. Because it is a complete substitute it would be open to two amendments.

Mr. DANFORTH. So in this case the Kassebaum amendment would be a first-degree amendment and if I were to offer an amendment to the Kassebaum amendment, that would be a second-degree amendment.

Mr. BAKER. As to title I there is a possibility that the Byrd amendment would be adopted and then it might be in the second degree or it is even possible that a unanimous-consent agreement might be entered into that it not be further amendable. So it might be that the Senators would consider offering their amendment as an amendment to the Byrd amendment to the substitute, to the underlying measure at some other point. or at the end of the bill. All those options would be open.

Mr. ROBERT C. BYRD. Will the majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. I would hope they would not offer their amendments to my amendment.

Mr. BAKER. As I say, I have not put that request at this point, but I do suggest that it appears at least to be an orderly procedure. If any other Senator wishes to comment on it, I would be glad to hear from them. I see the Senator from Oklahoma is on his feet. I am glad to yield to him.

Mr. NICKLES. On the suggestion made of first the substitute and then the natural gas amendment—the substitute, the Byrd amendment and then the natural gas amendment?

Mr. BAKER. The substitute, the Byrd amendment, and then the natural gas amendment.

Mr. NICKLES. Would it be procedurally possible for Senators who have additional amendments, if we have yours as a first-degree amendment and there is a second-degree amendment, or are you trying to foreclose the offering of any further amendments?

Mr. BAKER. Mine would be a zero amendment. It would not affect the Senator's opportunity to offer either a first- or second-degree amendment.

Mr. NICKLES. Either to the amendment of the majority leader or the Byrd amendment?

Mr. BAKER. The Byrd amendment, if adopted, would be a first-degree amendment, I do not know what the Senator from Texas intends to do, whether to offer an amendment to the Byrd amendment or to some other part of the bill. But I believe I am right in saying it, too, would be a first-degree amendment. Both would be amendable in the first- or second-degree, unless there is unanimous consent not to change it.

Mr. NICKLES. And throughout this would not preclude this Senator's right to offer other amendments?

Mr. BAKER. That is not my intention.

Mr. ROBERT C. BYRD. I hope we can get a time agreement, Mr. President.

Mr. BAKER. Mr. President, could I inquire of the minority leader what sort of time agreement he might be willing to enter into on his amendment to the Baker substitute?

Mr. ROBERT C. BYRD. I would think that it would be agreeable on my side to enter into an agreement of 2 hours if we could have an understanding that it would be an up or down vote and that no amendments would be offered to it.

Mr. BAKER. As I understand the minority leader, he is suggesting, and I hope Senators will listen as I put this description, that in exchange for a time limitation of 2 hours for debate on his amendment to the Baker substitute, that no other amendment would be in order to the Byrd amendment, that the amendment would be voted on up or down, and there would not be a tabling motion. Is that a fair statement?

Mr. ROBERT C. BYRD. This would not in any way, I do not think, impinge on the rights of the Senators who are proposing a natural gas amendment.

Mr. BAKER. May I say to the Senator from Oklahoma since he raised this issue before, if we were to enter into this agreement, with the time agreement just described, an amendment to the Byrd amendment would not be in order. However, an amendment to some other portion of the bill, some other title, or at the end of the bill, would still be in order.

Mr. NICKLES. I understand. If the Senator will yield, I understand. I would object to a time limitation on the Byrd agreement.

Mr. BAKER. I have not put it. Would the Senator have an objection to a time agreement as well?

Mr. NICKLES. The Senator is correct.

Mr. BAKER. You do object to that as well?

Mr. NICKLES. The Senator is correct.

Mr. BAKER. I did not mean to excite my friend from Oklahoma, but I do not think there is anything involved here that would prevent us from getting this underway. Rather than put the request at this time with respect to a time limitation, I will discuss that matter further, if the Senator will permit me to do so.

At this time I would like to put the request on sequence. I ask unanimous consent, Mr. President, that at this time I may be recognized to offer a substitute which will be a complete substitute; that after the Senate disposes of that measure, the minority leader will be recognized to offer an amendment; that upon the disposition of the Byrd amendment, that the Chair next recognize the Senator from Texas (Mr. BENTSEN) to offer an amendment; that after the disposition of the Bentsen amendment, that the Senator from Kansas (Mrs. KASSEBAUM) be recognized to offer an amendment. That is the request.

Mr. DANFORTH, Mr. President, reserving the right to object, let me inquire of the majority leader and ask if he has a solution to the following eventuality:

Let us suppose that we get into a situation where the bill is filibustered and cloture is then filed on the bill before the Kassebaum amendment could be brought up. Does the majority leader see any way in which this amendment, which arguably is not germane, could be voted on?

Mr. BAKER. Literally speaking, the filing of the motion would not have that effect. The invocation of cloture would.

Mr. DANFORTH. I am just trying to imagine the worst that can happen.

Mr. BAKER. Do not imagine that. Absent unanimous consent, I will say to the junior Senator from Missouri, there is no way to avoid that consequence, if, indeed, cloture is invoked by the Senate on the bill itself. I have not yet filed a cloture motion nor has any other Senator. Frankly, I do no expect to in the next few minutes.

Mr. DANFORTH. I wonder if the Senator could add to his unanimous-consent request the request that this be considered germane for that purpose.

Mr. BAKER. Mr. President, I think I am in water over my head. I think what I am going to do is this: I think we will just proceed for a moment. I have priority of recognition after the Senator from Kansas supports that opportunity to be recognized, and the minority leader has priority after the majority leader. It may be that the best thing to do is just to proceed in this sequence as best we can.

I would point out that at some stage it is my intention to ask the chairman if he will consider withdrawing the committee substitute so that I may offer a complete substitute. At this point, any amendment that is offered and dealt with must be to that material which I believe will be either withdrawn or displaced. I would not suggest that there is much good that can come from continuing this debate at this stage of the proceeding. But that is entirely up to the Senator from Kansas and the Senator from Missouri to decide.

I thank the Senator from Kansas.

Mrs. KASSEBAUM. I thank the majority leader for his help in getting us organized.

At this time, Mr. President, I will yield to the distinguished Senator from Missouri (Mr. EAGLETON) without losing my right to the floor.

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Kansas retains the floor.

Mr. EXON. Will the Senator from Kansas yield for a question?

Mrs. KASSEBAUM. I am happy to yield without losing my right to the floor.

Mr. EXON. I would simply say to the Senator from Kansas that the Senator from Nebraska came to the floor before noon today to discuss the natural gas situation. He was shut out from being considered for 3 minutes to offer a noncontroversial amendment, I am sure, and I assure everyone it is. I was prevented from doing that also after a series of votes, when it was indicated that I probably would have a chance to do that after we finished the last vote. At that time, the Chair recognized the Senator from Kansas.

I would just ask, would it be possible for the Senator from Kansas to yield for 2½ minutes to the Senator from Nebraska so that I would not have to remain longer? I have been here now for 4 hours. Would it be possible for the Senator to extend to the Senator from Nebraska that courtesy?

Mrs. KASSEBAUM. Mr. President, is Senator EAGLETON present? Would he have any objection to my yielding to Senator EXON at this moment?

Mr. EXON. Mr. President, I suggest to the Chair that Senator EAGLETON, under the circumstances, has nothing to say about it. If the Senator from Kansas is going to yield to the Senator from Missouri without losing her right to the floor, the Senator from Nebraska will maintain his right to object. I think I have that right.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent to have the right to yield to the Senator from Nebraska (Mr. EXON) without losing my right to the floor.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. I believe that the Senator from Kansas retained her right to the floor, is that correct?

Mrs. KASSEBAUM. I yielded to the Senator from Nebraska without losing my right to the floor.

Mr. BAKER. Does the Senator from Kansas have the floor at this time?

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. BAKER. Mr. President, may I inquire of the Senator if she would be prepared now to yield the floor so I may attempt to gain recognition in order to proceed with the next step?

Mrs. KASSEBAUM. Mr. President, I shall be happy to yield to the majority leader.

The PRESIDING OFFICER. Does the Chair understand that that is in the form of a unanimous-consent request?

Mr. BAKER. No, Mr. President, she yielded the floor.

The PRESIDING OFFICER. The Senator yielded the floor.

The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I am authorized by the Committee on Finance to withdraw the committee amendment.

The committee amendment was withdrawn.

UP AMENDMENT NO. 1440

(Purpose: To improve the Nation's surface transportation system)

Mr. BAKER. Mr. President, I send to the desk a complete substitute.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Tennessee has the right to yield for a parliamentary inquiry. The Senator from Tennessee has the floor.

Mr. ROBERT C. BYRD. Mr. President, if the Senator from Tennessee sends to the desk an amendment, I be-

lieve he loses the floor. He can regain it, but he loses it.

Mr. BAKER. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for himself, Mr. DOLE, Mr. STAFFORD, Mr. GARN, and Mr. PACKWOOD, proposes an unprinted amendment numbered 1440.

The text of the amendment follows:

Amendment in the Nature of a substitute intended to be proposed by Mr. BAKER (for himself, Mr. DOLE, Mr. STAFFORD, Mr. GARN, and Mr. PACKWOOD)

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Surface Transportation Act of 1982".

TITLE I—HIGHWAY REVENUE ACT OF 1982

Subtitle A—Short Title; Table of Contents; Amendment of 1954 Code

SEC. 101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Highway Revenue Act of 1982".

(b) TABLE OF CONTENTS.—

TITLE I—HIGHWAY REVENUE ACT OF 1982

Subtitle A—Short Title; Table of Contents; Amendment of 1954 Code

Sec. 101. Short title; table of contents.
Sec. 102. Amendment of 1954 Code.

Subtitle B—Tax Changes

Sec. 111. Motor fuel taxes.
Sec. 112. Excise tax on heavy trucks.
Sec. 113. Heavy truck use tax.
Sec. 114. Taxes on heavy truck tires.
Sec. 115. Tax on synthetic lubricating oil.
Sec. 116. Period taxes and exemptions in effect
Sec. 117. Treatment of certain motor carrier operating authorities acquired by taxpayers other than corporations.
Sec. 118. Extension of payment due date for certain fuel taxes.

Subtitle C—Floor Stocks Provisions

Sec. 121. Floor stocks taxes.
Sec. 122. Floor stocks refunds.
Sec. 123. Definitions and special rules.

Subtitle D—Highway Trust fund; Mass Transit Account

Sec. 131. Extension of Highway Trust Fund.
Sec. 132. Mass Transit Account.

SEC. 102. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided therein, whenever in subtitle B an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Subtitle B—Tax Changes

SEC. 111. MOTOR FUEL TAXES.

(a) Taxes on Gasoline, Diesel Fuel, and Special Motor Fuels Increased From 4 Cents a Gallon to 9 Cents a Gallon.—

(1) GASOLINE TAX.—Subsection (a) of section 4081 (relating to tax on gasoline) is amended by striking out "4 cents a gallon" and inserting in lieu thereof "9 cents a gallon".

(2) DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041 (relating to tax on diesel fuel and special motor fuels) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) DIESEL FUEL AND SPECIAL MOTOR FUELS.—

"(1) DIESEL FUEL.—There is hereby imposed a tax of 9 cents a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in such vehicle, or

"(B) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under subparagraph (A).

"(2) SPECIAL MOTOR FUELS.—There is hereby imposed a tax of 9 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or paragraph (1) of this subsection)—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A)."

(b) EXEMPTION FOR METHANOL AND ETHANOL FUELS.—

(1) IN GENERAL.—Section 4041 is amended by adding at the end of the subsection (b) inserted by subsection (c) of this section the following new paragraph:

"(2) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(A) IN GENERAL.—No tax shall be imposed by subsection (a) on any qualified methanol or ethanol fuel.

"(B) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol. or other alcohol produced from a substance other than petroleum or natural gas.

"(C) TERMINATION.—On and after October 1, 1989, subparagraph (A) shall not apply."

(2) COORDINATION WITH CREDIT.—Subsection (c) of section 44E (relating to coordination of credit for alcohol used as a fuel with exemption from excise tax) is amended by striking out "section 4041(k) or 4081(c)" and inserting in lieu thereof "subsection (b)(2) or (k) of section 4041 or section 4081(c)".

(c) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

(1) GASOLINE.—Subsection (a) of section 6421 (relating to nonhighway use of gasoline) is amended by striking out the first sentence and inserting in lieu thereof the following: "Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081."

(2) DIESEL FUEL AND SPECIAL MOTOR FUELS.—Section 4041 is amended by inserting after subsection (a) the following new subsection:

"(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE: EXEMPTION FOR QUALIFIED METHANOL AND ETHANOL FUEL.—

"(1) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

"(A) IN GENERAL.—No tax shall be imposed by subsection (a) on liquid sold for use or used in an off-highway business use.

"(B) TAX WHERE OTHER USE.—If a liquid on which no tax was imposed by reason of subparagraph (A) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B) or (2)(B) of subsection (a) (whichever is appropriate).

"(C) OFF-HIGHWAY BUSINESS USE DEFINED.—For purposes of this subsection, the term 'off-highway business use' has the meaning given to such term by section 6421(d)(2)."

(3) CLERICAL AMENDMENTS.—

(A) Subparagraphs (A) and (B) of section 6421(d)(2) are each amended by striking out "qualified business use" and inserting in lieu thereof "off-highway business use".

(B) The heading for paragraph (2) of section 6421(c) is amended by striking out "Qualified" and inserting in lieu thereof "Off-Highway".

(d) CREDIT FOR ALCOHOL USE AS A FUEL.—Section 44E (relating to alcohol used as a fuel) is amended—

(1) by striking out "40 cents" each place it appears and inserting in lieu thereof "90 cents", and

(2) by striking out "30 cents" each place it appears and inserting in lieu thereof "68 cents".

(e) USE IN CERTAIN TAXICABS.—

(1) IN GENERAL.—Paragraph (1) of section 6427(e) (relating to use in certain taxicabs) is amended by striking out "an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel" and inserting in lieu thereof "an amount determined at the rate of 4 cents a gallon".

(2) EXTENSION OF REPAYMENT.—Paragraph (3) of section 6427(e) (relating to termination) is amended by striking out "December 31, 1982" and inserting in lieu thereof "September 30, 1984".

(3) SUSPENSION OF SHARED TRANSPORTATION REQUIREMENT.—Clause (ii) of section 6427(e)(2)(A) (relating to qualified taxicab services) is amended to read as follows:

"(ii) is not prohibited by company policy from furnishing (with the consent of the passengers) shared transportation.".

(4) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the reduced rate of fuel taxes provided for taxicabs by section 6427(e) of the Internal Revenue Code of 1954. Not later than January 1, 1984, the Secretary shall transmit a report on the study conducted under the preceding sentence to the Congress, together with such recommendations as he may deem advisable.

(f) REFUND OF MOTOR FUEL TAXES TO AERIAL AND OTHER APPLICATORS OF AGRICULTURAL SUBSTANCES.—Paragraph (4) of section 6420(c) (defining use on a farm for farming purposes) is amended to read as follows:

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

"(B) if—

"(i) the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and

"(ii) the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline,

then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes."

(g) EXEMPTION FOR QUALIFIED COMMUTER HIGHWAY VEHICLES.—

(1) IN GENERAL.—Section 6421 (relating to gasoline used for certain non-highway purposes or by local transit systems) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) QUALIFIED COMMUTER HIGHWAY VEHICLES.—

"(1) ALLOWANCE.—Except as provided in subsection (i), if gasoline is used in a qualified commuter highway vehicle while such vehicle is engaged in transporting individuals between their residences and their place of employment, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on such gasoline by section 4081.

"(2) QUALIFIED COMMUTER HIGHWAY VEHICLE DEFINED.—For purposes of paragraph (1) the terms 'qualified commuter highway vehicle' means a commuter highway vehicle within the meaning of subparagraph (B) of section 46(c)(6), except that such subparagraph shall be applied—

"(A) without regard to clause (iii) or (iv) thereof, and

"(B) by substituting 'individuals' for 'the taxpayer's employees' in clause (ii).

"(3) TERMINATION.—This subsection shall not apply on and after October 1, 1989.".

(2) Section 6427 (relating to fuels not used for taxable purposes) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) QUALIFIED COMMUTER HIGHWAY VEHICLE.—Except as provided in subsection (i), if any fuel on which tax is imposed by section 4041(a) is used by any person in a qualified commuter highway vehicle (within the meaning of section 6421(j)(2)) while such vehicle is engaged in transporting individuals between their residences and their place of employment, the Secretary shall pay (without interest) to such person an amount equal to the amount of the tax imposed on the sale of the fuel.".

(3) CONFORMING AMENDMENTS.—

(A) The heading for section 6421 is amended by inserting ", QUALIFIED COMMUTER HIGHWAY VEHICLES," after "PURPOSES".

(B) The table of sections for subchapter (B) of chapter 65 is amended by inserting ", qualified commuter highway vehicles," after "purposes" in the item relating to section 6421.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) GASOLINE USED IN NONCOMMERCIAL AVIATION.—Paragraph (3) of section 4041(c) (relating to noncommercial aviation) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) on any gasoline is the excess of 12 cents a gallon over the rate at which tax was imposed on such gasoline under section 4081."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 6416(b) is amended by striking out "section 4041 (a)(1) or (b)(1)" and inserting in lieu thereof "paragraph (1)(A) or (2)(A) of section 4041(a)".

(B) Subsection (a) of section 6427 is amended by striking out "section 4041 (a), (b), or (c)" and inserting in lieu thereof "section 4041 (a) or (c)".

(C) Paragraph (1) of section 6427(b) is amended by striking out "subsection (a) or (b) of section 4041" each place it appears and inserting in lieu thereof "subsection (a) of section 4041".

(D) Subsection (c) of section 6427 is amended by striking out "section 4041 (a), (b) or (c)" and inserting in lieu thereof "section 4041 (a) or (c)".

(3) TARIFF ON ALCOHOL IMPORTED FOR USE AS A FUEL.—Item 901.50 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "40¢ per gal." each place it appears and inserting in lieu thereof "90¢ per gal.".

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on April 1, 1983.

(2) FOR SUBSECTION (A)(2).—The amendment made by subsection (e)(2) shall take effect on January 1, 1983.

(3) SHARED TRANSPORTATION REQUIREMENT.—The amendment made by subsection (e)(3) shall apply with respect to fuel purchased after December 31, 1982 and before January 1, 1984.

(4) TARIFF ON IMPORTED ALCOHOL.—The amendment made by subsection (h)(3) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after March 31, 1983.

SEC. 112. EXCISE TAX ON HEAVY TRUCKS.

(a) CHANGES IN EXISTING MANUFACTURERS EXCISE TAX.—

(1) INCREASE IN THRESHOLD WEIGHTS.—Paragraph (2) of section 4061(a) (relating to exclusion for light-duty trucks, etc.) is amended to read as follows:

"(2) EXCLUSION FOR TRUCKS WITH GROSS VEHICLE WEIGHT OF 33,000 POUNDS OR LESS, AND CERTAIN TRAILERS.—

"(A) The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(B) The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary)."

(2) INCREASE IN THRESHOLD WEIGHTS FOR PARTS.—

(A) IN GENERAL.—Section 4051(b) (relating to tax on parts and accessories) is amended by adding at the end thereof the following new paragraph:

"(3) EXCLUSION FOR TRUCKS WITH GROSS VEHICLE WEIGHT OF 33,000 POUNDS OR LESS.—No tax shall be imposed by paragraph (1) on any part or accessory which, as determined under regulations prescribed by the Secretary, is suitable for use, and ordinarily used on, or in connection with, a vehicle having a gross vehicle weight of 33,000 pounds or less.".

(B) CONFORMING AMENDMENT.—Paragraph (1) of section 4061(b) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(3) EXEMPTION OF CERTAIN RAIL TRAILERS AND VANS.—Subsection (a) of section 4063 (relating to exemptions for specified articles) is amended by adding at the end thereof the following new paragraph:

"(8) RAIL TRAILERS AND RAIL VANS.—The tax imposed under section 4061 shall not apply in the case of—

"(A) any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car, and

"(B) any parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A).

For purposes of this paragraph, a piggyback trailer or semitrailer shall not be treated as designed for use as a railroad car.".

(4) TERMINATION OF TAX.—Subsection (a) of section 4061 (relating to trucks, buses, tractors) is amended by adding at the end thereof the following paragraph:

"(3) TERMINATION.—The tax imposed by this subsection shall not apply on and after April 1, 1983.".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) INCREASE IN PARTS TAX.—

(1) IN GENERAL.—Paragraph (1) of section 4051(b) (relating to tax on parts and accessories) is amended by striking out "8 percent of the prices for which so sold, except that on and after October 1, 1984, the rate shall be 5 percent" and insert in lieu thereof "12 percent of the price for which so sold, except that no tax shall be imposed under this paragraph on and after October 1, 1989".

(2) COORDINATION WITH RETAIL SALES TAX.—

(A) Subsection (e) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new paragraph:

"(5) TRUCK PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for resale by the purchaser on or in connection with the first retail sale by such purchaser of an article which is taxable under section 4051.".

(B) Paragraph (2) of section 6416(b) (relating to special cases in which tax payments considered overpayments) is amended—

(i) by striking out "or" at the end of subparagraph (M),

(ii) by striking out the period at the end of subparagraph (N) and inserting in lieu thereof "; or", and

(iii) by inserting after subparagraph (N) the following new subparagraph:

"(O) resold on or in connection with the first retail sale of an article which was taxable under section 4051.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 1983.

(c) IMPOSITION OF RETAIL TAX ON SALE OF HEAVY TRUCKS AND TRAILERS.—

(1) IN GENERAL.—Chapter 31 is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Heavy Trucks and Trailers

"Sec. 4051. Imposition of tax on heavy trucks and trailers sold at retail.

"Sec. 4052. Definitions and special rules.

"Sec. 4053. Exemptions.

"Sec. 4051. Imposition of tax on heavy trucks and trailers sold at retail.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed on the first retail sale of the following articles (including in each case parts or accessories sold on or in connection therewith or with the sale thereof) a tax of 12 percent of the amount for which the article is so sold:

"(A) Automobile truck chassis.

"(B) Automobile truck bodies.

"(C) Truck trailer and semitrailer chassis.

"(D) Truck trailer and semitrailer bodies.

"(E) Tractors of the kind chiefly used by highway transportation in combination with a trailer or semitrailer.

"(2) EXCLUSION FOR TRUCKS WEIGHTING 33,000 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(3) EXCLUSION FOR TRAILERS WEIGHING 26,000 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary).

"(4) SALE OF TRUCKS, ETC., TREATED AS SALE OF CHASSIS AND BODY.—For purposes of this subsection, a sale of an automobile truck or truck trailer or semitrailer shall be considered to be a sale of a chassis and of a body described in paragraph (1).

"(b) TERMINATION.—On and after October 1, 1989, the taxes imposed by this section shall not apply.

"(c) TRANSITIONAL RULE.—In the case of any article taxable under subsection (a) on which tax was paid under section 4061(a), subsection (a) shall be applied by substituting '2 percent' for '12 percent'.

"SEC. 4052. DEFINITIONS AND SPECIAL RULES.

"(A) FIRST RETAIL SALE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'first retail sale' means the first sale, for a purpose other than for resale, after manufacture, production, or importation.

"(2) LEASES CONSIDERED AS SALES.—Rules similar to the rules of section 4217 shall apply.

"(3) USE TREATED AS SALE.—

"(A) IN GENERAL.—If any person uses an article taxable under section 4051 before the first retail sale of such article, then such person shall be liable for tax under section 4051 in the same manner as if such article were sold at retail by him.

"(B) EXEMPTION FOR USE IN FURTHER MANUFACTURE.—Subparagraph (A) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under section 4051 to be manufactured or produced by him.

"(C) COMPUTATION OF TAX.—In the case of any person made liable for tax by subparagraph (A), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(b) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in conditions ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the fair market value (including any tax imposed by section 4071) at retail of any tires (not including any metal rim or rim base), and

"(C) the price shall include the value of any trade-in.

"(2) SALES NOT AT ARM'S LENGTH.—In the case of any article sold (otherwise than through an arm's-length transaction) at less than the fair market price, the tax under this subchapter shall be computed on the price for which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) CERTAIN COMBINATIONS NOT TREATED AS FURTHER MANUFACTURE.—For purposes of this subchapter (other than subsection (a)(3)(B)), a person shall not be treated as engaged in the manufacture of any article merely by reason of combining such article with an item described in section 4063(d).

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—Under regulations prescribed by the Secretary, rules similar to the rules of—

"(1) subsections (c) and (d) of section 4216 (relating to partial payments),

"(2) subsection (f) of section 4216 (relating to certain trucks incorporating used components), and

"(3) section 4222 (relating to registration), shall apply for purposes of this subchapter.

"SEC. 4053. EXEMPTIONS.

"(a) EXEMPTION OF SPECIFIED ARTICLES.—No tax shall be imposed under section 4051 on any article specified in subsection (a) of section 4063.

"(b) CERTAIN EXEMPTIONS MADE APPLICABLE.—The exemptions provided by section 4221(a) are hereby extended to the tax imposed by section 4051."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Chapter 31 is amended by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 31—RETAIL EXCISE TAXES

"Subchapter A. Special fuels.
"Subchapter B. Heavy trucks and trailers.

"Subchapter A—Special Fuels".

(B) The table of chapters for subtitle D is amended by striking out the item relating to chapter 31 and inserting in lieu thereof the following new item:

"Chapter 31. Retail excise taxes.".

(C) Paragraph (2) of section 6415(b), as amended by this Act, is amended by inserting "or under section 4051" after "section 4041(a)".

(D) Paragraph (1) of section 6416(a) is amended by striking out "chapter 31 (special fuels)" and inserting in lieu thereof "chapter 31 (relating to retail excise taxes)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 1983.

SEC. 113. HEAVY TRUCK USE TAX.

(a) Increase in Rate of Tax.—Subsection (a) of section 4481 (relating to imposition of tax) is amended to read as follows:

"(a) Imposition of Tax.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 33,000 pounds in an amount determined under the following table:

"If the taxable gross weight is:	The amount of tax per taxable period is:
At least 33,000 pounds but less than 55,000 pounds.	$80, plus $10 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
At least 55,000 pounds but less than 80,000 pounds.	$300, plus $52 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds or more	$1,600."

(b) EXEMPTION WHERE TRUCK USED FOR 5,000 MILES OR LESS ON PUBLIC HIGHWAYS.—Section 4483 (relating to exemptions from highway use tax) is amended by adding after subsection (c) thereof the following new subsection:

"(d) EXEMPTION FOR TRUCKS USED FOR 5,000 MILES OR LESS ON PUBLIC HIGHWAYS.—

"(1) SUSPENSION OF TAX.—

"(A) IN GENERAL.—If—

"(i) it is reasonable to expect that the use of any highway motor vehicle on public highways during any taxable period will be 5,000 miles or less, and

"(ii) the owner of such vehicle furnishes such information as the Secretary may by forms or regulations require with respect to the expected use of such vehicle,

then the collection of the tax imposed by section 4481 with respect to the use of such vehicle shall be suspended during the taxable period.

"(B) SUSPENSION CEASES TO APPLY WHERE USE EXCEEDS 5,000 MILES.—Subparagraph (A) shall cease to apply with respect to any highway motor vehicle whenever the use of such vehicle on public highways during the taxable period exceeds 5,000 miles.

"(2) EXEMPTION.—If—

"(A) the collection of the tax imposed by section 4481 with respect to any highway motor vehicle is suspended under paragraph (1),

"(B) such vehicle is not used during the taxable period on public highways for more than 5,000 miles, and

"(C) except as otherwise provided in regulations, the owner of such vehicle furnishes such information as the Secretary may require with respect to the use of such vehicle during the taxable period, then no tax shall be imposed by section 4481 on the use of such vehicle for the taxable period.

"(3) REFUND WHERE TAX PAID AND VEHICLE NOT USED FOR MORE THAN 5,000 MILES.—If—

"(A) the tax imposed by section 4481 is paid with respect to any highway motor vehicle for any taxable period, and

"(B) the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to such taxable period,

the amount of such tax shall be credited or refunded (without interest) to the person who paid such tax.

"(4) OWNER DEFINED.—For purposes of this subsection, the term 'owner' means, with respect to any highway motor vehicle, the person described in section 4481(b)."

(c) CLARIFICATION OF TRAILERS CUSTOMARILY USED IN CONNECTION WITH HIGHWAY MOTOR VEHICLES.—

(1) IN GENERAL.—Subsection (c) of section 4482 is amended by adding at the end thereof the following new paragraph:

"(5) CUSTOMARY USE.—A semitrailer or trailer shall be treated as customarily used in connection with a highway motor vehicle if such vehicle is equipped to tow such semitrailer or trailer."

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 4482 is amended by inserting "and Special Rule" after "Definitions".

(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—Section 4482 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—In the case of the taxable period which ends on September 30, 1989, the amount of the tax imposed by section 4481 with respect to any highway motor vehicle shall be determined by reducing each dollar amount in the table contained in section 4481(a) by 75 percent."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1984.

(2) SHORT TAXABLE PERIODS.—For purposes of subchapter D of chapter 36 of the Internal Revenue Code of 1954—

(A) the period beginning on July 1, 1983, and ending on December 31, 1983, and

(B) the period beginning on January 1, 1984, and ending on June 30, 1984,

shall each be treated as a taxable period.

(3) TRANSITIONAL RULE FOR FIRST SHORT PERIOD.—In the case of the taxable period beginning on July 1, 1983, the tax imposed by section 4481(a) of such Code with respect to the use of any highway motor vehicle shall be determined by substituting "$1.50 for the taxable period" for "$3.00 a year" in such section 4481(a).

(4) TRANSITIONAL RULE FOR SECOND SHORT PERIOD.—In the case of the taxable period beginning on January 1, 1984—

(A) the amount of the tax imposed by section 4481(a) of such Code (as amended by this section) on the use of any highway motor vehicle shall be an amount equal to the sum of—

(i) one-sixth of the amount of the tax imposed by such section (determined without regard to this paragraph), plus

(ii) one dollar multiplied by the number of thousands of pounds (or fraction thereof) in the gross weight of such vehicle, and

(B) subsection (d) of section 4483 of such Code (as amended by this section) shall be applied by substituting "2,500" for "5,000" each place it appears.

(5) TRANSITIONAL RULE FOR THE TAXABLE PERIOD BEGINNING ON JULY 1, 1984.—In the case of the taxable period beginning on July 1, 1984, the amount of the tax imposed by section 4481(a) of such Code (as amended by this section) on the use of any highway motor vehicle shall be an amount equal to the sum of—

(A) two-thirds of the amount of the tax imposed by such section (determined without regard to this paragraph), plus

(B) one dollar multiplied by the number of thousands of pounds (or fraction thereof) in the gross weight of such vehicle.

(6) Coordination with installment payment of tax.—

(A) The Secretary of the Treasury or his delegate shall by forms or regulation provide for appropriate adjustments in the application of section 6156 of such Code with respect to the taxable periods referred to in paragraph (2).

(B) For purposes of subparagraph (A)—

(i) there shall be substituted for the table appearing in section 6156(a) of such Code the following table:

"If liability is incurred in—	The number of installments shall be—
July, August, September, January, February, or March.	2",

and

(ii) in lieu of subsection (e) of such section 6155, section 6156 shall not apply to any liability for tax incurred in October, November, December, April, May, or June.

(f) STUDY OF ALTERNATIVES TO TAX ON USE OF HEAVY TRUCKS.—

(1) IN GENERAL.—The Secretary of Transportation (in consultation with the Secretary of Treasury) shall conduct a study of—

(A) alternatives to the tax on heavy vehicles imposed by section 4491(a) of the Internal Revenue Code of 1954, and

(B) plans for improving the collecting and enforcement of such tax and alternatives to such tax.

(2) ALTERNATIVE INCLUDED.—The alternatives studied under paragraph (1) shall include taxes based either singly or in suitable combinations on vehicle size or configuration; vehicle weight, both registered and actual operating weight; and distance traveled. Plans for improving tax collection and enforcement shall, to the extent practical, provide for Federal and State cooperation in such activities.

(3) CONSULTATION WITH STATE OFFICIALS AND OTHER AFFECTED PARTIES.—The study required under subsection (a) shall be conducted in consultation with State officials, motor carriers, and other affected parties.

(4) REPORT.—Not later than January 1, 1985, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under paragraph (1) together with such recommendations as he may deem advisable.

SEC. 114. TAXES ON TIRES, INNER TUBES, AND TREAD RUBBER.

(a) GENERAL RULE.—Subsection (a) of section 4071 (relating to imposition and rate of tax on tires and tubes) is amended to read as follows:

"(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on the following articles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer, a tax at the following rates:

"(1) Tires of the type used on highway vehicles, at the rate determined under the following table:

If the tire weighs:	The rate of tax is:
50 lbs. or less	9.75 cents per lb.
More than 50 lbs. but not more than 100 lbs.	$4.875 plus 15 cents per lb. for each lb. in excess of 50 lbs.
More than 100 lbs	$12.375 plus 25 cents per lb. for each lb. in excess of 100 lbs.

"(2) Inner tubes for tires, 10 cents per pound.

"(3) Tread rubber, at the rate determined under the following table with respect to the tire on which the tread rubber is used:

If such tire weighs:	The rate of tax is:
50 lbs. or less	5 cents per lb.
More than 50 lbs. but not more than 100 lbs.	8 cents per lb.
More than 100 lbs.	16 cents per lb.".

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 4218 is amended by striking out "Except as provided in subsection (d), if" and inserting in lieu thereof "If".

(2) Section 4218 is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(3) Subsection (a) of section 4218 is amended by striking out "(b), (c), or (d)" and inserting in lieu thereof "(b) or (c)".

(4) Subsection (e) of section 4221 is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

(5) Paragraph (3) of section 4221(e), as redesignated by paragraph (4), is amended—

(A) by striking out "(3)" in subparagraph (A) and inserting in lieu thereof "(2)", and

(B) by striking out "paragraph (4)" in subparagraph (3) and inserting in lieu thereof "paragraph (3)".

(6) Paragraph (1) of section 6412(a) is amended—

(A) by striking out "4271(a) (1), (3), or (4)" and inserting in lieu thereof "4071(a) (1), (2), or (3)", and

(B) by striking out the last sentence.

(7) Subparagraph (A) of section 6412(a)(2) is amended by striking out "section 4071(a)(2) is amended by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(3)".

(8) Subparagraph (G) of section 6416(b)(2) is amended—

(A) by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(3)"

(B) by striking out "or" at the end of clause (iii),

(C) by adding "or" at the end of clause (iv), and

(D) by inserting after clause (iv) the following new clause:

"(v) used, or sold for use, in the recapping or retreading of a tire which weighs less than the weight of the tire with respect to which such tax was imposed,".

(9) Subparagraph (L) of section 6416(b)(2) is amended to read as follows:

"(L) in the case of any tire or inner tube taxable under paragraph (1) or (2) of section 4071(a), sold to any person for use as described in section 4221(e)(3)(A);".

(10) Subparagraph (M) of section 6416(b)(2) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

(11) Subparagraoh (D of section 6416(b)(3) is amended by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(3)".

(12) Paragraph (3) of section 6416(b) is amended by striking out subparagraph (E), by adding "or" at the end of subparagraph (D), and by redesignating subparagraph (F) as subparagraph (E).

(13) Subparagraph (A) of section 6416(b)(4) is amended by striking out "section 4071(a)(4)" and inserting in lieu thereof "section 4071(a)(3)".

(14) Paragraph (3) of section 9502 (b) is amended—

(A) by adding "and" at the end of paragraph (1),

(B) by striking out "; and " at the end of paragraph (2) and inserting in lieu thereof a period, and

(C) by striking out paragraph (3).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold on or after April 1, 1983.

SEC. 115. TAX ON SYNTHETIC LUBRICATING OIL.

(a) IN GENERAL.—Section 4092 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(c) SYNTHETIC LUBRICATING OILS.—For purposes of this subpart, the term 'lubricating oil' includes any synthetic lubricating oil.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to articles sold after the date of the enactment of this Act.

SEC. 116. PERIOD TAXES AND EXEMPTIONS IN EFFECT.

(a) PERIOD TAXES IN EFFECT.—

(1) SPECIAL FUELS TAX.—

(A) Subsection (a) of section 4041 (as amended by this Act) is amended by adding at the end thereof the following new paragraph:

"(3) TERMINATION.—On and after October 1, 1989, the taxes imposed by this subsection shall not apply."

(B) Subsection (e) of section 4041 is hereby repealed.

(2) TIRES AND TREAD RUBBER.—Subsection (d) of section 4071 is amended to read as follows:

"(d) Termination.—On and after October 1, 1989, the taxes imposed by subsection (a) shall not apply."

(3) GASOLINE.—Subsection (b) of section 4081 is amended to read as follows:

"(b) TERMINATION.—On and after October 1, 1989, the taxes imposed by this section shall not apply."

(4) HIGHWAY USE TAX.—Sections 4481(e) and 4482(c)(4) are each amended by striking out "1984" each place it appears and inserting in lieu thereof "1989".

(5) FLOOR STOCKS TAXES.—Paragraph (1) of section 6412(a) (relating to floor stocks refunds) is amended—

(A) by striking out "1985" each place it appears and inserting in lieu thereof "1990" and

(B) by striking out "1984" each place it appears and inserting in lieu thereof "1989".

(6) OTHER PROVISIONS.—Paragraph (2) of section 6156(e) (relating to installment payments of tax on use of highway motor vehicles) and subsection (h) of section 6421 (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems) are each amended by striking out "1984" and inserting in lieu thereof "1989".

(b) TERMINATION OF EXEMPTIONS.—

(1)(A) Subsection (f) of section 4041 is amended by adding at the end thereof the following new paragraph:

"(3) TERMINATION.—On and after October 1, 1989, paragraph (1) shall not apply."

(B) Subsection (g) of section 4041 is amended by adding at the end thereof the following new sentence: "Paragraphs (2) and (4) shall not apply on and after October 1, 1989."

(2) Subsection (a) of section 4221 (relating to certain tax resales) is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by section 4051, 4061, 4071, or 4081, paragraphs (4) and (5) shall not apply on and after October 1, 1989."

(3) Section 4483 (relating to exemption for highway use tax) is amended by adding after subsection (d) thereof the following new subsection:

"(e) TERMINATION OF EXEMPTIONS.—Subsections (a) and (c) shall not apply on and after October 1, 1989."

(4) Section 6420 (relating to gasoline used on farms) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) TERMINATION.—This section shall apply only with respect to gasoline purchased before October 1, 1989."

(5) Section 6427 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) TERMINATION OF SUBSECTIONS (a), (b), (c), AND (d).—Subsections (a), (b), (c), and (d) shall only apply with respect to fuels purchased before October 1, 1989."

SEC. 117. TREATMENT OF CERTAIN MOTOR CARRIER OPERATING AUTHORITIES ACQUIRED BY TAXPAYERS OTHER THAN CORPORATIONS.

(a) GENERAL RULE.—Paragraph (2) of section 266(c) of the Economic Recovery Tax Act of 1981 (relating to stock acquisitions of motor carrier operating authorities) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) TREATMENT OF CERTAIN NONCORPORATE TAXPAYERS.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which—

:"(i) a noncorporate taxpayer or group of noncorporate taxpayers on or before July 1, 1980, acquired in one purchase stock in a corporation which held, directly or indirectly, any motor carrier operating authority at the time of such acquisition, and

"(ii) the acquisition referred to in clause (i) would have satisfied the requirements of subparagraph (A) if the stock had been acquired by a corporation,

then, for purposes of subparagraphs (A) and (C), the noncorporate taxpayer or group of noncorporate taxpayers referred to in clause (i) shall be treated as a corporation. The preceding sentence shall apply only if such noncorporate taxpayer (or group of noncorporate taxpayers) on July 1, 1980, held stock constituting control (within the meaning of section 368(c) of the Internal Revenue Code of 1954) of the corporation holding (directly or indirectly) the motor carrier operating authority."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after July 30, 1980.

SEC. 118. EXTENSION OF PAYMENT DUE DATE FOR CERTAIN FUEL TAXES.

(a) IN GENERAL.—The Secretary shall prescribe regulations which permit any qualified oil jobber whose liability for tax under section 4081 of the Internal Revenue Code of 1954 is payable with respect to semi-monthly periods to pay such tax on or before the date which is 15 days after the close of such semi-monthly period if such payment is made by wire transfer to any government depository authorized under section 6302 of such Code.

(b) QUALIFIED OIL JOBBER DEFINED.—For purposes of this section—

(1) IN GENERAL.—the term "qualified oil jobber" means any wholesale distributor who—

(A) has made an election to be treated as a producer under section 4082(d) of such Code, and

(B) for the semi-monthly period, has sold 2,000,000 gallons or less of gasoline which is taxable under section 4081 of such Code.

(2) AGGREGATION OF SALES.—The sales of gasoline taxable under section 4081 of such Code of—

(A) all trades or businesses (whether or not incorporated) which are under common control with the distributor (within the meaning of section 52(b)), and

(B) all members of any controlled group of corporations of which the distributor is a member,

for any semi-monthly period shall be included in the sales of the distributor for such period. The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in wholesale distribution of gasoline through partnerships, joint ventures, and corporations.

(3) CONTROLLED GROUP OF CORPORATIONS.—The term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(A) "more than 50 percent" shall be substituted for" at least 80 percent" each place it appears in section 1563(a)(1), and

(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

Subtitle C—Floor Stocks Provisions

SEC. 121. FLOOR STOCKS TAXES

(a) 1983 TAX ON GASOLINE.—On gasoline subject to tax under section 4051 which, on April 1, 1983, is held by a dealer for sale, there is hereby imposed a floor stocks tax at the rate of 5 cents a gallon.

(b) 1983 TAX ON TIRES AND TREAD RUBBER.—On any article which would be subject to tax under paragraph (1) or (2) of section 4071(a) if sold by the manufacturer, producer, or importer on or after April 1, 1983, which on April 1, 1983, is held by a dealer and has not been used and is intended for sale, there shall be imposed a floor stocks tax equal to the product of—

(1) the number of pounds, multipled by

(2) the excess of the rate in effect under section 4071(a) on April 1, 1983, over such rate in effect on March 31, 1983.

In the case of tread rubber, the tax imposed by this subsection shall not apply in the case of any person if such person establishes, to the satisfaction of the Secretary of the Treasury or his delegate, that all tread rubber held by him on April 1, 1983, will be used otherwise than in the recapping or retreading of tires which are of the type used on highway vehicles (as defined in section 4072(c)) and which weigh more than 50 pounds.

(c) 1983 TAX ON TRUCK PARTS AND ACCESSORIES.—On any article which would be subject to tax under section 4061(b) if sold by the manufacturer, producer, or importer, on or after April 1, 1983, which on April 1, 1983, is held by a dealer and has not been used and is intended for sale, there shall be imposed a floor stocks tax equal to 4 percent of 90 percent of the price for which the dealer purchased such article.

(d) TAX ON SYNTHETIC LUBRICATING OILS.—On any synthetic lubricating oil which would be subject to tax under section 4091(b) if sold by the manufacturer, producer, or importer, on or after the date of the enactment of this Act (and on which no tax was imposed on or before such date), which on such date of enactment is held by a dealer and has not been used and is intended for sale, there shall be imposed a floor stocks tax equal to six cents per gallon.

(e) OVERPAYMENT OF FLOOR STOCKS TAXES.—Section 6416 shall apply in respect to the floor stocks taxes imposed by this section, so as to entitle, subject to all provisions of section 6416, any person paying such floor stocks taxes to a credit or refund

thereof for any of the reasons specified in section 6416.

(f) DUE DATE OF TAXES.—The taxes imposed by this section shall be paid at such time after May 15, 1983, as may be prescribed by the Secretary of the Treasury or his delegate.

(g) TRANSFER OF FLOOR STOCKS TAXES TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund for any period, the taxes imposed by this section shall be treated as if they were imposed by section 4061, 4071, 4081, or 4091 of the Internal Revenue Code of 1954, whichever is appropriate.

SEC. 122. FLOOR STOCKS REFUNDS

(a) GENERAL RULE.—

(1) IN GENERAL.—Where, before the day after the date of the enactment of this Act, any tax-repealed article has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article if—

(A) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate on or before October 1, 1983, based on a request submitted to the manufacturer, producer, or importer before July 1, 1983, by the dealer who held the article in respect of which the credit or refund is claimed, and

(B) on or before October 1, 1983, reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061 or 4071 (whichever is appropriate) shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(b) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES OF TRUCKS AND TRAILERS.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where after November 28, 1982, and before the day after the date of the enactment of this Act, a tax-repealed article on which tax was imposed by section 4061(a) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal ot the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION OF ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection,

(B) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate on or before October 1, 1983, based on information submitted to the manufacturer, producer, or importer before July 1, 1983, by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser, and

(C) on or before October 1, 1983, reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) CERTAIN USES BY MANUFACTURER, ETC.—In the case of any article which was subject to the tax imposed by section 4061(a) (as in effect on the day before the date of the enactment of this Act), any tax paid by reason of section 4218(a) (relating to use by manufacturer or importer considered sale) with respect to a tax-repealed article shall be deemed to be an overpayment of such tax if tax was imposed on such article after, November 28, 1982, by reason of section 4218(a).

(d) TRANSFER OF FLOOR STOCKS REFUNDS FROM HIGHWAY TRUST FUND.—The Secretary of the Treasury shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made under this section.

SEC. 123. DEFINITIONS AND SPECIAL RULES.

(a) IN GENERAL.—For purposes of this subtitle—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means any article on which a tax was imposed by section 4061(a) or 4061(b) as in effect on the day before the date of the enactment of this Act, and which will not be subject to tax under section 4061(a) or 4061(b) as in effect on the day after the date of the enactment of this Act.

(4) Except as otherwise expressly provided herein, any reference in this subtitle to a section or other provision shall be treated as a reference to a section or other provision of the Internal Revenue Code of 1954.

(b) 1983 Extension of Floor Stocks Refund to Tires.—

(1) IN GENERAL.—In the case of an article on which a tax was imposed by section 4071(a) as in effect on March 31, 1983, and which will not be subject to tax under such section as in effect on April 1, 1983, such article shall be treated as a tax-repealed article for purposes of subsection (a) of section 522.

(2) ALLOWANCE OF REFUND.—In the case of a tax-repealed article to which paragraph (1) applies, subsection (a) of section 522 shall be applied by treating March 31, 1983, as the date of the enactment of this Act.

Subtitle D—Highway Trust Fund; Mass Transit Account

SEC. 131. EXTENSION OF HIGHWAY TRUST FUND.

(a) EXTENSION.—Subsections (c) and (f) (3), (4), (6), and (7) of section 209 of the Highway Revenue Act of 1956 (23 U.S.C. 120 note) are amended as follows:

(1) by striking "October 1, 1984" each place it appears and inserting in lieu thereof "October 1, 1989", and

(2) by striking "September 30, 1984", each place it appears and inserting in lieu thereof "September 30, 1989", and

(3) by striking "July 1, 1985" each place it appears and inserting in lieu thereof "July 1, 1990".

(b) CONFORMING AMENDMENTS.—

(1) MANAGEMENT OF TRUST FUND.—Subsection (e)(1) of section 209 of the Highway Revenue Act of 1956 is amended by striking "Commerce" and inserting in lieu thereof "Transportation", and by striking "up to and including the fiscal year ending September 30, 1985".

(2) EXPENDITURES FROM TRUST FUND.—Subsection (f)(1) of section 209 fo the Highway Revenue Act of 1956 is amended as follows:

"(1) FEDERAL-AID HIGHWAY PROGRAM.—Amounts in the Trust Fund shall be available, as provided by appropriation acts, for making expenditures before October 1, 1990, to meet those obligations of the United States heretofore or hereafter incurred which are authorized by law or which are attributable to Federal-aid highways (including those portions of general administrative expenses of the Highway Revenue Administration payable from such appropriations).".

(c) INVESTIGATION AND REPORT TO CONGRESS.—Section 210 of the Highway Revenue Act of 1956 is repealed.

(d) CONFORMING AGREEMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (1,6 U.S.C. 4061-11) is amended as follows:

(1) by striking "October 1, 1984" and inserting in lieu thereof "October 1, 1989"; and

(2) by striking "July 1, 1985" each place it appears and in inserting in lieu thereof "July 1, 1990".

(e) INCREASE IN AMOUNT TRANSFERRED TO NATIONAL RECREATION BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—Clause (ii) of section 209(f)(5)(A) of the Highway Revenue Act of 1956 (23 U.S.C. 120 note) is amended—

(1) by striking out "$20,000,000" and inserting in lieu thereof "$45,000,000", and

(2) by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1989".

SEC. 132. MASS TRANSIT ACCOUNT.

(a) IN GENERAL.—Section 209 of the Highway Revenue Act of 1956 is amended by adding at the end thereof the following new subsection:

"(h) MASS TRANSIT ACCOUNT.—

"(1) IN GENERAL.—There is established on the books of the Treasury of the United States an account within the Highway Trust Fund to be known as the 'Mass Transit Account'.

"(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account one-ninth of the amounts appropriated to the Highway Trust Fund under this section which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983.

"(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation acts, for making capital expenditures before October 1, 1989 (including capital expenditures for new projects) under section 22 of the Urban Mass Transportation Act of 1964.

"(4) DUTIES OF THE SECRETARY OF THE TREASURY WITH RESPECT TO THE MASS TRANSIT ACCOUNT.—It shall be the duty of the Secretary of the Treasury to manage the Mass Transit Account and to make an annual report to the Congress as provided in subsection (e) of this section. The interest on, and the proceeds from the sale or redemption of any obligation held in the Mass Transit Account shall be credited to and form a part of the Mass Transit Account.

"(5) REPAYABLE ADVANCES.—There are hereby authorized to be appropriated to the Mass Transit Account, as repayable advances, such additional sums as may be required to make the expenditures referred to in paragraph (3) of this section. Advances made pursuant to this paragraph shall be repaid and interest on such advances shall be paid to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Mass Transit Account for such purposes. Such interest shall be at rates computed in the same manner as provided in subsection (e)(2) of this section for special obligations and shall be compounded annually.".

TITLE II—FEDERAL-AID HIGHWAY IMPROVEMENT

SHORT TITLE

SEC. 201. This title may be cited as the "Federal-Aid Highway Improvement Act of 1982".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR INTERSTATE SYSTEM

SEC. 202. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,225,000,000 for the fiscal year ending September 30, 1984", and all that follows through the period at the end of the sentence and by inserting in lieu thereof the following: "The additional sum of $3,625,000,000 for the fiscal year ending September 30, 1984, the additional sum of $3,800,000,000 for the fiscal year ending September 30, 1985, the additional sum of $3,800,000,000 for the fiscal year ending September 30, 1986, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1990.".

HIGHWAY AUTHORIZATIONS

SEC. 203. (a) For the purpose of carrying out the following provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund:

(1) For the Federal-aid primary program not to exceed $1,700,000,000 for the fiscal year ending September 30, 1983, $2,100,000,000 for the fiscal year ending September 30, 1984, $2,400,000,000 for the fiscal year ending September 30, 1985, and $2,400,000,000 for the fiscal year ending September 30, 1986, and $2,600,000,000 for the fiscal year ending September 30, 1987.

(2) For the Federal-aid rural program not to exceed $614,520,548 for the fiscal year ending September 30, 1983, and $700,000,000 for the fiscal year ending September 30, 1984, $700,000,000 for the fiscal year ending September 30, 1985, $700,000,000 for the fiscal year ending September 30, 1986, and $700,000,000 for the fiscal year ending September 30, 1987.

(3) For the Federal-aid urban program not to exceed $629,041,096 for the fiscal year ending September 30, 1983, and $800,000,000 for the fiscal year ending September 30, 1984, $800,000,000 for the fiscal year ending September 30, 1985, and $800,000,000 for the fiscal year ending September 30, 1986, and $800,000,000 for the fiscal year ending September 30, 1987.

(4) For forest highways not to exceed $50,000,000 for the fiscal year ending September 30, 1983, $50,000,000 for the fiscal year ending September 30, 1984, $50,000,000 for the fiscal year ending September 30, 1985, and $50,000,000 for the fiscal year ending September 30, 1986, and $50,000,000 for the fiscal year ending September 30, 1987.

(5) For public lands highways not to exceed $50,000,000 for the fiscal year ending September 30, 1983, $50,000,000 for the fiscal year ending September 30, 1984, $50,000,000 for the fiscal year ending September 30, 1985, and $50,000,000 for the fiscal year ending September 30, 1986, and $50,000,000 for the fiscal year ending September 30, 1987.

(6) For parkways and park highways $75,000,000 for the fiscal year ending September 30, 1983, and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

(7) For bridge replacement and rehabilitation under section 144 of title 23, United States Code, not to exceed $1,700,000,000 for the fiscal year ending September 30, 1983, and $1,700,000,000 for the fiscal year ending September 30, 1984, $1,800,000,000 for the fiscal year ending September 30, 1985, and $2,000,000,000 for the fiscal year ending September 30, 1986, and $2,000,000,000 for the fiscal year ending September 30, 1987.

(8) For the highway safety improvement program not to exceed $316,657,534 for the fiscal year ending September 30, 1983, and $400,000,000 for the fiscal year ending September 30, 1984, $400,000,000 for the fiscal year ending September 30, 1985, and $400,000,000 for the fiscal year ending September 30, 1986, and $400,000,000 for the fiscal year ending September 30, 1987.

(9) For Indian reservation highways $75,000,000 for the fiscal year ending September 30, 1983 and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

(b) The unapportioned or unallocated balance of sums authorized by sections 4 and 5 of the Federal-Aid Highway Act of 1982 is rescinded.

(c)(1) For each of the fiscal years 1984, 1985, 1986, 1987, and 1988, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5)(A) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, rehabilitation, and reconstruction of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for whch funds apportioned under paragraphs (1), (2), and (6) of such section 104(b) may be expended.

(2) Subsection (g) of section 144 of title 23, United States Code, is amended as follows:

"(g) Of the amount authorized per fiscal year, for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987, all but $300,000,000 for fiscal years 1983, 1984, 1985, 1986, and 1987 shall be apportioned as provided in subsection (e) of this section; $300,000,000 for fiscal years 1983, 1984, 1985, 1986, and 1987 of the amount authorized shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such sums shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement and rehabilitation cost of each of which is more than $10,000,000 and for any project for a highway bridge replacement or rehabilitation cost of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge. Not less than 15 per centum of the amount apportioned to each State in a fiscal year shall be expended for projects to replace or rehabilitate bridges located on public roads, other than those bridges on public roads functionally classified as arterials or major collectors. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on public roads functionally classified as arterials or major collectors when he determines that such State has inadequate needs to justify such expenditure.".

(d) Of the sums apportioned to each State under subsections (a)(1), (a)(2), and (a)(3) of this section, beginning with fiscal year 1984, not less than 60 percentum of such program funds shall be expended by the States on projects for resurfacing, restoring, rehabilitating, and reconstructing existing highway facilities for the purpose of preserving or enhancing the operational integrity, efficiency, and safety of such existing highways unless the State certifies to the Secretary that such percentage of funds are in excess of the resurfacing, restoring, rehabilitating, and reconstructing needs of existing highways in the State and the Secretary accepts such certification.

DISCRETIONARY BRIDGE CRITERIA

SEC. 204. The Secretary of Transportation shall develop a selection process for discretionary bridges authorized to be funded under section 144(g) of title 23, United States Code, and shall propose and issue a final regulation no later than six months after the date of enactment of this Act, including a formula resulting in a rating factor based on the following criteria for such process. Such criteria shall give funding priority to those discretionary bridges already eligible under section 144(g) of title 23, United States Code. Eligible bridges after the issuance of a final regulation shall only include those with a rating factor of one hundred or less, based on a scale of zero to infinity. The criteria for such additional bridges which the Secretary shall consider are:

(1) sufficiency rating computed as illustrated in appendix A of the Recording and Coding Guide for the Structure Inventory

and Appraisal of the Nation's Bridges, USDOT/FHWA (latest edition);

(2) average daily traffic using the most current value from the national bridge inventory data;

(3) average daily truck traffic;

(4) defense highway system status;

(5) the State's unobligated balance of funds received under section 144 of title 23, United States Code, and the total funds received under section 144 of title 23, United States Code;

(6) total project cost; and

(7) special consideration should be given to bridges closed to all traffic or restricted to loads less than ten tons. Other unique considerations and the need to administer the program from a balanced national perspective should also be considered.

INTERSTATE SYSTEM RESURFACING APPORTIONMENT

SEC. 205. (a) Section 104(b)(5)(B) of title 23, United States Code, is amended (1) by striking the number "55" and inserting in lieu thereof "60" and (2) by striking the number "45" and inserting in lieu thereof "40"

(b)(1) The Secretary of Transportation shall make a full and complete study regarding the procedures for distributing Federal financial assistance for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System in order to maintain a high level of transportation service. The study shall analyze current conditions and factors including, but not limited to, volume and mix of traffic, weight and size of vehicles, environmental, geographical, and meteorological conditions in various States, and other pertinent factors that can be utilized to determine the most equitable and efficient method of apportioning available Interstate 4R funds to the several States. In conducting the study the Secretary shall consider such criteria as need, national importance, impact on individual State highway programs, structural and operational integrity, and any other relevant criteria, to determine the most equitable method of distribution.

(2) In conducting this study the Secretary shall consult with other agencies of the Federal Government, the States and their political subdivisions, and other interested private organizations, groups, and individuals.

(3) The Secretary shall report to Congress not later than six months after the date of enactment of this section the results of such study together with recommendations for necessary legislation.

INTERSTATE SYSTEM RESURFACING AUTHORIZATION

SEC. 206. Section 105 of the Federal-Aid Act of 1978 is amended to read as follows: "In addition to any funds authorized to be appropriated, there is authorized to be appropriated out of the Highway Trust Fund, not to exceed $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, and September 30, 1981, not to exceed $275,000,000 for the fiscal year ending September 30, 1982 not to exceed $800,000,000 for the fiscal year ending September 30, 1983, not to exceed $1,800,000,000 for the fiscal year ending September 30, 1984, not to exceed $2,400,000,000 for the fiscal year ending September 30, 1985, not to exceed $2,800,000,000 for the fiscal year ending September 30, 1986, not to exceed $3,200,000,000 for the fiscal year ending September 30, 1987, not to exceed $3,400,000,000 for the fiscal year ending September 30, 1988. Such sums shall be obligated for projects for resurfacing, restoring, rehabilitating, and reconstructing routes of the Interstate System designated under sections 103 and 139(c) of title 23, United States Code (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978), except that where a State certifies it the Secretary that any part such sums are in excess of the needs of such State for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System and the Secretary accepts such certification, such State may transfer sums apportioned to it under section 104(b)(5)(B) to its apportionment under section 104(b)(1) of title 23, United States Code. Such sums may also be obligated for projects for resurfacing, restoring, rehabilitating, and reconstructing a toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road receiving Federal assistance under this section does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence, Federal funds used for projects on such toll road pursuant to this section shall be repaid to the Federal Treasury."

INTERSTATE SUBSTITUTION AUTHORIZATION

SEC. 207. (a) In addition to any funds authorized to be appropriated out of the general fund, there is authorized to be appropriated, out of the Highway Trust Fund, for substitute highway projects under section 103(e)(4) of title 23, United States Code, $500,000,000 for fiscal year ending September 30, 1983, $600,000,000 for the fiscal year ending September 30, 1984, and $650,000,000 for the fiscal year ending September 30, 1985, and $650,000,000 for the fiscal year ending September 30, 1986, and $650,000,000 for the fiscal year ending September 30, 1987. Funds authorized to carry out this section shall be available for obligation in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(b)(1) The first sentence of section 103(e)(4) of title 23, United States Code is amended by striking "which is within an urbanized area or which passes through and connects urbanized areas within a State and".

(2) The second sentence of Section 103(e)(4) of title 23, United States Code is amended by striking "which will serve the urbanized area and the connecting nonurbanized area corridor from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located." and inserting in lieu thereof, "which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located.".

(c)(1) The second sentence of section 103(e)(4) of title 23, United States Code, is amended by inserting in the second sentence after the words "approved by Congress" the words "or up to and including the approved 1983 interstate cost estimate, whichever is earlier,".

(2) The second sentence of section 103(e)(4) of title 23, United States Code, is amended by striking in the second sentence the phrases "the date of enactment of the Federal-Aid Highway Act of 1976 or" and "whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate,".

(3) The second sentence of section 103(e)(4) of title 23, United States Code, is amended by inserting in the second sentence after the words "approval of each substitute project under this paragraph," the words "or the date of approval of the 1983 interstate cost estimate, whichever is earlier,".

(d) Section 103(e)(4) of title 23, United States Code, is amended by adding at the end of such subsection the following: "Any route or segment thereof added to the Interstate System after March 7, 1978, pursuant to specific legislation will not be eligible for withdrawal and substitution under this subsection.".

(e) The first sentence of section 120(d) of title 23, United States Code, is amended by inserting after the words "traffic control signalization," the following: "including traffic control signalization projects under section 103(e)(4) of this title, notwithstanding the provisions of the fifth sentence of section 103(e)(4),".

FEDERAL-AID PRIMARY PROGRAM

SEC. 208. (a) Section 104(b)(1) of title 23, United States Code, is amended by (1) striking out "and priority primary routes" in the first sentence, and by (2) striking out "(other than the District of Columbia)" in the second sentence.

(b) Section 147 of title 23, United States Code, is repealed.

(c) Effective on October 1, 1982, any unobligated amount authorized under subsection (c) of section 104 of the Federal-Aid Highway Act of 1978 shall be apportioned by the Secretary of Transportation in the same manner as funds apportioned under section 104(b)(1) of title 23, United States Code, for the Federal-aid primary system, and shall thereafter remain available for obligation for the same period as such apportionment.

(d) The analysis of chapter 1 of title 23 is amended by deleting

"147. Priority Primary Routes."

and inserting in lieu thereof

"147. Repealed.".

FEDERAL-AID URBAN PROGRAM

SEC. 209. Section 103 of title 23, United States Code, is amended by deleting subsection (d) and inserting in lieu thereof the following:

"(d) The Secretary may approve Federal-aid urban programs in urban areas which programs shall be selected by the appropriate local officials so as to serve the goals

and objectives of the community, with the concurrence of the State highway department, as provided in section 105 of this title. The programs shall facilitate transportation in the urban area and include projects to: reduce congestion and improve the flow of traffic on arterial and collector routes, aid integration of different transportation modes to and from airports and other terminals and business districts, support clean air and energy conservation objectives, make highway capital improvements, improve highway safety, eliminate safety hazards and roadside obstacles, implement transportation systems management activities and serve other national goals and objectives. All public roads in urban areas are eligible except those on the primary system and the Interstate System. The applicable provisions of chapters 1 and 3 of this title, including provisions applicable to Federal-aid systems, shall apply to urban programs, except those provisions determined by the Secretary to be inconsistent with this subsection. The Secretary shall not waive the applicability of the planning requirements of section 134 of this title.".

FEDERAL-AID RURAL PROGRAM

SEC. 210. Section 103 of title 23, United States Code, is amended by deleting subsection (c) and inserting in lieu thereof:

"(c) The Federal-aid rural program shall be selected by the State highway agencies and the appropriate local road officials in cooperation with each other, subject to approval by the Secretary as provided in subsection (f) of this section and section 105 of this title. In making such selections, the needs of agriculture roads, rural mail routes, public school bus routes, local rural roads, airport and water port access roads, and goods movements shall be considered. All public roads, except those on the primary system, the Interstate System, and those in urban areas are eligible. Projects to improve highway safety and nonurbanized public transportation projects, including facilities and technical assistance, are also eligible for assistance under this section. The applicable provisions of chapters 1 and 3 of this title, including provisions applicable to Federal-aid systems, shall apply to rural programs, except those provisions determined by the Secretary to be inconsistent with this subsection.".

TRANSFERABILITY

SEC. 211. Paragraphs (1) and (2) of subsection (d) of section 104 of title 23, United States Code, are amended by striking out "50" each place it appears and inserting in lieu thereof at each such place "100".

HIGHWAY SAFETY IMPROVEMENT PROGRAM

SEC. 212. (a) Section 151 of title 23, United States Code, is amended to read as follows:

"§ 151. Highway safety improvement program

"(a) The Secretary, in cooperation with the States, shall establish a highway safety improvement program for projects on any public road or street in rural or urban areas. Assistance shall be available under this program for highway safety improvement projects, as defined in subsection (a) of section 101 of this title; for railway-highway crossing projects as provided for in section 130 of this title; for the implementation of highway-related safety requirements and guidelines issued by the Secretary under section 402 of this title; and for the development, implementation, and evaluation of the highway safety improvement program required under subsection (b) of this section.

"(b) Each State shall develop and implement on a continuing basis a highway safety improvement program including procedures for the planning, implementation, and evaluation of highway safety improvement projects on all highways, with the specific objective of reducing the number and severity of highway traffic accidents. Each State shall have a process for collecting, maintaining, and analyzing accident, traffic, and highway data; for conducting engineering studies of hazardous locations, sections and elements, for assigning priorities to the various types of hazards identified; for implementing safety improvement projects in accordance with the priorities developed; and for the evaluation of the safety benefits obtained.

"(c) Of the funds authorized to carry out this section each State shall expend 35 per centum of the sums apportioned for projects under section 203 of the Highway Safety Act of 1973 unless the State requests the Secretary to waive this minimum and the Secretary finds other safety projects are of a higher priority.

"(d)(1) Funds authorized to carry out this section shall be available for expenditure for projects on any public road (other than the Interstate System).

"(2) The Federal share payable on any project under this section shall not exceed 90 per centum of the cost thereof except that the Federal share of safety improvement projects for the elimination of hazards of rail-highway crossings shall not exceed that as provided in section 120(d) of this title.

"(3) The unobligated balance of contract authority established prior to enactment of this section for carrying out section 402 by the Federal Highway Administration shall remain available for obligation as provided prior to enactment of this section and shall lapse not later than September 30, 1984.

"(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as follows: 60 per centum in the ratio which the population of each State bears to the total population of all States, and 40 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. The annual apportionment for each State shall not be less than one-half of 1 per centum of the total apportionment. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b)(1), except that the Secretary is authorized to waive such provisions of this title that he deems inconsistent with the purposes of this section.

"(f) In any State wherein the State is without legal authority to construct or maintain a project under this section, such State shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is located.

"(g) One-half of 1 per centum of funds authorized for carrying out this section shall be made available to the Secretary of the Interior, who shall exercise the responsibilities assigned to States under subsection (b) of this section in carrying out this section on Indian reservations. Such funds shall be subject to a deduction of not to exceed 5 per centum for the necessary costs of administering the provisions of this section.

"(h) Each State shall report ot the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement the highway safety improvement program and the effectiveness of safety improvements in reducing the number and severity of accidents. The Secretary of Transportation shall submit a report to the Congress not later than April 1 of each year on the progress being made by the States in implementing the highway safety improvement program.".

(b) Section 152 of title 23, United States Code, is repealed.

(c) The analysis of chapter 1 of title 23, United States Code, is amended by deleting

"151. Pavement marking demonstration program.", and

"152. Hazard elimination program.",

and inserting in lieu thereof

"151. Highway safety improvement program.", and

"152. Repealed.".

(d) Section 203(e) of the Highway Safety Act of 1973 (Public Law 93-87), as amended by the Congressional Reports Elimination Act of 1980 (Public Law 96-470), is repealed.

HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM APPORTIONED FUNDS

SEC. 213. (a) Subsection (e) of section 144 of title 23, United States Code, is amended to read as follows:

"(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized according to the following formula: All deficient bridges will be divided into four categories: (1) Federal-aid system bridges, and bridges on public roads functionally classified as arterials or major collectors, eligible for replacment, (2) Federal-aid system bridges, and bridges on public roads functionally classified as arterials or major collectors, eligible for rehabilitation, (3) off-system bridges, and bridges on public roads not functionally classified as arterials or major collectors eligible for replacement, and (4) off-system bridges and bridges on public roads not functionally classified as arterials or major collectors eligible for rehabilitation. The square footage of deficient Federal-aid system bridges, or bridges on public roads functionally classified as arterials or major collectors, both those eligible for replacement and those eligible for rehabilitation, shall be multiplied by a factor of two. The square footage of deficient bridges in each category shall be mutiplied by the average national unit cost, on a State-by-State basis, as determined by the Secretary; and the total cost of each State divided by the total cost of the Nation's deficient bridges shall yield the apportionment factors. No State shall receive more than 9.25 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually. Funds authorized to carry out this section which are apportioned under this section shall be available for expenditure for three years after the close of the fiscal year for which they are authorized.".

(b) Notwithstanding any other provision of law or Federal regulation, any new bridge which is to be constructed pursuant to section 144 of title 23, United States Code, in tandem with any existing major structure built after June 28, 1969, with no more than 2.7 miles of highway between them need not carry a roadway width in excess of 69 feet.

FEDERAL LANDS HIGHWAYS PROGRAM

SEC. 214. (a) Section 202 of title 23, United States Code, is amended to read as follows:

"SEC. 202. ALLOCATIONS.—(a) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways according to the relative needs of the various elements of the national forest system as determined by the Secretary, taking into consideration the need for access as identified by the Secretary of Agriculture through renewable resource and land use planning, and the impact of such planning on existing transportation facilities.

"(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest development roads and trails according to the relative needs of the various national forests. Such allocation shall be consistent with the renewable resource and land use planning for the various national forests.

"(c) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway departments of the respective States. The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities.

"(d) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for park roads and parkways each according to the relative needs of the various elements of the national park system, taking into consideration the need for access as identified through land use planning and the impact of such planning on existing transportation facilities.

"(e) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for Indian reservation roads according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior.".

(b) Section 204 of title 23, United States Code, is amended to read as follows:

"SEC. 204. FEDERAL LANDS HIGHWAYS PROGRAM.—(a) Recognizing the need for all Federal roads which are public roads to be treated under the same uniform policies as roads which are on the Federal-aid systems, there is established a coordinated Federal lands highways program which shall consist of the forest highways, public lands highways, park roads, parkways, and Indian reservation roads as defined in section 101 of title 23, United States Code.

"(b) Funds available for forest highways and public lands highways shall be used by the Secretary to pay for the cost of construction and improvement thereof. Funds available for park roads, parkways, and Indian reservation roads shall be used by the Secretary of the Interior to pay for the cost of construction and improvement thereof. In connection therewith, the Secretary and the Secretary of the Interior, as appropriate, may enter into construction contracts and such other contracts with a State, or civil subdivision thereof as deemed advisable. In the case of Indian reservation roads, Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior.

"(c) Before approving as a project on an Indian reservation road or bridge any project on a Federal-aid system in a State, the Secretary must determine the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads and bridges, of a fair and equitable share of funds apportioned to such State under section 104 of this title.

"(d) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

"(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the Interior shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest.

"(f) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

"(g) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

"(h) Funds available for each class of Federal lands highways shall be available for adjacent vehicular parking areas and scenic easements.".

(c)(1) The definition of "park roads and trails" in section 101(a) of title 23, United States Code, is amended to read as follows: "The term 'park road' means a public road that is located within or provides access to an area in the national park system.".

(2) The term "Indian reservation roads and bridges" in section 101(a) of title 23, United States Code, is amended to read as "Indian reservation roads"; and the definition of such term is amended by deleting the words "and bridges" each place they appear and by inserting the word "public" before "roads" the first place it appears.

(3) Section 101(a) of title 23, United States Code, is amended by adding after the definition of the term "forest development roads and trails" the following new definition: "The term 'Federal lands highways' in accordance with section 204 of this title means forest highways, public lands highways, park roads, parkways, and Indian reservation roads which are public roads.".

(d) Sections 206, 207, 208, 209, and 214(c) of title 23, United States Code, are repealed.

(e) The analysis of chapter 2 of title 23, United States Code, is amended by deleting the following headings:

"202. Apportionment or allocation.";
"204. Forest highways.";
"206. Park Roads and trails.";
"207. Parkways.";
"208. Indian reservation roads."; and
"209. Public lands highways.".

and inserting in lieu thereof:

"202. Allocations.";
"204. Federal Lands Highways Program.";
"206. Repealed.";
"207. Repealed.";
"208. Repealed."; and
"209. Repealed.".

(f) Section 203 of title 23, United States Code, is amended by striking out the term "park roads and trails" wherever it appears and inserting in lieu thereof the term "park road".

PROGRAM CONSOLIDATION

SEC. 215. (a)(1) Sections 143, 148, 155, and 156 of title 23, United States Code, are repealed.

(2) Section 163 of the Federal-Aid Highway Act of 1973, as amended, is repealed.

(b)(1) Any unobligated balance of contract authority established by any Act prior to enactment of subsection (a) of this section for carrying out sections 143 and 148 of title 23, United States Code, shall remain available for obligation under the conditions applicable prior to such enactment.

(2) The unexpended balance of sums appropriated prior to enactment of subsection (a) of this section for carrying out sections 155 and 156 of title 23, United States Code, and section 163 of the Federal-Aid Highway Act of 1973, as amended, shall remain available for expenditure under the conditions applicable prior to such enactment.

(3) The unappropriated balance of sums authorized prior to enactment of subsection (a) of this section for carrying out sections 148, 155, and 156 of title 23, United States Code, is rescinded.

(c) The analysis of chapter 1, United States Code, is amended by striking

"143. Economic growth center development highways."

and inserting in lieu thereof

"143. Repealed.";

by striking

"148. Development of a national scenic and recreational highway."

and inserting in lieu thereof

"148. Repealed.";

by striking

"155. Access highways to public recreation areas on certain lakes."

and inserting in lieu thereof

"155. Repealed.";

and by striking

"156. Highways crossing Federal projects."

and inserting in lieu thereof

"156. Repealed.".

CARPOOL AND VANPOOL PROJECTS

SEC. 216. (a) Section 120(d) of title 23, United States Code, is amended by inserting before the words "may amount to 100 per centum" the words "or commuter carpooling and vanpooling".

(b) The Secretary of Transportation is authorized and directed to expend such sums as are necessary out of the administrative funds authorized by subsection (a) of section 104, title 23, United States Code, to carry out the provisions of subsection (d) of section 136 of the Federal-Aid Highway Act of 1978.

PUBLIC TRANSPORTATION

SEC. 217. Section 142 of title 23, United States Code, is amended as follows:

(1) In subsection (a)(1) delete in the first sentence the words "bus lanes" and insert in lieu thereof the following: "high occupancy vehicle lanes" and delete the words "bus and other" and insert in lieu thereof the following: "high occupancy vehicle and".

(2) In subsection (b) delete the word "bus" and insert in lieu thereof "high occupancy vehicle".

(3) In subsection (f) delete the words "public mass transportation systems" and

insert in lieu thereof "high occupancy vehicles".

FRINGE AND CORRIDOR PARKING

SEC. 218. Section 137 of title 23, United States Code, is amended by inserting the following new subsection (f):

"(f)(1) The Secretary may approve for Federal financial assistance from funds apportioned under section 104(b)(5)(B) of this title, projects for designating existing facilities, or for acquisition of rights of way or construction of new facilities, for use as preferential parking for carpools, provided that such facilities (1) are located outside of a central business district and within an interstate highway corridor, and (2) have as their primary purpose the reduction of vehicular traffic on the interstate highway.

"(2) Nothing in this subsection, or in any rule or regulation issued under this subsection, or in any agreement required by this subsection, shall prohibit (1) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility designated or constructed under this subsection, or (2) any such person from so operating such facility. Any fees charged for the use of any such facility in connection with the purpose of this subsection shall not be in excess of the amount required for operation and maintenance, including compensation to any person for operating the facility.

"(3) For the proposes of this subsection, the terms 'facilities' and 'parking facilities' are synonymous and shall have the same meaning given 'parking facilities' in subsection (c) of this section".

EMERGENCY RELIEF

SEC. 219. (a)(1) The first sentence of subsection (a) of section 125 of title 23, United States Code, is amended by striking the first sentence thereof and inserting in lieu thereof the following: "An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for the repair or reconstruction of highways, roads, and trails which the Secretary shall find have suffered serious damage as the result of (1) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (2) catastrophic failures from any external cause, in any part of the United States. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to structural deficiencies or physical deterioration.".

(2) Subsection (a) of section 125 of title 23, United States Code, is further amended by inserting in the second sentence, as that sentence read prior to the amendments made by paragraph (1) of this subsection, after the word "appropriated" the words "from the Highway Trust Fund".

(b) Notwithstanding any other provision of law, all expenditures made unde section 125 of title 23, United States Code, prior to the fiscal year ending September 30, 1978, are authorized to have been appropriated from the Highway Trust Fund.

(c) Subsection (a) of section 125 of title 23, United States Code, is amended by inserting in the second sentence after the words "after September 30, 1976," the words "and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980,".

(d) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the period at the end of the first sentence, inserting a colon in lieu thereof, and by adding the following: "*Provided*, That obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (c) of this section, resulting from a single natural disaster or a single catastrophic failure shall not exceed $30,000,000 in any State.".

(e) The amendments made by subsection (d) of this section shall apply to natural disasters or catastrophic failures which the Secretary finds eligible for emergency relief subsequent to the date of enactment of this section.

(f) Subsection (f) of section 120 of title 23, United States Code, is amended to read as follows:

"(f) The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title shall not exceed 75 per centum of the cost thereof: *Provided*, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, 'a comparable facility' shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life.".

(g) All obligations for projects resulting from a natural disaster or catastrophic failure which the Secretary finds to be eligible for emergency relief subsequent to the date of enactment of this subsection shall provide for the Federal share required by subsection (f) of section 120 of title 23, United States Code, as amended by this section.

(h)(1) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the words "the Federal-aid highway systems, including the Interstate System" and by inserting in lieu thereof the words "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors," in the two places the stricken words appear.

(2) Subsection (c) of section 125 of title 23, United States Code, is amended by striking the words "on any of the Federal-aid highway systems" and inserting in lieu thereof the words "routes functionally classified as arterials or major collectors".

BICYCLE TRANSPORTATION PROGRAM

SEC. 220. Section 217 of title 23, United States Code is amended—

(1) by striking in the first sentence of subsection (a), the words "and the multiple use of highway rights-of-way" and "on or in conjunction with highway rights-of-way";

(2) by inserting after the first sentence in subsection (a) the following: "Federal-aid highway projects may include nonconstruction programs or projects which can reasonably be expected to enhance the safety and use of bicycles.";

(3) by striking out in subsection (b) the words "that provided in section 120 of this title" and inserting in lieu thereof "100 per centum"; and

(4) by striking out subsection (e).

HIGHLAND SCENIC HIGHWAY

SEC. 221. Section 161(f) of the Federal-Aid Highway Act of 1973, as amended by section 21 of Public Law 96-106, is further amended to read as follows:

"(f) The Highland Scenic Highway as authorized by subsection (a) of this section and all associated lands and rights-of-way shall be managed as part of the Monongahela National Forest for scenic and recreational purposes. Vehicle use shall be confined to passenger cars, recreational vehicles, and limited truck traffic to the extent such use is compatible with the purpose for which the highway was constructed. Commercial use by trucks shall be limited and controlled by permit.".

ALLOCATION OF URBAN FUNDS

SEC. 222. Section 150 of title 23, United States Code, is amended by adding the following sentence at the end thereof: "Funds allocated to an urbanized area under the provisions of this section may, at the request of the Governor and upon approval of the appropriate local officials of the area and the Secretary, be transferred to the allocation of another such area in the State or to the State for use in any urban area.".

CERTIFICATION ACCEPTANCE

SEC. 223. (a) Subsection 117(a) of title 23, United States Code, is amended by striking out "projects on Federal-aid-systems, except the Interstate System," and inserting in lieu thereof "Federal-aid projects on systems other than the Interstate System" and by adding at the end thereof the following new sentence: "Notwithstanding the above, the Secretary may discharge any of his responsibilities under this title relative to the physical construction phase of Interstate resurfacing, restoration, rehabilitation, and reconstruction projects using the procedures of this section.".

(b) Subsection 117(b) is amended by striking out "make a final inspection of each subject project upon its" and inserting in lieu thereof "establish procedures for the inspection of such projects upon".

(c) Subsection 117(f)(1) is amended by striking out the words "the Federal-aid secondary system," when they first appear and inserting in lieu thereof "projects, as defined by the Secretary and which are not on the Interstate System," and by striking out "all projects on the Federal-aid secondary system" and inserting in lieu thereof "such projects".

(d) Subsection 117(f)(3) is revised to read as follows:

"(3) Paragraphs (1) and (2) of this subsection shall not be construed to relieve the Secretary of his obligation to establish procedures for the inspection of such projects upon completion and to require an adequate report of the estimated and actual cost of construction as well as other information as he determines necessary.".

(e) Subsection 105(b) of title 23, United States Code, is amended by striking out "projects on the Federal-aid secondary system" and inserting in lieu thereof "projects, as defined by the Secretary and which are not on the Interstate System except for the construction phase of Interstate resurfacing, restoration, rehabilitation, and reconstruction projects".

(f) Subsection 106(b) of title 23, United States Code, is amended to read as follows:

"(b) In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction, as defined by the Secretary and which are not on the Interstate System except for the construction phase of Interstate resurfacing, restoration, rehabilitation and reconstruction projects, except in

States where all public roads and highways are under the control and supervision of the State highway department, shall be determined by the State highway department and the appropriate local road officials in cooperation with each other.".

(g) Subsection 112(e) of title 23, United States Code, is amended by striking out "projects on the Federal-aid secondary system" and inserting in lieu thereof "projects, as defined by the Secretary and which are not on the Interstate System except for the construction phase of Interstate resurfacing, restoration, rehabilitation, and reconstruction projects,".

DEFENSE ACCESS ROAD

SEC. 224. Section 210(c) of title 23, United States Code, is amended by striking "Not exceeding $5,000,000 of any funds appropriated under the Act approved October 16, 1951 (65 Stat. 422)", and inserting in lieu thereof "Funds appropriated for defense maneuvers and exercises."

MAINTENANCE

SEC. 225. (a) Subsection (a) of section 116 of title 23, United States Code, is amended by striking the second sentence.

(b) Subsection (b) of section 116 of title 23, United States Code, is amended by striking "constructed on the Federal-aid secondary system or within a municipality,".

(c) The second sentence of subsection (c) of section 116 of title 23, United States Code, is amended to read as follows: "If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types on one or more of the Federal-aid systems or programs in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State, in which such project shall be located, as the Secretary deems most appropriate until such project shall have been put in proper condition of maintenance.".

(d) Section 109 of title 23, United States Code, is amended by striking subsection (m) and by relettering subsection (n) as (m).

(e) Section 116 of title 23, United States Code, is amended by adding subsection (f) as follows:

"(f) The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed.".

(f) Section 119 of title 23, United States Code, is amended by striking subsection (b).

(g) Section 116 of title 23, United States Code, is amended by adding subsection (g) as follows:

"(g) Not later than one year after the date of issuance of initial guidelines under subsection (f) of this section each State shall have a program for the Interstate System in accordance with such guidelines. Each State shall certify on January 1 of each year that it has such a program and the Interstate System is maintained in accordance with the program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate System in accordance with such program, the next apportionment of funds to such State for the Interstate System shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate System in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period, the amount withheld shall be reapportioned to all other eligible States.".

CONSTRUCTION

SEC. 226. (a) Subsection (a) of section 114 of title 23, United States Code is amended to read as follows:

"(a) The construction of any highways or portions of highways located on a Federal-aid system or under a Federal-aid program shall be undertaken by the respective State highway departments or under their direct supervision. The construction work and labor in each State shall be in accordance with the laws of that State and applicable Federal laws. Except as provided in section 117 of this title, the Secretary shall establish procedures for the inspection and approval of such construction. Construction may begin as soon as funds are available pursuant to subsection (a) of section 118 of this title. The State highway department shall not erect any informational signs other than official traffic control devices conforming with standards developed by the Secretary on any project where actual construction is in progress and visible to highway users.".

(b) Subsection (a) of section 113 of title 23, United States Code, is amended to read as follows: "The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on the construction work performed on highway projects on the Federal-aid systems, the primary as well as its extensions in urban areas, and the Interstate System, or under the Federal-aid programs, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems and programs, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of August 30, 1935, known as the Davis-Bacon Act (40 U.S.C. 267a)."

(c) Subsection (c) of section 121 of title 23, United States Code is amended by striking the words "following inspections".

RESEARCH AND PLANNING

SEC. 227. (a) Subsection (c) of section 307, title 23, United States Code, is amended by adding paragraph (5) as follows:

"(5) The sums provided pursuant to paragraph (2) of this subsection shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned under section 104(b)(1) of this title.".

(b) Subsection (c)(2) of section 307, title 23, United States Code, is amended by striking "1964" and inserting in lieu thereof "1983", and by striking "section 104" and inserting in lieu thereof "sections 104 and 144".

(c) Section 120 of title 23, United States Code, is amended by adding a subsection (i) as follows:

"(i) The Federal share payable on account of any project financed under section 307(c) of this title shall be 85 per centum, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total costs of any such project.".

(d) Section 307(c)(1) of title 23, United States Code, is amended by adding in the last sentence after "highways and highway systems" the words "and for study, research and training evaluation and accreditation of inspection and testing.".

NONDISCRIMINATION

SEC. 228. (a) The first and third sentence of subsection (a) of section 140 of title 23, United States Code, are amended by striking the words "or national origin" and inserting in lieu thereof the words "national origin or sex".

(b) Section 140 of title 23, United States Code, is amended by adding new subsection (c) as follows:

"(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, insititution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. Whenever apportionments are made under subsection 104(a) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 3709 of the Revised Statute, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of 41 U.S.C. 252(e).".

(c) The title of section 140 of title 23, United States Code, is amended to read:

"§ 140. Nondiscrimination"

and the analysis of chapter 1 of title 23, United States Code, is amended by striking out

"140. Equal employment opportunity."

and inserting in lieu thereof

"140. Nondiscrimination.".

INTERAGENCY AGREEMENTS

(SEC. 229. (a) Chapter 1 of title 23, United States Code, is amended by adding after section 156 the following new section:

"§ 157. Interagency agreements

"Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall enter into agreements with the Secretaries of the Departments of Interior and Defense, the Administrator of the Environmental Protection Agency, and the heads of such other Federal departments, agencies, and instrumentalities as the Secretary determines, to minimize, to the greatest extent possible, duplication, paperwork, and delays in the development and approval of projects under this title and any other provision of law relating to the Federal Highway programs. Notwithstanding any other provision of law, such agreements shall provide that actions on ap-

plications or requests for permits, licenses, findings, and other approvals and determinations required for such projects will be fully coordinated by the Department of Transportation with the review process established under the National Environmental Policy Act of 1969, as amended, and, to the greatest extent practicable, that a decision with respect to each such application or request will be made contemporaneously with approval of the environmental impact statement, finding of no significant impact, or categorical exclusion required for such project, but in no event later than one hundred eighty days after the date of approval of such environmental review document.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"157. Interagency agreements".

OBLIGATION LIMITATION AND ALLOCATION FORMULA

SEC. 230. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1983 shall not exceed $12,000,000,000, for fiscal year 1984 shall not exceed $12,800,000,000, for fiscal year 1985 shall not exceed $13,600,000,000, for fiscal year 1986 shall not exceed $14,500,000,000, and for fiscal year 1987 shall not exceed $14,900,000,000. These limitations shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, section 9 of the Federal-Aid Highway Act of 1981, and section 118 of the Union Station Redevelopment Act of 1981. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code.

(b) For the fiscal years 1983, 1984, 1985, 1986, and 1987, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(c) During the period October 1 through December 31, 1982, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(d) Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1983, August 1, 1984, August 1, 1985, August 1, 1986, and August 1, 1987, respectively, revise a distribution of the funds made available under subsection (b) if a State will not obligate the amount distributed during that fiscal year and redistribute suffecient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year. In revising such distributions, the Secretary shall give priority to those States which, because of statutory changes under these amendments and under P.L. 97-134, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

CERTIFICATION OF STATE PROCEDURES

SEC. 231. (a) The Secretary of Transportation in cooperation with the State of Vermont shall carry out a project to demonstate the feasibility of reducing the time and the cost required to complete highway projects, other than projects on the Interstate System in areas that require improved access between rapidly growing suburban areas and established urban core areas, by extending the coverage of State certifications under section 117(a) of title 23 of the United States Code, to any Federal law, regulation, or policy that applies to such projects.

(b) In implementing this section, the Secretary shall review applications for projects submitted by the State of Vermont with respect to which the State agrees to assume the responsibility of the Secretary with regard to any such Federal law, regulation, or policy. The Secretary shall be deemed to have fulfilled his responsibility under such law, regulation, or policy, provided that—

(1) the Secretary finds that the State has procedures which are sufficient to assure that the project will be carried out in accordance with the provisions of such law, regulation, or policy;

(2) the State highway department is authorized and consents to accept the jurisdiction of the Federal courts in any suit brought to enforce any such Federal law or regulation; and

(3) the State highway department certifies that the project has been carried out in accordance with the procedures specified under subsection (b)(1) of this section.

(c) In carrying out the demonstration project authorized under this section, the Secretary may continue to discharge his responsibilities directly with respect to those laws, regulations, and policies for which he finds State procedures are not sufficient.

(d) In implementing this section, the Secretary shall consider the procedures developed pursuant to section 141 of the Federal-Aid Highway Act of 1976, as amended, and shall encourage the State to carry out its responsibilities in cooperation with appropriate political subdivisions of the State.

(e) There is authorized to be appropriated out of the Highway Trust Fund to carry out the project authorized under this section a sum not to exceed $50,000,000.

(f) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(g) Not later than six months after the completion of such project, the Secretary shall submit a report to Congress which includes, but is not limited to, a description of the methods used to accomplish the project and the changes, if any, required to adopt expanded certification. The report should also contain recommendations for applying the methods to other highway projects, and any changes to existing law which may be necessary to permit more widespread use of expanded certification acceptance.

ALASKA HIGHWAY

SEC. 232. (a) Subsection (a) of section 218 of title 23, United States Code, is amended by adding after the second sentence the following: "In addition to such funds, the State of Alaska is authorized to expend on such such highway any Federal-aid highway funds apportioned to the State of Alaska under this title as its Federal share. Notwithstanding any other provision of law any obligation limitation enacted for fiscal year 1983 or for any fiscal year thereafter shall not apply to projects authorized by the previous sentence.".

(b) This amendment shall be effective upon the date of the enactment of this Act.

TERRITORIAL HIGHWAY PROGRAM

SEC. 233. (a) Section 215 of title 23, United States Code, is hereby repealed.

(b)(1) The unobligated balance of sums appropriated prior to enactment of subsection (a) of this section for carrying out section 215 of title 23, United States Code, shall remain available for obligation under the conditions applicable prior to such enactment.

(2) The unappropriated balance of sums authorized prior to enactment of subsection (a) of this section for carrying out section 215 of title 23, United States Code, shall remain available until expended under the conditions applicable prior to such enactment.

(c) Section 120(i) of title 23, United States Code, repealed.

(d) Section 401 of title 23, United States Code, is amended by deleting the second sentence thereof.

(e) The sixth sentence of section 402(c) of title 23, United States Code, is amended to read as follows: "The annual apportionment to each State shall not be less than one-half of 1 per centum of the total apportionment.".

(f) The analysis of chapter 2 of title 23, United States Code, is amended by deleting:

"215. Territories highway development program."

and inserting in lieu thereof:

"215. Repealed.".

ACCELERATION OF BRIDGE PROJECTS

SEC. 234. Section 147 of the Surface Transportation Assistance Act of 1978, as amended by section 15 of Public Law 96-106 (93 Stat. 798) is repealed. Funds previously set aside in accordance with such section 147 shall be available for obligation for a period of two years from the date of enactment of this Act. Such funds may be obligated under the same conditions which existed prior to the repeal of such section 147. Funds not obligated within that period of availability shall be permanently withdrawn and such funds shall be apportioned by the Secretary to the several States in accordance with section 144(e) of title 23, United States Code.

LAKE ROAD EROSION DEMONSTRATION

SEC. 235. (a) The Secretary of Transportation is authorized to carry out demonstration projects in and around Devils Lake, North Dakota, for the purpose of demonstrating construction techniques to prevent wave erosion on closed basin lakes with grade level highway crossings.

(b) The Secretary is authorized to reimburse from funds authorized by subsection (c) the State of North Dakota for funds previously expended on projects described in subsection (a).

(c) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out this section not to exceed $4,500,000 for the fiscal year ending September 30, 1983.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall not exceed 75 per centum of the total cost thereof and such fund shall remain available until expended.

TRUCK SAFETY DEMONSTRATION

SEC. 236. The Secretary of Transportation, in cooperation with the State of Idaho, shall conduct a project on a primary segment of highway experiencing a high incidence of truck accidents. The study shall include an analysis of factors contributing to truck accidents such as weather conditions, sight distance, road curvature, roadway width, and gradient. The study shall also include an analysis of the benefit-cost ratio of certain safety improvements implemented to correct hazards contributing to truck accidents.

(b) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out this section not to exceed $6,500,000.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(d) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than one hundred eighty days after completion of such project.

DEFINITION

SEC. 237. The definition of the term "construction" in section 101(a), title 23, United States Code, is amended by striking the period at the end thereof and inserting in lieu thereof the following: "and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program.".

REPORTS

SEC. 238. (a) Section 307 of title 23, United States Code, is amended by adding a new subsection (e) as follows:

"(e) The Secretary shall report to the Congress in January 1983, and in January of every second year thereafter, estimates of the future highway needs of the Nation."

(b) Section 3 of Public Law 89-139, 79 Stat. 578, August 28, 1965, and section 17 of the Federal-Aid Highway Act of 1968 are hereby repealed.

CONSTRUCTION BY STATES IN ADVANCE OF APPORTIONMENT

SEC. 239. (a) Section 115(a) of title 23, United States Code, is amended to read as follows:

"(a)(1) When a State has obligated all funds apportioned or allocated to it under sections 103(e)(4), 104, or 144, of this title, other than Interstate funds, and proceeds to construct any highway substitute, Federal-aid system or program or bridge project, other than an Interstate project funded under section 104(b)(5) of this title, without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under sections 103(e)(4), 104, or 144 of this title if—

"(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

"(B) the project conforms to the applicable standards adopted under section 109 of this title.

"(2) The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations.".

(b) Section 115(c) of title 23, United States Code, is amended by striking "104" and inserting in lieu thereof "103(3)(4), 104, or 144".

DESIGN AND CONSTRUCTION QUALITY ASSURANCE STUDY

SEC. 240. (a) The Secretary of Transportation is directed to coordinate a study with the National Bureau of Standards, the American Society for Testing and Materials, the Office of Technology Assessment, and other organizations as deemed appropriate, (1) to determine the existing quality of design, construction, products, use, and systems for highways and bridges; (2) to determine the need for uniform standards and criteria for design, processing, products, and applications, including personnel training and implementation of enforcement techniques; and (3) to determine the manpower needs and cost of developing a national system for the evaluation and accreditation of testing and inspection agencies.

(b) The Secretary shall submit such study to the Congress not later than one year after the date of enactment of this section.

VENDING MACHINES

SEC. 241. Notwithstanding section 111 of title 23, United States Code, before October 1, 1983, any State may permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on rights-of-way of the National System of Interstate and Defense Highways in such State. Such vending machines may only dispense such food, drink, and other articles as the State highway department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines under this section, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the Randolph-Sheppard Act (20 U.S.C. 107(a)(5)). The costs of installation, operation, and maintenance of vending machines under this section shall not be eligible for Federal assistance under title 23, United States Code.

RELOCATION OF UTILITY FACILITIES

SEC. 242. (a) Section 101(a) of title 23, United States Code, as amended by section 107 of this Act, is amended by inserting the phrase "and utility appurtenances," after the word "crossings," in the definition of "construction".

(b) Section 123 of title 23, United States Code, is amended—

(1) by striking in subsection (a) "the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas," and inserting in lieu thereof "a Federal-aid system or under a Federal-aid program,"; and

(2) by adding a new subsection (d) at the end thereof to read as follows:

(d) When a State relocates utilities solely to correct hazards to the traveling public from utility appurtenances on or near the right-of-way of Federal-aid projects, the Secretary may waive the provisions of subsection (a) of this section to the extent such provisions restrict Federal participation in such work if the Secretary determines such waiver would serve a public purpose by facilitating the State's safety improvement program.".

TECHNICAL AMENDMENTS

SEC. 243. (a) Section 101(a) of title 23, United States Code, is amended as follows:

(1) In the tenth sentence, by inserting the words "or under one of the Federal-aid programs" immediately after the words "Federal-aid systems";

(2) In the nineteenth sentence, by striking the period at the end thereof and adding the words "or under the Federal-aid programs.";

(3) In the thirtieth sentence, by deleting the words "secondary system" and inserting in lieu thereof the words "rural program", and by deleting the word "system" and inserting in lieu thereof the word "program";

(4) In the thirty-first sentence, by deleting the word "system" each time it appears and inserting in lieu thereof the word "program"; and

(5) By adding after the twenty-eighth sentence the following sentence: "The term 'Federal-aid program' means any one of the Federal-aid highway programs described in section 103 of this title.".

(b)(1) Section 103 of such title is amended by adding to the title the words "and programs" after the words "Federal-aid systems";

(2) Section 103(a) is amended to read as follows:

"For the purpose of this title, the Federal-aid systems, which consist of the primary system and the Interstate System, along with the Federal-aid programs, which consist of the Federal-aid rural program and the Federal-aid urban program, are established and continued pursuant to the provisions of this section.";

(3) Section 103(f) is amended to read as follows:

"The Secretary shall have authority to approve in whole or in part the Federal-aid primary system, the Federal-aid rural program, the Federal-aid urban program, and the Interstate System, as and when such systems and programs or portions thereof are designated, or to require modifications or revisions thereof. No Federal-aid system or program or portion thereof shall be eligible for projects in which Federal funds participate until approved by the Secretary.";

(4) Subsections (g) and (h) of section 103 are repealed; and

(5) The analysis of chapter 1 of title 23 is amended by deleting

"103. Federal-aid systems."

and inserting in lieu thereof

"103. Federal-aid systems and programs.".

(c) Section 104 of such title is amended as follows:

(1) In subsections (a) and (b)(1), by inserting the words "and programs" immediately after the words "Federal-aid systems" each time they appear;

(2) In paragraph (2) of section 104(b), by deleting the words "secondary system" and inserting in lieu thereof the words "rural program";

(3) In paragraph (6) of section 104(b) by deleting the word "system" and inserting in lieu thereof the word "program";

(4) In subsection (c)(1), by deleting the phrase ", commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374),"; and

(5) In subsection (f)(1), by inserting the words "and programs" immediately after the words "Federal-aid systems".

(d) Section 105 of such title is amended as follows:

(1) In the first sentence of subsection (a) by inserting the words "and programs" after the words "Federal-aid systems", and by deleting in the third sentence the comma and all that follows and inserting a period after the word "part"; and

(2) In subsection (d) by deleting the words "programs for", and by deleting the words "on the Federal-aid urban system" and inserting in lieu thereof the words "under the Federal-aid urban program".

(e) Section 106 of such title is amended as follows:

(1) Section 106(b) is amended by striking the word "on" and inserting in lieu thereof the word "under," and by striking the word "system" each place it appears and inserting in lieu thereof the word "program".

Section 106(d) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system".

(f)(1) Section 108(a) of such title is amended by inserting the words "or under any of the Federal-aid highway programs," immediately after the words "Interstate System," the first time they appear, and by inserting the words "and programs" immediately after the words "Federal-aid highway systems" the second time they appear;

(2) Section 108(c)(2) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system"; and

(3) The last sentence of section 108(c)(3) is amended by inserting the words "or under the Federal-aid program" immediately after the words "Federal-aid system".

(g)(1) Section 109(a) of such title is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system";

(2) Section 109(2) is amended by deleting the words "Projects on the Federal-aid secondary system" and inserting in lieu thereof the words "Federal-aid program projects";

(3) Section 109(e) is amended by deleting the phrase "No funds shall be approved for expenditure on any Federal-aid highway," and inserting in lieu thereof the following phrase: "No funds shall be approved for expenditure on any highway on the Federal-aid highway system or under the Federal-aid highway program,";

(4) Section 109(h) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system";

(5) Section 109(i) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system" each time they appear in the first and second sentences, by inserting the words "or under a Federal-aid program" immediately after the words "Federal-aid system" in the third sentence, by inserting the words "or program" immediately after the words "Federal-aid system"; in the fifth sentence, and by inserting the words "or under" immediately after the word "on" in such sentence; and

(6) Section 109(l)(1) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system".

(h)(1) Section 113(a) of such title is amended by deleting the words "the primary and secondary, as well as their extensions in urban areas, and the Interstate System, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems," and inserting in lieu thereof the words "the primary as well as its extensions in urban areas, and the Interstate System, or under the Federal-aid programs, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems and programs,"; and

(2) Section 113(b) is amended by inserting the words "or under any of the Federal-aid programs" immediately after the words "Federal-aid systems".

(i) Section 115(a) of such title is amended to read as follows:

"(a) When a State has obligated all funds for the primary system or for any of the Federal-aid programs, other than the Interstate System, apportioned to it under section 104 of this title, and proceeds to construct any projects without the aid of Federal funds, including one or more parts of any project, on the primary system or under any of the Federal-aid programs in such State, other than the Interstate System, as that system may be designated or any of those programs may be comprised at that time, in accordance with all procedures and all requirements applicable to projects on the primary system or under any such program, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 104 of this title if—

(1) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects on the Federal-aid system or under the Federal-aid program involved, and

(2) the project conforms to the applicable standards adopted under section 109 of this title.

The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State and taht no application may be approved which will exceed the State's expected apportionment of such authorization.".

(j) Section 118(d) of such title is amended by inserting the words "or under a Federal-aid program" immediately after the words "Federal-aid system".

(k)(1) Section 120(a) of such title is amended by deleting in the first sentence all of the words between "(a)" and "(A)" and inserting in lieu thereof the words "Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with primary, rural, or urban funds, on the Federal-aid primary system, under the Federal-aid rural program, and under the Federal-aid urban program shall either"; and

(2) Section 120(g) is amended by deleting the words "Federal-aid highways" and inserting in lieu thereof the words "Federal-aid projects".

(l) Section 121(c) of such title is amended by inserting the words "or under a Federal-aid program" immediately after the words "Federal-aid system".

(m) Section 123(a) of such title is amended by deleting the words "the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas," and inserting in lieu thereof the words "a Federal-aid system or under a Federal-aid program,".

(n) Section 124(a) of such title is amended by inserting the words "or under any of the Federal-aid programs," immediately after the phrase "including the Interstate System,".

(o) Section 129 of such title is amended as follows:

(1) In subsection (c), by inserting the words "and programs" immediately after the words "Federal-aid highway systems";

(2) In subsections (f) and (g)(2), by inserting the words "or programs" immediately after the words "Federal-aid systems" each time they appear; and

(3) In subsection (i), by deleting the words "Federal-aid system, other than the Interstate System" and inserting in lieu thereof the words "Federal-aid project other than one of the Interstate System,".

(p) Section 135(b) of such title is amended by placing a period after the word "flow" and deleting the remainder of the sentence.

(q) Section 137(a) of such title is amended by deleting the words "project on the Federal-aid urban system" and inserting in lieu thereof the words "project under the Federal-aid urban program".

(r) Section 140(a) of such title is amended by inserting the words "or under any of the Federal-aid programs" immediately after the words "Federal-aid systems".

(s) Section 141(b) of such title is amended to read as follows:

"(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing in accordance with section 127 of this title all State laws respecting maximum vehicle size and weights permitted on all roads receiving funds under the Federal-aid program, including the primary system, the Interstate System, and is a route functionally classified as an arterial or major collector.".

(t) Section 142 of such title is amended as follows:

(1) In subsection (a)(1) by inserting the words "and highways under the Federal-aid programs" immediately after the words "Federal-aid systems", and by deleting the words "as a project on any Federal-aid system";

(2) In subsection (a)(2) by deleting the words "project on the Federal-aid urban system" each place it appears and inserting in lieu thereof "project under the Federal-aid urban program"; and

(3) In subsection (e)(2) by deleting the words "projects on the Federal-aid urban system" and inserting in lieu thereof "projects under the urban program".

(u) Section 149 of such title is amended by inserting the words "or under any Federal-

aid program" immediately after the words "Federal-aid system".

(v) Section 150 of such title is amended as follows—

(1) By deleting the word "system" in the title and inserting the word "program" in lieu thereof.

(2) By amending the analysis of chapter 1 of title 23, United States Code, by deleting:

"150. Allocation of urban system funds.".

and inserting in lieu thereof:

"150. Allocation of urban program funds.".

(w) Section 302(b) of such title is amended by deleting the words "on the Federal-aid secondary system," and inserting in lieu thereof the words "under the Federal-aid rural program", and by deleting the words "secondary funds," and inserting in lieu thereof the words "rural funds,".

(x) Section 304 of such title is amended by inserting the words "and highways under the Federal-aid programs" between the word "systems" and the comma.

(y) Section 317(d) of such title is amended by inserting the words "or under a Federal-aid program" immediately after the words "Federal-aid system".

(z) Section 320(a) of such title is amended by inserting the words "or programs" immediately after the words "highway systems" in the second sentence.

(aa) Section 322 of such title is amended as follows:

(1) In subsection (c)(1) by deleting the words "any Federal-aid system," and inserting in lieu thereof the words "the Interstate System, the Primary System, or is a route functionally classified as an arterial or major collector,"; and

(2) In subsection (c)(2) by deleting the words "any Federal-aid system," and inserting in lieu thereof the words "the Interstate System, the Primary System, or is not a route functionally classified as an arterial or major collector,".

(bb) Section 402(d) of such title is amended by inserting the words "and programs" immediately after the words "Federal-aid systems".

TEMPORARY MATCHING FUND WAIVER

SEC. 244 (a) Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary of Transportation under section 106(a), of title 23 United States Code, and of any qualifying project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, during the period beginning on the date of enactment of this Act and ending September 30, 1983, shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

(b) For purposes of this section, the term "qualifying project" means a project approved by the Secretary of Transportation under section 106(a) of title 23, United States Code, or a project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) shall not be greater than the excess of—

(1) The amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act, over

(2) the amount of obligation authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981.

(d) The total amount of such increases in the Federal share as are made pursuant to subsection (a) for any State shall be repaid to the United States by such State on or before September 30, 1984. Such payments shall be deposited in the Highway Trust Fund and such repaid amounts shall be credited to the last apportionment made for the category of funds for which the money so used was originally apportioned.

If a State has not made the repayment as required by subsection (d) of this section, the Secretary shall deduct from funds apportioned to a State under section 104(b) of title 23, United States Code, except for section 104(b)(5)(A), in each of the fiscal years ending September 30, 1985, and September 30, 1986, a pro rata share of each category of such apportioned funds, the total amount of which shall be equal to 50 per centum of the amount needed for repayment.

SEC. 245. (a) On October 1, the Secretary of Transportation shall allocate among the States, as defined in title 23, United States Code, amounts sufficient to insure that a State's percentage of apportionments in each such fiscal year of primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings funds under sections 104(b), 144 and 152 of title 23, United States Code and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, excluding the Mass Transit Account, in the latest fiscal year for which data is available.

(b) Amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the year authorized plus three fiscal years, shall be subject to the provisions of title 23, United States Code, and may be obligated for primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings projects. Obligation limitations for Federal-aid highways and highway safety construction programs established by this Act or any subsequent Act shall not apply to obligations made under this section except where the provision of law establishing such limitation specifically amends or limits the applicability of this sentence. Sums allocated pursuant to this section shall not be considered to be sums allocated for purposes of section 104(b) of this Act.

(c) In order to carry out this section there is authorized to be appropriated, out of the Highway Trust Fund, excluding the Mass Transit Account, $526,000,000 for the fiscal year ending September 30, 1983, and such sums as may be necessary for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986 and September 30, 1987.

COMMERCIAL MOTOR VEHICLE SIZE AND WEIGHT

SEC. 246. Section 127 of title 23, United States Code, is amended by striking the words "that such overall gross weight may not exceed eighty thousand pounds," following "*Provided*" and inserting in lieu thereof the following—

(1) "That each State shall establish a maximum gross weight of eighty-thousand pounds, a single axle weight of twenty thousand pounds, a tandem axle weight of thirty-four thousand pounds,"; and

(2) By striking the words "thereof that could" immediately following "combinations" and insert "which the States determined could".

INNOVATIVE TECHNOLOGIES

SEC. 247. (a) The Congress hereby finds and declares that it is in the national interest to encourage and promote untilization by the States of highway and bridge surfacing, resurfacing, or restoration materials which are produced from recycled materials or which contain asphalt additives to strengthen the materials. Such materials conserve energy and reduce the cost of resurfacing or restoring our highways.

(b) The Secretary of Transportation is hereby authorized for each of the fiscal years through September 30, 1985, to increase the Federal share as provided in sections 119, 120 and 144 of title 23, United States Code, by five percentum of any project submited by the State highway departments which contains in the plans, specifications, and estimates submitted pursuant to section 106 of title 23, United States Code, the use of the materials described in subsection (a). To be eligible for such supplemental Federal assistance, significant amounts of asphalt additives or recycled materials must be used in each project approved by the Secretary.

ENERGY IMPACTED ROADS

SEC. 248. (a) Section 105 of title 23, United States Code, is amended by adding at the end thereof the following new subsection—

"(h) In preparing programs to submit in accordance with subsection (a) of this section, the State highway department may give priority to projects for the reconstruction, resurfacing, restoration, or rehabilitation of highways which are incurring a substantial use as a result of transportation activites to meet national energy requirements and which will continue to incur such use, and in approving such programs the Secretary may give priority to such projects.".

(b) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection—

"(k) Notwithstanding any other provision of this section, the Federal share payable on account of any project under this title to reconstruct, restore, and rehabilitate any highway which the Secretary determines, at the request of any State, is incurring a substantial use as a result of transportation activites to meet national energy requirements and will continued to incur such use is 85 per centum of the cost of such project.".

DEMONSTRATION PROJECT—DOWNTOWN CONGESTION RELIEF

SEC. 249. (a) The Secretary of Transportation is authorized to carry out a demonstration project on the Federal-aid urban system for the construction of a high level bridge over a high volume intercoastal waterway segment. The project shall demonstrate the reduced congestion resulting in the downtown area from the construction of such a bridge which serves a major port. Such project shall be subject to the provisions of chapter 1 of title 23, United States Code, applicable to highway projects on the Federal-aid system.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $23,000,000 for the fiscal year ending September 30, 1983. Funds authorized to carry out this section shall be available in the same manner and to the same extent as if such funds were apportioned under Chapter 1 of title

23 U.S. Code, except that such funds shall remain available until expended. Obligations for this project shall not be subject to any obligation limitation for Federal-aid highways.

(c) In carrying out this section, the Secretary shall consult with the Secretary of the Army and the Commandant of the Coast Guard concerning permit procedures which will expedite completion of this bridge.

(d) The Secretary shall report to Congress upon completion of the project the results of this demonstration project, together with any recommendations the Secretary deems necessary.

DEMONSTRATION PROJECT

SEC. 250. (a) The Secretary is authorized to carry out a demonstration project in the vicinity of East Baton Rouge, Louisiana, for the purpose of demonstrating the efficacy of reducing traffic congestion in the immediate vicinity of a partial-diamond, partial-cloverleaf interchange which connects an east-west highway on the Interstate System and a four lane highway not on such system by providing a direct access ramp to, and a travel lane on, the Interstate highway and by eliminating a crossover which is used for access to the Interstate highway.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed in the aggregate $5,000,000 for the fiscal years beginning after September 30, 1982.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be 100 per centum of the total cost of such project, and such funds shall remain available until expended.

TITLE III—MASS TRANSIT

SHORT TITLE

SEC. 301. This title may be cited as the "Federal Public Transportation Act of 1982".

AMENDMENTS TO SECTION 3 CAPITAL GRANT PROGRAM

SEC. 302. (a) Section 3(a)(2)(A) of the Urban Mass Transportation Act of 1964 (hereinafter in this title referred to as the "Act") is amended—

(1) by striking out "and" at the end of clause (i);

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(iii) sufficient capability to maintain the facilities and equipment.".

(b) Section 3(a) of the Act is amended by adding at the end thereof the following:

"(5) The Secretary shall take into account the adverse effect of decreased commuter rail service in considering applications for assistance under this section for the acquisition of rail lines and all related facilities used in providing commuter rail service which are owned by a railroad subject to reorganization under title 11, United States Code."

DIRECT TRANSIT ASSISTANCE FUND

SEC. 303. (a) The section heading of section 4 of the Act is amended to read as follows:

"DIRECT TRANSIT ASSISTANCE FUND".

(b) Section 4(b) of the Act is repealed.

(c) Section 4 of the Act is amended—

(1) by striking the second sentence in subsection (a) and inserting in lieu thereof the following: "The Federal grant for any project to be assisted under section 3 which involves the construction of a new fixed-guideway system or an extension to an existing system (other than an exclusive facility for buses) shall be in an amount equal to 60 per centum of the net project cost. The Federal grant for any other project to be assisted under section 3 shall be in amount equal to 70 per centum of the net project cost. Notwithstanding the preceding two sentences, the Federal share of the total project cost of any project covered by a full funding contract, letter of intent, or letter of commitment in effect on the date of enactment of the Federal Public Transportation Act of 1982, or those projects within the federally agreed upon scope for the Washington, District of Columbia, metropolitan area transit system (as of such date), shall not be altered.";

(2) by redesignating subsection (a) as subsection (b); and

(3) by inserting after "Sec. 4." the following:

"(a)(1) To finance assistance under sections 3, 8, 9, 16(b), and 18 of this Act, and to finance assistance under subsection (e) of this section, there are authorized to be appropriated not to exceed $3,130,000,000 for the fiscal year ending September 30, 1983; $3,130,000,000 for the fiscal year ending September 30, 1984; and $3,130,000,000 for the fiscal year ending September 30, 1985. Amounts appropriated for the purposes of sections 3, 8, 9, 16(b) and 18 of this Act and subsection (e) of this subsection shall remain available until expended.

"(2) Of the amount appropriated pursuant to this subsection, the Secretary shall make available for the purposes of sections 6, 10, and 11 of this Act, and for administrative costs, including salaries and necessary expenses, not to exceed $75,000,000 for the fiscal year ending September 30, 1983, $75,000,000 for the fiscal year ending September 30, 1984, and $75,000,000 for the fiscal year ending September 30, 1985. Amounts appropriated for the purposes of sections 6, 10, and 11 shall remain available until expended.

"(3) Of the remaining amount appropriated pursuant to this subsection, the Secretary shall make avaialable—

"(A) 24 per centum (10 per centum beginning with the fiscal year ending September 30, 1985) for grants and loans under section 3(a) of this Act;

"(B) 67.25 per centum (79.63 per centum beginning with the fiscal year ending September 30, 1985) for grants under section 9(a)(2) of this Act for urbanized areas with populations of two hundred thousand or more;

"(C) 6.5 per centum (7.7 per centum beginning with the fiscal year ending September 30, 1985) for grants under section 9(a)(3) of this Act for urbanized areas with populations under two hundred thousand; and

"(D) 2.25 per centum (2.67 per centum beginning with the fiscal year ending September 30, 1985) for grants under section 18 of this Act.

"(4) Of the funds available for obligation under section 3 $50,000,000 shall be used for the purposes of section 8 of this Act. Nothing herein shall prevent urbanized areas from using additional funds available under this subsection for planning purposes.".

(d) Subsections (c), (d), (e), and (f) of such section are repealed.

(e) Subsection (g) is redesignated as subsection (c) and is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence or any other provision of this Act, the total amount authorized to be appropriated under this Act and under Public Law 96-148 may not exceed $3,495,000,000 for the fiscal year ending September 30, 1983; and $3,495,000,000 for the fiscal year ending September 30, 1984.".

(f) Subsection (h) of such section is redesignated as subsection (d).

(g) Subsection (i) of such section is redesignated as subsection (e) and is amended by striking out "available pursuant to section 4(c)(3)(A)" and inserting in lieu thereof "appropriated for the purpose of section 3".

FORMULA CAPITAL AND OPERATING ASSISTANCE PROGRAM

SEC. 304. (a) the Urban Mass Transportation Act of 1964 is amended by inserting immediately after section 8 the following new section:

FORMULA CAPITAL AND OPERATING ASSISTANCE PROGRAM

"SEC. 9. (a)(1) Grants under this section shall be available to finance the planning, acquisition, construction, improvement, and operating costs of facilities, equipment, and associated capital maintenance items for use, by operation or lease or otherwise, in mass transportation service. As used in this section, the term 'associated capital maintenance items' means any equipment and materials each of which costs no less than 1 per centum of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and materials are to be used.

"(2) To provide grants to urbanized areas which populations of two hundred thousand or more, the Secretary shall apportion for expenditure for each fiscal year the sums authorized and appropriated pursuant to section 4(a)(3)(B) as follows:

"(A) 68 per centum of such sums shall be apportioned among urbanized areas as follows:

"(i) 75 per centum shall be made available for expenditure in only those urbanized areas or parts thereof with a population of one million or more, and on the basis of a formula under which such urbanized area or parts thereof will be entitled to receive an amount equal to the sum of—

"(I) 50 per centum of the amount available under this paragraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized areas or part thereof bears to the total bus revenue miles in all such urbanized areas;

"(II) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

"(III) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

"(ii) 25 per centum shall be made available for expenditure in only those urbanized areas or parts thereof with a population of less than one million and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(I) 50 per centum of the amount available under this paragraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area or part thereof bears to the

total bus revenue vehicle miles in all such urbanized areas;

"(II) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

"(III) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary; and

"(B) 32 per centum of such sums shall be made available for expenditure on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(i) 60 percent of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of fixed guideway revenue vehicle miles, as determined by the Secretary; and

"(ii) 40 percent of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of fixed guideway route miles, as determined by the Secretary.

No urbanized area providing commuter rail service and having a population of seven hundred and fifty thousand or more shall receive less than 0.75 per centum of the sums made available under this subparagraph (B). Under this subparagraph, fixed guideway revenue vehicle or route miles provided, and passengers served thereby, in an urbanized area of less than two hundred thousand population, where such revenue vehicle miles or route miles and passengers served could otherwise be attributable to an urbanized area with a population of 1,000,000 or more in an adjacent State, shall be attributable to the public body in the State in which such urbanized area of less than two hundred thousand population is located as if the public body were an urbanized area of two hundred thousand or more so long as such public body contracts, directly or indirectly, for such service. For the purpose of this subparagraph, the terms, 'fixed guideway revenue vehicle miles' and 'fixed guideway route miles' shall include ferry boat operations directly or under contract by the designated recipient.

"(3) To make grants to urbanized areas with populations of less than two hundred thousand, the Secretary shall apportion for expenditure for each fiscal year the sums authorized and appropriated pursuant to section 4(a)(3)(C) as follows:

"(A) 50 per centum of the amount available under this paragraph multiplied by the ratio which the population of such urbanized areas in the State bears to the total population of all such urbanized areas in all States as shown in the latest available Federal census; and

"(B) 50 per centum of such funds multiplied by a ratio for such urbanized areas determined on the basis of population weighted by a factor for the average density for urbanized areas in such State as determined by the Secretary.

"(4)(A) The Federal grant for any construction project under this subsection shall not exceed 80 per centum of the net project cost of such project. The Federal grant for any project for operating expenses shall not exceed 50 per centum of the net project cost of such project. The remainder shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

"B) The amount of funds apportioned under this section which may be used for operating assistance shall not exceed 80 per centum of the amount of funds apportioned in fiscal year 1982 under paragraphs (1)(B), (2)(B), and (3)(B) of section 5(a) of this Act to an urbanized area with a population of one million or more, 90 per centum of funds so apportioned to an urbanized area with a population of two hundred thousand or more and less than one million population; and 95 per centum of funds so apportioned to an urbanized area of less than two hundred thousand population. Notwithstanding the preceding sentence, an urbanized area that became an urbanized area for the first time under the 1980 census may use not to exceed 40 per centum of its apportionment under this section for operating assistance.

"(5)(A) Notwithstanding the provisions of paragraph (4)(B), any recipient may, in fiscal years 1983 and 1984, transfer the use for operating assistance a portion of its apportionment under this section that otherwise is available only for capital assistance, except that the recipient's total operating assistance under this section (including any amounts transferred from its capital apportionment) for the fiscal year in which the transfer occurs shall not exceed the amount of Federal funds such recipient was apportioned under sections 5(a)(1)(A), 5(a)(2)(A), and 5(a)(3)(A) of this Act for the fiscal year ending September 30, 1982. The total operating assistance under this section (including any amounts transferred from its capital apportionment) for a recipient in an urbanized area that became an urbanized area for the first time under the 1980 census may not exceed 50 per centum of its apportionment under this section.

"(B) Any recipient that intends to carry out a transfer under this subsection shall, at the time it submits a statement of activities to the Secretary under subsection (b)(1)(B)—

"(i) certify that it has provided public notice of its intent to transfer its capital apportionment (including notice of the funding reductions resulting from utilization of this subsection and other requirements of this subsection) and provided an opportunity for public comment; and

"(ii) certify that it has developed a three-year plan to assure that in the fiscal year ending September 30, 1985, it will not need to use and will not use its capital apportionment for operating assistance.

"(C) Whenever any recipient transfers its capital apportionment for operating assistance in accordance with the requirements of this subsection, two-thirds of the amount transferred shall be available to the recipient for operating assistance and the remaining one-third amount shall be available to the Secretary to make discretionary grants under this section. In making such discretionary grants, first priority shall be given to any urbanized area that is apportioned an amount under this section in fiscal year 1983 which is less than the amount such urbanized area was apportioned under section 5 of this Act for the fiscal year ending September 30, 1982. Any amounts remaining shall be available for discretionary construction grants under this section subject to the second and third sentences of section 4(b).

"(D) The authority of recipients to use the provisions of this paragraph shall terminate on September 30, 1984.

"(6)(A) The Governor, responsible local officials, and publicly owned operators of mass transportation services in accordance with the planning process required under section 8 of this Act shall designate a recipient or recipients to receive and dispense the funds appropriated under this section that are attributable to urbanized areas of two hundred thousand or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. As used in this section, the term 'designated recipient' shall refer to the recipient selected according to the procedures required by this section.

"(B) Sums apportioned under this subsection not made available for expenditure by designated recipients in accordance with the terms of subparagraph (A) shall be made available to the Governor for expenditure in urbanized areas or parts thereof with populations of less than two hundred thousand.

"(7) The Governor may transfer an amount of the State's apportionment under paragraph (3) to supplement funds apportioned to the State under section 18(a) of this Act, or to supplement funds apportioned to urbanized areas with populations of 300,000 or less under this subsection. The Governor may make such transfers only after consultation with responsible local officials and publicly owned operators of mass transportation services in each area to which the funding was originally apportioned pursuant to paragraph (3). The Governor may transfer an amount of the State's apportionment under section 18(a) to supplement funds apportioned to the State under paragraph (3). Amounts transferred shall be subject to the capital and operating assistance limitations applicable to the original apportionments of such amounts.

"(8) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year.

"(9) As used in this subsection, the term 'density' means the number of inhabitants per square mile, and the term 'population' means population as designated by the Bureau of the Census as shown by the latest available Federal census.

"(b)(1) To receive a grant under this section for any fiscal year, a recipient—

"(A) shall comply with title VI of the Civil Rights Act of 1964 in the use of funds under this Act, and subsections (e), (f), and (g) of section 3 of this Act, and section 13 of this Act;

"(B) shall, within the time specified by the Secretary, submit a statement of activities to be funded under this section prepared pursuant to subsection (d), a description of its proposed use of funds, and the certifications required by this subsection; and

"(C) shall provide satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours for transportation utilizing

or involving the facilities and equipment of the project financed with assistance under this subchapter will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise.

"(2) Upon receipt of the statement, description, and certifications required by this section, after finding that a recipient is in compliance with paragraph (1), and after compliance with the National Environmental Policy Act of 1969 using the provisions of subsection (e) or otherwise, the Secretary shall make the amounts determined pursuant to this section available to the recipient.

"(c) To receive a grant under this section, the recipient must certify that the recipient—

"(1) has or will have the legal, financial, and technical capacity to carry out the proposed project;

"(2) has the authority to apply for the grant under this subsection;

"(3) will carry out the project in compliance with the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 and section 7 of this Act;

"(4) will have satisfactory continuing control, through operation, lease, or otherwise, over the use of the facilities or equipment assisted under this Act and will maintain such facilities and equipment;

"(5) in carrying out procurements under this subsection, will use competitive procurements (as defined or approved by the Secretary), will not use procurements utilizing exclusionary or discriminatory specifications, and will carry out procurements in compliance with section 401 of Public Law 95-599;

"(6) will comply with the National Flood Insurance Act of 1968;

"(7) has complied with the requirements of subsections (d) and (e);

"(8) has available and will provide funds from other than Federal sources as required by section 4 of this Act and has complied with the requirements of sections 8, 16, and 19 of this Act; and

"(9) has a locally developed process to solicit and consider public comment prior to raising fares or implementing a major reduction of transit service.

"(d) Each recipient shall—

"(1) make available to the public information concerning the amount of funds available under this subsection and the range of activities that the recipient proposes to undertake with such funds;

"(2) develop a proposed statement concerning activities to be funded in consultation with interested parties, including private transportation providers;

"(3) publish a proposed statement in such a manner to afford affected citizens, private transportation providers, or as appropriate, local elected officials an opportunity to examine its content and to submit comments on the proposed statement and on the performance of the recipient; and

"(4) hold one or more public hearings to obtain the views of citizens on activites to be funded under this subsection.

In preparing the final statement to be submitted to the Secretary, the recipient shall consider any such comments and views, particularly those of private transportation providers, and shall, if deemed appropriate by the recipient, modify the proposed statement. The final statement shall be made available to the public. Compliance with this paragraph will satisfy the requirements of subsection (d) of section 3.

"(e)(1) In order to assure that the National Environmental Policy Act of 1969, and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary), are effectively implemented in connection with the expenditure of funds under this subsection, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may, under regulations issued by him, provide for the release of funds to recipients who assume all of the responsibilities for environmental review, decisionmaking, and acting pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

"(2) The Secretary shall approve the release of funds in accordance with the procedures authorized by this subsection only if, at least fifteen days prior to such approval and prior to any commitment of funds, the applicant has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the application and release of funds for projects to be carried out pursuant thereto which are covered by such certification.

"(3) A certification under the procedures authorized by this subsection shall—

"(A) be in a form acceptable to the Secretary;

"(B) be executed by the chief executive officer or other officers of the applicant qualified under regulations of the Secretary;

"(C) specify that the applicant has fully carried out its responsibilities as described under paragraph (1); and

"(D) specify that the certifying officer—

"(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary to the extent that as the provisions of such Act or other such provisions of law apply pursuant to paragraph (1); and

"(ii) authorizes and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purposes of enforcement of his responsibilities as such an official.

"(f) The Secretary shall not approve a grant for a project under this section unless he finds that such project is part of the approved program of projects required by section 8 of this Act.

"(g) As soon as practicable after receiving the submissions required in this section, the Secretary shall enter into an annual projects agreement with the Governor, his designee, or the designated recipient of each urbanized area.

"(h)(1) Each recipient of assistance under this section shall submit to the Secretary annually, at a time determined by the Secretary, a statement concerning the use of funds made available under this section together with an assessment of how such use compares to the statement of activities identified under subsection (d). The Secretary shall, at least on an annual basis, conduct, or require the recipient to have independently conducted, reviews and audits as may be deemed necessary or appropriate by the Secretary to determine whether—

"(A) the recipient has carried out its activities submitted in accordance with subsection (b)(1)(B) in a timely and effective manner and has a continuing capacity to carry out those activities in a timely and effective manner; and

"(B) the recipient has carried out those activities and its certifications and has used its Federal funds in a manner which is consistent with the requirements of this Act and other applicable laws. Audits of the use of Federal funds shall be conducted in accordance with the accounting standards of the General Accounting Office.

"(2) In addition to the reviews and audits described in paragraph (1), the Secretary shall, not less than once every three years, perform a full review and evaluation of the performance of a recipient in carrying out the recipient's program, with specific reference to compliance with statutory and administrative requirements, and consistency of actual program activities with the statement of proposed activities required under subsection (b) of this section and the planning process required under section 8.

"(3) the Secretary may make appropriate adjustments in the amount of annual grants in accordance with the Secretary's findings under this subsection, and may reduce or withdraw such assistance or take other action as appropriate in accordance with the Secretary's review, evaluation, and audits under this subsection.

"(i) the provisions of section 1001 of title 18, United States Code, apply to any certification or submission under this section. In addition, if any false or fraudulent statement or related act within the meaning of section 1001 ot title 18, United States Code, is made in connection with a certification or submission under this subsection, the Secretary may terminate and seek appropriate reimbursement of the affected grant or grants directly or by offsetting funds available under this subsection.

"(j) A recipient may request the Secretary to approve its procurement system. If, after consultation with the Office of Federal Procurement Policy, the Secretary finds that such system provides for competitive procurement, the Secretary shall approve such systems for use for all procurements financed under this subsection. Such approval shall be binding until withdrawn. A certification from the recipient under subsection (c)(5) is still required.".

LETTERS OF INTENT

SEC. 305. Section 3(a)(4) of the act is amended—

(1) by inserting after the first sentence thereof the following: "At least thirty days prior to the issuance of a letter of intent under this paragraph, the Secretary shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, of the proposed issuance of such letter of intent.";

(2) by striking out "in section 4(c)" and inserting in lieu thereof the following: "to carry out section 3"; and

(3) by adding at the end thereof the following: "Funding for projects covered by letters of intent or letters of commitment issued, and full funding contracts executed, prior to the date of enactment of the Feder-

al Public Transportation Act of 1982 shall be given priority in making grants under this section after the date of enactment of such Act. None of the terms and conditions of any such letter of intent and full funding contract may be altered unless agreed to by all parties to the contract. The Secretary may not, directly or indirectly, take any action with respect to future available budget authority except as provided by this paragraph.".

AMENDMENTS TO SECTION 5 URBAN MASS TRANSIT PROGRAM

SEC. 306. Section 5 of the Act is amended—

(1) by adding immediately after subsection (c)(4) the following:

"(5) Apportionments for fiscal year 1975 shall be deemed to have lapsed on September 30, 1977, and apportionments for fiscal year 1976 shall be deemed to have lapsed on September 30, 1978."; and

(2) by adding at the end thereof the following new subsection:

"(o) Notwithstanding any other provision of this section, sums authorized, appropriated, and apportioned pursuant to this section that have not lapsed shall remain available as initially apportioned to the urbanized areas or parts thereof for expenditure in accordance with the provisions of this section until September 30, 1985.".

AMENDMENTS TO SECTION 12

SEC. 307. Section 12(c)(1) of the Act is amended by inserting before the semicolon the following: ", and such term also means any bus rehabilitation project which extends the economic life of a bus five years or more".

(b) Section 12(c)(2) of the Act is amended by inserting before the semicolon the following: "and any public transportation facility which utilizes a right-of-way rail usable by other forms of transportation and also means a public transit facility which utilizes a fixed catenary system".

AMENDMENTS TO THE REPORTING SYSTEM

SEC. 308. Section 15(b) of the Act is amended by striking out "section 5" and inserting in lieu thereof "section 5 or 9".

AMENDMENTS TO FORMULA GRANTS FOR NONURBANIZED AREAS

SEC. 309. (a) Section 18(a) of the Act is amended by striking out "section 4(e)" and inserting in lieu thereof "section 4(a)(3)(D)".

(b) Subsection (c) of such section is amended by striking out "three years" in the first sentence and inserting in lieu thereof "two years".

(c) Subsection (c) of such section is amended by inserting after the first sentence thereof the following: "After September 30, 1982, any amounts remaining unobligated at the end of such period or which are deobligated at the end of such period shall be added to the amount available for apportionment under section 4(a)(3)(D).".

AMENDMENTS TO SECTION 16

SEC. 310. Section 16(b) of the Act is amended by striking out "section 4(c)(3) of this Act, 2 per centum; and inserting in lieu thereof "section 4(a)(3)(A) of this Act, 3.5 per centum".

INTERCITY BUS SERVICE/TERMINAL DEVELOPMENT PROGRAM

SEC. 311. Sections 21 and 22 of the Act are repealed.

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

SEC. 312. Section 320(b) of the Surface Transportation Assistance Act of 1978 (Public Law 95-599) is amended by adding at the end thereof the following: "No funds are authorized to be appropriated to carry out the provisions of subsection (a) after September 30, 1982.".

REPEAL OF SAFETY AUTHORITY

SEC. 313. Section 107 of the National Mass Transportation Assistance Act of 1974 (Public Law 93-503) is repealed.

TRANSIT CAPITAL INFRASTRUCTURE PROGRAM

SEC. 314. (a) In addition to amounts authorized under section 3 (a) of the Urban Mass Transportation Act of 1964, there are authorized to be appropriated from the Transit Account of the Highway Trust Fund not to exceed $550,000,000 for the fiscal year ending September 30, 1983, and $1,100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985. Notwithstanding the preceding sentence, the amount authorized to be appropriated for any fiscal year shall not exceed the amount as estimated annually by the Secretary of the Treasury to be received in the Transit Account of the Highway Trust Fund including interest thereon in each such fiscal year from subsections (a) and (b) of section 4041 of the Internal Revenue Code of 1954 and section 4081 of the Internal Revenue Code of 1954.

(b) Using sums available pursuant to subsection (a) the Secretary is authorized to make grants under this section to finance urban transit capital infrastructure projects for fiscal years 1983 and 1984. The Secretary shall award grants under this section to applicants with projects which can begin construction or manufacturing within the shortest possible time. The Secretary may not limit grants under this section for bus purchases if the Secretary finds that qualified bus manufacturers do not have capacity to meet the requirements of the preceding sentence. To the extent practicable the Secretary shall emphasize projects which are labor intensive.

(c) The Secretary shall, to the extent practicable, provide for a fair and equitable distribution among all States of funds appropriated pursuant to this section. In any fiscal year, amounts so distributed to recipients in any State shall not be less than one-half of one percent of the funds available under this section in that fiscal year. The Secretary is authorized to withdraw funds made available under this section for use for transit capital infrastructure projects and to use those funds to make grants for eligible highway projects under title 23, United States Code. The Secretary shall not approve a grant for such a highway project unless he has received assurances from the Governor, on behalf of urbanized areas of less than 200,000 population, made after consultation with operators of publicly owned mass transportation systems in such areas, or the designated recipient, in an urbanized area of 200,000 or more population, made after consultation with mass transportation providers in such urbanized areas, that there are not a sufficient number of qualified transit capital infrastructure projects within that fiscal year within such State or urbanized area to use the funds distributed by the Secretary under this section. The aggregate amount of such nontransit grants shall not exceed 15 per centum of the total funds available under this section in any fiscal year.

(d) As used this section, the term "transit capital infrastructure development project" means any project in an urbanized area or portion thereof involving the acquisition, rehabilitation, and replacement or rolling stock, the construction, rehabilitation, and modernization of commuter rail and fixed guideway systems, the construction, rehabilitation, modernization, and replacement of bus facilities and related equipment, the renovation and improvement of historic transportation facility with related private investment, and intermodal terminals.

(e) The Federal share for projects approved under this section shall be 80 per centum.

(f) The limitations contained in subsection (b), (c), (d), and (e) shall expire on September 30, 1984. After that date funds authorized under subsection (a) shall be available under the requirements of section 3 (a) of the Urban Mass Transportation Act of 1964.

(g) Except as otherwise provided by this section, a grant under this section shall be subject to the same terms and conditions as are applicable to grants under section 3 of the Urban Mass Transportation Act of 1964.

TITLE IV—COMMERCIAL MOTOR VEHICLE SAFETY

DEFINITIONS

SEC. 401. For purposes of this title, unless the context otherwise requires, the term—

(1) "commerce" means trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or which affects trade, traffic, or transportation between a place in a State and a place outside of such State;

(2) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo—

(A) if such vehicle has a gross vehicle weight rating of 10,000 or more pounds;

(B) if such vehicle is designed to transport more than 10 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.);

(3) "employee" means—

(A) a driver of a commercial motor vehicle (including an independent contractor while in the course of personally operating a commercial motor vehicle);

(b) a mechanic;

(C) a freight handler; or

(D) any individual other than an employer; who is employed by a commerical motor carrier and who in the course of his employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or a political subdivision of a State who is acting within the course of such employment;

(4) "employer" means any person engaged in a business affecting commerce who owns or leases a commerical motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States, any State, or a political subdivision of a State;

(5) "person" means one or more individuals, partnerships, associations, corporations, business trusts, or any other organized group of individuals;

(6) "Secretary" means the Secretary of Transportation; and

(7) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Is-

lands, American Samoa, Guam, or the Commonwealth of the Nothern Marianas.

DUTIES

SEC. 402. Each employer and employee shall comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title which are applicable to his own actions and conduct.

REGULATORY AUTHORITY AND STANDARDS

SEC. 403. (a) The Secretary shall establish and revise such rules, regulations, standards, and orders as may be necessary in order to further the purpose of this title. The Secretary shall where practicable consider costs and benefits before revising existing rules, regulations, standards, and orders or before promulgating new rules, regulations, standards, or orders, Such rules, regulations, standards, and orders shall be directed toward assuring that—

(1) commerical motor vehicles are safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed upon drivers of commercial motor vehicles do not impair a driver's ability to operate safely;

(3) the physical condition of drivers of commercial motor vehicles is adequate to enable them to drive safely; and

(4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

(b)(1) The Secretary shall promulgate any such rule or regulation within a period of 1 year after the date of commencement of any proceeding respecting such rule or regulation. If the Secretary determines that any such promulgation will not be completed within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such proceeding. If such rule or regulation has not been promulgated within 1 year after the date of the commencement of any proceeding with respect to such rule or regulation, the Secretary shall supply the Congress with current data regarding the information specified in the preceding sentence, and shall provide the Congress with such information at the end of every 60-day period thereafter during which the proceeding remains incomplete.

(2) All rules, regulations, standards, and orders issued under this section shall be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title), except that the time periods specified in paragraph (1) of this subsection shall apply to such promulgation.

(c) The Secretary may waive in whole or in part application of any rule, regulation, standard, or order established under this section with respect to any person or class of persons if he determines that such waiver is in the public interest and is consistent with the safe operation of commercial motor vehicles. Any waiver permitted under this subsection shall be published in the Federal Register, together with the reasons for such waiver. Any final agency action taken under this section is subject to judicial review as provided in chapter 7 of title 5, United States Code.

(d)(1) The Secretary and the Director of the National Institute for Occupational Safety and Health shall, in consultation with the Secretary of Labor, undertake a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, and shall develop such materials and information as are necessary to enable such employees to carry out their employment in a place and manner free from recognized hazards that are causing or are likely to cause death or serious physical harm. The study shall include recommendations regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. Such study shall be submitted to the Congress within 1 year after the date of enactment of this title.

(2) There are authorized to be appropriated out of the Highway Trust Fund to the Secretary for fiscal year 1984 not to exceed $1,500,000 for purposes of carrying out the provisions of this subsection.

(e) The Secretary, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall coordinate their activities to insure adequate protection of the safety and health of operators of commercial motor vehicles. Such Secretaries and Director shall attempt to minimize paperwork burdens, to assure maximum coordination, and to avoid overlap or the imposition of undue burdens on persons subject to such rules, regulations, standards, and orders.

GENERAL POWERS

SEC. 404.(a) The Secretary is authorized to conduct, directly or indirectly, such research, development, demonstrations, and training activities as are considered appropriate to develop rules, regulations, standards, and orders authorized to be promulgated under section 403 of this title, to design and develop improved enforcement procedures and technologies, and to familiarize affected persons with such rules, regulations, standards, and orders.

(b) In carrying out his functions under this title, the Secretary is authorized to perform such acts including conducting investigations and inspections, compiling statistics, making reports, issuing subpenas, requiring production of documents, records, and property, taking depositions, holding hearings, prescribing recordkeeping and reporting requirements, and carrying out and contracting for such research, development, testing, evaluation, and training as he determines necessary to carry out the provisions of this title, or rules, regulations, standards, or orders issued pursuant thereto. With respect to the provisions of this title, if the Secretary approves a plan pursuant to section 411 of this title, the Secretary may delegate to a State such functions respecting the enforcement (including investigations) of the provisions of this title or rules, regulations, standards, or orders issued pursuant thereto as he determines appropriate to carry out the provisions of this title.

INSPECTIONS AND WARRANTS

SEC. 405. (a)(1) To carry out the Secretary's responsibilities under this title, agents of the Secretary are authorized to enter upon, inspect, and examine facilities, equipment, operations, and pertinent records without advance notice, in accordance with the provisions of paragraph (2) of this subsection. Any such agent of the Secretary shall display proper credentials when requested and may consult with employers and employees and their duly authorized representatives, and shall offer them a right of accompaniment.

(2)(A) A warrant under this paragraph shall be required for any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment) authorized by this section, except if such entry or inspection is—

(i) with the consent of the employer or agent of the employer in charge of the business, establishment, or premises;

(ii) in situations involving inspection of motor vehicles where there is reasonable cause to believe that the mobility of the motor vehicle makes it impractical to obtain a warrant;

(iii) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

(iv) for access to and examination of books, records, and any other documentary evidence which can be easily altered, manufactured, or falsified; and

(v) in any other situations where a warrant is not constitutionally required.

(B) Issuance and execution of adminstrative inspection warrants shall be as follows:

(i) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this section and of impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this title, or rules, regulations, standards, or orders issued thereunder sufficient to justify administrative inspections of the area, establishment, premises, records, or motor vehicles, or contents thereof, in the circumstances specified in the application for the warrant.

(ii) A warrant shall be issued only upon an affidavit of an officer, or representative of the Secretary having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist, he shall issue a warrant identifying the area, establishment, premises, or motor vehicle to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall—

(I) identify the items or type of property to be impounded, if any;

(II) be directed to a person authorized under this section to execute it;

(III) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

(IV) command the person to whom it is directed to inspect the area, establishment, premises, records, or motor vehicle identified for the purpose specified, and where appropriate, shall direct the impoundment of the property specified;

(V) direct that it be served during the hours specified in it; and

(VI) designate the judge or magistrate to whom it shall be returned.

(iii) A warrant issued pursuant to this section must be executed and returned within 10 days of its date unless, upon a showing by the Secretary of a need therefor, the judge or magistrate allows additional time in the warrant. If property is impounded pursuant to a warrant, the person executing the warrant shall give the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place form which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory

of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and the applicant for the warrant.

(iv) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

DUTY TO INVESTIGATE COMPLAINTS; PROTECTION OF COMPLAINANTS

SEC. 406. (a) The Secretary shall timely investigate any nonfrivolous written complaint alleging that a material violation of any rule, regulation, standard, or order issued under this title is occurring or has occurred within the preceding 60 days. The complainant shall be timely notified of findings resulting from such investigation. The Secretary shall not be required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding the provisions of section 552 of title 5, United States Code, the Secretary shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical measure within his authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

PENALTIES

SEC. 407. (a) If the Secretary finds that a violation of sections 402 through 417 of this title has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the appropriate civil penalty, if any, and specify the actions which the Secretary proposes to be taken in order to avoid subsequent similar violations. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of his intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, United States Code, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(b) Except as hereinafter provided, any person who is determined by the Secretary to have committed an act which is a violation of recordkeeping requirements issued by the Secretary pursuant to this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single recordkeeping violation shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, he may assess a civil penalty not to exceed $10,000 for each offense: *Provided, however,* That except for recordkeeping violations, no civil penalty provided under this title shall be assessed against an employee for violations of this title unless the employee is an operator of a commercial motor vehicle and the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed $1,000. The amount of any civil penalty, and a reasonble time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(c) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement thereof in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of this title.

(d) If, upon inspection or investigation, the Secretary determines that a violation, or combination of violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service or order, an employer to cease all or part of his commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of such order, opportunity for review shall be provided in accordance with section 554 of title 5, United States Code, except that such review shall occur not late than 10 days following issuance of such order.

(e) Any person other than an employee who knowingly and willfully violates any provision of this title or who knowingly and willfully makes any false statement or representation required under this title shall, upon conviction, be subject for each offense to a fine not to exceed $25,000 or imprisonment for a term not to exceed 1 year, or both: *Provided, however,* That if such violator is an employee he shall only be subject to penalty if while operating a commercial motor vehicle his activities have led or could have led to death or serious injury, in which case he shall be liable, upon conviction, for a fine not to exceed $2,500.

(f) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in notices and orders.

(g) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within 30 days, petition for review of the order in the United States court of appeals in the circuit wherein the violation is alleged to have occurred or where he has his principal place of business or residence, or in the United States Court of Appeals for the District of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(h) The Secretary may obtain enforcement, including injunctive relief, or any penalties or orders issued under this section by applying to the United States district court for the district where the violation occurred or where the cited party has his principal place of business or residence. In addition to granting enforcement, the district court may assess an appropriate penalty for noncompliance and award such further relief as justice and public safety may require.

(i) All penalties and fines imposed under this section shall be deposited into the Treasury as miscellaneous receipts.

(j) In any action brought under this section, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(k) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

REPRESENTATION BEFORE THE COURTS

SEC. 408. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court the General Counsel of the Department of Transportation may appear for and represent the Secretary in all proceedings and in any civil litigation brought under this title. Prior to making any such appearance and representation, the General Counsel of the Department of Transportation shall consult with and inform the Attorney General of the United States of his activities pursuant to this section.

PROTECTION OF EMPLOYEES

SEC. 409. (a) No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title or other authorities of the Secretary relating to commercial motor vehicle safety, or has testified or is about to testify in any such proceeding, or because such employee has exercised, on behalf of himself or others any right afforded by this title.

(b) No person shall discharge, discipline, or in any manner discriminate against an employee with respect to the employee's compensation, terms, conditions, or privileges of employment for refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or health, or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employees's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury, or serious impairment of health, re-

sulting from the unsafe condition. In order to qualify for protection under this subsection, the employee much have sought from his employer, and have been unable to obtain, correction of the unsafe condition.

(c)(1) Any employee who believes he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) or (b) of this section may, within 180 days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge, discipline, or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint of the filing of the complaint.

"(2)(A) Within 60 days of receipt of a complaint filed under paragraph (1) of this subsection, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of this section of his findings. Where the Secretary of Labor has concluded that there is reasonable cause to believe that a violation has occurred, he shall accompany his findings with a proposed order providing the relief prescribed by subparagraph (B) of this paragraph. Thereafter, either the person alleged to have committed the violation or the complainant may, within 30 days, file objections to the proposed order and request a hearing on the record. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the proposed order shall be deemed a final order which is not subject to judicial review. Upon the conclusion of such hearing, the Secretary of Labor shall issue a final order within 120 days. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and person alleged to have committed the violation.

(B) If, in response in a complaint filed under paragraph (1) of this subsection, the Secretary of Labor determines that a violation of subsection (a) or (b) of this section has occurred, the Secretary of Labor shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary of Labor, at the request of the complainant, may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(d)(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) of this section may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within 60 days from the issuance of the Secretary of Labor's order. Such review shall be in accordance with the provisions of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

(2) An order of the Secretary of Labor, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.

(e) Whenever a person has failed to comply with an order issued under subsection (c)(2) of this section, the Secretary of Labor shall file a civil action in the United States district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement, and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

GRANTS TO STATES

SEC. 410. Under the terms and conditions of this title, and subject to the availability of funds, the Secretary is authorized to make grants to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards, and orders.

STATE ENFORCEMENT

SEC. 411. (a)(1) The Secretary shall formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing, rules, regulations, standards, and orders in compliance with this title. Such plan shall be approved by the Secretary if, in his judgment, the plan is adequate to promote the objectives of this title, and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules, regulations, standards, and orders;

(C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and orders;

(D) provides a right of entry and inspection sufficient to enforce the provisions of this title;

(E) provides civil penalty procedures, rights, and remedies comparable to those set forth in section 407 of this title;

(F) provides that all reports required pursuant to this title be submitted to the State agency, and that such agency make available upon request to the Secretary all such reports;

(G) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary; and

(H) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable Federal and State safety rules, regulations, standards, and orders.

(2) If a plan submitted under paragraph (1) of this subsection is rejected, the Secretary shall provide the State a written explanation of his action and shall permit the State to modify and resubmit its proposed plan for approval, in accordance with the procedures formulated in such paragraph.

(b) The Secretary shall, on the basis of reports submitted by the State agency, and on his own inspections, make a continuing evaluation of the manner in which each State with a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for comment, that a State plan previously approved is not being followed or that it has become inadequate to assure the enforcement of rules, regulations, standards, or orders issued under this title, he shall notify the State of withdrawal of approval of such plan. Upon receipt of such notice, such plan shall cease to be in effect. Any State aggrieved by a determination of the Secretary pursuant to this subsection may seek judicial review pursuant to chapter 7 of title 5, United States Code. The State may, however, retain jurisdiction in any case commenced before the withdrawal of the plan whenever the issues involved do not directly relate to the reasons for the withdrawal of approval of the plan.

(c) The Secretary shall not approve any plan under this section which does not provide that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditures for its last 2 full fiscal years preceding the date of enactment of this title.

STATE REGULATIONS

SEC. 412. (a) Except as may otherwise be provided in this or any other law, any State agency may adopt additional or more stringent safety rules, regulations, standards, or orders for commercial motor vehicle safety if such rules, regulations, standards, or orders are not inconsistent with the Federal rules, regulations, standards, and orders issued under this title.

(b) Nothing in this title shall affect existing hour-of-service regulations of any State applying to commercial motor vehicle operations occurring wholly within that State, unless the Secretary affirmatively finds upon review of a State's hours-of-service regulations that such regulations (1) materially diminish commercial motor vehicle safety or the health and safety of employees, (2) are not required by compelling local conditions, or (3) unduly burden interstate commerce. If the Secretary makes such an affirmative determination, he may require such State to adopt Federal hours-of-service regulations.

FEDERAL SHARE OF COSTS

SEC. 413. By grants authorized under this title, the Secretary shall reimburse any State an amount not to exceed 80 percent of the costs incurred by that State in that fiscal year in the development and implementation of programs to enforce commercial motor vehicle rules, regulations, standards, or orders adopted pursuant to this title. The funds of the State and political subdivisions thereof which are required to be expended under section 411(c) of this title shall not be considered to be part of the non-Federal share. The Secretary is authorized to allocate, among the States whose applications for grants have been approved, those amounts appropriated for grants to support such programs pursuant to such criteria as may be established.

AUTHORIZATIONS

SEC. 414. To carry out the purposes of sections 410 and 411 of this title, there is authorized to be appropriated out of the Highway Trust Fund not to exceed $10,000,000 in the fiscal year ending September 30, 1984, not to exceed $20,000,000 in the fiscal year ending September 30, 1985, not to exceed $30,000,000 in the fiscal year ending September 30, 1986, not to exceed $40,000,000 in the fiscal year ending September 30, 1987, and not to exceed $50,000,000 in the fiscal year ending September 30, 1988. Appropriated funds authorized by this section shall be used to reimburse to States the Federal pro rata share of cost incurred. Grants made pursuant to the authority of this title shall be for periods not to exceed 1 fiscal year, ending at the end of a fiscal year.

ANNUAL REPORT

SEC. 415. As part of the Secretary's annual report to the Congress required by section 12 of the Department of Transportation Act (49 U.S.C. 1658), the Secretary shall make a written report to the Congress concerning his efforts and his current plans to upgrade the safety and health of operators of commercial motor vehicles. The report shall include, but not be limited to, an evaluation of commercial motor vehicle safety of health programs of the Department of Transportation, an outline of problem areas and appropriate steps to alleviate them, and recommendations for closer coordination and cooperation among agencies of the Federal Government and between the Federal Government and the States to enforce the rules, regulations, standards, and orders issued pursuant to this title.

APPLICABILITY

SEC. 416. Nothing in this title shall apply to the operation of any vehicle engaged in farming activities and logging operations as defined by the Secretary.

COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE

SEC. 417. (a)(1) Not later than 12 months after the date of enactment of this title, the Secretary shall establish a Commercial Motor Vehicle Safety Advisory Committee and appoint the initial members of the Committee. The Committee shall be composed of the Secretary and 15 members, each of whom shall be experienced in the safety regulation of commercial motor vehicles or technically qualified by training, experience or knowledge to evaluate commercial motor vehicle rules or regulations. The Committee shall be appointed by the Secretary, after consultation with public and private agencies and organizations concerned with commercial motor vehicle safety. Members shall include representatives of State governments, the motor carrier industry, shippers, union drivers and independent owner-operators, and the public.

(2) A Chairman shall be selected by a majority of the members of the Committee.

(3) Each member appointed by the Secretary shall hold office for a term of 3 years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; (B) the terms of office of members first taking office after the date of enactment of this title shall expire as follows: Five at the end of 1 year after the date such Committee members are appointed by the Secretary; five at the end of 2 years after the date such Committee members are appointed by the Secretary; and five at the end of 3 years after the date such Committee members are appointed, as designated by the Secretary at the time of appointment; and (C) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the Secretary who has served a 3-year term, other than Federal officers or employees, shall be eligible for reappointment within 1 year following the end of this preceding term.

(4) Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of basic pay then currently payable under the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(b) The Advisory Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Department in the field of commercial motor vehicle safety. The Committee is authorized to review research projects or programs submitted to or recommended by it in the field of commercial motor vehicle safety and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of commercial motor vehicle accidents. The Committee is also authorized to review, prior to issuance, rules, regulations, standards, and orders proposed to be issued by order of the Secretary under the provisions of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(c) The Committee shall meet with the Secretary (or his designee) at least once every year.

(d) There are authorized to be appropriated for each of the fiscal years ending on September 30, 1984, 1985 and 1986 not to exceed $125,000 for purposes of carrying out the provisions of this section

AUTHORIZATION OF APPROPRIATIONS

SEC. 418. For the purposes of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated out of the Highway Trust Fund:

(1) for carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development) by the Federal Highway Administration, $13,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988;

(2) for carrying out section 402 of title 23, United States Code (relating to highway safety programs) by the National Highway Traffic Safety Administration, $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988; and

(3) for carrying out section 403 of title 23, United States Code (relating to highway safety research and development) by the National Highway Traffic Safety Administration, $31,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.

APPORTIONMENT

SEC. 419. (a) Section 401 of title 23, United States Code, is amended by striking the second sentence.

(b) Section 402(c) of title 23, United States Code, is amended by striking ", except that the apportionments to the Virgin Islands, Guan, and American Samoa shall not be less than one-third of 1 per centum of the total apportionment".

NATIONAL UNIFORM STATE REGULATION

SEC. 420 (a) There is established in the Department of Transportation a working group, composed of the Secretary (or an official of the Department appointed by the Secretary) and not to exceed 51 members to be appointed by the Secretary. The Secretary shall select the Chairman of the Committee from among the Committee members. The appointed members shall be selected from among representatives of various State governments concerned with vehicle registration, fuel tax, and third structure tax requirements of States. The term of members shall not exceed 18 months.

(b)(1) The working group shall advise, consult with, and make recommendations to, the Secretary regarding uniform State regulations of interstate motor carriers. The working group is authorized to develop and recommend to the Secretary standards for uniform State regulation of interstate motor carriers in regard to vehicle registration, fuel tax, and third structure tax requirements. These standards shall include:

(A) standardized procedures and forms;

(B) base State certification;

(C) single State unit for filings, applications, and permits;

(D) payment to the base State of fees and taxes due other States;

(E) equitable distribution of revenues; and

(F) a limit on fees paid for identification stickers, plants or other indicia.

Such standards shall not define or include the amounts of any State registration fees, fuel taxes, or third structure taxes.

(2) The working group shall also:

(A) define an approach to resolve any discrepancies in States' implementation of standards ultimately promulgated by the Secretary;

(B) identify permanent bodies to develop and recommend future modification to such standards; and

(C) consult with public and private interests contributing to, affected by, or concerned with State motor carrier requirements during the development of the standards.

(c) Members of the working group who are not officers or employees of the United States shall, while attending meetings or conferences of such working group or otherwise engaged in the business of such working group, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including travel time. While away from their homes or regular places of business, members of the working group may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this subsection shall not render mem-

bers of the working group employees or officials of the United States for any purpose.

(d) The recommendations required by subsection (b) of this section shall be submitted to the Secretary within 18 months of the date of enactment of this title.

(e) The Secretary may initiate rulemaking after the Secretary has received such recommendations in order to implement those recommendations found acceptable and in compliance with the criteria defined in subsection (b)(1) of this section.

(f) If the working group fails to make such recommendations within 18 months after the date of enactment of this title, the Secretary may develop such standards and initiate rulemaking to promulgate regulations implementing those standards.

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

SEC. 421. (a) Section 30(a)(2) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 820) is amended to read as follows:

"(2) The minimum level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle shall not be less than $750,000, except that the Secretary may by regulation reduce such amount for any class of vehicles or operations if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.".

"(b) Section 30(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 821) is amended to read as follows:

"(b)(1) The Secretary shall establish regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts (to be determined by the Secretary) covering public liability, property damage, and environmental restoration for the transportation of hazardous materials (as defined by the Secretary), oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency), or hazardous wastes (as defined by the Administrator of the Environmental Protection Agency) by motor vehicle in interstate commerce, foreign commerce, or intrastate commerce.

"(2) The minimum level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate commerce, foreign commerce, or intrastate commerce—

"(A) hazardous substances (as defined by the Administrator of the Environmental Protection Agency), in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons;

"(B) in bulk Class A and B explosives, poison gas, liquefied compressed gas, or compressed gas; or

"(C) a large quantity of radioactive materials;

shall not be less than $5,000,000, except that the Secretary may by regulation reduce such amount for any class of vehicles or operations if the Secretary finds that such reduction will not diversely affect public safety and will prevent a serious disruption in transportation service.

"(3) The minimum level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicles transporting in interstate, foreign, or intrastate commerce any material, oil, substance, or waste not subject to the provisions of paragraph (2) of this subsection shall not be less than $1,000,000, except that—

"(A) the Secretary may by regulation reduce such amount for any class of vehicles or operations if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service;

"(B) in the case of any class of vehicles transporting any such material, oil, substance, or waste in intrastate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not adversely affect public safety; and

"(C) in the case of any class of vehicles transporting any such material, oil, substance, or waste in interstate commerce in quantities less than those requiring placarding under the Department of Transportation's hazardous materials regulations, the Secretary may by regulation reduce such amount if the Secretary finds that such reduction will not adversely affect public safety.

"(4) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimum levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of hazardous materials, oil, hazardous substances, or hazardous wastes by motor vehicle in interstate, foreign, or intrastate commerce, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in paragraph (2) of this subsection or the $1,000,000 amount set forth in paragraph (3) of this subsection, as the case may be, until such time as the Secretary, by regulation, changes such amount under this subsection.".

(c) Section 30(f) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 323) is amended to read as follows:

"(f) This section shall not apply to motor vehicles having a gross vehicle weight rating (GVWR) less than 10,000 pounds, if such vehicles are not used to transport any quantity of Class A or B explosives, any quantity of poison gas, or a large quantity of radioactive materials in interstate or foreign commerce.".

COMMERCIAL MOTOR VEHICLE LENGTH LIMITATION

SEC. 422. (a) No State shall establish, maintain, or enforce any regulation of commerce which imposes a vehicle length limitation of less than 48 feet on the length of the semitrailer unit operating in a truck tractor-semitrailer combination, and of less than 28 feet on the length of any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the National System of Interstate and Defense Highways or any other qualifying Federal-aid highway as designated by the Secretary, except with respect to such qualifying Federal-aid highways designated pursuant to subsection (e) of this section.

(b) Length limitations established, maintained, or enforced by the States under subsection (a) of this section shall apply solely to the semitrailer or trailer(s) and not to a truck tractor. No State shall establish, maintain, or enforce any regulation of commerce which imposes an overall length limitation on commercial motor vehicles operating in truck-tractor semitrailer or truck tractor semitrailer, trailer combinations. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in such State on December 1, 1982. No state shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of existing trailers or semitrailers, of up to 28½ feet in length, in a truck tractor-semitrailer-trailer combination if those trailers or semitrailers were actually and lawfully operating on December 1, 1982, within a 65-foot overall length limit in any State.

(c) No State shall prohibit commercial motor vehicle combinations consisting of a truck tractor and two trailing units on any segment of the National System of Interstate and Defense Highways, or any other qualifying Federal-aid highways as designed by the Secretary, except with respect to such qualifying Federal-aid highways designated pursuant to subsection (e) of the section.

(d) The Secretary is authorized to establish rules to implement the provisions of this section, and to make such determinations as are necessary to accommodate specialized equipment (including, but not limited to, automobile transporters) subject to subsections (a) and (b) of this section.

(e) Subsections (a) and (c) of this section shall not apply to qualifying Federal-aid highways or segments of highways which are:

(1) designated by any State, in conformity with guidelines promulgated by the Secretary setting forth those specific factors that would significantly and adversely affect public safety on any such highways or segments of highways where subsection (a) or (c) of this section would otherwise be applicable; or

(2) specifically designated by the Secretary on the basis that public safety would be significantly and adversely affected if subsection (a) or (c) of this section were applicable to such specific highways or segments of highways.

(f) For the purposes of this section, "truck tractor" shall be defined as the noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

(g) The provisions of this section shall take effect 180 days after the date of enactment of this title.

COMMERCIAL MOTOR VEHICLE WIDTH REGULATION

SEC. 423. Notwithstanding any other provision of law, a State (other than the State of Hawaii) shall permit trucks or combinations thereof having a width of not more than 102 inches to operate over interstate highways, National Defense Highways, or any other qualifying Federal-aid highway as designated by the Secretary, with traffic lanes designed to be a width of 12 feet or more.

SAFETY-RELATED DEVICES

SEC. 424. The length and width limitations described in section 422 and 423 of this title shall be exclusive of safety-related appenages, such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, energy conservation devices or designs, refrigeration units or air compressors, which the Secetary may interpret as necessary for safe and efficient operation of commercial moter vehicles.

ACCESS TO THE INTERSTATE SYSTEM

SEC. 425. No State may enact or enforce any law denying reasonable access to commerical motor vehicles subject to this title to and from the Interstate Highway System, Defense Highways, and any other qualifying Federal-aid highway as designated by the Secretary to the Federal-aid primary system and loading and unloading terminals and facilities for food, fuel, repairs, and rest.

ENFORCEMENT

SEC. 426. Tthe Secretary, or, on the request of the Secretary, the Attorney General of the United States, is authorized and directed to institute any civil action for injunction relief as may be appropriate to assure compliance with the provisions of this title. Such action may be instituted in any district court of the United States in any State where such relief is required to assure compliance with the terms of this title. In any action under this section, the court shall, upon a proper showing, issue a temporary restraining order or preliminary or permanent injunction. In any such action, the court may also issue a mandatory injunction commanding any State or person to comply with any applicable provisions of this title or any rule issued under authority of this title.

SPLASH AND SPRAY SUPPRESSANT DEVICES

SEC. 427. (a) The Congress declares that visibility on wet roadways on the Interstate System should be improved by reducing, by a practicable and reliable means, splash and spray from truck tractors, semitrailers, and trailers.

(b) The Secretary shall—

(1) within one year after the date of the enactment of this title, establish minimum standards with respect to the performance and installation of splash and spray suppression devices for use on truck tractors, semitrailers, or trailers;

(2) within two years after the date of the enactment of this title, require that all new truck tractors, semitrailers, and trailers operated on the Interstate System be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection; and

(3) within five years after the date of the enactment of this title, require that all truck trailers, semitrailers, and trailers operated on the Interstate System be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection.

(c) For the purposes of this section, the term—

(1) "truck tractor" means the noncargo carrying power unit that operates in combination with a semitrailer or trailer(s);

(2) "semitrailer" and "trailer" mean any semitrailer or trailer, respectively, with respect to which section 422 of this title applies; and

(3) "Interstate System" has the same meaning provided in section 101 of title 23, United States Code.

REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

SEC. 428. (a) Within 1 year after the date of enactment of this title, the Secretary, after consultation with the transportation officials and Governors of the several States and after an opportunity for public comment, shall submit to Congress a detailed report on the potential benefits and costs if any, to shippers, receivers, operators of commercial motor vehicles, and the general public, that reasonably may be anticipated from the establishment of a National intercity truck route network for the operation of a special class of longer combination commercial motor vehicles.

(b) For the purposes of this section, the term—

(1) "longer combination commercial motor vehicles" means multiple-trailer combinations consisting of (A) truck tractor-semitrailer-full trailer, and (B) truck tractor-semitrailer-full trailer-full trailer combinations with an overall length not in excess of 110 feet; and

(2) "National intercity truck route network" means a network consisting of a number of controlled-access, interconnecting segments of the National System of Interstate and Defense Highways and other highways of comparable design and traffic capacity including, but not limited to, all such highways where the operation of longer combination commercial motor vehicles is authorized on the date of enactment of this section.

(c) The detailed report mandated by this section shall include, but need not be limited to, the following—

(1) a specific plan for the establishment of a National intercity truck route network, including the designation of those specific highway segments which would be required to connect the major distribution centers and markets for long-haul intercity freight service, except that the Secretary shall not include in the plan any highway segment which, because of design limitations or other factors, cannot accommodate the safe operation of longer combination commercial motor vehicles;

(2) an analysis of the intercity motor freight volume that reasonably can be anticipated to be transported by longer combination commercial motor vehicles over the national intercity truck route network if such network is established by Congress;

(3) an analysis of the fuel savings that reasonably can be anticipated in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(4) an analysis of the productivity gains that reasonably can be anticipated to be achieved in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(5) an analysis of the fuel conservation and productivity gains historically achieved by operators of longer combination commercial motor vehicles; and

(6) an analysis of the safety record of longer combination commercial motor vehicle operations that have been conducted prior to the date of enactment of this section.

(d) In making the findings and determinations required by subsection (c) of this section, and in making the detailed report to Congress required by this section, the Secretary shall assume that the longer combination commercial motor vehicles operating on the National intercity truck route network, if and when established by Congress, would be subject to the single- and tandem-axle weight limits imposed by section 127 of title 23, United States Code. The Secretary shall further assume that the overall gross weight of such vehicles on a group of two or more consecutive axles shall be limited by the formula set forth in such section, and only by such formula.

(e) In making the detailed report to Congress required by this section, the Secretary shall assume that longer combination commercial motor vehicles operating on the national intercity truck route network will have reasonable access to terminals, combination breakup areas, and food and fuel facilities consistent with safe operations of such vehicles.

AIRPORT AND AIRWAY DEVELOPMENT PROGRAM

SEC. 429. (a) Section 507(a)(3) of the Airport and Airway Improvement Act of 1982 (P.L. 97-248; 96 Stat. 671) is amended by redesignating the existing paragraph as subparagraph (A) and adding at the end thereof the following new subparagraph:

"(B) The amounts apportioned to the discretionary fund pursuant to subparagraph (A) of this paragraph shall be increased by apportioning from the Trust Fund additional aggregate amounts of $200,000,000 for fiscal year 1983; $400,000,000 for the fiscal years ending before October 1, 1984; and $475,000,000 for the fiscal years ending before October 1, 1985. Such additional amounts shall be distributed by the Secretary in the same manner as funds apportioned pursuant to subparagraph (A), except that (i) such additional amounts may only be distributed for projects involving new construction begun after the date of enactment of this subparagraph and not to liquidate obligations arising from construction begun before such date; (ii) the Secretary shall give preference to those projects which would increase the safety or capacity of the airport receiving such additional amounts; and (iii) such additional amounts shall not be subject to the limitations set forth in section 508(d) of this title. For the purposes of the provisions of this title (other than sections 507, and 508(d)), and all amendments made to other laws by this title, such additional amounts shall be considered to be funds authorized by or made available under section 505. If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505, the Secretary shall implement such limitation or reduction by reducing the amount of discretionary funds distributed in that fiscal year pursuant to this subparagraph prior to reducing any other apportionment under this section. In no event may the Secretary reduce any other apportionment under this section in order to comply with any such Congressional limitation or reduction unless all of the discretionary funds available for distribution in such fiscal year pursuant to this subparagraph have been eliminated.".

(b) Section 505(a) of such Act is amended by striking "$3,772,500,000" and inserting in lieu thereof "$3,660,000,000", and by striking "$4,789,700,000" and inserting in lieu thereof "$4,564,700,000".

(c) The first sentence of section 506(c)(2) of such Act is amended by striking everything after "section 505" and inserting in lieu thereof "(including funds made available under section 507(a)(3)(B)(A) for that fiscal year multiplied by a factor equal to 1.83 in the case of fiscal year 1983; 1.25 in the case of fiscal year 1984; 1.28 in the case of fiscal year 1985; 1.44 in the case of fiscal year 1986; and 1.51 in the case of fiscal year 1987.".

(d) The second sentence of section 507(a)(1)(E) of such Act is amended by inserting ", after complying with the provisions of subparagraph (3)(B) of this subsection," immediately after "the Secretary".

(e) Section 9502(d)(1)(A) of the Internal Revenue Code of 1954 is amended by striking "the Airport and Airway Improvement

Act of 1982", the second time it appears therein, and inserting in lieu thereof "the Surface Transportation Act of 1982".

STATE RECREATIONAL BOATING AND REFORESTATION

SEC. 430. (a) The Federal Boat Safety Act of 1971 (Public Law 92-75; 85 Stat. 213) is amended as follows:

(1) By inserting "contract with, and" immediately after "The Secretary may" in the second sentence of section 25(a) (46 U.S.C. 1474(a)) and in section 26(a) (46 U.S.C. 1475(a)) immediately after "promulgate, may".

(2) In section 26 (b) and (c) (46 U.S.C. 1475 (b) and (c)):

(A) by striking "appropriated" and inserting "authorized to be expended"; and

(B) by adding at the end thereof the following: "His action in doing so shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing the program.".

(3) In section 26(d) (46 U.S.C. 1475(d))—

(A) by striking "appropriated" in the third and fourth sentences and inserting in lieu thereof "authorized to be expended";

(B) by inserting immediately after the third sentence the following: "Approval of those elements of a combined program shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating safety programs pursuant to this Act."; and

(C) by adding at the end thereof the following: "Approval of those elements of a combined program shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating facilities programs pursuant to this Act.".

(4) In section 30 (46 U.S.C. 1479) by striking the section heading and all that follows thereafter and inserting in lieu thereof the following:

"AUTHORIZATION OF CONTRACT SPENDING AUTHORITY FOR STATE RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT PROGRAMS

"SEC. 30. For the purposes of providing financial assistance for State recreational boating safety and facilities improvement programs, the Secretary is authorized to expend, subject to such amounts as are provided in appropriations Acts for liquidation of contract authority, an amount equal to the revenues accruing each fiscal year from the taxes under section 4041(b) of the Internal Revenue Code of 1954 with respect to special motor fuels used as fuel in motor boats and under section 4081 of such Code with respect to gasoline used as fuel in motor boats. Of the funds available for allocation and distribution for recreational boating safety and facilities improvement programs, one-third shall be allocated for recreational boating safety programs and two-thirds shall be allocated for recreational boating facilities improvement programs beginning with fiscal year 1983. Any funds authorized to be expended for State recreational and boating safety improvement programs shall remain available until expended and shall be deemed to have been expended only if a sum equal to the total amounts authorized to be expended under this section for the fiscal year in question and all previous fiscal years have been obligated. Any funds that were previously obligated but are released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated funds and shall be immediately available for expenditure."

(c)(b) Sections 303 (d) and (e) of the Act of October 14, 1980 (16 U.S.C. 1606a (d) and (e)), are amended to read as follows:

"(d) During each of the fiscal years 1983, 1984, and 1985, the Secretary of Agriculture shall expend all amounts available in the Trust Fund (including any amounts not expended in previous fiscal years) for:

"(1) reforestation and timber stand improvement as set forth in the Congressional policy in section 3(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(d)); and

"(2) administrative costs of the Federal Government properly allocatable to the activities described in paragraph (1).

In no event may the Secretary expend less than $104,000,000 out of the Trust Fund in fiscal year 1983 for the purpose of this subsection.

"(e) It is the intent of Congress that the Secretary shall expend all of the funds available in the Trust Fund in each fiscal year. Any such funds which are not expended in a given fiscal year shall remain available for expenditure without fiscal year limitation; except that any funds not expended prior to October 1, 1985, shall, no later than April 30, 1986, be distributed to the States for use in State forestry programs pursuant to the formula set forth in the Act of May 23, 1908 (16 U.S.C. 500, P.L. 60-136).".

AMENDMENT TO SALTONSTALL-KENNEDY ACT

SEC. 431. Section 2(e) of the Act of August 11, 1939, commonly referred to as the Saltonstall-Kennedy Act (15 U.S.C. 713c-3(e)), is amended to read as follows:

"(e) ALLOCATION OF FUND MONEYS.—(1) All moneys in the fund shall be used only to promote United States fisheries in accordance with the provisions of this section. With respect to any fiscal year, the sum of all unexpended moneys carried over into that fiscal year and all moneys transferred to the fund under subsection (b) or any other provision of law with respect to that fiscal year, shall be allocated as follows:

"(A) the Secretary shall use no less than 60 percent of such funds to make direct industry assistance grants to develop new United States fisheries and to expand domestic and foreign markets for United States fishery products pursuant to subsection (c) of this section; and

"(B) the Secretary may not use more than 40 percent of such funds to finance the operations of the National Marine Fisheries Service, including, but not limited to, fisheries research laboratories, market development, quality control, export promotion, import research, administration of this section, and related programs to promote the development of United States fisheries.

"(2) It is the intent of the Congress that the Secretary should, consistent with the number of meritorious applications received with respect to any fiscal year, obligate or expend all of the funds described in paragraph (1). Any such funds which are not expended in a given fiscal year shall remain available for expenditure under this section without fiscal year limitation.".

THE MERCHANT MARINE ACT, 1936

SEC. 432. Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)), is amended by adding at the end thereof the following new sentence: "No additional limitations may be imposed on new commitments to guarantee loans for any fiscal year, except in such amounts as established in advance in annual authorization Acts.".

Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD an explanation of the amendment.

There being not objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF BAKER AMENDMENT

TITLE I

I. SUMMARY OF THE COMMITTEE AMENDMENT

Under present law, the Highway Trust Fund generally will expire after September 30, 1984. The Finance Committee amendment, the Highway Revenue Act of 1982, extends the Highway Trust Fund through September 30, 1989, provides revenue sources for it, and establishes a new transit account in the Trust Fund.

Under present law, the highway excise taxes that provide the revenues for the trust fund generally expire or revert to lower rates after September 30, 1984. The committee amendment increases the annual revenues into the trust fund by extending some of the taxes at higher levels through September 30, 1989, and repeals or modifies other provisions. In providing these tax changes and extensions for the Highway Trust Fund, the committee changed the distribution of the tax burden of highway users by shifting a larger share to the heaviest trucks on the highways and reducing the share paid by lighter trucks. These shifts of burden are generally consistent with the highway cost allocation study submitted to Congress by the Department of Transportation in May 1982.

The increases in estimated Highway Trust Fund receipts over present law are $2.2 billion in fiscal year 1983, $5.3 billion in 1984, $9.6 billion in 1985, $9.9 billion in 1986, $10.1 billion in 1987, and $10.4 billion in 1988.

In addition, trust fund receipts will be increased above the levels of a simple continuation of the present law taxes by $2.2 billion in fiscal year 1983, $5.3 billion in 1984, $5.4 billion in 1985, $5.5 billion in 1986, $5.6 billion in 1987, and $5.7 billion in 1988.

Total Highway Trust Fund tax revenues are estimated at $8.6 billion in fiscal year 1983, $12.2 billion in 1984, $12.6 billion in 1985, $13.0 billion in 1986, $13.4 billion in 1987, and $13.8 billion in 1988.

Tables 2, 3 and 4 in section IV, below, show revenue estimates of the taxes affected by the committee amendment for fiscal years 1983-1988.

The specific tax and trust fund changes contained in the Finance Committee amendment are summarized below. Table 1 contains a summary comparison of the tax provisions in present law and in the committee amendment.

TAX PROVISIONS

Motor fuels taxes.—The excise taxes on gasoline, diesel and special motor fuels used in highway vehicles currently are 4 cents a gallon; fuel used in recreational motorboats also is taxed at 4 cents a gallon. These taxes are scheduled to decline to 1½ cents a gallon after September 30, 1984.

The committee amendment increases the motorfuels excise tax rates to 9 cents a gallon, beginning on April 1, 1983, through September 30, 1989. Complete exemptions from the 9 cents a gallon tax are provided for State and local governments, nonprofit educational institutions, farm use, school buses, local transit buses, intercity buses,

off-highway business use, gasohol and 85 percent or more alcohol fuels (other than those derived from petroleum and natural gas). Exemption from the present law 4 cents a gallon excise tax is continued for qualified taxicab (through fiscal year 1984). The definition of qualified taxicab is expanded to permit certain taxicabs which can offer ride sharing under company policy, but are barred from such action by local law, to claim the fuels tax exemptions for one year, January 1 through December 31, 1983. An additional exemption, at the 9 cents rate, is created for certain vanpool vehicles. Ground applicators of fertilizers and other substances are made eligible for refunds of fuels taxes, under the farm use exemption, under the same terms as are aerial applicators. The time for payment of the gasoline tax is extended by 6 days for certain oil jobbers, if payment is made by electronic wire transfer to an authorized government depository.

All the motor fuels taxes and the exemptions from these taxes will terminate after September 30, 1989. Revenue from the 9 cents a gallon tax on recreational motorboat fuel is transferred to the Land and Water Conservation Fund, and $45 million per year up to an accumulated balance of $45 million (instead of $20 million as in present law) is the maximum amount that may be transferred to the National Recreational Boating Safety and Facilities Improvement Fund, which is extended through fiscal year 1989.

Tires, tubes and tread rubber.—These items presently are subject to a manufacturers excise tax that is levied on a per pound basis: highway tires at 9.75 cents, other tires at 4.875 cents, laminated tires at 1 cent, inner tubes at 10 cents, and tread rubber at 5 cents. After September 30, 1984, the tax on highway tires is scheduled to fall to the same 4.875 cents rate applied to other tires. The tax on inner tubes is scheduled to decline to 9 cents, and the tax on tread rubber is scheduled to expire.

Under the committee amendment, the taxes on laminated tires and all nonhighway tires are repealed. The tax on highway tires is imposed at a graduated scale depending on tire weight: 9.75 cents per pound for the first 50 pounds; 15 cents per pound for the next 50 pounds; and 25 cents per pound for each pound in excess of 100. Tread rubber is taxed as follows: 5 cents per pound for tires under 50 pounds; 8 cents per pound for tires between 50 and 100 pounds; and 16 cents per pound for tires over 100 pounds. The present tax on inner tubes is retained.

The changes in these excise taxes are effective on April 1, 1983, and the taxes will expire on October 1, 1989.

Lubricating oil.—Lubricating oil presently is taxed at 6 cents a gallon. The committee amendment retains this tax and expands it to synthetic lubricating oils, effective April 1, 1983.

Trucks and truck parts.—Truck parts and accessories are taxed at 8 percent of the manufacturers sale price under present law. Trucks and truck trailers weighing more than 10,000 pounds are taxed at 10 percent of the manufacturer's sale price. These taxes are scheduled to decline to 5 percent after September 30, 1984.

Under the committee amendment, the tax on new trucks and trailers is increased to 12 percent. In addition, this tax will be imposed at the retail level on the retail price, rather than at the manufacturers level. The weight threshold for this tax is increased from 10,000 pounds to 33,000 pounds for trucks and to 26,000 pounds for trailers. Rail trailers and vans are exempted from the tax. In addition, the tax on truck parts and accessories is increased to 12 percent and is retained at the manufacturers level, but only for parts for trucks and trailers over 33,000 pounds.

The increase in the weight thresholds for the exemptions from the taxes on trucks and truck parts are effective on the day after the date of enactment. The shift of the truck tax to the retail level and the rate increase from 10 percent to 12 percent are effective April 1, 1983, as is the increase in the tax on parts from 8 percent to 12 percent.

Heavy vehicle use tax.—The tax on heavy vehicles in present law is $3 per thousand pounds for trucks weighing more than 26,000 pounds. In its place, the committee amendment provides a graduated tax that begins at 33,000 pounds. Trucks below that weight level will pay no tax. At 33,000 pounds, trucks will pay $80, and heavier trucks will pay an additional $10 for each added 1,000 pounds up to 55,000 pounds. Trucks weighing between 55,000 pounds and 80,000 pounds will pay $300 plus $52 for each 1,000 pounds over 55,000 pounds up to $1,600, which is the maximum annual use tax on heavy trucks. The new schedule is phased-in, with one-third of the tax change effective on January 1, 1984, two-thirds on July 1, 1984, and the permanent rate schedule effective on July 1, 1985.

In addition, an exemption (or refund) will be provided for trucks that travel on highways 5,000 miles or less in a taxable period, effective on January 1, 1984.

Sunset of taxes.—All the highway user excise taxes, as well as most exemptions from the taxes, expire after September 30, 1989.

Motor carrier operating rights.—The committee amendment provides that the basis adjustments applicable under the Economic Recovery Tax Act of 1981 to corporate taxpayers acquiring certain motor carrier operating authorities shall also apply to noncorporate taxpayers acquiring such rights.

Trust fund and transit account

Highway Trust Fund.—Under the committee amendment, the Highway Trust Fund is extended through September 30, 1989. The taxes that will be deposited into the Trust Fund, and the authority to spend from the Trust Fund, will expire after September 30, 1989, except for certain statutory transfers allowed through June 30, 1990.

Mass Transit Account.—One cent a gallon of the fuels taxes is to be deposited in a new separate Mass Transit Account in the Highway Trust Fund. These deposits may be used only for mass transit capital programs, including new projects, that are authorized in section 22 of the Urban Mass Transportation Act.

TABLE 1.—COMPARISON OF CURRENT HIGHWAY USER EXCISE TAXES AND THOSE APPROVED BY THE COMMITTEE ON FINANCE

Tax	Present law (before Oct. 1, 1984)	Finance Committee approved rates
A. Fuels:		Effective Apr. 1, 1983:
Gasoline	4 cents per gallon	9 cents per gallon.
Diesel fuel	do	Do.
Special motor fuels	do	Do.
B. Lubricating oil	6 cents per gallon	6 cents per gallon.
C. Truck and truck parts:		
Trucks and trailers.	10 percent of manufacturers sale price for trucks and trailers over 10,000 lb.	12 percent of retail sales price for trucks over 33,000 lb and trailers over 26,000 lb.[1]
Parts and accessories.	8 percent of manufacturers sale price for trucks and trailers over 10,000 lb.	12 percent of manufacturers sale price of trucks and trailers over 33,000 lb.[1]
D. Tires, tubes, and tread rubber:		Effective Apr. 1, 1984:
Tires for highway vehicles.	9.75 cents per pound on all highway tires.	9.75 cents per pound for first 50 lb, 15 cents per pound for next 50 lb, 25 cents for each pound over 100 lb.
Laminated tires	1 cent per pound	Repeal.
Other tires	4.875 cents per pound	Do.
Inner tubes	10 cents per pound	10 cents per pound.
Tread rubber	5 cents per pound for tires of all weights.	5 cents per pound for use on tires below 50 lb, 8 cents per pound for tires between 50 and 100 lb, 16 cents per pound for tires over 100 lb.
E. Use tax on heavy vehicles.	$3 per 1,000 lb per year, if more than 26,000 lb.	0 to 33,000 lb: no tax. 33,000 to 55,000 lb: $80 plus $10 per 1,000 lb in excess of 33,000 lb. 55,000 to 80,000 lb: $300 plus $52 per 1,000 lb in excess of 55,000 lb.[2] Over 80,000 lb: $1,600.

[1] The increase in the weight thresholds for the exemptions for trucks and trailers is effective on the day after the date of enactment. The increase in the rate to 12 percent and the shift to the retail level for collection of the truck tax are effective Apr. 1, 1983.

[2] Phased in between Jan. 1, 1984, and July 1, 1985.

II. General Reasons for the Committee Amendment

The committee believes that extensive improvements are required in the nation's highways, bridges and mass transit systems, and that Highway Trust Fund revenues under the current tax structure are inadequate to finance them. This inadequacy is due in part to the fact that the purchasing power of trust fund revenues has been reduced by inflation, because many highway user taxes do not automatically rise with prices and the tax rates have not been adjusted for several years. The motor fuels tax, which has been fixed at 4 cents per gallon since 1959, is an example. The committee has determined that the highway user taxes should be raised sufficiently to pay for the additional expenditures that are so much needed. In addition, it believes that the Highway Trust Fund should be extended for five additional years.

Allocating highway costs to users

The committee agrees with the general principle that highway users should pay highway user taxes in proportion to the costs that result from their use. On this point, the committee recognizes the broad conclusions of the cost allocation study undertaken by the Department of Transportation and transmitted to Congress in May 1982. This study indicated that, under the current excise tax structure, users of the heaviest trucks are paying much less than their proportionate share of highway costs and users of lighter trucks are paying much more. Aware that an increase in motor fuels taxes alone would aggravate the existing problem of disproportionate tax payments, the committee modified virtually the entire highway user excise tax structure so that users of the heaviest trucks will pay a greater share of the cost. Nevertheless, the committee believes it would not be wise policy to adhere strictly to the cost allocation study

in designing the highway excise taxes: first, because it would be difficult even for a healthy industry to absorb a tax increase of that magnitude, and second, because the affected industry is currently experiencing significant economic problems. Thus, the tax increase on heavy trucks is lower than implied by the cost allocation study, and that increase is phased in over a 2½-year period.

SIMPLIFICATION OF HIGHWAY EXCISE TAXES

Another goal of the committee is to simplify the highway user excise tax system. The committee, therefore, modified several of these taxes such that the number of taxpayers or the number of taxable transactions will be reduced. In addition, the committee decided to repeal certain minor taxes, because the revenue from them is too small relative to the government's administrative costs and the taxpayer's compliance costs.

III. EXPLANATION OF THE COMMITTEE AMENDMENT

A. MOTOR FUELS TAXES

(Secs. 44E, 4041, 4081-4083, 6416, 6420, 6421, and 6427 of the Code)

Present law—Gasoline tax

A manufacturers excise tax is imposed on the sale by a producer or importer of gasoline. The present gasoline tax is 4 cents per gallon. The tax is scheduled to decline to 1½ cents per gallon on October 1, 1984 (Code sec. 4081 (a) and (b)).

The 4-cents-per-gallon tax on gasoline applies for highway, noncommercial aviation,[1] and motorboat use (other than commercial fisheries or whaling use), except that the tax is 2 cents per gallon for other nonhighway, nonaviation qualified business use.[2] Revenues from the gasoline tax generally are deposited in the Highway Trust Fund. Revenues from the tax on noncommercial aviation are deposited in the Airport and Airway Trust Fund. An amount equivalent to the revenues from the tax on motorboat gasoline is transferred to the National Recreational Boating Safety and Facilities Improvement Fund and the Land and Water Conservation Fund (discussed below).

Diesel and special motor fuels taxes

A tax is imposed on the sale or use of diesel fuel for use in motor vehicles on highways (sec. 4041(a)). The tax on diesel fuel is imposed at the retail level and is presently imposed at 4 cents per gallon. The tax is scheduled to decrease to 1½ cents per gallon on October 1, 1984 (sec. 4041(a)).

A similar retailers excise tax is imposed on the sale of special motor fuels for use in a motor vehicle or motorboat.[3] The tax on special motor fuels is presently 4 cents per gallon and is scheduled to decrease to 1½ cents per gallon on October 1, 1984 (sec. 4041(b)). The tax on special motor fuels applies both for highway and off-highway use. However, the tax is 2 cents per gallon for off-highway, qualified business use.

Motorboat fuels

As noted above, the gasoline tax and the special motor fuels tax are imposed on such fuels used by motorboats. An amount equivalent to the revenues derived from these taxes is transferred from the Highway Trust Fund to two other special funds. Amounts not exceeding $20 million per year of these revenues for fiscal years 1981-1983 are to be transferred to the National Recreational Boating Safety and Facilities Improvement Fund. However, that fund is not permitted to have a balance in excess of $20 million at any one time. The balance of the revenues from these taxes is transferred to the Land and Water Conservation Fund.

Exemptions from motor fuels taxes

Present law provides a number of exemptions from the three motor fuel taxes. Offhighway use exemptions apply to farm use (sec. 6420) and use as supplies for certain vessels or aircraft (secs. 4041(g) and 6416(b)(2)(B)).[4]

Sales for the exclusive use of State and local governments, sales for export, and sales for use by nonprofit educational institutions and certain aircraft museums are also exempt (secs. 4041(f) and 6416(b)(2)(C)-(D)).

Exemptions from the taxes are also provided for use by school buses and certain other buses providing public passenger transportation for hire (sec. 6421(b) and sec. 6427(b))[5] and for certain qualified taxicab use through 1982 (sec. 6427(e)).[6]

An additional exemption from the taxes applies through 1992 to a fuels mixture (gasohol) which contains at least 10 percent alcohol of 190 proof (secs. 4041(k), 4081(c), and 6427(f)). To qualify, the alcohol must be produced from sources other than petroleum, gas, or coal. Producers of alcohol fuels may claim a 40-cents-per-gallon income tax credit, which is reduced to the extent that the alcohol is used in gasohol for which there is an excise tax exemption is claimed (sec. 44E).[7]

The exemptions from the motor fuels taxes are accomplished by tax-free sale or allowance of a refund (or credit) for tax paid when the fuels are purchased. The exemption is usually made available only to the party using the fuel. In the case of the farm use exemption, the exemption is accomplished by means of a credit and is available only to the farm operator, tenant, or owner except in the case of aerial applicators. Aerial applicators that receive written consent of the farm owner, tenant, or operator may claim the exemption for fuels they use for farming purposes.

Time for payment of tax

Under present law, the motor fuels taxes generally are paid based upon a semimonthly period, with the tax due 9 days after the close of the period.

Reasons for change

The present excise taxes funding the Highway Trust Fund are scheduled to expire or to be reduced on October 1, 1984. Extension of the Trust Fund and modifications in these excise taxes are needed to finance the increased highway construction and maintenance programs anticipated as necessary to rebuild the nation's transportation system.

The committee determined that an increase in the present taxes on gasoline, diesel, and special motor fuels to 9 cents per gallon is necessary to achieve the required funding levels for anticipated highway and transit expenditures. These increases, when combined with the modification of the other highway-related excise taxes contained in the committee amendment, make the highway excise tax structure more consistent with the findings of the 1982 cost allocation study submitted to Congress by the Department of Transportation than is the case under present law.

The committee also examined the various exemptions from the motor fuels taxes. In general, the committee believes that these exemptions should be continued at their present levels, i.e., an amount equal to the full tax imposed on the motor fuels. In three instances, however, the committee determined that modification of the exemptions is appropriate. First, the committee amendment provides a new exemption from the special motor fuels tax, at the 9-cents-per-gallon rate, for alcohol fuels consisting of at least 85 percent ethanol, methanol, or other alcohols. The exemption is available only for alcohol fuels derived from sources other than petroleum and natural gas. The committee believes this new exemption is consistent with the policy of decreasing reliance on petroleum fuels.

Second, the committee amendment limits the present exemptions for fuels used in providing qualified taxicab services to 4 cents per gallon. The committee believes this level promotes the goal of assigning the costs of constructing and maintaining the highway system to the users of that system in proportion to the burden they place upon it. The committee amendment generally terminates the present law exemptions for fuels used in providing qualified taxicab services on September 30, 1984. The amendment expands the exemption to include taxicabs permitted to offer ride sharing by company policy in areas where local law prohibits ridesharing in certain circumstances. The expansion is effective only through December 31, 1983. These termination dates are intended to permit a more thorough examination of that exemption during the next Congress.

---

[1] Section 4041(c) imposes a retail excise tax on noncommercial aviation gasoline of 8 cents per gallon, for a total tax on noncommercial aviation gasoline of 12 cents per gallon. This rate of tax applies through 1987.

[2] In general, a qualified business use is a use in an off-highway vehicle that is used in a trade or business or for the production of income.

[3] Special motor fuels are benzol, benzene, naptha, liquefied petroleum gas, casinghead and natural gasoline, or any other liquid (other than kerosene, gas oil, fuel oil, gasoline taxed under the general gasoline tax, or diesel fuel taxed under the general diesel fuel tax). Methanol and ethanol fuels are taxed as special fuels under present law. Further, section 4041(c) imposes a retail tax of 14 cents per gallon on nongasoline fuels used in noncommercial aviation. This rate of tax applies through 1987.

[4] The term "supplies for vessels or aircraft" means fuel supplies, ships stores, sea stores, or legitimate equipment for vessels of war, vessels employed in fisheries or in the whaling business, or vessels engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions. The term "vessels" also includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions (sec. 4221(d)(3)).

[5] The exemption does not apply for fuel used in such buses where the transportation is not scheduled and not along regular routes unless the seating capacity of the bus is at least 20 adults (not including the driver).

[6] Qualified taxicab use means furnishing of nonscheduled land transportation for a fixed fare by a licensed operator who is not prohibited by law or company policy from furnishing shared transportation (with consent of the passengers). Model year 1978 and later taxicabs must have a fuel economy rating in excess of the average EPA rating for the type of vehicle involved to qualify for this exemption.

[7] A tariff of 40 cents per gallon is imposed on ethanol imported for use in fuels.

Third, the committee amendment adds a new exemption for vanpooling because vanpooling promotes energy conservation.

Finally, the committee determined that the present exemptions for certain off-highway uses should be increased from one-half of the otherwise applicable tax to the entire amount of the tax. The committee believes this action is appropriate because these uses of motor fuels place no burden on the highway system.

Explanation of provisions

1. Increase in motor fuels taxes: The excise taxes on gasoline, diesel, and special motor fuels are increased from their present 4-cents-per-gallon rate to a rate of 9 cents per gallon.[8]

2. Taxes on motorboat fuels: The committee amendment increases the tax rates for gasoline and special fuels used in motorboats to 9 cents per gallon to conform those rates to those for other taxable uses of the fuels. The committee amendment also increases the maximum amount that can be transferred to the National Recreational Boating Safety and Facilities Improvement Fund from $20 million to $45 million per year and extends the period for those transfers through September 30, 1989. A corresponding committee amendment is made permitting the balance of the Boating Fund to reach $45 million. (For more information on the Boating Fund, see the discussion of the Highway Trust Fund, below in H.)

3. Modification of exemptions from fuels taxes:

Gasohol.—The committee amendment retains the present exemptions from the motor fuels taxes for gasohol to exempt each gallon of gasohol from the full 9 cents of tax. These exemptions will terminate after the previously scheduled 1992 termination date.

A corresponding amendment is made to increase the 40-cent-per-gallon tariff on ethanol imported for use in fuels to 90 cents.

Alcohol fuels.—The committee amendment provides a new exemption from the special motor fuels tax, at the new 9-cent-per-gallon rate, for certain alcohol fuels. Fuels qualifying for the new exemption must consist of at least 85 percent methanol, ethanol, or other alcohols. Additionally, the fuels cannot be derived from petroleum or natural gas. Such alcohol fuels derived from coal, bagasse, or waste or other refuse will qualify for the 9-cent exemption.

The 40-cents-per-gallon income tax credit for alcohol fuel derived from sources other than oil, gas, or coal is increased to 90 cents per gallon to conform to the increase in the gasohol exemption and the new alcohol fuels exemption, and the 1992 termination date for this credit is retained. The credit for alcohol fuels is reduced to take account of any benefit provided by the new alcohol fuel exemption in the same manner as with the present gasohol exemption.

Certain buses.—The committee amendment retains the provisions of present law that provide exemption from the motor fuels taxes for certain buses. Thus, fuels used in these vehicles are entitled to a 9-cent-per-gallon exemption from any applicable motor fuels taxes.

Qualified taxicabs.—The committee amendment retains the present exemptions for motor fuels used in providing qualified taxicab services. Under the committee amendment, fuels used in providing qualified taxicab services will maintain their present 4-cents-per-gallon exemption. Thus, these fuels are subject to tax at a 5-cents-per-gallon rate. In addition, the committee amendment expands the exemption, through 1983, to fuels used in otherwise qualified taxicabs even though their offering ridesharing is prohibited in certain circumstances by local law.

Further, the committee amendment directs the Secretary of the Treasury to conduct a study of the effectiveness of this exemption in promoting energy conservation and the relationship of this exemption, if any, to the cost allocation goals relating to financing of the highway system. The results of this study, along with any recommendations of the Secretary, are to be submitted to the Congress not later than January 1, 1984.

Certain vehicles used for vanpooling.—The committee amendment includes a new exemption for vehicles used in vanpooling if certain requirements are satisfied. First, the vehicle must seat at least 8 adults (not including the driver) and at least 80 percent of its mileage must be commuting to and from work. Under the amendment, such vehicles will be exempt from the full 9 cents per gallon fuels taxes whether owned by the employer, by an owner-operator, or by a third party and leased by the employer or operator. Only fuels used in commuting are exempt from tax.

Farm use.—The committee amendment continues the provisions of present law that provide for full exemption from the motor fuels excise taxes for fuels used on farms for farming purposes.

Off-highway business use.—The committee amendment increases the present exemption for fuels used in an off highway business use from one-half of the tax imposed to the full 9-cent-per-gallon rate.

Other exemptions.—The committee amendment continues, at the new 9-cent-per-gallon tax rates, the other exemptions from tax provided in present law. Among such exemptions are those for fuels sold for the exclusive use of State and local governments, for export, for use by nonprofit educational institutions, for use as supplies for vessels or certain aircraft, and for use by certain aircraft museums.

Method of claiming exemptions.—The committee amendment does not change the method by which exemptions from the motor fuels taxes are claimed. The committee amendment does make one change, however, in the person who is entitled to the exemption on fuels used on farms for farming purposes. Under the committee amendment, certain ground applicators or pesticides, herbicides, and other farm processes are to be treated the same as aerial applicators are treated under present law. Therefore, if the owner, tenant, or operator of a farm served by these applicators consents in writing, the applicator, rather than the owner or operator of the farm, is entitled to the credit for tax paid on fuels used on the farm for farming purposes. This provision does not expand the present law circumstances in which gasoline and other motor fuels are exempt from tax.

4. Time for payment of taxes: The committee amendment permits an additional 6 days for payment of the gasoline excise tax, for a total of 15 days after the date of the semimonthly payment period. The additional period is available only to certain oil jobbers who elect, pursuant to Treasury Department regulations, to pay tax by electronic wire transfer. A qualified oil jobber is a jobber who sells 2 million or fewer gallons of gasoline during the semi-monthly period for which the additional time is granted.

Effective dates

The increases in the motor fuels tax rates are effective for fuels sold after March 31, 1983, and before October 1, 1989.

The provisions exempting certain sales of motor fuels from tax are generally effective with the changes in the rates of the taxes, and generally terminate after September 30, 1989. The exemption for fuels used in providing qualified taxicab services is effective on January 1, 1983; that exemption will expire after September 30, 1984, or December 31, 1983, in the case of taxicabs qualifying under the expansion of that provision. The provision affecting certain ground applicators is effective on April 1, 1983.

The increase in the tariff on certain imported ethanol is effective for imports after March 31, 1983.

The extension in the time for payment of tax is effective on April 1, 1983.

Revenue effect

It is estimated that the changes relating to the tax on gasoline will increase fiscal year trust fund receipts by $2,211 million in 1983, $4,442 million in 1984, $6,589 million in 1985, $6,461 million in 1986, $6,432 million in 1987, and $6,459 million in 1988.

The changes relating to diesel and special motor fuels will increase trust fund receipts by $341 million in 1983, $803 million in 1984, $1,303 million in 1985, $1,394 million in 1986, $1,496 million in 1987, and $1,607 million in 1988.

B. EXCISE TAXES ON SALE OF TRUCKS AND TRUCK PARTS

(New secs. 4051-4053 and sec. 4061 of the Code)

Present law—Trucks and truck trailers

A manufacturers excise tax is imposed on the sale of truck chassis and bodies, truck trailer and semitrailer chassis and bodies, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer (including related parts or accessories). The tax imposed is 10 percent of the selling price of the manufacturer, producer or importer. However, the tax does not apply to the sale of truck chassis and bodies suitable for use with a vehicle which has a gross vehicle weight of 10,000 pounds or less (as determined under regulations prescribed by the Secretary). Also, the tax does not apply to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer which has a gross vehicle weight of 10,000 pounds or less (as so determined). Additional exemptions apply to specified articles including ambulances, trash containers, house trailers and certain other articles. However, rail trailers and rail vans are not currently exempted. This manufacturers excise tax on trucks is scheduled to fall to 5 percent on October 1, 1984.

Truck parts and accessories

A manufacturers excise tax is imposed on the sale of parts or accessories (other than tires or innter tubes) for articles taxed under the manufacturers excise tax on trucks. The tax imposed is 8 percent of the selling price of the manufacturer, producer or importer. This tax on parts and accessories is scheduled to fall to 5 percent on October 1, 1984.

[8]The excise taxes on fuels used in noncommercial aviation are not changed by the committee amendment. Those taxes remain 12 cents per gallon for gasoline and 14 cents per gallon for other aviation fuels through 1987.

Reasons for change

The committee believes that a more equitable distribution of highway costs would result if both the excise tax on trucks and the excise tax on truck parts are modified to impose smaller taxes on lighter trucks and higher taxes on heavier trucks. In addition, the committee is concerned that the manufacturers excise tax on trucks, because of the amount of tax per article, is likely to create a financial hardship for retail dealers who carry inventories of tax-paid trucks for long periods before those trucks are sold at retail. Therefore, the committee believes that this tax should be imposed at the retail level, but that the tax on truck parts should continue to be imposed at the manufacturing level.

Explanation of provision

1. Trucks and truck trailers:

The committee amendment modifies the excise tax on trucks and truck trailers in several respects.

First, the exclusion from tax is extended to truck chassis and truck bodies suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less. The exclusion from tax also is extended to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less. The committee intends that the same concept of gross vehicle weight will apply as it does under present law. In addition, the committee amendment exempts from this tax rail trailers and rail vans, the chassis or body of which is designed for use both as a highway vehicle and a railroad car. For purposes of this exemption, a piggy-back trailer or semitrailer is not treated as designed for use as a railroad car.

Second, the current manufacturers excise tax will be converted to a retail excise tax and the rate of tax will be increased from 10 percent to 12 percent of the price for which an article is sold, beginning on April 1, 1983. In the case where a 10-percent manufacturers excise tax has been paid on an article taxable under the retail excise tax, the tax rate applicable to the retail sale of the article will be 2 percent. The tax will be imposed on the first retail sale of an article, which means the first sale after manufacturing, production, or importation for a purpose other than for resale. As under present law, the rebuilding of a truck will be treated as a manufacture. A person will not be treated as engaged in manufacture merely because an article is combined with an item described in Code section 4063(d). A lease will be considered a sale under rules similar to the present rules of Code section 4217. Use prior to the first retail sale (other than use in the further manufacture of a taxable article) will be treated as a taxable sale. Articles currently exempted from the manufacturers excise tax under Code section 4063(a), plus rail trailers and rail vans, will be exempt from the retail excise tax. Similarly, exemptions currently provided by Code section 4221(a) (relating to sales for further manufacture, for export, for use as supplies for vessels or aircraft, to a State or local government, or to a nonprofit educational organization) will apply under the retail excise tax.

For purposes of this tax, the retail price will include any charge incident to placing the article in condition ready for use, but will exclude (i) the amount of this tax, (ii) the retail price of tires (inclusive of any federal excise tax thereon), and (iii) the amount of any retail sales tax (if stated as a separate charge) imposed by any State, political subdivision thereof, or the District of Columbia. Retail price includes the value of any trade-in. If an article is sold otherwise than through an arm's-length transaction at less than the fair market price, the tax will be computed on the price for which similar articles are sold at retail in the ordinary course of business.

Third, the retail excise tax on trucks will expire on October 1, 1989.

2. Truck parts and accessories:

The committee amendment increases the manufacturers excise tax on truck parts and accessories from 10 percent to 12 percent. In addition, the exclusion threshold is raised to 33,000 pounds. Thus, the tax will not apply to parts or accessories suitable for use with trucks or truck trailers and semitrailers which have a gross vehicle weight of 33,000 pounds or less. Also, parts sold for resale in connection with the first retail sale of a vehicle taxable under the retail tax on trucks and trailers are exempt.

Under the committee amendment, this tax will expire on October 1, 1989.

Effective dates

The increase in the threshold weights for exclusion from the excise taxes on trucks and truck parts and the exemption of rail trailers and rail vans are effective on the day after the date of enactment. To account for the fact that these higher threshold weights will exclude certain vehicles that are currently taxable and on which the manufacturers truck tax has been paid, a credit or refund (without interest) for the tax paid will be allowed if the article has been sold to an ultimate consumer after November 28, 1982, and before the day after the date of enactment.

The replacement of the manufacturers excise tax on trucks by the retail excise tax on trucks and the increase in the tax rate to 12 percent are effective on April 1, 1983. The 12 percent tax rate for truck parts also takes effect on April 1, 1983.

Revenue effect

The provision relating to the excise tax on the sale of trucks and trailers is estimated to reduce receipts of the Highway Trust Fund by $158 million in fiscal year 1983, have no revenue effect in fiscal year 1984, and to increase receipts by $716 million in fiscal year 1985, $819 million in fiscal year 1986, $888 million in fiscal year 1987, and $965 million in fiscal year 1988.

The provision relating to the manufacturers excise tax on truck parts and accessories is estimated to decrease receipts of the Highway Trust Fund by $94 million in fiscal year 1983, $140 million in fiscal year 1984, $37 million in fiscal year 1985, $41 million in fiscal year 1986, $45 million in fiscal year 1987 and $48 million in fiscal year 1988.

C. HEAVY VEHICLE USE TAX

(Sec. 513 of the committee amendment and secs. 4481-4483 of the Code)

Present law

An excise tax is imposed on the use on the public highways of any highway motor vehicle which (together with semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as the vehicle) has a taxable gross weight of more than 26,000 pounds. The rate of tax is $3 a year for each 1,000 pounds of taxable gross weight or fraction thereof. The term "taxable gross weight" means the sum of (i) the unloaded weight of the vehicle fully equipped for service, (ii) the unloaded weight of semitrailers and trailers (fully equipped for service) which are customarily used in connection with vehicles of the same type, and (iii) the weight of the maximum load customarily carried on vehicles, semitrailers and trailers of the same type.

The taxable period for the highway use tax is generally the one-year period beginning on July 1. Payment in quarterly installments is permitted. The amount of tax is prorated only when the first use of the vehicle occurs later than the first month of the taxable period. No de minimus exemption is provided under present law for vehicles used on the public highways for only a limited number of miles during a taxable period.

The highway use tax is scheduled to expire on October 1, 1984.

Reasons for change

The committee believes that the current structure of the highway use tax should be changed in order to achieve a more equitable distribution of future costs of highway construction and maintenance. As discussed in the General Reasons (above), the committee believes that the use tax should be lowered for lighter vehicles and raised for heavier vehicles, so that highway user taxes for different types of trucks will be more nearly proportionate to the costs properly allocable to their respective use of the highway system. In addition, the committee believes that an exemption should be provided to prevent the overpayment of tax in cases where the use of public highways is limited. The committee decided upon a 2½-year phase-in of the increase in this tax because the current depressed state of the trucking industry makes that industry unable to bear a sudden increase in the tax to the permanent levels provided in the amendment.

Explanation of provisions

The committee amendment modifies the use tax in four respects.

First, the highest taxable gross weight of a vehicle not subject to the tax will be raised from 26,000 pounds to 33,000 pounds. The committee amendment does not modify the definition of taxable gross weight. However, the committee amendment makes it clear that a semitrailer or trailer is to be treated as customarily used in connection with a highway motor vehicle if the vehicle is equipped to tow the semitrailer or trailer.

Second, the rate of tax will be changed from a flat amount per 1,000 pounds to a graduated amount determined by a 3-bracket structure, as follows:

If the taxable gross weight is—		The rate of tax is—
At least	But less than	
33,000 pounds	55,000 pounds	$80 per year, plus $10 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds	80,000 pounds	$300 per year, plus $52 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds		$1,600 a year.

This schedule is phased in, so that it is first fully effective for the taxable period which begins on July 1, 1985.

Third, a new de minimus exemption from the tax will apply if a vehicle is used 5,000 miles or less on the public highways during a taxable period. Provided that the owner of the vehicle furnishes such information as the Secretary may require, collection of the tax will be suspended where it is reasonable to expect that use will not exceed 5,000 miles, and no tax will be imposed if use does not in fact exceed that amount. Where the tax is paid and the vehicle is not used for

more than 5,000 miles, the amount of tax will be credited or refunded (without interest) to the owner.

Fourth, the highway use tax will expire on October 1, 1989.

In addition, the committee amendment directs the Secretary of Transportation (in consultation with the Secretary of the Treasury, State officials, motor carriers and other affected parties) to study alternative forms of the highway use tax, study plans for the better administration of the tax, and report findings and recommendations to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate before January 2, 1985. Beginning January 1, 1985, a State must require proof of payment of the highway use tax before registering trucks in the State.

Effective date

In general, the provision will be effective on January 1, 1984.

However, the new schedule of use tax rates provided by the committee amendment is phased in and is first fully effective for the taxable period which begins on July 1, 1985. The phase-in is structured so that one-third of the use tax change is introduced in the short taxable period which begins on January 1, 1984, and ends on June 30, 1984, and an additional one-third is introduced in the (regular) taxable period which begins on July 1, 1984. Thus, for a vehicle having a taxable gross weight of at least 33,000 pounds, the use tax rate for this short taxable period will be the sum of (i) one-sixth the amount determined under the new schedule and (ii) $1 per 1000 pounds (or fraction thereof) of taxable gross weight. Vehicles having a taxable gross weight under 33,000 pounds will be exempt from the use tax beginning on January 1, 1984. Also, the new de minimus exemption for this short taxable year will be for uses of 2,500 miles or less. For the taxable period beginning on July 1, 1984, the tax rate will be the sum of (ii) two-thirds the amount determined under the new schedule and (ii) $1 per 1000 pounds (or fraction thereof) of taxable gross weight.

Present law will apply to the short taxable period which begins on July 1, 1983, and ends on December 31, 1983. The tax rate for this period will be one-half the current annual rate. The Secretary shall by forms or regulation provide for appropriate installment payments with respect to the two short taxable periods provided by the committee amendment such that no more than two installment payments may be made for a taxable period.

Revenue effect

The provision is estimated to decrease receipts of the Highway Trust Fund by $82 million in fiscal year 1983, and to increase receipts by $212 million in fiscal year 1984, $694 million in fiscal year 1985, $863 million in fiscal year 1986, $925 million in fiscal year 1987 and $964 million in fiscal year 1988.

D. TAXES ON TIRES, TUBES, AND TREAD RUBBER

(Sec. 514 of the committee amendment and secs. 4071–4073 of the Code)

Present law

Excise taxes are imposed on the sale by a manufacturer, producer or importer of tires, inner tubes and tread rubber. The taxes are based on weight: tires for use on highway vehicles are taxed at 9.75 cents per pound; inner tubes for tires are taxed at 10 cents per pound; and tread rubber for use in recapping or retreading highway type tires is taxed at 5 cents per pound. On and after October 1, 1984, these taxes will decrease to the non-highway rate of 4.875 cents per pound for tires and 9 cents per pound for inner tubes; and the tax on tread rubber will expire. Tires, other than laminated tires, that are not intended for highway use are taxed at 4.875 cents per pound. (Examples of such nonhighway tires are those for aircraft, earth movers, and other nonhighway vehicles.) Laminated tires, which are tires not designed for highway use, are taxed at 1 cent per pound.

Reasons for change

The committee believes that the present highway excise taxes should be restructured, simplified, and that nuisance taxes should be repealed. As part of the restructuring of the highway excise taxes, the committee concluded that the tire and tread rubber taxes should apply on a graduated basis so that a higher rate of tax applies to the highway tires generally used by heavier trucks, and that the taxes on nonhighway-type tires should be repealed. This is generally consistent with the highway cost allocation study recommendations of the Department of Transportation and the Administration proposal. Also, the committee concluded that the tax on laminated tires should be repealed as a means of simplifying the highway excise taxes. Finally, the committee determined that the tax on inner tubes should be retained, as most inner tubes are utilized by the heavier highway tires.

Explanation of provisions

Under the committee amendment, there will be a graduated tax on highway tires with the following tax rates and brackets: 9.75 cents per pound for the first 50 pounds, 15 cents per pound for the next 50 pounds, and 25 cents per pound for each pound in excess of 100. Tread rubber will be subject to a tax of 5 cents per pound when used on tires under 50 pounds. The tax rate increases to 8 cents per pound for pounds between 50 and 101 pounds and 16 cents per pound for pounds over 100. The tax on inner tubes is retained at the present rate of 10 cents per pound. In addition, the committee amendment repeals the taxes on laminated tires and all other nonhighway tires.

Effective date

The change in the application of the excise taxes on tires, tubes, and tread rubber will be effective on April 1, 1981. The taxes will expire on October 1, 1989.

Revenue effect

The change in the tax in tires will decrease highway excise tax revenues by $6 million in fiscal year 1983 and $16 million in fiscal year 1984, and increase revenues by $381 million in fiscal year 1985, $337 million in fiscal year 1986, $350 million in fiscal year 1987, and $364 million in fiscal year 1988.

The change in the tax on tread rubber will increase highway excise tax revenues by $7 million in fiscal year 1983, $17 million in fiscal year 1984, and by $39 million per year in fiscal years 1985–1988.

The extension of the tax on inner tubes will increase highway excise tax revenues by $2 million per year in fiscal years 1985–1988.

E. TAX ON LUBRICATING OIL

(Sec. 515 of the committee amendment and secs. 4091–4093 of the Code)

Present law

The sale of lubricating oil is subject to a 6-cents per-gallon tax that is levied on the manufacturer or producer. (This tax is not scheduled to be reduced on October 1, 1984.) Exemptions are provided for oil sold for use in cutting or machining operations on metals. An exemption also applies to sales of rerefined oil. Rerefined oil must be composed of at least 25 percent used or waste lubricating oil that has been cleaned and no more than 55 percent previously unused lubricating oil.

Reasons for change

Since synthetic lubricating oil is used in motor vehicles as is regular lubricating oil, the committee concluded that the tax should be extended to synthetic lubricating oil.

Explanation of provision

The committee amendment retains the present tax on lubricating oil, and extends the tax to synthetic lubricating oil.

Effective date

The extention of the tax on lubricating oil to synthetic lubricating oil is effective for sales after March 31, 1983.

Revenue effect

This provision will increase highway excise tax revenues by less than $1 million per year for fiscal years 1983–1988.

F. FLOOR STOCKS PROVISIONS

(Secs. 521 and 522 of the committee amendment)

Present law

Floor stocks taxes are imposed on inventories of articles with respect to which a tax rate is increased. Present law includes no floor stocks taxes with respect to articles subject to the highway excise taxes. Floor stocks taxes have been imposed with respect to these articles and other articles in the past when tax rates have been increased.

Floor stocks refunds are refunds of taxes paid on inventories of articles with respect to which a tax rate is decreased. Present law includes provisions for floor stocks refunds of the highway excise taxes on trucks, tires, tread rubber and gasoline when those taxes are scheduled to be reduced, effective October 1, 1984 (Code sec. 6412(a)).

Floor stocks provisions tax or permit refunds with respect to manufacturers excise taxes because those taxes are included in the cost of inventories. On the other hand, retailers excise taxes, such as the excise taxes on diesel and special motor fuels, are not paid before sale to an ultimate purchaser, and are not, therefore, reflected in inventory costs. Accordingly, floor stocks provisions do not apply to retailers taxes.

Reasons for change

Floor stocks taxes and refunds are designed to prevent distortion of markets upon the occasion of a manufacturers excise tax increase or decrease. This distortion could result if dealers artificially increased inventories immediately before a tax increase, or in the case of a declining tax rate, if dealers chose to delay purchases until the tax rate declined. The committee believes that decisions such as when and how much inventory to maintain should not be influenced the impending changes in the rate of tax imposed on such articles.

Explanation of provisions

1. Floor stocks taxes:

The committee amendment imposes a floor stocks tax on gasoline held for sale by a dealer on April 1, 1983, if the gasoline would otherwise be subject to tax under section 4081 if held by a producer on that date. For purposes of this tax, a dealer is defined

to include a wholesaler, jobber, distributor, or retailer. An article is considered to be held by a dealer if title has passed to the dealer, whether or not the dealer has actual possession of the article.

The committee amendment also imposes floor stocks taxes on tires, tread rubber, truck parts and accessories, and synthetic lubricating oil, held for sale by a dealer on April 1, 1983, which would be subject to the excise taxes imposed under section 4071, or 4091, as amended, if held by a manufacturer on that date. For purposes of the floor stocks taxes on tires and tread rubber, the term dealer and the circumstances when a dealer is considered to hold tires and tread rubber for sale on April 1, 1983, are defined in the same manner as for the floor stocks tax on gasoline.

The floor stocks taxes are due and payable, by return, on May 15, 1983. Generally, this provides additional time for payment of this tax beyond that allowed for payment of the regular tax on gasoline.

The amount of these floor stocks taxes is equal to the excess of the new tax rates over that previously paid with respect to the articles.

Revenues from the floor stocks taxes will be transferred to the Highway Trust Fund.

2. Floor stocks refunds:

The committee amendment provides for floor stocks refunds of tax paid on articles on which the manufacturers excise taxes are repealed if certain conditions are satisfied. First, the tax-repealed articles must be held for sale by a dealer on the date the tax is repealed. Second, the manufacturer must have records to substantiate his claim that he or she paid the repealed tax on the article. Third, the manufacturer must file a claim with the Internal Revenue Service within ten months after the date on which the excise tax is repealed.

The manufacturer must also reimburse the dealer in an amount equal to the tax or must obtain the written consent of the dealer to the manufacturer's receiving the floor stocks refund. The committee intends that the manufacturer receive the written consent or possess evidence of reimbursement of the dealer before (or simultaneous with) the time any payment is made or credit granted by the Internal Revenue Service.

Tax-repealed articles include trucks with a taxable gross weight of 33,000 pounds or less, trailers with a like weight of 26,000 pounds or less, laminated tires and nonhighway tires, and parts and accessories for trucks and trailers below 33,000 pounds.

The committee amendment also provides for refunds or credits to manufacturers for tax paid with respect to certain trucks and truck trailers that are sold to ultimate purchasers between November 28, 1982, and the date of enactment. To receive these refunds or credits, manufacturers must file a claim with the Internal Revenue Service. This claim must include information similar to that required for refunds with respect to trucks held by dealers on the date of enactment, except the ultimate purchaser, rather than the dealer, must have been reimbursed for the amount of tax previously paid by the manufacturer.

Amounts equivalent to the amount of the floor stocks refunds will be transferred from the Highway Trust Fund to the general fund of the Treasury so the Trust Fund will bear the cost of these refunds.

Effective dates

The floor stocks provisions are effective on the date of the increase or repeal of the manufacturers excise taxes to which they relate.

Revenue effect

The revenue effect of the floor stocks provisions is included in the revenue changes for taxes to which they relate.

G. TERMINATION OF HIGHWAY EXCISE TAXES AND EXEMPTIONS

Present law

Some of the present Highway Trust Fund excise taxes were imposed before enactment of the Highway Trust Fund in 1956. At the time of the Trust Fund's enactment, those existing taxes were increased and new taxes imposed. Because of the special purpose for which the taxes are imposed, they have been scheduled to expire (or be reduced to their pre-trust fund levels) upon the scheduled termination of the Trust Fund.

The present motor fuels taxes (gasoline, diesel, and special fuels) are scheduled to decline from 4 cents per gallon to 1½ cents per gallon on October 1, 1984. The present manufacturers excise tax on trucks and trailers is scheduled to decline from 10 percent to 5 percent on that date, and the 8 percent tax on truck parts and accessories is scheduled to decline to 5 percent.

The tax on highway tires is scheduled to decline to 4.875 cents per pound on October 1, 1984, and the tax on tread rubber is scheduled to expire on that date. The tax on highway use of certain trucks is also scheduled to expire after September 30, 1984.

Present law also provides exemptions from these taxes for differing periods of time. (A full explanation of the scope of these exemptions can be found in the discussion of the particular tax concerned.) Some of the exemptions are of unlimited duration (e.g., the exemptions for State and local governmental and farming uses) and others are granted for only limited periods of time (e.g., the exemptions for gasohol which are scheduled to terminate after December 31, 1992).

Reasons for change

The committee believes that the highway excise taxes should terminate at the same time that the Trust Fund terminates under the committee amendment, September 30, 1989. If Congress determines that it is not appropriate to extend the Trust Fund after September 30, 1989, termination of the highway excise taxes will facilitate its consideration of which highway excise taxes, if any it is appropriate to levy without their dedication to highway and mass transit purposes.

Explanation of provisions

All of the Highway Trust Fund excise taxes continued under the committee amendment terminate, effective on October 1, 1989. The exemptions from these taxes generally are also terminated on this date. However, the exemptions for fuels used in providing qualified taxicab services (as defined under present law) terminate after September 30, 1984. Taxicabs qualifying under the amendment's expansion of the definition of qualified taxicab services are exempt only through December 31, 1983.

Certain excise taxes are repealed by the committee amendment, either in whole or in part. The taxes on laminated tires, and all nonhighway tires are repealed, effective April 1, 1983. The highway use tax on trucks with a taxable gross weight under 33,000 pounds is repealed, effective after December 31, 1983.

H. HIGHWAY TRUST FUND PROVISIONS

(Secs. 209(c) and (f) of the Highway Revenue Act of 1956)

Present law

Original enactment of the Highway Trust Fund.

The Highway Trust Fund was established in 1956 (P.L. 84-627) for a 16-year period to provide a specific source of financing for the new Interstate Highway System and continuation of other Federal-aid highway programs. The other highway-aid programs previously had been financed through the general fund.

The Highway Revenue Act of 1956 included a declaration of congressioal policy that (1) if it appears that the total receipts of the trust fund will be less than the total expenditures from the trust fund, or (2) if it appears that the distribution of the tax burden among the various classes of highway users or other beneficiaries of the highways is not equitable, then Congress is to enact legislation to bring about a balance of total trust fund receipts and expenditures or to make an equitable distribution of the tax burden. In addition, the 1956 Act provided for a 3-year highway cost allocation study (later extended for 2 additional years) to determine the fair distribution of highway-related user taxes among the various users.

The 1956 Act also contained a provision—the "Byrd amendment"—to prevent the Trust Fund from reaching a deficit position. In general, this provision originally required that if trust fund balances and estimated future receipts will be inadequate to cover obligations as they become due, a reduction of the Interstate Highway System apportionment in an amount sufficient to eliminate the difference would be required.

There were increases in 1959 and 1961 in certain of the highway excise taxes to increase the financing of the trust fund.

Subsequent extensions of the Highway Trust Fund:

The Highway Trust Fund and the related highway excise taxes transferred to the trust fund have been extended three times since 1961: a 5-year extension in the Federal-Aid Highway Act of 1970 (from September 30, 1972, through September 30, 1977), a 2-year extension in the Federal-Aid Highway Act of 1976 (through September 30, 1979), and a 5-year extension in the Surface Transportation Assistance Act of 1978 (through September 30, 1984). These trust fund extensions were added by the tax writing committees as a separate title to a highway authorization bill and involved only the extensions of existing highway excise taxes and tax rates.

In the 1978 Act, the operation of the "Byrd amendment" was modified to require that when anticipated revenues are insufficient to cover expenditures, reductions will be made on a pro rata basis to all apportioned highway funds, rather than to interstate apportionments only. Finally, two studies were required: a cost allocation study to be conducted by the Department of Transportation, with a final report to Congress by January 15, 1982; and a study of the highway excise tax structure to be conducted by the Department of Treasury, with a final report to Congress by April 15, 1982. (The highway cost allocation study was submitted to Congress on May 13, 1982. A second progress report on the excise tax study was submitted on October 1, 1981, but a final report has not been submitted.)

Highway Trust Fund expenditure purposes:

Since its enactment in 1956 and through legislation since then, the Highway Trust Fund has been used to finance construction of the Interstate Highway System, other Federal-aid highways, and for other Federal highway-aid programs. The highway programs currently supported by expenditures from the trust fund are listed below:

(1) *Interstate highway system*—(a) Construction to close gaps in the nearly completed basic Interstate system; (b) resurfacing, restoring, rehabilitating and reconstructing ("4Rs") previously completed sections.

(2) *Primary highway system*—(a) Construction and reconstruction and related planning; (b) resurfacing, restoring, rehabilitating these highways.

(3) *Urban and rural area transportation program*—Assistance in urban and rural areas in construction, rehabilitation and reconstruction of local roads, and related planning and research; public transportation capital expenditures; safety improvements and traffic system management. (Urban areas have more than 50,000 persons; rural areas less than that population.)

(4) *Bridge program*—Rehabilitating or replacing structurally deficient bridges.

(5) *Construction and other highway-related safety programs*—Establishment of safety programs and to build safety into highways during their construction, including such things as pavement marking, and elimination of roadside hazards and highway rail crossings.

(6) *Emergency highway relief programs*—Highway funds relating to disaster relief.

(7) *Administration and research through the federal highway administration*—Involving (a) coordination and direction of various public programs and requirements, (b) general program support affecting policy plans and projections and administrative support, and (c) engineering and financial assistance.

(8) *Additional programs*—The Highway Trust Fund contributes a share of costs of certain other programs, including the following:

Forest and public lands highways;
Economic growth center highways;
National scenic and recreational highways;
Railroad-highway crossing demonstration projects;
Rural highway public transportation demonstration projects;
Bicycle pathway programs;
Highway safety research and development;
Car and van pool projects;
Right-of-way revolving fund.

Reasons for change

The 5 year federal highway program authorizations (fiscal years 1983-1987) in the titles of H.R. 6211, as approved by the Committee on Environment and Public Works, and the Administration's recommendations for the same purposes, are directed at completing the Federal Interstate Highway System and maintaining that system and other parts of the Federal-Aid highway system in usable and safe condition. These continuing highway responsibilities involve completing the interstate highway system, expanding a program of resurfacing, restoring, rehabilitating and reconstructing parts of the system as conditions require, and extending the same restoration program to deteriorating portions of the Federal-Aid highway system and highway bridges.

In order that the federal highway programs may continue to be financed by the users of the highways at a rate commensurate with their use of the system, the Highway Trust Fund is extended for a period long enough to pay the financial obligations that will result from the increased spending planned for the revised highway program. The basic character of the Highway Trust Fund statute is extended without essential change, although the trust fund statute is updated to refer to the current executive agencies administering the Federal-Aid Highway Programs. However, as indicated in the next section discussing the new Mass Transit Account, the Highway Trust Fund's general purpose is expanded to include a separate account to receive a specified portion (1 cent per gallon) of the motor fuels tax revenues for mass transit capital expenditures.

Explanation of provisions

1. Extention of the Trust Fund:

The Highway Trust Fund is extended by the committee amendment for an additional 5 years, from September 30, 1984, through September 30, 1989. This is intended to correlate with the anticipated 5-year extension of Highway Trust Fund authorizations.

2. Revenues appropriated to the trust fund:

Under the amendment, amount equivalent to the taxes received in the Treasury under the provisions relating to the highway excise taxes will continue to be appropriated to the Highway Trust Fund for five more years, through September 30, 1989. These are taxes on: (a) diesel and special motor fuels (sec. 4041(a) and (b)),[9] (b) heavy trucks and trailers (sec. 4051(a) and 4061(a)), (c) trucks and truck parts (sec. 4061(b)), (d) tires, tubes, and tread rubber (sec. 4071), (e) gasoline (sec. 4081), (f) lubricating oil (sec. 4091), and (g) use of certain vehicles (sec. 4481). Taxes received after September 30, 1989, and before July 1, 1990, that are attributable to liabilities incurred before October 1, 1989, also are appropriated to the Trust Fund.

3. Expenditures and transfers from the trust fund:

Expenditures may be made from the Trust Fund before October 1, 1989, as provided by appropriation Acts, to meet obligations which have been incurred after authorization by law to be paid out of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956. Eligible obligations are those incurred under the Federal-Aid Road Act of July 11, 1916, as amended and supplemented, including administrative expenses of the Federal Highway Administration.

Expenditures from the Highway Trust Fund for highway purposes, however, may not be made from the Mass Transit Account, which is described in section I, below.

Transfers of funds may be made from the trust fund to the general fund for amounts paid before July 1, 1990, that are for tax credits or other payments attributable to non-highway uses of motor fuels and lubricating oil and for floor stock refunds on the basis of claims filed for periods ending before October 1, 1989.

Revenues from the 9-cents-per-gallon taxes on motorboat fuels are to be transferred to the National Recreational Boating Safety and Facilities Improvement Fund through September 30, 1989. The aggregate amount transferred in any fiscal year, however, may not exceed $45 million and no transfers of these amounts may be made if they will increase the accumulated balance in the Boating Safety Fund above $45 million. Any other amounts of motorboat fuels taxes will continue to be transferred to the Land and Water Conservation Fund. Motorboat fuels taxes are defined as the taxes received from gasoline and special fuels used in motorboats.

Anti-deficit provision ("Byrd amendment")

The provision (the "Byrd amendment") that assures the Highway Trust Fund is maintained as a self financing entity is retained without change, including retention of the authority for repayable advances.

Effective date

The increase in the amount of revenues to be transferred to the National Recreational Boating Safety and Facilities Improvement Fund is effective on October 1, 1983 (for fiscal years 1984-1989). The extension of the Highway Trust Fund provisions generally is effective for October 1, 1985-September 30, 1989, except for the 9-month period (through June 30, 1990) for receipt of pre-October 1, 1989 highway excise tax liabilities and certain transfers from the trust fund.

I. MASS TRANSIT ACCOUNT

(Sec. 532 of the committee amendment and sec. 209(h) of the Highway Revenue Act of 1956)

Present Law

There is no transit account in the Highway Trust fund and no transit trust fund that receives tax receipts designated for deposit in such an account or fund.

Reasons for Change

Rail and bus transit systems move millions of people daily. They complement and are interdependent with highways in moving people and goods efficiently and economically in and around urban areas. Capital investment in these systems has not kept pace in recent decades with growth requirements or the deterioration of the existing capital structure. The Administration has estimated that capital investment needs for urban rail and bus transit could total almost $50 billion over the next decade.

In order to address transit needs, the committee amendment provides that the equivalent of one cent of the 9 cents a gallon fuels taxes in the committee amendment be available for capital improvement to mass transit through fiscal year 1989. The provision will provide about $1.1 billion each full fiscal year, and these funds will be in addition to the amounts appropriated from the general funds of the Treasury for mass transit.

Explanation of Provision

Under the committee amendment, a separate Mass Transit Account is established in the Highway Trust Fund. It consists of the revenue equivalent to the amount raised by 1 cent a gallon of the 9 cents a gallon excise taxes imposed on gasoline and diesel and special motor fuels (secs. 4041(a) and (b) and 4081). These amounts are to be transferred to the Mass Transit Account with the same regularity and under the same conditions as amounts from these taxes are transferred to the Highway Trust Fund. Interest earned as a result of investment in United States securities on the portion of amounts

[9] Revenues attributable to the fuels taxes on noncommercial aviation gasoline and other fuels (under sec. 4041(c)) continue to be transferred to Airport and Airway Trust Fund, through September 30, 1987. Amounts appropriated to the Airport and Airway Trust Fund from the tax on aviation fuels are deducted beforehand from the amounts deposited in the Highway Trust Fund.

in the Highway Trust Fund that are attributable to the Mass Transit Account shall be credited to the Mass Transit Account.

Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital expenditures (including capital expenditures for new projects) before October 1, 1989, under section 22 of the Urban Mass Transportation Act of 1964. Expenditures from the Mass Transit Account may be made only for mass transit capital purposes, and no expenditures may be made from this account for highway purposes. These also will be authority, as there is under the Highway Trust Fund generally, for repayable advances for the Mass Transit Account.

In approving capital expenditures for new transit systems, it is the committee's belief that preference should be given to projects which maximize the cost-effectiveness of the federal contribution, including use of existing infrastructure, like existing track, or substantial non-federal capital contributions.

Effective date

The provision establishing the Mass Transit Account shall take effect on April 1, 1983 (the effective date of the increased fuels taxes).

J. TREATMENT OF MOTOR CARRIER OPERATING AUTHORITIES HELD BY CORPORATIONS ACQUIRED BY NONCORPORATE TAXPAYERS

(Sec. 266(c)(2) of the Economic Recovery Tax Act of 1981)

Present law

The Economic Recovery Tax Act of 1981 provided that an ordinary deduction is allowed ratably over a 60-month period for taxpayers who held one or more motor carrier operating authorities on July 1, 1980. The amount of the deduction is the total adjusted bases of all motor carrier operating authorities either held by the taxpayer on July 1, 1980, or acquired after that date under a binding contract in effect on July 1, 1980. The 60-month period begins July 1, 1980 (or, at the taxpayer's election, with the first month of the taxpayer's first taxable year beginning after July 1, 1980).

Under the Act, adjustments are to be made to the bases of operating authorities held on July 1, 1980 (or acquired thereafter under a binding contract in effect on July 1, 1980) to reflect amounts allowable as deductions.

Under regulations to be prescribed by the Treasury Department, an election may be made by the taxpayer holding an operating authority on July 1, 1980, to allocate to the operating authority a portion of the cost basis to the acquiring corporation of stock in an acquired corporation. The election is available only if the operating authority was held directly by the acquired corporation at the time its stock was acquired or was held indirectly through one or more other corporations. In either case, a portion of the stock basis may be allocated to the operating authority only if the acquiring corporation would have been able, if it had received the operating authority in one or more corporate liquidations immediately following the stock acquisition, to allocate such portion to the operating authority under section 334(b)(2). The election applies only if the stock was acquired on or before July 1, 1980 (or pursuant to a binding contract in effect on such date) and only if, on the date the stock was acquired, the acquired corporation held, directly or indirectly, the operating authority.

In all cases, adjustments are also to be made to the basis of the acquiring corporation in the stock of the acquired corporation to take into account any allocation of the basis in the stock to an operating authority. In addition, the Treasury regulations are in all cases to provide for an appropriate adjustment to the basis of other assets.

Reasons for change

It has come to the attention of the committee that certain corporations holding motor carrier operating authorities were acquired by noncorporate taxpayers in situations where, had the purchaser been a corporation, the basis of the authority would have been increased. The committee believes that similar treatment should be afforded corporations holding authorities regardless of whether or not the purchaser of the corporation's stock was another corporation.

Explanation of provision

Under the committee amendment, if one or more noncorporate taxpayers on or before July 1, 1980, acquired in one stock purchase the stock of a corporation which, at the time of acquisition, held directly or indirectly any motor carrier operating authority, the acquisition shall be treated, for purposes of the provisions of section 266(c)(2) of ERTA (relating to certain stock acquired), as having been acquired by a single corporation. Thus, the basis of the operating authority may be adjusted to reflect the stock acquisition price. In order to qualify for these adjustments, the purchasers must have held at least 80 percent of the corporate stock on July 1, 1980.

Rules similar to the rules applicable to authorities held by corporations acquired by a corporate purchaser are to apply to authorities of corporations acquired by noncorporate purchasers.

Effective date

The provision is effective for taxable years ending after June 30, 1980.

Revenue effect

This provision is estimated to reduce fiscal year budget receipts by less than $5 million.

IV. REVENUE EFFECTS OF THE COMMITTEE AMENDMENT

The revenue effects of the committee amendment as approved by the committee are summarized in three tables.

Table 2 presents the estimated changes in Highway Trust Fund tax revenues by major component compared to receipts under current tax rates extended through 1988. Total Highway Trust Fund revenues are projected to increase by $2.2 billion in fiscal year 1983, $5.3 billion in 1984, $5.4 billion in 1985, $5.5 billion in 1986, $5.6 billion in 1987, and $5.7 billion in 1988. The table also shows the net revenue effects of the committee amendment, which take into account the decreases in income taxes resulting from higher excise taxes. The net revenue effects on budget receipts are estimated at $1.7 billion in fiscal year 1983, $4.0 billion in 1984, $4.1 billion in 1985, $4.2 billion in 1986, $4.2 billion in 1987, and $4.3 billion in 1988.

Table 3 provides comparable data but the revenue changes have been calculated from receipts that would have been collected under rate reductions or expirations scheduled for 1984. Consequently, the revenue gains shown in this table are substantially higher than those in Table 2 for fiscal years beginning with 1985: $9.6 billion in 1985, $9.9 billion in 1986, $10.1 billion in 1987, and $10.4 billion in 1988.

Finally, table 4 shows total estimated Highway Trust Fund tax revenues under the committee amendment for fiscal years 1983–1988. Total Trust Fund tax revenues will increase from $6.7 billion actual in fiscal year 1982 to $8.6 billion in fiscal year 1983, $12.2 billion in fiscal year 1984, and $13.8 billion in fiscal year 1988.

TABLE 2.—ESTIMATED CHANGES IN HIGHWAY TRUST FUND TAX REVENUES UNDER SENATE FINANCE COMMITTEE AMENDMENT COMPARED TO RECEIPTS AT CURRENT TAX RATES EXTENDED THROUGH 1988

Tax	Fiscal years—					
	1983	1984	1985	1986	1987	1988
Gasoline	2,211	4,442	4,292	4,151	4,100	4,132
Diesel	341	803	861	919	984	1,057
Trucks and trailers	−158	0	35	61	74	79
Truck parts	−94	−140	−153	−167	−181	−196
Tires	−6	−16	−17	−18	−18	−19
Tubes	0	0	0	0	0	0
Tread rubber	7	17	17	17	17	17
Lubricating oil	(1)	1	1	1	1	1
Use tax	−82	212	407	564	613	639
Total tax revenues	2,219	5,319	5,443	5,528	5,590	5,710
Net revenue effect on budget receipts after income offsets	1,677	4,014	4,106	4,170	4,218	4,308

[1] Negligible.

Note.—Revenues are net of refunds and transfers.

TABLE 3.—ESTIMATED CHANGES IN HIGHWAY TRUST FUND TAX REVENUES UNDER SENATE FINANCE COMMITTEE AMENDMENT COMPARED TO RECEIPTS AT PRESENT LAW

Tax	Fiscal years—					
	1983	1984	1985	1986	1987	1988
Gasoline	2,211	4,442	6,589	6,461	6,423	6,459
Diesel	341	803	1,303	1,394	1,496	1,607
Trucks and trailers	−158	0	716	819	888	965
Truck parts	−94	−140	−37	−41	−45	−48
Tires	−6	−16	318	337	350	364
Tubes	0	0	2	2	2	2
Tread rubber	7	17	39	39	39	39
Lubricating oil	(1)	1	1	1	1	1
Use tax	−82	212	694	863	925	964
Total tax revenues	2,219	5,319	9,625	9,875	10,079	10,353
Net revenue effect on budget receipts after income offsets	1,677	4,014	7,254	7,444	7,597	7,803

[1] Negligible.

Note.—Revenues are net of refunds and transfers.

TABLE 4.—ESTIMATED HIGHWAY TRUST FUND TAX REVENUES UNDER SENATE FINANCE COMMITTEE AMENDMENT

Tax	Fiscal year—					
	1983	1984	1985	1986	1987	1988
Gasoline	6,122	8,200	8,039	7,908	7,878	7,917
Diesel	968	1,457	1,567	1,680	1,802	1,935
Trucks and trailers	610	1,102	1,397	1,578	1,702	1,850
Truck parts	148	142	155	169	183	199
Tires	524	619	655	695	722	751
Tubes	20	22	22	22	22	22
Tread rubber	28	39	39	39	39	39
Lubricating oil	49	87	81	81	81	81
Use tax	146	487	694	863	925	964
Total tax revenues	8,615	12,155	12,649	13,035	13,354	13,758

Notes.—Revenues are net of refunds and transfers.

TITLE II—SECTION-BY-SECTION ANALYSIS

SHORT TITLE

SEC. 201. This section provides that the title may be cited as the "Federal-Aid Highway Improvement Act of 1982".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 202. This section authorizes $3.625 billion for fiscal year 1984, $3.8 billion for fiscal years 1985 and 1986, and $4.0 billion for each of fiscal years 1987 through 1990 for the Interstate Highway System construction program.

HIGHWAY AUTHORIZATIONS

SEC. 203. This section authorizes the appropriation, out of the Highway Trust Fund, of the following sums for fiscal years, 1983, 1984, 1985, 1986, and 1987.

For the Federal-aid primary program, $1.7 billion for fiscal year 1983, $2.1 billion for fiscal year 1984, $2.4 billion for each of fiscal years 1985 and 1986, and $2.6 billion for fiscal year 1987; for the Federal-aid rural program, $0.7 billion for each of fiscal years 1983 through 1987; for the Federal-aid urban program, $0.8 billion for each of fiscal years 1983 through 1987; for forest highways, $50 million for each of fiscal years 1983 through 1987; for public lands highways, $50 million for each of fiscal years 1983 through 1987; for parkways and park highways, $75 million for each year 1983 and $100 million for each of fiscal years 1984 through 1987; for Indian Reservation roads, $75 million for fiscal year 1983 and $100 million for each of fiscal years 1984 through 1987; for bridge replacement and rehabilitation (23 U.S.C. 144), $1.7 billion for each of fiscal years 1983 and 1984, and $1.8 billion for fiscal year 1985, and $2.0 billion for each of fiscal years 1986 and 1987; and for the highway safety improvement program, $0.4 billion for each of fiscal years 1983 through 1987.

Subsection (b) rescinds the unapportioned or unallocated balance of sums authorized by sections 4 and 5 of the Federal-Aid Highway Act of 1982.

Subsection (c)(1) provides a minimum apportionment of one-half of one percent of Interstate construction funds to each State, including Alaska. Whenever this amount exceeds a State's need for Interstate construction and Interstate resurfacing, restoration, rehabilitation, and reconstruction, the State may transfer the excess amount of the Primary System, the Rural Program, or the Urban Program.

Subsection (c)(2) provides for a Discretionary Bridge Fund of $300 million for each of fiscal years 1983 through 1987. Funds are available for a period of 4 years. Projects eligible for the funds are those costing more than $10 million or those costing at least twice a State's annual bridge fund apportionment. A technical amendment is also made to 23 U.S.C. 144(g) to change the requirement of expenditures on bridges off the Federal-aid systems to a requirement of at least 15 per centum of expenditures on bridges on public roads not functionally classified as arterials or major collectors. Virtually all of the present Interstate, Primary and Secondary Systems and most of the Urban System consist of roads functionally classified as arterials and major collectors. This change would permit expenditure of up to 85 per centum of the total funds on Interstate, Primary, Secondary, and Urban Systems and Off-system arterials or major collectors. The effect of the technical amendment will be to leave the law substantially unchanged. This subsection also deletes the provision of 23 U.S.C. 144(g) which prohibits the expenditure of more than 35 per centum of a State's bridge apportionments off the Federal-aid systems. This deletion will permit discretion to the States to use more of their bridge funds off-system in accord with their own priorities.

Subsection (d) requires that 60 percent of the funds expended by the States on the primary system and on the urban and rural program must be for resurfacing, restoring, rehabilitating and reconstructing roads including upgrading of existing facilities. If these sums are in excess of the States resurfacing, restoring, rehabilitation and reconstruction needs on existing facilities, the State may so certify to the Secretary.

A number of categories including forest development roads and trails, public lands development roads and trails, park roads and trails, parkway economic growth center development highways, Great River Road, safer-off-system roads, access highways, section 402 FHWA highway safety program, section 152 elimination of hazards program, rail-highway crossings, railroad-highway crossings demonstration program, and bicycle transportation and pedestrian walkways, will not receive new separate funding levels. Most of the projects now eligible in these categories will be eligible under the primary, rural, urban, and safety programs.

DISCRETIONARY BRIDGE CRITERIA

SEC. 204. This section directs the Secretary to develop a selection process for discretionary bridges authorized under section 144(g). This selection process is to include a formula resulting in a rating factor which is based on criteria including the sufficiency rating, average daily traffic, average daily truck traffic, defense highway system status and the State's unobligated balance of funds received under section 144. In addition, the Secretary is directed to give consideration to bridges that are closed to all traffic or that have a load restriction of 10 tons or less. Those bridges already eligible for discretionary bridge funds will remain eligible. After the issuance of a final regulation, eligible bridges will be limited to those with a rating factor of 100 or less, based on a scale of 0 to infinity.

INTERSTATE SYSTEM RESURFACING APPORTIONMENT

SEC. 205. This section establishes a new Interstate 4R apportionment formula. The new formula is based 60 percent on the ratio of the number of lane miles on Interstate routes (other than those on toll roads not subject to a Secretarial agreement) each State has of the total lane miles in all States, and 40 percent on the ratio each State has of the total vehicle miles traveled on those lanes on Interstate routes (other than those on toll roads not subject to a Secretarial agreement). This section also establishes a minimum one-half of one percent guarantee of Interstate 4R apportionments for each State.

The Secretary is directed to study the procedures for distributing Interstate 4R funds to the States. The purpose of the study is to analyze current conditions and factors including volume and mix of traffic, weight and size of vehicles, environmental, geographical, and meteorological conditions in various States, and any other factors that may contribute to the deterioration of the Interstate system. The Secretary shall consider such criteria as need, national importance, impact on individual State highway programs, structural and operational integrity, and any other relevant criteria, to determine the most equitable method of distribution. The Secretary is directed to report the results of the study together with recommendations for legislation not later than 2 years after the date of enactment of this section.

INTERSTATE SYSTEM RESURFACING AUTHORIZATION

SEC. 206. This section provides authorizations for Interstate resurfacing, restoring, rehabilitation and reconstructing (4R), out of the Highway Trust Fund, of $1.8 billion for fiscal year 1984, $2.4 billion for fiscal year 1985, $2.8 billion for fiscal year 1986, $3.2 billion for fiscal year 1987, and $3.4 billion for fiscal year 1988. The requirement that Interstate 4R funds be used only on lanes in use for more than five years is discontinued. The transfer of 4R funds to primary apportionments is permitted when the 4R funds are excess to resurfacing and reconstruction needs.

INTERSTATE SUBSTITUTION AUTHORIZATION

SEC. 207. Subsection (a) authorizes, in addition to any funds authorized to be appropriated out of the General Fund, $500 million for fiscal year 1983, $600 million for each of fiscal years 1984 and 1985, and $650 million for each of fiscal years 1986 and 1987, out of the Highway Trust Fund, for substitute highway projects under 23 U.S.C. 103(e)(4). The effect of this authorization is to grant contract authority for substitute highway projects. Funds for mass transit substitute projects will continue to come from the General Fund of the Treasury.

Section 207(b) amends 23 U.S.C. 103(e)(4) to allow withdrawal of, and to include as eligible for the benefits of withdrawal and substitution, any Interstate routes including those in rural areas, except those routes or segments of routes added to the Interstate System by specific legislation after March 7, 1978.

Section 207(c) provides that no adjustment will be made for inflation after September 30, 1983, for any substitute project eligible for Interstate Transfer funds.

Section 207(d) prohibits withdrawal and substitution for routes or segments of routes added to the Interstate System by specific legislation after March 7, 1978.

Section 207(e) clarifies that 100 percent Federal share shall also apply to traffic control signalization projects which might be included as part of an Interstate substitution project under 23 U.S.C. 103(e)(4). Present law now permits 100 percent Federal share for projects for traffic control signalization funded from all other Federal-aid categories.

FEDERAL-AID PRIMARY PROGRAM

SEC. 208. This section would eliminate the priority primary program (23 U.S.C. 147). Any unobligated authority for the priority primary program, effective the date of enactment of this section, would be apportioned by the Secretary of Transportation in the same manner as primary funds and would thereafter remain available for obligation for the same period as if the funds were apportioned like primary funds. Pertinent sections of title 23. United States Code, would be amended to reflect the elimination of the priority primary program. This section would also permit the District of Columbia to receive a minimum one-half of 1 percent of each year's primary apportionment.

FEDERAL-AID URBAN PROGRAM

SEC. 209. This section would establish the Federal-aid urban program. The existing Federal-aid urban system would be abolished, allowing for a wider range of transportation programs in urban areas. The changes will facilitate the achievement of goals relating to equity of programs, energy

conservation, center-city revitalization, economic development, and reindustrialization.

All public roads in urban areas would be eligible, except those on the primary system and Interstate System. Transit capital projects and transportation system management (TSM) projects would also be eligible as would projects previously catgegorized as safer-off-system. Consolidated safety programs incorporated by section 112 of this bill, the Highway Safety Improvement Program, are eligible for funding as part of the urban program.

The Certification Acceptance Procedures as provided by section 117(a) and the Secondary Road Plan procedures as provided by section 117(f) of title 23, United States Code, may be utilized by the States for projects under this program.

FEDERAL-AID RURAL PROGRAM

SEC. 210. This section amends section 103 of title 23, United States Code. It combines the secondary program and eligible projects now under the nonsafety portion of the safer-off-system program, the Great River Road program, the access to lakes program, the bridges on Federal dams program and the economic growth center program. This would result in a consolidated rural program and end the secondary system designation, thus making funds available for all rural and nonurban roads, other than primary and Interstate System roads. Projects eligible for funding would be expanded to include nonurban public transportation and projects previously categorized as safer-off-system roads. Consolidated safety programs incorporated by section 112 of the bill, the Highway Safety Improvement Program, are eligible for funding as part of the Rural Program. Consolidating the funds for the above mentioned programs and terminating the secondary system designation would increase the flexibility for use of the funds as well as simplify grant and project administration and management.

The Certification Acceptance procedures as provided by section 117(a) and the Secondary Road Plan procedures as provided by section 117(f) of title 23, United States Code, may be utilized by the States for projects under this program.

TRANSFERABILITY

SEC. 211. This section amends 23 U.S.C. 104 to permit transfers between primary system and rural program apportionments and between primary system and urban program apportionments of up to 100 percent. Current law now permits 50 percent transfers between primary and secondary systems and between primary and urban systems.

HIGHWAY SAFETY IMPROVEMENT PROGRAM

SEC. 212. This section establishes a single highway safety improvement program by combining all safety categories—Hazard Elimination, Rail Highway Crossings, Rail Relocation Projects, Safer-Off-System Roads, and highway related safety activities under section 402.

Each State must develop and implement a continuous highway safety improvement program which includes procedures for planning, implementation and evaluation of highway safety improvement projects. As part of this program, each State must have a process for inventorying and analyzing accident, traffic, and highway data, for conducting engineering surveys of hazardous locations, sections, and elements; and for maintaining and implementing a prioritized schedule of projects for the improvement of the hazards identified. Any highway safety improvement project on a public road, except the Interstate, may be funded under this section. The Federal share under this section is 90 percent except for rail-highway crossing projects, in which case the Federal share is that provided in section 120(d) of title 23, United States Code. Any remaining unobligated balance of contract authority for carrying out section 402 with respect to highway-related safety programs will remain available for obligation, and will lapse not later than September 30, 1984. Highway safety funds are apportioned to the States according to a formula based on population and road mileage.

This section also provides that each State shall expend 35 percent of the funds apportioned to it for highway safety improvements for rail grade crossing projects authorized by section 203 of the 1973 Highway Safety Act. This minimum percentage of use of such funds may be waived by the Secretary of Transportation upon application of the State if the Secretary finds that the State has demonstrated that it has other safety projects of a higher priority.

One-half of one percent of the highway safety funds is made available to the Secretary of the Interior of carrying out section 151 safety activities on Indian reservations. The section 151 funds are available as if they were primary funds except where inconsistent with the purposes of this section. In addition, primary system, urban program and rural program funds may be used for all consolidated safety projects.

The States are required to evaluate the results of the highway safety improvement program and to report annually to the Secretary. The Secretary is required to report annually to the Congress. The State's existing safety reports to the Secretary of Transportation under section 203 of the Highway Safety Act of 1973 for rail-highway crossings, the section 151 report on pavement markings and the section 152 report on hazard eliminations are repealed, as the comparable reports are now included under the one consolidated report provided by subsection (a), which contains a new section 151 (h) on highway safety improvement program reports.

HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM APPORTIONED FUNDS

SEC. 213. This section provides for an annual apportionment starting in fiscal year 1983 based upon the following formula: All deficient bridges will be divided into four categories: (1) Federal-aid system bridges and bridges on public roads functionally classified as arterials or major collectors eligible for replacement, (2) Federal-aid system bridges and bridges on public roads functionally classified as arterials or major collectors eligible for rehabilitations, (3) Off-system bridges and bridges on public roads not functionally classified as arterials or major collectors eligible for replacement, and (4) Off-system bridges and bridges on public roads not functionally classified as arterials or major collectors eligible for rehabilitation. The square footage of deficient Federal-aid system bridges, and bridges on public roads functionally classified as arterials or major collectors, both those eligible for replacement and those eligible for rehabilitation, shall be multiplied by a factor of two. The square footage of deficient bridges in each category shall be mulitiplied by a national average unit cost on a State-by-State basis and the total cost in each divided by the total cost of the Nation's deficient bridges to yield the apportionment factors, except that no State shall receive less than one-quarter of one percent nor more than 9.25 percent of the annual apportionment. These funds are available for 4 years.

FEDERAL LANDS HIGHWAYS

SEC. 214. This section would establish a Federal Lands Highway Program which would include forest highway, park roads, parkways, Indian reservation roads, and public lands highways. This section would change existing law in the following ways.

Current section 202(a) of title 23, United States Code, provides for forest highway authorizations to be apportioned for the forest highways in the several States according to the area and value of federally owned land within the national forests therein. Revised section 202(a) would replace this apportionment formula with an allocation formula based on the relative needs of the various elements of the National Forest System as determined by the Secretary of Transportation in cooperation with the Secretary of Agriculture. The existing formula is obsolete because of the policies and directions mandated by renewable resource and land used planning legislation.

Revised section 22(b) would modify the existing allocation criteria (23 U.S.C. 202(b)) for forest development roads and trails to require that allocation of such funds be consistent with the renewable, resource and land use planning for the various National Forests. As with forest highways, this change to the allocation criteria for forest development roads and trails is necessary to achieve compliance with renewable resource and land use planning legislation. Forest development roads and trails are not included as part of the new Federal Lands Highways Program as such roads and trails are restricted to administrative use by appropriate agencies. The Federal Lands Highways Program would include public roads only.

Revised section 202(c) is a restatement of the existing allocation criteria (23 U.S.C. 202(c)) for public lands highways with one addition. A new provision, consistent with recent renewable resource and land use planning legislation, would provide that preference be given to those highway projects which are significantly impacted by Federal land and resource management activities.

New sections 202 (d) and (e) would establish criteria for allocation of funds authorized for park roads, parkways and Indian reservation roads.

Currently, no criteria is statutorily prescribed for allocation of funds authorized for park roads, parkways and Indian reservation roads. The proposed allocation criteria for these classes of highways would require distribution of funds authorized for each such class be based on the relative needs of the various elements of each such class.

This section would eliminate the separate provisions of chapter 2 of title 23, United States Code, which provide for forest highways (section 204), park roads (section 206), parkways (section 207), Indian reservation roads (section 208), and public lands highways (section 209), and establish in lieu thereof a coordinated Federal Lands Highway Program under which each such class of Federal lands highways would be continued. The substance of the separate sections which provided for forest highways, park roads, parkways, Indian reservation roads, and public lands highways is essentially restated in the new section authorizing the Federal Lands Highways Program. The significant change that the new section would

make is placing on the Secretary of Transportation the oversight and coordinating responsibility for Federal Lands Highways in order to ensure that such highways are treated under the same uniform policies as roads which are on the Federal-aid systems.

This proposal would not transfer jurisdiction of the Federal roads from the agencies that currently manage the respective Federal lands. Rather, it would involve DOT in coordination with the land managing agency, in the planning studies and program development of public Federal lands highways roads. The DOT would also provide design and construction assistance to the land managing agencies.

The Secretary must continue to determine that the Indian roads funds are spent in addition to, and not in lieu of, the States Regular Federal-aid funds.

This section would also add to title 23, United States Code, a definition of the term Federal Lands Highways, amend the definitions of the terms Indian reservation roads and park roads to include public roads only, and make technical changes to conform affected sections of title 23, United States Code, with the new Federal Lands Highways Program.

PROGRAM CONSOLIDATION

SEC. 215. Subsection (a) of this section repeals the Economic Growth Center Development program, National Scenic and Recreational Highway program, Access Highways to Public Recreation Areas on Certain Lakes program, Highway Crossing Federal Projects program, and the Railroad Highway Crossings Demonstration Project.

Subsection (b) provides that any unobligated balance of contract authority or unexpended balance of sums appropriated prior to enactment of subsection (a) will remain available for these programs under the conditions applicable prior to such enactment. The unappropriated balance of sums authorized prior to enactment of subsection (a) for the National Scenic and Recreational Highway program, Access Highways to Public Recreation Areas on Certain Lakes, and Highways Crossing Other Federal Projects is rescinded.

CARPOOL AND VANPOOL PROJECTS

SEC. 216. Subsection (a) amends section 120(d) of title 23, United States Code, to allow up to 100 percent Federal share on projects for the acquisition of vehicles for carpooling and vanpooling. The intent is to encourage more ridesharing by making it possible to acquire vehicles when local matching funds are not available.

Subsection (b) authorizes and directs the Secretary of Transportation to expend such sums as are necessary out of Federal Highway Administration administrative funds to carry out the national policy of promoting commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion. This is in lieu of a separate authorization as included in the Surface Transportation Assistance Act of 1978.

PUBLIC TRANSPORTATION

SEC. 217. This section amends section 142 (a)(1), (b) and (f) of title 23, United States Code, by substituting "high occupancy vehicle lanes" for "bus lanes", "high occupancy vehicle passengers" for "bus passengers", and "high occupancy vehicles" for "public mass transportation systems". The overall effect is to expand the scope of the projects eligible for funding under section 142 to include carpool and vanpool vehicles and passengers. Also, it allows such projects to include eligible facilities for carpools and vanpools only, without the presence of buses or rail transit.

FRINGE AND CORRIDOR PARKING

SEC. 218. This section amends section 137 of title 23, United States Code, by adding a new subsection (f) which allows Interstate 4R funds to be used for projects providing preferential parking for carpools. It incorporates the same restrictions as other fringe parking facilities with respect to being outside the central business district and within an Interstate corridor, and the primary purpose of reducing vehicular traffic on the Interstate highway. Other standard features concerning contracting and fees charged are also included.

EMERGENCY RELIEF

SEC. 219. Subsection (a) of this section amends subsection (a) of section 125, title 23, United States Code, to make clear that the term "catastrophic failure" means failures which are sudden, unexpected, and result from external forces, natural catastrophes in narrow or limited areas such as localized hurricane force winds, earthquakes, landslides, and the like. "Catastrophic failure", for purposes of this section, does not mean failure which is the result of structural deficiencies or physical deterioration. Bridges which are in imminent danger of collapse as a result of structural deficiencies or physical deterioration may be eligible for Federal funding under section 144 of title 23, United States Code, The Highway Bridge Replacement and Rehabilitation Program. Section 125 is intended to establish a fund which is to be held for sudden and unexpected emergencies and is not intended to be used for maintenance costs or for deficiencies, in, or the ordinary deterioration of, a structure. These latter expenses are expected to be met by the States or, to the extent a facility qualifies, with funds available under section 144 of title 23.

Subsection (a) of section 125 is also amended to delete the reference to bridges which have been closed to traffic between December 31, 1967 and December 31, 1970 inasmuch as the Committee understands that these bridges have been repaired or reconstructed and are now reopened to vehicular traffic.

Subsections (a) and (b) of this section further provide that all expenditures for emergency relief under 23 U.S.C. 125, whether past or future, shall come from the Highway Trust Fund and not from the General Fund of the Treasury. Section 125 of title 23, United States Code, now provides that 40 percent of emergency relief expenditures prior to the fiscal year ending September 30, 1978 are authorized from the General Fund of the Treasury.

Subsection (c) authorizes, from the Highway Trust Fund, $100 million per year for emergency relief projects.

Subsection (d) would amend 23 U.S.C. 125(b) to provide that expenditures for projects resulting from a single natural disaster or a single catastrophic failure shall not exceed $30 million in a State.

Subsection (e) would apply the amendment made by subsection (d) to natural disasters or catastrophic failures which the Secretary finds to be eligible for emergency relief subsequent to the enactment of this section.

Subsection (f) would amend 23 United States Code 120(f), which pertains to the Federal share for highway emergency relief projects. Under current law, the Secretary can increase the Federal share to 100 percent. Under this subsection, the Federal share would be limited to 75 percent, except for forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails and Indian reservation roads, which would still receive 100 percent Federal funding.

Subsection (g) would apply the provisions of 23 United States Code 120(f), as amended by the bill, to all natural disasters or catastrophic failures which the Secretary finds to be eligible for emergency relief subsequent to the enactment of the bill.

Subsection (h) makes technical amendment to reflect the fact that this bill replaces the secondary and urban Federal-aid highway systems.

BICYCLE TRANSPORTATION PROGRAM

SEC. 220. This section broadens current authority to allow Federal-aid highway funds to participate in a greater variety of projects to encourage bicycle transportation and to provide pedestrian facilities. It would allow States greater flexibilty in developing federally assisted bicycle and pedestrian projects by (1) eliminating the requirement that bicycle or pedestrian projects be "on or in conjunction with highway rights-of-way"; (2) eliminating the limitation on the expenditure of Federal-aid highway funds for bicycle or pedestrain projects; and (3) specifically allowing Federal-aid highway funds to participate in nonconstruction projects that are expected to enhance bicycle safety and use. The Federal share for bicycle projects would be increased to 100 percent.

HIGHLAND SCENIC HIGHWAY

SEC. 221. This section would amend section 161(f) of the Federal-aid Highway Act of 1973, as amended by section 21 of Public Law 96-106, to remove a technical problem presently preventing the State of West Virginia from maintaining the Highland Scenic Highway, located partially within and adjacent to the Monogahela National Forest in the State. It would also allow local light truck traffic and limited commercial truck traffic on a permit basis only.

The Highland Scenic Highway was originally designed and constructed as a multipurpose State highway on the Federal-aid Highway System. As such, it was maintained by the State until the passage of the Federal-aid Highway Act of 1973 which designated it as a scenic highway with portions limited solely to scenic and recreational use and passenger car use. The scenic highway designation precludes community service vehicles such as bread trucks, service trucks and farm trucks from using the highway and use of the road for National Forest management activities requiring use of trucks. This designation thus made the highway a limited service highway which precludes continued maintenance by the State as State law prohibits the expenditure of maintenance funds on limited service highways.

This amendment would correct this anomaly by modifying the vehicle limitation so that the State could maintain the road and, at the same time, protect the important recreational and scenic values of the highway.

ALLOCATION OF URBAN FUNDS

SEC. 222. Existing law permits transferability between urban and primary system funds. However, it does not permit transfer of funds allocated out of urban system funds attributable to urbanized areas of 200,000 or more population from the alloca-

tion of one urbanized area to that of another urbanized area or to an urban area. This amendment to section 150 of title 23, United States Code, would permit the transfer of such attributable funds to the allocation of another urbanized area in the State or to any other urban area in the State. A transfer, requested by the State, would be subject to the approval of the Secretary and the local officials of the urbanized area from which the funds are to be transferred. The proposed transfer provision would enhance the capability of the States and local governments by giving them more flexibility in programing projects, setting priorities, and utilizing scarce financial resources.

CERTIFICATION ACCEPTANCE

SEC. 223. This section amends 23 U.S.C. 117 to provide for: (1) the application of certification acceptance to the physical construction phase of Interstate 4R projects; (2) the elimination of the requirement to make a final inspection on every project under both the certification acceptance and secondary road plan programs; and (3) the extension of coverage under the secondary road plan program to: "projects, as defined by the Secretary and which are not on the Interstate System." These changes in no way would relieve the State highway departments from the requirement of entering into formal project agreements with the Secretary pursuant to section 110 of title 23. Certification acceptance would be available to Interstate restoration projects once they reach the construction phase; thus it would apply only to those work areas such as time extensions, construction contract change orders, assessment of liquidated damages, etc., which take place subsequent to the actual construction project being authorized. The amendments would make both concepts more attractive to the States because of the expanded coverage and the reduction in Federal involvement and redtape.

DEFENSE ACCESS ROADS

SEC. 224. Section 210(c) of title 23, United States Code, provides for the use, up to $5,000,000, of any funds appropriated under the Act approved October 16, 1951 (65 Stat. 422) for highways in military training and maneuver areas. In 1958, Public Law 85-767 (72 Stat. 885), which revised and codified prior highway legislation as title 23, United States Code, repealed other Acts and portions of Acts. In addition, the second Supplemental Appropriations Act of 1957 (including the Bureau of Public Roads under the Department of Commerce) rescinded, effective June 20, 1957, all unexpended appropriations from prior laws. (Public Law 85-855.) Thus, there are no current highway appropriations from which any part of $5,000,000 could be made available for the construction, maintenance, and repair of maneuver areas.

In 1955, the Office of Management and Budget directed the Department of Defense to budget for defense access roads. Since 1957, each military department has budgeted separately for defense access roads. By direction of the Assistant Secretary of Defense (Comptroller), maintenance and repair of public highways used for maneuvers will be accomplished from funds made available by the appropriate military department; but in order to insure prompt repairs, military regulations provide that the Commander, Military Traffic Management Command, may authorize the Federal Highway Administration to temporarily use available access road funds, pending payment by the military department concerned from its operation and maintenance funds. Since funds for the repair of maneuver road damage are not available from highway appropriations acts, but are available from defense appropriations acts, the opening clause is misleading and should be amended to reflect current law and practice.

This amendment to section 210(c) of title 23, United States Code, has been coordinated with the Military Traffic Management Command.

MAINTENANCE

SEC. 225. Subsection 116(b) of title 23, United States Code, requires maintenance agreements between a State without authority to maintain a project constructed "on the Federal-aid secondary system, or within a municipality," and the appropriate county or municipal officials. This section would amend subsection (b) to require maintenance agreements when a State does not have authority to maintain any project.

This section would amend subsection 116(c) of title 23, United States Code, to permit the Secretary to withhold project approval for projects in specific areas on one or more of the Federal-aid Systems or programs within a State, or for the entire State, where the Secretary finds that a project is not being properly maintained. Under present law, the Secretary must withhold project approval for the entire State for all projects when a single project is not being properly maintained. Present law does not represent a practical enforcement sanction. Stopping all project approvals in an entire State could involve massive disruption of planning and considerable economic waste. The amendment provides a practical enforcement sanction which should be an effective tool in enforcing maintenance.

Subsections (b), (c), (d), (e), (f), and (g) transfer maintenance provisions from 23 U.S.C. 109 to 23 U.S.C. 116.

CONSTRUCTION

SEC. 226. Title 23, United States Code, now requires that the Secretary inspect each highway construction project. This amendment would remove that requirement. The Secretary would establish procedures for inspecting and approving construction but would not have to inspect each project.

This subsection amends section 113 of title 23, United States Code, to clarify the application of the Davis-Bacon Act (40 U.S.C. 267a) to 3-R work on the non-Interstate highway network. The amendment strikes the word "initial" before "construction" in the first sentence.

This clarification was necessary to correct an interpretation of section 113(a) by the Federal Highway Administration which stated that Davis-Bacon did not apply to 3R work. Under the language of this subsection, the Act applies to all construction, rehabilitation, resurfacing, or reconstruction work carried out under the Federal-aid highway program.

RESEARCH AND PLANNING

SEC. 227. This section would amend 23 U.S.C. 307 to confirm the legal basis for pooling 1½ percent highway planning and research (HPR) funds into a single fund and to establish a uniform period of availability, and a standard Federal matching share. This section also clarifies that the States may use these funds for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing.

NONDISCRIMINATION

SEC. 228. This section amends 140 of title 23, United States Code, to assure that equal employment opportunity must be provided without regard to sex; to authorize the Secretary of Transportation to conduct and finance minority business enterprise training programs and assistance programs; and to authorize the use of $10 million per fiscal year from the sums apportioned under 23 U.S.C. 104(b) to conduct and finance minority business enterprise training programs and assistance programs. These training and assistance programs are specifically provided for the benefit of women and minorities.

INTERAGENCY AGREEMENTS

SEC. 229. This section adds a new section to title 23, United States Code, under which the Secretary of Transportation would be required to enter into memoranda of understanding with other Federal agencies to coordinate the various environmental compliance reviews that apply to Federal and Federal-aid highway projects. The purpose of such memoranda is to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in approval of projects under title 23, United Stated Code. This section is intended to reinforce the national policy on minimization of redtape set forth in section 101(e) of title 23, United States Code, by consolidating environmental compliance procedures to the greatest extent possible in a single project development process to be coordinated by the Department of Transportation.

OBLIGATION LIMITATION AND ALLOCATION FORMULA

SEC. 230. This section establishes an obligation limitation of $12 billion for fiscal year 1983, $12.8 billion for fiscal year 1984, $13.6 billion for fiscal year 1985, $14.5 billion for fiscal year 1986, and $14.9 billion for fiscal year 1987, excluding emergency relief projects, rehabilitation of a federally-owned bridge, and a highway construction project at Union Station. The obligational authority for each year would be allocated to the States in the same ratio in which sums to be appropriated to the States for Federal-aid highways and highway safety construction are apportioned or allocated. Collectively, the States can obligate no more than 25 percent during the first quarter of fiscal year 1983.

In revising the redistributions each year, the Secretary shall give priority to those States which have experienced substantial proportional reductions in their apportionments and allocations because of statutory changes under this Act and under P.L. 97-134.

After passage in December 1981 of P.L. 97-134, which revised the Interstate Cost Estimate, many States experienced substantial cuts in their Interstate allotments. Similarly, changes under the Committee bill, including elimination of the priority program, will create reductions to some States' programs.

Consequently, the Secretary shall first consider providing additional funding during the August 1 redistribution to those States which have experienced such reductions, and are able to obligate additional funds.

CERTIFICATION OF STATE PROCEDURES

SEC. 231. This section authorizes the Secretary of Transportation to carry out a project in cooperation with the State of Vermont, which will demonstrate the feasibility of extending the coverage of State certifications under section 117(a) of title 23, United States Code. The purpose of the demonstration project is to determine to what extent

States are able to carry out the requirements of Federal law, both title 23 and non-title 23 requirements, and to determine what kinds of problems may be encountered under such procedures. The project shall also document those areas where savings can be made in time and paperwork without adverse impacts on public participation or the environment.

ALASKA HIGHWAY

SEC. 232. This section amends section 218(a) of title 23, United States Code, to allow the State of Alaska to use its apportioned Federal-aid highway funds on the continued construction of the portions of the Alaska highway located in Canada.

Since Congress authorized the construction of the Alaska highway in the Federal-aid Highway Act of 1973 (Pub. L. 93-87, appropriated funds have been obligated for the project and work is now completed or underway. However, no funds were appropriated in the 1979-1982 United States budget.

The current provisions of title 23, United States Code, do not permit a State to expend its Federal-aid funds in a foreign country. This section would permit Alaska to use its Federal-aid highway funds for the construction of the Alaska highway in Canada, as provided in section 218.

TERRITORIAL HIGHWAY PROGRAM

SEC. 233. Subsection (a) of this section repeals section 215 (Territorial Highway Program) of title 23, United States Code.

Subsection (b)(1) of this section provides that outstanding funds authorized or appropriated for carrying out repealed section 215 shall remain available for obligation under the conditions applicable prior to such repeal.

ACCELERATION OF BRIDGE PROJECTS

SEC. 234. This section repeals the acceleration of bridge project programs which provides special funding for the U.S. Grant Bridge in Kentucky and the East Huntington Bridge in West Virginia. Funds authorized for this program would remain available for obligation for two years under the same conditions which existed prior to the repeal of this section.

LAKE ROAD EROSION DEMONSTRATION

SEC. 235. This section authorizes the Secretary of Transportation in cooperation with the State of North Dakota to carry out projects in and around Devils Lake, North Dakota which demonstrate the use of construction techniques which will prevent wave erosion on roadways which cross closed basin lakes at grade level. Because of the emergency nature of this work the State of North Dakota has already begun work on some roads, the Secretary is authorized to reimburse for such work and to participate in future project activities.

The purpose of the demonstration project is to examine alternative construction methods which can be used in the unique situation of Devils Lake. The project shall shall also demonstrate where savings can be made by using the best possible construction techniques to prevent erosion over the longest period of time possible.

TRUCK SAFETY DEMONSTRATION

SEC. 236. This section authorizes the Secretary of Transportation to carry out a project in cooperation with the State of Idaho to detemine what factors contribute to a high incidence of truck accidents. The factors examined should include weather conditions, sight distance, road curvature, roadway width, and gradient. A further purpose of the demonstration project is to analyze the benefit-cost ratio of certain safety improvements implemented to correct hazards contributing to truck accidents.

DEFINITION

SEC. 237. This section changes the definition of "construction" to permit Federal participation in State highway agency audit costs incurred in performing Federal-aid project related audits which directly benefit the Federal-aid highway program. State highway agency audit costs are not now eligible. Audit costs incurred in special studies or audits and investigations performed for management purposes that could not be shown to directly benefit the Federal-aid highway program would not be eligible for reimbursement.

REPORTS.

SEC. 238. This section codifies the highway needs report submitted to the Congress every 2 years pursuant to section 3 of Public Law 89-139 and section 17 of the Federal-Aid Highway Act of 1968.

CONSTRUCTION BY STATES IN ADVANCE OF APPORTIONMENT

SEC. 239. This section amends the existing advance construction provision to permit construction by States of highway substitute and bridge projects in advance of apportionment of highway substitute and bridge funds apportioned under 23 U.S.C. 103(e)(4) and 144.

DESIGN AND CONSTRUCTION QUALITY ASSURANCE STUDY

SEC. 240. This section requests the Secretary of Transportation, the National Bureau of Standards, the American Society for Testing and Materials, and any other appropriate organizations to provide information on training and accreditation needs of testing facilities.

VENDING MACHINES ON THE INTERSTATE SYSTEM

SEC. 241. This section would permit vending machines on Interstate rights-of-way for the benefit of the traveling public without cost to the Federal Government. The facilities at which vending machines would be permitted include rest areas, weigh stations and visitor information areas. First priority is given under this section to Randolph/Sheppard Act agencies to operate such facilities.

RELOCATION OF UTILITY FACILITIES

SEC. 242. Subsection (a) of this section would amend the definition of "construction" to make clear that the relocation of utilities for safety purposes is eligible work for Federal reimbursement under title 23 of the United States Code.

Subsection (b) amends 23 U.S.C. 123, Relocation of Utility Facilities, to permit payment for utility relocations on any Federal-aid system or under any Federal-aid program and to provide that the Secretary may waive certain provisions of 23 U.S.C. 123(a) to allow Federal participation in costs incurred by the State in relocating utilities for purposes of eliminating hazards, then he determines that such a waiver facilitates the State's safety improvement program.

TECHNICAL AMENDMENTS

SEC. 243. This section makes technical changes to title 23.

ADVANCEMENT OF FEDERAL MATCH

SEC. 244. This provision authorizes that States may receive up to 100 percent of project costs from Federal apportionments until September 30, 1983. This provision is designed to help those States which will have non-Federal share matching problems because of the large increase in Federal funds available under this Act because of the gasoline tax increase.

Funds provided under this section shall come from the apportionments made under this program for fiscal year 1983 and must be repaid by September 30, 1984 or such amount will be deducted from apportionments made on October 1, 1984, and October 1, 1985. Funds deducted will be deducted from all categories on a per-category basis except for Interstate construction funds which will not be limited by this proposal.

GUARANTEED MINIMUM RETURN

Sec. 245. This provision provides contract authority from the Highway Trust Fund to assure that each State receives a minimum of 85 percent of its percentage payments into the Highway Trust Fund through apportionment or allocation. The section creates a pot of money over and above funds authorized for regular Federal-aid Highway categories to insure this 85 percent minimum return. Funds authorized to be allocated under this section may be used on any Federal-aid category and are not subject to any obligation limitation imposed under this Act or any future Act.

VEHICLE WEIGHT LIMITATIONS

SEC. 246. This provision amends section 126 of title 23, United States Code, to establish a national uniform maximum weight per axle and by gross weight. The limits are set at 20,000 pounds for single axles, 34,000 pounds on a tandem axle and an overall gross weight of 80,000 pounds as limited by the bridge formula contained in section 127. This provision is designed to remove the burden on interstate commerce raised by the so-called "barrier states" along the Mississippi River.

The provision also clarifies the application of the "grandfather clauses" authorized by the Federal-Aid Highway Act of 1956 and the Federal-Aid Highway Amendments of 1975. Under this provision States will determine the weight of vehicles and classes of vehicles eligible under the grandfather provision as it applies to their State. However, it is not the intention of the provision to allow any increases in weights but simply to clarify controversy with respect to the grandfather clauses.

INNOVATIVE TECHNOLOGIES

SEC. 247. This section authorizes an increase in the Federal share when a State uses innovative technologies in constructing a road or in an overlay is placed on an existing roadway. Regardless of which highway category a project is proposed for, the Federal share would be increased by 5 percent when recycled materials or commercially available additives are used in pavements. Use of such products are both energy efficient and extend the life of pavements.

The Committee recognizes that new techniques and United States patented products are now available in commercial quantities which both improve the energy efficiency and strength of pavement materials and prolong the life of these pavements. In allowing an increased Federal share in projects which use recycled materials or United States patented asphalt strengthening additives, the Committee provides a necessary incentive to the States to use these commercial products in the resurfacing and construction of our highways. These incentives are necessary because of the additional capital costs of these innovative products, but the Committee believes that these addi-

tional costs should be offset in the public interest because of proven longer pavement life cycles and lower maintenance costs. The Committee also acknowledges the need to obviate existing institutional barriers to the use of innovative products, and, therefore, recognizes that sole source procurement and the purchase of proprietary products and materials may be allowed as needed in the public interest.

The Committee notes the progress that has been achieved in the use of rubber recycled from tires in the reconstruction of our Nation's roads. Studies have proven that the life expectancy of a rehabilitation project using the combination of asphalt with recycled tires is many times greater than that of asphalt alone. Thus, use of this combination results in a cost-savings to the Federal government over the long term. Because excise taxes from tires contribute directly to the Highway Trust Fund, funds available for those projects which utilize such substances or materials produced, in substantial part from recycled rubber tires should be encouraged by increasing Federal participation in project costs.

ENERGY-IMPACTED ROADS

SEC. 248. This provision is intended to place greater emphasis on the improvement of energy-impacted roads. It does this by increasing the Federal share to 85 per centum for 3-R projects on Federal-aid routes which the Secretary has determined, at State requests, are energy-impacted. This provision allows the States to give priority to such projects in their annual program for Federal-aid funds and allows the Secretary to give priority to such projects in approving the State program of projects for a fiscal year.

DOWNTOWN CONGESTION DEMONSTRATION

SEC. 249. This section authorizes a demonstration project on the Federal-aid urban system to show how downtown congestion can be relieved by the construction of a high-level bridge over a segment of intercoastal waterway. $23 million is authorized in contract authority to carry out this provision.

DEMONSTRATION PROJECT

SEC. 250. This section authorizes a demonstration project for East Baton Rouge, Louisiana.

TITLE III—SECTION-BY-SECTION ANALYSIS

CHANGES TO SECTION 3 CAPITAL GRANT PROGRAM

Section 4(a) is amended to require a 40 percent local match for new fixed guideway projects or for extensions to an existing system funded with discretionary grant. Other discretionary projects funded by Section 3 will require a 30 percent local match. These higher local matching requirements will allow the more limited Federal discretionary funds to support those projects which have high local priority. However, these changes will not affect previous commitments made prior to this Act including those to the Washington, D.C. system.

In making discretionary grants, the Secretary is required to take into account the adverse effects of decreased commuter rail service resulting from railroad bankruptcy.

AUTHORIZATIONS

A three year comprehensive authorization for the mass transit program is established at $3.13 billion per year for fiscal year 1983, 1984, 1985 which includes funding for all programs except interstate transfer. From the funds appropriated under this authorization up to seventy-five million dollars is authorized for appropriations for research, development, and administrative expenses. From the remainder of the total amount appropriated:

(a) 24 percent of the funds must be made available for discretionary grants under Section 3 (until 1985 when it shall be 10 percent).

(b) 67.25 percent of the funds must be made available for formula grants for urbanized areas with populations greater than 200,000 (until 1985 when it shall be 79.63 percent).

(c) 6.5 percent of the funds must be made available for formula grants for urbanized areas with populations of less than 200,000 but greater than 50,000 (until 1985 when it shall be 7.7 percent).

(d) 2.25 percent of the funds must be made available for grants to urbanized areas of less than 50,000 in population (until 1985 when it shall be 2.67 percent).

Fifty million dollars will be available for planning grants made under the authority of Section 8. These grants will be funded from the funds available for Section 3. Furthermore, urbanized areas are allowed to decide to use block grant funds for additional planning activities.

An overall authorization of $3.495 billion will cap total appropriations for all transit programs including all titles of this Act, the Interstate Transfer program, and the so-called Stark-Harris funding for the Washington, D.C. Metro System. This amount is the level allowed by the Budget Resolution.

NEW BLOCK GRANT PROGRAM

The legislation authorizes a new block grant program to replace the formula grants now made under Section 5. The new Section 9 provides funds to urbanized areas to finance the planning acquisition, construction, improvement, and operating costs of facilities, equipment, and associated maintenance activities in mass transportation services. The inclusion of associated maintenance activities is the only change in eligible expenses from the current Section 5 program. For purposes of this section, associated maintenance activities means equipment and materials each of which costs at least one percent of the fair market value of the bus or rail car for which the equipment is to be used.

FUND DISTRIBUTION

Grants made to urbanized areas of greater than 200,000 population under Section 9 will be made on the basis of a formula that divides 68 percent of the available funds on the basis of each area's total bus revenue miles, each area's population, and each area's population weighted by a factor of density. The bus revenue mile factor will be used to distribute 50 percent of the funds. The population factor and the density factor will each be used to distribute 25 percent of the funds. Of this 68 percent distributed by bus related factors, three fourths of the funds are for urbanized areas over 1 million population and one fourth is reserved for areas of less than 1 million population.

The remaining 32 percent of the available funds will be distributed to areas that operate fixed guideway rail service. The funds will be distributed on the basis of 60 percent of an area's fixed guideway vehicle miles and 40 percent of an area's fixed guideway route miles. Each urbanized area with at least 750,000 population which provides commuter rail service is guaranteed at least 0.75 percent of the rail funds. Service and route miles provided in a state adjacent to the state or state in which the urbanized area is located and passengers served shall be attributed to the public body which contracts for the service as if the public body was an urbanized area of 200,000 or more. In addition ferry boat operations are included in fixed guideway vehicle miles and route miles.

For urbanized areas of less than 200,000 population that receive a Section 9 grant, the formula will distribute funds on the basis of population and population weighted by density. Each factor will count equally.

The federal share of the cost of any project funded under Section 9 is limited to 80% of the cost of the project for capital projects. The federal share of operating costs is limited to 50% of the cost.

OPERATING SUBSIDIES

With regard to operating subsidies, an area may in general not spend more than 80% of its 1982 operating apportionment if it has a population of more than 1 million, 90% of its 1982 operating apportionment if it has a population of more than 200,000 but less than 1 million, 95% of its 1982 operating apportionment if it has a population of less than 200,000. Where an area first became eligible for an apportionment in 1980, that area cannot use more than 40% of its apportionment for operating costs.

An area may however, transfer funds for operating expenses up to its 1982 operating apportionment if the area:

(a) certifies that it has provided public notice of its intent to use additional operating funds and that it will lose some funds as described in (c) below.

(b) certifies that it has a three year plan which demonstrates how the area will operate its transit system without transferring capital funds in fiscal year 1986.

(c) agrees to forfeit one dollar for every two dollars transferred to operating expense use. (These forfeited amounts are used for discretionary grants made by the Secretary)

The Secretary of Transportation is prohibited from permitting an area to use the transfer option after September 30, 1984.

Funds available for discretionary grants due to a forfeiture under the transfer option shall be made available on a priority basis to areas that did not receive as large a block grant under Section 9 as was received under Section 5 in 1982. Discretionary grants will be available to recipients under the same local matching share requirements for Section 3 grants.

BLOCK GRANT PROCEDURES AND REQUIREMENTS

Sums apportioned under Section 9 for areas of less than 200,000 in population are made available to the Governor for expenditure in accordance with the planning process required under Section 8.

Funds made available to the Governor may be transferred to areas eligible under Section 18 of the Act or to areas with populations of less than 300,000 in population. The Governor may make such transfers only after consulting with local officials.

Funds apportioned under this section shall remain available for three years. Funds which remain unobligated at the end of that period will be reapportioned the following year.

To receive a grant under Section 9 a recipient must comply with Title VI of the Civil Rights Act, subsections (e) (f) and (g) of Section 3 of this Act, as well as Sections 8, 13, 16, and 19 of this Act. The recipient must also submit a statement of activities to be funded and the certifications required by the Act.

The recipient must certify that it has the legal, financial and technical capacity to carry out the proposed projects; has the au-

thority to apply for the grant; will conform to the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 and Section 7 of this Act; will have continuing control over the equipment purchased and will maintain the facilities and equipment; will use competitive procurement procedures complying with Section 401 of PL 95-599; will comply with National Flood Insurance Act of 1968; has complied with Section 12; will meet the local match requirements of Section 4; and that it has a locally developed process for soliciting and considering public comment prior to raising fares for reducing services.

Each recipient must solicit public comment by making public the amount of funds available, the activities the recipient proposes to undertake with such funds, and publish a proposed statement in a manner which will provide citizens and elected officials an opportunity to comment on the proposed program. The program must be developed in consultation with all interested parties including private transportation providers. Recipients will also hold at least one public hearing to receive comment on the proposed program.

The Secretary may issue regulations which permit recipients to assume the responsibilities of compliance with the National Environmental Policy Act. However, these regulations must be developed in consultation with the Council on Environmental Quality. To release funds under this section, the recipient must submit the environmental certification 15 days in advance and the Secretary must accept the certification. The environmental certification by the recipient must be in a form acceptable to the Secretary, be executed by the chief executive officer, specify that the recipient has carried out its responsibilities, and that the certifying officer consents to assume the status of a responsible federal official under NEPA and he consent to accept the jurisdiction of federal courts for the purposes of enforcement of his responsibilities as such an official.

The Secretary shall not approve a grant unless he finds that the project is part of an approved program of projects required by the Section 8 planning process.

The Secretary shall enter into an annual projects agreement with the Governor or the designated recipient of each urbanized area as soon as practicable after the application is submitted.

Each recipient shall submit to the Secretary an annual report concerning the use of the funds and how such use compares to the statement submitted in the original application. The Secretary shall require annual independent reviews and audits as deemed appropriate by the Secretary.

The Secretary shall determine whether the recipient's activities have been carried out in a timely and effective manner and that the recipient has a continuing capacity to carry out those activities. The Secretary shall also determine whether the recipient has carried out its activities and certifications in accordance with this Act and applicable laws.

Not less than every three years the Secretary shall perform a full review and evaluation of the performance of the recipient in carrying out its program. The Secretary shall determine if the local recipient's program has been in compliance with statutory and administrative requirements and the extent to which the actual program was consistent with the proposed statement and the Section 8 planning process.

The Secretary may make adjustments in annual grants on the basis of his findings and may reduce or withdraw such assistance or take other appropriate action in accordance with the required reviews and audits.

Section 1001 of Title 18 of the United States Code applies to any submission under this section. If any false or fraudulent statements are made in connection with a submission, the Secretary may terminate and seek reimbursement of the affected grant or grants.

A recipient may request the Secretary to approve its procurement system. If the Secretary approves the local procurement system as consistent with the Act, the Secretary shall approve the use of that system for all procurements financed under this Act.

LETTERS OF INTENT

A requirement is added that the Secretary must inform the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate 30 days prior to the issuance of a letter of intent.

The Secretary shall give priority to grant requests to fund programs included in letters of intent or full funding contrats issued prior to the enactment of this Act. Terms and conditions of such letters of intent and full funding contracts may not be altered unless agreed to by all parties. The Secretary is also prohibited from taking any direct or indirect action regarding future available budget authority except by the letter of intent procedure in the statute. This prevents for example any further use of so-called letters of commitment.

The bill clarifies that apportionments made pursuant to Section 5 for fiscal year 1975 shall be deemed to have lapsed on September 30, 1977 and apportionments for fiscal year 1976 shall be deemed to have lapsed on September 30, 1978. This clarification will avoid any confusion created by the transition quarter. Moveover, sums apportioned pursuant to Section 5 shall remain available as initially apportioned to the urbanized areas for expenditure in accordance with the provisions of this section until September 30, 1985.

The definition of fixed guideway systems is amended to include public transportation facilities which utilize a right-of-way rail usable by other forms of transportation.

The current Section 15 reporting requirements are amended to also include grants under the new Section 9.

Section 18 is amended to conform with the balance of the bill with lapsed funds remaining unobligated after September 30, 1982 reallocated under the requirements of this Act.

The authorization for planning and designing of mass transportation facilities to meet the special needs of the elderly and the handicapped is increased from 2 percent to 3.5 percent of the funds available for discretionary grants under Section 3.

Sections 21 and 22 of the Act are repealed.

The authorization for the Waterborne Transportation Demonstration Act is de-authorized as of September 30, 1982.

TRANSIT CAPITAL INFRASTRUCTURE PROGRAM

A new capital infrastructure program is authorized to be financed by revenues allocated to transit by an additional tax on gasoline. Authorized at a level of $550 million for 1983 and $1.1 billion for 1984 and 1985, the program is a discretionary fund administered by the Secretary of Transportation within the requirements of the Section 3 program.

In addition to the requirements of Section 3, grants under this program will be limited to: The acquisition, rehabilitation, and replacement of rolling stock, the construction, rehabilitation, and modernization of commuter rail and fixed guideway systems, the construction, rehabilitation, modernization, and replacement of bus facilities and related equipment, and other projects.

Although this program is primarily a transit program, if a state will not receive at least .5 percent of the funds available under this title, The Secretary is authorized to make grants for highway projects eligible under Title 23 of the United States code in that state. However, the Secretary is limited under this provision to 15 percent of the funds available.

The new infrastructure program will expire on September 30, 1984. After that date the proceeds of the gas tax will be used to fund Section 3 of the UMTA Act.●

TITLE IV—COMMERCIAL MOTOR VEHICLE SAFETY—SECTION-BY-SECTION ANALYSIS

DEFINITIONS

Section 401.—This section defines certain terms used in Title IV (except where the context otherwise requires).

One of the most significant of the definitions is section 401(1), "commerce". At present, the Secretary of Transportation is empowered to regulate commercial motor vehicle safety primarily with regard to vehicles that cross State lines or national boundaries or perform the intrastate portion of a continuous interstate movement. This class of vehicles is operated primarily by the approximately 17,000 carries who must obtain operating authority from the Interstate Commerce Commission (ICC) plus the approximately 140,000 private and exempt interstate carriers. This definition would authorize the Secretary to promulgate regulations regarding the safety of commercial motor vehicle operations both in and affecting interstate and foreign commerce.

The definition of "commercial motor vehicle", section 401(2), includes vehicles used on the highways in commerce which are (1) 10,000 pounds gross vehicle weight rating or more or (2) designed to transport more than 10 passengers, including the driver, or (3) used in the transportation of hazardous materials (found to be hazardous by the Secretary for purposes of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.). The 10,000 pound limit is proposed to focus enforcement efforts and because small vans and pick-up trucks are more analogous to automobiles than to medium and heavy commercial vehicles, and can best be regulated under State automobile licensing, inspection, and traffic surveillance procedures. However, all vehicles designed to transport 10 or more persons would also be covered to assure the highest levels of safety in this particularly important transportation area. Also vehicles transporting hazardous materials would be covered because of the potentially greater safety dangers in this area.

The definition of "employee," section 401(3) includes any individual other than an employer who is employed by a commercial motor carrier and directly affects commercial motor vehicle safety, such as (a) a driver of a commercial motor vehicle (including for purposes of this title any independent contractor while in the course of personally operating a commercial motor

vehicle); (b) a mechanic; or (c) a freight handler.

An employer is defined in section 401(4) as any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce.

The definition of employee includes mechanics and freight handlers who are employed by a commercial motor carrier and in the course of their employment directly affect commercial motor vehicle safety. For example, in loading a truck it is important for highway safety that the load be balanced. Also, a mechanic who repairs commercial motor vehicles has a direct effect on commercial motor vehicles safety and should be subject to the rules, regulations, standards, or orders issued under this title by the Secretary of Transportation. On the other hand, mechanics or freight handlers are not subject to these provisions when repairing or loading a motor vehicle not covered by this title nor with respect to those aspects of their activities that do not directly affect commercial motor vehicles safety.

The Department of Labor continues its authority and this act does not amend or modify the Occupational Safety and Health Act or the National Labor Relations Act.

Whether to treat independent owner-operators as employers or employees posed a unique problem to the drafters. An independent owner-operator owns his own truck and drives it. He also may own several other trucks and have several drivers working for him. There was no question that the commercial motor vehicles he drives and his driving should be subject to the same safety rules as other commercial motor vehicles on the highway. All commercial motor vehicles if improperly maintained or operated pose a significant threat to the public safety.

It was decided that where an independent owner-operator has the primary responsibility for the maintenance and operation of his commercial motor vehicle or vehicles he should be considered an employer and be subject to the penalty provisions for employers. This is appropriate because the owner-operator does have primary control over the vehicle, yet the Committee was sensitive to the fact that the financial status of certain owner-operators is closer to that of employees who are subject to much lower penalties. Therefore, in the actual language of section 407 relating to penalties and the report language accompanying the section the Committee makes clear that in determining the amount of the penalty financial status, among other factors is to be taken into account. This should protect the owner-operator from unreasonable penalties for violations of the title.

This section also defines the terms "person", "Secretary", and "State".

DUTIES

Section 402.—This section requires each employee and employer to comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title.

REGULATORY AUTHORITY AND STANDARDS

Section 403.—Section 403(a) requires the Secretary of Transportation to establish and revise rules, regulations, standards, and orders as may be necessary to further the purpose of this title and to provide that they shall be directed to assuring that (1) commercial motor vehicles are safely maintained, equipped, loaded, and operated; (2) the responsibilities imposed on a driver do not impair his ability to operate the vehicle safely; (3) the physical condition of drivers is adequate to enable them to drive safely; and (4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

The Secretary is required to consider, where practicable, costs and benefits of such rules, regulations, standards, and orders. In requiring the Secretary to consider costs and benefits, where practicable, in the course of regulatory activities, the Committee realizes that many aspects of safety and health regulation do not lend themselves to cost-benefit analysis. While the benefits of a particular rule or regulation may be substantial, they may not be practicably quantifiable. The relative costs and benefits reasonably expected to result from a proposed safety or health rule warrant the consideration of the Secretary where practicable; but the Committee does not intend such requirement to have the effect of precluding, preventing, or suspending the promulgation or revision of rules, regulations, standards or orders due to difficulty in establishing specific, quantified cost or benefit data.

Section 403(b) requires the Secretary of Transportation to promulgate rules or regulations within 1 year after commencing a proceeding. It this is not possible, the Secretary is required to keep the Congress informed of the reasons for the delay and the efforts and progress being made to complete the proceeding. The purpose of this section is to provide incentives to the Department of Transportation to promulgate rules and regulations in a timely manner.

Section 403(b) also requires that all rules, regulations, standards and orders issued under this section be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of that title), except that the time periods specified in section 403(a) apply to such promulgation.

Section 403(c) allows the Secretary to waive the application of any rule, regulation, standard, or order is such waiver is in the public interest and is consistent with the safe operation of commercial motor vehicles. This provision should be used with extreme care, and this waiver provision should only be used if the Secretary has developed sufficient information to provide adequate assurance that such waiver will not adversely affect the safe operation of commercial motor vehicles. It should not be enough to exempt a group merely because it is a small part of the commercial motor vehicle industry.

Section 403(d) directs the Secretary of Transportation and Director of the National Institute for Occupational Safety and Health (NIOSH), in consultation with the Secretary of Labor, to conduct a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed and to develop recommendations regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. This section authorizes an appropriation of $1.5 million out of the Highway Trust Fund for fiscal 1984 to conduct this study.

Subsection (e) requires the Secretary of Transportation, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor to coordinate their activities to ensure adequate protection of the safety and health of operators of commercial motor vehicles.

In the context of this section, it is important to note the respective roles of the Departments of Transportation and Labor. The Secretary of Transportation, for example, in protecting the public from unsafe commercial motor vehicles, and assuring that commercial motor vehicles are safely maintained, equipped, loaded, and operated, is responsible for the manner in which brakes are repaired, the manner in which a load is distributed in a vehicle, the design and equipment of the vehicle, and related matters insofar as failure to observe his regulations would adversely affect the safety of the public or the health and safety of operators of commercial motor vehicles. The Secretary of Transportation is not responsible for protecting employees from asbestos fibers, and toxic fumes involved in the course of properly repairing a brake, nor for the protection of employees from slippery walking surfaces or from inadequately braked fork-lift trucks. These activities continue to be the responsibility of the Department of Labor.

It is the intent of the Committee that nothing in section 403 of the bill alter this state of affairs which has developed under existing provisions of law.

At the same time, the Committee believes that both Departments must focus more attention upon the hazards that commercial motor vehicle drivers face in the course of their work. As efforts to permanently reduce or eliminate specified health hazards may ultimately require changes in commerical motor vehicle design, which is generally the expertise of the Secretary of Transportation, this bill therefore directs the Secretary of Transportation and the Director of the National Institute for Occupational Safety and Health, in consultation with the Secretary of Labor, to conduct a study of safety and health hazards to drivers. By doing this, the two regulatory authorities will have the information necessary to determine the extent to which they should utilize their respective expertise to deal with these problems. Section 403(e) does not provide additional or new regulatory authority to the Secretary of Labor or the Director of the National Institute for Occupational Safety and Health. The DOT Secretary is mandated under this act the authority to assure the protection of safety and health of operators while operating commercial motor vehicles. This section requires the Secretaries and the Director to make every attempt to avoid overlap or duplication of activities and to coordinate their efforts. The Committee intends, in the exercise of its regular oversight authority, to follow further developments in this area of concern.

GENERAL POWERS

Section 404.—This section provides the Secretary of Transportation with broad administrative powers to assist in the implementation of this title. Section 404(b) includes provision for the Secretary to delegate enforcement functions, as he determines appropriate, under this title to a State with a plan approved under section 411 of this title.

INSPECTIONS AND WARRANTS

Section 405.—Section 405 authorizes the conditions under which the Secretary of Transportation can carry out inspections or searches. Employers and employees and their duly designated representatives shall be offered a right of accompaniment.

Specifically, section 405(a)(2)(A) provides that an administrative warrant shall be required for any entry or administrative inspection unless the entry of inspection is:

(1) with the consent of the employer, employee, or agent of the employer in charge of the business, establishment, or premises; (2) in situations where there is reasonable cause to believe that the mobility of the motor vehicle makes it impractical to obtain a warrant; (3) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; (4) for access to and examination of books, records, and any other documentary evidence which can be easily altered, manufactured, or falsified; or (5) in any other situations where a warrant is not constitutionally required.

Section 405(a)(2)(B) provides for the issuance and execution of administrative inspection warrants. Any judge of the United States or of a State court of record, or any United States magistrate, may within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants to conduct administrative inspections and to impound motor vehicles or their equipment. This section also sets forth in detail the circumstances under which a warrant shall be issued and the contents of the warrant. Details of the execution and return are also set forth in detail.

DUTY TO INVESTIGATE COMPLAINTS, PROTECTION OF COMPLAINANTS

Section 406.—This section requires the Secretary of Transportation to investigate nonfrivolous written complaints alleging a material violation of the title. The Secretary is also required to take steps to protect the identity of persons complaining of safety violations.

PENALTIES

Section 407.—This section sets forth the penalties available to the Secretary of Transportation in enforcing violations of sections 402 through 417 of this title. The section provides for both civil and criminal penalties, subsections (b) and (e), injunctive relief, subsection (h), and imminent hazard authority, subsection (d).

Subsection (a) sets out the procedure for the Secretary to follow if he finds that a violation under this title has occurred.

Subsection (b) provides for a civil penalty of up to $500 for a recordkeeping violation. The total of all recordkeeping offenses relating to any single recordkeeping violation shall not exceed $10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to or has resulted in serious personal injury or death, he may assess a civil penalty of up to $10,000 for each offense. However, no civil penalty, except recordkeeping penalties, may be assessed against an employee unless the employee is the operator of a commercial motor vehicle and the Secretary of Transportation determines that the employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty up to $1,000. In assessing civil penalties the Secretary is to take into account the nature, circumstances, extent, and gravity of the violation and the degree of culpability, history of prior offenses, ability to pay, and effect on ability to continue to do business of the violator. The assessment is to be calculated to induce further compliance.

The Committee felt that an employee who is operating a commercial motor vehicle in a grossly negligent manner or with reckless disregard for safety and in violation of this title should be subject to a civil penalty. At the same time the Committee recognized the fact that employees and employers enjoy a different financial status. The level of penalty necessary to provide a deterrent to an employer could have the effect of financially bankrupting an employee. The different levels of penalties for employers and employees are designed, therefore, to create adequate incentives to assure compliance with the act. As stated in the section-by-section analysis under the definition of employee and employer, the independent owner-operator posed a unique problem for the drafters. For the purposes of this title only an owner-operator while in the course of personally operating a commercial motor vehicle for a commercial motor carrier is considered an employee for penalty purposes. When the owner-operator is not acting in such capacity, for purposes of this title he shall be treated as an employer. However, the Secretary, in assessing a civil penalty, is directed to take into account, among other criteria, the ability to pay and effect on ability to do business.

Subsection (c) authorizes the Secretary to require a violator to post a copy of a notice of violation or a statement thereof.

Subsection (d) authorizes the Secretary to place a vehicle out of operation or to order an employer to cease all or part of his commercial motor vehicle operations if the Secretary determines that an imminent hazard to safety exists.

Subsection (e) provides for criminal penalties for employers and employees who are operating a commercial motor vehicle who knowingly or willfully violate the act. Penalties for an employer are a fine of up to $25,000 and or imprisonment not to exceed 1 year. An employee is subject to a $2,500 fine. The Committee felt this was sufficient deterrent for the employee because he would also be subject to employer sanctions and State laws.

Subsection (f) requires the Secretary to promulgate regulations establishing penalty schedules designed to induce timely compliance for those failing to comply promptly with the requirements set forth in notices and orders.

Subsection (g) establishes a procedure whereby any aggrieved person who, after a hearing is adversely affected by a final order issued by the Secretary, may petition for review of the order in the U.S. Court of Appeals.

Subsection (h) authorizes the Secretary to obtain enforcement of any penalty or order issued under this section by applying to the United States District Court. In addition, to granting enforcement, the District Court may assess a penalty for noncompliance.

Subsection (i) provides that penalties and fines imposed shall be deposited into the Treasury as miscellaneous receipts.

Subsection (j) provides that subpenas for witnesses who are required to attend a District Court may run into any District.

Subsection (k) provides procedures for proceedings for criminal contempt in accordance with the Federal Rules of Criminal Procedure.

REPRESENTATION BEFORE THE COURTS

Section 408.—The section authorizes the General Counsel of the Department of Transportation to appear for and represent the Secretary in all proceedings and in any civil litigation brought under this title, except as otherwise provided.

PROTECTION OF EMPLOYEES

Section 409.—Subsection (a) of section 409 prohibits any person from disciplining, discriminating against, or discharging an employee for filing a complaint or exercising a right afforded by this title or other authorities of the Secretary of Transportation concerning commercial motor vehicle safety.

Subsection (b) provides for protection of an employee who refuses to operate an unsafe vehicle. In order to qualify for protection under this subsection, the employee must have sought from his employer and have been unable to obtain, correction of the unsafe condition. The employee's refusal to operate the vehicle must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury or serious impairment of health, resulting from the unsafe condition. In providing protection of employees in section 409, it is intended to assure that employees are not forced to drive unsafe vehicles or commit unsafe acts. It is not intended to promote refusal of employees to operate when violations occur en route that do not adversely affect safety or health.

Subsection (c) provides the procedure an employee may follow if the employee believes he has been discriminated against, disciplined or discharged in violation of subsection (a) or (b). An employee may file a complaint, within 180 days after the alleged violation occurs with the Secretary of Labor. The Secretary of Labor is then required to conduct an investigation within 60 days of receipt of a complaint and report his findings and conclusions to the affected parties. If the Secretary of Labor determines that there is reasonable cause to believe that the complaint has merit, he shall notify the complainant and the person alleged to have committed the violation. Thereafter, either the person alleged to have committed the violation or the complainant may, within 30 days file objections to the proposed order and request a hearing on the record. Where a hearing is not timely requested, the Secretary shall issue a final order not subject to judicial review. Where a hearing is requested, it is to be expeditiously conducted with a final order issued within 120 days after conclusion of the hearing. If, in response to a complaint, the Secretary of Labor determines that a violation of subsection (a) or (b) has occurred, he shall order (1) the person who committed such violation to take affirmative action to abate the violation, (2) such person to reinstate the complainant to the complainant's former position, (3) compensatory damages, and (4) where appropriate, exemplary damages. If such an order is issued, the Secretary of Labor may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses reasonably incurred by the complainant for, or in connection with, the bringing of the complaint.

Subsection (d) allows any person adversely affected by a subsection (c) order to obtain review of the order in the United States Court of Appeals.

Subsection (e) authorizes the Secretary of Labor to obtain enforcement of its order in the United States District Courts.

The section was considered necessary to encourage "whistle-blowing" by employees. Enforcement of commercial motor vehicle safety laws and regulations is possible only through an effort on the part of employers, employees, State safety agencies, and the Department of Transportation. Therefore, the Committee considered it necessary to specifically provide protection for those employees who are discharged or discriminated

against for exercising their rights and responsibilities under this title.

The Committee determined that employees with reasonable complaints should be able in the first instance to seek timely consideration of their complaints from a Federal agency rather than a court. Redress through the court system is a very expensive and time-consuming process. It was believed that timely agency review of employee complaints would result in a fairer resolution of employer/employee disputes. In addition, the Committee believes that section 409 provides one more incentive to employers to comply with rules, regulation standards and orders issued under the title.

The Department of Labor was designated the agency responsible for review of employee complaints. The Department of Labor has responsibility for similar employee protection provisions in the Toxic Substances Control Act and other environmental and safety legislation and was deemed to be the agency most appropriate for handling complaints relating to employer/employee labor relations. While the Department of Transportation has expertise for developing commercial motor vehicle safety regulations, the Committee believes that the Department of Transportation should focus its effort on commercial motor vehicle safety and health regulations rather than employer/employee labor relations. The Committee believes it is extremely important for the Department of Labor to act expeditiously in this area.

GRANT TO STATES

Section 410.—This section authorizes the Secretary to make grants to the States for the development or implementation of programs to enforce commercial motor vehicle safety laws and regulations.

This provision is considered to be very important to achieving the purposes of this title. There are millions of commercial motor vehicles travelling on our Nation's highways. It is impossible and in fact not desirable to have a Federal force large enough to be solely responsible for the enforcement of the commercial motor vehicle safety and health rules and regulations.

The drafters of this legislation realize that the State highway safety agencies must have a major responsibility for enforcement if the purposes of this act are to be achieved. While the States already play a significant enforcement role, the Committee is aware that the States would need increased financial assistance if State programs were to be improved and expanded. The purpose of sections 410, 411, 412, 413, and 414 are to assist the States in meeting the goals of this legislation.

STATE ENFORCEMENT

Section 411.—Subsection (a) of section 411 requires the Secretary of Transportation to formulate procedures for a State to submit a plan whereby the State agrees to adopt and assume responsibility for enforcing rules, regulations, standards, and orders in compliance with this title.

Subsection (b) requires the Secretary to make a continuing evaluation of the manner in which each State with an approved plan is carrying out the plan or enforcing the rules, regulations, standards, or orders under this title. A State whose approved plan is withdrawn by the Secretary may seek judicial review.

Subsection (c) provides that no State plan shall be approved which does not provide for funding for commercial motor vehicle safety programs at a level which does not fall below the average level of such expenditures by the State for the last 2 fiscal years preceding the date of enactment of this act.

STATE REGULATIONS

Section 412.—Generally, subsection (a) of section 112 allows a State to adopt additional or more stringent commercial motor vehicle safety rules if the rules do not create a burden on commerce or are not inconsistent with the Federal rules, regulations, standards, or orders issued under this title.

Subsection (b) states that this act shall not affect existing State hours-of-service regulations applying to commercial motor vehicles operations occurring wholly within the State unless the Secretary of Transportation finds upon review of a State's hours-of-service regulations that such State regulation materially diminishes commercial motor vehicle safety or health, is not required by compelling local conditions, or unduly burdens interstate commerce.

FEDERAL SHARE OF COSTS

Section 413.—This section authorizes the Secretary to reimburse a State for up to 80 percent of costs incurred by the State in the development and implementation of programs to enforce commercial motor vehicle safety laws and regulations.

AUTHORIZATIONS

Section 414.—This section authorizes appropriations out of the Highway Trust Fund not to exceed $10 million in fiscal 1984, $20 million in fiscal 1985, $30 million in fiscal 1986, $40 million in fiscal 1987, and $50 million in fiscal 1988 to reimburse to States the Federal pro rata share of costs incurred under sections 410 and 411 of this title.

ANNUAL REPORT

Section 415.—Section 415 requires the Secretary of Transportation to annually report to Congress concerning his efforts and plans to upgrade the safey and health of operators of commercial motor vehicles.

APPLICABILITY

Section 416.—This section exempts from this title the operation of any vehicles engaged in farming activities and logging operations as defined by the Secretary.

The primary purpose of this legislation is to reduce the deaths and personal injuries due to commercial motor vehicle operations. For this reason, the Committee believed it was necessary and logical to include within the scope of this title many motor vehicles not covered under present law. On the other hand, it is not the intent of the Committee to cover commercial motor vehicle operations which do not affect highway safety. For this reason certain farming and logging operations were exempted from the title. For example, logging operations may include mechanical and manual activities, used to move forest growth in a variety of forms from the forest origin point to a facility converting the forest growth to consumer or industrial products or energy. Generally, the movement of forest growth on a highway vehicle begins in the forest, may be subject to intermediate activities such as scaling, bucking, debarking, chipping, sorting, or reloading, and ends when unloaded at the conversion facility. Any such logging operation which merely crosses the highway, travels short distances on the highways, and has only a minimal effect on highway safety should not be subject to the provisions of the act. The Secretary of Transportation is responsible for determining which logging or farming operations do not have an impact on highway safety and should be exempt from the act.

COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE

Section 417.—This section establishes a Commercial Motor Vehicle Safety Advisory Committee with the Secretary of Transportation and 15 members appointed by the Secretary. The Advisory Committee is to advise, consult with and make recommendations to the Secretary on matters relating to the activities and functions of the Department of Transportation in the field of commercial motor vehicle safety. An appropriation of not to exceed $125,000 for each of fiscal years 1984, 1985, and 1986 is authorized for carrying out this section.

This committee is patterned after the Highway Safety Act. Such a committee is expected to be very helpful in improving communications, among the many parties interested in and affected by rules and regulations adopted under this title. Other similar safety advisory committees have proved beneficial to assuring more sensible and effective safety rules and regulations.

AUTHORIZATION OF APPROPRIATIONS

Section 418.—This section authorizes appropriations from the Highway Trust Fund of $13 million for each of fiscal years 1985 through 1988 for Federal Highway Administration safety research and development programs.

This section also authorizes appropriations for each of fiscal years 1985 through 1988 of $100 million from the Highway Trust Fund for National Highway Traffic Safety Administration (NHTSA) highway safety programs and $31 million for each of these fiscal years for NHTSA highway safety research and development.

APPORTIONMENT

Section 419.—Subsection 419(a) strikes the definition of "State" in section 401 of title 23, United States Code, dealing with expenditures for carrying out safety programs.

Subsection 419(b) amends section 402 of title 23, United States Code, regarding the annual highway safety apportionment by striking exceptions relating to the Virgin Islands, Guam, and American Samoa.

Section 420.—National Uniform State Regulation. Section 19 of the Motor Carrier Act of 1980, Pub. L. 96-296, requires the Department of Transportation and the Interstate Commerce Commission to develop legislative or other recommendations to provide a more efficient and equitable system of State motor carrier regulations. After soliciting public comments, both written and oral, a final report detailing the various inconsistencies between State regulations in these areas has been prepared.

This section provides that a working group be established to review the various State licensing and State taxing requirements of interstate motor carriers by highway. This working group will recommend standards to the Secretary of Transportation. The Secretary may then initiate a rulemaking action to adopt or otherwise implement these standards. As a minimum such standards are to include: (1) standardized procedures and forms; (2) base State certification; (3) a single State unit for filings, applications, and permits; (4) payment of fees and taxes to the base State; (5) equitable distribution of revenues; (6) a common basis for taxation in each area of requirements; and (7) reasonable limits on fees paid for identification stickers, plates or other indicia.

Subsection (a) establishes a working group.

Subsection (b) defines the responsibilities of the working group. The working group is to develop uniform State procedural standards for vehicle registration, fuel tax, and third structural tax requirements.

Subsection (c) provides for the expenses to be paid to the members of the working group.

Subsection (d) provides that after the working group has completed its work, it must submit recommended standards to the Secretary, Department of Transportation, within 18 months of the date of enactment of this Act.

Subsection (c) provides that the Secretary may initiate rulemaking to implement the recommended standards found acceptable.

Subsection (f) provides that, if the working group fails to act, the Secretary may develop such standards and initiate rulemaking. The Secretary may act in any area or on any subject on which the working group fails to act after 18 months.

This section authorizes Federal preemption of certain State procedures, e.g., the manner in which States collect fuel taxes; administer vehicle registration.

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Section 421.—This section amends the financial responsibility requirements contained in section 30 for motor carriers of property.

Subsection (a) would remove the limitation on the levels of financial responsibility for motor carriers of property established by the Secretary and allow the Secretary to determine appropriate levels through public rulemaking action.

Subsection (c) would do three things: (1) complement the proposed amendment to Section 30(b)(1) and subject motor vehicles transporting certain specified hazardous materials, substances, or wastes in foreign commerce to the financial responsibility provisions of Section 30; (2) change the language of subsection (c) to be consistent with the Department's hazardous materials regulations; and (3) remove the limitations on the levels of financial responsibility established by the Secretary, and allow the Secretary to determine future appropriate levels through public rulemaking action.

Subsection (d) would also do three things: (1) complement the proposed amendment to Section 30(b)(1) and subject motor vehicles transporting other hazardous materials, substances, or wastes in foreign commerce to the financial responsibility of Section 30; (2) remove the limitations on the levels of financial responsibility established by the Secretary and allow the Secretary to determine future appropriate levels required through public rulemaking action; and (3) effectively exempt many more small businesses from the financial responsibility requirements of Section 30 without compromising highway safety.

Subsection (e) would also do two things: (1) complement the proposed amendment to Section 30(b)(1) and subject motor vehicles transporting any hazardous materials, substances, and wastes in foreign commerce to the financial responsibility provisions of Section 30; and (2) remove the limitation on the limits established by the Secretary and allow the Secretary to determine future appropriate levels required through public rulemaking action.

Subsection (f) amends the 10,000 pound GVWR exemption to Section 30. It would exclude from the 10,000 pound GVWR exemption those vehicles transporting any quantity of Class A or B explosives, poison gas, or large quantity radioactive materials in interstate foreign commerce.

Section 422.—Commercial Motor Vehicle Length Limitation. Subsection (a) prohibits States from imposing trailer limitations if less than 48 feet for trailers in a "single" combination or 28 feet for "double" combinations on any segment of the interstate system or Federal-aid highways except with respect to such qualifying Federal-aid highways designated pursuant to subsection (e).

Subsection (b) assures that State regulation may not apply to the length of truck tractors or the overall length of singles and doubles. (The bill is neutral with respect to State regulation of "triples" or straight trucks involving no combinations.) States are prohibited from imposing regulations that have the effect of being more restrictive than those in force on December 1, 1982. Existing trailers or semitrailers of up to twenty eight and a half feet in length, in a truck tractor-semitrailer-trailer combination are allowed to continue to operate in Commerce if actually operating on December 1, 1982 within a 65 foot overall length limit in any State.

Subsection (c) prohibits States from precluding "double" combination units from the interstate and federal-aid highway system—except with respect to such qualifying Federal-aid highways designated pursuant to subsection (e) of this section.

Subsection (d) gives the Secretary of Transportation the authority to establish or guidelines for the implementation of the provisions of the section and to make such determinations as are necessary to accommodate specialized equipment. The bill notes, by example, the situation of automobile haulers where the cargo-carrying unit extends over the cab. A strict interpretation of trailer size limitations could jeopardize what has become a standard and perfectly safe vehicle configuration. The Secretary should also be guided by the desire of Congress to assure that no existing regulations are made more restrictive.

Subsection (e) authorizes the Secretary of Transportation and the States to restrict the application of the federal standards for length on Federal-aid highways if the application of such standards to specific Federal-aid highways would adversely affect the public safety.

Subsection (f) defines "truck tractor" as the non-cargo carrying power unit that operates in combination with a semi-trailer or trailer(s).

Subsection (g) provides that the provisions of the section take effect six months after the enactment of the bill. This will allow time for the States to adjust their regulations, if necessary.

Section 423.—Commercial Motor Vehicle Width Regulations. States are required to allow commercial motor vehicles to operate on highways at a width of 102 inches provided the traffic laws are designed to be a width of 12 feet or more.

Section 424.—Safety Related Services. This provision provides that the limits described in sections 422 and 423 are exclusive of a number of fuel conservation and safety devices listed.

Section 425.—Access to the Interstate System. This provides that no State may deny reasonable access to and from the interstate and federal aid system and terminals and facilities for food, fuel, repairs, and rest.

Section 426.—Enforcement. This provision allows the Secretary of Transportation to seek injunctive relief to require compliance with the provisions of the act.

Section 427.—Splash and Spray Suppressant Devices. The Secretary of Transportation is required to set standards for the use of splash and spray suppressant devices for tractors, semi-trailers, and trailers.

Section 428.—Report Regarding Longer Combination Commercial Motor Vehicles. The Secretary of Transportation is required to study and report on the potential benefits and costs that may result from the establishment of a National intercity truck route network for the operation of a special class of longer-combination commercial motor vehicles.

Section 429.—Airport and Airway Development Program. This section increases airport development spending $475 million over the next 3 years, 1983–1985. This is accomplished by shifting $112.5 million from both 1986 and 1987 and distributing the funds in 1983, 1984 and 1985. Also, an additional $250 million is drawn from the Aviation Trust Fund surplus and is allocated in 1983, 1984 and 1985. The result of this is to increase the authorized level in 1983 by $200 million; 1984 by $200 million and 1985 by $75 million.

	Currently authorized levels	Proposed changes	Actual change
1983	$600,000,000	$800,000,000	+$200,000,000
1984	793,500,000	993,500,000	+200,000,000
1985	912,000,000	987,000,000	+75,000,000
1986	1,017,000,000	904,500,000	−112,500,000
1987	1,017,200,000	904,700,000	−112,500,000

These levels would create an additional 12,000 jobs in both 1983 and 1984 and an additional 4,725 jobs in 1985.

The additional funds shall be discretionary funds and they shall be spent for new construction.

The Secretary may, in no event, reduce any other apportionment or entitlement of the Airport and Airway Improvement Act of 1982.

Section 430.—Recreational Boating and Reforestation Trust Fund Amendment. Subsecion (a) amends Public Law 96-451 to provide the Secretary of Transportation authority to contract with the States to implement and administer a national recreational boating safety and facilities improvement program. A contractual obligation of the United States to distribute motorboat gasoline fuel tax revenues to the States is created when the Secretary of Transportation approves specified elements of the State program.

The formula for distribution is unchanged from current law. The current limitation on amounts which may be held in the Trust Fund is removed, so that all motorboat gasoline fuel tax revenues are transferred into the Fund.

Subsection (b) would require the expenditure of funds collected in the Reforestation Trust Fund created by Public Law 96-451. This is accomplished by repealing the current legal prerequisites to expenditure of the funds by the Secretary of Agriculture. In no case may the Secretary spend, in fiscal year 1983, less than the $104,000,000 now held in the Trust Fund. Any funds remaining in the Trust Fund at the end of fiscal year 1985 are to be distributed to the States for use in State forestry programs.

Section 431.—Amendment to Saltonstall-Kennedy bill. This section would require that all money in the Saltonstall-Kennedy Fund be used in support of the United States fishing industry. Specifically, up to

40 percent of the Fund could be used to support activities within the National Marine Fisheries Service as long as those activities were related to fisheries development.

At least 60 percent of the Fund would have to go directly for industry grants. Since the Fund is currently collecting approximately $28 million per year, at least $17 million would have to go for grants, and the rest could go to the National Marine Fisheries Service fisheries development programs.

Attached to the amendment is an excerpt from a Department of Commerce study of fisheries development potential in the United States. It shows that a strong industry/government development effort could create 43,000 new jobs by the year 1990.

Section 432.—This section provides that no ceiling shall be placed on the Title XI loan guarantee program other than a ceiling imposed by authorizing legislation. The Committee is proposing no such ceiling.

Mr. HUMPHREY. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Is not a meeting of the relevant committee necessary and the obtaining of agreement among a majority of its members necessary to withdraw a committee amendment?

The PRESIDING OFFICER. A meeting is not necessary. It is necessary, however, that a majority of the members of the Committee on Finance agree to the withdrawal of the amendment.

Mr. HUMPHREY. Has the Chair been notified that such a meeting has taken place or such an agreement has been obtained?

Mr. BAKER. Mr. President.

The PRESIDING OFFICER. When the majority leader states it is withdrawn on behalf of the committee, there is an inference that such an agreement has been obtained.

Mr. HUMPHREY. A parliamentary inquiry, Mr. President. Are there not three other committee amendments?

The PRESIDING OFFICER. It is the Chair's understanding that there is one committee amendment.

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes; I yield.

Mr. BAKER. The statement I made a the time the Chair announced the withdrawal of the committee amendment was that I was authorized on behalf of the committee to do so. I inquire of the Chair, is that not then in compliance with the requirement?

The PRESIDING OFFICER. It is.

Mr. BAKER. I thank the Chair.

Mr. President, the substitute is the pending question before the Senate; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. And the amendment is now open for debate?

The PRESIDING OFFICER. The amendment is now open for debate.

Mr. BAKER. Mr. President, I yield to the Senator from Kansas.

Mr. ROBERT C. BYRD. Mr. President, I have the floor.

Mr. BAKER. Mr. President, I am sorry; I yield to the minority leader.

The PRESIDING OFFICER. The minority leader is recognized.

UP AMENDMENT NO. 1441

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 1441.

Mr. ROBERT C. BYRD. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE I—FAIRNESS IN TAXATION ACT OF 1982

MODIFICATION OF TAX CUT

SEC. 101. (a) IN GENERAL.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by striking out subsections (a), (b), (c), (d), and (e) and inserting in lieu thereof the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	11% of the excess over $3,400.
Over $5,500 but not over $7,600	$231, plus 13% of the excess over $5,500.
Over $7,600 but not over $11,900	$504, plus 15% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,149, plus 17% of the excess over $11,900.
Over $16,000 but not over $20,200	$1,846, plus 19% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,644, plus 23% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,656, plus 26% of the excess over $24,600.
Over $29,900 but not over $35,200	$5,034, plus 30% of the excess over $29,900.
Over $35,200 but not over $37,900	$6,624, plus 35% of the excess over $35,200.
Over $37,900 but not over $60,000	$7,569, plus 42% of the excess over $37,900.
Over $60,000 but not over $85,600	$16,851, plus 46% of the excess over $60,000.
Over $85,600	$28,627, plus 50% of the excess over $85,600.

"(2) FOR TAXABLE YEARS BEGINNING IN 1984 AND 1985.—

"If taxable income is:	The tax is:
Not over $3,400	No. tax.
Over 3,400 but not over $5,500	11% of the excess over $3,400.
Over $5,500 but not over $7,600	$231, plus 12% of the excess over $5,500.
Over $7,600 but not over $11,900	$483, plus 14% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,085, plus 16% of the excess over $11,900.
Over $16,000 but not over $20,200	$1,741, plus 18% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,497, plus 22% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,476, plus 25% of the excess over $24,600.
Over $29,900 but not over $35,200	$4,790, plus 28% of the excess over $29,900.
Over $35,200 but not over $37,900	$6,274, plus 33% of the excess over $35,200.
Over $37,900 but not over $45,800	$7,165, plus 47% of the excess over $37,900.
Over $45,800 but not over $60,000	$10,878, plus 42% of the excess over $45,800.
Over $60,000 but not over $85,600	$16,842, plus 46% of the excess over $60,000.
Over $85,600	$28,618, plus 50% of the excess over $85,600.

"(3) FOR TAXABLE YEARS BEGINNING IN 1986.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	11% of the excess over $3,400.
Over $5,500 but not over $7,600	$231, plus 12% of the excess over $5,500.
Over $7,600 but not over $11,900	$483, plus 14% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,085, plus 16% of the excess over $11,900.
Over $16,000 but not over $20,200	$1,741, plus 18% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,497, plus 22% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,465, plus 25% of the excess over $24,600.
Over $29,900 but not over $35,200	$4,790, plus 28% of the excess over $29,900.
Over $35,200 but not over $45,800	$6,645, plus 33% of the excess over $35,200.
Over $45,800 but not over $60,000	$9,772, plus 38% of the excess over $45,800.
Over $60,000 but not over $85,600	$15,168, plus 42% of the excess over $60,000.
Over $85,600 but not over $109,400	$25,920, plus 45% of the excess over $85,600.
Over $109,400 but not over $162,400	$36,630, plus 49% of the excess over $109,400.
Over $162,400	$62,600, plus 50% of the excess over $162,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	11% of the excess over $2,300.
Over $4,400 but not over $6,500	$231, plus 13% of the excess over $4,400.
Over $6,500 but not over $8,700	$504, plus 15% of the excess over $6,500.
Over $8,700 but not over $11,800	$834, plus 18% of the excess over $8,700.
Over $11,800 but not over $15,000	$1,392, plus 19% of the excess over $11,800.
Over $15,000 but not over $18,200	$2,000, plus 21% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,672, plus 25% of the excess over $18,200.
Over $23,500 but not over $28,800	$3,997, plus 29% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,534, plus 43% of the excess over $28,800.
Over $34,100 but not over $44,700	$7,813, plus 39% of the excess over $34,100.
Over $44,700 but not over $60,600	$11,947, plus 46% of the excess over $44,700.
Over $60,00	$19,261, plus 50% of the excess over $60,000.

"(2) FOR TAXABLE YEARS BEGINNING IN 1984 AND 1985.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	11% of the excess over $2,300.
Over $4,400 but not over $6,500	$231, plus 12% of the excess over $4,400.
Over $6,500 but not over $8,700	$483, plus 14% of the excess over $6,500.
Over $8,700 but not over $11,800	$791, plus 17% of the excess over $8,700.
Over $11,000 but not over $15,000	$1,318, plus 18% of the excess over $11,800.
Over $15,000 but not over $18,200	$1,894, plus 20% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,534, plus 24% of the excess over $18,200.
Over $23,500 but not over $28,800	$3,806, plus 28% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,290, plus 47% of the excess over $28,800.

Over $34,100 but not over $44,700	$7,781, plus 39% of the excess over $34,100.
Over $44,700 but not over $60,600	$11,915, plus 46% of the excess over $44,700.
Over $60,600	$19,229, plus 50% of the excess over $60,600.

"(3) FOR TAXABLE YEARS BEGINNING IN 1986.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	11% of the excess over $2,300.
Over $4,400 but not over $6,500	$231, plus 12% of the excess over $4,400.
Over $6,500 but not over $8,700	$483, plus 14% of the excess over $6,500.
Over $8,700 but not over $11,800	$791, plus 17% of the excess over $8,700.
Over $11,800 but not over $15,000	$1,318, plus 18% of the excess over $11,800.
Over $15,000 but not over $18,200	$1,894, plus 20% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,534, plus 24% of the excess over $18,200.
Over $23,500 but not over $28,800	$3,806, plus 28% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,290, plus 32% of the excess over $28,800.
Over $34,100 but not over $44,700	$6,986, plus 35% of the excess over $34,100.
Over $44,700 but not over $60,600	$10,696, plus 42% of the excess over $44,700.
Over $60,600 but not over $81,800	$17,374, plus 45% of the excess over $60,600.
Over $81,800 but not over $108,300	$26,914, plus 48% of the excess over $81,800.
Over $108,300	$39,634, plus 50% of the excess over $108,300.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following tables:

"(1) For taxable years beginning in 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	11% of the excess over $2,300.
Over $3,400 but not over $4,400	$121, plus 13% of the excess over $3,400.
Over $4,400 but not over $8,500	$251, plus 15% of the excess over $4,400.
Over $8,500 but not over $10,800	$866, plus 17% of the excess over $8,500.
Over $10,800 but not over $12,900	$1,257, plus 19% of the excess over $10,800.
Over $12,900 but not over $15,000	$1,656, plus 21% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,097, plus 24% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,865, plus 28% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,349, plus 32% of the excess over $23,500.
Over $28,800 but not over $34,100	$6,045, plus 43% of the excess over $28,800.
Over $34,100 but not over $41,500	$8,324, plus 42% of the excess over $34,100.
Over $41,500 but not over $55,300	$11,432, plus 47% of the excess over $41,500.
Over $55,300	$17,918, plus 50% of the excess over $55,300.

"(2) For taxable years beginning in 1984 and 1985.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	11% of the excess over $2,300.
Over $3,400 but not over $4,400	$121, plus 12% of the excess over $3,400.
Over $4,400 but not over $6,500	$241, plus 14% of the excess over $4,400.
Over $6,500 but not over $8,500	$535, plus 15% of the excess over $6,500.
Over $8,500 but not over $10,800	$835, plus 16% of the excess over $8,500.
Over $10,800 but not over $12,900	$1,203, plus 18% of the excess over $10,800.
Over $12,900 but not over $15,000	$1,581, plus 20% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,001, plus 23% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,737, plus 26% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,115, plus 30% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,705, plus 50% of the excess over $28,800.
Over $34,100 but not over $41,500	$8,355, plus 42% of the excess over $34,100.
Over $41,500 but not over $55,300	$11,463, plus 47% of the excess over $41,500.
Over $55,300	$17,949, plus 50% of the excess over $55,300.

"(3) FOR TAXABLE YEARS BEGINNING IN 1986.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	11% of the excess over $2,300.
Over $3,400 but not over $4,400	$121, plus 12% of the excess over $3,400.
Over $4,400 but not over $6,500	$24, plus 14% of the excess over $4,400.
Over $6,500 but not over $8,500	$535, plus 15% of the excess over $6,500.
Over $8,500 but not over $10,800	$835, plus 16% of the excess over $8,500.
Over $10,800 but not over $12,900	$1,203, plus 18% of the excess over $10,800.
Over $12,900 but not over $15,000	$1,581, plus 20% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,001, plus 23% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,737, plus 26% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,115, plus 30% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,705, plus 34% of the excess over $28,800.
Over $34,100 but not over $41,500	$7,507, plus 38% of the excess over $34,100.
Over $41,500 but not over $55,300	$10,319, plus 42% of the excess over $41,500.
Over $55,300 but not over $81,800	$16,115, plus 48% of the excess over $55,300.
Over $81,800	$28,835, plus 50% of the excess over $81,800.

"(e) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	11% of the excess over $1,700.
Over $2,750 but not over $3,800	$115.50 plus 13% of the excess over $2,750.
Over $3,800 but not over $5,950	$252, plus 15% of the excess over $3,800.
Over $5,950 but not over $8,000	$574.50, plus 17% of the excess over $5,950.
Over $8,000 but not over $10,000	$923, plus 19% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,322, plus 23% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,828, plus 26% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,517, plus 30% of the excess over $14,950.
Over $17,600 but not over $18,950	$3,312, plus 35% of the excess over $17,600.
Over $18,950 but not over $30,000	$3,784.50, plus 42% of the excess over $18,950.
Over $30,000 but not over $42,800	$8,425.50 plus 46% of the excess over $30,000.
Over $42,800	$14,313.50 plus 50% of the excess over $42,800.

"(1) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	11% of the excess over $1,700.
Over $2,750 but not over $3,800	$115.50 plus 12% of the excess over $2,750.
Over $3,800 but not over $5,950	$241.50, plus 14% of the excess over $3,800.
Over $5,950 but not over $8,000	$542.50, plus 16% of the excess over $5,950.
Over $8,000 but not over $10,000	$870.50, plus 18% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,248.50, plus 22% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,732.50, plus 25% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,395, plus 28% of the excess over $14,950.
Over $17,600 but not over $18,950	$3,137, plus 33% of the excess over $17,600.
Over $18,950 but not over $22,900	$3,582.50, plus 47% of the excess over $18,950.
Over $22,900 but not over $30,000	$5,439, plus 42% of the excess over $22,900.
Over $30,000 but not over $42,800	$8,421, plus 46% of the excess over $30,000.
Over $42,800	$14,309, plus 50% of the excess over $42,800.

"(3) FOR TAXABLE YEARS BEGINNING IN 1986.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	11% of the excess over $1,700.
Over $2,750 but not over $3,800	$115, plus 12% of the excess over $2,750.
Over $3,800 but not over $5,950	$241, plus 14% of the excess over $3,800.
Over $5,950 but not over $8,000	$542, plus 16% of the excess over $5,950.
Over $8,000 but not over $10,100	$870, plus 18% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,248, plus 22% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,732, plus 25% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,395, plus 28% of the excess over $14,950.
Over $17,600 but not over $22,900	$3,137, plus 33% of the excess over $17,600.
Over $22,900 but not over $30,000	$4,886, plus 38% of the excess over $22,900.
Over $30,000 but not over $42,800	$7,584, plus 42% of the excess over $30,000.
Over $42,800 but not over $54,700	$12,960, plus 45% of the excess over $42,800.
Over $54,700 but not over $81,200	$18,315, plus 49% of the excess over $54,700.
Over $81,200	$31,300, plus 50% of the excess over $81,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100	$115.50, plus 13% of the excess over $1,050
Over $2,120 but not over $4,250	$252, plus 15% of the excess over $2,100.
Over $4,250 but not over $6,300	$574.50, plus 17% of the excess over $4,250.
Over $6,300 but not over $8,400	$923, plus 19% of the excess over $6,300.
Over $8,400 but not over $10,600	$1,322, plus 23% of the excess over $8,400.
Over $10,600 but not over $13,250	$1,828, plus 26% of the excess over $10,600.
Over $13,250 but not over $15,900	$2,517, plus 30% of the excess over $13,250.
Over $15,900 but not over $17,250	$3,312, plus 35% of the excess over $15,900.
Over $17,250 but not over $28,300	$3,784.50, plus 42% of the excess over $17,250.
Over $28,300 but not over $41,100	$8,425.50, plus 46% of the excess over $28,300.
Over $41,100	$14,313.50, plus 50% of the excess over $41,100

"(2) FOR TAXABLE YEARS BEGINNING IN 1984 AND 1985.—

"If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100	$115.50, plus 12% of the excess over $1,050.
Over $2,100 but not over $4,250	$241.50, plus 14% of the excess over $2,100.
Over $4,250 but not over $6,300	$542.50, plus 16% of the excess over $4,250
Over $6,300 but not over $8,400	$870.50, plus 18% of the excess over $6,300.
Over $8,400 but not over $10,600	$1,248.50, plus 22% of the excess over $8,400.
Over $10,600 but not over $13,250	$1,732.50, plus 25% of the excess over $10,600.
Over $13,250 but not over $15,900	$2,395, plus 28% of the excess over $13,250.
Over $15,900 but not over $17,250	$3,137, plus 33% of the excess over $15,900.
Over $17,250 but not over $21,200	$3,582.50, plus 47% of the excess over $17,250.
Over $21,200 but not over $28,300	$5,439, plus 42% of the excess over $21,200.
Over $28,300 but not over $41,100	$8,421, plus 46% of the excess over $28,300.
Over $41,100	$14,309, plus 50% of the excess over $41,100.

"(3) FOR TAXABLE YEARS BEGINNING IN 1986.—

"If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100	$115, plus 12% of the excess over $1,050.
Over $2,100 but not over $4,250	$241, plus 14% of the excess over $2,100.
Over $4,250 but not over $6,300	$542, plus 16% of the excess over $4,250.
Over $6,300 but not over $8,400	$870, plus 18% of the excess over $6,300.
Over $8,400 but not over $10,600	$1,248, plus 22% of the excess over $8,400.
Over $10,600 but not over $13,250	$1,732, plus 25% of the excess over $10,600.
Over $13,250 but not over $15,900	$2,395, plus 28% of the excess over $13,250.
Over $15,900 but not over $21,200	$3,137, plus 33% of the excess over $15,900.
Over $21,200 but not over $28,300	$4,886, plus 38% of the excess over $21,200.
Over $28,300 but not over $41,100	$7,584, plus 42% of the excess over $28,300.
Over $41,100 but not over $53,000	$12,960, plus 45% of the excess over $41,100.
Over $53,000 but not over $79,500	$18,315, plus 49% of the excess over $53,000.
Over $79,500	$31,300, plus 50% of the excess over $79,500.".

(b) CONFORMING AMENDMENT.—Subsection (f) of section 1 of such Code is amended—

(1) by striking out "paragraph (3)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)", and

(2) by striking out "paragraph (3)" in paragraph (2) and inserting in lieu thereof "paragraph (2) or (3)".

(c) FURTHER ADJUSTMENTS IN TAX TABLES.—Section 1 of such Code is amended by adding at the end thereof the following new subsection:

"(g) FURTHER ADJUSTMENTS IN TAX TABLES.—In the case of taxable years beginning after December 31, 1982, and before January 1, 1986, for taxpayers with taxable incomes which exceed $50,000, in lieu of rates in the tables prescribed under paragraphs (2) and (3) of subsections (a), (b), (c), (d), and (e), the rates shall be the rates in effect if the amount of the reduction which is reflected in the 10 percent reduction in withholding which is to take effect on July 1, 1983 is reduced by 1 percent for each $1,500 of taxable income in excess of $50,000.".

(d) CONFORMING AMENDMENT.—Clause (ii) of section 3401(a)(3)(B) of such Code (relating to income tax collected at source) is amended by inserting before the period a comma and "as modified by the provisions of the Fairness in Taxation Act of 1982".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

TITLE II—HIGHWAY TRUST FUND AND MASS TRANSIT ACCOUNT

HIGHWAY TRUST FUND

SEC. 201. (a) Extension.—Subsections (c) and (f) (3), (4), (6), and (7) of section 209 of the Highway Revenue Act of 1956 (23 U.S.C. 120 note) are amended as follows:

(1) by striking "October 1, 1984" each place it appears and inserting in lieu thereof "October 1, 1989", and

(2) by striking "September 30, 1984", each place it appears and inserting in lieu thereof "September 30, 1989", and

(3) by striking "July 1, 1985" each place it appears and inserting in lieu thereof "July 1, 1990".

(b) CONFORMING AMENDMENTS.—

(1) MANAGEMENT OF TRUST FUND.—Subsection (e)(1) of section 209 of the Highway Revenue Act of 1956 is amended by striking "Commerce" and inserting in lieu thereof "Transportation", and by striking "up to and including the fiscal year ending September 30, 1985".

(2) EXPENDITURES FROM TRUST FUND.—Subsection (f)(1) of section 209 of the Highway Revenue Act of 1956 is amended to read as follows:

"(1) FEDERAL-AID HIGHWAY PROGRAM.—Amounts in the Trust Fund shall be available, as provided by appropriation acts, for making expenditures before October 1, 1990, to meet those obligations of the United States heretofore or hereafter incurred which are authorized by law or which are attributable to Federal-aid highways (including those portions of general administrative expenses of the Federal Highway Administration payable from such appropriations).".

(c) INVESTIGATION AND REPORT TO CONGRESS.—Section 210 of the Highway Revenue Act of 1956 is repealed.

(d) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4061-11) is amended as follows:

(1) by striking "October 1, 1984" and inserting in lieu thereof "October 1, 1989"; and

(2) by striking "July 1, 1985" each place it appears and inserting in lieu thereof "July 1, 1990".

(e) INCREASE IN AMOUNT TRANSFERRED TO NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—Clause (ii) of section 209(f)(5)(A) of the Highway Revenue Act of 1956 (23 U.S.C. 120 note) is amended—

(1) by striking out "$20,000,000" and inserting in lieu thereof "$45,000,000", and

(2) by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1989".

MASS TRANSIT ACCOUNT

SEC. 202. (a) IN GENERAL.—Section 209 of the Highway Revenue Act of 1956 is amended by adding at the end thereof the following new subsection:

"(h) MASS TRANSIT ACCOUNT.—

"(1) IN GENERAL.—There is established on the books of the Treasury of the United States an account within the Highway Trust Fund to be known as the 'Mass Transit Account'.

"(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account any amounts appropriated thereto by section 347 of the Infrastructure Repair and Emergency Employment Act of 1982.

"(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital expenditures before October 1, 1989 (including capital expenditures for new projects) under section 22 of the Urban Mass Transportation Act of 1964.

"(4) DUTIES OF THE SECRETARY OF THE TREASURY WITH RESPECT TO THE MASS TRANSIT ACCOUNT.—It shall be the duty of the Secretary of the Treasury to manage the Mass Transit Account and to make an annual report to the Congress as provided in subsection (e) of this section. The interest on, and the proceeds from the sale or redemption of any obligation held in the Mass Transit Account shall be credited to and form a part of the Mass Transit Account.

"(5) REPAYABLE ADVANCES.—There are hereby authorized to be appropriated to the Mass Transit Account, as repayable advances, such additional sums as may be required to make the expenditures referred to in paragraph (3) of this section. Advances made pursuant to this paragraph shall be repaid and interest on such advances shall be paid to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Mass Transit Account for such purposes. Such interest shall be at rates computed in the same manner as provided in subsection (e)(2) of this section for special obligations and shall be compounded annually.".

TITLE III—INFRASTRUCTURE, EMPLOYMENT, AND UNEMPLOYMENT ASSISTANCE PROGRAMS

SHORT TITLE

SEC. 301. This title may be cited as the "Infrastructure Repair and Emergency Employment Act of 1982".

PART A—EPA WATER AND SEWER GRANT AUTHORITY

EPA AUTHORITY

SEC. 306. (a)(1) The Administrator of the Environmental Protection Agency is authorized to make grants to any State for (A) major sewer system rehabilitation, construction of secondary facilities, correction of infiltration and inflow, and the construction of interceptor sewers; or (B) major rehabilitation of municipal water supply systems.

(2) Any grant for major sewer system rehabilitation, construction of secondary treatment facilities, correction of infiltration and inflow, and the construction of interceptor sewers shall be made in accordance with the provisions of title II of the Federal Water Pollution Control Act.

(3) Any grant for major rehabilitation of a municipal water supply system shall be deemed awarded, unless the Administrator, within 60 days of the receipt of any application for such grant adequately describing the proposed project and on the basis of regulations governing such grants issued within 45 days after the enactment of this Act, determines that such grant is not in accordance with this section, or that insufficient funds are available for such project. Such regulations shall include requirements for water conservation measures to be considered by the grant recipient in conjunction with the project.

(b)(1) There are authorized to be appropriated not to exceed $1,000,000,000 for the fiscal year ending September 30, 1983, to carry out this section.

(2) All sums appropriated under this section shall be allotted pursuant to the provisions of section 205 of the Federal Water Pollution Control Act.

(c) Funds not expended for the purposes of this section shall be reallotted to the States by the Administrator on October 1, 1983, in accordance with section 205 of the Federal Water Pollution Control Act.

(d) As used in this section, the term "state" has the meaning given in section 502 of the Federal Water Pollution Control Act, and the terms "major sewer system rehabilitation", "construction of secondary treatment facilities", "correction of infiltration and inflow", and "construction of interceptor sewers" has the meaning as used in title II of the Federal Water Pollution Control Act. The term "major rehabilitation of a municipal water supply system" means the extensive repair of existing conveyance and distribution facilities, including pumping stations, beyond the scope of normal maintenance programs where facilities are collapsing or structurally unsound.

GENERAL AUTHORITIES AND ELIGIBILITY CRITERIA

SEC. 307. (a) Funds authorized under this part are in addition to any funds heretofore or otherwise authorized for fiscal year 1983 under any other provision of law.

(b) A project is eligible for funding pursuant to this part if it meets all requirements of the legal authorities cited herein under which funds are provided, except such provisions of law or regulation as are specifically exempted by the provisions of this part, and, in addition, if the State, city, or other unit of local government applying for funding certifies to the appropriate Federal agency, that—

(1) any required non-Federal share of project funding will be made available prior to the start of actual repair on rebuilding work:

(2) actual repair or rebuilding work will begin within 120 days of notification that Federal funds will be made available for the project; and

(3) the repair or rebuilding work can and will be accomplished within two years of its initiation, barring unforeseeable difficulties.

(c) Any Federal agency administering funding pursuant to this part shall have authority to withdraw funding at any time that it determines that the provisions of this section, or of other applicable Federal authorities, are being violated.

(d)(1) Notwithstanding any other provision of this part, any sums allotted to the States for the fiscal year 1983, may be utilized for revolving loans or grants or combinations thereof for the construction of secondary teatment facilities, major sewer system rehabilitation, correction of infilltration and inflow, construction of interceptor sewers, and major rehabilitation of municipal water supply systems, in accordance with the prvisions of this part provided that the funding of such works meets with all applicable Environmental Protection Agency regulations concerning project eligibility and priorities for funding. Repayment of these loans shall be made to the States, and the funds so repaid may be used for additional loans or grants or combinations thereof pursuant to this subsection.

(2) Sums allotted to States to be used in revolving loan programs shall be made available in total as grants to States at the time of allotment.

PART B—REBUILDING OF AMERICA ACT

SHORT TITLE

SEC. 311. This part shall be cited as the "Rebuilding of America Act of 1982".

FINDINGS

SEC. 312. The Congress finds and declares that—

(1) highways, roads, bridges, mass transit systems, and water supply and sewer systems are public improvements vital to national development and prosperity;

(2) public works investment in the United States has declined at an alarming rate over the last decade and has resulted in the poor condition of much of our public improvements;

(3) the national costs of deteriorated public improvements are significantly higher than the costs of repairing, rehabilitating, improving, or replacing existing facilities;

(4) the Federal Government is responsible for one-half of all public works investment in the United States through grants in aid and direct investment;

(5) the Federal Government has no institutional means of formulating a comprehensive national public improvements plan and ordering national priorities; and

(6) direct Federal public works investment has been spread unevenly throughout the regions of the Nation.

POLICY

SEC. 313. It is the policy of the Congress that—

(1) States and local governments shall retain their traditional primacy in decisions affecting the use of land and water within their jurisdictions;

(2) the Federal Government shall adopt practices and procedures that will lead to regionally balanced economic development;

(3) prior Federal involvement in a national public improvement shall be a primary consideration but not a sole determinant in establishing future national priorities; and

(4) disincentives for maintaining, repairing, rehabilitating, and replacing deteriorating national public improvements that now exist in Federal laws and regulations shall be corrected to encourage the most economically efficient pattern of investment in public improvements by the Federal Government.

NATIONAL INVENTORY OF PUBLIC IMPROVEMENTS

SEC. 314. The National Commission on the Rebuilding of America, established pursuant to section 318 and hereinafter referred to as the "Commission", shall conduct an inventory of existing major public improvements by region, State, and major metropolitan area of the United States and by type of facility, surveying especially—

(1) age and condition of the facility;

(2) trends in the condition of the facility over the last twenty years and the relation of those trends to usage and maintenance schedules;

(3) means of financing the maintenance, repair, rehabilitation, replacement, and new construction of facilities;

(4) comparison of condition of public improvements within a region, State, or major metropolitan area and the pattern of economic development over the last twenty years; and

(5) trends in public expenditures for maintenance, repair, rehabilitation, replacement, and new construction of public improvements by region, State, and major metropolitan area and by level of government.

DEVELOPMENT OF A NATIONAL PUBLIC IMPROVEMENTS PLAN

SEC. 315. (a) The Commission shall develop a National Improvements Plan, hereinafter referred to as the "Plan", listing in priority order, needed maintenance, repair, rehabilitation, or replacement of public improvements in each region, for the next ten and twenty years, or such other time periods as the Commission may deem appropriate, to sustain regionally balanced national economic development. Priorities shall be listed by type of facility for the Nation as a whole and for each region, and shall further consider the relative priorities among the various types of facilities. The Plan shall include recommended means of financing the needed maintenance, repair, rehabilitation, and replacement, taking into account the least-cost life-cycle costs of developing and maintaining national public improvements and the appropriate mix of Federal, State, and local resources to implement the Plan. The Commission shall consider prior Federal involvement, level of prior maintenance, and regional equity in its recommendations on financing the Plan.

(b) As an integral part of the Plan, the Commission shall suggest specific revisions in Federal laws, regulations, and policies and further suggest alterations in the current responsibilities of Federal, State, and local governments that may be necessary to reverse the pattern of disinvestment in national public improvements and sustain economic development. The Commission shall include analyses and recommendations in accordance with policies set forth in section 313 concerning—

(1) the report of the Comptroller General to the Congress, submitted pursuant to section 316, on identifying Federal civilian capital investment outlays in the unified Federal budget;

(2) changes in the imposition or allocation of excise taxes, user fees, other sources of public revenue, and borrowing authorities;

(3) statutory or regulatory revisions in grants-in-aid, direct construction, or subsidy programs that would eliminate corruption, waste, and delay; that would encourage consideration of least-cost life-cycle costs in developing and maintaining facilities; and that would correct regional imbalances and disincentives for maintenance of facilities in Federal programs; and

(4) the desirability and feasibility of scheduling public improvements construction and major renovation work in a manner counter to national or regional economic cycles in order to reduce the cost of such work and to dampen economic fluctuations.

REPORT ON IDENTIFYING CIVILIAN CAPITAL INVESTMENT IN THE FEDERAL BUDGET

SEC. 316. (a) Within six months of enactment of this Act, the Comptroller General shall submit to the Committee on Environment and Public Works and the Committee on the Budget of the Senate and to the Committee on Public Works and Transportation and the Committee on the Budget of the House of Representatives, model unified budgets, for the fiscal year in which this Act is enacted and for the immediately preceding fiscal year, that distinguish Federal civilian capital investment outlays from other Federal outlays.

(b) Along with the model unified budgets, the Comptroller General shall submit a report including—

(1) a description of how the model budgets differ from existing Federal budget documents;

(2) an analysis of the usefulness of the model budgets in identifying investment and disinvestment in needed public improvements;

(3) an analysis of the usefulness of the model budgets in identifying appropriate programs and amounts of Federal fiscal support in building, maintaining, and repairing needed public improvements; and

(4) an analysis comparing the usefulness of a separate capital budget with the model unified budgets for the purposes of identifying investment and disinvestment in, and appropriate Federal programs and amounts of Federal fiscal support for needed public improvements.

PROCEDURES

SEC. 317. (a) The Commission shall submit to Congress and the President, not later than one year from the date of enactment of this Act, the national inventory of public improvements required pursuant to section 314.

(b) Not later than eighteen months after the enactment of this Act, the Commission shall submit to Congress and the President a draft Plan required pursuant to section 315. For purposes of soliciting and considering public comment, the Commission shall

further distribute the draft Plan to affected Federal agencies, all Members of Congress, major public interest groups, the Governors of the States, local officials, and make the report generally available to the public. All affected Federal agencies shall submit written comments to the Commission within thirty days.

(c) Not later than twenty-four months after the enactment of this Act, the Commission shall submit to the Congress and the President the final version of the Plan pursuant to section 315.

(d) Unless the Congress enacts a joint resolution of disapproval of that portion of the Plan required pursuant to section 315(a) within one hundred and twenty calendar days of receipt of the final Plan, that portion of the Plan shall be deemed to be approved by the Congress and shall be the policy of the Federal Government: *Provided, however,* That no statute or regulation of the Federal Government, of a State or political subdivision thereof shall be in any way altered by congressional approval of that portion of the Plan pursuant to section 315(a).

(e) The Senate Environment and Public Works Committee and House Public Works and Transportation Committee shall hold hearings on the proposed changes in existing law pursuant to section 315 and shall report legislative proposals to the Senate and House of Representatives regarding such changes within one hundred and eighty days of receipt of the Plan to permit full Federal implementation of the Plan.

ESTABLISHMENT OF THE COMMISSION

SEC. 318. (a) There is hereby established a National Commission on the Rebuilding of America which shall assess the condition of the national public works infrastructure, analyze causes of disinvestment in the national public works infrastructure, and evaluate the need to repair, maintain, replace, and expand the national public works infrastructure to support balanced development of the national economy.

(b) The Commission shall be composed of—

(1) the Secretary of the Army, the Secretary of Transportation, and the Secretary of Commerce; in the event the Secretary is unable to attend a meeting of the Commission, he may designate a representative but in no case may the designee be of a rank lower than assistant secretary;

(2) representatives of each of the following organizations: the National Governors Association, the National Conference of State Legislatures, the National League of Cities, United States Conference of Mayors, and the National Association of Counties; and

(3) five individuals from the private sector selected by the President who among them have experience in and knowledge of public investment financing, civil engineering, State and local budgeting practices, and regional planning.

(c) The President shall designate one of the five individuals as Chairman of the Commission. The Chairman shall be an individual of national recognition with experience in both public affairs and private enterprise. The Chairman shall be confirmed by the Senate.

(d) The Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Interior, and the Administrator of the Environmental Protection Agency or their designees shall attend the meetings of the Commission as nonvoting members.

(e) The Commission shall be convened within thirty days of enactment of this Act.

DEFINITIONS

SEC. 319. For the purposes of this part—

(1) The term "national public improvement" means the Nation's systems of highways, roads, bridges, mass transit, main water supply and distribution systems, and sewer systems;

(2) the term "facility" means any physical structure such as a highway, road, bridge, transit line, or structure related to a mass transit system, water supply storage, treatment, and distribution system or sewage treatment and collection system which is owned and operated by the Federal Government, a State, municipality, or other public agency or authority organized pursuant to State or local law;

(3) the term "maintenance" means routine and regularly scheduled activities intended to keep the facility operating at its designed specifications;

(4) the term "repair" means the correction of a structural flaw in the facility without adding significantly to the design life of such a facility;

(5) the term "rehabilitation" means the correction of structural flaws in a facility so as to extend the engineered design life of such a facility;

(6) the term "replacement" means the reconstruction of an existing facility;

(7) the term "life-cycle cost" means the total cost of constructing, operating, and maintaining a facility, including the interest on any borrowed funds, over the design engineered life of the facility;

(8) the term "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marianas Trust Territories, or the Virgin Islands; and

(9) the term "region" means one of the nine geographical groups of States defined by the Bureau of the Census in the Statistical Abstract of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 320. (a) There shall be a staff for the Commission consisting of no more than thirty full-time employees of the Federal Government, who shall be detailed by the various agencies upon request of the Chairman of the Commission: *Provided,* That nothing in this section shall be construed to permit an increase in the level of total Federal employment.

(b) The Secretary of the Army shall assign an employee of the Army Corps of Engineers as staff director for the Commission, with the concurrence of the Chairman of the Commission, and shall also provide office space, supplies, equipment, and necessary contracting and other support services to the Commission and its staff.

(c) The heads of all Federal agencies are directed to cooperate with the Commission to the maximum extent possible, and to provide, on a timely basis, such information as the Commission may request.

(d) There is hereby authorized to be transferred or reprogramed from appropriations otherwise available to the Army Corps of Engineers, the Department of Transportation, and the Department of Commerce, the total of $5,000,000 to carry out the duties of the Commission during its tenure, said sum to be exclusive of salaries for staff.

(e) The private members of the Commission shall be compensated for their time engaged on Commission business at the daily rate established for employees at grade 18 of the General Schedule.

PART C—LABOR INTENSIVE COMMUNITY PUBLIC WORKS

SHORT TITLE

SEC. 321. This part may be cited as the "Labor Intensive Community Public Works Act of 1982".

PROGRAM AUTHORIZATION

SEC. 322. Title I of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"LABOR INTENSIVE COMMUNITY PUBLIC WORKS

"SEC. 122. (a) During fiscal year 1983, the Secretary is authorized to make grants in accordance with the allocation formulae contained in subsection (b) for activities described in section 105—

"(1) which are identified in applications submitted under this section;

"(2) which the Secretary determines, on the basis of information provided by the applicant, are labor intensive activities; and

"(3) which are carried out in a manner consistent with the primary objective of this title as stated in section 101(c).

"(b)(1) The amounts appropriated to carry out this section shall be allocated so that each State may receive an amount equal to the sum of—

"(A) 75 percent of such funds multiplied by a fraction the numerator of which is the number of unemployed workers in that State during October 1982 (as determined by the Bureau of Labor Statistics for purposes of computing the total nonseasonally adjusted rate of unemployment for that month), and the denominator of which is the number of unemployed workers in all States during October 1982 (as so determined); and

"(B) 25 percent of such funds multiplied by a fraction the numerator of which is the percentage point increase, if any, in unemployment in that State (determined by subtracting the average total nonseasonally adjusted unemployment rate in that State for October 1982), and the denominator of which is the sum of the increases in unemployment for all States (as so determined).

"(2) The funds allocated to a State under paragraph (1) shall be allocated directly to entitlement areas so that each such area may, subject to subsection (d), receive an amount which bears the same ratio to the total amount allocated to that State under this section as the ratio which the amount allocated for that area under section 106 for fiscal year 1982 bore to the total amount allocated in and to that State under section 106 during such year. In the event that an entitlement area does not apply or does not qualify for a grant, the amount of that area's grant shall be added to the amount available for allocation for other entitlement areas in the same State.

"(3) The amount remaining from a State's allocation after the application of paragraph (2) shall, subject to subsection (d), be available for allocation for use in that State. Any funds for which the State does not apply or qualify shall be reallocated under paragraph (2).

"(c) Not later than ten days after the date of enactment of this section, the Secretary shall prescribe regulations for the implementation of this section and announce the availability of funds under this section. Such regulations shall—

"(1) specify the information required to be submitted in an application under this section;

"(2) require such an application to specify the particular eligible activities proposed and the degree of labor intensity involved in the proposed activities;

"(3) require the applicant to demonstrate, through assurances, or otherwise that—

"(A) not less than 80 percent of the funds provided under this section which are expended for wages and benefits will be used for wages and benefits for workers who were unemployed at least fifteen of the twenty-six weeks immediately preceding the date of enactment of this section, who are no longer eligible for unemployment insurance benefits, and who were unemployed immediately prior to their participation in the program under this section;

"(B) all workers employed under the program assisted by this section have been referred by the appropriate office of United States Employment Service as being currently unemployed;

"(C) no worker will be eligible to be employed under this section if such worker has, within six months prior to the determination, voluntarily terminated, without good cause, his or her last previous full-time employment at a wage rate equal to or exceeding the Federal minimum wage as prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(D) workers employed under the program under this section shall be paid not less than the highest of (i) the minimum wage under the Fair Labor Standards Act of 1938, (ii) the minimum wage under the applicable State or local minimum wage law, or (iii) the prevailing rates of pay for workers in similar positions with the same employer;

"(E) the share of wages and benefits paid to any participant out of Federal funds provided under this section will not be greater than the hourly equivalent of $10,000 per year;

"(F) not less than 75 percent of the recipient's funds provided under this section shall be used only to provide employee wages and benefits; and

"(G) no currently employed worker shall be displaced by any worker employed with funds under this section, including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits;

"(4) include provisions for the waiver of subsections (a), (b), and (c) of section 104 or any other provision of this title which the Secretary identifies in such regulations with respect to the program authorized under this section, except that—

"(A) in no case may section 109 or section 110 be waived;

"(B) the Secretary shall require the provision of satisfactory assurances of conformity with subsections (b)(2) and (b)(3) of section 104 in all cases; and

"(C) the proposed recipient must give public notice of the location and nature of activities to be carried out with assistance under this section.

"(5) prohibit the employment of workers in the program under this section on the construction, operation, or maintenance of much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

"(6) require that funds provided under this section only be used for activities which are in addition to those which would otherwise be available in the area in the absence of such funds;

"(7) provide that only eligible individuals residing in the area of an eligible recipient may be served by employment activities funded under this section; and

"(8) provide that assistance may not be used in a manner which impairs existing contracts for services or collective bargaining agreements.

"(d) To receive assistance under this section, a State or unit of local government must submit an application not later than 30 days after the date the Secretary prescribes regulations and announces the availability of funds under this section. The Secretary shall approve an application unless he finds that it fails to meet any requirement of this section or that the recipient will not be able to commence the proposed activities within 90 days after the date of enactment of this section. An application or supplemental statement shall be deemed to be approved unless specifically disapproved by the Secretary within 15 days after receipt. Upon approval or expiration of the 15-day period referred to in the preceding sentence, funds shall be made available promptly. Within 15 days following any disapproval, the State or unit of local government may reapply. A reapplication shall be deemed to be approved unless specifically disapproved within 10 days after it is filed. Any funds which become available as a result of a disapproval of failure to apply or reapply shall be reallocated as provided in subsection (b) not later than 10 days after the disapproval or filing deadline.

"(e) Funds appropriated to carry out this section may be expended only to cover the cost of activities described in section 105 which are carried out during the one-year period beginning on the date of enactment of this section. The Secretary shall require a financial settlement of each grant under this section as soon as is practicable after the close of such one-year period. All funds appropriated under this section but not expended prior to the expiration of eighteen months after the date of enactment of this section shall be covered into the Treasury.

"(f)(1) The Secretary shall exercise, with respect to grants under this section, the authority conferred by section 104 (d) with respect to grants under section 106, including the authority to recapture or deduct funds from future grants under section 106.

"(2) Not later than 30 days after the date of financial settlement under subsection (e), each recipient of funds under this section shall provide the Secretary with such information as he shall require in order to assess compliance with the provisions of this section. Not later than July 1, 1984, the Secretary shall transmit a report to the Congress describing the program under this section, including a description of the number, type, and location of jobs created, and the characteristics of workers employed.

"(g) There are authorized to be appropriated and are appropriated $2,000,000,000 for grants under this section.".

PART D—FEDERAL SUPPLEMENTAL COMPENSATION

ADDITIONAL WEEKS OF FEDERAL SUPPLEMENTAL COMPENSATION

SEC. 331. (a) Section 602(e) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(1) in paragraph (2)(A)(i), by striking out "50" and inserting in lieu thereof "60";

(2) in paragraph (2)(A)(ii), by striking out "6" and inserting in lieu thereof "8"; and

(3) by striking out subparagraphs (B) and (C) of paragraph (2) and inserting in lieu thereof the following:

"(B) In the case of any State, subparagraph (A) shall be applied—

"(i) with respect to weeks during a higher unemployment period, by substituting '15' for '8' in clause (ii) thereof; and

"(ii) with respect to weeks during a high unemployment period, by substituting '13' for '8' in clause (ii) thereof.

"(C) For purposes of subparagraph (B), the term 'higher unemployment period' means, with respect to any State, the period—

"(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 4.0 percent, and

"(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 4.0 percent;

except that no higher unemployment period shall last for a period of less than 4 weeks.

"(D) For purposes of subparagraph (B), the term 'high unemployment period' means, with respect to any State, the period—

"(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent but is less than 4.0 percent, and

"(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent or is equal to or in excess of 4.0 percent;

except that no high unemployment period shall last for a period of less than 4 weeks unless such State enters a period of higher unemployment.

"(E) Notwithstanding the provisions of subparagraph (D), any State in which an extended benefit period was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 for any week which began on or after June 1, 1982, and prior to the date of the enactment of this subparagraph, shall be deemed for any week thereafter, for purposes of subparagraph (B), to be in a period of high unemployment, unless such State is actually in a period of higher unemployment.

"(F) For purposes of this subsection, the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

"(3) The amount of Federal supplemental compensation payable to an eligible individual shall not exceed the amount in such individual's account established under this subsection.".

(b) The amendments made by subsection (a) shall apply to Federal supplemental compensation payable for weeks beginning on or after the date of the enactment of this Act. In the case of any eligible individual to whom any Federal supplemental compensation was payable for any week beginning prior to such date of enactment and who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental compensation account) prior to the first week beginning on or after such date of enactment, such individual's eligibility for addi-

tional weeks of compensation by reason of the amendments made by this section shall not be limited or terminated by reason of any event, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and prior to the date of the enactment of this Act (and such weeks shall not be counted for purposes of determining the expiration of the two years following the end of his benefit year for purposes of section 602(b) of the Tax Equity and Fiscal Responsibility Act of 1982).

(c) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 602 of the Tax Equity and Fiscal Responsibility Act of 1982 a modification of such agreement designed to provide for the payment of Federal Supplemental compensation under such Act in accordance with the amendments made by this Act. Notwithstanding any other provision of law, if any State fails or refuses, within the three-week period, beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before such three-week period.

PART E—ADDITIONAL PUBLIC WORKS, EMPLOYMENT, AND TRAINING APPROPRIATIONS

DISLOCATED WORKERS

SEC. 341. There is appropriated $200,000,000 for fiscal year 1983 for title III of the Job Training Partnership Act, relating to employment and training assistance for dislocated workers.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

SEC. 342. There is appropriated $100,000,000 for fiscal year 1983 for title V of the Older Americans Act of 1965, relating to community service employment for older Americans in addition to any amounts otherwise available for fiscal year 1982.

ABANDONED MINE RECLAMATION

SEC. 343. There is appropriated $37,000,000 for fiscal year 1983 from the Abandoned Mine Reclamation Fund for abandoned mine reclamation under the Surface Mining Control and Reclamation Act of 1977 in addition to any amounts otherwise available for fiscal year 1983. Amounts appropriated under this section shall remain available until expended.

REFORESTATION AND TIMBER STAND IMPROVEMENT

SEC. 344. There is appropriated $100,000,000 to the Forest Service of the Department of Agriculuture for fiscal year 1983 for reforestation and timber stand improvement, trail work, recreational improvements, and road maintenance, in addition to any amounts otherwise available for fiscal year 1983.

PUBLIC HOUSING REHABILITATION AND MODERNIZATION

SEC. 345. (a) Section 5(c) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new paragraph:

"(7) The Secretary is authorized to enter into contracts for annual contributions aggregating $400,000,000 for fiscal year 1983 for public housing rehabilitation and modernization under this section and section 14 in addition to any amounts otherwise available for such purposes for fiscal year 1983.".

(b) The amount approved in any other appropriation Acts for contracts described in section 5(c)(7) of the United States Housing Act of 1937 is increased by $400,000,000.

AGRICULTURAL EXPORT CREDIT REVOLVING FUND

SEC. 346. There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, $750,000,000 to the Agricultural Export Credit Revolving Fund established by section 4(d) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(d)).

HIGHWAY TRUST FUND AND TRANSIT ACCOUNT

SEC. 347. (a) For fiscal year 1983, there are appropriated to the Highway Trust Fund $2,219,000,000, of which $536,000,000 shall be for the Transit Account.

(d) Effective October 1, 1984, for fiscal year 1984, there are appropriated to the Highway Trust Fund $5,319,00,000 of which $1,073,000,000 shall be for the Transit Account.

(c) Effective October 1, 1984, for fiscal year 1985, there are appropriated $9,625,000,000 to the Highway Trust Fund, of which $1,067,000,000 shall be for the Transit Account.

(d) Not later than February 15, 1985, the Secretary of the Treasury shall transmit a report to the Congress containing recommendations for revenue measures for fiscal years 1986 through 1990 to provide sufficient funding for fiscal year 1990 for transportation and transit activities at levels consistent with those authorized by this Act.

Mr. ROBERT C. BYRD. I ask unanimous consent that the following Senators be added as cosponsors: Mr. KENNEDY, Mr. BRADLEY, Mr. PRYOR, Mr. DIXON, Mr. DODD, Mr. BAUCUS, Mr. SARBANES, Mr. LEVIN, Mr. HUDDLESTON, Mr. CANNON, Mr. RIEGLE, Mr. METZENBAUM, Mr. RANDOLPH, Mr. SASSER, Mr. HART, Mr. BIDEN, and Mr. MITCHELL.

I ask unanimous consent that other Senators may add their names during the course of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished manager of the bill or the majority leader should seek to work out an agreement, I renew my offer and my willingness to enter into a time agreement in the hope that I can get an up-or-down vote and in the hope that no amendment would be offered to the amendment.

Mr. DOLE. Will the minority leader yield?

Mr. BAKER. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the majority leader for a question with the understanding that I retain my right to the floor.

TIME LIMITATION REQUEST

Mr. BAKER. I really believe that would expedite the business of the Senate, to go forward with an agreement and, once again, to restate the proposal of the minority leader as I understand it. That is that there be a 2-hour time limitation, an hour on a side, that no amendments would be in order to the Byrd amendment to the substitute; and that there be an up-or-down vote.

Once again, amendments can be offered to other titles of the bill, since this is only title I. The amendments can be placed at the end of the bill, according to the rules of the Senate. There are even other procedures that might be utilized to make sure the will of the Senate is accommodated. I am prepared at this time to renew that request simply in the interest of trying to expedite the proceedings of the Senate.

I ask unanimous consent that on the pending amendment there be a time limitation of 2 hours to be equally divided, that no amendments to the amendment be in order, that the vote occur on the amendment, and that no tabling motion be in order.

Mr. NICKLES. Objection.

Mr. HUMPHREY. Mr. President, until such time as we have an opportunity to confer with the parties, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. BAKER. Very well, Mr. President. I shall confer as well and we shall pursue the matter to see if we can arrange it.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader and I thank the Senator from Kansas (Mr. DOLE) for their willingness to proceed along the lines suggested.

Mr. President, our Nation is in the grips of the deepest and most severe recession since the Great Depression; 10.8 percent of the labor force was unemployed in mid-November.

Twelve million people are jobless—the largest number since 1933.

Our plants and equipment stand idle throughout the country. Overall production in our Nation's factories sank to a post-war law of 68.4 percent in October, while our steel and auto plants continued to operate at or below the 50 percent level. Businesses continue to fail at rates not seen since the 1930's, with 23,015 businesses closing their doors for good by the end of November—an increase of nearly 50 percent compared to last year.

We face an economic emergency, and there is no more important task before this Congress in its waning days, than to take the steps that can begin to reverse our economic fortunes. We must send the Federal Reserve Board and the financial markets a clear message that the Congress will not tolerate a return to the tight money policies which have done so much to wreak havoc on our economy. I am introducing a resolution expressing the sense of the Congress that the Federal Reserve Board should pursue and maintain interest rates consistent with economic growth, which I intend

to offer as an amendment to this bill or to the continuing resolution at a later point.

I believe there is no more important step we can take than adopting this amendment.

There is little time remaining in the life of this Congress, and we cannot hope, in the next few days, to put all of America's jobless citizens back to work. But we can make a start today. We have an obligation to take at least the first steps which will offer a helping hand to those who must face this Christmas season without jobs or hope.

I do not doubt for a moment the importance of the legislation now before the Senate. Without question, there is an urgent and pressing need to repair and maintain America's deteriorating public infrastructure. We ignore its dangerous state of disrepair at our peril. But even the strongest adherents of this legislation do not claim that it is a jobs program.

We must do more before we adjourn to address the needs of America's jobless. The amendment I have sent to the desk would add a direct job creation program to this legislation.

The amendment which other Senators and I have joined in cosponsoring would more than double the number of jobs created by the Surface Transportation Assistance Act of 1982, thereby putting more than 731,000 unemployed Americans back to work. Our amendment pays for itself, by partially delaying the third year of the Kemp-Roth tax cut for those making between $50,000 and $65,000 a year, and by fully delaying the third year cut for the few fortunate Americans making more than $65,000 a year. Instead of raising the gasoline tax for all of our citizens, rich and poor alike, our proposal would place a greater share of the burden on those who can most afford to bear it.

Our proposal has several major components.

First, it would authorize a labor-intensive community public works program funded at $2 billion, which would channel funds directly to State and local governments through the community development block grant program. These funds would be used for hiring unemployed workers on such projects as rustproofing bridges, weatherizing public housing, filling potholes and painting public buildings. The decisions on which projects to select would be left with the State and local governments. The program is designed to leave behind a tangible product in the form of improved community facilities, and to avoid the charges of make work which have plagued some jobs programs in the past. Eligible workers would have to have been out of work for 15 of the last 26 weeks. To protect against possible patronage abuse and to make sure that governments cannot use these funds to transfer their existing payroll onto this new program, local governments would have to hire workers referred to them by the local U.S. Employment Service, the agency which administers the unemployment insurance program. The entire program would expire at the end of the fiscal year. All funds would have to be spent during that fiscal year. These features are designed to prevent some of the problems which have plagued some jobs programs in the past.

Our amendment would also provide additional weeks of supplemental unemployment benefits in all States. Under the provisions of last summer's tax bill, the new temporary program of supplemental benefits provides 6 weeks in States with lower unemployment, 8 weeks in States with unemployment in the midrange, and 10 weeks in States with the highest unemployment. The proposal would increase this to 8, 13, and 15 weeks respectively, at a cost of $700 million.

In addition, our amendment would increase appropriations for several existing programs that will undertake needed public work and fund new jobs by adding $400 million to pubic hosuing rehabilitaiton and modernization; $200 million to retrain workers displaced by declining industries; $100 million for the senior citizens employment program under the Older Americans Act; $37 million for reclamation of abandoned mine sites; and $100 million for reforestation and timber land improvement through the Forest Service.

Our amendment also would help create jobs in rural America, by aiding farmers and ranchers in expanding their markets through increased sales of U.S. Agricultural exports. The amendment provides $750 million for the Agriculture export credit revolving fund in the food for peace program. The fund would be used to finance commerical export sales of all U.S. agricultural commodities and breeding livestock. It will help us compete with other countries, employ thousands more of our citizens and bring urgently needed help to a sector of our economy which everyone, including this administration, believes needs help very badly.

Finally, our proposal would modify the heavy public works proposal in the legislation before us to add funds for water and sewer rehabilitation and construction programs, at a cost of $1 billion. We would also require that an inventory of existing major public infrastructures be undertaken, and a plan for their repair, modernization and regular replacement be prepared and submitted to the Congress for its consideration.

This package would cost $5.3 billion. To pay for it, and for the additional heavy public works spending already in the legislation before us, our amendment would eliminate the 5 cents gasoline tax increase proposed by the administration and, instead, partially delay the third year of the Kemp-Roth tax cut for those with incomes over $50,000 a year and fully delay it for those with incomes of $65,000 or more. Those affected would have the third installment of the Kemp-Roth tax cut partially or fully delayed for 3 years. After that, these individuals would receive the full 10 percent tax cut.

Capping the third year of the tax cut in this fashion would raise approximately $23.8 billion over 3 years, an amount more than sufficient to pay for the jobs program I am proposing. Unlike the gas tax, which affects the rich and poor alike, our amendment affects only upper income families. It is a fairer, and better approach than increasing the gasoline tax for all our citizens.

We Democrats believe, as we have said from the start of this administration, that each citizen should bear his or her fair share of the tax burden. We should not ask working and middle-class Americans to bear the entire weight of putting our most hard-pressed citizens back to work. We have offered a better alternative, by delaying the final bit of largesse due the wealthiest few among us from the Kemp-Roth scheme.

We are asking that a small minority of the wealthiest and most fortunate Americans forgo the final installment of tax cuts so that a large number of unfortunate Americans can get back to work at productive jobs. Instead of making the middle class pay once more, we Democrats believe it is time to let the wealthiest pay their fair share.

Why would anyone prefer to tax every single American, no matter how hard-pressed he or she may be, no matter how elderly that person may be, no matter how far that person, such as the coal miner in West Virginia or a steelworker in West Virginia, would have to drive to and from work each day when we can tax only the smallest number of Americans who are already far wealthier than most people?

Why would anyone want a gas tax that drains 27 cents from the general revenue fund for every $1 it raises for the trust fund, when a partial tax delay for the wealthier citizen raises more money than is needed and actually reduces the deficits over 3 years?

Why would anyone prefer imposing a new tax on working and retired Americans when we can simply delay a new tax cut for wealthy Americans? We have just recently imposed new taxes—without my vote—on working Americans and small business people and elderly citizens, school teachers,

store clerks, and other people in other vocations by imposing an additional telephone tax, an additional unemployment compensation tax, an additional tax on cigarettes, an additional tax on airline tickets, and so on.

So, it is time, we think, to let the wealthiest pay their fair share.

We have worked hard to craft a jobs program that targets help where it is needed most, that takes careful note of the lessons we have learned from past job-creation efforts, that is fiscally responsible, and that distributes the burden of paying for this additional spending in the fairest way. We do not claim that our program is a panacea. On the contrary, it is only a beginning in the effort to turn this economy around and put America's jobless citizens back to work. But it is an important and vitally needed first step, which merits the support of my colleagues on both sides of this aisle. I urge them to join us in adopting this amendment.

Mr. President, that completes my statement.

Mr. President, I ask unanimous consent to have printed in the RECORD a table entitled "Infrastructure and Jobs Amendment Offered by Robert C. Byrd," showing program components and dollars in billions, fiscal year 1983; material with reference to the infrastructure and jobs amendment showing costs and additional jobs created beyond those created by H.R. 6211; an explanation of the labor-intensive community public works program; and an editorial from the December 10, 1982, New York Times entitled "It Only Looks Like a Jobs Bill."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Infrastructure and jobs amendment offered by Senator Robert C. Byrd

[In billions of dollars]

Program components:	*Fiscal year 1983*
1. Water and Sewer Infrastructure Repair	1.0
2. Labor Intensive Community Public Works Program	2.0
3. Increased Weeks of Unemployment Insurance	.7
4. Displaced Workers Retraining	.2
5. Senior Citizens Employment	.1
6. Reforestation and Timber Land Improvement	.1
7. Public Housing Rehabilitation	.4
8. Abandoned Mine Reclamation	.04
9. Agricultural Exports Stimulus	.75
Total	5.3

Revenue source

[Preserve 10 percent income tax cut scheduled for July for all under $50,000; reduce amount of tax cut for those with incomes between $50,000 and $65,000 for 3 years only; no tax cut for those with incomes over $65,000 for 3 years. After 3 years, affected individuals would receive 10 percent cut]

	Billions
Fiscal year 1983	$1.6
Fiscal year 1984	10.8
Fiscal year 1985	12.5
Total (3 years)	24.9

INFRASTRUCTURE AND JOBS AMENDMENT PROPOSED BY SENATOR ROBERT C. BYRD

	Cost (fiscal year 1983)	Additional jobs created (beyond those created by H.R. 6211)
1. Water and sewer infrastructure repair program: Work to be accomplished through normal contracting procedures. Projects must be able to begin construction within 120 days.	$1 billion	13,000 direct, 27,000 indirect.
2. Labor intensive community public works program: Funding provided through the community development block grant program to local and State governments to directly hire persons unemployed for at least 15 weeks. Funding distributed on basis of relative unemployment. All projects to be chosen by local recipient jurisdictions from types allowed by Federal law, which will have visible, tangible products, improving the community's public capital facilities.	$2 billion	300,000 direct.
3. Added funding for jobs and training programs:		
A. Displaced workers retraining: Advancing funding for this title of the Job Training Partnership Act (now scheduled to receive only token funding until 1984), to retrain and relocate skilled workers from declining industries such as auto, steel, etc., for whom jobs likely will not be available even after general economic recovery.	$0.2 billion	
B. Senior citizens employment: To employ citizens between age 55 and 65 who often have the most difficult time obtaining work because of age.	$0.1 billion	20,000 direct.
C. Reforestation and timber land improvement: Addresses important, delayed needs in timbered areas; will focus on laid-off employees of hard-hit timber industry.	$0.1 billion	5,000 direct.
D. Public housing rehabilitation: Will address portion of multibillion dollar backlog of needed repairs and rehabilitation of public housing in all States; approximately 70 percent of funding will go to worker wages.	$0.4 billion	10,000 direct.
E. Abandoned coal mine reclamation: Provides for hiring unemployed coal miners and construction workers to perform reclamation work at abandoned coal mine sites.	$0.04 billion	10,000 to 15,000 direct and indirect.
4. Increased weeks of unemployment insurance: The supplemental program established by the 1982 tax bill is the 3d layer of benefits. Unemployed persons in States with highest unemployment receive 10 weeks of supplemental benefits; those with midlevel unemployment, 8 weeks; and those with lowest unemployment, 6 weeks. The proposal increases weeks of benefits in all categories and States to 15, 13, and 8 weeks respectively.	$0.7 billion	
5. Agricultural exports stimulus; Provides $750 million for the agriculture export credit revolving fund in the food for peace program. Fund would be used to finance commercial export sales of all U.S. agricultural commodities and breeding livestock.	$0.75 billion	26,000 indirect.

Note.—Total: Cost (fiscal year 1983) $5.3 billion. Additional jobs created (beyond those created by H.R. 6211) 411,000.

LABOR-INTENSIVE COMMUNITY PUBLIC WORKS PROGRAM

PROGRAM ADMINISTRATION

Program to be channeled through the Community Development Block Grant program.

FUNDING

$2 billion for fiscal year 1983.

Projects must be started within 90 days; all funds must be spent by end of year.

Funds allocated on the basis of relative unemployment to state and local governments.

No matching funds required.

ELIGIBLE WORKERS

80 percent of funds spent for wages must be spent to employ persons who have been unemployed at least 15 of the last 26 weeks and who are ineligible for unemployment insurance. All participants must be unemployed.

All participants must be referred from the local U.S. Employment Service (which administers the unemployment insurance system), to prevent jurisdictions from transferring current employees to the new program's payroll.

ELIGIBLE PROJECTS

Projects will be selected by the recipient jurisdictions; to be eligible for funding, a project must be eligible under the Community Development Block Grant program. Examples of such projects include:

Bridge rustproofing and repair; patching potholes and other road repairs; repairing and upgrading public mass transit systems; installing graded ramps for handicapped; installing or repairing drainage pipes and catch basins in areas subject to flooding; repairing and rehabilitating water and sewer systems; repairing, rehabilitating, and weatherizing public buildings, including schools and public housing; converting surplus public schools to other productive community uses; removal of refuse from drainage ditches, illegal dumping sites, and other public areas, immunization programs, congregate meals and "meals on wheels" programs for the aged, and providing expanded day care opportunities where necessary to enable single, able parents to work.

FEDERAL WAGE CONTRIBUTIONS

Prevailing wages, provided that wages not be less than the minimum wage nor more than the hourly equivalent of $10,000 per year.

OTHER PROGRAM FEATURES

No more than 25 percent of a jurisdiction's funding may be spent for administration, equipment, or materials. (At least 75 percent of funding must be spent on direct wages.)

Jurisdictions prohibited from displacing current workers in favor of individuals newly hired under the program.

[From the New York Times, Dec. 10, 1982]

IT ONLY LOOKS LIKE A JOBS BILL

For a brief moment it appeared that the lame-duck session of Congress might produce a quick, clean bill to repair roadways and revive mass transit by increasing taxes on gasoline and heavy trucks. President Reagan and the Congressional leadership had all signed on. It looked like a sure thing—and a good one, too.

It doesn't look so good any more. The House has approved a version loaded with undesirable amendments, and the Senate Finance Committee has added another. The Senate would do well to adopt the far preferable substitute just proposed by its Democratic minority. Failing that, if the Senate has any pride it will produce a bill free of contaminating amendments.

The original proposal had four commendable goals: repair of rotting roads and bridges; improvements in mass transit; a 5-cent increase in the gasoline tax that would induce conservation, and higher taxes on heavy trucks. It also had a basic weakness: the idea that it would also meet a fifth goal by becoming a "jobs" program. It wouldn't have gotten anywhere politically without appearing to create jobs—320,000 of them in construction and related industries. But the increased taxes would probably kill off as many jobs in other industries.

Then the House compounded the problem, piling on noxious amendments in the name of creating more employment, but actually raising costs and reducing the net number of jobs created.

A "Buy American" amendment requires that road repair materials be bought in this country, even when cheaper foreign materials are available. A "domestic content" amendment requires that any buses or subway cars purchased have a specified amount of American components, also closing out lower-cost foreign suppliers. Both amendments follow a protectionist path that can only lead to trade war and fewer jobs.

Still another amendment expands the scope of the Davis-Bacon law, which would artificially inflate pay scales on public works projects.

Then the Senate Finance Committee got into the act by cutting the proposed increase in truck taxes. On the well-founded theory that heavy trucks to disproportionate damage, the Administration proposed taxing them more. Even that proposal was sugarcoated; it would have relaxed size and weight limits, changes long sought by the trucking industry. Truckers fought the tax increases anyhow, and succeeded in the Finance Committee.

If these amendments stand, they will turn a useful initiative into a solution that is worse than the problem. There's a better way. A bill proposed by Senate Democrats would create a broader public works bill providing twice as many jobs. It would be paid for in a more appealing way—by trimming the tax cut next July for people with high incomes. This proposal would provide more stimulus on the jobs side and less negative effect on the tax side. Its weakness is that it leaves gasoline and truck taxes right where they are.

Congress is determined to do something quickly in response to rising unemployment. The realistic expectation is that the Democrats' proposal won't pass, and that the President would veto it if it did. Probably the best hope is that this Congress, in its dying days, and in the name of relieving hardship, will kill the amendments that pander to special interests. Lame-uck need not mean lame law.

Mr. ROBERT C. BYRD. Mr. President, I see that several of my colleagues who are cosponsors are here and are prepared to speak to it.

Mr. KENNEDY is the principal cosponsor, and I assume that he would wish to address some remarks at this time.

I yield the floor.

Mr. KENNEDY. Mr. President, first of all I want to express my appreciation to the leadership that has been provided on this issue by the minority leader Senator BYRD of West Virginia.

This has been an issue which has been discussed in our caucus over a period of many months. This proposal incorporates not only Senator ROBERT C. BYRD's own areas of expertise and concern but also includes proposals which many of us have been working on over a long period of time. I believe that this amendment represents a constructive and positive program for the Senate and for this country.

I think the American people are entitled to action, and this is an action program.

Mr. President, the amendment offered by Senator BYRD addresses the most pressing problems facing our Nation today—the highest unemployment rate in 40 years; 11.8 million Americans are jobless. Millions more can only find part-time jobs. Others are so discouraged they have totally given up the search for work and the situation is much worse for black Americans and for our young people. One in every three Americans can expect to be unemployed some time during the year.

We are painfully aware of the human suffering behind these statistics. Decent, hard working men and women are losing their savings, their homes and the chance to send their sons and daughters to college. For the first time in our history, parents expect their children to be less well off than they are.

These men and women have searched the want ads and pounded the pavement and still cannot find work.

The fact is that since Ronald Reagan got his job, 4 million Americans have lost theirs. It is no longer possible to say that anyone who really wants to work can find a job. The jobs are simply not there.

And, despite the promises of this administration, unemployment grows worse. Last month the unemployment rate stood at 10.8 percent. Next month there will be more bad news. Unemployment will almost certainly go above 11 percent.

No longer is this recession confined to the auto and steel and construction industries. No longer is high unemployment limited to Michigan and Ohio, and Indiana and Oregon.

Every industry and every region of the country is feeling the bite. From Maine to California, from Florida to Washington, unemployment is on the rise.

It used to be that workers could count on unemployment benefits to tide them over the worst of a recession. But no longer.

Only 40 percent—less than half—of those 12 million now unemployed are covered by unemployment insurance. And the extra benefits we approved last August are about to run out for 2.2 million Americans.

That is why the Democratic proposal includes additional weeks of benefits for the unemployed in every State.

I joined with Senator QUAYLE in introducing the Training for Jobs Act to provide retraining for the disadvantaged and structurally unemployed. The Senate and House adopted that legislation overwhelmingly and the President signed it into law last October.

But that is a training program, not a jobs program. Not one new job will be created. Not one unemployed person will go back to work immediately as a result of that bill. It is a much needed long-term solution for the poor, the young and displaced workers. And it will take time for that program to show results.

I believe we need a jobs program now to put people back to work now.

I believe that our No. 1 problem—unemployment—can be addressed by putting the jobless to work on important projects that need to be done in this country.

It is impossible to drive through any city in this country today without noticing the deterioration in our roads and highways and bridges. But the decline in our public infrastructure is not always so visible.

Many of our public schools, parks, and transportation facilities are literally falling apart. Hospitals in the North and airports in the West are in critical need of repair.

There are other examples:

Subway and rail systems in urban areas are decaying, making service unreliable.

Half the country's sewer, water and drainage systems need repair.

One-third of the non-Federal dams are unsafe.

One of every four prisons needs remodeling to relieve overcrowding.

Our forests and timber ranges are suffering from neglect.

Abandoned coal mines are a danger and an eyesore to neighboring communities.

Our proposal is modest. It would create just 400,000 jobs—less than the number eliminated by Ronald Reagan last year. Less than the jobs created by President Ford when unemployment hit 9 percent in 1975. Less than the 425,000 jobs created in 1977 when unemployment was 7.5 percent.

Our proposal is also very different from the public service employment program created under CETA that has received so much criticism and is no longer a part of the new training bill. Only jobs directly related to the repair and maintenance of public facilities

and the improvement of public lands can be funded. Only those unemployed 15 weeks or longer will be put to work. Private contractors can be selected to do the needed work.

This proposal will not "bust the budget." The program pays for itself, not by imposing a new tax on workers, but by repealing the third year of the tax cut for those in the highest income brackets.

We believe this is a better way to finance a jobs program and rebuild our public infrastructure. It is a fact that doing nothing about unemployment costs the Federal, State, and local governments billions of dollars in unemployment benefits and lost revenues. This bill costs just a fraction of the $20 billion now being spent on unemployment benefits.

These jobs will decide whether the unemployed become taxpayers or tax users.

Our economy is in critical condition. It does not help the unemployed to counsel patience. It does not help the unemployed to promise better things to come. It does not help the unemployed to promise a tax cut. But the unemployed can be helped with jobs which mean new hope and dignity and pride for them and their families.

Mr. President, I hope the Senate will accept this amendment.

Mr. President, restoring the health of the American economy is going to be the overriding issue in the next Congress, and that is going to require the best efforts of all of us on both sides of the aisle.

We realize the problems we are facing are difficult and complex, that there is no easy or simple solution to the problems facing our economy today.

H. L. Mencken, the great publisher and writer, once said:

> For every difficult challenge and problem there is a simple, easy answer—and it is wrong.

We have seen the truth of this observation over the last 19 months. We were facing difficult challenges in January of 1981, and we heard a simple, easy answer. What is the problem? The state of our economy. What is the answer? Supply side economics.

That simple solution was wrong, Mr. President, and there are millions of American people who have paid a fearsome price as a result of the failed, flawed, and unjust economic program of this administration. We are going to have to face that fact and develop a constructive program to get our economy moving again. That is going to take time and it is going to take judgment and it is going to take serious debate across this country and here in the U.S. Senate.

The amendment we are proposing here today is only a partial step, but one that we can address in the final hours of this "lameduck" session. The issue is whether we are going to provide some very limited relief to men and women who, for years, have held jobs and now, as a direct result of the economic policies of this administration, have lost those jobs.

By putting those people to work—taking those people off welfare rolls and off unemployment lines and putting them back on the job rolls—we can do something constructive in meeting the needs of this great country of ours.

This is a modest program. It is an emergency program. It is a responsible program, and it far exceeds what I feel is the grossly inadequate alternative which has been proposed by this administration. But it is an important, meaningful step forward in trying to offer some hope and opportunity to millions of American families that will be facing this Christmas time with little hope and little opportunity to provide for themselves and to provide for their families.

We are not just talking about statistics, as important as they are. We are concerned about the stark reality that is injected into any family's existence when they know they have lost their jobs and that they have little if any hope or opportunity of being able to find a job in the future. We are talking about human needs that must be addressed in the United States immediately.

So, Mr. President, I want to express once again my appreciation for the leadership that has been provided by the Senator from West Virginia. This is a program which can provide some hope, some opportunity, and some redress to the sense of hopelessness and despair that hundreds of thousands of citizens of this country are feeling today. I am hopeful that the Senate will accept this amendment.

Mr. DODD. Mr. President, first of all, let me join my colleague from Massachusetts in commending our leader, the distinguished Senator from West Virginia, for his leadership which has brought together the various elements of this proposal—emergency proposal.

It was as a result of his leadership and guidance that we were able to provide a comprehensive, thoughtful, efficient, effective package that we believe will not only deal with the long-term infrastructure problem we face in this country but, more importantly, given the tremendous legitimate concern expressed all across our land about the straggering levels of unemployment.

I should also note at this juncture, Mr. President, that I will focus my brief remarks here on the second part of our four-part program dealing with the light infrastructure part of the bill that we hope will put as many as 300,000 to 400,000 Americans suffering from unemployment back to work.

I would be remiss at this juncture if a particular note of recognition were not paid to the distinguished Senator from Massachusetts, who introduced a number of times in the last 1½ or 2 years jobs bills when unemployment was high—not as high as it is now—but in anticipation of the problem, and had we acted earlier, then part of this package might already be in place.

I would like to focus, if I may, Mr. President, on the light infrastructure part of this package which has been presented by our minority leader. It is our hope that this component of the substitute will provide immediate employment for, as I mentioned earlier, about 300,000 Americans suffering from the national epidemic of long-term joblessness.

It proposes a one-time-only supplement of $2 billion for the fiscal year 1983 community development block grant program. Those funds would be used to match up an existing pool of American citizens who are able to work and who are actively seeking work with an existing backlog of useful community projects which cities, counties, and governments already intend to implement but for which they lack available funding.

To insure that this expenditure benefits the unemployed, it stipulates that 80 percent of those hired must have been without work for 15 of the preceding 26 weeks and so certified by the local U.S. Employment Service. To guarantee that only useful, necessary jobs be assigned, it draws those assignments from projects which State and local governments have already planned. To assure that the jobs begin as soon as possible, this proposal makes use of an existing program structure and directs that work must begin from 90 days of enactment of this proposal.

In short, Mr. President, this part of the substitute amendment is carefully fashioned to target employment relief to those most in need, to complete only legitimate and useful community improvements, and to get a program underway in the most efficient and expeditious possible manner. Those are its purposes and merits and that is why it is in the national interest for the Senate to act affirmatively on it.

Not a single Senator in this Chamber should doubt the urgency of doing something about unemployment. Certainly, not a single Senator here was in this body when the national rate of joblessness was higher than it is today. Twelve million people in this country are looking for work and cannot find it. Three million more, it is estimated, have given up the search and are no longer in the labor force. In September, unemployment stood at 10.1 percent; in October, 10.4 percent; and in November, 10.8 percent.

Every poll of public opinion demonstrates that Americans think it is the single most significant problem facing the country. That was true when Lou Harris polled the Nation in July; it was the conclusion of a Los Angeles Times survey in August; it was what George Gallup found in September; and it was the bottom line of the CBS news poll released on October 30 of this year. And remember that since that last survey another 440,000 American workers have received their own pink slips.

This has always been an optimistic country, Mr. President, but on this issue the citizens of the United States are losing confidence. There are more Americans who believe the problem will be just as bad or worse a year from now than people who think it will be better. In fact, a Gallup poll earlier this month showed that one out of every five Americans who had a job thought it likely he would be likely be laid off in 1983.

That is the context in which we are considering H.R. 6211, which proposes to finance highway construction and repair frow a new tax on gasoline.

Mr. President, there is no question that something needs to be done to improve the condition of our Nation's physical infrastructure.

I have said that a number of times. I have introduced legislation to try and help solve that problem. Our interstate highway systems and mass transit facilities are vital elements of that network. Both desperately need a strengthened national commitment. That much is beyond dispute. You can question whether a 5 cent a gallon surtax on gasoline is an equitable mechanism for financing those capital improvements. But that issue is at least within the boundaries of reasonable debate.

One thing that is not within the pale of rational discussion is whether this is a useful step toward the solution of our current unemployment disaster.

It is not. If this legislation is passed instantaneously, goes into effect, and ticks like a swiss watch, it will not make the slightest dent in the national unemployment problem in the months ahead. At best, it will create some jobs in the long run. At worst, those new jobs will be more than offset, as Chairman HENRY REUSS of the Joint Economic Committee has argued, by the jobs which will be destroyed by the depressant effects of the gas tax.

But whether you are a laidoff auto worker, a teenager looking for a productive alternative to hanging out, or a recent college graduate looking for your first job, do not expect that anything in H.R. 6211 is going to help. That is something it is not intended to do, that is something it is not designed to do, and therefore, that is something it simply will not do.

That fact is the reason why this substitute has been offered. Its premise is that if Congress is to be called into special legislative session, it ought to consider the major problems confronting the United States and try to do something about it.

That is why we were called back. That is one of the reasons why we are here. The fact of the matter is the H.R. 6211, on its own, will do nothing whatsoever to deal with the most serious problem we face in this country.

The light infrastructure component of the substitute is a major integral part of that effort. We designed it to meet the criteria which would logically characterize an effective jobs bill. We said it ought to be targeted. We said it ought to be effective, and we said it ought to be efficient.

First, an effective jobs bill ought to target help toward those who most need it. The light infrastructure approach stipulates that 80 percent of the Federal wage contribution should go to the long-term unemployed—those who were without a job in 15 of the preceding 26 weeks, whose unemployment compensation has expired, and who are currently unemployed.

In addition, the allocation formula distributes 75 percent of the funds of the basis of a State's relative share of national employment. Finally, the CDBG program—the community development block grant program—already has as its prime objective—by statute—that its projects assist low- and moderate-income families, precisely those suffering most from unemployment. In sum, this is a carefully targeted piece of legislation.

Second, an effective jobs bill ought to create jobs in useful and important areas of public improvement and service. The jobs should not be an end in themselves but ought to make contributions toward healthier, safer, and more productive communities. The light infrastructure approach does not invent new projects out of whole cloth. Instead, eligible activities are limited to those already acceptable under existing community development block grant legislation.

The community development block grant program is among the most popular and successful of Federal programs. The work that can be done under its aegis includes repairing and rustproofing bridges, weatherizing public buildings, such as schools and hospitals, operating day care facilities, cleaning parks and recreation areas, rehabilitating water systems, just to name a few.

Perhaps even more important than these examples is the fact that almost every State and local government that receives CDBG funds has a list of projects it has already planned and to which it is already committed. You can argue whether "make work" is better than "no work at all." In this legislation we do not have to face that choice. We are not making work. These projects are already in the pipeline. The only question is when they will be done. By providing a one-time boost in spending which must be completed within a year, we merely insure that the work be done and the jobs provided sooner rather than later.

Third, an effective jobs program requires efficiency; it should display a favorable ratio of jobs created per Federal dollar expended. This proposal has been crafted to meet that objective, as well.

Among the provisions which contribute to that end are the following: A minimum of 75 percent of the funds must go for wages rather than materials or overhead. The Federal contribution to any specific wage cannot exceed the hourly equivalent of $10,000 a year. And there is a requirement written into the act that requires labor intensiveness as a criterion for a proposed activity's acceptability.

Taken in conjunction, those provisions mean we have a high ratio of jobs to expenditures. It is estimated 300,000 productive jobs will be created if this proposal is adopted.

Fourth and finally, an effective jobs program must create employment opportunities quickly. It is no longer reasonable to rely on hopes that the economy will turn around in the long run. Americans have been suffering too long and too severely from joblessness for that kind of rhetoric. What is called is a policy which places a premium on immediate relief. I would stress this is not a long-term program. It is a 1-year program.

By using a program structure already in place and to a very large extent, procedures already in force and familiar to recipients, the light infrastructure approach obviates the timelag inherent in setting up new bureaucracy and process for approving projects. By drawing on activities already planned, this approach avoids the delay which would inevitably occur if projects had to be designed from the start. And by making it a condition of eligibility that projects must be capable of initiation within 90 days, this approach guarantees that jobs will begin now when they are needed not in the distant future when it may be too late.

In sum, Mr. President, this program has the characteristics we would want an ideal jobs bill to emphasize: It is targeted; its employment opportunities are constructive; it makes efficient use of revenues; and it goes into effect expeditiously. Of all the proposals before the Senate, it clearly represents the most direct and valuable response to what everyone agrees is the No. 1 problem confronting this Nation.

Of itself, it will not bring unemployment down to even remotely accepta-

ble levels. I doubt that any single piece of legislation is capable of that result.

But for 300,000 Americans who want work and cannot find it, this proposal that we are offering this afternoon means a fulfilling job in lieu of frustration, and it means a chance to do something useful for their communities.

And, for those of us in this body, it demonstrates a willingness to make the most pressing difficulty in the minds of the American people our highest priority as well. I do not think it is unreasonable for the citizens who sent us here to expect us to do something about the worst unemployment in four decades. We should not expect less of ourselves. Adopting this program will serve notice that we do not find 10.8-percent unemployment acceptable and that we intend to bring it under control.

Again I want to commend the distinguished minority leader, the Senator from West Virginia, who through his leadership brought this proposal together. It is a proposal that is going to make a difference, is going to address the most serious problem we face. I urge its adoption.

I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER (Mr. SIMPSON). The Senator from Michigan.

Mr. RIEGLE. I thank the Chair.

Mr. President, at the outset, I would like to join in commending the minority leader, the Senator from West Virginia, for his leadership in foreging this package and for the important comments he made earlier about the necessity for us to move forward with this legislation.

Mr. ROBERT C. BYRD. Will the Senator yield at that point?

Mr. RIEGLE. Yes.

Mr. ROBERT C. BYRD. I thank the Senator from Michigan. I also thank Mr. KENNEDY and I thank Mr. DODD for the generous remarks they have made in my behalf.

I take this occasion to thank those who worked with me, a task force of Senators I selected, each of whom has expertise in various fields, for the contribution they made in putting together this package. I wish to thank each member of the task force, Senators BENTSEN, BRADLEY, CHILES, CRANSTON, DIXON, DODD, FORD, JACKSON, KENNEDY, LONG, MOYNIHAN, RANDOLPH, RIEGLE, and SARBANES.

I thank the Senator for yielding.

Mr. RIEGLE. I also thank the Senator from Massachusetts (Mr. KENNEDY) for the fine leadership that he has shown and the excellent statement he made on these issues, and the Senator from Maryland, who will speak later.

Clearly, we face a matter of urgency in the U.S. Senate. It is a pity that the Chamber cannot be filled with all 100 Senators, and the galleries and press galleries as well, because this is literally the one overriding issue that faces the country that we should be taking up, that we should be dealing with.

The whole purpose of the lameduck session, especially now that the Social Security Commission has found itself unable to render judgments on changes in that system, is really to try to do something about the unemployment emergency in the country.

There is a desperate need for jobs. Increasingly the national television networks are doing profile stories on individual families, on regions of the country, on economic sectors, showing the degree of devastation which now stretches coast to coast.

My home State of Michigan is a State in the deepest trouble. The unemployment rate there as of last week was 17.2 percent. I have in my State now more unemployed people than the entire population of nearly 10 other States of our 50 States.

There was a story in the New York Times the other day about people from my State of Michigan, and from other States where unemployment has been the worst, who migrate to Texas to try to find work in Texas. But now the unemployment problem is so severe in Texas that not only are those persons having to leave to come back to their home areas, to move in with family members, or live under bridges or viaducts, whatever they can find, but, in addition, the outflow of people who have gone across the country in search of a job but have not found one has put such a pressure on the availability of U-Haul trailers that they are charging several hundred dollars in premiums for people who have gone to the areas that previously were thought to have the jobs and now must turn, abandon those areas, rent U-Hauls, and go out Lord knows where to try to find something some other place.

We are saddled in this country with the want ad mentality of the Reagan administration, where the President, who shows no comprehension of this problem, no understanding of it, repeatedly refers to the fact that in his view there are sufficient jobs, want ads posted in the weekend editions of newspapers across the country, and the suggestion that if unemployed workers would just work a little harder or get those want ad sections, they could go and find work for themselves.

Well, anybody who has any understanding of what is really happening in this country knows that to be false, and, more than false, it is a dangerous misunderstanding of the problem.

In fact, on the baseline, it is a heartless and a cruel notion that this administration and this President appear to have about this problem, apparently believing that it is far less severe than we know the facts to be.

It has been pointed out here many times that we are now on the verge of the Christmas season, and this is normally the time when families have the opportunity to look at the year's work and the blessings that may have come their way, to be together and to have a period of special feeling at a special time.

Yet, we have millions of families in this country who are absolutely desperate this Christmastime, who are destitute, who cannot pay utility bills, who cannot feed their children properly. The suicide rate is soaring among unemployed workers. We are seeing instances of alcohol abuse, drug abuse, and beatings within families as this level of desperation deepens and broadens.

It is the business of this Congress and of the Senate to come in here in this special session and do something about it. That is what this legislation is about.

I think it is appalling that this administration has not taken the initiative in this area. Yes, even to embrace what we bring as a Democratic Party alternative today. In fact, I think this administration should be going beyond what we are proposing. They should come and embrace our alternative and, in fact, propose to go further. But they are not doing that because they show no comprehension of the scale of this economic disaster that has hit our country.

So they not only fail to come in with a program of their own, but they oppose the one that we offer today.

I would like to believe that if we could have a secret vote here in the Senate today, and if my Republican colleagues who understand this issue from the scale of desperation they see in their own States would be free to vote privately, without being under the pressure and the watchful eye of the White House, that, in fact, they would vote in favor of this program, knowing that it needs to be done.

It has been described today as modest. It is a modest program. It is a very modest program, both in terms of its financial size as well as its component parts. But it is a realistic program and it is a solid program. It is something we can do. It is something we can enact. It is something that could be creating jobs within a matter of days upon signature by the President.

It is important to note that we propose to pay for this not through the imposition of a 5-cent a gallon gasoline tax, which falls very hard on people in our country who must use their cars either to get to work, to get to the store, to get to the doctor, to get to the church on Sunday, whatever it may be. We do not go that route, because that is a tax right now which is a burden for many people of this coun-

try that they can ill afford. Instead, what we propose as a financing alternative is to delay for a 3-year period of time the third-year phase of the tax cut for people in the higher income brackets. We have done so not only because it generates more revenue but because it puts some equity into the tax picture which is presently missing.

It is our view that the country ought not to be reaching into one pocket of the Government and passing out enormous tax benefits come the middle of this year to wealthy people of this country who frankly do not need that kind of windfall again, and, in turn, reach out in the form of a new 5-cent a gallon gasoline tax and extract another tax increase to put into another pocket of Government at the same time.

These two acts are contradicitory, they are unfair, they are unsound, they ought not to be done. We would be much better deferring the third year of the tax cut for those at the high income levels and using that revenue over a 3-year period to pay for this jobs program.

I might further say, and emphasize the fact, that one component of our program is to provide additional emergency unemployment compensation benefits for those men and women who have exhausted their unemployment benefits and literally are destitute at the present time, who need, in the absence of an economic recovery, some way of holding their lives together and providing at least a minimum standard of living for their families.

We have not seen a time in the past with any other administration in contemporary history—Democrat or Republican—one so unwilling to respond to the unemployment emergency in this country than we see at the present time.

I can recall when we had economic recessions less severe than this and we had Presidents Ford or Nixon in the White House. They were willing, as the facts will show, to support extended unemployment benefits beyond what we have today because they understood at that time the absolute necessity of those kinds of payments to people who could not find work.

It was not until this heartless bunch arrived in town in this administration that we saw a fundamental change and, for the first time, an administration of either party which was not willing to respond fully to the emergency problems of unemployed people and unemployed families in this country.

It is a shame that it should be that way. I do not think that is the way the American people feel. I think the American people want to respond. They want to respond with a humane and a sensitive and a sensible impulse to this situation, both in providing jobs and, beyond jobs, to provide emergency help to those people who otherwise will go hungry this very night.

So the least we might do in this lameduck session is to address this problem.

I know I have heard from people in my home State of Michigan who followed the President's trip down in Latin America. He came back after announcing that we were going to be making emergency help available to the Government of Brazil, of $1.2 billion. That was a matter of 20-or-so days ago. According to today's newspapers, they have used that up now. They now want another $1.5 billion. Presumably, a response will be forthcoming.

But what about the State of Michigan? What about the State of Alabama? What about the State of Washington or any of the other 50 States? What about the American people in desperate need who need help, who need jobs, who cannot find jobs? Is our answer to them to say, "Sorry, we cannot do anything for you. We just cannot do it. This administration is not willing to do it. Sorry. Yes, we have money for other things. We have money for the MX missile, money for Brazil, money for anyone else who needs it, for everyone who is on the pet project list."

But when it comes down to some rank-and-file person who may have worked 30 or 40 years in this country and has lost their job, lost their house, lost their car, unable to feed their children, the answer to them is, "Sorry we cannot help you. Get the Sunday newspaper and check the want ads and find something for yourself."

That is the answer of this administration. I think the answer of this Senate ought to be something more than that. That is why we are here. That is why we have been elected and sent here, to try to deal with urgent and human national problems of this sort and this scale.

This program is modest enough. I say again, I think if we could have a secret vote—and many of my Republican colleagues could vote their conviction without worrying about crossing the White House—I think the votes are here to pass this package. If they are, they ought to be here in the cold light of day.

Let us pass this package because it is right, because it is needed, and because it is what we ought to do.

Mr. President, I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I thank my friend from Michigan for his eloquent remarks. I share with my colleague from Michigan, my seatmate from Connecticut, and the senior Senator from Massachusetts, their enthusiasm for the outstanding work of our distinguished minority leader, the Senator from West Virginia, in putting together this outstanding jobs package.

Mr. President, I rise as an original cosponsor of this amendment, and as one who has indicated serious concern about the issue of extended unemployment benefits during the past year.

The provisions of this portion of the amendment are really an emergency solution to address the problems of those who have exhausted their unemployment benefits or will exhaust them shortly. It does not address the serious inequities of the entire system. That is an issue that must be given more study, in a less restrictive time than a lameduck session of Congress.

As we all know, we added a maximum of 10 weeks of Federal supplemental compensation, or FSC, last September 12. It only takes simple arithmetic to realize that those who first entered that phase of benefits exhausted those 10 weeks on November 21. in other States, benefits ended at the end of 6 and 8 weeks.

What we propose today is to add 5 weeks of benefits to States with insured unemployment rates over 4 percent for a total of 15 weeks of FSC and a maximum of 54 weeks of total benefits, if a State qualifies for extended benefits. According to the latest figures from the Department of Labor, 28 States would receive the maximum in FSC benefits under this bill.

We would also add 5 weeks of benefits to States with insured unemployment rates between 3.5 percent and 3.99 percent, for a total of 13 weeks of FSC and a maximum of 39 weeks of total benefits. Eleven States would qualify in this category.

For States with insured unemployment rates below 3.5 percent, 2 more weeks of FSC would be added, for a total of 8 weeks and a maximum of 34 weeks of available benefits. Eleven States are in this category.

The division of States is as follows:

FSC EXTENSION ELIGIBILTIY AS OF NOVEMBER 27, 1982

15 WEEKS OF FSC

Alabama, Alaska, Arizona, Arkansas, California, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nevada, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, West Virginia, and Wisconsin.

13 WEEKS OF FSC

Delaware, Iowa, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Mexico, New York, Oklahoma, and Wyoming.

8 WEEKS OF FSC

Colorado, Connecticut, Florida, Georgia, Hawaii, Nebraska, New Hampshire, North Dokota, South Dakota, Texas, and Virginia.

The total cost of the program, which would still end on March 31, 1983, as originally intended, is $700 million.

It is inconceivable to me, Mr. President, that this administration can continue to turn its back on over 12 mil-

lion unemployed Americans. Not only does the President oppose extending unemployment benefits, something that previous administrations, both Republican and Democratic have supported, with unemployment rates far lower than the current, disgraceful 10.8 percent we now face.

This President also has made it clear that he opposes any labor-intensive jobs measure as well. He has repeatedly said that the highway package his party has proposed and he endorses is not a jobs bill. It was good of him to point that out. For, although it will put approximately 300,000 people to work, we obviously need to do more.

Perhaps it is appropriate at this time, to look at the unemployment compensation benefits that have been enacted in the past decade. It puts this proposal into an interesting perspective.

In 1971, with a total unemployment rate in this country of 6 percent under the administration of Richard M. Nixon the maximum benefits were increased to 52 weeks.

In 1974, under a Republican President, Gerald Ford, with a national unemployment level of 7.1 percent, a 13-week FSC program was enacted, for a total of 52 weeks of coverage and 26 weeks of federally paid benefits to 12 million workers. In 1975, the FSC program was extended to 65 weeks at a time when the unemployment rate was 8.8 percent.

In 1981, with unemployment continuing to rise, this administration and this Congress ended the national trigger for extended benefits, changed the method of calculating the insured unemployment rate, raised the extended benefits trigger by a full percentage point and established a 20-week work test for extended benefits.

What we are proposing would not reverse any of the changes implemented in August of 1981, although there has been considerable support demonstrated in this body for such a reversal. Our proposal is very modest by comparison—a maximum of 54 weeks of benefits at a time when the unemployment rate is the highest since the end of the Great Depression.

A December 4, 1982 New York Times editorial stated the following:

> This morning's front pages tell only part of the bad news: 10.8 percent unemployment, 12 milion Americans looking for jobs and more than a million others so discouraged they have given up looking. . . . More than half of those 13 million are not getting benefits from unemployment insurance. Beyond any 'jobs' programs, which do not create jobs immediately, and do not address the problems of those who continue unemployed, the Nation's unemployment insurance system is the safety net. It needs repair.

My friends, I say this to an administration which has spoken so eloquently so many times about the safety net that is afforded to the people of America: There is a hole in that safety net for unemployed Americans.

I hope that this Congress will not turn its back on people who genuinely need our help, particularly in this season of good will and giving. It will not be a very festive holiday season for those who have been trying to find work, to feed their families and regain the dignity that comes with a job and a paycheck, if they cannot even count on an unemployment check.

We all saw first-hand what this recession is doing to the people in our States, while we were home for the election recess. People in this country are really hurting. They are doing without basic necessities, losing everything they have worked their whole lives to obtain, standing in line for hours to get a pound of cheese or a single stick of butter, as was the case in Chicago on November 23, losing their homes, keeping their heat turned off because they cannot afford the utility bills, neglecting medical care for themselves and their children because they no longer have insurance and do not qualify for medicaid. The list is endless.

This is not a situation that can be ignored. We must exert some leadership and compassion for those who are enduring the most critical time of their lives.

That same New York Times editorial closed with something that I firmly believe is true:

> Unemployment, no less than poverty, is a national concern. New York didn't bring on the recession and neither did Alabama. The unemployed are the burden of all Americans.

I urge my colleagues to join us in adopting this amendment.

Mr. METZENBAUM. Mr. President.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to express my support for the amendment offered by the minority leader. In doing so, I want to address myself as agreeing to the fact of what this amendment is all about.

We have been here almost 2 years and in 2 years we have done absolutely nothing for the people of this country. We have done an awful lot to hurt the people of this country. The Reagan administration started off with harmful, hurtful measures and has not had the milk of human kindness to recognize the problems that exist out in America today.

First, this administration started off with a host of budget cuts to cut back on people-oriented programs. Oh, that was going to be great for America. I do not have to tell my colleagues that it has not been great for America.

Throughout the entire Nation and every night on the TV tube, you can see more instances of people concerned about programs that would help them, disability benefits being slashed, food stamps being slashed, Government student loan programs being slashed, and even an effort to cut social security benefits.

This administration was not satisfied with just cutting back on all the human service programs. They were determined to and did very effectively make it possible with the tax bill for those who have the wealth of this Nation and who are still earning it, as few as they may be, to get by without paying their fair share of taxes. So they slashed the tax programs of this country.

Most Americans are not aware of what they did. They cut the maximum tax from 70 percent to 50 percent.

That was great for the unemployed workers for this country. And they cut back drastically on the estate taxes. That was great also for middle class and poor Americans who do not have any estates to pay taxes on. And they cut back on the capital gains tax from 28 percent to 20 percent maximum, a slash of better than 25 percent, and all the time saying that they are concerned about what is happening to America, meanwhile causing so much harm and hurt to the people of this country.

Now we find in the closing days of this session that the minority has come up with a program that would make a major step in alleviating some of these problems.

I am a realist. And I recognize what will probably happen, that the very same Members of this body on the other side of the aisle who just were out on the campaign trail telling their constituents they are concerned about their problems will make a political vote and vote no. But the fact is there are 19 of them on the other side of the aisle who will be held to account in the coming election in 1984, and I wonder what their vote will be, whether they will make the political vote and vote no on the Byrd amendment or whether they will do that which is right, fair, and decent and say: "Putting politics aside it is time for us to provide some assistance to the people of this country. It is time for us to provide some sense of fairness and equity."

I support this amendment. It would undo a small part of the damage that has been done to this country by the misguided economic policies of the Reagan administration.

When this amendment came to office the unemployment rate was 7.4 percent. We have almost a 50-percent increase. Today 10.8 percent of Americans are without jobs and that figure does not include the hundreds of thousands who have simply given up looking for work.

In my own State of Ohio, Mr. President, unemployment is running at the catastrophic rate of 14.2 percent. Sta-

tistics do not really mean very much. But when you realize that one out of every seven people who want a job are unemployed in the State of Ohio then maybe it gets closer to home.

The 2 million Americans who have lost their jobs since the Reagan administration came to office are not people who do not want to work. How many times have I heard the members of the majority party talk about the fact people do not want to work, they are lazy, they are indolent? But there are 2 million people who were working and who would like to go back to work and a lot more besides them and they cannot find a job by reason of this administration's program.

It is bad enough to have programs that do not work. It is a lot worse when the leadership of this country does not care and smiles every night on the TV tube to reassure the people that somehow things are going to get better. But that does not put food on their tables. It does not put clothes on their backs. And if does not help them send their children to school.

The people who are unemployed have always worked. They are the new unemployed. They are people who paid their taxes, people who deserve much better from their Government than they have so far received.

Every month nearly 350,000 people in our country exhaust even that meager amount that they receive in unemployment benefits.

I commend the Senator from Illinois and the Senator from Michigan, both of whom have worked with me in an effort to extend unemployment benefits. I support the extension of unemployment benefits contained in this bill and any further extension as well, but what the people of this country really want is an opportunity to work. They want a job.

These are people who do not need a patronizing remark from the White House officials about their motivation. They need jobs.

In 2 short years, this administration's programs continue to cause more and more people to be on the unemployment roll.

Some say, yes, but look what has happened to the stock market. Is that not wonderful? It does not help the poor and middle class Americans to see the stock market go up at the same time that the unemployment rolls of this country go up.

This is the first administration since Herbert Hoover to refuse to put forth a plan to stimulate employment. Instead of action, this President offers platitudes about "staying the course."

Last November we heard a message from the heartland of this country, a message to change the course.

The people in my home State know the real meaning of 14.2 percent unemployment. They understand the personal and family tragedies behind the bankruptcy statistics.

In that connection, Mr. President, it is rather odd, rather ironic, that the only answer that this administration and the leadership of this Senate has to deal with the problem of bankruptcies and more and more bankruptcies is to change the law so that fewer people can go bankrupt.

One would start to laugh about that if it were not so pathetic. But that is the reality. There is a bankruptcy bill waiting here to come on the floor making it much more difficult for those poor unemployed blokes to go bankrupt.

Why do we not find an answer to keep them from having to go bankrupt rather than trying to deprive them of their right under the law as it is today?

Today we have an opportunity with this amendment. But we also have a responsibility to begin to change the Nation's course. What is the Republican highway proposal? It is not a jobs bill. Even those who are on the highest authority in this administration say that if it creates 300,000 jobs it will also deprive 300,000 Americans of their jobs.

It is a regressive tax, no more, no less, another instance of take it out on those people who do not have adequate lobbies working for them here in Washington. Like so many other proposals of this administration its burdens fall most heavily on those who are least able to pay.

It is not enough to say that it will create some new jobs, it will be rebuilding the infrastructure, because you have to finish the sentence and indicate that many people who are out looking for jobs and paying their gasoline bills will have that much less to buy their gasoline with and those who are employed are going to have that much less to feed their families with if they drive to work when you have a regressive nickel-a-gallon tax.

The Democractic alternative makes sense. It is logical. It is well fashioned. It would provide an additional 400,000 jobs. It would provide 5 additional weeks of unemployment benefits. It would provide job training for dislocated workers. It would provide employment for senior citizens. And it would provide work rehabilitating public housing and reclamation of abandoned coal mines and reforestation.

It is not all we should do. We should go much farther than that. But I am hopeful that maybe there are some on the other side of the aisle who will see fit and say "Come along and support this measure because it is right." It is a modest proposal and one designed to touch the most needy of this society. And it would be financed fairly by delaying the third-year tax cut to those who earn over $50,000 per year.

I will leave it to others who will follow me on this floor today to address themselves to the fairness of the financing method with respect to this amendment, but suffice it to say this is an alternative that is right. It is an alternative which is fair and far reaching.

I urge my colleagues to change the course and to put our country back to work and forget the political label under which they sit in this body and to vote for an amendment that truly makes sense and provides some equity and also provides some jobs and some decency in our national policy.

Mr. BRADLEY. Mr. President, I rise in support of the amendment offered by the minority leader.

This initiative has two purposes: To start long-overdue repair of the Nation's badly worn infrastructure and simultaneously provide at least 400,000 jobs for Americans unable to find work because of this protracted recession.

We need to insure that our physical and human resources remain the best in the world. If our country is to remain competitive in international markets, passage of this amendment would be a step in the right direction.

The program has five main components, with a total cost of $5.3 billion in 1983.

First, it authorizes $1 billion for the repair and rehabilitation of sewer and water facilities. This money would be used only for existing systems.

Many of the water systems in cities across the country are over 100 years old and they are deteriorating rapidly.

(Mr. CHAFEE assumed the chair.)

Mr. BRADLEY. In many cases the systems leak badly. Storms commonly cause sewers to back up and ground water to seep into systems, both serious public health dangers. Not only does this frequently waste scarce resources but it also hinders our economic growth.

What is this administration doing in response to this serious problem? Under current Environmental Protection Agency programs we will spend approximately $2.4 billion in each of the next few years to improve our water systems.

Mr. President, this is woefully inadequate. In my State of New Jersey alone more than 200 communities will need over $2 billion during the next few years just to meet their own needs. In fact, one community, Jersey City, had its main water main break last year leaving the city of over 100,000 citizens without water for over 10 days.

Mr. President, in New Jersey we also have a plan for financing the needed infrastructure investment, a plan based on the premise that Federal funds are simply not adequate to address national needs for construction

and repair of waste water treatment facilities, highways, roads, and bridges.

New Jersey proposes to combine the limited Federal and State moneys that currently are available for direct grants and use them instead on a revolving loan basis. These moneys will be deposited in an infrastructure bank that would function much like a commercial bank. Its assets would be managed professionally and would earn interest, thus increasing the total money available. Its customers—State, county, and local governments, would apply for funds in the same way they now ask for a Federal grant and, if approved, would receive these funds at low or no interest.

As the loans are repaid, the proceeds would go back into the bank, providing capital for new projects. These loans would be financed on the local level through user fees.

New Jersey hopes to get the seed capital for the bank from Federal grants such as those included in this amendment, from EPA construction grant programs, from proceeds from authorized bond issues, and State appropriations.

Mr. President, this amendment includes language permitting States to use funds authorized by this legislation for infrastructure bank purposes. Subsequent legislation will be proposed to enable States to use the EPA construction grant money as well.

I think this is an excellent idea that deserves consideration. In terms of the EPA construction grant program alone, New Jersey estimates that this plan will enable the State to finance all 237 projects on its sewer priority list. Under the current grants system, the State would be able to finance only 11.

It will not in any way alter or limit Federal authority with regard to the construction grant program. Projects funded through the bank will still be subject to existing eligibility criteria and approval by EPA.

Second, the amendment would create a $2 billion labor-intensive community public works program to provide short-term jobs for about 300,000 unemployed persons who have been out of work so long that they cannot claim any more unemployment benefits. The funds would be used for community repair, weatherization, and rehabilitation of school buildings.

The money would be distributed quickly through the well-established community development block grant program. We would need no new bureaucracy or additional redtape. Work could begin within 3 months because there is now a tremendous backlog of community development projects awaiting funding.

I want to emphasize that these would not be dead end, make-work jobs. The economic health of our country demands improvement of our infrastructure. We have real work to do. Millions of people are ready and willing to do it.

The third component of the package would provide an additional $840 million for high priority jobs and retraining programs for about 100,000 unemployed persons. Included would be:

A $200 million program to provide retraining opportunities for about 60,000 skilled workers permanently laid off in declining industries.

An increase of $100 million to provide 20,000 more jobs under the senior citizens jobs program, which currently provides about 50,000 part-time jobs to low-income persons over the age of 55.

A $100 million program of reforestation and timberland improvement similar to the Civilian Conservation Corps (CCC) of the New Deal. It is estimated that this effort would aid at least 5,000 unemployed workers in the timber industry.

A $400 million program that would put at least 10,000 unemployed people to work on rehabilitation of public housing projects, where a multibillion-dollar backlog of repairs has accumulated.

A $40 million program to hire about 10,000 unemployed coal miners for reclamation work on abandoned coal mines.

Mr. President, the fourth component of this package would extend unemployment benefits for about 1 million long-term unemployed persons.

In September, despite initial objections of the President, we enacted the Federal supplemental compensation program to provide an additional 6 to 10 weeks of unemployment benefits beyond the existing levels. This amendment would provide an extra 2 to 5 weeks of benefits. In other words, instead of 6 to 10 weeks of additional benefits, an unemployed individual would be eligible for 8 to 15 weeks of benefits.

This is the least we should do for those hardest hit by the current recession. This provision would help many families get through the holiday season before their benefits run out.

Mr. President, the unemployment rate in New Jersey presently stands at 9.9 percent. Contrary to the view of some people in the administration, they need no special incentive to look for work. They are looking, but the jobs simply are not there. The unemployed in my State—and others—deserve these few minimal weeks of protection.

Fifth, the amendment would provide $750 million for the agriculture export credit revolving fund. These funds would be used to finance commercial export sales of American agricultural commodities and breeding livestock.

Finally, Mr. President, we offer a fairer way to finance these initiatives. Instead of the gasoline tax increase, which will raise about $17 billion over the next 3 years, we propose to raise $25 billion in revenues over the same period by modifying the third year of the Kemp-Roth tax cut. The higher revenues will more than pay for our $5.3 billion jobs initiatives.

Under our proposal, the third year of the tax cut would be postponed 3 years for couples with income over $65,000 and couples with incomes between $50,000 and $65,000 would receive only part of the 10-percent scheduled tax cut. It is important to note that couples with incomes below $50,000 would still get their full 10-percent tax cut in July 1983.

This proposal, very similar to the one I sponsored last summer during deliberations on the tax bill, restores a measure of equity to the system. The jobs programs, aimed at helping persons most seriously hurt by the President's program, would be financed by delaying additional benefits to upper income individuals who have already benefited dramatically from the 1981 tax bill. When we must decide who benefits from scarce revenues, we should opt for those who are struggling to make ends meet.

Mr. President, the package we are offering today is a fair and fiscally responsible way to address two problems at once: We can begin to repair our crumbling infrastructure and provide jobs for the unemployed.

Mr. President, I therefore urge adoption of the amendment, but I urge adoption of this amendment recognizing that the 400,000 jobs that are created by the program embodied in this amendment are not the answer to the 12 million people who are out of work in the country today. We are in the deepest recession since the Great Depression, with unemployment at nearly 11 percent, with an additional 2 to 3 million discouraged workers and an additional 5 to 6 million people who are underemployed, only able to find part-time work but desiring full-time work. We are in an extremely serious juncture in this economic cycle.

If you are looking for the normal forces that usually pull us out of our predicament, none of them is apparent in guaranteeing success. Take capital investment: Capital investment is not going to fuel this recovery with a 65-percent plant utilization in our country today. Businessmen simply are not going to invest in new facilities when 35 percent of their existing facilities are vacant.

Take exports, another probable engine for recovery: Exports are not going to do the job when our products are 40 percent overvalued due to the increase in the value of the dollar in the last 18 months, in large part due to the very high-interest rates in this country.

Take Government spending: We are clearly not going to employ 4 to 5 mil-

lion Americans in Government-program jobs. This amendment addresses the question of 400,000 workers, but with a $200 billion budget deficit it is clearly inconsistent with economic growth to argue that you can employ 4 million Americans.

That leaves consumer spending, Mr. President. Consumer spending in the 1970's did indeed fuel a growth that was unfortunately inflationary but, nonetheless, provided jobs for Americans.

Consumer spending is not going to do the job in this particular recession. Across the country today you find the phenomenon of citizens saving instead of spending, looking at the inflation rate dropping and believing that next year it might be lower, so withholding that consumer spending that is absolutely necessary if indeed consumption were to be the engine of recovery.

So, Mr. President, since we are in a deep recession and none of the normal engines of recovery look likely to move us down the track, what offers the prospect of providing relief? In my view the answer lies with the Federal Reserve and in the interest rates. I know that the minority leader will be offering an amendment on interest rates in the next couple of days or the next couple of hours or perhaps the next couple of minutes.

Mr. DOLE. The next couple of minutes.

Mr. BRADLEY. As the distinguished chairman of the Finance Committee states, in the next couple of minutes, hoping we can debate these things simultaneously, perhaps.

But the simple point is this: only with the decline in interest rates are we going to be pulled out of this recession. You see, interest rates in a real sense are still intolerably high, exacting a price on the economy.

Mr. President, it is my view that interest rates are going to come down for two reasons: first, they are going to come down because I think Chairman Volcker sees 12 million people unemployed, recognizes his role in getting money into the economy and people back to work, and he takes that seriously.

But on a much more global sense he recognizes that unless our economy does recover he is the lender of last resort. He recognizes that unless America starts to grow, the exports the countries around the world need to sell, will not be bought and the loans American banks have offered and given to countries around the world will not be repaid, and that when those banks start to fall or totter or weaken, it will be the Federal Reserve that will have to step in. It is this latter point, I believe, that is primarily responsible for the precipitate decline in interest rates since last August.

The PRESIDING OFFICER. I wonder if the Senate will be in order? Let us desist with the noise in the Chamber so that the Senator can be heard. The distinguished Senator from New Jersey is speaking and we want to hear what he has to say.

The Senator may continue.

Mr. BRADLEY. I thank the Chair for his sensitivity.

As I was saying, the interest rates are going to come down because Chairman Volcker sees that as lender of last resort he cannot possibly cover all the open bases and that indeed the result will be a dramatic contraction in the availability of loanable funds, further perpetuating us through the inflationary door into a very dangerous period not only of slow growth but almost no growth.

So, Mr. President, this amendment is not offered with the belief that it is the answer to 12 million people out of work. Interest rates are going to have to do that job. We think they will. We think they will continue to come down. We will follow the action of the Fed to assure that interest rates come down.

But Mr. President what this amendment does while we are waiting for the economy to grow, as we hope it will, by summer, is to say that for 400,000 people out there in the country who do not have work today we want to provide them work. For those who have lost their unemployment benefits we want to recognize their human suffering. This is a modest proposal, a prudent proposal, one that is financed out of the pockets of those who can afford to finance these jobs.

So, Mr. President, I would argue that above all this is a proposal consistent with and, indeed, aiding the prospect of long-term economic growth, and for that reason alone, as well as the many human reasons mentioned on this floor today, it should be adopted.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. BRADLEY. I am honored to have the chairman of the Budget Committee ask a question.

Mr. DOMENICI. As I understand it, this proposal is not yet before us in written form. It is a rather lengthy proposal, and I am not critical of the fact that it is not before us. Did I hear the Senator from New Jersey state that in the proposal there is an effort to adopt some part of the infrastructure bank that the Governor of New Jersey, the distinguished Governor Kane, has proposed in his State? This would be an infrastructure bank for financing of water and sewer programs. That also could ultimately be used for other purposes.

Mr. BRADLEY. The Senator is correct.

Mr. DOMENICI. I heard the Senator say that. I wanted to say to him that the Senator from New Mexico for many reasons cannot support the proposal pending. I will not support the pending amendment. But I do want to say that I have not only studied that proposal for about 2 months, but I have met at length with members of the staff of your Governor, the distinguished Governor Kane, on at least two occasions and with the Governor himself concerning this.

It is extremely difficult to incorporate it into the national structure. But I want the Senator to know that I have looked at it and my staff has looked at it at length. It is being examined to see how it might be applied. I think it is an exciting idea. I am hopeful that in the ensuing months we can look at it more closely.

I would make one observation. I do not know if the Senator from New Jersey has mentioned this. It is obvious to the Senator from New Mexico that when we speak of public works from the standpoint of the U.S. Government we usually refer to grants for capital improvement. Grants that we pay in whole or in part—and for the most part they are only part—for a capital improvement that a local unit of government needs. It appears to me, at first blush, after examining the tremendous financial genius that has been applied by the Governor of your State and his advisers, that perhaps we have been extremely shortsighted in having very many of our capital improvement programs be outright grants. I am not sure yet.

On the surface, it appears that a grant program, which funds the water and sewer or sewer disposal plants or sewer cleanup plants, that is now down to 55 percent of the cost that we pay for as a grant, it would appear to the Senator from New Mexico that we ought not be doing that. It appears that we ought to be moving in some direction where funds are pooled and become available as a perpetual kind of financing fund. Thus we would enormously expand how much would get done. In a very short period of time, with far less money, we would accommodate much more of the capital improvements that the States need.

I am not sure that the infrastructure bank proposal is an expedited job-creating program or an emergency job-creating program, but it is obvious that it is an infrastructure financing mechanism worthy of great consideration. And the Senator from New Mexico, if no one else is looking at it, is looking at it.

I cannot believe that we are ready to adopt it today in this bill. Nonetheless, I certainly do not pass judgment on that from the standpoint of this institution. They will vote.

But I would think that it has so much potential. Yet, much new analy-

sis, in terms of how we might implement it, and what should be in it, must be done. I would certainly hope that the fact that it would be voted down today, if it is, as part of a very major package that has that bit of innovativeness, along with a great deal of business as usual, the same kind of solutions to jobs that we saw for at least 15 years, would not prejudice my efforts to present it, not only here but hopefully to the administration and to others in an effort to do something significant and different.

I thank the Senator for his comments on it. I wanted to rise to merely express myself in that regard.

Mr. BRADLEY. Let me express to the Senator from New Mexico my appreciation for his interest and support of this effort. It is clear to him, as he sits on the Budget Committee, and it is clear to me, as I sit on the Finance Committee and try to deal with these problems, that if we are truly going to have an infrastructure program, which means dealing with the old deteriorating sections of the country as well as the burgeoning new sections of the country, that we are not going to be able to do that solely with money coming from the Federal Government.

The key point, as the Senator has correctly pointed out, is how do we leverage what moneys we have at the Federal level into producing more jobs and work at the State level? In programs such as UDAG or EDA grants, it is the concept of leverage that is the key; in the infrastructure bank idea that is developing in New Jersey, it is also leverage that is the key.

I do not dismiss the possibility of changes in the proposal offered in New Jersey at this time by the Governor or his staff. I am sure the Congress is going to rework the proposal. But it is the direction that is important.

I am heartened today to hear such interest from the Senator from New Mexico. I look forward to working with him on this in the future. I think that this amendment, as a part of the larger amendment on the floor at this time, should in no way—whatever occurs to this larger amendment—prejudice the eventual development of the infrastructure bank idea perhaps on a national scale.

So I thank the Senator again for his comments. I urge again the adoption of this amendment. It is important, consistent with economic growth and the human needs of our country.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, at the outset I want to join with others in commending Senator BYRD, the distinguished minority leader, for his consistent and dedicated efforts in helping to shape the substitute proposal now before us—to consider the economic circumstances.

Mr. President, it is important in evaluating this substitute to consider the economic circumstances in which we find ourselves. Just 15 days ago, the Joint Economic Committee received the latest unemployment figure for the Nation, it is at 10.8 percent; 10.8 percent is the highest unemployment rate we have experienced in this country since 1940, 42 years ago. We face today unemployment so high that, to be matched, one must go back to the end years of the Great Depression. The tragedies which are haunting our people today because of this extraordinarily high unemployment are reminiscent of our national experience during the Great Depression.

Sixteen months ago, in July of 1981, the unemployment rate in this country was 7.2 percent. Now, under the President's program and under his admonition to stay the course, we have seen unemployment increase 50 percent in that 6-month period, from 7.2 percent in July of 1981 to 10.8 percent in November of 1982. That unemployment rate translate into 12 million people looking for work and unable to find a job. In addition there are millions more working on a part-time basis who want to work full time. Furthermore, there are a record number of people who are so discouraged that they have dropped out of the work force and, therefore, are not even counted in the unemployment figures.

So you have a 42-year record unemployment at 10.8 percent, you have a record figure in terms of those so discouraged they have dropped out of the work force and are no longer looking for a job, and are not counted in the unemployment rate and you have a record number of people on part-time work who want to work full time. It is a devastating unemployment situation.

On top of these record numbers, a large part of our unemployed population has exhausted their unemployment benefits and many others are fast approaching that situation. Furthermore many, when they lose their job, they lose their health benefits. They immediately then become completely vulnerable to the economic catastrophe that comes with illness. Millions of our citizens are now facing bleak, bleak prospects.

Mr. President, the proposal which is before us is an effort to address a pressing national tragedy. The millions who are unemployed cannot wait. There is not a course on which they can stay. Indeed, they have fallen off the course. They are out of a job. They have no income. They are losing their homes. The figures on home mortgage foreclosures and delinquency in home mortgage payments are at a record high since the depression; business bankruptcies, the same thing; farm mortgage foreclosures, the same thing. We must address this problem. And the proposal which is before us, offered by the distinguished Senator from West Virginia, is a sensible effort to do that.

This proposal encompasses both the highway provisions and the mass transit provisions contained in the legislation brought forward from the committees. What this proposal does is add to those provisions a number of job-producing provisions. These are programs that are desirable in and of themselves in terms of what they accomplish in addressing the Nation's problems—first, repair of our water and sewer infrastructure, a matter which was addressed just before me by the distinguished Senator from New Jersey; second, labor intensive community public works programs, funded through the community development block grant program and able to go into effect immediately; third, retraining of displaced workers; fourth, employment for our senior citizens; fifth, reforestation and timberland improvements; sixth, rehabilitation of public housing, which is deteriorating badly. Yet another example of using up the very physical capital we have managed to build over the years; seventh, reclamation of abandoned coal mines; eighth, an effort to boost agricultural exports and thus provide some assistance in the rural areas of our country; and ninth, further weeks of unemployment insurance in order to provide at least some support for those who find themselves now confronted with the most difficult question of all—how can they and their families live when they are out of work and have no income.

Men and women are losing their homes. People who have worked 25 or 30 years without a break or interruption now, for the first time in their working lives, find themselves out of a job. They have used up the unemployment benefits which this administration has reduced. They now find themselves losing their homes, the only real equity they have been able to accumulate over the course of a working lifetime.

It is no longer adquate to talk in terms of when the recession ends. The question has become if the recession will end. The monthly unemployment figures continue to climb—10.8 percent last month, 10.4 percent the month before, 10.1 percent the month before that.

We have a Secretary of the Treasury who, beginning more than a year ago, said in the fall of last year the recovery would come in the winter, in the winter the recovery was going to come in the spring, in the spring the recovery was going to come in the summer, in the summer the recovery was going to come in the fall. Here we are, and no recovery. We are constantly told

things are going to get better, instead they get worse.

Mr. President, this substitute is the beginning of an effort to put our people back to work and I strongly urge this body to support it.

Mr. President, there is one other aspect of this substitute that I want to address. That is how it proposes to finance the programs.

It is clear that the proposal before us goes well beyond what has been reported by the committees in terms of trying to address the job needs in this country, and it does it with a range of programs, each and every one of them desirable in their own right in terms of what they will accomplish and achieve. The substitute goes well beyond what has been proposed by the committees in trying to provide additional jobs to get our people back to work and to address our Nation's critical unemployment problem.

In its funding provision the substitute addresses the very central issue of fairness, of equity in the operation of our economy. This substitute would fund the entire range of these programs, both the additional job programs and those reported by the committees, by reducing the amount of the tax cut proposed for the third year of the President's program for those receiving between $50,000 and $65,000 of income, and deferring it for those above $65,000 for the next 3 years.

I submit that there is no basis in equity or fairness why those at the very top of the income scale should be receiving further tax benefits when we have millions out of work for whom jobs need to be funded. That is what this package seeks to do. It does not place an additional tax upon working people, as the gasoline tax proposal would do. It recognizes that one of the major effects of the President's economic program has been to markedly shift economic benefits to a very small privileged group at the top end of our economic scale, and to throw burdens upon millions of middle-income and working people in this country.

The President's approach is simply not fair, and it is time that we recognize that the American people will not accept an economic program which calls for sacrifices from working people and middle-income people and gives additional privileges and benefits to those who already find themselves at the very top of the economic pyramid.

What is wrong with deferring the tax cut for those at the very top of the economic scale in order to provide the revenues to fund a jobs program designed to put our people back to work?

It is time that a sense of equity and fairness reassert itself in this Chamber, and this proposal today accomplishes that very simple objective. It puts the American people back to work and it does it in a fair and equitable fashion.

I urge my colleagues to support the substitute.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me commend the minority leader on his amendment. For all the reasons which have just been so eloquently stated by my friend from Maryland this amendment should be adopted. Without this amendment, this is not a jobs bill which is before us. That is the critical point. Without this amendment of the minority leader the gasoline tax bill before us is not a jobs bill. As a matter of fact, without this amendment for some of our States this gasoline tax bill is a jobs export bill.

The State of Michigan is one of those donor States. We have been on the losing end of this deal for many, many years. As I look at the Senator from Texas, I know he has done a good deal in this session to try to correct it, with some success, may I say. He has been doing extraordinary work.

But the State of Michigan, I am afraid the facts are, has been receiving back about 83 cents of the dollar. We have been exporting about $63 million a year under the gasoline tax formula—$63 million a year for the last 15 years. We cannot afford that kind of hemorrhaging in a State with 17.2 percent unemployment. We simply cannot afford it.

Even though my good friend from Texas has done great work in building in a floor of 85 cents back on each dollar sent to the Federal Government, I am afraid that means that States like Michigan, instead of being 17 feet under water, are only going to be 15 feet under water, and we are drowning still.

So despite that effort by my good friend, this gasoline tax bill, without the minority leader's amendment, is not a jobs bill at all, but, again, leaves States such as Michigan with a jobs export bill.

The President talked about a user fee, that people who use the highways ought to pay for them. Indeed, that makes sense. The trouble is that for the donor States, in the bill before us the people who are using the highways in our States are paying to build highways in other States. With the kind of unemployment we have in Michigan, we simply cannot afford a jobs export bill.

So this amendment adds the jobs component. It is a coherent response to the disastrous economic situation which confronts our country. The country demands immediate action and this amendment would provide that action.

Mr. President, we have a full-blown depression in Michigan. With all the semantics as to what constitutes a recession—is there a recession; are we on the verge of a recession—we have a full-blown depression in my home State.

The unemployment rate in Michigan now exceeds 17 percent. Some economists are now predicting that the nationwide unemployment rate may go above 11 percent nationwide.

For my State, this will mean that the already intolerable suffering will become even more extreme.

I just looked through the current computer printout of the unemployment data for Michigan townships. Let me tell you, the unemployment rate has already exceeded 20 percent in far too many. Something must be done.

This package which is being offered today looks to the need for action, both in the short and the long run. As a first step, we must extend the period of eligibility for unemployment benefits which individuals are currently receiving under the Federal supplemental benefits program which was enacted as part of this year's tax.

Individuals are now exhausting their benefits under that program in record numbers, and all that has happened in the meantime is that the nationwide unemployment rate has increased from 10.1 to 10.8 percent. In my State of Michigan it has increased from 15.9 percent to 17.2 percent. It is only reasonable that the Congress respond to the worsening jobs picture, as we have twice in the early seventies, by increasing the period of eligibility for unemployment benefits in order to assist those who have been unemployed for a substantial period of time, and those who are still looking for jobs but for whom no jobs can be found.

Mr. President, if this ccmprehensive amendment is not adopted, I intend to offer, with help on both sides of the aisle, this portion of the amendment that relates to the extension of the period of eligibility for unemployment benefits.

I am determined that before this session of the Congress ends we have an opportunity to vote on at least this portion of this comprehensive amendment. I state that determination because of the blood that is being sold by my people in Michigan to pay for food for their children. The blood donor banks in Michigan are receiving record numbers of blood donations from unemployed people to receive a few dollars from each little bit of plasma that can be used to buy food for their children, people who have run out of unemployment benefits.

Again, Mr. President, I am determined that before this session ends we have an opportunity to vote on the extension of unemployment compensation benefits. If this amendment fails,

I will be offering an amendment which contains the extension of the unemployment compensation benefit portion of this amendment to the Senate either on this bill or on the continuing resolution.

This is an amendment which has been supported by so many people in this Senate on both sides of the aisle—Senators DIXON, METZENBAUM, RIEGLE, and others. But again, I will be offering this before this session ends, and I am determined that we have the opportunity to vote on it; that it not be tabled; that it not be subject to a point of order, assuming that the cloture petition is finally filed on this bill or some other bill; that before the continuing resolution is finally voted on we have the opportunity to look at the unemployment benefits issue.

This package also provides $2 billion for the creation of 300,000 jobs in community public works programs. These are jobs which can be filled in the very near future and which will be directed toward improving the Nation's public capital facilities. It is true that when compared to 12 million unemployed, 300,000 is just a small poercentage. But for the person receiving a job under this program, its benefits are very real and significant.

For displaced workers, a prime concern in my State of Michigan as it is throughout the country, this amendment provides $200 million for advance funding under the Job Training Partnership Act to retrain and relocate skilled workers from industries such as auto and steel. In 1978, the employment level in the U.S. auto industry was over 750,000. Now it is set at 448,000. Certainly, when the economy picks up, some of those jobs will return. But we have to recognize that it is unlikely that every currently unemployed autoworker will be able to find reemployment in the auto industry. It would be cruel to create the illusion that expanded economic growth will be sufficient to totally revitalize the auto industry and bring it back to its highwater mark. That is why it is important to take steps now to institute a retraining program on an accelerated basis.

Finally, this package modifies the third year of the tax cut and, thereby, not only funds the jobs initatives, but also provides additional revenues to reduce the deficit. This modification would preserve the third year of the tax cut for most Americans, and ask for a measure of sacrifice from those upper income individuals who have thus far benefited disproportionately from the tax and economic program. The goal here, then, is to take a step which would reduce the deficit so that the private economy can expand without being crowded out, and ultimately stalled, by massive Federal borrowing.

I urge my colleagues to support this package. While it is true that it is being offered from this side of the aisle, I believe that it is consistent with the concerns which were expressed by a majority of Americans in the recent election. They spoke out loudly and clearly that unemployment is too high and that action must be taken to alleviate the suffering it is causing. Passage of this package will enable us to show them that the U.S Senate is listening.

I thank the Chair and I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am not going to take much of the Senate's time this evening. I think the issue is joined. I think Senators have studied the amendment. They have made up their minds. I should however, like to make three very brief points.

First of all, we all know that this underlying bill, indeed the amendment offered by this side, is not going to send Americans back to work. It is not going to lower unemployment immediately down to 6.7 percent. It is not going to find jobs immediately for the 12 million who are unemployed. We all know the essential reason why we have such high deficits which drive up interest rates. The essential reason why people are unemployed is due to the high interest rates. We have to get budget deficits down and we have to get interest rates down. A lot of it has to do with the Federal Reserve's monetary policy. I think Chairman Volcker is beginning to realize that lower interest rates, expanding the money supply slightly, is the course that he must pursue if we are going to begin to get unemployment down and lower deficits so we get America moving again.

I want to draw the Senate's attention to two of the nine points that are listed in the components of the Democratic program. The first is the last point, No. 9, agricultural export stimulus. That is earmarked at $750 million.

Mr. President, this portion is very simple. It is designed to help stimulate agricultural exports. It is $0.75 billion to the CCC revolving fund, and as a revolving fund it is not going to add to the deficit. It is a credit program. Credits are extended to overseas buyers of American agricultural products. With the purchases of American agricultural products, wheat, feed grains, et cetera, we are able to help our farmers; we are able to get more agricultural products overseas at no cost to the deficit. Indeed, it should create over 26,000 jobs, as well as expand our agriculture markets. Every $1 billion increase in agriculture exports generates some 30,000 jobs in the United States.

I cannot see, frankly, Mr. President, why anyone would oppose this because it is a no cost program. There are not very many of those around.

The other point is No. 6, reforestation and timberland improvement. This is $100 million. It is not a lot of money but it is a step in the right direction—to spend more of our effort to timber stand improvement and reforestation.

Today, Mr. President, there is a some 1.7-million-acre backlog in timber stand improvement. Presently, the Forest Service has budgeted about 400,000 acres only of timber stand improvement. That is less than a fourth of the backlog. This amendment, $100 million, is divided up into several components. Part of it is road repair and construction, part of it is facility improvement, and only $20 million of it is earmarked for timber stand improvement. That $20 million, Mr. President, will add another 200,000 acres at least to our reforestation program. That is a capital expenditure. That is, timber stand improvement. We are going to increase the productivity of the forests. That is critical. We all know one of the areas where unemployment is the highest is in the Northwestern States of our country. Those are States dependent upon the forest products industry. That industry is dependent upon houses, and that, of course, is dependent upon lower interest rates. It is high mortgage interest rates which cause the decline in the housing program. It is the dramatic decline in the housing program which has thrown hundreds of thousands of Americans out of work in the forest products industries States, particularly in the Pacific Northwest. Those States are States with very high percentages of public lands where timber sales will help the forest products industry as opposed to other parts of the country where there are fewer public lands.

If we can increase the productivity of our forests, that is, as a capital expenditure, we are going to help increase the supply of timber available to the forest products industry when interest rates begin to decline. In the meantime, Mr. President, we are putting Americans to work with timber stand improvement, with reforestation. Sure, it is temporary, it is a stop gap program, but it is a temporary stop gap program that makes sense. It is not a make-work program by any stretch of the imagination.

I strongly urge the Members of this body to support the underlying amendment. It is a good amendment. It is not going to solve all our problems but it is certainly going to help put Americans back to work immediately, in the short run, and also it is going to help us to buy a little time so that we can direct our efforts, when we meet next year, to solving the fundamental problems. The fundamental

problems involve disparate rates between the United States and other countries, the yen and the mark and the franc, for example. Problems also revolve around differing export policies of various countries. We in the United States I think are being taken advantage of in this regard. Fundamental problems revolve around efforts in the United States for management, labor, and government to join and work together. There are many fundamental problems we have to address. They are not easy, they take lots of time and effort, but certainly the passage of this amendment will buy some time so that we can begin next year to get to the heart of the matter. I think, Mr. President, that we owe our country no less; that we certainly owe it more if we can do it in the remaining few hours. I strongly urge my colleagues to support the amendment.

Mr. President, I yield the floor.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, the administration proposal does not address the critical situation which exists on the Nation's farms, I am supporting this alternative package principally because I believe that any emergency economic plan should address the needs of agriculture. An integral part of the Democratic alternative is an appropriation for the agricultural export credit revolving fund.

Agriculture is the largest industry in this Nation. Agriculture employs more workers—23 million—than any other industry and is larger than the auto, steel, and housing industries combined. One out of every five jobs in private enterprise is related to agriculture. About 20 percent of the gross national product is generated by agriculture.

Agricultural exports are the one aspect of U.S. trade which has kept the overall trade deficit from increasing any further. Indeed, in 1982 alone, the agricultural trade surplus decreased the overall trade deficit by $23.74 billion.

Over the past two decades, the value of agricultural exports has grown from $4 billion in 1960 to over $40 billion in 1980. However, the U.S. share of the world market for certain commodities has declined recently due to subsidized competition from the European Community and other nations. For example, the EC's share of world wheat trade has increased from about 6 percent in 1970 to 16.5 percent in 1982-83. In poultry meat, the EC has moved from the world's largest importer in the midsixties to the world's largest exporter. The Community now accounts for 35 percent of the world broiler market. The EC is the world's largest dairy exporter, accounting for about 60 percent of world trade. Prior to 1973-74, the EC was a net importer of beef and veal. Now the EC is the world's second largest exporter behind only Australia. Total EC export subsidy expenditures amounted to $7.6 billion in 1981 and should reach $8 billion in 1982.

Not only have our exports for certain commodities been on the decline, but net farm income, adjusted for inflation, is lower than it was in 1932, the worst year of the Depression. It appears that farm income, adjusted for inflation this year, will be the lowest since the Department of Agriculture began keeping records of farm income in the early part of this century. In my own home State of Oklahoma, the net income per farm in 1981 amounted to only $14, down from $5,460 per farm in 1980.

While we readily admit that the drastic decline in net farm income is not solely attributable to the weakness of exports. Exports do play a major role in strengthening farm income. For example, farmers attribute approximately one-fourth of their income to exports. For certain commodities, the percentage of income derived from exports is even higher. Sixty cents out of every dollar of income from rice sales is attributable to exports; wheat and flour, 60 cents; soybeans, 50 cents; cotton, 60 cents; and coarse grains, 30 cents.

The impact of agricultural exports upon the economy is considerable. Exports help farmers make the most efficient use of their resources and keep costs lower, enabling U.S. consumers to spend a smaller share of disposable income on food than consumers in other nations. If production had to be reduced to the level of domestic demand alone, farmers would have no choice but to allocate fixed costs to the remaining output. This would increase unit costs to American consumers substantially. In 1979, U.S. consumers spent an average of 14 percent of total expenditures on food whereas, in Japan, consumers spent about 22 percent of their income on food and in the U.S.S.R., about 32 percent. If we allow agricultural exports to continue to decline, we will probably see a rise in the percent of income spent on food in the United States as well as economic collapse in the agricultural sector of this country.

Agricultural exports not only provide American consumers with a good food bargain, they also provide jobs. That is why it is so important that in terms of addressing an overall approach toward improved employment opportunities in this country, we not leave out the agricultural sector, which as I said earlier, provides, directly or indirectly, one out of every five jobs in this country.

The U.S. Department of Agriculture estimates that for every $1 billion of agricultural exports, 35,000 jobs are created. In 1979, agricultural exports alone provided jobs for over 1 million Americans.

U.S. agricultural exports add stability to the dollar. Further, each dollar of agricultural exports stimulates an additional $1.05 of output in the U.S. economy. About 70 percent of the additional economic activity accrues to nonfarm sectors of the economy.

So it is not only directly on the farm, in agricultural processing, that jobs are created, it is in the nonfarm sector of the economy as well.

To export, we must have credit available on a continuing basis. A self-supporting revolving fund will obviate the arbitrary process of the budget which ignores the fact that the credits are repaid with interest, realizing a profit for the U.S. Government.

This administration has repeatedly said that exports are the key to their farm policy. Yet, this administration has failed, as of now, to ask for an appropriation for the Agricultural Export Credit Revolving Fund, which was authorized in last year's farm bill.

The provision in this package will provide an appropriation of $750 million for the revolving fund. The fund will be used by the Commodity Credit Corporation to finance short-term commercial export sales of agricultural commodities and export sales of breeding animals, including cattle, swine, sheep, and poultry.

Mr. President, this provision is vital to the foundation of our country, as that foundation is agriculture. If we fail to take actions to insure the economic recovery of American agriculture, we will, in the same breath, fail to take actions to insure the recovery of the American economy as a whole. I urge my colleagues to join in this effort.

This provision as a part of this package is one of the most important provisions in it. From my point of view, it is perhaps most important of all. I applaud my colleagues for being sensitive to the needs of agriculture, for not leaving that vital sector of our economy out of this emergency economic package. I am proud to join in support of that package and support, in particular, its provisions for improving agricultural exports.

Mr. SASSER. Mr. President, I rise in strong support of the jobs bill amendment offered by the distinguished Democratic leader (Mr. ROBERT C. BYRD).

I commend him for the initiative that he has taken to address our Nation's mounting unemployment problem.

The current unemployment situation is truly of record dimensions.

I am confident that the majority of my colleagues are familiar with the dismal statistics produced by the present economy: 10.8 percent of our

labor force is unemployed—the highest rate since 1940; 12 million workers were unemployed in November 1982—the highest number since 1933; 10.1 percent of all adult men were unemployed in November—the highest rate on record; 9.1 percent of all adult women were unemployed in November—again, the highest rate on record.

A shocking 16.5 percent of all blue-collar workers were unemployed in November—the highest rate on record; 24.2 percent of all teenagers were unemployed in November—the highest rate on record; 867,000 workers over the age of 55 were unemployed in November—the highest number on record; and 1.6 million unemployed workers became so discouraged about the economy in the third quarter of 1982 that they dropped out of the work force—the highest number on record.

These statistics are appalling.

They paint a vivid portrait of the employment policies of this administration.

It is a portrait of economic depression.

It is a portrait of social and family disruption.

It is a portrait of individual despair.

I wish to share with my colleagues a letter I received from a 9-year-old girl, written on the type of rough pulp paper that children use in grade school for their writing material. It begins with this line.

DEAR SENATOR SASSER: I need your advice (misspelled). My daddy lost his job and mom was laid off. The bank took our house back. We are out of money. I am 9 and I need to know can we ask another country for foreign aid? Nobody is helping us now. We used to live in Memphis so I thought you would know.

Love,

LISA REYNARD.

I say to my colleagues that there is no reason for this Congress to stand idly by and take no action to alleviate the suffering of our people.

We can work to help reduce unemployment by passing the Byrd jobs amendments.

We can help create 411,000 jobs by this amendment and begin to make a dent in the unemployment situation.

We can put 20,000 individuals to work in the very successful title V senior citizen employment program.

We can put 10,000 construction people back to work in rebuilding our deteriorating public housing.

And we can put 340,000 people back to work in repairing the basic capital facilities in local communities all across this country.

The proponents of the gas tax bill say we need their legislation to put our highways back in working order.

I say that we need the Byrd amendment to help bring the economy back into working order.

And in that regard I commend the Democratic leader for his tax proposals which more than offset the cost of this jobs program.

Mr. President, I am going to vote for this amendment because Tennessee and the Nation need this jobs program.

The unemployment rate in my sunbelt State stands at 11.2 percent. Two-hundred forty-three thousand of my fellow Tennesseans are out of work and they need work. They need it now just as the father of this child who wrote me this letter.

Eight Tennessee counties have unemployment rates of over 20 percent. Three of my State's six metropolitan areas have unemployment rates of 10 percent or more.

Perhaps worst of all, Mr. President, is that nearly 80,000 people from my State have exhausted their unemployment benefits as of this past November.

These are 80,000 citizens, men and women, single individuals and heads of families who have tried and tried and tried to find a job but no jobs were available.

I say that the economic policies that we are following have failed and they have failed the people of this country and failed the people of my State. They want to work but they are being denied the opportunity to do so.

This economic situation is intolerable. It cannot be allowed to continue. It must be changed and it must be changed now.

So I urge all of my colleagues to vote for the Byrd jobs amendment and let us get to work and put this country back to work again.

Mr. DOLE. Mr. President, I understand there may be one additional request on the Democratic side and I think the distinguished Senator from Oklahoma wanted to address questions to the minority leader. We are opposed to the amendment. And I have a statement which I will give at the appropriate time.

But I wonder if we might suggest the absence of a quorum and notify the minority leader that the distinguished Senator from Oklahoma, Senator NICKLES, would like to address some questions.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I see the minority leader is now in the Chamber. I wonder if I might be able to address a couple of questions to the principal sponsor of this legislation.

I see the distinguished colleague from West Virginia, the minority leader, Senator BYRD is now in the Chamber. I have a couple of questions about the proposal if he might be able to respond.

I listened to some of the debate from the other side and I heard, I think, a couple of different numbers about the number of jobs that would be created. Could he tell us again the number of jobs that would be created by this amendment?

Mr. ROBERT C. BYRD. Mr. President, a minimum of 411,000.

Mr. NICKLES. 411,000 jobs for 1983 and also for 1984 and 1985?

Mr. ROBERT C. BYRD. And that would be in addition to the highway and mass transit pieces which would be 340,000. So it would be something on the order of a total of about 730,000 to 740,000 to 750,000.

Mr. NICKLES. The cost of this proposal I see in the handout which the Senator has given is a total of $5.3 billion for 1983. Does the Senator have the cost figures, what it would be for 1984 and 1985?

Mr. ROBERT C. BYRD. Nothing would be spent in 1984 and 1985 other than that required by the environment and public works highway provision and the Banking Committee's mass transit program.

Mr. NICKLES. Does the Senator happen to have what the total would be to include 1983, 1984, and 1985 in total expenditures in the bill?

Mr. ROBERT C. BYRD. $5.3 billion.

Mr. NICKLES. I see a total of $5.3 billion in 1983. Were there any additional expenditures for 1984 and 1985?

Mr. ROBERT C. BYRD. I thought I just answered that question.

Mr. NICKLES. It is $5.3 billion for all 3 years total. If you are going to create 411,000 jobs, are my calculations correct that that is somewhere in the neighborhood of about $13,000 per job total expenses?

Mr. ROBERT C. BYRD. That may be correct. I would not argue with that.

Mr. NICKLES. Also is it correct that if I add the tax increases, the postponement of the 10-percent tax, for those over the age of 65 beginning in July for 3 years, that is going to raise $24.9 billion?

Mr. RIEGLE. Mr. President, will the minority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. RIEGLE. It is not over the age of 65; it is those with incomes above $65,000 a year. It has nothing to do with age. The Senator may have misspoken himself, and I just want to make it clear.

Mr. NICKLES. Thank you. I meant to say those earning over $65,000 a year. So persons with incomes over $65,000 would not get the additional tax cut, and that is estimated to raise $24.9 billion.

Mr. ROBERT C. BYRD. That is correct.

Mr. NICKLES. Looking at this, correct me if I am wrong, the net effect then of this would be that in 1983 you would have outlays of $5.3 billion and revenues of $1.6 billion, which adds to the deficit $3.7 billion for 1983, but then for 1984 you would actually have a surplus for reducing the deficit of about five point some-odd billion dollars, and the same thing for 1985?

Mr. ROBERT C. BYRD. There would be a deficit at the beginning but that would be wiped out by the surplus in the outyears.

Mr. NICKLES. So the net result would be we would have tax increases of $24.9 billion and expenditures of $5.3 billion for the 3 years?

Mr. ROBERT C. BYRD. Will the Senator repeat his question?

Mr. NICKLES. So the net result—I am trying to figure out the financial impact of this over a 3-year period of time—would be raising $24.9 billion in revenues and increasing expenditures by $5.3 billion.

Mr. ROBERT C. BYRD. Overall we would assume spending about $18.9 billion with about $24 billion in revenue.

Mr. NICKLES. So over a 3-year period of time it would be $18.9 billion, and the total revenue increase would be $24.9 billion.

Mr. ROBERT C. BYRD. Yes.

Mr. NICKLES. I thank the Senator and I appreciate his responses.

One additional question: Have there been any hearings on this amendment?

Mr. ROBERT C. BYRD. No; there have been no hearings on it, but the advice of many economists and others has been utilized.

Mr. NICKLES. I appreciate the Senator's responses to our questions.

Mr. President, I would like to make a couple of general comments on this amendment that is before us today. Certainly looking at the list of items that are on it there are a lot of things that have a great deal of appeal to many Members in this Chamber.

I am opposed to the amendment, however, because I do not really think we can afford it. We are talking about enormous tax increases, we are talking about $24.9 billion coming out of the private sector to fund these particular jobs or these particular proposals. I seriously doubt whether or not there would be an additional job created by this proposal because when you take that amount of $24.9 billion out of the economy that is going to cost some jobs.

Granted you might be creating jobs for any individual item that was mentioned here, water and sewer infrastructure, and so on. You may increase employment in this particular sector, but by taking $24.9 billion out of the private sector you are going to be costing jobs someplace else.

So I think the net effect would actually not be a real stimulus or a job stimulus. I do not think the net effect would be a reduction in unemployment. I think actually it would be just the reverse of that. So I hope the Senate in its wisdom will decline to support this amendment regardless of its attractiveness, and I hope we will at the appropriate time move to table the amendment.

Mr. ROBERT C. BYRD. Mr. President, may I say in response to the Senator's concern about taking money out of the private sector, as we have said repeatedly, the program would be paid for, by a delay in the tax cut for those more wealthy persons in our society who are not showing an inclination on the whole to invest in any event and, therefore, in my judgment, it would not be impinging upon the private sector and, therefore, would not be impinging upon investments.

The investment potential—and we have been hearing this all along, I have been hearing this now for about 3 or 4 years, about how this Kemp-Roth tax scheme was going to promote investment in this country. Well, the program has been in place and business investment has not been promoted. As a matter of fact, those businesses that might otherwise be expected to invest, and we had hoped to have them invest, are scaling down their plans for investment over the next period of a year or so. I do not much blame them when the utilization of equipment, plant capacity, is under 70 percent. The steel industry, for example, is showing a capacity utilization of only 40 percent. How can one expect the private sector to invest when there is that much unused plant and equipment lying around?

So this is not a panacea, as I have stated earlier. We do not expect this to cure the unemployment problem, but it is a step in the right direction, and with the monetary resolution which I have introduced—which I think is probably the more important of the two measures, and which I would hope to call up as an amendment to this bill or to the continuing resolution—which would commend the Fed for taking actions in recent months to bring down the interest rates by lowering the discount rate. That resolution is really the kind of step we ought to take to get this economy growing again because it is only with a healthy and expanding economy that we are going to really put people back to work.

Mr. President, 12 million people are out of work, and either of these proposals is just a drop in the bucket as far as putting 12 million people back to work. But this amendment is at least two drops in the bucket.

I think the way to get this country moving again is to get away from the tight-money, high-interest-rate policy that the Federal Reserve Board has espoused, and which has been supported by the administration in the words of Mr. Stockman himself. "We urged it, we endorsed it, we support it."

Only in that way can the private sector finally begin to grow and invest and put people back to work because it is the private sector that is capable of putting people back to work if it has a chance to grow.

I am glad to see the Federal Reserve moving in that direction. But it was not moving in that direction early this year when I sent a letter, which was endorsed by every Senator on this side who attended the caucus, calling on the President to urge the Federal Reserve Board to relax its tight-money policy. Legislation was introduced by me on behalf of the Members on this side that would require the Federal Reserve Board to institute certain actions, to relax the tight money policy, and to bring down interest rates, and we then began to get action by the Fed.

I was in the midst of a little debate down at the Greenbrier, a so-called debate during the campaign, one of those college-type debates, not really debates, and I got a call from Mr. Volcker. I thought at that moment it was NCPAC or some crank call, but I found out later that it was really Mr. Volcker calling me. He wanted to come to see me. So I got his attention fast. He was gracious enough to ask to come to see me, and I was gracious enough to accept him, and we had a nice talk in my office.

He wanted to know how hard I was going to push that measure. Well, I said "I am not going to push it this year. I see that the Fed is taking steps to relax the tight money policy. It has the tools, it has lowered the discount rate, and it can operate through many other ways to bring down interest rates—Federal fund rates, discount rates, its open market operations, and so on. It is not my desire to make this an election gimmick, so I do not intend to press hard for it before the election. I will wait until after the election and see what continues to happen."

The San Francisco Examiner wrote an editorial saying that, perhaps, it was the legislation, who knows—perhaps it was the legislation that was introduced in the Senate and followed up in the House—that reminded the Federal Reserve Board that it is the creature of the Congress and that the Congress still has the power to step in and to provide guideline policies for the Fed. I understand that Mr. Volcker has been talking with a good many Senators around the Hiill on both sides of the aisle and, perhaps, he has extended his talks to Members on the other side. But he has been very concerned about that legislation. And, rightfully so, he is concerned about the economy. Apparently, he does not propose to stay the course.

But in any event, action has been taken by the Fed to relax the tight money policy, so we have seen the drop in the discount rate and we have seen the drop in the interest rate. And this is the direction in which to go.

I would say to the distinguished Senator from Oklahoma, if we really want to get people back to work, the Federal Reserve Board can go a long way in that direction and is at last moving in that direction, because, with all of the unused plant capacity, we are not going to see much investment. And following the adoption of the Kemp-Roth scheme, much heralded investments were supposed to follow, and we were told to anticipate a great spate of investment, the business community was going to modernize the plants, but we saw just the opposite. We saw plant utilization shrivel and shrink.

So I would say to the distinguished Senator, I am not persuaded by his argument that this legislation would inhibit the private sector from investing money when what we propose to do is simply delay a tax cut for those people in this country who can afford to have a tax cut delayed. If experience is to be a light unto our feet, we have not seen them investing thus far. But we have to do something to begin to put people back to work, and this proposal that we have put forward here is a step in that direction.

There is an old fiddler's tune, "It is a Step in the Right Direction, That is All." It would help the elderly. There is a good farm provision here that would help farmers to increase their exports of grain and fruit and other foodstuffs. There is a provision for retraining displaced workers. There is a soft infrastructure program that would deal with sewer and water systems. And it would replace some of the programs that have been dismantled in recent months which are so necessary to build sewer and water systems and to build the infrastructure in some areas so as to encourage industry and stimulate the economy.

So I would simply say to the Senator that I doubt that this legislation would have any adverse impact on investment, but may indeed, have just the opposite effect.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I understand there still may be one additional speaker on the Democratic side and I think there is a speaker on the Republican side. The Senator from Kansas must necessarily be absent between the hours of 7 and 8. I am not certain we can have a vote before that. We are checking with the majority leader now to see whether or not that can be arranged.

I am wondering, while we are waiting for the majority leader, if I might yield to the Senator from Indiana, who wanted to speak on this proposal. I still need a couple of minutes to speak on it. It may be that we can still vote before or at 7 p.m. if that is satisfactory to the Senator from Indiana. If the Senator wants more time, he may have it.

Mr. QUAYLE. I need 5 minutes.

Mr. DOLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I would like to put in perspective the jobs alternative and to talk about two of the key points: Item No. 2, which is the labor intensive community public works program, and also item No. 4, the displaced workers retraining. We just received a copy of the entire bill and we are trying to go through it. But I do have some comments I would like to make about those two particular programs.

Item No. 2, which is the labor intensive community public works program, is identified as a $2 billion program that is going to create 300,000 new jobs. I believe that the question that we must ask ourselves is: Will it work?

This really ought to be rephrased and identified as CETA public service employment, because that is precisely what it is. CETA public service employment has been defeated in this Chamber a couple of times, defeated on the continuing appropriation bill before we adjourned for the election and it was defeated in the budget. It is a program, quite frankly, that gave CETA the bad name. It was really one of the incentives that made many of us that wanted to see real training and employment in this country come up and forced to come up with a different name because of the tarnished reputation and credibility that CETA public service employment had.

Now we are coming back with the same old type of program that we have had in the past that really has not worked and we are calling it some other name, but it is CETA public service employment. I do not believe that the majority in this body wants to see the CETA public service employment come back. I believe that they are on record and hopefully they will follow in the way that they have worked in the past.

Obviously, everybody is for jobs. Nobody is against jobs. Everybody wants to see job opportunities. Nobody likes to see the denial of any job opportunities. But will it work? Do these countercyclical public employment programs work?

If you go back in any kind of historical analysis, it shows that these programs come on line not during the height of the recession but usually after the recession is over. If you go back to any of the public works stimulus or any of the countercyclical programs from the 1960's and through the 1970's, you will see that when they came in and the real creation of the jobs, short-term jobs, came after the recession and in a time of recovery. Unfortunately, Mr. President, we cannot predict when the recovery is going to take place.

Now I know that is very important that we, as a government, concerned as individual Senators, concerned about unemployment, do something about unemployment. There has been some discussion about the interest rates. The distinguished minority leader, the Senator from West Virginia, talked about interest rates. I agree. I am one of those that have worked to bring pressure on the Fed to have a policy that is going to demand lower interest rates so we can see that gap between what the interest rates and inflation rates are, the real interest rates in this country which I believe the Senator and myself have both said are unacceptably high.

They have forced small businesses to fail. They have helped create this unemployment situation. I believe that the chairman of the Federal Reserve has received the message in private conversations with myself, and now I understand with the Senator from West Virginia, with others, with people within the administration, that high interest rates are totally unacceptable, and we cannot have any kind of economic recovery with that.

So the Senators, as part of that Government representing people, concerned about the misery attached to unemployment, have to do something about the problem.

What have we done about the problem? Right before we adjourned, the Congress passed the Job Training Partnership Act which the President signed, a very important piece of legislation, introduced by myself, Senator KENNEDY, Senator HATCH, Senator HAWKINS, Senator PELL, and others, who worked on that on a bipartisan basis, to get it through and have a training and employment program on the Federal level. It dealt with the dislocated worker program. It was the first time that we recognized there was a problem with the dislocated worker program.

We have done that. Now what we have before us is the highway tax bill that is going to try to do something about fixing the highways, fixing the bridges, maintenance, completion of the Interstate System. It will produce some jobs, though not nearly enough. It is not called a job creation bill, although every bill now introduced in this Congress will probably be referred to somehow as a job creation bill because everybody wants job creation, job opportunities, and the hopeful aspect of going back to work.

Further, this CETA public service work program of $2 billion proposed as an alternative has no training in the

program. There is training in the proposed alternative, but there is no training in CETA public service employment. It is a temporary, makeshift job. That gets me to the second point I want to discuss. That is the dislocated worker provision.

In the alternative, according to the figures that I have before me, the proposal is for $200 million.

Mr. President, I circulated to Members of the Senate when I returned after the election, shortly thereafter, a letter saying that I, as one who wanted to see the dislocated worker program implemented sooner than its enactment date of October 1, 1983, would, on the continuing resolution or at some appropriate time, ask for and request the $50 million for that new program.

I have been outdone four times over, $200 million. I want to say that $200 million could not be absorbed by the dislocated worker program that we have just put in place.

I believe one of the fallacies and one of the faults of people who are sincere and dedicated to seeing this program going forward, or any other program from the Federal level, is they say the only way to do it is to just throw a lot of money at it. But $50 million is a rational amount, not $200 million.

I would like to just read to you from the Department of Labor of the State of Michigan, which has a small problem of unemployment, as does my home State of Indiana. Michigan is the top State of unemployment in this Union. I believe it is instructive to look at what they say about what the funding level in the dislocated worker program should be. I quote from the Department of Labor of the State of Michigan.

> The Michigan Department of Labor believes strongly that title III of the Jobs Training Partnership Act should be funded for fiscal year 82 and 83.

And so do I.

> Although funds are required now, the Michigan Department of Labor believes just as strongly that the funds should be made available through a phased-in formula. It has been the Department's observation that a number of past governmental programs have required initial expenditures of funds too rapidly when first authorized. This does not provide the careful planning that is necessary to implementing an effective response. Rather than being able to devote adequate time to initial organization, these programs find themselves under undue pressure to spend. The Michigan Department of Labor would therefore prefer to see title III funded in a rational manner.

Mr. President, I read that to this body with the understanding that we do need to do something about the dislocated worker provision, but I believe that it underscores the problem with the Democratic alternative that is before us. Instead of $50 million, which I believe would be rational, it is $200 million, four times more than the system could properly absorb. One of the problems that we get into in Government programs if you just throw out massive amounts of money is that they do not work. They are forced to go out and try to meet the results very quickly. What I would like to see is a program that would work, a job training program that would work, the creation of jobs that will work.

I believe that this response is the response that we have heard too often, just to wad up a bunch of money and throw it at the problem. I think it was wrong then and I think it is wrong now. Furthermore, I believe that it would really be a cruel hoax to the American public to have some statement that there is a magic solution to solving the unemployment problem in this country.

Unemployment climbed to 10.8 percent in November, continuing a trend which must be brought to a halt. As Congress examines solutions to deal with this facet of our complex economic problems, I would like to urge my colleagues to support a $50 million appropriation level for the newly enacted dislocated worker program, title III of the Job Training Partnership Act. This level of funding would accelerate the implementation of the dislocated worker program. I am offering this as an amendment to the Labor, Health and Human Services, and Education Appropriations for fiscal year 1983, H.R. 7205.

The Job Training Partnership Act was designed to meet the needs of our Nation's structural unemployment problems. Not only does it provide a training program for the economically disadvantaged—title II—but it also has a program to provide assistance to dislocated workers. The continuing resolution currently funds the basic training program for the economically disadvantaged, but it does not fund the dislocated worker program.

We must accelerate implementation of the dislocated worker program because there is evidence of a growing need to assist experienced workers who are unemployed. Throughout 1982, factories and businesses across the country have been closing and workers have been forced into idleness, which will not end even with economic recovery. The Bureau of National Affairs estimates that over 150,000 workers have lost their jobs due to plant closings in the first 9 months of this year alone. Testimony from the Department of Commerce before the Subcommittee on Employment and Productivity estimated a permanent decline of 500,000 jobs in automobile and related employment.

According to Maritn Feldstein of the Council of Economic Advisers, only 30 to 40 percent of the October unemployment was cyclical and the rest was structural. In other words, over 6 million unemployed workers cannot expect to find jobs even with maximum non-inflationary growth in the economy.

Individuals affected by structural changes in our economy are forced to rely on unemployment insurance benefits or their own resources to help them through this difficult time. Dislocated workers have little chance of returning to their former occupations. Many of them have exhausted their unemployment insurance benefits and, eventually, they will exhaust their personal resources as well. Once-productive workers may become dependents of our social welfare programs at great social and economic costs. However, with a minimum amount of assistance, they may once again join the work force as productive citizens.

Under the dislocated worker program, these individuals will receive assistance in job search, pre-layoff assiistance, relocation assistance, and training in jobs skills for which demand exceeds supply. The $50 million appropriation that I propose for this program will be an investment in the future, when millions of more dollars will be saved through decreased public income transfer expenditures and increased national productivity.

RETRAINING DISLOCATED WORKERS: $50 MILLION IS BETTER THAN $200 MILLION

The sum of $50 million will clearly not provide assistance to a large proportion of the dislocated workers but it would be, in my opinion, a serious mistake to increase the size of the appropriation because it is not sufficient to deal with the whole problem. Retraining of dislocated workers is a complex business in which we have little experience. We must mount well-considered programs that will retrain workers for actual job opportunities. We must not just throw money at the problem with the inevitable result that we will get programs that do not work.

It has been suggested that, for fiscal year 1983, $200 million be appropriated for the dislocated worker program. This is twice as much as was proposed in the original Quayle-Kennedy bill. This level of funding raises questions which go beyond the obvious considerations of fiscal constraint. In their enthusiasm for alleviating the problems and suffering of dislocated workers, the supporters of this higher level of funding are overlooking administrative realities regarding implementation of the new Job Training Partnership Act (JTPA). At present, JTPA simply does not have the administrative capacity to efficiently and effectively distribute such a high level of funds.

The JTPA establishes a new delivery system as well as new programs. Fiscal year 1983 will be a transition year during which the new system will be put in place. We have a very short

period of time to accomplish this enormous task. The number of participants in the delivery system has increased and there will be shifts in responsibility and authority. New relationships must be established. Governors, in addition to administering the dislocated worker programs, now have many of the responsibilities that formerly belonged to the Secretary of Labor. The successful establishment of the new service delivery system is essential to the future success of job training programs.

The $50 million appropriation level which I propose would be sufficient to implement the new dislocated worker program without overburdening the system. In the past, one of the factors which inhibited the successful operation of the CETA program was that it was constantly required to adjust to meet Congress changing demands. As the CETA program was adjusting to meet the most recent Federal mandate, Congress would require further changes in response to a new economic situation. It is imperative to the success of JTPA that we not repeat the mistakes that were made with CETA. During the remainder of this fiscal year, our chief goal should be the successful establishment of the new job training system.

States need time to plan for the distribution of funds for dislocated workers programs. Because of the advance budgeting required, many States may not have available the matching funds that are a necessary requirement for receipt of Federal funds under this program. Also the dislocated worker program is a new concept. The problems of dislocated workers are enormous and we are still trying to understand the nature of the problem and remedies to it. Recently, a few, small programs have been set up to explore ways of dealing with the problems of dislocated workers. But we have very little prior experience upon which to build. A look at the models that are available shows that careful planning cannot be overemphasized.

One of the best worker retraining programs is the downriver community conference economic readjustment project in southeastern Michigan. This pioneering program is generally regarded as having been highly successful. In testimony before my Subcommittee on Employment and Productivity, program operators from the Downriver project described the planning that is necessary to provide experienced workers with assistance to reenter the labor force. Witnesses described the network they developed of employers and employment and training agencies. Their program also includes outreach, meetings with management and labor at factories that are closing, orientation, aptitude tests, job-seeking skills workshops, and finally determination about the most appropriate assistance to provide for each individual: direct job placement, classroom training, or on-the-job training. As one witness said, "The manner in which we do this assures marketability of our workers, because we feel an obligation not to set them up again for failure and not to train them in an area where there is not a job."

A look at the beginning of this program shows the time lag between the initial implementation of the program and the expenditure of funds. In fiscal year 1981, the Labor Department obligated $3,825 million to the Downriver project. During fiscal year 1981, less than $1,000 was outlayed. During the first full year of operation—fiscal year 1982—outlays were $2.6 million, less than 70 percent. This was partially explained by the fact that one factory did not close as soon as was expected. But this only highlights the necessity for careful planning.

At this time, the service delivery system is too delicate to meet the demands that would be imposed upon it by funding the dislocated worker program at a $200 million level. With that level of funding would come expectations that a specified number of individuals should receive training. I am afraid that the pressure of that demand would push the system beyond what it is reasonable to expect and the results would be disastrous. It would inevitably result in poor decisionmaking and misexpenditure of funds. In an effort to spend the money within the remaining months of fiscal year 1983, dislocated workers would be hurriedly assigned to training in whatever programs are available, without due consideration being given to the appropriateness or desirability of the training.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. QUAYLE. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. First, on the CETA program, this is not a CETA program. There are different components here than were involved in the CETA program.

First of all, this leaves a tangible product which will benefit communities.

Second, it protects against the employment of persons on a patronage basis. Persons would be employed who are referred only by the U.S. Employment Service, which is, I think, quite different from the way the CETA program worked.

Finally, I would say that the amendment requires expenditures within 90 days and not within 6 months, as the able Senator referred to.

So in these ways and in others it is very different from the CETA program.

The Senator would not find me here proposing a new CETA program along the old lines, under the cloak of a new program. I would simply say that the Senator is wrong when he refers to this program as a new CETA program.

I yield to the Senator from Connecticut.

Mr. QUAYLE. I will be glad to yield to the Senator in a moment.

The reason I identified this as another CETA public service program is that essentially the goals are the same. I believe the goals under he labor intensive community public works program are that you will put people on the public payroll to provide services for State and local government. I believe that is what you are trying to do under this particular part of the $2 billion that says you are going to create 300,000 jobs.

Mr. BRADLEY. Will the Senator yield at that point?

Mr. QUAYLE. I yield.

Mr. BRADLEY. Will the Senator point out where it says that we put the people on the public payroll as opposed to contracting out with the private sector?

Mr. QUAYLE. I will be glad to try to find it. I want to say, on the amendment that I received the amendment, and the staff also received the amendment, about 20 minutes ago. I am going from the past history of these public work programs that we have been talking about. I will try to dig through and find it to see if I am incorrect that the stated goal is again to put people on the public payroll to perform State and local jobs, to provide services for the State and local government. I am talking about item 2, the labor intensive community public works program.

Mr. DODD. Will the Senator yield at that point?

Mr. QUAYLE. I am glad to yield.

Mr. DODD. This proposal has been around now for a good week or more. If the Senator became aware of the particular provisions only in the last 20 minutes and if he is willing to be corrected, let me make it quite clear——

Mr. QUAYLE. I do not believe the amendment has been around for a couple weeks. We just got it about 20 minutes ago.

Mr. DODD. It has never been suggested that this was going to be a CETA program, despite the efforts of the Senator to characterize it as such. This amendment is to use the existing community development block grant program. It will fund existing projects which many communities in Indiana, Connecticut, and other States in the country have had backlogged for some time. It will take those needed programs, and employ skilled workers that are out of work in Indiana and Connecticut. You have 11.4-percent unemployment in Indiana, almost 300,000 people, many of whom can do the jobs that need to be done.

It is not a training program, not just to be done with public sector workers. Where private contracting can be utilized, it will put some of those people to work. That means jobs for roughly 10,000 people in Indiana. Roughly $60 million is to go to Indiana. If we can take this money on a one-time basis, $2 billion, it will help 300,000 of our fellow citizens who have lost their jobs through no fault of their own, who do not need to be retrained, who just want to do jobs that need to be done, jobs that have been identified by our communities. To call this CETA, to call it public welfare, make-work, is just to totally mischaracterize this particular endeavor.

Mr. BRADLEY. Will the Senator yield for further comment. The Senator from Connecticut perhaps?

The Senator from Indiana has stated that this is the old Democratic throw-money-at-the-problem, CETA, public jobs program.

I challenge the Senator, as I did previously, to find where in the amendment it says these have to be public employee jobs. It does not say that. It can be contracted out to the private sector.

I also ask the Senator from Connecticut to give me his opinion on whether these jobs will come online after the recession is over. There are about 12 million people out of work today. Unemployment is close to 11 percent.

Would the Senator say that there would not be a need for these jobs if unemployment dropped to, say, 10 percent?

Mr. DODD. Of course not.

Mr. BRADLEY. Of course not.

Mr. DODD. You have 90 days. These projects have to be started in 90 days.

Mr. BRADLEY. Does the Senator think that unemployment will drop to 5 percent in 90 days?

Mr. DODD. Of course not.

Mr. BRADLEY. Six percent in 90 days?

Mr. DODD. Of course not.

Mr. BRADLEY. Seven percent in 90 days?

Mr. DODD. Of course not.

Mr. BRADLEY. I thank the Senator.

Mr. QUAYLE. We are still trying to figure out in the amendment whether this is mandatory, that they are going to have a pass-through and the private sector is going to hire them or this is optional. I believe, according to staff, that this is perhaps optional; that the private contractors may in fact be part of putting these people on the payroll. I say, if that is the case, then the element of what they call substitution becomes a real problem. Because of the substitution factor, some of these people may be hired anyway. But if they are going to be subsidized, obviously that is an attractive feature and the net result is not 300,000 new jobs. The net result is a lot less than that.

We just finished talking about interest rates. If we are going to spend $2 billion on what I call a public service, CETA-type program, then there is going to be upward pressure on the interest rates.

Furthermore, since it is optional and you give all this money on a one-shot basis, $2 billion, where do you think it is going to go? It is probably going to go to the local governments, the State and local governments, and they are going to be put on the local public payroll and not the private payroll.

Mr. SARBANES. Will the gentleman yield? Why would it be upward pressure on the interest rates?

Mr. QUAYLE. I believe that any additional spending of $5.3 billion, which the Senator is talking about—I think that any time you put in new programs, there is a tendency to aggravate the deficit. I think the deficit is already——

Mr. SARBANES. The substitute more than pays for the $5.3 billion and in fact makes a contribution to reducing the deficit.

Mr. QUAYLE. We are all for reducing the deficit, but if the Senator thinks that the people out there who watch what the Congress does—you pass a new spending program like that, and that is going to increase interest rates.

Mr. SARBANES. Will the Senator yield?

Mr. QUAYLE. I have the time.

Mr. SARBANES. The Senator should address the matter in a logical fashion.

Mr. QUAYLE. I have the time.

Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. DENTON). The Senator from Indiana has the floor.

Mr. QUAYLE. I thank the Chair.

Mr. DOLE. Will the Senator from Indiana yield?

Mr. QUAYLE. Any new spending program of this magnitude, if the Senator does not think that is going to be upward pressure on the interest rates ultimately, I just disagree.

Mr. SARBANES. Will the Senator yield?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I do not want to interrupt the debate; I have to be gone for an hour.

Mr. SARBANES. The way it is going, it may go on for an hour.

Mr. DOLE. Right. I just want to make certain that Senators keep this up for a while because I will be back about 8 o'clock. The Senator from Indiana agreed to speak for only 5 minutes, and we appreciate that. But it may be in an area that needs more discussion. As I look at it, we ought to talk about it at least for another hour, and I will be back. Senator BRADLEY is going with me.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Who has the floor?

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I will not take but just a moment.

Mr. BAKER. Mr. President, there are reasons why a vote on the Byrd amendment ought not to occur, in my opinion, for 45 minutes to an hour. There are certain Senators who are occupied in committees, and there are strong reasons why we ought to accommodate those requests.

I should like to put a unanimous-consent request, Mr. president, that might expedite matters a little. I have not discussed this with the minority leader, but he is on the floor and perhaps he would consider it.

I ask unanimous consent, Mr. President, that as and when a vote is ordered on the Byrd amendment, it occur not before 8 p.m. tonight.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I will not object.

May I say that the majority leader and the distinguished Senator who manages this bill were quite willing to enter into a time agreement; they have no amendment attached, and to vote up or down. I would be the last to object to this request.

Mr. BAKER. I wonder if we could amend that to make it—I do not know whether everybody has said their piece on this or not—to have the vote at 8 o'clock?

Mr. ROBERT C. BYRD. That suits me. That is fine.

Mr. BAKER. Mr. President, I ask unanimous consent that a vote occur on or in respect to the Byrd amendment at 8 p.m. today.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. I thank all Senators.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I simply want to make the point that the substitute that is before us more than pays for itself, and in fact by placing a cap on the tax benefits to accure to the very wealthy will make a contribution to lowering the deficit.

Mr. ROBERT C. BYRD. Mr. President, may we have order? I think the Senator from Maryland is entitled to be heard on this point,

The PRESIDING OFFICER. The Senator from Maryland should indeed be allowed to be heard.

Mr. SARBANES. Therefore even if one accepts the premise of the Senator from Indiana which was, as I understand it, that there was a direct correlation between the deficit and the interest rates, this proposal in fact will contribute to lowering interest rates by lowering the deficit. In fact, I will ask the distinguished Senator from West Virginia, is it not the case that the revenues raised by the proposal before us more than cover the programs contained therein and in fact over a 3-year period will provide further revenue to address the deficit?

Mr. ROBERT C. BYRD. Yes; I think in the maount of about $5 billion—$19 billion expenditures, $24 billion revenues, to say nothing of the impact on the deficit of putting people to work who will be paying taxes and who will not be receiving food stamps and unemployment compensation.

Mr. SARBANES. That is an additional point. In other words, as far as lowering the deficit is concerned, there is an indirect consequence as well as a direct consequence. I think that ought to be fully understood by the Members of this body.

I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I anticipate at least one other statement on this side of the aisle. I suggest the absence of a quorum if no Senator seeks recognition at this point.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I rise in support of the Byrd amendment and I want to make a few points about why it is extremely important to my State that we adopt it.

First of all, the State of Arkansas uses more gasoline per capita than any other State in the Nation, even Wyoming and Montana and other large States. We use over 850 gallons per year per automobile in my State. Most of this is because our people drive further distances to work than most.

No. 2, we are the second or third poorest State in the Nation. I do not say this as a matter of pride; it is an economic fact.

When the President submitted this bill to Congress he said it would cost about $30 per family. That may be true. I do not quarrel with the President's statistics on a national average. But it is going to cost about $42 to $45 per vehicle in my State, and that means that if you are in a two-car family—and most everybody is because the husband and wife both work trying to keep body and soul together, if they are fortunate enough to have a job at all—the cost is not going to be $30 per family in my State, it is going to be more like $85 per household.

When you consider the fact that the median family income in Arkansas is not $21,000, which is the national average, but between $16,000 and $17,000, I invite your attention to two points: No. 1, that median family in my State that makes between $16,000 and $17,000 a year will receive less than $100 from the third year of the tax cut, and this gasoline tax, which we are about to vote on and, I presume, pass rather overwhelmingly tonight, will cost that same family about $85.

If you are a family of four and your income is $16,000 to $17,000, you are not living in what we call the high-rent district. This income level will barely keep things pasted and sewed together—trying to feed your children and clothe them and pay your utility bills. That is about all you can do on that income.

So, the distinguished Senator from West Virginia comes along and offers an amendment which, if it were submitted to the American people in a referendum tonight, would pass overwhelmingly. It will not pass here tonight. I do not ever like to admit defeat on the front end, but you might as well. All the Senator from West Virginia is saying is:

> Let us cut the third year of the tax cut for those people who make over about $65,000 a year.

That includes this Senator, and I can tell you I will happily forgo whatever I am going to get out of the third year of the tax cut, and every other Senator in this body ought to jump at the chance to forgo his, too, so that we can do this without imposing a regressive tax on the people who are having the toughest time, and let those people who are having the easiest time finance it.

I know it is customary for those people who like this idea to say: "That is populistic. You are playing to the galleries. We know about all you folks over there who love to soak the rich. That is what we have been doing in this country for years, soaking the rich."

Well, I will tell you if that is true it came to an abrupt halt in the summer of 1981. Not only did it come to an abrupt halt but the whole thing did a 180-degree turn, and instead of soaking the rich, we started soaking the working people.

A U.S. Senator, if he does not have another dime of income, will from the Kemp-Roth bill save about $3,500 a year. As W. C. Fields used to say, "That ain't a bean bag"; $3,500 a year, almost $300 a month is what I am speaking about. The Members of the U.S. Senate are going to enhance their pocketbooks as a result of Kemp-Roth, and those who earn the median family income in my State, which is at least half the people, are going to get somewhere around $80 or less out of it for the year, and the magnificent sum for the entire 3-year period of $230.

Yes, a family in my State is going to get $230, and Members of the U.S. Senate are going to get $3,500, and the Senator from West Virginia rightly says:

> Let's even that out. Let us rectify that and make this tax less regressive.

Nobody wants to see the most magnificent highway system in the United States deteriorate. I-40 runs through my State, as it does so many States, because it goes all the way from North Carolina to Los Angeles, and there are parts of it that you can hardly traverse now because it is pockmarked and so rough, and it does need repair. It needs a lot of work.

But this bill is also asking the people of my State to pay a 1-cent tax to subsidize the subway systems of the huge metropolitan areas of this country, and the bill says that the only way we can spend our portion of the 1 cent earmarked for mass transit is on new buses or new rail lines and something else we do not really need much of in Arkansas. We need operating money for most of our mass transit systems, not new buses for "urban" areas.

This bill does not give us much discretion to determine what we need for our mass transit systems in Arkansas. It says, "You will build your infrastructure," and you may get as much as one-half of 1 percent of all the money collected nationally if the Secretary deems it proper. The bill as it is written says right now, unless it is amended, that the Secretary will, insofar as practicable, return this one-half of 1 percent of the mass transit money to each of the States. It does not say he is required to.

I know how big mass transit is in West Virginia—about as big as it is in Arkansas, and that probably applies to about 30 of the 50 States.

So you are asking us to send $12.5 billion for that alone. Bear in mind we are poor folks, and this bill is asking us to give back $12.5 billion every year from the poorest people in this country, and we would not get much of it back.

You can see why I am not exactly rhapsodic about this bill in its present form.

I can vote in good conscience for the Byrd amendment and I can go home and the people of my State will applaud, and applaud loudly. Why, this amendment raises a lot more money than the nickel gas tax does, and it does it in the most painless way possible from the people who can best afford it.

The freedoms of this Nation, the very strength of this Nation, are being eroded and threatened by two things: massive unemployment—this country cannot remain free and it cannot remain strong as long as we are willing to tolerate 12 million people being out of work.

And we cannot remain free and we cannot remain strong as long as we consistently vote to enhance the pockets of the rich and continue to take more from the people who are unemployed and the people who are working and driving long distances to work.

I want the highways to be maintained. I want to do my duty, unpopular as it may be from time to time, and what I think is the best interest of the country. But the President, when he asks me to vote for this gasoline tax bill, is asking for that last pound of flesh, all from the people in my State who can least afford it. If that is populism, I am a populist.

But I can tell you in closing what I said in the very beginning. Submit the Byrd amendment to the American people and let Senator BYRD and me and two or three others debate our side of it, and let the President and as many people you want to put on his side debate his side of it, and you let the American people all push a button like CNN does, and I promise you we will win 2 to 1.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BUMPERS. I am happy to yield to the Senator.

Mr. ROBERT C. BYRD. It would not take very long for that coal miner in southern West Virginia or nothern West Virginia who has to drive 50 or 60 miles to work and back, it would not take him long to decide. He would not have to hear much debate.

It would not take the taxi drivers, people who operate taxicabs and who make their living by transporting passengers—and, of course, they have to buy gasoline to do that—it would not take them very long to make a decision on this. They would not have to hear much debate.

It would not take the elderly citizens—and one would be surprised at how many of them can drive and do drive—it would not take them very long, because this is going to come out of their pockets.

What about the school boards in the busing of school children? This money is going to be an additional cost to the various school boards across the country.

So it would not take long for the common people—the small businessman who operates a little grocery store and who has to deliver his groceries to his customers, it would not take him very long to make a decision. He is already going to pay more unemployment compensation taxes because of the tax increase enacted earlier this year.

The President said earlier this year to a joint session of the two Houses that there would not be any increase in taxes this year. He said that about three or four times, I remember. I sat there in the House Chamber and listened as he assured the American people that there would not be any increase in taxes. Then there came the legislation supported by the administration to triple the tax on telephones, double the tax on cigarettes. And that is not going to stop many people from smoking, admirable though that goal might be. The cost of airline tickets and airfreight was also increased.

There was not to be an increase in taxes, according to the President, yet he later supported the $89 billion tax increase. And that is being borne by the people in this country who can least afford to bear it. Now we are being asked to place an additional tax on those people who can least afford to bear it. But do not touch—they say do not touch—that third year of the tax cut for those people who can best afford to pay for this kind of program.

I thank the distinguished Senator from Arkansas for his statement. I agree with him that if this were a referendum to be put before the people, they would not have to listen to much of the debate. It would not take long. There would be an overwhelming—overwhelming—adoption of our amendment.

Mr. BUMPERS. Mr. President, if I might close with a simple question: Should Senators, who make $60,000 a year and got an increase of about $3,300 to $3,600 in their income in that tax bill last summer—pay the same amount in gas taxes, about $80, under this bill as those in my State and West Virginia who gained a total of only about $200 or $250 under Kemp-Roth? Do you think that is fair?

It is just that simple. Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The President pro tempore is recognized.

Mr. THURMOND. The matter about which I am to take up has been cleared with the distinguished majority leader and I see the distinguished minority leader is in the Chamber.

PAYMENT OF LOSSES INCURRED AS A RESULT OF BAN ON TRIS

Mr. THURMOND. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 823.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 823) entitled "An Act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes", do pass with the following amendment: Strike out all after the enacting clause, and insert: That (a) the United States Claims Court shall have jurisdiction to hear, determine, and render judgment upon any claim for losses sustained by any producer, manufacturer, distributor, or retailer of children's sleepwear, or by any producer, converter, manufacturer, distributor, or retailer of fabric, yarn, or fiber contained in or intended for use in children's sleepwear, (1) if those losses resulted from the actions taken by the Federal Government under the Federal Hazardous Substances Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate, and (2) if such children's sleepwear or such fabric, yarn, or fiber, as the case may be, at the time of its manufacture was subject to the requirements of or was subject to use in compliance with the mandatory Federal flammability standard FF3-71 or FF5-74.

(b)(1) In determining the validity of any claim under this Act and the amount of the losses sustained for which such a claim is brought, the court shall consider the following factors:

(A) The degree to which reasonable alternatives to Tris (2,3-dibromopropyl) phosphate existed at the time the Federal Government established the applicable mandatory Federal flammability standard referred to in subsection (a).

(B) Whether it would have been feasible or reasonable for the claimant to have tested Tris (2,3-dibromopropyl) phosphate for chronic hazards at the time the Federal Government established such flammability standard.

(C) The degree to which the Federal Government or other nationally known researchers tested Tris (2,3-dibromopropyl) phosphate for toxicity or other health hazards and disseminated the results of those tests.

(D) The degree of good faith demonstrated by the claimant in seeking to comply fully with such Federal flammibility standard.

(E) The extent to which a claimant may have relied in good faith upon assurances from suppliers that the products containing Tris (2,3-dibromopropyl) phosphate were safe.

(F) The degree to which the claimant acted reasonably in using Tris (2,3-dibromopropyl) phosphate.

(G) The degree to which the claimant, in good faith, complied with actions taken by the Federal Government under the Federal Hazardous Substances Act on April 8, 1977.

(H) The degree to which the claimant, in good faith, complied with those provisions relating to exports contained in section 14 of the Federal Hazardous Substances Act and section 18 of the Consumer Product Safety Act.

(2) The court may not enter judgment in favor of a claimant under this Act, nor may the Attorney General agree to any settlement with a claimant under this Act, unless the claimant produces proof, to the satisfaction of the court or the Attorney General, as the case may be, that the claimant lawfully disposed of the apparel, fabric, yarn, or fiber with respect to which the claim was brought.

(3) In determining the amount of the losses for which a claim is brought under this Act, the amount of such losses shall not

include lost profits, proceeds from distress sales, attorney's fees, or interest on any loss suffered by any producer, converter, manufacturer, distributor, or retailer of children's sleepwear, or by any producer or manufacturer of fabric, yarn, or fiber.

(c)(1) The measure of losses for any producer or manufacturer of children's sleepwear shall be the cost of producing or manufacturing the sleepwear garment, plus the cost of the fabric, yarn, or fiber used for such production or manufacture, or the cost of such sleepwear, fabric, yarn, or fiber held in stock on the date of the enactment of this Act, less the fair market value, if any, of the sleepwear garment or the fabric, yarn, or fiber. If such garment, fabric, yarn, or fiber was resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing or manufacturing the sleepwear garment plus the cost of the fabric, yarn, or fiber, less the proceeds from any such sale.

(2) The measure of losses for any producer, converter, or manufacturer of fabric, yarn, or fiber shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber, plus the cost of the raw materials used for such production, converting, or manufacturing, or the cost of such fabric, yarn, or fiber held in stock on the date of the enactment of this Act, less the fair market value if any, of the fabric, yarn, or fiber on such date. If the fabric, yarn, or fiber was resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting, or manufacturing, less the proceeds from any such sale.

(3) The measure of losses for any distributor or retailer shall be the distributor's or retailer's purchase price for the children's sleepwear, fabric, yarn, or fiber involved, less the fair market value, if any, of such sleepwear, fabric, yarn, or fiber, and less the amount of any reimbursement received for such sleepwear, fabric, yarn, or fiber.

(4) In addition to the losses determined under paragraphs (1), (2), and (3) of this subsection, a claimant may also be compensated for (A) unreimbursed costs of transportation paid for the return of the sleepwear garments, fabric, yarn, or fiber involved, and (B) unreimbursed costs of the lawful disposal of such garments, fabric, yarn, or fiber.

(d) No claim under this Act may be brought as a class action. No claim under this Act may be brought by two or more parties unless damages are claimed to be jointly recoverable or are disputed among the parties.

(e) Upon payment of any claim under this Act, whether or not such payment is the result of a court judgment or a settlement, the United States shall be subrogated to the claimant's rights to recover losses or to assert a claim against any person relating to the subject matter of such claim paid by the United States. The claimant shall take the necessary steps, as determined by the Attorney General, to secure such rights in the United States in order to be entitled to the entry of a judgment by the court or payment under this Act, and the failure of the claimant to take such steps shall constitute cause to deny the entry of such judgment or such payment. The failure of the claimant to take such steps shall not limit or adversely affect the right of the United States to act as subrogee or assignee to the full extent of its payments under this Act. Any purported limitation on the right of the United States to act as assignee or to become subrogated to the rights of a claimant shall be without any effect, to the extent that the United States has made payments under this Act.

(f) Any claim under this Act shall be barred unless commenced within two years after the date of the enactment of this Act.

(g) No person shall have any claim under this Act who, on or after June 14, 1978, (1) exported from the United States any apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate which was produced, converted, manufactured, or sold for use in the United States, or (2) transferred any apparel, fabric, yarn, or fiber described in clause (1) to another person with knowledge that such apparel, fabric, yarn, or fiber would be exported from the United States.

(h) Before payment is made on any claim under this Act, the Attorney General shall notify the Administrator of the Small Business Administration of the claim. The Administrator shall, after receipt of such notification, notify the Attorney General as soon as possible of—

(1) any unpaid loans made by the Small Business Administration under the Small Business Act, and

(2) other amounts owing to the Small Business Administration on account of loans made under the Small Business Act,

for the purpose of assisting the claimant on account of losses sustained as a result of the actions taken by the United States under the Federal Hazardous Substance Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate. The Attorney General shall offset, from the amount of the payment on the claim under this Act, the amount of any such unpaid loans or other amounts owing to the Small Business Administration. The amount of any offset under this subsection shall be treated as accrued and paid to the claimant in ten equal annual installments beginning with the first year in which payment on the claim under this Act is made.

(i) Nothing in this Act shall be construed as an admission of fault or liability on behalf of the United States for any personal injury which may hereafter be claimed to arise from exposure to Tris (2,3-dibromopropyl) phosphate.

Mr. THURMOND. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SURFACE TRANSPORTATION ACT OF 1982

The Senate resumed consideration of the bill.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I inquire is time under the control on our side of the minority leader?

The PRESIDING OFFICER. The only time agreement is for a vote at 8 p.m.

Mr. MOYNIHAN. I thank the distinguished Presiding Officer.

Mr. President, I rise in support of our distinguished minority leader's infrastructure and jobs amendment proposal and would wish to speak briefly to one of the nine major components, that having to do with water and sewer infrastructure repairs. I do this as the ranking member of the Subcommittee on Water Resources of the Committee on Environment and Public Works to say two things:

First, Mr. President, there is no longer any question, our committee has established the fact in great statistical detail and it has been widely publicized in the press and various journals, that our Nation has been disinvesting in its basic infrastructure—the highways, the water systems, the general public facilities—on which the private economy rests in some very physical and calculable way and which the Nation requires in a very considerable extent.

Between 1968 and 1977, public works investment in constant dollars declined at an average rate of 3.7 percent. No one knew this. We were surprised to learn it. We sensed it. It took several years of research to establish it.

By 1980, total public works investment at all levels of government dropped to $26 billion as against the 1970 level of $38 billion. It is the only part of our budget going down and it is of the kind of decline which, after a certain point, becomes proscriptively more expensive.

You could not just paint a bridge for so many years before you have to replace the bridge. You can do the same thing to roads and, in particular, to the water systems, fresh water, treated water, and sewage water. These are below the surface, out of sight, and much too easily out of mind. And they have become disastrously undermaintained in our country.

We have agreed in the Committee on Environment and Public Works that this is a matter of urgency. It is estimated, at a responsible level, that in the next 20 years we are going to have to invest between $75 billion and $110 billion simply to rehabilitate deteriorating urban water systems.

You can fail to do this and you will find it costly beyond your imagining. We have done less of it to a degree which verges on the irresponsible if we concern ourselves with the public good over the horizon, over the next month or the next year.

This amendment provides $1 billion to be distributed according to the Environmental Protection Agency's construction grant program. That is title II of the Clean Water Act. All commu-

nities are eligible and all will receive their funds under the language of the bill which says,

The extensive repair of existing conveyance and distribution facilities including pumping stations beyond the scope of normal maintenance, where facilities are collapsing or structually unsound.

Mr. President, there is an estimated need for $75 billion to $110 billion in outlays over 20 years, but we propose $1 billion over the next year. It is the matter of the greatest urgency.

I see the distinguished Senator from Lousiana is on the floor. I would dare not estimate the needs of the water supply system of New Orleans any more than I would of my own city of New York, or, with the Senator from Rhode Island here, the needs of the city of Providence.

This amendment addresses itself to those needs and has the further important fact, I think, that of all the public works that we will be considering in this legislation none is more labor intensive, none is more capable of being directly put in place, and to do so with persons who are capable of work, who need the work, and doing work that very much needs to be done.

Time is running short. I see my friend from Rhode Island is present. I want to give him all the time he needs.

I thank the Chair.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the distinguished Senator from New York for yielding. I know we vote at 8 p.m. I want to make just a couple of comments in connection with the amendment offered by the distinguished minority leader.

First, addressing the No. 1 item, namely, the water and sewage infrastructure repair, Mr. President, that has problems in itself. There is no question that there exists presently the sewer infrastructure repair mechanism in connection with our waste water treatment programs. They are on the books. The communities and the States know what are their priority items. We have a system of getting the moneys out.

On the other hand, Mr. President, the Federal Government is not now involved in water distribution repairs. We are not in that in any connection, except peripherally through some EPA programs. But there is no summation of what the water system need in the United States of America is. This would involve embarking on an entirely new program.

Overall, Mr. President, this amendment has some meritorious parts to it. I would address particularly the public housing rehabilitation program of $400 million. It is my understanding that there will be moneys provided for that in the continuing resolution.

The increase in the unemployment compensation is something that I have voted for in the past, Mr. President. It is my understanding that there will be a separate amendment offered on that later on this evening or before we are through with the overall jobs-roads program.

Mr. President, it seems to me that the road program that we have before us is an important one. It deserves passage. It does not please any of us completely, but it is a program that provides for repairing our roads and bridges that are sorely in need of repair.

It also provides funds for mass transit, something that those of us from cities are particularly interested in.

That whole program, which barely passed the House of Representatives, and I suspect might well have trouble if we started all over again here, is endangered by this amendment presented by the minority leader. If this amendment should pass, and I do not believe it will, I believe that the entire roads program that we have before us would be in danger of a veto. I do not think that is the kind of risk that we can run.

In addition, Mr. President, I have faults with separate sections of this nine-point program. Some have merits, as I previously indicated. One problem is the threat of veto of the entire roads program. Second is the fact that under point 2 we are going into the so-called labor-intensive community public works program, something we have dealt with previously in the environment and public works program. We found there was no prepared agenda on how to proceed. There was not a priority set forth for the works. It takes a long time to get the moneys out and when the moneys are out, the return effect, the effect on the reduction of unemployment, or the effect of the benefits yielded from these community public works, comes in long after the recession has ended.

Perhaps that will not be true in this instance. Hopefully, this recession will not last too long. But we have had rather unsatisfactory experience with these accelerated public works programs or labor intensive public works programs in the past.

Mr. President, I am prepared to yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, if no other Senator desires the floor, might I just respond in the friendliest of terms to my friend from Rhode Island when I suggest that the particular title of legislation I addressed myself to, that of water and sewer infrastructure repair, is something needed and urgently needed as much as the road reconstruction, rehabilitation, and resurfacing provisions of the legislation.

They both come from our committee. It is a fact much to be supported that the aid or Federal participation in infrastructure programs, in water programs, seems to be confined to those States west of the Mississippi. That is a source of imbalance in our programs which has also been a reason for their decline. This effort is not shared in the Nation, and increasingly the Congress is unwilling to finance that imbalance.

I hope the Senator will acknowledge, and I am sure he would, that the work needs to be done, whether it be on a countercyclical jobs program or whatever. The work is there, and it needs to be done, it has to be done. In our view, here is an opportunity to begin.

Mr. DOLE. Mr. President, I must oppose this amendment. If we have learned anything in the past 20 years, it is that make-work public sector jobs projects are not the answer to the unemployment problem. There is no reason to expect that this proposal would work any better than its predecessors.

What we need now is a healthy, growing private sector, and I fail to detect anything in this package that would encourage a strong economic recovery. By financing the entire package through higher income taxes, it is likely instead to delay recovery.

The proponents claim that, in addition to the highway and bridge program jobs, their package would provide employment to an extra 330,000. Even if these claims were true, the unemployment rate would be lowered by only three-tenths of 1 percent. In order to lower unemployment to an acceptable level by this method would require a truly massive public works program, exceeding even those of the New Deal. My point is that this is a costly program that could at best have a minor impact on unemployment. Only the private sector is capable of solving the unemployment problem. All of our efforts should be devoted to laying the groundwork for a solid, sustainable recovery.

In Congress, we can best help by holding the line on taxes and spending for unnecessary or low priority programs. Even though this package does not raise the deficit, it will increase income tax rates. This takes us in the opposite direction of where we have been moving the last 2 years. There has been a clear consensus in Congress that income tax rates are too high, and the major thrust of the President's program has been to lower these rates in order to stimulate work and saving. Raising income taxes to pay for programs like this is how we found ourselves in the position we were in 2 years ago. This amendment is a continuation of the old Democratic policies of raising more and more taxes to pay for programs that do not

really help anyone but Democrats running for reelection.

Now, some might claim that this is just a logical extension of the highway and bridge repair program that we are debating. But there are fundamental differences. Those put to work by the highway program will be providing much-needed services. There is a clear consensus that these repairs need to be made, and we should be going ahead with this program even if there were no recession. However, the additional funds called for by this jobs program are specifically for make-work activities of questionable value. There is no guarantee that the funds will be spent wisely on services which are clearly needed, especially if we consider the CETA experience. There is a world of difference between asking those who use the Nation's highways to pay for its essential repairs and maintenance, and raising general tax rates to finance make-work jobs.

In these days of fiscal austerity, we have an obligation to make sure that all tax dollars are wisely spent, be they for defense or community services. In the past 2 years we have asked many worthwhile programs to cut corners. When we are squeezing other domestic programs, it just does not make sense to turn around in a lameduck session and authorize billions for vague projects like pothole repair, sewer rehabilitation, and converting surplus public schools. The potential for this to turn into a $3 billion pork barrel seems high.

One of the most objectionable aspects of this amendment is that it violates the user fee principle which has guided Federal highway financing since the establishment of the highway trust fund in 1956. Since that time, funds flowing into the trust fund have come entirely from highway user taxes, insuring that those who use the highways most pay the greatest share of the cost. This amendment would call for general revenues to finance highway expenditures, violating the highway trust fund principle. This sets a bad precedent.

This amendment also contains a sense of the Congress provision instructing the Federal Reserve to lower interest rates, presumably by printing a lot of money. I will not dwell on the inflationary potential of such a notion, expecially to an economy that has suffered considerable damage from the inflation caused by loose money policies in the 1970's. But it is clearly hypocritical of Congress to produce budget deficits of $180 to $200 billion, and then to point the finger at the Federal Reserve for high interest rates. By the way, in the last 4 months the money supply has increased at an annual rate of 16 percent. The Fed seems to have been trying to do all it can to encourage lower rates, short of actions that would risk rekindling inflation.

A major portion of this amendment is targeted toward aiding the "structurally unemployed." Many workers will not be brought back to work by a general economic recovery because they lack the necessary skills, have been displaced from a declining industry, or live in a depressed region. This is certainly a legitimate concern, as a significant share of the current unemployment problem is due to the erosion of our basic industries. But we need some new approaches to this problem. Structural unemployment has proven to be highly resistant to Government programs which merely throw money at the problem. The administration is expected to submit a major unemployment package to the new Congress. A hastily thrown-together lameduck bill is not the answer. What we need from the administration and Congress is a fresh approach to structural unemployment.

Mr. President, the only answer to unemployment is a healthy, growing economy. Our first priority should be speeding a sustainable, noninflationary recovery by holding the line on low-priority spending. By raising taxes, this package would move us in the opposite direction. It is just the type of unthinking pork barrel program, that has consistently failed to produce the promised results, while piling up higher levels of taxation on the American public. They expect more from us than a return to the failed policies of the sixties and seventies.

Mr. HUDDLESTON. Is it the understanding of the distinguished minority leader that the $37 million designated in the amendment for the abandoned mine reclamation over and above what might be available via other appropriations bills is to be made available to the States under the State reclamation program account within the Abandoned Mine Reclamation Fund?

Mr. ROBERT C. BYRD. That is correct. Most coal producing States now have approved reclamation programs. This money is for the use of these States and would be drawn from the State reclamation program portion of the Abandoned Mine Reclamation Fund.

Also, I would like to reemphasize the point made by the distinguished Senator from Kentucky when he states that this $37 million is in addition to the whatever amounts otherwise available in whatever appropriations vehicle that contains funding for the Abandoned Mine Reclamation Fund.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI) is absent because of illness.

The PRESIDING OFFICER (Mr. COHEN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 53, as follows:

[Rollcall vote No. 406 Leg.]

YEAS—44

Baucus	Ford	Metzenbaum
Bentsen	Glenn	Mitchell
Biden	Hart	Moynihan
Boren	Heflin	Packwood
Bradley	Hollings	Pell
Bumpers	Huddleston	Proxmire
Burdick	Inouye	Pryor
Byrd, Robert C.	Jackson	Randolph
Cannon	Johnston	Riegle
Chiles	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Dixon	Levin	Stennis
Dodd	Long	Tsongas
Eagleton	Matsunaga	Zorinsky
Exon	Melcher	

NAYS—53

Abdnor	Garn	Nickles
Andrews	Gorton	Nunn
Armstrong	Grassley	Percy
Baker	Hatch	Pressler
Boschwitz	Hatfield	Quayle
Brady	Hawkins	Roth
Byrd, Harry F., Jr.	Hayakawa	Rudman
	Heinz	Schmitt
Chafee	Helms	Simpson
Cochran	Humphrey	Specter
Cohen	Jepsen	Stafford
D'Amato	Kassebaum	Stevens
Danforth	Kasten	Symms
Denton	Laxalt	Thurmond
Dole	Lugar	Tower
Domenici	Mattingly	Wallop
Durenberger	McClure	Warner
East	Murkowski	Weicker

NOT VOTING—3

DeConcini	Goldwater	Mathias

So Mr. ROBERT C. BYRD's amendment (UP No. 1441) was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Does the majority leader seek recognition?

Mr. BAKER. Yes, Mr. President, I do seek recognition.

I wish to have order for just a moment.

The PRESIDING OFFICER. Will those Senators standing in the aisle please take their seats?

Mr. BAKER. Mr. President, if I may have the attention of the Senate for a moment, earlier today and on yester-

day afternoon, we made good progress on the Interior appropriations bill.

I see the distinguished chairman of the committee in the Chamber, and I am advised that there is some possibility we may be able to complete action on that appropriations bill in a very short period of time.

Could I be bold enough to ask the chairman if that is correct?

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. McCLURE. It is possible. We have worked out a compromise with respect to the issue that was raised by the Senator from Michigan (Mr. LEVIN) earlier. We have very few, very brief matters that are not substantive in terms of the overall bill but very important to an individual Member here and there to take just a very few moments to complete action on that bill.

Mr. BAKER. How long will it take, may I inquire of the Senator?

Mr. McCLURE. Ten minutes, I believe, will take care of it.

Mr. ROBERT C. BYRD. Mr. President, I wish to have the opportunity to canvass my side to see if there are no further amendments to the bill.

Mr. BAKER. Yes.

Mr. President, I wish to put, but I do not now put, a unanimous-consent request that no amendments be in order except the amendments which the chairman may identify and together, of course, with any that the minority leader may identify and that there be a time limitation of, say, 15 minutes equally divided. I will not put that request at this moment, but if we could see how we get along with that, I think it would be worth the Senate's time to try to complete action on that additional appropriations bill.

Mr. President, I understand that the informal pecking order is that the Senator from Texas (Mr. BENTSEN) will now be recognized to offer an amendment.

Could I inquire of the Senator from Texas, would he be willing at some convenient time to interrupt temporarily so that we could take up this appropriations bill, say, for 15 minutes?

Mr. BENTSEN. I say to the leader that I will be delighted to do that with that understanding.

Mr. BAKER. I thank the Senator.

Mr. President, on that basis, then, I hope the Chair will next recognize the Senator from Texas, and I shall pursue the possibility of completing action on the Interior appropriations and a unanimous-consent agreement to facilitate that.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

UP AMENDMENT NO. 1442

(Purpose: To amend the tax tables in the Internal Revenue Code of 1954)

Mr. BENTSEN. Mr. President, I have an amendment at the desk and ask that the clerk state the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 1442.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following:

SEC. —. MODIFICATION OF TAX CUT.

(a) IN GENERAL.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by striking out subsections (a), (b), (c), (d), and (e).

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1443

(Purpose: To modify the third-year tax cut by changing the effective date to April 1, 1983, to defer 5 percent of the tax cut until there is no deficit in the annual Federal budget, and for other purposes)

Mr. BENTSEN. Mr. President, I have sent another amendment to the desk as a perfecting amendment to the amendment I just called up and ask the clerk to state it.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 1443.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the last period and insert the following: "and inserting in lieu thereof the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"FOR TAXABLE YEARS BEGINNING IN 1983 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	12% of the excess over $3,400.
Over $5,500 but not over $7,600	$252, plus 13% of the excess over $5,500.
Over $7,600 but not over $11,900	$525, plus 15% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,170, plus 17% of the excess over $11,900.
Over $16,000 but not over $202000	$1,867, plus 20% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,707, plus 23% of the excess over $20,200.
Over $24,600 but not over $29,000	$3,719, plus 26% of the excess over $24,600.
Over $29,900 but not over $35.200	$5,097, plus 30% of the excess over $29,900.
Over $35,200 but not over $45,800	$6,687, plus 35% of the excess over $35,200.
Over $45,800 but not over $60,000	$10,397, plus 40% of the excess over $45,800.
Over $60,000 but not over $85,600	$16,077, plus 44% of the excess over $60,000.
Over $85,600 but not over $109,400	$27,341, plus 49% of the excess over $85,600.
Over $109,400	$39,003, plus 50% of the excess over $109,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(h)) a tax determined in accordance with the following table:

"FOR TAXABLE YEARS BEGINNING IN 1983 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	12% of the excess over $2,300.
Over $4,400 but not over $6,500	$252, plus 13% of the excess over $4,400.
Over $6,500 but not over $8,700	$525, plus 15% of the excess over $6,500.
Over $8,700 but not over $11,800	$855, plus 18% of the excess over $8,700.
Over $11,800 but not over $15,000	$1,143, plus 20% of the excess over $11,800.
Over $15,000 but not over $18,200	$2,053, plus 21% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,725, plus 26% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,103, plus 30% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,693, plus 35% of the excess over $28,800.
Over $34,100 but not over $44,700	$7,548, plus 38% of the excess over $34,100.
Over $44,700 but not over $60,600	$11,576, plus 44% of the excess over $44,700.
Over $60,600 but not over $81,800	$18,572, plus 49% of the excess over $60,600.
Over $81,800	$28,960, plus 50% of the excess over $81,800.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"FOR TAXABLE YEARS BEGINNING IN 1983 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	12% of the excess over $2,300.
Over $3,400 but not over $4,400	$132, plus 13% of the excess over $3,400.
Over $4,400 but not over $6,500	$262, plus 15% of the excess over $4,400.
Over $6,500 but not over $8,500	$577, plus 16% of the excess over $6,500.
Over $8,500 but not over $10,800	$897, plus 17% of the excess over $8,500.
Over $10,800 but not over $12,900	$1,288, plus 20% of the excess over $10,800.
Over $12,900 but not over $15,000	$1,708, plus 21% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,149, plus 25% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,949, plus 28% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,433, plus 32% of the excess over $23,500.
Over $28,800 but not over $34,100	$6,129, plus 36% of the excess over $28,800.
Over $34,100 but not over $41,500	$8,037, plus 40% of the excess over $34,100.
Over $41,500 but not over $55,300	$10,997, plus 45% of the excess over $41,500.
Over $55,300	$17,207, plus 50% of the excess over $55,300.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"FOR TAXABLE YEARS BEGINNING IN 1983 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	12% of the excess over $1,700.
Over $2,750 but not over $3,800	$126, plus 13% of the excess over $2,750.
Over $3,800 but not over $5,950	$262.50, plus 15% of the excess over $3,800.
Over $5,950 but not over $8,000	$585, plus 17% of the excess over $5,950.
Over $8,000 but not over $10,100	$933.50, plus 20% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,353.50, plus 23% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,859.50, plus 26% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,548.50, plus 30% of the excess over $14,950.
Over $17,600 but not over $22,900	$3,343.50, plus 35% of the excess over $17,600.
Over $22,900 but not over $30,000	$5,198.50, plus 40% of the excess over $22,900.
Over $30,000 but not over $42,800	$8,038.50 plus 44% of the excess over $30,000.
Over $42,800 but not over $54,700	$13,670.50, plus 49% of the excess over $42,800.
Over $54,700	$19,501.50, plus 50% of the excess over $54,700.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"FOR TAXABLE YEARS BEGINNING IN 1983 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $1,050	12% of taxable income.
Over $1,050 but not over $2,100	$126, plus 13% of the excess over $1,050.
Over $2,100 but not over $4,250	$262.50, plus 15% of the excess over $2,100.
Over $4,250 but not over $6,300	$585, plus 17% of the excess over $4,250.
Over $6,300 but not over $8,400	$933.50, plus 20% of the excess over $6,300.
Over $8,400 but not over $10,600	$1,353.50, plus 23% of the excess over $8,400.
Over $10,600 but not over $13,250	$1,859.50, plus 26% of the excess over $10,600.
Over $13,250 but not over $15,900	$2,548.50, plus 30% of the excess over $13,250.
Over $15,900 but not over $21,200	$3,343.50, plus 35% of the excess over $15,900.
Over $21,200 but not over $28,300	$5,198.50, plus 40% of the excess over $21,200.
Over $28,300 but not over $41,100	$8,038.50, plus 44% of the excess over $28,300.
Over $41,000 but not over $53,000	$13,670.50, plus 49% of the excess over $41,000.
Over $53,000	$19,501.50, plus 50% of the excess over $53,000.

(b) TAX RATES FOR TAXABLE YEARS AFTER FEDERAL BUDGET IS BALANCED.—Section 1 is amended by adding at the end thereof the following new subsection:

"(g) DETERMINATION OF APPLICABLE TAX RATE.—In the case of taxable years beginning in any calendar year after the first calendar year beginning after December 31, 1983, in which ends a fiscal year for which the outlays of the Federal budget do not exceed receipts, the following tables in paragraphs (1), (2), (3), (4), and (5) shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e), respectively:

"(1) MARRIED FILING JOINTLY AND SURVIVING SPOUSES.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	11% of the excess over $3,400.
Over $5,500 but not over $7,600	$231, plus 12% of the excess over5,500.
Over $7,600 but not over $11,900	$483, plus 14% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,085, plus 16% of the excess over $11,900.
Over $16,000 but not over $20,000	$1,741, plus 18% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,497, plus 22% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,465, plus 25% of the excess over $24,600.
Over $29,900 but not over $35,200	$4,790, plus 28% of the excess over $29,900.
Over $35,200 but not over $45,800	$6,645, plus 33% of the excess over $35,200.
Over $45,800 but not over $60,000	$9,772, plus 38% of the excess over $45,800.
Over $60,000 but not over $85,600	$15,168, plus 42% of the excess over $60,000.
Over $85,600 but not over $109,400	$25,920, plus 45% of the excess over $85,600.
Over $109,400 but not over $162,400	$36,630, plus 49% of the excess over $109,400.
Over $162,400	$62,600, plus 50% of the excess over $162,400.

"(2) HEADS OF HOUSEHOLDS.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	11% of the excess over $2,300.
Over $4,400 but not over $6,500	$231, plus 12% of the excess over $4,400.
Over $6,500 but not over $8,700	$483, plus 14% of the excess over $6,500.
Over $8,700 but not over $11,800	$791, plus 17% of the excess over $8,700.
Over $11,800 but not over $15,000	$1,318, plus 18% of the excess over $11,800.
Over $15,000 but not over $18,200	$1,894, plus 20% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,534, plus 24% of the excess over $18,200.
Over $23,500 but not over $28,800	$3,806, plus 28% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,290, plus 32% of the excess over $28,800.
Over $34,100 but not over $44,700	$6,986, plus 35% of the excess over $34,100.
Over $44,700 but not over $60,600	$10,696, plus 42% of the excess over $44,700.
Over $60,600 but not over $81,800	$17,374, plus 45% of the excess over $60,600.
Over $81,800 but not over $108,300	$26,914, plus 48% of the excess over $81,800.
Over $108,300	$39,634, plus 50% of the excess over $108,300.

"(3) CERTAIN UNMARRIED INDIVIDUALS.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	11% of the excess over $2,300.
Over $3,400 but not over $4,400	$121, plus 12% of the excess over $3,400.
Over $4,400 but not over $6,500	$241, plus 14% of the excess over $4,400.
Over $6,500 but not over $8,500	$535, plus 15% of the excess over $6,500.
Over $8,500 but not over $10,800	$835, plus 16% of the excess over $8,500.
Over $10,800 but not over $12,900	$1,203, plus 18% of the excess over $10,800.
Over $12,900 but not over $15,000	$1,581, plus 20% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,001, plus 23% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,737, plus 26% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,115, plus 30% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,705, plus 34% of the excess over $28,800.
Over $34,100 but not over $41,500	$7,507, plus 38% of the excess over $34,100.
Over $41,500 but not over $55,300	$10,319, plus 42% of the excess over $41,500.
Over $55,300 but not over $81,800	$16,115, plus 48% of the excess over $55,300.
Over $81,800	$28,835, plus 50% of the excess over $81,800.

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	11% of the excess over $1,700.
Over $2,750 but not over $3,800	$115, plus 12% of the excess over $2,750.
Over $3,800 but not over $5,950	$241, plus 14% of the excess over $3,800.
Over $5,950 but not over $8,000	$542, plus 16% of the excess over $5,950.
Over $8,000 but not over $10,100	$870, plus 18% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,248, plus 22% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,732, plus 25% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,395, plus 28% of the excess over $14,950
Over $17,600 but not over $22,900	$3,137, plus 33% of the excess over $17,600
Over $22,900 but not over $30,000	$4,886, plus 38% of the excess over $22,900.
Over $30,000 but not over $42,800	$7,584, plus 42% of the excess over $30,000.
Over $42,800 but not over $54,700	$12,960, plus 45% of the excess over $42,800.
Over $54,700 but not over $81,200	$18,315, plus 49% of the excess over $54,700.
Over $81,200	$31,300, plus 50% of the excess over $81,200.

"(5) ESTATES AND TRUSTS.—

"If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100	$115, plus 12% of the excess over $1,050.
Over $2,100 but not over $4,250	$241, plus 14% of the excess over $2,100.
Over $4,250 but not over $6,300	$542, plus 16% of the excess over $4,250.
Over $6,300 but not over $8,400	$870, plus 18% of the excess over $6,300.
Over $8,400 but not over $10,600	$1,248, plus 22% of the excess over $8,400.
Over $10,600 but not over $13,250	$1,732, plus 25% of the excess over $10,600.
Over $13,250 but not over $15,900	$2,395, plus 28% of the excess over $13,250.
Over $15,900 but not over $21,200	$3,137, plus 33% of the excess over $15,900.
Over $21,200 but not over $28,300	$4,886, plus 38% of the excess over $21,200.
Over $28,300 but not over $41,100	$7,584, plus 42% of the excess over $28,300.
Over $41,100 but not over $53,000	$12,960, plus 45% of the excess over $41,100.
Over $53,000 but not over $79,500	$18,315, plus 49% of the excess over $53,000.
Over $79,500	$31,300, plus 50% of the excess over $79,500.

(c) CHANGES MADE BY THE HIGHWAY REVENUE ACT OF 1982.—Subsection (a) of section 3402 of such Code (relating to requirement of withholding) is amended—

(1) by striking out subparagraph (B) of paragraph (3) and inserting in lieu thereof the following:

"(B) the amendments made by section 101(a) of such Act, and such modifications shall take effect on July 1, 1982, as if the reductions in the rate of tax under section 1 (as amended by such section) were attributable to a 10-percent reduction effective on such date.",

(2) by adding at the end thereof the following new paragraph:

"(4) CHANGES MADE BY THE HIGHWAY REVENUE ACT OF 1982.—

"(A) ADJUSTMENT IN TABLES.—Notwithstanding the provisions of this subsection, the Secretary shall modify the tables and procedures under paragraph (1) to reflect the amendments made by the Highway Revenue Act of 1982, and such modification shall take effect on April 1, 1983, as if such amendments made a 5-percent reduction effective on such date.

"(B) No changes in revenue by reason of this paragraph.—In prescribing the tables under subparagraph (A), the Secretary shall insure that the amount withheld pursuant to such tables during fiscal year 1983 shall not be less than the amount that would have been withheld for such year if this paragraph had not been enacted.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

Mr. BENTSEN. Mr. President, my amendment is designed to attack head on the deficit in the budget. It will not affect fiscal year 1983. It will not raise that deficit, nor will it lower that deficit, but it will have a dramatic and substantial effect on the forthcoming years.

In the 4 years thereafter it will reduce the deficit by some $76 billion.

All of us remember the bright promises that accompanied the tax cut of 1981, and I voted for that tax cut. Annual growth rates of 4 to 5 percent were projected. Unemployment was to decline by one-half of the levels we last saw in the early 1960's. Inflation was to be corraled, productivity growth was to increase to rival the level of the Japanese and the Germans, and the budget was to be balanced.

This rosy outlook was predicated on the assertion that a wave of savings and investment would shrink the Federal budget deficit; that interest rates would decline drastically and spark a period of very robust growth due to the tax cuts we enacted.

RECORD DEFICITS

What went wrong?

I do not quarrel with the President's desire to decrease taxes, increase defense spending, or even the Federal Reserve's slowing down money growth—the serious miscalculation has been in trying to do it all at the same time and to the degree it was done. The economy could have handled any one of these objectives, perhaps even two out of the three at the same time, but all three at once and to the degree undertaken has been an economic disaster and a major miscalculation. To cut taxes by 25 percent, increase defense spending by compounding 8 percent after inflation accompanied in 1981 by the tightest money policies in 20 years has so skewed our income and expenditures, that they are dangerously out of balance. It is time for that midcourse correction. Does it mean that we give up on cutting back on excess Government spending? Of course not, but it means this by itself will not be enough. Does it mean not increasing our military spending? No, but it does mean we must take more time in achieving that objective. It is as though one had taken three needed prescriptions for three separate ailments, but taken at the same time the interaction of the medicines has laid the patient low.

It definitely means that the implementation of the tax cut scheduled for July 1, one-half of it should be deferred until we achieve a better balance of income and expenditures.

Instead of deficits falling and interest rates sagging, our Federal budget outlook has become of increasing concern.

Our fiscal year 1982 deficit of $110.7 billion was the first deficit ever to exceed $100 billion and was by far the largest in our history.

Excluding the World War II years, the single-year deficit of $110.7 billion for fiscal year 1982 was equal to the total of all the Federal deficits in our history until 1971.

Last year's deficit was twice as large as the peak year deficit of 1943, and almost equaled the entire deficits for 1942, 1943, and 1944.

Even including the war years, only four times in our history have we had a unified Federal budget deficit even one-half as large as th fiscal year 1982 deficit.

In fact, excluding World War II, the deficit in any average month in 1982 was larger than our deficit for any entire year until 1959.

And the future looks even darker. Both CBO and OMB agree that our deficits will grow larger still. CBO is projecting deficits of $150 billion or more in fiscal year 1984 and fiscal year 1985. OMB's chief economist, Lawrence Kudlow, in a talk before the American Enterprise Institute last Wednesday discussed our deficit outlook in detail. The crux of his remarks was that we face annual deficits of $150 billion for the balance of this decade, with a $240 billion deficit likely for 1988. The national debt already exceeds $1.1 trillion. It cost every single American family almost $1,500 last year just to pay interest alone on that debt. If present trends continue, they will have to pay closer to $2,000 this year.

The explosive growth in deficits during fiscal year 1982 and fiscal year 1983 has kept prime interest rates far above levels justified by inflation. Over the last 18 months, the Treasury has been massively preempting savings to finance the Government. In fiscal year 1982, consumers saved slightly less than $150 million—and the Treasury took three-quarters of it. This fiscal year and in calendar year 1983, every dollar and more of individual savings will be required just to finance the deficit—leaving none to continue downward pressure on interest rates and to accommodate a recovery. The credit crunch is so severe that, even in our worst postwar recession, we still see short-term interest rates stuck at 9 percent or better. Long-term rates and mortages remain scarcely affordable at levels of 13 to 14 percent—a full 6 or 7 points above the rate of inflation.

ECONOMIC SLOWDOWN

These deficit-inspired interest rates have brought on our worst recession since the Great Depression:

Twelve million men and women are officially unemployed. If you include the 1.5 million additional men and women too discouraged even to seek work, we really have 13.5 million people unemployed. That number exceeds the 12.8 million people unemployed in our Nation during the peak Depression year of 1933.

My State of Texas and other Sunbelt States are home to tens of thousands of homeless living in shanty and tent cities. They live a near hopeless hand-to-mouth existence, financed by collecting bottles and aluminum cans, plus charity handouts. They have found high unemployment has spread across the Nation.

GNP has increased in only one of the last four quarters. In the most recent quarter, the third-quarter, our GNP was comparable to the size of our Nation's economy in late 1978.

Housing used to be a leading economic sector. It is stumbling along at a 1.1 million-unit pace with no recovery in sight.

The auto industry is still cutting production. Output in December is set at 4 percent below the anemic November level. That bellwether industry will sell barely 5 million cars in all of 1982, compared with last year's depressed level of 6.2 million cars.

The monthly survey of key purchasing agents was published in last Monday's Wall Street Journal. It found that production in November fell again. Fully one in three U.S. firms cut production back in November from their already depressed October levels.

That same survey found that one-half of all firms were laying off even more people in November.

Both the lagging and coincident indicators at the Commerce Department turned down again in October.

Because of layoffs, the average real weekly earnings of working men and women have slumped to a 22-year low. Gross weekly earnings in real dollars in 1982 was the lowest since 1960 and is 20 percent below the peak set in the 1970's.

The steel industry is in genuinely dire straits. The strong dollar unleashed a flood of cheap imports until recently. It is operating at less than half capacity.

Industrial production has fallen in 13 of the last 15 months. It plunged in October to a level last seen in mid-1977—over 60 long months ago. At 68.4 percent of capacity, our plant utilization factor has literally fallen off the Federal Reserve's chart. It is the lowest ever recorded. At the height of our massive bombing efforts in World War II, Germany had a higher plant utilization rate than we do now.

There is a rapidly growing concern that we may not experience the long-awaited recovery in the months immediately ahead. Most economists are not that pessimistic, but all have steadily scaled back their projections for 1983 in recent weeks. And for good reason:

The Wall Street Journal survey of purchasing agents discovered that new orders for goods and services fell again in November. In fact, 36 percent of all firms reported a decline in new orders.

With new orders down, 44 percent of all firms cut inventories again in November, as expectations of a recovery continued to be scaled back.

The Conference Board's annual economic assessment released on December 5 was very gloomy. It projects an

anemic 2.7-percent growth in real GNP during 1983. Such a low rate is barely one-half that usually seen in a recovery, and one would leave unemployment still hovering near 10 percent next summer.

Henry Kaufman of Salomon Bros. in New York is even more pessimistic. He projected a rise in real GNP next year of between 2 and 2.5 percent.

And Alan Greenspan has come in below both of them with a projection for economic growth next year of only 1.9 percent—a rate which would barely permit unemployment to creep below 10 percent in 1983.

INTEREST RATES AND THE DEFICIT

All these very pessimistic projections are from credible economists. Their estimates hinge on the fact that our enormous deficits will not permit interest rates to fall far enough over the next 2 years to spark a robust recovery. Any recovery we have will likely be short lived. It will be quickly choked off by a deficit-driven surge in interest rates as business begins to compete for savings with the Treasury. And we know from sad experience that the Treasury is the biggest and most aggressive hog at the trough.

Last week, short-term business borrowing declined by $1.8 billion as firms paid off more than they borrowed. In fact, since July, the volume of commercial and industrial loans plus commercial paper issued by American business has fallen. On a net basis, they have been paying off more than they borrowed. In effect, American business has not been in our capital markets. Even so, interest rates have scarcely dropped despite a robust expansion in the money supply. Had business this year borrowed the $56 billion it commanded in 1981, the prime interest rate would have been pushed right back up to 1981 levels by the Treasury.

Until recent weeks, many or even all of us had assumed that the deficits were controllable. We had believed that economic growth would generate a revenue windfall able to wipe out the deficits. We are learning differently now, and so is the President and OMB. In fact, OMB analysts confirmed last week that even robust growth of 3.5 percent or more will not reduce future deficits below $150 billion. And the odds are very long indeed that we will never approach a 3.5-percent growth rate unless interest rates fall much further. If Alan Greenspan is correct, we will barely achieve one-half that rate next year.

Put simply, even very strong economic growth will not alone cure the deficit. The deficit must be attacked from several directions. It must be reduced to bring interest rates down. It must be cut or we will not see economic growth sufficient to move us out of this recession and reduce our scandalous level of unemployment.

Cornwallis' troops played "The World Turned Upside Down" as they surrendered to the French and Colonial allies at Yorktown. The realization that economic growth alone will cure the deficits should make us all feel a bit like those British troops. In a real sense of the word, we are at a watershed in our Nation's economic history—a watershed where we must deal with our deficits to achieve growth rather than the other way around.

FISCAL MISMATCH

OMB's Chief Economist, Lawrence Kudlow, made that point strongly last week. We face an annual deficit, he said, of $150 billion to $175 billion under the very best full employment conditions, Anything less than a very strong recovery would see deficits in fiscal year 1984 and beyond of $200 billion and higher. Kudlow concluded that we have a fundamental fiscal mismatch between Government receipts and outlays. Even running at full tilt, outlays will run far ahead of Government revenues.

This fiscal mismatch cannot be entirely corrected by further reductions in domestic and military spending. We must proceed on all fronts, including a deferral of a part of the anticipated 1983 tax cut, to limit the deficit.

DEFICIT REDUCTION

Last summer, Congress voted to recover $150 billion in taxes from fiscal year 1983 through fiscal year 1986. The proposal was passed in bipartisan recognition that the looming deficits need to be reined in. The urgency felt then has become even more pronounced today. We must slash the deficit to send Wall Street the message that interest rates can and will continue falling.

Last summer's tax increase did not harm the thrust of the President's program. It retains its desirable focus on savings and investment. My amendment is more modest than last year's action. And it will not harm the focus of ERTA, either. In fact, it is more of the same—a mid-term correction—a recognition that the exercise of responsible fiscal policy requires adjustments to tax policies as economic conditions dictate. My amendment will increase tax receipts during fiscal years 1984-86 by $55 billion, less than 8 percent of the total revenue reduction achieved by ERTA.

REVENUE IMPACT

Let me review my amendment in detail. I propose to reduce the scheduled July tax cut to 5 percent, while accelerating its effective date to April 1 from July 1.

According to the Joint Tax Committee, my amendment will reduce the fiscal years 1984-86 deficit by $55 billion; it will reduce the fiscal years 1984-87 deficit by $76 billion. Based on the most current OMB and CBO deficit projections, my amendment will reduce these projected deficits by about 10 percent—and do so without jeopardizing our recovery. In fact, econometric work done by the Joint Economic Committee using the data resources model shows that my amendment—by enabling interest rates to fall—will actually aid the recovery more than the scheduled July tax cut.

ECONOMIC STIMULUS

We are counting on next year's 10-percent tax cut to boost us into a sustained recovery. But private forecasts tell a different story. The tax cut will add some $32 billion at an annual rate to the deficit beginning in July. That abrupt July increase in Treasury borrowings will run smack into rising corporate demands for cash to finance the recovery. The result, according to the DRI control run, will be to jerk interest rates back up. They will be put right back on an up-escalator again. As now structured, next July's tax reduction will cut the recovery off at the knees. According to business and Wall Street analysts like Alan Greenspan, it would create only a very weak recovery and reduction in unemployment in 1983.

Deferring one-half of that tax cut has quite a different impact. It will reduce the deficit and enable interest rates to continue falling next year and on through 1985. In fact, in combination with the acceleration in its effective date to April, my deferral of one-half of the tax cut will:

Knock a full percentage rate off the prime rate and the 3-month T-bill rate otherwise projected for fiscal year 1984 and fiscal year 1985.

It will add 100,000 housing starts to the number otherwise projected for fiscal year 1984 and fiscal year 1985.

It will generate real GNP growth of 4.3 percent in 1984 and 3.9 percent in 1985 according to DRI—enough to push unemployment down below 8 percent during the next 2 years.

TAX CUT TIMING

Moving the tax cut ahead to April is important to the recovery. Because the tax cut is held to 5 percent, that acceleration will have no impact on the fiscal year 1983 deficit. Yet, having those extra funds on hand in April will insure that a recovery does, in fact, start early next year—and that it will be a sustainable one, fueled by falling interest rates and the prospects for still lower ones in the year ahead.

WALL STREET AND INTEREST RATES

I said moments ago that this amendment is needed to send Wall Street a message—to let them know that Congress is concerned with our looming deficits—that we have the courage to reduce them.

That message will really go to Main Street and the Federal Reserve as much as to Wall Street. The financial community no less than the Federal

Reserve is appalled with the deficit outlook—an outlook where every dime and then some of individual savings this year and every year in the future must be funneled directly to the U.S. Treasury.

They realize that hopes for a genuine recovery—a sustainable recovery—hinge on reducing these enormous Treasury demands for credit. We must clear the path for private-sector borrowing to finance new inventories and investment and the recovery. That is the only way we can be assured of the recovery next year. It is the only way we can be assured of a recovery lasting beyond next year. And it is the only way we can hope to see the level of new investment generated in this Nation which is needed to compete effectively with our Japanese and German competitors.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield to my colleague from Mississippi.

Mr. STENNIS. Mr. President, the Senator has opened a matter that has been of great concern to all of us. I know it has been of great concern to me. I believe that this step he proposes is going to have to be taken and I have decided the sooner the better.

In my reasoning, it is just simple arithmetic. These $200 billion predicted deficits are appalling. But I am convinced that it is entirely possible that it can happen if we do not change direction. And I am fully convinced, too, that it is going to take two directions toward closing down this deficit from opposite ends. We are going to have to touch these entitlements. It is inevitable. It must come and we must work from that end. And I think we overdid the tax reduction in the earlier part of last year.

If we could travel the road back, I think it would take 20 years to get the thing back if we do not do something along that line of making those reductions from that end.

I believe I understand far better now the idea that long-term investments demand this total deficit in the neighborhood of a balanced budget. So I think we just well might bite the bullet further and travel in these two directions and try to bring about these results.

I am going to vote for this amendment and hope it passes now, but I am still almost certain it has to be passed in time.

I thank the Senator for yielding.

Mr. BENTSEN. Mr. President, I yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am grateful for my knowledgeable colleague from Texas yielding to me for just a few moments.

I believe that what the Senator has said—and I have listened very carefully—is well reasoned. I think it is very, very important that we do what is proposed in this amendment.

I pause to say that we have so many interplays today in connection with our economic structure, our unemployment, and high interest rates. This is a practical way to address the rising deficit. By adopting this proposal, it is projected that we can reduce the Federal deficit by a total of $76 billion in fiscal years 1984, 1985 and 1986.

Today, in West Virginia, we have a 13-percent-unemployment rate. We know that means too many people are out of work in West Virginia and throughout the Nation. By reducing the deficit more houses will be constructed and many, many persons will be employed. I urge my colleagues to accept this well-reasoned proposal.

I would appreciate it if my good friend from Texas would add me as a cosponsor of his worthwhile amendment.

Mr. BENTSEN. Mr. President, I would be delighted to have the distinguished Senator from West Virginia added as a cosponsor. I ask unanimous consent that he be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I want to share the cosponsorship with others, but recognizing the Senator's leadership in this matter. I am hopeful that this amendment will meet with approval. It is a soundly based and a very clearly explained proposal that I trust Senators can endorse.

I thank the Senator for yielding.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senator from Nebraska, Senator EXON, also be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, let me suggest that the amendments are piling up in the front row. We have already disposed of one amendment. We are down to 90-some amendments on the gas tax bill. I know that the majority leader would like to finish this bill this evening betweeen now and morning.

I just suggest that it will be very, very difficult to expedite this bill, so if anybody who may be listening can restrain themselves from offering amendments, it would be helpful. I will talk about this amendment in just a second. I would hope if Members feel compelled to offer amendments that they would give us an opportunity to review the amendments and discuss the amendments, see whether or not they are germane or not germane, whether they cost money or do not cost money, whether they are technical or nontechnical. It would be very helpful as we try to move swiftly on this bill throughout the remainder of the week and the next couple of weeks.

Now to the amendment at hand. I commend the distinguished Senator from Texas. I know that he is a very thoughtful and careful person, a valued member of our committee.

I just say in all honesty that this may be a perfectly good amendment but I would rather not get into a debate on the third year of the tax cut this year. I am confident we will have opportunities next year to debate the third year of the tax cut.

The President suggested earlier publicly that maybe we ought to accelerate the last 10 percent to January 1. There was some concern because that would increase the deficit.

Now the Senator from Texas has a different approach. He would accelerate half of the third year and by that means provide a revenue pickup of, I guess, $21.3 billion between now and 1987.

I would just say in all candor that this change might someday be adopted, and maybe tonight, though I hope not. I think it would certainly cause great concern to the President. He feels very strongly about the third year of the tax cut. He sees, as others see, signs of economic recovery. He does not believe that we should in any way affect the workingman's portion of the tax cut.

Increasing the 5 percent to April might provide some stimulus, but I do not think it would be enough to make much difference.

The group that is having the most difficulty, those whose taxes we are trying to reduce in the third year, are those making between $20,000 and $30,000, the average working man and woman, which we hope to assist with the President's tax bill.

I certainly have the greatest respect for the distinguished Senator from Texas. With tax inflation and with some talk about accelerating the social security tax increase to save social security, we are going to need that full 10 percent just to offset bracket creep and the impact of what might possibly happen when we address social security. Hopefully, we will do that early next year.

So, notwithstanding the persuasive argument of the Senator from Texas, I would hope that we might reject this amendment and preserve all the debate and the amendment and all the other things until we get into next year, 1983.

It just seems to me that if, in fact, we are going to make some progress and pass the bill—and I do not want to in any way cut off debate—we should not accept this amendment. Would the Senator like an up-or-down vote?

Mr. BENTSEN. Yes.

I might say to the distinguished chairman of the committee for whom I have a high regard that I appreciate how tenderly he handled my proposal—perhaps because the day will soon come when he will accept it.

I do not want to infringe on the Senator's time now if he has other comments, though I would like to respond to a couple of points he raised.

One of the reasons I think we cannot wait until next year to adjust the third-year tax reduction is because you are going to have the 1983 withholding tables going out in March. You will lose the time which is absolutely essential and necessary to get these tables prepared and distributed. If we are going to give the stimulus provided by my amendment, we have to do it now, in advance. And, if we want to send that proper message to the financial centers of this country, then we have to do it now as well.

Stop and think in times past how long it has taken us in the Finance Committee and the Ways and Means Committee to act on a major tax bill. We do not complete the process until late summer. Even under the very able leadership of our chairman, I cannot imagine that we would have a tax bill before the March tax schedules and April quarterly payments would be due. It just cannot be accomplished. So you will see not the stimulus that would help get this economy moving again until summer. You would not have the kind of an impact on the financial markets we need now to bring interest rates down when and where we need it.

Mr. President, I think the issue is clearly drawn.

Mr. DOLE. I again thank my distinguished colleague from Texas. Again, I understand the point just made by the Senator from Texas. It is our hope that we can speed up the budget process in 1983, considerably speed up the budget process, and see if we can put together whatever we need to put together and get it through the Congress so that we can help, if we can, achieve the economic recovery that so far has eluded the American people.

It does seem to me that cutting the third installment in half cuts in half the workingman's tax cut, the part of the 1981 tax bill that had the least to do with the wealthy and large corportions. Over 70 percent of the cut goes to those with incomes less than $50,000. I know the Senator from Kansas understands the deficit problem and the Senator from Kansas also understands the commitment the President has made to tax reduction. I do not think anybody quarrels with the fact that at the present time the marginal rates are much too high.

I would hope that we might reject this amendment. I am certain we will have another opportunity next year to discuss in detail tax cuts and revenues, revenue increases, revenue decreases, and spending reductions.

Therefore, Mr. President, I just say I hope we will defeat this amendment and move on to the next one.

Mr. BENTSEN. Mr. President, this is an across-the-board tax reduction. That is the way the President wanted it, and that is the way we are talking about providing the cut under my amendment.

This amendment simply replays the tax cut back to the administration in the same manner in which we received it. It merely cuts it in half.

The important point is that it reduces the deficit. I frankly think, as conditions have developed, that we went too far in 1981 and that it is time for a midcourse correction.

I know sometimes it is hard to swallow one's pride and admit that things did not work out as we had anticipated. But, much has transpired since we passed that 1981 tax cut bill. We obviously did not get all the results we wanted because the tax reduction collided with an increase in defense spending and with the tightest Federal Reserve policies in 20 years. Those three things compounding and interacting together overloaded this economy to a point beyond digestion. It resulted in high unemployment and damage to this economy that will take us a long time to rectify.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, the proposal by the Senator from Texas reflects a concern which I feel deeply. We must restore fiscal responsiblility and undue the enormous damage caused by the ill-timed and poorly conceived tax cuts enacted in 1981. Unfortunately the specifics of the proposal fall short of the mark.

The across-the-board tax cut fails to target relief on middle and working class households who need help during these troubled times and this amendment similary fails to benefit the final installment to the middle and working classes. It also fails to insure that the tax relief will be provided to those whose increased consumption is most likely to provide the stimulus that our economy so badly needs. It is important to recall that higher income taxpayers received a disproportionate a share of the tax cuts provided during the past 2 years. When Senator BENTSEN joined me and over 40 of our colleagues tonight in supporting the Democratic alternative to the administration's plan to increase the gas tax, we cast a vote for a program which could promote such economic growth and fiscal responsibility and assure equitable treatment of all Americans. I hope that my colleagues will join with us in the near future in a constructive program to restore our country's prosperity.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the role.

Mr. BAKER. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Wyoming, (Mr. SIMPSON), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI), and the Senator from New York, (Mr. MOYNIHAN) are absent because of illness.

The PRESIDING OFFICER (Mr. GRASSLEY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 54, as follows:

[Rollcall Vote No. 407 Leg.]

YEAS—40

Baucus	Exon	Metzenbaum
Bentsen	Ford	Mitchell
Biden	Glenn	Nunn
Bradley	Hart	Packwood
Bumpers	Hollings	Pell
Burdick	Huddleston	Proxmire
Byrd, Harry F., Jr.	Inouye	Pryor
Byrd, Robert C.	Jackson	Randolph
Cannon	Johnston	Riegle
Chiles	Leahy	Sarbanes
Cranston	Levin	Sasser
Dodd	Long	Stennis
Eagleton	Matsunaga	Tsongas
	Melcher	

NAYS—54

Abdnor	Garn	McClure
Andrews	Gorton	Murkowski
Armstrong	Grassley	Nickles
Baker	Hatch	Percy
Boren	Hatfield	Pressler
Boschwitz	Hawkins	Quayle
Brady	Hayakawa	Roth
Chafee	Heflin	Rudman
Cochran	Heinz	Schmitt
Cohen	Helms	Specter
D'Amato	Humphrey	Stafford
Danforth	Jepsen	Symms
Denton	Kassebaum	Thurmond
Dixon	Kasten	Tower
Dole	Kennedy	Wallop
Domenici	Laxalt	Warner
Durenberger	Lugar	Weicker
East	Mattingly	Zorinsky

NOT VOTING—6

DeConcini	Mathias	Simpson
Goldwater	Moynihan	Stevens

So Mr. BENTSEN's amendment (UP No. 1443) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senate majority leader.

Mr. BAKER. Mr. President, if Senators will permit me, do I understand the Senator from Texas wishes to vitiate the yeas and nays on his first-degree amendment?

Mr. BENTSEN. I wish to vitiate the yeas and nays and then withdraw the underlying amendment.

Mr. METZENBAUM addressed the Chair.

Mr. BAKER. Mr. President, I would like to suggest a procedure now. Earlier today and on yesterday we were able to complete much of the work on the Interior appropriations bill. I am advised now that it is possible for us to complete action on that bill in a very brief time.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I would like to put a unanimous-consent request at this time, if I may have the attention of the Members. Mr. President, I ask unanimous consent that the pending measure be temporarily laid aside and that the Senate proceed to the consideration of the Interior appropriations bill and that there be a time limitation for debate on that measure as follows:

Five minutes under the control of the distinguished chairman of the Interior Committee, Senator McCLURE; 5 minutes under the control of the distinguished Senator from Virginia (Mr. WARNER); 5 minutes under the control of the distinguished Senator from Arkansas (Mr. BUMPERS); 5 minutes under the control of the distinguished Senator from Michigan (Mr. LEVIN); and 5 minutes under the control of the distinguished Senator from Hawaii (Mr. INOUYE).

Mr. President, I ask unanimous consent that at any time during the consideration of the Interior appropriations bill at the suggestion of the majority leader, after first consulting with the minority leader, the Senate will return to the consideration of the highway bill.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, I would say to the majority leader that I was on my feet seeking recognition. I have no objection to the Senator's unanimous-consent request, provided I may be accorded the normal privileges accorded any Senator when he is on his feet seeking recognition. When that unanimous-consent request is put, I would appreciate being given the opportunity to be recognized on the floor.

Mr. BAKER. I have no desire to cut out the Senator from Ohio, and I think he will agree that over the years I have tried to be fair with him, and I think by and large we have been fair with each other. But there comes a time when the two leaders must have what the Senate has given them by precedent, and that is the priority right to be recognized, and that is primarily for the purpose of arranging the schedule of the Senate to the maximum convenience of Senators. So I hope the Senator will bear with me from time to time as I find it necessary or desirable to seek recognition, although I may say, as indeed I this time saw my friend from Ohio also seeking recognition.

But I will reassure him now that I have no desire to deprive him of any right, including the right to be recognized to proceed as he wishes.

Mr. LONG. Reserving the right to object, Mr. President, the Senator did not require that the amendments be germane, and I think that should be a part of the unanimous-consent agreement.

Mr. BAKER. I do not think, Mr. President, there is any provision at all that would apply in this case. None was made.

Mr. LONG. The Senator is asking for a limitation of 5 minutes for each person.

Mr. BAKER. For debate.

Mr. LONG. There is no provision relating to amendments as such. Would the bill be subject to amendment?

Mr. BAKER. Mr. President, I assume the bill would be subject to amendment.

Mr. LONG. If there is going to be a limitation on debate, then there ought to be a requirement of germaneness.

Mr. BAKER. I do not think there will be any amendment, to tell you the truth. I think what we are going to have is colloquy and a general discussion of the general situation and then final passage. But I have no objection to that. Indeed, if Senators are agreeable, I will add to my request the request that no amendment be in order.

Mr. LONG. It is all right for me to do it that way, or to require that the amendments be germane.

Mr. BAKER. Let me put it that way first.

Mr. President, I ask unanimous consent that no amendments to the bill be in order.

Mr. JOHNSTON. No other surprises.

The PRESIDING OFFICER. Without objection——

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I have no objection to this, but I want to be sure the Senators whose names were designated indeed are only planning to debate the measure and do not have an amendment in mind and for their protection I will reserve the right to object. I think, Mr. President, that they only want to engage in a colloquy, so I have no objection.

Mr. BAKER. The Senator is correct.

The PRESIDING OFFICER. Is there objection? If not——

Mr. LONG. Mr. President, do we have an understanding that there will either be no amendment, or that amendments have to be germane? It is all right with me either way.

Mr. BAKER. The request now is no amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, before I yield the floor, I see the presence of a messenger from the House seeking admission to the Chamber, and I yield so he may be received.

(The Senate received a message from the House of Representatives, which is printed later in today's RECORD under Messages from the House of Representatives.)

Mr. BAKER. Mr. President, may I point out that I am sure everybody recognizes that this is the continuing resolution. It will be referred to the Appropriations Committee. It is my understanding that the Appropriations Committee will meet to consider this matter tomorrow afternoon at 2 p.m.

It is my hope, Mr. President, that we can dispose of this bill before then.

I yield the floor, Mr. President.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows.

A bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I suggest the Senator from Hawaii be recognized at this time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I wish to take this opportunity to thank my colleague, the chairman of the Subcommittee on Interior for his kind consideration of a plea made by my constituents in Hawaii.

At the time the decision was made to delete the amount of $120,000 from the animal damage control research program I can assure the Senate that it was reasonable and understandable. However, since the decision was made the State of Hawaii suffered its worst calamity, the Hurricane Eva, and as a result the sugar crop sustained serious loss exceeding $30 million but because of the salt damage to the crops it may extend for many more years.

So I am most grateful to the Senator from Idaho for his understanding and his promise that this matter will be looked upon with some favor in the conference.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

Mr. President, I thank the Senator from Hawaii. He does have my assurance we will take care of that matter in conference.

Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I think the Senator from Michigan is seeking recognition with respect to a matter that he and I have discussed.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Chair and my friend from Idaho.

Earlier today, we had a lively debate about section 108, which is an amendment to the Alaska Lands Act which constitutes legislation on this appropriations bill. I indicated an objection to it at that time for the reason that I just gave.

We have subsequently had some discussion with the managers of this bill. I would like to put a question to both managers of the bill now if I could.

If section 108 prevails in conference—and may I say parenthetically that I hope it does not—but, nonetheless, if it does prevail in conference, will the managers of the bill support language in the report of the conferees as follows:

The Managers direct the Secretary to review the regulations proposed pursuant to Section 1002(d) of Public Law 96-487 to ensure that the statutory prohibition against significant adverse impact on fish, wildlife, and the environment, and the intent of the Congress relative to the meaning of such prohibition is fully complied with and enforced.

Mr. McCLURE. Mr. President, we have reviewed this language, and I give the Senator from Michigan that assurance which he has asked for. I will assure him that I will use every effort in my disposal to see that that language is added to the statement of the managers in the event that section 108 is not stricken.

Mr. LEVIN. Mr. President, while I am asking the Senator from Louisiana, the manager of the bill on our side, whether or not he is able to make a similar assurance, let me say that I would hope that the Secretary of the Interior would, by the time we receive a conference report, whether or not it contains section 108, respond to a letter which five Members of this Senate addressed to the Secretary of the Interior about a month ago. I would hope that that letter is responded to significantly in advance of the receipt of any conference report on this bill.

Mr. JOHNSTON. Mr. President, if I may respond to the distinguished Senator from Michigan, I do not have as much influence with the Secretary of the Interior as my distinguished colleague from Idaho has, but I can assure the Senator that whatever influence I have will be in line with getting a reply to his letter and also seeing that this amendment is fully complied with.

I wish to congratulate the Senator on this language and I wish to congratulate the Senator for having worked this out and letting this bill be voted on by the Senate.

Mr. LEVIN. I thank both of my friends from Louisiana and Idaho.

Mr. President, I yield back the remainder of my time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, last week, the State of Arkansas suffered a natural disaster three times in dollars the magnitude of any natural disaster ever suffered in my State, $358 million. I have asked the Park Service to give me an estimate of the damage done to the Buffalo National River. It is estimated by some to be as much as $2 million, but the best supporting evidence we have to date is around $800,000.

At this point, I am not prepared to ask for the money to take care of all the damages because we do not know how much it is. But I wonder if the distinguished floor manager and chairman of the Energy Committee would join me in urging the Park Service to begin using such funds as are available to them, and possibly earmarked for other purposes, to start repairing the damage that was done to that park.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BUMPERS. I am happy to yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I certainly will join with the Senator in that request. There is a unique situation there. I think that the Park Service should be encouraged to look at that and use whatever funds are necessary to respond to that flood damage.

I will join with the Senator from Arkansas in the request to the National Park Service and to the Secretary of the Department of the Interior.

Mr. BUMPERS. I thank the Senator very much.

Mr. President, I yield to my colleague from Arkansas.

Mr. PRYOR. Mr. President, I rise in support of the position of my distinguished colleague and friend, Senator BUMPERS. The Buffalo National River is truly one of this Nation's most treasured natural resources, and is visited by hundreds of thousands of Americans each year. Recently devastating floods in Arkansas raised the water levels in this river to unprecedented levels, 54 feet above normal in some places, destroying facilities and wreaking general havoc with the river environment. The job in front of us to restore this resource to its natural condition is tremendous and will require much Federal assistance. My colleagues' position is only a start on the cleanup and must be followed up with supplemental funds early next year when we have a clearer picture from the Secretary on the work to be done. I would urge Secretary Watt and Assistant Secretary Ray Arnett to look closely into the problems and needs of the Buffalo National River and provide a summary report to the appropriate committees so that we might address this problem at the earliest practicable time.

In closing, Mr. President, I would urge my colleagues to join in support of Senator BUMPERS' position.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield myself such time as may be necessary.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I rise on behalf of myself and my distinguished colleague from the Fifth Congressional District of Virginia, Congressman DAN DANIELS. Both of us have a keen interest in the bill for the Appalachian Trail land acquisition. I have spoken to the managers of the bill, and they are quite agreeable to putting into the statement of the managers the following language, which I should like to read into the RECORD:

One of the highest priorities under the Appalachian Trail land acquisition program is an offer by Wintergreen, in Nelson County, Virginia, of 2,800 acres, at an estimated cost of $2,340,000. While a Land Protection Plan has not been develcped for this area, the option to purchase will expire in March, 1983. The National Park Service desires this area and every effort should be made to acquire it before the option expires. Otherwise, Wintergreen is ready to develop the land, and subsequent purchase by the government would be rendered prohibitive. It is recommended therefore that there be no delay in acquisition.

Mr. President, I am grateful to the managers of this bill for including that in their statement.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

Does the Senator from Louisiana request any time on the bill before we get to final passage?

Mr. JOHNSTON. Just 10 seconds to congratulate everyone concerned.

Mr. McCLURE. To congratulate everyone concerned, if we were to list them, would take a long time. I join in the statement of the Senator from Louisiana, and I appreciate his great help.

I know of no other request for time.

Mr. HARRY F. BYRD, JR. Mr. President, I would like to ask just two brief questions.

Mr. McCLURE. Mr. President, I would be pleased to try to respond to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, No. 1, what is the total amount of the bill now before the Senate?

Mr. McCLURE. It is just a few thousand dollars under $7.7 billion in budget authority.

Mr. HARRY F. BYRD, JR. Am I correct in my understanding that it is $841 million over the amount recommended by the President?

Mr. McCLURE. I think that is about correct, but I would point out that the Senate and the House, the Congress, together with the administration, adopted a budget resolution subsequent to the submission of the budget and that budget resolution was signed by the President of the United States. That budget resolution was then allocated to the various subcommittees and the allocation to this subcommittee for the matters that are included in this appropriation bill is $7.8 billion, and we are slightly underneath that figure.

Mr. HARRY F. BYRD, JR. In regard to the budget resolution, the Senator from Virginia felt the budget resolution was much too high and voted against it, so I am not persuaded by the argument that it is under the budget resolution.

What I am interested in is whether it is correct, which the Senator has just stated that it is, that it is $841 million over the President's request?

Mr. McCLURE. Over the original budget request, the Senator is correct.

Mr. HARRY F. BYRD, JR. I thank the Senator from Idaho.

Mr. McCLURE. I thank the Senator from Virginia.

Mr. ARMSTRONG. Mr. President, my purpose in rising today is to draw the attention of my colleagues very briefly to a matter that has long been of keen interest to me and to my fellow Coloradans: the Old MacGregor Ranch.

This historic property consists of 1,200 acres of some of the most spectacular mountain scenery in the country; it lies north of the village of Estes Park, Colo., in the eastern half of Rocky Mountain National Park. The ranch is held in trust for charitable purposes, and is designed to be operated as an historic high country ranch, and for the enjoyment of Colorado's high school and college students, for the entire Nation.

In Colorado's RARE II Act, the Colorado Wilderness Act of 1980, Congress incorporated the ranch within the boundaries of Rocky Mountain National Park. That act also provided that the park boundaries could revert to their previous contours if an interest in the ranch is not purchased by the end of this fiscal year.

The House Appropriations Committee earmarked $4 million in H.R. 7356 for this important acquisition, as part of the account for land and water conservation funds. This item was deleted by the Senate's Interior Appropriations Subcommittee in an attempt to lower the funding ceiling of the land and water conservation account.

The Old MacGregor Ranch is a truly exceptional—and possibly unique—cultural, scenic, and recreational resource; it is located at the gateway to one of this country's most significant and popular national parks. Its acquisition has been actively contemplated by Congress for several years.

The trustees of the property have made the very handsome offer of a scenic easement to preserve the property's original and unspoiled character as inexpensively as possible. This is an unusually fine candidate for acquisition in its own right.

In addition, there are two pressing points which make its acquisition now an urgent and compelling matter, notwithstanding the Appropriation Committee's commendable concern about the overall spending levels in this bill:

First, the ranch is held in trust for charitable purposes alone and is the only property in the trust. This property cannot generate sufficient income without the sale of the easement; I understand the proceeds of this sale will be invested for the future maintenance of the property. It is a continuing hardship to the trust and its beneficiaries for Congress to delay this acquisition any further.

Second, under the terms of the Colorado Wilderness Act of 1980, this generous offer may be withdrawn at the end of this fiscal year. Unless we act today, we may well lose the opportunity to make an outstanding addition to the Nation's scenic and recreational resources.

For all of these reasons, I would urge my colleagues to consider making provision for the acquisition of the MacGregor Ranch easement. I would particularly commend this item to the attention of the distinguished senior Senator from Idaho and the other members of the committee that will take the Interior appropriations bill to conference with the other body. It is my hope that they will be able to find sufficient latitude in the land and water conservation account to accommodate this small but very significant acquisition.

● Mr. NICKLES. Mr. President, I want to express my appreciation to all those individuals who have successfully worked on this legislation to insure a smooth transition of several Federal fossil energy research and development centers from Federal control into the hands of educational institutions and nonprofit institutions. One of these fine centers is located in Oklahoma, the Bartlesville Energy Technology Center. This center has served our Nation for several decades with valuable research and development in all areas of petroleum production and especially has proved itself a leader in enhanced oil recovery.

I look forward to such continued service to the Nation as the Bartlesville Energy Technology Center grows in its new role as the National Institute for Petroleum Research. Language in the appropriations bill will allow the Secretary of Energy to begin negotiations to transfer the center into the hands of the Interstate Oil Compact Commission, a nonprofit institution. Such a transition will allow for improvement and expansion of the center's role and work while at the same time reducing the Federal Government direct involvement and expenditures.

Let me commend the dedicated community leaders in Bartlesville, the employees of BETC, the staff of IOCC, as well as the Assistant Secretary of Energy Jan Mares and his staff who have faithfully and with much effort worked with us to have this language placed in this legislation.

However, as important as this transfer of Bartlesville is, I am compelled to vote against final passage of this bill. Our President initially requested $6.8 billion for this Interior appropriation bill for fiscal year 1983. This bill has expenditures for fiscal year 1983 of $7.6 billion. Because this bill is more than $840 million over the President's initial request I must vote "nay." As I have constantly stated, we must act responsibly by reducing Federal spending and resist the temptation to constantly increase such spending.

If this bill does not pass or is vetoed due to its spending level, I will continue to work toward a legislative solution to the transfer of our fossil energy research and development centers.●

The PRESIDING OFFICER. Do all Senators yield back the remainder of their time?

Mr. McCLURE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, Shall it pass? On this question the yeas and nays have

been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. DURENBERGER) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Georgia (Mr. NUNN) and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

I also announce that the Senator from Arizona (Mr. DECONCINI) and the Senator from New York (Mr. MOYNIHAN) are absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced as follows: Yeas 84, nays 9, as follows:

[Rollcall Vote No. 408 Leg.]

YEAS—84

Abdnor	Ford	Melcher
Andrews	Garn	Metzenbaum
Armstrong	Glenn	Mitchell
Baker	Gorton	Murkowski
Baucus	Hart	Packwood
Bentsen	Hatch	Pell
Biden	Hatfield	Percy
Boren	Hawkins	Pressler
Boschwitz	Hayakawa	Pryor
Bradley	Heinz	Quayle
Brady	Hollings	Randolph
Bumpers	Huddleston	Riegle
Burdick	Humphrey	Rudman
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jackson	Sasser
Chafee	Jepsen	Schmitt
Chiles	Johnston	Simpson
Cochran	Kassebaum	Specter
Cohen	Kasten	Stafford
Cranston	Kennedy	Stennis
D'Amato	Laxalt	Stevens
Danforth	Leahy	Symms
Dixon	Levin	Thurmond
Dodd	Long	Tower
Dole	Lugar	Tsongas
Domenici	Matsunaga	Wallop
East	Mattingly	Warner
Exon	McClure	Weicker

NAYS—9

Byrd, Harry F., Jr.	Grassley	Proxmire
Denton	Heflin	Roth
Eagleton	Helms	
	Nickles	

NOT VOTING—7

DeConcini	Mathias	Zorinsky
Durenberger	Moynihan	
Goldwater	Nunn	

So the bill (H.R. 7356), as amended, was passed.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, the statement of the Committee on the Energy Security Reserve requests a report from the Synthetic Fuels Corporation on actions being taken to resolve several problem areas. In this regard, the President and Chief Operating Officer, Mr. Victor Schroeder, has sought to keep me informed on a continuing basis regarding these problems, some of which were inherited from the previous Board. In requesting this report, the committee seeks to better understand the actions that should be taken to resolve these areas of concern. However, the committee recognizes that this will require a continuing effort. None of us is impressed with the progress that has been made in implementation of the SFC's mandate and all of us seek a means to assure that the statutory mandate is achieved.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary clerical and technical corrections in the engrossment of the Senate amendment to H.R. 7356.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. McCLURE, Mr. STEVENS, Mr. LAXALT, Mr. GARN, Mr. SCHMITT, Mr. COCHRAN, Mr. ANDREWS, Mr. RUDMAN, Mr. HATFIELD, Mr. BYRD of West Virginia, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMPERS, and Mr. PROXMIRE conferees on the part of the Senate.

SURFACE TRANSPORTATION ACT OF 1982

The Senate continued with the consideration of the bill.

Mr. BAKER. Mr. President, earlier today, I indicated that after the disposition of the previous amendment to the highway bill and then, subsequently, the disposition of the Interior appropriations bill, I hoped we would proceed next to recognize the Senator from Kansas (Mrs. KASSEBAUM) to offer an amendment to the bill dealing with natural gas. I am advised that the Senator from Ohio wishes to follow after the disposition of the Kassebaum matter. I am prepared at this time to ask unanimous consent that Senator KASSEBAUM be next recognized for the purpose of offering an amendment to the bill dealing with natural gas, and after the disposition of that matter, that the Senator from Ohio be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, if we are going to start getting in line, I would like to be third. I have an amendment.

Mr. BAKER. I certainly have no objection to that, Mr. President. I am perfectly happy to add it.

I ask unanimous consent that the Senator from New Hampshire be recognized after the disposition of the Metzenbaum amendment.

Mr. JOHNSTON. Reserving the right to object.

Mr. DANFORTH. Mr. President, I object.

Mr. METZENBAUM. Mr. President, recognizing the priority right of the majority leader to the floor, in the event that his unanimous-consent request is not agreed to, I shall rise for the purpose of sending an amendment to the desk.

Mr. CHAFEE. Will the Senator use his microphone?

Mr. BAKER. Mr. President, I hope the Senator will not do that. Surely, he understood that what I was trying to do was accommodate him. Indeed, I shall do my best to accommodate him after the disposition of this amendment by the Senator from Kansas. Just as I am going to try to help her, I am sure the minority leader will help the Senator from Ohio do that. Between the two of us, we do have the right to priority recognition. We simply have to try to arrange some sort of schedule of proceedings for the Senate. I hope the Senator will not do that.

Mr. METZENBAUM. I shall accommodate the majority leader.

Mr. BAKER. I thank the Senator. I hope the Chair will recognize the Senator from Kansas for the purpose of offering an amendment.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

UP AMENDMENT NO. 1444

Mrs. KASSEBAUM. I thank the Chair.

I would like to continue with a dialog started this afternoon. Senator JEPSEN, Senator DANFORTH, Senator EAGLETON, and I testified yesterday before the committee on this legislation which we believe is enormously important and has its place at this particular point in time in this session. I would like to call up my amendment, which does lie at the desk, and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas Mrs. KASSEBAUM) proposes an unprinted amendment numbered 1444.

Mrs. KASSEBAUM. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

TAKE-OR-PAY CLAUSES

SEC. . Subsection (c)(2) of section 601 of title VI of the Natural Gas Policy Act of 1978 is amended (1) by inserting "imprudence," immediately after "abuse," and (2) by adding the following new paragraph:

"(3) Whenever the Commission, after a hearing had upon its own motion or upon petition of any party, shall find that any gas sales or purchase contract contains a provision which the Commission determines prevents the purchaser from responding to the demands of customers or other market forces by requiring the purchaser to pay for a minimum contract quantity of gas whether or not such gas is taken, the Commission shall have the authority to take such appropriate action as it may deem necessary including the rescission, annulment, or modification of such contract provision.".

TWO-YEAR EXTENSION OF ACT

SEC. . (a) Section 121 of subtitle P of title I of the Natural Gas Policy Act of 1979 is amended—

(1) in the matter before clause (1) of subsection (a) by striking out "January 1, 1985" and inserting in lieu thereof "January 1, 1987"; and

(2) in subsection (c), by striking out "July 1, 1987" and inserting in lieu thereof "July 1, 1989".

(b) Section 122 of such Act is amended—

(1) by striking out subsection (b)(1) and inserting in lieu thereof the following:

"(1) may not take effect earlier than July 1, 1987, nor later than June 30, 1989; and "; and

(2) in subsection (c), by striking out "May 31, 1985" both places it appears and inserting in lieu thereof "May 31, 1987".

(c) Section 123 (a) of such Act is amended by striking out "on or before January 1, 1984, and on or before January 1, 1985," and inserting in lieu thereof "on or before January 1, 1986, and on or before January 1, 1987,".

PRICE FREEZE ON NATURAL GAS

SEC. . (a) Subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

"SEC. 111. PRICE FREEZE ON NATURAL GAS.

"(a) PRICE FREEZE.—Notwithstanding any other provision of law, the maximum lawful price applicable to any first sale of any natural gas in effect on Octobr 1, 1982, shall continue to be the maximum lawful price applicable to such sale for the period starting October 1, 1982, through January 1, 1985. Any first sale of natural gas which has a price lower than the applicable maximum lawful price on October 1, 1982, may increase by the lesser of (i) the rate provided in the contract for such sale; or (ii) the annual inflation adjustment factor as determined in section 101(a)(1); but increases permitted hereunder may not cause the first sale price to exceed the applicable maximum lawful price in effect on October 1, 1982, during the freeze period.

"(b) PRICE FREEZE ON NATURAL GAS NOT COVERED BY WELLHEAD PRICE CONTROLS.—Notwithstanding any other provision of law, the maximum lawful price for the period commencing October 1, 1982, and ending January 1, 1985, for any first sale of natural gas from a well the surface drilling of which began by October 1, 1982, and for which there was no applicable maximum lawful price on October 1, 1982, under this title and shall be contract price specified for deliveries of such natural gas on October 1, 1982, or if there was no contract price specified for deliveries of such natural gas on such date, the maximum lawful price shall be the average of the prices paid on October 1, 1982, for the same category of natural gas from the three nearest wells by surface location.

"(c) EXPIRATION OF PRICE FREEZE.—Following the expiration of the price freeze imposed by this section, the maximum lawful price for any first sale of natural gas for which a ceiling price is specified on October 1, 1982, shall increase from the October 1, 1982, level at the rate specified by this Act for that category of natural gas.".

(b) The table of contents for subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

"Section. 111. Price freeze on natural gas.".

(c) The Federal Energy Regulatory Commission shall take such action as may be necessary, within the 92-day period following the date of the enactment of this Act, to devise and put into effect an incentive procedure for determining the appropriate rate of return that a pipeline company may earn under section 4 of the Natural Gas Act. The purpose of this procedure shall be to stimulate the purchase of the maximum amount of lower-cost gas which is consistent with gas availability and the need for a steady supply.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mrs. KASSEBAUM. Mr. President, I have some further remarks I would like to make on this amendment to explain this legislation.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I would like to explain my amendment at this point because there are a number of Senators on the floor. It is a complex issue, and I think it might be helpful to have some explanation.

The first section of my amendment seeks to deal with the take-or-pay situation by allowing pipelines to adopt a more balanced mix between low-cost and high-cost gas. The main tool to be used in achieving this goal will be a specific grant of legislative authority to FERC to allow pipelines to modify their take-or-pay obligations in order to permit them to increase their usage of lower cost gas. A prudence standard will be added to the current grounds of fraud, abuse, and misrepresentation contained in section 601 of the NGPA for denying purchased gas adjustments. These two features would work together to disallow the passthrough of purchased gas costs when it could be shown that a pipeline had imprudently failed to avail itself of the opportunity to modify its take-or-pay obligations.

It is important to realize that my amendment will not prevent the passthrough of costs without giving the pipelines the opportunity to modify their take-or-pay obligations. To do so for an extended period of time would clearly be unfair in that it would leave pipelines obligated to the producer, while denying them the mechanism to recover the costs in question.

A prudence standard does not mean a mandate requiring the purchase of only lower cost gas. Nor does it mean the elimination of all take-or-pay obligations.

I feel that is a very important point, Mr. President.

What it does mean is that pipelines should not be increasing their purchases of high-cost gas, at the expense of available lower cost supplies, in the face of falling demand and increasing surpluses.

I fully realize the important function that take-or-pay obligations in reasonable levels serve. That is why I have not adopted the approach of some of my colleagues of abrogating all take-or-pay obligations.

Our natural gas regulatory scheme has traditionally placed the primary responsibility for the long-term balancing of gas supply and demand on the interstate pipelines. Modifications of take-or-pay obligations will return to these pipelines and flexibility necessary to achieve such a balance in the changing gas market of today. No matter what degree of freedom is granted pipelines in their contracting practices, the obligation to their customers to acquire assured long-term supplies of gas under reasonable and favorable terms remains.

The remainder of my amendment will freeze the wellhead price of natural gas at October 1 levels for a period of 2 years. This freeze would consist of three distinct facets. First, for the categories of gas which have a ceiling price set by the NGPA, or currently specified by FERC, no escalation would be allowed in that ceiling price beyond the level achieved on October 1. Contracts for these categories of gas with prices below the lawful ceiling would be allowed to escalate at the lesser of inflation or the rate specified in the contract until reaching the October 1 ceiling level. Second, the wellhead price of gas which does not have a ceiling price would be frozen at the level specified in the respective contracts as of October 1. The last aspect of the freeze would consist of prohibiting FERC from raising the incentive prices, or deregulating, those categories of gas over which they have, or purport to have, such authority. I refer specifically to tight sands and section 109 gas.

The freeze that I am proposing would not affect the price which could be paid for supplies of section 107 gas from a well the surface drilling of which began after October 1. Since any new purchases of such gas would be subject to my newly created prudence standard, the price and frequency of those purchases should be at a more rational level. Indeed, we have

already seen a dramatic softening of the price which new supplies of 107 gas can command. At the same time, I believe that it is important that pipelines be free to pay the price necessary to stimulate and secure 107 supplies if and when they are truly needed.

The effect of this freeze would be to halt that portion of the rate increases which result from the phased decontrol and inflation escalation of the wellhead prices of natural gas. Even though such escalation does not make up the bulk of the increases that we are experiencing, it is a significant portion. It is important that we give some measure of certain relief to the consumer as soon as possible. While no dramatic claims should be made to what that relief would be with this legislation, I think it is an important step. This is vital, not just from the standpoint of easing the extreme financial burden facing consumers, but also in order to help regain the confidence of an extremely skeptical public.

Mr. President, I ask that the question be divided and that a separate vote be taken on each of the following parts of the amendment:

The first vote should occur on the first section of my amendment which relates to the take-or-pay clauses.

The second vote should occur on the remainder of my amendment which relates to the price freeze.

The PRESIDING OFFICER. The Senator has the right to have her amendment divided and the question is divided.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

UP AMENDMENT NO. 1445

(Purpose: To clarify the definition of abuse in the Natural Gas Policy Act of 1978)

Mr. JEPSEN. Mr. President, I send an amendment to the desk in the second degree and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN) for himself and Mr. GRASSLEY proposes unprinted amendment No. 1445.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out the first section of the amendment relating to take-or-pay clauses and insert in lieu thereof the following:

DEFINITION OF ABUSE

SEC. . Section 2 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301) is amended by adding at the end thereof the following:

"(38) ABUSE.—The term 'abuse' is not limited to misrepresentation but also includes imprudence on the part of the pipeline company and any pipeline company-producer contract which materially prevents the pipeline from responding to changes in customer demand or other market forces. A rebuttable presumption arises that a contract materially prevents a pipeline from responding to changes in customer demand or other market forces if the following contract clauses are found in a producer-pipeline contract:

"(A) Take-or-pay clause which commits the purchaser to pay for a minimum daily contract quantity of gas greater than 70 percent of daily contract quantity on an annual basis whether or not such gas is taken.

"(B) Indefinite price escalator or redetermination clause which is not tied to a recognized and approved economic indicator.

"(C) Most favored nation clause where the purchase price paid by any pipeline to a producer is set by the highest price in a particular production area.

Such a rebuttable presumption also arises if a contract does not include a market-out clause which allows the buyer to escape the contract or to nominate a new lower price if the gas is not marketable at the contract price.".

Mr. JEPSEN. Mr. President, the time has come for Washington to address the problem of drastically rising natural gas prices.

This is evidenced by the fact that there have been about 40 bills introduced in recent weeks on the matter and gas prices have escalated far in excess of the intent of the Natural Gas Policy Act. I think an immediate remedy is called for here.

It is incumbent upon this Congress to fix this made-in-Washington problem before it adversely impacts consumers and businesses across the Nation more than it already has.

Mr. President, simply, this amendment will allow the Federal Energy Regulatory Commission to beef up its review of contracts between gas producers and pipeline companies by expanding the definition of abuse in the Natural Gas Policy Act.

First, my measure would expand the Commission authority to regulate take-or-pay clauses. These clauses force pipeline companies to buy all or a large portion of gas contracted for regardless of changing market demand.

Second, it would expand the Commission authority to regulate indefinite price escalator clauses. These clauses have guaranteed rapid unqualified price hikes for natural gas users.

Finally, this amendment will require market-out clauses to be included in contracts with gas producers. This would insure that pipeline companies would not be forced to continue to buy high-price gas under contract when market prices and demand have decreased.

Mr. President, I fully recognize that there is no quick-fix solution to the natural gas pricing problem but Iowans have seen their natural gas prices increase nearly 100 percent in the last 3 years and they have a right to expect that the conservation efforts and natural forces in the marketplace work properly and favorably in their behalf. Clearly that is not the situation now.

By expanding the authority of the Federal Energy Regulatory Commission we can begin the necessary modifications of the Natural Gas Policy Act to correct the current imbalance. The Natural Gas Policy Act has permitted gas prices to increase. It is only fair that it be changed to permit prices to decrease.

This amendment works within the existing regulatory framework which has been established for years. It presents few extra regulatory burdens and creates no new layer of bureaucracy. All it does is facilitates the operation of market forces to price gas so it can be sold, and I should note that both producers and pipelines are in the business to sell gas and unsold gas does no one any good.

This amendment makes it incumbent on pipelines to organize their business affairs in an economic way. It mandates that they rid themselves of contracts that contain open-ended pricing provisions, the outcome of which is indeterminant and there is little relation to the mainstream of business economics and market forces.

It mandates that they find ways out of contracts that specify prices so high that gas cannot be sold under current market conditions and that mandates that they obtain a modicum of flexibility in the take-or-pay area.

The bottom line here is that pipelines have to find their way out of contracts that burden them with gas that cannot be sold. They are then forbidden from continuing practices in the future that would cause a repeat of the current mess. With reduced takes of high-cost gas market-out provisions and the end to indefinite pricing provisions, gas in the current mix that is priced above market clearing levels would fall.

Producers unable to market new gas discoveries because they have been crowded out by the depressing effect of excessively expensive gas would find markets. Everyone would find benefits here. As overpriced gas would be eliminated, prices would at a minimum stop rising at current rates, which are five times the general rate of inflation, and more gas would be available.

Mr. President, the amendment that I have proposed very simply broadens the FERC's authority to deal with the term "abuse" which is now presently limited to fraud or misrepresentation. The amendment addresses a take-or-pay clause and says that a take-or-pay clause would commit the purchaser to pay for a minimum daily quantity of gas greater than 70 percent of daily contract quantity on an annual basis,

whether or not such gas is taken. In other words, take-or-pay clauses have been around for a long time, and they are part of the real economic world in the area of the distribution of gas, and this particular section just simply says that we should put some type of a blow-off valve, so to speak, that would, in fact, provide for an out in the current economic situation when circumstances dictate so.

It also specifies that the indefinite price escalator or redetermination clause which is not tied to a tried and recognized indicator, in other words, in plain English, just the arbitrary raising of gas prices to whatever the traffic will bear at that given time or whatever the circumstance, which has no relationship to economic indicators or economic circumstances today, arbitrarily raising of gas prices is an abuse.

Then finally the most-favored-nation clause where the purchase price paid by any pipeline to a producer is set by the highest price in a particular area: Mr. President, here is one area where, as in many of the other areas, the sum of the pipeline companies and the people who have entered into contracts for the distribution of natural gas frankly have used the Natural Gas Policy Act of 1978 to maintain artificially high prices, and when you say you have a region where there are a number of gas-producing wells and you say, as the Natural Gas Policy Act of 1978 now says, that the highest price in that particular region is the price all of them must receive, that has not anything to do with the free enterprise system or the law of supply and demand.

In fact, what my amendment does is to say that particular thing is also subject to just commonsense, and if they do not use commonsense and good prudent judgment and use the prudent man rule, then it is an abuse.

Finally, it provides that all contracts should have a market-out clause which allows the buyer to escape the contract or to nominate a lower price if the gas is not marketable at the contract price.

I hesitate, as a businessman coming from the private sector, to get into and to lay on the backs of the private sector directions and dictates as to how they should conduct their business. I have indicated very early on this year that in the direction the natural gas prices were taking in my particular State, we had announcements practically on the same day or within 24 hours of each other where we had a large, well over 30 percent, increase in natural gas prices. We have an announcement simultaneously that for the quarter they have record high profits for the gas pipeline company and, at the same time, reading stories continually that there is a glut of natural gas which is available.

When you have a perceived or real surplus of gas available, when you have a perceived or real all-time high amount of profits, and when you have real announcement of a tremendous increase in the cost of natural gas, I do not blame folks for getting emotionally upset, and believe me they get emotionally upset when they read and put these three areas together, and that has been the case.

I wish that the private companies would have done what prudent men and commonsense would have dictated they do, and that is in 1978 when the Natural Gas Policy Act was brought into being, there was a set of circumstances where people, it was projected, were going to have a natural gas shortage, and there was concern about this, and they put together an act that was supposed to stimulate and provide an incentive to produce gas for this Nation, this country, for our people. It was well meant, well intentioned. But like many things the Government gets involved in when they try to take over things that the private sector either ought to be doing or generally does to itself, they do not do a very good job, and in this particular instance the Natural Gas Policy Act of 1978 was so constructed that, frankly, many companies unfortunately have taken and used this hiding behind it, in a manner of speaking, to artificially pump and sell high-priced gas when, in fact, there was much lower priced gas available not only in their own storage capacities but in gas wells that are capped all over this country.

So, Mr. President, my amendment is a direct step, not a giant step, but a direct step forward, to immediately provide for some direction and some overview and some enforceable encouragement for gas companies, the distribution of natural gas companies, and producers, and so on, to get together and provide for as much as possible so that the law of supply and demand will work to bring gas prices down to a level where you have the economic indicators that in the private sector have always served us well, and that is the law of supply and demand.

It is contrary to everything I believe in to bring Government involvement into the private sector, but I am sorry to say they have asked for it and it is time now to do something about it.

This will send a signal, without being punitive in nature or certainly stepping up and saying, for example, no take or pay because take or pay has been around a long time. It does not say how they must design their market-out clauses. That is for prudent men and women and people in the industry to design and put into contracts. They can do that.

It does say you cannot arbitrarily, just because you may have a monopoly in a given area, raise gas prices way out of the realm of reality in price, and it does say that the ridiculous situation where you absolutely preempt any chance of free enterprise and the law of supply and demand to play a role, where you have a favored-nation clause where the purchase price paid by any pipeline to the producer is set by the highest price in a particular production area, that is something that should not happen in our free enterprise system.

Mr. President, I thank the Chair and I respectfully hope and urge Senators to adopt this amendment. It is one that, as I say, is not punitive in nature but will start to move and move directly and probably move more swiftly to getting things done that, unfortunately, these companies should have been doing themselves a long time ago.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I rise in support of the amendment of the distinguished Senator from Kansas and also the amendment of the distinguished Senator from Iowa.

It is my view that the factual basis has been established for a real emergency on gas prices. That has been apparent to me from the evidence that I have seen in the Commonwealth of Pennsylvania on my trips through the State, and from numerous correspondence received from home consumers as well as business users.

The hearings which were held by the Energy Committee on Monday of this week provided further evidence of this very serious situation.

A week ago Monday, on behalf of the Northeast-Midwest coalition of Senators and in my capacity as co-chairman of that group, I introduced legislation which had been drafted by the Northeast-Midwest Institute. Because there are so many amendments pending at the present time to the gas bill, I do not think it appropriate to introduce that legislation as an amendment at this time, but rather to speak in support of the amendment which has been offered by the Senator from Kansas, and the similar amendment thereto offered by the Senator from Iowa.

It is my judgment that an emergency situation does exist so that it is appropriate to provide for extraordinary remedies on existing contracts.

Within the scope of the legislation proposed, it is my view that there is ample latitude for FERC's taking care of those producing companies that would be threatened by financial hardship or bankruptcy if certain take-or-pay contracts were abrogated.

It may well be that we face a factual situation on the balancing of bankruptcies; that is, balancing of the bankruptcy of some producers with the bankruptcy of some small businesses, such as the one in Pottsville,

Pa., employing a few hundred people, whose gas rates are up some 40 percent.

It is estimated that Pennsylvania will lose some 50,000 jobs in the next year if there is not some relief from the escalating natural gas costs.

The balancing of bankruptcies is also at issue with the consumers. There are some 1.8 million households, for example, in the Commonwealth of Pennsylvania which are heated by natural gas.

It is my sense that it is constitutional to have this approach, that there are precedents for the kind of an emergency situation presented where health and welfare calls for the abrogation of contracts. And it is my legal judgment that it is appropriate to change some contracts and not others where there may be financial hardship for some producers, that the factual situation underlying would withstand a challenge in terms of equal protection of the law because there is a rational basis for the distinction of treatment.

For these reasons, I rise in support of the amendments which are on the floor. If there were more time and an opportunity for further deliberation, I would seek an opportunity to introduce as an amendment the legislation which I introduced a week ago Monday. Because of the limitation of time and the fact that it is now 10:41 and we are approaching a session passed midnight, perhaps substantially past midnight, the same issue can be achieved through the amendments which are now on the floor. And if the amendment by the Senator from Kansas is successful, and the amendment of the Senator from Iowa is successful, it may be that I will advance an additional amendment at a later time on this gas bill. But for the moment I wish to speak in support of the pending measure.

I thank the Chair and I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Louisiana is recognized.

Mr. JOHNSTON. I thank the Chair.

Mr. President, I think it was H. L. Mencken who said, "For every complicated problem there is a simple solution, and it is always wrong."

Well, I can promise the Senate that this very simple three-page, half-baked amendment is completely and totally wrong. Would it not be wonderful if we could take a complicated subject like natural gas that took years—not weeks, not months but years—to resolve and then was resolved badly, if it could be resolved with a magic wand, three pages long, one day's hearings, and we could solve all the problems?

Well, Mr. President, I think everybody in this Chamber knows that that is not so. We have got some problems with natural gas. We have been crying out for a solution in natural gas now for some months. I have had legislation pending for months in the Senate Energy Committee. We have had hearings on it. I can tell you that the solutions are not clear, not to the producers, not to the pipelines, not to the consumers, not to the whole panoply of people involved, because they are complicated and difficult problems and they involve moving targets—such as what are the prices in NGPA; what are the market forces?—and they are all intersecting and changing constantly.

But, Mr. President, to bring up, as I say, a three-page, half-baked amendment—which, by the way, has changed since yesterday's hearing. This is not the same amendment that was offered yesterday. I guess the changes in relationship were made after some of the faults were pointed out. But there are some new faults in it which have not been heard.

Let me just give for my colleagues some of the very obvious problems with it. The first problem is this will not help the consumer, Mr. President. The average price for the consumer in this country is $5.61 per million Btu's. But if you look at the price rise in the last year, which has been 95 cents, only 11 cents to 15 cents of that price rise was due to take or pay and 10 cents to 17 cents was due to price rises under NGPA. These are not my figures, these are the figures of the Department of Energy, the Energy Information Agency.

What does this mean? It means during the last year that less than 5 percent of the cost of natural gas to the consumer was due to take or pay or price rises under the NGPA. So if you could roll all of that back, which you cannot do, but if you could do all of that, you would get the handsome sum of 5-percent savings for the average consumer in the United States.

Mr. LONG. Will the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. LONG. You say that you get a savings, a 5-percent savings on a customer's bill or a reduction of 5 percent on the price increases that occurred during the last year?

Mr. JOHNSTON. If you could eliminate all of that price increase, it would be about 5 percent of the total consumer bill. If you could eliminate all of the increase out of the $5.61 total, it would be about 25 cents.

Mr. LONG. So, assuming that you broke the existing contracts, abrogated all existing contracts, froze all the prices, did everything you can do in this amendment to the producer, having done all of that, out of every $5.61 you might bring the price down by 25 cents.

Mr. JOHNSTON. That is correct.

Mr. LONG. I thank the Senator.

Mr. DOMENICI. Will the Senator yield for another question?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. By when do you think they could get the 5 percent; how soon?

Mr. JOHNSTON. Well, they have access to the FERC. The FERC docket now for the fastest kind of cases is over 2 years. I figure there are 20,000 producers, roughly, and I do not know what percent of those have take-or-pay contracts. Each one would have access to the FERC, and the prices would not come down under take-or-pay without access and full hearings before the FERC. So you could say sometime between 2 years and 10 years, if they were ever heard at all, you might finally get this 5 percent and by that time the NGPA would probably be—well, at least deregulation on January 1, 1985, would have already taken place.

Mr. DOMENICI. So if they are talking about relief by January or February, the Senator thinks it might be January or February 1985?

Mr. JOHNSTON. 1985 or 1990, seriously speaking, because under these provisions, you cannot abrogate these take-or-pay provisions until you go to the Commission, until either the Commission on its own hook or someone else, some other party, goes to the Commission and has an evidentiary hearing.

Now, by the way, I invite my colleagues to look at the standard by which the FERC would take this action. If the Commission determines that it prevents the purchaser from responding to the demands of customers—now just what does that mean, responding to the demands of customers or other market forces? Now I suppose that is defined somewhere in the Federal code what market forces are or demands of customers. But this is the new language adopted here put in this bill without any explanation as to what it means. But that is the standard that FERC is supposed to use to determine whether to lower and abrogate a lot of contracts.

Now what is the FERC supposed to do? It has the authority, not the requirement, to take such appropriate actions as it may be deemed necessary, including the rescission, annulment, or modification of such contract provision.

Now I do not know whether that would pass muster under the fifth amendment to the Constitution, but I think it is very doubtful to give to the FERC complete authority with no standards, other than something like market forces or responding to the demands of customers.

Mr. President, the problem with natural gas in very complicated. You see what has happened in natural gas is so many of these old contracts—and some of the old ones have a price as low as 26 cents an mcf—some of those are either terminating by the length of the contract or the gas has run out. And that is being replaced by what? Sometimes by section 107 gas, deregulated, which has drawn prices as high as $9.50 mcf, up from 26 cents to $99.50; or by LNG, which is unregulated and, by the way, not reached by this bill. They let LNG from abroad come in—oh, do not touch Algerian LNG. You roll back the American producer, abrogate his contract, but please be careful with the blue-eyed Arabs from Algeria, and please do not mess with the Canadians.

We brought this up in the hearing and they said, "Yes, those are serious problems but we cannot deal with that right now. We just do not have time."

Well, Mr. President, they do not have time and they do not solve the problem. The problem, Mr. President, is indeed very, very serious.

One of the things they asked when they waved their magic wand here is within 90 days the FERC shall take such actions as may be necessary within a 90-day period to devise and put into effect an incentive procedure to determine the appropriate rate of return that a pipeline company may earn under section 4 of the Natural Gas Act.

Do you realize the breathtaking import of this language? Somehow, within 90 days, we are going to give FERC the right to come in with a whole new standard, which we do not define, as to what a pipeline ought to earn.

What direction are they supposed to use? We are creating, by this, the FERC as a superlegislature that I guess could say 4 percent plus inflation, which is what we use in the NGPA for section 102 gas, or they could say they are entitled to just and reasonable. They could determine anything under this. They do not have any direction at all.

Mr. President, that is what we are doing. That language is inserted here somewhere and there has not been any hearing on this at all. So far as I know, this was not in the bills introduced yesterday.

Mr. President, nobody says anything much about the so-called intrastate pipelines, but my State of Louisiana has intrastate pipelines, principally; Oklahoma has them, I think Kansas has some, Texas has a great many, and New Mexico has some.

Intrastate pipelines are not subject to these restrictions. Customers all over the country are entitled to these great protections but not in Texas, Louisiana, Oklahoma, and other States that have intrastate pipelines. Why not? I will be honest to tell you, if it is a good thing I do not know why intrastate pipelines were left out, other than the fact that this amendment, I guess, was drawn sometime between the hearing yesterday and the time it came on the floor today and it was an oversight.

Mr. President, this is an amendment that will cause more problems than it would correct. In fact, it would not correct any problems. It is not going to help the consumers. What we would have, if we adopt this amendment, would be a grand and glorious mess, decades or at least years of litigation in the FERC and in the Federal courts. In the process, who gets it in the neck? The consumer because the consumer is not helped on his gas bill, but he is badly hurt because you are not going to get anybody to drill for gas so long as you have the uncertainty that this kind of legislation would produce.

That is what brought us to the NGPA the last time. We realized no drilling was taking place with respect to natural gas. We hit a peak in natural gas production about 1957 and it came down, down, and down ever since, until we passed the NGPA. With all its faults and warts it still has resulted in a great deal of drilling and it has resulted this year, for the first time, in more additions to reserves than we had consumption.

The reason for that is at least with all its faults it gave some predictability as to what prices would be.

All you would get under this amendment is a ticket to the courthouse, a ticket to years of litigation. What would happen if we passed this? You have a lot of rigs stacked right now. I predict virtually every gas rig in the country would be stacked while they wait for the Supreme Court finally to rule on the constitutionality of it, waited for FERC to determine what is a fair price, and waited for this whole thing to unravel years later. In the process, the country would be in very bad shape.

Mr. President, I have been very patient in this Senate on what I consider to be some really very important pieces of legislation that unlike this natural gas legislation has had hearings, has come through the Senate Energy Committee in the case of one amendment, and has been passed on the floor of the Senate in the case of other amendments. If this legislation is to be considered by this Senate, I think that we ought to consider at least the coal slurry pipeline. I think there is a great deal of other legislation that ought to be considered as a higher priority than this bad legislation.

If if sounds like I do not intend to let this matter come up for a vote, then you heard me right. The reason I do not want it to come to a vote, Mr. President, is I think a lot of our colleagues would be embarrassed if they seemingly had to vote against the consumer. The consumer is supposed to be helped by this half-baked idea that will not hold water legally.

It is like a lot of the votes on the floor of the Senate. You vote yea or nay and you are hurt back home with your constituents.

Well, I want to help my fellow Senators by sparing them the political pain of having to vote on such a bad amendment. Therefore, I hope in the process to accomplish something important. That is to pass first of all a coal slurry pipeline amendment. We have a number of really excellent amendments here that I am quite serious about.

Mrs. KASSEBAUM. Will the Senator yield for a question?

Mr. JOHNSTON. I will yield for a question reserving my right to the floor.

Mrs. KASSEBAUM. I would like to ask the Senator from Louisiana about this half-baked idea. Is he speaking to my amendment? [Laughter.]

Mr. JOHNSTON. I do not want to say anything unkind about someone so effective and attractive.

Mrs. KASSEBAUM. The Senator mentioned changing the language. My amendment has never changed since I first introduced it at the beginning of the session in November.

Mr. JOHNSTON. I guess it just looks different today; it sounds different. [Laughter.]

Mr. LONG. Will the Senator yield?

Mrs. KASSEBAUM. I yield to my colleague without losing my right to the floor.

Mr. LONG. Would this amendment say that a take-or-pay contract is null and void, or does it say that it might be null and void?

Mrs. KASSEBAUM. It says that the FERC has the authority to either declare it null and void or to modify it in some unnamed way after, of course, they determine whether or not it affects demands of customers or other market forces.

Mr. LONG. Then assuming that a producer and a buyer are bound today by a so-called take-or-pay contract, can the Senator say whether the contract is going to be binding or not binding, if this amendment is agreed to?

Mr. JOHNSTON. You absolutely could not tell whether it is binding or not until you waited your turn in FERC, which would now take you more than 2 years. With all the cases that would be filed, it would probably take far more than 2 years.

Mr. LONG. Would the Senator explain for the benefit of the Senate what is a take-or-pay contract?

Mr. JOHNSTON. That is when you buy a quantity of gas under a contract

provision which requires you to pay for the gas whether you take it or not.

Mr. LONG. Is it not usually the case in a take-or-pay contract if a purchaser chooses not to take the gas and pays for it, he has the privilege of taking the gas at a later date?

Mr. JOHNSTON. That is correct.

Mr. LONG. So it would be more accurate to call it a take-or-pre-pay? It is not intended in most cases, at least, that the purchaser will receive the gas, but if he does not take it, let us say, in the year he expected to take it, you can usually expect an adjustment in price at a future date?

Mr. JOHNSTON. That is entirely correct. I might say as a matter of practice that many of the large producers and many of the large pipelines are calling in their producers now and saying, "Look, we need relief from these take-or-pay contracts," and they are getting it.

They are getting it because they are threatening litigation and many of the producers need the cash flow so they are going along with it. They also recognize that the FERC may deal with this matter. In fact, the FERC is supposed to have a policy statement tomorrow on the subject of take-or-pay contracts.

Mr. LONG. Will the Senator yield further? Is it not so that in the absence of a take-or-pay provision, or something similar to that, the legal relationship would be such that the seller has obligated himself to sell his gas exclusively to a purchaser but the purchaser has no obligation to take it; basically the seller is obligated to sell everything he has and the purchaser has no obligation to buy anything at all?

Mr. JOHNSTON. You mean under this legislation?

Mr. LONG. Assuming that the contract says, as it usually says, that the seller is agreeing to sell all of his gas, at least for a period of years, but without a take-or-pay provision or some other provision saying how much the purchaser is going to buy, would that not leave the purchaser in the position that he is not required to take any at all?

Mr. JOHNSTON. The Senator is correct.

Mr. FORD. Will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. Yes, I yield for a question.

Mr. FORD. There is one thing that bothers me somewhat about the take-and-pay or the take-and-prepay contract as the Senator from Louisiana mentioned.

Say I am a producer and I enter into a contract with you to furnish you x number of whatever I produced, and it is a take and prepay or whatever. Then I become obligated to the bank based on the contract you and I enter into. If we then come in and alter that contract, where does that leave me with my obligation to the financial institution? Am I out in the cold? Where are we as it relates to that kind of negotiated contract with you as the purchaser and me with the financial institution because I have a contract to lay down on the table that says I have this much income?

Mr. JOHNSTON. If the FERC said after a hearing on the merits that the contract was abrogated, then it would just be tough luck as far as you were concerned because you would still owe your money to the bank. You just would not have the income that the take-or-pay provision would produce.

Mr. FORD. Let us say I am bankrupt then. Would the financial institution lose money also?

Mr. JOHNSTON. The financial institution would also lose its money.

I think the practical effect would be you would not reach that point of the FERC ruling because the FERC would be absolutely inundated and would not have time to handle that matter.

Mr. FORD. What if I am one of the first ones to be considered by the FERC?

Mr. JOHNSTON. What would happen is banks would not lend money for drilling proposals any more. Across the country virtually none of the banks would lend you any more money if you did not have a take-or-pay contract. That means that the cash flow of these producers would be effectively stopped, just as if the FERC prevented the contract in the first place.

Mr. FORD. The point I make is that I have already entered into a contract, and we come in and give an opportunity to change that and that leaves innocent parties, in my opinion, holding the bag somewhere.

Mr. JOHNSTON. That is right.

Mr. FORD. And it is either the producer or the financial institution. The purchaser does not have any cash then. He just follows the law.

Mr. JOHNSTON. That is correct. And pending a hearing on this thing before the FERC, the bank probably would not renew that loan.

Mr. BOREN. Will the Senator yield?

Mr. JOHNSTON. Yes, I yield.

Mr. BOREN. Following up on what the Senator from Kentucky and the senior Senator from Louisiana asked in their questions of the Senator, when this Senate acted on the Natural Gas Policy Act some years ago, there was a decision made, was there not, because of the tremendous shortage of natural gas in the country that we should through the law provide certain incentives for deep gas, for example, tight sands gas to be developed, and therefore it was deregulated? Is that not true?

Mr. JOHNSTON. That is correct, the deep gas below 15,000 feet was to be deregulated.

Mr. BOREN. So we had this Congress saying, as a matter of policy—and it made a decision that I did not endorse at the time because I thought we should deregulate all gas and not certain categories, but this Congress decided to deregulate certain categories of gas. In fact, it was the most expensive categories of gas to explore for and produce.

Now, once that was done, is it not also true that there were a lot of companies then induced to go out and, say, for example, in the Deep-ended Arco Basin in Oklahoma, drill those wells down below 15,000 feet, some of those wells costing as much as $10 million and $12 million just in terms of drilling? And is it not also true that if there had not been the take-or-pay contract, if there had been no guarantee whatsoever, that having sunk $12 million into a hole that deep and that expensive to drill that those wells would never have been drilled in all likelihood if they had not been able to get assurance, as the senior Senator from Louisiana said just a minute ago, that that gas would be purchased? They could not afford to go to the bank, as the Senator from Kentucky said, to borrow let us say, $12 million to drill one deep gas well. They could not have afforded that on a contract that said I will sell you all the gas you want to buy but you do not have to buy anything from me. Could they have afforded to drill this well? Would they have drilled it if there was not this mechanism to protect them?

Mr. JOHNSTON. The Senator is absolutely correct. That well would never have been drilled.

If I may point out one thing that is curious about this proposal, as I read it, it may freeze the prices of so-called 107 deregulated gas. But that is one category of gas that has been coming down in price. It has come down in price from as high as $9.50 to $5 and $6, some cases below that.

Mr. BOREN. It has fallen so rapidly that, for example, in my home State the number of rigs drilling in the State exploring for gas has dropped from over 900 operating at the beginning of the year to less than 350 drilling and operating as of last week.

It would be interesting to go back through the record to determine which Members of this body voted at the time against deregulation of all gas and voted for that policy of deregulating the deep gas so that we can induce those producers to go in and drill those deep wells for the sake of active reserve and borrow that money from the bank. I am very discouraged to hear Members of this body saying, "Well, leave those people high and dry that we induced to go borrow that money and drill those wells."

I ask the junior Senator from Louisiana, is there any provision in this bill,

is there any appropriation, any kind of save harmless clause to provide the funds to guarantee those loans to the banks for those companies that will now be forced into bankruptcy and will have no cash flow? If the take-or-pay clause is abrogated, is it not true that nearly all those deep wells will be immediately shutdown, those pipelines will no longer purchase from them? They will no longer have any cash generated to meet those loans?

Is there provision in the bill, I ask the junior Senator, that has an appropriation in it to keep faith with those people that this Congress induced to go out and drill those wells and borrow that money from the banks? I wonder if the Senator from Kansas and the Senator from Iowa have provided the funds or the loan guarantees in this bill to stand behind those who were induced by earlier Congressional action to drill those wells?

Mr. JOHNSTON. There is, of course, no relief at all for the bankrupt producer.

You can sometimes say, "Well, the producers are all rich."

They are not all rich, and there are a lot of them that are in very tough shape right now as far as cash flow is concerned. A lot of them are going into receivership, and into chapter XI, because the price of some of their gas, particularly the 107 gas, has come down dramatically while the expense of drilling has gone up. The market is down, they cannot sell some of the gas, and they are in tough shape.

What we are going to do is take a rather sick industry now—and believe it or not it is very sick—and give it a death blow and not accomplish anything in the meantime.

Mr. BOREN. I think it should be very obvious that the Senator from Louisiana is not crying wolf. If anyone has followed the case of the collapse of the Penn Square Bank in Oklahoma City, which was primarily involved with loans in the deep-ended Arco Basin. I think they would see the effects of what a very rapid decline in deep gas prices would mean. If we were to abrogate all those contracts and totally choke all cash flow to those people who made those investments, I think what the Senator from Louisiana has said would undoubtedly come to pass.

I want to go back to a point he made earlier. Is it not true that the vast majority of the increase in price to the consumer has come about—we are all concerned with that—because of the great decline in the volume of gas going through that pipeline?

In other words, the decline in the end-use demand for that gas—I would like to ask the Senator again, what was the percentage of the increase in price to the consumer that is attributable to the decline in volume of gas going through the pipeline? In other words, the decline of end-use demand for the gas?

Mr. JOHNSTON. Of the 95 cent rise during the last year, almost 60 percent of it was due to Canadian gas, LNG, and a change in the pipelines' and utilities' tariffs. By "change in tariffs," I meant that as the industrial load went down, the consumers had to pay a larger percent of the cost of operating the pipeline. That was about 60 percent of the increase due to the consumer.

Mr. BOREN. So the foreign producer, in essence, changes in prices paid to foreign producers, have been responsible for about 60 out of the 95-cent increase?

Mr. JOHNSTON. No, I say that the 60 cents includes increases for foreign producers of LNG and the Canadian price increases and you also have a change in the mix of tariffs. That is to say that, with the recession, you have less industrial load so the same pipeline expense is spread over more consumers and fewer industries. That is 60 percent.

Mr. BOREN. So those three items together—the LNG, the Canadians, and the reduced volume of industrial use due to the recession, at least in part—those three things together caused, really, about two-thirds or more of the increase in price we have experienced.

Mr. JOHNSTON. About 60 percent.

If I may, the Senator raised the question of the Penn Square Bank a moment ago. I invite his attention to a statement of the Independent Petroleum Association of America, along with a long list of other independent producers, given by Danny H. Conklin, who appeared yesterday before the Committee on Energy and Natural Resources, who said that if these provisions were adopted, new well drilling would come to a virtual standstill. That is No. 1.

Second, he said:

A precipitous move to violently alter those contracts overnight would, in my opinion, result in several more Penn Squares throughout the Southwest. I alert you to this, because even if you decide you don't care what happens to producers holding worthless contracts, you might think about innocent people who are hurt when a financial institution collapses.

That is from the IPAA and I do not think that is an overstatement at all. That is what effect this provision would have—without at the same time helping the consumers.

Mr. BOREN. I certainly agree with the Senator. I would like to express my concern.

He just talked about the fact that if we could do something about LNG and do something about Canadian prices, we would have a great impact upon the consumer. Also, if we could do something to increase the volume of domestic gas—because if that volume were increased, more of it would be lower cost gas that would come into the pipeline if we had a higher volume of use.

One of the other things, of course, besides the recession that has impacted, has it not, has been the Fuel Use Act and the fact that the Fuel Use Act has made it virtually impossible to expand the number of customers for natural gas, that action having taken place back in the days when we were relying on false information that the country was running out of natural gas?

Should we be really concerned about getting the volume up to the price where we improve the cost mix for the consumer? Should we not also be concerned about reconsideration of the Fuel Use Act and perhaps expanding the number of industries and utilities that might be able to use that?

Mr. JOHNSTON. The Senator is exactly correct.

A few years ago it used to be, when we came to natural gas, it was a contest between consumers on the one hand and the producers on the other hand. The question was how we divided the pie—did we give more to the consumers or more to the producers?

If that was a correct statement a few years ago, it is decidedly not correct today. The situation is much more complicated, as the Senator, through his questions, suggests.

The consumer interest, I can tell the Senator, is not to pass this legislation. If you really want to hurt the consumer, pass this legislation, because we might, over a period of years, reduce the price 5 percent if we could reach all the price rise in the last year from this bill. But we would stop drilling in its tracks; we would have Penn Squares all over the country, we would have confusion in the gas market so that no new wells would be drilled.

Mr. BOREN. Is it not also true that if we wanted to look at improving the mix of natural gas prices, at least in the long-range view, we also have to ultimately consider the deregulation of all gas, that that would probably do more to bring all gas down to a moderate level across the board, at least as far as production from this point forward is concerned? So if we are talking about a comprehensive solution, we certainly ought to take the time also to examine the impact that deregulation across the board would have so we do not have such high-priced categories.

Would it not be true—I would like to ask the Senator from Louisiana about his experience from work on the committee. We heard about the consumer. We have just heard that if we are truly concerned about doing something for the consumer, we ought to be looking at the Fuel Use Act; we ought to be looking at the potential deregulation might have in terms of

changing the cost mix; we ought to be looking at the impact of Canadian gas; we ought to be looking at LNG. We should not be, therefore, narrowing the case down to only 5 percent of the problem. And even at that, by just narrowing it down to 5 percent of the whole increase question, we are hinging it on something that is going to take 2, 3, 4, maybe 10 years to solve, not only because of the regulatory morass, but also because of the constitutional questions raised in the impairment of the obligation of the contract.

Would the Senator not think that, by taking action on this narrow sphere, it makes it all the more difficult to get the kind of comprehensive solution that we need that will be very much in the interest of the consumer and the producer alike so that we can have long-range supplies that are adequate for the consumer at reasonable prices?

Are we not defeating ourselves? Are we not defeating the very consumers that we are supposed to be looking after by trying to take a little fragmentary part of this, making it less likely that we will deal with the overall problem, that we will take over the areas where the impact on the consumer really rests? Are we not reducing our chances of helping the consumer in the usual way by acting precipitately on this?

Mr. JOHNSTON. The Senator puts his finger directly on the problem, as usual.

Mr. President, I have a parliamentary inquiry to make.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. Is this bill itself not amendable in two degrees—the House bill?

The PRESIDING OFFICER. Two perfecting amendments are in order.

Mr. JOHNSTON. Is it not also true that any perfecting amendments to the bill itself will be voted on before the amendments by the distinguished Senator from Kansas and the distinguished Senator from Iowa?

The PRESIDING OFFICER. The Senator is correct.

Mr. JOHNSTON. Mr. President, I have here some very worthy amendments, including several pertaining to busing, the Public Utility Holding Company Act repeal, the Clean Air Act, coal slurry pipeline rights of way, and also some natural gas legislation. But I think I have made the point that I am prepared to put in all of these amendments. I am not only prepared to, but anxious to, and I might even get the cooperation of the majority leader, who has promised me the first shot on the coal slurry pipeline.

Mr. President, I see the majority leader giving his characteristic smile, which says to me that he wants to table this whole subject matter and put it off to another day. I ask if that is what he has in mind?

Mr. BAKER. Mr. President, I confess I do have that in mind, but I think the distinguished Senator from Kansas (Mr. DOLE) wishes to be heard first. I shall not try to answer until he has that opportunity.

Mr. JOHNSTON. I shall yield to the Senator from Kansas.

Mr. DOLE. Did the Senator have in mind considering all these amendments en bloc in his package?

Mr. JOHNSTON. No. I wanted to consider them one at a time, and I think the Senator from Kansas had a very good idea and that was to divide each one of them up into its component parts.

Mr. BAKER. Mr. President, I have a better idea.

Mr. DOLE. Could I follow that? Maybe it was discussed earlier. We were gone.

Assuming the Senator from Louisiana and others who have spoken are correct that these amendments really do not accomplish much this year, are the other Senators prepared to help us when it comes to low-income energy assistance, because our costs have gone up 35 to 40 percent? The one thing that will help us this year is increasing the amount for low-income energy assistance. Can we obtain some support from the Senator from Louisiana and others who are concerned about the overall impact or the failure of impact of the amendments now pending?

Mr. President, those of us who represent Midwestern States certainly understand that natural gas prices are rising too fast. Kansas natural gas consumers along the cities service pipeline have been hit with dramatic price increases the past 2 years, and in the Kansas City metropolitan area the burner tip price of natural gas has increased by 41.9 percent between October of 1981 and October of this year.

These rapid and often unexpected price increases have become an intolerable burden on many households, particularly low-income families and those suffering from unemployment. It is some consolation to Kansas City consumers that their natural gas bills remain among the lowest in the country. To illustrate this point, as well as the 135-percent increase in cost over the past 4 years, I shall request that recent data compiled by the Congressional Research Service be inserted in the RECORD at the end of my remarks.

Regardless of the relative cost of fuel throughout the country, rising prices are a hardship which Congress must and should address. As winter fast approaches, my primary aim is to find a proposal which will help consumers this year during the winter of 1982-83. Many of us have been looking for solutions for months, and several of my colleagues have introduced legislation to freeze natural gas prices and abrogate "take-or-pay" contracts which keep consumer prices high even during times of surplus supply. I commend the efforts of Senators KASSEBAUM, DANFORTH, and EAGLETON to address a serious problem and bring it to Senate consideration before winter begins.

However, I believe it is crucial that we face the facts, that we not fool ourselves into thinking we are helping the consumer when we in truth are not. I am concerned that the proposals before us today, however well-meaning, will not lower prices or provide relief in the months of winter to come.

There is only one way to help those most severely harmed by cold weather and fuel prices beyond their budget. We can help the poor who are unable to afford high-cost gas by increasing the funding for the low income energy assistance program, and we can help them this winter. Congress has authorized and appropriated $1.875 billion for payments to needy citizens unable to pay their utility bills.

This program has meant more than $16 million to my State of Kansas in fiscal 1982. These are not large payments. In Kansas the average recipient was provided $133 last year to keep his home warm. In many cases that money allowed families to remain in their homes, and in some cases that money meant the difference between life and death.

In fiscal 1983, my State of Kansas expects to receive only $15.8 million just as prices are increasing by 35 percent. Kansas is responding by tightening up the benefits and eliminating many needy families from the program. To compound matters, the administration is discussing further reductions in funding for fiscal 1984.

If we are really serious about easing human suffering in the face of significant increases in costs, Congress should make every effort to increase funding for the only program which will help consumers this winter.

I join my colleagues in their concern at the impact of "take-or-pay" clauses and the noncompetitive impacts of the Natural Gas Policy Act. I share their conviction that Congress must act to correct these inequities to insure that natural gas sells for its fair price. Since rapid action now will do little to help this winter, I urge my colleagues to schedule a review of natural gas pricing policy for early next year. Only significant reform can correct the system.

I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AVERAGE RESIDENTIAL PRICE OF NATURAL GAS IN SELECTED URBAN AREAS AND REGIONS: NOVEMBER 1978–OCTOBER 1982 [1]

Area and region	Average price, (cents per therm) [3]		Percentage change	
	November 1978	October 1982	November 1978 to October 1982	October 1981 to October 1982
U.S. city average [2]	30.4	60.2	98.0	20.4
Anchorage, Alaska	16.7	18.0	7.8	−5.8
Atlanta, Ga.	34.9	60.2	72.5	6.7
Baltimore, Md.	39.7	70.6	77.8	18.7
Boston, Mass.	45.0	85.1	89.1	9.7
Buffalo, N.Y.	30.4	66.1	117.4	39.5
Chicago, Ill.–northwestern, Indiana	27.9	46.0	64.9	8.5
Cincinnati, Ohio, Kentucky, Indiana	28.8	61.2	112.5	33.9
Cleveland, Ohio	26.7	54.8	105.2	28.6
Dallas-Fort Worth, Tex.	24.8	66.5	168.2	69.6
Denver-Boulder, Colo.	26.9	66.2	146.1	60.3
Detroit, Mich.	29.6	51.1	72.6	15.9
Honolulu, Hawaii	127.4	217.0	70.3	−0.7
Houston, Tex.	32.0	51.4	60.6	21.2
Kansas City, Missouri-Kansas	21.3	50.1	135.2	41.9
Los Angeles-Long Beach, Anaheim, Calif.	22.3	55.7	149.8	8.3
Miami, Florida	61.7	76.8	24.5	−2.5
Milwaukee, Wis.	30.9	61.8	100.0	18.9
Minneapolis-St. Paul, Minnesota-Wisconsin	29.5	58.8	99.3	31.5
New York, N.Y.–northeastern, New Jersey	55.4	96.6	74.4	19.4
Northeast Pennsylvania	46.0	71.2	54.8	14.1
Philadelphia, Pa.–New Jersey	43.0	77.8	80.9	37.7
Pittsburgh, Pa.	24.8	46.2	86.3	22.6
Portland, Oregon-Washington	39.6	69.0	74.2	8.2
St. Louis, Missouri-Illinois	32.0	59.9	87.2	24.0
San Diego, Calif.	23.9	61.1	155.7	36.4
San Francisco-Oakland, Calif.	20.3	49.1	141.9	−6.7
Seattle-Everett, Wash.	38.8	77.1	98.7	5.0
Washington, D.C.-Maryland-Virginia	42.7	73.6	72.4	23.3
Northeast region	42.6	80.2	88.3	22.4
North Central region	28.3	52.7	86.2	20.3
South region	33.6	63.6	89.3	27.5
West region [2]	22.9	54.9	139.7	14.1

[1] The urban areas identified are Standard Metropolitan Statistical Areas (SMSAs) or consolidated areas as defined by the Bureau of Labor Statistics.
[2] Honolulu, Hawaii is not included in the U.S. city or West region average price.
[3] One therm is the quantity of gas supplying 100,000 Btu's of energy.
Note.—Compiled by CRS using Bureau of Labor Statistics data.

Mr. JOHNSTON. I did not have nearly as much sympathy for low-income energy assistance until the Senator put it quite the convincing way he just did. I think it is looking better and better. I think we might find some support for that kind of approach.

Mr. BAKER. Mr. President, I have no desire to cut off anyone, but it seems to me that we have reached the place where we should address the issue at hand.

I move to table——

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. BAKER. I withhold the motion.

Mr. DANFORTH. Mr. President, I do not want to delay this either, but I do think that my colleague, Senator EAGLETON, and I would wish to address the subject at least briefly.

Mr. EAGLETON. Briefly.

Mr. DANFORTH. Maybe 2 or 3 minutes each.

Mr. BAKER. Mr. President, I withhold the request.

I yield.

Mr. EAGLETON. Mr. President, I shall be brief. I thank the majority leader for his courtesy.

Mr. President, I rise in support of the Kassebaum natural gas price freeze amendment. It is very similar to my gas freeze bill which is cosponsored by Senators DANFORTH, SASSER, SARBANES, METZENBAUM, RIEGLE, and LEVIN.

Mr. President, I know of few issues in recent years which have stirred more public outcry than runaway natural gas prices.

This groundswell of public discontent and demand for relief should come as no surprise to anyone who heats with natural gas. The average home heating bill has jumped 92 percent in the last 4 years. The pricing of natural gas today is a clear case of consumers getting the shaft while some producers get the big profits.

Citizens read about producers of cheap gas who have been forced to shut in their wells because of a tremendous glut on the gas market. At the same time, they are receiving gas bills that portend to increase far more this year than they have in painful years past. Although nationally, gas prices are expected to rise 20 to 25 percent, many areas will be socked by hikes of up to 60 percent.

Mr. President, one does not have to be an economist to know that when prices skyrocket during the period of oversupply something is scandalously wrong. If anyone is in doubt of that, I invite them to come to my office to read the thousands of letters I have received in just the last few weeks from shocked and outraged customers. If anyone doubts that there is something wrong within that industry, I invite them to spend a few minutes talking with small gas producers who have been driven out of business because the gas they have to sell is too cheap.

A number of other Senators have heard the call for action. Accordingly, we are offering a simple amendment to freeze gas prices where they are for 2 years. We recognize that a freeze is a far cry from being a panacea for all the problems that now plague the gas market. This freeze is intended to give consumers some rate relief while Congress works to secure a more permanent solution.

Under this measure, the maximum prices that producers will be able to demand from pipeline companies for most natural gas during the next 2 years will be frozen at the maximum levels existing under the Natural Gas Policy Act (NGPA) on October 1, 1982.

In the case of deregulated natural gas produced from a well drilled prior to October 1, 1982, the maximum lawful price will be the contract price for such gas on October 1, 1982. For any deregulated natural gas produced from wells drilled prior to October 1, 1982, but which was not covered by a contract, the maximum lawful price will be the average price on October 1, 1982, for deregulated natural gas produced from the three nearest wells covered by contracts on that date.

This measure sets no maximum lawful price for deregulated natural gas produced from wells drilled after October 1, 1982. As you know, there is an excess supply of natural gas today. If normal market forces work, contract prices for this new deregulated natural gas should not come close to the unreasonably high levels we have recently seen. Pipelines now have no incentive to pay $7 or more for such gas when much cheaper gas is readily available. While I am not convinced that any categories of natural gas should be deregulated, I believe we can safely leave a relatively small amount of so-called high cost gas deregulated while we fully evaluate the NGPA over the next 2 years.

I must emphasize at this point that this bill does nothing to impair existing contracts setting prices lower than those prices permitted by the NGPA. Nor does it prevent future contracts between producers and pipelines setting prices below the maximum levels set by this bill. I firmly believe that pipelines are under an obligation to bargain for the best prices possible for natural gas.

As you know, the purpose of this amendment is to provide some immediate relief to our Nation's gas consumers. The 98th Congress can then take the careful, thorough look at gas regulation which I believe is urgently needed.

I am hopeful that we will be able to reexamine and revamp gas regulation by the time the price freeze implemented by this amendment expires. However, in light of previous congressional efforts to deal with comprehensive energy legislation, I am not confident this can be done. For this reason, this freeze legislation pushes the NGPA deadlines back for 2 years until 1987. If Congress fails in its duty to rewrite gas law by the end of 1984, we simply cannot allow prices for more than half of our natural gas production to go through the roof. The indefinite price escalators and most favored nation clauses in many natural gas contracts virtually guarantee that this will happen. Extending the NGPA 2 more years gives us a backstop in case no positive congressional action is taken.

In short, this amendment will simply create a hiatus in the spiraling price of gas while the Energy Committees determine what has gone wrong in the gas market.

If there are Senators in this Chamber who refuse to admit that Americans are unduly burdened by skyrocketing gas bills, if there are Senators who actually believe that there are no inadequacies in the regulatory apparatus, if there are Senators who cannot bite the bullet and say "Hold everything, there's something very wrong here," then let those Senators stand

up and be counted. Let the consumers of this land judge their representative's vote against this amendment for what it is: A vote to let a bad situation get worse on the backs of struggling citizens.

No, this amendment will not cure all the ills of the gas market. Nor will it cause an immediate drop in consumer gas bills. It will, however, moderate future price hikes and, perhaps more important, it will act as a catalyst for thorough congressional review of the gas situation.

Mr. President, the last go-around at natural gas legislation in the mid-1970's was a timely endeavor, to say the least. I hope for all concerned that this time around the issue will be addressed more expeditiously. One way or the other, it is not fair to perform our review of the gas situation without mitigating the gas price escalations that are now crushing consumers.

We must act now to freeze gas prices and urge the appropriate committees to thoroughly evaluate and revamp troublesome aspects of gas law.

I urge my colleagues to look at the economic hardship that has increased measure for measrue with gas price hikes in their home State and across the country. I urge my colleagues to recognize that it is high time to stop these enormous gas price hikes and re-evaluate the gas situation.

I urge my colleagues to vote for fairness and for their constituents. I urge them to vote for the gas price freeze provision in this amendment.

Mr. President, I am also supportive of the take-or-pay contract provision in the Kassebaum amendment. Senator DANFORTH and I were joined by a number of other Senators in introducing take-or-pay legislation that I believe would do more for consumers. I would prefer to see that legislation brought before the Senate. However, under the present circumstances, which do not appear to make consideration of our take-or-pay measure possible, I support the Kassebaum take-or-pay provision.

Mr. President, I would like to take a few moments to talk about the need for action on the take-or-pay issue.

Mr. President, natural gas customers are staggering under the burden of higher and higher natural gas prices at a time when natural gas supplies are plentiful. For many, the choice this winter will be between food and fuel.

In many parts of the United States, expensive gas is flowing through the interstate pipelines while less costly gas production is shut in. Cheap gas is not being produced and brought to market while expensive gas flows freely.

The take-or-pay provision in many natural gas contracts is one reason that consumers are paying far too much for natural gas today. These contract provisions are forcing higher rates; they are forcing expensive gas into our homes and businesses while cheap gas remains in the ground. I believe these contracts are clearly contrary to public policy. There is simply no good reason to allow these provisions to operate in the current natural gas market.

Take-or-pay contracts require the purchaser of natural gas pipelines to take from the producer high volumes of natural gas, or pay the producer if the gas is not taken. These contracts compel the pipeline to continue pumping high cost gas into their systems—even when cheaper gas is available—or if they buy the cheaper gas, they must still pay the producers for the high cost gas even though it is not produced and delivered through the pipelines.

Whatever the gas situation, consumers never seem to fail to take it on the chin. When gas is scarce, he pays more, and when gas is plentiful, he pays more. Market forces are not working, and they surely cannot begin to work unless we do something now about these take-or-pay provisions.

Mr. President, there are some who say that the complex subject of natural gas legislation must be thoroughly analyzed and a comprehensive solution developed. I do not disagree. But the hardships caused by take-or-pay provisions are apparent to everyone, and the remedy is clear. I believe that Congress must declare these provisions contrary to public policy and render them null and void except in extraordinary circumstances.

But the gas consumers of America cannot wait for all of the problems to be studied and solved. Congress cannot wait until the warm, humid days of summer to deal with a crisis that is upon us this winter. Ratepayers must have relief now. It is not necessary to accept for even 1 more day a system which tells us that rates must go up while cheap gas is available but not being produced.

Mr. President, I urge my colleagues to enthusiastically support this amendment with the knowledge that it is not a solution to all of the ills of a sick market, but it is a good solid start.

Now I wish to rebut at least four points that were raised in the debate by Senator JOHNSTON and Senator BOREN, the Alfonse and Gaston of natural gas.

No. 1, Senator JOHNSTON pointed out, after piercing cross-examination from Senator LONG of Louisiana, that all that this amendment would save the consumer is a piddling little 5 percent on their total gas fuel bill.

The Gas Service Co. of Kansas City, a reputable concern, says that if effective take-or-pay legislation is passed, it will save consumers 25 to 30 percent on their gas bill. The gas price to Kansas City residential gas users is $5 per mcf. Twenty-five percent of $5 is $1.25.

Point 2, and Senator KASSEBAUM got up to rebut this but did not get the opportunity—the freeze section is a cap, not a hold.

The freeze section reads, if my reader can find me the language—there it is, line 25, page 2:

> The maximum lawful price applicable to any first sale * * *

So this measure mandates a cap—prices in the future can drop well below the cap. This amendment does not lock in high prices in perpetuity.

As to point 3, on the question of the constitutionality of abrogating take-or-pay contracts, let me just give one brief quote from the Permian Basin Area rate case, the U.S. Supreme Court 1967:

> Although the Natural Gas Act is premised upon a system of private contracting * * * the Commission has plenary authority to limit or proscribe contractual arrangements that contravene relative public interest.

which leads me now to my final point on which I conclude.

Much has been said by the Senator from Oklahoma and the Senator from Louisiana about the majesty, the beauty, the sanctity of this wonderful thing called NGPA, the Natural Gas Policy Act of 1978.

Senator BOREN was not here but had he been here when the NGPA was voted on—he was here in spirit—he would have voted for it. It was such a magnificent document.

I think the Senator from Louisiana, after working on it for years and months, voted for it. It was such a magnificent document.

Section 314 of that sacred act abrogates a whole bunch of contracts.

I did not hear Senator JOHNSTON get up and talk about what was going to happen as a result of abrogating all of those contracts back in 1978.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. JOHNSTON. I voted against it.

Mr. EAGLETON. Oh, he voted against it. Good for him.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. EAGLETON. He redeemed my faith.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. BOREN. I testified against it, but I wonder how the Senator from Missouri voted on that bill?

Mr. EAGLETON. I unfortunately voted for that dog, and I am here tonight to expiate my sin. Confession is good for the soul.

But section 314 does more abrogating on one page of a Federal statute than any other similar page I have ever read. So let us not be conned about this abrogation business.

I should also point out that under the Kassebaum amendment the Commission (FERC) can "take such appropriate action as it may deem necessary."

This means that a gas producer who has a take-or-pay contract on which a bank loan is based can raise that point with the Commission and the Commission can give equitable relief if that is actually the case. Indeed, I am sure there would be some cases where gas producers who went out and borrowed to the hilt based on a take-or-pay contract would most certainly merit equitable relief.

It is not Senator KASSEBAUM's intention nor mine, nor Senator DANFORTH'S, to drive anyone into bankruptcy. But those cases would be the exception and not the rule.

I thank my colleague.

Mr. BAKER. Mr. President, do I understand now from the Senator from Missouri that he wishes to speak?

Mr. DANFORTH. Briefly.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

Mr. DANFORTH. Mr. President, I thank the majority leader.

I wish to pay my compliments to Senator KASSEBAUM and Senator JEPSEN for the work that they have done on this bill.

I, along with Senator EAGLETON, Senator SARBANES, Senator RIEGLE, Senator BOSCHWITZ, and Senator DIXON, had intended to propose a somewhat different approach to solving the take-or-pay contract problem, and it was my view and is my view that the approach that we would have followed is better, plainer, and quicker than the one proposed by Senator KASSEBAUM and Senator JEPSEN.

It was our view that we should not simply delegate to FERC the authority to abrogate these contracts but Congress itself should abrogate take-or-pay contracts with the exception that if the contracts had been pledged for loans to a bank prior to the date of the bill then FERC could remove the abrogation and let the contract go through.

We felt that this was a simpler way to do it and that it was a stronger and quicker way to do it.

But the difference between Senator JEPSEN and Senator KASSEBAUM, on one hand, and the rest of us on the other hand, was really a matter of approach. It was not a matter of end result or what we wanted to accomplish with this legislation.

Mr. President, the simple facts are these:

Last year 8,000 residents of the Kansas City area in Missouri and Kansas had their natural gas disconnected. They are now without natural gas service. They are dependent on natural gas to stay warm. This winter it is estimated that that number will increase from 8,000 to somewhere between 10,000 and 12,000.

We have heard so much about the plight of these poor producers who are so dependent on their take-or-pay contracts.

How about the poor people who cannot pay their bills? Who is going to feel sorry for them and what is going to be done about them and how are we going to explain tabling this amendment other than it is going to be filibustered? How are we going to explain tabling this amendment, Mr. President? How are we going to explain to our constituents that we are denying them access to 50-cent gas which is now being kept in gas fields in Kansas and forcing them to consume gas which is being sold at $5, $6 a thousand cubic feet?

That is the aberration, Mr. President, and that is what we seek to address in this amendment.

Mr. BAKER. Mr. President, in just a moment I want to yield under the special circumstances, special conditions, to the Senator from Oklahoma, the Senator from New Mexico, and the Senator from Iowa. But before I do so, let me say one word in respect to the very excellent and elegant remarks by the Senator from Missouri.

I have no quarrel with his logic, and I understand and appreciate and admire his special concern for those who are acutely distressed by the cost of gas. But the question was put, how are we going to explain tabling this amendment? I would respectfully suggest, Mr. President, that one way you are going to explain it is I do not know why it should be on a highway bill. The other is we have to get on with the business of the Republic, and we should address this issue, and indeed I will try to find a way to address this issue but, Mr. President, not on this bill at this time. That is the way I would hope to do it because I have long since reconciled myself to the understanding that I cannot solve all of the world's problems in a single piece of legislation, and that it falls to the duty of the leaders of the Senate to try to do the country's business in the best way we can.

Mr. President, I ask unanimous consent that I may yield 3 minutes to the Senator from Oklahoma for the purpose of making a statement, and without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I thank the majority leader.

I certainly think that now is not the time for this legislation. We had hearings yesterday, which I sat in on and listened to my good friends and colleagues who were advocating such legislation.

I understand their desire to do something, but I certainly believe that if one looks at the whole issue of natural gas, which takes more than 1 day and certainly should not be done at 11:30 at night, you realize if we do just this one thing, that it would be wrong and actually, in the long run, would do more damage than good. In the long run, this amendment will hurt consumers much, much more than it will benefit them.

There are two main elements to this amendment, one abrogates take-or-pay contracts and the other is a price freeze. Neither will have any significant impact on the consumer in the short run, and both will have a disastrous effect on consumers in the future.

So I urge my colleagues not to go along with my good friends, Senator KASSEBAUM, Senator JEPSEN, Senator DANFORTH, and Senator EAGLETON.

I think it would be very shortsighted and it would be the wrong thing for the Senate to do. If by chance the tabling motion does not pass I can assure the Senate that we will be on this amendment for a great length of time.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield 1 minute to the Senator from New Mexico without losing my right to the floor.

Mr. DOMENICI. Mr. President, I thank my distinguished leader.

We are being asked to vote on legislation intended to restrain natural gas prices either by a temporary price freeze or through congressionally mandated contract modifications.

There is no doubt that serious and legitimate concerns have prompted demands for immediate relief from the gas price increases projected for this winter.

There is also no question that serious financial hardship has been imposed on many citizens and businesses in certain States such as Kansas and Missouri.

However, even the most basic analysis of the proposal we have before us suggests that it simply will not provide the relief it promises, and that it may have unintended long-term consequences.

According to preliminary Department of Energy estimates, freezing natural gas prices would provide consumer relief amounting to a mere 2 percent, and that reining in contracts' take-or-pay language would bring 1 or 2 percent more.

If we are talking about relief of 2 to 4 percent, we are not talking about a level of relief that's going to solve the kinds of problems that the sponsors of this proposal have in mind.

In the mid-1970's, when we last faced serious shortages of natural gas,

these shortages brought about great hardship.

The Congress responded at that time with short-term stop-gap legislation that was not only ineffective in helping the people and businesses most in need, but probably aggravated the problem.

I am convinced that if we pass a freeze on the price of gas for a year or two, or legislatively mandate changes to legal contracts, that we guarantee a gas shortage down the road.

The existing law was enacted after months of careful consideration and negotiation. It is not perfect.

Recent developments in some regions need careful scrutiny. However, before we take any legislative action, we must identify precisely the problem we seek to address and fashion a remedy that will clearly achieve the result we seek.

Freezing wellhead prices, or fixing contracts, may not even address the root of the problem.

Each State and each region is served by a combination of gas utilities which, in turn, may be served by several natural gas pipelines, each with its own unique set of gas supply sources, contractual obligations, and market requirements.

Accordingly, any generic legislative action will have differing impacts in the various regions of the country. What may be effective in one region may produce adverse consequences in another.

During the remaining days of this short session, we lack sufficient time to ascertain the long-term impacts of the amendment before us.

I urge you to resist the impulse to take immediate action. We must recognize that any congressional action motivated by the need to correct short-term market conditions must be carefully balanced against the risks of returning to gas shortage conditions and imposing severe economic hardships on gas consumers.

Mr. President, I ask unanimous consent that a Dear Colleague letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, D.C., December 8, 1982.

DEAR COLLEAGUE: During the next few days you may be asked to vote on legislation intended to restrain natural gas prices, either by a temporary price freeze or through Congressionally mandated contract modifications. We ask you to join us in opposing any piecemeal natural gas legislation at the present time.

There is no doubt that serious and legitimate concerns have prompted demands for immediate relief from the gas price increases projected for this winter. However, even a preliminary analysis of the pending proposals suggests that they simply will not provide the relief they promise, and they may have unintended long-term consequences.

The existing law was enacted after months of careful consideration and negotiation. It is not perfect. Recent developments in some regions need careful scrutiny. However, before we take any legislative action, we must identify precisely the problem we seek to address and fashion a remedy that will clearly achieve the result we seek. Freezing wellhead prices, or fixing contracts, may not even address the root of the problem.

Identifying the precise problem or problems unfortunately is not a simple task. Each state and each region is served by a combination of gas utilities which, in turn, may be served by several natural gas pipelines, each with its own unique set of gas supply sources, contractual obligations, and market requirements. Accordingly, any generic legislative action will have differing impacts in the various regions of the country. What may be effective in one region may produce adverse consequences in another.

During the remaining days of this post-election session, we lack sufficient time to ascertain the long-term impacts of the pending legislative proposals. However, the Congress has begun that analysis. The Committee on Energy and Natural Resources convened a hearing on Monday, December 13, 1982, to review current market conditions and the factors contributing to those conditions.

We urge you to resist the impulse to take immediate action. We must recognize that any Congressional action motivated by the need to correct short-term market conditions must be carefully balanced against the risks of returning to gas shortage conditions and imposing severe economic hardships on gas consumers.

HENRY M. JACKSON,
Ranking Minority Member.
J. BENNETT JOHNSTON,
JAMES A. MCCLURE,
Chairman.
LOWELL P. WEICKER, JR.,
PETE V. DOMENICI,
MALCOLM WALLOP.

Mr. DOMENICI. I would say to my good friend, the distinguished Senator from Missouri, that a very simple answer to his question is that it just will not work. We could pass legislation that is before us and the overwhelming compelling evidence that is there will indicate there will be little or no relief during this winter to any consumers of the United States and even if the 25 percent decided about a part of Kansas City is true, that obviously could not occur in January, February, March, or April of this year by the compelling testimony, and that gives us time to try to do something that really works.

If it works at all, the compelling evidence is it might have a 4-percent effect on this Nation, and it seems to me we can certainly spend 2 or 3 months rather than 2 or 3 hours trying to accomplish that.

I thank the distinguished leader.

Mr. BAKER. Mr. President, I now ask unanimous consent that I may yield to the Senator from Iowa without losing my right to the floor for the purpose of making a statement.

Mr. GRASSLEY. Mr. President, I rise in strong support of the amendment just offered by my distinguished colleague from Iowa regarding the important issue of natural gas. The current natural gas situation has done much to reinforce the appropriateness of my decision as a Member of the House of Representatives to vote against the Natural Gas Policy Act of 1978.

We are all very much aware of the severity of the natural gas pricing problem. The Senate has heard numerous discourses on the critical need to address the current natural gas situation, and there is certainly no shortage of legislative remedies to address the problem. The Senate Committee on Energy and Natural Resources held hearings Monday to explore the options pending before Congress.

My belief is that we must focus on producer-pipeline contracts, many of which are no longer representative of today's market conditions. Such an approach would help correct current market anomalies whereby gas prices continue to soar even though gas is plentiful. Furthermore, high priced gas is being produced and distributed while lower cost gas is being underproduced or even shut in. Since a great deal of this paradox stems from the aforementioned contracts we must appropriately target the contracts for legislative action. Granted, the vast majority of the most onerous gas contracts were entered into during a period of time in which the prime consideration of pipelines, distributors, and consumers was assurance of a continuous supply of natural gas. However, the prevailing conditions during the mid 1970's are no longer the case today.

This amendment will specifically focus on contractual provisions which have created the most distortions. By broadening the Federal Energy Regulatory Commission's authority to disallow certain cost passthroughs on the basis of an expanded definition of abuse under section 601(c) of the Natural Gas Policy Act, we can restrain some of the gas hikes consumers see in their gas bills. Specifically, the statutory definition of abuse would include imprudence and would further set up a rebuttable presumption regarding a pipeline's responsibility to respond to changes in customer demand or market forces. The new definition of abuse would include cost increases attributable to take-or-pay clauses for gas quantities in excess of 70 percent; indefinite price escalators which are not tied to recognized economic indicators, most-favored nation clauses; and those contracts which do not include a marketout clause.

Passage of this amendment does not in any way preclude adoption of more comprehensive legislation during the

98th Congress. The natural gas industry, the Senate Energy and Natural Resources Committee and consumer advocacy groups have all demonstrated a willingness to address the problems of the natural gas pricing structure in a complete fashion next year. The administration has also sent preliminary signals that it is on the way to developing a package of legislation for congressional consideration.

I certainly hope that the fervor in which this lameduck Congress focused on this issue carries over into the next session. In the interim, my good friend and I feel compelled to try to extend some assistance to sufferers of soaring gas prices. A "wait-until-next-year" posture offers little solace to those individuals faced with paying this month's gas bill. The sense of urgency cannot be overstated; and I urge the favorable consideration of this amendment.

ACTION NEEDED TO SLOW NATURAL GAS PRICE INCREASES

Mr. SASSER. Mr. President, I have joined with my distinguished colleagues, Senator EAGLETON and Senator DANFORTH, in sponsoring legislation that would place an immediate cap on the runaway cost of natural gas in this country. This amendment that is being offered recognizes first and foremost that we cannot stand idly by and allow these steady price hikes to bankrupt our people.

The amendment that is being offered today does not attempt to destroy these purchase gas contracts. The amendment that my colleagues are offering attempts to return an element of flexibility to the contractual process. It is intended to provide an overriding sense of fairness to a contractual process by which we are all affected.

Mr. President, we cannot afford any further delays in this matter. We need to take immediate action to protect consumers from the escalating cost of natural gas. Under the present structure of the Natural Gas Policy Act of 1978, the longer we wait to tackle the problem, the higher will be the cost to the natural gas consumer nationwide.

The price of natural gas is skyrocketing out of control. Since the enactment of the Natural Gas Policy Act of 1978, the price of natural gas for the residential consumer nationwide has risen a whopping 98 percent. More than 42 million Americans, including 453,968 Tennesseans, have felt the devastating impact of these escalating natural gas prices.

Mr. President, consumers should not be held economically liable for the present natural gas glut. Consumers should not be forced to choose between paying their grocery bills or heating their homes. But, unless we act soon, I believe this is precisely the situation toward which we are fast approaching.

Nearly 5 years ago, we faced a situation of heightened oil prices and a shortage of natural gas reserves. Pipeline companies and producers, partially in response to this situation, entered into long-term gas purchase contracts. Now, market conditions no longer require the continued need for these long-term agreements.

Mr. President, consumers in many parts of this country face 20- to 30-percent increases in their gas bills this winter. In Tennessee, the cost of natural gas has more than doubled within the last 2 years. Gas which cost the residential consumer $31.95 per month 2 years ago in Memphis now costs that same consumer $74.09. That is a 132-percent increase. This price trend not only is occurring in Memphis, but in Nashville, Knoxville, Chattanooga, and all over this Nation.

Mr. President, it is no secret to any of us what is at the core of these price increases—long-term purchase gas contracts between the pipeline companies and the producers. These take-or-pay contracts purport to respond to the oil crisis of the later 1970's. At that time, perhaps they did. However, these contracts totally disregard the adverse impact of their rigid terms on our Nation's natural gas consumer. Mr. President, these contracts must be modified.

Mr. President, I recognize that it is, indeed, no simple matter to renegotiate these contracts. I think we all recognize and respect the ultimate sanctity of the contract. But it is in the public interest that we should attempt to modify these purchase gas agreements so that they conform to prevailing market conditions.

In modifying these contracts by this amendment, Mr. President, we will be assuring that these contracts are fair, just, and equitable to natural gas consumers. Current take-or-pay contracts are diametrically opposed to this fundamental concept. The runaway cost of natural gas is proof of this.

Mr. President, I would ask my colleagues to heed the urgency of the moment and amend the Natural Gas Policy Act of 1978 along the lines of the Kassebaum and Danforth-Eagleton amendments.

Mr. JEPSEN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have received from Robert F. Tyson, director, Iowa Energy Policy Council, dated November 8, 1982.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 8, 1982.

Hon. ROGER W. JEPSEN,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR JEPSEN: The Iowa Energy Policy Council strongly supports the legislation you have introduced to help consumers weather rapidly increasing natural gas prices. Iowans' average winter gas bills nearly have doubled since 1979 and may double again by 1986.

A major cause for the continued rise in natural gas prices is the provisions in long-term contracts between gas producers and pipeline companies. These long-term contract provisions are fixing a market price which bears no relationship to today's market conditions.

The price of natural gas will continue to rise due to a diminishing supply. But the market price is not operating freely due to contract provisions. Pipeline companies cannot afford to bear the excessive prices created by these provisions. The pipelines pass high prices along to consumers. Iowans are reaching the financial limits of their ability to pay these bills. Already over 77,000 Iowa households (197,000 people) require financial help to pay their fuel bills.

Long-term natural gas contracts between producers and pipeline suppliers were negotiated at a time of high demand, low supply, and regulated low price. In 1973, regulation boosted prices and encouraged development of greater supplies. Now we have a surplus of natural gas and a diminishing demand, but the provisions of long-term contracts still hold the price of gas high. These provisions, termed take-or-pay, lock suppliers into taking and paying for a specified volume of gas, at regulated prices, regardless of whether or not the gas is needed. As demand falls, as it has, the price of gas increases even faster. Northern Natural Gas, a major Iowa pipeline company, recently reported spending approximately $123 million on take-or-pay contract provisions, up $55 million from the previous year. That cost Northern's Iowa consumers nearly $25 million, essentially for gas which is not needed.

In addition to take-or-pay provisions, natural gas may be contracted with price escalator and most favored nation contract clauses after 1985. These clauses would allow gas producers to set prices at 110 percent of the price of NP6 fuel oil and/or to the highest price within a region. The Energy Policy Council is concerned that these provisions will have the same effect as take-or-pay provisions to artificially set prices.

These provisions hurt pipelines nearly as much as consumers, even though most of the price increases are passed through to consumers. We are reaching a point at which the market can bear no more. Industries which have dual fuel ability are switching from gas; consumers are conserving as much as possible. With long-term contract clauses and resulting artificially high prices, the pipeline companies are as endangered as the consumer. We need to keep our supply lines for energy healthy if we hope to continue to enjoy some economic growth, let alone heat our homes.

The Energy Policy Council and I urge the success of legislation which limits imprudence on the part of the pipeline and any pipeline-producer contract which materially prevents the pipeline from responding to changes in customer demand or other market forces. This limit includes take-or-pay clauses of greater than 70 percent of daily contract quantity on an annual basis, indefinite price escalator clauses, and most favored nation clauses. Also, contracts should include a market-out clause.

The typical Iowa family already spends about 20 percent of its take home pay on energy. Without this legislation, the Energy Policy Council projects no end to rapidly increasing natural gas prices, a threat to our energy market, and a financial burden from

which business and homeowners may not be able to recover.

Sincerely,

ROBERT F. TYSON,
Director.

Mr. BENTSEN. Mr. President, all of us, I am sure, share the deep concern expressed by our colleagues from Missouri and about the serious problems that have resulted from 30 years of distorting, counterproductive regulation of natural gas prices.

Some have argued that take-or-pay contracts, negotiated at a time when natural gas was in short supply, have helped drive prices sharply higher during a time of gas surplus and created the prospect of increased energy bills for millions of Americans this winter. I do not, however, accept the proposition that we can correct the complex problems of regulation with a quick fix, ill considered proposal to abrogate take-or-pay clauses and rollback prices.

Mr. President, it is precisely that sort of reflex intervention in the marketplace over the years that has produced the nightmare of regulated energy policies and prices.

As the Senate Energy Committee learned in hearings this week on natural gas, it is impossible for proponents or opponents to state with any precision what would result from passage of these amendments. We could be setting the stage for new gas shortages and even higher prices for the consumers we seek to assist. As one who has been fighting the effects of energy regulation for more than a decade I say to my colleagues from Missouri that I am prepared to work with them to find equitable, comprehensive solutions to the very real and complex issues involved in gas pricing. I am not, however, prepared to support ad hoc, one shot initiatives that have not been reviewed or assessed by the appropriate committees of the Senate.

One of my major concerns, Mr. President, is that if we abrogate take-or-pay provisions in existing and future gas contracts, we will make future drilling of natural gas extremely difficult to finance. Financial institutions will be reluctant to advance money to producers without some assurance that their natural gas will be sold. Therefore, while in the near term, this might appear to be an attractive alternate, I believe that we will damage our long-term commitments to consumers by preventing the orderly financing of future drilling.

The Senate is considering these amendments, Mr. President, because the manager of America's pipelines exercised their business judgment in signing so-called take-or-pay contracts to assure long-term supplies of natural gas for their consumers. A few years ago there was very little criticism of such contracts because gas was in short supply. Today, however, some blame increasing energy costs to the consumer at least in part on take-or-pay clauses and a price rollback.

If these proposals are accepted by the Senate, the primary victim, will be the producers, not the pipeline companies. Exploration for energy is already down 40 percent from the levels of a year ago, and I seriously question whether it is sound energy policy to drain further resources from our producers at this time, particularly when we do not know the answers to the following questions:

To what extent would abrogation of take-or-pay clauses disrupt the actual gas supply at the peak of the heating season? Will we have to renegotiate natural gas supply contracts? With no assurance of future purchases by the pipelines, would incentives remain for producers to sign long-term contracts for supply?

Do we want to encourage a boom and bust cycle in natural gas prices and foster spot shortages at a time of abundant supply? Despite assurance of an evidentiary review by the FERC for producers who would be forced into default by the amendment, there is no avoiding the fact that many producers will be caught in a financial squeeze of very serious dimensions if this legislation is passed. Is that sound energy policy?

Mr. President, I am fully prepared to join in seeking realistic and workable solutions to natural gas pricing problems. Those solutions will not, however, be hastened by applying band-aid solutions and side-stepping the important questions I have outlined above. For that reason I urge my colleagues to join me in tabling these amendments so that we can move forward in the next Congress and take a close look at the full array of issues surrounding natural gas regulation.

Mr. CHAFEE. Mr. President, I am pleased to support my colleague, the Senator from Kansas, in this amendment that I believe would create competitive conditions in natural gas pricing, by providing that take-or-pay clauses can be abrogated. As the Senator knows, I have introduced, with Senator PELL, a bill that would accomplish the same objective.

As we approach the coming winter, we face an extraordinary, perhaps unprecedented, situation. Simultaneously, we are experiencing a surplus of natural gas, a surplus so large that excess supply is being wasted; at the same time, the prices that gas consumers must pay are rising, particularly in the Northeast and the Midwest, at dramatic rates. Clearly, therefore, market forces in natural gas are not functioning.

To find the cause of this problem, we look immediately to the 1978 Natural Gas Policy Act. I voted for this act because I believed that phased decontrol of natural gas would lead to greater supplies, and ultimately to an end of Government control of this market. While it stimulated new supplies, however, the act contained requirements which have again caused a distortion of the gas market.

By setting ceilings on the prices of certain categories of new gas and by providing that increased prices may be passed through the distribution stream to ultimate consumers, the act forces price increases. In part, this effect is achieved through what are called take-or-pay clauses in the pipelines' contracts with producers, and in contract provisions which mandate automatic increases in price.

Mr. President, in my view the correct response to this problem is not to attempt now to halt the gradual decontrol of gas. This one element of certainty should be maintained because even under limited decontrol there has been a rush of supply. We do not wish to take steps now that would create such uncertainties among producers that would cause them to cease exploration and potentially again result in severe supply shortages. It is my strong belief that now that we have set out on the course of decontrol, we should permit the decontrol process to unroll.

Rather, Mr. President, I believe that we should now, as an immediate step, look to the contracts between the pipeline companies and the producers. As I have said, these contracts, which require that pipelines buy gas at high prices while ignoring lower priced gas which is subsequently wasted or stored, have forced serious hardship. I believe that we should adopt this amendment because it would permit pipeline companies to abrogate the take-or-pay and escalator clauses in their contracts with the producers. In doing so we would give the pipelines the power to renegotiate their contracts with the producers in much more realistic price terms, thus hopefully providing immediate relief to gas consumers.

● Mr. PELL. Mr. President, I am pleased to join with my colleagues, Senators KASSEBAUM, DANFORTH, and EAGLETON in urging immediate action by Congress on the problem of the abrupt rise in natural gas prices for consumers this winter. As my colleagues may be aware, I joined with Senator JOHN CHAFEE last week in introducing legislation (S. 3088) to address the problem of natural gas pricing.

Throughout the New England States, including Rhode Island, and many other States across the Nation, consumers are being forced to pay unreasonably high prices for natural gas due in large part to a provision in the Natural Gas Policy Act of 1978 which requires pipelines having a take-or-pay clause in their contracts with natural gas producers to accept high-priced

gas even though lower priced gas may be available from the same gas producers.

In my opinion, the sudden increase in the cost of natural gas for consumers this winter should not exist considering today's depressed natural gas market conditions. As a result of vigorous energy conservation on the part of consumers, general domestic economic conditions and our favorable weather conditions thus far, the nationwide demand for natural gas, along with other fuels, is down dramatically. These factors combined have resulted in a significant surplus of natural gas supplies across the Nation.

Unfortunately, however, these same factors have failed to cause the natural gas market to respond to the current conditions of oversupply. Natural gas prices, instead of becoming more competitive, have risen to excessive levels for consumers—all primarily as a result of the take-or-pay contracts. Without question, this complex contract issue is one which is unfair to consumers and deserves the immediate attention of Congress.

Mr. President, I understand that a discussion of only certain provisions of the Natural Gas Policy Act at this time is highly controversial and will not respond to the broader concerns of my colleagues troubled over provisions of the act enacted in 1978. I understand their desire to review the entire Natural Gas Policy Act legislation as soon as possible in view of the uncertainties facing the natural gas industry.

I support a full and early discussion of these concerns at both the Federal and local levels during the 98th Congress. I hope, however, that prompt attention by Congress on the take-or-pay issue will not be delayed because of the complex issues and concerns over the Natural Gas Policy Act. Consumers across the country should not be penalized any further with high natural gas bills because of congressional inaction. I urge my colleagues to repeal the take-or-pay clause for the benefit of consumers this winter.

Mr. McCLURE. Mr. President, I am strongly opposed to the amendment. My opposition certainly is not grounded on any notion that the Congress should ignore the rapidly increasing prices of natural gas and the resulting financial hardships being imposed on large numbers of natural gas consumers in many parts of the country. Rather, I am opposed to the amendment because it would seriously jeopardize our long-term natural gas supplies.

Furthermore, the amendment would create consumer expectations that could not be met. A freeze of wellhead prices would nevertheless permit substantial increases in prices of gas at the burner tip. If the purpose of the amendment is to reduce or restrain retail gas prices, then it falls far short of meeting that objective.

The amendment would impose a 2-year freeze on the wellhead prices of gas that existed on October 1, 1982. The amendment also provides that when the price freeze expires on January 1, 1985, the monthly escalation of ceiling prices for gas subject to price controls would resume from their October 1, 1982, level. In addition, the price controls currently scheduled to expire on January 1, 1985, would be extended for 2 years, as would the price controls on "shallow" 103 gas, now scheduled to expire on July 1, 1987.

A 2-year freeze on wellhead prices would have a devastating psychological impact on all producers, and a serious financial impact on many producers. In each case, the result would be a reduction in the financial incentive of producers to explore for and develop new gas supplies. A price freeze would deprive producers of revenues they had anticipated when wells were drilled. Producers would then shy away from gas drilling because of fear of more Federal intervention. Moreover, a price freeze would mean that producers would receive declining real prices for their gas production. A decline in real prices would be a blunt reminder to gas producers and investors that in spite of the price incentives created by the Natural Gas Policy Act of 1978, they still cannot count on receiving a fair rate of return on their investments. Producers, either on their own initiative or because of lack of capital, would undoubtedly reduce drilling activity, and eventually, the result could be new gas shortages.

I would like to turn now to the second major deficiency of the amendment—the fact that a wellhead price freeze would not freeze consumer prices. This can be easily illustrated by Department of Energy data. Between July 1981 and July 1982, average residential gas prices rose by 95 cents per million cubic feet. A price freeze would have eliminated only 10 cents to 17 cents of this increase.

This conclusion is derived from a breakdown of the overall residential price increase into its various cost components. Of the 95 cents increase, only 39 cents was attributable to increased domestic producer revenues. The other 56 cents was the result of increases in pipeline and distribution costs, and the costs of LNG and gas imports. Of the 39 cents in additional revenues received by producers, only 10 cents to 17 cents would have been affected by a wellhead price freeeze. The remainder of the increase in producer revenues, according to DOE studies, was caused primarily by changes in the mix of gas taken by pipelines. For example, gas from old wells is priced much lower than the incentive prices afforded new wells. As old wells are depleted, pipelines must replace these gas supplies with higher priced gas from new wells.

Finally, Mr. President, I would point out that a wellhead price freeze, to the extent it affects consumer prices at all, would not have an immediate beneficial impact on most consumers. The effect of the freeze would be delayed by operation of PGA's, the purchased gas adjustment mechanism. In general, PGA's are filed on a semiannual basis, and the bulk of the pipeline companies have already put their winter rates in effect. Consumers served through these companies would not see the impact of the freeze until late spring, when the next PGA becomes effective.

Mr. President, I also oppose the amendment of the Senator from Kansas on the ground that its provisions seeking to tightly proscribe the use of take-or-pay provisions in contracts between producers and pipelines are both unwarranted and counterproductive. The restriction on the use of these provisions would not achieve the intended results—namely a reduction in gas prices for consumers—and in fact it would instead likely result in both diminished gas supplies and higher gas prices. The reasons for these consequences are several.

First, as a standard industry operating procedure, contracts for the sale of natural gas from new discoveries are entered into before these reserves are developed and rendered deliverable to the pipeline buyer. After contracting, producers are continuously making substantial investments over the life of the contract to begin production and to maintain the deliveries contracted for. Thus, without the assurance of minimum levels of cash flow, the financial risk to producers of such investments would be prohibitive and, as a result, they would be more reluctant to both develop new gasfields and to enter into long-term contracts. Moreover, while this would have a significant adverse input on the operations of the major oil companies, the impact on independent producers would be staggering.

Second, in order to raise the capital necessary to drill gas wells, producers need an assured income stream against which they can borrow money from banks. Without a contractually stipulated take-or-pay provision, a producer's revenues could fluctuate wildly from day to day and month to month. Thus, take-or-pay provisions are necessary in order to assure producers with the minimum cash flow necessary to both service their debt obligations and to borrow money from banks to undertake future drilling operations. Again, the impact of the amendment on the operations of many independent producers could be sufficiently adverse to

cause serious reductions in gas production.

Third, without take-or-pay provisions, producers would undoubtedly need higher gas prices in order to self-insure themselves against demand fluctuations in the gas market. This insurance would take the form of not only higher wellhead prices, but also shorter term producer/pipeline contracts.

Thus, it is evident that take-or-pay contractual provisions are important not only to producers, but also to pipelines and gas consumers. Without the long-term commitment of supplies to a given pipeline and distribution system, it would be difficult to raise the capital necessary to build the gas transportation system. Moreover, even if capital were available, banks would undoubtedly demand a "risk premium" which would further increase the cost of gas.

In summary then, as a general proposition the elimination of take-or-pay contractual provisions would likely increase the wellhead price of gas; it would similarly reduce new exploration and development activities; it would shorten the length of producer/pipeline contracts; and it would increase the cost of gas transportation and distribution facilities—in other words, consumers would pay more for their gas and have a less reliable supply. Clearly these are results that the authors of this amendment do not intend or desire.

Mr. President, I would like to turn now to a few of the specific problems with the take-or-pay provisions of the pending amendment.

The amendment seeks to limit the use of take-or-pay provisions in producer/pipeline contracts by allowing the FERC upon its own motion, or upon the petition of any party, to "take such appropriate action as it may deem necessary." Clearly, this would confer upon the FERC extraordinary powers that are not well defined or limited in scope. Further, it is worth noting that the amendment would allow any person to petition the FERC for action under this provision, not just the producer, the pipeline, or the pipeline's customers. This would undoubtedly result in a massive caseload for the FERC, because there are literally tens of thousands of producer/pipeline contracts that are potentially subject to FERC review under this section. As I doubt that the FERC could handle the burden of this requirement in a timely manner, I am concerned about the potential impact of the resulting chaos on domestic gas production.

Mr. President, it is for these reasons that I would urge my colleagues to reject this amendent. There is no clear evidence that this amendment would help gas consumers, and logic would lead us to conclude that it may do far more damage than good.

I ask unanimous consent to have printed in the RECORD a letter from Secretary of Energy Hodel, dated December 14, 1982, and selected comments made by witnesses at the committee hearing.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., December 14, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your inquiry as to the Administration's position regarding amendments currently pending before the Senate to address problems plaguing natural gas customers and the industry generally.

The Administration shares the concerns raised by consumers throughout the country regarding escalating fuel bills. We are aware that various structural problems created by governmental regulation are causing or contributing to gas marketing distortions which are being criticized extensively by a wide spectrum of gas consumers, distributors, transporters and producers. These problems have resulted in a number of proposals being offered by several Senators to fix one or more of these individual situations. We are supportive of the principle that these problems must be corrected since they are producing distortions which are not in the current or long-run best interest of gas consumers.

Having been involved in a review of natural gas policy for some time now, the Administration also is aware that the solution to these problems involves many very complicated interactions between gas producers, financial markets, distributors, transporters and consumers. We think that any solution to the problems identified by the Senators to date must involve addressing other interrelated problems.

For this reason, it is the recommendation of the Administration that the Congress not enact any of the pending amendments during the current session. We would recommend that they be dealt with as part of a comprehensive approach, and it is our intention to consult with the Congress early next session concerning solutions to this very complicated problem.

Sincerely yours,

DONALD PAUL HODEL.

SELECTED COMMENTS MADE BY PRIVATE WITNESSES AT THE COMMITTEE ON ENERGY AND NATURAL RESOURCES' DECEMBER 13, 1982, HEARING ON "CURRENT CONDITIONS IN THE NATURAL GAS MARKET"

COMMENTS WITH RESPECT TO A PIECEMEAL APPROACH TO NATURAL GAS

Natural Gas Supply Association: "We believe that enactment of piecemeal solutions to this most complex problem, even for a short time, could result in more, not less, damage to the nation's consumers and to the industry that has been built to supply them with this commodity."

American Gas Association: "We believe that fuel aid is the very best remedy that Congress can pass this session for rising fuel costs this winter."

United Distribution Companies: "In our considered judgment, your Committee should deal with the whole natural gas situation and all its problems in comprehensive fashion through one coordinated statute. Any attempt to solve single situations, however bad, on a piecemeal basis, may only set in motion other problems not now apparent and provide no long term relief for utility service and consumers."

"In truth, all major pricing problems now plaguing this industry are interrelated and feed one upon another. So, we most respectfully recommend that your Committee hear and consider all aspects and recommend to Congress that comprehensive legislation which will surely set this industry on a sound course for the long term future."

Interstate Natural Gas Association of America: "The problems presently facing our industry and the Nation relating to natural gas pricing, supply and demand, do not lend themselves to an emotional "quick fix," regardless of how well intended. Before embarking on any legislative remedies, it is imperative that the problems be thoroughly explored and understood. There is simply not time in the lame duck session for the Congress to develop an appropriate record upon which to base comprehensive legislation."

"We must avoid precipitous legislative action which could quickly turn today's surplus into tomorrow's shortage."

Coalition of Intrastate Pipelines: Today we appear before you, however, to demonstrate that no matter how appealing these proposals may appear to be in the shortrun, they will aggravate our long-term problems and those of the industry as a whole. They are not likely to result in the immediate temporary consumer price relief which has motivated the introduction of such bills. In fact, enactment of some of these proposals may have just the opposite effect by interfering with a renegotiation process that is already occurring throughout the industry, whereby pipelines and producers are beginning to adjust contracts to reflect current market conditions, i.e., slack demand and market clearing prices on some pipeline systems. In addition, they would create great potential of future supply problems and possible negative consequences that none of us can predict.

It is our strong hope that the Congress will address natural gas policy comprehensively as soon as possible. The situation continues to grow worse and we strongly believe it will not be remedied by any piecemeal, temporary measures.

Process Gas Consumers: As consumers, we are concerned about the impact of higher gas prices on our businesses, our customers, and our employees. But it is precisely that concern which leads PGC to *support comprehensive legislation* to deal with the serious defects in the NGPA and the resulting harmful distortions in natural gas markets.

The PGC respectfully urges that the Senate decline to adopt the kind of myopic, "quick fix" proposals which have recently been advanced and, instead, turn its attention to consideration of natural gas legislation which will deal boldly and comprehensively with the problems now facing the gas industry and gas consumers.

Petrochemical Energy Group: "Work is going on to develop legislative proposals that would address, in a comprehensive way, the problems plaguing natural gas markets, problems which will become more serious over time. We believe such a solution promises far greater benefits for gas consumers, including industrial consumers, than any of the quick fix proposals, all of which are

likely to make the longer term problems worse."

COMMENTS WITH RESPECT TO A RESTRICTION ON THE USE OF TAKE-OR-PAY PROVISIONS IN PIPELINE/PRODUCER CONTRACTS

Natural Gas Supply Association: "A second group of proposals would abrogate or restrict the operation of take-or-pay clauses. . . . Those who advocate this "quick fix" see take-or-pay clauses as the root cause of higher gas prices, despite evidence that total abrogation of take-or-pay clauses would have minimal or no impact on residential gas bills."

Independent Petroleum Association of America: "Producers are voluntarily adjusting take-or-pay provisions of individual contracts. Any threat of a Congressional "meat-axe" approach to those provisions would almost certainly make voluntary actions more difficult.

"If in fact, Congress did take action to abrogate those provisions, it is very likely that unless new contract provisions were developed to assure some type of cash flow from new wells, new well drilling would come to a virtual standstill."

"A precipitous move to violently alter those contracts overnight, would, in my opinion, result in several more Penn Squares throughout the Southwest."

Interstate Natural Gas Association of America: "Although there is a widespread impression that take-or-pay clauses are a major contributor to gas price increases, there is no publicly available data on the extent to which such clauses are affecting gas prices today."

Coalition of Intrastate Pipelines: "There is no question that intrastate pipelines, just as interstate pipelines, could benefit by being relieved of certain take-or-pay obligations by not having to raise the money to make the payments. However, if take-of-pay clauses are outlawed, how are we going to be able to bargain for new gas supply? What is the quid pro quo for negotiating an assured deliverability and long-term contract, items we must have to assure our customers under our own long-term contracts that we will be able to deliver the gas we have contracted with them to provide? It is not going to take the producer long to figure out that any agreement we might make to take a minimum amount will be unenforceable, if this legislation stands up. The question then becomes, will there be any new gas supply to purchase. And even if there is, how can we seek the long-term new gas supplies we need to replace our depleting reserves and assure the integrity not only of our gas commitments but also the security of our financial commitments. Once the surplus is exhausted, and it will be soon as the economy turns around, or later through depletion, what will we do?"

Process Gas Consumers: "Although PGC agrees that pipelines' take-or-pay obligations are unreasonably high in many contracts negotiated under the NGPA, PGC also recognizes that take-or-pay clauses provide producers (particularly independents), with some income stability and the cash flow needed to finance new exploration and development. Adopting this measure would, therefore, cause an immediate reduction in exploration and development and then eventual shortages. Inevitably, industrial users will be the first to bear the brunt of those shortages; but everyone will feel them next in the form of layoffs and possible plant closings."

Petrochemical Energy Group: "Those who seek to outlaw take-or-pay clauses threaten to destroy gas markets and supplies in exchange for only temporary and only possible relief."

COMMENTS WITH RESPECT TO A WELLHEAD PRICE FREEZE

Natural Gas Supply Association: "Piecemeal legislation such as the wellhead price freeze proposal would institutionalize these present distortions, which are leading to very high prices for some consumers while creating low, subsidized prices for others. Price controls create excess demand, retard supply development, and lead to shortages."

"Although these proposals represent an effort to hold down consumer price increases, we believe that these proposals will, in fact, have no effect on the factors which have caused 82% to 90% of consumer price increases. In fact, the effect of a price freeze at the wellhead would aggravate some of these other more significant factors within a few years."

"In short, if the price freeze proposals had been enacted in 1981, only 10¢ to 17¢ of the 95¢ increase experienced last year by residential users would have been eliminated."

"In our judgment a wellhead price freeze through 1985 will have severe adverse consequences on supply and will perpetuate and aggravate current market disorders. The most serious consequence of a price freeze will be its impact on the intermediate and long term supplies available for the consumers 3-5 years (and longer) from now."

Independent Petroleum Association of America: "Any price freeze, while freezing low prices from going higher, presumably would freeze high prices so they couldn't go lower. Many contracts, including high cost contracts, have "market out" clauses which allow for the reduction of prices when market conditions change. Those clauses are currently being activated and many contract prices are being reduced."

American Gas Association: "We do not believe that plans to freeze wellhead prices will help consumers this heating season."

Coalition of Intrastate Pipelines: "The stated intent of some of these proposals is immediate relief for consumers this winter. Under current regulatory procedures, even if expedited by statute, it is extremely unlikely that contracts could be analyzed and modified, resulting in modification to PGA's and surcharge adjustments, in time to offer relief in January and February when it will be needed the most."

Process Gas Consumers: "While we are no more anxious than anyone else to see our gas bills increase, we are ready and willing to pay true free-market prices for gas becuase we anticipate that such prices will be more stable—and lower in the long run—than would be the case under the NGPA."

"Freezing prices . . . would be an invitation, if not an order, for renewed gas shortages. It would severely undermine exploration and development for new reserves and, at the same time, send a signal to users to increase consumption. Remember that, overall, reserves have declined since passage of the NGPA."

Petrochemical Energy Group: "Those who appear before this Committee to urge a freeze on producer prices or to compel the FERC to review the purchasing practices of the interstate pipelines as an emergency device to bring down gas prices are doomed to disappointment, even if they succeed totally with their legislation."

Mr. PERCY. Mr. President, I am voting reluctantly tonight in favor of the majority leader's motion to table the Jepsen and Kassebaum amendments on national gas. The gasoline tax bill before us is estimated to provide 320,000 jobs to our Nation's unemployed—many of whom are in my own State of Illinois. It is absolutely critical that this job creating bill passes before the Senate recesses. A number of Senators are determined to prevent this jobs bill from passing during this Congress if any nongermane amendments are attached such as the Kassebaum and Jepsen gas amendments. I, therefore, feel compelled to vote to get on with consideration of this important jobs bill.

However, I continue to believe strongly that Congress must move forward at the earliest possible time with legislation to respond to rising National gas prices. It is true, as my colleagues from Kansas and Iowa, have stated, that because of problem in the current regulatory system, gas prices are higher than they should be. This problem of take-or-pay contracts must be addressed. Recently I cosponded with a group of Northeast and Midwestern Senators a bill to deal with this problem. This bill provides a mechanism to insure that any cost savings from adjustments in contracts are passed on to consumers.

The problem of overpriced gas imports must also be addressed. I recently intervened in a case before the Federal Energy Regulatory Commission (FERC) involving the importation of overpriced liquefied natural gas. Much of this LNG is headed to central Illinois. Working with other Members of the Illinois delegation, we were successful in postponing further gas hikes this winter due to the importation of this LNG. But this problem is not going to go away. We continue to import gas, and particularly LNG at prices well above market prices and most domestic gas prices. I intend to offer a bill shortly which will address this problem.

Over the past few months, I have been working with my Illinois constituents to develop the best solution to the problem of rising natural gas prices. I hope to continue such discussions in the future.

In the meantime, we must pass this jobs bill in the Congress.

Mr. BAKER. Now, Mr. President, if no other Senator seeks the opportunity to speak, I move to lay on the table division I of the Kassebaum amendment, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to lay on the table division I of the Kasse-

baum amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. MATSUNAGA) is necessarily absent.

I also announce that the Senator from Arizona (Mr. DECONCINI), and the Senator from New York (Mr. MOYNIHAN) are absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 56, nays 38, as follows:

[Rollcall Vote No. 409 Leg.]

YEAS—56

Armstrong	Garn	Murkowski
Baker	Glenn	Nickles
Baucus	Gorton	Nunn
Bentsen	Hart	Packwood
Boren	Hatch	Percy
Brady	Helms	Pryor
Burdick	Hollings	Quayle
Byrd, Harry F., Jr.	Huddleston	Randolph
	Inouye	Roth
Byrd, Robert C.	Jackson	Schmitt
Cannon	Johnston	Simpson
Chiles	Laxalt	Stafford
Cochran	Leahy	Stennis
Cohen	Long	Stevens
Cranston	Lugar	Symms
Denton	Mattingly	Thurmond
Domenici	McClure	Tower
East	Melcher	Wallop
Ford	Mitchell	Warner

NAYS—38

Abdnor	Eagleton	Levin
Andrews	Exon	Metzenbaum
Biden	Grassley	Pell
Boschwitz	Hatfield	Pressler
Bradley	Hawkins	Proxmire
Bumpers	Hayakawa	Riegle
Chafee	Heflin	Rudman
D'Amato	Heinz	Sarbanes
Danforth	Humphrey	Sasser
Dixon	Jepsen	Specter
Dodd	Kassebaum	Tsongas
Dole	Kasten	Zorinsky
Durenberger	Kennedy	

NOT VOTING—6

DeConcini	Mathias	Moynihan
Goldwater	Matsunaga	Weicker

So the motion to lay on the table UP amendment No. 1444 (part I) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk proceeded to read the cloture motion.

Mr. RANDOLPH. Mr. President, is the Senator from West Virginia in order to ask to be included as a signatory of the cloture motion?

Mr. BAKER. Yes, Mr. President. Mr. President, I ask unanimous consent that the Senator from West Virginia may be included as a signatory on both motions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on an amendment in the nature of a substitute, to be proposed by the Senator from Tennessee (Mr. BAKER), to H.R. 6211, the Surface Transportation Assistance Act of 1982.

Howard H. Baker, Jr., Rudy Boschwitz, Strom Thurmond, Ted Stevens, Warren Rudman, Arlen Specter, Robert Dole, Slade Gorton, John H. Chafee, Bob Packwood, Robert T. Stafford, S. I. Hayakawa, Richard G. Lugar, James A. McClure, Dan Quayle, Frank H. Murkowski, David Durenberger, and Jennings Randolph.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 6211, the Surface Transportation Assistance Act of 1982.

Howard H. Baker, Jr., Rudy Boschwitz, Strom Thurmond, Ted Stevens, Warren Rudman, Arlen Specter, Robert Dole, Slade Gorton, John H. Chafee, Bob Packwood, Robert T. Stafford, S. I. Hayakawa, Richard G. Lugar, James A. McClure, Dan Quayle, Frank H. Murkowski, David Durenberger, and Jennings Randolph.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. Division II of the amendment offered by the Senator from Kansas.

Mr. BAKER. Mr. President, if I could have the attention of the Senate for a moment, I do not know how much more debate there is on division II or whether proposals may be made in respect to it, but I would hope we are close to the time when we can proceed with the disposition of it.

I am prepared to make a tabling motion against division II. I do not wish to cut off any Senator in any remarks, any motion, or amendment he may wish to offer. But at this time, I would hope that they could come forth with any request that they may have because otherwise I would like to go ahead and make a motion to table.

Mrs. KASSEBAUM. Mr. President, I think we have debated rather extensively already. I would have no further comments to make.

Mr. NICKLES. Mr. President, I would like to offer a few comments on division II.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield to the Senator from Oklahoma for the purpose of a statement without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, could I inquire of the Senator, could we have a time limitation on that?

Mr. NICKLES. If the majority leader can maintain control over the floor, the time of 3 minutes would be satisfactory.

Mr. BAKER. Mr. President, I ask that the Senator be recognized for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I thank the majority leader for his cooperation. He has been very cooperative in working with many of us in some very difficult negotiations.

Mr. President, division II of the Kassebaum amendment deals with a price freeze on natural gas.

Mr. President, could we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. NICKLES. Mr. President, what this would do to section 2 of the bill we will be voting on would be a price freeze on natural gas. This would be freezing in a lot of the inequities that brought about the gas pricing problems that we find today. Those inequities are set up in the NGPA.

We have 23 different pricing categories for natural gas. Natural gas is a single substance. It is the same, and I do not care whether it comes from a deep well, a shallow well, an old well, a new well, by an independent or a big producer, all of which have different categories, but all of which have the same product—natural gas.

We look at gas costing 23 cents and the same product costing $9.50. Incidentally, Mr. President, that gas that was costing $9.50 now costs in some of the uncontrolled areas $3.27. So there has been a dramatic drop in prices in deep or uncontrolled natural gas prices.

Mr. President, I hope that we will move to table the Kassebaum amendment because it would only be freezing some inequities and it would also cost the consumer in the long run.

Mr. BAKER. Mr. President, I ask unanimous consent to yield 30 seconds

to the Senator from Virginia for the purpose of a statement only, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, all of us in this body are greatly concerned about the problems many people are having paying their natural gas bills. And we are well aware that these problems are especially pressing now that winter has descended upon us in earnest. Therefore, it is no surprise that legislation is being offered to try to bring some relief to natural gas consumers.

The goal, Mr. President, I applaud. The legislative vehicle, however, I must oppose at this time.

Mr. President, on Monday of this week, the Energy and Natural Resources Committee held what I hope is the first of many hearings on the Natural Gas Policy Act—for the very purpose of determining what and who is responsible for these drastically escalating prices. What is obvious as a result of this week's hearing, Mr. President, is the lack of consensus of how remedies impact various consumers and industries.

It is because of this complexity, and for several other reasons, that I have deep reservations about Congress attempting to resolve rising prices on a piecemeal basis. I am not convinced that the proposed remedies, well-intentioned as they are, will have the intended results.

In addition, I am concerned that the measure before us in effect places the blame for rising gas prices squarely on the shoulders of the Natural Gas Policy Act.

I would disagree that the NGPA is entirely at fault. The responsibility for natural gas prices and natural gas supplies resides with all of the affected parties—not only the Congress, but also the State public utility commissions, the Federal Energy Regulatory Commission, gas producers, pipelines, distributors, and the consuming end users. Together, all must work toward the goal of providing relief to gas consumers from unreasonable, irresponsible energy costs this winter.

In my opinion, Mr. President, consumers are doing their part to hold down their costs by voluntarily cutting back on their consumption of the fuel.

However, Mr. President, in our eagerness to do our very appropriate part in addressing this problem, let us not pass measures which, far from solving the problem, in fact actually aggravate an already bad situation.

That, Mr. President, is exactly what I am afraid this measure to freeze natural gas prices would do. I know it is appealing. It sounds so simple. If the prices are getting too high, why not freeze them. No more problem.

However, this country has already had enough experience with trying to impose price controls in a market-oriented economy to know that they do not work. And it is not just that they are ineffective: the problem is actually made worse because with prices frozen, the motivation to conserve is reduced and more natural gas is consumed. Plus, with a cap on prices, producers do not produce as much as they would otherwise, which means less natural gas available. It does not take much to see what the eventual result will be: shortages.

Mr. President, I believe it important to emphasize today that we in this Senate have an overriding responsibility to assure adequate supplies of energy are available in the United States. I am greatly distressed by the rising gas prices, but we must never lose sight of a much more disastrous possibility—no gas at any price. I consider this price freeze proposal one which could increase our dependence on foreign supply—and I cannot endorse a measure in direct opposition to our national strategy of energy sufficiency.

To my colleagues who want some action taken immediately to relieve particularly our low and fixed income Americans from these prices—I agree with you that action must be taken. I do not believe at this last minute in our waning days of the 97th Congress that we should legislate a band-aid for a patient who needs surgery.

I recommend three actions be taken, however, Mr. President. The natural gas consumers are demanding relief now. It is my opinion that the natural gas industry must voluntarily take steps to alleviate hardships and renegotiate contracts.

Before our Energy Committee's hearing on Monday, I was encouraged by several assurances from various companies that they were already in the process of renegotiation for lower gas prices. Since the hearing, I have heard from two more companies regarding their voluntary renegotiations.

But even the natural gas industry's efforts are not enough. I believe the Federal Energy Regulatory Commission must take every action available to them under the law to reduce the gas prices and to expedite the review of voluntary renegotiations so that this winter, relief is available.

Third, Mr. President, I will be offering a measure to assist those Americans who are on fixed incomes and who qualify for low income energy assistance, but due to lack of funds, are unable to be assisted this winter. This we can do this session, and we can prevent thousands and thousands of Americans from freezing this winter.

So, Mr. President, in the crush of trying to finish up for Christmas, let us not take the hasty and ill-advised step that some are urging of imposing a legislative freeze on natural gas prices. We have had too many bad experiences with this type of approach. Let us responsibly consider all of the badly needed remedies in the 98th Congress, but let us take the action that assures our countrymen will not freeze this winter because they are economically unable to pay their bills.

In my opinion, if we freeze natural gas prices today, we will be freezing homes or schools or factories tomorrow.

Mr. BAKER. Mr. President, I ask unanimous consent that I may yield 3 minutes to the Senator from Nebraska for the purpose of a statement only without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nebraska is recognized.

[The following proceedings occurred after midnight:]

Mr. EXON. Mr. President, I thank the Chair and I thank the majority leader.

Exactly 12 hours ago the Senator from Nebraska sought recognition to make the longwinded speech that I am about to make. I am going to take 3 minutes. I will proceed at this time.

Mr. President, I wish to commend the Senate Energy Committee for holding hearings yesterday on the current problems in the natural gas market. I believe that the forces of supply and demand are certainly not at work in this market, and I am hopeful that the Congress will address this issue after a careful examination.

I was privileged to address the committee at yesterday's hearing to express concerns about this problem. In particular, I brought to the committee's attention the impact which rising natural gas prices have not only on residential home heating costs but the cost of agricultural production as well. Crop drying, irrigation, fertilizer, and propane costs are all influenced by the natural gas market.

Mr. President, I request that a copy of my statement to the Energy Committee be printed in the RECORD along with the sense of the Senate resolution that I offered and suggested in the Energy Committee yesterday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR J. JAMES EXON

Mr. Chairman, and members of the energy committee, I appreciate this opportunity to participate in the committee's hearing today on the natural gas market. As you know, this issue is important to my State and other Midwestern States which not only depend on natural gas for home heating in the winter, but also depend on this energy resource to support agricultural production. Crop drying, propane, and fertilizer prices are all greatly influenced by the natural gas market.

Last April, the Congressional Research Service completed a study which I had requested regarding the impact of soaring nat-

ural gas prices on the farming sector. This report stated that accelerated or full decontrol of natural gas prices, which the administration had been contemplating at that time, would add up to $2.5 billion to farm production expenses over the next three years.

I need not remind the members of this committee, many of whom are from agricultural states, that the farm economy is in dire straits, experiencing near depression levels in activity. Commodity prices are failing to keep pace with rising production costs of which energy is a major component.

With the rush to deregulation in many industries it was assumed that consumers would benefit. This has not been the case in the gas industry.

In agriculture we recognize that one reason for drastically low farm prices is our production or at least our ability to market profitably our production. For example, grain prices are ruinous to producers because of a real or assumed over-production.

That is described as the "free market, free enterprise system at work." If that be true, why is it that the same theory does not apply to the natural and bottled gas industry?

It may be that despite ever-increasing and certainly plentiful gas supplies the "take it or pay" contracts of recent years are the true culprit of today's price increases.

Last March, I appeared before your committee outlining my concerns. I attached a copy of my presentation for the record and your information and I further present a report from the Congressional Research Service of April 29, 1982, which I requested on price increases in the industry as it affects agriculture and, of course, generally the same consequences are felt by consumers in general.

Nearly all of the Nation's consumers are feeling price hikes of up to 25% in some cases for home heating costs in their gas bills this winter. These price increases are certainly puzzling in view of the current market conditions. The Federal Energy Regulatory Commission has reported that, nationwide, pipelines have about 10% more gas available over last year. In addition, wellhead purchases of natural gas have fallen on the average by 2% from last year. Yet, according to the Department of Energy, consumer prices have risen at least an average of 17% over last year.

Unless this is a part of the "new economics," the normal forces of supply and demand do not seem to be working here. Under supply surplus conditions, burner-tip prices should trend downward.

The Congress must certainly make supreme efforts to determine where the responsibility lies for the "non-market" behavior of natural gas prices. The Natural Gas Policy Act of 1978 established maximum lawful ceiling prices only for certain categories of natural gas. The act did not dictate that these ceiling prices actually be the contract price for natural gas. Contract prices for natural gas can be lower than the ceiling prices established by the act.

I am not certain whether the NGPA has encouraged the present anomaly in the law of supply and demand, or whether the industry itself, both pipelines and producers, have failed to adjust to a partially deregulated natural gas market. These are questions to which the Congress must seek answers, and soon, before we tamper further with the natural gas market.

I would emphasize further, that along with the freedom which accompanies deregulation efforts, goes the responsibility which the pipelines and producers of natural gas bear to act on this problem without the Government stepping in to do so unless there is no other way. The failure of the industry to anticipate the market and adjust to changes in that market can only build a case for the forces of "reregulation." Proposals to freeze natural gas prices and to cap prices on already deregulated gas have a strong appeal in the face of our current economic problems.

Last March, I testified before this committee, and raised the question to the industry as to what it was doing to prepare for the advent of decontrol. At that time last March, I asked the industry whether it was waiting for the Government to tell them what to do next, or whether the industry was taking the initiative to negotiate and resolve among the pipelines and producers the multitude of contractual difficulties and supply problems. In addition, at that same hearing I brought to the committee's attention a Merrill Lynch study which suggested that gas prices may well have already reached "market clearing levels." To date, I know of only a handful of pipelines and producers who are focusing upon this problem and are renegotiating contract prices and supplies.

In closing, this Senator from Nebraska is anxious to hear from the witnesses and the committee on the causes and possible remedies for the current natural gas market problem. Unfortunately, it appears that the Congress can do little for consumer's heating bills in the near term, except to offer a small glimmer of hope for the long-term, that the industry will meet the challenges of partial deregulation head on.

Effects of Natural Gas Decontrol on Farming Costs and Income

Increases in natural gas prices due to accelerated or full decontrol of natural gas wellhead pricing are likely to have a noticeable effect upon the costs of production in farming. The likelihood that these additional costs can be recovered by the farmer in the market for farm products, however, is small. On the one hand, increases in wellhead prices of natural gas are likely to be passed through both by gas pipelines supplying this fuel to farmers and by producers of nitrogenous fertilizers, which attempt to set prices on the basis of costs. On the other hand, as a seller of farm products, the farmer receives a price determined by the vagaries of present and expected shifts in demand and supply in an open market. This price is unlikely to reflect changes in gas prices in the short run. Thus, it is quite possible that farmers will be caught in a profit squeeze owing to higher costs of production incurred by rising natural gas prices. This report presents an analysis of the effects of alternative natural gas pricing schemes on costs of production in wheat and corn farming, based on scenarios involving decontrol commencing in 1982 developed by the U.S. Department of Energy.

Production costs could rise from 1980 to 1983 by about 11 cents per bushel of corn and about 7 cents per bushel of wheat under an accelerated decontrol pricing mechanism, and by about 12 cents per bushel of corn and 7 cents per bushel of wheat under immediate or full decontrol of natural gas wellhead prices. Under the present pricing provisions of the Natural Gas Policy Act (NGPA), costs of raising corn would rise by about 3 cents per bushel from 1980 to 1983, and costs of raising wheat by 2.3 cents per bushel. The decontrol scenarios involve an increase of between 55 and 60 percent in the natural gas component of farming costs over what the farmer would incur under NGPA in 1983. If, as we suspect, farmers could not pass these costs through to buyers of farm products, these costs would absorb an additional 3 percent of farm cash receipts in 1983 under accelerated decontrol, and 7 percent of farm cash receipts in 1983 under immediate decontrol.

I. Effects of Natural Gas Price Decontrol on Costs of Production in Corn and Wheat Farming

A. Effects on costs

Under NGPA, the cost of natural gas embodied in a bushel of corn could rise from 11.6 cents in 1980 to nearly 14.7 cents in 1983; under accelerated decontrol, it could rise to 22.8 cents in 1983, and under full and immediate decontrol, to 23.5 cents. The costs of natural gas embodied in a bushel of wheat could rise from 10.2 cents in 1980 to 12.5 cents in 1983 under NGPA and to 19.1 cents in 1983 under accelerated decontrol and 19.2 cents in 1983 under accelerated decontrol.

These estimates are presented in Table 1. They have been obtained using U.S. Department of Energy (DOE) natural gas pricing scenarios and resulting DOE projections of natural gas prices. These prices were applied to technical gas input data furnished by The Fertilizer Institute, the American Gas Association, and the Council for Agricultural Science and Technology. Acreage and yield projections developed by Data Resources Incorporated (DRI) were employed to project effects into the future. A fuller discussion of the methodology is contained in the Appendix to this report.

Under all three natural gas pricing scenarios, the natural gas component of corn and wheat farming costs will increase, but at different rates and trajectories. Under NGPA, these costs of corn production increase at an annual rate of 8.2 percent from 1980 through 1983, or by 1.03 cents per bushel per year. Under accelerated decontrol, the annual rate of increase is calculated to be 25.3 percent; however, this increase is the result of a 63-percent surge in natural gas costs in 1982, and a 9-percent increase in 1983. Under full or immediate decontrol, the annual rate of increase in natural gas costs rises to 26.5 percent; as in the case of accelerated decontrol, this increase results from a surge in 1982 of some 82 percent. In 1983, natural gas costs embodied in a bushel of corn increase by less than one cent, or 1 percent, under immediate decontrol.

The natural gas component of the costs of wheat production follows paths similar to those of corn under the natural gas pricing scenarios. Under NGPA, the natural gas component of wheat production costs rises at an annual rate of 7.0 percent, or by 0.6 cents per pushel per year on average from 1980 through 1983. Accelerated decontrol would permit these costs to rise at an annual average rate of 23.3 percent, including a surge of 59 percent in 1982, and a subsequent change in these costs of 8.5 percent in 1983. Under immediate decontrol, natural gas costs would increase at an annual rate of 23.5 percent with a 69.4-percent surge in 1982 and a 2-percent increase in 1983.

The differences in the trajectories of costs under accelerated and immediate decontrol are due to the fact that accelerated decontrol constrains the adjustment to "free market" pricing in 1982 and leaves part of the release from control to 1983. Immediate

and full decontrol removes all controls at once, allowing the price to adjust fully upon their removal.

TABLE 1.—EFFECTS OF NATURAL GAS PRICE DECONTROL ON FARM PRODUCTION COSTS OF CORN AND WHEAT

[Cents per bushel]

Year	Direct onfarm costs, cost of natural gas [1]		Natural gas component of fertilizer costs		Total natural gas component of farm production costs	
	Corn	Wheat	Corn	Wheat	Corn	Wheat
A. Continuation of present policy—NGPA [2]						
1980	3.5	([3])	8.1	10.2	11.6	10.2
1981	4.0	([3])	8.9	11.1	12.9	11.1
1982	4.4	([3])	9.5	11.8	13.9	11.8
1983	4.7	([3])	10.0	12.5	14.7	12.5
B. Accelerated decontrol in 1982 [2]						
1980	3.5	([3])	8.1	10.2	11.6	10.2
1981	4.0	([3])	8.9	11.1	12.9	11.1
1982	6.9	([3])	14.1	17.6	21.0	17.6
1983	7.6	([3])	15.2	19.1	22.8	19.1
C. Full decontrol in 1982 [2]						
1980	3.5	([3])	8.1	10.2	11.6	10.2
1981	4.0	([3])	8.9	11.1	12.9	11.1
1982	8.1	([3])	15.1	18.8	23.2	18.8
1983	8.2	([3])	15.3	19.2	23.5	19.2

[1] Irrigation and crop-drying.
[2] Department of energy scenarios.
[3] Not relevant, as irrigation and crop-drying operations are not typical for wheat production on a national level.

Source: Calculated by CRS using data furnished by U.S. Department of Energy, Data Resources Inc., the Fertilizer Institute, and the American Gas Association.

The dominant element of rising natural gas costs in farming is in fertilizers, and, in particular, nitrogenous fertilizers. Natural gas, which is a raw material or feedstock input to the production of these fertilizers (as opposed to a processing fuel), accounts for about one-third of the cost of nitrogenous fertilizers made from ammonia, according to one estimate.[1] Assuming fixed rates of application of fertilizer per acre [2] and a complete passthrough of embodied natural gas costs to farmers, rising natural gas prices would have a significant effect upon fertilizer prices and, therefore, upon farming costs.

Direct, on-farm production costs [3] due to natural gas decontrol become over time a somewhat larger share of total gas inputs in wheat and corn production. In the production of corn, they accounted for about 30 percent of total natural gas input costs per bushel in 1980, rising to 32 percent in 1983 under NGPA, 33 percent under accelerated decontrol, and 35 percent under immediate decontrol. In wheat production, direct, on-farm costs of natural gas are negligible owing to the fact that wheat acreage is normally not irrigated or further dried after harvest.

The analysis assumes that about 10 percent of all acreage under corn is irrigated, and that natural gas is used as a primary fuel for pumping on about half of the irrigated acreage (54 percent).[4] The other energy sources include: electricity (27 percent), liquified petroleum gas (9 percent), diesel (7 percent), and gasoline (4 percent). It is likely that gas would be the primary fuel only in those locations where it can be obtained at or near wellhead prices. Indeed, the U.S. Department of Agriculture reports that seven states (Texas, Kansas, Arizona, New Mexico, Nebraska, Oklahoma, and Colorado) account for 94 percent of total consumption of natural gas used for irrigation.[5] Under these circumstances, the natural gas component of total costs would be somewhat higher than projected in these states, and lower than projected in other states.

B. The suppliers of natural gas used on farms

The sellers of natural gas used on farms consist mainly of ammonia producers, ammonia being a major source of nitrogenous fertilizer, and of either gas producers or interstate and intrastate natural gas pipelines. The structure of these sources of supply is such that the cost of natural gas used by farmers can be determined effectively by suppliers.

Only 110 companies operating 152 plants are identified as producers of nitrogenous fertilizers in the United States by the 1977 Census of Manufacturers. The industry is characterized by a high degree of concentration, such that a small number of producers account for a significant share of the total output of the industry. The four largest, which operate 18 plants, account for nearly 34 percent of the value of total shipments of the industry. The eight largest companies, which operate 29 plants, account for nearly 54 percent of the value of industry shipments. Most of the companies are small; about 55 percent of the companies account for less than 2 percent of total industry shipments.[6] This degree of concentration of production in a small number of firms implies that the largest companies have some capability to influence the price of fertilizers. In any event, industries of this nature tend to price on a basis related to costs, and prices of fertilizer are likely to reflect the decontrol of wellhead prices of the important natural gas inputs.

One analyst, Professor Gardner of the University of Maryland, notes that many of those companies are located in states in which favorable intrastate rates for natural gas can be obtained.[7] He suggests that, under NGPA, these companies could face difficulty in obtaining future supplies of natural gas, as reserves in these states are depleted and demand of the higher priority residential sector increases.[8] An Energy Information Administration study concludes that there is a tendency for intrastate rates to approach the levels of interstate rates for natural gas.[9] Therefore, it is possible that the cost of the gas component of nitrogenous fertilizers could rise significantly, and, given the structure in the industry, be passed on to users of fertilizer, the farmers.

Pipelines supplying natural gas purchased for direct, on-farm application must be expected to pass through the full increase in wellhead prices under decontrol. The pipelines constitute the only economically and technologically feasible way to transport large volumes of natural gas. While wellhead prices vary according to local circumstances of demand and supply, and prices in new contracts are "rolled in" with lower prices in old contracts to make up the regulated price and to end users, the big wellhead price increases with decontrol would quickly be reflected in the users' price. The farmer consumes so little natural gas that he would have little possibility to influence prices.

II. MARKET PRICES AND STRUCTURE FOR CORN AND WHEAT, 1980–83

A. Market prices

DRI projects that corn and wheat prices paid at the farm will be rising from 1981 through 1983. These projections are presented in Table 2. If they prove to be correct, corn prices, after falling 19 percent in 1981, are expected to increase from $2.50 per bushel in 1981 to $3.09 in 1983, an annual rate of 11.2 percent. Wheat prices, which fell by 4 percent in 1981, are projected to increase from $3.88 per bushel in 1981 to $4.18 in 1983, a rise of nearly 4 percent.

B. Market structure

The market for farm products generally is characterized by a large number of sellers. The U.S. Department of Agriculture estimated the total number of farms in the United States in 1980 to be 2.4 million, 88 percent of them having sales of less than $100,000.[10] At least 934,000 farms produce some wheat; at least 1.5 million farms produce corn and other feedgrains.[11]

In addition to domestic producers, foreign sources of supply are substantial. DRI estimates that Canada, Australia, and Argentina will account for about 6 percent of world production of feedgrains, and the Soviet bloc countries will contribute 21 percent of total world production of these crops in 1982.[12] With respect to wheat production, DRI projects the U.S. contribution to world supply in 1982 to be 15 percent of the total.[13]

TABLE 2.—DRI PROJECTIONS OF CORN AND WHEAT PRICES PAID AT FARM 1080–83

[Dollars per bushel]

Year	Corn price	Wheat price
1980	$3.10	$4.06
1981	2.50	3.88

[1] Bruce Gardner, "The Impact of Natural Gas Deregulation on the Farm and Food Sector" (A report prepared for the Natural Gas Supply Association, 1982), p. 10.

[2] Various estimates of sensitivity to the price of fertilizer suggest that this assumption has merit. Estimates of the price elasticity of demand for nitrogenous fertilizer are low. DRI estimates that a 1 percent increase in nitrogen fertilizer prices would result in a 0.27 percent reduction in the quantity demanded. See, DRI, Agriculture Review, Summer 1981, p. 62. Also, Gardner estimated that a 1 percent increase in nitrogenous fertilizer price would result in a percentage reduction in demand in the range of 0.33 to 0.41. See, Gardner, op. cit., pp. 15 f.

[3] These costs are incurred mainly for irrigation and crop-drying. Pesticides do embody natural gas; however, according to the Council for Agricultural Science and Technology, the share of the energy component of pesticides in total energy use in farming is approximately 1 percent. See, Council Report No. 68. "Energy Use in Agriculture," 1977. p. 13.

[4] Bureau of the Census. U.S. Department of Commerce. 1978 Census of Agriculture. The percentages cited in the text do not sum to 100 owing to errors in rounding.

[5] U.S. Department of Agriculture, "Energy and U.S. Agriculture: 1974–1978," ESCS, Statistical Bulletin No. 632, April 1980.

[6] U.S. Department of Commerce, Bureau of the Census. 1977 Census of Manufacturers: Concentration Ratios in Manufacturing. May 1981, table 8, pp. 9-90.

[7] Texas, Louisiana, and Oklahoma.

[8] Gardner, op. cit., pp. 6ff.

[9] U.S. Department of Energy. Energy Information Administration. "Intrastate and Interstate Supply Markets Under the Natural Gas Policy Act." Oct. 19, 1981. p. 27.

[10] U.S. Department of Agriculture, Farm Income Situation. These data were obtained from the data bases maintained by DRI.

[11] U.S. Department of Agriculture data obtained by telephone, Mar. 31, 1982.

[12] DRI Agriculture Review, Winter 1981, p. 23.

[13] Ibid., p. 30.

TABLE 2.—DRI PROJECTIONS OF CORN AND WHEAT PRICES PAID AT FARM 1080–83—Continued

[Dollars per bushel]

Year	Corn price	Wheat price
1982	2.83	3.94
1983	3.09	4.18

Source: DRI Agriculture Review, Winter 1981.

These data are important as they demonstrate that the individual seller is so small that determination of market prices is a function of the marketplace. The single farmer is a price-taker, unable to influence the market price. The farmer cannot pass through to buyers of farm products additional costs of production resulting from changes in natural gas pricing. The farmer lacks the market power to recover the higher cost of production which can be imposed upon him by his suppliers who do have this market power. He can only hope to benefit from unforeseen factors, such as increased foreign purchases, that would boost farm prices, or from government policies that could have the same effect.

III. EFFECTS OF NATURAL GAS PRICE DECONTROL ON CORN AND WHEAT FARM INCOME

In 1982, accelerated natural gas price decontrol could cost corn and wheat farmers $610 million dollars in constant 1972 dollars (i.e., after adjusting for inflation). In 1983, this cost would rise to $730 million. The costs resulting from immediate decontrol would amount to $790 million in 1982 and $1.80 billion in 1983. These estimates are the difference in each year between the value of farm cash receipts less natural gas expenditures under the decontrol scenarios and the value of these net receipts under continuation of NGPA.

Under accelerated decontrol, it is estimated that net cash receipts from corn and wheat farming in 1982 net of natural gas costs would amount to $21.65 billion dollars in 1972 constant dollars. They represent 97.3 percent of the $22.26 billion in farm cash receipts from corn and wheat which would be realized under NGPA. In 1983, net cash receipts would rise to $24.67 billion, 97.1 percent of the $25.40 billion which would be realized under continuation of current NGPA policy. These dollar values of farm cash receipts, total expenditures for natural gas, and farm cash receipts less natural gas expenditures are presented in Table 3.

Under immediate decontrol, net farm, cash receipts would amount to $21.47 billion in 1982, or 96.5 percent of the $22.66 billion which would be realized under NGPA. In 1983, these receipts would rise to $23.60 billion or 92.9 percent of the amount which would be realized under NGPA.

TABLE 3: EFFECTS OF NATURAL GAS PRICE DECONTROL ON CORN AND WHEAT FARM CASH RECEIPTS, 1980–83

[Billions of dollars in 1972 prices]

Year	Gross farm cash receipts	Expenditures for natural gas [1]	Gross cash receipts less natural gas expenditures
A. Current policy—NGPA			
1980	$20.83	$0.94	$19.89
1981	22.16	1.26	20.90
1982	23.49	1.23	22.26
1983	26.77	1.37	25.40
B. Accelerated decontrol			
1980	20.83	0.94	19.89

TABLE 3: EFFECTS OF NATURAL GAS PRICE DECONTROL ON CORN AND WHEAT FARM CASH RECEIPTS, 1980–83—Continued

[Billions of dollars in 1972 prices]

Year	Gross farm cash receipts	Expenditures for natural gas [1]	Gross cash receipts less natural gas expenditures
1981	22.16	1.26	20.90
1982	23.49	1.84	21.65
1983	26.77	2.10	24.67
C. Immediate decontrol			
1980	20.83	0.94	19.89
1981	22.16	1.26	20.90
1982	23.49	2.02	21.47
1983	26.77	3.17	23.60

[1] Total production multiplied by gas cost per bushel from table 1. Calculated by CRS using data from table 1 and DRI Agriculture Review, Winter 1981.

Farm cash receipts net of natural gas costs increase under all three scenarios but by most under NGPA. Under NGPA, net farm cash receipts from corn and wheat farming rise by 27.7 percent in the period 1980 through 1983. Under accelerated decontrol, the percentage increase is 24.0 percent; and under immediate decontrol, the percentage change is 18.7 percent.

However, under all natural gas pricing scenarios, the farmer's income position is eroded, assuming that other costs maintain their relative shares of cash receipts. The effect of NGPA is to increase in 1983 the share of gross farm cash receipts accounted for by natural gas expenditures as compared with 1980. In 1983, these expenditures are estimated to be 5.1 percent of gross farm cash receipts in corn and wheat farming; in 1980, the share was 4.5 percent. Under both accelerated and immediate gas price decontrol, the farmer's net income position also worsens in 1983, assuming that other costs maintain their shares. The share of natural gas expenditures in gross farm receipts rises to 7.8 percent under accelerated decontrol, and to 11.8 percent under immediate decontrol.

IV. CONCLUDING COMMENTS

The estimates developed in this analysis clearly indicate that changing natural gas pricing policy would result in higher costs of production and, effectively, a lowering of net farm incomes. Buying inputs of natural gas in markets in which the farmer has little or no influence on input prices, and selling products in markets in which the individual farmer also has no control over price, there is little likelihood that the farmer can recover higher input costs by passing them through to consumers. Thus, the farmer's income is "squeezed" by higher natural gas prices resulting from policy changes.

APPENDIX—METHODOLOGY

I. NATURAL GAS PRICING SCENARIOS

All three scenarios are those developed by U.S. Department of Energy and published in: U.S. Department of Energy. Two-Market Analysis of Natural Gas Decontrol. Appendix A to "A Study of Alernatives to the Natural Gas Policy Act of 1978." Report No. DOE/P E-0033, November, 1981.

The NGPA scenario assumes continuation of current pricing policy in which only certain categories of natural gas would be decontrolled in 1985. It allows for partial application of incremental pricing rules, and assumes a real world oil price of $32.73 in 1980 dollars escalating at an annual rate of 3 percent.

The accelerated decontrol scenario assumes decontrol commences in 1982. Decontrol would be partial, applying only to the price categories of gas being deregulated under NGPA. There would be no incremental pricing. Oil prices are as in the NGPA scenario.

Immediate decontrol commences in 1982 and applies to all domestic gas. There is no incremental pricing.

The wellhead and industrial prices for those industries exempt from incremental pricing, including chemicals, are projected to be per thousand cubic feet (Mcf):

	1980	1981	1982	1983
NGPA:				
Wellhead	1.81	2.09	2.27	2.42
Industrial	2.71	2.97	3.15	3.33
Accelerated:				
Wellhead	1.81	2.09	3.56	3.92
Industrial	2.71	2.97	4.69	5.08
Immediate:				
Wellhead	1.81	2.09	4.19	4.27
Industrial	2.71	2.97	5.02	5.11

II. PROJECTIONS OF ACREAGE, FARM PRODUCT PRICES, AND FARM CASH RECEIPTS

All projections of acreage, farm product prices, and farm cash receipts are those estimated by Data Resources Incorporated and published in DRI. Agriculture Review, Winter, 1981.

III. TECHNICAL ASSUMPTIONS

Fertilizer application rates, obtained by telephonic communication from the Fertilizer Institute and the American Gas Association, are assumed to be 137 pounds of nitrogen per acre of corn and 58 pounds per acre of wheat. Approximately 21,000 Btu's of natural gas are required per pound of nitrogen. Based on yields per acre planted, the natural gas content of a bushel of corn is approximately 0.03 Mcf and, for wheat, 0.04 Mcf. Approximately 97 percent of all corn acreage is estimated by the Fertilizer Institute to be fertilized. Approzimately 70 percent of all what acreage is fertilized.

Nitrogenous fertilizers are used in conjunction with other types of fertilizers, and are not substitutes for them.

Inputs of natural gas in irrigation and crop-drying operations were derived from estimates of the Council on Agricultural Science and Technology, as published in its report, No. 68: Energy Use in Agriculture (1977). The volumes of gas used in these applications were derived from data in the Oak Ridge Associated Universities Report: ORAU—160—Industrial Energy Use Data Book.

IV. ADDITIONAL ASSUMPTIONS

Five percent of acreage in corn is irrigated using natural gas as a primary fuel.

Purchases of natural gas for direct use are made at wellhead prices.

The price of natural gas embodied in fertilizer is completely passed through to the consumer.

RESOLUTION

Whereas, the Natural Gas Policy Act of 1978 has succeeded in its basic purpose of encouraging the development of domestic natural gas supplies; and

Whereas, delivered natural gas prices in many areas of the country have already increased to levels competitive with the price of alternate fuels; and

Whereas, many existing long-term natural gas purchase contracts between producers and pipelines were entered during a period

of supply shortage and need to be renegotiated; and

Whereas, many such contracts contain provisions which allow increases in wellhead gas prices, but do not allow decreases; and

Whereas, such contractual commitments prevent the price of natural gas from increasing or decreasing as appropriate to reflect market conditions; and

Whereas, both the Senate and the House of Representatives have, through extensive hearings, focused gas industry attention on the problem of supply-demand imbalance in the gas industry; and

Whereas, not all pipelines and producers have responded to a changing natural gas market and initiated efforts to renegotiate contract provisions to be more responsive to actual market conditions; and

Whereas, those pipelines and producers which have initiated efforts to renegotiate contract provisions to be more responsive to actual market conditions should be encouraged to continue their efforts; and

Whereas, gas producers and pipelines may be able to effect a demand-supply balance through such renegotiations and thus avoid the need for Congress to legislate in this area: Now, therefore, be it

Resolved, that it is the sense of the Senate that natural gas producers and natural gas pipelines should be encouraged to recognize that delivered prices for natural gas are already competitive with the price of alternate fuels in many regions, and to renegotiate producer-pipeline contracts to respond to changing market conditions in order to provide an orderly transition to a deregulated market; and

Be it further resolved, that it is the sense of the Senate that unless such renegotiation takes place in a timely fashion, the Congress should take such steps as may be necessary to resolve the impasse over contracts in order to protect natural gas consumers from unwarranted price increases, and to provide for an orderly transition to a deregulated natural gas market.

Mr. EXON. Mr. President, that ends my remarks that I have attempted to get recognition to present for the last 12 hours. I thank all of my colleagues. I yield the floor.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER (Mr. RUDMAN). The majority leader.

Mr. BRADLEY. Mr. President, I must rise in opposition to division II of the amendment offered by the Senator from Kansas. She has performed a valuable service; she has highlighted for the entire Senate the problem that many of us from the Northeast have been living with for some time: high natural gas prices. These prices are rising for a number of reasons:

The Natural Gas Policy Act of 1978 gradually raises ceiling prices on some categories of natural gas;

Some pipeline companies signed contracts in the mid-1970's that require them to take high cost gas even though lower cost gas is now available;

More high cost gas—both deep gas and imported gas—is being burned; and

The price of gas is now above the cost of industrial use fuel oil (residual fuel); this means some firms have switched to oil from gas, thereby reducing the number of customers to pay for the large fixed costs of pipelines.

The Northeast always pays more for natural gas. We also pay more for oil. Homeowners in the Middle West are now paying $4, $5, and $6 per thousand cubic feet of gas. We in New Jersey are paying over $7/Mcf. Heating oil, which heats as many homes as natural gas in my State, costs over $8/Mcf in gas equivalent. It is these high costs of natural gas and home heating oil that has prompted us in the Northeast along with others to be active and vocal supporters of low-income energy assistance and low-income weatherization programs. I am pleased to cosponsor the amendment to increase the low-income energy assistance authorization to be offered by the Senator from Missouri.

As a member of the Energy Committee, I look forward to next year when I intend to play an active role in a careful examination of the natural gas market and the NGPA. Early next year we will examine options designed to allow competition to push natural gas prices down. I fully expect that the take-or-pay contracts will be addressed as a part of the package of proposals designed to rationalize the gas market.

This is the way the Senate ought to legislate—carefully, seriously and thoroughly. For this reason I must oppose division II of this amendment.

Further I am informed that it would be April before this amendment would bring any pure relief for consumers. So we will have time to consider the matter in the Energy Committee.

Mr. BAKER. Mr. President, I move to table division II of the Kassebaum amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The bill clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New York (Mr. MOYNIHAN), and the Senator from Arizona (Mr. DECONCINI), are absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 62, nays 33, as follows:

[Roll Call Vote No. 410 Leg.]

YEAS—62

Abdnor	Ford	Mitchell
Armstrong	Garn	Murkowski
Baker	Glenn	Nickles
Baucus	Gorton	Nunn
Bentsen	Hart	Packwood
Boren	Hatch	Percy
Boschwitz	Hayakawa	Pressler
Bradley	Heflin	Pryor
Brady	Helms	Quayle
Burdick	Hollings	Randolph
Byrd, Harry F., Jr.	Huddleston	Roth
	Inouye	Schmitt
Cannon	Jackson	Simpson
Chafee	Johnston	Stafford
Chiles	Laxalt	Stennis
Cochran	Leahy	Stevens
Cohen	Long	Symms
Denton	Lugar	Thurmond
Domenici	Mattingly	Tower
Durenberger	McClure	Wallop
East	Melcher	Warner

NAYS—33

Andrews	Exon	Matsunaga
Biden	Grassley	Metzenbaum
Bumpers	Hatfield	Pell
Byrd, Robert C.	Hawkins	Proxmire
Cranston	Heinz	Riegle
D'Amato	Humphrey	Rudman
Danforth	Jepsen	Sarbanes
Dixon	Kassebaum	Sasser
Dodd	Kasten	Specter
Dole	Kennedy	Tsongas
Eagleton	Levin	Zorinsky

NOT VOTING—5

DeConcini	Mathias	Weicker
Goldwater	Moynihan	

So the motion to lay on the table Division II of Mrs. Kassebaum's amendment (UP No. 1444) was agreed to.

UP AMENDMENT NO. 1446

Purpose: To provide that only steel manufactured in the United States is used in the construction of highways.

Mr. METZENBAUM. Mr. President, on behalf of myself, Senator ROBERT C. BYRD, Senator RIEGLE, Senator HUDDLESTON, Senator SASSER, and Senator RANDOLPH I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) for himself and Mr. ROBERT C. BYRD, Mr. RIEGLE, Mr. HUDDLESTON, Mr. SASSER, and Mr. RANDOLPH proposes an unprinted amendment numbered 1446.

The bill clerk proceeded to read the amendment.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object, I wish to have the amendment fully read.

The PRESIDING OFFICER. The clerk will continue reading the amendment.

The amendment as read by the bill clerk is as follows:

At the appropriate place in the amendment insert the following:

BUY AMERICAN STEEL

SEC.— (a) Chapter 3 of title 23, United States Code, is amended by adding after section 324 the following new section:

"§ 325. Buy American steel.

"Nothwithstanding any other provision of this title or any other law, none of the funds authorized to be appropriated for highway construction may be obligated or expended on any project in which steel manufactured outside the United States is used.".

(b) The analysis of chapter 3 of such title is amended by adding at the end thereof the following:

"325. Buy American steel.".

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Idaho without losing my right to the floor.

I ask unanimous consent that I may yield to the Senator from Idaho for what I understand is the offering of a resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, what is the question?

The PRESIDING OFFICER. The question is the Senator from Ohio asked unanimous consent that he might yield to the Senator from Idaho for the purpose of offering a resolution without losing his right to the floor.

The Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator from Ohio and I thank other Members.

SENATE RESOLUTION 515—RELATING TO THE NEED TO PROVIDE NATURAL GAS CONSUMERS WITH RELIEF FROM RAPIDLY INCREASING NATURAL GAS PRICES

Mr. McCLURE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for himself, Mr. EXON, Mr. JOHNSTON, Mr. WARNER, Mr. DOLE, and Mr. ROBERT C. BYRD, proposes a resolution (S. Res. 515) relating to the need to provide our Nation's natural gas consumers with immediate and long-term relief from rapidly increasing natural gas prices, by taking a number of actions to reduce or restrain such price increases, and by providing financial assistance to low-income consumers of natural gas.

The text of the resolution follows:

S. RES. 515

Whereas, residential and commercial consumers of natural gas in some parts of the country are facing rapidly increasing gas prices;

Whereas, natural gas prices have increased to the extent that many consumers are unable to pay their monthly gas bills;

Whereas, natural gas prices are increasing at a time of reduced demand and ample short-term supplies of deliverable gas; and

Whereas, average natural gas prices are not adequately responding to these changed market conditions and are imposing financial hardships on this Nation's natural gas consumers:

Now, therefore be it

Resolved, that it is the sense of the Senate that the Federal Energy Regulatory Commission should utilize its statutory authority to proceed immediately to review those administrative actions, in view of the current escalation of natural gas prices, that could result in the modification of certain standard provisions in pipeline-producer gas purchase contracts, such as take-or-pay, indefinite price escalator, and most-favored-nation clauses.

Be it further resolved, that it is the sense of the Senate that natural gas pipeline companies and natural gas producing companies should jointly and immediately initiate efforts to renegotiate immediately the provisions of their gas purchase contracts relating to volumes and prices of gas, particularly, take-or-pay, indefinite price esclator, and most-favored-nation clauses, in order to conform such provisions to changing conditions in the natural gas market and thereby reduce the rapid escalation of natural gas prices; and

Be it further resolved, that it is the sense of the Senate that available appropriations for direct financial assistance should immediately be provided on an expedited basis, to low income consumers of natural gas pursuant to the low-income energy assistance program established by title XXVI of the Low-Income Home Energy Assistance Act of 1981.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. McCLURE. I yield.

Mr. ROBERT C. BYRD. Mr. President, will the Senator enter my name as a cosponsor?

Mr. McCLURE. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. ROBERT C. BYRD) be named as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I believe that Senator DOLE is listed as a cosponsor as well.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCLURE. Mr. President, I did not interrupt the reading because I wanted every Member to know exactly what was in this resolution.

We have already seen the tabling motion on two amendments that deal with this question. I think that certainly the pattern has been established as to what the Senate will do with respect to amendments that call for immediate intervention in the marketplace.

I did not participate at length in that debate, but I do believe that one thing came out very clearly in the hearings that we held, and that is that the attempt to adjust price by mandatory statutory mechanisms would be too late to do any good this winter.

But there are three things that can be done that would be of some assistance.

First, FERC has some authority to look at some of the take-or-pay and other provisions. We suggest in this resolution that they get about doing that.

Second, we suggest that the companies that are involved undertake to renegotiate contracts where possible. I think we should encourage them to renegotiate where it is possible for them to come to voluntary agreements.

I think a number of those companies will find it in their own best interest to renegotiate those contracts, and I want to encourage them to do so.

Third, it expresses the sense of the Senate that we deal with the problem immediately by fuel assistance to people who simply cannot pay their bills. We need to take a close look at that, and this is a sense of the Senate that it is something we want to look at. Perhaps we will do better a little later in this bill or before this lame-duck session ends.

I am pleased to have the cosponsorship of the various other principals who have been involved in this debate today, and I hope we can adopt the resolution without much delay.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, as a cosponsor of this resolution I think it is an excellent resolution. It deals precisely and in a very appropriate way with the evils that were sought to be addressed by the Kassebaum amendment.

It goes as far as we could possibly go at this time which is to ask FERC to take such actions as they may to deal with this problem of take-or-pay contracts and we expect they will do that. As a matter of fact, they are dealing with that very question at this time and we expect some kind of advice out of them tomorrow when they are supposed to report on take-or-pay.

I ask only one thing from my distinguished colleague. That is that I have been asked for just a few minutes by some of my colleagues here to have their staff carefully check it out. I am sure there is no problem with it. But if we could let the debate continue before it is passed I think that will give us plenty of time.

Mr. McCLURE. I thank the Senator from Louisiana.

Mr. President, I ask unanimous consent that the Senator from Texas (Mr. BENTSEN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, before yielding further, let me suggest also that as the Senator from Nebraska (Mr. EXON) said a moment ago; he recommended action similar to this when he testified before the Energy Committee, and I wish to give him full credit for having urged that action before the Committee on Energy and Natural Resources at our hearings. We went just one step further than his amendments did by urging FERC to take the action or to initiate the action that we have suggested here. Otherwise, it parallels very closely the suggestion that Senator EXON had made.

Mr. President, I also ask unanimous consent that Senators COHEN and SIMPSON be added as cosponsors.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

Several Senators addressed the Chair.

Mr. MITCHELL. Mr. President, will the Senator yield for a question?

Mr. McCLURE. I would be happy to yield.

Mr. MITCHELL. The resolution refers to low-income energy assistance for those consumers who use natural gas for heating.

The Senator is aware, I am sure, that there are some regions of the country in which home heating oil is primarily used and that in those areas tremendous price increases are now being experienced as are being experienced in the natural gas area, and which have not only been experienced this winter but during other winters.

I hope it is the Senator's intention by this resolution not to exclude from that regions of the country that have been suffering from this for two or three heating seasons now.

Mr. McCLURE. I might say to the Senator I am not at all unaware of the fact that there are some areas of the country which do not consume natural gas. Certainly in the area of New England, in which home heating oil is the primary or major source of fuel for heating—aside from wood which has grown in importance in recent years—home heating oil prices have risen.

However, the topic we have been discussing for the last several hours here has been the escalation of natural gas prices.

I might just indicate that in my region of the country, that in my State the distribution company has just applied to the regulatory commission for a decrease in the home consumer rate for natural gas. That springs from the fact that we get most of the natural gas in the Northwest from Canada. We have been essentially deregulated for quite a little while, paying these high prices, which are much higher prices than many other areas of the country. But we are not seeking any special relief either in this resolution or otherwise. But I am not unmindful, and I do not think we ought to read this as saying we are not going to take a look at that problem with respect to the other forms of energy.

Mr. MITCHELL. If I may make one further comment, the real effort here will be when Congress determines the level of appropriations for the fiscal year 1984 budget for the low-income assistance program, and I hope very much that the concern expressed here tonight by so many people about the adverse effect on consumers, that we are not talking here about any appropriations that will carry over until next year because in the past 2 years it has been a very, very difficult fight with not a great deal of support from many of the people who are now expressing concern over the plight of the people suffering from the lack of low-income energy assistance. I hope very much this will be remembered when we get to that budget contest sometime early next year.

I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. NICKLES. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. NICKLES. The Senator has three things in substance; One was asking the FERC to see what they could do to renegotiate some contracts in take-or-pay. Could the Senator give us a little more detail as to what that involves?

Mr. McCLURE. The resolution has three resolve clauses. The first one deals with what the FERC can do under existing statutes, and we are suggesting that they look to what might be done with respect to their actions that could result in modification of certain standard provisions in pipeline-producer gas purchase contracts, such as take-or-pay, indefinite-price escalator, and most-favored-nation clauses. They have the authority to do that already.

The question with respect to renegotiation is expressed in the second resolve clause of the resolution.

Mr. NICKLES. I understand the second. What authority does FERC have right now? Can they go in and mandate these contracts for renegotiation?

Mr. McCLURE. I am not talking about renegotiation. The Senator stopped me just before I said that.

Mr. NICKLES. OK.

Mr. McCLURE. The second clause urges companies, where possible, to sit down and renegotiate, if they find it in their best interest to do so, to come up with a renegotiated contract that deals with some of the inequities within the market that some people perceive now. I think if they sit down in a serious mode of renegotiation of those contracts they will do so.

But we are not suggesting, and I am not suggesting, that the FERC has the authority to order them to do so.

Mr. NICKLES. I understand the Senator, and I have no problem with the second resolve clause. I do have some question on the first resolve clause which says that the Federal Energy Regulatory Commission should utilize its statutory authority to proceed immediately to review those administrative actions in view of the current escalation of natural gas prices that could result in modification of certain standard provisions in pipeline-produced gas purchase contracts, such as take-or-pay, indefinite-price escalator, and most-favored-nation clauses.

What authority do they have that they can modify these contracts?

Mr. McCLURE. Might I say to the Senator from Oklahoma that this resolution does not attempt to delineate what their existing statutory authority is. I want to make that clear first.

We are asking them to use whatever their statutory authority is to look at the administrative actions that could result in those kinds of modifications. You would have to look at all of the entire Federal energy regulatory body of law that is on the books today. We are not attempting to vary that.

Mr. NICKLES. I have some reservations about that, and in view of the fact that I know the chairman of the Energy Committee is aware that the Federal Energy Regulatory Commission has been stacked with backlogs, they have been slow and they have a great deal of work to do, I have reservations about that, and if we can postpone discussion of that and maybe move to the third part, I would like to do so.

The third resolve clause states:

It is the sense of the Senate that available appropriations for direct financial assistance should immediately be provided on an expedited basis, to low-income consumers of natural gas pursuant to the low-income energy assistance program established by title XXVI of the Low-Income Home Energy Assistance Act of 1981:

Does that have an implication that the Appropriations Committee is disposed to add additional money or look for it in some other way?

Mr. McCLURE. Mr. President, if the Senator will yield, let me suggest to the Senator that there is a large quantity of money that already is carried over and an additional appropriation, which is prepared, which would aggregate, I believe my memory is correct, to some $1.8 billion that would be available in actions either already taken in the Congress or contemplated to be taken yet in this lameduck session, either in the Appropriations Act or with the continuing resolution.

We want to take a close look at that to determine whether that will be sufficient as an identified source of funding that might be available to increase that funding if indeed, after looking at it, we believe that $1.8 billion would not be adequate.

But I think one of the things we must be very concerned about is that we do not set in motion here something that will not have any results for 2 or 3 months. The people who are having trouble are people who are having trouble now, and they will not be helped very much to talk about some income assistance to them in April or May if their gas is cut off in December or January. So we are asking that the administration take a look at the administrative mechanisms that will get that money to them quickly in time to respond for what to many of them is a real emergency right now.

Mr. NICKLES. I thank the Senator.

Parliamentary inquiry, Mr. President. Who has the floor?

The PRESIDING OFFICER. The Senator from Idaho has the floor subject to a unanimous-consent agreement in which the floor goes back to the Senator from Ohio.

Mr. NICKLES. Parliamentary inquiry. If this resolution would proceed further, it would be my intention to discuss it, and I am not sure that that would be possible or agreed to by the Senator from Ohio.

Mr. McCLURE. I am not quite certain I understood what the Senator from Oklahoma just said.

It is my hope, and I hope we can get to a vote on this so that we can get back to the Senator from Ohio. I did not intend by this action to delay consideration of the amendment of the Senator from Ohio, but certainly it is not my desire to cut anyone off. However, I had not anticipated that this expression of good will on the part of the Senate was going to lead to an extended discussion by those who did not want to express good will.

Mr. DENTON. Mr. President, will the Senator from Idaho yield for a question?

Mr. McCLURE. I would be happy to yield for a question.

Mr. DENTON. I presume the Senator means by "available appropriations," unexpended appropriations, those appropriations already made which are as yet unexpended in each State.

Mr. McCLURE. Might I say to the Senator there are some moneys available for immediate expenditures because they are left over as unexpended funds. Second, there is that action which will be taken or is expected to be taken in the appropriations measures now pending either in the appropriations bill or the continuing resolution which we hope to act upon tomorrow, which would add to that amount of money.

Mr. DENTON. That explanation I think will suffice for the record in terms of determining what is meant by these words. But I would suggest that the term "available appropriations should immediately be provided" might better be substituted by some different language. I do not think it is that clear, but I yield to the Senator by virtue of our previous conversation.

Mr. McCLURE. I believe it is clear, from the standpoint of appropriations language, that applies both to the carryover money which is there now and that amount of money which might be provided in appropriations actions, be it by the appropriations bill directly or the continuing resolution.

Mr. DENTON. I yield to the Senator in that knowledge of the interpretation. I just wanted to make sure that is what it meant.

The PRESIDING OFFICER. The question is on the resolution offered by the Senator from Idaho (Mr. McCLURE).

Mr. BOREN. Mr. President, I reluctantly will vote against the McClure resolution. Clearly a way most be found to moderate the large increases to consumers in natural gas prices. As one Senator, I plan to work hard for meaningful policy changes which will help consumers. I also support funding for low-income energy assistance at reasonable levels to help those who cannot protect themselves against price increases.

The resolution, however, does not seem balanced in the action which it urges. It focuses only on a narrow part of the problem without referring to the need to reevaluate the Fuel Use Act and consideration of the broader context of natural gas pricing.

The curtailed use of natural gas by industries has forced the residential consumers to pay higher rates.

The full range of natural gas policy options should be considered. The resolution does not seem to me to provide any real hope for consumers while it can be interpreted as discriminating against certain classes of producers.

NATURAL GAS

Mr. McCLURE. Mr. President, there is no doubt that serious and legitimate concerns have prompted demands for immediate relief from the gas price increases projected for this winter. However, a careful analysis of the pending proposal suggests that, if enacted, it could be disastrous.

Although the legislation is intended to provide immediate assistance to hard-pressed gas consumers, there is no assurance whatsoever that the proposal will achieve its stated objective. Moreover, it could cause irreparable harm to gas consumers in the long term.

For example, if Congress were to impose a freeze on wellhead prices, the result could be a devastating psychological impact on gas producers. Such a price freeze would be an abrupt reversal of the price incentive policy adopted by the Congress when it enacted the Natural Gas Policy Act of 1978. A price freeze could seriously reduce or even destroy the incentives of some producers to invest capital in the development of new domestic gas supplies.

If the Congress requires the modification of pipeline producer contracts by altering take-or-pay clauses, the result undoubtedly will be a massive shift of natural gas sales among producers. Many small, independent producers would be compelled to permanently cease operations because of lost sales resulting from abrogated contract provisions. Many would be forced to default on their bank loans because of unanticipated reductions in their gas sales revenues. New bank failures, similar to the collapse of the Penn Square Bank, may be the inevitable result.

Before the Congress takes any legislative action, it must identify the causes of the natural gas price increases that have prompted the pending proposals. Unfortunately, that is not a simple task. Each State and each region is served by a combination of natural gas pipelines, each with its own unique set of gas supply sources, contractual obligations, and market requirements. Accordingly, any generic legislative action will have differing impacts in the various regions of the country. What may be effective in one region may produce adverse consequences in another.

During the remaining days of this postelection session, we lack sufficient time to ascertain fully the benefits and detriments of the pending legislative proposals. However, the Congress has begun that analysis. The Committee on Energy and Natural Resources on Monday, December 13, 1982, held a hearing to review the current conditions in the gas market and the factors contributing to those conditions.

I urge my colleagues to resist the impulse to take immediate action. We cannot afford to legislate on a piecemeal basis. We must recognize that any congressional action motivated by the need to restrain gas prices must be carefully balanced against the risks of returning to gas-shortage conditions and imposing severe economic hardships on gas consumers.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, we have had a lot of discussion today, but I do not think we have had a full discussion on natural gas. It seems as if it wants to come up repeatedly. I did have some reservations about the resolution, particularly the first part of the resolution that basically asked the FERC—I will just read it exactly.

The Federal Energy Regulatory Commission should utilize its statutory authority to proceed immediately to review those administrative actions, in view of the current escalation of natural gas prices, that could result in the modification of certain standard provisions in pipeline-producer gas purchase contracts, such as take-or-pay, indefinite price escalator, and most-favored-nation clauses.

I personally do not support a resolution that would ask the FERC to do whatever they could do to intervene in contracts. A lot of discussion has been on take or pay. I would like to talk about take or pay. And maybe different Members of the Senate do have a little more knowledge of what a take-or-pay contract is and possibly we should go into a little more length and detail on indefinite price escalator and most-favored-nation clauses.

Actually, the term "take-or-pay" is misleading; it really should be "take-or-prepay." That is, a prepayment is made today for gas to be delivered later. The makeup feature of take or pay has been largely ignored in recent discussions of natural gas issues.

In the early years of the gas industry, there was no need for take-or-pay provisions. Gas was a comparatively valueless byproduct of oil production, and it was sold whenever a market happened to be available, usually to a nearby gasoline plant. But with the advent of large diameter, long-distance pipelines and greater demand for gas, gas itself could be explored for, developed, and produced as a valuable commodity. With gas as the major product on a lease, it had to carry the burden of all the costs of exploration and production; and for this there was real need for a steady, reliable flow of income to the producer. Take-or-pay was the method which buyers and sellers developed to achieve this.

Next to the pricing provisions, the most important provisions of a gas sales contract are those which specify the quantity of the gas to be purchased. The producer wants to sell his gas as rapidly as his wells will produce it and the pipeline can take the gas into its facilities. Hence, he tries to contract to require the buyer to take as high a percentage of the capacity of his wells to deliver gas as he can. During the shortage period in the late 1970's, pipeline buyers, who needed more gas than they could buy and were curtailing their customers, were willing to sign long-term contracts providing for high percentage "takes" from the producer. In many cases the producers drilled additional wells to enable the gas to be produced at a more rapid rate to meet the urgent pipeline demand.

From the viewpoint of the pipeline, it is desirable to get as many gas reserves contracted to the pipeline as possible in order to protect the long-term supply security of the pipeline and its customers. That need must be considered with—or balanced against—the short-term need to meet all the current demands of its customers. Thus, the pipeline buyer must adjust its gas purchase program to continually assure its long-term supply, while at the same time assuring itself that it has enough gas to meet all of its customers' demands, but not too much gas so that it would be found to violate the "take" or quantity provisions of its contracts with its various producers. The take-or-pay requirements of his contract are the producer's only protection against predatory buying practices of a pipeline, which could, absent this provision, tie up a producer's reserves under a long-term contract and then refuse to permit their production by refusing to take the gas into its system. This was the very practice that the clause was initially designed to prevent. After ali, in most cases there are not too many potential buyers close enough to offer to purchase a new gas supply.

It is important to keep in mind that in talking about "producers" or "sellers" we are not talking about a single company or even a small group of companies. Instead, pipelines buy from thousands of producers and have individual contracts with each one. It would not be fair, logical, or "in the public interest" for a pipeline to favor one producer over another, taking one person's gas while leaving another's in the ground. In fact, if two or more producers are selling gas from the same reservoir, the gas will move underground through the rock to the wells which are producing—and away from wells which are shut-in. This means that the producer whose wells are not producing can actually have his gas drained away by another producer whose wells are producing.

Furthermore, a producer, especially a small producer, needs a steady income from his wells in order to pay his fixed costs, operating costs, and taxes. In many instances, the steady income from existing production provides the collateral on which a producer borrows money to continue to drill wells to explore for and develop new gas.

It is assumed that the existence of a take-or-pay provision is solely for the benefit of the seller. But a buyer has a real interest in keeping an assured supply. Without take-or-pay, long-term contracts for gas supplies would be rare, leaving buyers with the inability to finance pipelines and attract markets. And the level of take-or-pay will in part determine the number of wells to be drilled on a lease and the size of surface facilities to be installed, which in turn affect the volume of gas available to the purchaser on any given day.

A take-or-pay provision is designed to meet the needs of both the producer and the pipeline. It provides that the buyer must take a minimum quantity of gas, on a daily, monthly, or annual basis, but, if he does not take this quantity of gas, he must pay the producer as if he had taken it. This does not mean that the pipeline pays more money for less gas. The reason is that the pipeline has a right to "make up" the deficiencies in takes, either at no cost or by payment of a small price differential if the price of the gas has increased between the time the payment is made and the gas is taken into the system. Thus, in the normal course of events, the pipeline is able to operate its system with necessary flexibility, increasing or decreasing its takes as demands of its customers vary, because of weather conditions, economic changes, and so forth. The producer receives a steady minimum income to meet his operating costs, taxes, and other obligations. And the pipeline's customers only see the carrying charges on take-or-pay amounts, not the full amounts paid, in their rates.

We can speculate what the gas industry might be like without take-or-pay provisions. Since take-or-pay is a tradeoff for long-term commitments, producer-pipeline contracts would be significantly of shorter duration. Surely there would be a major change in pipeline financing, requiring more equity participation, shorter amortization periods and, presumably, higher rates to offset the greater risks of loss of gas supply. Producers could be expected to develop properties more slowly and perhaps to demand higher prices in return for the uncertainties of cash flow. Short-term, spot sales could lead to shortages on one pipeline system with adequate supplies in others. In short, chaos could supplant stability—and the consumer is the loser.

One of the early methods used to set the amount of take-or-pay was to relate the amount to be taken or prepaid—the daily contract quantity or DCQ—to the amount of original recoverable reserves covered by the contract. Thus, a DCQ or 1 Mcf per day for each 10,000 Mcf of reserves would theoretically deplete the reserves in about 27 years. The 1 for 10,000 formula in time gave way to 1 for which 8,000 took about 22 years, and 1 for 7,300 which took about 20 years. Other reserve based formulas were used as well.

But problems developed in basing average daily takes on reserves. One

was the inexact nature of reserve estimation; engineers of buyers and sellers often disagreed on just what the recoverable reserves were. Sometimes, arbitration was the only way to resolve differences. In any event, having to agree on reserves every year or two resulted in an inefficient use of technical personnel.

Of even greater significance was the need of pipelines, not so much for long-term supplies, which were sorely needed, too, but for gas immediately to serve their markets. But the interstate pipelines, unable to compete for new supplies in price, found they were able to compete by offering higher take-or-pay levels.

What then developed was a switch from reserve-based take-or-pay levels to a method which gave buyers more gas and sellers more cash for development. That was the use of a percentage of daily gas deliverability to establish the DCQ level. Deliverability is easily determined and redetermined by actual tests, not by estimation, an advantage in time and manpower to both buyers and sellers, and also those who were financing the deal. The actual percentage to be used was negotiated by the parties, and it has varied extensively depending on many factors, including the number of wells to be drilled, the size of optimum surface facilities, the capacity of the buyer's pipeline, and the buyer's need for gas. In general, the percentage ranged from a low of 33⅓ to a high of 90 percent. The weighted average percentage was probably around 80 percent. The time over which the take-or-pay obligation was to be met was sometimes a day or a month but most frequently a year. The time for makeup also varied, but, since the FPC mandated at least a 5-year makeup for sales under the Natural Gas Act, the 5-year makeup term spread to intrastate sales as well. Makeup over the remaining term of the contract—and sometimes beyond that—was not infrequent, however.

Problems are now being experienced by some pipelines because the two objectives of the pipeline purchaser find themselves in conflict with each other. Many pipelines are experiencing a deliverability surplus due to the fact that the demands of their customers are less than the pipelines anticipated due to the economic recession and the reduction in prices of fuel oil, which competes with gas in many markets. At the same time, these pipelines have a continuing need to buy gas to meet their long-term needs, 5 to 15 years from now. Thus, pipelines are increasingly finding themselves potentially liable under the take-or-pay provisions of their contracts to pay for gas which they cannot currently take into their systems.

This fact is not a cause for panic or precipitous or ill-considered congressional action. The operations of the industry and the clauses themselves will correct this problem, if it is a problem, over a fairly short period of time. This is so, because:

First. The makeup provisions of the gas sales contracts will allow the pipelines to receive gas supplies which they have paid for in the future, at a time more convenient to the pipeline.

Second. The buying practices of the pipelines in new contracts will reflect the surplus deliverability situation, and the new contracts will have lower percentage take requirements and more liberal makeup clauses than earlier contracts. In extreme situations, the pipeline may simply suspend new purchases until some of the take-or-pay balances are made up.

Third. If situations become too extreme, producers will renegotiate these requirements on an individual contract basis to avoid pipeline hardship.

Fourth. In any event, any problem that exists will disappear when the Nation's economy revives.

Much of the criticism of the take-or-pay clause comes about because of the many different prices at which natural gas, a fungible and homogeneous commodity, is sold. This is true, not because of the contracting practices of producer and pipeline, but because of Federal regulation. Prices paid for gas in the various NGPA categories vary widely, from 45 cents per MMBtu to over $9.00. These prices vary between fields, between producers, and between individual wells—and sometimes even in the same well. It is inevitable in such a system that, at times, some 45 cent gas will be shut in, and paid for, while more expensive gas is purchased by the same pipeline due to contract obligations and system demands and pressures. This is not done because the pipeline wants to pay more for its gas supply; on the contrary, it wants to do just the opposite in order to conserve its markets, meet regulatory objections, and so forth. But the pipeline cannot arbitrarily shut in some fields because they are high priced, or for any other reason and produce others. It must meet its contract obligations in each field with each different producer.

The solution to the problem is not, as some suggest, to tinker with a single part of the contracts entered into between the producer and pipeline. Rather it is to abolish, or reduce, the artificial and meaningless price differentials imposed by law and regulation upon gas from varying vintages, sources, and sellers.

Over the years, there have been some suggestions that the use of take-or-pay provisions, freely negotiated to suit the needs of buyers and sellers, was somehow improper. Indeed, the Federal Power Commission twice considered the desirability of take-or-pay provisions. In each case, the FPC concluded that such provisions were necessary in the industry and that the level of take-or-pay was to be best left to the parties to a contract.

Again today, take-or-pay, without mentioning the makeup related to it, is being blamed for the perceived ills in gas markets. With demand for gas reduced because of general economic conditions, take-or-pay provisions will work to do exactly what they were designed to accomplish—they give producers assured cash flows, provide a cheap alternative to storage by pipelines, and provide a cushion of prepaid gas for make up when the pipelines need it.

Notwithstanding contractual take-or-pay obligations, individual sellers are reaching accommodations with their buyers in relaxing those provisions. This is being done in recognition of the unique circumstances in today's marketplace. This is clear evidence that, just as price signals are being received by producers about interfuel competition, demand signals are being read. The free operation of market forces is working—working far better than a legislative solution to a nonexistent take-or-pay problem.

Mr. President, if I might ask the chairman of the Energy Committee a question, in the first section, the resolve section, which we talked about, in the opinion of the chairman would this be asking or mandating that the FERC would be going in and reviewing contracts, trying to find any contracts that had take-or-pay provisions, and interceding in those contracts to try to eliminate those provisions?

Mr. McCLURE. Will the Senator yield?

Mr. NICKLES. Certainly.

Mr. McCLURE. Let me say to the Senator that I do not mean to imply in the language any more than the language says. The language says that we think FERC should utilize its statutory authority to proceed immediately to review those administrative actions in view of the current escalation of natural gas prices that could result in the modification of certain standard provisions, and so on. It does not mandate them to anything. It does not even ask them to do anything that is not now provided for by law.

Mr. NICKLES. Here I am, an independent producer. I have a contract that has take-or-pay on a well. Does that mean that they would be able to tell me—I do not know how they can do it constitutionally—that that portion of the contract need be abrogated?

Mr. McCLURE. I am not sure that the Senator wants to press me to the point of trying to interpret the law to indicate what I believe FERC can do under the existing statute because I might give an answer that would be a

little different than the Senator would desire.

I think it would serve his purposes and certainly mine better if we simply indicated that FERC has certain statutory authority under existing statute. What we do in this resolution does not expand or contract that authority. Whatever authority they have they have under existing statute. The action that we are taking in this resolution does not change that one iota.

Mr. NICKLES. I thank the Senator.

Mr. McCLURE. I would answer the Senator in that way rather than try in a detailed explanation to define what FERC authority is because I think that would lead us into some other areas that perhaps would not be as pleasing to the Senator from Oklahoma.

Mr. NICKLES. I thank the Senator. It is not my real intention to try and waylay his resolution. I did think it was important that we have some additional information put into the RECORD.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. STENNIS), is necessarily absent.

I also announce that the Senator from Arizona (Mr. DECONCINI) and the Senator from New York (Mr. MOYNIHAN), are absent because of illness.

The PRESIDING OFFICER (Mr. ARMSTRONG). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 3, as follows:

[Rollcall Vote No. 411 Leg.]

YEAS—90

Abdnor	Dodd	Johnston
Andrews	Dole	Kassebaum
Armstrong	Domenici	Kasten
Baker	Durenberger	Kennedy
Baucus	Eagleton	Laxalt
Bentsen	East	Leahy
Biden	Exon	Levin
Boschwitz	Ford	Lugar
Bradley	Garn	Matsunaga
Brady	Glenn	Mattingly
Bumpers	Gorton	McClure
Burdick	Grassley	Melcher
Byrd, Harry F., Jr.	Hart	Metzenbaum
	Hatfield	Mitchell
Byrd, Robert C.	Hawkins	Murkowski
Cannon	Hayakawa	Nunn
Chafee	Heflin	Packwood
Chiles	Heinz	Pell
Cochran	Helms	Percy
Cohen	Hollings	Pressler
Cranston	Huddleston	Proxmire
D'Amato	Humphrey	Pryor
Danforth	Inouye	Quayle
Denton	Jackson	Randolph
Dixon	Jepsen	Riegle
Roth	Specter	Tsongas
Rudman	Stafford	Wallop
Sarbanes	Stevens	Warner
Sasser	Symms	Zorinsky
Schmitt	Thurmond	
Simpson	Tower	

NAYS—3

Boren	Long	Nickles

NOT VOTING—7

DeConcini	Mathias	Weicker
Goldwater	Moynihan	
Hatch	Stennis	

So the resolution (S. Res. 515) was agreed to.

The preamble was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SURFACE TRANSPORTATION ACT OF 1982

The Senate continued with the consideration of the bill.

UP AMENDMENT NO. 1446

(Subsequently numbered amendment No. 5008.)

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized.

Mr. BAKER. Mr. President, will the Senator from Ohio yield to me on condition that he not lose his right to the floor, that the interruption not count as a second speech under the appropriate rule and that he be rerecognized after I put a question to him and perhaps a unanimous-consent request.

Mr. METZENBAUM. I yield.

Mr. BAKER. Mr. President, I make that unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Senator.

Mr. President, the Metzenbaum amendment is now pending. It is now 1:22 a.m. in the morning.

Could I inquire of the Senator from Ohio, first, how long he would anticipate debating this measure and particularly whether or not he thinks we could complete action on it this evening.

Mr. METZENBAUM. Hopefully we could dispose of the amendment rather briefly. It is a buy-American amendment. I think we could probably dispose of it in not more than a half-hour, maybe even 20 minutes.

Mr. BAKER. I thank the Senator.

Mr. President, on this side I know there are Senators who have a particular interest in this measure. Could I inquire of any Member as to his intentions to debate this matter and how long that might take?

Mr. CHAFEE. Mr. President, this is a very important subject, and I think it needs considerable discussion. I do not believe we could conclude it in anywhere near the time the Senator is thinking about, if I think I know what he is thinking.

Mr. LEAHY. Whatever he is thinking.

Mr. CHAFEE. Whatever he is thinking about takes longer than that.

Mr. BAKER. Whatever I am thinking about.

[Laughter.]

Mr. BAKER. Mr. President, I am beginning to get the impression that folks want to go home, and I also have the impression, I must say to my friend from Ohio, it is not likely that we can get a disposition of this measure tonight.

Could I inquire, then, under those circumstances, since almost surely we will not get a vote on or in relation to this amendment this early this morning, whether or not he wishes to proceed with the debate or whether perhaps he would like to be recognized first after we resume consideration of this bill later today.

Mr. METZENBAUM. Mr. President, after seeing the looks on my colleagues I think it might be advisable if we came back later in the morning with the understanding that the Senator from Ohio would be the first recognized to proceed.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate next resumes consideration of this bill the Senator from Ohio be first recognized for the purpose of continuing debate on the pending question and that the interruption not appear as a second speech for the purposes of the rules of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I do not contest the pressing need to rehabilitate, repair, and complete our Nation's transportation system. I cannot, however, accept the package currently before the Senate as the best means of meeting that need.

First, many States, including Texas, already have gas tax increases under consideration for next year to meet their highway maintenance needs. Seventy-five percent of the Nation's 4 million miles of roads are the responsibility of State and local government and do not come under the authority of the Federal highway program. A proposal to raise the State gasoline tax by 5 cents a gallon is expected to be introduced in the Texas Legislature next month. It is estimated that Texas needs to spend between $1 billion and $2 billion more each year on highway improvements and maintenance. When States raise their own gasoline tax, they can use the money from that increase to meet their most urgent priorities, determined at the local level without the multitude of Federal rules and regulations. An increase of 5 cents a gallon in the Federal tax will undermine the States own capacities to raise

tax revenues needed for their road systems and infrastructure repair.

Mr. President, I also oppose this measure because it does not meet the needs of the Texas highway system for repair and rehabilitation, while it requires major industries in my State such as agriculture, trucking, and retail business to suffer real threats to their future productivity and profitability.

This bill would impact adversely in a significant way on the agricultural economy, not only in my State but in those of many of my colleagues. Even with the exemptions provided for agriculture under the bill, the cost of transportation for getting commodities to market would result in increased production costs to farmers and ranchers at a time when farm income is already depressed. It will increase the final price of agricultural products in domestic and foreign markets, thus lessening the competitiveness of this vital sector of our economy.

Small business and retailers will also be hurt by this new tax. In 1981, Texas retailers had sales of nearly $80 billion, more than New York and second only to California. This 125-percent increase in the gas tax will reduce the amount of money consumers can spend on retailers' goods and services. Indeed, given the fact that service industries are labor intensive and that highway construction is more capital intensive, this allocation of consumer resources could result in less jobs, not more.

Since the inception of the Federal highway trust fund in 1956, Texas has received back only 76 cents for each $1 contributed by State motorists. While contributing $8.5 billion to the fund during those 26 years, Texas has recieved allocation of $6.5 billion—a shortfall of $2 billion. In fact. Texas was last in the Nation in 1981 in the ratio of payments to allocation. Whereas the guarantee of 85 percent in the bill would be an improvement for my State, I note that this provision results from an increase in authorization levels in the bill rather than an adjustment in the allocation formula for the 50 States.

Mr. President, contrast this unfair return with these undisputed facts: First, Texas was first in total Federal primary highway mileage; second, Texas was first in total Federal rural and urban highway mileage; and third, Texas was first among the States in 1981 in average daily traffic volume on interstate highways.

Texas needs a fair share to maintain and build new roads. According to the Texas Good Roads and Transportation Association, Texas should spend about $2.5 billion a year to build and maintain the State's roads. Texas contains 3 of the 10 largest population centers in the Nation, all of which are experiencing phenomenal growth, and the State population is estimated to increase from 14 million to 21 million by the year 2000, resulting in at least a 55-percent increase in traffic. The Texas Good Roads and Transportation Association conservatively estimates that the State will require $51 billion over the next 20 years to keep Texas' system up to standard and to meet growth demands. Yet in the face of these needs, Texas motorists have been giving back nearly 25 cents on each energy $1 they paid in gas taxes.

Along with the administrative costs of a Federal program directed out of Washington comes the cumbersome baggage of regulations and guidelines not necessarily attuned to local needs. Most onerous of these is the Davis-Bacon Act, which inflates the cost of Federal projects by mandating artificially high labor costs. Current Federal highway law requires application of Davis-Bacon rates only to initial construction. This bill before the Senate, as well as the House-passed version, extends the application of Davis-Bacon to reconstruction, rehabilitation, resurfacing, and restoration (4R) projects. By their very nature, 4R projects lack the initial construction element. Davis-Bacon increases the cost of all Government contracts, including this highway proposal. Indeed, if the Davis-Bacon Act was repealed, the Federal Government would save $1 billion annually, or about 20 percent of the amount of extra Government revenues that this tax increase bill would raise.

Mr. President, I also cannot agree with imposing yet another tax on the overburdened American taxpayer at this time. Our domestic entitlement programs remain out of control and have increased from 30 percent to 50 percent of all Federal spending in the last 20 years. We are living beyond our means domestically, and our Nation's industrial base and productivity are being eroded by a Government that claims an ever-increasing share of our Nation's gross national product. In short, I support modernization of our transportation system. But rather than impose another tax increase to pay for it, I believe we should further analyze and reorder our domestic spending priorities and choose those programs to be funded that we can afford as a nation.

Mr. President, I have recounted the specific reasons that I cannot lend my support to this legislation. I recognize both the tremendous need for highway rehabilitation and the impetus that this would offer for the construction industry, but this bill, which would seriously hamper other major industries while giving a short return on the dollar investment, is not the answer.

Mr. BAKER. Mr. President, there will be no more RECORD votes at this time in the morning.

AGRICULTURAL ACT OF 1982—S. 3074

Mr. COCHRAN. Mr. President, yesterday the Committee on Agriculture, Nutrition, and Forestry approved S. 3074, the Agricultural Act of 1982.

In view of the time considerations attendant with this legislation, the committee is not filing a written report.

However, on behalf of the committee I am making available to the Senate a statement explaining the legislation, including a section-by-section analysis, and a copy of the bill as reported.

I ask that these materials be printed immediately following my remarks.

The materials follow:

EXPLANATION OF S. 3074, AS REPORTED

SUMMARY OF MAJOR PROVISIONS

S. 3074 as amended provides the following:

1. Authorizes a payment-in-kind ("PIK") land diversion and conservation program for 1983 and 1984 crops of wheat, feed grains, upland cotton, rice, and other nonconserving crops (excluding sugar cane, sugar beets, tobacco, and peanuts). Under the "PIK" program—

payments would not be subject to current law restrictions on the resale of CCC stocks or payment limitations;

producers would be required to divert acreage from production to conservation uses and to comply with other terms specified by the Secretary;

payments would be made by CCC by delivery to producers of commodities or warehouse receipts, in cash, or by other methods determined by the Secretary;

the value of commodities received by producers could not be less than 75 percent of the basic county loan rate for the commodity involved;

commodities received by producers could not be put under the annual commodity programs;

not more than 50 percent of the eligible acreage for a crop in a county can be diverted, in one year;

all producers of a crop for which a PIK is authorized for 1983 will have the opportunity to participate on an equal basis in the program;

adjustments in program yields are authorized for producers who practice double-cropping;

consolidation of farm acreage bases is allowed;

normal marketings are protected; and

protection is provided for tenants and sharecroppers.

2. Provides that commodities may be tendered at no cost to exporters, users, and foreign nations to encourage foreign market development for U.S. commodities. Under the export "PIK" program—

domestic users are provided equal treatment relative to foreign purchasers and users in cases where domestic users may be disadvantaged as a result of the program;

CCC will use qualified stocks to encourage increased use and avoid displacing usual marketings of the United States; and

CCC will tale reasonable precautions to prevent resale or transshipment of commodities.

3. Expands current authority (to donate stocks of dairy products to needy persons in foreign countries) to include donations of other CCC agricultural commodities and products thereof, and authorizes the use of CCC commodities under titles I and III of P.L. 480, in addition to programmed levels.

4. The Secretary is encouraged to make available eligible products from CCC stocks directly to processors who contract with school lunch authorities.

5. Allows the CCC to sell extra long staple cotton to maintain and expand export and domestic markets for such cotton.

6. Encourages the Secretary of Agriculture to donate or sell abroad at least 50,000 metric tons of CCC dairy products in each of fiscal years 1983-85.

BACKGROUND AND NEED

In recent years, large supplies and weak demand have resulted in low prices for farm commodities. These same low prices have also resulted in large outlays for commodity price support programs. The result has been the build-up of excessive stocks both by the Commodity Credit Corporation and in the farmer-owned reserve.

There are a number of reasons why crop surpluses are so large, the principal of which is increased production. Over the past decade, many factors have propelled production upward. Among them, easy credit, heavy capital investment, rising prices and price supports, increased farm exports, acreage expansion, yield-boosting technology, and excellent weather in 1981 and 1982 in the United States and other key areas of the world.

On the other side of the supply-demand equation, weak demand is a global problem. It results from widespread recessions, the rising value of the dollar, and instability in Eastern Europe, Mexico and other traditional export markets. Furthermore, embargo related losses, East-West political tensions, and unfair trade practices have hurt export potential for farmers.

All of this has placed a tremendous stress on our farm economy. In addition to weak world demand, reduced exports, soaring stocks, and depressed farm prices, farmers have also had 3 years of poor farm income, a drop in farmland prices, costly credit, and solvency problems.

Government outlays for farm programs are skyrocketing. Outlays have tripled in 1 year from approximately $4 billion dollars in 1981 to an estimated $12 billion dollars in 1982. Without a change in farm program policy, outlays for Fiscal Year 1983 could climb higher, and reserve stocks and farm program costs could increase markedly.

On November 17, 1982, Secretary of Agriculture John Block met with members of the Senate Committee on Agriculture, Nutrition, and Forestry to discuss the outlook for the farm economy. At this meeting, the Secretary discussed the possibility of instituting a payment-in-kind (PIK) program for the 1983 crop year.

As proposed by the Secretary, a PIK program would operate as a paid diversion program, with farmers given grain from surplus stocks in return for their agreement to reduce production by specified amounts. The PIK program would be operated in addition to already announced price support programs for the 1983 crops of wheat, feed grains, upland cotton, and rice.

The immediate effect of such a program would be to reduce existing stocks of surplus commodities, and to reduce future outlays by the Commodity Credit Corporation. USDA estimates savings from a 2 year PIK program at $3 billion dollars over 3 years.

After a period of discussion and opportunity for questions, Secretary Block indicated that he believed that such a program could largely, if not totally, be carried out under existing authorities, but that legislative assistance would be helpful and clarify matters in several areas.

On December 3, 1982, Senators Cochran and Huddleston introduced S. 3074, "The Agricultural Act of 1982". This bill included expanded authority for the operation of a domestic PIK program, as well as authority for an export PIK program, and donation measures.

A hearing on S. 3074 was held by the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices on December 9, 1982. Testimony was received from farmers, farm organizations, and others. Secretary Block testified and answered questions on the Administration's approach to a PIK program.

Also on December 9, President Reagan announced his support for the operation of a PIK program for the 1983 crop year.

Subcommittee markup on S. 3074 was held on December 13, 1982. The subcommittee favorably reported S. 3074, with amendments, to the full committee.

On December 13, 1982, the full Committee on Agriculture, Nutrition, and Forestry met to consider S. 3074, as reported from subcommittee. Eight amendments were accepted, and the Committee in the presence of a quorum unanimously agreed to report S. 3074, as amended.

GENERAL EXPLANATION

Special payment-in-kind (PIK) land conservation program

The bill, as amended, would provide that the Secretary of Agriculture may carry out a special payment-in-kind (PIK) land conservation program for the 1983 and 1984 crops. Under the program, producers who divert acreage from production and carry out soil and water conservation practices on that acreage would receive payments in kind. Eligible producers would be those who produce wheat, feed grains, upland cotton, rice, or other nonconserving commodities designated by the Secretary (not to include peanuts, tobacco, sugar beets, or sugarcane).

Under the program, producers would receive an amount of commodities equal to the number of acres diverted from production multiplied by a percentage of the normal yield as established by the Secretary. For example, a corn farmer may have a typical crop yield of 100 bushels per acre. If the Secretary were to provide 75 percent of normal yield for PIK participants, the farmer would receive 75 bushels per acre for each acre diverted under this program.

In order to encourage participation, the Secretary would be authorized to adjust the percent of yield offered to producers to participate in the program in order to compensate for reduced yields resulting from double cropping.

The Secretary may also take bids from producers for land to be diverted, but for the 1983 crops, before using a bid procedure the Secretary must offer all producers a specified percentage of yield for participating in the program and allow producers to sign up for it.

Payments under this program shall be made by the delivery of actual commodities, the transfer of warehouse receipts, or by some other method determined by the Secretary, which could include cash payments.

In no case could the value of commodities received by the producer fall below 75 percent of the basic county loan rate during the marketing year in which the commodities are received by a producer. The Commodity Credit Corporation would be authorized to make cash payments if necessary to assure that the producer receives this amount. Commodities must be made available in such a way as to minimize any adverse effect on normal marketings, and PIK commodities may not again be placed under Government loan.

In order to protect farm suppliers and other businesses in any local area, the total acreage diverted from production for a particular commodity in any county may not exceed 50 percent of the total acreage base for the commodity in that county in any year. The Secretary is required to provide adequate safeguards to protect the interests of tenant farmers and sharecroppers.

The Secretary is also authorized to allow producers to consolidate their acreage bases among farms under the PIK program.

Under the payment-in-kind concept, a farmer could receive government-owned commodities in return for reducing production of surplus crops. The intent is to provide farmers assistance, to utilize our market-depressing surpluses, and to reduce farm program costs.

American farmers have produced record crops of major grains for 2 years in a row. Record production in addition to high inventories is causing low farm prices.

The PIK program will help remedy both factors. Inventories will be reduced as CCC commodities are distributed in the form of in-kind payments to producers for participating in farm programs. New production will also be reduced because a farmer must remove a percentage of his acreage base from production in order to qualify for program benefits. An effective PIK program will reduce surplus stocks and strengthen farm prices.

In the interest of promoting orderly marketing, the Committee supports program provisions discussed during the markup session that (1) would extend to participating producers payment by the Commodity Credit Corporation for storage costs to commence with the issuance of PIK certificates to the point of sale or through the end of the marketing year whichever comes first and (2) would cause PIK certificates to be issued on a staggered schedule based on normal harvest times in individual States. Of course, payment for storage under PIK would apply only when the producer is incurring the cost of storing the grain.

EXPANSION OF UNITED STATES AGRICULTURAL MARKETS

The first section of title II of the bill authorizes the Secretary of Agriculture to tender, at zero cost, commodities acquired by the Commodity Credit Corporation through its price support operations to United States exporters and users, and foreign purchasers, to encourage development, maintenance, and expansion of markets for U.S. agricultural commodities and their products.

The intent of this program is to increase the volume of agricultural commodities and products thereof and products produced using the commodities moving into foreign markets to reduce the amounts of these commodities in government stocks and to develop, maintain, and expend foreign mar-

kets. The Commodity Credit Corporation could provide commodities held by the CCC to U.S. exporters, users, or foreign purchasers as an incentive to foreign customers to purchase additional U.S. commodities above the level of normal marketings. For example, if a foreign purchaser that normally purchases a given quantity of a specific commodity agrees to purchase additional quantities, then an amount equal to some portion of the addition purchases could be provided at no cost to the foreign importer. In additional, it is contemplated that the Secretary could provide commodities or products even though purchases are less than normal marketings in cases where such bonuses would contribute to maintaining or expanding U.S. markets.

Such bonus agricultural commodities could serve to reduce the overall cost of U.S. commodities to foreign purchasers and thereby the competitiveness of United States products. Commodities provided under the program could offset the use of export subsidies by competing exporting nations.

The bill requires that equal treatment be provided to domestic purchasers and users of U.S. agricultural commodities on the same basis as foreign purchasers and users that receive U.S. commodities and products where the importation of a manufactured product made, in whole or in part, from a commodities made available for export under this provision would place domestic users of the commodity at a competitive disadvantage. In such a case in order to assure that domestic purchasers or users are not disadvantaged by the importation of a foreign manufactured product made, in whole or in part, from a commodity made available for export under the program, domestic purchasers or users would be eligible for receipt of a like amount of commodities or products.

In providing this authority the Committee does not want to worsen the problem now faced by the cotton industry resulting from foreign manufactured cotton products coming into the United States and competing unfairly with domestic products. Accordingly, the bill provides that the program shall be carried out in a manner that gives equal treatment to domestic users of U.S. agricultural commodities. In the case of cotton, this would be the processor, manufacturer, or other user who opens the bale of raw cotton. Any action taken by the Secretary under this provision, with respect to exports of cotton, is to be accompanied by comparable action for domestic users.

The bill, as amended, also provides that commodities or products shall be provided in such a manner so as to encourage increased utilization and avoid displacing normal sales. Commodities are not to take the place of domestic or foreign commercial sales or be reexported.

Expanded Authority for Use Abroad of Commodity Credit Corporation Stocks

Section 416 of the Agricultural Act of 1949 provides the Secretary of Agriculture the authority to donate surplus dairy products to needy persons in foreign countries. The bill, as amended, extends the authority for food donations under section 416 of the Agricultural Act of 1949 to other agricultural commodities and products acquired by the Commodity Credit Corporation. The commodities or products would be donated through foreign governments and public and private nonprofit humanitarian organizations for the assistance of needy persons outside the United States.

In order to facilitate movement of these donated commodities to needy individuals, the CCC may pay reprocessing, packaging, transporting, handling, and other charges, including ocean freight for overseas delivery, associated with the donated commodities or products.

Because the United States Government conducts food donation programs under other legislative authority, the provision requires the Secretary of Agriculture to ensure that donations under this authority complement, and are coordinated with, other United States foreign assistance programs, such as the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480).

This provision would also permit increased exports of CCC surplus commodities under titles I and III of the Agricultural Trade Development and Assistance Act of 1954, and such exports would be in addition to the level of assistance programmed under that Act.

Distribution of surplus commodities

The bill as amended provides additional authority to the Secretary of Agriculture for the disposition and use of CCC-owned agricultural commodities.

Current law provides that surplus commodities owned by CCC may be distributed through certain food and nutrition programs. The bill provides that the Secretary shall encourage use of the commodities by contracting with private companies to have commodities processed into finished food products. The end products would then be used by eligible recipients, who would pay the cost of processing.

The intent is to increase consumption of surplus commodities by providing schools and other eligible recipients the opportunity to have bulk commodities from the Department of Agriculture processed into desired end food products at their own expense. For example, donated cheese might be processed into tacos, pizza, or other items.

The provision places no obligation on individual schools or States. Such processing, however, would provide schools with additional options for using free, bonus USDA commodities.

CCC sales of extra long staple cotton

The bill, as amended, allows the Commodity Credit Corporation to sell its stocks of extra long staple (ELS) cotton at such price levels as the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton. Currently, the minimum price at which ELS cotton can be sold for unrestricted use is 115 percent of the loan rate as provided under the Agricultural Act of 1949. Removal of this restriction on the sale of extra long staple cotton will provide the Secretary with greater flexibility to effect the reduction of surplus stocks while at the same time allowing extra long staple cotton to be more competitive in both domestic and export markets.

Disposition of dairy products

The United States is currently storing large quantities of dairy products purchased under the dairy price support program. With the likelihood that sizeable quantities of the stored dairy products will not be resold in the domestic market because of restrictions in law prohibiting resale below certain price levels, it behooves the United States to export as much of its dairy surplus as possible in order to reduce Government outlays and recover expenditures made by the Commodity Credit Corporation in purchasing dairy products. Other nations export large quantities of dairy products into the world market either with the aid of subsidies or by donations.

Under the bill, the Secretary is encouraged to donate, or to export at the best price possible, at least 50,000 metric tons of dairy products during each of the fiscal years 1983 through 1985. In addition, the Secretary is required to report semiannually to Congress on the status of such donations and sales.

The Committee encourages the Secretary to take aggressive action in the area of U.S. dairy product exports.

Presidential report on the status of negotiating a new long-term grain sales agreement with the Soviet Union

The bill requires the President to report to Congress by December 31, 1982, on the reasons for maintaining the measures announced on December 29, 1981, postponing entering into negotiations on a new long-term grains agreement with the Soviet Union.

After the imposition of martial law by the military government in Poland on December 13, 1981, the United States took a number of trade-related actions to demonstrate its displeasure.

On December 29, 1981, the Reagan Administration announced specific measures to convey its disappointment with the involvement of the Soviet Union in the imposition of martial law in Poland. Included among the measures taken by President Reagan at that time was the announcement that the United States would postpone negotiations on a new long-term grains agreement with the Soviet Union. This position has remained in effect, and the Committee provision would elicit the reasons for the continuation of that position.

SECTION-BY-SECTION ANALYSIS

TITLE I—SPECIAL PAYMENT-IN-KIND LAND CONSERVATION PROGRAM

Special payment-in-kind land conservation program

Section 101 adds a new section 501, effective for the 1983 and 1984 crops, to the Agricultural Act of 1949.

New section 501(a) provides that, notwithstanding any other provisions of the Agricultural Act of 1949, for the 1983 and 1984 crops of wheat, feed grains, upland cotton, rice, and other nonconserving commodities designated by the Secretary (excluding sugarcane, sugar beets, tobacco, and peanuts), the Secretary may formulate and carry out a special payment-in-kind land conservation program to encourage producers to reduce production of agricultural commodities and promote conservation. Under the program, producers who divert farm acreage from the production of agricultural commodities and devote the diverted acreage to conservation uses, subject to any terms and conditions determined appropriate by the Secretary, would receive in-kind payments from the Secretary. This section also clarifies that payments made under the program for the diversion of wheat, feed grain, upland cotton, and rice acreage would not be subject to the restrictions on the resale of CCC stocks when a farmer-owned reserve program is in effect or to any other provisions of law that are applicable to any of the annual programs for the 1983 and 1984 crops of these commodities.

New section 501(b) provides that, in order to be eligible for a payment under this section, a producer who participates in the pro-

gram for any crop must divert from production to conservation uses, in a manner consistent with requirements established by the Secretary, the acreage of cropland on the farm that the producer agrees to place in the program for that crop and must comply with other terms and conditions specified by the Secretary.

New section 501(c) directs the Secretary to limit the total acreage diverted from production for a particular crop under the program in any county so as to minimize any adverse effect of the program on the economy of the county or any local community located therein. In determining the total acreage to be diverted, however, the Secretary is further directed to ensure that not more than 50 percent of the acreage of any commodity in a county eligible for diversion under the acreage reduction provisions of the Agricultural Act of 1949, including the program authorized in this section, is diverted from production in any year.

New section 501(d)(1) requires that in-kind payments shall be made for acreage on a farm diverted from production for a particular crop and devoted to conservation uses under the program. The payment would be offered to producers in an amount of the commodity involved equal to the number of acres so diverted from production times a percentage of the program yield for the farm for the commodity involved as the Secretary determines is appropriate to ensure adequate participation in the program for the particular crop.

New section 501(d)(2) provides that as an alternative to the procedure in paragraph (1), in order to encourage adequate participation under the program the Secretary is authorized to determine the amounts of a commodity payable to producers under the program through the submission of bids by producers or by any other process that the Secretary determines appropriate. For the 1983 crops, however, the Secretary must offer all eligible producers of a particular crop the opportunity to participate in the program on an equal basis before any bidding procedure can be used to determine producer participation for a commodity.

New section 501(d)(3) requires the Secretary to make equitable adjustments, to the extent the Secretary finds appropriate, in payments under this section in cases where a producer practices double cropping, and where participation in this program for one commodity reduces the acreage that may be planted to the second commodity. The purpose of the adjustments under this subection would be to account for the reduction in the second commodity.

New section 501(d)(4) provides that where practicable, the Secretary may allow the consolidation of base acreages among farms for a commodity involved in the program to encourage participation in the program. This provision would, for example, permit a producer with two farms having the same amount of corn base acreage on each farm to make the required diversion under the program on a single farm.

New section 501(e) provides for the method of payment to be used by the Commodity Credit Corporation under this program. Payment would be made (1) by the Commodity Credit Corporation by the delivery of the commodity involved to the producer at a warehouse or other similar facility located in the county in which the farm is located or such other location as agreed to by the Secretary and the producer; (2) by the transfer of negotiable warehouse receipts; or (3) by such other method determined to be appropriate by the Secretary, including sale of the commodity in commercial markets, in order to enable the producer to efficiently and expeditiously receive possession of the commodity or a cash payment, as determined by the Secretary, in lieu thereof. The Secretary is directed to take appropriate steps, as necessary including the making of cash payments, to ensure that the value of the commodity received by a producer under the program, during the marketing year in which the commodity is received, is not less than 75 percent of the basic county loan rate for the particular commodity.

This subsection also requires the Secretary, to the extent feasible, to ensure that payments are made to producers participating in this program on a schedule and under such terms and conditions as the Secretary determines will minimize any adverse effects of the program on the normal marketings of the commodity involved and will not cause the market prices for the commodity to fall below levels that the Secretary determines to be fair and equitable.

This subsection further provides that commodities received by producers under the program may not be placed under loan or purchased under the annual commodity programs under the Agricultural Act of 1949. This same restriction also applies in the case of negotiable warehouse receipts or other evidences of ownership of the commodity received by producers under the program.

New section 501(f) provides that the requirements established by the Secretary, with respect to acreage to be devoted by a producer to conservation uses, shall ensure protection of such acreage from weeds and wind and water erosion. The Secretary may permit, under terms and conditions prescribed by the Secretary, all or any part of the conservation acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

New section 501(g) provides that a farm operator desiring to participate in this program for a crop shall execute an agreement with the Secretary providing for participation not later than a specific date as prescribed by the Secretary. The agreement may be terminated or modified by mutual agreement by the Secretary and the producers on the farm, if the Secretary determines that such action is necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

New section 501(h) provides that the Secretary is authorized to make payments available to producers, who have failed to comply fully with the terms and conditions of the program, in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure.

New section 501(i) provides that the Secretary is authorized to issue regulations to carry out the provisions of this section.

New section 501(j) provides that the Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

New section 501(k) requires the Secretary to provide adequate safeguards under the program authorized by this section to protect the interests of tenants and sharecroppers, including provision for sharing payments on a fair and equitable basis.

New section 501(l) provides that the provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (relating to assignments of payments) are to apply to payments under this section.

New section 501(m) provides that the authority and program authorized under this section are in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation, under any other provisions of law.

TITLE II—EXPANSION OF MARKETS FOR, AND THE DISPOSITION OF, UNITED STATES AGRICULTURAL COMMODITIES

Expansion of United States agricultural markets

Section 201 adds a new section 1209A to the Agriculture and Food Act of 1981.

New section 1209 (a) authorizes the Secretary of Agriculture, notwithstanding any other provision of law, to formulate and carry out an export expansion program under which commodities acquired by the Commodity Credit Corporation through price support operations may be tendered at no cost to United States exporters, United States users, and foreign purchasers to encourage development, maintenance, and expansion of markets for United States agricultural commodities and the products thereof.

New section 1209(b) provides that in carrying out the program authorized by this section, the Secretary is to—

(1) take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities in any case where the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage;

(2) ensure insofar as possible that any use of Commodity Credit Corporation stocks for the purposes of the program authorized in section 1209A(a) be made in such manner as to encourage increased use and avoid displacing usual marketing of the United States; and

(3) take reasonable precautions to prevent the resale or transshipment to other nations, or use for other than domestic use in the nation to which stocks of the Commodity Credit Corporation are shipped, of the stocks of the Corporation made available to export participants in the program.

New section 1209A(c) requires the Secretary of Agriculture to carry out the program authorized by this section through the Commodity Credit Corporation.

New section 1209A(d) authorizes the Secretary of Agriculture to issue such regulations as the Secretary deems necessary to carry out this section.

New section 1209A(e) provides that the authority provided in section 1209A(a) shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

Expanded authority for the use abroad of Commodity Credit Corporation stocks

Section 202 amends section 416 of the Agricultural Act of 1949 to expand the authority of the Commodity Credit Corporation to use agricultural commodities acquired by

the Corporation in foreign donation programs. Section 416 currently authorizes the donation of dairy products through foreign governments and public and non profit private humanitarian organizations for the assistance of needy persons outside the United States and the payment by the Commodity Credit Corporation of reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery, with respect to commodities so donated. Section 202 of the bill would expand this authority to include other agricultural commodities and products thereof.

Section 202 also amends section 416 to provide that agricultural commodities acquired by the Commodity Credit Corporation may also be used to increase the level of agricultural exports under titles I and III of the Agricultural Trade Development and Assistance Act of 1954 consistent with the purposes of that Act, and shall be in addition to the level of assistance programmed under that Act.

Improved distribution of surplus agricultural commodities

Section 203 amends section 1114(a) of the Agriculture and Food Act of 1981. Section 1114(a) provides that whenever Government stocks of commodities are acquired under the price support programs and are not likely to be sold by the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, such commodities shall be made available without charge or credit to nutrition projects under the authority of the Older American Act of 1965, to child nutrition programs providing food service, and to food banks participating in the special nutrition projects established under section 211 of the Agricultural Act of 1980. Section 203 of the bill provides that whenever a commodity is made available without charge or credit under this authority, the Secretary of Agriculture shall encourage consumption thereof through agreements with private companies under which the commodity is processed into end products for use by eligible recipients, with the expense of the processing to be borne by the recipients.

Commodity Credit Corporation sales of extra long staple cotton

Section 204 amends section 407 of the Agricultural Act of 1949 to provide that notwithstanding any other provision of section 407, effective beginning 30 days after enactment of this provision, stocks of extra long staple cotton held by the Commodity Credit Corporation may be sold for unrestricted use at such price levels as the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton. Generally, under the current provisions of section 407 of the Agricultural Act of 1949, the Commodity Credit Corporation may not sell any extra long staple cotton for unrestricted use at less than 15 percent above the current support price for cotton plus reasonable carrying charges. The provision in the bill would allow the Corporation to sell its stocks of extra long staple cotton at prices less than this level.

Disposition of dairy products

Section 205 encourages the Secretary of Agriculture to donate abroad, or to sell for export at the best price obtainable, at least 50,000 metric tons of dairy products owned by the Commodity Credit Corporation, during each of the fiscal years 1983 through 1985. Section 205 also requires the Secretary to report to Congress semiannually on the status of such donations and sales.

Presidential report on status of negotiating a new long-term grain sales agreement with the Soviet Union

Section 206 requires the President to report to Congress by December 31, 1982, on his reasons for maintaining the measures announced on December 29, 1981, postponing negotiations with the government of the Soviet Union on the terms and conditions of a new long-term grain sales agreement.

S. 3074

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1982".

TITLE I—SPECIAL PAYMENT-IN-KIND LAND CONSERVATION PROGRAM

SEC. 101. Effective for the 1983 and 1984 crops, the Agricultural Act of 1949 is amended by adding at the end thereof a new title V as follows:

"TITLE V—SPECIAL PAYMENT-IN-KIND LAND CONSERVATION PROGRAM

"SEC. 501. Notwithstanding any other provision of this Act—

"(a) To encourage producers to reduce excessive production of agricultural commodities and promote soil and water conservation, the Secretary may formulate and carry out a special payment-in-kind land conservation program for the 1983 and 1984 crops. Under the program, the Secretary shall make special payments in kind available to producers who divert farm acreage from the production of agricultural commodities and devote such acreage to conservation uses, subject to such terms and conditions as the Secretary determines appropriate. Payments under this section may be made available for the diversion of (1) wheat, feed grain, upland cotton, and rice acreage, without regard to section 110 of the Agricultural Act of 1949 and any other provisions of law that are applicable to any of the annual programs for the 1983 and 1984 crops of such commodities, and (2) farm acreage devoted to other nonconserving commodities designated by the Secretary (excluding sugarcane, sugar beets, tobacco, and peanuts) for inclusion in the program.

"(b) To be eligible for a payment in kind, a producer who participates in the program for any crop—

"(1) must divert from production and devote to conservation uses, in accordance with requirements established by the Secretary, the acreage of cropland on the farm the producer agrees to place in the program for that crop; and

"(2) must comply with other terms and conditions specified by the Secretary.

"(c) The Secretary shall limit the total acreage diverted from production for a particular crop under the program in any county so as to minimize any adverse affect of the program on the economy of the county or any local community therein. In this connection, the Secretary shall ensure that not more than 50 per centum of the acreage of any commodity eligible for diversion under this Act in any county is diverted from production in such county in any year.

"(d)(1) Payment shall be in kind for acreage on a farm diverted from production for a particular crop and devoted to conservation uses under the program in an amount of the commodity involved equal to the number of acres so diverted from production multiplied by a percentage of the program yield for the farm for the commodity involved, as established by the Secretary, that the Secretary determines appropriate to ensure adequate participation in the program for the crop involved.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may, to encourage adequate participation under the program, determine the amounts of a commodity payable to producers in accordance with agreements under the program through the submission of bids by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate, except that, for the 1983 crops, prior to entering into any bidding procedure for a commodity, the Secretary shall offer all eligible producers of a particular crop the opportunity to participate in the program on an equal basis.

"(3) In cases where a producer practices double cropping, and where participation in this program for one commodity reduces the acreage that may be planted to the second commodity, the Secretary shall, to the extent the Secretary determines appropriate, make equitable adjustments in the payment made under this section to account for the reduction in the second commodity.

"(4) Where practicable, the Secretary may allow the consolidation of base acreages among farms to encourage participation in the program.

"(e) Payments shall be made by delivery by the Commodity Credit Corporation of the commodity involved to the producer at a warehouse or other similar facility located in the county in which the farm is located or such other location as agreed to by the Secretary and the producer, by the transfer of negotiable warehouse receipts, or by such other method determined by the Secretary as appropriate, including sale of the commodity in commercial markets, to enable the producer efficiently and expeditiously to receive possession of the commodity or, in lieu thereof, a cash payment, as determined by the Secretary. The Secretary shall take such steps as may be necessary, including the making of cash payments, to ensure that the value of the commodity received by a producer under the program, during the marketing year in which the commodity is received, is not less than 75 percent of the basic county loan rate for the particular commodity. The Secretary shall, to the extent feasible, ensure that payments are made to producers participating in any program under this section on such schedule and under such terms and conditions as the Secretary determines will minimize any adverse effects of the program on the normal marketings of the commodity (to which the producer is entitled as payment) and will not cause the market prices for such commodity to fall below levels that the Secretary determines to be fair and equitable. Commodities received by producers under the program may not be placed under loan or purchased under the annual commodity programs under this Act, nor may negotiable warehouse receipts or other evidences of ownership of the commodity received by producers under the program be used in such annual commodity programs.

"(f) The requirements established by the Secretary under clause (1) of subsection (b) of this section, with respect to acreage to be devoted to conservation uses, shall ensure protection of such acreage from weeds and wind and water erosion. The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to sweet sorghum, hay and grazing, or the produc-

tion of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(g) An operator of a farm desiring to participate in the program for a crop under this section shall execute an agreement with the Secretary providing for such participation not later than such date as the Secretary may prescribe. The Secretary may, by mutual agreement with the producers on the farm, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

"(h) If a producer fails to comply fully with the terms and conditions of the program authorized by this section, the Secretary may, nevertheless, make payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure.

"(i) The Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

"(j) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for the sharing, on a fair and equitable basis, of payments made under this section.

"(l) The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (relating to assignments of payments) shall be applicable to payments made under this section.

"(m) The authority and program under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation, or any program, established under any other provisions of law.".

TITLE II—EXPANSION OF MARKETS FOR, AND THE DISPOSITION OF, UNITED STATES AGRICULTURAL COMMODITIES

EXPANSION OF UNITED STATES AGRICULTURAL MARKETS

SEC. 201. The Agriculture and Food Act of 1981 is amended by inserting after section 1209 a new section as follows:

"EXPANSION OF UNITED STATES AGRICULTURAL MARKETS THROUGH THE USE OF COMMODITIES ACQUIRED BY THE COMMODITY CREDIT CORPORATION

SEC. 1209A. (a) Notwithstanding any other provision of law, the Secretary of Agriculture may formulate and carry out an export expansion program under which commodities acquired by the Commodity Credit Corporation through price support operations are tendered at no cost to United States exporters, United States users, and foreign purchasers to encourage development, maintenance, and expansion of markets for United States agricultural commodities and the products thereof.

"(b) In carrying out the program authorized by this section, the Secretary shall—

"(1) take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities in any case where the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage;

"(2) ensure insofar as possible that any use of Commodity Credit Corporation stocks for the purposes of the program authorized under this section be made in such manner as to encourage increased use and avoid displacing usual marketings of the United States; and

"(3) take reasonable precautions to prevent the resale or transshipment to other nations, or use for other than domestic use in the nation to which stocks of the Commodity Credit Corporation are shipped, of the stocks of the Commodity Credit Corporation made available to export participants in the program.

"(c) The Secretary of Agriculture shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(d) The Secretary of Agriculture may issue such regulations as the Secretary deems necessary to carry out this section.

"(e) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.".

EXPANDED AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS

SEC. 202. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by striking out the last two sentences and inserting in lieu thereof the following: "Such dairy products and other agricultural commodities and products thereof acquired by the Commodity Credit Corporation may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities and products thereof so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. To ensure that any such donations for use outside the United States complement, and are coordinated with, other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act. Agricultural commodities acquired by the Commodity Credit Corporation may also be used to increase the level of agricultural exports under titles I and III of the Agricultural Trade Development and Assistance Act of 1954 consistent with the purposes of that Act and shall be in addition to the level of assistance programmed under that Act.".

IMPROVED DISTRIBUTION OF SURPLUS AGRICULTURAL COMMODITIES

SEC. 203. Section 1114(a) of the Agriculture and Food Act of 1981 is amended by inserting at the end of the first sentence thereof the following new sentence: "Whenever a commodity is made available without charge or credit, the Secretary of Agriculture shall encourage consumption thereof through agreements with private companies under which the commodity is processed into end products for use by eligible recipients, with the expense of the processing to be borne by the recipients.".

COMMODITY CREDIT CORPORATION SALES OF EXTRA LONG STAPLE COTTON

SEC. 204. Section 407 of the Agricultural Act of 1949 is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, effective beginning thirty days after the enactment of this sentence, stocks of extra long staple cotton held by the Commodity Credit Corporation may be sold for unrestricted use at such price levels as the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton.".

DISPOSITION OF DAIRY PRODUCTS

SEC. 205. The Secretary of Agriculture is encouraged to donate abroad, or sell for export at the best price obtainable, at least 50,000 metric tons of dairy products owned by the Commodity Credit Corporation, during each of the fiscal years 1983 through 1985. The Secretary shall report semiannually to Congress on the status of such donations or sales.

PRESIDENTIAL REPORT ON STATUS OF NEGOTIATING A NEW LONG-TERM GRAIN SALES AGREEMENT WITH THE SOVIET UNION

SEC. 206. The President shall report to Congress by December 31, 1982, on his reasons for maintaining the measures announced on December 29, 1981, postponing negotiations with the government of the Soviet Union on the terms and conditions of a new long-term grain sales agreement.

Amend the title of the bill so as to read: "A bill to establish a special payment-in-kind land conservation program, expand markets for United States agricultural commodities, and for other purposes.".

PENTAGON POLYGRAPH TESTS

Mr. CRANSTON. Mr. President, several weeks ago I requested that the Government Operations Subcommittee on Civil Service, Post Office, and General Services hold hearings on the implications of a proposed Pentagon directive expanding the use of polygraph tests for its employees, defense contractors, and even Government workers in other departments.

My good friend from Alaska and the chairman of that subcommittee, Senator STEVENS, was most accommodating. Unfortunately, because of unavoidable scheduling conflicts the hearing he had planned to hold today was canceled. I thank the Senator from Alaska for his efforts on this matter.

The provisions of the Pentagon's proposed draft for expanding the use of polygraph tests raise serious questions about the Federal Government invading the privacy and violating the constitutional rights of its employees, as guaranteed by the Bill of Rights.

The rights of individual liberty and of privacy go to the very heart of our democracy. They distinguish our system of government from totalitarian regimes.

I object to the indignity of randomly subjecting Government employees to lie detector tests simply to satisfy the concern that someone, somewhere within the vast bureaucracy of the Pentagon, is leaking information. What

are the odds of discovering who may have leaked information? Obviously, the purpose of random testing would be to intimidate Federal employees by threatening their livelihoods. Former President Nixon understood this type of threat. Nixon wanted to give 1,500 employees polygraph tests to stop White House leaks in 1971. "I don't know anything about polygraphs," Nixon said, "but I know they'll scare the hell out of people."

Defense Secretary Caspar Weinberger is trying to out-Nixon Nixon. He wants the power to subject 15,000 to 20,000 people—in and out of Government—to lie detector tests.

Has the Department of Defense ever caught any spies by using the polygraph test? If so, how many? None of the literature I have seen on the intelligence community has identified even one such case. Has the Department ever identified a spy who had earlier passed a polygraph examination? According to the Puzzle Palace, there have been three in the National Security Agency. Finally, has the Pentagon ever conducted a scientific study to determine whether polygraph tests are reliable at detecting deception or whether they pose the risk of false accusation? Apparently the last such study, done in 1962, was inconclusive. Congress ought to have these questions officially answered before the administration tries to wire-up innocent people.

Over the past decade, several congressional committees and subcommittes have concluded that the polygraph test has yet to demonstrate either its validity or reliability in differentiating between truth and deception. In the words of former Senator Sam Ervin, who opposes the use of these devices for Federal employment, "what is recorded is not the subject's veracity but his psychological responses to an examiner's questions and the graphs recorded are worthless unless 'interpreted' by the examiner. It is his judgement and not some demonstrated physical fact that determines the truthfulness of the individual's response.

The new directive would affect people's jobs, what kind of jobs they will have and whether, in fact, they will have jobs at all. Lie detector tests are unreliable and will never prove to be successful devices for protecting the security of our Nation. This is massive witchhunt machinery—no more, no less.

Under the proposed directive the Pentagon could apparently intimidate people without regard to whether, in fact, a national security interest exists. Under the current directive, the Department has used the polygraph test on only two occasions, according to a recent General Accounting Office report. One of these was ordered by Deputy Secretary of Defense Frank C. Carlucci in an unsuccessful effort to discover who informed the press last January about an internal Defense Department study. That study concluded it would cost $750 billion more than publicly announced to implement President Reagan's 5-year rearmament program. Those news articles did not involve matters of national security, but very much involved issues of paramount public interest.

We cannot allow a situation to develop where Federal employees must relinquish their constitutional freedoms in order to keep their jobs.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:39 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to each of the following bills:

H.R. 3942. An act to amend the Commercial Fisheries Research and Development Act of 1964; and

H.R. 6204. An act to provide for appointment and authority of the Supreme Court Police, and for other purposes.

The message also announced that the House has agreed to the amendments of the Senate to the following bill:

H.R. 6758. an act to authorize the sale of defense articles, defense services, and unclassified defense service publications to United States companies for incorporation into end items to be sold to friendly foreign countries.

The message further announced that the House has passed the following bills, without amendment:

S. 1444. An act to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes;

S. 1681. An act to designate the southern Nevada water project the "Robert B. Griffith Water Project";

S. 2034. An act to designate the lock and dam known as the Jones Bluff Lock and Dam, located on the Alabama River, as the "Robert F. Henry Lock and Dam"; and

S. 2710. An act to establish the Charles C. Deam Wilderness in the Hoosier National Forest, Indiana.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res 130. Concurrent resolution expressing the sense of the Congress that the advancement of science and technology in the communications and electronics industry is vital to the needs of the United States.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints, Mr. DIXON, Mr. NATCHER, Mr. STOKES, Mr. WILSON, Mr. LEHMAN, Mr. WHITTEN, Mr. COUGHLIN, Mr. GREEN, Mr. PORTER, and Mr. CONTE, as managers on the part of the House.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 823. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes.

The message further announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 816. An act to amend the Clayton Act to limit the circumstances under which foreign governments may sue for violations of the antitrust laws, and for other purposes;

S. 835. An act for the relief of Jerry L. Crow;

S. 1407. An act to amend title 39, United States Code, by strengthening the investigatory and enforcement powers of the Postal Service by authorizing inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes;

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes; and

S. 2355. An act to amend the Communications Act of 1934 to provide that persons with impaired hearing are ensured reasonable access to telephone service.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4491. An act to exempt the United States Capitol Historical Society from certain taxes;

H.R. 5906. An act to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to clarify provisions relating to claims, financial responsibility, and civil penalties;

H.R. 6120. An act to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984.

H.R. 6519. An act to amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties;

H.R. 6957. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes;

H.R. 6993. An act to revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation"; and

H.R. 7378. An act to codify without substantive change recent laws related to money and finance and to improve the United States Code.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 432. Concurrent resolution expressing the sense of the Congress on the situation in Poland and calling for a determined policy aimed at ending the repression of the Polish people.

ENROLLED BILL SIGNED

At 11:08 a.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bill:

S. 764. An act to provide for protection of the John Sack Cabin, Targhee National Forest in the State of Idaho.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 4:00 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House agrees to the amendments of the Senate numbered, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 19, 20, 21, 22, 23, 24, 25, 28, 29, 32, and 35 to the bill (H.R. 6056) to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980; it agrees to the amendments of the Senate numbered 1, 10, 17, 26, 30, 31, 33, 34, 36, and 37 to the bill, each with amendments, in which it requests the concurrence of the Senate; that it agrees to the amendment of the Senate to the title of the bill, with an amendment, in which it requests the concurrence of the Senate, and that the House disagrees to the amendments of the Senate numbered 9, 15, 18, 24, and 27 to the bill; it insists on its amendments to the amendments of the Senate, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. RANGEL, Mr. STARK, Mr. CONABLE, Mr. DUNCAN, and Mr. ARCHER as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to that text of the bill (H.R. 5121) to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes, with an amendment, in which it requests the concurrence of the Senate, and that it agrees to the amendment of the Senate to the title of the bill.

The message further announced that the House agreed to the amendment of the Senate to the text of the bill (H.R. 5470) to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, with an amendment, in which it requests the concurrence of the Senate, and that it agrees to the amendment of the Senate to the title of the bill.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5238) to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7316. An act to establish the National Park System Visitor Facilities Fund, and for other purposes.

At 6:19 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendments of the Senate numbered 2, 3, and 4 to the bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income; it agrees to the amendment of the Senate numbered 1 to the bill, with an amendment, in which it requests the concurrence of the Senate, and agrees to the amendment of the Senate to the title of the bill.

At 9:38 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 631. Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

ENROLLED BILLS SIGNED

At 11:14 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

S. 1444. An act to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes.

S. 1681. An act to designate the southern Nevada water project the "Robert B. Griffith Water Project".

S. 1894. An act to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes.

S. 2034. An act to designate the lock and dam known as the Jones Bluff Lock and Dam, located on the Alabama River, as the "Robert F. Henry Lock and Dam".

S. 2710. An act to establish the Charles C. Deam Wilderness in the Hoosier National Forest, Indiana.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4491. An act to exempt the United States Capitol Historical Society from certain taxes; to the Committee on Governmental Affairs.

H.R. 6519. An act to amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties; to the Committee on Governmental Affairs.

H.R. 6993. An act to revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation"; to the Committee on the Judiciary.

H.R. 7378. An act to codify without substantive change recent laws related to money and finance and to improve the United States Code; to the Committee on the Judiciary.

H.J. Res. 631. Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes; to the Committee on Appropriations.

HOUSE BILLS PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6957. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes;

H.R. 7316. An act to establish the National Park System Visitor Facilities Fund, and for other purposes.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 432. Concurrent resolution expressing the sense of the Congress on the situation in Poland and calling for a determined policy aimed at ending the repression of the Polish people; to the Committee on Foreign Relations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 14, 1982, that he had presented to the President of the United States the following act:

S. 764. An act to provide for protection of the John Sack Cabin, Targhee National Forest in the State of Idaho.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4659. A communication from the Acting Secretary of State transmitting, pursuant to law, a report on payments during the previous month to private individuals or corporations in satisfaction of assurance agreements or payment of loan guarantees with respect to loans made and credits extended to the Polish People's Republic; to the Committee on Foreign Relations.

EC-4660. A communication from the Acting Assistant Legal Adviser for Treaty Affairs of the Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the previous 60 days; to the Committee on Foreign Relations.

EC-4661. A communication from the District of Columbia Auditor transmitting, pursuant to law, a copy of a letter in relation to a report entitled "Followup to Audit of the Board of Elections and Ethics"; to the Committee on Governmental Affairs.

EC-4662. A communication from the Secretary of Housing and Urban Affairs transmitting, pursuant to law, the semiannual report on the activities of the Office of Inspector General of HUD; to the Committee on Governmental Affairs.

EC-4663. A communication from the Assistant Secretary of the Interior for Indian Affairs transmitting, pursuant to law, a proposed plan for the use and distribution of the Hoopa Valley Tribe judgment funds; to the Select Committee on Indian Affairs.

EC-4664. A communication from a certified public accountant transmitting, pursuant to law, an audit of the Veterans of World War I of the United States of America, Inc., for fiscal year ended September 30, 1982.

EC-4665. A communication from the Assistant Attorney General of the United States, Antitrust Division, transmitting, pursuant to law, a report on "Competition in the Coal Industry"; to the Committee on the Judiciary.

EC-4666. A communication from the Chief Judge of the United States Court of Appeals transmitting, pursuant to a resolution adopted by the Judicial Conference of the United States, a report relative to the the workload of circuit and district judges within the District of Columbia Circuit; to the Committee on the Judiciary.

EC-4667. A communication from the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped, transmitting, pursuant to law, the annual report on the activities of the Committee during the fiscal year ended September 30, 1981; to the Committee on Labor and Human Resources.

EC-4668. A communication from the Comptroller General of the United States transmitting, pursuant to law, the report on the access to records problem encountered by the General Accounting Office at the Department of the Air Force; to the Committee on Governmental Affairs.

EC-4669. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision to convert the base operations support function at the Naval Weapons Center, China Lake, Calif., to performance under contract; to the Committee on Armed Services.

EC-4670. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision to convert the custodial services function at the Naval Amphibious School, Little Creek, Va., to performance under contract; to the Committee on Armed Services.

EC-4671. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the grounds maintenance function at the Navy Public Works Center, San Diego, Calif., to performance by contract; to the Committee on Armed Services.

EC-4672. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the custodial services function at the Navy Regional Medical Center, Philadelphia, Pa., to performance by contract; to the Committee on Armed Services.

EC-4673. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, a report on an accident in the canal; to the Committee on Armed Services.

EC-4674. A communication from the U.S. Trade Representative, transmitting, pursuant to law, a report on a Presidential determination with respect to the issuance of motor carrier authority by the Interstate Commerce Commission, to the Committee on Commerce, Science, and Transportation.

EC-4675. A communication from the Secretary of the Federal Communications Commission, transmitting, pursuant to law, a report on certain hearings held before the Commission; to the Committee on Commerce, Science, and Transportation.

EC-4676. A communication from the Secretary of Energy, transmitting, pursuant to law, a quarterly report on the strategic petroleum reserve, dated November 15, 1982; to the Committee on Energy and Natural Resources.

EC-4677. A communication from the Secretary of the Interior and the Secretary of Agriculture, transmitting jointly, pursuant to law, the annual report on the Youth Conservation Corps for fiscal year 1981; to the Committee on Energy and Natural Resources.

EC-4678. A communication from the Inspector General, Department of the Interior, transmitting, pursuant to law, the annual report on the financial condition of the Government of Guam for fiscal year 1981; to the Committee on Energy and Natural Resources.

EC-4679. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Sharing the Cost of Making Federal Water Project Feasibility Studies—A Financial Alternative"; to the Committee on Environment and Public Works.

EC-4680. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the nondisclosure of safeguards information by the Commission for the quarter ended September 30, 1982; to the Committee on Environment and Public Works.

EC-4681. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report containing legislative recommendation with respect to the coverage of additional optometrists' services under medicare; to the Committee on Finance.

EC-4682. A communication from the Chairman of the Foreign Claims Settlement Commission, transmitting, pursuant to law, the annual report of the Commission for calendar year 1981; to the Committee on Foreign Relations.

EC-4683. A communication from the Secretary of Education, transmitting, pursuant to law, a report on the Department's one-time computer match of records of defaulted loans under student loan programs and records of currently employed and retired Federal personnel; to the Committee on Governmental Affairs.

EC-4684. A communication from the Assistant Attorney General for Administration, transmitting, pursuant to law, a report on a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4685. A communication from the Secretary of Defense, transmitting, pursuant to law, the eighth semiannual report on audit, inspection, and investigative operations in the Department of Defense for the period ending September 30, 1982; to the Committee on Governmental Affairs.

EC-4686. A communication from the Assistant Secretary of the Department of the Interior transmitting draft of a proposed bill to authorize settlement of a claim of the Shoalwater Bay Indian Tribal Organization; to the Select Committee on Indian Affairs.

EC-4687. A communication from the Deputy Assistant Secretary-Indian Affairs (Operations) transmitting, pursuant to law, all adjusted or eliminated reimbursable charges of the Government of the United States existing as debts against individual Indians or tribes of Indians; to the Select Committee on Indian Affairs.

EC-4688. A communication from the Chairman of the Administrative Conference of the United States transmitting, pursuant to law, the 1981 report of the conference; to the Committee on the Judiciary.

EC-4689. A communication from the adjutant general of the Military Order of the Purple Heart transmitting, pursuant to law, the financial audit of the Military Order of the Purple Heart of the U.S.A., Inc.; to the Committee on the Judiciary.

EC-4690. A communication from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, notification of a withdrawal of deportation case presently before Congress; to the Committee on the Judiciary.

EC-4691. A communication from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, waivers for the second half of fiscal year 1982; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1265. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Agriculture, Nutrition, and Forestry;

"RESOLUTION

"Whereas, The Secretary of the United States Department of of Agriculture will implement a 50 cent deduction on milk prices on December 1, 1982 as a means of reducing the milk surplus; and

"Whereas, The assessment would place additional economic burdens on Pennsylvania's 15,500 dairy farmers without solving the real problem of surplus milk production; and

"Whereas, The initial assessment would take approximately $45,000,000 from dairy farmers in the State's economy; therefore be it

"Resolved, That the Senate of the Commonwealth of Pennsylvania strongly urges the Congress of the United States to take action to delay implementation of the 50 cent per hundredweight assessment on dairy farmers to give the dairy industry and Congress sufficient time to develop a program to more realistically deal with milk surplus; and be it further

"Resolved, That copies of this resolution be sent to the presiding officers of each House of the Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States."

POM-1266. A resolution adopted by the General Assembly of the Commonwealth of Pennsylvania; to the Committee on Appropriations:

"RESOLUTION

"Whereas, The unemployment rate for the Commonwealth of Pennsylvania is 11.3% and some counties have rates which far exceed the average for the State; and

"Whereas, In certain areas of this Commonwealth, one out of every four workers is unemployed; and

"Whereas, The bridges, roads and mass transit systems of the Nation are in need of repairs and renovations; and

"Whereas, This Commonwealth is fourth in the number of bridges and total miles of highways which are adversely affected by the harsh winter weather prevalent in the area; and

"Whereas, Public Works Programs have had positive results in the past; and

"Whereas, Public Works spending plans could be justified solely on the need to repair our faulty transportation system; and

"Whereas, These projects need to be done regardless of the unemployment rate and doing these projects now gives us the perfect way to reduce high unemployment; therefore be it

"Resolved, (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania hereby memorializes Congress to appropriate funding as quickly for an Accelerated Public Works Program, which will be established by the Commonwealth of Pennsylvania and all other states, to reduce unemployment, upgrade our bridges, roadways and missing links in Federal and State programs; and be it further

"Resolved, That copies of this resolution be delivered to the President of the United States, the Speaker of the House of Representatives, the President pro tempore of the Senate and each Senator and Congressman from Pennsylvania"

POM-1267. A petition from a citizen of North Adams, Massachusetts urging the Congress to make our dollar "good as gold" by supporting Senate bill 6 or return America's currency to the gold standard; to the Committee on Banking, Housing, and Urban Affairs.

POM-1268. A petition from the National Shipbuilding Conference of the Metal Trades Department, AFL-CIO, concerning redress of a grievance on behalf of American shipyard workers; to the Committee on Commerce, Science, and Transportation.

POM-1269. A resolution adopted by the City Council of Niagara Falls, New York, opposing any attempt to limit the regulatory and contractual powers exercised by local governments with respect to cable television franchises; to the Committee on Commerce, Science, and Transportation.

POM-1270. A resolution adopted by the Lake County Parks and Recreation Department of Crown Point, Indiana, urging Congress to authorize the construction of a small boat marina in Lake County, within the West Unit of the Indiana Dunes National Lakeshore Park, to be named "The Adam Benjamin, Jr., Memorial Marina"; to the Committee on Energy and Natural Resources.

POM-1271. A resolution adopted by the Republican Governors Association urging the Federal Government to provide maximum flexibility to the States to assist them in their efforts to implement innovative financing mechanisms with which to rebuild our public works infrastructure; to the Committee on Environment and Public Works.

POM-1272. A resolution adopted by the Assembly of the State of California; to the Committee on Environment and Public Works:

"HOUSE RESOLUTION No. 81"

"Whereas, the Environmental Protection Agency has revised its air quality regulation declaring that vessels are, indeed, mobile sources of emission; and

"Whereas, the Environmental Protection Agency has declared that the burden of emission control should not be placed on terminal operators who have little or no control over the emissions of vessels that call at their terminal; and

"Whereas, the United States Coast Guard holds the primary responsibility for vessel regulation, including safety requirements, of both foreign and American flagships; now, therefore, be it

"Resolved by the Assembly of the State of California, That consistent, cost-effective national regulations applicable to all vessels should be developed, eliminating any possible discriminatory local or state regulations that can disrupt foreign maritime commerce; and be it further

"Resolved, That cost-effective national regulation is needed to maintain low marine transportation cost, keeping the United State Merchant Fleet competitive with foreign vessels; and be it further

"Resolved, That lengthy debates and even litigation resulting from state challenges of its ability to control vessel emissions by imposing design and operation requirements on vessels is fraught with serious legal and foreign relations ramifications; and be it further

"Resolved, That the United States Coast Guard, in conjunction with the appropriate international maritime concerns, should diligently pursue the development of rational, uniform regulations for the control of ship emissions that are consistent with both the actual need to reduce vessel emmissions and the technological, economic, and safe operational constraints with ship design and operation; and be it further

"Resolved, That the Chief Clerk of the assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Coast Guard, to the State Air Resources Board, and to appropriate air quality management districts."

POM-1273. A resolution adopted by the Legislative Council of the State of Arkansas; to the Committee on Finance:

"INTERIM RESOLUTION 81-74 EXPRESSING OPPOSITION TO THE ENACTMENT BY CONGRESS OF "THE PUBLIC EMPLOYEES PENSION PLAN REPORTING AND ACCOUNTING ACT OF 1982" (PEPPRAA).

"Whereas, legislation proposing the enactment of "The Public Employee Pension Plan Reporting and Accounting Act of 1982" has been introduced in the Congress of the United States in the form of H.R. 4928 and H.R. 4929 (Senate companion Bills S2105 and 2106); and is still pending in the House Rules Committee and Ways and Means Committee; and

"Whereas, the Arkansas General Assembly has already expressed its opposition to PEPPRAA in a resolution dated June 18, 1982, and maintains its position against federal regulation of state and local retirement systems for the reasons given at that time; and

"Whereas, The Arkansas Legislative Council and the Joint Budget Committee have reviewed the financial position of our state retirement systems and are satisfied not only that they are financially strong, but also that our state retirement laws providing for reporting and disclosure and prudent management of these trusts will continue to assure the proper administration of these systems; and

"Whereas, the proposed federal legislation poses a serious usurpation of the sovereign powers of the state and local governments which were reserved to them under the Separation of Powers provision of the Constitution of the United States; Now therefore,

"Be it resolved by the Legislative Council of the State of Arkansas: That the Arkansas Legislative Council and the Joint Budget Committee, acting in behalf of the Arkansas General Assembly, respectfully declares their opposition to the passage of the proposed Public Employees Pension Plan Reporting and Accounting Act of 1982 or any other similar Act or variation thereof. Be it further resolved:

"That copies of this Resolution shall be furnished to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to all members of the Arkansas Congressional

Delegation, with the request that this Resolution be officially entered in the CONGRESSIONAL RECORD as a memorial to the Congress of the United States. Be it further resolved:

"That the members of the Arkansas Congressional Delegation are urged to use the full influence of their office in opposing the further consideration or enactment of this or similar legislation as being contrary to the interests of the government of the State of Arkansas and its local political subdivisions and of the federal system."

POM-1274. A resolution adopted by the Republican Governors Association supporting the "Technology Education Act of 1982"; to the Committee on Finance.

POM-1275. A resolution adopted by the Republican Governors Association urging the Congress to enact legislation to postpone for a period of one year the requirement for the registration of municipal bonds: to the Committee on Finance.

POM-1276. A resolution adopted by the City Council of Niagara Falls, New York, urging Congress to repeal those portions of the Tax Equity and Fiscal Reponsibility Act of 1982 which raise the costs of borrowing for municipalities; to the Committee on Finance.

POM-1277. A resolution adopted by the people of Multnomah County, Oregon, calling on the Federal Government to end all military aid to the government of El Salvador and to withdraw all military personnel from that country; to the Committee on Foreign Relations.

POM-1278. A petition from a citizen of Columbus, Ohio, urging the Congress to pass "the Gay Bill of Rights"; to the Committee on the Judiciary.

POM-1279. A petition from a citizen of St. Petersburg, Florida, urging Congress to study censure of the U.S. Supreme Court, and impeachment of the Montgomery County, Maryland, Circuit Court; to the Committee on the Judiciary.

POM-1280. A resolution adopted by the City Council of the City of Elizabeth, New Jersey, urging Congress to keep open the 5th Preference Quota in immigration rules and regulations; to the Committee on the Judiciary.

POM-1281. A resolution adopted by the Senate of the Associated Students of the University of Hawaii at Manoa supporting the national legislation of Senator Spark M. Matsunaga creating a United States Academy of Peace; to the Committee on Labor and Human Resources.

POM-1282. A petition from a citizen of Irwin, Pennsylvania concerning the 1982 Senatorial election in Pennsylvania; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute, and an amendment to the title:

S. 3074. A bill entitled the "Agricultural Act of 1982".

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. Res. 498. Resolution prohibiting the sale of the U.S. Custom House at Bowling Green in New York City.

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. Res. 514. An original resolution ordering a space needs study of Social Security Data Processing Center in Wilkes-Barre, Pennsylvania, including a site survey for proposed relocation thereof, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SIMPSON, from the Committee on Veterans' Affairs:

Harry N. Walters, of Virginia, to be Administrator of Veterans' Affairs.

By Mr. ROTH, from the Committee on Governmental Affairs:

Geoffrey M. Alprin, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years; and

Virginia L. Riley, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

By Mr. HATCH, from the Committee on Labor and Human Resources:

Edward M. Elmendorf, of Vermont, to be Assistant Secretary for Postsecondary Education, Department of Education.

(The above nomination was reported from the Committee on Labor and Human Resources with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TOWER, from the Committee on Armed Services:

W. Paul Thayer, of Texas, to be Deputy Secretary of Defense.

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Francis C. Coleman, Perry A. Lambird, David I. Olch and James F. X. O'Rourke to be Members of the Board of Regents of the Uniformed Services University of the Health Sciences, Rear Adm. Crawford A. Easterling, U.S. Navy, to be vice admiral, Rear Adm. Henry C. Schrader, U.S. Navy, to be vice admiral, Gen. Frederick J. Kroesen, U.S. Army, (age 59) to be placed on the retired list, Gen. Glenn K. Otis, U.S. Army, to be reassigned in his current grade to a position of importance and responsibility designated by the President, in the Air Force Reserve there are 19 appointments to the grade of major general and below (list begins with Dan C. Mills), in the Air Force there are 31 appointments to the grade of major general (list begins with Clarence R. Autery), in the Army there are 36 appointments to the grade of major general (list begins with Archie S. Cannon), Rear Adm. Thomas R. Kinnebrew, U.S. Navy, to be vice admiral, in the Air Force there are 3 appointments to the grade of major general (list begins with James E. Dalton), Lt. Gen. William R. Richardson, U.S. Army, to be general, Maj. Gen. Fred K. Mahaffey, U.S. Army, to be lieutenant general and Senior Army Member of the Military Staff Committee of the United Nations, Maj. Gen. Bennett L. Lewis, U.S. Army, to be lieutenant general and Col. John E. Major and Col. Billy Johnson, U.S. Army, to be brigadier generals. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, in addition, in the Regular and Reserve of the Air Force there are 32 appointments/promotions to the grade of colonel and below (list begins with Robert R. Thunker), in the Air Force Reserve there are 20 transfers from the National Guard to the grade of lieutenant colonel (list begins with Bruce C. Bechtel), in the Navy and Naval Reserve there are 50 permanent appointments to the grade of captain and below (list begins with Gary A. Avery), in the Navy and Naval Reserve there are 49 permanent appointments to the grade of commander and below (list begins with Ernst P. Frage), in the Air Force there are 1,316 appointments to the grades and dates of rank to be determined by the Secretary of the Air Force (list begins with Larry D. Abney), in the Air Force there are 180 appointments to the grade of second lieutenant from the Reserve (list begins with Glenn E. Adams), in the Navy and Naval Reserve there are 50 permanent appointments to the grade of captain and below (list begins with Tracy A. Adams), in the Air Force Reserve there are 39 promotions to the grade of colonel (list begins with Ralph W. Applegate), in the Navy and Naval Reserve there are 24 appointments to the grade of captain and below (list begins with Mark R. Achenback) and in the Navy and Naval Reserve there are 27 permanent appointments/promotions to the grade of captain and below (list begins with Stanford P. Sadick), in the Air Force there are 11 permanent promotions to the grade of lieutenant colonel and below (list begins with Marion J. Hardy), in the Air Force Reserve there are 20 promotions to the grade of lieutenant colonel (list begins with Thomas F. Astaldi), in the Navy and Naval Reserve there are 41 permanent appointments to the grade of commander and below (list begins with Michael A. Fox), and in the Navy there are 1,157 permanent appointments to the grade of captain and below (list begins with Richard M. Dunbar). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of October 20, October 22, November 5, November 15, November 22, and December 7, 1982, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DODD:

S. 3097. A bill to require the Secretary of Housing and Urban Development to administer a demonstration program for assisting communities and nonprofit organizations in providing emergency shelters; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENTSEN:

S. 3098. A bill for the relief of James A. Ferguson; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 3099. A bill to direct the Secretary of the Interior to release certain restrictions contained in a previous conveyance of land to the city of Albuquerque, New Mexico, and to authorize the Secretary of Agriculture to make certain land transfers; to the Committee on Energy and Natural Resources.

By Mr. STAFFORD. (for himself and Mr. THURMOND) (by request):

S. 3100. A bill to modify the authority for the Richard B. Russell Dam and Lake project, and for other purposes; to the Committee on Environment and Public Works.

By Mr. D'AMATO:

S. 3101. A bill to amend Section 103(b)(3) of the Internal Revenue Code; to the Committee on Finance.

By Mr. BENTSEN:

S. 3102. A bill to amend title 28 of the United States Code to set up a regime of repose for certain archeological and ethnological material and cultural property; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. STAFFORD:

S. Res. 514. Resolution ordering a space needs study of Social Security Data Processing Center in Wilkes-Barre, Pennsylvania, including a site survey for proposed relocation thereof, and for other purposes; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. McCLURE (for himself, MR. EXON, MR. JOHNSTON, MR. WARNER, MR. DOLE, and MR. ROBERT C. BYRD):

S. Res. 515. Resolution relating to the need to provide our Nation's natural gas consumers with immediate and long-term relief from rapidly increasing natural gas prices, by taking a number of actions to reduce or restrain such price increases, and by providing financial assistance to low-income consumers of natural gas; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD:

S. 3097. A bill to require the Secretary of Housing and Urban Development to administer a demonstration program for assisting communities and nonprofit organizations in providing emergency shelter; to the Committee on Banking, Housing, and Urban Affairs.

TEMPORARY EMERGENCY SHELTER DEMONSTRATION PROGRAM ACT OF 1982

● Mr. DODD. Mr. President, today I am introducing a bill to provide emergency shelters for homeless children and adults in this country.

Day after day in newspapers across the country, we read the tragic stories of increasing numbers of homeless Americans. A recent report by the U.S. Conference of Mayors describes the plight of thousands of younger and older Americans evicted from their homes and now living in tents, cars, and cardboard boxes. Some are fortunate enough to be sheltered by rescue missions run by churches and charitable organizations. Yet such accommodation is growing scarcer and scarcer as the ranks of the homeless swell.

Social services directors in countless States predict that thousands more will be driven to the streets before this winter is over, stretching hard-pressed rescue missions far beyond their capacities. In New York City, for example, there are five public shelters now overcrowded with 3,700 people who have no place else to go. Due to ever rising unemployment rates and cutbacks in assistance programs, city officials expect at least 1,500 additional residents to seek emergency shelter. Yet none will be available. New York City's experience will be duplicated in cities from Detroit to Houston and from Boston to Los Angeles.

This bill authorizes $50 million to be used to allow nonprofit organizations to convert vacant buildings into temporary shelters for the homeless. Such organizations will then have the responsibility for operating the emergency shelters for a period of from 3 to 10 years, depending upon the size of the grant awarded. HUD will administer this demonstration program, allocating money to areas with greatest numbers of homeless. Congressman VENTO has introduced identical legislation in the other body.

Mr. President, the vast majority of the new homeless want to work. Many are well-educated, some with Ph. D.'s. Many are single parents in charge of supporting their children. Most have never been without shelter before in their lives.

We have a responsibility to aid these victims of skyrocketing unemployment and cutbacks in social services, young and old alike, to ignore their plight would be singularly unAmerican.

Among those whom Emma Lazarus' words, inscribed on the Statue of Liberty, invited to America were tempest-tossed homeless from abroad.

Today those tempest-tossed homeless live within our own shores and desperately need decent shelter.

I urge my colleagues to join with me in sponsoring this legislation as a means of aiding private groups to do just that.

I ask unanimous consent that the full text of the "Temporary Emergency Shelter Demonstration Act of 1982" be printed in the RECORD. I also ask unanimous consent that an article from the Wall Street Journal, November 12, 1982, be printed it its entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Temporary Emergency Shelter Demonstration Program Act of 1982".

DEMONSTRATION PROGRAM

SEC. 2. (a) The Secretary of Housing and Urban Development (hereafter in this Act referred to as the "Secretary") shall, to the extent provided in section 5, carry out a demonstration program for the purpose of assisting communities or nonprofit organizations in providing shelter for individuals who are subject to life-threatening situations because of their lack of housing.

(b) The demonstration program referred to in subsection (a) shall provide that—

(1) the Secretary shall make grants to communities or nonprofit organizations for the purpose described in subsection (a);

(2) any nonprofit organization may apply for such assistance only on the basis of an application approved by the community in which the project involved is, or is to be, located;

(3) such grants shall be made on a competitive basis, taking into consideration—

(A) the extent of need for emergency housing in the area where the project involved is, or is to be, located;

(B) in the case of any nonprofit organization, the extent of the need for funding by such organization;

(C) the extent of non-Federal assistance to be provided with respect to the project involved, including in-kind contributions by volunteers;

(D) in the case of any nonprofit organization, the demonstrated capacity of such organization to establish and maintain the project involved; and

(E) any other terms and conditions prescribed by the Secretary to carry out the project involved in an effective, expeditious, and efficient manner;

(4) such grants may be used for the purpose of rehabilitating existing structures in order to provide basic shelter, maintaining structures providing such shelter, and paying for utilities of such structures, and for other purposes (other than salaries and administrative expenses) prescribed by the Secretary consistent with the purpose of this Act; and

(5) in the case of any structure that is rehabilitated with assistance under this Act, such structure shall be used for emergency housing for at least three years, or at least ten years in any case in which the rehabilitation involved is substantial.

REGULATIONS

SEC. 3. The Secretary shall issue regulations with respect to the demonstration program established in section 2 not later than ninety days after the date of the enactment of this Act.

REPORT TO CONGRESS

SEC. 4. The Secretary shall submit to the Congress (1) not later than April 1, 1983, an interim report concerning the demonstration program established in section 2; and (2) not later than December 1, 1983, a final report concerning such program.

FUNDING OF DEMONSTRATION PROGRAM

SEC. 5. Of the additional authority approved in appropriation Acts and made available during fiscal year 1983 pursuant to section 5(c) of the Housing Act of 1937, the Secretary shall utilize $50,000,000 to carry out the provisions of this Act.

[From the Wall Street Journal, Friday, Nov. 12, 1982]

THE DISPOSSESSED—HOMELESS NORTHERNERS UNABLE TO FIND WORK CROWD SUN BELT CITIES

THEY GATHER IN TENT TOWNS AND 'CARDBOARD CAMPS'; SCAVENGING FOR SURVIVAL—SOUP KITCHENS AND SUICIDES

(By George Getschow)

HOUSTON—Some 30 miles from the center of this sprawling Sun Belt city, on the banks of the San Jacinto River, is a community that came into existence some six months ago. It now has about 250 residents, most of whom came from other states, and is continuing to grow week by week.

Its name is found nowhere among real-estate ads. Indeed, it has no official name. Neighbors, however, call it Tramp City U.S.A. because its residents sleep in tents, cook on campfires and collect aluminum cans for a living.

Those who live here deeply resent being called tramps. Most are displaced families from depressed Northern states who have lost their jobs, exhausted their unemployment benefits and trekked south in search of work, only to find such work is no longer available. "We have no job, no money and no place else to go," says William Loveall, whose family drifted to the tent community from Detroit two months ago after their real-estate business collapsed and their saving evaporated.

DIRE STRAITS

Stirring a pot of beans simmering on his campfire, Mr. Loveall surveys the poor and tattered people around him and discusses reports that local merchants and homeowners regard the tenters as a collection of ne'er-do-wells. "A lot of locals think we love it out here," he says. "They don't realize just what a fix we're in."

Across the U.S., tens of thousands of families and individuals are in a similar fix. Not since the mass economic distress of the Great Depression, which drove the nation's destitute into tin-and-tent towns called Hoovervilles, have so many working-class people suddenly found themselves in such dire straits. President Reagan has urged the 11.6 million Americans who are officially unemployed to "hang in there" until the economy recovers. But many of the nation's jobless have nothing left to hang onto.

A recent report by the U.S. Conference of Mayors says thousands of families have been evicted from their homes and are living in cars, campgrounds, tents and rescue missions. The report notes that federal welfare programs that would have once kept such families afloat have been sharply cut back and adds that many more of the nation's "new poor" will spill onto the streets after the 26 weeks of their unemployment benefits expire.

It is a situation that is affecting towns and cities across the country. In New York, officials say the city's five public shelters, now jammed with 3,700 people, won't be able to accommodate the 1,500 more expected this winter. In Detroit, a new 45-bed shelter was filled the first night it opened. In Cleveland, Depression-style soup kitchens that once catered to skid-row loners have been revived and expanded to serve whole families.

BITTER HARVEST

But nowhere is the ugly specter of the homeless poor more shocking than here in the Sun Belt, which is reaping the bitter harvest of unemployment from all over the country. "I swear it looks like 'The Grapes of Wrath' around here," says Virginia Cuvillier, director of Houston's Travelers Aid Society. In the last 12 months, the society has seen 22,000 transients, mostly from Indiana, Ohio and Michigan.

Lured by tales of unlimited employment opportunities and the refuge of warmer weather, the jobless are streaming into the "promised land" in groaning jalopies, packed with bedsprings and babies, in numbers that may exceed even the highest estimates of 50,000 a month. But in an ironic twist from the '30s, when tens of thousands of Okies fled their barren farmlands in the dust bowl for fruitless vineyards in the West, today's migrants are mostly Northerners headed for the now-sputtering oil fields of Oklahoma, Texas, Colorado and other states.

In Galesburg, Ill., for example, a city of about 35,000 hard hit by an epidemic of plant closings and layoffs, there are at least 900 vacant homes. "Hundreds of families packed up and headed for the oil fields," says Howard Martin, the director of Galesburg's Salvation Army. "They get there and find that the jobs have dried up, but they can't return because they have no homes or jobs to return to."

"DON'T COME HERE"

Some Sun Belt cities have been trying to put out the message that the area no longer is the land of opportunity they once boasted about. "We now say to the unemployed people from Michigan, Ohio and Indiana, 'Don't come here, we don't have jobs,'" says Clyde Cole, director of the Tulsa (Okla.) Chamber of Commerce.

But for many, the message doesn't get through. Tulsa now has several thousand transients stranded in campgrounds or under bridges. Downtown Denver has filled up with so many homeless people that they have begun overflowing into the prosperous suburbs of Lakewood and Arvada. And even in a smaller oil town like Abilene, Texas, whose population is about 104,000, there may be 5,000 people living in tents, abandoned buildings and cardboard boxes, says June Benigno, executive director of the Abilene mental-health association.

Outside Houston, the community called Tramp City U.S.A. was organized with the help of the Rev. Ray Meyer, a local preacher, and is located on state property. With assistance from six volunteers, Mr. Meyer retrieves food that has been discarded by grocery stores and vegetable stands, cleans it up and delivers it to the tent people. Residents provide their own tents.

Newcomers to the community are welcomed by Barbara Tolbert, recently appointed "town greeter" by Mr. Meyer because she and her four children have been residents for four months and she knows everyone well. Mrs. Tolbert offers the new arrivals some food, finds them a space to set up housekeeping and even helps them enroll their children in school. She also gives them a manual entitled "How to Survive in the Out of Doors," written by Mr. Meyer.

A typical newcomer is Dave Johnson, who lost his job and home in Gary, Ind., after the steel mill that employed him shut down. He arrived in Texas with this pregnant wife, Donna, two children and high hopes of finding work. "At home, all you ever hear about are all the jobs down here," he tells Barbara Tolbert. She replies: "I hate to disillusion you, but"—she points to a parking area filled with out-of-state license plates—"that's what everybody else here heard, too."

The problems facing these homeless legions in the Sun Belt grow apace with their numbers. Not the least of those problems is the frontier philosophy pervading much of the region that "you take care of yourself and your own," says John Hansan, executive director of the Washington, D.C.-based National Conference on Social Welfare. Because of that attitude and because the Sun Belt hasn't faced widespread unemployment and poverty before, Mr. Hansan says, public and private philanthropic agencies to help the poor and needy are in desperately short supply in many Sun Belt cities.

And the supply is getting shorter; some cities in the region are closing down private shelters, hoping the homeless will go away.

Phoenix, Ariz., for example, in the past year has condemned three shelters and several soup kitchens and has passed a slew of ordinances that, among other things, make it a crime to sleep in the parks at night or lie down on the sidewalks during the day. The reason for those actions was to make room for downtown renewal projects and to insure that "panhandlers and derelicts," as many citizens call them, wouldn't spoil the success of those projects.

The Arizona Republic, Phoenix's morning daily, and many of its readers supported the city's actions. "We Didn't Tolerate Prostitutes, Why Tolerate Bums?" the newpaper asked in an editorial headline. A letter to the editor from a reader made this observation: "If a stray dog is found wandering the streets, it is picked up and put to sleep. Unfortunately, we cannot put these 'human animals' to sleep, but we surely should not support and encourage their way of life."

According to Louisa Stark, a Phoenix anthropoloigist, the city's cold shoulder has pushed many of the city's 3,300 homeless out of private shelters and public parks into jails or "cardboard camps" outside the city. Wallace Vegors, assistant park manager of Lake Pleasant Regional Park, a county facility about 30 miles from downtown Phoenix, says that "lots" of people are permanently camping" in the park and in the surrounding desert.

Others have settled on federal land near the city of Mesa, 17 miles from Phoenix. James Forrest, assistant director of the Mesa Chamber of Commerce, says the city has asked the federal rangers to get the homeless campers to move out, "but they

chase them out one day and they come back the next." He adds: "As long as they don't bother anybody, we don't do too much about them."

The problem will doubtless worsen as Phoenix pushes ahead with its downtown redevelopment, Louisa Stark says. As new offices and shops replace cheap hotels and apartments, she says, "more and more people are becoming homeless because they can't find anything else they can afford."

Ambitious urban-renewal projects in southern California are also shrinking the supply of cheap housing. "Lots of longtime indigents are landing on the streets, but so are a whole new class of people—families from Michigan and Ohio that are flooding into the area," says Michael Elias, who operates a family shelter in Orange County.

There is little public sympathy for the county's 15,000 homeless, Mr. Elias says. The city of Irvine, for example, recently voted to build a $3.5 million animal shelter for stray pets. "But the city won't donate a dime for the homeless," Mr. Elias says, "because they see them sleeping under bridges and assume they must be bums."

LITTLE COMPASSION

Even in Houston, a relatively prosperous city in the heart of the Bible Belt, there is little compassion for the growing horde of economic refugees pouring in from out of state. Kay White, a social worker who has been criticized within her own church for using church funds to aid destitute transients, says: "A lot of churches will help their own people, but as far as the Yankees go, they aren't welcome."

Joseph Williams, a laid-off landscaper from New York's Long Island, knows the feeling. Stranded on the steps of the Catholic Charities relief agency with his wife, Cornelia, and their four young children, Mr. Williams, a Catholic, says the family has no shelter for the night. The agency, he says, told us if we were foreign refugees they could help us; otherwise we'd have to go someplace else. "But where can we go? We don't have a car or money to pay for a hotel room. There's no work, and there's no family shelter here." (There is one free shelter for men; but most nights, it's so crowded that it has to turn away as many people as it can take in. The other shelters charge as much as $5 a night, an impossible sum for many.)

So after dark, when the downtown has been deserted by those more fortunate than they, the homeless drift in, filling the parks and fighting for space in abandoned buildings. One dilapidated downtown building is so full, in fact, that its tenants have hung home-made doors with padlocks to protect their occupancy.

The increasing presence of these ragged vagrants panhandling on the streets and loitering in the library (where they go to clean up and read their hometown newspapers), has aroused fear and anger among downtown shoppers and office workers. But the police say there is very little they can do about the situation. "How can you control it?" asks Patrolman Thomas Joyner. "The city is overflowing with these people, and it's getting worse every day. Besides, it's kind of hard to crack down on them when all they're trying to do is survive."

Patrolman Joyner adds that "there's been an upswing in pretty crime in the downtown area," such as stealing food from grocery stores and breaking into vending machines. "If someone doesn't have a job or any money, and they've got families to feed," he says, "they're going to steal if they have to to feed them."

The problem is particularly acute here and in other Texas cities because what welfare assistance there is in the state is limited to "unemployables"—and most homeless adults, regardless of their circumstances, are considered employable. Furthermore, the homeless can't even get food stamps because they don't have a local address. "It's a horrible Catch-22," says David Austin, a professor of social work at the University of Texas. "Many of these homeless people are half-starved, yet they aren't eligible for stamps."

One such "employable" is Ronald Larson, a 30-year-old plumber from Chicago who a few months ago lost his job, his car, his savings and, finally, his home. His family moved in with relatives, and he hopped freight trains looking for work. Now he finds himself standing in a church-sponsored soup line in Houston with 200 other homeless men, women and children, suffering from hunger and depression and staring into a future that he sees as hopeless. "If it weren't for my family," he says, "I probably would have pulled the trigger long ago."

Some of Houston's homeless survive by scavenging garbage bins in the back of fast-food chains. Others sell their blood at prices of about $7 to $10 a pint. Two such donors are Kenneth Harris, a 48-year-old laid-off hotel manager from Portland, Ore., and his wife, Mary. "We can't find work. We don't qualify for any assistance. So what else can we do?" asks Mr. Harris as he stands in a waiting room with at least 300 other donors. To survive, he says, he has sold his car and even his wife's wedding ring. He adds: "My blood is all I got left."

The plight of the homeless has caused some to turn their children over to county welfare agencies. "It really pulls at your heart to see these parents give up thier kids in order to provide a better life for them," says Carl Boaz, who runs Harris County's Child Welfare Emergency Shelter.

VIOLENT BEHAVIOR

Others turn to alcohol, violent behavior and even suicide. "They see new skyscrapers and shopping centers going up, and they think there's plenty of work here," says the Rev. George Grant, a minister from nearby Humble who has dealt with five suicides in a local tent community. When the homeless don't find work, Mr. Grant says, they react like a little child who has planned a magnificent birthday party but no one shows up. "It just blows them away," the minister says.

Another source of anxiety for the homeless is the threat of local vigilante groups who chase them off with shotguns and sirens. With local unemployment rising, Mr. Grant says, the vigilantes fear that they too might come to share the fate of their tent neighbors.

In "Tramp City U.S.A.," residents constantly feel the disdain of the local population. Some children refuse to go to school, having been called "river rats" by their more prosperous peers. Many of the families have also refused to go to church after one family in the community was turned away at a local parish for wearing dirty clothes.

The Rev. Ray Meyer tries to bring the Gospel to the homeless. But it isn't easy, he says, explaining: "These tent people are mostly middle-class people who've suddenly lost everything they've worked for, and they're angry at God." So rather than preaching, he sings songs, accompanying himself on his guitar. "Trouble has tossed you here and there, so now you don't even care," he sings. "You look for help at every place, but now there isn't anywhere else to go. Ah ... but it seems like you're living in so much hell."●

By Mr. DOMENICI:

S. 3099. A bill to direct the Secretary of the Interior to release certain restrictions contained in a previous conveyance of land to the city of Albuquerque, N. Mex., and to authorize the Secretary of Agriculture to make certain land transfers; to the Committee on Energy and Natural Resources.

ALBUQUERQUE LAND PARCELS

● Mr. DOMENICI. Mr. President, today I am introducing a bill which will release certain restrictions on a previous conveyance of land to the city of Albuquerque, N. Mex.

In 1963, the city of Albuquerque received two parcels of land from the U.S. Government to be used for city recreational purposes. As part of the official conveyance of the land the patent contained so-called reverter language. That is, if the city of Albuquerque attempted to use the land for a purpose which was not allowed under the laws, ownership of the land would revert back to the U.S. Government.

Currently, the city of Albuquerque is in the process of trading the two isolated 1.25-acre tracts of land that they acquired in 1963 for two other parcels of land of equal value which adjoin some 6 acres of existing city-owned land. With this exchange the city can group several acres for use as a first-class park.

However, under existing law, the exchange cannot be accomplished because of the provisions of the 1963 conveyance. If exchanged, the 1.25-acre parcels would revert back to ownership by the Federal Government.

This legislation would remove the reverter clause from the two parcels that were conveyed in 1963 which would allow the exchange to proceed.

However, in order to protect the rights of the public the reverter clause would be established on the two new parcels which the city would receive in the exchange.

The bill also imposes several other restrictions on the city that insures the public well-being is protected including requirements regarding a development plan for the proposed recreational area and a requirement that the city must consumate the exchange before title to the lands will be permanently transferred.

I believe that this bill is a good answer for the predicament the city of Albuquerque is in when they attempt to use good land management judgment. It will provide the city with a fine recreational area in a part of the city where it is needed while at the same time, it protects the integrity of

the laws under which the original land transfer was made.●

By Mr. BENTSEN:

S. 3102. A bill to amend title 28 of the United States Code to set up a regime of repose for certain archeological and ethnological material and cultural property; to the Committee on the Judiciary.

CULTURAL PROPERTY AND REPOSE ACT OF 1982

● Mr. BENTSEN. Mr. President, I am today introducing the Cultural Property Repose Act of 1982. It creates for archeological and ethnological material and cultural property that has been held in the United States for 5 years or more a regime of repose against claims of foreign governments. It would bar a foreign state from bringing or maintaining an action in any State or Federal court, where the action is to recover such property after it had been in the United States for 5 or more years. The legislation is necessary because in my State of Texas some foreign nations are attempting to exploit loopholes in State statutes of limitation—which may apply in Federal actions as well—to attempt the recovery of items, or damages for the theft of such items, that have been held in the United States for many years. Furthermore, the proposed act furthers the purposes of other, current legislative initiatives.

On September 21, 1982, the Senate Finance Committee reported favorably H.R. 4566, title II of which consisted of implementing legislation for the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property. Title II establishes principles for the control of trade in archeological and ethnological materials, as well as certain other cultural material. A companion bill (S. 2963), introduced in the Senate of September 28, 1982, would reverse the holding in *United States* v. *McClain,* 593 F. 2d 658 (5th Cir.), cert. denied 44 U.S. 918, (1979). Specifically, S. 2963 would provide that it would be insufficient to make out a violation of the National Stolen Property Act even to knowingly and unlawfully export archeological or ethnological material from a country that has made a universal claim to ownership of such materials. The proposed Cultural Property Repose Act would complement these pieces of legislation, by setting up a system of repose in civil actions similar to that established by H.R. 4566 as it implements the United Nations convention and by S. 2963 for criminal actions.

Recognizing that S. 2963 and title II H.R. 4566 are the result of careful compromise, I feel sure that upon reflection the Judiciary Committee will find this bill will aid, rather than impair, this progressive compromise. I urge its serious consideration at the earliest possible time.●

By Mr. STAFFORD (for himself and Mr. THURMOND) (by request):

S. 3100. A bill to modify the authority for the Richard B. Russell Dam and Lake project, and for other purposes; to the Committee on Environment and Public Works.

MODIFICATION OF RICHARD B. RUSSELL DAM AND LAKE PROJECT

● Mr. STAFFORD. Mr. President, on behalf of the administration, I am pleased to introduce a bill directing the Army Corps of Engineers to provide electrical power to a town in South Carolina. Because of his great interest in this issue, I am very pleased that the distinguished President pro tempore of the Senate (Mr. THURMOND) is a cosponsor of the bill.

Mr. President, I ask unanimous consent that a copy of the bill, together with a copy of the transmittal letter, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Richard B. Russell Dam and Lake Project, authorized by the Flood Control Act of 1966 (80 Stat. 1420), is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide such power to the City of Abbeville, South Carolina, as the Secretary determines to be necessary to mitigate the reduction in hydroelectric power produced at the city-owned hydroelectric plant at Lake Secession cause by the construction and operation of the Project. Such power shall be provided to the City for a period not to exceed the remaining service life of the city-owned hydroelectric plan as part of the operational requirements and costs of the Project under such terms and conditions as the Secretary, in consultation with the Secretary of Energy, determines to be appropriate. The Secretary of Energy is authorized to provide assistance in the delivery of such power.

DEPARTMENT OF THE ARMY,
Washington, D.C.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of legislation "To modify the authority of the Richard B. Russell Dam and Lake Project, and for other purposes."

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. It is recommended that the proposal be enacted by the Congress.

Purpose of the legislation

The purpose of the proposed legislation is to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide such power to the City of Abbeville, South Carolina, as the Secretary of the Army determines to be necessary to mitigate the reduction in hydroelectric power produced at a City-owned plant caused by the construction and operation of the Richard B. Russell Dam and Lake Project (the Project). The power would be provided to the City without charge for a period not to exceed the remaining service life of the City's plant as part of the operational requirements and costs of the Project under such terms and conditions as the Secretary of the Army, in consultation with the Secretary of Energy, determines to be appropriate.

The City of Abbeville owns and operates a hydroelectric power plant at Lake Secession upstream from the Project on the Rocky River, a tributary of the Savannah River. Impoundments from the Project will generally raise the level of the Rocky River, adversely affecting the operation and maintenance of the City-owned plant. In addition, the rise in water levels will make it impossible to generate as much power at the Lake Secession plant as would have been the case without the Project.

Existing legislation (Section 111 of the Rivers and Harbors Act of 1958, as amended) provides discretionary authority to the Chief of Engineers to protect and preserve the integrity, at Federal expense, of facilities owned by a government agency and utilized in the performance of a continuing governmental function when such facilities would otherwise be adversely affected or threatened by construction of any Federal water resources development project. Pursuant to this authority, the Chief of Engineers intends to undertake certain construction efforts to remedy the impediment to the operation and maintenance of the City's plant. However, Section 111 only envisions construction of remedial works; it does not authorize providing power to mitigate for power losses attributable to the Federal project.

The situation at Abbeville has been closely studied and it has been determined that the cost of remedial construction for power losses is prohibitively high. Estimates of the cost of any construction efforts to correct the power generation problem and allow energy generation as before are in the range of $3 Million to $20 Million. Further, the construction options considered involve state of the art technology and offer no guarantee of success.

The legislation recommended is equitable in that it strives to place the City on the same footing as prior to construction and operation of the Project by providing power from an existing source in a cost effective manner.

Cost and Budget Data

Enactment of the proposed legislation is not expected to have any significant impact on the budgetary requirements of the Department of the Army. The costs associated with this proposal, including the cost of the power delivered and any incidental increases in the operating expenses associated with the actual delivery of the power, will be treated as a part of the joint costs of the project to be allocated among all project purposes. These costs, currently estimated to be approximately $20,000 per year over the remaining service life of the city's plant, are far below the estimated costs of any remedial construction effort to mitigate for power losses.

Environmental and Civil Rights Impacts

Enactment of the proposed legislation will not have any significant environmental or civil rights impacts.

Sincerely

WILLIAM R. GIANELLI,
Assistant Secretary of the Army
(Civil Works).●

Mr. THURMOND. Mr. President, I am pleased to join with my distinguished colleague from the State of Vermont in introducing legislation today at the request of the Reagan administration.

This bill would modify the Richard B. Russell Dam and Lake project so as to authorize the Secretary of the Army to provide such hydroelectric power to the city of Abbeville, S.C., as is necessary to offset any reduction in the amount of power generated at the municipality-owned facility at Lake Secession caused by the construction and operation of the project.

Mr. President, the city of Abbeville has long operated its own hydroelectric power generating facility at Lake Secession. This facility provides low-cost electric power to the people of the city of Abbeville and surrounding communities.

The city of Abbeville and its citizens were enticed to support the Richard B. Russell Dam and Lake project in part upon the promise of the U.S. Army Corps of Engineers that they would be provided power from the project at a cost comparable to that generated by their own facility to compensate for any loss of generating capacity at that facility resulting from the construction and operation of the project. Once the project had gotten well underway, however, the Corps of Engineers determined that they lacked the statutory authority to make good on this promise under the legislation authorizing the construction and operation of the project.

Mr. President, suffice it to say that this revelation had a devastating impact on the confidence of the city and its people in the Corps of Engineers, and caused grave misgivings about the benefits of the project. Many felt as if they had been purposefully mislead into supporting the project, and would now have to pay dearly for this deception.

Mr. President, I do not intend by my remarks to intimate that the Corps of Engineers acted in bad faith in misrepresenting their authority in this matter. I do believe, however, that the time has now come for this situation to be corrected, since the impoundment of the waters at the project should begin reducing the generating capacity of the Lake Secession facility within less than a year.

Mr. President, the legislation being introduced today does no more than give the Secretary of the Army the authority to live up to the commitment made some time ago by the Corps of Engineers. It is intended to modify the legislation authorizing the Richard B. Russell dam and Lake project only so far as is necessary to authorize the Secretary to provide the city of Abbeville a kilowatt hour of power for every kilowatt hour by which the construction and operation of the project reduces the generating capacity of the Lake Secession facility. In this way, all parties involved will find themselves in exactly the same positions as they had originally contemplated.

Mr. President, I hope this noncontroversial legislation introduced at the request of the Reagan administration can be quickly enacted.

By Mr. D'AMATO:

S. 3101. A bill to amend Section 103(b)(3) of the Internal Revenue Code; to the Committee on Finance.

LOW-COST POWER FROM NEW YORK STATE POWER AUTHORITY

● Mr. D'AMATO. Mr. President, I am today introducing a bill which would permit the New York State Power Authority to fulfill its statutory mission of bringing the benefits of lower cost power and energy from its generating facilities to people throughout the State of New York. It is now seriously impeded from doing so by Federal regulations promulgated under section 103(b)(3) of the Internal Revenue Code.

Unlike virtually every other public utility agency in the United States, the Power Authority of the State of New York—which has been in existence for nearly five decades—owns no distribution facilities of its own. Therefore, it is forced to market the output of its facilities through the various public and private utility companies in the State for delivery to the ultimate consumers. The State's seven private utility companies serve more than 95 percent of the electric load in New York.

Industrial development bond (IDB) restrictions, however, treat sales to such utility companies for delivery to the ultimate consumers as sales to "nonexempt persons," even though the power sold to these utility companies is delivered to the ultimate consumers with no markup on the purchase price. Under present law, a maximum of 25 percent of the output generated by facilities financed with tax-exempt bonds may be sold to "nonexempt persons." Consequently, the power authority's ability to market the output of its facilities to the vast majority of the electrical consumers in New York State has been substantially frustrated.

The bill I am introducing today would require that the State's private utility companies be treated as exempt persons under the Internal Revenue Code solely for the very limited purpose of remarketing, without markup or profit, their purchases of the output and their use of the generating facilities owned and financed by the Power Authority of the State of New York. By virtue of such authority ownership and financing, no investment tax credits or accelerated depreciation benefits would be available to any private person or company using the output of these facilities.

The New York State Power Authority is different from similar agencies in other States. It is not authorized to own any transmission facilities. It is required to sell its power at wholesale. It is by far the oldest such authority in the Nation and it is actually mandated by a 1957 Federal statute to sell 445,000 kilowatts of hydroelectricity each year to a specific New York State utility. While the authority's State charter states that it is desirable and reasonable for the authority to sell its power to all of the utilities in the State, this is impossible given current IDB law and regulations.

This bill is essential to insure the maximum benefit to the citizens of New York from the use of the power authority's existing and proposed generating facilities. This bill would permit the authority to make sales of electricity from new and recently built facilities and to continue sales to utilities from the old ones if they should be rebuilt or enlarged. The January 1, 1970, date would assure that uniform rules would apply to the output of all of the authority's facilities.

This bill, which has a negligible effect upon Federal revenues, is vital to my State. It is needed to keep the rates consumers pay for publicly generated power reasonable. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Application of section 103(b)(3) to certain entities. For the purposes of section 103A(b)(3) of the Internal Revenue Code of 1954 (relating to the definition of "exempt person"), the term "exempt person" shall include a regulated public utility having any customer service area within a state served by a public power authority which was required as a condition of a Federal Power Commission license specified by an Act of Congress enacted prior to the enactment of Section 107 of the Revenue and Expenditure Control Act of 1968 (Public Law 90-364) to contract to sell power to one such utility and which is authorized by state law to sell power to other such utilities, but only with respect to the purchase by any such utility and resale to its customers of any output of any electrical generation facility or any portion thereof or any use of any electrical transmission facility or any portion thereof financed by such power authority and owned by it or by such state, and provided that by agreement between such power authority and any such utility there shall be no mark-up in the resale price charged by such utility of that component of the resale price which represents the price paid by such utility for such output or use.

Sec. 2. The provisions of Section 1 hereof shall apply to obligations issued on or after

January 1, 1970 to finance any facility or portion thereof referred to in said Section.●

ADDITIONAL COSPONSORS

S. 2150

At the request of Mr. LEVIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2150, a bill to amend the Social Security Act to provide that the amount of any unnegotiated social security check shall be returned to the trust fund from which the check was issued.

S. 2247

At the request of Mr. PACKWOOD, the name of the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 2247, a bill to amend the Tariff Schedules of the United States to permit the duty-free entry of certain footwear for use in the Special Olympics program.

S. 2355

At the request of Mr. CANNON, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2355, a bill to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service.

S. 2847

At the request of Mr. COCHRAN, the name of the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 2847, a bill to provide for an Indian housing program for construction and financing of housing for Indians, and for other purposes.

S. 3016

At the request of Mr. DIXON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3016, a bill to provide for the public financing of general elections for the United States Senate, and for other purposes.

S. 3047

At the request of Mr. KASTEN, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 3047, a bill to repeal the withholding of tax from interest and dividends and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends.

S. 3048

At the request of Mr. THURMOND, the names of the Senator from Nebraska (Mr. EXON), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the Senator from Wisconsin (Mr. KASTEN) were added as cosponsors of S. 3048, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic and other products with intent to cause personal injury, death, or other harm.

S. 3060

At the request of Mr. HATFIELD, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3060, a bill to amend section 7(b) of the Wild and Scenic Rivers Act.

S. 3064

At the request of Mr. ROTH, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 3064, a bill to amend the Tax Reform Act of 1976 to extend, for an additional 4 years, the exclusion from gross income of the cancellation of certain student loans.

S. 3065

At the request of Mr. PRYOR, the names of the Senator from Arkansas (Mr. BUMPERS), and the Senator from North Dakota (Mr. ANDREWS) were added as cosponsors of S. 3065, a bill to establish in the Department of State the position of Under Secretary of State for Agricultural Affairs.

S. 3071

At the request of Mr. DANFORTH, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Maryland (Mr. SARBANES), the Senator from Michigan (Mr. RIEGLE), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Rhode Island (Mr. PELL), the Senator from New Jersey (Mr. BRADLEY), the Senator from Ohio (Mr. METZENBAUM), the Senator from North Dakota (Mr. BURDICK), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of S. 3071, a bill to increase the funding authorization for low-income home energy assistance.

SENATE JOINT RESOLUTION 215

At the request of Mr. HATCH, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of Senate Joint Resolution 215, a joint resolution to provide that the week beginning March 6, 1983 shall be designated as "Women's History Week."

SENATE JOINT RESOLUTION 263

At the request of Mr. THURMOND, the names of the Senator from Mississippi (Mr. STENNIS), the Senator from Alaska (Mr. STEVENS), the Senator from Idaho (Mr. SYMMS), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Joint Resolution 263, a joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week."

SENATE JOINT RESOLUTION 265

At the request of Mr. DENTON, the name of the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of Senate Joint Resolution 265, a joint resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism."

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. DOLE, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

SENATE RESOLUTION 478

At the request of Mr. DODD, the name of the Senator from Maine (Mr. COHEN) was added as a cosponsor of Senate Resolution 478, a resolution expressing the sense of the Senate with respect to the need to maintain guidelines which insure equal rights with regard to education opportunity.

SENATE RESOLUTION 514—RELATING TO THE SOCIAL SECURITY DATA PROCESSING CENTER IN WILKES-BARRE, PENNSYLVANIA

Mr. STAFFORD, from the Committee on Environment and Public Works, reported the following original resolution, which was placed on the calendar:

S. RES. 514

Whereas the Data Processing Center of the Social Security Administration—located in Wilkes-Barre, Pennsylvania—has responsibility for processing and storing earnings information on millions of people in the American workforce, issuing Social Security number cards to the public, and responding to the public's requests for earnings information, as well as various other tasks, and

Whereas this crucial activity is housed in inadequate space and scattered in three locations which diminish efficiency and productivity, and

Whereas over the past eight years the Social Security Administration has unsuccessfully sought assistance for improved facilities from the General Services Administration, and

Whereas the General Services Administration's proposed solution is very expensive, not in the best interest of the Government, and recommended without adequate study of alternatives and options;

Now, therefore, be it resolved that it is the sense of the Senate that the United States Corps of Engineers shall, in consultation with the Social Security Administration, study the space needs of the Data Processing Center in Wilkes-Barre, Pennsylvania, together with comparison of alternative means of meeting such needs. Such study shall also include a survey of available sites and identification of any such sites that are unfortunately located on a flood plain. The Army Corps of Engineers shall report to the Senate its findings and recommendations as soon as practicable early in the first session of the 98th Congress; Be it further

Resolved, That it is the sense of the Senate that the U.S. Army Corps of Engineers shall, from time to time, study and report to the Committee on Environment and Public Works of the United States Senate on other public building matters as requested by said Committee.

AMENDMENTS SUBMITTED FOR PRINTING

SURFACE TRANSPORTATION ACT OF 1982

AMENDMENTS NOS. 4984 THROUGH 4991

(Ordered to be printed and to lie on the table.)

Mr. SPECTER submitted eight amendments intended to be proposed by him to the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

AMENDMENT NO. 4992

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself, Mr. EAGLETON, Mr. KENNEDY, Mr. TSONGAS, Mr. SARBANES, Mr. RIEGLE, Mr. HEINZ, Mr. SPECTER, Mr. PELL, Mr. BRADLEY, Mr. METZENBAUM, Mr. BURDICK, and Mr. BOSCHWITZ) submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

● Mr. DANFORTH. Mr. President, the winter heating season is upon us, and the need for an increase in funding for low-income energy assistance grows each day. It is the poor and the unemployed who have been hit the hardest by decontrol of energy prices and the skyrocketing price of natural gas. It is the poor and the unemployed who now face with greatest difficulty the burden of disproportionately high energy costs and the increased prospect of utility shutoffs.

Higher energy prices and rising unemployment have increased the need for low-income energy assistance, but we face a situation in which there has been no increase in available funds for this program. Indeed, even if we were to appropriate the full $1.875 billion presently authorized for this program in fiscal 1983, this sum would be less in real terms than the same amount provided for this program in 1982.

In response to the growing need for assistance, Senator EAGLETON and I have introduced S. 3071, legislation to increase the authorized funding level for low-income energy assistance in each of fiscal years 1983 and 1984. This legislation would raise the current authorization level from $1.875 billion to $2.5 billion for each year. This is an increase of one-third above the current level for fiscal 1983—an increase necessary to meet the enormous rise in natural gas and other energy prices over the past year, and to assure that the low-income energy assistance program will be able to meet the growing need for aid.

Mr. President, Senator EAGLETON and I intend to press for action on this legislation now, before the end of this lameduck session. We are prepared to offer this proposal as an amendment to other pending legislation sometime this week.

The urgent need for such immediate action is made clear by two newspaper articles that appeared over the weekend. The first, an article in yesterday's New York Times, states that due to increased energy costs and the current unemployment situation utility shutoffs are on the rise. This article indicated that as many as 300,000 households may face involuntary gas disconnection this heating season if there is no increase in low-income energy assistance to meet the growing need for help.

The second article, in Saturday's Washington Post, shows that the need for increased low-income energy assistance is not limited to the Midwest region of the country. According to this article, Virginia has closed its doors to new applicants for low-income energy assistance because it no longer has the money to help them; there has been a 25-percent increase in applications this year in Virginia, but the State's Federal allotment is not large enough to assist them.

Mr. President, I urge my colleagues to read these articles and I ask unanimous consent they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 12, 1982]

UTILITY SHUT-OFFS REPORTED ON RISE

(By Iver Peterson)

TAYLOR, MICH., December 10.—Sharply rising prices for gas and electricity, cuts in welfare benefits and rising long-term unemployment are making more people than ever fall behind on their utility bills, leading to record numbers of utility shutoffs.

There will be 300,000 involuntary gas disconnections this heating season as against 260,000 last year, according to a survey of state public utility commissions and utilities by the Citizen/Labor Energy Coalition, a nonprofit consumer group.

"There's just a lot more people going into this winter without any fuel than we've ever had in the past," said Charles Hill, managing attorney for the National Consumer Law Center in Washington. "There's going to be a lot more people doubling up; there's going to be more people using their oven, and if this is a cold winter there's going to be a great number of people in a great deal of trouble."

Larry and Patricia Mae Harwood are already in trouble. The Detroit Edison man came last week and disconnected their electric hookup at the pole, causing the furnace to go off. By that evening their house was already cold; by the next morning it was near freezing. They have gone back to wearing long johns, piling up blankets, snuggling the grandchildren, Heather and Duane, between them in bed, and leaving the oven on all the time, all to try to keep warm in the deepening winter.

"I got behind on my rent, I didn't have food in the house, I was behind on my gas," Mr. Harwood said, "and I tried to pay a little on each one, but the money just wasn't there anymore, and finally they just shut off the lights."

The kind of problem being experienced by Mr. Harwood, a 39-year-old former welder who says his ulcers prevent him from working anymore, is especially severe, not surprisingly, in Northern states where the winters are colder and where the economic slump and high unemployment have left more people pinched for cash.

There are already 25,000 homes without heat or electricity in Ohio; over 9,300 homes have no gas in Detroit and the rest of the southeastern Michigan, and gas to 1,500 homes has been disconnected just in the west end of Louisville, Ky.

HEATING COSTS UP SHARPLY

In the New York metropolitan area, where the proportion of people living in apartments is much higher than in the Middle West, the problems of heatless winters are most often a result of landlord neglect because of the cost of heating oil, which has risen nearly a nickel a gallon over the last few months alone.

As for the urban homeowners, the city of Trenton, N.J., recently provided a typical report on their plight to the United States Conference of Mayors.

The report found a rising number of people in Trenton who could not afford weekly heating costs of $100 to $225 in the city's aging, uninsulated housing stock, yet earned too much to qualify for Federal home heating programs.

"Therefore, many families, particularly those facing unemployment, cannot afford heating," the Trenton report said.

RESTRAINING UTILITY SHUT-OFFS

States in this region are responding to the developing emergency of cold and dark homes by placing restraints on utility shutoffs. Ohio's Public Utilities Commission last week ordered a moratorium on utility shutoffs until April 1, and declared that any of the 25,000 homes currently without gas or electricity could be reconnected if the residents paid $200 toward their overdue bills.

Michigan's utilities are restrained from shutting off gas to elderly customers or to those on public assistance until next spring, although homes with services already shut off, like the Harwoods' in Detroit, are not covered by the ban.

The Federal Government's Low Income Home Energy Assistance Program exists to help people in such a bind, but its appropriation has not been increased this year to account for the expected increase in demands for help.

Luther Flanagan, director of the Metropolitan Wayne County Community Services Agency here in suburban Detroit, illustrated how increased demand around Michigan has affected his office's allotment from the Federal program.

"In 1978-79 we got $800,000 for the heating program and this year we will get $152,000," he said, "and look at what has happened to gas prices and unemployment in the meantime. We don't start processing applications until Monday and people are already trying to line up to apply. It's just tragic."

The fuel assistance money will not, in any case, be available for disbursement until the first of January.

UTILITIES FACE DILEMMA

For their part, utilities are hardly eager to cut off service to nonpaying customers, especially in winter time.

"We'd much rather keep them as a customer than shut them off and we work hard with them to get them on a program of pay-

ments that they can manage," said Richard W. Zimmin, vice president for public affairs at Michigan Consolidated Gas Company in Detroit.

Indeed, what blame consumer activists place on utilities this winter is not on their shut-off policies but on their gas purchasing agreements. Many utilities, including MichCon, as the Detroit utility is known, are bound by contracts that commit them to pay for a fixed amount of gas whether they actually use it or not.

These contracts have forced gas prices up 20 to 50 percent this winter, although demand is down and the utilities, if freed from these contract, could find cheaper fuel on the market.

A measure has been introduced in the current special session of Congress to release utilities from these clauses so they can shop for the least expensive gas they can find. In another effort to ease the plight of consumers, an amendment to the gasoline tax increase bill in the Senate has been proposed that would freeze or roll back natural gas prices.

But for Larry and Patricia Harwood, the parents of two teen-agers, gas is not the problem. As recipients of Aid to Families with Dependent Children for the custody of their two grandchildren, their gas is protected against cut-off, regardless of the $312.56 they owe MichCon.

Electricity, however, is a different matter. There is no ban on electricity shut-offs, and without electricity their forced-air furnace will not operate.

When Detroit Edison first turned their power off at the meter last week, "we froze for four days and then I turned it back on myself," said Mr. Harwood. "It's not that hard to do. I hear a lot of people are doing it. But now they've turned it off at the pole, and they want $175 just to reconnect it. And where am I going to get $175?"

[From the Washington Post, Dec. 11, 1982]

100,000 COULD LOSE FUEL AID IN VIRGINIA

(By Michael Isikoff)

RICHMOND, December 10—Virginia's fuel assistance program, which has subsidized the heating bills of low-income residents for the past four winters, closed its doors to new applicants today because the state no longer has enough money to help them.

The action, coming on the eve of winter, means that as many as 35,000 qualified households, or more than 100,000 people, could lose fuel aid payments of up to $700 a household, state officials said. Some of the most severely affected may receive special one-time "emergency" payments of $150, although the standards for eligibility will be far stricter.

"We've had so many people apply that we basically ran out of money," said Richard Martin, Department of Social Services spokesman.

Today's action, which caught local welfare officials off guard, was forced by a 25 percent jump in applications this year, apparently caused by higher unemployment. Since the program opened its doors Nov. 1, the state had processed so many applications that its entire $28 million federally funded allotment was gone. The state had originally intended to take applications through March 31.

"This could be real serious," said James Dimitri, a staff attorney with the Virginia Poverty Law Center in Richmond. "I think you could see people forced out of their homes. The elderly will be particularly affected. . . . You can imagine some people in a situation where they're not going to have any place to turn."

Most Northern Virginia officials, however, were reluctant to predict the severity of the problem other than acknowledging that hundreds of eligible households will be deprived assistance. Verdia Haywood, deputy Fairfax County executive for human services, estimated that more than half of the 1,100 to 1,400 households he expected to serve this year will be affected.

"It's really too early to tell how serious this is going to be," Haywood said. "Obviously weather conditions are going to be a factor."

In the event there is a harsh winter, the ability of the state's emergency program to help pay heating costs will be limited. Standards for qualifying for the emergency funds are also more restrictive. Under the regular program, recipients could have up to $1,500 in the bank. Under the emergency program, they can have $500.

Payments from the state's $3 million emergency aid fund also will be made only to persons who are out of fuel or who have received a cut-off notice from suppliers.

"We're going to be facing the whole question of what to do with people in January or February who need assistance but don't qualify for the emergency program or, if they do, what to do if the emergency payments aren't enough," said Douglas Smarte, the fuel assistance administrator in Arlington.

Although created by Congress and funded by federal grants, the low-income fuel aid program is administered by each state. In Virginia, eligibility is determined by a formula that considers income, geographic location and type of heating fuel. A family of four in Northern Virginia can earn up to $13,950 and still be eligible.

Last year, the program subsidized the fuel bills of slightly more than 100,000 families with payments averaging $240 each. In most cases, the payments were made directly to the fuel supplier.

This year, although overall funding remained the same, the state has limited assistance to about 90,000 households, because the average payment jumped to $320, primarily because of more applications from the jobless. Most of the increase has come from those areas with high unemployment, such as the state's far southwest.

"It looks as though the people who are applying have less money," said Martin. He said a total of 3,785 Northern Virginia households received payments under the program last year, though no figures are available on the number of Northern Virginia households that will receive benefits this year.●

SUSPENSION OF CERTAIN DUTIES

AMENDMENT NO. 4993

(Ordered to be printed and to lie on the table.)

Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill (H.R. 4566) to reduce existing duties, to suspend temporarily certain duties, to extend existing suspensions of duties, and for other purposes.

SURFACE TRANSPORTATION ACT OF 1982

AMENDMENT NO. 4994

(Ordered to be printed and to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 4995

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. MATHIAS, Mr. KENNEDY, Mr. INOUYE, Mr. DODD, Mr. PELL, Mr. PRESSLER, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. RIEGLE, Mr. BAUCUS, Mr. EAGLETON, Mr. PRYOR, Mr. PROXMIRE, and Mr. MELCHER) submitted an amendment intended to be proposed by them to the bill H.R. 6211, supra.

AMENDMENT NO. 4996

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself, Mr. EAGLETON, Mr. SARBANES, Mr. RIEGLE, Mr. DIXON, and Mr. BOSCHWITZ) submitted an amendment intended to be proposed by them to the bill H.R. 6211, supra.

AMENDMENT NO. 4997

(Ordered to be printed and to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 4998

(Ordered to be printed.)

Mr. BAKER (for himself, Mr. DOLE, Mr. STAFFORD, Mr. GARN, and Mr. PACKWOOD) proposed an amendment to the bill H.R. 6211, supra.

AMENDMENTS NOS. 4999 AND 5000

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN submitted two amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5001

(Ordered to be printed and to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5002

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NOS. 5003 AND 5004

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted two amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. BAKER to H.R. 6211, supra.

AMENDMENT NO. 5005

(Ordered to be printed and to lie on the table.)

Mr. BOREN (for himself, Mr. WALLOP, and Mr. PRYOR) submitted an

amendment intended to be proposed by them to the amendment No. 4998 proposed by Mr. BAKER to H.R. 6211, supra.

AMENDMENT NO. 5006

(Ordered to be printed and lie on the table.)

Mr. SARBANES submitted an amendment intended to be proposed by him to the amendment prepared by Mr. BAKER No. 4998 to the bill H.R. 6211, supra.

AMENDMENT NO. 5007

(Ordered to be printed and lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5008

(Ordered to be printed.)

Mr. METZENBAUM (for himself, Mr. ROBERT C. BYRD, Mr. RIEGLE, Mr. HUDDLESTON, Mr. SASSER, and Mr. RANDOLPH) proposed an amendment to the amendment No. 4998 proposed by Mr. BAKER to the bill H.R. 6211.

AMENDMENTS NOS. 5009 AND 5010

(Ordered to be printed and to lie on the table.)

Mr. NICKLES submitted two amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5011

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself and Mr. RIEGLE) submitted an amendment intended to be proposed by them to the amendment No. 4998 prepared by Mr. BAKER to the bill H.R. 6211, supra.

MEETING THE TRANSIT NEEDS OF HANDICAPPED AND ELDERLY PERSONS

Mr. CRANSTON. Mr. President, I submit for printing a germane amendment to the pending Baker amendment and ask unanimous consent that the text of the amendment be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, this amendment, which is cosponsored by the distinguished ranking minority member of the Banking Committee (Mr. RIEGLE), is designed to provide for fair and equitable treatment of handicapped and elderly persons in the context of our Nation's public mass transit systems. Specifically, this amendment would authorize—authorize but not require—the Secretary of Transportation to set aside for handicapped and elderly transit purposes 3.5 percent of transit capital infrastructure program funding. This is the same percentage that the Secretary may, under the Baker amendment, set aside for that purpose out of discretionary capital assistance funding under section 4(a)(3)(A) of the Urban Mass Transit Act as it is proposed to be amended.

Second, our amendment would require the Secretary of Transportation to issue regulations establishing criteria for handicapped and elderly transportation services under section 16 of UMTA—which declares national policy regarding mass transit services for handicapped and elderly persons—and section 504 of the Rehabilitation Act of 1973—which prohibits discrimination against handicapped persons in federally assisted programs.

Mr. President, if the Congress is going to provide a multiyear extension of the mass transit program and if the Congress is going to levy a 5-cent gas tax, with a portion of those revenues dedicated to the transit capital infrastructure, I believe we should adopt this amendment to help assure that the transportation needs of our Nation's handicapped and elderly citizens receive a modicum of fair treatment under these programs.

Mr. President, I have long been deeply concerned that federally assisted transit systems must deal fairly and adequately with handicapped and elderly citizens. Ultimately and ideally, I believe that transit systems should be fully accessible to handicapped and elderly persons, including those who must use wheelchairs. However, I recognize that it is not now feasible to gain approval of legislation that would provide a full guarantee of eventual accessibility.

On the other hand, I am convinced that the current situation is most unsatisfactory and that we should not leave it unchanged. On July 20 of last year, the Secretary of Transportation rescinded regulations that had been promulgated under section 504 of the Rehabilitation Act of 1973 and related statutes and that set forth specific standards by which federally assisted transit systems would be required to move closer to full accessibility. In place of those regulations, the Secretary issued an interim rule that requires only that federally assisted systems certify themselves—subject to no Transportation Department monitoring—that they are making so-called special efforts, and that establishes no national standards or criteria by which those efforts are to be gaged.

This local-option, self-certification, self-policing process is no more than a "paper-game" farce. It is not even a "paper tiger." It is a "paper kitten."

In essence, these regulations are a total abdication of Federal responsibility for protecting handicapped persons from discrimination and inadequate service.

Indeed, the Department of Transportation came close to recognizing this fact when, on January 13 of this year, it published a Federal Register notice indicating that its interim final rule was being considered. In that notice—published some 6 months after the interim rule—the Department stated that the disadvantages of the interim rule's approach "are that it leaves some transit operators unsure of what they should do and that it may permit some transit operators to make minimal transportation services available to handicapped persons." In addition, the Department noted that "without any substantive Federal criteria, the quality of transportation services offered to handicapped persons might be inconsistent or quite low in some areas."

That is the Department of Transportation talking, not me.

I believe it is clear that the reservations expressed by the Department about its own approach are understatements of the problem. On January 27 of this year, four other members of the Banking Committee and I asked the Comptroller General of the United States to conduct a survey of transit services under the interim regulation. Although the survey had to be done quickly in order for the results to be available in time for the committee's consideration of the transit bill last spring—and the GAO noted that the results may not be valid nationwide—I believe that report is very valuable and presents some very disturbing information regarding the effects of the interim rule. The survey covered 84 transit systems in 33 States and the District of Columbia, and the data came from the transit operators themselves.

The survey data showed that of the 83 systems surveyed that provided bus service, only 30 now intend to have 50 percent or more of their buses lift equipped.

Nineteen systems that had ordered lift-equipped buses before July 20, 1981, canceled their orders for lifts after the interim regulations were issued. A total of 707 new buses were thus rendered inaccessible almost overnight.

Of the 35 systems that had placed new orders for buses after July 20, 1981, 15 ordered not a single lift-equipped bus.

These statistics show an unmistakable, sharp backing off from the provision of accessible bus service.

Are there countervailing data showing that what handicapped persons are losing in the way of accessible bus service is being made up in useful paratransit services—so-called demand-responsive services? Clearly not. The GAO report data on paratransit services shows that of the 84 systems surveyed, only 66 offer any paratransit service; and of those 66, 22 have waiting lists of people who want to use the service for daily commutes; 61 require 24 or more hours advance notice; 38 set service priorities by trip purpose; and only 6 could say that they don't deny requests for service.

Compared to the bus service that these 66 systems operated, the paratransit service hours of operation were shorter in 45 systems; paratransit services were operated fewer days of the week by 35 systems; and the geographic area covered by paratransit services were less extensive in 15 cases. Incredibly, in the cases of 20 systems, over 25 percent of their paratransit vehicles are not accessible to people in wheelchairs—and in 11 systems more than half of their paratransit vehicles are not accessible.

Mr. President, I want to emphasize that these data came from the transit operators themselves in the context of a GAO survey. Thus, it is fair to say that they accurately reflect the situation and are not skewed against the transit systems.

Also, earlier this fall I asked that a check be made as to whether these data continue to reflect the current situation. As a result, GAO accomplished a limited followup on its earlier survey and, in a November 30 letter to me, stated that it had "found that very few changes had been made in the characteristics of the transit systems' special transportation services since April."

Mr. President, the GAO also reported in April that, since the time that the local-option approach had been adopted in the interim rule, the Department has done very little to administer that rule and has provided almost no guidance or assistance to transit system operators regarding the requirements of the rule; and that UMTA regional and headquarters officials planned no active monitoring of transit operators to determine compliance. The GAO also pointed out that only those complaints alleging a consistent pattern of failure to make special efforts will be investigated by the Department's Office of Civil Rights.

These GAO findings clearly indicate a most unfortunate situation in which the Department of Transportation's hands-off, local-option, self-certification, no-monitoring, and no-criteria position is transforming the antidiscrimination laws into hollow congressional symbols. And it is not just that accessible bus service is fast becoming a lost hope in many parts of the country; the special services—paratransit—for handicapped persons are proving to be unsatisfactory. Just imagine, if you need to use a wheelchair, the enormous barriers you would face in using those services as others use the bus or subway. If you need transportation to get to a new job, you may lose that job because you have been put on a paratransit waiting list. If you need to get to a medical clinic or doctor's office, even if you have given more than 24 hours' notice, you might be turned down because the paratransit service has insufficient capacity. If you used a paratransit service to get to a Government office to conduct business, you may learn upon arrival that despite what you had been told by phone or letter, you need to go to another office a few miles away in addition to or instead of where you had gone. Obviously, in most places, you cannot use the paratransit service to complete your business that day or even the next; you have got to go back home and make a new request with a day or more advance notice.

The present course is clearly not the answer. Not only are we headed toward affording handicapped and elderly persons third-class treatment, but we are frustrating our own efforts to rehabilitate people, help them get back into productive activities, be more independent, and get off of disability and welfare rolls. Mobility is certainly critical to these efforts, and it is a tragic waste to fund vocational rehabilitation programs and then frustrate those rehabilitation efforts by failing to insure that we continue to make progress in enabling disabled persons to find and to get to and from work.

In this amendment, I am not proposing an enormously costly burden for transit systems or requiring an immediate return to the controversial, tough standards that were in place before July of 1981.

I do believe, however, that it is essential that we turn the system around and get back on the right track. My amendment would deal in a modest fashion with some of the major problems that the GAO report identified and that the Department of Transportation has acknowledged. The four parts of our amendment are as follows:

First, it would require the Secretary to establish national criteria for providing handicapped and elderly persons with comparable, usable transportation services. In this regard, I would note that the Secretary would have broad discretion to formulate those criteria, and I'm not sure that I or many others deeply concerned about these issues would necessarily be satisfied with the criteria that the Secretary would develop. But I believe it is even less productive to have regulations implementing section 504 and UMTA section 16 that set no minimum standards, no bottom lines.

How can we have declarations of national policy, as we do in UMTA, that elderly and handicapped persons have the same right as other persons to use mass transit services and that special efforts shall be made in the planning and design of those services so that the availability to elderly and handicapped persons of services they can use will be assured and, at the same time, condone Federal regulations saying that federally assisted programs have no specific obligations other than to file a piece of paper—subject to no verification—simply stating they are making special efforts?

Second, our amendment would require the Secretary to establish some procedures for the Department to monitor and insure compliance with the criteria he would establish. The situation disclosed by the GAO report is totally unacceptable from the standpoint of the Department's current attitude and inactivity with respect to monitoring what services are being provided.

Third, should not any flexible system that leaves considerable discretion to local transit operators assure that representative organizations of handicapped and elderly persons will have meaningful opportunities to participate in the process of planning and carrying out the services to meet their needs? The GAO report indicated that this consultative process is not adequate. Our amendment would help give these groups an opportunity on the local level to make their needs known and to be consulted on how they are to be met.

Fourth, recognizing that the proposed gas tax would provide a new source of funding for transit capital improvements, this amendment would authorize—but not require—the Secretary of Transportation to set aside a modest portion of that new funding for capital improvements specifically for the purpose of enabling the needs of elderly and handicapped persons to be met. In this connection, I urge my colleagues to keep in mind that, as the GAO report shows, transit services for handicapped and elderly persons are in very bad shape in some localities. These funds could be well spent to help correct that situation.

In view of the nonavailability of mass transit services for handicapped persons, many of them are forced to rely on private automobiles and taxicabs. Thus, they will be paying the new gas tax—directly or indirectly. Isn't it only fair that some of these revenues be dedicated to meeting their needs?

Let's not literally leave these deserving individuals behind. Through the adoption of this amendment, we can show them that the Senate cares about their needs and is willing to make some provision for helping to meet them.

In summary, our amendment would deal with four vital aspects of handicapped and elderly transportation issues while still retaining the philosophy of granting broad discretion to local systems in the design and implementation of their programs. It would provide disabled and elderly persons with some fairness, some participation in the process, some Federal accountability, and an opportunity to share in some of the new tax revenues they must pay. It would leave great flexibil-

ity to the Secretary of Transportation to set the criteria and establish procedures for monitoring. But it would not permit the Federal Government to shed entirely its responsibilities—to abandon vast numbers of physically impaired persons to a future like the past they have known—one in which they were excluded, as no citizen should be, from the mainstream of our society and the opportunities that adequate transit services can and should open up for them.

I urge my colleagues to support this amendment.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 5011

The amendment of Mr. Baker is amended as follows:

On page 133, lines 6 and 7, strike out the comma and "3.5 per centum'." and insert in lieu thereof "and section 314 of the Federal Public Transportation Act of 1982, 3.5 per centum', and by adding at the end of the following new paragraph:

"'In carrying out subsection (a) of this section, section 165(b) of the Federal-Aid Highway Act of 1973, and section 504 of the Rehabiliation Act of 1973, the Secretary, not later than 90 days after the date of the enactment of this paragraph, shall publish in the Federal Register for public comment, proposed regulations and, not later than 180 days after the date of such enactment, shall promulgate final regulations, establishing (A) minimum criteria for each recipient of Federal financial assistance under this Act or the Federal-Aid Highway Act of 1973 to provide handicapped and elderly individuals with transportation services that such individuals can use and that are the same as or comparable to those which such recipient provides to the general public, and (B) procedures for the Secretary to monitor and ensure compliance with such criteria. Such regulations shall include provisions for ensuring that organizations and groups representing such individuals are fully consulted by such recipients in the process of determining and carrying out actions to provide such transportation services to such individuals.'".

AMENDMENT NO. 5012

(Ordered to be printed and lie on the table.)

Mr. CRANSTON (for himself and Mr. HAYAKAWA) submitted an amendment intended to be proposed by them to the amendment No. 4998 to the bill H.R. 6211, supra.

AUTHORITIES FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. McCLURE. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Tuesday, December 14, at 2 p.m., to hold a hearing on S. 2811, a bill to extend the restriction of water resources project construction for 1 year on the Tuolumne River, Calif.; and S. 3060, a bill to amend section 7(b) of the Wild and Scenic Rivers Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT

UNJUST REMOVALS FROM DISABILITY ROLLS

● Mr. LEVIN. Mr. President, I would again like to call the attention of my colleagues to the unnecessary hardships which title II social security beneficiaries are forced to endure under the continuing disability review process.

Every day I learn of additional severely disabled Americans who have been unjustly removed from the disability rolls, only to have their benefits reinstated after a lengthy and time-consuming appeals process. During the appeal, these disabled persons receive no benefits. Consequently, many must exhaust their life savings in order to survive from the time their benefits have been terminated, until the time that they are reinstated by an administrative law judge.

Mrs. Antoinette Bates, of Bogalusa, La., lost her house and car after losing disability benefits for herself, and her two daughters, Elena, 11, and, Andrea, 9. In order to survive, Mrs. Bates and her family were forced to move to California to live with relatives.

Mrs. Bates was placed on social security disability in June 1969. Her condition was a subluxation of the hip, (congenital hip deformity). Since that time, Mrs. Bates has been diagnosed as suffering from scoliosis, cholitis, and cervical cancer. At first, Mrs. Bates was able to walk with the help of crutches, but now she is confined to a wheelchair.

On May 3, 1982, Mrs. Bates' social security benefits were terminated. At this time, she was in the hospital being considered for a total hip replacement. Social security terminated her benefits due to, what they considered, "a lack of an adequate medical workup," but had not even directed Mrs. Bates to undergo a consultative examination.

On September 22, 1982, an administrative law judge overturned the termination of Mrs. Bates' benefits on the basis of her medical record alone. He saw no need for a hearing, given the evidence already in her case file. Her disability was that obvious.

Although the decision to reinstate her benefits was made over 2 months ago, Mrs. Bates has yet to receive a check from the Social Security Administration.

Mr. President, the way in which these reviews are being conducted and the injustices that result are a disgrace to this country. Our disabled former workers deserve better than this. It is critical that Congress pass legislations in this lameduck session to remedy this outrageous situation. That is why I urge the House to give prompt consideration to H.R. 7093, which passed the Senate last Friday, so that legislation can be approved by the Congress before we recess.●

SOCIAL SECURITY DISABILITY REFORM

● Mr. HEINZ. Mr. President, a vexing problem continues to plague us as legislators as well as thousands of individuals who are social security disability insurance beneficiaries. Too many benefits are being terminated for too little cause. This body has now approved emergency legislation to alleviate the most egregious errors in the system, while a comprehensive approach to disability review procedural reform is being worked out. Although the bill is not perfect, the House can enact the perfecting amendments, as the following editorial from the Philadelphia Inquirer recommended on December 8. This issue must be resolved during the lameduck session and the emergency legislation sent to the President before we adjourn.

I ask that the editorial from the Philadelphia Inquirer be printed in the RECORD.

The editorial follows:

[From the Philadelphia Inquirer, Dec. 8, 1982]

PROTECT RIGHTS OF DISABLED

The "horror stories" (as Sen. John Heinz called them) kept coming out. There was the 47-year-old man with heart disease, who, six months after the Social Security Administration declared him no longer eligible for disability benefits because he was fit for work, died of a heart attack.

There was the 45-year-old woman who, about to be advised by the Social Security Administration that she could work even though she had two types of cancer, died of cancer two days before the notice was mailed.

There were several such cases of people who, as Sen. Heinz put it, appeared to have died of the very disabilities which SSA believed were not sufficiently serious to keep them from working. There were other cases of people who committed suicide when their disability benefits were cut off.

Yet these were only the spectacular horror stories. There is another. In its zeal to save money, the SSA has been cutting people off the rolls first, on the basis of evaluations of paper rather than of the people themselves, and then allowing them to appeal—shooting first and asking questions later—and it has been reversed on appeal in two-thirds of the cases.

Meanwhile, the people are without income. That, in most cases, doesn't save money. It simply transfers costs from the federal program to welfare programs at the state level.

The SSA has insisted that its procedures have been in accord with the law, but the results plainly were not the intent of Congress in requiring a review of disability cases.

Now the Senate has passed legislation designed to protect the rights of individuals receiving disability benefits, pending a more comprehensive look at disability in the next session. The bipartisan bill would no longer require a review every three years of every one of the nearly three million cases of "nonpermanent" disabilities. It would continue benefits during appeal until an administrative law judge makes a decision based on a hearing at which the claimant is present.

At the last minute, Sen. Russell B. Long (D, La) tagged on an amendment that would allow benefits to be taken away even though there is no medical evidence of improvement in the claimant's condition. The House Ways and Means Committee ought to remove the Long amendment before sending the bill to the floor, where the House should approve it before adjournment.●

OUR COUNTRY'S HEALTH SYSTEM

● Mr. DURENBERGER. Mr. President, on October 23, 1982, Irving Shapiro delivered an address marking the 100th anniversary of Abbott Northwestern Hospital in Minneapolis, Minn. Mr. Shapiro recently retired as chief executive of E. I. du Pont de Nemours & Co., and he now practices law and serves as chairman of Du Pont's Finance Committee.

In his speech, Mr. Shapiro demonstrates remarkable insight into the workings and problems of our country's health system. He paints a painfully clear picture of the choices that face us. Without greater involvement by the private sector, without a realining of financial incentives and, without leadership from within the health professions, we will be left with an overregulated, inefficient, two-tiered system of health care which is expensive and serves no one well.

Mr. Shapiro's speech has already attracted national attention. It deserves to be read and reread, for it is clearly one of the most thoughtful discourses on health to appear in a long time. I urge my colleagues and my fellow Americans to read it carefully. I ask that it be printed in the RECORD.

The speech follows:

HEALTH CARE, THE PRICE OF SUCCESS

Health care has become a right in our society. There is no longer a question that an individual who is seriously ill or badly injured is entitled to reasonable medical care, whether able to pay for it or not. The questions are all of degree: How sick? How badly hurt? How much care?

We ought to be proud of the fact that we do look upon this as a right and not a privilege that could be withheld. It fits our sense of community and our constellation of values. It goes well with the notion that a society can fairly be judged by the way it treats its neediest and most vulnerable citizens.

It is also a compliment of a high order to the professionals dispensing health care and to the enormous supporting cast working with them. Included are prople in research, medical education, and health management; the people who produce pharmaceuticals, diagnostic tools and other goods or services for health care; and the unsung people who caused the hospitals and nursing homes to be built.

The occasion of the centennial of a hospital as renowned as Abbott Northwestern is an appropriate time to remind ourselves that the nation has a high quality health care system, a work of many decades and countless sacrifices. It is only because so many people have done their work well that society has the luxury of regarding health care as a right. Not incidentally, this is also a tribute to an economic system that pays the bills and gives us the ability to deliver on this kind of social contract.

Success has a price, though, and the price is going up. As we are continually reminded, health care costs have been rising more rapidly than the rate of inflation, and more rapidly than the average individual's disposable income. The national health care bill is about $300 billion and represents close to 10 percent of the gross national product. It was about 5 percent a quarter century ago.

To put this in perspective, there has been a great deal of public attention to national defense and to the Federal budget increases this year, but the nation spends tens of billions more for health care than for defense. Consider the money going to some other programs where the Federal Government is an important factor though not the only one: pollution control, education, housing, community development, transportation, energy programs, and international affairs. The Federal spending on health care alone is nearly as great as the Federal support for all those areas put together. By any measure, health care is a gigantic societal commitment.

Unless the trend line is changed, health care costs will continue to rise faster than the nation's economy. One driving factor is the increasing number of people age 65 and over. Understandably, older people have a disproportionately large call on medical help. The elderly now account for about 11 percent of the population but demand almost 30 percent of all health care resources. Partly for that reason, medicare and medicaid expenses, which more than doubled in the past five years (to $73 billion in 1981), will double again by 1986, absent major changes in programs.

Given those numbers and their implications, I would argue for two points:

First, we must rearrange the incentives within the system. The way it is set up now is topsy turvey. All the logic is to spend more without sufficient concern for how much good it does. The payment system was designed to favor cure but not prevention. It rewards professionals for providing more services, but provides no rewards for exercising constraint. If we do nothing else to change health care services in the next decade, we should reverse the incentives to give the individual a direct stake in cost containment.

We have passed the time when it makes sense to have rules which permit an individual to be compensated if his problem is attended to in a hospital, but deny payment if the problem is solved, probably at lower cost, through home care. It is also time to challenge payment schemes which make the elderly more dependent on nursing homes than some of them need to be, and give no incentive for sheltered living arrangements that fall short of full nursing.

We have to be clear about our objectives. What counts is the outcome as measured by the health of people, not the amount of medical or nursing service provided. The two are not the same, or always correlated.

Second, we must recognize that problems associated with health care are societal in nature and cannot be solved within the health care industry alone. All major groups in society should help to set the priorities and manage this national resource better. Unless all of us do participate, the reform efforts are likely to center on details instead of the larger issues.

There is concern now about the Federal role, as well as there should be. Medicare, like the Social Security system, is going to run out of money. Something must be done, and the Federal Government has recently taken action to constrain its future spending. Unless the economy moves and gets at the heart of the problem, though, the burdens will fall unfairly on the poor and the elderly, or simply be dumped on other segments of society. The question of equity for the needy must be addressed with compassion and wisdom, or we will have broken faith with ourselves. Should that happen, there probably will be renewed pressure for a national health insurance scheme. That would be the worst of all possible solutions but it is not beyond inagining politically.

In a longer time frame, it is not the Federal Government but the private sector that is in the best position to provide the lead in improving the health care system. The most underused tool of all is the private corporations which pay for all or most of the medical expenses of their employees. It is time for more of those companies to become active, to demand more for what they are buying, and to change some of their own habits that keep the system running in its old ruts. On their own and in cooperation with others, corporations should be promoting alternative systems for delivery and payment, encouraging conservative health care practices, educating their employees to the need for changes (they have a large stake in this, too) and developing other programs that relate to cost containment and utilization of services.

Recently, through the Business Roundtable, more than 160 large corporations have agreed to try some additional steps along this line. Throughout the country, local and regional health care coalitions have sprung up in recent years, usually with business' help. Minnesota's example is a good one. Those are steps forward, but many companies are still at the handwringing stage. What is needed from them is informed action. What is needed as well is support throughout the private sector for changes in laws and regulations to take physicians and nurses off the defensive when they do call for less than maximum intervention.

In terms of health care costs, there is not much doubt about the villain of the piece. It is not the medical technology in the hospitals that is responsible for the cost runups. Properly applied, technology can reduce costs. It can make diagnosis more efficient and the management of treatment more effective. Nor is it the poor on public assistance who are responsible for most of the increase in the overall health bill. Medicaid, the program for the needy, is unquestionably expensive—well over $30 billion in this fiscal year—but even so, it is only 11 percent of all health care costs. Large savings in costs in the future cannot be achieved by squeezing the neediest 10 percent of the population.

The unit to be dealt with is the middle-income majority covered by private or governmental health insurance programs, mostly through arrangements which reimburse doctors, hospitals, and nursing homes

for whatever services they perform, and usually covering the patient from the first dollar onward. That is where the money goes—two-thirds of that $300 billion.

There is nothing to gain by blaming the doctors. To be sure, they are the people who order the services that can be costly, but as one physician said in a recent issue of a Massachusetts medical journal, blaming them for the high cost of medical care is like blaming the pilot for the cost of the airplane fuel. It is a loose analogy but not a bad one. People want to go coast to coast in a hurry, and the price of that is 747 plus 60 tons of jet fuel. Many people want the equivalent of 747 health care. Doctors and nurses try to oblige them, and for that they deserve no blame.

The difference is with us, the passengers. When we fly we pay; but when most of us call on medical service, the system makes it appear that somebody else is paying for the tickets. It is this that has helped to double the intensity of use of health care facilities in the past dozen years or so, and increased the number of physicians and (more dramatically) the number of other people working in hospitals and nursing homes (the two institutions together account for nearly one-half of all health care spending). The question is not whether all this medical attention is a social good. It does help people. The question is whether the present system encourages the wisest and most prudent use of resources; and the answer has to be, "No."

There is also an element of business responsibility here. After all, there are still many private health care plans that will reimburse patients only if they are admitted to hospitals, and not if they are treated in doctors' offices. Where would you want to go for treatment in that situation?

Enough of finger pointing. To drag out the old line from Pogo, we have met the enemy and he is us. Nothing much else will happen that is good unless this is acknowledged, and the incentives are turned in favor of more careful, personal stewardship by each of us.

There is no magic number for health care that is right and proper. Is 10 percent of GNP too much or too little? Who knows? It all depends on one's sense of the scale of unfilled needs at a point in time, and on a judgment about the competing claims for the same dollars. Suppose we did cut back on health care spending. Where would we put the billions of dollars we saved, and would the outcome be better or worse for the country?

Like any numbers game that has to be played in the real world, this one is loaded with subjectivity, not to say politics. One man's expense in the health care world is another man's income—and this is a people-intensive field. What strikes an observer as wasteful might seem no more than necessary care if he or she were the patient. Perhaps the only way to deal with this is to accept 10 percent of GNP as a given—no one is able to change it much in the short range anyway—and let the burden of finding a better target fall on others: If someone wants to argue for a substantially lower or higher health care spending rate, let him show how and why that would help society.

What deserves more attention than a specific figure is the general question of limits. The success of medical science presents us with policy decisions not encountered before, now unavoidable. On one side stands an ethic that says that the ideal health care system delivers everything that will be helpful to everyone who can be helped by it. That has been the target if not always the accomplishment, and the present entitlement system was set up accordingly. Opposite that is the fact that medicine can do things today it could not do in the past, and the list of those things grows constantly. Looking at future possibilities, many people would rate it a bargain if the health care bill could be kept from growing larger than the 10 percent figure.

The old ideal and modern reality cannot coexist. An endless supply of money cannot be assumed, and a displacement or resources from other worthwhile social objectives cannot be ignored.

We are driven toward uncomfortable options. Do we impose a lid on services through some public mechanism—kidney dialysis and open-heart surgery only to age 65 but not beyond? Do we withhold life-support measures for the terminally ill or the seriously handicapped? What about infant care? Medicine can now save many babies born very prematurely, but those babies may well need much more than average amounts of medical care throughout their lives. Are we to deny them life because they were born much to soon?

Consider some less emotional questions. Should we put a cap on the fees hospitals and mursing homes may charge—and thus in effect impose wage and salary controls on the segment of the population working therein? Do we put new constraints on the time doctors may spend on their patients, and thus interpose more strangers into relationships we like to think of as personal? Is not medicine too impersonal already? Do we toss out the whole system as it stands, with its mixture of private and public funding, and replace it with a nationalized health structure?

I exaggerate for emphasis. Some of the proposals sound mean-spirited. There are other, less harsh options. Surely society does not intend to send to the scrap heap people who are helpless or inconveniently expensive. Nonetheless, we are forced to make choices, because there is no believable scenario for providing everybody with literally every kind of health care that might do some good.

One way out of that box is to search for an amended charter, one that deals with the attainable and is still deserving of public support. What I believe we are striving for is not a system that tries to promise everything for everybody, but one that assures access to necessary health care for all who are in genuine need (the operative word is "necessary"). It also should be a system that retains options for special attention (above and beyond medical necessity) to those who are willing to pay their own money for the luxury of Cadillac medical services.

An amended charter need not and should not mean that the indigent should have to suffer catastrophe before they become eligible for help. Nor does it mean that the 90 percent of the population protected by health plans can line up for every service imaginable. It implies some screens based on the demonstrated values of various procedures, and it assumes sound advice based on agreement among professionals as to what ought to be done, and when. It implies, unavoidably, some risks—which is why we need some changes in the law and medical governance, to constrain what could be an endless amount of second-guessing.

"Take two aspirin and call me in the morning."

"Surgery now, without delay."

"One more day in the hospital and two weeks in bed."

Only those with appropriate training can pretend to know whether those are responsible prescriptions in given situations. Physicians confess that they are not always of one mind on such matters. They admit they may do more than needed, simply to cover their flanks. That is one of the problems. However, their disagreements cannot be allowed to stand as permanent impediments to change in the system. If the professionals cannot arrive at consensus standards at least in a great majority of cases, and if we cannot arrive at ground rules that protect them from unwarranted disciplinary action or lawsuits, then society is left with a system lacking internal restraint. "Do it all" becomes the fallback position.

Part of the solution has been suggested by medical professionals themselves, in their finding that for most people most of the time, the benefits of medical care taper off rapidly after the amount of care passes a certain level. The curve goes flat, or nearly so. We have it on their own testimony that in some instances additional medication or service cannot be shown either to speed a patient's recovery or to make a measurable difference in his or her eventual health. It may even be counterproductive. Such a finding can only be taken as good news by all concerned with health care problems, for it lends support to the notion that limits can be set without doing harm to people. In other words, it is possible to seek cost containment with a clear conscience.

To a layman, the decisions at the margins look easy. More medication, more tests, more surgery, more nursing care—these are sure to cost more money. If there is no good evidence that they promote better health, don't do them.

It is appreciated that to the professional the decisions may not seem so simple. A variety of other factors intrude—institutional, financial, and ethical, not to mention the psychological makeup of patients. It is hardly a surprise that doctors and nurses are inclined to err on the side of caution. They have some tough calls to make.

It is not too much to hope, though, that we can define the mission such that those calls are based on medical judgment and not on factors that ought to be extraneous. It is hard to defend a system that encourages hospitalization, or increases the prices that hospitals charge for certain services—for example, the prescriptions dispensed by the hospital pharmacy—because that is the only way doctors and patients can get a third party to pay the bill, or because that is a way to cover a deficit caused by an underpayment in some other account.

As a society we are at one of those turning points where we know what the problem is, we feel some urgency about it, but all the simpler solutions can be seen, in H. L. Mencken's phrase, to be "neat, plausible, and wrong."

The first among these, national health insurance, qualifies as the leading idea whose time has come and gone, or should have. A decade or more ago it commanded a large following, but on the merits there is little to say for it. Other nations have now accumulated considerable experience with it, and left us with no reason to believe that a comprehensive, government-managed health service in the U.S. would do otherwise than reduce quality and increase costs. Judging from some governmental welfare, health, and public housing projects, it is to be

doubted that a national health plan would even be equitable or responsive to its clients.

Whatever the theoretical ideal in some other social setting, in the American environment health care is best addressed by the private and public sectors working in tandem. The task is to achieve a good mix of responsibilities among the various participants, and find mechanisms for getting different actors to resolve differences and work toward common goals.

There is no great difficulty in identifying tasks for particular groups. It is mostly a matter of assembling the laundry list of challenges that have already been placed before these groups, frequently by their own members. For the medical profession, for instance, such a list includes, among other items, more utilization of people with less training than physicians and registered nurses, to provide selected services that do not require the more advanced (read more expensive) skills; the development of more data to pinpoint areas where less medical intervention is acceptable, and to clarify the risks and advantages; better peer review of practitioners, not merely to police the ranks for malpractice but also to discourage excesses; and changes in medical education to encourage more conservative health care, as versus training biased toward more elaborate treatment. There is nothing new in those thoughts. Some in the profession have been urging these steps for years, with varying success. It goes without saying that more is possible. It always is.

For people in health care administration, either running facilities or programs, there is a need to recognize that they are managing a changing, complex business. Health care is not a cottage industry anymore. It has to be run professionally in terms of purchasing economies, reduction of waste, personnel management, and the training of the senior administrators themselves. The amount of room for improvement is demonstrated by the spread to be found in different facilities in operating costs, and even in the cost of delivering a specific service to patients.

The wise health care providers are those who see that improvement would work to their own benefit long range, and who therefore are willing to team up with others to review the utilization of services. Such review projects are under way in Minneapolis, Phoenix, the state of Iowa, and elsewhere. There is probably lots more mileage in such collaborative, community based efforts.

Interestingly, most such projects stem from the initiative of people outside the medical profession, but the onus is put on the physicians to correct overutilization. Cooperation, not coercion, is the approach to try first, with the understanding that if the doctors fail to put pressure on their peers when needed, someone else will.

There are complicating factors in every efficiency formula. Some hospitals are more burdened than others by losses from patients who cannot pay at all, or who come to them under programs such as Medicare and Medicaid which fail to reimburse them for the full costs. Some facilities have the benefit of newer, better physical plants and equipment. When all the caveats are covered, though, it remains that some hospitals and nursing homes are more effective and efficient in providing care than others, and there is good evidence that the discipline of market forces can make useful contributions to efficiency.

For each of us as an individual there is a role. We should accept more responsibility for our own health. That point has been made countless times before, to some good effect but far less than is needed. Whether the result has been adequate or not, however, it is impossible to discuss health care as a national problem without directly addressing this side of it. There are all sorts of numbers, all big, on the savings that could be realized if people only tried harder to stay well. It is said that health bills might drop 30 to 50 percent. Maybe that is high, but fully one-third of medical expenses can be traced to three problems—circulatory conditions, respiratory ailments, and accidents—and all to some extent are preventable by individuals themselves.

There are no miracles out there. Young, thin, superbly conditioned athletes can have heart attacks. It happened to Arthur Ashe when he was still near his prime as a tennis player. Yet the literature is bulging with proof that a large payback in health care would be ours if we cleaned up our lifestyles through better diet and exercise, wore seat belts, and avoided habitual, heavy use of alcohol and tobacco. That would defer or eliminate tens of billions of dollars in costs, and who can say how much suffering?

Instead of restating more of what everybody knows, or offering advice to health care professionals already saturated with it, it is worth commenting at more length on the two groups that cover most of the health care costs, private businesses and the state and Federal Governments.

Consider first the private sector companies. No part of society has a better reason for wanting to see the present system changed. Private businesses have seen their health-related benefit costs quadruple, per employee, in the past 12 years. In 1981 and 1982 those costs have climbed at rates of 15-25 percent per year. It is not unusual for a company today to put more than $1,000 a year into health benefits for each of its employees.

The experience of the Du Pont Company may be instructive here. Medical and hospital benefits cost the company $32 million in 1970; this year, with only a slightly larger work force (the numbers do not include Du Pont's recent merger partner, Conoco), the bill will be nearly five times as much.

Du Pont is a supplier as well as buyer in the health care field. The company sells many medically related products, and sponsors extensive research programs in the life sciences. Du Pont manufactures pharmaceutricals, X-ray film and processing systems, clinical instruments, diagnostic test systems and associated services and supplies. In the past decade this has been one of the company's most successful lines of business. Last year it brought in $1 billion in sales. Not that the company keeps the books this way, but simply as a matter of interest it is notable that the company's growing success in the health care business barely compensates for the escalation in the parent company's health benefit costs. The profits on Du Pont's health-related businesses totaled $141 million last year, while the cost of health benefits is now running above $150 million per year. The "supply" side is having trouble keeping up.

When a business cost is running out of control, a sensible management team will move to get it in hand. Health care costs qualify as much as any other kind, and the managers of many companies have begun to look at them in a businesslike way. From the perspective developed in one such company, the recommended strategy is to emphasize more strongly the preventive route, to build more choice into delivery systems, and to redirect the payments structure away from overdependence on post-event, entitlement contracts which give neither the patient nor the provider a personal stake in restraining spending. Pre-event payment plans, and contracts which reward doctors and patients (or at least do not penalize them) for avoiding expenses, are ideas whose time has come.

Internally, many companies are moving toward cafeteria-style benefits plans. We can call this, to create a label, the Beneflex trend. It offers not one package that applies to all employees, take it or leave it, but a number of options from which people may choose according to personal and family wishes. Typically, companies include health care as one of the variables.

There may be a voucher system: In one example, $500 for medical expenses is given to the employee, and he or she pays the initial bills. If there is money left over at the end of the year, the employee keeps it. If the bills go beyond $500, a health insurance plan takes over at the employer's expense. There are endless such variations, but at the end of the line for all of them stands a cash register showing a "not-to-exceed" figure, to maintain equity as well as cost control.

Externally, businesses have gone shopping. They are negotiating with health care providers to reduce costs, and encouraging development of alternative health care delivery systems. They are buying into health maintenance plans, referring employees to preferred physicians and treatment centers, contracting for primary care services to cover the routine and simpler needs, requiring second opinions before approving nonemergency surgery, and self-insuring while contracting with outside firms for administrative services.

Again, there is little about this on the surface that is new. HMO's have been around for decades. Growth, variety and scale are the notables now. The most recent figures I have seen put the number of HMO's at 250, with enrollment of 10-11 million people. In many metropolitan areas, companies are able to offer not one alternative but several. In the Twin Cities area, there are seven HMO's. The Control Data Company offers its employees a choice of five plans; Honeywell, six.

Companies have rarely found it possible to abandon the rudimentary system adopted in the 1960's and early 1970's, under which the employer agreed to provide coverage from the first dollar onward, with little or no contribution from the employee's pocket. That arrangement has become entrenched by time and, in many companies, by collective bargaining agreements. Employee "givebacks" on benefits are even more difficult to obtain than voluntary reductions in wages and salaries. The better course (at any rate, the one most are taking) is to seek reasonable top limits on what the "first-dollar," "fee-for-services" plans can cost, and to place alongside them additional plans that require employees to share in the costs, but give them a financial incentive to do so. If the incentives are there, both laymen and medical professionals can be counted on to find ways of capping the costs.

What more can private businesses do? For business leaders as for the medical professionals, there is much to be said for closer involvement in community and regional health care coalitions. These have been created to bring better management to health care, to broaden public understanding of the

problems, and to help break down the rules that now distort the system to greater expense.

Coalitions exist in 60 or 70 communities, and while they get mixed reviews they do provide a mechanism that neither the private sector nor the government can deliver on its own. Bringing together people from all quarters—medicine, business, government, education, labor, and so forth—coalitions can move into parts of the health care problem that are divisive and politically hot to handle. When coalitions do their work well, they achieve an objectivity and develop a public credibility that the separate members have trouble matching. Business has talents and viewpoints to bring to the table, and it has more to gain by joining in coalitions than by trying to go it alone.

One further area deserves the strongest possible emphasis within business, and that is preventive care in the broadest sense of the word. Nothing business might do in the health care area would help people more than to improve its front-end, in-house health education and safety programs. There are too many calls on the system by people who need not have become sick or hurt in the first place, and too many such problems originate on the job. The number of occupationally-related injuries is far too high. Apart from the pain and suffering, the workdays lost to the economy are the equivalent of the full-time work of 170,000 people. That is the same as taking out of the nation's productive system all of the employees of the Du Pont Company including Conoco.

Nowhere is it given that people must be hurt or made sick because of irreducible hazards or fictions about "human nature." Some of the best health and safety records are found in industries which, by their nature, deal with potentially dangerous processes and products. One example is the chemical industry. For every lost-time injury of a chemical company employee (the data include occupational illnesses), there are 26 lost-time incidents in the trucking business, and 12 in the meat products industry. The all-industry average would be four. It is hard to believe that it has to be 26 times more dangerous to drive a truck than to work in a chemical company. Within specific industries there is a similar spread. The average chemical company's safety record is 17 times worse than the best chemical company's record.

There is no mystery as to why some private firms do better than average on health and safety: They work at it. They treat health and safety not just as the employees' responsibility but management's as well, and supervision is held accountable for results.

The companies that do best in this area obviously care about people, and defend their programs without trying to prove that they save money. The chances are that they do, though. By a rough calculation in Du Pont, which has one of the best safety records in all of industry, if company safety performance in 1981 had been no better than the industry's average, Du Pont's direct and indirect costs for injuries would have been $365 million more than they were.

If on-the-job health and safety programs have value, it is natural to ask whether there is a similar rationale for the "wellness" programs now springing up around the country. These involve health monitoring and physical fitness programs plus action on diet, mental health and alcoholism. Companies involved include IBM, Johnson & Johnson, Control Data, Kimberly-Clark, and the New York Telephone Company. Though good numbers are hard to come by, the efforts of such companies are well worth imitating. The risks and costs are relatively low and the health benefits could be high. Consider heart problems as an example. Currently, the largest single cause of claims for permanent disability for people below age 65 is heart disease. Some 2.5 million people still at work are restricted in their activities by heart conditions. If wellness programs produced even a modest reduction in the rate of heart disease, they would be justified.

(That justification, though, does not rest in an argument that wellness programs will bring a net decline in the national health bill long range. They save lives and money now, but that means they will keep more people alive to advanced ages, where they would be expected to command medical service for one condition or another. Cost-benefit calculations obviously have to be cut off before they become ludicrous. Were cost savings society's only goal, the way to proceed would be to have the largest number of people die at the earliest possible age.)

The problem of changing the government's role in health care has been saved for last. It is crucial but frustrating. Like the ancient task of the mice trying to hang a bell on the cat, it is far easier to see what needs to be done than to figure out a way to do it.

It is not especially difficult to gain agreement, even within government, on some general propositions. The indigent and elderly need help and are entitled to something more than bare minimum, life-sustaining services. Government must be the health care provider of last resort. There are research and educational needs which will not be filled unless government helps. Coordination and oversight in some areas properly fall to government.

On the specifics it becomes harder to translate principles into action, and action is what is needed. Legislation and regulation should be amended to encourage cost efficiency, broaden choice, and make the payment incentives neutral as to type and place of care.

There also should be more and better means of resolving conflicts and compensating people for harms that may be done in the name of health. That too calls for government action. There is too much reliance today on courts and juries of laymen to adjudicate malpractice claims. Justice sometimes is done but at a high price to society. Plaintiffs wait for years to have their cases decided, and in many instances the principal beneficiaries are lawyers who are members of the malpractice bar, some of whom delight in seeking six-figure fees. One consequence is the high cost of malpractice insurance for physicians, which ultimately is reflected in their fees. Less measurable but equally unwelcome is the cost of defensive medicine: physicians calling up more tests than they or most others think are needed, in case someone takes them to court for doing too little and a sympathetic jury agrees. Better safe than sorry.

There are ways to reduce that problem. Fee limits to lawyers might be set for certain classes of injury, to discourage the fortune hunters. Arbitration is an alternative to litigation. It is quicker and less costly than trials. (Some surgeons reportedly require patients to agree to binding arbitration, should there be a claim, as a condition of taking the case.) We should also consider a no-fault system for compensating those who are harmed. As with the workers' compensation system, the objective would not be to extract large sums from those inflicting harm, but to "make whole" the injured party; i.e., to cover his costs. There would be top limits on the amounts collected, but the offset is that the injured party would not have to prove negligence on the part of the health care provider. For such ideas to be pursued more aggressively, though, would require changes in law, regulation, or both.

In any of these areas it is foolish to expect too much of government, expecially in the short time frame. In fairness, the government has special problems for which the rest of us share some of the blame.

Government became wedded long ago to a command-and-control philosophy of regulation, which has not been an overwhelming success, and was trapped by its own entitlement system of benefits. There was broad public and political support for this at the outset, but there was not enough attention to the escalation of costs, and there have been perverse side effects. As the best illustration, the reimbursement schedules for Medicare and Medicaid fail to pay for most hospitals as much as it costs to provide a bed for a patient. To balance the books, hospital administrators have been forced to mark up the prices paid by private individuals and health plans. On the average, a patient with a private insurance plan pays $41 more for a day of hospital care than a Medicare or Medicaid patient. The cost to business: $5 billion per year. Such price shifting only distorts the system. By any other name, it is an unlegislated redistribution of economic resources from one group to another. It does not solve a problem; it only moves it.

Government often tries to do the right thing, but it does not always succeed at the right price. For example, in the hope of providing better oversight the Federal Government in 1972 set up Professional Standards Review Organizations. These were mostly concerned with payments under the Medicare and Medicaid programs. Now their funding is being withdrawn, at least partly because the Congressional Budget Office has found that the cost of the reviews—$174 million in 1981—was greater than the amount they saved.

This is not to say that all public sector regulation is misdirected or negative—hospital rate regulations that apply in some states; limits on new construction where the need cannot be shown for more hospital beds, equipment, and programs; licensing of facilities; setting of standards for practitioners; and all the rest. However, whether regulation works reasonably well or not, the command-and-control model has serious, inherent limits.

It can be argued that, by agreeing to an approach that contained few cutoff provisions, government in effect gave away the store. (Its representatives will quickly respond that private corporations did the same in their health plans, and there is some truth in that.) Now, the call is for a move in the opposite direction, but it takes exceptional political courage to lead such a charge, and it is tempting to take refuge in stopgaps and cost-shifting. For example, the tax bill passed this summer anticipates slower growth for Federal spending on Medicare and Medicaid (by $13 billion over three fiscal years), but simply leaves it to the states and private sector to make up the dif-

ference as best they can. Again, a problem was only being moved, not solved.

More recently, the Administration has proposed a prospective payment plan for Medicare. While the Department of Health and Human Services is to be commended for wanting to turn in this direction, there are enormous complications in its proposal. It takes several hundred pages of the Federal Register just to set forth the rules and regulations—and within a matter of days after these were published, health care experts had raised serious questions about the plans, challenging both feasibility and fairness. One good possibility the experts foresee is that there will be even more cost shifting to private individuals and employers.

Whatever happens in Medicare, the larger point is this: Considering how difficult it is to direct the Federal portion of national health care via command-and-control, there is no reason to believe that the whole system could be run that way. The problem is unmanageable in that fashion, and it is unrealistic to suppose that in some magic way, a Federal initiative is going to provide a formula for solving this national problem.

Individuals in government are as aware of their limits as anyone else, and recognize full well that the nation needs to do more than come at the problem at the margins. They as much as anyone might welcome more private sector support and, where appropriate, political help. This is as good a time as any for those outside government to stop criticizing and provide some leadership pointed toward a better managed system.

As one specific, I would encourage the creation of a national commission on health care, to be formed by the President and to include outstanding individuals from government, the health care industry, education, private business, and labor. The commission's job would be to back away from the detail that is consuming the attention of government agencies and officials today, analyze the system overall, and recommend structural changes that address in a single package the interlocking problems of quality, access, equity, and cost. The commission would have to have strong leadership and be staffed with first-rate people if its proposals are to have a chance of legislative passage.

Several of the state governors have established commissions. One in Iowa has just completed its work and issued its report. Utah has had one, and in Minnesota the health care coalition has acted as a governor's commission. There is nothing analogous on the national scene, although two groups have this as a partial mission, the one examining private sector initiatives and the one dealing with reform and management in government. However, the health care problem deserves concentrated national attention on its own.

I would not propose such a commission with any notion that it should replace local groups. Many parts of the problem require local attention, and this cannot successfuly be centralized in Washington. Nor would I expect a national commission to deliver major gains of and by itself. Some commission reports only gather dust, and even when that does not happen, the recommendations can be neutralized by political inertia. Exactly that happened in the 1970's with national commissions on water and air quality, the first headed by Nelson Rockefeller, then Vice President, and the other by Senator Gary Hart. The only trouble with either report was that Congress did not adopt enough of the recommendations.

There is no guaranteeing that this will not also happen in the health care area. Still, such a commission is worth a try. It could provide a needed forum if not an easy answer. It could raise the level of public debate, separate what is known from what is merely supposed, and clarify the issues of greatest moment.

Perhaps it will have a decent chance if it is given specific questions for a charter:

What should the role of the Federal Government be in health care over the next 20 years, and what does this imply for the state governments and the private sector?

Is there a better way to manage the Federal role? Should Medicare remain in the Social Security system, or be handled separately? Do we have too many Federal agencies in the health business?

What impediments to needed change are embedded in law and regulation, and what would the commission recommend be done about them? Is government regulating too much, or the wrong things?

What are the capital needs going to be?

What shifts will or should occur in health care needs and practices, or in health care education, based on changes in the population and health care technology?

With questions such as these on the agenda, and with a suitably strong, able national leader in the chair, such a commission could provide a better basis than we now have for hammering out political and social consensus.

Surely, it is not enough to put band-aids on the system, or to treat different parts of the problem in isolation. Such topics as payment reforms, efficiency in management of health care, depreciation and obsolescence of facilities, choice and competition among providers, limitations on services—these are not separate, distinct issues, but parts of the whole. The way to approach this, in my judgment, is not to compartmentalize the issues but instead to accept them for what they are—an integrated national problem—and to identify the contributions that different groups in society can make to solve that problem.

In sum, we are the victims of our own success. We have been able to expand access to health care, and turn this into a right, because we have had the technology, human resources and wealth to do so. That can only be regarded as a triumph of our society; but like any other right in a free society this one has limits, and we need a common approach that respects those limits. Otherwise, the costs will continue to climb and the nation will be driven to a two-tier system in which the indigent may receive less than the necessary quality of care, and people who need the largest amounts of help will be driven to the wall financially.

The way to cope with this is not through fiat but through more participation and leadership from the private sector, more collaborative efforts among health care professonals and other people in the community, more choice among programs, and more use of the technologies and management skills that can reduce costs while preserving the quality of care. Above all, we need different incentives. Changes in law and regulation to favor prospective payment, plus stronger preventive programs, would be major steps in the right direction.

Time is a factor. Health care is an issue that is sure to heat up, socially and politically, as more people discover there is no such thing as a free lunch.

There is no one model to follow, and no way to induce swift change in a $300 billion industry employing more than five million people. Those ought not be crippling factors, though. We have at hand a variety of alternatives already tried in one setting or another, and often found helpful. We have the advantage of experience, and the knowledge that experiments with change, launched voluntarily, are not irreversible. If some steps do not work as well as we hope, we can try others. Above all, we have strong reasons to believe that a "do nothing" strategy is likely to be the most costly and painful to all. That ought to give us enough to get the job done.●

THE GAS TAX

● Mr. DURENBERGER. Mr. President, all too often in Congress events move either too slowly or too quickly; either we allow an urgent issue to become paralyzed by controversy or we take frenzied action on an issue that demands more thoughtful consideration. The latter problem is afflicting the current Federal gasoline tax proposals and the issue of how to address our decaying highways, streets, and bridges. We had better slow down and make sure we are accomplishing what we really wish to accomplish.

An excellent summation of the gas tax issue is found in an editorial written by Gov. Richard A. Snelling of Vermont, published in the December 12 issue of the Washington Post. The editorial, entitled "Stop the 'Quick Nickel' Gas Tax," makes several forceful points: Chiefly, that the current proposals to channel a 5-cent Federal gas tax increase through existing Federal highway grant programs will not solve our most pressing highway problems, will not be responsive to the needs of the States, and will not effectively create jobs.

As Mr. Snelling points out, the gas tax is not being offered as a jobs bill, and rightly so. However, there are ways to optimize its potential to create jobs. The present method is not one of those ways. It is maintenance, not new construction, that promises the most effective job creation. It is maintenance, not new construction, that is needed in many of our States. But what does the current highway funding scheme stress. New construction. Or large-scale maintenance when all that is needed is pothole filling.

The Federal grants also carry financial burdens: matching requirements for States, many of whom are already stretched beyond their means. And there is the time element—a gas tax that takes money out of the struggling economy, sends it to Washington and through a bureaucratic labyrinth before finally sending it back to the States in some form or another.

Mr. Snelling, the immediate past chairman of the National Governors' Association, has been a major actor in the development of the New Federalism, the administration's historic initiative to return authority to the States.

89-059 O-86-42 (Pt. 22)

It is no wonder that he notes the irony in the administration's gas tax plan, a plan that says, in effect, that the Federal Government knows better than the States how to identify and fulfill their diverse infrastructure needs. We should be dropping the barriers to effective State action by reducing or eliminating cumbersome Federal highway grant programs and letting States set their own priorities. Instead, we are erecting barriers by tying up their revenues and hobbling them with restrictions.

Mr. President, the now-or-never sentiment present during this short session likely will make action on some sort of highway bill inevitable. But I urge my colleagues to heed Mr. Snelling's warnings, and I make this request: Let us not close the door to careful consideration; let us welcome the opportunity to reconsider the structure of our highway programs in the next Congress.

I ask that Governor Snelling's article be printed in the RECORD.

The article follows:

STOP THE "QUICK NICKEL" GAS TAX

(By Richard A. Snelling)

No matter what combination of the three "quick nickel" highway bills now before Congress is ultimately passed as a result of the current steamroller in Washington, the bill will not do the things its backers have promised. Specifically, the quick nickel will not do anything about the current severe unemployment problem (except possibly make it worse) and it will not fill potholes.

The White House (correctly) denies that this is a jobs bill. Nevertheless, the Department of Transportation tells anybody who will listen that precisely 170,000 jobs will be created. The only reason the bill is being considered at all in the lame-duck session is the great need of Congress to appear to do something about the unemployment situation.

The bill is not going to create jobs. In its early years, it takes more money out of the economy than it puts back in. Neither a Keynesian nor a supply-side economist would claim that sending more money to Washington is a way to create jobs.

If we don't have to send that $5.5 billion a year to Washington, we will presumably spend it to buy something else. If we do send that money to Washington, we won't be able to use it to buy something else. Whoever makes that "something else" will lose his or her job. Eventually, some of the money will result in creating some new construction jobs while eliminating jobs elsewhere in the economy.

Since the money leaves our pockets well before it ever comes back from Washington, the short-term effect will be a loss of jobs and not a gain. To make things even worse as far as jobs are concerned, it is unlikely that all states will be able to spend all the money that will theoretically be available to them. This federal money must be matched by state money. Since many states are already having difficulty matching the federal funds they are now eligible for, it is unlikely that these states will be able to match any more federal funds—especially since the federal government is planning to preempt their ability to raise state gas taxes.

The bill is touted as a way to fill the nation's potholes. There are certainly plenty of potholes that need filling. However, this bill simply extends existing federal highway programs, and federal highway money is not available for filling potholes under these programs unless the whole road is repaved. As a matter of fact, the road also has to be "wide enough" and "straight enough" to meet federal standards in order to qualify for this repaving money.

There are roads that do need to be completely reconstructed. There are also other roads that simply need to have their potholes filled and their cracks sealed. It is because of a lack of pothole-filling and crack-sealing over the last decade that so many roads need to be completely repaved or reconstructed now. This bill continues the tradition of encouraging massive reconstruction rather than simple preventive maintenance.

Many states, including Vermont, already need to raise their own gas taxes this year to meet unmet maintenance requirements. It is unlikely that those states will want to impose any further "user charges" on top of a large federal increase. When states raise their own gasoline tax, they can use the money from that increase to meet their most urgent priorities—whether those priorities be pothole-filling or new construction. It has been known for a long time that state-only projects are cheaper and can be done more quickly than projects using federal money.

It is easy to understand why those who have been frustrated by Congress' inability to pass a multi-year highway bill are jumping aboard the quick-nickel steamroller. They are afraid that, if Congress does not pass this bill now, it will never address highway needs constructively. They are willing to accept any bill, even a bad bill, as long as there is some more money for highways.

Nevertheless, a bad five-year bill passed during the lame-duck session will be worse for the nation than no bill at all. It will neither create jobs nor fill potholes. It will frustrate the ability of the states to achieve these goals themselves.

Although many states will be winners from the quick nickel, others will be substantial losers. The Reagan administration dedicated itself to a restructured federalism, which recognized the diversity of needs and problems in the different states. It is ironic that this administration is pushing a bill that extends federal decision-making even further and cripples the ability of states to meet their individual highest priority needs.

This lame-duck Congress ought to go home. After the Christmas recess, a new Congress should come back and address the nation's transportation (and other) problems in a constructive way. The quick nickel ought to be allowed to die a quick death.●

SENATOR EAST'S VOTE AGAINST THE CAREER CRIMINALS BILL

● Mr. DENTON. Mr. President, there are occasions during our deliberations when one Member of this body feels strongly enough, and is courageous enough, to stand on principle and stand alone on a particular issue, to cast the lone dissenting vote. Such was the case when my very good friend and distinguished colleague from North Carolina, JOHN EAST, cast the one vote against S. 1688, the so-called career criminals bill.

An editorial that appeared in the October 6, 1982, Louisville Times explains Senator EAST's significant concerns about that legislation.

Mr. President, I ask that the editorial be printed in the RECORD.

The editorial follows:

AN UNWELCOME INTRUSION—SENATE CRIME BILL INFRINGES ON STATES' ROLE

The U.S. Senate voted last Thrusday to smash the wall between federal and state criminal jurisdiction that has stood since the nation's infancy. Considering the constitutional and civil rights implications of such a step, warning bells should have been ringing all over the Senate floor. Instead, the final vote was 93 to 1 in favor of the measure.

The bill, sponsored by Sen. Arlen Specter of Pennsylvania, would allow federal courts to take jurisdiction from the states over armed robbery or burglary cases involving firearms and in which the defendant has been convicted of similar offenses at least twice before. If found guilty, the defendant would be sentenced to serve from 15 years to life in prision, fined $10,000, or both. Neither parole nor probation would be permitted.

A state charge fitting these qualifications could end up on the federal docket either if the state prosecutor relinquished jurisdiction or if the U.S. attorney general ordered it to be taken.

Sen. Specter, a former U.S. district attorney, portrayed his bill as an effective method of eliminating the "career criminals" who, he said, are responsible for two-thirds of the armed robberies and burglaries in the country. He suggested that the federal court system could handle the cases quicker than state courts, some of which have backlogs of up to 16 months, and that his bill would cut down plea-bargaining.

Initially, that might be so. The federal system does indeed try criminal cases more quickly, about four months on the average. It is required to do so under "speedy trial" laws. But many federal cases also avoid trial by plea-bargaining. Shifting local armed-robbery and burglary cases from state to federal dockets could only add greatly to the pressure to bargain a plea.

That was one objection raised by Sen. John P. East of North Carolina, who cast the only vote against the bill. But more important, said an aide, was Sen. East's belief that the measure is an "unwelcome intrusion by the federal government into state court matters."

We could not agree more with him on this issue. If the federal government can intervene to throw the book at a "career criminal" in a local burglary case today, it might well be doing the same to an anit-nuclear demonstrator charged with disturbing the peace or jaywalking tomorrow. Even the threat of that would serioulsy threaten the basic right to dissent.

As might be expected, the Reagan administration, which is always prattling about getting the federal government off our backs, is solidly behind Sen. Specter's bill, even though the measure is built on a sand pillar. The federal government can usurp state and local jurisdiction constitutionally, according to the bill, because a high incidence of street crime is "deleterious to interstate commerce."

It is disheartening that only one member of the Senate found himself gagging on that one, but this is the season when the unpalatable is swallowed whole. The overwhelming vote was a grandstand performance de-

signed to convince the voters only a month before the election that the incumbents are tough "law-and-order" champions. Perhaps many are depending on the House, which won't get to the matter until after the election, to rescue states' rights from the Senate's attempted assault. Others may be relying on the Supreme Court to clean up after them.

We hope they are right. But it is disheartening that the Specter bill ever got out of committee, much less the U.S. Senate.

ORPHAN DRUG ACT

● Mr. DOLE. Mr. President, I would like to just comment briefly on the compromise reached last week on the tax credit provision of the Orphan Drug Act.

The Senator from Kansas is very pleased with the incentives this bill creates for pharmaceutical companies to invest in research for drugs with relatively little commercial value. I believe the Orphan Drug Act represents a true concern and commitment by this body to the millions of Americans who are affected by rare diseases.

Currently, there is little incentive for pharmaceutical manufacturers to conduct the extensive and costly research required to develop drugs for use in treating diseases affecting a relatively small percentage of the population. From a purely economic standpoint, the disadvantages to a business of the time and expense involved in drug research for rare diseases clearly outweigh the limited commercial return. The tax credit established by the Orphan Drug Act provides a clear incentive for drug companies to proceed with research in the area of rare diseases, and alleviate much of the suffering so many Americans now experience.

The Senator from Kansas particularly appreciates the willingness of the distinguished chairman of the Labor and Human Resources Committee, Senator HATCH, and the chairman of the Health Subcommittee of the House Committee on Energy and Commerce, Mr. WAXMAN, to work with the Finance Committee in devising a tax credit acceptable to all.

Mr. President, I request that the attached technical description of the tax credit portion of the Orphan Drug Act be printed in the RECORD in conjunction with my statement.

The description follows:

CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS

OVERVIEW

The bill provides an elective nonrefundable income tax credit for certain human clinical testing expenditures ("qualified clinical testing expenses") which are necessary in obtaining the approval by the Food and Drug Administration for the commercial sale of a drug for a rare disease. The rate of the credit is 50 percent of the amount of clinical testing expenditures. The amount of any deduction or charge to capital account attributable to "qualified clinical testing expenses" otherwise allowable is reduced by the amount of the credit. In addition, no credit is allowable under any other provision for amounts eligible for the new credit.

QUALIFIED CLINICAL TESTING EXPENSES

For purposes of the credit, the bill defines the term "qualified clinical testing expenses" to mean amounts which would qualify as "qualified research expenses" under the credit for research and experimental expenditures (section 44F), with certain modifications. Under these modified rules, a taxpayer's expenditures eligible for the new credit consist of (1) "in-house" expenditures by the taxpayer for wages, supplies, and rentals of personal property used in certain types of testing ("clinical testing") conducted by the taxpayer; and (2) 100 percent of amounts paid to any person by the taxpayer (other than an employee of the taxpayer) for "clinical testing" conducted on the taxpayer's behalf. However, expenditures are not eligible for the credit to the extent that the expenditure is funded by any grant, contract, or otherwise by another person or any governmental entity.

QUALIFIED CLINICAL TESTING

The bill defines the term "clinical testing" to mean any human clinical testing which (1) is carried out under an exemption for a drug being tested for a rare disease under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FFDCA), (2) occurs after the date such drug is designated as a drug for a rare disease under section 526 of such Act, but before the date on which an application with respect to such drug is approved under section 505(b) of such Act, and (3) which is conducted by or on behalf of the taxpayer to whom the designation under such section 526 of such Act applies.

For purposes of the new credit, human clinical testing is the testing which uses human subjects to determine the effects of the drug on human beings and which is necessary for approval of the drug under section 505(b) of the FFDCA. Expenditures are not incurred under a 505(i) exemption unless their primary purpose is to qualify the drug for sale in the United States. Testing is taken into account only if it is related to the use of a drug for the rare disease or condition for which the drug was designated under section 526 of the FFDCA.

RARE DISEASE OR CONDITION

For purposes of the credit, the bill defines the term "rare disease" to mean any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation of the taxpayer that the cost of developing and making available in the United States a drug for such disease will be recovered from sales in the United States of such drug, including sales by licensees. This determination with respect to any particular drug is to be made on the basis of the facts and circumstances in existence as of the date on which such drug is designated under section 526 of the FFDCA. Since the Secretary of Health and Human Services must make a similar determination under section 526 of the FFDCA, it is expected that the Secretary of the Treasury generally is to rely on the finding of the Secretary of HHS made under such section 526. However, because the reasonable expectation must be that of the taxpayer, the Secretary of the Treasury may find that a taxpayer's reasonable expectations as of the date of designation of the drug did not satisfy the definition of rare disease for purposes of the credit.

COORDINATION WITH CREDIT FOR INCREASING RESEARCH ACTIVITIES

Any qualified clinical testing expenses taken into account in computing the new credit for a taxable year cannot be taken into account for purposes of computing the credit for research and experimental expenditures allowable under section 44F for such taxable year. However, any qualified clinical testing expenses for any taxable year which are qualified research expenses (within the meaning of section 44F(b)) are to be taken into account in determining base period research expenses, for purposes of applying section 44F to subsequent taxable years.

LIMITATIONS ON TESTING OUTSIDE THE UNITED STATES AND TESTING BY POSSESSIONS CORPORATIONS

Expenditures for testing outside the United States are not eligible for the credit unless (1) the testing is conducted outside the United States because there is an insufficient testing population in the United States, and (2) the testing is conducted by a United States person or any other person who is not related to the taxpayer to whom the section 526 designation applies. For this purpose, two corporations are unrelated if each owns, directly or indirectly, less than a 10 percent interest in the other.

In addition, the credit is not available for any testing, either inside or outside the United States, conducted by corporations to which section 934(b) or section 936 applies.

DISALLOWANCE OF DEDUCTIONS

The credit is available for qualified clinical testing expenses for the taxable year regardless of whether the taxpayer has elected under section 174 to expense or amortize research expenditures. However, the amount of any deduction for qualified clinical testing expenses is reduced by the amount of any credit allowed for such expenses. If the taxpayer capitalizes, rather than deducts, the qualified clinical testing expenses otherwise allowable as a deduction for the taxable year, the amount chargeable to capital account for the taxable year is reduced by the excess of the amount of the credit over the amount allowable as a deduction for qualified clinical testing expenses for the taxable year.

RULES FOR AGGREGATION OF RELATED TAXPAYERS

For purposes of the credit, all members of a controlled group of corporations are treated as one taxpayer. Aggregation is also required of all partnerships, proprietorships, and any other trades or businesses which are under common control with the taxpayer. The rules defining these terms are similar to the rules applicable to the credit for research and experimental expenditures.

EFFECTIVE DATE

The bill applies to qualified clinical testing expenditures paid or incurred after December 31, 1982, and before January 1, 1988.●

ANNIVERSARY OF MARTIAL LAW IN POLAND

● Mr. KENNEDY. Mr. President, yesterday marked the first anniversary of martial law in Poland. It was 1 year ago that the Polish governmental authorities openly declared a state of war against the forces of freedom in Poland. What we have seen in that

country over the past year is oppression by proxy. The assault on Solidarity has been the work of a regime and an army acting under the shadow of Soviet bayonets.

On Sunday, General Jaruzelski, in a televised announcement, stated that the major provisions of martial law would be suspended by the end of the year. However, it remains to be seen what the real results of this action will be.

Even if martial law is relaxed, it appears that severe controls on Polish society will remain in effect. The military will keep its cruel control over the workplace, ready to crush any revival of Solidarity or renewed expression of dissent. General Jaruzelski's regime will retain its oppressive authority, not only over the institutions of government, but over the complete range of social, political, and labor activities in Polish society as well.

I call upon General Jaruzelski to release all of the political prisoners interned over the course of the past year. While I welcome the recent release of Lech Walesa, the many remaining political prisoners must also be freed. There can be no justification for the detention of victims such as Anna Walentynowicz, who was placed in a psychiatric facility just last month by martial law authorities. I also call upon the Jaruzelski regime to permit Solidarity to rise again as an independent trade union. There will be no justification for lifting sanctions until these basic improvements occur.

The "state of war," as the Polish regime refers to martial law, did not succeed. It has failed totally in its effort to break the Polish spirit. Despite martial law, the brave faith and enduring aspirations of the Polish people have not been dimmed. The historic Polish spirit is unbowed in the face of military and political repression.

The suspension of martial law does not mean an end to military rule; nor does it mean a renewed dialog between the Government, the Catholic Church, and Solidarity. It will not lead to an early end to the critical shortages of vital commodities which constantly deprive the Polish people of normal daily lives.

We must do all we can to insure that any relaxation of martial law in January begins a new trend of greater freedom in Poland. The welcome decision by Government authorities to allow Pope John Paul II to travel to Poland must be accompanied by a sustained official effort to improve relations with the Catholic Church. The Jaruzelski regime must make good faith efforts to establish a serious dialog between the Government, the church, Polish labor rerpresentatives, and the people of Poland.

The last 12 months have presented a challenge not only to the Polish people, but to America and her European allies as well. That challenge continues. We and our allies must continue to express our disapproval of violations of human rights and civil liberties in Poland. And our strong words of disapproval must be accompanied by effective joint action to insure a positive impact on the ongoing crisis.

Last Friday President Reagan signed a proclamation naming December 12, the eve of the first anniversary of martial law, as a day of solidarity with the people of Poland. As a sponsor of this resolution in the Senate, I was privileged to be present at the White House for this ceremony. Last night I was proud to join leaders of the AFL-CIO for a special fundraising event to benefit the Polish Workers Aid Fund. In the months to come, we must continue our support for this cause and for the Polish people.

Mr. President, in observance of this anniversary of the imprisonment of the Polish nation, I submit for the Record the following poem by Nobel laureate Czeslaw Milosz, which appeared in the New York Times on October 14:

TO LECH WALESA
(By Czeslaw Milosz)

After two hundred years,
After two hundred years of hope recovered and hope lost,
You became the chief of the Polish people
And, once more, the powers are arrayed against you.
It's bitter to know what we know, Lech Walesa,
A sacrifice demanded in every generation,
Heroes' graves anonymous,
At truimph of traitors and henchmen
Whose sons and daughters will have to be forgiven.
It is bitter to learn the strength of enslavement.
It dwells in bread and in an apple, in every gulp of water,
In morning light on a windowpane, in dusk on a street.
It doesn't desert you in work or in love,
Your sleep in the pre-dawn hours is full of it.
And it lurks in the letters of the written word
Till Polish books have only one subject,
And it darkens colors on the canvases of painters
And it covers with grayness the buildings of cities.
I don't know by what right, Lech Walesa,
You are addressed by one who chose exile
And refuses to think constantly of enslavement
Though he understands that he should, every day.●

JOHNSON & JOHNSON

● Mr. BRADY. Mr. President, I want to take this occasion to say a few words about Johnson & Johnson, a New Jersey based company that has provided people in the United States and around the world with quality health care products for almost 100 years. Johnson & Johnson and its affiliates produce over 10,000 products in the health care field.

In October of this year, this company became innocently involved in a nightmare when one of its products, Extra-Strength Tylenol, was maliciously poisoned. This incident resulted in the deaths of seven individuals and terrified millions of consumers. But in this age of skepticism about many of our institutions, I think it is important to note that Johnson & Johnson acted swiftly and honestly in handling this situation. The company immediately removed the product from the stores, alerted consumers to the problem, and provided substitute medications to consumers. I would like to commend Johnson & Johnson for its handling of a difficult situation and for the example it set of how a responsible business should conduct itself during a crisis to reassure consumers.

As a result of the Extra-Strength Tylenol incident, stricter guidelines have been drawn up for packaging over-the-counter drugs. This is a constructive step in protecting innocent people. Nonetheless, consumers must be cautious when they buy medications and other products. As part of this effort to protect consumers, public service announcements have been prepared to inform people about the need for careful and intelligent use of products. I submit for the RECORD one such public service announcement produced by the Department of Health and Human Services.

The announcement follows:

In recent weeks we have all been shocked by criminal tampering with non-prescription medicines on store shelves. Innocent products like Tylenol—products that are intended to help—have been used to harm consumers.

Government and industry have been working together to provide packaging that will lessen the chance of this happening again—either to the people of Chicago or anywhere else. New government rules requiring tamper-resistant packaging for most non-prescription medicines will soon come into effect. We anticipate that such new packaging will being to appear on store shelves over the next few months.

But, neither government rules nor tamper-resistant packaging can guarantee protection against everything that a criminal mind might think of. You, the consumer, must help. When you buy medicines—or any product—be sure packages are not opened or damaged. Look at seals or wrappings to make certain they are not torn. and when you get home, check the product inside the package for signs of tampering.

We don't have to do without any of the medicines that make our lives more comfortable. But we should use a little extra care.●

HAS MARTIAL LAW BEEN LIFTED IN POLAND

● Mr. DOLE. Mr. President, 1 year ago, on December 13, 1981, war was declared on the Polish people. The

Polish generals flouted solemn commitments of the Helsinki Final Act to respect human rights and fundamental freedoms by declaring martial law and suspending the Polish trade union, Solidarity. A Soviet general, Marshal Kulikov, was in Warsaw that day to oversee the operation, spuring Helsinki promises to respect the rights of sovereign states, including those of the Warsaw Pact Allies of the Soviet Union.

And now the Polish generals tell the world that martial law is "almost" over. I suspect, however, that far from being over, martial law has been made part of everyday Polish life and of Polish civil law. In his actions, perhaps General Jaruselski has decided to follow a strategy suggested by Bertold Brecht:

> They could do with a good war around here. What else can you expect with peace running wild all over the place? You know what the trouble with peace is? No organization.

How, then, was—and is—this war organized? First there is evidence of Soviet involvement in this military campaign. The following points are elaborated in the comprehensive report on compliance and implementation of the 1975 Helsinki Final Act issued by the Helsinki Commission last Friday on International Human Rights Day, December 10.

The martial law proclamation was printed in Moscow in September, 3 months before its actual imposition in Poland;

The Soviet press repeatedly denounced the Solidarity movement in Poland, claiming that it threatened Socialism in Poland and therefore "directly affected the vital interests" of the entire Warsaw Pact;

The Warsaw Pact conducted extensive, intimidating military maneuvers in and around Poland on critical dates in March, September, and November 1981;

Polish leaders repeatedly were called to Moscow for consultations in 1981 and, I believe the presence of Soviet Marshal Kulikov in Warsaw on December 13 is compelling evidence.

Repeated Soviet arguments at the Madrid CSCE review meeting that martial law is a Polish internal matter not appropriate for Western concern, rings hollow in comparison to Soviet actions. The Soviet Government rejects verbal criticism of the Polish situation at Madrid, yet, its own actions violate such important Helsinki precepts as prohibitions on the threat or use of force, and respect for the rights of sovereign states and peoples.

I want to turn now to an examination of what martial law has meant to the Polish people. Probably best known is the freeze effect this war has had on Polish civil liberties, in blatant violation of Helsinki human rights pledges:

Suspension or restriction of the rights of personal immunity;

Violation of the inviolability of places of residence;

Major restrictions on freedom of correspondence; and

Denial of the right to freedom of speech, press and assembly.

Unfortunately, of course, these denials of rights we take for granted is far from unusual in Warsaw Pact countries and does not convey the brutality of Jaruselski's rule-by-martial-law. According to information in the Helsinki Commission report, under the military regime at least 30,000 Poles have been arrested and/or sentenced to terms ranging from several months to 10 years. Another 100,000 Polish citizens were detained and/or fined for violations of martial law. These thousands of people are prisoners of war in Jaruselski's struggle against the solidarity of 10 million Poles.

Imprisonment is not the only price Poles pay for their solidarity. To preserve public order, the Polish military has applied massive force against peaceful protestors through the special riot police, Zomo. In Jaruselski's battle against peaceful street demonstrations—with Zomo tanks, clubs, tear gas, rubber bullets, and water cannons—hundreds of Poles have been injured and at least 24 people have died—murdered by their own government.

Not even this tragic litany or systemic violence against the Polish people reveals the entire scope of martial law. As the commission report states:

> Although regime repression in Poland is not visible in massive street confrontations, the impact of martial law is most widely felt in the workplace.

Fully 60 percent of Polish industry has been put under direct military control and workers in all these industries are subject to military discipline. "Verification" procedures—requiring ritual denunciations of Solidarity—are now almost a universal requirement for holding a job in Poland. And where can Solidarity loyalists turn for work in a society where the state controls all employment?

Just to make sure that the Polish people feel there is no exit from Jaruselski's new order, martial law reversed previous, fairly liberal—by eastern standards—travel policies. Perhaps not surprisingly, the new travel regulations for Polish citizens strongly resemble those of the Soviet Union. In this area also, then, Poland has moved in lock-step away from Helsinki open-door policies.

Finally, I want to examine what the "lifting" of martial law will actually mean. Unfortunately, a careful examination of recently enacted laws in Poland shows that martial law, in effect, has been institutionalized.

In October, the Polish Parliament passed a new trade union law which not only outlaws Solidarity, but excludes trade unions from wage negotiations. This new law does not even define what constitutes a trade union, while it gives courts the right to outlaw any trade union at any time. In fact, the provisions of this law parallels all the martial law provisions which nullified Solidarity gains, and in effect perpetuates martial law under another name.

There have been executive orders which abolished the independent journalists' and actors' unions because of widespread support for Solidarity. In this way, the Polish authorities are depriving the Polish people of important, even if sometimes symbolic, public gestures of support for Solidarity.

The new censorship law, passed in September, gives the state Orwellian power to censor any materials deemed "threatening to the public and political order of the Polish People's Republic." Any vestiges of the right to a free press have been wiped away by this law.

A new law on public order in universities prohibits freedom of assembly and expression and outlaws independent student organizations. Russian and Communist ideology are reinstituted as obligatory courses.

The parasitism law, passed in October, obliges any unemployed Polish worker to accept any job offered to him, regardless of health, family, location, or previous employment. Any worker who refuses to accept such jobs can be sent away for military training or service.

The emergency powers bill, which has not yet been passed, closes the loopholes in Polish civil and political liberties. Among its other repressive provisions, this act permits the indefinite internment of any Polish citizen who is suspected of violating "public order."

In closing, I urge the Polish Government to heed the voice of Solidarity, which is a voice for peaceful reform, and to honor the Polish commitments under the Helsinki Final Act. When the people do not like the government they have, the government cannot hope to elect a new people, to quote Brecht again, unless massive and relentless repression is used. General Jaruselski may call his new regime by another name than martial law, but if it looks the same, and sounds the same, and has the same effects, it will never serve as a basis for rapprochement between the government and the people.●

THE REBUILDING OF CHRISTMAS VILLAGE IN BRIDGEPORT, CONN.

● Mr. DODD. Mr. President, the people of my home State's largest city,

Bridgeport, have much to celebrate today. And, in the focus of their celebration is a wonderful illustration of what Christmas should represent for every member of every community.

Last week, fire destroyed what had been a Bridgeport Christmas tradition for more than a quarter century: the Police Athletic League's Christmas Village. More than $10,000 worth of donated toys and gifts were also destroyed.

The people in this city responded to the tragedy with courage and conviction, rebuilding and restocking Christmas Village in less than 1 week. Everyone found they had something to give: Workmen donated labor; retailers donated toys; construction companies donated materials. While each tangible gift is impressive—the lumber, the toys trucked miles to Bridgeport, Santa's throne from a local department store—it is the special gift of cooperation and community spirit that makes this project remarkable.

Christmas Village reopened Sunday night. The newspapers and television news shows heralded Bridgeport's great accomplishment, as well they should have. There are many who deserve congratulations and thanks, whose efforts have earned the admiration and respect of observers across the country. No one is more deserving of this praise than officers Mike Marrella and Robert Zwerlein, president and vice president of the Police Athletic League. This holiday season will be infinitely brighter for Bridgeport-area children because of their outstanding efforts.

Mr. President, I ask that a frontpage story form the New York Times, describing Bridgeport's great accomplishment be inserted into the RECORD following my remarks. The people of Bridgeport have provided us all a welcome reminder of what Christmas spirit means when translated into actions.

The article follows:

FROM ASHES, NEIGHBORS FORGE A CHRISTMAS SITE

(By William E. Geist)

BRIDGEPORT, CONN., December 12.—The Mayor called it a "miracle." Santa Claus himself proclaimed it "the best Christmas ever." Grown men cried.

Just five days after an arsonist destroyed Christmas Village—a chalet-style building in Beardsley Park where children have come for 26 years to see animated Christmas scenes, receive a toy from Santa Claus and ask of him their fondest desires—Mr. Claus regained his throne.

It was done through the efforts of hundreds of volunteers working almost around the clock, often in subfreezing temperatures, and through donations of toys, money, materials and food for the workers.

EXHIBITS AND TOYS DESTROYED

An early-morning fire last Tuesday, which the Fire Department said was arson, leveled more than half the 140-foot-long building, with extensive smoke and water damage in what remained. It destroyed several of the exhibits, the costumes for Santa and his helpers and about $14,000 in toys that were to be given away by the Police Athletic League, which operates Christmas Village. The building's contents were not insured.

At dawn Tuesday, Frank Parlatore, a 65-year-old retired factory worker who has been Santa Claus at Christmas Village for 25 years, sat near the smoking ruins, crying.

Karen Bergquist said her 7-year-old daughter, Jennifer, was among many children who believed that Santa had died in the fire.

"Everyone was devastated," said Mayor Leonard S. Paoletta, who called a meeting Wednesday with representatives of local construction companies and building trades unions to see if there was any way the building could be reopened by Christmas.

"Many of them thought I was crazy, and some said so," recalled the Mayor, who conceded that he had had almost no knowledge of the construction field before challenging them to rebuild Christmas Village by the weekend for the children.

"If I had any idea what I was asking," he said, watching volunteers working feverishly hours before the reopening, "I never would have gotten the words out." At the reopening ceremony, some workers cited "Christmas spirit," others "temporary insanity," but for whatever reasons, they had accepted the challenge. The site was cleared of debris, and by 1 P.M. Wednesday the first nail was driven.

The Mayor put some city workers on the job. The first volunteers were police officers and firefighters, then came electricians, carpenters, plumbers, roofers, painters, decorators, carpet layers, unemployed people, retired people, Boy Scouts, children after school and people who took time off from their jobs for a few days.

LIKE A BANZAI ATTACK

"They started coming over the hill like a banzai attack," said Nick Zerella, one of the construction supervisors on loan from a local company, "and had to be mobilized."

A contractor in Groton, some 65 miles to the east, shut down a job and brought his crew to Bridgeport to work on the project. A carpenter from Monroe, about 10 miles to the north, rode his bicycle over.

Jeremy Horner, 7, who lives nearby, was toting some impossibly large boards with his father this weekend, Jeremy said that he had volunteered, but that he believed Santa would take note of his efforts.

Michael Roberston, 19, a carpenter, was one of several unemployed building trades workers who volunteered, so impressing one construction official with their skills and dedication that he said he would try to find them jobs. "This is the greatest," said Mr. Roberston. "You could not get people to work like this for pay. And it's quality work. There's a lot of pride in it."

By Saturday, less than 24 hours before the scheduled reopening at 1 P.M. today, work had reached a furious pace. The site was a muddy mess of extension cords and lumber, teeming with nearly 100 workers who filled the Christmas Village section of the city park with echoes of hammering and sawing, punctuated by the warning beeps of heavy machinery backing up.

CHANGES AND SHAKING HEADS

The building and grounds changed appearance dramatically from hour to hour. An electrician wired a room with the insulation man hot on his heels, the sheet-rock man behind him, the carpenters and painters closing in fast.

It was a scene that caused onlookers, one after another, to shake their heads in disbelief.

The work force was fueled standing up, at a table of sawhorses and sheets of plywood laden with hamburgers, chicken, Italian sausage, pizza and other fare donated by local restaurants and residents. One restaurant owner, Thomas Caco, cooked meals at the site. Women continually appeared from between the dozens of trucks and cars with baked goods. One of the workers, Peter Freer, spoke of a "phoenix rising from ashes" and worried about his weight.

Children showed up with coffee cans full of money collected in their neighborhoods. When a worker was taken to the hospital for a few stitches after a minor accident, the emergency room staff sent him back with $63 in donations. A fireman dropped off a $5 bill given him by someone. A bank gave $2,000.

Several department stores each gave as much as $1,000 worth of toys, and some toy companies from as far away as Long Island and New Jersey sent truckloads of them, as did a Christmas Village in Torrington. One department store had Mr. Parlatore spend most of Saturday roaming its aisles with shopping carts.

A "TRICKY" PROCUREMENT TECHNIQUE

Sandy Mirsky seemed to take charge of procurement, telephoning for donations of materials as the workers told her what they needed. Lifting her foot so the floor could be laid, she said her technique was to call local merchants, order what she needed and then break it to them that she had no way to pay. "Tricky," she said between calls for locks, carpeting and red flocked wallpaper, "but it has usually worked."

Dolly Goldstone, who is playing Mrs. Santa Claus this year, watched as the work progressed and said it reminded her of the spirit she saw in England during the bombing in World War II.

Ten minutes before reopening, the tree was trimmed and a vacuum cleaner brought in, "Stop vacuuming!" yelled Marilyn Goldstone. "Camp David is calling."

President Reagan called to congratulate the workers, describing what happened in Beardsley Park as "one of the most inspiring Christmas stories I have heard in years and years and years."

Michael Marella, president of the Police Athletic League, said the President's call was "wonderful, but the real thanks is in the faces of the children," hundreds of whom came to see the papier-mâch elves hammer and saw once again and Santa arrive in a white, donated limousine.

Snow fell on the chalet and the surrounding pines. Grown men cried.●

MECHANICAL TECHNOLOGY, INC. (MTI)

● Mr. D'AMATO. Mr. President, today we are debating H.R. 7356, the Interior appropriations bill for fiscal year 1983. Within this bill there is a line item for vehicle propulsion research and development which includes funds for the Stirling engine program. The Stirling engine program is being carried out under the Automotive Propulsion Research and Development Act of 1978 by Mechanical Technology, Inc., of Latham, N.Y.

This is an unusual program because it has remained on schedule and within budget since its inception. This program has drawn rave reviews from those who are familiar with its progress and potential. The Director of the NASA Lewis Research Center has repeatedly evaluated MTI contractor performance as excellent to outstanding in all respects.

Major government supported Stirling engine developmental efforts are now underway in Europe. The Japanese Government recently announced a significant Stirling program as well, one purportedly cost-shared by private industry. However, our Stirling program, the only significant one in the United States, is still in the forefront, and with continued funding support will be able to compete successfully with these foreign efforts.

Indeed, the results of this NASA-run program have been so impressive that General Motors, Ford, and John Deere have now quietly let it be known that they are interested in possible utilization of the Stirling engine. Additionally, the U.S. Army is now developing Stirling technology for field power application.

I am very pleased that MTI has begun to gather recognition it so well deserves. The MTI success story exemplifies the best in private industry and government cooperation in the important area of scientific research and development. Mr. President, I ask that the Popular Science article about the Stirling engine and MTI be inserted into the RECORD.

The article follows:

THE PROMISING POWER PLANT MAY FINALLY BE READY TO ROLL—IF JOINT DOE-NASA FUNDING CONTINUES

(By E. F. Lindsley)

Frankly, if they'd left the driving to me, I'd have waited for the car coming from our left to clear before pulling out of the driveway and onto the road. The timing and distance were just a bit tight. Besides, the engine under the hood of our car didn't even sound as if it were running.

But my driver, Jeff Spraker, a technician at the laboratory where the car's unusual engine is being developed, kicked down hard on the gas. I heard gravel spin out from under our tires as we shot out of the driveway and across the road with a smoothly fluid sweep. Oddly enough, I still didn't hear much from the engine—no exhaust roar, vibration, or other symptoms of a floor boarded takeoff.

That was because the car we were riding in was powered by the latest experimental version of a Stirling engine, a power plant whose pistons are driven by externally heated hydrogen gas instead of fuel-air firings inside its cylinders. I was visiting Mechanical Technology, Inc., in Latham, N.Y., to see how the NASA-managed development program was proceeding, and particularly to find out if this latest Stirling program could overcome the vexing engineering problems that have frustrated past efforts to fulfill the Stirling's promise of high fuel efficiency, low emissions, and multi-fuel capability. What I found, as the test drive suggests, was highly encouraging. But that's getting ahead of the story.

To understand where the Stirling engine is now and where its been requires some backtracking. The engine was invented by Robert Stirling, a Scottish minister, back in 1816, long before the Otto and diesel engines we think of as conventional. Conceived as an alternative to steam engines, whose high-pressure boilers could be dangerously explosive, the Stirling transferred the heat produced in an external combustor through a heat exchanger to a working gas that drove reciprocating pistons. Stirling also originated the idea of employing a regenerator to bank thermal energy when it wasn't needed, returning it when it was. With regeneration, the Stirling cycle promised the highest efficiency theoretically possible in a heat engine, as the laws of thermodynamics—not yet developed in Stirling's day—would show. And external combustion carried another advantage over other engines: Stirlings could run on any fuel—from wood chips to cow chips.

Many of them did just that. Until about 1920, small wood- and coal-powered Stirling engines saw wide use pumping water and generating electricity on farms and in remote communities. They were even sold by Sears, Roebuck. But these early designs used air as the working fluid. Steam, with the technology then available, was more efficient.

AMERICA'S HOLE CARD?

Nevertheless, in 1938, N. V. Philips of the Netherlands initiated modern research on the Stirling. Since that time, a great many development programs have sought to take advantage of the stirling's inherent efficiency advantage to generate electricity, operate refrigeration units, or power automobiles. Both General Motors and Ford pursued Stirling programs in recent years, but eventually abandoned them in the face of serious engineering and financial obstacles.

Despite this, in a 1975 study of advanced automotive engines performed for the Department of Energy, NASA's Jep Propulsion Laboratory named the Stirling along with another design—the Brayton-cycle, or gas-turbine, engine—as the most attractive candidates for future automotive power plants. Then, in the post-fuel-shortage flurry of 1978, the two agencies jointly set up a program to develop and, by 1984, demonstrate in a car a practical Stirling automotive engine. It was to be a three-step program, using as a baseline the P-40 research engine already being developed by a Swedish contractor, United Stirling, Inc. This was to be followed by a Mod I engine with greater power and less weight than the P-40. Finally, when the Mod I had yielded its secrets, a Mod II engine would be built and demonstrated in a car. The hope was to have the Stirling ready to serve as America's ace in the hole if a really prolonged and serious fuel shortage occurred.

The contract for the Mod I engine went to Mechanical Technology, Inc. The company's goals, as MTI vice president Gene Mannella explained to me, are to achieve a 30 percent fuel-economy advantage over equivalent spark-ignition engines, low exhaust emissions, and ability to use a variety of fuels with easy changeover.

"And all of these objectives must be coupled," assistant project manager Bill Ernst added, "with normal automotive reliability, durability, competitive manufacturing and operating costs, and acceptable noise and safety levels."

These are bold goals, as I knew from my past experience with Stirlings, including having seen William Beale's Stirling-cycle air conditioner [PS, Aug. 1974] and electric generator [PS, June 1978] and even having built a little model Stirling from ancient PS plans [PS, July 1965]. These and other engines I have seen have run all right, but they did not shake my impression of the Stirling as an elegant, exotic engineering novelty beset with too many mechanical and thermal problems for everyday automotive use.

Thus, I went to MTI in a skeptical frame of mind. Specifically, I wanted to know:

What kind of mechanical arrangement would be used to translate the engine's hard-to-define operating cycle—lacking both valves and a timed ignition event—into output power?

How would the engine overcome the necessary thermal time lag between putting heat into the combustor and getting action out of the pistons?

Could warm-up times in cold weather be kept acceptably short?

Could effective seals be designed to keep the pressurized hydrogen gas contained within the cylinders?

Finally, could such an engine perform in a normal car—in ordinary traffic—without a team of technicians aboard to keep it running?

That last question would be answered in due course; first Dr. Mannella showed me around the lab. As he explained the details of the engine, Mannella impressed me as a sleevesup type of engineer who easily translates difficult engineering concepts into things that run. Both he and his assistant, Bill Ernst, seemed solidly sure of their development work.

My misgivings about the complex mechanical linkages employed in some earlier Stirling engines were quickly put to rest when Mannella showed me one of the Mod I engines disassembled. Here was an ordinary-looking crankcase with a V4 setup. It did have two crankshafts geared together to drive a single output shaft, but it certainly appeared simpler and more conventional than the oddball rhombic drives and swash plates I'd seen on other Stirlings.

"It's a kinematic, double-acting engine," Mannella told me. Kinematic means that the pistons are mechanically linked to the crankshafts. Double-acting means that the two working chambers, hot and cold, are separated by a single piston and the hydrogen working fluid operates against both upper and lower faces of the pistons. "With this approach," Ernst said, "we can have an absolutely vibration-free, perfectly balanced engine."

THERMAL LAG

Nice, but those complex drive linkages were meant to overcome the Stirling's inherent problem of matching engine output to driving demands. Simply using the throttle to increase or reduce fuel does not yield the split-second changes you get from a carburetor or injection pump delivering fuel directly into the cylinders. With external combustion, there is a time lag before the effect of a fuel-quantity change in the combustion chamber is translated into gas-pressure change in the separate cylinders.

Some other Stirlings have used swash plates, which actually alter the mechanical length of the working strokes, and thus the working volume, to produce quick response to the driver's demands. Owners of lawn tractors with hydrostatic drive, which also

use swash plates, will understand this. It may still be the best way to control the Stirling.

MTI's engine, though, with its simpler, unchanging crank throws, manages power output by altering the volume of the hydrogen working fluid in the engine. A microprocessor monitors fuel input and adjusts hydrogen pressure to match it by valving gas to and from a storage reservoir. "At idle, the pressure is 450 psi. At maximum power, it's 2,500," Ernst told me. In a sense, that's not much different from a throttle plate in a carburetor, which controls the pressure of air, the working fluid in an internal-combustion engine.

That sounds simple enough, but it makes even more crucial a difficult problem that has plagued Stirling development: sealing in the hydrogen.

In a way, the Stirling is an engine divided against itself. The power-producing side contains hydrogen under pressure, and the lower side has a crankshaft that must be bathed in oil. Hydrogen is one of nature's most difficult gases to seal, but somehow the seals must allow the connecting rods to bridge this boundary region of high-pressure hydrogen on one side and engine oil on the other. At the moment, MTI is having fairly good luck with a double seal, one part that keeps the hydrogen in and another that scrapes the oil from the reciprocating connecting rods.

But if no oil is permitted inside the cylinders, how are the piston rings lubricated? "They're PTFE materials," Ernst said, using the chemical designation for the slippery material commonly called Teflon. "They run with no lube. A film builds up on the cylinder walls, and the rings don't wear. We've operated them for thousands of hours with no wear," he said.

If that problem is close to solution, what about two other difficulties caused by hydrogen's unique properties? The gas can also leak by diffusion, actually penetrating the metal structure by sneaking between the molecules. An apparent solution to this problem was stumbled upon when some impure gas found its way into MTI's lab. "When the hydrogen is doped with carbon monoxide or carbon dioxide, an oxide coating builds up on the walls of the working-gas chambers and passages," Ernst explained. Apparently, these thin coatings are a more effective hydrogen barrier than the metal alone.

Hydrogen's other ability may prove a more serious problem. When metal parts working at elevated temperatures are exposed to hydrogen, they tend to become brittle and lose strength. To date, MTI has used exotic metals to resist the gas's destructive bite. But such metals are strategically critical and extremely costly. The next step is to find less-exotic materials.

MULTI-FUEL APPETITE

Meanwhile, the Mod I engine is running up to all expectations—and not just on test stands. In answer to my last question, Mannella and Ernst turned me over to technician Jeff Spraker for a test drive. Both emphasized that the car is not intended as a demonstration car, but as an engineering test vehicle.

As Spraker slid into the driver's seat, I asked him how long it took to get the car going, aware that external combustion can mean long start-up times. "On a warm day like today, about 15 seconds," he said. "At 15 below zero it could take 35 seconds. On the other hand, it's a heat engine and is therefore more efficient in cold weather."

That's when he stepped on the gas and we shot out of the MTI driveway, stilling any doubts I had about the engine's acceleration. Once in traffic, Spraker demonstrated another of the Stirling's surprising virtues by pushing a series of buttons on the heavily instrumented dash. "I'm switching from unleaded gas to diesel fuel to gasohol as we go," he explained. "This engine doesn't care what it runs on." Indeed, I couldn't feel the slightest change in performance, and the dials on the panel didn't even quiver as he varied fuels.

All of this was very impressive, but one big question remained: What is the likelihood of a Stirling-powered car appearing in the showroom soon, in five years, or ever?

Unfortunately, that question is impossible to answer right now. Government cutbacks have placed the third phase of the NASA program in doubt. Although the Mod I engine is well on its way to demonstrating all it was expected to and more, its planned successor, Mod II, is presently condemned to remain a "paper" engine. Perhaps a car manufacturer will pick it up and carry on. If not, a great deal of successful research may languish half finished. After seeing the performance of the NASA Stirling at this stage, I'd hate to see that happen.●

PROPOSED AMENDMENT STRIKING FUNDING FOR MX MISSILE PROCUREMENT AND BASING MODE

● Mr. HART. Mr. President, the administration's announcement this morning that it is backing away from the Dense Pack basing mode for the MX missile is a step in the right direction. It appears that the White House finally understands it does not have support in the Senate or in the Nation for a basing scheme that is expensive, destabilizing, and probably unworkable.

But the announcement does not go far enough, and the "compromise" proposed does not solve fundamental strategic questions. The fiscal year 1983 budget should contain no money for procurement or basing of the MX until Congress agrees to a basing mode and considers the alternative missile systems. Since more than 30 basing schemes have already been rejected, the administration may not be able to develop a basing mode for this missile.

We should, therefore, require the Air Force to proceed with feasibility studies on alternatives to the MX missile itself to determine if a more survivable, cost-effective system can be developed.

I intend to offer an amendment to strike all funding for procurement of the missile and the basing mode. "Fencing" or temporarily qualifying the appropriation is not an adequate protection against a system. Appropriating production funds in the DOD appropriations bill or in the continuing resolution, however qualified, commits our Government to procurement of a specifically designed new missile system [MX] whose very characteristics are increasingly called in question.

Mr. President, I submit for the RECORD the text of my amendment.

At the appropriate place in the resolution, it should read:

"None of the funds made available by this resolution shall be made available for obligation or expenditure for procurement of MX missiles or procurement of any permanent basing mode for the MX missiles."●

VOCATIONAL EDUCATION ACT

● Mr. DENTON. Mr. President, in the coming year the Congress will have an opportunity to reassess and, perhaps, redirect the Vocational Education Act. I believe that vocational education is vital to our economic and social well-being and I look forward to the opportunity to work with fellow members of the Education Subcommittee under the leadership of the distinguished Senator from Vermont, Mr. STAFFORD, to increase our Nation's capacity to provide technical and occupational education. In that regard, I was very impressed with the contents of a recent article by Cynthia Dodd which appeared in the Decatur Daily. I commend this article to my colleagues as evidence of the prowing importance and value of vocational education. Mr. President, I ask that the article: "Vocational Education Said More Popular Now" be printed in the RECORD.

The article follows:

VOCATIONAL EDUCATION SAID MORE POPULAR NOW

(By Cynthia Dodd)

Vocational education classes have become more attractive to students in recent years, says Homer Landrum, director of Hartselle High School's Vocational Education Department.

Today Hartselle's vocational education classes involve 65 percent of the students at the high school. That growth has occurred over recent years.

Of the 940 students at Hartselle High School, 627 are enrolled in some kind of vocational class, according to Principal J. P. Cain.

The vocational training center, built in 1979, houses vocational classes.

At Hartselle, courses are offered in cosmetology, trade and industry, distributive education, building trades, welding, automotive mechanics, health occupations education, agri-business and home economics.

Those classes are part of the comprehensive vocational education program. Some students, like those in distributive education, work in local businesses.

Others, like the students in cosmetology, study in a work-like atmosphere. They go from their regular English and history classes to actual experience with hair dryers and hair curling solutions, learning to cut and style hair.

By attending the school's cosmetology classes for two years, students can earn up to 1,000 hours of training, according to Landrum.

When they graduate, those students will have ony 200 hours of training to complete before they can become licensed cosmetologists.

Landrum says the incentive to find jobs is the major reason students enroll in voca-

tional classes. "We just have so many jobs that do not require a college degree today."

Vocational classes are becoming more successful in preparing students to go from the classroom to jobs, said Landrum.

"The students in the welding class often go straight from class into a job."

Landrum and Cain both said that the image of students in vocational classes is changing. There was a time when the students who enrolled in vocational education were considered second-class students, the educators agree.

Landrum said that is no longer true: "The attitude of the parents and the students has changed. People are finding out that skilled education is important and is not second class.

"At one time a college education was the only thing there was. If you weren't going to college you fell by the wayside and took whatever came along."

Students enrolled in vocational education classes say that they enjoy learning skills that will help them in the job market.

They are also proud of the paychecks they are bringing home: 18-year-old Regina Bailey is in Paul Parker's trade and industrial education class. She is a senior and works part time at Hartselle Medical Center Hospital as a nurses' aide.

"Both my brothers have been laid off. I just feel thankful to have the job I have. The films I see in class help you deal with your job. It helps you understand the ones who are above you and the ones who are below you," she said.

Regina said that she plans to keep her job for at least a year after she graduates, possibly longer.

Nancy Brindley, also a senior, is a student in Don Tomlinson's distributive education class. She was also in the D.E. program last year, and was able to leave school an hour early each day to go to her job at Hardee's.

She enrolled in D.E. again this year, even though, because of a heavier class load, she does not get the extra hour daily on the job.

She said that the work experience has "taught me a lot about getting along with my bosses at work. I pay closer attention to what I'm doing at work."

Nancy says she studies some things in class that may be unrelated to her present job, but that she is still learning about the business world in general.

"I'm getting work experience that I can use later on when I have a career job," she said.

Both the D.E. and the trade and industrial relations departments are co-operative programs—students work at regular jobs to practice what they are learning in the classroom.

The D.E. classes are mostly concerned with selling and distributing a product. Those students often hold jobs in retail outlets as sales clerks.

The trade and industrial education classes deal with manufacturing principles and rendering service, such as working as a nurses' aide or working as a cook in a restaurant.

Both Tomlinson and Parker are involved in helping their students find jobs while the students are in the co-operative program.

Hartselle School Superintendent Carlton Smith is proud of the school's vocational education department, he said.

The growth started with a survey conducted when the Hartselle City School System was formed in 1975.

"We did a goal-identification program and one of the things that was very high on the list was the need for more vocational ed," Smith said.

At that time Hartselle had only five teachers in vocational education. There were two home economics teachers, two agri-business teachers and one distributive education teacher. Now there are 13 vocational education teachers, Smith said.

The present vocational center was built four years ago with funding from an Appalachian Region federal program. "We are proud of where we've come in eight years," said Smith.

There is still a long way to go, he said. Presently there is only one computer being used by students in vocational education. Smith would like to see more.

"There is going to be a big demand for people in that field in the next few years. I would like to see a program developed that would help adapt students to the computer age," he said.

At the end of the month, the vocational department will be evaluated by the state Department of Education. The team of state and local vocational education officials will review the total Hartselle program.

The review team will report to Smith after its visit. The administration here will use the report to develop programs which address the recommendations of the review team, the superintendent said.

"We plan to use the state survey as a way of looking at ourselves," he said.●

WHAT THE COAST GUARD MEANS TO THOSE WHOSE LIVES ARE IN JEOPARDY ON THE HIGH SEAS

● Mr. PELL. Mr. President, the Coast Guard is the oldest continuing seagoing Armed Force of the United States. It performs a host of missions relating to our Nation's defense, the safety of all who sail our waters, and the enforcement of U.S. law and international treaties and agreements. Nowhere, however, is the indispensability of the Coast Guard more vividly demonstrated than in a dramatic rescue effort on the high seas.

The details of a heroic rescue operation in waters off the New England coast were disclosed last week by the Coast Guard, and reported by the Associated Press in the Providence Journal on December 10. According to the news account, the Gloucester scalloper *Sacred Heart* was floundering in 30 foot seas on the rocky shoals of the David Banks off Cape Cod on the night of last October 9. On patrol in the area was the 39-year-old Coast Guard cutter *Unimak*, stationed in New Bedford, Mass. As the high seas smashed tons of seawater against the aging steel plates of the *Unimak*, Comd. C. B. Newlin directed his crew in a successful operation to get a towline to the crippled *Sacred Heart*. Both ships were just a few minutes away from foundering in the treacherous waters of the David Banks when the last attempt at a towline held and the seven member crew and the *Sacred Heart* itself were saved from disaster.

This memorable rescue is a great credit to the men and women of the Coast Guard who perform their manifold duties under frequently challenging and difficult circumstances. The average age of Coast Guard cutters is more than 22 years, and many cutters—including one I served on prior to World War II—are over 40 years old. Navy vessels, by comparison, are half the age of the average Coast Guard cutter. Significant advances have been made in the last 2 years to address the capital equipment needs of the Coast Guard, but we have not achieved nearly enough to make up enough for years of underfunding and neglect.

Mr. President, I wish to share the account of the rescue of the *Sacred Heart* with my colleagues, and ask that the text of the article entitled "A Captain's Last Bold Choice Saves Seven Lives" be printed in full in the RECORD at this point.

The article follows:

[From the Providence Journal, Dec. 10, 1982]

A CAPTAIN'S LAST BOLD CHOICE SAVES 7 LIVES

BOSTON.—As 30-foot waves pounded the aging Coast Guard cutter, buckling its steel plates, the captain faced a life-and-death choice: Should he abandon an attempt to rescue a stricken fishing boat, or risk losing his ship and crew on rocky shoals a quarter-mile away?

Cmdr. C. B. Newlin's decision for one more try at getting a line to the seven-member crew of the Gloucester scalloper worked. His cutter, the 39-year-old, New Bedford-based *Unimak*, was able to take the 90-foot vessel *Sacred Heart* in tow.

But it was close. Newlin, 41, of Danville, Va., estimates that the two ships were 10 to 15 minutes away from foundering on the treacherous David Banks 45 miles east of Cape Cod.

"In 17 years at sea, I've seen a lot of rescues," said Newlin. "This was one of the most difficult."

The rescue took place the night of Oct. 9, but details were disclosed this week by the Coast Guard.

The story began earlier that day when an engine failure left the fishing vessel at the mercy of a growing storm.

"In 30 minutes, the wind changed from 30 mph to 50 mph," said Capt. Carlo Randazza, who rode out 30-foot seas for eight hours, waiting for rescuers. "I've been 13 years on fishing boats, but I've never seen a sea so big."

The 311-foot *Unimak* arrived that evening, after two smaller Coast Guard vessels were unable to reach the fishermen. Newlin said the high seas smashed tons of seawater against the converted Navy seaplanes tender, buckling metal plates and rolling his ship up to 55 degrees.

"One minute we'd be walking on the deck, then on the bulkhead," he said.

When the *Unimak* pulled to within 900 feet of the *Sacred Heart*, Newlin ordered 10 men to the fantail to fire a tow line onto the *Sacred Heart*. A huge wave submerged the cutter's stern, and 10 men were swept toward the railing.

Nine men smashed against a flagpole dismantled and lodged horizontally in the stern. Seaman Michael Conklin of Port Jervis, N.Y., slipped over the slide, but he clung to a guide rope and was pulled back aboard.

"We had some boys who became men out there," said Newlin.

One man suffered a concussion, another a broken leg. They were later evacuated by Coast Guard helicopter.

A tow line was fired to the weary crew of the *Sacred Heart*, but it split, forcing another try.

Newlin decided on one more try before giving the *Sacred Heart* crew 10 minutes to abandon ship for the raging sea and a long-shot rescue. By that time the *Unimak* was a quarter-mile from the shoals.

"If we didn't grab the line," said Randazza, "we were lost, totally lost."

But the line held. The *Unimak* was able to haul the fishermen to the safety of Provincetown.●

HUMAN RIGHTS WEEK

● Mr. D'AMATO. Mr. President, on December 10, 1948, the United Nations adopted the Universal Declaration on Human Rights, an historic document outlining the obligations of every government to its citizens. many of the principles embodied in the declaration have been fashioned after the first 10 amendments to the Constitution of the United States. As Americans, we have come to cherish the liberties guaranteed by the Bill of Rights. Nevertheless, it is important, especially during our observance of Human Rights Week, that we remember the millions of men and women deprived of even the most basic human rights and civil liberties.

As a member of the Commission on Security and Cooperation in Europe, I am particularly familiar with the ruthless and systematic denial of such freedoms by the Communist regimes of the Soviet Union and Eastern Europe.

Yesterday, we observed a "Day of Prayer for Poland and Solidarity" with the Polish people. I share the sense of concern expressed by many Americans over the tragic events which have occurred in Poland since the imposition of maritial law 1 year ago. The declaration of martial law by the Polish Council of State represents an attempt to deal a serious blow to the freedom and rights of the Polish people. Under constant pressure from the Soviet Union, General Jaruzelski has sought to extinguish the free spirit of the Polish workers, denying them the right to strike as well as imposing stringent control with respect to personal travel and communications.

It is important that we recognize the influence of the Soviet Union in these and other violations of human rights.

The Soviet Union, despite its professed support of both the Universal Declaration on Human Rights and the Helsinki Final Act, persists in its efforts to suppress religion and restrict emigration. While the Soviet regime has instituted repressive policies of control against Catholics, Protestants, and Muslims, it has been particularly harsh with respect to Soviet Jews. As a result, Soviet Jewry, today, faces the bleakest circumstances in more than a decade. Emigration continues to be effectively denied to Jews and members of other national and religious groups in clear violation of the Universal Declaration and the Helsinki Final Act. In addition, the authoritarian leaders of the Soviet Union have attempted to quell any form of dissent, imprisoning thousands of human rights activists in forced labor camps.

Soviet hegemony, meanwhile, has served to proliferate these policies in other nations. Elsewhere, the Romanian Government recently announced its decision to impose exorbitant education taxes on Romanian citizens who wish to emigrate. The proposed tax would block the emigration of thousands of Romanian citizens who have applied for permission to leave that nation.

In Afghanistan, for example, the Communist regime, under the Soviet puppet Babrak Karmal, has tried to crush the freedom and nationalism of the Afghan people. Thousands of innocent men, women and children have been executed or tortured by the military authorities. Today, nearly 3 years after the Soviet invasion, an estimated 100,000 Soviet troops remain in Afghanistan. A report recently released by Secretary Schultz presents convincing evidence that the Soviets have unleashed lethal gases over Afghanistan in an attempt to break the will of Afghan freedom fighters.

These are but a few examples of the blatant disregard for human rights fostered by Communist regimes, under the watchful leadership of Moscow. Let us, during this special week, reflect upon the Universal Declaration and strive to realize the common rights and freedoms which it contains.

Mr. President, I ask that the entire text of the Universal Declaration on Human Rights be printed in the RECORD.

The text follows:

UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Everyone has the right to life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal of-

fence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18. Everyone has the right to freedom of thouht, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expreseed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.●

PROTECTING BIG SUR FROM OFFSHORE LEASES

● Mr. HAYAKAWA. Mr. President, the California coastline is special for a number of reasons. For one, coastal tourism is the No. 1 industry in my State. Millions of visitors, generating $19 billion per year, come to California to witness such scenic wonders as the rocky cliffs at Big Sur. For another, the commercial fishing industry brings an additional $1 billion in revenues per year to California. In fact, virtually the entire economic base of California's coastal region is based on the productivity of an unspoiled coastline.

Recognizing this importance, the House of Representatives in the Interior and related agencies appropriations bill, deleted funding for the "procurement, leasing, bidding, exploration, or development of offshore leases" from Pismo Beach to Oregon. The House language in section 107 protects only those coastal areas considered to have an estimated low oil reserve and a much greater potential environmental impact on commercial fisheries and the threatened California sea otter. The House language does not affect leasing in the recently announced oil finds near Point Conception.

In contrast, the Senate version retains the language passed in last year's Interior appropriations bill. At that time, a smaller tract-specific lease sale was proposed by the Department of the Interior. Last year's language also protected the Big Sur area with which I am concerned today. It is important for my colleagues to understand that in order to protect the same areas as were covered in last year's Interior appropriations bill, the Senate needs to adopt the House language in section 107. I urge the conferees to consider this matter carefully.●

TRIBUTE TO THE PHARMACISTS AGAINST DRUG ABUSE CAMPAIGN

● Mrs. HAWKINS. Mr. President, as chairman of the Senate drug Enforcement Caucus, I would like to call my colleagues' attention to an exciting Government/private sector initiative.

On March 22 of this year, First Lady Nancy Reagan hosted a very special White House briefing on drug use and the family, sponsored by ACTION, the national volunteer agency. Present at that briefing were corporate and organizationsl leaders from across the country who gathered in the East Wing of the White House to hear from various parents and drug experts about the problem of illicit drug use by our Nation's young people.

Present at that meeting was Mr. Jack O'Brien, President of McNeil Pharmaceutical. Mr. O'Brien pledged that same day he and his company would do everything within their power to assist in the efforts of thousands of parents nationwide who were trying to prevent the spread of drug abuse.

Since that day in March, McNei Pharmaceutical, ACTION, and the White House have been actively designing and implementing a program which I find most inspiring. It was recently launched in the Boston metrolopolitan area and in the States of Maine and New Hampshire as a test program. This unique drug abuse program uses the resources of 1,400 community pharmacies to help educate parents on the health dangers of illicit drug use by their children.

The campaign, Pharmacists Against Drug Abuse (PADA), is a cooperative effort sponsored by McNeil Pharmaceutical, ACTION, and State pharmaceutical associations. It is built around a free brochure, "The Kinds of Drugs Kids Are Getting Into," available at participating pharmacies. Michael Landon, an outstanding spokesman for the program, was present to launch the campaign in New England.

PADA focuses on alcohol and marihuana which, according to Dr. Carlton E. Turner, Director of the White House Drug Abuse Policy Office, "are two drugs young people are mostly likely to use in entering the drug scene." The program also focuses on cocaine, the fastest growing drug of abuse in America.

Speaking before the press conferences at Boston's Hotel Meridien and in Manchester and Portland to launch the PADA campaign, Dr. Turner emphasized that "over one-third of all kids in America use illegal drugs and 1 of every 14 high school seniors use marihuana every day." Dr. Turner added:

> Parents and kids need to know that using these drugs is not harmless. For example, marihuana can have a marked impact on a child's ability to learn and remember things. What we're really talking about is an epidemic of drug abuse which is a threat, a real danger to a generation of young people.

According to Jack O'Brien, "We developed the pharmacists against drug abuse program because local pharmacists, by academic training and professional experience, are experts on drugs and are an excellent source of information on drug abuse." He added:

> The program will not be successful if all we do is distribute 600,000 brochures on drug abuse in Maine, Massachusetts, and New Hampshire. What is needed is for parents to get educated about drug abuse, to talk with their kids, to get involved in their communities, and to form parents' organizations that can turn around the drug problem and the drug abuse culture in America.

Tom Pauken, Director of ACTION, stated that ACTION was "enthusiastic in cooperating in the McNeil Pharmaceutical PADA program, as it stimulates volunteer and private sector participation."

Also present at the announcement was Mr. Robert Stutman, Regional Director for the Drug Enforcement Administration, who added the support of the law enforcement community to the campaign.

In addition to the free brochure available at participating pharmacies, the PADA program also includes pharmacy posters announcing, "This is the place where parents can learn about drug abuse."

For parents who want further information about how to aid in the fight against drug abuse, there is a toll-free number to call—ACTION/PRIDE, the National Family Resource Center at 1-800-241-9746.

This program is a perfect example of theeh effectiveness of a public/private partnership. I am also pleased to see the agencies of the Federal Government working together in this cooperative manner. The utilization of all possible resources is required to put a stop to this problem.

I commend all those involved: McNeil Pharmaceutical, ACTION, Michael Landon, and the DEA for this outstanding campaign. I wish you luck in hopes that these materials can be made available in all our States in the very near future.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraphs 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Ms. Laura Hudson, of the staff of Senator JOHNSTON, to participate in a program sponsored by the Hebrew University of Jerusalem in Jerusalem, Israel, from January 9-18, 1983.

The committee has determined that participation by Ms. Hudson in the program in Jerusalem, at the expense of the Hebrew University of Jerusalem, to participate in seminars on American-Israeli relations, is in the interest of the Senate and the United States.●

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 10 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business this morning it stand in recess until 10 a.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, today after the Senate convenes at 10 a.m. and after the recognition of the two leaders under the standing order, I ask unanimous consent that there be a brief period for the transaction of routine morning business to extend not past 10:30 a.m. in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that at 10:30 a.m. today the Senate proceed to the consideration of the PIK bill which is an Agriculture bill which I understand is cleared for consideration on both sides.

Mr. ROBERT C. BYRD. No, it is not.

Mr. BAKER. Mr. President, I understand that that has not cleared. I was mistaken.

SCHEDULE FOR WEDNESDAY

Mr. President, in the morning at 10:30 a.m. it is my hope that we may be in a position to proceed to the consideration of PIK bill. If we are not, then we will go back, of course, to the highway bill at which time the pending question will be the Metzenbaum amendment.

However, I would urge Senators to consider the desirability of trying to clear that matter after consideration within a brief period of time.

Mr. President, in addition to that I understand that an Agriculture appropriations conference report may be available today and that perhaps we could deal with that in a short time as well.

Mr. President, I expect today will be a late day as indeed yesterday had been a late day.

It is my fondest hope that we may be able to finish the highway bill today.

The motion to invoke cloture against further debate on the substitute and on the bill has been filed and votes on that will mature on Thursday. But really if we put our minds to it I think we might finish that in advance of the time that the Senate is called on to decide the question of cloture.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. I know that the majority leader has indicated that I was to be recognized when we return to consideration of this bill.

My parliamentary inquiry is, Has an order to that effect been entered in the RECORD?

The PRESIDING OFFICER. An order to that effect has been entered and the Senator's right will be protected.

Mr. METZENBAUM. I thank the Chair, and I thank the majority leader.

RECESS UNTIL 10 A.M.

Mr. BAKER. Mr. President, I have no further business to transact at this time. If no other Senator is seeking recognition, I now move in accordance with the previous order that the Senate stand in recess until the hour of 10 a.m. today.

The motion was agreed to; and at 1:29 a.m. Wednesday, December 15, 1982, the Senate recessed to reconvene at 10 a.m. today.

NOMINATIONS

Executive nominations received by the Senate December 14, 1982:

IN THE NAVY

The following-named officer, under the provisions of Title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Kenneth M. Carr, [redacted] /1120, U.S. Navy.

PUBLIC HEALTH SERVICE

The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

For appointment:

To be assistant surgeon

David M. Anderson
James M. Erskine
Martha J. Wunsch
John S. Yao
Kevin S. Yesky

DEPARTMENT OF JUSTICE

William Thomas Dillard III, of Tennessee, to be U.S. attorney for the northern district of Florida for the term of 4 years, vice Nickolas P. Geeker, resigned.

89-059 O-86-43 (Pt. 22)

EXTENSIONS OF REMARKS

TRIBUTE TO HON. TOM RAILSBACK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. RODINO. Mr. Speaker, TOM RAILSBACK of Illinois is leaving this body after 16 years of exemplary service to his Nation, his district, and his State.

Throughout our years on the Judiciary Committee he and I have forged a close working relationship. He has been an artful legislator. A thoughtful and fair-minded man, his work has been most valuable in helping the committee fashion acceptable compromises among competing interests on thorny issues.

There has been no lack of these difficult issues in TOM's years on the committee. As the ranking minority member of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, he has helped guide the committee through many prickly legislative thickets in which emotions on the issues run high.

Perhaps, I know TOM best through his service on the Subcommittee on Monopolies and Commerical Law. His probing mind always helped us cut through to the heart of the issues, to sort out the validity of the various interests, and to reach just and equitable solutions.

I think the Nation's citizens will remember TOM best for his service during the agony of the impeachment hearings. All of us who took part in those hearings and the millions who viewed the proceedings on television will not soon forget his own special torment as the facts unfolded, the record mounted, and the committee moved toward historic decision. At no time has TOM RAILSBACK's courage and dedication to principle that have marked his career been more evident.

NOW, TOM RAILSBACK is about to begin a new career with the Motion Picture Association of America. We wish him success in this endeavor, knowing full well that the knowledge and expertise and all the personal qualities that he has shown during his political career will guarantee that success.

KGB LEADERSHIP FOR THE SOVIET UNION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. McDONALD. Mr. Speaker, the swift and smooth transition of leadership in the Soviet Union on November 12 from Leonid I. Brezhnev to Chief of KGB, Yuril V. Andropov, should not have been a surprise to anyone who followed the events in the Soviet Union in 1982. This was a year of great changes in personnel and in policies in the country which otherwise is known for its slow, internal, political process. Each new leadership in the past has stressed at the transition time the theme of continuity of Soviet domestic and foreign policies and principle of collective leadership.

The transition of leadership, for all practical purposes, started on January 25, 1982, when Mikhail Andreyevich Suslov died rather suddenly while known to be in poor health for quite some time. Considered to be second in significance to General Secretary Leonid I. Brezhnev as member of both top leadership bodies, the Politburo and the Secretariat of the Central Committee of the CPSU, Suslov has been credited for the ideological supervision and formulation of Soviet foreign policies. His departure meant that the new Soviet initiatives on the international arena should be expected. And, notwithstanding the fact that Brezhnev and his entourage were still officiating in the Kremlin, new leadership came to be felt in Soviet policies abroad and at home.

A large delegation, headed by head of the China Department of the U.S.S.R. Ministry of Foreign Affairs, M. Kapitsa, left for Peking several weeks after Suslov's death. This first Soviet delegation of such size and significance to vist China since 1963, first met a rather reserved reception in Peking. However, 2 months later it was followed by higher-level Soviet delegation headed by Deputy Minister of Foreign Affairs, L. Iliychev. This time, the discussion touched practical measures of cooperation in the field of cultural and technical exchange and future expansion of trade relations. Several visits of technical teams and sport groups were exchanged between China and the Soviet Union since that time. Minister Iliychev came for a second visit in October.

On April 22, Yuriy V. Andropov, Chairman of the Committee of State Security (KGB) and member of the Politburo of CPSU, made a speech in which he described at length the creative nature of Marxism-Leninism with an obvious reference to flexibility and possible changes in Soviet foreign policies after Suslov. It is very unusual for the head of KGB to make public speeches and pronouncement of general policy nature. Andropov also referred at that time to the strong defensive posture that the Soviet Union must maintain in view of the aggressive policies of the capitalist countries. Domestically, it was expressed by harsher persecution of political dissidents and religious groups. Some arrests took place in Moscow and Academician Sakharov was roughed up with a manuscript of his new book taken away from him.

On May 20, 1982, Yuriy Andropov moved from his position as Chairman of the KGB back to the Secretariat of the Central Committee of CPSU, the job he had for several years prior to becoming head of KGB in 1967. It was said that at this second time as Party Secretary, Andropov took over the responsibilities of deceased M. A. Suslov. In this new capacity, he automatically became member of the Defense Committee, the highest body overseeing the armed forces of the country.

It was the time of great anxieties for the Brezhnev family. Brezhnev's brother-in-law, KGB General Semyon K. Tsvigun, died suddenly and it was rumored in Moscow that he had committed suicide. Brezhnev's daughter Galina was under suspicion of having been involved in a corruption scandal. Also, Brezhnev's close friend and political commander of Moscow Military District, General V. Grushevoy, suddenly died of a heart attack. Brezhnev himself was very sick and absent for weeks from Moscow and some malicious gossip declared him even dead. He was obviously very weak since at the funeral of General Grushevoy, he openly and uncontrollably cried.

In June, a large delegation of Yugoslavian high military and Communist Party officials, headed by Army Commander and Politburo member, General Nicola Ljubicic, came to the Soviet Union for a prolonged 6-week tour of important military installations and for mutual interest conferences. This was the first such delegation from Yugoslavia since 1956.

It is clear now that these new initiatives attempting to consolidate the Communist camp and to forge a united bloc—including China and Yugoslavia—have been conducted by Andropov. He succeeded, throughout

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the 10 months between the deaths of Suslov and Brezhnev, in creating new trends and a strong front of supporters in the Central Committee of CPSU to help him become new General Secretary of CPSU.

It is for the first time in the history of the Soviet Union that the head of secret police and intelligence organization became the head of the ruling Communist Party. Andropov is a tough, shrewd, smart, scheming manipulator who for 15 of the 18-year Brezhnev administration as General Secretary of the party, has been molding the KGB machinery according to his own pattern and methodology of operation. He was in charge of the computerized dossiers of each and every Soviet citizens longer than any other KGB boss, including its organizer, Felix Dzerzhinskiy. Andropov created a newly sophisticated, modern KGB machinery run by efficient, smartly dressed operators known in Moscow as Andropovtsy, a far cry from the crude and primitive KGBeshniks of the Lavrentiy Beriya times. Andropov forced Soviet medicine, including its vulnerable branch of psychiatry, into the role of a tool of the invincible KGB. He extended the KGB system of administration into Poland where in reality, not the military under General Wojciech Jaruzelski but the secret police and detachments of ZOMO under the Minister of Interior, General Czeslaw Kiszczak, are exercising actual controlling power.

Andropov started his big-time career 31 years ago in 1951 when he was transferred from Petrozavodsk in the Karelo-Finnish Republic to Moscow to the department of the Central Committee dealing with security affairs. He was recommended by Otto Kusinen, Soviet Finn, and leader of that Soviet territory since 1940. Andropov spent 11 years in that area and impressed Kuusinen by his ability to speak Finnish and by his adroitness and skill of dealing with dissident Finnish nationalists during and especially after the war. With very little formal education—he graduated only from the Technical School of River Transport in Rybinsk on the Bolga, a school academically about the high school level—Andropov displayed during his life a great organizational ability, strong instinct for survival in the jungles of Soviet Communist Party institutions, and an unusual talent for languages. He augmented his limited formal education by attending university courses during his post World War II stay in Petrozavodsk (1945-51) and by additional studies at the Higher Party School of the Central Committee in Moscow. But he never graduated from either of these schools. The transfer to Moscow in 1951 was the first big breakthrough in Andropov's career. His knowledge of Finnish—which has common roots with Hungarian—served him very well in his second big advancement when he was assigned to a new diplomatic security position in Budapest, Hungary in 1953 and, when he became Soviet Ambassador to Hungary a year later in 1954. He impressed the diplomatic community of the Hungarian capital as one of the very few foreign ambassadors who spoke Hungarian.

Andropov's skill in diplomatic maneuver, however, was surpassed by his ability to plot in the KGB style. In November, 1956, he lured General Pal Maleter—military leader of the uprising—and Prime Minister Imre Nagy to conferences with the Soviet command by promises of negotiation. Andropov was standing in the background, very suave and smiling, while one of his predecessors at the KGB, General Ivan Serov, supervised the arrest of General Maleter and his party. Both Maleter and Nagy were executed sometime later.

There are no ambiguities in Andropov's record. He always knew how to promote himself through the rough Soviet Party politics. In 1937-38, he took advantage of the Stalin purges in the Communist Youth Organization and became a secretary and a year later first secretary of Yaroslavl Communist Youth Offices.

After his performance in Hungary he came back to Moscow with the new taste for sophistication. He switched from vodka to scotch whiskey and started his study of English as an essential language for a Soviet leader dealing with intelligence and security affairs.

After 5 years as head of the Central Committee department dealing with affairs of the Communist bloc countries, Andropov joined the top policy body, the Secretariat of the Central Committee in 1962. As Secretary of the Central Committee he dealt directly and indirectly with the problems of internal and national security and consequently in 1967, he became chairman of the KGB, the organization that combines the functions of the CIA, FBI and at least a dozen other agencies in the United States—Secret Service, National Guard, National Security Agency, and others. He remained in charge of this huge network with not less than half a million employees, longer than any other person in the history of the U.S.S.R.

The KGB, during the 15 years of Andropov's supervision, changed from rather simplistic service of the Stalin period into the sophisticated and expanded body of professional operators intimidating dissident movements at home, skillful intelligence experts and terrorist leaders abroad and scientifically based analysts writing reports for the policymakers in the offices of the Central Committee.

During the Andropov time, some of the previously abandoned slave labor camps were filled again, the political dissident movement completely crushed and many religious leaders either imprisoned or confined to psychiatric clinics. The foreign intelligence service has been elevated by Andropov to its new levels of sophistication and professionalism.

In May 1982, Andropov selected a professional security officer, General Vitaliy V. Fedorchuk to succeed him as Chairman of the KGB. General Fedorchuk spent all his adult life as a KGB officer in the Ukraine and occupied Austria and Germany after the war. He became Chairman of the KGB Office for the Ukrainian Republic in 1967.

The only way to judge Andropov's future performance as the new leader of the Soviet Union is to evaluate his previous achievements and the way he succeeded to power in 1982.

First of all, it is due to Andropov's work that there is virtually no dissident movement in the Soviet Union today. The strict control over the political behavior of the Soviet population has been ruthlessly implemented since 1967 and any small degree of political freedom that may have existed for a while in the late fifties and early sixties has been rooted out by all means, including psychiatric wards, increased forced labor confinements and plain prison terms.

The internal party discipline has also been considerably tightened during Andropov's administration of the KGB. In several swift shifts and short trials, some party officials were replaced by others and some jailed in consequence of the KGB investigations.

The image of the KGB as a "sword and shield" of the Soviet Union has been maintained very effectively under Yuriy Andropov. His heavy hand has been felt throughout the system and it helped him and his cohorts, whoever they are when the transition time came in 1982.

Brezhnev's group, headed by his old friends and long-time associates, both members of the Politburo and the Secretariat, A. P. Kirilenko and K. U. Chernenko, did not amount to much in a confrontation with Andropov. There was a rumor that Kirilenko, who was once slated to succeed Brezhnev, was very sick or that he was linked to the defection to the West of his son. He was dropped from the Politburo list even before Brezhnev's death and was prevented from signing Brezhnev's obituary. He was present in the crowd on the first day of Brezhnev's lying-in-state and was seen crying when expressing sympathies to Brezhnev's wife, Victoria. Konstantin Chernenko was given a dubious privilege of making a speech nominating

Yuriy Andropov for election to the post of General Secretary. Speaking probably more about himself than the rest of the Politburo and other party members or the Soviet citizens at large, he said, "All of us are obviously aware that it is extremely difficult to make up for the loss that was inflicted on us by the death of Leonid Brezhnev". Continuing in a clear appeal to Andropov he said, "It is now twice, three times as important to conduct the affairs in the party in a collective manner." Knowing what happened already to Kirilenko, he added, "All members of the Politburo believe that Yuriy Vladimirovich (Andropov) thoroughly assimilated Brezhnev's attitude to cadres * * *" It may have been the last important speech by Chernenko.

Judging on the basis of his past performance and of the very swift transition, Andropov will pursue the internal administration along even more centralized and tightly-controlled lines than was the case heretofore. When essential members of the Central Committee—about 50 or 60 persons—were summoned for a conference several hours after Brezhnev's death, they were prepared to give their approval for Andropov's nomination as the new General Secretary. He assured himself the support of the two key members of the Politburo in advance—First Secretary of Moscow, V. V. Grishin and First Secretary of Ukraine, V. V. Shcherbitskiy. In the bargain, the protege of Shcherbitskiy, Vitaliy Fedorchuk, was elevated to replace Andropov as Chairman of the KGB.

The built-in inefficiency of the economic system of the Soviet Union will not bother Andropov as much as some of the Western observers would like it to be the case. The Soviet economy was always in trouble since 1917, and at times in much worse shape than it is now. Naturally, being larger and more complex at present than ever before, it has bigger losses and problems, but it serves well in funding the security apparatus, responding to the military-industry requirements and covering the personal needs of the elite. These three considerations rank in Andropov's mind high above the needs of the population in general.

In foreign affairs Andropov has already displayed great emphasis on improving Soviet relationships with the Communist-bloc countries and primarily with China and Yugoslavia. The effective penetration of the non-Communist countries by the efficient KGB intelligence network and expanded terrorist activities throughout the world seems to have convinced Andropov of the vulnerabilities of the democratic societies.

The recently discovered case of the Soviet operation within British intelligence, where Geoffrey Prime was transmitting to the Soviets highly sensitive information since 1968, is just one in a series of deep intrusions by Soviet operatives into the British intelligence establishment. The master-spy, Kim Philby, was a top man in British intelligence for over 20 years before he escaped to Moscow where he is now a KGB general and a top adviser to Andropov's network. George Blake, an associate of Philby in British intelligence, was sentenced to a 42-year term for his Soviet espionage activities but was assisted in a mysterious escape from the maximum-security prison in 1966. Guy Burgess and Donald MacLean, defected to the Soviet Union after many years of service in British intelligence, and Antony Blunt was accidentally unmasked in 1979 after many years of service in a very sensitive position.

During the last two decades, Andropov introduced a new method of intelligence infiltration, misinformation, and confusion. His select agents defect to the West, primarily to the United States but also to Great Britain and West Germany. Their purpose is to misinform and misguide the intelligence and political decision circles in the West, and thus, assist the Soviet policies. The number of these known and unknown double agents is great. During 1982, one of their assignments has been to picture Andropov as a suave, debonair, amiable, and sophisticated person with a liking for the Western way of life, music, and culture.

Andropov seems to be in a hurry to make changes in personnel policies. In the postfuneral session of the Central Committee, Gaydar A. Aliyev, who served in the KGB since 1943 when he was 20 years old and became First Secretary of Azerbaydzhan Republic in the cleanup of 1970, was elevated to full membership of the Politburo while Andrey Kirilenko was officially relieved of his post. Nikolay Ryzhkov, the defense industry manager who in 1979 was transferred from the Urals to the State Planning Commission, became new Secretary of the Central Committee, the body of 10 people depleted by the departure of Brezhnev, Suslov, and Kirilenko.

The changes in domestic and foreign policies, outlined in general terms by Andropov in his speech to the Central Committee, will obviously require more shifts in personnel in the near future.●

HON. BOB DORNAN

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. CAMPBELL. Mr. Speaker, it is with deep regret that I bid farewell to my friend and distinguished colleague, BOB DORNAN.

Representing a district with radically divergent interests, BOB has established himself as an able and superbly effective legislator. His abilities as a rousing orator and a champion of conservative ideals have won him the respect of all of us who have worked with BOB. His compassion and social awareness have won the respect of those he has represented for the past 6 years. As the originator of the POW bracelet, BOB revealed his concern for those heroic soldiers who had been captured in a war which BOB felt was a necessary evil. He recognized the need for conservative policies without losing touch with the unfortunate of the world.

Thus, it is with a deep sense of loss that I address this body. I will miss BOB as a fellow legislator and as a friend. I wish him the very best in the future.●

WHAT VETS THINK ABOUT THE WALL ON THE MALL

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. DANNEMEYER. Mr. Speaker, Veterans Day, 1982, and the dedication ceremonies on that day for the Vietnam Veterans Memorial, are just barely 1 month behind us. Yet, there are some important details about the memorial that remain to be finished. As part of a compromise reached between various parties with divergent points of view on how best to remember the Vietnam veteran, it was agreed that a flag and a sculpture would be added to the original design for a wall containing the names of those who died in Vietnam.

I am advised that the Fine Arts Commission, which must approve matters pertaining to monuments and memorials on the Mall, will meet later this week to review several options for implementing the additions agreed to in the compromise. With that thought in mind, I believe it would be helpful to circulate the results of a survey of veterans on the three major options for the flag and the statue. Accordingly, I am including in the RECORD at the end of these remarks an article by Milt Copulos and the results of the survey he supervised. I trust that the Fine Arts Commission will take them into serious consideration.

RESPONSES TO QUESTIONNAIRE ON FLAG PLACEMENT, INSCRIPTION, AND THE MEMORIAL DESIGN BY ITSELF

Category	Vietnam vet	Family member	Viet era vet	Other vet	Non-vet	Family and Viet vet	Total
Number	530	96	89	33	140	626	888
Should the flag be prominently displayed as an integral part of the memorial?							
Yes	94.2	84.4	92.1	87.9	74.3	92.7	89.5
No	5.5	15.6	6.7	12.1	24.3	7.0	10.0
No opin	.3	0	1.2	0	1.4	.3	2.8
Should there be an inscription making reference to the principles for which Viet vets fought?							
Yes	84.7	81.2	71.9	72.7	56.4	83.5	78.2
Which of the following best describes your impression of the wall design by itself?							
Str. fav	27.4	34.4	34.8	42.4	57.1	28.4	34.1
Some fav	6.2	13.5	19.1	21.2	16.4	7.3	10.5
Some unfav	8.3	6.3	9.0	15.2	7.1	8.0	8.2
Str. Unfav	54.3	44.8	34.8	12.1	12.9	52.9	43.3
No opin	3.8	1.0	2.3	9.1	6.5	3.4	3.9
Please rank the following suggested locations for the flag and statue according to your preference.[1]							
A	74.1	78.1	69.7	60.6	47.1	74.6	69.3
B	7.5	6.3	4.5	12.1	7.9	7.4	7.3
C	12.8	11.5	11.2	27.3	33.6	12.6	16.3
No opin/other	5.7	4.1	14.6	0	11.4	5.4	7.1

[1] Option A represented the proposal made by the Vietnam Veteran's Memorial Fund to the Fine Arts Commission in September, Option B represented placing the flag at one side, and the statue within the tree line, and Option C represented the placement suggested by the Fine Arts Commission with both the flag and statue within the tree line. Letters were used so as not to bias the respondents.

What Veterans Think About the Wall on the Mall

(By Milt Copulos)

The memories came flooding back when I spotted the familiar 25th Infantry Division patch on the faded fatigue jacket. "Hey Wolfhound!" I shouted. You could almost see the pride welling up within him as he turned to me, smiling. I understood how he felt. I too had worn the emblem of the Tropic Lightening Division, although with a different unit. But we were all there that day: the Wolfhounds, the 3/4 Cav, the Fifth Mech. All the units I had once known so well.

The place names came back in a rush too: Trang Bang, Go Da Ha, the Boi Loi Woods, Black Widow Mountain, and Katum—especially for me Katum. So many years had passed since these names were a daily part of our lexicon, years in which we seldom thought of them except sometimes, in the depth of night when they came unbidden, unwanted. Still, they were places burned into our souls. Places where too many of our comrades had fallen, where we had lost our innocence.

We were all so young then. But, like the youth of countless generations, we were called to do a job, a job we could be proud of: to help defend freedom. We did the best we could—the best anyone could under the circumstances, but for a decade or more it seemed as though no one else understood. Finally, that day on the mall, despite the mud, the wind, the cold, our day had come. Our service, the source of our pride was at long last being recognized.

I walked over to the fellow with the patch on his fatigue jacket, and the fatigue cap that had "Wolfhounds" proudly emblazoned across the peak, and said simply, "Welcome home." There was a hushed sort of reverence in his voice when he replied, "Yeah, we are home. Aren't we?"

Still, reunion wasn't my purpose that day. I was there to finish a job begun a year earlier in a series of marathon meetings held in a Senate office building. I, along with other Vietnam veterans had come together to settle our differences over the memorial that was to be built in honor of our service. The divisions among us had been so deep at the outset, that the right appeared beyond repair. But, in those meetings, we drew on the reserves of maturity and perserverence that saw us through the war, and reached a compromise. More important, we agreed to band together and see it through to fruition.

The compromise really didn't ask much: merely the addition of a flag, and a 7½ foot high statute to the memorial site along with an inscription on the flagpole's base referring to the principles for which we fought. Small changes, but important ones, because they gave context and meaning to the nearing 58,000 names inscribed on Maya Lin's wall.

A panel, of which I was a member, was selected to help choose a suitable sculpture, and determine the placement of the new elements; and it seemed as though the controversy was at least put to rest. Events, however, sometimes take on a life of their own, and this one did with a vengeance.

A small, but vocal segment of the arts community cried "foul". Raising specious arguments about the "sanctity of design competitions", and making adhominem attacks on those asking for the changes, they managed to totally loose sight of the purpose for which the memorial was being built. Throughout the summer, they pressed a vigorous lobbying campaign to destroy the compromise so painfully achieved, and impose their will on the approving agencies.

As both sides ralleyed support, it seemed as though every possible opinion was being sought, except the one that counted: the opinion of those to whom the memorial was dedicated. It was for this reason that I found myself on the mall that day.

With the cooperation of student volunteers from four local universities, and the assistance of prominent experts in survey research, I had organized a poll to determine the attitudes of those attending the dedication of the Vietnam Veteran's Memorial. There were a number of reasons this particular time was selected.

First, it guaranteed that some semblence of a national cross-section would be present—veterans from every state were there. Secondly, everyone being polled would have had the opportunity to see the actual memorial, not just some model or artist's conception, and would be able to clearly understand where the proposed locations for the new elements were. Most important, the poll would be taken in an atmosphere which placed the original design in the most favorable light possible—while a steady procession of speakers praised it as the long overdue recognition of the veteran's service.

The reason we felt it necessary to go to such lengths to insure the original design every opportunity to be viewed in a favorable light was that many of us, myself included, had strongly negative feelings toward it. We saw it as nihilistic—more a memorial to the negative image which had evolved around the war, than a tribute to the honorable service of the 2.7 million Americans who fought it. Although we had been contacted by countless Vietnam veterans who shared our view, the nagging doubt that we might be wrong left us honor-bound to seek the truth, and make every effort to insulate the poll against the danger that our own bias would color the results. Well, the results are in, and they are, to say the least, compelling.

888 people took the time to answer our survey—far more than is required for statistical validity. Included among them were 530 Vietnam Veterans, and 96 family members of Vietnam veterans. They were asked four basic questions: (1) Should the flag be prominently displayed as an integral part of the memorial?, (2) Should there be an inscription making reference to the principles for which the veterans fought?, (3) what they thought about the wall design by itself, and (4) which of three proposed locations they preferred for location of the new elements.

Without exception, every category polled indicated that the flag should be prominently displayed as an integral part of the memorial. The favorable responses ranged from 94.2 percent from Vietnam veterans to 74.3 percent from non-veterans. Overall, 89.5 percent of the total respondents answered yes to this question. With regard to including the principles for which the veterans fought, again a wide majority said yes, with Vietnam veterans leading the favorable responses at 84.7 percent, and non-veterans at the lower end with 56.4 percent. Overall, 78.2 percent agreed.

The question regarding attitudes towards the wall design by itself showed no such unanimity, however. Interestingly, there appeared to be little middle ground in the emotions the stark black walls elicited. 54.3 percent of the Vietnam Veterans polled said their impression of the wall was strongly unfavorable, and only 27.4 percent indicated their impression was strongly favorable. Only 8.3 percent of the veterans rated the wall somewhat unfavorable, and 6.2 percent somewhat favorable. Among non-veterans, though, the margin was reversed, with 73.5 percent giving the wall either a strongly favorable or somewhat favorable rating, and only 20 percent rating it unfavorable. Overall, however, the wall received an unfavorable rating from those polled.

On the final, and most important question, that of placement, unanimity once again surfaced. Here, the option labled "A", which would place the flagpole behind the Apex of the walls, and the statue about 170 feet in front of it was selected as the first choice by every single category of respondent, and in every category save one—non-veterans—by a margin of more than two to one. Option "A" was actually the placement suggested by the sculpture selection panel, and endorsed before the Fine Arts Commission last September by every major verterans group, the Memorial Fund itself, the Gold Star Mothers, and even the Memorial Fund's architect. Overall 69.3 percent of the sample selected option "A", as compared to option "C", which, is fact was the placement demanded by the Fine Arts Commission, which was the first choice of only 16.3 percent of the total sample, and a mere 12.8 percent of Vietnam veterans.

What is evident from the survey results is that the group for whom the memorial was built—Vietnam veterans—has a very clear picture of what they want done, and that picture is sharply at odds with what a small segment of the arts community would foist upon them. To allow this to happen would be a travesty, and yet, unless the President acts to end the deadlock over placement, that travesty may occur.

As I was contemplating the prospect, and the poll results, images of two men came into my mind. One was an architect who had argued during the compromise meetings that the wall design "needed no corny patriotic claptrap like a flag or a statue to adorn it." The other was the Wolfhound, still proud of his unit fifteen years after

leaving Vietnam, who stood next to me singing the national anthem during the dedication ceremony, his eyes misting over as the emotions of the moment overcame him. The architect may not believe a flag belongs at the memorial, but the Wolfhound does, and so do I.●

REVIEWING THE FEDERAL ROLE IN DOMESTIC VIOLENCE PROGRAMS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. STARK. Mr. Speaker, this past week we have spent a great deal of thought, time, and energy on the question of how best to prevent nuclear violence. Unquestionably this was a paramount issue we had to deal with. However, there is another kind of violence much closer to home taking place daily in this country which we also need to address, and that is domestic violence.

During the last administration Congress realized the depth of the problem of spousal abouse and funded 13 separate programs that in some way provided assistance to local shelters and related projects. Even then the lack of funding and space forced battered women's programs around the country to turn away three times the number of people they actually served.

Today the problem of domestic violence has been greatly exacerbated by this administration's insensitivity. Battered women and their families have been placed in double jeopardy—first, by the current administration's attack on programs offering immediate escape from violence in the home and then by slashing resources individuals could use to build new lives. Such cuts have sentenced battered women and their children to continued abuse.

We can see the devastating effects of the budget cuts on our ability to deal with domestic violence by reviewing what has happened to the 13 programs funded in 1980. Five of them have been totally abolished and no longer exist in any form. Those eliminated were: First, the Office of Domestic Violence, second, the family violence program, third, the ACTION technical assistance projects, fourth, Community Services Administration domestic violence demonstration projects, and fifth, public service employment under CETA. The loss of CETA funds in the fiscal year 1982 budget particularly hurt domestic violence programs. In my own State of California the shelters lost from one-third to one-half of their staff and three programs were actually closed as a result of the loss of CETA staffing. Needless to say trying to maintain 24 hour crisis lines, counseling services and other support services with only one-half of their former staffing has been very difficult.

Three other programs were block granted resulting in the reduction of funds to alleviate the problem of domestic violence. The National Institute on Alcoholism and Alcohol Abuse domestic violence initiative, a small demonstration program, no longer exists as a separate Federal program. Having been consolidated into a State block grant for alcohol, drug abuse and mental health services, as part of the Omnibus Budget Reconciliation Act of 1981, the States are no longer required to support domestic violence-related projects with their block grant money.

Of greater importance to those of us concerned with domestic violence has been the State block granting of title XX money of the Social Security Act and the Community Action Agencies formerly funded by the Community Services Administration. A major potential source of Federal funding of shelters has been the social services programs under title XX. Through 1981, title XX programs provided matching funds to States for the provision of a wide variety of social services including shelters, and a separate training component on matching funds for training social service personnel. Under fiscal year 1982 budget changes, the block grant was funded at a level which resulted in a 23-percent reduction from projected fiscal year 1982 spending levels for services and training combined. Although it is very difficult to determine how the States are spending their title XX funds, the Department of Health and Human Services believes that only 18 States are planning to fund domestic violence shelters or similar projects. I know that in California not 1 penny of title XX money is going to help solve the problems caused by domestic violence or aid the victims of abuse.

The Community Services Administration was the third program abolished and consolidated into a community services block grant to the States. Up to 1982 the Community Services Administration supported 860 Community Action Agencies which could fund shelters and other domestic violence-related projects if they assisted low-income clients. During fiscal years 1982 and 1983, States have been required to fund existing Community Action Agencies. Because of the lack of detailed reporting required by the States it is impossible to know the effects of block granting. However with a 26-percent funding cut in the block grant and the emphasis on funds for antipoverty agencies, it is very likely that Community Action Agency involvement in, and support of, local domestic violence shelters has been significantly eroded.

As if the picture painted so far were not bleak enough, of the five remaining programs two are targeted to be abolished by the administration. The National Center on Women and Family Law, under the auspices of the Legal Services Corporation, has provided assistance to 300 field programs and has done background legal research related to representing abused spouses in civil cases. If the administration has its way these services will end, leaving an unfortunate void in legal aid for victims of domestic violence. Hopefully Congress will resist attempts to reduce or eliminate funding for the Legal Services Corporation.

The VISTA volunteer program, administered by the ACTION Agency, is another program slated for oblivion by the administration. During fiscal year 1982, around 70 VISTA volunteers worked in 21 shelters and related projects. Having sustained sharp reduction in funding it is obvious that VISTA will not be able to take up where CETA workers left off.

One bright note has been the buying and renovating of housing for battered women's shelters under the community development block grant program administered by HUD. However, in the administration's misguided effort to cut reporting requirements for block grant programs, we have been left with no information of how the community development block grants have spent their money for the past 2 years. Having sustained an approximately 8 percent funding reduction, it is at least obvious that the community development block grant program has not been able to buy shelter houses as it once did.

Of the remaining five programs there are still two small research and demonstration programs funding projects related to domestic violence. The National Center on Child Abuse and Neglect, in the Office of Human Development Services, awarded seven grants in fiscal year 1982 to projects that address the problems and needs of the children of abused spouses. The Center for Studies of Crime and Delinquency, in the National Institute for Mental Health, awarded five research grants and two training grants in the domestic violence area.

Where does this leave the Federal role in dealing with the terrible problem of domestic violence? In summary we have seen that five programs were totally abolished, three blocks granted and probably doing less than Congress had originally hoped, and two more targeted for abolition. The remaining programs that do survive are now able to offer only paper hope. Little real chance remains that victims of domestic violence will find shelter space, be able to exercise their rights to legal recourse or receive the other support services essential to their efforts to free themselves and their families from abuse.

I hope this review will awaken my colleagues to the urgent need to address the truly unfortunate problems spouses face in finding shelters and support from domestic violence.●

TRIBUTE TO HON. ROBERT McCLORY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Mr. RODINO. Mr. Speaker, it is with a sense of regret at his departure that I add my voice to the farewell tributes being offered to my esteemed colleague on the Judiciary Committee for so many years, BOB MCCLORY.

I have worked closely with BOB MCCLORY, the ranking Republican of the full committee and of the Subcommittee on Monopolies and Commercial Law. We have not always been in agreement. He is a tough-minded man. But over the years I was pleased to have him cosponsor many important pieces of legislation.

I have always valued his support and counsel, his love of the law and his dedication to justice. BOB has a special interest and expertise in matters international. During this Congress, he cosponsored with me the Foreign Trade Antitrust Improvements Act, and worked toward passage of its provisions as a part of the Export Trading Company legislation signed by the President in September.

I shall never forget and shall always be grateful for the difficult, careful and thoughtful role he undertook in the impeachment drama. I remember his shock and disbelief as that tragedy unfolded. In the end, he courageously took on the sad responsibility of writing one of the three articles of impeachment reported by the Committee on the Judiciary.

Now, BOB MCCLORY is voluntarily ending a legislative career that began in 1950 in the Illinois General Assembly and that brought him to the Congress in 1963. He has served his Nation, his State and his district in exemplary fashion.

Earlier this year, after he announced his decision to retire, he testified before a congressional subcommittee. After testifying, he accepted the best wishes of the members and said:

> I do not mind looking forward to the retirement. The thing that I am a little apprehensive about are the retirement tributes.

This remark is so typical of his wry humor and graciousness. As one newspaper in his district remarked, "when he left he did so with grace. He can be proud of that."

And another summed up what I think are the sentiments of his colleagues:

We've come to know him well, and to appreciate him as both a person and as a legislator.

We will miss him, as a person, and as a legislator.●

THE FARM ECONOMY: WHICH DIRECTION

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. JONES of Tennessee. Mr. Speaker, the farm economy of our Nation is in an especially fragile financial condition during the present recession. Depending upon how farm income and credit problems are managed in the months ahead, we could witness either a recovery of agriculture to a status of relative health similar to much of the 1970's or a sinking of the farm economy to a situation reminiscent of the 1920's when agriculture preceded the rest of the country into the Great Depression. The December 1982 issue of Independent Banker magazine contains an article by Weldon Barton, the agricultural representative of the Independent Bankers Association of America, which analyzes the situation facing American agriculture and suggests steps to be taken in order to position the farm economy for a healthy recovery.

The text of the article follows:

[From the Independent Banker, December 1982]

THE FARM ECONOMY: WHICH DIRECTION?

(By Weldon Barton)

As we approach the 1983 farm production year and a new 98th Congress, the following question is important: in the months ahead, will decisions be made that help the 1980's take shape as a basic continuation of the 1970's agricultural era, or will retrogression to an agricultural era more characteristic of the 1920's occur?

The 1970's were marked by expanding export markets for U.S. farm commodities—with only intermittent years of oversupply—and built-in, government sponsored market price "floors" and related stabilizers which combined with periodic export surges to sustain rather strong average farm prices during 1970–1979.

The 1920's were characterized by chronic overproduction and low farm prices, downward movement in farmland prices, and a strong reluctance by government to initiate production restraints and related measures to stabilize the deteriorating farm economy.

It is useful to bear in mind certain similarities to these earlier periods in considering the following discussion, which is intended to provide perspective for decisions ahead.

THE FARM RECESSION OF 1982 IN PERSPECTIVE

When averaged over the 1970's, total financial returns to farmers were substantial in terms of both realized income and appreciated value of capital assets. According to July 1982 calculations by Chase Econometrics, realized net farm income for 1982 would have to total $30.5 billion (or 72 percent above the $17.7 billion then projected by USDA), in order to be equivalent to the average farm per capita income level during the decade of the 1970's.

Regarding asset appreciation, during 1970–79, the market price of farmland increased by an average 25.9 percent annually, amounting to an increase of $45.6 billion per year, thus for the same period more than doubling both the average general inflation rate of 11.2 percent per year and average annual realized net farm income of $21.6 billion.

During the decade of 70's, agricultural lenders increasingly allowed farm borrowers to pull equity out of their farmland and other capital assets to make additional land and equipment purchases and to meet short-term operating expenses. This practice enabled the Farm Credit System to become the leading lender in farm real estate-secured debt by 1978. The FCS attained this lead through refinancings, which during the 1970's accounted for 40–50 percent of the total FCS extended real estate debt, and a substantial portion of this credit was used to finance short-term production.

Similarly, even though the Farmers Home Administration's regulations prohibit the use of regular farm real estate loans for operating purposes, a large portion of FmHA financing under the "farm emergency" and "economic emergency" loan programs (which greatly expanded after the mid-1970's and together comprised 68 percent of total FmHA farmer loans outstanding in 1981) was used to refinance farm operators who faced unmanageable cash flow problems.

To a substantial extent, the cash flow problems which led to Farm Credit and FmHA refinancings during the late 1970's resulted from extensive investments by farm operators in farmland and other capital items based upon overly-optimistic projections that the high farm commodity prices which prevailed around 1973 would continue.

However, the years 1980–82 have continued to witness the substitution of farm operator debt for net cash income, except that during this most recent period the cash flow problems are due primarily to persistently low farm prices for basic crops. Realized net farm income (before inventory adjustments) dropped from $26.7 billion in 1979 to $24.4 billion in 1980 and $19.6 billion in 1981, and is expected to drop perhaps another $600 million.

Meanwhile, effective supply controls to reduce surplus inventories of farm products were not implemented in 1982 in order to position the cropland farming sector for an economic turnaround. While the non-farm economy geared down to an average 69 percent of production capacity in 1982 to set the stage for a recovery, U.S. basic grain production increased to 101 percent of last year's record production. (Combined corn and wheat production is estimated at 11.12 billion bushels for 1982, up 1 percent from 11.0 billion in 1981.)

By late October, the government-sponsored grain reserve and nonrecourse loan programs were already bulging with 3.5 billion bushels of wheat and feed grains (including 2 billion bushels of corn), and about 1.9 billion bushels of 1982 corn crop which is eligible to enter the government loan or reserve is several times the total volume of grain which the Soviet Union is expected to purchase from the United States during the year ending September 30, 1983.

Furthermore, due to the low participation in the 1982 corn program which amounted to 23 percent of acreage planted to corn, for the first time since the 1930's the government price support loan level will not serve as an effective "floor" under the market prices for corn. During October, the average price received by farmers was $2.03 per bushel, or 52 cents per bushel less than the $2.55 price support loan rate.

Based upon a projected $2.20 per bushel average price to farmers during the 1982-83 corn marketing season, producers of approximately 6.4 billion bushels of corn which is not eligible for a nonrecourse loan (8.3 billion bushels estimated production x 77 percent participating acreage = 6.4 billion bushels) stand to lose $2.24 billion compared with every previous year when the loan level constituted the market "floor." (An apparently small portion of this loss would not materialize, to the extent that farm operators locked in a return higher than $2.20 by hedging or forward contracting.) Of course, many producers will not actually market their own corn at harvest time, but they will have to allocate costs for storage and will face a future price situation that is uncertain at best.

This temporary lapse in the corn marketing system could be partially self-correcting in 1983, because it undoubtedly will lead to higher rates of participation in the commodity programs for 1983. Higher participation rates could, in turn, restore the price support loan level as the market floor. However, it is also quite conceivable that the supply-demand imbalance could reach a point where the government incurs large losses on the feed grains relinquished to the CCC by farmers holding nonrecourse loans (in addition to outlays for storage and target price payments), and the entire system would become politically unsustainable. This, in turn, could prompt steps to remove the built-in government stabilizers per se, exposing major segments of the farm economy to a potential farm asset devaluation reminiscent of the 1920's.

THE DETERIORATING BALANCE SHEET OF AGRICULTURE

At least until very recently, it was commonplace to refer to the farm economy as "fundamentally strong," and to cite the overall average "balance sheet" of agriculture to document the point. For instance, the debt-to-asset ratio for all farm and ranch operations in the United States was 18 in 1970—that is, debt was 18 percent of assets, and this ratio fluctuated narrowly between a high of 18 and a low of 16.2 during 1970-79, standing at 16.3 for 1979. Even by January 1982, it had risen to only 18.5.

But a great deal of this apparent financial strength rests upon the Census Bureau's broad definition of a "farm." As of December 1979, only 1.27 million of the total 2.35 million U.S. farmers, or 54 percent of the total, had farm debt. This 54 percent of farmers who have debt make up the overwhelming portion of the actual agricultural economy, since only 1.2 million farms (54.9 percent of total farms) have over $10,000 of annual sales, and this 54.9 percent of the farms produces over 95 percent of total sales volume.

Thus, almost one-half of the "farmers" included in the overall debt-to-asset ratios are essentially living on a "farm" but hold little or no farm debt and derive their livelihood predominantly from non-farm employment. And of those 1.27 million farm operators with farm debt, their debt at the end of 1970 averaged $80,000 compared with assets of $352,000 yielding a debt-to-asset ratio of 22.6—39 percent higher than the 16.3 for all Census "farmers."

When the overall averages are further dissected, the figures reveal a rather debt-laden position among a large segment of commercial-size farm operators. As of December 1979, about 291,000 farm operators, 23 percent of all operators with debt, had a debt-to-asset ratio of 41 or higher. Offsetting these higher-leveraged operators on the other side of the ledger were farm landlords without debt (most of whom were not themselves farm operators but instead rented their farm assets to operators), who held 47.9 percent of all farmland and service building assets totaling $353.7 billion in 1979.

It should be noted that the 291,000 farm operators (23 percent of all operators with debt) who had debt equal to 41 percent or more of their total assets had such debt in 1979, (prior to the 1980-82 farm recession) and substantial further deterioration in the balance sheet of many farm operators has occurred since 1979. The seriousness of the present situation is indicated by a survey conducted by the independent Bankers Association of America during September, 1982, to which 873 (or 42 percent of the 2,076 banks that responded) said that based upon their current assessment, 6 percent or more of their existing farm borrowers were not expected to qualify for commercial financing for 1983 production purposes.

PRESSURES ON THE FARMERS HOME SAFETY VALVE

The same September 1982 IBAA survey asked the question: "Regardless of the reason, in your judgment has Farmers Home Administration's extension of credit to agricultural borrowers in your area this year been: too lenient, about right, too restrictive, or far too restrictive." Among the 2,004 banks that responded, 45 percent said FmHA was too restrictive, 43 percent said about right, and 12 percent said too lenient. The responses suggest that most agricultural banks approve of the FmHA serving as a partial financial safety valve, as "financer of last resort" to commercial farm operations which are competently managed, during the deepening agricultural recession.

Such approval of FmHA may be difficult to understand, because the agency is no longer a peripheral lender in the farm economy. With about $20.6 billion of agricultural credit outstanding to 270,200 farm borrowers in 1982, the agency is involved in financing over 21 percent of the 1.27 million farm operators with debt. Over 50 percent of the total dollar volume of loans made by FmHA to farmers since the agency's beginning has been made since 1975, and FmHA's market share of total farm production debt held by institutional lenders (excluding individuals and the CCC) rose from 4 percent in 1977 to 19.4 percent in 1982.

Realistically, however, it is significant that FmHA is no longer the exclusive source of agricultural credit for a large percentage of its borrowers, but instead shares the credit financing of borrowers with commercial lenders through simple participations involving the simultaneous closings, participations involving the subordination of collateral by FmHA, the refinancing of farmers' accumulated debt with FmHA takeout loans, and other arrangements.

The agency's data in the volume of shared lending is spotty, but for real estate credit in 1981 alone $186 million was extended by commercial lenders in some form of participation with FmHA. In 1982, about 29,950 FmHA farm loans involved subordination of collateral to commercial lenders (compared with 5,800 such loans in 1981), and approximately $1 billion of commercial credit resulted from these 1982 subordinations.

Going into 1983, the FmHA may be the last resort for a substantial number of properly-managed commercial-size farmers who do not wish to liquidate, including not only existing FmHA borrowers but also many farm operators who, for the first time, will be unable to secure adequate credit elsewhere. The agency has a number of legal authorities (including refinancings, repayment deferrals, collateral subordinations, loan guarantee authority) to cope with the situation. However, the currently-budgeted lending volume which includes about $1.5 billion for regular operating loans may be inadequate, and the maximum flexibility and usage of the agency's legal authorities will be required.

THE CHALLENGES OF 1983

As indicated earlier, developments over the next several months could determine to a large degree whether the decade of the 1980's takes shape for the agricultural economy more like the 1970's, or the 1920's. If at least a modest rise in export marketing begins to occur for the basic crops, if effective production controls are implemented and price support policies are carefully directed, and if credit with an active FmHA is properly arranged, the agricultural economy could begin to reposition for a recovery somewhat similar to the 1970's.

However, the financial structure of the agricultural economy is now unusually fragile, and the pragmatic system which combines individual decision-making by hundreds of thousands of competitive independent farmers with timely government intervention—which has sustained a relatively stable and highly productive American agriculture—could be in jeopardy.

As described earlier, farm capital assets (mostly farmland) stands as collateral behind a growing portion of total outstanding farm debt, including a substantial amount of debt incurred for short-term operating purposes but reamortized over longer repayment periods. The U.S. farmland market is traditionally thin and dominated by farmers (less than 3 percent of the farmland is transferred annually and almost three-fourths of the buyers are farmers), and it was especially thin in 1982 due to the reluctance of both buyers and sellers to enter the market.

If unusually large amounts of land were to be moved into liquidation in the period ahead, due perhaps to an undue tightening of FmHA credit or reacting to increased budget costs of price support and supply control policies by undermining the policies *per se* rather than managing them better, this could cause more precipitous declines in farmland prices and the collateral underlying farm debt.

A case can be made that farmland had become overpriced, because during the 1970's the demand for farmland was enhanced by temporarily-escalated farm price levels which were not sustained and by buyers seeking a hedge against general inflation. However, this is being worked off over time as market prices for farmland have stabilized or dropped in many areas, and because farmland prices are likely to rise at rates below the general inflation rate at least for a significant period of time.

Any developments triggering more precipitous reductions in farmland prices would also cause serious erosion of the independent farmer structure of U.S. agriculture. As of 1978, there were approximately 525,000 farm operators in the United States with annual sales between $40,000 and $200,000, who collectively accounted for about 43 percent of total sales of agricultural products. Given current conditions, one would expect most farm liquidations to occur among this segment which makes up the basic group of commericial-size independent farmers in the United States.

If farmland was reduced to "bargain" levels, (with more extensive pressures actually to sell), purchases of land would be made in the present climate primarily by groups who retain sufficient net worth to have a longer financial time horizon. These would include: (1) the larger farm operators who also tend to be substantial landlords (approximately 64,000 farms have over $200,000 of annual sales and together make about 39.3 percent of total agricultural sales); and (2) nonfarm operators including pension funds and other institutional investors.

Extensive farmland purchases by these groups would reduce the number of commercial size independent farmers and increase concentration in agriculture, further bifurcate production agriculture into renter operators and "absentee" landlords (non-operator landlords already hold 48 percent of farmland assets), and render independent farm operators more vulnerable to future liquidity squeezes.

In positive terms, the hardest decisions that need to be made in order to position the farm economy for a 1970's-type recovery involve reducing supplies and improving realized net income of producers of grains, cotton, and other land-intensive crops. At least two types of action are needed.

First, effective supply controls must be implemented in 1983 that frankly recognize the reality that the agricultural production plant must gear down temporarily in view of the present global recession, the various political interruptions to export markets, and the favorable weather conditions which produced consecutive record U.S. grain crops. These production controls should supplement (not replace) the existing grain reserve policy and can be composed of the ad hoc voluntary and "paid" diversion types of controls which are compatible with a longer term market-oriented approach. However, such ad hoc measures will be effective only if they are adequate and equitable, and only if the OMB or others resist any temptation to leverage the situation into basic policy changes which could frustrate achieving Congressional approval.

But such *ad hoc* measures will be adequate only if the USDA, OMB, and other government agencies involved are able and willing to work together pragmatically and effectively.

Second, Congress and the Administration need to make pragmatic alterations in the policies which have held realized annual cash income of land-intensive crop farmers below costs of production in recent years. Specifically, a pricing structure is needed that returns a positive cash flow (including allocated costs of farmland) to well-managed farm operations. Except that special costs may be necessarily incurred in working out of the current predicament, this can be done without excessive budget outlays if the proper mix of price support loan "floors" and other measures are used.

In conclusion, it should be noted that there is an abiding search for a so-called "new economics" in the United States to avoid the economy leveling out at unacceptable high unemployment and unused productive capacity. However, this has not been a problem with the land-intensive agricultural production sector, which has continued to demonstrate high productivity gains and record breaking production. Appropriately, the agricultural economy has thus far largely avoided the polarization of policy into "regulation versus deregulation" which has occurred in various other economic sectors. Hopefully, a pragmatic approach for the agricultural economy can continue to prevail.●

THE U.N. COMMISSION ON HUMAN RIGHTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. BONKER. Mr. Speaker, last Friday the House Foreign Affairs Subcommittee on Human Rights and International Organizations, which I chair, met to review the work of the 38th session and the upcoming 39th session of the U.N. Commission on Human Rights. The witnesses were Michael Novak, U.S. Representative to the Commission; Richard Schifter, Alternate Representative; and David Kramer, Professor of Law, University of Texas. I would like to commend to the attention of my distinguished colleagues my opening statement.

(The statement follows:)

Today is the 34th anniversary of the U.N. Declaration on Human Rights. It is fitting that we meet to review the work of the U.N. Commission on Human Rights.

For the first time in several years, due to the Congressional schedule, I was not able to attend any meetings of the 38th session of the United Nations Commission on Human Rights. The Commission met in Geneva from February 1 to March 12, 1982. A staff member of the Subcommittee was in attendance during the sessions of the Commission the first week in March. Over a year ago the Subcommittee held a hearing to reveiw the work of the 37th session of the United Nations Commission on Human Rights. At that time I said: "It is my hope that at the 38th session the U.S. will take some positive initiatives and regain a leadership role in the human rights area. The delegation should be strengthened by the fact that our representatives will be veterans of the last session * * *."

I am pleased to note that from all accounts the U.S. delegation received high praise and was instrumental in passing a number of initiatives despite their controversial nature.

The good work of the U.S. delegation and the positive decisions on a number of issues were a welcome contract to the previous year. The Commission adopted 44 resolutions covering almost all items on the agenda. Its opening was marred by the announcement that Mr. Theo Van Boven, the Director of the U.N. Human Rights division, would be leaving his job. he had taken a leading role at the U.N. in holding governments accountable for their human rights violations. His effective work on behalf of people who have suffered atrocities and indignities will be missed.

I will not comment on every agenda item but would like to discuss several that have been of ongoing interest to the Subcommittee.

I was especially delighted that the mandate of the working group on missing and disappeared persons was renewed for another year. I would expect that at the 39th session the U.S. delegation will again be supporting the extention of its mandate.

I was also delighted that the U.S. delegation ably dealt with the difficult resolution on Poland. The hard work of the delegation paid off when the Commission decided to request the Secretary-General to undertake a thorough study of the human rights situation in Poland and to report back to the Commission at the 39th session. This was a very significant act on the part of the Commission.

Several new initiatives that were adopted must be mentioned. It is my hope that they will be further acted upon during the 39th session. One was a resolution dealing with protection of persons detained in psychiatric institutions. It was proposed by the United Kingdom and adopted by consensus. Another was a resolution on the right of individuals and groups to promote human rights. This was a Canadian proposal adopted by consensus and designed to express moral support for Helsinki monitors and similar groups. Another Canadian resolution adopted by consensus was on human rights and mass exoduses. The resolution called for follow-up action during the 39th session. A fourth resolution was sponsored by Denmark and it deplored summary and arbitrary executions. The Commission stated that it was "deeply alarmed about the occurrence of summary or arbitrary executions, including extra-legal executions, that are widely regarded as politically motivated." The resolution called for the appointment of a special rapporteur to examine that question and prepare recommendations for the 39th session.

I was disappointed that the U.S. delegation once again voted against the continuation of a special rapporteur for Chile. His term was extended by a vote of 28 in favor, 6 opposed, and 8 abstentions. The special rapporteur once again reiterated "serious concern at the persistence and, in certain respects, the deterioration of the situation of human rights in Chile." The Commission accused the Chilean government of persecuting, intimidating, imprisoning, and exiling labor union leaders and others. The U.S. delegation has an obligation to act differently at the 39th session. Nothing has happened in the last year to indicate any improvements in human rights in Chile.

I was further disappointed that in the open session the U.S. delegation voted against a resolution on El Salvador and abstained on a strong resolution on Guatemala. In both instances the Commission decided to extend the mandate of a spcial rapporteur for another year. Perhaps the U.S. delegation will take certain positive actions on these questions at the 39th session of the Commission.

Other matters of importance include a resolution that the Subcommittee passed condemning all forms of religious persecution and discrimination as a violation of human rights. This comprehensive resolution calls on the U.S. delegation to work for the establishment of a working group on

the elimination of all forms of religious persecution and discrimination. Every effort should be made to establish such a working group. You certainly will have the support of the U.S. Congress.

Finally, the U.S. delegation should do all it can to encourage the working group on torture to complete its work in drafting an international convention on torture.

I understand, Mr. Novak, that you will not be going back as head of the U.S. delegation to the 39th session. I want to publicly praise your work at the 38th session. I regret that you will not be in Geneva in 1983 to build on the accomplishments of last February and March. Your dedication, labor, and experience in service to your country will surely be missed.●

THE NUCLEAR REALITY: BEYOND NIEBUHR AND THE JUST WAR

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. EDGAR. Mr. Speaker, during the past 2 years many loyal Americans have undergone changes in their attitude toward our nuclear arsenal. One such person is Kermit D. Johnson. He has analyzed the morality of a world whose obsession with security leads to a never-ending arms race. He has pondered the "perverse preference for the war of mutual annihilation, simply because mutual annihilation means the other side doesn't win, either." And he has tried to relate our modern situation to the ethics of Reinhold Niebuhr and the idea of "just war." After considering these questions Kermit Johnson decided that he must work to help the world extricate itself from the nuclear quagmire. He believes that we must challenge the justification that our Nation's so-called defenders have been giving to the nuclear arms race.

Many other people have come to that conclusion in the recent past. What makes Kermit Johnson different is that he is Maj. Gen. Kermit Johnson, graduate of West Point and the U.S. Army War College, a former combat commander in Korea, and until this year Chief of Chaplains of the U.S. Army. Major General Johnson has described his thoughts in an article which appeared this fall in the Christian Century.

Mr. Speaker, I insert Major General Johnson's article, "The Nuclear Reality: Beyond Niebuhr and the Just War," at this point in the RECORD.

THE NUCLEAR REALITY: BEYOND NIEBUHR AND THE JUST WAR

(By Kermit D. Johnson)

As a commissioner to the 1980 General Assembly of the United Presbyterian Church, I was convinced that the church's new peacemaking efforts needed "a good dose of Niebuhr." I saw "The Call to Peacemaking" document as pacifistic and deficient in its failure to affirm the "just war." In a brief speech to the Peacemaking Committee, I closed this way:

"I dare say that if 'The Call to Peacemaking' were being written just after World War II, it would read differently. With the memory of Munich, it probably would include a statement something like this: 'There can be no security in a world whose obsession with peace leads to appeasement.'"

Then I quoted from Rienhold Niebuhr's letter to a pacifist who was reluctant to favor the Allied war effort against Hitler:

"Your difficulty is that you want to try to live in history without sinning . . . our effort to set up the Kingdom of God on earth ends in a perverse preference for tyranny, simply because the peace of tyranny means, at least, the absence of war." (*Love and Justice* [Westminster, 1957].)

This was the dose of realism I felt my Presbyterian brothers and sisters needed.

Now, two years later, I am in a different place. Although my background includes graduation from West Point, Command and General Staff College, the U.S. Army War College, overseas service in Okinawa, Germany and Vietnam, combat duty as a company commander in Korea and chaplain assignments at every level of the army, including the Pentagon, none of this experience has prevented a gradual but inexorable change in my viewpoint during the past two years. No, I did not become a pacifist. In fact, I will probably continue to bristle when the facile warmongering stereotype is unfairly and uncharitably applied to the many fine leaders of our armed forces. Likewise, I will continue to defend those military chaplains whose self-identity and role definition is so clear that they lend no credence to Niebuhr's remark, "Kings use courtiers and chaplains to add grace to their enterprise."

What has changed is my view of nuclear warfare and nuclear weapons. The change is by no means unusual or unique. In the May 1982 chief of chaplain's newsletter, I referred to the people of Europe who feel they are "living on the battlefield." Then I shared my own feelings:

"I believe that statement can go further: *We are all living on the battlefield.* We are all vulnerable. For years I have put this out of my mind, knowing perhaps in some distant or subliminal way that it was true. But it never "grabbed" me. I just really did very little thinking about it. That is not true recently, however. This new awareness is happening to many people the world over. I believe this is of God, and I believe this is something God is doing in human history today. Doubtless it is striking fear into the hearts of many, leaders and policy-makers especially. This awareness of itself may not automatically determine immediate specific policy, but it is *right* that human beings be aware that it is *wrong* to be nonchalant, unthinking and indifferent about the real danger of the possible destruction of humankind. I welcome this widening awareness as a divine intervention, a warning and a signal, possibly a life-and-death 'last chance' for human civilization. Life is a precious gift of God, willed by our Creator, but it cannot continue unless we also will that it does."

If I were to revisit the Peacemaking Committee now, I would say to them that the question is not whether we are to "live in history without sinning," but whether we are to live in history at all. If we were to apply Niebuhr's real politics, with its ready acceptance of the inevitability of conflict, to the present nuclear situation, it could well mean "a perverse preference for the war of mutual annihilation, simply because the war of mutual annihilation means, at least, that the other side doesn't win either." In speaking of plans for a protracted nuclear war, Secretary of Defense Caspar Weinberger said recently that nuclear war was not winnable but that "we certainly are planning not to be defeated" (*New York Times,* August 9, 1982).

In view of continued presidential certification and support of the government of El Salvador, I would conclude, "There can be no peace in a world whose obsession with security leads to denying the claims of human rights and justice." Finally, I would still admit that under certain circumstances, weakness invites aggression. Peacekeeping has a place. The United States Army War College motto, "Not to promote war, but to preserve peace," is the idea behind the Armed Forces motto, "Peace through strength." But now I would have to ask. "When does 'peace through preparation for war' make war a more likely possibility?" Certainly I would say. "There can be no peace in a world whose obsession with security leads to a never-ending arms race."

Reinhold Niebuhr saw history as a "long tale of abortive efforts to establish peace," with failures due "either to the effort to eliminate the factor of force entirely or to an undue reliance upon it" (*Moral Man and Immoral Society* [Scribner's, 1932]). During the rise of Hitler and World War II, Niebuhr moved from his early pacifism to focus on the pacifist's unrealistic effort to eliminate the factor of force. But now it appears that Niebuhr's comment on "an undue reliance upon the factor of force" was more prophetic. The undue reliance on force by both the United States and the Soviet Union is characterized by nuclear overkill, indiscriminate arms peddling, and the wasting of precious human and national resources in an unending arms race.

Given these conditions and Niebuhr's ability to shift his thinking, I wonder if he were living today whether he would not sharply limit his application of real politics. He reminded us that realism, not moralism, guides the conduct of nations. Nations relate to one another simply on the basis of self-interest. It is unreasonable and moralistic to expect nations to reflect the virtues of individuals—hence his book title, *Moral Man and Immoral Society.* Niebuhr chided moralists for failing to understand "the brutal character of the behavior of all human collectives." The stark realities of power and conflict must be accepted as inevitable. Indeed, "to the end of history the peace of the world . . . must be gained by strife."

Such ideas from Niebuhr's real politics blunted moral attacks on war and helped provide an easy conscience to a generation of American policymakers. But now the case for realism appears to be moving beyond Niebuhr. Real politics, with its acceptance of the inevitability of conflict, is no longer realistic—not when two nations with a total of more than 50,000 nuclear weapons can essentially obliterate one another. We must go beyond real politics, from self-interest to shared interest. Despite their competing systems, the U.S. and the U.S.S.R. have a shared interest in survival. Niebuhr states it clearly:

"The peril of nuclear war is so great that it may bridge the great ideological chasm between the two blocs and make them conscious of having one thing in common: preference for live over death." (*The Structure of Nations and Empires* [Scribner's, 1959].)

In order to realize this preference, we must go beyond Niebuhr's realistic observation that groups and nations relate predominately on a "political rather than ethical" basis. If we cannot, then we must face the likely doom of the human race. Ironically, a recently revealed memo which former president Harry Truman wrote in 1958 indicates that he feared precisely this failure.

The nuclear reality not only takes us beyond Niebuhr and real politics; it also takes us beyond the "just war" as a justification or rationalization for the use of nuclear weapons. Nuclear warfare is indicted, not vindicated, by the limiting categories of just-war criteria such as due proportion, just means, just intentions and reasonable possibility of success. The burden of proof is on those who would say otherwise. A limited nuclear "just" war can be theoretically conceived of in a textbook scenario, but is it possible in the real world? War is confusion, chaos and hell, not predictable sequences. Even if nuclear weapons were to be used as counterforce, and even assuming that noncombatants could be protected, the question of escalation would remain unanswered—not to mention long-term environmental or genetic damage. How can we know that *any* use of nuclear weapons will not result in catastrophic escalation?

In 1978, General Creighton Abrams was said to have interrupted a discussion about limited nuclear war "with an expletive, followed . . . by the statement, 'One mushroom cloud will be reported as one hundred, and that will probably be the end of the world.'" The technical discussions as to when or whether nuclear weapons can be used without violating just war criteria are irrelevant unless the question of escalation can be answered with certainty.

I suspect that a number of these conclusions are shared by many middle-of-the-roaders who have thought of themselves as just-war adherents. Our realization that the just war theory provides no justification for nuclear weapons or nuclear warfare has involved painful reappraisal, a "shaking of the foundations." However, some of us were prodded and assisted by the cavalier comments of leaders in the current administration. European nuclear protest has been accounted for as "Protestant angst" (Assistant Secretary of Defense for International Security Policy Richard N. Perle) which was "bought and paid for by the Soviet Union" (President Ronald Reagan). On this side of the ocean, Secretary of the Navy John Lehman blamed "a few uninformed and overly idealistic religious leaders."

This trivialization of nuclear concerns was a misreading of the across-the-board struggle taking place with issues of life and death, of the widespread sense that this may be the "last chance" for human civilization. Since our leaders did not have the sensitivity to feel the moral earnestness of literally millions of European and American people, it is legitimate to ask how sensitive they are to the moral issues themselves.

In good will we might patiently wait for signs of moral leadership, but the facts of history do not offer us this choice. We were the first and only nation to use atomic bombs in war. It was a presidential decision; the American people were not consulted. Furthermore, in our armed forces schools, military officers in tactical war gaming make the assumption that nuclear "release" will be forthcoming in any major war. Where did such an assumption come from?

All these factors heighten the importance of the present nuclear debate. If there is any hint from our political leaders that the use of nuclear weapons is regarded once again as one of the prerogatives of power in a "close hold," then at the very least the nuclear debate ought to serve the purpose of forcing openness, or what Jacques Ellul called "unmasking." Using nuclear weapons does not fit into the "If I felt the American people needed to know . . ." category. History, if there is to be a history at all, must not repeat itself.

But the only guarantors of this history are the American people themselves. As reported in the *Washington Post*, former secretary of defense Robert S. McNamara implicitly assigned this responsibility recently when he attempted to account for the tremendous nuclear buildup by the U.S. and the U.S.S.R. in the last 15 years. Robert Scheer asked, "But how did this happen?" McNamara's response: "Because the potential victims have not been brought into the debate yet, and it's about time we brought them in. I mean the average person."

In order for this participation to take place, "the average person" must overcome a passive feeling of inferiority which blindly blesses government policy, and is content to "leave it to the experts." The question is not whether we trust our leaders, but whether our leaders can be made to trust the American people and bring them into their confidence. Gatekeeping is a permanent feature of any bureaucracy.

At lunch with me one day in the Pentagon, a senior Defense Department official complained about Roman Catholic bishops who, in involving themselves in nuclear issues, were "tampering in geopolitical areas." I responded by defending the bishops' right to transgress the sacred soil of geopolitics; the possible killing of human beings is certainly a moral question. "Potential victims" have a right to be brought into the debate and the decision-making process concerning their fate.

"Potential victims" must also break through their sense of foreboding and inevitability—the prime ingredient which could bring us to a nuclear holocaust. In reflecting on the Truman-Churchill decision to use the atomic bomb, Niebuhr said, "The question is whether they were not driven by historic forces more powerful than any human decision." Will competitive forces "more powerful than any human decision" once again drive us toward use of nuclear weapons and ultimate disaster? Or will we decide that human decisions can and will control our destiny?

It now appears that the U.S.-U.S.S.R. arms race has taken on "a life of its own." Completely apart from the "Soviet threat," the reason this is so is that we have ascribed an idolatrous power and ultimacy to weapons which has deepended our dependence on them and increased our feelings of inevitable disaster. Therefore our president "orders" another 17,000 nuclear weapons. And he proposes to sell $25 billion worth of arms in a single year to a waiting world. The familiar statement "If we don't, someone else will" is a sign of the paralysis of "inevitability" and lack of moral leadership—not a valid reason for arms peddling.

Last year Frank C. Carlucci, deputy secretary of defense, described what he believed to be an election mandate: "We are obliged to rearm our country." Then, in anti-gun-control language, he said, "A casual appreciation of history reveals that neither weapons nor armies start wars. People start wars." This, of course, is nonsense, even though it is true that people start wars. What is so tragic is this nonchalant approach to weapons, as if they were just another commodity such as wheat or silver. Admiral Hyman G. Rickover's sense of history in his "final blast" before retirement was more accurate:

"The lesson of history is: When a war starts, every nation will ultimately use whatever weapon has been available. That is the lesson learned time and again. Therefore, we must expect, if another war—a serious war—breaks out, we will use nuclear energy in some form. That's due to the imperfection of human beings." *(New York Times*, January 30, 1982.)

Even though Rickover seems given over to the probability of nuclear extinction, he nevertheless seems to appreciate that weapons are not "neutral," that their presence introduces a compelling temptation for human beings to use them.

Jacques Ellul probed the deeper reasons why human beings must get control of weapons and weapons systems or be controlled or destroyed by them. In a technological society, Ellul points out,

"People think that they have no right to judge a fact—all they have to do is to accept it . . . A striking example of this religious authority of the fact is provided for us by the atomic bomb. Confronted by this discovery, by this instrument of death, it was quite possible for man to refuse to use it, to refuse to accept this fact. But this question was never even raised. Mankind was confronted by a fact, and it felt obliged to accept it. All the questions which were raised after that were secondary: 'Who will use this weapon? How shall we organize our economy with it in view?' But no one ever raised the question: 'Is this line of action itself good or bad?' The reason is that 'the fact' itself at the present time seems to be something which is beyond good and evil." *(The Presence of the Kingdom* [Seabury, 1967].)

Actually, Ellul is not quite correct in stating that the question of refusing to use the atomic bomb "was never even raised." The matter was never considered in any public forum. However, the Committee on Social and Political Implications in its report to then-Secretary of War Henry Lewis Stimson stated prophetically:

"The use of nuclear bombs for an early unannounced attack against Japan is inadvisable. If the U.S. were to be the first to release this new means of indiscriminate destruction upon mankind, she would sacrifice public support throughout the world, precipitate the race for armaments, and prejudice the possibility of reaching an international agreement on the future control of such weapons" (quoted in Alan Geyer, *The Idea of Disarmament* [Brethren Press, 1982]).

This committee foretold the consequences of the nuclear "Fall." They underscored Ellul's contention that nuclear weapons command a religious authority over our lives.

We cannot reverse the Fall, but what we can reverse is our continued complicity in nuclear idolatry. The time has come for the American people to overcome the religious authority of nuclear weapons by questioning their basis in "fact." Neither real politics nor the just war theory can provide a legitimate basis for their existence or use. The "fact" of nuclear weapons has been superseded by a more compelling fact: that human beings have a right to live free of the risk of mutual nuclear annihilation.

This is the essence of European and American nuclear protest.

Paul Warnke's comment that the START talks were "conceived in sin" (as a result of grass-roots pressure) indicates the reluctance of the leaders of this administration to face the primary moral question of nuclear arms control and elimination. Having accepted nuclear weapons as "fact," these leaders have concentrated on secondary questions concerning nuclear capability and use. Now it is time for our leaders to exercise their considerable talents in the "politics of self-interest" by stopping the nuclear arms race instead of continuing to justify and stockpile the means of mutual suicide.

Albert Einstein once said, "We live in an age of perfect means and confused ends." Our politicians and the technicians of violence have shown great dedication to perfecting the means for human extinction. Now it is time for them to back off and ask, "to what end?" If they cannot exercise a commensurate moral leadership in addressing this question, then it is time for the leaders to be led.●

MARY R. BUBNA, REPUBLICAN WARD 5 LEADER FOR 28 YEARS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Ms. OAKAR. Mr. Speaker, one of Cleveland's most active women has passed away. Although she was of the opposite political party I had a great deal of respect for her. My personal sympathy to her family.

The following is an article which appeared in the Plain Dealer:

Caring for her family and politics were priorities in Mary R. Bubna's life.

She came to Cleveland in 1911 from Reggio Calabria, Italy, with her parents. She attended business college and helped her late husband, William H., start an accounting and insurance businss. She continued to work at the business with her children.

Mrs. Bubna, 73, died yesterday at Cleveland Metropolitan General Hospital. She had been in the intensive care unit since Nov. 17 for treatment of a kidney ailment.

For 28 years, Mrs. Bubna was the Republican Ward 5 leader. She was a member of the GOP state central and executive committees and the Cuyahoga County central and executive committees.

She was a delegate and an alternate at several Republican national conventions, most recently in 1976.

Mrs. Bubna was appointed by former Mayor Ralph J. Perk as a Cleveland civil service commissioner in 1976 and was reappointed by Mayor George Voinovich in 1979.

Along with her political work, Mrs. Bubna helped the Boy Scouts raise money for summer camp. During World War II, she was a volunteer at the Crile Hospital.

Mrs. Bubna is survived by sons, Joseph A. and Frank Romeo; daughter, Catherine Yadlovsky; mother, Domenica Zaffino; a brother and sister, 10 grandchildren and five great-grandchildren.

Services will be at 10 a.m. Monday at St. Rocco's Church, 3205 Fulton Rd.●

INDONESIA AND EAST TIMOR

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. EDWARDS of California. Mr. Speaker, on several occasions in recent years I have expressed great concern over the conflict prevailing in the former Portuguese colony of East Timor. I have continued to stress the illegal nature of the Indonesian invasion and occupation of that territory and have called for American diplomatic moves that could help terminate the Indonesian occupation. I have noted that this tragic conflict may well have thus far claimed more than 200,000 East Timorese lives out of an original population of less than 700,000.

More than this, I have expressed my dismay over the diplomatic position taken by the United States. Far from helping to find a just solution to this tragedy, the United States has supplied Indonesia with vast quantities of military equipment in the years since Indonesia's 1975 invasion of the territory. The United States, disregarding the United Nations Charter which our diplomats helped to draft in San Francisco in 1945, has supported Indonesia in the U.N. votes on the Timor issue.

But the Congress has become more active on issues pertaining to East Timor, and I hope to see congressional involvement increase in the coming year.

There are others whose activity on the East Timor issue should increase dramatically, in my judgment. It should be recalled that until 1975, East Timor had been a Portuguese colony for 400 years. East Timor was dependent upon Portugal for protection against an Indonesian invasion. For whatever reason, Portugal failed to prevent the Indoniesian assault, and Portugal will continue to bear a heavy responsibility for this failure.

As I have noted in recent years, Portugal has at various times announced moves that could help bring a just settlement to East Timor. I have applauded these moves, while noting that the right of self-determination for the people of East Timor is an inalienable right that cannot be ignored.

On December 14, the current Prime Minister of Portugal, the distinguished newspaper editor Fransisco Pinto Balsemao, will meet with President Reagan in Washington. I believe that the Portuguese Prime Minister will raise the East Timor question with our President.

I would like to take this opportunity to urge all possible steps that can bring peace to East Timor within a proper legal framework scrupulously respecting the wishes of its inhabitants. Like Britain in the case of the Falkland Islands, Portugal has the capacity to conduct an active diplomacy on the East Timor issue. But concerning East Timor, where so many people have died fighting for their freedom from foreign domination, the responsibility of the former colonial power is all the more keen.

To inform my colleagues on the editorial opinions of two of our Nation's leading newspapers, I insert for the RECORD commentaries that have appeared in the San Francisco Chronicle and the New York Times:

[From the San Francisco Chronicle, Oct. 13, 1982]

INDONESIA AND EAST TIMOR

The red carpet has been rolled out for Indonesian President Suharto's visit to Washington. At the welcoming ceremony, President Reagan told this leader of a nation of 13,500 islands that "the United States applauds Indonesia's quest for what you call national resilience. No nation in our era has shown itself more firmly committed to preserving its own independence than Indonesia . . ."

This is a fair statement that recognizes the importance of oil-rich Indonesia to United States foreign policy and to stability within the Southeast Asia region.

But there is a shadow that alls across Suharto's visit, and it is the shadow of Indonesia's conduct in East Timor. This former Portuguese colony was taken over by Indonesia in a bloody invasion during 1975, and reports that filter out from the island indicate it is still the scene of oppression and famine.

A bipartisan group of senators and representatives has urged the Indonesian government to allow international relief agencies free access to the area. It is also pressing President Reagan to open up the whole question of human rights on East Timor with President Suharto.

"We are deeply concerned," said the senators, "over the tragic situation in East Timor . . . Although events (there) have received comparatively little attention, that does not make past or present conditions . . . any less severe." The Congressmen say means should be found to convince Suharto to agree to an internationally-negotiated settlement that will guarantee Indonesia's "legitimate security interests" while providing the people of East Timor with the political rights to which they are entitled. Their position on this wrenching situation is a thoroughly reasonable one.

[From the New York Times, Oct. 9, 1982]

FORGOTTEN SORROWS IN TIMOR

Aggression forgotten is aggression rewarded. Because Britain could send a fleet to the Falklands, Argentina paid in bitter coin for its seizure of the islands. Indonesia had better luck seven years ago: it grabbed East Timor, a former Portuguese colony, and heard only token protest. The principle was the same but Indonesia's crime is nearly forgotten.

Yet not wholly forgotten. On the eve of President Reagan's meeting with Indonesia's President Suharto, a bipartisan group in Congress has asked America not to avert its eyes.

East Timor was indifferently governed from Lisbon for 400 years. Its half-million people, predominantly Catholic, were unprepared when independence was thrust

upon them. But at worst, it was a slum; now it is a wasting prison. As many as 200,000 people may have perished under Indonesia's occupation. And the denials of ill treatment remain implausible as long as Jakarta refuses both free exit to Timorese and Portuguese nationals and unimpeded entry to relief organizations.

At the very least, Indonesia's rulers have to be persuaded to open the doors to East Timor. But there is nothing persuasive about a United Nations that regularly threatens Israel for much lesser transgressions while gently chiding Indonesia for the abduction of a whole people. And it does not help for the United States to mute its protest in gratitude for Indonesia's anti-Communism.

Protesting the situation in East Timor is not just a matter of arraigning a new nation for what the old colonial powers used to do with impunity. It is a way to help the United Nations and world opinion elevate standards of conduct. What other help is available to a remote and vulnerable people when their cause dwindles to a footnote?

Creditably, though tardily, Portugal is not shrugging. Prime Minister Pinto Balsemão reminded the General Assembly last week that he still cared. He appealed for using all mechanisms of the U.N. to find a remedy. Maybe the effort would fail. So far, it hasn't really been made.●

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. KRAMER. Mr. Speaker, in passing the Federal Oil and Gas Royalty Management Act, the Senate has taken an important step to reduce the over $2 billion lost annually by oil and gas producers to theft. This bill requires the Secretary of the Interior to develop site security plans and initiate new inspection and accounting procedures to insure that theft losses are brought under control. These losses are estimated by the Department of the Interior to affect as much as 3 percent of daily production in the United States.

Fortunately, American industry has already responded to the challenge offered by the goal of this legislation. Cypher Systems has developed a technological solution to the problem of monitoring inventories at remote sites in the oil and gas industry. This system, using microcomputer technology, allows the petroleum industry for the first time to measure accurately oil and other tank-stored fluids on even the most remote and widespread facilities operating from a central location—for example, company headquarters. A petroleum inventory manager using this system can instantly determine if an unauthorized removal of tank fluids is taking place. Access codes allow operators to perform only those functions assigned to them.

Over time, inventory security systems such as this will set a standard for the petroleum industry which will insure that the U.S. Government, Indian tribes, and other oil and gas owners receive the full measure of royalties and other payments due them on their leases.●

A TRIBUTE TO DR. KEITH SMITH

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. MOTTL. Mr. Speaker, I would like to pay tribute to a man who has done much to contribute to the health of the people of my district and to the development of optomology and otolaryngology.

Dr. Keith Smith is an ear, nose, and throat specialist in Parma, Ohio, who first acquired his interest in medicine through his mother's fascinating tales of her work with Sir Harold Delf Gillies during World War I. Sir Gillies developed the pedical type of skin graft which surgically transfers skin and subcutaneous tissue attached for nourishment.

Dr. Smith received a doctor of medicine from the University of Western Ontario in 1959. He did his internship at the Lutheran Hospital in Fort Wayne, Ind., from July 1959 to June 1960, and his residency at St. Lukes Hospital in Cleveland, Ohio, from July 1960 to June 1964.

He has contributied to medical and surgical literature with articles regarding specific techniques for surgery. He contributed to George Shambaugh's book, "The Surgery of the Ear," and the ear, nose, and throat monthly magazine, The Laryngoscope.

Dr. Smith belongs to numerous medical groups, including the American Medical Association, the Centurian Club, the American Board of Otolaryngology, the Academy of Optomology and Otolaryngology, a College of Surgeons, and the Medical Council of Canada, to name a few.

In addition, he is a member of the Royal Academy of Medicine, Aesculagians, and the Medical Arts Club. He is a Diplomat of Otolaryngology of the American College of Surgeons. He is a past president of the Otolaryngology Club, and the Council of Medical Staffs of Northeast Ohio.

His contributions to the community include serving on the safety board of the Cleveland police and advising the Lost Chord Club of Cleveland, training under Julius McCall, who was very important in developing the Laryngectomy.

Dr. Smith's involvement in these numerous organizations does not take his attentions away from his patients, however. He has an outstanding record of treatment of 80,000 patients in his career. I hope you all will join me in honoring a man who has contributed greatly to the health of the people of the Cleveland area and to the development of the world of medicine.●

H.R. 7352

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. ROSENTHAL. Mr. Speaker, I recently introduced the Insider Trading Sanctions Act of 1982, H.R. 7352, to strengthen the Security and Exchange Commission's civil authority to prosecute violators of the law prohibiting insider trading and to increase criminal penalties for violations of the Securities Exchange Act of 1934.

As chairman of the Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations, I have examined a recent example of enforcement by the SEC of insider trading violations in the Santa Fe International Corp. takeover by Kuwait Petroleum Corp. Some of my views, particularly regarding the reluctance of the SEC and the Justice Department to utilize criminal penalties, and more detail on the cases arising out of the Santa Fe takeover, are expressed in the correspondence which appears below.

The material follows:

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., November 22, 1982.

Hon. BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Commerce, Consumer and Monetary Affairs, Committee on Government Operations, Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN ROSENTHAL: In your letters of October 13 and October 27, 1982, you requested, among other things, certain information concerning the relationship between the Commission and the Department of Justice with respect to criminal prosecution of insider trading cases. I requested that the Commission's Division of Enforcement prepare the enclosed memorandum in response to your request.

Your October 13 letter also stated that you will introduce and support the Commission's legislative proposal to establish a civil penalty for insider trading violations and to increase the maximum fines that may be imposed in criminal prosecutions of violations of the Securities Exchange Act of 1934. The Commission and its staff appreciate your support of, and decision to sponsor, this legislation.

Please do not hesitate to contact me again if I may be of further assistance. In addition, as I indicated in my letter of October 12, 1982, John M. Fedders, the Director of the Division of Enforcement (272-2900), is available to provide you or your staff with

additional information concerning the Commission's enforcement program.

Sincerely,

JOHN S. R. SHAD.

MEMORANDUM

To: Chairman Shad.
From: John M. Fedders, Director, Division of Enforcement.
Date: November 18, 1982.
Re: Response to Chairman Rosenthal's inquiries concerning insider trading cases.

This responds to questions asked by Chairman Benjamin S. Rosenthal in his letters to you of October 13 and 27, 1982. The letters request, among other things, certain information concerning the relationship between the Commission and the Department of Justice with respect to criminal prosecution of insider trading cases.

The October 13 letter inquired whether the Commission "has agreed, formally or informally, not to make a criminal referral in any of the settlements relating to Santa Fe or other insider trading cases since January 1, 1981 to date." We have not done so. In this regard, the Commission has a policy, 17 CFR 202.5(f), a copy of which is attached, or refusing to discuss during settlement negotiations with subjects of Commission enforcement proceedings any action that the Commission may take with respect to possible criminal prosecution.

The letter also requested the number of insider trading cases "referred by the SEC to the Justice Department within the past three years and the number of such cases prosecuted by the Justice Department." The Commission has two means of providing information to the Department of Justice. The first is the criminal "referral," which involves a formal Commission recommendation that the Department institute criminal proceedings. Such a referral requires a vote of the Commission and generally is accompanied by a detailed staff memorandum, which summarizes relevant evidence and evaluates the strengths, weaknesses, and legal theories involved in the case.

The second method used to provide information to the Department, and by far the more common, is a "grant of access" to the relevant investigative case file. This process often is initiated when senior members of the Commission's staff advise representatives of the Department of Justice of information obtained in a particular investigation. If the Department determines that the case may warrant criminal prosecution, a written request for access is made.

As the courts have recognized, this access procedure has substantial advantages. For example, the Second Circuit Court of Appeals has stated with respect to this procedure:

"Allowing early participation in the case by the United States Attorney minimizes statute of limitations problems. The more time a United States Attorney has, the easier it is for him to become familiar with the complex facts of a securities fraud case, to prepare the case, and to present it to a grand jury before expiration of the applicable statute of limitations. Earlier initiation of criminal proceedings moreover is consistent with a defendant's right to a speedy trial." *United States v. Fields*, 592 F.2d 638, 646 (2d Cir. 1978), *cert. denied* 442 U.S. 917 (1979); quoted with approval in *Securities and Exchange Commission v. Rubinstein*, 82 Civ. 4043 (S.D.N.Y. 1982).

The *Fields* court went on to note that the Congress had recently expressed its expectation that the close working relationship between the Department of Justice and the Commission would continue. The court declined to "interfere with this commendable example of inter-agency cooperation." *United States v. Fields*, 592 F.2d at 646.

Since October 1979, the Commission has made one "referral," to the Department of Justice, and granted access to files on thirteen occasions, with respect to insider trading cases. One grand jury indictment and conviction has resulted to date. *United States v. David H. Hall*, 80 Cr. 692 (S.D.N.Y. 1980). These figures do not reflect two criminal prosecutions of insider trading violations since October 1979 that resulted from grants of access prior to that date. *United States v. James M. Newman*, 664 F.2d 12 (C.A. 2, 1981), *United States v. Steven Nussbaum* 81, Cr. 672 (S.D.N.Y. 1981). In addition, these figures do not reflect two criminal prosecutions of insider trading violations during the period which were referred to United States Attorneys by a private law firm and the Department of the Navy at the same time they were referred to the Commission. *United States v. Carlo M. Florentino*, 82 Cr. 450 (S.D.N.Y. 1982); *United States v. Mark C. Saunders*, 82 Cr. 157 (E.D. Va. 1982).

With respect to criminal prosecutions for violations of the federal securities laws generally, the Commission has a close and harmonious relationship with the Department of Justice and the various United States Attorneys offices. The Commission has encouraged the Attorney General and United States Attorneys to prosecute violations of the securities laws including those violations involving the prohibitions against insider trading. The total number of "referrals" and access requests increased from 38 in fiscal 1972 to 86 in 1981.

The Commission always is striving to improve its relationship with the Department of Justice and to increase the number of criminal referrals. To this end, I and my senior staff meet with representatives of the Department of Justice to discuss cases of mutual interest.

Chairman Rosenthal's letter of October 27 set forth a number of questions concerning *SEC v. Randolph, et al.*, Civil Action No. 82-5343 (filed September 30, 1982). In response, I am attaching transcripts of the hearings held before Judge Orrick in that case on October 1 and 15. At the October 15 hearing, Judge Orrick requested that the Commission respond to certain questions. I am also attaching a copy of the Commission's response to Judge Orrick's inquiries. After Chairman Rosenthal has reviewed the Commission's response to Judge Orrick's question, we would be pleased to elaborate on our responses or respond to any additional inquiries that he may have.

In the *Randolph* case, the Commission has submitted consents, undertakings and proposed final judgments of permanent injunction to Judge Orrick, which would provide for disgorgement of $116,707.74. Although the Judge declined to sign the proposed final judgments on two occasions, we are hopeful that he will do so after reviewing the Commission's response to his inquiries. As set forth in the enclosed response to the Judge's questions, the proposed final judgments would grant the Commission virtually all of the relief that it is possible for the Commission to obtain in its civil enforcement action. I believe that on October 1 and 15 Judge Orrick was expressing many of the concerns which the Commission and its staff have in connection with the adequacy of the sanctions available to deter persons from engaging in insider trading and other violations of the federal securities laws.

I appreciate Chairman Rosenthal's statement that he will introduce and support the Commission's legislative proposal to establish a civil penalty for insider trading violations, and to increase the maximum fines that may be imposed in criminal prosecutions of violations of the Securities Exchange Act of 1934 from $10,000 to $100,000. We in the Division firmly believe that enactment of the legislation will provide a more effective deterrent against insider trading and other securities law violations.

COMMERCE, CONSUMER, AND MONETARY AFFAIRS SUBCOMMITTEE,
Washington, D.C. October 27, 1982.

Hon. JOHN SHAD,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reference to my letter to you of October 13, 1982, regarding the SEC's investigation and litigation arising out of insider trading in Santa Fe International Corporation.

The Wall St. Journal of October 18, 1982, reports that Judge Orrick in the *Randolph* case indicated that he would not consider approving the settlement proposed by the SEC "until the full commission answered two dozen wideranging questions on the SEC's handling of insider cases in the past. . . ."

Please supply the subcommittee with a copy of the Judge's questions and the SEC's responses in this case. Also, please let us know the present status of the *Randloph* settlement.

Sincerely,

BENJAMIN S. ROSENTHAL,
Chairman.

JUDGE AGAIN REJECTS SANTA FE INTERNATIONAL EMPLOYEES' SETTLEMENT

SAN FRANCISCO.—A federal judge again rejected as too soft a proposed Securities and Exchange Commission settlement with two Santa Fe International Corp. employees charged with insider trading.

Judge William H. Orrick, in a hearing here Friday, said: "I am worried that an insider can trade on insider knowledge secure in the knowledge that he can flip the cookies back in the jar and only get a slap on the wrist from a friendly judge."

The judge said he wouldn't consider approving a settlement until the full commission answered two dozen wide-ranging questions on the SEC's handling of insider cases in the past that he asked SEC lawyers at the hearing. The judge told the SEC to submit the information in three weeks.

On Oct. 1, in an unusual mode, the judge refused to accept the proposed accord in which two Santa Fe employees agreed to return to shareholders alleged securities trading profits of $116,700 to end an SEC civil suit against them.

Under the proposal, the men would have settled the charges without admitting or denying them and would have consented to a permanent court order barring them from future violations of an SEC antifraud rule.

The judge had asked the SEC why he should accept the proposed settlement. In resubmitting the proposal Friday, the SEC said the repayment of the trading profits was the maximum penalty it can win through its civil suits.

The SEC alleged that the profit was produced by buying Santa Fe international securities before the company announced last year that it was being acquired by a unit of Kuwait Petroleum Co.

Charged in the Santa Fe case, the latest in a series of SEC actions against people the agency accuses of profiting illegally from advance knowledge of merger plans, were James H. Randolph Jr. and Charles Blackard. Both are vice presidents of Santa Fe units.

At Friday's hearing, lawyers for the men wouldn't discuss the case.

The SEC has filed three other lawsuits over alleged insider trading stemming from the merger, and the investigation is "continuing and ongoing," according to SEC court filings. So far, the SEC has settled one of the suits with a consent decree similar to the one rejected by the court.

SEC court filings show that in the Santa Fe cases, the SEC has obtained preliminary orders freezing about $7 million in proceeds from alleged insider trading and has recovered about $300,000 in alleged illegal trading profits.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., October 26, 1982.

Hon. BENJAMIN S. ROSENTHAL,
Chairman, Subcommittee on Commerce, Consumer, and Monetary Affairs Committee on Government Operations, Washington, D.C.

DEAR MR. CHAIRMAN: Your inquiry dated October 1, 1982, concerning the Darius N. Keaton matter has been referred to the Criminal Division for reply.

With respect to your specific request regarding whether the Securities and Exchange Commission referred the Keaton matter to the Department of Justice, the SEC has not referred this matter to the Department. However, you should know, we are working closely with the SEC regarding several allegations of insider trading in the securities of Santa Fe, resulting from the takeover of Santa Fe by Kuwait Petroleum Corporation.

We appreciate your bringing this matter to our attention.

Sincerely,

D. LOWELL JENSEN,
Assistant Attorney General, Criminal Division.

COMMERCE, CONSUMER, AND MONETARY AFFAIRS SUBCOMMITTEE,
Washington, D.C., October 13, 1982.

Hon. JOHN SHAD,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of October 12, 1982, regarding the SEC's investigation and litigation arising out of insider trading in Sante Fe International Corporation.

I understand that within the past few days, in the *Randolph* case in San Francisco, U.S. District Judge William Orrick refused to accept a proposed settlement similar to the Darius Keaton settlement, calling it "a slap on the wrist." Surely, the Judge understands the extent of the SEC's options, and may be suggesting that a criminal referral is necessary before he will agree to the civil settlement. I still question why a decision to refer to the Justice Department has not yet been made in the Keaton and other cases where a settlement has been accepted or proposed. If the present law limits your civil penalties, I suggest that the SEC should consider criminal referral where appropriate in order to insure that the law has a deterrent effect. In this regard, please advise whether the SEC has agreed, formally or informally, not to make a criminal referral in any of the settlements relating to Santa Fe or other insider trading cases since January 1, 1981 to date. Also, please provide the number of cases of insider trading referred by the SEC to the Justice Department within the past three years and the number of such cases prosecuted by the Justice Department.

In any event, I want you to know that I agree that increased civil penalties are needed. Accordingly, I will introduce as soon as Congress reconvenes after the election, the legislative proposal the SEC has submitted to increase civil penalties for insider trading. This situation should provide ample proof of the need for such a measure.

Sincerely,

BENJAMIN S. ROSENTHAL,
Chairman.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., October 12, 1982.

Hon. BENJAMIN S. ROSENTHAL,
Chairman, House Committee on Commerce, Consumer and Monetary Affairs, Subcommittee of the Committee on Government Operations, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN ROSENTHAL: I have your letter of October 1, 1982 concerning the Commission's investigation and litigation regarding insider trading arising out of the merger of Santa Fe International Corporation ("Santa Fe") and Kuwait Petroleum Corporation ("KPC").

Shortly after the announcement of the proposed merger of Santa Fe and KPC, the Commission initiated an extensive investigation of possible insider trading in Santa Fe securities and options. This investigation has resulted in the filing of four civil actions: (i) *Securities and Exchange Commission* v. *Certain Unknown Purchasers, et al.*, Civil Action No. 81 Civ. 6553 (S.D.N.Y.), (ii) *Securities and Exchange Commission* v. *Gary L. Martin, et al.*, Civil Action No. C-82-381 (W.D. Wash.), (iii) *Securities and Exchange Commission* v. *Ronald A. Feole, et al.*, Civil Action No. 82-5018-LEW (C.D. Cal.), and (iv) *Securities and Exchange Commission* v. *James H. Randolph, Jr., et al.*, Civil Action No. 82-5343-WHO (N.D. Cal.). In these pending actions, the Commission is seeking the disgorgement of over $8 million in profits.

Your letter raised questions concerning the Commission's settlement with Darius Keaton, a director of Santa Fe. In the settlement, the Commission obtained all the relief that it could have obtained from Mr. Keaton at a full trial on the merits. In this respect, Mr. Keaton consented to the entry of a final judgment of permanent injunction enjoining him from further violations of the anti-fraud provisions of the Securities Exchange Act of 1934 and an order to disgorge all profits from his transactions. These are the sole remedies presently available to the Commission.

Nothing in the settlement with Mr. Keaton precludes a referral of the case to the Department of Justice. No decision has been made as to whether or not this matter should be referred, nor has the Department of Justice either requested access to our files or indicated that it does not wish to review this matter. Similarly, no decision has been made with regard to other remedies the Commission might pursue against Ronald A. Feole or any of the other defendants in the pending actions. Our investigation indicates that Mr. Keaton is still a director of Santa Fe and Mr. Feole is still the general counsel of Santa Fe Minerals, Inc. There has been no announcement by the company to indicate otherwise.

I believe the Santa Fe cases, in general, and the Keaton case, in particular, demonstrate the Commission's determination to use all of the enforcement tools presently available to it. The Commission shares the concerns raised in your letter and has recognized the need for added deterrence in insider trading cases. In this regard, at the end of September, the Commission submitted to Congress a legislative proposal which would amend the Securities Exchange Act of 1934 to allow the Commission to seek additional sanctions against persons who violate that Act by purchasing or selling securities while in possession of material nonpublic information. The proposed legislation would allow the Commission to obtain monetary penalties of up to three times the amount of profits illegally obtained.

I would be happy to have the staff of the Division of Enforcement brief your staff on these matters and provide any relevant materials. May I suggest that your staff telephone John M. Fedders, Director of the Division of Enforcement, at 272-2900 to arrange for a meeting. You will find that Mr. Fedders will be willing to cooperate with your staff in answering its questions and discussing the Commission's enforcement program.

Sincerely,

JOHN S. R. SHAD.

COMMERCE, CONSUMER, AND MONETARY AFFAIRS SUBCOMMITTEE,
Washington, D.C., October 1, 1982.

Hon. JOHN SHAD,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the Commerce, Consumer, and Monetary Affairs Subcommittee has taken an active part in oversight of the federal response to the Kuwait Petroleum Corporation's takeover of Santa Fe International Corporation, including allegations of insider trading in violation of the securities laws. I have followed with approval the SEC's activities in this and similar cases in attempting to pierce Swiss secrecy laws and by conducting what apparently is a thorough investigation of insider trading in the Santa Fe case. On October 20, 1981, SEC Commissioner John Evans testified before the subcommittee concerning the SEC's investigation. He outlined the various remedies available to the Commission, including referral to the Justice Department for possible criminal prosecution in appropriate cases; he discussed problems resulting from the use of secret numbered foreign accounts; and he assured the subcommittee repeatedly of the high importance and sense of urgency given to prosecution of insider trading.

In light of this testimony and other subsequent statements by you and other SEC officials of the importance of pursuing insider trading cases with vigor, I am surprised to learn of a recent development in the Santa Fe case which appears to demonstrate a milder prosecutorial stance. In this instance, a director of Santa Fe, Darius N. Keaton, who is charged with using inside information, was permitted to "settle" the matter by repaying the $278,750 profit he made on the illegal trading. As far as I know, no further penalty has been imposed. Surely, the

deterrent effect of the law is vitiated if a director or officer who had access to inside information is permitted to walk away from an insider charge without any penalty whatsoever except the repayment of an illegal profit. I find it ironic that the SEC is presently asking Congress to increase penalties against insider trading but apparently is not willing to use the ample prosecutorial options it presently has.

In light of this situation, I would appreciate responses to the following by October 18, 1982.

1. Supply a status report on the investigation of insider trading in Santa Fe stock and options.

a. What cases have been brought?

b. What cases are pending?

c. What direction will the investigation take?

2. On what basis was the decision made not to pursue criminal remedies in the Darisu N. Keaton situation?

a. Was the case referred to the Justice Department for criminal prosecution? What was Justice's response?

b. Supply copies of documents relating to the decision to accept Mr. Keaton's repayment instead of pursuing criminal remedies.

c. State whether the Commission made a decision regarding criminal prosecution. If so, supply copies of the minutes of the meeting at which the decision was made and all staff documents prepared in connection therewith.

d. If the matter was referred to Justice and prosecution was declined, supply copies of any document stating the Department of Justice's reasons for declining prosecution.

3. Will other remedies be pursued in the case of Ronald A. Feole, the general counsel of Santa Fe Mineral, Inc., and others related to him, who are allegedly involved in additional insider cases?

4. Are Keaton and Feole still employed by Santa Fe International?

Sincerely,

BENJAMIN S. ROSENTHAL,
Chairman.

COMMERCE, CONSUMER, AND MONETARY AFFAIRS SUBCOMMITTEE,
Washington, D.C., October 1, 1982.

Hon. WILLIAM FRENCH SMITH,
Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: Enclosed is a copy of a letter I have sent today to the Chairman of the Securities and Exchange Commission regarding a case of insider trading and the SEC's possible failure to refer the matter to the Justice Department for prosecution. I recently wrote to you about another matter involving prosecution of banking law violations referred to the Department of Justice by the Office of the Comptroller of the Currenty. I expressed my concern about whether the Justice Department is devoting sufficient resources to white collar crime. In this connection, I enclose an article from the Wall Street Journal of September 28, 1981, entitled, "Reagan Team Plans to Slash Efforts to Catch White-Collar Criminals."

I am writing now to determine whether the Darius N. Keaton case was or was not referred to the Department of Justice by the Securities and Exchange Commission. If it was, why did Justice decide not to prosecute?

I would appreciate a reply by October 18, 1982.

Sincerely,

BENJAMIN S. ROSENTHAL,
Chairman.●

A TRIBUTE TO MR. GEORGE KELL

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. BLANCHARD. Mr. Speaker, several of our Michigan State legislators, including Senators Miller, Faust, Ross, Hart, and Hertel, have offered a resolution encouraging the Baseball Hall of Fame Committee on Baseball Veterans to induct Mr. George Kell into the National Baseball Hall of Fame. It is with great pleasure that I join this effort.

Mr. Kell, who is already a member of the Michigan Sports Hall of Fame and had been named the Detroit Tigers' all-time greatest third baseman, has had a long and distinguished career, both as a baseball player and later as a gifted sportscaster. Mr. Kell's talents as a ballplayer were perhaps best displayed from 1946 to 1952, when he became known as an outstanding third baseman for the Detroit Tigers. An injury later in George Kell's career led him to retire from playing baseball, but fortunately not from the sport itself.

Since 1954, Mr. Kell has been the sportscaster for the Detroit Tigers and has enhanced Tiger games with his witty and knowledgeable reportage. Mr. Chairman, I hope that the Baseball Hall of Fame Committee on Baseball Veterans will consider Mr. Kell's exceptional career both on and off the field and will induct him into the Baseball Hall of Fame.●

A SALUTE TO HARRIS STOWE COLLEGE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. CLAY. Mr. Speaker, recognition is extended all too seldom to America's institutions and the people connected with them who quietly serve their country but whose contributions are nonetheless of far-reaching importance.

I would like to call to the attention of my colleagues an article which deals with an historical perspective of an educational institution in my district, Harris Stowe State College, a St. Louis teacher-training institution now celebrating its 125th anniversary.

Harris Stowe State College has graduated many courageous and extraordinary teachers who have demonstrated in the face of great adversity and opposition a caring and commitment to education. The graduates of Harris Stowe State College have rendered significant and superior service to this Nation's most precious resource: its children and youths.

Public institutions like Harris Stowe State College should be praised, supported and preserved. Rather than have this happen, the current administration has not seen fit to continue support for such institutions of higher education based on the devastating cutbacks in funding which has adversely affected institutions of higher education.

Therefore, I applaud the 125 years of teaching teachers for Harris Stowe State College, I applaud Dr. Henry Givens, Jr. the current president of Harris Stowe for his stamina, determination, and superior academic leadership because of his impershable belief that a "mind is a terrible thing to waste."

This State college throughout its 125 years has made an invaluable contribution to the St. Louis community as well as throughout the State of Missouri.

Mr. Speaker, it is with great pride that I bring this article which appeared in the St. Louis Globe-Democrat on November 21, 1982, to the attention of my colleagues:

[From the St. Louis Globe-Democrat, Nov. 21, 1982]

125 YEARS OF TEACHING TEACHERS: "NEW" PROBLEMS ARE ONES COLLEGE HAS SEEN BEFORE

(By Charles E. Burgess)

A 5 percent cut in state aid and an enrollment drop were sobering developments to Harris-Stowe State College, the St. Louis teacher-training institution now celebrating its 125th anniversary.

Harris-Stowe President Henry Givens Jr. remains optimistic about the college's future, although he admits "the cuts put us under tremendous pressure to find ways to carry on programs."

Financial stress has been a relative constant for the institution since its establishment in 1857. It was designed as an arm of the St. Louis public school system to alleviate a shortage of teachers as the population swelled.

In 1862, Superintendent Ira Divoll noted "the rebellion (Civil War) had deprived us of all state aid and had reduced our other revenue by about one-half."

One consequence was that enrollment in the "St. Louis Normal School"—the fledgling teacher-training program—fell from 80 to 38. The sole instructor, Richard Edwards, not only saw his salary cut from $2,500 to $1,500 annually, but he was also required to serve double duty as principal of the system's one high school.

Givens attributes this fall's enrollment drop to 1,072 from last fall's 1,241 to problems students have in getting financial aid and pessimism about job openings in teaching.

Another possible factor was that Harris-Stowe raised the grade-point average students need for certification as teachers and toughened its admissions standards. "Our students must be able to compete as elementary instructors throughout the nation," Givens explained.

The teacher training program faced a similar situation in 1882, as reported by the superintendent then, Edward Long:

"Of late, the number of admissions to the Normal School has been very small as compared with that of former years. It is believed by some that the high standard for admission has been the chief cause . . . It is more probable that the almost certain delay of three or four years after graduation before receiving an appointment has been the main cause."

While Harris-Stowe held a series of events to commemorate the 125th year in the summer and the early fall, some good financial news did arrive.

Voter approval of a $600 million state bond issue will probably mean more renovation and modernization of the college building at 3026 Laclede Ave., said S. Stanley Dalen, vice president for finance.

In the first two years after 1979, when Harris-Stowe became a state institution independent of St. Louis Public Schools, nearly $1.4 million in state aid was granted to upgrade the 55-year-old structure. But a state budget crunch reduced the allocation to only $109,300 in 1981.

As a result, most of a $15.7 million "master plan" developed by Givens, his staff and the Board of Regents will remain on the shelf.

But much has been done in the first three years of autonomous operation. Most science labs have been renovated. The toilets, student lounges and cafeteria have been refurbished. Key classrooms have been air-conditioned for summer sessions. And a new elevator allows almost all handicapped people access to the four-story building, Dalen said.

The once-inadequate library now contains files of 300 periodicals and 70,000 books, says head librarian Julia Broad, who graduated from Harris in 1941.

There's a sense of permanence now about the institution, she said—something it seldom had despite its 125 years.

The Normal School shared space in many buildings before getting its own in 1905 at 1517 S. Theresa Ave. That building now houses the school system's instructional division offices. There was a move in 1948 to 5351 Enright Ave., now the Classical Junior Academy. And in 1963, the school settled in its present site, formerly Vashon High School.

For the first time in 125 years, Harris-Stowe is offering another degree besides elementary education, with its specialization.

In 1984, the first bachelor degrees in urban education will be awarded. About 75 juniors are in the program, aimed at providing school systems with expertise for which they now must hire expensive consultants.

In financially pinched times, the staff has been remarkably supportive, Givens said. To preserve full-timers from layoffs after state aid cuts this year and last, faculty members—including Givens and other teaching-certified administrators—took on an additional three-hour teaching load.

"I would match this faculty for dedication and ability with any in the area. That's why I have stayed as long as I have," said a 35-year veteran of the staff, A. Samuel Oliveri, professor of psychology.

Givens has headed Harris-Stowe since it was severed from the city school system. The 49-year-old educator is former assistant commissioner for urban education and teacher training in the Missouri Department of Education.

Givens' predictions for the school's success are based on the probable shortage of teachers by mid-decade, already evident in such specialized fields as science, math, industrial arts, home economics and music.

Under his direction, Harris-Stowe has emphasized these disciplines. Evening and Saturday classes allow working teachers to increase their certification range, thus improving their job chances. The average age of students is 27.

"It's giving me what I want. I went to a community college for a year, and wasn't satisfied, but her I feel like I'm getting really good preparation," said senior Wally Rutherford, 27, who works full-time as a convention coordinator at the Chase-Park Plaza Hotel.

Givens' links with the school date from the early 1940s, although he attended Lincoln University in Jefferson City. "At the time I wanted to be an engineer, but my brother and sister went to Stowe Teachers College."

The sister, Armetta Whitmore, was on Harris-Stowe's staff before Givens was hired, and now directs special academic programs there.

Before 1954, the St. Louis school system maintained separate teacher training institutions—Harris Teachers College for whites, Stowe for blacks.

The Normal School for whites was renamed in 1910 to honor William Torrey Harris, an innovative St. Louis superintendent from 1868 to 1880, who later was U.S. commissioner of education. Stowe's name honored Harriet Beecher Stowe, whose novel "Uncle Tom's Cabin" strongly influenced anti-slavery movements.

The program to train teachers for black schools was authorized by the legislature in 1875, but did not begin until 15 years later—as a branch of Sumner High School. Stowe was housed in cramped space in Sumner or Simmons School until 1940, when it got its own building, now Turner Middle School.

In 1948, a Stowe student, Marjorie Tolliver, filed suit seeking admission to Harris on grounds that Stowe was inferior and "did not offer equal educational opportunity." Missouri's Supreme Court rejected her argument two years later.

But in 1954 U.S. Supreme Court decision barring student separation by race meant closing for Stowe and the end "of an era of humiliation, disgrace and suppression" for blacks in public education. That statement was made by Ruth Harris, Stowe president for 14 years before integration, in her history of the institution.

Harris-Stowe's enrollment is now about 70 percent black, 30 percent white.

Pictures in old yearbooks of Harris and Stowe are vivid evidence of other changes. Because men weren't permitted to teach in elementary schools in St. Louis until 1940, they weren't admitted to the two colleges.

The 125th anniversary yearbook contains a section of pictures of children of students. Before 1948 in St. Louis, female teachers who got married were fired and lost their pension rights, and female teacher-college students who married were expelled.●

TROND SKRAMSTAD

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mrs. BYRON. Mr. Speaker, Mount St. Mary's College, a small school of 1,400 located in my congressional district in Emmitsburg, Md., has been producing track and field champions with amazing frequency. In fact, it now appears possible that as many as five Mount students or graduates will be representing their respective countries at the 23d Olympic games. The summer Olympics return to the United States for the first time in 50 years when Los Angeles plays host in 1984.

Most recently, the accomplishments of Trond Skramstad have highlighted Mount St. Mary's efforts. Trond won the 1982 NCAA Division I title in the grueling decathlon. The decathlon requires a remarkably talented, versatile, and determined competitor, as it consists of 10 separate track and field events over a 2-day period. The winner of the Olympic event is widely regarded as the "World's Greatest Athlete."

Trond's national victory came a mere 5 days after he captured the Division II national title. His score of 7,860 points is the leading collegiate effort thus far this year and represents a personal, stadium, meet, and Norwegian national record. In addition, Trond was the only NCAA track and field champion to represent a school from the east coast. Not only is he an outstanding athlete, but the 20-year-old native of Konesburg, Norway, is also an honors student majoring in business and finance.

I welcome this opportunity to praise the efforts of this fine young man and Mount St. Mary's College, and I am certain that we all look forward to the Olympic games and all they represent.●

THE NATION EMERGES FROM 25 DARK YEARS WITH TOO FEW FROGS

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. McCLOSKEY. Mr. Speaker, in the last hectic days of the 97th Congress, with most of us in deep dismay over the Nation's continuing economic decline and our clear inability in Congress to do anything about our deficit and unemployment woes, it is a pleasant, if only momentary relief to find some hope in a front-page article which ran in the Wall Street Journal last Tuesday, December 7.

The article, written by James P. Sterba, describes a little-known but highly significant success of the Reagan administration's "Stay-the-Course" economic game plan coupled with its sometimes misunderstood efforts for the protection of endangered species.

Mr. Sterba points out the astounding fact that for the first time in 25

years the Nation's frog population is again increasing. What Mr. Sterba does not mention is that a single individual on the Reagan White House staff, operating effectively and in near secrecy, was able to accomplish this incredible turn around in a period of a little less than 18 months.

That individual is none other than Nestle J. Frobish of Lyndonville, Vt., a conservative Republican who has devoted most of his life to seeking protection and fairness for frogs. Mr. Frobish, from 1974 to 1980, deluged Members of Congress and the national media with impassioned warnings that declining habitat and other problems were bringing the U.S. frog population to a dangerously low level. His 1977 book, "Fair Play for Frogs," coauthored with our former colleague, Jerome Waldie, electrified the small but powerfully placed frog-loving community, most of whom are born-again Christians and members of the National Rifle Asscociation like Frobish himself. While Frobish's views found little support in either the Ford or Carter administrations, his conservative—some say antediluvian—views on economic and social issues earned him a position high in the Reagan White House domestic establishment in early 1981.

Within a short time Frobish, working with his close friend, OMB deregulation director, Chris De Muth, was able to abolish several previously ineffective Federal frog programs while at the same time obtaining the President's commitment to a major new frog propagation effort. The frog population had declined in the last quarter of a century because, as Mr. Sterba points out, frogs, like Presidents, when placed in close quarters, rarely copulate.

Frobish conceived a brilliant solution: unlimited space through use of the Space Shuttle. As a result, in 1985, the Nation's TV viewers will have the chance to watch, in living color, the first space mating of frogs, presumably one from Frobish's beloved home pond in northern Vermont and one from the famous Sacramento Delta country which has sent both Ronald Reagan and Jerome Waldie to serve in this city with such distinction.

Those of Mr. Frobish's friends who may want to send him their congratulations can reach him at the Worldwide Fairplay for Frogs Committee headquarters, Box 94, Lyndonville, Vt., 05851. Once, the future of frogs was assured, Frobish left the White House, as surreptitiously as he had come.

It is unfortunate that Mr. Sterba failed to assign appropriate credit to Mr. Frobish in his Wall Street Journal article, but then again Mr. Frobish would probably never have been able to accomplish his spectacular achievement had the world, or even President Reagan, been aware of how he was spending his time on the White House payroll.

The Wall Street Journal article follows:

THE NATION EMERGES FROM 25 DARK YEARS WITH TOO FEW FROGS

MANY NOW MERCIFULLY ESCAPE DISSECTION BY SCHOOLBOYS; THE ORBITING FROG GOTOLITH

(By James P. Sterba)

America's long national frog shortage is over.

Twenty-five years after the Russians caused it, the Reagan administration has quietly but firmly put an end to it. For the first time since Sputnik, U.S. demand for frogs no longer outstrips supplies.

Reaganomics, the recession, and cuts in federal funds for science education have combined to make it a little easier being green.

"We have plenty now," says Roger Griedl, a Wisconsin frog merchant who has monitored the batrachian market's ups and downs for 30 years. "Demand is way down. There's not a lot of money out there these days to spend on frogs."

Although this may be good news down in the swamps, frog-supply companies are distressed and science educators worried. A nation that skimps on frogs today, they assert, will not lead the world in science tomorrow.

COSMIC PROBLEM

While it continued, the frog shortage touched the lives of millions of Americans. But for those who managed to pass the last quarter-century oblivious of the quandary, some background:

Sputnik started it.

Sputnik was the earth's first artificial satellite, and when the Soviets lofted it on Oct. 4, 1957, the U.S. got scared. President Eisenhower launched a national campaign to beat the Russians in science. Declaring that science education was a matter of national security, he signed the National Defense Education Act in 1958, thereby circumventing opponents of federal aid to education. Federal dollars, including $50 million to $80 million annually for laboratory supplies, began to rain on high schools and universities. And what did these schools buy?

Frogs, by the millions. (They also bought textbooks, teacher training, student fellowships and lab equipment.) Pretty soon, virtually every student in every biology class in the nation got to take a frog apart.

"Those were the good old days," says Mr. Griedl, who is biology division operations manager of a frog-supply company called Nasco, a Ft. Atkinson, Wis., subsidiary of Geneve Corp. "Gosh, after Sputnik every kid got his own frog."

Why frogs? Because taking them apart is a lot more exciting than looking at textbooks, says Roberta Hill, a biology teacher at Cyprus Lake High School in Ft. Myers, Fla. "It's an attention getter, a hands-on enrichment experience." She says lab work in comparative anatomy starts with taking apart a worm. Dissecting a frog is the culmination.

The idea was to lure students into science careers, using frogs as carrots.

A victory of sorts over Moscow came 12 years after Sputnik when Neil Armstrong set foot on the moon. In calling it a "giant leap for mankind," however, he obviously wasn't telling the whole story. Suppliers estimate that more than 100 million frogs gave their lives in the interim on behalf of U.S. science prowess, although no one is sure how many students they inspired to join the space program.

Some were repulsed. By the late 1960s, student consientious objection to killing frogs for dissection was on the upswing. Frogs aren't covered by the Animal Welfare Act of 1966, which required humane treatment of warm-blooded research animals and birds. "Frogs aren't warm-blooded, so I guess nobody cared," says Dorothy Greenhouse, staff officer of the Institute of Laboratory Animal Research in Washington.

Frogs played a more direct role in the space program too. On Nov. 9, 1970, two bullfrogs were shot into space in an O.F.O.; or orbiting frog otolith, to test reactions of their inner-ear balancing sensors to weightlessness. The air ran out. A second frog mission, aboard the space shuttle, is scheduled for 1985.

The frog business boom turned tiny biological-supply companies into bio-giants. Business at Carolina Biological Supply doubled the year after Sputnik, say company sources. Carolina is privately owned and declines to discuss growth and income. Its current 944-page catalog, however, lists 143 sizes and species of live and preserved frogs and toads, ranging from a 69-cent pickled leopard frog to an $11.40 giant bullfrog specially preserved in non-ordorous fluid and injected with color-coded latex. (Cable address: Squid, Burlington, N.C.)

But through the '60s and most of the '70s, the supply houses couldn't get enough frogs to fill orders. Frog catchers, in the mold of pioneer fur trappers, died out or got dry-feet jobs. Swamps were drained. Frog habitats were poisoned by herbicides and pesticides.

Competition from the bio-supply firms wreaked havoc in the frog-leg trade. Restaurants buying only legs didn't want to pay what the supply companies were offering for the whole frog. So they turned to frozen imports from India.

DIRTY POOL

Unfortunately, frog facilities in India are not exactly models of sanitation. Vigilant Food and Drug Administration inspectors were rejecting 85% of the shipments in the early '70s because they were contaminated by salmonella. Unscrupulous traders flogged rejected frog legs off on other countries. Sometimes they took tainted legs out to sea, reboxed them aboard ship, and tried to slip them back into the U.S.

Indian exporters, who tend to see frog-leg consumption as symptomatic of barbaric Western appetites, did not stand idly by while their reputations were besmirched. The Indian government invited Clifford Shane, then the FDA's top New York regional inspector, to tour their frog facilities. He recommended chlorine. Many posh restaurants, however, felt the chlorine made frogs' legs rubbery, and excised them from their menus.

Chlorine or no, thousands of dollars worth of frog legs are rejected monthly by FDA inspectors. Smuggling persists, and grand juries are convened with some regularity to probe nefarious frog dealings.

While the imports have sated the frog-meat market, frog demand in the science sector has fallen victim to the recession, shrinking school budgets and dwindling federal and state aid. "We used to be able to afford one frog for every two students," says Mrs. Hill in Ft. Myers. "Now it's four students per specimen. They don't get enough direct contact. I have 160 students this year and only $100 to spend on all lab supplies,

including frogs. So we buy the smallest and cheapest."

DRYING UP

Mr. Griedl's company, Nasco, sold about 75,000 live frogs yearly in the early 70s. "We're down to less than half that now," he says.

That's symptomatic of a gross neglect in science education, according to Bill Aldridge, executive director of the 40,000-member National Science Teachers Association. Just when students are getting interested in science because there are lots of jobs in scientific fields, schools have neither enough money for frogs nor enough teachers who can dissect them.

George W. Nace, professor of biology at the University of Michigan, remains hopeful that the frog market will rebound. He notes that there are 331,600 life-science and biology classes this year in junior and senior high schools around the country. Averaging 20 students per class, that's 7,295,200 students. Even at one frog per four students, that's a market for 1,823,800 frogs.

Mr. Nace knows this because he spent the last quarter-century trying to overcome the national frog shortage. The answer, it would seem, is frog farming. But frogs are not easily farmed. Put too many together, and diseases can wipe them out. That's what happened to a hopeful bullfrog-raising venture at the mouth of the Amazon in Brazil last year.

SET IN THEIR WAYS

Moreover, in close quarters, frogs, like most people, will not copulate. They need space and privacy. They are also cannibalistic, capable of munching tadpole kin without remorse. Most perplexing to would-be frog ranchers, however, are frogs' finicky eating habits. They only eat live protein, such as insects and crayfish.

Federal research grants, ranging from $75,000 to $125,000 annually since 1964, have helped Mr. Nace solve many of these problems in northern leopard frogs (*Rana pipiens*), the most commonly dissected and researched species. He has perfected sanitary, indoor habitats (frogs must be comfortable, he says). He can stimulate females to ovulate, then artifically fertilize the eggs.

Ironically, Mr. Nace's federal research money ran out last month, and the University of Michigan is tearing down the Ann Arbor building holding his lab at the very moment Mr. Nace thinks he has achieved a breakthrough in leopard frog feeding, the final hurdle. So he's forming a private company (called the Amphibian Facility) and moving his entire operation into an abandoned Kroger food store near Ypsilanti. So far, he notes, venture capitalists have not been knocking down its door.

WHAT ABOUT THE CHILDREN?

Nevertheless, Mr. Nace says he's pressing on for the good of the nation.

"It started before Reagan, but now I think this country is in bad trouble technologically, and that starts with kids not knowing how animals are put together," he explains. "With fewer kids growing up on farms, they don't see chickens killed for the table."

"I call this the Bambi syndrome," he goes on. "The only thing they know of animals is from Walt Disney films. It's just my pop psychology, but I think their distance from daily life and death makes them see violence as an abstract concept. You kill a frog and get in there and touch his legs, you realize there are nerves in there and feelings."

Mr. Nace continues to get a little money from NASA to plan the 1985 frog shuttle mission to see how frog eggs divide without gravity. In the meantime, he plans to patent his feeding breakthrough. He remains cryptic about this. All he will say is that he has a device that fools frogs into thinking the protein pellets in front of them are alive and, thus, are good to eat.●

INCREASING THE GAS TAX

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. ROYBAL. Mr. Speaker, in spite of my deep concern about this country's deteriorating infrastructure, I found it necessary to vote against a 5-cent increase in the gasoline tax.

I certainly do not argue with the need for increased funds for transportation and public works projects. Our Interstate Highway System, as well as State and local roads, are badly in need of substantial repairs, while thousands of bridges all over the country are considered unsafe. Urban rail and bus transit capital investment needs will total nearly $50 billion over the next 10 years, and this does not even allow for expansion. However, as badly as we need the extra funds, I cannot justify renovating and rebuilding our transportation system on the backs of the poor.

This gas tax is regressive—it falls most heavily on low- and middle-income wage earners. The result? These people will have to devote a much larger proportion of their incomes to transportation needs—money that will certainly be diverted from other necessities such as food and health care—money that is already inadequate to meet the basic needs of so many Americans.

It comes as no surprise that this tax is the funding method that was chosen. Fair and workable alternatives were suggested, such as caping next year's tax cut and funding the transportation programs out of the increased revenues, but they fell by the wayside as has happened so often since this administration took office. The administration has tried to balance the budget on the backs of the poor. That has been a dismal failure. Deficits have skyrocketed, while the quality of life for millions of Americans has been severely compromised and the promised economic recovery is still nowhere in sight. I did not support these actions when we were called upon to consider them earlier in this Congress, and I see no reason to support a measure which continues in the same vein.

Let me reiterate that I do recognize the need for increased transportation funding, but not at the expense of those very Americans who have already been asked to sacrifice so much.●

THE LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. FIELDS. Mr. Speaker, I enter into the RECORD an article that should be of high interest to anyone supportive of scientific advance and discovery toward an improved life for all of our citizens.

As the article points out, the vast and rich mineral wealth of the ocean floor holds incomprehensible hope and promise for our civilization. Once the appropriate technologies are refined for mineral recovery and processing, we will enjoy greater national security and increased living standards for our people and any other nation wishing to participate.

Mr. Speaker, this is one of the reasons we must avoid the socialistically conceived U.N. Law of the Sea Treaty. Such a scheme would be foreclosing hope and promise for us and all other nations. As Conrad Welling states in the article, we have really only begun to understand and discover the geology of the sea bottom.

Our ability to explore and utilize the vast resources of the oceans and our solar system must not be curtailed in its progress. Principles and schemes such as those embodied in the Law of the Sea Treaty and the Moon Treaty serve only to close up the future, and drive the world back toward a dark age. There are few other issues before us today that demand of us as much far-reaching vision and concern for scores of generations unborn.

NEPTUNE'S FORGE

(By Charles Petit)

For one glittering Mediterranean civilization after another, generations of miners on Cyprus have dragged from the Troodos Massif a steady stream of copper sulfide ore. The beginnings of the Troodos mines already were lost in legend whe overseers from Imperial Rome sent slaves into unventilated, hellish galleries burrowed beneath the island's rocky surface. But the eerie, labyrinthine corridos of these ancient mines are not as strange as the places where similar deposits are now being created.

In the past six years, explorers have discovered minerals forming in a geological pageant of lava lakes, volcanic cones, and hot springs shimmering in the spotlights of deep-sea research submarines. The deposits are born alongside communities of giant clams, eight-foot-long tube worms, and ghostly white crabs residing in the hydrothermal warmth of areas 8,000 feet and more under the ocean's surface, where new sea floor erupts from the molten mantle below. The discovery helps answer one of the most practical of geological questions: Where do minerals come from?

The minerals, known as polymetallic sulfides, are combinations of sulfur and metals, primarily iron, copper, zinc, manganese, cobalt, lead, and vanadium. Although deep-sea exploration has barely begun, the fact

that they are found along portions of rift zones—ocean floor spreading centers—suggests that many more deposits may lie exposed on the ocean floor, for the planet is girdled by some 40,000 miles of speading centers.

"To dive on one of these hydrothermal sites," says geophysicist, Peter Rona of the National Oceanic and Atmospheric Administration, "is really the fulfillment of a geologist's dream to actually see mineral deposits in the process of formation."

The discovery of large quantities of minerals on the sea floor followed a sequence of tantalizing clues and individual finds spanning most of the 1970s and early 1980s, including a dive in August 1981 by the research submersible *Alvin*. Alexander Malahoff, chief scientist for the National Ocean Survey, a part of NOAA, was aboard the three-person craft as it groped slowly along the Galápagos Rift, more than 8,000 feet below the eastern Pacific in water 250 times the atmospheric pressure at the surface.

Suddenly, recalls Malahoff, ahead of the *Alvin* loomed "this metallic cliff, all covered with dead chimneys and towers." In the foreground lay a lumpy, yellow-and-orange expanse with huge but now dead communities of giant clams cloaking its margin. The hot springs at this spot had faded out, no one knows how long ago. But they left a tremendous deposit of sulfides. Malahoff thinks it might contain 25 million tons of copper and zinc, an amount that surpasses the legendary lode of Troodos. *Alvin* measured that single deposit to be at least 115 feet high, about 650 feet wide, and about .6 of a mile long.

Another explorer of the hydrothermal vents is John B. Corliss at Oregon State University. When he was completing studies at Scripps Institution of Oceanography in 1971, the concept of plate tectonics was still newly minted. Puzzles of continental geology were eagerly analyzed with an eye to mid-ocean ridges where new sea floor spreads, subduction zones where it dives back into the mantle, and regions where sections of sea floor jam up along the margins of drifting continents. Among the puzzles was the origin of essentially pure bodies of polymetallic sulfides, not limited to the best known deposit on Cyprus but found scattered throughout the world in island arcs and along continental margins.

By the early 1970s, "people were definitely thinking of these sulfides as the result of hydrothermal solutions," says Corliss, "but they were only beginning to say these were formed on the sea bottom." The central idea was that superhot water leached metals from rising magma and concentrated them near the Earth's surface, but no one knew exactly how and where it happened and where the hot water came from.

"It was a classic geologic problem," Corliss continues. "How do you get sulfides from an aqueous solution?" The difficulty was that sulfides do not dissolve particularly well, yet the metals appear to be precipitated from the salt water.

Soon, however, laboratory tests showed that the metals will dissolve in very hot salt water. Temperatures of 600 degrees Fahrenheit or more are needed, and extreme pressure must be exerted on the water to prevent it from flashing into steam. Under such conditions, the dissolved metals combine with sulfur from the seawater. When the water cools, the metallic sulfides precipitate out.

In the mid-1960s, exploration of the Red Sea—an infant spreading center—revealed mineral deposits and hot springs on its floor. No one knew then whether these springs and deposits were only short-term features of newly formed centers, where spreading rates are comparatively slow. But the deposits fueled curiosity about the mature rift systems that lace the ocean floor.

By 1977 most of the picture had been put together, in theory. That year in his book "Tales of an Old Ocean: Exploring the Deep Sea World." Stanford marine geologist Tjeerd van Andel with others in the field speculated that cold seawater percolates down through fissure in spreading centers nearly to the 2,000-degree-Fahrenheit magma a mile below, leaches out metal-rich sulfides, then rises again, leaving the sulfides in concentrated deposits as it cools. So far, so good, but few experts then expected the deposits to extend right up to the ocean floor. The process, van Andel wrote, could not be confirmed "because there are no practical means for penetrating into the oceanic crust to locate the ore bodies."

It was then that exploration began in earnest in the eastern Pacific, which contains mature spreading centers where plates are shouldered apart relatively quickly. Spreading rates on the East Pacific Rise, Galápago Rift, and elsewhere range from 2½ inches to as much as 10 inches per year. The discoveries that followed over the next three years forced van Andel to revise his book with a new final chapter describing the "great good fortune to stumble on something wholly unexpected and exciting."

In a historic 1977 expedition to the Galápagos Rift, John Corliss, with marine scientists Richard von Herzen and Robert Ballard of Woods Hole Oceanographic Institute, took *Alvin* down more than 8,000 feet, where temperatures average a frigid 35 degrees Fahrenheit. There they found strange vents from which poured relatively balmy (about 52 degrees) water. Though no sulfides were seen, this expedition introduced to science the first of the sensational hydrothermal communities of huge clams, crabs, giant tube worms, and chemical-eating bacteria.

The next year a French, Mexican, and American team aboard the French submersible *Cyana* extended exploration to include the East Pacific Rise at a spot called 21° North, after its latitude off the tip of Baja, California. It was here that the team found the first deposits of polymetallic sulfides. One sample was almost pure spahlerite, a mineral 50 to 60 percent zinc by weight.

In 1979 *Alvin* was back at 21° North where Bill Normark, of the U.S. Geological Survey office in Menlo Park, California, and others were confronted with a sight from the devil's own workshop: the first of what are now known as black smokers. They saw a tall, chimney-like vent belching a rolling plume of black fluid. The "smoke" turned out to be suspended iron sulfide. Soon other smokers were found.

"We knocked half the top off a two-meter smoker chimney," Normark remembers, "and used the robot arm to stick a temperature probe in." The meter in the cramped little sub read 32.768 degree Centigrade, about 90 degrees Fahrenheit. This was the hottest hydrothermal vent ever measured. "We were pretty excited," he said, "then the guys on board ship radioed down and told us it was off the scale. The thing just wouldn't read any higher than 32.768 degrees."

After a short consultation, the group on the sub shoved the probe back into the broken vent and left it for awhile. The plastic began to melt. Later, at the surface, they found it blackened. A handbook check revealed it would not char unless the temperature was some 650 degrees Fahrenheit.

The nature of water at 650 degrees and 250 times the surface pressure is hardly that of ordinary water. Its buoyancy is astounding. At such pressures water cannot boil; it just expands with temperature. Cold water at the sea floor has a density of about one gram per cubic centimeter. But at 650 degrees, expansion has cut its density almost in half. At 1,100 degrees, a temperature that could be reached around a magma chamber, density drops to about .1 of a gram. Such superheated fluids rise with incredible speed through denser surroundings, bursting through the Earth's crust into the cold sea.

Geochemist John Edmond at the Massachusetts Institute of Technology, one of the many scientists still rocked by the swiftness of ocean floor discovery, knew immediately the implication of such hot water billowing directly into the cold, quenching sea. Such vents could easily carry large quantities of minerals that would then be precipitated from cooling water. "They (the vents and passages feeding them) clearly are the process that produces the sulfide deposits of places like Cyprus. What you have on the continents are samples of sea floor, jammed up by plate tectonics, left over from spreading centers."

In the wake of such discoveries, Malahoff's find of the huge polymetallic sulfide lode in the Galápagos Rift in 1981 was no accident. It was actually about 700 yards from the Galápagos spreading center, along a fault in the pillow basalts, rocks formed from cooled lava that pave the ocean floor near spreading centers. Malahoff thinks the sulfides formed right there by hot brines diverted to the fault from the central rift plumbing system. Most other researchers feel the lode was encrusted along the rift thousands of years ago and was then slowly carried, conveyor-belt fashion, by the spreading sea floor to its present location.

Whichever assessment is correct, the fact is that since then many other deposits have been found. Later in 1981, deep tow instruments and dredges found evidence of metallic sulfides and vent fields in the Juan de Fuca Rift off the coast of Washington. And last year, on the East Pacific Rise at 12 degrees north latitude, a French team found a truly enormous hydrothermal field, accompanied by massive sulfide deposits, that stretches for five miles and is dotted the whole length with black smokers.

It appears that surface deposits of sulfides form mainly in older, vigorous spreading centers splitting the sea floor at three inches or more a year. But minerals are probably forming in slower spreading centers as well, only beneath the sea floor. Last fall, a dive in the Atlantic led by Peter Rona revealed the largest find of exposed manganese on a slow spreading center, about 1,000 miles east of Miami and some 10,000 feet deep. Beneath the manganese, one of the last minerals to precipitate out of a hydrothermal solution, there may be metallic sulfides that were deposited earlier from cooling brines.

When they do form, polymetallic sulfide deposits probably appear almost instantaneously by geological standards. Single deposits may build up in decades to a few hundred years, to be carried away from the rift by the spreading sea floor. During the height of activity, it is estimated that many thousands of tons may be added to a deposit each year, raising the prospect of layer after

layer of deposits, older ones buried under sediment, being carried away from spreading centers to eventually be subducted back into the mantle or, occasionally, uplifted and incorporated in islands and continents.

Normark at the USGS sees one guaranteed payoff to the discoveries. "Slabs [of sea floor] are now in the continents. So, if we understand how they are formed on the sea floor, we'll know better how to prosper on land."

Malahoff is enthusiastic about mining the deposits directly, but others are not so sure. John Edmond at MIT thinks direct mining prospects are remote. While significantly different in execution, experimental mining has already been done at depths as great as 15,000 feet to gather nodules of manganese scattered like potatoes across the ocean's abyssal plans. But when it comes to mining sulfides, Conrad Welling, president of the California-based Ocean Minerals Company, asserts that "there is a big difference between scientific exploration and commercial exploitation. It will be 10 years, at least, before we know whether these sulfides are exploitable."

Practical men like Welling have another problem. There is still no legal way to stake a claim in the open sea and be sure of holding rights to it and any ensuing profits. Last spring the United Nations adopted the Law of the Sea Treaty, but the United States voted against it, objecting to, among other things, the requirements for deep-sea mining of manganese nodules. Private companies must turn half their claims over to an "International Seabed Authority," which determines conditions under which mining can continue. American delegates feared that bureaucratic impediments and uncertainties would scare private investors away from sinking their money into the deep sea. For companies without treaty protection, the risk is even greater. Malahoff thinks the United States will probably concentrate its mining interests on areas within territorial waters.

The pace of scientific discovery is not likely to slow while legal and commercial implications are argued. The exploration of the sea bottom has barely begun. "The ocean is so big," said ocean miner Welling, "that what has been done so far is the equivalent of digging one 3,000-foot hole in Texas and saying we know the geology of the state of Texas. Fifteen years ago I thought I knew the ocean pretty well, but I didn't know anything."●

BENAVIDEZ—U.S. ARMY PRIDE AND SELF-RESPECT

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. COLLINS of Texas, Mr. Speaker, recently I visited with Roy Benavidez. He is a retired master sergeant of the U.S. Army, who won the Congressional Medal of Honor in Vietnam.

I told him how proud I was to see a Texan as one of our Nation's heroes. And then I asked what motivated him. Was it his Hispanic heritage that the family and friends all stand together when the going is rough?

He said: "Yes, my heritage is there but I just acted naturally. You see, if I didn't give it all I had, I would have lost my pride and self-respect."

Pride and self-respect mean much to Sergeant Benavidez. I pulled the Congressional Medal file and here are a few of the commendations remarks:

Roy Benavidez was a special forces soldier (a Staff Sergeant E-6). It happened on May 2, 1968. Benavidez was monitoring the radios in the control center when a requirement came to extract a 12 man special forces reconnaissance team. Three helicopters were sent in but were returned because they could not get in because of small arms and anti-aircraft being fired. Then Benavidez voluntarily got on a helicopter and returned to that area. It was impossible to land there but Benavidez spotted a clearing about 75 meters away; they hovered over that area in the helicopter, and he jumped out and ran over to the team members. He was wounded 3 times en route. Despite wounds he took charge of the team members and started to reorganize. About this time the helicopter landed and he started dragging wounded team members to the helicopter. As this was happening he went back and got the Team Leader and was then wounded 2 more times. About the same time that he was wounded the helicopter crashed and the pilot was killed. Sergeant Benavidez then made his way back to the wreckage and helped the wounded out of the helicopter. He gathered the survivors in a defensive position. Then Benavidez directed tactical air strikes and supporting gun ships against the enemy from this position. While doing this he was wounded again by small arms fire. Then another helicopter lands and Benavidez begins ferrying the wounded to the new helicopter. He was wounded again while helping get the injured on the new helicopter. Then he was attacked by an enemy soldier in hand to hand combat. He killed this soldier. He then spotted 2 other soldiers charging the new aircraft and he killed them also. About that time he made another trip back to insure that all the wounded were on the helicopter, then he got on and left also. Total 7 wounds sustained.

In times of war, the solid character of America comes through with pride and self-respect. Having served in the U.S. Army Engineers, I am proud of the Army traditions. What America needs today in peacetime is more of this quality of pride and self-respect.●

OUR NATION PRAYS FOR POLAND

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. SMITH of New Jersey. Mr. Speaker, on this National Day of Prayer for the People of Poland, I cannot think of a single better way to begin my remarks than to make the words of Lech Walesa, several days ago, in his invocation to the Black Madonna who has saved Poland time and time again. These words may well serve as a prayer for all people in the world who search for freedom:

I beg you to direct me, because I want to be an instrument in your hands in the service of the motherland, the church and the people. Reinforce our will and our hearts so we can make peaceful efforts in favor of the just rights of our country.

And so our prayers for peace in Poland should and must continue, especially during this critical transition period.

We are fortunate, Mr. Speaker, that there is hope in the message that the military government may be willing to ease the tension and restrictions placed on the Polish people. However, I believe that we must reiterate the position of this Government, as President Reagan has said, that "free men cannot and will not stand idly by in the face of brutal repression."

Therefore, it is only fitting that today—on this first anniversary of the imposition of marial law—we reaffirm our unqualified support for the suffering people of Poland.

Mr. Speaker, I urge President Reagan and all of my colleagues, not to be lenient in our dealings with the Jaruzelski government. Our position will change only upon legitimate action by the Polish Government toward a peaceful resolution with the Polish workers. We will not tolerate the flagrant abuses and violations of fundamental human rights.

Listen to the words of Lech Walesa, 2 years ago in the triumphant days following the founding of Solidarity:

No matter what the system may be, if it does not rest on truth, on moral conscience, on honesty, it has no chance. One cannot work against man * * * If you have a machine that doesn't work, it must be repaired. This one here broke down in 1956, in 1970 and in 1976. If it can't be repaired, it must be changed.

Mr. Speaker, 16 months after the courageous leader of the Solidarity Independent Trade Union made that statement, he was arrested along with over 6,000 Solidarity officials, activists, and antigovernment intellectuals. Martial law was imposed on December 13, 1981 during a brutal crackdown by the Jaruzelski government.

This day has been marked by prayer in the United States and throughout the world. Let us be thankful, Mr. Speaker, that perhaps much of this ordeal has now ended. And let us ask God that we may continue to join in prayer for peace—an end to hostility and oppression—in Poland and throughout the world.●

CONGRESSMAN PERKINS RECEIVES AWARD

HON. AUSTIN D. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. MURPHY. Mr. Speaker, I would like to make this Chamber aware that during the past congressional recess the Honorable CARL D. PERKINS of Kentucky was presented with the National Rehabilitation Association's National Legislative Service Award. The National Rehabilitation Association (NRA), the world's largest organization of professionals, consumers, and other individuals devoted to improving the lives of handicapped adults and children, established the legislative service award in 1981 to recognize public officials who have demonstrated leadership in improving rehabilitation services for persons with disabilities through legislative action at the national level. Recipients are chosen on the basis of their creative and effective political leadership over a period of years on behalf of rehabilitation programs, To those of us familiar with Chairman PERKINS' long and distinguished record of successfully championing strengthened rehabilitation services in this country, which has already earned him the nickname of "Mr. Rehabilitation," it seems most fitting that he was selected to be the first recipient of this prestigious award.

The selection of Chairman PERKINS as the first recipient of NRA's National Legislative Service Award was announced at th NRA's national conference in September by Jack G. Duncan, NRA's general counsel, who was instrumental in establishing the award. Appropriately, however, the award was actually presented to Chairman PERKINS in the Seventh Congressional District of Kentucky—a region that he has represented with distinction and devotion since 1948. The presentation, which took place at the Eastern Kentucky Comprehensive Rehabilitation Center in Thelma, Ky., on October 25, was made by Jack Cline, regional manager of Kentucky Rehabilitation District 14, which is in the heart of Congressman PERKINS district. Mr. Cline nominated Chairman PERKINS for the award.

Before the presentation, Joan Barker, chairman of the NRA's Professional Concerns Committee, and a constitutent of Chairman PERKINS, explained why Chairman PERKINS received the commission's unanimous vote to receive the award:

The Honorable Carl D. Perkins, Chairman of the Committee on Education and Labor, has been dedicated to the cause of the handicapped and disadvantaged since his election to the U.S. House of Representatives in 1948. He has been actively fighting for the rights of disabled individuals since he became a member of the Education and Labor Committee in 1949. Since 1949, the Rehabilitation Program has grown from an annual budget of $19,000,000 to $956,500,000 in fiscal year 1981. More importantly, the number of persons rehabilitated each year has grown from 58,000 in 1949 to 277,000 in 1980. Congressman Perkins has been a major contributor to the growth and improvement of the National Vocational Rehabilitation Program through his legislative activities and his ardent advocacy for the goals of the Rehabilitation Program.

The following list contains just a few of Congressman Perkins' outstanding achievements:

1. In 1967, he was co-sponsor of Public Law 90-99 which extended the Vocational Rehabilitation Act and expanded authorization of grants to states for Rehabilitation Services; authorized assistance in the establishment and operation of a National Center for Deaf Blind Youths and Adults; and provided assistance for migrants.

2. In 1968, he was principal sponsor of legislation which became Public Law 91-61 which provided for a National Center on Educational Media, and Materials for the Handicapped.

3. In 1970, he was principal sponsor of legislation which became Public Law 91-610, a bill to extend reauthorization of programs under the Vocational Rehabilitation Act.

4. In 1971, Congressman Perkins was the principal sponsor of a bill to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to states for Vocational Rehabilitation services and other purposes. The bill which Congress passed on October 14, 1972, was vetoed by the President. Congressman Perkins introduced an identical bill in 1973 which was again vetoed by the President. On May 23, 1973 Congressman Perkins and four members of the Education and Labor Committee again sponsored a bill similar to the two previous bills which was signed into law by the President.

5. In 1974, Congressman Perkins was one of four co-sponsors of the bill which led to Public Law 93-516 which: extended authorization of appropriations in the Rehabilitation Act of 1973 for one year and transferred the Rehabilitation Services Administration to the office of the Secretary of Health, Education and Welfare; amended and strengthened the Randolph-Sheppard Act for the blind; and provided for a White House Conference of Handicapped Individuals. Congressman Perkins successfully managed these amendments on the floor of the House.

6. Through his efforts as Chairman of the Education and Labor Committee, the 1978 amendments to the Rehabilitation act added new programs to expand employment opportunities and a new and innovative program was established to promote independent living of persons with severe disabilities.

Congressman Perkins has been an active participant in the struggle for the rights of disabled individuals since his election from the Seventh Congressional District of Kentucky. He has been a leader in expansion and improvement of services to the handicapped since he became chairman of the Education and Labor Committee in 1967. He has proven to be one of the strongest allies of vocational rehabilitation services during the 1981 battle to prevent the inclusion of rehabilitation programs in a proposed block grant. He was essential to the successful vote to maintain the vocational rehabilitation program as a separate and identifiable entity.

Congressman Perkins believes that the rehabilitation of handicapped individuals is, in part, a shared State/Federal responsibility and that the basic grant program must be maintained within the Rehabilitation Act. He feels that the Federal Government must play a part in aiding handicapped persons as they strive for a full share of our American way of life. He has been an invaluable leader in legislative action to promote and expand the national rehabilitation program.

Mr. Speaker, this is by any standard an impressive record, and one which I expect Chairman PERKINS will embellish as he continues his distinguished service in this body. He should have our heartiest congratulations on this well deserved honor.●

ARTHUR ASHE TENNIS CHAMPS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. HOYER. Mr. Speaker, I am pleased to bring to the attention of my colleagues the outstanding achievements of two young people who live in my district in Maryland. Donna Fleming and Travis Gillespie won the mid-Atlantic regional championships of the Arthur Ashe National Junior League tennis championship. In addition, they placed 5 out of 16 teams in the national competition held in New York earlier this year.

This competition presented a terrific opportunity for young people from throughout the United States to become exposed to championship tennis. I am proud that two of my constituents were so honored to represent the mid-Atlantic region. The region includes Maryland, New York, New Jersey, and Delaware.

Donna Fleming, daughter of Horace and Debbie Fleming, is 12 and is an eighth grader at the Thomas Pullen Middle School in Landover. She was rated the best girl in the 12-and-under future champions competition.

Travis Gillespie, son of Barbara and Joseph Gillespie, is also 12 and is in the eighth grade at Stephen Decatur Junior High School in Clinton. He was rated best boy in the 12-and-under future champions competition.

The national competition, sponsored by tennis great Arthur Ashe and the Congoleum Co., took place during the week of the U.S. Tennis Open. This gave the young participants the chance to see championship tennis and to meet some of tennis' top stars—for instance, both Travis and Donna met Bjorn Borg.

These two young people come from the same neighborhood, Pepper Mill Village in Landover, Md. They are the first "stars" to come from a great

tennis coach, Bill Brooks. Mr. Brooks is a retired, self-described "Sunday hacker" who undoubtedly is a gifted tennis coach. He has been the volunteer coach for the local chapter of the Ashe junior tennis league for the past 8 to 9 years. He certainly deserves tremendous thanks for all the time and effort he has given to the kids who live in the neighborhood.

Mr. Speaker, I think it is indeed a marvelous accomplishment for these young people, and I know that you will join with me in honoring them today.●

SUCCESSFUL SMALL BUSINESS PROGRAM FACES PRESIDENTIAL VETO

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. HALL of Ohio. Mr. Speaker, the Office of Management and Budget is maintaining an intransigent position on a matter which will cause severe economic hardship, including the loss of jobs, for many small businesses.

The issue is OMB's insistence that small businesses not be permitted to use tax exempt bonds to finance pollution control improvements. The House responded to that need by passing legislation this year nullifying the OMB order creating the problem. The other body has been similarly sympathetic and it is expected that final action on the legislation will take place this week.

However, there is growing fear that the President will veto the bill at the insistence of OMB Director David Stockman. I sincerely hope that is not the case and know that my view is shared by virtually all Members of the Congress.

The matter received some visibility last week when the Washington Post published an article on its Federal Report page on Wednesday, December 8. The report was excellent and right on the mark.

What was highlighted was the fact that my constituent, Jack Schaefer, president of the Specialty Paper Co., of Dayton, Ohio, also is the president of the Small Business Coalition For Pollution Control. Through Mr. Schaefer's efforts, that organization has fought back against the OMB edict and brought the issue to the attention of Congress.

Mr. Schaefer deserves great praise for his courage and initiative which have brought its resolution to the finish line. I believe that my colleagues would find the Washington Post account informative and I hereby insert it at this point in the RECORD:

OMB SPOILING SMALL-TIME WAR AGAINST POLLUTION

(By Cass Peterson)

A Dayton, Ohio, businessman is leading an assault on the Office of Management and Budget for killing a widely praised Small Business Administration program that has helped more than 200 small firms finance pollution control equipment.

The businessman, Jack L. Schaefer, is president of Specialty Papers Co., which employs 295 persons and has been a mainstay of Dayton's inner city for 57 years. His comrades-in-arms are nearly 100 small businesses, ranging from cheese factories in Wisconsin to an electroplater in Arkansas, whose applications for nearly $180 million in pollution-control bond guarantees have been gathering dust in SBA's files for nearly a year.

SBA's Pollution Control Financing Guarantee Program, set up by Congress in 1976, was effectively closed down by an OMB directive in January. Under the program, SBA guarantees tax-exempt bond issues for pollution control equipment up to $5 million. OMB characterized the program as a form of "double-dipping" and told SBA it could guarantee bonds only when they would be taxed.

Advocates say that government-guaranteed tax-free bonds are the only practical way a small business can finance pollution control equipment, which typically is expensive, adds nothing to production and is of little value as loan collateral.

Large firms generally finance such equipment through tax-exempt bond issues. The smaller issues required by small firms, which lack the name recognition and financial resources of their big brothers, have limited appeal to investors. Taxable issues have almost none.

In a letter to the White House late last month, SBA administrator James C. Sanders reported that "taxable financings have not been utilized to any significant extent" in the year since SBA was limited to that option.

Supporters of the SBA bond-guarantee program call it a particularly odd target for Reagan because it turns a profit.

Schaefer's ad hoc group of businessmen, the Small Business Coalition on Pollution Control, has the discreet blessing of SBA officials, many of whom regard the program as one of the agency's most successful.

The group also has vocal bipartisan support on Capitol Hill, where members have watched with increasing alarm as the Reagan administration, budget knife flashing, has waded into the lifelines designed to help keep small businesses competitive with the industry behemoths.

Reagan's budget request for fiscal 1983 proposed to "zero out" business and industry loans under the Farmers Home Administration, small-business set-asides at the Energy Department, small-business grants at Interior, and direct loans and loan guarantees at the Economic Development Administration.

Reagan also would abolish SBA's direct loans, already cut to $225 million from the fiscal 1981 level of $308 million. The agency's guaranteed loans—the linchpin in federal aid to small business—would be cut to $2.4 billion, nearly a billion dollars under the 1981 level.

"I can't believe the American people want to do this to small business," said Rep. Berkley W. Bedell (D-Iowa), who took up the banner of Schaefer's group in a series of congressional hearings over the past year. Rep. Silvio O. Conte (R-Mass.), a member of Bedell's subcommittee, introduced legislation to restore the bond guarantees; it has passed the House without a peep of protest.

Similar legislation also has been approved by the Senate Small Business Committee with equal ease. Backers hope to package the provision in an "omnibus" bill that will also include benefits for minority-owned businesses, making it a pro-small business, pro-environment and pro-minority bill that supporters figure will be difficult to veto even in a non-election year.

In a last-ditch effort last week to solve the problem the way it started—administratively—a group of congressmen made a direct appeal to OMB Director David A. Stockman, who reportedly promised he would "think about it." But an agency spokesman said two days after the meeting that OMB remains firmly opposed.

"When you start authorizing on macroeconomic theory, the programs have a tendency to get lost," said a congressional aide.

A Washington lobbyist was even more direct: "This administration thinks small business and housing are a pain in the tookies," he said. "It's got to be the most anti-small business administration in 60 years."●

A TRIBUTE TO REPRESENTATIVE SHIRLEY CHISHOLM

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. OTTINGER. Mr. Speaker, I rise in warmest praise of our colleague from New York, SHIRLEY CHISHOLM, and her tremendous contributions to this House and our country.

Few Members of Congress have accomplished so much for the cause of civil rights as SHIRLEY. As the first black woman elected to Congress, SHIRLEY has worked hard to extend the constitutional freedoms to blacks, women, and minorities, throughout all reaches of society. Her eloquence and leadership have served as an inspiration in the struggle against social inequity, discrimination and poverty.

SHIRLEY has been a leader not only as a national symbol of the civil rights movement but also as a legislator. She will be remembered by her colleagues for her diligence and effectiveness on the Rules Committee and for her efforts in the creation and passage of the Federal minimum wage law.

SHIRLEY is a fighter. She has struggled for change and effected change. She has paved a difficult path and made it easier for others to follow. The winds of change have shifted, yet SHIRLEY continues to wage the battle for those who need government assistance the most: The poor, the underprivileged, and the handicapped. I am sure that she will work as diligently in retirement as she has for 12 years in the House.

SHIRLEY will be sorely missed by her colleagues. We wish her well in what will surely be an active retirement,

continuing as spokeswoman for the most decent and constructive interests of this country.●

A CHANUKAH REDEDICATION TO HUMAN RIGHTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. GILMAN. Mr. Speaker, Friday night, December 10, marked the beginning of the holiday of Chanukah, the commemoration of the rededication of the Temple in Jerusalem by the Jewish forces, fighting under the direction of Judah Maccabee, who defeated the Syrian Army in 165 B.C. The Syrians had sought to assimilate the Jewish community to Hellenistic practices. Rather than capitulating to such pressures, there was a revolt which led to Jewish rule of Judea for the next 100 years.

Today, a similar oppression is taking place, albeit in the Soviet Union. Jews (and others) are consistently denied the right to practice their religion freely. Ostracism and imprisonment face those who attempt to defy Soviet authority. There are some who have sought to emigrate who have, after much persistence, been allowed to do so; yet too many others, denied the right to live where their hearts tell them they should be, join the ranks of thousands of refuseniks whose lives are made miserable by protracted harassment at the hands of the Soviet KGB. Others have been imprisoned on trumped-up charges, and their fate is without much hope unless we speak out and act in their behalf.

It is even more appropriate that we focus attention on these human rights issues as the 10th of December 1982 marked the 34th anniversary of the adoption of the Universal Declaration of Human Rights by the General Assembly of the United Nations and which underscores the "Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of Freedom, Justice and Peace in the World."

Mr. Speaker, I hope that the day will soon come when the Soviet Union will recognize that their abridgment of human rights and misdeeds against their own citizens erodes their relations with our Nation and with the world community.

The Union of Councils for Soviet Jews has appropriately circulated a memorandum asking as part of this Chanukah celebration that we rededicate ourselves to our plea for human rights for Soviet Jewry, and that each candle lit on the 8 nights of Chanukah represent specific prisoners of conscience who have suffered so much in their fight for freedom. I share this list of prisoners with my colleagues so that we may all continue to have their cause in our hearts and minds, as we recall the courageous fight for freedom by the Maccabees over the oppressive Syrian army thousands of years ago.

FREEDOM LIGHTS

First candle—for Anatoly Shcharansky whose desire to live with his wife, Avital, in Israel and his activity with the unofficial Helsinki monitoring group in Moscow, resulted in a charge of treason and 13 years under strict regime in prison and labor camps. Prevented from any contact by visit or letter since January, 1982, he is reported to be on a hunger strike.

Second candle—for Alexander Paritsky, sentenced December, 1981, to 3 years exile at a labor camp over 3,000 miles from his Kharkov home for his desire to emigrate to Israel with his wife and children. Has not been allowed to receive warm winter clothing or medication, despite severe heart problem.

Third candle—for Alexei Murzhenko and Yuri Federov, the last of the Leningrad Trail prisoners, sentenced in 1970 for attempting to hijack a plane out of the USSR—an act of desperation never carried out, but which sparked the emigration of over 250,000 Jews from the USSR in the last decade—14 and 15 years in labor camps under strict regime.

Fourth candle—for Alexander and Kirill Podrabinek, brothers who were sentenced in 1977 and resentenced in prison in June, 1980, for protesting the abuse of psychiatry in the USSR. Kirill is critically ill with tuberculosis.

Fifth candle—for Andrei Sakharov, Nobel Peace Prize winner and physicist, who was summarily exiled from Moscow, January, 1980, to Gorky for an indefinite term—without benefit of trial or hearing.

In November, 1982, Sakharov was allegedly drugged by the KGB in his car and all of his personal papers, research and memoirs were confiscated.

Sixth candle—for Valery Pilnikov of Kiev and Vladimir Tsukerman and Osip Lokshin of Kishinev, all of whom face years in labor camps for demanding to know why they are refused exit visas.

Seventh candle—for Vladimir Slepak, leading Moscow refusenik, sentenced in June, 1978, for 5 years in exile for "malicious hooliganism." Even in exile on the Siberian-Mongolian border, he has been harassed over his housing and work.

Eighth candle—for Viktor Brailovsky, leader of the unofficial Moscow scientific seminar, sentenced to 3 years of Siberian exile for his "anti-Soviet" activity.●

A TRIBUTE TO DR. FAYIZ SALWAN

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. MOTTL. Mr. Speaker, today I would like to take this opportunity to honor one of the most outstanding doctors from my district.

Dr. Fayiz Salwan is a very prominent general surgeon who works mostly in surgical oncology, which is the study of tumors. He received his doctor of medicine from the American University of Beirut in 1959. He then came to the United States and served his residency at St. Alexis Hospital in Cleveland, Ohio, from 1959 to 1963. His additional year of residency, from 1963 to 1964, was spent with Memorial Hospital in New York where he worked in the department of surgery with cancer and allied diseases.

In 1967, Dr. Salwan was accepted by the American Board of Surgery and in 1969 was presented with a fellowship from the American College of Surgeons. In addition, he is a member of the Cleveland Surgical Society, the Society for Surgical Oncology, and the Greater Cleveland Growth Association.

Most of Dr. Salwan's work is done with the so important area of the treatment of cancer. He has contributed to the development of cancer research with five papers on a variety of different cancers. As chairman of the cancer committee of Parma Hospital, Dr. Salwan works hand-in-hand with those who monitor progress of cancer victims. In addition, he is a member of the CEA protocal, which is carried nationally by the Surgical Oncology Society.

Dr. Salwan and his lovely wife Monica are the proud parents of five lovely children.

Mr. Speaker, Dr. Fayiz Salwan has shown that the United States is truly a country of immigrants. In the short time he has resided here, he has illustrated his sheer excellence as a surgeon. Dr. Salwan is a perfect example of how in this great melting pot, our many immigrants have contributed to the health and well-being of our society.●

SOVIET WATCH: ANDROPOV IMPACT ON SOVIET POLICY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. FIELDS. Mr. Speaker, I enter the following article into the RECORD for the benefit of our colleagues.

[From the Washington Times]

ANDROPOV IMPACT ON SOVIET POLICY

(By Marvin Leibstone)

After Nikita Khruschev's fall from power in 1964, Americans feared new Soviet leader Leonid Brezhnev would bring back the cold war. Instead, experiments with detente lasted another decade.

But cooperation with the West has been half a Soviet ploy. Khruschev agreed to trade and cultural exchanges, plus nuclear test ban treaties, yet Kremlin troops entered Hungary and Poland. Brezhnev signed SALT I and II, yet his regime invaded Af-

ghanistan and encouraged Poland's martial law.

Will Yuri Andropov change this? One view says Joseph Stalin was the last Soviet leader of unlimited political power, that policy deviations in the Soviet Union are by committee only . . . that Politburo members are rigid, therefore Yuri Andropov will merely reflect the status quo.

Another view holds that if a precise continuation of Brezhnev's thinking and a rubber-stamp head-of-state were desired, Konstantin Chernenko, almost a Brezhnev clone and rarely an innovator, would have been selected instead of Andropov . . . thus, since it was Andropov who got the job, change may be in the offing.

A third view suggests the Politburo is being forced by events to consider change. Too many rubles go to defense, export dollars are not balancing import costs sufficiently. Afghanistan and Poland are uruly and America is going ahead with Pershing deployments in Europe.

Assuming that Andropov is capable of bringing about change in the Soviet Union and was selected to do so because the Politburo considers change necessary, what can be expected about Soviet foreign policy?

In his nomination speech, Andropov said, "We know full well it is useless to beg peace from the imperialists. It can be upheld only by resting upon this invincible might of the Soviet armed forces." But this was no tougher than a lot of Khruschev and Brezhnev statements, and not very different from remarks by President Reagan where the theme was deterrence, not aggression. Moreover, while making no reference to specific objectives, Andropov did say he intends to follow the foreign policy of Leonid Brezhnev, which, like Khruschev's, sacrificed attractive goals rather than risk losing what the Soviet Union has already achieved. If we take Andropov's comments to mean something about future Soviet foreign policy, there is no indication it will take a turn for the worse.

Western historians like to surprise audiences by saying the worst Soviet aggression has been above all else, cautious. The Kremlin, they add, was confident the West would not interfere in post-war East European takeovers, nor, years later, in the Afghan matter. The slightest doubt otherwise, these historians continue, and Russian troops would have stayed home. If this is so, it follows that Soviet foreign policy has sought what it could get at minimum risk.

Bound to keep Soviet foreign policy from drifting toward carelessness and risk is the fact that Brezhnev died when the U.S. was beginning to back its language about engaging the Soviet Union militarily and economically if it has to. American support for El Salvador and anti-Soviet trade maneuvers have not relaxed the claws on Afghanistan or Poland but are likely to cause Mr. Andropov to think twice about more Soviet hegemony.

Still, it is not enough to let Andropov know U.S.-Soviet military confrontations will cost heavily. Politburo members have to know there are choices in the matter, that there are levels of cooperation Washington will stick to, such as where START might take us.

Taking these factors into account, U.S. Secretary of State Shultz seemed to suggest at a press briefing prior to his departure for Moscow and Brezhnev's funeral, that if the U.S. leads a Western demonstration of intent to curb Soviet adventurism while sharing in efforts to control nuclear arms rationally, it is possible the Soviet Union will, under Andropov, pursue cooperation.

If Secretary Shultz is correct, much of Yuri Andropov's behavior in the international arena will be our own creation.●

BILL BRODHEAD

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. TRAXLER. Mr. Speaker, BILL BRODHEAD came to Congress shortly after I did. We got to know each other, however, in the Michigan State Legislature, where we served together.

From our eearliest acquaintance, I have respected BILL as an outstanding Member of Congress and as an outstanding State representative, for like his service in Congress, his first and foremost duty was always in the best interests of his constituents, our State, and our Nation.

All who know BILL respect him as a man of integrity and great honesty. BILL has played a key role as a member of the Michigan delegation, a leadership role in the Ways and Means Committee, and a dynamic role as director of the Democratic Study Group.

BILL BRODHEAD took DSG and made it, for the first time, into the advocacy organization is should be. Under his leadership DSG became the loyal opposition—an active force in opposing the policy of the Reagan administration and enlightening Members of Congress with facts, figures, and numbers so that the rest of us could know what was happening in our districts and around the Nation.

He did all this without taking away the integrity and quality of DSG as a factfinding service, but rather, added another facet to it.

I am sad to have to say farewell to BILL BRODHEAD, but I know that we have not seen the last of him. When he came to Congress he filled the shoes of departing Congresswoman Martha Griffiths. Now at the age of 72 Martha is beginning her new career as Lieutenant Governor of Michigan.

We hope BILL will not wait until he is that old, but we know he will be back in public service, giving his talents and energy to our State and our Nation before too long.●

BRENTWOOD FAMILY HEALTH CENTER

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. DOWNEY. Mr. Speaker, I want to take this opportunity to commend the Brentwood Family Health Center on an important accomplishment. It is the first ambulatory community health care facility in New York State to receive accreditation by the Joint Commission on the Accreditation of Hospitals.

JCAH accreditation does not come easy. And the fact that the Brentwood Family Health Center has earned it is a tribute to their commitment to providing quality services.

Following is the Brentwood Family Health Center's pledge to the Long Island community. It is precisely "because they care about quality" that Suffolk County residents know they are getting the very best medical care from the Brentwood Family Health Center.

BECAUSE WE CARE ABOUT QUALITY BRENTWOOD FAMILY HEALTH CENTER IS ACCREDITED

The Brentwood Family Health Center is accredited by the Joint Commission on Accreditation of Hospitals (JCAH). This means that our efforts to provide high quality patient care have earned professional recognition. Earning accreditation shows that we care about the quality of services we provide and are committed to evaluate and improve them.

Accreditation is professional and national recognition reserved for facilities that provide high quality health care. It means that our Center has voluntarily sought to be measured against high professional standards and is in substantial compliance with them.

A JCAH survey team including a physi cian and an administrator visited our center to evaluate our performance in many areas. The surveyors applied JCAH standards to each of these functions, evaluated the findings and consulted with our professional staffs.

You can be confident that we are dedicated to providing and maintaining a high level of care and services at our Center. The fact that we have received JCAH accreditation is an indication of our commitment on your behalf.

BANKRUPTCY LEGISLATION: COMMUNICIATION FROM THE ATTORNEY GENERAL ON NEED FOR A CONSTITUTIONAL BANKRUPTCY COURT

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. RODINO. Mr. Speaker, I want to share with all Members a communiciation sent from the Attorney General of the United States to the Speaker of the House of Representatives on December 10, 1982, concerning the urgency of congressional action on an article III bankruptcy court bill. I share the concern of the Attorney General that failure to enact remedial legislation to correct the constitutional infirmity in the bankruptcy courts prior to December 24, 1982, would foster the impression "that, in the view of Con-

gress, judicial decrees concerning constitutionality are not to be taken seriously," thereby promoting disrespect for the rule of law in this country as well as the principle of separation of powers.

As the Attorney General points out, in the case of this legislation there is a dimension to the urgency for passage that is not present with regard to any other legislation currently pending in Congress. Legislative issues extraneous to the emergency issue before us should not distract this body from discharging its constitutional responsibility. The Attorney General's letter follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., December 10, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On September 28, 1982, you wrote to me urging the United States to seek a further stay of the Supreme Court's judgment in *Northern Pipeline Construction Co.* v. *Marathon Pipeline Co.*, 102 S. Ct. 2858 (1982). As you know, in that case the Court held that the broad grant of jurisdiction conferred on Article I bankruptcy judges by section 241(a) of the Bankruptcy Reform Act of 1978 was inconsistent with Article III of the Constitution. The Court stayed the effectiveness of its judgment until October 4, 1982, in order to "afford Congress an opportunity to reconstitute the bankruptcy courts or to adopt other valid means of adjudication without impairing the interim administration of the bankruptcy laws." 102 S. Ct. at 2880.

Of course, the reason for your letter to me was your assessment that the Congress would be unable to enact curative legislation by October 4. In your letter you asserted that, althought "the House has diligently addressed the issues presented * * * and is anxious to meet the deadline imposed" by the Court's decision, it was "enormously difficult to enact comprehensive legislation in the short period of time" before October 4.

I fully understood then and understand now the difficulties that result from the competition for scarce legislative time and attention during a short legislative session. I must point out, however, that in the case of the bankruptcy legislation there is a dimension to the urgency for congressional passage that is not present with regard to any other bill currently pending in this session. That dimension is the recognition and respect that we, as representatives of the legislative and executive branches, owe to the judicial branch. For this reason it is imperative that remedial legislation reconstituting the bankruptcy court system on a sound constitutional basis be enacted before the end of the current legislative session.

We were reluctant to seek a state of the Court's judgment beyond October 4 for several reasons. First, the Court had already stayed its own judgment for more than three months. Second, the enactment of legislation reconstituting the bankruptcy court system was being impeded by controversies over other legislative proposals having nothing to do with the constitutional issue in the Court's *Northern Pipeline* decision. Finally and perhaps most importantly, we believed that the Court might reasonably conclude that sufficient progress toward a legislative resolution had not been made, so that an extension would only result in further delay and a subsequent request for a further extension.

Notwithstanding these reservations, the Solicitor General did request an additional stay of the Supreme Court's judgment on October 1, 1982. That motion was premised upon the belief that a legislative resolution of the constitutional issues could be achieved by the conclusion of the current legislative session on or before December 24, 1982. We deemed it advisable to avoid a disruption of the administration of bankruptcy laws during the relatively brief additional period which seemed to be required to achieve curative legislation.

Since the Supreme Court's grant of the requested stay, officials of the Department of Justice have worked diligently with members of the Congress to resolve this issue. Jonathan Rose, Assistant Attorney General for the Office of Legal Policy, testified on November 10, 1982 before Senator Dole's Subcommittee on Courts of the Senate Committee on the Judiciary. In his testimony, he explained that the Department's thorough study of the Supreme Court's decision led to the conclusion that no Article I system for the appointment of bankruptcy judges was either free from constitutional doubt or workable as a practical matter. Thus, the Department could not support the legislation recommended by the Judicial Conference in September and instead urged the creation of the requisite number of Article III judges to handle the existing bankruptcy case load.

Despite the considerable effort by Departmental officials and many members of Congress in the two months since October 4, it is apparent that a legislative consensus is still distant. The matters in contention include not only the precise contours of the Article III court system, but a number of unrelated and controversial amendments to the Bankruptcy Code and other laws. Indeed, there have been increasing indications that remedial legislation might not be enacted before December 24, 1982.

I am deeply concerned that the judiciary and the nation might conclude that, in the view of Congress, judicial decrees concerning constitutionality are not to be taken seriously. Interpretation of the Constitution is the core function of the courts, and the United States Supreme Court has spoken concerning the constitutionality of the Bankruptcy Reform Act of 1978. It would be an unconscionable affront to the courts, to the principle of separation of powers, and to the Rule of Law for the political branches of government to fail to enact legislation to provide for a constitutionally sound bankruptcy system in this country. The Department of Justice cannot in good conscience accept such a position.

Accordingly, it is imperative that the necessary remedial legislation be enacted before the end of this session. I am sending copies of this letter to Representatives Rodino, McClory, Michel and Butler, and to Senators Baker, Robert Byrd, Thurmond, Dole, and Biden, to inform them of my concerns, as they also share important responsibilities in this matter. Of course, we stand ready to assist you in achieving enactment of the necessary legislation.

With best personal regards.

Sincerely,

WILLIAM FRENCH SMITH,
Attorney General.●

BARRY GOLDWATER, JR.

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. O'BRIEN. Mr. Speaker, BARRY GOLDWATER, JR., leaves Congress this year after nearly 14 years in the House.

BARRY has served on the Public Works Committee and the Science and Technology Committee. He has been in the forefront of many of the issues before both of these committees, and has earned a reputation as an effective legislator.

Though his colleagues are saddened to see BARRY leave the House, he does so at so young an age as to be certain to make his mark in whatever field he now enters. We can be certain of one thing where BARRY GOLDWATER, JR., is concerned, whatever he chooses to do, it will be done well.

STOP CLINCH RIVER

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. MARKEY. Mr. Speaker, during consideration of any energy and water appropriations bill or the continuing resolution, the House should delete funding for the Clinch River Fast Breeder Reactor. This project embodies the worst problems associated with domestic nuclear power, but a vote against Clinch River should not be construed as a vote against nuclear power. Simply stated, the Clinch River project makes no economic, technological or proliferation sense. It has been granted too many reprieves. It must be put to rest, once and for all.

Every time the matter of Clinch River is brought before this body, there is less to say in its behalf and more evidence that the project should be filed away with the archaic economic and technological assumptions upon which it was conceived.

Not all of Clinch River's problems carry dollar signs. The potentially grave social costs attached to the project are ultimately more serious than the hopeless cost-benefit picture. Highest among these is the inevitable spread of nuclear weapons. Construction of this breeder reactor would launch this country, and the rest of the world with it, smack into the perils of the plutonium age.

While existing light water nuclear plants produce waste containing plutonium, extraction of that plutonium in order to make nuclear weapons is very difficult and expensive. Clinch River, however, would be fueled by plutoni-

um in a form easily converted to weapons. Moreover, fuel reprocessing would mean shipping plutonium between generating and reprocessing plants, presenting more opportunity for the material to fall into the wrong hands.

A 1977 Ford Foundation study by the Nuclear Energy Policy Study Group predicted that annual plutonium commerce in a worldwide breeder economy could provide enough plutonium for several hundred thousand nuclear weapons. The fuel required annually to reload a single breeder of the Clinch River type would provide enough plutonium for 200 to 400 nuclear weapons. This plutonium would have to be guarded with absolute assurance for more than 100,000 years. That is comparable to the period between now and the last ice age.

The introduction of plutonium to world markets would only stimulate long-held fears that the deadly substance could be misplaced. And the fears could very likely become reality.

Last week the Washington Post carried a full-page ad from the Edison Electric Institute urging Members of Congress to vote for the Clinch River breeder. The association of electric companies which sponsored the ad cautioned that "the U.S. is falling behind." It played upon that tender American nerve that twinges at the thought of another country inching ahead in technological development.

But an article in the December 10 issue of Science magazine reported that European countries are backing off from their earlier enthusiasm for breeder technology. As they have been here, viable breeder programs in those countries have been hampered by increased costs, decreased demand for electricity, and delayed construction of light water reactors. Britain and West Germany are now seriously considering a freeze, if not abandonment, of breeder programs.

France, home of the world's first commercial fast breeder, has had its own problems. The prototype Phenix plant, which has provided electricity since 1973, developed a leak in April of this year. The plant was shut down for several weeks and a new debate about the safety of the breeders was born.

Plans for a German test reactor have been delayed and may be postponed indefinitely, primarily because of financial problems. And observers feel that the British, who have been at the forefront of research in the field, will take a wait and see approach to further development because of the weakened economic arguments for breeders.

The potential problem of proliferation in this country may be more than that in Western Europe. A recent article in the German magazine, Der Spiegel, claimed that the French Super-Phenix breeder under construction is intended to produce plutonium for the French military. If proliferation is the prize in the breeder race, let us step to the back of the pack.

And there is the question of economics. Some proponents of the project have insisted that economics should not even enter into the debate because Clinch River would be a research and development project, rather than a commerical venture. Clinch River was intended to demonstrate the performance of a breeder reactor in a utility environment—so it should be a commercial venture and economics must be a central consideration.

Unfortunately for the project's proponents, the economic picture is bleak. Even if it made sense when it was proposed 11 years ago, Clinch River has become an economic absurdity. The cost of the project was originally set at $400 million. This fall, however, the Energy Department revised that figure for the sixth time, putting it up to $3.6 billion. But the General Accounting Office has released an updated and more realistic estimate—$8 billion.

The GAO also concluded that the Energy Department had overestimated the revenue we might expect from the plant. These economic facts should be seen in the context of the country's record deficits and cuts to social services, including proposals to cut fuel assistance to the poor.

When Clinch River was proposed, there were bright forecasts for the nuclear industry. But it has since entered a slump. Even before the Three Mile Island accident there was a sharp drop in orders for new reactors. At one time it was predicted that more than 60 new reactors would be operating by 1984. Most of those orders, however, have been canceled, and there have been no new orders since 1979. As many as a third of all the plants now under construction may never be completed.

Industry officials once believed that high numbers of new nuclear plants would be putting greater demands on limited uranium supplies. But uranium supply is no longer a problem. In fact, researchers believe there should be adequate uranium supplies for existing reactors until the year 2055—without breeders.

The Energy Department's Energy Research and Advisory Board recommended that, because construction of a breeder reactor demonstration is not an urgent priority, and in light of current budget constraints, construction of such a project should be delayed.

And the Nuclear Energy Policy Study Group in 1977 concluded that there is little advantage in early commercial introduction of breeders and that construction could be delayed 20 or more years without seriously affecting the economic health or energy security of the country.

Even if the plant made economic sense, and even if there were not serious questions about the need for such a plant, the proliferation problems Clinch River will inevitably present are enough to warrant its demise.●

H.R. 7379, THE "NATURAL GAS IMPORT POLICY ACT OF 1982"

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. CORCORAN. Mr. Speaker, for the benefit of our colleagues, I would like to include in the RECORD the text of H.R. 7379, the "Natural Gas Import Policy Act of 1982." I introduced this legislation on December 7, and it was referred to the House Committee on Energy and Commerce.

H.R. 7379

A bill to establish new import prices for natural gas and liquefied natural gas authorized by the Department of Energy to be imported to the United States pursuant to section 3 of the Natural Gas Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Natural Gas Import Policy Act of 1982".

GENERAL RULE

SEC. 2. Effective beginning one hundred and eighty days after the date of the enactment of this Act, any order authorizing the importation of natural gas which was issued pursuant to section 3 of the Natural Gas Act prior to such effective date shall be suspended with respect to any natural gas entering the United States on and after such effective date unless and until the applicable requirements of section 3 of this Act have been satisfied.

ESTABLISHMENT OF NEW PRICES FOR NATURAL GAS IMPORTS

SEC. 3. In the case of natural gas produced in a foreign country and imported to the United States, the requirements of this section shall be considered satisfied at such time as—

(1) a new price for natural gas imported to the United States has been established by the government of such foreign country (or, if no such price is established by such government, by the producer or exporter of such natural gas);

(2) such price has been agreed to by the Secretary of Energy on behalf of the Government of the United States; and

(3) the contract or contracts applicable to such importation have been renegotiated to conform to such new price and tariff adjustments to reflect the cost savings achieved by the renegotiation have been filed with the Federal Energy Regulatory Commission by the importer.

RECOVERY OF TERMINAL OR ATTENDANT FACILITY COSTS IN CONNECTION WITH ALGERIAN NATURAL GAS

SEC. 4. In the case of any terminal or attendant facility located in the United States and constructed for the importation to the

United States of Algerian natural gas the authority for which is suspended by section 2 of this Act, the Federal Energy Regulatory Commission shall permit recovery of the costs prudently incurred in connection with the construction of such facility to the same extent and in the same manner as if such facility were used and useful for the importation and transportation of natural gas (without regard to the suspension under this Act of importation authority). The Commission may not permit any rate of return on such costs.

NATURAL GAS TO INCLUDE LIQUEFIED NATURAL GAS

SEC. 5. For purposes of this Act, the term "natural gas" includes liquefied natural gas.●

FREEZE NOW, SURRENDER LATER

HON. EDWARD J. DERWINSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. DERWINSKI. Mr. Speaker, it is tragic that most "nuclear freeze" advocates focus on American weapons and American policy. None of them seem to think it is strange that the leaders of the movement do not mention the Soviet nuclear arsenal that has overtaken America's in nearly every respect. Nor do they mention Soviet aggression the world over. Pundits of the press pooh pooh the idea, that there is a Moscow connection to the freeze movement. However, the evidence is there and William Randolph Hearst, Jr. hit the nail right on the head with a recent column on the subject. In this column he reviewed the material contained in the book called "The War Called Peace," published by Western Goals of Alexandria, Va. His column, which appeared in the Hearst newspapers on December 5, 1982, has great relevance for our continuing debate on the MX missile and the size of our defense forces. The column follows:

[From The Hearst Newspapers, Dec. 5, 1982]

FREEZE NOW, SURRENDER LATER

(By W. R. Hearst Jr., Editor-in-Chief, Hearst Newspapers)

NEW YORK.—This has been a pretty slow week at home, what with President Reagan off on a four-nation swing around Latin America. But the Soviet Union hasn't let up in its campaign for a nuclear "freeze" which many honest people here and among our allies embrace because they fear the thought of a nuclear disaster being suddenly unleashed. Obviously they are not alone because the prospect is indeed a terrifying one.

But there are much better ways of settling nuclear hassles and the Russians know it. The first is on-site verification, proposed long ago by President Eisenhower and recently repeated by President Reagan.

I have just been reading a fact-filled book entitled *The War Called Peace,* (sub-titled *The Soviet Peace Offensive*). It is published by "Western Goals," with headquarters in Alexandria, Va., whose advisory board lists among others such eminent Americans as Dr. Edward Teller, father of the H-bomb; author Taylor Caldwell; former chairman of the Joint Chiefs of Staff Admiral Thomas Moorer; former Marine Corps Commandant General Lewis Walt, and renowned physicist Dr. Eugene Wignar.

This book, commenting on anti-nuclear demonstrations here and among our Western European allies, tells how pro-Soviet organizations organized and fueled protest movements. Most staggering, I found, was the voluminous list of pro-freeze, anti-nuclear groups located in the United States. They run the gamut from the straight freeze units to anti-draft registration to groups of scientists, lawyers and even include church groups of all denominations.

It's most curious, I thought, that all this effort has been synchronized into the major objective—"freeze now"—but there's nary a mention of Soviet wanton use of chemical warfare in Laos, Cambodia and, lately, in embattled Afghanistan where freedom fighters have slowed the invasion-occupation by the U.S.S.R.

The Soviets have used toxin weapons, commonly known as "yellow rain," spraying the poison over thousands of people, killing the land in Communist-held Southeast Asia and Afghanistan. The symptoms are prolonged vomiting, dehydration and bone disease.

Months ago, I wrote about "The Yellow Rain", based on articles done by a brave lady, Jane Hamilton-Merritt, who worked and lived among the Hmong people in Laos and also spoke their language. After being instrumental in helping some Hmong villagers come to the States, she returned to Thailand to help refugees.

Just before he left to accompany President Reagan on the Latin American tour, Secretary of State Shultz flatly accused the U.S.S.R. of using toxin weapons, all of which are in gross violation of international law. Secretary Shultz, usually lowkey, declared that the U.S. had accumulated new evidence of what he termed "cynical disregard of international law" by the Soviets and their Communist comrades in Southeast Asia and Afghanistan.

Secretary Shultz, despite foot-dragging by other nations who are sympathetic, has been able to make our case more timely. This charge demands verification in Russian-controlled territory but the Soviets won't even let neutrals venture one foot inside.

It brings us right back to the freeze issue, which many Americans and our overseas friends and allies see as the road to peace. President Reagan put it bluntly at a press conference when he said that it "takes two to tango," referring to arms control and genuine disarmament. The Soviets have now shown an interest in his televised proposal on reducing risks. To repeat President Reagan's comment, it "takes two to tango" and we're here to dance.

Over a year ago President Reagan authorized our top negotiators to the nuclear disarmament conference in Geneva, Paul Nitze and Eugene Rostow (they had been working all along on the problem), to make the offer to the Russians that we would not arm our allies in Europe with Pershing missiles if they'd withdraw their SS-20s. This was referred to as the "Zero Option" for varying reasons. It was promptly rejected by the Soviet representative, Yuli Kvitsinksy.

Strangely enough, the entire incident was given very little publicity in the American media. In Europe the blame for the almost deliberate ignoring of so important a development is placed on the Washington press corps which the continent sees as being anti-administration. It is quite likely that not being so close to the woods they can see the trees better.

The Russians, we must never forget, always break up meetings over there calling for nuclear disarmament and generally ship off protest leaders to harsh labor camps or mental hospitals. And when negotiators ask that Soviets agree to on-site inspection, Russian representatives pretend unbridled anger, charging that we demand interference in their internal affairs.

As this book, The War Called Peace, clearly presents, peace doesn't come about by wishing it to happen, particularly when the other side happens to be wily, powerbent and interested in unilateral nuclear disarmament, namely, ours. That isn't the way real, enduring peace can be achieved in the 20th century. The late, great Winston Churchill, when Russia under Stalin menaced Western Europe, put it in his usual eloquent manner. "We arm to parley."

His remark is as true today as it was when Europe was virtually naked before a post-World War II tyranny.

TRIBUTE TO HON. JOHN NAPIER

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. ROGERS. Mr. Speaker, I wish to thank the gentleman from South Carolina, Mr. SPENCE, for requesting this chance, for those of us who have come to know and admire JOHN NAPIER, to pay tribute to him.

Mr. Speaker, I know I speak for many of my colleagues when I say that we are losing not only an outstanding Member of Congress, but also an outstanding man, when we lose JOHN NAPIER.

I know for a fact of JOHN'S devotion to his work, and to the people of South Carolina he represented so well in his brief tenure here in Washington.

I know, because I had the distinct honor of visiting his district. I saw with my own eyes the respect and admiration the people in his district have toward JOHN NAPIER.

As fellow freshmen, we had the opportunity to work together closely on a number of projects. In particular, I will always remember JOHN NAPIER'S able work during last year's fight over the tobacco program, when the very life of this important program was being threatened. Yet it was JOHN NAPIER who helped come to the rescue, and who was among those in the forefront who were instrumental in developing a consensus on that issue, and ultimately preserving it.

Through this close relationship with JOHN NAPIER, I have had a firsthand knowledge of his ability to work with others. I have also seen on countless

occasions his selflessness, and his total sincerity toward others, and toward his work.

I have also seen JOHN NAPIER's outstanding leadership on both the Agriculture and Veterans' Affairs Committees. His selection as an assistant regional whip attests to the respect and admiration felt about him by his fellow Republicans.

JOHN NAPIER's service to Congress is merely the latest of his contributions to society. He has long been acknowledged as one of South Carolina's most active supporters, as well as being one of its best public servants. JOHN NAPIER's years of service to another outstanding South Carolinian, Senator STROM THURMOND, is another example of his abilities. And as a veteran, JOHN has also distinguished himself through service to his Nation.

It is with some sadness that we salute JOHN NAPIER, as he prepares to move on to new challenges lying before him. As friends, as colleagues, as Americans, we will miss JOHN's hard work, dedication and leadership. Yet we also mark this event with a feeling of elation, in having known and worked with JOHN NAPIER. For deep in our hearts and minds, we have all been touched by his presence in this Chamber. And we know that we are all better Representatives, and better people, for having known him.

Our best wishes to JOHN NAPIER and his family. And thanks from all of us, for a job well-done. Good luck and Godspeed.

BUENOS AIRES HONORED FOR PUBLIC CLEANSING ACHIEVEMENTS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. FLORIO. Mr. Speaker, the United States can well be proud of its progress in professionalizing environmentally sound waste management practices. I personally am proud of my involvement on the Energy and Commerce Committee in developing the Resource Conservation and Recovery Act of 1976 and recent amendments which have promoted sound waste management practices in this country. Likewise, we can take pride in the fact that American companies are exporting this professionalism to our trading partners around the world, helping better conditions and improving the quality of life in foreign lands.

I would call the attention of my colleagues to an award to be bestowed next Tuesday by our National Solid Wastes Management Association which serves as the secretariat for the International Council of Waste Services Industries, on the city of Buenos Aires, Argentina for its remarkable achievement of an innovative and highly successful public cleansing program including visionary solid waste mangement techniques, street sweeping and catch basin cleaning. Buenos Aires has become a sparkling example of public cleanliness not only for the nations of South America, but for cities in our country as well.

What has made the difference in Buenos Aires has been the highly effective public awareness and public participation program which has mobilized citizen support and cooperation for the program. Supplementing a traditional public relations campaign of advertising and news placements, the city of Buenos Aires has distributed flyers door to door educating the public on collection schedules and what citizens can do to assist their collectors. Street sweeping schedules were also distributed so that citizens could cooperate by moving parked cars to allow efficient street sweeping. City officials from Mayor Osvaldo A. Cacciatore on down participated in press conferences and extensive media interviews to alert the citizenry. The refuse vehicle themselves became mobile advertisments for the "Help Keep Buenos Aires Clean" program with distinctive graphics. Classroom teachers were provided packets for their students on the virtues of public cleanliness.

The success of the public awareness program has enabled this city of 2 million people to transform an unhealthy situation into a model for other municipalities within a short space of 2 years. Public cooperation was the key to assuring success of the long range, innovative waste management plan for the entire region. The overall plan is as exciting as it is extensive. Closing down numerous open burning dumps, the city has embarked on a 30-year program of converting 12,000 acres of low lying area which surrounds the city in a 180 mile circumference ring, into a system of parks with soccer fields, golf courses, picnic areas and trails for cycling, hiking and horseback riding. This is an emminent example of converting wastes into socially useful purposes.

I commend the example of Buenos Aires to my colleagues and to the municipalities which they represent. I add my congratulations to those of the National Solid Wastes Management Association in saluting Buenos Aires for this remarkable achievement.●

NATIONAL MINORITY SUPPLIER DEVELOPMENT COUNCIL

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. MITCHELL of Maryland. Mr. Speaker, I am pleased to share with my colleagues a speech which was recently given at the 10th Annual Conference of the National Minority Supplier Development Council by William R. Chaney, president of Avon Products, Inc., who is currently serving as chairman of the council.

As Mr. Chaney comments, the past 10 years have indeed brought a sense of pride and accomplishment for the efforts of the National Minority Development Council. I share his view that, as minority business is expanded and strengthened, a healthier free enterprise system will occur in the United States.

NATIONAL MINORITY SUPPLIER DEVELOPMENT COUNCIL

(By William R. Chaney)

Mayor Byrne, distinguished members of the Dais, members of NMSDC, and friends.

It is both a pleasure and a privilege for me to personally welcome you to our 10th Annual National Minority Supplier Development Council Conference here in Chicago, Illinois.

I know that the entire council joins me in extending our sincere appreciation to the Chicago host committee for helping to make this conference possible.

Mayor Byrne, we also thank you and the people of Chicago for your kind hospitality.

As chairman of NMSDC, it is my hope that we have all come to this particular conference, one that marks a decade of our existence, with a great common spirit of dedication and total commitment to our purpose.

When you think about it, 10 years is really not a very long time in the life of an organization, we are still young and growing. Yet, I believe that we can look back on these past 10 years with a special sense of pride and accomplishment because our record of achievement speaks for itself.

In just 10 years, NMSDC has grown into a network of 43 regional councils with satellite offices aroung the country. Our annual estimated value of goods and services purchased from minority enterprises increased substantially from $86 million in 1972 to $4.2 billion in 1982. In addition, our corporate participants have increased nationwide . . . from 261 in 1972 to more than 2,700 active supporters today.

I believe that these figures indicate significant progress and that we should be proud to be a part of an organization that continues to increase business opportunities for minorities despite general economic conditions with which all businesses are concerned.

Today, the council is an established recognized national organization in this country. It has a history of creating jobs for thousands of people, through its support of successful minority business.

As I have said before, helping minority businesses to grow and prosper is one of the

most effective ways to alleviate some of the social and economic problems confronting our Nation, and I think the council is doing just that.

But, we cannot afford to rest on our past successes. We, as an organization, have some very real challenges ahead. The Federal Government, for example, has taken a declining posture in its level of funding for us, and we are going to have to use all of our resources to move the council's dependency away from the public sector and seek greater participation and support of the private sector. We will have to work together with efficiency, imagination, and initiative to implement our private sector expansion plans.

For the short term, we need the help of our Federal funding, and together with Ben Jones, our executive director, we are working to see that all of the Government's requirements are met.

Clearly, the Federal Government and the council share the same interest—we all want a stronger, healthier national economy, and minority business development certainly contributes to that interest. It is no secret that by strengthening the minority business community, you help to improve the employment picture, increase the tax base, reduce public assistance programs, encourage urban revitalization, and generally strengthen the overall marketplace.

As we approach 1983, I am pleased to report that our channels of communication to the public sector are open and in place, and our relationships remain strong.

We continue to share the view that a policy of greater private sector support and involvement is the way to develop business opportunities for minority entrepreneurs. This policy, of course, reinforces the council's expansion plans for the future. Moreover, it makes it possible for us to enjoy the influence of the Federal Government and at the same time convince the corporate community that advocacy of voluntary programs as opposed to Government imposed programs is good for business and good for the country.

I also want to report that our existing expansion plans, which are so vital to our future growth, call for a very strong national membership recruiting drive that will reach out to the Fortune 1,000 companies.

Expanding our corporate membership through an aggressive recruiting campaign is the single most important way to insure our funding needs and I plan to do all that is within my power as your chairman to see that this priority is maintained.

Finally, as we enter our second decade, I am optimistic about the future of the council, and I hope that you share this optimism with me. It is based on our 10-year history of progress that has produced such positive results and the course that we have set for the future.

I have confidence in our management team because of their level of experience and their dedication to the achievement of our goals.

I believe in our purpose and objectives for as minority business is expanded and strengthened, a healthier and more vital free enterprise system will result.

Thank you.●

SPACE COMMERCE ACT

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. AKAKA. Mr. Speaker, today I am introducing a bill which would streamline the current procedure by which a private company is granted permission to launch a vehicle into space. This bill, known as the Space Commerce Act, is of vital importance to the success of private sector involvement in our Nation's space effort. There can be no question that the commercial era of space has dawned with the arrival of the 1980's. As a Congress, we must do what we can to encourage the private sector to invest in space and space-related activities, for as history has shown, an investment in space is one of the soundest economic investments we can make in our Nation's future.

Under current practice, it is quite difficult for a private company to receive the necessary clearances to launch a vehicle into space. In fact, the process is not only complicated, but often requires a company to spend an inordinate amount of time and money in an effort to receive those clearances. One company which recently conducted a suborbital launch was required to obtain regulatory permissions, clearances and approvals from five different Federal agencies or bodies: the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of State, the Federal Communications Commission, and the North American Defense Command. Furthermore, not only did the company have to register with the Internal Revenue Service, but incredible as it may seem, with the Bureau of Alcohol, Tobacco and Firearms as well. As a result of this ponderous procedure, this particular company was required to invest over 6 months and more than a quarter of a million dollars in legal fees to be cleared for launch.

The bill I am introducing today simply streamlines the regulatory procedure by establishing a single point of contact within the Federal Government for applicants to obtain permission to launch a space vehicle. Under the terms of this bill, this single point of contact would be responsible for coordinating and facilitating all Federal actions pertinent to private sector space launches. In turn, this single point of contact would issue a comprehensive license for space vehicle launchings to private companies. This bill would in no way abrogate our national security interests, and would certainly result in an efficient and less costly procedure for regulating private space launches.

There can be no doubt that private sector involvement will shape the future of the Nation's space effort in the years ahead. Already, there are at least six companies which have publicly announced their intention to commercialize various aspects of space launch services.

By streamlining the regulatory procedure for companies involved in this activity, this bill encourages the development of new enterprises in the space field—not by subsidy or special treatment, but rather by opening up new opportunities for entrepreneurs. These new business opportunities can be exploited and developed by small- and middle-size businesses—businesses which form the backbone of our American economy. By streamlining the regulatory procedure, this bill also encourages the creation of new jobs, for as the industry grows, so does the number of people necessary to it.

Passage of this bill will kindle the spark of new investment in America and make clear our commitment to American leadership in new areas of technology and industry.

Passage of this bill will serve to encourage the kind of high productivity which we, as a nation, have long supported.

Passage of this bill, and others like it, can make a real contribution to the health of our economy.

We must not limit our effort in rebuilding America to fixing potholes and decaying bridges. We can, through passage of this legislation, create the conditions necessary for building a bridge to a whole new frontier.

I urge my colleagues to make a commitment to building the bridge to a whole new frontier by supporting this legislation.●

PETE McCLOSKEY

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. O'BRIEN. Mr. Speaker, PETE MCCLOSKEY has been an immense asset to the House. He will be missed greatly.

PETE came to Congress in 1967, after distinguishing himself in the California legal community. He was a Marine Corps officer and served his country at the time of the Korean war. In Congress, PETE has been the first to speak out on many difficult issues, such as the war in Vietnam, and he has carved out nationally known positions on issues such as compulsory youth service.

Several years ago PETE came out to my district to speak to a group of about 250 high school students on the roles they could play in the governing of the country. It was more than a

civics lesson. PETE caught their imagination, and I believe he inspired them. It was a moving experience.

But it also is what we expect from PETE MCCLOSKEY. He is no usual Congressman, and he will be missed an unusual amount.●

THE PEOPLE'S PARADISE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. FIELDS. Mr. Speaker, some form of socialism/communism is dominant in many nations and every continent. The idea of socialism is especially attractive to intellectuals who are able to maintain a comfortable distance from actual socialist practices.

Though socialism is a god that fails continuously, and causes more human suffering and tragedy than any idea or practice in history, there are those who stubbornly cling to its high-minded idealism. They religously close up their eyes to the reality that the socialist promise of instant utopia brings only the tyranny of a real dystopia.

It is for them that the following glimpse of reality is provided.

[From the Washington Times, Oct. 1982]

SOVIET LIFE INCREASINGLY BLEAK

(By Allan Brownfeld)

Visiting the Soviet Union is a sobering experience. It is one thing to review statistics about declining Soviet grain production and to read reports about the shortage of even the most basic necessities of life, and quite another to walk the streets of Moscow and other Russian cities and observe the life of average citizens of the U.S.S.R.

For those Russians who are not part of the Communist elite, life is increasingly bleak. This writer visited department stores, food and clothing shops in Moscow, Leningrad and Kiev. In all of them, lines were long and goods were few. In a meat shop on Gorky Street, Moscow's equivalent of Fifth Avenue, I observed what almost developed into a brawl, as customers fought over the one remaining chicken. The line was 20 deep, and many who had waited for at least an hour or more arrived at the counter only to find that nothing was left to purchase.

In a vegetable shop in Kiev on a sunny Sunday afternoon, 12 people waited in line with shopping bags. The only things available were potatoes, cabbage and cucumbers. At the famous GUM department store, across from the Kremlin and Red Square, long lines were to be found on weekday evenings at 9 p.m. for such basic items as socks, underwear and toothpaste. Shopping for the basic necessities of life occupies much of the nonworking time of Russians.

Hedrick Smith, former New York Times correspondent in Moscow, notes that, "The accepted norm is that the Soviet woman daily spends two hours in line, seven days a week, daily going through double the gauntlet that the American housewife undergoes at her supermarket once, maybe twice a week. I noted in the Soviet press that Russians spend 30 billion man-hours in line annually just to make purchases. That does not count several billion more manhours expended waiting in tailor shops, barbershops, post offices, savings banks, dry cleaners and various receiving points, for turning in empty bottles and so on. But 30 billion manhours alone is enough to keep 15 million workers busy year round on a 40 hour week. Personally, I have known of people who stood in line 90 minutes to buy four pineapples, three hours for a two-minute roller-coaster ride, 3 and a half hours to buy three large heads of cabbage only to find the cabbages were gone as they approached the front of the line, 18 hours to sign up to purchase a rug at some later date . . . Lines can run from a few yards to half a block to nearly a mile . . . The instinctive reaction of a Russian woman when she sees a queue forming is to get in line immediately—even before she knows what is being sold."

The group of journalists with whom I was traveling stayed in new, modern hotels which were constructed for the Russians by Swedes and Finns for the 1980 Olympics. We were provided with the best available food although, even for foreign visitors, the Russians were unable to provide fruit of any kind—much less orange or grapefruit juice. The bars appeared to be well stocked, yet we were told on at least three occasions that, as early as 10 p.m., "we are out of beer for tonight." Anyone who wanted a second cup of coffee with dinner was charged an additional fee. We were told that coffee was a scarce and valuable commodity in the Soviet Union. Our privileged life was meant to be as separated as possible from average Soviet citizens. Guards stood at the doors of the hotel to keep Russians out.

While the Soviet Union has devoted its funds and energy to building the world's most powerful military machine, its domestic economy is in a state of growing disarray. No place is this more apparent than in the agricultural sector.

Almost a quarter of Soviet workers are in agriculture, yet they still cannot feed the country. By contrast, only 3 percent of the American labor force is engaged in farming and produces vast surpluses. Each U.S. farm worker feeds 60 Americans; each Soviet farmer feeds only eight Russians. In fact, no country has ever dominated world grain trade as the U.S. does today. Its 55 percent share of world grain exports in 1981 easily overshadows Saudi Arabia's 32 percent share of world oil exports.

This year, because of its own failed system of collective farms, the Soviet Union will attempt to import 46 million tons of grain—more than any other country in history. As a result, one-fourth of all the grain for Soviet human and livestock consumption will come from abroad, according to a study by the Worldwatch Institute. Over one-half of this imported grain will come from North America, most of it from the U.S. In this sense, we continue to bail out Moscow's failed agricultural system and permit its massive expenditures for defense.

While communism may have made the Soviet Union a military success, it remains clearly an economic failure. The average Russian has one of the lowest standards of living in the industrial world. Nicholas Daniloff, the Moscow correspondent of *U.S. News and World Report*, points out that, "The fact that the Soviet economy is an economy of scarcity is underlined by long lines at stores, black marketeering, bribe giving and bribe taking—and the government's harsh new campaign to stamp out speculation and corruption."

The only bright spot in Soviet agriculture is the small island of free enterprise represented by the tiny private plots that workers on collective and state farms are allowed to cultivate—occupying less than 2 percent of the farmland but producing one-third of the total meat and vegetable output. Westerners residing in Moscow report that the people seem to have lost whatever incentive they had to work—not only in agriculture, but throughout the Soviet economy.

The incentive of private gain has been banned and the ideological exhortations to avoid waste and work harder no longer have much effect. Soviet officials are now admitting their concern. Radio Moscow, for example, recently compared the Tolyatti plant, built by Fiat on the Volga River, and the Daimler-Benz plant in West Germany. The broadcast complained that Soviet output lags far behind in quality and quantity because of chronic absenteeism and tea breaks.

It is the Soviet elite, however, which pursues the profit motive to ever greater heights. While communist ideology speaks of a "classless" society—and a state designed to serve the "workers," it is the governing elite which is largely served. They do not wait in long lines for meager goods. Instead, the elite groups shop in separate stores, deliberately unmarked to avoid attention and accessible only with a special pass. "These stores," Hedrick Smith points out, "insulate the Soviet aristocracy from chronic shortages, endless waiting in line, rude service and other daily harassments that plague ordinary citizens. Here, the politically anointed can obtain rare Russian delicacies like caviar, smoked salmon, the best canned sturgeon, export brands of vodka or unusual vintages of Georgian or Moldavian wines, choice meat, fresh fruit and vegetables in winter that are rarely available elsewhere . . . Certain stores also provide the elite with foreign goods the proletariat never lays eyes on . . . Supreme leaders of the Communist Party get the kremlevsky payok, the Kremlin ration—enough food to feed their families luxuriously every month—free. By contrast an ordinary urban family of four might spend 180–200 rubles a month, easily half its income on food."

Western Marxists who view the U.S.S.R. as a model for their own societies should come here for a visit. They would be quickly disabused of their romantic notions and would discover that the myth and the reality are radically different.●

TRIBUTE TO THE HOLT CHILDREN'S SERVICES, INC.

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. CARMAN. Mr. Speaker, I would like to bring to your attention a very special organization, the Holt Children's Services, Inc. This group is a nonprofit social welfare organization approved by the Ministry of Social Affairs of the Republic of Korea. The organization was started in 1955 by the late Mr. Harry Holt. He started the group with the adoption of eight children who became orphans during the Korean war.

The cardinal philosophy of the organization is based upon Christianity. The Holt Children's Services is an outstanding example of child welfare work. Its main program consists of counseling and prevention of unmarried parents, adoption at home and abroad, medical welfare service, rehabilitation for mentally retarded and physically handicapped children, scholarships for underprivileged children, and the management of the Saemaul Day Care Center and Baby Home.

I have had a special association with the Holt Children's Services. As some of you may know, my family has been blessed by my daughter whom we adopted through the Holt Services. After recently visiting the organization in Seoul, Korea, and meeting with the President, Han Kyu Kim, I commend the group for the special joy they have brought to my life and to the lives of many children and families throughout the world.●

NO RIGHT TO CONDEMN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. PAUL. Mr. Speaker, the ongoing debate over the role the United States should play in the Middle East has focused on which side of the Arab/Israeli conflict the United States should champion. Some advocate siding with Israel over the Arab nations, while others urge the United States to favor the Arabs over Israel. Both sides make it appear that these two positions are the only options open to the United States. However, a third option is readily available—a policy of noninterventionism.

A noninterventionist foreign policy was successfully pursued by this Nation from its founding essentially up to World War II, with only brief interruptions. Under a system of noninterventionism, people and goods flow freely across national boundaries, and nations enjoy the greatest economic prosperity. Also, the United States would remain free from the "entangling alliances" that cost the American taxpayers billions of dollars annually.

For the RECORD, I would like to submit an editorial that I wrote on the need to pursue a noninterventionist foreign policy in the Middle East. This editorial, which appeared in The Jewish Hereald Voice of Houston, Tex., was written in response to the administration's condemnation of Israel's recent decision to continue building settlements on the west bank. The text follows:

NO RIGHT TO CONDEMN

(By Ron Paul)

The Administration's harsh condemnation of Israel's decision to continue building settlements on the West Bank is another example of the arrogance of our decades-old foreign policy of interventionism. The U.S. State Department possesses neither the wisdom nor the authority to dictate to Israeli citizens where they may or may not live. It is the height of presumption for this Administration to assume that American-Israeli relations depend on Israel's willingness to adhere to U.S. plans for Israel. Israel, after all, is a sovereign state possessing every right to determine its own policies, free from our intervention. State Department officials and U.N. demagogues have no business dictating to the Knesset, and are out of order in any attempt to determine the boundaries of other nations.

The U.S. response, while masquerading as benevolent, is in fact purely self-serving. We have not voiced our concern in human terms. Instead, Administration officials have referred to the settlements as a "litmus test" of U.S. influence and intentions in the region. The State Department's real concern involves possible losses in its own power to manipulate other nations.

The U.S. must refrain from criticizing Israel's decision. The Israeli government must be free to pursue those policies that it finds to be in its national interest, and to bear the responsibilities for those decisions. The United States, in this as in all other matters, must mind its own business.●

SALUTE TO MAJOR REDDICK

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. CLAY. Mr. Speaker, I am honored to pay tribute today to an outstanding citizen of the St. Louis community, Maj. James F. Reddick, on the occasion of his retirement from the St. Louis Police Department after 31 years of outstanding service.

James F. Reddick was born in Carlyle, Ill., on December 23, 1918. He attended the Carlyle Grade School, where being the biggest boy in his class it became necessary for him to prove his strength, many times against his wishes. Jim believes it was at this point that he developed an interest in boxing. Jim also attended the Carlyle High School. While he was there he decided boxing would be his chosen profession and he set out to improve his boxing technique. After his father's death, Jim had to leave high school and support his widowed mother and he resigned himself to life on the family farm.

In 1936, Jim Reddick found the opportunity to move to St. Louis. The next year, his boxing career took off when he won the southern Illinois Golden Gloves middleweight championship in Centralia, Ill. In 1937, 1938, and 1940, Jim Reddick won the Ozark AAU light heavyweight championship in St. Louis, Mo. He was selected to be a member of the international boxing team in 1938. As a member of the team, Jim toured South America and Europe. He fought five fights in five countries. Jim lost the first fight in third round decision to Carlos Berte in Argentina. In Rio De Janeiro Jim fought his second fight and knocked out Jose Nicolo in the first round. The third fight took place in Uruaguay where Jim won in a decision against Josquin Mosquerz. Jim went on to knock out Migueal Morales in the third round of his fourth fight in Chile and in his fifth fight, which took place in Lima. Peru, Jim knocked out Vincente Quion in the first round. Jim Reddick was then judged the team's "outstanding fighter."

Jim Reddick's career continued and in 1940 and 1941 he captured the title of National AAU Champion in Boston, Mass. In Rochester, N.Y., Jim was awarded the diamond ring in the 1941 Tournament of Champions. That same year, Jim Reddick was a St. Louis Globe-Democrat Golden Gloves champion.

In 1942, James Reddick joined the U.S. Army Air Force and was stationed at the MacDill Air Force Base in Tampa, Fla. During his military career, Jim Reddick toured various military bases in a series of exhibition bouts with Joe Louis, then the heavyweight boxing champion of the world. Jim recalls those fights as among the highlights of his service career. While Jim Reddick was stationed at Keesler Field, Miss., he met and married his wife Martha on June 28, 1952.

First Sergeant Reddick was honorably discharged from the service after serving 31 months overseas and a total service of 55 months. He then went to work as a postal clerk at the main post office in St. Louis, Mo. While he worked at the post office he studied business administration through the GI bill at the Hubbard Business College.

Jim Reddick believes his eventual interest in the St. Louis Metropolitan Police Department was manifested during his last fight. After taking the proverbial trip to the canvass a total of five times in the first round, Jim noticed a smiling gentleman whom he later discovered was Eugene Camp, a man destined to become the chief of the St. Louis Police Department. Jim remembers, "Looking at Camp, from a horizontal angle, I knew that the fight game was no longer for me, and that the life of a police officer was." He says the happiest day of his life was March 12, 1951, when he was appointed a probationary patrolman with the St. Louis Police Department, and he remembers he was ready to lock up the world.

Jim Reddick has had a varied career with the St. Louis Police Department and attained a list of promotions:

March 12, 1951, police academy; June 2, 1951, ninth district; December 16, 1951, promoted to patrolman; March 1, 1954, secret service division; December 3, 1956, promoted to corporal; March 15, 1960, promoted to sergeant; March 15, 1960, supply division; February 1, 1962, promoted to lieutenant; February 13, 1962, robbery-burglary division; February 1, 1963, vice division; August 19, 1963, robbery-burglary division; July 10, 1965, eighth district; August 15, 1966, promoted to captain; August 15, 1966, bureau of investigation; August 24, 1966, seventh district; August 25, 1968, eighth district; October 1, 1980, promoted to major; and October 2, 1980, bureau of investigation.

Maj. Jim Reddick has always been high on police work and says he has not ever become disillusioned. He became known for his annual Christmas parties which he began in 1966 in the seventh district. Jim gave the parties because he wanted to do something for the men who had worked so hard all year without any reward. The men in the district were invited as were the residents and businessmen of the community. Jim's Christmas parties grew bigger each year and afforded a valuable opportunity for the police officers to relax and talk with the citizens of the community they served. Jim Reddick also hosted a barbecue for his men each year at Lake Carlyle.

Mr. Speaker, Major Reddick has earned the admiration, affection, and professional respect of his fellow law enforcement peers, and he will be greatly missed by the St. Louis Police Department. Throughout his career, Jim Reddick has been a truly dedicated and compassionate man. He believed in his work and he has left a real mark on our city. I understand Jim plans to vacation in Argentina, Uruguay, Peru, and Rio de Janeiro, and looks forward to working with the young boys at the Matthew Dickey Boys Club.

I salute Major Reddick on his outstanding service to the St. Louis community and I wish him a long and happy future.●

HENRY R. FOLSOM

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. EVANS of Delaware. Mr. Speaker, I note with pride and personal pleasure that on December 8 the other body confirmed the reappointment of one of my most distinguished constituents, Henry R. Folsom of Hockessin, Del., to a 6-year term on the Postal Rate Commission.

It was my honor to bring Commissioner Folsom's name to the President's attention more than a year ago when a vacancy on this Commission occurred. President Reagan appointed him early in 1982, and in March he was confirmed by the Senate. He has now been reappointed for the full term at the Commission where he has already made his mark. He was elected Vice Chairman in April and has played a leading role in the complex activities of this Commission. I was proud to receive a statement from the Commission's Chairman, Janet Steiger, a few weeks ago, expressing her pleasure at Henry Folsom's substantive contributions to the Postal Rate Commission.

As an active supporter of Ronald Reagan in 1980, I was impressed by his genuine desire to bring competent and dedicated persons into his administration who would make a personal sacrifice to enter public service. Henry Folsom is indeed such a man. His long record of outstanding public service in my home county of New Castle is appreciated by all of us who were beneficiaries of his sound judgment and brilliant political leadership.

Henry and his charming wife, Grace, are one of Delaware's most illustrious teams, and I am happy that our State is "lending" them to this administration for 6 more years.●

TRIBUTE TO B. F. SMITH

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mr. BOWEN. Mr. Speaker, one of the greatest rewards of my congressional service has been the opportunity to work closely with one of Mississippi's most outstanding leaders, B. F. Smith, executive vice-president of the Delta Council. Under B. F. Smith's leadership, the Delta Council, an economic development organization representing 18 rural counties in the Mississippi Delta region, has earned an impressive national reputation for work in agricultural and industrial development.

The Delta Council, which holds its annual membership meeting at Delta State University in my hometown of Cleveland, Miss., has been the driving force behind the economic development of the entire Mississippi Delta area and, since his association with that organization in 1947, B. F. has clearly been the driving force behind the Delta Council.

B. F. is stepping down from his post of executive vice-president effective January 1, 1983, although he will continue to serve the organization as an executive assistant and will work on special assignments. I can truthfully say that I know of no other person in the entire State of Mississippi who has contributed more to the quality of life in that area that B. F. Smith, and he will be sorely missed.

I wanted to share with my colleagues the following article from the Leland Progress of Leland, Miss., which is a fitting expression of praise and thanks for B. F.'s work.

[Leland Progress, Dec. 2, 1982]

MONUMENTS TO SMITH TAKE VARIOUS FORMS

If you were to visit the Mississippi Delta, you probably wouldn't see the name "B. F. Smith" on a marble statue, a bronze plaque, or an impressive new building. But monuments bearing testimony to his 33 years of dedicated service to Northwest Mississippi are plentiful in the 18 rural counties that make up the region known as the Delta.

The monuments take various forms . . . like the vastly improved farm-to-market road system and new four-lane highways that link the Delta with important trade centers . . . or the crucially-needed drainage and flood control projects now in place on the Yazoo-Mississippi River Basin . . . or the region's transformation from a one-crop "feast or famine" economy into a diversified farming area that last year produced more than 70 percent of Mississippi's agricultural products . . . or the 255 manufacturing plants that have been attracted to the area to create new jobs and help balance the agricultural economy.

B. F. Smith, of course, didn't accomplish these things single-handily. But it is safe to say that it took the vision, the leadership and the ingenuity of a B. F. Smith to bring them about. Of all the contributions this outstanding man has made to rural Northwest Mississippi, by far the most important is his singular ability to organize the top business, professional and agricultural leadership into an active and cohesive group that works effectively to improve the quality of life for all people in the Delta.

He has used this talent well in his official capacity as Executive Vice-President of the Delta Council, the areawide development organization that has spearheaded the section's economic and social progress. But undergirding all that he does in his professional capacity—and indeed driving him far beyond the requirements of his job—is a deepseated love for his native Delta and sincere compassion for its people. These are the qualities that make B. F. Smith go the extra mile in service and dedication, and these are the qualities that time and again have deterred him from accepting more lucrative positions with private industry in other parts of the state and nation.

Neither time nor space allows a complete listing of the numerous and varied projects in which B. F. Smith has played a key role. But a quick rundown of a few in recent years will hopefully demonstrate the scope of his activities:

One of B. F. Smith's unique abilities is to recognize opportunities and establish priorities. Soon after becoming Executive Vice-President of the Delta Council, he recognized that if the soils of the Delta area were to approach their economic potential, an effective agricultural research and extension program was essential. His untiring efforts led to unified support by the people of the area for legislation to permit funding of agricultural research through millage from county government, which culminated in passage of Mississippi House Bill 481 in the 1963 session. This bill authorized Supervisors of the Levee District Counties to levy special taxes for funding agricultural research. These funds have been made available to the Mississippi Agricultural and Forestry Experiment Station each year thereafter.

In 1974 and 1975, the Delta—like many other farming areas of the United States—suffered crop disasters as the result of unusually poor weather conditions. This occured at a time when commodity prices in both domestic and foreign markets were almost stagnant and when farmers also were beginning to feel the bite of inflation. B. F. Smith began exploring the feasibility of a "disaster relief" credit system that would allow farmers to obtain emergency farm credit loans under the existing Farmers Home Administration program.

Drawing on his extensive knowledge of agricultural credit policies, he devised special provisions that would enable farmers to use this type loan when conventional credit was unavailable or simply out of financial reach. During 1974 and 1975, emergency farm loans totaling more than $100 million were made each year in the State of Mississippi alone—and the great majority went to small family farming operations which would have ceased to exist had it not been for B. F. Smith's ingenuity and determination.

As part of his campaign to diversify agriculture in the Delta, Smith was in the forefront of a campaign to allow unlimited acreage for rice growers. Many Delta farmers had been attempting to grow cotton and soybeans on land ill-suited for row crops but ideally suited for rice production. But under the federal farm programs prior to 1976, only landowners who held allotments based on past history of rice production could grow rice. Smith organized the agricultural leadership of the Delta in an effort to change the situation. And despite stiff resistance from many large commercial rice farmers in the rice-producing areas of Texas, Arkansas, Louisiana and other parts of Mississippi, the first steps of a program initiated by Smith ultimately became federal legislation allowing all farmers to grow rice.

Before its passage, less than 35,000 acres of Delta land were in rice production. But today—three years later—rice plantings total more than 240,000 acres. Delta farmers have an important new crop, and the land's productivity and value have thus been enhanced.

Education is another area that has benefitted tremendously from this man's efforts. In the early 1970s, he headed the "Committee of Sixty"—a group organized to obtain increased funding for the state's nine universities and colleges. Armed with documented facts and informational data, Smith carried the fight for the urgently needed funds to the State Legislature—testifying before the budget commission and the appropriations committees of both houses, and finally appealing successfully to the entire legislature.

This effort paid off in continued growth for Mississippi's institutions of higher learning and has done much to assure proper emphasis for the state's educational programs in future planning.

Smith also has been a strong proponent of vocational-technical training in Mississippi's secondary schools and junior colleges. Mississippi Delta Junior College, now the state's largest vocational-technical training center, is one of the many schools that is providing rural Mississippians with educational opportunities as a result of B. F. Smith's continued emphasis on advancing occupational skills and training.

The industrial development of Northwest Mississippi is due in large part to the tireless efforts of B. F. Smith. in 1957, he made a forceful presentation to 95 Delta business leaders—convincing them of the need to initiate and finance an Industrial Development Department in the Delta Council area. Since the creation of a fulltime Industrial Development Department headed by Smith, more than 255 new manufacturing plants have been attracted to the area. More than 26,000 new jobs have been created and the industrial payroll has grown from about $33 million to more than $365 million annually. Bank deposits have increased by $1.8 billion and retail sales have climbed from $368 million in 1957 to almost $2 billion in 1979.

Without the enonomic transfusion provided by this industrial development, many of the Delta area's small communities would have disappeared. As the guiding force behind the effort, B. F. Smith has demonstrated his own special ability to tap almost every one of the area's human and natural resources in order to assure rural citizens of the opportunity to live and prosper in the Mississippi Delta.

Simply put, he is one of the most respected men this region has ever produced.

Our wishes are for the best of life and health for him and Mrs. Smith in the years to come. Thanks, B. F., for passing our way.●

JOHN ROUSSELOT

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. O'BRIEN. Mr. Speaker, JOHN ROUSSELOT will retire soon, and that will be a great loss to the House.

JOHN has had a long and distinguished career in Congress. Most recently he has served on the Social Security Subcommittee on the Ways and Means Committee, where he has championed the interests of the Nation's elderly.

JOHN has also served on the Joint Economic Committee, the Post Office and Civil Service Committee, and the Committee on Banking, Finance and Urban Affairs.

Personally, JOHN has been a good friend and true gentleman. Like all of us in Congress, I regret his departure from Congress greatly. He will truly be missed.●

HAITI: HUMAN RIGHTS STILL AN ISSUE

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

● Mrs. CHISHOLM. Mr. Speaker, last Friday my colleague, the gentleman from Texas, (Mr. LELAND) sponsored a special order on behalf of Human Rights Day. As I leave Congress, I hope that the House will continue to support human rights causes in the future. In the 97th Congress, we can be proud of the fact that it was the House who successfully fought to retain many of the foreign aid restrictions against those countries with a pattern and practice of human rights abuses.

The Congressional Black Caucus has played a leadership role in this area, as well. Our efforts on behalf of Haitian refugees actually focused great attention on the human rights conditions in Haiti, conditions which prompted many Haitian nationals to flee to our shores for refuge. The caucus' work in this area has been greatly aided by Michael S. Hooper and the Lawyers' Committee for International Human Rights. Their reports have also provided insight and definitive information regarding human rights practices in Haiti. It is my hope that a new organization, the National Emergency Coalition for Haitian Refugees, will be able to continue those efforts under the leadership of Michael Hooper. In this regard, I have submitted for my colleagues' attention, the latest human rights report on conditions in Haiti. A more definitive work on this subject can be found in a report to the Organization of American States entitled "Violations of Human Rights in Haiti-June, 1981-September, 1982."

VIOLATIONS OF HUMAN RIGHTS IN HAITI: A SUMMARY, NOVEMBER 1982

The twelve month period analysed in this report reveals a lack of commitment on the part of the Government of Haiti to removing institutional impediments to the protection of human rights, official disrespect for the rule of law, and a pattern of gross violations of basic human rights in the following areas: [1]

(1) Recent background. The effects of the November, 1981, crackdown on journalists, lawyers and human rights activists continue unabated: independent journalists and politicians have been imprisoned, forcibly exiled or silenced; human rights monitors have been forced to disband or to go underground; and an informal and infant trade union movement has been crushed.

(2) Security forces. The complex network of official and semi-official Haitian security forces continues to violate the rule of law by arresting or detaining without charge or explanation persons perceived to be opponents by the Duvalier Government. These forces regularly use severe beatings as an interrogation technique. In August, 1982, a new series of arrests occurred in Port-au-Prince that resulted in the detention without charge or explanation of approximately 35 persons in one of Haiti's political prisons, the Caserne Dessalines. Well known lawyers, engineers, and economists were included among those held incommunicado and naked in isolation cells. Several were threatened and mistreated and others have been prevented from leaving the country.

(3) Legal system. The Haitian Government continues to disregard its own Constitution and international law through the

[1] For additional information, please see the forthcoming report by the Lawyers Committee for International Human Rights, entitled: "Violations of Human Rights in Haiti—June, 1981–September, 1982: A Report to the Inter-American Commission on Human Rights of the Organization of American States."

operation of state security legislation, exemplified by the "Anti-Communist Law of 1969", the annual suspension by the President-for-Life of important articles of the Constitution through enactment of the "Plein Pouvoir" and through the systematic disregard of the rule of law by Haitian security forces.

The practice of granting full powers to the President-for-life during the time when the legislature is not sitting "enables the President to govern by decree for a period of eight months during which time the people are deprived of constitutional guarantees and the most elemental human rights". (OAS ICHR Sept. 1982.)

The Haitian judicial system continues to violate various procedural rights of defendants guaranteed both by the Constitution and by international law. On February 26, 1982, the Haitian Court of Appeals annulled on the basis of a technical sentencing error the August, 1981, conviction of 26 defendants charged with arson and plotting against the internal security of the Haitian state. Eleven of the defendants were members of the Christian Democratic Party (PDCH), including its president, Sylvio Claude. Two others were journalists imprisoned during mass arrests conducted by the Government in late November, 1980. On August 27, 1982, 22 of these defendants were retried on similar charges. All were convicted and sentenced to the maximum term of six years in prison. The defendants were denied access to their families and to legal counsel and none were informed of the specific charges on which they were to be tried until days before the trial began. While in detention, a number of defendants were subjected to harassment, beating and intimidation by members of the Haitian security forces. The trial took place behind road blocks set up by the Government's security forces who surveilled the court house with machine guns. After significant national and international pressure was raised following the August, 1982, convictions, President Jean-Claude Duvalier announced on September 21, 1982, that the defendants would benefit from a presidential amnesty on the occasion of the 25th anniversary of the Duvalier era, September 22, 1982. However, some of the defendants remain under strict house arrest and are forced to register with the Criminal Research office of the police every 72 hours.

(4) Human rights monitors. The Haitian Government is not willing to tolerate the existence of any person or organization that advocates the promotion of human rights in Haiti. The Government has effectively suppressed all activities of the Haitian League for Human Rights through the arrest and beating of some of its members and the forcible exiling or intimidation of others. In addition to direct acts of intimidation against the Haitian League for Human Rights and its members, the Haitian Government announced in April, 1982, the creation of an official agency, the National Commission on Human Rights, to replace private human rights monitors. Other Government human rights offices have been created in the past, but they never issued any substantive human rights communication nor took any specific actions. This newly created Government office made no comment following either the August, 1982, trial described above or the mass arrests that occurred earlier that month.

(5) Political prisoners. Prisoners in Haiti's political prisons continue to face severe mistreatment and violations of their fundamental due process rights. While international pressure seems to have improved conditions slightly at the National Penitentiary, no change occured in conditions at other prisons. Most of the defendants at the August, 1982, trial of 22 political prisoners complained in open court of mistreatment, beatings, or torture during their imprisonment. Several persons are known to have died in political prisons in Port-au-Prince during 1982. After the "amnesty" of September, 1982, at least 22 persons remain incommunicado without charge at the National Penitentiary alone. (See Lawyers Committee report for list.)

According to the Inter-American Commission on Human Rights of the OAS, "a considerable number of people remain in the prisons of Haiti without any order from the competent authorities to bring them to trial. It must be added that conditions in the detention centers continue to be worse than deplorable". (Sept., 1982.)

(6) Political participation. The Haitian Government continues to suppress and stifle any effective political activity or opposition. No political parties or independent civic organizations are allowed to operate in Haiti and most independent political leaders are imprisoned or exiled.

(7) Freedom of communication. Freedom of the press is severely curtailed by state security legislation and by a series of press laws that include a highly restrictive act passed in September 1979, and amended in March 1980, which provides for prior censureship and harsh penalties for those who are deemed to have insulted the Duvalier family, the Government, or its allies. In 1982 these open-ended laws continued to be applied to all printed and broadcast media. In March 1982, at its annual meeting, the Inter-American Press Association severely condemned these official restrictions of press freedoms in Haiti.

(8) Trade union rights. In the last two years, the Haitian Government has systematically eliminated all legitimate free trade union activity. All the leaders of the major infant labor organizations have been arrested without charge, forcibly exiled or forced underground. This situation has continued to deteriorate in 1982.

(9) Ministerial changes. Recent changes in the Government have further undermined the prospects for the restoration of basic human rights protections. On July 13, 1982, key ministers pledged to embark on fiscal and social reforms were dismissed without explanation and replaced by persons closely linked to the regime of the late President-for-Life, Francois Duvalier.

(10) "In general, it may be said that no progress has been made in the situation of human rights in Haiti, and that there is no evidence that would lead the IACHR to suppose that there will be any government opening in the near future that will reestablish free democratic life, ideological pluralism or the free exercise of public freedoms." (O.A.S. Sept. 1982.)●

PUBLIC WORKS PROGRAMS DO NOT CREATE JOBS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. PHILIP M. CRANE. Mr. Speaker, in response to recent legislation concerning Federal jobs creation programs supported by a national gasoline tax, these articles have come to my attention. It appears that continued short-term employment legislation only serves to "feed the fire" of long-term economic disaster for the United States. As these articles point out, new public works job programs will not aid in decreasing the present 10.8 percent of unemployment, but actually increase U.S. unemployment in the long run.

A recent study by OMB found that few workers employed in public works projects were unemployed prior to being hired; as few as 12 percent in one program and no more than 27 percent in another. This is so because 50 to 75 percent of jobs created by public works projects require skilled labor, while the core of unemployed labor is unskilled.

OMB also found that public works were a high-cost method of creating employment citing a cost per job of anywhere from $69,320 all the way up to $198,059 depending on the number of existing jobs which are incorporated into the program. This low substitution rate is due to two major factors. The first is the high cost of complying with union wage requirements. The second is that Federal public works expenditures have historically replaced many States and local government expenditures, therefore resulting in no net job creation. "Quick fix" public works programs are simply not the answer to our unemployment problems. For these reasons, the following articles by Bruce Bartlett and Lindley Clark, Jr., are well worth my colleagues' attention.

The articles follow:

[From the Wall Street Journal, Nov. 30, 1982]

PUBLIC WORKS PROGRAMS DO NOT CREATE JOBS

(By Bruce Bartlett)

As Congress reconvenes for a lameduck session, congressional leaders seem united on the need for a new public works jobs program to combat unemployment, financed by an increase in the gasoline tax. President Reagan has said he supports the proposal primarily because of the deteriorating state of the nation's highways. Unfortunately, it is highly unlikely that such a program will have any significant impact on reducing the unemployment rate. Indeed, it may even increase joblessness.

The principal problem is that business cycles can seldom—if ever—be identified until they have substantially run their course. Consequently, federal jobs programs invariably aren't enacted or implemented until the recession is virtually, or even entirely, over. This is particularly so because politicians are inclined to react to the unemployment rate, which lags behind the business cycle, rather then to changes in real GNP growth.

For example, the 1954 Economic Report of the President, submitted to Congress in January, asserted that the economic state of the nation was "marvelously prosperous,"

although a downturn had begun the previous July. Similarly, it was not until late in 1960 that it was recognized that a recession had begun in April. And the relatively brief 1969-70 recession was over almost before anyone realized it was taking place.

JOBS WILL NOT BE CREATED IN TIME

Consequently, counter-cyclical jobs programs could not even be enacted unitl well after a recession had begun. Although the 1960-61 recession ended in February 1961, anti-recessionary actions were still being taken in September 1962, when Congress adopted a $900 million accelerated public works program to combat the recession that ended 19 months earlier. The Public Works Impact Program was approved in 1972 to fight the recession that ended in 1970. And two public works programs were enacted in response to the 1973-75 recession: one in 1976 and another in 1977.

In addition, a public works program—even if enacted in a timely fashion—will require a significant period before coming on stream. According to a study by the Office of Management and Budget in 1979, less than 8 percent of public works projects can be completed in nine months or less, whereas 30 percent require two years or more. Hence, even if a public works program could be enacted at the beginning of a recession and construction begun within 90 days, the vast bulk of employment wouldn't be created until long after the average recession—which lasts about 12 months—had ended.

Another problem is the relatively low labor intensity of public works projects and the considerable mismatch between the job skills required for construction work and those of the unemployed.

According to OMB, the typical public works project expends only 22 percent of its cost on direct employment. The other 78 percent of expenditures have only indirect employment effects no different form a general increase in government expenditures. In addition, OMB found that very few workers employed in public works projects were unemployed prior to being hired—as few as 12 percent in one program studied and no more than 27 percent in another. And because 50 percent to 75 percent of jobs on public works projects are skilled, the chances of such a project helping unskilled, hard-core unemployed are almost nil.

Finally, OMB found that public works were a relatively high-cost method of creating employment—from $69,320 for each direct job created, assuming no substitution for existing employment, to as much as $198,059 per job with 65 percent substitution. The problem is twofold: First, federal public works projects must comply with Davis-Bacon regulations, which effectively force the payment of high union wage rates on all projects.

Second, experience has shown that federal public works expenditures simply replace a large amount of state and local government expenditures for public works, meaning there is no net job creation. The amount of this substitution rises the longer a program is in place, reaching as much as 100 percent according to some estimates.

In addition to the problem of substitution, there is also the problem of job displacement. The jobs program will destroy some jobs even as others are created. This is because the program will cause a reduction in spending for some other federal program, an increase in taxes, or the displacement of private expenditures due to "crowding out."

Putting all this together, consider the current proposal to increase federal expenditures for road and bridge repair funded by a five-cent increase in the gasoline tax. We are already 15 months into the recession with many indicators showing it to be ending. It will take Congress several weeks to enact the proposal even if it works at high speed, with the possibility that final action cannot be completed before adjournment. It isn't such a simple thing for Congress to raise the gasoline tax without also opening up the bill to other tax issues, such as President Reagan's plan to speed next year's tax cut.

Nor will it be easy for Congress to devise a formula for allocating public works money that is fair to everyone. Thus there will probably be considerable debate on the form of the legislation even if there is consensus on the need for it. Assuming Mr. Reagan signs such legislation this year, moreover, it is doubtful that the first dollar can be spend until next spring at the earliest, with fall being a more reasonable starting time.

Also, it is highly unlikely that economic conditions won't have improved by next fall. This means the program will end up being pro-cyclical—increasing, rather than diminishing, business fluctuations. The program will take effect just when it will end up doing harm rather than good.

Perhaps most important, the gasoline tax boost will have negative effects on employment that no one has taken into account. It is certainly not going to do any good for the hard-hit U.S. auto industry. It may simply accelerate the purchase of smaller, more fuel-efficient foreign cars just as the OPEC oil price increase did.

And even if we assume that as many jobs are created as are destroyed—a very questionable assumption—the tax is likely to be implemented first, meaning that the job-destroying effect of the tax will occur before the job-creating effect of the public works spending. Even if the public works spending and the tax could be matched in the timing of dollar flows, the effect would simply be a trade-off between construction related jobs and auto-related jobs.

QUICK FIX IS NOT THE ANSWER

There also will be regional impacts, since the jobs created are unlikely to be exactly where the unemployed currently are or where the additional job loss from the gasoline tax will be. We may end up creating more unemployment in Detroit while creating a labor shortage somewhere else. Congress also ought to consider that any gasoline tax increase will be permanent, whereas the public works will create jobs only temporarily. Thus there will almost certainly be more unemployment in the long run than if Congress does nothing.

The old-fashioned Keynesian remedy assumed that public works were paid for by deficits. Congress could adopt this method in lieu of enacting a new gasoline tax. But given a deficit already approaching $200 billion and the fact that it would require some $80 billion in public works expenditures to knock one percentage point off the national unemployment rate, this approach seems implausible.

Moreover, it is unlikely that politicians could argue today, as they did earlier, that there are no negative effects from federal deficits. Many people believe that they are primarily responsible for high interest rates. If this is the case, we would simply be trading jobs in construction for others in housing and other interest rate-sensitive industries, not to mention the negative impact of higher interest rates throughout the country.

The human cost of 10.4 percent unemployment is unacceptable. But at some point, we must admit to ourselves that quick-fix public works programs aren't the answer. Instead of reacting to the last recession we ought to be working to make sure that the recovery can be sustained.

[From the Wall Street Journal, Nov. 30, 1982]

THE WAY TO EASE UNEMPLOYMENT PROBLEMS

(By Lindley H. Clark, Jr.)

Washington is full of ideas for easing the unemployment problems. The trigger for all this was the government's announcement early this month that the jobless rate in October has risen to 10.4 percent of the labor force.

The Democrats were first off the mark, putting together an expensive jobs program that would be financed, at least in part, by savings somewhere in defense. But the administration has its own ideas, some of which are beginning to surface. President Reagan last week endorsed a gasoline tax increase to raise funds for highway and mass-transit spending, although he was careful to stress the need for the projects, not their job-creating potential.

It's just as well. One major problem with government job program is that they often provide jobs for people who don't really need them. Fixing up highways and mass tranist systems would require skills that just might not be really available among the nearby unemployed.

Nonetheless it seems inevitable that we will go through this sort of exercise at about this point in the business cycle. Unemployment always lags behind the business cycle, and this time is no exception.

When business slows, companies usually wait a few weeks before they start laying off workers. Employers don't know initially how severe the downturn will be or how long it will last. They worry some about employee morale, but they also worry about the costs of training or retraining a work force once the slowdown is past.

In the latest session, companies thought an upturn was under way last spring; they read comments to that effect in this newspaper and others. Instead, the slump dragged on into the summer and fall, so many companies increased layoffs. In September, the jobless rate finally topped 10 percent.

A modest recovery now may be under way, propelled by defense spending, a pickup in housing and modest strength in consumer outlays. But most companies will wait many months to make sure the upturn is for real before they start energetic hiring. The unemployment rate very well may hover around 9 percent through next year.

How do we get off this roller coaster?

John B. Taylor of Princeton looks at a facet of the problem in "Union Wage Settlements During a Disinflation" (National Bureau of Economic Research, Working Paper No. 985). Since 1979 the Federal Reserve has been slowing the growth rate of the money supply in an effort to reduce inflation, and we have indeed had quite a disinflation.

At the same time we've had a lot of overlapping labor contracts, many of them written for three years and most written on the assumption that inflation would continue almost unabated.

Manufacturers who find that their product prices are rising more slowly than labor costs (or aren't rising at all) have few choices. They can go to the unions and ask for concessions. If it's apparent to the unions that the companies are in deep trouble, concessions may be forthcoming, but the current problems of Chrysler show that even such concessions aren't likely to last long.

The chief alternative the employers have is to reduce labor costs by layoffs, and that's the route most have taken.

One reason the problem has been especially severe this time is that the disinflation has been both sudden and erratic. Mr. Taylor suggests that companies might be able to get by the overhang of the three-year labor contracts if the disinflation at the start had been quite smooth and very gradual. Then when unions and managements got together to renew the contracts they could do so in the knowledge that the more rapid part of the disinflation was still to come.

"The difficulty with this in practice," Mr. Taylor concedes, "is that wage negotiators have to be convinced that the deceleration will come later even though it is not occurring today. This credibility problem is perhaps the central source of difficulty which is raised by long-term union contracts during a period of deflation."

If the contracts are allowed to continue growing and the Fed continues to slow money growth, don't worry about 10% unemployment—we'll have more than that. If on the other hand the Fed prints money faster, it will permit a resumption of inflation and a validation of the big contracts.

Mr. Taylor offers no solution, and there isn't any easy way out.

We've gone through a lot of disinflation, and the volatility of the money supply has made the adjustment more painful than needed. No one at the moment would urge the Fed to slam on the monetary brakes, as it in effect did more than once in the past three years.

As the Fed has pondered what it has wrought it has been understandably disturbed. In the current uncertain state of the economy there is reason for some caution. It is hard, however, to see any rational argument of reinflation, a process that the central bank now seems in danger of starting.

The way to avoid the ups and downs of employment is simple enough to say. Avoid the ups and downs of the economy. That calls for government to reduce its own ups and downs, induced by such measures as stimulative job programs introduced as the economy is moving up on its own.

If we ever lessen the oscillations we can start reducing the absolute level of unemployment, in part by giving people more incentive to work.●

TRIBUTE TO GEORGE TRIEZENBERG

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. RUSSO. Mr. Speaker, an outstanding educator in my district will be retiring at the end of this year—the retirement comes in his 42d year of work in education.

Mr. George Triezenberg, the assistant superintendent for administrative services, Dwight D. Eisenhower High School in Blue Island, has spent these years as a teacher, principal, and administrator. He drew national attention for his remarks on discipline on a Paul Harvey radio commentary and I will include the news coverage of this along with my remarks. In addition, he received the "Those Who Excel" award by the Illinois State Board of Education in 1978.

His professional credentials are so extensive that I can only touch on them here. They reflect a man who has dedicated himself to public service, to the education of our young people and whose talents and caring have no doubt had a profound and positive impact on the many lives he has touched.

He has worked at the elementary, high school and college level teaching and has been principal for five high schools as well as director of the Institute for Teachers of Adult Illiterates at Chicago State University. He has served as president and secretary of the Illinois Association of Secondary School Principals and speaker at both National and Illinois Association of Secondary School Principals conventions. He has been a vice president of the Chicago Principals Club and a member of the General Advisory Committee for the Illinois State Scholarship Commission.

In other areas, he has been a trustee for the Village of Evergreen Park for 12 years and chairman of the police and fire commission for the same village for 2 years and a member of the board of education, Community High School District 231 for 3 years. Numerous articles by Mr. Triezenberg have been published in such publications as the Chicago School Journal, Illinois Vocational Progress, and the NASSP Bulletin.

It is an impressive record. This man has earned the respect he has from those who know him. His clear thinking, as reflected in the remarks which Mr. Harvey felt deserved attention, are what we would like to see more of from our educators. He has also earned some rest, and I know my colleagues join with me in commending him for his work and wishing him well in this retirement.

I would now like to share with you Mr. Triezenberg's thoughts on discipline.

NATIONAL BROADCASTER LAUDS PRINCIPAL'S DISCIPLINE SPEECH

A recent speech on discipline in schools by Eisenhower campus Principal George Triezenberg to the Chicago Suburban Deans' association provided material for a recent radio commentary by Paul Harvey.

The commentary was carried as part of the Paul Harvey news broadcast at noon on May 18 over radio station WJJD.

In an excerpt from that broadcast, Paul Harvey said: "One school administrator is talking back to the bureaucrats, George Triezenberg, principal at Eisenhower High school in Blue Island, suburban Chicago.

"He told a meeting of county educators not to be afraid to suspend or expell students who deserve to be suspended or expelled. He says he does it.

"Triezenberg has real battle scars to show for his years as a school administrator. Battle scars from violent students and parents.

"But he says any student in his school who uses obscene and vulgar language in a classroom is 'out.' He says we teachers and other students have rights, too. They have a right to an education free from that sort of thing.

"Triezenberg says there are people in our government who want to take away our right to suspend students. But, he says, 'I make no apology to them nor will I hesitate to suspend any student who asks for it by persistent misconduct.'

"Mr. Triezenber says the classroom violence of the sixties and seventies is subsiding some—is on the downswing—but discipline remains a problem.

"Now, he says, we have alcohol and drugs compounding that problem. We have a bombardment of violence on television and in movies. . . . Today's delinquents have wheels under them. . . . And we have the vanishing impact of home and church. He says the problem used to be the absentee parent. Now it's the absentee parents.

"He asked the assembled educators, 'How often have you tried to telephone the home of a student and been unable to reach anyone?'

"And now, says Mr. Triezenberg, we have these 'numbers reports.' We have monthly statistics supplied by the HEW (Health, Education and Welfare) and the State Department of Education showing the number of suspensions in each school . . . and demanding that the rate of minority students suspended must not exceed the suspension rate for white students.

"That, says the principal, is 'ridiculous-totally ridiculous.' "

In his speech to the deans, Triezenberg went on to say, "The only legal, moral, professional and justifiable basis for suspensions and expulsions is gross and/or continuous misbehavior which results in the abuse of staff, students and property and that conduct which disrupts the educational process."

"The color of one's skin has no bearing on the decision," he added.

Triezenberg was one of the featured speakers at the Student Violence and Truancy program sponsored by the Office of Cook County Superintendent Richard J. Martwick in conjunction with the Chicago Suburban Deans' association. The topic of his address was Administrative Approaches to Preventing Violence.

The Eisenhower campus principal focused on discipline as a means of preventing violence. He told the deans that discipline is one of the most important concerns in schools today.

Parents, teachers, the public at large and even the students themselves are demanding that discipline be maintained in the classrooms, he said.

Triezenberg pointed out that discipline which is "prompt, consistent and fair" is a key to preventing disruptions and outbreaks of violence in the schools.●

VICA

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. SKELTON. Mr. Speaker, our Nation is currently facing a shortage of skilled workers that threatens our position as a world leader in agriculture and industry, and endangers our national security. This problem must be solved through a coordinated effort of the educational community, parents, private industry, and government.

I am pleased to note that there is one group which is already doing its share. The Vocational Industrial Clubs of America (VICA) is a national organization for students preparing for futures in the trade, industrial, technical and health occupations. The 250,000 student members are dedicated to the development of their occupational skills, and, moreover, they adhere to the ideal that the Nation's craftworkers and technicians must possess qualities of leadership, citizenship, and character to complement their occupational skills.

When the 98th Congress convenes in January, I will push for early consideration of a resolution to designate the week of February 6, 1983, as National VICA Week to focus the attention of the American people on the important contributions being made by these students.●

STUDENT LOAN DEFAULTERS MUST BE ELIMINATED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. BIAGGI. Mr. Speaker, today I am introducing legislation which will assist us in our ongoing efforts to track down those students who have failed to repay their guaranteed student loans—loans that were made with the full faith and credit of the U.S. Government and are now the subject of collection activities by the Department of Education and State agencies which administer this program.

As a result of the Debt Collection Act of 1982, efforts have been stepped up to match the lists of defaulters with Federal employees. As a result of this activity, a total of $9 million has been recovered and another $68 million will be collected from 47,000 Federal employees. My bill would build upon this practice by authorizing the Secretary of Education to take steps to encourage States to match their delinquent lists with those of State employees. Such action would uncover even more names and would facilitate the Department and States in their loan collection efforts.

Currently, this matching with State employee lists is only done by three States—New York, New Jersey, and Pennsylvania. In a survey of State guarantee agencies it was revealed that the remaining States are not doing this matching because they either never thought of it, they did not want the publicity or they felt that the cost of such an effort would not yield a high enough number of defaulters to be workth it. In the case of small States which have just entered into the program, my bill provides an exemption for them by allowing the Secretary to waive such action in their case.

In my own State of New York, I am pleased to report that our activities in the past 3 years have yielded the names of nearly 5,000 State employees in default. Clearly, this practice can—and should be reproduced in other States. We cannot allow the abuse of this very worthy program to continue and I am confident that my bill would help us to end it.●

JOBS WITH PEACE RESOLUTION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. EDWARDS of California. Mr. Speaker, today I have introduced a resolution addressing the jobs with peace referendums which passed by large margins everywhere they were on the ballot—including Baltimore, Md., Lansing, Mich., Pittsburgh, Pa., and San Jose, Calif. This resolution expresses the sense of the House that more money should be made available for jobs and programs in education, transportation, housing, health care, human services, and other socially productive industries, by significantly reducing the amount of our tax dollars spent on nuclear weapons, foreign military intervention and wasteful military programs.

The message from the voters on November 2 was loud and clear, and in direct opposition to the current policies of the Reagan administration. With an average affirmative vote of 65 percent, the people of America have called upon the U.S. Congress to divert a significant amount of money from military programs and use these funds to stimulate jobs and industries in more socially oriented programs.

Despite the growing opposition from many Americans, next year's military budget will still average more than $1,200 from each wage-earning taxpayer. While 10 million of our citizens are out of work, the Reagan administration is embarked on the largest peacetime military buildup in U.S. history—more than $1.7 trillion over the next 5 years. This program will cost the average American family over $20,000 in income taxes. These huge military expenditures are a major factor underlying the social and economic crisis which we are currently facing.

Our Nation's industrial base is rapidly eroding. Steel, auto, construction, and other essential industries have been forced to lay off hundreds of thousands of workers. Every dollar spent on military programs creates far fewer jobs than that same dollar spent on civilian activities. Federal dollars that should be invested in jobs and modern industries are being drained off into weapons production. These huge military budgets are contributing to large Federal deficits and high interest rates.

The people of America have called upon the U.S. Congress to redirect significant amounts of Federal dollars currently being spent on nuclear weapons and other wasteful and dangerous military programs, and to make these funds available to the more productive social industries.

Even in my own district, San Jose, Calif., where many of my constituents are employed in Silicon Valley, where the military industries benefit from weapons contracts to the tune of $2 billion per year, the referendum was passed by a surprising 62.3 percent. Congress cannot afford to ignore this mandate from the American people.

This public outcry must be kept in mind as the 98th Congress begins its session. We must begin to develop strategies and legislation which will support and strengthen expanded jobs programs funded by savings in the military budget. We must also strengthen our opposition to nuclear weapons systems, increased military spending, and wasteful weapons programs all funded by further cuts in our much needed social programs.

I introduce this resolution today, with 52 of my colleagues, to acknowledge that the voice of the American people has been heard. The military budget cannot continue to grow at the expense of the American citizens. We are hopeful that this resolution will set a precedent for the direction of the 98th Congress, where the Federal Government will no longer be funding a Pentagon "wish list," and this money will be spent instead on industries which can actually get Americans back to work, and the United States back on the road to prosperity.

COSPONSORS OF THE JOBS WITH PEACE RESOLUTION INTRODUCED BY CONGRESSMAN DON EDWARDS OF CALIFORNIA

Joseph Addabbo, Les Aspin, Les AuCoin, Michael Barnes, Philip Burton, William Clay, John Conyers, William Coyne, George Crockett, Ron Dellums, Merv Dymally, Joseph Early, Bob Edgar, William Ford, Wyche Fowler, Barney Frank, William Gray, Steny Hoyer, Robert Kastenmeier,

Ray Kogovsek, Jim Leach, Mickey Leland, Mike Lowry, Ed Markey, Robert Matsui, Nicholas Mavroules.

Barbara Mikulski, Norman Mineta, Parren Mitchell, Joe Moakley, Richard Ottinger, Leon Panetta, Donald Pease, Charles Rangel, Henry Reuss, Peter Rodino, Ben Rosenthal, Patricia Schroeder, Charles Schumer, John Seiberling, James Shannon, Paul Simon, Stephen Solarz, Pete Stark, Louis Stokes, Gerry Studds, Doug Walgren, Harold Washington, James Weaver, Ted Weiss, Tim Wirth, and Howard Wolpe.●

GEORGE KISTIAKOWSKY—A CHAMPION OF ARMS CONTROL

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. MARKEY. Mr. Speaker, I am saddened by the death of George B. Kistiakowsky, professor emeritus of chemistry at Harvard University, on December 7. I have always had the utmost respect for his expertise and his deep commitment to arms control. Professor Kistiakowsky came to the United States in 1926 and taught for most of the time at Harvard University until he retired in 1971. As one of the Nation's leading scientists, he was very much involved in the Manhattan project of the Los Alamos Laboratory. Later, he chaired President Eisenhower's Science Advisory Committee from its inception in 1957 until 1963. As special assistant for science in the Eisenhower administration, the highest scientific position in this country, he had to deal with issues such as the space program and the negotiation of the test-ban treaty.

I would like to emphasize that Dr. Kistiakowsky belonged to that small group of scientists who understood fairly soon what the explosion of the bomb meant to mankind. "After working so long on those weapons, I came to the conclusion the time had come to control them," he said in 1980.

This indeed was the motto that governed his activities, especially as chairman of the Council for a Livable World, and also in numerous articles he wrote and speeches he gave on security and arms control issues. Mr. Speaker, with George Kistiakowky this country has lost a dedicated and convincing advocate of arms control. His commitment, I am sure, is now being taken up and spread by the nuclear freeze movement that is gaining strength in this country.●

SUPPORT THE PEACE CORPS: A FIRST-CLASS AMERICAN EFFORT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. PORTER. Mr. Speaker, it has been said, truly, that there are few Government programs that accomplish their intended purposes, and only a minuscule handful that do so efficiently and at low cost to the taxpayers.

One that does both and does both extremely well is the Peace Corps. For less than $100 million we have representatives of our country building good will and understanding in developing nations throughout the world and spreading, in their own ways, the messages of freedom and free enterprise and hope for the future that this country represents—but otherwise only in the abstract—to people everywhere.

It has been said that foreign assistance is an expensive luxury that we cannot afford, particularly in time of economic distress. Such statements represent either colossal ignorance about our budget or the economy, or both, or are loaded with demagoguery.

Foreign assistance, both economic and military, makes up less than 1½ percent of our budget. The funding for the Peace Corps presently amounts to less than 1 percent of that small foreign assistance budget. But the good that can be done—is immeasurable.

Mr. Speaker, in country after country that I have visited, talking with our foreign service people who see the work of the Peace Corps every day, without exception they have attested to the worth of this program.

Too often, foreign assistance is structured only government to government or government to multilateral institution to government. Only a tiny portion reaches out to the people of developing nations directly with the American message.

The Inter-American Foundation, Voice of America and similar broadcasting entities, USIS and the Peace Corps are all low-cost efforts that have a tremendous payoff in terms of good will and understanding for our country, in addition to the real help we provide to others.●

EDWARD J. DERWINSKI

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 30, 1982

● Ms. OAKAR. Mr. Speaker, I would like to take this opportunity to pay tribute to an outstanding Member of Congress, the Honorable EDWARD J. DERWINSKI, whose presence this body will surely miss as we begin deliberating the Nation's business in the 98th Congress.

I have had the pleasure of serving with Representative DERWINSKI on the Committee on Post Office and Civil Service where he is the ranking minority member. His quick wit, good humor, and incisive intellect have added much to our legislative and public policy debates.

Representative DERWINSKI first entered Congress in 1958 and since then has represented the people of Illinois' Fourth Congressional District with unmatched vigor and dignity.

Representative DERWINSKI, who has spent almost his entire adult life serving our Nation, will soon take up a new challenge with the U.S. Department of State where his many talents will continue to ably serve the public interests.

The members of the Committee on Post Office and Civil Service will particularly miss Representative DERWINSKI. He has worked diligently to maintain a competent, efficient Federal work force and a Postal Service which is the best in the world. We will all miss ED's flamboyancy, sense of humor, and good judgment.●

THE CRISIS OF WORLD DEBT

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. REGULA. Mr. Speaker, I commend the following article from the most recent edition of the Economist on the problems associated with world debt, especially debt on the part of our Latin American neighbors.

[From the Economist, Dec. 11, 1982]

BOTTOMLESS DEBT

The International Monetary Fund wants the world's banks to stuff yet more dollars into the stocking of Latin American's debt. The banks have little choice but to concede. They know as they do it, however, that the money will probably not be seen again; indeed, they will be lucky even to get paid the interest. None the less, Santa Reagan was in Brazil last week lending an extra $1.2 billion. Santa IMF is wrapping up a three-year loan of $3.9 billion to Mexico, before catching his sleigh to Argentina and Venezuela (see our special section on pages 69-76). And those much more reluctant Santas, the bankers, have this week not only been asked to reschedule $16 billion of Mexican debt but also to come up with another $5 billion in new loans.

In all about $300 billion of debt is owed by Latin America. The new money that is now being poured in is being lent not for productive long-term capital investment but for a more immediate purpose: to prevent a horrendous jolt to the world's banking system. That jolt would follow if any major debtor—in Latin America alone, count Mexico, Brazil, Argentina, Venezuela—failed to meet

its interest payments. Constant last-minute injections of cash by central private banks have managed, just, to keep that time at bay. So far. Should that time come, however, it would send a hurricane through Wall Street; it would cause the certain collapse of a number of American banks; it would set the price of gold flying; it would produce political chaos in the defaulting country; and, worst of all through a crisis in confidence, it would put off hopes of a world economic recovery.

Unfortunately there are good reasons to give the shadow of that fear some substance, reasons of which every banker is frightened and aware. Look at some of the causes of pessimism.

BANKERS FALL WITH THE OIL PRICE

1. Oil. Here the bankers cannot win. For although Brazil could more readily repay its debts if oil prices fell, and although western Europe's, Japan's and countless small economies' balances of payments would gain, Mexico and Venezuela in Latin America and Nigeria in Africa would be even less able to cope. And it is those countries which would cause a crash before the benefit of a cheaper oil bill seeps through to the rest. Mexico is now the United States' largest supplier of oil. Not being an Opec member, it is selling every drop it can at heavy discount, thus undercutting Venezuela. But the unseasonably warm weather in north-east America has piled more spare oil on to what was already an enormous glut. Prices will fall further, giving Mexico ever less hard currency. A falling oil price also means a less affluent Middle East, which will, therefore, want back the money it lent to the banks which in turn lent it to—you guessed—Latin America. It is not surprising that a number of heretical bankers have become stronger advocates than Sheikh Yamani of higher oil prices.

2. The exposure of the banks. This is hard to quantify, but, unfortunately, harder to exaggerate. The largest nine American banks have lent the equivalent of 50 percent of their capital and reserves to Mexico alone. Some 1,600 banks are now being asked to participate in Mexico's rescheduling. Several hundred small country banks in the south of the United States, wanting to keep in with the big banks, joined in large syndicated loans to the Mexicans. Worse, they made many dubious business or personal loans in the days before exchange controls and before the Mexican peso was devalued by some 70 percent; many of these will not be repaid. The American securities and exchange commission and the Federal Reserve are watching developments by the day. Someone somewhere will squeal soon.

3. Interest rates. Nothing makes repayment more difficult for Latin America than high interest rates. For Mexico and Brazil, each one percentage point drop in interest rates saves each country around $750m a year. Yet though rates have come down, they remain stubbornly high in real terms and the extra premium these countries have to pay has shot up.

4. Politics. There is a curiously perverse reason for fearing that Latin America's debt problem may prove particularly difficult to shake off. It is that the governments of Mexico and Brazil (though not of Argentina) are, just now, particularly good governments. Mexico's new president, Mr. Miguel de la Madrid, pledged himself to meeting his country's debts by swallowing the IMF's proposed medicine. He has kicked out the disastrous economic policies that his predecessor's men learnt in Cambridge, England—huge budget deficits, bank nationalisation, exchange controls—and replaced them instead with those learnt a Cambridge, Massachusetts (there are four Harvard men in his cabinet): tight budgets, tax reform, private incentives. Good. The bankers are rightly happy. The snag is, however, that if this orthodoxy fails or stumbles on at too high a political cost, then the alternative cry from both Mexico and Brazil may be for willing default and a move to the left. These governments, in effect, are the last, best chance that the IMF or the bankers will get. And that puts added pressure on them, of course, to lend yet more money.

THE WAY OUT

What advice can be given to escape these bleak prospects? First to you, gentle reader: study those bank shares in your equity portfolio. The banks know they have little chance of escaping large write-offs in their future accounts. They have to follow the IMF in the hope that time can be bought, that world trade, and therefore commodity prices, will pick up and that interest rates will fall. Apocalypse tomorrow is better than apocalypse today.

Not that every bank is happy with the IMF, which is accused of having kept secret the extent of Latin America's troubles, The IMF argues that it has to observe the confidentiality of information given to it by member countries, though that rule certainly now needs to be broken. In fact, the banks have nobody but themselves to blame. For many years they lent on risks that were known to be bad, and did so merely because their competitors did so, because they did not want to be left out of the crowd. Just a year ago the bankers, for example, were queuing up to lend to third-world Mexico at rates only one-fourth percent over their loans to western Europe. Some of the old-fashioned virtues of the high-street bank could well be learned again by America's largest lenders.

Second, western governments will, whether they like it or not, soon be getting deeply involved in solving Latin America's—and the world's—financial crisis. The banks are screaming for it. It was perhaps a sign that America is turning its gaze to international solutions that it has hitherto disdained when the treasury secretary, Mr. Don Regan, turned up in Frankfurt this week suggesting a new Bretton Woods agreement.

The last, most obvious lesson is for Latin America itself. What nonsense it is to believe that money equals wealth. Mexico would be a much wealthier country today had it borrowed $40 billion rather than $80 billion. Its money would have been sounder; its economy would have grown stronger; its unemployment would have been less; and its politicians would have been poorer. That is a paradox which Latin America still does not fully understand. Having borrowed and spent so foolishly it now has no credit left. Santa Claus will not be heading south again.●

SHIRLEY CHISHOLM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

● Mr. CONYERS. Mr. Speaker, the Congress and the country will miss the service of SHIRLEY CHISHOLM when the new Congress convenes in January. She was an inspiration to all of us, not just as a superb legislator, but also as a political leader who gave voice to the tens of millions of Americans who still are voiceless in the political system.

She fought harder than anybody I know for public education and education for the disadvantaged.

Among her devoted constituency, not just in New York, but throughout the Nation, she will also be remembered for her bold, courageous decision in 1972 to offer herself as a candidate for President of the United States. Her candidacy, I am sure, accomplished as much to bring into the political system women and minorities as any other political decision or event of that era. I wish her the best of everything, and hope that she continues to give voice to the concerns that she championed for so many years in Congress.●

PASSAGE OF THE CARIBBEAN BASIN INITIATIVE IS CRITICAL

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. BARNES. Mr. Speaker, during the next day or so, this body is going to decide the fate of the Caribbean Basin Initiative. If we fail to consider the bill reported by the Ways and Mean Committee, or if we defeat that bill, we will be giving our friends and allies in the region a reason to doubt our word. Over the last year, we have been telling the countries of the Caribbean and Central America that we are concerned about them. We have told them that we cannot solve their problems, but we can and will help them. We have said that trade is part of that answer, and that the CBI is a small piece of encouragement to expand economic activity.

I think that anyone who visits with the leaders of the Caribbean and Central American countries quickly realizes that this is a terribly important issue for these countries and for the future of our relations with them. If we fail to pass the CBI, I fear that the repercussions will produce an extremely severe setback for U.S. foreign policy. If we fail to act now, I fear that for years to come, the Caribbean Basin Initiative will be a term that means broken promises and not what it should and can be, the beginning of a new and expanded partnership between us.

To those of my colleagues who are still undecided on this issue, I would like to ask you to read an article written by Robert Pastor, that was published in the Miami Herald. Mr. Pastor makes clear that there are no incompletes for the Caribbean Basin Initia-

tive: the United States either passes or fails this key test in the region:

THE CARIBBEAN NEEDS REAGAN'S ATTENTION

(By Robert A. Pastor)

President Reagan will face his real Latin American and Caribbean challenge only when he returns to Washington. The trade and tax provisions of the Caribbean Basin initiative (CBI), which he launched last February, have been languishing in Congress ever since. Either President Reagan chooses to push this initiative through to passage, or his credibility in the region, which he described as of "vital interest" to the United States, will be shot.

After Congress passed the $350-million aid portion of the CBI—about one-third of which was aimed for El Salvador—the administration seemed to lose interest in the rest of the program. If the CBI remains incomplete, those who viewed the administration's program as positive will be seriously disappointed. The cynics who said that the CBI's most positive and innovative features—the trade and tax incentives—were only a way to dress up and justify the massive aid to El Salvador will be proven right.

There are only two weeks left in this congressional session, but Congress—like the rest of us—works hardest with a deadline. To retain his credibility in the region and to win passage of the CBI, the President will need to do three things:

First, raise the CBI from the tenth to the highest political priority and forge a bipartisan coalition to win passage of the bill;

Second, fight off any attempts to water down the proposal; and

Third, accept a number of modifications that will improve the developmental impact of the CBI.

First, President Reagan has already repeatedly demonstrated that if he gives an issue the highest priority, he can win Congress's approval; this is particularly true in the area of foreign affairs. Up until now, the administration's rhetoric and political-military strategy to the region have antagonized the Democrats almost as much as it has polarized the region. Having failed to reach across the political aisle while he was strong, President Reagan ought to do so now that the CBI is in jeopardy. Rather than blame the Democrats, he ought to enlist their support. Just as he did on the AWACs sale, President Reagan ought to invite Presidents Carter and Ford and the senior national security leadership of previous administrations to join with him on a genuinely nonpartisan basis for passage of the CBI.

Secondly, much of the initial work ought to be in scraping off the barnacles of restrictionist amendments that the subcommittee on trade of the House Ways and Means Committee attached to the bill. The key part of the CBI is the promise that Caribbean Basin products—except sugar, textiles and apparel—will be able to enter the U.S. market duty-free. Even though this only amounts to about 11 per cent of their current exports, this incentive can have a dynamic effect on the region's economy, particularly on the smallest countries. Although the aggregate impact of such exports on the United States will be marginal, still many fearful and uncompetitive industries—representing producers of rum, leather goods, footwear, luggage and handbags, and work gloves—have already successfully lobbied to exempt their products from the program. Other groups representing tuna fish processors, petroleum products and auto parts are already lining up at the trough seeking further exemptions.

The CBI is one Christmas tree that will look much better without these baubles and bangles. The most serious challenge facing the President and Congress is to pass the one-way free trade provisions without exempting the products that could make a difference for the development of the region. But that doesn't mean that the Congress should allow the administration bill to pass untouched; it can improve on it just as it did in amending the administration's aid bill in order to provide more money for the democratic countries and more in development loans rather than balance-of-payments support.

From the perspective of promoting development in the Caribbean, it would be extremely desirable to repeal the sugar quota program, as this has reduced sugar exports by about one-third and is particularly hurting friendly, democratic countries like the Dominican Republic. Similarly, duty-free textile exports would undoubtedly help the region, and only be at the expense of Asian rather than American producers. But these two acts would probably engender more political opposition than the bill could accept at this time, literally breaking Santa's back. Still, other improvements are possible.

If the CBI is to succeed, it must address the problems generated or not addressed by its precursor, Puerto Rico's Operation Bootstrap. Specifically, it must be revised to emphasize agricultural development, population control and integrating new investments into the national economies. As the trade and tax provisions are currently written, they will encourage "enclave" industries, which import most or all of their raw materials and export their entire products. Moreover, the tax provisions are biased to encourage capital-intensive investments by wholly-owned foreign investors. This can and must be corrected. With nearly half the population under 15, the creation of jobs in the Caribbean Basin during the next two decades has to be one of the region's highest priorities, particularly because of the new—and needed—U.S. immigration law, which will prohibit illegal migration. The bill should be revised to encourage joint partnerships, to assist rather than crush the local private sector, to promote labor-intensive investments that create jobs, and to invite plants that will integrate themselves into the national fabric. For example, the United States ought to help the tourism industries to establish "backward" linkages to purchase food locally and "forward" linkages to handicraft industries.

Moreover, instead of undermining the Caribbean Development Bank, the United States ought to literally join the Bank rather than fight it, and instead of negotiating bilateral investment treaties and trade agreements, the United States ought to do everything to encourage regionalism. Congress needs to review the administration's balance between regional and bilateral aid, which should be increased in the eastern Caribbean, and between private sector development and aid for public infrastructure projects that function as the necessary prerequisites for private investment. Building on the ingenious but risky new program run for AID by Coopers & Lybrand to attract private investment, the United States should explore other ways to assist the private sector—perhaps an "Adam Smith" Volunteer Program, whereby junior executives from various corporations would volunteer their services for, say, one year to help get local entrepreneurs started. But the administration should be wary about concentrating exclusively on the private sector when so much remains to be done in the public sector.

The entire U.S. aid program, which has largely been unchanged since 1973, is in need of wholesale re-examination and overhaul. Currently, U.S. aid to spread so thin on so many marginal projects that it wastes scarce economic resources, not to say political capital. Two or three priority projects ought to be identified in each country, and all our resources directed to completing them; this would provide the countries with priority projects and also the kind of psychological momentum so necessary to development.

There is much that can be done and the CBI can give these efforts new impetus, provided that President Reagan himself returns from his trip determined to give a Christmas present to the region—but one with beautiful new ornaments rather than baubles, bangles and barnacles. Florida's leaders—Gov. Bob Graham, Miami Mayor Maurice Ferre and Congressmen Dante Fascell and Sam Gibbons—have all played important roles pressing for more attention to the CBI. One hopes that the Sixth Annual Conference on the Caribbean, which they are all hosting, will send a clear and forceful message back to Washington: There are no incompletes for the Caribbean Basin Initiative; the United States either passes or it fails this key test in the region.●

CITIZENS SET EXAMPLE IN BURDETT, KANS.

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. ROBERTS of Kansas. Mr. Speaker, during a time when economic conditions are forcing self-sacrifice on all levels of government, I want to take this opportunity to bring to the attention of my colleagues the example of the citizens of Burdett, Kans.

Burdett is the boyhood home of Dr. Clyde Tombaugh. Several months ago the citizens of Burdett honored Dr. Tombaugh for his outstanding career in astronomy—it was Clyde Tombaugh who made the discovery of the planet Pluto, along with many other astronomical findings.

But, the story does not end at that point. The citizens of Burdett took it upon themselves to establish a historical marker for Dr. Tombaugh. In this effort, they received no State or Federal money for the project. The $900 cast metal marker was acquired totally by the local Lions Club, homemakers unit, and the American Legion. Nearly every member of the Burdett community assisted in this project.

I draw this to the attention of my colleagues when a majority of this body finds it necessary to appropriate taxpayer dollars for memorials of all types costing millions of dollars—dollars that could come in part from the private sector.

The motto of the State of Kansas is "Ad Astera per aspera" or "Through the stars through difficulty." Dr. Tombaugh's career is a living example of that motto and by their example of honoring their favorite son, the citizens of Burdett, Kans., have also set a similar example.●

POETIC PROCLAMATIONS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. PEPPER. Mr. Speaker and Members of the House, let me commend again to your attention the effort to establish a nationwide poetry day, which would serve to glorify the literary art responsible for raising our languages and dialects to their highest form of expression.

Among the men and women here assembled, among people all through the land, and especially among professional bards, one sometimes hears more than clarity and correct language: Flights of rhythm and words that suggest new feelings and ideas out of old truths placed in a novel frame.

I urge your support for Poetry Day now pending before us and proudly bring to your attention the excerpted proclamations of 36 Governors who have taken the lead in honoring that ancient craft which can be a wellspring of joy and spiritual inner healing:

PROCLAMATION

Whereas, the art of poetry is a vital part of our culture; and

Whereas, many of our citizens enjoy this form of literature and many also are talented and write poetry;

Now, therefore, I, Ed Herschler, Governor of the State of Wyoming, do hereby proclaim October 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, the State of Wisconsin has a unique tradition of enriching the lives of its citizens through recognition of our state's gifted authors, writers, artists, composers, performers and craftspersons; and

Whereas, the people of the State of Wisconsin are pleased to especially salute our poets, writers of rhyme and simplicity, rhythm and reflection, our special authors of images and imagination, human pathos and parody; and

Whereas, in conjunction with international observances, the National Poetry Committee annually celebrates Poetry Day on October 15th and we are pleased to share in that observance;

Now therefore, I, Lee Sherman Dreyfus, Governor of the State of Wisconsin, do hereby proclaim October 15, 1982, Poetry Day.

PROCLAMATION

Whereas, the poetry and culture of this generation will be a heritage of inestimable value and inspiration to succeeding generations; and

Whereas, it is fitting that our people be made aware of this treasury of wisdom and beauty, that their lives may be made fuller and more meaningful through the enjoyment and appreciation of the Art of Poetry; and

Whereas, Poetry is the common property of all men, enriching the life of the individual as it forms a bond among all who share the human condition.

Now, therefore, I, John D. Rockefeller IV, Governor of the State of West Virginia, do hereby proclaim October 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, poetry reaches for the spirit of communication and brings the joy of expression to all people; and

Whereas, poetry deserves to be lifted to its rightful place as held in our historical past; and

Whereas, poetry opens all our minds to a wider concept of harmony; and

Whereas, the purpose of Poetry Day is to remind people that a love for poetry is the heritage of every person and to encourage today's poets, especially those in Washington State;

Now, therefore, I, John Spellman, Governor of the State of Washington, do hereby proclaim October 15, 1982, as Poetry Day.

CERTIFICATE OF RECOGNITION

Poetry is timeless. Among the most beautiful and enduring of the gifts of the ancient world, it is the most powerful and inspiring instrument by which literate civilizations immortalize the grace and spirit of their language. Poetry touches, it captivates, it enriches, and it ennobles all that is, and has been, most creative in the human spirit.

To honor the priceless legacy poets have left to our society, and to commemorate the influence of poetry upon our lives, the National Poetry Day Committee has set Friday October 15, 1982, as Poetry Day throughout the United States. In recognition of this special occasion, I, Charles S. Robb, call upon all Virginians to pause in attention to Poetry Day.

OFFICIAL MEMORANDUM

October 15, 1982, will be observed as Poetry Day throughout the world. This day is set aside to honor those poets of the past and present who enrich the lives of so many people.

Poetry Day observance was organized in Texas in 1947 and has grown since that time to a worldwide event. It is celebrated throughout the United States and in 40 foreign countries.

Our State is proud of its poets and of the poetic expression which have originated here, and in recognition of their contributions to our cultural life it is fitting that we should set aside a day to honor those poets of the past and present.

Therefore, I, William P. Clements, Jr., as Governor of Texas, do hereby designate October 15, 1982, as "Poetry Day."

PROCLAMATION

Poetry has long appealed to the intellectual, aesthetic and romantic instincts of all people and has been an important form of human expression throughout history. Whether in written or oral form, poetry has affected citizens around the world with its beauty of language.

From the artists of the revolutionary era such as Francis Hopkinson and Philip Freneau to award-winning 20th century poets such as Marianne Moore and Gerald Stern, Pennsylvania's poets have been an inspiration to thousands of writers whose creative endeavors enrich our lives. These poets have often served as the voice of conscience as well as beauty, and it is appropriate that we pay special tribute to them.

Therefore, I, Dick Thornburgh, Governor of the Commonwealth of Pennsylvania, do hereby proclaim October 15, 1982 as Poetry Day.

PROCLAMATION

Whereas, many of our citizens enjoy this form of literature and many also are talented and write poetry;

Now, Therefore, I, Richard W. Riley, Governor of the State of South Carolina, do hereby proclaim October 15, 1982, as Poetry day.

PROCLAMATION

Whereas, poetry is a form of art that tells of happy times and sad times, but always speaks from the heart of the writer to the soul of the reader; and

Whereas, poetry can whisper as softly as a breeze through a cool Tennessee forest or echo the passion of man's battle for survival; and

Whereas, poetry can be seen as words set to "magic" and can help all who hear it to appreciate the deeper and more meaningful side of life; and

Now, Therefore, I, Lamar Alexander, as Governor of the State of Tennessee, do hereby proclaim October 15th, 1982, as Poetry Day.

PROCLAMATION

Whereas, through the adoption of a joint resolution of the Ohio General Assembly in January, 1938, Ohio became the first state in the Union to exercise its legislative authority in promoting the fine art of poetry in the public schools and in seeking to assure it the high cultural position it merits in the public mind; and

Whereas, the Ohio Department of Education, recognizing that this phase of culture, like music and the kindred arts, exerts a molding influence in helping to shape the ideals and purposes of our nation, has issued fine anthologies for use in the public schools and has cooperated with the Ohio Poetry Association in the preparation of the special school programs; and

Now, therefore, I, James A. Rhodes, Governor of the State of Ohio, do hereby designate Friday, October 15, 1982, as Ohio Poetry Day.

PROCLAMATION

Whereas, poetry has been honored as an art and as an important part of our society's cultures; and

Whereas, the United States has been honored by being selected as the site of the Fifth World Congress of Poets in 1981; now

Therefore, I, James B. Hunt, Jr., Governor of the State of North Carolina, do hereby proclaim October 15, 1982, as Poetry Day.

PROCLAMATION

Throughout the ages, poetry has reflected the imagination and creativity of many civilizations.

New York State takes pride in its rich literary heritage and in the many poets who live and practice their art in our State.

Poetry is taught in our schools and used on many occasions in our lives to enhance special activities and events.

Now, therefore, I, Hugh L. Carey, Governor of the State of New York, do hereby proclaim October 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, the art of poetry is a vital part of our culture; and

Whereas, many of our citizens enjoy this form of literature and many also are talented and write poetry; and

Now, therefore, I, Bruce King, Governor of the State of New Mexico, do hereby proclaim October 15, 1982, as "Poetry Day."

PROCLAMATION

Whereas, the poetry of the past and present can serve to strengthen and enlarge the human spirit for the tasks ahead; and

Whereas, the ideals of freedom can find in poetry a powerful medium for impressing their meaning on the minds of men, as the greatest of New Jersey's many poets, Walt Whitman, supremely demonstrated;

Now, therefore, I, Thomas H. Kean, Governor of the State of New Jersey, do hereby proclaim October 15, 1982, as "Poetry Day."

PROCLAMATION

Whereas, the art of poetry is a vital part of our culture; and

Whereas, many of our citizens enjoy this form of literature and many also are talented and write poetry; and

Now, therefore, I, Robert List, Governor of the State of Nevada, do hereby proclaim October 15, 1982, in Nevada as "Poetry Day."

PROCLAMATION

Whereas, the purpose of Poetry Day is to promote the appreciation of one of our civilization's oldest and highest art forms; and

Whereas, Montanans are surrounded by the inspiring beauty of nature's timeless designs and the mountains and open spaces defy description in common words; it is appropriate that there be a day to encourage the appreciation of poetry; and

Whereas, I am certain there are many in this state with the perception and voice to capture the maginficence of Montana with words, there should be a day to encourage the creation of poetry.

Now, therefore, I, Ted Schwinden, Governor of the State of Montana, do hereby proclaim October 15, 1982, as "Poetry Day."

PROCLAMATION

Whereas, the art of poetry is a vital part of our culture; and

Whereas, many of our citizens enjoy this form of literature and many also are talented and write poetry; and

Now, therefore, I, Christopher S. Bond, Governor of the State of Missouri, do hereby proclaim October 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, the art of poetry is a vital part of our culture; and

Whereas, many of our citizens enjoy this form of literature and many talented Mississippians write poetry; and

Whereas, the World Poetry Day Committee will celebrate its sixth annual world Congress in 1982, and many Mississippians will be involved in that Congress:

Now, therefore, I, William F. Winter, Governor of the Stae of Mississippi, do hereby proclaim October 15, 1982, as Poetry Day.

EXECUTIVE DECLARATION

Poetry is the quiet voice of the soul; it struggles to be heard in a world deafened by the roar of machinery.

Poets have contributed significantly to preserving the spiritual element that is unique to humankind.

Poetry has helped humanity to develop culturally and intellectually, and has had a great impact on life as well as literature.

The Poetry Society of Michigan has brought honor to our state and to the literary accomplishments of its members through its active encouragement of professional standards, high quality and literary recognition.

Therefore, I, William G. Milliken, Governor of the State of Michigan, do hereby declare October 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, the Legislature of the State of Maine has mandated that October 15 of every year be designated by proclamation as Poetry Day; and

Whereas, poetry is an honored art form in our culture with a long tradition here in the State of Maine; and

Now, therefore, I, Joseph E. Brennan, Governor of the State of Maine, do hereby proclaim Friday, October 15, 1982 as Poetry Day.

PROCLAMATION

Whereas, people of all ages have universally turned to poetic expressions throughout the centuries as a means of expressing thoughts and hopes of their generations; and

Whereas, much of this poetry has come to us in the Twentieth Century as a cultural heritage of inestimable value, passed down form folklore, patriotism and religion of the past, giving tone and character to the culture of today; and

Whereas, the poetry and culture of this generation will given similar inspiration and strength to the lives of coming generations,

Now, therefore, I, David C. Treen, Governor of the State of Louisiana, do hereby proclaim October 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, Poetry not only provides the opportunity to express one's feelings but also serves as a meaningful tool in the development of our cultural society; and,

Whereas, Poetry is taught in our schools to give our children a sense of culture and historical perspective on great poets of our past; and,

Whereas, There are many talented citizens in our state who write and enjoy this form of literature; and,

Now, therefore, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, do hereby proclaim October 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, the art of poetry is a vital part of our culture; and

Whereas, many of our citizens enjoy this form of literature and many also are talented and write poetry; and

Now, therefore, I, John Carlin, Governor of the State of Kansas, do hereby proclaim October 15, 1982, as Poetry Day.

PROCLAMATION

"The world is so great and rich, and life so full of variety, that you can never lack occasions for poems." Goethe

For centuries, a day in October has been set aside to acknowledge the contributions of the world's poets to our lives.

The unique insights that each artist expresses forever alters, even if in a minute way, our own conception of the world.

It is expecially fitting that Illinois, birthplace of poets of international, prize-winning stature, such as Carl Sanburg, Edgar Lee Masters, Vachel Lindsay, Archibald MacLeish and Gwendolyn Brooks participate in such an observance.

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, the art of poetry is a vital part of our culture; and

Whereas, many of our citizens enjoy this form of literature and many also are talented and write poetry; and

Whereas, in the United States we have many outstanding poets and numerous Idahoans who contribute to the great poetry of our country;

Now, therefore, I, John V. Evans, Governor of the State of Idaho, do hereby proclaim October 15, 1982, to be Poetry Day.

PROCLAMATION

Whereas, poetry has been defined by William Wadsworth as "the spontaneous overflow of powerful feelings; it takes its origin from emotion recollected in tranquility;" and

Whereas, Wentworth Dillon wrote: "True poets are the guardians of the state;" and

Whereas, Percy Bysshe Shelley wrote: "Poets are the unacknowledged legislators of the world;" and

Whereas, all the above are indicative of the importance, power, and beauty of poetry in human life; and

Whereas, poetry is found in all cultures and societies, in many forms, and oral poetry was highly developed by the Hawaiian people in ancient times; and

Whereas, poetry enriches all peoples, and is the expression of that enrichment; and

Whereas, a knowledge of, and love for, poetry is most desirable for all;

Now, therefore, I, George R. Ariyoshi, Governor of the State of Hawaii, mindful of poetry's importance to Hawaii's people, do hereby proclaim October 15, 1982, to be Poetry Day.

PROCLAMATION

Whereas, the art of poetry is a vital part of our culture; and

Whereas, many of our citizens enjoy this form of literature, and many also are talented and write poetry;

Now, therefore, I, Bob Graham, by viture of the authority vested in me as Governor of the State of Florida, do hereby proclaim October 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, people of all ages have universally turned to poetic expression as a means of communicating the thoughts and hopes of their society, culture and generation; and

Whereas, the poetry of this generation will give similar impetus and strength to the lives of coming generations; and

Now, therefore, I, Albert H. Quie, Governor of the State of Minnesota, do hereby proclaim October 15, 1982, to be Poetry Day.

PROCLAMATION

Whereas, throughout the course of history, poets have chronicled the human condition through their writings and examined the intricate workings of man's psyche and the societies in which they lived; and

Whereas, the State of Maryland has a rich heritage of such poets, including Edgar Allan Poe, Sidney Lanier, Josephine Jacobsen and Lucille Clifton;

Now, therefore, I, Harry Hughes, Governor of the State of Maryland, do hereby proclaim Octoer 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, the art of poetry is a vital part of our culture; and

Whereas, many of our citizens enjoy this form of literature and many also are talented and write poetry; and

Now, therefore, I, Fob James, Governor of the State of Alabama, do hereby proclaim October 15, 1982, as Poetry Day.

EXECUTIVE PROCLAMATION

The art of poetry is a vital part of Alaska's culture.

Many of the 49th State's residents enjoy this form of literature, and many, also, are talented and write poetry.

The United States has been honored by having an American chosen as the coordinator for the Sixth World Congress of Poets being held later this year.

Now, therefore, I, Jay S. Hammond, Governor of the State of Alaska, do hereby proclaim the day of October 15, 1982, as Poetry Day.

PROCLAMATION

It has been written, "Poetry is the mother tongue of mankind."

These simple words express the universality of poetry and its strength and vitality. The poets of each language add something precious to their culture which endures for generation after generation.

Therefore, in this, the year of the Sixth World Conference of Poets, I, Edmund G. Brown Jr., Governor of the State of California, am pleased to join in observing October 15, 1982, as Poetry Day.

PROCLAMATION

Whereas, in the rush of modern civilization we frequently give too little attention to the cultural values and ideas which should be a part of our daily lives; and

Whereas, it is only fitting that Coloradans honor the poets of the past and present who have done and are doing so much to enrich the lives of every person;

Now, therefore, I, Richard D. Lamm, Governor of the State of Colorado, do hereby proclaim October 15, 1982, as Poetry Day.

OFFICIAL STATEMENT

Poetry is among the oldest and most influential of all the arts. It provides a cultural heritage rich in historical and philosophical insights and celebrates the achievements of great men and women throughout the ages.

Poetry examines the most profound issues of human life and is a source of wisdom, instruction and inspiration. In addition, poetry brings people together in appreciation of the power, grace and versatility of language.

Every nation in the world has a rich poetic tradition which has had a shaping influence on the development of civilization and culture. Poetry celebrates history, philosophy and experience, the deeds of heroic legends and the values which inspired them. It touches on the most profound issues of human life and brings enlightenment, wisdom and inspiration to its readers.

American poets deserve our praise and support for their tremendous contributions to the vitality and spirit of our country. The sensitivity and skill they share in their works may be counted among our nation's greatest treasures.

Therefore, I, William A. O'Neill, Governor of the State of Connecticut, am pleased to designate October 15, 1982 as Poetry Day.

STATEMENT

Whereas, the art of poetry is a vital part of our culture; and

Whereas, many of our citizens enjoy this form of literature and many also are talented and write poetry; and

Now, therefore, I, Pierre S. du Pont, Governor of the State of Delaware, do hereby declare October 15, 1982, as Poetry Day.●

GERSCHON CANAAN

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. COLLINS of Texas. Mr. Speaker, in the Dallas community we have been proud of the active Consular Corps that we have serving the South and West in the United States.

Gershon Canaan has served for 20 years as the honarary consul of the Federal Republic of Germany. Dallas recognized Gershon Canaan with a special day in September. He has just been decorated with the Grand Cross of Merit by the Federal Republic of Germany. Canaan has strengthened the friendship between Germany and the United States. Since 1963 we have had an annual German Day celebration in Texas. He founded the Goethe Center, which works with SMU to promote the exchange of arts between Germany and the United States.

Gershon Canaan came to the United States in 1947 and attended the Frank Lloyd Wright Foundation. He graduated from the University of Texas with a masters degree in architecture. He now holds the position of senior vice president for international development with the J. L. Williams Co. of Dallas.

Texas is proud of Gershon Canaan's leadership and is looking forward to a great future in American-German relationship and trade.●

INTELLIGENCE COMMITTEE RELEASES 35-YEAR-OLD SECRET TRANSCRIPT

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. McCLORY. Mr. Speaker, the Permanent Select Committee on Intelligence recently released the transcript of a congressional hearing which had been kept secret for the past 35 years. The hearing, held in executive session in 1947 by the House Committee on Expenditures in the executive departments on the then pending National Security Act of 1947 and previously classified "Secret," addressed the need for establishing the Central Intelligence Agency.

As the ranking Republican member on the Intelligence Committee's Subcommittee on Legislation—and from the time I served on the earlier temporary Select Committee on Intelligence—I have long held a strong interest in the CIA and the legislation which provides it with its most basic authority, the National Security Act.

Some months back it was discovered that one executive session hearing held by the Committee on Expenditures had been gathering dust in the back of a locked file drawer for years. Clearly, a document of such historical value should be declassified and released, even though it is exempt from the Freedom of Information Act because it constitutes a "congressional document."

The Committee on Expenditures' original copy was destroyed by its chairman in 1950, presumably because of his concern for its sensitivity. The only other known copy was held at CIA headquarters in Langley, Va. Since the U.S. Court of Appeals for the District of Columbia told the CIA that it could not release it—because, as a "congressional document" it was exempt from the Freedom of Information Act—and since the Archives did not have a copy in the files it maintains for the House—because it was never sent one—the hearings never would have seen daylight in the normal course of events.

Mr. Speaker, it is my understanding that the transcript of an executive session which is no longer within the custody of the committee which conducted the hearing may only be released by a vote of a committee with subject matter jurisdiction as granted in the rules of the House. I am therefore pleased to report that the Permanent Select Committee on Intelligence, having been granted exclusive jurisdiction over the Central Intelligence Agency by rule XLVIII, decided to exercise its jurisdiction by voting to release this 35-year-old transcript in the prescribed fashion. As a further step, the committee sought and received the concurrence of the Committee on Government Operations which when known as the Committee on Expenditures in the Executive Departments held this hearing.

Mr. Speaker, I want to point out that the hearing transcript was originally located by an Intelligence Committee staff member. Ira H. Goldman,

a counsel to the Intelligence Committee, who uncovered the hearing transcript locked up in the CIA's files, recognized the historical significance of this once-secret transcript and brought it to the committee's attention.

While there is nothing extraordinarily revealing or exciting in the transcript, it is quite interesting. Allen Dulles, who ran many OSS operations in Europe during World War II and went on to serve as Director of CIA, testified that he had had startling successes against the Abwehr, the German intelligence service. About 10 percent of the Abwehr provided information to the OSS, including two top German intelligence officials, Admiral Carnaris and General Oster. This information included details of the German missile program and provided us with the information which enabled us to bomb their bases at Peenemunde, undoubtedly saving many Allied lives. One witness even told how, through an intelligence source, we had 2 months' advance knowledge that Mussolini would be removed, but that the report was rejected for lack of corroboration.

It is interesting how the same topics discussed back in 1947 are still being debated today. For instance: (a) Should the CIA, which is responsible for collecting clandestine intelligence, also analyze it, or might this lead to biased intelligence reporting? (b) Should the CIA's authority be detailed in a law or would this inflexibility threaten the national security? (c) How can the accuracy of intelligence analysis be improved? This continual questioning on such subjects is healthy, because it assures a strong and effective intelligence apparatus which is essential to the security of the United States.

Mr. Speaker, I believe the Congress rightfully exempted itself from the Freedom of Information Act, and, in my view, should retrench further on the law's impact on our intelligence agencies. However, this imposes on the Congress, particularly in this age of open government, a special duty to act on its own initiative to release historical information which was once sensitive but which no longer is in need of protection. Historians, and the public at large, should be granted the greatest practicable access to the official documents of the Congress.●

REV. WILLIAM HERBERT BREWSTER

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. FAUNTROY. Mr. Speaker, I would like to bring to your attention Rev. William Herbert Brewster, Sr., a black American gospel music composer who, in the first half of this century pioneered a new genre—gospel, will be the subject of a tribute by the Smithsonian Institution, December 17-19, 1982.

Rev. William Herbert Brewster, Sr., renowned orator and poet, will narrate the concerts of his music performed by Washington, D.C.'s own quintet, Sweet Honey in the Rock, with accompanist Pearl Williams-Jones, gospel music performer and scholar, December 17 and 18 at Smithsonian's Baird Auditorium.

Rev. William Herbert Brewster, Sr., pastor of East Trigg Baptist Church in Memphis, Tenn., for 53 years, and founder and director of the Brewster Theological Clinic has trained hundreds of Baptist ministers across the Nation, including many of Washington, D.C.'s distinguished clergy.

Considered the father of black gospel drama, Rev. William Herbert Brewster will perform with his congregation, an original Brewster pageant as the closing event of the weekend tribute, Sunday, December 19, at Baird Auditorium.

Rev. William Herbert Brewster, a prolific gospel music composer has created superlative music standards including "I'm Leaning and Depending On the Lord," Move On Up a Little Higher," "Just Over the Hill," "How I Got Over," "These Are They," and "Surely, God is Able," —the first gospel song to use triple meters—12/8—and one of the first two gospel songs to sell over 1 million copies, along with "Move On Up a Little Higher."

I call upon all of my colleagues of the U.S. Congress and the people of the United States to join with me in honoring Reverend Brewster with the Smithsonian, in grateful acknowledgement of his outstanding composition and for the extraordinary legacy of gospel music and gospel drama that he embodies and is passing along for the enrichment of all our citizens.●

PORTUGUESE PRIME MINISTER'S VISIT TO WASHINGTON PROVIDES OPPORTUNITY FOR DIPLOMATIC INITIATIVES ON STATUS OF EAST TIMOR

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. HALL of Ohio. Mr. Speaker, last week marked the seventh anniversary of Indonesia's brutal full scale invasion of the former Portuguese colony of East Timor.

Seven years ago, scarcely a handful of Americans outside of Government knew of the existence of East Timor, but presently American public awareness of the tragedy in this predominantly Roman Catholic island territory is growing. This is a most encouraging development.

As awareness of the Timor tragedy increases, so does the recognition that a political settlement stressing the right of the East Timorese to determine their own future is necessary. As I have stated on previous occasions, and as more of my colleagues have come to believe, there should be official American backing for a process that can lead to authentic self-determination for East Timor. This is one of the points of my resolution on East Timor, House Concurrent Resolution 321, which has been cosponsored by 46 other Representatives.

It is clear that Portugal, which ruled East Timor for 400 years until 1975, and which continues to be recognized under international law as the legal sovereign of East Timor, has a key role to play in the effort to end Indonesian occupation of the territory.

Today, the Prime Minister of Portugal, Dr. Francisco Pinto Balsemao, arrives in Washington for talks with Reagan administration officials and with the President himself. I have been informed that the Portuguese leader plans to discuss the East Timor tragedy with President Reagan.

Before he became Prime Minister in 1981, Dr. Balsemao had a distinguished career as editor of the weekly publication, Expresso. On the occasion of his visit here I would like to commend to my colleagues' attention a translation of an editorial which appeared in Expresso in October, 1981.

This commentary calls for practical, nonpartisan action by Portugal's major political figures to meet Lisbon's historic responsibility to the people of East Timor. It is a moving appeal for cooperation that should be seriously considered by all those concerned about this tragedy.

It is my hope that the administration will take advantage of Dr. Balsemao's visit to pursue new initiatives on the status of East Timor. If Portugal is interested in opening the window on East Timor, we should be prepared for some fresh air on the issues involved.

For the benefit of my colleagues, the Expresso editorial follows:

[Editorial from the Expresso, October 1981]

EAST TIMOR AND THE HOSPITAL AMBULANCE DRIVER

Some days ago, on RTP, in a report on the hold-up of the Bank of the village of Santo Adriao, a statement was made by an ambulance driver from St. Joseph's Hospital who had taken one of the wounded in for treatment. The wounded man had been deposited by his partners at the door of the hospital who had then left in a flash in order not to get caught. The ambulance driver said: "When somebody wounded is brought in, we're not about to notice who brought him. What we really want to do is get him medi-

cal attention as quickly as possible. Saving his life is above everything else".

A sensible philosophy, this ambulance driver's, and one that puts the theory and practice of many political and journalistic strategists to shame. This puts us in mind of the case of Timor and the fuss about the government's report. It's time we looked to the patient who is dying and to those who, ultimately, may have accelerated his demise or dealt him more blows.

(1) Indonesia invaded Timor, whose population it is destroying only because they committed the crime of wanting to be a people.

(2) Portugal has historical responsibilities toward Timor as, for example, did England toward Rhodesia. Great Britain assumed its responsibilities, let that be said for Margaret Thatcher. She met the problem head-on and an honorable solution was found.

(3) To attempt to cast the blame on X, Y or Z, who intervened in that confused process, is all very well and good as an outlet for imperial-style frustrations, but it's not realistic.

(4) The crucial point, and what is hanging in the balance at this very moment, is the existence of a people who were invaded by another stronger than they.

(5) The invader's name is Indonesia: Indonesia the executioner who is committing violence daily against the Maubere people.

(6) The report on Timor focuses on individuals who may have favored an invasion, but they were not decisive. Portugal, once Indonesia made up its mind, did not possess the physical means to avoid it.

(7) Portugal however, has the obligation that History has conferred upon it, and also the right to seek a solution. Not a military solution. It would be ridiculous to advocate that.

But it can take the lead in promoting an international movement that would push Indonesia to accept, at least, a referendum on Timor, a referendum that should be controlled by the United Nations.

(8) And who is the Portugal to whom this historical imperative falls?

That Portugal is Ramalho Eanes, Francisco Pinto Balsemao, as Prime Minister and President of the Social Democratic Party, Mario Soares, Secretary-General of the Socialist Party, Freitas do Amaral of the Christrian Democratic Party, Alvaro Cunhal of the Communist Party, Ribeiro Teles of the PPM, the Council of the Revolution and others more directly involved in shaping the destiny of this people, be it by virtue of the offices they hold at the highest executive level or by virtue of the parties or coalitions that they head. It is the parties who, more than any other group, organize Portugal's political strength.

Let's leave aside, for now, other Portuguese who were involved. Those people will be the first to be judged by History if the Maubere people end up sacrificed on the altar of geopolitical interests or simply for the sake of the immediate interests of the powers or superpowers.

(9) Mario Soares, Secretary-General of the Socialist Party and Vice President of the Socialist International: what is and was he doing to call the world's attention to the dying man?

Alvaro Cunhal, with his many and influential friends in the "Communist International": what is and was he doing?

Freitas do Amaral, together with his friends in the European Christian Democratic Union, of which he is President, and inside his own party: what is he doing? And Pinto Balsemao as Prime Minister and President of the Social Democratic Party? And Ramalho Eanes: what influence has he made use of to try to save East Timor?

(10) Could it be that Indonesia's having big business dealings with the East and West is motive enough to try to silence the cries of a people? They are crying out not only for treatment of the wounded or for "kinder" methods of torture for those Timorese who want to go on being Maubere. They are crying out to be a people, and for Indonesia to leave the territory that doesn't belong to it.

(11) The Portuguese authorities have an obligation to try to reach a national consensus on Timor and to seek an international consensus for it.

Is this what they have been doing?

Being President of a country that has friends and allies, being Prime Minister or Secretary-General of the Communist Party, Socialist Party, Social Democratic Party of Christian Democratic Party and President or Vice President of International organizations means a lot and carries a lot of weight. It is important that everyone remember: History will judge them—judge them more severely than they are now judged. Now they are only judged as men who failed at their duties and did not have the strength to check Indonesia's voracity.

(12) May our leaders take a lesson from the ambulance driver. May they not lose sight of what is crucial, hidden under a cover of incidental detail. All the fuss surrounding the government's report, which Expresso, as a newspaper has the obligation to publish, can, if we are not clear-headed and discerning, lead us to forget about the patient and rail in vain against those who did not cure his wounds before.●

REAGANOMICS SQUEEZES CORPORATE SPENDING PLANS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. FLORIO. Mr. Speaker, the administration's supply-side economics was based on the assumption that business investment would provide the main source of renewed growth.

Unfortunately the reverse happened, business investment declined. Plant and equipment spending by business next year is projected at 6½ percent below that of 4 years ago. This decline in capital spending forecasts continuing economic stagnation and double-digit unemployment. Even the most optimistic reports from administration economists forecast a modest economic recovery that will produce a 10-percent unemployment rate 2 years from now.

This year the American people voted against these policies. We cannot let our industrial plants lay to waste, and human talents go untested when an agenda of work needs to be done in our Nation. I invite my colleagues to review the following article:

[From the Christian Science Monitor, Nov. 12, 1982]

U.S. INDUSTRY TO SCRIMP ON CAPITAL OUTLAY SPENDING IN 1983

(By David T. Cook)

As corporate executives put the final touches on their 1983 budgets, spending plans for new buildings and production equipment are being slashed.

Next year, for instance, the Hughes Tool Company, a Houston-based maker of oil drilling and production equipment, will spend "no more than half" of the $300 million it invested in the business this year, a company official says.

Hughes is not alone. After adjustment for inflation, US companies plan to invest 8.5 percent less in their operations next year than they did this year, according to a recent survey by the Economics Department of the McGraw-Hill Publications Company. And the 450 major companies that were surveyed said their capital spending this year would be 4.5 percent lower than last, after taking inflation into account.

As a result, economic recovery will be less robust, upward pressure will remain on unemployment, and modernization of factories will be delayed.

Managers are chopping spending plans because they are already saddled with excess production capacity. "There is plenty of plant and equipment around without building more," says Edward Yardeni, senior vice-president of Prudential/Bache Securities. In September, 31 percent of US production capacity was idle.

Meanwhile, sagging corporate profits have cut into the funds companies can invest. At Hughes Tool, for example, net income per share for the first nine months of the year is down 26.4 percent.

"Cash flow will improve next year, but it will be used to reduce pressure on balance sheets" burdened with debt, Mr. Yardeni asserts.

While the drop next year could be reduced if a recovery occurred faster than corporate managers expect, "I don't think there is any way we will see" an upturn, say Joseph Spiers, a senior economist at McGraw-Hill.

Lower spending for plant and equipment will not abort the weak economic recovery expected next year. But it could cause some additional upward pressure on unemployment, which is already at a post-World War II high of 10.4 percent. That is because cuts in capital spending imperil the jobs of individuals still at work putting up buildings and turning out production equipment. And any further boost in unemployment weakens demand for consumer products and the equipment used to produce them.

"The negative interaction among economic sectors characteristic of a recession is still very much in evidence and could continue for a while," the Goldman, Sachs Economic and Financial Market Research Group recently wrote clients.

And slimmer capital budgets mean some delay in the modernization of American industry. "We have had very rapid obsolescence of equipment due to extremely high inflation and the extraordinary increase in energy costs," says Ben E. Laden, vice-president and chief economist at T. Rowe Price Associates Inc., a mutual fund manager. "That has left us with a very inefficient capital stock," or collection of production equipment.

The slower pace of US capital equipment spending is not expected to seriously erode the nation's international competitiveness

in manufacturing technology. "Other nations also are in pretty bad shape in capital spending," Mr. Laden notes.

Ironically, though, capital spending by American companies may get less of a boost from the expected economic recovery than do foreign competitors.

"If the dollar remains strong in foreign exchange markets next year, as we expect, then the rust-bowl industries [autos, steel, farm equipment, machine tools] in the United States will find that the coming domestic recovery will mostly benefit their overseas competitors," Mr. Yardeni says.

Of course, not all potential purchasers of buildings and equipment are cutting their 1983 capital budgets at the same rate. When 1982 and '83 capital spending plans are compared, the biggest percentage drop comes at the airlines, which have cut projected outlays 29.7 percent, while food and beverage producers have trimmed spending targets 22 percent, according to McGraw-Hill data. The hard-hit mining industry has reduced spending plans 13.5 percent, and recession-ravaged iron and steel makers have cut plans 15.5 percent.

The spending cuts planned for 1983 come on top of reductions made earlier. For example, the Clark Equipment Company of Buchanan, Mich., plans to spend "a little under $40 million this year and a little over $40 million next year" on purchases of equipment and buildings, a spokeswoman says. By contrast, this maker of forklift trucks and truck transmissions spent $61.8 million in 1981 and $79.5 million in 1980.

Producers of high-technology goods like computers, scientific instruments, and semiconductors are one major exception to the downturn in capital spending. McGraw-Hill shows this sector posting a 15.4 percent increase in capital spending next year. "They should see orders [for products] improving" in 1983, Yardeni notes.

Economists expect that different types of capital goods will both fall and recover at different rates. Purchases of new factories and offices will drop 5 percent in 1983, economist Spiers predicts. Equipment purchases will drop 3.1 percent.

For 1984, most forecasters see capital spending rebounding along with the economy. "In the manufacturing category, almost every industry . . . has double-digit increases slated for 1984," Spiers says.

Much of the pickup will come in outlays for equipment, as a recent overbuilding of office buildings is expected to hold down spending on structures.●

JOHN NELSON—GOOD MAN FOR AN IMPORTANT JOB

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. MOTTL. Mr. Speaker, one of the many reasons for Cleveland's emergence as the health care center of the United States is its string of fine, modern hospitals which dot my native city.

One of the finest Greater Cleveland hospitals is Parma Community General located in the city in which I reside. A major reason for the fine reputation of Parma Community General Hospital is its hardworking administrator, John Nelson, who has held this important job since 1971.

John Nelson, a close personal friend of mine, has directed two major expansion programs in his 11 years at Parma Community General Hospital. The present expansion program will see the number of available beds increased to 321 by July 1984.

I can personally attest to the excellence of the hospital in that three of my four children were born there—namely, Ron Jr., 20, Ronda, 17, and R. Michael, 8. My fourth child, Amanda Leigh, 3½, was a premature baby and was born in Cleveland Metro General Hospital, another excellent facility we Clevelanders are fortunate to have.

Administrator Nelson, a native of Mason City, Iowa, has been in the health care field virtually all of his adult life. After receiving his bachelor's degree from the University of Iowa, and his master's degree from the University of Minnesota, he rolled up his sleeves and went to work in various capacities to make quality health care more attainable for all of us.

Immediately before taking over as Parma administrator, John Nelson was with the American Hospital Association in Chicago. He has held key positions with the Greater Cleveland Hospital Association and with the Ohio Hospital Association as well.

He is a civic leader in Parma. He presently serves as secretary and as a member of the board of directors of the Parma Chamber of Commerce.

John and his wife, Myrna, have three grown children, Craig, Kristine, and Nancy, and are blessed with two grandchildren.●

CONSTITUTIONAL BANKRUPTCY COURT

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. RODINO. Mr. Speaker, I am inserting herewith a letter from the National Conference of Bankruptcy Judges discussing some of the serious problems with the Judicial Conference's legislative proposals on the bankruptcy courts:

NATIONAL CONFERENCE OF BANKRUPTCY JUDGES,
December 10, 1982.

Hon. PETER W. RODINO,
Chairman, House Judiciary Committee,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN RODINO: We have reviewed the December 1, 1982 proposal of the Administrative Office of the United States Courts for restructuring the bankruptcy courts. This document represents a surprising turnabout of position by the Judicial Conference following as it does so closely in time their September 9, 1982 Report on H.R. 6978.

In the September 9, 1982 Report, in an effort to diffuse support for H.R. 6978, the Judicial Conference recommended an interim rule/Article I statutory approach to restructuring the bankruptcy courts that involved utilizing bankruptcy judges as special masters.

Both the Solicitor General and the Department of Justice immediately raised serious questions about the constitutionality of this Judicial Conference proposal and in addition labeled it as cumbersome and unworkable.

Also, in their September 9, 1982 Report, the Judicial Conference expressed great concern about the added cost of establishing Article III bankruptcy courts as contemplated by H.R. 6978, citing cost projections that no knowledgeable person would take seriously. The cost estimates in the House Judiciary Committee Report accompanying H.R. 6978 appear to be more accurate.

Apparently the concern of the Judicial Conference for cost was short lived. Now, in lieu of leaving the present system in place and converting the existing 220 full-time and 20 part-time bankruptcy judge positions to 227 lower eschelon Article III positions as proposed in the Rodino bill, the Judicial Conference suggests that Congress authorize 166 additional district court positions and 50–75 additional magistrate positions, in all up to 241 new judicial positions to handle bankruptcy matters on an integrated basis with the regular caseload of the district court. Further, to "guarantee that bankruptcy cases do not become 'lost' in the heavy caseload of the district judges and magistrates," the Judicial Conference recommends the creation of 120 new Bankruptcy Administrator positions. We presume that the failure of the Judicial Conference to include cost projections with its latest proposal is a tacit admission that the cost of implementing their new proposal would far exceed the cost of H.R. 6978.

For example, unlike H.R. 6978, the Judicial Conference proposal would require extensive modification of existing facilities because present facilities do not meet GSA requirements for district court judges, but would suffice for Article III bankruptcy judges. Also, under the Judicial Conference proposal new facilities would have to be provided for 50–75 new magistrates and their staffs and 120 new Bankruptcy Administrators and their staffs.

Aside from cost considerations there are other serious problems presented by this new Judicial Conference proposal.

Bankruptcy cases were removed from the regular caseload of the district courts by Congress in 1938 because bankruptcy matters required special and often immediate attention and were not being handled very well as part of the regular caseload of the district court. There is a far greater backlog in the district courts today than there was in 1938.

Civil actions arising in, out of, or related to bankruptcy cases could not be finally determined by magistrates except by consent of the parties and such consent is not likely to be given in actions by the trustee or debtor against third parties to recover assets of the estate, as was involved in the *Northern Pipeline* case, or in actions by creditors to reclaim property from the debtor. Absent consent, the magistrate, after hearing such a matter, must file a report and recommendation to be acted on by the district court. This procedure would result in greater delay and transaction costs (attorney fees) for the parties and involves an obvious duplication of judicial time and manpower.

The provision for appointment of 120 Bankruptcy Administrators by the United States appeals courts invests those courts with patronage power and supervisory responsibilities they may not wish to exercise.

The duties enumerated for the Bankruptcy Administrator are now being performed for the most part by the clerk and deputy clerks of the bankruptcy court, which calls into question the need for such an office.

All the persons who testified at House and Senate hearings on legislation to deal with the problem created by the decision of the Supreme Court in the *Northern Pipeline* case were unanimously of the view that the present bankruptcy system is working well and should be preserved to the maximum extent possible, as provided by H.R. 6978. The Judicial Conference proposal enjoys no such documented support. It appears to run against the grain of the historical experience that led to the development of the present efficient bankruptcy system.

Finally, the bankruptcy system that would be preserved by enactment of H.R. 6978 is precisely the system the Chief Justice voted with the dissent to uphold in the *Northern Pipeline* case, with the minor exception that instead of being appointed by the President for 14-year terms, bankruptcy judges will be appointed by the President to hold office during good behavior, a change, which according to the plurality opinions in the *Northern Pipeline* case, is mandated by the Constitution.

Yours truly,

JOE LEE,
Chairman, Committee on Legislation, National Conference of Bankruptcy Judges.●

THE HOUSE SHOULD VOTE ON REGULATORY REFORM

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. LEVITAS. Mr. Speaker, regulatory reform is one of the most important issues facing our Nation today. Many people ask how does regulatory reform acquire such an important position on the agenda of Congress, and on the President's list of priority items for this post-election session. The answer is very simple. The cost of regulation to the American people today exceeds $120 billion annually. Many of those costs are unnecessary, and every dollar that is spent on unnecessary regulation takes away from investment in new plant capacity and creating new jobs. And therefore, we see bipartisan support for the enactment of regulatory reform legislation.

In an op-ed article which appeared in the Wall Street Journal on December 6, 1982, John Opel, the head of the Business Roundtable's task force on Government regulation discusses the overwhelming costs of Government regulation. As he notes, it is time to give the House an opportunity to vote on this important legislation. At this point I place Mr. Opel's article in the RECORD.

[From the Wall Street Journal, Dec. 6, 1982]

THE HOUSE SHOULD VOTE ON REGULATORY REFORM

(By John R. Opel)

The post-election session of Congress offers the House leadership another chance to bring the long overdue regulatory reform bill to the floor for a vote. While the session has to deal with pressing budgetary and appropriations matters, time should be found to let the House act on regulatory reform. The president has designated this as one of the key issues Congress needs to address.

Regulatory reform does not mean doing away with regulation. It means making the regulatory process more rational. If anything needs a dose of rationality, it's the way regulations are developed and implemented, often with little understanding of the consequences.

Presidents Ford, Carter and Reagan have recognized the need for sweeping improvements and have done something about it. Their executive orders have gone a long way in the right direction. But these orders only apply to agencies within the executive branch and accomplish only part of what needs to be done. Moreover, executive orders tend to be stop-gap substitutes for legislation and can be reversed at any time. Regulatory reform deserves greater permanence and predictability.

The Senate has already recognized the need for comprehensive, intelligent and fair legislation covering the regulatory process. Under the sponsorship of Senators Laxalt, Leahy, Roth and Eagleton, a Senate bill was approved last March with bipartisan support in a 94–0 vote.

One wonders how many ill-conceived, badly implemented and enormously costly regulations might have had their quality improved had such legislation existed in the past. Businessmen in large and small companies see scores of examples each week of regulations whose benefits are obscure or marginal at best, yet require costly compliance.

No one seriously questions that the costs of regulation are staggering. Those costs are inflating the prices of just about everything Americans buy. They also make our exports less attractive. Some estimates have put the cost of regulation at over $100 billion a year.

Four years ago, the Business Roundtable's task force on government regulation sponsored a study that looked at only six federal agencies and the cost impact of their regulations on only 48 major companies. The results were carefully and independently audited. They revealed that just those 48 companies incurred extra direct compliance costs of a whopping $2.6 billion in the single year that was studied, 1977. This was equivalent to 10.1% of total capital expenditures of the 48 companies, 15.5% of their net income after taxes, and 43.1% of their total research and development expenditures.

The primary objective of the pending legislation is to ensure that regulations that will have major economic impact will undergo careful economic analysis. The idea is to make sure there will be a reasonable balance between the benefits of a regulation and the costs to realize them. Proposed regulations that have been assessed for rationality may then be implemented by the rulemaking agency.

A few critics have argued, incorrectly, that the new legislation would tie agencies in knots, relies too much on cost-benefit analysis, would give the OMB too much power, and would impose too many steps that would delay needed rules. Serious study of the proposed legislation proves such concerns groundless.

Some critics say that benefits cannot be reduced to numbers and that costs cannot be calculated precisely. No one insists on that sort of exercise. Indeed, the bill would not require agencies to mechanically weigh benefits and costs.

What the many supporters of regulatory reform seek is the gathering and analysis of information needed to make more rational decisions. The legislation calls for the simple imposition of some economic discipline in the rulemaking process to ensure that contemplated rules are justified and that the planned approach is efficient.

The legislation also would ensure a more accessible and rational regulatory process with improved agency accountability to the public. In addition, it provides improved recourse to the courts when an agency's actions are considered unjustified or outside its jurisdiction.

During this post-election session, the House should be allowed to vote on the consensus version of the bill offered by Congressmen Hall and Kindness. Otherwise we'll have the spectacle of inaction in the face of a unanimously favorable Senate vote and the support of most House members. It just doesn't make sense to allow a small minority to block action on this legislation.

And it doesn't make sense to have five years of sincere effort by men and women of good will in Congress, business, two administrations and the general public go on the legislative shelf. Scarce resources that are wasted on inefficient, over-costly regulations must be directed to capital investments that create jobs.

But first the House leadership must bring the regulatory reform bill to the floor for a vote. It shouldn't remain bottled up in the rules committee. It shouldn't get nitpicked or amended to death. It is a good bill, fair to business, public interest groups, regulatory agencies and the people.●

TRIBUTE TO GEORGE W. SMITH

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. ERTEL. Mr. Speaker, I would like to take a few moments to honor a man who has contributed so much in the field of education, Mr. George W. Smith, superintendent of Loyalsock Township School District.

Mark Twain once said, "It is noble to teach oneself, it is still nobler to teach others." George Smith quite appropriately fits this quotation. For 35 years, he has given of himself solely to teaching others. As an educated man in his own right, George had the will and desire to educate the youth. He has involved himself in both junior and senior high school education, very demanding and easily influenced age groups whose proper development is crucial to our society.

Mr. Smith, who is retiring as of January 1, 1983, will be remembered as a fine educator of mathematics, an outstanding principal and superintendent,

and an asset to the community. As a graduate of Bloomsburg State College with a bachelor of science in education, Mr. Smith went on to receive a master of science in education at Bucknell University, and then worked toward a doctorate at the University of Pennsylvania. He has dedicated his career to educating others both in the classroom and out, as an administrator and active member of many associations including the National Education Association, the Pennsylvania State Education Association and the National Association of Secondary School Principals.

In his 35 years in education, Mr. Smith has been a role model to the many students he has taught and an inspiration to his colleagues. And so, Mr. Speaker, I would like to congratulate George Smith on 35 years of remarkable service to our educational system and on behalf of his family, friends, and colleagues wish him the best of health and happiness in the years to come.●

TRA: A SAD TALE OF MINES, SHAFTS, AND BROKEN WORDS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. GAYDOS. Mr. Speaker, 20 years ago, when the Government of the United States decided that unilateral disarmament was the way to avoid the trade war we have now, it purchased the consent to disarm with a promise.

The promise was to the workers whose industries are now decimated by goods that probably could not be exported to the United States but for subsidies and dumping.

The promise was for trade adjustment assistance, which is financial and other help for workers whose jobs would be lost to the imports that this unilateral disarmament was sure to bring.

It was a textbook quid pro quo: A case of this for that; labor agreed to support the disarmament and Government promised to help with trade adjustment assistance. The compact was reaffirmed with the trade laws of 1974 and 1979.

Imports are certainly up. With a $44 billion trade deficit coming, and unemployment at 10.8 percent, they have never been higher. Has the agreement been kept?

"'I guess," says Lloyd McBride, president of the United Steelworkers of America, "it is the same old story; somebody gets the gold mine and somebody gets the shaft. The workers got the shaft."

Furthermore, Mr. Speaker, the traders got the gold and continue to get it because of subsidy and dumping.

Mr. McBride testified today before the Executive Committee of the Steel Caucus on the failure of trade adjustment assistance.

His words and thoughts on the subject are so forceful and full of insight that I commend them to the House without further comment:

STATEMENT OF LLOYD MCBRIDE, PRESIDENT, UNITED STEELWORKERS OF AMERICA, BEFORE THE HOUSE STEEL CAUCUS ON TRADE ADJUSTMENT ASSISTANCE, DECEMBER 14, 1982

At the outset, let me restate something you already know: The American steel industry and its employees are locked in an economic depression unlike anything since the 1930's. The outlook for the immediate future is bleak and no one has any idea of when or how the steel industry will recover. Many of our members—some 120,000—are facing economic disaster and all they hear from the White House are phony excuses and lame appeals to "stay the course." If nothing else, the recent elections should have sent the message that more than Presidential rhetoric is required to get the economy moving again.

Another fact that you already know is that at a time when our industry is operating at below 40 percent capacity, steel imports are approaching record highs, averaging 22.4 percent of our market which is about 25 percent higher than last year. According to recent decisions by the International Trade Commission and the Commerce Department, much of this steel trade is unfair. While the agreement with the European Community to limit future imports may bring some relief, we are very concerned that steel imports from other countries do not simply replace those from Europe.

Undoubtedly, there are a number of important factors contributing to the steel depression. Most of these are rooted in the general recessionary economic conditions affecting most of the world. Unfortunately, the recession came at a time when the steel industry was already suffering from severe problems of overcapacity and industrial restructuring. Thus, a weakened steel industry was caught up in a general economic downturn which for some became a recession but for us resulted in depression.

The misguided economic policies of the Reagan administration must, at least in part, be held responsible for the depth and duration of the recession. Moreover, Reagan's failure to recognize the errors and change policies so as to lead us out of the economic morass is only prolonging the social and economic pain of the American people.

I am here today to raise one particular issue confronting our members, especially those who have had to bear the brunt of steel imports.

The trade adjustment assistance (TRA) program was first conceived as a part of the Kennedy round of trade negotiations and was incorporated into the Trade Act of 1962. It has been refined and imporved upon in the subsequent trade laws of 1974 and 1979. Unfortunately, the program was largely decimated in the Budget Reconciliation Act of 1981.

As initially conceived, TRA was based on the idea that workers who were injured because of liberalized international trade policies should receive special consideration in an effort to help them adjust to changing trade patterns. Indeed, the various trade laws assumed, as a matter of policy, that lower trade barriers would result in increased unemployment in trade sensitive industries such as steel, and that the affected workers should receive special consideration.

Prior to the budget cuts, the heart of the TRA program was the provision of income maintenance benefits amounting to 70 percent of a worker's average weekly wage—not to exceed the national average weekly wage—for up to 52 weeks. For the first 26 weeks of trade-related unemployment, the TRA benefit was partially offset by regular State unemployment compensation benefits and could be further offset if the worker qualified for Federal extended benefits. The point is, that prior to the Reagan administration, workers who became unemployed due to foreign imports received some degree of special adjustment consideration throughout the eligibility period.

For all practical purposes those special considerations and, in fact, the whole notion underlying TRA have been largely eliminated. Basically, over the past 2 years two things have happened:

(1) At the administrative level nearly all of our petitions for TRA have been denied, and

(2) Legislatively, TRA benefits have been reduced to where they are indistinguishable from the regular State unemployment compensation program.

PETITION DENIAL

Since late 1981, our union has filed TRA petitions covering 93 steelmaking facilities. These petitions covered most of basic steel production where imports were high and unfair charges were made by the industry. Thus far, the Labor Department has only certified two of the facilities plus two partials. Seven of our petitions have been denied and the remaining 84 are pending, some as long as 14 months. Because of the method used by the Labor Department in certifying TRA petitions, we believe that most of our petitions will be turned down.

At the same time, steel imports have continued at record high levels. In terms of market share, imports in 1981–82 accounted for a larger share than in 1977–79.

With respect to TRA petitions, however, the 1977–79 period witnessed the highest level of steel petitions approved. In fact, during that period most of our petitions were approved compared to now when very few are being certified.

The question naturally arises, why? Why, if import levels are nearly the same and market shares even larger, does the Labor Department certify import affected steelworkers in 1977 and not in 1982? We asked that question of the Labor Department and were basically told it was because of the criteria used to determine import relatedness.

According to the Labor Department, when it receives a TRA petition, the primary factor to be determined is whether there is a shift in customer preference to imports. If such a shift to imports occurred, then TRA was certified. If there was no shift, on the other hand, then the petition is denied. The problem, as we understand it, is that once the customer shift to imports has occurred, the level of imports is no longer relevant for TRA purposes.

In other words, if in 1977, customer "X" of U.S. steel shifted his purchase from U.S. steel to foreign importers, then the affected U.S. steelworkers could be certified for TRA. However, if 5 years later the same customer "X" continues buying imported steel and, in fact, increases his purchases, the

Labor Department maintains that no customer shift has occurred and denies the petition.

Put another way, once a given customer shifts to steel imports, his future imports are no longer counted for TRA certification purposes, no matter how much imported steel he may buy.

If this indeed is the primary technical method for determining TRA certification, then we believe it should be more closely examined. While it may have had some validity when first developed, circumstances have changed radically in the last few years and we believe that the method might very well be flawed. Certainly, there is nothing in the law that requires the application of such customer shift criteria.

The other major administrative problem with TRA certification is the long lag time involved. Some of our petitions currently pending at the Labor Department were filed over 13 months ago and the affected worker may have already exhausted all of his unemployment compensation benefits and is still waiting on the labor department to make a determination. Given the economic hard times our steelworkers are suffering, we think that their petitions should be processed in a timely manner.

LEGISLATIVE CUTS

In 1981, the Congress approved Reagan's first budget reconciliation bill which included drastic cuts in the TRA program and which nearly eliminated the idea that trade impacted workers should receive special consideration. Indeed, the effect of the legislative cuts was to transform TRA into little more than a 52-week program which is identical in amount to the regular State unemployment compensation program.

In this respect, the budget reconciliation bill:

Cut the TRA, benefit level from 70 percent of a workers weekly wage (subject to a $289 cap), to the level payable under State law;

Required TRA certified workers to first exhaust all State and Federal extended benefits before receiving TRA; and,

Limited the combined State, Federal and TRA benefits to a 52-week period.

While the Reagan administration sought to make the group eligibility requirements even more restrictive, and while these restrictions were initially approved by the Congress, subsequent legislation prevented the restrictions from taking effect.

While the administration claimed that the changes in the TRA benefit structure would be to place the emphasis on training, it refused to make training an entitlement. The long time it is taking for the Department of Labor to conclude its investigation and render a decision means that the training option has run out for most of the workers who would consider retraining.

CONCLUSIONS AND RECOMMENDATIONS

The combination of adverse administrative actions and legislative cuts have all but eliminated TRA as a viable program for workers subject to trade-related unemployment. What little is left of the TRA program is more closely akin to the regular State and Federal unemployment compensation programs available to all workers. Thus, the original idea underlying the TRA program has largely been negated.

Indeed, with the recent passage of emergency unemployment benefit extensions—the Federal supplemental benefits—most eligible workers can receive as much as 49 weeks of unemployment compensation benefits. In this sense, the trade policy factor has largely become irrelevant.

Given this situation, we recommend that the Steel Caucus consider the following:

(1) Review the criteria used by the Labor Department in determining TRA certification in order to identify and correct, and flaws in that criteria. At the very least the Labor Department should be requested to review its criteria and methods in light of existing circumstances and steel import levels.

(2) Examine the Labor Department's long lag time in making a determination on TRA certification.

(3) Address the question of should we have a trade adjustment assistance program or not. This would involve a series of hearings and investigations that could contribute to any final decision on the TRA program which is scheduled to expire in September 1983.●

OPEN SEASON ON FREE TRADE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. DANNEMEYER. Mr. Speaker, one of the things that struck me as the House began debate on H.R. 5133, the domestic content bill, last week was the ironic twist of historic events relative to the position of our two great political parties on the trade issue. When the Smoot-Hawley Tariff Act of 1930 was enacted, it was signed into law by a Republican President, Herbert Hoover, after passage by a Republican Congress.

Today, however, we see more support for protectionism from Democrats than we do from Republicans. This is not to suggest that the opposition to the domestic content bill is a partisan matter. Far from it. I note with great interest that the able and distinguished chairman of the Committee on Ways and Means, Subcommittee on Trade, the gentleman from Florida (Mr. GIBBONS), continues to be a leading spokesman against the bill. Other speakers on the House floor in opposition to the bill have included the gentleman from Oklahoma (Mr. JONES), the chairman of the Committee on the Budget, the gentlemen from Georgia, (Mr. LEVITAS and Mr. BRINKLEY), and the gentlemen from Texas (Mr. PICKLE and Mr. HANCE). The vote on reporting the bill out of the Energy and Commerce Committee was also bipartisan, with my Democratic colleagues Mr. GRAMM, Mr. WAXMAN, Mr. GORE, Mr. WYDEN, and SANTINI opposing it.

It is also true that some of my Republican colleagues are supporting the legislation now before the House on domestic content. Even some conservative publications have recently made reference to protectionist responses to the economic challenges that confront us.

Nonetheless, all of us, to some degree or another, are students of history. The general switch of the positions of our parties should not go unnoticed. In this connection, I would like to point to a recent commentary by William F. Buckley, Jr., in which he made the following statement: "So here we are: the party of Hawley-Smoot, the GOP of protectionism, campaigning against tariffs. While the party of free trade, the Democratic Party, is attracted to reactionary policies. Well, well."

Mr. Speaker, far be it from me to counsel you and your party on electoral strategies. The history of the 1932 election following the passage of Smoot-Hawley in 1930 does not bode well for those looking to 1984 who are taking a protectionist line today. With international economic policy a major component of overall foreign policy, and with the need for a bipartisan foreign relations strategy as a major element of recent times, let us work toward a bipartisan effort in support of free and fair trade. Instead of shifting roles, let us have the parties come together in this effort.

Mr. Speaker, at this point I would like to insert the full text of Mr. Buckley's remarks into the RECORD:

[From the Washington Post, Dec. 9, 1982]

OPEN SEASON ON FREE TRADE

(By William F. Buckley, Jr.)

Flashback time.

Thirty years ago Herbert Hoover, heading up a commission to explore the ungoverned growth of government, handed in his report to President Harry Truman. It was a massive document, a remote paragraph of which recommended the termination of government subsidies to a small plant in Massachusetts engaged in the manufacture of hemp rope. The plant had been founded during the Civil War to produce a commodity not then available for one reason or another. Hoover's researchers discovered that hemp had become available in America in the early 1870s, but the plant, and its 87 employees, went on and on, surviving by government subsidy.

Truman called in Representative John F. Kennedy and said: go up to Hemptown and make a deal, the bottom line of which is that the United States government is going to get out of the business of making hemp at the taxpayers' expense. Kennedy made the trip, and devised what he thought to be the most munificent possible deal. Just agree to this—he said to the labor union—that no one who quits the hemp factory, or who retires, or who dies, will be replaced. That would mean that in, oh, 40 years, the hemp factory would simply wither away. Meanwhile, no one will lose his job. Okay? Answer: No. Not okay. Kennedy reported back to Harry Truman. What to do about it? Truman changed the subject. For all you know, tomorrow's hanging may be done with the use of hemp made in Massachusetts to cope with a shortage that arose during the Civil War.

Scene, 1960. Senator John F. Kennedy is campaigning in Massachusetts for the presidency, which is on the order of God campaigning in paradise. Massachusetts shoe

factories are depressed, and he is told that an encouraging word is always in order. So, he comes out for protecting native shoe industry from abroad.

And now Walter Mondale, heir apparent since the abdication of Senator Edward Kennedy to the title of Mr. America of Deep-Freeze Liberalism, is going about the country growling about foreign imports. Causing a certain discreet embarrassment to his rooters inasmuch as, dating back to Adam Smith, the idea of tariff barriers has been thought the essence of illiberalism, besides being very bad economics.

But, you say, isn't free trade something that requires two to tango? There is no doubt that Europe is beefing up its tariff walls, and doing so rather blatantly. (The other day, an Englishman who ordered a pair of Timberland shoes from the Lands' End catalog for $60 paid $60 in duty to Her Majesty's customs office.) The Japanese have refined tariff barriers so anfractuously set up as to make it impossible to find out just who is keeping the American car or the American computer from ever getting sold. No law is there to block it, it's just those forms . . . and delays . . . and unwillingness of the merchant to stock the stuff. . . . and you give up.

The American protester then rises to a point of philosophical order. Okay, he begins. We Americans ought to compete. And I repudiate, for the record, any request that the government protect my industry. But do you call it competition when the government I am trading with—let's say, South Korea—is subsidizing its shoe factories? So that a pair of shoes that sells here for $30 is actually being subsidized to the tune of $15. The kind of "export subsidies" President Reagan criticized in his speech in Brazil the other day. Why shouldn't we get a $15 protective tariff so that our shoe manufacturers would be competing against their shoe manufacturers, at the real economic cost?

The protester has to be answered as follows: 1) It is virtually impossible to calculate the true economic cost of a product being imported. The most skillful accountant in the world can't arrive at the exact figure, which needs to take into account domestic taxation, foreign taxation, monopoly or oligopoly leverage, etc. 2) If the U.S. government has grounds for concluding that a foreign country is engaged in an act of economic aggression—i.e., attempting to bankrupt an American business so as subsequently to step in amid the ruins in order to gouge the American consumer—then you call not for fine-tuned tariffs, but for an embargo. The proper role of government is political, not economic. 3) Otherwise, you let things go, remembering that cheap goods in America are of very direct benefit to those who consume those cheap goods, and that the dollars being paid for those cheap goods are of no use whatever to the foreign country—except to buy things from America, giving Americans jobs.

So here we are: the party of Hawley-Smoot, the GOP of protectionism, campaigning against tariffs. While the party of free trade, the Democratic Party, is attracted to reactionary policies. Well, well.●

THE AFTERMATH OF PROPOSITION 15

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. HUNTER. Mr. Speaker, how often have we heard the false claims of those who seek more Government restrictions on firearms ownership that the majority of the public is on their side, that the will of the people, as shown in various national public opinion polls, demands stronger gun controls?

I think we can now lay these claims to rest with the outcome of this year's general election. The results show clearly that voters not only reject gun control, but are taking steps to insure the protection of their right to gun ownership.

In New Hampshire and in Nevada, citizens voted overwhelmingly to add to their respective State constitutions amendments protecting the right of the individual citizen to keep and bear arms. These measures gained more than 70 percent of the vote in each State.

And in California, with one of the highest voter turnouts in history, a far-reaching gun control proposal, billed by its proponents as a handgun registration measure, was decidely rejected by a 63- to 37-percent margin. That California vote is especially pertinent for my colleagues who will undoubtedly face legislative proposals for more gun control in the coming session of Congress.

The following commentary from the National Rifle Association's legislative newspaper, Reports from Washington, accurately summarizes what the California vote means. I ask that it be inserted in the RECORD for the benefit of my colleagues so that its message will, indeed, not be lost on those of us in Washington.

THE AFTERMATH OF PROPOSITION 15

Before the elections, when they still boasted a 2-1 margin in the polls, Proposition 15 supporters described the anti-gun measure in all manner of glory.

"If we're successful here," proponent John Phillips told the Tribune Company News Syndicate, "it will do more than break the myth of the invincibility of the gun lobby. What this is designed to do is tell (the public) they can vote their consciences."

With Prop. 15 "you have 10 percent of the American electorate voting on gun control," said Charles Orasin of Handgun Control, Inc. "Their message will not be lost on the politicians in Washington."

San Jose Police Chief Joseph McNamara, one of the few California lawmen to support Prop. 15, put it more bluntly: "We don't have to depend on scared politicians this time," he told the *Washington Post*. "It's the vote of the public."

They were right, of course, and the press lapped it up. Editorial after editorial came out in favor of Prop. 15, as the media felt sure it was backing a winner.

That changed Nov. 2. Prop. 15 went down by nearly a 2-1 margin, and with it, the balloon of the gun control groups.

What did the press say afterwards? California voters were "conned or panicked out of (their) own best democratic impulse" by a well-organized media blitz, the *Atlanta Constitution* said. The *Los Angeles Times* argued that "the will of the people has been thwarted by a vocal, well-financed minority." And the *Washington Post*, in its paltry explanation for Prop. 15's defeat, could credit only a "stubborn unwillingness among most of us to give up an old familiar option."

All the explanations and rationalizations have ignored the obvious: people, not pollsters, pull the ballot-box levers. When the curtain closes behind them, voters are completely free to wipe out public education campaigns, multi-media blitzes or the morning editorial if they so desire.

After his presidential bid failed some years ago, U.S. Sen. Barry Goldwater was asked by newsmen to explain his defeat. "The other fellow got more votes than I did," he quipped.

That is exactly what happened in California Nov. 2. In this country's truest exercise of the freedom of choice, voters overwhelmingly rejected gun control. They said the same thing in Massachusetts in 1976 and they will say the same thing in the future. That is the simple beauty of what happens when mean and women are indeed allowed to "vote their consciences."●

GILMAN SEEKS REPEAL OF WITHHOLDING OF INTEREST ON SAVINGS ACCOUNTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. GILMAN. Mr. Speaker, today I am introducing one measure which would begin to relieve some of the inequities created by passage of the Tax Equity and Fiscal Responsibility Act of 1982. I am, of course, referring to that provision of the law which would impose a 10-percent withholding requirement on interest and dividend income, effective July 1, 1983, and my bill would repeal that inequitous provision.

When the House of Representatives voted on the conference report of this tax bill, I spoke out against it for several reasons, not the least of which was the withholding requirement of which I now speak. My feelings remain the same today, and it is because of mounting dissatisfaction with this section of the law in my district that I feel the need to enact legislation which would repeal this provision.

When one considers the pros and cons behind the enactment of a requirement such as this, it becomes apparent that as a revenue enhancing device, expectations are for a tax collection of $10.6 billion over the next 3 years. However, that aspect is the only

favorable portion of the legislation. There are so many more negative aspects that outweigh the need to create revenue and those arguments far outweigh that one "pro" argument. The most glaring argument against the withholding of interest and dividends is that it is quite simply a tax on savings and investments, which burdens the honest taxpayer at a time when we have committed ourselves to solving the economic ills of this Nation. This in turn leads to a lessening of the disposable income available to the consumer, which consequently leads to a disincentive to reinvest such interest income. Not only does this section discourage savings, but it assumes that the average taxpayer shirks responsibility in reporting such interest income.

I know the people of my district to be honest and devoted Americans, and I feel that enactment and administration of this section of the tax bill suggests otherwise. It is an affront to the dignity of the people of this country to suggest that deliberate unreporting of earned income earned from savings and dividends to the Internal Revenue Service; it is an injustice to penalize the American people on this matter. Furthermore, administering this requirement will ultimately fall to this Nation's financial institutions, who estimate $1 billion in startup cost while at the same time forseeing $1 billion in carrying out the administration of this tax each and every year. We can only assume that this projection will change drastically in a few years, and that amount will start to creep well above the $1 billion mark. And as we well know that these administrative costs will be passed along to the consumer—the very individual who is being taxed. Accordingly, this provision is in actuality a double tax—the initial tax, and the subsequent higher charges for services rendered by financial institutions. Some even foresee the lowering of interest rates on savings accounts, as these institutions find themselves unable to fully absorb the costs brought about by enactment of the tax bill during the summer. This tax is wrong and inequitable. I urge my colleagues to support the adoption of my bill and I ask that a full text of my bill be printed at this point in the RECORD for the edification of my colleagues.

H.R. 7417

A bill to repeal the withholding on interest and dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to withholding on interest and dividends), and the amendments made by such subpart, are hereby repealed; and the Internal Revenue Code of 1954 shall be applied as if such subpart (and amendments) had never been enacted.●

THE REGULATORY PROCEDURE ACT OF 1982

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. LEVITAS. Mr. Speaker, over the past few months the House leadership along with representatives of the business community, representatives of so-called public interest groups and other parties have negotiated a compromise version of H.R. 746 which resolves the major concerns over the original regulatory reform bill. A few critics, however, have tried to raise a confusing smokescreen of questions about the bipartisan compromise bill. In order to answer these questions and set the record straight, the Business Coalition on Regulatory Reform has developed an analysis of the compromise version of H.R. 746 which responds to the objections which have been raised.

I hope that each of you will take the time to read through this analysis and become more familiar with this important legislation. It is time to relieve the American people of burdensome regulations. It is time to make our regulatory process more fair, open, and accountable. The compromise version of H.R. 746 will do just that.

At this point, I would like to place in the RECORD, the Business Coalition on Regulatory Reform's response to the major objections raised to H.R. 746. I believe that after reading this analysis, you will see that it is difficult to object to this legislation which will be of great benefit to the American people.

RESPONSE TO THE PRINCIPAL OBJECTIONS THAT HAVE BEEN RAISED TO THE COMPROMISE VERSION OF H.R. 746

The compromise version of H.R. 746 is the culmination of years of analysis, negotiation and compromise. As discussed in Part II of this document, the bill represents a carefully drafted and well-balanced legislative attempt to make a number of sorely needed improvements in the procedures and practices that agencies follow in formulating and adopting regulations in informal rulemaking proceedings. If enacted into law, it will result in rules that are better crafted, better supported, better understood and better accepted than has often been the case in the past.

Nevertheless, critics of the legislation portray the bill as a threat to the regulatory process, to the independence and jurisdiction of federal agencies, and to the underlying enabling statutes administered by those agencies.

We believe these criticisms are demonstrably incorrect and cannot survive an objective examination of the bill's provisions. The principal arguments that have been raised against the compromise bill and the answers to those arguments appear in the sections that follow.

1. THE ALLEGATION THAT THE BILL WOULD TIE AGENCIES IN KNOTS AND CREATE AN AVALANCHE OF LITIGATION

The claim that the analytical and procedural reforms embodied in the compromise version of H.R. 746 would effectively chock off agency rulemaking activities is an argument commonly advanced whenever proposals are made to reform the regulatory process.

The compromise version of H.R. 746 is the product of long and careful negotiations that took place over the course of the last two Congresses. As a result of those negotiations, the bill was carefully refined, and its analytical and other procedural requirements were significantly streamlined. Indeed, many of the public interest groups that had criticized the regulatory analysis requirements of the original committee bill have acknowledged that the cost-benefit provisions have been improved significantly in the compromise version of the bill. For a variety of reasons, these requirements would not stymie agency rulemaking activities.

First, whenever one is considering the additional burdens that may be involved in performing a regulatory analysis, it is essential to bear in mind that the analytical requirements apply only to major rules—basically, those fifty to one hundred rules per year that will have an annual impact on the economy of $100 million or more. It does not seem too much to ask that rules of such far-reaching impact be analyzed carefully by the agency and that reasonable alternative means of accomplishing the rulemaking objectives be considered. A succession of administrations, both Democratic and Republican, have agreed on this point, as reflected in executive orders imposing regulatory analysis requirements on executive branch agencies.

Second, there is no substance to the allegation that the regulatory analysis requirements for major rules will tie agencies up in endless litigation over asserted failures to comply with the new provisions. For all practical purposes, the compromise version of H.R. 746 excludes courts completely from review and enforcement of the regulatory analysis process. No judicial review is permitted of the decision whether or not to treat a rule as a major rule or of the adequacy of an agency's compliance with the regulatory analysis requirements. Consequently, these analytical requirements cannot give rise to the spate of litigation that has been predicted by some critics of the bill.

Third, while the bill would establish a requirement for oral presentations, accompanied in some instances by limited cross-examination, this additional opportunity for public participation (which applies only to major rules) can hardly be expected to tie an agency in knots. The fact is that many agencies commonly and successfully utilize informal public hearings (often with cross-examination) when considering major rules today. And the compromise version H.R. 746 provides agencies with broad discretion to regulate the course of such informal public hearings "in order to ensure orderly and expeditious proceedings." The bill specifically authorizes agencies (1) to limit the time allowed for oral presentations and cross-examination, (2) to establish procedures designed to limit cross-examination to significant issues of fact which the agency determines could not adequately be resolved by other means, and (3) to designate "repre-

sentatives to make oral presentations or engage in cross-examination on behalf of persons with a common interest in the rulemaking." (Section 622(e).) Moreover, the compromise version of H.R. 746 carefully limits the scope of judicial review of an agency's failure to allow cross-examination, using as its model the comparable provision of the Clean Air Act, which has been praised by environmental groups in the past.

One last observation: Some critics allege that H.R. 746 would require an agency to maneuver through thirty-two procedural steps to adopt a rule instead of what they assert is the current six. Neither of these numbers (thirty-two of six) has any meaning or validity as used by the critics. To be sure, H.R. 746 would require an agency to provide more complete information for its major rules than currently is required. But the fact is that, under the compromise version of H.R. 746, an agency would proceed through the same basic steps that it now follows in adopting a rule—i.e., publishing a proposed rule (along with a supporting explanation and information), receiving public comment on the proposal, and publishing a final rule (along with an explanation of its basis and purpose).

In short, the allegation that the bill would tie an agency in knots, produce endless litigation, and effectively choke off agency rulemaking is unfounded. Indeed, some of the very groups that have raised this claim in a general way have, at the same time, taken an opposite tack by suggesting that the bill be revised to impose additional requirements for including material in the rulemaking file and for more detailed explanations by the agency of its evaluation of factual materials.

2. THE ALLEGATION THAT THE BILL PLACES TOO MUCH RELIANCE ON COST-BENEFIT ANALYSIS

The assertion that the bill places undue reliance on cost-benefit analysis for major rules cannot be maintained. In fact, the bill does not require that all benefits and costs of a rule be quantified in any terms, let alone in dollars. Nor does it require agencies mechanically to weigh the costs and benefits of a rule and to reject any rule whose costs outweigh its benefits. Under the bill, an agency is required only to analyze "the extent to which the benefits of the rule justify its costs." (Section 622(c)(5).) Both "benefits" and "costs" are defined broadly to include health, safety and environmental, as well as economic and other effects. (Section 621(a)(2) and (3).) In these circumstances, the determination of whether the "benefits" of a rule (as broadly defined) "justify" its "costs" (as broadly defined) will be essentially a matter of agency judgment, and that is as it should be. Moreover, as discussed above, courts will have no authority whatsoever to second-guess the agency's judgment on this point. Finally, even where the benefits of a rule do not justify its costs, an agency would still be free to adopt the rule; it simply would explain its decision to do so. (Section 622(c)(5).)

By the same token, while an agency would be expected to analyze alternatives to the rule that attain the rulemaking objectives "in a manner consistent with applicable statutes," it would not be required to adopt such an alternative simply because it has lower costs than the rule itself. Again, the only requirement is that the agency state its reasons for selecting the rule rather than a lower cost alternative that would accomplish the same objectives. (Section 622(c)(6).)

Finally, nothing in the bill requires agencies, in performing the foregoing analyses for major rules, to quantify costs or benefits that cannot reasonably or responsibly be quantified. The fact is that H.R. 746 would not require agencies to place a value on human life or health. Any claims to the contrary are absolutely untrue.

3. THE ALLEGATION THAT THE BILL BRINGS INDEPENDENT AGENCIES UNDER THE CONTROL OF OMB AND PERMITS OMB TO DISPLACE AGENCIES IN THE EXERCISE OF RULEMAKING DISCRETION

The claim that the compromise version of H.R. 746 would bring the federal agencies, particularly the independent agencies, under the thumb of OMB is demonstrably untrue. In fact, except for its role in coordinating the preparation and publication of agency regulatory agendas in a single issue of the Federal Register, OMB is not even mentioned in the bill. Moreover, the limited new authority that the bill confers on the President—namely, the authority to designate new or existing rules as "major" rules and to modify the schedule for review of rules—expressly may not be delegated to OMB or anyone else. (Sections 621(b)(1) & 641(a)(2).)

To be sure, Section 624 of the bill does contemplate limited presidential review of agency compliance with the new analytical requirements for major rules, and a limited delegation of that authority is permitted. But this basically is authority that the President has today. And it is particularly important to preserve this authority, since the bill permits virtually no judicial review of agency compliance with the new analytical requirements. Therefore, the provisions of Section 624, which apply only to major rules, have been carefully designed to avoid making any essential change in the existing status quo regarding the President's constitutional and statutory authority vis-a-vis the federal agencies.

Thus, Section 624 contemplates that the President will establish guidelines and procedures relating to agency compliance with the new requirements for major rules. But the provision does not give the President any new authority to enforce such guidelines and procedures. To the contrary, the bill contains a variety of safeguards to protect against presidential interference with either the timing or the substance of agency rulemaking.

For example, the President is specifically precluded from utilizing authority under Section 624 "to prevent an agency from proceeding with a rulemaking or issuing a proposed or final rule" or "to require an agency to modify a proposed or final rule." Similarly, the bill explicitly states that the authority of the President under Section 624 does not "change the standards applicable to agency action under any other provision of law." Indeed, the bill contains a separate savings clause, Section 626, stating that nothing in the entire chapter dealing with major rules "(1) limits agency jurisdiction to prescribe a rule, (2) relieves an agency of statutory requirements applicable to rulemaking , or (3) displaces rulemaking authority vested by statute in an agency." In addition, even without such explicit statutory safeguards, an agency could not lawfully adopt a rule that is unsupported by the rulemaking record or that otherwise represents an abuse of its discretion—and could not unlawfully withhold or unreasonably delay rulemaking action—regardless of what the President might desire.

In fact, the compromise version of H.R. 746 actually imposes a new restriction upon presidential involvement in rulemaking proceedings. The bill's amendment to section 553 of the APA would require agencies to place on the public record materials relating to involvement by the President or his designee (including OMB) in any informal rulemaking. In this important respect, the bill may be seen as a limitation on authority that the President currently is free to exercise with respect to agency rulemaking proceedings.

In short, the numerous safeguards contained in the compromise version of H.R. 746 carefully preserve agency independence and ensure that the rulemaking authority and discretion that Congress lodged in the agencies is not shifted to OMB.

4. THE ALLEGATION THAT THE BILL WOULD UNDERMINE STANDARDS OF SUBSTANTIVE ENABLING STATUTES

The claim that H.R. 746 would somehow undermine the standards of substantive enabling statutes can be disposed of quickly in light of the proceeding discussion. As noted on page 11 above, the bill does not establish a new cost-benefit or cost-effectiveness standard that agencies must satisfy in adopting all major rules. The standards set forth in the enabling statute pursuant to which an agency is acting continue to apply with full force and effect in the rulemaking proceeding. If there were any doubt on that score, it would be resolved by Section 622(g) of the bill, which states in no uncertain terms:

"The requirements of this section do not change the standards applicable to agency action under any other provision of law or relieve an agency of procedural requirements imposed by any other provision of law."

A similar refrain is sounded in at least two other provisions of the bill. Thus, Section 626, as noted above, makes clear that nothing in the bill "relieves an agency of statutory requirements applicable to rulemaking." And Section 624 states that authority exercised by the President under that provision does not "change the standards applicable to agency action under any other provision of law."

In light of the foregoing, there is no substance to the claim that the bill undermines the standards applicable to rulemaking under substantive enabling statutes.●

TACTICS OF AN ACE IN THE CONGRESSIONAL AIR WARS

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. McCLOSKEY. Mr. Speaker, as the 97th Congress comes to a close, I think posterity should be afforded the privilege of reading about the work of one of our most distinguished colleagues, the Honorable Henry Waxman of California, on a crucial issue before the House.

I attach the article of Michael Barone which appeared in today's Washington Post entitled "Tactics of an Ace in the Congressional Air Wars."

[The Washington Post, Dec. 14, 1982]

TACTICS OF AN ACE IN THE CONGRESSIONAL AIR WARS

(By Michael Barone)

The Reagan administration came to office determined to reduce government regulation of business, and in dollar terms, one of the most expensive forms of regulation is the Clean Air Act. It came up for renewal in September 1981, and the administration, the auto industry, the coal industry, the steel industry, and the utilities all looked forward to this deadline as an opportunity for what they like to call regulatory relief. In January 1981, it seemed likely they would prevail. The potential majority was there: most Republicans plus Democrats from auto, steel and coal constituencies. But the act wasn't revised, and the old provisions remain in effect.

One reason is that the administration and its allies made some mistakes. Another is Sen. Robert Stafford, chairman of the Senate committee that handles the issue; up for reelection in environment-conscious Vermont, he had strong environmentalist backing, and skillfully got his committee to approve a bill that in many ways increased rather than decreased regulation.

But much of the credit—or blame—for the failure to change the Clean Air Act must go to Rep. Henry Waxman (D-Calif.), the 43-year-old chairman of the House Energy and Commerce Committee's subcommittee on health. Chairing a subcommittee with a clear 12-8 majority for revision, and with a full committee chairman who dearly wants relief for the auto industry, Waxman maneuvered and delayed masterfully, preventing action until he had the votes to win. He proved himself to be one of the shrewdest legislators in Congress—and one of the most powerful. The story is worth pondering.

Henry Waxman doesn't look the part. He is 5-feet-5 and bald, with a mustache that could almost be called bushy. Though he represents central Los Angeles, he is not fashionable; he once practiced law in Beverly Hills, but he grew up in Watts, over his family's store, and the closest thing to a Mercedes he has driven is the Buick he was provided as a California assemblyman. He talks in a quiet voice, and, to hear him tell it, he gets along well with everyone he deals with.

Yet he is obviously not a political innocent. At 29, he beat an elderly assemblyman; in his second term, he was made chairman of the Redistricting Committee—not a position entrusted to the naive. He was elected to Congress in 1974; only four years later he got himself elected chairman of the health subcommittee—arguably the most important subcommittee, year in and year out, in the House. And he beat a popular and more senior member, Richardson Preyer, who had the support of the leadership.

In the fight for the subcommittee chairmanship, Waxman operated as they do in Sacramento, pushing hard and unapologetically for support: he emphasized his support of national health insurance, he argued that as a North Carolinian, Preyer would have to support the tobacco industry, and he suggested Preyer might have conflict-of-interest problems because of his family pharmaceutical stock holdings. Waxman also made campaign contributions to some committee Democrats—a common practice in Sacramento and one also engaged in by House Democratic leaders, who nonetheless criticized him for it.

He added another reason: "I know more about health issues than anyone else in the House." House committee and subcommittee chairmen have, since 1974, been elected rather than selected automatically by seniority, and so chairmen now tend to be more in line with the views of their party's members and are more likely to be qualified. In the case of the Clean Air Act, this has given the health subcommittee a chairman who opposed the revisions the administration sought and who had the legislative competence to make his views prevail. Here is how:

May 1981. The administration agreed to a five-year extension for compliance deadlines for the steel industry. This was a deal reached by the Carter administration, the steel companies and the United Steelworkers; by going along, the Reaganites kept everyone happy but lost a key ally: the steel companies and union no longer had an urgent reason to seek changes.

June 1981. Waxman got hold of and released a copy of the administration's draft proposals for revising the act. He called them "radical," and they sparked protest that threw the Environmental Protection Agency into consternation and kept it from ever submitting detailed legislation. When asked how he got the draft, Waxman just smiles; presumably it come from an EPA employee opposed to the administration's ideas.

September 1981. Waxman assembled his subcommittee to hear testimony on the Clean Air Act and public opinion from pollster Lou Harris. The message was unequivocal. "Never in my career," said Harris "have I seen such strong opinion on one side of an issue." Harris told the members it would be political suicide to change the Clean Air Act. Waxman and others believe his testimony had a deep impact, not just on the subcommittee but on congressmen generally.

December 1981. Waxman got the ranking Republican on the health subcommittee, Edward Madigan of Illinois, plus the chairman and ranking Republican on the full Energy and Commerce Committee, John Dingell (D-Mich.) and James Broyhill (R-N.C.) to sign a letter requesting additional technical information from EPA.

Getting those signatures could not have been easy. Madigan, though not necessarily a Reagan ally on the Clean Air Act, was not an ally of Waxman by any means. Dingell, one of the most aggressive chairmen in the House, represents a suburban Detroit district that includes most of the Ford Motor Company's Michigan plants; he was fighting desperately for relief for the auto industry. He lost a major Clean Air Act fight against Waxman's predecessor, Paul Rogers, in 1977, and he is one of the most aggressive members of the House. Broyhill is from a family of furniture manufacturers and has often carried the ball for business groups. Their agreeing to sign Waxman's letter is testimony to his detailed knowledge of Clean Air Act issues.

March 1982. The health subcommittee passed a revision of the Clean Air Act backed by the administration. Waxman lost votes on important provisions by identical 12-8 margins.

April 1982. The full Energy and Commerce Committee voted 25 to 12 against relaxing air standards in national parks and wilderness areas. Two days later, Chairman Dingell suspended the committee's markup sessions. The western utilities lost their key provision, and the administration's coalition was in danger of unraveling; relief for the auto industry—the No. 1 issue for Dingell—was imperiled. Apparently unable to rally a committee majority, Digell suspended action for three months.

August 1982. Dingell opened hearings, apparently with a majority. But Waxman beat him 21-20 on airborne hazardous pollutants, scuttling a provision of key importance to the chemical industry. With two weeks to go until Congress recessed, Dingell and Broyhill refused to negotiate with Waxman, and Waxman resorted to delaying tactics, objecting to the absence of a quorum at committee sessions and objecting on the floor of the House to committee meetings while the House was in session. Stafford's committee in the Senate passed a bill largely extending the current Clean Air Act and adding tough acid rain provisions.

"I'd clearly won a victory," Waxman says. "Now the question is whether we can look at the changed realities and see where we can compromise." "We" includes, he says, Dingell and the various industries; but he and his environmental allies have some new items they want, too: tougher prohibitions on airborne hazardous pollutants and on acid rain.

The Reagan administration's main leverage is a threat by EPA to enforce strictly some Dec. 31, 1982, deadlines that everyone agrees should be extended. But in the first two weeks of the lame-duck session, the bill has gone nowhere, and it seems unlikely to move farther in 1982. In the next Congress, the fulcrum point of compromise will surely be in a much different place than it was in January 1981. The big industries will not get what they want without major concessions to such legislators as Waxman and Stafford.

So in this important area the Reagan administration has failed to dismantle or make less expensive a regulatory system it strongly opposes. The Democrats, who were the architects of so many of these laws, are concentrating on keeping their edifices intact, and they have the skill and, ultimately, the popular support, to do so.

The Republicans are now the party of change and the Democrats the party of the status quo. Legislators like Waxman are practical men of affairs who understand instinctively the way the system works and keep it going; their opponents seem to have a tin ear for politics and make numerous mistakes. The legislative skill of men like Waxman enables them to fight the battle, ultimately, on the most favorable ground, and to maneuver fights until they have the voters behind them on a given issue. For on the big-dollar regulation issues, it is not so much the public as it is businessmen who want change.

Businessmen look at men like Waxman and see them almost as radicals; it's hard for them to understand that, in the House and in major state legislatures, at high levels of state and local government, people like Waxman decide things and get things done. There is a historical analogy here: during the 30 years after Roosevelt's New Deal, Congress and state legislatures were run mostly by men who strongly opposed the New Deal. Now, while Reaganites staff the top levels of the federal government, people who support the welfare state and the regulatory status quo wield most of the power in legislatures and administrative branches of government. So, while the Reaganites prevail on a few highly visible issues like tax cuts, they are losing most of the quieter but certainly very important fights like the one over the Clean Air Act.●

HONG KONG AND THE FLAT TAX RATE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. DANNEMEYER, Mr. Speaker, now that support for the flat-rate tax has ripened in recent months both in the minds of the Congress and the American people, the time has come to properly question the claims of those who insist that a flat-rate tax simply will not work as its proponents intend.

History tells us that experience is the best teacher. For that reason, it is worth looking at what has happened in the territory of Hong Kong. Hong Kong is presently the only country in the world whose tax structure resembles the flat-rate variety, and its inhabitants have little reason to apologize for that fact. Since April 1, 1966, when a standard rate of 15 percent for individuals and 16.5 percent for corporations was enacted, Hong Kong has enjoyed one of the simplest, and also the lowest, forms of taxation of any nation on this Earth. Compared to the 6,000 pages of small print that comprise the United States Tax Code, Hong Kong's tax statute lists only 5 tax deductions, exemptions, or credits—a personal deduction, a deduction for dependents, a credit for charitable contributions, a deduction for business related expenses and an exemption for all those making less than $5,000 per year. As the Deputy Commissioner of Hong Kong's income tax division puts it: "Our philosophy is not only to keep each and every taxation levy, be it direct or indirect, simple and easy for the taxpayers, but also productive and inexpensive for the Government to administer."

If anything, the tax policies of Hong Kong have surpassed those objectives. In 1948, in the period immediately following World War II, Hong Kong was in the economic doldrums. An impoverished and devastatingly depressed state, its annual per capita income stood at a mere $180. But, since that time, minimized disincentives on savings and investment due to the low levels of taxation have led to an economic growth rate of 9 percent per year in Hong Kong, including double-digit growth in the past few years. Even in the "recession" year of 1981, investment and job creation stimulated by low rates of taxation held the unemployment rate in Hong Kong to 3.8 percent. And that is not all; due to a narrow tax base and low standard rates of taxation, rapid economic growth has been facilitated which, in turn, has yielded increased tax revenues for the Government. Currently, Hong Kong has a budget surplus, a near absence of public debt and no need to resort to the inflationary practice of deficit financing. At the same time, Hong Kong provides its citizens with a rather generous social safety net including extensive housing, education, health, transportation, social security, and other community services, not to mention the fact that the poorest 20 percent of the population has made the most of the fivefold increase in per capita income that has taken place since 1948. Is it any wonder then that officials in Hong Kong are so enthusiastic about the virtues of a simple and inexpensive way to implement tax system?

Of course, Hong Kong is not the United States and what works there might not work here. But we, in this country, have already experimented extensively with a progressive income tax system that is neither simple nor inexpensive and our experience suggests that the more complex and expensive the system gets, the poorer the economic results. Thus, it should not be surprising that a number of measures have been introduced into Congress that would reform our tax laws. Some of these aim at a greater redistribution of income than at either a reduction or a simplification of our current tax burden. These should be avoided like the plague of our present system. But others resemble, to a greater or lesser extent, the true-to-life example Hong Kong has provided us. That being the case, the least we can do is give these proposals a closer look. If those who fail to learn from the mistakes of history are destined to repeat them, then it stands to reason that those who absorb the lessons of history can benefit accordingly.●

TRAINING THE MILITARY WITH ELECTRONIC TRAINER

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. HUNTER. Mr. Speaker, against the backdrop of today's record costs associated with recruiting, training, and retention of our military forces, it is encouraging to note the rapidly emerging technological developments involving electronic simulations, a presence only now beginning to be felt that can save U.S. taxpayers untold millions of dollars.

Moreover, the application of simulation systems has already replaced the need for costly and scarce actual hardware that, until now, has been required for hands-on training in the military environment.

There are 32 electronic equipment maintenance trainer devices, for instance, placed in classroom use earlier this year at the U.S. Naval Training Center.

Technicians enrolled at this school are graduated at a rate of 4,000 annually for assignment to the fleet.

Before introduction of the trainer device at this school, Lt. Comdr. Charles Arsta, its officer in charge, stated that he faced two major problems: Too many students for classroom capacities and too few shipboard radar systems on which his students could be trained.

Even with 10 of the AN/SPN-10 radar systems available, the costs for installation and maintenance totaled more than $1 million.

This cost will be cut by more than $700,000 in 1982 through use of the new trainer devices, which were designed and produced by Cubic Corp. in San Diego.

Further, Capt. Charles E. Heiland, commanding officer of Service Schools Command of which the electronic technicians school is a part at Great Lakes, reports that classroom capacities and training capabilities have been increased by more than a third.

Costs for training these specialists, meanwhile, can be cut by 36 percent. An additional benefit is recognized in the improved performance test scores, up to 10 points, since use of the new devices began earlier this year.

The technology involved in development of the electronic equipment maintenance trainer device draws on integrated computer simulation in establishing a self-paced learning environment. Each device consists of a student console containing a cathode ray tube (CRT) display, touch panels, videodisc player, microcomputer, dual floppy discs and internal electronics.

Students interact with the trainer device through touch panels on the face of the video (color CRT) display and an adaptive black and white display.

Up to 108 images can be recorded on each floppy disc, illustrating maintenance procedures and trouble shooting techniques. By touching the face of the display, students cause the device to respond pictorially in a manner similar to the way actual equipment would respond.

The devices currently in use are two-dimensional while a second version of the trainer device offers three-dimensional capabilities.

Cubic has developed in the course of 10 years a broad range of electronic systems and devices, one of which has gained global prominence as a method of training combat fighter pilots.

This high technology company has installed seven training ranges in the United States and three abroad, providing realistic air-to-air combat training for U.S. Air Force, Navy, and Marine pilots, as well as fighter pilots for allies.

An estimated cost savings by the Navy is identified as nearly $100 mil-

lion through use of Cubics' tactical aircrew combat training system. And Air Force users of Cubic's air combat maneuvering instrumentation ranges have achieved corresponding savings.

Through electronic simulation of weapon firings, no actual missiles are expended, yet pilots extract maximum realism from the training exercises. And following each air-to-air training mission, they can review their strengths and weaknesses during playback.

Air combat simulation technology is largely an outgrowth of training requirements produced during the Vietnam war because of unacceptably high U.S. fighter pilot losses.

It should be noted that the two U.S. Navy pilots who destroyed two attacking Libyan aircraft over the Mediterranean Sea in August 1981, were trained on Cubic's air-to-air combat ranges.

Both the Navy pilots reported that their success was attributable to the simulated combat training they experienced before deploying to the U.S. 6th Fleet in the Mediterranean.

Numbers of other electronic simulation capabilities are on the way to military users, including a close-in weapon system maintenance trainer.

The recent past indicates a growing need for training of military personnel who may someday face a multithreat environment not unlike the limited warfare in the South Atlantic.

Through use of this new still-developing technology field in which Cubic has distinguished its pioneering leadership while helping provide more cost-efficient response to training needs, it is my belief that a threshold has been established.

I call upon my colleagues to support this technology growth and the broad fields of application that are presenting and will continue to present themselves.●

CONGRESSIONAL PAY RAISE

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. DAVIS. Mr. Chairman, the continuing resolution, as reported, would have automatically provided a 27-percent pay increase for Members of Congress. It has been determined that Members' salaries would be 27 percent greater if we had accepted the same cost-of-living adjustments other civil servants received. Today we voted on an amendment to the continuing resolution which would have reinstituted the pay cap on congressional and executive salaries, but as a 15-percent increase over the current level.

My vote against the amendment to increase the pay cap by 15 percent should not be construed as disagreement with the amount of the pay raise it contained, but as a vote against a congressional pay increase of any amount. For that reason, I voted in favor of a subsequent amendment which would have maintained the pay cap at the current level, eliminating any pay rise.●

WATER: JACK THOMSON'S LEGACY TO KERN COUNTY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. THOMAS. Mr. Speaker, I would like to commend to my colleagues the lifelong efforts of one of my constituents, Mr. Jack G. Thomson, to bring water to the people and farms of the San Joaquin Valley.

Anyone familiar with California knows that much of our history revolves around the search for and use of water. Many of California's early water struggles have been highly publicized and dramatized, because power over those decisions rested in the hands of the few. However, I would like to tell my colleagues about one of the less dramatic, but equally important, water projects and one of its chief architects.

Jack Thomson is retiring from the Kern County Water Agency board of directors on which he has served for more than 20 years. He helped to found the agency in 1961, and his was one of the signatures on an historic water contract in 1963 which paved the way for State-supplied water to our county. It was a wise and farseeing act to form the water agency to bring more of California's lifeblood—water—to Kern County, because water obtained under that contract and under renewals of that pact now produces nearly a billion dollars of economic impact within Kern County each year. It has made possible the literal blossoming of a semiarid desert, which in turn has provided countless new jobs.

In 1964, a year after the first water contract was signed with the State of California, Jack Thomson served as president of the board and helped to establish much of the framework which would enable the county's water needs through the years to be met in a democratic, public-minded manner. The agency continues today as a vital force in Kern County's water delivery structure, and that is largely due to the stewardship of people like Jack Thomson.

Jack is a Kern County native who has given a great deal of his time, not just to water problems, but to the betterment of the entire farming industry and to his community. He was named an outstanding Young Farmer by the U.S. Junior Chamber of Commerce in 1954; he served as a trustee of the Vineland school district from 1958–68; he has been a 4-H Club leader; a charter member of the Water Association of Kern County; a longstanding member of the Kern County Water Problems Committee; president of the Kern County Farm Bureau and delegate to the California Farm Bureau Federation.

All of these achievements are a testament to Jack's public service, and they also testify to people's trust in Jack's commonsense, his balance, perspective, and his fairness in solving agricultural problems. I have always found Jack to be a valuable sounding board in my discussions with local leaders on farm problems, and I am sure many other people will also greatly miss his leadership.

As he retires, Jack Thomson leaves a valuable legacy to Kern County, for he recognized that water is our very future, and he has acted to strengthen and preserve that precious lifeline.●

LORRAINE GILES RECEIVES SAFETY AWARD

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. DAUB. Mr. Speaker, I take this opportunity to pay tribute to an outstanding educator in my district, Lorraine Giles, on her receipt of the Distinguished Service to Safety Award for 1982 from the National Safety Council.

Ms. Giles, whose career has spanned more than 30 years, has been a member of the council's board of directors for the past 8 years and has held office in the National Safety Council since 1968.

In addition to her work as principal of Gilder Elementary School, Ms. Giles works with the Omaha Police Division to maintain the 59-year record of the Omaha Safety Patrol for no fatalities at a patrol crossing. In an effort to share her knowledge, Ms. Giles has also worked on and contributed to safety manuals that have been used throughout Nebraska, the Nation, and internationally in recent years.

The Distinguished Service to Safety Award is a prestigious recognition of exceptional public service, and I ask my colleagues to join in saluting Lorraine Giles for her important contribution to the safety of our Nation's children.●

THE RETIREMENT OF WILLIAM H. WINKELMAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the retirement of Sgt. William H. Winkelman.

Bill was born on July 30, 1926, in Glendale, Oreg. In 1943, his family moved to the Klamath Falls, and upon graduation from high school he enlisted in the U.S. Navy.

From 1943 until his discharge in June of 1946, Bill was stationed at Farragut, Idaho, for boot camp and Norman, Okla., for aviation and aerial gunner radioman's school. From there, the Navy assigned him to NAS Cecil Field in Jacksonville, Fla., and NAS in North Island, San Diego.

Shortly after his discharge from the Navy, Bill began working as a locomotive fireman for the Southern Pacific Railroad in Northern California. On Christmas day, he married Shirley Stead, whom he had met while stationed at North Island.

On September 11, 1950, Bill was sworn in as a police officer for the San Diego Police Department. He worked in the patrol and traffic divisions and the business office until July 18, 1955, then he entered the California Highway Patrol Academy.

When he completed the academy, he was assigned to the Compton office in Los Angeles County and in 1956 transferred to San Diego, where he worked traffic patrol, motors, the commercial detail, and the Pine Valley Resident Post. In 1965, Bill transferred to Santa Barbara, where he spent the most enjoyable and interesting period of his career. Bill worked all of the special duty assignments but specialized in the public affairs field. In 1970, one of the most challenging events occurred, the Santa Barbara riots.

Bill was promoted in 1974 and he was assigned to the Pomona office in Los Angeles County.

In March of 1980, Bill found he was suffering from arterial blockages. He was operated on for a quadruple arterial bypass graft. He was taken off the active list of highway patrolmen and placed on the disabled list. On the first of May 1983, Bill will retire after 32 years, 9 months of combined police and highway patrol service, the last 27 years and 10 months with the California Highway Patrol.

His family includes his wife Shirley; children Richard, Steven, and Beth; and his grandchildren Danny, Erik, Steffanie, and Sonya.

Bill Winkelman's retirement marks the conclusion of an outstanding career as a lawman. However, I am sure it will not stop his devoted service to his friends and community. I ask my colleagues to join me in congratulating him on his accomplishments to date and on best wishes in the future.●

TRIBUTE TO THE HOLT CHILDREN'S SERVICES, INC.

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. CARMAN. Mr. Speaker, I would like to bring to your attention a very special organization, the Holt Children's Services, Inc. This group is a nonprofit social welfare organization approved by the Ministry of Social Affairs of the Republic of Korea. The organization was started in 1955 by the late Mr. Harry Holt. He started the group with the adoption of eight children who became orphans during the Korean war.

The cardinal philosophy of the organization is based upon Christianity. The Holt Children's Services is an outstanding example of child welfare work. Its main programs consist of counseling and prevention of unmarried parents, adoption at home and abroad, medical welfare service, rehabilitation for mentally retarded and physically handicapped children, scholarships for underprivilged children, and the management of the Saemaul Day Care Center and Baby Home.

I have had a special association with the Holt Children's Services. As some of you may know, my family has been blessed by my daughter whom we adopted through the Holt Services. After recently visiting the organization in Seoul, Korea and meeting with the President, Han Kyu Kim, I commend the group for the special joy they have brought to my life and to the lives of many children and families throughout the world.●

WRESTLERS HONORED

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. NELLIGAN. Mr. Speaker, it is a rare occasion when any of the 435 Members of Congress can boast that a world champion hails from his congressional district. Well, I am proud that the 11th Congressional District of Pennsylvania, which I am privileged to represent, can boast that it had not one—but two—world champions in 1982. They are Carey Falcone and Jim Martin, world schoolboy wrestling champions. The wrestling tournament, which took place during the summer of 1982, was conducted at California State University at Fullerton.

Carey Falcone, representing the Back Mountain Wrestling Club, won the world schoolboy championship in the 66-pound class. Carey pinned the representative from India in 52 seconds of the championship meet. Carey is a student at Dallas Junior High School, and his overall record for the 1981–82 season was 64 wins and no losses.

Jim Martin of Danville, a 16-year-old, won the 106-pound class by defeating the Italian representative to the competition. Jim, a student at Danville Area High School, won the State championship in the 98-pound class. His overall record for the 1981–82 wrestling season was 39 wins and no defeats.

It should be noted that Carey Falcone and Jim Martin were two of the three Pennsylvania wrestlers who captured first place honors from approximately 1,250 wrestlers from throughout the United States.

Both of these fine young athletes automatically are entitled to compete for the U.S. Olympic wrestling team.

I join other residents of the 11th District in congratulating them on their tremendous achievements and wish them continued success in the future.●

IN MEMORY OF DR. ROBERT BRACKEN WHITE

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. DAVIS. Mr. Speaker, the American people, particularly residents of northern Michigan, recently suffered the loss of a truly inspirational man, Dr. Robert Bracken White.

At the time of his death on November 5, 1982, Dr. White was a physician and director of Northern Michigan University's Health Center in Marquette, Mich. He served the students at NMU for the past 13 years.

To all of those who knew him, Dr. White was a compassionate and religious man who devoted his life to the medical profession. Many said he lived his life as an example to others of his strong Christian convictions. While he shared his unwavering faith with the people around him—students, coworkers, and friends—he always listened to and respected the attitudes of others who did not share his beliefs. His friendship was valued by all because he had a genuine concern and love for people.

Dr. White expressed strong convictions regarding Christianity, marriage, and personal attitudes in a writing which he titled, "Here I Stand." He said that this writing, which he com-

posed shortly before his death, contained the most important ideals for which to strive. Dr. White attained these ideals and it was his hope that they be used by others for personal growth and an understanding of the true value of Christian life.

Dr. White was a respected and loved man who will be greatly missed. It is important that we do not remorse in his death, but be thankful that this man of courage and high principles lived and worked among us, and set a fine example for us to live by.●

THE CASE FOR CLINCH RIVER

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. DANNEMEYER. Mr. Speaker, there have been a lot of arguments in recent weeks, both pro and con, over the Clinch River breeder reactor. With estimated budget deficits of $150 billion or more, that is hardly surprising given the fact that Clinch River is a $2.3 billion project. However, what is often overlooked is that it would cost us almost as much—roughly $1.7 billion—to liquidate the project at this point and by so doing we would run the risk of severe energy shortages down the road.

Mr. Speaker, as one who has been greatly concerned with the adverse consequences of Federal spending, even an extra $600 million in spending is no small matter. Therefore, I can certainly understand the concern of conservatives as well as many liberals over this measure. But, to waste $1.7 billion and to compromise the objective of energy independence in the years ahead is an unpleasant prospect indeed. Also, the arguments of those who say that the project is technologically obsolete overlook two important factors: First, that design changes can and are being made as work progresses and second, at some point you have to build in order to reap the benefits of years of theoretical research. Only by building a first generation facility can an improved second-generation facility eventually become a reality.

Some who question the wisdom of Clinch River attempt to draw an analogy between it and the SST that we never built and have not significantly missed. However, I suspect a better analogy would be with the B-1 bomber. With the B-52 as obsolete as our ability to meet domestic energy demands is inadequate, it is essential we go ahead with the B-1 even if Stealth bomber technology is on the drawing boards. Likewise, I suspect we need to proceed with the Clinch River breeder reactor so that we can have a safe supply of energy if we need it rather than need it and find out that we either cannot get it or must fight for it. Nothing could be more expensive than that last alternative.

Mr. Speaker, there are a number of additional arguments that can be made in favor of the Clinch River breeder reactor project. For the benefit of those with whom I am generally in agreement but who might understandably have some doubts about the propriety of this project, I am inserting an item, prepared by the American Energy Education Foundation, Inc., in the RECORD at this point. The message, which appeared in a recent issue of the Washington Times, is entitled "A Message to Conservatives About Clinch River" and makes worthwhile reading.

A MESSAGE TO CONSERVATIVES ABOUT CLINCH RIVER

At a time when the Reagan Administration sorely needs all the economic help it can get, some of the President's oldest and most philosophically committed conservative friends are making a bad mistake in their fight against the Clinch River Breeder Reactor, a mistake we might all have to live with.

In recent months an unusal coalition has come into being which seeks to halt the development of the United States' breeder reactor program. Publicly, this coalition states that its only target is the Clinch River Breeder Reactor, a Federal research and development project now beginning construction; however, many of the liberal members of this coalition desire to halt Clinch River as part of a broader effort to curb not only U.S. breeder technology but nuclear power and energy growth in general.

Perhaps unwittingly, respected conservative organizations have allied themselves with such groups as Ralph Nader's Congress Watch, William Winpisinger's Association of Machinists and no-growth advocates like the Friends of the Earth and the Natural Resources Defense Council. Conservatives in Congress have found themselves helping ultra-liberals attack a project which is essential to a secure supply of energy for America's future.

Why have some conservatives suddenly attracted such strange bedfellows and joined with the liberal critics of Clinch River? Is it because they have turned against nuclear power? Is it for reasons of fiscal responsibility?

Logic and the preponderance of the evidence dictates that the sound conservative position is to support the completion of the Clinch River Breeder Reactor. Here are some of the reasons why:

If the United States is to maintain even a modest annual growth rate of 3 percent, we will have to double our electric power capacity in 25 years. Breeder reactor technology, an essentially inexhaustible source of energy, is needed to help supply this increased capacity if we are to have economic growth without relying upon foreign energy sources.

As the International Energy Agency recently warned, a new oil crisis may hit by the mid-1980's that would deal a "devastating blow" to the U.S. and other industrial nations. Such a prospect makes any effort to kill the Clinch River Breeder and thus cripple a readily available U.S. energy option the equivalent of committing national suicide.

President Reagan is firmly committed to breeder reactor technology and the "completion of the Clinch River Breeder Reactor". He states that Clinch River is "essential to ensure our preparedness for longer-term nuclear power needs".

President Jimmy Carter, beginning weeks after his inauguration in 1977, attempted to kill the project and succeeded in stalling construction work on Clinch River for more than four years. This short-sighted move is largely responsible for the increased cost of CRBR.

The Soviet Union, France, Japan, and other nations are moving ahead of the United States in breeder technology. How can conservatives, or even liberals for that matter, force the nation to withdraw from this competition at the expense of America's continued growth?

Contrary to environmentalists' misstatements, the Clinch River Breeder Design is technologically up to date and contains features, such as its heterogeneous core, which have attracted the attention of German, British and other foreign breeder experts. Repeated assessments by the General Accounting Office, most recently supported by their July, 1982 report, have concluded that among "a wide range of knowledgeable industry, government, and private individuals, no one we talked with was able to provide us with any specific facts indicating that components or design features were obsolete."

After years of bureaucratic and regulatory delays, work has begun at the Clinch River site. Some 3,500 workers are already employed in 29 states and the District of Columbia, the plant design is 86 percent complete and about $700 million worth of components have been delivered or are on order. If cancelled now, the cost to the taxpayers would be $1.4 billion with nothing to show for it.

According to Senator James McClure, "the opponents of the Clinch River Breeder Reactor have come up with false and phony rigged figures and then repeat them". Among other things, the revenues from CRBR are liberally estimated at more than $20 billion payable to the government over the 30 year life of the plant. This figure, developed by the Appropriations Committee estimates 2 percent real growth in electricity prices.

Many question why private utilities have not contributed more money to this plant. It should be pointed out that the electric utilities, companies that are closely regulated by government, are limited in their financial ability to invest in a long-term research and development project.

Professor Hans Bethe, a Nobel Prize Laureate, says that "once the breeder or a similar type of reactor is in place, the uranium in the U.S. will last for tens of thousands of years, at an affordable price. An inexhaustible energy source is as good as a renewable one".

Finally, halting the Clinch River project now, just as construction is finally beginning would be tragic. The G.A.O. put it best in its most recent report. Failure to construct Clinch River, it said, would "foreclose on the long-term future of a major energy option nuclear fission—".●

CHANCELLOR EDWARD M. SINGLETON

HON. JOHN L. NAPIER

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. NAPIER. Mr. Speaker, I would like to take this opportunity to point with pride to a lifetime of achievement by a man who has made a significant contribution to the academic world. Chancellor Edward M. Singleton, head of the University of South Carolina's Coastal Carolina College in Conway, S.C., is retiring soon. This man, after nearly 40 years in public service, continues to place the highest priority on our educational system.

Chancellor Singleton first assumed the mantle of leadership at the college nearly 20 years ago when the campus first opened. He had already proven himself to be a capable educator while serving as superintendent of Conway city schools, therefore—this was a natural transition.

Dr. Singleton holds a Ph. D in education administration from the University of South Carolina as well as a master's degree in education. He also served on the University of South Carolina Board of Trustees for more than a decade. He is a former president of the Conway Chamber of Commerce. President Singleton served with Conway city schools as principal of Conway Junior High and as a teacher and coach. He also founded the Conway Recreation Department and created youth baseball leagues in the town.

The leadership Dr. Singleton has provided education in South Carolina will remain as a guiding light to those who follow him.●

PERSONAL EXPLANATION

HON. THOMAS J. BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. BLILEY. Mr. Speaker, I was granted an official leave of absence yesterday because I was hospitalized with a broken arm. I want to assure my colleagues that it was a fall on the ice and not a lobbyist's armtwisting that caused the break.

Unfortunately, I missed rollcall votes on several suspensions as a result of the absence. Had I been present, I would have voted on the measures as follows:

H.R. 3191, modification of North American Convention Tax Rules: "no";

House Joint Resolution 429, State Commissions on Teacher Excellence: "no";

S. 2355, telecommunications for the Disabled Act: "no";

H.R. 4281, Critical Materials Act of 1982: "no";

H.R. 7044, mail order consumer fraud protection, "no";

S. 2059, special prosecutor appointments amendments: "no";

S. 1621, authorize replacement of existing pump casings in southern Nevada water project: "no"; and

House Joint Resolution 553, authorize Indian tribes to bring actions with respect to certain legal claims: "no".●

CONGRESSIONAL SALUTE TO THE HONORABLE LEO A. MAULT, OF NEW JERSEY—DISTINGUISHED CITIZEN AND OUTSTANDING COMMUNITY LEADER AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. ROE. Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of life and way of life here in America. In this respect I am pleased to call to the attention of you and our colleagues here in the Congress the outstanding public service rendered by a distinguished citizen, community leader and good friend, the Honorable Leo Mault, whose standards of excellence throughout his lifetime have truly enriched our community, State and Nation.

Mr. Speaker, I join with the Members of the New Jersey State Legislature in deep appreciation of all of Leo Mault's good works and share great pride in the success of his achievements with his good wife Louise, their sons, Douglas, Donald and Robert, their daughters-in-law and grandchildren.

Marshal Leo A. Mault has indeed earned the highest respect and esteem of all of us for the quality of his leadership, staunch support and active participation in many civic and community improvement programs in a most illustrious career providing exemplary service to the U.S. Department of Justice, the courts of our Nation and to all of our people. He rose from a rookie to the highest office of public trust in the U.S. Marshal Service of the the Department of Justice. Leo joined the U.S. Marshal Service in 1941, served as a Deputy U.S. Marshal until 1961 when he was appointed U.S. Marshal for the great sovereign State of New Jersey until his retirement in 1969—close to three decades of service, ever seeking to achieve optimum public safety for all of our people.

Mr. Speaker, we are proud to boast that Leo Mault was born in the city of Paterson, N.J., in my congressional district and is one of the most personable and highly competent marshals in our Nation. He also served our country with distinction in the U.S. Navy during World War II.

The quality of his expertise and sincerity of purpose in service to our Nation have been warmly captured in the resolution of tribute adopted by the New Jersey State General Assembly and with your permission, Mr. Speaker, I would like to insert at this point in our historic journal of Congress this testimonial by our State Legislators which reads, as follows:

ASSEMBLY RESOLUTION

Whereas, Leo A. Mault has had a long and distinguished career in public service and is presently the Sergeant-at-Arms of this House; and,

Whereas, Leo A. Mault was born in Paterson, Passaic County, in the year 1902 and attended local schools in that municipality, after which he served his country in the United States Navy; and,

Whereas, Leo A. Mault joined the United States Marshal's Service in the Department of Justice in 1941 and served as a Deputy United States Marshal until 1961, at which time he was appointed by President John F. Kennedy, United States Marshal for this State; and,

Whereas, He was reappointed to that post by President Lyndon B. Johnson in 1965 and served until his retirement from the United States Marshal's Service in 1969; and,

Whereas, During this period he also served under Mayor Edward J. O'Byrne as a member of the Police and Fire Commission and served as President of the Commission and as Police Commissioner under Mayor Francis X. Graves; and,

Whereas, Subsequent to his retirement from the United States Marshal's Service, he was appointed chief Sergeant-at-Arms of this House; and,

Whereas, Mr. Mault has been a life-long Democrat and has served under 8 United States Presidents; is a parishioner at Saint Brendan's Roman Catholic Church; and recently celebrated the 52nd anniversary of his marriage to the former Louise Adelman, also of Paterson; and,

Whereas, Mr. and Mrs. Mault are the proud parents of 3 sons, Douglas, of East Greenwich, Rhode Island; Donald of Churchville, Pennsylvania; and Robert, of San Francisco, California; and the proud grandparents of four grandchildren; now, therefore,

Be It Resolved by the General Assembly of the State of New Jersey.

That this House hereby honors Leo A. Mault for his years of public service to his country and to this State and especially commends him for his outstanding tenure as Chief Sergeant-at-Arms of this House; and,

Be It Further Resolved, That a duly authenticated copy of this resolution, signed by the Speaker and attested by the Clerk, be delivered to Mr. Leo A. Mault.

Mr. Speaker, it is a pleasure to seek this national recognition of Leo Mault and his contribution to the quality of life and way of life of our people. Throughout his lifetime Marshal Mault has forged ahead with dedica-

tion and devotion in seeking justice, combating crime and protecting the life of our people. We applaud his knowledge, training, hard work and personal commitment that has enabled him to achieve the fullest confidence and strongest support of the people of our community and State. We do indeed salute a distinguished citizen, outstanding community leader and great American—the Honorable Leo A. Mault of New Jersey.●

PAY RAISE VOTE

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. MOORE. Mr. Speaker, I voted against the amendment offered by the gentleman from California (Mr. FAZIO) to House Joint Resolution 631 to allow the pay of Members of Congress to increase by 15 percent as I oppose any increase in pay. This is verified by my subsequent vote for the amendment by the gentleman from Michigan (Mr. TRAXLER) to keep the pay cap at its current level. If Congress is to impose austerity in expenditure control to successfully reduce the deficit, then it must impose austerity on its own pay as well. I have never voted for a pay raise. I voted against final passage of House Joint Resolution 631 due to the passage of the Fazio amendment and failure of the Traxler amendment.●

CONGRESSMAN WILLIAM BRODHEAD

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

● Mr. REGULA. Mr. Speaker, I am pleased that my colleague from Michigan, Mr. BONIOR, has taken this special order so that tribute can be paid to WILLIAM BRODHEAD.

It has been a privilege to serve this body with BILL BRODHEAD. BILL has brought this institution distinction and candor. He leaves the House and the Congress a better place because of his effective and dedicated work.

I had the pleasure of serving with BILL on the Budget Committee where he was a force for bipartisanship, a characteristic which seems increasingly illusive in budgeting.

The Congress will be both lesser and greater when BILL BRODHEAD leaves. It will be lesser because of his leaving. It will be greater because of the legacy of statesmanship he leaves.●

JAPAN SUBVERTS WHALING BAN

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. BONKER. Mr. Speaker, at the July 1982 International Whaling Commission (IWC) meeting, the United States achieved its decade-long goal of bringing an end to commercial whaling. The Commission overwhelmingly voted to ban commercial whaling beginning in the late fall of 1985. In the meantime, the whaling countries continue to flaunt IWC rules. Japan, the whalers' torchbearer, never misses an opportunity to point to its record of adherence to IWC decisions. But the facts do not support Japan's claims.

Two years ago, the IWC outlawed the use of the cold (nonexplosive) harpoon for the taking of all whales but the smaller minkes. Yet, Japan's whalers blatantly ignored the ban by attempting to pass off cold harpoons as hot—explosive—harpoons: the heads of the harpoons contained no firing caps, and were, therefore, "cold." The American observer for the IWC in Japan, Mr. Gosho, reported 22 such infractions this year; the Japanese observers failed to report a single violation of the cold harpoon ban. This clear subversion of the IWC decisions must be taken into account as the United States considers whether to certify Japan, under the Pelly and Packwood-Magnuson amendments, for violating the cold harpoon ban, which has now been extended to include minke whaling.

Mr. Speaker, I wish to submit for the RECORD the IWC observer's report on Japan's infractions involving the outlawed cold harpoon. It is my hope that, in the future, Japan will comply fully with this important IWC regulation.

INTERNATIONAL OBSERVER SCHEME—SUMMARY OF REPORTS, NORTH PACIFIC LAND STATIONS

REPORTS OF MR. M. GOSHO AT THE JAPANESE LAND STATIONS

Mr. Gosho made the following comments with regard to the use of cold harpoons:

"At the time of this report, the Whaling Section of the Japan Fisheries Agency (JFA) was still conducting an investigation regarding the use of the cold harpoons. The IWC Observer was informed that the Senior National Inspector (JFA), upon learning of the infractions regarding the taking of undersized and lactating whales, ordered the whaling companies to prepare written explanations of the incidents. The whaling companies were warned not to repeat the infractions.

"The amounts of the bonuses withheld as a result of the above infractions had not been computed by the whaling companies at the time of this report."

Mr. Gosho reported that 22 infractions involved the use of the cold harpoon. The Infractions report submitted by the Government of Japan reported 13 infractions of this nature. Attention is drawn to the statement by the Government of Japan given in IWC/34/6. The discrepancy between the numbers may be due to different interpretations of the term cold harpoon; in this regard a copy of a letter received by the Secretariat from Mr. Gosho is Appended.

In addition Mr. Gosho commented that (i) as much meat as possible was processed for use as human food for consumption within Japan, other parts were used for human consumption and for pharmaceuticals while the remainder was processed for oil, animal feed, meal or fertilizer (ii) land station managers and personnel kept a permanent record of information required by the IWC and assisted Japanese biologists in their work (iii) the company and national inspectors generously and courteously co-operated with him and provided the information he required to carry out his duties.

He also made the following recommendation:

"Thirty of the thirty-two infractions which were reported during the 1981-82 whaling season occurred during the Bryde's whaling season. Twenty-nine of these infractions involving Bryde's whales were reported by the IWC Observer. Although it is estimated that the JFA Inspectors observed 44 per cent of the Bryde's whale landings (compared with ten per cent for the IWC Observer), the JFA Inspectors did not report a single infraction involving Bryde's whaling. The IWC Observer noted that of the Bryde's whales he observed, 70 percent contained a cold harpoon and 25 percent of the females were lacting.

"The IWC Observer recommends that, in the future, the JFA Inspectors pay closer attention to the incidence of cold harpoon use in Bryde's whales and to the condition of the mammary glands of Bryde's whales."

APPENDIX 1—EXTRACT FROM LETTER DATED JANUARY 29 FROM MR. GOSHO TO DR. GAMBELL

Thank you for your letter of January 4, 1982 (RG/EE/4266). Your confusion concerning the data which I presented in my memorandum is justified. This is partly due to the lack of any definition of the term "cold harpoon". I considered a "cold harpoon" to be any harpoon in which the head did not explode. Because I observed 21 harpoons (in 21 Bryde's whales) which still had the heads intact, I cited 21 cases where a cold harpoon was used. I personally unscrewed the heads of 13 harpoons and found that they contained no firing caps (harpoon fuses). The heads of the remaining 8 harpoons were frozen or so firmly lodged that I could not unscrew them. Thus, I can say that, in 13 of the 21 cases, the harpoon was never intended to explode; while in all 21 cases, the end result was that the harpoon head did not explode.

I examined the heads of or the shrapnel from a total of 36 harpoons. Fifteen had exploded (two exploded harpoons were in one whale) and 21 had not. The 8 cases where I could not remove the harpoon head represented 22% of the total. This figure is obviously too high to represent the normal occurrence of misfires or hangfires.

I believe that the occurrence of misfires or hangfires during the Bryde's season was negligible, and that the majority, if not all, of the 21 unexploded harpoons which I observed in the Bryde's whales were cold harpoons which were never intended to explode.●

JACK BRINKLEY

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1982

● Mrs. BOUQUARD. Mr. Speaker, it is a great honor for me to add my praise and heartfelt thanks to a colleague and dear friend, JACK BRINKLEY, for the hard work and dedication he has brought to this Congress. He has contributed to this body, as well as to his country, faithful and diligent service.

JACK BRINKLEY, as dean of the Georgia delegation, in his quite and unassuming manner, served his constituents in a style we all could emulate. Very few weekends were not spent going back to his district to see and serve those he represents. His views on the needs and opinions of his constituency were reflected so ably in his voting pattern.

JACK BRINKLEY, always had time for his colleagues as well. I have never asked for his help or his opinion that I was turned down or begrudged an adequate time for thought or evaluation.

JACK BRINKLEY is a southern gentleman, an unrelenting stateman without parallel whom we will all miss.●

AGRICULTURAL EXPORT SUBSIDY OFFSET ACT OF 1982

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mrs. MARTIN of Illinois. Mr. Speaker, I am introducing legislation to use surplus Government stocks of agricultural commodities to offset the unfair trade practices of many of our trading partners. While I am committed to the principle of free trade, I believe current trends in the international marketplace necessitate a strong measure such as this.

Every year I send out a farm report to my farm constituency to inform them of Federal issues that affect farming and to solicit their opinions on farm problems and solutions. In response to my 1982 farm report, many of my farmers stressed the need to expand agricultural exports to relieve the crop surplus that is depressing farm prices. Most of these comments referred to the unfair trade practices of other nations, especially the European Economic Community (EEC), that were either barring U.S. farm exports or competing unfairly through the use of direct and indirect subsidies.

On November 10 of this year, I was part of the U.S. delegation to the GATT ministerial meetings to discuss trade barriers and practices in the international marketplace. I was especially interested in the effect trade issues have on the farm economy and industrial work force of northern Illinois. I returned from these meetings convinced that the United States must take stronger actions to protest the trade policies of other nations, especially the agricultural export subsidies used by the European Economic Community.

I find it totally unacceptable that while the United States supplies a majority of the defene needs of the Europeans at great financial cost to us, the Europeans subsidize their agricultural exports to undermine our export markets. U.S. farm exports receive no similar subsidies, nor do we wish to begin subsidizing our exports. It was hoped that through the GATT meetings compromises could be reached on the issue of EEC farm subsidies, but the meeting ended with no such agreements. The Europeans will continue to subsidize their farm exports. I believe this situation necessitates a response.

There is an old rule in the Midwest that when you cannot get someone's attention through talking, you hit them over the head with a 2 by 4. I propose we provide the administration with a 2 by 4 to use in bringing the EEC and other nations to some fruitful trade negotiations. The 2 by 4 I am proposing uses what is becoming know as the Christmas approach or the buy 10 get 1 free method of supporting agricultural exports.

The bill I am offering to the House will grant the Secretary of Agriculture the authority to make surplus Commodity Credit Corporation (CCC) agricultural commodities available to U.S. exporters, U.S. processors, and foreign customers. The Secretary can make these stocks available for the purpose of maintaining, developing, and expanding the markets for U.S. farm products where competition exists from other nation's subsidized exports. Precautions are taken to insure that the use of this authority does not result in displacement of U.S. commercial sales in the export market, thus insuring that the release of these stocks will not result in lower domestic prices for farm products. Other precautions are taken so that the commodities released are not resold to some other country and that U.S. farm products are not negatively affected.

This method of offsetting other nations' farm export subsidies has several advantages over other proposals for direct price subsidies or interest buydowns. First, this act will not result in any financial outlays by the Federal Government. Because the CCC already owns massive amounts of grain, it will reduce the cost of CCC storage. Second, the disposal of CCC stocks into the international market will help improve domestic farm prices and the agricultural economy by lessening the huge grain surplus. This surplus is causing the worst difficulties in farm country since the Great Depression. Again, this is accomplished without adding to the burden of the Federal budget deficit.

Time before the adjournment of the 97th Congress is limited, but I believe this legislation offers a constructive addition to the debate that is being conducted in the Congress on the subject of international trade practices. I offer this legislation for inclusion in the proposed farm stimulus package the administration is pushing in the Senate. If action on this proposal is not taken in this lameduck session, the groundwork will be completed for its reintroduction when the 98th Congress takes office next month. Most importantly, the introduction and consideration of this proposal sends a strong message to the Europeans and other exporters that the United States will use a 2 by 4 if necessary to move the international marketplace toward the goal of free trade.

I urge your support and cosponsorship of this legislation.●

A TRIBUTE TO THE HONORABLE HENRY REUSS

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 7, 1982

● Mr. BARNARD. Mr. Speaker, when I came to Congress as a new Member in 1977, HENRY REUSS was one of the people from whom I learned the ropes. He was chairman of the Banking Committee, and served as an able leader of that committee for 6 years. His stewardship on the Monetary Control Act was one of the hallmarks of his service in Congress.

As we worked together, I came to value his experience, his insight, and his concern for our Nation's cities and housing. I remember with gratitude his strong voice on the workings of our economy. Our opinions may have differed, but one always knew where he stood, and that trait is all too rare in politics.

Mr. Speaker, this is the season in which we hear a good number of tributes to our departing colleagues. But I do not know of many Congressmen who deserve the praise and respect more than does HENRY REUSS.●

PARKVILLE AMERICAN LEGION POST 183

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. LONG of Maryland. Mr. Speaker, on November 11, Veterans Day, the Parkville American Legion Post 183 celebrated the 25th anniversary of the opening of its meeting hall located at 2301 Putty Hill Avenue in Parkville, Md., as well as its 37th year as an American Legion Post.

The American Legion is the largest veterans' group in the United States consisting of men and women who have served during World War I, World War II as well as the Korean and Vietnam wars. It seeks to advance the aims and interests of veterans, to continue friendships formed during military service, and to insure that disabled veterans receive the care and help they need.

Parkville American Legion Post 183 has, throughout its history, maintained high standards of community service. It is with great pride, Mr. Speaker, that I share with my colleagues the names of the men who have served as commanders of the Parkville American Legion Post 183.

Year	Past commanders	Membership
1945–46	*William Brown	42
1946–47	Gus Voss	61
1947–48	Clem Schaeffer	80
1948–49	Harry Bleakley	64
1949–50	Hall Tircuit	67
1950–51	*Henry P. Lennon	74
1951–52	Edgar Shannahan	93
1952–53	Frank Hendriksen	157
1953–54	George W. Crowley	183
1954–55	*Paul McDermott	257
1955–56	H. Laird Roeder	327
1956–57	John W. Goff	386
1957–58	William Wienecke	904
1958–59	Leo Rydezewski	1,070
1959–60	Ronald O. Reese	1,168
1960–61	*Henry P. Lennon	1,376
1961–62	George R. Smith	1,426
1962–63	Carl Link	1,682
1963–64	Raymond Magill	1,982
1964–65	Frank Barrett	2,302
1965–66	Charles Gralley	2,354
1966–67	*Joseph Gummer	2,633
1967–68	Larry Tiberia	2,428
1968–69	Joseph O'Donnell	2,327
1969–70	Theodore Gray	2,254
1970–71	Don Lory	2,291
1971–72	Douglas Johnson	2,555
1972–73	Douglas Johnson	2,724
1973–74	Charles Schnitzlein	2,816
1974–75	Thomas Keyes	2,869
1975–76	George Thomas	2,894
1976–77	George Thomas	2,932
1977–78	George Fiedler	3,039
1978–79	John Burgan	3,183
1979–80	Joseph Polizzi	3,307
1980–81	John Hammond	3,517
1981–82	Bernie Ulrich (2/1/82)	3,524
1982–83	Richard Prevail	

*Deceased.

I know that my colleagues join me in praising these men and the thousands of men and women who are and have been members of this excellent organization.●

EXECUTIVES HONORED

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. RUSSO. Mr. Speaker, Concordia Federal Savings & Loan in Evergreen Park, Ill., is paying tribute this month to three of its distinguished retiring executives, men who have worked with great talent and dedication for the organization for decades. I want to take a moment to commend these men for a job well done.

Mr. John J. Gill, senior vice president with 36 years of service, Senior Vice President Frank R. Palmer with 31 years, and Mr. John William Gillully, chairman of the board, who started in December of 1945 as an assistant bookkeeper, are all going to be greatly missed by the 93-year-old association. They have seen Concordia grow to its present nine-office south Chicagoland network of financial service centers. All of them have worn many hats and have the kind of expertise that comes from applying yourself to whatever your assignment and learning and growing. Their work record is impressive and one can only guess at the number of people whose lives they have helped with their financial skills.

These are also the kind of public-spirited men who involve themselves in community service, church, and organizational improvements, so while their full-time talents will be missed, I know they will continue to make considerable contributions to Concordia and to the community at large. Today I ask my colleagues to join with me in wishing these fine gentlemen all the best and continued success in all their endeavors.●

CLINCH RIVER

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. HOLLENBECK. Mr. Speaker, I submit the following advertisement from today's Washington Post concerning the Clinch River breeder reactor to the CONGRESSIONAL RECORD for the benefit of my colleagues.

[From the Washington Post, Tuesday, Dec. 14, 1982]

WE DON'T USUALLY AGREE . . . BUT ON CLINCH RIVER WE DO

18 labor unions, the NAACP, the U.S. Chamber of Commerce, the General Federation of Women's Clubs, the National Conference of Black Mayors, the National Association of Manufacturers . . .

Along with more than a dozen other business, labor, minority, scientific and professional organizations, we have formed the "Committee on Jobs, Environment and Technology." We have done so because we all agree on one vital issue:

The Clinch River Breeder Reactor must be included in any responsible planning to supply future generations with the affordable energy they will need.

In real terms, America is still dependent on foreign sources of energy. A sudden increase in the price of oil or a cutback in OPEC production could again wreck havoc with our economy. Therefore, we have a responsibility to pursue policies that will help free America from the grip of foreign energy sources and enable us to regain control over our own energy and economic destiny.

Without available and affordable energy supplies, there can be no sustained economic growth, no abundant employment opportunities, no world leadership status.

While CJET will ultimately concern itself with a range of issues, our first priority is completion of the Clinch River Breeder Project. The result of a 20 year alliance between the federal government and private industry, this project represents the spirit of innovative research and development that has characterized U.S. history at its best.

CONSIDER THESE FACTS

Even using conservative growth estimates of 1 percent or 2 percent per year, America will still have to double its electrical energy capacity by early in the next century.

Breeder reactors produce more fuel than they consume and represent an energy potential that exceeds all U.S. coal reserves or three times OPEC oil reserves. They will use already mined uranium valued at $17 trillion, which has no other use to mankind.

Completion of Clinch River will cost the government $2 billion over the $1.3 billion already invested. Thus the total cost, including the unprecedented utility investment of $340 million, will be $3.6 billion . . . a figure confirmed by the General Accounting Office.

Some opponents claim that the final cost will be $8 billion without explaining that that figure includes "imputed interest" . . . something never included in any previous government R&D project cost estimates.

Termination will cost the government at least $300 million, plus the $1.3 billion already spent. Completing the plant will enable the government to recoup its investment through the sale of the plant's electricity.

75 percent of the equipment is either now on site or on order at a fixed price. The design of the plant is almost 90 percent complete and site preparation has begun.

Japan, Germany, Great Britain, France and the Soviet Union are pushing ahead with breeder programs because they know that those who lead the world in energy development will lead the world economically and politically.

Clinch River is not just another government project. It is a vital and prudent technological demonstration project that will help assure future generations of adequate energy supplies, a secure economy and jobs.

America has always been a world leader in developing advanced technologies to benefit current and future generations.

Now is no time to turn back. The future depends on us.

Building & Construction Trades Department, AFL–CIO: National Association for the Advancement of Colored People; American Association of Engineering Societies; American Nuclear Energy Council; American Nuclear Society; American Public Power Association; Americans for Energy Inde-

pendence; Atomic Industrial Forum, Inc.; Edison Electric Institute; General Federation of Women's Clubs; International Association of Bridge, Structural and Ornamental Iron Workers; International Association of Heat & Frost Insulators and Asbestos Workers.

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers; International Brotherhood of Electrical Workers; International Brotherhood of Painters & Allied Trades; International Union of Bricklayers & Allied Craftsmen; International Union of Elevator Constructors; International Union of Operating Engineers; Laborers' International Union of North America; National Association of Manufacturers; National Conference of Black Mayors; National Rural Electric Cooperative Association; National Society of Professional Engineers; New England Council.

Operative Plasterers' & Cement Masons' International Association of the United States & Canada; Scientists & Engineers for Secure Energy; Sheet Metal Workers' International Association; Tile, Marble, Terrazzo, Finishers & Shopmen International Union; U.S. Chamber of Commerce; United Association of Journeymen & Apprentices of the Plumbing & Pipefitting Industry of the United States & Canada; United Brotherhood of Carpenters & Joiners of America; United Union of Roofers, Waterproofers & Allied Workers; Utility Workers Union of America; and Youth for Energy Independence.

The Committee on Jobs, Environment and Technology; Robert Georgine, Chairman, President, Building and Construction Trades Department, AFL-CIO.

Given the support which the Clinch River project has been able to gather and its significance in terms of America's energy independent future, I intend to vote for Clinch River when it comes before the House later today.●

TRIBUTE TO HON. M. CALDWELL BUTLER

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

● Mr. RODINO. Mr. Speaker, M. CALDWELL BUTLER, a most valuable member of the Judiciary Committee, has chosen to retire from the Congress after serving 10 years in this body.

As we all well remember, CALDWELL had precious little time to ease into his duties. Taking office in 1973, he soon had thrust upon him, as a member of the committee, what he has called the joyless task of participating in the impeachment hearings. It was at these hearings that the diligence, integrity, and courage for which he has become so well known were amply exhibited. These qualities have continued to earn him respect on both sides of the aisle.

Another characteristic that his colleagues have come to appreciate immensely is his quick and subtle wit. I can recall many times in the course of committee hearings and deliberations that his sharp sense of humor was most instrumental in defusing tense situations.

One Virginia newspaper columnist succinctly summed up the essence of CALDWELL BUTLER: "* * * affably, funny, and smart."

I specifically want to note his important role, as a member of the Subcommittee on Monopolies and Commercial Law, in drafting revisions of the Federal bankruptcy laws. In this task, as in so many others on which we worked together, I have come to deepen my respect for his industriousness, his knowledge of the issues and his forthrightness, even though we, of course, were not always on the same side.

The retirement of CALDWEL L. BUTLER will take from this body a talented lawmaker and a diligent representative of his constituency. His experience here will serve him well as he returns to his Roanoke home to engage in the private practice of law.●